



Fort Myers Beach Local Planning Agency

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

Agenda

Tuesday, August 9, 2022

9:00 AM

ORDER OF BUSINESS

I. CALL TO ORDER

II. INVOCATION

III. PLEDGE OF ALLEGIANCE

IV. APPROVAL OF MINUTES

- A. Draft minutes June 14, 2022

V. PUBLIC HEARINGS

- A. VAR 20210114 Approve/Approve with Conditions/Deny; 5155 Williams Drive to allow a garage and habitable space 5.5-feet and 7-feet --respectively-- closer to a side-yard property line than allowed-for under current LDC requirements.

The applicant is seeking variances from LDC Sec. 34-638 (Table 34-3), to allow a garage and habitable space closer to a side-yard property line

- B. Comprehensive Plan amendment to adopt a Property Rights Element
Recommend transmittal and approval of the Property Rights Element as an amendment to the Comprehensive Plan
- C. Newton Park CPD Amendment
Newton Park CPD Amendment to Conditions of Approval and Adoption as an Ordinance

VI. HISTORIC PRESERVATION

- A. 171 Egret St Request for Historical Recognition
171 Egret St, Request for historical recognition of a single-family structure, originally constructed in 1961 and subsequently remodeled.
- B. 139 Palermo Cir Request for Historical Recognition
139 Palermo Cir, Request for historical recognition of a single-family structure, originally constructed in 1953 with multiple subsequent

renovations.

VII. ADMINISTRATIVE AGENDA

VIII. LPA MEMBERS ITEMS/REPORTS

IX. LPA ATTORNEY ITEMS/REPORTS

X. COMMUNITY DEVELOPMENT ITEMS/REPORTS

XI. ITEMS FOR NEXT MONTHS AGENDA

XII. PUBLIC COMMENT

XIII. ADJOURNMENT

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

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

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

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

Yellow Sheet Number: **2022-708**

1. **Requested Motion:**

Draft minutes June 14, 2022

Meeting Date: August 9, 2022

Why the action is necessary:

What the action accomplishes:

2. **Agenda:**

APPROVAL OF MINUTES

3. **Requirement/Purpose:**

5. **Background:**

Attachments:

1. Draft minutes 6-14-2022

Financial Impact:

6. **Alternative Action**

7. **Staff Recommendations:**

8. **Recommended Approval:**

Amy Baker, Town Clerk

Date: July 21, 2022



Fort Myers Beach Local Planning Agency

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

Minutes

Tuesday, June 14, 2022

9:00 AM

ORDER OF BUSINESS

I. CALL TO ORDER

Members present: Vice-Chair Jane Plummer, Forrest Critser, Scott Safford and Patrick Vanasse and Karen Woodson.

Excused: Anita Cereceda and Megan Heil.

II. INVOCATION

LPA Member Critser.

III. PLEDGE OF ALLEGIANCE

IV. APPROVAL OF MINUTES

A. Draft minutes May 31, 2022

LPA Member Safford commented that some questions seemed to be missing during the public hearing discussion. LPA Member Vanasse clarified that he requested additional background information besides what was on the spreadsheet.

LPA Member Woodson moved to approve the minutes with comments and clarification; second by LPA Member Vanasse.

Motion passed 5-0 with LPA Members Cereceda and Heil excused.

V. PUBLIC HEARINGS

A. VAR20220031 177 Hercules Dr. Variances (4) Setbacks for new home, garage, and porch.

Approve/Approve with Conditions/Deny VAR20220031 for 177 Hercules Dr. allowing four variances for setbacks for a new home, garage and porch.

Town Attorney Herin, Jr. swore in those providing testimony. Ex parte

communications: LPA Member Vanasse - emails and drive-by; LPA Member Woodson - emails; Vice-Chair Plummer - two conversations with the applicant and drive-by; LPA Member Critser - emails and drive-by and LPA Member Safford - emails and familiar with the property.

Cynthia Shanosky, applicant, introduced architect John Orgren from MHK Architects. Ms. Shanosky indicated she was trying to build a small home on a large lot far from the water to protect the view corridor. She stated that the week after she submitted her design to the engineering firm, the town's code changed. She noted the new home design followed the intent of the new restrictions. She commented that the resident who opposed her request had not seen the design.

Ms. Shanosky utilized PowerPoint to continue her presentation. Slides included: Variance Request #1 - Proposed Design, Without Porch and With Porch; Variance Request #2 for 1 foot; Variance Request #3 - Side Setback Relief of 5 feet; Variance Request #4 - Accessory Structure vs. Rear Relief; 25' Setback Photo and Photo of Proposed Side Setback 3x That of any Neighbor.

Community Development Director Jason Green utilized slides to review the four variance requests and Existing Conditions; Buildable Area; Proposed Waterfront Elevation; Side Setback; Rear Setback; Ord. 22-01 Additional Setback Requirements; 3a. Additional Street Setbacks; 3b. Minimum Number of Structural Protrusions and Allow for Additional Length of Front Porch.

Director Green reviewed the criteria based on Section 34-87 and recommended denial for all variances. He added that proposed conditions were drafted. Vice-Chair Plummer questioned whether the need for a variance would change if the applicant detached the garage and left it in the same location. Director Green explained flood regulations and other possible conflicts. LPA Member Vanasse clarified that if the garage was attached, it was a primary structure, but if it was detached, it was an accessory structure. Director Green explained the waterfront requirement and indicated it was greater than the variance request proposed by the applicant.

LPA Member Vanasse questioned the timing issue of the application submittal and whether the ordinance provided relief to applications in process. Director Green noted that the change to the code applied to homes 7,500 feet or larger and was not related to Ordinance 22-01.

Town Attorney Herin, Jr. explained that the LPA could not go outside the relevant criteria and consider something else when determining whether to grant or deny the variance(s). LPA Member Vanasse questioned whether a deviation process could be used to provide relief. Director Green replied affirmatively.

Vice-Chair Plummer questioned whether the design would have been approved before the changes. Director Green responded negatively and indicated the rear setback was not changed and the other three requests were related to 22-01.

LPA Member Vanasse questioned the location of the live oaks. Mr. Shanosky replied that the oaks were to the west of the small cottage structure

and to the south towards Hercules. The garage was pushed back to save the oaks. LPA Member Safford questioned whether the trees would be in the way if the garage was moved back. Mr. Shanosky replied that a gap was between the trees for a driveway. LPA Member Vanasse questioned whether everything could be shifted four feet closer to the water. Mr. Shanosky replied that if the variance was denied, they would detach and rotate the garage, which would force them to build the house 24 feet forward.

Mr. Orgren stated that the garage was a separate structure and felt it met the rear setback for an accessory structure. The 35-foot setback from Hercules to the front of the garage was for the master suite above it. He noted the porches were longer than the new requirements to make them more functional.

Ms. Shanosky mentioned they were away from the park and the neighbor who would be affected by the rear setback supported the request. She indicated it would be very costly for them to reconfigure the plans.

No public comment.

LPA Member Vanasse empathized with the applicants but noted they had to follow the criteria for a variance process. He indicated they could build a reasonable home on the footprint and there was no hardship. He added that he could support a deviation.

LPA Member Woodson appreciated what the applicants were trying to do, but she did not know how they could get around the requested variances. LPA Member Safford questioned the deviation process. LPA Member Vanasse responded that the process was time-consuming and costly. He recommended that staff create a hybrid process between the deviation process and variances in the Comprehensive Plan. Discussion was held regarding the history of deviation requests for single-family residences.

Vice-Chair Plummer felt it was a unique situation and the applicants were trying to make the neighbors happy and save the oaks. However, she noted they could move the house four feet forward without changing the design, which would relieve the back and side setbacks. She did not think it was injurious to the neighbors and did not think it was a common plan. She felt that adding the porch made the house more interesting. Director Green stated that even if the house was moved four feet, the length of the structure and an additional 12 feet required a variance.

Town Attorney Herin, Jr. suggested tabling the matter to allow the applicants to reconfigure their plans and return to the LPA. The discussion was held regarding whether the canopy of live oaks had to be preserved. LPA Member Vanasse questioned whether staff would look at the tree ordinance for verification.

LPA Member Critser empathized with the applicants and felt the design was beautiful. He noted that the views were not blocked from the neighbors and would vote to approve the variances.

LPA Member Safford felt the design was unique but questioned whether it was extraordinary except for the park and trees. He recommended tabling the hearing and having the applicant return with a slightly modified design.

Town Attorney Herin, Jr. read the section of the code that addressed unique and extraordinary circumstances. He noted that whatever was next door was not inherent to the property.

Director Green stated that the footprint was 65 x 30 plus a 10-foot encroachment of the 35-foot-long porch, and they could build a 3,600 square foot house by code. He requested a five-minute recess to discuss timelines with the applicants and the architect.

LPA Member Vanasse moved to recommend denial based on the criteria; second by Vice-Chair Plummer.

Motion failed 4-1 with LPA Members Cereceda and Heil excused.

LPA Member Critser moved to recommend approval of the variances as presented by the applicant and they met all five of the criteria; second by Vice-Chair Plummer.

LPA Member Safford struggled with the side setback and the porch.

Motion failed 4-1 with LPA Members Cereceda and Heil excused.

The discussion was held by all parties on how to move forward.

Vice-Chair Plummer moved to approve the rear setback variance because it met the criteria and deny the other three variances; second by LPA Member Woodson.

Motion carried 5-0 with LPA Members Cereceda and Heil excused.

LPA Member Vanasse requested that administrative deviations be evaluated and a percentage deviation from setbacks. Director Green replied that the staff was working on it.

VI. ADMINISTRATIVE AGENDA

Director Green suggested a meeting late in July instead of August 9, 2022 and will contact members regarding availability.

VII. LPA MEMBERS ITEMS/REPORTS

LPA Member Woodson questioned the status of licensing jet ski and parasail businesses. Town Attorney Herin, Jr. replied that staff was working on it.

Vice-Chair Plummer reminded members that financial paperwork was due.

No items from other members.

VIII. LPA ATTORNEY ITEMS/REPORTS

No items.

IX. COMMUNITY DEVELOPMENT ITEMS/REPORTS

Director Green revealed that Chair Heil resigned because she moved off the island.

X. ITEMS FOR NEXT MONTHS AGENDA

Several items were in the works.

XI. PUBLIC COMMENT

No public comment.

XII. ADJOURNMENT

LPA Member Safford moved to adjourn; second by LPA Member Critser.
Motion passed 5-0 with LPA Members Cereceda and Heil excused.

The meeting was adjourned at 11:14 a.m.

DRAFT

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

Yellow Sheet Number: **2022-718**

1. Requested Motion:

Meeting Date: August 9, 2022

The applicant is seeking variances from LDC Sec. 34-638 (Table 34-3), to allow a garage and habitable space closer to a side-yard property line

Why the action is necessary:

The proposed additions would not meet the current side-yard setbacks. The existing home was developed under less restrictive setback regulations, adding anything to the existing home would therefore require a variance.

What the action accomplishes:

The shape of the lot and the minimum setbacks in the LDC make expansion of the existing structure difficult. Following the 2013 expansion of the pool and cage the ability for further expansion of the structure was extremely limited. The approval of a variance would be the only option to further expand upon the existing home.

2. Agenda:

PUBLIC HEARINGS

3. Requirement/Purpose:

LPA makes a recommendation
of Approval/ Approval With
Conditions/ Denial to Town
Council

5. Background:

Marc A. Jones, the applicant for 5155 Williams Drive, has requested variances from the Town's Land Development Code (LDC). LDC Sec. 34-638 (Table 34-3), which requires primary structure setbacks of 15-percent of the calculated width of the lot. Currently the LDC requires setbacks of 13-feet from the side property lines, the applicant has proposed side-yard setbacks of 6-feet to the new living area expansion at the rear of the existing structure, and a minimum side-yard setback of 7.5-feet to the new garage expansion at the front of the existing structure, a difference of 7-feet and 5.5-feet respectively.

The house was built in 1961, with building permits from 2013 to add a pool and screen cage to the easternmost portion of the existing structure. The current owners bought the house in 2012.

Attachments:

1. VAR20210114_5155 Williams Dr_Staff Report_LPA DRAFT
2. 10119031-Revised-Setback Variance Public Hearing Application (1)
3. 10523937-Addition Dimensions- (1)

Financial Impact:

N/A

6. Alternative Action

7. Staff Recommendations:

8. **Recommended Approval:**

Jason Green, Community Development Services

Date: July 27, 2022

Jason Smalley, Senior Planner

Date: July 28, 2022

John R Herin Jr, Town Attorney

Date: August 03, 2022

Amy Baker, Town Clerk

Date: August 03, 2022



Town of Fort Myers Beach
COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT

TYPE OF CASE: Variance

CASE NUMBER: VAR20210114

CASE NAME: Variances from LDC Sec. 34-638 (Table 34-3), to allow a garage and habitable space closer to a side-yard property line than allowed-for under current LDC requirements.

LPA

HEARING DATE: August 9, 2022

STAFF

RECOMMENDATION: Deny proposed living space and garage expansion locations

**PREPARED/
SUBMITTED BY:** Jason Smalley/ Jason Green AICP

I. APPLICATION SUMMARY

Applicant/Owner: Marc A. Jones

Request: 5155 Williams Drive to allow a garage and habitable space 5.5-feet and 7-feet --respectively-- closer to a side-yard property line than allowed-for under current LDC requirements.

Subject property: See attached site plan

Physical Address: 5155 Williams Drive

STRAP #: 28-46-24-W4-00339.0000

FLU: Residential Single-Family (RS)

Zoning: Low Density

Adjacent zoning and land uses:

North:	CANAL WATERWAY Open Space
South:	RESIDENTIAL SINGLE-FAMILY (RS) Single-Family Residences
East:	RESIDENTIAL SINGLE-FAMILY (RS) Single-Family Residences
West:	RESIDENTIAL SINGLE-FAMILY (RS) Single-Family Residences

II. BACKGROUND AND ANALYSIS

Background:

Marc A. Jones, the applicant for 5155 Williams Drive, has requested variances from the Town's Land Development Code (LDC). LDC Sec. 34-638 (Table 34-3), which requires primary structure setbacks of 15-percent of the calculated width of the lot. Currently the LDC requires setbacks of 13-feet from the side property lines, the applicant has proposed side-yard setbacks of 6-feet to the new living area expansion at the rear of the existing structure, and a minimum side-yard setback of 7.5-feet to the new garage expansion at the front of the existing structure, a difference of 7-feet and 5.5-feet respectively.

The house was built in 1961, with building permits from 2013 to add a pool and screen cage to the easternmost portion of the existing structure. The current owners bought the house in 2012.

Analysis:

The shape of the lot and the minimum setbacks in the LDC make expansion of the existing structure difficult. Following the 2013 expansion of the pool and cage the ability for further expansion of the structure was extremely limited. The approval of a variance would be the only option to further expand upon the existing home.

The plans do not include information about any proposed driveway work that may be needed to accommodate the proposed garage expansion, but that issue would be dealt with through a standard construction permit where staff can analyze the lot for impervious considerations. The proposed expansion of the home and garage were reviewed for 40-percent lot coverage maximums and found to meet the LDC requirements.

Neighborhood Compatibility:

The proposed scale of the structure is generally in-line with the wider neighborhood. The lot is sodded with existing, mature trees that obscure the bulk of the building. Staff encourages the owner to implement their construction in such a way to keep existing trees and retaining as much existing greenspace as possible. Staff cautions against increasing stone/ rock area as some of the other lots on the block have done.

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 has proposed to meet the street setbacks for Williams Drive, and water setbacks for a man-made waterbody. While the lot lines do restrict—somewhat—further development of the property, this doesn't constitute an "exceptional" or "extraordinary" condition of the site.

- 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.*

While the house was originally built in 1961 and the side-setbacks requirements were changed after the current owners purchased the lot in 2012, the proposed habitable space expansion would not meet the less restrictive 7.5-foot minimum setbacks that were previously in-place. The proposed garage expansion would have been able to meet the minimum 7.5-foot setbacks that were previously in-place.

- 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 not constitute the minimum development necessary to alleviate a burden since there is no burden on the owner. The variance request is simply to have a larger house and garage.

- 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 as many of the mature trees and pervious space as possible, and not increase the use of rock or shell as an alternative groundcover.

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

This variance request is not uncommon for existing structures designed under previous setback requirements of the LDC, 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 finds the request for a variance from LDC Sec. 34-638 (Table 34-3), to allow a primary structure closer to a side-yard setback on a lot adjacent to a waterbody is not consistent with the criteria outlined in LDC Sec. 34-87.

Therefore, staff recommends **DENIAL** of VAR20210114, to allow an expansion of a garage and habitable space closer to a side-yard property line.

IV. CONDITIONS OF APPROVAL

1. N/A



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: 5155 Williams Dr, Fort myers Beach, FL 33931

STRAP Number: 28-46-24-W4-00339.0000

Applicant: Marc A Jones Phone: (812) 277-6159

Contact Name: Marc A Jones Phone: (812) 277-6159

Email: secbmj@sbcglobal.net Fax: _____

Current Zoning District: RS1

Future Land Use Map (FLUM) Category: low density

FLUM Density Range: low density Platted Overlay: ☐ YES ☐ NO

ACTION REQUESTED

☐ Special Exception

☒ Variance

☐ Conventional Rezoning

☐ Planned Development ☐ Commercial ☐ Residential

☐ Master Concept Plan Extension

☐ Appeal of Administrative Action

☐ Vacation of Platted Right-of-way and Easement

☐ Other – cite LDC Section: _____

SUPPLEMENTAL FORM REQUIRED

PH-A

PH-B

PH-C

PH-D

PH-E

PH-F

PH-G

attach on separate sheet

PART I – General Information

A. Applicant*: Marc A Jones Phone: (812) 277-6159

**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: 9105 S Pointe Ridge Ln, #20, Bloomington, IN 47401

Email: secbmj@sbcglobal.net Fax: _____

Contact Name: Marc A Jones Phone: (812) 277 6159



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

B. Relationship of Applicant to subject property:

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

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

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

Name: _____ Phone: _____

Address: _____

Email: _____ Fax: _____

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

Name: _____ Phone: _____

Address: _____

Email: _____ Fax: _____

Name: _____ Phone: _____

Address: _____

Email: _____ Fax: _____

PART II - Nature of Request

Requested Action (each request requires a separate application)

- ☐ Special Exception
- ☒ Variance from LDC Section 34 - 638 T34-3
- ☐ Conventional Rezoning from _____ to _____
- ☐ Planned Development
- ☐ Rezoning from _____ to ☐ Commercial PD ☐ Residential PD
- ☐ Amendment. List the project number: _____
- ☐ Extension/reinstatement of Master Concept Plan. List project number: _____



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

☐ Appeal of Administrative Action

☐ Vacation

☐ Right-of-Way

☐ Easement

☐ Other. Please Explain: _____

PART III - Waivers

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

Code Section: _____ Description: _____

Code Section: _____ Description: _____

Code Section: _____ Description: _____

PART IV - Property Ownership (Single Owner)

☒ Single Owner (individual or husband and wife)

Name: Marc A & Julie W Jones Phone: (812) 277-6159

Mailing Address: 9105 S Pointe Ridge Ln, #20, Bloomington, IN 47401

Email: secbmj@sbcglobal.net Fax: _____

AFFIDAVIT

APPLICATION IS SIGNED BY AN INDIVIDUAL OWNER OR APPLICANT

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

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

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



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

I have authorized the staff of the Town of Fort Myers Beach Community Development to enter upon the property during normal working hours for the purpose of investigating and evaluating the request made thru this application; and that
The property will not be transferred, conveyed, sold or subdivided unencumbered by the conditions and restrictions imposed by the approved action.

Signature

Printed Name

STATE OF Indiana COUNTY OF Lawrence

The foregoing instrument was certified and subscribed before me by means of X physical
presence OR online notarization, this 12th day of Nov, 2021, by
 ☐ who is personally known to me OR ☒ who has produced

Indiana
Drivers License as identification.



DIANA L. ARMSTRONG
Notary Public, State of Indiana
SEAL

My Commission Expires June 8, 2028
Commission Number: 0634584

Diana L. Armstrong
Notary Public Signature

PART V

Property Ownership (Multiple Owners)

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

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

DISCLOSURE OF OWNERSHIP INTEREST

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

Name and Address

Percentage Ownership



COMMUNITY DEVELOPMENT DEPARTMENT
APPLICATION for PUBLIC HEARING

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: 28-46-24-W4-00339.0000

Property Address: 5155 Williams Dr, 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: Glenview

Book: 10 Page: 25 Unit: _____ Block: _____ Lot(s): 39

B. Boundary Survey:

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



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

C. Property Dimensions:

Width (please provide an average width if irregular in shape) 88 feet
Depth (please provide an average width if irregular in shape) 120 feet
Frontage on street: 115 feet. Frontage on waterbody: 60 feet
Total land area: 9548 ☐ acres ☒ square feet

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

Mid-island, equidistance from both

☒ Attach Area Location Map as Exhibit 6-3

E. Property Restrictions (check applicable):

- ☒ There are no deed restrictions and/or covenants on the subject property.
☐ A list of deed restrictions and/or covenants affecting the subject property is attached as Exhibit 6-4.
☐ A narrative statement detailing how the restrictions/covenants may or may not affect the request is attached as Exhibit 6-5.

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

- ☒ Attach a list of surrounding property owners within 500 feet as Exhibit 6-6.
☒ Attach a map showing the surrounding property owners as Exhibit 6-7.
☒ Provide Staff with two (2) sets of surrounding property owner mailing labels.

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

- | | |
|---|--|
| ☒ Low Density | ☐ Marina |
| ☐ Mixed Residential | ☐ Recreation |
| ☐ Boulevard | ☐ Wetlands |
| ☐ Pedestrian Commercial | ☐ Platted Overlay |

Case # _____
 Planner _____

Date Received _____
 Date of Sufficiency/Completeness _____



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: minimum side setback variance
Authorized Applicant: Marc A Jones
LeePA STRAP Number: 28-46-24-W4-00339.0000

Current Property Status: 1 story residence
Current Zoning: RS1
Future Land Use Map (FLUM) Category: low density
Comp Plan Density: low density Platted Overlay? ☒ Yes ☐ No

Variance is requested from:

LDC Section Number

Title of Section or Subsection

34-638 Table 34-3	

Complete the narrative statements below for EACH variance requested.

Case # _____
Planner _____

Date Received _____
Date of Sufficiency/Completeness _____

PART I
Narrative Statements

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

Explain the specific regulation contained in this section from which relief is sought:
Table 34-3 Note (9) Side yard setbacks for all RS and RC lots less than 70 feet in width shall be 7.5 feet; lots 70 feet or greater in width shall be 10 feet.

Reasons for request

Explain why the variance is needed:
sec 34-268 (a) (5) Street, rear or side setbacks may be modified for a residential lot with an unusual shape or orientation.....
Glenview lot 39 has an unusual "pie slice" shape and becomes very narrow toward the back (waterfront side). It actually is less than 70 feet wide in this area. This and the fact that the lot was purchased in 2012 when the minimum side setback was 7.5 feet with the intent of expanding/remodeling. Since the original footprint is biased toward RL N 64 30 10 E the 7.5 ft side setback is necessary along with the variance to 6ft in the narrow end of the lot in order to add a garage toward the street and extend the structure at the back toward the waterway to extend living space.

Case # _____
Planner _____

Date Received _____
Date of Sufficiency/Completeness _____

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

The residency on lot 38, on the other side of RL N 64 30 10 E is oriented in such a way that no "view", access or walkway would be effected by the requested variances. There are no apparent deleterious effects on this adjoining property. The same goes for any other property with in 500 feet. The modifications will not have an adverse impact on the public health, safety, and welfare; and are the minimum required.

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

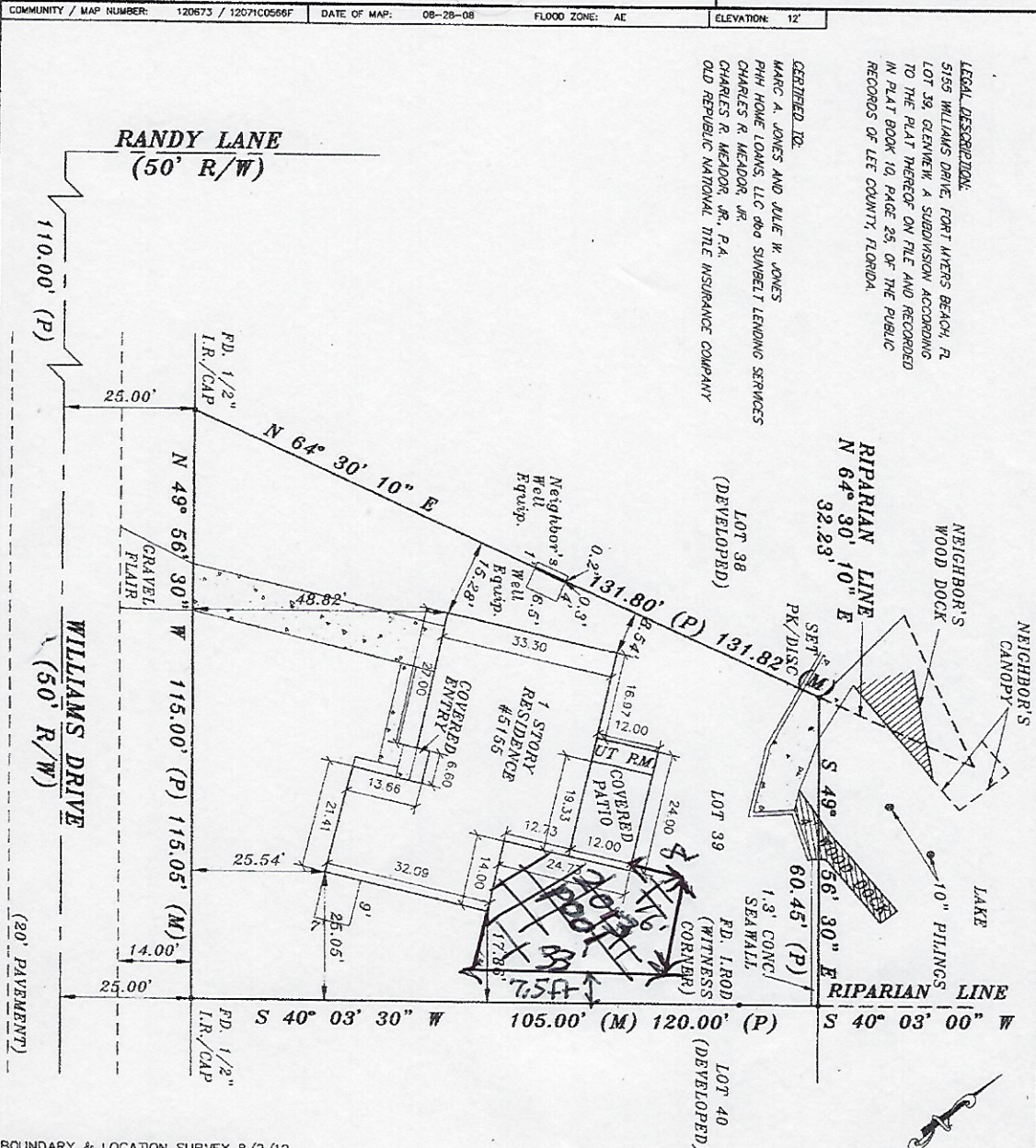
The lot is unusually shaped and narrows to 60 feet toward the waterway and was purchased with the intent to extend/remodel the structure.

Date Received _____
Date of Sufficiency/Completeness _____

(5) The conditions are not so general or recurrent as to make amending the regulation more practical. They are specific to the property in question.

- NOTES:**
1. THIS SURVEY DOES NOT RELY ON ANY PREVIOUS SURVEY.
 2. THE PLAT IS BASED ON THE FOLLOWING DATA:
 3. BEARINGS ARE BASED ON PLAT OR NEED.
 4. DISTANCES ARE BASED ON PLAT OR NEED.
 5. CORRECTIONS ARE BASED ON PLAT OR NEED.
 6. THERE MAY BE OTHER CHANGES NOT SHOWN HEREIN.
 7. THE PUBLIC RECORDS OF THE COUNTY OF FLORIDA.
 8. LOCATION OF LANDMARKS OR MONUMENTS.
 9. STRUCTURES NOT SHOWN WOULD BE CONSIDERED.
 10. SURVEY WAS MADE BY THE SURVEYOR.
 11. SURVEY WAS BASED ON INFORMATION PROVIDED BY:
 12. ACCORDING TO RECORDS TO SURVEY LOTS OR MONUMENTS.
 13. THE FINAL RECORD AND INFORMATION WOULD BE BASED ON THE PUBLIC RECORDS OF THE COUNTY OF FLORIDA.
 14. THE FINAL RECORD AND INFORMATION WOULD BE BASED ON THE PUBLIC RECORDS OF THE COUNTY OF FLORIDA.

- LEGEND:**
- 1. AIR LENGTH
 - 2. AIR CONDITIONER
 - 3. CABLE TV
 - 4. CABLE TV
 - 5. CABLE TV
 - 6. CABLE TV
 - 7. CABLE TV
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 - 99. CABLE TV
 - 100. CABLE TV



BOUNDARY & LOCATION SURVEY 8/2/12
 RIPARIAN SURVEY 3/7/11
 BOUNDARY, LOCATION & NAVD SURVEY 2/27/11

FIELD SURVEY	7-31-12
CREW CHIEF	C. CORDISCO
DRAWN BY	C. WHITED
SCALE	1" = 20'
LIS JOB NO	14018
SHEET: 1 OF 1	REVISED DATE: 6-2-12

LIS Land Surveying, LLC
 d.b.a. S & H Land Survey Co.

21430 Palm Beach Blvd.
 Alva, FL 32920
 239-481-2366 239-481-2437 (Fax)
 LB1057

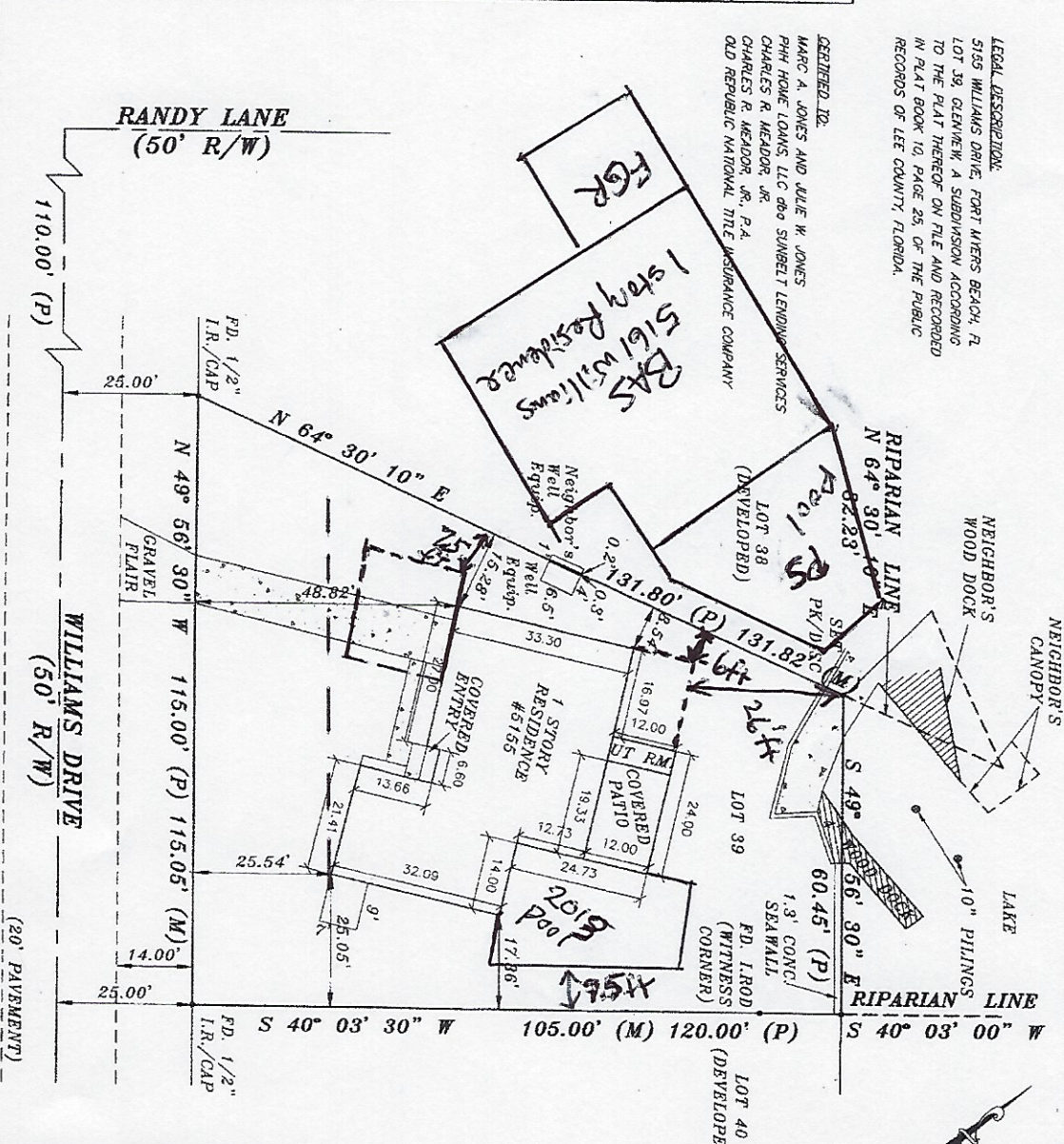
2572 West State Road 426
 Orlando, FL 32765
 321-244-0402 321-244-9419 (Fax)
 LB1057

REGISTERED LAND SURVEYOR NO. 2239
 R.L. SCHUMANN, RLS
 STATE OF FLORIDA
 VALID ONLY WITH EXPIRED SEAL

- NOTES:**
1. THIS SURVEY DOES NOT REFLECT OR DETERMINE OWNERSHIP.
 2. THE PUBLIC RECORDS THAT CONSTITUTE THE PUBLIC RECORDS.
 3. REMARKS ARE BASED ON PLAT OR RECORD.
 4. ELEVATIONS ARE SHOWN AS BASED ON NAVD 1983.
 5. CONDUCTIONS ARE BASED ON PLAT OR RECORD.
 6. THERE MAY BE OTHER ELEVATIONS NOT SHOWN HEREIN.
 7. THE PUBLIC RECORDS OF THE GOVERNING AUTHORITY.
 8. LOCATION OF UNDERGROUND UTILITIES OR STRUCTURES NOT SHOWN UNLESS OTHERWISE NOTED.
 9. THE SURVEY IS BASED ON THE PLAT OR RECORD.
 10. THE SURVEY IS BASED ON THE PLAT OR RECORD.
 11. SURVEY WAS BASED ON INFORMATION PROVIDED BY:
 12. ACCORDING TO RECORDS TO SURVEY LOTS OR PARTS OF PLATS.
 13. THE PLAT, RECORD AND INFORMATION ASSOCIATED WITH THE SURVEY ARE THE PROPERTY OF THE SURVEYOR.
 14. THE SURVEYOR IS NOT RESPONSIBLE FOR ANY LOSS OR DAMAGE TO THE SURVEY OR RECORDS.

- LEGEND:**
- (A) - ARC LENGTH
 - (B) - AIR CONDITIONER
 - (C) - CABLE TV
 - (D) - CABLE TV
 - (E) - CABLE TV
 - (F) - CABLE TV
 - (G) - CABLE TV
 - (H) - CABLE TV
 - (I) - CABLE TV
 - (J) - CABLE TV
 - (K) - CABLE TV
 - (L) - CABLE TV
 - (M) - CABLE TV
 - (N) - CABLE TV
 - (O) - CABLE TV
 - (P) - CABLE TV
 - (Q) - CABLE TV
 - (R) - CABLE TV
 - (S) - CABLE TV
 - (T) - CABLE TV
 - (U) - CABLE TV
 - (V) - CABLE TV
 - (W) - CABLE TV
 - (X) - CABLE TV
 - (Y) - CABLE TV
 - (Z) - CABLE TV

COMMUNITY / MAP NUMBER: 120573 / 1207100566F DATE OF MAP: 06-28-08 FLOOD ZONE: AE ELEVATION: 12'



BOUNDARY & LOCATION SURVEY 8/2/12
 RIPARIAN SURVEY 3/7/11
 BOUNDARY, LOCATION & NAVD SURVEY 2/27/11

FIELD SURVEY	7-31-12
CREW CHIEF	C. CORDISCO
DRAWN BY	C. WHITED
SCALE	1" = 20'
LIS JOB NO	14018
SHEET: 1 OF 1	REVISED DATE: 8-2-12

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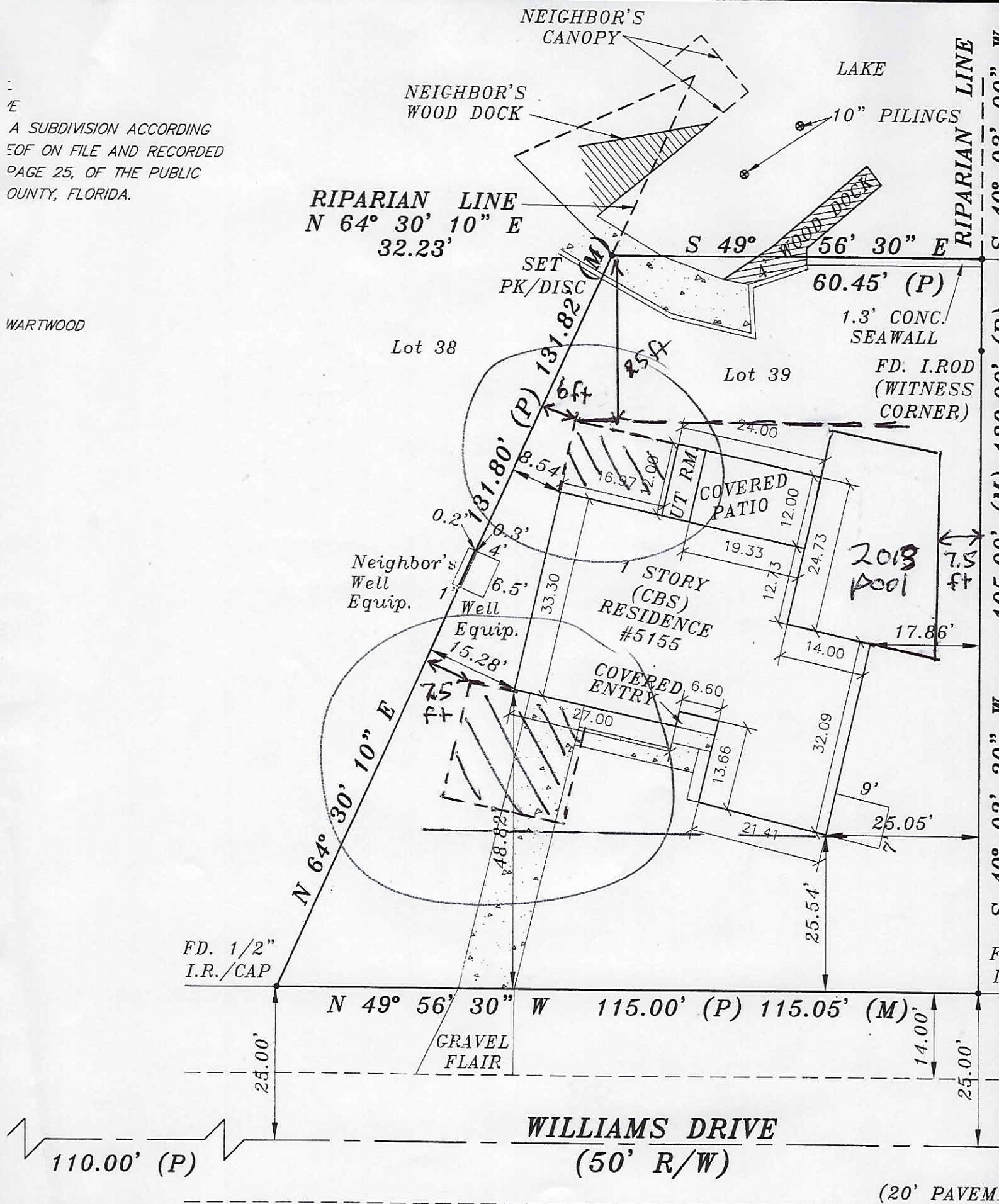
21430 Palm Beach Blvd.
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 LB1057

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 Orlando, FL 32765
 321-244-0402 321-244-9419 (Fax)
 LB1057

REGISTERED LAND SURVEYOR NO. 2239
 STATE OF FLORIDA
 VALID ONLY WITH EXPIRATION SEAL

A SUBDIVISION ACCORDING
 50F ON FILE AND RECORDED
 PAGE 25, OF THE PUBLIC
 COUNTY, FLORIDA.

WARTWOOD



This screenshot shows the Windows 10 taskbar. On the left is the Start button (Windows logo). Next to it is the search bar with the text "Type here to search". To the right of the search bar are several taskbar icons: a globe, a folder, a document, a printer, a mail icon, a calendar icon, a clock icon, a network icon, a volume icon, and a battery icon. On the far right is the system tray, which displays the date and time as "2:46 PM 11/10/2021".

Gallery Map StreetView Request a FREE Analysis X

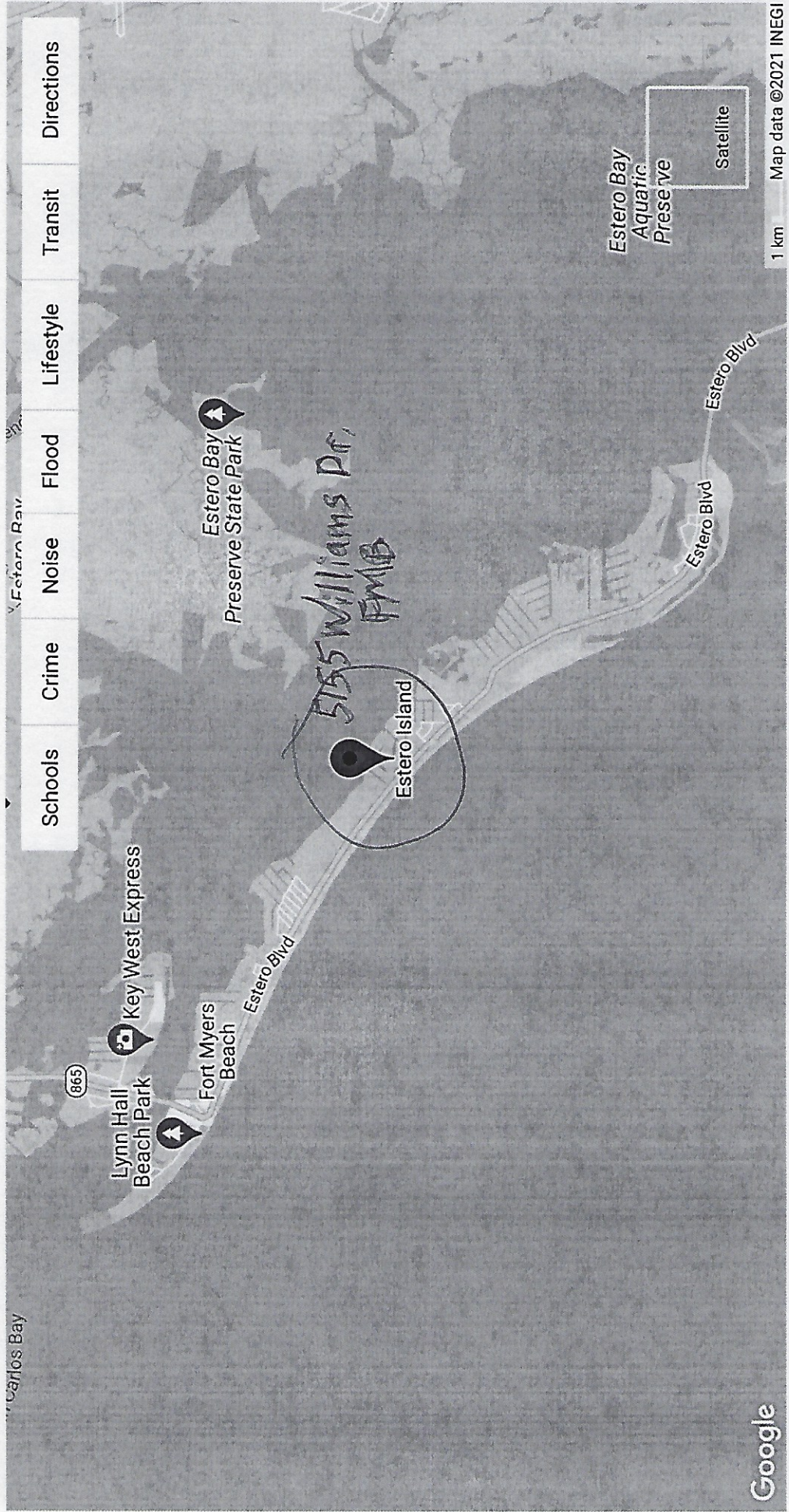
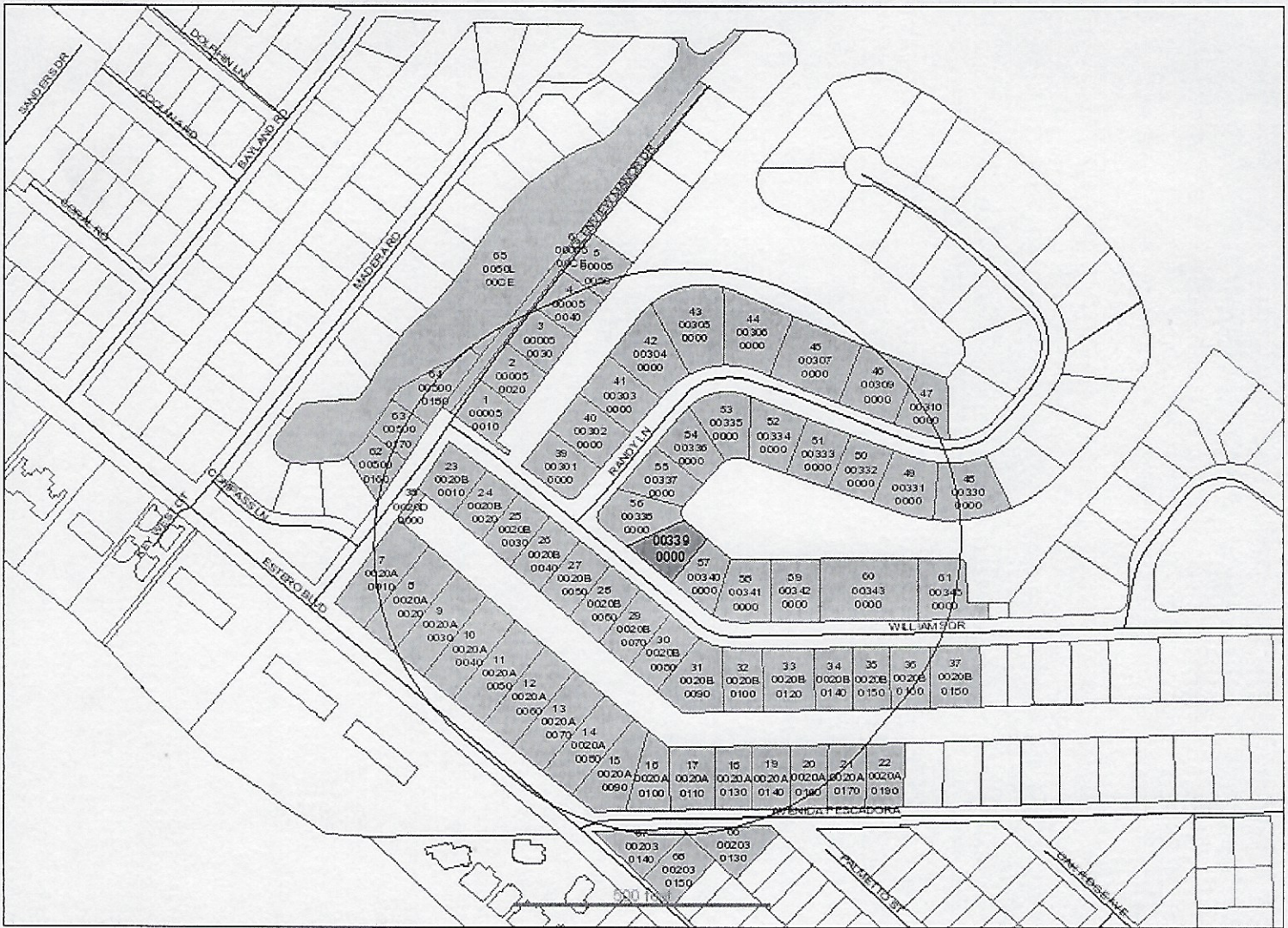


Exhibit 6-3

Exhibit 6-6 & 6-7



Date of Report: November 08, 2021

Buffer Distance: 500 feet

Parcels Affected: 68

Subject Parcel: 28-46-24-W4-00339.0000

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

To change, add or remove subject parcels please change the parcel selection in [GeoView](#)

OWNER NAME AND ADDRESS	STRAP AND LOCATION	LEGAL DESCRIPTION	MAP INDEX
SCKOROPAD ALAIN & 1 GLENVIEW MANOR DR FORT MYERS BEACH FL 33931	28-46-24-W4-00005.0010 1 GLENVIEW MANOR DR FORT MYERS BEACH FL 33931	FR NORTHERN MOST COR OF LOT 1 BLK B HOLIDAY HTS. N 38 DEG 25 MIN 30 SEC E	1
GREY JOHN M & PATRICIA TR 2 GLENVIEW MANOR DR FORT MYERS BEACH FL 33931	28-46-24-W4-00005.0020 2 GLENVIEW MANOR DR FORT MYERS BEACH FL 33931	FR NORTHERN MOST COR OF LOT 1 BLK B HOLIDAY HTS RUN N 38 DEG 25 MIN 30 SEC	2
KENNEDY TIMOTHY P + WENDY L 42 PARKER ST ROCHDALE MA 01542	28-46-24-W4-00005.0030 3 GLENVIEW MANOR DR FORT MYERS BEACH FL 33931	FR NORTHERN MOST COR OF LOT 1 BLK B HOLIDAY HTS RUN N 38 DEG 25 MIN 30	3
KUMPF CURTIS W + LINDA M 818 4TH ST SE MINOT ND 58701	28-46-24-W4-00005.0040 4 GLENVIEW MANOR DR FORT MYERS BEACH FL 33931	BEG N NR.MOST COR LOT 1 BLK B HOLIDAY HTS.TH N 38 DEG 25 MIN 30 SEC E FOR	4
FUSEK MITCHELL JOHN 5 GLENVIEW MANOR DR FORT MYERS BEACH FL 33931	28-46-24-W4-00005.0050 5 GLENVIEW MANOR DR FORT MYERS BEACH FL 33931	FR NELY COR LT1 BLK B HOLI DAY HGTS NE50 TH NW52 TH N E360 TH SE20 TO POB AKA LT 5 GLENVIEW MANOR U/R	5
GLENVIEW MANOR HOMEOWNERS 10 GLENVIEW MANOR DR	28-46-24-W4-00005.00CE GLENVIEW MANOR C/E	20 FT PRIVATE R/W KNOWN AS	6

FORT MYERS BEACH FL 33931	FORT MYERS BEACH FL 33931	GLENVIEW MANOR DR C/E	
MORRISON LARRY K + KIM P 5100 WILLIAMS DR FORT MYERS BEACH FL 33931	28-46-24-W4-0020A.0010 5100 WILLIAMS DR FORT MYERS BEACH FL 33931	HOLIDAY HEIGHTS SUB BLK A PB 9 PG 58 LOT 1	7
SHEA JANICE MATHEWS 5117 ESTERO BLVD FORT MYERS BEACH FL 33931	28-46-24-W4-0020A.0020 5117 ESTERO BLVD FORT MYERS BEACH FL 33931	HOLIDAY HEIGHTS SUB BLK A PB 9 PG 58 LOT 2	8
FUHR ACHIM A & MARIANNE TR 5127 ESTERO BLVD FORT MYERS BEACH FL 33931	28-46-24-W4-0020A.0030 5127 ESTERO BLVD FORT MYERS BEACH FL 33931	HOLIDAY HEIGHTS SUB BLK A PB 9 PG 58 LOT 3	9
LOUGHREY RICKY FRANCIS + 5137 ESTERO BLVD FORT MYERS BEACH FL 33931	28-46-24-W4-0020A.0040 5137 ESTERO BLVD FORT MYERS BEACH FL 33931	HOLIDAY HEIGHTS SUB BLK A PG 9 PG 58 LOT 4	10
LEFEBVRE AMY J 5147 ESTERO BLVD FORT MYERS BEACH FL 33931	28-46-24-W4-0020A.0050 5147 ESTERO BLVD FORT MYERS BEACH FL 33931	HOLIDAY HEIGHTS SUB BLK A PB 9 PG 58 LOT 5	11
CAMERON JOHN FREDERICK TR 18452 CUTLASS DR FORT MYERS BEACH FL 33931	28-46-24-W4-0020A.0060 5157 ESTERO BLVD FORT MYERS BEACH FL 33931	HOLIDAY HEIGHTS SUB BLK A PB 9 PG 58 LOT 6	12
SEBASTIAN NANCY E + 8801 STONEBROOK LN COLUMBIA MD 21046	28-46-24-W4-0020A.0070 5167 ESTERO BLVD FORT MYERS BEACH FL 33931	HOLIDAY HEIGHTS SUB BLK A PB 9 PG 58 LOT 7	13
MAES THOMAS ALBERT + HELENA C 5177 ESTERO BLVD FORT MYERS BEACH FL 33931	28-46-24-W4-0020A.0080 5177 ESTERO BLVD FORT MYERS BEACH FL 33931	HOLIDAY HEIGHTS SUB BLK A PB 9 PG 58 LOT 8	14
FARRIS GEORGE + MAUREEN 5195 ESTERO BLVD FORT MYERS BEACH FL 33931	28-46-24-W4-0020A.0090 5195 ESTERO BLVD FORT MYERS BEACH FL 33931	HOLIDAY HEIGHTS SUB BLK A PB 9 PG 58 LOT 9	15
BETTY M CORNELL TRUST 5199 AVENIDA PESCADORA FORT MYERS BEACH FL 33931	28-46-24-W4-0020A.0100 5199 AVENIDA PESCADORA FORT MYERS BEACH FL 33931	HOLIDAY HEIGHTS SUB BLK A PB 9 PG 58 LOT 10	16
DONOVAN CHRISTOPHER R SR + 8 VINLAND DR SOUTH DENNIS MA 02660	28-46-24-W4-0020A.0110 5211 AVENIDA PESCADORA FORT MYERS BEACH FL 33931	HOLIDAY HEIGHTS SUB BLK A PB 9 PG 58 LOT 11 + W 1/2 LOT 12	17
ROBERT L SOWINSKI TRUST + 5219 AVENIDA PESCADORA FORT MYERS BEACH FL 33931	28-46-24-W4-0020A.0130 5219 AVENIDA PESCADORA FORT MYERS BEACH FL 33931	HOLIDAY HEIGHTS SUB BLK A PB 9 PG 58 LOT 13 + E 1/2 LOT 12	18
FUCHS JANET M TR 5225 AVENIDA PESCADORA FORT MYERS BEACH FL 33931	28-46-24-W4-0020A.0140 5225 AVENIDA PESCADORA FORT MYERS BEACH FL 33931	HOLIDAY HEIGHTS SUB BLK A PB 9 PG 58 LOT 14 + W 1/2 LOT 15	19
CRONE K R + 2165 ITABASHI WAY #55 BURLINGTON ON L7M 0A2 CANADA	28-46-24-W4-0020A.0160 5229 AVENIDA PESCADORA FORT MYERS BEACH FL 33931	HOLIDAY HEIGHTS SUB BLK A PB 9 PG 58 LOTS 16 + E 1/2 LOT 15	20
HUNTER SCOTT TR 22 SERENA LN GUELPH ON N1L 1E7 CANADA	28-46-24-W4-0020A.0170 5239 AVENIDA PESCADORA FORT MYERS BEACH FL 33931	HOLIDAY HEIGHTS SUB BLK A PB 9 PG 58 LOT 17 + W 1/2 18	21
BATZ JACK TR 387 MELTON RD CHESTERTON IN 46304	28-46-24-W4-0020A.0190 5315 AVENIDA PESCADORA FORT MYERS BEACH FL 33931	HOLIDAY HEIGHTS SUB BLK A PB 9 PG 58 LOT PT 18 + ALL 19	22
OHLIGER JAMES + 5110 WILLIAMS DR FORT MYERS BEACH FL 33931	28-46-24-W4-0020B.0010 5110 WILLIAMS DR FORT MYERS BEACH FL 33931	HOLIDAY HEIGHTS SUB BLK B PB 9 PG 58 LOT 1	23
SCHWARTZ ROBERT E 5120 WILLIAMS DR FORT MYERS BEACH FL 33931	28-46-24-W4-0020B.0020 5120 WILLIAMS DR FORT MYERS BEACH FL 33931	HOLIDAY HEIGHTS SUB BLK B PB 9 PG 58 LOT 2	24
BABCOCK ANNIE R 5130 WILLIAMS DR	28-46-24-W4-0020B.0030 5130 WILLIAMS DR	HOLIDAY HEIGHTS SUB BLK B PB 9 PG 58	25

FORT MYERS BEACH FL 33931	FORT MYERS BEACH FL 33931	LOT 3	
METZ CONRAD J + DONNA S 5140 WILLIAMS DR FORT MYERS BEACH FL 33931	28-46-24-W4-0020B.0040 5140 WILLIAMS DR FORT MYERS BEACH FL 33931	HOLIDAY HEIGHTS SUB BLK B PB 9 PG 58 LOT 4	26
ROBINSON WILLIAM A + 5146 WILLIAMS DR FORT MYERS BEACH FL 33931	28-46-24-W4-0020B.0050 5146 WILLIAMS DR FORT MYERS BEACH FL 33931	HOLIDAY HEIGHTS SUB BLK B PB 9 PG 58 LOT 5	27
STEWART DONALD J & JANICE E 37 BARNARD RD OSTERVILLE MA 02655	28-46-24-W4-0020B.0060 5150 WILLIAMS DR FORT MYERS BEACH FL 33931	HOLIDAY HEIGHTS SUB BLK B PB 9 PG 58 LOT 6	28
LTE 5090 LLC 2200 COUNTY RD C WEST #2205 SAINT PAUL MN 55113	28-46-24-W4-0020B.0070 5160 WILLIAMS DR FORT MYERS BEACH FL 33931	HOLIDAY HEIGHTS SUB BLK B PB 9 PG 58 LOT 7	29
KILDOW STEVE C & DEBORAH K 5200 WILLIAMS DR FORT MYERS BEACH FL 33931	28-46-24-W4-0020B.0080 5200 WILLIAMS DR FORT MYERS BEACH FL 33931	HOLIDAY HEIGHTS SUB BLK B PB 9 PG 58 LOT 8	30
REDENIUS RICHARD R + NANCY G 5218 WILLIAMS DR FORT MYERS BEACH FL 33931	28-46-24-W4-0020B.0090 5218 WILLIAMS DR FORT MYERS BEACH FL 33931	HOLIDAY HEIGHTS SUB BLK B PB 9 PG 58 LOT 9	31
DADDERS ESTATES LLC + 1921 PEACE AVE SHAKOPEE MN 55379	28-46-24-W4-0020B.0100 5222 WILLIAMS DR FORT MYERS BEACH FL 33931	HOLIDAY HEIGHTS SUB BLK B PB 9 PG 58 LOTS 10 + W 1/2 11	32
OFARRELL KEVIN F & 5252 WILLIAMS DR FORT MYERS BEACH FL 33931	28-46-24-W4-0020B.0120 5252 WILLIAMS DR FORT MYERS BEACH FL 33931	HOLIDAY HEIGHTS SUB BLOCK B PB 9 PG 58 LOTS E 1/2 11 ALL 12 + W 1/2 OF LOT 13	33
BAUGHER THOMAS C 4700 BREADY RD ROCKVILLE MD 20853	28-46-24-W4-0020B.0140 5300 WILLIAMS DR FORT MYERS BEACH FL 33931	HOLIDAY HEIGHTS SUB BLK B PB 9 PG 58 LOTS 14 + E 1/2 LOT 13	34
REIFF PAUL C & KATHLEEN 404 ENGLSIDE AVE BEACH HAVEN NJ 08008	28-46-24-W4-0020B.0150 5310 WILLIAMS DR FORT MYERS BEACH FL 33931	HOLIDAY HEIGHTS SUBD BLK B PB 9 PG 58 LOTS 15 + PT LOT 16	35
BROWN DONALD DAVID 1 LINCOLN VILLAGE RD HARWICH PORT MA 02646	28-46-24-W4-0020B.0160 5320 WILLIAMS DR FORT MYERS BEACH FL 33931	HOLIDAY HEIGHTS SUB BLK B PB 9 PG 58 LOTS 17 + ELY 1/2 OF LOT 16	36
POLLY LARRY J + DEVON L 5340 WILLIAMS DR FORT MYERS BEACH FL 33931	28-46-24-W4-0020B.0180 5340 WILLIAMS DR FORT MYERS BEACH FL 33931	HOLIDAY HEIGHTS SUB BLK B PB 9 PG 58 LOTS 18 + 19	37
MORRISON LARRY K & KIM P 5100 WILLIAMS DR FORT MYERS BEACH FL 33931	28-46-24-W4-0020D.0000 5108 WILLIAMS DR FORT MYERS BEACH FL 33931	HOLIDAY HEIGHTS SUB BLK D PB 9 PG 58 ALL OF BLK D	38
SUTER RICHARD P + MARY P 201 RANDY LN FORT MYERS BEACH FL 33931	28-46-24-W4-00301.0000 201 RANDY LN FORT MYERS BEACH FL 33931	GLENVIEW SUB PB 10 PG 25 LOT 1	39
SHAW ROBERT A + DOROTHY J 241 RANDY LN FORT MYERS BEACH FL 33931	28-46-24-W4-00302.0000 241 RANDY LN FORT MYERS BEACH FL 33931	GLENVIEW SUB PB 10 PG 25 LOT 2	40
LACOSTE JOSEPH R JR & 46359 CHEMEKETTE RD ROBERT LA 70455	28-46-24-W4-00303.0000 251 RANDY LN FORT MYERS BEACH FL 33931	GLENVIEW SUBD PB 10 PG 25 LOT 3	41
FISCHER ADAM Q 26674 TOWNSHIP ROAD 31 WARSAW OH 43844	28-46-24-W4-00304.0000 261 RANDY LN FORT MYERS BEACH FL 33931	GLENVIEW SUB PB 10 PG 25 LOT 4	42
ZINGERY MARK A & KAREN M UNIT 202 26931 MONTEGO POINTE CT BONITA SPRINGS FL 34134	28-46-24-W4-00305.0000 271 RANDY LN FORT MYERS BEACH FL 33931	GLENVIEW SUB PB 10 PG 25 LOT 5	43
VOGELGESANG RICHARD + CYNTHIA	28-46-24-W4-00306.0000 291 RANDY LN	GLENVIEW SUB PB 10 PG 25	44

291 RANDY LN FORT MYERS BEACH FL 33931	FORT MYERS BEACH FL 33931	LOTS 6 + N W 20 FT OF LOT 7	
STAMPER ANGELA PARKS 5167 SILHOUETTE LN SW MABLETON GA 30126	28-46-24-W4-00307.0000 331 RANDY LN FORT MYERS BEACH FL 33931	GLENVIEW SUB PB 10 PG 25 LOT 7 LESS NW 20' + LOT 8 LESS SELRY 20 FT	45
ADAM HELMUT M + CHRISTINE E TR 371 RANDY LN FORT MYERS BEACH FL 33931	28-46-24-W4-00309.0000 371 RANDY LN FORT MYERS BEACH FL 33931	GLENVIEW SUB PB 10 PG 25 LOTS 9 + PT LOT 8	46
LITRELL DARRELL E + LORNA D 391 RANDY LN FORT MYERS BEACH FL 33931	28-46-24-W4-00310.0000 391 RANDY LN FORT MYERS BEACH FL 33931	GLENVIEW SUBD PB 10 PG 25 LOT 10	47
DEVRIES RAYMOND A & 9521 CALLAN DR ORLAND PARK IL 60462	28-46-24-W4-00330.0000 380 RANDY LN FORT MYERS BEACH FL 33931	GLENVIEW SUB PB 10 PG 25 LOT 30	48
PARIS SAM + ANNA 370 RANDY LN FORT MYERS BEACH FL 33931	28-46-24-W4-00331.0000 370 RANDY LN FORT MYERS BEACH FL 33931	GLENVIEW SUB PB 10 PG 25 LOT 31	49
VOLMERT DANIEL H & JULIA A TR 3333 RIDGEWAY DR SAINT CHARLES MO 63303	28-46-24-W4-00332.0000 360 RANDY LN FORT MYERS BEACH FL 33931	GLENVIEW SUB PB 10 PG 25 LOT 32	50
HARRIS MICHAEL G & DENISE A 340 RANDY LN FORT MYERS BEACH FL 33931	28-46-24-W4-00333.0000 340 RANDY LN FORT MYERS BEACH FL 33931	GLENVIEW SUB PB 10 PG 25 LOT 33	51
BABCOCK PHILLIP O + PAULA GISH 320 RANDY LN FORT MYERS BEACH FL 33931	28-46-24-W4-00334.0000 320 RANDY LN FORT MYERS BEACH FL 33931	GLENVIEW SUB PB 10 PG 25 LOT 34	52
HUGHES FLORIDA PROPERTY TRUST 270 RANDY LN FORT MYERS BEACH FL 33931	28-46-24-W4-00335.0000 270 RANDY LN FORT MYERS BEACH FL 33931	GLENVIEW SUB PB 10 PG 25 LOT 35	53
LENTINI JOHN & MARIE D 374 SHERWOOD RD UNION NJ 07083	28-46-24-W4-00336.0000 250 RANDY LN FORT MYERS BEACH FL 33931	GLENVIEW SUB PB 10 PG 25 LOT 36	54
POLLACK JUDITH M 6401 EDGEWATER DR ERIE MI 48133	28-46-24-W4-00337.0000 230 RANDY LN FORT MYERS BEACH FL 33931	GLENVIEW SUB PB 10 PG 25 LOT 37	55
KIRK LOWELL T & PATRICIA J + 12345 OLD MERIDIAN CARMEL IN 46032	28-46-24-W4-00338.0000 5161 WILLIAMS DR FORT MYERS BEACH FL 33931	GLENVIEW SUB PB 10 PG 25 LOT 38	56
DEPAUW SCOTT & DEBRA 242 PILGRIMS PATH GURNEE IL 60031	28-46-24-W4-00340.0000 5175 WILLIAMS DR FORT MYERS BEACH FL 33931	GLENVIEW SUB PB 10 PG 25 LOT 40	57
CZAJA WILLIAM D & LISA B 5195 WILLIAMS DR FORT MYERS BEACH FL 33931	28-46-24-W4-00341.0000 5195 WILLIAMS DR FORT MYERS BEACH FL 33931	GLENVIEW SUB PB 10 PG 25 LOT 41	58
SATTERLY TODD P & SHARON K 5207 WILLIAMS DR FORT MYERS BEACH FL 33931	28-46-24-W4-00342.0000 5207 WILLIAMS DR FORT MYERS BEACH FL 33931	GLENVIEW SUB PB 10 PG 25 LOT 42	59
HARTMAN THOMAS SCOTT L/E 5235 WILLIAMS DR FORT MYERS BEACH FL 33931	28-46-24-W4-00343.0000 5235 WILLIAMS DR FORT MYERS BEACH FL 33931	GLENVIEW SUB PB 10 PG 25 LOTS 43 + 44	60
NEASE STEPHEN L + AMY B 5239 WILLIAMS DR FORT MYERS BEACH FL 33931	28-46-24-W4-00345.0000 5239 WILLIAMS DR FORT MYERS BEACH FL 33931	GLENVIEW SUB PB 10 PG 25 LOTS 45 + 52 + HOLIDAY HEIGHTS SUB BLK B PB 9 PG 58 W 1/2 LOT 51	61
PRATER WANDA M 5031 WILLIAMS DR FORT MYERS BEACH FL 33931	28-46-24-W4-00500.0160 5031 WILLIAMS DR FORT MYERS BEACH FL 33931	YACHTSMAN COVE PB 28 PG 61 LOT 16	62
WILUTIS MARK A & DEBORAH A 3183 EDEN TRL	28-46-24-W4-00500.0170 5037 WILLIAMS DR	YACHTSMAN COVE PB 28 PG 61	63

BRIGHTON MI 48114	FORT MYERS BEACH FL 33931	LOT 17	
REICHLIN JAMES M + DAWN L 5043 WILLIAMS DR FORT MYERS BEACH FL 33931	28-46-24-W4-00500.0180 5043 WILLIAMS DR FORT MYERS BEACH FL 33931	YACHTSMAN COVE PB 28 PG 61 LOT 18	64
YACHTSMANS COVE HOMEOWNERS CARRIE DOINE 21611 MADERA RD FORT MYERS BEACH FL 33931	28-46-24-W4-0050L.00CE SUBMERGED FORT MYERS BEACH FL 33931	YACHTMANS COVE PB 28 PG 61 LOTS L + P	65
TESKE JUSTIN T & JESSICA L 1772 LAFAYETTE LN MOUND MN 55364	33-46-24-W1-00203.0130 5220 AVENIDA PESCADORA FORT MYERS BEACH FL 33931	GULF HEIGHTS BLK 3 PB 6 PG 39 LOT 13 SEE OR 1228/1414	66
FLORIDA VACATION RENTALS LLC 4717 RIVERVIEW BLVD BRADENTON FL 34209	33-46-24-W1-00203.0140 5241 ESTERO BLVD FORT MYERS BEACH FL 33931	GULF HEIGHTS BLK 3 PB 6 PG 39 LOT 14	67
MCCARTY HAROLD + DORIS D 1052 ANDOVER FOREST DR LEXINGTON KY 40509	33-46-24-W1-00203.0150 5247 ESTERO BLVD FORT MYERS BEACH FL 33931	GULF HEIGHTS BLK 3 PB 6 PG 39 LT 15 + WLY 35 FT LT 16	68

SCKOROPAD ALAIN &
1 GLENVIEW MANOR DR
FORT MYERS BEACH FL 33931

GREY JOHN M & PATRICIA TR
2 GLENVIEW MANOR DR
FORT MYERS BEACH FL 33931

KENNEDY TIMOTHY P + WENDY L
42 PARKER ST
ROCHDALE MA 01542

KUMPF CURTIS W + LINDA M
818 4TH ST SE
MINOT ND 58701

FUSEK MITCHELL JOHN
5 GLENVIEW MANOR DR
FORT MYERS BEACH FL 33931

GLENVIEW MANOR HOMEOWNERS
10 GLENVIEW MANOR DR
FORT MYERS BEACH FL 33931

MORRISON LARRY K + KIM P
5100 WILLIAMS DR
FORT MYERS BEACH FL 33931

SHEA JANICE MATHEWS
5117 ESTERO BLVD
FORT MYERS BEACH FL 33931

FUHR ACHIM A & MARIANNE TR
5127 ESTERO BLVD
FORT MYERS BEACH FL 33931

LOUGHREY RICKY FRANCIS +
5137 ESTERO BLVD
FORT MYERS BEACH FL 33931

LEFEBVRE AMY J
5147 ESTERO BLVD
FORT MYERS BEACH FL 33931

CAMERON JOHN FREDERICK TR
18452 CUTLASS DR
FORT MYERS BEACH FL 33931

SEBASTIAN NANCY E +
8801 STONEBROOK LN
COLUMBIA MD 21046

MAES THOMAS ALBERT + HELENA C
5177 ESTERO BLVD
FORT MYERS BEACH FL 33931

FARRIS GEORGE + MAUREEN
5195 ESTERO BLVD
FORT MYERS BEACH FL 33931

BETTY M CORNELL TRUST
5199 AVENIDA PESCADORA
FORT MYERS BEACH FL 33931

DONOVAN CHRISTOPHER R SR +
8 VINLAND DR
SOUTH DENNIS MA 02660

ROBERT L SOWINSKI TRUST +
5219 AVENIDA PESCADORA
FORT MYERS BEACH FL 33931

FUCHS JANET M TR
5225 AVENIDA PESCADORA
FORT MYERS BEACH FL 33931

CRONE K R +
2165 ITABASHI WAY #55
BURLINGTON ON L7M 0A2
CANADA

SCKOROPAD ALAIN &
1 GLENVIEW MANOR DR
FORT MYERS BEACH FL 33931

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FORT MYERS BEACH FL 33931

CRONE K R +
2165 ITABASHI WAY #55
BURLINGTON ON L7M 0A2
CANADA

HUNTER SCOTT TR
22 SERENA LN
GUELPH ON N1L 1E7
CANADA

BATZ JACK TR
387 MELTON RD
CHESTERTON IN 46304

OHLIGER JAMES +
5110 WILLIAMS DR
FORT MYERS BEACH FL 33931

SCHWARTZ ROBERT E
5120 WILLIAMS DR
FORT MYERS BEACH FL 33931

BABCOCK ANNIE R
5130 WILLIAMS DR
FORT MYERS BEACH FL 33931

METZ CONRAD J + DONNA S
5140 WILLIAMS DR
FORT MYERS BEACH FL 33931

ROBINSON WILLIAM A +
5146 WILLIAMS DR
FORT MYERS BEACH FL 33931

STEWART DONALD J & JANICE E
37 BARNARD RD
OSTERVILLE MA 02655

LTE 5090 LLC
2200 COUNTY RD C WEST #2205
SAINT PAUL MN 55113

KILDOW STEVE C & DEBORAH K
5200 WILLIAMS DR
FORT MYERS BEACH FL 33931

REDENIUS RICHARD R + NANCY G
5218 WILLIAMS DR
FORT MYERS BEACH FL 33931

DADDERS ESTATES LLC +
1921 PEACE AVE
SHAKOPEE MN 55379

OFARRELL KEVIN F &
5252 WILLIAMS DR
FORT MYERS BEACH FL 33931

BAUGHER THOMAS C
4700 BREADY RD
ROCKVILLE MD 20853

REIFF PAUL C & KATHLEEN
404 ENGLSIDE AVE
BEACH HAVEN NJ 08008

BROWN DONALD DAVID
1 LINCOLN VILLAGE RD
HARWICH PORT MA 02646

POLLY LARRY J + DEVON L
5340 WILLIAMS DR
FORT MYERS BEACH FL 33931

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5100 WILLIAMS DR
FORT MYERS BEACH FL 33931

SUTER RICHARD P + MARY P
201 RANDY LN
FORT MYERS BEACH FL 33931

SHAW ROBERT A + DOROTHY J
241 RANDY LN
FORT MYERS BEACH FL 33931

HUNTER SCOTT TR
22 SERENA LN
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CANADA

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LACOSTE JOSEPH R JR &
46359 CHEMEKETTE RD
ROBERT LA 70455

FISCHER ADAM Q
26674 TOWNSHIP ROAD 31
WARSAW OH 43844

ZINGERY MARK A & KAREN M
UNIT 202
26931 MONTEGO POINTE CT
BONITA SPRINGS FL 34134

VOGELGESANG RICHARD + CYNTHIA
291 RANDY LN
FORT MYERS BEACH FL 33931

STAMPER ANGELA PARKS
5167 SILHOUETTE LN SW
MABLETON GA 30126

ADAM HELMUT M + CHRISTINE E TR
371 RANDY LN
FORT MYERS BEACH FL 33931

LITTRELL DARRELL E + LORNA D
391 RANDY LN
FORT MYERS BEACH FL 33931

DEVRIES RAYMOND A &
9521 CALLAN DR
ORLAND PARK IL 60462

PARIS SAM + ANNA
370 RANDY LN
FORT MYERS BEACH FL 33931

VOLMERT DANIEL H & JULIA A TR
3333 RIDGEWAY DR
SAINT CHARLES MO 63303

HARRIS MICHAEL G & DENISE A
340 RANDY LN
FORT MYERS BEACH FL 33931

BABCOCK PHILLIP O + PAULA GISH
320 RANDY LN
FORT MYERS BEACH FL 33931

HUGHES FLORIDA PROPERTY TRUST
270 RANDY LN
FORT MYERS BEACH FL 33931

LENTINI JOHN & MARIE D
374 SHERWOOD RD
UNION NJ 07083

POLLACK JUDITH M
6401 EDGEWATER DR
ERIE MI 48133

KIRK LOWELL T & PATRICIA J +
12345 OLD MERIDIAN
CARMEL IN 46032

DEPAUW SCOTT & DEBRA
242 PILGRIMS PATH
GURNEE IL 60031

CZAJA WILLIAM D & LISA B
5195 WILLIAMS DR
FORT MYERS BEACH FL 33931

SATTERLY TODD P & SHARON K
5207 WILLIAMS DR
FORT MYERS BEACH FL 33931

HARTMAN THOMAS SCOTT L/E
5235 WILLIAMS DR
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BRIGHTON MI 48114

REICHLIN JAMES M + DAWN L
5043 WILLIAMS DR
FORT MYERS BEACH FL 33931

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CARRIE DOINE
21611 MADERA RD
FORT MYERS BEACH FL 33931

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MOUND MN 55364

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BRADENTON FL 34209

MCCARTY HAROLD + DORIS D
1052 ANDOVER FOREST DR
LEXINGTON KY 40509

Permit # 20210114

5155 Williams Dr
FMB 33931

A SUBDIVISION ACCORDING
EOF ON FILE AND RECORDED
PAGE 25, OF THE PUBLIC
COUNTY, FLORIDA.

WARTWOOD

NEIGHBOR'S
CANOPY

NEIGHBOR'S
WOOD DOCK

LAKE

10" PILINGS

RIPARIAN LINE
N 64° 30' 10" E
32.23'

SET
PK/DISC

S 49° 56' 30" E
60.45' (P)

1.3' CONC.
SEAWALL

FD. I. ROD
(WITNESS
CORNER)

Lot 38

Lot 39

*
12' x 16.97'
Living space extension

Neighbor's
Well
Equip.

Well
Equip.

1 STORY
(CBS)
RESIDENCE
#5155

COVERED
ENTRY

COVERED
PATIO

2018
Pool

*
20' x 20'
Garage added

FD. 1/2"
I.R./CAP

N 64° 30' 10" E

N 49° 56' 30" W 115.00' (P) 115.05' (M)

GRAVEL
FLAIR

WILLIAMS DRIVE
(50' R/W)

110.00' (P)

(20' PAVED)

* Maintain existing height

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

Yellow Sheet Number: **2022-740**

1. Requested Motion:

Meeting Date: August 9, 2022

Recommend transmittal and approval of the Property Rights Element as an amendment to the Comprehensive Plan

Why the action is necessary:

Section 163.3177(6)(i) requires local governments to adopt a property rights element as part of their comprehensive plan. State law also requires the Local Planning Agency to review and make recommendations to the Town Council regarding amendments to the Town's Comprehensive Plan.

What the action accomplishes:

Brings the Town's Comprehensive Plan into compliance with state law.

2. Agenda:

PUBLIC HEARINGS

3. Requirement/Purpose:

Ordinance

5. Background:

Section 163.3177(6)(i)2, Florida Statutes, requires local governments to adopt and include the property rights element in their comprehensive plans. The proposed element reflects the language required in the property rights element law.

Attachments:

1. 20211225Property-rights-element
2. Memo for Property Rights Element

Financial Impact:

None

6. Alternative Action

7. Staff Recommendations:

Adopt

8. Recommended Approval:

Jason Green, Community Development Services

Date: August 02, 2022

John R Herin Jr, Town Attorney

Date: August 03, 2022

Amy Baker, Town Clerk

Date: August 03, 2022

PROPERTY RIGHTS ELEMENT

Introduction

The Town of Fort Myers Beach's Property Rights Element is to provide for guidance on decision making subject to state law and local ordinances to respect judicially acknowledged and constitutionally protected private property rights and ensure that private property rights are considered in local decision-making.

Goal:

The Town of Fort Myers Beach shall consider all relevant information including property owner rights and the public's health safety and welfare.

Objective 1.1: The Town will ensure private property rights are considered in local decisions making.

Policy 1.1.1 The right of a property owner to physically possess and control his or her interests in the property, including easements, leases, or mineral rights;

Policy 1.1.2 The right of a property owner to use, maintain, develop, and improve his or her property for personal use or for the use of any other person, subject to state law and local ordinances;

Policy 1.1.3 The right of the property owner to privacy and to exclude others from the property to protect the owner's possessions and property; and

Policy 1.1.4 The right of a property owner to dispose of his or her property through sale or gift.



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

To: Local Planning Agency (LPA)
From: Jason Green, Community Development
Date: August 9, 2022
Re: Property Rights Element of the Comprehensive Plan

Background

During the 2021 Florida Legislative Session SB 59 (Fla. Stat. § 163.3177(6)(i)) was passed and signed into law. This law requires that every city and county in Florida shall “include in its comprehensive plan a property rights element.” Every municipality must adopt this new element “by the earlier of the date of its adoption of its next proposed plan amendment that is initiated after July 1, 2021, or the date of the next scheduled evaluation and appraisal of its comprehensive plan.”

House Bill 59 – Growth Management requires all local governments to have a Property Rights Element included in their comprehensive plan. The legislation modified Chapter 163.3177 of the Florida Statutes to add a Property Rights Element as one of the required elements in all Comprehensive Plans. The legislation also limits the ability to adopt any other Comprehensive Plan amendments initiated after July 1st from being adopted until the Property Rights Element is adopted.

Analysis

The Town of Fort Myers Beach is currently updating the comprehensive plan, however, a small-scale Land Use amendment application has been received. The Property Rights Element must be adopted in advance of the Land Use amendment.

The US Constitution and Florida Constitution provide for compensation to landowners for a regulatory taking, which is when a government action leaves property with no economically viable use or a regulation goes too far, such as undue interference with investment backed expectation (Lucas v. South Carolina Coastal Council). However, this is not carte-blanche; local

FORT MYERS BEACH ESTERO ISLAND

P. 239-765-0202 | **F.** 239-765-0909 | 2525 Estero Boulevard, Fort Myers Beach, FL 33931



government can “down-zone” land, as long as the property retains an economically viable use and the change is not arbitrary. For example, if a zoning change is for a valid planning purpose. See, for example, *Corn v. City of Lauderdale Lakes*, 95 F 3d 1066 (11th Cir. 1996); *Graham v. Estuary Properties*, 399 So.2d 1374, 1380 (Fla. 1981).

At the state level, the Florida Constitution, provides additional protections through the Bert Harris Act. This creates a cause of action for a property owner that is aggrieved by a government action that permanently “inordinately burdens” an existing use or a vested right to a specific use on real property. This does not mean that land owners are guaranteed maximum density or intensity and there is no vested right to the continuation of existing comprehensive planning or zoning designations and allowances (*Brevard County v. Snyder* and *Smith v. City of Clearwater*).

HB 59 clarifies but does not expand property rights. The law requires several specific items to be included in the Property Rights Element:

- 1) The right of a property owner to physically possess and control his or her interests in the property, including easements, lease or mineral rights.
- 2) The right of a property owner to use, maintain, develop and improve his or her property for personal use or for the use of any other person., subject to state law and local ordinances.
- 3) The right of the property owner to privacy and to exclude others from the property to protect the owner’s possessions and property.
- 4) The right of a property owner to dispose of his or her property through sale or gift.

Recommendation

The rights laid out in the proposed Property Rights Element are already codified in other parts of state law and are not considered controversial. Staff recommends that the LPA recommend approval of the Property Rights Element to the Town Council

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

Yellow Sheet Number: **2022-741**

1. Requested Motion:

Meeting Date: August 9, 2022

Newton Park CPD Amendment to Conditions of Approval and Adoption as an Ordinance

Why the action is necessary:

The Town requests a modification to the conditions of approval for the Newton Park CPD in order to align and create consistency with operations among the other town-owned properties, including recent amendments to the Mound House CPD.

What the action accomplishes:

Approval of the proposed amendment will create consistency between town-managed properties and allow the staff and Town Council to make operational decisions.

2. Agenda:

PUBLIC HEARINGS

3. Requirement/Purpose:

Ordinance

5. Background:

Newton Park has conditions of approval that regulate the use of the property and structures. The Town desires to modify condition #7 to allow for consumption on premises operations similar to previous CPD amendments for the Mound House.

Attachments:

1. Newton Park Staff Report
2. 09-24 Resolution Newton Park CPD
3. Current Application
4. 2009 Application
5. Newton Park_Letters of Recommendation for Denial_combined
6. DCI 2022085 Newton Park LPA Post Cards

Financial Impact:

6. Alternative Action

7. Staff Recommendations:

Approve

8. Recommended Approval:

Jason Green, Community Development Services

Date: August 03, 2022

John R Herin Jr, Town Attorney

Date: August 03, 2022

Amy Baker, Town Clerk

Date: August 03, 2022



Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT STAFF REPORT

TYPE OF CASE: Commercial Planned Development (CPD) Amendment

CASE NUMBER: DCI20220085

CASE NAME: Amending the conditions of approval for Newton Park
CPD (Resolution 09-24)

LPA

HEARING DATE: August 9, 2022, at 9.:00 AM

STAFF

RECOMMENDATION: Approve with conditions

PREPARED/

SUBMITTED BY: Jason Green, AICP, CFM

I. APPLICATION SUMMARY

Applicant/Owner: Alison Giesen/Town of Fort Myers Beach

Request: Modify condition #7 to allow the park to be operated similar to the changes made in recent years to Mound House and consistent with the Town Council operational directions.

Physical Address: 4650 Estero Blvd.

STRAP #: 29-46-24-W3-0080H.0010

FLU: Recreation

Zoning: Commercial Planned Development (CPD)

Adjacent zoning and land uses:

North: Residential Conservation (RC)
Mixed Residential, residential condominiums

South:	RC Mixed Residential, single-family residences
East:	Residential Planned Development (RPD) Mixed Residential, residential condominiums
West:	Gulf of Mexico beach

II. BACKGROUND AND ANALYSIS

Background:

The Town of Fort Myers Beach, Parks and Recreation Department is requesting a modification to condition 7 to allow the park to be operated similar to the changes made in recent years to the Mound House. This change is consistent with the Town Council's operational directions.

Analysis:

The existing language for the CPD would be amended as follows:

1. Development must be consistent with the one-page Master Concept Plan stamped "Received April 7, 2009" for case FMBDCI2009-0001, attached as **Exhibit "B"**. The Master Concept Plan must be updated to reflect the final decision of Town Council prior to execution of the resolution approving this rezoning. If changes to the Master Concept Plan are subsequently pursued, appropriate approvals will be necessary.

2. The following limits apply to the project and uses:

- a. **Schedule of Uses**

Principal:

Beach Access

Park, neighborhood

Recreation facility, public

Cultural facility

Membership organization

Recreation facility, commercial

Accessory:

Essential services

Essential services equipment

Hidden path

Day care center, adult (see condition #5 below)

Day care center, child (see condition #5 below)

Dwelling unit, caretaker
 Place of worship (see condition #6 below)
 School (see condition #6 below)
 Theatre (see condition #6 below)
 Temporary uses
 On-premises consumption of alcoholic beverages (see condition #7 below)
 Retail store, small
 Administrative office

b. Site Development Regulations

Minimum Lot Width:	195± feet
Minimum Lot Depth:	180± feet
Minimum Lot Area:	34,667± square feet
Maximum Building Height:	2 stories , including space below base flood elevation as a story
	25 feet
Maximum Floor Area Ratio:	0.8
Setbacks:	
Estero Boulevard:	15 feet
Strandview Avenue:	10 feet
Northeasterly lot line:	9.4 feet (existing building only)
	10 feet (all other structures)
Gulf of Mexico:	50 feet from Mean High Water Line

3. Approval of this rezoning does not authorize any activity that would violate any deed restriction or any contractual obligation regarding the subject property.

4. Land lying seaward of the Coastal Construction Setback Line recorded in Plat Book 31, Pages 1 through 21, Public Records of Lee County, Florida, is not rezoned by this resolution and remains zoned EC (Environmentally Critical).

5. The uses *day care center, adult* and *day care center, child* are included as accessory uses to clarify that groups of adults and/or groups of children may spend periods of time during day and evening hours, not extending to overnight stays, on the park grounds or in the buildings, whether gratis or for a fee.

6. The uses *place of worship, school*, and *theater* are included as accessory uses to clarify that the park grounds and buildings may occasionally host religious, educational, and/or cultural activities, regardless of whether the property is made available to an outside organization or entity gratis or for a fee, or the activities are organized by the Town gratis or for a fee.

7. ~~On-premises consumption of alcoholic beverages is limited to temporary permits issued in accordance with LDC Section 34-1264(d), or to a membership organization/ club in accordance with LDC Section 34-1264(a)(1)c.~~ Any on-premises consumption of alcoholic beverages must comply with all applicable provisions of state law and agency rules.

Neighborhood Compatibility:

In a review of existing uses and the surrounding neighborhood, staff found the subject property is located within an area that would not be impacted from the minor change to condition 7.

Findings and Conclusions:

LDC Sec. 34-85 sets forth the required findings and conclusions for the approval of a special exception (staff analysis applicable only to the consumption on premises):

- a. *Whether there exists an error or ambiguity which must be corrected.*
There is no error or ambiguity. This amendment will allow this facility to function similarly to the Mound House and is consistent with Town Council operational directions
- b. *Whether there exist changed or changing conditions which make approval of the request appropriate.*
This change is consistent with Town Council directions regarding management of the facilities.
- c. *The impact of a proposed change on the intent of this chapter.*
This amendment will not change the intent of the chapter.
- d. *Whether the request is consistent with the goals, objectives, policies, and intent of the Fort Myers Beach Comprehensive Plan.*

The request is consistent with goals, objectives, policies, and intent of the Fort Myers Beach Comprehensive Plan.
- e. *Whether the request meets or exceeds all performance and locational standards for the proposed use.*

The request meets performance and location standards if approved and conditioned appropriately.
- f. *Whether urban services are, or will be, available and adequate to serve a proposed land use change.*

No additional services will be needed because the use already exists, and the function will not be altered.

- g. Whether the request will protect, conserve, or preserve environmentally critical areas and natural resources.*

The request does not impact the EC zoning district. There are no physical improvements proposed for the site or building.

- h. Whether the request will be compatible with existing or planned uses and not cause damage, hazard, nuisance, or other detriment to persons or property.*

There is no anticipated negative impact or injury to surrounding properties as there will be no change to the use of the property.

- i. Whether the location of the request places an undue burden upon existing transportation or other services and facilities and will be served by streets with the capacity to carry traffic generated by the development.*

The amendment to condition 7 will not place any additional burden on the transportation facilities in this area.

III. RECOMMENDATION

The proposed amendment will require the adoption of a new ordinance for the CPD with amendments to the conditions, as shown above in this staff report. Adoption of a new ordinance with amended conditions to the existing CPD for Newton Park will be minimal and not deleterious to the adjacent properties.

Therefore, staff recommends **APPROVAL** of DCI20220085.

Staff Report Exhibits:

A – Previous adopted Resolution 09-24

B – Complete Application

C – 2009 Application

D – Letter to Adjacent Property Owners

RESOLUTION OF THE TOWN COUNCIL OF
THE TOWN OF FORT MYERS BEACH, FLORIDA
RESOLUTION NUMBER 09-24
NEWTON PARK COMMERCIAL PLANNED DEVELOPMENT

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA:

WHEREAS, The Town of Fort Myers Beach ("Applicant") has initiated an application to rezone 0.79± acres from the RC (Residential Conservation) zoning district to a CPD (Commercial Planned Development) zoning district, to approve a schedule of uses for the adaptive reuse of an existing historic site, and to approve certain deviations from the requirements of the Land Development Code (LDC), all as indicated on the approved Master Concept Plan; and

WHEREAS, the subject property is located at 4600, 4610, and 4650 Estero Boulevard, in the "Recreation" Future Land Use Map (FLUM) category of the Comprehensive Plan of the Town of Fort Myers Beach, Lee County, Florida; and

WHEREAS, the Applicant has indicated the property's current STRAP numbers are: 29-46-24-W3-0080H.0030, 29-46-24-W3-0080H.0050, and 29-46-24-W3-0080H.0010, with the legal description attached hereto and incorporated herein by reference as **Exhibit "A"**; and

WHEREAS, a public hearing was legally advertised and held before the Local Planning Agency (LPA) on July 14, 2009, at which time the LPA recommended approval of the application as set forth with specificity in LPA Resolution 2009-15; and

WHEREAS, a public hearing was legally advertised and held before the Town Council on August 17, 2009, at which time the Town Council gave full and complete consideration to the recommendations of staff, the documents in the file, the recommendations of the LPA and the testimony of all interested persons.

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

The Town Council **APPROVES** the Applicant's request to rezone the subject property to a CPD zoning district subject to the seven (7) conditions and three (3) deviations set forth with specificity below.

A. CONDITIONS

1. Development must be consistent with the one-page Master Concept Plan stamped "Received September 14, 2009" for case FMBDCI2009-0001, attached as **Exhibit "B"**, as updated to reflect the final decision of Town Council prior to execution of this resolution. If changes to the Master Concept Plan are subsequently pursued, appropriate approvals will be necessary.

2. The following limits apply to the project and uses:

a. Schedule of Uses

Principal:

- Beach Access
- Park, neighborhood
- Recreation facility, public
- Cultural facility
- Membership organization
- Recreation facility, commercial

Accessory:

- Essential services
- Essential services equipment
- Hidden path
- Day care center, adult (see condition #5 below)
- Day care center, child (see condition #5 below)
- Dwelling unit, caretaker
- Place of worship (see condition #6 below)
- School (see condition #6 below)
- Theatre (see condition #6 below)
- Temporary uses
- On-premises consumption of alcoholic beverages (see condition #7 below)
- Retail store, small
- Administrative office
- Rental of Beach Furniture
- Boat Rentals limited to non-motorized craft up to sixteen feet

b. Site Development Regulations

Minimum Lot Width:	195± feet
Minimum Lot Depth:	180± feet
Minimum Lot Area:	34,667± square feet
Maximum Building Height:	2 stories , including space below base flood elevation as a story
	25 feet
Maximum Floor Area Ratio:	0.8
Setbacks:	
Estero Boulevard:	15 feet
Strandview Avenue:	10 feet
Northeasterly lot line:	9.4 feet (existing building only)
	10 feet (all other structures)
Gulf of Mexico:	50 feet from Mean High Water Line

3. Approval of this rezoning does not authorize any activity that would violate any deed restriction or any contractual obligation regarding the subject property.

4. Land lying seaward of the Coastal Construction Setback Line recorded in Plat Book 31, Pages 1 through 21, Public Records of Lee County, Florida, is not rezoned by this resolution and remains zoned EC (Environmentally Critical).

5. The uses *day care center, adult* and *day care center, child* are included as accessory uses to clarify that groups of adults and/or groups of children may spend periods of time during day and evening hours, not extending to overnight stays, on the park grounds or in the buildings, whether gratis or for a fee.

6. The uses *place of worship, school, and theater* are included as accessory uses to clarify that the park grounds and buildings may occasionally host religious, educational, and/or cultural activities, regardless of whether the property is made available to an outside organization or entity gratis or for a fee, or the activities are organized by the Town gratis or for a fee.

7. On-premises consumption of alcoholic beverages is limited to temporary permits issued in accordance with LDC Section 34-1264(d), except that the number of such permits issued per year shall not be limited to twelve (12), or to a membership organization/ club in accordance with LDC Section 34-1264(a)(1)c. Any on-premises consumption of alcoholic beverages must comply with all applicable provisions of state law and agency rules, as well as Town Ordinance 97-5.

B. DEVIATIONS

1. Deviation #1 from LDC Section 34-953 to allow the requested CPD zoning district to substitute the site development regulations provided in condition #2, above, for the applicable the regulations of the CR or CB zoning district **IS APPROVED**.

2. Deviation #2 from LDC Section 10-285 requiring connection separation between connections to a local street of 125 feet, to allow minimum separations of 76 feet for a connection to Strandview Avenue and 70 feet for a connection to an unnamed accessway, as indicated on the Master Concept Plan **IS APPROVED**.

3. Deviation #3 from LDC Sections 10-291 and 10-296 to allow the development to use the existing 20-foot shell accessway adjoining the northeasterly lot line, as indicated on the Master Concept Plan **IS APPROVED**.

C. FINDINGS AND CONCLUSIONS

The Town Council makes the following findings and reaches the following conclusions:

1. The requested CPD zoning district, as conditioned, **is consistent with** and **complies** with all specific requirements, goals objectives, policies and intent and with the densities, intensities and general uses set forth in the Fort Myers Beach Comprehensive Plan, Land Development Code Chapter 34 and all other applicable town ordinances or codes that are relevant to the requested planned development:

*Several Comprehensive Plan policies specifically refer to the Newton Property. **Policy 10-D-3** expresses the intent to “purchase the Newton estate to serve as an oasis park with interpretive and rest facilities”. **Policy 10-F-3** expresses the intent to “operate [the Newton Property] as a small community park”. These policies support the overall goals, expressed in Goals **10-D** and **10-F**, of increasing the level of access to recreation facilities and heightening appreciation of the Town’s recent history and cultural life. As a part of the small public park,*

*the proposed uses are consistent with the general uses set forth for the Recreation FLUM category in **Policy 4-B-8** and for public facilities in **Policy 4-B-13**.*

*Approval of the rezoning to CPD, as requested and as conditioned, will limit the use of the subject property to a group of uses consistent with the Recreation FLUM category and public facilities as detailed in Comprehensive Plan **Policy 4-B-8** and **Policy 4-B-13**. The use of the subject property for a public park and historic site was specifically planned in **Policy 10-D-3** and **Policy 10-F-3**. Accessory uses will be required to comply with general provisions of LDC Chapter 34, and site development will comply with LDC Chapters 10 and 34 except where granted deviations.*

2. There **is not** an error or ambiguity that must be corrected:

No error or ambiguity is evident. The Town acquired the subject property, which formerly constituted a private residence, and now proposes to use the former residential property as a recreational area that is also the site of an historic building.

3. There **exist** changed or changing conditions that make approval of the request, as conditioned, appropriate.

The Town has acquired the subject property and formulated its plans to renovate the historic building and improve the site to complete the conversion from a residential property to a small park. This changed condition makes approval of the request appropriate.

4. The proposed use or mix of uses, as conditioned, **is appropriate** at the subject location;

*The public park and historic site were specifically planned in Comprehensive Plan **Policy 10-D-3** and **Policy 10-F-3**. Accessory educational, religious, and cultural uses are appropriately allowed in a public park if conditioned to ensure that they do not expand commercially to intrude upon neighboring residential uses. These conditions would prevent such expansion.*

5. Sufficient safeguards to the public interest **are provided** by the conditions to the master concept plan or by other applicable regulations;

The specified conditions protect the public from the expansion of accessory uses of the park and historic site. Other applicable state regulations apply to the subject property through deed restrictions and protect the wider public interest for which the subject property was acquired. .

6. All conditions **are reasonably related** to the impacts on the public's interest created by or expected from the proposed development;

These conditions specify the applicable master concept plan, provide property development regulations, clarify that environmentally critical areas are not being

rezoned for development, and prevent the expansion of accessory uses in ways that could be detrimental to neighbors and the public in general.

7. The proposed use or mix of uses, as conditioned, **meets** all performance and locational standards set forth for the proposed use.

Specific performance and locational standards do not apply to most of the proposed uses. The location of the parking area is addressed by deviation #1. Required landscaped buffer areas will be provided between the parking area and rights-of-way. The on-premises consumption of alcoholic beverages will be limited in such a way as to comply with locational standards and will be required to comply with state law.

8. Regarding the requested deviations (#1, #2, and #3):

- a. Each Deviation **does enhance** the achievement of the objectives of the planned development;

Deviation #1 allows property development regulations appropriate to a park and existing historic site rather than form-based regulations designed for new development of commercial or mixed-use buildings. Strandview Avenue and the unnamed 20-foot accessway are existing facilities. Deviation #2 to allow connections to Strandview Avenue and the accessway that do not meet the minimum separation requirements will allow access to the property without creating new connections to Estero Boulevard. Further intensification of development adjoining Strandview Avenue and the accessway is not allowed. Deviation #3 from the accessway construction standards will allow continuing use of the park and historic site and maintain the existing shell accessway.

- b. Through each Deviation the general intent of Land Development Code Chapter 34 to protect the public health, safety, and welfare **will be** preserved and promoted;

Deviation #1 allows property development regulations appropriate to a park and historic site. Deviation #2 allows the property to have connections to existing local streets and reduces the number of connections to Estero Boulevard. Deviation #3 will allow the existing accessway to continue as a permeable shell surface rather than pavement, and will allow existing utility equipment to remain in place, rather than being relocated.

- c. Each Deviation **does operate** to the benefit, and **does not operate** to the detriment, of the public interest; and

Deviation #1 allows appropriate property development regulations instead of requiring the historic building to be relocated to meet a build-to line. Deviation #2 reduces the number of connections to Estero Boulevard by using the existing Strandview Avenue and accessway connections. Deviation #3 prevents unnecessary relocation of utility equipment and

allows the accessway to continue as a permeable surface rather than a source of stormwater runoff.

- d. Each Deviation is **consistent** with the Fort Myers Beach Comprehensive Plan.

*Comprehensive Plan **Policy 10-D-3** and **Policy 10-F-3** specifically plan the use of the subject property for a park and interpretive site. Redeveloping the property in accordance with form-based property development regulations would not be consistent with these policies, whereas the property development regulations provided in condition #2 and allowed by deviation #1 would be consistent with these policies. **Policy 7-H-10** states the intent to reduce and consolidate connections to Estero Boulevard, which is achieved by deviation #2. The comprehensive plan does not specifically address accessway construction standards.*

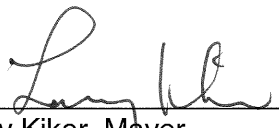
The foregoing Resolution was adopted by the Town Council upon a motion by Councilmember Babcock and seconded by Councilmember List and upon being put to a vote, the result was as follows:

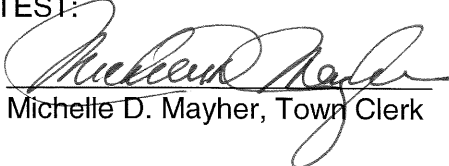
Larry Kiker, Mayor aye
Tom Babcock aye
Bob Raymond absent

Herb Acken, Vice Mayor aye
Jo List aye

DULY PASSED AND ADOPTED THIS 17TH DAY OF AUGUST, 2009, BY THE

TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH

By: 
Larry Kiker, Mayor

ATTEST:
By: 
Michelle D. Mayher, Town Clerk

Approved as to legal sufficiency:

By: 
Anne Dalton, Esquire, Town Attorney

FMBDCI2009-0001

Exhibit A

Lots 1, 2, 3, 4, 5, and 6, Block H, HYDE PARK SUBDIVISION, as recorded in
Plat Book 7, Page 20, Public Records of Lee County, Florida



COMMUNITY DEVELOPMENT DEPARTMENT

APPLICATION for ADMINISTRATIVE ACTION

This is the 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 required applications, supplemental information, exhibits and documents to zoningpermits@fmbgov.com.

Site Address: 4650 ESTERO BLVD, FORT MYERS BEACH

STRAP Number: 29-46-24-W3-0080H.0010

Applicant: TOWN OF FORT MYERS BEACH/ NEWTON PARK Phone: 239-765-0202

Contact Name: ALISON GIESEN Phone: 239-462-8247

Email: ALISON@FMBGOV.COM Fax: _____

Current Zoning District: RC- RESIDENTIAL CONSERVATION

Future Land Use Map (FLUM) Category: REC

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

ACTION REQUESTED

SUPPLEMENTAL FORM REQUIRED

- | | |
|--|--------------------------|
| ☒ Amendment to Planned Development | AA-A |
| ☐ Commercial Antenna | AA-B |
| ☐ Consumption on Premises (COP) | AA-C |
| ☐ Forced Relocation of Business | AA-D |
| ☐ Interpretation of Land Development Code | AA-E |
| ☐ Minimum Use Determination | AA-F |
| ☐ Setback Variance | AA-G |
| ☐ Accessory Apartment Determination | AA-H |
| ☐ Other – cite LDC Section: _____ | attach on separate sheet |

PART I – General Information

A. Applicant*: ALISON GIESEN- DIRECTOR OF CULTURE, PARKS AND REC. Phone: 239-462-8247

**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: 2525 ESTERO BLVD, FORT MYERS BEACH

Email: ALISON@FMBGOV.COM Fax: _____

Contact Name: ALISON GIESEN Phone: 239-462-8247



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for ADMINISTRATIVE ACTION

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 names of all Authorized Agents (attach extra sheets if necessary)

Name: _____ Phone: _____

Address: _____

Email: _____ Fax: _____

D. Nature of Request: Amendment to the conditions of approval for Newton Park CPD (Res 09-24)

E. Is this request specific to a particular tract of land?

☐ YES* ☐ NO **If yes, complete PART II of this form*

PART II – Property Information

A. Is the action requested a result of a Code Violation or Notice of Violation?

☐ YES ☐ NO If yes, please provide the date of notice: _____

Specific nature of the Violation: _____

B. Property Owner(s): TOWN OF FORT MYERS BEACH Phone: _____

Property Owner Mailing Address: 2525 ESTERO BLVD, FORT MYERS BEACH, FL 33931

Email: _____ Fax: _____



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for ADMINISTRATIVE ACTION

C. Legal Description:

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.

☐ Yes. Property identified in subdivision: _____

Book: _____ Page: _____ Unit: _____ Block: _____ Lot(s): _____

D. Subject Property Dimensions:

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

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

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

Total land area: _____ ☐ acres ☐ square feet

E. 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.

F. Property Restrictions (check applicable):

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

☐ There are deed restrictions and/or covenants on the subject property. Please attach a separate document listing the restrictions and/or covenants and including a narrative statement detailing how the restrictions/covenants may affect the request.



**COMMUNITY DEVELOPMENT DEPARTMENT
APPLICATION for ADMINISTRATIVE ACTION**

PART III

AFFIDAVIT

APPLICATION IS SIGNED BY AN INDIVIDUAL OWNER OR APPLICANT

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

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

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

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 of owner or authorized agent

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



COMMUNITY DEVELOPMENT DEPARTMENT
APPLICATION for ADMINISTRATIVE ACTION

PART IV

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.

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



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for ADMINISTRATIVE ACTION

EXPLANATORY NOTES

General – Page One

The applicant is responsible for the accuracy and completeness of this application. Time delays or additional expenses necessitated by submitting inaccurate or incomplete information will be the responsibility of the applicant.

All information submitted with the application becomes a part of the public record and will be a permanent part of the file.

All attachments and exhibits must be legible, suitable for recording, and of a size that will fit or conveniently fold into a letter size (8 ½ by 11) folder.

Place a check mark next to the type of action being requested.

1. Applications for an administrative amendment to a Commercial Planned Development (CPD) or Residential Planned Development (RPD) must include this form and Supplemental form AA-A.
2. Applications for administrative approval of Commercial Antenna placement must include this form and Supplemental form AA-B.
3. Applications for administrative approval of alcoholic beverage Consumption on Premises (COP) must include this form and Supplemental form AA-C. (Contact Staff at 239-765-0202 to determine whether your request can be processed administratively or if it requires a Special Exception application).
4. Applications for an administrative approval of a Forced Relocation of a Business must include this form and Supplemental form AA-D.
5. Applications for an Administrative Interpretation of the Land Development Code must include this form and Supplemental form AA-E.
6. Applications for a Minimum Use Determination must include this form and Supplemental form AA-F.
7. Applications for an administrative Setback Variance must include this form and Supplemental form AA-G. (Contact Staff at 239-765-0202 to determine whether your request can be processed administratively or if it requires a public hearing variance application).
8. Applications for an Accessory Apartment Determination must fill out this form and Supplemental form AA-H.
9. Applications for a Vacation of Right-of-Way and/or Easement must include this form and Supplemental form AA-I.
10. Other administrative applications, such as for deviations from LDC Chapter 10 or LDC Chapter 26, may require additional information.



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for ADMINISTRATIVE ACTION

Part I

- A. Applicant's name: The applicant may be the landowner or an authorized agent.
- B. Relationship of applicant to owner: If the applicant is not the owner of the property state the relationship of the applicant to the owner (option holder, contract purchaser, lessee, trustee, agent, etc) and submit a notarized authorization from the owner(s) to the applicant.
- C. Authorized Agent's name: If the applicant will have others representing him/her in processing the application, indicate name, address, and phone number.
- D. Nature of request: State, in general terms, the purpose of the request.
- E. Specific property: If the request is specific to a particular tract of land, complete Part II of the form.

Part II

Part II must be completed for all applications in which a particular tract or parcel of land is involved. Applications for administrative interpretations of ordinances that do not affect only a particular parcel do not need to complete this part.

- A. If the request is due to a notice of violation, please indicate the date it was issued, the type of notice (building code, zoning, etc) and what the violation was.
- B. If the owner is the applicant, write "same as applicant."
- C. If the application includes only one or more undivided platted lots within a subdivision officially recorded in the Plat Books of Lee County, Florida, identify the property by lot number(s), block if applicable, subdivision unit if applicable, subdivision name, and plat book number and page number. If the property is not one or more undivided platted lots or is in an "unrecorded" subdivision, attach a metes and bounds legal description giving accurate bearings and distances for each course. The initial point in the description must be related to an established identifiable real property corner, such as a government corner or a recorded corner. The bearings in the description must be referenced to a well- established and monumented line.
- D. Provide the dimensions of the subject property, including frontage on streets and/or waterways. Also include total land area in square feet or acres.
- E. Submit a Boundary Survey meeting the minimum technical standards for surveying set out in Chapter 61G17-6 of the Florida Administrative Code. Make sure that the surveyor is aware of any specific needs of the survey (location of Coastal Construction Lines, locations of existing structures, locations of easements, locations of wetlands, etc) that are relevant to your request.
- F. If there are any deed restrictions or covenants that might affect the requested action, provide the information.



Town of Fort Myers Beach

Larry Kiker
Mayor

Herb Acken
Vice Mayor

Tom Babcock
Councilmember

Jo List
Councilmember

Bob Raymond
Councilmember

**TOWN OF
FORT MYERS BEACH**

APR 7 2009

RECEIVED BY

April 7, 2009

Frank Shockey
Interim Community Development Director
Town of Fort Myers Beach
2523 Estero Boulevard
Fort Myers Beach, FL 33931

Dear Dr. Shockey:

Enclosed please find one original and 13 complete copies of the zoning application for Newton Park with required exhibits and supplemental material. Should you require any additional documentation with this application, please contact me at (239) 765-0865.

Sincerely,

Theresa M. Schober
Director, Cultural Resources

NEWTON PARK ZONING SUBMITTAL

**TOWN OF
FORT MYERS BEACH**

APR 7 2009

SECTION 1: WAIVER REQUESTS

RECEIVED BY

**SECTION 2: APPLICATION FOR PUBLIC
HEARING**

SECTION 3: SUPPLEMENT PH-D



David M. Jones, Jr. and Associates, Inc.
Landscape Architects and Planners

March 9, 2009

Theresa Shober
Director Cultural Resources
Town of Fort Myers Beach
Fort Myers Beach, Florida 33931

Re: **Newton Beach Park: Request for Waivers**

Ms. Shober;

As our office finalizes the zoning application for the Newton Beach Park Property, we realized the formal request for any waivers has not been completed. We are recommending you request a waiver from the requirement to provide a Traffic Impact Statement (Sec 34.212.6) as a part of this zoning request.

Based on the limited number of on-site parking spaces being provided and the proposed use of the property as a passive park, we believe the traffic to the site would not be of any significant consequence.

Based on turnover of vehicles every two hours, the maximum number of trips to the site would be 10 vehicles per hour. It is also anticipated that most of the traffic would be from local residents. Therefore, we do not believe a full TIS is necessary.

The request must be submitted to the Director and his written response must be included in the zoning application.

Should you have any questions, please do not hesitate to call.

David M. Jones, Jr. and Associates, Inc.

Sincerely,

DAVID M. JONES, JR. AND ASSOCIATES, INC.


Gregory J. Diserio, RLA
Vice-President

Attachment: Waiver Request

APPLICATION FOR WAIVER OF SUBMITTAL REQUIREMENTS FORT MYERS BEACH

A request for a waiver or modification must be submitted to the director prior to submitting the application for public hearing. The request and the director's written response must accompany the application submitted and will become a part of the permanent file. [34-202(a)]

Application for waiver \modification of submittal items required for:

PUBLIC HEARINGS

_____ General Requirements
_____ Additional requirements for:
_____ Dev. of Regional Impact
_____ ☒ Planned Developments
_____ Rezoning (Not PD)
_____ Special Exception
_____ Variances
_____ Other

ADMINISTRATIVE ACTION

_____ Amendment to PD.
_____ Commercial antennas
_____ Consumption-on-premises
_____ Forced relocation of business
_____ Interpretation of Land Development Code
_____ Minimum Use Determination
_____ Setback Variance
_____ Tall structures
_____ Other

PLEASE PRINT OR TYPE:

STRAP 29-46-24-W3-0080H.0010
Number(s): 29-46-24-W3-0080H.0030
29-46-24-W3-0080H.0050

Name of _____
Project: **Newton Park**

Name of _____
Applicant*: **Town of Fort Myers Beach**

Street _____
Address: **2523 Estero Boulevard**

City: **Fort Myers Beach** State: **Florida** Zip: **33931**

Phone #: **239-765-0865** Fax #: **765-0909** E-mail: **theresa@fortmyersbeachfl.gov**

* If applicant is not the owner, a letter of authorization from the owner must be submitted.

SPECIFIC SECTION(S) AND REQUIREMENT(S) FOR WHICH A WAIVER IS SOUGHT:

Section Number	Requirement
#1 34.212.6	Traffic Impact Statement
#2	
#3	
#4	
#5	

SCOPE OF PROJECT AND REASON(s) FOR REQUEST

Explain the scope of the project and the reason(s) why you think the request for submittal waiver should be approved. Use additional sheets if necessary. (Please print or type)

The purpose of the project and the zoning application is to permanently construct a park and cultural facility on the subject property. The historic Seven Seas building will be renovated to serve as a museum and public facility promoting the islands history and natural resources. The property was purchased by the Town of Fort Myers Beach to preserve the property for public use.

Waivers are being requested for the following reasons:

1. The property is currently being operated as a park facility with on-site parking. The site is limited in size therefore the number of parking stalls has been limited to what is believed to be a reasonable number (19) given the balance of the site and the uses on the site. The low number of spaces will minimize the traffic movements onto the property. It is anticipated that the majority of the visitors to the site will be vehicles already existing on the island.

Under penalties of perjury, I declare that I have read the foregoing application and that the facts stated in it are true.

Signature of Applicant: _____

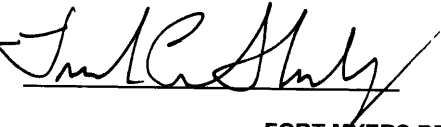
_____ Date

Directors ☒

Request Approved

Request Denied

Comments: _____

Signature: 

Date: June 25, 2009

FORT MYERS BEACH
~~LEE COUNTY COMMUNITY DEVELOPMENT~~
~~P.O. BOX 398 (1500 MONROE STREET)~~
~~FORT MYERS, FLORIDA 33902~~
~~PHONE (941) 479-8585~~

APPLICATION FOR PUBLIC HEARING FOR FORT MYERS BEACH

Applicant's Name: Town of Fort Myers Beach

Project Name: Newton Park

STRAP Number(s): 29-46-24-W3-0080H.0010

29-46-24-W3-0080H.0030

29-46-24-W3-0080H.0050

This is the first part of a two-part application. It requests general information required by the Town of Fort Myers Beach for any rezoning, special exception, appeal from an administrative action, or variance. The second part addresses additional information specific to the requested action. [34-201(b)]

STAFF USE ONLY

Case Number: DC 2009-0001

Date of Application: April 7, 2009

Planner in charge: Shuckey

Date found sufficient: _____

Public Hearing Dates: LPA: _____

Town Council: _____

Current Zoning: RC – Residential Conservation

Land Use Category: REC Platted Overlay? Yes X No

Comp Plan Density Range: N/A

REQUEST FOR

Special Exception

Extension of Master Concept Plan

Variance

DRI - without rezoning

Conventional Zoning

DRI - with rezoning

X Planned Development

Appeal of Administrative action

FORT MYERS BEACH
C/O LEE COUNTY
COMMUNITY DEVELOPMENT
P.O. BOX 398 (1500 MONROE STREET)
FORT MYERS, FLORIDA 33902
PHONE (239) 479-8585

Case Number: _____ Name: _____

PART 1 - NATURE OF REQUEST

Action Requested: [check applicable action(s)]

- _____ Special Exception for: _____ (Attach Sup. PH - A)
- _____ Variance for: _____ (Attach Sup. PH - B)
- _____ Conventional Rezoning from: _____ to: _____ (Attach Sup. PH - C)
- ☒ **Planned Development**
- _____ ☒ Rezoning from: **RC** to: **CPD-CB** (Attach Sup. PH - D)
- _____ Extension of Master Concept Plan (Attach Sup. PH - E)
- _____ Public Hearing for DRI
- _____ No rezoning is required.
- _____ Rezoning is required from: _____ to: _____ (Attach Sup. PH - D)
- _____ Appeal of Administrative action (Attach Sup. PH - F)

PART 2 - CURRENT CLASSIFICATION OF PROPERTY

(Please check all appropriate items):

A. Land Use Category: (refer to the Comprehensive Plan Future Land Use Map)

- | | |
|-----------------------------|--|
| _____ Low Density | _____ Marina |
| _____ Mixed Residential | ☒ Recreation |
| _____ Boulevard | _____ Wetlands |
| _____ Pedestrian Commercial | _____ Tidal Water |

B. Platted Overlay? ☒ No ☐ Yes

C. Zoning Type (refer to the Zoning Map to determine current zoning)

- | | |
|---|---|
| _____ RS - Residential Single-family | _____ CM - Commercial Marina |
| ☒ RC - Residential Conservation | _____ CO - Commercial Office |
| _____ RM - Residential Multifamily | _____ CB - Commercial Boulevard |
| _____ VILLAGE | _____ SANTINI |
| _____ SANTOS | _____ DOWNTOWN |
| _____ IN - Institutional | _____ RPD - Residential Planned Development |
| _____ CF - Community Facilities | _____ CPD - Commercial Planned Development |
| _____ CR - Commercial Resort | _____ EC - Environmentally Critical |
| _____ BB - Bay Beach | |

Case Number: _____ Name: _____

PART 3- WAIVERS

Section Number

34.212.6 Traffic Impact Statement

PART 4 - APPLICANT INFORMATION

A. Name of applicant: Town of Fort Myers Beach

Address: Street : 2523 Estero Boulevard

City: Fort Myers Beach State: Florida Zip: 33931

Phone: Area Code: 239 Number : 765-0202 Ext: _____

Fax: Area Code: 239 Number 765-0909

E-mail address: _____

B. Relationship of applicant to property (please check appropriate response below):

1. ☒ **Owner - (Please indicate form of ownership below)**

Town: Town of Fort Myers Beach

2. **Authorized representative.** Submit authorization as "Exhibit 4 - 1" [34-202(b)(1)b.]

3. **Contract Purchaser/vendee.** Submit authorization as "Exhibit 4 - 2" [34-202(b)(1)c.]

4. ☒ **Town** Enter the date the action was authorized: March 10, 2008

Case Number: _____ Name: _____

- C. Agent authorized to receive all town or county - initiated correspondence regarding this application. [34-202(b)(1)b.]

Company Name: **Town of Fort Myers Beach**

Contact Person: **Theresa Schober, Director, Cultural Resources**

Address: Street **2523 Estero Boulevard**
City: **Fort Myers Beach** State: **Florida** Zip: **33931**
Area Code: **239** Number: **765-0865** Ext: _____
Phone: _____
Area Code: **239** Number: **765-0841**
Fax: _____
Code: _____
E-mail address: **Theresa@fortmyersbeachfl.gov**

PART 5 - OTHER AGENTS

List the names of other agents that the town or county may contact concerning this application. Use additional sheet if necessary and fasten to this page. [34-202(b)(1)b.]

A. Company Name: **Town of Fort Myers Beach**

Contact Person: **Scott Janke, Town Manager**

Address: Street : **2523 Estero Boulevard**
City: **Fort Myers Beach** State: **Florida** Zip: **33931**
Area Code: **239** Number: **765-0202** Ext: _____
Phone: _____
Area Code: **239** Number: **765-0909**
Fax: _____
Code: _____
E-mail address: **Scott@fortmyersbeachfl.gov**

B. Company Name: **David M. Jones, Jr. & Associates, Inc.**

Contact Person: **Gregory J. Diserio, Vice President**

Address: Street : **2221 McGregor Boulevard**
City: **Fort Myers** State: **Florida** Zip: **33901**
Area Code: **239** Number: **337-5525** Ext: _____
Phone: _____
Area Code: **239** Number: **337-4494**
Fax: _____
Code: _____
E-mail address: **Gdiserio@dmjafl.com**

Case Number: _____ Name: _____

PART 6 - PROPERTY OWNERSHIP

A. Single owner (Town of Fort Myers Beach) [34-201(a)(1)].

Name Town of Fort Myers Beach

Address: Street : 2523 Estero Boulevard

City: Fort Myers Beach State: Florida Zip: 33931

Phone: Area Code: 239 Number: 765-0202 Ext: _____

Fax: Area Code: 239 Number: 765-0909

E-mail address: _____

B. _____ Multiple owners (Corporation, partnership, trust, association) [34-201(a)(1)].

Disclosure Form is attached as "Exhibit 6 - 1." [34-201(b)2]

Property owners list is attached as "Exhibit 6 - 2." [34-202(a)(5) and 34-202(b)(1).a.]

_____ Property owners map is attached as "Exhibit 6 - 3." [34-202(a)(5)]

Case Number: _____ Name: _____

PART 7 - PROPERTY INFORMATION

A. STRAP Number(s): 29-46-24-W3-0080H.0010 29-46-24-W3-0080H.0050
29-46-24-W3-0080H.0030

B. Location [34-202(a)(4)]:

Street Address: 4600, 4610 and 4650 Estero Boulevard
An area location map is attached as "Exhibit 7 - 1."

C. Directions to property: From the base of the Sky Bridge drive South on Estero Boulevard 2.47 miles. Property located on gulf side south of Strandview Avenue

D. Property Dimensions:

Area: 34,473 square feet or .8 acres

Width along roadway: 195 feet

Depth: 180 feet

E. Legal Description [34-02(a)(1)]:

- ☒ Legal description (on 8 1/2" by 11" paper) is attached as "Exhibit 7 - 2."
☒ Electronic version of the legal description is attached.

F. Boundary Survey or certified sketch of description [34-202(a)(2)]:

The property consists of one or more undivided platted lots in a subdivision recorded in the Official County Plat Books. A copy of the applicable plat book page is attached as "Exhibit 7 - 3."

The property is not platted OR consists of one or more divided platted lots in a subdivision recorded in the Official County Plat Books.

☒ A Certified sketch of description is attached as "Exhibit 7 - 4."

☒ A Boundary survey is attached as "Exhibit 7 - 5."

G. Property Restrictions [34-202(b)(2)]:

1. ☐ There are no deed restrictions/covenants on this property that affect this request.
2. ☒ Restrictions\covenants are attached as "Exhibit 7 - 6"
3. ☒ A narrative explanation as to how the deed restrictions or covenants may affect this request is attached as "Exhibit 7 - 7."

H. Surrounding property owners:

1. ☒ A list of surrounding property owners is attached as "Exhibit 7 - 8." [34-202(a)(6)]
2. ☒ Two sets of mailing labels are attached as "Exhibit 7 - 9." [34-202(a)(6)]
3. ☒ A map of surrounding property owners is attached as "Exhibit 7 - 10." [34-202(a)(7)]

Case Number: _____ Name: _____

PART 8 - AFFIDAVIT A - 1
AFFIDAVIT FOR PUBLIC HEARING
APPLICATION IS SIGNED BY AN INDIVIDUAL OWNER OR APPLICANT

I, W. Scott Janke, Town Manager, 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 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 and Lee County 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.

W. Scott Janke
Signature

W. Scott Janke, Town Manager
(Type or printed name)

STATE OF Florida
COUNTY OF Lee

The foregoing instrument was sworn to (or affirmed) and subscribed before me this
7th day of April by SCOTT JANKE who is personally
(date) (name of person providing oath or affirmation)

known to me or who has produced

(type of identification)

as identification.

Signature of person taking oath or affirmation
Lois A. Poff

Name typed, printed or stamped
LOIS A. POFF



LOIS A. POFF
NOTARY PUBLIC - STATE OF FLORIDA
COMMISSION # DD450227
EXPIRES 7/12/2009
BONDED THRU 1-888-NOTARY1

PART 9 - SUBMITTAL REQUIREMENTS

If the application is for a rezoning, planned development, special exception or variance, please submit fourteen (14) copies of this application form and all applicable-exhibits. If the request is to appeal an administrative action, please submit five (5) copies of this application form and all applicable exhibits.

Copies Submitted	Exhibit Number	Exhibit Description
SUPPLEMENTAL FORMS (select applicable form)		
N/A	SUP A	Special Exception supplement
N/A	SUP B	Variance supplement
N/A	SUP C	Conventional rezoning
14	SUP D	Planned Development Rezoning or DRI with Rezoning requested
N/A	SUP E	Master Concept Plan Extension
N/A	SUP F	Appeal of Administrative Decision.
Exhibits - All requests		
14	3 - 1	Approved Waivers [34-202(a)]
N/A	4 - 1	Notarized Affidavit Authorizing the applicant. [34-202(b)(1)b.]
N/A	4 - 2	Contract purchaser/vendee authorization (if applicable). [34-202(b)(1)c.]
N/A	6 - 1	Ownership Interests (Disclosure Form) [34-202(b)(1)a.]
N/A	6 - 2	Subject property owners list (if applicable) [34-202(a)(5)]
N/A	6 - 3	Subject Property Owners map (if applicable) [34-202(a)(5)]
14	7 - 1	Area Location Map on 8 by 11 paper. [34-202(a)(4)]
14	7 - 2	Legal Description [34-202(a)(1)]
N/A	7 - 3	Plat Book page (if applicable) [34-202(a)(1)]
N/A	7 - 4	Certified sketch of description (if applicable) [34-202(a)(2)]
14	7 - 5	Boundary Survey (if applicable) [34-202(a)(2)]
14	7 - 6	Copy of Deed Restrictions\Covenants (if applicable) [34-202(b)(2)]
14	7 - 7	Narrative addressing effect of Deed Restrictions [34-202(b)(2)]
14	7 - 8	List of Surrounding Property Owners [34-202(a)(6)]
14	7 - 9	Two sets of mailing labels [34-202(a)(6)]
14	7 - 10	Map of Surrounding Property Owners [34-202(a)(7)]
14	8 - A1	Applicants' affidavit - Individual owner or applicant (if applicable) [34-202(b)(1)b.]
N/A	8 - A2	Applicants' affidavit - Corp., partnership, trustee, etc.(if applicable) [34-202(b)(1)b.]
Additional requirements for DRIs		
N/A		TIS - Traffic impact statement [34-203(a)]
N/A		Notice of proposed change Substantial Deviations Form RPM-BSP- Proposed Change - 1 pursuant to Section 380.06(19) F.S.
N/A		DRI, AMDA, FQD Form RPM-BSP-ADA - 1. Application for Development Approval pursuant to Section 380.06 F.S.
N/A		Form RPM-BSP-Abandonment-DRI-1. Application for abandonment of a DRI.



This Instrument Prepared By:
Peter Fodor, Florida Counsel
The Trust for Public Land
306 North Monroe Street
Tallahassee, Florida 32301

Property Appraiser's Parcel
Identification Numbers:
29-46-24-W3-0080H.0010
29-46-24-W3-0080H.0030
29-46-24-W3-0080H.0050

INSTR # 6049718
OR BK 04124 Pgs 2377 - 2379; (3pgs)
RECORDED 11/18/2003 04:10:17 PM
CHARLIE GREEN, CLERK OF COURT
LEE COUNTY, FLORIDA
RECORDING FEE 15.00
DEPUTY CLERK K Cartwright

**WARRANTY DEED
(STATUTORY FORM - SECTION 689.02, F.S.)**

THIS INDENTURE, made this 16th day of September A.D. 2003, between **THE TRUST FOR PUBLIC LAND, a non-profit California corporation**, whose address is 306 N. Monroe St., Tallahassee, FL 32301 Grantor, and **THE TOWN OF FORT MYERS BEACH, a Florida municipal corporation**, 2523 Estero Boulevard, Fort Myers Beach, Florida 33932, Grantee.

(Wherever used herein the terms "grantor" and "grantee" include all the parties to this instrument and their heirs, legal representatives, successors and assigns. "Grantor" and "grantee" are used for singular and plural, as the context requires and the use of any gender shall include all genders.)

WITNESSETH: That the said grantor, for and in consideration of the sum of Ten Dollars and other good and valuable considerations, to said grantor in hand paid by said grantee, the receipt whereof is hereby acknowledged, has granted, bargained and sold to the said grantee, and grantee's successors and assigns forever, the following described land situate, lying and being in Lee County, Florida, to-wit:

See Exhibit "A" attached hereto and by this reference made a part hereof.

By acceptance of this warranty deed, grantee herein hereby agrees that the use of the Property described herein shall be subject to the covenants and restrictions as set forth in that certain Grant Award Agreement attached hereto as Exhibit "B". These covenants and restrictions shall run with the Property herein described. If any of the covenants and restrictions of the Grant Award Agreement are violated by the grantee or by some third party with the knowledge of the grantee, fee simple title to the Property described herein shall be conveyed to the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida in accordance with the Grant Award Agreement without further notice to grantee, its successors and assigns, and grantee, its successors and assigns shall forfeit all right, title and interest in and to the Property described herein.

AND the said grantor does hereby fully warrant the title to said land, and will defend the same against the lawful claims of all persons whomsoever.

THIS INSTRUMENT IS EXEMPT FROM DOCUMENTARY STAMP TAXES PURSUANT TO CHAPTER 201.02(6), FLORIDA STATUTES.

This conveyance is subject to easements, restrictions, limitations and conditions of record if any now exist, but any such interests that may have been terminated are not hereby re-imposed.

IN WITNESS WHEREOF the grantor has hereunto set grantor's hand and seal, the day and year first above written.

Signed, sealed and delivered in the presence of:

THE TRUST FOR PUBLIC LAND, a non-profit California corporation

Paula Tyler
(Signature of first witness)

By: [Signature]
W. Dale Allen, Senior Vice President

Paula Tyler
(Printed name of first witness)

(CORPORATE SEAL)

Stacy Savdie
(Signature of second witness)

STACY SAVDIE
(Printed name of second witness)

STATE OF FLORIDA
COUNTY OF LEON

The foregoing instrument was acknowledged before me this 18th day of September, 2003, by W. Dale Allen, Senior Vice President of **The Trust for Public Land, a non-profit California corporation**, on behalf of said corporation. Such person is personally known to me.

Stacy Savdie
NOTARY PUBLIC

(NOTARY PUBLIC SEAL)

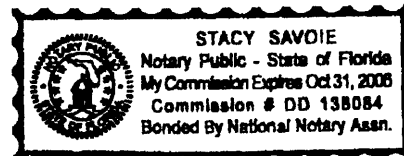


EXHIBIT "A"

LOTS 1,2,3,4,5 AND 6, BLOCK "H", HYDE PARK, A SUBDIVISION AS
PER MAP OR PLAT THEREOF RECORDED IN PLAT BOOK 7, PAGE 26 OF THE
PUBLIC RECORDS OF Lee COUNTY, FLORIDA.

Town of Fort Myers Beach
GAA\02-098-FF2
9/3/2003



This document prepared by:
Michael B. Marvin
Florida Communities Trust
Department of Community Affairs
2555 Shumard Oak Blvd.
Tallahassee, FL 32399

INSTR # 6049719
OR BK 04124 Pgs 2380 - 2390; (11pgs)
RECORDED 11/18/2003 04:10:17 PM
CHARLIE GREEN, CLERK OF COURT
LEE COUNTY, FLORIDA
RECORDING FEE 51.00
DEPUTY CLERK K Cartwright

FLORIDA COMMUNITIES TRUST
FF AWARD# 02-098-FF2
FCT Contract#~~03~~⁴-CT-7M-02-F2-~~A~~⁵1-098

GRANT AWARD AGREEMENT

THIS AGREEMENT is entered into this 29 day of September, 2003, by and between the FLORIDA COMMUNITIES TRUST ("FCT"), a nonregulatory agency within the State of Florida Department of Community Affairs, and TOWN OF FORT MYERS BEACH, a local government of the State of Florida ("FCT Recipient"), in order to impose terms, conditions, and restrictions on the use of the proceeds of certain bonds, hereinafter described, and the lands acquired with such proceeds and as described in Exhibit "A" attached hereto and made a part hereof ("Project Site"), as shall be necessary to ensure compliance with applicable Florida Law and federal income tax law and to otherwise implement provisions of Chapters 259.105, 259.1051, and 380, Florida Statutes.

WHEREAS, Part III Chapter 380, Florida Statutes, the Florida Communities Trust Act, creates a nonregulatory agency within the Department of Community Affairs, which will assist local governments in bringing into compliance and implementing the conservation, recreation and open space, and coastal elements of their comprehensive plans or in conserving natural resources and resolving land use conflicts by providing financial assistance to local governments and nonprofit environmental organizations to carry out projects and activities authorized by the Florida Communities Trust Act;

WHEREAS, Section 259.105(3)(c), F.S., of the Florida Forever Act provides for the distribution of twenty- two percent (22%) less certain reductions of the net Florida Forever Revenue Bond proceeds to the Department to provide land acquisition grants to local governments and nonprofit environmental organizations through the FCT for acquisition of community-based projects, urban open spaces, natural resource conservation areas, parks, greenways and outdoor recreation areas to implement local comprehensive plans;

Town of Fort Myers Beach
GAA\02-098-FF2
9/3/2003

WHEREAS, the Bonds were issued as tax-exempt bonds, meaning that the interest on the Bonds is excluded from the gross income of Bondholders for federal income tax purposes;

WHEREAS, Rule Chapter 9K-7, Florida Administrative Code (F.A.C.), authorizes FCT to impose conditions for funding on those FCT applicants whose projects have been selected for funding in accordance with Rule Chapter 9K-7, F.A.C.;

WHEREAS, the FCT has approved the terms under which the Project Site is acquired and the deed whereby the FCT Recipient acquires title to the Project Site shall contain such covenants and restrictions as are sufficient to ensure that the use of the Project Site at all times complies with Section 375.051, Florida Statutes and Section 9, Article XII of the State Constitution and shall contain clauses providing for the conveyance of title to the Project Site to the Board of Trustees of the Internal Improvement Trust Fund upon the failure of the FCT Recipient to use the Project Site acquired thereby for such purposes; and

WHEREAS, such covenants and restrictions shall be imposed by an agreement which shall describe with particularity the real property which is subject to the agreement and shall be recorded in the county in which the real property is located; and

WHEREAS, the purpose of this Agreement is to set forth the covenants and restrictions that are imposed on the Project Site subsequent to its acquisition with the FCT Florida Forever Bond award.

NOW THEREFORE, in consideration of the mutual covenants and undertakings set forth herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, FCT and FCT Recipient do hereby contract and agree as follows:

I. GENERAL CONDITIONS.

1. Upon execution and delivery by the parties hereto, the FCT Recipient shall cause this Agreement to be recorded and filed in the official public records of Lee County, Florida, and referenced in the warranty deed vesting fee simple title to the Project Site in the FCT Recipient, and in such manner and in such other places as FCT may reasonably request, and shall pay all fees and charges incurred in connection therewith.

2. The FCT Recipient and FCT agree that the State of Florida Department of Environmental Protection will forward this Agreement to Department of Environmental Protection Bond Counsel for review. In the event Bond Counsel opines that an amendment is required to this Agreement so that the tax exempt status of the Florida Forever Bonds is not jeopardized, FCT and FCT Recipient shall amend the Agreement accordingly.

Town of Fort Myers Beach
GAA\02-098-FF2
9/3/2003

3. This Agreement may be amended at any time. Any amendment must be set forth in a written instrument and agreed to by both the FCT Recipient and FCT.

4. This Agreement and the covenants and restrictions contained herein shall run with the Property herein described and shall bind, and the benefits shall inure to, respectively, the FCT and the FCT Recipient and their respective successors and assigns.

5. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida, with respect to both substantive rights and with respect to procedures and remedies.

6. Any notice required to be given hereunder shall be given by personal delivery, by registered mail or by registered expedited service at the addresses specified below or at such other addresses as may be specified in writing by the parties hereto, and any such notice shall be deemed received on the date of delivery if by personal delivery or expedited delivery service, or upon actual receipt if sent by registered mail.

FCT: Florida Communities Trust
Department of Community Affairs
2555 Shumard Oak Blvd.
Tallahassee, FL 32399-2100
ATTN: Executive Director

FCT Recipient: Mr. Daniel Folke
Community Development Coordinator
2523 Estero Boulevard
Fort Myers Beach, Florida 33931

7. If any provision of the Agreement shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired.

II. PROJECT SITE REQUIREMENTS IMPOSED BY CHAPTER 259, CHAPTER 375, AND CHAPTER 380, PART III, FLORIDA STATUTES.

1. If any essential term or condition of this grant agreement is violated by the FCT Recipient or by some third party with the knowledge of the FCT Recipient and the FCT Recipient does not correct the violation within 30 days of notice of the violation, fee simple title to all interest in the Project Site shall be conveyed to the Board of Trustees of the Internal Improvement Trust Fund. The FCT shall treat such property in accordance with Section 380.508(4)(e), Florida Statutes.

Town of Fort Myers Beach
GAA\02-098-FF2
9/3/2003

2. Any transfer of the Project Site shall be subject to the approval of FCT and FCT shall enter into a new agreement with the transferee, containing such covenants, clauses, or other restrictions as are sufficient to protect the interest of the people of Florida.

3. The interest, if any, acquired by the FCT Recipient in the Project Site will not serve as security for any debt of the FCT Recipient unless FCT approves the transaction.

4. If the existence of the FCT Recipient terminates for any reason, title to all interest in real property it has acquired with the FCT award shall be conveyed to the Board of Trustees of the Internal Improvement Trust Fund, unless FCT negotiates an agreement with another local government or nonprofit organization which agrees to accept title to all interest in and to manage the Project Site.

5. In the event that the Project Site is damaged or destroyed or title to the Project Site, or any part thereof, is taken by any governmental body through the exercise or the threat of the exercise of the power of eminent domain, the FCT Recipient shall deposit with the FCT any insurance proceeds or any condemnation award, and shall promptly commence to rebuild, replace, repair or restore the Project Site in such manner as is consistent with the Agreement. The FCT shall make any such insurance proceeds or condemnation award moneys available to provide funds for such restoration work. In the event that the FCT Recipient fails to commence or to complete the rebuilding, repair, replacement or restoration of the Project Site after notice from the FCT, the FCT shall have the right, in addition to any other remedies at law or in equity, to repair, restore, rebuild or replace the Project Site so as to prevent the occurrence of a default hereunder.

Notwithstanding any of the foregoing, FCT will have the right to seek specific performance of any of the covenants and restrictions of this Agreement concerning the construction and operation of the Project Site.

III. PROJECT SITE OBLIGATIONS IMPOSED BY FCT ON THE FCT RECIPIENT.

1. The Project Site shall be managed only for the conservation, protection and enhancement of natural and historical resources and for passive, natural resource-based public outdoor recreation which is compatible with the conservation, protection and enhancement of the Project Site, along with other related uses necessary for the accomplishment of this purpose. The proposed uses for the Project Site are specifically designated in the Project Plan as approved by FCT.

2. The FCT Recipient shall prepare and submit to FCT an annual stewardship report as required by Rule 9K-7.013, F.A.C.

3. The FCT Recipient shall ensure that the future land use designation assigned to the Project Site is for a category dedicated to open space, conservation, or outdoor recreation uses as appropriate. If an amendment to the FCT Recipient's comprehensive plan is required to comply with

Town of Fort Myers Beach
GAA\02-098-FF2
9/3/2003

this paragraph, the amendment shall be proposed at the next comprehensive plan amendment cycle available to the FCT Recipient.

4. FCT Recipient shall ensure, and provide evidence thereof to FCT, that all activities under this Agreement comply with all applicable local, state, regional and federal laws and regulations, including zoning ordinances and the adopted and approved comprehensive plan for the jurisdiction as applicable. Evidence shall be provided to FCT that all required licenses and permits have been obtained prior to the commencement of any construction.

5. The FCT Recipient shall, through its agents and employees, prevent the unauthorized use of the Project Site or any use thereof not in conformity with the FCT approved project plan.

6. FCT staff or its duly authorized representatives shall have the right at any time to inspect the Project Site and the operations of the FCT Recipient at the Project Site.

7. All buildings, structures, improvements, and signs shall require the prior written approval of FCT as to purpose. Further, tree removal, other than non-native species, and/or major land alterations shall require the written approval of FCT. The approvals required from FCT shall not be unreasonably withheld by FCT upon sufficient demonstration that the proposed structures, buildings, improvements, signs, vegetation removal or land alterations will not adversely impact the natural resources of the Project Site. The approval by FCT of the FCT Recipient's management plan addressing the items mentioned herein shall be considered written approval from FCT.

8. If archaeological and historic sites are located on the Project Site, the FCT Recipient shall comply with Chapter 267, Florida Statutes. The collection of artifacts from the Project Site or the disturbance of archaeological and historic sites on the Project Site will be prohibited unless prior written authorization has been obtained from the Department of State, Division of Historical Resources.

9. The FCT Recipient shall ensure that the Project Site is identified as being publicly owned and operated as a passive, natural resource-based public outdoor recreational site in all signs, literature and advertising regarding the Project Site. The FCT Recipient shall erect a sign(s) identifying the Project Site as being open to the public and as having been purchased with funds from FCT and FCT Recipient.

IV. OBLIGATIONS INCURRED BY FCT RECIPIENT AS A RESULT OF BOND PROCEEDS BEING UTILIZED TO PURCHASE THE PROJECT SITE.

1. If the Project Site is to remain subject, after its acquisition by the State and the FCT Recipient, to any of the below listed activities or interests, the FCT Recipient shall provide at least 60 days written notice of any such activity or interest to FCT prior to the activity taking place, and shall provide to FCT such information with respect thereto as FCT reasonably requests in order to

Town of Fort Myers Beach
GAA\02-098-FF2
9/3/2003

evaluate the legal and tax consequences of such activity or interest:

- a. any lease of any interest in the Project Site to a non-governmental person or organization;
- b. the operation of any concession on the Project Site to a non-governmental person or organization;
- c. any sales contract or option to buy things attached to the Project Site to be severed from the Project Site, with a non-governmental person or organization;
- d. any use of the Project Site by non-governmental persons other than in such person's capacity as a member of the general public;
- e. a management contract of the Project Site with a non-governmental person or organization; and
- f. such other activity or interest as may be specified from time to time in writing by FCT to the FCT Recipient.

2. FCT Recipient agrees and acknowledges that the following transaction, events, and circumstances may not be permitted on the Project Site as they may have negative legal and tax consequences under Florida law and federal income tax law:

- a. a sale of the Project Site or a lease of the Project Site to a non-governmental person or organization;
- b. the operation of a concession on the Project Site by a non-governmental person or organization;
- c. a sale of things attached to the Project Site to be severed from the Project Site to a non-governmental person or organization;
- d. any change in the character or use of the Project Site from that use expected at the date of the issuance of any series of bonds from which the disbursement is to be made;
- e. any use of the Project Site by non-governmental persons other than in such person's capacity as a member of the general public;
- f. a management contract of the Project Site with a non-governmental person or organization; and

Town of Fort Myers Beach
GAA\02-098-FF2
9/3/2003

g. such other activity or interest as may be specified from time to time in writing by FCT to the FCT Recipient.

DELEGATIONS AND CONTRACTUAL ARRANGEMENTS BETWEEN THE FCT RECIPIENT AND OTHER GOVERNMENTAL BODIES, NOT FOR PROFIT ENTITIES, OR NON GOVERNMENTAL PERSONS FOR USE OR MANAGEMENT OF THE PROJECT SITE WILL IN NO WAY RELIEVE THE FCT RECIPIENT OF THE RESPONSIBILITY TO ENSURE THAT THE CONDITIONS IMPOSED HEREIN ON THE PROJECT SITE AS A RESULT OF UTILIZING BOND PROCEEDS TO ACQUIRE THE PROJECT SITE ARE FULLY COMPLIED WITH BY THE CONTRACTING PARTY.

V. CONDITIONS THAT ARE PARTICULAR TO THE PROJECT SITE AS A RESULT OF THE FCT APPROVED MANAGEMENT PLAN.

1. Two or more resource-based outdoor recreational facilities including picnic facilities and a nature trail and two or more user-oriented outdoor recreation facilities including a beach volleyball court and shuffleboard court shall be provided at the Project Site. The facilities shall be designed and located with minimal impact to natural resources on the Project Site.

2. A permanent recognition sign shall be maintained in the entrance area of the Project Site. The sign shall acknowledge that the Project Site is open to the public and was purchased with funds from the Florida Communities Trust Program and the Town of Ft. Myers Beach.

3. Interpretive signage shall be provided to educate visitors about the natural environment and unique history of the Project Site.

4. At least 24 environmental and historical education classes or programs shall be conducted annually at the Project Site by trained educators or resource professionals.

5. A staffed museum that provides year- round education programming shall be established on the Project Site.

6. The Project Site shall be managed in a manner that protects and enhances habitat for native wildlife species that utilize or could potentially utilize the site, including sea turtles. The development of the management plan shall be coordinated with the Fish and Wildlife Conservation Commission's Office of Environmental Services to ensure the preservation and viability of native wildlife species and their habitat. Periodic surveys shall be conducted to ensure that site management is compatible with the listed species using the Project Site.

Town of Fort Myers Beach
GAA\02-098-FF2
9/3/2003

7. The water quality of Gulf of Mexico adjacent to the Project Site shall be protected and enhanced. The County shall implement a plan to improve water quality in the area including the removal of an existing seawall and creation of a beach dune. The dune will serve as a stormwater retention berm capturing upland runoff and filtering the stormwater through the berm.

8. Any proposed stormwater facility for the Project Site shall be designed to provide recreational open space or wildlife habitat.

9. Invasive exotic vegetation shall be removed from the project site and the disturbed areas will be planted with native vegetation to enhance the function and appearance of the Project Site.

10. The existing seawall will be removed and a beach dune will be created and restored to a natural condition in terms of biological composition and ecological function.

11. An ongoing monitoring and control program for invasive vegetation including exotic (non-native) and nuisance native plant species shall be implemented at the Project Site. The objective of the control program shall be the elimination of invasive exotic plant species and the maintenance of a diverse association of native vegetation. The Management Plan shall reference the Exotic Pest Plant Council's List of Florida's Most Invasive Species to assist in identifying invasive exotics on the Project Site.

12. A feral animal removal program shall be developed and implemented, as necessary, for dogs, cats, and other non-native wildlife that may be found on the Project Site.

13. A protection plan shall be developed and implemented, in conjunction with the Division of Historic Resources, for the protection of known historical resources located on the Project Site. Information on significant historical sites shall be provided to the Division of Historic Resources for the purpose of updating the Florida Master Site File.

14. The location and design of the parking and other site improvements shall have minimal impact on natural resources. The parking area shall incorporate pervious material wherever feasible.

15. Pedestrian and bicycle access to the Project Site shall be promoted through the provision of pedestrian oriented walkways and bicycle facilities that link the Project Site with adjacent residential neighborhoods. Bike parking stands shall be installed at the Project Site to provide an alternative to automobile transportation to the Project Site.

16. The development and management of the Project Site shall be coordinated with the agencies managing the Great Calusa Blueway, to ensure the Project Site is managed as a stopping point and destination on the County's canoe and kayak trail system.

Town of Fort Myers Beach

GAA\02-098-FF2

9/3/2003

17. Proposed site improvements shall be designed and located to minimize or eliminate the long term risk of storm damage or flooding in conjunction with appropriate hazard mitigation agencies or experts.

18. The requirements imposed by other grant program funds that may be sought for activities associated with the Project Site shall not conflict with the terms and conditions of this Agreement.

THIS GRANT AWARD AGREEMENT embodies the entire Agreement between the parties.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement.

Witness:

Daniel Folke
Print Name: Daniel Folke

Kath Knight
Print Name: KATH KNIGHT

TOWN OF FORT MYERS BEACH, a local government of the State or Florida

By: *Daniel Hughes*
Print Name: Daniel Hughes
Title: 9-22-03

Date: Mayor

Approved as to Form and Legality:

By: *Richard W. Coe*
Print Name: Richard W. Coe

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was acknowledged before me this 22 day of September, 2003, by DANIEL HUGHES, as Mayor of the Town of Fort Myers Beach, on behalf of the local government, and who is personally known to me.

Jill C Bitterman
Notary Public
Print Name: Jill C Bitterman
Commission No. _____
My Commission Expires: _____

Town of Fort Myers Beach
GAA\02-098-FF2
9/3/2003

9



OFFICIAL SEAL
Jill C. Bitterman
DD# 101828
My Commission Expires March 20, 2006

Witness:

Gayle H. Brett
Print Name: _____

Print Name: _____

FLORIDA COMMUNITIES TRUST

By: Janice Browning
Janice Browning,
Executive Director

Date: 9/29/03

Approved as to Form and Legality:

By: Michael B. Marvin
Michael B. Marvin, Trust Counsel

STATE OF FLORIDA
COUNTY OF LEON

The foregoing instrument was acknowledged before me this 29th day of September, 2003, by Janice Browning as Executive Director of Florida Communities Trust. She is personally known to me.

Gayle H. Brett
Notary Public

Print Name: _____

Commission No. _____

My Commission Expires: _____



Town of Fort Myers Beach
GAA\02-098-FF2
9/3/2003

EXHIBIT "A"

LOTS 1,2,3,4,5 AND 6, BLOCK "H", HYDE PARK, A SUBDIVISION AS
PER MAP OR PLAT THEREOF RECORDED IN PLAT BOOK 7, PAGE 26 OF THE
PUBLIC RECORDS OF Lee COUNTY, FLORIDA.

Town of Fort Myers Beach
GAA\02-098-FF2
9/3/2003

11

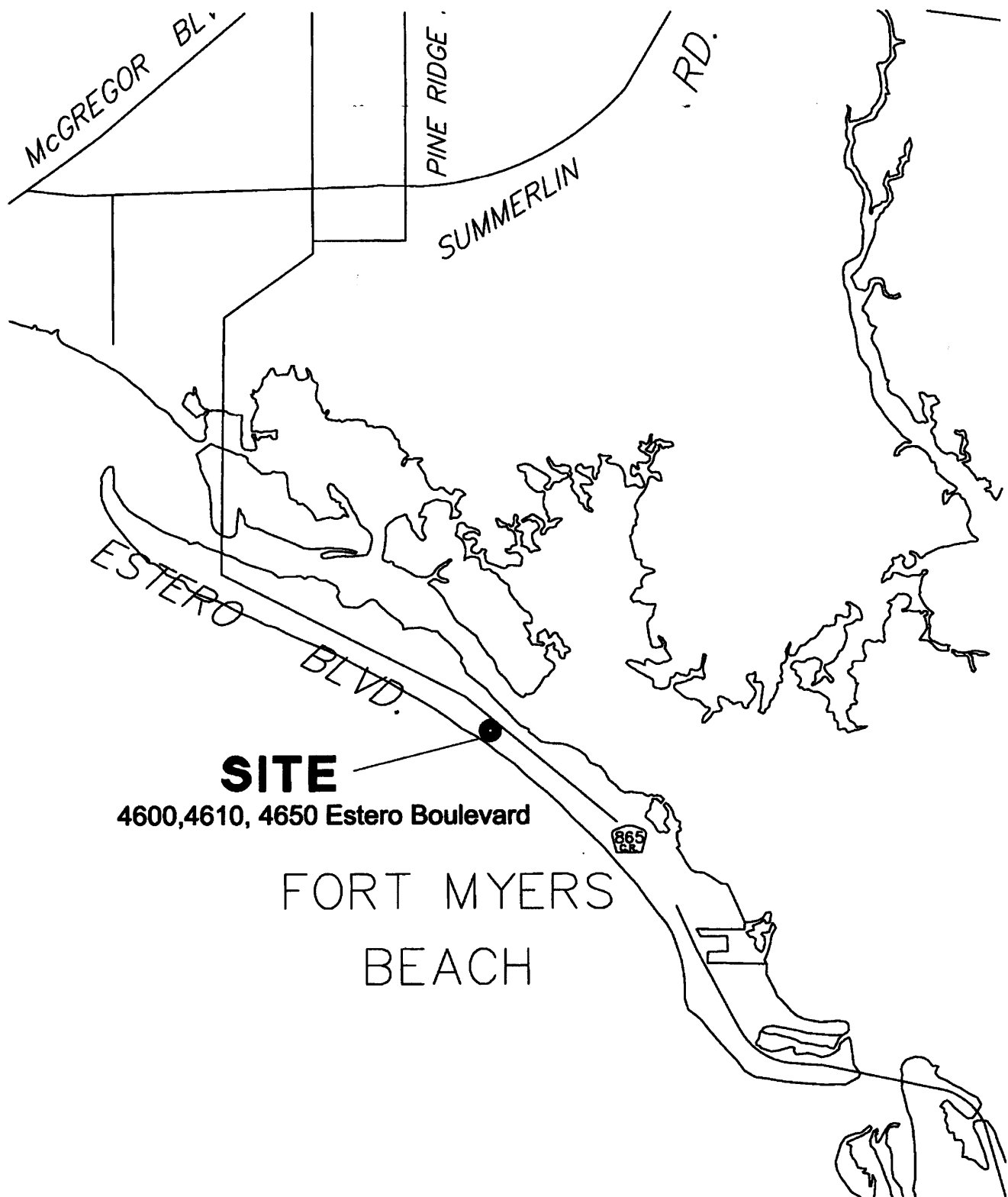
Exhibit 7-7
Newton Beach Park

PROPERTY RESTRICTIONS

The Newton Estate was acquired by the Town of Fort Myers Beach with grant funding from the Florida Communities Trust Florida Forever program and Lee County. Both grant agreements provide restrictions on the use of the property for conservation, protection and enhancement of natural and historical resources, and for passive, natural resource-based public outdoor recreation. As the Florida Forever program was developed to assist communities in meeting the objectives of their comprehensive plans, all uses and modifications to the property require approval through the Department of Community Affairs and the Division of Historical Resources when appropriate. To ensure this oversight, the Grant Award Agreement with Florida Communities Trust is Exhibit B of the Warranty Deed and is attached to this application as Exhibit 7-7.1.

Specific conditions imposed by the Grant Award Agreement that affect property uses requested in this zoning application include the installation and operation of natural resource-based and user-oriented outdoor public recreation facilities, the operation of environmental and historical education classes and programs; a staffed museum; parking and other site improvements aimed at minimizing the impact to natural and cultural resources; promotion of pedestrian and bicycle access; and the coordination with the Division of Historical Resources for the protection of historical resources on the property.

The specific schedule of uses requested in this application have received approval for another Town-owned Florida Communities Trust parcel, the Mound House.



DAVID M. JONES JR. AND ASSOCIATES, INC.

LANDSCAPE ARCHITECTS AND PLANNERS

2221 MCGREGOR BOULEVARD FORT MYERS, FLORIDA 33901
(239) 337-5525 FAX (239) 337-4494

NEWTON BEACH PARK

FORT MYERS BEACH, FLORIDA

DESCRIPTION LOCATION MAP

DRAWN BY CHECKED PROJECT NUMBER

GJD

GJD

280065

SCALE

N.T.S.

DATE

8/2008

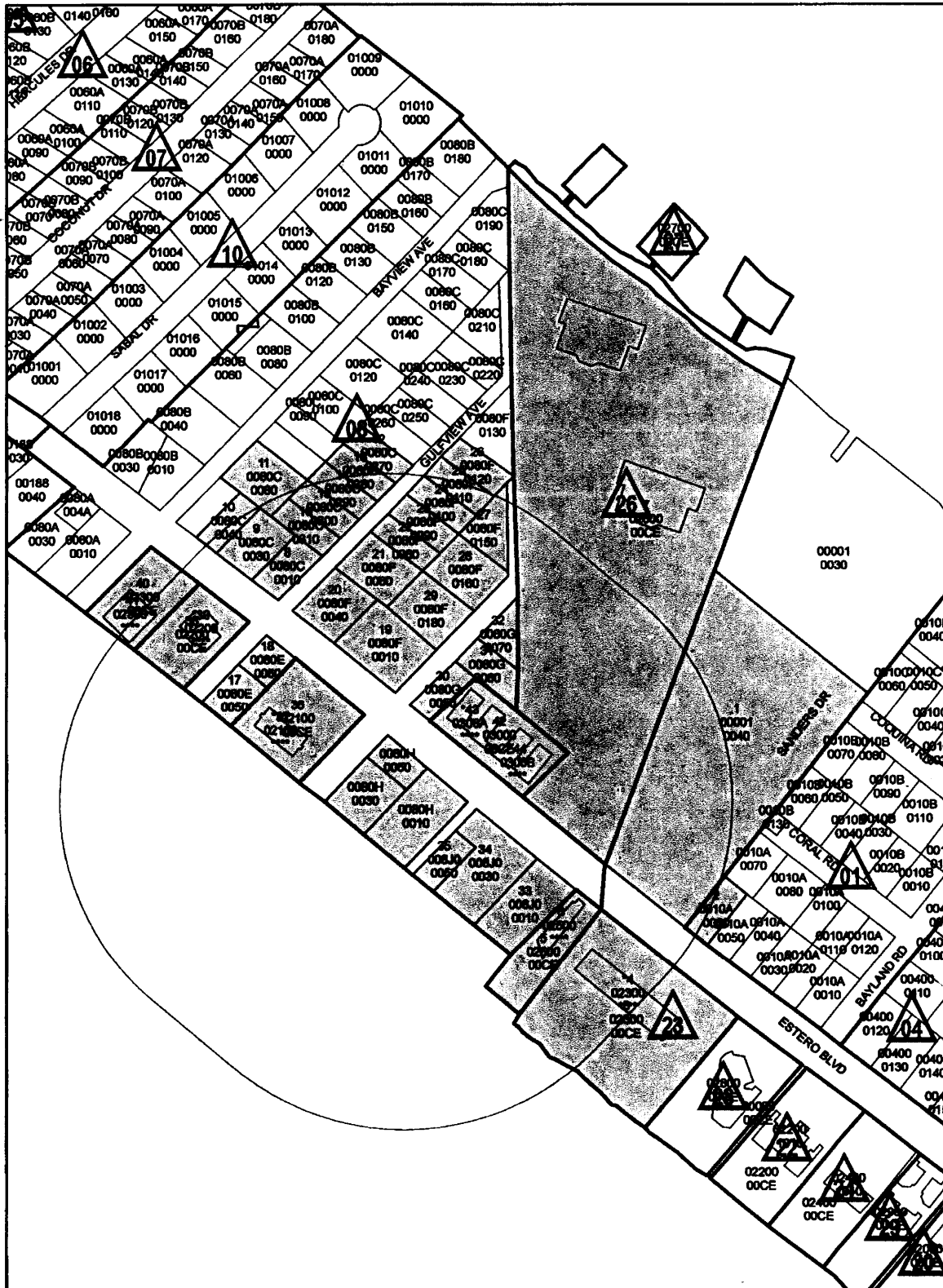
EXHIBIT

7-1

VARIANCE REPORT

3/3/2009

Subject Parcels : 3 Affected Parcels : 152 Buffer Distance : 500 ft



29-46-24-W3-0080H.0010 et al.

320 160 0

320 Feet

SUPPLEMENT PH - D

ADDITIONAL REQUIRED INFORMATION FOR A PLANNED DEVELOPMENT APPLICATION FORT MYERS BEACH

Case Number: DE 2019-0001

Project Name: Newton Park

Authorized applicant: Town of Fort Myers Beach

STRAP Number(s): 29-46-24-W3-0080H.0010

29-46-24-W3-0080H.0030

29-46-24-W3-0080H.0050

CURRENT STATUS OF PROPERTY

Current Zoning: RC

Land Use Category: Recreation Platted Overlay? Yes ☒ No

Comprehensive Plan Density: N/A

REQUESTED ACTION

☐ DRI (rezoning required)

☒ Planned Development

☒ Rezoning from: RC to CPD

☐ Amendment to Master Concept Plan

Case Number: _____

Name: _____

- C. **Comprehensive Plan Compliance.** Explain how the proposed development complies with the Comprehensive Plan. (use additional sheets if needed) [34-216(a)(2)(d)].

Recreation and Open Space Element 10-D, Policy 10-D-3 and 10-H-3: to increase access to recreational facilities, maintain levels of service for community parks. Policy 10-H-3 specifically directs the establishment of the Newton property as the Town's first "oasis park", small neighborhood parks and open spaces within the developed residential areas of the city.

The property is being developed as an oasis "park". The Town will operate it as a small community park with close links to the paddling trail in Matanzas Pass, the pedestrian and bicycle facilities on Estero Boulevard and the adjoining public beach.

Conservation Element, Objectives 6-B and 6-C. Policies 6-B-1, 6-B-9 and 6-B-4: to improve existing and establish additional areas for nature preserve and conservation uses, coordinating with other public agencies in establishing and managing natural reserves, expanding opportunities for conservation and public appreciation of natural resources and preserving remaining coastal strand and hammock natural communities.

The property will create native plant habitats and provide interpretive signage.

Coastal Management Element, Objective 5-E, Policy 5-E-4, Recreation Element, Objective 10-G, Future Land Use Element, Policy 4-A-6: to increase the number and quality of public beach access points for Town residents and visitors.

Handicap accessible beach access points are being provided.

Recreation Element, Objective 10-A, Policies 10-F-1, 10-G-2 and 10-G-3: to improve natural areas as a comprehensive recreational system, including designation of canoe trails, to link cultural and recreational points of interest by providing bike and pedestrian paths, to acquire the Newton Estate for a stopping point for the Great Calusa Blueway.

The site may be incorporated into the Great Calusa Blueway and will provide resources to direct the public to other environmental and cultural resources in the area.

Recreation Element, Objective 10-A, Policy 10-1-2, Conservation Element 6-B, Policy 6-B-9.v: to assume a leadership role with other agencies to improve natural areas, to work with Lee County, surrounding jurisdictions, state and federal agencies, non-profit organizations, corporation and others to identify funding and partnerships to implement the Recreation Element.

The Newton Park was acquired as a partnership with Florida Communities Trust, Lee County, and the Town to provide recreation and natural resource conservation.

Coastal Management Element, Objective 5-D, Policy 5-D-1, Conservation Element, Policies 6-B-4, 6-E-3, Community Design Element, Policy 1-B-2; to conserve and enhance the shoreline by increasing the number of dunes, construction of dune walkovers, removal of non-native species, preserve remaining costal strands and hammocks by removal of exotic species and replanting of native species, to landscape public property with native vegetation.

Nuisance exotic species were removed following acquisition. Newton Park will create native plant habitat, support dunes and dune walkovers should beach nourishment occur, and provide educational programs and signage on the importance of natural habitats.

Historic Preservation Element, Objectives 13-A and 13-C: to develop programs to identify, document and evaluate historic and archaeological resources for their long-term protection, to heighten public appreciation of Town's history and culture and improve public access to publicly supported resources.

Newton Park will incorporate the legacy of Jim and Ellie Newton and island history through interpretive signage and educational programs.

Historic Preservation Element, Objective 13-G: to establish and maintain a regulatory and incentive system that promotes restoration, reconstruction, and re-use of the towns' historic buildings.

The property is under pubic ownership specifically as a result of the Town pursuing Goal 13. Newton Park incorporates the restoration and adaptive reuse of Seven Seas, the Newton home for community meeting space and educational programs.

Case Number: _____ Name: _____

D. Design Standards Compliance. For CPDs - Explain how the proposed development complies with the Design Standards set forth in Section 34-991-1010. (use additional sheets if needed) [34-954]
N/A

E.. Decision-making compliance. Explain how the proposed development complies with the guidelines for decision-making embodied in sections 34-85(2). (use additional sheets if needed) [34-85(2)]

The use of the site has changed from it residential use in the past to a public park facility with a community education building, thereby requiring the zoning change.

The uses proposed are consistent with the goals, objectives and general uses set forth in the Fort Myers Beach Comprehensive Plan for recreation, conservation, and historic preservation.

Urban services are available and sufficient for the intended use.

The request will preserve, protect and conserve environmentally sensitive areas.

The request is compatible with surrounding land uses.

Case Number: _____

Name: _____

- F. Schedule of deviations and a written justification.** Provide a list of requested deviations, keyed to the master concept plan, and provide a written justification for each deviation. The location of each requested deviation must be located on the master concept plan. (use additional sheets if needed) [34-212(4)k., 34-931(b)]

1. Section 34-635. Commercial Design Standards.

Deviation from the requirements for commercial design standards (34-991 -1010) to apply to the existing building scheduled to remain on the site.

Justification: The existing Newton House (Seven Seas) building has been designated as a historical structure, thereby exempting the structure from the requirement to conform to the commercial standards.

2. Section 34-953 : Setback Lines Established

Deviation to allow existing setbacks for an existing structure.

Justification: The Newton House is existing. Moving the structure is not possible due to its historic nature.

3. Section 34-706(a) : Parking Lot Locations

Deviation from the requirement of offstreet parking to be in the side or rear yard to permit the shell parking lot in the front yard.

Justification: The location of the existing Newton House (Seven Seas) on the subject property and the historical designations associated with the site prohibit compliance with this section.

4. Section 10-285: Deviation from Section 10-285: Connection separation.

Deviation from Section 10-285 Table 10-1 requiring accessway separations of 125' when connecting to a local street and 60' when connecting to an accessway, to permit the following connections:

76' and 74' separation connecting the accessway and to Strandview Drive.

Justification:

The parking circulation has been designed as a oneway system. The access is from a shared accessway along the eastern property. This accessway is shared with a single family residence. The parking oneway exit connects with Strandview Drive along the western side of the property. This is an exit only so left hand turning from Strandview into the site is not permitted. Strandview is a dead end street with on street parking for the beach access.

5. Section 10-291 and 10-296: Deviation

Deviation from Sections 10-291 and 10-296 requiring Accessway design and construction Standards to permit the continued use of the existing shell accessway within the existing 20' accessway.

Justification: The existing width of the accessway is only 20' wide. There are existing utility structures that are constraining the opportunities to provide wider access. The accessway serves the proposed parking and a single family residence. The parking egress is to the west. Only the single family residential traffic is permitted to exit at this location.

[illegible]

Case Number: _____

Name: _____

PART 2 - SUBMITTAL REQUIREMENTS

All applications for a planned development must submit fourteen (14) copies of this application form and all applicable exhibits.

Copies Submitted*	Item
14	Public Hearing Application form [34-212(1)]
N/A	Evidence of Unified Control [34-212(3)]
14	Master Concept Plan. A clearly legible master concept plan, to be no less than 24 inches by 36 inches in size and at an appropriate scale to adequately show the proposed development in detail, including the information required on section 34-212(4). [34-212(4)]
N/A	Traffic Impact Statement. A traffic impact statement in the same format and to the same degree of detail required for development orders (see § 10-286), unless waived by the director in accordance with section 34-202(a). [34-212(6)]
14	Architectural elevations. Architectural elevations or a three-dimensional rendering that show, at a minimum, all building facades adjoining public streets. These drawings may substitute for the sketches required by section 34-202(b)(5) .[34-212(5)]
14	Schedule of Uses. A list of all proposed principal and accessory land uses. [34-933(a)]
N/A	Binding letter of interpretation from DCA or a complete and sufficient ADA REQUIRED FOR DRIs ONLY. [34-213(4)]

* includes 1 original

CONSTRUCTION NOTES

GENERAL NOTES

Patch at removals, ie: electrical devices, drapes, nails, anchors, etc. Fill holes, install wood Dutchmen, etc. Patches to match adjacent finishes.

EXTERIOR

001- Reconstruct original handrail at south side of deck using the materials removed from the north side of the deck. See Detail 6 / A3.2

002- Reusing existing original porch deck construct new deck to dimensions shown that is the same elevation as the interior floor for the area of the upper porch deck. Install new steps and handrails from new deck down to existing concrete slab. See Detail 6 / A3.2.

003- Install new ramp from upper deck to new landing with new handrails. See Details 4 / A3.2.

004- Construct new 4" concrete sidewalk from new wood deck to existing grade, at slope of 1:20.

005- Using soil (sand) removed from adjacent to north and south & west elevations and under residence create new slopes of 1:20 down to existing grade from new sidewalk.

006- Construct new deck with handrails. See Detail 2/A3.2.

007- Construct new steps with handrails. See Detail 2/A3.2.

008- Construct new deck with handrails. See Detail 5/A3.2. New deck and handrails to match existing construction techniques.

009- Construct new screened porch using existing concrete slab for the floor. See Details 1/A3.2.

010- Construct new deck and steps with handrails. See Detail 2/A3.2 for similar construction.

EXTERIOR CONTINUED

011- Clean joint at top of water table board and wood siding. Install new caulk before repainting building exterior.

012- Patch or replace any deterioration of 1 x 12 water table board with 45 degree chamfer at top edge.

013- Patch wood wall boards at removals. At deteriorated areas cut out deterioration and install Dutchman.

014- Replace deteriorated wood wall board(s), bottom 6" +/-.

015- Field verify existing attachment of all screen mould battens on walls, all elevations. Resecure loose batten with galvanized brads. Replace any missing or deteriorated portions of battens. Assume 50 linear feet will need replacement or is missing.

016- Construct stand for a/c condenser unit. See Details 9 & 10/A8.2.

017- Install new 6" dia. copper downspout w/ 45 degree miter at bottom and 12"x24" concrete splash block.

INTERIOR

101- Patch holes at cabinet removal.

102- Patch holes at necktie storage rack removal.

103- Patch holes at security system / electrical device removal.

104- Patch holes at security system panel removals.

105- Patch holes at rod removal.

106- Install new plumbing fixtures, see plumbing drawings and new finishes, see finish schedule.

107- Repair bottom 6" of plywood cover of structural column. Remove deteriorated plywood and patch in new plywood. Remove and replace (4) 4" x 8" panels of deteriorated 3/4" plywood flooring adjacent to sliding glass doors.

108- Patch holes at removals from wood board wall.

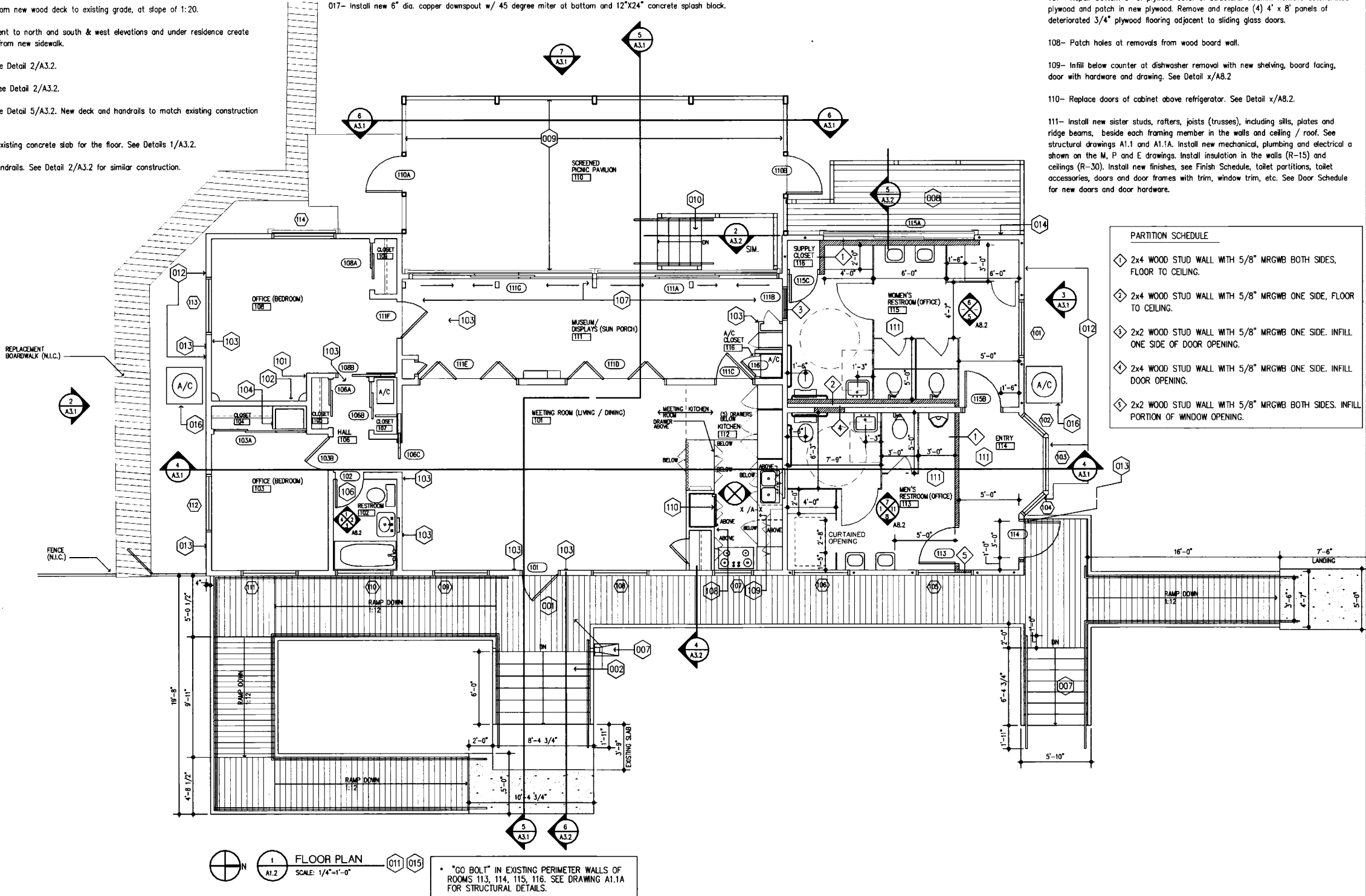
109- Infill below counter at dishwasher removal with new shelving, board facing, door with hardware and drawing. See Detail x/A8.2

110- Replace doors of cabinet above refrigerator. See Detail x/A8.2.

111- Install new sister studs, rafters, joists (trusses), including sills, plates and ridge beams, beside each framing member in the walls and ceiling / roof. See structural drawings A1.1 and A1.1A. Install new mechanical, plumbing and electrical as shown on the M, P and E drawings. Install insulation in the walls (R-15) and ceilings (R-30). Install new finishes, see Finish Schedule, toilet partitions, toilet accessories, doors and door frames with trim, window trim, etc. See Door Schedule for new doors and door hardware.

PARTITION SCHEDULE

- 1 2x4 WOOD STUD WALL WITH 5/8" MRGWB BOTH SIDES, FLOOR TO CEILING.
- 2 2x4 WOOD STUD WALL WITH 5/8" MRGWB ONE SIDE, FLOOR TO CEILING.
- 3 2x2 WOOD STUD WALL WITH 5/8" MRGWB ONE SIDE. INFILL ONE SIDE OF DOOR OPENING.
- 4 2x4 WOOD STUD WALL WITH 5/8" MRGWB ONE SIDE. INFILL DOOR OPENING.
- 5 2x2 WOOD STUD WALL WITH 5/8" MRGWB BOTH SIDES. INFILL PORTION OF WINDOW OPENING.



RENOVATION OF SEVEN SEAS
AT NEWTON BEACH PARK
4650 ESTERO BOULEVARD
TOWN OF FORT MYERS BEACH

PROJECT NO.: 0821
DATE: 03-23-2009
DRAWN BY: KAY, SKS
REVISIONS:

SHEET TITLE:
FLOOR PLAN

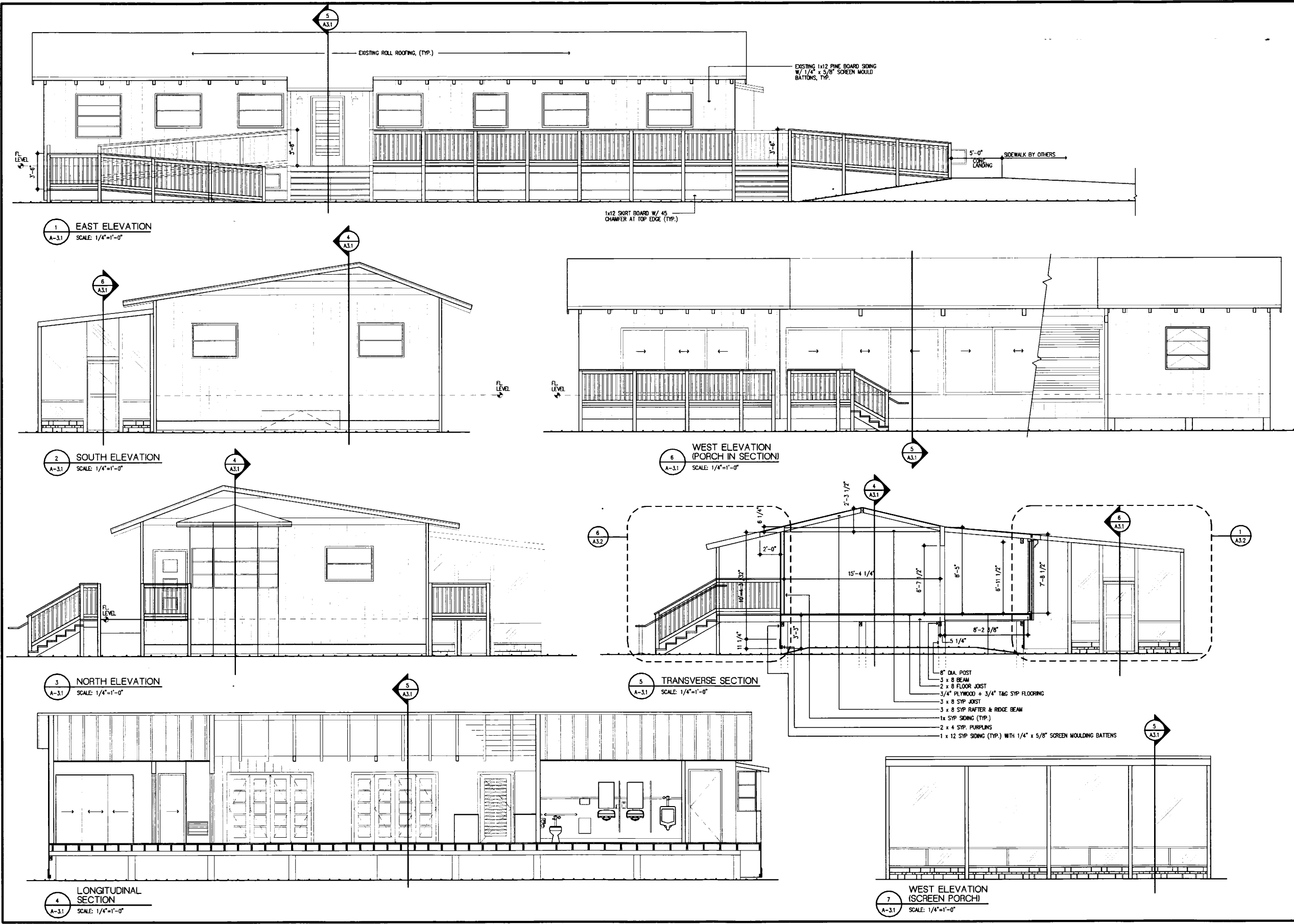
SHEET NO.:

A1.2

OF SHEETS

RENKER • EICH • PARKS ARCHITECTS
1609 Dr. Martin Luther King Jr. Street, Suite 301, Ft. Myers, FL 33901-1003 (772-431-2986)
LIC. #A-100447

H:\008\0801 Newton Ph II\CD\Seven Seas\0801 Exterior Elevation & Sections.dwg
3/23/2009 2:38 PM



RENOVATION OF SEVEN SEAS
AT NEWTON BEACH PARK
4650 ESTERO BOULEVARD
TOWN OF FORT MYERS BEACH

PROJECT NO.: 0821
DATE: 03-23-2009
DRAWN BY: KAY, SKS
REVISIONS:

SHEET TITLE:
EXTERIOR ELEVATIONS
AND SECTIONS

SHEET NO.:

A-3.1

OF SHEETS

	A	B	C
1	SCHEDULE OF USES:		
2	USE	PRINCIPAL USE	ACCESORY USE
3			
4	Civic		
5	Beach access	X	
6	Park, neighbourhood	X	
7	Recreation facility: public	X	
8	Cultural facility	X	
9	Essential services		X
10	Hidden path		X
11	Day care center, adult or child		X
12	Dwelling unit, caretaker		X
13	Place of worship		X
14	School		X
15	Theatre		X
16			
17	Retail		
18	Membership organization	X	
19	Recreation facilities, commercial	X	
20	Temporary uses		X
	On-premises consumption of		
21	alcoholic beverages		X
22	Retail store, small		X
23			
24	Office		
25	Administrative office	X	
26			
27	NOTE A: Possible outdoor retail use (accessory) locations.		

LEGAL DESCRIPTION:

LOTS ONE, TWO, THREE, FOUR, FIVE AND SIX,
BLOCK H, HYDE PARK SUBDIVISION, ACCORDING
TO THE PLAT THEREOF, FILED IN PLAT BOOK 7,
PAGE 20, PUBLIC RECORDS OF LEE COUNTY,
FLORIDA.

DAVID M. JONES JR. AND ASSOCIATES, INC.
LANDSCAPE ARCHITECTS AND PLANNERS

2221 MCGREGOR BOULEVARD FORT MYERS, FLORIDA 33901
(239) 337-5525 FAX (239) 337-4494

NEWTON BEACH PARK
FORT MYERS BEACH, FLORIDA

LEGAL DESCRIPTION

GJD	GJD	280065	N.T.S.	8/2008
-----	-----	--------	--------	--------

EXHIBIT

7-2

From: [Barbara & Jeff Bocker](#)
To: [zoning.permits](#); [Jason Smalley](#)
Subject: case 2022085 Newton Park
Date: Tuesday, August 2, 2022 1:31:49 PM

Local planning agency

As the owners of the home at 100 Gulfview Avenue beach access 18, we are opposed to allowing liquor sales at the park. It will only increase the problems we have already with people on our property, parking in are drive and on several occasions sleeping on our porch, and some just plain disrespectful tourist who think everything is theirs for the taking. We have seen many disturbing things on the beach from our home already. We believe there is not enough police and beach patrolling to take care of the things happening now, adding alcohol will make things even more unsafe on the beach. (There is already plenty of illegal alcohol on beach which patrols turns a blind eye to) Question for the committee why does it state at each access NO ALCOHOL ON BEACH and now we are going to permit it??? We have many friends in the Stradview condos who also put up with more and more disruptions from tourists. We do not mind sharing the beach with the tourists but we bought homes on the beach to relax in what use to be a quirky little island town.

Thank you for taking our concerns into consideration
Jeff and Barbara Bocker
815-238-5559

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: [AL BYERLE](#)
To: [zoning.permits](#)
Subject: Newton Park Neighbor
Date: Wednesday, August 3, 2022 12:44:25 PM

We are not in favor of selling alcohol at Newton Park.

We were advised that there is a meeting on August 9 to discuss weddings and selling of alcohol at Newton Park. This may work for the Mound House but this is the beach. We live next door at Strandview Tower, 4560 Estero, Unit 403, since 1997 and have seen many changes in Newton property since it was developed into a park and it has also increased foot and vehicle traffic on our property. We get individuals using our parking spaces, shower, and pool as if it is part of Newton Park. Most of these individuals have been drinking. We don't need anymore incidents like we have been having. There is no drinking allowed on the beach and it should be the same for Newton Park.

Al and Anne Byerle
248-804-7444

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.



Town of Fort Myers Beach
Community Development Services - Planning Division
2525 Estero Blvd,
Fort Myers Beach, FL 33966

NOTICE TO PROPERTY OWNERS WITHIN 500 FEET

Notice is hereby given that the Local Planning Agency (LPA) of the Town of Fort Myers Beach will hold a public hearing which will take place at Town Hall, 2525 Estero Boulevard, Fort Myers Beach, Florida, 33931.

TIME: 9:00 AM
DATE: 8/9/2022
CASE: 2022085 Newton Park CPD Amendment to Conditions of Approval
ADDRESS: 4650 Estero Boulevard
APPLICANT: Town of Fort Myers Beach
REQUEST: Amendment to the conditions of approval for Newton Park CPD (Res 09-24)

TOWN CONTACT: JASON SMALLEY JSMALLEY@FMBGOV.COM

You may appear in person, through counsel, or through an authorized agent and provide testimony, legal argument, or other evidence. At this hearing the Local Planning Agency will review the application materials and hear testimony to make a recommendation. Complete records or transcripts of the proceedings are not provided by the Town.

Copies of the application and staff report are available for viewing 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 need reasonable accommodation, contact Town Hall at 239-765-0202.



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Town of Fort Myers Beach
2525 Estero Blvd,
Fort Myers Beach, FL 33931

Town of Fort Myers Beach
2525 Estero Blvd,
Fort Myers Beach, FL 33931

«OwnerName»
«MailAddress»
«MailCity», «MailState», «MailZip»«Next Record»

«OwnerName»
«MailAddress»
«MailCity», «MailState», «MailZip»«Next Record»

Town of Fort Myers Beach
2525 Estero Blvd,
Fort Myers Beach, FL 33931

Town of Fort Myers Beach
2525 Estero Blvd,
Fort Myers Beach, FL 33931

«OwnerName»
«MailAddress»
«MailCity», «MailState», «MailZip»«Next Record»

«OwnerName»
«MailAddress»
«MailCity», «MailState», «MailZip»

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

Yellow Sheet Number: **2022-709**

1. Requested Motion:

Meeting Date: August 9, 2022

171 Egret St, Request for historical recognition of a single-family structure, originally constructed in 1961 and subsequently remodeled.

Why the action is necessary:

The local planning agency, as established through ch. 34, article II, division 3 of this code, shall serve as the Historic Preservation Board for the Town of Fort Myers Beach. The historic preservation board is hereby vested with the power, authority, and jurisdiction to designate, regulate and administer historical, cultural, archaeological and architectural resources in the town, as prescribed by this chapter.

What the action accomplishes:

Historical Recognition would provide a sign--or other marker--which recognizes the structure for its contributions towards the architectural, cultural, historic etc. aspects of the community without the expectation that the structure could be listed on local, state or federal registers of historic/ cultural places.

2. Agenda:

HISTORIC PRESERVATION

3. Requirement/Purpose:

5. Background:

Request for historical recognition of a single-family structure, originally constructed in 1961 and subsequently remodeled.

Attachments:

1. 11572646-171 Egret application

Financial Impact:

6. Alternative Action

Applicants should provide more supporting data for the HPB to determine whether the structure may meet the requirements for CHI-2 ("Assigned to resources that meet the criteria of importance to the cultural, religious, educational, commercial, and tourism historical development and/or archaeological resources of the town."), because not enough information has been provided to staff for them to make an assessment towards that determination.

7. Staff Recommendations:

8. Recommended Approval:

Jason Green, Community Development Services

Date: July 20, 2022

Amy Baker, Town Clerk

Date: July 21, 2022

APPLICATION FOR DETERMINATION OF CH2, CH3 OR CH4 CATEGORY OF HISTORIC IMPORTANCE
TOWN OF FORT MYERS BEACH, FLORIDA

The historic resources of the Town of Fort Myers Beach are preserved in accordance with its Comprehensive Plan and Land Development Code. Upon application, the Historic Preservation Board will evaluate the importance of structures/sites within the town's heritage and issue a determination of Category of Historic Importance (CHI) and assign historic plaques as follows:

CHI1 - Historic Designation: Assigned to historic and/or archaeological resources that meet the requirement standards for county, state and/or national registration. Subject to LDC Chapter 22, Article II, Division 3 and Division. Must use CH1 petition form to apply.

CHI2 - Historic Recognition: Assigned to resources that meet the highest criteria of importance to the cultural, religious, educational, commercial, and tourism historical development and/or archaeological resources of the town. Use this form to apply.

CHI3 - Historic Significance: Assigned to resources that on an individual basis do not constitute a significant site, but do contribute to the overall significance of a district. Use this form to apply.

CHI4 - Historic Interest: assigned to areas and vistas that offer insight into understanding the history of the town, the lifestyle of its inhabitants, the historic use of its natural resources and trends in its development. Use this form to apply.

CONTACT INFORMATION FOR APPLICANT

NAME OF APPLICANT: Rexahn Hosafros & Carmine Pacchino
APPLICANT MAILING ADDRESS: 171 Egret St
APPLICANT PHONE NUMBER: 239-560-1513
APPLICANT EMAIL ADDRESS: rhosafros@gmail.com
SIGNATURE: [Signature] DATE SUBMITTED: / /

HISTORIC STRUCTURE, SITE OR RESOURCE

STREET ADDRESS OF SITE: 171 Egret St
STRAP NUMBER: 34-46-29-WY-00050.0000
SUBDIVISION: Martin-Lewis BLOCK NO: A LOT NO: 10
OWNERSHIP TYPE: ☒ Residential () Commercial () Church () School () Other (specify): _____
HISTORIC NAME(S) FOR SITE (if known/applicable): _____
LEE COUNTY HISTORIC SURVEY NUMBER (if known/applicable): _____
PHOTO OF STRUCTURE OR SITE: Attach 4 x 6 photo of structure in the box below.



NOTE: PLEASE REFER TO BROCHURE TO ASSIST IN ANSWERING QUESTIONS AS NEEDED

AGE:

- a. YEAR STRUCTURE WAS BUILT: 1962 ARCHITECT: unknown BUILDER: unknown
b. CURRENT CONDITION (check one): () EXCELLENT ☒ GOOD () FAIR () DETERIORATED
c. INTEGRITY OF STRUCTURE (check one or more): () UNALTERED/ORIGINAL ☒ REMODELED in year(s) unknown
() RESTORED in year(s) _____ by _____

LOCATION/SETTING:

- a. INTEGRITY OF SITE: ☒ STRUCTURE IS ON ORIGINAL SITE () STRUCTURE MOVED in year _____ from _____
b. SETTING: ☒ CANALFRONT () BEACHFRONT () OTHER (describe) _____

FUNCTION:

- a. ORIGINAL USE: home PRESENT USE: home

ARCHITECTURAL STYLE/DESIGN:

- a. () FRAME VERNACULAR () POST/PILING HOME () BUNGALOW (circle type number) type 1 type 2 type 3 type 4
() MISSION () MEDITERRANEAN REVIVAL () COMMERCIAL VERNACULAR ☒ OTHER _____
b. NO. OF STORIES: 1 NO. OF PORCHES: 2

MATERIALS/WORKMANSHIP:

- a. STRUCTURE: () WOOD FRAME ☒ BLOCK ☒ COMBINATION WOOD FRAME/BLOCK () OTHER _____
b. FOUNDATION: () PINE PILINGS () TREATED POSTS ☒ SLAB () OTHER (describe) _____
c. EXTERIOR SIDING () VERTICAL/BOARD AND BATTEN () ASBESTOS SHINGLE () WOOD SHINGLE () HORIZONTAL SIDING
☒ STUCCO () OTHER _____
d. ROOF SHAPE: () FLAT ☒ PITCH (state type) _____ MATERIAL: Aluminum
.....# OF DORMERS: _____ () WIDOW'S WALK () CUPOLA
e. WINDOW TYPES (check all that apply): ☒ JALOUSIE () GROUPED WINDOWS () DOUBLE HUNG () SLIDING DOORS () OTHER
ORIGINAL EXTERIOR DETAILS: _____ () RAIN BARREL/CISTERN
f. ORIGINAL INTERIOR DETAILS: () SLASH PINE FLOORS () PINE PANELING () HISTORIC FIXTURES ☒ OTHER Terrazo Floor
CHIMNEY: NUMBER: 0 MATERIALS: _____ FIREPLACE LOCATIONS IN STRUCTURE: _____
g. ASSOCIATED WITH IMPORTANT PEOPLE OR EVENTS? ☒ NO () YES (describe) _____

ARCHAEOLOGICAL RESOURCE:

- h. HAVE ARTIFACTS OR OTHER REMAINS BEEN FOUND ON THE SITE? ☒ NO () YES (attach list/photos)
DO YOU HAVE REASON TO BELIEVE THERE ARE ARTIFACTS ON THE SITE? ☒ NO () YES (explain)

FMSF ARCHAEOLOGICAL FORM COMPLETED? ☒ NO () YES (please attach)

PHOTOGRAPHS, MAPS AND DESCRIPTIVE NARRATIVE:

If desired, please attach pages to explain the history of the structure/site as you know it, including copies of photographs, maps or articles that relate to its importance in the history of our town. Originals will NOT be returned to the applicant.

NUMBER OF PAGES ATTACHED BY APPLICANT: 0 pages.

Applicant: Do not write below this line

HPB DETERMINATION OF CATEGORY OF HISTORIC IMPORTANCE

DETERMINATION OF CATEGORY OF HISTORIC IMPORTANCE LEVEL: () CHI1 () CHI2 () CHI3 () CHI4

DATE OF DETERMINATION: ____/____/____

IMPORTANT AT COUNTY LEVEL? () YES () NO () LIKELY () INSUFFICIENT INFO

ELIGIBLE FOR NATIONAL REGISTRY? () YES () NO () LIKELY () INSUFFICIENT INFO

SUMMARY OF IMPORTANCE: (limit to six lines)

ARE DETERMINATION HEARING MINUTES ATTACHED? () YES () NO (State reason): _____

SIGNATURE OF HPB/TOWN REP: _____ TITLE: _____

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

Yellow Sheet Number: **2022-710**

1. Requested Motion:

Meeting Date: August 9, 2022

139 Palermo Cir, Request for historical recognition of a single-family structure, originally constructed in 1953 with multiple subsequent renovations.

Why the action is necessary:

The local planning agency, as established through [ch. 34](#), article II, division 3 of this code, shall serve as the Historic Preservation Board for the Town of Fort Myers Beach. The historic preservation board is hereby vested with the power, authority, and jurisdiction to designate, regulate and administer historical, cultural, archaeological and architectural resources in the town, as prescribed by this chapter.

What the action accomplishes:

Historical Recognition would provide a sign--or other marker--which recognizes the structure for its contributions towards the architectural, cultural, historic etc. aspects of the community without the expectation that the structure could be listed on local, state or federal registers of historic/ cultural places.

2. Agenda:

HISTORIC PRESERVATION

3. Requirement/Purpose:

5. Background:

Request for historical recognition of a single-family structure, originally constructed in 1953 with multiple subsequent renovations.

Attachments:

1. 10755843-Slowski FMB Designation (1)

Financial Impact:

6. Alternative Action

Structure does not meet the requirements of the CHI-1 application that was submitted which requires, "Assigned to historic and/or archaeological resources that meet the requirement standards for

county, state and/or national registration. Subject to LDC chapter 22, article II, division 3 and division 4."

The structure may meet the requirements for CHI-2 ("Assigned to resources that meet the criteria of importance to the cultural, religious, educational, commercial, and tourism historical development and/or archaeological resources of the town."), but not enough information has been provided to staff for them to make an assessment towards that determination.

7. Staff Recommendations:

8. Recommended Approval:

Date: July 20, 2022

Jason Green, Community Development Services

Date: July 21, 2022

Amy Baker, Town Clerk

**PETITION FOR DETERMINATION OF CH1 CATEGORY OF HISTORIC DESIGNATION
TOWN OF FORT MYERS BEACH, FLORIDA**

The historic resources of the Town of Fort Myers Beach are preserved in accordance with its Comprehensive Plan and Land Development Code. Upon application, the Historic Preservation Board will evaluate the importance of structures/sites within the town's heritage and issue a determination of Category of Historic Importance (CHI) as follows:

CHI1 - Historic Designation: Assigned to historic and/or archaeological resources that meet the requirement standards for county, state and/or national registration. Subject to LDC Chapter 22.

CHI2 - Historic Recognition: Assigned to resources that meet the highest criteria of importance to the cultural, religious, educational, commercial, and tourism historical development and/or archaeological resources of the town.

CHI3 - Historic Significance: Assigned to resources that on an individual basis do not constitute a significant site, but do contribute to the overall significance of a district.

CHI4 - Historic Interest: assigned to areas and vistas that offer insight into understanding the history of the town, the lifestyle of its inhabitants, the historic use of its natural resources and trends in its development.

CONTACT INFORMATION FOR APPLICANT

NAME OF APPLICANT: Karyn Slomski
APPLICANT MAILING ADDRESS: PO Box 2428 PMB 25382 Pensacola FL 32513
APPLICANT PHONE NUMBER: 630-327-6484
APPLICANT EMAIL ADDRESS: KSlomski@yahoo.com
SIGNATURE: [Signature] DATE SUBMITTED: 02/15/2020

HISTORIC STRUCTURE, SITE OR RESOURCE

STREET ADDRESS OF SITE: 139 Palermo Circle
STRAP NUMBER: 194624 W4 0060 G 0190
SUBDIVISION: Vendian Gardens BLOCK NO: 0060 G LOT NO: 0190
OWNERSHIP TYPE: ☒ Residential ☐ Commercial ☐ Church ☐ School ☐ Other (specify):
HISTORIC NAMES FOR SITE (if applicable):
FMB HISTORIC DISTRICT (if applicable):
LEE COUNTY HISTORIC SURVEY NUMBER (if applicable):
PHOTO OF STRUCTURE OR SITE: Attach 4 x 6 photo of structure in the box below.



AGE:

- a. YEAR STRUCTURE WAS BUILT: 1953 ARCHITECT: ? BUILDER: ?
b. CURRENT CONDITION (check one): (☒) EXCELLENT () GOOD () FAIR () DETERIORATED
c. INTEGRITY OF STRUCTURE (check one or more): () UNALTERED/ORIGINAL (☒) REMODELED in year(s) multiple
() RESTORED in year(s) _____ by _____

LOCATION/SETTING:

- a. INTEGRITY OF SITE: (☒) STRUCTURE IS ON ORIGINAL SITE () STRUCTURE MOVED in year _____ from _____
b. SETTING: (☒) CANALFRONT () BEACHFRONT () OTHER (describe) _____

FUNCTION:

- a. ORIGINAL USE: residence PRESENT USE: residence

ARCHITECTURAL STYLE/DESIGN:

- a. (☒) FRAME VERNACULAR (☒) POST/PILING HOME () BUNGALOW (circle type number) type 1 type 2 type 3 type 4
() MISSION () MEDITERRANEAN REVIVAL () COMMERCIAL VERNACULAR () OTHER _____
b. NO. OF STORIES: 2 NO. OF PORCHES: 2

MATERIALS/WORKMANSHIP:

- a. STRUCTURE: (☒) WOOD FRAME () BLOCK () COMBINATION WOOD FRAME/BLOCK () OTHER _____
b. FOUNDATION: (☒) PINE PILINGS () TREATED POSTS () SLAB () OTHER (describe) _____
c. EXTERIOR SIDING (☒) VERTICAL/BOARD AND BATTEN () ASBESTOS SHINGLE () WOOD SHINGLE () HORIZONTAL SIDING
() STUCCO () OTHER _____
d. ROOF SHAPE: () FLAT (☒) PITCH (state type) cross gable MATERIAL: metal
.....# OF DORMERS: _____ () WIDOW'S WALK () CUPOLA
e. WINDOW TYPES (check all that apply): () JALOUSIE () GROUPED WINDOWS (☒) DOUBLE HUNG () SLIDING DOORS () OTHER
ORIGINAL EXTERIOR DETAILS: _____ () RAIN BARREL/CISTERN
f. ORIGINAL INTERIOR DETAILS: () SLASH PINE FLOORS (☒) PINE PANELING () HISTORIC FIXTURES () OTHER _____
CHIMNEY: NUMBER: 0 MATERIALS: _____ FIREPLACE LOCATIONS IN STRUCTURE: _____
g. ASSOCIATED WITH IMPORTANT PEOPLE OR EVENTS? () NO () YES (describe) _____

ARCHAEOLOGICAL RESOURCE:

- h. HAVE ARTIFACTS OR OTHER REMAINS BEEN FOUND ON THE SITE? (☒) NO () YES (attach list/photos)
DO YOU HAVE REASON TO BELIEVE THERE ARE ARTIFACTS ON THE SITE? (☒) NO () YES (explain) _____

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DETERMINATION OF CATEGORY OF HISTORIC IMPORTANCE LEVEL: () CHI1 () CHI2 () CHI3 () CHI4

DATE OF DETERMINATION: ____/____/____

FMB HISTORIC DISTRICT (if applicable): () FMBHD1 () FMBHD2 () FMBHD3 () FMBHD4

IMPORTANT AT COUNTY LEVEL? () YES () NO () LIKELY () INSUFFICIENT INFO

ELIGIBLE FOR NATIONAL REGISTRY? () YES () NO () LIKELY () INSUFFICIENT INFO

SUMMARY OF IMPORTANCE: (limit to six lines)

ARE DETERMINATION HEARING MINUTES ATTACHED? () YES () NO (State reason): _____

SIGNATURE OF HPB/TOWN REP: _____ TITLE: _____