



Town of Fort Myers Beach

LOCAL PLANNING AGENCY

Town Hall
2525 Estero Boulevard
Fort Myers Beach, Florida
33931

October 10, 2017

AGENDA

9:00 AM

- I. Call to Order
- II. Pledge of Allegiance
- III. Invocation
- IV. Minutes
 - A. Minutes of August 8, 2017
- V. DCI17-0005 – Old Seaport Restaurant Planned Development Amendment
- VI. SEZ17-0001 & VAR17-0005 Mango Street Parking Lot
- VII. Historic Preservation Board meeting:
Adjourn as LPA and reconvene as Historic Preservation Board

Historic Plaque Applications:

HDD17-0001- 2563 Cottage Ave. –First Beach School

HDD17-0002- 110 Mango St. – Heavenly Biscuit

Adjourn as Historic Preservation Board and reconvene as LPA

- VIII. Review LPA Policies and Procedures Manual
- IX. LPA Member Items and Reports
- X. LPA Attorney Items
- XI. Community Development Items
- XII. Items for next month's Agenda
- XIII. Public Comment
- XIV. Adjournment

Next Meeting: *November 14, 2017*



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
LOCAL PLANNING AGENCY (LPA)
MINUTES
Town Hall
2525 Estero Boulevard
Fort Myers Beach, Florida 33931
Tuesday, August 8, 2017**

I. CALL TO ORDER

Meeting was called to order at 9:00 a.m. by Chair Zuba. Members present: Dan Hendrickson, Suzanne Katt, Jane Plummer, Scott Safford, Lorrie Wolf and Hank Zuba.

Excused: Megan Heil

Town Attorney: Town Attorney Peterson

Staff: Matt Noble

II. PLEDGE OF ALLEGIANCE

III. INVOCATION

IV. MINUTES - June 13, 2017

MOTION: Mr. Hendrickson moved to approve the minutes, second by Ms. Plummer.

VOTE: Motion approved; 6-0 with Ms. Heil excused.

V. REVIEW OF CAPITAL IMPROVEMENT PROGRAM (CIP)

Town Manager Hernstadt discussed proposing a plan to place all the Town's assets on a replacement program.

Maureen Rischitelli, Director of Administrative Services, introduced new Finance Director Robert Lange. She explained components of Resolution 17-06.

Ms. Katt questioned whether funds were included to maintain outfalls and water lines. Ms. Rischitelli replied in the affirmative.

MOTION: Mr. Hendrickson moved that Resolution 17-06 was found to be consistent with the Comprehensive Plan; second by Ms. Katt.

VOTE: Motion approved 6-0 with Ms. Heil excused.

VI. SEZ17-0003 - FISH TALE MARINA RESTAURANT EXPANSION OF COP AND OUTDOOR SEATING

Mr. Noble swore in those providing testimony. Chair Zuba requested ex parte communication. Ms. Plummer - site visit, conversations with the owner and familiar with people representing the owner; Ms. Wolf - site visit and met with owner; Mr. Safford - site visit; Ms. Katt - site visit; Chair Zuba - site visit and Mr. Hendrickson - site visit.

Steve Hartsell, attorney with Pavese Law Firm, represented Al Durrett and the Fish Tale Marina Restaurant, LLC. He requested a special exception in the Santini District to expand the Consumption on Premises (COP) to an outdoor seating area. Mr. Hartsell presented an aerial photograph of the location. He requested that the application and staff report be entered into the record. He described the history of the marina. He indicated that the existing restaurant had a liquor license. He stated that consumption on premises could be done administratively unless there was outside seating involved. Outdoor seating was already permitted as part of the restaurant use. He displayed the overall site plan, inset of overall site plan and seat plan, which were included in the application. Mr. Hartsell reviewed the Pedestrian Commercial district area around the Villa Santini Plaza and redevelopment/update of Fish Tale Marina. He discussed protecting the residential neighborhood, Palm Harbor Club and commercial intensity.

He stated that the Palm Harbor residential use came after the Fish Tale Marina and the restaurant. He noted that the restaurant did not intrude into the residential district. He stated that the roof of the Chikee hut served to help reduce the sight and sound associated with open-air seating and a six foot wall was approved and would be under construction shortly. He noted that vegetation would be put into place. He mentioned that staff reviewed parking requirements. There were 227 total parking spaces available, which were more than required.

He stated the request was consistent and appropriate with the goals, objectives and policies of the Comprehensive Plan and was in compliance with the Land Development Code (LDC). He distributed a list of conditions, which were compatible with the planned uses. He noted that the Palm Harbor Condominium President provided a letter (included with the application) that stated the restaurant would be an asset to the area. Mr. Hartsell reviewed his conditions and those in the staff report.

Mr. Noble distributed an errata sheet; hours of operation were discussed.

Public comment:

- Ben Cavanaugh, owner from Palm Harbor, questioned whether there would be a bar in the Chikee hut. Mr. Hartsell replied in the negative. Mr. Durrett stated that food and beverage served in the restaurant would not be taken out to the Chikee hut. He indicated that he had not received one complaint regarding noise in 20 years and he stated that music would be shut off by 9:00 p.m. No food or beverage would be served after 10:00 p.m. in the Chikee hut. Mr. Hartsell clarified that the restaurant would not discontinue food service at a particular hour. Mr. Noble clarified that the COP was tied to the land, not the owner.
- Jean Wahl, Palm Harbor resident, spoke in favor of the request. She described a letter she sent to Mr. Durrett.
- Pam (*last name no audible*), Palm Harbor secretary, expressed concern regarding noise from the music. She would like the Chikee hut to stop serving by 9-9:30 p.m.
- Steve Kildow, Palm Harbor resident, noted that his property was under contract for sale and the marina did not negatively affect the value of his property.
- Scott Atwood, Palm Harbor resident and lawyer, named several property owners he represented. He stated they were led to believe that there would not be outdoor seating with alcohol and there would not be an increase in volume or size. He stated that the issue was not mentioned in any of the board meetings

at Palm Harbor. He received an email from Mr. Cohen, manager, that stated there would not be alcohol served in the Chikee hut. Mr. Atwood noted that the Town sent out a notice, but their understanding was that the Chikee hut would be a waiting area with no alcohol or outdoor seating. He stated that it would have an adverse affect on the adjoining properties because it was a substantial change to the structure. He was told by a realtor that the expansion would have an adverse affect on the value of his property. He distributed pictures of his property in regard to the proximity of the Chikee hut.

Mr. Noble commented that the use was consistent with the pedestrian commercial land use district. He acknowledged there was a concern with the location, which is why they focused on the hours of operation. Mr. Hendrickson questioned whether there was a change in use without proper notice. Mr. Noble replied that proper notice was given.

Mr. Hartsell stated that the concerns were related predominately to outdoor seating. He made it clear that outdoor seating was not part of the request because it was already permissible. He explained that the redevelopment plan was within the confines of the LDC.

Public comment closed.

Ms. Plummer confirmed that public notice was mailed to property owners. She discussed the conditions and she supported the request.

Ms. Katt questioned the difference with the hours of operation between the staff's errata sheet and the applicant's conditions. She expressed concern that the COP was tied to the land.

Mr. Safford thought that more kids would be in the area. He questioned what would happen if they decided not to approve the COP. Mr. Durrett stated that he would continue to serve dinner at the Chikee hut. He concluded by commenting that the restaurant and Chikee hut would stop serving food and alcohol at 10:00 p.m. and the music in the Chikee hut would stop at 9:00 p.m.

Discussion was held concerning the music.

Ms. Katt requested that the conditions be revised to reflect the change in #4. Mr. Noble summarized the conditions.

MOTION: Ms. Plummer moved to approve the special exception in Santini for the Consumption on Premise, expanding the outdoor seating area of 2,811 square feet in the courtyard, 1,293 square feet in the Chikee hut with the conditions of approval of one and two, three to be deleted, four to be sales of all food and beverage would end at 10:00 p.m. for the entire restaurant and five back to the attorney for additions to amplified music and six to be added for the six foot wall; second by Ms. Wolf.

Discussion was held concerning revising the language in condition four. Ms. Plummer changed her motion to clarify that the entire restaurant would stop selling food and alcohol at 10:00 p.m.

VOTE: Motion approved; 6-0 with Ms. Heil excused.

VII. LDC AMENDMENT DOCKS LDS SECTION 26-71

Rae Blake, Environmental & Stormwater Technician, reviewed changes that included restrictions to artificial bodies of water. Mr. Hendrickson clarified that artificial bodies of water included canals and man-made channels. Chair Zuba questioned enforcement. Ms. Blake replied that she reviewed all dock permits for compliance.

Ms. Plummer questioned whether the Mooring Field was considered navigable. Mr. Noble replied in the affirmative. She clarified the use of terminal platforms.

Mr. Hendrickson clarified the definition of a slip.

MOTION: Chair Zuba moved to approve Resolution 2017-0005 and that it was consistent with the Comprehensive Plan; second by Mr. Safford.
VOTE: Motion approved; 6-0 with Ms. Heil excused.

VIII. REVIEW LPA POLICIES AND PROCEDURES MANUAL

Chair Zuba reviewed changes to the manual. Ms. Katt suggested that every new member receive a copy. Chair Zuba suggested reviewing changes, suggestions and comments at the next meeting.

IX. LPA BUDGET DISCUSSION - PROJECT BUDGET REQUESTS

Not addressed.

X. HISTORIC PRESERVATION BOARD MEETING

MOTION: Chair Zuba moved to adjourn as LPA and convene as Historic Preservation Board; second by Mr. Hendrickson.
VOTE: Motion approved; 6-0 with Ms. Heil excused.

Chair Katt indicated that 51 letters had been sent to people who may be willing to participate in the plaque program. Recipients will be called and invited to participate in the program. Informational sessions will be scheduled at Newton House. Ms. Katt clarified that recipients could pick up their plaque and skip the formal ceremony by Town Council. She discussed Mr. Noble's participation in the program. She stated that if the Historic Preservation Board expected to meet their goals, they had to spend money in order to give people the support they needed to accomplish those goals. Mr. Zuba thanked Chair Katt for energizing the plaque program. Mr. Noble indicated that they had a tremendous response from the letters. Mr. Hendrickson thanked the local papers for publicizing the program. Ms. Plummer questioned whether a report regarding the historic home would be available from the Historic Society. Mr. Noble replied that he did not have an update yet. Discussion was held concerning the storage site for the home.

MOTION: Mr. Zuba moved to approve attaching the information as a supplement to LPA activities; second by Ms. Plummer.
VOTE: Motion approved; 6-0 with Ms. Heil excused.
MOTION: Ms. Plummer moved to adjourn as Historic Preservation Board and reconvene as the LPA; second by Ms. Wolf.
VOTE: Motion approved; 6-0 with Ms. Heil excused.

XI. LDC AMENDMENT MOBILE TOURIST INFORMATION CENTER LDC SECTION 34-0351

Mr. Noble indicated that staff contacted George Freeland from Moss Marine regarding the mobile tourist center. Council direction was needed to move forward.

XII. LPA MEMBER ITEMS AND REPORTS

Mr. Hendrickson expressed concern regarding complaint-driven code enforcement. He felt they needed to be more proactive.

Ms. Plummer questioned changes to rental regulations. Town Attorney Peterson stated that any changes would come before the LPA. She questioned the water quality from the tap because her water tasted different. She revealed that a company offered free water testing and she wondered if there were problems. No one was aware of any issues.

Ms. Katt thought they should have better guidelines for future development. She discussed code enforcement issues and making changes to the LDC.

Ms. Plummer commented that they should not be designing homes. It was up to the homeowner to decide what they wanted to put in their box, but trade-offs could be an option.

Ms. Safford suggested creating an outline of the process to address issues.

XIII. LPA ATTORNEY ITEMS

Town Attorney Peterson confirmed that all members submitted their financial disclosure forms.

XIV. COMMUNITY DEVELOPMENT ITEMS

Mr. Noble indicated that FishTale will go before Council at the end of the month. Mr. Hendrickson noted that he would not be available to attend the meeting. Ms. Katt will try to attend.

Mr. Noble presented a worksheet of variances.

XV. ITEMS FOR NEXT MONTH'S AGENDA

XVI. PUBLIC COMMENT - no public comment.

XVII. ADJOURNMENT

MOTION: Ms. Wolf moved to adjourn the meeting; second by Ms. Katt.

VOTE: Motion approved; 6-0 with Ms. Heil excused.

Meeting adjourned at 11:27 a.m. ?

Adopted _____ With/Without changes. Motion by _____

Vote: _____

- End of document

**RESOLUTION NUMBER 2017-007 OF THE LOCAL PLANNING
AGENCY OF THE TOWN OF FORT MYERS BEACH FLORIDA
DCI17-0005 – OLDE SEAPORT COMMERCIAL
PLANNED DEVELOPMENT AMENDMENT**

WHEREAS, applicant Robert Fowler, authorized agent for Olde Seaport Place Inc. is requesting an amendment to an already approved Master Concept Plan consistent with Section 34-214 of the Town of Fort Myers Beach Land Development Code; and

WHEREAS, the applicant has indicated that the STRAP numbers for the subject property are 24-46-23-W3-00026.0000, 24-46-23-W3-00026.0030, and 24-46-23-W2-000000.0000 and the legal description of the subject property is attached as *Exhibit A*; and

WHEREAS, the subject property is located at 645 Old San Carlos Boulevard Fort Myers Beach, FL 33931, zoned Commercial Planned Development on the Official Zoning Map and is located in the Pedestrian Commercial and Tidal Water categories of the Future Land Use Map of the Comprehensive Plan of the Town of Fort Myers Beach, Florida; and

WHEREAS, a public hearing on this matter was legally advertised and held before the Local Planning Agency (LPA) on October 10, 2017; and

WHEREAS, at the 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 Fort Myers Beach Land Development Code (LDC) Section 34-85.

IT IS HEREBY RESOLVED BY THE LPA OF THE TOWN OF FORT MYERS BEACH, FLORIDA, as follows:

Based upon the presentations by the applicant, staff, and other interested persons at the hearing, and review of the application and the standards for granting an amendment to an approved Master Concept Plan, the LPA recommends the following findings of fact, conditions for approval, and conclusions for consideration by the Town Council:

The LPA recommends that the Town Council **APPROVE** the applicant's request for an amendment to an already approved Master Concept Plan. The request amends the approval as follows: Within Parcel #1 replace the 4,020 square feet of Open Air Shops with a 3,744 square foot restaurant (with up to 800 square feet of bar area) with COP (4COPSRX); Within Parcel #2 the 1,140 square feet of History House/Public Use area is replaced by 900 square feet of open restaurant seating that will be served by "on land" facilities; Within Parcel #4 reduce the amount of Butler Act property utilized from 2,697 square feet to 1,600 square feet (with COP) of covered seating and 390 square feet of walkway service area (1,990 square feet total).

RECOMMENDED FINDINGS AND CONCLUSIONS:

In accordance with the requirements of LDC Section 34-85 for granting a rezoning, the LPA recommends that the Town Council make the following findings and reach the following conclusions:

- A. There **exist** changed or changing conditions which make approval of the request appropriate.
- B. The request **is consistent** with the goals, objectives, policies and intent of the Fort Myers Beach Comprehensive Plan.
- C. The request **meets or exceeds** all performance and locational standards set forth for the proposed use.
- D. The request **will** protect, conserve, or preserve environmentally critical areas and natural resources.
- E. The request **will** be compatible with existing or planned uses and not cause damage, hazard, nuisance, or other detriment to persons or property.
- F. The requested use **will** be in compliance with applicable general zoning provisions and supplemental regulations pertaining to the use set forth in the Land Development Code including Chapter 34.

CONDITIONS OF APPROVAL

1. Development must be consistent with the master concept plan (MCP) titled "Olde Seaport of Fort Myers Beach" (Exhibit C) for case DC117-0005, last revised 8/3/17, except as modified by conditions or deviations discussed herein. In accordance with LDC Section 34216(b)(5), the MCP must be updated to reflect the deviations and conditions approved by Town Council. If changes to the MCP are subsequently pursued, appropriate approvals will be required.

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

Schedule of Uses

Parcel #1 (North Parcel – 645 Old San Carlos Blvd.)

Consumption on Premises

Parking Lot, shared permanent

Personal Services

Restaurants

Seating areas

Retail store, small

Parcel #2 (Submerged Land Lease)

Boat slips

Docks

Marina & related activities

Seating areas (in connection with adjacent parcels, restaurants and food preparation areas)

Consumption on Premises

Parcel #3 (South Parcel – 441/445 Old San Carlos Blvd.)

Parking Lot, shared permanent

Parcel #4 (Butler Act property)

Seating areas (in connection with adjacent parcels restaurants and food preparation areas)

Consumption on Premises

Accessory uses on all parcels:

Bay access

Essential services

Essential services equipment

3. Nothing in this rezoning, including any of the attached conditions, may be construed as a variance from the provisions of LDC Chapter 6, Article IV Floodplain regulations.
4. Approval of this rezoning does not give the developer an undeniable right to local development order approval. Development or redevelopment of the subject property must comply with all applicable requirements of the Fort Myers Beach Comprehensive Plan and Land Development Code in effect at the time of development order approval and permitting, except as specifically modified herein.
5. The development must comply with LDC Sec. 14-76 requirements for sea turtle conservation applicable to new development.
6. No structure may be placed in or over, and no work may occur in, any navigable water of the United States unless properly authorized by the United States Army Corps of Engineers or its designee.
7. No stormwater management system, dam, impoundment, reservoir, appurtenant work, or works may be constructed or altered on the subject property, including submerged lands and riparian leased areas, without property permit or exemption, and unless in compliance with all conditions of such permit or exemption, from the South Florida Water Management District or Florida Department of Environmental Protection, as applicable. Stormwater management for the subject property must comply with all applicable requirements of the Land Development Code at the time of development order approval and must provide for the capture and retention of all stormwater on the site.

8. Approval of this rezoning does not address the compliance or noncompliance of proposed building elevations with the commercial design standards included in LDC Chapter 34, Article III, Division 7. Development of the subject property must meet the commercial design standards effective at the time of local development order approval.

9. Docks for use by occupants of principal uses on the subject property, docks for lease to non-occupants of principal uses on the subject property, and docks for use by water taxi or water shuttle are limited to the areas within the existing submerged land leases and submerged land described in Exhibit A. These docks are and must remain accessory to the principal use(s) of the subject property. The number of slips within the area of a submerged land lease may not exceed the number authorized by that lease without proper approval. Construction of additional or replacement docks must comply with all applicable requirements of the LDC and all applicable state and federal regulations at the time of permitting. No live-aboard units are allowed.

10. Hours of operation:

- All restaurants and outdoor seating areas may operate from 8:00AM to 10:00 PM.
- The street side restaurant may extend operation until 11:00 PM in areas where seating is fully enclosed. Consumption on Premises and music/entertainment will comply with local ordinances during that time period.
- Consumption on Premises in conjunction with outdoor seating shall be from 11:30AM-10:00PM. Live entertainment permitted only inside the building on the dock, limited to non-amplified, acoustical music.

11. Steamers must be located outside of the Marina Village at Snug Harbor Condominium building.

12. No deliveries will be permitted between 9:00PM and 7:00AM.

13. Commercial garbage collection must be provided six days a week (excluding Sundays).

14. Parking lot must be reconfigured to allow vehicular traffic flow without dead-ends.

15. Public restroom facilities must be provided in Unit C of the Marina Village at Snug Harbor Condominium building.

The foregoing Resolution was adopted by the LPA upon a motion by LPA Member #### and seconded by LPA Member ####, and upon being put to a vote, the result was as follows:

Hank Zuba, Chair	###	Suzie Katt, Vice Chair	###
Megan Heil, Member	###	Dan Hendrickson, Member	###
Jane Plummer, Member	###	Scott Safford, Member	###
Lorrie Wolf, Member	###		

DULY PASSED AND ADOPTED THIS 10th day **OCTOBER, 2017**.

By: _____
Hank Zuba, LPA Chair

Approved as to legal sufficiency:

By: _____
Jack Peterson
LPA Attorney

ATTEST:

By: _____
Michelle Mayher
Town Clerk

EXHIBIT A

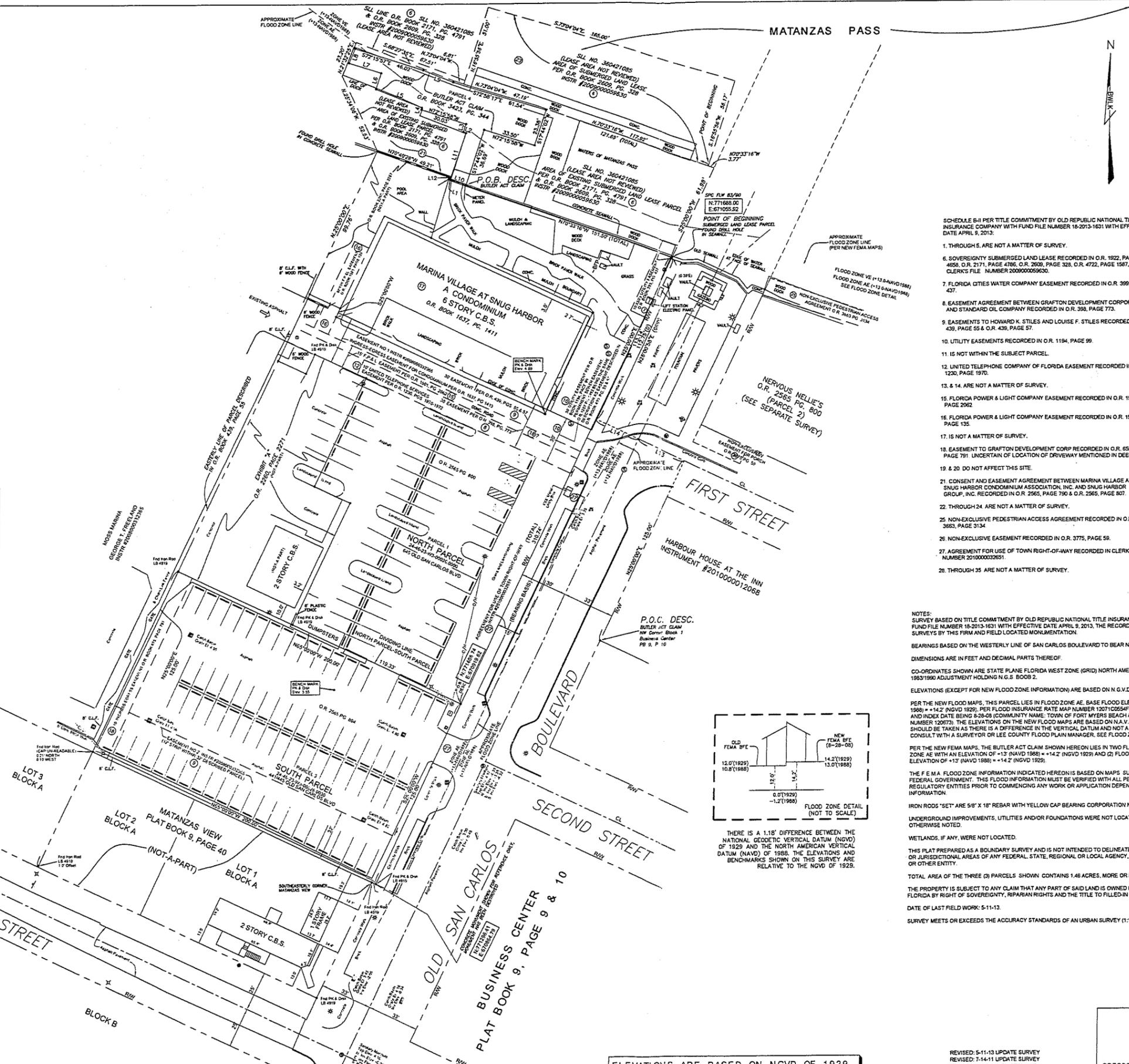
SURVEY PLAT OF A PARCEL OF LAND LYING IN SECTION 24, TOWNSHIP 46 SOUTH, RANGE 23 EAST TOWN OF FORT MYERS BEACH LEE COUNTY, FLORIDA

- ABBREVIATIONS:**
- P.C. = POINT OF CURVE
 - P.T. = POINT OF TANGENCY
 - P.I. = POINT OF INTERSECTION
 - P.C.C. = POINT OF COMPOUND CURVE
 - P.R.C. = POINT OF REVERSE CURVE
 - L.R. = IRON ROD
 - C.M. = CONCRETE MONUMENT
 - P.C.P. = PERMANENT CONTROL POINT
 - P.R.M. = PERMANENT REFERENCE MONUMENT
 - CONC. = CONCRETE
 - M. = MARK OF PAYMENT
 - M. = MEASURED
 - N/D = NOT A MATTER OF SURVEY
 - DL = DEDUCTION
 - EL = ELEVATION
 - B.M. = BENCH MARK
 - P.U.E. = PUBLIC UTILITY EASEMENT
 - DR. = DRAINAGE
 - P. = PLAT
 - T.O.B. = TOP OF BANK
 - D.B. = DEED BOOK
 - O.R. = OFFICIAL RECORDS BOOK
 - P. = PAGE
 - F. = FIELD
 - C. = CALCULATED
 - FF = FRESH FLOOR
 - INV = INVERT
 - RCR = REINFORCED CONCRETE PIPE
 - INSTR. = INSTRUMENT
 - DESC. = DESCRIPTION
 - PK. = PARKER KALDI
 - OH = OVERHEAD LINES
 - DI = DEED
 - N.A.V.D. = NORTH AMERICAN VERTICAL DATUM
 - N.G.V.D. = NATIONAL GEODETIC VERTICAL DATUM
 - P.O.B. = POINT OF BEGINNING
 - P.O.C. = POINT OF COMMENCEMENT
 - C.L.F. = CHAIN LINK FENCE
 - C.B.S. = CONCRETE BLOCK STRUCTURE
 - S.F. = BASE FLOOD ELEVATION
 - S.L. = SUBMERGED LAND LEASE

- LEGEND**
- STORM MANHOLE
 - BURIED CABLE MARKER
 - SIGNAL BOX
 - ELECTRIC BOX
 - LIGHT POLE
 - WOOD POWER POLE
 - GUY WIRE
 - GRASSY WASH
 - IRRIGATION VALVE
 - WATER MAIN
 - SANITARY MANHOLE
 - TELEPHONE BOX
 - FIRE HYDRANT
 - GROUND LIGHT
 - CABLE TELEVISION BOX
 - TRANSFORMER
 - WATER METER
 - BACK FLOW PREVENTER
 - TITLE EXCEPTION
 - EXISTING ELEVATION

LINE TABLE

LINE	BEARING	DISTANCE
L1	S70°33'16"E	1.37
L2	N59°26'24"W	1.75
L3	N17°44'02"E	5.19
L4	N29°32'17"E	1.33
L5	N58°30'55"W	31.85
L6	N17°44'02"E	10.60
L7	N72°15'58"W	21.43
L8	N21°32'25"E	10.02
L9	S52°27'45"E	20.78
L10	N70°33'16"W	10.32(C)
L11	N70°23'47"W	10.32(D)
L12	N17°50'44"E	31.08(O)
L13	N65°00'00"W	33.00
L14	N65°00'00"W	30.00



A PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING IN SECTION 24, TOWNSHIP 46 SOUTH, RANGE 23 EAST, AND FURTHER BOUNDED AND DESCRIBED AS FOLLOWS:

NORTH PARCEL (PARCEL 1):

STARTING AT A CONCRETE MONUMENT ON THE NORTHWESTERLY RIGHT-OF-WAY LINE OF SAN CARLOS BOULEVARD (50.00 FEET FROM CENTERLINE) BEING THE SAME MONUMENT THAT IS SHOWN THREE FEET SOUTH OF THE MOST SOUTHEASTERLY CORNER OF MATANZAS VIEW SUBDIVISION AS RECORDED IN PLAT BOOK 9 AT PAGE 40 OF THE PUBLIC RECORDS OF SAID LEE COUNTY; THENCE N25°00'00"E ALONG SAID RIGHT-OF-WAY LINE FOR 125.00 FEET TO THE POINT OF BEGINNING; THENCE N65°00'00"W FOR 119.33 FEET; THENCE N25°00'00"E FOR 84.60 FEET; THENCE N65°00'00"W FOR 25.07 FEET; THENCE N25°00'00"E FOR 46.40 FEET; THENCE N65°00'00"W FOR 36.00 FEET; THENCE S25°00'00"W FOR 13.50 FEET; THENCE N65°00'00"W FOR 19.60 FEET TO THE EASTERLY LINE OF A PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 439 AT PAGE 65; THENCE N25°00'00"E ALONG SAID EASTERLY LINE FOR 45.50 FEET; THENCE

- SCHEDULE B-1 PER TITLE COMMITMENT BY OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY WITH FUND FILE NUMBER 18-2013-1631 WITH EFFECTIVE DATE APRIL 9, 2013:
- THROUGH 5, ARE NOT A MATTER OF SURVEY.
 - SOVEREIGNTY SUBMERGED LAND LEASE RECORDED IN O.R. 1922, PAGE 4658, O.R. 2171, PAGE 4786, O.R. 2609, PAGE 328, O.R. 4722, PAGE 1587, CLERK'S FILE NUMBER 200000059630.
 - FLORIDA CITIES WATER COMPANY EASEMENT RECORDED IN O.R. 399, PAGE 437.
 - EASEMENT AGREEMENT BETWEEN GRAFTON DEVELOPMENT CORPORATION AND STANDARD OIL COMPANY RECORDED IN O.R. 399, PAGE 773.
 - EASEMENTS TO HOWARD K. STILES AND LOUISE F. STILES RECORDED IN O.R. 439, PAGE 55 & O.R. 439, PAGE 57.
 - UTILITY EASEMENTS RECORDED IN O.R. 1194, PAGE 99.
 - IS NOT WITHIN THE SUBJECT PARCEL.
 - UNITED TELEPHONE COMPANY OF FLORIDA EASEMENT RECORDED IN O.R. 1230, PAGE 1970.
 - & 14, ARE NOT A MATTER OF SURVEY.
 - FLORIDA POWER & LIGHT COMPANY EASEMENT RECORDED IN O.R. 1501, PAGE 2062.
 - FLORIDA POWER & LIGHT COMPANY EASEMENT RECORDED IN O.R. 1590, PAGE 135.
 - IS NOT A MATTER OF SURVEY.
 - EASEMENT TO GRAFTON DEVELOPMENT CORP RECORDED IN O.R. 655, PAGE 781, UNDERTAIN OF LOCATION OF DRIVEWAY MENTIONED IN DEED.
 - & 20, DO NOT AFFECT THIS SITE.
 - CONSENT AND EASEMENT AGREEMENT BETWEEN MARINA VILLAGE AT SNUG HARBOR CONDOMINIUM ASSOCIATION, INC. AND SNUG HARBOR GROUP, INC. RECORDED IN O.R. 2561, PAGE 790 & O.R. 2565, PAGE 807.
 - THROUGH 24, ARE NOT A MATTER OF SURVEY.
 - NON-EXCLUSIVE PEDESTRIAN ACCESS AGREEMENT RECORDED IN O.R. 3583, PAGE 3134.
 - NON-EXCLUSIVE EASEMENT RECORDED IN O.R. 3775, PAGE 59.
 - AGREEMENT FOR USE OF TOWN RIGHT-OF-WAY RECORDED IN CLERK'S FILE NUMBER 201000032951.
 - THROUGH 35, ARE NOT A MATTER OF SURVEY.

SOUTH PARCEL (PARCEL 3):

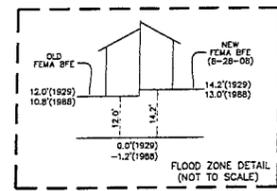
COMMENCING AT A CONCRETE MONUMENT IN THE NORTHWESTERLY LINE OF SAN CARLOS BOULEVARD, 30 FEET FROM THE CENTER THEREOF AND BEING THE SAME MONUMENT THAT IS SHOWN THREE FEET EAST FROM THE MORE EASTERLY CORNER OF LOT 1, BLOCK A, OF MATANZAS VIEW SUBDIVISION, PLAT BOOK 9, PAGE 40, PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE N 65° 00' 00" W A DISTANCE OF 200 FEET; THENCE N 25° 00' 00" E PARALLEL TO SAN CARLOS BOULEVARD 125 FEET; THENCE S 85° 2' 00" W TO WESTERLY SIDE OF SAN CARLOS BOULEVARD; THENCE S 25° 00' 00" W A DISTANCE OF 125 FEET TO THE POINT OF BEGINNING, BEING IN GOVERNMENT LOT 1, SECTION 24, TOWNSHIP 46 SOUTH, RANGE 23 EAST, LEE COUNTY, FLORIDA.

AND

BUTLER ACT CLAIM (PARCEL 4):
DESCRIPTION AS RECORDED IN OFFICIAL RECORD BOOK 3423, PAGE 344:

A SUBMERGED TRACT OR PARCEL OF LAND LYING IN MATANZAS PASS, SITUATED IN SECTION 24, TOWNSHIP 46 SOUTH, RANGE 23 EAST, LEE COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWESTERLY CORNER OF BLOCK 1, BUSINESS CENTER, A SUBDIVISION RECORDED IN PLAT BOOK 9, PAGE 10, PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE RUN N 25° 00' 00" E ALONG THE EASTERLY RIGHT-OF-WAY LINE OF SAN CARLOS BOULEVARD FOR 125.00 FEET TO THE CENTERLINE OF FIRST STREET (63 FOOT RIGHT-OF-WAY) AS SHOWN ON THE PLAT OF THE AFORESAID BUSINESS CENTER; THENCE RUN N 65° 00' 00" W FOR 33 FEET TO THE CENTERLINE OF SAID SAN CARLOS BOULEVARD; THENCE CONTINUE N 65° 00' 00" W FOR 30 FEET TO THE WESTERLY RIGHT-OF-WAY LINE OF SAID SAN CARLOS BOULEVARD; THENCE RUN N 25° 00' 00" E FOR 112.75 FEET TO A DRILL HOLE MARKING THE INTERSECTION OF THE WATERS EDGE OF A CONCRETE SEAWALL WITH THE WESTERLY RIGHT-OF-WAY LINE OF SAID SAN CARLOS BOULEVARD; THENCE RUN N 70° 23' 47" W ALONG THE WATERS EDGE OF SAID SEAWALL FOR 135.81 FEET TO THE POINT OF BEGINNING; THENCE RUN N 70° 23' 47" W FOR 10.32 FEET; THENCE RUN N 17° 50' 44" E FOR 31.08 FEET; THENCE RUN N 69° 26' 24" W FOR 1.75 FEET; THENCE RUN N 17° 44' 02" E FOR 5.19 FEET; THENCE RUN N 72° 15' 58" W FOR 30.03 FEET; THENCE RUN N 69° 26' 24" E FOR 1.33 FEET; THENCE RUN N 69° 26' 24" W FOR 31.85 FEET; THENCE RUN N 17° 44' 02" E FOR 10.60 FEET; THENCE RUN N 72° 15' 58" W FOR 21.43 FEET; THENCE RUN N 21° 32' 25" E FOR 10.02 FEET; THENCE RUN S 52° 27' 45" E FOR 20.78 FEET; THENCE RUN S 72° 58' 17" E FOR 61.54 FEET; THENCE RUN S 17° 44' 02" W FOR 23.38 FEET; THENCE RUN N 72° 15' 58" W FOR 33.50 FEET; THENCE RUN S 17° 44' 02" W FOR 36.69 FEET TO THE POINT OF BEGINNING.



THERE IS A 1.18' DIFFERENCE BETWEEN THE NATIONAL GEODETIC VERTICAL DATUM (NGVD) OF 1929 AND THE NORTH AMERICAN VERTICAL DATUM (NAVD) OF 1988. THE ELEVATIONS AND BENCHMARKS SHOWN ON THIS SURVEY ARE RELATIVE TO THE NGVD OF 1929.

NOTES:

SURVEY BASED ON TITLE COMMITMENT BY OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY WITH FUND FILE NUMBER 18-2013-1631 WITH EFFECTIVE DATE APRIL 9, 2013, THE RECORD DEED, PREVIOUS SURVEYS BY THIS FIRM AND FIELD LOCATED MONUMENTATION.

BEARINGS BASED ON THE WESTERLY LINE OF SAN CARLOS BOULEVARD TO BEAR N25°00'00"E.

DIMENSIONS ARE IN FEET AND DECIMAL PARTS THEREOF.

COORDINATES SHOWN ARE STATE PLANE FLORIDA WEST ZONE (GRID) NORTH AMERICAN DATUM OF 1983/1980 ADJUSTMENT HOLDING N.G.S. 8008.2.

ELEVATIONS (EXCEPT FOR NEW FLOOD ZONE INFORMATION) ARE BASED ON N.G.V.D. OF 1929.

PER THE NEW FLOOD MAPS, THIS PARCEL LIES IN FLOOD ZONE AE, BASE FLOOD ELEVATION OF +13' (NAVD 1988) = +14.2' (NGVD 1929). PER FLOOD INSURANCE RATE MAP NUMBER 120710054F, EFFECTIVE DATE AND INDEX DATE BEING 8-28-08 (COMMUNITY NAME: TOWN OF FORT MYERS BEACH AND COMMUNITY NUMBER 120679), THE ELEVATIONS ON THE NEW FLOOD MAPS ARE BASED ON N.A.V.D. OF 1988. CAUTION SHOULD BE TAKEN AS THERE IS A DIFFERENCE IN THE VERTICAL DATUM AND NOT A TRUE COMPARISON. CONSULT WITH A SURVEYOR OR LEE COUNTY FLOOD PLAIN MANAGER. SEE FLOOD ZONE DETAIL.

PER THE NEW FEMA MAPS, THE BUTLER ACT CLAIM SHOWN HEREON LIES IN TWO FLOOD ZONES: (1) FLOOD ZONE AE WITH AN ELEVATION OF +13' (NAVD 1988) = +14.2' (NGVD 1929) AND (2) FLOOD ZONE VE WITH AN ELEVATION OF +12' (NAVD 1988) = +14.2' (NGVD 1929).

THE F E M A FLOOD ZONE INFORMATION INDICATED HEREON IS BASED ON MAPS SUPPLIED BY THE FEDERAL GOVERNMENT. THIS FLOOD INFORMATION MUST BE VERIFIED WITH ALL PERMITTING REGULATORY ENTITIES PRIOR TO COMMENCING ANY WORK OR APPLICATION DEPENDENT ON SAID FLOOD INFORMATION.

IRON RODS "SET" ARE 5/8" X 18" REBAR WITH YELLOW CAP BEARING CORPORATION NO. LB4919.

UNDERGROUND IMPROVEMENTS, UTILITIES AND/OR FOUNDATIONS WERE NOT LOCATED UNLESS OTHERWISE NOTED.

WETLANDS, IF ANY, WERE NOT LOCATED.

THIS PLAT PREPARED AS A BOUNDARY SURVEY AND IS NOT INTENDED TO DELINEATE THE JURISDICTION OR JURISDICTIONAL AREAS OF ANY FEDERAL, STATE, REGIONAL OR LOCAL AGENCY, BOARD, COMMISSION OR OTHER ENTITY.

TOTAL AREA OF THE THREE (3) PARCELS SHOWN CONTAINS 1.46 ACRES, MORE OR LESS (SEE SUMMARY).

THE PROPERTY IS SUBJECT TO ANY CLAIM THAT ANY PART OF SAID LAND IS OWNED BY THE STATE OF FLORIDA BY RIGHT OF SOVEREIGNTY, RIPARIAN RIGHTS AND THE TITLE TO FILLED-IN LANDS, IF ANY.

DATE OF LAST FIELD WORK: 5-11-13.

SURVEY MEETS OR EXCEEDS THE ACCURACY STANDARDS OF AN URBAN SURVEY (1:15,000).

CERTIFIED TO:

- OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY
- LEIGH M. FISHER
- SANBEL CAPTIVA COMMUNITY BANK
- KIRIC INVESTMENTS
- BARRIER ISLANDS MANAGEMENT LLC

AREA SUMMARY:

NORTH PARCEL: 35,766 SF
SOUTH PARCEL: 25,000 SF
BUTLER ACT PARCEL: 3,025 SF

*Not valid without the signature and the original raised seal of a Florida Licensed Surveyor and Mapper

BEAN, WHITAKER, LUTZ & KAREH, INC.

SCOTT C. WHITAKER, PSM
PROFESSIONAL SURVEYOR AND MAPPER
FLORIDA CERTIFICATE NO. 4324

This certification is only for the areas described herein.
It is not a certification of Title, Zoning, Setbacks, or freedom of Encumbrances.
This Survey was prepared without benefit of Abstract of Title and all matter of the Abstract should be referred to an Attorney at Law.

KIRIC INVESTMENTS

Bean, Whitaker, Lutz & Kareh, Inc. (LB 4919)

CIVIL ENGINEERS - SURVEYORS AND MAPPERS - PLANNERS

13041-1 MCGREGOR BOULEVARD, FORT MYERS, FLORIDA 33919-5910 (239) 481-1331

SR38897_BUTLER_2013.DWG

DATE	PROJECT NO.	DRAWN BY	SCALE	SHEET	FILE NO. (S-T-R)
12-20-06	38897	WBP	1"= 30'	1 OF 1	24-46-23

ELEVATIONS ARE BASED ON NGVD OF 1929

REVISED: 5-11-13 UPDATE SURVEY
REVISED: 7-14-11 UPDATE SURVEY
REVISED: 9-28-08 DMT LOTS 1 AND 2 MATANZAS VIEW (NO FIELDWORK DONE)
REVISED: 11-16-07 ADDED BUTLER ACT PARCEL
REVISED: 5-8-07 SUBMERGED LAND LEASE

EXHIBIT B

RESOLUTION OF THE TOWN COUNCIL OF
THE TOWN OF FORT MYERS BEACH, FLORIDA
RESOLUTION NUMBER 15-01
DCI2014-0005 – Olde Seaport CPD

WHEREAS, Rob Fowler, Sr., registered agent for Barrier Island Management, LLC, owner of property located at 441/445 & 645 Old San Carlos Boulevard, Fort Myers Beach Florida has requested a rezoning of 1.46± acres plus a portion of a submerged land lease to Commercial Planned Development (CPD) for outdoor seating, retail and a marine educational facility; and

WHEREAS, the subject property is located in the Pedestrian Commercial and Tidal Water Future Land Use Categories of the Comprehensive Plan of the Town of Fort Myers Beach; and

WHEREAS, the applicant has indicated that the STRAPs for the subject property are 24-46-23-W3-00026.0030 and 24-46-23-W3-00026.0000 and is legally described in the Exhibit A; and

WHEREAS, a public hearing on this matter was legally advertised and held before the Local Planning Agency (LPA) on November 14, 2014; and

WHEREAS, at the 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 Fort Myers Beach Land Development Code (LDC) Section 34-85.

IT IS HEREBY RESOLVED BY THE COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, as follows:

Based upon the presentations by the applicant, staff, and other interested persons at the hearing, and review of the application and the standards for granting special exceptions, the LPA recommends the following findings of fact, conditions for approval, and conclusions for consideration by the Town Council:

The LPA recommends that the Town Council APPROVE the applicant's request for a rezoning to allow outdoor seating, retail and a marine educational facility in the Olde Seaport CPD, subject to the following conditions:

Conditions

1. Development must be consistent with the master concept plan (MCP) titled "Olde Seaport of Fort Myers Beach" (Exhibit D) for case DCI2014-0005, last revised 9-30-14, except as modified by conditions or deviations discussed herein. In accordance with LDC Section 34216(b)(5), the MCP must be updated to reflect the deviations and conditions approved by Town Council. If changes to the MCP are subsequently pursued, appropriate approvals will be required.
2. The following limits apply to the project and uses:

Schedule of Uses

Parcel #1 (645 Old San Carlos):
Consumption on Premises

EXHIBIT B

Parking Lot, shared permanent
Personal Services
Restaurant
Retail store, small

Parcel #2 (submerged land lease):
Boat slips
Cultural Facility/Exhibit area
Docks
Marina
Theater/Exhibit area

Parcel #3 (441/445 Old San Carlos):
Parking Lot, shared permanent

Parcel #4 (Butler Act property):
Open seating (in conjunction with Parcel #1 restaurant)
Consumption on Premises

Accessory uses on all parcels:
Bay access
Essential Services
Essential Services equipment

3. Nothing in this rezoning, including any of the attached conditions, may be construed as a variance from the provisions of LDC Chapter 6, Article IV Floodplain regulations.

4. Approval of this rezoning does not give the developer an undeniable right to local development order approval. Development or redevelopment of the subject property must comply with all applicable requirements of the Fort Myers Beach Comprehensive Plan and Land Development Code in effect at the time of development order approval and permitting, except as specifically modified herein.

5. The development must comply with LDC Sec. 14-76 requirements for sea turtle conservation applicable to new development.

6. No structure may be placed in or over, and no work may occur in, any navigable water of the United States unless properly authorized by the United States Army Corps of Engineers or its designee.

7. No stormwater management system, dam, impoundment, reservoir, appurtenant work, or works may be constructed or altered on the subject property, including submerged lands and riparian leased areas, without property permit or exemption, and unless in compliance with all conditions of such permit or exemption, from the South Florida Water Management District or Florida Department of Environmental Protection, as applicable. Stormwater management for the subject property must comply with all applicable requirements of the Land Development Code at the time of development order approval and must provide for the capture and retention of all stormwater on the site.

EXHIBIT B

8. Approval of this rezoning does not address the compliance or noncompliance of proposed building elevations with the commercial design standards included in LDC Chapter 34, Article III, Division 7. Development of the subject property must meet the commercial design standards effective at the time of local development order approval.

9. Docks for use by occupants of principal uses on the subject property, docks for lease to non-occupants of principal uses on the subject property, and docks for use by water taxi or water shuttle are limited to the areas within the existing submerged land leases and submerged land described in Exhibit A. These docks are and must remain accessory to the principal use(s) of the subject property. The number of slips within the area of a submerged land lease may not exceed the number authorized by that lease without proper approval. Construction of additional or replacement docks must comply with all applicable requirements of the LDC and all applicable state and federal regulations at the time of permitting. No live-aboard units are allowed.

10. Hours of operation for the Pirate Museum shall be 11:00AM-6:00PM and for the Full Belly Deli from 7:30AM-3PM. Hours of operation for Consumption on Premises in conjunction with outdoor seating on the dock shall be from 11:30AM-10:00PM. Live entertainment permitted only inside the building on the dock, limited to non-amplified, acoustical music.

11. Steamers must be located outside of the Marina Village at Snug Harbor Condominium building.

12. No deliveries shall be permitted between 9:00PM and 7:00AM.

13. Commercial garbage collection must be provided six days a week (excluding Sundays).

14. Parking lot must be reconfigured to allow vehicular traffic flow without dead-ends.

15. Public restroom facilities must be provided in Unit C of the Marina Village at Snug Harbor Condominium building.

RECOMMENDED FINDINGS AND CONCLUSIONS:

1. Whether there exists an error or ambiguity which must be corrected.

There is no ambiguity which must be corrected.

2. Whether there exist changed or changing conditions that make approval of the request appropriate.

The changed condition occurred in 2013 when Barrier Islands Management LLC purchased the property. The new owner does not intend to build the large parking garage, retail stores, nor hotel that was approved in 2009.

3. The impact of a proposed change on the intent of LDC Chapter 34.

The requested CPD would zone a non-upland property for commercial uses, and would provide for open air retail spaces along the Old San Carlos frontage of the parking lot on Parcel #1.

EXHIBIT B

4. Whether the request is consistent with the goals, objectives, policies and intent, and with the densities, intensities, and general uses set forth in the Fort Myers Beach Comprehensive Plan.

The upland portion of the subject property is located in the Pedestrian Commercial Future Land Use category, the highest intensity mixed-use land use category on Fort Myers Beach, while the submerged lands are Tidal Water, and are intended to provide for water-dependent uses of land. The application is consistent with those intents.

5. Whether the request meets or exceeds all performance and locational standards set forth for the proposed use.

The planned restaurant and retail uses are consistent with the Pedestrian Commercial FLUM category, and the water-related uses of docking, educational information about the Tall Ships and other environmental and wildlife exhibits, and space for Sheriff, Marine Patrol or harbor master are consistent with the Tidal Water FLUM category.

6. Whether urban services are, or will be, available and adequate to serve a proposed land use change.

Urban services are available, and roads and sidewalks are in place along Old San Carlos Boulevard.

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

The applicant will rehabilitate or replace the existing rundown dock/pier to provide areas for enjoyment of the waterfront.

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

The requested amendment would allow additional restaurants, retail and water-related activity on the property. The request will not cause damage, hazard, nuisance, or other detriment to persons or property, and is less intense than the existing development approved in Resolution 09-10.

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

The request will not place any burden on the transportation network or other facilities, as it is less intensive than the current development approvals in the Snug Harbor CPD.

10. For planned development rezonings, see § 34-216 for additional considerations (below):

1. The proposed mix of uses is appropriate at the subject location.
2. Sufficient safeguards to the public interest are provided by the recommended special conditions to the concept plan or by other applicable regulations.
3. All recommended special conditions are reasonably related to the impacts on the public's interest created by or expected from the proposed development.
4. The proposed use meets all specific requirements of the comprehensive plan that are relevant to the requested planned development.

EXHIBIT B

The request is appropriate at the subject location, does not negatively impact the public, and is consistent with the comprehensive plan.

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

Anita Cereceda, Mayor	AYE	Dan Andre, Vice Mayor	AYE
Rexann Hosafros	NAY	Alan Mandel	AYE
Summer Stockton	AYE		

DULY PASSED AND ADOPTED THIS 17th day of February, 2015.

By: _____

Anita Cereceda, Mayor

Approved as to legal sufficiency:

By: _____

Gray, Robinson P.A.
Town Attorney

ATTEST:

By: _____

Michelle Mayher
Town Clerk

EXHIBIT B

Exhibit A
Legal Description
DCI2014-0005
Olde Seaport CPD

North parcel (Parcel #1)

A parcel of land lying in Section 24, Township 46 South, Range 23 East, Estero Island, Lee County, Florida, said parcel being further bounded and described as follows:

Commencing at a concrete monument on the northwesterly right-of-way line of San Carlos Boulevard (30.00 feet from the centerline) being the same monument that is shown three feet southeast of the most southeasterly corner of Matanzas View Subdivision as recorded in Plat Book 9, Page 40, Public Records of Lee County, Florida; thence N. 25°00'00" E. on said right-of-way line for 125.00 feet to the **Point of Beginning**; thence N. 65°00'00" W. for 119.3 feet; thence N. 25°00'00" E. for 84.60 feet; thence N. 65°00'00" W. for 25.07 feet; thence N. 25°00'00" E. for 75.40 feet; thence N. 65°00'00" W. for 36.00 feet; thence S. 25°00'00" W. for 13.50 feet; thence N. 65°00'00" W. for 19.60 feet to the easterly line of a parcel described in Official Record Book 439, Page 55; thence N. 25°00'00" E. on said easterly line for 46.50 feet; thence S. 65°00'00" E. for 21.66 feet to the westerly line of a parcel described in Official Record Book 1637, Page 1411, for Marina Village at Snug Harbor, a Condominium; thence S. 25°00'00" W. on said westerly line for 6.00 feet; thence S. 65°00'00" E. on the southerly line of said parcel for 147.32 feet; thence N. 25°00'00" E. on the southeasterly line of said parcel for 70.52 feet; thence N. 65°00'00" W. on the northeasterly line of said parcel for 113.77 feet; thence N. 16°09'15" E. for 39.02 feet to the waters of Matanzas Pass at a concrete seawall; thence S. 70°33'16" E. along said waters at said seawall for 151.50 feet to the northwesterly right-of-way line of said San Carlos Boulevard; thence S. 25°00'00" W. on said right-of-way line for 310.74 feet to the **Point of Beginning**.

AND

South parcel (Parcel #3)

Beginning at a concrete monument in the northwesterly right-of-way line of San Carlos Boulevard, 30 feet from the center thereof and being the same monument that is shown three feet east of from the most easterly corner of Lot 1, Block A, Matanzas View Subdivision, as recorded in Plat Book 9, Page 40, Public Records of Lee County, Florida; thence N. 65° W. for 200 feet; thence N. 25° E. parallel to San Carlos Boulevard for 125 feet; thence S. 65° E. for 200 feet to the westerly line of San Carlos Boulevard; thence S. 25° W. for 125 feet to the **Point of Beginning**.

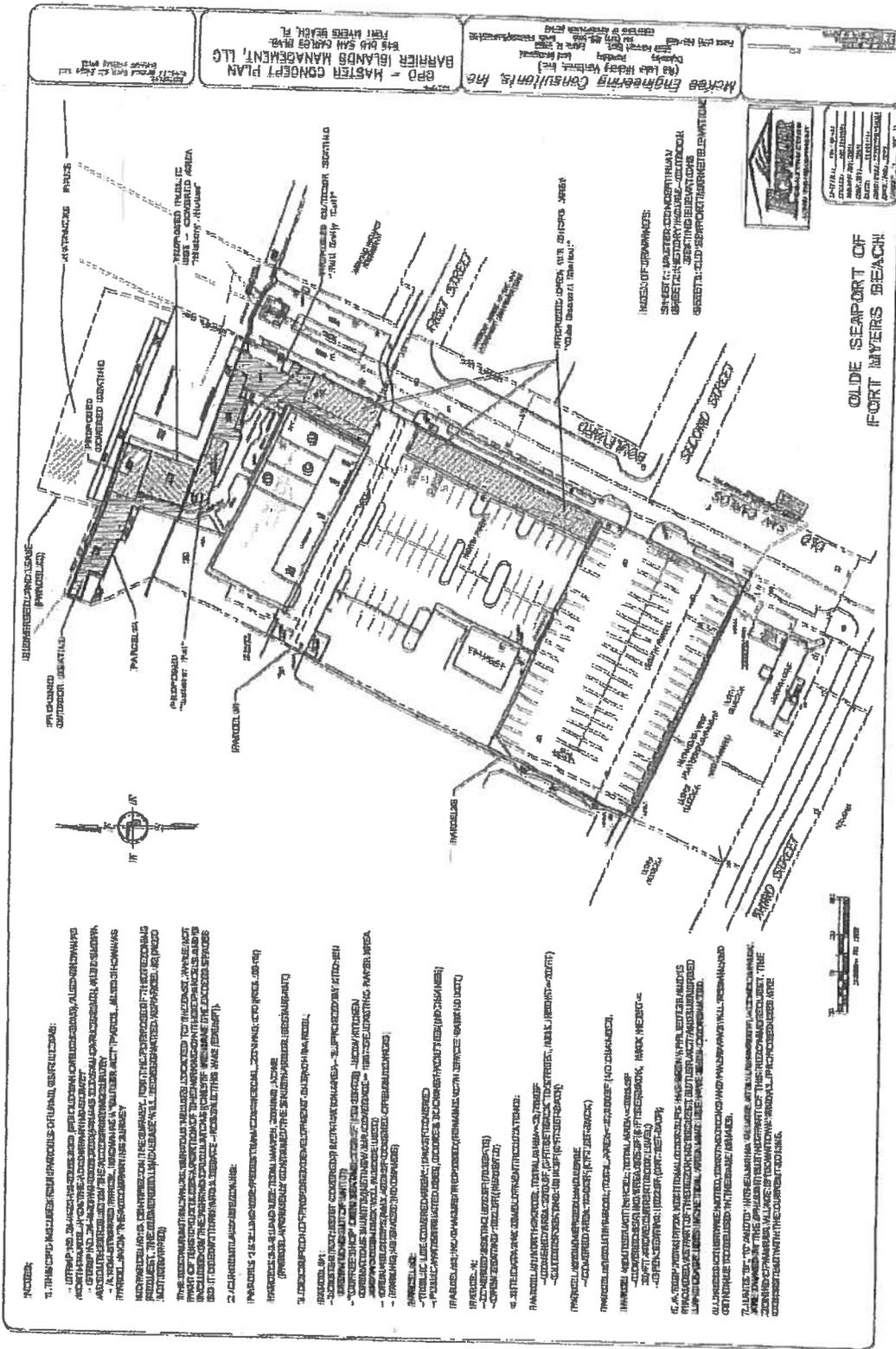
EXHIBIT B

Butler Act parcel (Parcel #4)

A submerged tract or parcel of land lying in Matanzas Pass, situated in Section 24, Township 46 South, Range 23 East, Lee County, Florida, said tract or parcel being more particularly described as follows:

Commencing at the northwesterly corner of Block 1, Business Center Subdivision, as recorded in Plat Book 9, Page 10, Public Records of Lee County, Florida; thence N. 25°00'00" E. on the easterly right-of-way line of San Carlos Boulevard for 125.00 feet to the centerline of First Street (a right-of-way 63 feet wide); as shown on the plat of said subdivision; thence N. 65°00'00" W. for 33 feet to the centerline of said San Carlos Boulevard; thence continue N. 65°00'00" W. for 30 feet to the westerly right-of-way line of said San Carlos Boulevard; thence N. 25°00'00" E. for 112.75 feet to a drill hole marking the intersection of the waters edge of a concrete seawall with the westerly right-of-way line of said San Carlos Boulevard; thence N. 70°33'16" W. along the waters edge of said seawall for 139.81 feet to the **Point of Beginning**; thence N. 70°23'47" W. for 10.32 feet; thence N. 17°50'44" E. for 31.08 feet; thence N. 69°26'24" W. for 1.75 feet; thence N. 17°44'02" E. for 5.19 feet; thence N. 72°15'58" W. for 30.03 feet; thence N. 09°32'17" E. for 1.33 feet; thence N. 68°30'55" W. for 31.85 feet; thence N. 17°44'02" E. for 10.60 feet; thence N. 72°15'58" W. for 21.45 feet; thence N. 21°32'25" E. for 10.02 feet; thence S. 72°15'57" E. for 46.02 feet; thence S. 68°27'45" E. for 20.78 feet; thence S. 72°58'17" E. for 61.54 feet; thence S. 17°44'02" W. for 23.38 feet; thence N. 72°15'58" W. for 33.50 feet; thence S. 17°44'02" W. for 36.69 feet to the **Point of Beginning**.

EXHIBIT B



McKee Engineering Consultants, Inc.
 1401 Lee Road
 Fort Myers, Florida 33901
 Phone: (813) 938-1111
 Fax: (813) 938-1112
 Email: info@mckee.com

BBQ - MASTER CONCEPT PLAN
 BARRIER ISLANDS MANAGEMENT, LLC
 1401 Lee Road
 Fort Myers Beach, FL
 Phone: (813) 938-1111

DATE: 08/11/2011
 DRAWN BY: J. BROWN
 CHECKED BY: J. BROWN
 PROJECT NO.: 11-0001

PROJECT: OLD SEAPORT BARRIER ISLANDS
 SHEET: MASTER CONCEPT PLAN
 DATE: 08/11/2011

SCALE: 1" = 20'-0"

NOTES:

1. THE OLD SEAPORT MASTER CONCEPT PLAN IS A PRELIMINARY PLAN. THE PLAN IS SUBJECT TO THE APPROVAL OF THE CITY OF FORT MYERS BEACH AND THE FLORIDA DEPARTMENT OF TRANSPORTATION. THE PLAN IS SUBJECT TO THE APPROVAL OF THE FLORIDA DEPARTMENT OF TRANSPORTATION AND THE FLORIDA DEPARTMENT OF REVENUE. THE PLAN IS SUBJECT TO THE APPROVAL OF THE FLORIDA DEPARTMENT OF REVENUE AND THE FLORIDA DEPARTMENT OF TRANSPORTATION. THE PLAN IS SUBJECT TO THE APPROVAL OF THE FLORIDA DEPARTMENT OF REVENUE AND THE FLORIDA DEPARTMENT OF TRANSPORTATION.
2. THE PLAN IS SUBJECT TO THE APPROVAL OF THE CITY OF FORT MYERS BEACH AND THE FLORIDA DEPARTMENT OF TRANSPORTATION. THE PLAN IS SUBJECT TO THE APPROVAL OF THE FLORIDA DEPARTMENT OF TRANSPORTATION AND THE FLORIDA DEPARTMENT OF REVENUE. THE PLAN IS SUBJECT TO THE APPROVAL OF THE FLORIDA DEPARTMENT OF REVENUE AND THE FLORIDA DEPARTMENT OF TRANSPORTATION. THE PLAN IS SUBJECT TO THE APPROVAL OF THE FLORIDA DEPARTMENT OF REVENUE AND THE FLORIDA DEPARTMENT OF TRANSPORTATION.
3. THE PLAN IS SUBJECT TO THE APPROVAL OF THE CITY OF FORT MYERS BEACH AND THE FLORIDA DEPARTMENT OF TRANSPORTATION. THE PLAN IS SUBJECT TO THE APPROVAL OF THE FLORIDA DEPARTMENT OF TRANSPORTATION AND THE FLORIDA DEPARTMENT OF REVENUE. THE PLAN IS SUBJECT TO THE APPROVAL OF THE FLORIDA DEPARTMENT OF REVENUE AND THE FLORIDA DEPARTMENT OF TRANSPORTATION. THE PLAN IS SUBJECT TO THE APPROVAL OF THE FLORIDA DEPARTMENT OF REVENUE AND THE FLORIDA DEPARTMENT OF TRANSPORTATION.
4. THE PLAN IS SUBJECT TO THE APPROVAL OF THE CITY OF FORT MYERS BEACH AND THE FLORIDA DEPARTMENT OF TRANSPORTATION. THE PLAN IS SUBJECT TO THE APPROVAL OF THE FLORIDA DEPARTMENT OF TRANSPORTATION AND THE FLORIDA DEPARTMENT OF REVENUE. THE PLAN IS SUBJECT TO THE APPROVAL OF THE FLORIDA DEPARTMENT OF REVENUE AND THE FLORIDA DEPARTMENT OF TRANSPORTATION. THE PLAN IS SUBJECT TO THE APPROVAL OF THE FLORIDA DEPARTMENT OF REVENUE AND THE FLORIDA DEPARTMENT OF TRANSPORTATION.
5. THE PLAN IS SUBJECT TO THE APPROVAL OF THE CITY OF FORT MYERS BEACH AND THE FLORIDA DEPARTMENT OF TRANSPORTATION. THE PLAN IS SUBJECT TO THE APPROVAL OF THE FLORIDA DEPARTMENT OF TRANSPORTATION AND THE FLORIDA DEPARTMENT OF REVENUE. THE PLAN IS SUBJECT TO THE APPROVAL OF THE FLORIDA DEPARTMENT OF REVENUE AND THE FLORIDA DEPARTMENT OF TRANSPORTATION. THE PLAN IS SUBJECT TO THE APPROVAL OF THE FLORIDA DEPARTMENT OF REVENUE AND THE FLORIDA DEPARTMENT OF TRANSPORTATION.
6. THE PLAN IS SUBJECT TO THE APPROVAL OF THE CITY OF FORT MYERS BEACH AND THE FLORIDA DEPARTMENT OF TRANSPORTATION. THE PLAN IS SUBJECT TO THE APPROVAL OF THE FLORIDA DEPARTMENT OF TRANSPORTATION AND THE FLORIDA DEPARTMENT OF REVENUE. THE PLAN IS SUBJECT TO THE APPROVAL OF THE FLORIDA DEPARTMENT OF REVENUE AND THE FLORIDA DEPARTMENT OF TRANSPORTATION. THE PLAN IS SUBJECT TO THE APPROVAL OF THE FLORIDA DEPARTMENT OF REVENUE AND THE FLORIDA DEPARTMENT OF TRANSPORTATION.
7. THE PLAN IS SUBJECT TO THE APPROVAL OF THE CITY OF FORT MYERS BEACH AND THE FLORIDA DEPARTMENT OF TRANSPORTATION. THE PLAN IS SUBJECT TO THE APPROVAL OF THE FLORIDA DEPARTMENT OF TRANSPORTATION AND THE FLORIDA DEPARTMENT OF REVENUE. THE PLAN IS SUBJECT TO THE APPROVAL OF THE FLORIDA DEPARTMENT OF REVENUE AND THE FLORIDA DEPARTMENT OF TRANSPORTATION. THE PLAN IS SUBJECT TO THE APPROVAL OF THE FLORIDA DEPARTMENT OF REVENUE AND THE FLORIDA DEPARTMENT OF TRANSPORTATION.

EXHIBIT B

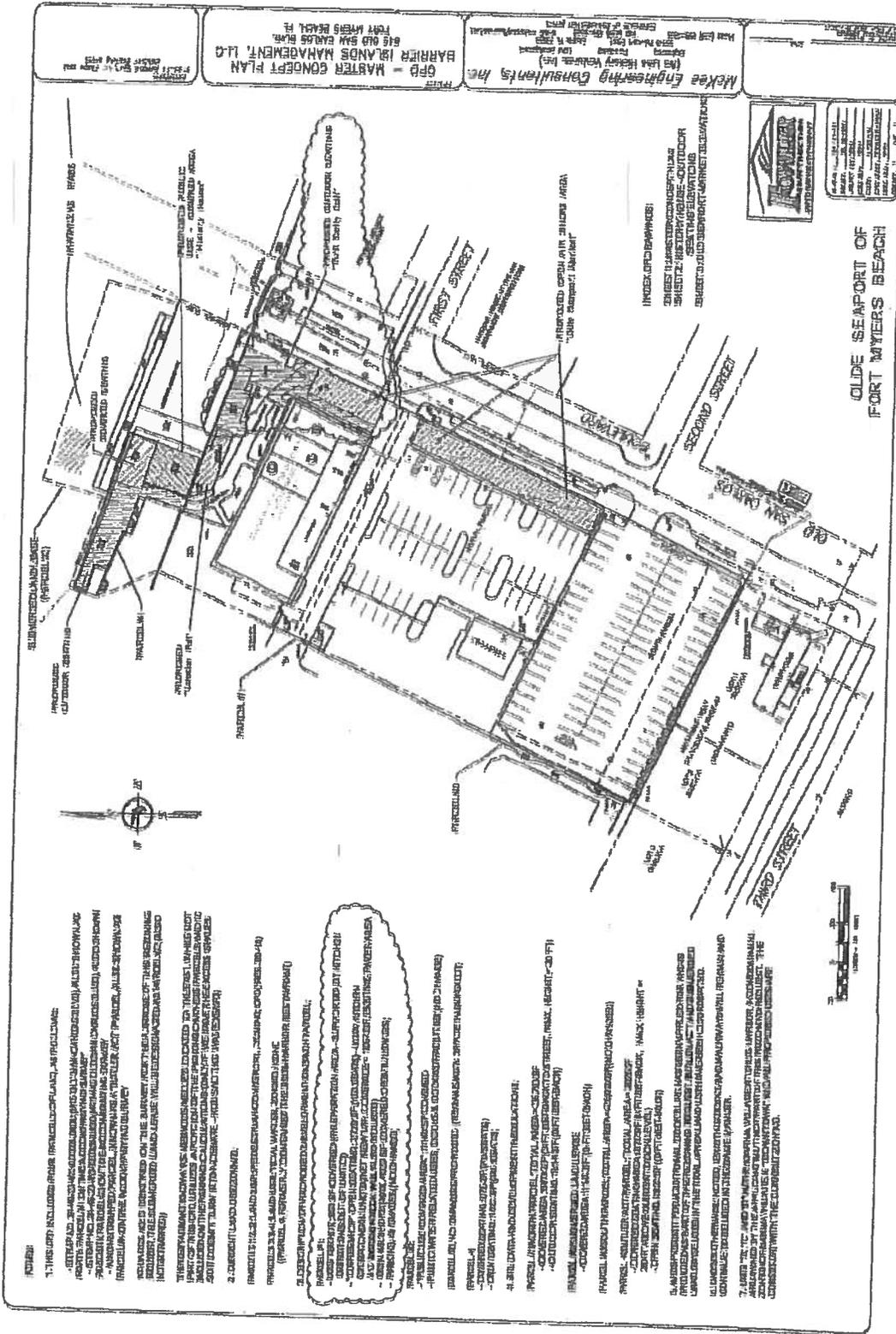


EXHIBIT B

Other Seaport Of Fort Myers Beach
 Parking Calculations - revised 9/30/2014

Building/Description	Unit	QTY.	Calculated Parking	Gross Total	Downtown Reduction	Required	Provided
Existing/ "Narvoux Nellers" - Food Service	SF	6500	8 per 1000 SF	52	0.5	26	26
Existing/ "Narvoux Nellers" - Bar Area	SF	1000	5 per 1000 SF	5	0.5	3	3
Charter Boat	per boat	7	3 per boat	21	0.5	11	11
"Full Belly Deli/Outdoor Seating"	SF	2729	8 per 1000 SF	22	0.5	11	11
"Lobster Pot/Outdoor & Covered Seating"	SF	3547	8 per 1000 SF	28	0.5	14	14
Retail ("Open Air Shop")	SF	4020	3 per 1000 SF	12	0.5	6	6
Public Use/ "History House"	SF	1,140	2 per 1000 SF	2	0.5	1	1
Boat Slips	per slip	22	0.5 per slip	11	0.5	6	6
TOTAL REQUIRED SPACES				117		77	77

The actual number of existing spaces is 129 so there is more than adequate parking

EXHIBIT C

NOTES:

1. THIS PUBLIC HEARING AMENDMENT TO CPD (RES. 15-01) REQUEST INCLUDES THE SAME FOUR PARCELS OF LAND AS THE ORIGINAL REQUEST (WITH CHANGES ONLY BEING MADE TO PARCELS #2 AND #4), AS FOLLOWS:

- STRAP NO. 24-46-23-W3-00026.0000 (645 OLD SAN CARLOS BLVD), ALSO SHOWN AS NORTH PARCEL #1 ON THE ACCOMPANYING SURVEY
- STRAP NO. 24-46-23-W3-00026.0030 (441/445 OLD SAN CARLOS BLVD), ALSO SHOWN AS SOUTH PARCEL #3 ON THE ACCOMPANYING SURVEY
- A NON-STRAPPED PARCEL, KNOWN AS A "BUTLER ACT" PARCEL, ALSO SHOWN AS PARCEL #4 ON THE ACCOMPANYING SURVEY

NO PARCEL #2 IS IDENTIFIED ON THE SURVEY. FOR THE PURPOSE OF THIS AMENDMENT REQUEST, THE SUBMERGED LAND LEASE WILL BE DESIGNATED AS PARCEL #2 (ALSO NOT STRAPPED)

THE RESTAURANT KNOWN AS NERVOUS NELLIE'S LOCATED TO THE EAST, WHILE NOT PART OF THIS CPD, UTILIZES A PORTION OF THE PARKING ON THESE PARCELS AND IS INCLUDED ON THE PARKING CALCULATIONS.

2. CURRENT LAND USE/ZONING:

PARCELS 1 & 3: LAND USE: PEDESTRIAN COMMERCIAL, ZONING: PER CURRENT APPROVAL (RES. 15-01)

PARCELS 2 & 4: LAND USE: TIDAL WATER, ZONING: PER CURRENT APPROVAL (RES. 15-01) (NOTE: PARCEL 4 FORMERLY CONTAINED THE SNUG HARBOR RESTAURANT)

3. DESCRIPTION OF PROPOSED DEVELOPMENT ON EACH PARCEL:

PARCEL #1:
 - COVERED FOOD PREPARATION AREA (LOBSTER POT); 850 SF - SUPPORTED BY KITCHEN OPERATIONS OUT OF UNIT D
 - COFFEE SHOP/OPEN SEATING; 2729 SF (153 SEATS) - I/C/W KITCHEN OPERATIONS OUT OF UNIT B OR D
 - RESTAURANT W/COP: MAX. 3744 SF (300 SEATS)
 - PARKING; 49 SPACES

PARCEL #2:
 - OPEN SEATING (AWNING PERMITTED) AREA W/COP: 900 SF (75 SEATS)

PARCEL #3: NO CHANGES PROPOSED (REMAINS AS 74 SPACE PARKING LOT)

PARCEL 4:
 - COVERED SEATING W/COP: 1600 SF (125 SEATS)
 - WALKWAY: 390 SF AREA FOR SEATING ACCESS/SERVICE AREA

4. SITE DATA AND DEVELOPMENT REGULATIONS:

PARCEL #1/NORTH PARCEL: TOTAL AREA = 35,768 SF
 - FOOD PREPARATION AREA: 850 SF (MIN. 3 FT SET-BACK, MAX. HEIGHT = 25 FT ABOVE EX. GRADE)
 - RESTAURANT W/COP: 3744 SF (0 FT SET-BACK TO STREET, MAX. HEIGHT = 30 FT ABOVE EX. GRADE)
 - OUTDOOR SEATING : 2729 SF (0 FT SET-BACK)

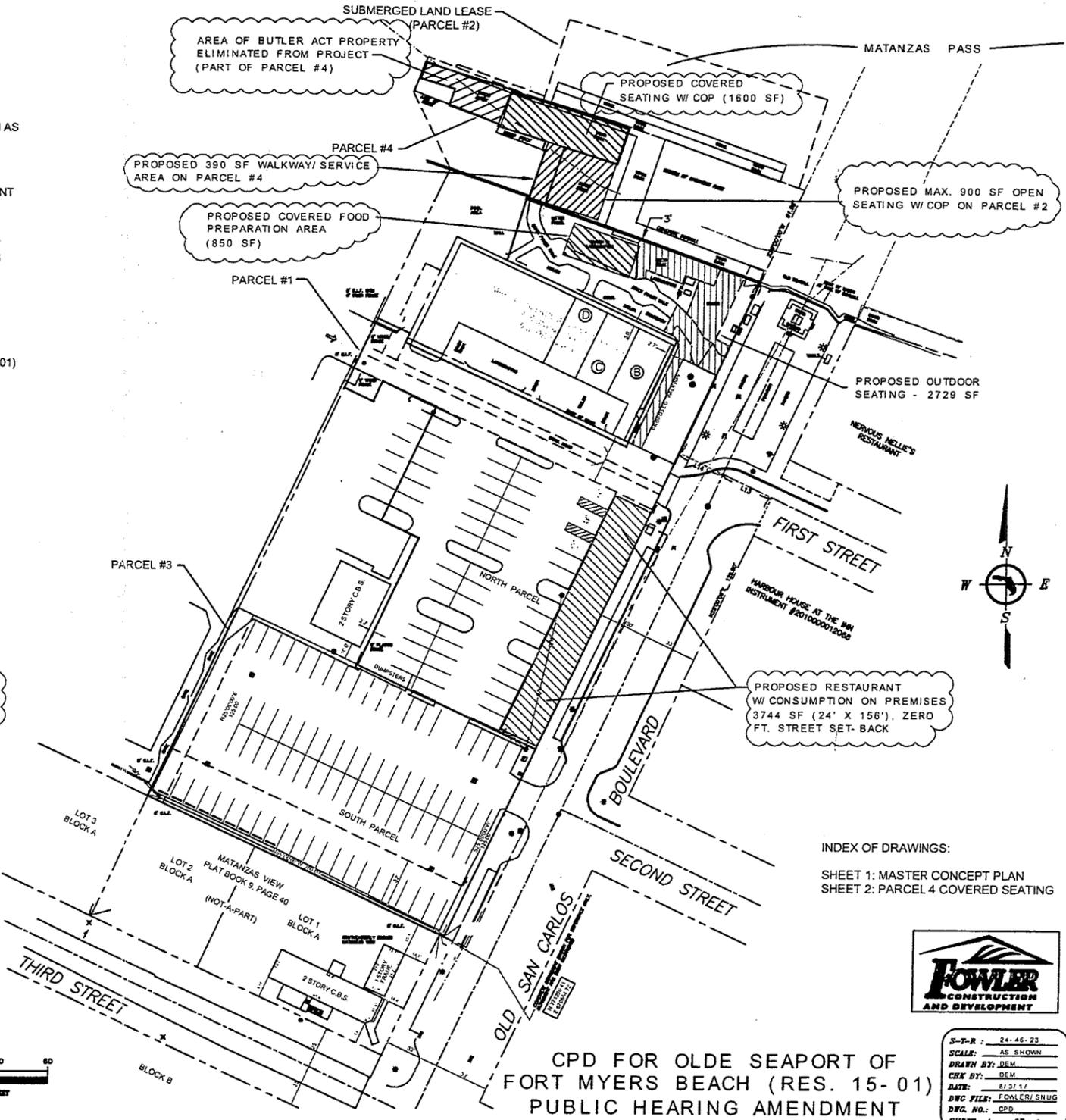
PARCEL #2/SUBMERGED LAND LEASE
 - OPEN SEATING AREA W/COP: 900 SF (0 FT SET-BACK)

PARCEL #3/SOUTH PARCEL: TOTAL AREA = 25,000 SF (NO CHANGES)

PARCEL 4/BUTLER ACT PARCEL: TOTAL AREA = 3025 SF
 - COVERED SEATING AREA W/COP: 1600 SF (0 FT SET-BACK, MAX. HEIGHT = 20 FT ABOVE CURRENT DOCK LEVEL)
 - 390 SF WALKWAY/SERVICE AREA
 - REMAINING AREA REMOVED FROM CPD

5. UNLESS OTHERWISE NOTED, EXISTING DOCKS AND WALKWAYS WILL REMAIN AND CONTINUE TO BE USED IN THE SAME MANNER.

6. UNITS "B", "C" AND "D" IN THE MARINA VILLAGE AT SNUG HARBOR, A CONDOMINIUM, ARE OWNED BY THE APPLICANT BUT NOT PART OF THIS REZONING REQUEST. THE ZONING OF MARINA VILLAGE IS "DOWNTOWN" AND ALL PROPOSED USES ARE CONSISTENT WITH THE CURRENT ZONING.



INDEX OF DRAWINGS:
 SHEET 1: MASTER CONCEPT PLAN
 SHEET 2: PARCEL 4 COVERED SEATING



S-T-R : 24-46-23
 SCALE: AS SHOWN
 DRAWN BY: DEM
 CHECK BY: DEM
 DATE: 8/31/17
 DWG FILE: FOWLER/SNUG
 DWG NO.: CPD
 SHEET 1 OF 1

McKee Engineering Consultants, Inc.
 Engineering Permitting Land Development
 628 Stinson Lane Grants Park, NC 28830
 Phone (336) 896-4006 email: mckeeengr@aol.com
 FL CONTRACTOR OF AUTHORIZATION #07145

PROJECT: MASTER CONCEPT PLAN
APPROVED: OLD SEAPORT PLACE, INC.
 2532 ESTERO BLVD, UNIT 504
 FORT MYERS BEACH, FL 33931

DAVID E. FOWLER
 P.E. ARCHITECT, FORT MYERS BEACH, FL

EXHIBIT D



August 8, 2017

Mr. Matt Noble
Town of Fort Myers Beach Planning Coordinator
2523 Estero Blvd.
Fort Myers Beach, FL 33931

Re: CPD Public Hearing Amendment — Olde Seaport of Fort Myers Beach; DCI2014-0005/Resolution #15-01

Dear Mr. Noble:

In accordance with our recent meetings and discussions, please find attached a complete Public Hearing Amendment application for the above referenced project. The application is being submitted on behalf of Mr. Jim Figuerado Of Old Seaport Place., Inc, the current property owner, with Mr. Robert Fowler, Sr. of Fowler Construction and Development acting as the applicant and authorized representative. This application encompasses the same properties as the original approval:

- Strap No. 24-46-23-W3-00026.0000; 645 Old San Carlos Blvd. (parcel #1)
- Strap No. 24-46-23-W3-00026.0030; 441/445 Old San Carlos Blvd. (parcel #3)
- An unstrapped Butler Act parcel lying north of 645 Old San Carlos Blvd., as designated on the accompanying boundary survey. The area was the location of the old Snug Harbor Restaurant until it was demolished (parcel #4). It still has an existing dock/pier structure in place.
- A portion of a submerged land lease lying north of 645 Old San Carlos Blvd. (parcel #2)

Please note that this submittal is consistent with a recently executed Settlement Agreement between a number of parties that have an interest in how this project is developed. The Agreement is applicable to parcels #2 and #4. A copy of that agreement is attached as additional justification for the proposed amendments/modifications. The Agreement settles numerous long standing disputes between these properties owned by Old Seaport Place, Inc., the adjacent marina/George Freeland and Marina Village/Paul Rosen. Both FDEP and the State of Florida Board of Trustees are also parties to the Agreement.

No changes/modifications are proposed on parcel #3 but it provides part of the required parking so it is included in this application and maintains consistency with the original approval. Amendments on the other three parcels are as follows:

Parcel #1: The 4020 sf Open Air Shops have been replaced by a maximum 3744 sf restaurant (with up to 800 sf of bar area) with COP. Restaurant is an approved Scheduled Use for parcel #1 under the current zoning so this revision is technically just to designate the area for the restaurant on the Master Concept Plan and establish development regulations for the restaurant.

EXHIBIT D

Town of Fort Myers Beach
Page 2

Parcel #2: The 1140 sf History House/Public Use area has been replaced by 900 sf of open seating that will be served by "on land" facilities that are included in this project. This 900 sf is consistent with Condition #29 on page 12 of the Settlement Agreement.

Parcel #4: The amount of Butler Act property that will be utilized for development has been reduced and the total amount of seating for the parcel has been reduced from 2697 sf to 1600 sf (with COP) of covered seating and a 390 sf walk-way service area (1990 sf total) on this parcel. These changes are consistent with the Settlement Agreement.

The revised Master Concept Plan specifically identifies these changes via revision clouds both on the plan itself and in the accompanying notes. We have also revised all the accompanying supporting documentation and attachments so that they are consistent with these changes. All other facets of the rezoning approved in early 2015 remain the same.

The application includes the following, all updated as required to be consistent with this amendment request:

- This cover letter
- Completed application for Public Hearing and related Supplement PH-D for proposed amendments with Mr. Fowler and Mr. Figuerado providing the proper signature pages.
- Master Concept Plan, which includes preliminary architectural elevations for the street side restaurant and covered seating areas
- Parking Calculations
- A separate Part I/Section C; Comprehensive Plan Compliance narrative
- A separate Part 1/Section D; Design Standards Compliance narrative
- Schedule of Uses
- Copy of the Settlement Agreement
- Variance report with map, property owners list and mailing labels
- Signed and sealed copies of the boundary survey

Fourteen copies of all documents are provided. The MCP is provided in 11" x 17", as noted on the application. The survey is a full size 24" x 36" drawing. Due to the detail and complexity of the survey a size reduction was not completed. We have also provided a disk with all documents in .pdf format.

Should you have any questions regarding this application or require additional information, please contact me at 239/275-7000 or by email at: robsr@fowlercompany.com

Very Truly Yours,



Robert Fowler, Sr.
Fowler Construction and Development

EXHIBIT D

PROJECT NUMBER: DCI 17-0005

DATE: 8-2-17



Town of Fort Myers Beach COMMUNITY DEVELOPMENT DEPARTMENT

APPLICATION for PUBLIC HEARING

This is 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 *one ORIGINAL paper copy, fourteen (14) copies* of all required applications, supplemental information, exhibits and documents. Please do not print and copy the instructions at the end of the application. In addition to application fees, the applicant is required to pay for (2) sets of mailings to neighboring property owners within 500', and all advertising fees.

Site Address: 441/445 and 645 Old San Carlos Blvd., Fort Myers Beach & two adjacent non-addressed parcels

STRAP Number: 24-46-23-W3-00026.0000/.0030 and two adjacent non-strapped parcels

Applicant: Fowler Construction & Development Phone: 239/275-7000

Contact Name: Mr. Robert Fowler, Sr. Phone: 239/707-5113

Email: robsr@fowlercompany.com Fax: _____

Current Zoning District: CPD (DCI 2014-0005/Resolution #15-01)

Future Land Use Map (FLUM) Category: Pedestrian Commercial, Tidal Water

FLUM Density Range: see resolution Platted Overlay: YES NO

ACTION REQUESTED

SUPPLEMENTAL FORM REQUIRED

- | | |
|---|--------------------------|
| <input type="checkbox"/> Special Exception | PH-A |
| <input type="checkbox"/> Variance | PH-B |
| <input type="checkbox"/> Conventional Rezoning | PH-C |
| <input checked="" type="checkbox"/> Planned Development <input checked="" type="checkbox"/> Commercial <input type="checkbox"/> Residential | PH-D |
| <input type="checkbox"/> Master Concept Plan Extension | PH-E |
| <input type="checkbox"/> Appeal of Administrative Action | PH-F |
| <input type="checkbox"/> Vacation of Platted Right-of-way and Easement | PH-G |
| <input type="checkbox"/> Other – cite LDC Section: _____ | attach on separate sheet |

EXHIBIT D

PROJECT NUMBER: _____

DATE: _____

PART I - General Information

A. Applicant*: Fowler Construction & Development Phone: 239/275-7000

**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: 10491 Six Mile Cypress Parkway, #280, Fort Myers, FL 33966

Email: robsr@fowlercompany.com Fax: _____

Contact Name: Robert Fowler, Sr. Phone: 239/707-5113

B. Relationship of Applicant to subject property:

- | | | |
|--|---|--|
| <input type="checkbox"/> Owner* | <input type="checkbox"/> Land Trust* | <input type="checkbox"/> Partnership* |
| <input type="checkbox"/> Corporation* | <input type="checkbox"/> Association* | <input type="checkbox"/> Condominium* |
| <input type="checkbox"/> Subdivision* | <input type="checkbox"/> Timeshare Condo* | <input type="checkbox"/> Contract Purchaser* |
| <input checked="" type="checkbox"/> Authorized Representative* | <input type="checkbox"/> 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: (same as applicant) Phone: _____

Address: _____

Email: _____ Fax: _____

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

Name: David McKee, PE/McKee Engineering Phone: 239/898-4008

Address: 5235 Starboard Lane, Granite Falls, NC 28630

Email: mckeeeng@gmail.com Fax: _____

Name: _____ Phone: _____

Address: _____

Email: _____ Fax: _____

EXHIBIT D

PROJECT NUMBER:

DATE:

Name: _____ Phone: _____

Address: _____

Email: _____ Fax: _____

PART II - Nature of Request

Requested Action (each request requires a separate application)

- Special Exception
- Variance from LDC Section _____ - _____
- Conventional Rezoning from _____ to _____
- Planned Development
 - Rezoning from _____ to Commercial PD Residential PD
 - Amendment. List the project number: DCI2014-0005 (Res. #15-01)
 - 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: (none)

Description: _____

Code Section: _____

Description: _____

Code Section: _____

EXHIBIT D

PROJECT NUMBER:

DATE:

Description: _____

PART IV - Property Ownership

Single Owner (individual or husband and wife)

Name: _____

Phone: _____

Mailing Address: _____

Email: _____

Fax: _____

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 4-1

Attach map showing property owners interests as Exhibit 4-2 (for multiple parcels)

For condominiums and timeshares see Explanatory Notes Part IV (Page 11)

DISCLOSURE OF OWNERSHIP INTEREST

STRAP: 24-46-23-W3-00026.0000/.0030 and two adjacent non-strapped parcels

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

Name and Address

Percentage Ownership

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

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

EXHIBIT D

PROJECT NUMBER:

DATE:

Name, Address and Office

Old Seaport Place, Inc.

2532 Estero Blvd., Unit 504, Fort Myers Beach, FL 33931

Mr. Jim Figuerado

Percentage of Stock

100%

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

EXHIBIT D

PROJECT NUMBER:

DATE:

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

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

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

Jim Figuerado
Printed Name

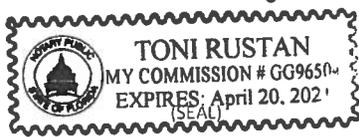
EXHIBIT D

PROJECT NUMBER:

DATE:

STATE OF FLORIDA)
COUNTY OF LEE)

Subscribed and sworn to (or affirmed) before me this 2 day of August
20 17, by Jim Figuerado.



Toni Rustan
Notary Public Signature

Toni Rustan
Notary Printed Name

Personally Known or Produced Identification _____

Type of Identification Produced: _____ My Commission Expires: 4-20-21

PART V - Property Information

A. Legal Description:

STRAP: 24-46-23-W3-00026.0000/.0030 and two adjacent non-strapped parcels

Property Address: 441/445 and 645 Old San Carlos Blvd., Fort Myers Beach & two adjacent non-addressed parcels

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 5-1.

Yes. Property identified in subdivision: _____

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

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 5-2.

C. Property Dimensions:

Width (please provide an average width if irregular in shape) 310 feet

EXHIBIT D

PROJECT NUMBER:

DATE:

Depth (please provide an average width if irregular in shape) 210 feet
Frontage on street: 310 feet. Frontage on waterbody: 151 feet
Total land area: 35,753 acres square feet

D. General Location of Subject Property (from Sky Bridge or Big Carlos Pass Bridge):
turn right off bridge (Gulf side), turn right onto Old San Carlos Blvd., go to end of street

Attach Area Location Map as Exhibit 5-3

E. Property Restrictions (check applicable):

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

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 5-6.
 Attach a map showing the surrounding property owners as Exhibit 5-7.
 Provide Staff with two (2) sets of surrounding property owner mailing labels.

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

- | | |
|---|--|
| <input type="checkbox"/> Low Density | <input type="checkbox"/> Marina |
| <input type="checkbox"/> Mixed Residential | <input type="checkbox"/> Recreation |
| <input type="checkbox"/> Boulevard | <input type="checkbox"/> Wetlands |
| <input checked="" type="checkbox"/> Pedestrian Commercial | <input type="checkbox"/> Platted Overlay |

H. Zoning (see official Zoning Map):

- | | |
|---|--|
| <input type="checkbox"/> RS (Residential Single-family) | <input type="checkbox"/> CF (Community Facilities) |
| <input type="checkbox"/> RC (Residential Conservation) | <input type="checkbox"/> IN (Institutional) |

EXHIBIT D

PROJECT NUMBER:

DATE:

- | | |
|--|--|
| <input type="checkbox"/> RM (Residential Multifamily) | <input type="checkbox"/> BB (Bay Beach) |
| <input type="checkbox"/> RPD (Residential Planned Development) | <input type="checkbox"/> EC (Environmentally Critical) |
| <input type="checkbox"/> CM (Commercial Marina) | <input type="checkbox"/> DOWNTOWN |
| <input type="checkbox"/> CO (Commercial Office) | <input type="checkbox"/> SANTOS |
| <input type="checkbox"/> CB (Commercial Boulevard) | <input type="checkbox"/> VILLAGE |
| <input type="checkbox"/> CR (Commercial Resort) | <input type="checkbox"/> SANTINI |
| <input checked="" type="checkbox"/> CPD (Commercial Planned Development) | |

PART VI

AFFIDAVIT

APPLICATION IS SIGNED BY AN INDIVIDUAL OWNER OR APPLICANT

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

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

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

EXHIBIT D

PROJECT NUMBER:

DATE:

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

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



Signature of owner or authorized agent

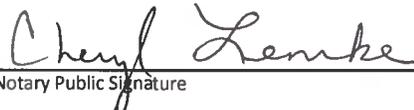
8-2-17

Date

STATE OF FLORIDA)
COUNTY OF LEE)

Subscribed and sworn to (or affirmed) before me this 2nd day of August,
20 17, by ROBERT B. FOWLER.





Notary Public Signature

CHERYL LEMKE

Notary Printed Name

Personally Known or Produced Identification _____

Type of Identification Produced: _____ My Commission Expires: 05/23/2021

EXHIBIT D

PROJECT NUMBER:

DATE:

PART VII

AFFIDAVIT

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

I, Robert Fowler (name), as CEO (title) of Fowler Construction & Development (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 County 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 Lee County Community Development to enter upon the property during normal working hours for the purpose of investigating and evaluating the request made thru this application; and that
4. The property will not be transferred, conveyed, sold or subdivided unencumbered by the conditions and restrictions imposed by the approved action.

Fowler Construction and Development

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

[Signature]
Signature

CEO 8-2-2017
Title

Robert Fowler, Sr.

Typed or Printed Name

8-2-2017
Date

STATE OF FLORIDA)
COUNTY OF LEE)

Subscribed and sworn to (or affirmed) before me this 2nd day of AUGUST, 20 17, by ROBERT B FOWLER, as (title) CEO on behalf of (company name) FOWLER CONSTRUCTION & DEVELOPMENT.



[Signature]
Notary Public Signature

CHERYL LEMKE

EXHIBIT D

PROJECT NUMBER:

DATE:

Notary Printed Name

Personally Known X or Produced Identification _____

Type of Identification Produced: _____ My Commission Expires: 05/23/2021

EXHIBIT D

Case # DCI17-0005
Planner _____

Date Received 8-10-17
Date of Sufficiency/Completeness _____



Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT

Supplement PH-D

Additional Required Information for a Planned Development Application

This is the second part of a two-part application. This part requests specific information for a planned development rezoning or an amendment to an approved planned development. Include this form with the Request for Public Hearing form.

Project Name: Olde Seaport CPD
Authorized Applicant: Robert Fowler, Sr./Fowler Construction & Development
STRAP Number(s): 24-46-23-W3-00026.0000/.0030 and two adjacent non-strapped parcels

Current Property Status: parking lot with some vacant area
Current Zoning: CPD; DCI2014-0005/Resolution #15-01
Future Land Use Map (FLUM) Category: Pedestrian Commercial, Tidal Water
Platted Overlay? <input type="checkbox"/> yes <input checked="" type="checkbox"/> no FLUM Density Range: (see resolution)

Requested Action:

<input type="checkbox"/>	DRI (with rezoning)
<input checked="" type="checkbox"/>	Planned Development (also check below)
<input type="checkbox"/>	Rezoning from: _____ to: _____
<input checked="" type="checkbox"/>	Amendment to Master Concept Plan/attendant documentation

EXHIBIT D

Case # _____
Planner _____

Date Received _____
Date of Sufficiency/Completeness _____

E. Decision-making Compliance

Explain how the proposed development complies with the guidelines for decision-making embodied in LDC Section 34-85.

The original narrative submitted in connection with Resolution 15-01 is still applicable and no changes or additions are required.

F. Schedule of deviations and written justification

Provide a list of the requested deviations keyed to the Master Concept Plan, and provide a written justification for each deviation. The location of each deviation should be indicated on the Master Concept Plan.

(there are no deviations requested)

EXHIBIT D

Case # _____
Planner _____

Date Received _____
Date of Sufficiency/Completeness _____

Guide to Filing Supplement PH-D for Planned Developments

Amendments Applications for amendments to an approved Master Concept Plan or its attendant documentation will require as much information as is needed to describe the changes requested, to specify the incremental change in impacts expected from the amendment, and to detail the changes in surrounding land uses that have occurred since the original application. Some amendments can be approved administratively as provided in LDC Section 34-219, but all other amendments must proceed through the public hearing process.

Through a pre-application meeting with Community Development staff, prospective applicants can determine whether proposed amendments will require a public hearing, and can request waivers from any submittal requirements that are not necessary to specify the changes requested.

All other planned developments All other applications must complete and submit the Request for Public Hearing and Supplement PH-D, along with all required documents. Refer also to the instructions for the Request for Public Hearing form.

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.

Authorized 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.

Requested Action: Indicate whether the request is a DRI (Development of Regional Impact) that requires rezoning, a Planned Development, or an amendment to a Planned Development.

Part 1 Narrative Statements:

Comprehensive Plan Amendments

If Comprehensive Plan Amendments are pending that might affect the future use of the property, explain the amendments' possible effects.

EXHIBIT D

Case # _____
Planner _____

Date Received _____
Date of Sufficiency/Completeness _____

Construction Phasing

If the project is to be constructed in multiple phases, describe the ordering and timing of the proposed phasing. In the absence of a phasing plan, phasing of development would be governed by the limitations of LDC Section 34-220.

Comprehensive Plan Compliance

Explain how the proposed development complies with the Fort Myers Beach Comprehensive Plan. Address the Future Land Use Map category or categories applicable to the subject property and any other relevant policies.

Design Standards Compliance

For properties and/or projects as described in LDC Section 34-992, explain how the proposed development will comply with the standards in LDC Sections 34-991 through 34-997.

Decision-making compliance

Explain how the proposed development will comply with the standards for decision-making in LDC Section 34-85.

Schedule of deviations and written justification

Identify the deviations from the requirements of the Land Development Code that are requested for the proposed development and justify them in relation to the guidance in LDC Section 34-932(b).

Administrative amendments

If the request is for an amendment to a planned development, indicate which of the requested changes could not be approved administratively as allowed by LDC Section 34-219.

Part 2 Submittal Requirements

Public Hearing Application Form. Applications for rezoning, including Planned Developments and Planned Development amendments for which public hearing is required, consist of the Public Hearing form and the supplemental form PH-D. Both parts of the application form must be completed and submitted.

Master Concept Plan. The master concept plan consists of maps, graphic illustrations, and written statements concerning the development. Space has

EXHIBIT D

Case # _____
Planner _____

Date Received _____
Date of Sufficiency/Completeness _____

been provided on this form for many of the required narrative statements, though they can be attached on separate sheets. A master concept plan must include the following required information:

- a. The general size, configuration, and location of each development phase, and a description of the phasing of construction, unless the development is to be constructed in a single phase.
- b. The maximum height of any proposed buildings or structures, using the Land Development Code's method of measuring building height (see LDC Section 34-631).
- c. Proposed principal and accessory uses, identified using the terminology employed in the Land Development Code. Employ the groupings of uses in Tables 34-1 and 34-2 of the Land Development Code, or specify individual uses if necessary.
- d. The density and intensity of the proposed uses, in terms of dwelling units by type, or through conversion factors for hotel/motel units. Provide gross square footages for types of commercial uses, and maximum Floor-Area Ratio.
- e. The minimum width and composition of proposed buffers along the perimeter of the property. References to the types of buffers required by LDC chapter 10 are acceptable.
- f. The location of any environmentally sensitive land and water, based on standard environmental data capable of verification by Town staff. Developments larger than one acre in size may require a protected species survey under LDC Section 10-473.
- g. The exact location of all points of vehicular ingress and egress from existing easements or rights-of-way into the development, with distances from other existing or planned rights-of-way or access points.
- h. Access and facilities for public transit, if applicable.
- i. The general location of stormwater management areas.
- j. The specific locations of requested deviations, including sample detail drawings illustrating their effects if applicable.
- k. The exact location of existing rights-of-way and easements, whether or not those easements are recorded.
- l. Proposed dedications, if any, including beach access, boat ramps, park or recreation areas, open space, or other easements.

EXHIBIT D

Case # _____ Date Received _____
Planner _____ Date of Sufficiency/Completeness _____

Traffic Impact Statement. A traffic impact statement in the same format and to the same degree of detail required for development orders (LDC Section 10-286).

Architectural Elevations. Architectural elevations or three-dimensional renderings that show at minimum all building façades adjoining public streets. These drawings will serve for the sketch requirement of LDC Section 34-202(b)(5) as well. If aspects of the proposed design will not comply with the commercial design standards of LDC Sections 34-991 through 34-997 (if required), the applicant may request deviations from those standards.

Schedule of uses. A list of all proposed principal and accessory uses. Identify these uses by reference to the groups of uses in Tables 34-1 and 34-2 of the Land Development Code unless greater specificity is necessary. For amendments to planned developments that were approved under different regulations, the enumeration of uses in the schedule of uses supplied for the amendment must be specific enough to explain what uses were previously approved without future reference to prior regulations or approvals.

Olde Seaport Of Fort Myers Beach
 Parking Calculations for Public Hearing Amendment 8/3/17

Building/Description	Unit	QTY.	Calculated Parking	Gross Total	Downtown Reduction	Required	Provided
Existing "Nervous Nellie's" - Food Service	SF	6500	8 per 1000 SF	52	0.5	26	26
Existing "Nervous Nellie's" - Bar Area	SF	1000	5 per 1000 SF	5	0.5	3	3
Charter Boats	per boat	7	3 per boat	21	0.5	11	11
FMB Princess Cruise Ship (150 capacity)	per patron	150	0.3333333333 per patron	50	0.5	25	25
Parcel 1/Outdoor Seating	SF	2729	8 per 1000 sf	22	0.5	11	11
Outdoor & Covered Seating*	SF	3350	8 per 1000 sf	27	0.5	13	13
Parcel 1 street side Restaurant	SF	3744	8 per 1000 sf	30	0.5	15	15
Street side Restaurant Bar Area	SF	800	5 per 1000 sf	4	0.5	2	2
Boat Slips	per slip	22	0.5 per slip	11	0.5	6	6
TOTAL REQUIRED SPACES				111		111	111

The actual number of existing spaces is 129 so there is more than adequate parking

* includes all parcel 2 and 4 seating areas as well as 850 sf for Covered Food Preparation area on parcel 1

EXHIBIT D

8/3/17

**Olde Seaport of Fort Myers Beach
CPD: DCI2014-0005, Resolution #15-01
Public Hearing Amendment Request**

Part I – C – Comprehensive Plan Compliance

Future Land Use Classifications for the properties where zoning amendments/revisions are being requested are Pedestrian Commercial and Tidal Water. The two land parcels (parcels #1 and #3), which are strapped and addressed, are Pedestrian Commercial and permit a wide array of commercial uses. The Butler Act property (parcel #4) and the submerged land lease (parcel #2) are within the Tidal Water Land Use and require that the activities generally be “water dependent”. The activities permitted by the two land use classifications are inter-related and dependent upon each other, as discussed herein, and continue to promote the overall development concept that was proposed in 2014/2015.

Policy 4-B-6 of the Town of Fort Myers Beach Comprehensive Plan states the Pedestrian Commercial Land Use is “a primarily commercial district applied to the intense activity centers of Times Square (including Old San Carlos and nearby portions of Estero Boulevard and the area around Villa Santini Plaza)”. The proposed uses within the Pedestrian Commercial area under this rezoning request, which are discussed below, are consistent with this Future Land Use criteria:

- Parcel #3, also known as the South parcel located at 441/445 Old San Carlos Blvd., is a 74 space parking lot that provides part the required parking for all the proposed uses requested by this application. No changes are being proposed.
- Parcel #1, also known as the North parcel located at 645 Old San Carlos Blvd., fronts Matanzas Pass and has a number of approved uses in Resolution #15-01 that will remain the same: continued use of the 49 parking spaces to provide the parking for the overall development, a 2729 sf open seating area that will be part of a restaurant originally designated as the Full Belly Deli (with kitchen facilities in the adjacent Unit B of the Marina Village, a Condominium) and an 850 sf covered food preparation area, originally designated as the Lobster Pot (with kitchen facilities in the adjacent Unit D of the Marina Village, a Condominium). One amendment is being requested; to build a Restaurant w/COP (3744 sf), which is a previously approved use on Parcel #1, in lieu of the Open Air shops that were originally shown on the Master Concept Plan.

Policy 4-B-10 of the Comprehensive Plan defines Tidal Water as being “applied to all saltwater canals and all waters surrounding Estero Island that lie within the municipal boundary (out 1,000 feet)”. Allowable uses are water dependent such as water sports, boating, swimming and fishing. Fixed structures for water access are also permitted as long as they comply with LDC standards. The proposed uses within the Tidal Water

EXHIBIT D

Future Land Use Classification under this rezoning, which are discussed below, are consistent with this Future Land Use criteria:

- The Submerged Land Lease parcel, also known as Parcel #2 and located north of 645 Old San Carlos Blvd., is the subject of a Settlement Agreement (which has been submitted as part this application) has noted the use of this area for open seating as long as a non-structural roof/covering is utilized. The use of the docks for boating, fishing/charter activities and water related special events in connection with the use of this area will continue and be enhanced.
- The Butler Act parcel, also known as Parcel #4 and located north of 645 Old San Carlos Blvd., which Old Seaport Place, Inc. owns, resulted from the fact that a former restaurant occupied the site prior to 1951. As such FDEP has no jurisdiction regarding the use of the property and it is subject to local criteria. As late as 2000 the Snug Harbor Restaurant occupied the site. Under this rezoning amendment request, the west end of the parcel is being removed from consideration and the total seating area reduced to a covered area of 1600 sf. This is consistent with the Settlement Agreement that is part of this submittal. Service will be provided from the adjacent land based covered food preparation area and a unit in the Marina Village building. The Butler Act parcel presently contains an existing marine structure/dock, which will rehabilitated and/or replaced in the noted seating area and removed on the western end of the parcel.

EXHIBIT D

7/26/17

Olde Seaport of Fort Myers Beach Commercial Planned Development

Schedule of Uses

Parcel #1 (North Parcel – 645 Old San Carlos Blvd.)

Consumption on Premises
Parking Lot, shared permanent
Personal Services
Restaurants
Seating areas
Retail store, small

Parcel #2 (Submerged Land Lease)

Boat slips
Docks
Marina & related activities
Seating areas (in connection with adjacent parcels restaurants and food preparation areas)
Consumption on Premises

Parcel #3 (South Parcel – 441/445 Old San Carlos Blvd.)

Parking Lot, shared permanent

Parcel #4 (Butler Act property)

Seating areas (in connection with adjacent parcels restaurants and food preparation areas)
Consumption On Premises

Accessory uses on all parcels:

Bay access
Essential services
Essential services equipment

Jim Figuerado

489 Madison Court
Fort Myers Beach, FL 33931

September 19, 2017

I, Jim Figuerado authorize Rob Fowler with Fowler Group to represent me in the public hearings at Fort Myers Beach regarding Old Seaport Place .

Thank you.


Jim Figuerado

County of Hamblen

Sworn to (or affirmed) and subscribed before me this 19 day of September, 2017, by .
Jim FIGUERADO (month) (year)
(name of signer)

Personally Known


(Signature of Notary)

(Seal) Nancy Proffitt
(Name of Notary Typed, Stamped, or Printed)
Notary Public, Tennessee



**RESOLUTION NUMBER 2017-008 OF THE LOCAL PLANNING
AGENCY OF THE TOWN OF FORT MYERS BEACH FLORIDA
SEZ17 - 0001 & VAR17 - 0005 – MANGO STREET PARKING LOT
PERMANENT SHARED PARKING LOT**

WHEREAS, Greg Stuart, authorized agent for Ronald Yanke is requesting a special exception and associated variances to construct a permanent shared parking lot consistent with Section 34-2011 of the Town of Fort Myers Beach Land Development Code; and

WHEREAS, the applicant has indicated that the STRAP number for the subject property is 19-46-24-W3-0120A.0050 and the legal description of the subject property is attached as *Exhibit A*; and

WHEREAS, the subject property is located at 2440 Estero Boulevard Fort Myers Beach, FL 33931, zoned Commercial Boulevard (CB) on the Official Zoning Map and Boulevard category of the Future Land Use Map of the Comprehensive Plan of the Town of Fort Myers Beach, Florida; and

WHEREAS, a public hearing on this matter was legally advertised and held before the Local Planning Agency (LPA) on October 10, 2017; and

WHEREAS, at the 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 Fort Myers Beach Land Development Code (LDC) Section 34-88.

IT IS HEREBY RESOLVED BY THE LPA OF THE TOWN OF FORT MYERS BEACH, FLORIDA, as follows:

1. **Determination.**

Based upon the recommendations, testimony, and evidence presented by the applicant, staff, and other interested persons at the hearing, and review of the application and the standards for granting variances, the LPA recommends approval of the following:

a. **Special Exception.** (SEZ17-0001)

The LPA recommends that the Town Council **APPROVE** the applicant's request for a special exception and associated variances to construct a permanent shared parking lot consistent with Section 34-2011 of the LDC to allow a 29 space shared parking lot as depicted on the site plan on the property described in attached Exhibit A.

b. **Variiances.** (VAR17-0005)

- (1) Variance #1 from LDC section 10-416(d)(2) requirement from the right of way Type D buffer from 15 foot wide buffer consisting of 5 trees per 100 lineal feet and double staggered rows hedge and no wall to permit a 2 foot wide buffer with a single row hedge adjacent to Estero Boulevard is APPROVED.
- (2) Variance #2 from LDC section 10-416(d)(2) requirement from the right of way Type D buffer from 15 foot wide buffer consisting of 5 trees per 100 lineal feet and double staggered rows hedge and no wall to permit a 1 foot wide buffer with a low fence and no landscaping adjacent to Mango Street is APPROVED provided that 6 trees be planted along Mango Street in the triangular shaped areas located outside of the parking stalls.
- (3) Variance #3 from LDC section 10-416(d)(2) requirement from a Type C buffer from 15 foot wide buffer consisting of 5 trees per 100 lineal feet and 18 shrubs per 100 lineal feet and wall to permit a 1 foot wide buffer with a low fence and no landscaping is APPROVED.
- (4) Variance #4 from the driveway separation requirement in LDC section 10-285 that connection separation centerline distance of a local street is 125 feet to permit approximately 27 feet and 45.3 feet for the exit and entrance centerline as shown on the site plan is APPROVED.
- (5) Variance #5 from the parking stall dimensions from LDC section 34-2016(2) from a 19.1 stall depth to wall for a 60 degree space to permit for stall space #9 a 15 foot depth as shown on the site plan and from a 17.5 foot stall depth interlock to permit for stall space #10 a 15 foot stall depth, both to be utilized for compact cars is APPROVED.

RECOMMENDED FINDINGS AND CONCLUSIONS:

a. Special Exception. In accordance with the requirements of LDC Section 34-88 for granting a special exception, the LPA recommends that the Town Council make the following findings and reach the following conclusions:

1. There **exist** changed or changing conditions which make approval of the request appropriate.
2. The request **is consistent** with the goals, objectives, policies and intent of the Fort Myers Beach Comprehensive Plan.
3. The request **meets or exceeds** all performance and locational standards set forth for the proposed use.

4. The request **will** protect, conserve, or preserve environmentally critical areas and natural resources.

5. The request **will** be compatible with existing or planned uses and not cause damage, hazard, nuisance, or other detriment to persons or property.

6. The requested use **will** be in compliance with applicable general zoning provisions and supplemental regulations pertaining to the use set forth in the Land Development Code including Chapter 34.

b. Variances. In accordance with LDC section 34-87, the LPA recommends that the Town Council finds the following:

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

CONDITIONS OF APPROVAL

1. *Approval of this special exception does not exempt the subject property from any provisions of the LDC with the exception of the approved variances.*
2. *The property must apply for a limited development order (LDO) within 180 days of the approval of the special exception. The LDO must address a parking plan, stormwater retention/detention, access to the site, parking surface of the lot, and buffering.*
3. *Perimeter parking spaces must be delineated by placing a parking block three feet from the end of the parking space and centered between the sides of the space.*

4. *Signs must be in compliance with Chapter 30 of the LDC.*
5. *The operator of the parking lot will provide a trash receptacle and maintain the lot in a litter free manner. The operator will ensure that the trash receptacle is regularly emptied and hauled away by the franchised garbage hauler.*
6. *Six (6) native trees must be installed along the Mango Street side of the property and be shown on the LDO.*
7. *Hours of operation are limited to 8:30 AM to 10:00 PM.*

The foregoing Resolution was adopted by the LPA upon a motion by LPA Member #### and seconded by LPA Member ####, and upon being put to a vote, the result was as follows:

Hank Zuba, Chair	###	Suzie Katt, Vice Chair	###
Megan Heil, Member	###	Dan Hendrickson, Member	###
Jane Plummer, Member	###	Scott Safford, Member	###
Lorrie Wolf, Member	###		

DULY PASSED AND ADOPTED THIS **10th** day of **OCTOBER, 2017**.

By: _____
Hank Zuba, LPA Chair

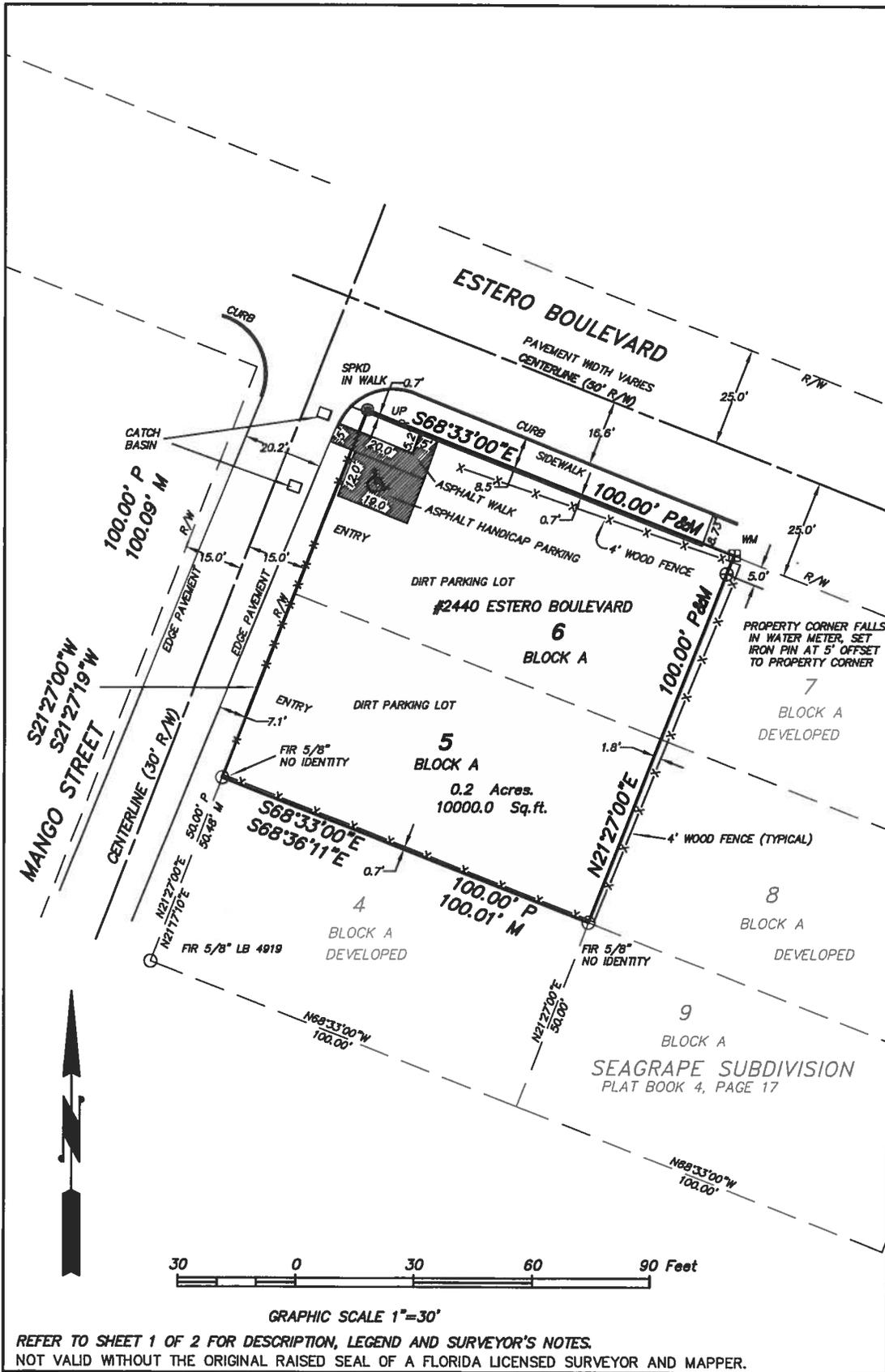
Approved as to legal sufficiency:

ATTEST:

By: _____
Jack Peterson
LPA Attorney

By: _____
Michelle Mayher
Town Clerk

EXHIBIT A



REFER TO SHEET 1 OF 2 FOR DESCRIPTION, LEGEND AND SURVEYOR'S NOTES.
 NOT VALID WITHOUT THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

SHEET 2 OF 2

CHARLES DEGRAFF LAND SURVEYOR
 Land Surveyors and Mappers
 301 Hazeltine Drive, Debarry, Florida 32713

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

EXHIBIT A

LEGEND OF SYMBOLS AND ABBREVIATIONS			
D = DELTA R = RADIUS CB = CHORD BEARING CD = CHORD A = ARC LENGTH T = TANGENT GAR = GARAGE RR = RAILROAD GV = GUY WIRE SEC = SECTION PB = PLAT BOOK FND = FOUND	R/V = RIGHT-OF-WAY TT = TIN TAB BLK = BLOCK RNG = RANGE BH = BENCHMARK FH = FIRE HYDRANT TYP = TOWNSHIP PR = PRIORATED M = MEASURED C = CALCULATED H = HANDLE SV = SEAWALL	CONC = CONCRETE P = PLAT TYP = TYPICAL OCC = OCCUPIED CTB = CATCH BASIN PC = POINT OF CURVE PT = POINT OF TANGENT PI = POINT OF INTERSECTION E/P = EDGE OF PAVEMENT OU = OVERHEAD UTILITY CLF = CHAINLINK FENCE SS = SANITARY SEWER	N.G.V.D. = NATIONAL GEODETIC VERTICAL DATUM PRM = PERMANENT REFERENCE MONUMENT FIR = FOUND IRON ROD 5/8" PK = PARKER KALON FFE = FINISHED FLOOR ELEVATION CBS = CONCRETE BLOCK STRUCTURE FCN = FOUND CONCRETE MONUMENT SIR = SET 5/8" IRON ROD LS4706 PDC = POINT OF COMMENCEMENT SPKD = SET PK NAIL & DISK LS4706 FPKD = FOUND PK NAIL AND DISK D.P.U.E. = DRAINAGE AND PUBLIC UTILITY EASEMENT WV = WATER VALVE WH = WATER HETER PDB = POINT OF BEGINNING CTV = CABLE TELEVISION RISER A/C = AIR CONDITIONER UP = UTILITY POLE V/M = WATER MAIN C/L = CENTERLINE PTRAN = TRANSFORMER PAD ELEV = ELEVATION TELR = TELEPHONE RISER F.B. = FIELD BOOK

SUBJECT PROPERTY LIES IN FLOOD ZONE "VE", ELEVATION 14'; PER "FLOOD INSURANCE RATE MAP" (F.I.R.M.) COMMUNITY PANEL NUMBER 12071 C 0554 F, LAST REVISION DATE: 08/28/2008

SURVEYORS NOTES

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

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

ADDRESS OF PROPERTY SURVEYED:
 2440 ESTERO BOULEVARD
 FORT MYERS BEACH, FLORIDA 33931

BEARINGS ARE BASED ON THE CENTERLINE OF ESTERO BOULEVARD BEING N68°33'00"W.

BOUNDARY SURVEY

JOB # 1339
 STRAP# 19-46-24-W3-0120A.0050
 FIELD BOOK 1601 PAGE 178-179

DATE OF FIELD WORK, MAY 16, 2017

LEGAL DESCRIPTION:

Lots 5 and 6, Block A, SEAGRAPE SUBDIVISION, according to the map or plat thereof on file and recorded in the office of the Clerk of the Circuit Court in Plat Book 4, Page 17, Public Records of Lee County, Florida.

CERTIFIED TO: RONALD YANKE



(SIGNED)

Charles L DeGraff
 Digitally signed by Charles L DeGraff
 DN: c=US, st=Florida, l=Debary, email=charles.degraff@gmail.com, o=Charles DeGraff Land Surveyor, cn=Charles L DeGraff
 Date: 2017.06.05 17:24:01 -04'00'

CHARLES L. DEGRAFF PSM #4706

REFER TO SHEET 2 OF 2 FOR SURVEY DRAWING

SURVEY VALID ONLY TO THE DATE OF FIELD SURVEY SHOWN HEREON.
 NOT VALID WITHOUT SHEET 2

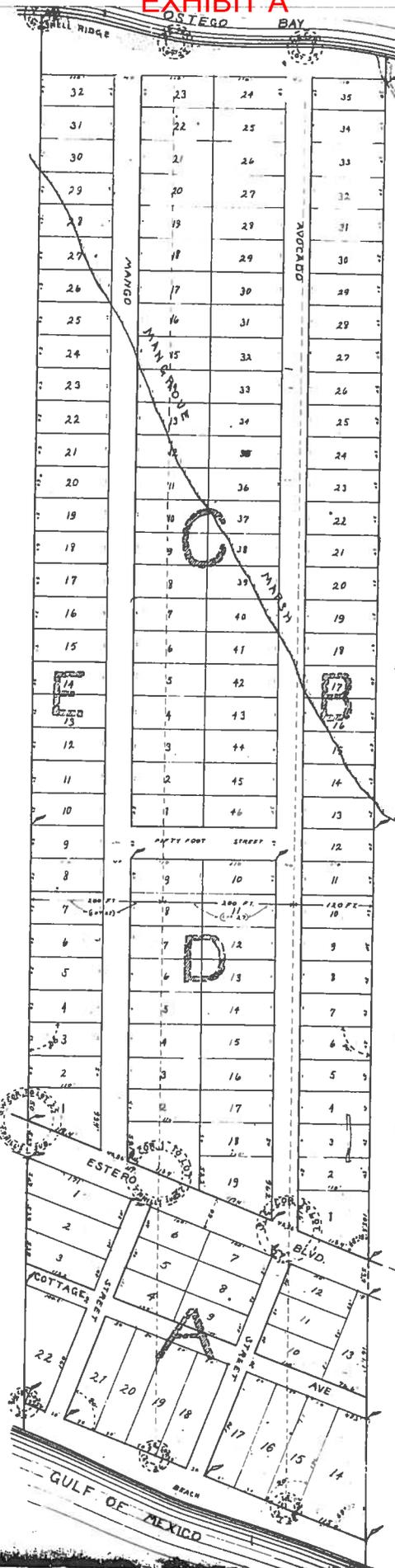
The seal appearing on this document was authorized by Charles DeGraff PSM 4706 on June 05, 2017.

CHARLES DEGRAFF LAND SURVEYOR
 Land Surveyors and Mappers
 301 Hazeltine Drive, Debary, Florida 32713

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



EXHIBIT A



Petition to Vacate
 Description: For Name change
 Avocado Ave to Chapel St
 Date for Approval: 05/21/52
 CCMB: 11 Page: 429

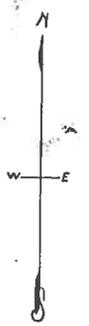
SEAGRAPE

Being a Subdivision of Lots 25-26-27
 28 and the West 120 Feet of Lots 29 and 30
 of T.P. Hill's Subdivision of Gov't. Lots 2-3
 and 4 in Section 19 Tp 46 S.-R. 24 E.

Estero Island

E.E. DAMKÖHLER AND C.S. FICKLAND, OWNERS

4 IN. IRON PIPE SHOWN - F



scale
 1 in. = 100 ft.

SUBDIVIDED
 JUNE 1919
 BY
 H.K. DAVISON, INC.

Petition to Vacate
 Petition No: 84-13
 Description: Vacation btwn Block C&D
 Date of Approval: 10/24/84
 CCMB: 151 Page: 43

*Vacation between
 Block C & D
 C.C.M.B. 151/4/84*

EXHIBIT B

RESOLUTION NUMBER 16-03

**RESOLUTION OF THE TOWN COUNCIL OF
THE TOWN OF FORT MYERS BEACH FLORIDA
SEZ 2015-0004 Permanent Shared Parking Lot
VAR 2015-0005 Site Related Variances
For 140 and 150 Crescent Street**

WHEREAS, Greg Stuart, authorized agent for John Richard, applicant and owner of the subject property, filed applications to obtain a special exception for a permanent shared parking lot (SEZ2015-0004) and permit variances from Land Development Code (LDC) s. 10-416, 34-1744 and Tables 10-8 and 10-9 to allow alternative buffering, fencing and landscaping in accordance with a plan approved by the Town (VAR2015-0005); and

WHEREAS, Applicant has indicated the STRAP numbers for the subject property are 19-46-24-W4-0150E.0060 and 19-46-24-W4-0150E.005B, and the subject property is legally described as indicated on attached Exhibit A; and

WHEREAS, the subject property is physically located at 140 and 150 Crescent Street, Fort Myers Beach, Florida, and within the Downtown zoning districts; and

WHEREAS, a duly advertised public hearing was held before the Local Planning Agency (LPA) on November 17, 2015; and

WHEREAS, the LPA recommended approval subject to certain conditions after full and complete consideration to the Applicant's request, recommendations of Town staff, documents in the record, and the testimony of all interested persons, as required by Town Land Development Code (LDC) s. 34-84; and

WHEREAS, on February 16, 2016, the Town Council held a duly advertised 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 LDC s. 34-88; and

WHEREAS, the Town Council determined it is in the best interest of the Town to approve the request.

NOW THEREFORE, BE IT ORDAINED by the Town Council of the Town of Fort Myers Beach, Florida, as follows:

1. **Determination.**

Based upon the recommendations, testimony, and evidence presented by Town staff, LPA, and interested parties, the Town Council approves the following:

a. **Special Exception.** (SEZ2015-0004)

The special exception for a permanent shared parking lot to be located on the property described in attached Exhibit A is APPROVED, subject to the conditions set forth in this Resolution.

EXHIBIT B

b. Variances. (VAR2015-0005)

- (1) Variance #1 from LDC s. 10-416(d)(2), which requires a Type "D" Buffer, to allow a one foot wide buffer with a four foot high white picket fence along Crescent Street and a variance from LDC s. 10-416(d)(2), which requires a Type "C/F" Buffer, to allow a one foot wide buffer with a eight foot high solid wall along the northern property boundary is APPROVED.
- (2) Variance #2 from LDC s. 34-1744, which requires that any fence or wall located in a side or rear yard may not exceed six feet in height, to allow an 8-foot high solid wall within one foot of the northern property line is APPROVED.
- (3) Variance #3 from LDC s. 10-416(c)(2), which requires internal landscaping, to allow landscaping as shown on attached Exhibit B is APPROVED.
- (4) Variance #4 for LDC s. 10-416(d)(2), Tables 10-8 and 10-9, which require a Type "C" Buffer, to allow for no buffer along the site's west boundary is APPROVED.

2. Conditions.

- a. Approval of the special exception does not exempt the subject property from any provisions of the LDC. The development of the parking lot must be generally consistent with the site and landscaping plans attached as Exhibit B. The buffer at the time of installation must be a minimum of three feet in height and must be maintained at 4 feet in height.
- b. The property must be the subject to a limited development order (LDO) within two years of the approval of this special exception. The LDO must address a parking plan, stormwater retention/detention, access to the site, parking surface of the lot, buffering, walkways and ADA issues.
- c. Signage must be consistent with the requirements of LDC chapter 30.
- d. The operator of the parking will provide minimum of two trash receptacles. The operator will ensure that the receptacles are regularly emptied and trash hauled away by the franchised garbage hauler.
- e. The operator of the parking lot must install a fence along Crescent Street right-of-way. The fence must be a minimum of four feet in height and be installed prior to the parking lot improvements being finalized.
- f. The operator/owner of the parking lot will coordinate with Lee Tran to assure that there are no conflicts with their stop on Crescent Street in the vicinity of the project.
- g. The parking lot hours of operation are limited to 7 AM to 11 PM unless a special event permit (limited to 6 a year) is applied for and approved to accommodate parking for events in the Times Square area such as Fourth of July Fireworks or New Year's Eve.

EXHIBIT B

- h. No lighting poles may be installed, only ground mounted lighting may be used on site. A lighting plan must be administratively approved prior to the installation of any site lighting.
- i. Stops or bollards must be included in the buffer area along the canal to prevent cars from entering the canal.
- j. If possible, the site must include a center strip of landscaping.

3. Findings and Conclusions of Law.

- a. **Special Exception.** In accordance with LDC s. 34-88, the Town Council finds as follows:
 - (1) There are changed or changing conditions that make approval of the special exception request appropriate.
 - (2) The request is consistent with the goals, objectives, policies and intent of the Fort Myers Beach Comprehensive Plan.
 - (3) The request meets or exceeds all performance and locational standards set forth for the proposed use.
 - (4) The request will have no negative effects on environmentally critical areas and natural resources.
 - (5) The request will be compatible with existing or planned uses and will not cause damage, hazard, nuisance, or other detriment to persons or property.
 - (6) The requested use will be in compliance with applicable general zoning provisions and supplemental regulations pertaining to the use set forth in this chapter.
- b. **Variances.** In accordance with LDC 34-87, the Town Council finds the following:
 - (1) There are exceptional or extraordinary conditions or circumstances that are inherent in the property in question, or the request is for a *de minimus* variance under the circumstances or conditions where ridged compliance is not essential to protect public policy.
 - (2) The conditions justifying the variance are not the result of actions of the applicant taken after adoption of the regulations in question.
 - (3) The variances granted are the minimum variances that will relieve the applicant of an unreasonable burden caused by the application of the regulation in question to his property.
 - (4) The granting of the variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

EXHIBIT B

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

THE FOREGOING RESOLUTION was adopted by the Town Council upon a motion by Council Member Mandel, seconded by Vice Mayor Andre and upon being put to a vote the results was as follows:

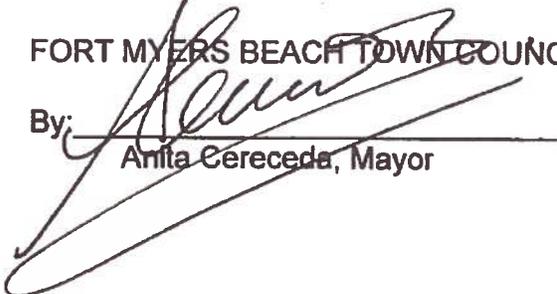
Anita Cereceda, Mayor	aye	Dan Andre, Vice Mayor	aye
Rexann Hosafros	aye	Alan Mandel	aye
Summer Stockton	aye		

DULY PASSED AND ADOPTED this 16th day of February, 2016.

ATTEST:

By: 
Michelle Mayher, Town Clerk

FORT MYERS BEACH TOWN COUNCIL

By: 
Anita Cereceda, Mayor

Approved as to legal sufficiency


Town Attorney

Exhibits

- A: Legal and sketch of entire parcel (attachment A to staff report)
- B: Site and Landscaping Plans

DESCRIPTION:

LOT 6, AND THE NORTHERLY 40 FEET OF LOT 5, BLOCK E, OF THAT CERTAIN SUBDIVISION KNOWN AS CRESCENT PARK ADDITION, ACCORDING TO THE MAP OR PLAT THEREOF ON FILE AND RECORDED IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT OF LEE COUNTY, FLORIDA, IN PLAT BOOK 4, PAGE 46, LYING IN SECTION 19, TOWNSHIP 46 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA; TOGETHER WITH THAT CERTAIN STRIP OF LAND EXTENDING EAST FROM LOT 6 AND THE NORTHERLY 40.00 FEET OF LOT 5, BLOCK E, OF SAID CRESCENT PARK ADDITION, TO THE CANAL, SAID STRIP OF LAND LYING BETWEEN THE NORTH AND SOUTH LINES EXTENDED EAST OF SAID LOT 6, BLOCK E, AND THE NORTHERLY 40 FEET LOT 5, BLOCK E, TOGETHER WITH RIPARIAN RIGHTS UPON AND TO THE WATERS OF SAID CANAL SAID PARCEL OR PLOT OF LAND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER LOT 6, BLOCK 'E' CRESCENT PARK ADDITION, AS RECORDED IN PLAT BOOK 4, PAGE 46, PUBLIC RECORDS OF LEE COUNTY, FLORIDA THENCE RUN N.89°14'50"E. TO THE WATERS EDGE FACE OF A CONCRETE SEAWALL AND CANAL RIGHT OF WAY FOR 33.71 FEET; THENCE RUN ALONG SAID WATERS EDGE FACE OF SEAWALL CANAL RIGHT OF WAY THE FOLLOWING BEARINGS AND DISTANCES: S.01°56'14"E. 39.49 FEET, S.01°21'12"W. 50.42 FEET; THENCE DEPARTING SAID WATERS RUN S.89°14'50"W. TO THE EASTERLY RIGHT OF WAY LINE CRESCENT STREET PER RIGHT OF WAY TAKING AS RECORDED IN OFFICIAL RECORDS BOOK 2370, PAGES 211 AND 215, CLERK OF THE CIRCUIT COURT, PUBLIC RECORDS OF LEE COUNTY, FLORIDA FOR 124.07 FEET; THENCE RUN N.00°04'00"E. ALONG SAID EASTERLY RIGHT OF WAY LINE FOR 89.88 FEET; THENCE RUN N.89°14'50"E. TO THE NORTHEAST CORNER SAID LOT 6, BLOCK E FOR 90.12 FEET AND THE POINT OF BEGINNING.

CONTAINING: 11,196.41 SQ. FT MORE OR LESS.

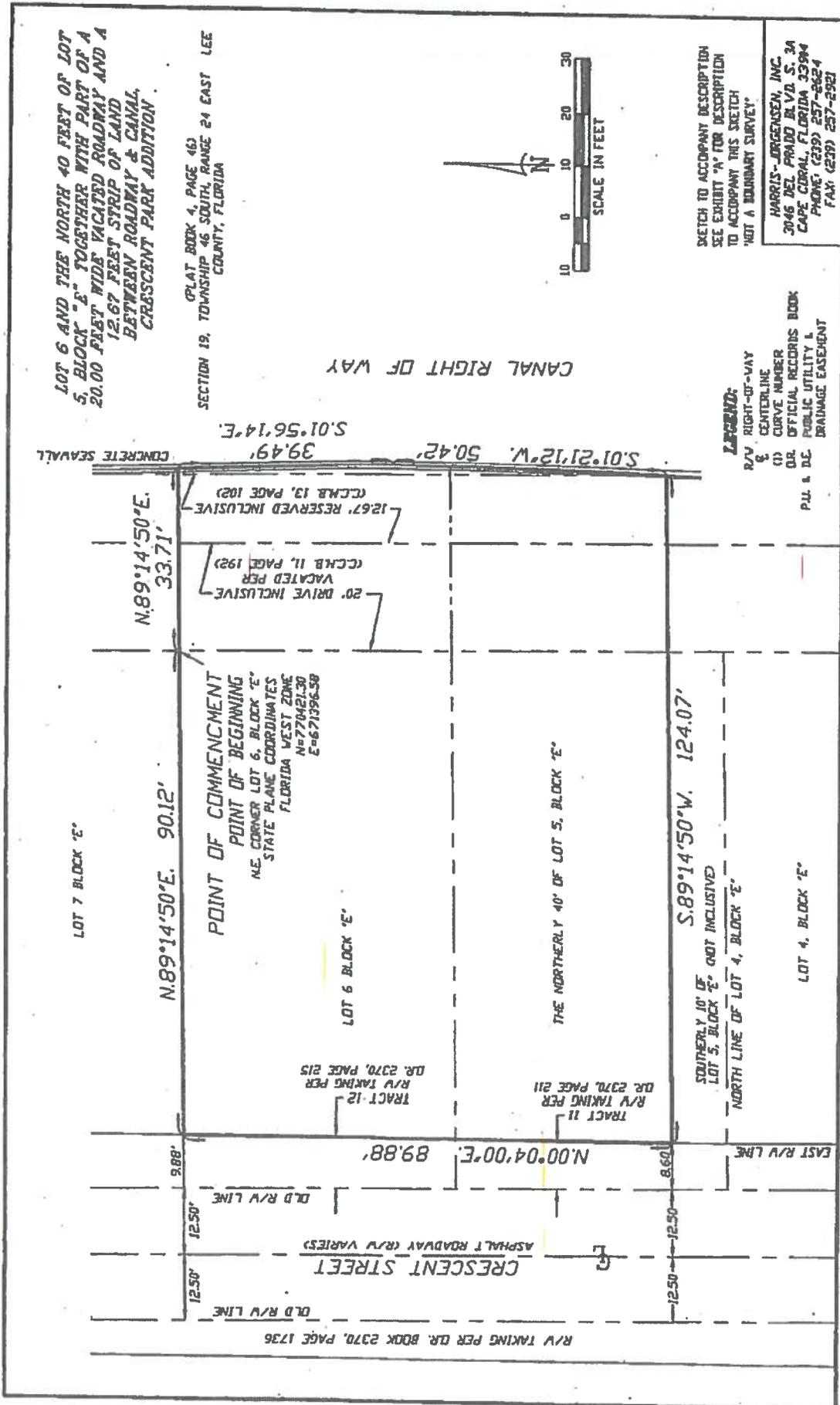


PHILLIP M. MOULD
PROFESSIONAL SURVEYOR AND MAPPER
#6515 - STATE OF FLORIDA
1/20/2016

EXHIBIT 'A'

HARRIS-JORGENSEN, INC.
3046 DEL PRADO BLVD. S. 3A
CAPE CORAL, FLORIDA 33904
PHONE: (239) 257-2624
FAX: (239) 257-2921

EXHIBIT B

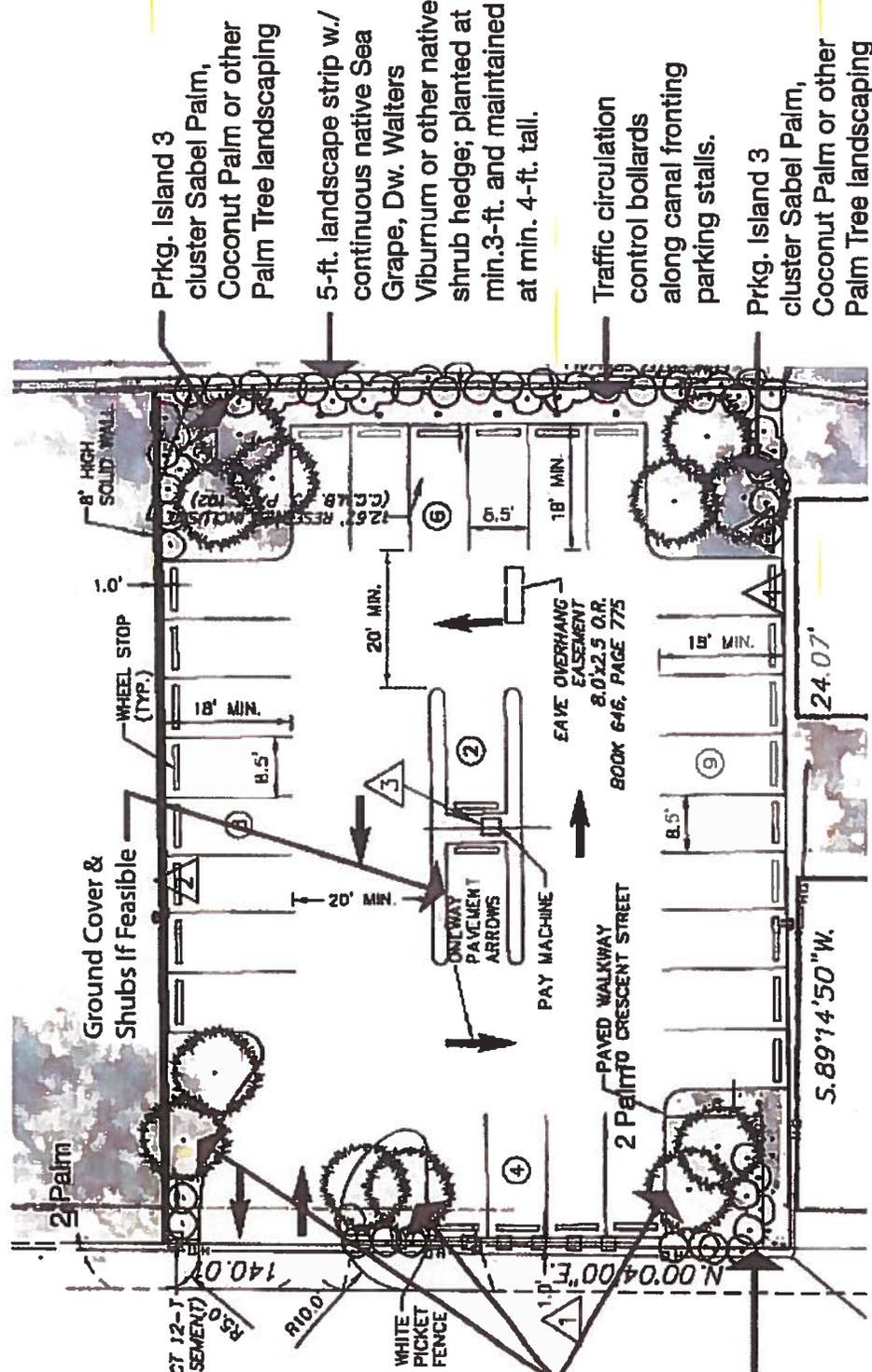


Landscape Planting Notes:
 1. All palms must have a min. 10-ft. clear trunk at planting; all palms and trees must be min. 10-ft. height, 2 inches diameter at 1-ft. above grade, and 4-ft. spread.

2. All shrubs planted a min. 24 inches in height and maintained at min. 36 inches after 12 months; min. 3 gal. container and spaced 18 to 36 inches OC.

3. All plants and shrubs 100% ACT 12-1 native and meet FL Grade No. 1 (or better).

EXHIBIT B



Prkg. Island 2
 cluster Sabel Palm,
 Coconut Palm or other
 Palm Tree landscaping

5-ft. landscape strip w./
 continuous native Sea
 Grape, Dw. Walters
 Viburnum or other native
 shrub hedge; planted at
 min. 3-ft. and maintained
 at min. 4-ft. tall.

Traffic circulation
 control bollards
 along canal fronting
 parking stalls.

Prkg. Island 3
 cluster Sabel Palm,
 Coconut Palm or other
 Palm Tree landscaping

**The Parking Lot Landscape Plan Exhibit
 for the John Richard 140/150 Crescent Street Parking Lot Special Exception**



Town of Fort Myers Beach

Community Development Department

2523 Estero Boulevard Fort Myers Beach, Florida 33931

(239) 765-0202

TEMPORARY USE PERMIT

Temporary Use Permit Number: TMP11-0009 Issued: 11/17/11

Business Name: SEASONAL PARKING LOT; JERRY SHENKLE 765-6224

Type of Business: SEASONAL PARKING LOT

Location Address: 2440 ESTERO BOULEVARD
FORT MYERS BEACH, FL 33931

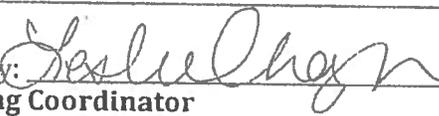
Property Owner Contact: DEBORAH HUSSEY

STRAP Number: 19-46-24-W3-0120A.0050

Zoning District: COMMERCIAL BOULEVARD

Approved Use and Conditions: VALID 11/15/11 to 7/15/12; Lots eligible for one more seasonal permit before required compliance with 34-2022(c)

Expires: 7/15/12

Approved By:  Date: 11/17/11

Title: Zoning Coordinator

NOTE: The Town of Fort Myers Beach reserves the right to inspect the location listed above whenever the establishment is open to the general public.



Town of Fort Myers Beach

SEASONAL PARKING LOT PERMIT APPLICATION

Applicant: Deborah Hussey PERMIT: TMP11-0009
 Address: 11230 Marblehead Manor Ct.
 Phone Number: 239-454-3830 or 980-0056 Email: d.hussey@live.com
 STRAP Number: 194624 W 30120 A0050
 Zoning: _____ Lighting Installed: yes/no
 Address of seasonal lot: 2440 ESTERO BLVD FMB
 Property Owner: Deborah A. Hussey Tr Phone: 239-980-0056
 Does the lot abut residentially zoned or used property: yes/no 454 3830

ADDITIONAL INFORMATION

- A. A site plan drawn to scale that includes:
 - a. Lot dimensions
 - b. Location of access points
 - c. Internal circulation pattern
 - d. Parking stops indicating the end of each space
 - e. Aisles clearly delineated with temporary posts and ropes
 - f. Location of lighting if lot is to be used after sundown
- B. Lee County Business Tax Receipt
- C. A copy of public liability insurance, including property damage, with a minimum \$50/100,000 coverage
- D. If applicant is not the property owner, a notarized letter from the property owner giving the applicant permission to use the property for a temporary parking lot
- E. Hours of operation may not begin earlier than 7am or run later than 10pm
- F. As of November 15, 2010 a total of three consecutive or non-consecutive seasonal parking lot permits may be issued without requiring additional information.
- G. Fee of \$200.00

operator Jemmy Skienkle
765-6224

The undersigned applicant agrees to comply with the Town of Fort Myers Beach Land Development Code and any other applicable codes and certifies that to the best of his/her knowledge, the information submitted for the temporary permit is true and correct.

APPLICANT: _____ Date: _____

STAFF USE ONLY

Application Approved/Denied by: _____ Date: _____
 Fee: \$200 Paid: _____ Date: _____
 Inspector: _____ Date: _____
 Comments: _____



EXHIBIT C
Lee County Tax Collector

SUOC0014

2480 Thompson Street
Fort Myers, Florida 33901
www.leetc.com Tel: (239) 533-6000

Local Business Tax Account: 1001687

Dear Business Owner:

Your 2011-2012 Lee County Local Business Tax Receipt is attached below. The receipt is non-regulatory and is issued using the information currently on file with our office. It does not signify compliance with zoning, health or other regulatory requirements nor is it an endorsement of work quality.

Annual account renewal notices are mailed in August to the address of record at that time; to ensure delivery of your annual notice, mailing addresses may be updated online at www.leetc.com. If there is a change in the business name, ownership, physical location or if the business is being closed, please follow the instructions on the back of this letter to transfer or to close the account.

I hope you have a successful year.

Lee County Tax Collector

Detach and display bottom portion and keep upper portion for your records



LEE COUNTY LOCAL BUSINESS TAX RECEIPT
2011 - 2012

ACCOUNT NUMBER: 1001687

ACCOUNT EXPIRES SEPTEMBER 30, 2012

Location

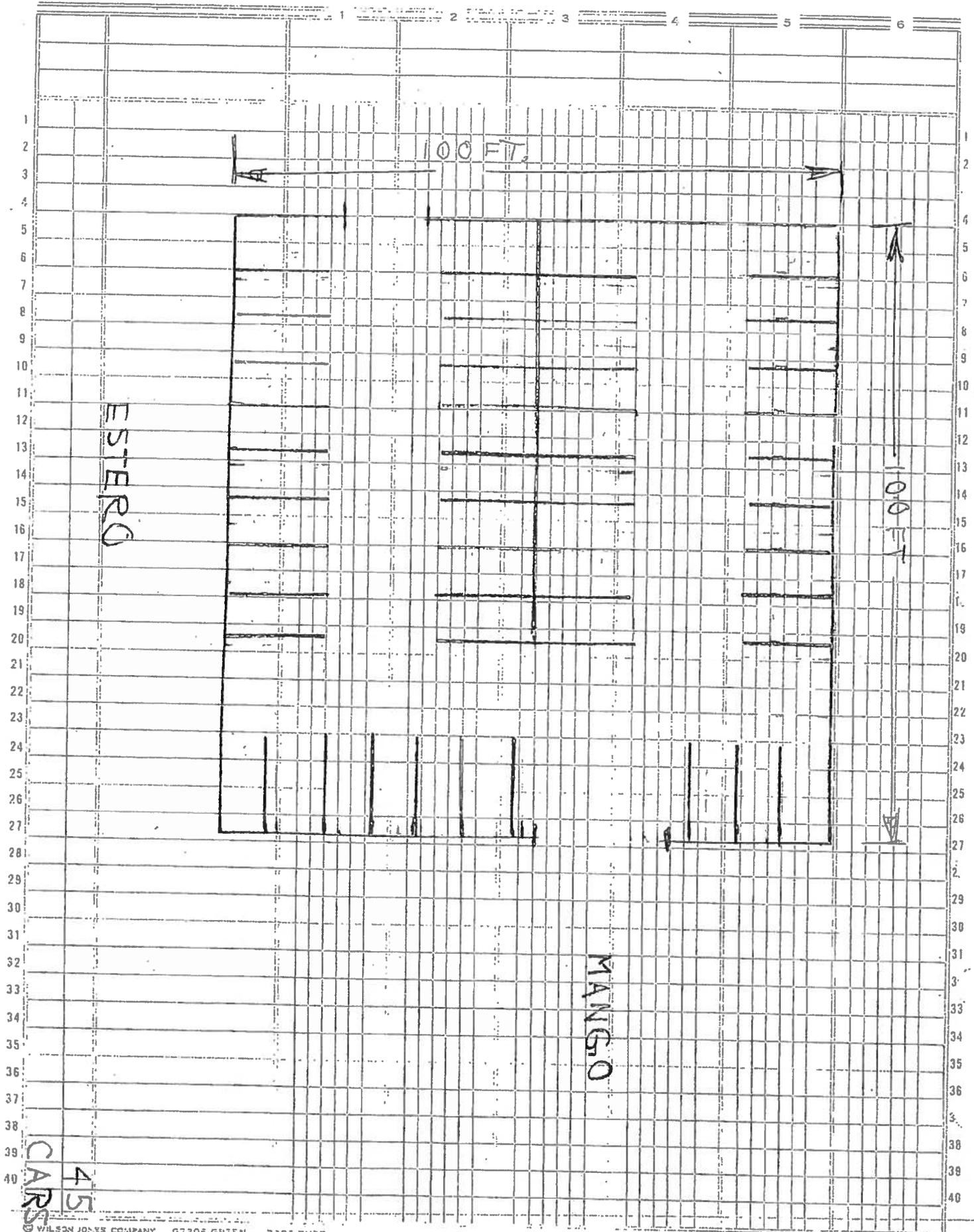
2440 ESTERO BLVD
FT MYERS BCH FL 33931

DEBORAH HUSSEY PARKING LOT
HUSSEY DEBORAH A
11230 MARBLEHEAD MANOR CT
FT MYERS FL 33908

May engage in the business of: PARKING LOT
THIS LOCAL BUSINESS TAX RECEIPT IS NON REGULATORY

THIS IS NOT A BILL - DO NOT PAY	
PAID 300512-4-1	10/26/2011 09:01
DZA1	\$53.00

EXHIBIT C



Lott & Gaylor Inc

2120 W. First St.

Fort Myers, FL 33901
(239)337-2221

Customer	Deborah Ann Hussey Trust 3662
Date	11/30/2011
Customer Service	Lott & Gaylor, Inc. Linda Quimby
Page	1 of 1

Deborah Ann Hussey Trust
11230 Marblehead Manor Ct
Ft Myers, FL 33908

Payment Information	
Statement Total	569.25
Payment Amount	
Payment For:	TBA

Thank You

Please detach and return with payment

Customer: Deborah Ann Hussey Trust

Invoice	Transaction Date	Description	Amount	Sub-total
109585	09/30/2011	Policy #TBA 12/11/2011 - 12/11/2012 Hull and Company Effective: 12/11/2011 General Liability - Renew policy Policy Fee - Renew policy Surplus Lines Tax - Renew policy Invoice Balance	500.00 35.00 34.25	569.25

DEBORAH HUSSEY
11230 MARBLEHEAD MANOR CT
FORT MYERS, FL 33908

1626
63-643/670
BRANCH 00870

Date: 11/18/11

Pay to the Order of: Lott & Gaylor Inc. \$ 569.25
Five Hundred Sixty Nine and 25/100 Dollars

WACHOVIA
Wachovia Bank, a division of Wells Fargo Bank, N.A.

For: Insurance - 2460 Car

1067006432101022140487210 1626

				Statement Total
				569.25

Thank you

Less than 0	0 to 30 Days	31 to 60 Days	61 to 90 Days	Over 90 Days
569.25	0.00	0.00	0.00	0.00

Lott & Gaylor Inc
2120 W. First St.
Fort Myers, FL 33901

(239)337-2221

Date: 11/16/2011



Lott & Gaylor, Inc.

2120 West First Street
Fort Myers, Florida 33901
(239) 337-2221
FAX (239) 337-4934

www.lott-gaylor.com

December 30, 2010

Deborah Ann Hussey Trust
11230 Marblehead Manor Ct
Ft Myers, FL 33908

Re: General Liability Policy # CL2360737B
Effective Dates: 12/11/2010 to 12/11/2011

Dear Deb,

Further to the letter sent from our office dated November 11, 2010, outlining the captioned policy coverages, enclosed please find the General Liability Policy placed on behalf of your business.

This policy has been written through Mount Vernon effective 12/11/2010 through 12/11/2011.

While it is our goal to provide you with a policy that is accurate in every detail, it is important that you review the policy for accuracy. If we receive no communication from you to the contrary, we will presume that the policy we have provided meets with your approval.

Please review this policy in its entirety and should you have any questions or concerns, do not hesitate to contact our office.

Thank you for using Lott & Gaylor, Inc. for your insurance needs.

Sincerely,

Linda A Quimby
Account Representative

Encl.



EXHIBIT C

Original

CL 2360737A
Renewal of Number

Mount Vernon Fire Insurance Company
1190 Devon Park Drive, Wayne, Pennsylvania 19087
A Member Company of United States Liability Insurance Group

POLICY DECLARATIONS

No. CL 2360737B

NAMED INSURED AND ADDRESS:
DEBORAH ANN HUSSEY TRUST
11230 MARBLEHEAD MANOR COURT
FORT MYERS, FL 33908

THIS INSURANCE IS ISSUED PURSUANT TO THE FLORIDA SURPLUS LINES LAW. PERSONS INSURED BY SURPLUS LINES CARRIERS DO NOT HAVE THE PROTECTION OF THE FLORIDA INSURANCE GUARANTY ACT TO THE EXTENT OF ANY RIGHT OF RECOVERY FOR THE OBLIGATION OF AN INSOLVENT UNLICENSED INSURER.

SURPLUS LINES INSURERS' POLICY RATES AND FORMS ARE NOT APPROVED BY ANY FLORIDA REGULATORY AGENCY.

POLICY PERIOD: (MO. DAY YR.) From: 12/11/2010 To: 12/11/2011

12:01 A.M. STANDARD TIME AT YOUR MAILING ADDRESS SHOWN ABOVE

FORM OF BUSINESS: Trust

BUSINESS DESCRIPTION: Parking

IN RETURN FOR THE PAYMENT OF THE PREMIUM, AND SUBJECT TO ALL THE TERMS OF THIS POLICY, WE AGREE WITH YOU TO PROVIDE THE INSURANCE AS STATED IN THIS POLICY.

THIS POLICY CONSISTS OF THE FOLLOWING COVERAGE PARTS FOR WHICH A PREMIUM IS INDICATED. THIS PREMIUM MAY BE SUBJECT TO ADJUSTMENT.

Commercial Liability Coverage Part

PREMIUM
\$500.00



Wholesaler Broker Fee	\$35.00
Surplus Lines Tax	\$26.75
FL CAT Fund Assess	\$5.35
Service Fee	\$0.54
TOTAL DUE:	\$567.64

Agent's Name **KATHY COLANGELO**
800 CARILLON PARKWAY, STE 150
ST. PETERSBURG, FL 33716

LICENSE NUMBER **A305417**

Name of Producing Agents **Phil Gaylor**

Address **2120 West First St; Ft Myers, FL 33901**

This insurance is issued pursuant to the Florida Surplus Lines Law. Persons Insured by surplus lines carriers do not have the protection of the Florida Insurance Guaranty Act to the extent of any right of recovery for the obligation of an insolvent unlicensed insurer.

Kathy Colangelo
Surplus Lines Agent #A305417

Coverage Form(s) and Endorsement(s) made a part of this policy at time of issue
See Endorsement EOD (1/95)

Agent: **HULL & COMPANY, INC. (ST. PETERSBURG, FL) (229)**
P.O. Box 20027
Saint Petersburg, FL 33742-0027

Issued: 12/10/2010

Broker: **Lott & Gaylor, Inc.**
2120 West First Street
Fort Myers, FL 33901

SURPLUS LINE INSURERS' POLICY RATES AND FORMS ARE NOT APPROVED BY ANY FLORIDA REGULATORY AGENCY.

By:

Thomas P. McKinney
Authorized Representative

THESE DECLARATIONS TOGETHER WITH THE COMMON POLICY CONDITIONS, COVERAGE PART DECLARATIONS, COVERAGE PART COVERAGE UPD (08-07) FORM(S) AND FORMS AND ENDORSEMENTS, IF ANY, ISSUED TO FORM A PART THEREOF, COMPLETE THE ABOVE NUMBERED POLICY.

EXHIBIT C

EXTENSION OF DECLARATIONS

Policy No. CL 2360737B

Effective Date: 12/11/2010

FORMS AND ENDORSEMENTS

12:01 AM STANDARD TIME

The following forms apply to the Commercial Liability coverage part

Endt#	Revised	Description of Endorsements
2110	11/99	Service of Suit
CG0001	10/01	Commercial General Liability Coverage Form
CG0220	12/07	Florida Changes - Cancellation And Nonrenewal
CG2139	10/93	Contractual Liability Limitation
CG2144	07/98	Limitation Of Coverage To Designated Premises Or Project
CG2147	12/07	Employment-Related Practices Exclusion
IL0021	05/04	Nuclear Energy Liability Exclusion Endorsement
L-224	07/08	Punitive Or Exemplary Damages Exclusion
L-232s	09/05	Classification Limitation Endorsement
L-526	06/06	Absolute War Or Terrorism Exclusion
L-599	10/07	Absolute Exclusion For Pollution, Organic Pathogen, Silica, Asbestos And Lead With A Hostile Fire Exception
L-610	11/04	Expanded Definition Of Bodily Injury
L-729	08/09	Exclusion - Violation Of Statutes That Govern E-Mails, Fax, Phone Calls Or Other Methods Of Sending Material Or Information
LLQ100	07/06	Amendatory Endorsement
TRIADN	01/08	Disclosure Notice Of Terrorism Insurance Coverage
CLJ	03/96	Commercial Liability Policy Jacket

EXHIBIT C

COMMERCIAL GENERAL LIABILITY COVERAGE PART DECLARATIONS

Policy No. CL 2360737B

Effective Date: 12/11/2010

12:01 AM STANDARD TIME

LIMITS OF INSURANCE

Each Occurrence Limit	\$1,000,000
Personal & Advertising Injury Limit (Any One Person/Organization)	\$1,000,000
Medical Expense Limit (Any One Person)	\$5,000
Damages To Premises Rented To You (Any One Premises)	\$100,000
Products/Completed Operations Aggregate Limit	Included
General Aggregate Limit	\$2,000,000

LIABILITY DEDUCTIBLE

\$0

LOCATIONS OF ALL PREMISES YOU OWN, RENT OR OCCUPY

Location	Address	Territory
1	2440 Estero Boulevard, Fort Myers Beach, FL 33931	006

PREMIUM COMPUTATION

Loc	Classification	Code No.	Premium Basis	Pr/Co	Rate		Advance Premium	
					All Other	Pr/Co	All Other	All Other
1	Parking - private - open air	46622	10,000 Per 1,000 Total Area	Included	38.388	Included	\$384	

MINIMUM PREMIUM FOR GENERAL LIABILITY COVERAGE PART: \$500

TOTAL PREMIUM FOR GENERAL LIABILITY COVERAGE PART: \$500 MP

(This Premium may be subject to adjustment.) MP - minimum premium

Coverage Form(s)/Part(s) and Endorsement(s) made a part of this policy at time of issue:

See Form EOD (01/95)

THESE DECLARATIONS ARE PART OF THE POLICY DECLARATIONS CONTAINING THE NAME OF THE INSURED AND THE POLICY PERIOD.



Town of Fort Myers Beach

Community Development Department

2523 Estero Boulevard Fort Myers Beach, Florida 33931
(239) 765-0202

TEMPORARY USE PERMIT

Temporary Use Permit Number: TMP12-0019 Issued: 11/14/12

Business Name: Seasonal Parking Lot; Jerry Shenkle 239-851-7239

Type of Business: Seasonal Parking Lot

Location Address: 2440 Estero Boulevard
Fort Myers Beach, FL 33931

Property Owner Contact: Deborah Hussey

STRAP Number: 19-46-24-W3-0120A.0050

Zoning District: Commercial Boulevard

Approved Use and Conditions: VALID 11/15/12 thru 7/15/13

Sign MUST be removed on 7/15/13; Parking attendant MUST supervise lot during all hours of operation;

Expires: 7/15/13

Approved By:  Date: 11/14/12
Title: Zoning Coordinator

NOTE: The Town of Fort Myers Beach reserves the right to inspect the location listed above whenever the establishment is open to the general public.

TMP12-0019

Jemy Shenkle
239 857 7289



Town of Fort Myers Beach

SEASONAL PARKING LOT PERMIT APPLICATION

Applicant: DEBORAH HUSSEY PERMIT: TMP12-0019
 Address: ~~2440 ESTERO BLVD~~ 11230 Marblehead Manor Ct Ft. MYERS 33908
 Phone Number: 239-980-0056 Email: d.hussey@live.com
 STRAP Number: 19-46-24-W3-0120 A. 0050
 Zoning: Commercial Blvd Lighting Installed: yes no
 Address of seasonal lot: 2440 ESTERO BLVD
 Property Owner: Deborah Hussey Phone: 239-980-0056
 Does the lot abut residentially zoned or used property: yes/no

ADDITIONAL INFORMATION

- A. A site plan drawn to scale that includes:
 - a. Lot dimensions
 - b. Location of access points
 - c. Internal circulation pattern
 - d. Parking stops indicating the end of each space
 - e. Aisles clearly delineated with temporary posts and ropes
 - N/A Location of lighting if lot is to be used after sundown
- B. Lee County Business Tax Receipt
- C. A copy of public liability insurance, including property damage, with a minimum \$50/100,000 coverage
- D. If applicant is not the property owner, a notarized letter from the property owner giving the applicant permission to use the property for a temporary parking lot
- E. Hours of operation may not begin earlier than 7am or run later than 10pm
- F. As of November 15, 2010 a total of three consecutive or non-consecutive seasonal parking lot permits may be issued without requiring additional information.
- G. Fee of \$200.00

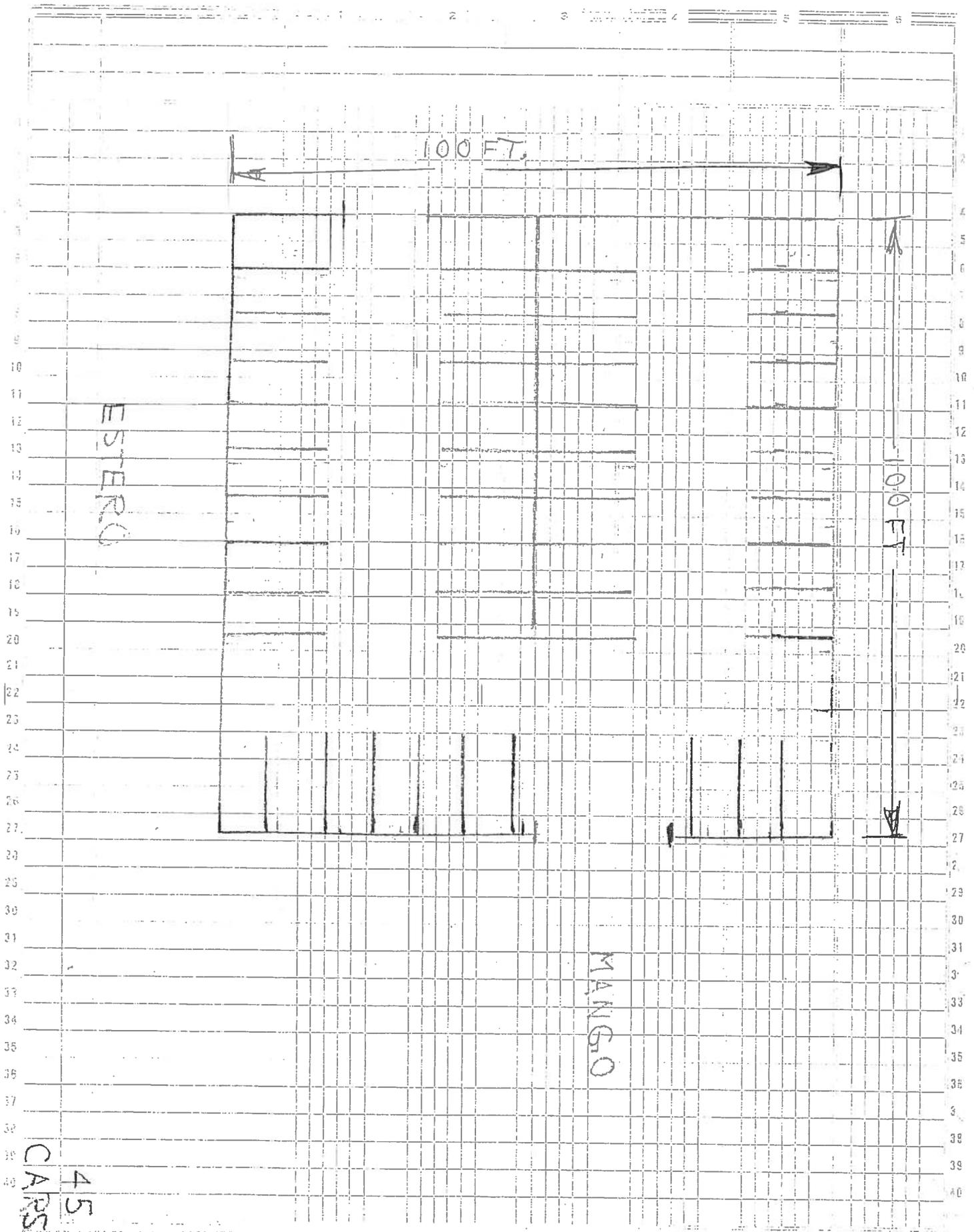
The undersigned applicant agrees to comply with the Town of Fort Myers Beach Land Development Code and any other applicable codes and certifies that to the best of his/her knowledge, the information submitted for the temporary permit is true and correct.

APPLICANT: Deborah Hussey Date: 11-7-12

STAFF USE ONLY

Application Approved/Denied by: ll Date: 11/14/12
 Fee: \$200 Paid: cc Date: _____
 Inspector: _____ Date: _____
 Comments: _____

EXHIBIT C



CARPS
45



Lott & Gaylor, Inc.

2120 West First Street
Fort Myers, Florida 33901
(239) 337-2221
FAX (239) 337-4934

www.lott-gaylor.com

Parking Lot

October 3, 2012

Deborah Ann Hussey Trust
11230 Marblehead Manor Ct.
Fort Myers, FL 33908

RE: Commercial General Liability Policy CL2360737C
Renewal Effective: December 11, 2012 - 2013

Dear Deb,

We have received a renewal quote from Mount Vernon for the general liability policy effective December 11, 2012 for an annual premium of \$569.25. Details of this coverage are as follows:

<u>General Liability</u>	
General Aggregate Limit	\$2,000,000
Products & Completed Operations	Included
Personal & Advertising Injury	\$1,000,000
Each Occurrence Limit	\$1,000,000
Fire Damage Limit	\$ 100,000
Medical Expense Limit	\$ 5,000

The premium is based on square foot area of 10,000.

To proceed in placing this coverage, please review and sign the enclosed application, terrorism rejection forms, and waiver with a non-admitted carrier where indicated and return to our office with the premium amount of \$569.25 made payable to Lott & Gaylor, Inc.

In order to avoid a lapse in coverage I will need the requested application, forms, and payment in our office before the expiration date of 12/11/2012.

If you should have any questions regarding this renewal, please do not hesitate to contact our office.

Sincerely,

Dawn M Bemis
Commercial Lines Manager
Enclosure





Lott & Gaylor, Inc.

2120 West First Street
Fort Myers, Florida 33901
(239) 337-2221
FAX (239) 337-4934

www.lott-gaylor.com

September 30, 2011

Deborah Ann Hussey Trust
11230 Marblehead Manor Ct.
Fort Myers, FL 33908

RE: Commercial General Liability Renewal
Renewal Effective: December 11, 2011-2012

Dear Deb,

We have received a renewal quote from Mount Vernon for the general liability policy, effective December 11, 2011 through 2012 for an annual premium of \$569.25. Details of this coverage are as follows:

<u>General Liability</u>	
General Aggregate Limit	\$2,000,000
Products & Completed Operations	Included
Personal & Advertising Injury	\$1,000,000
Each Occurrence Limit	\$1,000,000
Fire Damage Limit	\$ 100,000
Medical Expense Limit	\$ 5,000

The premium is based on square footage of \$10,000

To proceed in placing this coverage, please review and sign the enclosed application, terrorism rejection forms, and waiver with a non-admitted carrier where indicated and return to our office with the premium amount of \$569.25 made payable to Lott & Gaylor, Inc.

In order to avoid a lapse in coverage I will need the requested application, forms, and payment in our office before the expiration date of 12/11/2011.

If you should have any questions regarding this renewal, please do not hesitate to contact our office.

Sincerely,

Linda Quimby
Account Representative

Enclosure(s)





EXHIBIT C
COMMERCIAL INSURANCE APPLICATION
APPLICANT INFORMATION SECTION

DATE (MM/DD/YYYY)
9/30/2011

AGENCY Lott & Gaylor Inc 2120 W. First St. Fort Myers FL 33901		CARRIER Full and Company NAIC CODE											
CONTACT NAME: Linda Quimby PHONE (A/C, No, Ext): (239) 337-2221 FAX (A/C, No): (239) 337-4934 E-MAIL ADDRESS: lquimby@lott-gaylor.com CODE: 13204 SUB CODE:		UNDERWRITER: POLICIES OR PROGRAM REQUESTED											
AGENCY CUSTOMER ID: 00003662		UNDERWRITER OFFICE: POLICY NUMBER TBA											
STATUS OF TRANSACTION		PACKAGE POLICY INFORMATION											
<input type="checkbox"/> QUOTE <input type="checkbox"/> ISSUE POLICY <input checked="" type="checkbox"/> RENEW BOUND (Give Date and/or Attach Copy): CHANGE DATE TIME <input checked="" type="checkbox"/> AM <input type="checkbox"/> PM CANCEL 12/11/2011 12:01		ENTER THIS INFORMATION WHEN COMMON DATES AND TERMS APPLY TO SEVERAL LINES, OR FOR MONOLINE POLICIES. <table border="1"> <tr> <th>PROPOSED EFF DATE</th> <th>PROPOSED EXP DATE</th> <th>BILLING PLAN</th> <th>PAYMENT PLAN</th> <th>AUDIT</th> </tr> <tr> <td>12/11/2011</td> <td>12/11/2012</td> <td><input checked="" type="checkbox"/> DIRECT BILL <input type="checkbox"/> AGENCY BILL</td> <td></td> <td></td> </tr> </table>		PROPOSED EFF DATE	PROPOSED EXP DATE	BILLING PLAN	PAYMENT PLAN	AUDIT	12/11/2011	12/11/2012	<input checked="" type="checkbox"/> DIRECT BILL <input type="checkbox"/> AGENCY BILL		
PROPOSED EFF DATE	PROPOSED EXP DATE	BILLING PLAN	PAYMENT PLAN	AUDIT									
12/11/2011	12/11/2012	<input checked="" type="checkbox"/> DIRECT BILL <input type="checkbox"/> AGENCY BILL											

APPLICANT INFORMATION NAME (First Named Insured & Other Named Insureds) Deborah Ann Hussey Trust		MAILING ADDRESS INCL ZIP+4 (of First Named Insured) 11230 Marblehead Manor Ct Ft Myers FL 33908	
FEIN OR SOC SEC # (of First Named Insured): E-MAIL ADDRESS(ES): d.hussey@live.com		PHONE (A/C, No, Ext): WEBSITE ADDRESS(ES):	
<input type="checkbox"/> INDIVIDUAL <input type="checkbox"/> PARTNERSHIP	<input type="checkbox"/> CORPORATION <input type="checkbox"/> JOINT VENTURE	<input type="checkbox"/> SUBCHAPTER "S" CORPORATION NOT FOR PROFIT ORG <input type="checkbox"/> LLC	NO. OF MEMBERS AND MANAGERS: _____ CR BUREAU NAME: _____ ID NUMBER: _____
INSPECTION CONTACT: PHONE (A/C, No, Ext): _____ E-MAIL ADDRESS: _____		ACCOUNTING RECORDS CONTACT: PHONE (A/C, No, Ext): _____ E-MAIL ADDRESS: _____	

PREMISES INFORMATION		ACORD 823 attached for additional premises						
LOC #	BLD #	STREET, CITY, COUNTY, STATE, ZIP+4	CITY LIMITS	INTEREST	YR BUILT	# EMPLOYEES	ANNUAL REVENUES	% OCCUPIED
1	1	2440 Estero Blvd. Fort Myers Beach Lee FL 33931	<input type="checkbox"/> INSIDE <input type="checkbox"/> OUTSIDE	<input type="checkbox"/> OWNER <input type="checkbox"/> TENANT				
			<input type="checkbox"/> INSIDE <input type="checkbox"/> OUTSIDE	<input type="checkbox"/> OWNER <input type="checkbox"/> TENANT				
			<input type="checkbox"/> INSIDE <input type="checkbox"/> OUTSIDE	<input type="checkbox"/> OWNER <input type="checkbox"/> TENANT				
			<input type="checkbox"/> INSIDE <input type="checkbox"/> OUTSIDE	<input type="checkbox"/> OWNER <input type="checkbox"/> TENANT				

NATURE OF BUSINESS/DESCRIPTION OF OPERATIONS BY PREMISE(S)

Vacant lot to be used for beach parking for a fee. No Valet Parking

EXHIBIT C

AGENCY CUSTOMER ID: 00003662

GENERAL INFORMATION

EXPLAIN ALL "YES" RESPONSES		Y/N
1a. IS THE APPLICANT A SUBSIDIARY OF ANOTHER ENTITY ?	<input type="checkbox"/> N	
1b. DOES THE APPLICANT HAVE ANY SUBSIDIARIES?	<input type="checkbox"/> N	
2. IS A FORMAL SAFETY PROGRAM IN OPERATION?	<input type="checkbox"/> N	
3. ANY EXPOSURE TO FLAMMABLES, EXPLOSIVES, CHEMICALS?	<input type="checkbox"/> N	
4. ANY CATASTROPHE EXPOSURE?	<input type="checkbox"/> N	
5. ANY OTHER INSURANCE WITH THIS COMPANY OR BEING SUBMITTED?	<input type="checkbox"/> N	
6. ANY POLICY OR COVERAGE DECLINED, CANCELLED OR NON-RENEWED DURING THE PRIOR THREE (3) YEARS? (Not applicable in MO)	<input type="checkbox"/> N	
7. ANY PAST LOSSES OR CLAIMS RELATING TO SEXUAL ABUSE OR MOLESTATION ALLEGATIONS, DISCRIMINATION OR NEGLIGENT HIRING?	<input type="checkbox"/> N	
8. DURING THE LAST FIVE YEARS (TEN IN RI), HAS ANY APPLICANT BEEN INDICTED FOR OR CONVICTED OF ANY DEGREE OF THE CRIME OF FRAUD, BRIBERY, ARSON OR ANY OTHER ARSON-RELATED CRIME IN CONNECTION WITH THIS OR ANY OTHER PROPERTY? <small>(In RI, this question must be answered by any applicant for property insurance. Failure to disclose the existence of an arson conviction is a misdemeanor punishable by a sentence of up to one year of imprisonment)</small>	<input type="checkbox"/> N	
9. ANY UNCORRECTED FIRE CODE VIOLATIONS?	<input type="checkbox"/> N	
10. ANY BANKRUPTCIES, TAX OR CREDIT LIENS AGAINST THE APPLICANT IN THE PAST FIVE (5) YEARS?	<input type="checkbox"/> N	
11. HAS BUSINESS BEEN PLACED IN A TRUST? IF "YES", NAME OF TRUST:	<input type="checkbox"/>	
12. ANY FOREIGN OPERATIONS, FOREIGN PRODUCTS DISTRIBUTED IN USA, OR US PRODUCTS SOLD/DISTRIBUTED IN FOREIGN COUNTRIES? <small>(If "YES", attach ACORD 815 for Liability Exposure and/or ACORD 816 for Property Exposure)</small>	<input type="checkbox"/>	
REMARKS/PROCESSING INSTRUCTIONS (Attach additional sheets if more space is required)		
COPY OF THE NOTICE OF INFORMATION PRACTICES (PRIVACY) HAS BEEN GIVEN TO THE APPLICANT. (Not applicable in all states, consult your agent or broker for your state's requirements.)		
NOTICE OF INSURANCE INFORMATION PRACTICES - PERSONAL INFORMATION ABOUT YOU, INCLUDING INFORMATION FROM A CREDIT REPORT, MAY BE COLLECTED FROM PERSONS OTHER THAN YOU IN CONNECTION WITH THIS APPLICATION FOR INSURANCE AND SUBSEQUENT POLICY RENEWALS. SUCH INFORMATION AS WELL AS OTHER PERSONAL AND PRIVILEGED INFORMATION COLLECTED BY US OR OUR AGENTS MAY IN CERTAIN CIRCUMSTANCES BE DISCLOSED TO THIRD PARTIES WITHOUT YOUR AUTHORIZATION. YOU HAVE THE RIGHT TO REVIEW YOUR PERSONAL INFORMATION IN OUR FILES AND CAN REQUEST CORRECTION OF ANY INACCURACIES. A MORE DETAILED DESCRIPTION OF YOUR RIGHTS AND OUR PRACTICES REGARDING SUCH INFORMATION IS AVAILABLE UPON REQUEST. CONTACT YOUR AGENT OR BROKER FOR INSTRUCTIONS ON HOW TO SUBMIT A REQUEST TO US.		
ANY PERSON WHO KNOWINGLY AND WITH INTENT TO DEFRAUD ANY INSURANCE COMPANY OR ANOTHER PERSON FILES AN APPLICATION FOR INSURANCE OR STATEMENT OF CLAIM CONTAINING ANY MATERIALLY FALSE INFORMATION, OR CONCEALS FOR THE PURPOSE OF MISLEADING INFORMATION CONCERNING ANY FACT MATERIAL THERETO, COMMITS A FRAUDULENT INSURANCE ACT, WHICH IS A CRIME AND SUBJECTS THE PERSON TO CRIMINAL AND [NY: SUBSTANTIAL] CIVIL PENALTIES. (Not applicable in CO, FL, HI, MA, NE, OH, OK, OR, or VT; in DC, LA, ME, TN, VA and WA, insurance benefits may also be denied) IN FLORIDA, ANY PERSON WHO KNOWINGLY AND WITH INTENT TO INJURE, DEFRAUD, OR DECEIVE ANY INSURER FILES A STATEMENT OF CLAIM OR AN APPLICATION CONTAINING ANY FALSE, INCOMPLETE, OR MISLEADING INFORMATION IS GUILTY OF A FELONY OF THE THIRD DEGREE.		
THE UNDERSIGNED IS AN AUTHORIZED REPRESENTATIVE OF THE APPLICANT AND REPRESENTS THAT REASONABLE ENQUIRY HAS BEEN MADE TO OBTAIN THE ANSWERS TO QUESTIONS ON THIS APPLICATION. HE/SHE REPRESENTS THAT THE ANSWERS ARE TRUE, CORRECT AND COMPLETE TO THE BEST OF HIS/HER KNOWLEDGE.		
PRODUCER'S SIGNATURE	PRODUCER'S NAME (Please Print)	NATIONAL PRODUCER NUMBER
APPLICANT'S SIGNATURE	DATE	

EXHIBIT C

PRIOR CARRIER INFORMATION

AGENCY CUSTOMER ID: 00003662

LINE	CATEGORY												
G E N E R A L C O M M E R C I A L L I A B I L I T Y	CARRIER												
	POLICY NUMBER												
	POLICY TYPE	CLAIMS MADE	OCCURRENCE										
	RETRO DATE												
	EFF-EXP DATE												
	GENERAL AGGREGATE												
	PRODUCTS COMP OP												
	AGGREGATE												
	PERSONAL & ADV INJ												
	EACH OCCURRENCE												
	FIRE DAMAGE												
	MEDICAL EXPENSE												
	BODILY OCCURRENCE												
	INJURY AGGREGATE												
	PROPERTY OCCURRENCE												
DAMAGE AGGREGATE													
COMBINED SINGLE LIMIT													
MODIFICATION FACTOR													
TOTAL PREMIUM													
A U T O M O B I L I T Y	CARRIER												
	POLICY NUMBER												
	POLICY TYPE												
	EFF-EXP DATE												
	COMBINED SINGLE LIMIT												
	BODILY INJURY	EA PERSON											
		EA ACCIDENT											
	PROPERTY DAMAGE												
	MODIFICATION FACTOR												
	TOTAL PREMIUM												
P R O P E R T Y	CARRIER												
	POLICY NUMBER												
	POLICY TYPE												
	EFF-EXP DATE												
	BUILDING	AMT											
	PERS PROP	AMT											
	MODIFICATION FACTOR												
TOTAL PREMIUM													
	CARRIER												
	POLICY NUMBER												
	POLICY TYPE												
	EFF-EXP DATE												
	LIMIT												
	MODIFICATION FACTOR												
	TOTAL PREMIUM												

LOSS HISTORY

ENTER ALL CLAIMS OR LOSSES (REGARDLESS OF FAULT AND WHETHER OR NOT INSURED) OR OCCURRENCES THAT MAY GIVE RISE TO CLAIMS FOR THE PRIOR 5 YEARS (3 YEARS IN KS & NY)

DATE OF OCCURRENCE	LINE	TYPE/DESCRIPTION OF OCCURRENCE OR CLAIM	DATE OF CLAIM	AMOUNT PAID	AMOUNT RESERVED	CLAIM STATUS			
						CHK HERE IF NONE	SEE ATTACHED LOSS SUMMARY	OPEN	CLSD

REMARKS NOTE: FIDELITY REQUIRES A FIVE YEAR LOSS HISTORY

ATTACHMENTS

STATE SUPPLEMENT(S) (if applicable)

EXHIBIT C

CONTRACTORS

EXPLAIN ALL "YES" RESPONSES (For past or present operations)					Y / N
1. DOES APPLICANT DRAW PLANS, DESIGNS, OR SPECIFICATIONS FOR OTHERS?					<input type="checkbox"/> N
2. DO ANY OPERATIONS INCLUDE BLASTING OR UTILIZE OR STORE EXPLOSIVE MATERIAL?					<input type="checkbox"/> N
3. DO ANY OPERATIONS INCLUDE EXCAVATION, TUNNELING, UNDERGROUND WORK OR EARTH MOVING?					<input type="checkbox"/> N
4. DO YOUR SUBCONTRACTORS CARRY COVERAGES OR LIMITS LESS THAN YOURS?					<input type="checkbox"/> N
5. ARE SUBCONTRACTORS ALLOWED TO WORK WITHOUT PROVIDING YOU WITH A CERTIFICATE OF INSURANCE?					<input type="checkbox"/> N
6. DOES APPLICANT LEASE EQUIPMENT TO OTHERS WITH OR WITHOUT OPERATORS?					<input type="checkbox"/> N
DESCRIBE THE TYPE OF WORK SUBCONTRACTED	\$ PAID TO SUB-CONTRACTORS:	% OF WORK SUBCONTRACTED:	# FULL-TIME STAFF:	# PART-TIME STAFF:	

PRODUCTS/COMPLETED OPERATIONS

PRODUCTS	ANNUAL GROSS SALES	# OF UNITS	TIME IN MARKET	EXPECTED LIFE	INTENDED USE	PRINCIPAL COMPONENTS

EXPLAIN ALL "YES" RESPONSES (For any past or present product or operation) PLEASE ATTACH LITERATURE, BROCHURES, LABELS, WARNINGS, ETC.					Y / N
1. DOES APPLICANT INSTALL, SERVICE OR DEMONSTRATE PRODUCTS?					<input type="checkbox"/> N
2. FOREIGN PRODUCTS SOLD, DISTRIBUTED, USED AS COMPONENTS? (If "YES", attach ACORD 815)					<input type="checkbox"/> N
3. RESEARCH AND DEVELOPMENT CONDUCTED OR NEW PRODUCTS PLANNED?					<input type="checkbox"/> N
4. GUARANTEES, WARRANTIES, HOLD HARMLESS AGREEMENTS?					<input type="checkbox"/> N
5. PRODUCTS RELATED TO AIRCRAFT/SPACE INDUSTRY?					<input type="checkbox"/> N
6. PRODUCTS RECALLED, DISCONTINUED, CHANGED?					<input type="checkbox"/> N
7. PRODUCTS OF OTHERS SOLD OR RE-PACKAGED UNDER APPLICANT LABEL?					<input type="checkbox"/> N
8. PRODUCTS UNDER LABEL OF OTHERS?					<input type="checkbox"/> N
9. VENDORS COVERAGE REQUIRED?					<input type="checkbox"/> N
10. DOES ANY NAMED INSURED SELL TO OTHER NAMED INSUREDS?					<input type="checkbox"/> N

EXHIBIT C

ADDITIONAL INTEREST/CERTIFICATE RECIPIENT **ACORD 45 attached for additional names**

<input type="checkbox"/>	INTEREST	RANK:	NAME AND ADDRESS	REFERENCE #:	CERTIFICATE REQUIRED	INTEREST IN ITEM NUMBER	
<input type="checkbox"/>	ADDITIONAL INSURED					LOCATION:	BUILDING:
<input type="checkbox"/>	LOSS PAYEE					VEHICLE:	BOAT:
<input type="checkbox"/>	MORTGAGEE					SCHEDULED ITEM NUMBER:	
<input type="checkbox"/>	LIENHOLDER					OTHER	
<input type="checkbox"/>	EMPLOYEE AS LESSOR						
ITEM DESCRIPTION:							

GENERAL INFORMATION

EXPLAIN ALL "YES" RESPONSES (For all past or present operations)	Y / N
1. ANY MEDICAL FACILITIES PROVIDED OR MEDICAL PROFESSIONALS EMPLOYED OR CONTRACTED?	<input type="checkbox"/> N
2. ANY EXPOSURE TO RADIOACTIVE/NUCLEAR MATERIALS?	<input type="checkbox"/> N
3. DO/HAVE PAST, PRESENT OR DISCONTINUED OPERATIONS INVOLVE(D) STORING, TREATING, DISCHARGING, APPLYING, DISPOSING, OR TRANSPORTING OF HAZARDOUS MATERIAL? (e.g. landfills, wastes, fuel tanks, etc)	<input type="checkbox"/> N
4. ANY OPERATIONS SOLD, ACQUIRED, OR DISCONTINUED IN LAST FIVE (5) YEARS?	<input type="checkbox"/> N
5. MACHINERY OR EQUIPMENT LOANED OR RENTED TO OTHERS?	<input type="checkbox"/> N
6. ANY WATERCRAFT, DOCKS, FLOATS OWNED, HIRED OR LEASED?	<input type="checkbox"/> N
7. ANY PARKING FACILITIES OWNED/RENTED?	<input type="checkbox"/> N
8. IS A FEE CHARGED FOR PARKING?	<input type="checkbox"/> N
9. RECREATION FACILITIES PROVIDED?	<input type="checkbox"/> N
10. IS THERE A SWMMING POOL ON THE PREMISES?	<input type="checkbox"/> N
11. SPORTING OR SOCIAL EVENTS SPONSORED?	<input type="checkbox"/> N
12. ANY STRUCTURAL ALTERATIONS CONTEMPLATED?	<input type="checkbox"/> N
13. ANY DEMOLITION EXPOSURE CONTEMPLATED?	<input type="checkbox"/> N
14. HAS APPLICANT BEEN ACTIVE IN OR IS CURRENTLY ACTIVE IN JOINT VENTURES?	<input type="checkbox"/> N
15. DO YOU LEASE EMPLOYEES TO OR FROM OTHER EMPLOYERS?	<input type="checkbox"/> N
16. IS THERE A LABOR INTERCHANGE WITH ANY OTHER BUSINESS OR SUBSIDIARIES?	<input type="checkbox"/> N

EXHIBIT C

GENERAL INFORMATION (continued)

EXPLAIN ALL "YES" RESPONSES (For all past or present operations)

17. ARE DAY CARE FACILITIES OPERATED OR CONTROLLED?

Y/N

N

18. HAVE ANY CRIMES OCCURRED OR BEEN ATTEMPTED ON YOUR PREMISES WITHIN THE LAST THREE (3) YEARS?

N

19. IS THERE A FORMAL, WRITTEN SAFETY AND SECURITY POLICY IN EFFECT?

N

20. DOES THE BUSINESSES' PROMOTIONAL LITERATURE MAKE ANY REPRESENTATIONS ABOUT THE SAFETY OR SECURITY OF THE PREMISES?

N

REMARKS

ANY PERSON WHO KNOWINGLY AND WITH INTENT TO DEFRAUD ANY INSURANCE COMPANY OR ANOTHER PERSON FILES AN APPLICATION FOR INSURANCE OR STATEMENT OF CLAIM CONTAINING ANY MATERIALLY FALSE INFORMATION, OR CONCEALS FOR THE PURPOSE OF MISLEADING INFORMATION CONCERNING ANY FACT MATERIAL THERETO, COMMITS A FRAUDULENT INSURANCE ACT, WHICH IS A CRIME AND SUBJECTS THE PERSON TO CRIMINAL AND [NY: SUBSTANTIAL] CIVIL PENALTIES. (Not applicable in CO, FL, HI, MA, NE, OH, OK, OR or VT. In DC, LA, ME, TN, VA and WA insurance benefits may also be denied). IN FLORIDA, ANY PERSON WHO KNOWINGLY AND WITH INTENT TO INJURE, DEFRAUD, OR DECEIVE ANY INSURER FILES A STATEMENT OF CLAIM OR AN APPLICATION CONTAINING ANY FALSE, INCOMPLETE, OR MISLEADING INFORMATION IS GUILTY OF A FELONY OF THE THIRD DEGREE.

EXHIBIT C



Lee County Tax Collector

2480 Thompson Street
Fort Myers, Florida 33901
www.leetc.com Tel: (239) 533-6000

Local Business Tax Account: 1001687

Dear Business Owner:

Your 2012-2013 Lee County Local Business Tax Receipt is attached below. The receipt is non-regulatory and is issued using the information currently on file with our office. It does not signify compliance with zoning, health or other regulatory requirements nor is it an endorsement of work quality.

Annual account renewal notices are mailed in August to the address of record at that time; to ensure delivery of your annual notice, mailing addresses may be updated online at www.leetc.com. If there is a change in the business name, ownership, physical location or if the business is being closed, please follow the instructions on the back of this letter to transfer or to close the account.

I hope you have a successful year.

Lee County Tax Collector

Detach and display bottom portion and keep upper portion for your records

**LEE COUNTY LOCAL BUSINESS TAX RECEIPT
2012 - 2013**



ACCOUNT NUMBER: 1001687

ACCOUNT EXPIRES SEPTEMBER 30, 2013

Location
2440 ESTERO BLVD
FT MYERS BCH FL 33931

DEBORAH HUSSEY PARKING LOT
HUSSEY DEBORAH A
11230 MARBLEHEAD MANOR CT
FT MYERS FL 33908

May engage in the business of: PARKING LOT THIS LOCAL BUSINESS TAX RECEIPT IS NON REGULATORY
--

THIS IS NOT A BILL - DO NOT PAY	
PAID 315154-1-1 LYC1	08/14/12 02:00:30 \$50.00



Town of Fort Myers Beach

SEASONAL PARKING LOT PERMIT APPLICATION

Applicant: Deborah Hussey PERMIT: TMP13-0038
 Address: 2440 & 2450 Estero Blvd.
 Phone Number: 239-454-3830 Email: d.hussey@live.com
 STRAP Number: 19-46-24-W3 0120A 0050 / 19-24-24-W3 0120A 0070
 Zoning: C-B Lighting Installed: yes/no
 Address of seasonal lot: see above
 Property Owner: Deborah Hussey Phone: 239-580 0056
 Does the lot abut residentially zoned or used property: yes/no

ADDITIONAL INFORMATION

- A. A site plan drawn to scale that includes:
 - a. Lot dimensions
 - b. Location of access points
 - c. Internal circulation pattern
 - d. Parking stops indicating the end of each space
 - e. Aisles clearly delineated with temporary posts and ropes
 - f. Location of lighting if lot is to be used after sundown
- B. Lee County Business Tax Receipt
- C. A copy of public liability insurance, including property damage, with a minimum \$50/100,000 coverage
- D. If applicant is not the property owner, a notarized letter from the property owner giving the applicant permission to use the property for a temporary parking lot
- E. Hours of operation may not begin earlier than 7am or run later than 10pm
- F. As of November 15, 2010 a total of three consecutive or non-consecutive seasonal parking lot permits may be issued without requiring additional information.
- G. Fee of \$200.00

The undersigned applicant agrees to comply with the Town of Fort Myers Beach Land Development Code and any other applicable codes and certifies that to the best of his/her knowledge, the information submitted for the temporary permit is true and correct.

APPLICANT: Deborah Hussey Date: 12-15-13

STAFF USE ONLY

Application Approved/Denied by: _____ Date: _____
 Fee: \$200 Paid: by Deborah Hussey Date: 12/16/13
 Inspector: _____ Date: _____
 Comments: _____



Town of Fort Myers Beach

LETTER OF AUTHORIZATION

*** NOTE: COPIES OF ALL REQUIRED LICENSES MUST BE ATTACHED ***
Return form to Fort Myers Beach Community Development Department
Attention: Contractor Licensing

License Holder: _____ State License: _____
Firm Name: _____ County License: _____
Address: _____ Occupational License: _____
Phone: _____ Fax: _____ Email: _____

I HEREBY AUTHORIZE THE FOLLOWING INDIVIDUAL(S) TO ACT AS MY AGENT IN DEALING WITH THE COMMUNITY DEVELOPMENT DEPARTMENT AND WITH REGARD TO PERMITTING WITHIN THE TOWN OF FORT MYERS BEACH.

- I am authorizing ONLY those listed below
- I am authorizing the following individual(s) IN ADDITION to a previously submitted authorization form
- I am rescinding all previously submitted authorization forms and I am authorizing ONLY those listed below.
- This authorization is for ONE JOB ONLY. Site Address: 2940/2450 Estero Blvd.

AUTHORIZED PERSON(S)

Printed Name:
Terry Shenkel
David Walton

Signature:
[Signature]
[Signature]

I understand that I remain fully responsible and liable for all acts performed under said permits. Under penalties of perjury, I declare that I have read the foregoing authorization letter and that the facts stated in it are true.

_____ License Holder/Owner/Authorized Agent

Before me, this ____ day of _____, 20____, came _____ who is personally known or me or provided identification _____ and, having first been sworn, hereby swears that the statements contained in the foregoing document are true and correct.

Notary Public, State of Florida
(seal/stamp)

My Commission Expires: _____

5/11/2012

Town of Fort Myers Beach
2523 Estero Boulevard Fort Myers Beach, Florida 33931
Telephone: 239-765-0202 Fax 239-765-0909

EXHIBIT C

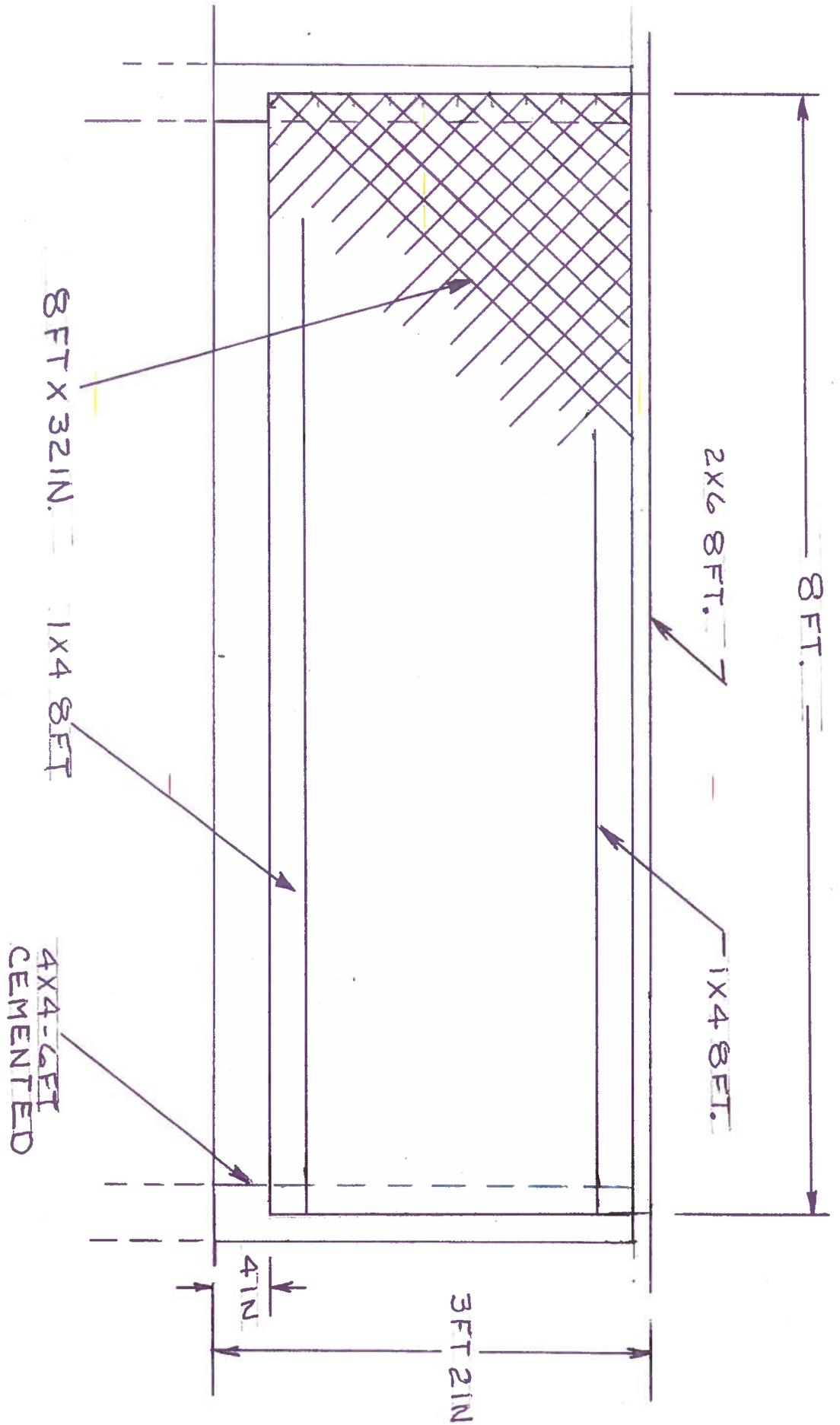


EXHIBIT C



UNITED STATES LIABILITY INSURANCE COMPANY
PO BOX 62778
BALTIMORE, MD 21264-2778

Invoice Date: 10/28/2013
Account Number: CL 1586754
Policy Number: CL 1586754A

RENEWAL NOTICE – Your current policy CL 1586754 is up for renewal. In order for us to issue your Renewal Policy, you must pay the Current Balance Due shown below so that we receive it before 12/11/2013.

Current Balance Due: \$206.50
Date Due: 12/11/2013

COMMERCIAL LIABILITY POLICY

Policy Period: 12/11/2013 to 12/11/2014
Policyholder Name: DEBORAH ANN HUSSEY TRUST

Your Agent is: Lott & Gaylor, Inc.

(See Page 2 on reverse side for Itemized Billing Activity and Future Installments)

PAYMENT OPTIONS

Pay Online
www.usli.com/ezpay
Register online for policy & billing information
Registration Number: A58\$8X

Pay By Phone
866-632-2003
(Pagar Por Telefono)
PayCode #:
677632158675465
(Codigo De Pago)

Pay By Check
Make check payable to:
UNITED STATES LIABILITY INSURANCE COMPANY
Use Remittance Slip Below

For *billing & payment* assistance, please contact us at:
USLI 1-866-632-2003
HULL & COMPANY, INC. (ST. PETERSBURG, FL)
727-561-4855

***For non-billing questions & assistance, please contact your local agent*

Thank you for your business!

TEAR ALONG THIS LINE

001 677632158675465 00020650 2

DEBORAH ANN HUSSEY TRUST
11230 MARBLEHEAD MANOR COURT
FORT MYERS, FL 33908

For Office Use Only: 001 677632158675465	
Policy Number: CL 1586754A	
Amount Due: \$206.50	Date Due: 12/11/2013
Amount Enclosed:	

Make Check Payable To:
UNITED STATES LIABILITY INSURANCE COMPANY

UNITED STATES LIABILITY INSURANCE COMPANY
PO BOX 62778
BALTIMORE, MD 21264-2778

HULL & COMPANY, INC. (ST. PETERSBURG, FL)





CREDIT CARD (...4695)

Account Info		Payment Info	
Current balance	\$1,439.52	Balance last statement (11/23/2013)	\$776.66
Pending charges	\$262.77	Minimum payment due	\$0.00
Available credit	\$10,797.00	Payment due date	12/20/2013
Ultimate Rewards			

Temporary Authorizations

Trans Date	Type	Description	Amount
12/15/2013	Pending	PUBLIX #426	\$10.27
12/15/2013	Pending	EMPOWER MUSIC AND ARTS	\$45.00
12/13/2013	Pending	US LIABILITY INSURANCE	\$206.50
12/12/2013	Pending	SHELL/2657 COLONIAL BLVD	\$1.00

Posted Activity

Since Last Statement

Trans Date	Post Date	Type	Description	Amount	
<input type="checkbox"/>	12/12/2013	12/13/2013	Sale	VZWRSS*APOCC VISB	\$102.37
<input type="checkbox"/>	12/12/2013	12/13/2013	Sale	WENDYS #0301	\$7.40
<input type="checkbox"/>	12/11/2013	12/13/2013	Sale	REALTOR ASSOCIATION OF GR	\$50.00
<input type="checkbox"/>	12/11/2013	12/12/2013	Sale	WWW*EARTHLINK.NET	\$5.95
<input type="checkbox"/>	12/10/2013	12/11/2013	Sale	SUNSHINE SEAFOOD C	\$16.27
<input type="checkbox"/>	12/07/2013	12/08/2013	Payment	Payment Thank You - Web	-\$776.66
<input type="checkbox"/>	12/05/2013	12/06/2013	Sale	ELEPHANT BAR #249	\$26.00
<input type="checkbox"/>	12/05/2013	12/06/2013	Sale	MOTHER EARTH	\$82.99
<input type="checkbox"/>	12/04/2013	12/05/2013	Sale	FIRST WATCH #016	\$18.03
<input type="checkbox"/>	12/03/2013	12/04/2013	Sale	BURGER KING #11949	\$5.71
<input type="checkbox"/>	12/03/2013	12/04/2013	Sale	JAMES K CLARY	\$350.00



**LEE COUNTY LOCAL BUSINESS TAX RECEIPT
2013 - 2014**

ACCOUNT NUMBER: 1001687

ACCOUNT EXPIRES SEPTEMBER 30, 2014

Location
2440 ESTERO BLVD
FT MYERS BCH FL 33931

DEBORAH HUSSEY PARKING LOT
HUSSEY DEBORAH A
11230 MARBLEHEAD MANOR CT
FT MYERS FL 33908

May engage in the business of:
PARKING LOT

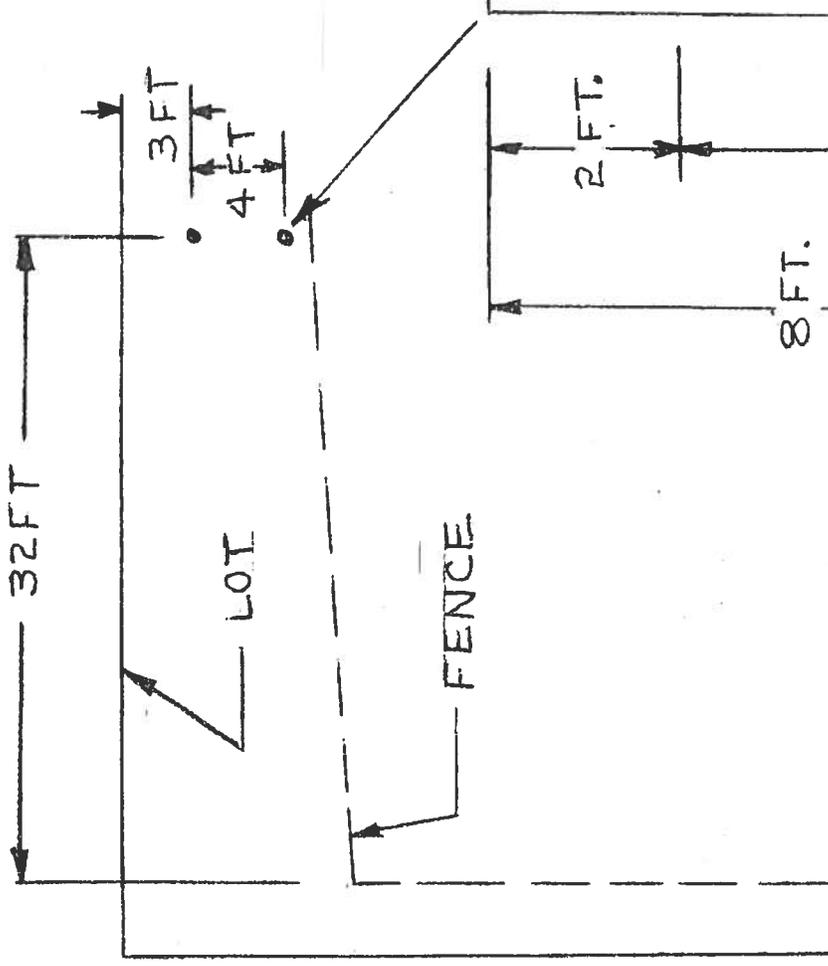
THIS LOCAL BUSINESS TAX RECEIPT IS NON REGULATORY

THIS IS NOT A BILL - DO NOT PAY

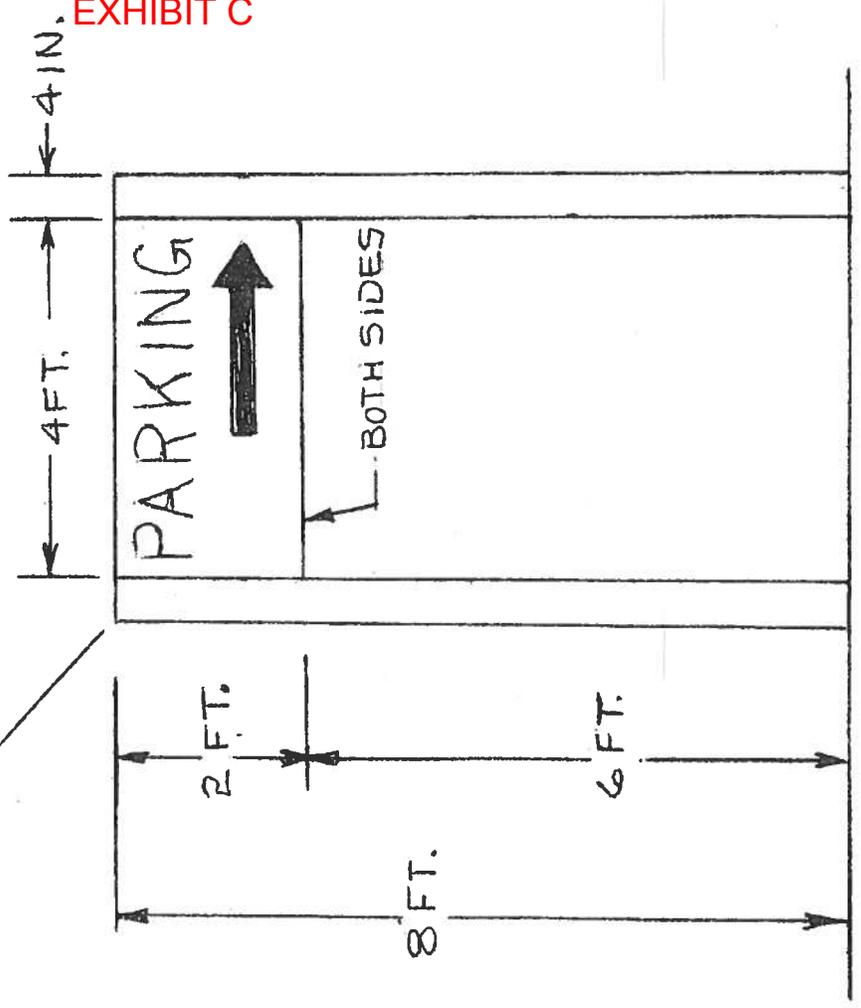
PAID 336506-20-1
PXL1

09/27/13 04:27:09
\$50.00

ESTERO



MANGO





Town of Fort Myers Beach

Community Development Department
2523 Estero Boulevard Fort Myers Beach, Florida 33931
(239) 765-0202

TEMPORARY USE PERMIT

Temporary Use Permit Number: TMP14-0010 Issued: 12/09/2014

Business Name: Ronald Yanke

Type of Business: Seasonal Parking Lot

Location Address: 2440 Estero Boulevard

Fort Myers Beach FL 33931

Property Owner Contact: Ronald Yanke 815-224-4445

STRAP Number: 19-46-24-W3-0120A.0050

Zoning District: COMMERCIAL BOULEVARD

Approved Use and Conditions: Seasonal Parking Lot, Available November 15th, 2014 to July 15th, 2014.

Sign must be removed on July 15th, and may not be replaced unless in conjunction with an approved Temporary Use Permit for the 2015/16 season.

Fence to South must be moved to property line. Expires: 7/15/15

Approved By:  Date: 12/09/14

Title: Development Services Manager

NOTE: The Town of Fort Myers Beach reserves the right to inspect the location listed above whenever the establishment is open to the general public.

RECORD
FILE COPY



Town of Fort Myers Beach

SEASONAL PARKING LOT PERMIT APPLICATION

Applicant: Ronald Yanke PERMIT: TMP 15-0011
 Address: 328 Buckley St. Ft. Myers, FL 33901
 Phone Number: 815-224-4445 Email: Yankerealty@gmail.com
 STRAP Number: 19-46-24-W3-0120A.0050
 Zoning: Commercial 110 Lighting Installed: yes no
 Address of seasonal lot: 2440 Estero Blvd. Fort Myers Beach, FL 33931
 Property Owner: Ronald Yanke Phone: 815-224-4445
 Does the lot abut residentially zoned or used property: yes/no

ADDITIONAL INFORMATION

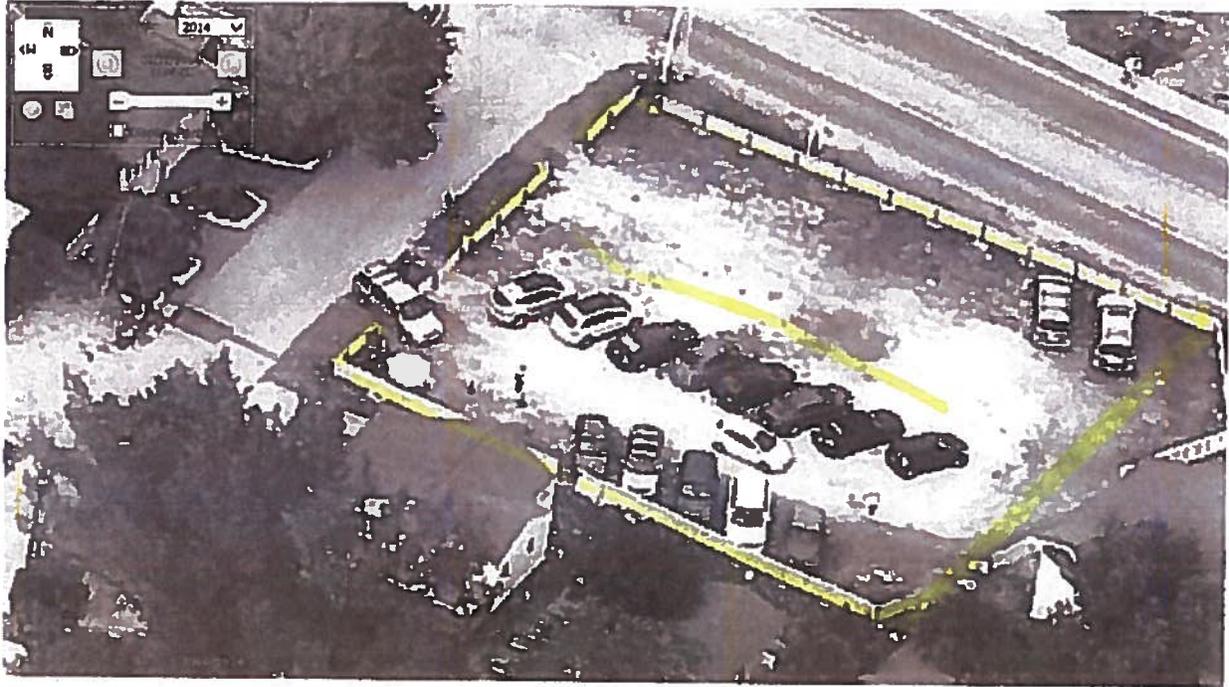
- A. A site plan drawn to scale that includes:
 - a. Lot dimensions
 - b. Location of access points
 - c. Internal circulation pattern
 - d. Parking stops indicating the end of each space
 - e. Aisles clearly delineated with temporary posts and ropes
 - f. Location of lighting if lot is to be used after sundown
- B. Lee County Business Tax Receipt
- C. A copy of public liability insurance, including property damage, with a minimum \$50/100,000 coverage
- D. If applicant is not the property owner, a notarized letter from the property owner giving the applicant permission to use the property for a temporary parking lot
- E. Hours of operation may not begin earlier than 7am or run later than 10pm
- F. As of November 15, 2010 a total of three consecutive or non-consecutive seasonal parking lot permits may be issued without requiring additional information.
- G. Fee of \$200.00

The undersigned applicant agrees to comply with the Town of Fort Myers Beach Land Development Code and any other applicable codes and certifies that to the best of his/her knowledge, the information submitted for the temporary permit is true and correct.

APPLICANT: Ronald Yanke Date: 10-15-15

STAFF USE ONLY

Application Approved/Denied by: _____ Date: _____
 Fee: \$200 Paid: 10-28-2015 CR 2190 Date: _____
 Inspector: _____ Date: _____
 Comments: _____



12-0233-00
BROWN & BROWN OF FLORIDA INC
3820 COLONIAL BLVD STE 200
FORT MYERS FL 33966-1094



09-22-2015

P.O. BOX 30660, LANSING, MICHIGAN 48909-8160 • 517-323-1200
AUTO-OWNERS INSURANCE COMPANY
AUTO-OWNERS LIFE INSURANCE COMPANY
HOME-OWNERS INSURANCE COMPANY
OWNERS INSURANCE COMPANY
PROPERTY-OWNERS INSURANCE COMPANY
SOUTHERN-OWNERS INSURANCE COMPANY

RONALD YANKE
328 BUCKLIN ST
LA SALLE IL 61301-2093

**You may view your policy online at
www.auto-owners.com.**
To enroll, use the policy number **20044553**
and Personal ID code (PID) **5T6 C75 N7G**.
Once enrolled, you may choose to stop
receiving the paper policy in the mail.

Your agency's phone number is 239-278-0278

RE: Policy 142312-20044553-15

Thank you for selecting Auto-Owners Insurance Group to serve your insurance needs! Feel free to contact your independent Auto-Owners agent with questions you may have.

Auto-Owners and its affiliate companies offer a variety of programs, each of which has its own eligibility requirements, coverages and rates. In addition, Auto-Owners also offers many billing options. Please take this opportunity to review your insurance needs with your Auto-Owners agent, and discuss which company, program, and billing option may be most appropriate for you.

Auto-Owners Insurance Company was formed in 1916. The Auto-Owners Insurance Group is comprised of five property and casualty companies and a life insurance company. Our A++ (Superior) rating by A.M. Best Company signifies that we have the financial strength to provide the insurance protection you need.

~ Serving Our Policyholders and Agents Since 1916 ~



Southern-Owners

Page 1

Issued 09-22-2015

INSURANCE COMPANY
6101 ANACAPRI BLVD., LANSING, MI 48917-3999

TAILORED PROTECTION POLICY DECLARATIONS

AGENCY BROWN & BROWN OF FLORIDA INC
12-0233-00 MKT TERR 068 239-278-0278

Renewal Effective 11-07-2015

POLICY NUMBER 142312-20044553-15

INSURED RONALD YANKE

ADDRESS 328 BUCKLIN ST
LA SALLE IL 61301-2093

Company
Bill

Policy Term	
12:01 a.m.	12:01 a.m.
11-07-2015	to 11-07-2016

In consideration of payment of the premium shown below, this policy is renewed. Please attach this Declarations and attachments to your policy. If you have any questions, please consult with your agent.

55039 (11-87)

COMMON POLICY INFORMATION

Business Description: Public Parking

Entity: Individual

THIS POLICY CONSISTS OF THE FOLLOWING COVERAGE PART(S):	PREMIUM
COMMERCIAL GENERAL LIABILITY COVERAGE	\$10.00
MINIMUM PREMIUM ADJUSTMENT (GL)	\$315.00
TOTAL	\$325.00

THIS PREMIUM MAY BE SUBJECT TO ADJUSTMENT.

Premium shown above for commercial general liability coverage is an advanced premium deposit and may be subject to audit.

Forms that apply to all coverage part(s) shown above (except garage liability, dealer's blanket, commercial automobile, if applicable):
55156 (07-12)

A merit rating plan factor of 0.97 applies.

Countersigned By: BROWN & BROWN OF FLORIDA INC



EXHIBIT C

SOUTHERN-OWNERS INS. CO.

Issued 09-22-2015

AGENCY BROWN & BROWN OF FLORIDA INC
12-0233-00 MKT TERR 068

Company POLICY NUMBER 142312-20044553-15
Bill

INSURED RONALD YANKE

Term 11-07-2015 to 11-07-2016

LOCATION 0001 - BUILDING 0001

Location: 2440 Estero Blvd Fort Myers Beach, FL 33931-3223

Territory: 006

County: Lee

CLASSIFICATION	CODE	SUBLINE	PREMIUM BASIS	RATE	PREMIUM
Commercial General Liability Plus Endorsement Included At 7.5% Of The Premises Operation Premium	00501	Prem/Op	Prem/Op Prem Included	Included	Included
Parking - Public - Open Air	46604	Prem/Op Prod/Comp Op	Gross Sales \$20,000 \$20,000	Each 1000 .453 .014	\$9.00 \$1.00
COMMERCIAL GENERAL LIABILITY COVERAGE - LOCATION 0001 SUMMARY					PREMIUM
TERRORISM - CERTIFIED ACTS SEE FORM: 59350					INCLUDED
LOCATION 0001					\$10.00



Agency Code 12-0233-00

Policy Number 142312-20044553

POLICY NUMBER:

CG 21 44 11 85
COMMERCIAL GENERAL LIABILITY

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

LIMITATION OF COVERAGE TO DESIGNATED PREMISES OR PROJECT

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART.

SCHEDULE

Premises: ALL LOCATIONS DESCRIBED IN THE
POLICY DECLARATION

Project:

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

This insurance applies only to "bodily injury," "property damage," "personal injury," "advertising injury" and medical expenses arising out of:

1. The ownership, maintenance or use of the premises shown in the Schedule and operations necessary or incidental to those premises; or
2. The project shown in the Schedule.



**CAP ON LOSSES FROM CERTIFIED ACTS OF TERRORISM
AND
IMPORTANT INFORMATION REGARDING TERRORISM RISK
INSURANCE COVERAGE**

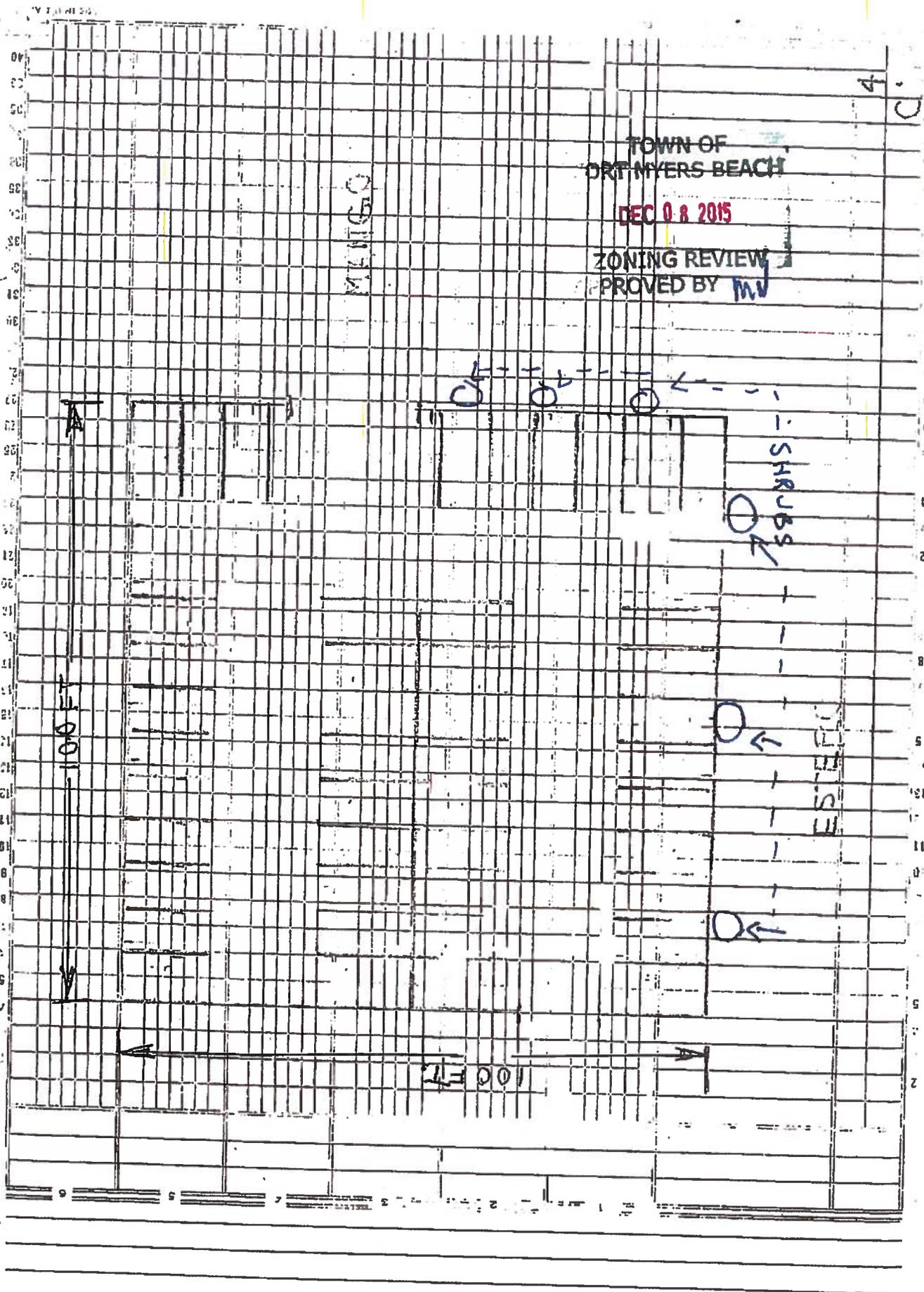
It is agreed:

1. With respect to any one or more certified acts of terrorism, we will not pay any amounts for which we are not responsible because of the application of any provision which results in a cap on our liability for payments for terrorism losses in accordance with the terms of the federal Terrorism Risk Insurance Act of 2002 (including ensuing Congressional actions pursuant to the Act).
2. Certified act of terrorism means any act certified by the Secretary of the Treasury, in consultation with:
 - a. the Secretary of Homeland Security; and
 - b. the Attorney General of the United Statesto be an act of terrorism as defined and in accordance with the federal Terrorism Risk Insurance Act of 2002 (including ensuing Congressional actions pursuant to the Act).
3. Under the federal Terrorism Risk Act of 2002 (including ensuing Congressional actions pursuant to the Act) a terrorist act may be certified:
 - a. if the aggregate covered commercial property and casualty insurance losses resulting from the terrorist act exceed \$5 million; and
 - b. (1) if the act of terrorism is:
 - a) a violent act; or
 - b) an act that is dangerous to human life, property or infrastructure; and
 - (2) if the act is committed:
 - a) by an individual or individuals as part of an effort to coerce the civilian population of the United States; or
 - b) to influence the policy or affect the conduct of the United States government by coercion.

All other policy terms and conditions apply.



EXHIBIT C



21

22

1

8

1

5

13

21

11

0

7

5

2

2

3

4

5

6

7

8



Town of Fort Myers Beach

RE-SUBMITTAL/REVISION FORM

PERMIT # IMP 15-0011 Re-submittal Date: 12/1/15
 Contractor: _____ License: _____
 Contact Name: _____ Phone: _____
 Site Address: 2440 Estero
FMB, FL 33931

CHECK ONE

- Revision
- Additional Information
- Re-submittal

Does this revision modify setbacks? YES NO *** IF YES, a new site plan is required

Description of Request: Replacing new site plan w/ old
(more accurate than the site plan submitted
2 weeks ago)

Provided by: David Walton 338-7536
manager of parking lot

Received by: _____ Date: _____

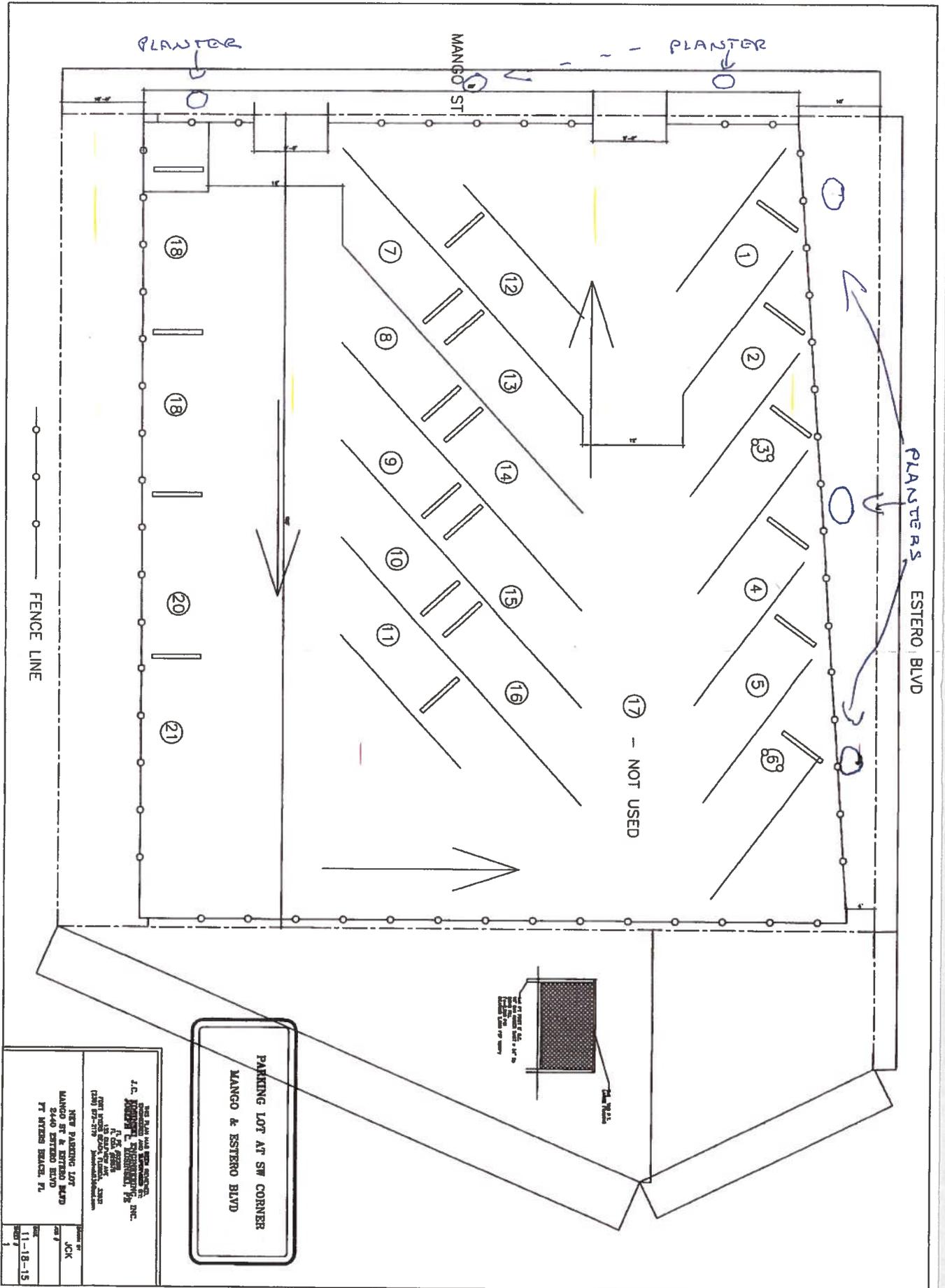
Contractor Signature: _____ Date: _____

**** STAFF USE ONLY ****

Comments: _____

Additional Fees Due: _____

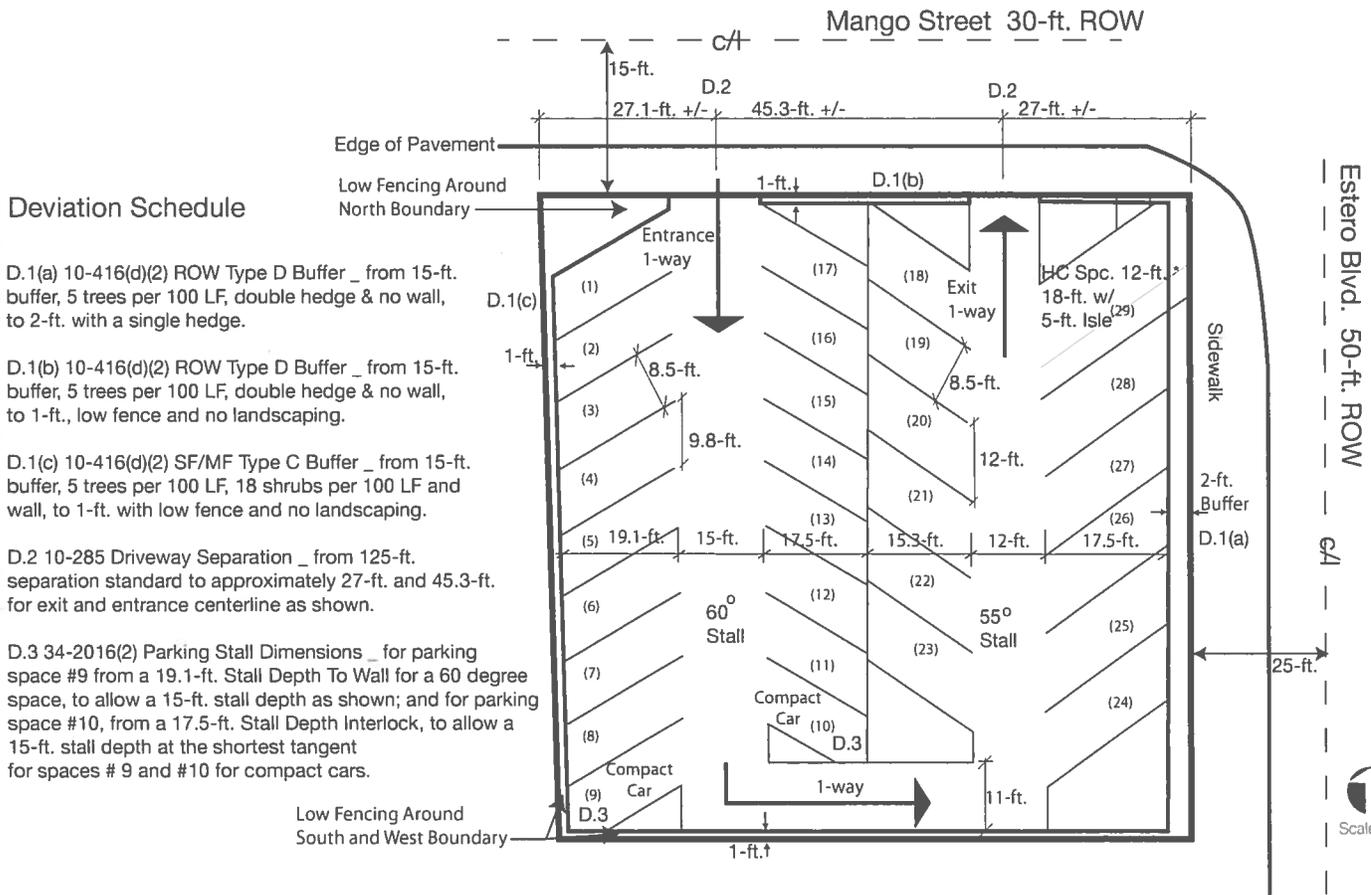
EXHIBIT C



David Walton 338 7536

Signage

EXHIBIT D



Deviation Schedule

D.1(a) 10-416(d)(2) ROW Type D Buffer _ from 15-ft. buffer, 5 trees per 100 LF, double hedge & no wall, to 2-ft. with a single hedge.

D.1(b) 10-416(d)(2) ROW Type D Buffer _ from 15-ft. buffer, 5 trees per 100 LF, double hedge & no wall, to 1-ft., low fence and no landscaping.

D.1(c) 10-416(d)(2) SF/MF Type C Buffer _ from 15-ft. buffer, 5 trees per 100 LF, 18 shrubs per 100 LF and wall, to 1-ft. with low fence and no landscaping.

D.2 10-285 Driveway Separation _ from 125-ft. separation standard to approximately 27-ft. and 45.3-ft. for exit and entrance centerline as shown.

D.3 34-2016(2) Parking Stall Dimensions _ for parking space #9 from a 19.1-ft. Stall Depth To Wall for a 60 degree space, to allow a 15-ft. stall depth as shown; and for parking space #10, from a 17.5-ft. Stall Depth Interlock, to allow a 15-ft. stall depth at the shortest tangent for spaces # 9 and #10 for compact cars.

The Mango Street Parking Lot Special Exception and Variance _ 2440 Estero Blvd. Fort Myers Beach, FL

Prepared for: Ronald Yanke

PROJECT NUMBER: SE217-0001

DATE:



Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT

APPLICATION for PUBLIC HEARING

This is 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 *one ORIGINAL paper copy, fourteen (14) copies* of all required applications, supplemental information, exhibits and documents. Please do not print and copy the instructions at the end of the application. In addition to application fees, the applicant is required to pay for (2) sets of mailings to neighboring property owners within 500', and all advertising fees.

Site Address: 2440 Estero Blvd. Fort Myers Beach, FL 33931

STRAP Number: 19-46-24-W3-0120A.0050

Applicant: Ronald Yanke Phone: 815 224 4445

Contact Name: Greg Stuart Phone: 239 677 6126

Email: Greg@Stuarturbandesign.com Fax: _____

Current Zoning District: CB

Future Land Use Map (FLUM) Category: Boulevard

FLUM Density Range: 6 DUS per ac. Platted Overlay: YES NO

ACTION REQUESTED

SUPPLEMENTAL FORM REQUIRED

- | | |
|---|--------------------------|
| <input checked="" type="checkbox"/> Special Exception | PH-A |
| <input type="checkbox"/> Variance | PH-B |
| <input type="checkbox"/> Conventional Rezoning | PH-C |
| <input type="checkbox"/> Planned Development <input type="checkbox"/> Commercial <input type="checkbox"/> Residential | PH-D |
| <input type="checkbox"/> Master Concept Plan Extension | PH-E |
| <input type="checkbox"/> Appeal of Administrative Action | PH-F |
| <input type="checkbox"/> Vacation of Platted Right-of-way and Easement | PH-G |
| <input type="checkbox"/> Other – cite LDC Section: _____ | attach on separate sheet |

EXHIBIT E

PROJECT NUMBER:

DATE:

PART I - General Information

A. Applicant*: Ronald Yanke Phone: 815 224 4445

*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: 328 Bucklin Street La Salle IL 61301

Email: yankerealty@gmail.com Fax: NA

Contact Name: Greg Stuart Phone: 239 677 6126

B. Relationship of Applicant to subject property:

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

*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: Greg Stuart Phone: 239 677 6126

Address: 7910 Summerlin Lakes Drive Fort Myers, FL 33993

Email: Greg@Stuarturbandesign.com Fax: NA

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: _____

EXHIBIT E

PROJECT NUMBER:

DATE:

Name: _____ Phone: _____

Address: _____

Email: _____ Fax: _____

PART II - Nature of Request

Requested Action (each request requires a separate application)

- Special Exception
 - Variance from LDC Section _____ - _____
 - 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: None

Description: _____

Code Section: _____

Description: _____

Code Section: _____

EXHIBIT E

PROJECT NUMBER:

DATE:

Description: _____

PART IV - Property Ownership

Single Owner (individual or husband and wife)

Name: Ron Yanke Phone: 815 224 4445

Mailing Address: 328 Bucklin Street LaSalle, IL 61301

Email yankerealty@gmail.com Fax: NA

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 4-1
- Attach map showing property owners interests as Exhibit 4-2 (for multiple parcels)
- For condominiums and timeshares see Explanatory Notes Part IV (Page 11)

DISCLOSURE OF OWNERSHIP INTEREST

STRAP: 19 46 24 W3 0120A.0050

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
Ron Yanke	100%

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

EXHIBIT E

PROJECT NUMBER:

DATE:

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
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

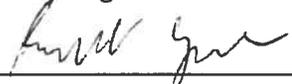
Date of Contract: _____

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

Ronald Yanke
Printed Name

EXHIBIT E

PROJECT NUMBER:

DATE:

STATE OF ~~FLORIDA~~ Illinois
COUNTY OF ~~LEE~~ LaSalle

Subscribed and sworn to (or affirmed) before me this 29th day of July
20 17, by Ronald VANKE



Michelle J Trilikis
Notary Public Signature
Michelle J Trilikis
Notary Printed Name

Personally Known or Produced Identification

Type of Identification Produced: _____ My Commission Expires: 04/13/18

PART V - Property Information

A. Legal Description:

STRAP: 19-46-24-W3-0120A.0050

Property Address: 2440 Estero Blvd. 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 5-1.

Yes. Property identified in subdivision: Seagrape

Book: 4 Page: 17 Unit: _____ Block: _____ Lot(s): 5 & 6

B. Boundary Survey:

Attach a Boundary Survey of the property meeting the minimum standards of Chapter 61G17-6 of the Florida Administrative Code. A Boundary Survey must bear the raised seal and original signature of a Professional Surveyor and Mapper licensed to practice Surveying and Mapping by the State of Florida. Attach and label as Exhibit 5-2.

C. Property Dimensions:

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

EXHIBIT E

PROJECT NUMBER:

DATE:

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

Frontage on street: 100 feet. Frontage on waterbody: _____ feet

Total land area: 10,000 acres square feet

D. General Location of Subject Property (from Sky Bridge or Big Carlos Pass Bridge):
Approximately 1 mile south of the Sky Bridge/Estero Blvd. to Mango Street.

Attach Area Location Map as Exhibit 5-3

E. Property Restrictions (check applicable):

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

A list of deed restrictions and/or covenants affecting the subject property is attached as Exhibit 5-4.

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

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 5-6.

Attach a map showing the surrounding property owners as Exhibit 5-7.

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

H. Zoning (see official Zoning Map):

RS (Residential Single-family)

CF (Community Facilities)

RC (Residential Conservation)

IN (Institutional)

EXHIBIT E

PROJECT NUMBER:

DATE:

- | | |
|--|--|
| <input type="checkbox"/> RM (Residential Multifamily) | <input type="checkbox"/> BB (Bay Beach) |
| <input type="checkbox"/> RPD (Residential Planned Development) | <input type="checkbox"/> EC (Environmentally Critical) |
| <input type="checkbox"/> CM (Commercial Marina) | <input type="checkbox"/> DOWNTOWN |
| <input type="checkbox"/> CO (Commercial Office) | <input type="checkbox"/> SANTOS |
| <input checked="" type="checkbox"/> CB (Commercial Boulevard) | <input type="checkbox"/> VILLAGE |
| <input type="checkbox"/> CR (Commercial Resort) | <input type="checkbox"/> SANTINI |
| <input type="checkbox"/> CPD (Commercial Planned Development) | |

PART VI

AFFIDAVIT

APPLICATION IS SIGNED BY AN INDIVIDUAL OWNER OR APPLICANT

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

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

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

EXHIBIT E

PROJECT NUMBER:

DATE:

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

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

[Signature]
Signature of owner or authorized agent

7-24-17
Date

STATE OF ~~FLORIDA~~ ILLINOIS
COUNTY OF ~~LEE~~ LaSalle

Subscribed and sworn to (or affirmed) before me this 29th day of July
20 17, by Ronald YANKE



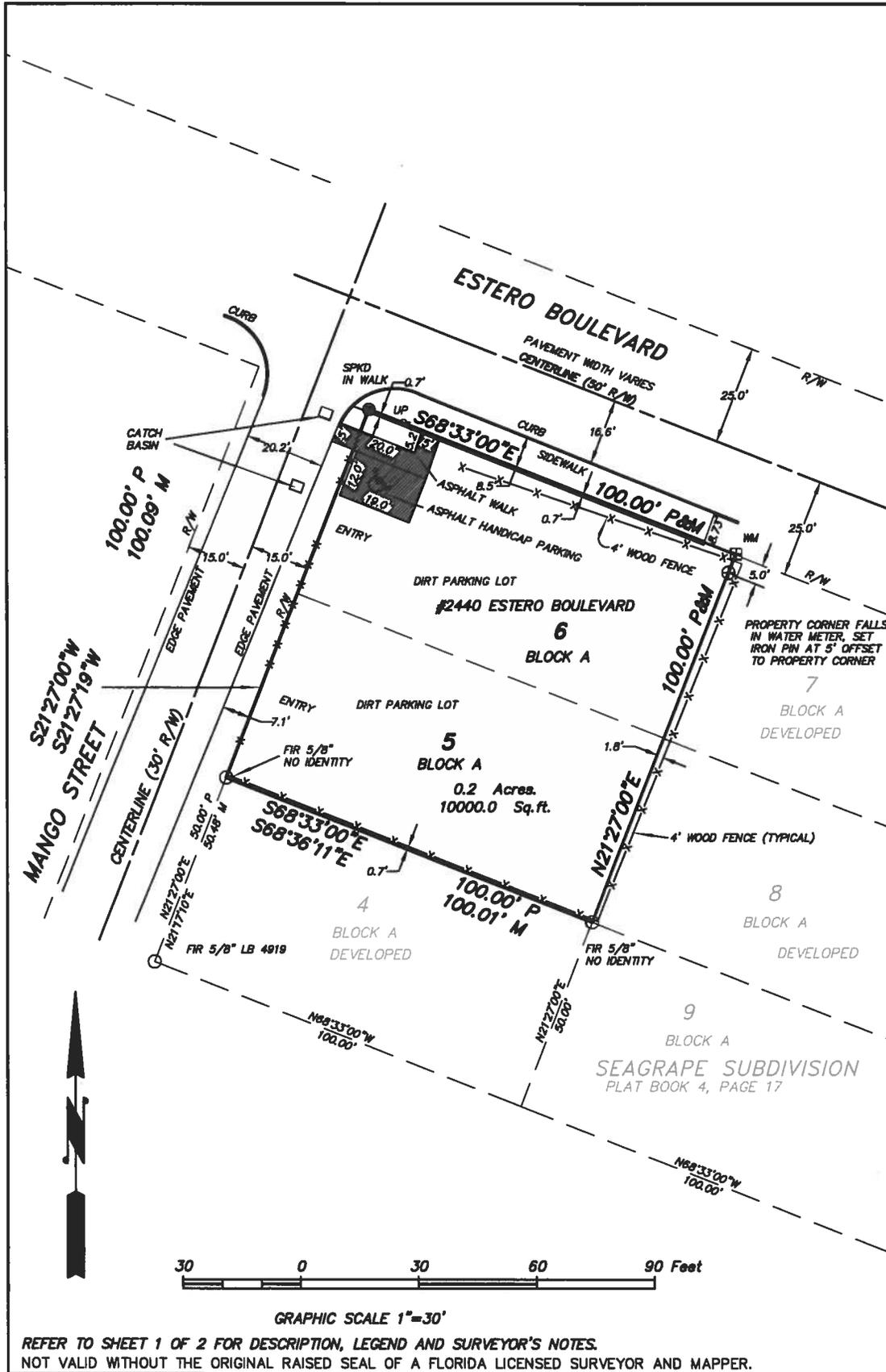
[Signature]
Notary Public Signature

Michelle J Trilikis
Notary Printed Name

Personally Known or Produced Identification

Type of Identification Produced: _____ My Commission Expires: 06/13/18

EXHIBIT E



SHEET 2 OF 2

CHARLES DEGRAFF LAND SURVEYOR
 Land Surveyors and Mappers
 301 Hazeltine Drive, Debarry, Florida 32713

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

EXHIBIT E

LEGEND OF SYMBOLS AND ABBREVIATIONS			
D = DELTA R = RADIUS CB = CHORD BEARING CD = CHORD A = ARC LENGTH T = TANGENT GAR = GARAGE RR = RAILROAD GV = GUY WIRE SEC = SECTION PB = PLAT BOOK FND = FOUND	R/V = RIGHT-OF-WAY TT = TIN TAB BLDK = BUILDING RNG = RANGE BM = BENCHMARK FH = FIRE HYDRANT TWP = TOWNSHIP PR = PRORATED M = MEASURED C = CALCULATED MH = MANHOLE SV = SEAVALL	CONC = CONCRETE P = PLAT TYP = TYPICAL OCC = OCCUPIED CTB = CATCH BASIN PC = POINT OF CURVE PT = POINT OF TANGENT PI = POINT OF INTERSECTION E/P = EDGE OF PAVEMENT DU = OVERHEAD UTILITY CLF = CHAINLINK FENCE SS = SANITARY SEWER	N.G.V.D. = NATIONAL GEODETIC VERTICAL DATUM PRM = PERMANENT REFERENCE MONUMENT FIR = FOUND IRON ROD 5/8" PK = PARKER KALIN FFE = FINISHED FLOOR ELEVATION CBS = CONCRETE BLOCK STRUCTURE FCM = FOUND CONCRETE MONUMENT SSR = SET 5/8" IRON ROD LS4706 POC = POINT OF COMMENCEMENT SPK0 = SET PK NAIL & DISK LS4706 FPK0 = FOUND PK NAIL AND DISK D.P.U.E. = DRAINAGE AND PUBLIC UTILITY EASEMENT
			VV = WATER VALVE WM = WATER METER POB = POINT OF BEGINNING CTV = CABLE TELEVISION RISER A/C = AIR CONDITIONER UP = UTILITY POLE V/M = WATER MAIN C/L = CENTERLINE PTRM = TRANSFORMER PAD ELEV = ELEVATION TELR = TELEPHONE RISER F.B. = FIELD BOOK

SUBJECT PROPERTY LIES IN FLOOD ZONE "VE", ELEVATION 14', PER "FLOOD INSURANCE RATE MAP" (F.I.R.M.) COMMUNITY PANEL NUMBER 12071 C 0554 F, LAST REVISION DATE: 08/28/2008

SURVEYORS NOTES

THIS PLAT OF THE HEREON DESCRIBED PROPERTY IS A TRUE AND CORRECT PRESENTATION OF A RECENT SURVEY MADE AND PLATTED UNDER MY DIRECTION AND TO THE BEST OF MY KNOWLEDGE AND BELIEF MEETS THE MINIMUM TECHNICAL STANDARDS ADOPTED BY THE STATE OF FLORIDA AS PER CHAPTER 5J-17, FLORIDA ADMINISTRATIVE CODE PURSUANT TO CHAPTER 427, FLORIDA STATUTES. THIS SURVEY WAS PERFORMED BASED ON A DESCRIPTION ISSUED VERBALLY BY THE CLIENT AND WITHOUT THE BENEFIT OF AN ABSTRACT OF TITLE. THE SURVEYOR HAS MADE NO INDEPENDENT SEARCH FOR EASEMENTS, OWNERSHIP, RESTRICTIVE COVENANTS OR OTHER FACTS THAT MAY AFFECT TITLE.

NOTE: SUBJECT TO EASEMENTS, RESTRICTIONS, AND RESERVATIONS OF RECORD. THERE ARE NO VISIBLE ENCROACHMENTS EXCEPT THOSE SHOWN.

ELEVATIONS SHOWN HAVE BEEN SURVEYED FROM DATA DERIVED FROM NORTH AMERICAN VERTICAL DATUM (NAVD 88) MONUMENTS (1988 DATUM) EXCEPT WHEN ELEVATIONS ARE NOTED AS BEING ASSUMED. ONLY ABOVE GROUND EVIDENCE OF UNDERGROUND UTILITIES SHOWN.

THIS SURVEY DOES NOT DETERMINE OR REFLECT OWNERSHIP, TITLE, ZONING OR FREEDOM FROM ENCUMBRANCES AND IS ONLY FOR THE LANDS DESCRIBED ABOVE.

THIS SURVEY IS FOR THE SOLE PURPOSES INTENDED BY THE SURVEYOR AND ONLY FOR THE INDIVIDUALS AND / OR INSTITUTIONS LISTED ABOVE UNDER "CERTIFIED TO".

MEASURED DISTANCES (M) ARE NOTED ONLY WHERE THEY DIFFER FROM PLAT (P) OR CALCULATED (C) DISTANCES.

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

ADDRESS OF PROPERTY SURVEYED:
 2440 ESTERO BOULEVARD
 FORT MYERS BEACH, FLORIDA 33931

BEARINGS ARE BASED ON THE CENTERLINE OF ESTERO BOULEVARD BEING N88°33'00"W.

BOUNDARY SURVEY

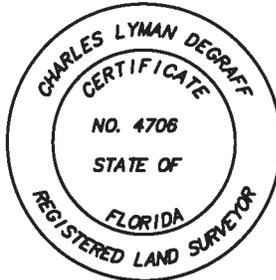
JOB # 1339
 STRAP# 19-48-24-W3-0120A.0050
 FIELD BOOK 1801 PAGE 178-179

DATE OF FIELD WORK, MAY 16, 2017

LEGAL DESCRIPTION:

Lots 5 and 6, Block A, SEAGRAPE SUBDIVISION, according to the map or plat thereof on file and recorded in the office of the Clerk of the Circuit Court in Plat Book 4, Page 17, Public Records of Lee County, Florida.

CERTIFIED TO: RONALD YANKE



(SIGNED)

CHARLES L. DEGRAFF PSM #4706

Charles
 L
 DeGraff

Digitally signed by Charles L DeGraff
 DN: c=US, st=Florida, l=Debary, email=charles.degraff@gmail.com, o=Charles DeGraff Land Surveyor, cn=Charles L DeGraff
 Date: 2017.06.05 17:24:01 -04'00'

REFER TO SHEET 2 OF 2 FOR SURVEY DRAWING

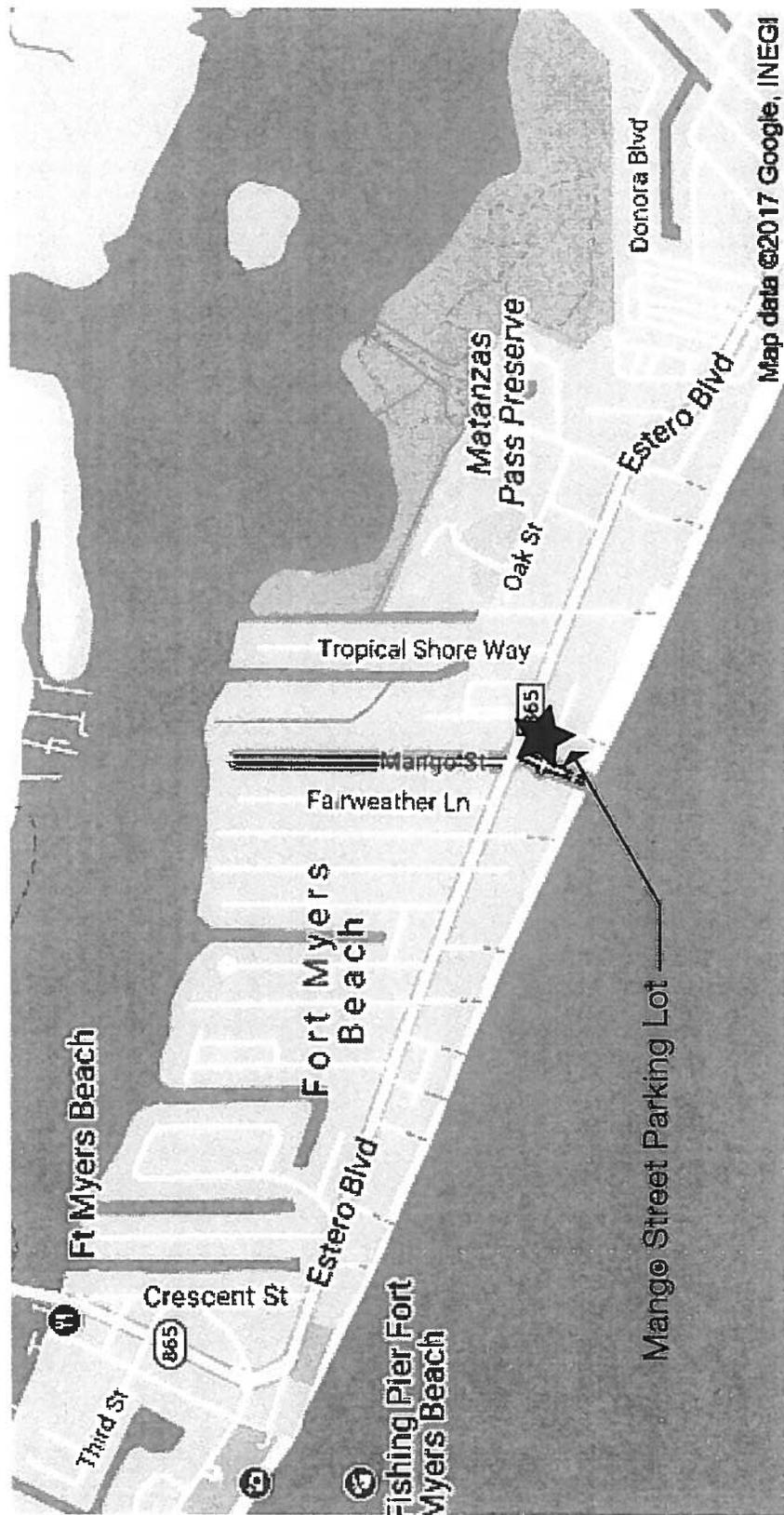
SURVEY VALID ONLY TO THE DATE OF FIELD SURVEY SHOWN HEREON.
 NOT VALID WITHOUT SHEET 2

The seal appearing on this document was authorized by Charles DeGraff PSM 4706 on June 05, 2017.

CHARLES DEGRAFF LAND SURVEYOR
 Land Surveyors and Mappers
 301 Hazeltine Drive, Debary, Florida 32713

Phone (239) 698-8572
 Email charles.degraff@gmail.com



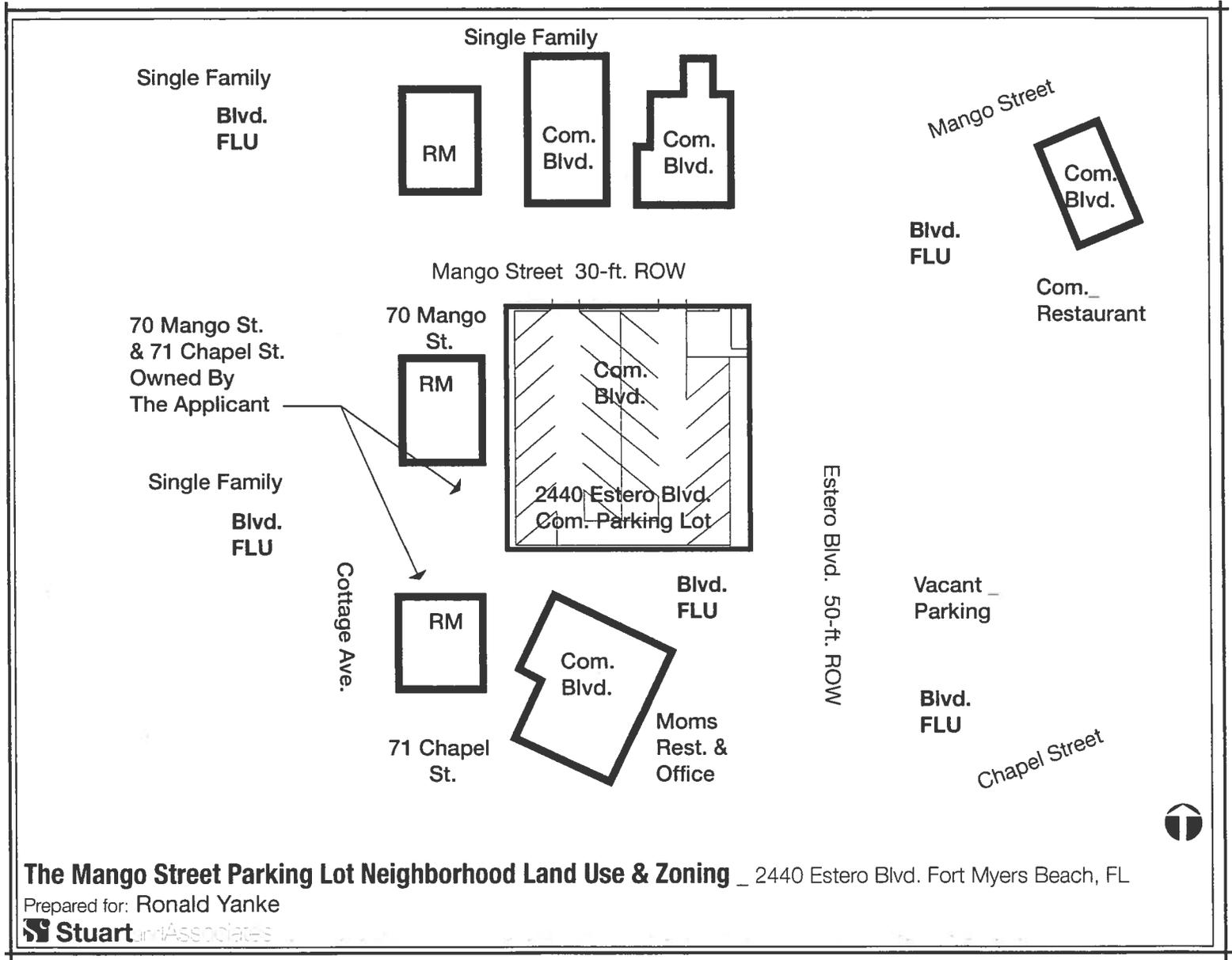


The Mango Street Parking Lot Special Exception and Variance Location Map

2440 Estero Blvd. Fort Myers Beach, FL

Prepared for: Ronald Yanke

EXHIBIT E



Case # SE217-0001
Planner _____

Date Received _____
Date of Sufficiency/Completeness _____
By _____



Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT

Supplement PH-A

Additional Required Information for a Special Exception Application

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

Project Name: The Mango Street Parking Lot SE
Authorized Applicant: Ronald Yanke
LeePA STRAP Number(s):
19-46-24-W3-0120A.0050

Current Property Status: temporary Shared Parking Lot
Current Zoning: Commercial Boulevard
Future Land Use Map (FLUM) Category: Boulevard
Platted Overlay? <input type="checkbox"/> yes <input checked="" type="checkbox"/> no FLUM Density Range: 6

Requested Action:

<input type="checkbox"/> Use of premises in the EC (Environmentally Critical) zoning district for:
<input checked="" type="checkbox"/> Use of premises in the <u>COMMERCIAL BOULEVARD</u> zoning district for:
permanent Shared Parking Lot

EXHIBIT E

The Mango Street Parking Lot _ Special Exception Request Narrative

July 30, 2017

B. Reason For The Request

The property qualifies for a Special Exception to permit a permanent Shared Parking Lot in that for a long period of time the property has been used as a public commercial shared parking lot with community support and no neighborhood and community impacts. The request to upgrade the existing temporary Shared Parking Lot into a permanent Shared Parking Lot is in response to City Council direction and ordinance. The 2016 Council direction is the change of condition that this Special Exception request is in response to. The request implements and is consistent with Comprehensive Plan Policy 3-D-5.ii, that encourages the private sector to build and operate expanded parking areas while using public sector assistance if needed for land assembly and regulatory relief. The regulatory relief requested pertains to the three variances applied for the parallel to Variance request. It is noted that the variance conditions are not the result of actions of the applicant. With the exception of the variances, the new parking lot will comply with the Town's Land Development Code, Chapter 34 and supplemental Parking Lot rule and regulations (see Site Plan). The parking lot does not impact any environmental resources and critical areas.

Impacts to Surrounding Properties

For years the Mango Street parking lot has demonstrated compatibility with the surrounding neighborhood. The Moms Restaurant and real estate office adjoining the south use the parking lot and in so doing demonstrate compatibility. The west adjoining properties have identical ownership with the parking lot property. The requested variance will not be injurious to the north and west neighborhood or otherwise detrimental to the public welfare. Again, the site has been used for parking for many years and with no neighborhood impacts or direct impacts to the residential uses along north Mango Street. It is small lot with a limited number of parking spaces. There have not been any reported Mango Street auto turning movement issues, nor are there expected to be any future traffic conflicts in part due to the small parking lot size. The new Shared Parking Lot is based on LDC standards; it does not present any new issues, impacts or extraordinary factors to the public. Based on the character of the project, there are no height, bulk and mass issues to the neighborhood at large. The parking lot will incorporate a screening fence along the Mango Street ROW, the west and the south boundary. The project will include a new landscape hedge along Estero Blvd. These new improvements advance compatibility and scenic quality conditions.

EXHIBIT E

Deviation Schedule

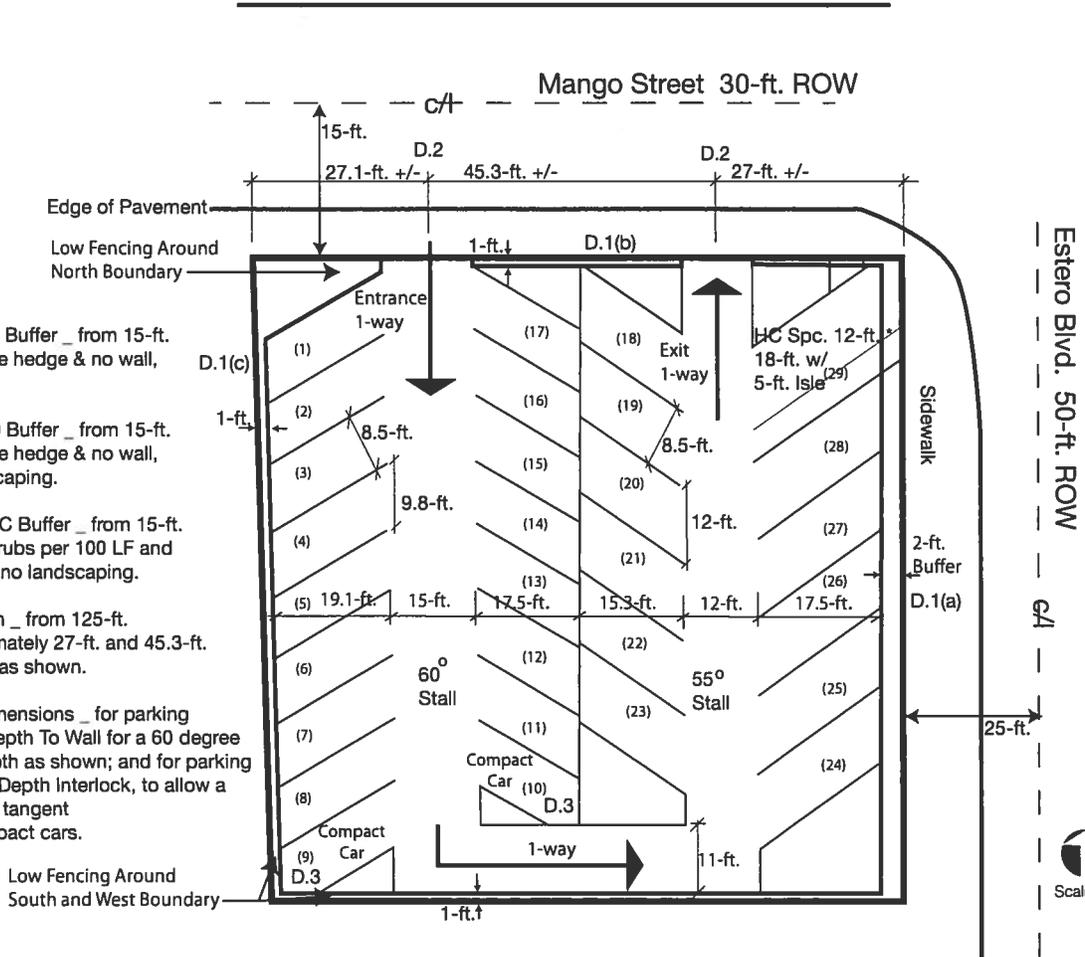
D.1(a) 10-416(d)(2) ROW Type D Buffer _ from 15-ft. buffer, 5 trees per 100 LF, double hedge & no wall, to 2-ft. with a single hedge.

D.1(b) 10-416(d)(2) ROW Type D Buffer _ from 15-ft. buffer, 5 trees per 100 LF, double hedge & no wall, to 1-ft., low fence and no landscaping.

D.1(c) 10-416(d)(2) SF/MF Type C Buffer _ from 15-ft. buffer, 5 trees per 100 LF, 18 shrubs per 100 LF and wall, to 1-ft. with low fence and no landscaping.

D.2 10-285 Driveway Separation _ from 125-ft. separation standard to approximately 27-ft. and 45.3-ft. for exit and entrance centerline as shown.

D.3 34-2016(2) Parking Stall Dimensions _ for parking space #9 from a 19.1-ft. Stall Depth To Wall for a 60 degree space, to allow a 15-ft. stall depth as shown; and for parking space #10, from a 17.5-ft. Stall Depth Interlock, to allow a 15-ft. stall depth at the shortest tangent for spaces # 9 and #10 for compact cars.



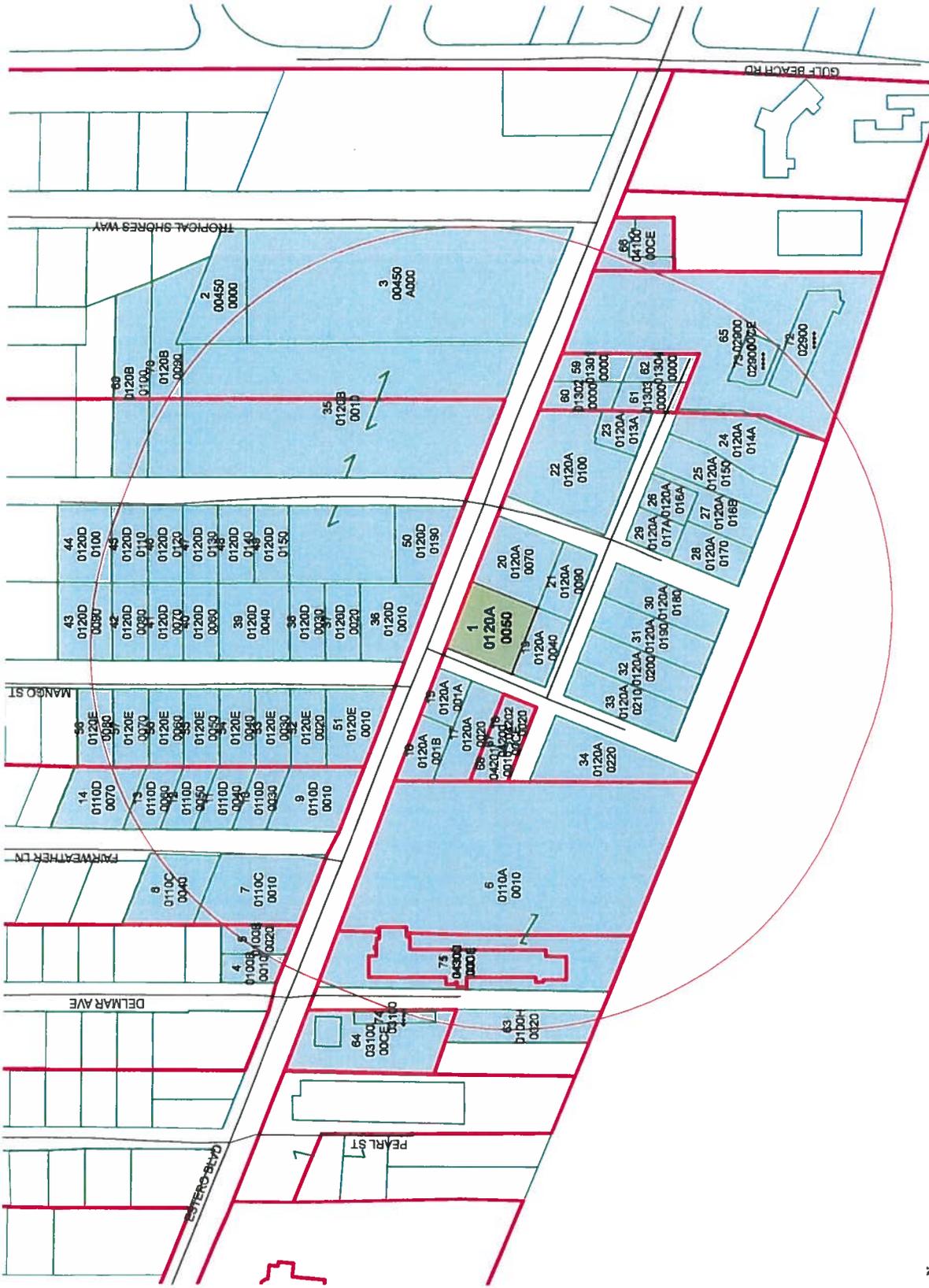
The Mango Street Parking Lot Special Exception and Variance _ 2440 Estero Blvd. Fort Myers Beach, FL

Prepared for: Ronald Yanke

7/28/2017

VARIANCE REPORT

Subject Parcels: 1 Affected Parcels: 131 Buffer Distance: 500 ft



19-46-24-W3-0120A.0050

THE INFORMATION CONTAINED IN THIS REPORT IS GOVERNED BY FLORIDA STATUTE 119.071 (GENERAL EXEMPTIONS FROM INSPECTION OR COPYING OF PUBLIC RECORDS).

EXHIBIT E**Lee County Property Appraiser****Kenneth M. Wilkinson, C.F.A.**

GIS Department / Map Room

Phone: (239) 533-6159 • Fax: (239) 533-6139 • eMail: MapRoom@LeePA.org

VARIANCE REPORT

Date of Report: 7/28/2017 11:39:21 AM
Buffer Distance: 500 ft
Parcels Affected: 131
Subject Parcels: 19-46-24-W3-0120A.0050

OWNER NAME AND ADDRESS	STRAP AND LOCATION	LEGAL DESCRIPTION	MAP INDEX
ZENG GORDON 3312 AUGUSTA LN ONALASKA, WI 54650	19-46-24-W3-00450.0000 99 TROPICAL SHORES WAY FORT MYERS BEACH FL 33931	HILLS T.P.SUBD. OR 355 P 98 PB 3 PG 84	2
TOWN OF FORT MYERS BEACH FINANCE DEPT 2525 ESTERO BLVD FORT MYERS BEACH, FL 33931	19-46-24-W3-00450.A000 2523/2525 ESTERO BLVD FORT MYERS BEACH FL 33931	HILLS T.P.SUBD. PB 3 PG 84 BEG AT SW COR LOT 31 TH N	3
2201 ESTERO LLC 8360 SW 112TH ST MIAMI, FL 33156	19-46-24-W3-0100B.0010 2201 ESTERO BLVD FORT MYERS BEACH FL 33931	WATSONS W.W.SUBD. BLK.B PB 5 PG 67 LOT 1	4
2201 ESTERO LLC 8360 SW 112 ST MIAMI, FL 33156	19-46-24-W3-0100B.0020 2205 ESTERO BLVD FORT MYERS BEACH FL 33931	WATSON W.W.SUBD. BLK.B PB 5 PG 67 LOT 2	5
BLUE VISTA CAPITAL LLC 3412 COMMERCIAL AVE NORTHBROOK, IL 60062	19-46-24-W3-0110A.0010 2316/2320 ESTERO BLVD FORT MYERS BEACH FL 33931	BEACH ESTS PB6 PG68 BLKA+B +ALLEY + WATSON WW SUB BLKA PB5 PG67 LTS 1THRU10 LESS CONDO INST#2007000193360	6
B + B CASH GROCERY STORES INC PO BOX 1808 #78 TAMPA, FL 33601	19-46-24-W3-0110C.0010 2211 ESTERO BLVD FORT MYERS BEACH FL 33931	BEACH ESTATES BLK.C PB 6 PG 68 LOTS 1 2 3	7
BEJUNE MARJORIE C 164 MIRAMAR ST FORT MYERS BEACH, FL 33931	19-46-24-W3-0110C.0040 113-119 FAIRWEATHER LN FORT MYERS BEACH FL 33931	BEACH ESTATES BLK.C PB 6 PG 68 LOTS 4 + 5	8
EAGLE EQUITY CAPITAL LLC 3412 COMMERCIAL AVE NORTHBROOK, IL 60062	19-46-24-W3-0110D.0010 2301 ESTERO BLVD #07 FORT MYERS BEACH FL 33931	BEACH ESTATES BLK D PB 6 PG 68 LOTS 1 + 2	9
DYE GARY A + LOIS 1/2 + S53 W31115 OLD VILLAGE RD MUKWONAGO, WI 53149	19-46-24-W3-0110D.0030 110 FAIRWEATHER LN FORT MYERS BEACH FL 33931	BEACH ESTATES BLK.D PB 6 PG 68 LOT 3 LESS WLY 11 FT OR 227 PG 413	10
BEHRENS EDITA + KLOVENSTEENWEG 117 B 22559 HAMBURG, GERMANY	19-46-24-W3-0110D.0040 118 FAIRWEATHER LN FORT MYERS BEACH FL 33931	BEACH ESTATES BLK D PB 6 PG 68 LOT 4 LESS WLY 11 FT OR 227 PG 417	11
OCONNELL MAURICE D 110 COCONUT DR FORT MYERS BEACH, FL 33931	19-46-24-W3-0110D.0050 120-124 FAIRWEATHER LN FORT MYERS BEACH FL 33931	BEACH ESTATES BLK.D PB 6 PG 68 LOT 5 LESS WLY 11 FT OR 227 PG 418	12
WOAD LLC 1999 92ND ST CALEDONIA, MI 49316	19-46-24-W3-0110D.0060 126 FAIRWEATHER LN FORT MYERS BEACH FL 33931	BEACH ESTATES BLK.D PB 6 PG 68 LOT 6 LESS WLY 11 FT OR 227 PG 422	13
FIGGINS CATHERINE D 134 FAIRWEATHER LN FORT MYERS BEACH, FL 33931	19-46-24-W3-0110D.0070 134 FAIRWEATHER LN FORT MYERS BEACH FL 33931	BEACH ESTATES BLK.D PB 6 PG 68 LOTS 7 + 8 LESS WLY 11 FT OR 227 PG 402	14
WOLFPACK PROPERTIES LLC 567 SIMBURY ST COLUMBUS, OH 43228	19-46-24-W3-0120A.001A 2370 ESTERO BLVD FORT MYERS BEACH FL 33931	SEAGRAPE SUBD BLK A PB 4 PG 17 ELY 71 FT LOT 1	15

All data is current at time of printing and subject to change without notice.
 THE INFORMATION CONTAINED IN THIS REPORT IS GOVERNED BY FLORIDA STATUTE 119.071
 (GENERAL EXEMPTIONS FROM INSPECTION OR COPYING OF PUBLIC RECORDS).

EXHIBIT E

OWNER NAME AND ADDRESS	STRAP AND LOCATION	LEGAL DESCRIPTION	MAP INDEX
WOLFPACK PROPERTIES LLC 567 SIMBURY ST COLUMBUS, OH 43228	19-46-24-W3-0120A.001B 2330 ESTERO BLVD FORT MYERS BEACH FL 33931	SEAGRAPE SUBD. BLK A PB 4 PG 17 LOT 1 LESS ESTLRY 71 FT	16
NANKO RAYMOND S 919 WEST JACKSON ST MUNCIE, IN 47305	19-46-24-W3-0120A.0020 81 MANGO ST FORT MYERS BEACH FL 33931	SEAGRAPE SUBD. BLK.A PB 4 PG 17 LOT 2	17
FICKES MICHAEL G + DAPHNE P 325 W LOCUST LN KENNETT SQUARE, PA 19348	19-46-24-W3-04202.0020 71 MANGO ST FORT MYERS BEACH FL 33931	SEA BREEZE ESTATES CONDO DESC IN OR 4753 PG 4012 BLD 2 UNIT 2	18
YANKE RONALD 328 BUCKLIN ST LA SALLE, IL 61301	19-46-24-W3-0120A.0040 70 MANGO ST FORT MYERS BEACH FL 33931	SEAGRAPE SUBD BLK A PB 4 PG 17 LOT 4	19
THOMAS E SWANBECK PA 2450 ESTERO BLVD FORT MYERS BEACH, FL 33931	19-46-24-W3-0120A.0070 2450 ESTERO BLVD FORT MYERS BEACH FL 33931	SEAGRAPE SUBD BLK A PB 4 PG 17 LOTS 7 + 8	20
YANKE RONALD 328 BUCKLIN ST LA SALLE, IL 61301	19-46-24-W3-0120A.0090 71 CHAPEL ST FORT MYERS BEACH FL 33931	SEAGRAPE SUBD BLK A PB 4 PG 17 LOT 9	21
EMPIRE HOLDING CORP TR PO BOX 19492 INDIANAPOLIS, IN 46219	19-46-24-W3-0120A.0100 2500 ESTERO BLVD FORT MYERS BEACH FL 33931	SEAGRAPE SUBD BLK A PB 4 PG 17 LTS 10 11 + 12 + PT 13	22
GISE PROPERTY LLC 414-71ST ST MIAMI BEACH, FL 33141	19-46-24-W3-0120A.013A 2543 COTTAGE AVE FORT MYERS BEACH FL 33931	SEAGRAPE SUBD BLK A PB 4 PG 17 PT LOT 13 DESC IN OR 1759 PG 0091	23
FRENCH EDWIN T III PO BOX 22538 INDIANAPOLIS, IN 46222	19-46-24-W3-0120A.014A 2550 COTTAGE AVE FORT MYERS BEACH FL 33931	SEAGRAPE SUBD BLK A PB 4 PG 17 PT OF LT 14 DESC 3269/725	24
FRENCH EDWIN T III PO BOX 22538 INDIANAPOLIS, IN 46222	19-46-24-W3-0120A.0150 2548 COTTAGE AVE FORT MYERS BEACH FL 33931	SEAGRAPE SUBD BLK A PB 4 PG 17 E 40 FT LOT 15	25
VANOYEN NANCY L TR 2522 COTTAGE AVE FORT MYERS BEACH, FL 33931	19-46-24-W3-0120A.016A 2520 COTTAGE AVE FORT MYERS BEACH FL 33931	SEAGRAPE SUBD BLK A PB 4 PG 17 NLY 70 FT LOT 16	26
VANOYEN NANCY L TR 2522 COTTAGE AVE FORT MYERS BEACH, FL 33931	19-46-24-W3-0120A.016B 2522 COTTAGE AVE FORT MYERS BEACH FL 33931	SEAGRAPE SUBD BLK A PB 4 PG 17 PT LOTS 16 + 15	27
TEZAK WAYNE P + HELEN C TR 50 CHAPEL ST #4 FORT MYERS BEACH, FL 33931	19-46-24-W3-0120A.0170 50 CHAPEL ST FORT MYERS BEACH FL 33931	SEAGRAPE SUBD. BLK.A PB 4 PG 17 LOT 17 S 100 FT + LT 16 W 7.75 FT	28
GOLDBERG GENNIE M TR 11793 ROYAL TEE CT CAPE CORAL, FL 33991	19-46-24-W3-0120A.017A 2518 COTTAGE AVE FORT MYERS BEACH FL 33931	SEAGRAPE SUBD. BLK.A PB 4 PG 17 LOT 17 N 70 FT	29
FMB COTTAGE LLC 2440 COTTAGE AVE FORT MYERS BEACH, FL 33931	19-46-24-W3-0120A.0180 2440 COTTAGE AVE FORT MYERS BEACH FL 33931	SEAGRAPE SUBD BLK A PB 4 PG 17 LOT 18	30
BONFIGLI ANDREW & SUSAN 2434 COTTAGE AVE FORT MYERS BEACH, FL 33931	19-46-24-W3-0120A.0190 2434/2436 COTTAGE AVE FORT MYERS BEACH FL 33931	SEAGRAPE SUBD. BLK.A PB 4 PG 17 LOT 19	31
MINOR KEVIN & WENDY N74W22552 TWIN OAKS CT SUSSEX, WI 53089	19-46-24-W3-0120A.0200 2430 COTTAGE AVE FORT MYERS BEACH FL 33931	SEAGRAPE SUBD BLK A PB 4 PG 17 LOT 20	32
MCLAUGHLIN SAMUEL R + KIMBERLY 4700 EDEN PARK DR ZANESVILLE, OH 43701	19-46-24-W3-0120A.0210 2426 COTTAGE AVE FORT MYERS BEACH FL 33931	SEAGRAPE SUBD. BLK.A PB 4 PG 17 LOT 21	33
SCHLICHT E EDITH 61 MANGO ST FORT MYERS BEACH, FL 33931	19-46-24-W3-0120A.0220 61/63 MANGO ST FORT MYERS BEACH FL 33931	SEAGRAPE SUBD BLK A PB 4 PG 17 LOT 22	34
CHAPEL BY THE SEA PO BOX 2997 FORT MYERS BEACH, FL 33932	19-46-24-W3-0120B.0010 100 CHAPEL ST FORT MYERS BEACH FL 33931	SEAGRAPE SUBD.PB 4 PG 17 BLK.B LTS 1-8 + BLK D LTS 16 -18 + OR 221 PG 436	35
GERSTENHABER RAM + FRIDA TR BEACH CONNECTION 2401 ESTERO BLVD FORT MYERS BEACH, FL 33931	19-46-24-W3-0120D.0010 2401 ESTERO BLVD FORT MYERS BEACH FL 33931	SEAGRAPE SUBD BLK D PB 4 PG 17 LOT 1	36

All data is current at time of printing and subject to change without notice.
THE INFORMATION CONTAINED IN THIS REPORT IS GOVERNED BY FLORIDA STATUTE 119.071
(GENERAL EXEMPTIONS FROM INSPECTION OR COPYING OF PUBLIC RECORDS).

EXHIBIT E

OWNER NAME AND ADDRESS	STRAP AND LOCATION	LEGAL DESCRIPTION	MAP INDEX
CZULEWICZ MARYLU TR 4281 ORANGE RIVER LOOP RD FORT MYERS, FL 33905	19-46-24-W3-0120D.0020 110 MANGO ST FORT MYERS BEACH FL 33931	SEAGRAPE SUBD BLK D PB 4 PG 17 LOT 2	37
MEADOR CHARLES R JR 2085 ESTERO BLVD FORT MYERS BEACH, FL 33931	19-46-24-W3-0120D.0030 112 MANGO ST FORT MYERS BEACH FL 33931	SEAGRAPE SUBD BLK D PB 4 PG 17 LOT 3	38
MANGO STREET INN LLC 126 MANGO ST FORT MYERS BEACH, FL 33931	19-46-24-W3-0120D.0040 126 MANGO ST FORT MYERS BEACH FL 33931	SEAGRAPE SUBD BLK D PB 4 PG 17 LOTS 4 + 5	39
PAOLERCIO WILLIAM 136 MANGO ST FORT MYERS BEACH, FL 33931	19-46-24-W3-0120D.0060 136 MANGO ST FORT MYERS BEACH FL 33931	SEAGRAPE SUBD. BLK.D PB 4 PG 17 LOT 6	40
BRUNS STEVEN H + 2810 ESTERO BLVD APT 911 FORT MYERS BEACH, FL 33931	19-46-24-W3-0120D.0070 144 MANGO ST FORT MYERS BEACH FL 33931	SEAGRAPE SUBD BLK D PB 4 PG 17 LOT 7	41
COOPER + COMPANY LLC PO BOX 501 HOWELL, MI 48844	19-46-24-W3-0120D.0080 150 MANGO ST FORT MYERS BEACH FL 33931	SEAGRAPE SUBD. BLK.D PB 4 PG 17 LOT 8	42
ROTH ALLAN T + RHONDA K 12232 JAY CIR NW COON RAPIDS, MN 55448	19-46-24-W3-0120D.0090 160 MANGO ST FORT MYERS BEACH FL 33931	SEAGRAPE SUBD BLK D PB 4 PG 17 LOT 9 + S 25 FT OF VAC ST	43
STALTER RICHARD 36 GLADE LN LEVITTOWN, NY 11756	19-46-24-W3-0120D.0100 169 CHAPEL ST FORT MYERS BEACH FL 33931	SEAGRAPE SUBD BLK D PB 4 PG 17 LOT 10 + S 25 FT OF VAC ST	44
PAOLERCIO WILLIAM 81 MANGO ST FORT MYERS BEACH, FL 33931	19-46-24-W3-0120D.0110 167 CHAPEL ST FORT MYERS BEACH FL 33931	SEAGRAPE SUBD. BLK.D PB 4 PG 17 LOT 11	45
MEEHAN PATRICIA LYNN 293 ELM ST W SUDBURY, ON P3C 1V6 CANADA	19-46-24-W3-0120D.0120 161 CHAPEL ST FORT MYERS BEACH FL 33931	SEAGRAPE SUBD. BLK.D PB 4 PG 17 LOT 12	46
LIGHT JAY S + KATHERINE K 151 CHAPEL ST FORT MYERS BEACH, FL 33931	19-46-24-W3-0120D.0130 151 CHAPEL ST FORT MYERS BEACH FL 33931	SEAGRAPE SUBD BLK D PB 4 PG 17 LOT 13	47
PFÄFFINGER HEDWIG TR JAMES SCHULTZ 1030 SPINDLE HILL RD WOLCOTT, CT 06716	19-46-24-W3-0120D.0140 145 CHAPEL ST FORT MYERS BEACH FL 33931	SEAGRAPE BLK.D PB 4 PG 17 LOT 14	48
BUNTING ROBERT C + ELEANOR E 21681 INDIAN BAYOU DR FORT MYERS BEACH, FL 33931	19-46-24-W3-0120D.0150 139 CHAPEL ST FORT MYERS BEACH FL 33931	SEAGRAPE SUBD. BLK.D PB 4 PG 17 LOT 15	49
CHAPEL BY THE SEA PO BOX 2997 FORT MYERS BEACH, FL 33932	19-46-24-W3-0120D.0190 2471 ESTERO BLVD FORT MYERS BEACH FL 33931	SEAGRAPE SUBD BLK D PB 4 PG 17 LT 19 LEASEHOLD INT	50
EAGLE EQUITY CAPITAL LLC 3412 COMMERCIAL AVE NORTHBROOK, IL 60062	19-46-24-W3-0120E.0010 2311 ESTERO BLVD FORT MYERS BEACH FL 33931	SEAGRAPE SUBD BLK E PB 4 PG 17 LOT 1	51
EAGLE EQUITY CAPITAL LLC 3412 COMMERCIAL AVE NORTHBROOK, IL 60062	19-46-24-W3-0120E.0020 111 MANGO ST FORT MYERS BEACH FL 33931	SEAGRAPE SUBD BLK E PB 4 PG 17 LOT 2	52
EAGLE EQUITY CAPITAL LLC 3412 COMMERCIAL AVE NORTHBROOK, IL 60062	19-46-24-W3-0120E.0030 121 MANGO ST FORT MYERS BEACH FL 33931	SEAGRAPE SUBD BLK E PB 4 PG 17 LOT 3	53
BESSEY JAMES D 14 FIELD AVE NANTUCKET, MA 02554	19-46-24-W3-0120E.0040 125 MANGO ST FORT MYERS BEACH FL 33931	SEAGRAPE SUBD BLK E PB 4 PG 17 LOT 4	54
BOBS BEACH LLC 1431 N FENCHURCH LN SPRINGFIELD, MO 65802	19-46-24-W3-0120E.0050 135 MANGO ST FORT MYERS BEACH FL 33931	SEAGRAPE SUBD BLK E PB 4 PG 17 LOT 5	55
SOTO JESUS 22614 FOREST VIEW DR ESTERO, FL 33928	19-46-24-W3-0120E.0060 145 MANGO ST FORT MYERS BEACH FL 33931	SEAGRAPE SUBD BLK E PB 4 PG 17 LOT 6	56

EXHIBIT E

OWNER NAME AND ADDRESS	STRAP AND LOCATION	LEGAL DESCRIPTION	MAP INDEX
WICKETT LLOYD A + MARGARET J 5647 SHADDELEE LN W FORT MYERS, FL 33919	19-46-24-W3-0120E.0070 161 MANGO ST FORT MYERS BEACH FL 33931	SEAGRAPE SUBD BLK E PB 4 PG 17 LOT 7	57
WICKETT LLOYD A + MARGARET J 5647 SHADDELEE LN W FORT MYERS, FL 33919	19-46-24-W3-0120E.0080 163 MANGO ST FORT MYERS BEACH FL 33931	SEAGRAPE SUBD BLK E PB 4 PG 17 LOT 8	58
EMPIRE HOLDING CORP TR PO BOX 19492 INDIANAPOLIS, IN 46219	19-46-24-W3-01301.0000 2518 ESTERO BLVD FORT MYERS BEACH FL 33931	BLAKES SUBD PB 4 PG 44 LOT 1	59
EMPIRE HOLDING CORP TR PO BOX 19492 INDIANAPOLIS, IN 46219	19-46-24-W3-01302.0000 2510 ESTERO BLVD FORT MYERS BEACH FL 33931	BLAKES SUBD PB 4 PG 44 LOT 2	60
OLOUGHLIN DEREK W 201 EAST ANDRUS RD NORTHWOOD, OH 43619	19-46-24-W3-01303.0000 2553 COTTAGE AVE FORT MYERS BEACH FL 33931	BLAKES SUBD PB 4 PG 44 LOT 3	61
WHITEHEAD LELAND S + SUSAN ANN 1155 NW 97TH DR CORAL SPRINGS, FL 33071	19-46-24-W3-01304.0000 2563 COTTAGE AVE FORT MYERS BEACH FL 33931	BLAKES SUBD PB 4 PG 44 LOT 4	62
MICTIA PROPERTIES LLC PO BOX 2490 FORT MYERS BEACH, FL 33931	19-46-24-W4-0100H.0020 61 DELMAR AVE FORT MYERS BEACH FL 33931	WATSONS W W SUBD BLK H PB 5 PG 67 LOT 2	63
POLYNESIAN VACATION VILLAS 2096 ESTERO BLVD FORT MYERS BEACH, FL 33931	19-46-24-W4-03100.00CE POLYNESIAN VACATION VILLAS C/E FORT MYERS BEACH FL	A CONDO LOCATED AT SEC 19 TWP 46 RGE 24 AS DESC IN OR 1484 PG 2034 COMMON ELEMENTS	64
PELICAN WATCH CONDO ASSOC BOBACK COMMERCIAL GROUP STE 203 10491 SIX MILE CYPRESS PKWY FORT MYERS, FL 33966	19-46-24-W3-02900.00CE 2530 ESTERO BLVD FORT MYERS BEACH FL 33931	PELICAN WATCH CONDO DESC OR BK 1532 PG 0083 COMMON ELEMENTS	65
TROPICAL SHORES ASSN 2550 ESTERO BLVD FORT MYERS BEACH, FL 33931	19-46-24-W3-04100.00CE TROPICAL SHORES C/E FORT MYERS BEACH FL	TROPICAL SHORES DESC OR 4081 PG 2543 COMMON ELEMENTS	66
SEA BREEZE ESTATES CONDO ASSN 325 W LOCUST LN KENNETT SQUARE, PA 19348	19-46-24-W3-04200.00CE SEA BREEZE ESTATES CONDO C/E FORT MYERS BEACH FL 33931	SEA BREEZE ESTATES CONDO DESC IN OR 4753 PG 4012 COMMON ELEMENTS	67
FICKES MICHAEL G + DAPHNE P 325 W LOCUST LN KENNETT SQUARE, PA 19348	19-46-24-W3-04201.0010 2401 COTTAGE AVE FORT MYERS BEACH FL 33931	SEA BREEZE ESTATES CONDO DESC IN OR 4753 PG 4012 BLD 1 UNIT 1	68
ZENG GORDON 3312 AUGUSTA LN ONALASKA, WI 54650	19-46-24-W3-0120B.0100 168 CHAPEL ST FORT MYERS BEACH FL 33931	SEAGRAPE SUBD BLK B PB 4 PG 17 LOT 10 + HILLS T P SUB PB 3 PG 84 POR LOT 31	69
ZENG GORDON 3312 AUGUSTA LANE ONALASKA, WI 54650	19-46-24-W3-0120B.0090 166 CHAPEL ST FORT MYERS BEACH FL 33931	SEAGRAPE SUBD BLK B PB 4 PG 17 LOT 9 + HILLS T P SUB PB 3 PG 84 POR LOT 31	70
NEPTUNE INN CONDO ASSN INC BLUE VISTA CAPITAL LLC PO BOX 508 RICHMOND, IL 60071	19-46-24-W3-04300.00CE NEPTUNE INN C/E FORT MYERS BEACH FL	NEPTUNE CONDO DESC IN INST# 2007000193360 COMMON ELEMENTS	71
BURGETT RUSSELL E + BETTY D TR 1270 UNION ST PLATTEVILLE, WI 53818	19-46-24-W3-02900.1010 2532 ESTERO BLVD #101 FORT MYERS BEACH FL 33931	PELICAN WATCH CONDO OR 1532 PG 83 UNIT 101+ (XF-GAR#21)	72
FIGUERADO JAMES + DEBORAH 20771 SECOND AVE W CUDJOE KEY, FL 33042	19-46-24-W3-02900.1020 2532 ESTERO BLVD #102 FORT MYERS BEACH FL 33931	PELICAN WATCH CONDO OR 1532 PG 83 UNIT 102	72
TAYLOR GLENN + ANDREE 440 POPLAR AVE ELMHURST, IL 60126	19-46-24-W3-02900.1030 2532 ESTERO BLVD #103 FORT MYERS BEACH FL 33931	PELICAN WATCH CONDO OR 1532 PG 83 UNIT 103+ (XF-GAR#2)	72

All data is current at time of printing and subject to change without notice.
THE INFORMATION CONTAINED IN THIS REPORT IS GOVERNED BY FLORIDA STATUTE 119.071
(GENERAL EXEMPTIONS FROM INSPECTION OR COPYING OF PUBLIC RECORDS).

EXHIBIT E

OWNER NAME AND ADDRESS	STRAP AND LOCATION	LEGAL DESCRIPTION	MAP INDEX
OWENS JAMES L + DIANNE L 567 DAWES AVE GLEN ELLYN, IL 60137	19-46-24-W3-02900.1040 2532 ESTERO BLVD #104 FORT MYERS BEACH FL 33931	PELICAN WATCH CONDO OR 1532 PG 83 UNIT 104+ (XF-GAR#18)	72
BEACHCOMBERS FROM AFAR INC TIMOTHY JOHNSTON 9430 TALL PINES WAY PIQUA, OH 45356	19-46-24-W3-02900.1050 2532 ESTERO BLVD #105 FORT MYERS BEACH FL 33931	PELICAN WATCH CONDO OR 1532 PG 83 UNIT 105	72
JERRY LEE & DARLENE LOUISE 2532 ESTERO BLVD #106 FORT MYERS BEACH, FL 33931	19-46-24-W3-02900.1060 2532 ESTERO BLVD #106 FORT MYERS BEACH FL 33931	PELICAN WATCH CONDO OR 1532 PG 83 UNIT 106+ (XF-GAR#15)	72
LACAVA JOYCE L/E 2 SULLIVAN FARM NEW MILFORD, CT 06776	19-46-24-W3-02900.2010 2532 ESTERO BLVD #201 FORT MYERS BEACH FL 33931	PELICAN WATCH CONDO OR 1532 PG 83 UNIT 201+ (XF-GAR #1)	72
STAHL JUDITH A TR 2532 ESTERO BLVD #202 FORT MYERS BEACH, FL 33931	19-46-24-W3-02900.2020 2532 ESTERO BLVD #202 FORT MYERS BEACH FL 33931	PELICAN WATCH CONDO OR 1532 PG 83 UNIT 202+ (XF-GAR#20)	72
BRIESATH RANDAL TR + 2868 KENDRIDGE LN AURORA, IL 60502	19-46-24-W3-02900.2030 2532 ESTERO BLVD #203 FORT MYERS BEACH FL 33931	PELICAN WATCH CONDO OR 1532 PG 83 UNIT 203	72
SHIPP RUTH V TR GEAN THOMAS 811 W MYRTLE ST MASON CITY, IL 62664	19-46-24-W3-02900.2040 2532 ESTERO BLVD #204 FORT MYERS BEACH FL 33931	PELICAN WATCH CONDO OR 1532 PG 83 UNIT 204+ (XF-GAR#19)	72
PETER WILLIAM C 2532 ESTERO BLVD #205 FORT MYERS BEACH, FL 33931	19-46-24-W3-02900.2050 2532 ESTERO BLVD #205 FORT MYERS BEACH FL 33931	PELICAN WATCH CONDO OR 1532 PG 83 UNIT 205+ (XF-GAR #14)	72
BRUNER RICHARD T + 2821 NE 46TH ST LIGHTHOUSE POINT, FL 33064	19-46-24-W3-02900.2060 2532 ESTERO BLVD #206 FORT MYERS BEACH FL 33931	PELICAN WATCH CONDO OR 1532 PG 83 UNIT 206	72
VREDENBURG JOHN F TR 21750 483RD LN CHARITON, IA 50049	19-46-24-W3-02900.3010 2532 ESTERO BLVD #301 FORT MYERS BEACH FL 33931	PELICAN WATCH CONDO OR 1532 PG 83 UNIT 301	72
FOSTER EDWINA G 2532 ESTERO BLVD #302 FORT MYERS BEACH, FL 33931	19-46-24-W3-02900.3020 2532 ESTERO BLVD #302 FORT MYERS BEACH FL 33931	PELICAN WATCH CONDO OR 1532 PG 83 UNIT 302+ (XF-GAR#27)	72
OHERN BRENT T & 11256 OAKTON RD OAKTON, VA 22124	19-46-24-W3-02900.3030 2532 ESTERO BLVD #303 FORT MYERS BEACH FL 33931	PELICAN WATCH CONDO OR 1532 PG 83 UNIT 303+ (XF-GAR #11)	72
HARTNAGEL CONSTANCE A TR + 3317 E LAKE DR N ELKHART, IN 46514	19-46-24-W3-02900.3040 2532 ESTERO BLVD #304 FORT MYERS BEACH FL 33931	PELICAN WATCH CONDO OR 1532 PG 83 UNIT 304	72
SUTTON MAVIS M 850 CEDAR ST WATERLOO, IN 46793	19-46-24-W3-02900.3050 2532 ESTERO BLVD #305 FORT MYERS BEACH FL 33931	PELICAN WATCH CONDO OR 1532 PG 83 UNIT 305+ (XF-GAR#3)	72
COUCH JOANN 2532 ESTERO BLVD #306 FORT MYERS BEACH, FL 33931	19-46-24-W3-02900.3060 2532 ESTERO BLVD #306 FORT MYERS BEACH FL 33931	PELICAN WATCH CONDO OR 1532 PG 83 UNIT 306+ (XF-GAR#29)	72
BURNSTINE HARRY M TR 56860 SR 15 BRISTOL, IN 46507	19-46-24-W3-02900.4010 2532 ESTERO BLVD #401 FORT MYERS BEACH FL 33931	PELICAN WATCH CONDO OR 1532 PG 83 UNIT 401+ (XF-GAR#23)	72
SMITH KATHLEEN R L/E 2532 ESTERO BLVD #402 FORT MYERS BEACH, FL 33931	19-46-24-W3-02900.4020 2532 ESTERO BLVD #402 FORT MYERS BEACH FL 33931	PELICAN WATCH CONDO OR 1532 PG 83 UNIT 402+ (XF-GAR#24)	72
GREER MARY FRANCES TR DON SHOEMAKER 2532 ESTERO BLVD #403 FORT MYERS BEACH, FL 33931	19-46-24-W3-02900.4030 2532 ESTERO BLVD #403 FORT MYERS BEACH FL 33931	PELICAN WATCH CONDO OR 1532 PG 83 UNIT 403+ (XF-GAR #30)	72
BANERIAN KIRK G + LESLIE N 2950 WOODCREEK WAY BLOOMFIELD HILLS, MI 48304	19-46-24-W3-02900.4040 2532 ESTERO BLVD #404 FORT MYERS BEACH FL 33931	PELICAN WATCH CONDO OR 1532 PG 83 UNIT 404	72
BORGRA EUGENE J + MARLENE J 23233 W 135TH ST PLAINFIELD, IL 60544	19-46-24-W3-02900.4050 2532 ESTERO BLVD #405 FORT MYERS BEACH FL 33931	PELICAN WATCH CONDO OR 1532 PG 83 UNIT 405	72

EXHIBIT E

OWNER NAME AND ADDRESS	STRAP AND LOCATION	LEGAL DESCRIPTION	MAP INDEX
HARTNAGEL CONSTANCE TR + 50685 FOX TRL GRANGER, IN 46530	19-46-24-W3-02900.4060 2532 ESTERO BLVD #406 FORT MYERS BEACH FL 33931	PELICAN WATCH CONDO OR 1532 PG 83 UNIT 406+ (XF-GAR#7)	72
STICKLEY KIM A + PAMELA S 26725 COUNTY ROAD 52 NAPPANEE, IN 46550	19-46-24-W3-02900.5010 2532 ESTERO BLVD #501 FORT MYERS BEACH FL 33931	PELICAN WATCH CONDO OR 1532 PG 83 UNIT 501+ (XF-GAR#4)	72
OOYKAAS DICK E + PATRICIA T + 17026 W MANHATTAN RD ELWOOD, IL 60421	19-46-24-W3-02900.5020 2532 ESTERO BLVD #502 FORT MYERS BEACH FL 33931	PELICAN WATCH CONDO OR 1532 PG 83 UNIT 502	72
OOYKAAS DICK E + PATRICIA T + 17026 W MANHATTAN RD ELWOOD, IL 60421	19-46-24-W3-02900.5030 2532 ESTERO BLVD #503 FORT MYERS BEACH FL 33931	PELICAN WATCH CONDO OR 1532 PG 83 UNIT 503+ (XF-GAR# 16)	72
FIGUERADO JAMES + DEBORAH 2532 ESTERO BLVD #102 FORT MYERS BEACH, FL 33931	19-46-24-W3-02900.5040 2532 ESTERO BLVD #504 FORT MYERS BEACH FL 33931	PELICAN WATCH CONDO OR 1532 PG 83 UNIT 504+(XF-GAR#17)	72
DORNFELD LEE V + DONNA 303 KIRKWOOD GLEN CIR LOUISVILLE, KY 40207	19-46-24-W3-02900.5050 2532 ESTERO BLVD #505 FORT MYERS BEACH FL 33931	PELICAN WATCH CONDO OR 1532 PG 83 UNIT 505	72
BARRETT HILARY W + JAFFREY M WELLS 3668 GORDON RD ELKHART, IN 46516	19-46-24-W3-02900.5060 2532 ESTERO BLVD #506 FORT MYERS BEACH FL 33931	PELICAN WATCH CONDO OR 1532 PG 83 UNIT 506+ (XF-GAR #6)	72
FIELDS GARY L TR 4751 OLSON LAKE TRAIL N LAKE ELMO, MN 55042	19-46-24-W3-02900.6010 2532 ESTERO BLVD #601 FORT MYERS BEACH FL 33931	PELICAN WATCH CONDO OR 1532 PG 83 UNIT 601+ (XF-GAR #25)	72
GALVIN FRANCIS J TR + 1171 STANDISH CT NAPERVILLE, IL 60540	19-46-24-W3-02900.6020 2532 ESTERO BLVD #602 FORT MYERS BEACH FL 33931	PELICAN WATCH CONDO OR 1532 PG 83 UNIT 602+ (XF-GAR#13)	72
OOYKAAS DICK E + PATRICIA T 17026 W MANHATTAN RD ELWOOD, IL 60421	19-46-24-W3-02900.6030 2532 ESTERO BLVD #603 FORT MYERS BEACH FL 33931	PELICAN WATCH CONDO OR 1532 PG 83 UNIT 603+ (XF-GAR#10)	72
SPITZER ARDEN L + SANDRA C 555 DEER LAKE DR FINDLAY, OH 45840	19-46-24-W3-02900.6040 2532 ESTERO BLVD #604 FORT MYERS BEACH FL 33931	PELICAN WATCH CONDO OR 1532 PG 83 UNIT 604+ (XF-GAR#5)	72
MCKEOWN PATRICK G L/E + 2532 ESTERO BLVD #605 FORT MYERS BEACH, FL 33931	19-46-24-W3-02900.6050 2532 ESTERO BLVD #605 FORT MYERS BEACH FL 33931	PELICAN WATCH CONDO OR 1532 PG 83 UNIT 605+ (XF-GAR#8)	72
PELICAN PARTNERS 5201 WASHINGTON BLVD INDIANAPOLIS, IN 46220	19-46-24-W3-02900.6060 2532 ESTERO BLVD #606 FORT MYERS BEACH FL 33931	PELICAN WATCH CONDO OR 1532 PG 83 UNIT 606+ (XF-GAR#22)	72
OOYKAAS DICK E + PATRICIA T + 17026 W MANHATTAN RD ELWOOD, IL 60421	19-46-24-W3-02900.1070 2532 ESTERO BLVD #107 FORT MYERS BEACH FL 33931	PELICAN WATCH CONDO OR 1532 PG 83 UNIT 107	73
SAMFORD BARBARA B TR 2532 ESTERO BLVD #108 FORT MYERS BEACH, FL 33931	19-46-24-W3-02900.1080 2532 ESTERO BLVD #108 FORT MYERS BEACH FL 33931	PELICAN WATCH CONDO OR 1532 PG 83 UNIT 108	73
SAALSAA BROS INC 7935 ALMOR DR VERONA, WI 53593	19-46-24-W3-02900.2070 2532 ESTERO BLVD #207 FORT MYERS BEACH FL 33931	PELICAN WATCH CONDO OR 1532 PG 83 UNIT 207	73
PETER WILLIAM C 2532 ESTERO BLVD #205 FORT MYERS BEACH, FL 33931	19-46-24-W3-02900.2080 2532 ESTERO BLVD #208 FORT MYERS BEACH FL 33931	PELICAN WATCH CONDO OR 1532 PG 83 UNIT 208	73
SIE-RETREAT LLC 3374 ARLINGTON PL BEAVERCREEK, OH 45434	19-46-24-W3-02900.3070 2532 ESTERO BLVD #307 FORT MYERS BEACH FL 33931	PELICAN WATCH CONDO OR 1532 PG 83 UNIT 307	73
MEYER STEPHEN P TR 2532 ESTERO BLVD #308 FORT MYERS BEACH, FL 33931	19-46-24-W3-02900.3080 2532 ESTERO BLVD #308 FORT MYERS BEACH FL 33931	PELICAN WATCH CONDO OR 1532 PG 83 UNIT 308 + (XF-GAR#9)	73
MARSHALL MARYLU L/E 2532 ESTERO BLVD #407 FORT MYERS BEACH, FL 33931	19-46-24-W3-02900.4070 2532 ESTERO BLVD #407 FORT MYERS BEACH FL 33931	PELICAN WATCH CONDO OR 1532 PG 83 UNIT 407+ (XF-GAR#26)	73
SPITZER ARDEN L + SANDRA C 555 DEER LAKE DR FINDLAY, OH 45840	19-46-24-W3-02900.4080 2532 ESTERO BLVD #408 FORT MYERS BEACH FL 33931	PELICAN WATCH CONDO OR 1532 PG 83 UNIT 408	73

All data is current at time of printing and subject to change without notice.
THE INFORMATION CONTAINED IN THIS REPORT IS GOVERNED BY FLORIDA STATUTE 119.071
(GENERAL EXEMPTIONS FROM INSPECTION OR COPYING OF PUBLIC RECORDS).

EXHIBIT E

<u>OWNER NAME AND ADDRESS</u>	<u>STRAP AND LOCATION</u>	<u>LEGAL DESCRIPTION</u>	<u>MAP INDEX</u>
BEACHIN LIFE LLC 5444 E INDIANA ST # 344 EVANSVILLE, IN 47715	19-46-24-W3-02900.5070 2532 ESTERO BLVD #507 FORT MYERS BEACH FL 33931	PELICAN WATCH CONDO OR 1532 PG 83 UNIT 507+ (XF-GAR#12)	73
HICKOX LARRY + 6817 DANAH CT FORT MYERS, FL 33908	19-46-24-W3-02900.5080 2532 ESTERO BLVD #508 FORT MYERS BEACH FL 33931	PELICAN WATCH CONDO OR 1532 PG 83 UNIT 508	73
GROLMUS MARY JO ANN 872 FOSTER RD IOWA CITY, IA 52245	19-46-24-W3-02900.6070 2532 ESTERO BLVD #607 FORT MYERS BEACH FL 33931	PELICAN WATCH CONDO OR 1532 PG 83 UNIT 607	73
ROBSHAW RICHARD P 131 WASHINGTON AVE APT 1 OAKMONT, PA 15139	19-46-24-W3-02900.6080 2532 ESTERO BLVD #608 FORT MYERS BEACH FL 33931	PELICAN WATCH CONDO OR 1532 PG 83 UNIT 608	73
LYONS BRIAN A + KRISTIN E 879 CHURCHVILLE RD SOUTHAMPTON, PA 18966	19-46-24-W4-03100.0010 2096 ESTERO BLVD #1 FORT MYERS BEACH FL 33931	POLYNESIAN VACATION VILLAS OR 1484 PG 2034 UNIT 1	74
RAGAN JOHN 301 VIENNA AVE NILES, OH 44446	19-46-24-W4-03100.0020 2096 ESTERO BLVD #2 FORT MYERS BEACH FL 33931	POLYNESIAN VACATION VILLAS OR 1484 PG 2034 UNIT 2	74
DULLARD ROBERT T PO BOX 2695 FORT MYERS BEACH, FL 33931	19-46-24-W4-03100.0030 2096 ESTERO BLVD #3 FORT MYERS BEACH FL 33931	POLYNESIAN VACATION VILLAS OR 1484 PG 2034 UNIT 3	74
DULLARD ROBERT + DANA R PO BOX 2695 FORT MYERS BEACH, FL 33931	19-46-24-W4-03100.0040 2096 ESTERO BLVD #4 FORT MYERS BEACH FL 33931	POLYNESIAN VACATION VILLAS OR 1484 PG 2034 UNIT 4	74
MORTON MARK C & BRIGITTE H 4124 31ST AVE CINCINNATI, OH 45209	19-46-24-W4-03100.0050 2096 ESTERO BLVD #5 FORT MYERS BEACH FL 33931	POLYNESIAN VACATION VILLAS OR 1484 PG 2034 UNIT 5	74
DUNFEE ALLEN MARK + SUSAN M 402 SW 30TH AVE CAPE CORAL, FL 33991	19-46-24-W4-03100.0060 2096 ESTERO BLVD #6 FORT MYERS BEACH FL 33931	POLYNESIAN VACATION VILLAS OR 1484 PG 2034 UNIT 6	74
PARILLA DAVID R 1335 SANTOS RD FORT MYERS BEACH, FL 33931	19-46-24-W4-03100.0070 2096 ESTERO BLVD #7 FORT MYERS BEACH FL 33931	POLYNESIAN VACATION VILLAS OR 1484 PG 2034 UNIT 7	74
FISHER LINDA M 2247 OAKWAY DR WEST BLOOMFIELD, MI 48324	19-46-24-W4-03100.0080 2096 ESTERO BLVD #8 FORT MYERS BEACH FL 33931	POLYNESIAN VACATION VILLAS OR 1484 PG 2034 UNIT 8	74
TOMBO ANTHONY T 2631 LEWIS SEIFERT RD HUBBARD, OH 44425	19-46-24-W4-03100.0090 2096 ESTERO BLVD #9 FORT MYERS BEACH FL 33931	POLYNESIAN VACATION VILLAS OR 1484 PG 2034 UNIT 9	74
MURRAY THOMAS J + JACKIE S PO BOX 1097 CARMEL, IN 46082	19-46-24-W4-03100.0100 2096 ESTERO BLVD #10 FORT MYERS BEACH FL 33931	POLYNESIAN VACATION VILLAS OR 1484 PG 2034 UNIT 10	74
STRONG DANIEL 3610 BAYNARD DR PUNTA GORDA, FL 33950	19-46-24-W4-03100.0110 2096 ESTERO BLVD #11 FORT MYERS BEACH FL 33931	POLYNESIAN VACATION VILLAS OR 1484 PG 2034 UNIT 11	74
STRONG DANIEL 3610 BAYNARD DR PUNTA GORDA, FL 33950	19-46-24-W4-03100.0120 2096 ESTERO BLVD #12 FORT MYERS BEACH FL 33931	POLYNESIAN VACATION VILLAS OR 1484 PG 2034 UNIT 12	74
BLUE VISTA CAPITAL LLC 3412 COMMERCIAL AVE NORTHBROOK, IL 60062	19-46-24-W3-0430N.0001 2310 ESTERO BLVD FORT MYERS BEACH FL 33931	NEPTUNE CONDO A TIMESHARE DESC IN INST# 2007000193360 PH I BLDG N 34 UNITS	75

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

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

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

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

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

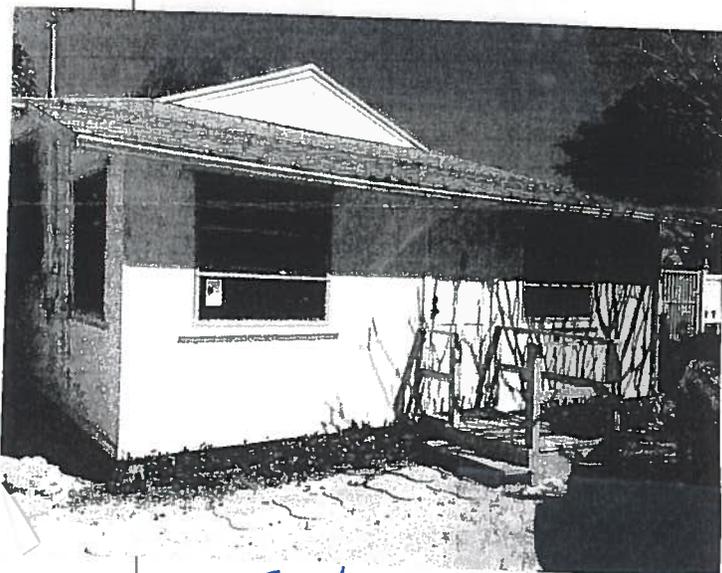
CHI4 - Historic Interest: assigned to areas and vistas that offer insight into understanding the history of the town, the lifestyle of its inhabitants, the historic use of its natural resources and trends in its development. Use this form to apply.

CONTACT INFORMATION FOR APPLICANT

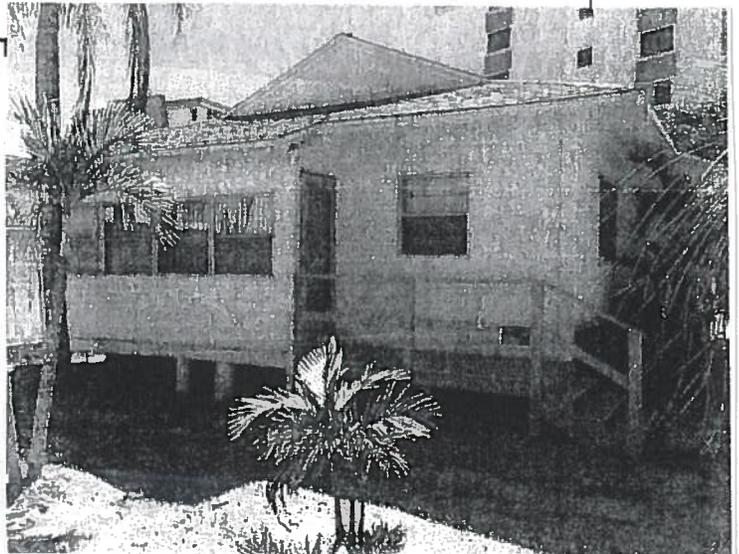
NAME OF APPLICANT: Leland Steven Whitehead
APPLICANT MAILING ADDRESS: 1155 NW 97th Dr. Coral Springs, FL 33071
APPLICANT PHONE NUMBER: 954-304-4917
APPLICANT EMAIL ADDRESS: Keywest83@ATT.net
SIGNATURE: [Signature] DATE SUBMITTED: 8/11/2017

HISTORIC STRUCTURE, SITE OR RESOURCE

STREET ADDRESS OF SITE: 2563 Cottage Ave FMB
STRAP NUMBER: Plat book 4 page 44
SUBDIVISION: Blakes BLOCK NO: _____ LOT NO: 4
OWNERSHIP TYPE: Residential () Commercial () Church () School () Other (specify): _____
HISTORIC NAMES FOR SITE (if applicable): 1st Beach school
FMB HISTORIC DISTRICT (if applicable): _____
LEE COUNTY HISTORIC SURVEY NUMBER (if applicable): _____
PHOTO OF STRUCTURE OR SITE: Attach 4 x 6 photo of structure in the box below.



Front



Back

AGE:

- a. YEAR STRUCTURE WAS BUILT: 1940 ARCHITECT: _____ BUILDER: _____
- b. CURRENT CONDITION (check one): EXCELLENT () GOOD () FAIR () DETERIORATED
- c. INTEGRITY OF STRUCTURE (check one or more): UNALTERED/ORIGINAL REMODELED in year(s) siding 2017 only
() RESTORED in year(s) _____ by _____

LOCATION/SETTING:

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

FUNCTION:

- a. ORIGINAL USE: school PRESENT USE: private residence

ARCHITECTURAL STYLE/DESIGN:

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

MATERIALS/WORKMANSHIP:

- a. STRUCTURE: WOOD FRAME () BLOCK () COMBINATION WOOD FRAME/BLOCK () OTHER _____
- b. FOUNDATION: () PINE PILINGS TREATED POSTS () SLAB () OTHER (describe) _____
- c. EXTERIOR SIDING () VERTICAL/BOARD AND BATTEN () ASBESTOS SHINGLE () WOOD SHINGLE () HORIZONTAL SIDING
() STUCCO () OTHER vinyl siding
- d. ROOF SHAPE: () FLAT PITCH (state type) _____ MATERIAL: shingle
.....# OF DORMERS: _____ () WIDOW'S WALK () CUPOLA
- e. WINDOW TYPES (check all that apply): JALOUSIE () GROUPED WINDOWS () DOUBLE HUNG () SLIDING DOORS OTHER
ORIGINAL EXTERIOR DETAILS: _____ () RAIN BARREL/CISTERN
- f. ORIGINAL INTERIOR DETAILS: SLASH PINE FLOORS PINE PANELING () HISTORIC FIXTURES () OTHER _____
CHIMNEY: NUMBER: _____ MATERIALS: _____ FIREPLACE LOCATIONS IN STRUCTURE: _____
- g. ASSOCIATED WITH IMPORTANT PEOPLE OR EVENTS? () NO YES (describe) 1st Beach School

ARCHAEOLOGICAL RESOURCE:

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

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

PHOTOGRAPHS, MAPS AND DESCRIPTIVE NARRATIVE:

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

NUMBER OF PAGES ATTACHED BY APPLICANT: _____ pages.

Applicant: Do not write below this line

HPB DETERMINATION OF CATEGORY OF HISTORIC IMPORTANCE

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

DATE OF DETERMINATION: ____/____/____

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

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

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

SUMMARY OF IMPORTANCE: (limit to six lines)

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

SIGNATURE OF HPB/TOWN REP: _____ TITLE: _____

TOWN OF FORT MYERS BEACH HISTORIC PRESERVATION BOARD
HISTORIC PLAQUE AGREEMENT AND RELEASE

The undersigned person represents that he/she is the owner of the property with the following street address: 2563 Cottage Ave, Fort Myers Beach, Florida 33931, with a strap number of _____ (hereafter "Owner").

By signing below, Owner agrees to affix an historic plaque provided by the Town of Fort Myers Beach, a municipal corporation, on the structure located on the subject property, as follows: on property attached to house (location and method of affixing). The Owner shall own the plaque. In the event of damage, loss or other casualty involving the sign, the Town may replace it, but shall not be obligated to do so.

The plaque shall contain the following language: English

This permission is non-transferable to another structure or property. The owner, or any subsequent owner shall have the ability to terminate this Agreement without cause. In the event of such termination, the owner will remove the plaque and return it to the Town.

The undersigned waives any claim against the Town of Fort Myers Beach, its officers, agents representatives and employees arising from loss, injury or damage resulting from the subject matter of this Release and covenants not to bring any claim against the Town of Fort Myers Beach and its officers, agents representatives and/or employees related to the subject matter of this Release.

The undersigned has fully read, understood and agrees to every term in this Agreement.

8-1-17 Leland St Whitehead Leland Steven Whitehead
DATE OWNER PRINT NAME

1155 NW 97th Dr. Coral Springs, FL 33071
ADDRESS CITY, STATE, ZIP

(954) 304-4917
TELEPHONE
Nancy Menard
WITNESS PRINT NAME

Andrew Sarnowsky Andrew Sarnowsky
WITNESS PRINT NAME



Town of Fort Myers Beach

Dennis Boback
Mayor

Tracey Gore
Vice Mayor

Anita Cereceda
Council Member

Joanne Shamp
Council Member

Bruce Butcher
Council Member

June 2017

To: Leland & Susan Whitehead
11555 NW 97th Drive
Coral Springs FL 33071

Re: Town Historic Importance Program

Dear ~~Owner~~ Leland & Susan

The Town of Fort Myers Beach seeks your help to identify properties that have historic importance on the island.

Our records indicate your structure meets the eligibility requirements to receive historic recognition and does not impose any land development restrictions on your property.

To acquire recognition, owners will need to complete an application by calling the Town. The Historic Advisory Committee members are available to assist you in this process.

One of the goals of the Town's Historic Importance Program is to collect historical information about the structures on the island and award owners' recognition with a plaque. This is a plaque that you can proudly display on your property for family, friends, and guests to admire.

On behalf of the Historic Advisory Committee, I invite you to contact me or Patty Prevost to assist with any questions and receipt of the plaque. We look forward to hearing from you.

Sincerely,

Matthew A. Noble, AICP
Principal Planner
Town of Fort Myers Beach
(239)765-0202 Ext. 1305
matt@fortmyersbeachfl.gov

Patty Prevost
Phone # 239 765-0202 ex 1303

Property Address:

2563 Cottage St
1st Beach School

HDD17-0002

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

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

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

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

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

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

CONTACT INFORMATION FOR APPLICANT

NAME OF APPLICANT: MARYLIZ CATTALAN

APPLICANT MAILING ADDRESS: 4281 Orange River Lp. Rd

APPLICANT PHONE NUMBER: 239-603-6105 - 239-5705-6226 Cell

APPLICANT EMAIL ADDRESS: MaryLiz@hughes.net

SIGNATURE: Maryliz Cattalan DATE SUBMITTED: 7/28/2017

HISTORIC STRUCTURE, SITE OR RESOURCE

STREET ADDRESS OF SITE: 110 Mango St

STRAP NUMBER: 19-46-24-W3-0120 D-0020

SUBDIVISION: _____ BLOCK NO: _____ LOT NO: _____

OWNERSHIP TYPE: () Residential () Commercial () Church () School () Other (specify): _____

HISTORIC NAMES FOR SITE (if applicable): _____

FMB HISTORIC DISTRICT (if applicable): _____

LEE COUNTY HISTORIC SURVEY NUMBER (if applicable): _____

PHOTO OF STRUCTURE OR SITE: Attach 4 x 6 photo of structure in the box below.



1984 pic Taken

AGE:

- a. YEAR STRUCTURE WAS BUILT: 1927 ARCHITECT: unknown BUILDER: unknown
- b. CURRENT CONDITION (check one): () EXCELLENT () GOOD () FAIR () DETERIORATED
- c. INTEGRITY OF STRUCTURE (check one or more): () UNALTERED/ORIGINAL () REMODELED in year(s) _____
() RESTORED in year(s) 2010 by _____

LOCATION/SETTING:

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

FUNCTION:

- a. ORIGINAL USE: Commercial PRESENT USE: Commercial

ARCHITECTURAL STYLE/DESIGN:

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

MATERIALS/WORKMANSHIP:

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

ARCHAEOLOGICAL RESOURCE:

- h. HAVE ARTIFACTS OR OTHER REMAINS BEEN FOUND ON THE SITE? () NO () YES (attach list/photos)
DO YOU HAVE REASON TO BELIEVE THERE ARE ARTIFACTS ON THE SITE? () NO () YES (explain)
do not know

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

PHOTOGRAPHS, MAPS AND DESCRIPTIVE NARRATIVE:

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

NUMBER OF PAGES ATTACHED BY APPLICANT: _____ pages.

Applicant: Do not write below this line

HPB DETERMINATION OF CATEGORY OF HISTORIC IMPORTANCE

- DETERMINATION OF CATEGORY OF HISTORIC IMPORTANCE LEVEL: () CHI1 () CHI2 () CHI3 () CHI4
- DATE OF DETERMINATION: ____/____/____
- FMB HISTORIC DISTRICT (if applicable): () FMBHD1 () FMBHD2 () FMBHD3 () FMBHD4
- IMPORTANT AT COUNTY LEVEL? () YES () NO () LIKELY () INSUFFICIENT INFO
- ELIGIBLE FOR NATIONAL REGISTRY? () YES () NO () LIKELY () INSUFFICIENT INFO
- SUMMARY OF IMPORTANCE: (limit to six lines)

ARE DETERMINATION HEARING MINUTES ATTACHED? () YES () NO (State reason): _____
 SIGNATURE OF HPB/TOWN REP: _____ TITLE: _____



TOWN OF FORT MYERS BEACH HISTORIC PRESERVATION BOARD
HISTORIC PLAQUE AGREEMENT AND RELEASE

The undersigned person represents that he/she is the owner of the property with the following street address: 4281 ~~Orange~~ 110 Mango ST, Fort Myers Beach, Florida 33931, with a strap number of _____ (hereafter "Owner").

19-46-24-W3-0120D 0020

By signing below, Owner agrees to affix an historic plaque provided by the Town of Fort Myers Beach, a municipal corporation, on the structure located on the subject property, as follows: 110 Mango ST Fort Myers Beach Florida 33931 (location and method of affixing). The Owner shall own the plaque. In the event of damage, loss or other casualty involving the sign, the Town may replace it, but shall not be obligated to do so.

The plaque shall contain the following language: Marylu ~~St.~~ Czulewicz
Czulewicz Proud Owner of 110 Mango St. Built
in 1927 + still wears the same Tin Roof.

This permission is non-transferable to another structure or property. The owner, or any subsequent owner shall have the ability to terminate this Agreement without cause. In the event of such termination, the owner will remove the plaque and return it to the Town.

The undersigned waives any claim against the Town of Fort Myers Beach, its officers, agents representatives and employees arising from loss, injury or damage resulting from the subject matter of this Release and covenants not to bring any claim against the Town of Fort Myers Beach and its officers, agents representatives and/or employees related to the subject matter of this Release.

The undersigned has fully read, understood and agrees to every term in this Agreement.

7-28-17 Marylu Czulewicz Marylu Czulewicz
DATE OWNER PRINT NAME

4281 Orange Riv. Lp. Rd FT MYERS 33905-
ADDRESS CITY, STATE, ZIP

(235) 603-6105
TELEPHONE

Edward V. Czulewicz Ed V. Czulewicz
WITNESS PRINT NAME

Monica Czulewicz Monica Czulewicz
WITNESS PRINT NAME

**Town of Fort Myers Beach Local Planning Agency
Policies and Procedures Manual**

Table of Contents

- 1. Introduction**
 - 2. Mission and Job Description**
 - 3. Training Materials and First Meeting**
 - **Training Materials**
 - **Election of Officers**
 - **Sunshine Issues**
 - 4. Historic Preservation Board**
 - 5. Ad Hoc Committees and Interaction with Other Advisory Committees**
 - 6. Meeting Preparation and Planning**
 - **Meeting Schedule**
 - **Length of Agenda Items**
 - **Public Notice of LPA Quasi-Judicial Hearings**
 - **Continued Hearings and Legislative Issues**
 - **Meeting Preparation**
 - **Attendance Policy**
 - **Meetings and Communication between LPA and Town Council**
 - 7. Meeting Procedures**
 - **LPA Code of Conduct**
 - **LPA Code of Ethics**
 - **Order of Agenda Items**
 - **Invocation**
 - **Legislative Hearing Procedures**
 - **Procedure for Quasi-Judicial Land Use Hearing**
 - **Voting Conflicts**
 - 8. Meeting Output**
 - 9. LPA's Role in Initiating Legislative Changes to the Land Development Code**
- Appendices:**
- A. Resolution Requesting to Proceed with an LDC Change**
 - B. Resolution HPB 2006-03 Establishing the Historic Advisory Committee**
 - C. Recognition Resolution**
 - D. Historic Sign Criteria and Integrity Evaluation**
 - E. Legislative Change Process**
 - F. Historic Plaque Resolution and Agreement**
 - G. Conflict of Interest Advice**

1. Introduction

This Local Planning Agency (LPA) Policies and Procedures Manual is for the purpose of helping the LPA Members in the discharge of their duties. Experience may show that some of these policies and procedures need to be modified or eliminated and new ones adopted.

By adopting this manual, members of the LPA will find in one handy reference, answers to policy and procedure questions that come up from time to time. By having an agreed-upon guide, members of the LPA also may develop common expectations on proper conduct of LPA meetings, dealings with the public, and the way it interacts with Town staff.

This manual should be used in conjunction with the Town Charter, Comprehensive Plan, Land Development Code (LDC) and other applicable laws, as necessary.

2. Local Planning Agency Mission and Job Description

Mission: To further the welfare of the citizens of the Town by helping to promote a better, more helpful, convenient, efficient, healthy, safe community and attractive environment. To insure by strategic planning that the unique and natural characteristics of the island are preserved.

Functions, Powers and Duties:

- Review and interpret the Comprehensive Plan and conduct public hearings as may be needed to fulfill its duties under Town ordinance and Comprehensive Plan.
- Review and interpret the Land Development Code and conduct public hearings as may be needed to fulfill its duties under LDC, Town ordinance and Comprehensive Plan.
- In an advisory capacity to the Town Council, either at Town Manager's, Town Council's, or its own initiation, conduct hearings to fulfill its duties regarding zoning matters.
- Review the Capital Improvement Budget for consistency with the Comprehensive Plan and make recommendations to the Town Council.
- Serve as the Historic Preservation Board for the Town.
- Establish sub-committees as needed.
- Elect a chair and vice chair for the LPA.
- Elect a chair and vice chair for the Historic Preservation Board
- Perform any other duties that lawfully may be assigned to it by the Town Council and/or Town Manager.

LPA Member Requirements:

- Be a resident or property owner in the Town of Fort Myers Beach
- File a Statement of Financial Interests (Form 1) with the Lee County Supervisor of Elections every year.
- Complete and file Form 1F – Final Statement of Financial Interest, within 60 days of leaving office.

Desired LPA Member Qualities:

- Analytical – ability to research and analyze information and data
- Decisive
- Knowledgeable – Such as, the Town Charter, Comprehensive Plan, Land Development Code, Sunshine Laws, Ethics Laws, Parliamentary Procedure
- Communication – Listening, Speaking, Writing
- Proactive – identify and seek solutions
- Ethical - open, sincere and truthful

- Ability to work in a team environment
- Ability to work with and listen to people having diverse interests
- Fair with no strong allegiance to any individual or group
- Common sense
- Time to do the job effectively

3. Training Materials and First Meeting

Training Materials

Each new member of the Local Planning Agency will be provided copies of:

- Town Charter
- Comprehensive Plan
- Land Development Code
- Florida Code of Ethics
- Florida Sunshine Laws
- Policy and Procedures Manual
- Other materials as determined by the LPA Attorney, Community Development Director and LPA members

Election of Officers

Annually, at the first meeting of the Local Planning Agency, after expired member positions have been filled by the Town Council, a chair and vice chair will be chosen. Each LPA member may nominate a person for each of these positions. A second is not required. A vote is taken in the order that a candidate was nominated. The positions are filled by a majority vote. If a majority is not received on the first ballot, a second ballot is taken for the two candidates receiving the most votes from the first ballot.

Sunshine Issues

Members of Town advisory committees, boards, and agencies are subject to the Sunshine Law (F.S. 286.011). The same Sunshine rules that apply to Town Council apply to the members of the LPA and other Town advisory committees, boards and agencies.

This means that any gathering of two or more members of the same advisory committee, board or agency must comply with all the Sunshine Law requirements if they participate in any discussion, directly or indirectly, regarding any matter where there is known or could be foreseeable action to be taken by the committee. Examples of indirect discussions are the use of email to a committee member or communication through a spouse or other go-between.

Advisory committee members cannot engage in discussions with each other (directly or indirectly) at outside meetings such as the Chamber of Commerce or Civic Association regarding any matter on which it is known or foreseeable that action may be taken, unless the Sunshine requirements are met.

These rules apply equally to any gathering, formal or casual, such as a Rotary Club (or other business or fraternal club gathering), fund-raiser, etc. They also apply to social events and functions unconnected to the advisory committee, such as a neighbor's backyard barbeque. They also apply to casual discussions between or among members coming in the door for the committee meeting, at breaks during the meeting, and going out the door after the meeting. Every component of the decision-making process must occur in the Sunshine.

The penalties for violating the Sunshine law are severe and can include criminal and civil sanctions. The process of investigation of Sunshine violations is always unpleasant, embarrassing, and expensive, even if the person is ultimately cleared.

4. Historic Preservation Board

The LPA also functions as the Historic Preservation Board (HPB) for the Town of Fort Myers Beach. The Historic Preservation Board has the power, authority, and jurisdiction to designate, regulate, and administer historical, cultural, archaeological, and architectural resources in the Town as set forth in LDC section 22-74. For any quasi-judicial or legislative hearings that come before the HPB, the hearing process shall conform to those outlined in Section 7 of this manual.

Annually, at the first meeting of the Local Planning Agency, after expired member positions have been filled by the Town Council, a meeting of the HPB will be convened and a chair and vice chair will be chosen using the same methodology as LPA chair and vice chair election.

Also at that meeting, a sub-committee, the Historic Advisory Committee (HAC), comprised of an approximately equal number of LPA members and Estero Island Historic Society members is established. Members of the Estero Island Historic Society interested in being on the Historic Advisory Committee must submit a statement of interest to the Town Clerk prior to the first annual meeting of the LPA. This sub-committee comprised of a total of six or seven members shall be selected by the HPB.

The HAC sub-committee will meet as needed to discuss and make recommendations to be brought before the Historic Preservation Board for consideration. Recommendations will be consistent with the requirements of the Comprehensive Plan and Land Development Code. At its first meeting after re-formation, the HAC shall select a chair, vice chair and secretary.

5. Ad Hoc Sub-Committees and Interaction with Other Advisory Committees

The LPA has the authority to form other ad hoc sub-committees requesting participation by volunteers. The objectives of a sub-committee, expected products, membership and timelines should be clearly stated and agreed to by the LPA. One LPA member will be asked to chair the ad hoc sub-committee. The intent would be to minimize participation and action items directed at Staff.

A standing ad hoc sub-committee named the Historic Advisory Committee was established by Resolution 2006-03 (Appendix B).

During discussions arising from land use cases, long-range planning and capital improvement discussions, the LPA will proactively communicate to other appropriate advisory committees while keeping Town Council informed. These interactions could result in the development of joint resolutions.

6. Meeting Preparation and Planning

Meeting Schedule

Section 34-118 of the Land Development Code (LDC) states: “The local planning agency shall meet at least 8 times per year and shall meet no less often than bimonthly...” This statement was included in the LDC to emphasize that the LPA should meet regularly to conduct required Town business. Thus, as a minimum, the LPA must meet at least 8 times per year.

Regularly planned meetings of the Local Planning Agency (LPA) are scheduled by mutual agreement between the LPA, LPA Attorney and Community Development Director. Special, continued or rescheduled meetings will be determined by consensus of the LPA members, the Director of the Department of Community Development and the LPA attorney.

Length of Agenda Items

In order to set reasonable LPA agendas, the Community Development Director will use best efforts to establish the time needed for presentations, public comment and subsequent discussions of agenda items by the LPA. Any person submitting Administrative topics to the Community Development Director will provide an estimate of the time needed. If the time needed for a hearing, legislative matter or administrative topic exceeds the allotted time by more than 15 minutes, the Chair may table the item until later in the meeting or continue the item until a subsequent meeting.

Public Notice of LPA Quasi-Judicial Hearings

Except as specifically addressed in the Town Land Development Code, Town Clerk shall advertise all LPA quasi-judicial hearings so that a legal notice will appear at least seven (7) calendar days prior to the LPA hearing date, to enable all interested parties to have notice and the ability to attend. The Community Development Director or designee will enter the *News-Press* Affidavit of Publication into the record at the beginning of the hearing. In the absence of the Affidavit of Publication, the Community Development Director or designee will enter a copy of the actual advertisement as run by the *News-Press* into the record at the beginning of the hearing after being sworn in. The affidavit, or actual advertisement, as the case may be, will be attached to the LPA Resolution following the hearing.

Continued Hearings and Legislative Issues

It is the goal of the LPA to complete a hearing during the scheduled meeting. If additional time is required and the hearing must be continued to a later date, any LPA member who missed the initial hearing should review the audio and/or videotapes prior to participating in the continued hearing or legislative discussion and resolution.

If the applicant submits new information or modification(s) to previously submitted information at the hearing, or immediately prior to the hearing, the LPA shall consult with the Director of the Department of Community Development and the LPA Attorney to determine if a continuance of the hearing is appropriate and proceed accordingly. Nothing contained in this section shall be construed to limit the Director's discretion to defer or continue the public hearing as set forth in LDC Section 34-213(3).

Meeting Preparation

Any LPA member, the Community Development Director, the LPA attorney, Town Council and Town Manager can submit meeting agenda topics for the LPA to the Community Development Director. Topics should be submitted at least fourteen (14) days prior to a planned meeting. The Director of the Department of Community Development and LPA attorney are responsible for scheduling hearings. Potential dates for hearings should be communicated to all participating parties as far in advance of the planned meeting as possible. All staff reports should be complete before a hearing is scheduled. Except in the case of an emergency, cancellation of a planned meeting should be at least 14 days in advance. Only under serious, extenuating circumstances should a hearing be cancelled after it has been publicly noticed.

The goal is to have finalized agenda and supporting material seven (7) days prior to a planned and

noticed meeting. However, meeting materials will be placed in the LPA members' mailboxes no later than noon of the Friday prior to the scheduled Tuesday meeting. The Community Development Director or assistant will send an email to the LPA members when the packets are available.

The LPA members' packets should include complete documentation for agenda items (actions required, implications, backup information, memos, ordinances, resolutions, etc.) A sincere effort is made to see that LPA packets are complete. As a general rule, items requiring documentation (recommendations, memos, ordinances, resolutions, etc.) will not be included on an agenda until the documentation is complete.

The agenda is posted at Town Hall. Copies of the agenda are available to the public.

Occasionally an item comes up late and may be placed on an amended agenda, or as an "add on" (added too late to be included on the published agenda). Such additions are kept to an absolute minimum so as not to burden the LPA or the public with items not receiving sufficient advance notice. Important, potentially controversial items are not made as "add on items" except in extreme emergencies.

Attendance Policy

Section 34-115(3) of the Land Development Code (LDC) states: "A Local Planning Agency member shall forfeit office if the member is absent from three (3) regular local planning agency meetings per year without being excused by the local planning agency." This statement was included in the LDC to recognize that because of the significant pre-hearing preparation required by staff, applicants and other supporting personnel it is imperative that a quorum of the Local Planning Agency (LPA) members be present for all noticed meetings.

The LPA should be notified of a planned absence as soon as known. It is important that the LPA know that it will have a quorum of its members as soon as possible prior to an LPA meeting. The LDC implies that the LPA has the discretion to define what will be an "excused" absence. The policy of the LPA is that if an absence is reported at least fourteen (14) days prior to a planned meeting the absence will automatically be considered an excused absence. This will allow sufficient time for a planned meeting to be rescheduled if it appears that a quorum will be questionable.

Absence notification less than 14 days prior to a planned meeting is considered an "emergency." If an excused absence is desired in less than 14 days, a request must be forwarded to the Community Development Director with an explanation of the nature of the emergency. The Local Planning Agency will decide whether the request will be considered an excused absence. If the LPA or Community Development Director receives no request for an excused absence, the absence is counted as an unexcused absence.

Three unexcused absences for regularly scheduled LPA meetings will result in automatic forfeiture of office.

"Chronic" absence is defined as missing three consecutive regularly scheduled meetings or four of the last six meetings of the LPA, regardless of whether the absence is excused or unexcused. If a chronic absence occurs, the Community Development Director will be asked to send a letter to the LPA member requesting an explanation of the reasons for the chronic absence. A copy of the letter will be sent to the Town Manager and Town Council. The LPA member will be asked to forward to the Community Development Director a statement of whether the LPA member wishes to remain on the LPA. Failure to reply will automatically make all absences unexcused and grounds for forfeiture of office.

In order to provide a diverse representation, it is important that the LPA strive to have as full representation as possible when conducting the Town's business.

Meetings and Communication between LPA and Town Council

As agreed at a workshop between LPA and Town Council members in September of 2009, efforts should be made to improve communications between the Local Planning Agency and Town Council. Previous means and those adopted at the above meeting shall be:

- The LPA shall appoint and send a representative to Town council public hearings on land use and proposed ordinances which have been acted upon by the LPA. This representative shall submit brief testimony (Council should have LPA resolution and meeting minutes, unless minutes approval waived by LPA) regarding the LPA hearings on the matter.
- The LPA "Action List" as updated subsequent to LPA meetings shall be submitted to the Director of Community Development, who shall in turn transmit to each Town Council member and the Town Manager and include this list in the next LPA meeting packet.
- A quarterly meeting to be attended by the Town Manager, Town Mayor and Local Planning Agency Chairperson shall take place at 1:00 PM on the third Wednesday of each of the following months; October, January, April and July. The purpose of this meeting will be to discuss current activities of the LPA and assure these are in accordance with direction from Town Staff and Town Council, as well as convey information to Staff and Council regarding the complexities or related issues of those activities.
- Routine workshops (informational meetings) to discuss current LPA activities and Town Council understanding of those activities shall be held between all LPA members, Town Council members, Town Manager, Community Development Director and Town and LPA Attorney starting at 9:00 AM and lasting no later than noon on the first regularly scheduled LPA meeting day of April and September.

7. Meeting Procedures

LPA Code of Conduct

Recognizing that persons holding a position of public trust are under constant observation, and recognizing that maintaining the integrity and dignity of the public office is essential for maintaining high levels of public confidence in our institutions of government, every member of the Local Planning Agency pledges to adhere to the following CODE OF CONDUCT.

1. Regularly attend all scheduled meetings of the LPA as well as special or called meetings relevant to the office.
2. Prepare for each meeting.
3. Create a positive environment in meetings of the LPA.
4. Maintain an attitude of courtesy and consideration toward colleagues, citizens and staff during all discussions and deliberations.
5. Allow citizens, colleagues and staff sufficient opportunity to present their views, within the prescribed rules for conduct of meeting of the LPA.
6. Avoid the use of abusive, threatening or intimidating language or gestures directed at colleagues, citizens of staff.

7. Avoid comments, body language or distracting activity that conveys a message of disrespect and lack of interest.
8. Respect all local, state and federal laws, rules and other regulations.
9. Submit completed financial disclosure forms to the Lee County Supervisor of Elections by the specified deadline.
10. Publicly acknowledge the adopted position when asked about a decision of the LPA.

LPA Code of Ethics

Members shall ethically serve the public interest by making decisions and taking actions that will enhance the public health, safety and welfare of the region and the citizens served by the Local Planning Agency and by promoting public confidence in the integrity, independence, ability and impartiality of the LPA.

1. Members shall uphold the prestige of their office and avoid impropriety and the appearance of impropriety.
2. Members shall not convey the impression that they are in a position to influence the outcome of a decision of the LPA and shall not attempt to use their office to influence or sway the professional staff recommendation.
3. Members shall discharge their duties and responsibilities without favor or prejudice toward any person or group. Members shall not allow personal or business relationships to impact upon their conduct or decisions in connection with LPA business and shall not lend their influence towards the advancement of personal interests or towards the advancement of the interests of friends or business associates.
4. Members shall avoid creating the appearance of impropriety by following the requirements of the Land Development Code with regard to ex parte about specific upcoming LPA quasi-judicial hearings. If a Member receives a private written or electronic communication about an upcoming LPA quasi-judicial hearing, the Member will promptly forward the information to the Town Clerk, with a copy to the Director of the Community Development Department and the LPA Attorney so that it may be shared with all other Members as part of the agenda packet for that hearing. Members shall refrain from any private discussion of LPA business with other Members if required by Florida's Government-in-the-Sunshine Law, Chapter 286, Florida Statutes.
5. Members shall not accept or solicit a gift, loan, payment, favor, service, promise of employment or business contract, meal, transportation or anything else of value, if such thing is given with the understanding or possibility that it will influence the official action of the Members during LPA proceedings. The same standard shall apply to a gift, loan, favor, etc. for the spouse, child, relative or business partner of the Member.
6. Members should refrain from participation in any proceeding in which their impartiality may reasonably be questioned. A Member whose personal, employment or business relationship with a person or entity that is subject to a recommendation of the LPA shall seek the advice and counsel of the LPA Attorney, if such relationship could conceivably influence the Member's impartiality during the LPA's discussion of the subject. The provisions of Chapter 112, Florida Statutes, and the Code of Ethics for Public Officers and Employees, shall govern conflict of interest determination.
7. Members shall remain vigilant against deviations from LPA policies and mission statement.

As a legislative and quasi-judicial body, the LPA must be ever cognizant of the important legal requirements of due process and equal protection. These principles are derived from the United States Constitution, the Constitution of the State of Florida, and Florida Statutes, and apply to legislative and quasi-judicial actions.

The legal requirement for due process is separated into two prongs: substantive due process and procedural due process. The principle of substantive due process requires the benefits of a given

regulation be within the scope of governmental authority, i.e., health, safety, morals, or general welfare, and that the regulations be accomplished in a rational manner, i.e., not be arbitrary or capricious. This is a principle of fundamental fairness in the substance of a given regulatory scheme or provision.

The other due process prong, procedural due process, requires a fair method of adjudicating the rights of property owners, requiring notice and an opportunity to be heard by an impartial decision maker. In legislative matters, this requirement is derived from Florida Statutes, which provide the type and period of notice depending on the nature of the property interest subject to regulation at a public hearing. Quasi-judicial decisions have an underlying Constitutional requirement for procedural due process.

Equal protection limits governmental regulation from establishing irrational classifications, protects the rights of suspect and quasi-suspect classes, and assures against the exercise of fundamental or important rights of persons in ways different from others.

Key overarching principles to keep in mind is that every person must be treated equally and reasonably by the quasi-judicial or legislative substance and process and that decisions and recommendations be deliberated in an open process with adequate notice and allowance for participation of affected parties. Reasonable, consistent, and timely notifications in quasi-judicial matters to be heard by the LPA provide an applicant and other parties potentially affected by a requested decision these fundamental protections.

Order of Agenda Items

The general order of the agenda will proceed as follows. However, the procedures will differ depending on what type of hearings is being held.

1. Call To Order – Identify for the record the committee that is meeting, the date of the meeting and who is present.
2. Pledge of Allegiance
3. Invocation
4. Approval of Minutes – Requires a motion and vote.
5. Public Hearings – Public Comment will be included as part of the hearing
6. Administrative Agenda – Topics submitted by LPA members, staff, LPA Attorney or items from previous agendas
7. Adjourn as LPA; Reconvene as Historic Preservation Board (HPB)
8. Adjourn as HPB; Reconvene as LPA
9. LPA Members Items and Reports
10. LPA Attorney Items
11. Community Development Director Items
12. Action List Review
13. Public Comment
14. Adjournment – Requires a motion and vote. A privileged motion allowing no discussion before vote.

Invocation

The Chair of the LPA has the discretion of deciding how the Invocation at the beginning of an LPA meeting is handled. However, there is a tradition that has been followed by many LPA's. At the first LPA meeting on April 9, 1996, Chair John Mulholland read an invocation that he had written while Commander of the Power Squadron. Betty Simpson, who was Vice Chair at that time, has carried John's invocation to each subsequent LPA. The Chair has either read the invocation or different LPA members have been asked or volunteered to read the invocation. The invocation reads as follows:

Heavenly Father, we ask that you bless us with your presence here today.

Grant to us the wisdom to see all things in true perspective.

Grant to us the patience to hear one another with open minds and hearts.
Grant us the strength to meet all present challenges.
May all that we do this day, bring honor to you and credit to ourselves. Amen.

Conduct of LPA Meetings

The Chair will conduct the LPA meetings, and in the Chair's absence by the Vice Chair.

Robert's Rules of Order shall be the reference for parliamentary procedure governing the conduct of the LPA meetings when not in conflict with the Town Charter or Florida Statutes. It is not intended that LPA meetings be unnecessarily formalistic, but rather that parliamentary procedure be invoked only when necessary for orderly conduct of the meeting.

The approval of the minutes is intended for LPA members to accurately document the proceedings of the Agency. Before moving approval the minutes should be amended, if necessary, to more accurately portray what occurred at the LPA meeting. This time is not intended for comment or discussion on what should have or should not have been done, but rather to document what actually was done. Audiotapes of the proceedings become the official record of what transpired during a meeting.

When the Chair recognizes a speaker during public comment, they will advance to the podium and state their name for the public record. Public comments will generally be limited to three minutes per speaker. The Chair may modify the three-minute limit with approval by majority vote of the LPA. If a special interest group would prefer to have one person speak for a group of individuals in attendance their allotted times can be combined up to a maximum of 15 minutes. This process could save meeting time if the content of what each person of a special interest group intends to say is similar. It could also allow more time for a presentation containing detailed facts and data. If a special interest group chooses to have a spokesperson represent them, request cards having the names and addresses of all individuals present must be provided prior to the meeting. The public comment times are intended as opportunities for interested parties to present their viewpoints to the LPA members; they are not intended as question-and-answer sessions or as dialog with the LPA.

After a proper motion, discussion by the LPA members shall be limited to agenda items. No member will speak twice on the item until all others who want to speak have spoken.

The time period for LPA members' comments is intended as an opportunity for LPA members to share their viewpoints with each other. Since this opportunity does not exist outside of LPA meetings under the Florida Sunshine Law, this is the primary purpose of this time and it generally should not be used to obtain information from the Community Development Director or Town Attorney which could be obtained outside of the LPA meeting. While there is no time limit or censorship on comments, LPA members should take into consideration the total time available in the meeting for the published agenda.

Legislative Hearing Procedures

1. The Chair opens the hearing on.....
2. Staff presents Affidavit of Publication or copy of the legal advertisement from the Newspaper of Record which shall become an exhibit to the Hearing's resulting Resolution.
3. The Chair or the LPA Attorney reads the ordinance caption.
4. Staff and/or the LPA attorney present(s) a brief overview of the ordinance.
5. Public input is taken.
6. Public input is closed.
7. LPA members ask questions, if any, of staff/LPA attorney.
8. LPA members discuss ordinance, including changes, deletions, etc.

9. A Motion is made and seconded to either move the Ordinance forward to Town Council as-is or with modifications, or to take some other action. The LPA's recommendation is set forth in an LPA Resolution which is provided to Town Council at the time of Council's consideration of the Ordinance.
10. The Motion is discussed and voted upon. If successful, the Chair declares the hearing on the ordinance to be concluded. If not successful, further motions(s) are made until one passes.

Notes:

- There is no ex parte disclosure requirement for legislative hearings.
- Members of the public are not sworn in.
- Generally there is no discussion between the LPA and public.

Procedure for Quasi-Judicial Land Use Hearing

1. The Chair opens the hearing on
2. The LPA Attorney swears in all witnesses.
3. Staff presents Affidavit of Publication or copy of the legal advertisement from the Newspaper of Record which shall become an exhibit to the Hearing's resulting Resolution.
4. The Chair asks if any LPA member has had an ex parte communication regarding this matter. This includes any site visit, receipt of expert opinion, conducting of investigations, discussions with any person, or any direct or indirect communication in any form with any person outside a public hearing and not on the record.
5. The applicant presents its case and LPA asks questions.
6. Staff presents its case and LPA asks questions.
7. Public comment/testimony is opened.
 - After public testimony/comment is concluded, the Chair closes public comment/testimony.
8. Applicant presents rebuttal, if any.
9. Staff presents rebuttal, if any.
10. The testimony portion of the hearing is closed.
11. LPA discussion.
12. Request for a motion on the resolution.
13. LPA votes on a resolution regarding the application.

Voting Conflicts

Florida Statute has very specific rules regarding voting conflicts and municipal advisory committees, boards and agencies. These rules are different from the rules that apply to the Council.

If an LPA member has a voting conflict, he/she must disclose that conflict in writing to Town staff prior to the meeting in question and this disclosure must be publicly read. A form is available from the Town Clerk. The rules also contain an exception for disclosure at the meeting itself. The committee member is permitted to participate in the discussion and vote on the subject. The specific rules are set out in F.S. 112.3145(4), quoted below:

(4) No **appointed** public officer shall participate in any matter which would inure to the officer's special private gain or loss; which the officer knows would inure to the special private gain or loss of any principal by who he or she is retained or to the parent organization or subsidiary of a corporate principal by which he or she is retained; or which he or she knows would inure to the

special private gain or loss of a relative or business associate of the public officer, **without first disclosing the nature of his or her interest in the matter.**

(a) Such disclosure, indication the nature of the conflict, shall be made in a written memorandum filed with the person responsible for recording the minutes of the meeting, **prior to** the meeting in which consideration of the matter will take place, and shall be incorporated into the minutes. Any such memorandum shall become a public record upon filing, shall immediately be provided to the other members of the agency, and shall be read publicly at the next meeting held subsequent to the filing of this written memorandum.

(b) In the event that disclosure has not been made prior to the meeting or that any conflict is unknown prior to the meeting, the disclosure shall be made orally **at the meeting** when it becomes known that a conflict exists. A written memorandum disclosing the nature of the conflict shall then be filed within 15 days after the oral disclosure with the person responsible for recording the minutes of the meeting and shall be incorporated into the minutes of the meeting at which the oral disclosure was made. Any such memorandum shall become public record upon filing, shall immediately be provided to the other members of the agency, and shall be read publicly at the next meeting held subsequent to the filing of this written memorandum.

(c) For purposes of this subsection, the term “participate” means any attempt to influence the decision by oral or written communication, whether made by the officer or at the officer’s direction.

Perceived conflicts of interest can be as detrimental to public trust as real conflicts. In an attempt to aid LPA members’ manage such perceptions, the LPA Attorney has prepared advice regarding frequent situations in which LPA members find themselves. These are found in Appendix G.

NOTE: F.S. 112.3143(b) defines “relative” as follows: “any father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, or daughter-in-law.

8. LPA Meeting Output

The primary responsibility of the LPA is to provide recommendations to the Town Council regarding comprehensive planning policies, land development code regulations, zoning matters and make decisions regarding historic preservation opportunities.

LPA output to the Town Council will include the following at the discretion of the LPA:

A. Quasi-Judicial Hearing:

1. A signed resolution of findings of fact and conclusions from the LPA hearing.
2. LPA approved minutes providing a summary of:
 - a. Testimony by applicants, their attorneys, Town and/or County staff, the LPA attorney, witnesses and people who offer public comment, and
 - b. Issues raised by LPA members with subsequent discussion content including clarifications, conclusions and agreements, and Motions and votes by LPA.
3. One or more members of the LPA will attend the Town Council meeting in order to provide clarification on their recommendations and to answer inquiries.

B. Legislative Hearing:

1. A signed resolution of findings of fact and conclusions from the LPA hearing.
2. LPA approved minutes.

3. One or more members of the LPA will use best efforts to attend the Town Council meeting in order to provide clarification on their recommendations and to answer inquiries.

These LPA outputs must be available before the first Town Council hearing on an issue. However, at the discretion of the LPA exceptions may be made in emergency situations. Minutes from hearings will normally be approved at the subsequent LPA meeting. A “fast-tracked” hearing may have the minutes waived for the Town Council hearing at the discretion of the LPA.

It is noted that audio and /or video recordings of LPA meetings may be available for public, LPA, or Town Council review should clarification, additional understanding of discussions, or for finding errors or omissions.

On a regular basis, as often as monthly, the LPA will submit to the Town Council a synopsis of accomplishments and any issues that might be of interest. As needed, a request will be made to address Town Council.

9. LPA’s Role in Initiating Legislative Changes to the Land Development Code

In the course of performing its duties, the LPA is made aware of legislative issues that could be considered as amendments to the Land Development Code. Before initiating a request for support from Town Staff, the LPA attorney and/or our Planning Consultant to pursue potential LDC amendments, a resolution will be sent to Council requesting their approval to proceed. The format to be used is included in Appendix A and can be modified without re-approving the Policies and Procedure Manual.

The Town of Fort Myers Beach Local Planning Agency Policies and Procedures Manual was adopted on February 27, 2007. Revised May 15, 2007. Revised March 18, 2008. Revised September 9, 2008. Revised January 27, 2009. Revised June 23, 2009, Revised September 17, 2009, Revised September 29, 2009.

Appendix A – Sample Resolution Requesting to Proceed with an LDC Change
FORT MYERS BEACH, FLORIDA
RESOLUTION NUMBER 20__ - __

WHEREAS, the Local Planning Agency (LPA) is mandated by Florida Statutes Section 163.3174; and

WHEREAS, the LPA is statutorily responsible for the review of proposed land development regulations, land development codes, or amendments thereto, and for making recommendations to the Town Council as to the consistency of such proposals with the adopted Comprehensive Plan (Plan); and

WHEREAS, Section 34-120(4) of the Town Land Development Code (LDC) states that the LPA will review proposed LDC amendments and make recommendations to the Town Council regarding their consistency with the Plan, and

WHEREAS, Section 34-120 (12) of the LDC states that the LPA will aid Town officials charged with the direction of projects or improvements embraced within the Plan and generally promote the realization of the Plan; and

WHEREAS, Section 34-120 (14) of the LDC states that the LPA will perform any other duties which lawfully may be assigned to it by Town Council; and

WHEREAS, the Town Council determined at its meeting of October 9, 2006, that prior to the LPA's initiation of any proposed LDC changes, the LPA must inquire of the Town Council whether the Town Council wished to have such legislative changes initiated by the LPA.

IT IS HEREBY RESOLVED BY THE LPA OF THE TOWN OF FORT MYERS BEACH, FLORIDA as follows:

1. At its regularly scheduled meeting(s) of _____, 20__, the LPA determined that it wishes to initiate legislation on the following subject(s): _____

2. The LPA hereby requests direction from the Town Council as to whether the Town Council wishes to have the LPA initiate legislative changes to the LDC on such subjects.

The foregoing Resolution was adopted by the LPA upon a motion by LPA Member _____ and seconded by LPA Member _____, and upon being put to a vote, the result was as follows:

Name	_____	Name	_____
Name	_____	Name	_____
Name	_____	Name	_____
Name	_____		

DULY PASSED AND ADOPTED THIS ___ day of _____, 20__.

LPA of the Town of Fort Myers Beach

By: _____
Name, LPA Chair

Approved as to legal sufficiency:

ATTEST:

By: _____
Name, Esquire, LPA Attorney

By: _____
Name, Town Clerk

Appendix B - Resolution HPB 2006-03 Establishing the Historic Advisory Committee

RESOLUTION OF THE HISTORIC PRESERVATION BOARD OF
THE TOWN OF FORT MYERS BEACH, FLORIDA
RESOLUTION NUMBER HPB 2006-03

A RESOLUTION OF THE HISTORIC PRESERVATION BOARD OF FORT MYERS BEACH, FLORIDA:

WHEREAS, the Local Planning Agency of the Town of Fort Myers Beach, Florida, serves as the historic preservation board for the Town of Fort Myers Beach ("HPB") pursuant to Chapter 22, Article II, Division 2, Section 22-71 and Chapter 30, Section 30-56(b) of the Land Development Code ("LDC") of the Town of Fort Myers Beach; and

WHEREAS, the HPB is vested with the power, authority and jurisdiction to designate, regulate and administer historical, cultural, archaeological, and architectural resources in the Town, pursuant to LDC Section 22-71; and

WHEREAS, the HPB has the power and duty to designate eligible historic resources, evaluate the significance and eligibility of historic resources for designation pursuant to Chapter 22 of the LDC, increase awareness of historic preservation and its community benefits by promoting public education programs, and administer programs aimed at the proper recognition of designated historic resources pursuant to Section 22-74 of the LDC; and

WHEREAS, the HPB has the power to create an advisory committee to assist the HPB with historic preservation matters and to charge such committee with various and sundry duties; and

WHEREAS, this advisory committee will have no quasi-judicial or legislative powers but rather will function in an informal advisory capacity to the HPB; and

WHEREAS, the advisory committee will be subject to the Sunshine and Public Records Laws of the State of Florida.

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

The Historic Preservation Board does hereby create the Fort Myers Beach Historical Advisory Committee (FMBHAC), with the following restrictions:

1. The FMBHAC shall be subject to the Sunshine and Public Records Laws of the State of Florida.
2. The FMBHAC will be comprised of seven (7) members appointed by the HPB, all of whom shall be residents, business owners, or property owners within the Town of Fort Myers Beach.
3. Three (3) members of FMBHAC shall be current members of the HPB and four (4) members shall be appointed by the HPB after due consideration of recommendations by the Estero Island Historic Society.

4. The FMBHAC shall meet on an as-needed basis, keep its own minutes, and hold all meetings at Town Hall.
5. The HPB shall appoint all initial members of FMBHAC no later than the first meeting of the HPB in October, 2006. Thereafter, commencing with June, 2007, the HPB shall appoint all members of FMBHAC on an annual basis at the first meeting of the HPB in June.

The foregoing Resolution was adopted by the Historic Preservation Board upon a vote following motion by Board member Tom Babcock and second by Board member Bob Raymond, the result of which was as follows:

Tom Babcock	aye
Randy Brown	aye
Rochelle Kay	absent
Larry Kiker	aye
Alan Mandel	aye
Bob Raymond	aye
Bob Simon	absent

DULY PASSED AND ADOPTED THIS 12th day of September, 2006.

HISTORIC PRESERVATION BOARD OF THE
TOWN OF FORT MYERS BEACH

By: _____
Larry Kiker, Chair

Approved as to legal sufficiency:

ATTEST:

By: _____
Anne Dalton, Esquire
HPB/LPA Attorney

By: _____
Michelle Mayer, Town Clerk

Appendix C – Recognition Resolutions

The following Resolution format has been used to recognize past members of the LPA.

**RESOLUTION OF THE LOCAL PLANNING AGENCY OF
THE TOWN OF FORT MYERS BEACH, FLORIDA
RESOLUTION NUMBER 2007-04**

WHEREAS, the Local Planning Agency (LPA) is mandated by Florida Statutes Section 163.3174; and

WHEREAS, the LPA was established in accordance with the requirements of the Town of Fort Myers Beach Land Development Code section 34-111 et seq.; and

WHEREAS, Section 34-113 sets forth the requirements for membership on the LPA; and

WHEREAS, Randy Brown has been a member of the LPA from April 2006 to April, 2007; and

WHEREAS, during his membership on the LPA, Randy Brown has provided exemplary service to the Town of Fort Myers Beach.

IT IS HEREBY RESOLVED BY THE LPA OF THE TOWN OF FORT MYERS BEACH, FLORIDA as follows:

RANDY BROWN IS RECOGNIZED FOR HIS HARD WORK AND DEDICATED SERVICE TO THE TOWN OF FORT MYERS BEACH. HE CREATED A POSITIVE ENVIRONMENT FOR THE LOCAL PLANNING AGENCY WHILE MAINTAINING AN ATTITUDE OF COURTESY TOWARD COLLEAGUES, CITIZENS AND STAFF DURING ALL DISCUSSIONS AND DELIBERATIONS. HE DISCHARGED HIS DUTIES WITHOUT FAVOR OR PREJUDICE WHILE RESPECTING ALL LAWS, RULES AND REGULATIONS. HIS CONTRIBUTIONS INSURE THAT THE UNIQUE AND NATURAL CHARACTERISTICS OF THE TOWN OF FORT MYERS BEACH WILL BE PRESERVED.

The foregoing Resolution was adopted upon a motion by LPA Member Simon and seconded by LPA Member Mandel. Upon being put to a vote, the result was as follows:

Tom Babcock <u>aye</u>	Alan Mandel <u>aye</u>	Dennis Weimer <u>aye</u>
Evie Barnes <u>aye</u>	Bob Raymond <u>aye</u>	
Rochelle Kay <u>aye</u>	Bob Simon <u>aye</u>	
Bob Simon <u>aye</u>		

DULY ADOPTED THIS 10TH day of APRIL 2007.
LPA of the Town of Fort Myers Beach

BY: _____
Tom Babcock, LPA Chair

Approved as to legal sufficiency:

ATTEST:

By: _____
Anne Dalton, Esquire
LPA Attorney

By: _____
Michelle D. Mayher, Town Clerk

Appendix D - Historic Sign Criteria and Integrity Evaluation

The following is the a form for use by the LPA to evaluate the criteria and integrity of historic sign applications. Staff has documents that were approved by the LPA to be made available to applicants for historic signs that will explain the intent of the Comprehensive Plan and clarify for documentation that would be useful when filing an application.

Historic Sign Criteria and Integrity Evaluation Town of Fort Myers Beach

Eligibility Criteria (select one): ___Building ___District ___Site ___Structure ___Object

INTEGRITY CONSIDERATIONS <small>(Review all)</small>	Quality of Significance Criteria <small>(Select one)</small>				
	Events	Persons	Distinctive Characterisitics	Historical Information	Overall District Significance
Location					
Design					
Setting					
Materials					
Workmanship					
Feeling					
Association					

Eligibility Criteria

Building. A building is a structure created to shelter any form of human activity, such as a house, barn, church, hotel, or similar structure. Building may refer to a historically related complex such as a courthouse and jail or a house and barn.

Structure. A structure is a work made up of interdependent and interrelated parts in a definite pattern of organization. Constructed by man, it is often an engineering project large in scale.

Object. An object is a material thing of functional, aesthetic, cultural, historical or scientific value that may be, by nature or design, movable yet related to a specific setting or environment.

District. A district is a geographically definable area, urban or rural, possessing a significant concentration, linkage, or continuity of sites, buildings, structures, or objects united by past events or aesthetically by plan or physical development. A district may also comprise individual elements separated geographically but linked by association or history.

Site. A site is the location of a significant event, a prehistoric or historic occupation or activity, or a building or structure, whether standing, ruined, or vanished, where the location itself maintains historical or archeological value regardless of the value of any existing structure.

Quality of Significance Criteria

Events. It was associated with events that significantly contributed to broad patterns of our history.

Persons. It was associated with the lives of persons significant in our past.

Distinctive Characteristics. It embodies the distinctive characteristics of a type period, or method of construction, or possesses high artistic values, or represents a significant distinguishable entity whose components may lack individual distinction.

Historical Information. It has yielded (or may yield) information important to prehistory or history.

Integrity Considerations

Location is the place where significant activities took place. This quality requires that to a large extent the boundaries remain intact.

Design is the composition of elements comprising the form, plan, and spatial organization. Design may have resulted from conscious planning decisions set forth in the historic plat, project specifications, building contracts or deed restrictions, or it may be the result of the personal tastes and individual efforts of homeowners to shape their domestic environment. Integrity of design can be affected by changes. Small-scale additions may not detract in a major way from the historic character. Large-scale additions, however, alter the spatial relationship and generally threaten integrity of design.

Setting is the physical environment within and surrounding the resource. Integrity of setting requires that a strong sense of historical setting be maintained within the boundaries. This relies to a large extent on the retention of built resources, street plantings, parks and open space. Elements of design greatly affect integrity of setting, and those consistent with the historic character or dating from the period of significance add to integrity. Small-scale elements such as plantings, gateposts, fences, swimming pools, playground equipment, and parking lots detract from the integrity of setting unless they date to the period of significance.

Materials include the construction materials of dwellings, garages, roadways, walkways, fences, curbing, and other structures, as well as vegetation planted as lawns, shrubs, trees, and gardens. The presence of particular building materials (e.g., stone, stucco, brick, or horizontal siding) may be important indicators of architectural style and methods of construction that give some neighborhoods a cohesive historic character. Integrity of materials requires that the resource retains the key exterior materials that marked its identity during the historic period. The retention of original materials in individual dwellings may be less important in assessing the integrity of a neighborhood significant for its plan or landscape design. Original plant materials may enhance the integrity, but their loss does not necessarily destroy it. Vegetation similar in historic species, scale, type and visual effect will generally convey integrity of setting although integrity of materials may be lost.

Workmanship is evident in the ways materials have been fashioned for functional and decorative purposes to create houses, other buildings and structures, and a landscaped setting. This includes the treatment of materials in design, the planting and maintenance of vegetation, as well as the construction methods of small-scale features such as curbs and walls. Integrity of workmanship requires that architectural features exhibit the artistry or craftsmanship of their builders and that the vegetation historically planted for decorative and aesthetic purposes be maintained in an appropriate fashion and replaced in kind when damaged or destroyed.

Feeling, although intangible, is evoked by the presence of physical characteristics that convey the sense of past time and place. Integrity of feeling results from the cumulative effect of setting, design, materials, and workmanship.

Association is the direct link between a historic resource and the important events that shaped it. Continued residential use and community traditions, as well as the renewal of design covenants and deed restrictions, help maintain a neighborhood's integrity of association. Additions and alterations that introduce new land uses and erase historic elements of design threaten integrity. Integrity of association requires that a historic resource convey the period when it achieved importance and that, despite changing patterns of ownership, it continues to reflect the design principles and historic associations that shaped it during the historic period.

Appendix E - Legislative Change Process

The LPA evaluated the process of making legislative changes to the Land Development Code (LDC). The results of the study have been depicted as a flow chart as well as a written description of each sub-process. The arrows in the flow chart represent the direction that work “flows” through the process. Circles are inputs, such as a change request, or outputs, such as a resolution to be sent to Town Council. Rectangle boxes are places where action or work is taking place. A diamond is a decision point that may send the workflow in different directions dependent on the decision made. A “bullet” symbol is where the workflow is on “hold” until the next action can be scheduled. Holds are not necessarily a bad thing, but they can be areas of opportunity for moving change requests through the system faster. Finding ways to reduce the number of steps in a process flow is another way to reduce the time required to make changes to our LDC.

The flow chart also indicates who is “accountable” for each process operation. “Accountability” does not mean that person is “responsible” for doing all the work. It is their job to see that the work gets done.

Future LPAs and Town Councils may want to consider ways that the legislative change process can be altered to improve process time. Until then, performance can start to be measured in order to establish a baseline. One action that has been initiated is to generate a Legislative Change Action List (LCAL). The LCAL will provide clarification of the change requests, the priority and current status. Legislative requests will be categorized into LDC change that:

1. Require policy recommendations from the LPA through workshops or ad hoc committee activities. These changes would be substantive and likely time consuming for staff, consultants and LPA, but not necessarily the highest priority.
2. Are state mandated changes and recommendations of the Evaluation and Analysis Report (EAR) that are time sensitive. These may or may not be complex, but are high priority.
3. May need to be clarified for legal reasons. Complexity and priority must be determined on an individual case.
4. Need staff time. Most of these changes are clerical in nature, but can be time consuming. Priority is often low, but need to be made visible.

The LPA will prioritize, schedule and determine a path forward for legislative change requests that fall into LCAL category 1. Accountability for categories 2 through 4 belongs to the Town Manager, with likely input from the Director of Community Development, the LPA Attorney and the Town’s Planning Consultant.

A regular approach to legislative changes allows interested parties a predictable methodology to participate in the legislative process. For example, the Florida Legislature meets on an annual basis—unless a special session is called—at the same time each year to consider changes to the laws of the State. The effective date of these laws may vary to allow for a phased approach to changes in the law that might best occur if affected parties are afforded a reasonable period of time for adjustment to the change. From time to time, the LPA may wish to establish and refine the timing aspects of its legislative process to improve manageability and predictability.

Town of Fort Myers Beach Legislative Change Process

Overarching Principles:

- Trust is placed in the hands of those accountable for each step in the process to do their job to their best of their ability.
- Open, honest and timely communication will be maintained at all times.
- All parties in this process will be treated with respect.

Sub-Processes

A. Request Initiation

Requests to change the Land Development Code (LDC) can be initiated by: the Town Manager, the Town Council, the Local Planning Agency, a group/committee or an individual.

Process:

- Requests from the Town Manager and Town Council proceed directly to the “assign action” sub-process.
- LPA change requests are forwarded to Town Council for approval to proceed.
- All individual or group initiated LDC change requests come to the LPA for review and action. Consistency with the Comprehensive Plan will be the criteria for approving or denying requests.
- The Town Clerk handles scheduling functions with direction from the Town Manager or designee (likely the Community Development Director).

B. Assign Action

Process:

- The Town Manager or designee is accountable for the Legislative Change Action List (LCAL) with input from Planning Consultant, Staff and LPA Attorney.
- Each legislative change request will be put into a category for the purpose of prioritizing and scheduling.
- The LCAL will be reviewed at every LPA meeting.

C. Assessment

Assessment of an LDC change request can follow several paths depending on the complexity of the request and the expertise required for making recommendations. The Town Manager or designee, the Planning Consultant and the LPA Attorney, choose the process path.

Process:

- Determine whether recommendations are needed from an ad hoc or standing committee.
- Determine whether a workshop is needed.

- Workshops will include: Planning Consultant, appropriate staff, LPA Attorney, LPA members, ad hoc or advisory committees (as needed) and the public.
- Recommendations from committees and/or workshops will be documented by resolution.
- Once all recommendations have been received, drafting of the LDC change can commence and an LPA hearing scheduled.

D. LPA Hearing

Process:

- The LPA must approve or reject LDC changes or possibly suggest multiple wording options for consideration by Town Council.
- Recommendations must be consistent with the Comprehensive Land Use Plan.
- Explanation of recommendations are forwarded to Town Council by resolution.

E. Town Council Hearings

Process:

- Introduction of Ordinance
- First Hearing
- Second Hearing. Approved or denied based on consistency with the Comprehensive Land Use Plan.
- At each hearing, Council may choose to deny the change request, return it to the LPA and/or committees and/or workshop participants for rework, or table it.

F. Documentation

Process:

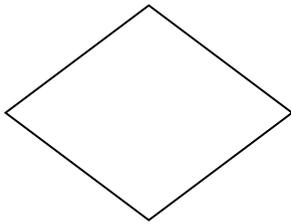
- If the ordinance is approved by Town Council, the Town Manager is accountable for seeing that appropriate steps are taken to codify and distribute changes in the Town of Fort Myers Beach Land Development Code.

Legislative Change Process for the Town of Fort Myers Beach

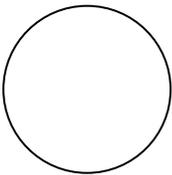
Flow Chart Symbols Used:



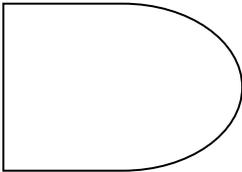
Process Operation



Decision (A Decision will have two or more directions of flow)



Input/Output



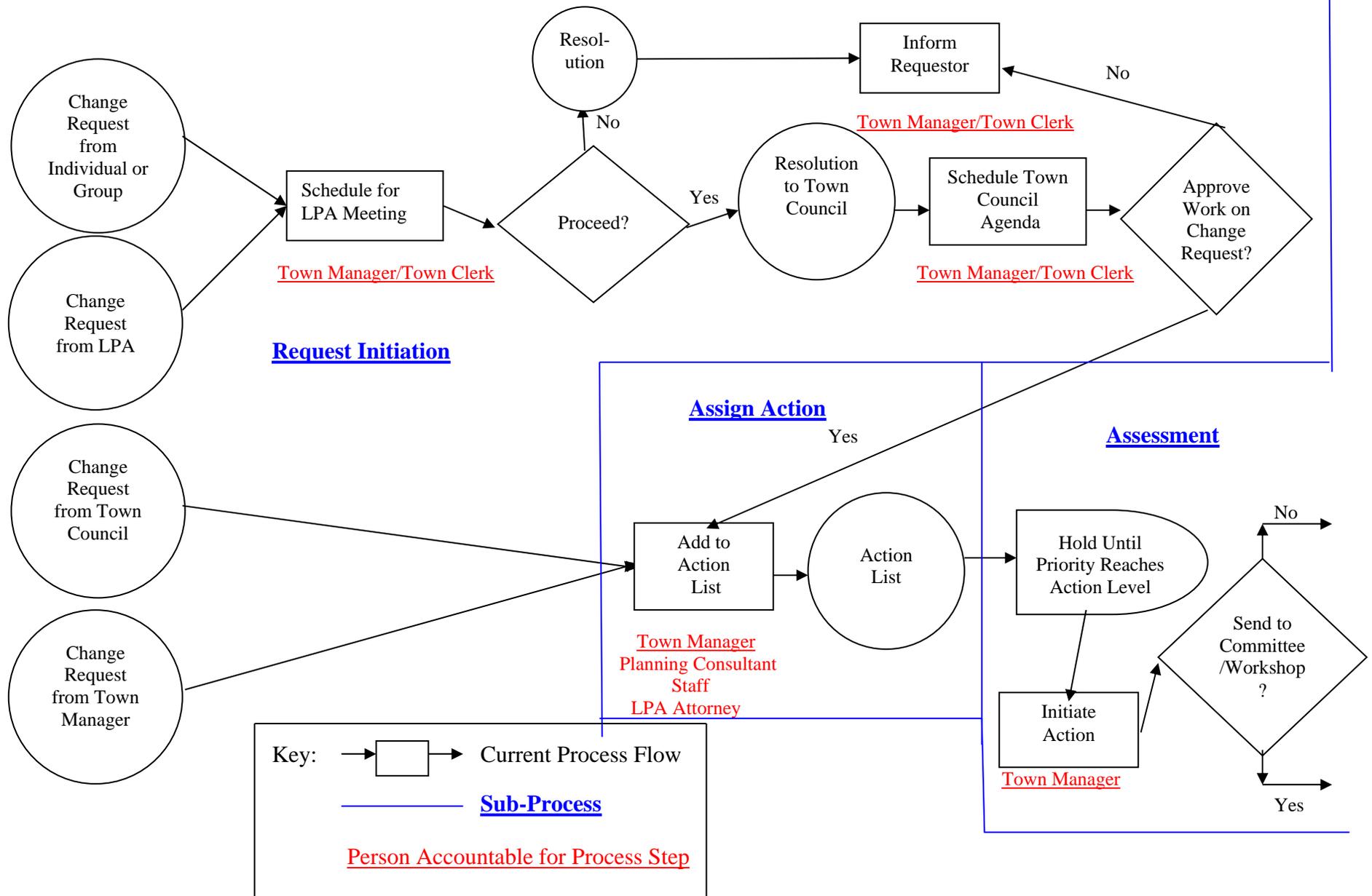
Delay/Wait/Hold



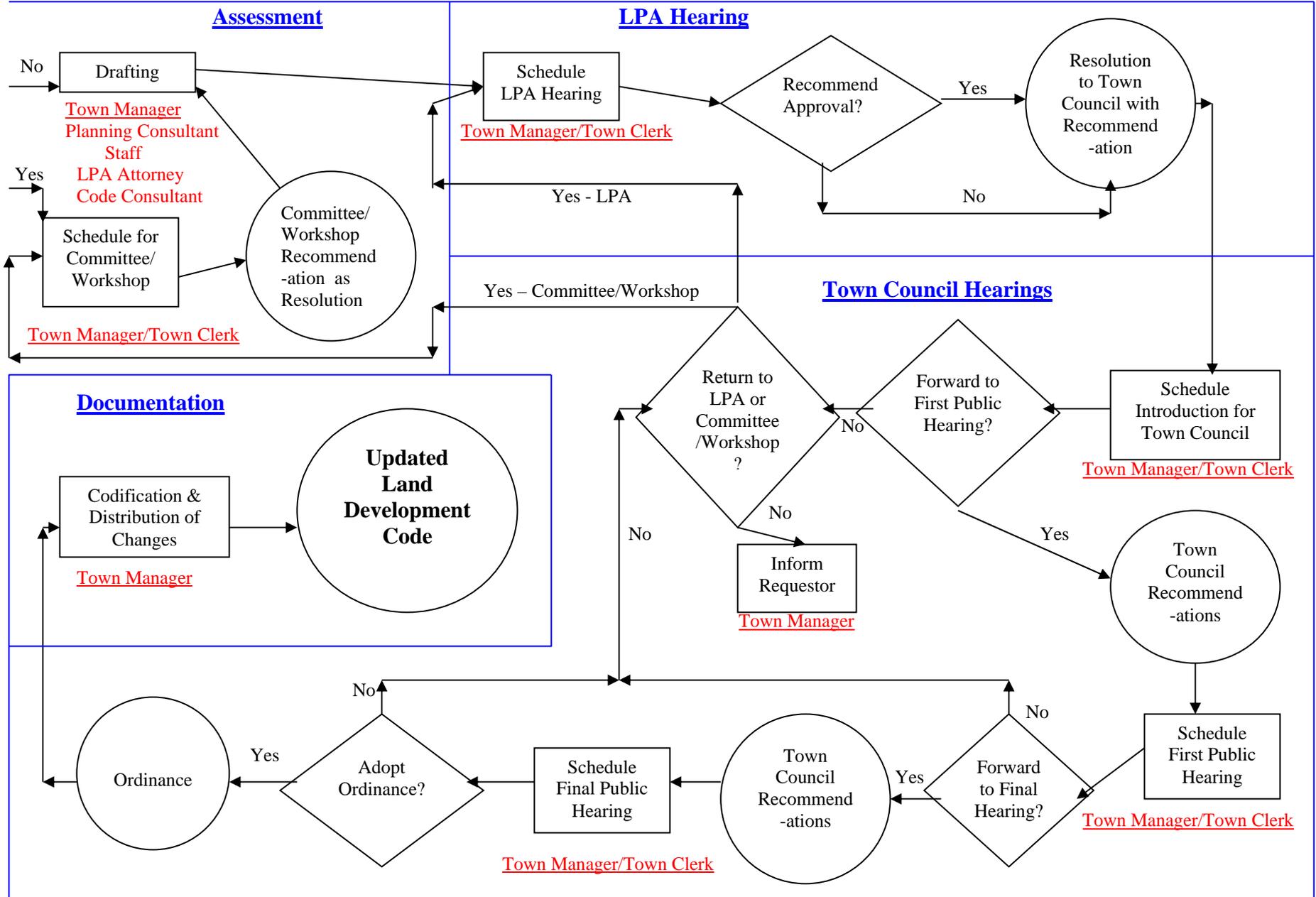
Direction of Flow

The flow chart is a graphic method for displaying a work process and sequence of activities. It graphically shows the process and potential opportunities for improvement within the process. It also identifies starting inputs and ending outputs that establish boundaries of ownership. This sequence of activities is represented by various flow chart symbols, which are connected by a direction of flow arrow.

Legislative Change Process for the Town of Fort Myers Beach



Legislative Change Process for the Town of Fort Myers Beach



F. Historic Plaque Resolution and Agreement

RESOLUTION OF THE HISTORIC PRESERVATION BOARD OF
THE TOWN OF FORT MYERS BEACH, FLORIDA
RESOLUTION NUMBER HPB 2008-01

A RESOLUTION OF THE HISTORIC PRESERVATION BOARD OF FORT MYERS BEACH,
FLORIDA:

WHEREAS, the Local Planning Agency of the Town of Fort Myers Beach, Florida, serves as the historic preservation board for the Town of Fort Myers Beach ("HPB") pursuant to Chapter 22, Article II, Division 2, Section 22-71 and Chapter 30, Section 30-56(b) of the Land Development Code ("LDC") of the Town of Fort Myers Beach; and

WHEREAS, the HPB is vested with the power, authority and jurisdiction to designate, regulate and administer historical, cultural, archaeological, and architectural resources in the Town, pursuant to LDC Section 22-71; and

WHEREAS, the HPB has the power and duty to designate eligible historic resources, evaluate the significance and eligibility of historic resources for designation pursuant to Chapter 22 of the LDC, increase awareness of historic preservation and its community benefits by promoting public education programs, and administer programs aimed at the proper recognition of designated historic resources pursuant to LDC Section 22-74.

NOW THEREFORE, THE HISTORIC PRESERVATION BOARD RESOLVES AS FOLLOWS:

1. The HPB hereby approves the Town of Fort Myers Beach Historic Preservation Board Historic Plaque Agreement for use by the Town in the Historic Plaque Program. A copy of this Agreement is attached to this Resolution as Exhibit "A" and is hereby incorporated by reference.

The foregoing Resolution was adopted by the HPB upon a motion by _____ and second by _____. Upon being put to a vote, the result was as follows:

Thomas Babcock _____	Bob Raymond _____	Alan Mandel _____
Evie Barnes _____	Bob Simon _____	
Rochelle Kay _____	Dennis Weimer _____	
Alan Mandel _____		

DULY PASSED AND ADOPTED THIS 19th day of February, 2008, by the Historic Preservation Board of the Town of Fort Myers Beach

By: _____
Bob Raymond, HPB Chair

Approved as to Legal Sufficiency

ATTEST: _____
Michelle D. Mayher, Town Clerk

By: _____
Anne Dalton, LPA/HPB Attorney

Appendix G – Conflict of Interest Advice

Below are several points which may be of interest to the LPA Members:

1. I have an ongoing attorney-client relationship in which the attorney gives legal advice but isn't otherwise involved in my business enterprises. That firm may represent others coming before the LPA in quasi-judicial hearings which are not related to his/her representation of me.

(a) Can I participate in LPA discussions and decision-making processes where my attorney is representing a different client?

ANSWER: yes. Assuming that this is a traditional attorney-client relationship, there would be no "special private gain or loss" to the LPA member under F.S. 112.3143(4) for his/her attorney to represent someone else before the LPA. An attorney relationship, by itself, does not create a "business associate" relationship under F.S. 112.312(4). If there are other relationships between the firm and the LPA member (joint ventures, employment of a relative, etc.), that would be covered by the conflict statute.

If the attorney provided information which is covered by the ex parte disclosure sections of the Land Development Code, the LPA member would make the same ex parte disclosure as he/she would for anyone else.

Even if this were a conflict of interest, the statute requires written, advance disclosure. It does not prohibit discussion or voting at the advisory committee level.

(b) Should I disclose the existence of this attorney-client relationship at the time the hearing starts?

ANSWER: It's a good idea. It's not legally required to disclose it since it's not a conflict of interest. However, in ethical matters, it's a good idea to go the extra mile. My suggestion would be to say something like "this law firm has represented me on matters which are not related to this hearing. The LPA attorney has advised me that there's no conflict of interest here but I wanted to disclose this for the record."

2. I have an ongoing relationship with local architects, engineers and other professionals. None of these persons are involved in my business enterprises in any other capacity. Those professionals may represent other persons coming before the LPA in quasi-judicial hearings which are not related to their representation of me. Is there a conflict of interest here?

ANSWER: See #1 above.

Excerpted from LPA Attorney Anne Dalton memo dated April 28, 2008.

**Town of Fort Myers Beach Local Planning Agency
Policies and Procedures Manual**

Table of Contents

1. Introduction

2. Mission and Job Description

3. Training Materials and First Meeting

- Training Materials
- Election of Officers
- Sunshine Issues

4. Historic Preservation Board

5. Ad Hoc Committees and Interaction with Other Advisory Committees

6. Meeting Preparation and Planning

- Meeting Schedule
- Length of Agenda Items
- Public Notice of LPA Quasi-Judicial Hearings
- Continued Hearings and Legislative Issues
- Meeting Preparation
- Attendance Policy
- Meetings and Communication between LPA and Town Council

7. Meeting Procedures

- LPA Code of Conduct
- LPA Code of Ethics
- Order of Agenda Items
- Invocation
- Legislative Hearing Procedures
- Procedure for Quasi-Judicial Land Use Hearing
- Voting Conflicts

8. Meeting Output

9. LPA's Role in Initiating Legislative Changes to the Land Development Code

Appendices:

- A. Resolution Requesting to Proceed with an LDC Change**
- B. Resolution HPB 2006-03 Establishing the Historic Advisory Committee**
- C. Recognition Resolution**
- D. Historic Sign Criteria and Integrity Evaluation**
- E. Legislative Change Process**
- F. Historic Plaque Resolution and Agreement**
- G. Conflict of Interest Advice**

1. Introduction

This Local Planning Agency (LPA) Policies and Procedures Manual is for the purpose of helping the LPA Members in the discharge of their duties. Experience may show that some of these policies and procedures need to be modified or eliminated and new ones adopted.

By adopting this manual, members of the LPA will find in one handy reference, answers to policy and procedure questions that come up from time to time. By having an agreed-upon guide, members of the LPA also may develop common expectations on proper conduct of LPA meetings, dealings with the public, and the way it interacts with Town staff.

This manual should be used in conjunction with the Town Charter, Comprehensive Plan, Land Development Code (LDC) and other applicable laws, as necessary.

2. Local Planning Agency Mission and Job Description

Mission: To further the welfare of the citizens of the Town by helping to promote a better, more helpful, convenient, efficient, healthy, safe community and attractive environment. To insure by strategic planning that the unique and natural characteristics of the island are preserved.

Functions, Powers and Duties:

- Review and interpret the Comprehensive Plan and conduct public hearings as may be needed to fulfill its duties under Town ordinance and Comprehensive Plan.
- Review and interpret the Land Development Code and conduct public hearings as may be needed to fulfill its duties under LDC, Town ordinance and Comprehensive Plan.
- In an advisory capacity to the Town Council, either at Town Manager's, Town Council's, or its own initiation, conduct hearings to fulfill its duties regarding zoning matters.
- Review the Capital Improvement Budget for consistency with the Comprehensive Plan and make recommendations to the Town Council.
- Serve as the Historic Preservation Board for the Town.
- Establish sub-committees as needed.
- Elect a chair and vice chair for the LPA.
- Elect a chair and vice chair for the Historic Preservation Board
- Perform any other duties that lawfully may be assigned to it by the Town Council and/or Town Manager.

LPA Member Requirements:

- Be a resident or property owner in the Town of Fort Myers Beach
- File a Statement of Financial Interests (Form 1) with the Lee County Supervisor of Elections every year.
- Complete and file Form 1F – Final Statement of Financial Interest, within 60 days of leaving office.

Desired LPA Member Qualities:

- Analytical – ability to research and analyze information and data
- Decisive
- Knowledgeable – Such as, the Town Charter, Comprehensive Plan, Land Development Code, Sunshine Laws, Ethics Laws, Parliamentary Procedure
- Communication – Listening, Speaking, Writing
- Proactive – identify and seek solutions
- Ethical - open, sincere and truthful

- Ability to work in a team environment
- Ability to work with and listen to people having diverse interests
- Fair with no strong allegiance to any individual or group
- Common sense
- Time to do the job effectively

3. Training Materials and First Meeting

Training Materials

Each new member of the Local Planning Agency will be provided copies of:

- Town Charter
- Comprehensive Plan
- Land Development Code
- Florida Code of Ethics
- Florida Sunshine Laws
- Policy and Procedures Manual
- Other materials as determined by the LPA Attorney, Community Development Director and LPA members

Election of Officers

Annually, at the first meeting of the Local Planning Agency, after expired member positions have been filled by the Town Council, a chair and vice chair will be chosen. Each LPA member may nominate a person for each of these positions. A second is not required. A vote is taken in the order that a candidate was nominated. The positions are filled by a majority vote. If a majority is not received on the first ballot, a second ballot is taken for the two candidates receiving the most votes from the first ballot.

Sunshine Issues

Members of Town advisory committees, boards, and agencies are subject to the Sunshine Law (F.S. 286.011). The same Sunshine rules that apply to Town Council apply to the members of the LPA and other Town advisory committees, boards and agencies.

This means that any gathering of two or more members of the same advisory committee, board or agency must comply with all the Sunshine Law requirements if they participate in any discussion, directly or indirectly, regarding any matter where there is known or could be foreseeable action to be taken by the committee. Examples of indirect discussions are the use of email to a committee member or communication through a spouse or other go-between.

Advisory committee members cannot engage in discussions with each other (directly or indirectly) at outside meetings such as the Chamber of Commerce or Civic Association regarding any matter on which it is known or foreseeable that action may be taken, unless the Sunshine requirements are met.

These rules apply equally to any gathering, formal or casual, such as a Rotary Club (or other business or fraternal club gathering), fund-raiser, etc. They also apply to social events and functions unconnected to the advisory committee, such as a neighbor's backyard barbeque. They also apply to casual discussions between or among members coming in the door for the committee meeting, at breaks during the meeting, and going out the door after the meeting. Every component of the decision-making process must occur in the Sunshine.

The penalties for violating the Sunshine law are severe and can include criminal and civil sanctions. The process of investigation of Sunshine violations is always unpleasant, embarrassing, and expensive, even if the person is ultimately cleared.

4. Historic Preservation Board

The LPA also functions as the Historic Preservation Board (HPB) for the Town of Fort Myers Beach. The Historic Preservation Board has the power, authority, and jurisdiction to designate, regulate, and administer historical, cultural, archaeological, and architectural resources in the Town as set forth in LDC section 22-74. For any quasi-judicial or legislative hearings that come before the HPB, the hearing process shall conform to those outlined in Section 7 of this manual.

Annually, at the first meeting of the Local Planning Agency, after expired member positions have been filled by the Town Council, a meeting of the HPB will be convened and a chair and vice chair will be chosen using the same methodology as LPA chair and vice chair election.

Also at that meeting, a sub-committee, the Historic Advisory Committee (HAC), comprised of an approximately equal number of LPA members and Estero Island Historic Society members is established. Members of the Estero Island Historic Society interested in being on the Historic Advisory Committee must submit a statement of interest to the Town Clerk prior to the first annual meeting of the LPA. This sub-committee comprised of a total of six or seven members shall be selected by the HPB.

The HAC sub-committee will meet as needed to discuss and make recommendations to be brought before the Historic Preservation Board for consideration. Recommendations will be consistent with the requirements of the Comprehensive Plan and Land Development Code. At its first meeting after re-formation, the HAC shall select a chair, vice chair and secretary.

5. Ad Hoc Sub-Committees and Interaction with Other Advisory Committees

The LPA has the authority to form other ad hoc sub-committees requesting participation by volunteers. The objectives of a sub-committee, expected products, membership and timelines should be clearly stated and agreed to by the LPA. One LPA member will be asked to chair the ad hoc sub-committee. The intent would be to minimize participation and action items directed at Staff.

A standing ad hoc sub-committee named the Historic Advisory Committee was established by Resolution 2006-03 (Appendix B).

During discussions arising from land use cases, long-range planning and capital improvement discussions, the LPA will proactively communicate to other appropriate advisory committees while keeping Town Council informed. These interactions could result in the development of joint resolutions.

6. Meeting Preparation and Planning

Meeting Schedule

Section 34-118 of the Land Development Code (LDC) states: "The local planning agency shall meet at least 8 times per year and shall meet no less often than bimonthly..." This statement was included in the LDC to emphasize that the LPA should meet regularly to conduct required Town business. Thus, as a minimum, the LPA must meet at least 8 times per year.

Reference Code of

Regularly planned meetings of the Local Planning Agency (LPA) are scheduled by mutual agreement between the LPA, LPA Attorney and Community Development Director. Special, continued or rescheduled meetings will be determined by consensus of the LPA members, the Director of the Department of Community Development and the LPA attorney.

Length of Agenda Items

In order to set reasonable LPA agendas, the Community Development Director will use best efforts to establish the time needed for presentations, public comment and subsequent discussions of agenda items by the LPA. Any person submitting Administrative topics to the Community Development Director will provide an estimate of the time needed. If the time needed for a hearing, legislative matter or administrative topic exceeds the allotted time by more than 15 minutes, the Chair may table the item until later in the meeting or continue the item until a subsequent meeting.

Public Notice of LPA Quasi-Judicial Hearings

Except as specifically addressed in the Town Land Development Code, Town Clerk shall advertise all LPA quasi-judicial hearings so that a legal notice will appear at least seven (7) calendar days prior to the LPA hearing date, to enable all interested parties to have notice and the ability to attend. The Community Development Director or designee will enter the *News-Press* Affidavit of Publication into the record at the beginning of the hearing. In the absence of the Affidavit of Publication, the Community Development Director or designee will enter a copy of the actual advertisement as run by the *News-Press* into the record at the beginning of the hearing after being sworn in. The affidavit, or actual advertisement, as the case may be, will be attached to the LPA Resolution following the hearing.

Continued Hearings and Legislative Issues

It is the goal of the LPA to complete a hearing during the scheduled meeting. If additional time is required and the hearing must be continued to a later date, any LPA member who missed the initial hearing should review the audio and/or videotapes prior to participating in the continued hearing or legislative discussion and resolution.

If the applicant submits new information or modification(s) to previously submitted information at the hearing, or immediately prior to the hearing, the LPA shall consult with the Director of the Department of Community Development and the LPA Attorney to determine if a continuance of the hearing is appropriate and proceed accordingly. Nothing contained in this section shall be construed to limit the Director's discretion to defer or continue the public hearing as set forth in LDC Section 34-213(3).

Meeting Preparation

Any LPA member, the Community Development Director, the LPA attorney, Town Council and Town Manager can submit meeting agenda topics for the LPA to the Community Development Director. Topics should be submitted at least fourteen (14) days prior to a planned meeting. The Director of the Department of Community Development and LPA attorney are responsible for scheduling hearings. Potential dates for hearings should be communicated to all participating parties as far in advance of the planned meeting as possible. All staff reports should be complete before a hearing is scheduled. Except in the case of an emergency, cancellation of a planned meeting should be at least 14 days in advance. Only under serious, extenuating circumstances should a hearing be cancelled after it has been publicly noticed.

The goal is to have finalized agenda and supporting material seven (7) days prior to a planned and

site code of ordinances

noticed meeting. However, meeting materials will be placed in the LPA members' mailboxes no later than noon of the Friday prior to the scheduled Tuesday meeting. The Community Development Director or assistant will send an email to the LPA members when the packets are available.

The LPA members' packets should include complete documentation for agenda items (actions required, implications, backup information, memos, ordinances, resolutions, etc.) A sincere effort is made to see that LPA packets are complete. As a general rule, items requiring documentation (recommendations, memos, ordinances, resolutions, etc.) will not be included on an agenda until the documentation is complete.

and on the Town's website.

The agenda is posted at Town Hall. Copies of the agenda are available to the public.

Occasionally an item comes up late and may be placed on an amended agenda, or as an "add on" (added too late to be included on the published agenda). Such additions are kept to an absolute minimum so as not to burden the LPA or the public with items not receiving sufficient advance notice. Important, potentially controversial items are not made as "add on items" except in extreme emergencies.

Attendance Policy

Section 34-115(3) of the Land Development Code (LDC) states: "A Local Planning Agency member shall forfeit office if the member is absent from three (3) regular local planning agency meetings per year without being excused by the local planning agency." This statement was included in the LDC to recognize that because of the significant pre-hearing preparation required by staff, applicants and other supporting personnel it is imperative that a quorum of the Local Planning Agency (LPA) members be present for all noticed meetings.

The LPA should be notified of a planned absence as soon as known. It is important that the LPA know that it will have a quorum of its members as soon as possible prior to an LPA meeting. The LDC implies that the LPA has the discretion to define what will be an "excused" absence. The policy of the LPA is that if an absence is reported at least fourteen (14) days prior to a planned meeting the absence will automatically be considered an excused absence. This will allow sufficient time for a planned meeting to be rescheduled if it appears that a quorum will be questionable.

Absence notification less than 14 days prior to a planned meeting is considered an "emergency." If an excused absence is desired in less than 14 days, a request must be forwarded to the Community Development Director with an explanation of the nature of the emergency. The Local Planning Agency will decide whether the request will be considered an excused absence. If the LPA or Community Development Director receives no request for an excused absence, the absence is counted as an unexcused absence.

Three unexcused absences for regularly scheduled LPA meetings will result in automatic forfeiture of office.

"Chronic" absence is defined as missing three consecutive regularly scheduled meetings or four of the last six meetings of the LPA, regardless of whether the absence is excused or unexcused. If a chronic absence occurs, the Community Development Director will be asked to send a letter to the LPA member requesting an explanation of the reasons for the chronic absence. A copy of the letter will be sent to the Town Manager and Town Council. The LPA member will be asked to forward to the Community Development Director a statement of whether the LPA member wishes to remain on the LPA. Failure to reply will automatically make all absences unexcused and grounds for forfeiture of office.

In order to provide a diverse representation, it is important that the LPA strive to have as full representation as possible when conducting the Town's business.

Meetings and Communication between LPA and Town Council

As agreed at a workshop between LPA and Town Council members in September of 2009, efforts should be made to improve communications between the Local Planning Agency and Town Council. Previous means and those adopted at the above meeting shall be:

- The LPA shall appoint and send a representative to Town council public hearings on land use and proposed ordinances which have been acted upon by the LPA. This representative shall submit brief testimony (Council should have LPA resolution and meeting minutes, unless minutes approval waived by LPA) regarding the LPA hearings on the matter.
- The LPA "Action List" as updated subsequent to LPA meetings shall be submitted to the Director of Community Development, who shall in turn transmit to each Town Council member and the Town Manager and include this list in the next LPA meeting packet.
- A quarterly meeting to be attended by the Town Manager, Town Mayor and Local Planning Agency Chairperson shall take place at 1:00 PM on the third Wednesday of each of the following months; October, January, April and July. The purpose of this meeting will be to discuss current activities of the LPA and assure these are in accordance with direction from Town Staff and Town Council, as well as convey information to Staff and Council regarding the complexities or related issues of those activities.
- Routine workshops (informational meetings) to discuss current LPA activities and Town Council understanding of those activities shall be held between all LPA members, Town Council members, Town Manager, Community Development Director and Town and LPA Attorney starting at 9:00 AM and lasting no later than noon on the first regularly scheduled LPA meeting day of April and September.

7. Meeting Procedures

LPA Code of Conduct

Recognizing that persons holding a position of public trust are under constant observation, and recognizing that maintaining the integrity and dignity of the public office is essential for maintaining high levels of public confidence in our institutions of government, every member of the Local Planning Agency pledges to adhere to the following CODE OF CONDUCT.

1. Regularly attend all scheduled meetings of the LPA as well as special or called meetings relevant to the office.
2. Prepare for each meeting.
3. Create a positive environment in meetings of the LPA.
4. Maintain an attitude of courtesy and consideration toward colleagues, citizens and staff during all discussions and deliberations.
5. Allow citizens, colleagues and staff sufficient opportunity to present their views, within the prescribed rules for conduct of meeting of the LPA.
6. Avoid the use of abusive, threatening or intimidating language or gestures directed at colleagues, citizens or staff.

7. Avoid comments, body language or distracting activity that conveys a message of disrespect and lack of interest.
8. Respect all local, state and federal laws, rules and other regulations.
9. Submit completed financial disclosure forms to the Lee County Supervisor of Elections by the specified deadline.
10. Publicly acknowledge the adopted position when asked about a decision of the LPA.

LPA Code of Ethics

Members shall ethically serve the public interest by making decisions and taking actions that will enhance the public health, safety and welfare of the region and the citizens served by the Local Planning Agency and by promoting public confidence in the integrity, independence, ability and impartiality of the LPA.

1. Members shall uphold the prestige of their office and avoid impropriety and the appearance of impropriety.
2. Members shall not convey the impression that they are in a position to influence the outcome of a decision of the LPA and shall not attempt to use their office to influence or sway the professional staff recommendation.
3. Members shall discharge their duties and responsibilities without favor or prejudice toward any person or group. Members shall not allow personal or business relationships to impact upon their conduct or decisions in connection with LPA business and shall not lend their influence towards the advancement of personal interests or towards the advancement of the interests of friends or business associates.
4. Members shall avoid creating the appearance of impropriety by following the requirements of the Land Development Code with regard to ex parte about specific upcoming LPA quasi-judicial hearings. If a Member receives a private written or electronic communication about an upcoming LPA quasi-judicial hearing, the Member will promptly forward the information to the Town Clerk, with a copy to the Director of the Community Development Department and the LPA Attorney so that it may be shared with all other Members as part of the agenda packet for that hearing. Members shall refrain from any private discussion of LPA business with other Members if required by Florida's Government-in-the-Sunshine Law, Chapter 286, Florida Statutes.
5. Members shall not accept or solicit a gift, loan, payment, favor, service, promise of employment or business contract, meal, transportation or anything else of value, if such thing is given with the understanding or possibility that it will influence the official action of the Members during LPA proceedings. The same standard shall apply to a gift, loan, favor, etc. for the spouse, child, relative or business partner of the Member.
6. Members should refrain from participation in any proceeding in which their impartiality may reasonably be questioned. A Member whose personal, employment or business relationship with a person or entity that is subject to a recommendation of the LPA shall seek the advice and counsel of the LPA Attorney, if such relationship could conceivably influence the Member's impartiality during the LPA's discussion of the subject. The provisions of Chapter 112, Florida Statutes, and the Code of Ethics for Public Officers and Employees, shall govern conflict of interest determination.
7. Members shall remain vigilant against deviations from LPA policies and mission statement.

As a legislative and quasi-judicial body, the LPA must be ever cognizant of the important legal requirements of due process and equal protection. These principles are derived from the United States Constitution, the Constitution of the State of Florida, and Florida Statutes, and apply to legislative and quasi-judicial actions.

The legal requirement for due process is separated into two prongs: substantive due process and procedural due process. The principle of substantive due process requires the benefits of a given

regulation be within the scope of governmental authority, i.e., health, safety, morals, or general welfare, and that the regulations be accomplished in a rational manner, i.e., not be arbitrary or capricious. This is a principle of fundamental fairness in the substance of a given regulatory scheme or provision.

The other due process prong, procedural due process, requires a fair method of adjudicating the rights of property owners, requiring notice and an opportunity to be heard by an impartial decision maker. In legislative matters, this requirement is derived from Florida Statutes, which provide the type and period of notice depending on the nature of the property interest subject to regulation at a public hearing. Quasi-judicial decisions have an underlying Constitutional requirement for procedural due process.

Equal protection limits governmental regulation from establishing irrational classifications, protects the rights of suspect and quasi-suspect classes, and assures against the exercise of fundamental or important rights of persons in ways different from others.

Key overarching principles to keep in mind ^{sure} is that every person must be treated equally and reasonably by the quasi-judicial or legislative substance and process and that decisions and recommendations be deliberated in an open process with adequate notice and allowance for participation of affected parties. Reasonable, consistent, and timely notifications in quasi-judicial matters to be heard by the LPA provide an applicant and other parties potentially affected by a requested decision these fundamental protections.

Order of Agenda Items

The general order of the agenda will proceed as follows. However, the procedures will differ depending on what type of hearings ^{are} is being held.

1. Call To Order – Identify for the record the committee that is meeting, the date of the meeting and who is present.
2. Pledge of Allegiance
3. Invocation
4. Approval of Minutes – Requires a motion and vote.
5. Public Hearings – Public Comment will be included as part of the hearing
6. Administrative Agenda – Topics submitted by LPA members, staff, LPA Attorney or items from previous agendas
7. Adjourn as LPA; Reconvene as Historic Preservation Board (HPB)
8. Adjourn as HPB; Reconvene as LPA
9. LPA Members Items and Reports
10. LPA Attorney Items
11. Community Development Director Items
12. Action List Review
13. Public Comment
14. Adjournment – Requires a motion and vote. A privileged motion allowing no discussion before vote.

Invocation

The Chair of the LPA has the discretion of deciding how the Invocation at the beginning of an LPA meeting is handled. However, there is a tradition that has been followed by many LPA's. At the first LPA meeting on April 9, 1996, Chair John Mulholland read an invocation that he had written while Commander of the Power Squadron. Betty Simpson, who was Vice Chair at that time, has carried John's invocation to each subsequent LPA. The Chair has either read the invocation or different LPA members have been asked or volunteered to read the invocation. The invocation reads as follows:

Heavenly Father, we ask that you bless us with your presence here today.

Grant to us the wisdom to see all things in true perspective.

Should be God How Country

Grant to us the patience to hear one another with open minds and hearts.
Grant us the strength to meet all present challenges.
May all that we do this day, bring honor to you and credit to ourselves. Amen.

Conduct of LPA Meetings

The Chair will conduct the LPA meetings, and in the Chair's absence by the Vice Chair.

Robert's Rules of Order shall be the reference for parliamentary procedure governing the conduct of the LPA meetings when not in conflict with the Town Charter or Florida Statutes. It is not intended that LPA meetings be unnecessarily formalistic, but rather that parliamentary procedure be invoked only when necessary for orderly conduct of the meeting.

The approval of the minutes is intended for LPA members to accurately document the proceedings of the Agency. Before moving approval the minutes should be amended, if necessary, to more accurately portray what occurred at the LPA meeting. This time is not intended for comment or discussion on what should have or should not have been done, but rather to document what actually was done. Audiotapes of the proceedings become the official record of what transpired during a meeting.

When the Chair recognizes a speaker during public comment, they will advance to the podium and state their name for the public record. Public comments will generally be limited to three minutes per speaker. The Chair may modify the three-minute limit with approval by majority vote of the LPA. If a special interest group would prefer to have one person speak for a group of individuals in attendance their allotted times can be combined up to a maximum of 15 minutes. This process could save meeting time if the content of what each person of a special interest group intends to say is similar. It could also allow more time for a presentation containing detailed facts and data. If a special interest group chooses to have a spokesperson represent them, request cards having the names and addresses of all individuals present must be provided prior to the meeting. The public comment times are intended as opportunities for interested parties to present their viewpoints to the LPA members; they are not intended as question-and-answer sessions or as dialog with the LPA.

After a proper motion, discussion by the LPA members shall be limited to agenda items. No member will speak twice on the item until all others who want to speak have spoken.

The time period for LPA members' comments is intended as an opportunity for LPA members to share their viewpoints with each other. Since this opportunity does not exist outside of LPA meetings under the Florida Sunshine Law, this is the primary purpose of this time and it generally should not be used to obtain information from the Community Development Director or Town Attorney which could be obtained outside of the LPA meeting. While there is no time limit or censorship on comments, LPA members should take into consideration the total time available in the meeting for the published agenda.

Legislative Hearing Procedures

1. The Chair opens the hearing on.....
2. Staff presents Affidavit of Publication or copy of the legal advertisement from the Newspaper of Record which shall become an exhibit to the Hearing's resulting Resolution.
3. The Chair or the LPA Attorney reads the ordinance caption.
4. Staff and/or the LPA attorney present(s) a brief overview of the ordinance.
5. Public input is taken.
6. Public input is closed.
7. LPA members ask questions, if any, of staff/LPA attorney.
8. LPA members discuss ordinance, including changes, deletions, etc.

not all hearings require affidavits

LPA

9. A Motion is made and seconded to either move the Ordinance forward to Town Council as-is or with modifications, or to take some other action. The LPA's recommendation is set forth in an LPA Resolution which is provided to Town Council at the time of Council's consideration of the Ordinance.
10. The Motion is discussed and voted upon. If successful, the Chair declares the hearing on the ordinance to be concluded. If not successful, further motions(s) are made until one passes.

Notes:

- There is no ex parte disclosure requirement for legislative hearings.
- Members of the public are not sworn in.
- Generally there is no discussion between the LPA and public.

Procedure for Quasi-Judicial Land Use Hearing

1. The Chair opens the hearing on
2. The LPA Attorney swears in all witnesses.
3. Staff presents Affidavit of Publication or copy of the legal advertisement from the Newspaper of Record which shall become an exhibit to the Hearing's resulting Resolution.
4. The Chair asks if any LPA member has had an ex parte communication regarding this matter. This includes any site visit, receipt of expert opinion, conducting of investigations, discussions with any person, or any direct or indirect communication in any form with any person outside a public hearing and not on the record.
5. The applicant presents its case and LPA asks questions.
6. Staff presents its case and LPA asks questions.
7. Public comment/testimony is opened.
 - After public testimony/comment is concluded, the Chair closes public comment/testimony.
8. Applicant presents rebuttal, if any.
9. Staff presents rebuttal, if any.
10. The testimony portion of the hearing is closed.
11. LPA discussion.
12. Request for a motion on the resolution.
13. LPA votes on a resolution regarding the application.

Voting Conflicts

Florida Statute ^{statutes have} has very specific rules regarding voting conflicts and municipal advisory committees, boards and agencies. These rules are different from the rules that apply to the Council.

If an LPA member has a voting conflict, he/she must disclose that conflict in writing to Town staff prior to the meeting in question and this disclosure must be publicly read. A form is available from the Town Clerk. The rules also contain an exception for disclosure at the meeting itself. The committee member is permitted to participate in the discussion and vote on the subject. The specific rules are set out in F.S. 112.3145(4), quoted below:

(4) No **appointed** public officer shall participate in any matter which would inure to the officer's special private gain or loss; which the officer knows would inure to the special private gain or loss of any principal by who he or she is retained or to the parent organization or subsidiary of a corporate principal by which he or she is retained; or which he or she knows would inure to the

not all hearings require affidavit

non attached

special private gain or loss of a relative or business associate of the public officer, **without first disclosing the nature of his or her interest in the matter.**

(a) Such disclosure, indication the nature of the conflict, shall be made in a written memorandum filed with the person responsible for recording the minutes of the meeting, **prior to the meeting** in which consideration of the matter will take place, and shall be incorporated into the minutes. Any such memorandum shall become a public record upon filing, shall immediately be provided to the other members of the agency, and shall be read publicly at the next meeting held subsequent to the filing of this written memorandum.

(b) In the event that disclosure has not been made prior to the meeting or that any conflict is unknown prior to the meeting, the disclosure shall be made orally **at the meeting** when it becomes known that a conflict exists. A written memorandum disclosing the nature of the conflict shall then be filed within 15 days after the oral disclosure with the person responsible for recording the minutes of the meeting and shall be incorporated into the minutes of the meeting at which the oral disclosure was made. Any such memorandum shall become public record upon filing, shall immediately be provided to the other members of the agency, and shall be read publicly at the next meeting held subsequent to the filing of this written memorandum.

(c) For purposes of this subsection, the term "participate" means any attempt to influence the decision by oral or written communication, whether made by the officer or at the officer's direction.

Perceived conflicts of interest can be as detrimental to public trust as real conflicts. In an attempt to aid LPA members' manage such perceptions, the LPA Attorney has prepared advice regarding frequent situations in which LPA members find themselves. These are found in Appendix G.

NOTE: F.S. 112.3143(b) defines "relative" as follows: "any father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, or daughter-in-law."

8. LPA Meeting Output

The primary responsibility of the LPA is to provide recommendations to the Town Council regarding comprehensive planning policies, land development code regulations, zoning matters and make decisions regarding historic preservation opportunities.

LPA output to the Town Council will include the following at the discretion of the LPA:

A. Quasi-Judicial Hearing:

1. A signed resolution of findings of fact and conclusions from the LPA hearing.
2. LPA approved minutes providing a summary of:
 - a. Testimony by applicants, their attorneys, Town and/or County staff, the LPA attorney, witnesses and people who offer public comment, and
 - b. Issues raised by LPA members with subsequent discussion content including clarifications, conclusions and agreements, and Motions and votes by LPA.
3. One or more members of the LPA will attend the Town Council meeting in order to provide clarification on their recommendations and to answer inquiries.

B. Legislative Hearing:

1. A signed resolution of findings of fact and conclusions from the LPA hearing.
2. LPA approved minutes.

copy (A) to replace

Voting Conflicts

Florida Statutes have very specific rules regarding voting conflicts for municipal advisory committees, boards and agencies. These rules are different for appointive offices than the rules that apply to the Town Council (elective offices).

A person holding appointive municipal public office **MUST ABSTAIN** from voting on a measure which would inure to his or her special private gain or loss. Each appointed local officer also **MUST ABSTAIN** from knowingly voting on a measure which would inure to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent, subsidiary, or sibling organization of a principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate.

Although you must abstain from voting in the situations described above, you are not prohibited by Section 112.3143, F.S., from otherwise participating in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:

- You must complete and file Form 8B, MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS (available from the Clerk's Office or State Ethics Commission), before making any attempt to influence the decision, with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes.
- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

3. One or more members of the LPA will use best efforts to attend the Town Council meeting in order to provide clarification on their recommendations and to answer inquiries.

These LPA outputs must be available before the first Town Council hearing on an issue. However, at the discretion of the LPA exceptions may be made in emergency situations. Minutes from hearings will normally be approved at the subsequent LPA meeting. A "fast-tracked" hearing may have the minutes waived for the Town Council hearing at the discretion of the LPA.

It is noted that audio and /or video recordings of LPA meetings may be available for public, LPA, or Town Council review should clarification, additional understanding of discussions, or for finding errors or omissions.

On a regular basis, as often as monthly, the LPA will submit to the Town Council a synopsis of accomplishments and any issues that might be of interest. As needed, a request will be made to address Town Council.

9. LPA's Role in Initiating Legislative Changes to the Land Development Code

In the course of performing its duties, the LPA is made aware of legislative issues that could be considered as amendments to the Land Development Code. Before initiating a request for support from Town Staff, the LPA attorney and/or our Planning Consultant to pursue potential LDC amendments, a resolution will be sent to Council requesting their approval to proceed. The format to be used is included in Appendix A and can be modified without re-approving the Policies and Procedure Manual.

The Town of Fort Myers Beach Local Planning Agency Policies and Procedures Manual was adopted on ~~February 27, 2007. Revised May 15, 2007. Revised March 18, 2008. Revised September 9, 2008. Revised January 27, 2009. Revised June 23, 2009. Revised September 17, 2009. Revised September 29, 2009.~~

was reviewed and reaffirmed on _____, Date.

**Appendix A – Sample Resolution Requesting to Proceed with an LDC Change
FORT MYERS BEACH, FLORIDA
RESOLUTION NUMBER 20__-__**

WHEREAS, the Local Planning Agency (LPA) is mandated by Florida Statutes Section 163.3174; and

WHEREAS, the LPA is statutorily responsible for the review of proposed land development regulations, land development codes, or amendments thereto, and for making recommendations to the Town Council as to the consistency of such proposals with the adopted Comprehensive Plan (Plan); and

WHEREAS, Section 34-120(4) of the Town Land Development Code (LDC) states that the LPA will review proposed LDC amendments and make recommendations to the Town Council regarding their consistency with the Plan, and

WHEREAS, Section 34-120 (12) of the LDC states that the LPA will aid Town officials charged with the direction of projects or improvements embraced within the Plan and generally promote the realization of the Plan; and

WHEREAS, Section 34-120 (14) of the LDC states that the LPA will perform any other duties which lawfully may be assigned to it by Town Council; and

WHEREAS, the Town Council determined at its meeting of October 9, 2006, that prior to the LPA's initiation of any proposed LDC changes, the LPA must inquire of the Town Council whether the Town Council wished to have such legislative changes initiated by the LPA.

IT IS HEREBY RESOLVED BY THE LPA OF THE TOWN OF FORT MYERS BEACH, FLORIDA as follows:

1. At its regularly scheduled meeting(s) of _____, 20__, the LPA determined that it wishes to initiate legislation on the following subject(s): _____

2. The LPA hereby requests direction from the Town Council as to whether the Town Council wishes to have the LPA initiate legislative changes to the LDC on such subjects.

The foregoing Resolution was adopted by the LPA upon a motion by LPA Member _____ and seconded by LPA Member _____, and upon being put to a vote, the result was as follows:

Name _____	Name _____

DULY PASSED AND ADOPTED THIS ____ day of _____, 20__.

LPA of the Town of Fort Myers Beach

By: _____
Name, LPA Chair

Approved as to legal sufficiency:

ATTEST:

By: _____
Name, Esquire, LPA Attorney

By: _____
Name, Town Clerk

Appendix B - Resolution HPB 2006-03 Establishing the Historic Advisory Committee

**RESOLUTION OF THE HISTORIC PRESERVATION BOARD OF
THE TOWN OF FORT MYERS BEACH, FLORIDA
RESOLUTION NUMBER HPB 2006-03**

A RESOLUTION OF THE HISTORIC PRESERVATION BOARD OF FORT MYERS BEACH, FLORIDA:

WHEREAS, the Local Planning Agency of the Town of Fort Myers Beach, Florida, serves as the historic preservation board for the Town of Fort Myers Beach ("HPB") pursuant to Chapter 22, Article II, Division 2, Section 22-71 and Chapter 30, Section 30-56(b) of the Land Development Code ("LDC") of the Town of Fort Myers Beach; and

WHEREAS, the HPB is vested with the power, authority and jurisdiction to designate, regulate and administer historical, cultural, archaeological, and architectural resources in the Town, pursuant to LDC Section 22-71; and

WHEREAS, the HPB has the power and duty to designate eligible historic resources, evaluate the significance and eligibility of historic resources for designation pursuant to Chapter 22 of the LDC, increase awareness of historic preservation and its community benefits by promoting public education programs, and administer programs aimed at the proper recognition of designated historic resources pursuant to Section 22-74 of the LDC; and

WHEREAS, the HPB has the power to create an advisory committee to assist the HPB with historic preservation matters and to charge such committee with various and sundry duties; and

WHEREAS, this advisory committee will have no quasi-judicial or legislative powers but rather will function in an informal advisory capacity to the HPB; and

WHEREAS, the advisory committee will be subject to the Sunshine and Public Records Laws of the State of Florida.

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

The Historic Preservation Board does hereby create the Fort Myers Beach Historical Advisory Committee (FMBHAC), with the following restrictions:

- 1. The FMBHAC shall be subject to the Sunshine and Public Records Laws of the State of Florida.**
- 2. The FMBHAC will be comprised of seven (7) members appointed by the HPB, all of whom shall be residents, business owners, or property owners within the Town of Fort Myers Beach.**
- 3. Three (3) members of FMBHAC shall be current members of the HPB and four (4) members shall be appointed by the HPB after due consideration of recommendations by the Estero Island Historic Society.**

4. The FMBHAC shall meet on an as-needed basis, keep its own minutes, and hold all meetings at Town Hall.
5. The HPB shall appoint all initial members of FMBHAC no later than the first meeting of the HPB in October, 2006. Thereafter, commencing with June, 2007, the HPB shall appoint all members of FMBHAC on an annual basis at the first meeting of the HPB in June.

The foregoing Resolution was adopted by the Historic Preservation Board upon a vote following motion by Board member Tom Babcock and second by Board member Bob Raymond, the result of which was as follows:

Tom Babcock	aye
Randy Brown	aye
Rochelle Kay	absent
Larry Kiker	aye
Alan Mandel	aye
Bob Raymond	aye
Bob Simon	absent

DULY PASSED AND ADOPTED THIS 12th day of September, 2006.

HISTORIC PRESERVATION BOARD OF THE
TOWN OF FORT MYERS BEACH

By: _____
Larry Kiker, Chair

Approved as to legal sufficiency:

ATTEST:

By: _____
Anne Dalton, Esquire
HPB/LPA Attorney

By: _____
Michelle Mayer, Town Clerk

Appendix E - Legislative Change Process

The LPA evaluated the process of making legislative changes to the Land Development Code (LDC). The results of the study have been depicted as a flow chart as well as a written description of each sub-process. The arrows in the flow chart represent the direction that work “flows” through the process. Circles are inputs, such as a change request, or outputs, such as a resolution to be sent to Town Council. Rectangle boxes are places where action or work is taking place. A diamond is a decision point that may send the workflow in different directions dependent on the decision made. A “bullet” symbol is where the workflow is on “hold” until the next action can be scheduled. Holds are not necessarily a bad thing, but they can be areas of opportunity for moving change requests through the system faster. Finding ways to reduce the number of steps in a process flow is another way to reduce the time required to make changes to our LDC.

The flow chart also indicates who is “accountable” for each process operation. “Accountability” does not mean that person is “responsible” for doing all the work. It is their job to see that the work gets done.

Future LPAs and Town Councils may want to consider ways that the legislative change process can be altered to improve process time. Until then, performance can start to be measured in order to establish a baseline. One action that has been initiated is to generate a Legislative Change Action List (LCAL). The LCAL will provide clarification of the change requests, the priority and current status. Legislative requests will be categorized into LDC change that:

1. Require policy recommendations from the LPA through workshops or ad hoc committee activities. These changes would be substantive and likely time consuming for staff, consultants and LPA, but not necessarily the highest priority.
2. Are state mandated changes and recommendations of the Evaluation and Analysis Report (EAR) that are time sensitive. These may or may not be complex, but are high priority.
3. May need to be clarified for legal reasons. Complexity and priority must be determined on an individual case.
4. Need staff time. Most of these changes are clerical in nature, but can be time consuming. Priority is often low, but need to be made visible.

The LPA will prioritize, schedule and determine a path forward for legislative change requests that fall into LCAL category 1. Accountability for categories 2 through 4 belongs to the Town Manager, with likely input from the Director of Community Development, the LPA Attorney and the Town’s Planning Consultant.

A regular approach to legislative changes allows interested parties a predictable methodology to participate in the legislative process. For example, the Florida Legislature meets on an annual basis—unless a special session is called—at the same time each year to consider changes to the laws of the State. The effective date of these laws may vary to allow for a phased approach to changes in the law that might best occur if affected parties are afforded a reasonable period of time for adjustment to the change. From time to time, the LPA may wish to establish and refine the timing aspects of its legislative process to improve manageability and predictability.

Design is the composition of elements comprising the form, plan, and spatial organization. Design may have resulted from conscious planning decisions set forth in the historic plat, project specifications, building contracts or deed restrictions, or it may be the result of the personal tastes and individual efforts of homeowners to shape their domestic environment. Integrity of design can be affected by changes. Small-scale additions may not detract in a major way from the historic character. Large-scale additions, however, alter the spatial relationship and generally threaten integrity of design.

Setting is the physical environment within and surrounding the resource. Integrity of setting requires that a strong sense of historical setting be maintained within the boundaries. This relies to a large extent on the retention of built resources, street plantings, parks and open space. Elements of design greatly affect integrity of setting, and those consistent with the historic character or dating from the period of significance add to integrity. Small-scale elements such as plantings, gateposts, fences, swimming pools, playground equipment, and parking lots detract from the integrity of setting unless they date to the period of significance.

Materials include the construction materials of dwellings, garages, roadways, walkways, fences, curbing, and other structures, as well as vegetation planted as lawns, shrubs, trees, and gardens. The presence of particular building materials (e.g., stone, stucco, brick, or horizontal siding) may be important indicators of architectural style and methods of construction that give some neighborhoods a cohesive historic character. Integrity of materials requires that the resource retains the key exterior materials that marked its identity during the historic period. The retention of original materials in individual dwellings may be less important in assessing the integrity of a neighborhood significant for its plan or landscape design. Original plant materials may enhance the integrity, but their loss does not necessarily destroy it. Vegetation similar in historic species, scale, type and visual effect will generally convey integrity of setting although integrity of materials may be lost.

Workmanship is evident in the ways materials have been fashioned for functional and decorative purposes to create houses, other buildings and structures, and a landscaped setting. This includes the treatment of materials in design, the planting and maintenance of vegetation, as well as the construction methods of small-scale features such as curbs and walls. Integrity of workmanship requires that architectural features exhibit the artistry or craftsmanship of their builders and that the vegetation historically planted for decorative and aesthetic purposes be maintained in an appropriate fashion and replaced in kind when damaged or destroyed.

Feeling, although intangible, is evoked by the presence of physical characteristics that convey the sense of past time and place. Integrity of feeling results from the cumulative effect of setting, design, materials, and workmanship.

Association is the direct link between a historic resource and the important events that shaped it. Continued residential use and community traditions, as well as the renewal of design covenants and deed restrictions, help maintain a neighborhood's integrity of association. Additions and alterations that introduce new land uses and erase historic elements of design threaten integrity. Integrity of association requires that a historic resource convey the period when it achieved importance and that, despite changing patterns of ownership, it continues to reflect the design principles and historic associations that shaped it during the historic period.

Appendix D - Historic Sign Criteria and Integrity Evaluation

The following is the a form for use by the LPA to evaluate the criteria and integrity of historic sign applications. Staff has documents that were approved by the LPA to be made available to applicants for historic signs that will explain the intent of the Comprehensive Plan and clarify for documentation that would be useful when filing an application.

Historic Sign Criteria and Integrity Evaluation Town of Fort Myers Beach

Eligibility Criteria (select one): Building District Site Structure Object

INTEGRITY CONSIDERATIONS <i>(Review all)</i>	Quality of Significance Criteria <i>(Select one)</i>				
	Events	Persons	Distinctive Characterisitics	Historical Information	Overall District Significance
Location					
Design					
Setting					
Materials					
Workmanship					
Feeling					
Association					

Eligibility Criteria

Building. A building is a structure created to shelter any form of human activity, such as a house, barn, church, hotel, or similar structure. Building may refer to a historically related complex such as a courthouse and jail or a house and barn.

Structure. A structure is a work made up of interdependent and interrelated parts in a definite pattern of organization. Constructed by man, it is often an engineering project large in scale.

Object. An object is a material thing of functional, aesthetic, cultural, historical or scientific value that may be, by nature or design, movable yet related to a specific setting or environment.

District. A district is a geographically definable area, urban or rural, possessing a significant concentration, linkage, or continuity of sites, buildings, structures, or objects united by past events or aesthetically by plan or physical development. A district may also comprise individual elements separated geographically but linked by association or history.

Site. A site is the location of a significant event, a prehistoric or historic occupation or activity, or a building or structure, whether standing, ruined, or vanished, where the location itself maintains historical or archeological value regardless of the value of any existing structure.

Quality of Significance Criteria

Events. It was associated with events that significantly contributed to broad patterns of our history.

Persons. It was associated with the lives of persons significant in our past.

Distinctive Characteristics. It embodies the distinctive characteristics of a type period, or method of construction, or possesses high artistic values, or represents a significant distinguishable entity whose components may lack individual distinction.

Historical Information. It has yielded (or may yield) information important to prehistory or history.

Integrity Considerations

Location is the place where significant activities took place. This quality requires that to a large extent the boundaries remain intact.

Appendix C – Recognition Resolutions

The following Resolution format has been used to recognize past members of the LPA.

**RESOLUTION OF THE LOCAL PLANNING AGENCY OF
THE TOWN OF FORT MYERS BEACH, FLORIDA
RESOLUTION NUMBER 2007-04**

WHEREAS, the Local Planning Agency (LPA) is mandated by Florida Statutes Section 163.3174; and

WHEREAS, the LPA was established in accordance with the requirements of the Town of Fort Myers Beach Land Development Code section 34-111 et seq.; and

WHEREAS, Section 34-113 sets forth the requirements for membership on the LPA; and

WHEREAS, Randy Brown has been a member of the LPA from April 2006 to April, 2007; and

WHEREAS, during his membership on the LPA, Randy Brown has provided exemplary service to the Town of Fort Myers Beach.

IT IS HEREBY RESOLVED BY THE LPA OF THE TOWN OF FORT MYERS BEACH, FLORIDA as follows:

RANDY BROWN IS RECOGNIZED FOR HIS HARD WORK AND DEDICATED SERVICE TO THE TOWN OF FORT MYERS BEACH. HE CREATED A POSITIVE ENVIRONMENT FOR THE LOCAL PLANNING AGENCY WHILE MAINTAINING AN ATTITUDE OF COURTESY TOWARD COLLEAGUES, CITIZENS AND STAFF DURING ALL DISCUSSIONS AND DELIBERATIONS. HE DISCHARGED HIS DUTIES WITHOUT FAVOR OR PREJUDICE WHILE RESPECTING ALL LAWS, RULES AND REGULATIONS. HIS CONTRIBUTIONS INSURE THAT THE UNIQUE AND NATURAL CHARACTERISTICS OF THE TOWN OF FORT MYERS BEACH WILL BE PRESERVED.

The foregoing Resolution was adopted upon a motion by LPA Member Simon and seconded by LPA Member Mandel. Upon being put to a vote, the result was as follows:

Tom Babcock <u>aye</u>	Alan Mandel <u>aye</u>	Dennis Weimer <u>aye</u>
Evie Barnes <u>aye</u>	Bob Raymond <u>aye</u>	
Rochelle Kay <u>aye</u>	Bob Simon <u>aye</u>	
Bob Simon <u>aye</u>		

DULY ADOPTED THIS 10TH day of APRIL 2007.
LPA of the Town of Fort Myers Beach

BY: _____
Tom Babcock, LPA Chair

Approved as to legal sufficiency:

ATTEST:

By: _____
Anne Dalton, Esquire
LPA Attorney

By: _____
Michelle D. Mayher, Town Clerk

Town of Fort Myers Beach Legislative Change Process

Overarching Principles:

- Trust is placed in the hands of those accountable for each step in the process to do their job to their best of their ability.
- Open, honest and timely communication will be maintained at all times.
- All parties in this process will be treated with respect.

Sub-Processes

A. Request Initiation

Requests to change the Land Development Code (LDC) can be initiated by: the Town Manager, the Town Council, the Local Planning Agency, a group/committee or an individual.

Process:

- Requests from the Town Manager and Town Council proceed directly to the “assign action” sub-process.
- LPA change requests are forwarded to Town Council for approval to proceed.
- All individual or group initiated LDC change requests come to the LPA for review and action. Consistency with the Comprehensive Plan will be the criteria for approving or denying requests.
- The Town Clerk handles scheduling functions with direction from the Town Manager or designee (likely the Community Development Director).

B. Assign Action

Process:

- The Town Manager or designee is accountable for the Legislative Change Action List (LCAL) with input from Planning Consultant, Staff and LPA Attorney.
- Each legislative change request will be put into a category for the purpose of prioritizing and scheduling.
- The LCAL will be reviewed at every LPA meeting.

C. Assessment

Assessment of an LDC change request can follow several paths depending on the complexity of the request and the expertise required for making recommendations. The Town Manager or designee, the Planning Consultant and the LPA Attorney, choose the process path.

Process:

- Determine whether recommendations are needed from an ad hoc or standing committee.
- Determine whether a workshop is needed.

- Workshops will include: Planning Consultant, appropriate staff, LPA Attorney, LPA members, ad hoc or advisory committees (as needed) and the public.
- Recommendations from committees and/or workshops will be documented by resolution.
- Once all recommendations have been received, drafting of the LDC change can commence and an LPA hearing scheduled.

D. LPA Hearing

Process:

- The LPA must approve or reject LDC changes or possibly suggest multiple wording options for consideration by Town Council.
- Recommendations must be consistent with the Comprehensive Land Use Plan.
- Explanation of recommendations are forwarded to Town Council by resolution.

E. Town Council Hearings

Process:

- Introduction of Ordinance
- First Hearing
- Second Hearing. Approved or denied based on consistency with the Comprehensive Land Use Plan.
- At each hearing, Council may choose to deny the change request, return it to the LPA and/or committees and/or workshop participants for rework, or table it.

F. Documentation

Process:

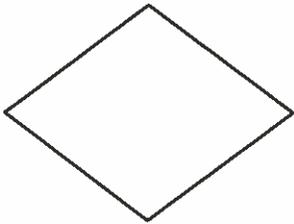
- If the ordinance is approved by Town Council, the Town Manager is accountable for seeing that appropriate steps are taken to codify and distribute changes in the Town of Fort Myers Beach Land Development Code.

Legislative Change Process for the Town of Fort Myers Beach

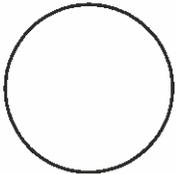
Flow Chart Symbols Used:



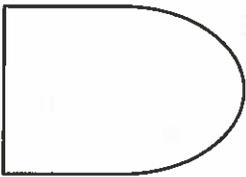
Process Operation



Decision (A Decision will have two or more directions of flow)



Input/Output



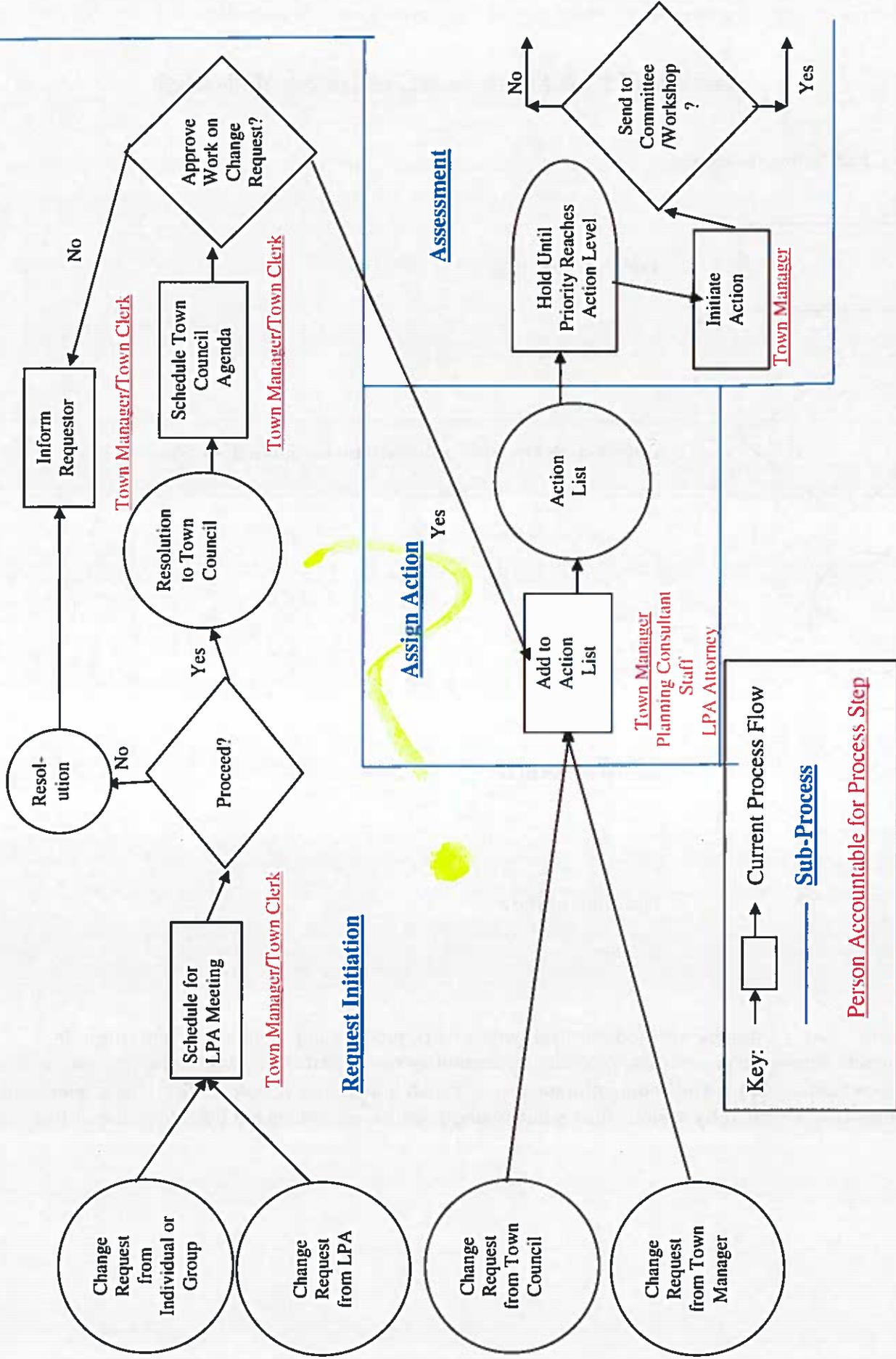
Delay/Wait/Hold



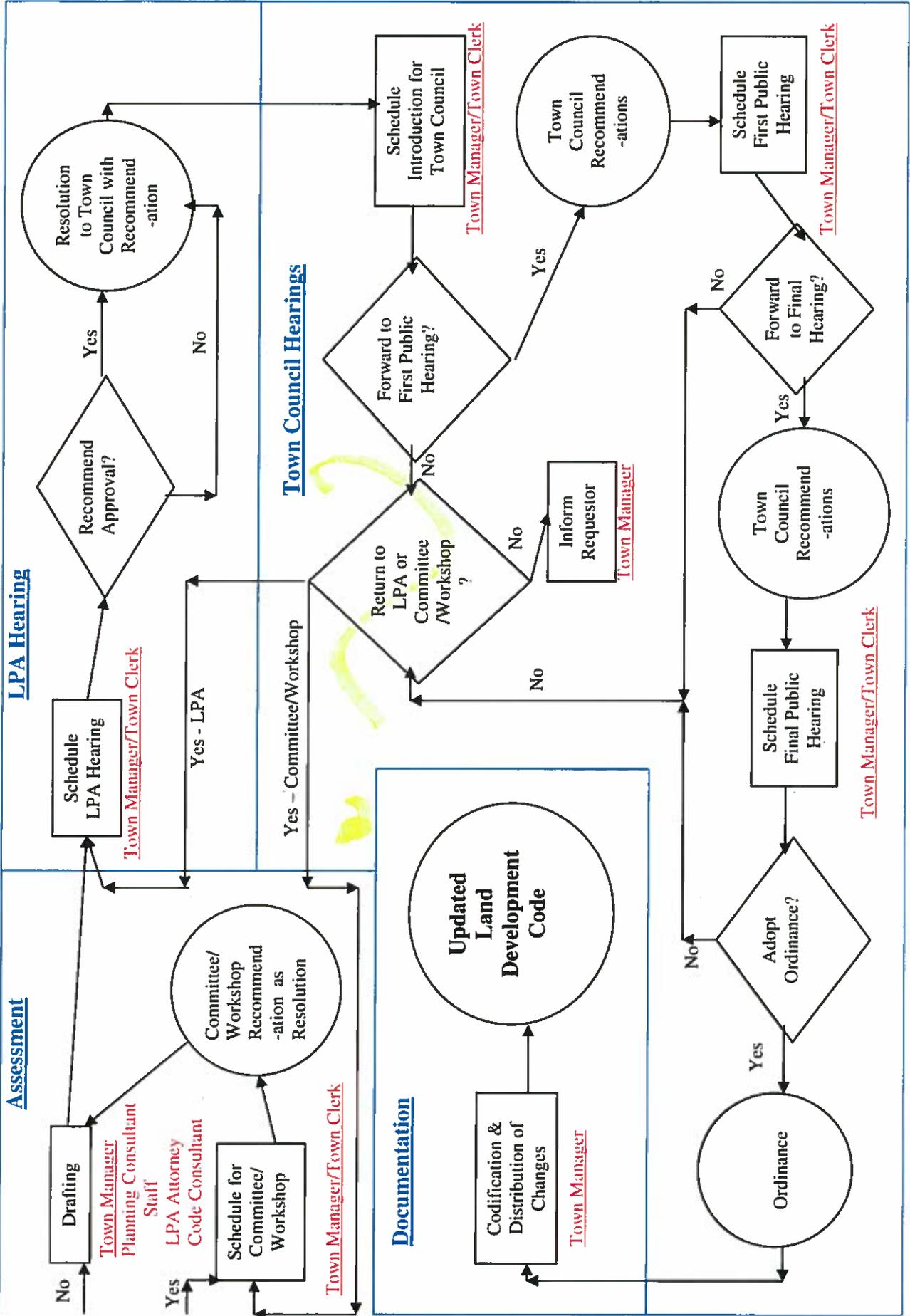
Direction of Flow

The flow chart is a graphic method for displaying a work process and sequence of activities. It graphically shows the process and potential opportunities for improvement within the process. It also identifies starting inputs and ending outputs that establish boundaries of ownership. This sequence of activities is represented by various flow chart symbols, which are connected by a direction of flow arrow.

Legislative Change Process for the Town of Fort Myers Beach



Legislative Change Process for the Town of Fort Myers Beach



F. Historic Plaque Resolution and Agreement

**RESOLUTION OF THE HISTORIC PRESERVATION BOARD OF
THE TOWN OF FORT MYERS BEACH, FLORIDA
RESOLUTION NUMBER HPB 2008-01**

A RESOLUTION OF THE HISTORIC PRESERVATION BOARD OF FORT MYERS BEACH, FLORIDA:

WHEREAS, the Local Planning Agency of the Town of Fort Myers Beach, Florida, serves as the historic preservation board for the Town of Fort Myers Beach ("HPB") pursuant to Chapter 22, Article II, Division 2, Section 22-71 and Chapter 30, Section 30-56(b) of the Land Development Code ("LDC") of the Town of Fort Myers Beach; and

WHEREAS, the HPB is vested with the power, authority and jurisdiction to designate, regulate and administer historical, cultural, archaeological, and architectural resources in the Town, pursuant to LDC Section 22-71; and

WHEREAS, the HPB has the power and duty to designate eligible historic resources, evaluate the significance and eligibility of historic resources for designation pursuant to Chapter 22 of the LDC, increase awareness of historic preservation and its community benefits by promoting public education programs, and administer programs aimed at the proper recognition of designated historic resources pursuant to LDC Section 22-74.

NOW THEREFORE, THE HISTORIC PRESERVATION BOARD RESOLVES AS FOLLOWS:

1. The HPB hereby approves the Town of Fort Myers Beach Historic Preservation Board Historic Plaque Agreement for use by the Town in the Historic Plaque Program. A copy of this Agreement is attached to this Resolution as Exhibit "A" and is hereby incorporated by reference.

The foregoing Resolution was adopted by the HPB upon a motion by _____ and second by _____. Upon being put to a vote, the result was as follows:

Thomas Babcock	_____	Bob Raymond	_____	Alan Mandel	_____
Evie Barnes	_____	Bob Simon	_____		
Rochelle Kay	_____	Dennis Weimer	_____		
Alan Mandel	_____				

DULY PASSED AND ADOPTED THIS 19th day of February, 2008, by the Historic Preservation Board of the Town of Fort Myers Beach

By: _____
Bob Raymond, HPB Chair

Approved as to Legal Sufficiency

ATTEST: _____
Michelle D. Mayher, Town Clerk

By: _____
Anne Dalton, LPA/HPB Attorney

Appendix G – Conflict of Interest Advice

Below are several points which may be of interest to the LPA Members:

1. I have an ongoing attorney-client relationship in which the attorney gives legal advice but isn't otherwise involved in my business enterprises. That firm may represent others coming before the LPA in quasi-judicial hearings which are not related to his/her representation of me.

(a) Can I participate in LPA discussions and decision-making processes where my attorney is representing a different client?

ANSWER: yes. Assuming that this is a traditional attorney-client relationship, there would be no "special private gain or loss" to the LPA member under F.S. 112.3143(4) for his/her attorney to represent someone else before the LPA. An attorney relationship, by itself, does not create a "business associate" relationship under F.S. 112.312(4). If there are other relationships between the firm and the LPA member (joint ventures, employment of a relative, etc.), that would be covered by the conflict statute.

If the attorney provided information which is covered by the ex parte disclosure sections of the Land Development Code, the LPA member would make the same ex parte disclosure as he/she would for anyone else.

Even if this were a conflict of interest, the statute requires written, advance disclosure. It does not prohibit discussion or voting at the advisory committee level.

(b) Should I disclose the existence of this attorney-client relationship at the time the hearing starts?

ANSWER: It's a good idea. It's not legally required to disclose it since it's not a conflict of interest. However, in ethical matters, it's a good idea to go the extra mile. My suggestion would be to say something like "this law firm has represented me on matters which are not related to this hearing. The LPA attorney has advised me that there's no conflict of interest here but I wanted to disclose this for the record."

2. I have an ongoing relationship with local architects, engineers and other professionals. None of these persons are involved in my business enterprises in any other capacity. Those professionals may represent other persons coming before the LPA in quasi-judicial hearings which are not related to their representation of me. Is there a conflict of interest here?

ANSWER: See #1 above.

Excerpted from LPA Attorney Anne Dalton memo dated April 28, 2008.

Voting Conflicts

Florida Statutes have very specific rules regarding voting conflicts for municipal advisory committees, boards and agencies. These rules are different for appointive offices than the rules that apply to the Town Council (elective offices).

A person holding appointive municipal public office **MUST ABSTAIN** from voting on a measure which would inure to his or her special private gain or loss. Each appointed local officer also **MUST ABSTAIN** from knowingly voting on a measure which would inure to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent, subsidiary, or sibling organization of a principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate.

Although you must abstain from voting in the situations described above, you are not prohibited by Section 112.3143, F.S., from otherwise participating in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:

- You must complete and file Form 8B, MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS (available from the Clerk's Office or State Ethics Commission), before making any attempt to influence the decision, with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes.
- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

**Town of Fort Myers Beach Local Planning Agency
Policies and Procedures Manual**

Table of Contents

1. Introduction

2. Mission and Job Description

3. Training Materials and First Meeting

- Training Materials
- Election of Officers
- Sunshine Issues

4. Historic Preservation Board

5. Ad Hoc Committees and Interaction with Other Advisory Committees

6. Meeting Preparation and Planning

- Meeting Schedule
- Length of Agenda Items
- Public Notice of LPA Quasi-Judicial Hearings
- Continued Hearings and Legislative Issues
- Meeting Preparation
- Attendance Policy
- Meetings and Communication between LPA and Town Council

7. Meeting Procedures

- LPA Code of Conduct
- LPA Code of Ethics
- Order of Agenda Items
- Invocation
- Legislative Hearing Procedures
- Procedure for Quasi-Judicial Land Use Hearing
- Voting Conflicts

8. Meeting Output

9. LPA's Role in Initiating Legislative Changes to the Land Development Code

Appendices:

- A. Resolution Requesting to Proceed with an LDC Change**
- B. Resolution HPB 2006-03 Establishing the Historic Advisory Committee**
- C. Recognition Resolution**
- D. Historic Sign Criteria and Integrity Evaluation**
- E. Legislative Change Process**
- F. Historic Plaque Resolution and Agreement**
- G. Conflict of Interest Advice**

1. Introduction

This Local Planning Agency (LPA) Policies and Procedures Manual is for the purpose of helping the LPA Members in the discharge of their duties. Experience may show that some of these policies and procedures need to be modified or eliminated and new ones adopted.

By adopting this manual, members of the LPA will find in one handy reference, answers to policy and procedure questions that come up from time to time. By having an agreed-upon guide, members of the LPA also may develop common expectations on proper conduct of LPA meetings, dealings with the public, and the way it interacts with Town staff.

This manual should be used in conjunction with the Town Charter, Comprehensive Plan, Land Development Code (LDC) and other applicable laws, as necessary.

2. Local Planning Agency Mission and Job Description

Mission: To further the welfare of the citizens of the Town by helping to promote a better, more helpful, convenient, efficient, healthy, safe community and attractive environment. To insure by strategic planning that the unique and natural characteristics of the island are preserved.

Functions, Powers and Duties:

- Review and interpret the Comprehensive Plan and conduct public hearings as may be needed to fulfill its duties under Town ordinance and Comprehensive Plan.
- Review and interpret the Land Development Code and conduct public hearings as may be needed to fulfill its duties under LDC, Town ordinance and Comprehensive Plan.
- In an advisory capacity to the Town Council, either at Town Manager's, Town Council's, or its own initiation, conduct hearings to fulfill its duties regarding zoning matters.
- Review the Capital Improvement Budget for consistency with the Comprehensive Plan and make recommendations to the Town Council.
- Serve as the Historic Preservation Board for the Town.
- Establish sub-committees as needed.
- Elect a chair and vice chair for the LPA.
- Elect a chair and vice chair for the Historic Preservation Board
- Perform any other duties that lawfully may be assigned to it by the Town Council and/or Town Manager.

LPA Member Requirements:

- Be a resident or property owner in the Town of Fort Myers Beach
- File a Statement of Financial Interests (Form 1) with the Lee County Supervisor of Elections every year.
- Complete and file Form 1F – Final Statement of Financial Interest, within 60 days of leaving office.

Desired LPA Member Qualities:

- Analytical – ability to research and analyze information and data
- Decisive
- Knowledgeable – Such as, the Town Charter, Comprehensive Plan, Land Development Code, Sunshine Laws, Ethics Laws, Parliamentary Procedure
- Communication – Listening, Speaking, Writing
- Proactive – identify and seek solutions
- Ethical - open, sincere and truthful

- Ability to work in a team environment
- Ability to work with and listen to people having diverse interests
- Fair with no strong allegiance to any individual or group
- Common sense
- Time to do the job effectively

3. Training Materials and First Meeting

Training Materials

Each new member of the Local Planning Agency will be provided copies of:

- Town Charter
- Comprehensive Plan
- Land Development Code
- Florida Code of Ethics
- Florida Sunshine Laws
- Policy and Procedures Manual
- Other materials as determined by the LPA Attorney, Community Development Director and LPA members

Election of Officers

Annually, at the first meeting of the Local Planning Agency, after expired member positions have been filled by the Town Council, a chair and vice chair will be chosen. Each LPA member may nominate a person for each of these positions. A second is not required. A vote is taken in the order that a candidate was nominated. The positions are filled by a majority vote. If a majority is not received on the first ballot, a second ballot is taken for the two candidates receiving the most votes from the first ballot.

Sunshine Issues

Members of Town advisory committees, boards, and agencies are subject to the Sunshine Law (F.S. 286.011). The same Sunshine rules that apply to Town Council apply to the members of the LPA and other Town advisory committees, boards and agencies.

This means that any gathering of two or more members of the same advisory committee, board or agency must comply with all the Sunshine Law requirements if they participate in any discussion, directly or indirectly, regarding any matter where there is known or could be foreseeable action to be taken by the committee. Examples of indirect discussions are the use of email to a committee member or communication through a spouse or other go-between.

Advisory committee members cannot engage in discussions with each other (directly or indirectly) at outside meetings such as the Chamber of Commerce or Civic Association regarding any matter on which it is known or foreseeable that action may be taken, unless the Sunshine requirements are met.

These rules apply equally to any gathering, formal or casual, such as a Rotary Club (or other business or fraternal club gathering), fund-raiser, etc. They also apply to social events and functions unconnected to the advisory committee, such as a neighbor's backyard barbeque. They also apply to casual discussions between or among members coming in the door for the committee meeting, at breaks during the meeting, and going out the door after the meeting. Every component of the decision-making process must occur in the Sunshine.

The penalties for violating the Sunshine law are severe and can include criminal and civil sanctions. The process of investigation of Sunshine violations is always unpleasant, embarrassing, and expensive, even if the person is ultimately cleared.

4. Historic Preservation Board

The LPA also functions as the Historic Preservation Board (HPB) for the Town of Fort Myers Beach. The Historic Preservation Board has the power, authority, and jurisdiction to designate, regulate, and administer historical, cultural, archaeological, and architectural resources in the Town as set forth in LDC section 22-74. For any quasi-judicial or legislative hearings that come before the HPB, the hearing process shall conform to those outlined in Section 7 of this manual.

Annually, at the first meeting of the Local Planning Agency, after expired member positions have been filled by the Town Council, a meeting of the HPB will be convened and a chair and vice chair will be chosen using the same methodology as LPA chair and vice chair election.

Also at that meeting, a sub-committee, the Historic Advisory Committee (HAC), comprised of an approximately equal number of LPA members and Estero Island Historic Society members is established. Members of the Estero Island Historic Society interested in being on the Historic Advisory Committee must submit a statement of interest to the Town Clerk prior to the first annual meeting of the LPA. This sub-committee comprised of a total of six or seven members shall be selected by the HPB.

The HAC sub-committee will meet as needed to discuss and make recommendations to be brought before the Historic Preservation Board for consideration. Recommendations will be consistent with the requirements of the Comprehensive Plan and Land Development Code. At its first meeting after re-formation, the HAC shall select a chair, vice chair and secretary.

5. Ad Hoc Sub-Committees and Interaction with Other Advisory Committees

The LPA has the authority to form other ad hoc sub-committees requesting participation by volunteers. The objectives of a sub-committee, expected products, membership and timelines should be clearly stated and agreed to by the LPA. One LPA member will be asked to chair the ad hoc sub-committee. The intent would be to minimize participation and action items directed at Staff.

A standing ad hoc sub-committee named the Historic Advisory Committee was established by Resolution 2006-03 (Appendix B).

During discussions arising from land use cases, long-range planning and capital improvement discussions, the LPA will proactively communicate to other appropriate advisory committees while keeping Town Council informed. These interactions could result in the development of joint resolutions.

6. Meeting Preparation and Planning

Meeting Schedule

Section 34-118 of the Land Development Code (LDC) states: "The local planning agency shall meet at least 8 times per year and shall meet no less often than bimonthly..." This statement was included in the LDC to emphasize that the LPA should meet regularly to conduct required Town business. Thus, as a minimum, the LPA must meet at least 8 times per year.

Reference Code of

Regularly planned meetings of the Local Planning Agency (LPA) are scheduled by mutual agreement between the LPA, LPA Attorney and Community Development Director. Special, continued or rescheduled meetings will be determined by consensus of the LPA members, the Director of the Department of Community Development and the LPA attorney.

Length of Agenda Items

In order to set reasonable LPA agendas, the Community Development Director will use best efforts to establish the time needed for presentations, public comment and subsequent discussions of agenda items by the LPA. Any person submitting Administrative topics to the Community Development Director will provide an estimate of the time needed. If the time needed for a hearing, legislative matter or administrative topic exceeds the allotted time by more than 15 minutes, the Chair may table the item until later in the meeting or continue the item until a subsequent meeting.

Public Notice of LPA Quasi-Judicial Hearings

Except as specifically addressed in the Town Land Development Code, Town Clerk shall advertise all LPA quasi-judicial hearings so that a legal notice will appear at least seven (7) calendar days prior to the LPA hearing date, to enable all interested parties to have notice and the ability to attend. The Community Development Director or designee will enter the *News-Press* Affidavit of Publication into the record at the beginning of the hearing. In the absence of the Affidavit of Publication, the Community Development Director or designee will enter a copy of the actual advertisement as run by the *News-Press* into the record at the beginning of the hearing after being sworn in. The affidavit, or actual advertisement, as the case may be, will be attached to the LPA Resolution following the hearing.

Continued Hearings and Legislative Issues

It is the goal of the LPA to complete a hearing during the scheduled meeting. If additional time is required and the hearing must be continued to a later date, any LPA member who missed the initial hearing should review the audio and/or videotapes prior to participating in the continued hearing or legislative discussion and resolution.

If the applicant submits new information or modification(s) to previously submitted information at the hearing, or immediately prior to the hearing, the LPA shall consult with the Director of the Department of Community Development and the LPA Attorney to determine if a continuance of the hearing is appropriate and proceed accordingly. Nothing contained in this section shall be construed to limit the Director's discretion to defer or continue the public hearing as set forth in LDC Section 34-213(3).

Meeting Preparation

Any LPA member, the Community Development Director, the LPA attorney, Town Council and Town Manager can submit meeting agenda topics for the LPA to the Community Development Director. Topics should be submitted at least fourteen (14) days prior to a planned meeting. The Director of the Department of Community Development and LPA attorney are responsible for scheduling hearings. Potential dates for hearings should be communicated to all participating parties as far in advance of the planned meeting as possible. All staff reports should be complete before a hearing is scheduled. Except in the case of an emergency, cancellation of a planned meeting should be at least 14 days in advance. Only under serious, extenuating circumstances should a hearing be cancelled after it has been publicly noticed.

The goal is to have finalized agenda and supporting material seven (7) days prior to a planned and

site code of ordinances

noticed meeting. However, meeting materials will be placed in the LPA members' mailboxes no later than noon of the Friday prior to the scheduled Tuesday meeting. The Community Development Director or assistant will send an email to the LPA members when the packets are available.

The LPA members' packets should include complete documentation for agenda items (actions required, implications, backup information, memos, ordinances, resolutions, etc.) A sincere effort is made to see that LPA packets are complete. As a general rule, items requiring documentation (recommendations, memos, ordinances, resolutions, etc.) will not be included on an agenda until the documentation is complete.

and on the Town's website.

The agenda is posted at Town Hall. Copies of the agenda are available to the public.

Occasionally an item comes up late and may be placed on an amended agenda, or as an "add on" (added too late to be included on the published agenda). Such additions are kept to an absolute minimum so as not to burden the LPA or the public with items not receiving sufficient advance notice. Important, potentially controversial items are not made as "add on items" except in extreme emergencies.

Attendance Policy

Section 34-115(3) of the Land Development Code (LDC) states: "A Local Planning Agency member shall forfeit office if the member is absent from three (3) regular local planning agency meetings per year without being excused by the local planning agency." This statement was included in the LDC to recognize that because of the significant pre-hearing preparation required by staff, applicants and other supporting personnel it is imperative that a quorum of the Local Planning Agency (LPA) members be present for all noticed meetings.

The LPA should be notified of a planned absence as soon as known. It is important that the LPA know that it will have a quorum of its members as soon as possible prior to an LPA meeting. The LDC implies that the LPA has the discretion to define what will be an "excused" absence. The policy of the LPA is that if an absence is reported at least fourteen (14) days prior to a planned meeting the absence will automatically be considered an excused absence. This will allow sufficient time for a planned meeting to be rescheduled if it appears that a quorum will be questionable.

Absence notification less than 14 days prior to a planned meeting is considered an "emergency." If an excused absence is desired in less than 14 days, a request must be forwarded to the Community Development Director with an explanation of the nature of the emergency. The Local Planning Agency will decide whether the request will be considered an excused absence. If the LPA or Community Development Director receives no request for an excused absence, the absence is counted as an unexcused absence.

Three unexcused absences for regularly scheduled LPA meetings will result in automatic forfeiture of office.

"Chronic" absence is defined as missing three consecutive regularly scheduled meetings or four of the last six meetings of the LPA, regardless of whether the absence is excused or unexcused. If a chronic absence occurs, the Community Development Director will be asked to send a letter to the LPA member requesting an explanation of the reasons for the chronic absence. A copy of the letter will be sent to the Town Manager and Town Council. The LPA member will be asked to forward to the Community Development Director a statement of whether the LPA member wishes to remain on the LPA. Failure to reply will automatically make all absences unexcused and grounds for forfeiture of office.

In order to provide a diverse representation, it is important that the LPA strive to have as full representation as possible when conducting the Town's business.

Meetings and Communication between LPA and Town Council

As agreed at a workshop between LPA and Town Council members in September of 2009, efforts should be made to improve communications between the Local Planning Agency and Town Council. Previous means and those adopted at the above meeting shall be:

- The LPA shall appoint and send a representative to Town council public hearings on land use and proposed ordinances which have been acted upon by the LPA. This representative shall submit brief testimony (Council should have LPA resolution and meeting minutes, unless minutes approval waived by LPA) regarding the LPA hearings on the matter.
- The LPA "Action List" as updated subsequent to LPA meetings shall be submitted to the Director of Community Development, who shall in turn transmit to each Town Council member and the Town Manager and include this list in the next LPA meeting packet.
- A quarterly meeting to be attended by the Town Manager, Town Mayor and Local Planning Agency Chairperson shall take place at 1:00 PM on the third Wednesday of each of the following months; October, January, April and July. The purpose of this meeting will be to discuss current activities of the LPA and assure these are in accordance with direction from Town Staff and Town Council, as well as convey information to Staff and Council regarding the complexities or related issues of those activities.
- Routine workshops (informational meetings) to discuss current LPA activities and Town Council understanding of those activities shall be held between all LPA members, Town Council members, Town Manager, Community Development Director and Town and LPA Attorney starting at 9:00 AM and lasting no later than noon on the first regularly scheduled LPA meeting day of April and September.

7. Meeting Procedures

LPA Code of Conduct

Recognizing that persons holding a position of public trust are under constant observation, and recognizing that maintaining the integrity and dignity of the public office is essential for maintaining high levels of public confidence in our institutions of government, every member of the Local Planning Agency pledges to adhere to the following CODE OF CONDUCT.

1. Regularly attend all scheduled meetings of the LPA as well as special or called meetings relevant to the office.
2. Prepare for each meeting.
3. Create a positive environment in meetings of the LPA.
4. Maintain an attitude of courtesy and consideration toward colleagues, citizens and staff during all discussions and deliberations.
5. Allow citizens, colleagues and staff sufficient opportunity to present their views, within the prescribed rules for conduct of meeting of the LPA.
6. Avoid the use of abusive, threatening or intimidating language or gestures directed at colleagues, citizens or staff.

7. Avoid comments, body language or distracting activity that conveys a message of disrespect and lack of interest.
8. Respect all local, state and federal laws, rules and other regulations.
9. Submit completed financial disclosure forms to the Lee County Supervisor of Elections by the specified deadline.
10. Publicly acknowledge the adopted position when asked about a decision of the LPA.

LPA Code of Ethics

Members shall ethically serve the public interest by making decisions and taking actions that will enhance the public health, safety and welfare of the region and the citizens served by the Local Planning Agency and by promoting public confidence in the integrity, independence, ability and impartiality of the LPA.

1. Members shall uphold the prestige of their office and avoid impropriety and the appearance of impropriety.
2. Members shall not convey the impression that they are in a position to influence the outcome of a decision of the LPA and shall not attempt to use their office to influence or sway the professional staff recommendation.
3. Members shall discharge their duties and responsibilities without favor or prejudice toward any person or group. Members shall not allow personal or business relationships to impact upon their conduct or decisions in connection with LPA business and shall not lend their influence towards the advancement of personal interests or towards the advancement of the interests of friends or business associates.
4. Members shall avoid creating the appearance of impropriety by following the requirements of the Land Development Code with regard to ex parte about specific upcoming LPA quasi-judicial hearings. If a Member receives a private written or electronic communication about an upcoming LPA quasi-judicial hearing, the Member will promptly forward the information to the Town Clerk, with a copy to the Director of the Community Development Department and the LPA Attorney so that it may be shared with all other Members as part of the agenda packet for that hearing. Members shall refrain from any private discussion of LPA business with other Members if required by Florida's Government-in-the-Sunshine Law, Chapter 286, Florida Statutes.
5. Members shall not accept or solicit a gift, loan, payment, favor, service, promise of employment or business contract, meal, transportation or anything else of value, if such thing is given with the understanding or possibility that it will influence the official action of the Members during LPA proceedings. The same standard shall apply to a gift, loan, favor, etc. for the spouse, child, relative or business partner of the Member.
6. Members should refrain from participation in any proceeding in which their impartiality may reasonably be questioned. A Member whose personal, employment or business relationship with a person or entity that is subject to a recommendation of the LPA shall seek the advice and counsel of the LPA Attorney, if such relationship could conceivably influence the Member's impartiality during the LPA's discussion of the subject. The provisions of Chapter 112, Florida Statutes, and the Code of Ethics for Public Officers and Employees, shall govern conflict of interest determination.
7. Members shall remain vigilant against deviations from LPA policies and mission statement.

As a legislative and quasi-judicial body, the LPA must be ever cognizant of the important legal requirements of due process and equal protection. These principles are derived from the United States Constitution, the Constitution of the State of Florida, and Florida Statutes, and apply to legislative and quasi-judicial actions.

The legal requirement for due process is separated into two prongs: substantive due process and procedural due process. The principle of substantive due process requires the benefits of a given

regulation be within the scope of governmental authority, i.e., health, safety, morals, or general welfare, and that the regulations be accomplished in a rational manner, i.e., not be arbitrary or capricious. This is a principle of fundamental fairness in the substance of a given regulatory scheme or provision.

The other due process prong, procedural due process, requires a fair method of adjudicating the rights of property owners, requiring notice and an opportunity to be heard by an impartial decision maker. In legislative matters, this requirement is derived from Florida Statutes, which provide the type and period of notice depending on the nature of the property interest subject to regulation at a public hearing. Quasi-judicial decisions have an underlying Constitutional requirement for procedural due process.

Equal protection limits governmental regulation from establishing irrational classifications, protects the rights of suspect and quasi-suspect classes, and assures against the exercise of fundamental or important rights of persons in ways different from others.

Key overarching principles to keep in mind ^{sure} is that every person must be treated equally and reasonably by the quasi-judicial or legislative substance and process and that decisions and recommendations be deliberated in an open process with adequate notice and allowance for participation of affected parties. Reasonable, consistent, and timely notifications in quasi-judicial matters to be heard by the LPA provide an applicant and other parties potentially affected by a requested decision these fundamental protections.

Order of Agenda Items

The general order of the agenda will proceed as follows. However, the procedures will differ depending on what type of hearings ^{are} is being held.

1. Call To Order – Identify for the record the committee that is meeting, the date of the meeting and who is present.
2. Pledge of Allegiance
3. Invocation
4. Approval of Minutes – Requires a motion and vote.
5. Public Hearings – Public Comment will be included as part of the hearing
6. Administrative Agenda – Topics submitted by LPA members, staff, LPA Attorney or items from previous agendas
7. Adjourn as LPA; Reconvene as Historic Preservation Board (HPB)
8. Adjourn as HPB; Reconvene as LPA
9. LPA Members Items and Reports
10. LPA Attorney Items
11. Community Development Director Items
12. Action List Review
13. Public Comment
14. Adjournment – Requires a motion and vote. A privileged motion allowing no discussion before vote.

Invocation

The Chair of the LPA has the discretion of deciding how the Invocation at the beginning of an LPA meeting is handled. However, there is a tradition that has been followed by many LPA's. At the first LPA meeting on April 9, 1996, Chair John Mulholland read an invocation that he had written while Commander of the Power Squadron. Betty Simpson, who was Vice Chair at that time, has carried John's invocation to each subsequent LPA. The Chair has either read the invocation or different LPA members have been asked or volunteered to read the invocation. The invocation reads as follows:

Heavenly Father, we ask that you bless us with your presence here today.

Grant to us the wisdom to see all things in true perspective.

Should be God How Country

Grant to us the patience to hear one another with open minds and hearts.
Grant us the strength to meet all present challenges.
May all that we do this day, bring honor to you and credit to ourselves. Amen.

Conduct of LPA Meetings

The Chair will conduct the LPA meetings, and in the Chair's absence by the Vice Chair.

Robert's Rules of Order shall be the reference for parliamentary procedure governing the conduct of the LPA meetings when not in conflict with the Town Charter or Florida Statutes. It is not intended that LPA meetings be unnecessarily formalistic, but rather that parliamentary procedure be invoked only when necessary for orderly conduct of the meeting.

The approval of the minutes is intended for LPA members to accurately document the proceedings of the Agency. Before moving approval the minutes should be amended, if necessary, to more accurately portray what occurred at the LPA meeting. This time is not intended for comment or discussion on what should have or should not have been done, but rather to document what actually was done. Audiotapes of the proceedings become the official record of what transpired during a meeting.

When the Chair recognizes a speaker during public comment, they will advance to the podium and state their name for the public record. Public comments will generally be limited to three minutes per speaker. The Chair may modify the three-minute limit with approval by majority vote of the LPA. If a special interest group would prefer to have one person speak for a group of individuals in attendance their allotted times can be combined up to a maximum of 15 minutes. This process could save meeting time if the content of what each person of a special interest group intends to say is similar. It could also allow more time for a presentation containing detailed facts and data. If a special interest group chooses to have a spokesperson represent them, request cards having the names and addresses of all individuals present must be provided prior to the meeting. The public comment times are intended as opportunities for interested parties to present their viewpoints to the LPA members; they are not intended as question-and-answer sessions or as dialog with the LPA.

After a proper motion, discussion by the LPA members shall be limited to agenda items. No member will speak twice on the item until all others who want to speak have spoken.

The time period for LPA members' comments is intended as an opportunity for LPA members to share their viewpoints with each other. Since this opportunity does not exist outside of LPA meetings under the Florida Sunshine Law, this is the primary purpose of this time and it generally should not be used to obtain information from the Community Development Director or Town Attorney which could be obtained outside of the LPA meeting. While there is no time limit or censorship on comments, LPA members should take into consideration the total time available in the meeting for the published agenda.

Legislative Hearing Procedures

1. The Chair opens the hearing on.....
2. Staff presents Affidavit of Publication or copy of the legal advertisement from the Newspaper of Record which shall become an exhibit to the Hearing's resulting Resolution.
3. The Chair or the LPA Attorney reads the ordinance caption.
4. Staff and/or the LPA attorney present(s) a brief overview of the ordinance.
5. Public input is taken.
6. Public input is closed.
7. LPA members ask questions, if any, of staff/LPA attorney.
8. LPA members discuss ordinance, including changes, deletions, etc.

9. A Motion is made and seconded to either move the Ordinance forward to Town Council as-is or with modifications, or to take some other action. The LPA's recommendation is set forth in an LPA Resolution which is provided to Town Council at the time of Council's consideration of the Ordinance.
10. The Motion is discussed and voted upon. If successful, the Chair declares the hearing on the ordinance to be concluded. If not successful, further motions(s) are made until one passes.

Notes:

- There is no ex parte disclosure requirement for legislative hearings.
- Members of the public are not sworn in.
- Generally there is no discussion between the LPA and public.

Procedure for Quasi-Judicial Land Use Hearing

1. The Chair opens the hearing on
2. The LPA Attorney swears in all witnesses.
3. Staff presents Affidavit of Publication or copy of the legal advertisement from the Newspaper of Record which shall become an exhibit to the Hearing's resulting Resolution.
4. The Chair asks if any LPA member has had an ex parte communication regarding this matter. This includes any site visit, receipt of expert opinion, conducting of investigations, discussions with any person, or any direct or indirect communication in any form with any person outside a public hearing and not on the record.
5. The applicant presents its case and LPA asks questions.
6. Staff presents its case and LPA asks questions.
7. Public comment/testimony is opened.
 - After public testimony/comment is concluded, the Chair closes public comment/testimony.
8. Applicant presents rebuttal, if any.
9. Staff presents rebuttal, if any.
10. The testimony portion of the hearing is closed.
11. LPA discussion.
12. Request for a motion on the resolution.
13. LPA votes on a resolution regarding the application.

Voting Conflicts

Florida Statute ^{statutes have} has very specific rules regarding voting conflicts and municipal advisory committees, boards and agencies. These rules are different from the rules that apply to the Council.

If an LPA member has a voting conflict, he/she must disclose that conflict in writing to Town staff prior to the meeting in question and this disclosure must be publicly read. A form is available from the Town Clerk. The rules also contain an exception for disclosure at the meeting itself. The committee member is permitted to participate in the discussion and vote on the subject. The specific rules are set out in F.S. 112.3145(4), quoted below:

(4) No **appointed** public officer shall participate in any matter which would inure to the officer's special private gain or loss; which the officer knows would inure to the special private gain or loss of any principal by who he or she is retained or to the parent organization or subsidiary of a corporate principal by which he or she is retained; or which he or she knows would inure to the

not all hearings have affidavit

non attached

special private gain or loss of a relative or business associate of the public officer, **without first disclosing the nature of his or her interest in the matter.**

(a) Such disclosure, indication the nature of the conflict, shall be made in a written memorandum filed with the person responsible for recording the minutes of the meeting, **prior to the meeting** in which consideration of the matter will take place, and shall be incorporated into the minutes. Any such memorandum shall become a public record upon filing, shall immediately be provided to the other members of the agency, and shall be read publicly at the next meeting held subsequent to the filing of this written memorandum.

(b) In the event that disclosure has not been made prior to the meeting or that any conflict is unknown prior to the meeting, the disclosure shall be made orally **at the meeting** when it becomes known that a conflict exists. A written memorandum disclosing the nature of the conflict shall then be filed within 15 days after the oral disclosure with the person responsible for recording the minutes of the meeting and shall be incorporated into the minutes of the meeting at which the oral disclosure was made. Any such memorandum shall become public record upon filing, shall immediately be provided to the other members of the agency, and shall be read publicly at the next meeting held subsequent to the filing of this written memorandum.

(c) For purposes of this subsection, the term "participate" means any attempt to influence the decision by oral or written communication, whether made by the officer or at the officer's direction.

Perceived conflicts of interest can be as detrimental to public trust as real conflicts. In an attempt to aid LPA members' manage such perceptions, the LPA Attorney has prepared advice regarding frequent situations in which LPA members find themselves. These are found in Appendix G.

NOTE: F.S. 112.3143(b) defines "relative" as follows: "any father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, or daughter-in-law."

8. LPA Meeting Output

The primary responsibility of the LPA is to provide recommendations to the Town Council regarding comprehensive planning policies, land development code regulations, zoning matters and make decisions regarding historic preservation opportunities.

LPA output to the Town Council will include the following at the discretion of the LPA:

A. Quasi-Judicial Hearing:

1. A signed resolution of findings of fact and conclusions from the LPA hearing.
2. LPA approved minutes providing a summary of:
 - a. Testimony by applicants, their attorneys, Town and/or County staff, the LPA attorney, witnesses and people who offer public comment, and
 - b. Issues raised by LPA members with subsequent discussion content including clarifications, conclusions and agreements, and Motions and votes by LPA.
3. One or more members of the LPA will attend the Town Council meeting in order to provide clarification on their recommendations and to answer inquiries.

B. Legislative Hearing:

1. A signed resolution of findings of fact and conclusions from the LPA hearing.
2. LPA approved minutes.

copy (A) to replace

Voting Conflicts

Florida Statutes have very specific rules regarding voting conflicts for municipal advisory committees, boards and agencies. These rules are different for appointive offices than the rules that apply to the Town Council (elective offices).

A person holding appointive municipal public office **MUST ABSTAIN** from voting on a measure which would inure to his or her special private gain or loss. Each appointed local officer also **MUST ABSTAIN** from knowingly voting on a measure which would inure to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent, subsidiary, or sibling organization of a principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate.

Although you must abstain from voting in the situations described above, you are not prohibited by Section 112.3143, F.S., from otherwise participating in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:

- You must complete and file Form 8B, MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS (available from the Clerk's Office or State Ethics Commission), before making any attempt to influence the decision, with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes.
- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

3. One or more members of the LPA will use best efforts to attend the Town Council meeting in order to provide clarification on their recommendations and to answer inquiries.

These LPA outputs must be available before the first Town Council hearing on an issue. However, at the discretion of the LPA exceptions may be made in emergency situations. Minutes from hearings will normally be approved at the subsequent LPA meeting. A "fast-tracked" hearing may have the minutes waived for the Town Council hearing at the discretion of the LPA.

It is noted that audio and /or video recordings of LPA meetings may be available for public, LPA, or Town Council review should clarification, additional understanding of discussions, or for finding errors or omissions.

On a regular basis, as often as monthly, the LPA will submit to the Town Council a synopsis of accomplishments and any issues that might be of interest. As needed, a request will be made to address Town Council.

9. LPA's Role in Initiating Legislative Changes to the Land Development Code

In the course of performing its duties, the LPA is made aware of legislative issues that could be considered as amendments to the Land Development Code. Before initiating a request for support from Town Staff, the LPA attorney and/or our Planning Consultant to pursue potential LDC amendments, a resolution will be sent to Council requesting their approval to proceed. The format to be used is included in Appendix A and can be modified without re-approving the Policies and Procedure Manual.

The Town of Fort Myers Beach Local Planning Agency Policies and Procedures Manual was adopted on ~~February 27, 2007. Revised May 15, 2007. Revised March 18, 2008. Revised September 9, 2008. Revised January 27, 2009. Revised June 23, 2009. Revised September 17, 2009. Revised September 29, 2009.~~

was reviewed and reaffirmed on _____, Date.

**Appendix A – Sample Resolution Requesting to Proceed with an LDC Change
FORT MYERS BEACH, FLORIDA
RESOLUTION NUMBER 20__-__**

WHEREAS, the Local Planning Agency (LPA) is mandated by Florida Statutes Section 163.3174; and

WHEREAS, the LPA is statutorily responsible for the review of proposed land development regulations, land development codes, or amendments thereto, and for making recommendations to the Town Council as to the consistency of such proposals with the adopted Comprehensive Plan (Plan); and

WHEREAS, Section 34-120(4) of the Town Land Development Code (LDC) states that the LPA will review proposed LDC amendments and make recommendations to the Town Council regarding their consistency with the Plan, and

WHEREAS, Section 34-120 (12) of the LDC states that the LPA will aid Town officials charged with the direction of projects or improvements embraced within the Plan and generally promote the realization of the Plan; and

WHEREAS, Section 34-120 (14) of the LDC states that the LPA will perform any other duties which lawfully may be assigned to it by Town Council; and

WHEREAS, the Town Council determined at its meeting of October 9, 2006, that prior to the LPA's initiation of any proposed LDC changes, the LPA must inquire of the Town Council whether the Town Council wished to have such legislative changes initiated by the LPA.

IT IS HEREBY RESOLVED BY THE LPA OF THE TOWN OF FORT MYERS BEACH, FLORIDA as follows:

1. At its regularly scheduled meeting(s) of _____, 20__, the LPA determined that it wishes to initiate legislation on the following subject(s): _____

2. The LPA hereby requests direction from the Town Council as to whether the Town Council wishes to have the LPA initiate legislative changes to the LDC on such subjects.

The foregoing Resolution was adopted by the LPA upon a motion by LPA Member _____ and seconded by LPA Member _____, and upon being put to a vote, the result was as follows:

Name _____	Name _____

DULY PASSED AND ADOPTED THIS ____ day of _____, 20__.

LPA of the Town of Fort Myers Beach

By: _____
Name, LPA Chair

Approved as to legal sufficiency:

ATTEST:

By: _____
Name, Esquire, LPA Attorney

By: _____
Name, Town Clerk

Appendix B - Resolution HPB 2006-03 Establishing the Historic Advisory Committee

**RESOLUTION OF THE HISTORIC PRESERVATION BOARD OF
THE TOWN OF FORT MYERS BEACH, FLORIDA
RESOLUTION NUMBER HPB 2006-03**

**A RESOLUTION OF THE HISTORIC PRESERVATION BOARD OF FORT MYERS BEACH,
FLORIDA:**

WHEREAS, the Local Planning Agency of the Town of Fort Myers Beach, Florida, serves as the historic preservation board for the Town of Fort Myers Beach ("HPB") pursuant to Chapter 22, Article II, Division 2, Section 22-71 and Chapter 30, Section 30-56(b) of the Land Development Code ("LDC") of the Town of Fort Myers Beach; and

WHEREAS, the HPB is vested with the power, authority and jurisdiction to designate, regulate and administer historical, cultural, archaeological, and architectural resources in the Town, pursuant to LDC Section 22-71; and

WHEREAS, the HPB has the power and duty to designate eligible historic resources, evaluate the significance and eligibility of historic resources for designation pursuant to Chapter 22 of the LDC, increase awareness of historic preservation and its community benefits by promoting public education programs, and administer programs aimed at the proper recognition of designated historic resources pursuant to Section 22-74 of the LDC; and

WHEREAS, the HPB has the power to create an advisory committee to assist the HPB with historic preservation matters and to charge such committee with various and sundry duties; and

WHEREAS, this advisory committee will have no quasi-judicial or legislative powers but rather will function in an informal advisory capacity to the HPB; and

WHEREAS, the advisory committee will be subject to the Sunshine and Public Records Laws of the State of Florida.

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

The Historic Preservation Board does hereby create the Fort Myers Beach Historical Advisory Committee (FMBHAC), with the following restrictions:

- 1. The FMBHAC shall be subject to the Sunshine and Public Records Laws of the State of Florida.**
- 2. The FMBHAC will be comprised of seven (7) members appointed by the HPB, all of whom shall be residents, business owners, or property owners within the Town of Fort Myers Beach.**
- 3. Three (3) members of FMBHAC shall be current members of the HPB and four (4) members shall be appointed by the HPB after due consideration of recommendations by the Estero Island Historic Society.**

4. The FMBHAC shall meet on an as-needed basis, keep its own minutes, and hold all meetings at Town Hall.
5. The HPB shall appoint all initial members of FMBHAC no later than the first meeting of the HPB in October, 2006. Thereafter, commencing with June, 2007, the HPB shall appoint all members of FMBHAC on an annual basis at the first meeting of the HPB in June.

The foregoing Resolution was adopted by the Historic Preservation Board upon a vote following motion by Board member Tom Babcock and second by Board member Bob Raymond, the result of which was as follows:

Tom Babcock	aye
Randy Brown	aye
Rochelle Kay	absent
Larry Kiker	aye
Alan Mandel	aye
Bob Raymond	aye
Bob Simon	absent

DULY PASSED AND ADOPTED THIS 12th day of September, 2006.

HISTORIC PRESERVATION BOARD OF THE
TOWN OF FORT MYERS BEACH

By: _____
Larry Kiker, Chair

Approved as to legal sufficiency:

ATTEST:

By: _____
Anne Dalton, Esquire
HPB/LPA Attorney

By: _____
Michelle Mayer, Town Clerk

Appendix E - Legislative Change Process

The LPA evaluated the process of making legislative changes to the Land Development Code (LDC). The results of the study have been depicted as a flow chart as well as a written description of each sub-process. The arrows in the flow chart represent the direction that work “flows” through the process. Circles are inputs, such as a change request, or outputs, such as a resolution to be sent to Town Council. Rectangle boxes are places where action or work is taking place. A diamond is a decision point that may send the workflow in different directions dependent on the decision made. A “bullet” symbol is where the workflow is on “hold” until the next action can be scheduled. Holds are not necessarily a bad thing, but they can be areas of opportunity for moving change requests through the system faster. Finding ways to reduce the number of steps in a process flow is another way to reduce the time required to make changes to our LDC.

The flow chart also indicates who is “accountable” for each process operation. “Accountability” does not mean that person is “responsible” for doing all the work. It is their job to see that the work gets done.

Future LPAs and Town Councils may want to consider ways that the legislative change process can be altered to improve process time. Until then, performance can start to be measured in order to establish a baseline. One action that has been initiated is to generate a Legislative Change Action List (LCAL). The LCAL will provide clarification of the change requests, the priority and current status. Legislative requests will be categorized into LDC change that:

1. Require policy recommendations from the LPA through workshops or ad hoc committee activities. These changes would be substantive and likely time consuming for staff, consultants and LPA, but not necessarily the highest priority.
2. Are state mandated changes and recommendations of the Evaluation and Analysis Report (EAR) that are time sensitive. These may or may not be complex, but are high priority.
3. May need to be clarified for legal reasons. Complexity and priority must be determined on an individual case.
4. Need staff time. Most of these changes are clerical in nature, but can be time consuming. Priority is often low, but need to be made visible.

The LPA will prioritize, schedule and determine a path forward for legislative change requests that fall into LCAL category 1. Accountability for categories 2 through 4 belongs to the Town Manager, with likely input from the Director of Community Development, the LPA Attorney and the Town’s Planning Consultant.

A regular approach to legislative changes allows interested parties a predictable methodology to participate in the legislative process. For example, the Florida Legislature meets on an annual basis—unless a special session is called—at the same time each year to consider changes to the laws of the State. The effective date of these laws may vary to allow for a phased approach to changes in the law that might best occur if affected parties are afforded a reasonable period of time for adjustment to the change. From time to time, the LPA may wish to establish and refine the timing aspects of its legislative process to improve manageability and predictability.

Design is the composition of elements comprising the form, plan, and spatial organization. Design may have resulted from conscious planning decisions set forth in the historic plat, project specifications, building contracts or deed restrictions, or it may be the result of the personal tastes and individual efforts of homeowners to shape their domestic environment. Integrity of design can be affected by changes. Small-scale additions may not detract in a major way from the historic character. Large-scale additions, however, alter the spatial relationship and generally threaten integrity of design.

Setting is the physical environment within and surrounding the resource. Integrity of setting requires that a strong sense of historical setting be maintained within the boundaries. This relies to a large extent on the retention of built resources, street plantings, parks and open space. Elements of design greatly affect integrity of setting, and those consistent with the historic character or dating from the period of significance add to integrity. Small-scale elements such as plantings, gateposts, fences, swimming pools, playground equipment, and parking lots detract from the integrity of setting unless they date to the period of significance.

Materials include the construction materials of dwellings, garages, roadways, walkways, fences, curbing, and other structures, as well as vegetation planted as lawns, shrubs, trees, and gardens. The presence of particular building materials (e.g., stone, stucco, brick, or horizontal siding) may be important indicators of architectural style and methods of construction that give some neighborhoods a cohesive historic character. Integrity of materials requires that the resource retains the key exterior materials that marked its identity during the historic period. The retention of original materials in individual dwellings may be less important in assessing the integrity of a neighborhood significant for its plan or landscape design. Original plant materials may enhance the integrity, but their loss does not necessarily destroy it. Vegetation similar in historic species, scale, type and visual effect will generally convey integrity of setting although integrity of materials may be lost.

Workmanship is evident in the ways materials have been fashioned for functional and decorative purposes to create houses, other buildings and structures, and a landscaped setting. This includes the treatment of materials in design, the planting and maintenance of vegetation, as well as the construction methods of small-scale features such as curbs and walls. Integrity of workmanship requires that architectural features exhibit the artistry or craftsmanship of their builders and that the vegetation historically planted for decorative and aesthetic purposes be maintained in an appropriate fashion and replaced in kind when damaged or destroyed.

Feeling, although intangible, is evoked by the presence of physical characteristics that convey the sense of past time and place. Integrity of feeling results from the cumulative effect of setting, design, materials, and workmanship.

Association is the direct link between a historic resource and the important events that shaped it. Continued residential use and community traditions, as well as the renewal of design covenants and deed restrictions, help maintain a neighborhood's integrity of association. Additions and alterations that introduce new land uses and erase historic elements of design threaten integrity. Integrity of association requires that a historic resource convey the period when it achieved importance and that, despite changing patterns of ownership, it continues to reflect the design principles and historic associations that shaped it during the historic period.

Appendix D - Historic Sign Criteria and Integrity Evaluation

The following is the a form for use by the LPA to evaluate the criteria and integrity of historic sign applications. Staff has documents that were approved by the LPA to be made available to applicants for historic signs that will explain the intent of the Comprehensive Plan and clarify for documentation that would be useful when filing an application.

Historic Sign Criteria and Integrity Evaluation Town of Fort Myers Beach

Eligibility Criteria (select one): Building District Site Structure Object

INTEGRITY CONSIDERATIONS <i>(Review all)</i>	Quality of Significance Criteria <i>(Select one)</i>				
	Events	Persons	Distinctive Characterisitics	Historical Information	Overall District Significance
Location					
Design					
Setting					
Materials					
Workmanship					
Feeling					
Association					

Eligibility Criteria

Building. A building is a structure created to shelter any form of human activity, such as a house, barn, church, hotel, or similar structure. Building may refer to a historically related complex such as a courthouse and jail or a house and barn.

Structure. A structure is a work made up of interdependent and interrelated parts in a definite pattern of organization. Constructed by man, it is often an engineering project large in scale.

Object. An object is a material thing of functional, aesthetic, cultural, historical or scientific value that may be, by nature or design, movable yet related to a specific setting or environment.

District. A district is a geographically definable area, urban or rural, possessing a significant concentration, linkage, or continuity of sites, buildings, structures, or objects united by past events or aesthetically by plan or physical development. A district may also comprise individual elements separated geographically but linked by association or history.

Site. A site is the location of a significant event, a prehistoric or historic occupation or activity, or a building or structure, whether standing, ruined, or vanished, where the location itself maintains historical or archeological value regardless of the value of any existing structure.

Quality of Significance Criteria

Events. It was associated with events that significantly contributed to broad patterns of our history.

Persons. It was associated with the lives of persons significant in our past.

Distinctive Characteristics. It embodies the distinctive characteristics of a type period, or method of construction, or possesses high artistic values, or represents a significant distinguishable entity whose components may lack individual distinction.

Historical Information. It has yielded (or may yield) information important to prehistory or history.

Integrity Considerations

Location is the place where significant activities took place. This quality requires that to a large extent the boundaries remain intact.

Appendix C – Recognition Resolutions

The following Resolution format has been used to recognize past members of the LPA.

**RESOLUTION OF THE LOCAL PLANNING AGENCY OF
THE TOWN OF FORT MYERS BEACH, FLORIDA
RESOLUTION NUMBER 2007-04**

WHEREAS, the Local Planning Agency (LPA) is mandated by Florida Statutes Section 163.3174; and

WHEREAS, the LPA was established in accordance with the requirements of the Town of Fort Myers Beach Land Development Code section 34-111 et seq.; and

WHEREAS, Section 34-113 sets forth the requirements for membership on the LPA; and

WHEREAS, Randy Brown has been a member of the LPA from April 2006 to April, 2007; and

WHEREAS, during his membership on the LPA, Randy Brown has provided exemplary service to the Town of Fort Myers Beach.

IT IS HEREBY RESOLVED BY THE LPA OF THE TOWN OF FORT MYERS BEACH, FLORIDA as follows:

RANDY BROWN IS RECOGNIZED FOR HIS HARD WORK AND DEDICATED SERVICE TO THE TOWN OF FORT MYERS BEACH. HE CREATED A POSITIVE ENVIRONMENT FOR THE LOCAL PLANNING AGENCY WHILE MAINTAINING AN ATTITUDE OF COURTESY TOWARD COLLEAGUES, CITIZENS AND STAFF DURING ALL DISCUSSIONS AND DELIBERATIONS. HE DISCHARGED HIS DUTIES WITHOUT FAVOR OR PREJUDICE WHILE RESPECTING ALL LAWS, RULES AND REGULATIONS. HIS CONTRIBUTIONS INSURE THAT THE UNIQUE AND NATURAL CHARACTERISTICS OF THE TOWN OF FORT MYERS BEACH WILL BE PRESERVED.

The foregoing Resolution was adopted upon a motion by LPA Member Simon and seconded by LPA Member Mandel. Upon being put to a vote, the result was as follows:

Tom Babcock <u>aye</u>	Alan Mandel <u>aye</u>	Dennis Weimer <u>aye</u>
Evie Barnes <u>aye</u>	Bob Raymond <u>aye</u>	
Rochelle Kay <u>aye</u>	Bob Simon <u>aye</u>	
Bob Simon <u>aye</u>		

DULY ADOPTED THIS 10TH day of APRIL 2007.
LPA of the Town of Fort Myers Beach

BY: _____
Tom Babcock, LPA Chair

Approved as to legal sufficiency:

ATTEST:

By: _____
Anne Dalton, Esquire
LPA Attorney

By: _____
Michelle D. Mayher, Town Clerk

Town of Fort Myers Beach Legislative Change Process

Overarching Principles:

- Trust is placed in the hands of those accountable for each step in the process to do their job to their best of their ability.
- Open, honest and timely communication will be maintained at all times.
- All parties in this process will be treated with respect.

Sub-Processes

A. Request Initiation

Requests to change the Land Development Code (LDC) can be initiated by: the Town Manager, the Town Council, the Local Planning Agency, a group/committee or an individual.

Process:

- Requests from the Town Manager and Town Council proceed directly to the “assign action” sub-process.
- LPA change requests are forwarded to Town Council for approval to proceed.
- All individual or group initiated LDC change requests come to the LPA for review and action. Consistency with the Comprehensive Plan will be the criteria for approving or denying requests.
- The Town Clerk handles scheduling functions with direction from the Town Manager or designee (likely the Community Development Director).

B. Assign Action

Process:

- The Town Manager or designee is accountable for the Legislative Change Action List (LCAL) with input from Planning Consultant, Staff and LPA Attorney.
- Each legislative change request will be put into a category for the purpose of prioritizing and scheduling.
- The LCAL will be reviewed at every LPA meeting.

C. Assessment

Assessment of an LDC change request can follow several paths depending on the complexity of the request and the expertise required for making recommendations. The Town Manager or designee, the Planning Consultant and the LPA Attorney, choose the process path.

Process:

- Determine whether recommendations are needed from an ad hoc or standing committee.
- Determine whether a workshop is needed.

- Workshops will include: Planning Consultant, appropriate staff, LPA Attorney, LPA members, ad hoc or advisory committees (as needed) and the public.
- Recommendations from committees and/or workshops will be documented by resolution.
- Once all recommendations have been received, drafting of the LDC change can commence and an LPA hearing scheduled.

D. LPA Hearing

Process:

- The LPA must approve or reject LDC changes or possibly suggest multiple wording options for consideration by Town Council.
- Recommendations must be consistent with the Comprehensive Land Use Plan.
- Explanation of recommendations are forwarded to Town Council by resolution.

E. Town Council Hearings

Process:

- Introduction of Ordinance
- First Hearing
- Second Hearing. Approved or denied based on consistency with the Comprehensive Land Use Plan.
- At each hearing, Council may choose to deny the change request, return it to the LPA and/or committees and/or workshop participants for rework, or table it.

F. Documentation

Process:

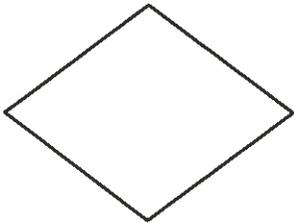
- If the ordinance is approved by Town Council, the Town Manager is accountable for seeing that appropriate steps are taken to codify and distribute changes in the Town of Fort Myers Beach Land Development Code.

Legislative Change Process for the Town of Fort Myers Beach

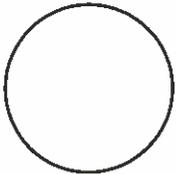
Flow Chart Symbols Used:



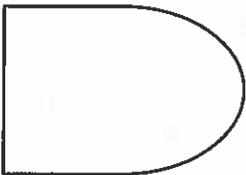
Process Operation



Decision (A Decision will have two or more directions of flow)



Input/Output



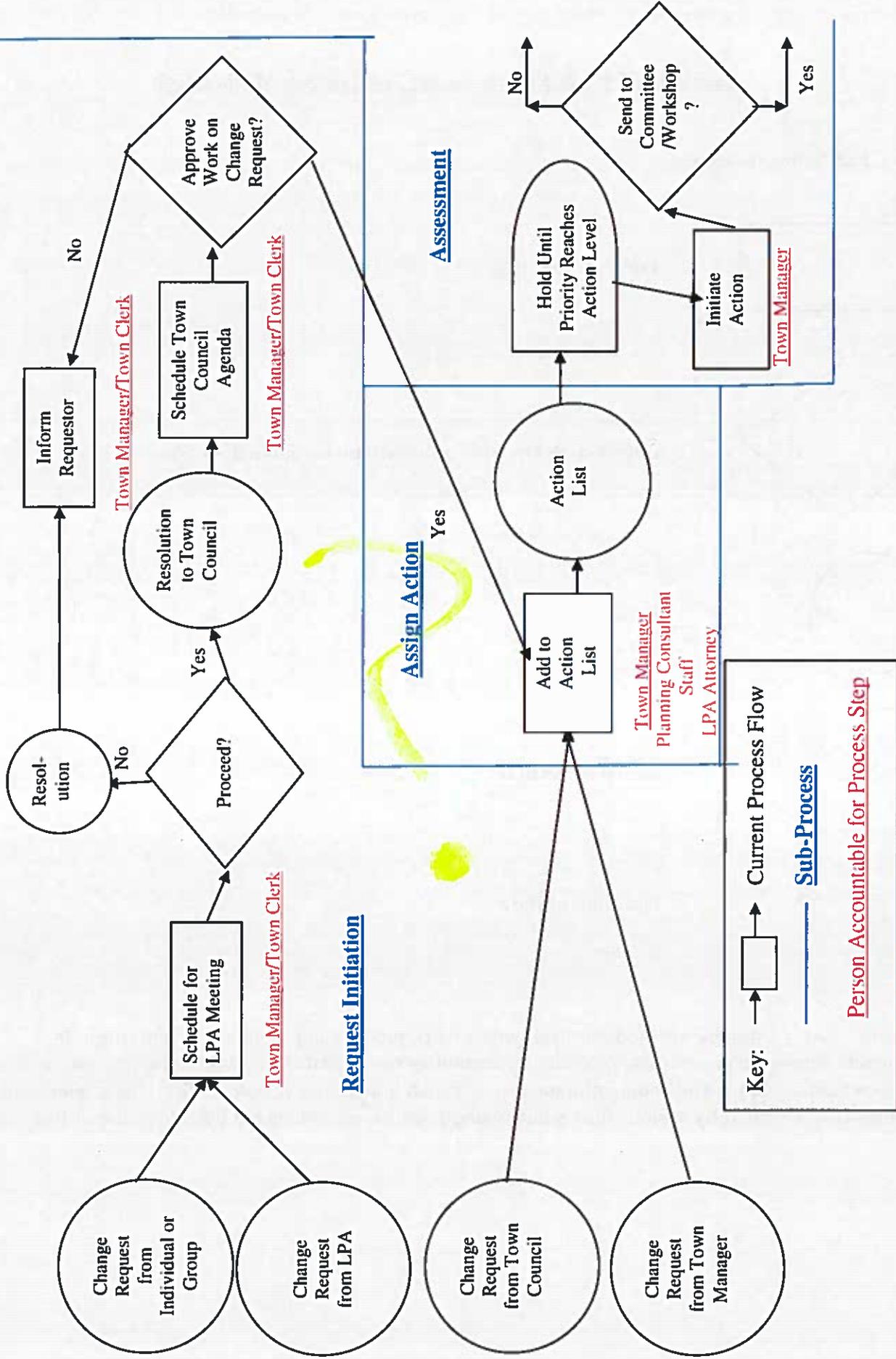
Delay/Wait/Hold



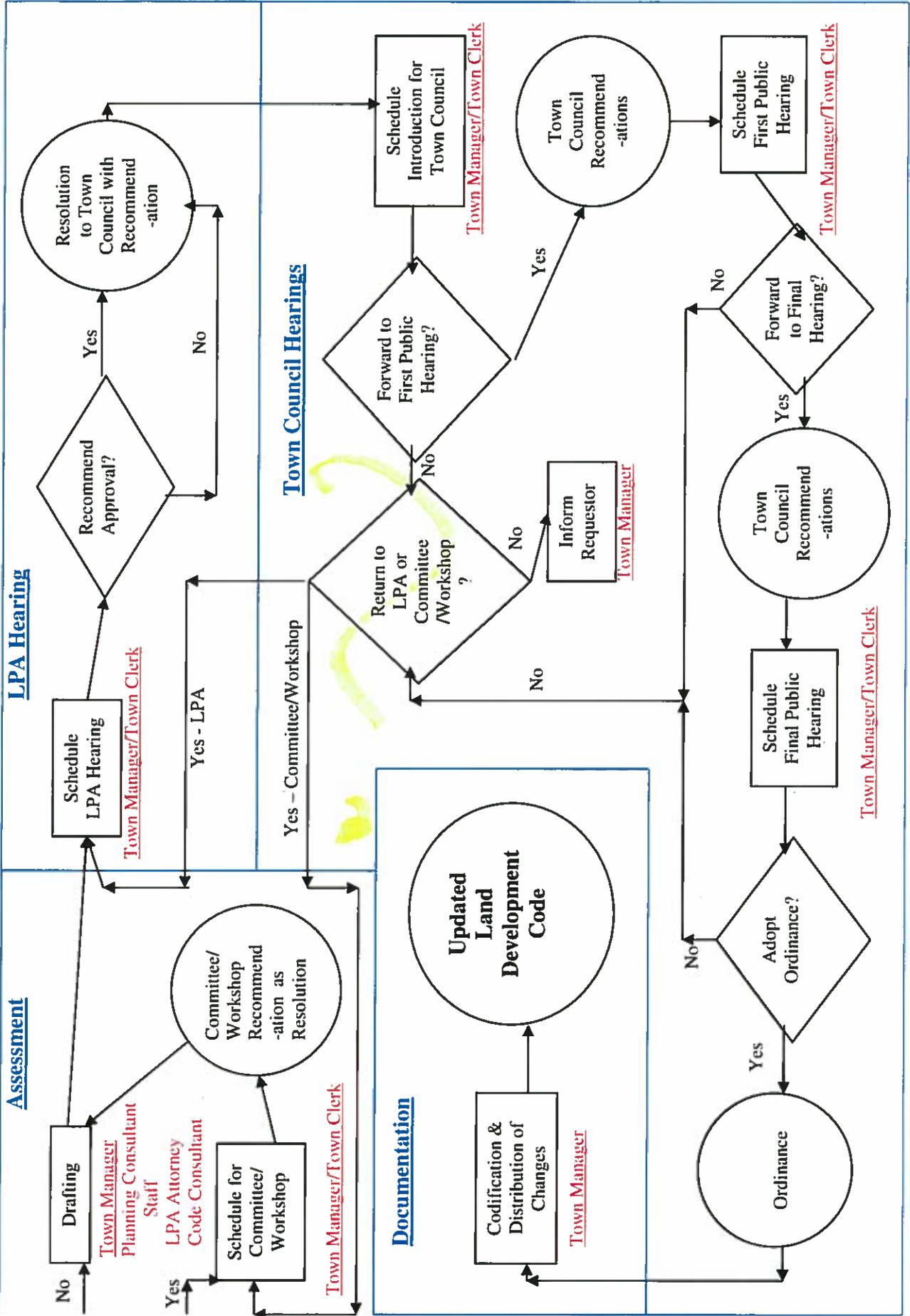
Direction of Flow

The flow chart is a graphic method for displaying a work process and sequence of activities. It graphically shows the process and potential opportunities for improvement within the process. It also identifies starting inputs and ending outputs that establish boundaries of ownership. This sequence of activities is represented by various flow chart symbols, which are connected by a direction of flow arrow.

Legislative Change Process for the Town of Fort Myers Beach



Legislative Change Process for the Town of Fort Myers Beach



F. Historic Plaque Resolution and Agreement

**RESOLUTION OF THE HISTORIC PRESERVATION BOARD OF
THE TOWN OF FORT MYERS BEACH, FLORIDA
RESOLUTION NUMBER HPB 2008-01**

A RESOLUTION OF THE HISTORIC PRESERVATION BOARD OF FORT MYERS BEACH, FLORIDA:

WHEREAS, the Local Planning Agency of the Town of Fort Myers Beach, Florida, serves as the historic preservation board for the Town of Fort Myers Beach ("HPB") pursuant to Chapter 22, Article II, Division 2, Section 22-71 and Chapter 30, Section 30-56(b) of the Land Development Code ("LDC") of the Town of Fort Myers Beach; and

WHEREAS, the HPB is vested with the power, authority and jurisdiction to designate, regulate and administer historical, cultural, archaeological, and architectural resources in the Town, pursuant to LDC Section 22-71; and

WHEREAS, the HPB has the power and duty to designate eligible historic resources, evaluate the significance and eligibility of historic resources for designation pursuant to Chapter 22 of the LDC, increase awareness of historic preservation and its community benefits by promoting public education programs, and administer programs aimed at the proper recognition of designated historic resources pursuant to LDC Section 22-74.

NOW THEREFORE, THE HISTORIC PRESERVATION BOARD RESOLVES AS FOLLOWS:

1. The HPB hereby approves the Town of Fort Myers Beach Historic Preservation Board Historic Plaque Agreement for use by the Town in the Historic Plaque Program. A copy of this Agreement is attached to this Resolution as Exhibit "A" and is hereby incorporated by reference.

The foregoing Resolution was adopted by the HPB upon a motion by _____ and second by _____. Upon being put to a vote, the result was as follows:

Thomas Babcock _____	Bob Raymond _____	Alan Mandel _____
Evie Barnes _____	Bob Simon _____	
Rochelle Kay _____	Dennis Weimer _____	
Alan Mandel _____		

DULY PASSED AND ADOPTED THIS 19th day of February, 2008, by the Historic Preservation Board of the Town of Fort Myers Beach

By: _____
Bob Raymond, HPB Chair

Approved as to Legal Sufficiency

ATTEST: _____
Michelle D. Mayher, Town Clerk

By: _____
Anne Dalton, LPA/HPB Attorney

Appendix G – Conflict of Interest Advice

Below are several points which may be of interest to the LPA Members:

1. I have an ongoing attorney-client relationship in which the attorney gives legal advice but isn't otherwise involved in my business enterprises. That firm may represent others coming before the LPA in quasi-judicial hearings which are not related to his/her representation of me.

(a) Can I participate in LPA discussions and decision-making processes where my attorney is representing a different client?

ANSWER: yes. Assuming that this is a traditional attorney-client relationship, there would be no "special private gain or loss" to the LPA member under F.S. 112.3143(4) for his/her attorney to represent someone else before the LPA. An attorney relationship, by itself, does not create a "business associate" relationship under F.S. 112.312(4). If there are other relationships between the firm and the LPA member (joint ventures, employment of a relative, etc.), that would be covered by the conflict statute.

If the attorney provided information which is covered by the ex parte disclosure sections of the Land Development Code, the LPA member would make the same ex parte disclosure as he/she would for anyone else.

Even if this were a conflict of interest, the statute requires written, advance disclosure. It does not prohibit discussion or voting at the advisory committee level.

(b) Should I disclose the existence of this attorney-client relationship at the time the hearing starts?

ANSWER: It's a good idea. It's not legally required to disclose it since it's not a conflict of interest. However, in ethical matters, it's a good idea to go the extra mile. My suggestion would be to say something like "this law firm has represented me on matters which are not related to this hearing. The LPA attorney has advised me that there's no conflict of interest here but I wanted to disclose this for the record."

2. I have an ongoing relationship with local architects, engineers and other professionals. None of these persons are involved in my business enterprises in any other capacity. Those professionals may represent other persons coming before the LPA in quasi-judicial hearings which are not related to their representation of me. Is there a conflict of interest here?

ANSWER: See #1 above.

Excerpted from LPA Attorney Anne Dalton memo dated April 28, 2008.

Voting Conflicts

Florida Statutes have very specific rules regarding voting conflicts for municipal advisory committees, boards and agencies. These rules are different for appointive offices than the rules that apply to the Town Council (elective offices).

A person holding appointive municipal public office **MUST ABSTAIN** from voting on a measure which would inure to his or her special private gain or loss. Each appointed local officer also **MUST ABSTAIN** from knowingly voting on a measure which would inure to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent, subsidiary, or sibling organization of a principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate.

Although you must abstain from voting in the situations described above, you are not prohibited by Section 112.3143, F.S., from otherwise participating in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:

- You must complete and file Form 8B, MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS (available from the Clerk's Office or State Ethics Commission), before making any attempt to influence the decision, with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes.
- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

Position Paper: Residential Development

Many comments and concerns have been expressed by members of our Town Council and LPA regarding the size, nature, and extent of residential development on Estero Island. Similar issues related in large part to commercial development concerns led to the incorporation of our town and the attempt to regulate development through our Comprehensive Plan and Land Development Codes. At that time, the LPA was established by ordinance to advise Town Council on land development matters with regard to their consistency with the Comprehensive Plan and Land Development Codes in order to further the “welfare of the citizens” of Fort Myers Beach and “insure by strategic planning that the unique and natural characteristics of the island are preserved.”

In our recent history, the LPA has performed its duties in a primarily reactive manner. We are provided information by town staff, evaluate it for its consistency with the Comp Plan and LDC, and make recommendations to Town Council. However, this is only a part of our function. LDC Sec. 34-120 (1) requires us to “acquire and maintain such information and materials as are necessary to an understanding of past trends, present conditions, and forces at work to cause changes in these conditions, and provide data for estimates of future conditions” in order to determine “the amount, direction, and kind of development to be expected in the town and its various parts and the necessary regulation thereof....” Further, the LPA Policies and Procedures Manual in its Functions, Powers, and Duties section empowers us to operate in an advisory capacity to the Town Council, either at Town Manager’s, Town Council’s, or its own initiation”. As such, it would appear that we have both the authority and responsibility to add a proactive arm to our committee’s advisory role.

It is unclear whether our town has the capacity or the political will to influence what appears to be a trend toward bigger and boxier residential development, most notably along Estero Blvd. Nevertheless, it is our duty as the LPA to identify trends that may threaten the quality of life of our residents, explore any tools at our disposal that may modify those trends, and make recommendations to Town Council. To that end, the following course of action should be considered:

Position Paper: Residential Development

- 1) A full review of our Comp Plan and LDC with specific attention paid to current limitations on residential development for all zoning districts.
- 2) An information gathering effort regarding residential development trends over the past 5-10 years, including number of homes built, size of homes, population changes, property values, economic base, land use, environmental quality, etc.
- 3) A prediction of amount, direction, and kind of residential development expected based on current trends without regulatory intervention.
- 4) A compilation of all regulatory tools at our disposal to influence future development including but not limited to FAR, impervious surface coverage, setbacks, height restrictions, design standards, view corridors, etc.
- 5) An exploration of actions taken by other beach communities faced with similar land use conditions and challenges.
- 6) Engaging in a legal review with our town attorney of the potential for regulatory changes to collide with Bert Harris complications.
- 7) A review with our Town Manager of current permitting and code compliance practices specific to new development, and his perceptions regarding possible loopholes in our LDC that developers may use to increase the footprint of new homes.
- 8) A report of our findings with recommendations to Town Council.

As noted in the LPA Policies and Procedures Manual, the LPA does have the authority to form ad hoc sub-committees as long as the expected products, membership, and timelines are clearly stated and agreed to by the LPA. Given the extent of this study and the time it will require, consideration for the formation of an ad hoc sub-committee should be considered. This sub-committee should be chaired by an LPA member, but participation would not need to be limited to LPA members.

Respectfully,

Dan Hendrickson, LPA member

August 24, 2017

LPA ACTION LIST FOR: October 10, 2017

RESOLUTIONS AND RECOMMENDATIONS TO TOWN COUNCIL			
CONTINUED LPA HEARINGS			
HDD16-0008	Designation of Historic Structure	215 Sterling	Women's Club
FUTURE WORK ACTIVITIES			
DCI17-0001	TPI	1160 Estero Blvd	3rd Resub
DCI17-0002	Dullard Residence	764 Estero Blvd	Under Review
DCI17-0004	Casa Bahia	855 Lagoon	Sufficiency Review
HDD17-0003	Designation of Historic Structure	163 Miramar	
SEZ17-0002 & VAR17-0002	Veg Buffer/ Shared parking lot Fred Paine	821 Estero Blvd	Insufficiency Letter sent
VAR17-0003	Side yard waterfront Lot	4360 Estero Blvd	Sufficiency Report
VAR17-0004	Rear Setback	272 Miramar	Sufficiency Review
VAR17-0006	Setback for Garage	19 Sunview Blvd	Resubmittal
VAR17-0008	Pool Setbacks	3188 Shell Mound	Rec'd 9/22/17
DCI17-0004	Casa Bahia	855 Lagoon	Reinstatement of approved PD
VAR17-0003	Tiki Beach Hotel	4360 Estero	
VAR17-0004	Rear Set Back	272 Miramar	Requested info
VAR17-0006	Setback for Garage	19 Sunview	Sufficiency Letter