

**1. Requested Motion:**

**Meeting Date: August 6, 2012**

Approve the request for three variances from LDC Section 30-154(b) (street setback) and 30-154(c) (standards for monument signs) for the Pierview Hotel located at 1160 Estero Blvd.

**Why the action is necessary:**

This action will allow the applicant to raise the sign to be seen over the above-ground public and private utilities.

**What the action accomplishes:**

**2. Agenda:**

- Consent
- Administrative
- Public Hearing

**3. Requirement/Purpose:**

- Resolution
- Ordinance
- Other

**4. Submitter of Information:**

- Council
- Town Staff – Comm. Dev.
- Town Attorney

**5. Background:**

Broadway Investment Partners, LLC (“Applicant”), has requested three variances from LDC Sections 30-154(b) and 30-154(c) to allow a monument sign on the subject property that exceeds the maximum permitted height and encroaches into the minimum required street setback.

The sign on the property is wedged between a cable box and back flow pipes. It is located 1’ from the Estero Boulevard ROW, is approximately 6’ in height, and sits on a pedestal 2’ in height. The request would allow the pedestal to be raised to 4’ (above the on-site utilities) and overall height increased to 8’.

The LPA held a public hearing for the request at their June 12, 2012 meeting. Staff presented its case along with a recommendation for approval. LPA had a question and answer period and discussion involving conditions for approval. Ultimately, however, the LPA voted 5-1 (Member Plummer was absent) to approve the request without conditions as recommended by Staff. LPA Member Durrett was the lone dissenting vote.

Please note that the meeting minutes from the June 12, 2012 LPA meeting are still in draft form at the time of packet assembly. They should be officially adopted at the August 14, 2012 LPA meeting.

**Attachments:**

- Draft Town Council resolution
- LPA resolution 2012-006
- Draft LPA minutes from the June 12, 2012 meeting
- LPA packet including staff report from the June 12, 2012 meeting

**6. Alternative Action:**

1. Deny the requested variance
2. Approved the requested variance

**7. Management Recommendations:**

Approve the requested variance as recommended by the LPA.

**8. Recommended Approval:**

Town Manager	Town Attorney	Finance Director	Public Works Director	Community Development Director	Cultural Resources Director	Town Clerk
						

**9. Council Action:**

Approved     Denied     Deferred     Other

RESOLUTION OF THE TOWN COUNCIL OF  
THE TOWN OF FORT MYERS BEACH FLORIDA  
RESOLUTION NUMBER 12-11  
VAR2011-0006 (Pierview Hotel Sign Variance)

WHEREAS, Broadway Investment Partners, LLC (“Applicants”) have requested three Variances from Section 30-154(b) and Section 30-154(c) of the Town of Fort Myers Beach Land Development Code; and

WHEREAS, the applicant has indicated that the STRAP for the subject property is 24-46-23-W3-00009.0000 and the legal description of the subject property is attached as “**Exhibit A**”; and

WHEREAS, the subject property is located at 1160 Estero Boulevard in the DOWNTOWN zoning district of the Official Zoning Map and the Pedestrian Commercial 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 June 12, 2012; and

WHEREAS, at its meeting of June 12, 2012, the LPA instructed Town staff to bring this application forward to Town Council without the necessity of having approved LPA minutes; and

WHEREAS, a public hearing on this matter was legally advertised and held before the Town Council on August 6, 2012, at which time the Town Council gave full and complete consideration to the request of Applicant, LPA Resolution 2011-07, the 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 TOWN 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, LPA Resolution 2012-006 and the standards for granting variances, the Town Council makes the following findings of fact, and reaches the following conclusions:

The Town Council **APPROVES** the applicant’s request for three Variances from Section 30-153(b) and Section 30-154(c) of the LDC, with any approval subject to the following conditions:

**CONDITIONS:**

1. The sign must be set back a minimum of 1 foot from the Estero Boulevard right-of-way.
2. The sign pedestal must be a maximum of 4 feet in height, so as to allow the sign to be seen over the above-ground utilities on-site.
3. The maximum sign height is 8 feet, as measured from the adjacent grade or crown of the road.

**FINDINGS AND CONCLUSIONS:**

In accordance with the requirements of LDC Sections 34-84 and 34-87 regarding consideration of eligibility for a variance, the Town Council makes the following findings and reaches the following conclusions:

- A. 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 to protect public safety by not obstructing access to the public utilities and fire protection facilities.
- B. The conditions justifying the variance **are not** the result of actions of the applicant taken after the adoption of the regulation in question.
- C. The variance granted **is** 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 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 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 Councilmember \_\_\_\_\_ and seconded by Councilmember \_\_\_\_\_, and upon being put to a vote, the result was as follows:

Larry Kiker, Mayor	AYE/NAY	Bob Raymond, Vice Mayor	AYE/NAY
Alan Mandel	AYE/NAY	Jo List	AYE/NAY
Joe Kosinski	AYE/NAY		

DULY PASSED AND ADOPTED THIS 6th day of AUGUST, 2012.

Town Council of the Town of Fort Myers Beach

By: \_\_\_\_\_  
Larry Kiker, Mayor

Approved as to legal sufficiency:

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

ATTEST:

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

RESOLUTION OF THE LOCAL PLANNING AGENCY OF  
THE TOWN OF FORT MYERS BEACH FLORIDA  
RESOLUTION NUMBER 2012-006  
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** 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** exceptional or extraordinary conditions or circumstances that are inherent to the property in question, **and** the request **is** for a de minimis variance to protect public safety by not obstructing access to public utilities and fire protection facilities.
- B. The conditions justifying the variance **are not** the result of actions of the applicant taken after the adoption of the regulation in question.
- C. The variance granted **is** 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 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 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 **Andre** and seconded by LPA Member **Zuba**, and upon being put to a vote, the result was as follows:

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

DULY PASSED AND ADOPTED THIS 12<sup>th</sup> day of JUNE, 2012.

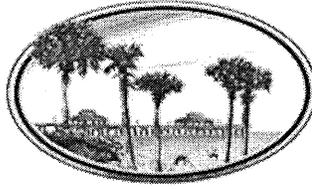
By: Joanne K Shamp  
Joanne Shamp, LPA Chair

Approved as to legal sufficiency:

By: Maury W. Boggs  
Fowler, White, Boggs  
LPA Attorney

ATTEST:

By: Michelle Mayher  
Michelle Mayher  
Town Clerk



**FORT MYERS BEACH  
LOCAL PLANNING AGENCY (LPA)**

Town Hall – Council Chambers

2523 Estero Boulevard

Fort Myers Beach, Florida

**June 12, 2012**

**I. CALL TO ORDER**

Meeting was called to order at 9:01 a.m. by Joanne Shamp; other members present:

Dan Andre  
Al Durrett  
John Kakatsch  
Jane Plummer (Excused)  
Alan Smith  
Hank Zuba

LPA Attorney, Marilyn Miller  
Staff Present: Walter Fluegel, Community Development Director  
Leslee Chapman, Zoning Coordinator  
Josh Overmyer, Planning Coordinator

**II. PLEDGE OF ALLEGIANCE**

**III. INVOCATION – Hank Zuba**

**IV. MINUTES**

A. Minutes of April 10, 2012

**MOTION:** Mr. Zuba moved to approve the April 10, 2012 minutes; second by Mr. Smith.

Mr. Zuba noted a typographical error on Page 8, Paragraph 6.

**VOTE:** Motion passed 6-0. Ms. Plummer excused.

## V. PUBLIC HEARING

### A. REZ2011-0001 – Paine/Purtell Rezoning

Ms. Shamp opened the hearing at 9:04 a.m.

Zoning Coordinator Chapman entered the Affidavit of Publication into the record.

Ms. Shamp asked the LPA Attorney to swear in the witnesses; and LPA Attorney Miller swore in the witnesses.

Ms. Shamp asked if any LPA Member had ex-parte communication regarding this item. Mr. Kakatsch – none; Mr. Durrett – none; Ms. Shamp – site visit; Mr. Zuba – none; Mr. Smith: -site visit; Mr. Andre – site visit.

Ms. Alexis Crespo of Waldrop Engineering representing the applicant, Messrs. Paine and Purtell, noted they were unable to attend the meeting; however, Brady Paine was in attendance (Mr. Paine's son) and he could provide history regarding the property if necessary. She presented comments for REZ2011-0001 – Paine/Purtell Rezoning for a rezoning request of Residential Conservation to Downtown. She noted the subject property was currently located in the Pedestrian Commercial Future Land Use Category of the Comprehensive Plan. She displayed an aerial location map of the subject property and discussed the frontage along the arterial roadway, and proximity to the Old Sand Carlos Boulevard, Estero Boulevard, and Times Square, pedestrian-commercial designation. She used a PowerPoint presentation to review the existing condition of the property; the existing uses of the surrounding properties; the subject property as it appeared on the Town of Fort Myers Beach Future Land Use Map (FLUM) and the land use designation for surrounding properties; and the existing zoning designation for the subject property and surrounding properties. She stated the applicant was requesting a logical extension of the Downtown Zoning District to include the subject property and she noted the subject property was the only property fronting on Estero Boulevard within the Lagoon Street block that did not have commercial use at the present time. She reviewed the slides that depicted the types of existing businesses and uses, residential properties, and vacant lots that surrounded or were nearby the subject property. She gave a historical synopsis of the zoning and land use designations and changes for the subject property since 1950. She noted the applicants were able to obtain a Future Land Use Map Amendment in 2010 for the subject property to Pedestrian-Commercial. Ms. Crespo reviewed other specifics of the applicant's zoning request; and noted the area of the town where the subject property was located had sufficient infrastructure to handle the rezoning and the applicant had acquired the appropriate letters to support the request (i.e. letter from Utility Department). She stated the applicant requested a TIS waiver that was approved by the Community Development Director; and discussed how the subject property was in a 'park-once' location. Ms. Crespo reviewed the rezoning request as it pertained to compatibility with the surrounding properties, and compliance with the Comprehensive Plan. She stated the Staff Report indicated the request was consistent with the Town's Growth Management Plan, that it implemented the 2010 Future Land Use Map Change to Pedestrian-Commercial, approved the TIS Waiver, and recommended approval of the rezoning. She indicated that the approval of the request would allow the property's zoning to comply with

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the underlying Residential Commercial Future Land Use Category and requested the LPA approve the rezoning request.

Mr. Smith asked if there was any feedback from the multi-family seasonal rental properties located on Lagoon Street.

Ms. Crespo stated from her conversations with the applicants it was her understanding from that they were supportive of the rezoning.

Mr. Zuba asked why there was no 'redevelopment plan' included in the rezoning request.

Ms. Crespo reported the applicants did not have an immediate redevelopment plan and were trying to regain the previous commercial uses that were allowed for the site at a C-1 designation which would allow for future redevelopment of the property. She noted there was not an 'end-user' at this time.

Mr. Zuba asked if the applicants were positioning the property for sale.

Ms. Crespo responded in the affirmative.

Mr. Zuba asked if there were any code violations on the existing properties.

Ms. Crespo stated that to the best of her knowledge there were none.

Zoning Coordinator Chapman stated she could research the matter.

Discussion was held concerning what was permissible under the current zoning.

Zoning Coordinator Chapman presented comments for REZ2011-0001 – Paine/Purtell Rezoning on behalf of the Town of Fort Myers Beach. She displayed an aerial view of the subject property and reviewed the application for a rezoning of the subject property located at 821 and 831 Estero Boulevard. She noted that the application was a conventional rezoning and described the difference between conventional zoning and a commercial planned development. She explained that the LPA must make a recommendation of approval or denial; and that the approvals could not be conditioned. She indicated the property location on the Future Land Use Map (FLUM) and gave a brief historical background of the property:

- Future Land Use
  - Lee County FLU: Urban Community
  - Town of Fort Myers Beach Adopted the Future Land Use Map in 1999; Mixed-Residential
  - Applicants applied for a Small Scale Map Amendment which was approved in 2010 by Ordinance 10-02 from Mixed Residential to Pedestrian Commercial

She discussed the property location on the Zoning Map and the property's zoning history:

- Zoning
  - Lee County Zoning C-1
  - Town of Fort Myers Beach adopted the Land Development Code by Ordinance 03-03
  - Town of Fort Myers Beach adopted the Official Zoning Map Resolution 04-16 which zoned the subject property Residential Conservation
  - Applicant has applied to rezone the subject property to Downtown which would allow for a variety of uses that would not require a Development Order

She pointed out considerations with respect to compatibility with surrounding properties; TIS waivers; and land use/zoning consistency. She noted the subject property was located within a six parcel loop that was enclosed by Estero Boulevard and Lagoon Street; and that rezoning the property to Downtown would shift the balance of land uses within the loop from a majority of residential parcels to a majority of commercial parcels. She reported that staff recommended approval of the requested rezoning from Residential Conservation to Downtown.

Mr. Kakatsch asked if the parking area adjacent to the property would remain a parking area and be tied into whatever might develop on the new property.

Ms. Chapman reported that property was a commercial parking lot and there was an opportunity for the two parcels in question, if they were redeveloped, to enter into a joint use agreement.

Discussion ensued regarding the possible development of the commercial parking lot; and challenges to the conventional zoning districts and buffering along the street.

Ms. Shamp questioned the types of uses that could be permitted.

Ms. Chapman stated that any change in use would still have to apply for a Certificate of Use; and noted if there were any proposed changes to the interior/exterior of the building that come up against the 50% Rule could be a limiting factor to redevelopment.

Ms. Shamp asked if the buildings were to be torn down and the rezoning was approved, what number of units would be allowed to be used without going through the CPD process (i.e. height and unit restrictions).

Ms. Chapman responded that it would be less than seven units; and they would have to go up in height due to FEMA (approximately 30 feet above base flood elevation).

Community Development Director Fluegel noted that the Commercial Design Standards would apply if the property was rebuilt; and discussed the applicability of the 50% Rule.

Mr. Zuba noted his concerns regarding buffering for the adjacent properties and increasing density.

Discussion ensued concerning buffering, increased density and intensity, FEMA standards, compatibility concerns, and the existing inconsistency between the future land use and the zoning.

Public Comment opened.

No speakers.

Public Comment closed.

Mr. Andre expressed his belief that it seemed like a logical transition to change the zoning back to what it was when the applicants purchased the subject property.

Mr. Smith agreed with Mr. Andre and pointed out this was an opportunity to correct an inconsistency between the land use and zoning.

Mr. Zuba discussed his opinion that he did not see the site as commercial given the elevation requirements.

Ms. Shamp explained how she believed the request was logical; however, she noted she still had concerns.

Mr. Durrett reported he was looking forward for future property improvements.

Mr. Kakatsch urged the property owners to improve the landscaping.

Ms. Shamp pointed out that Lagoon Street provided a geographic separation for the Downtown Zoning District.

**MOTION:** Mr. Durrett moved that the LPA recommends the Town Council approve the request to rezone the subject property to the Downtown Zoning District: 1) Approve; 2) Approve; 3) Approve; 4) Approve; 5) Approve; 6) Approve; 7) Approve; 8) Approve; and 9) Approve; Second by Mr. Smith.

**VOTE:** Motion passed, 5-1; Mr. Zuba dissenting; Ms. Plummer excused.

Ms. Shamp closed the hearing at 10:02 a.m.

Recess at 10:02 a.m. – Reconvened at 10:09 a.m.

Ms. Shamp reported the applicant was not present for the Sign Variance, Pierview Hotel, and asked if the LPA would consider changing the order of presentation.

**MOTION:** Mr. Zuba moved to move up the CVS CPD; second by Mr. Kakatsch.

**VOTE:** Motion approved, 6-0; Ms. Plummer was excused.

**B. FMBDCI2012 -0002 CVS Pharmacy CPD Amendment**

Ms. Shamp opened the hearing at 10:10 a.m.

Ms. Shamp asked the LPA Attorney to swear in the witnesses; and LPA Attorney Miller swore in the witnesses.

The Affidavit of Publication was entered into the record.

Ms. Shamp asked if any LPA Member had ex-parte communication regarding this item. Mr. Kakatsch – none; Mr. Durrett – none; Ms. Shamp – site visit; Mr. Zuba – none; Mr. Smith: - none; Mr. Andre – none.

Mr. Burt Saunders of the Gray-Robinson Law Firm, representing the applicant, noted the local Store Manager, Ed Cooney, was present to answer questions if needed. He stated the Town staff had recommended approval of the CPD in their Staff Report for the request to amend Condition #2 of Resolution FMB 97-35, which restricted the hours of operation from 8:00 a.m. to 9:00 p.m., to allow CVS to operate from 7:00 a.m. to midnight. He mentioned that the CVS store had been under the impression it could operate from 7:00 a.m. to midnight and had done so for the past eight years; however, a disgruntled employee had reported the error in hours of operation to the Town. He addressed highlights of the Staff Report that pointed out the CVS Pharmacy began operation of the store in 2004 which was formerly operated by Eckerd Drugs who had operated under the 7:00 a.m. to midnight schedule; the notification to the Town was by a disgruntled employee and not a nearby resident; and staff recommended approval.

Ms. Shamp questioned the hours for store deliveries.

Mr. Cooney was sworn in by the LPA Attorney. He reported most deliveries were from local vendors that occurred up until about 5:00 p.m.; however, rarely there were deliveries after that time, possibly a delivery around 6-7:00 p.m. from the CVS warehouse.

Discussion was held concerning conditions of the CPD with respect to hours of operation.

Mr. Smith stated he resided directly across the street from CVS and had no idea of the hours of operation because the store was well-run and quiet.

Josh Overmyer, Planning Coordinator for the Town of Fort Myers Beach, noted he had not been designated as an expert in land planning before the Town of Fort Myers Beach LPA. He requested the designation and the approval to present the amendment request to the Commercial Planned Development, CVS/Pharmacy CPD, DCI2012-0002.

**MOTION:** Mr. Smith moved to tender Mr. Overmyer as an expert in the area of land planning; second by Mr. Zuba.

**VOTE:** Motion approved, 6-0; Ms. Plummer was excused.

Mr. Overmyer displayed an aerial picture of the subject property located near Santini Plaza; and indicated the location of the subject property and surrounding properties. He described the subject property location on the zoning map and on the Future Land Use Map. He stated the applicant was requesting to amend Condition #2 of Resolution FMB 97-35, restriction on hours of operation from 8:00 a.m. to 9:00 p.m., to allow CVS to operate from 7:00 a.m. to midnight. He reviewed the property details which was formerly operated by Eckerd Drugs, CVS began operation at the site in 2004, the property was currently zoned Commercial Planned Development, and the Future Land Use was Pedestrian Commercial. He stated that staff recommended approval of the requested expansion of hours of operation since the hours had been in place since August 2004 with no complaints from neighboring property owners; and the expanded hours would allow additional hours of service to residents and visitors which would keep vehicular trips on the island.

Ms. Shamp questioned if the extended hours of operation were approved would the approval stay with the site if the use changed (i.e. CVS to a restaurant).

Community Development Director Fluegel explained the approval would go with the approved use as indicated on the Schedule of Uses. He added the hours could be conditioned to the specific use as a pharmacy.

Ms. Shamp noted the site was located in a heavily traveled pedestrian area and was traffic impact or pedestrian safety considered as it pertained to the extended hours.

Community Development Director Fluegel explained that the traffic/pedestrian safety were off-site concerns.

Mr. Durrett noted the subject property was located at one of the worst intersections on the island. He stated that on behalf of the Safety Task Force that if CVS had any creative ideas how to make it safer for pedestrians to cross that street he would like to discuss the matter further at a later date.

Mr. Kakatsch urged CVS to consider opening another store location in the downtown or on the north end of the island.

Mr. Overmyer noted the hours of operation for other businesses in the area of the subject property which included, but was not limited to, 7-Eleven open 24 hours a day, Truly Scrumptious open until 9:30 p.m., Castaway Bar until 2:00 a.m., Sand Bar until 1:00 p.m., Skye's until 11:00 p.m., South Beach Grille until 10:00 p.m., Fish House until 10:00 p.m. on Friday and Saturday night.

Public Comment opened.

No speakers.

Public Comment closed.

Ms. Shamp noted the approval could be conditioned as long as the use was a pharmacy.

Discussion was held concerning conditioning approval as long as the use was a pharmacy.

Ms. Shamp recognized Mr. Saunders.

Mr. Saunders pointed out on Page 3 of the CPD, Item #3, *“all conditions herein apply to all uses allowed within this development; any change in use from a drug store/pharmacy with a drive-thru pharmacy to one of the other listed uses may only be permitted following an amendment to the Development Order”*.

LPA Attorney Miller noted that the Development Order does not necessarily come back before the LPA.

Discussion continued regarding “conditioning” the approval.

**MOTION:** Mr. Andre moved that the LPA recommend the Town Council approve the applicant’s request for an amendment to Condition #2 of Resolution FMB 97-35 to change the permitted hours of operation from the previously approved 8:00 a.m. to 9:00 p.m. to from 7:00 a.m. to 12:00 midnight: 1) Approve; 2) Approve; 3) Approve; 4) Approve; 5) Approve; 6) Approve; 7) Approve; 8) Approve; and 9) Approve; and 10) Approve; second by Mr. Zuba.

**VOTE:** Motion approved, 6-0; Ms. Plummer was excused.

Ms. Shamp questioned the status of the applicants for the Pierview Hotel & Suites Sign Variance.

Mr. Overmyer reported the applicant was not present; however, he would call the applicant.

Ms. Shamp noted at this point in the Agenda the LPA would normally adjourn and reconvene as the Historic Preservation Board; however, since Ms. Plummer was not present she did not feel there was any news to disseminate.

Mr. Kakatsch concurred with Ms. Shamp.

Consensus was to withdraw convening as the Historic Preservation Board.

## **VI. LPA MEMBER ITEMS AND REPORTS**

Mr. Andre – no items or reports.

Mr. Smith – no items or reports.

Mr. Zuba – suggested bi-monthly instead of monthly meetings for the Historic Preservation Board; that the HPB item on the LPA Agenda be moved to the end of the meeting to avoid convening and reconvening; and suggested the LPA recommend to Town Council that the LPA be permitted to establish a sub-committee or task force regarding Seafarer’s that would be able to continue to meet with the consultant and staff.

Ms. Shamp stated she already spoke with Community Development staff about the LPA having a presentation regarding an economic district, zoning, and TIFs so that the LPA could be familiarized with what might happen in the Seafarer area.

Community Development Director Fluegel explained that the Town Council had instructed staff to prepare qualifications for to retain a land planning consultant to assist the Town Council with issues surrounding Seafarer’s and the Downtown as it pertained to the subject property.

LPA Attorney Miller noted that she was in the process of determining if there was an existing Community Redevelopment Area designation in the Town.

Community Development Director explained the difference between a Downtown Redevelopment Agency (DRA) and a Community Redevelopment Agency (CRA).

Ms. Shamp noted her agreement with Mr. Zuba’s suggestion that the LPA be an integral part of any work regarding the Seafarer’s. She suggested the LPA consider a motion that they designate an LPA member who would be their representative for any Seafarer’s issues and if there was a committee formed or a workshop held.

Discussion ensued regarding designating an LPA member as a representative for any Seafarer issues; consensus was to nominate an LPA member to represent the LPA on Seafarer issues.

**NOMINATION:** Mr. Andre nominated Mr. Zuba as the LPA representative; second by Mr. Kakatsch.

Mr. Zuba accepted the nomination.

**VOTE:** Motion approved, 6-0; Ms. Plummer was excused.

Ms. Shamp asked to craft a letter to Town Council to inform them of Mr. Zuba’s appointment to represent the LPA with matters concerning Seafarer’s as it pertained to Section 34-120.

**MOTION:** Mr. Zuba moved to approve that Ms. Shamp write a letter to Town Council regarding his appointment as LPA representative; second by Mr. Andre

**VOTE:** Motion approved, 6-0; Ms. Plummer was excused.

Mr. Durrett – gave a status report on the dredging of Big Carlos Pass and noted it was being done between Bonita Beach and Fort Myers Beach. He mentioned there would be a meeting in July on the topic where the DEP would be in attendance.

Mr. Kakatsch – questioned the status of the three units on Estero Boulevard in the 4400 Block across from Newton Park.

LPA Attorney Miller reported the subject property was in the middle of the demolition process; and the Town had served notice on the owner and the bank.

Mr. Overmyer reported that he had provided a copy of the previous zoning application to the property owner, which could possibly be used to submit a new rezoning application.

Discussion was held regarding the subject property; the intent to tear down the property; and a demolition permit.

Ms. Shamp pointed out that she believed the LPA was taking a hiatus in August, but stated she heard the Town Council was taking a hiatus in July.

Ms. Chapman stated the Town Council was taking a hiatus in July; and noted staff still had 4-5 sign ordinances to forward to the LPA.

Discussion ensued regarding whether to take hiatus in July or August.

**MOTION:** Mr. Smith moved to suspend the LPA meeting for July and resume the LPA meetings in August; second by Mr. Andre

**VOTE:** Motion approved, 6-0; Ms. Plummer was excused.

Ms. Shamp noted the LPA's regrets at missing the Mound House tour.

Mr. Overmyer stated staff could schedule another tour.

## **VII. LPA ATTORNEY ITEMS**

LPA Attorney Miller – discussed “minimum use determination on property in the Seagrape subdivision” and stated she was working on what would be the equivalent of a staff report for the approximately 40 platted lots which had a majority of lots as wetlands.

## **VIII. COMMUNITY DEVELOPMENT DIRECTOR ITEMS**

Ms. Chapman reported the Community Development Director had asked her to inquire about the LPA's hiatus, which was already addressed.

C. FMBVAR2001-0006 – Pierview Hotel & Suites Sign Variance

Ms. Shamp opened the hearing at 11:10 a.m.

Ms. Shamp asked the LPA Attorney to swear in the witnesses; and LPA Attorney Miller swore in the witnesses.

The Affidavit of Publication was entered into the record.

Ms. Shamp asked if any LPA Member had ex-parte communication regarding this item. Mr. Kakatsch – none; Mr. Durrett – none; Ms. Shamp – site visit; Mr. Zuba – none; Mr. Smith: - site visit; Mr. Andre – site visit.

Josh Overmyer, Planning Coordinator for the Town of Fort Myers Beach, presented the request for the Pierview Hotel Sign Variance, FMBVAR2011-0006. He displayed and described slides depicting the location of the subject property and the surrounding properties. He reviewed the three variances requested:

- Variance from LDC Sec. 30-154(b) requirement of a 3' 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
- 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
- Variance from LDC Sec. 30-154(c) sign height maximum of 5' to permit the existing monument sign to be raised to 8' in height

He displayed photographs of the existing sign and the previous sign by the Ramada Inn in 2000. He discussed the supporting regulations Section 30-154(b) (location); Section 30-154(c) (height); Section 34-87; Section 34-87(3)(a); Section 34-87(3)(b); Section 34-87(3)(c); Section 34-87(3)(d); and Section 34-87(3)(e). He reported the applicant's requested variances were reasonable, given the location of the adjacent building to the north and the above-ground public and private utilities at the sign location. He recommended 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'.

Mr. Zuba questioned the concept of precedent and how would staff avoid it.

Ms. Chapman noted the Diamond Head sign variance that came before the LPA where they did consider precedent and other issues.

Discussion was held regarding the upcoming sign variances yet to come before the LPA that questioned signage issues such as physical obstructions and real on-site conditions; staff recommendations for minimal variances to address obstructions; consistency of the sign ordinance; measurements for a *de minimus* variance under circumstances or conditions on the subject property; and location of the utilities and the physical obstruction to the current sign.

Judy Coleman, Manager of the Pierview Inn, described the intention of the variance request as it related to raising only the bottom pedestal part of the current sign.

Mr. Andre questioned the allowable square footage of the sign.

Ms. Chapman stated the business was permitted to have a maximum of 32 square feet.

Discussion was held regarding problems with the square footage of the signage due to the location of the utilities.

Public Comment opened.

No speakers.

Public Comment closed.

Discussion ensued regarding the *de minimus* impact; location of the utility pipes/valves and public safety access; and the uniqueness of the location/situation.

Mr. Andre requested, in the future, staff obtain a drawing of the proposed signage be included with a sign variance application.

**MOTION:** Mr. Andre moved to recommend to Town Council that they approve the applicant's request for Variances from Section 30-153(b) and Section 30-154(c) of the LDC:  
A. 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.  
B. The conditions justifying the variance **are not** the result of actions of the applicant.  
C. The variance granted **is** the minimum variance.  
D. The granting of the variance **will not** be injurious to the neighborhood.  
E. 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.  
Second by Mr. Zuba.

Discussion ensued regarding the wording of "A" in the motion.

Ms. Shamp requested an amendment to include at the end of "A", *'to protect public safety by not obstructing access to the public utilities and fire protection facilities'*.

**AMENDMENT:** Motion Maker agreed to the suggested wording and noted that staff could specifically name the utilities and fire protection items; Second agreed.

**VOTE:** Motion approved, 5-1; Mr. Durrett dissenting; Ms. Plummer was excused.

Ms. Shamp closed the Public Hearing at 11:52 a.m.

**IX. LPA ACTION ITEM LIST REVIEW**

Ms. Shamp noted Chuck’s Last Stop was presented to Council; the COP was still in progress; and that Mr. Kakatsch, Mr. Smith, Mr. Durrett, and Ms. Shamp would be the LPA contacts when the three cases heard today would be presented to Council in August. She noted the LPA Attorney requested “Seagrape Subdivision” be added to the LPA’s work activity. She mentioned the Town Council had asked the LPA to review the post-disaster recovery ordinance

**X. ITEMS FOR NEXT MONTH’S AGENDA**

None.

**XI. PUBLIC COMMENT**

Public Comment opened.

No speakers.

Public Comment closed.

**XII. ADJOURNMENT**

**MOTION:** Motion by Mr. Zuba, seconded by Ms. Smith to adjourn.

**VOTE:** Motion approved, 6-0.

Meeting adjourned at 11:57 p.m.

Adopted \_\_\_\_\_ With/Without changes. Motion by \_\_\_\_\_

Vote: \_\_\_\_\_

\_\_\_\_\_  
Signature

End of document.



# *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

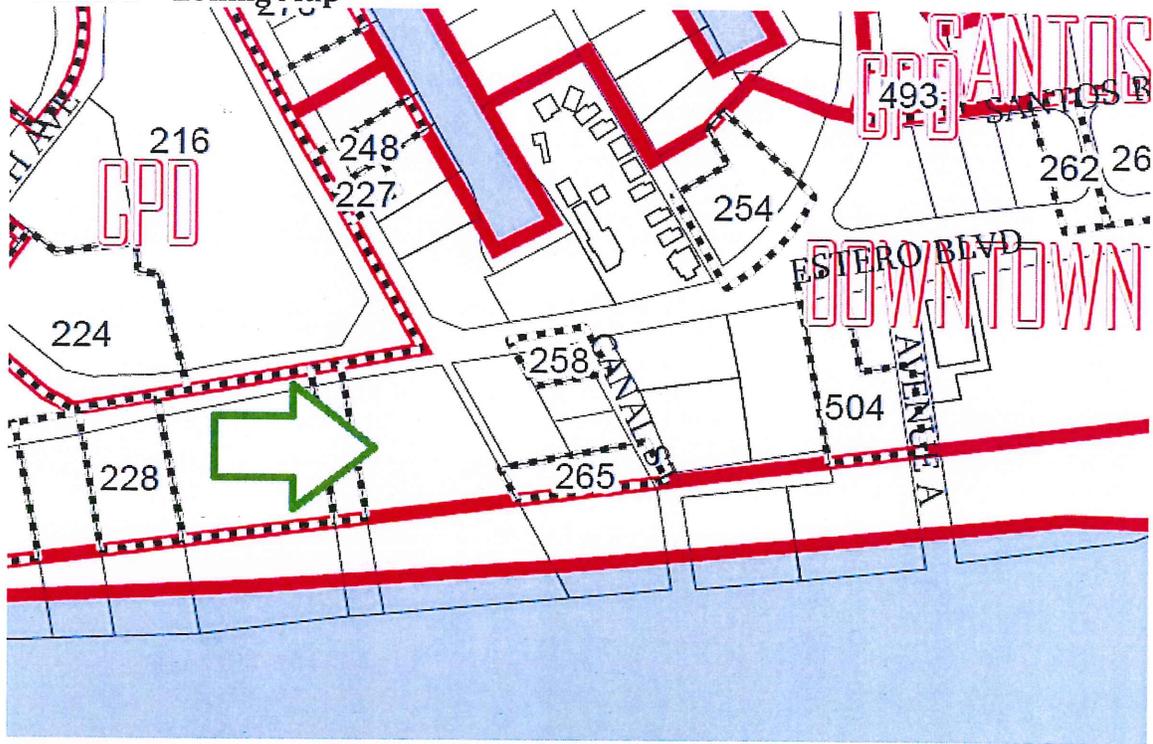


Exhibit C - Future Land Use Map





# 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'

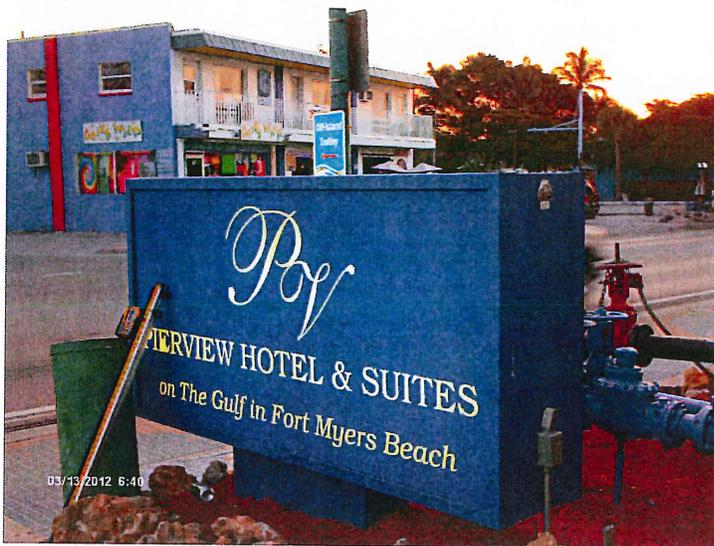
Approximate distance from sign to right-of-way = 1.0'

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

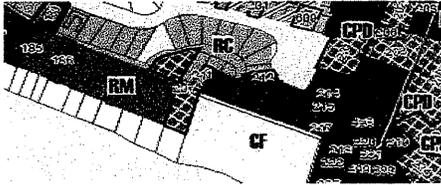
Exhibit E



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

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

**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.

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

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

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:	St. 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 3in</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: _____

<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.
--

**C. STRAP Number(s):**

24-46-23-W3-0000 9, 0000
--------------------------

**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
---------------------------------------









**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)**

Low Density  Marina

Mixed Residential  Recreation

Boulevard  Wetlands

Pedestrian Commercial  Tidal Water

Is the property located within the N ~~20~~ <sup>20</sup> ~~100~~ <sup>100</sup> area on the Future Land Use Map?  Yes  No

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

RS (Residential Single-family)  CM (Commercial Marina)

RC (Residential Conservation)  CO (Commercial Office)

RM (Residential Multifamily)  CB (Commercial Boulevard)

VILLAGE  SANTINI

SANTOS  DOWNTOWN

IN (Institutional)  RPD (Residential Planned Dev.)

CF (Community Facilities)  CPD (Commercial Planned Dev.)

CR (Commercial Resort)  EC (Environmentally Critical)

BB (Bay Beach)

Exhibit 5-6

Ed Brown Water Colors  
(239) 470-4504

McDonald's

News  
(239) 233-8224

Arpkins  
(239) 463-1549

Step'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> Name of Entity (corporation, LLC, partnership, etc	<u>Judy Coleman</u> Signature
<u>General Managers</u> Title of Signatory	<u>Judy Coleman</u> Typed or Printed Name

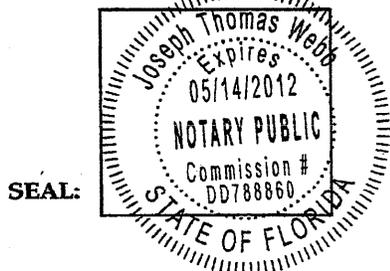
State of FL  
County of LEE

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.

Joseph Thomas Webb  
Signature of person administering oath

JOSEPH THOMAS WEBB  
Typed or Printed Name



**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 Pelselli - Member of LLC</u>	<u>100%</u>
<u>55 E. Long Lake Rd #204</u>	
<u>Tray, MI 48085</u>	

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

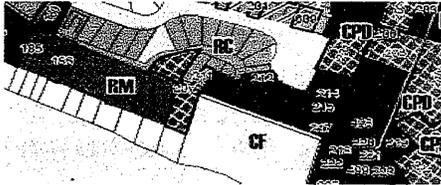
5. If there is a CONTRACT FOR PURCHASE, whether contingent on this application or not, regardless of whether a Corporation, Trustee, or Partnership is involved, list the names of the contract purchasers below, including the officers, stockholders, beneficiaries, or partners, and their percentage of stock.

Name, Address, and Office (if applicable)	Percentage

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

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

**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 Blvd. 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.

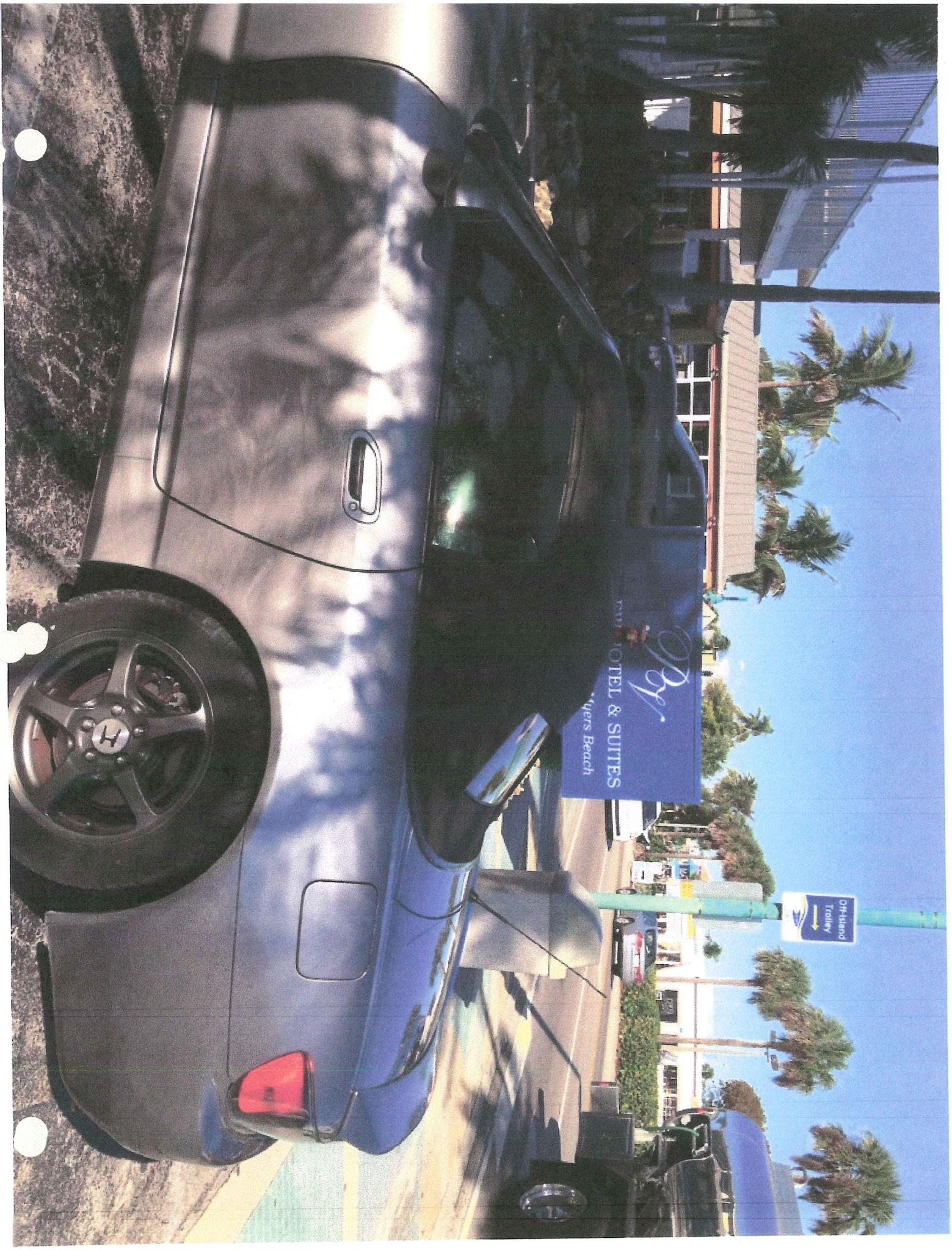


**Explain the possible effect the variance, if granted, would have on surrounding properties:**

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:**

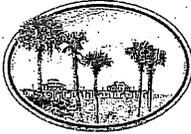
Hotel not being seen by prospective guests. Losing business



THE HOTEL & SUITES  
Myers Beach

Off-Island  
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."

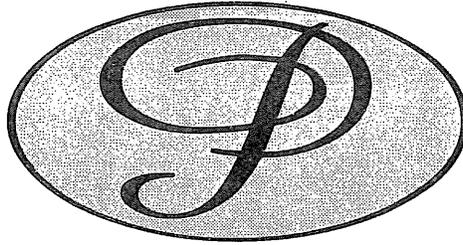
Please indicate whether the request is to allow a 33 inch setback where 36 inches (3 feet) are otherwise required, or if there is actually a 3-inch encroachment into the County right-of-way for Estero Boulevard. An as-built survey may be necessary to determine the exact location of the sign with respect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

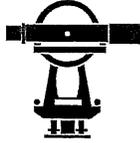
D.) In know way would the allowing of this variance be injurious or of any detriment to the general public.

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