



Fort Myers Beach Local Planning Agency

**Council Chambers
2525 Estero Blvd.
Fort Myers Beach, FL 33931**

Agenda

Wednesday, October 20, 2021

1:30 PM

ORDER OF BUSINESS

- I. CALL TO ORDER**
- II. INVOCATION**
- III. PLEDGE OF ALLEGIANCE**
- IV. SUNSHINE LAW, PUBLIC RECORDS, AND ETHICS**
 - A.
Town Attorney Presentation
- V. REORGANIZATION**
 - A.
Selection of Chair and Vice Chair
- VI. APPROVAL OF MINUTES**
 - A. September 14, 2021
- VII. PUBLIC HEARINGS**
 - A. VAR20210073 6036-38 Estero Boulevard Pool Setback
Approve/Approve with Conditions/Deny VAR20210073 6036-38 Estero Boulevard Pool Setback
 - B. VAR20210039 71 Chapel Street Setback Variance
Approve/Approve with conditions/Deny VAR20210039 71 Chapel Street Street Setback Variance
 - C. LDC Amendment, Subdivision V, Commercial Boulevard Zoning District
Recommend Approve / Deny Recommended Amendments to Land Development Code Subdivision V, Commercial Boulevard Zoning District.
 - D. LDC Section 34-638, Minimum Setbacks and Size for Large Homes and Lots
Recommend Approve / Deny Recommended Amendments to Land

Development Code Section 34-638, Minimum Setbacks.

- E. LDC Text Amendment Article II Noise Control
**Recommend Approve / Deny Recommended Amendments to Land
Development Code Article II Noise Control**

VIII. ADMINISTRATIVE AGENDA**IX. LPA MEMBERS ITEMS/REPORTS****X. LPA ATTORNEY ITEMS/REPORTS****XI. COMMUNITY DEVELOPMENT ITEMS/REPORTS****XII. ITEMS FOR NEXT MONTHS AGENDA****XIII. PUBLIC COMMENT****XIV. ADJOURNMENT**

NOTE: THIS MEETING IS TELEVISED LIVE ON COMCAST CHANNEL 98.

**IF A PERSON DECIDES TO APPEAL A DECISION MADE BY THE COUNCIL IN ANY
MATTER CONSIDERED AT THIS MEETING/HEARING, SUCH PERSONS MAY
NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDING IS MADE,
TO INCLUDE THE TESTIMONY AND EVIDENCE UPON WHICH ANY SUCH
APPEAL IS TO BE BASED.**

	For special accommodations, please notify the Town Clerk's Office at least 72 hours in advance. (239) 765-0202		Help for the hearing impaired is available through the Assistive Listening System. Receivers can be obtained from the Town Clerk's Office.
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In accordance with the Americans with Disabilities Act (ADA), persons needing a special accommodation to participate in the Board's proceedings should contact the Town Clerk's Office not later than three days prior to the proceedings.



Fort Myers Beach Local Planning Agency

**Council Chambers
2525 Estero Blvd.
Fort Myers Beach, FL 33931**

Minutes

**Tuesday, September 14,
2021**

9:00 AM

ORDER OF BUSINESS

DRAFT

I. CALL TO ORDER

Members present: Chair Megan Heil, Forrest Critser, Jane Plummer, Scott Safford and Karen Swanbeck.

Excused: Patrick Vanasse

II. INVOCATION

Chair Heil.

III. PLEDGE OF ALLEGIANCE

IV. APPROVAL OF MINUTES

A. August 10, 2021

LPA Member Safford moved to approve the minutes; second by LPA Member Critser.

Motion approved 5-0.

V. PUBLIC HEARINGS

A. VAR20210063 16 Pepita Street

Approve/Approve with Conditions/Denial of VAR20210063 - a variance from Table 34-3, 25 feet rear waterbody setback, for a reduction of 8 feet 8 inches.

Town Attorney Herin, Jr. swore in those providing testimony. Ex parte communications: LPA Member Plummer spoke to the next-door neighbor who supported the request. No disclosures from other members.

Jim and Tracy Bougoulas, owners, utilized PowerPoint for their presentation. Slides included: Request for Variance; Variance is Needed; Decaying

Structure was Demolished in 2020; Previous Home was Not Compliant to Setback Code Requirements; Irregular Shaped Lot; Hardship; Request for Waterbody Setback; Design; Second Floor Front Roof; Front & Left Side Elevation View; Read & Right Side Elevation View; In Accordance with LDC Sec. 34-88; Similar Variance at 272 Miramar and support from Pepita St. Neighbors.

Assistant Community Development Director Carl Benge reviewed the variance request with PowerPoint. Slides included: Variance Request; 16 Pepita Site Plan and Staff Findings and Recommendations. He noted that staff recommended denial of the request.

Chair Heil questioned whether the stairs could be relocated. She reviewed exceptional or extraordinary criteria regarding the variance. Mr. Bougoulas replied that the stairs could be moved. Town Attorney Herin, Jr. stated the LPA could move the request forward with something less than the applicant requested. The architect from Studio One Design verified that the stairs could be relocated. He stated the roof overhang was 24 inches and over a balcony.

No public comment.

LPA Member Plummer moved to approve a five-foot setback not to include the stairway; five feet of the building line and whatever was approved for the overhang and follow those guidelines, the steps would have to be relocated to a reduction of waterbody setback by five feet and add the condition to the staff findings and conclusions; second by LPA Member Safford. Motion approved 5-0.

B. VAR20210064 3240 Shell Mound Blvd

Approve/Approve with conditions/Denial of VAR20210064 - 3240 Shell Mound Blvd, a request to reduce the required accessory structure (pool) setback from five to two in the rear and side yard.

Ex parte communications: All LPA Members except Chair Heil disclosed a drive-by.

Sarah McCormick stated they purchased the property last year with the intent of installing a pool. She felt the circumstances were unique to the property due to the property line. She noted they would put a fence around the property.

Assistant Director Benge reviewed the property information, variance request and staff findings and recommendations. He noted staff recommended denial of the variance. Discussion was held regarding a drainage plan. Ms. McCormick indicated that the odd-shaped pool dimensions were approximately 18' x 15' x 11'.

No public comment.

Chair Heil moved to deny the variance because it did not meet the de minimus requirements; second by LPA Safford.

Town Attorney Herin, Jr. stated it was up to the applicant to demonstrate that

they met the criteria to grant the variance. LPA Member Plummer indicated that the pool could be redesigned with the same amount of water space to meet the criteria better. LPA Member Safford agreed that a two-foot walkway around the pool was not enough room.

Chair Heil withdrew her motion.

Chair Heil moved to grant a one-foot side setback variance and one-foot rear setback variance for an accessory structure; second by LPA Member Safford. Chair Heil moved to amend her motion by adding staff conditions; second by LPA Member Safford.

Chair Heil moved to amend her motion by recommending approval for a one-foot variance to the side and rear setback including conditions 1-5; second by LPA Member Safford.

Motion approved 5-0.

C. VAR20210066 4969 Estero Blvd Accessory Structure in front of a principal structure

Approve/Approve with Conditions/Denial VAR20210066 - 4969 Estero Blvd, to allow an accessory structure (pool) in front of a principal structure.

Ex parte communications: All members disclosed a drive-by and LPA Member Swanbeck was familiar with the property.

Armando Barba, owner, explained why the pool permit was denied. He noted the pool would be located on the side of the house, not in front.

Assistant Director Bengé reviewed the request, property information, variance request, site plan, staff findings and recommendations. He noted that staff recommended approval with conditions.

No public comment.

LPA Member Plummer moved to approve the three conditions as presented by staff with the three conditions and it met the findings and recommendations; second by LPA Member Critser.

Motion approved 5-0.

VI. ADMINISTRATIVE AGENDA

No agenda.

VII. LPA MEMBERS ITEMS/REPORTS

LPA Member Swanbeck noted she appreciated being on the LPA. Chair Heil thanked her for her service.

LPA Member Plummer questioned when construction would be completed to free up parking under the bridge. Community Development Director Jason Green did not know. Town Attorney Herin, Jr. stated that Town Council directed staff to provide that area for staging. He suggested that LPA Member Plummer contact

Public Works Director Chelsea O'Riley for details.
No items from other members.

VIII. LPA ATTORNEY ITEMS/REPORTS

No items.

IX. COMMUNITY DEVELOPMENT ITEMS/REPORTS

Director Green noted the October meeting had been rescheduled and he would send reminders. He noted they would work on the commercial boulevard zoning district restrictions.

X. ITEMS FOR NEXT MONTHS AGENDA

Discuss sunshine laws and other items for new members.

XI. PUBLIC COMMENT

No public comment.

XII. ADJOURNMENT

LPA Member Safford moved to adjourn the meeting; second by LPA Member Plummer.

Motion approved 5-0.

The meeting was adjourned at 10:23 a.m.

**Town of Fort Myers Beach
Agenda Item Summary**

Yellow Sheet Number: **2021-457**

1. Requested Motion:

Meeting Date: October 20, 2021

Approve/Approve with Conditions/Deny VAR20210073 6036-38 Estero Boulevard Pool Setback

Why the action is necessary:

An application has been submitted to reduce the street setback for a pool along Shelby Lane. The LPA is responsible for reviewing the application and providing the Town Council with a recommendation.

What the action accomplishes:

Approval of the application will permit the property owner to construct a pool closer to Shelby Lane than allowed by Table 34-3.

2. Agenda:

PUBLIC HEARINGS

3. Requirement/Purpose:

Resolution to be reviewed by
the Town Council

5. Background:

Eran Epstein, the applicant for 6036/38 Estero Blvd, is requesting a variance from the Town's Land Development Code (LDC). LDC Table 34-3, establishes a minimum street setback in the RC zoning district of 25 feet. The applicant is requesting to reduce 25 feet street setback by 18 feet 11 inches along the Shelby Lane, resulting in a 6 feet 1 inch street setback to pool edge. The house was built in 1996. The current owners bought the house in 2021.

The lot is through-lot with a street on each end of the parcel. LDC Sec. 34-1174.(b)(8), on through lots, accessory uses, buildings, and structures may be placed closer to the street opposite the street that provides principal vehicular access than the principal building as long as the minimum setbacks for street setbacks are maintained. The property owner has been provided a driveway onto Estero during the Estero Boulevard redevelopment. This action has switched their front and primary access away from Shelby Lane. The proposed pool improvements will further that effort by closing any access to Shelby Lane and converting the area adjacent to Shelby Lane into their functioning rear yard.

Attachments:

1. VAR20210073 - 6036-38 Estero Blvd - Staff Report - LPA_final
2. 9221117-Proposed Pool Plan - Final
3. 9221121-6036-38 estero application of public hearing
4. 9535083-Variance Supplement PH-B
5. 9221120-6036 survey

Financial Impact:

6. Alternative Action

Deny, Approve, Approve with conditions

7. Staff Recommendations:

Approve with conditions

8. **Recommended Approval:**

Jason Green, Community Development
Services

Date: October 15, 2021

John R Herin Jr, Town Attorney

Date: October 15, 2021

Amy Baker, Town Clerk

Date: October 15, 2021



Town of Fort Myers Beach
COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT

TYPE OF CASE: Variance

CASE NUMBER: VAR20210073

CASE NAME: 6036/38 Estero Blvd, to allow accessory structure in front of principle structure within the street setback.

LPA

HEARING DATE: October 20, 2021 at 1:30PM

STAFF

RECOMMENDATION: Approve with conditions

**PREPARED/
SUBMITTED BY:** Carl Benge/ Jason Green AICP

I. APPLICATION SUMMARY

Applicant/Owner: Eran Epstein

Request: The applicant is seeking a variance of 19 feet from Table 34-3 Street Setback, to allow a pool within six feet of Shelby Lane.

Subject property: See attached site plan

Physical Address: 6036/38 Estero Blvd

STRAP #: 33-46-24-W3-00600.0060

FLU: Boulevard

Zoning: Residential Conservation (RC)

Adjacent zoning and land uses:

North:	INSTITUTIONAL (IN) Diocese of Venice
South:	RESIDENTIAL CONSERVATION (RC) Single-Family Houses
East:	RESIDENTIAL CONSERVATION (RC) Single-Family Houses
West:	RESIDENTIAL CONSERVATION (RC) Single-Family Houses

II. BACKGROUND AND ANALYSIS

Background:

Eran Epstein, the applicant for 6036/38 Estero Blvd, is requesting a variance from the Town's Land Development Code (LDC). LDC Table 34-3, establishes a minimum street setback in the RC zoning district of 25 feet. The applicant is requesting to reduce 25 feet street setback by 18 feet 11 inches along the Shelby Lane, resulting in a 6 feet 1 inch street setback to pool edge. The house was built in 1996. The current owners bought the house in 2021.

Analysis:

The lot is through-lot with a street on each end of the parcel. LDC Sec. 34-1174.(b)(8), on through lots, accessory uses, buildings, and structures may be placed closer to the street opposite the street that provides principal vehicular access than the principal building as long as the minimum setbacks for streets setbacks are maintained. The property owner has been provided a driveway onto Estero during the Estero Boulevard redevelopment. This action has switched their front and primary access away from Shelby Lane. The proposed pool improvements will further that effort by closing any access to Shelby Lane and converting the area adjacent to Shelby Lane into their functioning rear yard.

Neighborhood Compatibility:

In review of the aerial photography of the neighborhood, staff found some examples of properties with similar layouts as that found at 6036/38 Estero Blvd. Shelby Lane, the street from which the setback is measured from, is a low traffic area that will see little to no negative effects to neighboring properties.

Findings and Conclusions:

LDC Sec. 34-87 sets forth the required findings and conclusions for the approval of a variance:

- a. *That there **are**/are not exceptional or extraordinary conditions or circumstances that are inherent to the property in question, or that the request is/**is not** for a de minimis variance under circumstances or conditions where rigid compliance is not essential to protect public policy.*

The property is a through lot, which means the lot has a 25 feet street setback on each side (front and back) of the property. The applicant's request includes locating the pool 6 feet 1 inch from the Shelby Lane setback. Adjusting the pool's orientation could add extra feet to the Shelby Lane setback. The proposed setback from Shelby Lane is consistent with typical rear yard setbacks. In addition, Shelby Lane has been occasionally referred to as an "alley" and under LDC Section 34-1174 (d)(1), properties not served by an alley require a five-foot setback for residential accessory structures. While this does not apply to pools, it is indicative of the flexibility provided by the LDC.

- b. *That the conditions justifying the variance are/**are not** the result of actions of the applicant taken after the adoption of the regulation in question.*

These conditions are not the result of owner actions. The principal structure (house) was built in 1996, just after the Town adopted regulation prohibiting accessory structures forward of the primary structure. The current property owners acquired the property in 2021. The lot is a through lot and has been since it was created. The property owner is attempting to create a rear yard consistent with adjacent neighbors.

- c. *That the variance granted **is**/is not the minimum variance that will relieve that applicant of an unreasonable burden caused by the application of the regulation in question to his property.*

Yes, the requested variance is the minimum to relieve the applicant of the code requirement. The variance is from the requirement that the pool be 25 feet from the street setback. The location of the house does not allow for a pool of any size to be located 25 feet or greater from Shelby Lane. The proposed plan includes the pool area, including minor landscaping modifications, are similarly setback as other pools in the neighborhood and meeting the setback required of typical rear yards.

- d. *That the granting of the variance will/**will not** be injurious to the neighborhood or otherwise detrimental to the public welfare; and*

The granting of this variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare. Staff has included a condition to provide a Type B buffer along Shelby Lane.

- e. *That the conditions or circumstances on the specific piece of property for which the variance is sought are/**are not** of so general or recurrent a nature as to make it more reasonable and practical to amend the regulation in question.*

This variance request is not uncommon for Gulf side properties located on Estero Blvd. However, it is generally unusual for lots within the Town to be built with houses pushed to the rear. Modern regulations require greater setbacks. The gulf front through lots are typically unique in their layout.

III. RECOMMENDATION

Staff finds that the variance of 18 feet inches inch from the 25 feet street setback to allow a setback of six feet and one inch adjacent to Shelby Lane is consistent with the standards required by Sect. 34-87.

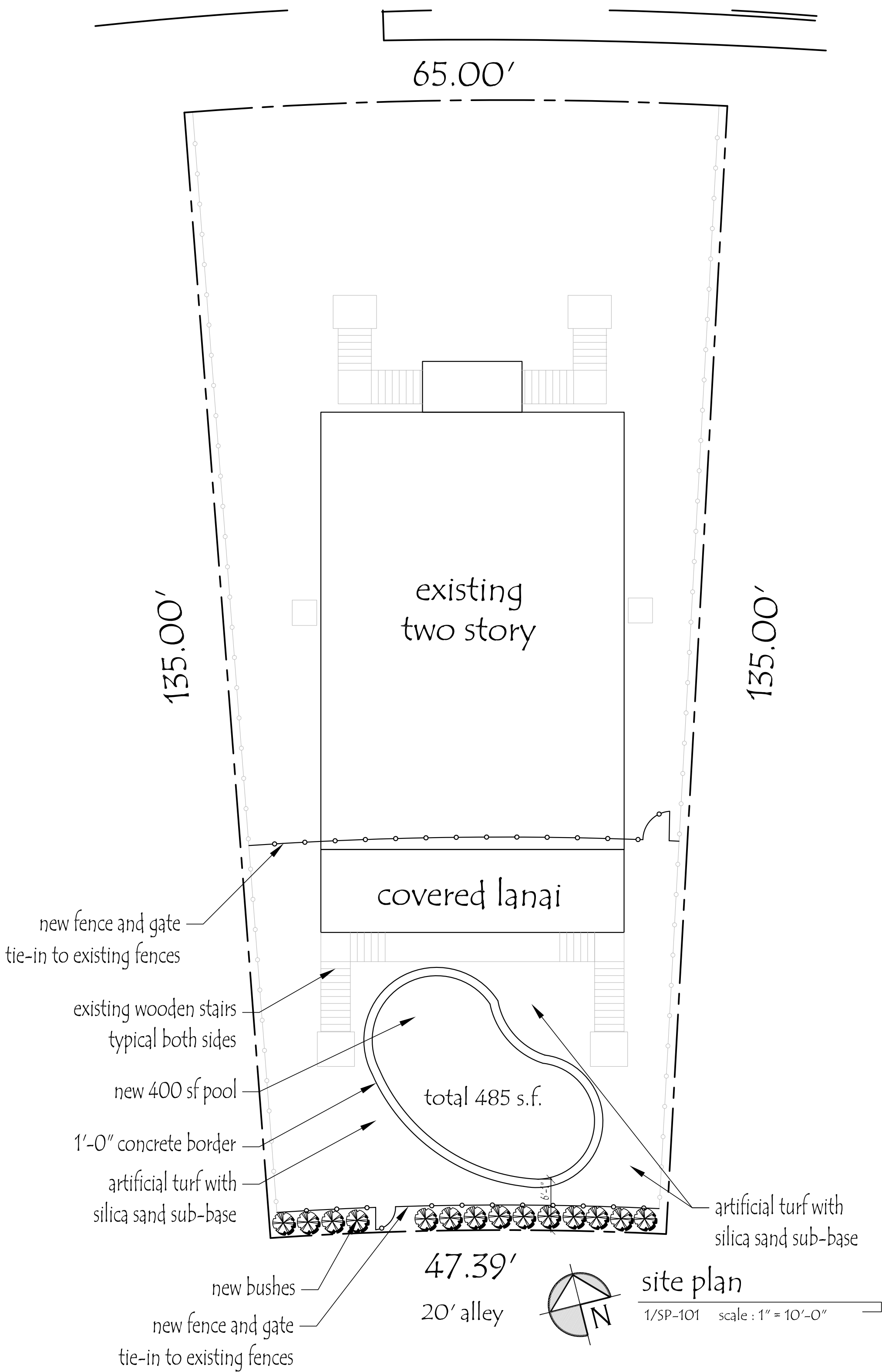
Therefore, staff recommends **APPROVAL WITH CONDITIONS** of VAR20210073, to allow a variance of 18 feet and 11 inches for the pool to be within the street setback of Shelby Lane and maintain a setback of six feet and one inch.

IV. CONDITIONS OF APPROVAL

1. *Approval of this variance does not give the developer an undeniable right to permit approval. Development or redevelopment of the subject property must comply with all applicable requirements of the Fort Myers Beach Comprehensive Plan and Land Development Code in effect at the time of permit approval, except as specifically modified herein.*
2. *A 10' Type B Buffer shall be installed along Shelby Lane with a reduction to six feet along the pool area. All buffers shall also be consistent with the site visibility triangle requirements of the LDC.*
3. *The pool shall be constructed as an in-ground pool at existing grades. The approved location and variance to setbacks does not apply to any elevated pool or structures.*
4. *The site improvements are subject to the Town's maximum impervious surface requirement of 67% and no net increase greater than 500 square feet. The property owner is responsible for demonstrating that the site complies with this requirement, along with removing existing compacted soils that qualify as impervious surfaces in the rear yard if additional impervious surfaces are added to complete the Estero Boulevard driveway. Shelby Lane ROW shall be restored.*
5. *The variances shall only apply to the pool as shown on the provided site plan. Alterations or substantial damage to either structure shall render their respective variance to be null and void.*

Staff Report Exhibits:

A – Site Plan





COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

This is a first part of a two-part application. Please be sure to fill out this form, which requires general information, as well as the Supplemental Form application specific to action requested for the subject property. Please submit a complete Public Hearing application with required, supplemental information, exhibits and documents to zoningpermits@fmbgov.com. Please do not submit the instructions at the end of the application.

Site Address: 6036 Estero Blvd
STRAP Number: 33-46-24-W3-00600.0060
Applicant: Pura Vida Vacation, LLC Phone: 239-230-2424
Contact Name: Eran Epstein Phone: 239-230-2424
Email: eran@escllc.com Fax: 212-656-1210
Current Zoning District: RC
Future Land Use Map (FLUM) Category: Mixed Residential
FLUM Density Range: _____ Platted Overlay: ☐ YES ☐ NO

ACTION REQUESTED

- ☐ Special Exception
- ☒ Variance
- ☐ Conventional Rezoning
- ☐ Planned Development ☐ Commercial ☐ Residential
- ☐ Master Concept Plan Extension
- ☐ Appeal of Administrative Action
- ☐ Vacation of Platted Right-of-way and Easement
- ☐ Other – cite LDC Section: _____

SUPPLEMENTAL FORM REQUIRED

PH-A
PH-B
PH-C
PH-D
PH-E
PH-F
PH-G
attach on separate sheet

PART I - General Information

A. **Applicant***: Pura Vida Vacation, LLC Phone: 239-230-2424
**Applicant must submit a statement under oath that he/she is the authorized representative of the property owner.
Please see PART III to complete the appropriate Affidavit form for the type of applicant.*
Applicant Mailing Address: 8853 Stonebriar Drive, Clarence NY 14032
Email: eran@e2mcorp.com Fax: 212-656-1210
Contact Name: Eran Epstein Phone: 239-230-2424



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

B. Relationship of Applicant to subject property:

- | | | |
|---|---|--|
| ☒ Owner* | ☐ Land Trust* | ☐ Partnership* |
| ☐ Corporation* | ☐ Association* | ☐ Condominium* |
| ☐ Subdivision* | ☐ Timeshare Condo* | ☐ Contract Purchaser* |
| ☐ Authorized Representative* | ☐ Other* (please indicate) _____ | |

**Applicant must submit a statement under oath that he/she is the authorized representative of the property owner.
Please see PART III to complete the appropriate Affidavit form for the type of applicant.*

C. Authorized Agent(s). Please list the name of Agent authorized to receive correspondence Agents

Name: Eran Epstein Phone: 239-230-2424
Address: 8853 Stonebriar Drive, Clarence NY 14032
Email: eran@e2mcorp.com Fax: 212-656-1210

D. Other Agent(s). Please list the names of all Authorized Agents (attach extra sheets if necessary)

Name: _____ Phone: _____
Address: _____
Email: _____ Fax: _____

Name: _____ Phone: _____
Address: _____
Email: _____ Fax: _____

PART II - Nature of Request

Requested Action (each request requires a separate application)

- ☐ Special Exception
- ☒ Variance from LDC Section 34 - 638
- ☐ Conventional Rezoning from _____ to _____
- ☐ Planned Development
- ☐ Rezoning from _____ to ☐ Commercial PD ☐ Residential PD
- ☐ Amendment. List the project number: _____
- ☐ Extension/reinstatement of Master Concept Plan. List project number: _____



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

☐ Appeal of Administrative Action

☐ Vacation

☐ Right-of-Way

☐ Easement

☒ Other. Please Explain: Setback Variance from section 34-638. 25 Foot setback
requirement from Shelby Lane. Prior Approval at 6041 Gulf Road which also abuts
Shelby Lane in the rear.

PART III – Waivers

Please indicate any specific submittal items that have been waived by the Director for the request. Attach a copy of the signed approval as Exhibit 3-1. (Use additional sheets if necessary)

Code Section: 34-638 Description: Setback
Reduce 25' Setback as previously approved at 6041 Gulf Road to permit a pool installation.

Code Section: _____ Description: _____

Code Section: _____ Description: _____

PART IV – Property Ownership (Single Owner)

☐ Single Owner (individual or husband and wife)

Name: _____ Phone: _____

Mailing Address: _____

Email: _____ Fax: _____

AFFIDAVIT

APPLICATION IS SIGNED BY AN INDIVIDUAL OWNER OR APPLICANT

I, _____ swear or affirm under oath, that I am the owner or the authorized representative of the owner(s) of the property and that:

I have full authority to secure the approval(s) requested and to impose covenants and restrictions on the referenced property as a result of any action approved by the Town of Fort Myers Beach in accordance with this application and the Land Development Code;

All answers to the questions in this application and any sketches, data or other supplementary matter attached hereto and made a part of this application are honest and true;



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

I have authorized the staff of the Town of Fort Myers Beach Community Development to enter upon the property during normal working hours for the purpose of investigating and evaluating the request made thru this application; and that

The property will not be transferred, conveyed, sold or subdivided unencumbered by the conditions and restrictions imposed by the approved action.

Signature

Printed Name

STATE OF _____ COUNTY OF _____

The foregoing instrument was certified and subscribed before me by means of ____ physical

presence OR ____ online notarization, this ____ day of _____, 20____, by

_____, ☐ who is personally known to me OR ☐ who has produced

_____ as identification.

Notary Public Signature

PART V Property Ownership (Multiple Owners)

☒ Multiple Owners (including corporation, partnership, trust, association, condominium, timeshare, or subdivision)

- ☒ Complete Disclosure of Interest Form (see below)
- ☒ Attach list of property owners as Exhibit 5-1
- ☐ Attach map showing property owners interests as Exhibit 5-2 (for multiple parcels)
- ☐ For condominiums and timeshares see Explanatory Notes Part V - Exhibit 5-3
- ☐ Letter of Opinion - Exhibit 5-4

DISCLOSURE OF OWNERSHIP INTEREST

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

Name and Address

Percentage Ownership



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

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

Name, Address and Office	Percentage of Stock
Eran Epstein 8853 Stonebriar Drive, Clarence NY 14032 - Member	50%
Irina Epstein 8853 Stonebriar Drive, Clarence NY 14032 - Member	50%

If the property is in the name of a TRUSTEE, list the beneficiaries of the trust with percentage of interest.

Name and Address	Percentage of Interest

If the property is in the name of a GENERAL PARTNERSHIP OR LIMITED PARTNERSHIP, list the names of the general and limited partners.

Name and Address	Percentage of Ownership

If there is a CONTRACT FOR PURCHASE, whether contingent on this application or not, and whether a Corporation, Trustee, or Partnership, list the names of the contract purchasers below, including the officers, stockholders, beneficiaries, or partners.

Name, Address and Office	Percentage of Stock



COMMUNITY DEVELOPMENT DEPARTMENT
APPLICATION for PUBLIC HEARING

Date of Contract: _____

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

Name	Address
_____	_____
_____	_____
_____	_____
_____	_____

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

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

_____ Signature	_____ Printed Name
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AFFIDAVIT

**APPLICATION IS SIGNED BY A CORPORATION, LIMITED LIABILITY COMPANY (L.L.C.),
LIMITED COMPANY (L.C.), PARTNERSHIP, LIMITED PARTNERSHIP, OR TRUSTEE**

I, Eran Epstein (name), as Member (title)
of Pura Vida Vacation, LLC (company), swear or affirm under oath, that I am the
owner or the authorized representative of the owner(s) of the property and that:

1. I have full authority to secure the approval(s) requested and to impose covenants and restrictions on the referenced property as a result of any action approved by the Town of Fort Myers Beach in accordance with this application and the Land Development Code;
2. All answers to the questions in this application and any sketches, data or other supplementary matter attached hereto and made a part of this application are honest and true;
3. I have authorized the staff of Fort Myers Beach Community Development to enter upon the property during normal working hours for the purpose of investigating and evaluating the request made thru this application; and that
4. The property will not be transferred, conveyed, sold or subdivided unencumbered by the conditions and restrictions imposed by the approved action.



COMMUNITY DEVELOPMENT DEPARTMENT

APPLICATION for PUBLIC HEARING

Pura Vida Vacation, LLC

Name of Entity (corporation, partnership, LLP, LLC, etc)

Eran Epstein
Signature

Eran Epstein

Typed or Printed Name

Member

Title

6/29/2021

Date

STATE OF New York COUNTY OF Erie

The foregoing instrument was certified and subscribed before me by means of ☒ physical presence OR ☐ online notarization, this 12 day of July, 2021, by Eran Epstein ☐ who is personally known to me OR ☒ who has produced NYDL as identification.

Christa A Kenney
Notary Public Signature

CHRISTA A KENNEY
Notary Public, State of New York
Reg. No. 01KE8023824
Qualified in Niagara County
Commission Expires 4/26/2023

PART VI- Property Information

A. Legal Description:

STRAP: 33-46-24-W3-00600.0060

Property Address: 6036 Estero Blvd

Is the subject property within a platted subdivision recorded in the official Plat Books of Lee County? ☐ No. Attach a legible copy of the legal description as Exhibit 6-1.

☒ Yes. Property identified in subdivision: Estero Park

Book: 9 Page: 8 Unit: _____ Block: _____ Lot(s): 6

B. Boundary Survey:

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



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

C. Property Dimensions:

Width (please provide an average width if irregular in shape) 56 feet

Depth (please provide an average width if irregular in shape) 135 feet

Frontage on street: 65 feet. Frontage on waterbody: 0 feet

Total land area: 7,560 ☐ acres ☒ square feet

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

Across the street from the Church of Ascension.

☒ Attach Area Location Map as Exhibit 6-3

E. Property Restrictions (check applicable):

☒ There are no deed restrictions and/or covenants on the subject property.

☐ A list of deed restrictions and/or covenants affecting the subject property is attached as Exhibit 6-4.

☐ A narrative statement detailing how the restrictions/covenants may or may not affect the request is attached as Exhibit 6-5.

F. Surrounding Property Owners (these items can be obtained from the Lee County Property Appraiser):

☒ Attach a list of surrounding property owners within 500 feet as Exhibit 6-6.

☒ Attach a map showing the surrounding property owners as Exhibit 6-7.

☒ Provide Staff with two (2) sets of surrounding property owner mailing labels.

G. Future Land Use Category (see Future Land Use Map):

☐ Low Density

☒ Mixed Residential

☐ Boulevard

☐ Pedestrian Commercial

☐ Marina

☐ Recreation

☐ Wetlands

☐ Platted Overlay



Case # _____

Date Received: _____

Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT

Supplement PH-B

Additional Required Information for a Variance Application

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

Case Number:
Project Name:
Authorized Applicant:
LeePA STRAP Number:

Current Property Status:
Current Zoning:
Future Land Use Map (FLUM) Category:
Comp Plan Density: Platted Overlay? ☐ Yes ☐ No

Variance is requested from:

LDC Section Number

Title of Section or Subsection

Complete the narrative statements below for EACH variance requested.



Case # _____ Date Received: _____

PART I
Narrative Statements

Request for variance from _____ (LDC Section number)

Explain the specific regulation contained in this section from which relief is sought:

Reasons for request

Explain why the variance is needed:

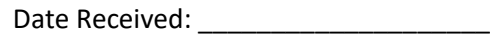


Case # _____

Date Received: _____

Explain the possible effect the variance, if granted, would have on surrounding properties:

Explain the hardship (what is unique about the property) that justifies relief from the regulation:

[illegible]

PART 2

Submittal Requirements

All applications for a variance must be submitted electronically through our Iworq portal - [iworq \(talktomycity.com\)](http://iworq.talktomycity.com)

Required Items

- Public Hearing Request Form
- Supplemental form PH-B
- Site Plan (to scale) including the current use of all existing structures on the site, and those on adjacent properties within 100 feet of the perimeter; and a clear illustration of the proposed variance
- Fee in the amount of \$1800.00 (residential)/Additional Variance \$500.00
- Variance (non-residential) \$2800.00/ Additional Variance \$700.00

Guide to filing PH-B Additional Required Information for a Variance Application

Cover page

Case Number will be inserted by Community Development staff.

Project Name must be the same as the name used on the Request for Public Hearing form.

Applicant must be the same as on the Request for Public Hearing form.

STRAP numbers must be the same as on the Request for Public Hearing form.

Current status of property must be the same as on the Request for Public Hearing form.

“Variance is requested from...” Provide the section number and title of each section of the Fort Myers Beach Land Development Code from which a variance is being sought.

Narrative statements

If the application is for multiple variances, complete all of the narrative statements for each variance that is requested.

Site plan

The site plan must show all existing structures on the site; all existing structures within 100 feet of the perimeter boundary of the site; and a clear illustration of the proposed variance.

LDC Section 34-87

The guidelines for decision-making regarding a request for a variance are as follows:

1. Whether there are exceptional or extraordinary conditions or circumstances that are inherent to the property in question, or whether the request is for a *de minimis* variance under circumstances or conditions where rigid compliance is not necessary to protect public policy;
2. Whether the exceptional or extraordinary conditions justifying the variance are or are not the result of actions of the applicant taken after the adoption of the regulation in question;
3. Whether the requested variance is the minimum variance to relieve the applicant of an unreasonable burden caused by the application of the regulation in question;
4. Whether granting the variance would be injurious to the neighborhood or otherwise detrimental to the public welfare;
5. Whether the conditions or circumstances of the specific piece of property or the intended use of the property for which the variance is sought are of so general or recurrent a nature as to make it more reasonable and practical to amend the regulation in question.



GEOMETRIC SURVEYING INC.

2804 DEL PRADO BLVD S, SUITE 205
CAPE CORAL, FL 33904
ASSISTANCE@GEOMETRICSURVEYING.COM
(239)-540-6257
(239)-471-2237



LOCATION SKETCH

SCALE = N.T.S.

VIEW OF SUBJECT PROPERTY

6036/38 ESTERO BLVD, FORT MYERS, FLORIDA 33931

ABBREVIATIONS

A	= ARC.	ELEV.	= ELEVATION	PVMT.	= PAVEMENT	T	= TANGENT
A/C	= AIR CONDITIONER PAD	ENCR.	= ENCROACHMENT	PL	= PLANTER	TB	= TELEPHONE BOOTH
A.E.	= ANCHOR EASEMENT	F.H.	= FIRE HYDRANT	P.B.	= PLAT BOOK	T.B.M.	= TEMPORARY BENCHMARK
A.R.	= ALUMINUM ROOF	F.I.P.	= FOUND IRON PIPE	P.G.	= PAGE	T.U.E.	= TECHNOLOGY UTILITY EASEMENT
A.S.	= ALUMINUM SHED	F.I.R.	= FOUND IRON ROD	P.L.	= PROPERTY LINE	TSB	= TRAFFIC SIGNAL BOX
ASPH.	= ASPHALT	F.F.E.	= FINISHED FLOOR ELEVATION	P.C.C.	= POINT OF COMPOUND CURVATURE	T.S.P.	= TRAFFIC SIGNAL POLE
B.C.	= BLOCK CORNER	F.N.D.	= FOUND NAIL & DISK	P.C.P.	= PERMANENT CONTROL POINT	TWP	= TOWNSHIP
BLDG.	= BUILDING	FT.	= FEET	P.C.	= POINT OF CURVATURE	UTIL.	= UTILITY
B.M.	= BENCH MARK	NFIP.	= NATIONAL FLOOD INSURANCE PROGRAM	P.O.T.	= POINT OF TANGENCY	U.E.	= UTILITY EASEMENT
B.O.B.	= BASIS OF BEARING	F.N.	= FOUND NAIL	P.O.C.	= POINT OF COMMENCEMENT	U.P.	= UTILITY POLE
B.S.L.	= BUILDING SETBACK LINE	H.	= HIGH OR (HEIGHT)	P.O.B.	= POINT OF BEGINNING	W.M.	= WATER METER
(C)	= CALCULATED	IN.&EG.	= INGRESS AND EGRESS EASEMENT	P.R.C.	= POINT OF REVERSE CURVATURE	W.F.	= WOOD FENCE
C.B.	= CATCH BASIN	I.C.V.	= IRRIGATION CONTROL VALVE	P.W.Y.	= PARKWAY	W.P.	= WOOD PORCH
C.B.S.	= CONCRETE BLOCK STUCCO	ID?	= IDENTIFICATION ILLEGIBLE	P.R.M.	= PERMANENT REFERENCE MONUMENT	W.R.	= WOOD ROOF
C.B.W.	= CONCRETE BLOCK WALL	I.F.	= IRON FENCE	P.S.M.	= PROFESSIONAL SURVEYOR & MAPPER	W.V.	= WATER VALVE
CH.	= CHORD	L.B.	= LICENSED BUSINESS	P.L.S.	= PROFESSIONAL LAND SURVEYOR	M/L	= MONUMENT LINE
CH.B.	= CHORD BEARING	L.P.	= LIGHT POLE	P.P.	= POWER POLE	CL	= CENTER LINE
CL.	= CLEAR	L.F.E.	= LOWEST FLOOR ELEVATION	P.P.S.	= POOL PUMP SLAB	Δ	= DELTA
C.O.	= CLEAN OUT	L.M.E.	= LAKE MAINTENANCE EASEMENT	P.U.E.	= PUBLIC UTILITY EASEMENT		
C.L.F.	= CHAIN LINK FENCE	I	= MINUTES	(R)	= RECORD		
C.M.E.	= CANAL MAINTENANCE EASEMENT	(M)	= MEASURED	R.R.	= RAIL ROAD		
CONC.	= CONCRETE	M.B.	= MAIL BOX	RES.	= RESIDENCE		
C.U.P.	= CONCRETE UTILITY POLE	M.E.	= MAINTENANCE EASEMENT	R/W	= RIGHT-OF-WAY		
C.P.	= CONCRETE PORCH	M.H.	= MAINHOLE	RAD.	= RADIUS OR RADIAL		
C.S.	= CONCRETE SLAB	N.A.P.	= NOT A PART OF	RGE.	= RANGE		
C.W.	= CONCRETE WALK	NAVD	= NORTH AMERICAN VERTICAL DATUM 1988	R.O.E.	= ROOF OVERHANG EASEMENT		
D.E.	= DRAINAGE EASEMENT	NGVD	= NATIONAL GEODETIC VERTICAL DATUM 1929	SEC.	= SECTION		
D.H.	= DRILL HOLE	NO ID	= NO IDENTIFICATION	STY.	= STORY		
D.M.E.	= DRAINAGE MAINTENANCE EASEMENT	N.T.S.	= NOT TO SCALE	SWK.	= SIDEWALK		
DRIVE	= DRIVEWAY	# OR NO.	= NUMBER	S.I.R.	= SET IRON ROD		
o	= DEGREES	O/S	= OFFSET	S.I.P.	= SET IRON PIPE		
EB	= ELECTRIC BOX	O.H.	= OVERHEAD	S.N.D.	= SET NAIL & DISK		
E.T.P.	= ELECTRIC TRANSFORMER PAD	O.H.L.	= OVERHEAD UTILITY LINES	S	= SOUTH		
		O.R.B.	= OFFICIAL RECORDS BOOK	S.P.	= SCREENED PORCH		
		O.V.H.	= OVERHANG	S.V.	= SEWER VALVE		
				"	= SECONDS		

LEGEND

	= OVERHEAD UTILITY LINES
	= CENTERLINE
	= CONCRETE BLOCK STUCCO WALL
	= CHAIN LINK FENCE
	= IRON FENCE
	= WOOD FENCE
	= WIRE FENCE
	= BUILDING SETBACK LINE
	= UTILITY EASEMENT
	= LIMITED ACCESS R/W
	= RGE, TWP, SEC. 1/2 SEC LINE
	= NON-VEHICULAR
	= 0.00' ACCESS R/W
	= EXISTING ELEVATIONS

SURVEYOR NOTES :

- THIS SURVEY IS TO BE USED EXCLUSIVELY AS AN AID TO OBTAIN TITLE INSURANCE, NO OTHER WARRANTIES ARE HEREBY EXTENDED.
- THERE MAY BE EASEMENTS RECORDED IN THE PUBLIC RECORDS NOT SHOWN ON THIS SURVEY.
- EXAMINATIONS OF THE ABSTRACT OF TITLE WILL HAVE TO BE MADE TO DETERMINE RECORDED INSTRUMENTS, IF ANY, AFFECTING THE PROPERTY.
- THIS SURVEY MAY BE SUBJECT TO DEDICATIONS, LIMITATIONS, RESTRICTIONS, RESERVATIONS, ENCUMBRANCES OR EASEMENTS OF RECORD THE SAME THAT MAY NOT BE NOTED OR DEPICTED HEREON.
- LEGAL DESCRIPTIONS PROVIDED BY CLIENT OR ATTESTING TITLE COMPANY.
- BOUNDARY SURVEY MEANS A DRAWING AND/ OR A GRAPHIC REPRESENTATION OF THE SURVEY WORK PERFORMED IN THE FIELD, COULD BE DRAWN AT A SHOWN SCALE AND/OR NOT TO SCALE; THE WALLS OR FENCES MAY BE EXAGGERATED FOR CLARITY PURPOSES.
- EASEMENTS AS SHOWN ARE PER PLAT, UNLESS NOTED OR DEPICTED OTHERWISE.
- THE TERM "ENCROACHMENT" REFERS TO ABOVE GROUND INTRUSIONS OF IMPROVEMENTS ONTO SUBJECT PROPERTY FROM ADJOINERS PROPERTY OR ONTO ADJOINERS PROPERTY FROM SUBJECT PROPERTY.
- ARCHITECTS AND ENGINEERS SHALL VERIFY ZONING REGULATIONS, RESTRICTIONS, SETBACKS AND WILL BE RESPONSIBLE FOR SUBMITTING PLANS WITH CORRECT INFORMATION TO BUILDING AND ZONING OFFICIALS OR ANY OTHER AUTHORITIES FOR APPROVAL OF PLANS FOR NEW CONSTRUCTION. THEY WILL ALSO BE RESPONSIBLE FOR SUBMITTING PLANS WITH CORRECTPROPOSED BUILDING HEIGHTS AND PROPOSED FINISHED FLOOR ELEVATION WITH DATUM FOR NEW BUILDINGS TO THE PROPER AUTHORITIES IN NEW CONSTRUCTION.
- UNLESS OTHERWISE SHOWN RECORD AND MEASURED CALLS ARE IN SUBSTANTIAL AGREEMENT.
- UNDERGROUND UTILITIES ARE NOT DEPICTED HEREON
- UNLESS OTHERWISE NOTED, THIS FIRM HAS NOT ATTEMPTED TO LOCATE UNDERGROUND FOOTINGS AND/OR FOUNDATIONS.
- FENCE OWNERSHIP NOT DETERMINED.
- THIS PLAN OF SURVEY, HAS BEEN PREPARED FOR THE EXCLUSIVE USE OF THE ENTITIES NAMED HEREON, THE CERTIFICATE DOES NOT EXTEND TO ANY UNNAMED PARTY.
- FENCE TIES ARE TO CENTERLINE OF THE SAME.
- WALL TIES ARE TO THE FACE OF THE SAME.

FLOOD ZONE INFORMATION:

THE NFIP FLOOD MAPS HAVE DESIGNATED THE HEREIN DESCRIBED LAND TO BE SITUATED IN:
FLOOD ZONE: "AE"
BASE FLOOD ELEVATION: 13.00 FT.
COMMUNITY: 120673
PANEL: 0566
SUFFIX: F
DATE OF FIRM: 08/28/2008
THE SUBJECT PROPERTY LIES IN A SPECIAL FLOOD HAZARD AREA.

SURVEYOR'S CERTIFICATION:

THEREBY CERTIFY: THAT THE SKETCH OF THIS BOUNDARY SURVEY WAS PREPARED UNDER MY SUPERVISION AND THAT IT MEETS THE STANDARDS OF PRACTICE SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL SURVEYORS & MAPPERS IN CHAPTER 5J-17.050.052 OF THE FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472 OF THE FLORIDA STATUTES AND THAT THE SKETCH HEREON IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

MIGUEL J. GARAY

03/25/2021

(DATE OF FIELDWORK)

BY:

PROFESSIONAL SURVEYOR AND MAPPER LS# 6594 STATE OF FLORIDA
(NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER).

REVISED ON:

REVISED ON:

DRAWN BY: EMV

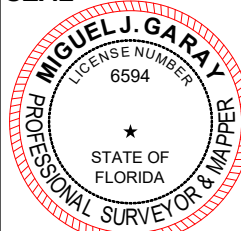
FIELD DATE: 03/25/2021

SURVEY NO: 21-00299

SHEET: 1 OF 2

THIS PAGE IS NOT VALID WITHOUT ALL OTHERS

SEAL



L.S.#6594 L.B.#8203



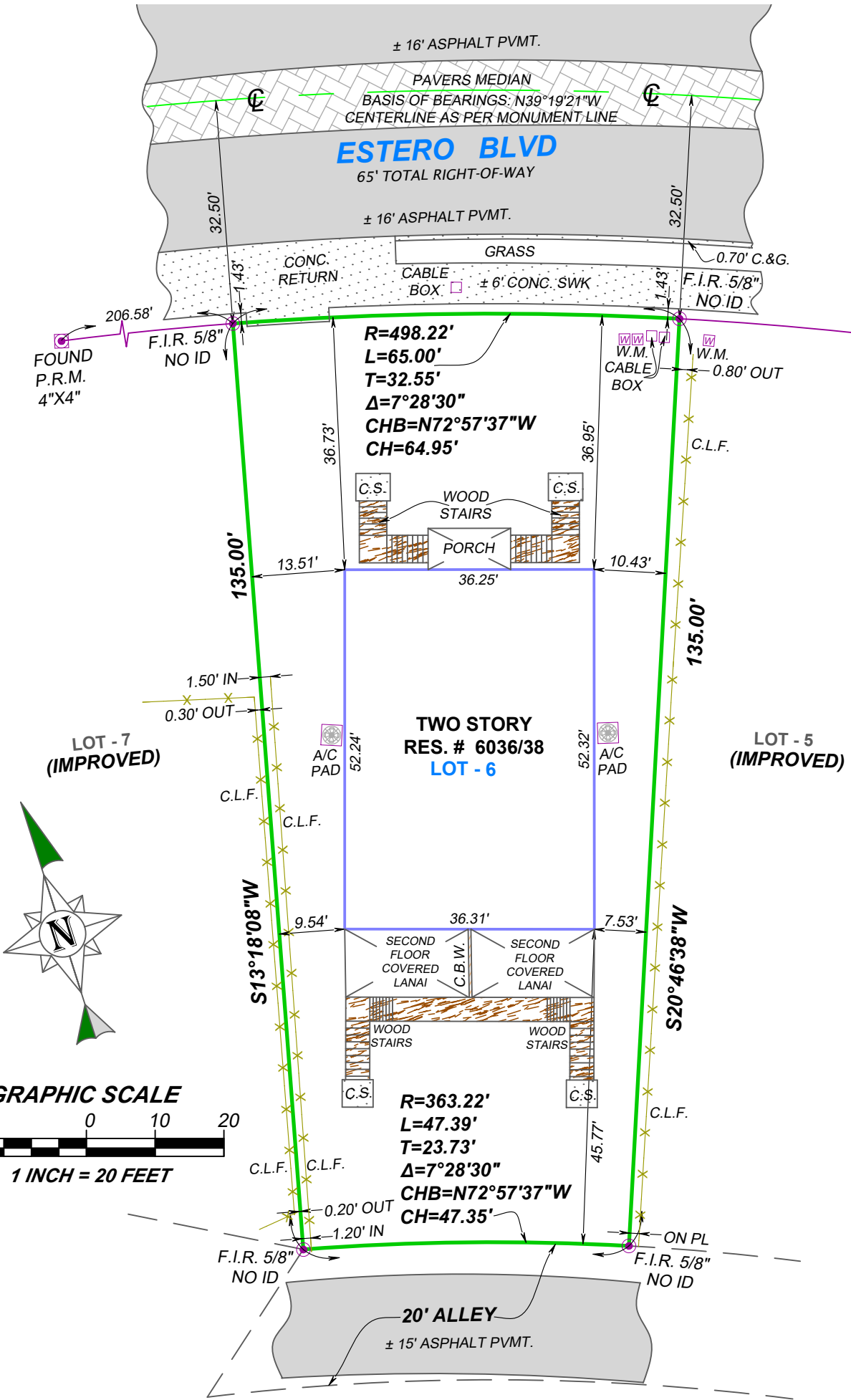
GEOMETRIC SURVEYING INC.

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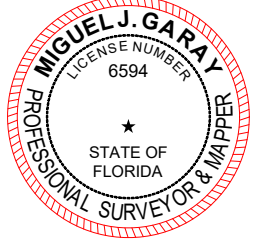


MAP OF BOUNDARY SURVEY

6036/38 ESTERO BLVD, FORT MYERS, FLORIDA 33931



SEAL



L.S.#6594 L.B.#8203

LEGAL DESCRIPTION:
LOT 6 OF THAT CERTAIN SUBDIVISION KNOWN AS ESTERO PARK, ACCORDING TO THE MAP OR PLAT THEREOF ON FILE AND RECORDED IN PLAT BOOK 9, PAGE 8, PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

CERTIFICATION:
ERAN EPSTEIN AND IRINA EPSTEIN
SANIBEL CAPTIVA COMMUNITY BANK
OLD REPUBLIC NATIONAL TITLE INSURANCE
SUN NATIONAL TITLE COMPANY

THIS PAGE IS NOT VALID WITHOUT ALL OTHERS

DRAWN BY:	EMV
FIELD DATE:	03/25/2021
SURVEY NO:	21-00299
SHEET:	2 OF 2

**Town of Fort Myers Beach
Agenda Item Summary**

Yellow Sheet Number: **2021-458**

1. Requested Motion:

Meeting Date: October 20, 2021

Approve/Approve with conditions/Deny VAR20210039 71 Chapel Street Street Setback Variance

Why the action is necessary:

The application for a variance is required to be reviewed by the LPA and a recommendation provided to the Town Council.

What the action accomplishes:

Approval of a variance will permit a home to be constructed at a reduced street setback along Cottage Avenue.

2. Agenda:

PUBLIC HEARINGS

3. Requirement/Purpose:

Resolution reviewed by the
Town Council

5. Background:

Ronald Yanke, the applicant for 71 Chapel Street, is requesting a variance from the Town's Land Development Code (LDC). The applicant is seeking a variance of 15 feet from LDC Table 34-3, which establishes a 25-foot street setback. The current principal structure is a 1940s single-family home located on the corner of Chapel St and Cottage Ave. The existing home has a street setback of 10 feet from Cottage Ave and 57 feet from Chapel St.

The applicant wishes to build a new single-family home on the parcel with a 10-foot setback from Cottage Ave and a 25-foot setback from Chapel St. The applicant is also proposing a 27-foot rear setback (side adjacent to 70 Mango St) and an 8-foot side setback (side adjacent to Mom's Restaurant).

The nonconforming lot is approximately 50 feet by 100 feet making it a 5,000 square foot lot. The minimum lot size for an RM lot, in the LDC, is 75 feet by 100 feet, or 7,500 square feet. The setbacks for RM zoning are right-of-way (ROW) 25 feet, Side (for single or two-family home) 7.5 feet, and Rear 20 feet.

This is a corner property. In accordance with the code, both property lines fronting on a street must meet the street setback of 25 feet. The rear property line is considered "the line most nearly parallel to or concentric with and most distant from the front lot line most prevalent along the block." (Sec. 34-2 Definitions. Lot line, rear) Based on the typical design of an interior lot, the front and rear property lines are shorter and the side property lines are longer. This allows for a buildable area with a larger street and rear setback. The proposed setbacks mimic encroachments allowed by porches and stairs within the LDC, providing a 15-foot setback along Cottage Ave, rather than the 25-foot street setback.

Attachments:

1. VAR20210039 - 71 Chapel St - Staff Report - LPA_final
2. 9743777-Correct application- Public hearing- variance
3. 8764404-71 Chapel St. Surveys
4. 9743776-exhibit and labels

Financial Impact:

6. Alternative Action

Approve/Approve with conditions/Deny

7. Staff Recommendations:

Approve with conditions

8. Recommended Approval:

Jason Green, Community Development
Services

Date: October 15, 2021

John R Herin Jr, Town Attorney

Date: October 15, 2021

Amy Baker, Town Clerk

Date: October 15, 2021



Town of Fort Myers Beach
COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT

TYPE OF CASE: Variance

CASE NUMBER: VAR20210039

CASE NAME: 71 Chapel Street, to allow the principal structure to encroach 10 feet into the street setback.

LPA

HEARING DATE: October 20, 2021 at 1:30 PM

STAFF

RECOMMENDATION: Approve with conditions

**PREPARED/
SUBMITTED BY:** Carl Benge/ Jason Green AICP

I. APPLICATION SUMMARY

Applicant/Owner: Ronald Yanke

Request: The applicant is seeking a 10-foot variance from the street side setback in Table 34-3, to allow a principal structure 15 feet from the ROW property line.

Subject property: See attached site plan

Physical Address: 71 Chapel Street

STRAP #: 19-46-24-W3-0120A.0090

FLU: Boulevard

Zoning: Residential Multi-family (RM)

Adjacent zoning and land uses:

North: COMMERCIAL BUSINESS (CB)

Office/Restaurant

South: RESIDENTIAL MULTI-FAMILY (RM)
Multi-Family

East: COMMERCIAL PLANNED DEVELOPMENT (CPD)
Vacant Lot

West: RESIDENTIAL MULTI-FAMILY (RM)
Multi-Family

II. BACKGROUND AND ANALYSIS

Background:

Ronald Yanke, the applicant for 71 Chapel Street, is requesting a variance from the Town's Land Development Code (LDC). The applicant is seeking a variance of 15 feet from LDC Table 34-3, which establishes a 25-foot street setback. The current principal structure is a 1940s single-family home located on the corner of Chapel St and Cottage Ave. The existing home has a street setback of 10 feet from Cottage Ave and 57 feet from Chapel St.

The applicant wishes to build a new single-family home on the parcel with a 10-foot setback from Cottage Ave and a 25-foot setback from Chapel St. The applicant is also proposing a 27-foot rear setback (side adjacent to 70 Mango St) and an 8-foot side setback (side adjacent to Mom's Restaurant).

Analysis:

The nonconforming lot is approximately 50 feet by 100 feet making it a 5,000 square foot lot. The minimum lot size for an RM lot, in the LDC, is 75 feet by 100 feet, or 7,500 square feet. The setbacks for *RM* zoning are right-of-way (ROW) 25 feet, Side (for single or two-family home) 7.5 feet, and Rear 20 feet.

This is a corner property. In accordance with the code, both property lines fronting on a street must meet the street setback of 25 feet. The rear property line is considered "the line most nearly parallel to or concentric with and most distant from the front lot line most prevalent along the block." (Sec. 34-2 Definitions. Lot line, rear) Based on the typical design of an interior lot, the front and rear property lines are shorter and the side property lines are longer. This allows for a buildable area with a larger street and rear setback. The proposed setbacks mimic encroachments allowed by porches and stairs within the LDC, providing a 15-foot setback along Cottage Ave, rather than the 25-foot street setback.

If the applicant were to provide the code required street setback of 25 feet, along Cottage Ave, the buildable area of the house would be severely impacted. The maximum width of the house would be 17.5 feet.

Neighborhood Compatibility:

The proposed street setback variance along Cottage Ave will result in a house that is similarly situated to the house to the west, along Cottage Ave. Utilizing the measuring feature in the Lee County Property Appraiser GIS website, the house to the west is setback approximately 10 feet. The homes located on the south side of Cottage Ave, facing this property, appear to meet or exceed the minimum street setback.

Findings and Conclusions:

LDC Sec. 34-87 sets forth the required findings and conclusions for the approval of a variance:

- a. *That there **are**/are not exceptional or extraordinary conditions or circumstances that are inherent to the property in question, or that the request is/**is not** for a de minimis variance under circumstances or conditions where rigid compliance is not essential to protect public policy.*

The lot is a 50-foot wide lot. While this is not exceptionally narrow for an interior lot, it is narrow for a corner lot which would have two street setbacks applied.

- b. *That the conditions justifying the variance are/**are not** the result of actions of the applicant taken after the adoption of the regulation in question.*

These conditions are not the result of owner's actions. The lot is existing. The applicant is proposing a new home, which could be more narrow than the existing home, however application of the required setbacks would result in a particularly narrow home.

- c. *That the variance granted **is**/is not the minimum variance that will relieve that applicant of an unreasonable burden caused by the application of the regulation in question to his property.*

The variance is to relieve the applicant of the code requirement. The variance is to allow the proposed home to encroach the Cottage Ave ROW setback since the lot is a corner lot with two ROW setbacks.

- d. *That the granting of the variance will/**will not** be injurious to the neighborhood or otherwise detrimental to the public welfare; and*

The granting of this variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare. The existing house is built to the proposed setback and staff recommended conditions will further limit impacts to adjacent properties. The new home will be required to remove the driveway entrance on Cottage Ave and restore the pavement, landscaping

and drainage in the right of way. Additionally, staff is recommending a 10-foot wide Type B buffer along Cottage Ave, to screen visibility of the new home.

- e. *That the conditions or circumstances on the specific piece of property for which the variance is sought are **are not** of so general or recurrent a nature as to make it more reasonable and practical to amend the regulation in question.*

While corner lot street setback variances are one of the more common requests, the majority of corner lots on the island were platted to be wider to accommodate additional setbacks. This lot is particularly narrow for a corner lot. At some point in the future it may be wise to reconsider the corner lot setback requirements.

III. RECOMMENDATION

Staff finds that a variance of 10 feet, to allow a 15-foot street side setback adjacent to Cottage Ave is appropriate for this property.

Therefore, staff recommends **APPROVAL WITH CONDITIONS** of VAR20210039, a 10-foot variance from the street side setback, to allow a principal structure 15 feet from the ROW property line.

IV. CONDITIONS OF APPROVAL

1. *Approval of this variance does not give the developer an undeniable right to permit approval. Development or redevelopment of the subject property must comply with all applicable requirements of the Fort Myers Beach Comprehensive Plan and Land Development Code in effect at the time of permit approval, except as specifically modified herein.*
2. *No portion of the home may encroach further than 10 feet into the Cottage Ave. setback, this includes awnings and overhangs.*
3. *The driveway entrance onto Cottage Ave will be removed and the right-of-way and drainage restored to meet all Town standards and existing conditions along Cottage Avenue.*
4. *A 10-foot wide, Type B buffer will be provided along the Cottage Ave property line, extending the length of the house.*

Staff Report Exhibits:

A – Site Plan

B – Complete Application

C – Letter to Adjacent Property Owners



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

This is a first part of a two-part application. Please be sure to fill out this form, which requires general information, as well as the Supplemental Form application specific to action requested for the subject property. Please submit a complete Public Hearing application with required, supplemental information, exhibits and documents to zoningpermits@fmbgov.com. Please do not submit the instructions at the end of the application.

Site Address: 71 Chapel St Fort Myers Beach, FL 33931

STRAP Number: 19-46-24-W3-0120A.0090

Applicant: Ronald Yanke

Phone: 815-228-4663

Contact Name: Ronald Yanke

Phone: 815-228-4663

Email: boatin11@sbcglobal.net

Fax: _____

Current Zoning District: RM

Future Land Use Map (FLUM) Category: RM

FLUM Density Range: _____ Platted Overlay: ☐ YES ☐ NO

ACTION REQUESTED

☐ Special Exception

☒ Variance

☐ Conventional Rezoning

☐ Planned Development ☐ Commercial ☐ Residential

☐ Master Concept Plan Extension

☐ Appeal of Administrative Action

☐ Vacation of Platted Right-of-way and Easement

☐ Other - cite LDC Section: _____

SUPPLEMENTAL FORM REQUIRED

PH-A

PH-B

PH-C

PH-D

PH-E

PH-F

PH-G

attach on separate sheet

PART I - General Information

A. Applicant*: Ronald Yanke

Phone: 815-228-4663

**Applicant must submit a statement under oath that he/she is the authorized representative of the property owner.
Please see PART III to complete the appropriate Affidavit form for the type of applicant.*

Applicant Mailing Address: 2431 Cottage Ave Fort Myers Beach, FL 33931

Email: boatin11@sbcglobal.net

Fax: _____

Contact Name: Ronald Yanke

Phone: 815-228-4663



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

B. Relationship of Applicant to subject property:

- | | | |
|---|---|--|
| ☒ Owner* | ☐ Land Trust* | ☐ Partnership* |
| ☐ Corporation* | ☐ Association* | ☐ Condominium* |
| ☐ Subdivision* | ☐ Timeshare Condo* | ☐ Contract Purchaser* |
| ☐ Authorized Representative* | ☐ Other* (please indicate) _____ | |

**Applicant must submit a statement under oath that he/she is the authorized representative of the property owner.
Please see PART III to complete the appropriate Affidavit form for the type of applicant.*

C. Authorized Agent(s). Please list the name of Agent authorized to receive correspondence Agents

Name: _____ Phone: _____

Address: _____

Email: _____ Fax: _____

D. Other Agent(s). Please list the names of all Authorized Agents (attach extra sheets if necessary)

Name: _____ Phone: _____

Address: _____

Email: _____ Fax: _____

Name: _____ Phone: _____

Address: _____

Email: _____ Fax: _____

PART II – Nature of Request

Requested Action (each request requires a separate application)

- ☐ Special Exception
- ☒ Variance from LDC Section 34 - 87
- ☐ Conventional Rezoning from _____ to _____
- ☐ Planned Development
- ☐ Rezoning from _____ to ☐ Commercial PD ☐ Residential PD
- ☐ Amendment. List the project number: _____
- ☐ Extension/reinstatement of Master Concept Plan. List project number: _____



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

☐ Appeal of Administrative Action

☐ Vacation

☐ Right-of-Way

☐ Easement

☐ Other. Please Explain: _____

PART III – Waivers

Please indicate any specific submittal items that have been waived by the Director for the request. Attach a copy of the signed approval as Exhibit 3-1. (Use additional sheets if necessary)

Code Section: _____ Description: _____

Code Section: _____ Description: _____

Code Section: _____ Description: _____

PART IV – Property Ownership (Single Owner)

☒ Single Owner (individual or husband and wife)

Name: Ronald Yanke Phone: 815-228-4663

Mailing Address: 2431 Cottage Ave Fort Myers Beach, FL 33931

Email: boatin11@sbcglobal.net Fax: _____

AFFIDAVIT

APPLICATION IS SIGNED BY AN INDIVIDUAL OWNER OR APPLICANT

I, Ronald Yanke swear or affirm under oath, that I am the owner or the authorized representative of the owner(s) of the property and that:

I have full authority to secure the approval(s) requested and to impose covenants and restrictions on the referenced property as a result of any action approved by the Town of Fort Myers Beach in accordance with this application and the Land Development Code;

All answers to the questions in this application and any sketches, data or other supplementary matter attached hereto and made a part of this application are honest and true;



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

I have authorized the staff of the Town of Fort Myers Beach Community Development to enter upon the property during normal working hours for the purpose of investigating and evaluating the request made thru this application; and that

The property will not be transferred, conveyed, sold or subdivided unencumbered by the conditions and restrictions imposed by the approved action.

Ronald Yanke
Signature

Ronald Yanke

Printed Name

STATE OF FL COUNTY OF LEE

The foregoing instrument was certified and subscribed before me by means of ☒ physical

presence OR ☐ online notarization, this 1 day of Sept, 2021, by

RONALD YANKE, ☐ who is personally known to me OR ☐ who has produced

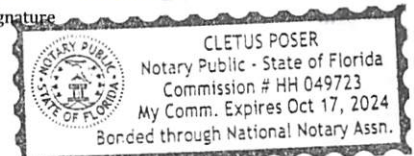
DR LIC as identification.

(SEAL)

Cletus Poser
Notary Public Signature

PART V

Property Ownership (Multiple Owners)



☐ Multiple Owners (including corporation, partnership, trust, association, condominium, timeshare, or subdivision)

- ☐ Complete Disclosure of Interest Form (see below)
- ☐ Attach list of property owners as Exhibit 5-1
- ☐ Attach map showing property owners interests as Exhibit 5-2 (for multiple parcels)
- ☐ For condominiums and timeshares see Explanatory Notes Part V - Exhibit 5-3
- ☐ Letter of Opinion - Exhibit 5-4

DISCLOSURE OF OWNERSHIP INTEREST

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

Name and Address

Percentage Ownership



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

Date of Contract: _____

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

Name	Address
_____	_____
_____	_____
_____	_____
_____	_____

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

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

_____	_____
Signature	Printed Name

AFFIDAVIT

APPLICATION IS SIGNED BY A CORPORATION, LIMITED LIABILITY COMPANY (L.L.C.), LIMITED COMPANY (L.C.), PARTNERSHIP, LIMITED PARTNERSHIP, OR TRUSTEE

I, _____ (name), as _____ (title) of _____ (company), swear or affirm under oath, that I am the owner or the authorized representative of the owner(s) of the property and that:

1. I have full authority to secure the approval(s) requested and to impose covenants and restrictions on the referenced property as a result of any action approved by the Town of Fort Myers Beach in accordance with this application and the Land Development Code;
2. All answers to the questions in this application and any sketches, data or other supplementary matter attached hereto and made a part of this application are honest and true;
3. I have authorized the staff of Fort Myers Beach Community Development to enter upon the property during normal working hours for the purpose of investigating and evaluating the request made thru this application; and that
4. The property will not be transferred, conveyed, sold or subdivided unencumbered by the conditions and restrictions imposed by the approved action.



**COMMUNITY DEVELOPMENT DEPARTMENT
APPLICATION for PUBLIC HEARING**

Name of Entity (corporation, partnership, LLP, LLC, etc)

Signature

Title

Typed or Printed Name

Date

STATE OF _____ COUNTY OF _____

The foregoing instrument was certified and subscribed before me by means of ____ physical presence OR ☐ online notarization, this ____ day of _____, 20____, by _____, ☐ who is personally known to me OR ☐ who has produced _____ as identification.

Seal

Notary Public Signature

PART VI- Property Information

A. Legal Description:

STRAP: 19-46-24-W3-0120A.0090

Property Address: 71 Chapel St Fort Myers Beach, FL 33931

Is the subject property within a platted subdivision recorded in the official Plat Books of Lee County? ☐ No. Attach a legible copy of the legal description as Exhibit 6-1.

☒ Yes. Property identified in subdivision: Seagrape

Book: 4 Page: 17 Unit: _____ Block: A Lot(s): 9

B. Boundary Survey:

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



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

C. Property Dimensions:

Width (please provide an average width if irregular in shape) 50 feet

Depth (please provide an average width if irregular in shape) 100 feet

Frontage on street: 50 feet. Frontage on waterbody: _____ feet

Total land area: 5000 ☐ acres ☒ square feet

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

from Sky bridge south on Estero Blvd to Chapel St, turn right and house is on left.

☒ Attach Area Location Map as Exhibit 6-3

E. Property Restrictions (check applicable):

☒ There are no deed restrictions and/or covenants on the subject property.

☐ A list of deed restrictions and/or covenants affecting the subject property is attached as Exhibit 6-4.

☐ A narrative statement detailing how the restrictions/covenants may or may not affect the request is attached as Exhibit 6-5.

F. Surrounding Property Owners (these items can be obtained from the Lee County Property Appraiser):

☒ Attach a list of surrounding property owners within 500 feet as Exhibit 6-6.

☒ Attach a map showing the surrounding property owners as Exhibit 6-7.

☒ Provide Staff with two (2) sets of surrounding property owner mailing labels.

G. Future Land Use Category (see Future Land Use Map):

☐ Low Density

☒ Mixed Residential

☐ Boulevard

☐ Pedestrian Commercial

☐ Marina

☐ Recreation

☐ Wetlands

☐ Platted Overlay



COMMUNITY DEVELOPMENT DEPARTMENT

APPLICATION for PUBLIC HEARING

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

Name, Address and Office

Percentage of Stock

_____	_____
_____	_____
_____	_____
_____	_____

If the property is in the name of a TRUSTEE, list the beneficiaries of the trust with percentage of interest.

Name and Address

Percentage of Interest

_____	_____
_____	_____
_____	_____
_____	_____

If the property is in the name of a GENERAL PARTNERSHIP OR LIMITED PARTNERSHIP, list the names of the general and limited partners.

Name and Address

Percentage of Ownership

_____	_____
_____	_____
_____	_____
_____	_____

If there is a CONTRACT FOR PURCHASE, whether contingent on this application or not, and whether a Corporation, Trustee, or Partnership, list the names of the contract purchasers below, including the officers, stockholders, beneficiaries, or partners.

Name, Address and Office

Percentage of Stock

_____	_____
_____	_____
_____	_____
_____	_____



Case # _____

Date Received: _____

Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT

Supplement PH-B

Additional Required Information for a Variance Application

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

Case Number:
Project Name: 71 Chapel St Fort Myers Beach, FL 33931
Authorized Applicant: Ronald Yanke
LeePA STRAP Number: 19-46-24-W3-0120A.0090

Current Property Status: Single Family	
Current Zoning: RM	
Future Land Use Map (FLUM) Category: RM	
Comp Plan Density:	Platted Overlay? ☐ Yes ☐ No

Variance is requested from:

LDC Section Number

Title of Section or Subsection

34-87	Variances

Complete the narrative statements below for EACH variance requested.



Case # _____

Date Received: _____

PART I
Narrative Statements

Request for variance from **34-87** (LDC Section number)

Explain the specific regulation contained in this section from which relief is sought:

To get a 15' variance for the Cottage side of 71 Chapel St lot.

Reasons for request

Explain why the variance is needed:

The current structure is in need of many repairs. We would like to build a home that is wind rated. The current single family structure has a side setback of 10' We would like to keep the same setback we currently have to build a new home.



Case # _____

Date Received: _____

Explain the possible effect the variance, if granted, would have on surrounding properties:

The variance should not effect the neighbors. The Estero side of the lot adjoins the rear of a commercial building. (Keller Williams) I own the property behind 71 Chapel and the parking lot on the corner of Estero and Mango. Across the front of Chapel is a vacant lot. The homes located on the gulf side of Cottage Ave face the gulf.

Explain the hardship (what is unique about the property) that justifies relief from the regulation:

The 25' side setback would only allow a 17' wide home to be built. It would be very difficult to build a desireable or functional home 17' wide. We are requesting to build a 32' wide structure which is the width of the existing structure. Most of the 50' lots on Fort Myers Beach have 35' wide homes.



Case # _____

Date Received: _____

Explain how the property qualifies for a variance. Direct this explanation to the guidelines for decision-making in LDC Section 34-87.

71 Chapel is an exceptional lot, as it is a 50' corner lot and has two 25' setbacks

The home is in the same condition as purchased. No alterations were made

15' is the minimum variance to relieve the applicant of an unreasonable burden

Granting of this variance would not be injurious to the neighborhood

The conditions and circumstances make it practical to amend the regulation

D = DELTA
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SV = SEAVALL

LEGEND OF SYMBOLS AND ABBREVIATIONS

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FCM = FOUND CONCRETE MONUMENT
SIR = SET 5/8" IRON ROD LS4706
PIC = POINT OF COMMENCEMENT
SPKD = SET PK NAIL & DISK LS4706
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D.P.U.E. = DRAINAGE AND PUBLIC UTILITY EASEMENT

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F.B. = FIELD BOOK

SUBJECT PROPERTY LIES IN FLOOD ZONE "VE", ELEVATION 14'; PER "FLOOD INSURANCE RATE MAP" (F.I.R.M.) COMMUNITY PANEL NUMBER 12071C0554 F, LAST REVISION DATE: 08/28/2008

SURVEYORS NOTES

THIS PLAT OF THE HEREON DESCRIBED PROPERTY IS A TRUE AND CORRECT PRESENTATION OF A RECENT SURVEY MADE AND PLATTED UNDER MY DIRECTION AND TO THE BEST OF MY KNOWLEDGE AND BELIEF MEETS THE MINIMUM TECHNICAL STANDARDS ADOPTED BY THE STATE OF FLORIDA AS PER CHAPTER 5J-17, FLORIDA ADMINISTRATIVE CODE PURSUANT TO CHAPTER 427, FLORIDA STATUTES. THIS SURVEY WAS PERFORMED BASED ON A DESCRIPTION ISSUED VERBALLY BY THE CLIENT AND WITHOUT THE BENEFIT OF AN ABSTRACT OF TITLE. THE SURVEYOR HAS MADE NO INDEPENDENT SEARCH FOR EASEMENTS, OWNERSHIP, RESTRICTIVE COVENANTS OR OTHER FACTS THAT MAY AFFECT TITLE.
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ELEVATIONS SHOWN HAVE BEEN SURVEYED FROM DATA DERIVED FROM NORTH AMERICAN VERTICAL DATUM (NAVD 88) MONUMENTS (1988 DATUM) EXCEPT WHEN ELEVATIONS ARE NOTED AS BEING ASSUMED. ONLY ABOVE GROUND EVIDENCE OF UNDERGROUND UTILITIES SHOWN.
THIS SURVEY DOES NOT DETERMINE OR REFLECT OWNERSHIP, TITLE, ZONING OR FREEDOM FROM ENCUMBRANCES AND IS ONLY FOR THE LANDS DESCRIBED ABOVE.
THIS SURVEY IS FOR THE SOLE PURPOSES INTENDED BY THE SURVEYOR AND ONLY FOR THE INDIVIDUALS AND / OR INSTITUTIONS LISTED ABOVE UNDER "CERTIFIED TO".
MEASURED DISTANCES (M) ARE NOTED ONLY WHERE THEY DIFFER FROM PLAT (P) OR CALCULATED (C) DISTANCES.

PROPERTY SURVEY FOR:

MR. RONALD YANKE
YANKE PROPERTY
2341 COTTAGE AVENUE
FORT MYERS BEACH, FLORIDA 33931

ADDRESS OF PROPERTY SURVEYED:

71 CHAPEL STREET
FORT MYERS BEACH, FLORIDA 33931

SPOT ELEVATIONS ARE IN FEET AND DECIMAL PARTS AND ARE SHOWN THUS: 4.71'

BEARINGS ARE BASED ON THE CENTERLINE OF COTTAGE AVENUE BEING THE RECORDED PLAT BEARINGS OF N68°28'31"W.

BOUNDARY AND TOPOGRAPHIC SURVEY

JOB # 1686

STRAP# 19-46-24-W3-0120A.0090

ELECTRONIC FIELD BOOK E/JOBS/2021/FORT MYERS BEACH/SEAGRAPE/1686/NOTES1686

DATE OF FIELD WORK, MARCH 29, 2021.

LEGAL DESCRIPTION:

Lot 9, Block A, SEAGRAPE SUBDIVISION, according to the map or plat thereof on file and recorded in the office of the Clerk of the Circuit Court in Plat Book 4, Page 17, Public Records of Lee County, Florida.

CERTIFIED TO: RONALD YANKE
YANKE PROPERTY
CITY OF FORT MYERS BEACH, FLORIDA

(SIGNED)

CHARLES L. DEGRAFF PSM #4706

DATE SIGNED APRIL 01, 2021.

REFER TO SHEET 2 OF 2 FOR SURVEY DRAWING

SURVEY VALID ONLY TO THE DATE OF FIELD SURVEY SHOWN HEREON.

NOT VALID WITHOUT THE SIGNATURE AND ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

CHARLES DEGRAFF LAND SURVEYOR

Land Surveyors and Mappers

301 Hazeltine Drive, Debary, Florida 32713

Phone (239) 699-8572

Email charles.degraff@gmail.com

SHEET 1 OF 2



REFER TO SHEET 1 OF 2 FOR SURVEY DRAWING
NOT VALID WITHOUT THE SIGNATURE AND ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

CHARLES DEGRAFF LAND SURVEYOR

Land Surveyors and Mappers

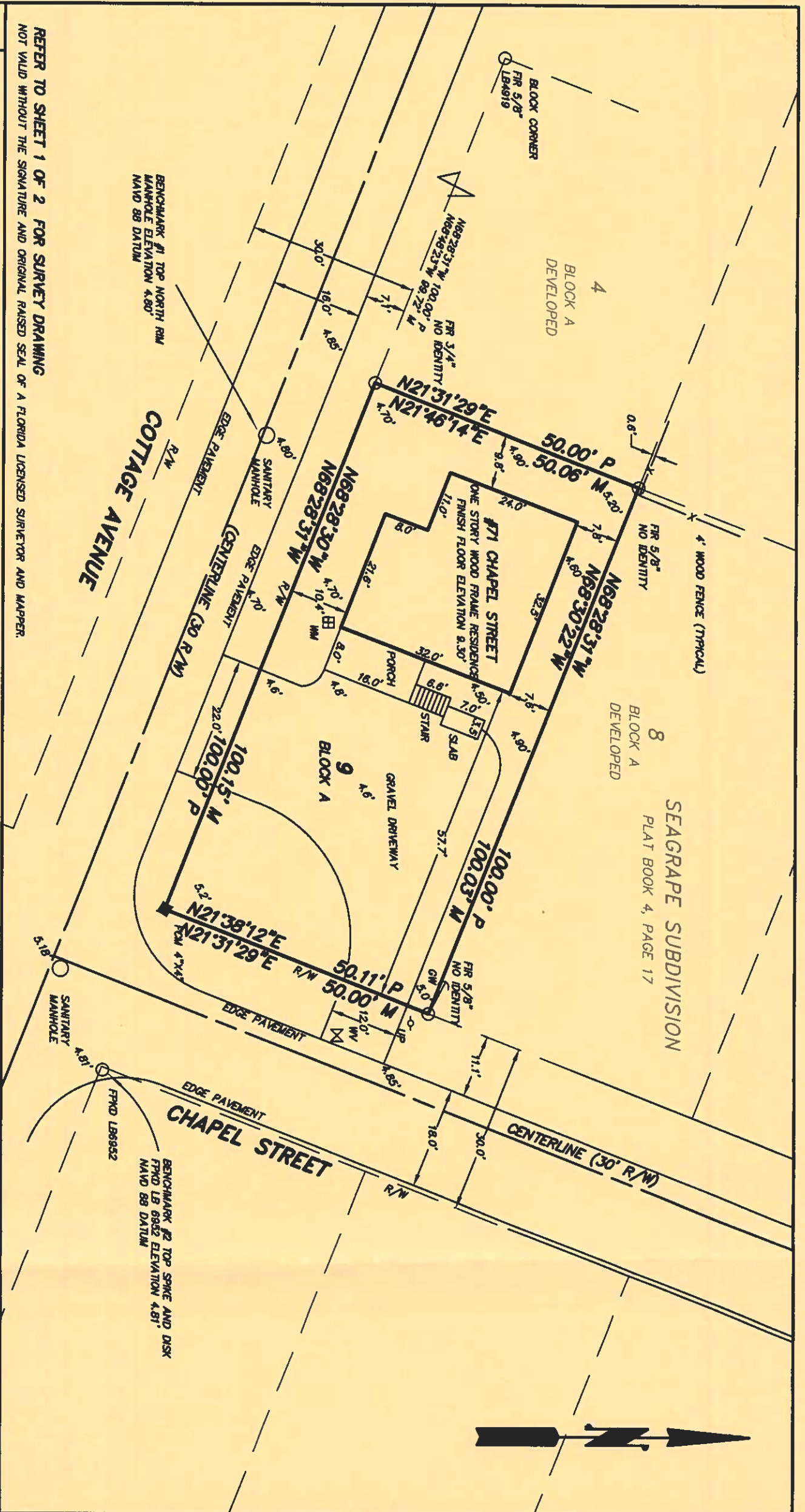
Phone (239) 699-8572

www.surveycaprecord.com

301 Hazeltine Drive, Debary, Florida 32713

REFER TO SHEET 1 OF 2 FOR DESCRIPTION, LEGEND AND SURVEYOR'S NOTES.

SHEET 2 OF 2



D = DELTA
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POC = POINT OF COMMENCEMENT
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SURVEYORS NOTES

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PROPERTY SURVEY FOR:
MR. RONALD YANKE
YANKE PROPERTY
2431 COTTAGE AVENUE
FORT MYERS BEACH, FLORIDA 33931

ADDRESS OF PROPERTY SURVEYED:
71 CHAPEL STREET
FORT MYERS BEACH, FLORIDA 33931

SPOT ELEVATIONS ARE IN FEET AND DECIMAL PARTS AND ARE SHOWN THUS: 4.71

BEARINGS ARE BASED ON THE CENTERLINE OF COTTAGE AVENUE BEING THE RECORDED PLAT BEARINGS OF N68°28'31"W.

PROPOSED BUILDING SITE PLAN

JOB # 1686

STRAP# 19-46-24-W3-0120A.0090

ELECTRONIC FIELD BOOK E/JOBS/2021/FORT MYERS BEACH/SEAGRAPE/1686/NOTES1686

DATE OF FIELD WORK, MARCH 29, 2021.

LEGAL DESCRIPTION:

Lot 9, Block A, SEAGRAPE SUBDIVISION, according to the map or plat thereof on file and recorded in the office of the Clerk of the Circuit Court in Plat Book 4, Page 17, Public Records of Lee County, Florida.

CERTIFIED TO: RONALD YANKE
YANKE PROPERTY
CITY OF FORT MYERS BEACH, FLORIDA

CHARLES LYMAN DEGRAFF
REGISTERED SURVEYOR
STATE OF FLORIDA
NO. 4706
REGISTERED

(SIGNED)

CHARLES L. DEGRAFF PSM 4706
DATE SIGNED APRIL 19, 2021.

REFER TO SHEET 2 OF 2 FOR SURVEY DRAWING

SURVEY VALID ONLY TO THE DATE OF FIELD SURVEY SHOWN HEREON.

NOT VALID WITHOUT THE SIGNATURE AND ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

CHARLES DEGRAFF LAND SURVEYOR

Land Surveyors and Mappers
301 Hazeltine Drive, Debary, Florida 32713

Phone (239) 699-8572
Email charles.degraff@gmail.com

SHEET 1 OF 2



BLOCK CORNER
FIR 5/8"
LB4819

4
BLOCK A
DEVELOPED

8
BLOCK A
DEVELOPED
SEAGRAPE SUBDIVISION
PLAT BOOK 4, PAGE 17

4' WOOD FENCE (TYPICAL)

FIR 5/8"
NO IDENTITY

50.00' P
50.06' M
N21°31'29"E
N21°46'14"E

N68°28'31"W
N68°30'22"W

N68°28'31"W 100.00' P
N68°48'23"W 98.72' M
FIR 3/4"
NO IDENTITY

N21°31'29"E
N21°46'14"E

N68°28'31"W
N68°28'30"W

#71 CHAPEL STREET
PROPOSED BUILDING

BLOCK 9
A

100.00' P
100.03' M

100.15' M
100.00' P

N21°38'12"E
N21°31'29"E

50.11' P
50.00' M
FIR 5/8"
NO IDENTITY

CHAPEL STREET
EDGE PAVEMENT

CENTERLINE (30' R/W)

BENCHMARK #1 TOP NORTH RIM
MANHOLE ELEVATION 4.80'
NAVD 88 DATUM

COTTAGE AVENUE
R/W

EDGE PAVEMENT
EDGE PAVEMENT

(CENTERLINE (30' R/W))

SANITARY
MANHOLE

FPKD LB6952

BENCHMARK #2 TOP SPIKE AND DISK
FPKD LB 6952 ELEVATION 4.81'
NAVD 88 DATUM

REFER TO SHEET 1 OF 2 FOR SURVEY DRAWING
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SHEET 2 OF 2

Exhibit 6-2

LEGEND OF SYMBOLS AND ABBREVIATIONS			
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SURVEYOR'S NOTES

THIS PLAT OF THE HEREIN DESCRIBED PROPERTY IS A TRUE AND CORRECT PRESENTATION OF A RECENT SURVEY MADE AND PLATTED UNDER MY DIRECTION AND TO THE BEST OF MY KNOWLEDGE AND BELIEF MEETS THE MINIMUM TECHNICAL STANDARDS ADOPTED BY THE STATE OF FLORIDA AS PER CHAPTER 54-17, FLORIDA ADMINISTRATIVE CODE PURSUANT TO CHAPTER 427, FLORIDA STATUTES. THIS SURVEY WAS PERFORMED BASED ON A DESCRIPTION ISSUED VERBALLY BY THE CLIENT AND WITHOUT THE BENEFIT OF AN ABSTRACT OF TITLE. THE SURVEYOR HAS MADE NO INDEPENDENT SEARCH FOR EASEMENTS, OWNERSHIP, RESTRICTIVE COVENANTS OR OTHER FACTS THAT MAY AFFECT TITLE.

NOTE: SUBJECT TO EASEMENTS, RESTRICTIONS, AND RESERVATIONS OF RECORD. THERE ARE NO VISIBLE ENCROACHMENTS EXCEPT THOSE SHOWN. ELEVATIONS SHOWN HAVE BEEN SURVEYED FROM DATA DERIVED FROM NORTH AMERICAN VERTICAL DATUM (NAVD 83) MONUMENTS (1985 DATUM) EXCEPT WHEN ELEVATIONS ARE NOTED AS BEING ASSUMED. ONLY ABOVE GROUND EVIDENCE OF UNDERGROUND UTILITIES SHOWN. THIS SURVEY DOES NOT DETERMINE OR REFLECT OWNERSHIP, TITLE, ZONING OR FREEDOM FROM ENCUMBRANCES AND IS ONLY FOR THE LANDS DESCRIBED ABOVE. THIS SURVEY IS FOR THE SOLE PURPOSES INTENDED BY THE SURVEYOR AND ONLY FOR THE INDIVIDUALS AND / OR INSTITUTIONS LISTED ABOVE UNDER "CERTIFIED TO". MEASURED DISTANCES (M) ARE NOTED ONLY WHERE THEY DIFFER FROM PLAT (P) OR CALCULATED (C) DISTANCES.

SPOT ELEVATIONS ARE IN FEET AND DECIMAL PARTS AND ARE SHOWN THUS: 1.71

BEARINGS ARE BASED ON THE CENTERLINE OF COTTAGE AVENUE BEING THE RECORDED PLAT BEARINGS OF N85°25'31"W.

PROPERTY SURVEY FOR:
MR. RONALD YANKE
YANKE PROPERTY
2341 COTTAGE AVENUE
FORT MYERS BEACH, FLORIDA 33931

ADDRESS OF PROPERTY SURVEYED:
71 CHAPEL STREET
FORT MYERS BEACH, FLORIDA 33931

BOUNDARY AND TOPOGRAPHIC SURVEY
JOB # 1686
STRAP# 19-46-24-W3-0120A.0090
ELECTRONIC FIELD BOOK E/JOBS/2021/FORT MYERS BEACH/SEAGRAPE/1686/NOTES1686
DATE OF FIELD WORK, MARCH 28, 2021.

LEGAL DESCRIPTION:
Lot 9, Block A, SEAGRAPE SUBDIVISION, according to the map or plat thereof on file and recorded in the office of the Clerk of the Circuit Court in Plat Book 4, Page 17, Public Records of Lee County, Florida.

CERTIFIED TO: RONALD YANKE
YANKE PROPERTY
CITY OF FORT MYERS BEACH, FLORIDA

(SIGNED) 
CHARLES L. DEGRAFF PSM #4706
DATE SIGNED APRIL 01, 2021.

REFER TO SHEET 2 OF 2 FOR SURVEY DRAWING

SURVEY VALID ONLY TO THE DATE OF FIELD SURVEY SHOWN HEREON.
NOT VALID WITHOUT THE SIGNATURE AND ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

Carl,
You have the original surveys in the previous submittal.

Jx.
Diane
Jayne

CHARLES DEGRAFF LAND SURVEYOR Land Surveyors and Mappers 301 Hazeltine Drive, Debary, Florida 32713	Phone (239) 699-8572 Email charles.degraff@gmail.com SHEET 1 OF 2	
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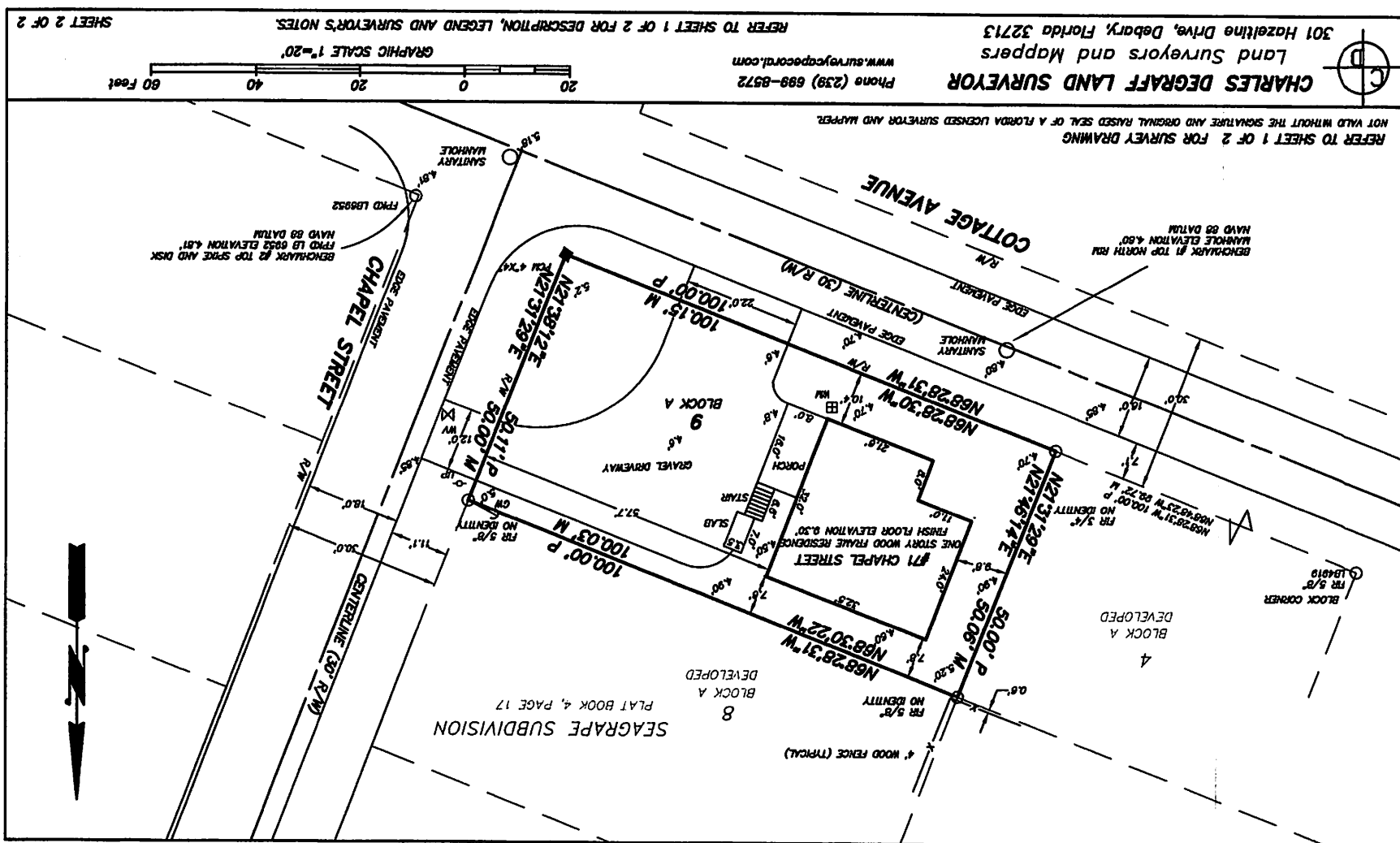
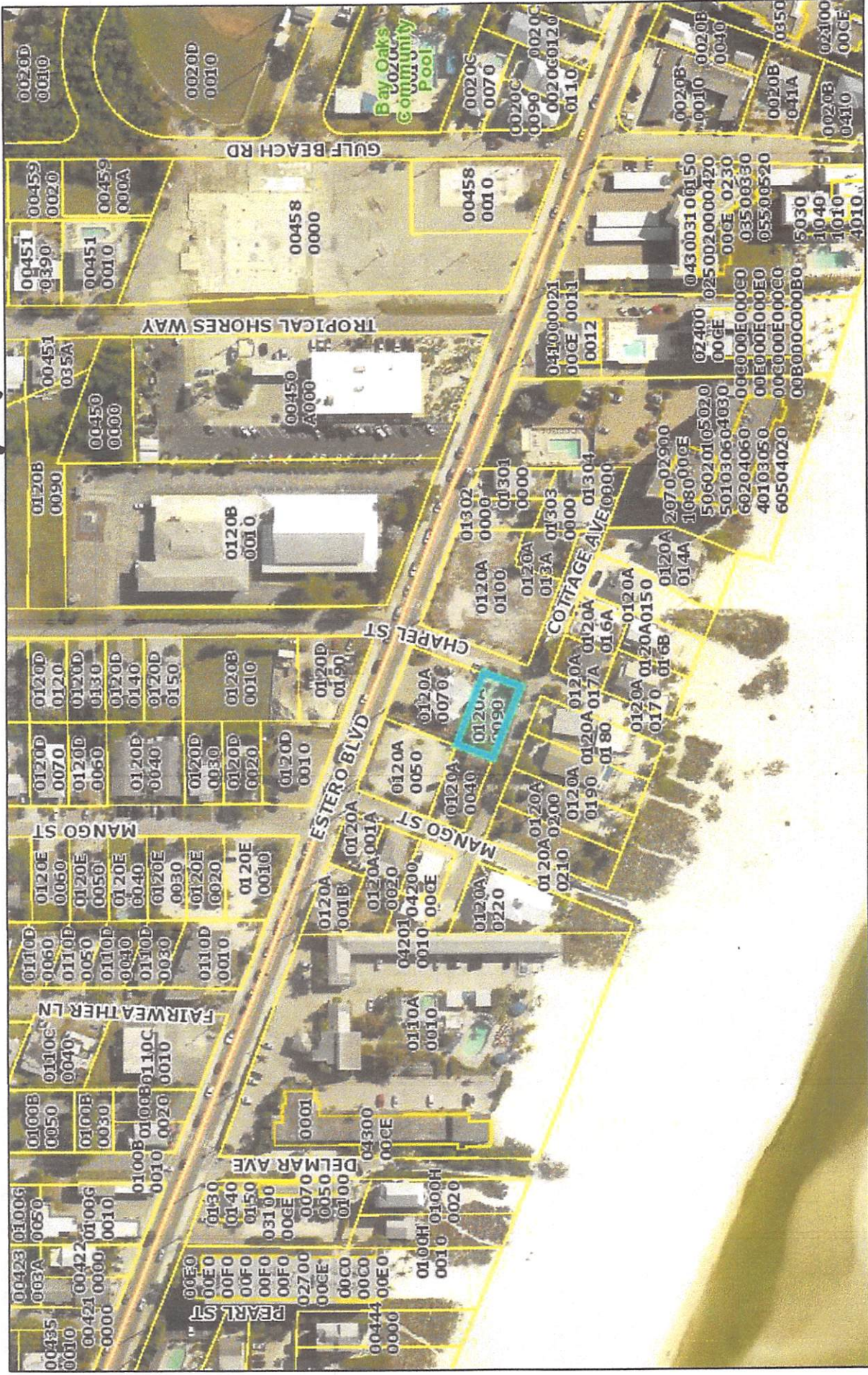


Exhibit 6-3

GeoView Map



August 31, 2021

Air Photos: 2021 Hi-Res (4 inch)

1:2,133

H Hospital Locations

S School Locations

L Library Locations

--- County Boundary

--- US 41

--- Other Highways

CCC_Parks

I - 75

Parcels Near

0 100 200 400 ft

0 25 50 100 m

This map is NOT a legal land survey and should not be used or relied upon as such. No warranties, express or implied, are provided with the data, use, accuracy or interpretation.

[Click here to download the map image, mailing labels \(Avery 5161\) and CSV formatted information.](#) Feb 17

Exhibit
6-6

Page 55 of 102

DYE GARY A & LOIS + S53 W31115 OLD VILLAGE RD MUKWONAGO WI 53149	19-46-24-W3-0110D.0030 110 FAIRWEATHER LN FORT MYERS BEACH FL 33931	BEACH ESTATES BLK.D PB 6 PG 68 LOT 3 LESS WLY 11 FT OR 227 PG 413	6
BEHRENS EDITA + KLOVENSTEENWEG 117 B HAMBURG 22559 GERMANY	19-46-24-W3-0110D.0040 118 FAIRWEATHER LN FORT MYERS BEACH FL 33931	BEACH ESTATES BLK D PB 6 PG 68 LOT 4 LESS WLY 11 FT OR 227 PG 417	7
WOLFPACK PROPERTIES LLC 567 SIMBURY ST COLUMBUS OH 43228	19-46-24-W3-0120A.001A 2370 ESTERO BLVD FORT MYERS BEACH FL 33931	SEAGRAPE SUBD BLK A PB 4 PG 17 ELY 71 FT LOT 1	8
WOLFPACK PROPERTIES LLC 567 SIMBURY ST COLUMBUS OH 43228	19-46-24-W3-0120A.001B 2330 ESTERO BLVD FORT MYERS BEACH FL 33931	SEAGRAPE SUBD. BLK A PB 4 PG 17 LOT 1 LESS ESTLRY 71 FT	9
NANKO RAYMOND S 919 WEST JACKSON ST MUNCIE IN 47305	19-46-24-W3-0120A.0020 81 MANGO ST FORT MYERS BEACH FL 33931	SEAGRAPE SUBD. BLK.A PB 4 PG 17 LOT 2	10
YANKE RONALD 328 BUCKLIN ST LA SALLE IL 61301	19-46-24-W3-0120A.0040 70 MANGO ST FORT MYERS BEACH FL 33931	SEAGRAPE SUBD BLK A PB 4 PG 17 LOT 4	11
YANKE RONALD 328 BUCKLIN ST LA SALLE IL 61301	19-46-24-W3-0120A.0050 2440 ESTERO BLVD FORT MYERS BEACH FL 33931	SEAGRAPE SUBD BLK A PB 4 PG 17 LOTS 5 + 6	12
THOMAS E SWANBECK PA 2450 ESTERO BLVD FORT MYERS BEACH FL 33931	19-46-24-W3-0120A.0070 2450 ESTERO BLVD FORT MYERS BEACH FL 33931	SEAGRAPE SUBD BLK A PB 4 PG 17 LOTS 7 + 8	13
EMPIRE HOLDING CORP TR PO BOX 19492 INDIANAPOLIS IN 46219	19-46-24-W3-0120A.0100 2500 ESTERO BLVD FORT MYERS BEACH FL 33931	SEAGRAPE SUBD BLK A PB 4 PG 17 LTS 10 11 + 12 + PT 13	14
GISE PROPERTY LLC 414-71ST ST MIAMI BEACH FL 33141	19-46-24-W3-0120A.013A 2543 COTTAGE AVE FORT MYERS BEACH FL 33931	SEAGRAPE SUBD BLK A PB 4 PG 17 PT LOT 13 DESC IN OR 1759 PG 0091	15
FRENCH EDWIN T III PO BOX 22538 INDIANAPOLIS IN 46222	19-46-24-W3-0120A.014A 2550 COTTAGE AVE FORT MYERS BEACH FL 33931	SEAGRAPE SUBD BLK A PB 4 PG 17 PT OF LT 14 DESC 3269/725	16
FRENCH EDWIN T III PO BOX 22538 INDIANAPOLIS IN 46222	19-46-24-W3-0120A.0150 2548 COTTAGE AVE FORT MYERS BEACH FL 33931	SEAGRAPE SUBD BLK A PB 4 PG 17 E 40 FT LOT 15	17
COASTAL COTTAGES LLC 6850 W SOUTH LAKE GAGE DR ANGOLA IN 46703	19-46-24-W3-0120A.016A 2520 COTTAGE AVE FORT MYERS BEACH FL 33931	SEAGRAPE SUBD BLK A PB 4 PG 17 NLY 70 FT LOT 16	18
COASTAL COTTAGES LLC 6850 W SOUTH LAKE GAGE DR ANGOLA IN 46703	19-46-24-W3-0120A.016B 2522 COTTAGE AVE FORT MYERS BEACH FL 33931	SEAGRAPE SUBD BLK A PB 4 PG 17 PT LOTS 16 + 15	19
TEZAK HELEN C TR 50 CHAPEL ST #4 FORT MYERS BEACH FL 33931	19-46-24-W3-0120A.0170 50 CHAPEL ST FORT MYERS BEACH FL 33931	SEAGRAPE SUBD. BLK.A PB 4 PG 17 LOT 17 S 100 FT + LT 16 W 7.75 FT	20
GOLDBERG GENNIE M TR 11793 ROYAL TEE CT CAPE CORAL FL 33991	19-46-24-W3-0120A.017A 2518 COTTAGE AVE FORT MYERS BEACH FL 33931	SEAGRAPE SUBD. BLK.A PB 4 PG 17 LOT 17 N 70 FT	21
FMB COTTAGE LLC 2440 COTTAGE AVE FORT MYERS BEACH FL 33931	19-46-24-W3-0120A.0180 2440 COTTAGE AVE FORT MYERS BEACH FL 33931	SEAGRAPE SUBD BLK A PB 4 PG 17 LOT 18	22
BONFIGLI ANDREW & SUSAN 2434 COTTAGE AVE FORT MYERS BEACH FL 33931	19-46-24-W3-0120A.0190 2434/2436 COTTAGE AVE FORT MYERS BEACH FL 33931	SEAGRAPE SUBD. BLK.A PB 4 PG 17 LOT 19	23
HANNON JODI 5293 BUSINESS US 51 CLINTON IL 61727	19-46-24-W3-0120A.0200 2430 COTTAGE AVE FORT MYERS BEACH FL 33931	SEAGRAPE SUBD BLK A PB 4 PG 17 LOT 20	24

MCLAUGHLIN SAMUEL R + KIMBERLY 4700 EDEN PARK DR ZANESVILLE OH 43701	19-46-24-W3-0120A.0210 2426 COTTAGE AVE FORT MYERS BEACH FL 33931	SEAGRAPE SUBD. BLK.A PB 4 PG 17 LOT 21	25
SCHLICHTE EDITH 61 MANGO ST FORT MYERS BEACH FL 33931	19-46-24-W3-0120A.0220 61/63 MANGO ST FORT MYERS BEACH FL 33931	SEAGRAPE SUBD BLK A PB 4 PG 17 LOT 22	26
CHAPEL BY THE SEA PO BOX 2997 FORT MYERS BEACH FL 33932	19-46-24-W3-0120B.0010 100 CHAPEL ST FORT MYERS BEACH FL 33931	SEAGRAPE SUBD.PB 4 PG 17 BLK.B LTS 1-8 + BLK D LTS 16 -18 + OR 221 PG 436	27
GERSTENHABER RAM + FRIDA TR BEACH CONNECTION 2401 ESTERO BLVD FORT MYERS BEACH FL 33931	19-46-24-W3-0120D.0010 2401 ESTERO BLVD FORT MYERS BEACH FL 33931	SEAGRAPE SUBD BLK D PB 4 PG 17 LOT 1	28
CZULEWICZ MARYLU TR 4281 ORANGE RIVER LOOP RD FORT MYERS FL 33905	19-46-24-W3-0120D.0020 110 MANGO ST FORT MYERS BEACH FL 33931	SEAGRAPE SUBD BLK D PB 4 PG 17 LOT 2	29
BOREK TINA D + 1605 PENNSAUKEN ST CINNAMINSON NJ 08077	19-46-24-W3-0120D.0030 112 MANGO ST FORT MYERS BEACH FL 33931	SEAGRAPE SUBD BLK D PB 4 PG 17 LOT 3	30
MANGO STREET LLC 126 MANGO ST FORT MYERS BEACH FL 33931	19-46-24-W3-0120D.0040 126 MANGO ST FORT MYERS BEACH FL 33931	SEAGRAPE SUBD BLK D PB 4 PG 17 LOTS 4 + 5	31
PAOLERCIO WILLIAM 136 MANGO ST FORT MYERS BEACH FL 33931	19-46-24-W3-0120D.0060 136 MANGO ST FORT MYERS BEACH FL 33931	SEAGRAPE SUBD. BLK.D PB 4 PG 17 LOT 6	32
LIGHT JAY S + KATHERINE K 151 CHAPEL ST FORT MYERS BEACH FL 33931	19-46-24-W3-0120D.0130 151 CHAPEL ST FORT MYERS BEACH FL 33931	SEAGRAPE SUBD BLK D PB 4 PG 17 LOT 13	33
PAFFINGER HEDWIG TR JAMES SCHULTZ 1030 SPINDLE HILL RD WOLCOTT CT 06716	19-46-24-W3-0120D.0140 145 CHAPEL ST FORT MYERS BEACH FL 33931	SEAGRAPE BLK.D PB 4 PG 17 LOT 14	34
RYAN JAMES 139 CHAPEL ST FORT MYERS BEACH FL 33931	19-46-24-W3-0120D.0150 139 CHAPEL ST FORT MYERS BEACH FL 33931	SEAGRAPE SUBD. BLK.D PB 4 PG 17 LOT 15	35
CHAPEL BY THE SEA PO BOX 2997 FORT MYERS BEACH FL 33932	19-46-24-W3-0120D.0190 2471 ESTERO BLVD FORT MYERS BEACH FL 33931	SEAGRAPE SUBD BLK D PB 4 PG 17 LT 19 LEASEHOLD INT	36
CJT PROPERTIES LLC 435 DONOAR BLVD FORT MYERS BEACH FL 33931	19-46-24-W3-0120E.0010 2311 ESTERO BLVD FORT MYERS BEACH FL 33931	SEAGRAPE SUBD BLK E PB 4 PG 17 LOT 1	37
CJT PROPERTIES LLC 435 DONOAR BLVD FORT MYERS BEACH FL 33931	19-46-24-W3-0120E.0020 111 MANGO ST FORT MYERS BEACH FL 33931	SEAGRAPE SUBD BLK E PB 4 PG 17 LOT 2	38
CJT PROPERTIES LLC 435 DONOAR BLVD FORT MYERS BEACH FL 33931	19-46-24-W3-0120E.0030 121 MANGO ST FORT MYERS BEACH FL 33931	SEAGRAPE SUBD BLK E PB 4 PG 17 LOT 3	39
BESSEY JAMES D 2 BARTLETT RD NANTUCKET MA 02554	19-46-24-W3-0120E.0040 125 MANGO ST FORT MYERS BEACH FL 33931	SEAGRAPE SUBD BLK E PB 4 PG 17 LOT 4	40
TOMMAR INC 9616 ROUND LAKE BLVD WHITE LAKE MI 48386	19-46-24-W3-0120E.0050 135 MANGO ST FORT MYERS BEACH FL 33931	SEAGRAPE SUBD BLK E PB 4 PG 17 LOT 5	41
EMPIRE HOLDING CORP TR PO BOX 19492 INDIANAPOLIS IN 46219	19-46-24-W3-01301.0000 2518 ESTERO BLVD FORT MYERS BEACH FL 33931	BLAKES SUBD PB 4 PG 44 LOT 1	42
EMPIRE HOLDING CORP TR PO BOX 19492	19-46-24-W3-01302.0000 2510 ESTERO BLVD	BLAKES SUBD PB 4 PG 44	43

INDIANAPOLIS IN 46219	FORT MYERS BEACH FL 33931	LOT 2	
OLOUGHLIN LTD 30111 BATES RD PERRYSBURG OH 43551	19-46-24-W3-01303.0000 2553 COTTAGE AVE FORT MYERS BEACH FL 33931	BLAKES SUBD PB 4 PG 44 LOT 3	44
WHITEHEAD LELAND S + SUSAN ANN 1155 NW 97TH DR CORAL SPRINGS FL 33071	19-46-24-W3-01304.0000 2563 COTTAGE AVE FORT MYERS BEACH FL 33931	BLAKES SUBD PB 4 PG 44 LOT 4	45
ISLAND HOUSE BEACH CLUB ASSN 2560 ESTERO BLVD OFC FORT MYERS BEACH FL 33931	19-46-24-W3-02400.00CE 2562 ESTERO BLVD FORT MYERS BEACH FL 33931	A CONDO LOCATED IN SEC 19 TWP 46 R 24 AS DESC IN OR 1250 PG 1197 COMMON ELEMENTS	46
PELICAN WATCH CONDO ASSOC BOBACK COMMERCIAL GROUP STE 203 10491 SIX MILE CYPRESS PKWY FORT MYERS FL 33966	19-46-24-W3-02900.00CE 2530 ESTERO BLVD FORT MYERS BEACH FL 33931	PELICAN WATCH CONDO DESC OR BK 1532 PG 0083 COMMON ELEMENTS	47
TROPICAL SHORES ASSN 2550 ESTERO BLVD FORT MYERS BEACH FL 33931	19-46-24-W3-04100.00CE TROPICAL SHORES C/E FORT MYERS BEACH FL 33931	TROPICAL SHORES DESC OR 4081 PG 2543 COMMON ELEMENTS	48
SEA BREEZE ESTATES CONDO ASSN 325 W LOCUST LN KENNETT SQUARE PA 19348	19-46-24-W3-04200.00CE SEA BREEZE ESTATES CONDO C/E FORT MYERS BEACH FL 33931	SEA BREEZE ESTATES CONDO DESC IN OR 4753 PG 4012 COMMON ELEMENTS	49
71 MANGO LLC 15440 CATALPA COVE LANE FORT MYERS FL 33908	19-46-24-W3-04201.0010 2401 COTTAGE AVE FORT MYERS BEACH FL 33931	SEA BREEZE ESTATES CONDO DESC IN OR 4753 PG 4012 BLD 1 UNIT 1	50
71 MANGO LLC 15440 CATALPA COVE LN FORT MYERS FL 33908	19-46-24-W3-04202.0020 71 MANGO ST FORT MYERS BEACH FL 33931	SEA BREEZE ESTATES CONDO DESC IN OR 4753 PG 4012 BLD 2 UNIT 2	51
NEPTUNE INN CONDO ASSN INC BLUE VISTA CAPITAL LLC PO BOX 508 RICHMOND IL 60071	19-46-24-W3-04300.00CE NEPTUNE INN C/E FORT MYERS BEACH FL 33931	NEPTUNE CONDO DESC IN INST# 2007000193360 COMMON ELEMENTS	52
WHITE NELSON E + ANN A 1831 ARDMORE RD FORT MYERS FL 33901	19-46-24-W3-02401.00B0 2560 ESTERO BLVD #1B FORT MYERS BEACH FL 33931	ISLAND HOUSE BCH CLUB OR 1250 PG 1197 UNIT 1-B	53
GAFFNEY JOSEPH J + MARGARET 4914 WEST CHESTER PIKE NEWTOWN SQUARE PA 19073	19-46-24-W3-02401.00C0 2560 ESTERO BLVD #1C FORT MYERS BEACH FL 33931	ISLAND HOUSE BCH CLUB OR 1250 PG 1197 UNIT 1-C	53
DELROSE GLORIA L/E 10715 FINTAN CT MOKENA IL 60448	19-46-24-W3-02401.00D0 2560 ESTERO BLVD #1D FORT MYERS BEACH FL 33931	ISLAND HOUSE BCH CLUB OR 1250 PG 1197 UNIT 1-D	53
SCHRAM JULIE TR 566 SUNSET DR SOUTH SIOUX CITY NE 68776	19-46-24-W3-02402.00A0 2560 ESTERO BLVD #2A FORT MYERS BEACH FL 33931	ISLAND HOUSE BCH CLUB OR 1250 PG 1197 UNIT 2-A	54
TOWNSEND THOMAS & AMY 13000 W BETHEL AVE YORKTOWN IN 47396	19-46-24-W3-02402.00B0 2560 ESTERO BLVD #2B FORT MYERS BEACH FL 33931	ISLAND HOUSE BCH CLUB OR 1250 PG 1197 UNIT 2-B	54
TOWNSEND AMY E & THOMAS A 13000 W BETHEL AVE YORKTOWN IN 47396	19-46-24-W3-02402.00C0 2560 ESTERO BLVD #2C FORT MYERS BEACH FL 33931	ISLAND HOUSE BCH CLUB OR 1250 PG 1197 UNIT 2-C	54
ISLAND HOUSE 2D LLC 1015 W JACKSON ST MUNCIE IN 47305	19-46-24-W3-02402.00D0 2560 ESTERO BLVD #2D FORT MYERS BEACH FL 33931	ISLAND HOUSE BCH CLUB OR 1250 PG 1197 UNIT 2-D	54
PLOCHA EDWARD M & JANICE F + 9838 GLADIOLUS BULB LOOP FORT MYERS FL 33908	19-46-24-W3-02402.00E0 2560 ESTERO BLVD #2E FORT MYERS BEACH FL 33931	ISLAND HOUSE BCH CLUB OR 1250 PG 1197 UNIT 2-E	54
MONKS ROBERT C	19-46-24-W3-02403.00A0	ISLAND HOUSE BCH CLUB	55

1073 FAIR BIRCH DR MISSISSAUGA ON L5H 1M4 CANADA	2560 ESTERO BLVD #3A FORT MYERS BEACH FL 33931	OR 1250 PG 1197 UNIT 3-A	
KROULADIS JOHN J SR + DIANA R 2560 ESTERO BLVD #3B FORT MYERS BEACH FL 33931	19-46-24-W3-02403.00B0 2560 ESTERO BLVD #3B FORT MYERS BEACH FL 33931	ISLAND HOUSE BCH CLUB OR 1250 PG 1197 UNIT 3-B	55
CARROLL ROBERT B 78 NIAGARA SHORE DR TONAWANDA NY 14150	19-46-24-W3-02403.00C0 2560 ESTERO BLVD #3C FORT MYERS BEACH FL 33931	ISLAND HOUSE BCH CLUB OR 1250 PG 1197 UNIT 3-C	55
HART HOWARD E + 1620 EAST CASS ST JOLIET IL 60432	19-46-24-W3-02403.00D0 2560 ESTERO BLVD #3D FORT MYERS BEACH FL 33931	ISLAND HOUSE BCH CLUB OR 1250 PG 1197 UNIT 3-D	55
WHITEHOUSE KATHLEEN M 21 HIGHLAND MEADOWS CIR # 11 HIGHLAND HEIGHTS KY 41076	19-46-24-W3-02403.00E0 2560 ESTERO BLVD #3E FORT MYERS BEACH FL 33931	ISLAND HOUSE BCH CLUB OR 1250 PG 1197 UNIT 3-E	55
AUSMAN PAMELA 60 SPRINGWATER CHASE NEWNAN GA 30265	19-46-24-W3-02404.00A0 2560 ESTERO BLVD #4A FORT MYERS BEACH FL 33931	ISLAND HOUSE BCH CLUB OR 1250 PG 1197 UNIT 4-A	56
SUTTON JOSEPH CHARLES TR 711 N MILLER AVE MARION IN 46952	19-46-24-W3-02404.00B0 2560 ESTERO BLVD #4B FORT MYERS BEACH FL 33931	ISLAND HOUSE BCH CLUB OR 1250 PG 1197 UNIT 4-B	56
RALSON JEFFREY S TR 560 W FULTON ST UNIT 605 CHICAGO IL 60661	19-46-24-W3-02404.00C0 2560 ESTERO BLVD #4C FORT MYERS BEACH FL 33931	ISLAND HOUSE BCH CLUB OR 1250 PG 1197 UNIT 4-C	56
TUBBS THOMAS A TR 8665 RIVER CORNERS RD HOMERVILLE OH 44235	19-46-24-W3-02404.00D0 2560 ESTERO BLVD #4D FORT MYERS BEACH FL 33931	ISLAND HOUSE BCH CLUB OR 1250 PG 1197 UNIT 4-D	56
IRWIN RANDALL N + 1325 W WHITTAKER ST APT D SALEM IL 62881	19-46-24-W3-02404.00E0 2560 ESTERO BLVD #4E FORT MYERS BEACH FL 33931	ISLAND HOUSE BCH CLUB OR 1250 PG 1197 UNIT 4-E	56
GABOR PETER + 701 INDEPENDENCE PL UNIT 206 RALEIGH NC 27603	19-46-24-W3-02405.00A0 2560 ESTERO BLVD #5A FORT MYERS BEACH FL 33931	ISLAND HOUSE BCH CLUB OR 1250 PG 1197 UNIT 5-A	57
MCCAFFREY WILLIAM F TR + 7400 BELLAIRE AVE DUBLIN OH 43017	19-46-24-W3-02405.00B0 2560 ESTERO BLVD #5B FORT MYERS BEACH FL 33931	ISLAND HOUSE BCH CLUB OR 1250 PG 1197 UNIT 5-B	57
NELSON WILLIAM M + HELAINE Q 36 KENNINGTON CT DALLAS TX 75248	19-46-24-W3-02405.00C0 2560 ESTERO BLVD #5C FORT MYERS BEACH FL 33931	ISLAND HOUSE BCH CLUB OR 1250 PG 1197 UNIT 5-C	57
MANNING NATALIE 2560 ESTERO BLVD #5D FORT MYERS BEACH FL 33931	19-46-24-W3-02405.00D0 2560 ESTERO BLVD #5D FORT MYERS BEACH FL 33931	ISLAND HOUSE BCH CLUB OR 1250 PG 1197 UNIT 5-D	57
PEKOL ROBERT J + 3010 DEER PATH JOLIET IL 60435	19-46-24-W3-02405.00E0 2560 ESTERO BLVD #5E FORT MYERS BEACH FL 33931	ISLAND HOUSE BCH CLUB OR 1259 PG 1197 UNIT 5-E	57
KADO KELLY JOE & TERESA JO 2560 ESTERO BLVD #6A FORT MYERS BEACH FL 33931	19-46-24-W3-02406.00A0 2560 ESTERO BLVD #6A FORT MYERS BEACH FL 33931	ISLAND HOUSE BCH CLUB OR 1250 PG 1197 UNIT 6-A	58
LEVINE STEPHEN M + DIANE E 16480 RAINBOW MEADOWS CT FORT MYERS FL 33908	19-46-24-W3-02406.00E0 2560 ESTERO BLVD #6E FORT MYERS BEACH FL 33931	ISLAND HOUSE BCH CLUB OR 1250 PG 1197 UNIT 6-E	58
BURGETT RUSSELL E TR 2532 ESTERO BLVD #101 FORT MYERS BEACH FL 33931	19-46-24-W3-02900.1010 2532 ESTERO BLVD #101 FORT MYERS BEACH FL 33931	PELICAN WATCH CONDO OR 1532 PG 83 UNIT 101+ (XF-GAR#21)	59
SHEPHARD ROBERT W & JOAN G 12392 EAGLE RIDGE CT ESTERO FL 33928	19-46-24-W3-02900.1020 2532 ESTERO BLVD #102 FORT MYERS BEACH FL 33931	PELICAN WATCH CONDO OR 1532 PG 83 UNIT 102	59
TAYLOR GLENN + ANDREE 440 POPLAR AVE	19-46-24-W3-02900.1030 2532 ESTERO BLVD #103	PELICAN WATCH CONDO OR 1532 PG 83	59

ELMHURST IL 60126	FORT MYERS BEACH FL 33931	UNIT 103+ (XF-GAR#2)	
OWENS JAMES L + DIANNE L 567 DAWES AVE GLEN ELLYN IL 60137	19-46-24-W3-02900.1040 2532 ESTERO BLVD #104 FORT MYERS BEACH FL 33931	PELICAN WATCH CONDO OR 1532 PG 83 UNIT 104+ (XF-GAR#18)	59
MINOR KEVIN L & WENDY N74 W22552 TWIN OAKS CT SUSSEX WI 53089	19-46-24-W3-02900.1050 2532 ESTERO BLVD #105 FORT MYERS BEACH FL 33931	PELICAN WATCH CONDO OR 1532 PG 83 UNIT 105	59
JERRY LEE & DARLENE LOUISE WEA 2532 ESTERO BLVD #106 FORT MYERS BEACH FL 33931	19-46-24-W3-02900.1060 2532 ESTERO BLVD #106 FORT MYERS BEACH FL 33931	PELICAN WATCH CONDO OR 1532 PG 83 UNIT 106+ (XF-GAR#15)	59
LACAVA JOYCE L/E 2 SULLIVAN FARM NEW MILFORD CT 06776	19-46-24-W3-02900.2010 2532 ESTERO BLVD #201 FORT MYERS BEACH FL 33931	PELICAN WATCH CONDO OR 1532 PG 83 UNIT 201+ (XF-GAR #1)	59
STAHL JUDITH A TR 2532 ESTERO BLVD #202 FORT MYERS BEACH FL 33931	19-46-24-W3-02900.2020 2532 ESTERO BLVD #202 FORT MYERS BEACH FL 33931	PELICAN WATCH CONDO OR 1532 PG 83 UNIT 202+ (XF-GAR#20)	59
BRIESATH RANDAL TR + 2868 KENDRIDGE LN AURORA IL 60502	19-46-24-W3-02900.2030 2532 ESTERO BLVD #203 FORT MYERS BEACH FL 33931	PELICAN WATCH CONDO OR 1532 PG 83 UNIT 203	59
KRAUSE RANDY STEVEN & JAN A 12281 N CR 2950 E MASON CITY IL 62664	19-46-24-W3-02900.2040 2532 ESTERO BLVD #204 FORT MYERS BEACH FL 33931	PELICAN WATCH CONDO OR 1532 PG 83 UNIT 204+ (XF-GAR#19)	59
PETER WILLIAM C TR 2532 ESTERO BLVD #205 FORT MYERS BEACH FL 33931	19-46-24-W3-02900.2050 2532 ESTERO BLVD #205 FORT MYERS BEACH FL 33931	PELICAN WATCH CONDO OR 1532 PG 83 UNIT 205+ (XF-GAR #14)	59
BRUNER RICHARD T + 2821 NE 46TH ST LIGHTHOUSE POINT FL 33064	19-46-24-W3-02900.2060 2532 ESTERO BLVD #206 FORT MYERS BEACH FL 33931	PELICAN WATCH CONDO OR 1532 PG 83 UNIT 206	59
VREDENBURG JOHN F TR 21750 483RD LN CHARITON IA 50049	19-46-24-W3-02900.3010 2532 ESTERO BLVD #301 FORT MYERS BEACH FL 33931	PELICAN WATCH CONDO OR 1532 PG 83 UNIT 301	59
GRENZ LYLE R TR 600 S TAYBERRY AVE SIOUX FALLS SD 57106	19-46-24-W3-02900.3020 2532 ESTERO BLVD #302 FORT MYERS BEACH FL 33931	PELICAN WATCH CONDO OR 1532 PG 83 UNIT 302+ (XF-GAR#27)	59
ALICE A BRUNETTI TRUST + 333A OLD SUTTON RD BARRINGTON IL 60010	19-46-24-W3-02900.3030 2532 ESTERO BLVD #303 FORT MYERS BEACH FL 33931	PELICAN WATCH CONDO OR 1532 PG 83 UNIT 303+ (XF-GAR #11)	59
WINDFALL INC 3317 E LAKE DR N ELKHART IN 46514	19-46-24-W3-02900.3040 2532 ESTERO BLVD #304 FORT MYERS BEACH FL 33931	PELICAN WATCH CONDO OR 1532 PG 83 UNIT 304	59
SUTTON MAVIS M 850 CEDAR ST WATERLOO IN 46793	19-46-24-W3-02900.3050 2532 ESTERO BLVD #305 FORT MYERS BEACH FL 33931	PELICAN WATCH CONDO OR 1532 PG 83 UNIT 305+ (XF-GAR#3)	59
AMESBURY WILLIAM ROBIN JR & 12915 KINGSMILL WAY FORT MYERS FL 33913	19-46-24-W3-02900.3060 2532 ESTERO BLVD #306 FORT MYERS BEACH FL 33931	PELICAN WATCH CONDO OR 1532 PG 83 UNIT 306+ (XF-GAR#29)	59
BURNSTINE HARRY M TR 56860 SR 15 BRISTOL IN 46507	19-46-24-W3-02900.4010 2532 ESTERO BLVD #401 FORT MYERS BEACH FL 33931	PELICAN WATCH CONDO OR 1532 PG 83 UNIT 401+ (XF-GAR#23)	59
SMITH DON SCOT TR 2532 ESTERO BLVD #402 FORT MYERS BEACH FL 33931	19-46-24-W3-02900.4020 2532 ESTERO BLVD #402 FORT MYERS BEACH FL 33931	PELICAN WATCH CONDO OR 1532 PG 83 UNIT 402+ (XF-GAR#24)	59
HAWES GARY R & 2788 EDGEMERE DR ROCHESTER NY 14612	19-46-24-W3-02900.4030 2532 ESTERO BLVD #403 FORT MYERS BEACH FL 33931	PELICAN WATCH CONDO OR 1532 PG 83 UNIT 403+ (XF-GAR #30)	59
BANERIAN KIRK G + LESLIE N 2950 WOODCREEK WAY BLOOMFIELD HILLS MI 48304	19-46-24-W3-02900.4040 2532 ESTERO BLVD #404 FORT MYERS BEACH FL 33931	PELICAN WATCH CONDO OR 1532 PG 83 UNIT 404	59

BUSCH FAMILY PROPERTIES LLC 17769 HIGHWAY W CLARKSVILLE MO 63336	19-46-24-W3-02900.4050 2532 ESTERO BLVD #405 FORT MYERS BEACH FL 33931	PELICAN WATCH CONDO OR 1532 PG 83 UNIT 405	59
WINDFALL INC 3317 E LAKE DR N ELKHART IN 46514	19-46-24-W3-02900.4060 2532 ESTERO BLVD #406 FORT MYERS BEACH FL 33931	PELICAN WATCH CONDO OR 1532 PG 83 UNIT 406+ (XF-GAR#7)	59
STICKLEY KIM A + PAMELA S 26725 COUNTY ROAD 52 NAPPANEE IN 46550	19-46-24-W3-02900.5010 2532 ESTERO BLVD #501 FORT MYERS BEACH FL 33931	PELICAN WATCH CONDO OR 1532 PG 83 UNIT 501+ (XF-GAR#4)	59
OOYKAAS DICK E & PATRICIA T + 17026 W MANHATTAN RD ELWOOD IL 60421	19-46-24-W3-02900.5020 2532 ESTERO BLVD #502 FORT MYERS BEACH FL 33931	PELICAN WATCH CONDO OR 1532 PG 83 UNIT 502	59
OOYKAAS DICK E & PATRICIA T + 17026 W MANHATTAN RD ELWOOD IL 60421	19-46-24-W3-02900.5030 2532 ESTERO BLVD #503 FORT MYERS BEACH FL 33931	PELICAN WATCH CONDO OR 1532 PG 83 UNIT 503+ (XF-GAR# 16)	59
SPE HOLDINGS LLC 43 ROCKVIEW DRIVE ROCKFORD MI 49341	19-46-24-W3-02900.5040 2532 ESTERO BLVD #504 FORT MYERS BEACH FL 33931	PELICAN WATCH CONDO OR 1532 PG 83 UNIT 504+(XF-GAR#17)	59
DORNFELD LEE V + DONNA 303 KIRKWOOD GLEN CIR LOUISVILLE KY 40207	19-46-24-W3-02900.5050 2532 ESTERO BLVD #505 FORT MYERS BEACH FL 33931	PELICAN WATCH CONDO OR 1532 PG 83 UNIT 505	59
BARRETT HILARY W + JAFFREY M WELLS 3668 GORDON RD ELKHART IN 46516	19-46-24-W3-02900.5060 2532 ESTERO BLVD #506 FORT MYERS BEACH FL 33931	PELICAN WATCH CONDO OR 1532 PG 83 UNIT 506+ (XF-GAR #6)	59
FIELDS GARY L TR 4751 OLSON LAKE TRAIL N LAKE ELMO MN 55042	19-46-24-W3-02900.6010 2532 ESTERO BLVD #601 FORT MYERS BEACH FL 33931	PELICAN WATCH CONDO OR 1532 PG 83 UNIT 601+ (XF-GAR #25)	59
FRANCIS J GALVIN TRUST + 1171 STANDISH CT NAPERVILLE IL 60540	19-46-24-W3-02900.6020 2532 ESTERO BLVD #602 FORT MYERS BEACH FL 33931	PELICAN WATCH CONDO OR 1532 PG 83 UNIT 602+ (XF-GAR#13)	59
OOYKAAS DICK E + PATRICIA T 17026 W MANHATTAN RD ELWOOD IL 60421	19-46-24-W3-02900.6030 2532 ESTERO BLVD #603 FORT MYERS BEACH FL 33931	PELICAN WATCH CONDO OR 1532 PG 83 UNIT 603+ (XF-GAR#10)	59
SPITZER ARDEN L + SANDRA C 555 DEER LAKE DR FINDLAY OH 45840	19-46-24-W3-02900.6040 2532 ESTERO BLVD #604 FORT MYERS BEACH FL 33931	PELICAN WATCH CONDO OR 1532 PG 83 UNIT 604+ (XF-GAR#5)	59
MCKEOWN PATRICK G & 2532 ESTERO BLVD #605 FORT MYERS BEACH FL 33931	19-46-24-W3-02900.6050 2532 ESTERO BLVD #605 FORT MYERS BEACH FL 33931	PELICAN WATCH CONDO OR 1532 PG 83 UNIT 605+ (XF-GAR#8)	59
PELICAN PARTNERS 5201 WASHINGTON BLVD INDIANAPOLIS IN 46220	19-46-24-W3-02900.6060 2532 ESTERO BLVD #606 FORT MYERS BEACH FL 33931	PELICAN WATCH CONDO OR 1532 PG 83 UNIT 606+ (XF-GAR#22)	59
OOYKAAS DICK E & PATRICIA T + 17026 W MANHATTAN RD ELWOOD IL 60421	19-46-24-W3-02900.1070 2532 ESTERO BLVD #107 FORT MYERS BEACH FL 33931	PELICAN WATCH CONDO OR 1532 PG 83 UNIT 107	60
SAMFORD BARBARA B 2532 ESTERO BLVD #108 FORT MYERS BEACH FL 33931	19-46-24-W3-02900.1080 2532 ESTERO BLVD #108 FORT MYERS BEACH FL 33931	PELICAN WATCH CONDO OR 1532 PG 83 UNIT 108	60
BERKEY BRIAN D TR 5849 CHAMPIONSHIP CT YORKVILLE IL 60560	19-46-24-W3-02900.2070 2532 ESTERO BLVD #207 FORT MYERS BEACH FL 33931	PELICAN WATCH CONDO OR 1532 PG 83 UNIT 207	60
PETER WILLIAM C + 2532 ESTERO BLVD #205 FORT MYERS BEACH FL 33931	19-46-24-W3-02900.2080 2532 ESTERO BLVD #208 FORT MYERS BEACH FL 33931	PELICAN WATCH CONDO OR 1532 PG 83 UNIT 208	60
SIEFRING RICHARD M TR 3374 ARLINGTON PL BEAVERCREEK OH 45434	19-46-24-W3-02900.3070 2532 ESTERO BLVD #307 FORT MYERS BEACH FL 33931	PELICAN WATCH CONDO OR 1532 PG 83 UNIT 307	60
MEYER STEPHEN P	19-46-24-W3-02900.3080	PELICAN WATCH CONDO	60

2532 ESTERO BLVD #308 FORT MYERS BEACH FL 33931	2532 ESTERO BLVD #308 FORT MYERS BEACH FL 33931	OR 1532 PG 83 UNIT 308 + (XF-GAR#9)	
MARSHALL MARYLU B L/E 2532 ESTERO BLVD #407 FORT MYERS BEACH FL 33931	19-46-24-W3-02900.4070 2532 ESTERO BLVD #407 FORT MYERS BEACH FL 33931	PELICAN WATCH CONDO OR 1532 PG 83 UNIT 407+ (XF-GAR#26)	60
SPITZER ARDEN L + SANDRA C 555 DEER LAKE DR FINDLAY OH 45840	19-46-24-W3-02900.4080 2532 ESTERO BLVD #408 FORT MYERS BEACH FL 33931	PELICAN WATCH CONDO OR 1532 PG 83 UNIT 408	60
WILTSE GARY ALAN & 1146 CAMELOT DR PINCKNEY MI 48169	19-46-24-W3-02900.5070 2532 ESTERO BLVD #507 FORT MYERS BEACH FL 33931	PELICAN WATCH CONDO OR 1532 PG 83 UNIT 507+ (XF-GAR#12)	60
ONKEN JAMES H & LYNNE E + 314 W ROOSEVELT RD MASON CITY IL 62664	19-46-24-W3-02900.5080 2532 ESTERO BLVD #508 FORT MYERS BEACH FL 33931	PELICAN WATCH CONDO OR 1532 PG 83 UNIT 508	60
GROLMUS MARY JO ANN 872 FOSTER RD IOWA CITY IA 52245	19-46-24-W3-02900.6070 2532 ESTERO BLVD #607 FORT MYERS BEACH FL 33931	PELICAN WATCH CONDO OR 1532 PG 83 UNIT 607	60
ROBSHAW RICHARD P 2532 ESTERO BLVD # 608 FORT MYERS BEACH FL 33931	19-46-24-W3-02900.6080 2532 ESTERO BLVD #608 FORT MYERS BEACH FL 33931	PELICAN WATCH CONDO OR 1532 PG 83 UNIT 608	60
TROPICAL SHORES LLC 5302 BROOKSIDE LN WASHINGTON MI 48094	19-46-24-W3-04100.0011 2550 ESTERO BLVD #11 FORT MYERS BEACH FL 33931	TROPICAL SHORES DESC IN OR 4081/2543 UNIT 11	61
MAROTTA JAMES + LINDA 83 VAN DYKE RD HOPEWELL NJ 08525	19-46-24-W3-04100.0012 2550 ESTERO BLVD #12 FORT MYERS BEACH FL 33931	TROPICAL SHORES DESC IN OR 4081/2543 UNIT 12	61
TROPICAL SHORES LLC 5302 BROOKSIDE LN WASHINGTON MI 48094	19-46-24-W3-04100.0021 2550 ESTERO BLVD #21 FORT MYERS BEACH FL 33931	TROPICAL SHORES DESC IN OR 4081/2543 UNIT 21	61
TROPICAL SHORES LLC 5302 BROOKSIDE LN WASHINGTON MI 48094	19-46-24-W3-04100.0022 2550 ESTERO BLVD #22 FORT MYERS BEACH FL 33931	TROPICAL SHORES DESC IN OR 4081/2543 UNIT 22	61
BLUE VISTA CAPITAL LLC 3412 COMMERCIAL AVE NORTHBROOK IL 60062	19-46-24-W3-0430N.0001 2310 ESTERO BLVD FORT MYERS BEACH FL 33931	NEPTUNE CONDO A TIMESHARE DESC IN INST# 2007000193360 PH I BLDG N 34 UNITS	62

**Town of Fort Myers Beach
Agenda Item Summary**

Yellow Sheet Number: **2021-454**

1. Requested Motion:

Meeting Date: October 20, 2021

Recommend Approve / Deny Recommended Amendments to Land Development Code
Subdivision V, Commercial Boulevard Zoning District.

Why the action is necessary:

Replacement uses within the CB district have faced challenges when switching between uses that were previously permitted. Unintended limitations have been created due to unclear language within the text of the LDC.

What the action accomplishes:

Corrects overly restrictive language that can be interpreted to prohibit uses that were, or are, permitted on properties zoned as CB.

2. Agenda:

PUBLIC HEARINGS

3. Requirement/Purpose:

Ordinance, Text amendment to
the LDC.

5. Background:

Several complaints have been received by both staff and the Town Council about the interpretations of, and limitations within, the Commercial Boulevard (CB) Zoning District. The LDC addresses which uses and how those uses can be developed within the CB district. However, the CB district provides vague language about changing uses within existing developments and how those previous uses are treated. This is particularly unclear when addressing multi-tenant buildings, strip centers, and similar existing structures. Staff has developed amendments to multiple sections within Subdivision V to address the confusion and to allow for uses that have previously been allowed to continue to be allowed. The proposed amendments do not introduce new uses for the CB district.

Attachments:

1. CB LPA Memo
2. CB Ex A Strikethrough Underline CB District

Financial Impact:

6. Alternative Action

Deny, modify text

7. Staff Recommendations:

Approve the recommended text amendments.

8. Recommended Approval:

Jason Green, Community Development
Services

Date: October 14, 2021

Date: October 15, 2021

John R Herin Jr, Town Attorney

Date: October 15, 2021

Amy Baker, Town Clerk



**Town of Fort Myers Beach
COMMUNITY DEVELOPMENT DEPARTMENT**

To: Local Planning Agency
From: Sarah Propst, Community Development
Date: October 20, 2021
Re: CB Zoning District Language

BACKGROUND

When the Commercial Boulevard (CB) zoning district was developed, it was designed to disallow expansion of uses and many change of uses without a planned development rezoning. Many parcels in this zoning district are built out with usable structures and infrastructure but the use of the units are limited by the previous use. This has resulted in a zoning district with decreasing usability over time. Staff was directed to provide solutions to maintain the usability of the Commercial Boulevard zoning district.

Proposed Solution

Staff proposes the attached strike-through underline language to modify how the code defines continuation of an existing use. The previous language defined existing commercial use as the use that was within the specific space, directly prior to the request for the use permit. The new language would allow a use permit for an office, retail or restaurant use within an existing space on a parcel that had previously had that use. For instance, if a retail store wanted to move into a previous office space, currently the code would not allow that. The new code would allow a retail use in that space if a retail use had been in existence on that property at some time in the past.

This is not an expansion of allowed uses but it does allow the same historical uses to be maintained. Bars and cocktail lounges may only be located in spaces where bar and cocktail lounges were directly prior to the use permit request, that use may not be expanded. Language has been included to allow existing outdoor dining areas and existing outdoor display of merchandise to be converted to another outdoor dining area or outdoor display area. That would not be an expansion of the use, simply a continuation of that use in that space.

Other changes made to this section of code were changes in wording to make the language more clear and correction of code references.

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Exhibit A: CB Strike-Through Underline

Subdivision V. - CB Zoning District

Sec. 34-701. - Purpose.

The purpose of the CB (Commercial Boulevard) district is provide standards for existing commercial uses and certain other uses along those portions of Estero Boulevard where the "boulevard" classification of the Fort Myers Beach Comprehensive Plan promotes a mixed-use development pattern.

Sec. 34-702. - Applicability.

- (a) *Continued use.* The regulations in this code section ~~subdivision~~ allow ~~apply~~ to the continued use of existing buildings and structures for allowable uses as defined in § 34-703 below, on all properties zoned CB.
- (b) *Enlarging or replacing buildings for existing commercial uses.* The regulations in this code section ~~subdivision~~ also allow ~~apply~~ to the following activities:
 - (1) Physical enlargement of buildings or structures containing existing commercial uses, provided that the improvements do not constitute a "substantial improvement" as that term is defined in § 6-424 ~~6-405~~ of this code, and
 - (2) Replacement buildings for existing commercial uses that will not increase the existing floor area ratio, as that term is defined in § 34-633 of this chapter.
- (c) *Enlarging or replacing buildings for all other allowable uses.* The regulations in this code section ~~subdivision~~ also allow ~~apply~~ to the physical enlargement of and replacement of buildings for all allowable uses, other ~~than~~ existing commercial uses (which are governed by subsection (b) of this section) or new or expanded commercial uses (which are governed by subsection (d) of this section).
- (d) *New or expanded commercial uses.* In accordance with Policies 4-B-5 and 4-C-3-iv of the Fort Myers Beach Comprehensive Plan:
 - (1) New or expanded commercial uses in the "boulevard" category of the Fort Myers Beach Comprehensive Plan require rezoning as a commercial planned development (see § 34-951 of this chapter).
 - (2) Physical enlargements of existing commercial buildings that constitute a "substantial improvement" as that term is defined in § 6-424 ~~6-405~~ of this LDC also require rezoning as a commercial planned development.
 - (3) For purposes of this section only, the following types of re-use of existing floor area shall be deemed a continuation of an existing commercial use rather than a new or expanded commercial use:
 - a. Conversion of an existing space to office, retail or restaurant use, when that use previously existed on that parcel; ~~An existing office use converted to another office use;~~
 - b. ~~An existing retail use converted to another retail use or to an office use;~~
 - c. ~~An existing restaurant converted to another restaurant or to a retail or office use;~~
 - b~~d~~. An existing bar or cocktail lounge converted to another bar or cocktail lounge or to a restaurant, retail, or office use.
 - c. Existing areas of outdoor dining may be converted to another outdoor dining area.
 - d. Existing areas of outdoor display of merchandise may be converted to another outdoor display of merchandise area.

Sec. 34-703. - Allowable uses.

- (a) In the CB district, allowable uses are defined as any of the following:

- (1) Those uses defined in Table 34-2 for the CB district;
 - (2) Continuation of commercial uses that were lawfully existing on March 3, 2003; and
 - (3) Those additional commercial uses of existing floor space as provided by § 34-702(d)(3) of this chapter.
- (b) Any landowner wishing to place other new or expanded commercial uses on property that is zoned CB must rezone the property to commercial planned development.
 - (c) Any landowner wishing to subdivide land that is zoned CB into residential homesites must comply with all of the setback, lot size, intensity, and density regulations for the RC zoning district as described in Table 34-3. Compliance with these regulations shall substitute for the building placement standards that are found in § 34-704 below, and for the intensity standard found in § 34-705(c) of this chapter.

Sec. 34-704. - Building placement.

- (a) *Build-to lines established.* Build-to lines (see § 34-662 of this chapter) for Estero Boulevard are established at five to ten feet from front property lines. Awnings, canopies, and marquees over sidewalks and pedestrian walkways are encouraged by the commercial design standards (§§ 34-991—34-1010 of this chapter).
- (b) *Setback lines established.* Setback lines (see § 34-662 of this chapter) are established as follows:
 - (1) For principal buildings:
 - a. Minimum street setbacks for all streets other than Estero Boulevard are ten feet.
 - b. Minimum rear setbacks are 20 feet from rear property lines.
 - c. Minimum side setbacks are five feet from side property lines.
 - d. Minimum setbacks from waterbodies are set forth in § 34-638(d)(3) of this chapter.
 - (2) For accessory structures, minimum setbacks are set forth in §§ 34-1171—34-1176.

Sec. 34-705. - Building size.

- (a) *Building frontage.* Building frontage limits (see § 34-663 of this chapter) are established as follows:
 - (1) For Estero Boulevard, building frontages shall be at least 50 percent of the lot frontage. This percentage may be reduced to 35 percent for properties between Estero Boulevard and the Gulf of Mexico provided that the open space thus created allows open views to the Gulf of Mexico.
 - (2) For multiple adjoining lots under single control, or for a single lot with multiple buildings, the percentages above apply to the combination of lot(s) and building(s).
- (b) *Building height.* Building heights (see § 34-631 of this chapter) shall be limited to:
 - (1) For properties that front on the bay side of Estero Boulevard and all streets other than Estero Boulevard, a maximum of 30 feet above base flood elevation and no taller than two stories, except that an elevated building without enclosed space on the first story may be three stories tall (but still limited to 30 feet above base flood elevation).
 - (2) For properties that front on the beach side of Estero Boulevard, a maximum of 40 feet above base flood elevation and no taller than three stories.
- (c) *Floor area ratio (FAR).* Floor area ratios (see § 34-633 of this chapter) shall not exceed 1.0.

Sec. 34-706. - Circulation and parking.

- (a) *Parking lot locations.* Off-street parking lots shall be placed in side or rear yards (see Figure 34-5). Off-street parking lots are not permitted in front yards.

- (b) *Under-building parking.* Off-street parking may be provided under commercial or mixed-use buildings provided that all under-building parking spaces are screened in accordance with § ~~34-992(a)(2)~~ 34-693(l) of this chapter.
- (c) *Parking lot interconnections.* Wherever physically possible, parking lots for abutting properties fronting along Estero Boulevard shall be interconnected to eliminate or minimize driveways to Estero Boulevard.
 - (1) To ensure the effective use of these connections, the first to develop shall be required to make an irrevocable offer of cross-access to the adjacent parcel (prior to issuance of a development order), and must design and build the parking lot to accommodate cross-access.
 - (2) When adjacent owners seek development orders, they will also be required to reciprocate with a similar cross-access agreements and then must complete the physical connection.
 - (3) Individual property owners shall control all rights to the use of their own parking spaces, but may choose to allow wider use of these spaces for a fee of their choosing or through reciprocal arrangements with other parties.
- (d) *Driveway connections for properties fronting on Estero Boulevard.* Existing driveways and parking spaces shall be relocated from Estero Boulevard to other streets and new driveways shall connect only to other streets, except where these requirements would prohibit all reasonable access to a property. When a driveway onto Estero Boulevard is unavoidable, the driveway shall be shared with an adjoining property if that property also has access only to Estero Boulevard. Otherwise, the driveway shall be spaced as far as practical from other driveways or intersections.

Sec. 34-707. - Commercial design standards.

The commercial design standards (§§ 34-991—34-1010 of this chapter) shall apply to all commercial and mixed-use buildings, or portions thereof, that are being newly built, and to "substantial improvements" to such buildings as defined in § ~~6-424~~ 6-405 of this LDC.

Secs. 34-708—34-930. - Reserved.

**Town of Fort Myers Beach
Agenda Item Summary**

Yellow Sheet Number: **2021-455**

1. Requested Motion:

Meeting Date: October 20, 2021

Recommend Approve / Deny Recommended Amendments to Land Development Code Section 34-638, Minimum Setbacks.

Why the action is necessary:

The Town Council has instructed staff to create options for additional setbacks or other design criteria for large lot single-family residential development.

What the action accomplishes:

Creates options for developers of large lot or combined lots.

2. Agenda:

PUBLIC HEARINGS

3. Requirement/Purpose:

Ordinance, required due to Resolution 21-42, a zoning in progress to address large lot development.

5. Background:

The Town Council adopted Resolution 21-42, Invoking a Zoning in Progress to consider amendments to the Town's Land Development Code related to single-family homes built on assembled lots. The Town staff has reviewed the comments from Town Council members and researched a variety of ways to achieve what is intended. During staff discussions and research, it was recognized that addressing this issue by tying it to the number of lots that are assembled created challenges to ensuring compliance, since platted lots can range from 25 feet in width to occasionally 100 feet, or larger. In addition, the ability to assemble portions of platted lots created difficulties in applying these regulations across the board and, by default, created potential exemptions.

As a result, staff determined that the best way to address what the Town Council seemed to be interested in, which is limiting the size of a single-family home along the frontage of a roadway, was to simply limit the length of the facade along the street frontage before additional regulations and design criteria are triggered. This approach is often referred to as addressing the massing of the structure along the street frontage. The proposed text creates an additional street setback once a structure's facade along the street frontage. A structure cannot be designed to be longer than 65 feet without providing an additional 12 feet of street setback. This will provide anything over 65 has to be setback 37 feet from the street.

In addition to providing amendments to introduce limits on the length of the facade, staff has drafted a new side setback requirement for lots 80 feet or greater in width. Lots that meet this size are proposed to use a percentage of lot width as the means by which to measure the setback. This approach does not adversely impact the buildable envelope or building footprint percentage currently allowed by the LDC.

A third option has been included with the proposed edits. Any home that is built with no more than 500 square feet of enclosed space below the lowest habitable floor and used only for parking, storage, or access, will be exempt from these proposed new setback requirements. The ten feet side yard setback adopted in January 2021 would apply.

In addition, staff has prepared an edit to the porches that are permitted to encroach into the street setback. The edit limits the width of the porches and entries. Previous edits didn't account for a limit on the size and width of the porch that can encroach up to ten feet of the street setback. This was provided to fix a current issue since the section was being edited for the other purposes.

Note: There are two memos addressing options and pros/cons for each of the two primary approaches, facade length along street frontage and side setbacks. These are provided separately to offer the LPA and Town Council the ability to consider these approaches independent of each other.

Attachments:

1. Large Residential Structures Memo
2. Consolidated Lots Memo Side Setbacks
3. Consolidated Lot Exhibit A Text Mod

Financial Impact:

6. Alternative Action

Deny, modify

7. Staff Recommendations:

Approve

8. Recommended Approval:

Jason Green, Community Development
Services

Date: October 14, 2021

John R Herin Jr, Town Attorney

Date: October 15, 2021

Amy Baker, Town Clerk

Date: October 15, 2021



**Town of Fort Myers Beach
COMMUNITY DEVELOPMENT DEPARTMENT**

To: Local Planning Agency
From: Sarah Propst, Community Development
Date: October 20, 2021
Re: Front Setbacks for Large Residential Structures

BACKGROUND

When multiple lots are combined, very large residential structures may be built that are not compatible with the neighborhood. This can result in a negative visual impact, even if the home is quite nice. The comprehensive plan places high value on infill compatibility and renovation mixing gracefully with the existing neighborhood. Policy 3-B-1¹ recommends the review of setbacks and lot sizes as well as design guidelines. Staff has been asked to provide options to address the issue of houses that could be visually overwhelming to a neighborhood.

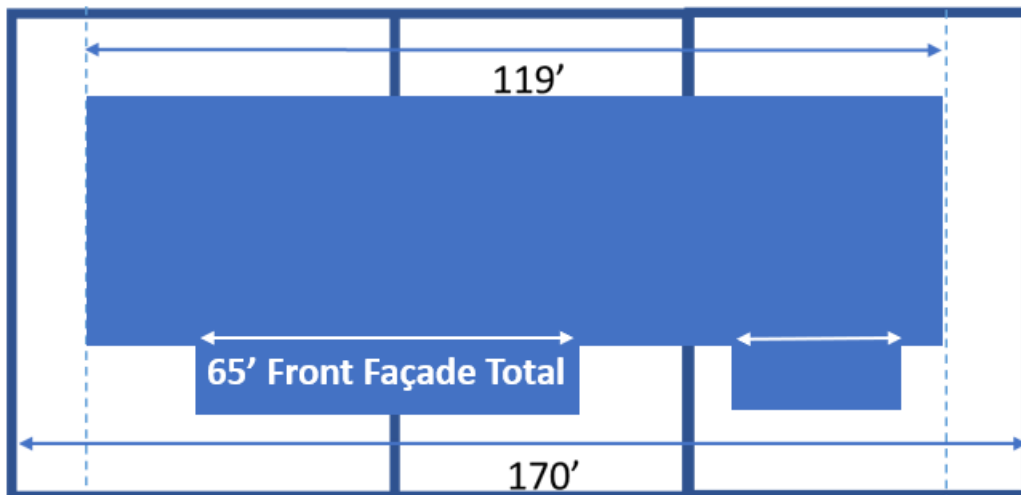
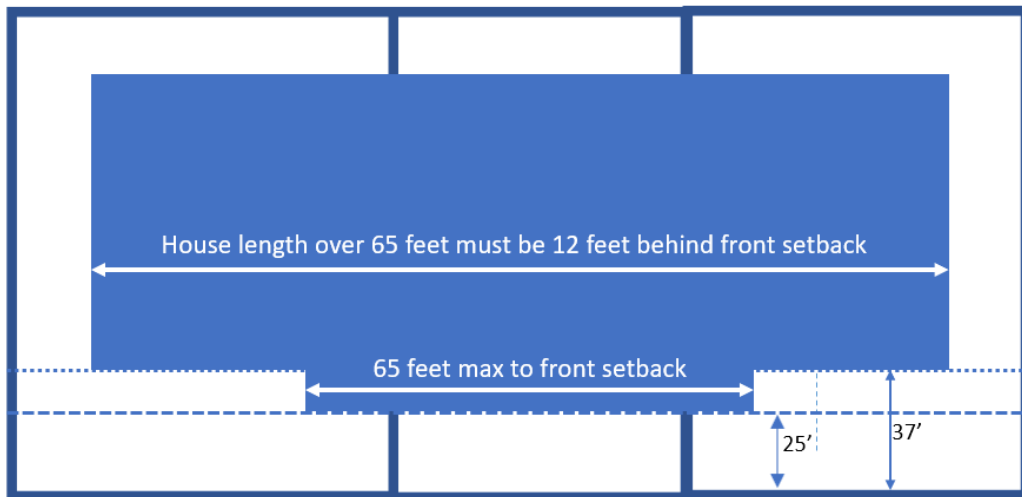
PROPOSED SOLUTION

A limitation on frontage length of a residence may be appropriate to decrease the visual impact of homes which are out of scale with the surrounding development. One option would be to have a flat number as the max frontage, such as 65 feet. No more than 65 feet of house frontage may be constructed to the front 25-foot setback line. Any house length over 65 feet would be set back an additional 12 feet. All other criteria such as the allowable coverage, front and rear setbacks and building height would still apply. The house would still be substantially larger than nearby homes but would appear less impactful from the right of way. The front façade would not have to be continuous; it could be divided. The second example shows how a non-continuous façade could look.

¹ Policy 3-B-1 The town shall prepare and adopt land development regulations to apply to the older “near-town neighborhoods” that will encourage renovations and compatible infill development, using the following types of techniques: i. modifying lot size, setback, and parking requirements where the current regulations hinder redevelopment; ii. adding design guidelines to encourage front porches, decks, and other elements from the cottage design tradition to help frame public spaces and define private areas;



Example: A new 170' parcel (2, 50' parcels and a 70' parcel) is consolidated and has a total buildable width of 119' or 125' (with 25.5' or 22.5' setbacks on each side, depending on percentage or combined setbacks). The house is designed in such a way that 65 feet of the front of the house can be built to the 25-foot front setback. The remainder of the allowed house width would be allowed 12 feet behind the front setback (37 feet behind the front property line).



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CODE MODIFICATION

The proposed strikethrough underline language is provided in Exhibit A. The changes proposed in this memo and the memo: Additional Setbacks on Consolidated Lots, would require changes to two code sections, Sec. 34-638 Minimum Setbacks and Table 34-3 Dimensional Regulations. An exemption from both the side and front setback increases has been included for any residential development which chooses to enclose or screen 500 square feet or less of the ground floor of the home. Limited ground floor development decreases the visual magnitude of the structure and also reduces potential flood impacts.



**Town of Fort Myers Beach
COMMUNITY DEVELOPMENT DEPARTMENT**

To: Local Planning Agency
From: Sarah Propst, Community Development
Date: October 20, 2021
Re: Additional Setbacks on Consolidated Lots

BACKGROUND

Multiple lots are being combined to develop single-family and two-family residential homes. The massing of the larger homes with only a typical side setback of 7.5 feet required, impacts the viewshed of the neighborhood. Staff has been asked to provide options to address this issue. The options contained in this memo are intended to apply to lots over 75 feet wide.

PROPOSED SOLUTIONS

Option 1: Adding Up the Setbacks

This option would add together all the setbacks that would have been required between lots being consolidated and require that total setback measurement as the side setback. The example on the following page (Example 1) shows how this option would work. The example assumes three, typical 50-foot, lots are combined into one lot. Each lot separately would have a 7.5' setback on each side. Lot A, Lot B and Lot C would each have a total of 15 feet in setbacks (7.5 feet X 2). When Lot A, B and C are combined the total number of setbacks would be added together and that would be the new side setback, $15' + 7.5' = 22.5'$ on each side. The buildable width of three combined lots would be 105 feet.

Pros and Cons: This will result in the same amount of open space on the consolidated lots as would have been required on the individual lots. The combined open space may provide more benefits for stormwater, planting and viewsheds. One disadvantage to this approach is that not all lots on the island are the same size. The example is three average lots, however some lots on the island are already large and some are quite small. An owner consolidating three, 70-foot lots will have the same setback requirement as someone consolidating three 50-foot lots or three 45-foot lots.

Consideration: Should the lot consolidation be based on current, existing parcels or original subdivision lots? Many parcels have been combined or split over the years, WW. Watsons subdivision consisted of 25-foot lots which have all been combined to create more usable parcels. If we base it on current, existing parcels staff will need a snapshot of the current parcels to base future decisions on. Many codes

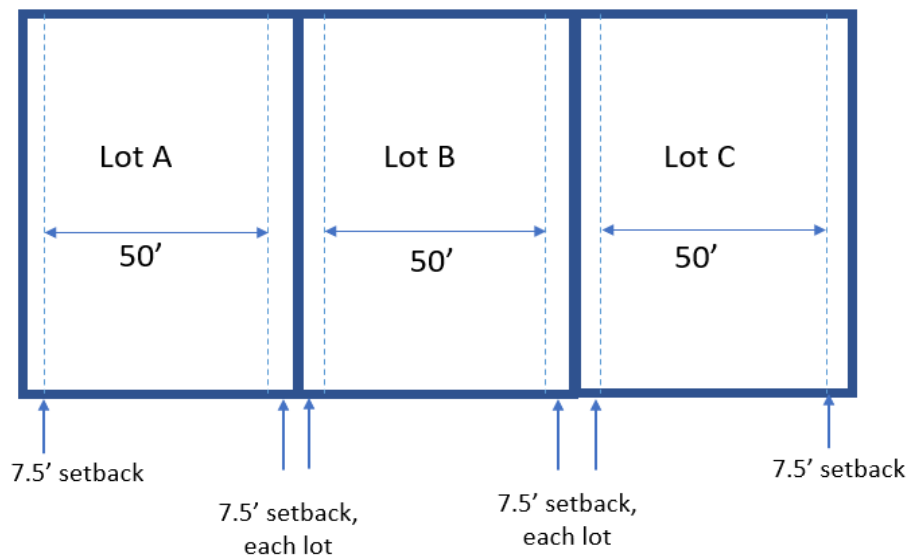
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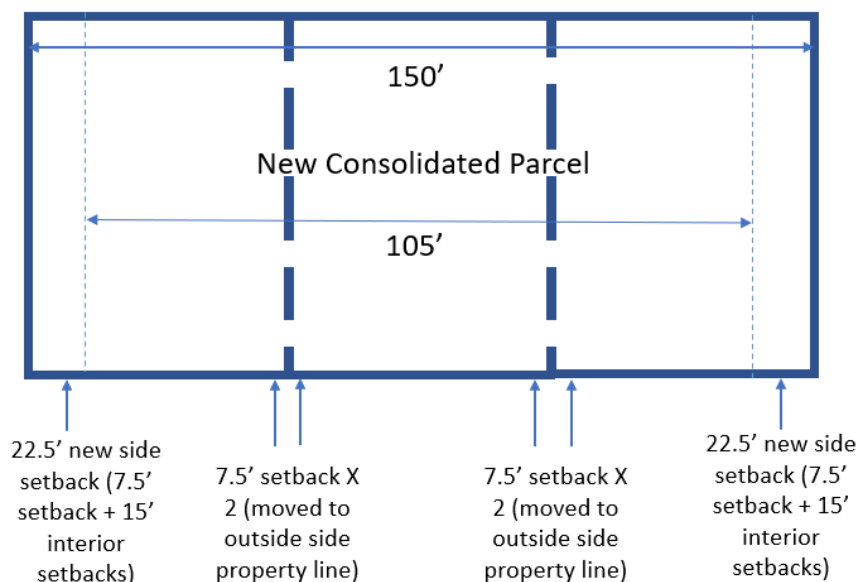
reference a specific year as the starting point for a regulation, but staff has no way of knowing the conditions at the time of the adoption. Also, how will this apply to portions of parcels, rather than combining whole parcels?

EXAMPLE 1: Three, 50-foot wide lots, interior setbacks would be moved to the outside for 22.5 feet side setbacks.

Three separate lots with
required setbacks



Three lots combined into
a single parcel



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Option 2: Lot Size Percentage

A second option for addressing the lot consolidation setback issue is to base the setback on a percentage of the lot size. The current setbacks for a residential lot are 7.5 feet or ten feet for lots 70 feet or wider. On an average, 50-foot wide, lot the setback on each side of the parcel is 15%. If a property owner were to consolidate multiple parcels to build a home, the setback of the newly created parcel could be determined using that percentage.

For three, 50-foot wide, lots the setback would be 15% of the entire lot width 22.5 feet. The exact same new setbacks as would be required by Option 1 (See the example 2 on the following page). The Lot Size Percentage option is possibly fairer than Option 1: Adding Up the Setbacks because the percentage is based on the new parcel size, not just the number of lots that were combined. For instance, if a property owner is combining a 70-foot lot, and two 50-foot lots (a consolidated 170-foot wide lot) they would have to provide 25.5-foot setbacks on each side. If a property owner is combining a two 45-foot lots and a 50-foot lot (a consolidated 140-foot wide lot) they would have to provide 21-foot setback on each side. Using option 1: Adding up the Setbacks, both the 170-foot wide lot and the 140-foot wide lot would provide side setbacks of 22.5 feet.

Pros and Cons: This manner of applying setbacks as a percentage of the new lot width is fairer in that it is based on the size of the lot rather than the number of the lots combined. It will result in larger setbacks for larger consolidated lots. This approach also makes it easier to apply during development reviews. It removes the research needed to determine how many “lots” were used to make a parcel of land and will apply to lots of record equally. By setting the width at 80 feet, as shown in Exhibit A Text Amendments, the larger setback of ten feet already adopted in January of 2021 for lots 70 feet or greater in width can be continued without additional confusion.

Considerations: There could be a minimum setback of ten feet or 15% of the lot width, whichever is greater. This would ensure that the larger setbacks applied when properties are combined will remain in effect even when redevelopment of a property occurs. For example: Three properties are combined in 2022 and a new home is built. Staff recognizes that a greater setback needs to be applied to the new home being built because the properties were consolidated shortly before development permits were applied for. However, if new development occurs in 10 or 15 years such as an addition or complete rebuild, will staff know that the additional setbacks need to be applied? Combined properties can be identified through GIS or in a spreadsheet, but maintenance of these documents can become a problem and staff turnover can lead to a loss of this knowledge.

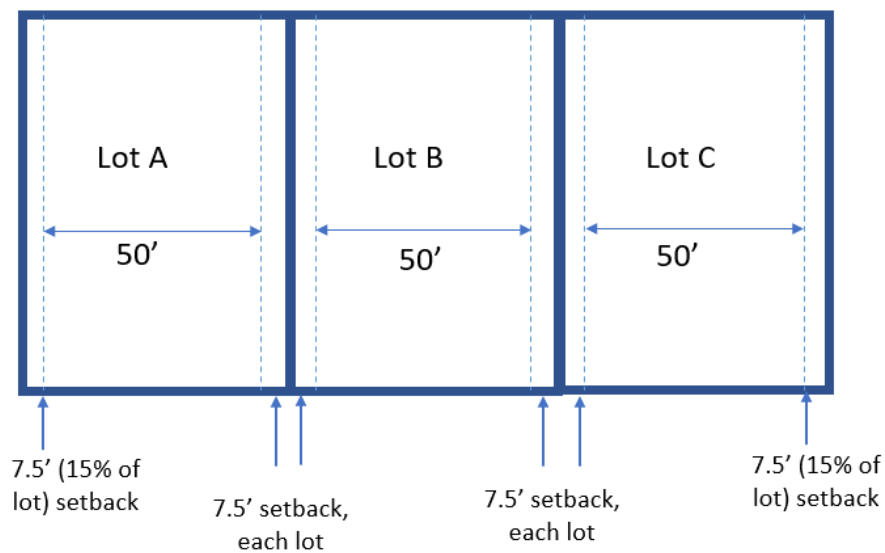
Another twist on both options would be to allow the property owner to decide how to divide up the setback width between the sides. For example, the three-lot consolidation (50-foot lots) would result in a total of 45 feet of side setback. Rather than requiring the setbacks to be even on both sides, the property owner could choose to divide the total required setback to allow a smaller setback on one side and a larger setback on the other. It would be important that no setback could be less than the



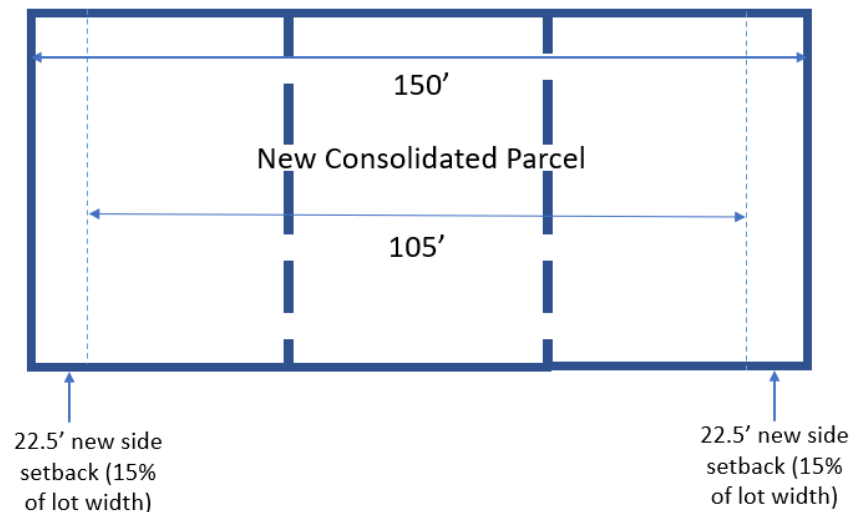
minimum required of that lot as a separate lot (never smaller than 10 feet). This would potentially allow for larger trees to be planted, more usable yard space, a nice viewshed. For the three-lot example, that could result in a 10-foot setback on one side of the property and a 35-foot setback on the other side of the property.

EXAMPLE 2 : Three, 50-foot wide, lots the setback would be 15% of the entire lot width 22.5 feet.

Three separate lots with
required setbacks



Three lots combined into a
single parcel



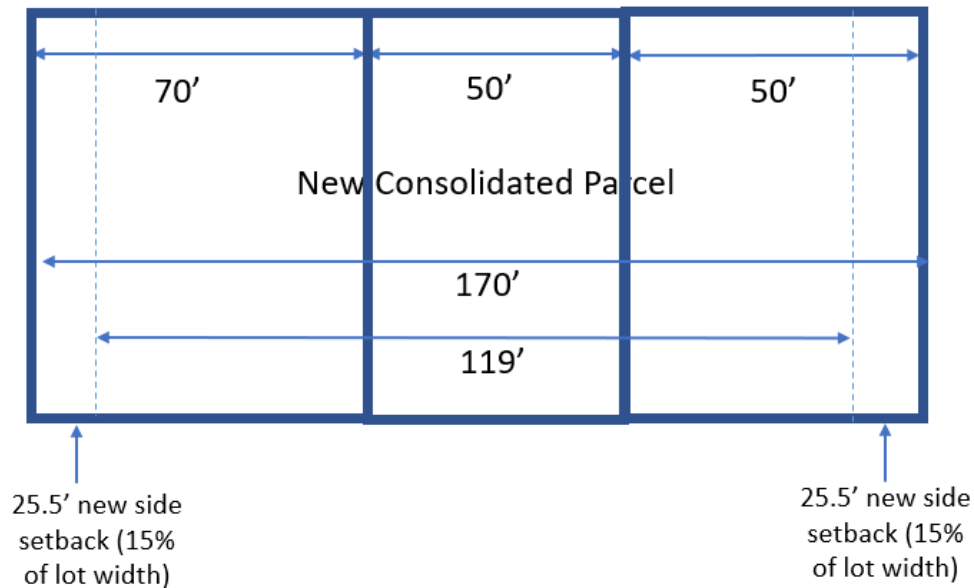
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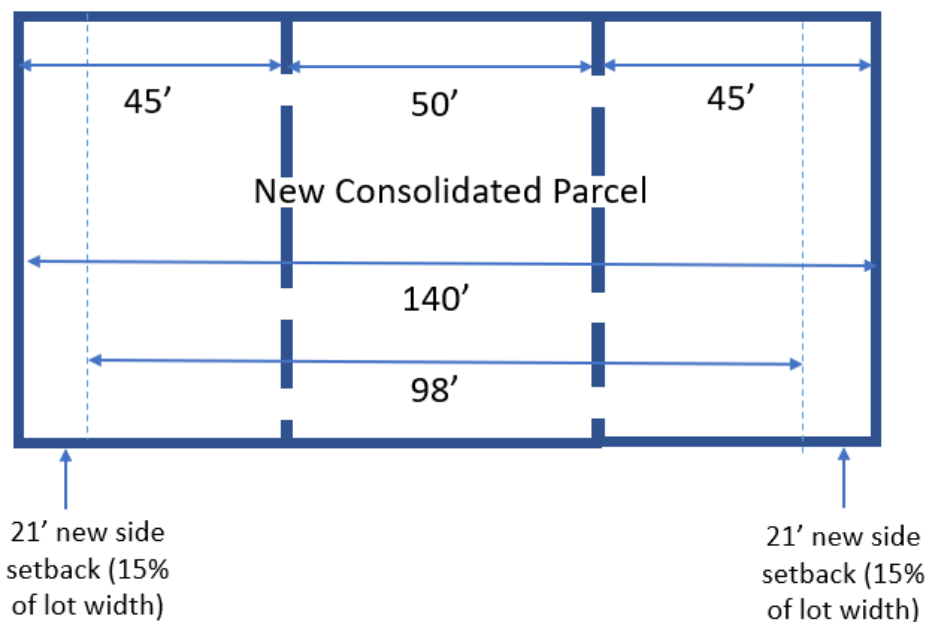


Example 3: Shows how two consolidated lots of different sizes would have setbacks based on the consolidated property width using the percentage option.

Three lots combined into
a single parcel



Three lots combined
into a single parcel



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CODE MODIFICATION

The proposed strikethrough underline language is provided in Exhibit A. The changes proposed in this memo and the memo titled “Front Setbacks for Large Residential Structures”, require changes to two code sections, Sec. 34-638 Minimum Setbacks and Table 34-3 Dimensional Regulations. An exemption from both the side and front setback increases has been included for any residential development which chooses to enclose or screen 500 square feet or less of the ground floor of the home. Limited ground floor development decreases the visual magnitude of the structure and also reduces potential flood impacts.

Exhibit A

Sec. 34-638. - Minimum setbacks.

- (a) *Generally.* Most zoning districts require minimum setbacks between all buildings and structures and the street, the side lot line, the rear lot line, and any waterbody.
 - (1) Setbacks are minimum horizontal distances between a property line and the nearest point of all structures that ensure a minimum area without buildings. Detailed definitions are provided under "setback" in § 34-2 of this LDC.
 - a. Where an unusual lot configuration or orientation makes it unclear which property lines are street, side, or rear lot lines, the director will establish street, side, and rear lot lines for setback purposes after taking into account existing buildings on the same block as well as the intent of this code. Where access is provided by a shared driveway rather than a street, the director may determine that no street setback applies to that lot.
 - b. Once established through this process, the same setbacks will be applied by the director to other lots on that block.
 - (2) There are two types of side setbacks:
 - a. *Side setbacks - waterfront lots.* Larger side setbacks are required for waterfront lots, defined as lots that immediately adjoin a tidally influenced body of water, whether artificial or natural (see definitions in § 34-2 of this LDC).
 - b. *Side setbacks - non-waterfront lots.* Smaller side setbacks are required for all other lots.
 - (3) The distinction between street setback lines and build-to lines is explained in § 34-662 of this chapter.
 - (4) Certain exceptions to minimum setbacks are provided in subsection (d) below.
- (b) *Where to find minimum setback dimensions.* Minimum setback dimensions are specified as follows:
 - (1) *For principal buildings:*
 - a. For all conventional zoning districts, see Table 34-3.
 - b. For redevelopment zoning districts, as described for the individual districts in division 5 of this article.
 - c. For RPD districts, see § 34-943 of this chapter.
 - d. For CPD districts, see § 34-953 of this chapter.
 - (2) *For accessory buildings,* see §§ 34-1174—34-1176 of this chapter.
- (c) *Additional wetlands buffers.* New development must maintain a 75-foot separation between wetlands and buildings or other impervious surfaces, in accordance with Policy 4-C-12 of the Fort Myers Beach Comprehensive Plan.
 - (1) This requirement does not apply to lawfully existing subdivided lots.
 - (2) This requirement also does not apply to a previously approved development order to the extent it cannot reasonably be modified to comply with this requirement (see ch. 15 of the Fort Myers Beach Comprehensive Plan for details).
- (d) *Exceptions to setback dimensions.* In addition to the following general exceptions to minimum setbacks, commercial buildings that are subject to the commercial design standards may encroach into certain setbacks as provided in §§ 34-991—34-1010 of this chapter.
 - (1) *Exceptions to all setbacks.*

- a. *Administrative setback variances.* Under certain limited circumstances, administrative variances can be granted to minimum setbacks as provided in § 34-268 of this chapter.
 - b. *Overhangs.* An overhang which is part of a building may be permitted to encroach into any setback as long as the overhang does not extend more than three feet into the setback and does not permit any balcony, porch, or living space located above the overhang to extend into the setback.
 - c. *Shutters.* A shutter which is attached to a building may be permitted to encroach one foot into the setbacks.
 - d. *Awnings and canopies.*
 - 1. Awnings and canopies which are attached to a building may be permitted to encroach three feet into the setbacks, as long as their location does not interfere with traffic, ingress and egress, or life safety equipment.
 - 2. For purposes of this section, awnings and canopies may be attached to a nonconforming building and shall not be considered an extension or enlargement of a nonconformity, as long as the building is properly zoned for its use and the conditions as set forth in this section are met.
 - e. *Essential services.* Essential services and essential service equipment shall not be required to meet the minimum setbacks for the district wherein located (see § 34-1617 of this chapter).
 - f. *Two-family dwelling units.* If a two-family dwelling unit is on a lot of sufficient size to allow it to be subdivided into a separate lot under each dwelling unit (see Table 34-3), the side setback regulations in this section shall not be interpreted to forbid such subdivision. Existing two-family buildings that are being subdivided must be separated by not less than one-hour fire resistance.
 - g. *Mechanical equipment.* Mechanical equipment such as air conditioners may encroach up to three feet into rear and waterbody setbacks but must meet the same street and side setbacks as the building it serves. These requirements apply to new buildings and to new mechanical equipment but will not apply to replacement of mechanical equipment on existing buildings if the equipment was installed in conformance with prior regulations.
- (2) *Exceptions to street setbacks.* Certain structures are exempt from the street setback requirements as follows. See also § 34-1174 of this chapter.
- a. *Build-to lines.* Some zoning districts do not have any street setback requirements but instead have build-to lines, as described in § 34-662 of this chapter. Awnings, canopies, balconies, bay windows, porches, stoops, arcades, and colonnades may extend forward of the build-to line provided that they comply with the commercial design standards (see § 34-995(e) of this chapter).
 - b. *Porches, balconies and stoops.* Porches, balconies and stoops may extend up to ten feet into the street setback zone of residential buildings, provided that:
 - 1. Any walls, screened areas, or railings in the setback zone extend no higher than 42 inches above the floor of the porch, balcony or stoop; and
 - 2. No portion of a porch or balcony and no walls or screened areas may be closer than ten feet to the edge of any street right-of-way or street easement.

3. Porches, balconies and stoops, which extend into the front setback, may not exceed 35 feet in length.
 - c. *Mail and newspaper delivery boxes.* Mail and newspaper delivery boxes may be placed in accordance with U.S. Postal Service regulations; however, the support for a mail or newspaper delivery box must be of a suitable breakaway or yielding design, and any mail or newspaper delivery box placed in an unsafe or hazardous location can be removed by the government agency with jurisdiction over the right-of-way at the property owner's expense.

- d. *Bus shelters, bus stop benches and bicycle racks.* Bus shelters, bus stop benches, and bicycle racks may be located in any district without regard for minimum setbacks, provided the location of the structure is approved by the town manager. No advertising is permitted on bus stop benches.
- e. *Telephone booths.* Telephone booths and pay telephone stations may be located in any zoning district that permits multifamily or commercial uses without regard for minimum setbacks; provided that the location shall be approved by the director.

(3) *Waterbody setbacks.*

- a. *Gulf of Mexico.* Except as provided in this section or elsewhere in this code, no building or structure shall be placed closer to the Gulf of Mexico than set forth in ch. 6, articles III and IV of this LDC, or 50 feet from mean high-water, whichever is the most restrictive. See also special regulations for the EC zoning district in § 34-652 of this chapter and the coastal zone restrictions in § 34-1575 of this chapter.
- b. *Other bodies of water.* Except as provided in this section or elsewhere in this chapter, no building or structure shall be placed closer than 25 feet to a property line adjacent to a canal, bay, or other waterbody. For purposes of measuring setbacks from a canal, bay, or other body of water, the following will also be used:
 - 1. If the body of water is subject to tidal changes, the setback will be measured from the mean high-water line.
 - 2. If the body of water is not subject to tidal changes, the setback will be measured from the control elevation of the body of water if known, or from the ordinary high-water line if unknown.
 - 3. In addition to the property line setback, if the property has a seawall, a minimum setback of five feet will be measured from the seaward side of the seawall, not including the seawall cap.
 - 4. If property lines encroach into the waterbody, then no more than five feet shall be applied to the setback measurement.
 - 5. If plats or legal descriptions of property reference water bodies as boundaries, the mean high-water line shall be utilized, unless otherwise stated in those legal descriptions or survey.
- c. *Exceptions for certain accessory structures.* Certain accessory buildings and structures may be permitted closer to a body of water as follows:
 - 1. *Fences and walls.* See division 17 of this article.
 - 2. *Shoreline structures.* See § 34-1863 and ch. 26 of this LDC.
 - 3. *Nonroofed structures.* Swimming pools, tennis courts, patios, decks, and other nonroofed accessory structures or facilities which are not enclosed, except by fence, or which are enclosed on at least three sides with open-mesh screening from a height of 3½ feet above grade to the top of the enclosure, shall be permitted up to but not closer than:
 - (i) Five feet from a seawalled canal or seawalled natural body of water;
 - (ii) Ten feet from a nonseawalled artificial body of water; or
 - (iii) Twenty-five feet from a nonseawalled natural body of water;
 whichever is greater. Enclosures with any two or more sides enclosed by opaque material shall be required to comply with the setbacks set forth in subsections (d)(3)a. and (d)(3)b. of this section.
 - 4. *Roofed structures.*

- (i) Accessory structures with roofs intended to be impervious to weather and which are structurally built as part of the principal structure shall be required to comply with the setbacks set forth in subsections (a) and (b) of this section.
- (ii) Accessory structures with roofs intended to be impervious to weather and which are not structurally built as part of the principal structure may be permitted up to but not closer than 25 feet to a natural body of water, and ten feet to an artificial body of water.

(4) *Exceptions for certain nonconforming lots.*

- a. Certain nonconforming residential lots are subject to the modified side and rear setback requirements that are found in § 34-3273 of this chapter.
- b. Certain nonconforming mobile home lots in the village zoning district are subject to the modified side and rear setback requirements that are found in § 34-694 of this chapter.
- c. Certain nonconforming commercial lots are subject to the modified side and rear setback requirements that are found in § 34-3277 of this chapter.

(5) *Additional setbacks for large lot single-family and two-family development.*

- a. *Structures exceeding 65 feet in length in RS, RC and RM zoning districts shall have additional front setback requirements. Single-family and two-family residential structures in the RS, RC and RM zoning districts shall not be permitted to construct more than 65 feet of frontage to the front setback line (25 feet from right of way property line). Any portion of the structure exceeding 65 feet in width shall be set back an additional 12 feet (37 feet from the right of way property line).*
- b. *Parcels of land in the RS, RC and RM zoning districts 80 feet or more in width shall have additional side setback requirements. Parcels in the RS, RC and RM zoning districts that are 80 feet or wider must provide side setbacks equal to 15% of the lot width, on each side.*
 - 1. *Lot width is measured from the property line adjacent to the right of way. Where the property is a corner lot, the front will be the side of the property that is deemed the front based on the setbacks (in relation to where the front setback, rear setback, and side setbacks are applied).*
 - 2. *The cumulative total of the side setbacks shall be 30% of the parcel width, however, the setbacks do not have to be equal on both sides. No side setback shall be less than ten (10) feet.*
- c. *Exemption from additional setbacks for open ground level. A residential structure with a maximum of 500 square feet enclosed or screened, at the ground level of the house (under house structure), shall be exempt from additional side and front setbacks.*

([Ord. No. 20-08](#), § 2, 4-6-2020)

Secs. 34-653—34-660. - Reserved.

Table 34-3— Dimensional Regulations in Conventional Zoning Districts

	street	side - waterfront lot	side - non- waterfront	rear	water body (1)	Gulf of Mexico (2)	area	width	depth	ratio	percentage		feet	stories
ZONING DISTRICT	Setbacks (see § 34-638 for explanation and exceptions)					Lot size (see § 34-637 for explanations and exceptions)				F.A.R. §34- 633	Building Coverage § 34-634	Density § 34- 632	Height (see § 34- 631)	
<i>RS Residential Single-family</i>	25 (9)	7.5 (8) (10)	7.5 (8)	20	25	50	7,500	75	100	-	40%	(3), (4)	25	3
<i>RC Residential Conservation</i>	25 (9)	7.5 (10)	7.5	20	25	50	4,000	45	80	-	40%	(3), (4), (5)	25	3
<i>RM Residential Multifamily</i>	25 (9)	20 (6) (10)	20 (6)	20	25	50	7,500	75	100	1.2	-	(3), (4), (5)	30	3
<i>CR Commercial Resort</i>	10	20	15	20	25	50	20,000	100	100	1.2	-	(3)	30	3
<i>CM Commercial Marina</i>	20	20	20	20	0	50	20,000	100	100	1.0	-	-	35	3
<i>CO Commercial Office</i>	10	10	7	20	25	50	7,500	75	100	1.2	-	(3), (4), (5)	30	3
<i>Santos</i>	10	7	5	20	25	50	5,000	50	100	0.6	-	(3), (4), (5)	25	3
<i>IN Institutional</i>	20	10	7	20	25	50	7,500	75	100	0.8	-	(3)	35	3
<i>CF Community Facilities</i>	20	15	10	20	25	50	N/A	N/A	N/A	0.1	-	(3)	35	3
<i>BB Bay Beach</i>	— see § 34-651(b) —													
<i>EC Environmentally Critical</i>	20	25	-	25	20	50	(7)	N/A	N/A	.01	-	(3), (7)	25	2

Note (1): An additional wetland buffer is required for new development; see § 34-638(c).

Note (2): See § 34-638(d)(3)a.

Note (3): Maximum densities are established by the Fort Myers Beach Comprehensive Plan; see § 34-632.

Note (4): Accessory apartments are allowed in owner-occupied homes under certain conditions; see §34-1178.

Note (5): A second dwelling unit or accessory apartment may be allowed on larger lots; for details, see §§ 34-632, 34-1177, and 34-1178.

Note (6): Single-family and two-family homes on waterfront lots in the RM zoning district must maintain only a 7.5-foot side setback.

Note (7): See § 34-652(e)(3).

Note (8): For all RS lots fronting on Matanzas Street and Matanzas Court, all side setbacks shall be at least 10 feet.

Note (9): Maximum 65 feet of house may be built to the 25-foot front setback. Any house frontage exceeding 65 feet shall be built 37 feet from the front property line. See §34-638(d)(5)a.

Note (10): For parcels exceeding 75 feet in width, each side setbacks will be equal to 15% of the property width. See § 34-638(d)(5)b.

**Town of Fort Myers Beach
Agenda Item Summary**

Yellow Sheet Number: **2021-456**

1. Requested Motion:

Meeting Date: October 20, 2021

Recommend Approve / Deny Recommended Amendments to Land Development Code Article II
Noise Control

Why the action is necessary:

Town Council has directed staff to create options to reduce noise levels created by mechanical equipment.

What the action accomplishes:

Creates measurable criteria to evaluate if mechanical equipment is creating a burden on adjacent property owners.

2. Agenda:

PUBLIC HEARINGS

3. Requirement/Purpose:

Ordinance

5. Background:

Town Council previously instructed staff to research and create opportunities to reduce noise impacts created primarily by mechanical equipment. The staff have researched several municipalities throughout Florida. Coastal communities are challenged with creating sound reduction options while maintaining elevated equipment due to flood regulations. The elevated nature of the equipment makes baffling or noise-deadening options difficult.

Staff has provided recommended edits to the LDC Noise Control regulations of Article II by introducing mechanical equipment definition and providing for regulatory control over the sound level of that equipment, relative to setbacks. Currently, all HVAC and other mechanical equipment shall meet the same side yard setback as the principal structure. The LDC offers an encroachment option for pool equipment in the rear yard. The edits include a limit on how much equipment can be loaded to one side of a structure in an effort to reduce the concentration of equipment and noise directed at one neighbor. Larger homes are seeing substantial

Attachments:

1. Mechanical Equipment Memo
2. Mechanical Equip Exhibit A Previous Memo
3. Mechanical Equip Exhibit B Strikethrough Underline

Financial Impact:

6. Alternative Action

7. Staff Recommendations:

Approve

8. Recommended Approval:

Date: October 14, 2021

Jason Green, Community Development

Services

Date: October 15, 2021

John R Herin Jr, Town Attorney

Date: October 15, 2021

Amy Baker, Town Clerk



**Town of Fort Myers Beach
COMMUNITY DEVELOPMENT DEPARTMENT**

To: Local Planning Agency
From: Sarah Propst, Community Development
Date: October 20, 2021
Re: Mechanical Equipment Noise Control

BACKGROUND

At the February 24, 2021 Town Council meeting, staff presented a review of nearby localities' mechanical equipment noise nuisance codes. That memorandum is attached as Exhibit A. There are several approaches used by nearby communities to mitigate noise created by mechanical equipment. They include: 1. Requiring that new equipment is not located in required setbacks, 2. Screening equipment with fencing, walls or landscaping, and 3. Installing baffling on commercial and multi-family equipment when near residential properties.

Following the Council discussion, staff was directed to provide some options on how the Town could address mechanical equipment noise.

PROPOSED SOLUTION

There are several ways that noise can be addressed. The most common is by increasing the distance of the equipment to adjacent properties. Setbacks are the simplest option and the code currently requires new equipment to meet the side yard setback but allows equipment to encroach into the rear and waterbody setback three feet. Replacement equipment is allowed to be located where previous equipment was installed, often this means that replacement equipment is located less than 7.5 feet from the side property line. It is difficult and expensive to move mechanical equipment to another location, therefore, staff does not recommend a change to this allowance.

New equipment is often quieter than the equipment that it was replacing. The proposed language will encourage homeowners to install equipment that is quiet enough to avoid any additional mitigation. This can be evaluated by providing technical specifications for new



equipment, that provides the decibel level. Alternatively, Town staff may be asked to use a decibel meter to determine whether the new equipment is in compliance with the noise control ordinance.

If it is determined that the new equipment does not meet the requirements of the noise control ordinance, there will be options to mitigate the sound. The proposed code language allows for fencing, walls, plantings, sound deadening insulation, and baffle systems.

CODE MODIFICATION

The proposed strike-through underline language is attached as Exhibit B. The Noise Control ordinance does not currently include mechanical equipment. A new definition for mechanical equipment was included and a section was added. Section 14-30 Outdoor Mechanical Equipment, addresses how equipment decibels can be evaluated and what remediation options are available when new equipment exceeds the allowable volume.

MEMO

February 24, 2021

To: Town Council

Thru: Roger Hernstadt

From: Jason Green, AICP, CFM

Re: Fort Myers Beach Mechanical Equipment

Sub: Mechanical Equipment Noise Nuisances (AC Units, Pool/Hot tub Equip., Generators, etc..)

Pursuant to Town Council discussion, staff has investigated the concern of mechanical equipment noise abatement and mitigation. Staff has conducted a survey of 10 beach communities, 5 on the east coast and 5 on the west coast. Below is the list of municipalities and their response to my inquiry. The ones in bold text have regulations that address mechanical equipment, such as, AC units, pool/hot tub equipment, generators including separation, setback and screening requirements:

- **Anna Maria Island** – Response: Regs in place (mainly addressing pool, mech equip not in setbacks), see Exhibit 1
- Cocoa Beach – Response: No regs, other than the standard noise ordinance
- Indian Rocks Beach – Response: No regs, other than the standard noise ordinance
- **Longboat Key** – Response: Regs in place, see Exhibit 2
- **New Smyrna Beach** – Response: Regs in place, See Exhibit 3
- Ormond beach – Response: No regs, other than the standard noise ordinance
- Ponce Inlet – Response: No regs, other than the standard noise ordinance
- Sarasota – No response at this time
- Treasure Island – Response: No regs, other than the standard noise ordinance
- Vero Beach – Response: No regs, other than the standard noise ordinance

Most communities didn't have specific regulations to address this matter. Those entities that did had differing approaches. The most common strategies are as follows:

- Increased setbacks from property line or separation from residential structure(s)
- Location to the rear of the property
- Options for screening or buffering

Below please find the specific regulations as a starting point for further discussions.

Exhibit 1

Anna Maria Island:

The AMI Noise ordinance specifically addresses pools; and, in addition, the following provisions as it relates to pool fountains, slides, etc. as well as setbacks.

(4) Swimming pools Swimming pools and hot tubs permitted after January 1, 2016 shall be counted as impervious surface coverage. Swimming pools and hot tubs permitted prior to January 1, 2016 and swimming pools and hot tubs included within the perimeter of the residence building, enclosed and under a conventional roof shall not be counted as impervious surface coverage. **Waterfalls, fountain features and pool slides are prohibited.** Permits may be issued for the repair or replacement of existing waterfalls, water features or pool slides. All impervious decking surrounding the pool and hot tub shall be counted as impervious surface coverage. **Caged and uncaged swimming pool, hot tubs and the swimming pool and hot tub equipment shall be set back from the lot line or property line the minimum setback required for the particular yard with the exception of the side yard setback which shall be ten feet. Uncaged swimming pool located on through lots shall be set back a minimum of five feet from the adjoining lot line or property line if the pool is located in the street yard which does not contain the structure's main entrance.** Pools permitted prior to January 1, 2016, shall be deemed as grandfathered related to the side yard setbacks. There shall be only one swimming pool per lot containing a residential unit. The swimming pool shall be for the use of the residential unit only and shall not be for any commercial activity.

Mechanical equipment including, but not limited to, air conditioner/heater, pool pumps, pool heaters, shall not be located within the setbacks.

Exhibit 2

Longboat Key:

Division 11. - Mechanical Equipment

158.119 - Mechanical equipment.

- (A) *General regulations.* All mechanical equipment located outside of a building shall conform to the regulations of this section, unless specifically excepted by other provisions of this chapter. In addition, necessary essential service facilities are not intended to be restricted by required yard areas. Mechanical equipment that is closer than ten feet to a principal structure is attached mechanical equipment. Mechanical equipment that is ten feet or further from a principal structure is unattached mechanical equipment.
- (B) *Residential districts.*
- (1) Mechanical equipment shall not be located in any required street yard.
 - (2) Mechanical equipment shall not be located in any required waterfront yard, except for mechanical equipment as provided for in section 158.096 "Minimum regulations for accessory structures" and as provided for in Section 158.099 "Structures over water."
 - (3) Mechanical equipment may be located within a required side or required rear yard, provided that the equipment shall not be closer than ten feet to any side or rear lot line.
 - (4) Mechanical equipment may be located in one, but not both required side yards on double-frontage lots, through lots, or corner lots, as defined in section 157.03.
 - (5) Unattached mechanical equipment located in a required yard may not exceed six feet above finished grade.
 - (6) Unattached mechanical equipment not located in a required yard may not exceed eight feet above finished grade.
- (C) *Tourism districts.*
- (1) Mechanical equipment shall not be located in any required street yard.
 - (2) Mechanical equipment shall not be located in any required waterfront yard, except mechanical equipment as provided for in section 158.096 "Minimum regulations for accessory structures" and as provided for in section 158.099 "Structures over water".
 - (3) Mechanical equipment may be located within a required side or required rear yard, provided that the equipment shall not be closer than ten feet to any side or rear lot line.
 - (4) Unattached mechanical equipment located in a required yard may not exceed six feet above finished grade.

Exhibit 2

Longboat Key (Cont'd):

- (5) Unattached mechanical equipment not located in a required yard may not exceed eight feet above finished grade.
- (D) *Districts other than residential or tourism.*
 - (1) Mechanical equipment may be located within a required street yard, except for Gulf of Mexico Drive, provided that the equipment shall not be closer than ten feet to the street right-of-way if the equipment is more than 50 feet from the nearest residential property. If the equipment is 50 feet or less from the nearest residential property, the equipment shall not be closer than 20 feet to the right-of-way.
 - (2) Mechanical equipment shall not be located in any required waterfront yard, except for mechanical equipment, as provided for in section 158.096 "Minimum regulations for accessory structures", and as provided for in section 158.099 "Structures over water."
 - (3) Mechanical equipment may be located within a required side or required rear yard, provided that the equipment shall not be closer than ten feet to any side or rear lot line.
 - (4) Unattached mechanical equipment located in a required yard may not exceed six feet above finished grade.
 - (5) Unattached mechanical equipment not located in a required yard may not exceed eight feet above finished grade.
- (E) *Screening.* Any installation, replacement or modification of external mechanical equipment, including, but not limited to, air conditioning systems and pool equipment, shall screen the equipment for both view and noise. Any fence, wall or landscaping installed in accordance with this section shall be at least equal to the height of the equipment on all sides and shall be maintained in good order to achieve the objectives of this section. Failure to maintain fences, walls or landscaping shall constitute a violation of this chapter. Mechanical equipment and screening must meet the requirements of section 158.117 "Intersection visibility."

(Ord. 2018-24, passed 4-1-19)

Exhibit 3

New Smyrna Beach:

Land Development Section 803.05: **Air Conditioners/heating, ventilation equipment, generators, and irrigation pumps**

- A. Air conditioning/heating, ventilation components generators, and irrigation pumps are not allowed to the side or rear of a dwelling opposite habitable portions of adjacent property owner's dwelling, such as a bedroom, dining room, living room, unless the component is set back from the opening of the habitable areas a minimum distance of twice the required yard width. Such equipment must be placed as close to the outer wall of the dwelling as possible. Air conditioning/heating, ventilation components, generators, and irrigation pumps may be placed in required yard areas opposite non habitable portions of the adjacent property owner's dwelling, such as a garage, a carport or a storage area provided the component is as close to the outer wall of the dwelling as possible. This provision does not apply to replacement air conditioner/heating, ventilation components, generators, and irrigation pumps for equipment placed prior to the effective date of the new Land Development Regulations. **Ord. # 95-20.**
- B. Air conditioning/heating, ventilation components, generators, and irrigation pumps which create noise, are located within 100 feet of residential property and are located on commercial or multi-family zoned property shall be baffled so as to reduce noise. **Ord. #95-20**
- C. Air conditioners, heating, ventilation, and generators or other accessory equipment located on the roof of buildings shall be screened from view. **Ord. #56-16**

ARTICLE II. - NOISE CONTROL^[2]

Footnotes:

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Editor's note— Ord. No. 15-01, § 1, adopted June 15, 2015, amended art. II in its entirety to read as herein set out. Former art. II, §§ 14-19—14-24, pertained to similar subject matter, and derived from: Ord. No. 96-24, § 3, adopted Sept. 30, 1996; and Ord. No. 11-03, § 1, adopted Apr. 18, 2011.

State Law reference— Motor vehicle noise, F.S. §§ 316.293, 403.415.

Sec. 14-19. - Short title and territorial scope.

This article will be known and cited as the "Fort Myers Beach Noise Control Ordinance" and will be applicable throughout the corporate limits of the Town of Fort Myers Beach.

(Ord. No. 15-01, § 1, 6-15-2015)

Sec. 14-20. - Findings and purpose.

- (a) The Town of Fort Myers Beach finds excessive, loud and raucous noise degrades the environment of the town to a degree that:
 - (1) Is harmful to the health, welfare and safety of its inhabitants and visitors;
 - (2) Interferes with the comfortable enjoyment of life and property;
 - (3) Interferes with the well-being, tranquility, and privacy of the home; and
 - (4) Can cause and aggravate health problems.
- (b) Both effective control and the elimination of excessive, loud and raucous noise are essential to the health, safety and welfare of the town's residents and visitors, and to the conduct of normal pursuits of life, including, but not limited to, recreation, work, communication and rest.
- (c) This article is enacted to protect, preserve and promote the health, safety, welfare, peace and quiet of the residents of through the reduction, control and prevention of excessive, loud and raucous noises that unreasonably disturb, alarm, injure or endanger the comfort, repose, health, peace or safety of reasonable persons with normal sensitivities.
- (d) Nothing contained in this article is intended to infringe upon the constitutionally protected rights guaranteed by Article I, Section 6 of the Florida Constitution and the First Amendment of the United States Constitution. This article enacts narrowly drawn, content-neutral regulations that are to be interpreted so as to not unduly restrict constitutionally protected rights.

(Ord. No. 15-01, § 1, 6-15-2015)

Sec. 14-21. - Definitions.

The words and phrases used in this article are defined as follows:

A-weighted level (dBA): The sound pressure level in decibels as measured using the A-weighting network on a sound level meter. The unit of measurement is the dBA. Sound level meter settings shall be set for slow response.

Ambient noise: The all-encompassing noise associated with a given environment, being usually a composite of sound from many sources near and far.

C-weighted level (dBC): The sound pressure levels in decibels as measured using the C-weighted network on a sound level meter. The unit of measurement is the dB C. Sound level meter settings shall be set for slow response.

Commercial use: Land used primarily for the sale of merchandise or goods, the performance of a service, or for office or clerical work.

Continuous noise: A noise which remains essentially constant in level during the period of observation.

Council: The Fort Myers Beach Town Council.

Decibel (dB): A division of a logarithmic scale used to express the ratio of two like quantities proportional to power or energy. The ratio is expressed in decibels by multiplying its common logarithm by ten.

Emergency: An occurrence or set of circumstances involving actual, threatened or imminent physical trauma or property damage which necessitates immediate action.

Emergency work: Any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency, including restoration work to return property to a safe condition following an emergency.

Impulsive sound: A sound of short duration, usually less than one second, with an abrupt onset and rapid decay. Examples of sources of impulsive sound include explosions and drop forge impacts.

Lee County Sheriff's Office: The designated authority charged with administration and enforcement of the Fort Myers Beach Noise Control Ordinance.

Mechanical Equipment: means equipment, devices, and accessories, the use of which relates to water supply, pool maintenance, drainage, heating, ventilating, air conditioning, energy production and similar purposes.

Noise: Any sound which annoys or disturbs humans or causes or tends to cause an adverse psychological effect on humans. "Noise" includes low frequency sounds caused by amplified bass music that can result in vibration of structures or persons.

Noise disturbance: One or a group of excessive, loud, harsh, raucous, harmonious or nonharmonious sounds or vibrations that unreasonably disturb, alarm, injure, harm or endanger the health or welfare of a reasonable person with normal sensitivities.

Noise level: As referenced in this chapter, the noise level is the sound pressure level as measured in dBA unless otherwise specified. A measurement of noise must be at least five dB above the ambient noise level.

Person: Any individual, natural person, public or private corporation, firm, association, joint venture, partnership, or any other entity whatsoever or any combination of such, jointly and severally.

Public space: Any real property or structure thereon normally accessible to the public which is owned or controlled by a governmental entity.

Pure tone: Any sound which can be distinctly heard as a single pitch or a set of single pitches. For the purposes of measurement, a pure tone shall exist if the one-third octave band sound pressure level in the band with the tone exceeds arithmetic value of the sound pressure levels of the two contiguous one-third octave bands by five dB for center frequencies of 500 Hz and above and by eight dB for center frequencies between 160 and 400 Hz and by 15 dB for center frequencies less than or equal to 125 Hz.

Real property line: An imaginary line including its vertical extension which separates the real property owned, rented or leased by one person from that owned, rented or leased by another person, excluding intra-building real property divisions except as otherwise provided herein.

Receiving land: Land area neighboring or in the vicinity of a sound source and on or at which the sound emanating from the sound source is audible to the normal ear and/or felt in the form of vibration.

Residential use: Land use that is primarily for living and sleeping, parks, hospitals, schools, institutional, nursing homes or the individual plots within a mobile home park or any land use that is not commercial.

RMS sound pressure: The square root of the time averaged square of the sound pressure, denoted P_{rms} .

Sound level: The weighted sound pressure level obtained by the use of a metering characteristic and weighting A, B or C as specified in the American National Standards Institute specifications for sound level meters ANSI S1.4-1983, or successor publications. If weighting employed is not indicated, the A-weighting shall apply.

Sound level meter: An instrument to measure the sound pressure level of relatively continuous and broadband noises. The sound level meter used to determine compliance with this chapter shall meet or exceed the requirements for type 2 sound level meter in accordance with American National Standards Institute (ANSI) Standard S1.4-1983 or its successor publication.

Sound pressure level: Twenty times the logarithm to the base 10 of the ratio of the RMS sound pressure to the reference pressure of 20 micropascals ($20 \times 10^{-6} \text{ N/m}^2$). The sound pressure level is denoted L_p or SPL and is expressed in decibels.

Sound source: The location from which the impermissible sound level or noise disturbance is emanating.

(Ord. No. 15-01, § 1, 6-15-2015)

Sec. 14-22. - Noise disturbance prohibited.

No person shall make, continue or cause to be made or continued any noise disturbance in accordance with the terms set forth in this article.

(Ord. No. 15-01, § 1, 6-15-2015)

Sec. 14-23. - Prohibited acts.

The occurrence of the conditions, acts or omissions as described in either subsections (1) or (2) of this section shall constitute a violation of this article. Should a sound level measurement method be unavailable, inappropriate for a given set of circumstances, or unable to be taken by a sound level meter, subsection (1) of this section may be used to prove a violation so long as evidence exists sufficient to establish that the sound constitutes a noise disturbance pursuant to the standards provided in subsection (2) of this section.

- (1) *Maximum permissible sound levels by receiving land.* No person shall operate or cause to be operated any source of sound in such a manner as to create a sound level which exceeds the limits set forth for the receiving land use category in Table 1 when measured at or within the real property line of the receiving land or, at the discretion of the officer, those limits set forth in the alternative Table 2 as measured from the property line of the noise source.

Table 1

SOUND LEVELS BY RECEIVING LAND USE

Land Use Category	Time	Sound Level Limit dBA
Residential or public space	7:00 a.m.—10:00 p.m.	66
	10:00 p.m.— 7:00 a.m.	55
Commercial or business	7:00 a.m.—10:00 p.m.	72
	10:00 p.m.— 7:00 a.m.	65

Table 2
ALTERNATIVE SOUND LEVELS

Land Use Category	Time	Sound Level Limit dBA
All land uses	7:00 a.m. to 10:00 p.m.	75
	10:00 p.m. to 7:00 a.m.	72

- a. *Correction for character of sound:*
 1. For any source of sound which emits a pure tone, the maximum sound level limits set forth in Tables 1 or 2 shall be reduced by five dBA.
 2. For any source of impulsive sound which is of short duration with an abrupt onset, the maximum sound level limits set forth in Tables 1 or 2 shall be increased by ten dBA from 7:00 a.m. to 10:00 p.m.
 3. *Alternate weighting.* A C-weighted level (dBC) may be substituted for any sound level limit identified in this article under an A-weighted level (dBA). Such substitution shall carry a plus five dB adjustment (i.e., a 55 dBA limit shall be substituted with a 60 dBC limit).
- b. *Establishment of use.* In instances where a commercial use was established prior to and in an area away from a residential use and encroachment of the residential use has occurred resulting in the commercial use adjoining the residential use, the sound level limit for the receiving residential use will be that of the commercial use, whichever applicable, as set forth in Tables 1 or 2 above. Establishment of the commercial uses' existence before residential use encroachment is an affirmative defense to a violation of this article.
- c. *Specific restrictions.* In addition to the general limits set out above in Tables 1 or 2, the following specific acts are declared to be in violation of this article:
 1. *Multifamily dwellings.* In the case of multifamily dwelling units, it shall be unlawful to create or permit to be created any noise that exceeds 50 dBA during the hours between 7:00 a.m. to 10:00 p.m., or 45 dBA during the hours between 10:00 p.m. and 7:00 a.m. daily, as measured from the receiving dwelling unit within such multifamily dwelling.
 2. *Construction or demolition noise.* No person shall operate or permit to be operated any power-driven construction equipment without a muffler or other noise-reduction device

at least as effective as that recommended by the manufacturer or provided as original equipment unless the sound level emitted by the equipment is less than the sound level limit for the applicable land use category set forth in Tables 1 or 2 of this section, as measured from, at, or within the real property line of the receiving land.

- (i) The construction, erection, demolition, alteration or repair of any building or structure, or any excavation, within or adjacent to any residential area, is prohibited before 7:00 a.m. or after 7:00 p.m. Monday through Saturday, and is prohibited at any time on Sundays or legal holidays.
- (ii) Construction equipment that must be operated near a residential use on a 24-hour-per-day basis (i.e., pumps, well tips, generators, etc.) will be shielded by a barrier to reduce the noise during the hours of 6:00 p.m. to 7:00 a.m., unless the unshielded noise level is less than 55 dBA, as measured from, at, or within the real property line of any residential receiving land.
- (iii) This section does not apply to routine household maintenance and the use of domestic power tools in connection with such routine household maintenance.
- (iv) This section also does not apply to work performed by a public service utility, or other contractor approved by the town, to address or prevent a public emergency, including traffic control.

3. *Screeching of tires, and engine or jake braking.*

- (i) The operation of any motor vehicle in such a way as to cause the tires thereof to screech, except where the same is necessarily caused in an emergency, as in an attempt by the operator to avoid an accident or the causing of damage or injury, shall be deemed a violation of this article.
- (ii) The operation of jake brake or engine brake as means of reducing speed or as a means of slowing or stopping along public rights-of-way as to cause loud, explosive noise, shall be deemed a violation of this article.

d c. *Sound level measurement standards.* The following standards must be followed in measuring sound levels:

- 1. *Calibration.* All sound level meters must be calibrated and serviced in accordance with the manufacturer's instructions.
- 2. *Sound level meter operation.* The sound level meter must be operated in accordance with the manufacturer's instructions.
- 3. *Measurement procedures.* The following procedure must be used to determine if a violation exists under this subsection:
 - (i) The sound level meter must be located within the boundary of the receiving land when taking the measurement.
 - (ii) The sound level meter must be oriented toward the source of the sound making a direct line between the sound source and the sound level meter.
 - (iii) The sound level meter must be set for either the A-weighted or C-weighted network and slow response.
 - (iv) If possible, determine and record the ambient noise level during some point in the observation. The A-weighted or C-weighted ambient noise level, including wind effects and noises other than the sound source, must be at least five dbA lower than the sound level of the sound source for a violation of this article to exist.

- (2) *Noise disturbance.* Notwithstanding any other provision herein, it shall be unlawful for any person to make, continue, cause, or permit any noise disturbance.

- a. *Standards.* The standards to be considered in determining whether a noise disturbance exists under this subsection include the following:
 1. The volume of the noise, whether it is loud or quiet.
 2. The intensity of the noise.
 3. Whether there is vibration associated with the noise.
 4. The nature of the noise, i.e., raucous, unruly, harsh, etc.
 5. The volume and intensity of the ambient noise, if any.
 6. The proximity of the noise to residential sleeping facilities.
 7. The nature and use of the area from which the noise source is located.
 8. The nature and use of the receiving land.
 9. The time of day or night the noise occurs.
 10. The duration of the noise.
 11. Whether the noise is produced by a commercial or noncommercial activity.
 12. Whether the noise falls under one of the listed exceptions pursuant to section 14-24.
- b. *Consideration.* Enforcement under subsection (2) of this section requires consideration of all applicable standards listed in subsection (2)a., and a determination as to whether or not a noise disturbance exists by the sheriff's office or other authorized enforcement personnel on the scene.

(Ord. No. 15-01, § 1, 6-15-2015)

Sec. 14-24. - Exceptions.

The following will not be considered a violation of this article:

- (1) The operation of warning or emergency signal devices such as sirens, horns and bells when utilized for their intended purpose in cases of emergency.
- (2) Noises resulting from equipment or operations incidental to the installation, maintenance or repair of facilities or restoration of services, such as public utilities or other emergency work in the public interest.
- (3) Operation of equipment or conduct of activities normal to residential communities, such as lawn care, soil cultivation, domestic power tools, lawn mowers, maintenance of trees, hedges, gardens, saws and tractors, street sweepers, mosquito fogging, tree trimming, and limb clipping and other normal community operations, is allowed between the hours of 7:00 a.m. to 7:00 p.m., provided that the equipment is in accord with the manufacturer's specifications and with all manufacturer's sound reducing equipment in use and in proper operating condition. Operation of equipment for solid waste and recycling collection in or adjacent to residential uses between the hours of 6:30 a.m. to 6:30 p.m., and operation of equipment for solid waste and recycling collection in nonresidential locations between the hours of 6:30 a.m. to 6:30 p.m. Golf courses may obtain a waiver pursuant to the permit process found in section 14-25.
- (4) Noise resulting from safety features required by law for equipment or operations, including, but not limited to, backup alarms or vehicle motion alarms.
- (5) Noises resulting from a special event authorized pursuant to chapter 22 of the Code; provided, such noises are in compliance with any specific limitations as set forth within the special event permit. If no specific limitations are set forth in the special event permit, the provisions of this article shall fully apply.

(Ord. No. 15-01, § 1, 6-15-2015; Ord. No. 17-12, 8-21-2017)

Sec. 14-25. - Waivers.

- (a) Applications for a waiver for relief from the maximum allowable noise level limits designated in this article shall be made in writing. Such applications for waivers will be made to the town manager or the town council when the activity creating such noise is located within the town's corporate boundaries. Any waiver granted by the town manager or the town council must be provided to the applicant in writing within 30 days of application to the town and contain all conditions required for compliance with the waiver approval. The town manager or the town council may grant the waiver under the following conditions:
 - (1) The town manager in granting a waiver may prescribe any reasonable conditions or requirements deemed necessary to minimize adverse effects upon the community or the surrounding neighborhood.
 - (2) Waivers may be issued for no longer than 180 days, renewable by further application to the town manager or the town council.
- (b) Any party aggrieved by the town manager's decision under this section, may appeal to town council within 30 days from the date of written decision on the waiver.

(Ord. No. 15-01, § 1, 6-15-2015)

Sec. 14-26. - Enforcement.

The town's code enforcement officers and the Lee County Sheriff's Office is empowered to investigate any situation where a person is alleged to be violating this article. If an officer encounters a circumstance which reasonably indicates that a person is violating this article, the officer will conduct either a sound level measurement test or noise disturbance determination in accordance with this article to determine whether or not a violation exists. Nothing in this article shall prohibit the Lee County Sheriff's Office from charging persons responsible for acts which affect the peace and quiet of persons who may witness them for breach of the peace or disorderly conduct under F.S. § 877.03, as may be amended from time to time.

(Ord. No. 15-01, § 1, 6-15-2015)

Sec. 14-27. - Penalties.

Any person or persons, firm or corporation or any agent thereof who violates any of the provision of this article will, upon conviction, be guilty of a second degree misdemeanor and subject to a fine not exceeding the sum of \$500.00 or imprisonment in the county jail for a period not exceeding 60 days, or both. Each separate occurrence of a violation will constitute a separate offence and will be punishable as such.

(Ord. No. 15-01, § 1, 6-15-2015)

Sec. 14-28. - Civil remedies.

In addition to the penalties provided in section 14-27, the town manager is hereby authorized to institute any appropriate action or proceeding including suit for injunctive relief in order to prevent or abate violations of this article.

(Ord. No. 15-01, § 1, 6-15-2015)

Sec. 14-29. - Rules and regulation.

The council is authorized and empowered to adopt and promulgate, by administrative code, such reasonable rules and regulations as may be necessary to carry out and enforce the purposes of this article.

(Ord. No. 15-01, § 1, 6-15-2015)

Secs. 14-30. Outdoor Mechanical Equipment.

(a) Applicability. The regulations set out in this section apply to newly installed, outdoor mechanical and electrical equipment such as air conditioning equipment, heat pumps, pool equipment and gas-powered generators. This section shall apply to new equipment as well as equipment that is replacing existing equipment.

(1) Note, all new, not replacement, mechanical equipment shall meet the required setbacks described in Sec. 34-638(d)(1)g. Setback distances can be found in Table 34-3.

(b) Determination of decibel levels. All newly installed equipment shall be evaluated in one of the following ways, to determine compliance with Article II, Noise Control.

(1) All newly installed outdoor mechanical equipment shall provide documentation, from the equipment manufacturer, stating the decibel output of the newly installed equipment.

a. The following combinations of decibel level and distance from the nearest property line will be considered in compliance with Article II. Noise Control

1. All new equipment with a rating of 70 decibels or lower installed a minimum of 4.5 feet from the nearest property line shall be in compliance with Article II, Noise Control.
2. All new equipment with a decibel rating of 71-75, installed a minimum of 6 feet from the nearest property line shall be in compliance with Article II. Noise Control.

b. The following conditions will require an evaluation by the Town's Building Department staff to determine compliance with the Article II. Noise Control.

1. Any equipment closer than 4.5 feet to the nearest property line, or
2. Any equipment with documentation, from the manufacturer, exceeding 75 decibels, or
3. Any equipment which does not come with paperwork specifying decibel level.

c. Evaluation to determine compliance with Article II. Noise Control. When newly installed equipment meets any of the criteria listed in Sec. 14-30(b)(1)b the Town's Building Department staff must determine if the new equipment meets the requirements of the Article II. Noise Control.

1. The Town employee must test the decibel level of the equipment at the nearest property line, using 14-23(1)d. Sound level measurement standards.
2. The decibel levels at the property line must be in compliance with the overnight decibel levels found in Tables 1 and 2 found in Article II. Noise Control.

(c) Noncompliance Noise Attenuation. If the Town's Building Department determines that newly installed equipment exceeds the decibel level allowed by Article II. Noise Control, the property

owner must provide noise attenuation to decrease the impact of the equipment on adjacent properties. Possible noise attenuation must include a minimum of one of the following options installed between the property line and the equipment and two feet taller than the installed equipment:

- (1) A solid fence, in compliance with Sec. 34-1742 of this code, and dense shrubbery or trees. Fence and plantings must be located between the property line and equipment and be a minimum of 2 feet taller than the equipment;
- (2) A concrete wall, in compliance with Sec. 34-1742 of this code;
- (3) A chain link fence with attached sound deadening insulation designed for outdoor use;
- (4) Installation of a baffle system which effectively attenuates the sound.

(d) No more than three mechanical equipment units may be loaded to one side of a structure.

—14-51. - Reserved.