

RESOLUTION OF THE LOCAL PLANNING AGENCY OF  
THE TOWN OF FORT MYERS BEACH FLORIDA  
RESOLUTION NUMBER 2012-\_\_  
VAR2012-0006 (Pierview Hotel Sign Variance)

WHEREAS, applicant Broadway Investment Partners, LLC has requested three variances in the Downtown zoning district; (1) a variance from LDC Sec. 30-154(b) requirement of a three-foot setback from the right-of-way for a monument sign to permit the sign to be setback 12 inches from the right-of-way; (2) a variance from LDC Sec. 30-154(c) requirement that the bottom of a monument sign cannot be more than eighteen (18) inches above the highest adjacent grade to permit the existing monument sign to be elevated 48 inches above the highest adjacent grade; and (3) a variance from LDC Sec. 30-154(c) requirement that monument signs cannot exceed five (5) feet in height to permit the existing monument sign to be elevated eight (8) feet in height; and

WHEREAS, the subject property is located at 1160 Estero Boulevard, Fort Myers Beach, FL 33931; and

WHEREAS, the applicant has indicated that the STRAP for the subject property is 24-46-23-W3-00009.0000 and the legal description is provided as follows:

*From the Southwest corner of Block E, of that certain subdivision known as CRESCENT PARK ADDITION, according to the map or plat thereof on file and recorded in Plat Book 4, Page 46, of the public records of Lee County, Florida; on the East line of Section 24, Township 46 South, Range 23 East, Lee County, Florida, run South along said line 53.24 feet to the South line of an existing County Road right-of-way 50 feet wide and Point of Beginning of the lands herein described; thence Northwesterly at an inclusive angle of 69°54' with said section line along the South line of said right-of-way a distance of 122.63 feet; thence Southwesterly perpendicular to said road for 213 feet, more or less, to the Gulf of Mexico; thence Southeasterly along said Gulf to the East line of said Section 24; thence Northerly along said line a distance of 258 feet, more or less, to the Point of Beginning; and*

WHEREAS, a public hearing on this matter was legally advertised and held before the Local Planning Agency (LPA) on June 12, 2012; 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 34-87.

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 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/DENY** the applicant's request for Variances from Section 30-153(b) and Section 30-154(c) of the LDC:

**RECOMMENDED FINDINGS AND CONCLUSIONS:**

In accordance with the requirements of LDC Sections 34-84 and 34-87 regarding consideration of eligibility for a variance, the LPA recommends that the Town Council make the following findings and reach the following conclusions:

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

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:

Joanne Shamp, Chair	AYE/NAY	Dan Andre, Member	AYE/NAY
Al Durrett, Member	AYE/NAY	John Kakatsch, Member	AYE/NAY
Jane Plummer, Member	AYE/NAY	Alan Smith, Member	AYE/NAY
Hank Zuba, Member	AYE/NAY		

DULY PASSED AND ADOPTED THIS \_\_\_\_day of JUNE, 2012.

By: \_\_\_\_\_  
Joanne Shamp, LPA Chair

Approved as to legal sufficiency:

ATTEST:

By: \_\_\_\_\_  
Fowler, White, Boggs  
*LPA Attorney*

By: \_\_\_\_\_  
Michelle Mayher  
*Town Clerk*



***Town of Fort Myers Beach***  
**DEPARTMENT OF COMMUNITY DEVELOPMENT**  
**STAFF REPORT**

**TYPE OF CASE:** Sign Variance  
**CASE NUMBER:** VAR2011-0006 / Pierview Hotel Sign Variance  
**LPA HEARING DATE:** June 12, 2012  
**LPA HEARING TIME:** 9:00 AM

**I. APPLICATION SUMMARY**

Applicant: Broadway Investment Partners, LLC

Request: A request for three variances in the Downtown zoning district: (1) a variance from LDC Sec. 30-154(b) requirement of a three-foot setback from any public right-of-way or roadway easement for a monument sign to permit the existing sign to be setback 12 inches from the right-of-way; (2) a variance from LDC Sec. 30-154(c) requirement that the bottom of elevated monument signs can be no more than 18 inches above the highest adjacent grade to permit the existing monument sign to be elevated 48 inches above the highest adjacent grade; and (3) a variance from LDC Sec. 30-154(c) sign height maximum of 5 feet to permit the existing monument sign to be raised to 8 feet in height.

Subject property: See attached "Exhibit A"

Physical Address: 1160 Estero Boulevard

STRAP #: 24-46-23-W3-00009.0000

FLU: Pedestrian Commercial

Zoning: DOWNTOWN

Current use(s): Hotel/Motel

Adjacent zoning and land uses:

North:	Estero Boulevard (2 lane plus turn lane, County-maintained Arterial road) McDonald's, Quicky Bikes, Beach Gifts (Restaurant/Retail) COMMERCIAL PLANNED DEVELOPMENT (CPD) Pedestrian Commercial
South:	Gulf of Mexico ENVIRONMENTALLY CRITICAL (EC) Recreation
East:	Beachside Gallery, Cigar Hut (Retail) DOWNTOWN Pedestrian Commercial
West:	Nemo's on the Beach (Restaurant/Bar) DOWNTOWN Pedestrian Commercial

**II. BACKGROUND AND ANALYSIS**

Background

Broadway Investment Partners, LLC, the owner of the subject property, purchased the existing Pierview Hotel & Suites in December 2010. Pierview Hotel has been operating in this location since the former Ramada Inn ceased operation after Hurricane Charley in 2004. The property was first developed in 1971 as a hotel, and that use has not been expanded since then. The property was developed prior to the incorporation of the Town, and the Lee County property development regulations at the time the property was developed required a 25 foot street setback from Estero Boulevard. Under current Town regulations, there is a zero-to-ten foot build-to line for property located in the DOWNTOWN zoning district.

On March 2, 2011, Coastline Wholesale Signs applied for sign permit SGN11-0006 to erect the existing sign on the property. According to the applicant's narrative in the variance application, a member of the Town's permitting staff told the applicant that they would allow a variance so the applicant could get the sign installed. At that time, however, it was believed that the sign was only encroaching into the minimum required street setback of 3 feet by a mere 3 inches. According to the applicant's survey information provided on April 26, 2012 by Davis Surveying, Inc., the sign is actually setback only 1 foot from the road right-of-way, not 33 inches as previously believed. Also, the effective date of the amendments to the sign ordinance that were adopted by Ordinance 11-01, was April 18, 2011, and the sign permit for this property was not finalized until August 2, 2011. This caused some confusion concerning how the sign permit was issued and finalized, since the sign, as proposed,

was not in compliance with setbacks, pedestal height (2 feet), and overall sign height (6 feet) under either the old or newly adopted regulations.

The sign for this property is wedged between a cable box on the north side and back flow pipes on the south side. It is also located between parking spaces, so that when a pickup truck or van is parked in one of those spaces, the sign is partially blocked. The property is located at one of the busiest intersections in all of Fort Myers Beach, the intersection of Estero Boulevard and Crescent Street.

Analysis:

The section of Chapter 30 that sets forth the sign face allotment per commercial establishment per parcel is as follows:

***Section 30-153(b) Commercial uses in commercial zoning districts.*** All signs located in commercial zoning districts, except for those signs identified as exempt signs in §30-6 and temporary signs in §30-141, shall comply with the following sign area limitations.

*(1) For a parcel of land containing one (1) or two (2) business establishments each separate business establishment shall be allowed a maximum of thirty-two (32) square feet of sign area.*

*(2) For a parcel of land containing three (3) or more business establishments, each establishment shall be allowed a maximum of sixteen (16) square feet sign area. An additional thirty-two (32) square feet of sign area may be utilized to identify the commercial development.*

*(3) The maximum sign area provided herein may be allocated among a combination of one (1) or more monument signs, projecting signs, and/or wall signs.*

The subject property is, therefore, entitled to 32 square feet of sign face area to advertise the Pierview Hotel & Suites. This sign area can be allocated among a variety of different signs, provided that the total sign face area does not exceed 32 square feet.

Should the applicant choose to allocate any or all the sign face area to a monument sign, then the provisions in Section 30-154(c) apply.

***Section 30-154(c) Monument signs may be elevated provided that the bottom of the sign is no more than eighteen (18) inches above the highest adjacent grade. The maximum height of a monument sign is five (5) feet.***

The applicant has chosen to use all of the allotted sign square footage in a monument sign, because a wall sign or projecting sign would be even less visible to the traveling public on Estero Boulevard. The fact that the hotel sits back off of the road in an area where most structures abut the right-of-way creates a situation where the hotel is somewhat hidden from visitors coming onto the island from the

Sky Bridge to the north. The view of the existing monument sign for the Pierview Hotel is blocked, in part, by the neighboring “Nemo’s on the Beach” structure which is located less than 1 foot from the Estero Boulevard right-of-way. The stop-and-go traffic congestion in this area, left-turn lane, and frequent pedestrians crossing the road require a driver to keep his eyes peeled on the road, rather than searching for a hotel entrance sign.

Findings and Conclusions:

Using the five factors described in LDC Section 34-87(3) as a guide, Staff recommends the following findings and conclusions:

- a. *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.*

The extraordinary circumstance on the subject property is that the existing hotel on the property was developed under the previous Lee County setback requirement of 25’, where currently there is a 0-10’ build-to line in the DOWNTOWN zoning district. The neighboring property (Nemo’s) was built approximately 1’ from the Estero Boulevard right-of-way, and blocks the view of the applicant’s sign and hotel until a driver is almost upon the subject property. There are also public and private utilities visible above-ground at the sign location, and the applicant has no control over the placement of those utilities. Staff finds that there **are** exceptional or extraordinary conditions or circumstances that are inherent to the property in question, and the request **is** for a de minimis variance under circumstances or conditions where rigid compliance is not essential to protect public policy.

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

The applicant’s placement of the sign has caused the need for the variance to permit a 1’ setback from the Estero Boulevard right-of-way, as shown on the applicant’s attached surveyed information “Exhibit D,” where 3’ is otherwise required. The existing sign height and base height were lowered from the previous signage on the property (Ramada sign, approximately 12-14 feet high, as seen in the attached photo “Exhibit E”) to more reasonable levels, but are still not in compliance with Chapter 30 requirements for signs. Further, the setback could have been corrected when they lowered the previously-existing sign. The conditions requiring the variance **are** the result of actions of the applicant taken after the adoption of the regulation in question.

- c. *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.*

The applicant has requested three variances, one for setback and two for overall sign and sign pedestal height. The sign does need to be raised to make the sign visible above the private and public utilities immediately adjacent to the sign's location. If the sign is placed so that it meets the minimum required 3' setback, the cable box will no longer block the view of the sign on the north side. However, the sign will still be blocked from the view of southbound travelers by the Nemo's building. Staff therefore finds that the requested variances **are** the minimum variances that will relieve the applicant of an unreasonable burden caused by the application of the regulations to the property in question.

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

The applicant is requesting relief from the sign pedestal height, overall sign height, and sign setback requirements of Chapter 30 of the LDC. The applicant indicates that the existing sign on the property has been in this location for approximately 21 years, but the sign box was recently lowered and placed on a new pedestal in March 2011. The applicant is requesting that the height of the base and the height of the sign be altered because of the existence of public and private utilities that are above-ground and are blocking the view of the sign. Staff does not feel that a minor increase in height to provide a better view of the sign will endanger the public welfare, and the applicant's requested 8' overall height can be considered a minor increase because of the site's above-ground utilities that would block view of the sign. Staff finds that the granting of the variances **will not** be injurious to the neighborhood or otherwise detrimental to the public welfare.

- e. *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.*

With the adoption of the amended sign ordinance, and the consequent amortization period for conformity, several locations on the Beach have chosen to pursue a variance from the amended requirements. However, by the very nature of the recent adoption of the sign ordinance, Town Council has already addressed the issue of signs and has made a decision to enact and enforce a uniform sign code. However, the existence of the above-ground public and private utilities on the site, which the applicant cannot control, is a unique circumstance that requires some flexibility from the regulations in question to allow the applicant to provide signage for their business. Staff finds that the circumstances of the specific piece of property on which a variance is sought **are not** general in nature and therefore demonstrate a verifiable hardship.

### **III. RECOMMENDATION**

Staff initially had some concerns about the requested variance because it could set a precedent. Staff inquired whether the applicant had considered alternate signage to make the variances unnecessary, including perhaps a wall sign or a projecting sign. Since the wall of the building is set back 25' from the road, neither a wall sign nor a projecting sign will be visible to motorists on Estero Boulevard and will render such signs useless for identification of the hotel property from Estero Boulevard. Therefore, the applicant's requested variances are reasonable, given the location of the adjacent building to the north and the above-ground public and private utilities at the sign location. Staff therefore recommends **APPROVAL** of the applicant's requested variances for overall sign height of 8', for the sign pedestal height of 48" and to decrease the setback from Estero Boulevard right-of-way to 1'.

### **IV. CONCLUSION**

The granting of a variance on the property would legalize the existing signage for Pierview Hotel & Suites, will bring the sign into compliance with the requirements of the Land Development Code for signs, and will not adversely affect surrounding properties.

If Town Council finds that the requested variance is contrary to the public interest or the health, safety, comfort, convenience, and/or welfare of the citizens of the Town, or that the request is in conflict with the criteria of LDC Section 34-87 regarding Variances, Town Council should deny the request as provided in LDC Section 34-87(4). If Town Council chooses to approve the request, special conditions necessary to protect the health, safety, comfort, convenience, or welfare of the public may be attached if Council finds that such conditions are reasonably related to the requested rezoning.

Staff recommends **APPROVAL** of the requested variances for sign setback, sign pedestal height and overall sign height.

#### **Exhibits:**

- A – Legal Description
- B – Zoning Map
- C – Future Land Use Map
- D – Surveyed sign information
- E – Photograph of previous sign (Ramada)

**“Exhibit A”**  
**Legal Description**  
**24-46-23-W3-00009.0000**

**From the Southwest corner of Block E, of that certain subdivision known as CRESCENT PARK ADDITION, according to the map or plat thereof on file and recorded in Plat Book 4, Page 46, of the public records of Lee County, Florida; on the East line of Section 24, Township 46 South, Range 23 East, Lee County, Florida, run South along said line 53.24 feet to the South line of an existing County Road right-of-way 50 feet wide and Point of Beginning of the lands herein described; thence Northwesterly at an inclusive angle of 69°54' with said section line along the South line of said right-of-way a distance of 122.63 feet; thence Southwesterly perpendicular to said road for 213 feet, more or less, to the Gulf of Mexico; thence Southeasterly along said Gulf to the East line of said Section 24; thence Northerly along said line a distance of 258 feet, more or less, to the Point of Beginning.**

**Exhibit B - Zoning Map**



**Exhibit C - Future Land Use Map**





# Davis Surveying, Inc.

4536 SE 16<sup>th</sup> Place  
Cape Coral, Florida  
33904

April 26, 2012

Documentation of freestanding sign at Fort Myers Beach, Florida

1160 Estero Boulevard, Fort Myers Beach, Florida 33931

Elevations based on an assumed datum.

Elevation of centerline of roadway pavement = 100.00'

Elevation of edge of roadway pavement = 99.6'

Elevation of high grade at sign = 100.4'

Elevation of bottom of sign = 102.0'

Elevation of top of sign = 106.0'

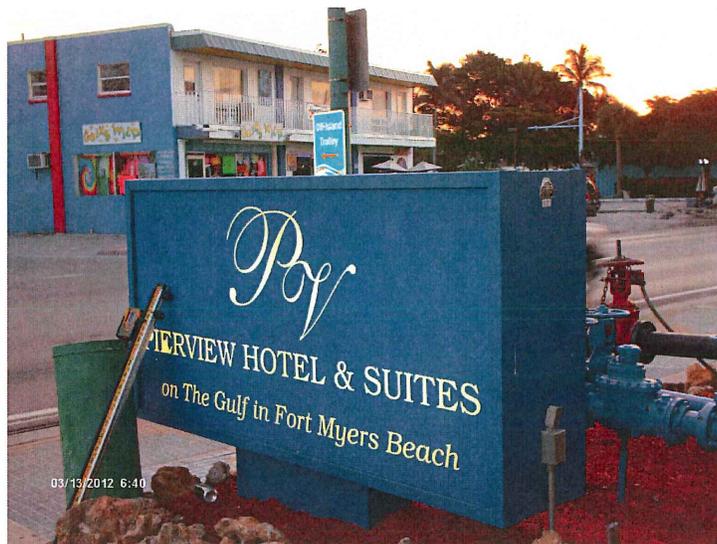
Approximate distance from sign to right-of-way = 1.0'

Distance from crown of road to top of sign = 6.0'

Distance from adjacent grade to top of sign = 5.6'

Distance from crown of road to bottom of sign = 2.0'

Distance from adjacent grade to bottom of sign = 1.6'



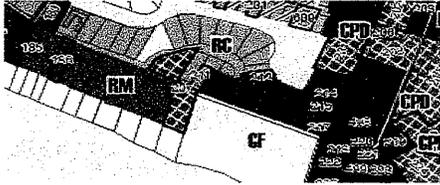
Charles Davis, PLS #4839

3/13/2012

Exhibit E



**Town of Fort Myers Beach**  
 Department of Community Development



Zoning Division

**Application for Public Hearing**

This is the first part of a two-part application. This part requests general information required by the Town of Fort Myers Beach for any request for a public hearing. The second part will address additional information for the specific type of action requested.

<b>Project Name:</b>	<i>Pierview Hotel &amp; Suites</i>
<b>Authorized Applicant:</b>	<i>Judy Coleman</i>
<b>LeePA STRAP Number(s):</b>	<i>24-46-23-W3-00009 0000</i>

<b>Current Property Status:</b>
<b>Current Zoning:</b> <i>Commercial Resort</i>
<b>Future Land Use Map (FLUM) Category:</b>
<b>Platted Overlay? <u>  </u>yes <u>  </u>no    FLUM Density Range:</b>

Action Requested	Additional Form Required
<input type="checkbox"/> Special Exception	Form PH-A
<input checked="" type="checkbox"/> Variance	Form PH-B
<input type="checkbox"/> Conventional Rezoning	Form PH-C
<input type="checkbox"/> Planned Development	Form PH-D
<input type="checkbox"/> Master Concept Plan Extension	Form PH-E
<input type="checkbox"/> Appeal of Administrative Action	Form PH-F
<input type="checkbox"/> Development of Regional Impact	Schedule Appointment
<input type="checkbox"/> Other (cite LDC section number: _____)	Attach Explanation

**Town of Fort Myers Beach**  
 Department of Community Development  
 2523 Estero Boulevard  
 Fort Myers Beach, FL 33931  
 (239) 765-0202

**PART I General Information**

**A. Applicant:**

Name(s):	Broadway Investment Partners LLC		
Address: Street:	55 E Long Lake Rd #204		
City:	Troy	State:	MI Zip Code: 48085
Phone:	248-645-5400		
Fax:	248-879-3124		
E-mail address:	Resortamerica@gmail.com		

**B. Relationship of applicant to property (check appropriate response)**

<input checked="" type="checkbox"/> Owner (indicate form of ownership below)
<input type="checkbox"/> Individual (or husband/wife) <input type="checkbox"/> Partnership
<input type="checkbox"/> Land Trust <input type="checkbox"/> Association
<input checked="" type="checkbox"/> Corporation / LLC <input type="checkbox"/> Condominium
<input type="checkbox"/> Subdivision <input type="checkbox"/> Timeshare Condo
<input type="checkbox"/> Authorized representative (attach authorization(s) as Exhibit AA-1)
<input type="checkbox"/> Contract Purchaser/vendee (attach authorization(s) as Exhibit AA-2)
<input type="checkbox"/> Town of Fort Myers Beach (Date of Authorization: _____)

**C. Agent authorized to receive all correspondence:**

Name:	Remo Polselli		
Mailing address: Street:	55 E Long Lake Rd #204		
City:	Troy	State:	MI Zip Code: 48085
Contact Person:	Remo Polselli		
Phone:	248-654-5400	Fax:	248-879-3124
E-mail address:	resortamerica@gmail.com		

**D. Other agents:**

Name(s):	Judy Coleman		
Mailing address: Street:	1160 Estero Blvd		
City:	Ft. Myers Beach	State:	FL Zip Code: 33931
Phone:	239-465-6158	Fax:	239-765-4240
E-mail address:	judycoleman1@comcast.net		

Use additional sheets if necessary, and attach to this page.

### PART II Nature of Request

**Requested Action (check applicable actions):**

<input type="checkbox"/> Special Exception for:
<input checked="" type="checkbox"/> Variance for: <i>Business sign Height to 8' / Reduce setback 3 in</i>
<input type="checkbox"/> Conventional Rezoning from _____ to: _____
<input type="checkbox"/> Planned Development
<input type="checkbox"/> Rezoning (or amendment) from _____ to: _____
<input type="checkbox"/> Extension/reinstatement of Master Concept Plan
<input type="checkbox"/> Public Hearing of DRI
<input type="checkbox"/> No rezoning required
<input type="checkbox"/> Rezoning from _____ to: _____
<input type="checkbox"/> Appeal of Administrative Action
<input type="checkbox"/> Other (explain):

### PART III Waivers

**Waivers from application submittal requirements:** Indicate any specific submittal items that have been waived by the Director for the request. Attach copies of the # \_\_\_\_\_ approval(s) as Exhibit 3-1.

Code Section Number	Describe Item

### PART IV Property Ownership

<input type="checkbox"/> <b>Single owner</b> (individual or husband and wife)			
Name:			
Address:		Street:	
City:		State:	Zip Code:
Phone:		Fax:	
E-mail Address:			

Case # \_\_\_\_\_  
Planner \_\_\_\_\_

Date Received \_\_\_\_\_  
Date of Sufficiency/Completeness \_\_\_\_\_

<input checked="" type="checkbox"/> Multiple owners (including corporation, partnership, trust, association, condominium, timeshare condominium, or subdivision)
Attach Disclosure Form as Exhibit 4-1
Attach list of property owners as Exhibit 4-2
Attach map showing property boundaries/interests as Exhibit 4-3 if multiple parcels are involved
For condominiums, timeshare condominiums, and subdivisions, see instructions.

### PART V Property Information

#### A. Legal Description of Subject Property

Is the property entirely made up of one or more undivided platted lots officially recorded in the Plat Books of the Public Records of Lee County?
<input checked="" type="checkbox"/> Yes    [ ] No
If yes:
Subdivision name:
Plat Book Number:                  Page:                  Unit:                  Block:                  Lot:
If no:
Attach a legible copy of the metes and bounds legal description, with accurate bearings and distances for every line, as Exhibit 5-1. The initial point in the description must be related to at least one established identifiable real property corner. Bearings must be referenced to a well-established and monumented line.

#### B. Boundary Survey

Attach a Boundary Survey of the property meeting the minimum standards of Chapter 61G17-6 of the Florida Administrative Code, as Exhibit 5-2. 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.
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#### C. STRAP Number(s):

24-46-23-W3-0000 9, 0000
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#### D Property Dimensions:

Area: 0.33, 485	square feet	acres
Width along roadway:	feet	Depth: feet

#### E. Property Street Address:

1160 Estero Blvd, Ft. Myers Beach, FL
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**F. General Location of Property (from Sky Bridge or Big Carlos Pass Bridge):**

*Property is located on West side of Estero Blvd. adjacent to Gulf of Mexico. Approx 1/4 mile from Mantanzas bridge on the right hand side of the street*

Attach Area Location Map as Exhibit 5-3

**G. Property Restrictions (check applicable):**

- There are no deed restrictions or covenants on this property that affect this request.
- Restrictions and/or covenants are attached as Exhibit 5-4
- A narrative statement explaining how the deed restrictions and/or covenants may affect the request is attached as Exhibit 5-5.

**H. Surrounding property owners:**

- Attach list of surrounding property owners (within 500 feet) as Exhibit 5-6
- Attach two sets of mailing labels as Exhibit 5-7
- Attach a map showing the surrounding property owners as Exhibit 5-8

**I. Future Land Use Category: (see Comprehensive Plan 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"/> Tidal Water |
- Is the property located within the N ~~20~~ . ~~Q 120~~ E area on the Future Land Use Map?  Yes  No

**J. Zoning: (see official zoning map, as updated by subsequent actions)**

- |  |   |
|--|---|
| <input type="checkbox"/> RS (Residential Single-family)    | <input type="checkbox"/> CM (Commercial Marina)         |
| <input type="checkbox"/> RC (Residential Conservation)     | <input type="checkbox"/> CO (Commercial Office)         |
| <input type="checkbox"/> RM (Residential Multifamily)      | <input type="checkbox"/> CB (Commercial Boulevard)      |
| <input type="checkbox"/> VILLAGE                           | <input type="checkbox"/> SANTINI                        |
| <input type="checkbox"/> SANTOS                            | <input type="checkbox"/> DOWNTOWN                       |
| <input type="checkbox"/> IN (Institutional)                | <input type="checkbox"/> RPD (Residential Planned Dev.) |
| <input type="checkbox"/> CF (Community Facilities)         | <input type="checkbox"/> CPD (Commercial Planned Dev.)  |
| <input checked="" type="checkbox"/> CR (Commercial Resort) | <input type="checkbox"/> EC (Environmentally Critical)  |
| <input type="checkbox"/> BB (Bay Beach)                    |   |

Exhibit 5-6

Ed Brown Water Colors  
(239) 470-4504

McDonald's

News  
(239) 233-8224

Urphens  
(239) 463-1549

Shep's  
(239) 463-4747

**PART VI – Affidavit**

**Application Signed by a Corporation, Limited Liability Company (LLC),  
Limited Company (LC), Partnership, Limited Partnership, or Trustee**

See attached explanatory notes for instructions

I, Judy Coleman, as Authorized Representative  
of Broadway Inv. Partners LLC swear or affirm under oath, that I am  
the owner or the authorized representative of the owner(s) of the property and  
that:

1. I have full authority to secure the approval(s) requested and to impose covenants and restrictions on the referenced property as a result of any action approved by the Town in accordance with this application and the Land Development Code;
2. All answers to the questions in this application and any sketches, data, or other supplemental matter attached hereto and made a part of this application are honest and true;
3. I hereby authorize Town staff or their designee(s) to enter upon the property during normal working hours (including Saturdays and Sundays) for purposes reasonably related to the subject matter of this application; and
4. The property will not be transferred, conveyed, sold, or subdivided unencumbered by the conditions and restrictions imposed by the approved action.

<u>Broadway Inv. Partners LLC</u>	<u>Judy Coleman</u>
Name of Entity (corporation, LLC, partnership, etc)	Signature
<u>General Manager</u>	<u>Judy Coleman</u>
Title of Signatory	Typed or Printed Name

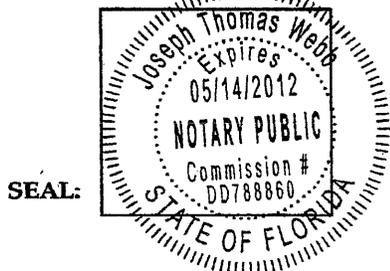
State of FL  
County of LEE

The foregoing instrument was sworn to (or affirmed) and subscribed  
before me this DEC. 30, 2011 by JUDY COLEMAN  
Date Name of person under oath or affirmation  
who is personally known to me or who has produced FL DRIVERS LIC.  
Type of identification

as identification.

<u>Joseph Thomas Webb</u>
Signature of person administering oath

<u>JOSEPH THOMAS WEBB</u>
Typed or Printed Name



Case # \_\_\_\_\_  
Planner \_\_\_\_\_

Date Received \_\_\_\_\_  
Date of Sufficiency/Completeness \_\_\_\_\_

**EXHIBIT 4-1  
DISCLOSURE OF INTEREST FORM**

STRAP# 24-46-23-W3-00009.0000

Attach additional sheets in the same format for each separate STRAP number in the application if multiple parcels with differing ownership are included.

1. 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

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

Name, Address, and office	Percentage
<u>Remo Polselli - Member of LLC</u>	<u>100%</u>
<u>55 E. Long Lake Rd #204</u>	
<u>Tray, MI 48085</u>	

Case # \_\_\_\_\_  
Planner \_\_\_\_\_

Date Received \_\_\_\_\_  
Date of Sufficiency/Completeness \_\_\_\_\_

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

Name and Address	Percentage

4. If the property is in the name of a GENERAL PARTNERSHIP or LIMITED PARTNERSHIP, list the names of the general and limited partners with the percentage of ownership.

Name and Address	Percentage

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

Name, Address, and Office (if applicable)	Percentage

Case # \_\_\_\_\_  
Planner \_\_\_\_\_

Date Received \_\_\_\_\_  
Date of Sufficiency/Completeness \_\_\_\_\_

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

Name and 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 public hearing, 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 \_\_\_\_\_

Applicant

Printed or typed name of applicant

STATE OF \_\_\_\_\_

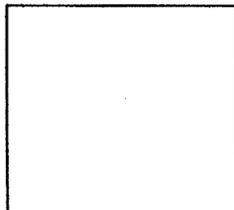
COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_, who is personally known to me or who has produced \_\_\_\_\_ as identification and who did (or did not) take an oath.

Signature of Notary

Typed or Printed Name of Notary

SEAL:

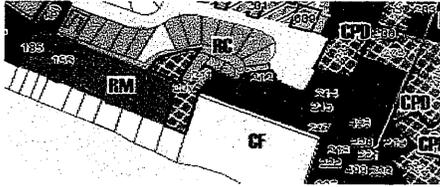


*sign  
notarize*

Case # \_\_\_\_\_  
Planner \_\_\_\_\_

Date Received \_\_\_\_\_  
Date of Sufficiency/Completeness \_\_\_\_\_

**Town of Fort Myers Beach**  
Department of Community Development



Zoning Division

**Supplement PH-B**

**Additional Required Information for a  
Variance Application**

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

<b>Case Number:</b>
<b>Project Name:</b> <i>Pierview Hotel &amp; Suites</i>
<b>Authorized Applicant:</b> <i>Judy Coleman / Broadway &amp; NW LLC</i>
<b>LeePA STRAP Number:</b> <i>24-46-23-W3-00009.0000</i>

<b>Current Property Status:</b>
<b>Current Zoning:</b> <i>Commercial Resort</i>
<b>Future Land Use Map (FLUM) Category:</b>
<b>Comp Plan Density:</b> _____ <b>Platted Overlay?</b> <input type="checkbox"/> Yes <input type="checkbox"/> No

Variance is requested from:

LDC Section Number	Title of Section or Subsection
<i>30-153</i>	<i>Permanent identification sign for commercial area.</i>

Complete the narrative statements below for EACH variance requested.

PART I  
Narrative Statements

Request for variance from 30-153 (LDC Section number)

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

Code limits  
3" variance onto city property  
Overall height to 8' ft.

Reasons for request

Explain why the variance is needed:

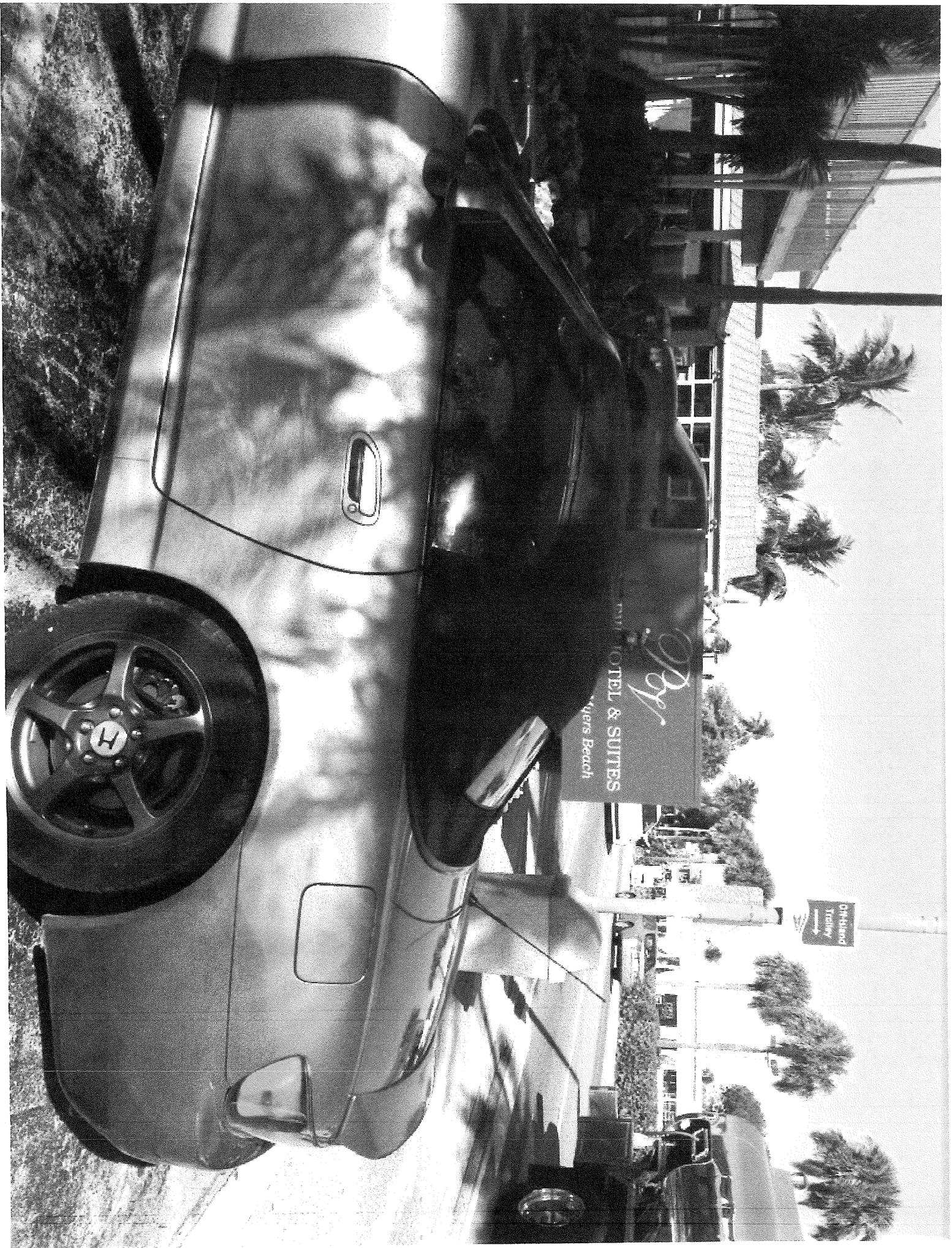
- 1.) Vision of sign on south side hid by black flow pipes and cannot be seen by oncoming traffic. Sign on North side is hid by cable tube and once vehicle is parked we lose all usability ~~to~~ oncoming traffic (See attached)
- 2.) When sign was replaced in 3/11 I was told by Jim Carrasco about the 3in difference but he also said he would allow me the variance so I could just get the sign up.

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

Being able to see sign to bring in more business.

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

Hotel not being seen by prospective guests. Losing business



OCEANVIEW  
HOTEL & SUITES  
Myers Beach

Oceanview  
Trolley





## *Town of Fort Myers Beach*

Community Development  
2523 Estero Blvd Fort Myers Beach, Florida 33931  
Phone: 239-765-0202 Fax: 239-765-0591

March 7, 2012

Pierview Hotel & Suites  
c/o Judy Coleman  
1160 Estero Boulevard  
Fort Myers Beach, Florida 33931

**Re: Pierview Sign Variance FMBVAR2011-0006**

Dear Ms. Coleman,

The Community Development Department has reviewed the information provided for the above zoning application. The Town of Fort Myers Beach Land Development Code (LDC) required additional information for the application to be found sufficient. Please respond to each requirement not satisfied on the attached sufficiency checklists.

If you do not provide the requested supplements or corrections within 60 calendar days of this letter, the LDC requires that this application be considered withdrawn. Please feel free to contact me if you have any questions or require further clarification.

Sincerely,

Josh Overmyer  
*Planning Coordinator*  
Town of Fort Myers Beach  
Community Development

# Town of Fort Myers Beach

Community Development  
2523 Estero Blvd Fort Myers Beach, Florida 33931  
Phone: 239-765-0202 Fax: 239-765-0591

## VARIANCE APPLICATION REVIEW – Josh Overmyer

Upon reviewing the submitted application for sufficiency of the above-referenced project, staff provides the following comments.

1. *LDC Sec. 30-154(b) states that "Location. Monument signs must be set back at least three (3) feet from any public right-of-way or roadway easement, provided, however, that monument signs may be located in a lawfully developed landscaped median strip that is within a public or private right-of-way or easement where the holder(s) of the right-of-way or easement have consented to the location of the monument sign in such right-of-way or easement. Monument signs located in such median strips must be set back a minimum of two (2) feet from the edge of the pavement and must not violate the visibility requirements of §34-3131. Wall signs and projecting signs may extend over public sidewalks provided they maintain a clear height above sidewalks of eight (8) feet and do not extend closer than two (2) feet to an existing or planned curb."*

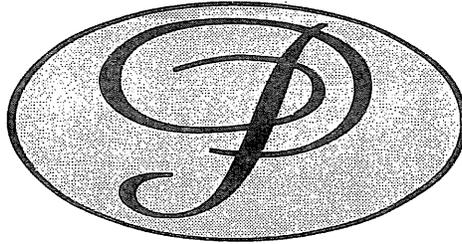
Please indicate whether the request is to allow a 33 inch setback where 36 inches (3 feet) are otherwise required, or if there is actually a 3-inch encroachment into the County right-of-way for Estero Boulevard. An as-built survey may be necessary to determine the exact location of the sign with respect to the county right-of-way.

2. *LDC Sec. 30-154(c) states that "Monument signs may be elevated provided that the bottom of the sign is no more than eighteen (18) inches above the highest adjacent grade. The maximum height of a monument sign is five (5) feet."*

Please confirm that you are requesting a maximum sign height of 8 feet where 5 feet is otherwise allowed. In addition, will the 18 inch maximum (bottom edge) of the sign be increased to a higher level? If so, please indicate at what level the bottom edge of the sign will be located.

3. Please specifically address each of the 5 required findings that must be made in order to receive a variance. These are found in *LDC Sec. 34-87(3)* and read as follows: **Findings.** Before granting any variance, the town council must find that all of the following exist:

- a. 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;
- b. That the conditions justifying the variance are not the result of actions of the applicant taken after the adoption of the regulation in question;
- c. 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;
- d. That the granting of the variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare; and
- e. That the conditions or circumstances on the specific piece of property for which the variance is sought are not of so general or recurrent a nature as to make it more reasonable and practical to amend the regulation in question.



**Pierview**  
HOTEL & SUITES  
TOWN OF  
FORT MYERS BEACH

Tuesday, March 20, 2012

Town of Ft. Myers Beach  
2523 Estero Blvd.  
Ft. Myers Beach, FL 33931

MAR 21 2012  
RECEIVED BY

RE: Pierview Sign Variance FMBVAR2011-0006

Dear Josh Overmyer,

Attached please find a response to your letter dated 3/7/12.

1. Attached are 2 copies of 2 different surveys. The sign in question is located in the landscaped area of the Pierview Hotel. My request is to allow the 33 in. setback vs the 3ft required.
2. I am asking for permission to elevate the pedestal of the sign up to 4 ft so the sign can be seen over the backflow pipes on the south side of the sign and the cable box located in front of the sign to the North. The actual size of the sign will not change. However with the variance the complete height of the sign with the pedestal would then be 8ft total.
3. A.) The reason I am asking for the variance is with the current location and height of the sign it can not be seen by guest coming to the hotel or traffic passing by. To the north of the sign is a cable box that blocks part of the view and if a car is parked there it blocks the sign completely. On the south side of the sign are water pipes that stand 3 1/2 ft which block the south side view. Also like on the north side of the sign if there is a car or especially a truck parked by the sign you cannot see the name of the hotel at all.  
B.) The conditions justifying the variance are and were not a result of any action taken on the part of Pierview Hotel. The sign has been in the same location since the Hotel was called the Eventide approximately 21 years ago.  
C.) The granting of the variance will relieve the Hotel of the burden of losing business due to the fact that we have had guest commenting on how they could not find our hotel because they did not see the sign.

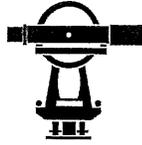
D.) In know way would the allowing of this variance be injurious or of any detriment to the general public.

E.)I feel that if this variance is granted there would be no need or would it warrant any type of amendment to the regulation in question.

Respectfully,

Judy Coleman  
Pierview Hotel  
General Manager  
1160 Estero Blvd.  
Ft. Myers Beach, FL 33931  
239-463-6158 - P





# Davis Surveying, Inc.

4536 SE 16<sup>th</sup> Place  
Cape Coral, Florida  
33904

March 13, 2012

Documentation of freestanding sign at Fort Myers Beach, Florida

1160 Estero Boulevard, Fort Myers Beach, Florida 33931

Elevations based on an assumed datum.

Elevation of centerline of roadway pavement = 100.00'

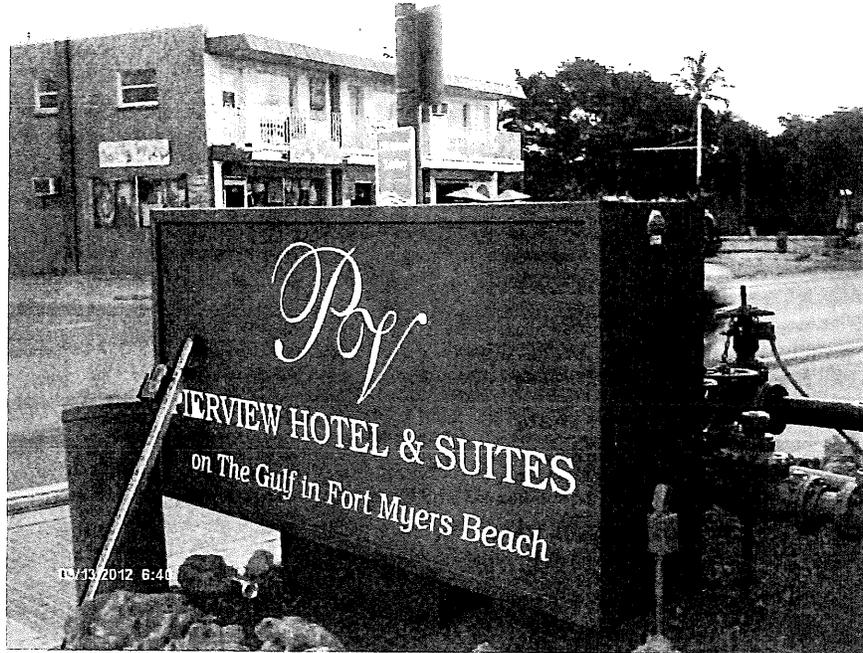
Elevation of edge of roadway pavement = 99.6'

Elevation of high grade at sign = 101.5'

Elevation of bottom of sign = 102.0'

Elevation of top of sign = 106.0'

Approximate distance from sign to right-of-way = 1.0'



Charles Davis, PLS #4839  
3/13/2012