FORT MYERS BEACH
TOWN COUNCIL MEETING
JUNE 9, 2003
LAND USE MEETING
Town Hall - Council Chambers
2523 Estero Boulevard
FORT MYERS BEACH, FLORIDA

I. CALL TO ORDER

The Land Use Meeting of June 9, 2003 was opened by Mayor Daniel Hughes on Monday, June 9, 2003, at 9:00 a.m..

Council members present at the meeting: Mayor Daniel Hughes, Vice Mayor Terry Cain, Bill Van Duzer - Council member, Howard Rynearson - Council member and Bill Thomas - Council member.

Excused absence from meeting: None.

Staff present at meeting: Town Manager Marsha Segal-George, Deputy Town Manager John Gucciardo, Damon Grant, Attorney Dick Roosa, Dan Folke, Bill Spikowski, Rick Joyce and Jerry Murphy .

II. PLEDGE OF ALLEGIANCE

All assembled and recited the Pledge of Allegiance.

III. PUBLIC COMMENT

None.

IV. CONSENT AGENDA

A. Approval of May 19, 2003 minutes

MOTION: Made by Council member Howard Rynearson and seconded by Vice Mayor Terry Cain to approve the Consent Agenda.

VOTE: **Motion passes unanimously.**

V. ADMINISTRATIVE AGENDA

A. Option Agreement for the Sale and Purchase of Newton Beach Park

Dan Folke updated on the acquisition process. The appraisals were completed and approved by FCT. The next step is to receive an Option Agreement between Trust for Public Lands and the Town. The Town is purchasing the property from Trust for Public Lands who has an agreement presently with the Newton Estate. Trust for Public Lands must exercise their option by the end of June and they would like to close sometime in July. An Option Agreement has been prepared by Trust for Public Lands and the Town Attorney has completed his review. There are two purchase prices listed in the Agreement due to the Life Estate. One is for the Life Estate, if in place at the time of purchase. The value of the Life Estate has been placed at $116,000.00. An additional price has been listed, if the Life Estate is not in place. A breakdown of the estimated project cost has been provided along with the funding. Dan reviewed the budget and determined $2.7 million was budgeted for the purchase of this property. The revenues are projected at $2.3 million. FCT is paying 50% of the purchase and the County has committed to the $969,000.00 with the remainder covered by the Town. Once all three parties have approved the Agreement it will be entered into.

Mayor Hughes questioned who the “Master Seller” is? Attorney Dick Roosa commented this is not defined in the contract, but he felt it refers to the combination of sellers (Trust for Public Lands and the Newton Estate).

Mayor Hughes added that he would like this matter expedited and exercised as quickly as possible due to the Life Estate situation. Dan Folke replied that TPL will not exercise their option until they have a signed agreement with the Town. Dan further reported the title work, survey along with several inspections

have been completed. The Radon and Termite inspections are in process.

Council member Rynearson questioned if they will be able to meet all the deadlines? Dan Folke replied that he did not feel this would be an issue.

MOTION: Made by Vice Mayor Terry Cain and seconded by Council member Bill Van Duzer to authorize the execution of the Option Agreement for the Sale and Purchase of the Newton Beach Park.

VOTE: **Motion passes unanimously.**

B. Public Hearings:

1. VAR2003-00015 Willis Beard Boathouse. A request for a variance from Section 26-74 (b)(2) that requires a 10-foot setback from the side lot or riparian lines for a boathouse on artificial water bodies to allow a boathouse to have a 2-foot setback. The subject property is located at 120 Albatross Street.

Mayor Hughes began by asking for ex parte communications. None were heard from any of the Council.

Rick Joyce who is with the County Division of Environmental Science came forward. They have reviewed and prepared the staff report, which has also been presented to the LPA. The staff has attempted to lay out some of the dock permitting issues that are typically dealt with at the end of a canal. This tends to be the more difficult area to address. A riparian survey was required and contains those rights conferred on the upland property owner to extend out into the waterway. For this situation there is angled lot lines coming into the canal. The applicant has an existing U-shaped lot. The applicant is requesting to cover the existing mooring slip. Two options exist, which include waivers from each neighbor. The applicant has secured one neighbor's waiver, but the other has not been received. The staff has looked at the site and felt this was a reasonable request to cover this existing boat slip. Approval has been recommended by staff.

Mayor Hughes questioned the survey provided to Council is not certified? Rick Joyce replied the survey is certified to the owner and at the time of issuance of the permit it will require certification to the Town of Fort Myers Beach.

Council member Thomas questioned if this would be the only case with the exception of a 2-foot setback? Rick Joyce replied that many of the docks on Fort Myers Beach was built prior to the dock and shoreline code. Many docks do not meet the current requirements of either the Town code or the previous county code. Most of the docks in Fairview Isles conform due to it being a relatively new development. This would be the first case since the Land Development code was amended.

Council member Van Duzer commented on the 1.4 located on the survey and questioned if this is where the setback variation is being requested from? Rick Joyce replied that generally the setback is measured from the two lines on the survey, which are extended out. He commented that the commitment he has received would meet the 2 feet.

Mayor Hughes questioned if lot 23 has a boat dock and if so how close? Rick Joyce replied that this would be adjacent to the riparian line. The current Town code is a 5-foot setback for docks, but 10-foot for boathouses.

Vice Mayor Cain questioned the language of "both sides?" Rick Joyce replied that due to the triangular shape of the property the applicant was not able to meet the 10-feet on either side. The intent was to lessen this from 10-feet to 2-feet on both riparian lines.

Willis Beard from 120 Albatross Street came forward. His intent is to have a beautiful roof put over his boat to protect the boat. The intent is to have no sides. He would like to place a tile on the roof to match his home. The lady on the other side of the property would have been willing to sign a waiver, but he did not realize this was necessary.

Council member Van Duzer confirmed the language in the staff report and referred to the neighbor not agreeing to the waiver? Willis Beard indicated this neighbor was recently over for wine and cheese and indicated she has no objections to the roof for this boat.

Bob Simon, who lives in Fairview Isles, came forward. He passed out information to the Town Council. The laws and ordinances are enacted for the common good of all and not just a select few. They are to protect the rights of the majority over those few who wish to override for their own purpose. This request for a variance, in his opinion, sets a precedent for all other owners and lots in Fairview Isles. He

outlined 15 properties on his map. If this property owner is granted this variance, it will be difficult for Council to deny the other 15 possible requests for a variance. This is not a small request, which is an 80% difference. Those who purchase end lots should be aware of the restrictions and limitations set forth by the zoning laws and accept these rather than attempt to override them. In addition, they should be aware of the riparian lines for water property. The pilings for this boathouse have already been installed in anticipation of Council's variance approval. This request will impact the ambiance and quality of living in Fairview Isles by interfering with the beautiful clear views they presently have of their canals. County staff and the LPA have approved of this request, but not one of them lives in their neighborhood and could care less if there is a boathouse. The two property owners abutting this property may or may not have given their O.K. for this project. The owner to the west of this property has their home up for sale. He requests the Council deny this request for a variance for the good of all property owners in Fairview Isles.

Mel Hisey who is a Marine Contractor on Fort Myers Beach came forward. He has built boathouses in the Fairview Isles area that does meet the required setbacks. The existing pilings were set by a different contractor about 1 to 1½ years ago. He was contacted regarding setting them and he denied this request through the other contractor. These are presently considered mooring pilings. He did not feel it was necessary to obtain a signature from the neighbor who is selling her home. When he first looked at the property, he felt they would be within the 10-foot setback until they did receive a riparian survey. Once the survey was received, all the remaining paperwork was issued and turned into Lee County. A boat lift was installed recently under a different permit number. He commented on the 1.4 feet and 2-foot setback. Once the dock overhang was calculated, it was determined they would be within 2-feet of the property line.

Mayor Hughes questioned the height limitation of a boathouse under the code? Rick Joyce replied 20-feet.

Council member Rynearson reviewed if the two property owners had signed waivers the owner would have the right to move forward without coming before the Town Council. Rick Joyce replied the docking facility is a broad term in the code and applies to a boathouse, boat lifts and docks. If you can get the signature of both adjoining property owners, the setback is waived.

MOTION: Made by Council member Bill Van Duzer and seconded by Council member Howard Rynearson to adopt the resolution as presented to the Council in the package with the appropriate adjustments to allow a 2-foot setback on both sides of the property for the boathouse roof with all conditions listed.

Discussion: Council member Van Duzer commented if the Council did not approve this request it is possible the owner can go back to receive the other signature and proceed. He does not feel this will affect 15 pieces of property. All owners have the right to go through this process. He suggested the waivers be received in the future, so this does not have to come before the Town Council.

Council member Thomas cannot support this motion. He does not feet they met the criteria. He feels the approval should be received from the adjacent property and then this variance does not need to be requested.

Mayor Hughes is also concerned with this matter. His decision will weigh heavily on the testimony of Mr. Simon. He shares Council member Thomas' view. The criteria have not been met. He asked the staff to consider sending a revision of the Land Development Code to the LPA with regard to the boathouse being built on the signature and waiver of the two adjacent property owners. Neighbors do not like to turn neighbors down. He feels the applicant should meet the test of the variance in order to comply for a variance.

Council member Thomas added that this property has been pushing their limits. He has had complaints from code enforcement with a RV in the right of way. A pattern seems to be in place. The property was purchased and the owner seems to be trying to change the rules.

VOTE: **Motion passes three to two. Mayor Daniel Hughes and Council member Bill**

Thomas dissenting.

2. SEZ2003-00007 Schultz Bed & Breakfast. A Special Exception for Bed & Breakfast in the Residential Conservation zoning district. The subject property is located a 926 & 932 Third Street.

Mayor Hughes began by asking for ex parte communications? Council member Rynearson spoke to Mr. Rockwell. Council member Van Duzer spoke to Mr. Rockwell. Vice Mayor Cain visited the property and spoke to Mr. Rockwell.

Bob Rockwell, representing the Schultz Bed & Breakfast, came forward. He approached the Town Council and distributed pictures. A special exception was applied for and would not be needed, but six units plus one is being asked for. He commented that items 2, 3 and 4 are agreed upon by the Schultz's. Item 1 is the only the applicant has an objection too. The applicant would like to convert the left unit into four one bedroom units with the head count remaining the same. The right unit would keep the downstairs with two units and the upstairs being the living quarters. He feels the staff is concerned with his method of calculations of the square footage. He read the rule which states ½ of the road and ½ of the adjoining canal can be counted. He is not asking to use the 300 feet, which would be half of the 600 but is asking to use 100. Density is currently being reduced and the applicant is attempting to maintain what they presently have.

Council member Van Duzer questioned how many bedrooms the owners unit has? Bob Rockwell replied two bedrooms.

Jerry Murphy came forward on behalf of staff. The staff report was prepared with a recommendation of approval with the conditions as listed in the staff report. The LPA adopted staff's approach vs. the approach of Mr. Rockwell. He referred to condition #1 and commented on the three units in each existing building. This was the understanding of staff's provision 34-103C, which requires if there are more than three units per building the applicant must use the equivalency factors. This case based on the density calculated by staff meets the equivalency factor. The applicant is not limited and could have four units in one building and two in another. This is the recommendation as approved by the LPA, although the resolution does not reflect it. Staff would like to modify the condition to allow this flexibility.

Council member Rynearson questioned if 50% or 50-feet is allowed? Jerry Murphy replied that the language reads ½. One reason the increase is allowed for half the right of way and half of the canal is because in theory this property came out of the original plat. In this particular case the property did not come out of the plat. The lagoon is entirely in a whole different plat. The code reads half of the canal. The closest canal is off to the left and is 50 feet wide. Staff feels it is appropriate to allow 25-feet of the waterbody adjacent to the canal. To approve this would set a tricky precedent for areas on the beach that is not abutting canals, but are abutting cul-de-sac type structures such as a lagoon. Mr. Rockwell has included more water and right of way than land. This does not make much sense. There have not been many lagoon type properties, but traditionally the County has used half of the canal. Staff feels it is reasonable to allow 25-feet. The conservative approach would allow none.

Council member Rynearson suggested the language may need to be changed to include "no wider than half of the canal feeding the lagoon." Jerry Murphy replied this could be suggested to staff.

Bob Rockwell is concerned and does not want to reduce the amount of units the Schultz's have by this proposal. He does believe he is correct by the formulas and it states in the rules. The purpose of the special exception is to look at each piece of property separate to see if it meets the recommendations of what can or cannot be done. He hopes the Council will favor six units plus the owners unit.

Ken Lebo, who resides at 870 3rd St., came forward. He attended the first meeting in support of the variance. There was concern at this meeting from another neighbor with regard to the impacts of traffic. He felt this was not an issue. He did feel this issue was cleared up since this meeting. He is certain that 95% of this traffic is the result of Moss Marine and not the variance the Schultz's are asking for. He does feel this variance would enhance the neighborhood. He is in support of the request.

Mayor Hughes closed the public hearing.

MOTION: Made by Council member Bill Van Duzer and seconded by Council member Howard Rynearson to approve the resolution with the exception of the six guest units. He raised the guest units to seven with the owner living in one of the seven units.

Discussion: Council member Van Duzer feels this request is reasonable and logical. He is in favor of counting heartbeats and does feel this determines density. He does not feel density would be added and would proceed with the vision of the Town to proceed with the Bed & Breakfast type property. He does feel this is a fairness issue.

Council member Rynearson feels that this has not been defined. Until it is defined, they should be allowed. It is the fault of the Town that the Lagoon was not defined from a canal. He feels this should be further defined. A good offer has come forward and is fair.

Mayor Hughes commented on the setback provisions. Jerry Murphy replied the lots are combined and under the same ownership. Historically, when properties are under the same ownership as long as there are not easements running along the side the owner is allowed to combine the lots. Also, a condition has been added as part of the development order to require them formally to combine the lots.

Vice Mayor Cain discussed the bedrooms and confirmed that Council member Van Duzer is considering two people per unit. Council member Van Duzer confirmed this is correct. He added that he feels this approach counts back on density by two bodies.

Council member Thomas asked if a new way of figuring density has been made. Will this be the way of the entire beach? Council member Van Duzer replied that he felt this was a reasonable to determine density. The bedrooms should not be the final answer to density, but the amount of people to occupy is the bottom line.

Vice Mayor Cain commented on properties across the Lagoon that will be coming forward to change zoning. She feels these would be able to calculate part of the Lagoon as well.

Council member Van Duzer would not be in favor of anyone trying to change their zoning across the canal. He did not base his calculations on the calculations as suggested by Mr. Rockwell.

Mayor Hughes added that the special exception cannot be increased by one unit. Jerry Murphy replied this is based on the request as drafted. Another option exists. If the Council decides to go forward, he asked that the Town Council continue this case to allow staff to do further research and work with the applicant. Under the pre-disaster build back policy, the applicant could do a conversion and the square footage they have for residential dwelling units could be converted to guest units. They would be allowed to divide the guest units as long as they stay within the interior square footage.

Dan Folke added that the idea of handling this as a pre-disaster build back would require the property to be re-zoned, which is very clear in the Land Development Code. He does not recommend this route. If the Council decides to go with the staff recommendation of six units, the Council should accept their methodology of calculating the square footage. If the Council moves forward with the motion, the Council would accept the applicants methodology of calculating square footage. The rules in place must be used. Jerry Murphy agreed and indicated this would require a new application.

VOTE: **Motion fails 2 to 3.**

MOTION: Made by Mayor Daniel Hughes and seconded by Vice Mayor Terry Cain to approve the resolution as recommended by the staff and LPA which will eliminate the requirement three units must be in each building.

VOTE: **Motion passes unanimously.**

3. DCI2002-00072 Ft. Myers Beach Fire Control District Administration Building. A request to amend the approved Master Concept Plan for a Commercial Planned Development (CPD) zoning district comprised of 0.263 +/- total acres of land to eliminate the fence from the required buffers for the development of this parcel as the offices of the Fort Myers Beach Fire Control District with a maximum of 3,000 square feet of gross floor area and a maximum building height of 35 feet. The subject property is located at 100 & 102 Voorhis St.

Richard Pringle, General Counsel for the Fort Myers Beach Fire Control District, is present on their behalf. Initially the District had a Master Concept Plan for the Administrative office building site, which provided for the installation of a decorative fence upon completion of the construction of building, water retention area and vegetation. At a later date, it was determined the installation of the fence would be more difficult and be better to install additional vegetation. As a result, an application was made after approval was received from all neighbors to add the additional vegetation in place of the fence. Staff reviewed and made recommendations to approve with the conditions. The Fire District agrees with all conditions. An as built site plan has been provided to show the proposed vegetative buffer. The LPA has considered this matter and recommended approval with the conditions as presented in the staff report.

Jerry Murphy from staff came forward. The largest issue addressed at the LPA and since this time is with regard to the vegetation. He commented on the draft resolution and referred to condition #3, which was added for additional vegetation. Conditions 3 and 5 tend to address the concerns of the LPA. Mr. Joyce is present on behalf of staff for questions. The site development regulations are carried forward from the previous resolution that approved this plan under the prior code. The site development regulations are more restrictive. The only exception is deviation 5, which allows a reduced rear setback from 10-feet that was approved in the previous resolution.

Mayor Hughes asked for ex parte communications. Vice Mayor Cain, Council member Thomas, Council member Rynearson and Council member Van Duzer expressed they all had ex parte communications in this matter.

Vice Mayor Cain questioned the screening and roof on the dumpster? Jerry Murphy replied the dumpster is on ground level and is totally open. The staff asked that this be screened on all three sides and from the top, because the surrounding buildings are all two-story and view this dumpster.

Council member Rynearson feels it goes a step too far to screen the top portion. Jerry Murphy replied that this is a commercial planned development in a residential neighborhood. They are the intruding use and the intent is to screen their impacts from the residential neighborhood.

Mayor Hughes questioned if anyone from the public wishes to address the Council? No one came forward. The public hearing was closed.

MOTION: Made by Council member Bill Van Duzer and seconded by Council member Howard Rynearson to approve the resolution as presented with a change to the dumpster by eliminating the screening of the top portion and only requiring the three sides to be enclosed. To include the required language as suggested by the staff.

VOTE: **Motion passes unanimously.**

(Mayor Hughes called for a 5-minute recess. Mayor Hughes was excused from the meeting and Vice Mayor Cain replaced the Mayor in his absence.)

4. DCI2003-00006 Enter-con Builders, Inc. in ref. to Key West Courtyard. A Request to rezone a 15 unit motel on 0.5 acres from the Commercial Resort (CR) zoning district to Residential Planned Development (RPD) to redevelop 4 residential lots with one dwelling unit each. The

subject property is located at 4960 Estero Blvd.

Vice Mayor Cain began by asking for ex parte communications. None were heard from all Council member present.

Beverly Grady came forward representing Enter-con Builders. They are pleased to present this design to the Council, because they feel it further provides and meets the provisions as adopted by the Town. The Beach House Resort is a 15-unit resort, which is currently developed with some recreational facilities and does contain parking. It is located between two multi-family residential structures. This plan is proposed to have four homes. It will contain a common access from Estero Blvd. and will remove the commercial use and replace with residential. Currently this property is zoned commercial resort. This zoning, if adopted by the Town Council, precludes commercial use and reduces the lawful density of the 15 to 4 and will not request any change in height from what is being requested. Staff approved the design and concept. The LPA gave a unanimous approval and a great compliment for what these properties will mean to the beach.

Beverly continued and indicated the existing structures were built in 1975. The new structures will meet the flood elevations. She provided documentation on the impacts of water, sewer and traffic along with pictures. She introduced all members present of the team for this project. She wanted to show the reduction in traffic impact, which is a substantial reduction. There will be a lower demand on water consumption along with a lower demand on sewer production. Significant landscaping will be present on the site.

Beverly would like to further discuss the side setback, beach planting, square footage and how the property the will be sold. Condition 1(a) is acceptable and after this hearing the Master Concept Plan would be revised to include any changes made by the Town Council. Unanimous approval was received from the LPA with regard to the side setback of 5.2. This property had not granted an easement for beach renourishment. The current owner was not interested in granting this easement. Staff conditions required the sand. A condition was suggested by Beverly to grant the beach renourishment easement. The easement is a benefit to both the Town and the owner. There is no plan for replanting. It would be included in the Master Concept Plan to show a planting plan to begin at the top of the seawall and go waterward for 25-feet.

Chester Young from Hans Wilson and Associates came forward. He indicated they are Marine Consultants and Engineers. The plan will include 180 sea oats that would be located at both the north and south end. Between this 'blanket flower" would be added and some "railroad vine" to be placed to stabilize the sand. He also proposed the "beach sunflower or dune sunflower", which are low growing and do not require additional maintenance once established. These plants occur naturally out on the beach in this area. He does feel that this will bring them in compliance with the request for a planting plan to help stabilize the area. This will be placed directly in front of the seawall to give the best chance to maintain the upper portion of the beach restoration.

Beverly addressed square footage, which limits the total square footage to not exceed the total interior square footage of the current existing guest units. The existing square footage was determined along with the proposed. The actual air conditioned living area space is less than the portion as part of the guest units. She filed the calculations by Bean/Whitaker and expressed the applicant can accept the condition as written, but she does feel it is more restrictive than the Land Development Code. The LPA unanimously supported the air-conditioned space of 9,600 square feet and found there is to be no increase in intensity.

The final issue to be discussed is how the property is to be sold. Beverly expressed the future owner desires to sell these as lots. She questioned why the Town would become involved in how they sell the property? The LPA did recommend these be sold as condominiums. The intent of the RPD district is to allow the landowner the ability to submit a specific proposal for a land development that is primarily residential in character, complies with the Comprehensive Plan, but which does not meet specific requirements of a conventional or redevelopment zoning district. The code was reviewed and a change was made from Lee County. She was unaware a deviation needed to be requested. The staff report included an extra list of deviations the applicant did not ask for in order to be able to do the lots. She questioned if Planned Development Districts allow for the locking in of property development regulations of a certain zoning district, and if you do not meet them you must get a whole list of deviations or can you come forward and show the property development regulations and if liked they can be added to the resolution.

Council member Thomas commented on the environmental conditions. He asked if the existing seawall would be removed at the owners expense? Beverly Grady replied these conditions are still be

reviewed due to them being received the Friday before the Tuesday LPA meeting. She does not see where anyone would want to remove the seawall. It is the protection for the swimming pool and is needed for the pool. They do not want to remove the seawall. The existing pool is being kept.

Chester came forward and expressed the seawall on this property is functioning as their bulk head and is the same for the adjacent properties. Without the seawalls there would be a continuing chance of erosion and could affect the foundation of the pool. Even after the renourishment, in the future the owner will be back to the condition where this wall is the final barrier holding his developed property off of the beach.

Beverly Grady further added the environmental concerns will be addressed.

Council member Van Duzer questioned what will happen to the common areas, if the parcels are sold as four separate pieces? Beverly replied a property owners association must be established with a declaration which places the use of the access and the responsibility of maintenance. This association would be similar to a condominium association.

Craig Myer, Certified Building Designer, came forward. He does feel this project is a great benefit to the beach to remove some of the motels and reduce traffic. The units as defined do comply with all the regulations of the FEMA regulations and state of Florida. There will be parking spaces under each unit with back up and turn around spaces. On the first raised level there is a bedroom and bath along with a living room, dining room, kitchen, laundry area, closets and elevator from the ground floor to the top floor. On the top floor are two bedrooms and two baths with the elevator and stairway. The building plans were further reviewed. All four units are identical, except mirror images. The exterior materials to be used are a hardy board siding, which holds up well in hurricane conditions and during storms and maintains its finish and integrity well. The roofing will be metal and lattice work will be included on the sides of the building to screen the parking areas. Garage doors will be used to screen the cars from the street. Additional landscape has been added from the street side to screen the garages.

Beverly Grady further indicated the plans have never changed. The LPA recommended approval and found that what was being proposed was not in any way an increase in intensity. She would like to be sure the plans can be built as designed.

Jerry Murphy from staff came forward. The project is a planned development and it is a planned development because the comprehensive plan requires it to be a planned development to utilize the conversion factor. Without the conversion factor this project/property can only be built with two residential dwelling properties. Appropriate conditions have been provided to be sure the property is development under the build back and conversion to be safe and accords with the requirements of the land development to the maximum extent possible. The large deviation for this project is to allow for the conversion. The applicant has asked for additional deviations to make the project as they envision it to fit on the property. They envision subdividing the property into four lots. These lots would be seen as substandard. Staff does not feel this is a good idea and the project can be developed conceptually without all deviations necessary to subdivide the property. The deviation which would be necessary to approve the project without subdividing is a deviation from the side setback to 5.2 feet. Staff recommended denial of the deviation. Staff feels the property could be developed without this deviation. These particular floor plans would have to be adjusted. The LPA did recommend approval of the deviation.

Jerry commented on the seawalls. Staff feels at some point in time the seawalls on Fort Myers Beach may be removed. Since the applicant has come forward the staff felt is important to state once the seawalls come down on either side they will need take their's down as well. In the meantime, the beach renourishment plan is fine. A deviation is allowed for a not to exceed 9,600 square feet. This is the number as calculated on the plans submitted by the LPA. The regulation has since been reviewed and the interior square footage by definition does not include stairwells or elevator shafts. This was reduced and the existing square footage for the Beach House is 8,650. Staff recommends a condition to limit to 8,650. Deviation three would no longer be necessary. With regard to the easement, staff has no objection to accepting this easement. The landscape plan would be required at development order and this project will require a development order. He further commented that the Town does not regulate the owner, but the Town does regulate development. Subdivision of property is development. To allow more small lots is not a necessary situation and he feels it is not wanted by anyone.

Vice Mayor Cain asked if anyone wished to address the Council? None was heard.

Beverly Grady wanted to be clear that the beach planting plan timing would need to be when the beach renourishment is complete. There are mechanisms to be sure this is completed. If the removal of the seawall is decided upon it would be necessary to remove the revision of the requirement for dune

restoration.

MOTION: Made by Council member Bill Van Duzer and seconded by Vice Mayor Terry Cain to approve the resolution with the following changes and understandings. The owner shall grant the beach renourishment easement. The allowable square footage to be removed, because it does comply with the present plan. Deviations F, G, I, J, K and L to be included and denied.

Discussion: Beverly Grady questioned the seawall? Council member Van Duzer replied he is leaving in the language for the removal of the seawall. Beverly Grady added the LPA made it very clear both abutting property owners. It was indicated this language is included.

Council member Thomas questioned if this will be split into four lots? Council member Van Duzer replied they will not be subdivided. He is not in favor of substandard lots.

Vice Mayor Cain addressed the planting plan. Jerry Murphy commented on the resolution which references page 2 thru 7 of the staff report. He wanted to go through these to be sure all is clear. Additional discussions and changes took place with regard to the language pertaining to the seawall and dune restoration. Jerry Murphy addressed condition 7. The interior square footage of the new residential units must not exceed 8,650 square feet. He suggests that condition 8 is no longer necessary, but Dan Folke indicated it is acceptable to leave it in.

VOTE: **Motion passes unanimously.**

VI. COUNCIL MEMBER ITEMS AND REPORTS

Council member Bill Van Duzer - Attended a meeting of the Pilot Club and was presented a Certificate of Appreciation to the Town of Fort Myers Beach. He turned this certificate over to Vice Mayor Cain.

Council member Van Duzer commented on the recently considered revision of the Bay Beach development agreement with regard to the temporary sales building. There are a couple trees in this proposed area which are limited to only three in the area. Bay Beach is willing to help alleviate this situation in order to not have to remove these trees, but not change the footprint of the plan.

Dan Folke had a citizen come forward about the trees. A discussion took place with regard to the removal of the mature trees. Lee County staff was to look at these trees to see if they are protected. If the sales center is moved further forward it will impact the parking area. The idea of pushing it back was to keep the existing parking. He will wait to see if a revised plan is submitted and be sure it is consistent with the conditions as approved by Council.

Council member Van Duzer commented on the Chamber Welcome Wagon. Dan Folke replied the Council provided relief until new regulations are adopted. The LPA made a recommendation and will come forward to the Council after the summer break.

Vice Mayor Terry Cain - Mentioned the Eagle Scout is working hard and needs extra help. Anyone with a hammer can show up at Playworks on Saturday and Sunday to provide extra help.

VII. TOWN MANAGER'S ITEMS

None.

VIII. TOWN ATTORNEY'S ITEMS

None.

IX. PUBLIC COMMENT

None.

X. ADJOURNMENT

The meeting was adjourned at 12:03 p.m..

Respectfully Submitted,

Shannon Miller
Transcribing Secretary

If a person decides to appeal a decision made by the Council in any matter considered at this meeting/hearing, such people may need to ensure that verbatim record of the proceeding is made, to include the testimony and evidence upon which any such appeal is to be based.