



Fort Myers Beach Town Council

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

Agenda

Monday, August 15, 2022

9:00 AM

ORDER OF BUSINESS

I. CALL TO ORDER

II. INVOCATION

III. PLEDGE OF ALLEGIANCE

IV. APPROVAL OF FINAL AGENDA

V. PUBLIC COMMENT

VI. LOCAL ACHIEVEMENTS AND RECOGNITIONS

VII. ADVISORY COMMITTEES ITEMS AND REPORTS

- A. Bay Oaks Recreational Campus Advisory Board (BORCAB)

VIII. APPROVAL OF MINUTES

- A. August 1, 2022 Town Council
B. August 4, 2022 Management & Planning Session

IX. PUBLIC HEARINGS

- A. Ordinance 22-11; Sea Turtle Conservation

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

- B. VAR20220031; 177 Hercules Dr.

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

X. ADMINISTRATIVE AGENDA

- A. Stabilization of Archaeological Resources at Mound House.

Approve a capital project from the general fund in the amount of \$43,967.28 for the Florida Museum of Natural History to provide archaeological services for the stabilization of the underground museum "Stories Beneath Our Feet" exhibit at Mound House.

- B. FY23 Contractual Agreements

Approve purchase orders/contracts in excess of \$25,000 for FY2023 in the areas of Environmental Services, Planning/Zoning, Building Services, and Community Development Administration, together with such changes as may be acceptable to the Town Manager and approved as to form and legality by the Town Attorney, and authorize the Town Manager to execute the Agreements on behalf of the Town.

- C. Supplemental Magistrate
Supplemental Magistrate

- D. 2022 Canvassing Board
Appoint a member of the Town Council to serve on the canvassing board for the Town of Fort Myers Beach November 8, 2022 general election.

- E. Local Planning Agency Appointment
Appointment to the Local Planning Agency (LPA)

- F. Historic Preservation Advisory Board Appointment
Appointment to the Historic Preservation Advisory Board (HPAC)

XI. FINAL PUBLIC COMMENT

XII. TOWN MANAGER'S ITEMS

- A. Landscape Maintenance
Landscape Maintenance for the foot of Matanzas Pass Bridge with Florida Department of Transportation (FDOT) proposed improvements.
- B. Lee County Multi-Jurisdictional Program for Public Information 2021 Annual Evaluation
Annually, the Program for Public Information (PPI) is reviewed to evaluate the unified messages delivered to affected residents and businesses and the actions taken to reduce danger and property damage caused by flooding.

XIII. TOWN ATTORNEY'S ITEMS

XIV. COUNCILMEMBERS ITEMS AND REPORTS

XV. ADJOURNMENT

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

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



For special accommodations, please notify the Town Clerk's Office at least 72 hours in advance. (239) 765-0202



Help for the hearing impaired is available through the Assistive Listening System. Receivers can be obtained from the Town Clerk's Office.

In accordance with the Americans with Disabilities Act (ADA), persons needing a special accommodation to participate in the Board's proceedings should contact the Town Clerk's Office not later than three days prior to the proceedings.



Fort Myers Beach Town Council

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

Minutes

Monday, August 1, 2022

9:00 AM

ORDER OF BUSINESS

DRAFT

I. CALL TO ORDER

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

Excused: Council Member Veach

II. INVOCATION

Town Clerk Baker.

III. PLEDGE OF ALLEGIANCE

IV. APPROVAL OF FINAL AGENDA

Vice Mayor Hosafros moved to approve the final agenda; second by Council Member Atterholt.

Motion carried unanimously.

V. PUBLIC COMMENT

Thomas Houghton, owner of La Ola Surfside Restaurant, urged Council Members to reconsider their stance regarding community policing. He described the activities of homeless people at the Times Square Trolley stop. He indicated that last weekend homeless people verbally harassed a group of summer campers. The campers discussed calling law enforcement, but it was difficult for law enforcement to respond fast enough. He noted that people did not feel safe anymore.

VI. LOCAL ACHIEVEMENTS AND RECOGNITIONS

Council Member Atterholt described the Fort Myers Beach Fire Control District's promotion ceremony on June 11, 2022. He noted that Fire Chief Ron Martin requested that members being honored recite their oath of office facing the audience, the people that they serve. Council Member Atterholt commended the department, fire board, chief and newly promoted officers for the beautiful ceremony.

Council Member Allers recognized the fire department for their hard work.

No items from other members.

VII. ADVISORY COMMITTEES ITEMS AND REPORTS

- A. Cultural & Environmental Learning Center Advisory Board (CELCAB) Vice Chair Cherie Smith reported that the Mound House was open five days a week, from Tuesdays to Saturdays, from 9:00 a.m. to 4:00 p.m. She indicated that CELCAB voted to name the loop around the Mound House "Dan and Ann Hughes Loop" and noted that CELCAB was creating a policy for naming rights of non-historical areas around the Mound House property. CELCAB requested that the admission cost for residents remain at \$5.00 and described Director Giesen's work to obtain accreditation from the American Alliance of Museums. The lecture series was every second Tuesday of the month at 6:00 p.m. She described the upcoming trip to Mexico with Penny Jarrett and stated that the Artful Intersection fundraiser would be held in April, with details to follow.

VIII. APPROVAL OF MINUTES

- A. June 6, 2022 Town Council

Correction: Vice Mayor Hosafros did not agree with allowing a box blade on the beach because ~~Sandpiper Village raked over other people's property.~~ the adjacent condos were raking over the Sandpiper Village beach access. Council Member Atterholt moved to approve the amended minutes; second by Vice Mayor Hosafros.

Motion carried unanimously.

- B. June 9, 2022 Management & Planning

Council Member Atterholt moved to approve the minutes; second by Vice Mayor Hosafros.

Motion carried unanimously.

IX. PUBLIC HEARINGS

A. Ordinance 22-11; Sea Turtle Conservation

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

Mayor Murphy stated that Council Member Veach requested the hearing be postponed until he returned because he had an amendment to propose. Vice Mayor Hosafros supported the request to postpone. Council Member Atterholt noted that normally he would support the request, but the condominium owners were trying to make decisions regarding windows and faced a time crunch. Council Member Allers agreed with Council Member Atterholt. He also stated that normally he would wait for Council Member Veach, but the cost of the windows continued to increase and he preferred to move forward. Mayor Murphy chose to wait for Council Member Veach to return. Town Attorney Herin, Jr. stated that a 2-2 vote meant the hearing would continue.

Council Member Atterholt moved to continue the hearing to August 15, 2022, at 9:00 a.m.; second by Mayor Murphy.

Motion carried, 3-1, with Council Member Allers dissenting.

B. VAR20220031; 177 Hercules Dr.

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

Mayor Murphy read the title of the variance. Town Attorney Herin, Jr. swore in those providing testimony. Ex parte communications: all Council Members received several emails and all but Mayor Murphy drove by the property.

Community Development Director Jason Green stated the applicant initially requested four variances, but the applicant reduced their request to two variances after the LPA (Local Planning Agency) meeting. His presentation included photos of the existing site, Buildable Area; Proposed Site Plan; Proposed Waterfront Elevation; Rear Setback and Allow for Additional Length of Front Porch. Director Green indicated that conditions were included in the packet of information. He noted that staff recommended denial based on LDC (Land Development Code) Sec. 34-87.

He added that the applicant did not submit a building permit application when the code changed. Director Green explained that breaking up the porch facade would not be allowed by code. Council Member Atterholt questioned who owned the property with the picnic table and pier at the end of Hercules Dr. Town Manager Hernstadt replied that the property was a dedicated, improved right-of-way. He described the property's history and noted it was a public facility.

Applicant Cynthia Shanosky distributed her presentation and described the history of their property. She stated they wanted to save the old oak trees and keep the view corridors open for the neighbors and visitors. She indicated they had designed a smaller house on a large lot as far away from the water as possible. Ms. Shanosky stated that they were utilizing only 27% of their lot. She described the content of the LPA meeting and how they came up with the current site plan to accommodate the ordinance. She suggested an amendment to the ordinance to prevent the construction of 65-foot cubes.

Ms. Shanosky's presentation included an aerial of the current condition; Our yellow cottage; lot with allowable buildable footprint; what they proposed; allowed versus proposed; view of the front of the home proposed to the LPA; rendering after the LPA meeting; view without the front porch; Comprehensive Plan illustration; findings and conclusions Parts A, B, C, D and E; depiction of the future design of their three lots and quotes from supporters. She encouraged the Council to attach a combined site plan as a condition of approval and noted that they intended to use the property as a family compound.

Council Member Allers clarified the garage dimensions and preferred that the house stay further away from the water.

Town Attorney Herin, Jr. stated that it was the applicant's obligation to demonstrate that they met the criteria in the code to grant the variance and that the single lot was the subject of the appeal. Whatever happened to the other two lots was not relevant to their decision and statements from supporters could not be considered. He indicated that condition 4 would have to be changed to reflect the single lot.

Vice Mayor Hosafros clarified that the code did not prohibit the applicant from enclosing the area underneath the porch. Director Green noted a condition could be added.

Town Attorney Herin, Jr. reminded Council that the applicant had to comply with current regulations or meet the criteria to be entitled to a variance.

Ms. Shanosky stated the neighbor was fine with the garage five feet off his property line because the house was 20 feet off the property line and the view corridor was protected.

Director Green discussed the life of the trees during construction and noted the root structure was generally equal to the branches.

No public comment.

Council Member Allers noted he struggled with the porch size because it could be designed to allow a 35-foot porch. He did not have an issue with a variance for the garage.

Vice Mayor Hosafros noted the arguments for granting the variances were not guaranteed. The trees could die during construction and the view under the garage was not guaranteed. She did not find anything extraordinary about the property because it seemed there was plenty of room to build pursuant to the code.

Council Member Allers moved to approve the variance for the garage setback but deny the variance for the additional 13 feet for the porch, include the conditions of approval set forth by the town staff and, in regard to condition number 4, remove the other properties; second by Mayor Murphy. Mayor Murphy felt the porch added a lot to the house. He would regrettably support the motion but preferred that both be approved.

Votes taken by roll call resulted in a tie. Mayor Murphy and Council Member Allers voted to approve, with Vice Mayor Hosafros and Council Member Atterholt dissenting. Town Attorney Herin, Jr. stated that the applicant could reapply in six months.

Council Member Allers moved to reopen the public hearing to hear from the applicant; second by Mayor Murphy.
Motion carried unanimously.

Ms. Shanosky stated that she hired an arborist to help protect the trees and reiterated that she loved the open corridors. She indicated that this was her last shot. Mr. Kevin Shanosky was sworn in. He assured the Council that Ms. Shanosky did not have nefarious intentions. He questioned the reason behind the two dissenting votes. Vice Mayor Hosafros stated that the variances did not rise to the level necessary under the findings on page 80. Council Member Allers questioned whether the applicant would move forward with a 35-foot porch.

Council Member Allers requested they reopen the public hearing and Mayor Murphy agreed.

Ms. Shanosky stated that she would have to discuss the 35-foot porch with her husband, but she would consider it. She did not know why she was not granted administrative relief since they were so far along with the design.

Mayor Murphy questioned whether there was an option for an expedited process if the applicant were to come back. Town Attorney Herin, Jr. noted the applicant could ask for a continuance for two weeks. Council Member Allers questioned whether the applicant would have to come back in if Council voted to approve the variance for the garage and the applicant decided to build the 35-foot porch allowed under the code. Town Attorney Herin, Jr. replied that the 35-foot porch did not require a variance, so the applicants could move forward. Director Green stated that the variances were individual applications, and both needed to be voted on.

Council Member Allers moved to approve the variance for the garage with the applicable staff conditions; second by Mayor Murphy.

The vote resulted in a tie, with Vice Mayor Hosafros and Council Member Atterholt dissenting. Mayor Murphy and Council Member Allers voted in favor of the motion.

Council Member Atterholt noted if they continued the matter, Council Member Veach could weigh in. He agreed with Vice Mayor Hosafros and had additional concerns, but he was open to a continuance. Vice Mayor Hosafros disagreed. She voted for a continuance at the previous hearing because Council Member Veach specifically asked that it be continued. Town Attorney Herin, Jr. stated that Robert's Rule of Order allowed them to table the matter until a date and time certain or indefinitely until it was taken off the table where it could be considered at that time.

Mayor Murphy moved to postpone the item until August 15, 2022, at 9:00 a.m.; second by Council Member Allers.

Town Attorney Herin, Jr. stated that if the matter came back, they would have to go over the entire hearing again because Council Member Veach was not in attendance. Council Member Veach could review the meeting, but the decision had to reflect the evidence and testimony that the entire body voting on it had heard on the date it was being considered and voted on.

Motion carried 3-1, with Vice Mayor Hosafros dissenting.

X. ADMINISTRATIVE AGENDA

A. Barefoot Rugby Tournament - Special Event

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

Council Member Allers moved to give approval; second by Council Member Atterholt.

Motion carried unanimously.

B. Public Safety Committee Appointments

Appointments to the Public Safety Committee (PSC)

Town Manager Hernstadt noted that one person applied to the Historic Preservation Advisory Committee and another to the Local Planning Agency. Both items will be on the next agenda. Mayor Murphy requested that applicants attend the meeting to answer questions.

Mayor Murphy indicated there were three applicants for two vacancies and Mr. Daniel Blanchette was the only applicant in attendance. Mr. Keran Farrell lived off the island and Mr. James Bougoulas was building a home on the island.

Mr. Blanchette introduced himself and stated he and his wife had recently attended the Citizen's Academy course. Since he retired, he was interested in joining the PSC. He previously worked for 41 years in the IT department at Liberty Mutual.

Vice Mayor Hosafros moved to approve Daniel Blanchette for the PSC; second by Council Member Atterholt.

Motion carried unanimously.

Vice Mayor Hosafros moved to approve James Bougoulas for the PSC; second by Council Member Atterholt.

Motion carried unanimously.

XI. FINAL PUBLIC COMMENT

No public comment.

XII. TOWN MANAGER'S ITEMS

Town Manager Hernstadt stated that Mr. Blanchette and his family did a magnificent job remodeling their cottage.

Town Manager Hernstadt indicated that revenue (estimated at \$250,000.00) from the new parking lot came with the caveat that residential parking passes would not be accepted on that lot. If Council wanted to open the parking lot to residents, the revenue projection would have to be adjusted. The proposed fee schedule for the Mound House will be on the agenda for Thursday's meeting. He thanked Town Council for their support over the summer.

Town Manager Hernstadt indicated they were on schedule for a mid-month ground-breaking for a completion ceremony for Bayside Park, the opening of the entrance lot for Bay Oaks should be in September and he expected to present finalized pricing for the Bay Oaks project in the fall, with construction starting before the end of the calendar year. He noted they expected to open Bay Oaks by this time next year. The staff was in the process of rebidding material for streets with stormwater improvements.

Council Member Atterholt questioned whether Town Manager Hernstadt had an update on the light fixture that FPL was testing. Town Manager Hernstadt replied that the corrosion tests were still underway and expected to hear results in October. He added that he was informed of the testing status by an FPL representative and would contact FPL again before budget discussions.

XIII. TOWN ATTORNEY'S ITEMS

Town Attorney Herin, Jr. stated that Attorney Sanabria would attend the M&P session on Thursday.

Town Attorney Herin, Jr. was moving forward with filing two lawsuits regarding code enforcement liens and would keep Council informed of the progress. He described the two properties and added that those were the ones with the largest fines. He explained why the other lawsuits would be filed in sequence.

XIV. COUNCILMEMBERS ITEMS AND REPORTS

Vice Mayor Hosafros received support for adding amenities to the new beach access across the street from Albatross.

Council Member Atterholt questioned whether the Town Manager had an update on Times Square. Town Manager Hernstadt replied that since the legislature did not approve the \$1 million grant, the town was able to reapply from other funds for just less than half of their original request. Once the bid package for Bay Oaks was completed, the town would start the bid package for Times Square. Council Member Atterholt requested data on enforcement metrics regarding lighting violations for the next meeting.

Mayor Murphy clarified that the next agenda would include a vote on the "Dan and Ann Hughes Loop" as recommended by CELCAB.

No items from other members.

XV. ADJOURNMENT

Council Member Allers moved to adjourn; second by Mayor Murphy.

The meeting was adjourned at 11:52 a.m.



Fort Myers Beach Management & Planning Session

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

Minutes

Thursday, August 4, 2022

9:00 AM

ORDER OF BUSINESS

I. CALL TO ORDER

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

II. PLEDGE OF ALLEGIANCE

III. ITEMS FOR DISCUSSION

A. Property Rights

Comprehensive Plan Amendment Property Rights Element Community Development Director Jason Green stated that Section 163.3177(6)(i)2, Florida Statutes, required local governments to adopt and include the property rights element in their comprehensive plan. The language being added was straight from the statute. This item will be on the LPA (Local Planning Agency) agenda next week and before Town Council in September for approval.

B. Amendments to LDC Chapter 6- Floodplain Articles

Amendments to LDC Chapter 6- Floodplain Articles

Director Green indicated that the floodplain articles would be amended to update regulations and adopt the new flood maps effective November 17, 2022. He noted he was waiting for additional feedback/comments from the state regarding the draft. One highlight in the amendment is the exemption regarding elevation requirements of mobile homes. Previously, if a mobile home had a substantial improvement or replacement, unless it was because of flood damage, the owner could replace it and elevate it 36 inches above grade. This amendment did away with that allowance and was a prerequisite for Class 8 CRS (Community Rating System). The town was Class 5 and would drop to Class 8 automatically if the exemption was deleted. If an

owner has to replace their mobile home, it would have to be elevated to the minimum base flood elevation.

Director Green described regulating newly added Coastal A Zones as V Zones and indicated the most significant difference would be in the neighborhoods. He noted that new construction would be impacted and new permit applicants would be encouraged to comply with the new elevations.

Town Manager Hernstadt stated that the town was able to increase the CRS rating to a 5, which helped lower insurance rates. The CRS rating of 5 resulted in a 25% discount.

C. LDC Ch. 30 Signs Text Amendment

Discussion to provide feedback on proposed amendments to the sign regulations within LDC Ch. 30 Signs.

Director Green noted he attempted to reduce overlap and confusion with signs that were not permitted or exempt. He stated that commercial districts had sign regulations, residential districts had sign regulations and portable signs had been updated. The signs cannot be categorized by the content. Vice Mayor Hosafros mentioned that political signs were out every day and questioned whether there was a constitutional way to deal with them. Director Green replied affirmatively. One community created a seasonal sign category for political signs and defined the season. He noted that two points of conflict were political and real estate signs. He commented that they could try to create ways to call them different things, but it was challenging when they were based on zoning districts.

Council Member Atterholt questioned how the current ordinance impacted restricting political signs to 30 days before an election. Director Green stated it was not in the draft because they could not call them political signs but could create timelines. He commented that other municipalities were dealing with the same issue. Attorney Sanabria indicated that he would research neutral content requirements.

D. Update on multi-story condo registration legislation.

Update on multi-story condo registration legislation.

Community Services Administrator Daphnie Saunders provided an update on registration legislation. She noted that the bill was under review and should go back to the legislature by December 31, 2022. She stated that the building department would have to send out notices to condominiums three stories or higher and built before 1992 that they would have to register with the local building department by the end of 2024. Administrator Saunders indicated that the town would have to create an ordinance to set up a registration system with a fee. She described the Phase 1 inspection and noted that if an engineer approved, the process would be complete and a Phase 2 milestone inspection would be avoided. She was not sure whether the registration would be retroactive.

E. Beach Renourishment Project Update

Beach Renourishment Project Update

Environmental Project Manager Chadd Chustz noted he responded to the second request for additional information from FDEP (Florida Department of Environmental Protection) regarding the joint coastal permit to renourish the beach. Information was included in the council packets. Property around Lanark Ave. and Creciente condominiums were removed from the project. As a result, the budget was adjusted, but there was not much difference in the overall project cost.

Town Manager Hernstadt stated that the town was in discussions with Lee County and the state to see if they would be willing to contribute more money upfront due to the time it took for reimbursement.

Project Manager Chustz indicated that he would contact the engineer regarding whether Leonardo Arms could be first in line to be renourished, but it depended on the shorebird season. Council Member Allers clarified that property owners who did not sign the agreement with the town did not get sand.

Town Manager Hernstadt commented that Lee County and the state would fund the project, but the town needed them to pay their share earlier in the process. He explained that TDC transferred a lump sum to Lee County and Lee County administered the funds.

Town Manager Hernstadt indicated that the town planned a media blitz in the fall to provide facts surrounding renourishment benefits.

F. Local Option Gas Tax

Discussion on proposed changes to the Town's Local Option Gas Tax percentage distribution.

Town Manager Hernstadt stated the current agreement with Lee County was up for renewal. The County was contemplating a three to a five-year agreement and the proposed percentages were based on 50% population and 50% lane miles maintained. The town's portion would be reduced to below 1% (0.62%), impacting some plans for the island. Town Manager Hernstadt indicated that he was working with the county to draft an acceptable agreement. Accounting Manager Cheri Russ stated that the reduction resulted in a loss of about \$140,000.00 in the gas tax fund. Typically, the town received \$230,000.00. She added that the gas tax holiday in October meant the town would lose about \$40,000.00 for the month. She was not sure whether funds from the CARES Act would be used to offset the tax holiday. She described the gas tax formula for distribution to municipalities.

Town Manager Hernstadt noted that those funds were used for traffic control under the bridge and other traffic-related activities. He stated that he was waiting to hear back from Lee County's Chief Financial Officer for further discussion.

G. FY2023 Budget Update

Council comments on Proposed Draft FY2023 General Fund Budget and Add-on List

Town Manager Hernstadt questioned whether Council would consider targeted fee increases because the town's fees had not kept pace with competitors. If fees were not increased, adjustments to the budget would have to be made. Cultural Parks & Recreation Director Alison Giesen submitted fee increases for the Mound House and Bay Oaks. Town Manager Hernstadt reported that the town's millage rate was in the bottom 10 out of the 369 municipalities in Florida. The amount of taxes paid to the town was 6% of the typical tax bill and 94% went to other entities. He felt they could accomplish everything at a .99 millage rate and still be in the bottom 10.

Council Member Allers noted the town was starting to see the effects of the pandemic when it came to buying goods and services. He used rebidding the tier one stormwater project as an example. Vice Mayor Hosafros remarked that the town had not incurred that debt yet and it may be delayed. Council Member Allers felt they needed to take a harder look at where they were putting some of the money. Town Manager Hernstadt commented that some projects could be delayed until the economy stabilizes.

Vice Mayor Hosafros noted that fees were being raised because they had not changed over the years, while similar facilities in the area had increased their fees. She felt that it was fair to raise prices for the people who were using the services. She questioned why watercraft vendor and PWV licenses increased so much. Town Manager Hernstadt replied that the fee was put into the ordinance and not subject to the fee resolution changes that would have been incurred over the last 15 years.

Council Member Atterholt discussed how much the town subsidized the Mound House and Bay Oaks. Town Manager Hernstadt responded that he would provide the exact numbers, but the town tried to keep the general fund subsidy at about 75%, with users paying 25%. Council Member Atterholt brought up increased revenue because of increased property valuations.

Town Manager Hernstadt noted the amount was approximately \$170,000.00. Vice Mayor Hosafros added that the increase offset the potential gas tax loss. Mayor Murphy explained that the guiding principle at the beginning of incorporation was government light. He discussed bringing services in-house over the years and noted the millage rate had never exceeded 1%. He indicated everything boiled down to people's expectations and what they were willing to pay.

Council Member Allers commented that the fee increases did not appear to have any rhyme or reason and questioned some of the increases. Town Manager Hernstadt explained the reasons behind the thinking. Council Member Allers questioned increasing the credit card fee for water. Utilities Director Christy Cory replied that residents who were paid online with a credit card already paid a fee, but those who called in to pay with a credit card or were set up on autopay¹ did not pay a fee. She noted the town was paying \$88,000.00 a year in credit card fees and charging residents who called in with a credit card made it fair across the board.

Council Member Atterholt questioned whether there was a policy to protect non-profit groups like the farmers market at Beach Baptist from special event fees. Vice Mayor Hosafros replied that non-profits were permanently protected in the ordinance and the entity that ran the farmer's market at the church was a for-profit organization.

Council Member Allers updated Council Members regarding adding a dual-purpose crosswalk signal at Lenell. He stated the cost of a signal could be a potential million-dollar project. He stated the crosswalk signal would be overridden if the fire trucks needed to get out. Vice Mayor Hosafros questioned why the town would have to pay for anything since Estero Blvd. was owned by the county and the fire department would pay their portion.

Council Member Allers responded that the data needed to figure costs was not in yet, but he wanted to keep Council updated.

Town Manager Hernstadt reviewed the add-on-list. Council Member Allers questioned why community policing was being used as a reason for a mileage increase instead of amber lighting, which would be an ongoing cost forever. Town Manager Hernstadt responded that it did not change the paradigm, but he would remove it if the Council wished. Council Member Atterholt explained that if one were to support a millage rate increase, one would be supporting it for proper lighting on Estero Blvd., proper beach renourishment and community policing. He felt it was important to reflect that in the documents.

Vice Mayor Hosafros questioned whether the money to remodel behind Town Hall included money for other lots. Town Manager Hernstadt replied that the money was to redo the parking area or to continue off the back of the building. Vice Mayor Hosafros questioned whether she had support to add some parking to the back of the building without taking away from something else. Mayor Murphy and Council Members Atterholt and Allers supported adding shell for parking and Council Member Allers noted he would like to see the cost involved.

IV. AGENDA MANAGEMENT

A. August 2022

Vice Mayor Hosafros reported that the alternating lights at the bottom of the bridge would stay in place during season. No changes were made to the agenda list.

V. ADJOURNMENT

Mayor Murphy adjourned the meeting at 11:00 a.m.

1. Requested Motion:

Meeting Date: August 15, 2022

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

Why the action is necessary:

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

What the action accomplishes:

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

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

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

Adds definition of certified wildlife lighting.

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

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

2. Agenda:

PUBLIC HEARINGS

3. Requirement/Purpose:

Ordinance

4. Submitter of Information:

5. Background:

In 2020, Ordinance 20-04 codified "All glass windows, walls, railings and doors on the seaward and shore perpendicular sides of any new construction shall utilize glass with an inside to outside light transmittance value of 15% or less."

In 2021, Ordinance 21-03 codified "All glass windows, walls, railings and doors on the seaward and shore perpendicular sides included in any new construction, alteration, or window replacement shall utilize glass with an inside to outside light transmittance value of 15% or less."

In 2022, a number of condo owner associations and general contractors protested the 15% light transmission requirement for new and replacement windows on the beach, and requested the Sea Turtle Conservation Code be changed to a 45% light transmittance requirement.

Light impacts on Sea Turtle Nesting Habitat remain a challenge for Staff to educate and enforce due to the high turnover of numerous visitors to the Beach who are unfamiliar with sea turtle nesting regulations. During May, June and July of this year, Staff issued 220 warnings due to violations of the Sea Turtle Conservation Code. Forty-five (45) of those cases have also been issued 1 or more citations. Despite the Town's increased enforcement of the Sea Turtle Conservation Code, there have been 7 disorientations of emerging sea turtle hatchlings due to artificial lighting to date. Interior light appears to be one of the leading causes of these disorientations. The FWC Marine Turtle Permit Holder disorientation reports are attached.

Enforcement of interior lighting violations has been complicated due to a number of condo associations protesting citations to the respective condo association for violations due to interior lighting and/or exterior lighting that is under the control of an individual condo unit. In addition, a few condos have refused to help staff identify the condo unit numbers in violation.

Staff is pivoting to issue interior lighting violations directly to condo unit owners. This presents challenges in having to map the condo unit locations to identify the unit number in the field and/or from the photo. It will also increase the workload due to 1 condo building often having multiple units with interior violations.

A successful lighting mitigation strategy is one that provides adequate lighting for property use, does not require human intervention to implement, and complies with FWC wildlife friendly guidelines. A number of properties have been successful in converting their exterior lighting to long wavelength bulbs in downward directed fixtures that shield the light from the beach. This strategy has allowed lights to remain on and still be in compliance without altering sea turtle nesting success. Properties that try to come into compliance by just turning lights off often receive violation notices in the future, because someone inevitably turns the light on, or forgets to disconnect, etc...

Successful interior light mitigation strategies follow the same strategy to allow for adequate lighting for property use without relying on human intervention to implement the mitigation strategy. Opaque curtains drawn fully shut to shield interior light is an effective strategy, however it is susceptible to human error. The purpose of the 15% light transmittance requirement is to provide effective light mitigation without additional human effort once they have been installed.

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

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

Attachments:

1. 22-11, Sea Turtle Protections 2nd reading v2
2. Receipt of Publication
3. 2022 disorientation reports received to date 8-9-2022
4. FWC Comments Email
5. 62B-55_ModelLightingOrdinance_NPR_0
6. SEE PAGE 4 - FWC Guidelines 2018

7. Turtles orient towards more intense light - Witherington Bjorndal Copeia 1991
8. FWC and Fenestration Email Thread

Financial Impact:

Town budget increase to administrator sea turtle conservation enforcement.

Town budget increase for inspection of window light transmittance for new and replacement windows.

6. Alternative Action

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

7. Management Recommendations:

8. Recommended Approval:

Chadd Chustz, Environmental Services
Daphnie Bercher, Community Services Administrator
John R Herin Jr, Town Attorney
Amy Baker, Town Clerk
Roger Hernstadt, Town Manager

Created/Initiated - 8/9/2022
Approved - 8/10/2022
Approved - 8/11/2022
Approved - 8/11/2022
Final Approval - 8/11/2022

ORDINANCE NO. 22-11

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

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

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

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

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

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

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

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

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

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

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

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

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

CHAPTER 32 - WATERWAYS AND BEACHES

ARTICLE V. - SEA TURTLE CONSERVATION

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

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

Sec. 32-102. - Applicability.

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

Sec. 32-103. - Definitions.

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

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

section unless the context clearly indicates otherwise:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Outdoor area means any portion of a property that could

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

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

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

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

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

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

Sec. 32-104. - Annual public notice.

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

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

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

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

- (b) As an exception to (a) above, all non-egress lighting may be affixed to the landward exterior of permanent structures provided that the fixtures are fitted with a long wavelength source and are shall not be directly, indirectly, or cumulatively visible from any portion of the beach.
- (c) Lighting at egress points shall be limited to the minimum number of fixtures and footcandles necessary to meet federal, state, and local safety requirements.
- (d) Locations including, but not limited to, stairwells, elevators, parking garages, or courtyards shall not produce light that is directly, indirectly, or cumulatively visible from any portion of the beach. Window film, tinting, light screens, shades, or curtains shall be used to block visibility of interior lights from the beach. Light screens shall be used on open or enclosed staircases on the seaward or shore-perpendicular side of a building or for parking garages to limit visibility of lights from the nesting beach.
- (e) All glass non-opaque windows, walls, railings, and doors on the seaward and shore-perpendicular sides included in any new construction, ~~alteration, or window replacement~~ for structures within direct line of sight from the beach of structures located seaward of the Coastal Construction Control Line as defined by Section 161.053, Florida Statutes as the same may be amended from time-to-time, shall utilize glass with an inside to outside light transmittance value of ~~45~~ forty-five (45) percent or less.
- (f) All renovations, retrofitting, and replacement of non-opaque windows, walls, railings, and doors on the seaward and shore-perpendicular sides of structures located seaward of the Coastal Construction Control Line, as defined by Section 161.053, Florida Statutes as the same may be amended from time-to-time, shall utilize glass with an inside to outside light

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

- (f)(g) Emergency lights shall be on a separate circuit and activated only during power outages or other situations in which emergency lighting is necessary for public safety.
- (g)(h) Prior to issuance of a development order ~~and/or~~ building permit for all new structures, new construction, and improvements to existing structures seaward of the Coastal Construction Control Line as defined by F.S. § Section 161.053, Florida Statutes as the same may be amended from time-to-time, a town approved lighting plan meeting the provisions of this article and Chapter 34. Article IV, Division 20. - Lighting Standards is required.
- (h)(i) Prior to issuance of a development order ~~and/or~~ building permit for all multifamily, commercial, and industrial new structures, new construction, and improvements to existing structures landward of the Coastal Construction Control Line as defined by F.S. § Section 161.053, Florida Statutes as the same may be amended from time-to-time, a town approved lighting plan meeting the provisions of this article and Chapter 34. Article IV. Division 20. - Lighting Standards is required.
- (i)(j) Prior to the issuance of a certificate of occupancy (CO) or a certificate of completion (CC), the exterior and interior lighting of new development shall be inspected after dark by the town, with all exterior and interior lighting turned on, to determine compliance with the approved lighting plan and this article.
- (k) ~~In addition,~~ Prior to the issuance of a certificate of occupancy (CO) or a certificate of completion (CC), all glass windows, walls, railings, and doors on the seaward and shore-perpendicular sides of structures located seaward of the Coastal Construction Control Line, as defined by Section 161.053, Florida Statutes

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

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

- (a) Existing artificial lighting affixed to the exterior of permanent structures shall not be directly, indirectly, or cumulatively visible from any portion of the beach during sea turtle nesting season.
- (b) Appropriate techniques for existing exterior lighting to achieve compliance with the provisions of this article include, but are not limited to:
 - (1) Reposition, modify, or remove existing lighting fixtures so that the point source of light or any reflective surface of the light fixture is no longer directly, indirectly, or cumulatively visible from the beach;
 - (2) Replace fixtures having an exposed light source with fully shielded fixtures;
 - (3) Replace any light source, light bulb or lamp that is not long wavelength (e.g., incandescent, fluorescent, or high intensity lighting) with the lowest wattage long wavelength (e.g., LED, or low-pressure sodium) light source or lamp available for the specific application;
 - (4) Replace non-directional fixtures with directional fixtures that ~~point down~~ are directed downward and away from the beach;
 - (5) Provide shields for fixtures visible from the beach and not practical to immediately be

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

- (6) Replace pole lamps with low-profile, low-level luminaries so that the light source or any reflective surface of the light fixture is not visible from the beach;
 - (7) Plant or improve vegetation buffers between the light source and the beach to screen light from the beach;
 - (8) Construct a ground level barrier to shield light sources from the beach. Ground-level barriers must not interfere with sea turtle nesting or hatchling emergence, or cause short- or long-term damage to the beach and dune system;
 - (9) Permanently remove or permanently disable any fixture which cannot be brought into compliance with the provisions of these standards;
 - (10) Televisions shall be shielded or positioned such that they are not directly, indirectly, or cumulatively visible from the beach.
- (c) Interior lighting shall not be directly, indirectly, or cumulatively visible from any portion of the beach during sea turtle nesting season.
- (d) Appropriate techniques to achieve compliance for interior lighting with the provisions of this article include, but are not limited to ÷—T the following measures ~~can~~ to reduce or eliminate the negative effects of interior light emanating from doors and windows within line-of-sight of the beach:
- (1) Apply window tint or film that ~~meets the~~ reduces the inside to outside light transmittance standards for tinted glass to 15 percent or less the darkest tint practicable;

- (2) Rearrange lamps and other moveable fixtures away from windows;
- (3) Use opaque shades or room darkening window treatments (e.g., blinds, curtains, screens) to shield interior lights from the beach.
- (4) Use artificial lighting that is long wavelength and shielded from the beach.
- (5) A combination of the above techniques may be required to achieve compliance with this article.

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

- (a) All special events or construction taking place on or adjacent to the beach require a permit from the town; and may require a permit from the Florida Department of Environmental Protection.
- (b) Lighting associated with a special event that may directly, indirectly, or cumulatively be visible from any portion of the beach shall not be authorized at nighttime during sea turtle nesting season.
- (c) The operation of all vehicles, except emergency and law enforcement vehicles or those permitted on the beach for sea turtle conservation in accordance with F.S. § Section 379.2431 Florida Statutes, as the same may be amended from time-to-time (H), or other research and conservation, shall be prohibited on the beach at nighttime during sea turtle nesting season. Excepted, non- emergency vehicles shall affix red filter to their headlights when operating on sea turtle nesting habitat at nighttime.
- (d) Beach raking activities during sea turtle nesting season, if permitted by the town, shall not:
 - (1) Operate at nighttime;

- (2) Begin before 9:00 a.m. or before the completion of daily monitoring for turtle nesting activity by the Florida Fish and Wildlife Conservation Commission (FWC) authorized marine turtle permit holder, whichever occurs first;
 - (3) Occur within ten feet of any marked sea turtle nest.
- (e) Within sea turtle nesting season, temporary work zone lighting for roadway construction, beach renourishment construction, and during declared emergencies shall be directed away from the beach to avoid illumination of or direct visibility from the beach. Work zone luminaires shall be shielded to avoid lighting areas outside of the immediate construction area.
- (f) All other temporary construction lighting shall be:
- (1) Inclusive of all the standards herein, including utilizing fixtures that are long wavelength, downward directed, full cutoff, and fully shielded so light is not directly or indirectly visible from the beach, and
 - (2) Turned off during nighttime in sea turtle nesting season, or if temporary lighting is deemed necessary during sea turtle nesting season it shall only be allowed from 6:00 a.m. to 9:00 p.m., must be restricted to the minimal amount necessary, and shall incorporate all the standards herein, and
 - (3) Mounted less than eight feet above the adjacent floor or deck, measured from the bottom of fixture, and
 - (4) Restricted to the minimal number of footcandles necessary to conform to the applicable construction safety regulations.

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

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

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

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

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

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

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

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

TOWN OF FORT MYERS BEACH

Raymond P. Murphy, Mayor

ATTEST:

Amy Baker, Town Clerk

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

John R. Herin, Jr., Town Attorney

Please contact us with changes or cancellations as soon as possible, otherwise no further action needed.

TOLL-FREE
888-516-9220

Local #
239-335-0258

Email
FNPLegals@gannett.com

Customer: TOWN OF FT MYERS BEACH_LEGALS

Ad No.: 0005342918

Address: 2523 ESTERO BLVD
FORT MYERS BEACH FL 33931
USA

Net Amt: 175.43

Run Times: 1

Run Dates: 07/22/22

No. of Affidavits: 1

Text of Ad:

NOTICE OF PUBLIC HEARING

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

ORDINANCE NO. 22-11

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

If any person should choose to appeal a decision made at this public hearing, such person would need a record of the proceedings, and for that purpose may need to ensure that a verbatim record of the proceedings is made, which record indicates the testimony and evidence upon which the appeal is to be based. Copies of the full ordinance text are available at Fort Myers Beach Town Hall. Call 239-765-0202 for more information. Town Hall is open between the hours of 8:30 AM and 4:30 PM. Reasonable accommodations will be made in accordance with the Americans with Disabilities Act. If you are in need of reasonable accommodation, contact Town Hall at 239-765-0202.
Amy Baker, Town Clerk
AD #53442918 July 22, 2022

FWC MARINE TURTLE DISORIENTATION REPORT

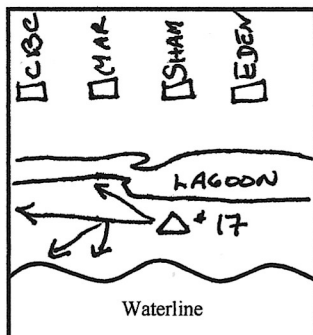
If you have any questions, please contact FWC at the Tequesta Field Laboratory (561) 882-5975

Fax reports to: (561) 743-6228 or Email reports to: SeaTurtleLighting@MyFWC.com

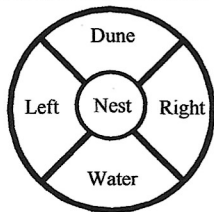
Send reports to: Disorientation Reports, FWC, 19100 SE Federal Highway, Tequesta, FL 33469

Observer Name: Eve Haverfield Permit #: 003 Date of Incident: 7/20/2022
 Telephone (include area code): 239 481-5566 E-mail address: caretta1@comcast.net
 Location of Disorientation Event: (address, beach name and/or nearest landmark): Critical Wildlife Area: across lagoon from Shamron Beach Condo - 7650 Estero Blvd.
 City: Fort Myers Beach County: Lee
 Local nest ID#: 10/17 Zone nest was located in: 10
 Nest GPS Coordinates (ex., Lat 26.845412 Long -80.458796): Latitude: 26.406886 Longitude: -81.897852

SPECIES: (check one) ☒ Cc = Loggerhead ☐ Cm = Green Turtle ☐ Dc = Leatherback ☐ Un = Unidentified ☐ O = Other _____	TYPE OF EVENT: (check one) ☐ Adult – Nesting Emergence ☐ Adult – False Crawl ☒ Hatchling	NEST TREATMENT: (check all used) ☐ Restraining Cage ☐ Self-releasing Screen/Cage ☐ Light Barrier (i.e., silt screen) ☐ Relocated *Must be specifically authorized by FWC
Incident was documented during: (check one) ☒ Morning Survey ☐ Night Survey ☐ Daytime		



Was the incident photographed? ☒ YES ☐ NO Was the source nest found? ☒ YES ☐ NO Was the nest excavated? ☒ YES ☐ NO If "YES" report date of excavation: <u>7/20/2022</u>	Number of turtles disoriented: ☐ 1 ☐ 2-10 ☒ 11-50 ☐ >50	Disoriented turtles reaching the water: ☐ All ☒ Some ☐ None ☐ Not investigated
Were any disoriented turtles found dead? ☐ YES ☒ NO If "YES" indicate the number: _____		



Use the image to the left to answer the following questions:

Select **all** quadrants that contain hatchling tracks (**including** toward the water).

☒ Left ☐ Dune ☐ Right ☒ Water

Select the quadrant that contains **the most** disoriented hatchling tracks (**excluding** toward the water).

☒ Left ☐ Dune ☐ Right

Addresses/landmarks turtle(s) disoriented towards: Caribbean Beach Club -7600 Estero Blvd.,

Photos show reflection of light on building from pool lights and screened, illuminated pool house. Interior source of lights also visible.

Were possible light sources visible from the disorientation site? **NOTE: possible light sources do not need to be observed at night or turned on during documentation to be considered.** ☒ YES ☐ NO

If "NO" indicate why: (check one) ☐ No visible light sources present in vicinity ☐ Other: _____

Indicate categories of light(s) identified as possible lighting sources: (check all that apply)

☐ parking lot	☐ street light	☒ condominium/hotel (interior)
☐ dune crossover	☐ single family home (interior)	☒ condominium/hotel (exterior)
☐ restaurant/bar	☐ single family home (exterior)	☐ sky glow/urban glow
☐ pier	☐ sign	☒ other: Reflected light from pool area

Additional comments (use back if necessary): Turtle-friendly lights from all condos reflected on lagoon - no veg. buffer

1 live hatchling found 07/21 north of Caribbean BC, taken to CROW for eye damage care

Local authority provided a copy of this report: ☒ City ☐ County ☒ FWC ☐ Other: _____

Eve Haverfield
 Signature of Observer

07/24/2022

Date

FWS Form DIS-1, FWC Marine Turtle Disorientation Report, 6/16, FWC Rule 68E-1





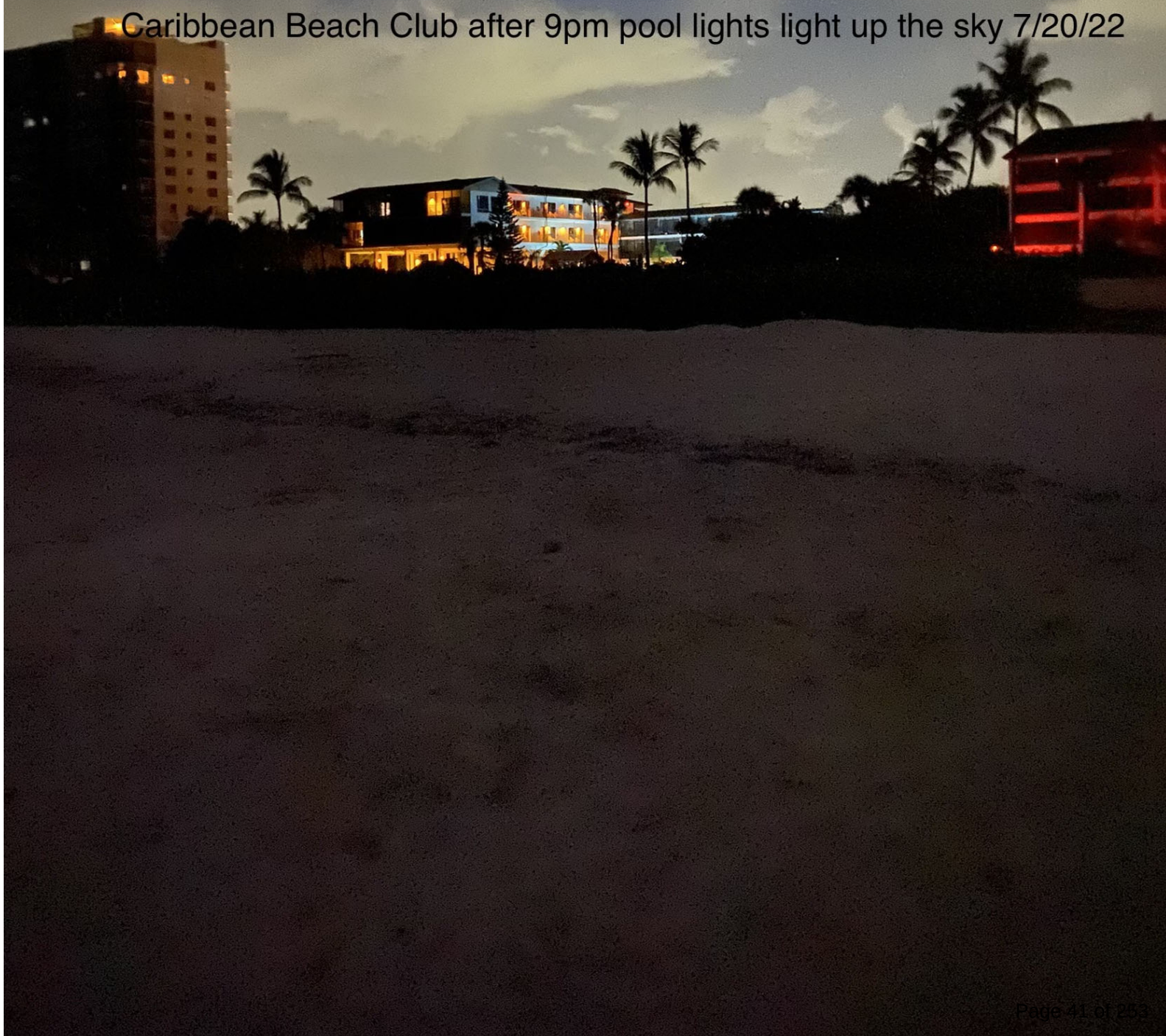


Caribbean Beach Club after 9pm pool lights l

0720_2022



Caribbean Beach Club after 9pm pool lights light up the sky 7/20/22



**Nest 17 Z10 FMB 7/20/22
6:49 A.M.**





Nest 17 Z10 FMB 7/20/22
6:49 A.M.





0720_2022

A tall, dark building at night with many lit windows, situated behind a sandy area with low-lying vegetation and palm trees. The building has a grid-like facade with numerous rectangular windows, many of which are illuminated from within, casting a warm glow. The sky is dark with some clouds. In the foreground, there is a sandy area with some low-lying, dark vegetation. To the right, several palm trees are visible against the night sky.

Riviera. After 9pm. 7/20/22

FWC MARINE TURTLE DISORIENTATION REPORT

If you have any questions, please contact FWC at the Tequesta Field Laboratory (561) 882-5975

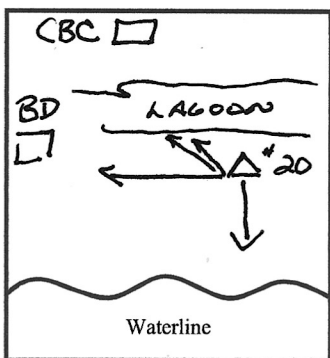
Fax reports to: (561) 743-6228 or Email reports to: SeaTurtleLighting@MyFWC.com

Send reports to: Disorientation Reports, FWC, 19100 SE Federal Highway, Tequesta, FL 33469

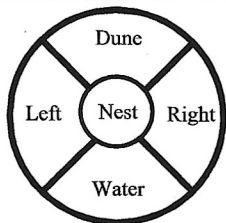
Observer Name: EveM.Haverfield Permit #: 003 Date of Incident: 07262022
 Telephone (include area code): (239) 481-5566 E-mail address: caretta1@comcast.net
 Location of Disorientation Event: (address, beach name and/or nearest landmark): Eden House, 7700 Estero Blvd.

City: Ft Myers Beach County: Lee
 Local nest ID#: 10/20 Zone nest was located in: 10
 Nest GPS Coordinates (ex., Lat 26.845412 Long -80.458796): Latitude: 26.406564 Longitude: 81.897717

SPECIES: (check one) ☒ Cc = Loggerhead ☐ Cm = Green Turtle ☐ Dc = Leatherback ☐ Un = Unidentified ☐ O = Other _____	TYPE OF EVENT: (check one) ☐ Adult – Nesting Emergence ☐ Adult – False Crawl ☒ Hatchling	NEST TREATMENT: (check all used) ☐ Restraining Cage ☐ Self-releasing Screen/Cage ☐ Light Barrier (i.e., silt screen) ☐ Relocated *Must be specifically authorized by FWC
Incident was documented during: (check one) ☒ Morning Survey ☐ Night Survey ☐ Daytime		



Was the incident photographed? ☒ YES ☐ NO Was the source nest found? ☒ YES ☐ NO Was the nest excavated? ☒ YES ☐ NO If "YES" report date of excavation: <u>7/26</u>	Number of turtles disoriented: ☐ 1 ☒ 2-10 ☐ 11-50 ☐ >50	Disoriented turtles reaching the water: ☐ All ☒ Some ☐ None ☐ Not investigated
Were any disoriented turtles found dead? ☐ YES ☒ NO If "YES" indicate the number: _____		



Use the image to the left to answer the following questions:

Select **all** quadrants that contain hatchling tracks (**including** toward the water).

☒ Left ☒ Dune ☐ Right ☒ Water

Select the quadrant that contains **the most** disoriented hatchling tracks (**excluding** toward the water).

☒ Left ☐ Dune ☐ Right

Addresses/landmarks turtle(s) disoriented towards: Caribbean Beach Club, 7600 Estero Blvd.; Bermuda Dunes, 7390 Estero Blvd.

Were possible light sources visible from the disorientation site? **NOTE: possible light sources do not need to be observed at night or turned on during documentation to be considered.** ☒ YES ☐ NO

If "NO" indicate why: (check one) ☐ No visible light sources present in vicinity ☐ Other: _____

Indicate categories of light(s) identified as possible lighting sources: (check all that apply)

☐ parking lot	☐ street light	☐ condominium/hotel (interior)
☐ dune crossover	☐ single family home (interior)	☒ condominium/hotel (exterior)
☐ restaurant/bar	☐ single family home (exterior)	☐ sky glow/urban glow
☐ pier	☐ sign	☐ other: _____

Additional comments (use back if necessary): This is the second disorientation that was influenced by light visible from Caribbean Beach Club (7/20)

Local authority provided a copy of this report: ☒ City ☐ County ☒ FWC ☐ Other: _____

Eve M. Haverfield
 Signature of Observer

7/31/2022
 Date

View from N20_Z10_0727_2022 6:21 P.M.







Add a Caption

 **Look Up** – Landmark >

Wednesday • Jul 27, 2022 •
6:29 AM

[Adjust](#)

 IMG_6298

Apple iPhone 11

HEIF

Wide Camera — 26 mm $f1.8$
12 MP • 3024 × 4032 • 1.5 MB

ISO640 | 26mm | 0 ev | $f1.8$ | 1/30s



FWC MARINE TURTLE DISORIENTATION REPORT

If you have any questions, please contact FWC at the Tequesta Field Laboratory (561) 882-5975

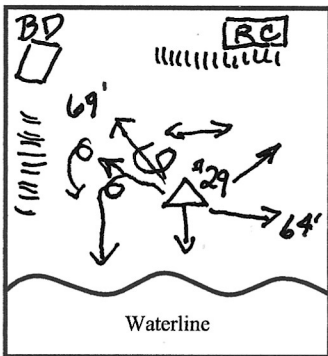
Fax reports to: (561) 743-6228 or Email reports to: SeaTurtleLighting@MyFWC.com

Send reports to: Disorientation Reports, FWC, 19100 SE Federal Highway, Tequesta, FL 33469

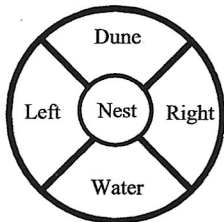
Observer Name: Eve M. Haverfield Permit #: 003 Date of Incident: 7/28/2022
Telephone (include area code): (239) 481-5566 E-mail address: caretta1@comcast.net
Location of Disorientation Event: (address, beach name and/or nearest landmark): Riviera Club: 7500 Estero Blvd.

City: Fort Myers Beach County: Lee
Local nest ID#: 10/29 Zone nest was located in: 10
Nest GPS Coordinates (ex., Lat 26.845412 Long -80.458796): Latitude: 26.409034 Longitude: -81.899858

SPECIES: (check one) ☒ Cc = Loggerhead ☐ Cm = Green Turtle ☐ Dc = Leatherback ☐ Un = Unidentified ☐ O = Other _____	TYPE OF EVENT: (check one) ☐ Adult – Nesting Emergence ☐ Adult – False Crawl ☒ Hatchling	NEST TREATMENT: (check all used) ☐ Restraining Cage ☐ Self-releasing Screen/Cage ☐ Light Barrier (i.e., silt screen) ☐ Relocated *Must be specifically authorized by FWC
Incident was documented during: (check one) ☒ Morning Survey ☐ Night Survey ☐ Daytime		



Was the incident photographed? ☒ YES ☐ NO	Number of turtles disoriented: ☐ 1 ☐ 2-10 ☒ 11-50 ☐ >50	Disoriented turtles reaching the water: ☐ All ☒ Some ☐ None ☐ Not investigated
Was the source nest found? ☒ YES ☐ NO	Were any disoriented turtles found dead? ☐ YES ☒ NO	
Was the nest excavated? ☒ YES ☐ NO	If "YES" indicate the number: _____	
If "YES" report date of excavation: <u>7/28</u>		



Use the image to the left to answer the following questions:

Select **all** quadrants that contain hatchling tracks (**including** toward the water).

☒ Left ☒ Dune ☒ Right ☒ Water

Select the quadrant that contains **the most** disoriented hatchling tracks (**excluding** toward the water).

☒ Left ☐ Dune ☐ Right

Addresses/landmarks turtle(s) disoriented towards: Bermuda Dunes: 7390 Estero Blvd.; Riviera Club: 7500 Estero Blvd.

Were possible light sources visible from the disorientation site? **NOTE: possible light sources do not need to be observed at night or turned on during documentation to be considered.** ☒ YES ☐ NO

If "NO" indicate why: (check one) ☐ No visible light sources present in vicinity ☐ Other: _____

Indicate categories of light(s) identified as possible lighting sources: (check all that apply)

☐ parking lot	☐ street light	☒ condominium/hotel (interior)
☐ dune crossover	☐ single family home (interior)	☒ condominium/hotel (exterior)
☐ restaurant/bar	☐ single family home (exterior)	☐ sky glow/urban glow
☐ pier	☐ sign	☐ other: _____

Additional comments (use back if necessary): 2 bright lights on balcony (Bermuda Dunes) visible from nest. Hatchlings crawled in multiple circles for 69 ft. to north, then turned to gulf when out of view of lights and 64 ft to south- some crawled towards Riviera - lost in mangrove vegetation.

Local authority provided a copy of this report: ☒ City ☐ County ☒ FWC ☐ Other: _____

Eve M. Haverfield
Signature of Observer

8/02/2022

Date

270

330

0

300

30



Page 52 of 253

Nest 29 Z10 FMB 7/27/22
6:29 A.M.





Nest 29 Z10 FMB
9:15 P.M.

Page 54 of 123

FWC MARINE TURTLE DISORIENTATION REPORT

If you have any questions, please contact FWC at the Tequesta Field Laboratory (561) 882-5975

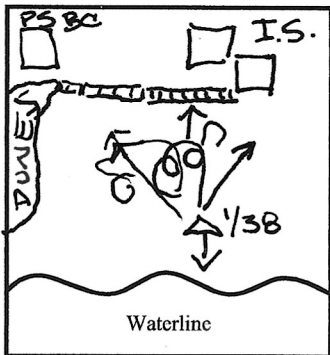
Fax reports to: (561) 743-6228 or Email reports to: SeaTurtleLighting@MyFWC.com

Send reports to: Disorientation Reports, FWC, 19100 SE Federal Highway, Tequesta, FL 33469

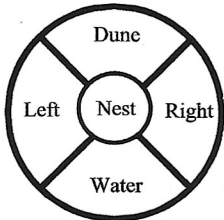
Observer Name: Eve M. Haverfield Permit #: 003 Date of Incident: 07/31/2022
Telephone (include area code): (239) 481-5566 E-mail address: caretta1@comcast.net
Location of Disorientation Event: (address, beach name and/or nearest landmark): Island Shores - 392/394 Estero Blvd,

City: Fort Myers Beach County: Lee
Local nest ID#: 1/38 Zone nest was located in: 1
Nest GPS Coordinates (ex., Lat 26.845412 Long -80.458796): Latitude: 26.458913 Longitude: -81.964535

SPECIES: (check one) ☒ Cc = Loggerhead ☐ Cm = Green Turtle ☐ Dc = Leatherback ☐ Un = Unidentified ☐ O = Other _____	TYPE OF EVENT: (check one) ☐ Adult – Nesting Emergence ☐ Adult – False Crawl ☒ Hatchling	NEST TREATMENT: (check all used) ☐ Restraining Cage ☐ Self-releasing Screen/Cage ☐ Light Barrier (i.e., silt screen) ☐ Relocated *Must be specifically authorized by FWC
Incident was documented during: (check one) ☒ Morning Survey ☐ Night Survey ☐ Daytime		



Was the incident photographed? ☒ YES ☐ NO	Number of turtles disoriented: ☐ 1 ☐ 2-10 ☒ 11-50 ☐ >50	Disoriented turtles reaching the water: ☐ All ☒ Some ☐ None ☐ Not investigated
Was the source nest found? ☒ YES ☐ NO	Were any disoriented turtles found dead? ☐ YES ☒ NO	
Was the nest excavated? ☒ YES ☐ NO	If "YES" indicate the number: _____	
If "YES" report date of excavation: <u>7/31/22</u>		



Use the image to the left to answer the following questions:

Select **all** quadrants that contain hatchling tracks (**including** toward the water).

☐ Left ☒ Dune ☐ Right ☒ Water

Select the quadrant that contains **the most** disoriented hatchling tracks (**excluding** toward the water).

☐ Left ☒ Dune ☐ Right

Addresses/landmarks turtle(s) disoriented towards: Pink Shell Beach Club: 326 Estero Blvd.; Island Shores: 392/ 394 Estero Blvd.

Were possible light sources visible from the disorientation site? **NOTE: possible light sources do not need to be observed at night or turned on during documentation to be considered.** ☒ YES ☐ NO

If "NO" indicate why: (check one) ☐ No visible light sources present in vicinity ☐ Other: _____

Indicate categories of light(s) identified as possible lighting sources: (check all that apply)

☐ parking lot	☐ street light	☒ condominium/hotel (interior)
☐ dune crossover	☐ single family home (interior)	☒ condominium/hotel (exterior)
☐ restaurant/bar	☐ single family home (exterior)	☐ sky glow/urban glow
☐ pier	☐ sign	☐ other: _____

Additional comments (use back if necessary): Island Shores had 2 units with curtains open on night of 7/31.

Pink Shell Beach Club had multiple units with open drapes.

Local authority provided a copy of this report: ☒ City ☐ County ☒ FWC ☐ Other: _____


Signature of Observer

08/02/2022

Date

Nest 1/38 FMB

7/31/2022 7:09 A.M.



N

NE

E

0

30

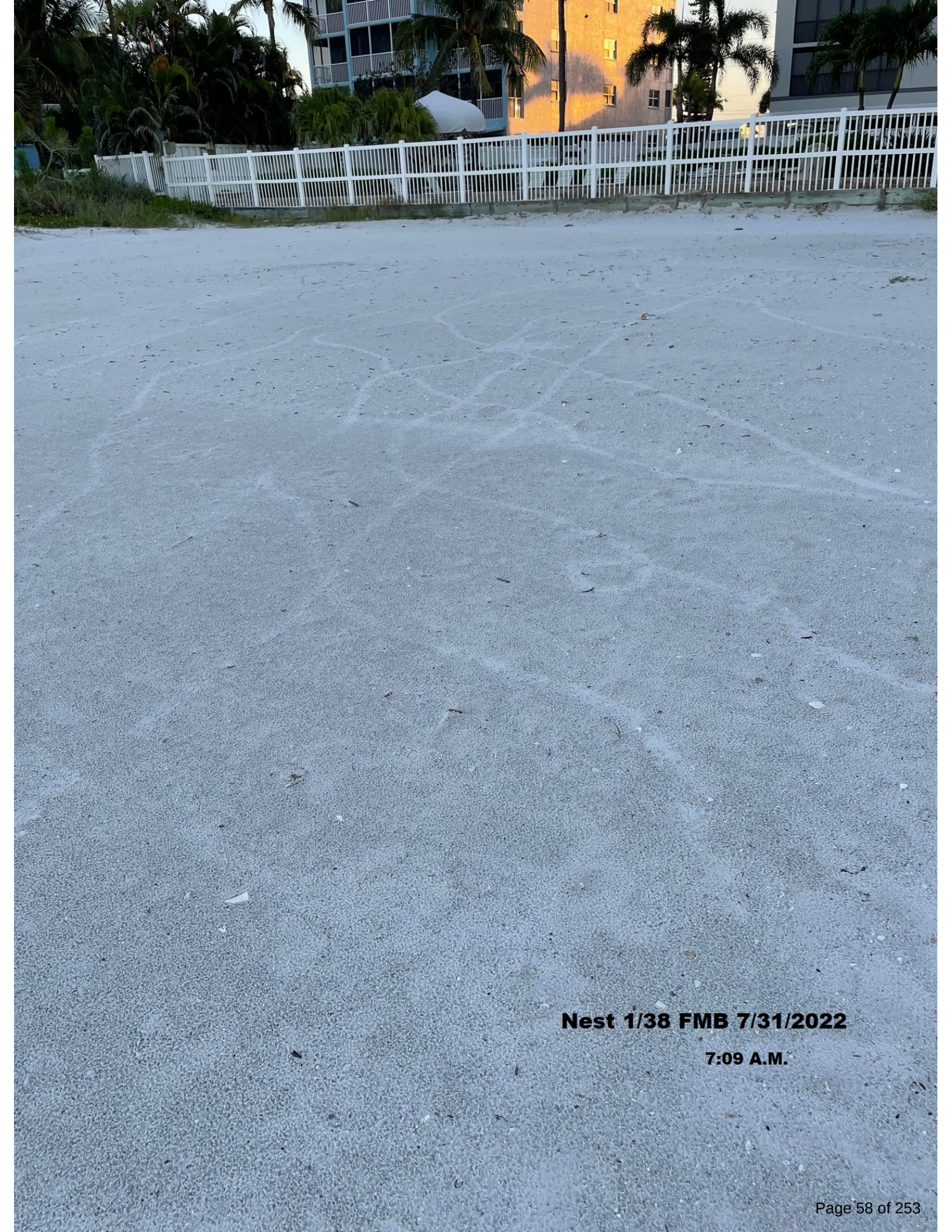
60

90

120

☉ 49°NE (T) ● 26.459123°, -81.964909° ±13ft ▲ 29ft





Nest 1/38 FMB 7/31/2022

7:09 A.M.

Nest 1/38 FMB 2/31/2022 7:09 A.M.

FWC MARINE TURTLE DISORIENTATION REPORT

If you have any questions, please contact FWC at the Tequesta Field Laboratory (561) 882-5975

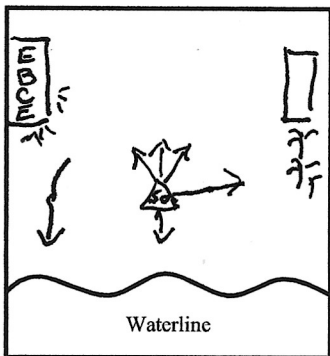
Fax reports to: (561) 743-6228 or Email reports to: SeaTurtleLighting@MyFWC.com

Send reports to: Disorientation Reports, FWC, 19100 SE Federal Highway, Tequesta, FL 33469

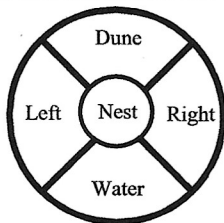
Observer Name: Eve Haverfield Permit #: 003 Date of Incident: 07/30/2022
 Telephone (include area code): (239) 481-5566 E-mail address: caretta1@comcast.net
 Location of Disorientation Event: (address, beach name and/or nearest landmark): Near 2662 Estero Blvd.

City: Fort Myers Beach County: Lee
 Local nest ID#: 3/50 Zone nest was located in: 3
 Nest GPS Coordinates (ex., Lat 26.845412 Long -80.458796): Latitude: 26.446325 Longitude: -81.940940

SPECIES: (check one) ☒ Cc = Loggerhead ☐ Cm = Green Turtle ☐ Dc = Leatherback ☐ Un = Unidentified ☐ O = Other _____	TYPE OF EVENT: (check one) ☐ Adult – Nesting Emergence ☐ Adult – False Crawl ☒ Hatchling	NEST TREATMENT: (check all used) ☐ Restraining Cage ☐ Self-releasing Screen/Cage ☐ Light Barrier (i.e., silt screen) ☐ Relocated *Must be specifically authorized by FWC
Incident was documented during: (check one) ☒ Morning Survey ☐ Night Survey ☐ Daytime		



Was the incident photographed? ☒ YES ☐ NO Was the source nest found? ☒ YES ☐ NO Was the nest excavated? ☒ YES ☐ NO If "YES" report date of excavation: <u>7/30</u>	Number of turtles disoriented: ☐ 1 ☐ 2-10 ☐ 11-50 ☒ >50	Disoriented turtles reaching the water: ☐ All ☒ Some ☐ None ☐ Not investigated
Were any disoriented turtles found dead? ☒ YES ☐ NO If "YES" indicate the number: <u>1</u>		



Use the image to the left to answer the following questions:

Select **all** quadrants that contain hatchling tracks (**including** toward the water).

☒ Left ☒ Dune ☒ Right ☒ Water

Select the quadrant that contains **the most** disoriented hatchling tracks (**excluding** toward the water).

☐ Left ☒ Dune ☐ Right

Addresses/landmarks turtle(s) disoriented towards: Estero Beach Club East - 2650 Estero Blvd.; 53 Pompano St.

Were possible light sources visible from the disorientation site? **NOTE: possible light sources do not need to be observed at night or turned on during documentation to be considered.** ☒ YES ☐ NO

If "NO" indicate why: (check one) ☐ No visible light sources present in vicinity ☐ Other: _____

Indicate categories of light(s) identified as possible lighting sources: (check all that apply)

☐ parking lot	☐ street light	☒ condominium/hotel (interior)
☐ dune crossover	☐ single family home (interior)	☐ condominium/hotel (exterior)
☐ restaurant/bar	☒ single family home (exterior)	☐ sky glow/urban glow
☐ pier	☐ sign	☐ other: _____

Additional comments (use back if necessary): Most of the 78 hatchlings crawled into vegetation behind the nest - light visible from condo.
Some crawled out of veg to south to up-lights on palm trees; few emerged on north side of vegetation. 15 hatchlings found trapped in veg.

Local authority provided a copy of this report: ☒ City ☐ County ☒ FWC ☐ Other: _____

Eve Haverfield
 Signature of Observer

08/08/2020
 Date

NW

N

NE

330

0

30

60

90

☀ 19°N (T) ● 26.446354°, -81.940986° ±32ft ▲ 7ft



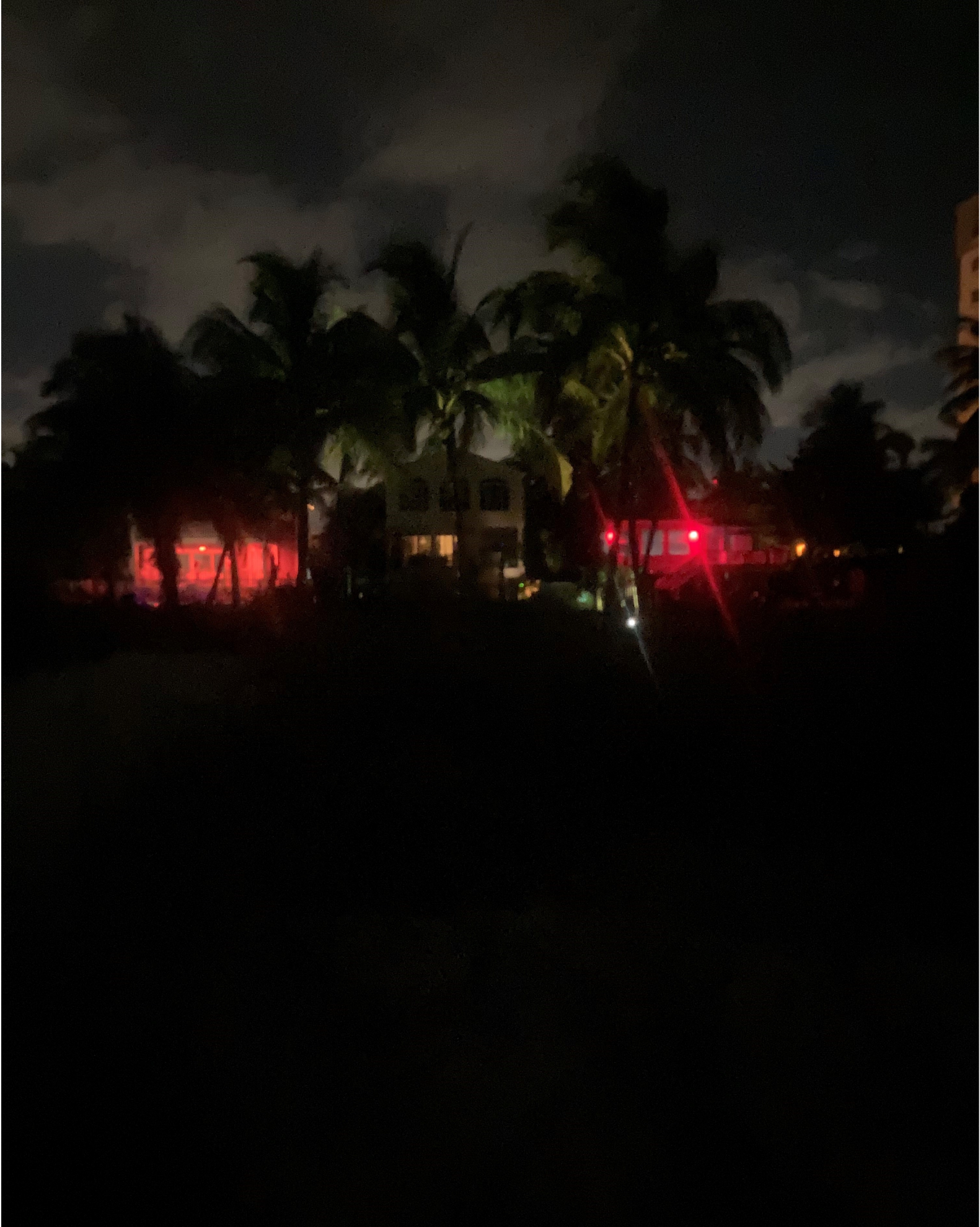
30 Jul 2022, 21:23:02



☀ 27°NE (T) ● 26.446707°, -81.941107° ±29ft ▲ 9ft



30 Jul 2022, 21:09:03



South of Nest 50

Chadd Chustz

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

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

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

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

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

City/County of _____, Florida

Chapter ____.

MODEL LIGHTING ORDINANCE FOR SEA TURTLE PROTECTION

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- Sec. ____-1.4. - Definitions

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- Sec. ____-5.3. - Effective Date

ORDINANCE NUMBER 20__-__

LAND DEVELOPMENT CODE

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

SECTION ____-1. – BASIS OF ORDINANCE

Sec. ____-1.1. - Findings of Fact

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

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

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

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

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

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

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

Sec. ____-1.2. - Title of Ordinance

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

Sec. ____-1.3. - Ordinance Purpose and Objectives

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

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

Sec. ____-1.4. - Definitions

1. **Artificial Light**: the light emanating from any human-made device.
2. **Beach**: the zone of unconsolidated material that extends landward from the mean low water line to the place where there is marked change in material or physiographic form, or to the line of permanent vegetation.
3. **Certified Wildlife Lighting**: lighting fixtures and bulbs reviewed and approved with conditions of use through the Florida Fish and Wildlife Conservation Commission's Wildlife Lighting Certification Process and published at <https://myfwc.com/conservation/you- conserve/lighting/criteria/certified/>.
4. **Cumulatively Visible**: light from numerous artificial light sources that as a group can be seen by an observer standing anywhere on the beach.
5. **Directly Visible**: occurs when glowing elements, lamps, globes, or reflectors of an artificial light source can be seen by an observer standing anywhere on the beach.
6. **Foot-Candle**: the English unit for measuring illuminance; the uniform illumination of a surface one foot away from a point source of one candela; one lumen per square foot; equal to 10.76 lux.
7. **Frontal Dune**: the first natural or man-made mound or bluff of sand which is located landward of the beach and which has sufficient vegetation, height, continuity, and configuration to offer protective value.
8. **Full Cutoff**: a lighting fixture constructed in such a manner that no light emitted by the fixture, either directly from the lamp or a diffusing element or indirectly by reflection or refraction from any part of the luminaire, is projected at or above 90° as determined by photometric test or certified by the fixture manufacturer.
9. **Fully Shielded**: a lighting fixture constructed in such a manner that the glowing elements, lamps, globes, or reflectors of the fixture are completely covered by an opaque material to prevent them from being directly visible from the beach. Any structural part of the light fixture providing this shielding must be permanently affixed.
10. **Indirectly Visible**: light reflected from glowing elements, lamps, globes, or reflectors of an artificial light source that can be seen by an observer standing anywhere on the beach without the light source being directly visible.
11. **Long Wavelength**: a lamp or light source emitting light wavelengths of 560 nanometers or greater and absent wavelengths below 560 nanometers.

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

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

13. **Nighttime:** the locally effective time period between sunset and sunrise.
14. **Non-egress Lighting:** exterior lighting that is not being used to light a distinct route or meet minimum requirements for emergency access to or from a building, including but not limited to decorative lights (e.g. strobe lights, string lights, etc.), balcony lights, landscape lights, and uplights.
15. **Outdoor Area:** any portion of a property that could have an artificial light source not attached to a permanent structure, including but not limited to pathway lighting, landscape lighting, pool lighting, etc.
16. **Sea Turtle:** any turtle, including all life stages from egg to adult, of these species: Green (*Chelonia mydas*), Leatherback (*Dermochelys coriacea*), Loggerhead (*Caretta caretta*), Hawksbill (*Eretmochelys imbricata*), and Kemp's ridley (*Lepidochelys kempii*). For the purposes of this ordinance, the term sea turtle is synonymous with marine turtle.
17. **Sea Turtle Nesting Habitat:** all sandy beaches adjoining the waters of the Atlantic Ocean, the Gulf of Mexico, and the Straits of Florida in all coastal counties and all inlet shorelines of those beaches. Nesting habitat includes all sandy beach and unvegetated or sparsely vegetated dunes immediately adjacent to the sandy beach and accessible to nesting female turtles.
18. **Temporary Lighting:** any non-permanent light source that may be hand-held or portable including but not limited to tiki torches, lanterns, flashlights (including cell phone flashlights), candles, flash photography, etc.
19. **Tinted glass:** glass modified via tinting, film or other material to reduce the inside to outside light transmittance value.

SECTION ____-2. - SEA TURTLE LIGHTING DISTRICT

Sec. ____-2.1. - Applicability

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

3. The provisions of this Ordinance apply to new and existing artificial lighting visible from the beach from all buildings and related infrastructure, including streetscapes, parking lots, outdoor areas, landscaping, as well as public parks and recreational areas and all other activities within the *Sea Turtle Lighting District*.
4. The provisions of this Ordinance are not intended to prevent the use of any design, materials or method of installation or operation not specifically prescribed herein, provided any such alternate has been approved. The **City/County of _____** may approve any such proposed alternate provided it:
 - a. Provides at least approximate equivalence to the applicable specific requirements of this Ordinance, and;
 - b. Is otherwise satisfactory or complies with the intent of this Ordinance, and;
 - c. Has been designed or approved by a registered lighting or electrical engineer and is supported by calculations showing that the design submitted meets that intent of the Ordinance. This sub-section shall not have the effect of waiving the lumen caps specified in this Ordinance.
 - d. Has been determined to meet requirements for Certified Wildlife Lighting and/or lights that meet FWC's Wildlife Lighting Guidelines, including long wavelength light sources (without the use of filters), full cut-off, and fully shielded fixtures.
5. Any person substantially aggrieved by any decision of the *Beach Lighting Inspector* or the *Building Official* made in administration of this Ordinance has the right and responsibilities of appeal to the *Advisory/Appeals Board* of this jurisdiction.

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

Sec. ____-2.2. - Annual Public Notice

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

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

SECTION ____-3. - LIGHTING PROVISIONS

Sec. ____-3.1. – General

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

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

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

2. New construction refers to all new construction of or additions and alterations to buildings, pools, pavement, other structures, landscape areas or lighting systems, including the change or resumption of land use. The most protective lighting standards apply to new construction visible from the beach.
3. Existing artificial lighting refers to lighting fixtures, sources and systems operating prior to the effective date of this ordinance. Existing lights and light sources that are visible from the beach shall be replaced or modified to conform to standards given in Section -3.7. In order to bring existing lighting systems into future compliance with this Ordinance, standards for new coastal construction shall be applied when permits are sought for new structures or the alteration, movement, enlargement, replacement or installation of new lighting systems.

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

1. All lighting affixed to the exterior of new permanent structures, construction or additions shall be long wavelength, downward directed, full cutoff, fully shielded and mounted as close to the ground or finished floor surface as possible to achieve the required foot-candles.
2. As an exception to -3.2.1. above, non-egress lighting may be affixed to the landward exterior of permanent structures provided that the fixtures are fitted with a long wavelength source and are not directly, indirectly, or cumulatively visible from any portion of the beach.

3. Lighting at egress points shall be limited to the minimum number of fixtures and foot-candles necessary to meet federal, state, and local safety requirements.
4. Locations including but not limited to stairwells, elevators, parking garages, or courtyards shall not produce light that is directly, indirectly, or cumulatively visible from any portion of the beach. Light screens, shades or curtains shall be used to block visibility of interior lights from the beach. Light screens shall be used on open or enclosed staircases on the seaward or shore-perpendicular side of a building or for parking garages to limit visibility of lights from the nesting beach.
5. All glass windows, walls, railings and doors on the seaward and shore-perpendicular sides of any new construction shall use tinted glass with an inside to outside light transmittance value of 45 percent or less.

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

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

Sec. ____-3.3. - Outdoor Areas

1. All lighting of outdoor areas shall be long wavelength, downward directed, full cutoff, fully shielded and mounted as close to the ground or finished floor surface as possible to achieve the required foot-candles.
2. Lighting of paths, walks and routes of building access shall use low level fixtures such as step, paver, path, recessed wall or bollard lights. Bollard lights are not to exceed 42 inches in height and other low level fixtures are to meet the height requirements of FWC's Wildlife Lighting Guidelines. Fixtures shall be downward directed and utilize long wavelength lamps and beachside shields.
3. As an exception to -3.3.1. above, non-egress outdoor lighting may be installed landward of buildings or other opaque structures provided that they are fitted with long wavelength light sources and are not directly, indirectly, or cumulatively visible from any portion of the beach.
4. Internally or externally lighted signs shall not be located on the seaward and shore-perpendicular sides of any structures, and shall not produce light that is directly, indirectly, or cumulatively visible from any portion of the beach.
5. Ponds and fountains on the seaward and shore-perpendicular sides of any structures shall not produce light that is directly, indirectly, or cumulatively visible from any portion of the beach.
6. Fire pits located on the seaward and shore-perpendicular sides of any structure shall be shielded with an opaque structure or partition, and positioned such that the flame is not directly, indirectly, or cumulatively visible from any portion of the beach. Bonfires and bonfire pits are prohibited within sea turtle nesting habitat during sea turtle nesting season.
7. Televisions or other illuminated screens shall be located landward of the dune and shall be shielded or positioned such that they are not directly, indirectly, or cumulatively visible from the beach.

Sec. ____-3.4. - Parking Areas and Roadways

1. All lighting of parking areas and roadways shall be long wavelength, downward directed, full cutoff, fully shielded, and mounted to the minimum level required to maintain compliance with federal, state and local law.
2. Parking area and roadway lighting shall be shielded from the beach via vegetation, natural features, or artificial structures rising from the ground. These shall prevent artificial light sources, including but not limited to vehicular headlights, from producing light that is directly, indirectly, or cumulatively visible from any portion of the beach.
3. Lighting of roadways and parking areas shall produce no more lighting than the minimum requirement as outlined by federal, state and local law.
4. Lighting of parking areas and roadways shall consist of either:
 - a. Ground-level downward-directed fixtures, equipped with interior dark-colored, non-reflective baffles or louvers, mounted either with a wall mount, on walls or piles, facing away from the beach, or
 - b. Bollard-type fixtures, which do not extend more than 42 inches above the adjacent floor or deck, measured from the bottom of fixture, equipped with downward-directed louvers that completely hide the light source, and externally shielded on the side facing the beach, or
 - c. Pole-Mounted Lights, if required, shall adhere to the restrictions located in subsection -3.4.5.
5. Pole-mounted lights shall only be used in parking areas and roadways when mounting the lights at lower elevations cannot practicably comply with minimum light levels set forth in applicable federal and state laws designed to protect public safety. If required, pole-mounted lights shall be:
 - a. Located on the landward sides of buildings and shall not produce light that is directly, indirectly, or cumulatively visible from any portion of the beach,
 - b. Mounted at the minimum height required to meet the minimum light level requirement-, and
 - c. Downward-directed onto non-reflective surfaces.

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

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

Sec. ____-3.5. - Pool Areas

1. Lighting of pool decks, pool facilities, swimming pools, and spas shall be long wavelength and fully shielded.
2. Lighting of the pool water surfaces and the pool wet deck surfaces shall comply with the minimum light levels set forth in applicable federal and state laws designed to protect public safety.
3. Above-water lighting of pool decks, pool facilities, swimming pools, and spas shall otherwise adhere to the applicable requirements for acceptable light fixtures contained in Section 1 and Section 2 of this Section.
4. Underwater lighting of pools or spa light shall:
 - a. Be mounted horizontally in the wall,
 - b. Not produce light that is directly, indirectly, or cumulatively visible from any portion of the beach, and
 - c. Shall comply with minimum light levels set forth in applicable federal and state laws designed to protect public safety.

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

1. Lighting of beach access points shall be located and configured to only illuminate areas landward of the beach and frontal dune. All lighting of beach access points shall be long wavelength, downward directed, full cutoff and fully shielded and shall not be directly, indirectly, or cumulatively visible from the beach.
2. Lights are allowable on dune walkovers or elevated boardwalks only as required for building code purposes and may only be installed landward of the frontal dune. Walkover lighting shall not be directly, indirectly or cumulatively visible from the beach.

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

1. Reduce or eliminate the negative effects of existing exterior artificial lighting through the following measures:
 - a. Reposition, modify or remove existing lighting fixtures so that the point source of light or any reflective surface of the light fixture is no longer directly, indirectly or cumulatively visible from the beach;
 - b. Replace fixtures having an exposed light source with fully shielded fixtures;
 - c. Replace any light source, light bulb or lamp that is not long wavelength (e.g. incandescent, fluorescent, or high intensity lighting) with the lowest wattage long wavelength (e.g. LED or low pressure sodium) light source or lamp available for the specific application;

- d. Replace non-directional fixtures with directional fixtures that point down and away from the beach;
 - e. Provide shields for fixtures visible from the beach and not practical to immediately be replaced. Beachside shields are to cover 270 degrees and extend below the bottom edge of the fixture on the seaward side so that the light source or any reflective surface of the light fixture is not visible from the beach;
 - f. Replace pole lamps with low-profile, low-level luminaries so that the light source or any reflective surface of the light fixture is not visible from the beach;
 - g. Plant or improve vegetation buffers between the light source and the beach to screen light from the beach;
 - h. Construct a ground level barrier landward of the beach and frontal dune to shield light sources from the beach. Ground-level barriers are to be considered a last resort when no other remediation of the light source is feasible. Ground level barriers may be subject to state coastal construction control line regulations under section 161.053, Florida Statutes, and must not interfere with sea turtle nesting or hatchling emergence, or cause short- or long- term damage to the beach and dune system;
 - i. Permanently remove or permanently disable any fixture which cannot be brought into compliance with the provisions of these standards.
2. Take one or more of the following measures to minimize interior light emanating from doors and windows within line-of-sight of the beach:
- a. Apply window tint or film that meets the light transmittance standards for tinted glass;
 - b. Rearrange lamps and other moveable fixtures away from windows;
 - c. Use opaque shades or room darkening window treatments (e.g., blinds, curtains, screens) to shield interior lights from the beach.

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

Sec. ____-3.8. – Pier Structures

- 1. Lighting of pier structures projecting over the beach or over water shall be long wavelength, downward-directed, and fully shielded.
- 2. Lighting of pier structures projecting over the beach, or over water, shall be mounted no higher than 42 inches above the deck surface. These shall be directed onto the deck surface only, preventing light pollution or light spillage beyond the walking surface.
- 3. Lighting of pier structures projecting over the beach or over water shall comply with minimum light levels set forth in applicable federal and state laws designed to protect public safety.

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

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

1. Lighting associated with a special event that may directly, indirectly, or cumulatively be visible from any portion of the beach shall not be authorized at nighttime during sea turtle nesting season.
2. The operation of all motorized vehicles, except emergency and law enforcement vehicles or those permitted on the beach for sea turtle conservation in accordance with Florida Statute 379.2431 (1), or other research and conservation, shall be prohibited on the beach at nighttime during sea turtle nesting season.
3. Within sea turtle nesting season, temporary work zone lighting for roadway construction and during declared emergencies shall be directed away from the beach to avoid illumination of or direct visibility from the beach. Work zone luminaires shall be shielded to avoid lighting areas outside of the immediate construction area.
4. All other temporary construction lighting shall be:
 - a. Inclusive of all the standards of this Section, including using fixtures that are long wavelength, downward directed, full cutoff, and fully shielded so light is not directly or indirectly visible from the beach, and
 - b. Turned off during nighttime in sea turtle nesting season, or if authorized by the *Beach Lighting Inspector* during sea turtle nesting season, shall only be allowed from 6:00am to 9:00pm, must be restricted to the minimal amount necessary, and shall incorporate all the standards of this Section, and
 - c. Mounted less than eight feet above the adjacent floor or deck, measured from the bottom of fixture, and
 - d. Restricted to the minimal number of foot-candles necessary to conform to the applicable construction safety regulations.
5. Handheld and other portable temporary lighting shall not be directed toward or used in a manner that disturbs sea turtles or other coastal wildlife.

SECTION ____-4. - COMPLIANCE AND ENFORCEMENT PROCEDURES

Sec. ____-4.1. - Beach Lighting Inspector

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

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

most important that the designated individual receive appropriate training.

2. It shall be the duty of the City/County Manager to appoint the *Beach Lighting Inspector*. The *Beach Lighting Inspector* shall have the necessary training, technical knowledge, and resources to enable them to effectively carry out the duties of this office. The *Beach Lighting Inspector* may access resources provided by other local, state or federal agencies such as the *Sample Beach Lighting Survey Worksheet*, training, and other information available from the Florida Fish and Wildlife Conservation Commission.
3. The *Beach Lighting Inspector* shall be responsible for:
 - a. Inspecting the entire beach within the jurisdictional boundaries of the **City/County of _____** regularly during sea turtle nesting season to determine the extent of compliance with this Ordinance.
 - b. In the event of the finding of a violation at a particular public or private property, conducting further inspections at the property at any time beginning on the night after the deadline date given on the written notice of violation. These follow-up inspections shall continue until the lighting has been brought into compliance with this Ordinance.
 - c. *Beach Lighting Inspector* responsibilities may also include preparation of reports, issuance of non-compliance notices, outreach and education, supporting administrative actions before a review board or special magistrate, or attending building permit pre-application and pre-construction conferences.

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

4. It shall be unlawful for any person to interfere with, or in any manner hinder the *Beach Lighting Inspector*, or any of their assistants, while in the discharge of their duties under the terms of this Ordinance.
5. It shall be unlawful for any person to knowingly conceal or disable any lighting on a property before it has been inspected by the *Beach Lighting Inspector*.

Sec. ____-4.2. - Notice of Violation

1. Upon finding any violation of this Ordinance, the *Beach Lighting Inspector* shall deliver a written notice of the violation of this Ordinance to the property owner and direct said owner to promptly remove or remediate lighting not in compliance with this Ordinance.
2. The time allowed for making the repairs shall be stated in the notice and should the responsible party neglect or refuse to remove or remediate non-compliance within the specified time stated in the notice, the party so offending shall commit a violation of this Ordinance and be penalized as provided in Subsection ____-4.3 of this Ordinance.

Sec. ____-4.3. - Penalties

1. Any person who takes any action or omission in violation of any provision of this Ordinance and fails to resolve such violation after proper notice is provided, shall be subject to a fine of up to \$ ____ per day per violation for initial violations, and \$ ____ per day per violation for repeat violations. All penalties incurred as a result of violation of this Ordinance shall continue to accrue until such violations are cured.
2. The **City/County of** _____ shall have the right to encumber such property in violation of this Ordinance with a lien for an amount equal to the total amount of fines owed at the time such lien is recorded.

Sec. ____-4.4. - Sea Turtle Fund

1. A *Sea Turtle Fund* is hereby established within the **City/County of** _____.
2. All funds collected as a result of the issuance of fines under Section 3 of this Part shall be deposited in the *Sea Turtle Fund*. The funds in this account shall be used for:
 - a. Assistance to property owners for the procurement of light systems equipment and materials that comply with this Ordinance and reduce the amount of artificial beach lighting,
 - b. Educational materials to inform the general public on the threats of artificial lighting to sea turtles, including but not limited to signs, door knockers, pamphlets, stickers, public service announcements, and other awareness campaigns, and
 - c. Equipment, materials and other resources supporting compliance assistance and enforcement by the *Beach Lighting Inspector*.
 - d. Other reasonable efforts to protect the sea turtle population within the **City/County of** _____, including but not limited to research and conservation projects.
3. The **City/County of** _____ may contribute funding from other sources into the *Sea Turtle Fund* for uses consistent with the purposes set forth above.

SECTION ____-5. - OTHER CLAUSES

Sec. ____-5.1. - Conflict with Other Ordinances

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

Sec. ____-5.2. - Severability

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

Sec. ____-5.3. - Effective Date

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

FWC SEA TURTLE LIGHTING GUIDELINES

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

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

KEEP IT LOW

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

KEEP IT SHIELDED

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

BAD EXAMPLE: Unshielded bulb



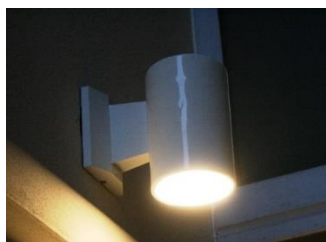
GOOD EXAMPLE: Shielded bulb with Amber LED (long-wavelength, 560 nm or higher)



KEEP IT LONG

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

BAD: Incandescent bulb



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



Acceptable Fixtures

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

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

How effective are full cut-off fixtures?

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



Acceptable Lamps / Bulbs

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

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

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

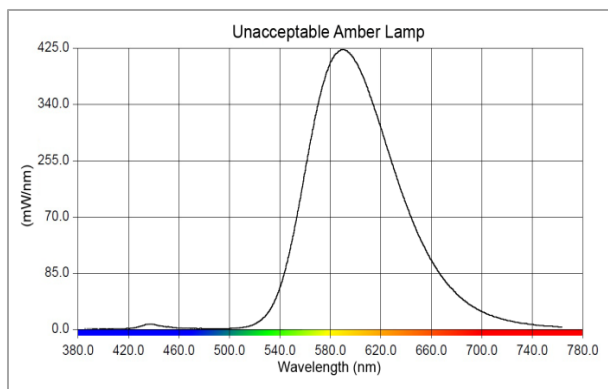
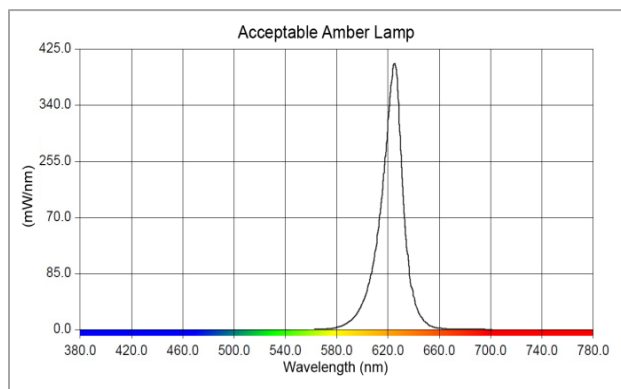
Upon review and approval by FWC, use of shorter wavelength lights may be allowed in limited areas where direct and indirect light or glow would not be visible from the beach.

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

How can I tell if it is a long-wavelength light source?

Specifications for the wavelength is available from the manufacturer. Specifically, you can request a spectral distribution graph, as seen below.

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



Minimizing Light

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

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

Why do I need to minimize long-wavelength light?

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

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

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

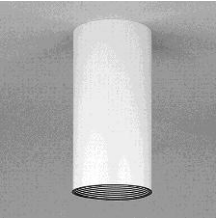
Impacts from interior lighting

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

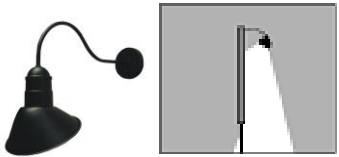
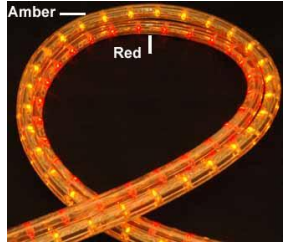
If the information above is followed, your home or building is not expected to adversely impact nesting sea turtles, their hatchlings or their habitat. Thank you for doing your part to protect Florida's sea turtles!

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

EXAMPLES OF TURTLE FRIENDLY FIXTURES

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

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

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

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

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

BLAIR E. WITHERINGTON AND KAREN A. BJORNDAAL

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

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

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

Properties of light studied with respect to hatchling orientation include intensity, color, direction, and shape.

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

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

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

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

METHODS

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

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

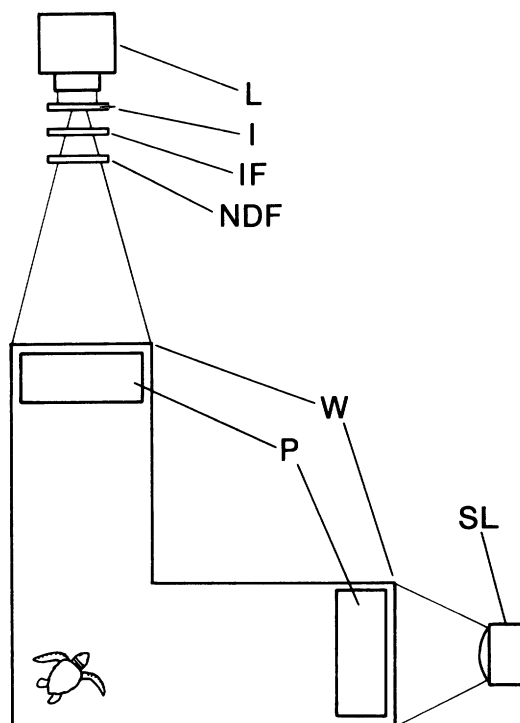


Fig. 1. Schematic diagram of a V-maze used in two-choice, color preference experiments with loggerhead and green turtle hatchlings. L = lamp; I = iris; IF = interference filter; NDF = neutral density filter; W = window; P = pitfall; SL = standard lamp.

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

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

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

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

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

To determine the relative preference of hatchlings for light of specific color and intensity, we released hatchlings within the V-maze while respective windows were illuminated with the adjustable source and standard source. In these trials—identified as adjustable source versus standard source—the adjustable source varied among five monochromatic colors and six intensities. Treatment colors were 360 nm (near-ultraviolet), 400 nm (violet), 500 nm (blue-green), 600 nm (yellow-orange), and 700 nm

(deep red) peak transmission. We measured treatment intensities as photon flux and assigned values to a logarithmic scale. Intensities were (log values shown parenthetically) 2.50×10^{14} (0.7), 1.27×10^{15} (1.4), 6.31×10^{15} (2.1), 3.17×10^{16} (2.8), 1.58×10^{17} (3.5), and 1.44×10^{19} (5.5) photons $\text{s}^{-1} \text{m}^{-2}$ at respective peak wavelengths. Log intensity 0.7 at 500 nm approximated the illuminance level measured for a moonlit night. Higher light levels are comparable to those at dawn or dusk, times at which hatchlings also must locate the sea. Because of the emission spectrum of the incandescent source, the highest log intensity (5.5) could only be reached at the longest wavelengths (600 and 700 nm). We ran one set of trials for each species with the adjustable source off (intensity = 0.0). Combinations of wavelengths and intensities constituted 28 experimental treatments. Thirty loggerhead hatchlings, each from a different clutch, were used individually for each treatment. Ten green turtle hatchlings were used in each treatment and originated from three separate clutches.

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

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

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

RESULTS

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

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

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

(binomial probability test) at all intensity levels. With the adjustable source at log intensity 0, all loggerhead hatchlings chose the standard source.

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

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

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

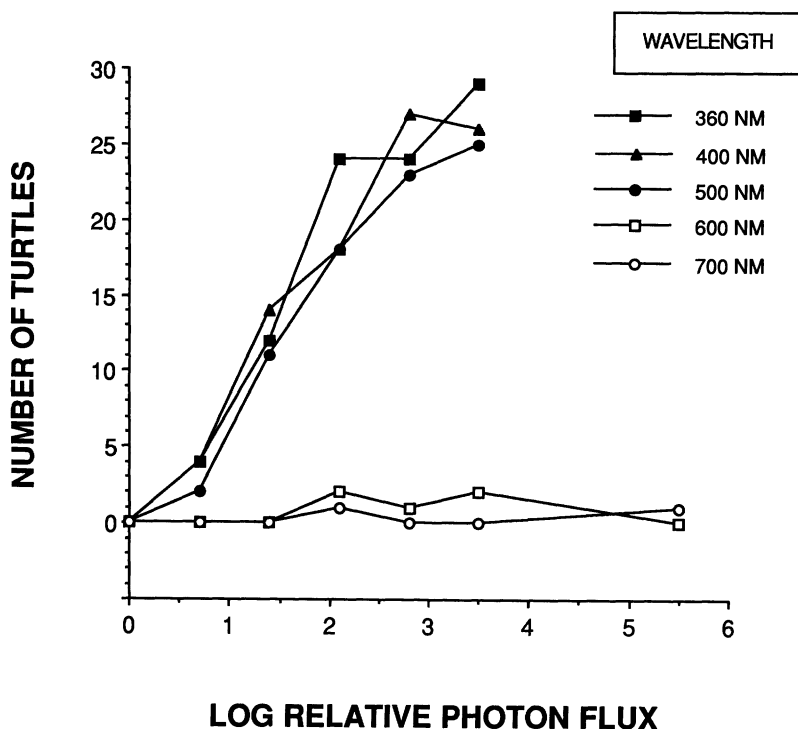


Fig. 2. The number of loggerhead hatchlings out of 30 choosing a light source varying among the wavelengths and intensities specified, over a source of constant color and intensity. All represented hatchlings chose one of the two sources. Colors are near-ultraviolet (360 nm), violet (400 nm), blue-green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

DISCUSSION

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

the specified spectral bands, we can assign minimal spectral limits ± 10 nm to green turtle and loggerhead vision. We have shown that green turtle vision extends at least from the near-ultraviolet (360 nm) to green (500 nm). Vision in loggerhead turtles extends minimally from the near-ultraviolet (360 nm) to the red (700 nm).

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

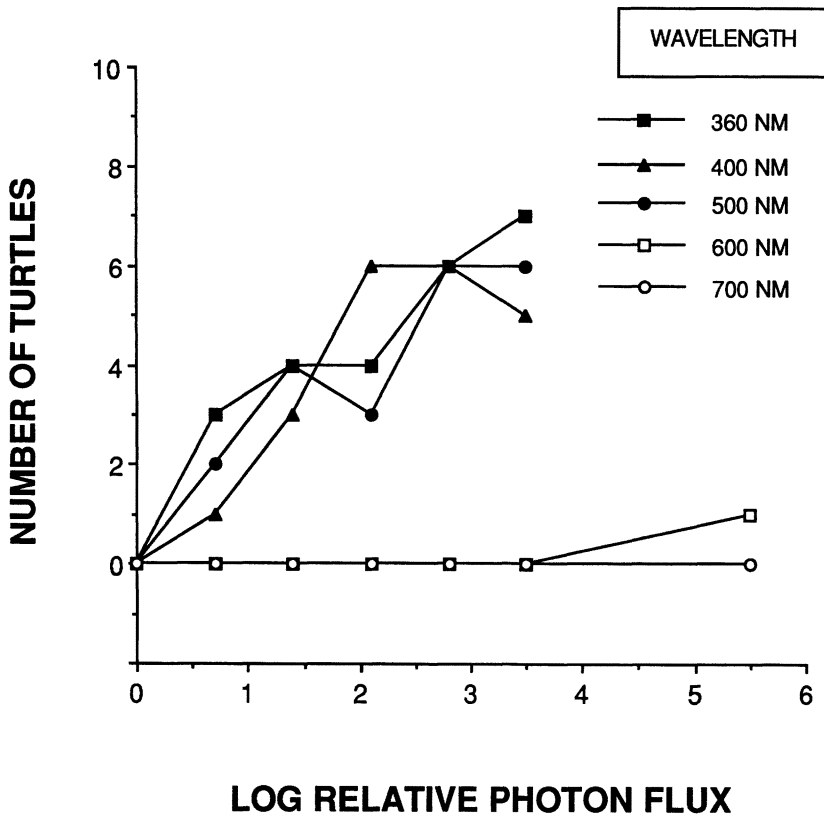


Fig. 3. The number of green turtle hatchlings out of 30 choosing a light source varying among the wavelengths and intensities specified, over a source of constant color and intensity. All represented hatchlings chose one of the two sources.

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

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

Spectral light and sea-finding.—A comparison of the green turtle action response measured by Granda and O'Shea (1972) with our measurements of behavioral response to spectral light (Fig. 5) reveals a behavioral bias against longer wavelength light. Care should be taken in draw-

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

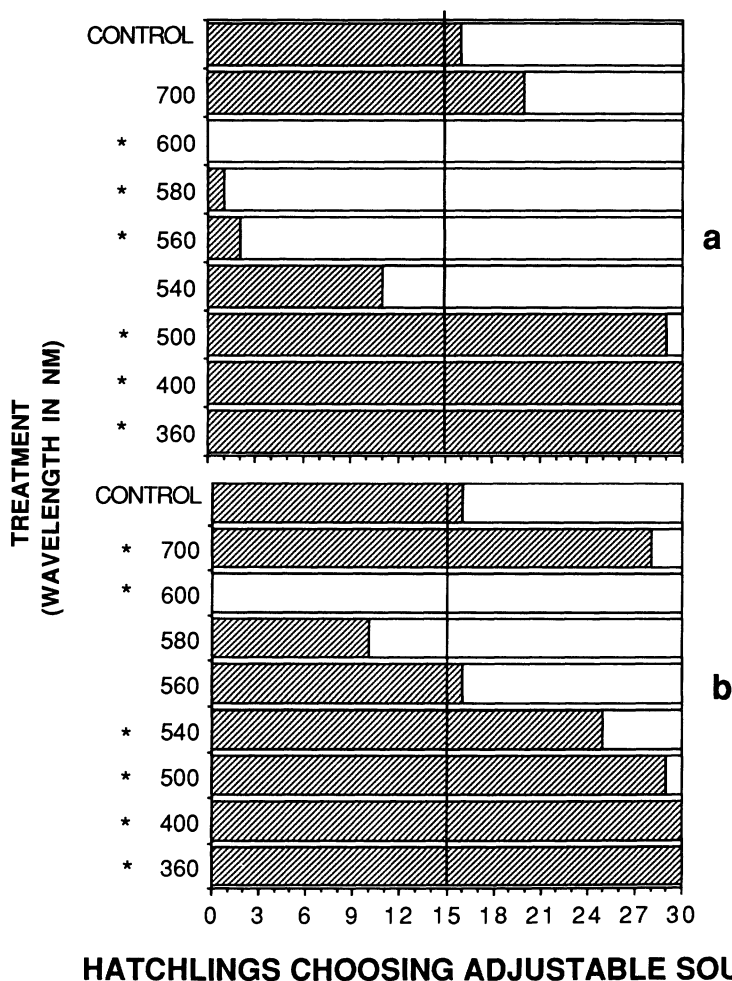


Fig. 4. The number of loggerhead hatchlings choosing an adjustable light source varying among the wavelengths specified, at an intensity of 3.5 log units (a) and at maximum source intensity (b). A darkened window served as the alternate choice. During the control treatment, lighting remained off. All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

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

A phototactic response positively biasing short-wavelength light also has been found

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

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

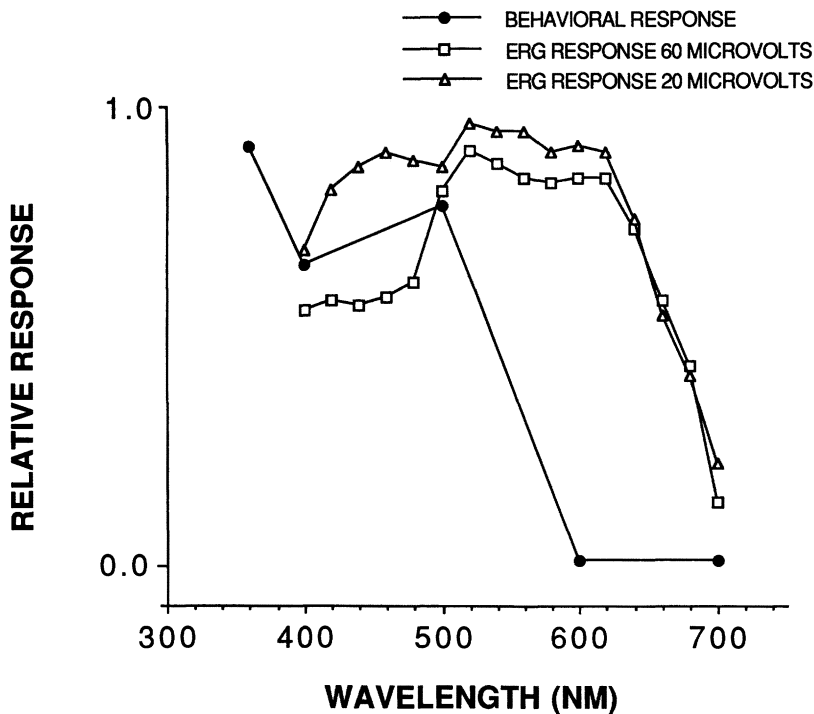


Fig. 5. Behavioral and action responses to spectral light in hatchling green turtles. Relative response for the behavioral curve is the proportion of green turtle hatchlings choosing a light source varying among the wavelengths specified at log intensity 3.5 (1.44×10^{17} photons $s^{-1} m^{-2}$), over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

which loggerhead hatchlings behave toward spectral light indicates that they too may use spectral cues in sea finding. Whereas loggerhead hatchlings orient positively to near-ultraviolet, violet, green, and red light (Fig. 2), they avoid yellow and yellow-orange light (Fig. 4a-b). The aversion that loggerhead hatchlings show toward yellow light, or xanthophobic response, has also been observed in loggerhead hatchlings orienting on a natural beach when presented 590 nm monochromatic yellow light from a low pressure sodium vapor (LPS) light source (Witherington and Bjørndal, 1991). Regardless of distance, no loggerhead hatchling was attracted to the LPS light source. In one of the first papers describing sea finding in sea turtles, Hooker (1911) reported that loggerhead hatchlings on a beach during the day responded negatively to panes of glass transmitting primarily orange-red light. Hooker could

not be certain, however, that this response indicated a reaction to color. Responses identical to those Hooker observed are predicted from hatchlings exhibiting simple phototaxis. The responses observed from loggerhead hatchlings in the laboratory (present study) and on the beach (Witherington and Bjørndal, 1991), however, strongly suggest a response to color. If the behavior we observed was simply a response to light of a specified brightness, the same response would have been expected to wavelengths and intensities other than the two intensities of yellow wavelengths (Fig. 4a-b).

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

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

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

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

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

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

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

Mon 5/16/2022 8:04 AM

To: Chadd Chustz <Chadd@fmbgov.com>

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

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

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

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

Sincerely,

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

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

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

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

[EXTERNAL SENDER] Use Caution opening links or attachments

Dr. Robbin,

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

See highlights below.

Chadd Chustz
Environmental Project Manager
Town of Fort Myers Beach

From: Jennifer Hatfield <jen@jhatfieldandassociates.com>

Sent: Friday, May 13, 2022 2:05 PM

To: Chadd Chustz <Chadd@fmbgov.com>

Subject: Re: information for the public hearing on sea turtle conservation

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

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

Best,

Jen

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

From: Chadd Chustz <Chadd@fmbgov.com>

Date: Friday, May 13, 2022 at 1:59 PM

To: Jennifer Hatfield <jen@jhatfieldandassociates.com>

Subject: RE: information for the public hearing on sea turtle conservation

Thank you Jennifer. I have passed your email along.

Who is your contact at FWC?

Chadd Chustz
Environmental Project Manager

Town of Fort Myers Beach

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

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

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

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

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

Original language:

- **Apply window tint** to your windows that meets the 45% (**15% recommended**) inside to outside transmittance standards for tinted glass.
- **Use window treatments** (blinds, curtains) to shield interior lights from the beach and move light fixtures away from windows.

New/updated language:

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

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

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

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

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

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

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

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

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

Best,

Jen

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

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

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1. Requested Motion:

Meeting Date: August 15, 2022

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

Why the action is necessary:

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

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

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

Variances are approved by Town Council by a Resolution.

What the action accomplishes:

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

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

2. Agenda:

PUBLIC HEARINGS

3. Requirement/Purpose:

Resolution

4. Submitter of Information:

5. Background:

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

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

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

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

Attachments:

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

Financial Impact:

N/A

6. Alternative Action

Approve with conditions:

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

7. Management Recommendations:

Denial

8. Recommended Approval:

Amy Baker, Town Clerk
John R Herin Jr, Town Attorney
Amy Baker, Town Clerk
Roger Hernstadt, Town Manager

Created/Initiated - 8/10/2022
Approved - 8/11/2022
Approved - 8/11/2022
Final Approval - 8/11/2022

RESOLUTION NUMBER 22-27

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

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

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

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

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

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

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

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

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

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

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

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

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

- A. That there are/are not exceptional or extraordinary conditions or circumstances that are inherent to the property in question, or that the request is/is not for a *de minimis* variance under circumstances or conditions where rigid compliance is/is not essential to protect public policy;
- B. That the conditions justifying the variance are/are not the result of actions of the applicant taken after the adoption of the regulation in question;
- C. That the variance granted is/is not the minimum variance that will relieve the applicant of an unreasonable burden caused by the application of the regulation in question to his property;
- D. That the granting of the variance will/will not be injurious to the neighborhood or otherwise detrimental to the public welfare; and
- E. That the conditions or circumstances on the specific piece of property for which the variance is sought are/are not of so general or recurrent a nature as to make it more reasonable and practical to amend the regulation in question.

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

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

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

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

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

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

FORT MYERS BEACH TOWN COUNCIL

Raymond P. Murphy, Mayor

ATTEST:

Amy Baker, Town Clerk

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

John R. Herin, Jr., Town Attorney

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



Case # _____ Date Received: _____

Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT

Supplement PH-B

Additional Required Information for a Variance Application

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

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

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

Variance is requested from:

LDC Section Number

Title of Section or Subsection

34-638	(d)(2)b.3. Porches, balconies and stoops

Complete the narrative statements below for EACH variance requested.



Case # _____ Date Received: _____

PART I
Narrative Statements

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

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

Relief is sought from the regulation requiring "porches, balconies, and stoops which extend into the front setback, may not extend 35 feet in width."

See attached Exhibit A - page A1.1

Reasons for request

Explain why the variance is needed:

The variance is needed to construct a porch that is 49 feet in width.

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

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

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

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

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

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

not common

PART 2

Submittal Requirements

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

Required Items

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

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

Cover page

Case Number will be inserted by Community Development staff.

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

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

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

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

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

Narrative statements

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

Site plan

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

LDC Section 34-87

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

1. Whether there are exceptional or extraordinary conditions or circumstances that are inherent to the property in question, or whether the request is for a *de minimis* variance under circumstances or conditions where rigid compliance is not necessary to protect public policy;

adoption of the regulation in question;
3. Whether the requested variance is the minimum variance to relieve the applicant of an unreasonable burden caused by the application of the regulation in question;
4. Whether granting the variance would be injurious to the neighborhood or otherwise detrimental to the public welfare;
5. Whether the conditions or circumstances of the specific piece of property or the intended use of the property for which the variance is sought are of so general or recurrent a nature as to make it more reasonable and practical to amend the regulation in question.

[illegible]

SITE PLAN
SCALE: 1/8" = 1'-0"
①



Case # _____ Date Received: _____

Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT

Supplement PH-B

Additional Required Information for a Variance Application

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

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

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

Variance is requested from:

LDC Section Number

Title of Section or Subsection

34-638	Table 34-3 from Secs. 34-653-660
	Rear setback residential, single-family, waterfront
	homes must be 20 feet.

Complete the narrative statements below for EACH variance requested.

PART I

Narrative Statements

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

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

Reasons for request

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

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

This variance request has the total and complete support of all neighbors in the closest proximity. If granted, this variance request will preserve the view-corridor of the neighbors, neighborhood and visitors to Hercules Drive.

If not granted, the view-corridor will be greatly reduced by forcing the homeowner to move the planned structure 30 feet closer to the water in order to accomodate the garage in a different location.

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

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

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

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

PART 2

Submittal Requirements

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

Required Items

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

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

Cover page

Case Number will be inserted by Community Development staff.

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

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

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

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

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

Narrative statements

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

Site plan

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

LDC Section 34-87

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

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

[illegible]

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




LOT 1
177 HERCULES DRIVE
FORT MYERS BEACH, FLORIDA

NOT FOR
CONSTRUCTION

FLORIDA REAL
Estate AR 18977

ISSUE	DATE
△ CO BET	84-11-7022
△	
△	
△	

DRAWN BY JS,AM,LT
CHECKED BY JO,T

PHASE DO
PR NO 18184

D-4

Exhibit C

Residential accessory use means the use of a structure or premises that is customarily incidental and subordinate to the principal use of a residential structure. See *Use, principal*.

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

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

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

(Ord. No. 15-12, § 2, 1-19-2016)

Sec. 34-1173. - Development regulations.

- (a) Unless specifically indicated to the contrary, accessory uses and related buildings and structures that are customarily recognized as clearly incidental and subordinate to the principal use of the property are permitted by right when located on the same lot or parcel and in the same zoning category as the principal use, provided that:
- (1) Uses that are listed separately on Table 34-1 of this code, such as drive-throughs and automobile fuel pumps, are not accessory uses and are permitted only in zoning districts where they are explicitly identified in Tables 34-1 and 34-2 of this chapter. However, this limitation does not apply to uses that are explicitly listed in the definitions of residential, commercial, or resort accessory uses.
 - (2) All uses, buildings and structures must comply with all applicable development regulations and building codes.
 - (3) Accessory buildings or structures may be built concurrently with a principal building or structure but, except as provided herein, no accessory use, building or structure shall be commenced, erected, placed, or moved onto a lot or parcel prior to the principal use, building or structure. Exceptions are as follows:



Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT

STAFF REPORT

TYPE OF CASE: Variance

CASE NUMBER: VAR20220031

CASE NAME: 177 Hercules; to approve two (2) variances for development a new single-family home with a fifteen-foot (15) reduction of the setback to the rear property line (north-northwest line); and relief from regulations limiting the overall width of balconies constructed streetward of the twenty five-foot (25) primary structure setback (southernmost line).

LPA

HEARING DATE: August 1, 2022

STAFF

RECOMMENDATION: DENY reduction of house setbacks and proposed porch length

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

I. APPLICATION SUMMARY

Applicant/Owner: Allen E. and Cynthia A. Shanosky

Request: The applicants are seeking variances from LDC Sec. 34-638 (Table 34-3) to construct a single-family home closer to the rear property line (north-northwest line)(*ord. 22-01*) than allowed-for under current LDC requirements; as well as a variance to the maximum linear length of porches that extend into the primary structure street setback (southernmost line) described in sec. 34-638(d)(2)(b)(3)(*ord. 22-01*).

Subject property: See attached site plan

Physical Address: 177 Hercules Drive

STRAP #: 29-46-24-W2-0050E.0070
FLU: Low Density
Zoning: Residential Single-Family (RS)

Adjacent zoning and land uses:

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

II. BACKGROUND AND ANALYSIS

Background:

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

1. Rear Setback (north-northwest line): sec. 34-638 (Table 34-3), requesting a variance of fifteen-feet (15) for the garage from the twenty-foot (20) rear setback, providing a five-foot primary-structure setback.
2. Porch Length Limitations: sec. 34-638(d)(2)(b)(3)(*ord. 22-01*) limiting the width of porches to a maximum of thirty five-feet (35) if they protrude into the twenty five-foot (25) street setback (southernmost line). The applicant is proposing to construct a porch that is forty eight-feet (48) wide within the primary-structure street setback which is thirteen-feet (13) greater than the thirty five-foot maximum (35).

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

Analysis:

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

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

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

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

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

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

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

Comprehensive Plan Compatibility:

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

Neighborhood Compatibility:

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

Findings and Conclusions:

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

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

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

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

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

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

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

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

The granting of this variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare. Staff encourages the homeowner to retain or re-plant existing mature canopy trees and buffer material along Hercules.

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

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

III. RECOMMENDATION

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

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

IV. LPA DETERMINATION

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

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

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

IV. CONDITIONS OF APPROVAL

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

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

CASE NUMBER _____

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

April 11, 2022

Town of Fort Myers Beach, Fl.

To Whom It May Concern,

Enclosed please find 3 variance request submittals with an accessory structure confirmation or additional variance request if needed.

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

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

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

Very Truly Yours,



Cynthia Shanosky





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

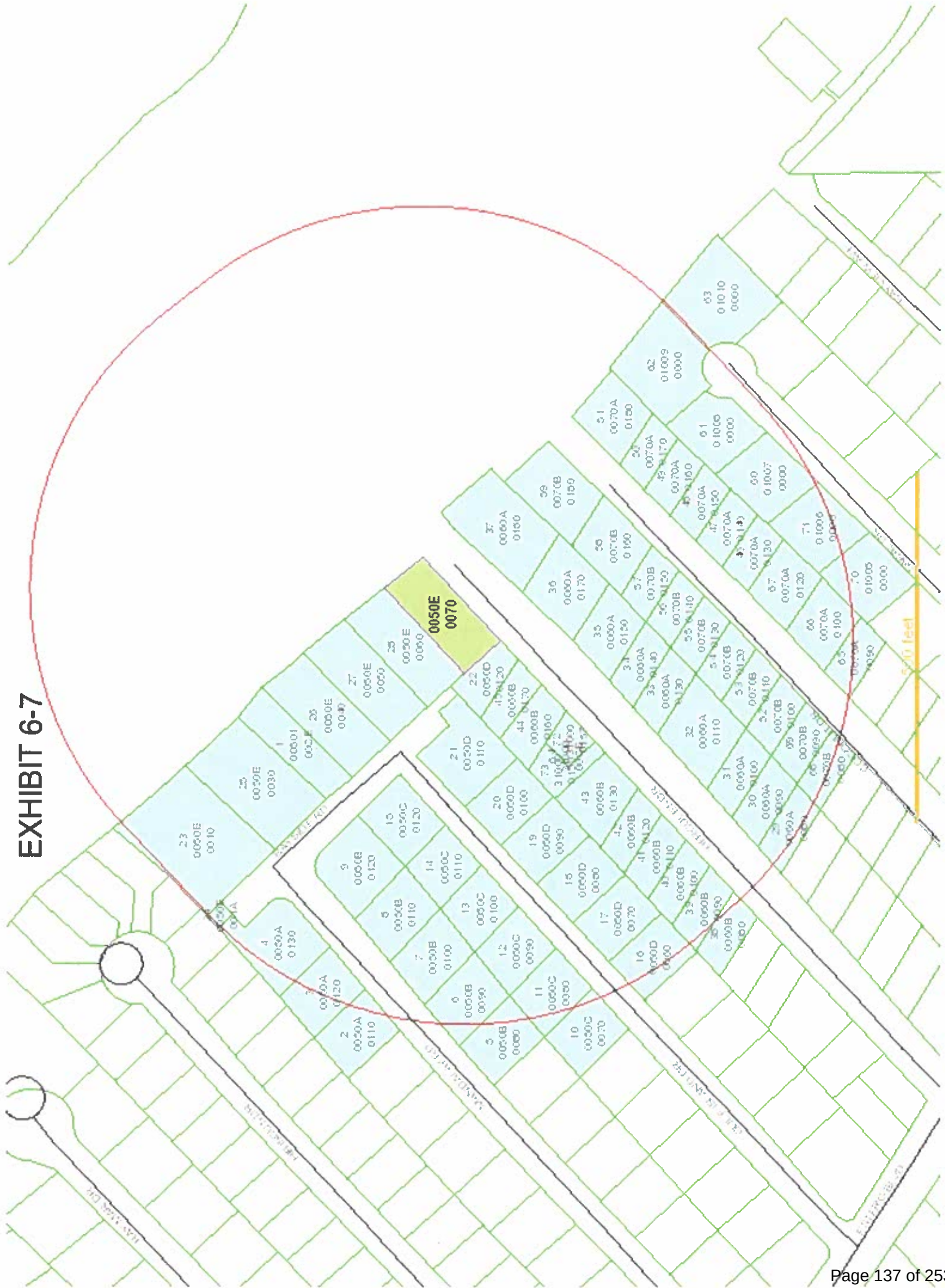
EXHIBIT 6-6, page 1 of 2

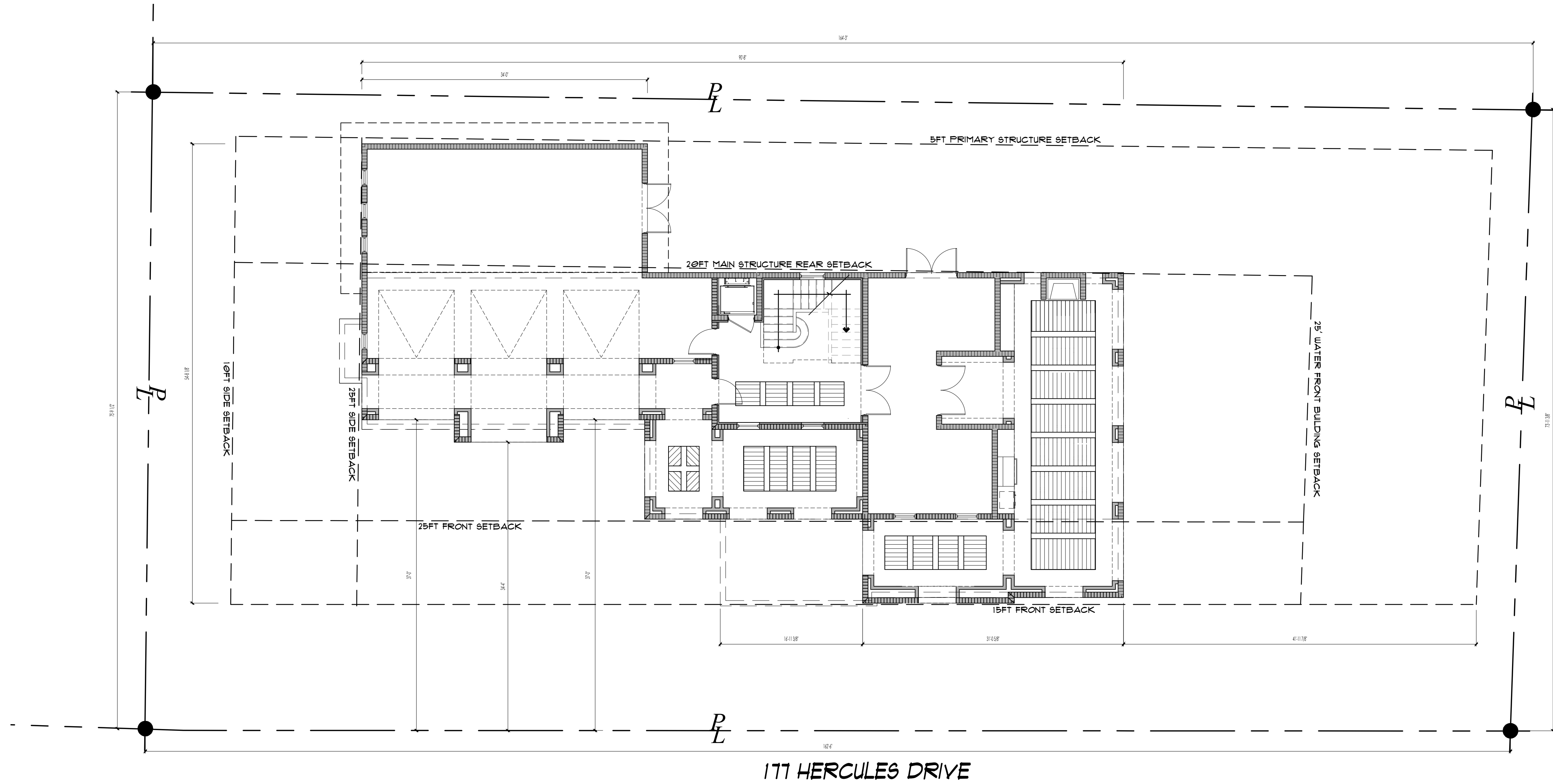
Subject	Address	City	State	Zip	County	Parcel	Owner	Address	City	State	Zip	County
0	10229743	29-46-34-W2-4000E.0070	SHAWNOCKY ALLEN E + CYNTHIA A	177 HERCULES DR	PORT MYERS BEACH	FL	33931					
1	10229744	29-46-34-W2-4000E.0070	GULF ISLAND HARBOR HOA	PO BOX 2088	PORT MYERS BEACH	FL	33931					
2	10229745	29-46-34-W2-4000E.0070	SHAWNOCKY DONALD J &	157 MANDALAY RD	PORT MYERS BEACH	FL	33931					
3	10229746	29-46-34-W2-4000E.0070	REBERT KIMBERLY NICOLE	3475 LYON DR UNIT 63	LEXINGTON	KY	40513					
4	10229747	29-46-34-W2-4000E.0070	EMILE MARY G	2096 HOBBS DR	LEXINGTON	KY	40502					
5	10229748	29-46-34-W2-4000E.0070	GOODKOWITZ ROBERT H	150 MANDALAY RD	PORT MYERS BEACH	FL	33931					
6	10229749	29-46-34-W2-4000E.0070	NIDDLE THREE LLC	136 MANDALAY RD	PORT MYERS BEACH	FL	33931					
7	10229750	29-46-34-W2-4000E.0070	GOODSON ROBERT E	150 MANDALAY RD	PORT MYERS BEACH	FL	33931					
8	10229751	29-46-34-W2-4000E.0070	MAHER WILLIAM R + JULIE C	7430 FRANKLIN CT	BLOOMFIELD TOWNSHIP	MI	48301					
9	10229752	29-46-34-W2-4000E.0070	CHAMBERLAIN SUSAN TR	3930 BAYSIDE DR	PORT MYERS BEACH	FL	33931					
10	10229753	29-46-34-W2-4000E.0070	STILL THOMAS TR	159 GULF ISLAND DR	PORT MYERS BEACH	FL	33931					
11	10229754	29-46-34-W2-4000E.0070	WATSON HEATHER J +	143 GULF ISLAND DR	PORT MYERS BEACH	FL	33931					
12	10229755	29-46-34-W2-4000E.0070	GARRISON JAMES D + BARBARA A TR	23 JEFFREY WAY	PORT SALEM	OR	97124					
13	10229756	29-46-34-W2-4000E.0070	NEASE STEVEN L + ANN B	5230 WILLIAMS DR	PORT MYERS BEACH	FL	33931					
14	10229757	29-46-34-W2-4000E.0070	SUNSET FARM TRUST +	28370 HWY 2ND ST	POWERSVILLE	NC	27859					
15	10229758	29-46-34-W2-4000E.0070	REBERT KIMBERLY NICOLE	3475 LYON DR APT 63	LEXINGTON	KY	40513					
16	10229759	29-46-34-W2-4000E.0070	STUBBS RICKY B	138 GULF ISLAND DR	PORT MYERS BEACH	FL	33931					
17	10229760	29-46-34-W2-4000E.0070	ANDREWS DAVID + MARIONA	525 DALE BLVD	WINSTON	NC	27391					
18	10229761	29-46-34-W2-4000E.0070	BROWN LOIS TR	150 GULF ISLAND DR	PORT MYERS BEACH	FL	33931					
19	10229762	29-46-34-W2-4000E.0070	GULF ISLAND LLC	PO BOX 297	KINGSVILLE	MD	21086					
20	10229763	29-46-34-W2-4000E.0070	TANIGUCHI HANCOCK &	14004 SHAWNEE LAKE CT	PORT MYERS	FL	33907					
21	10229764	29-46-34-W2-4000E.0070	CLOUT DOROTHY M + JUDITH L	1630 NICHOLS RD	OLNEY	MD	20855					
22	10229765	29-46-34-W2-4000E.0070	SHAWNOCKY ALLEN E + CYNTHIA	81 SETON HALL DR	FREDERICK	MD	21724					
23	10229766	29-46-34-W2-4000E.0070	ROSE JEWELL D + HEATHER A	42150 HIGH POINT RD	KINGSVILLE	MD	21086					
24	10229767	29-46-34-W2-4000E.0070	ROSE JEWELL D + HEATHER A	42150 HIGH POINT RD	KINGSVILLE	MD	21086					
25	10229768	29-46-34-W2-4000E.0070	RAVENS LANE LLC	38311 HURON POINT	HARRISON TOWNSHIP	MI	48045					
26	10229769	29-46-34-W2-4000E.0070	SANTOS VICTOR M + KAREN E	3991 BAYSIDE DR	PORT MYERS BEACH	FL	33931					
27	10229770	29-46-34-W2-4000E.0070	KATHLEEN Z GRANDORCO 2012 CPL	4911 BAYSIDE DR	PORT MYERS BEACH	FL	33931					
28	10229771	29-46-34-W2-4000E.0070	Q T HOLDINGS LLC	6909 WARETHA AVE N	BROOKLYN PARK	MI	48142					
29	10229772	29-46-34-W2-4000E.0070	GREAT LAKES BRICKROAD INC	3044 ALLOMEY AVE	GREEN BAY	WI	54311					
30	10229773	29-46-34-W2-4000E.0070	WARREN ALLAN D + MARY K	1121 MAPLEWOOD RD	AMES	IA	50014					
31	10229774	29-46-34-W2-4000E.0070	ANDREW RUSSELL +	132 CORAL ST	BEACH PARK	NC	28508					
32	10229775	29-46-34-W2-4000E.0070	ROLAN JAMES H TR	146 HERCULES DR	PORT MYERS BEACH	FL	33931					
33	10229776	29-46-34-W2-4000E.0070	HODSON JOHN C + MARY A TR	148 HERCULES DR	PORT MYERS BEACH	FL	33931					
34	10229777	29-46-34-W2-4000E.0070	HERBERT DENNIS J + CAROL E	4536 GLENVIEW RD	MANASSAS	VA	20108					
35	10229778	29-46-34-W2-4000E.0070	LESTER EMMETT TRUST	5330 PLATONIC PL	COLUMBIA SPRINGS	CO	80019					
36	10229779	29-46-34-W2-4000E.0070	VEDAL EMERSON + HELEN +	24 SARAH ANNE CT	MILLER PLACE	NY	11764					
37	10229780	29-46-34-W2-4000E.0070	VALENTINE DAVID TR	2839 WALSHLEY CIR DR	LAKE ORION	MI	48060					
38	10229781	29-46-34-W2-4000E.0070	WEBER TIMOTHY C TR	1040 TROON CT	GRANDCROFT	GA	30047					
39	10229782	29-46-34-W2-4000E.0070	MOUNT HANCOCK D TRUST +	143 HERCULES DR	PORT MYERS BEACH	FL	33931					
40	10229783	29-46-34-W2-4000E.0070	STANCIK MICHAEL +	1303 LINDEN CT NW	ATLANTA	GA	30329					
41	10229784	29-46-34-W2-4000E.0070	STUTZMAN LEROY JR + JANE	149 HERCULES DR	PORT MYERS BEACH	FL	33931					
42	10229785	29-46-34-W2-4000E.0070	BESTER LACH W SR + REWITA	4 SHAW RD	WINCHESTER	MA	01890					
43	10229786	29-46-34-W2-4000E.0070	PEREZ-RODRIGUEZ EILEEN B	153 HERCULES DR	PORT MYERS BEACH	FL	33931					
44	10229787	29-46-34-W2-4000E.0070	RODGE DEANE MICHELLE	163 HERCULES DR	PORT MYERS BEACH	FL	33931					
45	10229788	29-46-34-W2-4000E.0070	SHAWNOCKY ALLEN E + CYNTHIA	81 SETON HALL DR	FREDERICK	MD	21724					
46	10229789	29-46-34-W2-4000E.0070	NOTON THOMAS D + CHRISTINE M	153 PRIMO DR	PORT MYERS BEACH	FL	33931					
47	10229790	29-46-34-W2-4000E.0070	JOSEPH ADAM H + ASHLEY	12612 W OAK DR	MOBILE ALB	MO	36688					
48	10229791	29-46-34-W2-4000E.0070	NAKAMA MORTY M + REBECCA A TR	160 COCONUT DR	PORT MYERS BEACH	FL	33931					
49	10229792	29-46-34-W2-4000E.0070	BURTON SHERLEY J	166 COCONUT DR	PORT MYERS BEACH	FL	33931					
50	10229793	29-46-34-W2-4000E.0070	ELIJAH GREGORY E + SUSAN	170 COCONUT DR	PORT MYERS BEACH	FL	33931					
51	10229794	29-46-34-W2-4000E.0070	WORMAN GRACE C TR	194 COCONUT DR	PORT MYERS BEACH	FL	33931					
52	10229795	29-46-34-W2-4000E.0070	PERDUE DAVID KYLE +	7 OAK RIDGE DR	NORTH EASTON	MA	01926					
53	10229796	29-46-34-W2-4000E.0070	POK STEVEN ALLEN B	11920 SW 19TH CT	DUMFRIES	FL	33526					

EXHIBIT 6-6, page 2 of 2

54	Polina	10229771	29-06-24-02-00708.0130	ROBERT LAUREN A TR	PO BOX 2854	PORT MYERS BEACH	FL	33932
55	Polina	10229772	29-06-24-02-00708.0430	WONG HELEN +	10401 NE 6TH AVE	MIAMI BEACH	FL	33140
56	Polina	10229773	29-06-24-02-00708.0140	BURNS MICHAEL K & KAREN	5230 N LAMAR AVE	CHICAGO	IL	60630
57	Polina	10229774	29-06-24-02-00708.0150	COONWELL JAMES P	9864 NORTH KILKOURN AVE	CHICAGO	IL	60646
58	Polina	10229775	29-06-24-02-00708.0460	MSV HOLDING TRUST CORP	24000 EBRO CT	BOHOTA SPRINGS	FL	34135
59	Polina	10229776	29-06-24-02-00708.0480	ANDRE HEBRA TRUST +	114 PLACID DR	PORT MYERS	FL	33919
60	Polina	10229777	29-06-24-02-00007.0000	AGNOM REALTY ENTERPRISES LLC	3823 REVERA DR STE 202	NAPLES	FL	34103
61	Polina	10229778	29-06-24-02-00008.0000	MCDONNELL MICHAEL P & AMY E	5401 A STREET	ORLANDO	FL	32806
62	Polina	10229779	29-06-24-02-01009.0000	LESZAK-WAY JACQUELYN	199 SABAL DR	PORT MYERS BEACH	FL	33931
63	Polina	10229780	29-06-24-02-01010.0000	ST CLAIR RUTHMOND J TR	572 W Santee Dr	GREENSBURG	GA	47240
64	Polina	10229781	29-06-24-02-33000.0000	137119 HERCULES CONDOMINIUM	138 COCONUT DR	PORT MYERS BEACH	FL	33931
65	Polina	10229782	29-06-24-02-00708.0100	GOZALEZ FERNANDO GARCIA &	140 COCONUT DR	PORT MYERS BEACH	FL	33931
66	Polina	10229783	29-06-24-02-00708.0100	KELLY SCOTT D & PATRICE	150 COCONUT DR	PORT MYERS BEACH	FL	33931
67	Polina	10229784	29-06-24-02-00708.0120	WROGSKI DAVID D &	12950 SW 13TH ST UNIT D114	POINCIANE FL	FL	33080
68	Polina	10229785	29-06-24-02-00708.0000	PEARCY MORGAN C + JOANNE CO TR	805 PHAROS MEADOWS DR	HUDSON	WI	54016
69	Polina	10229786	29-06-24-02-00708.0000	HAUGH PATRICK LAWRENCE &	149 SABAL DR	PORT MYERS BEACH	FL	33931
70	Polina	10229787	29-06-24-02-01005.0000	BLACKWELL JOHN R &	111 ISLAND DR	HOWEY IN THE HILLS	FL	34777
71	Polina	10229788	29-06-24-02-01006.0000	LANSHOWN HEIRS OF	72 BLM ST	MILTON	MA	02183
72	Polina	10229789	29-06-24-02-31000.0157	WHITTEN CARL L &	139 HERCULES DR	PORT MYERS BEACH	FL	33931
73	Polina	10229790	29-06-24-02-31000.0159	MACDONALD GELVIN JASON &				

EXHIBIT 6-7





LOT AREA: 12,234 SQ. FT.

HERCULES DRIVE

177 HERCULES DRIVE

SITE PLAN

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

2

MHK
ARCHITECTURE
& PLANNING

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

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LOT 1
177 HERCULES DRIVE
FORT MYERS BEACH, FLORIDA

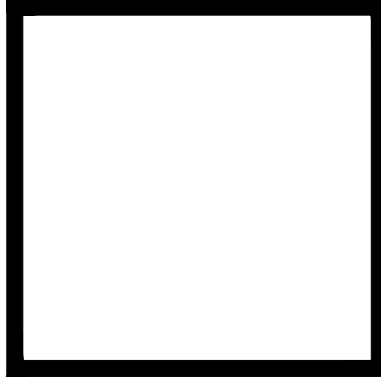
FLORIDA SEAL
REG# AR 16971
NOT FOR
CONSTRUCTION

ISSUE	DATE
DD SET	04-11-2022

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

PHASE DD
PR NO 18184

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LOT 1
177 HERCULES DRIVE
FORT MYERS BEACH, FLORIDA

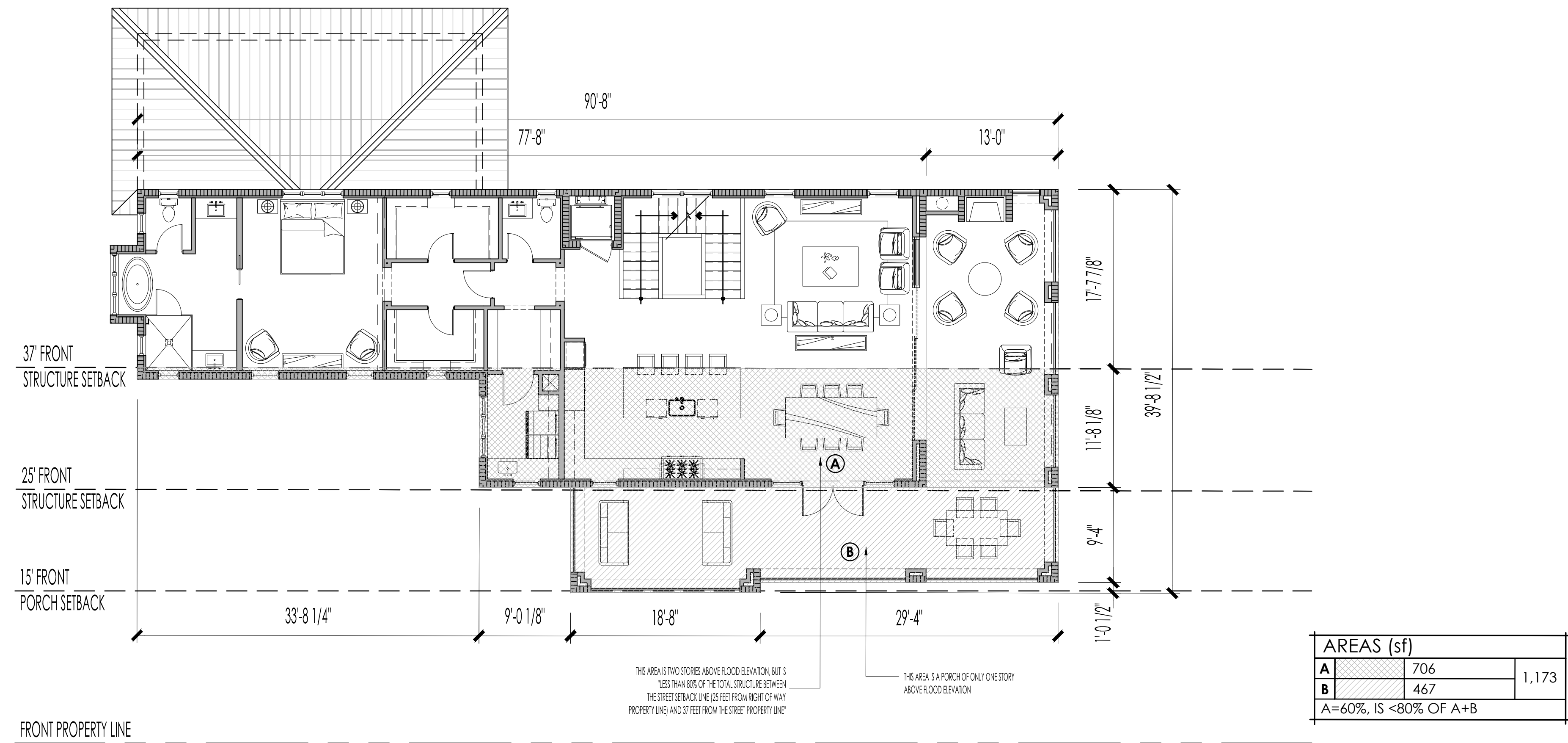
FLORIDA SEAL
REG# AR 16971
NOT FOR
CONSTRUCTION

ISSUE	DATE
DD SET	04-11-2022

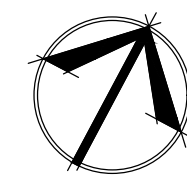
DRAWN BY: JS, JM, LN
CHECKED BY: JO, TL

PHASE DD
PR NO 18184

A2.1



SECOND FLOOR PLAN ①
SCALE: 1/8" = 1'-0"





COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

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

Site Address: 177 Hercules Drive

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

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

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

Email: cynthiashanosky@gmail.com Fax: _____

Current Zoning District: RS

Future Land Use Map (FLUM) Category: Low density

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

ACTION REQUESTED

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

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

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

Email: cynthiashanosky@gmail.com Fax: _____

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



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
- ☐ 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: _____

☐ Appeal of Administrative Action

☐ Vacation

☐ Right-of-Way

☐ Easement

☐ Other. Please Explain: _____

PART III – Waivers

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

Code Section: _____ Description: _____

Code Section: _____ Description: _____

Code Section: _____ Description: _____

PART IV – Property Ownership (Single Owner)

☒ Single Owner (individual or husband and wife)

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

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

Email: cynthiashanosky@gmail.com Fax: _____

AFFIDAVIT

APPLICATION IS SIGNED BY AN INDIVIDUAL OWNER OR APPLICANT

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

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

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

4/30/2021

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

Page 3 of 11



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.

Cynthia Shanosky
Signature

Cynthia Shanosky
Printed Name

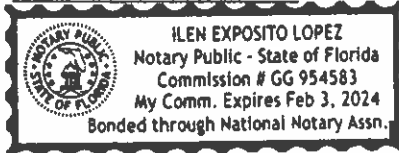
STATE OF Florida COUNTY OF Lee

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

presence OR ☐ online notarization, this 14th day of April, 2022, by

Cynthia A. Shanosky, who is personally known to me OR ☒ who has produced

DL# S620-101-67-671-0 as identification.



[Signature]
Notary Public Signature

PART V

Property Ownership (Multiple Owners)

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

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

DISCLOSURE OF OWNERSHIP INTEREST

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

Name and Address

Percentage Ownership



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

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

Name, Address and Office

Percentage of Stock

_____	_____
_____	_____
_____	_____
_____	_____

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

Name and Address

Percentage of Interest

_____	_____
_____	_____
_____	_____
_____	_____

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

Name and Address

Percentage of Ownership

_____	_____
_____	_____
_____	_____
_____	_____

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

Name, Address and Office

Percentage of Stock

_____	_____
_____	_____
_____	_____
_____	_____



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

Date of Contract: _____

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

Name	Address
_____	_____
_____	_____
_____	_____
_____	_____

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

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

_____ Signature	_____ Printed Name
--------------------	-----------------------

AFFIDAVIT

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

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

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



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

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

Signature

Title

Typed or Printed Name

Date

STATE OF _____ COUNTY OF _____

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

Seal

Notary Public Signature

PART VI- Property Information

A. Legal Description:

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

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

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

☒ Yes. Property identified in subdivision: Gulf Island Manor Subdivision

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

B. Boundary Survey:

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



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

C. Property Dimensions:

Width (please provide an average width if irregular in shape) 161.42 feet
Depth (please provide an average width if irregular in shape) 75.0 feet
Frontage on street: 161.42 feet Frontage on waterbody: 75.03 feet
Total land area: 12,183.58 ☐ acres ☒ square feet

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

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

E. Property Restrictions (check applicable):

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

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

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

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

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

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

Hello js malley,

I am a resident at 127 hercules drive.

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

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

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

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

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

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

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

Thank you for your attention to this matter,

Nancy Slager 127 Hercules Drive

Sent from [Mail](#) for Windows

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

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

Re: CASE: VAR20220031

Address: 177 Hercules Dr. Fort Beach, Florida 33931

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

Date: June 14, 2022 at 9AM

Town Council of Fort Myers Beach, Florida 33931

Dear Jason Smalley & Town Council,

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

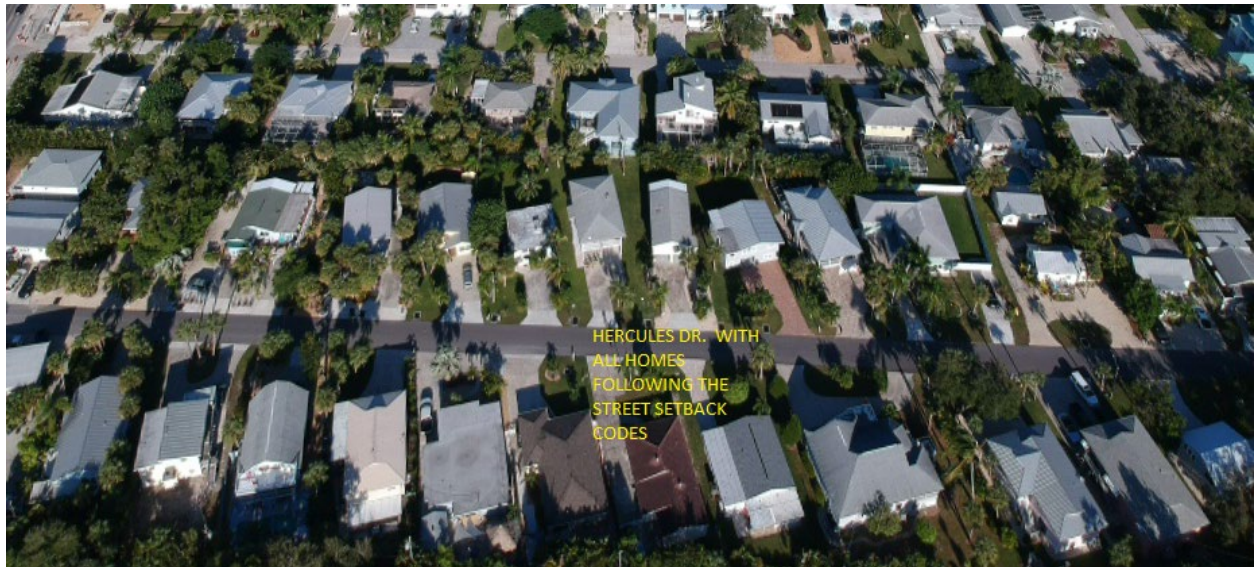
Under code 34-638 Most zoning setbacks require minimum setbacks between all buildings and structures & the STREET applying to other lots on that block or street. Many years ago, the previous owner of 190 Hercules applied for a variance to build closer to the street. It was voted down. The current owner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

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

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

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

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



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

Re: CASE: VAR20220031

Address: 177 Hercules Dr. Fort Beach, Florida 33931

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

Date: June 14, 2022 at 9AM

Town Council of Fort Myers Beach, Florida 33931

Dear Jason Smalley & Town Council,

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

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

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Thank you. Carol e Davis and Maurice Kabili. 117 Hercules Dr FMB, FL 33931
cell: 239-565-9773 or email drcaroledavis@gmail.com

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

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

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

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

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

On 2022-06-09 15:30, twoofus@netnitco.net wrote:

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

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

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

From: [R. Clinton Campbell](#)
To: [Jason Smalley](#)
Subject: Resident's feelings regarding variance request
Date: Friday, June 10, 2022 9:13:53 AM

Re: CASE: VAR20220031

Address: 177 Hercules Dr. Fort Beach, Florida 33931

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

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

Dear Jason Smalley & Town Council:

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

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

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

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

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

PLEASE VOTE "NO" TO THIS VARIANCE REQUEST

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

Dear Jason Smalley and Town Council of Fort Myers Beach,

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

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

For these reasons, we OPPOSE granting the variance.

Thank you,

Al and Mary Warren

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

Sent from EarthLink Mobile mail

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

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

Dear LPA members,

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

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

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

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

Why should someone who also owns the adjoining properties (4050 Bayside Road and 167 Hercules Drive) be allowed to go against every property owner that followed the setback codes for their properties on Hercules Drive? With the amount of land already owned by the Shinoskys, they should be able to plan a lovely new home on the multiple adjoining lots without asking for a Variance!!!

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

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

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

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

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

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

6/13/22

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: [Mary Warren](#)
To: [Jason Smalley](#)
Subject: Shanosky variances Hercules Dr
Date: Tuesday, July 26, 2022 10:49:32 AM

We own 140 Hercules Dr.

We oppose the Shanosky variances.

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

Mary Warren

Sent from my iPhone

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

Mr. Smalley:

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

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

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

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

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

Robert Campbell
105 Hercules Drive

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Fort Myers Beach LPA

May 23, 2022

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

To whom it may concern,

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

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

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

Sincerely yours,

Jason Quilling

A handwritten signature in black ink, appearing to be 'J Quilling', written over a horizontal line.

May 23, 2022

Fort Myers Beach Building Department

Town of Fort Myers

2525 Estero Drive,

Fort Myers Beach, FL 33931

Re: Support of building variances being requested

To whom it may concern,

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

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

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

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

Sincerely,

David and Valerie Valentine

190 Hercules Drive

David: 248-214-6370

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

----- Forwarded message -----

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

Good morning All,

Cynthia and Allen,

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

All the best to you!

Regards, James Scully & family.

Sent from my iPhone

> On Jun 10, 2022, at 5:10 PM, Cynthia Shanosky <cynthiashanosky@gmail.com> wrote:

>

> Hello neighbors,

> My name is Cynthia Shanosky and I live at the end of Hercules Drive. This week you received a postcard notifying you of variance requests that I have applied for with the Town. I

would like to take a moment to clarify some misconceptions about our building plans.

>

> The home my husband and I are designing will be one of the the smallest, new-construction, waterfront homes built in the last decade on our island. It is a beautiful old-Florida design, not the mega cubes we see all over the island lately. More importantly, we want to keep it back 51' to 54' from the water (not the required 25'). This will increase the view corridor of the bay for pier and park visitors, as well as Hercules Drive neighbors.

>

> However, in order to accomplish this, we need to ask the Town relief from our side and rear setbacks (this moves us closer to our lot on Hercules and our neighbors Jason and Tina on Bayside Drive). In addition, our left side setback will be three times everyone else's setback currently is on Hercules.

>

> If denied, these variances we will force us to move our house 25' to the water's edge (as the Town is recommending). We have grown to really love our large grassy area in front of our house these past 23 years, and we would really regret doing this.

>

> Another option is to sell to a builder. This I would regret even more! Builders only want to maximize building envelopes, use designs cheaper to build, and clear the earth of trees to maximize their profits.

>

> I just want to make myself available to anyone if they would like to talk with me. My cell phone number is (908) 208-6232.

>

> I look forward to hopefully having a conversation with you soon, and answering any questions that you may have. I am available all night tonight, as well as Saturday and Sunday mornings to talk.

> Best regards,

> Cynthia

>

> ps-If you agree with me, a letter of support (or retraction of descent letter) would be greatly appreciate. Regardless, thank you for at least hearing me out.

>

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Emerson Vidal

170 Hercules Drive

Fort Myers Beach, FL 33931

June 12, 2022

Re: Variance for 177 Hercules Dr.

To Whom it may concern:

We own the home 170 Hercules Dr.

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

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

Thank you,



Emerson Vidal



6/12/2022

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

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

Good afternoon,

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

Now with that said we would like to state that we support their application for the variances.

We have taken the time to look at what they are hoping to accomplish and **in our opinion their request will not negatively affect our street.**

Now we all know there are people who no matter what is requested they would say no, hopefully this will not be the case here.

Thank you,
Dennis & Carol Hennessy

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

Mr Smalley,

Case VAR20220031

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

Don and Marge Shanosky
157 Mandalay RD
Ft Myers Beach

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

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

Dear Mr. Smalley:

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

Sincerely yours,

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

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

Hello Jason,

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

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

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

Jason,

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

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

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

Hi

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

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

thanks

Claire Young

120 Gulf Island Drive Fort Myers Beach

717-926-6660

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

Mr Smalley,

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

Sincerely,
Mary Gail Engle
177 Mandalay Rd
Ft Myers Beach

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

To whom it may concern,

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

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

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

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

Melanie& Jeff Andrew
3909 Estero Blvd

Sent from my iPhone

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

Allen and Cindee,

Brenda and I support your plans for your new home project. We support your requested variance application.

You are great neighbors and we are looking forward to your completed project.

Regards,

David and Brenda Cox

-----Original Message-----

From: Allen Shanosky [mailto:allenshanosky@gmail.com]

Sent: Sunday, July 24, 2022 5:36 PM

To: Rocky Steimle

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

Hey neighbors,

Cindee and I are reaching the finish line with the town regarding our new home project. We are having our last town council meeting next Monday, August 1st. If you can send an email showing support for our variance application we would appreciate it. If not we understand. If anyone would like details of the application just give us a call at 908-208-6233.

The email to send to is jsmalley@fmbgov.com

Attn Jason Smalley

Thanks

Allen&Cindee

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

Jason Smalley:

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

Thank you!

Ray & Buff Salassa
126 Mandalay Rd
Fort Myers Beach FL

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From: [Judi Cloyd](#)
To: [Jason Smalley](#)
Subject: VAR20220031
Date: Monday, July 25, 2022 3:20:10 PM

Sir,

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

Thank You,
Judi Cloyd
Drennan Cloyd

--

JudiCloyd@gmail.com

JudiAtTheLake.com

(C) [573-480-7376](tel:573-480-7376)

(O) [573-693-1300](tel:573-693-1300)

(F) [573-693-1303](tel:573-693-1303)

[Search Here For ALL Lake Area Properties](#)



[5780 Osage Beach Pkwy Osage Beach, MO 65065](#)

[3287 Bagnell Dam Blvd Lake Ozark, MO 65049](#)

[Office-573-693-1300](#)

[Osage Beach~Fax-573-693-1303](#)

[Lake Ozark~Fax-573-693-9846](#)

[Search Here For ALL Lake Area Properties](#)

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

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

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

Judi and Drennan Cloyd
172 Gulf Island dr.

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

Sent from my iPhone

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

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

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

On Jul 25, 2022, at 1:19 PM, Tom Ashford <Rotarytom6740@comcast.net> wrote:

Allen,

Polky and I have been anxious to see your new home on the bay side of Fort Myers Beach. Now that we have seen a rendering we are now anxious to see the finished product. It looks fantastic and will be a beautiful addition to the Gulf Island Manor both from land and sea. We support your request to the Town of Fort Myers Beach and hope they will approve your design as submitted. Please let us know if there is anything else we can do to assist you in this wonderful and exciting project!

Polky and Tom Ashford
138 Mandalay Rd.

-----Original Message-----

From: Allen Shanosky <allenshanosky@gmail.com>
Sent: Sunday, July 24, 2022 5:36 PM
To: Rocky Steimle <srbsnbs@yahoo.com>
Cc: Steve Nease <steve@neaseinc.com>; Bill and Anita Turner <anibiltturner@yahoo.com>; Karen and Victor Santos <santoske@jmu.edu>; Judi & Drennen Cloyd <judicloyd@gmail.com>; Susan Crawford <crawfordlit@att.net>; Richard Calienes <rick@handapps.com>; Janet Garrity <jevamg@verizon.net>;

Claire Young <youngc7@dejazzd.com>; Madelyn Kuhn <maddylee1@aol.com>; Don & Marge Shanosky <donshanosky@comcast.net>; Leslie Moore <lestervet1@verizon.net>; Mary Ann Dunbar <marbilart@aol.com>; Tom Ashford <rotarytom6740@comcast.net>; Ray & Buff Salassa <raysalassa@yahoo.com>; Jeff & Melanie Andrew <jeff@garthandrews.com>; Tom & Nancy Connor <nconnor5@verizon.net>; Thomas Michael Herbert <th@thomasherbert.ch>; Lloyd & Kathy Cleaver <lloydcleaver@gmail.com>; Robert Savidge <rjsavidge@yahoo.com>; Susan and Andy Sabonfigli <sabonfigli@aol.com>; Heather & Jewell Patek <jewell@patekandassociates.com>; Tom (Diane) Otker <tomgotke@aol.com>; Cindee Shanosky <shanosky@optionline.net>; Kathy & Peter <mrpeter01@comcast.net>; Paul & Heather Shamo <pshamo1@yahoo.com>; Tom and Audry Stull <tomnaud@hotmail.com>; Steve & Lisa Sunby <sldumby@bellsouth.net>; M. Richey <mcrichey@gmail.com>; Seaside Property Info <info@seaside-property.com>; Bruce & Patsy Pieratt <pmpieratt@aol.com>; Debbie Schermerhorn <debschermerhorn@gmail.com>; Jason & Tina Quilling <jason@qtcommercial.com>; Bruce & Patsy Pieratt <bgbpieratt@aol.com>; Ed Danver <ecdanver@hotmail.com>; Hank Incognito <avenelpharmacy@gmail.com>; Marge Shanosky <margeshanosky@comcast.net>; Paula Burton <pburton85@aol.com>; Mary Gail Engle <mgengle@uky.edu>; Maria Elena Rubio <mer616@gmail.com>; Nicole Pieratt <npieratt@aol.com>; Mark & Chris Taglieri <tagtime2@comcast.net>; David Cox <dcox@pieratts.net>; Jeff Rupp <2rupps@gmail.com>; Brenda Cox <brendapcox@gmail.com>; Greg and Heather Warwin <ctdirect@att.net>; Tom (Diane) Otker <dsw12463@aol.com>; Ray & Buff Salassa <buffunny@yahoo.com>; Tammy Rubight (Bob) Gallo <tgallo@comcast.net>; David & Mardina Andrews <dpandrews@mymts.net>; Deborrah Groll & Al DePaolo <summerinoh@aol.com>; Bill Maher <billmaher@aol.com>; Bob Goodykoontz <rg150@msn.com>; Drennen Cloyd <dcloyd@adams.net>; Bob & Marlene McFarland <mbmcfarland2@centurylink.net>; David & Barbara Gammon <jdgammo@aol.com>; thomas.herbert@globus.ch; Polky Ashford <polky@roadrunner.com>; Mardina Andrews <mardina21@icloud.com>; Robin Gornto <robin.gornto@icloud.com>; Jeff & Melanie Andrew <mandrew1943@gmail.com>; Lois Eliasson <loeliasson1@gmail.com>; Sam & Kimberly McLaughlin <mclaughlinutah2@outlook.com>; Jane Swan <swaninsurance@gmail.com>; Steve Pieratt <s.pieratt@twc.com>; Heather Shamo <hpoppe05@gmail.com>

Subject: Support request

Hey neighbors,

Cindee and I are reaching the finish line with the town regarding our new home project. We are having our last town council meeting next Monday, August 1st. If you can send an email showing support for our variance application we would appreciate it. If not we understand. If anyone would like details of the application just give us a call at 908-208-6233.

The email to send to is jsmalley@fmbgov.com Attn Jason Smalley Thanks
Allen&Cindee

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

As a Gulf Island Drive resident, I want it known that I fully support the proposed improvements to the Shanosky properties

Rocky Steimle
138 Gulf Island Drive
954-649-5370

Sent from my iPhone

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NELSON, McPHERSON, SUMMERS & SANTOS, L.C.

ATTORNEYS AT LAW

P.O. BOX 1287

STAUNTON, VIRGINIA 24402-1287

12 NORTH NEW STREET

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

JESSICA L. ROBINSON
COURTNEY A. DYMOND

TELEPHONE (540) 885-0346

FACSIMILE (540) 885-2039

WEB SITE: www.nmssl.com

July 26, 2022

Via email only

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

Dear Mr. Smalley,

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

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

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

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

Sincerely yours,



Victor M. Santos

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

Dear Mr. Smalley,

We support the variance being requested by Allen and Cindee Shanosky regarding their residence on Hercules.

Aesthetically this home design is very pleasing to the neighborhood. We request you approve the variance.

Sincerely,

Tom and Paula Burton

107 Gulf Island Dr., Fort Myers Beach

3398 Matepaw Ln., Danville, IN

Paula 317-945-7482

Tom 317-474-3493

[Sent from the all new AOL app for iOS](#)

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

Sent from my iPhone

Begin forwarded message:

From: "Tammy T. Rubright-Gallo" <ttgallo@comcast.net>
Date: July 26, 2022 at 4:01:04 PM EDT
To: Allan & Cindee Shanosky <allenshanosky@gmail.com>
Subject: Home Project

Allan and Cindee –

Bob and I are very excited about your project. Like your design and feel it is very appropriate for our community and island style. We support your request to move forward with this endeavor. Looking forward to your completion.

Sincerely,

Your neighbors Tammy Rubright-Gallo and Bob Gallo

125 mandalay rd.

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

Hello,

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

Mardina and David Andrews

Sent from my iPhone

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

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

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1. **Requested Motion:**

Meeting Date: August 15, 2022

Approve a capital project from the general fund in the amount of \$43,967.28 for the Florida Museum of Natural History to provide archaeological services for the stabilization of the underground museum "Stories Beneath Our Feet" exhibit at Mound House.

Why the action is necessary:

What the action accomplishes:

Stabilization of Archaeological Resources at Mound House

2. **Agenda:**

ADMINISTRATIVE AGENDA

3. **Requirement/Purpose:**

4. **Submitter of Information:**

5. **Background:**

The existing archaeological resources in the underground museum "Stories Beneath Our Feet" exhibit at Mound House are at risk due to continuous weather episodes and high tides. Over the past 7 years, the Mound House Director has been working to complete a collaborative project with the University of Florida (Florida Museum of Natural History), University of Georgia, Florida Public Archaeology Network, Division of Historical Resources (State of Florida), Randell Research Center at Pineland, the Seminole Tribe of Florida Tribal Preservation Office and others, to create a project that will stabilize this valuable archaeological resource. The project scope attached will not only allow this resource to be preserved but allow new information to be added to the Mound House archaeological record that will be disseminated to the public through various outreach opportunities and collaborative projects.

Attachments:

1. Florida Museum Archaeological Proposal and Research Design to Mound House
_6_17_2022_Final
2. Signed Sole Source FM 2022

Financial Impact:

Funds for this project are available in the Mound House capital budget and are part of the general fund.

6. **Alternative Action**

Not approve

7. **Management Recommendations:**

Approve project

8. **Recommended Approval:**

Alison Giesen, Director of Cultural, Parks & Recreation
Alison Giesen, Director of Cultural, Parks & Recreation
John R Herin Jr, Town Attorney
Amy Baker, Town Clerk

Created/Initiated - 8/5/2022
Approved - 8/5/2022
Approved - 8/10/2022
Approved - 8/10/2022

***SCOPE OF WORK (PROPOSAL) and RESEARCH DESIGN:**

**ARCHAEOLOGICAL PRESERVATION, INVESTIGATION, AND OUTREACH AT
CALUSA SITE 8LL4, MOUND HOUSE, TOWN OF FT. MYERS BEACH, FL**

Presented to:

**Alison Giesen
Director
Culture, Parks and Recreation
Town of Fort Myers Beach
451 Connecticut St
Fort Myers Beach, FL 33931**

Submitted By:

**Michelle J. LeFebvre
Principal Investigator
Florida Museum of Natural History
Dickinson Hall, 1659 Museum Road
University of Florida
Gainesville, FL 32611**

**Charles C. Cobb
Co-Principal Investigator
Florida Museum of Natural History
Dickinson Hall, 1659 Museum Road
University of Florida
Gainesville, FL 32611**

**Victor D. Thompson
Co-Principal Investigator
Laboratory of Archaeology/Georgia Archaeological Site File
1125 Whitehall Rd.
University of Georgia
Athens, GA 30602**

June 17, 2022

Introduction

This proposal is in response to a request for a Scope of Work from Mound House, Town of Fort Myers Beach, FL to conduct rescue archaeological research, cultural heritage preservation, and public outreach at site 8LL4 within Mound House exhibit “Stories Beneath Our Feet”. The mission of Mound House is to preserve, interpret, and share 2000 years of cultural and environmental history of Fort Myers Beach and southwest Florida.

Project purpose and goals

Mound House, located on Estero Island and owned by the Town of Fort Myers Beach, FL, is an archaeological and historical site with a museum, including native gardens and a kayak launch to the Great Calusa Blueway paddling trail. Located off Estero Bay, several environmental and cultural programs are offered to educate all who visit about the unique history. The museum exhibits are focused on the preservation and interpretation of the Indigenous and more recent cultural heritage of Estero Bay. Significantly, the museum is located upon archaeological site 8LL4 (Mound House site) and includes an exhibit featuring an exposed profile of the original Calusa shell mound that once dominated the site as well as “open” archaeological excavation units demonstrative of an active, scientific archaeological excavation. The shell mound profile and excavation units are the centerpiece of the museum’s “Stories Beneath Our Feet” exhibit and part of the museum’s larger mission to educate the public about southwest Florida’s rich and dynamic Calusa heritage and past environment, as well as how archaeologists conduct controlled, systematic excavations to learn about the past. However, both the exposed profile and excavation units are highly vulnerable to disturbance due to fluctuating environmental conditions impacting Estero Island. For example, increasingly catastrophic storm events (e.g., Hurricane Irma) and frequent water intrusion due to rising sea levels are causing erosion of the excavation units and shifts in the exposed profile, leading to the loss of contextual and structural integrity of the archaeological deposits. Within the context of the Mound House’s aims to educate the public about the Calusa and ethical, professional archaeological practice, the mitigation of site loss within the exhibit are of immediate concern and priority for Mound House and the Town of Fort Meyers Beach.

In a collaborative effort led by the Florida Museum (FM), University of Florida and the University of Georgia (UGA), we propose to conduct a one-week rescue archaeology excavation focused on the portion of 8LL4 exposed on the first floor of Mound House. Previous excavations at Mound House that led to the archaeological excavation unit portion of the “Stories Beneath Our Feet” exhibit resulted in five 1x1 m units excavated to “sterile” levels and five units remaining with approximately 30 cm of archaeological sediments present. The five units with remaining archaeological sediments are experiencing ongoing disturbance and our goal is to complete the excavation of them prior to their total destruction. Similarly, we propose an updated documentation of the exposed shell mound profile including limited excavation to combat the impacts of shifting sediments and help with stabilization efforts. The ultimate goals of the proposed mitigation excavations are as follows:

- 1) To document and record the increasingly threatened Calusa archaeological deposits below Mound House.

- 2) Provide an archaeological basis from which site preservation efforts and decisions made by Mound House leadership and the Town of Fort Meyers Beach can be made following best practices in mitigation of cultural heritage loss.
- 3) Contribute to the public outreach and educational content of Mound House programming focused on conveying professional and ethical archaeological practice and Calusa cultural heritage documentation and preservation at the site.
- 4) Although the work is limited in scope, link the Mound House investigations to research conducted at other Calusa sites. In turn, this effort can contribute to a better understanding of the landscape heritage of Indigenous cultures of southwest Florida.

In addition to the ultimate goals, more proximate goals include the follow research aims:

- 1) Documentation of the basal component of the shell mound through the excavation of the remaining five units
- 2) Establish an early chronology of site habitation and the inception of mound construction/midden accumulation within the context of Calusa occupation of the site
- 3) Paleoenvironmental reconstruction of early site habitation
- 4) Elucidate Calusa biocultural diversity at the site through archaeological evidence of resource harvesting, use, and management in comparison with other Calusa sites
- 5) Contribute to Mound House archaeological interpretations of site's history
- 6) Use the investigations as a “teaching moment” to alert the public to the importance of the archaeological sites in the region, and raise awareness regarding potential threats (i.e., sea level rise) and the need to conserve and preserve these sites.

The proposed project, including fieldwork and laboratory methods of analysis, are based on consultation with the Seminole Tribe of Florida (STOF) Tribal Historic Preservation Office (THPO), located in Big Cypress, FL. The project PIs are committed to open and transparent consultation and discussion throughout the duration of the proposed project and subsequent dissemination of data and information, and outreach efforts.

Archaeological Methods

Fieldwork

In consultation with the STOF THPO, we agree that field excavations and processing will be closed to the public. Field excavations and archaeological documentation will focus on the five remaining 1x1m units present in the open exhibit space as well as a portion of the exposed mound profile (Figure 1). The remaining sediments in the five test units are estimated to be approximately 30cm thick. However, the edges of the target units are not uniform or clean, showing evidence of erosion and collapse due to water inundation and sediment shifts through time (Figure 2). We anticipate variable volume in sediment across units and will reference a

newly established datum point to ensure all measurements and sediment volumes are comparable across the target area.

Documentation of the mound profile will depend on the current stability of the profile at the start of fieldwork. Selective sampling of specimens (e.g., carbonized plant materials, charcoal) for possible radiocarbon dating via stratigraphic layer will only occur within the context of documenting instability among sediments (e.g., undercut sections of the profile vulnerable to loss or dislodged sediment). Our primary goal is to map the profile for preservation purposes and assess potential for sequential radiocarbon dating.

All excavated materials will be processed on site. The initial plan is for archaeological sediments to be excavated by trowel and/or thin shovel skimming following 10 cm arbitrary levels and screened through ¼-inch screen mesh for the recovery of artifacts. Likewise, 25 x 25 cm bulk samples will be excavated within each 10 cm level for offsite processing and specialized screening methods for the recovery of finer-sized constituents such as botanical specimens and small-sized (<1/4-inch) faunal specimens. In the event clear stratigraphic layers are evident in the remaining test unit sediments, we will assess on-site the appropriateness of excavation by stratigraphy in relation to any possible evidence of sediments shifts or mixing.

After processing, artifacts will be sorted by type and collected in 4 mm bags following Mound House curation standards and cataloged using the University of Georgia's In-Terris database. An initial inventory of artifact and specimen types excavated will be provided to the STOF. Excavated materials will be transported to the FM or UGA for specialized analyses (see below) and the final curation of the artifacts will be accommodated at Mound House.

Laboratory analyses

Artifact analysis will be supervised by the project PIs and conducted by technical experts at the University of Florida, University of Georgia, and Rattlesnake Master, LLC (Dr. Elizabeth Horton). As described above, the research goals associated with the proposed project necessitate specialized analyses. Thompson will coordinate radiocarbon dating of carbonized seeds or wood at UGA's Center for Applied Isotope Studies. Under the supervision of and in collaboration with LeFebvre, a specialist in Florida zooarchaeology will analyze vertebrate and invertebrate specimens and artifacts recovered from the 1/4 -inch screen as well as those present in bulk samples. LeFebvre and Thompson will coordinate with Elizabeth Horton, a specialist in archaeobotany and founder of Rattlesnake Master, LLC, for the analysis of the bulk sample sediments with a focus on the identification and quantification of botanical specimens. LeFebvre will collaborate with Neill Wallis, Associate Curator of Archaeology (FM), for the pottery analysis. LeFebvre will collaborate with Nicole Cannarozzi, Environmental Archaeology Laboratory (FM), for the otolith analysis.

Care of ancestors

The care of ancestors is a top priority for the project leaders and entire team and we will follow Florida Statute 872.05 in the event we come upon ancestors during the fieldwork. In addition, we will contact appropriate authorities at the Florida Bureau of Archaeological Research (FL BAR) (State Archaeologist, Kathryn Miyar, Ph.D.) and the STOF THPO (Domonique deBeaubien, RPA). Both Miyar and deBeaubien have stated their willingness to also serve in an on-call

capacity to advise on the possible recovery of ancestor remains during excavation, sediment processing, as well as laboratory work. The response protocol to the presence of ancestors will be to stop all work, consult with appropriate authorities (e.g., FL BAR, STOF THPO), produce a review of all materials as quickly as possible, return all materials to the context of deposition, and backfill the excavation unit.

A professional bioarchaeologist will be on-site throughout all field excavations and processing to lead recognition of possible ancestor remains present in the excavated sediments. In the event we come upon ancestors *in situ*, all excavation will cease, and the units promptly covered from view. No photographic documentation will take place or be shared. Nor will knowledge of the presence of ancestors be made available to the public. We will proceed in accordance with state and tribal recommendations from FL BAR and STOF THPO.

In the event we come upon ancestors during on-site sediment processing, the processing will cease, and associated sediments and artifacts bagged together. The provenience of origin for the ancestor remains will be immediately noted and all excavations will stop, and units will be covered until advised on how to proceed. No photographic documentation will take place or be shared. Nor will knowledge of the presence of ancestors be made available to the public. We will follow the same consultation protocol with FL BAR and STOF THPO as described above for ancestors discovered *in situ*.

The project team recognizes that other types of archaeological finds recovered during excavation may be deserving of care similar to that of ancestors, including but not limited to complete vessels, fragmented or whole pipes, or other artifact types subject to cultural patrimony protections and care. In the event we encounter objects known or suspected to be items of cultural patrimony or associated with mortuary contexts or practices we will contact STOF THPO for on-call consultation and recommendations on how to proceed.

In the event ancestors or objects of cultural patrimony are identified during laboratory analyses, the supervising project leaders (e.g., LeFebvre, Thompson, and Cobb) will immediately contact FL BAR and STOF THPO to report the finding and consult on how to best proceed.

Broader Impacts: Museum Public Outreach

Upon completion of fieldwork, we propose an opportunity to share a presentation at the Ah-Tah-Thi-Ki Museum or another venue on Big Cypress to review the outcomes of the fieldwork and provide a point of feedback and STOF community engagement in the project's next steps of lab analyses, site preservation, and museum outreach.

Furthermore, we propose a collaboration with Alison Giesen (Mound House, Director), whereby under Giesen's supervision Mound House Museum outreach will be conducted by Mound House Educators following the National Association for Interpretation best practices (https://www.interpnet.com/nai/nai/resources/Standards_Practices.aspx). We propose a collaborative and consultation-based framework between Mound House and the STOF for drafting and shaping outreach content and messaging. We envision centering our outreach goals based on the proposed archaeological and preservation project around two educational objectives: 1) communicate to the public the significance of the Mound House site and Calusa

heritage to the STOF and 2) educate the public about ethical, professional, culturally sensitive archaeological research and preservation. However, we recognize and respect that such outreach must not be planned within a singular perspective or idea of project significance, in this case that of the project PIs. Therefore, we propose the establishment of an open dialog between Mound House (led by Giesen) and the STOF THPO, HERO, and Ah-Tah-Thi-Ki Museum to shape the focus and content of outreach efforts based on the results of the proposed project.

We propose that a collaborative and consultation-based framework between the STOF and Mound House be the basis for collaborative outreach efforts at Mound House, Big Cypress (if invited by the STOF), and beyond, including with local organizations such as: the Florida Public Archaeology Network, Florida Gulf Coast University, University of Florida (including the Randell Research Center), Lee County Schools, Collier County Schools, Friends of the Mound House, and others to maximize breadth of community impact. Outreach programming efforts may include, but not necessarily limited to, public lecture series and special events, school programs, and educational programming for adults and families that may be offered within the regular schedule of Mound House programming.

Another medium of outreach potentially available to the proposed project is the filming of a documentary focused on the site and project. Funding pending, the local Public Broadcasting Station (WGCU) has expressed interest in partnering with Mound House. As a first step to pursuing this possibility, we propose a discussion between Giesen with the STOF THPO to think critically about 1) what the narrative of such a documentary would be, 2) the parameters of filming and video documentation of the site, and 3) the scope of participation among project PIs, project personnel, and interested parties from the STOF.

Finally, we also propose an innovative and collaborative outreach effort aimed at producing a publicly accessible and public audience-oriented publication focused on sharing the story of the proposed project from a holistic perspective beginning with the dialogue and consultation between the project PIs and STOF THPO, as well as Florida state laws and statutes. We envision a comic book-style publication either emulating those included in the NAGPRA Comics (<https://nagpracomics.weebly.com/>) series or possibly being included in the series. The comic series is produced by archaeologist Dr. Sonya Atalay (Anishinaabe-Ojibwe; University of Massachusetts Amherst), museum curator Dr. Jen Shannon (University of Colorado Boulder), and archaeologist John Swogger (archaeological illustrator) and began as a grant-funded series focused on telling “true stories about repatriation from Native Nations’ perspectives through applied comics” (<https://nagpracomics.weebly.com/about-us.html>). The series has been well received and successful in its distribution and use by Native Nations, universities, professional conferences, and more.

Within the context of the proposed project, we envision collaborating across the STOF, Mound House, FM, and UGA to produce a popular-style comic book utilizing NAGPRA Comics, other vendors, or internal UF resources to produce the publication. The goal would be to highlight the proposed Mound House project process, including: its conception, the role and spirit of NAGPRA as a foundation for planning fieldwork, and the centrality of STOF perspectives and consultative feedback from the start. We propose a collaborative effort where the drafting of the story arc and messaging centers the STOF to ensure the publication is created in service and

benefit to the Tribe and can be used as a point of outreach communication and education illustrating and conveying the inextricable link between the Calusa and STOF through time.

Archaeology PIs and Personnel

Drs. Michelle LeFebvre (FM, PI), Victor Thompson (UGA, CO-PI), and Charles Cobb (FM, CO-PI) will lead the archaeological investigation, research, and documentary preservation. They will also support Giesen in outreach. Giesen, LeFebvre, Thompson, and Cobb will all engage in ongoing communication and consultation with STOF THPO and FL BAR for the duration of the project. Dr. Carey Garland (UGA; other personnel, bioarchaeologist) will be the project bioarchaeologist. Archaeobotanist Dr. Elizabeth Hornton will be contracted through Mound House to conduct analysis of botanical specimens. Dr. Neill Wallis (senior personnel) will be the project pottery expert and Nicole Cannarozzi (senior personnel) the otolith analyst. Mound House field assistants will include professional archaeologists Sara Ayers-Rigsby and Natalie de La Torre Salas (Florida Public Archaeology Network/Florida Atlantic University; other personnel).

Site visits

The excavation site and fieldwork will be open to STOF members and personnel at any time. We will do our best to fund or help to fund lodging costs for site visitors. We also remain open to participation in fieldwork by STOF THPO personnel or STOF members.

The excavation site will be closed to members of the general public during excavation.

Project Deliverables:

- 1) Upon completion of fieldwork, an initial inventory of finds (Excel spreadsheet) will be provided to Mound House.
- 2) Upon completion of laboratory analyses, primary data (Excel spreadsheet) will be provided to Mound House.
- 3) A summary project report will be submitted to Mound House by December 31, 2022. During this time we will be happy to provide interim updates or answer any questions.
- 4) Ongoing communication regarding the development of outreach and educational messaging.
- 5) Ongoing communication regarding the drafting of professional archaeological manuscripts for publication and a commitment to facilitating collaboration with Mound House stakeholders and the Town of Fort Myers Beach.
- 6) Return of all excavated artifacts, specimens, and samples to Mound House for permanent curation

Project Start Date: September 19, 2022

Project End Date: January 18, 2024

Schedule for Project Milestones:

Fieldwork: By September 26, 2022

Laboratory Analysis: September 26, 2023

Summary Project Report: December 31, 2023

2022-2023 Budget Justification

Salaries and Wages

OPS Zooarchaeological assistant: 1 @ \$25/hr x 240 hours (1.4 effort months) To conduct faunal identification and data analysis	6000
Total Wages	6000

Fringe

Summer fringe on \$6000 (@7.2%, rate for OPS work)	Total Fringe 432
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Domestic Travel

Travel is for the purpose of fieldwork in Fort Myers Beach, Florida for 6 Travelers: PI LeFebvre, Co-PI Cobb, Co-PI Thompson, OP Garland, OP Ayers-Rigsby, and OP de La Torre Salas.	
Gasoline (for two field vehicles)	750
Lodging for six excavation crew members (7 nights @ \$200/day per person) (Hotel, Fort Myers Beach, FL)	8400
Food (7 days @ \$36/day per person)	1512
Total Travel	10662

Other Expenses

(1) Laboratory Analysis

Conducted by UF Florida Museum Environmental Archaeology Laboratory: Isotopic analysis of eight (30 samples each) catfish otoliths (process and analyze 240 samples @ \$15/sample; \$387 materials)	3987
Conducted by UF Florida Museum Ceramic Technology Laboratory: Pottery analysis (LA-ICP-MS analysis of archaeological pottery and clay samples; 30 samples @ \$15/sample; \$500 written report)	950

(2) Outreach/Broader Impacts

Artifact digitization and 3D printing Conducted by UF Florida Museum Digital Imaging Division: (up to 12 objects @ \$150.00/per object; 3D scanning, printing, Painting of five copies per object for outreach programs with Mound House, Florida Museum and Randell Research Center, Florida Public Archaeology Network, San Marco Historical Society)	1800
Total Other Expenses	6737

Publication Costs

Comic book production with NAGPRA Comics, other vendor, or internal UF resources	5000
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	Total Publication Costs	5000
<u>Summary Breakdown:</u>		
Total Fieldwork and Laboratory Analysis	22031	
Total Outreach/Broader Impact	6800	
Total Direct Cost	28831	
UF IDC (52.5%)	15136	
Project Total	\$43,967	

**JUSTIFICATION FOR OTHER THAN FULL AND OPEN COMPETITION:
SOLE SOURCE ACQUISITION**

1. Contracting Organization: The Town of Fort Myers Beach is responsible for this action. The Department of the Town Requesting is Cultural Resources- Mound House.

2. Description of Action: This procurement request is to justify the request for goods or services for the justification of a sole source vendor.

3. Description of Goods or Services: The purpose of this request is

Provide professional archaeological services to stabilize the archaeological resource in the underground museum at Mound House.

The vendor, Florida Museum of Natural History will be responsible for conducting archaeological excavations and providing public outreach support for "Stories Beneath Our Feet" exhibit at Mound House.

4. Authority: The authority permitting the sole sourcing of services is Town of Fort Myers Beach Ordinance 2007-01, Section 5, subsection C page 6 " Department Director determines in writing, after conducting a good faith review of available sources that there is only one source". "The requisitioning department shall submit to the finance department written justification as to why there is only one source."

5. Applicability Of Authority: Company X Florida Museum of Natural History is the only qualified vendor in the United States that can meet the specific needs of conducting archaeological excavations and the justification is as follows:
See attached scope of work.

6. Efforts to Obtain Competition: Review of 1 companies or products was undertaken and attached to this document.

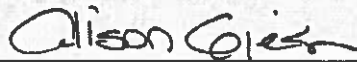
7. Fair and Reasonable: Comparison of cost for similar products are attached but due to the nature of the good or service we require Company X Florida Museum of Natural History be awarded due to these reasons provided:
Approval by the Seminole Tribe of Florida.

8. Technical Requirements / Personnel Certification: We hereby certify that the technical requirements and certifications are accurate.

9. Department Director Certification: I hereby certify to the best of my knowledge this justification is accurate and complete.

Allison Giesen

Name

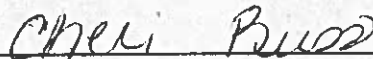


Signature

8/5/2022

Date

Finance Review:



If over \$20,000 Must go to Town Council for approval

Agenda Date 8/15/2022

Attach Copy for Audit

1. Requested Motion:

Meeting Date: August 15, 2022

Approve purchase orders/contracts in excess of \$25,000 for FY2023 in the areas of Environmental Services, Planning/Zoning, Building Services, and Community Development Administration, together with such changes as may be acceptable to the Town Manager and approved as to form and legality by the Town Attorney, and authorize the Town Manager to execute the Agreements on behalf of the Town.

Why the action is necessary:

These agreements will provide continuity of professional services for Community Development, Building Services, Planning/Zoning, and Environmental Services. The vast majority of these costs are paid by the users of these services.

What the action accomplishes:

Provides professional services for the Town in the areas of Building Services, Planning/Zoning, and Environmental Services, as well as Administration for FY23. These contracts, if approved, will begin at the start of the fiscal year, October 1, 2022 through September 30, 2023.

2. Agenda:

ADMINISTRATIVE AGENDA

3. Requirement/Purpose:

Other

4. Submitter of Information:

5. Background:

The below referenced Employment Agreements are included within the proposed budget for FY2023. These four Employment Agreements exceed \$25,000 (the Town Manager's expenditure authority) and therefore require Town Council approval:

Authorize the Town Manager to execute an Employment Agreement with Chadd Chustz F/T Environmental Services Manager at the rate of \$40/Hr 4-5 days/week, and authorize the Town Manager to execute the required documentation.

In accordance with RFQ-20-22-AD, approve STA # 6 and #7 with Jason Green and Sarah Propst via Axis Infrastructure in the not to exceed annual amount of \$135,000 for Professional Services in the area of Planning/Zoning, Workforce Housing, and Comprehensive Plan/LDC coordination and authorize the Town Manager to execute the required documentation.

In accordance with RFQ-20-22-AD, approve STA # 1 with Calvin, Giordano & Associates in the not to exceed annual amount of \$325,000 for Professional Services in the area of Building Services (including plan review), and authorize the Town Manager to execute the required documentation.

Authorize the Town Manager to execute an Employment Agreement with Daphnie Saunders F/T Community Services Administrator at the rate of \$55/Hr 4-5 days/week, and authorize the Town Manager to execute the required documentation.

Attachments:

Financial Impact:

6. Alternative Action

7. Management Recommendations:

Approve the purchase orders/contracts with Axis Infrastructure, Calvin, Giordano & Associates, Chadd Chustz, and Daphnie Saunders for FY2023.

8. Recommended Approval:

Amy Baker, Town Clerk
John R Herin Jr, Town Attorney
Amy Baker, Town Clerk
Roger Hernstadt, Town Manager

Created/Initiated - 8/10/2022
Approved - 8/11/2022
Approved - 8/11/2022
Final Approval - 8/11/2022

1. **Requested Motion:**

Supplemental Magistrate

Meeting Date: August 15, 2022

Why the action is necessary:

What the action accomplishes:

2. **Agenda:**

ADMINISTRATIVE AGENDA

3. **Requirement/Purpose:**

Other

4. **Submitter of Information:**

5. **Background:**

The current Special Magistrate's office is located in Ft. Lauderdale. In order to be cost effective, this often means skipping a month(s) between hearings.

This delays code cases from progressing on a timely basis.

It should be more efficient to have a southwest Florida magistrate available for small agendas.

This will not increase the budget for the Special Magistrate. It will speed up compliance.

Attachments:

1. Patrick Neale Resume - 2022
2. Neale Special Magistrate Agreement - 2022-2023(136797274.1)-C

Financial Impact:

6. **Alternative Action**

7. **Management Recommendations:**

8. **Recommended Approval:**

Patty Prevost, Code Supervisor/STR Coordinator
Daphnie Bercher, Community Services Administrator
John R Herin Jr, Town Attorney
Amy Baker, Town Clerk
Roger Hernstadt, Town Manager

Created/Initiated - 8/9/2022
Approved - 8/9/2022
Approved - 8/11/2022
Approved - 8/11/2022
Final Approval - 8/11/2022

RESUME

PATRICK H. NEALE
5470 BRYSON CT #103
NAPLES, FL 34109
TELEPHONE: (239) 642-1485
FACSIMILE: (239) 642-1487

EDUCATION

- B.S. 1973
Chemistry, American Chemical Society Professional
University of Miami, FL
Concentration in environmental and analytical chemistry. Recipient of
two National Science Foundation grants.
- J.D. 1978
University of Miami, FL, School of Law, Night Program.
Concentration in commercial and environmental law.

LEGAL EXPERIENCE

1997 – Present
Patrick H. Neale Attorney at Law/Patrick Neale & Associates
Naples and Marco Island, FL – Naples Primary office in 2011.
Practice concentrating on administrative law, contractor licensing and
contractor law, land use, small business, construction, real estate
transactions, bankruptcy and debt relief. Representing clients before local,
state and federal courts and agencies. Represented Collier County
Contractors' Licensing Board for seventeen years and Building Board of
Adjustment and Appeals.

2022 – Present
Special Magistrate for Collier County Code Enforcement Division

2019 – Present
FGCU School of Hospitality and Management. Adjunct Professor of Law

2018 – Present
Florida Qualified Arbitrator

2017 – Present
Florida Supreme Court Certified Circuit Civil Mediator

1993-1997

Lazarus & Neale

Marco Island, FL

Attorney at Law with concentration on real estate, land use, zoning, governmental and administrative law.

1991-1993

Attorney at Law - Sole Practitioner

Marco Island, FL

1987-1991

Mancilla & Betz

Attorney at Law - Of Counsel

Marco Island, FL

PROFESSIONAL AFFILIATIONS

Bar Admissions:

Florida Bar – 1978

Member of Administrative Law, Environmental and Land Use Law, Real Property Probate Law, Government Lawyer, City, County & Local Government Law, Business Law, Alternative Dispute Resolution and Trial Law Sections.

Florida Bar Committees – Aviation Law (Vice-Chair,) Senior Lawyer and Voluntary Bar Liaison Committees

Middle District Florida – 2009

Southern District Florida – 2016

Professional Memberships:

Collier County Bar Association – Member and Member of Board of Directors.

National Association of Consumer Bankruptcy Attorneys
American Bankruptcy Institute

HONORS

- Iron Arrow Honor Society - University of Miami - 1972, Highest Honor Awarded at University of Miami
- Marco Island YMCA – Community Leader of the Year 2002
- Marco Island Chamber of Commerce – Lifetime Achievement Award – 2009
- Collier County Education Foundation – Man of Distinction 2010
- Legal Aid Society – Attorney of the Year 2017, Leadership Award 2012. Attorney of the Month – twice 2012
- Leadership Collier – Distinguished Alumni Award 2014
- Naples Daily News – 25 over 50 Award 2016

COMMUNITY ACTIVITIES

- Avow Hospice of Collier County - Board member and Secretary 2016 – present
- Marco Island Area Chamber of Commerce - Board 1989-1992 and 1999 - Present; Secretary - 2000; President Elect - 2001; President - 2002; Chairman - Governmental Affairs Committee 1990-1992; 1996-2018
- Naples Equestrian Challenge – Board member and chair of development committee – 2014-2015
- Naples Pathways Coalition - Board member 2015-2016. Co-president 2015-2016.
- Greater Naples Chamber of Commerce – Member Board of Directors, 2004 - 2008 ; Board Member NACPAC - 1992-1994
- United Way of Collier County - Board 1998-2004; 2012-2015, President 2000-2001; Vice President – Board Development – 2002 – 2004
- Foreclosure Task Force – Joint effort of Bar Association, Realtors, Chamber and Government – 2008- present.
- Leadership Collier Foundation – Class of 1992; Board member 2005 – 2013; Chair– 2006-2008; Alumni Committee - 1995; Steering Committee – 1993; Alumni Strategic Planning Committee – 2002 – present; Leadership Collier Advisory Committee 2006-2007.
- Leadership Institute (A program of Leadership Collier Foundation) - Delegation of 2001; Program Chair – 2003 - 2015.
- Youth Haven - Board of Trustees - 1998-2012; worked on legal issues of care and other matters; Vice President/President Elect – 2003 – 2004, President 2006-2008
- Searching for Solutions Institute – Board member 2008-2009.
- YMCA of Marco Island - Board - 1990-1999 - President 1992
- Hospice of Naples - Capital Campaign Committee – 2002 - 2007
- University of Miami - Southwest Florida Hurricane Club; Board Member; President - 1996- 2004
- American Cancer Society - Marco Island Chapter - Board Member - 1991-1996
- Collier County Citizen's Advisory Committee on Growth Management Plan 1989
- Collier County Productivity Committee - 1990-1993
- Collier Citizens Council – Member Board of Directors 2012 – 2013
- Collier County Environmental Advisory Committee
- Collier County Environmental Advisory Board
- Collier County Development Services Advisory Committee
- Collier County Ad Hoc Homeless Committee
- Collier County Ad Hoc Manatee Committee
- Marco Island Vision Planning Advisory Committee – 1990-1992
- Immokalee Friendship House Board

INDEPENDENT CONTRACTOR AGREEMENT TO PERFORM SPECIAL MAGISTRATE SERVICES

This Independent Contractor Agreement (the “Agreement”) is effective October 1, 2022, between the **Town of Fort Myers Beach, Florida** (herein referred to as the “Town”) and **Patrick Neale, Esq.** (herein referred to as “Contractor”).

RECITALS

1. Chapter 162, *Florida Statutes*, provides that municipalities may contract with special Magistrates as an alternative method of hearing code enforcement cases; and
2. The Contractor is not a charter officer of the Town; and
3. The Contractor is not an “officer” pursuant to Article II, Section 5(a) of the Florida Constitution; and
4. The Contractor serves at the pleasure and at the will of the Town Council; and
5. The Town Council has determined that the Contractor is duly qualified and has the requisite expertise to perform Special Magistrate Services as described below for the Town.
6. Contractor and the Town agree that it is to their mutual advantage to have Contractor provide the Services to the Town as provided in applicable state law and Town ordinances and resolutions.

AGREEMENT

A. DESCRIPTION OF WORK: The Contractor agrees to provide the Town with Special Magistrate Services (the “Services”) including hearing and adjudicating code enforcement cases assigned to Contractor on an “as needed” basis. Contractor’s Services shall be provided at such place and time and in a manner as mutually agreed upon by Contractor and the Town. Contractor will perform its Services to the highest professional standards and using best practices as customarily accepted within the administrative law field. Contractor is not required to maintain any specified daily or weekly schedule, and is not required to meet any quotas, however, Contractor must be available to provide Services to the Town promptly upon notification thereof by the Town. If requested, Contractor shall attend periodic meetings held to provide informational updates regarding code compliance. Services hereunder shall be performed by Patrick Neale, Esq. personally. Contractor shall not have discretion to hire others, whether at Contractor’s expense or otherwise to assist in completing Services without the Town’s express written consent. At the conclusion of each hearing, Contractor shall prepare a written order, including findings of fact and conclusions of law, which Contractor shall furnish to the Town for distribution by Town to the parties.

B. LICENSES AND CERTIFICATIONS: Contractor ensures that he shall, at all times during the term of this Agreement, maintain any and all approvals, licenses, and/or

certifications required to provide the Services, including without limitation a Florida Bar license, and shall furnish copies of such documents to the Town. The Contractor shall immediately notify the Town if any approvals, licenses, or certifications are restricted, revoked or limited in any way during the term of this Agreement. Contractor further agrees that at all times it will comply with any or all applicable laws, rules, regulations and/or ordinances when performing the Services.

C. **PAYMENT:** Contractor shall charge the Town through the Town's billing process for the Services performed each month during the first five business days of the subsequent month. Invoices shall be itemized on a per case basis to reflect the below fee Services. Contractor agrees to the following rates for Services:

- Maximum fee for case preparation, per case- \$95.00 (one half hour of hourly rate);
- Maximum fee for conducting case hearing, including continuances and any mitigation hearing per case- \$190.00, with a 2-hour minimum;
- Maximum fee to issue findings of facts, per case- \$95.00 (one half hour of hourly rate);
- External post-hearing activities in defense of findings of facts- \$47.50 (one quarter hour of hourly rate) per 15 minutes;
- No additional fees or costs shall be permitted.

Upon receipt of a proper invoice, the Town will process payments in accord with Chapter 218 *Florida Statutes*.

D. **USE OF EQUIPMENT:** Contractor shall be solely responsible for providing all supplies and materials needed to perform the Services. The Town will not reimburse Contractor for any expenses that Contractor incurs pursuant to this Agreement. Notwithstanding the foregoing, the Town will provide an A.D.A. compliant location and recording device(s) for each hearing.

E. **RELATIONSHIP OF PARTIES:** This Agreement creates an independent contractor relationship between Contractor and Town. Contractor understands and agrees Contractor is not an employee, director, or officer of Town. The Town will not supervise the work of the Contractor and Town expects Contractor to utilize independent knowledge and judgement in all respects, including, by example and not limitation, as to Town's Code and regulatory requirements. Contractor is solely responsible for the manner and method by which it provides the Services contemplated hereunder and for exercising discretion in this regard. During the term of this Agreement, Contractor will report to the Town Manager or his designee, who will act as the liaison between Contractor and the Town. Contractor is not an agent of the Town for any purpose. As an independent contractor, Contractor is not entitled to any benefits that the Town provides its employees, specifically including, by example and not limitation, sick leave, vacation, workers' compensation, or any insurance coverage. Contractor shall be solely responsible for withholding and paying any or all Federal, State, and local taxes, Social Security payments, and any other applicable deductions, taxes, or payments, including, but not limited to, unemployment and

other payroll taxes relating to the Services performed hereunder. This is not an exclusive agreement. Town may contract with other parties for similar services. Contractor may provide similar services to others.

F. **LIABILITY:** Contractor assumes all risk connected with the Services or any activity performed pursuant to this Agreement. Contractor also accepts all responsibility for the condition of materials, tools and equipment used in the performance of Services provided by Contractor. Contractor does hereby absolutely release, waive, discharge, covenant not to sue, and agrees to indemnify, defend, release and hold harmless the Town and its council, officers, directors, employees, and agents, and their respective successors, and assigns, from all liability to Contractor or its employees, representatives, or agents, for any and all losses, expenses or damages, and any claim for damages on account of death, personal injuries or property damage sustained by Contractor or its employees, representatives or agents, or any claims by third parties arising out of the action or failure to act of Contractor or its employees, representatives or agents, while rendering Services.

G. **DURATION:** Either party may terminate this Agreement for any reason with 30 days written notice. The Town may terminate this Agreement immediately if Contractor breaches its obligations under this Agreement or engages in conduct which is immoral, illegal or which the Town deems to adversely affect the reputation or interests of the Town. If not earlier terminated, the Agreement shall remain in force commencing on October 1, 2022, through September 30, 2023.

H. **NO AUTHORITY TO BIND:** Contractor shall have no authority to contract for or legally bind the Town with respect to any matter, including but not limited to the subject matter of the Agreement.

I. **CHOICE OF LAW AND JURY TRIAL WAIVER:** This Agreement and all related matters shall be governed by, construed, and enforced in accordance with the laws of the State of Florida. Contractor and the Town agree to waive any right to a trial by jury in any litigation over this Agreement or any supplement thereto, including any litigation arising out of Contractor's independent contractor status. Venue for any and all claims or actions arising out of or related to this Agreement shall be in Lee County, Florida.

J. **SURVIVAL:** All representations, indemnities and other relevant provisions of this Agreement shall survive and continue in full force and effect, notwithstanding any termination or expiration of this Agreement for any reason.

K. **ENTIRE AGREEMENT:** This Agreement constitutes the entire understanding and agreement of the parties, and shall not be altered, modified, or amended unless such alteration, modification, or amendment is set forth in writing and signed by the parties.

L. **ATTORNEY'S FEES:** In the event that any of the parties institutes any action or proceeding against the other party (including such affiliates) relating to this Agreement, the prevailing party shall be entitled to reimbursement for all costs and expenses incurred

in connection therewith, including payment of all reasonable attorney's fees and costs through all appellate levels.

M. INSURANCE: Contractor shall secure and maintain throughout the duration of this Agreement insurance of such type and in such amounts as required herein. The underwriter of such insurance shall be qualified to do business in the State of Florida and have agents upon whom service of process may be made in the State of Florida. The name of the insured on all required policies shall be the same as Contractor. If requested by the Town, the insurance coverage shall be primary insurance with respect to the Town, its officials, employees, agents, and volunteers. The insurance coverage shall include a minimum of:

- Worker's Compensation and Employer's Liability Insurance. If applicable, coverage to apply for all employees at minimum statutory limits as required by Florida Law. If Contractor is exempt from the statutory requirement to maintain Worker's Compensation insurance, it shall indemnify and hold the Town harmless for employee injury or claims.
- Comprehensive Automobile and Vehicle Liability Insurance. If applicable, motor vehicle liability insurance, including applicable no-fault coverage, with limits of liability of not less than \$1,000,000.00 per occurrence, combined single limit for Bodily Injury Liability and Property Damage Liability. Coverage shall include all owned vehicles, all non-owned vehicles, and all hired vehicles.
- Comprehensive General Liability. Comprehensive general liability coverage with limits of liability of not less than \$1,000,000.00 per occurrence combined single limit for Bodily Injury Liability and Property Damage Liability.

Contractor will add the Town as an additional named insured on all insurance policies applicable under this Agreement. Certificates of Insurance shall be provided to the Town at the time of execution of this Agreement and certified copies provided if requested. Each policy certificate shall be endorsed with a provision that not less than thirty (30) calendar days' written notice shall be provided to the Town before any policy or coverage is cancelled or restricted. If the Contractor fails to deliver said certificates to the Town in the above stated manner, the Town may cancel this Agreement or, but shall not be obligated to, procure the required policies, and bill the cost directly to the Contractor, who agrees to pay the bill within thirty (30) days after it has been received.

N. SOVEREIGN IMMUNITY: The Town is a public entity entitled to sovereign immunity pursuant to Florida law. Nothing in this agreement shall be considered a waiver of the City's sovereign immunity provided by §768.28, *Florida Statutes*.

O. PUBLIC RECORDS: Notwithstanding anything contained herein, as provided under Section 119.0701, *Florida Statutes*, if Contractor: (i) provides a service; and (ii) acts on behalf of Town as provided under Section 119.011(2) *Florida Statutes*, Contractor shall comply with the requirements of Section 119.0701, *Florida Statutes*, as it may be amended from time to time. The Contractor is specifically required to:

- Keep and maintain public records required by the Town to perform services as provided under this Agreement.
- Upon request from the Town's Custodian of Public Records, provide the Town with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, *Florida Statutes*, or as otherwise provided by law. The Contractor further agrees that all fees, charges, and expenses shall be determined in accordance with Town fees associated with public records requests.
- Ensure that public records that are exempt, or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement term and following completion of the Agreement if the Contractor does not transfer the records to the Town.
- Upon completion of the Agreement, the Contractor shall transfer, at no cost to the Town, all public records in possession of the Contractor unless notified by Town's representative/liaison, on behalf of the Town's custodian of public records, to keep and maintain public records required by the Town to perform the service. If the Contractor transfers all public records to the Town upon completion of the Agreement, the Contractor shall destroy any duplicate public records that are exempt, or confidential and exempt from public records disclosure requirements.
- If the Contractor keeps and maintains public records upon completion of the Agreement, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically by the Contractor must be provided to Town, upon request of the Town's custodian of public records, in a format that is compatible with the information technology systems of Town, and at no cost to Town.

Failure of the Contractor to comply with the requirements of this article shall be a material breach of this Agreement. Town shall have the right to exercise any and all remedies available to it, including but not limited to, the right to terminate this Agreement for cause. The Contractor acknowledges that it has familiarized itself with the requirements of Chapter 119, *Florida Statutes*, and other requirements of state law applicable to public records not specifically set forth herein.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, PLEASE CONTACT THE TOWN CLERK AT 2525 ESTERO BLVD., FORT MYERS BEACH, FL 33931, BY E-MAIL AT AMY@FMBGOV.COM OR BY TELEPHONE AT 239-765-0202.

P. **E-VERIFY:** As a condition precedent to entering into this Agreement, and in compliance with Section 448.095, *Florida Statutes*, Contractor shall, register with and use the E-Verify system to verify work authorization status of all employees hired after January 1, 2021. The following terms and conditions also apply:

- The Contractor shall require each of its subcontractors to provide it with an affidavit stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien. Contractor shall maintain a copy of the subcontractor's affidavit as part of and pursuant to the records retention requirements of this Agreement.
- Town, Contractor, or any subcontractor who has a good faith belief that a person or entity with which it is contracting has knowingly violated Section 448.09(1), *Florida Statutes* or the provisions of this section shall terminate the contract with the person or entity.
- Town, upon good faith belief that a subcontractor knowingly violated the provisions of this section, but Contractor otherwise complied, shall promptly notify Contractor and Contractor shall immediately terminate the contract with the subcontractor.
- A contract terminated under the provisions of this section is not a breach of contract and may not be considered such. Any contract termination under the provisions of this section may be challenged pursuant to Section 448.095(2)(d), *Florida Statutes*. Contractor acknowledges that upon termination of this Agreement by the Town for a violation of this section by Contractor, Contractor may not be awarded a public contract for at least one (1) year. Contractor further acknowledges that Contractor is liable for any additional costs incurred by the Town as a result of termination of any contract for a violation of this section.
- Contractor or subcontractor shall insert in any subcontracts the clauses set forth in this section, including this subsection, requiring the subcontractors to include these clauses in any lower tier subcontracts. Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in this section.

Q. **SCRUTINIZED COMPANIES:** Contractor certifies that he is not listed on the Scrutinized Companies that Boycott Israel List, Scrutinized Companies with Activities in Sudan List, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, nor is engaged in business operations with Syria. In accordance with Section 287.135, *Florida Statutes*, as amended, a company is ineligible to, and may not, bid on, submit a proposal for, or enter into or renew a contract with any agency or local governmental entity for goods or services if:

- In any amount, at the time bidding on, submitting a proposal for, or entering into or renewing such contract, the company is on the Scrutinized Companies that Boycott Israel List, created pursuant to Section 215.4725, *Florida Statutes*, or is engaged in a boycott of Israel; or

- If in the amount of One million dollars or more, if at the time of bidding on, submitting a proposal for, or entering into or renewing such contract, the company (a) is on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, created pursuant to Section 215.473, Florida Statutes; or (b) is engaged in business operations in Syria.

TOWN OF FORT MYERS BEACH

CONTRACTOR

By: _____
Roger T. Hernstadt, Town Manager

Patrick Neale, Esq.,

Date Signed: _____

Date Signed: _____

1. **Requested Motion:**

Meeting Date: August 15, 2022

Appoint a member of the Town Council to serve on the canvassing board for the Town of Fort Myers Beach November 8, 2022 general election.

Why the action is necessary:

Per Town Charter

What the action accomplishes:

2. **Agenda:**

ADMINISTRATIVE AGENDA

3. **Requirement/Purpose:**

Other

4. **Submitter of Information:**

5. **Background:**

Per the Fort Myers Beach Charter, Section 5.09; The town canvassing board shall be composed of a Town Council Member, selected by Town Council, who is not a candidate for reelection, the Town Manager and the Town Clerk, who shall act as chairperson. At the close of polls of any town election, or as soon thereafter as practicable, the canvassing board shall meet at a time and place designated by the chairperson and shall proceed to publicly canvass the vote as shown by the returns then on file in the Office of the Supervisor of Elections. The Board shall prepare and sign a certificate containing the total number of votes cast for each person or other measure voted on. The certificate shall be placed on file with the Town Clerk.

Attachments:

Financial Impact:

6. **Alternative Action**

7. **Management Recommendations:**

8. **Recommended Approval:**

Amy Baker, Town Clerk
Amy Baker, Town Clerk
John R Herin Jr, Town Attorney
Amy Baker, Town Clerk
Roger Hernstadt, Town Manager

Created/Initiated - 8/10/2022
Approved - 8/10/2022
Approved - 8/11/2022
Approved - 8/11/2022
Final Approval - 8/11/2022

1. **Requested Motion:**

Meeting Date: August 15, 2022

Appointment to the Local Planning Agency (LPA)

Why the action is necessary:

Fills open positions on Advisory boards

What the action accomplishes:

2. **Agenda:**

ADMINISTRATIVE AGENDA

3. **Requirement/Purpose:**

Other

4. **Submitter of Information:**

5. **Background:**

The Local Planning Agency currently has one vacancy on their 7 member committee. Three Fort Myers Beach residents are requesting to be appointed to the vacant seat.

Attachments:

1. 2022 Eckmann, Douglas - LPA
2. 2022 Sudduth, Donald - LPA
3. 2022 Voivedich, Susan - LPA

Financial Impact:

6. **Alternative Action**

7. **Management Recommendations:**

8. **Recommended Approval:**

Eva Spychalski, Administrative Assistant
Amy Baker, Town Clerk
John R Herin Jr, Town Attorney
Amy Baker, Town Clerk
Roger Hernstadt, Town Manager

Created/Initiated - 7/6/2022
Approved - 7/21/2022
Approved - 7/27/2022
Approved - 8/10/2022
Final Approval - 8/10/2022



JUN 21 2022

Received by: _____

Town of Fort Myers Beach
Advisory Boards and Committees Application

Complete one form for each application/committee appointment. Your application will be a public record subject to disclosure on request.

Please type or print clearly. Do not leave blanks.

Today's Date:

Name:
Last First Middle initial

Telephone Number:

Email Address:

Home Address:

Mailing Address

(if different from home address):

Are you currently serving on any of the Town's committees? Yes ☒ No ☐

If yes, which committee(s)?

If yes, when is your term expiration?

I am applying for appointment to: (Check one)

- ☐ Anchorage Advisory Committee
- ☐ Audit Committee
- ☐ Bay Oaks Recreational Campus Advisory Board
- ☐ Community Resource Advisory Board
- ☐ Cultural and Environmental Learning Center Advisory Board
- ☐ Historic Preservation Advisory Committee
- ☒ Local Planning Agency
- ☐ Marine Resources Task Force
- ☐ Nuisance Abatement Board
- ☐ Public Safety Committee

Have you been convicted of a felony, an offense involving moral turpitude while in office? Yes ☐ No ☒

Do you have unpaid fines or liens due the Town? Yes ☐ No ☒

Are you a registered voter within the Town's jurisdiction? Yes ☒ No ☐

Are you a resident within the Town's jurisdiction?

Yes ☒ No ☐

Are you an owner of real property within the Town's jurisdiction?

Yes ☒ No ☐

Are you currently serving on a board, authority, committee or commission for another governmental agency?

Yes ☐ No ☐

If yes, what board, etc., and since when?

Why are you seeking appointment to this board or committee?

Very interested in the Comprehensive Master Plan Update and in Community Development on general

Community Involvement:

Anchorage Advisory Committee

Former member of St Peters Church Council, 6 years as Church treasurer

Interests / Activities:

Registered Professional Engineer in Florida

Board Certified Environmental Engineer, American Academy of Environmental Engineers and Scientists

Board Certified Water Resource Engineer, American Academy of Water Resource Engineers

You may attach a resume in addition to the above information.

Do you qualify for Special Exemptions per § 119.071(4)(d)3., F.S.

Yes ☐ No ☒

If yes, fill out [Public Records Exemption Request](#) form and submit with the application.

I swear or affirm that all information on this form is true and accurate.

Signed



Date

June 19, 2022

Please return this form to the Town Clerk's Office, Town of Fort Myers Beach, 2525 Estero Boulevard, Fort Myers Beach, FL 33931 www.fmbgov.com

Office Use Only:

Appointed: Yes _____ No _____

DATE: _____

Douglas H, Eckmann, P.E., BCEE, D.WRE, F.ASCE

120 Sabal Drive
Fort Myers Beach, FL 33931
Phone: 941-374-1010

Home E-mail: doug.eckmann@gmail.com

Work E-mail: Douglas.Eckmann@kimley-horn.com

Current Employment:

Associate and Senior Project Manager

Kimley-Horn and Associates, Inc.
1412 Jackson Street
Fort Myers, FL 33901

Kimley-Horn is a civil engineering consulting firm

Registrations and Licenses:

Licensed Profession Engineer in Florida No. 47259
Board Certified Environmental Engineer No. 88-10054
Board Certified Water Resource Engineer No. 00647

Elected to Fellow in the American Society of Civil Engineers (ASCE)
Diplomate of the American Academy of Environmental Engineers and Scientists (AAEES)
Diplomate of the American Academy of Water Resource Engineers (AAWRE)

Education:

Bachelor of Science in Mechanical Engineering (BSME)
Northwestern University (Evanston, IL) / 1971

Master of Business Administration (MBA)
St. Edward's University (Austin, TX) / 1984

Focus:

Civil-Environmental engineering professional specializing in water resources and water pollution control in Southwest Florida since 1993.

Douglas H. Eckmann, P.E., BCEE, D.WRE, F.ASCE

Senior Project Manager / Practice Builder / Associate Kimley-Horn and Associates, Inc.

Professional Assignments

Business and Engineering Manager

Practice Builder, Vice President, Associate, Client Opportunity Manager, Principal-in-Charge/Strategic Account Manager/Project Director/Large Project Manager/Project Quality Manager/Program Manager/Director of Engineering/Senior Program Manager/Senior Project Manager

Education

Bachelor of Science Mechanical Engineering (BSME)
Northwestern University (Evanston, IL) / 1971

Master of Business Administration (MBA)
St. Edward's University (Austin, TX) / 1984

Registrations and Licenses

Professional Engineer

Florida 1993 (47259)

Texas 1981 (49971) – Inactive Status as of 2014

Board Certified Environmental Engineer in Water and Wastewater Engineering – *American Academy of Environmental Engineers and Scientists* 1989 (88-10054)

Board Certified Water Resource Engineer – *American Academy of Water Resource Engineers* 2014 (00647)

Certified in *AwwaRF Sandia RAM-W* risk assessment methodology for Public Water Systems (2002)

Certified by AECOM as MAP (Managing AECOM Projects)
Project Management Instructor/Trainer (2012)

Professional Tenure

40+ years

Douglas H. Eckmann, P.E., BCEE, D.WRE, F.ASCE

Professional Affiliations

Fellow, American Society of Civil Engineers (ASCE) *Member 1991-present, elected to Fellow in 2015*
ASCE Environmental and Water Resources Institute (EWRI)
Diplomate, Water Resource Engineer (AAWRE) *2014-present*
Diplomate, Environmental Engineer (AAEES) *1989-present*
Judge 2010 Excellence in Environmental Engineering Awards
Judge 2011 Excellence in Environmental Engineering Awards
Judge 2012 Excellence in Environmental Engineering Awards
Judge 2017 Excellence in Environmental Engineering Awards
Judge 2018 Excellence in Environmental Engineering Awards
Judge 2019 Excellence in Environmental Engineering Awards
Member, Water Environment Federation (WEF) *1981-present*
WEF Life Member Award 2019
Member, American Water Works Association (AWWA) *1983-present*
AWWA Silver Water Drop Award 2013
AWWA Life Member Award 2018
Member, Florida Water Environment Association (FWEA) *1993-present, designated Life member 2019*
Water Resources, Reuse and Resiliency Comm (WR3) 2014-2018
Member, National Society of Professional Engineers (NSPE) *1982-present, designated Life Member 2019*
Member, Florida Engineering Society (FES) *1993-present*
FES Professional Concerns Committee Calusa Region 6 Representative 2011-present
FES Professional Development Committee 2010 - 2013
Florida Institute of Consulting Engineers (FICE) *2013-2018*
American Council of Engineering Consultants of Florida (ACEC-FL) *2018-present*
FICE/ACEC Florida Water Resources Committee 2016 - present
Founding Member (1994), Southeast Desalting Association (SEDA) *1994-present*
Member, Florida Section of the American Water Resource Association (AWRA-Florida) *2018-present*



Town of Fort Myers Beach
Advisory Boards and Committees Application

Complete one form for each application/committee appointment. Your application will be a public record subject to disclosure on request.

Please type or print clearly. Do not leave blanks.

Today's Date:

Name:
Last First Middle initial

Telephone Number:

Email Address:

Home Address:

Mailing Address

(if different from home address):

Are you currently serving on any of the Town's committees? Yes ☐ No ☒

If yes, which committee(s)?

If yes, when is your term expiration?

I am applying for appointment to: (Check one)

- ☐ Anchorage Advisory Committee
- ☐ Audit Committee
- ☐ Bay Oaks Recreational Campus Advisory Board
- ☐ Community Resource Advisory Board
- ☐ Cultural and Environmental Learning Center Advisory Board
- ☐ Historic Preservation Advisory Committee
- ☒ Local Planning Agency
- ☐ Marine Resources Task Force
- ☐ Nuisance Abatement Board
- ☐ Public Safety Committee

Have you been convicted of a felony, an offense involving moral turpitude while in office? Yes ☐ No ☒

Do you have unpaid fines or liens due the Town? Yes ☐ No ☒

Are you a registered voter within the Town's jurisdiction? Yes ☒ No ☐

Are you a resident within the Town's jurisdiction?

Yes ☒ No ☐

Are you an owner of real property within the Town's jurisdiction?

Yes ☒ No ☐

Are you currently serving on a board, authority, committee or commission for another governmental agency?

Yes ☐ No ☒

If yes, what board, etc., and since when? Doyon Utilities since 2019, Entegrus, Inc. since

Why are you seeking appointment to this board or committee?

My interest in FMB dates back over 41 years when I first started vacationing here with my family and fell in love with the island. As a year-round resident with a background in publicly provided utilities throughout multiple municipalities and small communities around North America, I am hopeful I bring a unique set of expertise with a balanced approach to growth while preserving the interests of our wildlife and residents.

Community Involvement:

My wife and I have volunteered around the community, mostly helping elderly residents and The Beach Kids Foundation. I have served as Director 2010-2014, President 2014-2016 and Vice President since 2016 on the condo association BOD at Island Winds, including committee chair roles as needed.

Interests / Activities:

Maintaining a balance in communities by recognizing that not all decisions can please or meet everyone's expectations but can address challenges while preserving as many interests as possible. I enjoy food with live music, boating, walking, biking, pickleball, volleyball, (formerly) seeing every movie at The Beach Theatre, looking at the sand and water and observing all the awesome wildlife in our area.

You may attach a resume in addition to the above information.

Do you qualify for Special Exemptions per § 119.071(4)(d)3., F.S.

Yes ☐ No ☒

If yes, fill out Public Records Exemption Request form and submit with the application.

I swear or affirm that all information on this form is true and accurate.

Signed



Date

8/10/2022

Please return this form to the Town Clerk's Office, Town of Fort Myers Beach, 2525 Estero Boulevard, Fort Myers Beach, FL 33931 www.fmbgov.com

Office Use Only:

Appointed: Yes _____ No _____

DATE: _____

Don Sudduth Bio

Don Sudduth is Executive Vice President and Chief Growth Officer of Corix Infrastructure, Inc. He is responsible for leading the growth of all US and Canadian partnerships serving wholesale and retail water, wastewater and energy customers as well as the US Military, Universities and other commercial customers. Don has over 26 years in the utility industry with his current employment relationship dating back to 2006.

Don holds an Executive MBA from Crummer Graduate School, Rollins College; a Bachelor of Science in Engineering & Technology from Purdue University; and has certifications as an ISO 9000 Lead Auditor and in the Six Sigma approach to business efficiency processes. His professional affiliations include American Waterworks Association, National Association of Regulatory Utility Commissioners (NARUC), National Association of Water Companies (NAWC) and various charitable organizations.

Don lives and works from his home on Ft. Myers Beach, FL where he and his family have enjoyed island life for over 41 years and as year-round residents since 2016.



Town of Fort Myers Beach
Advisory Boards and Committees Application

Complete one form for each application/committee appointment. Your application will be a public record subject to disclosure on request.

Please type or print clearly. Do not leave blanks.

Town of Fort Myers Beach

AUG 10 2022

Received by: _____

Today's Date: 06/26/22

Name: Susan Voivedich P
Last First Middle initial

Telephone Number: (239) 292-2101

Email Address: sue.voivedich@comcast.net

Home Address: 292-294 Fairweather Lane

Mailing Address

(if different from home address):

Are you currently serving on any of the Town's committees? Yes ☐ No ☒

If yes, which committee(s)?

If yes, when is your term expiration?

I am applying for appointment to: (Check one)

- ☐ Anchorage Advisory Committee
- ☐ Audit Committee
- ☐ Bay Oaks Recreational Campus Advisory Board
- ☐ Community Resource Advisory Board
- ☐ Cultural and Environmental Learning Center Advisory Board
- ☐ Historic Preservation Advisory Committee
- ☒ Local Planning Agency
- ☐ Marine Resources Task Force
- ☐ Nuisance Abatement Board
- ☐ Public Safety Committee

Have you been convicted of a felony, an offense involving moral turpitude while in office? Yes ☐ No ☒

Do you have unpaid fines or liens due the Town? Yes ☐ No ☒

Are you a registered voter within the Town's jurisdiction? Yes ☒ No ☐

Are you a resident within the Town's jurisdiction?

Yes ☒ No ☐

Are you an owner of real property within the Town's jurisdiction?

Yes ☒ No ☐

Are you currently serving on a board, authority, committee or commission for another governmental agency?

Yes ☐ No ☒

If yes, what board, etc., and since when?

Why are you seeking appointment to this board or committee?

Mainly to be of service. Also to help preserve the heritage of this town as the founders envisioned it, as well as contribute to its future direction.

Community Involvement:

I really don't have much here on the beach. Through my healthcare employment, I participated in Multiple Sclerosis, American Heart and Lung Associations, and Breast Cancer walks.

Interests / Activities:

Cooking, sailing/boating, reading, working out, beach walking, new to beach biking.

You may attach a resume in addition to the above information.

Do you qualify for Special Exemptions per § 119.071(4)(d)3., F.S.

Yes ☐ No ☒

If yes, fill out Public Records Exemption Request form and submit with the application.

I swear or affirm that all information on this form is true and accurate.

Signed

Susan P. Voivodich

Date

8/10/2020

Please return this form to the Town Clerk's Office, Town of Fort Myers Beach, 2525 Estero Boulevard, Fort Myers Beach, FL 33931 www.fmbgov.com

Office Use Only:

Appointed: Yes _____ No _____

DATE: _____

SUSAN VOVEDICH

292-294 Fairweather Lane, Fort Myers Beach, FL 33931 239/2922101

sue.voivedich@comcast.net

PROFESSIONAL SUMMARY

Recently retired Registered Respiratory Therapist who has lived on Fort Myers Beach since 1993. Have owned home since 1998. Registered voter. Wish to contribute to Town of Fort Myers Beach by participation on an Advisory Committee, preferably LPA or Public Safety Committee.

Work History

Respiratory Therapist - Level II

NCH Healthcare System, North Collier Campus, Naples FL 239/610-4377 1/2000-9/2020

- Provide all levels of Respiratory Care to outpatients and inpatients in Emergency Department, ICU/PICU, Recovery Room and general medical floors. Also Pulmonary Rehabilitation trained.
- Responder to all Code Blue and SWAT calls each shift.
- Charge Therapist on many shifts
- Extensive ventilator management and intubation assistance
- BLS/ACLS/PALS certified
- Awards - 2014 Respiratory Therapist of the Year, Key Contributor Award 2012

Supervisor Respiratory Rehab Services

Southwest Florida General Hospital - Fort Myers, FL 03/1993-12/1999

- Supervision of Respiratory Care delivered to residents/patients of 14 rehab/extended care facilities in Cape Coral, Ft Myers, Lehigh, Naples, Punta Gorda/Port Charlotte, and Sarasota.
- Coordinated scheduling and orientation of staff of 30
- Payroll submission and Medicare documentation
- BLS instructor for rehab facility nursing/ancillary staff

EDUCATION

- Bachelor of Science Respiratory Therapy, Our Lady of Holy Cross College - New Orleans, LA 1983

1. **Requested Motion:**

Meeting Date: August 15, 2022

Appointment to the Historic Preservation Advisory Board (HPAC)

Why the action is necessary:

What the action accomplishes:

2. **Agenda:**

ADMINISTRATIVE AGENDA

3. **Requirement/Purpose:**

4. **Submitter of Information:**

5. **Background:**

The Historic Preservation Advisory Board currently has one vacancy on their 7 member board. Fort Myers Beach resident Michael Yost is requesting to be appointed to the remaining seat.

Attachments:

1. 2022 Yost, Michael - HPAC

Financial Impact:

6. **Alternative Action**

7. **Management Recommendations:**

8. **Recommended Approval:**

Eva Spychalski, Administrative Assistant
Amy Baker, Town Clerk
John R Herin Jr, Town Attorney
Amy Baker, Town Clerk
Roger Hernstadt, Town Manager

Created/Initiated - 5/17/2022
Approved - 5/26/2022
Approved - 5/31/2022
Approved - 7/21/2022
Final Approval - 7/26/2022



Town of Fort Myers Beach
Advisory Boards and Committees Application

Complete one form for each application/committee appointment. Your application will be a public record subject to disclosure on request.

Please type or print clearly. Do not leave blanks.

Today's Date:

Name:
Last First Middle initial

Telephone Number:

Email Address:

Home Address:

Mailing Address

(if different from home address):

Are you currently serving on any of the Town's committees? Yes ☐ No ☒

If yes, which committee(s)?

If yes, when is your term expiration?

I am applying for appointment to: (Check one)

- ☐ Anchorage Advisory Committee
- ☐ Audit Committee
- ☐ Bay Oaks Recreational Campus Advisory Board
- ☐ Community Resource Advisory Board
- ☐ Cultural and Environmental Learning Center Advisory Board
- ☒ Historic Preservation Advisory Committee
- ☐ Local Planning Agency
- ☐ Marine Resources Task Force
- ☐ Nuisance Abatement Board
- ☐ Public Safety Committee

Have you been convicted of a felony, an offense involving moral turpitude while in office? Yes ☐ No ☒

Do you have unpaid fines or liens due the Town? Yes ☐ No ☒

Are you a registered voter within the Town's jurisdiction? Yes ☒ No ☐

Town of Fort Myers Beach

MAY 16 2022

Received by: _____

Are you a resident within the Town's jurisdiction?

Yes ☒ No ☐

Are you an owner of real property within the Town's jurisdiction?

Yes ☐ No ☒

Are you currently serving on a board, authority, committee or commission for another governmental agency?

Yes ☐ No ☒

If yes, what board, etc., and since when?

Why are you seeking appointment to this board or committee?

I have studied the beach's history since I moved here over a decade ago and have developed a haunted historical tour. I feel that I have achieved a knowledge comparable to the the "experts" of the history of the area in certain "areas". I enjoy sharing the historical features of the island and look forward to many years of continued learning of the history of the area

Community Involvement:

I am a member in good standing with the Chamber of Commerce and run a successful historical tour here on Ft. Myers Beach

Interests / Activities:

Magic, illusion and mentalism, billiards, darts, beach life, grilling, beach history, paranormal studies

You may attach a resume in addition to the above information.

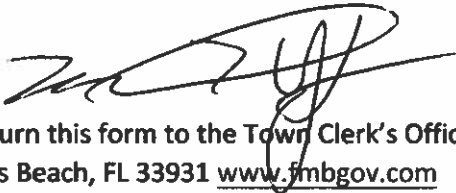
Do you qualify for Special Exemptions per § 119.071(4)(d)3., F.S.

Yes ☐ No ☐

If yes, fill out Public Records Exemption Request form and submit with the application.

I swear or affirm that all information on this form is true and accurate.

Signed



Date

05/12/20

Please return this form to the Town Clerk's Office, Town of Fort Myers Beach, 2525 Estero Boulevard, Fort Myers Beach, FL 33931 www.fmbgov.com

Office Use Only:

Appointed: Yes _____ No _____

DATE: _____

1. **Requested Motion:**

Meeting Date: August 15, 2022

Landscape Maintenance for the foot of Matanzas Pass Bridge with Florida Department of Transportation (FDOT) proposed improvements.

Why the action is necessary:

What the action accomplishes:

Maintenance of the base of the bridge landscaping

2. **Agenda:**

TOWN MANAGER'S ITEMS

3. **Requirement/Purpose:**

Other

4. **Submitter of Information:**

5. **Background:**

Landscaping is proposed to be installed at the Seafarer's intersection (base of the bridge). This portion of road will be turned over to Lee County upon project completion. TPI has already agreed to maintenance of the area.

Lee County's proposed agreement incorporates the Town and has the Town assuming all of the liability of the area.

Staff recommends:

- Lee County contract with TPI
- If cannot contract with TPI, provide the maintenance by County staff from adjacent parks or private contractor whereby the Town could cost share.

Attachments:

Financial Impact:

6. **Alternative Action**

7. **Management Recommendations:**

Enter into an agreement between FDOT - Town of Fort Myers Beach and TPI.

8. **Recommended Approval:**

Amy Baker, Town Clerk
John R Herin Jr, Town Attorney
Amy Baker, Town Clerk
Roger Hernstadt, Town Manager

Created/Initiated - 8/11/2022
Approved - 8/11/2022
Approved - 8/11/2022
Final Approval - 8/11/2022

1. Requested Motion:

Meeting Date: August 15, 2022

Annually, the Program for Public Information (PPI) is reviewed to evaluate the unified messages delivered to affected residents and businesses and the actions taken to reduce danger and property damage caused by flooding.

Why the action is necessary:

Required by the PPI reports' CRS item to be provided to the governing board of each jurisdiction.

What the action accomplishes:

Official submittal of this report helps the Town gain points on its rating.

2. Agenda:

TOWN MANAGER'S ITEMS

3. Requirement/Purpose:

Other

4. Submitter of Information:

5. Background:

Attachments:

1. PPI Annual Report for calendar year 2021

Financial Impact:

6. Alternative Action

7. Management Recommendations:

8. Recommended Approval:

Amy Baker, Town Clerk
John R Herin Jr, Town Attorney
Amy Baker, Town Clerk
Roger Hernstadt, Town Manager

Created/Initiated - 8/10/2022
Approved - 8/11/2022
Approved - 8/11/2022
Final Approval - 8/11/2022

Lee County Multi-jurisdictional Program for Public Information 2021 Annual Evaluation



Lee County
Southwest Florida

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1. Annual Meetings

The committee held a meeting on March 25, 2022 for the annual review of the Lee County Multi-jurisdictional Program for Public Information. The review was for PPI Projects implemented throughout the calendar year of 2021. The sign-in sheets and meeting minutes are attached as Exhibit 1 and 2.

2. Committee Members

Jurisdiction	Public Members	Private Members
Bonita Springs	Ayita Williams, Floodplain Manager	Bob Rosier, President, Rosier Insurance
Cape Coral	Wyatt Daltrey, Planning Coordinator	Craig McElroy, Cape Coral resident
Estero	Matt Noble, Principal Planner	Marilyn Edwards, Estero resident
Fort Myers	Robert Ward, Floodplain Coordinator Brent Brewster, Flood Plain Manger	Danielle St. Onge, Realtor Association of Greater Fort Myers and the Beach
Fort Myers Beach	Chelsea O’Riley, Public Works Director* Kristin Schumacher, Floodplain Coordinator	Jacki Liszak, President Fort Myers Beach Chamber of Commerce
Unincorporated Lee County	Betsy Clayton, Public Information Officer Billie Jacoby, CRS Coordinator	Robbie Roepstorff, President, Edison National Bank Josh Overmyer, resident of North Fort Myers and SFHA
Sanibel	Harold Law, CRS Director	Chris Heidrick, President, Heidrick & Company Insurance

Craig McElroy is no longer a public stakeholder for the city of Cape Coral. The City is actively searching for a replacement.

*At the time of this report, Chelsea O’Riley has been removed as a public member as she has since departed the Town of Ft. Myers Beach.

Changes to membership will be reflected in forthcoming addendums.

3. Objective

The objective of this annual review of the Program for Public Information is to evaluate the unified messages delivered to affected residents and businesses and the actions taken to reduce danger and property damage caused by flooding.

4. Target Audiences

TA #1: Residents and non-resident property owners within the repetitive loss areas. Repetitive loss area owners need information on ways to protect their properties from repeated flooding.

TA #2: Real estate and insurance agents and lenders. Key professionals involved with real estate transactions need to know how to help protect house hunters and other looking for property by advising them of potential flood hazard and the benefits of flood insurance.

TA #3: Media. The electronic media, radio and television stations should give listeners and viewers messages on the flood hazard, evacuation procedures, and flood safety measures.

TA #4: Permit Applicants. Everyone considering a construction project, need to know the floodplain management development regulations and the opportunities to include flood mitigation measures in their projects.

Target audiences remain unchanged.

5. Messages and Outcomes

Topic	Messages	Rep loss Areas	Key Professionals	Media	Permit applicants	Results/Outcomes (R)
1. Know Your Flood Hazard	1 – Learn your flood hazard, zone and map information and your evacuation zone.	✓	✓	✓	✓	R1 – Increased requests for FIRM information from the jurisdictions – to be tracked by each jurisdiction R2 – Increased hits to online zone look-ups and other floodplain management web pages, to be tracked by each jurisdiction
2. Buy Flood Insurance	2 – Buy flood insurance for your home and contents.	✓	✓	✓	✓	R3 – Increase in the number of flood insurance policies, to be tracked by each jurisdiction
3. Protect Property from Flood Hazard	4 – Get a print or online copy of the Lee County All Hazards Guide.	✓	✓	✓	✓	R5 – Increased distribution of the Lee County All Hazards Guide; print versions to be tracked by Lee EOC and downloads to be tracked by all jurisdictions
4. Protect People from Flood Hazard	3 – Ask your community floodplain manager about flood protection assistance.	✓	✓	✓		R4 – Increased calls for flood protection information and site visits; to be tracked by the jurisdictions
5. Build Responsibly	5a – Get a permit before you build.			✓		R6 – Fewer violations for unpermitted or non-compliant construction; to be tracked by each jurisdiction
	5b – Know the safety and insurance benefits of exceeding minimum standards.				✓	R7 – Increase in construction projects that exceed minimum standards; to be tracked by each jurisdiction
	5c – Before you remodel, learn about flood regulations and building codes.	✓	✓			R6 – Fewer violations for unpermitted or non-compliant construction; to be tracked by each jurisdiction.
6. Protect Natural Floodplain Functions	6a – Don't block natural flowways.	✓			✓	R8 – Fewer violations of unpermitted filling or blocking of natural flowways; to be tracked by each jurisdiction
	6b – Report blocked ditches, swales and canals.	✓	✓	✓		R9 – Increased requests for action, to be tracked by each jurisdiction
7. Prepare for Hurricanes	7 – Choose your flood warning system.	✓	✓	✓	✓	R10 – Increased sign-up for personal notification, to be tracked by Lee County Emergency Management

6. Projects Completed

Project	Audience	Responsibility/Assignment	Status
OP1 Annual letter	Residents in repetitive loss areas	Floodplain manager or CRS coordinator for each jurisdiction	completed
OP2 Annual letter	Non-resident owners of property in the repetitive loss areas	Floodplain manager or CRS coordinator for each jurisdiction	completed
OP3 Permit applicant brochure	Permit applicants	Floodplain manager or CRS coordinator for each jurisdiction	completed
OP4 Annual media event	Media	Lee County PIO	completed
OP5 Media's Hazard Webpage	Media	Lee County PIO	completed
OP6 Annual agent email	Real estate and insurance agents and lenders	Floodplain manager or CRS coordinator for each jurisdiction	completed

*It's important to note that OP4 was scaled down significantly due to the Emergency Operations Center (EOC) activation related to COVID-19. The Lee County PIO and her team accommodated the major media outlets by lining up one-on-one sessions with the Emergency Management Director. The PIO selected the largest media outlets and scheduled them throughout the day, performing socially distanced interviews at the EOC. The media were able to ask all of their hurricane/flood related questions during those one-on-one interviews while Lee County staff pushed out import flood related topics/messages.

While not included as an annual PPI project list, below are supplemental outreach efforts performed throughout the year:

- The Lee County PIO office introduced a new tool created on the Lee County website. The Resident Information Lookup (RIL) tool can be used to search an address to find pertinent information such as trash pickup, utility information, and **flood zone information** (the tool is specific to Unincorporated Lee County, but also redirects the public to their respective jurisdiction).
- During the Florida Floodplain Managers Association Flood Awareness Week (first week of March), Facebook posts were created to share information with the public since the implementation of using social media in 2020.
- The Lee County PIO also introduced the JIC (Joint Information Center) that was created for communicators in the county originally created due to the pandemic. It can and has been used for hurricane and flooding events as well. It includes a list of any organizations in the county that have a legal officer or Public Information Officer to send information to. It consists of 87-90 agencies or entities as a way to quickly communicate information.

These three supplemental methods of delivery have been instrumental in communications outreach.

7. Progress toward Desired Outcomes (trends)

In March 2022, each community reported the statistical trends (for calendar year 2021 projects) to track the progress toward the desired outcomes of the messages. The PPI committee discussed the fact that the trends may be skewed due to the COVID pandemic. The trends are indicated in the following chart.

I	increase
D	decrease
NC	no change

Outcome/Desired Results	Cape Coral	Sanibel	Unincorporated Lee	Village of Estero	City of Fort Myers	City of Bonita Springs	Town of Fort Myers Beach
Requests for FIRM information	I	D	I	I	I	NC	I
Number of flood protection request	NC	NC	D	I	NC	NC	NC
Violations for unpermitted or non-compliant construction	I	I	I	I	NC	I	I
Violations of dumping/obstructing flows in creek, canals, ditches and streams	NC	I	I	I	NC	NC	NC
Reports of blocked ditches, swales and canals	I	D	I	D	NC	I	NC
Online flood zone look-ups & other floodplain management webpages	I	I	I	I	I	I	I
Number of flood insurance policies in force	I	D	I	I	I	I	D
Number of printed copies distributed/downloads of the All Hazards Guide	I	I	I	I	I	I	I
Construction projects that exceed minimum standards	I	NC	NC	I	NC	I	NC

Requests for FIRM information – Jacoby noted these requests increased significantly with the implementation of the Agents/lenders email project. Temporary spikes can be contributed to the timeframe directly after the email is sent. Since there is such a high turnover rate, many of the newer agents aren't even aware of the services that the municipalities provide until that annual email is sent.

RFA (Requests For Action) - The request for actions seemed to trend downward, especially during the pandemic. However, there is always an uptick during rain/storm events.

Webpage look ups - In year 2020, there were approximately 8,000 visits to the flood protection information pages. In 2021, that number increased to over 14,000.

All Hazards Guide - The Emergency Management/Public Safety Department observed an increase in requests for the All Hazard Guide. As a result of these demands, updates were made to the guide and the annual distribution occurred earlier than scheduled.

After reviewing the current outreach projects and the statistical trends toward desired outcomes, the committee concluded that the current outreach projects should continue to be carried out as outlined in the PPI until the next evaluation/monitoring meeting.

8. Flood Response Projects

Flood response projects were implemented directly before and after Tropical Storm Fred and Hurricane Elsa in the year 2021. The list of planned projects is indicated in the chart below. Copies of the FRP responses are available upon request. (note that Cape Coral went to a Level III activation for Elsa).

Flood Response Projects Summary			
Timing	Audience	Project	Assignment
Pre-storm	Media	FRP1 Pre-storm news releases	Lee PIO
Pre-storm	Media, all residents and visitors	FRP2 Social media postings	Lee PIO
Pre-storm	Media	FRP3 News briefings in the EOC	Lee PIO
Post-storm	Media	FRP4 post-storm News releases	Lee PIO
Post-storm	Residents and owners of damaged property	FRP5 Additional postings on jurisdictions' permitting web pages	Floodplain Administrators or CRS Coordinators for each jurisdiction

9. Flood Protection Messages and Outcomes

Timing	Topic Outcome Messages	Media	All Residents and Visitors	Residents and owners of damaged property
Threatening storm or flood	Topic 4. Protect People			
	Outcome: People willingly and quickly evacuate			
	Message: Pack your go-bag and your pet needs	✓	✓	✓
	Topic 6. Protect Natural Floodplain Functions			
	Outcome: Flooding is reduced			
	Message: Report blocked ditches, swales & canals	✓	✓	✓
	Topic 7. Prepare for Hurricanes			
	Outcome: People willingly and quickly evacuate			
	Message: Obey evacuation notices	✓	✓	✓

Timing	Topic Outcome Messages	Media	All Residents and Visitors	Residents and owners of damaged property
After a storm or flood	Topic 3. Protect Property			
	Outcome: Injury and more serious property damage is mitigated			
	Message: Do life-saving and damage mitigation immediately	✓		✓
	Topic 4. Protect people			
	Outcome: Injury and more serious property damage is mitigated			
	Message: Do life-saving and damage mitigation immediately	✓		✓
	Topic 5. Build responsibility			
	Outcome: Flooded buildings properly repaired (New construction meets code)			
	Message: Get a permit for permanent repairs	✓		✓

10. Flood Response Outcome Evaluation

FRPs were implemented during 2021. The FRP materials were reviewed and determined to be current and appropriate.

At the annual committee meeting, the PPI committee reviewed the Lee County Emergency Management Hurricane Elsa After Action Report and the approximate damage assessment results published by Lee County to evaluate the desired outcomes of flood responses project.

Projects 1-6 were successfully implemented. The outcomes for the Flood Protection messages are as follows:

O1 People willingly and quickly evacuate: Even though the EOC was activated to Level 1, there were no evacuations or sheltering (the two storms were more rain events as opposed to wind events). O1 - outcomes cannot be determined since there were no evacuations.

O2 Flooding is reduced: it was observed that the majority of flooding was limited to ditches, streets and yards. Temporary spikes indicate the RFA system was used to report blockages, doubling in numbers than the previous weeks. There were several reports of minor house flooding, but since the Repetitive Loss Data has not been released to communities, a complete assessment of the outcomes of flooding cannot be performed to identify all flooding. Flooding was reduced in an Iona community in Unincorporated Lee County due to the efforts of the DOT crews working to remove a blockage as part of the Request for Action program. The flood mitigation efforts were broadcast in the local media outlets.

O3 Injury and more serious property damage is mitigated: n/a (see O1 comment) During Hurricane Elsa, there were no injuries reported.

O4 New construction meets code: n/a (see O1 comment).

11. Flood Insurance Trends

The PPI committee agreed that the best way to assess and monitor the trends in flood insurance is by updating the tables in the Lee County PPI that look at insurance policy counts by community. The calculations provide information regarding the general trends of insurance coverage in each jurisdiction as compared to trends in previous years.

The data suggests that coverage increased or remained stable for the majority of the jurisdictions, however the coverage decreased in several communities. It is important to note that evaluation was impacted by the following:

- ❖ This data does not reflect private flood insurance policies.
- ❖ This data doesn't reflect policies dropped due to mortgage pay offs.

2021 Number of NFIP Policies					
	Single Family	2-4 Family	All Other Residential	Non Residential	Totals 2021
Bonita Springs	6,481	1,109	4,560	295	12,445
Cape Coral	27,400	1,261	5,658	387	34,706
Fort Myers	3,679	145	1,697	357	5,878
Fort Myers Beach	1036	379	4,711	117	6,243
Lee County	34,657	7,487	22,126	1,972	66,242
Estero	1,321	129	583	57	2,090
Sanibel	2,782	530	3,688	340	7,340
Total Multijurisdictional Area	77,356	11,040	43,023	3,525	134,944

Previous vs Current Trends			
	Totals 2020	Totals 2021	Trend
Bonita Springs	8,696	12,445	↑
Cape Coral	27,673	34,706	↑
Fort Myers	3,685	5,878	↑
Fort Myers Beach	6,366	6,243	↓
Lee County	52,505	66,242	↑
Estero	1,523	2,090	↑
Sanibel	7,527	7,340	↓
Total multi-jurisdictional Area	107,975	134,944	↑

The overall multi-jurisdictional trend is upward. The desired outcome of increasing the overall number of flood insurance policies has been achieved.

12. Miscellaneous Tasks

- Floodplain managers and CRS coordinators will view website content monthly to update content and test link: **Completed**. Many committee members have noticed that as FEMA continues to revamp their entire site - which redirects to newly overhauled FFMA, ASFPM and Floodsmart.gov websites, there is a constant state of broken links. The County's website tends to be the main source of information for the entire county in times of peril. The data (that can be found as part of the PPI minutes and back up documentation) prove the spikes in webhits before, during and after storm events. The program that we have in place for broken links is successful and ensures effectiveness of our outreach efforts.
- Floodplain managers and CRS coordinators will update insurance statistics charts each time the NFIP distributes updated, to any member jurisdiction and/or when new CIS (community information system) information is available: **completed**
- The Lee County PIO will maintain an updated contact list of local media: **completed**.
- Floodplain managers and CRS coordinators (prior to the annual meeting of the PPI Committee) will update their contact lists of licensed real estate and insurance agents and lending institutions: **completed**

Property Protection Assistance outreach has been successful. Current protocols will continue to be implemented.

Post-Irma, there is heightened awareness of flood mitigation and communication tools. The expanded virtual outreach efforts have been successful as citizens are acutely aware of the damage that even a minor storm event can do. The heightened awareness is likely to influence flood insurance purchases in the future as there has been a positive trend in policies over the last several years. Without up to date and current flood insurance claim information, it is difficult to determine the exact number of building that were affected by the storms of 2021.

13. Final Conclusion

Jurisdictions were forced to adapt to the continued pandemic environment, (especially through more virtual efforts) to accomplish the goals of the PPI. The majority of the outreach projects were successful. The virtual outreach method will continue to be implemented due to such positive results.

Effective communications result in measureable outcomes. Of course, it is presumed that a variety of other factors (including the rising cost of flood insurance, a relatively active or inactive hurricane season, a relatively dry or rainy summer season) could also affect the outcomes/trends. Therefore, they are viewed as indicators, and not an exact measure of the success of these campaigns.

The committee agreed that other than the simplification of data collection and minor tweaking to the PPI in the form of the usual addendum, there would be no significant changes to the PPI at this point.

Lee County Multijurisdictional Program for Public Information Committee
Mandatory Annual Monitoring Meeting
March 25, 2022

Exhibit 1

Lee County Community Development/Public Works Center/1500 Monroe St., Fort Myers, Fla. Conference Room 1B

Name	Title/Organization	Community Represented	signature
Ayita Williams Lonergan	Floodplain Manager, Building Inspector	Bonita Springs	Virtual attendance
Bob Rosier	President Rosier Insurance	Bonita Springs	Virtual attendance
Wyatt Daltry	Planning Coordinator	Cape Coral	Virtual attendance
Matt Noble	Principal Planner	Estero	Virtual attendance
Marilyn Edwards	Estero Resident	Estero	Virtual attendance
Robert Ward	Floodplain Coordinator	Fort Myers	Virtual attendance
Danielle St. Onge	Realtor Association of Greater Fort Myers and the Beach	Fort Myers	Virtual attendance
Brent Brewster	Floodplain Manager	Fort Myers	
Jacki Liszak	President Fort Myers Beach Chamber of Commerce	FMB	
Kristin Schumacher	Floodplain Manager	FMB	
Chelsea O'Riley	Public Works Director	FMB	Virtual attendance
Betsy Clayton	Public Information Officer	Unincorporated Lee	Betsy Clayton
Billie Jacoby	CRS Coordinator	Unincorporated Lee	Billie Jacoby
Robbie Roepstorff	President, Edison National Bank	Unincorporated Lee	Virtual attendance
Josh Overmyer	Resident of North Fort Myers and SFHA	Unincorporated Lee	Josh Overmyer
Joan LaGuardia	Performance Analyst	Unincorporated Lee	Joan LaGuardia
Chris Heidrick	President Heidrick & Company Insurance	Sanibel	
Harold Law	CRS Director	Sanibel	

Lindsay Hickey	Regulatory Review	Unincorporated Lee	
Chelsea Mullens	Regulatory Review	Unincorporated Lee	<i>L Hickey</i> <i>CM</i>

Minutes

March 25, 2022

Mandatory

Annual PPI Meeting

For
Implementation, Monitoring and Evaluation of the
Lee County Multijurisdictional Program for Public Information (PPI)
VIRTUAL MEETING

1:00 pm

Please note, the intent of this document is to reflect only the *discussions* held at the annual meeting. The complete annual monitoring report is a separate document that is produced at a later date following the completion of the necessary action items mentioned at the end of this document.

- **Welcome** - Billie Jacoby, CFM, Lee County CRS Coordinator, chaired the virtual meeting and welcomed all those on the virtual conference video/phone call.
- **Introductions** - Committee members in attendance verified by visual or audio introduction:
 - Betsy Clayton, Lee County Public Information Officer;
 - Robbie Roepstorff, Lee County resident and president of Edison National Bank;
 - Billie Jacoby, Unincorporated Lee County CRS Coordinator;
 - Josh Overmyer, Lee County resident (North Fort Myers SFHA);
 - Harold Law, City of Sanibel;
 - Kristen Shumacher, Town of Fort Myers Beach
 - Matt Noble, Village of Estero
 - Ayita (Williams) Lonergan, City of Bonita Springs
 - Wyatt Daltry, CRS Coordinator for the City of Cape Coral;
 - Bob Rosier, (via phone) Bonita Springs resident and president of Bob Rosier Insurance;
 - Robert Ward, City of Fort Myers
 - Danielle St. Onge, Realtor and Fort Myers resident;
 - Marilyn Edwards, Estero resident;
 - Also in attendance: Joan LaGuardia, Chelsea Mullens & Lindsay Hickey Unincorporated Lee County
 - Absent members:
Brent Brewster, City of Fort Myers Building Official and Floodplain Administrator;
Chris Heidrick, Sanibel SFHA resident and principal of Heidrick & Co. Insurance;
Chelsea O'Riley, Fort Myers Beach, Public Works Director
Jacki Liszak, President, Fort Myers Beach Chamber of Commerce
- **Attendance/Quorum** - Attendance fulfilled the requirements for a quorum.
- **Committee Membership Updates** - The Committee agreed to the following membership changes:
 - Craig McElroy, no longer City of Cape Coral public stakeholder. City of Cape Coral is actively looking for a replacement stakeholder

PPI at a glance summary document – Jacoby referenced PPI document, which can be found on the Lee County website. She pointed out high importance topics to offer a general scope of the PPI document. Items discussed: target audience identified, mission statement, topics covered, messages used, outreach projects and flood response projects. Jacoby specifically called out the distinction

between the annual outreach projects implemented by Government Staff and the Flood Response projects handled by the PIO (Public Information Officer). Instructions were provided on how to locate the PPI document (and addendums) through Lee County's webpage. Jacoby also verified which communities have adopted the 5 year PPI. The following communities have adopted it: City of Bonita Springs, Sanibel, Village of Estero, Cape Coral, and Fort Myers Beach. Several months after the annual meeting (at the time of finalizing these minutes), Unincorporated Lee County adopted the 5 year PPI. The following communities have not yet adopted it: City of Fort Myers. Jacoby reminded everyone that you must adopt the 5 year 3PPI before your cycle verification visit/CRS audit.

PPI Project Calendar – Jacoby provided a brief explanation of the calendar to the newer members mentioning that this document is specifically designed to be used by government members as a guide and reminder to implement the projects at certain due dates throughout the year. It tells us exactly what to do and when it needs to occur by. Response projects are only in storm and hurricane events.

All Hazards Guide Updates– The EOC was getting increased requests for the AHG and realized it needed some updates. Jacoby discussed the updated version of the [AHG](#) and explained how to access the online version through Lee County's website. She specifically called out our Flood Preparation sections within the guide. The PRP (preferred risk policy) information has been removed due to Risk Rating 2.0. It is expected to be released on April 1st. A news release will be sent out once the updated AHG is available. It will be available in Spanish and Haitian Creole as well.

Flood Response Projects refresher - Jacoby provided an outline of what the FRP projects are and when they are disseminated. Stating that if a flooding/hurricane event occurs, during activation of the EOC (Emergency Operations Center), LEE County PIO, Betsy Clayton, will become central spokesperson for the media and will be responsible for communication before, during and after a major storm/flood event. The prepackaged messages (aka "canned" messages) are implemented *only* if the EOC is activated. Within the refresher section in the agenda, a list was provided that displayed the timing, audience, message, project, desired outcome and assignment (who is to implement project).

It was asked if there were any FRP's performed last year. Clayton confirmed that we did have two storm events last year, Elsa and Fred. With Elsa, she stated we were able to use the pre storm and post storm information, because it turned out to be a rather large rain event more so than wind. Even though the EOC was activated, no evacuations or sheltering was necessary. No other communities experienced storm/flood events. Jacoby reiterated the differences between these FRP projects during specific flood/storm/hurricane events as opposed to the normally scheduled yearly PPI outreach projects (that occur in the usual static timeframe as can be seen on the PPI project calendar).

Jacoby shared photos of street/yard flooding in Lee County from Elsa. It mostly created flooding scenarios for Cape Coral, Iona/McGregor, Bokeelia, North Fort Myers, and Captiva. Clayton stated how many newer residents to Lee County called the media upon seeing standing water in the ditch since they may have never been here during rainy season. They most likely did not know that the water was intended to go to those areas in the event of a rainstorm.

Media related projects - Betsy Clayton, Lee County PIO reported that she routinely updates the media contact list and provided a hard copy of the lists on record with Billie Jacoby. The list can be obtained upon request. Clayton added that the list is ever evolving due to journalist turnover so it's to be seen as a snapshot in time. The list contains TV traffic reports, bloggers, radio DJs, free newsletter/newspaper publications, Spanish speaking staff and meteorologists. She offered to provide the document at any time during the year, even if it's not related to the PPI, since it is a public document.

New Virtual Outreach Products - Clayton touched on the introduction of virtual products that were created out of necessity due to COVID. Their attempt was to provide as many virtual products this year as possible to make the messaging successful. She provided a brief description of the annual rainy season media event relaying that the event usually occurs around June 1 of each year, (in the past, before the pandemic) information stations were set up at various locations in the EOC situation room where media interacted with various county departments/subject matter experts. However, since the pandemic was ongoing in 2021, the event had to be socially distanced and converted to virtual outreach events/projects.

Due to the EOC activation related to COVID-19, Clayton and her team accommodated the major media outlets by lining up one-on-one sessions with the Emergency Management Director. Clayton and her team selected the largest media outlets and scheduled them throughout the day, performing socially distanced interviews at the EOC. The media were able to ask all of their hurricane/flood related questions

during those one-on-one interviews while Lee County staff pushed out import flood related topics/messages.

Clayton cited a new addition to her team who has experience and skills to help create these virtual products. She encouraged any new ideas for any future products. Clayton pointed out that when she is contacted by the media regarding flood related issues, she'll refer them to our webpages for information to share since our webpages are already designed to touch on specific flood related topics as to maintain consistency with the PPI messaging.

During flood awareness week, Facebook posts were created to share information with the public since the implementation of using social media in 2020. Clayton also introduced the JIC (Joint Information Center) that was created for communicators in the county because of the pandemic. It can be used for hurricane and flooding events as well. It includes a list of any organizations in the county that have a legal or Public Information Officer to blast information to. It consists of 87-90 agencies or entities on it for a way to quickly communicate information. Right now, brush fires are being talked about with other agencies.

An example of a communication project that was done recently was for the San Carlos Park flood mitigation project. Money was received post Irma to rip out debris in front and rear yards to prevent flooding in the future. Many people in that area do not speak English in their homes or are renters. A campaign was created by sending a letter directly to the owners, as well as a communication landing page was created with content in English and Spanish. Door hangers were hung throughout the neighborhood as well. Facebook pushes were done also, targeted to that area. It was helpful in learning what works and what does not in communicating with the public.

In summary, Lee County is increasing the ability to communicate using these tools moving forward.

Clayton informed the committee of the restructured All Hazards Guide distribution this year in light of COVID-19. Typically, hard copies are distributed through the County, especially at the Hurricane Seminars and the Annual Rainy Season events. During the pandemic, the public was hesitant to come in contact with the guides and to attend sessions where the guide would have normally been available or distributed. A system was established where anybody could arrange to pick up individual copies or bundles at the EOC at a specific time and location. The process was entirely contact-less to allow the possibility for folks to take those bundles back to their group, community or establishment.

Clayton agreed to provide an "overview" document of media relations/flood messaging communications for 2021.

Clayton introduced a new tool created on the Lee County website. The Resident Information Lookup tool can be used to search an address to find pertinent information such as trash pickup, utility information, and flood zone information. She also asked if anyone had anything that may be helpful to have on this tool to please reach out to her. However, this tool is specific to Unincorporated Lee County. If you are located in Estero, for example the tool will refer you to the Village of Estero for further information in regards to flood zones, etc.

Harold Law inquired as to why other communities are clipped out of tools such as these. Unfortunately, Unincorporated Lee County can only maintain their information. The other municipalities must maintain their own maps, letters of map changes, etc. There was further discussion regarding why exclusions are made in regards to the clipping of other communities from app/website products. Suggestions were made and taken into consideration.

Implementation, Monitoring, Evaluation – Jacoby reviewed each bullet point on the Implementation, monitoring and evaluation page:

- The Lee County PIO will maintain an updated contact list of local media – **this has been completed.**
- Floodplain managers and CRS coordinators (prior to the annual meeting of the PPI Committee) will update their lists of licensed real estate and insurance agents and lending institutions- **Communities agreed that their lists are kept up to date or they rely on Unincorporated Lee County's robust list to piggy back on for the "lenders/agent" email. It is an ongoing effort due to constant turnover.**

- In year 2020, there were approximately 8,000 visits to the flood protection information pages. In 2021, that number increased to over 14,000. Which shows that our communities are doing a great job linking residents to this site.
- Jacoby shared chart of last 6 years of insurance policy totals. We have had some increases in insurance policies since last meeting.
- Tracking Statistical outcomes: Jacoby noted a new trends document reflected a change in the formatting. Moving forward, we'll show project outcomes as either reduced or increased over time as opposed to granular data. This year's "Trends" document reflects this new simplified approach. Trends documentation for each jurisdiction available upon request.
- Summary of increases/decreases for communities:
- FIRM information requests: All communities saw an increase except for Sanibel.
- Online flood zone searches: All communities saw an increase except for Sanibel.
- Requests for site visits/flood protection information: All saw a decrease except for Sanibel and Cape Coral, which remained the same.
- Violations: All communities saw an increase except for Unincorporated Lee County, which did not have access to data at time of meeting, and Cape Coral, which remained about the same.
- The threshold was discussed in regards to construction projects exceeding minimum standards. Members agreed on 1 foot above freeboard.
- In years when there is a storm event, these items below will also be tracked as outcomes of the Flood Response Projects. This is especially important because we haven't had enough local flooding to establish a good baseline. * Statistics on evacuation, including occupancy of shelters and traffic counts on major highways – if available *activation of Lee County and Cape Coral EOC *General information on the extent of flooding *general information on injuries and property damage *statistics on flood-related construction and violations for unpermitted work – **there were two storm events (Lee County activated EOC level 1), however no evacuations or sheltering for any communities.**
- After the PPI committee meets to review the year's outreach programs and the results of outcome monitoring, the annual evaluation report will be finalized and sent to the governing board of each jurisdiction.

Lee County Local Mitigation Strategy is being worked on and will be finalized soon. The LMS is to be adopted by June 19th by each community.

RFA (Requests For Action) - The request for actions seemed to trend downward. Jacoby speculated the reasoning for this was that during blue skies, there is not a significant need for action compared to rain/storm events. However, we should not back off from putting the message out about RFAs. Even if we can't push messages like "pack your go bag" or "know your evacuation zone" (pre-storm messaging) during a two day rain event or a no-name storm, we should still push the message of reporting of blocked area is right before a storm.

Clayton confirmed she has canned messages for these exact instances (reporting blocked ditches, etc. related to rainy season/no name storms). She doesn't always send out as a news release, she uses it as a response to media once they start covering potential rain events. She suggested that she could take those specific responses that are made to media requests and *format* it like a news release and push it out more frequently.

Jacoby asked for confirmation on any localized flooding events that may have happened this year. There was flooding seen due to Fred and Elsa as noted above.

Requests for FIRM information – Jacoby noted these requests increased significantly with the implementation of the Agents/lenders email project. Temporary spikes can be contributed to the timeframe directly after the email is sent. Since there is such a high turnover rate, many of the newer agents aren't even aware of the services that the municipalities provide until that annual email is sent.

Monthly website content and links check – Many committee members have noticed that as FEMA continues to revamp their entire site - which redirects to newly overhauled FFMA, ASFPM and

Floodmsart.gov websites, there is a constant state of broken links. Overmyer stressed that this is the very reason that the CRS manual requires communities to check for broken links monthly.

Flood Insurance Policy trends – Jacoby brought up the chart showing trends of insurance policies. It appeared that there have been increases in policies in all communities. However, it was noted that many residents are paying off their homes and dropping their flood insurance when no longer required by them.

Final conclusion - The committee agreed that other than the simplification of data collection and minor tweaking, there would be no significant changes to the PPI. Robert Ward made a recommendation to insert the url weblink for the All Hazards Guide in the PPI document for easy reference. Harold Law suggested new/updated structural numbers and Overmyer agreed.

Determination if subsequent meeting is necessary – Jacoby did not believe any follow-up meetings are required. If needed, email or Zoom communication can be used. The committee agreed.

Discussion requirements - Jacoby concluded that the annual meeting discussion requirements were met (as listed on page 8 of the agenda) and the committee agreed.

Action items – Small tweaks to PPI, additions to the addendum. The committee agreed.

Meeting adjourned.