

RESOLUTION OF THE TOWN COUNCIL OF
THE TOWN OF FORT MYERS BEACH, FLORIDA
RESOLUTION NUMBER 06-17.A

WHEREAS, Roger M. Schadt (hereafter "Appellant") is owner of property with a street address of 292 Sterling Avenue, Fort Myers Beach, Lee County, Florida and the Appellant has indicated that it has a STRAP number of 33-46-24-W2-005K0.001A, with a copy of the legal description attached as Exhibit "A"; and

WHEREAS, Appellant applied for a residential building permit (permit number RES 2005-07514) that was denied because it proposed construction of a separate structure on the subject property which was not in compliance with applicable density and zoning requirements of the Town's Comprehensive Plan (Plan) and the Land Development Code (LDC) as determined by the Town of Fort Myers Beach, Florida; and

WHEREAS, in response to Appellant's application Town Community Development found that the subject property is located in the Low Density Future Land Use Map (FLUM) category, is currently zoned RS (Residential Single-family), and contains an existing single-family dwelling unit as a principal use (dwelling unit, single-family) and an accessory use (accessory apartment under Town LDC Section 34-1178); and

WHEREAS, pursuant to the plans submitted, Appellant desired to construct a new structure which could function as an accessory structure or a second principal structure; and

WHEREAS, the LDC and the Plan require that for the use to be permitted, the subject property must comply with the applicable density limit, i.e., the LDC and Plan would require that the subject property be comprised of 0.5 acres or 21,780 square feet; and

WHEREAS, the subject property actually contains 8,820 square feet or approximately 0.2 acres, which exceeds the density limit permitted for the subject property by one unit, representing 200% of the lawful density under Policy 4-B-3 of the Plan; and

WHEREAS, based upon this finding, the Town Community Development staff made an administrative determination that the LDC and the Plan did not allow construction of this additional structure that Appellant had proposed; and

WHEREAS, Appellant thereafter filed an appeal of this administrative determination, styled as Case Number FMBADM 2006-00002 for a public hearing before Town Council of the Town of Fort Myers Beach, Lee County, Florida; and

WHEREAS, the public hearing was properly noticed and duly held on September 11, 2006, before the Town Council; and

WHEREAS, during the course of this public hearing the Town Council considered the documents submitted by Appellant, the Town staff report, and all other evidence presented by Appellant, Staff and the public.

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

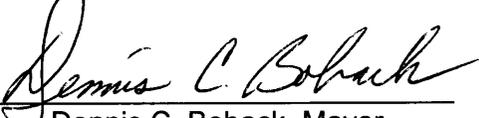
The Appellant's appeal is denied and Town Council upholds the administrative determination of the Town Community Development staff.

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

| | |
|--------------------------|--------|
| Dennis C. Boback, Mayor | AYE |
| Don Massucco, Vice Mayor | AYE |
| Charles Meador, Jr. | AYE |
| Garr Reynolds | ABSENT |
| William Shenko, Jr. | AYE |

THE APPEAL IS HEREBY DENIED. ADOPTED THIS 13TH DAY OF SEPTEMBER, 2006.

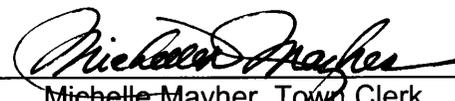
TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH

By: 
Dennis C. Boback, Mayor

Approved as to legal sufficiency:

ATTEST:

By: 
Anne Dalton, Esquire
Town Attorney

By: 
Michelle Mayher, Town Clerk

A tract or parcel of land situated in the State of Florida, County of Lee, being a part of McPhie Park Subdivision, Unit 3, according to the map or plat thereof as recorded in Plat Book 8, at Page 67, Public Records of Lee County, Florida, being a part of Section 33, Township 46 South, Range 24 East and further bounded and described:

Starting at the Westerly most corner of Lot 1, Block K, of said McPhie Park Subdivision, said point also being the principal place of beginning;

Thence N 23 degrees 15' 00" W along the Northeasterly line of Lot 22 of said Block K and along the Southwesterly line of the vacated portion of Seminole Way (said portion vacated by Resolution of the Board of County Commissioners of Lee County, Florida, on June 23, 1976, by Resolution #76-6-10 and recorded in County Commissioners Minute Book 70 at Page 94) a distance of 45.00 feet;

Thence N 66 degrees 45' 00" E a distance of 84.00 feet (the Southwesterly 40.00 feet of said line being the Northwesterly line of the aforesaid vacated portion of Seminole Way);

Thence S 23 degrees 15' 00" E a distance of 105.00 feet, to a point on the Southeasterly line of Lot 1 of said Block K;

Thence S 66 degrees 45' 00" W along said Southeasterly line of a distance of 84.00 feet;

Thence N 23 degrees 15' 00" W along the Southwesterly line of said Lot 1, a distance of 60.00 feet to the place of beginning.

Bearings are from the recorded Plat of McPhie Park, Unit 3.

DR3 121 P80669

CHARLIE GREEN, CLERK
LEE COUNTY, FL
1999 MAY 21 PM 12: 17

Exhibit A

AS-BUILT SURVEY OF
**PART OF BLOCK "K" & PART
 OF VACATED SEMINOLE WAY
 McPHEE PARK SUBDIVISION**
 UNIT 3

SECTION 33, TOWNSHIP 48 SOUTH, RANGE 24 EAST
 (PLAT BOOK 8, PAGE 87)
 LEE COUNTY, FLORIDA

LEGEND:

- N NORTH
- E EAST
- S SOUTH
- W WEST
- FOUND IRON PIN (CAP WEST)
- CONCRETE MONUMENT (C.M.)
- PERMANENT REFERENCE MONUMENT
- PERMANENT CONTROL POINT
- AS PER PLAT
- AS PER SURVEY
- AS MEASURED
- CONCRETE BLOCK STRUCTURE
- ELEVATION
- NAIL & DISK
- N/T
- D/H
- DRILL HOLE
- POINT OF BEGINNING
- POINT OF COMMENCEMENT
- POINT OF CURVATURE
- OFFICIAL RECORDS BOOK
- AIR CONDITIONER
- OVERHEAD POWERLINES
- P.P. POWER POLE
- W.M. WATER METER
- UTS. UTILITY
- E.L.B. ELECTRIC BOX
- C.E.P. CURB/GUTTER
- E.O.P. EDGE OF PAVEMENT
- C/T. CENTERLINE
- R/W RIGHT-OF-WAY
- B.M. BENCHMARK
- TYPICAL ELEVATION

SURVEY NOTES:
 1: BASIS OF BEARING SHOWN HEREON TAKEN FROM THE EAST RIGHT-OF-WAY LINE OF SEMINOLE WAY ASSUMED TO BEAR N 23°15'00"W.

- 2: FIELD NOTES IN McPHEE PARK.
- 3: SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.
- 4: THIS CERTIFICATION IS ONLY FOR LANDS DESCRIBED HEREON. IT IS NOT A CERTIFICATION OF TITLE, ZONING OR FREEDOM OF ENCUMBRANCES.
- 5: THIS SURVEY DOES NOT CONSTITUTE A TITLE OR EASEMENT SEARCH AND WAS BASED ON DESCRIPTION FURNISHED BY CLIENT AND/OR FOUND ON INSTRUMENTS OF RECORD.
- 6: UNDER NO CIRCUMSTANCES SHALL THIS SURVEY BE USED TO CORRECT OR RAISE BEARINGS AND DISTANCES ARE PLAT AND MEASURED, UNLESS OTHERWISE SHOWN.
- 7: ELEVATIONS ARE NATIONAL GEODETIC VERTICAL DATUM OF 1929 (N.G.V.D.).
- 8: FLOOD ZONE: "A19" ELEVATION: 11.00' N.G.V.D.
- 9: CORNERS: 125124 PANEL # 0441 N.S.V.D.
- 10: SURV: B REVISION DATE: 9/19/84

THIS SURVEY IS CERTIFIED TO:
 ROGER M. SCHAUT
 SUNBELT NATIONAL MORTGAGE CORPORATION
 WOODBURN MORTGAGE CORPORATION
 CHARLES MEADOR ATTORNEY
 ATTORNEYS' TITLE INSURANCE FUND, INC.

CERTIFICATE
 I HEREBY CERTIFY THAT THIS PLAT OF SURVEY WAS PREPARED UNDER MY DIRECT SUPERVISION AND IS CORRECT AND ACCURATE TO THE BEST OF MY PROFESSIONAL KNOWLEDGE AND BELIEF AND MEETS THE MINIMUM STANDARDS OF LAND SURVEYING IN THE STATE OF FLORIDA UNDER FLORIDA STATUTES, CHAPTER 472 AND CHAPTER 61 G-17, FLORIDA ADMINISTRATIVE CODE.

John B. Harris
 F.L.S. NO. 4431 JOHN B. HARRIS
 DATE: *September 20, 1984*
 SURVEY DATE: 5/8/89
 JOB # WP-13-K1
 HARRIS-JORGENSEN INC.
 2708 S.E. SANTA BARBARA PLACE
 CAPE CORAL, FLORIDA
 PHONE: 704/1 779-0070

SEE EXHIBIT "A" FOR LEGAL DESCRIPTION.

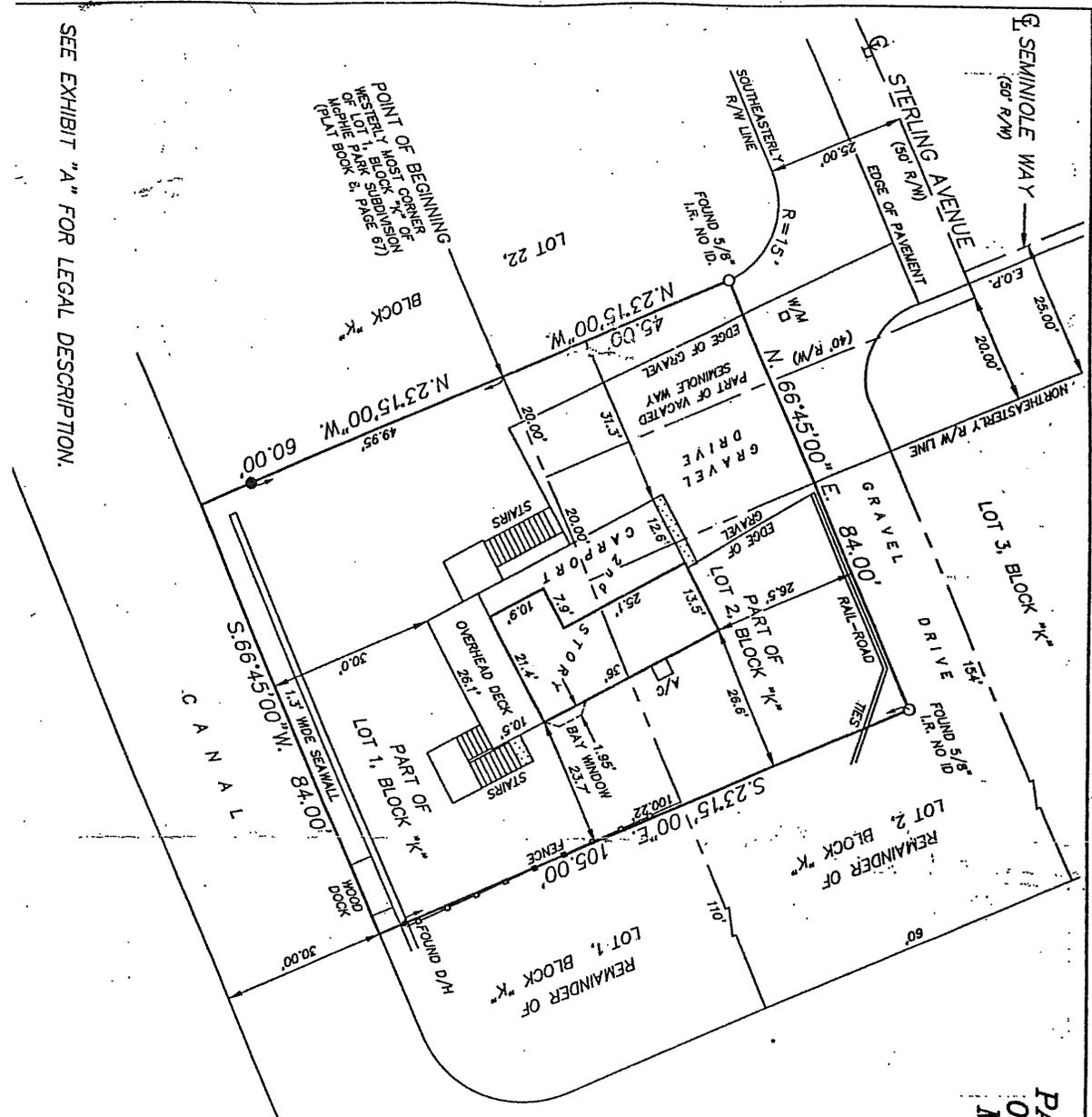


Exhibit B