Fort Myers Beach Town Council

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

Agenda **Monday, August 1, 2022** **9:00 AM**

ORDER OF BUSINESS

I. CALL TO ORDER

II. INVOCATION

III. PLEDGE OF ALLEGIANCE

IV. APPROVAL OF FINAL AGENDA

V. PUBLIC COMMENT

VI. LOCAL ACHIEVEMENTS AND RECOGNITIONS

VII. ADVISORY COMMITTEES ITEMS AND REPORTS

A. Cultural & Environmental Learning Center Advisory Board (CELCAB)

VIII. APPROVAL OF MINUTES

A. June 6, 2022 Town Council

B. June 9, 2022 Management & Planning

IX. PUBLIC HEARINGS

A. Ordinance 22-11; Sea Turtle Conservation

Second reading and public hearing on proposed Ordinance 22-11 entitled: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING ARTICLE V OF CHAPTER 32 OF THE CODE OF ORDINANCES OF THE TOWN OF FORT MYERS BEACH ENTITLED "SEA TURTLE CONSERVATION" TO PROVIDE FOR A TINTED GLASS OPACITY REQUIREMENT FOR ALL NEW CONSTRUCTION AND ALL RENOVATIONS, RETROFITTING OR WINDOW REPLACEMENTS TO EXISTING BUILDINGS TO REDUCE THE INSIDE TO OUTSIDE LIGHT TRANSMITTANCE VALUE, PROVIDING FOR SEVERABILITY; CODIFICATION; SCRIVENER'S ERRORS; CONFLICTS OF LAW AND AN EFFECTIVE DATE.

B. VAR20220031; 177 Hercules Dr.
Consider VAR20220031 for 177 Hercules Dr. allowing two variances for setbacks for a new garage and porch.

X. ADMINISTRATIVE AGENDA

A. Barefoot Rugby Tournament - Special Event
Permission to hold the Barefoot Rugby Tournament on August 6, 2022 form 9am to 5 pm.

B. Public Safety Committee Appointments
Appointments to the Public Safety Committee (PSC)

XI. FINAL PUBLIC COMMENT

XII. TOWN MANAGER'S ITEMS

XIII. TOWN ATTORNEY'S ITEMS

XIV. COUNCILMEMBERS ITEMS AND REPORTS

XV. 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.**

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 Town Council

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

Minutes **Monday, June 6, 2022** **9:00 AM**

ORDER OF BUSINESS

DRAFT

I. CALL TO ORDER

Members present: Mayor Murphy, Vice Mayor Hosafros, Council Member Allers, Council Member Atterholt and Council Member Veach.

II. INVOCATION

Town Clerk Baker.

III. PLEDGE OF ALLEGIANCE

IV. APPROVAL OF FINAL AGENDA

Council Member Veach moved to approve the final agenda; second by Council Member Allers.
Motion carried unanimously.

V. PUBLIC COMMENT

Bob Burandt, resident, discussed the sea turtle ordinance regarding obstructions on the beach and read Florida Fish & Wildlife instructions. He requested that Town Council reconsider the ordinance and stop issuing citations until the ordinance was researched.

Jim Steele, resident and Chair of the Audit Committee, reported that the Audit Committee unanimously approved the audit and thanked Town Council for appointing new members. He personally suggested that the town consider setting a maximum fund balance for assigned and unassigned fund balances.

Dave Vieceli, resident, requested that Town Council remove property owners living between the Outrigger and the Wyndham Resort from the beach renourishment project. He asked that the town direct the FDEP (Florida Department of Environmental Protection) and its permitting agencies to remove

the request to have the area beach designated as critically eroding and that it be shown on the project's portal. On behalf of the property owners, he requested that the town help them secure a permit to utilize a box blade to shape the beach. Tim Malbon of Best Western Beach Resort suggested that the dune line would block views and further erode the beach.

Jason Tobias of Lucas Lagoons Construction commented on primary and accessory setbacks regarding a pool he was trying to build. He requested that they be able to go to the edge of the house with the pool cage like the rest of the neighborhood. He stated that he had been talking to the building department for a year and the department denied a variance request. Mayor Murphy suggested that Mr. Tobias submit information to the Town Manager.

Sharon Faircloth, owner of Holiday Water Sports, supported Diamond Head Beach Resort's request for a dune on their beach. She requested that Town Council review the language in section 32-113 of the sea turtle ordinance. She felt the change in language was an extreme change and questioned how it was passed without any public comment. She stated that the FWC (Fish & Wildlife Conservation) allowed provisions for storage on the beach. She commented that she worked closely with Turtle Time to protect the turtles and minimize any impacts.

VI. LOCAL ACHIEVEMENTS AND RECOGNITIONS

Council Member Veach commented that the design of Estero Blvd. handled the recent rainfall event well.

No items from other members.

A. 2022 Citizen of Distinction

Naming Patrick (Pat) McKeown as the 2022 Fort Myers Beach Citizen of Distinction in the area of Arts and Culture for his authoring of the history of the Mound House book "*Crown Jewel of Fort Myers Beach The Mound House*".

Mayor Murphy reviewed Mr. McKeown's experience and described the book. He presented the Citizen of Distinction award to Mr. McKeown. Town Clerk Baker added that Mr. McKeown would be the Grand Marshall in this year's Fourth of July parade also.

VII. ADVISORY COMMITTEES ITEMS AND REPORTS

Bay Oaks Recreational Campus Advisory Board (BORCAB)

Chair Betty Simpson commented that the BORCAB, CELCAB and CRAB merge was discussed at the May 3rd BORCAB meeting. A consensus was reached to merge the advisory committees. She reported on other topics discussed at their meeting.

CELCAB Member Ellen Vaughan reported that they met on May 26 and were joined by BORCAB to discuss the merger. CELCAB requested that the merger be tabled until June of 2023 to allow progress on the Bay Oaks project. She noted that both committees recommended holding a charrette to discuss details.

VIII. APPROVAL OF MINUTES

A. May 16, 2022 Town Council

Council Member Veach moved to approve the minutes; second by Council Member Allers.
Motion carried unanimously.

IX. CONSENT AGENDA

Vice Mayor Hosafros moved to approve the consent agenda; second by Council Member Veach.
Motion carried unanimously.

A. 290 Carolina Avenue - Utility Easement Agreement

Authorize the Town Manager to execute a Utility Easement agreement between Steven Proctor, who resides at 290 Carolina Avenue, and the Town of Fort Myers Beach.

Vice Mayor Hosafros moved to authorize the Town Manager; second by Council Member Veach.
Motion carried unanimously.

B. Surplus Items

Declare listed items as surplus and authorize staff to dispose of these items utilizing a municipal government auction service.

Vice Mayor Hosafros moved to approve; second by Council Member Veach.
Motion carried unanimously.

C. Emergency POD Locations

Authorize the Town Manager to negotiate and execute Memorandums of Understanding (MOU) for emergency response Point-of-Distribution (POD) locations at Santini Plaza and the adjacent Fire Department property (2545 Estero Boulevard) for the 2022 hurricane season.

Vice Mayor Hosafros moved to authorize the Town Manager; second by Council Member Veach.
Motion carried unanimously.

X. PUBLIC HEARINGS

A. Ordinance 22-10: Advisory Committees

2nd Reading and Public Hearing on proposed Ordinance 22-10 entitled: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING SECTION 2-94 "QUALIFICATIONS AND APPOINTMENTS OF MEMBERS" OF ARTICLE IV "BOARDS, COMMISSIONS, COMMITTEES AND OTHER AGENCIES", CHAPTER 2 OF THE CODE OF ORDINANCES, TOWN OF FORT MYERS BEACH, FLORIDA, DISSOLVING THE BAY OAKS RECREATIONAL CAMPUS ADVISORY BOARD ("BORCAB"), COMMUNITY RESOURCE ADVISORY BOARD ("CRAB"), AND CULTURAL AND ENVIRONMENTAL LEARNING CENTER ADVISORY BOARD ("CELCAB"); ESTABLISHING A NEW ADVISORY BOARD TO TAKE OVER THE FUNCTIONS OF BORCAB, CRAB, AND

CELCAB; RENAMING THE MARINE RESOURCE TASK FORCE ("MRTF"); AND PROVIDING FOR CODIFICATION; CONFLICTS; SCRIVENER'S ERRORS; SEVERABILITY AND AN EFFECTIVE DATE.

Mayor Murphy read the title of the ordinance.

Council Member Veach recommended that they remove dissolving the committees but keep the renaming of MRTF. Vice Mayor Hosafros revealed that a member of one of the committees involved with the merger contacted her and the member was not sure it was appropriate to wait for a year. Vice Mayor Hosafros suggested looking at the issue in six months. She reassured committee members that Town Council did not intend to prevent anyone from serving by merging the committees. Council Member Allers agreed and stated the intent was to streamline activities between committees. He indicated that committee members wanted time to get caught up and work out details. He supported waiting a year.

Council Member Atterholt commented that he was comfortable with waiting a year and respecting committee members' concerns.

Council Member Veach agreed with creating a timeline for charrettes and meetings rather than revisiting the topic next year. He stated that he did not want to wait a year to rename MRTF.

Council Member Allers moved to table Ordinance 22-10 in regard to combining the three committees and approving the MRTF renaming; second by Council Member Atterholt.

Public comment:

Ellen Vaughan felt it was reasonable to have activities during the year and act on the merger in June of 2023.

Public comment closed.

Council Member Allers amended his motion to table Ordinance 22-10 until June of 2023 to combine the three committees with a motion to approve the renaming of MRTF today; second as amended by Council Member Atterholt.

Council Member Veach explained why MRTF wanted to change its name.

Vice Mayor Hosafros suggested amending the motion to table the ordinance for a year or less.

Council Member Allers amended his motion to table Ordinance 22-10 for a year or less if the committees agreed to bring it back earlier with a motion to approve the renaming of MRTF today; second as amended by Council Member Atterholt.

Motion carried unanimously by roll call vote.

B. Ordinance 22-11; Sea Turtle Conservation

Second reading and public hearing on proposed Ordinance 22-11 entitled: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING ARTICLE V OF CHAPTER 32 OF THE CODE OF ORDINANCES OF THE TOWN OF FORT MYERS BEACH ENTITLED "SEA TURTLE CONSERVATION" TO SPECIFY A FIFTEEN-PERCENT (15%)

OPACITY OF TINTED GLASS FOR ALL NEW CONSTRUCTION TO REDUCE THE INSIDE TO OUTSIDE LIGHT TRANSMITTANCE VALUE, TO SPECIFY A FORTY-FIVE PERCENT (45%) OPACITY OF TINTED GLASS FOR ANY RENOVATIONS, RETROFITTING, OR WINDOW REPLACEMENTS TO EXISTING BUILDINGS TO REDUCE THE INSIDE TO OUTSIDE LIGHT TRANSMITTANCE VALUE, PROVIDING FOR SEVERABILITY; CODIFICATION; SCRIVENER'S ERRORS; CONFLICTS OF LAW AND AN EFFECTIVE DATE.

Mayor Murphy read the title of the ordinance.

Council Member Allers suggested language be added to clarify section 32-105 regarding improvements to existing structures. Attorney Sanabria replied that language could be added to specify existing windows.

Council Member Atterholt confirmed compromises made throughout discussions. Town Manager Hernstadt described increased enforcement and the challenges surrounding rental properties. Council Member Atterholt supported the ordinance.

Council Member Allers questioned the definition of railings. Town Manager Hernstadt responded that it would be clarified. He confirmed that stickers had to be left on windows until the town inspected them.

Council Member Veach discussed creating decades of adversarial relationships between the condo owners, condo renters and the town by allowing 45% windows to be put in condos that were currently receiving violations.

Vice Mayor Hosafros agreed with Council Member Veach and indicated that she regularly saw multiple violations in multiple buildings.

Public comment:

William Althoff represented Shamron Condos and encouraged the Council to adopt the 45% tint. He stated there was no concrete evidence that the 15% glass was superior at preventing disorientations. He described the high price and limited availability of the 15% glass. He encouraged the adoption of the state guidelines of 45% tint.

Adrienne Trimarche, regional director for VRI Americas, a management company. She represented the homeowners association and the board of directors at Mariner's Boathouse and Beach Resort. She stated that the sliding doors had not been replaced in 38 years and they were finally able to proceed. She asked that the town follow the state code of 45% tint for windows. She reviewed statements made by window manufacturers at the last public hearing. She suggested that Council consider that every building is unique.

Carolyn Cane from Woodland Custom Homes stated that the 15% windows were more expensive than regular windows and are not widely available today. She indicated the windows were very dark in the home her company built on the gulf. She questioned whether there was scientific data to back up the 15% tint. She agreed with enforcement and stated that her renters were required to pay for any violations.

John R. King from Islands End repeated statements made by PGT representatives at the first hearing. He described various manufacturers' warranties and urged passage of the ordinance.

Jennifer Brown, General Manager of Mariner's Boathouse, stated they spent thousands to become turtle compliant and described measures taken to remain turtle-friendly. She supported the ordinance.

Neil Hopgood, General Manager of Diamond Head Resort, requested an extension regarding turtle lighting, window tinting and creating a dune to store furniture behind. He stated they had a plan to create a dune and replace glass sliders with a 15% tint. He noted the 15% glass would cost $2 million while the 45% would cost $1.5 million. Pool lights would be changed to be turtle-friendly. He indicated that the sliders would not be available until June of 2023. He requested that another task force be created with beach business owners, turtle conservancy groups and town staff to write new language. He also requested that the town be lenient with code violations in the meantime.

Daniel Burger, with Shoreline 3M Window Film, noted he carried different types of films to protect sea turtles. He described covered warranties.

Jason Newton, owner of Adventure Water Sports, stated that he had never had a citation in 23 years. He described receiving an exception in the past, but he was recently issued a warning. He requested guidance from Town Council.

Jim Ryder of Jeld-Wen Windows and Doors was concerned with the 15% windows due to a lack of data and science. He noted that the FWC reached out to an automotive window tinting company regarding 15% tinting rather than the fenestration industry. He discussed the lack of testing and encouraged Town Council to get the data first.

Lynn Miller, Code Compliance Manager of PGT Innovations and a member of the Fenestration and Glazing Industry Alliance (FGIA), stated his company did have discussions with the FWC to make sure they understood the differences between automotive glass and glass in a building. He described current testing and research on hatchlings with different tints on the east coast. He indicated that most window manufacturers would void warranties if tints were added to the windows.

Jeff Wright of the Henderson Franklin law firm represented Sharon and Kevin Faircloth regarding beach furniture and obstructions. He discussed substantive changes in 32-113 made between the first and second hearing. He suggested that the town meet with business owners to draft new language and adopt the ordinance properly.

Mr. Johnson from Potter Homes stated the ordinance affected all his clients and created a hardship with the 15% glass requirement. He felt it was unfair for new construction to be held to a different standard than the rest of the beach. He discussed the downfalls of the 15% window tint and asked that the turtle ordinance be kept at 45% tint for new development.

Eric O'Gilvie, representing water sports operators on Avenue C questioned the fines and the difficulty of moving all the equipment off the beach. He asked that staff provide an extension for companies to comply.

Public comment closed.

Council Member Veach stated that requiring 15% glass was an improvement to prevent fewer turtle disorientations. He noted there was existing science regarding the wavelength that attracted turtles. He reiterated that the 45% tint would create adversity and numerous disorientations.
Council Member Allers mentioned communications with Jennifer Hatfield with FGIA regarding the lack of data to warrant a 15% glass. He supported keeping 45% for new construction until the science changed. He indicated that the FWC did not encourage localities to adopt the 15% over the 45% until more information was known.
Mayor Murphy questioned whether the beach furniture ordinance was done correctly. Attorney Sanabria was not familiar with noticing issues and stated that any changes would have to be done with an ordinance. Town Manager Hernstadt suggested that the matter be reviewed with Town Attorney Herin, Jr.
Council Member Veach stated that property owners could apply for a variance concerning the window tint.
Mayor Murphy pointed out that because testing was ongoing, he believed that the builders would be put at a disadvantage by requiring 15% windows on new construction. He did not know whether he could support requiring 15% for all windows.

Council Member Allers moved to approve Ordinance 22-10 with the removal of the requirement for new construction to have the 15% glass; second by Council Member Atterholt.

Council Member Atterholt stated that the 15% glass was difficult to see through and the solution was to close blinds and shades. He explained why he seconded the motion at the first hearing to require new construction to install 15% glass.
Council Member Allers discussed continuing education and enforcement efforts and noted the town would not be able to catch every violator. Council Member Veach questioned whether everyone was okay with allowing 10% of the hatchlings of an endangered species to perish in their jurisdiction.
Mayor Murphy noted that people might comply after they have to start paying fines over and over again. He questioned penalizing new construction when the professionals were still studying the issue.
Attorney Sanabria stated that since the 15% requirement was in the title of the ordinance, he would like to discuss the issue with Town Attorney Herin, Jr.

Vice Mayor Hosafros moved to recess; second by Mayor Murphy.
Motion carried unanimously.

(Reconvened at 11:21 a.m.)

Attorney Sanabria recommended that Town Council move to table the amendment, direct staff to change the title and set the hearing for the next Council meeting if they wanted to remove the 15% requirement for new construction.

Council Member Allers withdrew his previous motion.
Council Member Allers moved to table Ordinance 22-11 and direct staff to bring back at the next available council meeting a draft that removes the 15% distinction and keeps it at 45% across the board; second by Council Member Atterholt.
Motion carried 3-2 by roll call vote with Vice Mayor Hosafros and Council Member Veach dissenting.

XI. ADMINISTRATIVE AGENDA

A. FY2021 Audit

Accept FY2021 Audit Report prepared by Mauldin & Jenkins

Mayor Murphy moved to accept the FY2021 Audit Report; second by Council Member Veach.

Council Member Allers questioned why system issues and turnover in the accounting department kept appearing in the report. Mayor Murphy replied that the department was a mess two years ago, but the current group was more than capable of moving forward. Town Manager Hernstadt agreed and added that 100% of the staff turned over, but the turnover did not affect the town's financial situation. He felt that the current team was stabilized and indicated that the town eventually needed to purchase new software.

Motion carried unanimously.

B. Resolution 22-24; Tentative FY 2022-2023 Millage Rate

Approve Resolution 22-24 establishing the Town's Tentative Millage rate for Fiscal Year 2022-2023

Vice Mayor Hosafros discussed setting the tentative millage rate at .99 due to potential projects.
Council Member Allers stated that Lee County's estimated cost for lighting 5.7 miles of Estero Blvd. with 400 poles using the same light fixtures on Old San Carlos Blvd. would be approximately $6 million. He indicated the town would have to enter into an interlocal agreement with Lee County to reimburse them for the town's portion of the project. He estimated that the yearly cost to the town would be approximately $700,000.00 using the non-approved fixture. If FPL (Florida Power & Light) approves the bulb currently in testing, Lee County would manage and design the project and the cost to the town would be lower. Town Manager Hernstadt estimated the town's cost would be $500,000.00 per year if the bulb is approved.

Vice Mayor Hosafros moved to modify the resolution to include a .99 millage rate rather than the .95 millage rate; second by Mayor Murphy.

Cheri Russ from the Finance Department stated that a .99 millage rate would result in an additional $660,000.00 for the year.
Council Member Atterholt questioned whether the town's surpluses warranted increasing the millage rate. Town Manager Hernstadt explained that the town's $2 million cash on hand was not the answer to the list of initiatives.
Council Member Atterholt and Council Member Allers continued to discuss the lighting project. Mayor Murphy noted they were there to approve the tentative millage rate and there would be plenty of time to further explore issues.
Town Manager Hernstadt listed costs for upcoming projects and noted the projects would exceed $2 million. He explained the budget process as set forth by the state.

Motion carried unanimously.

C. Playground Installation Agreement

Waive the Town's purchasing policies and procedures for an emergency purchase at the request of the Lee County School District and approve an Agreement with Conidaris Builders to serve as the project manager/general contractor to obtain all required permits for the installation of playground equipment and accessory items at Fort Myers Beach Elementary in an amount not to exceed $117,992.00 (existing piggyback agreement will be amended and lowered $68,000).

Public Works Director Jason Freeman explained the accounting.
Vice Mayor Hosafros moved to approve; second by Council Member Allers.
Motion carried unanimously.

D. Mooring Field Expansion Construction Agreement

Awarding the mooring field expansion bid to Dock Marine Construction Corporation, as the low, responsive and responsible bidder, in response to ITB-22-11-PW Matanzas Pass Mooring Field Expansion Construction in the amount not to exceed $269,454.00 (Town's share is up to $138,939 which includes a $67,430 grant match) for up to ten double anchor mooring systems and nine single anchor mooring systems and authorize the Town Manager to negotiate the number and size of systems to be installed, negotiate a final and best offer, and execute a construction agreement with Dock Marine Construction Corporation.

Council Member Veach moved to award the bid to Dock Marine Construction; second by Vice Mayor Hosafros.
Motion carried unanimously.

E. Parking Sensors and App

Authorize the Town Manger to waive the Town's procurement policies and procedures and to negotiate a best and final offer and execute a sole source agreement with Civic Smart in the amount of $119,688.00 (with a recurring monthly fee of $1320.00), for a parking app and installation of individual parking space sensors.

Council Member Veach moved to authorize; second by Mayor Murphy.

Council Member Allers questioned whether people would download the app and he questioned spending the money when there were other more important items. Vice Mayor Hosafros commented that they told people they were going to do this to help with traffic. Council Member Allers did not think it was the right time to spend the money.

Motion carried 4-1 with Council Member Allers dissenting.

F. EV Charging Stations

Approve Resolution No. 22-26, authorizing the Town Manager to enter into a piggyback contract with Charge Point, Inc. to install Level 3 dual EV charging stations at Times Square-Center St., and Level 2 Dual EV charging stations at Newton Park and Town Hall in an amount not to exceed $122,139.75

Mayor Murphy read the title of the resolution. (Recess from 12:27 p.m. to 12:40 p.m.)
Vice Mayor Hosafros questioned adding chargers to the Mound House and Town Manager Hernstadt noted it was an error to include the Mound House.

Vice Mayor Hosafros moved to approve resolution No 22-26; second by Council Member Atterholt.
Motion carried 4-1 with Council Member Allers dissenting.

G. ITB-22-14-UT Bid Rejection

Authorize the Town Manager to reject bids and solicit new bids for ITB-22-14-UT; Tier 1 Water and Stormwater Improvements pursuant to Section 2-480(a)(11) of the Town Code, which states: "An invitation for Bid may be cancelled, or any or all bids or proposals may be rejected in whole or in part, with or without cause".

Vice Mayor Hosafros moved to authorize; second by Council Member Allers. Motion carried unanimously.

XII. FINAL PUBLIC COMMENT

No public comment.

XIII. TOWN MANAGER'S ITEMS

Town Manager Hernstadt stated that the Audit Committee would review proposal packages for a new auditor and forward recommendations to Town Council. FDOT (Florida Department of Transportation) submitted two fence designs to be installed around the LeeTran storage area for approval. Town Council approved the picket style design.

A. Bayside Park

Notice of Improvement to properties in the vicinity of Bayside Park

Town Manager Hernstadt indicated that a property owner reached an agreement with the town to provide a walkway.

B. FYs 2023-2025 CDBG program

Letters of intent to rejoin the Urban County Cooperation agreement, to collaborate with Lee County to potentially receive HUD funding.

Town Manager Hernstadt explained the reasons for rejoining the program and why the town had previously opted out.

Vice Mayor Hosafros moved to authorize the Town Manager to rejoin; second by Council Member Veach.
Motion carried unanimously.

C. Supplemental FY2023 Budget Information

Town Manager Hernstadt provided calculations regarding how $2.1 million in initiatives were reached. He explained the deductions for the costs for inflation.
Council Member Veach commented that revenue from increasing short rental fees and parking fees would apply to workforce housing and the parking app. Vice Mayor Hosafros stated that she did not advocate using the building she mentioned during a previous workforce housing discussion and there were other possibilities for future projects.

XIV. TOWN ATTORNEY'S ITEMS

Attorney Sanabria stated lawsuits for liens would be filed during the week.

XV. COUNCILMEMBERS ITEMS AND REPORTS

Council Member Veach reported on the Resiliency Cooperative meeting and vulnerability assessments. Town Manager Hernstadt explained how a resiliency study consultant would guide the town through the process. He indicated he would contact Sanibel to determine whether they wanted to collaborate with the town.
Vice Mayor Hosafros suggested discussing a grace period of enforcement for vendors on the beach while the language in the ordinance was being discussed. She received consensus. Vice Mayor Hosafros did not agree with allowing a box blade on the beach because Sandpiper Village raked over other people's property. Environmental Project Manager Chadd Chustz stated that box blades were only allowed on the beach with an FDEP permit and the consent of the Town Manager. Vice Mayor Hosafros reminded Town Council that they were not supposed to respond to public comment issues.

Council Member Allers questioned whether he had a consensus to continue talks with Lee County regarding lighting. Vice Mayor Hosafros agreed with continuing discussions and suggested adding the topic to a future M&P agenda. Town Manager Hernstadt indicated that Lee County issues were on the agenda for the next M&P.
No items from other members.

XVI. ADJOURNMENT

Council Member Veach moved to adjourn the meeting; second by Council Member Atterholt. Motion carried unanimously.

The meeting was adjourned at 1:31 p.m.

DRAFT

Fort Myers Beach Management & Planning Session

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

Minutes **Thursday, June 9, 2022** **9:00 AM**

ORDER OF BUSINESS

DRAFT

I. CALL TO ORDER

Members present: Mayor Murphy, Vice Mayor Hosafros, Council Member Allers, Council Member Atterholt and Council Member Veach.

II. PLEDGE OF ALLEGIANCE

III. ITEMS FOR DISCUSSION

A. Corner Lot Setback Discussion

Provide input and direction to staff regarding corner lot setback options.

Community Development Planner Sarah Propst discussed front and side street setbacks, two fronts and two sides and the minimum buildable width. The PowerPoint presentation began with Front and Side Street Setbacks - Pros and Cons; Examples; Two Fronts and Two Sides - Pros and Cons; Examples; Minimum Buildable Width - Pros and Cons; Examples and What Matters More?

Planner Propst liked the concept of the minimum buildable width, but it would end up cutting off view corridors. She added that she liked working with the two fronts and two sides because it was simple; however, that option could also affect waterbody views.

Council Member Allers referred to a scenario in an email and questioned whether the house could be angled so only one corner would encroach on the setback, leaving the view corridor open for the neighbor. Town Manager Hernstadt replied affirmatively. A discussion was held regarding a pre-design completion sign-off option and granting administrative approvals. Council Member Allers mentioned providing stick and carrot options to give staff administrative leeway and supply layout examples for staff.

Vice Mayor Hosafros noted she did not care for the two fronts and two sides because of the elimination of the rear setback and encroaching on neighbors. Council Member Veach preferred the front and side as long as the egress was separate from the primary to discourage egress on Estero Blvd. Planner Propst brought up setting a minimum side street setback and questioned whether a 20% and not less than 12.5 feet side street setback was acceptable. Council Member Veach felt that a 15-foot side street setback made sense.

Planner Propst questioned whether they wanted to include the flexibility. Council Member Allers felt they had to in order to create different designs.

Planner Propst summarized that they wanted flexibility for small, odd-shaped lots with a way to provide administrative relief if the designs were a certain size. Designs would be looked at more favorably if they met specific criteria and anything outside of the parameters would be sent to the LPA and Town Council for review. Council Members agreed. Planner Propst will bring back ideas and contact builders for their opinions. Council Member Allers suggested including designs for smaller lot sizes.

B. Lee County Commissioners / Fort Myers Beach Town Council Joint Meeting

Lee County Joint meeting topics of discussion

Mayor Murphy stated that he wanted to discuss lighting, the future of Estero Blvd. and the foot of the bridge with Lee County. Town Manager Hernstadt commented that once the foot of the bridge project was complete, the state would turn over their part of Estero Blvd. to Lee County. Lee County would be responsible for maintaining the landscaping. Lee County wants to turn the responsibility over to the town. He recommended that the town not accept responsibility due to the high liability risk. He revealed that the TPI-Margaritaville team stated they would take over maintaining the landscape. Town Manager Hernstadt noted that the state already had a landscape plan that would encourage people to use crosswalks. He remarked that if Lee County refused to accept the transfer from the state, nothing would be planted.

Vice Mayor Hosafros questioned whether the town could offer TPI's offer to the County. Town Manager Hernstadt replied that he had already and the county wanted a contract with the town and TPI. He stated that Lee County wanted to turn over liability to the town.

Council Member Veach brought up lighting, the traffic pattern coming onto the island and suggested a lane shift for trolleys and shuttles. He would encourage Lee County to provide ADA wheelchairs at their parks and discuss cooperation with workforce housing. Vice Mayor Hosafros noted that Lee County was obligated to provide wheelchairs in their parks. She suggested that they decide on three topics to discuss with Lee County and Mayor Murphy agreed. Her top three are street lighting, foot of the bridge maintenance and workforce housing.

Council Member Allers agreed with discussing the traffic pattern, workforce housing and the foot of the bridge maintenance, but he did not support continuing to discuss lighting. He was not sure that Lee County would accept having a joint meeting.

Town Manager Hernstadt discussed a give-and-take approach with the county and noted the town might have to give a little more to achieve a greater good. He commented that lighting was a money issue, not technical, depending on who was willing to pay what. He indicated that maintaining landscaping at the base of the bridge and liability issues were in a different category.

Town Manager Hernstadt noted that Town Council could ask the county to administer the lighting and pursue the FP&L solution, if possible, which would be the cheapest option for the town. Council Member Allers agreed. Council Member Atterholt stated that Lee County agreed to spend $1.4 million on 48 crosswalks and that was their position. He felt it was logical for Lee County to install the lighting for consistency on Estero Blvd. and would encourage Lee County to expedite the installation of crosswalks. He felt the lighting plan put forth by Council Member Allers was a good step and supported discussing it at a joint meeting.

Mayor Murphy suggested delaying a request to meet until after FP&L gave them an answer regarding the amber light. Town Manager Hernstadt discussed allocating funds for lighting every year for X number of years.

Council Member Veach stated the three courses were that Lee County pays the town and the town does the lighting, the town pays Lee County a share and Lee County does the lighting, or each entity does its own thing. Council Member Allers noted that Lee County was designing the crosswalks whether the town worked with them or not. He questioned having Town Manager Hernstadt contact Lee County to find out if the commissioners were willing to meet.

Mayor Murphy questioned the town's level of liability if they installed the lights. Town Attorney Herin, Jr. replied that the primary responsibility and liability would fall on the town. Town Manager Hernstadt described the process if FP&L approved the fixture and the town decided not to partner with the county. He indicated he would hold off on requesting a joint meeting.

Mayor Murphy stated that the Commissioners had resolved nothing regarding lighting for several years and it was time to put two bodies in a room to discuss the issue. Council Member Allers disagreed and proposed a start to a resolution. Mayor Murphy wanted to hear from the Commissioners to work out a deal. Town Attorney Herin, Jr. suggested submitting a proposed agenda to the county for their comment before moving forward. Vice Mayor Hosafros supported delaying a meeting with the county. Council Member Allers agreed to postpone the meeting and Council Member Atterholt supported him. Council Member Allers stated that the county told him they would work with FP&L if FP&L had a fixture that met the county's criteria and FP&L would allow them on the poles. He questioned whether Council Members were willing to give up something to budget for lighting. Town Manager Hernstadt stated that $2 million would not cover the current list of initiatives without a tax increase.

Council Member Allers noted that the fixture used on the crosswalks would be the same as the fixture currently on Old San Carlos unless FP&L approved the fixture under testing. If FP&L approves the tariff-program fixture, those fixtures would be used and installed on FP&L poles, which would cost less. Consensus was reached to delay the meeting until testing was complete on the FP&L fixture. Council Member Allers supported presenting the town's worst-case scenario to the Commissioners to help the county design the crosswalks and Estero Blvd. Vice Mayor Hosafros stated she wanted to allocate money towards lighting; however, it did not necessarily mean that she would not be in favor of a tax increase because other initiatives were also important. Council Member Veach indicated he was willing to cost-share with the county on an FP&L solution. Council Member Atterholt supported partnering with the county to find and implement a solution to the Estero Blvd. lighting.

C. Traffic Pattern on San Carlos Blvd.

A discussion of lane shift plans on San Carlos Blvd for mass transit vehicles as requested by Town Council.

Council Member Veach described opening a turn lane to allow trolleys and employee shuttles to get on and off the island. Mayor Murphy supported the idea and partnering with the county. Council Member Allers suggested checking with the fire department first. Council Member Veach received support to contact the fire department.

D. Road Naming Suggestions

1) Suggestions for Beach Access #36
2) Suggestions for circle road around Mound House

1). Council Member Allers noted his favorite was Wastin Away. Council Member Veach questioned promoting businesses and mentioned names to memorialize the Mermaid. Mayor Murphy indicated the Surf Club was there for years before the Mermaid. He questioned whether they wanted to name beach accesses after bars. Vice Mayor Hosafros did not think it was appropriate to name anything after a business. Mayor Murphy agreed and suggested a geographical-related name. Vice Mayor Hosafros suggested naming it after the closest street, which was Primo Dr. Council Member Atterholt liked some of the fun names with an island vibe. Vice Mayor Hosafros noted that most names were from Jimmy Buffett songs. She brought up Funky Way and Council Member Atterholt supported the name. He also supported Waistina Way, which received support from Council Member Veach and Mayor Murphy.

Town Manager Hernstadt brought up the turnover ceremony on July 1, 2022 and questioned whether he should have a sign made up with Waistina Way. He received consensus. Town Attorney Herin, Jr. suggested waiting until he researched trademark issues. He received support.

2). Mayor Murphy suggested naming the road circling the Mound House after Ann and Dan Hughes. Vice Mayor Hosafros stated that CELCAB was not in favor of naming the road after various people because feelings would be hurt

since so many people contributed to the Mound House. Mayor Murphy felt that CELCAB did not have an opportunity to discuss the name and he did not think there would be much opposition. Council Member Atterholt supported Mayor Murphy's recommendation and presenting it to CELCAB for their review. Consensus was reached to send it to CELCAB for discussion.

IV. AGENDA MANAGEMENT

A. June 2022

Add a sea-level rise discussion.
Add a resiliency discussion.
Remove walking bicycles on the sidewalk.

V. ADJOURNMENT

Council Member Veach moved to adjourn; second by Council Member Allers. Motion carried unanimously.

The meeting was adjourned at 12:08 p.m.

DRAFT

1. **Requested Motion:**

Meeting Date: August 1, 2022

Second reading and public hearing on proposed Ordinance 22-11 entitled: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING ARTICLE V OF CHAPTER 32 OF THE CODE OF ORDINANCES OF THE TOWN OF FORT MYERS BEACH ENTITLED "SEA TURTLE CONSERVATION" TO PROVIDE FOR A TINTED GLASS OPACITY REQUIREMENT FOR ALL NEW CONSTRUCTION AND ALL RENOVATIONS, RETROFITTING OR WINDOW REPLACEMENTS TO EXISTING BUILDINGS TO REDUCE THE INSIDE TO OUTSIDE LIGHT TRANSMITTANCE VALUE, PROVIDING FOR SEVERABILITY; CODIFICATION; SCRIVENER'S ERRORS; CONFLICTS OF LAW AND AN EFFECTIVE DATE.

Why the action is necessary:

Beachfront Condominium owners feel Ord. 21-03 requirement to install new and replacement windows with 15 percent light transmittance places an undue hardship on them.

What the action accomplishes:

Recognizes FL Fish & Wildlife Conservation Commission Sea Turtle Biologist guidance that glass tints with light transmittance values of fifteen (15) percent or the darkest tint practicable have been used successfully to mitigate the impacts of light pollution on sea turtle nesting habitat from interior lighting from structures with windows and doors in line of sight of the beach

Recognizes that enforcement of ordinance is necessary to protect sea turtle nesting habitat.

Changes the requirement for new construction and replacement window and door glass light transmittance values from 15% to 45% or less for structures seaward of the Coastal Construction Control Line as Recognized by the State Statute.

Adds definition of certified wildlife lighting.

Adds an additional strategy to use long wavelength, shielded interior lighting as a strategy to mitigate interior light pollution onto the beach.

Adds beach renourishment construction as an activity for temporary workzone lighting.

2. **Agenda:**
PUBLIC HEARINGS

3. **Requirement/Purpose:**
Ordinance

4. **Submitter of Information:**

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5. **Background:**

Light impacts on Sea Turtle Nesting Habitat remains one of the most prolific and difficult violations of the Sea Turtle Conservation Code to educate and enforce. Challenges include high volumes of visitors unfamiliar with sea turtle nesting regulations in condos, resorts and single family residences with mitigation strategies that are highly susceptible to human error (e.g. curtains that must be manually drawn on windows and doors with 0% to 45% tinted glass). Having said that, properties with conscientious and diligent owners and/or property managers do illustrate that consistent compliance with the Sea Turtle Conservation Code is possible.

Guidance from Senior FWC Sea Turtle Biologist Dr. Robbin Trindell:

Existing information on sea turtle disorientations suggest that the 45% inside-to-outside transmittance may not be sufficient to adequately reduce light visibility to nesting and hatchling

sea turtles. The FWC is currently working with the Fenestration Industry to investigate how tints darker than 45% affect hatchling orientation. FWC staff are still working on testing hatchling orientation when exposed to glass with different tint levels. These studies are ongoing; however, the products provided by the Fenestration Industry include a number of tints that are not as dark as 15% but still appear to block light effectively. The results of this study should be available by this fall. Town Council could elect to wait for those results before specifying 45% tint the Ordinance (see email attached).

Attachments:

1. 22-11, Sea Turtle Protections 2nd reading v2
2. Receipt of Publication
3. FWC Comments Email
4. FWC and Fenestration Email Thread
5. 62B-55_ModelLightingOrdinance_NPR_0
6. SEE PAGE 4 - FWC Guidelines 2018
7. Turtles orient towards more intense light - Witherington Bjorndal Copeia 1991

Financial Impact:

Town budget increase to administrator sea turtle conservation enforcement.
Town budget increase for inspection of window light transmittance for new and replacement windows.

6. **Alternative Action**

Do not approve amendments to Sea Turtle Conservation Ordinance to ensure inadvertent violations do not occur due to lesser tinting.

7. **Management Recommendations:**

8. **Recommended Approval:**

Amy Baker, Town Clerk	Created/Initiated - 7/25/2022
Daphnie Bercher, Community Services Administrator	Approved - 7/26/2022
John R Herin Jr, Town Attorney	Approved - 7/27/2022
Amy Baker, Town Clerk	Approved - 7/28/2022
Roger Hernstadt, Town Manager	Final Approval - 7/28/2022

ORDINANCE NO. 22-11

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING ARTICLE V OF CHAPTER 32 OF THE CODE OF ORDINANCES OF THE TOWN OF FORT MYERS BEACH ENTITLED "SEA TURTLE CONSERVATION" TO PROVIDE FOR A TINTED GLASS OPACITY REQUIREMENT FOR ALL NEW CONSTRUCTION AND ALL RENOVATIONS, RETROFITTING OR WINDOW REPLACEMENTS TO EXISTING BUILDINGS TO REDUCE THE INSIDE TO OUTSIDE LIGHT TRANSMITTANCE VALUE, PROVIDING FOR SEVERABILITY; CODIFICATION; SCRIVENER'S ERRORS; CONFLICTS OF LAW AND AN EFFECTIVE DATE.

WHEREAS, Florida Statutes provide that municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal service, and exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, Article X of the Town Charter of the Town of Fort Myers Beach empowers the Town to adopt, amend, or repeal such ordinances and resolutions as may be required for the proper governing of the Town; and

WHEREAS, the Town of Fort Myers Beach, Florida ("Town") recognizes that artificial lighting and other human activities on the beach and upland areas have a detrimental effect on the life cycle and nesting activities of sea turtles, which are an endangered species protected by federal and state law, and therefore subject to reasonable regulations as proposed herein; and

WHEREAS, the Town also recognizes that both its economy and the quality of life of its residents are enriched by a healthy sea turtle population; and

WHEREAS, the Town also recognizes the Florida Fish and Wildlife Conservation Commission Marine Turtle Biologist guidance that glass tints with light transmittance values of fifteen (15) percent or the darkest tint practicable have been used successfully to mitigate the impacts of light pollution on sea turtle nesting habitat from interior lighting from structures with windows and doors in line of sight of the beach; and

WHEREAS, the Town also recognizes preservation and protection of sea turtles and sea turtle nesting habitat requires strict enforcement of the Sea Turtle Conservation Ordinance in accordance with Florida Statutes Chapter 162; and

WHEREAS, the Town desires to minimize the detrimental impact on nesting sea turtle populations, and other listed sensitive wildlife by implementing a system of rules and regulations that reduces the amount of artificial light intentionally or unintentionally visible from beaches; and

WHEREAS, on May 16, 2022, the Town Council held a first reading of this proposed Ordinance; and

WHEREAS, on August 1, 2022, the Town Council held a second reading of this proposed Ordinance.

NOW THEREFORE IT IS HEREBY ORDAINED BY THE TOWN OF FORT MYERS BEACH, FLORIDA:[1]

Section 1. The above recitals are true and correct, and incorporated herein by this reference and are hereby adopted as the legislative and administrative findings of the Town Council.

Section 2. Article V of Chapter 32 of the Code of Ordinances of the Town of Fort Myers Beach entitled "Sea Turtle Conservation" is hereby amended to read as follows:

CHAPTER 32 - WATERWAYS AND BEACHES

ARTICLE V. - SEA TURTLE CONSERVATION

Sec. 32-101. - Article purpose and objectives.

The purpose of this article is to protect nesting and hatchling sea turtles on the beaches in the Town of Fort Myers Beach ("town") by ensuring that their nesting habitat is not degraded by artificial light. The objective of the article is to ensure artificial light does not interfere with sea turtle nesting and hatching events through the appropriate design and implementation of coastal lighting systems. ~~In order to~~ To further the objective of full implementation, this article also includes provisions designed to educate residents and beach users in the town on the benefits of appropriate coastal lighting and provides for weekly inspections to ensure compliance with the acceptable lighting standards.

Sec. 32-102. - Applicability.

The provision of this article shall apply to all properties within the town that may produce artificial light directly, indirectly, or cumulatively visible from any portion of the beach, regardless of whether those properties are beachfront properties; and to all buildings and related infrastructure, including landscaping, as well as all other activities that may adversely impact sea turtles.

Sec. 32-103. - Definitions.

For the purposes of this article, the following words and phrases will have the meanings respectively ascribed to them by this

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1/ Additions to existing text are shown by underline, changes to existing text on second reading are shown by double underline, and deletions are shown as ~~strikethrough~~.

section unless the context clearly indicates otherwise:

Artificial light means the light emanating from any human-made device.

Beach means the zone of unconsolidated material that extends landward from the mean low water line to the place where there is marked change in material or physiographic form, or to the line of permanent vegetation.

Certified Wildlife Lighting means lighting fixtures and bulbs reviewed and approved with conditions of use through the Florida Fish and Wildlife Conservation Commission's Wildlife Lighting Certification Process and published at https://myfwc.com/conservation/you-conserve/lighting/criteria/certified/.

Cumulatively visible means light from numerous artificial light sources on a single property that as a group are directly or indirectly visible to an observer standing anywhere on the beach.

Directly visible means visibility of the glowing elements, lamps, globes, or reflectors of an artificial light source by an observer standing anywhere on the beach.

Disorientation means an event caused by direct, indirect, or cumulative artificial lighting on sea turtle nesting habitat resulting in the disruption in the ability of nesting sea turtle females and sea turtle hatchlings to find the sea from the beach.

Footcandle means the English unit for measuring illuminance; the uniform illumination of a surface one foot away from a point source of one candela; one lumen per square foot equal to 10.76 lux.

Frontal dune means the first natural or man-made mound or bluff of sand which is located landward of the beach and which has sufficient vegetation, height, continuity, and configuration to offer protective value.

Full cutoff means a lighting fixture constructed in such a manner that no light emitted by the fixture, either directly from the lamp or a diffusing element or indirectly by reflection or refraction from any part of the luminaire, is projected at or above 90 degrees as determined by photometric test or certified by the manufacturer.

Fully shielded means a lighting fixture constructed in such a manner that the glowing elements, lamps, globes, or reflectors of the fixture are completely covered by an opaque material to prevent them from being directly visible from the beach. Any structural part of the light fixture providing this shielding must be permanently affixed.

Indirectly visible means visibility of reflected light because of ~~as a result of~~ glowing elements, lamps, globes, or reflectors of an artificial light source which is visible to an observer standing anywhere on the beach without the light source being directly visible.

Lighting plan means plan view and cross section drawings describing location, number, wattage, wavelength, elevation, orientation, fixture cut sheets. and all types of proposed exterior artificial light sources, including, but not limited to, artificial lighting affixed to permanent structures, outdoor lighting, pool lighting, and internally or externally lighted signs.

Long wavelength means a luminaire emitting light wavelengths of 560 nanometers or greater and absent wavelengths below 560 nanometers. Lamps that meet the definition of long wavelength ~~through the use of~~ using filters, gels, or lenses are not permitted.

New Construction means all new construction of or additions ~~and alterations~~ to buildings, pools, pavement, other structures, landscape areas or lighting systems, including the change or resumption of land use.

Nesting season means the nesting period for sea turtles is from May 1 through October 31 of each year. Nesting season may be extended before or after these dates on an annual basis based on nesting activity observed in the Town of Fort Myers Beach.

Nighttime means the locally effective time ~~period~~ between sunset and sunrise.

Non-egress lighting means lighting that is not being used to light a distinct path or meet minimum requirements for emergency egress, including but not limited to, decorative lights (e.g., Christmas lights, strobe lights, string lights, etc.), balcony lights, ceiling fan lights, landscape lights, and up-lights.

Outdoor area means any portion of a property that could

have an artificial light source not attached to a permanent structure, including but not limited to, pathway lighting, landscape lighting, pool lighting, etc.

Sea turtle means any turtle, including all life stages from egg to adult, of these species: Green *(Chelonia mydas),* Leatherback *(Dermochelys coriacea),* Loggerhead *(Caretta caretta),* Hawksbill *(Eretmochelys imbricata),* and Kemp's Ridley *(Lepidochelys kempi)*. For the purposes of this article, the term sea turtle is synonymous with marine turtle.

Sea turtle nesting habitat means all sandy beaches adjoining the waters of the Atlantic Ocean, the Gulf of Mexico, and the Straits of Florida in all coastal counties and all inlet shorelines of those beaches. Nesting habitat includes all sandy beach and unvegetated or vegetated dunes immediately adjacent to the sandy beach and accessible to nesting female turtles.

Take means an act that ~~actually~~ kills or injures marine turtles~~,~~ and includes significant habitat modification or degradation that kills or injures marine turtles by significantly impairing essential behavioral patterns, such as breeding, feeding, or sheltering.

Temporary lighting means any non-permanent light source that may be hand-held or portable including, but not limited to, tiki torches, lanterns, flashlights (including cell phone flashlights), candles, flash photography, etc.

Tinted glass means glass modified via tinting, film, or other material to reduce the inside to outside light transmittance value ~~to~~ ~~15~~ ~~45 percent~~ to forty-five (45) percent or less.

Sec. 32-104. - Annual public notice.

At least 30 days prior to the commencement of every sea turtle nesting season, the town shall provide written notice summarizing the provisions contained in this article.

Sec. 32-105. - Exterior and interior lighting affixed to new structures, new construction and improvements to existing structures.

(a) All artificial lighting affixed to the exterior of new permanent structures, construction or additions shall be long wavelength, downward directed, full cutoff,

fully shielded and mounted as close to the ground or finished floor surface as possible to achieve the required footcandles.

(b) As an exception to (a) above, all non-egress lighting may be affixed to the landward exterior of permanent structures provided that the fixtures are fitted with a long wavelength source and are shall not be directly, indirectly, or cumulatively visible from any portion of the beach.

(c) Lighting at egress points shall be limited to the minimum number of fixtures and footcandles necessary to meet federal, state, and local safety requirements.

(d) Locations including, but not limited to, stairwells, elevators, parking garages, or courtyards shall not produce light that is directly, indirectly, or cumulatively visible from any portion of the beach. Window film, tinting, light screens, shades, or curtains shall be used to block visibility of interior lights from the beach. Light screens shall be used on open or enclosed staircases on the seaward or shore-perpendicular side of a building or for parking garages to limit visibility of lights from the nesting beach.

(e) All ~~glass~~ non-opaque windows, walls, railings, and doors on the seaward and shore-perpendicular sides included in any new construction~~, alteration, or window replacement~~ ~~for structures within direct line of sight from the beach~~ of structures located seaward of the Coastal Construction Control Line as defined by Section 161.053, Florida Statutes as the same may be amended from time-to-time, shall utilize glass with an inside to outside light transmittance value of ~~15~~ ~~45~~ forty-five (45) percent or less.

(f) All renovations, retrofitting, and replacement of non-opaque windows, walls, railings, and doors on the seaward and shore-perpendicular sides of structures located seaward of the Coastal Construction Control Line, as defined by Section 161.053, Florida Statutes as the same may be amended from time-to-time, shall utilize glass with an inside to outside light

transmittance value of forty-five (45) percent or less. ~~Glass windows, walls, railings, and doors with light transmittance values greater than 15 percent may require additional window coverings to be compliant with the requirement for interior light to not directly, indirectly, or cumulatively illuminate the beach.~~

~~(f)~~(g) Emergency lights shall be on a separate circuit and activated only during power outages or other situations in which emergency lighting is necessary for public safety.

~~(g)~~(h) Prior to issuance of a development order ~~and/~~or building permit for all new structures, new construction, and improvements to existing structures seaward of the Coastal Construction Control Line as defined by ~~F.S. §~~ Section 161.053, Florida Statutes as the same may be amended from time-to-time, a town approved lighting plan meeting the provisions of this article and Chapter 34. Article IV, Division 20. - Lighting Standards is required.

~~(h)~~(i) Prior to issuance of a development order ~~and/~~or building permit for all multifamily, commercial, and industrial new structures, new construction, and improvements to existing structures landward of the Coastal Construction Control Line as defined by ~~F.S. §~~ Section 161.053, Florida Statutes as the same may be amended from time-to-time, a town approved lighting plan meeting the provisions of this article and Chapter 34. Article IV. Division 20. - Lighting Standards is required.

~~(i)~~(j) Prior to the issuance of a certificate of occupancy (CO) or a certificate of completion (CC), the exterior and interior lighting of new development shall be inspected after dark by the town, with all exterior and interior lighting turned on, to determine compliance with the approved lighting plan and this article.

(k) ~~In addition,~~ Prior to the issuance of a certificate of occupancy (CO) or a certificate of completion (CC), all glass windows, walls, railings, and doors on the seaward and shore-perpendicular sides of structures located seaward of the Coastal Construction Control Line, as defined by Section 161.053, Florida Statutes

as the same may be amended from time-to-time, included in new construction and replacement shall be inspected to determine compliance with the approved light transmittance value. All manufacturer specification stickers, including the National Fenestration Rating Council label, shall remain affixed to all glass windows, walls, railings, and doors on the seaward and shore-perpendicular sides of any new construction and replacements until the Town's inspection is complete to determine compliance with the approved window and door specifications and plan.

Sec. 32-106. - Existing exterior and interior lighting.

(a) Existing artificial lighting affixed to the exterior of permanent structures shall not be directly, indirectly, or cumulatively visible from any portion of the beach during sea turtle nesting season.

(b) Appropriate techniques for existing exterior lighting to achieve compliance with the provisions of this article include, but are not limited to:

(1) Reposition, modify, or remove existing lighting fixtures so that the point source of light or any reflective surface of the light fixture is no longer directly, indirectly, or cumulatively visible from the beach;

(2) Replace fixtures having an exposed light source with fully shielded fixtures;

(3) Replace any light source, light bulb or lamp that is not long wavelength (e.g., incandescent, fluorescent, or high intensity lighting) with the lowest wattage long wavelength (e.g., LED, or low-pressure sodium) light source or lamp available for the specific application;

(4) Replace non-directional fixtures with directional fixtures that ~~point down~~ are directed downward and away from the beach;

(5) Provide shields for fixtures visible from the beach and not practical to immediately be

replaced. Beachside shields are to cover 270 degrees and extend below the bottom edge of the fixture on the seaward side so that the light source or any reflective surface of the light fixture is not visible from the beach;

(6) Replace pole lamps with low-profile, low-level luminaries so that the light source or any reflective surface of the light fixture is not visible from the beach;

(7) Plant or improve vegetation buffers between the light source and the beach to screen light from the beach;

(8) Construct a ground level barrier to shield light sources from the beach. Ground-level barriers must not interfere with sea turtle nesting or hatchling emergence, or cause short- or long-term damage to the beach and dune system;

(9) Permanently remove or permanently disable any fixture which cannot be brought into compliance with the provisions of these standards;

(10) Televisions shall be shielded or positioned such that they are not directly, indirectly, or cumulatively visible from the beach.

(c) Interior lighting shall not be directly, indirectly, or cumulatively visible from any portion of the beach during sea turtle nesting season.

(d) Appropriate techniques to achieve compliance for interior lighting with the provisions of this article include, but are not limited to ~~: T~~ the following measures ~~can~~ to reduce or eliminate the negative effects of interior light emanating from doors and windows within line-of-sight of the beach:

(1) Apply window tint or film that ~~meets the~~ reduces the inside to outside light transmittance ~~standards for tinted glass~~ to 15 percent or ~~less~~ the darkest tint practicable;

(2) Rearrange lamps and other moveable fixtures away from windows;

(3) Use opaque shades or room darkening window treatments (e.g., blinds, curtains, screens) to shield interior lights from the beach.

(4) Use artificial lighting that is long wavelength and shielded from the beach.

(5) A combination of the above techniques may be required to achieve compliance with this article.

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Sec. 32-112. - Special events, vehicles, raking and temporary lighting.

(a) All special events or construction taking place on or adjacent to the beach require a permit from the town, and may require a permit from the Florida Department of Environmental Protection.

(b) Lighting associated with a special event that may directly, indirectly, or cumulatively be visible from any portion of the beach shall not be authorized at nighttime during sea turtle nesting season.

(c) The operation of all vehicles, except emergency and law enforcement vehicles or those permitted on the beach for sea turtle conservation in accordance with F.S. § Section 379.2431 Florida Statutes, as the same may be amended from time-to-time (I), or other research and conservation, shall be prohibited on the beach at nighttime during sea turtle nesting season. Excepted, non- emergency vehicles shall affix red filter to their headlights when operating on sea turtle nesting habitat at nighttime.

(d) Beach raking activities during sea turtle nesting season, if permitted by the town, shall not:

(l) Operate at nighttime;

(2) Begin before 9:00 a.m. or before the completion of daily monitoring for turtle nesting activity by the Florida Fish and Wildlife Conservation Commission (FWC) authorized marine turtle permit holder, whichever occurs first;

(3) Occur within ten feet of any marked sea turtle nest.

(e) Within sea turtle nesting season, temporary work zone lighting for roadway construction, beach renourishment construction, and during declared emergencies shall be directed away from the beach to avoid illumination of or direct visibility from the beach. Work zone luminaires shall be shielded to avoid lighting areas outside of the immediate construction area.

(f) All other temporary construction lighting shall be:

(1) Inclusive of all the standards herein, including utilizing fixtures that are long wavelength, downward directed, full cutoff, and fully shielded so light is not directly or indirectly visible from the beach, and

(2) Turned off during nighttime in sea turtle nesting season, or if temporary lighting is deemed necessary during sea turtle nesting season it shall only be allowed from ~~6~~7:00 a.m. to 9:00 p.m., must be restricted to the minimal amount necessary, and shall incorporate all the standards herein, and

(3) Mounted less than eight feet above the adjacent floor or deck, measured from the bottom of fixture, and

(4) Restricted to the minimal number of footcandles necessary to conform to the applicable construction safety regulations.

***

Section 3. The Town Council intends that the provisions of this ordinance be made a

part of the Fort Myers Beach Code of Ordinances, and that sections herein may be renumbered or re-lettered and the words or phrases herein may be changed to accomplish codification; regardless, typographical errors that do not affect intent may be corrected with notice to and authorization of the Town Manager without further process.

Section 4. Whenever the requirements or provisions of this ordinance conflict with the requirements or provisions of any other lawfully adopted ordinance or statute, the most restrictive shall apply.

Section 5. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason, declared by a court of competent jurisdiction to be unconstitutional or invalid, such decision will not affect the validity of the ordinance, or any part thereof, other than the part so declared.

Section 6. This ordinance shall become effective upon adoption by the Town Council.

The foregoing Ordinance was adopted by the Town Council upon a motion by Councilmember ____ and seconded by ____ and upon being put to a roll call vote, the result was as follows:

Raymond P. Murphy, Mayor	___
Rexann Hosafros, Vice Mayor	___
Dan Allers, Council Member	___
Jim Atterholt, Council Member	___
Bill Veach, Council Member	___

ADOPTED this ____ day of _____, 2022, by the Town Council of the Town of Fort Myers Beach, Florida.

TOWN OF FORT MYERS BEACH

_____
Raymond P. Murphy, Mayor

ATTEST:

_____
Amy Baker, Town Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE USE AND RELIANCE OF THE TOWN OF FORT MYERS BEACH ONLY:

_____
John R. Herin, Jr., Town Attorney

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Run Dates: 07/22/22

No. of Affidavits: 1

Text of Ad:

NOTICE OF PUBLIC HEARING

Notice is hereby given that the Town Council of the Town of Fort Myers Beach will hold a public hearing at a meeting beginning at 9:00 AM on August 1, 2022 regarding the ordinance listed below. This meeting and public hearings will take place at the Town Hall-Council Chambers, 2525 Estero Boulevard, Fort Myers Beach, FL 33931.

ORDINANCE NO. 22-11

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING ARTICLE V OF CHAPTER 32 OF THE CODE OF ORDINANCES OF THE TOWN OF FORT MYERS BEACH ENTITLED "SEA TURTLE CONSERVATION" TO PROVIDE FOR A TINTED GLASS OPACITY REQUIREMENT FOR ALL NEW CONSTRUCTION AND ALL RENOVATIONS, RETROFITTING OR WINDOW REPLACEMENTS TO EXISTING BUILDINGS TO REDUCE THE INSIDE TO OUTSIDE LIGHT TRANSMITTANCE VALUE, PROVIDING FOR SEVERABILITY; CODIFICATION; SCRIVENER'S ERRORS; CONFLICTS OF LAW AND AN EFFECTIVE DATE.

If any person should choose to appeal a decision made at this public hearing, such person would need a record of the proceedings, and for that purpose may need to ensure that a verbatim record of the proceedings is made, which record indicates the testimony and evidence upon which the appeal is to be based. Copies of the full ordinance text are available at Fort Myers Beach Town Hall. Call 239-765-0202 for more information. Town Hall is open between the hours of 8:30 AM and 4:30 PM. Reasonable accommodations will be made in accordance with the Americans with Disabilities Act. If you are in need of reasonable accommodation, contact Town Hall at 239-765-0202.

Amy Baker, Town Clerk

AD #53442918 July 22, 2022

Chadd Chustz

From: Trindell, Robbin <robbin.trindell@MyFWC.com>
Sent: Wednesday, July 27, 2022 9:25 AM
To: Chadd Chustz
Cc: eve@turtletime.org
Subject: RE: FMB Sea Turtle Ordinance Reading 8/1

Chad, Thanks for providing this for comment. Here are some preliminary comments.

I see the language still includes the 15% tint. Existing information on sea turtle disorientations suggest that the 45% inside-to-outside transmittance may not be sufficient to adequately reduce light visibility to nesting and hatchling sea turtles. The FWC is currently working with the Fenestration Industry to investigate how tints darker than 45% affect hatchling orientation. FWC staff are still working on testing hatchling orientation when exposed to glass with different tint levels. These studies are ongoing; however, the products provided by the Fenestration Industry include a number of tints that are not as dark as 15% but still appear to block light effectively. The results of this study should be available by this fall. It would be prudent to wait for those results before specifying 45% tint in this document. Language such as the darkest tint suitable for the particular application, or other language.

I have included a few other comments in the document. Thanks for your efforts to protect marine turtles!

Robbin N. Trindell, Ph.D.
Biological Administrator
Imperiled Species Management
Florida Fish and Wildlife Conservation Commission
1875 Orange Avenue East
Tallahassee, FL 32311
Phone: 850-922-4330

RE: URGENT FW: information for the public hearing on sea turtle conservation

Trindell, Robbin <robbin.trindell@MyFWC.com>

Mon 5/16/2022 8:04 AM

To: Chadd Chustz <Chadd@fmbgov.com>

Cc: Jennifer Hatfield <jen@jhatfieldandassociates.com>;Long, Tonya <Tonya.Long@MyFWC.com>;Koperski, Meghan <Meghan.Koperski@MyFWC.com>

Review of disorientation data documents the negative impact of interior lights on nesting and hatching sea turtles, including in proximity to structures with windows tinted to 45% visible light transmittance. Florida Administrative Code Rule recommends the use of 45% visible light transmittance or less. Based on our experience both from lighting surveys and review of disorientation data, 45% transmittance does not adequately block interior light from the sea turtle nesting beach. Thus, Florida Fish and Wildlife Conservation Commission (FWC) staff continues to recommend for darker tints, up to and including 15% tint. We have been involved in projects that utilized 15% tint successfully to block interior light and reduce light visibility from the beach. Thus, FWC staff supports local governments seeking to require tint levels darker than 45% as an effective option to block interior light visibility from the sea turtle nesting beach.

As stated by Ms. Hatfield, FWC staff was approached by representatives of the Fenestration & Glazing Industry Alliance (FGIA), who expressed their concerns, based on their expertise, with FWC's recommendation for darker tints, including 15%. These industry professionals raised potential issues related to the design and function of different glass and window products if darker tints are used. Based on their expertise, FWC staff agreed to work with FGIA to obtain additional empirical information on use of tints less than 45% and effect on hatching orientation. We feel this is a productive and necessary partnership to utilize their expertise on how best to reduce interior light visibility from the nesting beach using darker tints while considering other aspects related to window construction and consumer use. However, that does not change FWC's recommendation and coordination with local governments to utilize darker tints, up to and including 15%.

FWC staff appreciate and support the City of Fort Myers work to protect nesting and hatchling sea turtles by updating their local lighting ordinance to require darker tints. While our staff has seen 15% tints used successfully to reduce light visibility from the nesting beach with no negative effects to the structures involved, we agree that there may be a range of tints below 45%, that may also be effective. That is the goal of the experiments we are conducting this summer, working cooperatively with FGIA members.

Sincerely,

Robbin N. Trindell, Ph.D.
Biological Administrator
Imperiled Species Management
Florida Fish and Wildlife Conservation Commission
1875 Orange Avenue East
Tallahassee, FL 32311
Phone: 850-922-4330

From: Chadd Chustz <Chadd@fmbgov.com>
Sent: Friday, May 13, 2022 2:10 PM

To: Trindell, Robbin <robbin.trindell@MyFWC.com>
Subject: URGENT FW: information for the public hearing on sea turtle conservation

[EXTERNAL SENDER] Use Caution opening links or attachments
Dr. Robbin,

So to bother you… Can you verify the position statements made below on FWC's behalf?

See highlights below.

Chadd Chustz
Environmental Project Manager
Town of Fort Myers Beach

From: Jennifer Hatfield <jen@jhatfieldandassociates.com>
Sent: Friday, May 13, 2022 2:05 PM
To: Chadd Chustz <Chadd@fmbgov.com>
Subject: Re: information for the public hearing on sea turtle conservation

Chadd – thank you for the quick response and passing my email along. Here is the POC at FWC, I talked to her just a bit ago, and they are looking to now update the 2018 guidelines on page 4 to coincide with the update to the website we worked with them on. It was just missed by all parties.

Robbin N. Trindell, Ph.D.
Biological Administrator
Imperiled Species Management
Florida Fish and Wildlife Conservation Commission
1875 Orange Avenue East
Tallahassee, FL 32311
Phone: 850-922-4330
robbin.trindell@MyFWC.com

Best,

Jen

Jennifer Hatfield
J. Hatfield and Associates, PL
941-345-3263
Jen@jhatfieldandassociates.com

From: Chadd Chustz <Chadd@fmbgov.com>
Date: Friday, May 13, 2022 at 1:59 PM
To: Jennifer Hatfield <jen@jhatfieldandassociates.com>
Subject: RE: information for the public hearing on sea turtle conservation

Thank you Jennifer. I have passed your email along.

Who is your contact at FWC?

Chadd Chustz
Environmental Project Manager

Town of Fort Myers Beach

From: Jennifer Hatfield <jen@jhatfieldandassociates.com>
Sent: Friday, May 13, 2022 1:52 PM
To: Chadd Chustz <Chadd@fmbgov.com>
Subject: information for the public hearing on sea turtle conservation

Mr. Chustz – my name is Jennifer Hatfield and I represent the Fenestration & Glazing Industry Alliance (FGIA), a trade association made up of manufacturers and suppliers producing window, door, insulating glass, skylight, sloped glazing, curtain wall and storefront products and components for both the residential and commercial construction markets across North America. FGIA is dedicated to improving home and building performance through better glass, window, door and skylight technology and standards.

FGIA is actively involved in Florida, where I reside, through building code development and other regulatory areas that address our products. This includes recent and ongoing work with the Florida Fish & Wildlife Commission (FWC) that I want to provide you and the Town Council in how it relates to the Sea Turtle Ordinance before the Council this coming Monday. First, as a Floridian and on behalf of the FGIA members, we support sea turtle lighting guidelines for beachside communities as it is important to avoid and minimize impact to sea turtles. However, it is also important to ensure solutions presented can be achieved.

Last Summer, FGIA learned of the FWC language on their website to encourage a 15% VT rather than the 45% VT in the model ordinance. This was a concern for multiple reasons, including not only the fact this VT level can be extremely dark for homeowners, but that it is also not readily available in that glass manufacturers were not/are not targeting that exact percentage. FGIA reached out to FWC to get more information on how this came about and provide information to them on the many aspects that must be considered. This led to 9 months of discussions between FGIA and FWC with the following outcomes:

- This Summer FWC will be conducting testing with glass samples provided by FGIA members to determine what VT levels work for turtles. It is also our hope that the result will be a range that can be suggested instead of one set percentage, which allows for more readily available products that can be utilized.
    - It is important to note that in our many discussions with FWC over the last 9 months we found that there was no testing done to determine 15% was the “right” number and that the source of the 15% came from the automotive industry and not the fenestration industry. The fact is window and glass manufacturers have not been targeting 15%; therefore, products may exist that have say a 17%, 19%, 21% VT, but then will not meet the current Ft. Myer’s Beach ordinance of 15%...limiting consumers ability to choose a lower tint from 45% without having to go to perhaps a 13% or 9% VT that now has obscured their view and not allow the Florida sun into their homes.
    - Our intention working with the FWC is to a) provide industry knowledge and expertise on how our products work and b) find solutions that work for both turtles and people.

- Our discussions with FWC led to them updating their website (https://myfwc.com/wildlifehabitats/wildlife/sea-turtle/lighting/) language, see the old and new language screen shows below:

Original language:

- **Apply window tint** to your windows that meets the 45% (**15% recommended**) inside to outside transmittance standards for tinted glass.

- **Use window treatments** (blinds, curtains) to shield interior lights from the beach and move light fixtures away from windows.

New/updated language:

- **Apply window tint** so interior lights are not visible from the beach.
  - Utilize tint meeting the 45% or less inside to outside transmittance requirements on all glass or non-opaque windows, doors, or railings. Darker tints that restrict interior light visibility from the nesting beach are recommended to reduce adverse impacts to marine turtles, especially on buildings with large amounts of glass. Tints as low as 15% have been used successfully.

- **Use window treatments** (blinds, curtains) to shield interior lights from the beach and move light fixtures away from windows.

  - In looking at the documents posted on the Ft. Myers Beach agenda under this issue item, we now understand that when working with FWC on updating wording for the website, we overlooked the 2018 document that on page 4 references the 15% VT, we have alerted FWC to this oversight this morning. We thought it was important for the Town to know this background in their deliberations on Monday. We do want to point out that the statement also on page 4 about the 25-30% being most popular is likely because it is more readily available and is a range rather than an exact target. However, we urge the Town to wait for the data coming from this Summer's FWC testing to determine what may be a proper VT range.

- FWC is no longer encouraging localities to adopt the 15% over the 45% in the model ordinance until more information/data is known. They are encouraging use of tints less than 45% and recognize that tints at 15% can be used, but also now realize the challenges that occur with a mandate at this precise level. FGIA is only aware of one locality adopting the 15% prior to our outreach and discussions with FWC, which is the Town of Ft. Myer's Beach.

We continue to work collaboratively with FWC and we are looking forward to participating in the Summer testing and learning more. In turn, we are providing the knowledge and background of how our industry produces the products and what other requirements we must meet related to building code safety and energy efficiency requirements. As all of this needs to be looked at holistically, as multiple factors must be considered. Which leads me to one last aspect we want to share with the Town and have let the FWC know this week as well.

The proposed changes to the current Ft. Myer's Beach ordinance suggests applying a window tint or film onto the existing window as one technique to reduce the light transmittance to 15% or less. This is another aspect where windows in your house are not like windows in your car. A car will have tempered glass and it works to add tinting to the car window after the fact. Whereas if folks start adding a tint/film to their existing windows, the heat absorbed could lead to stress cracking. The windows were not designed for this application. We would encourage the Town to remove this provision from the proposed ordinance.

One other perhaps minor point, if the Town determines they want to revert back to the 45% for now, we'd suggest revising the fourth whereas clause as well for consistency. Updating this clause would also align with the FWC website

and their upcoming testing, as I not believe even the 2018 document on page 4 states that the FWC has "determined that glass tints/film with lighting transmittance values of 15 percent or less are **required** to prevent..." Rather, the documents says "the best option is 15%" and based on all of the above information that is very subjective at the moment.

In conclusion, we support the proposed change back to the 45% or less VT until such time enough technical data is available from the FWC upcoming testing, which may require two Summer's worth of testing to ascertain proper results (TBD). We encourage property owners to comply with all the solutions presented by FWC and the Town on ways to address exterior and interior lighting, in order to protect sea turtles.

We are happy to provide any additional information or answer any questions. Feel free to contact me via this email or the cell number below. If this information can be made available to the Councilmembers ahead of Monday's meeting we would greatly appreciate it. Additionally, both myself and one of our FGIA members will be in attendance at your Monday's meeting.

Best,

Jen

Jennifer Hatfield
J. Hatfield and Associates, PL
941-345-3263
Jen@jhatfieldandassociates.com

Note: Florida has a very broad public records law. Most communication(s) to or from Fort Myers Beach officials regarding Town business are public records available to the public and media upon request. Your email communications and email address may be subject to public disclosure.

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City/County of _____, Florida

Chapter ___.

MODEL LIGHTING ORDINANCE FOR SEA TURTLE PROTECTION

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ORDINANCE NUMBER 20__-__

LAND DEVELOPMENT CODE

AN ORDINANCE OF THE CITY/COUNTY OF _____ AMENDING CITY/COUNTY CODE CHAPTER _____ PROVIDING FOR AMENDMENTS TO ADOPT MODEL LIGHTING REQUIREMENTS; PROVIDING FOR REPEAL OF ORDINANCES; PROVIDING FOR TERRITORY EMBRACED; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION INTO THE CODE OF ORDINANCES; PROVIDING FOR EFFECTIVE DATE.

SECTION ___-1. – BASIS OF ORDINANCE

Sec. ___-1.1. - Findings of Fact

***Whereas, the City/County of** _____recognizes that light pollution of beaches is a serious threat to sea turtles and other species inhabiting its beaches; and

***Whereas, the City/County of** _____recognizes that nesting adult and hatchling sea turtles are negatively affected by light pollution created by artificial light visible from any portion of the beach; and

***Whereas, the City/County of** _____recognizes that sea turtles are protected by federal and state law; and

***Whereas, the City/County of** _____ recognizes that both its economy and the quality of life of its residents are enriched by a healthy sea turtle population; and

***Whereas, the City/County of** _____ desires to minimize the detrimental effect on nesting sea turtle populations, and other listed sensitive wildlife by implementing a system of rules and regulations that reduces the amount of artificial light intentionally or unintentionally visible from beaches;

> **Guidance: These generic Findings of Fact are illustrative only. Findings of Fact should relate to the specific context of the County or City adopting a sea turtle lighting ordinance and may include data on sea turtle nesting, and disorientation/misorientation if available. It may also include information on the qualitative and quantitative value of sea turtles to the specific beachfront economies.*

NOW, THEREFORE, BE IT ORDAINED, BY THE CITY COUNCIL/BOARD OF COUNTY COMMISSIONERS OF THE CITY/COUNTY OF _____ ON THIS ___ DAY OF _____, 20__.

Sec. ___-1.2. - Title of Ordinance

This ordinance shall be referred to as the **City/County of** _____ Lighting Ordinance for Sea Turtle Protection.

Sec. ___-1.3. - Ordinance Purpose and Objectives

The purpose of this Ordinance is to protect nesting and hatchling sea turtles on the beaches in the **City/County of** _____ by ensuring that their nesting habitat is not degraded by artificial light. The objective of the ordinance is for the appropriate design and implementation of coastal lighting systems to

ensure that light pollution does not interfere with sea turtle nesting and hatching events while at the same time protecting public safety. In order to further the objective of full implementation, this Ordinance also includes provisions designed to educate residents and beach users in the **City/County of** _____ on the benefits of appropriate coastal lighting and provides for regular inspections to ensure compliance with the acceptable lighting standards.

Sec. ___-1.4. - Definitions

1. **Artificial Light:** the light emanating from any human-made device.

2. **Beach:** the zone of unconsolidated material that extends landward from the mean low water line to the place where there is marked change in material or physiographic form, or to the line of permanent vegetation.

3. **Certified Wildlife Lighting:** lighting fixtures and bulbs reviewed and approved with conditions of use through the Florida Fish and Wildlife Conservation Commission's Wildlife Lighting Certification Process and published at https://myfwc.com/conservation/you- conserve/lighting/criteria/certified/.

4. **Cumulatively Visible:** light from numerous artificial light sources that as a group can be seen by an observer standing anywhere on the beach.

5. **Directly Visible:** occurs when glowing elements, lamps, globes, or reflectors of an artificial light source can be seen by an observer standing anywhere on the beach.

6. **Foot-Candle:** the English unit for measuring illuminance; the uniform illumination of a surface one foot away from a point source of one candela; one lumen per square foot; equal to 10.76 lux.

7. **Frontal Dune:** the first natural or man-made mound or bluff of sand which is located landward of the beach and which has sufficient vegetation, height, continuity, and configuration to offer protective value.

8. **Full Cutoff:** a lighting fixture constructed in such a manner that no light emitted by the fixture, either directly from the lamp or a diffusing element or indirectly by reflection or refraction from any part of the luminaire, is projected at or above 90° as determined by photometric test or certified by the fixture manufacturer.

9. **Fully Shielded:** a lighting fixture constructed in such a manner that the glowing elements, lamps, globes, or reflectors of the fixture are completely covered by an opaque material to prevent them from being directly visible from the beach. Any structural part of the light fixture providing this shielding must be permanently affixed.

10. **Indirectly Visible:** light reflected from glowing elements, lamps, globes, or reflectors of an artificial light source that can be seen by an observer standing anywhere on the beach without the light source being directly visible.

11. **Long Wavelength:** a lamp or light source emitting light wavelengths of 560 nanometers or greater and absent wavelengths below 560 nanometers.

12. **Nesting Season:** For the **City/County of** _____, the sea turtle nesting period is from _____ of each year.

    Guidance: For Brevard, Indian River, St. Lucie, Martin, Palm Beach, and Broward Counties, the sea turtle nesting period is from March 1 through October 31 of each year. For Bay, Charlotte, Collier, Dade, Duval, Escambia, Flagler, Franklin, Gulf, Lee, Manatee, Monroe, Nassau, Okaloosa, Pinellas, St. Johns, St. Lucie, Santa Rosa, Sarasota, Volusia, and Walton Counties, the sea turtle nesting period is from May 1 through October 31.

13. **Nighttime:** the locally effective time period between sunset and sunrise.

14. **Non-egress Lighting:** exterior lighting that is not being used to light a distinct route or meet minimum requirements for emergency access to or from a building, including but not limited to decorative lights (e.g. strobe lights, string lights, etc.), balcony lights, landscape lights, and uplights.

15. **Outdoor Area:** any portion of a property that could have an artificial light source not attached to a permanent structure, including but not limited to pathway lighting, landscape lighting, pool lighting, etc.

16. **Sea Turtle:** any turtle, including all life stages from egg to adult, of these species: Green (*Chelonia mydas*), Leatherback (*Dermochelys coriacea*), Loggerhead (*Caretta caretta*), Hawksbill (*Eretmochelys imbricata*), and Kemp's ridley (*Lepidochelys kempii*). For the purposes of this ordinance, the term sea turtle is synonymous with marine turtle.

17. **Sea Turtle Nesting Habitat:** all sandy beaches adjoining the waters of the Atlantic Ocean, the Gulf of Mexico, and the Straits of Florida in all coastal counties and all inlet shorelines of those beaches. Nesting habitat includes all sandy beach and unvegetated or sparsely vegetated dunes immediately adjacent to the sandy beach and accessible to nesting female turtles.

18. **Temporary Lighting:** any non-permanent light source that may be hand-held or portable including but not limited to tiki torches, lanterns, flashlights (including cell phone flashlights), candles, flash photography, etc.

19. **Tinted glass:** glass modified via tinting, film or other material to reduce the inside to outside light transmittance value.

SECTION ___-2. - SEA TURTLE LIGHTING DISTRICT

Sec. ___-2.1. - Applicability

1. An overlay district, known as the *Sea Turtle Lighting District*, is hereby established within the **City/County of** _____.

2. The *Sea Turtle Lighting District* shall include all properties within the **City/County of** _____, that may produce artificial light directly, indirectly, or cumulatively visible from any portion of the beach, regardless of whether those properties are beachfront properties.

3. The provisions of this Ordinance apply to new and existing artificial lighting visible from the beach from all buildings and related infrastructure, including streetscapes, parking lots, outdoor areas, landscaping, as well as public parks and recreational areas and all other activities within the *Sea Turtle Lighting District*.

4. The provisions of this Ordinance are not intended to prevent the use of any design, materials or method of installation or operation not specifically prescribed herein, provided any such alternate has been approved. The **City/County of** _____may approve any such proposed alternate provided it:

    a. Provides at least approximate equivalence to the applicable specific requirements of this Ordinance, and;

    b. Is otherwise satisfactory or complies with the intent of this Ordinance, and;

    c. Has been designed or approved by a registered lighting or electrical engineer and is supported by calculations showing that the design submitted meets that intent of the Ordinance. This sub-section shall not have the effect of waiving the lumen caps specified in this Ordinance.

    d. Has been determined to meet requirements for Certified Wildlife Lighting and/or lights that meet FWC's Wildlife Lighting Guidelines, including long wavelength light sources (without the use of filters), full cut-off, and fully shielded fixtures.

5. Any person substantially aggrieved by any decision of the *Beach Lighting Inspector* or the *Building Official* made in administration of this Ordinance has the right and responsibilities of appeal to the *Advisory/Appeals Board* of this jurisdiction.

    *Guidance: This Model establishes an Overlay District for the purpose of implementing the ordinance. This ordinance could be applied by simply consolidating (2) and (3) above and making it applicable to "all properties within the **City/County of** _____ that may produce artificial light directly, indirectly, or cumulatively visible from any portion of the beach, regardless of whether those properties are beachfront properties." However, creating a District may have other benefits which include incorporating other Sea Turtle best management practices not related to lighting, as well as raising awareness through signage, etc.*

Sec. ___-2.2. - Annual Public Notice

At least thirty days prior to the commencement of every sea turtle nesting season, the **City/County of** _____ shall provide notice to affected persons within the *Sea Turtle Lighting District* of the provisions contained in this Ordinance.

Declaring an official annual "lights out for sea turtles" day either the first Monday in February or April depending on the county, could also be useful. Another alternative would be designating the responsible department or official for implementing the ordinance and noticing the public.

SECTION ___-3. - LIGHTING PROVISIONS

Sec. ___-3.1. – General

Guidance: *In order to provide the highest level of protection for nesting marine turtles and their hatchlings, local governments are encouraged to adopt all of the following standards for artificial beachfront lighting sources.*

1. The following standards for artificial light sources are intended to help minimize harmful effects of light pollution in sea turtle nesting areas. The use of Certified Wildlife Lighting will provide the highest level of protection for nesting sea turtles and their hatchlings. Certified Wildlife Lighting refers to lighting fixtures and bulbs reviewed and approved through the Florida Fish and Wildlife Conservation Commission's Wildlife Lighting Certification Process and published at https://myfwc.com/conservation/you-conserve/lighting/criteria/certified/. Certified Wildlife Lighting and/or lights that meet FWC's Wildlife Lighting Guidelines, must be installed and maintained according to the approved conditions of use to achieve the light pollution reduction objectives of this Ordinance.

   Guidance: The FWC Certified Wildlife Lighting website references the required options and bulleted caveats for each certified fixture. These conditions of approved use are also included in the certification letter issued to the manufacturer for the fixture. FWC Sea Turtle Lighting Guidelines can be accessed at the Sea Turtles and Lights webpage at https://myfwc.com/wildlifehabitats/wildlife/sea-turtle/lighting/.

2. New construction refers to all new construction of or additions and alterations to buildings, pools, pavement, other structures, landscape areas or lighting systems, including the change or resumption of land use. The most protective lighting standards apply to new construction visible from the beach.

3. Existing artificial lighting refers to lighting fixtures, sources and systems operating prior to the effective date of this ordinance. Existing lights and light sources that are visible from the beach shall be replaced or modified to conform to standards given in Section -3.7. In order to bring existing lighting systems into future compliance with this Ordinance, standards for new coastal construction shall be applied when permits are sought for new structures or the alteration, movement, enlargement, replacement or installation of new lighting systems.

Sec. ___-3.2. Exterior and Interior Lighting Affixed to New Structures, New Construction and Improvements to Existing Structures

1. All lighting affixed to the exterior of new permanent structures, construction or additions shall be long wavelength, downward directed, full cutoff, fully shielded and mounted as close to the ground or finished floor surface as possible to achieve the required foot-candles.

2. As an exception to -3.2.1. above, non-egress lighting may be affixed to the landward exterior of permanent structures provided that the fixtures are fitted with a long wavelength source and are not directly, indirectly, or cumulatively visible from any portion of the beach.

3. Lighting at egress points shall be limited to the minimum number of fixtures and foot-candles necessary to meet federal, state, and local safety requirements.

4. Locations including but not limited to stairwells, elevators, parking garages, or courtyards shall not produce light that is directly, indirectly, or cumulatively visible from any portion of the beach. Light screens, shades or curtains shall be used to block visibility of interior lights from the beach. Light screens shall be used on open or enclosed staircases on the seaward or shore-perpendicular side of a building or for parking garages to limit visiblity of lights from the nesting beach.

5. All glass windows, walls, railings and doors on the seaward and shore-perpendicular sides of any new construction shall use tinted glass with an inside to outside light transmittance value of 45 percent or less.

   Guidance: Local governments may apply special considerations to control interior lighting from being directly visible from the beach.

6. Emergency lights are not subject to the above standards if on a separate circuit and activated only during power outtages or other situations in which emergency lighting is necessary for public safety.

Sec. ___-3.3. - Outdoor Areas

1. All lighting of outdoor areas shall be long wavelength, downward directed, full cutoff, fully shielded and mounted as close to the ground or finished floor surface as possible to achieve the required foot-candles.

2. Lighting of paths, walks and routes of building access shall use low level fixtures such as step, paver, path, recessed wall or bollard lights. Bollard lights are not to exceed 42 inches in height and other low level fixtures are to meet the height requirements of FWC's Wildlife Lighting Guidelines. Fixtures shall be downward directed and utilize long wavelength lamps and beachside shields.

3. As an exception to -3.3.1. above, non-egress outdoor lighting may be installed landward of buildings or other opaque structures provided that they are fitted with long wavelength light sources and are not directly, indirectly, or cumulatively visible from any portion of the beach.

4. Internally or externally lighted signs shall not be located on the seaward and shore-perpendicular sides of any structures, and shall not produce light that is directly, indirectly, or cumulatively visible from any portion of the beach.

5. Ponds and fountains on the seaward and shore-perpendicular sides of any structures shall not produce light that is directly, indirectly, or cumulatively visible from any portion of the beach.

6. Fire pits located on the seaward and shore-perpendicular sides of any structure shall be shielded with an opaque structure or partition, and positioned such that the flame is not directly, indirectly, or cumulatively visible from any portion of the beach. Bonfires and bonfire pits are prohibited within sea turtle nesting habitat during sea turtle nesting season.

7. Televisions or other illuminated screens shall be located landward of the dune and shall be shielded or positioned such that they are not directly, indirectly, or cumulatively visible from the beach.

Sec. ___-3.4. - Parking Areas and Roadways

1. All lighting of parking areas and roadways shall be long wavelength, downward directed, full cutoff, fully shielded, and mounted to the minimum level required to maintain compliance with federal, state and local law.

2. Parking area and roadway lighting shall be shielded from the beach via vegetation, natural features, or artificial structures rising from the ground. These shall prevent artifical light sources, including but not limited to vehiclular headlights, from producing light that is directly, indirectly, or cumulatively visible from any portion of the beach.

3. Lighting of roadways and parking areas shall produce no more lighting than the minimum requirement as outlined by federal, state and local law.

4. Lighting of parking areas and roadways shall consist of either:

    a. Ground-level downward-directed fixtures, equipped with interior dark-colored, non-reflective baffles or louvers, mounted either with a wall mount, on walls or piles, facing away from the beach, or

    b. Bollard-type fixtures, which do not extend more than 42 inches above the adjacent floor or deck, measured from the bottom of fixture, equipped with downward-directed louvers that completely hide the light source, and externally shielded on the side facing the beach, or

    c. Pole-Mounted Lights, if required, shall adhere to the restrictions located in subsection -3.4.5.

5. Pole-mounted lights shall only be used in parking areas and roadways when mounting the lights at lower elevations cannot practicably comply with minimum light levels set forth in applicable federal and state laws designed to protect public safety. If required, pole-mounted lights shall be:

    a. Located on the landward sides of buildings and shall not produce light that is directly, indirectly, or cumulatively visible from any portion of the beach,

    b. Mounted at the minimum height required to meet the minimum light level requirement-, and

    c. Downward-directed onto non-reflective surfaces.

    Guidance: Roadway and parking area lighting designed pursuant to Section 231.2.1 Wildlife-Sensitive Conventional Lighting of the Florida Department of Transportation (FDOT) Design Manual (January 1, 2020) available at https://www.fdot.gov/roadway/fdm/default.shtm, and meeting the requirements of Section 992-2.4.2, Luminaires for Wildlife-Sensitive Conventional Lighting, of the FDOT "Standard Specifications for Road and Bridge Construction (January 2020)," and available at https://www.fdot.gov/programmanagement/implemented/specbooks/default.shtm, are expected to meet the minimum standards of this section.

6. Equipment yards, storage yards, and temporary security lights shall also adhere to the lighting restrictions contained in this Section.

Sec. ___-3.5. - Pool Areas

1. Lighting of pool decks, pool facilties, swimming pools, and spas shall be long wavelength and fully shielded.

2. Lighting of the pool water surfaces and the pool wet deck surfaces shall comply with the minimum light levels set forth in applicable federal and state laws designed to protect public safety.

3. Above-water lighting of pool decks, pool facilties, swimming pools, and spas shall otherwise adhere to the applicable requirements for acceptable light fixtures contained in Section 1 and Section 2 of this Section.

4. Underwater lighting of pools or spa light shall:

    a. Be mounted horizontally in the wall,

    b. Not produce light that is directly, indirectly, or cumulatively visible from any portion of the beach, and

    c. Shall comply with minimum light levels set forth in applicable federal and state laws designed to protect public safety.

Sec. ___-3.6. - Beach Access Points and Dune Walkovers

1. Lighting of beach access points shall be located and configured to only illuminate areas landward of the beach and frontal dune. All lighting of beach access points shall be long wavelength, downward directed, full cutoff and fully shielded and shall not be directly, indirectly, or cumulatively visible from the beach.

2. Lights are allowable on dune walkovers or elevated boardwalks only as required for building code purposes and may only be installed landward of the frontal dune. Walkover lighting shall not be directly, indirectly or cumulatively visible from the beach.

Sec. ___-3.7. – Existing Exterior and Interior Lighting

1. Reduce or eliminate the negative effects of existing exterior artificial lighting through the following measures:

    a. Reposition, modify or remove existing lighting fixtures so that the point source of light or any reflective surface of the light fixture is no longer directly, indirectly or cumulatively visible from the beach;

    b. Replace fixtures having an exposed light source with fully shielded fixtures;

    c. Replace any light source, light bulb or lamp that is not long wavelength (e.g. incandescent, fluorescent, or high intensity lighting) with the lowest wattage long wavelength (e.g. LED or low pressure sodium) light source or lamp available for the specific application;

d. Replace non-directional fixtures with directional fixtures that point down and away from the beach;

e. Provide shields for fixtures visible from the beach and not practical to immediately be replaced. Beachside shields are to cover 270 degrees and extend below the bottom edge of the fixture on the seaward side so that the light source or any reflective surface of the light fixture is not visible from the beach;

f. Replace pole lamps with low-profile, low-level luminaries so that the light source or any reflective surface of the light fixture is not visible from the beach;

g. Plant or improve vegetation buffers between the light source and the beach to screen light from the beach;

h. Construct a ground level barrier landward of the beach and frontal dune to shield light sources from the beach. Ground-level barriers are to be considered a last resort when no other remediation of the light source is feasible. Ground level barriers may be subject to state coastal construction control line regulations under section 161.053, Florida Statutes, and must not interfere with sea turtle nesting or hatchling emergence, or cause short- or long- term damage to the beach and dune system;

i. Permanently remove or permanently disable any fixture which cannot be brought into compliance with the provisions of these standards.

2. Take one or more of the following measures to minimize interior light emanating from doors and windows within line-of-sight of the beach:

   a. Apply window tint or film that meets the light transmittance standards for tinted glass;

   b. Rearrange lamps and other moveable fixtures away from windows;

   c. Use opaque shades or room darkening window treatments (e.g., blinds, curtains, screens) to shield interior lights from the beach.

Guidance: *In order to provide the highest level of protection for nesting marine turtles and their hatchlings, local governments are directed to adopt all of the above standards for existing artificial beachfront lighting sources.*

Sec. ___-3.8. – Pier Structures

1. Lighting of pier structures projecting over the beach or over water shall be long wavelength, downward-directed, and fully shielded.

2. Lighting of pier structures projecting over the beach, or over water, shall be mounted no higher than 42 inches above the deck surface. These shall be directed onto the deck surface only, preventing light pollution or light spillage beyond the walking surface.

3. Lighting of pier structures projecting over the beach or over water shall comply with minimum light levels set forth in applicable federal and state laws designed to protect public safety.

Guidance: Note that the pier light standards do not address light sources from illuminated screens or signage associated with restrooms or bait shops on piers.

Sec. ___-3.9. - Special Events, Motor Vehicles, and Temporary Lighting

1. Lighting associated with a special event that may directly, indirectly, or cumulatively be visible from any portion of the beach shall not be authorized at nighttime during sea turtle nesting season.

2. The operation of all motorized vehicles, except emergency and law enforcement vehicles or those permitted on the beach for sea turtle conservation in accordance with Florida Statute 379.2431 (1), or other research and conservation, shall be prohibited on the beach at nighttime during sea turtle nesting season.

3. Within sea turtle nesting season, temporary work zone lighting for roadway construction and during declared emergencies shall be directed away from the beach to avoid illumination of or direct visibility from the beach. Work zone luminaires shall be shielded to avoid lighting areas outside of the immediate construction area.

4. All other temporary construction lighting shall be:

    a. Inclusive of all the standards of this Section, including using fixtures that are long wavelength, downward directed, full cutoff, and fully shielded so light is not directly or indirectly visible from the beach, and

    b. Turned off during nighttime in sea turtle nesting season, or if authorized by the *Beach Lighting Inspector* during sea turtle nesting season, shall only be allowed from 6:00am to 9:00pm, must be restricted to the minimal amount necessary, and shall incorporate all the standards of this Section, and

    c. Mounted less than eight feet above the adjacent floor or deck, measured from the bottom of fixture, and

    d. Restricted to the minimal number of foot-candles necessary to conform to the applicable construction safety regulations.

5. Handheld and other portable temporary lighting shall not be directed toward or used in a manner that disturbs sea turtles or other coastal wildlife.

SECTION ___-4. - COMPLIANCE AND ENFORCEMENT PROCEDURES

Sec. ___-4.1. - Beach Lighting Inspector

1. A position, known as the **City/County of** _____ *Beach Lighting Inspector*, is hereby established.

Guidance: While the model creates a beach lighting inspector, local governments may choose to identify someone already on staff, such as a code enforcement officer, for the position. It is

most important that the designated individual receive appropriate training.

2. It shall be the duty of the City/County Manager to appoint the *Beach Lighting Inspector*. The *Beach Lighting Inspector* shall have the necessary training, technical knowledge, and resources to enable them to effectively carry out the duties of this office. The *Beach Lighting Inspector* may access resources provided by other local, state or federal agencies such as the *Sample Beach Lighting Survey Worksheet*, training, and other information available from the Florida Fish and Wildlife Conservation Commission.

3. The *Beach Lighting Inspector* shall be responsible for:

    a. Inspecting the entire beach within the jurisdictional boundaries of the **City/County of** _____ regularly during sea turtle nesting season to determine the extent of compliance with this Ordinance.

    b. In the event of the finding of a violation at a particular public or private property, conducting further inspections at the property at any time beginning on the night after the deadline date given on the written notice of violation. These follow-up inspections shall continue until the lighting has been brought into compliance with this Ordinance.

    c. *Beach Lighting Inspector* responsibilities may also include preparation of reports, issuance of non-compliance notices, outreach and education, supporting administrative actions before a review board or special magistrate, or attending building permit pre-application and pre-construction conferences.

    Guidance: At minimum, night time lighting surveys and compliance inspections are recommended before and during sea turtle nesting season. Compliance inspections that are conducted frequently throughout the nesting season may be beneficial to local governments in identifying and addressing noncompliant lighting.

4. It shall be unlawful for any person to interfere with, or in any manner hinder the *Beach Lighting Inspector*, or any of their assistants, while in the discharge of their duties under the terms of this Ordinance.

5. It shall be unlawful for any person to knowingly conceal or disable any lighting on a property before it has been inspected by the *Beach Lighting Inspector*.

Sec. ___-4.2. - Notice of Violation

1. Upon finding any violation of this Ordinance, the *Beach Lighting Inspector* shall deliver a written notice of the violation of this Ordinance to the property owner and direct said owner to promptly remove or remediate lighting not in compliance with this Ordinance.

2. The time allowed for making the repairs shall be stated in the notice and should the responsible party neglect or refuse to remove or remediate non-compliance within the specified time stated in the notice, the party so offending shall commit a violation of this Ordinance and be penalized as provided in Subsection ___-4.3 of this Ordinance.

Sec. ___-4.3. - Penalties

1. Any person who takes any action or omission in violation of any provision of this Ordinance and fails to resolve such violation after proper notice is provided, shall be subject to a fine of up to $____ per day per violation for initial violations, and $ ____ per day per violation for repeat violations. All penalties incurred as a result of violation of this Ordinance shall continue to accrue until such violations are cured.

2. The **City/County of** _____ shall have the right to encumber such property in violation of this Ordinance with a lien for an amount equal to the total amount of fines owed at the time such lien is recorded.

Sec. ___-4.4. - Sea Turtle Fund

1. A *Sea Turtle Fund* is hereby established within the **City/County of** _____.

2. All funds collected as a result of the issuance of fines under Section 3 of this Part shall be deposited in the *Sea Turtle Fund*. The funds in this account shall be used for:

    a. Assistance to property owners for the procurement of light systems equipment and materials that comply with this Ordinance and reduce the amount of artificial beach lighting,

    b. Educational materials to inform the general public on the threats of artificial lighting to sea turtles, including but not limited to signs, door knockers, pamphlets, stickers, public service announcements, and other awareness campaigns, and

    c. Equipment, materials and other resources supporting compliance assistance and enforcement by the *Beach Lighting Inspector.*

    d. Other reasonable efforts to protect the sea turtle population within the **City/County of** _____, including but not limited to research and conservation projects.

3. The **City/County of** _____ may contribute funding from other sources into the *Sea Turtle Fund* for uses consistent with the purposes set forth above.

SECTION ___-5. - OTHER CLAUSES

Sec. ___-5.1. - Conflict with Other Ordinances

If this Ordinance conflicts with any other Ordinance or requirement of the **City/County of** _____, then this Ordinance shall control during sea turtle nesting season. Deviations from this Ordinance shall be subject to the variance procedures as established by this City/County.

Sec. ___-5.2. - Severability

If any Section or Subsection of this Ordinance is invalidated for any reason, the effected portion may be eliminated or modified to correct the reason of invalidation, if feasible without materially altering or negating the Ordinance Goals and the principles of sea turtle lighting.

Sec. ___-5.3. - Effective Date

The **City/County of** _____ Lighting Ordinance for Sea Turtle Protection shall become effective upon recommendation by _____ and approval by the _____.

FWC SEA TURTLE LIGHTING GUIDELINES

These guidelines provide general information for all property owners living adjacent to sea turtle nesting beaches, but they are specifically designed to help property owners required to avoid and minimize lighting impacts to sea turtles as part of the State permitting programs, such as Coastal Construction Control Line (CCCL) permits and Environmental Resource Permits (ERP). In the permitting process, property owners must minimize all lights that may be visible from the beach, including all exterior, structural, decorative, and landscape lighting. This includes interior light visible through glass windows, doors and walls (either facing or perpendicular to the beach) as well as light from pools, fire pits, electronic devices such as televisions, tiki torches, etc.

FWC recommends beachfront property owners follow the **three golden rules**, "**Low-Shielded-Long**" when installing or modifying lights. All three must be used in combination to be effective, as they are all equally important!

KEEP IT **LOW**

- Fixtures must be mounted as **low as possible** to achieve required light levels.
- Bulbs must produce the **lowest wattage/lumens** necessary for the needed purpose.

KEEP IT **SHIELDED**

- Fixtures must be completely downward-directed.
- Fixtures must shield the bulb, lamp, or glowing lens from the beach.

BAD EXAMPLE: Unshielded bulb

GOOD EXAMPLE: Shielded bulb with Amber LED (long-wavelength, 560 nm or higher)

KEEP IT **LONG**

- Lamp/Bulb must produce only **long wavelength light** (560 nm or greater, which is amber, orange, or red)
    - **The Best Current Technology:** Red LED, Orange LED, Amber LED, Low Pressure Sodium (LPS)
        - Please note, phosphorus converted bulbs, such as PC amber bulbs are not true long wavelength light sources, since there are wavelength readings below 560 nm.

BAD: Incandescent bulb

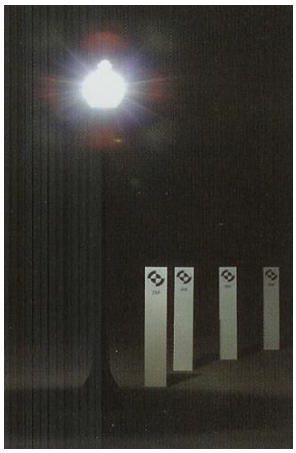
GOOD: Amber Bulb (long-wavelength, 560nm or higher)

Acceptable Fixtures
All exterior lights proposed for the seaward or shore perpendicular side of the structure should be well-shielded, full cut-off, downward directed fixtures with a long-wavelength light source (wavelength readings of 560 nanometers (nm) or higher).

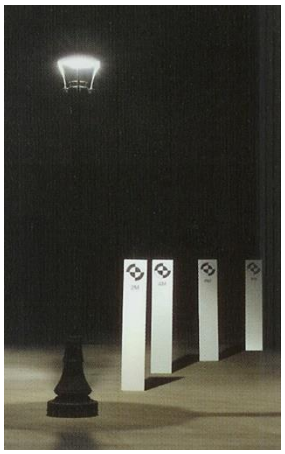
If the exterior fixtures on the landward side of the structure are **not** visible directly or indirectly from the beach, they are only required to be downward directed.

How effective are full cut-off fixtures?
Below, look at an unshielded fixture and a full cut-off fixture side-by-side. The acorn light on the left wastes about 60% of the light into the sky. The one on the right is a full-cut off fixture with a recessed bulb, which provides more light on the ground. This is a good example of how full-cut off fixtures are not only good for sea turtles, but also for human safety because they direct light where it is needed, on the ground. To make the full cut-off example even better, it should be fitted with a shield that blocks light on the beachside and a long-wavelength lamp/bulb.

Unshielded



Full Cut-Off



Acceptable Lamps / Bulbs
All fixtures visible from the beach should have a long-wavelength lamp – a bulb that looks amber or red because it only produces light with wavelengths of 560 nm or higher. White light such as metal halide, halogen, fluorescent, mercury vapor and incandescent lamps can disorient nesting sea turtles and their hatchlings, leading them away from the water. The following fixtures will minimize – but not totally remove – the risk of disorientation if properly installed in a well shielded, downward directed fixture.

- Low Pressure Sodium (LPS): 18W, 35W
- Red, Orange or Amber LED (true red, orange or amber diodes, NOT FILTERS)
- True red neon
- Other light sources that produce light of 560 nm or greater

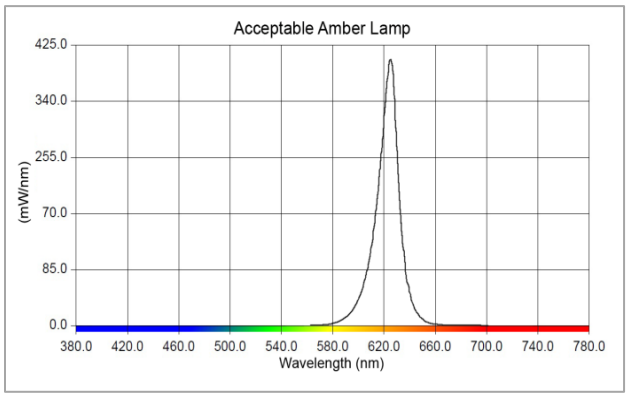
HINT: LEDs tend to be much brighter than incandescent bulbs, so be sure not to over light an area!

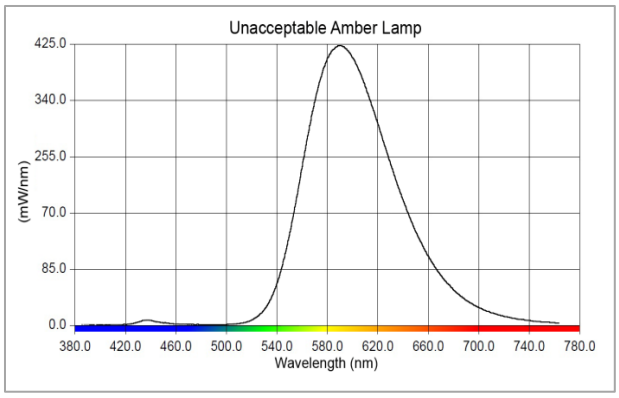
Upon review and approval by FWC, use of shorter wavelength lights may be allowed in limited areas where direct and indirect light or glow would not be visible from the beach.

A list of the Florida Fish and Wildlife Conservation Commission's Certified Wildlife Lighting, which includes acceptable lamps/bulbs for fixtures, can be found here.

How can I tell if it is a long-wavelength light source?
Specifications for the wavelength is available from the manufacturer. Specifically, you can request a spectral distribution graph, as seen below.

The graph on the left displays an **acceptable** wavelength reading for a long-wavelength light source (i.e. amber lamp), with wavelength readings above 560 nm or higher. The graph on the right displays an **unacceptable** wavelength reading, with wavelength readings below the 560 nm cutoff.





Minimizing Light
Even though a fixture/lamp combination may be Low-Shielded-Long, too many fixtures may still result in sea turtles becoming disoriented. In addition to the lowest wattage necessary for safety, light can also be minimized by installing fewer fixtures.

- Use the lowest wattage necessary.
- Use a minimal number of fixtures.
- Use only if needed for safety.

Why do I need to minimize long-wavelength light?
A common misconception is that long-wavelength lighting (i.e. LPS, Red, Orange or Amber LEDs) is not visible to sea turtles. This is FALSE. Long-wavelength lighting is less disruptive than white light, but even long-wavelength lighting that is too bright may cause impacts to sea turtles and their hatchlings! Therefore, we recommend only utilizing lights that may be visible from the beach if there are state or federal requirements for specific light levels to ensure public safety (such as stairs or egress/ingress walkways).

We **<u>do not recommend</u>** the following types of lighting, since they are not needed for safety:

- Private balcony lights
- Pond lights
- Tree Strap Downlights
- Fountain lights on seaward or shore perpendicular side of a structure
- Up lights
- Dune Walk over lights
- Decorative Lighting

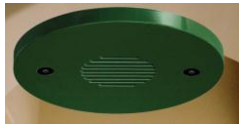
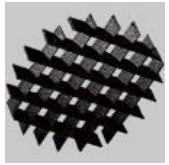
Impacts from interior lighting

State rules require that tinted glass or film with a visible light transmittance value of forty-five (45) percent or less (inside to outside) must be used on all glass windows, doors and walls within line of sight of the beach, usually the seaward and shore-perpendicular sides of the structure. However, since those rules were passed, there are now better options because of advances in tinting and more information on sea turtle disorientations. Window tints/film with transmittance values lower than 45% are available that are energy efficient, pleasing and easily seen through. The best option for minimizing lighting impacts to sea turtles is 15% transmittance, with 25-30% transmittance the most popular. Many local lighting ordinances require that interior lights cannot be visible from the beach; therefore, the use of higher transmittance tints (such as 45%) often requires installation of additional window treatments to achieve compliance with the ordinance.

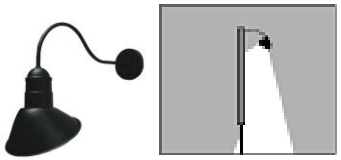
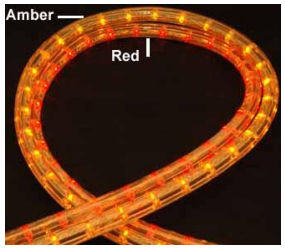
If the information above is followed, your home or building is not expected to adversely impact nesting sea turtles, their hatchlings or their habitat. Thank you for doing your part to protect Florida's sea turtles!

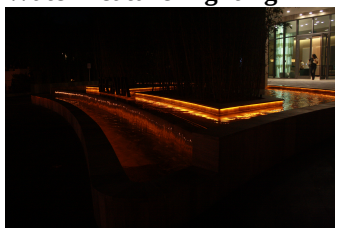
*Please email Wildlifelighting@MyFWC.com if you need additional information or help.

EXAMPLES OF TURTLE FRIENDLY FIXTURES

FIXTURE	LAMP & WATTAGE	MOUNTING TYPE & HEIGHT	LOCATION	COMMENTS and/or ADDITIONAL REQUIREMENT
Ceiling Mount Cylinder (with interior black baffles) 	Red/orange/amber LED	Ceiling Surface	If located on shore perpendicular or beach side of structure allow on ground floor only	Interior Black Baffles
Wall Mount Cylinder Down Light (with interior black baffles) 	Red/orange/amber LED	Wall Mount Downward Directed 8 ft from floor	If located on shore perpendicular or beach side of structure allow on first habitable floor only	Interior Black Baffles Hex cell louvers may be required to decrease wall wash
Recessed Ceiling Canister  	Red/orange/amber LED The following short wavelength lamps may only be used for covered driveway entry on landward side of structures • Halogen lamp • PAR spot lamps • LED lamps • HPS lamps • Compact Fluorescent	Recessed Ceiling	If located on shore perpendicular or beach side of structure allow on ground floor only	Interior black baffles Hex cell (honeycomb) louver

Recessed and Wall Mounted Step Lights (louvered or downward directed)	Red/orange/amber LED	Wall Mount Maximum height 24 inches on Ground Floor only Above Ground Floor Max height 12 inches	Ground floor, second level, and pool Deck	If on perimeter of pool deck, must be mounted directed away from beach.
Bollard (with downward directed louvers)	18w LPS Red/orange/amber LED	Maximum height 42 in	Parking areas, commercial walkway, landscape, pathway and pool deck	180° to 270° beach side shields on any fixture on perimeter of pool deck or immediately adjacent to beach.
High Intensity Full Cut Off Pole Lights	18-35 w LPS (if twin head, maximum of 36w total) Orange/amber LED	Pole - maximum height 12 feet	Parking area Landward side of structure only.	Beach side shields and/or louvers for any fixture within line of sight of beach.
Paver Lights	Red/orange/amber LED	In ground mount	Parking areas, driveways, pathways, pool decks	

Landscape/Pathway Lighting 	Red/orange/amber LED	Ground mount Maximum height 12 inches	Ground Level, landscape	
Signage 	Red/orange/amber LED	Must be mounted with light directed down on to sign. NOT UP	Sign should be on landward side of structure when possible and mounted perpendicular to the beach.	
Garage Lighting (Phoenix) 	35w LPS Amber/Orange/Red LED	Garage Ceiling	Garage	If a parking garage is not fully enclosed with solid walls, without windows, louvers, or screens so that the interior is not visible from any section of beach, only LPS or amber/orange LED lamps shall be used. Additional shields may be necessary if parking is above ground level.
Channel / Rope Lighting 	Red/orange/amber LED NOT colored plastic tubing with white lights No White LED	Must be mounted recessed under steps, bar, etc. and directed down to assure that light source or reflected light is not visible from beach	Pool deck, steps, pool bars.	

Water Feature Lighting 	Red/orange/amber LED	Light must be downward or horizontally directed DO NOT direct light up	Submerged lights are only allowed on landward side of structure and only if fully shielded from beach by structure	
Underwater Swimming Pool Lighting 	Red/orange/amber LED			
Emergency Egress Lighting 	Red LED Exit signs Full cut off downward directed Emergency egress fixtures may use short wavelength lamps			Short wavelength lamped emergency egress fixtures must be specified on fixture schedule and plans to be on separate circuit that will only illuminate fixtures during power outage

Copeia, 1991(4), pp. 1060–1069

Influences of Wavelength and Intensity on Hatchling Sea Turtle Phototaxis: Implications for Sea-Finding Behavior

BLAIR E. WITHERINGTON AND KAREN A. BJORNDAL

Visual cues are important to sea turtle hatchlings in determining seaward direction upon emerging from the nest. In this study, we examined the roles that color and intensity play in the sea-finding mechanisms employed by loggerhead (*Caretta caretta*) and green turtle (*Chelonia mydas*) hatchlings. We tested hatchling preference for a standard source of constant intensity and color (1.26×10^{15} photons s^{-1} m^{-2} at 520 nm), versus an adjustable light source (one of five monochromatic colors at each of seven photon intensities), using a two-choice apparatus. Both species oriented toward near-ultraviolet (360 nm), violet (400 nm), and blue-green (500 nm) light but chose the standard light source over yellow-orange (600 nm) and red (700 nm) light. There was a positive relationship between intensity and preference with 360, 400, and 500 nm light. We also examined hatchling choice of either a darkened window or a window lighted by one of eight monochromatic colors at each of two intensities. In these experiments, loggerheads oriented toward 360, 400, and 500 nm light but away from light in the green-yellow to yellow-orange range (560, 580, and 600 nm). Loggerheads oriented toward 700 nm light only at high intensity. Green turtles responded insignificantly to 600 or 700 nm light at either intensity. The contrast of green turtle behavioral responses with published electrophysiological data and the aversion to yellow light observed in loggerheads suggest some level of spectral quality assessment in sea finding for both species.

HATCHLING sea turtles emerge from subsurface nests on oceanic beaches, primarily at night, and immediately move toward the sea. Hatchlings not entering the ocean expeditiously suffer high mortality from predation, exhaustion, and desiccation. The sea-finding behavior of neonate hatchlings occurs to the exclusion of other predator avoidance behaviors. The robust nature of the sea-finding response in sea turtles makes it an excellent model for the study of animal orientation. A detailed description of hatchling sea-finding behavior in the green turtle (*Chelonia mydas*) is given by Carr and Ogren (1960).

Bilaterally blindfolded green turtle (Carr and Ogren, 1960) and loggerhead (*Caretta caretta*; Daniel and Smith, 1947) hatchlings are unable to orient directly toward the sea, providing the best evidence that hatchling sea finding is dependent on visual cues. Green turtle hatchlings also are attracted to artificial light sources (Mrosovsky and Shettleworth, 1968) and lightly tinted objects (Carr and Ogren, 1960) and will move in those directions irrespective of beach slope. The use of vision by sea-finding hatchlings may include an assessment of any combination of the many properties of light detectable by the eye. Properties of light studied with respect to hatchling orientation include intensity, color, direction, and shape.

Two models predict that sea-finding hatchlings will move in the brightest direction. Brightness in this sense is a measure of intensity having both the directional and spectral sensitivity properties of the hatchling in question. Models describing the mechanism by which hatchlings orient in the brightest direction involve either phototropotaxis (Mrosovsky and Kingsmill, 1985) or a direction system (Verheijen and Wildschut, 1973; van Rhijn, 1979). A third model involves shape as a visual cue (Parker, 1922; Limpus, 1971; van Rhijn, 1979). This model implies form vision and the ability to recognize differences of pattern in the silhouettes of duneward and seaward horizons. Experiments conducted by van Rhijn and van Gorkom (1983) suggest this system may be distinct from, but complementary to, either of the two previous systems.

Spectral quality assessment, or the use of color as a seaward orientation cue also has been suggested (Hooker, 1911; Mrosovsky, 1972). Differential responses to colors may be because of color discrimination as well as a spectral bias

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resulting from physiological spectral sensitivity range. Both light intensity and spectral properties play important roles in each of the visual sea-finding mechanisms above. Previous attempts to elucidate the roles of color and intensity in sea turtle hatchling orientation have been limited (Mrosovsky and Carr, 1967; Mrosovsky and Shettleworth, 1968). Primary limitations have been an inability to isolate narrow bandwidths of spectral light and to measure light intensity (e.g., irradiance) at specific wavelengths. Broad-band filters used in earlier studies allow the transmission of many wavelengths and make the assignment of hatchling response to specific colors questionable.

In this paper, we assess preferences for light intensities and narrow bandwidth color sources in loggerhead and green turtle hatchlings during their sea-finding behavior. We evaluate the spectral quality assessment model for hatchling sea finding and suggest a reassessment of models that predict "brightest direction" orientation.

Methods

Hatchlings.—Loggerhead and green turtle hatchlings for the experiments were taken from clutches transferred into a secured hatchery near Melbourne Beach, Florida, during the summer nesting season, 1988. We examined hatchery nests for signs of hatchling emergence activity at dusk beginning 50 d into incubation (incubation period approximately 50–57 d). Hatchlings typically lie just beneath the surface of the sand until decreasing nighttime temperatures prompt their emergence en masse (Mrosovsky, 1968). We collected hatchlings just after dusk, when they were ready to emerge, and transported them in darkened buckets to an indoor laboratory within 200 m of the hatchery. We kept hatchlings in the dark to ensure that they remained dark adapted and photically naive for experimental trials. Hatchlings were collected and used in experiments during a time when hatchlings are normally emerging and moving to the sea (2100–0200 h, Witherington et al., 1990). Each hatchling was used for a single trial and released the same night on the beach.

Experimental apparatus.—We used a modified T-maze (V-maze) to determine hatchling preference with respect to photic cues (Fig. 1). This apparatus was a V-shaped wooden box, with each identical arm 78 cm in length. Openings

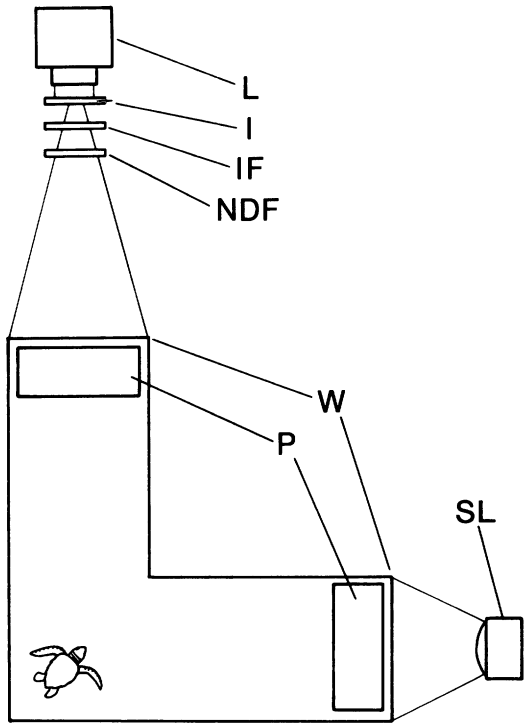

Fig. 1. Schematic diagram of a V-maze used in two-choice, color preference experiments with loggerhead and green turtle hatchlings. L = lamp; I = iris; IF = interference filter; NDF = neutral density filter; W = window; P = pitfall; SL = standard lamp.

at either end of the V-maze were 32 × 32 cm and covered with windows of diffusing acrylic. Black, flocked paper lined the inside of the box. Hatchlings were introduced into the V-maze through a 32 × 32 cm opening in the top of the box near the vertex, which was covered with a black cloth curtain. Hatchlings were covered with an opaque cup that was raised after approximately 20 s to release the hatchling for each trial. We placed hatchlings within the cup so that they pointed toward the midpoint between the two windows, although hatchlings often altered their orientation during the time preceding release. Hatchlings walking from the vertex down either alley of the V-maze would fall into a cloth pitfall pocket at the base of either window.

We positioned two light sources so they shone through each of the two windows of the V-maze (Fig. 1). One of the light sources—hereafter termed standard source—emitted light of constant color (peak emission 520 nm) and intensity

(1.26×10^{15} photons s^{-1} m^{-2} at 520 nm). This source was a conventional tungsten lamp powered with a 3.0 V DC source and fitted with a blue gel filter. We used the blue filter to reduce intensity of the standard source and to make the color of the source more easily reproduced. This standard source attracted all hatchlings (n = 20) of each species to a lighted V-maze window when no other light was presented in pretrials. A second source—hereafter termed adjustable source—could be varied in color and intensity. Light for this source originated from a 3200 K (manufacturer's specification) tungsten lamp operated at 115 V AC. We regulated spectral emission of the source with narrow band interference filters (Melles Griot, half bandwidth = 10 nm; transmission outside 20 nm bandpass <0.001%). The angle of the light source beam with the filters was 90° for all trials. We regulated intensity by use of an iris aperture and combinations of neutral density filters (Melles Griot, 3.0, 2.0, 1.0, 0.5, 0.3, 0.1, and 0.04 OD). Intensity was measured as photon flux at the hatchling release point with a LICOR LI-1800 spectroradiometer.

We conducted experiments in a room completely darkened except for the standard and adjustable sources. A series of light baffles prevented light of either source from affecting the other window. Line voltage for the sources was monitored and did not vary more than 1% during experiments.

Treatments.—To determine whether hatchling orientation might be biased toward one of the two windows, we released 42 hatchling loggerheads and 23 hatchling green turtles within the V-maze when both light sources were off. The distribution of loggerhead and green turtle hatchlings falling into pitfalls at either window of the V-maze with both light sources off could not be distinguished from random (alpha = 0.05, binomial probability test, Z = 0.179 and Z = 0.133, respectively).

To determine the relative preference of hatchlings for light of specific color and intensity, we released hatchlings within the V-maze while respective windows were illuminated with the adjustable source and standard source. In these trials—identified as adjustable source versus standard source—the adjustable source varied among five monochromatic colors and six intensities. Treatment colors were 360 nm (near-ultraviolet), 400 nm (violet), 500 nm (blue-green), 600 nm (yellow-orange), and 700 nm (deep red) peak transmission. We measured treatment intensities as photon flux and assigned values to a logarithmic scale. Intensities were (log values shown parenthetically) 2.50×10^{14} (0.7), 1.27×10^{15} (1.4), 6.31×10^{15} (2.1), 3.17×10^{16} (2.8), 1.58×10^{17} (3.5), and 1.44×10^{19} (5.5) photons s^{-1} m^{-2} at respective peak wavelengths. Log intensity 0.7 at 500 nm approximated the illuminance level measured for a moonlit night. Higher light levels are comparable to those at dawn or dusk, times at which hatchlings also must locate the sea. Because of the emission spectrum of the incandescent source, the highest log intensity (5.5) could only be reached at the longest wavelengths (600 and 700 nm). We ran one set of trials for each species with the adjustable source off (intensity = 0.0). Combinations of wavelengths and intensities constituted 28 experimental treatments. Thirty loggerhead hatchlings, each from a different clutch, were used individually for each treatment. Ten green turtle hatchlings were used in each treatment and originated from three separate clutches.

To determine the polarity of hatchling response (attraction or avoidance) to light of specific color and intensity, we released hatchlings within the V-maze with one window illuminated by the adjustable source only. In these trials—identified as adjustable source versus darkened window—the standard source window remained dark. We used eight monochromatic colors for the adjustable source in these treatments: 360, 400, 500, 540 (yellow-green), 560 (green-yellow), 580 (yellow), 600, and 700 nm peak transmission. Adjustable source intensity for one set of eight experimental treatments was 3.5 on the log scale. In a second set of eight treatments, we used maximum source intensity, and log intensity of the source varied according to the maximum emission of the incandescent lamp at each wavelength. Maximum intensity of the source at each wavelength was 3.5 (360 nm), 4.0 (400 nm), 4.8 (500 nm), 5.0 (540 nm), 5.2 (560 nm), 5.3 (560 nm), 5.5 (580 nm), 5.5 (600 nm), and 5.7 (700 nm) log units. We ran additional treatments with the adjustable source off for 17 treatments total. Thirty loggerhead hatchlings, three from each of 10 clutches, were run individually per treatment. We used 20 green turtle hatchlings from a single clutch for only the 600 and 700 nm treatments at maximum intensity.

In all trials, we excluded from the analysis hatchlings not falling into either pitfall within

2 min following their release. Less than 10% of the 1523 loggerhead and 384 green turtle hatchlings were excluded. In one to five trials conducted for each treatment, we observed the behavior of hatchlings within the V-maze through the opening at the top of the box. In treatments with both sources darkened, hatchlings were observed through active system night vision goggles using an infrared source mounted above the opening. Data from these trials were not included in the analysis of source preference. Statistical tests for nominal data were used with a null hypothesis rejection criterion of alpha = 0.05.

Results

Hatchling behavior.—In trials resulting in a hatchling choosing one of the two windows of the V-maze, hatchlings exhibited a head-up posture prior to and during movement. Whereas loggerhead hatchlings typically paused prior to moving, green turtle hatchlings were more active, in some cases appearing to move in whatever direction they initially faced. Loggerhead hatchlings moving toward lighted sources typically made direct movements without circling (27 of 29). In trials with both sources off, hatchlings often circled (6 of 10) and made their way to either pitfall by walking along the walls of the box.

Loggerhead hatchlings that fell into the darkened window pitfall in trials with 600 nm light at the adjustable source window did not travel directly to the darkened window. In all of 35 trials observed, hatchlings appeared to turn away from the 600 nm lighted window and walk against the opposite wall, attempting to climb, until they fell into the dark window pitfall. In 30 additional trials, we placed loggerhead hatchlings halfway from the maze vertex to the 600 nm source window (log intensity 3.5) facing the 600 nm source. All of these hatchlings turned away from the lighted window and moved directly to the opposite wall.

Adjustable source versus standard source.—We found a positive relationship between log intensity and the number of loggerhead hatchlings preferring the adjustable source in the shorter wavelength treatments: 360, 400, and 500 nm (Fig. 2). This relationship did not differ among these three treatments (chi-square = 1.86, df = 8). At longer wavelengths, 600 and 700 nm, the number of hatchlings choosing the adjustable source was not statistically different from zero (binomial probability test) at all intensity levels. With the adjustable source at log intensity 0, all loggerhead hatchlings chose the standard source.

The behavioral response of green turtle hatchlings to spectral light (Fig. 3) was similar to that of loggerhead hatchlings (Fig. 2). Sample sizes do not allow chi-square comparisons between green turtle and loggerhead distributions. Green turtle hatchlings showed little preference for 600 and 700 nm light at any intensity and increasing preference for 360, 400, and 500 nm light with increasing log intensity (Fig. 3).

Adjustable source versus darkened window.—Loggerhead hatchlings chose the window lighted with 360 nm (binomial probability test, $Z = 6.25$), 400 nm ($Z = 6.25$), or 500 nm ($Z = 5.43$) light at log intensity 3.5 significantly more often than the darkened window (Fig. 4a). Conversely, loggerheads presented 560 nm ($Z = -5.07$), 580 nm ($Z = -5.43$), or 600 nm ($Z = -6.25$) light at 3.5 intensity versus a dark window predominantly chose the dark window (binomial probability test). In the 540 nm ($Z = -1.02$) and 700 nm ($Z = 1.30$) trials, loggerhead hatchling preference for the adjustable source window or dark window could not be distinguished from random (binomial probability test). Loggerhead preference for the two windows, with the adjustable source at maximum intensity, was significantly different from random in all treatments (360 nm, $Z = 6.25$; 400 nm, $Z = 6.25$; 500 nm, $Z = 5.43$; 540 nm, $Z = 3.01$; 700 nm, $Z = 4.56$) except for the 560 nm ($Z = 0.08$) and 580 nm ($Z = 1.35$) trials (Fig. 4b, binomial probability test). In trials with 360, 400, 500, 540, or 700 nm light, the lighted window was significantly preferred, but in 600 nm trials ($Z = -6.25$), all loggerhead hatchlings chose the dark window over the lighted window (binomial probability test).

In the only trials of this type run with green turtles, more hatchlings chose the lighted window when presented 600 nm ($n = 14$ of 20) and 700 nm ($n = 11$ of 20) light at maximum intensity, but the distributions cannot be distinguished from random ($Z = 1.52$ and $Z = 0.471$, binomial probability test). Loggerhead and green turtle preference for either window of the V-maze in trials with both windows darkened was not different from random (loggerheads, $n = 30$, $Z = 0.520$; green turtles, $n = 30$, $Z = 0.252$; binomial probability test).

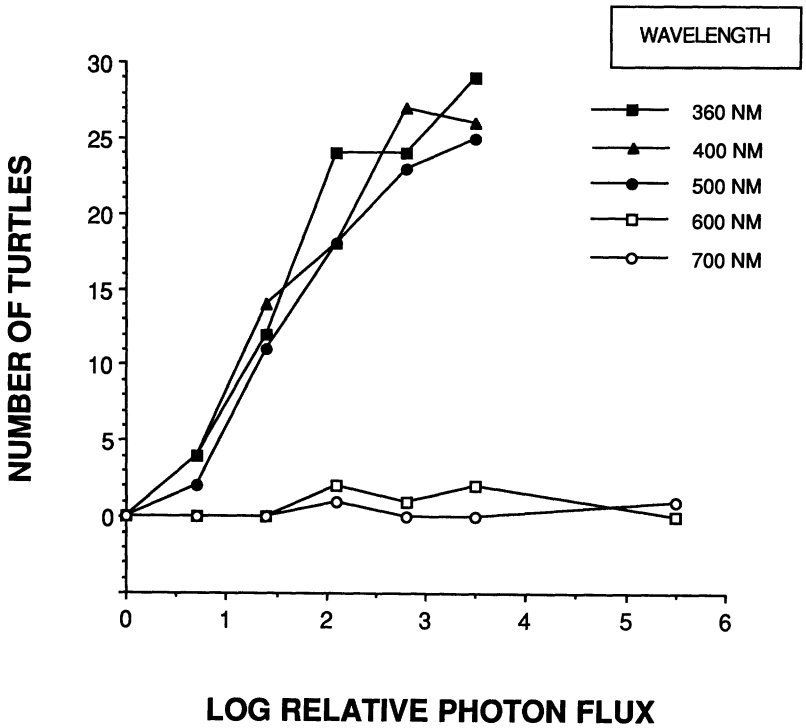

Fig. 2. The number of loggerhead hatchlings out of 30 choosing a light source varying among the wavelengths and intensities specified, over a source of constant color and intensity. All represented hatchlings chose one of the two sources. Colors are near-ultraviolet (360 nm), violet (400 nm), blue-green (500 nm), green (540 nm), green-yellow (560 nm), yellow (580 nm), yellow-orange (600 nm), and deep red (700 nm).

Discussion

Range of spectral sensitivity.—This study gives an indication of a minimal spectral sensitivity range for loggerheads and green turtles. Detailed information on the spectral sensitivity of sea turtles exists only for the green turtle (Ehrenfeld, 1968; Granda and Dvorak, 1977). The action spectrum based on electrophysiological data provided by Granda and O'Shea (1972) shows a greater spectral sensitivity in the shorter wavelengths but does not extend to wavelengths shorter than 400 nm. Work by Ehrenfeld (1968) with green turtles demonstrates that adult females can locate the sea after nesting when fitted with goggles transmitting primarily near-ultraviolet light (300–400 nm). The goggles in these experiments did, however, transmit approximately 1% of the light in the 400 to 700 nm range, a substantial amount for the daytime trials conducted. Because of the narrow spectral bandwidths transmitted by the interference filters we used and the minimal leakage outside the specified spectral bands, we can assign minimal spectral limits ±10 nm to green turtle and loggerhead vision. We have shown that green turtle vision extends at least from the near-ultraviolet (360 nm) to green (500 nm). Vision in loggerhead turtles extends minimally from the near-ultraviolet (360 nm) to the red (700 nm).

One cannot quantify physiological spectral sensitivities using our preference data because of possible behavioral bias in the way the turtles react to spectral light. A naive analysis of the first series of treatments (Fig. 2), for instance, may discount the ability of loggerheads to see longer wavelengths (600 and 700 nm), an ability demonstrated by the nonrandom choice of the dark window in trials with 600 nm light (Fig. 4a–b) and the lighted window in trials with 700 nm light (Fig. 4b). The nonrandom response of loggerhead hatchlings to 700 nm light only at log intensity 5.7 may indicate that this wavelength borders the spectral sensitivity range of this animal. It is also possible that hatchlings responded to light of other wavelengths trans-

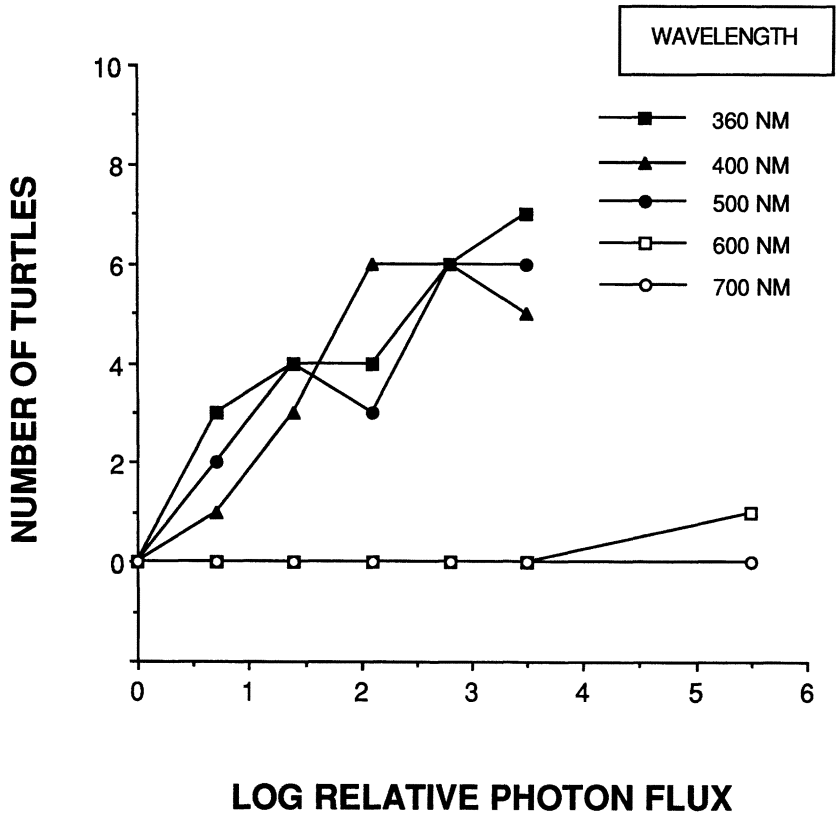

Fig. 3. The number of green turtle hatchlings out of 30 choosing a light source varying among the wavelengths and intensities specified, over a source of constant color and intensity. All represented hatchlings chose one of the two sources.

mitted by the 700 nm filter, although this light would have been more than four orders of magnitude less intense than the 700 nm light.

In comparison with the pond slider *Trachemys scripta*, vision in sea turtles extends farther into the shorter wavelengths (near-ultraviolet) and, at least in the case of the green turtle, diminishes more abruptly in the longer wavelengths (Granda and Dvorak, 1977). Heightened sensitivity in the near-ultraviolet and other short wavelengths might be characterized as an adaptation for vision in seawater where longer wavelength light attenuates more abruptly with depth (Loew and Lythgoe, 1985).

Spectral light and sea-finding.—A comparison of the green turtle action response measured by Granda and O'Shea (1972) with our measurements of behavioral response to spectral light (Fig. 5) reveals a behavioral bias against longer wavelength light. Care should be taken in drawing conclusions from the comparison in Figure 5. The electroretinogram (ERG) and behavioral data were taken in different ways, although each constitutes a spectral sensitivity of sorts. The ERG curves are adapted from work by Granda and O'Shea (1972) and illustrate light intensities at each color necessary to evoke respective high and low criterion voltage responses at the dark-adapted green turtle eye. The behavioral curve is from the present study and illustrates the number of dark-adapted green turtle hatchlings choosing each color at a single intensity over a light source of standard intensity and color. The behavioral curve is from the data of Figure 3 for log intensity 3.5. The trend shown in Figure 5 is similar for all light intensities in the green turtle behavioral experiments we conducted (Fig. 3). That is, whereas both ERG curves show a peak sensitivity surrounding 600 nm, light in the 600 nm range is relatively unattractive to orienting green turtle hatchlings

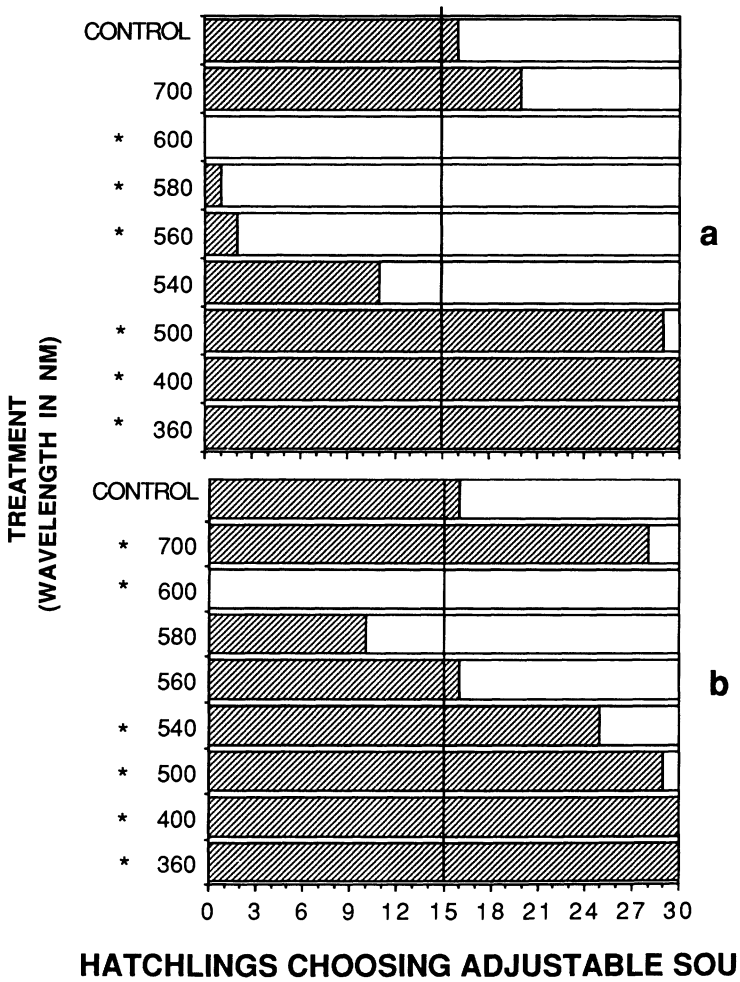

Fig. 4. The number of loggerhead hatchlings choosing an adjustable light source varying among the wavelengths specified, at an intensity of 3.5 log units (a) and at maximum source intensity (b). A darkened window served as the alternate choice. During the control treatment, lighting remained off. All represented hatchlings chose either the darkened window or the light source. Distributions marked with an asterisk (*) are significantly different from random (binomial probability test, $P < 0.05$).

(Fig. 3). This contrast holds when comparisons are made to ERG data taken from light-adapted green turtles as well (Granda and O'Shea, 1972). Mrosovsky (1972), using broad-band blue and red light, also observed discrepancies between behavioral responses of green turtles and the action spectra provided by Granda and O'Shea. Although evidence suggests that green turtle hatchlings use some assessment of spectral quality in sea finding, behavioral experiments that more closely match ERG methods are needed to quantify this pattern.

A phototactic response positively biasing short-wavelength light also has been found among a variety of anurans (Hailman and Jaeger, 1974). Those workers have rejected the contention of Muntz (1962) that the response is an escape mechanism directly resulting in water finding but instead propose an "open sky" attraction hypothesis. In the case of hatchling sea turtles, phototaxis with a spectral bias for short-wavelength light, either reflected from a blue ocean or scattered from a blue sky, may result in seaward orientation under a majority of conditions.

Although no action spectrum exists that would allow a physiological-behavioral comparison to be made for the loggerhead, the manner in

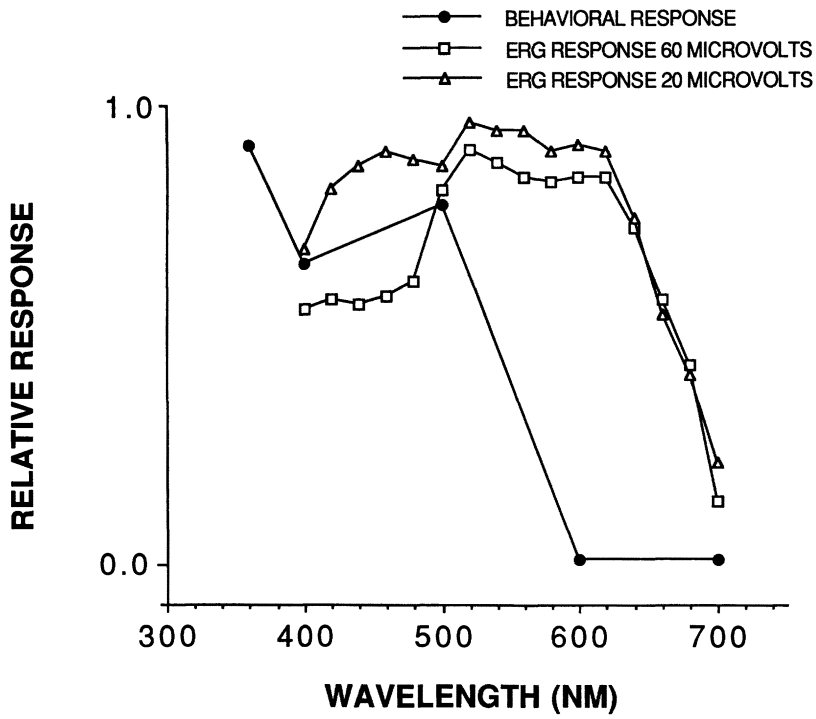

Fig. 5. Behavioral and action responses to spectral light in hatchling green turtles. Relative response for the behavioral curve is the proportion of green turtle hatchlings choosing a light source varying among the wavelengths specified at log intensity 3.5 (1.44×10^{17} photons s^{-1} m^{-1}), over a source of constant color and intensity. Action response curves are adapted from Granda and O'Shea (1972) and represent log sensitivity among wavelengths, as measured by electroretinography (ERG). Relative response for the ERG curves is intensity sufficient to evoke 60 and 20 microvolt criterion responses. The high and low criterion response curves represent high and low light intensity levels. Absolute intensity for the ERG light source was reported to be 2.7×10^{17} photons s^{-1} m^{-2} at 580 nm.

which loggerhead hatchlings behave toward spectral light indicates that they too may use spectral cues in sea finding. Whereas loggerhead hatchlings orient positively to near-ultraviolet, violet, green, and red light (Fig. 2), they avoid yellow and yellow-orange light (Fig. 4a–b). The aversion that loggerhead hatchlings show toward yellow light, or xanthophobic response, has also been observed in loggerhead hatchlings orienting on a natural beach when presented 590 nm monochromatic yellow light from a low pressure sodium vapor (LPS) light source (Witherington and Bjorndal, 1991). Regardless of distance, no loggerhead hatchling was attracted to the LPS light source. In one of the first papers describing sea finding in sea turtles, Hooker (1911) reported that loggerhead hatchlings on a beach during the day responded negatively to panes of glass transmitting primarily orange-red light. Hooker could not be certain, however, that this response indicated a reaction to color. Responses identical to those Hooker observed are predicted from hatchlings exhibiting simple phototaxis. The responses observed from loggerhead hatchlings in the laboratory (present study) and on the beach (Witherington and Bjorndal, 1991), however, strongly suggest a response to color. If the behavior we observed was simply a response to light of a specified brightness, the same response would have been expected to wavelengths and intensities other than the two intensities of yellow wavelengths (Fig. 4a–b).

A negative response to long-wavelength light (576 and 605 nm) during escape behavior has been reported for the leopard frog (*Rana pipiens*) (Fite et al., 1978). Because the normal escape response of this frog is toward water, this mechanism may share functional similarities with that of the loggerhead. One function

of xanthophobia in loggerhead hatchlings may be to reduce the attraction of light sources with a substantial participation of long-wavelength light. Such an adaptation could be advantageous if long-wavelength light sources with the potential to disrupt the sea-finding ability of a directional or phototropotaxis mechanism were common in nature. Rising and setting celestial bodies appear as predominantly long-wavelength sources because of the short-wavelength scattering effect of the atmosphere and have the potential to disrupt hatchling sea finding. Some controversy exists regarding whether the rising sun affects sea finding in sea turtles. Whereas Ehrenfeld and Carr (1967) and van Rhijn (1979) report that green turtles and hawksbill turtles (*Eretmochelys imbricata*) are affected insignificantly by the sun on the horizon, Mrosovsky (1970) and Mrosovsky and Kingsmill (1985) report that loggerhead, green, and hawksbill turtles are significantly affected. The loggerhead hatchlings in Mrosovsky's study orienting at sunrise or sunset without the contrast of a dune horizon still moved in the general ocean direction. It is remarkable that the sun, as an intense opposing light source, affected orientation in these experiments as little as it did.

The positive response of loggerhead hatchlings to 700 nm light at high intensity shows that a comprehensive bias against long-wavelength light does not exist. In addition to being on the periphery of color sensitivity in loggerheads, 700 nm light may also fall outside their ability for color discrimination. The variation in response of loggerhead hatchlings to 540, 560, and 580 nm light at varying intensity indicates that the xanthophobic response is not independent of light intensity.

Models of mechanisms by which sea turtles achieve a seaward orientation commonly employ the term brightness to denote the cue that guides hatchlings to the ocean (Verheijen and Wildschut, 1973; van Rhijn, 1979; Mrosovsky and Kingsmill, 1985). Unfortunately, brightness in this usage is not a currently measurable value. Brightness from the perspective of the sea turtle hatchling must certainly incorporate intensity in proportion to a species-specific action spectrum. Could perceived brightness, however, be influenced by other biased responses to color? Brightest-direction models must incorporate a definition for brightness that considers such complexities if those models are to explain the orientation behavior we observed in loggerhead and green turtle hatchlings.

Acknowledgments

We thank Florida Power and Light Company, the National Fish and Wildlife Foundation, and the United States Fish and Wildlife Service for funding this study. We are especially grateful to E. Possardt and R. Wilcox for their support. J. Provancha and R. Wheeler of Bionetics Company provided the spectroradiometer in addition to technical counsel. L. Ehrhart graciously allowed us access to his study area, and T. Holderfield and W. Hancock aided in the field work. A. Bolten provided invaluable advice throughout the study, J. Brockmann and N. Mrosovsky reviewed earlier drafts of the manuscript, and J. Miranda aided in the construction of the apparatus.

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ARCHIE CARR CENTER FOR SEA TURTLE RESEARCH AND DEPARTMENT OF ZOOLOGY, UNIVERSITY OF FLORIDA, GAINESVILLE, FLORIDA 32611. Accepted 19 Nov. 1990.

1. **Requested Motion:**

Meeting Date: August 1, 2022

Consider VAR20220031 for 177 Hercules Dr. allowing two variances for setbacks for a new garage and porch.

Why the action is necessary:

The applicant's design requires variances due to their layout and proximity to the property lines. An approval from the Council is required for a variance.

The applicants are seeking variances from LDC Sec. 34-638 (Table 34-3)(*ord. 22-01*) of fifteen-feet (15) and five-feet (5), to construct a single-family home closer to rear (north-northwest line); and

A variance to the maximum linear length of porches that extend into the primary structure street setback (southernmost line) allowing a total of forty-eight-feet (48) of length rather than the maximum of thirty-five-feet as described in sec. 34-638(d)(2)(b)(3)(*ord. 22-01*).

Variances are approved by Town Council by a Resolution.

What the action accomplishes:

Collectively, the variances allow for the structure to be 'pushed' landwards where the existing structure is currently located while accomplishing the wishes of the owners which is to have a newer structure for family with more outdoor living space and accommodation for more parking.

The requested variances are for both structure setbacks to overcome the shallow depths of the lot, compared to the relatively wide width of the property on a street-side setback. The variance regarding the length of porches built streetward of minimum house setbacks are aesthetic in nature and are used to break-up massing of the structure.

2. **Agenda:**	3. **Requirement/Purpose:**	4. **Submitter of Information:**
PUBLIC HEARINGS	Resolution	

5. **Background:**

Allen E. and Cynthia A. Shanosky, the applicants for 177 Hercules Drive, are requesting 2 variances from the Town’s Land Development Code (LDC):

1. Rear Setback (north-northwest line): sec. 34-638 (Table 34-3), requesting a variance of fifteen-feet (15) for the garage from the twenty-foot (20) rear setback, providing a five-foot primary-structure setback.

2. Porch Length Limitations: sec. 34-638(d)(2)(b)(3)(*ord. 22-01*) limiting the width of porches to a maximum of thirty five-feet (35) if they protrude into the twenty five-foot (25) street setback (southernmost line). The applicant is proposing to construct a porch that is forty eight-feet (48) wide within the primary-structure street setback which is thirteen-feet (13) greater than the thirty five-foot maximum (35).

Based on the criteria in LDC Sec. 34-87, Town staff has recommended denial of the two variances.

Attachments:

1. VAR20220031_177 Hercules Variances_DRAFT RESOLUTION-C_JS
2. 11314093-Variance 4- supplemental app
3. 11314096-Variance 1- supplemental app
4. 177 Hercules Dr_Staff Report_TC_JS_JG_SP
5. 11314138-Cover letter- Exhibit A-Exhibit 6-3
6. REVISED SITE PLAN_177-HERCULES-DRIVE
7. 34-638(5)(a)(2) Analysis_A2.1
8. 11314097-177 Hercules Dr- Public Hearing
9. Neighbor Neutral Letter_1
10. Neighbor Request For Denial_collected
11. Neighbor Support Letters_collected

Financial Impact:

N/A

6. **Alternative Action**

Approve with conditions:

1. *Any additional accessory structures –including but not limited to screen cages, storage structures, pools etc.—shall be no closer than 25-feet to the seawall or other relevant riparian measurement point.*
2. *All impervious materials shall be no closer than 5-feet to any property line and no materials –including, but not limited to walkways, driveways, etc.—shall cross any property line.*

7. **Management Recommendations:**

Denial

8. **Recommended Approval:**

Jason Smalley, Senior Planner	Created/Initiated - 7/28/2022
Daphnie Bercher, Community Services Administrator	Approved - 7/28/2022
John R Herin Jr, Town Attorney	Approved - 7/28/2022
Amy Baker, Town Clerk	Approved - 7/28/2022
Roger Hernstadt, Town Manager	Final Approval - 7/28/2022

RESOLUTION NUMBER 22-27

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA APPROVING/APPROVING WITH CONDITIONS/DENYING A VARIANCE VAR-20220031 TO REDUCE REAR SETBACK BY FIFTEEN FEET (15) TO NO LESS THAN A FIVE FOOT (5) SETBACK; INCREASE THE MAXIMUM ALLOWED LINEAR LENGTH OF PORCHES WHICH EXTEND INTO THE STRUCTURAL STREET SETBACK BY THIRTEEN FEET (13) FROM THIRTY-FIVE FEET (35) TO ALLOW FOR FORTY-EIGHT FEET (48) OF PORCH LENGTH; ON THE PROPERTY LOCATED AT 177 HERCULES DRIVE; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, Florida Statutes provide that municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal service, and exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, Article X of the Town Charter of the Town of Fort Myers Beach empowers the Town to adopt, amend, or repeal such ordinances and resolutions as may be required for the proper governing of the Town; and

WHEREAS, applicants Cynthia A. Shanosky and Allen E. Shanosky ("Applicants") are requesting a variance of fifteen-feet (15) to the rear yard setback, providing no less than five-feet (5) of setback, and a variance of thirteen-feet (13) to the porch length within the front primary-structure setback ("Variances"); and

WHEREAS, the STRAP number for the subject property is 29-46-24-W2-0050E.0070 ("Property"); and

WHEREAS, the Property is located in the "Low Density" category of the Future Land Use Map of the Comprehensive Plan and the "Residential Single-Family" zoning district of the Official Zoning Map of the Town of Fort Myers Beach, Florida; and

WHEREAS, a public hearing on this matter was legally noticed and held before the Local Planning Agency ("LPA") on June 14, 2022, and at said hearing the LPA gave full and complete consideration to the request of Applicant, recommendations of staff, the documents in the file, and the testimony of all interested persons, as required by Section 34-87 of the Town Land Development Code ("LDC"). The LPA voted unanimously to recommend approval of the rear-setback variance of fifteen-feet (15) and deny the remaining three variance requests.

WHEREAS, on August 1, 2022, the Town Council held a duly noticed public hearing to fully consider the request of the Applicant, the recommendations of Town staff and the LPA, the documents in the record, and testimony of all interested persons as required by Section 34-87 of the LDC; and

WHEREAS, the Town Council determined it is in the best interest of the Town to approve/approve with conditions/deny the Variances.

NOW THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AS FOLLOWS:

Section 1. The above recitals are true, correct, incorporated herein by this reference, and adopted as the legislative and administrative findings of the Town Council.

Section 2. The Town Council determines the Applicant did/did not meet its burden of proof that the requested Variances do/do not meet the requirements of the Town Comprehensive Plan and LDC, and approving the Variances is/is not in the best interest of the Town. Therefore, based upon the recommendations, testimony, and evidence presented by the Applicant, Town staff, and interested parties and public, the Town Council APPROVES/APPROVES WITH CONDITIONS/DENIES the Variance of fifteen-feet (15) to the eleven-foot (20) side-yard setback, and APPROVES/APPROVES WITH CONDITIONS/DENIES the Variance of thirteen-feet (13) from the maximum allowable length of thirty five-feet (35) for porches which extend into the front setback to allow a maximum forty eight-feet (48) of porch length.

Section 3. In approving/approving with conditions/denying the Variance, the Town Council makes the following findings and conclusions in accordance with the requirements of Sections 34-87 of the LDC:

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/is not essential to protect public policy;

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;

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

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

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.

Section 4. If the Town Council approves the requested Variance, the following conditions of approval are imposed on the Applicant and the Property:

1. Any additional accessory structures –including but not limited to screen cages, storage structures, pools etc.—shall be no closer than 25-feet to the seawall or other relevant riparian measurement point.

2. All impervious materials shall be no closer than 5-feet to any property line and no materials –including, but not limited to walkways, driveways, etc.—shall cross any property line.

3. Applicants must provide a stormwater plan that will retain the first 1-inch of volume on-site

4. If all three contiguous lots which are currently owned by applicants (177 Hercules Drive; STRAP: 29-46-24-W2-0050E.0070, 4050 Bayside Road; STRAP: 29-46-24-W2-0050D.0120 and 167 Hercules Drive; STRAP: 29-46-24-W2-0060B.0170) are developed under control of applicants all three sites must develop stormwater management which is no less stringent than the Town's commercial standards.

The foregoing Resolution was adopted by the Town Council upon a motion by Council Member Atterholt and seconded by Mayor Murphy, and upon being put to a vote, the result was as follows:

Raymond P. Murphy, Mayor	___
Rexann Hosafros, Vice Mayor	___
Dan Allers	___
Jim Atterholt	___
Bill Veach	___

ADOPTED this 1st day of August, 2022 by the Town Council of the Town of Fort Myers Beach, Florida.

FORT MYERS BEACH TOWN COUNCIL

_____
Raymond P. Murphy, Mayor

ATTEST:

_____
Amy Baker, Town Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE USE AND RELIANCE OF THE TOWN OF FORT MYERS BEACH ONLY:

_____
John R. Herin, Jr., Town Attorney

This Resolution was filed in the Office of the Town Clerk on this ___ day of August 2022.

variance #4

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:	177 Hercules Drive
Authorized Applicant:	Cynthia Shanosky
LeePA STRAP Number:	29-46-24-W2-0050E.0070

Current Property Status:	Single-family residential		
Current Zoning:	RS		
Future Land Use Map (FLUM) Category:	Low density		
Comp Plan Density:	4DUA	**Platted Overlay?**	___Yes X No

Variance is requested from:

LDC Section Number	**Title of Section or Subsection**
34-638	(d)(2)b.3. Porches, balconies and stoops

Complete the narrative statements below for EACH variance requested.

Case # _____ Date Received: _____

PART I
Narrative Statements

Request for variance from 34-638-d2b3 **(LDC Section number)**

Explain the specific regulation contained in this section from which relief is sought:
Relief is sought from the regulation requiring "porches, balconies, and stoops which extend into the front setback, may not extend 35 feet in width."
See attached Exhibit A - page A1.1

Reasons for request

Explain why the variance is needed:
The variance is needed to construct a porch that is 49 feet in width.

Case # _____ Date Received: _____

Explain the possible effect the variance, if granted, would have on surrounding properties:
The possible effect the variance would have on surrounding properties is a very positive effect in both the visual appearance of the home as well as increasing the view corridor to Estero Bay. The addition of this outdoor living space fulfills the owners need for ample living space in a newly-constructed, three-bedroom, waterfront home with a much smaller property coverage than the typical newly-contructed home in the area (22% coverage versus the allowacble 40% coverage.) In addition, this single-family home will be constructed 55 feet from the Estero Bay instead of the required minimum of 25 feet from the water. This design greatly increases the view of the water from both our adjacent home-owners, and the view-corridor of the water from Hercules Drive neighborhood, and visitors to the public pier and park at the end of Hercules Drive. This home is a timeless, traditional "Old Florida" design, with beautiful porches that adds beauty to the community.

Explain the hardship (what is unique about the property) that justifies relief from the regulation:
Since property's frontage is Hercules Drive, the building envelope is long and narrow, and only 30 feet wide. In an effort the save the property's 100+ year old southern live oak trees on the western side, maximum the water view-corridor on the eastern side, and build a waterfront home with ample living space, relief is being requested to build a beautiful, timeless-designed home in a narrow building envelope. This porch allows homeowner greater distance from the recently created public park assuring the ability to peaceful, quiet enjoyment in a covered, exterior space. The homeowner designed to to the previous Code with MHK Architects, and plans were in the engineering phase when the new building codes were adopted.

Explain how the property qualifies for a variance. Direct this explanation to the guidelines for decision-making in LDC Section 34-87.
1. There are exceptional or extraordinary conditions inherent to to 177 Hercules Dr. because of the narrow 30 feet wide building envelope. The homeowners merely want to satify the need for living space (outdoor) while still being able to save all of the old southern live oaks, and maximizing the Estero Bay veiw corridor for others. In addition, the homeowners wish to keep their living areas as far back from the Town's public pier and park and waterline as to create greater privacy and peace and quiet.
2. The conditions jusitifying the adoption of the variance are NOT the actions of us. The public park was created 17 years after we purchased 177 Hercules Drive. The homeowners' building plans were in engineering when the new regulation was adopted.
3. The homeowner is building the minimum size home for the five members of their family. The three bedroom home emphasizes outdoor spaces, instead of indoor spaces. By doing such, a home. only 22% of the 40% allowable property coverage is being planned.
4. It is our belief that allowing the porch at 49 feet in width allows the homeowners to build a beautiful "Old Florida" home while at the same time maximizing Estero Bay water views and saving the 100+ year old oaks.We believe the granting of this variance will yield beauty of both nature and architecture for the community. Therefore, not only is the passing of this ordinance not detrimental to the public, it will be very beneficial with a thoughtful design (see Exhibit C).
5. It is more reasonable and practical to amend the regulation since this is a very unique property which is adjacent to a newly created public park. The homeowners are merely seeking relief so as to position their outside space (porch) as far from the busy park as possible. Code should be amended to provide relief for properties in identical situations.

not NO! common

Not making footprint

PART 2
Submittal Requirements

All applications for a variance must be submitted electronically through our Iworq portal - 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

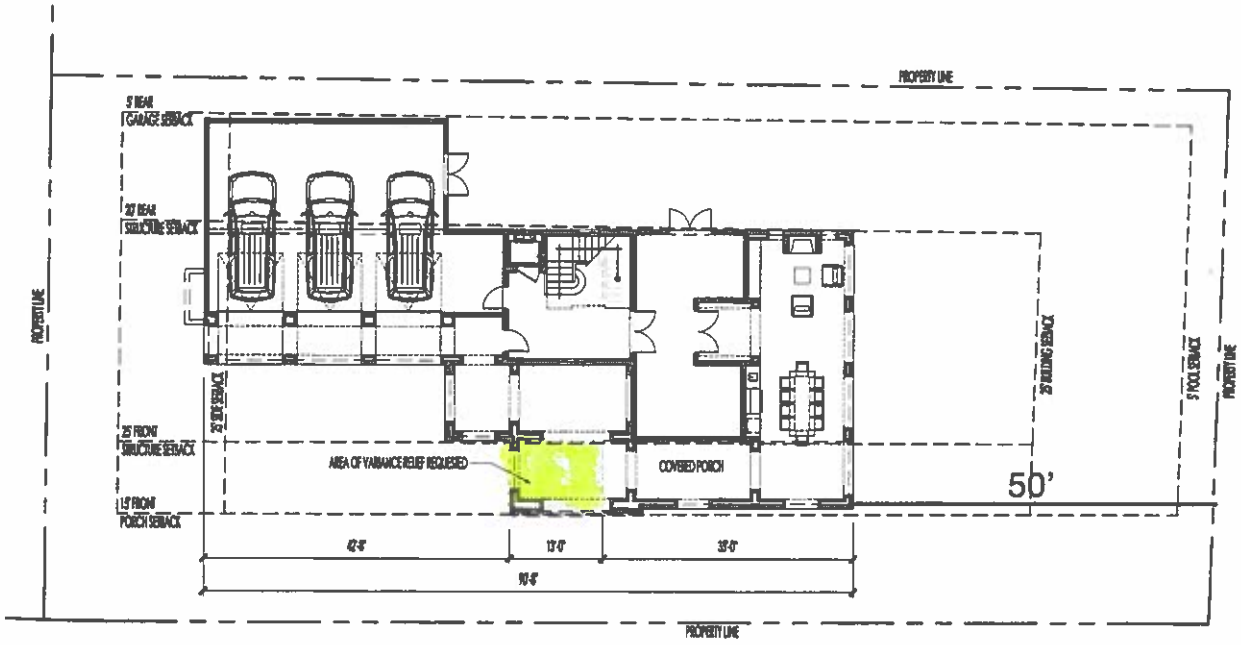
The guidelines for decision-making regarding a request for a variance are as follows:

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;

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.

Exhibit A-A1.1 - Porch Width Variance Request



SITE PLAN 1

MHK ARCHITECTURE & PLANNING
2309 TAMIAMI TRAIL E
NAPLES FLORIDA 34112
PHONE (239) 331 7092
WWW.MHKAP.COM

LOT 1
177 HERCULES DRIVE
FORT MYERS BEACH, FLORIDA

NOT FOR CONSTRUCTION

FLORIDA REAL REG # AR 18875

ISSUE DATE
DD SET 04-11-2022

DRAWN BY JS, JM, LN
CHECKED BY JC, TL

PHASE DD
PR NO 18184

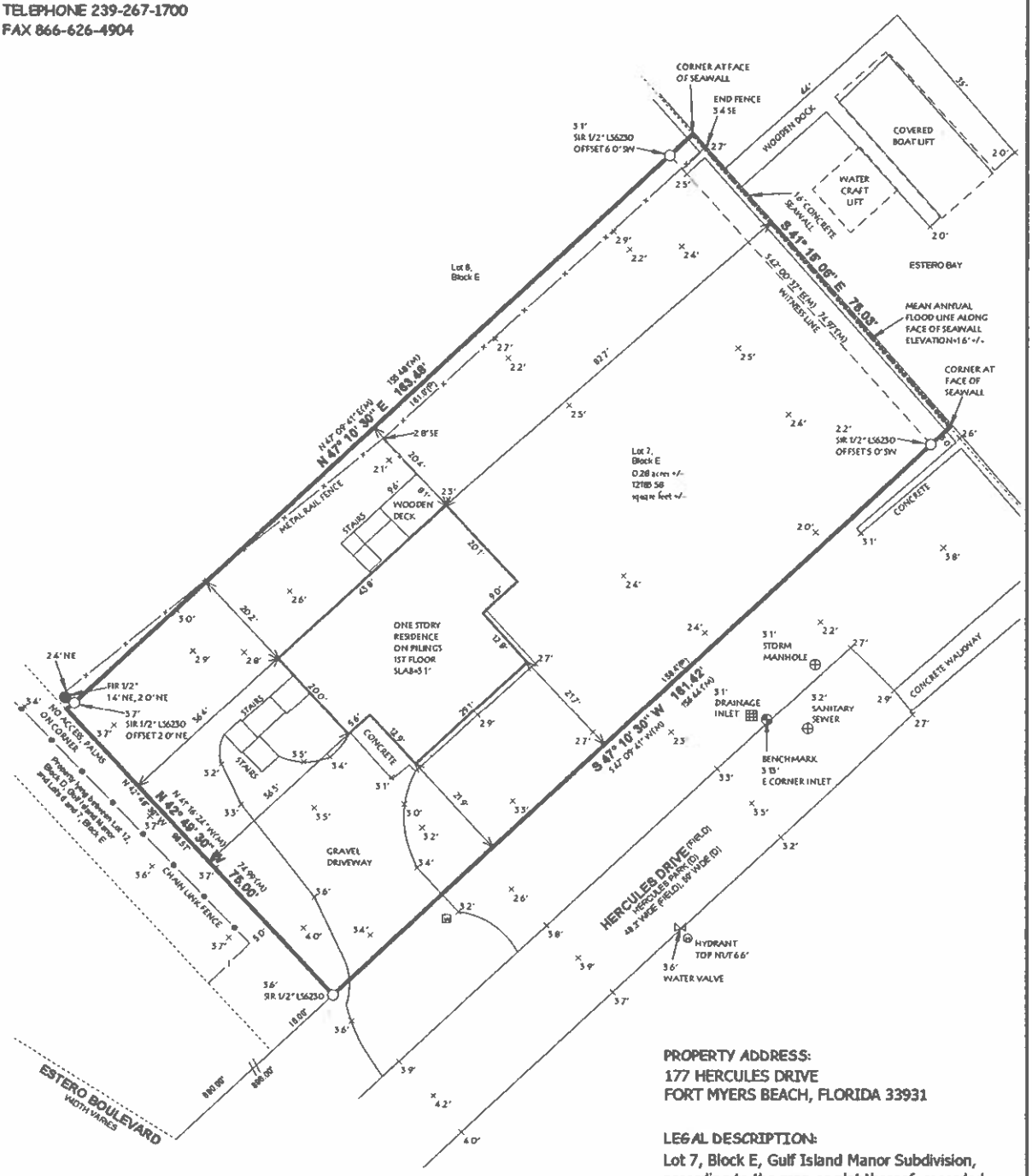
A1.1

EXHIBIT 6-2

MICHAEL YOUNG LAND SURVEYING
18714 SPRUCE DRIVE W.
FORT MYERS, FL. 33967
YOUNGSURVEYING@AOL.COM
TELEPHONE 239-267-1700
FAX 866-626-4904

BOUNDARY SURVEY

FILE NO: 21116
SURVEY DATE: 3-23-21



PROPERTY ADDRESS:
177 HERCULES DRIVE
FORT MYERS BEACH, FLORIDA 33931

LEGAL DESCRIPTION:
Lot 7, Block E, Gulf Island Manor Subdivision, according to the map or plat thereof, recorded in Plat Book 8, Page 68, Public Records of Lee County, Florida.

NOTES:

1) DIMENSIONS ARE IN FEET AND DECIMALS THEREOF AND ARE TAKEN FROM THE RECORDED PLAT UNLESS OTHERWISE NOTED
2) BEARINGS SHOWN HEREON ARE BASED ON THE NORTHWESTERLY R/W LINE OF HERCULES DRIVE TO BEAR IN 47° 10' 30" E, AS SHOWN ON THE R/W MAP OF ESTERO BOULEVARD
3) LEGAL DESCRIPTION, AS SHOWN, WAS PROVIDED BY CLIENT
4) ONLY IMPROVEMENTS SHOWN WERE LOCATED
5) UNDERGROUND UTILITIES WERE NOT LOCATED
6) PARCEL SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS RIGHT-OF-WAYS OF RECORD
7) ABSTRACT NOT REVIEWED AND OPINION OF TITLE NOT DETERMINED
8) ELEVATIONS, IF SHOWN, ARE BASED ON NORTH AMERICAN VERTICAL DATUM 1988 (NAVD88) BENCHMARK USED G-245
9) THE PARCEL SHOWN HEREON LIES IN FLOOD ZONE AE EL10' AS SHOWN ON FLOOD INSURANCE RATE MAP 120673 0558 F, EFFECTIVE DATE 8-28-08

SCALE 1" = 20 FEET
10 0 10 20

LEGEND:

A/C = AIR CONDITIONER
CONC = CONCRETE
CALC=CALCULATED
CP = CONCRETE PAD
CTV = CABLE TELEVISION SERVICE BOX
DE = DRAINAGE EASEMENT
D/W = DRIVEWAY
E = ELECTRIC SERVICE BOX
EL = ELEVATION
FCM = FOUND CONCRETE MONUMENT
FIR = FOUND IRON ROD
FIP = FOUND IRON PIPE
FND = FOUND NAIL & DISK
M = MEASURED
NAVD88=NORTH AMERICAN VERTICAL DATUM 1988
NO = NUMBER
O/S = OFFSET
O.R. = OFFICIAL RECORDS
P = PLAT
POB = POINT OF BEGINNING
POC = POINT OF COMMENCEMENT
PUE = PUBLIC UTILITY EASEMENT
R/W = RIGHT-OF-WAY
RCP = REINFORCED CONCRETE PIPE
SIR = SET 1/2" IRON ROD & CAP LS 6230
SND = SET NAIL & DISK LS 6230
TOB = APPROXIMATE TOP OF BANK
TS = TELEPHONE SERVICE BOX

= LIGHT POLE
= POWER POLE
= WATER METER
= UNDERGROUND TELEPHONE BOX
= CABLE TELEVISION SERVICE BOX
= FIRE HYDRANT
= FOUND CONC MONUMENT
= FOUND IRON ROD
= FOUND NAIL
= SET NAIL & TAB LS 6230
= SET 1/2" IRON ROD & CAP LS6230
= WATER VALVE
= TRANSFORMER
= SANITARY MANHOLE
= WELL HEAD
= APPROX. CENTER OF SEPTIC TANK
= WOODEN PRIVACY FENCE
= CHAIN LINK FENCE
= OVERHEAD POWER LINES
= CENTERLINE SINGLE
= TOP OF BANK
Δ = CENTRAL ANGLE
R = RADIUS
L = ARC LENGTH

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

03-31-2021
DATE SIGNED

MICHAEL S YOUNG
PROFESSIONAL SURVEYOR AND MAPPER
LS6230

CERTIFIED TO:
SHANOSKY, ALLEN and CYNTHIA

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:	177 Hercules Drive
Authorized Applicant:	Cynthia Shanosky
LeePA STRAP Number:	29-46-24-W2-0050E.0070

Current Property Status:	Single-family residential
Current Zoning:	RS
Future Land Use Map (FLUM) Category:	Low density
Comp Plan Density:	4DUA
Platted Overlay?	___Yes _X_No

Variance is requested from:

LDC Section Number	Title of Section or Subsection
34-638	Table 34-3 from Secs. 34-653-660
	Rear setback residential, single-family, waterfront homes must be 20 feet.

Complete the narrative statements below for EACH variance requested.

Case # _____ Date Received: _____

PART I
Narrative Statements

Request for variance from 34-638, Table 34-3 **(LDC Section number)**

Explain the specific regulation contained in this section from which relief is sought:
Relief of 15 feet is sought from the required 20 feet in the rear setback. A rear set back of 5 feet is requested from our garage.
See attached Exhibit A - page A1.4
Please note that this garage was planned as an "accessory structure," and has been designed to and in accordance with the requirements of the code. Inclusive of a line of separation designed to break away from either side with no loss of structural integrity, venting etc. However, if this is not viewed as an accessory structure, then in an effort to maintain a 50 foot waterfront setback, a relief of 15 feet is requested for the rear setback.
* See Exhibit C for definition of an "accessory structure."

Reasons for request

Explain why the variance is needed:
Due to the unique building envelope (30 feet in width) on this 75 feet wide, waterfront lot, a variance is requested in order to maintain the maximum view-corridor (50+ feet) for the community from the water. In addition, this location of applicant's garage will assist in creating an "Old Florida" architectural appearance, not the "mega cube" style currently being built on our island. The garage was designed to be a less prominent feature of the home by being setback greater from Hercules Drive, and being nestled under the southern live oak trees Granting this variance will also be benificial to the applicants by affording the homeowners additional safety, privacy, and peaceful enjoyment by locating their home as far away from adjoining, recently created public park with seating for 32 people.

Explain the possible effect the variance, if granted, would have on surrounding properties:
This variance request has the total and complete support of all neighbors in the closest proximity. If granted, this variance request will preserve the view-corridor of the neighbors, neighborhood and visitors to Hercules Drive.
If not granted, the view-corridor will be greatly reduced by forcing the homeowner to move the planned structure 30 feet closer to the water in order to accomodate the garage in a different location.

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

The recent creation of the public Hercules Dr. Pier and park (with seating for 32 people), coupled with the unique orientation of the lot, creating a building envelope on a 75 feet wide lot of only 30 feet wide, creates a hardship requiring relief. The granting of this request will allow the homeowners additional 30 feet of distance from the the Town's park/pier, reducing noise and increasing safety and peaceful enjoyment of their property. In addition, the granting of this variance, creates a more generous view-corridor (50+ feet, instead of the 25 feet required) of Estero Bay for the community. The granting of this request will allow the homeowner the ability to construct an "Old Florida" style home and not a "mega cube" home typical on a waterfront property.

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.
1. Rigid compliance to the code is not essential to protect public policy. The exceptional, uniqueness of the narrow building envelope combined with the creation of an adjacent public park, create a need to provide this minmum relief in order to protect the Estero Bay view corridor, and provide additional safety, and noise control to the homeowner. The subject property is elevated at the road of Hercules Drive creating a combined front and rear setback of 45 feet on a 75 feet lot. Subject property is also adjacent to the newly created public park.
2. The public park was created well after homeowners purchased the property. The Town has created the need for relief.
3. The applicants are attempting to build a structure utilizing only 26% of the allowable 40% lot coverage. This minimum relief will allow homeowners to protect the view-corridor for the community while increasing quiet and peaceful enjoyment by being further away from the public park.
4. The granting of this variance will increase the view-shed of Estero bay along Hercules Drive by 35 feet when compared to what could be potentially built on this waterfront property.
5. The request for a setback variance is not uncommon. However, the increasing protection of a view-corridor should be incorporated into an ammendment to the regulation. For example, if a property owner agrees to double their waterview setback, setback relief will be provided for other setbacks.

PART 2
Submittal Requirements

All applications for a variance must be submitted electronically through our Iworq portal - 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.

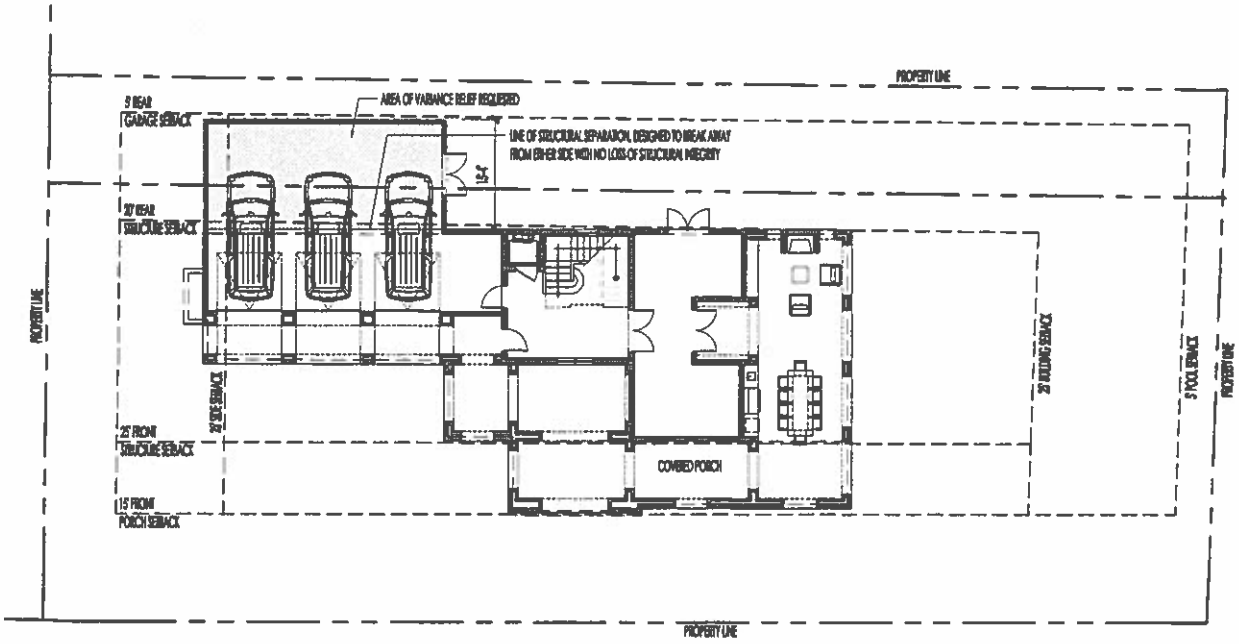
LDC Section 34-87

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;

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.

Exhibit A-A1.4 - Rear Setback Variance Request (or Confirmation of Accessory Structure)



SITE PLAN 1

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

MHK ARCHITECTURE & PLANNING
2309 TAMIAMI TRAIL E
NAPLES FLORIDA 34112
PHONE (239) 261 7092
WWW.MHKAP.COM

LOT 1
177 HERCULES DRIVE
FORT MYERS BEACH, FLORIDA

NOT FOR CONSTRUCTION

FLORIDA SEAL REGAR 19979

ISSUE | DATE
DD SET | 04-11-2022

DRAWN BY JS,JM,LN
CHECKED BY JC,TL

PHASE DD
PR NO 19184

A1.4

Exhibit C

Residential accessory use means the use of a structure or premises that is customarily incidental and subordinate to the principal use of a residential structure. See *Use, principal.* Typical residential accessory uses are: carports and garages; decks, gazebos, patios, and screen enclosures; dock, personal (§ 34-1863); fences and walls (division 17 in article IV); garage sales or yard sales (§ 34-2); recreation facilities, personal; seawalls (ch. 26); storage sheds; and, rental of beach furniture when accessory to a multifamily residential building located adjacent to the Gulf of Mexico containing more than 50 dwelling units.

Resort accessory use means the use of a structure or premises that is customarily incidental and subordinate to a resort. See *Use, principal.* Typical resort accessory uses are: amusement devices (§§ 34-2141—34-2145 and 34-3042 of this chapter); golf courses; parasailing operations office (ch. 27 of this LDC); personal watercraft operations office (ch. 27 of this LDC); and rental of beach furniture (ch. 14 of this LDC).

Roofed means any structure or building with a roof which is intended to be impervious to weather.

(Ord. No. 15-12, § 2, 1-19-2016)

Sec. 34-1173. - Development regulations.

(a) Unless specifically indicated to the contrary, accessory uses and related buildings and structures that are customarily recognized as clearly incidental and subordinate to the principal use of the property are permitted by right when located on the same lot or parcel and in the same zoning category as the principal use, provided that:

(1) Uses that are listed separately on Table 34-1 of this code, such as drive-throughs and automobile fuel pumps, are not accessory uses and are permitted only in zoning districts where they are explicitly identified in Tables 34-1 and 34-2 of this chapter. However, this limitation does not apply to uses that are explicitly listed in the definitions of residential, commercial, or resort accessory uses.

(2) All uses, buildings and structures must comply with all applicable development regulations and building codes.

(3) Accessory buildings or structures may be built concurrently with a principal building or structure but, except as provided herein, no accessory use, building or structure shall be commenced, erected, placed, or moved onto a lot or parcel prior to the principal use, building or structure. Exceptions are as follows:

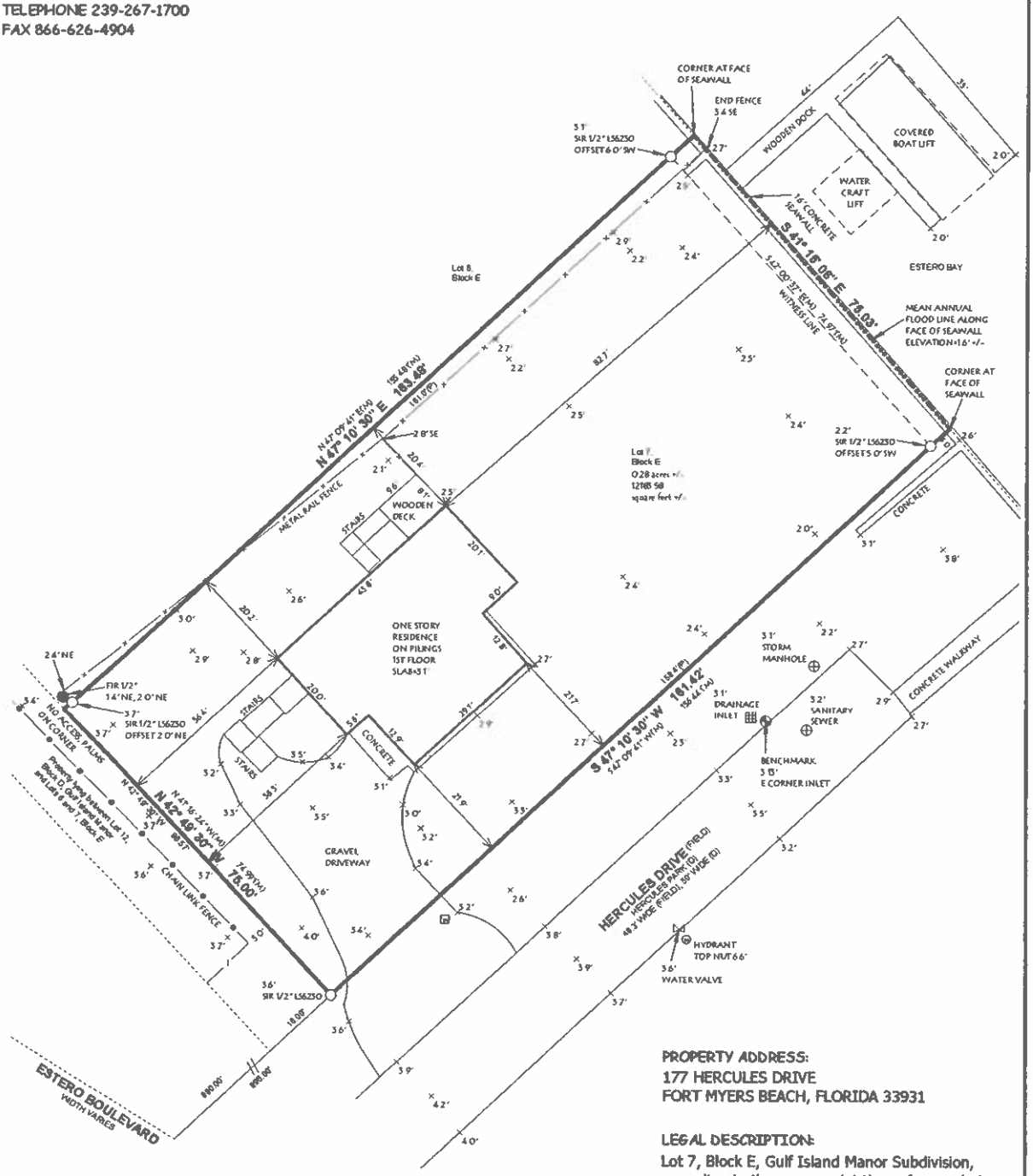
Scanned with CamScanner

EXHIBIT 6-2

MICHAEL YOUNG LAND SURVEYING
18714 SPRUCE DRIVE W.
FORT MYERS, FL. 33967
YOUNGSURVEYING@AOL.COM
TELEPHONE 239-267-1700
FAX 866-626-4904

BOUNDARY SURVEY

FILE NO: 21116
SURVEY DATE: 3-23-21



PROPERTY ADDRESS:
177 HERCULES DRIVE
FORT MYERS BEACH, FLORIDA 33931

LEGAL DESCRIPTION:
Lot 7, Block E, Gulf Island Manor Subdivision, according to the map or plat thereof, recorded in Plat Book 8, Page 68, Public Records of Lee County, Florida.

NOTES:

1) DIMENSIONS ARE IN FEET AND DECIMALS THEREOF AND ARE TAKEN FROM THE RECORDED PLAT UNLESS OTHERWISE NOTED
2) BEARINGS SHOWN HEREON ARE BASED ON THE NORTHWESTERLY R/W LINE OF HERCULES DRIVE TO BEAR N 47° 10' 30" E, AS SHOWN ON THE R/W MAP OF ESTERO BOULEVARD
3) LEGAL DESCRIPTION, AS SHOWN, WAS PROVIDED BY CLIENT
4) ONLY IMPROVEMENTS SHOWN WERE LOCATED
5) UNDERGROUND UTILITIES WERE NOT LOCATED
6) PARCEL SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS RIGHT-OF-WAYS OF RECORD
7) ABSTRACT NOT REVIEWED AND OPINION OF TITLE NOT DETERMINED
8) ELEVATIONS, IF SHOWN, ARE BASED ON NORTH AMERICAN VERTICAL DATUM 1988 (NAVD88). BENCHMARK USED C-245
9) THE PARCEL SHOWN HEREON LIES IN FLOOD ZONE AE EL10' AS SHOWN ON FLOOD INSURANCE RATE MAP 12071C 0558 F, EFFECTIVE DATE 8-28-08

SCALE 1" = 20 FEET

LEGEND:

A/C = AIR CONDITIONER
CONC = CONCRETE
C=CALCULATED
CP = CONCRETE PAD
CTV = CABLE TELEVISION SERVICE BOX
DE = DRAINAGE EASEMENT
D/W = DRIVEWAY
E = ELECTRIC SERVICE BOX
EL = ELEVATION
FCM = FOUND CONCRETE MONUMENT
FIR = FOUND IRON ROD
FIP = FOUND IRON PIPE
FN&D = FOUND NAIL & DISK
M = MEASURED
NAVD88=NORTH AMERICAN VERTICAL DATUM 1988
NO = NUMBER
O/S = OFFSET
O.R. = OFFICIAL RECORDS
P = PLAT
POB = POINT OF BEGINNING
POC = POINT OF COMMENCEMENT
PUE = PUBLIC UTILITY EASEMENT
R/W = RIGHT-OF-WAY
RCP = REINFORCED CONCRETE PIPE
SIR = SET 1/2" IRON ROD & CAP LS6230
SND = SET NAIL & DISK LS6230
TOB = APPROXIMATE TOP OF BANK
TS = TELEPHONE SERVICE BOX

= LIGHT POLE
= POWER POLE
= WATER METER
= UNDERGROUND TELEPHONE BOX
= CABLE TELEVISION SERVICE BOX
= FIRE HYDRANT
= FOUND CONC MONUMENT
= FOUND IRON ROD
= FOUND NAIL
= SET NAIL & TAB LS6230
= SET 1/2" IRON ROD & CAP LS6230
= WATER VALVE
= TRANSFORMER
= SANITARY MANHOLE
= WELL HEAD
= APPROX. CENTER OF SEPTIC TANK
= WOODEN PRIVACY FENCE
= CHAIN LINK FENCE
= OVERHEAD POWER LINES
= CENTERLINE SWALE
= TOP OF BANK
Δ = CENTRAL ANGLE
R = RADIUS
L = ARC LENGTH

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

03-31-2021
DATE SIGNED

MICHAEL S YOUNG
PROFESSIONAL SURVEYOR AND MAPPER
LS6230

CERTIFIED TO:
SHANOSKY, ALLEN and CYNTHIA

Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT

TYPE OF CASE:	**Variance**
CASE NUMBER:	**VAR20220031**
CASE NAME:	**177 Hercules; to approve two (2) variances for development a new single-family home with a fifteen-foot (15) reduction of the setback to the rear property line (north-northwest line); and relief from regulations limiting the overall width of balconies constructed streetward of the twenty five-foot (25) primary structure setback (southernmost line).**
LPA HEARING DATE:	**August 1, 2022**
STAFF RECOMMENDATION:	**DENY reduction of house setbacks and proposed porch length**
PREPARED/ SUBMITTED BY:	**Jason Smalley/ Jason Green AICP**

I. APPLICATION SUMMARY

Applicant/Owner:	Allen E. and Cynthia A. Shanosky
Request:	The applicants are seeking variances from LDC Sec. 34-638 (Table 34-3) to construct a single-family home closer to the rear property line (north-northwest line)*(ord. 22-01)* than allowed-for under current LDC requirements; as well as a variance to the maximum linear length of porches that extend into the primary structure street setback (southernmost line) described in sec. 34-638(d)(2)(b)(3)(*ord. 22-01*).
Subject property:	See attached site plan
Physical Address:	177 Hercules Drive

STRAP #: 29-46-24-W2-0050E.0070

FLU: Low Density

Zoning: Residential Single-Family (RS)

Adjacent zoning and land uses:

North: RESIDENTIAL SINGLE-FAMILY (RS)
Single-Family Residences

South: RESIDENTIAL SINGLE-FAMILY (RS)
Undeveloped Lot

East: BAY WATERWAY
Open Space

West: RESIDENTIAL SINGLE-FAMILY (RS)
Undeveloped Lot

II. BACKGROUND AND ANALYSIS

Background:
Allen E. and Cynthia A. Shanosky, the applicants for 177 Hercules Drive, are requesting 2 variances from the Town's Land Development Code (LDC):

1. Rear Setback (north-northwest line): sec. 34-638 (Table 34-3), requesting a variance of fifteen-feet (15) for the garage from the twenty-foot (20) rear setback, providing a five-foot primary-structure setback.

2. Porch Length Limitations: sec. 34-638(d)(2)(b)(3)(*ord. 22-01*) limiting the width of porches to a maximum of thirty five-feet (35) if they protrude into the twenty five-foot (25) street setback (southernmost line). The applicant is proposing to construct a porch that is forty eight-feet (48) wide within the primary-structure street setback which is thirteen-feet (13) greater than the thirty five-foot maximum (35).

After receiving a recommendation of approval from the LPA for the rear-setback, the homeowners decided to redesign the layout to eliminate one of the previously requested variances for a west side setback decrease.

Analysis:
The width of the lot and the minimum setbacks in the LDC—introduced in ord. 22-01—would guide the development of this home to be relatively thin and long, the lot is approximately 75-feet by 160-feet. The applicants could conceivably construct a home that extends farther towards the waterway (east-northeast line), they have decided to request variances to push the structure farther landward and preserve the northernmost neighbor's views of the water while providing as much separation from the Town's pier at the end of Hercules, as possible.

Rear Setback (north-northwest line): The applicant is proposing a reduction of 15 feet from the rear 20-foot setback to allow the construction of a garage located under the portion of the house meeting the 37 foot front setback. This will result in an approximately 25 feet deep garage set under the proposed structure.

Based on the documents provided to staff for review there is a question of whether the proposed garage requires a variance as a structurally connected element of the house, or whether it is disconnected from the house and should be defined as an accessory structure requiring reduced setbacks (i.e. 20-foot primary structure rear-setbacks or 5-foot accessory structure rear-setbacks). Staff advised the applicant to apply for a variance for their garage to ensure that the design they presented could be approved regardless of the outcome of the determination ultimately made through Planning & Zoning and building permit review.

Porch Length (southernmost line): Porch width maximums are generally aesthetic in nature and intend to break-up massing of the house. While the variance request would allow the structure to be constructed closer to the roadway (southernmost line) than allowed-for in the code, the length and relative shallow depths of the lot limit the overall protrusion of any possible house and the requests are relatively minor when compared with the overall scope of the project. An assessment of the wider neighborhood indicate that a vast majority of the structures have been developed with at least twenty-five feet (25) of setback from the right-of-way. Staff believes it will be prudent to require additional landscape material to obscure the proposed protrusion of the porch.

The proposed footprint of the house was reviewed for 40-percent lot coverage and impervious maximums and was found to meet the LDC requirements.

At the time of publication, thirty-three letters from neighbors have been received by staff, twenty-three of the letters provide support for the variance application, while eight of them are a request for denial, one letter could best be described as a request

for officials to fully explore the request before a decision is made. All letters were received by email and have been provided as part of the package.

Comprehensive Plan Compatibility:
Staff finds that the reduction in the setback to construct a residential improvement in an older subdivision without increasing density is consistent with POLICY 4-B-3 "LOW DENSITY", it does not increase the density or propose any uses not appropriate for the FLU.

Neighborhood Compatibility:
The proposed dimensions of the house are generally larger than existing homes within the neighborhood, but the applicant's lot is considerably larger than most of the lots on Hercules. As noted in the application the homeowners believe that moving the bulk of the proposed structure away from the waterway and the Town's pier will help to preserve the neighborhood feel and reduce disturbances to people visiting the area. The lot as it currently exists contains many mature trees and an established vegetation buffer along Hercules. Staff reminds the applicants that per sec. 14-412(h) that they must make every effort to retain all protected mature shade trees during and after construction.

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 applicant's lot is wide and not particularly deep, but while the lot lines do somewhat restrict future development of the property, this doesn't constitute an "exceptional" or "extraordinary" condition of the site. Per the applicant's submitted documents, if the variances are not granted the home, will be built closer to the waterway and the Town's pier.

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.*

   The homeowner could feasibly reduce the width of the proposed structure and could meet the more restrictive rear-yard setbacks in effect. The applicant could also reduce the overall length of the porches. The applicants argue that they would prefer to retain existing open space adjacent to the waterway and the number of trees on the lot.

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 proposed expansion would constitute the minimum development necessary to meet the wants and needs of the applicant and would not increase building heights and would serve to avoid obscuring neighbors' views of a waterway.

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 encourages the homeowner to retain or re-plant existing mature canopy trees and buffer material along Hercules.

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.*

Changes to the code made this variance request necessary and further changes to the code would not be warranted to address this particular situation.

III. RECOMMENDATION

Staff has reviewed the request for a variance *from LDC Sec. 34-638 (Table 34-3)(ord. 22-01) to construct a single-family home closer to the rear property line (west-northwest line) than allowed-for under current LDC requirements; as well as a variance to the maximum linear length of porches that extend into the primary structure street setback described in sec. 34-638(d)(2)(b)(3)(ord. 22-01)* and found that the requests do not meet the requirements set-forth in sec. 34-87. The site/ circumstances are not unique to the site. The decision to construct further landward than the minimum required waterbody setback was made by the owners, to ensure the neighbors' views of the waterway.

Therefore, staff recommends **DENIAL** of VAR20220031, to construct a single-family home closer to a rear-yard property line and allow additional width of the porch that extends into the primary-structure street setbacks due to the failure to comply with all of the requirements for a variance outlined in LDC Sec. 34-87.

IV. LPA DETERMINATION

Committee members discussed whether the four (4) variances being requested at that time were prudent considering the wider character of the neighborhood and the number of requests. Much of the discussion revolved around whether the requests

met the requirements of Sec. 34-87, particularly whether the hardship was created by the owners or was inherent to the lot itself.

Ultimately the Committee approved the Variance request to reduce the rear-setback by fifteen-feet (15) by a vote of 5-0, and denied the other three requests 5-0. The applicant has modified the request since the LPA hearing, to eliminate two of the original requested variances, 1) a variance to allow less than a 12 foot setback for homes wider than 65 feet, and 2) a variance to allow less than a 15% side setback from the western property line.

IV. CONDITIONS OF APPROVAL

If the Town Council chooses to approve one –or both—of the requested variance(s) the following conditions should be considered as part of the approval:

1. *Any additional accessory structures –including but not limited to screen cages, storage structures, pools etc.—shall be no closer than 25-feet to the seawall or other relevant riparian measurement point.*
2. *All impervious materials shall be no closer than 5-feet to any property line and no materials –including, but not limited to walkways, driveways, etc.—shall cross any property line.*
3. *Applicants must provide a stormwater plan that will retain the first 1-inch of volume on-site*
4. *If all three contiguous lots which are currently owned by applicants (177 Hercules Drive; STRAP: 29-46-24-W2-0050E.0070, 4050 Bayside Road; STRAP: 29-46-24-W2-0050D.0120 and 167 Hercules Drive; STRAP: 29-46-24-W2-0060B.0170) are developed to be a single, resort-like property, all three sites must develop stormwater management which is no less stringent than the Town's commercial standards.*

CASE NUMBER_____

PROJECT NAME 177 Hercules Drive
APPLICANT Cynthia Shanosky
STRAP NUMBER 29-46-24-W2-0050E.0070
CURRENT PROPERTY STATUS Single-family residential
VARIANCE IS REQUESTED FROM 34-638
(Front, side, and rear setbacks and porch width)

April 11, 2022

Town of Fort Myers Beach, Fl.

To Whom It May Concern,
Enclosed please find 3 variance request submittals with an accessory structure confirmation *or* additional variance request if needed.

The accessory structure has been designed to and in accordance with the requirements of the code. Inclusive of a line of separation designed to break away from either side with no loss of structural integrity, venting etc. If not viewed as an accessory structure, then relief is requested for the rear setback (attached).

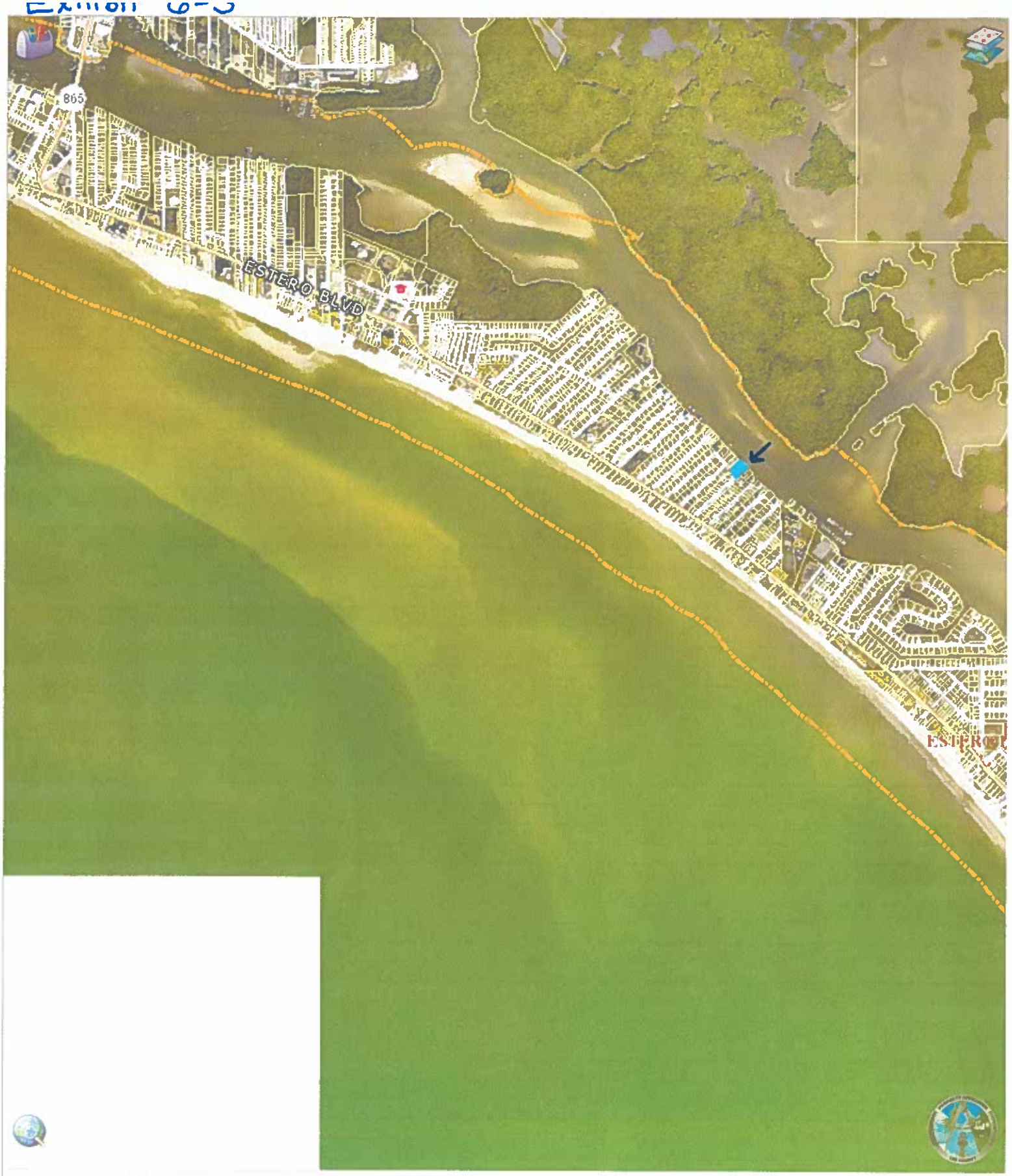
The design of this home has truly been a "labor of love." Much thought, time and resources have been spent designing this home with the primary goal of minimally increasing our living spaces (indoor and outdoor) for additional family members now living with us, still enjoying a lovely front lawn and retaining as many live oaks as possible while at the same time preserving a beautiful view corridor for the public (55' from the water). This 3 BR waterfront home has been designed to "old Florida" esthetics, not the "mega-cube" currently occurring on our island. This home was also designed to all existing ordinances at the time, and variances are only required due to recent code adoption. In addition, these requests have the complete support of all adjoining property owners.

Regretfully, if any of these requests are denied homeowners will be forced to move home 30' closer to the water, eliminating the view corridor for all neighbors, neighborhood and visitors to Hercules Drive.

Very Truly Yours,

Cynthia Shanosky

Exhibit A



STRAP	Folio	Owner Name	Site Address
29-46-24-W2-0050E.0070	10229741	SHANOSKY ALLEN E + CYNTHIA A	177 HERCULES DR, FORT M

EXHIBIT 6-6, page 1 of 2

Subjects: 1 | Affected: 73 | Buffer: 500 | Date: 4/13/2022 12:00:00 AM | List Size: 74

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53	False	10229770	29-46-24-W2-0070B.0130	FOX STEVEN ALLEN &		11930 SW 19TH CT		DAVIE	FL	33325

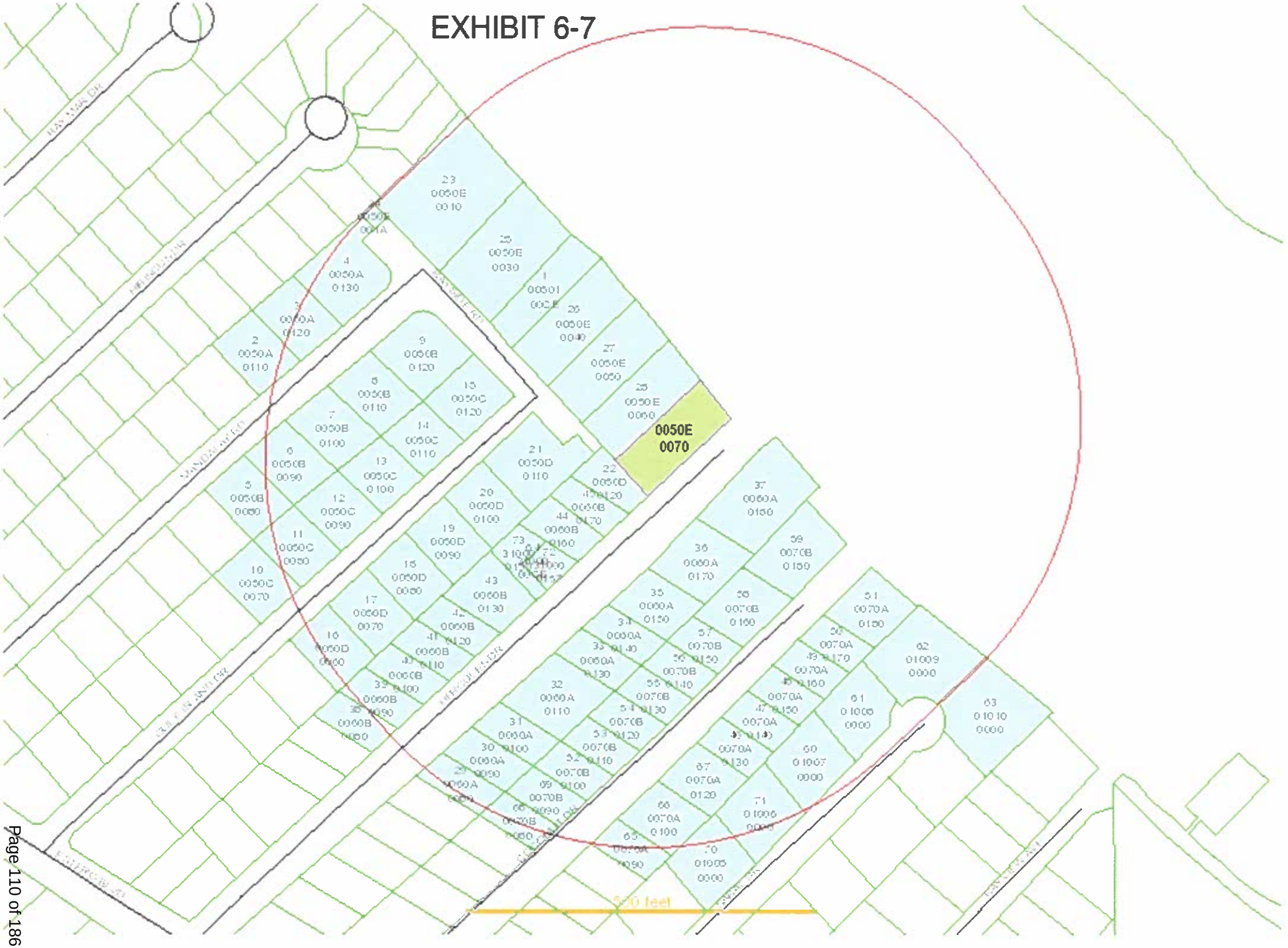
CamScanner

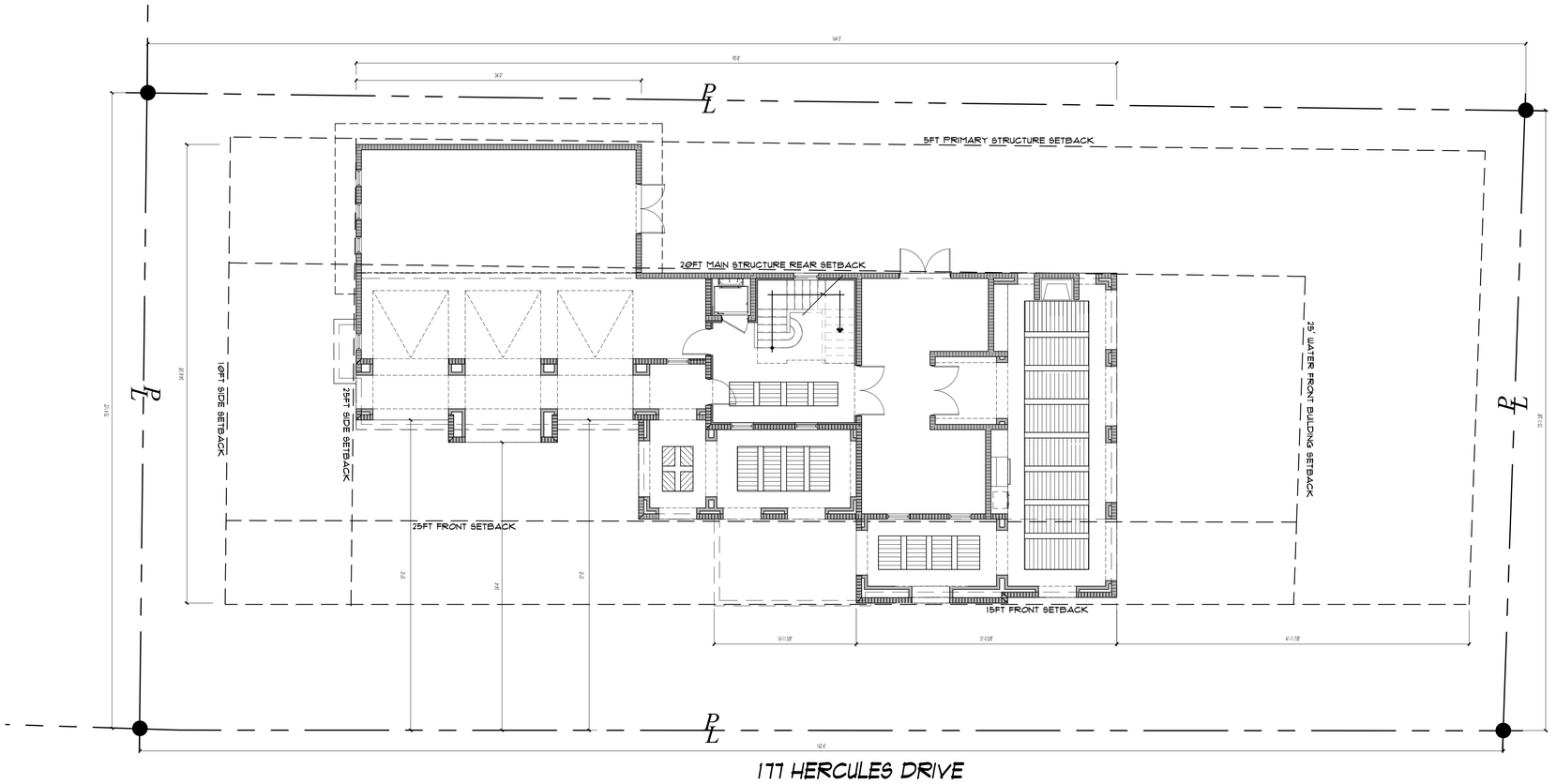
EXHIBIT 6-6, page 2 of 2

54	Palm	10229771	29-46-24-W2-00708.0120	ROGERS LAURENA A TR		PO BOX 2894	FORT MYERS BEACH	FL	33932
55	Palm	10229772	29-46-24-W2-00708.0130	WONG HELEN +		10401 NE 6TH AVE	MIAMI SHORES	FL	33168
56	Palm	10229773	29-46-24-W2-00708.0140	BURNS MICHAEL K & KAREN		5230 N LARNED AVE	CHICAGO	IL	60630
57	Palm	10229774	29-46-24-W2-00708.0150	OCONNELL JAMES P		5864 NORTH KILBOURN AVE	CHICAGO	IL	60646
58	Palm	10229775	29-46-24-W2-00708.0160	MSV HOLDING TRUST CORP		24998 ESRO CT	BONITA SPRINGS	FL	34135
59	Palm	10229776	29-46-24-W2-00708.0180	ANDRE MISSA FAMILY TRUST +		114 PLACID DR	FORT MYERS	FL	33919
60	Palm	10229777	29-46-24-W2-00907.0000	ASHEN REALTY ENTERPRISES LLC		3833 RIVIERA DR STE 202	NAPLES	FL	34103
61	Palm	10229778	29-46-24-W2-01008.0000	MCDONNELL MICHAEL F & AMY E		3401 A STREET	OMAHA	NE	68106
62	Palm	10229779	29-46-24-W2-01009.0080	LISZAK-MAY JACQUELYN		199 SABAL DR	FORT MYERS BEACH	FL	33931
63	Palm	10229780	29-46-24-W2-01010.0000	ST CLAIR RAYMOND J TR		572 W SANTEE DR	GREENSBURG	IN	47240
64	Palm	10571802	29-46-24-W2-31000.00CE	157/159 HERCULES CONDOMINIUM					
65	Palm	10229881	29-46-24-W3-00704.0090	GONZALEZ FERNANDO GARCIA &		138 COCONUT DR	FORT MYERS BEACH	FL	33931
66	Palm	10229882	29-46-24-W3-00704.0100	KELLY SCOTT D & PATRICE		140 COCONUT DR	FORT MYERS BEACH	FL	33931
67	Palm	10229883	29-46-24-W3-00704.0120	WRONSKI DAVID D &		150 COCONUT DR	FORT MYERS BEACH	FL	33931
68	Palm	10229899	29-46-24-W3-00708.0080	PEARCY MORGAN C + JOANNE CO TR		12950 SW 13TH ST UNIT D114	PEMBROKE PNES	FL	33028
69	Palm	10229900	29-46-24-W3-00708.0090	MAUGH PATRICK LAWRENCE &		806 PRAIRIE MEADOWS DR	HUDSON	WI	54016
70	Palm	10229924	29-46-24-W3-01005.0000	BLACKWELL JOHN R &		149 SABAL DR	FORT MYERS BEACH	FL	33931
71	Palm	10229975	29-46-24-W3-09004.0000	UNKNOWN HEIRS OF	ALAN HAYES	113 ISLAND DR	HOWEY IN THE HILLS	FL	34737
72	Palm	10571800	29-46-24-W2-31000.0157	WHITTEN CARL L &		72 ELM ST	MILTON	NH	03851
73	Palm	10571801	29-46-24-W2-31000.0158	MACDONALD GEURIN JASON &		159 HERCULES DR	FORT MYERS BEACH	FL	33931

CamScanner

EXHIBIT 6-7





LOT AREA: 12,234 SQ. FT.

SITE PLAN

SCALE: 1/8" 1'-0"

2

MHK
ARCHITECTURE
& PLANNING

2059 TAMIAMI TRAIL E.
NAPLES FLORIDA 34112
PHONE: (239) 331 · 7092
WWW. MHKAP.COM

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LOT 1
177 HERCULES DRIVE
FORT MYERS BEACH, FLORIDA

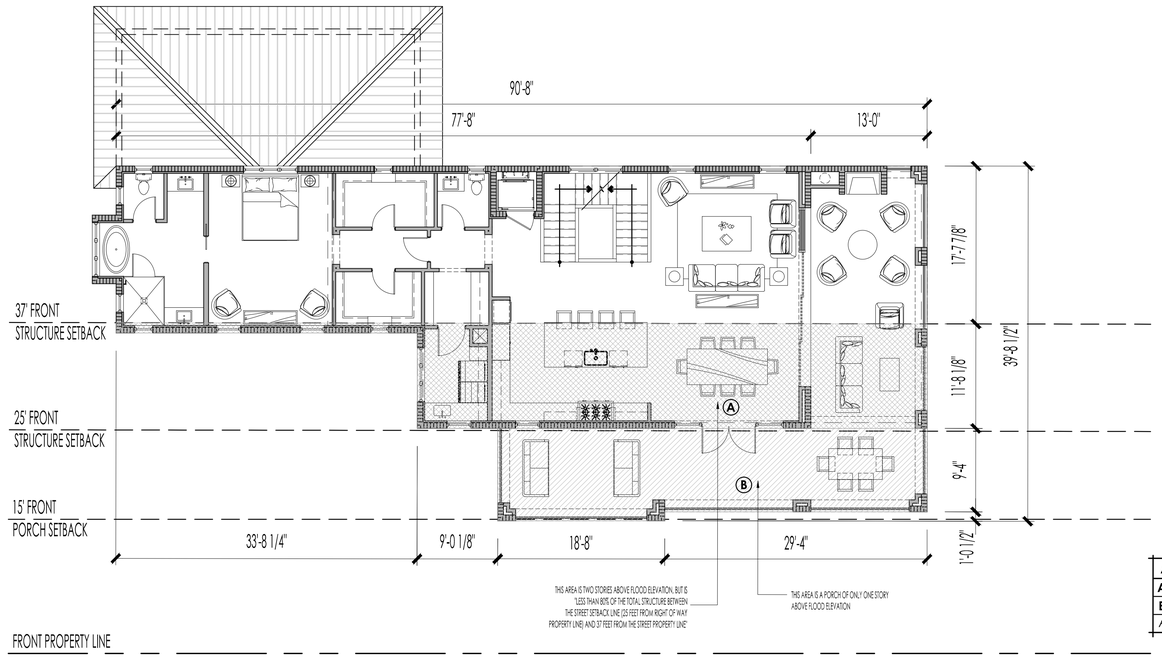
NOT FOR CONSTRUCTION

FLORIDA SEAL
REG# AR 16971

ISSUE	DATE
DD SET	04-11-2022

DRAWN BY:JS,JM,LN
CHECKED BY: JO,TL

PHASE DD
PR NO 18184



AREAS (sf)			
A		706	1,173
B		467	
A=60%, IS <80% OF A+B			

SECOND FLOOR PLAN 1

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

MHK
ARCHITECTURE
& PLANNING

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NAPLES FLORIDA 34112
PHONE: (239) 331 - 7092
WWW. MHKAP.COM

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LOT 1
177 HERCULES DRIVE
FORT MYERS BEACH, FLORIDA

NOT FOR CONSTRUCTION

FLORIDA SEAL
REG# AR 16971

ISSUE | DATE:
DD SET | 04-11-2022

DRAWN BY:JS,JM,LN
CHECKED BY: JO,TL

PHASE DD
PR NO 18184

A2.1

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: 177 Hercules Drive

STRAP Number: 29-46-24-W2-0050E.0070

Applicant: Allen & Cynthia Shanosky Phone: 908-208-6232

Contact Name: Cynthia Shanosky Phone: 908-208-6232

Email: cynthiashanosky@gmail.com Fax: _____

Current Zoning District: RS

Future Land Use Map (FLUM) Category: Low density

FLUM Density Range: 4DUA Platted Overlay: ☐ YES ☒ NO

ACTION REQUESTED	SUPPLEMENTAL FORM REQUIRED
☐ Special Exception	PH-A
☒ Variance	PH-B
☐ Conventional Rezoning	PH-C
☐ Planned Development ☐ Commercial ☐ Residential	PH-D
☐ Master Concept Plan Extension	PH-E
☐ Appeal of Administrative Action	PH-F
☐ Vacation of Platted Right-of-way and Easement	PH-G
☐ Other – cite LDC Section: _____	attach on separate sheet

PART I – General Information

A. Applicant*: Allen & Cynthia Shanosky Phone: 908-208-6232

**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: 177 Hercules Drive, Fort Myers Beach, FL 33931

Email: cynthiashanosky@gmail.com Fax: _____

Contact Name: Cynthia Shanosky Phone: 908-208-6232

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 - 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: _____

Town of Fort Myers Beach 2525 Estero Blvd Fort Myers Beach, Florida 33931
Phone: 239-765-0202 zoningpermits@fmbgov.com Fax: 239-765-0909

☐ 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: Allen & Cynthia Shanosky Phone: 908-208-6232

Mailing Address: 177 Hercules Drive, Fort Myers Beach, FL 33931

Email: cynthiashanosky@gmail.com Fax: _____

AFFIDAVIT
APPLICATION IS SIGNED BY AN INDIVIDUAL OWNER OR APPLICANT

I, Cynthia Shanosky 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 _____ Cynthia Shanosky
Printed Name

STATE OF Florida **COUNTY OF** Lee

The foregoing instrument was certified and subscribed before me by means of ✓ physical presence OR ____ online notarization, this 14th day of April, 2022, by Cynthia A. Shanosky, ____ who is personally known to me OR ✓ who has produced D-II S620-101-67-671-0 as identification.

ILEN EXPOSITO LOPEZ
Notary Public - State of Florida
Commission # GG 954583
My Comm. Expires Feb 3, 2024
Bonded through National Notary Assn.

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

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

Town of Fort Myers Beach 2525 Estero Blvd Fort Myers Beach, Florida 33931
Phone: 239-765-0202 zoningpermits@fmbgov.com Fax: 239-765-0909

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.

Town of Fort Myers Beach 2525 Estero Blvd Fort Myers Beach, Florida 33931
Phone: 239-765-0202 zoningpermits@fmbgov.com Fax: 239-765-0909

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: 29-46-24-W2-0050E.0070

Property Address: 177 Hercules Drive, 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: Gulf Island Manor Subdivision

Book: 8 Page: 68 Unit: _____ Block: E Lot(s): 7

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.

C. Property Dimensions:

Width (please provide an average width if irregular in shape) 161.42 feet

Depth (please provide an average width if irregular in shape) 75.0 feet

Frontage on street: 161.42 feet. Frontage on waterbody: 75.03 feet

Total land area: 12,183.58 ☐ acres ☒ square feet

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

Bayfront, residential, mid-island, south of Sky Bridge.

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	☐ Marina
☐ Mixed Residential	☐ Recreation
☐ Boulevard	☐ Wetlands
☐ Pedestrian Commercial	☐ Platted Overlay

Town of Fort Myers Beach 2525 Estero Blvd Fort Myers Beach, Florida 33931
Phone: 239-765-0202 zoningpermits@fmbgov.com Fax: 239-765-0909

From: nancy slager
To: Jason Smalley
Cc: cynthiashonosky@gmail
Subject: variance for schonosky on Hercules drive fmb
Date: Friday, June 10, 2022 7:47:31 PM

Hello js malley,

I am a resident at 127 hercules drive.

It is my understanding that the variance that the Schonosky's are requesting has absolutely NOTHING to do with going closer to the street (Hercules drive) but has to do with going back TOWARD THEIR OWN OWNED PROPERTY.

In Cynthia's Shonosky's letter, she makes it very clear that her family's stated desire is for an expanse of green lawn IN FRONT of their home (facing the bay).

I would like to make sure that the clarification of this specific issue has to do with exactly which way the house will go. Is it going closer toward the street or back toward the Schonosky's own property?

Please be sure that this issue has complete clarification of what is requested by the owner. Are the issues clear for those seeking objection to this issue?

Are all parties to this issue in complete understanding of exactly what the issue is? This is important for future decisions that the city of fmb will make.

Please clarify what the variance is for exactly for any and all who are interested in this issue or who have questions regarding the variance.

When the town meeting occurs, clarity of this issue is essential for an equitable outcome of this issue.

Thank you for your attention to this matter,

Nancy Slager 127 Hercules Drive

Sent from Mail for Windows

Note: Florida has a very broad public records law. Most communication(s) to or from Fort Myers Beach officials regarding Town business are public records available to the public and

media upon request. Your email communications and email address may be subject to public disclosure.

Re: CASE: VAR20220031

Address: 177 Hercules Dr. Fort Beach, Florida 33931

Applicant: Cynthia Shanosky According to Lee County owned by Allen E & Cynthia A. Shanosky

Date: June 14, 2022 at 9AM

Town Council of Fort Myers Beach, Florida 33931

Dear Jason Smalley & Town Council,

I would like this letter to be my representative for the above Variance Request and read at the above Public Hearing on my behalf stating that I DO NOT APPROVE OF THE ABOVE VARIANCE AND WOULD LIKE IT DENIED!

Under code 34-638 Most zoning setbacks require minimum setbacks between all buildings and structures & the STREET applying to other lots on that block or street. Many years ago, the previous owner of 190 Hercules applied for a variance to build closer to the street. It was voted down. The current owner recently built a new home following the current codes for Street setbacks.

On 272 Miramar FMB, that fella applied for a Street Variance & was also denied as it blocked the neighbors view of the beautiful Back Bay. A nice home was than built without the Variance.

Hercules Park 29-46-24-W2-00600,000A is located at the end of Hercules Dr. with Back Bay Access & directly beside the Shanosky's property at 177 Hercules Dr. It has the Hercules Dock plus picnic tables, drainage ditch between the properties & is used by both the public and Hercules Dr. property owners. By allowing the Shanosky's to change their Street Setback it would infringe on both the public & local property owners. All homes on Hercules Dr have followed the setback codes for their homes**. Why should someone who owns the property beside his at 4050 Bayside Road, plus 167 Hercules be allowed to go against every property owner that followed the setback codes for their properties on Hercules Dr.?** We have a nice Street & it would definitely take away from our view of the Back Bay which we are now able to see from Estero Blvd.

Building Codes & Setbacks are uniformly applied to all property within the Town of Fort Myers Beach. They are adopted for the protection and promotion of the Public Health, Safety, Comfort, Convenience, Order, Appearance, Prosperity, or general Welfare and for securing safely. Whenever the regulations & requirements are at variance with the requirements of any other lawfully enacted & adopted rules, regulations, ordinances, or laws, THE MOST RESTRICTIVE SHALL APPLY. PLEASE VOTE "NO" TO THIS VARIANCE REQUEST.

Thank you. Sharon & Martin McKay 143 Hercules Dr. FMB, Fl 33931 Cell: 219-309-9750 or email: twoofus@netnitco.net

HERCULES DR. WITH
ALL HOMES
FOLLOWING THE
STREET SETBACK
CODES

From: carol davis
To: Jason Smalley
Subject: CASE: VAR20220031
Date: Thursday, June 9, 2022 6:51:43 PM

Re: CASE: VAR20220031
Address: 177 Hercules Dr. Fort Beach, Florida 33931
Applicant: Cynthia Shanosky According to Lee County owned by Allen E & Cynthia A. Shanosky
Date: June 14, 2022 at 9AM
Town Council of Fort Myers Beach, Florida 33931
Dear Jason Smalley & Town Council,
I would like this letter to be my representative for the above Variance Request and read at the above Public Hearing on my behalf stating that I DO NOT APPROVE OF THE ABOVE VARIANCE AND WOULD LIKE IT DENIED!
Under code 34-638 Most zoning setbacks require minimum setbacks between all buildings and structures & the STREET applying to other lots on that block or street. Many years ago, the previous owner of 190 Hercules applied for a variance to build closer to the street. It was voted down. The current owner recently built a new home following the current codes for Street setbacks.
On 272 Miramar FMB, that fella applied for a Street Variance & was also denied as it blocked the neighbors view of the beautiful Back Bay. A nice home was than built without the Variance.
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Building Codes & Setbacks are uniformly applied to all property within the Town of Fort Myers Beach. They are adopted for the protection and promotion of the Public Health, Safety, Comfort, Convenience, Order, Appearance, Prosperity, or general Welfare and for securing safely. Whenever the regulations & requirements are at variance with the requirements of any other lawfully enacted & adopted rules, regulations, ordinances, or laws, THE MOST RESTRICTIVE SHALL APPLY.
PLEASE VOTE "NO" TO THIS VARIANCE REQUEST.
Thank you. Carol e Davis and Maurice Kabili. 117 Hercules Dr FMB, FL 33931
cell: 239-565-9773 or email drcaroledavis@gmail.com

Dr Carol E Davis
Professor Emeritus and Founding Director
Florida Gulf Coast University School of Nursing

Note: Florida has a very broad public records law. Most communication(s) to or from Fort Myers Beach officials regarding Town business are public records available to the public and media upon request. Your email communications and email address may be subject to public disclosure.

From: MITCHELL PACYNA
To: Jason Smalley
Cc: Marti Cambell; Sharon K. McKay; MARY Woj; MITCHELL PACYNA
Subject: Fw: Hercules variance For Shanosky Picture you can also attached to letter.
Date: Friday, June 10, 2022 9:17:37 AM
Attachments: HERCULES DR WITH ALL HOMES FOLLOWING THE SETBACK CODES.png

---

HI, MARY and I live on the corner of HERCULES DR and ESTERO BLVD.for 14 years. I understand the SHANOSKY'S at 177 Hercules, once again are trying to change the greatest block on the beach. We are strongly against changing the variance they are asking for .They just keep trying to ruin what is our very beautiful block for their own gain. THANK YOU

From: twoofus@netnitco.net <twoofus@netnitco.net>
Sent: Thursday, June 9, 2022 4:37 PM
To: marticampbell@earthlink.net <marticampbell@earthlink.net>
Cc: Beth Sewell (Hercules) <sewellbeth@att.net>; Bob Campbell <Claims202020@gmail.com>; Carol Davis (Hercules) <cdavisrn@comcast.net>; Dennis & Carol Hennessy(Hercules) <DENNIS9355@aol.com>; Diane Phillips (Hercules) <d_phillips4050@yahoo.com>; drcaroledavis@gmail.com <drcaroledavis@gmail.com>; Elena Fernandez (Hercules) <manageusa@gmail.com>; Emerson & Helen Vidal (Hercules) <iccev@aol.com>; Glenn & Barb MacDonald (Hercules) <glennmacdonald@metrocast.net>; Ileana Rodriquez (Hercules) <ileana@ileanasellsmiami.com>; James Scully (Hercules) <jamesscully@optonline.net>; Jane Stutzman (Hercules) <mjanestutzman@comcast.net>; Joan & Felix Maroto (Hercules) <fjmaroto@comcast.net>; Judi Belida (Hercules) <judi2b@gmail.com>; Karen Wessel (Hercules) <kwessel1630@aol.com>; Kevin Fleishman (Hercules) <kfleishman17@gmail.com>; Kevin Hones (Hercules) <KevinHones@aol.com>; Mary & Mitch <misstilliemae@msn.com>; Mary Warren (Hercules) <catmandu@netins.net>; Mike Erosky (Hercules) <mike.erosky@gmail.com>; Mitch & Mary <mitchmary@msn.com>; Nancy & John Hodson (Hercules) <johnandnancyhodson@gmail.com>; Nancy Slager (Hercules) <neslager@hotmail.com>; Penny Jarrett (Hercules) <pjarrett32@yahoo.com>; R Clinton Campbell <rclintoncampbell@gmail.com>; Sandra Lester (Hercules) <drslester@gmail.com>; Tim Wessel (Hercules) <twessel@campingworld.com>
Subject: Re: Hercules variance For Shanosky Picture you can also attached to letter.

On 2022-06-09 15:30, twoofus@netnitco.net wrote:
> The Shanosky's are asking for a variance to build their new home at
> 177 Hercules Dr. closer to the street then the setback code. All of
> our houses had to follow the setback codes & they should too. They
> also own the adjacent two lots. They also caused the Town a lot of
> attorney fees fighting replacing our Hercules Dock that they now want
> to build closer too. Many years ago the vacant lot at 190 Hercules
> applied for a similar variance and was turned down. That owner then
> sold that property which the new owners followed the setback codes.
>
> Please email Jason Smalley JSMalley@FMBGOV.com and let them know
> your feelings about Shanosky's home being built closer to the street
> than the codes allow. Thank you
>
> The Public hearing is set for 9AM Tuesday morning June 14th, so

> please get your letters in ASAP. I did attach a sample of my
> letter. You can copy & send, or add onto it. Thanks. Sharon McKay
> email: twoofus@netnitco.net
>
>
>
>
> On 2022-06-09 15:08, marticampbell@earthlink.net wrote:
>> Hi Neighbors!
>>
>> I'm trying to figure out how to send our Hercules neighbor, Sharon
>> McKay, a list of us with our email addresses. She is working on a
>> new
>> issue of a variance hearing coming up on June 14. I'll try to
>> forward
>> her email to you, but also be watching for one from her -
>> twoofus@netnitco.net- (I'm writing this from memory, so hope it's
>> correct.)
>>
>> Thank you!
>>
>> Marti Campbell

Note: Florida has a very broad public records law. Most communication(s) to or from Fort Myers Beach officials regarding Town business are public records available to the public and media upon request. Your email communications and email address may be subject to public disclosure.

From: R. Clinton Campbell
To: Jason Smalley
Subject: Resident"s feelings regarding variance request
Date: Friday, June 10, 2022 9:13:53 AM

Re: CASE: VAR20220031

Address: 177 Hercules Dr. Fort Beach, Florida 33931

Applicant: Cynthia Shanosky According to Lee County owned by Allen E & Cynthia A. Shanosky

Date: June 14, 2022 at 9AM Town Council of Fort Myers Beach, Florida 33931

Dear Jason Smalley & Town Council:

I would like this letter to be my representative for the above Variance Request and read at the above Public Hearing on my behalf stating that I DO NOT APPROVE OF THE ABOVE VARIANCE AND WOULD LIKE THE REQUEST DENIED!

Under code 34-638 Most zoning setbacks require minimum setbacks between all buildings and structures & the STREET applying to other lots on that block or street. Many years ago, the previous owner of 190 Hercules applied for a variance to build closer to the street. It was voted down. The current owner recently built a new home following the current codes for Street setbacks. On 272 Miramar FMB, that party also applied for a Street Variance and was also denied as it blocked the neighbors' views of the beautiful Back Bay. A very hight end home was then built without the Variance.

Hercules Park 29-46-24-W2-00600,000A is located at the end of Hercules Dr. with Back Bay Access & directly beside the Shanosky's property at 177 Hercules Dr. It has the Hercules Dock plus picnic tables, drainage ditch between the properties & is used by both the public and Hercules Dr. property owners. By allowing the Shanosky's to change their Street Setback it would infringe on both the public & local property owners.

All homes on Hercules Dr have followed the setback codes for their homes. Why should someone who owns the property beside his at 4050 Bayside Road, plus 167 Hercules be allowed special consideration after every property owner on the street adhered to the setback codes for their properties on Hercules Dr.?

We have a nice street and it would definitely take away from our view of the Back Bay which we are now able to see from Estero Blvd. Building Codes & Setbacks are uniformly applied to all property within the Town of Fort Myers Beach. They are adopted for the protection and promotion of the Public Health, Safety, Comfort, Convenience, Order, Appearance, Prosperity, or general Welfare and for securing safely. Whenever the regulations & requirements are at variance with the requirements of any other lawfully enacted & adopted rules, regulations, ordinances, or laws, THE MOST RESTRICTIVE SHALL APPLY.

PLEASE VOTE "NO" TO THIS VARIANCE REQUEST

Note: Florida has a very broad public records law. Most communication(s) to or from Fort Myers Beach officials regarding Town business are public records available to the public and media upon request. Your email communications and email address may be subject to public disclosure.

From:	catmandu@netins.net
To:	Jason Smalley
Subject:	VAR20220031 SHANOSKY
Date:	Monday, June 13, 2022 9:54:12 AM

Dear Jason Smalley and Town Council of Fort Myers Beach,

We are writing in OPPOSITION to the variance of CYNTHIA SHANOSKY at 177 Hercules Drive. Please let this letter be our testimony at the public hearing as we are not able to appear in person. We own the home at 140 Hercules Drive.

The Shanosky's own 3 lots and they should be able to fit the building of a new home that is code compliant these lots, without needing a variance to encroach on the beauty of Hercules Drive. Three lots is plenty of land to build a new home on, without requiring a variance. All town codes should be able to be met, without a variance on 3 lots.

For these reasons, we OPPOSE granting the variance.

Thank you,

Al and Mary Warren

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From: marticampbell@earthlink.net
To: Jason Smalley
Subject: FWD: VAR20220031
Date: Tuesday, June 14, 2022 7:58:28 AM

Sent from EarthLink Mobile mail

On 6/14/22, 12:48 AM, Marti Campbell <marticampbell@earthlink.net> wrote:

Re: CASE: VAR20220031
Address: 177 Hercules Drive, Fort Myers Beach, FL 33931
Applicant: Cynthia Shanosky
Date: June 14, 2022, 9AM

Dear LPA members,

I would like this letter to be my representative for the above Variance Request that I DO NOT APPROVE OF THE ABOVE VARIANCE AND WOULD LIKE IT DENIED!

Under code 34-638 most zoning setbacks require minimum setbacks between all buildings and structures and the street, applying to other lots on that block or street. Many year ago, the previous owner of 190 Hercules applied for a variance to build closer to the street. It was voted down. The current owner recently built a huge new home following the current codes for street setbacks.

At 272 Miramar on FMB,the owners applied for a Street Variance and was also denied, as it blocked the neighbors view of the beautiful Back Bay. A nice home was built without the Variance.

Hercules Park 29-46-24-W2-00600,000A is located at the end of Hercules Dr. with Back Bay Access and directly beside the Shanosky's property at 177 Hercules Dr. It has the Hercules Pier for fishing, plus picnic tables, and a drainage ditch between the properties. It is used by both the public and Hercules Drive property owners. By allowing the Shanoskys to change their Street Setback, it would infringe on both the public and local property owners. All homes on Hercules Dr have followed the setback codes for their homes.

Why should someone who also owns the adjoining properties (4050 Bayside Road and167 Hercules Drive) be allowed to go against every property owner that followed the setback codes for their properties on Hercules Drive? With the amount of land already owned by the Shinoskys, they should be able to plan a lovely new home on the multiple adjoining lots without asking for a Variance!!!

The Shinosky's fought the replacement of the Hercules Pier, even taking the Town to court. The Town prevailed, but at a substantial cost to the Town. They objected to the Pier, due to noise and traffic. Why would they want to build closer to it? We have a very nice street and it would definitely take away from our rightful view of the beautiful Back Bay!

They also have a large grassy area on the water side of their home that they could utilize instead of asking for a Variance in that area. I understand that was recommended by the Town, and I agree!

Building Codes and Setbacks are uniformly applied to all properties within the Town of Fort Myers Beach. They are adopted for the protection and promotion of the Public Health, Safety, Comfort, Convenience, Order, Appearance, Prosperity, and General Welfare. Whenever the regulations and requirements are at variance with the requirements of any other lawfully enacted and adopted rules, regulations, ordinances, or laws, the MOST RESTRICTIVE SHALL APPLY!

PLEASE VOTE "NO" TO THIS VARIANCE REQUEST!!!

Thank you!
Martha Campbell
239-250-6421
marticampbell@earthlink.net

100 Hercules Drive (residence)
103/105 Hercules Drive
4109 Estero Blvd (corner Hercules and Estero) 6/13/22

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From: Mary Warren
To: Jason Smalley
Subject: Shanosky variances Hercules Dr
Date: Tuesday, July 26, 2022 10:49:32 AM

We own 140 Hercules Dr.

We oppose the Shanosky variances.

They own 3 lots lined up in a row. That should be sufficient to build a huge home without requiring encroachment on Hercules Dr.

Mary Warren

Sent from my iPhone

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From: R. Clinton Campbell
To: Jason Smalley
Subject: Variance Requested for Hercules Drive Construction
Date: Wednesday, July 27, 2022 1:27:43 PM

Mr. Smalley:

I am sure others will provide the specifics required to deny the request for multiple variances regarding the construction of a new vacation home in our wonderful, community-minded, voting street residents. I will only address the softer, morally- and ethically-correct side of this issue.

Shortly after purchasing properties on this and the adjacent street, the Shanoskys fought the neighborhood several years ago over our attempt to have our demolished pier rebuilt. During that debate, they resorted to tactics that were underhanded and deceitful, then engaged attorneys to fight our town's decision. Their methods and cost to our town left a bad taste in the mouths of a large majority of residents who lived on our street then, and it resulted in a considerable additional expense for our town. The basis of their fight was that it would require a little more care in piloting their large boat into the enlarged boat docking facility they installed in anticipation of building this new home. Then, as now, they were on the opposite side of the vast majority of street residents.

In seeking this current round of variances to build a very large vacation home at the bay end of our street, the Shanoskys have adopted a new tack--Ms. Shonosky is handling all of the direct communications in an attempt to generate support. She is providing only a few chosen details on the new build, neglecting to address issues that are important to residents. She exaggerates any problems associated with the current pier at the end of our street, including a problem with drug deals, arrests and other bad behavior that we have not experienced. Her explanation for one of the variances to allow for an oversized porch breaching protected areas is that they like big porches. She threatens to sell the property to a builder if the rules are not changed for this new structure. As we can attest, our pier is unkown to most people who do not reside full-time on Hercules Drive, and on nearly all of our walks to the pier we find no one at the site. On the occasion we encounter another, it is an overwhelmingly good bet it is another resident we know.

This new attempt to alter our standing building codes to fit their personal wishes also appears to be failing somewhat, as the only support I am seeing is from newer residents with no knowledge of the history of mistrust that accompanies this issue. Please do not succumb to this new tactic, review the issue and reject the notion that one can buy multiple lots on our island, then buy their way through the well-established, thoughtful code we have adopted to build whatever structure they desire.

Thank you for your service to our island community, and we trust you will enforce each code item as it stands in the books.

Robert Campbell
105 Hercules Drive

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Fort Myers Beach LPA

May 23, 2022

Town of Fort Myers Beach
Town Hall
Estero Blvd
Fort Myers Beach, Fl 33931

To whom it may concern,

My name is Jason Quilling and my wife Tina and I own the residence directly to the north of the subject property owned by Allen & Cynthia Shanosky. Our address is 4031 Bayside Rd.

I am writing this letter to profoundly support the variance applications submitted by the Shanosky's. It is truly remarkable that Allen & Cindee have spent the amount of time and energy designing a home that will benefit the entire community. It is refreshing that someone building a waterfront home is paying attention to view corridors, tree canopies and architectural design. Truly unique these days.

I would encourage the LPA to approve all 4 variance applications and strongly recommend to council they do the same.

Sincerely yours,

Jason Quilling

May 23, 2022

Fort Myers Beach Building Department

Town of Fort Myers

2525 Estero Drive,

Fort Myers Beach, FL 33931

Re: Support of building variances being requested

To whom it may concern,

My name is David Valentine and together with my wife Valerie we are currently under construction of our new home located at 190 Hercules Drive. We decided to move to Fort Myers Beach after visiting many towns up and down the Florida Gulf Coast. The main reasons are because all the natural beauty, scenery, homes but mostly because of the people here at FMB.

Some of the very first people we met here on the island are our neighbors, Allen and Cindee Shanosky, who live across the street from us. They immediately welcomed us and I am proud to say we consider them very good friends now. As we grew to know them, it was really amazing to find out that they have called FMB their home for decades, and their family has generations all that live within a few blocks of each other here mid-island.

We are very excited for them as we have gotten to see and understand their desire to build a new home in place of their current. We believe that their home designs are beautiful, but more importantly they are also very considerate to staying true to the local design intent as well as making sure that they do not interfere with any site lines that the neighbors have. They care more about saving the 100 year old oaks than they do about simply maximizing their foot print. It is rare these days to see new home designs that are so thoughtful and considerate to nature and neighbors.

As we understand, they are asking for 4 variances in order to build the home of their dreams, all of which are 100% supported by me and my wife. We would request that you please approve all of the requested variances as a mean to enhance this community and provide for a home that will reflect the charm, beauty and respect to nature that we see all over this wonderful island.

Sincerely,

David and Valerie Valentine

190 Hercules Drive

David: 248-214-6370

From: Cynthia Shanosky
To: Jason Smalley
Subject: Fwd: Shanosky variances
Date: Monday, June 13, 2022 7:07:16 AM

---------- Forwarded message ---------
From: **James Scully** <jscullyjfscontracting@yahoo.com>
Date: Mon, Jun 13, 2022 at 6:25 AM
Subject: Re: Shanosky variances
To: Cynthia Shanosky <cynthiashanosky@gmail.com>
CC: Beth Sewell (Hercules) <sewellbeth@att.net>, Bob Campbell <Claims202020@gmail.com>, Carol Davis (Hercules) <cdavisrn@comcast.net>, Dennis & Carol Hennessy(Hercules) <DENNIS9355@aol.com>, Diane Phillips (Hercules) <d_phillips4050@yahoo.com>, Elena Fernandez (Hercules) <manageusa@gmail.com>, Emerson & Helen Vidal (Hercules) <iccev@aol.com>, Glenn & Barb MacDonald (Hercules) <glennmacdonald@metrocast.net>, Ileana Rodriquez (Hercules) <ileana@ileanasellsmiami.com>, Jane Stutzman (Hercules) <mjanestutzman@comcast.net>, Joan & Felix Maroto (Hercules) <fjmaroto@comcast.net>, Judi Belida (Hercules) <judi2b@gmail.com>, Karen Wessel (Hercules) <kwessel1630@aol.com>, Kevin Fleishman (Hercules) <kfleishman17@gmail.com>, Kevin Hones (Hercules) <KevinHones@aol.com>, Mary & Mitch <misstilliemae@msn.com>, Mary Warren (Hercules) <catmandu@netins.net>, Mike Erosky (Hercules) <mike.erosky@gmail.com>, Mitch & Mary <mitchmary@msn.com>, Nancy & John Hodson (Hercules) <johnandnancyhodson@gmail.com>, Nancy Slager (Hercules) <neslager@hotmail.com>, Penny Jarrett (Hercules) <pjarrett32@yahoo.com>, R Clinton Campbell <rclintoncampbell@gmail.com>, Sandra Lester (Hercules) <drslester@gmail.com>, <twessel@campingworld.com>, <drcaroledavis@gmail.com>, <marticampbell@earthlink.net>, <twoofus@netnitco.net>

Good morning All,

Cynthia and Allen,
My family and I live across the street at 170 Hercules. We are aware of the variances of which you are applying. For the record, we have NO issues at all with what you are asking. I hope that the Town and the neighbors take the time to look at your plans and appreciate the design and architecture you would be bringing to our block. I believe your design could be used as a model moving forward to help improve the Islands development.

All the best to you!
Regards, James Scully & family.

Sent from my iPhone

> On Jun 10, 2022, at 5:10 PM, Cynthia Shanosky <cynthiashanosky@gmail.com> wrote:
>
> Hello neighbors,
> My name is Cynthia Shanosky and I live at the end of Hercules Drive. This week you received a postcard notifying you of variance requests that I have applied for with the Town. I

would like to take a moment to clarify some misconceptions about our building plans.
>
> The home my husband and I are designing will be one of the the smallest, new-construction, waterfront homes built in the last decade on our island. It is a beautiful old-Florida design, not the mega cubes we see all over the island lately. More importantly, we want to keep it back 51' to 54' from the water (not the required 25'). This will increase the view corridor of the bay for pier and park visitors, as well as Hercules Drive neighbors.
>
> However, in order to accomplish this, we need to ask the Town relief from our side and rear setbacks (this moves us closer to our lot on Hercules and our neighbors Jason and Tina on Bayside Drive). In addition, our left side setback will be three times everyone else's setback currently is on Hercules.
>
> If denied, these variances we will force us to move our house 25' to the water's edge (as the Town is recommending). We have grown to really love our large grassy area in front of our house these past 23 years, and we would really regret doing this.
>
> Another option is to sell to a builder. This I would regret even more! Builders only want to maximize building envelopes, use designs cheaper to build, and clear the earth of trees to maximize their profits.
>
> I just want to make myself available to anyone if they would like to talk with me. My cell phone number is (908) 208-6232.
>
> I look forward to hopefully having a conversation with you soon, and answering any questions that you may have. I am available all night tonight, as well as Saturday and Sunday mornings to talk.
> Best regards,
> Cynthia
>
> ps-If you agree with me, a letter of support (or retraction of descent letter) would be greatly appreciate. Regardless, thank you for at least hearing me out.
>

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Emerson Vidal

170 Hercules Drive

Fort Myers Beach, FL 33931

June 12,2022

Re: Variance for 177 Hercules Dr.

To Whom it may concern:

We own the home 170 Hercules Dr.

Our house is located one house from the Bay and on the opposite side from the proposed new house for which the Owners are requesting a variance.

We see no issue with the variance and wish the Owners success in building their new home.

Thank you,

Emerson Vidal

6/12/2022

MARGHERITA LOSA GIVNEY
NOTARY PUBLIC-STATE OF NEW YORK
No. 01GI6205464
Qualified in Queens County
My Commission Expires 05-11-2025

From: dennis9355@aol.com
To: Jason Smalley
Subject: Hercules Drive Variance
Date: Monday, June 13, 2022 1:22:52 PM

Good afternoon,
My wife and I have owned the property at 156 Hercules Drive for the past 15 years. I would like to begin by disclosing that when the Shanoskys fought against the new dock at the end of our street we disagreed with their position, fought very hard for the dock, and the result shows the town felt the same way we did based on the ruling.

Now with that said we would like to state that we support their application for the variances.
We have taken the time to look at what they are hoping to accomplish and **in our opinion their request will not negatively affect our street.**
Now we all know there are people who no matter what is requested they would say no, hopefully this will not be the case here.

Thank you,
Dennis & Carol Hennessy

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From: Margaret Shanosky
To: Jason Smalley
Subject: CASE VAR20220031
Date: Sunday, July 24, 2022 4:03:50 PM

Mr Smalley,

Case VAR20220031

In response to notification of being within 500 feet of Allen E. and Cynthia A. Shanosky's request for two variances @ 177 Hercules Dr. We appreciate
that they have protected the water views of their neighbors on Hercules Dr..
The good design will be a welcome addition to our island. We support their request for both variances.

Don and Marge Shanosky
157 Mandalay RD
Ft Myers Beach

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From:	marbilart@aol.com
To:	Jason Smalley
Subject:	APPROVAL OF VARIANCE ON BEHALF OF ALLEN AND CINDEE SHANOSKY @ 177 HERCULES, FORT MYERS BEACH, FL 33931
Date:	Sunday, July 24, 2022 4:12:13 PM

Mr. Jason Smalley
Town Council
Fort Myers Beach, FL 33931

Dear Mr. Smalley:

On behalf of nearby neighbors, Allen and Cindee Shanosky, I would like to support the variance (VAR20220031) at 177 Hercules,
Fort Myers Beach, FL 33931, which is coming before Town Council on August 1, 2022.. Should you need further approval on this recommendation or any other information, please call me at 239-463-6766.

Sincerely yours,

Mary Ann Dunbar
3891 Estero Blvd.
Fort Myers Beach, FL 33931

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From:	Bill Maher
To:	Jason Smalley
Cc:	Bill
Subject:	177 Hercules Dr.
Date:	Sunday, July 24, 2022 4:29:45 PM

Hello Jason,

Regarding the notice we received in the mail. We support the variance request for 177 Hercules Dr.

Regards,
Bill Maher
168 Mandalay
Cell: 313-701-3230

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From: Debbie Schermerhorn
To: Jason Smalley
Subject: Allen & Cindee Shanosky Variance application
Date: Sunday, July 24, 2022 6:08:44 PM

Jason,

We are homeowners at 105 Mandalay Rd on Ft. Myers Beach, FL. This is an email in full support of Cindee & Allen Shanosky's variance application for their new home project. The Town Council should readily approve the variance for this new home build on Hercules Dr. The home will not only be a gem on the island, but one of the prettiest and architecturally stunning homes in Florida.

Please contact me if you have any questions.
Kind regards,
Deborah Schermerhorn & Robert Savidge
202 247-7981

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From: Claire Young
To: Jason Smalley
Subject: variance for 177 Hercules
Date: Sunday, July 24, 2022 9:27:59 PM

Hi

my name is Claire Young and I am an owner of 120 Gulf Island Drive in Fort Myers Beach. I am writing to request that you approve the building variance for our neighbors Allen and Cindee Shanoski at 177 Hercules. We are excited that they are taking the opportunity to modernize and improve their home. They have shared their plans with us and we believe that the new design will be beautiful and fitting for their water-front property. we love the look and function of their beautiful porch plans.

Allen and Cindee are wonderful neighbors and I hope that they can build their beautiful new home in our community

thanks

Claire Young

120 Gulf Island Drive Fort Myers Beach

717-926-6660

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From: Engle, Mary G.
To: Jason Smalley
Cc: allenshanosky@gmail.com
Subject: Shanosky applications for property variances
Date: Monday, July 25, 2022 10:52:57 AM

Mr Smalley,
I would like to express my approval of Allen and Cindee Shanoskys request for a variance to allow a larger porch on their proposed home as well as approval for the location of the garage near the Quilling property. I only wish everyone in our neighborhood (as well as the whole island) had the foresight and consideration for our island to design and build such tasteful structures that are in keeping with the Florida vernacular. I would approve anything they propose to do.

Sincerely,
Mary Gail Engle
177 Mandalay Rd
Ft Myers Beach

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From: Heather Shamo
To: Jason Smalley
Subject: Allen & Cindee Shanosky
Date: Monday, July 25, 2022 11:05:34 AM

To whom it may concern,

I am writing on behalf of my husband, Paul Shamo, and myself ,Heather Shamo, to show support for Allen & Cindee Shanosky's variance application for their porch design and the space between their garage and the neighboring property.

Thank you,
Heather Shamo
3921 Bayside Rd
Fort Myers Beach, FL 33931

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From: Melanie Andrew
To: Jason Smalley
Subject: Alan&Cindee New House
Date: Monday, July 25, 2022 11:20:40 AM

My husband Jeff and I would love to see Shenosky's new house built as designed. It will be a great addition to the neighborhood. We live around the corner on Mandalay and look forward to its completion.
Melanie& Jeff Andrew
3909 Estero Blvd

Sent from my iPhone

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From: David Cox
To: Allen Shanosky; Rocky Steimle; Jason Smalley
Subject: RE: Support request
Date: Monday, July 25, 2022 12:40:29 PM

Allen and Cindee,

Brenda and I support your plans for your new home project. We support your requested variance application.
You are great neighbors and we are looking forward to your completed project.
Regards,

David and Brenda Cox

-----Original Message-----
From: Allen Shanosky [mailto:allenshanosky@gmail.com]
Sent: Sunday, July 24, 2022 5:36 PM
To: Rocky Steimle
Cc: Steve Nease; Bill and Anita Turner; Karen and Victor Santos; Judi & Drennen Cloyd; Susan Crawford; Richard Calienes; Janet Garrity; Claire Young; Madelyn Kuhn; Don & Marge Shanosky; Leslie Moore; Mary Ann Dunbar; Tom Ashford; Ray & Buff Salassa; Jeff & Melanie Andrew; Tom & Nancy Connor; Thomas Michael Herbert; Lloyd & Kathy Cleaver; Robert Savidge; Susan and Andy Sabonfigli; Heather & Jewell Patek; Tom (Diane) Otke; Cindee Shanosky; Kathy & Peter; Paul & Heather Shamo; Tom and Audry Stull; Steve & Lisa Sunby; M. Richey; Seaside Property Info; Bruce & Patsy Pieratt; Debbie Schermerhorn; Jason & Tina Quilling; Bruce & Patsy Pieratt; Ed Danver; Hank Incognito; Marge Shanosky; Paula Burton; Mary Gail Engle; Maria Elena Rubio; Nicole Pieratt; Mark & Chris Taglieri; David Cox; Jeff Rupp; Brenda Cox; Greg and Heather Warwin; Tom (Diane) Otke; Ray & Buff Salassa; Tammy Rubight (Bob) Gallo; David & Mardina Andrews; Debrorah Groll & Al DePaolo; Bill Maher; Bob Goodykoontz; Drennen Cloyd; Bob & Marlene McFarland; David & Barbara Gammon; thomas.herbert@globus.ch; Polky Ashford; Mardina Andrews; Robin Gornto; Jeff & Melanie Andrew; Lois Eliasson; Sam & Kimberly McLaughlin; Jane Swan; Steve Pieratt; Heather Shamo
Subject: Support request

Hey neighbors,
Cindee and I are reaching the finish line with the town regarding our new home project. We are having our last town council meeting next Monday, August 1st. If you can send an email showing support for our variance application we would appreciate it. If not we understand. If anyone would like details of the application just give us a call at 908-208-6233.
The email to send to is jsmalley@fmbgov.com
Attn Jason Smalley
Thanks
Allen&Cindee

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From: Buff Salassa
To: Jason Smalley
Subject: Allen Shanosky Variance Application
Date: Monday, July 25, 2022 2:32:10 PM

Jason Smalley:

We are neighbors of the Shanosky's in Gulf Island Manor. We whole heartedly support their new home project. We feel it will be an asset to our neighborhood. It is our understanding that any variances are already supported by the neighbors abutting the Shanosky's home and we have no problem with their plans.

Thank you!

Ray & Buff Salassa
126 Mandalay Rd
Fort Myers Beach FL

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From: Judi Cloyd
To: Jason Smalley
Subject: VAR20220031
Date: Monday, July 25, 2022 3:20:10 PM

Sir,
We own the property at 172 Gulf Island Drive, Ft. Myers Beach, FL. We received the notice regarding a public hearing for two variances requested by Allen and Cynthia Shanosky.
We support their request 100%. Their home will be a beautiful addition to our community.

Thank You,
Judi Cloyd
Drennan Cloyd

--

JudiCloyd@gmail.com
JudiAtTheLake.com
(C) 573-480-7376
(O) 573-693-1300
(F) 573-693-1303
Search Here For ALL Lake Area Properties

5780 Osage Beach Pkwy Osage Beach, MO 65065
3287 Bagnell Dam Blvd Lake Ozark, MO 65049
Office-573-693-1300
Osage Beach~Fax-573-693-1303
Lake Ozark~Fax-573-693-9846

Search Here For ALL Lake Area Properties

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From: Allen Shanosky
To: Jason Smalley
Subject: Support letters
Date: Monday, July 25, 2022 3:45:04 PM

Jason,
Sorry for clogging up your in box with support letters.
Didn't know if you got this one-

Hi kids, :)
We are in total support of your project. We are so happy to have you as our neighbors!!!
Please let us know if you need anything further!!!
Beautiful plan!!!

Judi and Drennan Cloyd
172 Gulf Island dr.

Do we need to resubmit the ones previously supplied? Any luck on the comp plan references or staff report?
Thanks for your time.
Allen

Sent from my iPhone

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From: Tom Ashford
To: Jason Smalley
Subject: FW: Support request
Date: Monday, July 25, 2022 7:13:12 PM

From: allen shanosky <allenshanosky@gmail.com>
Sent: Monday, July 25, 2022 1:54 PM
To: Tom Ashford <Rotarytom6740@comcast.net>
Subject: Re: Support request

Tom,
Cindee and I thank you very much for your kind comments. It's been a long road but hopefully this is the finish line. Did you email this to Jason Smalley at jsmalley@fmbgov.com ? Could you please if you haven't already.
Thanks again, please say hi to Polky.
Allen

> On Jul 25, 2022, at 1:19 PM, Tom Ashford <Rotarytom6740@comcast.net> wrote:
>
> Allen,
>
> Polky and I have been anxious to see your new home on the bay side of Fort Myers Beach. Now that we have seen a rendering we are now anxious to see the finished product. It looks fantastic and will be a beautiful addition to the Gulf Island Manor both from land and sea. We support your request to the Town of Fort Myers Beach and hope they will approve your design as submitted. Please let us know if there is anything else we can do to assist you in this wonderful and exciting project!
>
> Polky and Tom Ashford
> 138 Mandalay Rd.
>
> -----Original Message-----
> From: Allen Shanosky <allenshanosky@gmail.com>
> Sent: Sunday, July 24, 2022 5:36 PM
> To: Rocky Steimle <srbsnbs@yahoo.com>
> Cc: Steve Nease <steve@neaseinc.com>; Bill and Anita Turner <anibilturner@yahoo.com>; Karen and Victor Santos <santoske@jmu.edu>; Judi & Drennen Cloyd <judicloyd@gmail.com>; Susan Crawford <crawfordlit@att.net>; Richard Calienes <rick@handapps.com>; Janet Garrity <jevamg@verizon.net>;

Claire Young <youngc7@dejazzd.com>; Madelyn Kuhn <maddylee1@aol.com>; Don & Marge Shanosky <donshanosky@comcast.net>; Leslie Moore <lestervet1@verizon.net>; Mary Ann Dunbar <marbilart@aol.com>; Tom Ashford <rotarytom6740@comcast.net>; Ray & Buff Salassa <raysalassa@yahoo.com>; Jeff & Melanie Andrew <jeff@garthandrews.com>; Tom & Nancy Connor <nconnor5@verizon.net>; Thomas Michael Herbert <th@thomasherbert.ch>; Lloyd & Kathy Cleaver <lloydcleaver@gmail.com>; Robert Savidge <rjsavidge@yahoo.com>; Susan and Andy Sabonfigli <sabonfigli@aol.com>; Heather & Jewell Patek <jewell@patekandassociates.com>; Tom (Diane) Otke <tomgotke@aol.com>; Cindee Shanosky <shanosky@optionline.net>; Kathy & Peter <mrpeter01@comcast.net>; Paul & Heather Shamo <pshamo1@yahoo.com>; Tom and Audry Stull <tomnaud@hotmail.com>; Steve & Lisa Sunby <slsumby@bellsouth.net>; M. Richey <mcrichey@gmail.com>; Seaside Property Info <info@seaside-property.com>; Bruce & Patsy Pieratt <pmpieratt@aol.com>; Debbie Schermerhorn <debschermerhorn@gmail.com>; Jason & Tina Quilling <jason@qtcommercial.com>; Bruce & Patsy Pieratt <bgbpieratt@aol.com>; Ed Danver <ecdanver@hotmail.com>; Hank Incognito <avenelpharmacy@gmail.com>; Marge Shanosky <margeshanosky@comcast.net>; Paula Burton <pburton85@aol.com>; Mary Gail Engle <mgengle@uky.edu>; Maria Elena Rubio <mer616@gmail.com>; Nicole Pieratt <npieratt@aol.com>; Mark & Chris Taglieri <tagtime2@comcast.net>; David Cox <dcox@pieratts.net>; Jeff Rupp <2rupps@gmail.com>; Brenda Cox <brendapcox@gmail.com>; Greg and Heather Warwin <ctdirect@att.net>; Tom (Diane) Otke <dsw12463@aol.com>; Ray & Buff Salassa <buffunny@yahoo.com>; Tammy Rubight (Bob) Gallo <ttgallo@comcast.net>; David & Mardina Andrews <dpandrews@mymts.net>; Debrorah Groll & Al DePaolo <summerinoh@aol.com>; Bill Maher <billlmaher@aol.com>; Bob Goodykoontz <rg150@msn.com>; Drennen Cloyd <dcloyd@adams.net>; Bob & Marlene McFarland <mbmcfarland2@centurylink.net>; David & Barbara Gammon <jdgammo@aol.com>; thomas.herbert@globus.ch; Polky Ashford <polky@roadrunner.com>; Mardina Andrews <mardina21@icloud.com>; Robin Gornto <robin.gornto@icloud.com>; Jeff & Melanie Andrew <mandrew1943@gmail.com>; Lois Eliasson <loeliasson1@gmail.com>; Sam & Kimberly McLaughlin <mclaughlinutah2@outlook.com>; Jane Swan <swaninsurance@gmail.com>; Steve Pieratt <s.pieratt@twc.com>; Heather Shamo <hlpoppe05@gmail.com>
Subject: Support request

Hey neighbors,
Cindee and I are reaching the finish line with the town regarding our new home project. We are having our last town council meeting next Monday, August 1st. If you can send an email showing support for our variance application we would appreciate it. If not we understand. If anyone would like details of the application just give us a call at 908-208-6233.
The email to send to is jsmalley@fmbgov.com Attn Jason Smalley Thanks Allen&Cindee

Note: Florida has a very broad public records law. Most communication(s) to or from Fort Myers Beach officials regarding Town business are public records available to the public and media upon request. Your email communications and email address may be subject to public disclosure.

From: Rocky STEIMLE
To: Jason Smalley
Subject: Shanosky Property
Date: Monday, July 25, 2022 10:16:26 PM

As a Gulf Island Drive resident, I want it known that I fully support the proposed improvements to the Shanosky properties
Rocky Steimle
138 Gulf Island Drive
954-649-5370

Sent from my iPhone

Note: Florida has a very broad public records law. Most communication(s) to or from Fort Myers Beach officials regarding Town business are public records available to the public and media upon request. Your email communications and email address may be subject to public disclosure.

NELSON, McPHERSON, SUMMERS & SANTOS, L.C.
ATTORNEYS AT LAW
P.O. BOX 1287
STAUNTON, VIRGINIA 24402-1287

12 NORTH NEW STREET

TELEPHONE (540) 885-0346
FACSIMILE (540) 885-2039
WEB SITE: www.nmsslc.com

THOMAS R. NELSON (1899-1980)
RICHARD F. MCPHERSON (1925-2002)
FRANK L. SUMMERS (RETIRED)
VICTOR M. SANTOS
THOMAS P. MCPHERSON
JOHN C. WIRTH
B. SPENCER CROSS
DANIEL E. MOWRY

JESSICA L. ROBINSON
COURTNEY A. DYMOND

July 26, 2022

Via email only
Mr. Jason Smalley
Senior Planner
Planning and Zoning
Town of Fort Myers Beach

Dear Mr. Smalley,

My wife, Karen E. Santos, and I own a residence located at 3991 Bayside Road. We were given notice of a request by Allen and Cindee Shanosky for two variances on property they own on the adjacent Hercules Drive but which is part of the Gulf Island Manor Association.

We have reviewed the plans and we believe the granting of the variances would be appropriate under the circumstances, aesthetically pleasing, and would greatly enhance the cottage look of the proposed home.

Specifically, the request for a variance on the rear setback for the proposed garages (a single floor structure) would only impact the adjacent owners, Jason and Tina Quilling. My understanding is they fully support the granting of the variance. In addition, the request for a variance to extend the length of the porch along Hercules is, in our opinion, integral to enhancing the character of the home and, again, the cottage look. Limiting the length of the porch leaves a gap along the front of the home that greatly detracts from the intended appearance of the home.

Finally, Mr. and Mrs. Shanosky are trying to avoid what has unfortunately become all too prevalent; the two story box construction that takes advantage of as much square footage as possible without regard to the character of the structure. We urge you to grant the variances in an acknowledgment that these are the kinds of new homes we want on the beach.

Sincerely yours,

Victor M. Santos

From: pburton85@aol.com
To: Allen Shanosky; Jason Smalley; tom burton
Subject: Hercules variance
Date: Tuesday, July 26, 2022 12:04:40 PM

Dear Mr. Smalley,
We support the variance being requested by Allen and Cindee Shanosky regarding their residence on Hercules.
Aesthetically this home design is very pleasing to the neighborhood. We request you approve the variance.
Sincerely,
Tom and Paula Burton
107 Gulf Island Dr., Fort Myers Beach
3398 Matepaw Ln., Danville, IN
Paula 317–945–7482
Tom 317–474–3493

Sent from the all new AOL app for iOS

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From: Allen Shanosky
To: Jason Smalley
Subject: Another letter
Date: Wednesday, July 27, 2022 9:18:39 AM

Sent from my iPhone

Begin forwarded message:

> **From:** "Tammy T. Rubright-Gallo" <ttgallo@comcast.net>
> **Date:** July 26, 2022 at 4:01:04 PM EDT
> **To:** Allan & Cindee Shanosky <allenshanosky@gmail.com>
> **Subject: Home Project**
>
> Allan and Cindee –
> Bob and I are very excited about your project. Like your design and feel it is very appropriate for our community and island style. We support your request to move forward with this endeavor. Looking forward to your completion.
>
> Sincerely,
> Your neighbors Tammy Rubright-Gallo and Bob Gallo

125 mandalay rd.

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From: Mardina Andrews
To: David Cox
Cc: Allen Shanosky; Rocky Steimle; Jason Smalley
Subject: Re: Support request
Date: Tuesday, July 26, 2022 4:19:56 PM

Hello,

We also support the plans for your new home build and variance application.

Mardina and David Andrews

Sent from my iPhone

> On Jul 25, 2022, at 11:40 AM, David Cox <dcox@pieratts.net> wrote:
>
> Allen and Cindee,
>
> Brenda and I support your plans for your new home project. We support your
> requested variance application.
> You are great neighbors and we are looking forward to your completed
> project.
> Regards,
>
> David and Brenda Cox
>
> -----Original Message-----
> From: Allen Shanosky [mailto:allenshanosky@gmail.com]
> Sent: Sunday, July 24, 2022 5:36 PM
> To: Rocky Steimle
> Cc: Steve Nease; Bill and Anita Turner; Karen and Victor Santos; Judi &
> Drennen Cloyd; Susan Crawford; Richard Calienes; Janet Garrity; Claire
> Young; Madelyn Kuhn; Don & Marge Shanosky; Leslie Moore; Mary Ann Dunbar;
> Tom Ashford; Ray & Buff Salassa; Jeff & Melanie Andrew; Tom & Nancy
> Connor; Thomas Michael Herbert; Lloyd & Kathy Cleaver; Robert Savidge;
> Susan and Andy Sabonfigli; Heather & Jewell Patek; Tom (Diane) Otke;
> Cindee Shanosky; Kathy & Peter; Paul & Heather Shamo; Tom and Audry Stull;
> Steve & Lisa Sunby; M. Richey; Seaside Property Info; Bruce & Patsy
> Pieratt; Debbie Schermerhorn; Jason & Tina Quilling; Bruce & Patsy
> Pieratt; Ed Danver; Hank Incognito; Marge Shanosky; Paula Burton; Mary
> Gail Engle; Maria Elena Rubio; Nicole Pieratt; Mark & Chris Taglieri;
> David Cox; Jeff Rupp; Brenda Cox; Greg and Heather Warwin; Tom (Diane)
> Otke; Ray & Buff Salassa; Tammy Rubight (Bob) Gallo; David & Mardina
> Andrews; Debrorah Groll & Al DePaolo; Bill Maher; Bob Goodykoontz; Drennen
> Cloyd; Bob & Marlene McFarland; David & Barbara Gammon;
> thomas.herbert@globus.ch; Polky Ashford; Mardina Andrews; Robin Gornto;
> Jeff & Melanie Andrew; Lois Eliasson; Sam & Kimberly McLaughlin; Jane
> Swan; Steve Pieratt; Heather Shamo
> Subject: Support request
>

> Hey neighbors,
> Cindee and I are reaching the finish line with the town regarding our new
> home project. We are having our last town council meeting next Monday,
> August 1st. If you can send an email showing support for our variance
> application we would appreciate it. If not we understand. If anyone would
> like details of the application just give us a call at 908-208-6233.
> The email to send to is jsmalley@fmbgov.com
> Attn Jason Smalley
> Thanks
> Allen&Cindee

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Town of Fort Myers Beach
Agenda Item Summary

Blue Sheet Number: **2022-719**

1. **Requested Motion:**

Meeting Date: August 1, 2022

Permission to hold the Barefoot Rugby Tournament on August 6, 2022 form 9am to 5 pm.

Why the action is necessary:

ORD 20-17

What the action accomplishes:

Allows for event to happen

2. **Agenda:**	3. **Requirement/Purpose:**	4. **Submitter of Information:**
ADMINISTRATIVE AGENDA	ORD 20-17	

5. **Background:**

Requesting permission to hold this previously approved event with beach impacts and clean up is required as a permit condition. They will only be allowed to sell t-shirts at the registration tent. There will be no amplification.

Attachments:

1. Barefoot Rugby Application000

Financial Impact:

6. **Alternative Action**

7. **Management Recommendations:**

8. **Recommended Approval:**

Patty Prevost, Code Supervisor/STR Coordinator	Created/Initiated - 7/26/2022
Daphnie Bercher, Community Services Administrator	Approved - 7/26/2022
John R Herin Jr, Town Attorney	Approved - 7/27/2022
Amy Baker, Town Clerk	Approved - 7/28/2022
Roger Hernstadt, Town Manager	Final Approval - 7/28/2022

Town of Fort Myers Beach

2525 Estero Boulevard, Fort Myers Beach, Florida 33931
Tel: (239) 765-0202 Fax: (239) 765-0909 Email: permits@fmbgov.com

RECEIVED
JUL 07 2022
By 221142

Name of event BAREFOOT BEACH RUGBY TOURNAMONT
Attach separate sheet of paper with detailed description of event

Date(s) and times of event 8/6/22 9AM - 5PM

Address of event 3040, 3050, 3056 ESTERO BLVD

Expected # of participants/attendees 200

Sponsoring Organization SWF RUGBY

Organization address 8550 MOCKINGBIRD LANE, ESTERO 33928

Contact Person/Phone# BRYAN VINCE (239) 910-2758

E-mail BVINCE9@YAHOO.COM

Amplified Music Y____ N X 500 Ft Notifications NO Copy of Letter ____

Renting Town Property Y____ N X Renting Parking Spaces Y____ N X

How many Spaces? 150 How many hours 8 HOURS

Extension of Premises? Y____ N X ABT Form____ How many days?____ (Over 3 days needs to go to Council)

Letters of Permission to use Property YES

Letters of Permission to use Parking YES Parking Plan YES

Site Plan YES Insurance YES (Naming Town of FMB as Certificate Holder)

Requesting Water Y____ N X Electric Y____ N X

Requires Council Approval:
Waiver of open container Y____ N X Waiver of Town parking fees Y____ N X

Waiver of Noise Ordinance Y____ N X Recurring Event Y X N____

Applicant Signature [signature]

Printed Name BRYAN C. VINCE

This permit is subject to the applicant meeting all requirements contained in Fort Myers Beach Code of Ordinance Book Part 2 Chapter 22 and in compliance with all items in the special event application.

Applicant to Complete:

Company managing trash removal: JUNKANOO | SWF RUGBY

No. of dumpsters: 1 **Type of dumpsters:** DUMPSTER ON LOCATION CURRENTLY

Who is responsible for clean-up and payment: JUNKANOO | SWF RUGBY

City right-of-way Parking Use: NO **Number of spaces:** N/A

To be completed by Town Hall employees:

FMB Public Works:

Public Works remarks: See attached

Approval: _____ **Date:** _____

FMB Environment Science: **Tel (239)765-0202 Fax (239)765-0909**

FMB Environmental Sciences remarks: See attached

Approval: _____ **Date:** _____

Date: 07/14/2022
Permit #: 221142
Permit Date: 07/07/2022
Review Date: 07/07/2022
Permit Type:
Review Type: SEP-Public Works Review
Target Date: 07/08/2022
Scheduled Time: 00:00
Completed Date:
Description:
Review Status: APPROVED
Assigned To: Martin Pitts
Time In: 00:00
Time Out: 00:00
Hours: 0.0

Notes

07/08/2022 No parking in town right of way.

Property Information

Parcel#: 294624W1001000220
PERSAUD PROPERTIES FL INVESTMENTS LLC
3040 ESTERO BLVD
Zoning: CBLot: 0220Block: 100

PERSAUD PROPERTIES FL INVESTMENTS LLC
361 SEMINOLE WAY
FORT MYERS BEACH, FL 33931

Patty Prevost

From: Fort Myers Beach <wo@iworq.net>
Sent: Friday, July 15, 2022 10:29 AM
To: Patty Prevost
Subject: Fort Myers Beach Permit # 221142

Click Here to open review

Date: 07/15/2022
Permit #: 221142
Permit Date: 07/07/2022
Review Date: 07/07/2022
Permit Type:
Review Type: SEP-Environmental
Target Date: 07/08/2022
Scheduled Time: 00:00
Completed Date: 07/15/2022
Description:
Review Status: REVIEWED W/CONDITIONS
Assigned To: Chadd Chustz
Time In: 00:00
Time Out: 00:00
Hours: 0.0

Notes

BEACH EVENT PERMIT CONDITIONS

SEA TURTLE NESTING SEASON MAY 1 through OCTOBER 31

Event may commence after 9 a.m. or after completion of daily monitoring for turtle nesting activity by a FWC-authorized marine turtle permit holder, whichever occurs first.

07/15/2022

Lighting associated with a special event that may directly, indirectly, or cumulatively be visible from any portion of the beach IS NOT AUTHORIZED before sunrise nor after sunset.

No sky laterns, floating lanterns, confetti bombs permitted. Any and all flower petals, rice, and any other litter shall be collected from the beach and disposed of properly in a garbage bin.

A 10 foot buffer shall be maintained between event activities and:

- any dune vegetation, and
- any listed species nesting habitat including sea turtles and shorebirds

In addition, it is prohibited for any person to:
- Harass, molest or disturb wildlife (Land Development Code Sec. 14-3);
- Destroy or harm a dune or remove dune vegetation (Land Development Code Sec. 14-3);
- Discard or leave litter, garbage, trash or refuse, vegetative clippings, or debris (Sec. 14-3)

Permitting from the Florida Department of Environmental Protection may be required. It is the responsibility of the applicant to obtain State authorization.

Special event permit holders are responsible for ensuring that the area where the event is held is free of all litter and debris within 24 hours of the time the special event ends. In the event this section is not complied with, the town manager has the authority to contract with a cleaning service and the cost of the cleanup will be the responsibility of the permit holder (Sec. 22-12).

No person shall make, continue or cause to be made or continued any noise disturbance in accordance with Land Development Code Sec. 14-23. Noises resulting from a special event authorized pursuant to chapter 22 of the Land Development Code are excepted; 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 Land Development Code Sec. 14-23 shall fully apply.

Property Information

Parcel#: 294624W1001000220
PERSAUD PROPERTIES FL INVESTMENTS LLC
3040 ESTERO BLVD
Zoning: CBLot: 0220Block: 100

PERSAUD PROPERTIES FL INVESTMENTS LLC
361 SEMINOLE WAY
FORT MYERS BEACH, FL 33931

Note: Florida has a very broad public records law. Most communication(s) to or from Fort Myers Beach officials regarding Town business are public records available to the public and media upon request. Your email communications and email address may be subject to public disclosure.

Please forward the completed application and site plan along with the individual approval request to each identified agency below. Once complete return all to our office.

Florida DEP: DEP now provides an online application process for minor event approval

Self Certification for CCCL Permit Guidance Document: **http://www.dep.state.fl.us/beaches/**

FOR MAJOR EVENTS ONLY CONTACT
Jennie Cowart **Tel (239)344-5627 Fax (850)412-0590**
Email: Jennifer.cowart@dep.state.fl.us

Florida DEP remarks: _____

N/A

_____ N/A

_____

Check list: Application _____ **Site Plan** _____ **Description** _____

Florida DEP approval: _____ **Date:** _____

Rusby 8/6/22

Turtle Time Inc.: Eve Haverfield **Tel (239)481-5566 eve@turtletime.org**

Turtle Season is May 1 through October 31

Turtle Time remarks: Maintain 10' distance from marked sea turtle nest. We will post additional buffer around existing nests. Will contact Bryan following early A.M. survey.

Turtle Time approval: E. Haverfield **Date:** 6/13/22

FORT MYERS BEACH FIRE DEPT Tel (239) 590-4205
100 Voorhis St, Fort Myers Beach, FL 33931 Fax (239) 432-1554

Fire Guards: (how many?) NA

Fee: Invoice Sent

Flammable Vegetation: Not permitted.

First Aid Equipment: Rescue Unit - Standby.

Fire Extinguishing Equipment: A fire extinguisher, with a current state inspection tag from a Florida Licensed Contractor is needed for the 20x10 tent.

Special Arrangements:

Jennifer Campbell — **Print Name**
Jennifer Campbell — **Approval Signature**
7/6/2022 — **Date**

PREVENTION@FMBFIRE.ORG - **For Fire Department Handbook and additional application.**

LEE COUNTY SHERIFF'S DEPT Tel (239)477-1830 Fax (239)432-0268
15650 Pine Ridge Road, Fort Myers, FL 33908

Parking:

Deputies (how many?)

Traffic Control:

Fees:

Special Arrangements:

Print Name **Approval Signature** **Date**

FORT MYERS BEACH FIRE DEPT
100 Voorhis St, Fort Myers Beach, FL 33931

Tel (239) 590-4205
Fax (239) 432-1554

Fire Guards: (how many?) _____

Fee: _____

Flammable Vegetation: _____

First Aid Equipment: _____

Fire Extinguishing Equipment: _____

Special Arrangements: _____

_____

Print Name **Approval Signature** **Date**

PREVENTION@FMBFIRE.ORG – **For Fire Department Handbook and additional application.**

LEE COUNTY SHERIFF'S DEPT **Tel (239)477-1830 Fax (239)432-0268**
15650 Pine Ridge Road, Fort Myers, FL 33908

Parking: Parking will be offered at Junkanoos & Beach Baptist for participants. Permission letters from each establishment are to be secured by event coordinator prior to event.

Deputies (how many?) None are required for this event.

Traffic Control: None are required for this event.

Fees: None

Special Arrangements: Anyone using offsite parking must park in authorized area only & not impede the right-of-way. Participants must utilize all established sidewalks, pathways and crosswalks when moving from the offsite parking to event location.

Steven Brady — Steven Brady — 6/28/22

Print Name **Approval Signature** **Date**

Event Description

Barefoot 7s Rugby Tournament

Date: 8/6/22 (Saturday)

Setup Timing: 7am-8am The setup includes:

- 3 temporary 50mx30m fields of play. The fields will not impact the sand or beach access to typical beachgoers.
- Temporary Registration Tent Area (Quick Setup Variety Type Tent)
- Temporary Areas for teams (approx. 20 teams with 10 players per team) to coordinate activities between their matches.

Game Play: Approximately 9am-3pm. Sanctioned with Liability Insurance provided by USA Rugby.

Trash Clean up: Will be conducted on every hour through the day.

Event Completion and Cleanup: Clean up will be from 3pm-4pm.

Event Site Plan: See attached Overhead Diagram

Parking Plan: See Attached. Includes Junkanoo on the Beach and Ft Myers Beach Art Association and Gallery.

Junkanoo on the Beach: Will operate as normal with no special or outside of normal food/drink preparation or sales.

Participants: Approximately 200 Active Participants

865
Estero Blvd
865
Estero
Junkanoo Beach
Frozen drinks & pub
Fresh Catch Bistro
Seafood · $$
Team Tents
Registration & merchandise Sales
Team Tents
Rugby Field 1
Rugby Field 2
Rugby Field 3

Parking Plan

8/6/22 Barefoot Beach 7s Rugby Tournament

- Junkanoo on the Beach - 3040 Estero Blvd, Fort Myers Beach, FL 33931

  100 Vehicle Spaces

- Ft Myers Beach Art Association and Gallery – 3030 Shell Mound Blvd Ft Myers Beach, FL 33931

  50 Vehicle Spaces

From: Persaud Properties FL Investments LLC

8/1/22

To: SWF Rugby

Regarding: 8/6/22 Barefoot Beach Rugby 7s Tournament2

Consider this letter to be permission from Persaud Properties FL Investments LLC to utilize our property and parking lot in conjunction with your event on 8/6/22.

Addresses:

3040 Estero Blvd Ft Myers Beach, FL 33931

3050/3056 Estero Blvd Ft. Myers Beach 33931

Thank You!

Persaud Properties FL Investments LLC

Fwd: Parking Lot Access for August 6, 2022

From: junkanoo3040@aol.com

To: bvince9@yahoo.com

Date: Thursday, June 23, 2022 at 11:34 AM EDT

Hi Brian,

Here is the letter you need. Also the letter signed by Terry is attached.

Neal
239-463-2600

From: starlinksherwood@gmail.com
To: junkanoo3040@aol.com
Sent: 6/23/2022 11:15:35 AM Eastern Standard Time
Subject: Parking Lot Access for August 6, 2022

Good Morning Neal,

Per our phone conversation this morning, this email is to confirm that the Fort Myers Beach Art Association has agreed to allow Junkanoos/Fresh Catch Bistro the use of our parking lot for your event on August 6, 2022.

We estimate at the lot will provide access for about 50 vehicles using the entire lot including the grassy area on the side of our building.

This request is granted for one day only with no overnight parking allowed.

Please let me know if you have any questions.

Thank you.

Star Sherwood
President, Fort Myers Beach Art Association

--
Starlin K. Sherwood
President
Assistant Treasurer, Membership Chair
Fort Myers Beach Art Association
616-291-7827
starlinksherwood@gmail.com

Rugby Permit.pdf
314kB

Town of Fort Myers Beach
Agenda Item Summary

Blue Sheet Number: **2022-684**

1. **Requested Motion:**

Meeting Date: August 1, 2022

Appointments to the Public Safety Committee (PSC)

Why the action is necessary:

The Public Safety Committee currently has two vacancies on their 7 member committee.

What the action accomplishes:

Fills vacancies

2. **Agenda:**	3. **Requirement/Purpose:**	4. **Submitter of Information:**
ADMINISTRATIVE AGENDA	Other	

5. **Background:**

The Public Safety Committee currently has **two vacancies** on their 7 member committee. The Town received three applications, two from current Fort Myers Beach residents Keran Farrell and Daniel Blanchette and one from a soon to be Fort Myers Beach resident who is building his home here, James Bouloulas. They are requesting to be appointed to the open seats.

Per Sec. 2 of Ordinance 18-06:
Qualifications and Appointment of members:
In addition to qualifications, which may be specified for membership by state statutes, charter, ordinance or resolution, a person appointed to an Agency, Board, Committee or Commission shall give preference to a registered voter within the Town's jurisdiction or a property owner within the Town's jurisdiction. Although no specific experience requirements shall be necessary as a prerequisite to appointment, consideration shall be given to applicants who have experience or who have shown interest in the subject matter. In the event that any member is no longer a qualified elector, or is convicted of a felony, an offense involving moral turpitude while in office or has unpaid fines or liens due the Town of Fort Myers Beach, the Town Council shall terminate the appointment of such person as a member of the agency, board, committee or commission.

Attachments:

1. 2022 Blanchette, Daniel - PSC
2. 2022 Bougoulas, James - PSC
3. 2022 Farrell, Keran - PSC

Financial Impact:

6. **Alternative Action**

Do not appoint new members and advertise for the vacancies

7. **Management Recommendations:**

Appoint two members to the committee.

8. **Recommended Approval:**

Eva Spychalski, Administrative Assistant	Created/Initiated - 5/26/2022
Amy Baker, Town Clerk	Approved - 5/26/2022
John R Herin Jr, Town Attorney	Approved - 5/31/2022
Amy Baker, Town Clerk	Approved - 7/21/2022
Roger Hernstadt, Town Manager	Final Approval - 7/26/2022

Town of Fort Myers Beach

Advisory Boards and Committees Application

Town of Fort Myers Beach
JUL 19 2022
Received by:

Complete one form for each application/committee appointment. Your application will be a public record subject to disclosure on request.

Please type or print clearly. Do not leave blanks.

Today's Date: 07/18/2022

Name: Blanchette (Last) Daniel (First) W (Middle initial)

Telephone Number: 239-258-2971

Email Address: dannyblanny@yahoo.com

Home Address: 209 Dakota Ave Fort Myers Beach, FL 33931

Mailing Address (if different from home address):

Are you currently serving on any of the Town's committees? Yes ○ No ◉

If yes, which committee(s)?

If yes, when is your term expiration?

I am applying for appointment to: (Check one)

- ○ Anchorage Advisory Committee
- ○ Audit Committee
- ○ Bay Oaks Recreational Campus Advisory Board
- ○ Community Resource Advisory Board
- ○ Cultural and Environmental Learning Center Advisory Board
- ○ Historic Preservation Advisory Committee
- ○ Local Planning Agency
- ○ Marine Resources Task Force
- ○ Nuisance Abatement Board
- ◉ Public Safety Committee

Have you been convicted of a felony, an offense involving moral turpitude while in office? Yes ○ No ◉

Do you have unpaid fines or liens due the Town? Yes ○ No ◉

Are you a registered voter within the Town's jurisdiction? Yes ◉ No ○

Are you a resident within the Town's jurisdiction? Yes (•) No ( )

Are you an owner of real property within the Town's jurisdiction? Yes (•) No ( )

Are you currently serving on a board, authority, committee or commission for another governmental agency? Yes ( ) No ( )

If yes, what board, etc., and since when?

Why are you seeking appointment to this board or committee?

As a resident of Fort Myers Beach for the last 2.5 years, I am interested in serving in local government and I feel I have something to offer

Community Involvement:

As a member of the Naples Parrothead Club, I have been involved in Roadside cleanup & Meals of Hope food distribution.
In FMB, I have tried to do my due diligence in supporting Turtle Time by regularly patrolling the area around beach access 16 and raking the beach where holes and high mounds might be located.

Interests / Activities:

As a resident, I am interested in making sure the island is a community that is safe for everyone.
As noted above as a member of Jimmy Buffett's Phan club, I enjoy the lifestyle he sings about but more importantly strive to make the world around me a little better

You may attach a resume in addition to the above information.

Do you qualify for Special Exemptions per § 119.071(4)(d)3., F.S. Yes ( ) No (•)
If yes, fill out Public Records Exemption Request form and submit with the application.

I swear or affirm that all information on this form is true and accurate.

Signed [signature] Date 07/19/2022

Please return this form to the Town Clerk's Office, Town of Fort Myers Beach, 2525 Estero Boulevard, Fort Myers Beach, FL 33931 www.fmbgov.com

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Office Use Only:
Appointed: Yes _____ No _____ DATE: _____

Town of Fort Myers Beach

JUL 25 2022

Received by:_____

Town of Fort Myers Beach

Advisory Boards and Committees Application

Complete one form for each application/committee appointment. Your application will be a public record subject to disclosure on request.

Please type or print clearly. Do not leave blanks.

Today's Date: 07/22/22

Name: Bougoulas (Last) | James (Jim) (First) | (Middle initial)

Telephone Number: (312) 404-6650

Email Address: jbougoulas@gmail.com

Home Address: 16170 Bayside Pointe E Apt 1707 Fort Myers FL 33908

Mailing Address (if different from home address):

Are you currently serving on any of the Town's committees? Yes ○ No ◉

If yes, which committee(s)?

If yes, when is your term expiration?

I am applying for appointment to: (Check one)

- ○ Anchorage Advisory Committee
- ○ Audit Committee
- ○ Bay Oaks Recreational Campus Advisory Board
- ○ Community Resource Advisory Board
- ○ Cultural and Environmental Learning Center Advisory Board
- ○ Historic Preservation Advisory Committee
- ○ Local Planning Agency
- ○ Marine Resources Task Force
- ○ Nuisance Abatement Board
- ◉ Public Safety Committee

Have you been convicted of a felony, an offense involving moral turpitude while in office? Yes ○ No ◉

Do you have unpaid fines or liens due the Town? Yes ○ No ◉

Are you a registered voter within the Town's jurisdiction? Yes ○ No ◉

Are you a resident within the Town's jurisdiction? Yes ○ No ◉

Are you an owner of real property within the Town's jurisdiction? Yes ◉ No ○

Are you currently serving on a board, authority, committee or commission for another governmental agency? Yes ○ No ◉

If yes, what board, etc., and since when?

Why are you seeking appointment to this board or committee?

I am seeking appointment to the Public Safety Committee to help ensure everyone arrives home safe each and everyday. I have been involved in my company's safety team ensuring we have best practices in place to protect our employees. I feel this experience can be helpful for the Town of Fort Myers Beach to protect our residence and guests from problems that could have been prevented.

Community Involvement:

My wife and I permanently moved to the area a year ago and would like to get involved in our community. We are in the process of building our home on Fort Myers Beach. at 16 Pepita Street

Interests / Activities:

I work full time remotely for Mars-Wrigley based out of Chicago. On weekends I enjoy beach time, boating, and paddle boarding. Also enjoy photography and smoking meat.

You may attach a resume in addition to the above information.

Do you qualify for Special Exemptions per § 119.071(4)(d)3., F.S. Yes ○ No ◉

If yes, fill out Public Records Exemption Request form and submit with the application.

I swear or affirm that all information on this form is true and accurate.

Signed Jason Baugh Date 07/22/22

Please return this form to the Town Clerk's Office, Town of Fort Myers Beach, 2525 Estero Boulevard, Fort Myers Beach, FL 33931 www.fmbgov.com

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Office Use Only:

Appointed: Yes _____ No _____ DATE: _____

FORT MYERS BEACH ⊕ ESTERO ISLAND

Town of Fort Myers Beach

Advisory Boards and Committees Application

Complete one form for each application/committee appointment. Your application will be a public record subject to disclosure on request.

Please type or print clearly. Do not leave blanks.

Today's Date: 05/24/22

Name: FARRELL (Last) KERAN (First) (Middle initial)

Telephone Number: (414) 378-4428

Email Address: keranfarrell@yahoo.com

Home Address: 17920 GREY HERON CT FMB 33931

Mailing Address (if different from home address):

Are you currently serving on any of the Town's committees? Yes ○ No ◉

If yes, which committee(s)?

If yes, when is your term expiration?

I am applying for appointment to: (Check one)

- ○ Anchorage Advisory Committee
- ○ Audit Committee
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- ○ Community Resource Advisory Board
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- ○ Historic Preservation Advisory Committee
- ○ Local Planning Agency
- ○ Marine Resources Task Force
- ○ Nuisance Abatement Board
- ◉ Public Safety Committee

Have you been convicted of a felony, an offense involving moral turpitude while in office? Yes ○ No ◉

Do you have unpaid fines or liens due the Town? Yes ○ No ◉

Are you a registered voter within the Town's jurisdiction? Yes ○ No ◉

Are you a resident within the Town's jurisdiction? Yes ○ No ◉

Are you an owner of real property within the Town's jurisdiction? Yes ○ No ◉

Are you currently serving on a board, authority, committee or commission for another governmental agency? Yes ○ No ○

If yes, what board, etc., and since when?

Why are you seeking appointment to this board or committee?

I believe that tourism is the driving economy here in Fort Myers Beach, and in order for that industry to thrive, we need to do everything we can to assure the safety of not only our own residents, but also our visitors. I believe I can be a contributing member of this committee.

Community Involvement:

I currently serve as Treasurer for the Fort Myers Beach Friends of the Arts. I also serve as an Ambassador member of the Chamber of Commerce. You'll see me volunteering at various community events throughout the year: Shrimp Fest, Taste of the Beach, Friends of the Arts concerts, etc.

Interests / Activities:

I also work virtually every weekend as a Motorcycle Safety Instructor for the Motorcycle Safety Foundation. Our range is located at the Naples/Bonita Springs dog track, and I think my background as an instructor gives me some pretty good insight to safety on the road.

You may attach a resume in addition to the above information.

Do you qualify for Special Exemptions per § 119.071(4)(d)3., F.S. Yes ○ No ◉

If yes, fill out Public Records Exemption Request form and submit with the application.

I swear or affirm that all information on this form is true and accurate.

Signed Nicole Farrell Date 5/24/22

Please return this form to the Town Clerk's Office, Town of Fort Myers Beach, 2525 Estero Boulevard, Fort Myers Beach, FL 33931 www.fmbgov.com

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Appointed: Yes _____ No _____ DATE: _____