

RESOLUTION OF THE LOCAL PLANNING AGENCY OF
THE TOWN OF FORT MYERS BEACH FLORIDA
RESOLUTION NUMBER 2012-019

WHEREAS, applicant Robert Moore has requested a Variance in the RC zoning district from LDC Table 34-3 to allow a 20-foot street setback where 25 feet is otherwise required for the construction of a foyer/entryway; and

WHEREAS, the subject property is located at 195 Pearl Street, Fort Myers Beach, FL 33931; and

WHEREAS, the applicant has indicated that the STRAP for the subject property is 19-46-24-W4-00426.0000 and the legal description of the subject property is From the Southwest corner of Lot 19 of T.P. HILLS SUBDIVISION, according to the map or plat thereof on file and recorded in Plat Book 3, Page 84, Public Records of Lee County, Florida, run North 590.65 feet to the point of beginning; thence North 50 feet; thence East 80.88 feet; thence South 50 feet; thence West 80.88 feet to the point of beginning. Same being also known as Lot 1, Block N of C.L. YENT'S SUBDIVISION, unrecorded; and

WHEREAS, a public hearing on this matter was legally advertised and held before the Local Planning Agency (LPA) on December 11, 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 a variance in the RC zoning district from LDC Table 34-3 to allow a 20 foot setback where 25 feet is otherwise required for the construction of a foyer/entryway, with such approval/denial subject to the following conditions:

RECOMMENDED CONDITIONS OF APPROVAL:

1. That the request be approved only for the 5'6" by 8'6" foyer as shown on the applicant's site plan.
2. If the structure is removed for any reason, the property must be rebuilt in accordance with all applicable provisions of the Land Development Code for setbacks and Base Flood Elevation requirements.

RECOMMENDED FINDINGS AND CONCLUSIONS:

LDC Sec. 34-87 sets forth the required findings and conclusions for the approval of a variance:

- a. That there **are/are not** exceptional or extraordinary conditions or circumstances that are inherent to the property in question, or that 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. That 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. That the variance granted **is/is not** the minimum variance that will relieve that 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/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/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:

Hank Zuba, Chair	AYE/NAY	Joanne Shamp, Vice Chair	AYE/NAY
Al Durrett, Member	AYE/NAY	John Kakatsch, Member	AYE/NAY
Jane Plummer, Member	AYE/NAY	Alan Smith, Member	AYE/NAY
Jim Steele, Member	AYE/NAY		

DULY PASSED AND ADOPTED THIS ___ day of _____, 2012.

By: _____
Hank Zuba, LPA Chair

Approved as to legal sufficiency:

ATTEST:

By: _____
Marilyn W. Miller, Esquire
LPA Attorney

By: _____
Michelle Mayher, Town Clerk



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

TYPE OF CASE: Variance
CASE NUMBER: VAR2012-0005
CASE NAME: 195 Pearl Street
LPA HEARING DATE: December 11, 2012
LPA HEARING TIME: 9:00 AM

I. APPLICATION SUMMARY

Applicant: Robert Moore, Lee County Acquisition LLC

Request: Variance in the RC zoning district from LDC Table 34-3 to allow a 20-foot street setback where 25 feet is otherwise required for the construction of a foyer/entryway.

Subject property: From the Southwest corner of Lot 19 of T.P. HILLS SUBDIVISION, according to the map or plat thereof on file and recorded in Plat Book 3, Page 84, Public Records of Lee County, Florida, run North 590.65 feet to the point of beginning; thence North 50 feet; thence East 80.88 feet; thence South 50 feet; thence West 80.88 feet to the point of beginning. Same being also known as Lot 1, Block N of C.L. YENT'S SUBDIVISION, unrecorded.

Physical Address: 195 Pearl Street

STRAP #: 19-46-24-W4-00426.0000

FLU: Mixed Residential

Zoning: RESIDENTIAL CONSERVATION (RC)

Current use(s): Two-family attached dwelling unit

Adjacent zoning and land uses:

North:	Single-family dwelling unit, RESIDENTIAL CONSERVATION (RC), Mixed Residential
South:	Vacant “remainder lot,” then single-family dwelling unit, RESIDENTIAL CONSERVATION (RC), Mixed Residential
East:	Pearl Street, then single-family dwelling units, RESIDENTIAL CONSERVATION (RC), Mixed Residential
West:	Single-family dwelling units, RESIDENTIAL CONSERVATION (RC), Mixed Residential

II. BACKGROUND AND ANALYSIS

Background:

The subject property was originally developed in 1978 with a single-family residential structure and an accessory apartment on the lower level. Town and County staff reviewed the accessory apartment in 2002 and determined it to be an existing nonconforming apartment from sometime prior to the FEMA flood regulations taking effect in 1984.

The property sustained some damage in Hurricane Charley, and following years of neglect, the property was boarded up by neighboring property owners. The applicant purchased the property in August 2012 with the intention of converting the dwelling and its accessory apartment into one single-family dwelling.

The applicant’s plans call for a front entryway/foyer area to be constructed in front of the existing dual entrances (one each for the dwelling unit and the accessory apartment). This would allow for minimal structural changes to the existing structure, which is limited by the “50% rule” in conjunction with the Town’s cumulative substantial improvement limitations. If the planned improvements go beyond 50% of the value of the existing structure, the property will be required to come into compliance with current flood requirements, including a Base Flood Elevation of 11 feet (NAVD).

The variance is needed to allow a 20 foot street setback where the Land Development Code Table 34-3 requires a 25 foot setback from any road right-of-way. The applicant notes that LDC Sec. 34-995 does allow awnings, canopies, balconies, bay windows, porches, stoops, and arcades and colonnades may extend into the minimum required street setback (or build-to line), but foyers have not been included in that listing of architectural features.

Analysis:

The applicant purchased the property with the intention of improving, remodeling and repairing the property, and to convert the structure into a single-family home to fit in with the neighborhood. In order to convert the existing single-family home and associated accessory apartment into one dwelling unit, the applicant has proposed the addition of a front entryway/foyer at the front of the house, which would cover two existing separate entrances and improve the façade of the home.

The requested variance would allow the planned front entryway/foyer addition to encroach into the minimum required 25 foot setback a total of 5 feet. The applicant also intends to provide a covered porch that encroaches up to 10 feet into the 25 foot setback, which is permitted by right. The difference between the entryway/foyer and the covered porch is that the entryway/foyer will be enclosed, habitable space, and any habitable space must be set back a minimum of 25 feet from the road right-of-way.

When it comes to the 5 required findings and conclusions for a variance to be approved, the request is weak if consideration is not given to the potential for aesthetic improvement of a long-term eyesore to the neighborhood. The reason for the request is not anything inherent to the property in question, but rather the planned actions of the applicant with respect to the existing structure. The 5 foot requested variance is not the minimum variance necessary, and yet a 10 foot encroachment is allowed by a covered porch. Also, if the variance is approved, it could cause a precedent that would allow other encroachments into the minimum required street setback of 25 feet.

On the other hand, in an effort to incentivize the remodeling and repair of a dilapidated house in an established residential neighborhood, a 5 foot setback reduction for an entryway/foyer, only, will not have a major impact on nearby properties. The entryway/foyer will encompass about half of the planned covered porch, which will extend from the existing double entrance out 10 feet towards Pearl Street. It will dramatically alter the façade of the structure in a positive manner, and accommodate the change from two dwelling units to a single-family home, which will also make it more compatible with the surrounding single-family neighborhood. Because of the years of deferred maintenance to this existing structure, the home has become a source of blight in the neighborhood and in the town. Allowing a minimal setback variance would eliminate that eyesore and improve property values on Pearl Street.

A major difficulty for the applicant in this project is dealing with the 50% rule, which tabulates all improvements to the structure within a 5 year period. If the improvements surpass 50% of the value of the structure before the work began, the whole structure is required to come into compliance with the Town's floodplain regulations. Most notably, and most expensive, among those requirements is to elevate to or above the Base Flood Elevation. The subject property is located in a

flood zone AE-EL11, and the existing home is approximately 5 feet above mean sea level, meaning the applicant would be required to elevate the structure 6 feet or more above the existing level to comply with the flood regulations. In an effort to save costs, but also to save the existing structure, the applicant plans to make improvements that will be cost-effective and make the property a positive influence on the neighborhood, rather than the eyesore it has been for the past several years.

LDC Table 34-3 requires a 25 foot setback in all 3 of the conventional residential zoning districts (RS, RC, and RM). In other districts, such as Commercial Resort, Commercial Office, and SANTOS, the setback is 10 feet. In the DOWNTOWN zoning district, there is a build-to line, which requires that new buildings be built within 0-10 feet of the street right-of-way. Therefore, different types of uses are provided differing levels of protection from wayward vehicles, although the slower speeds of dead-end side streets would also provide a factor of safety for residential neighborhoods. The applicant's proposed front entryway/foyer will enclose approximately half of their planned covered porch extending out from the existing double-entry (Exhibit B). The furthest extent of the covered porch, at only 15 feet from the Pearl Street right-of-way is permitted by right, while the enclosure portion nearest to the house is the portion which requires a variance. Due to the nature of a foyer being enclosed living space, it cannot be considered among the other types of architectural appurtenances which are permitted by right to extend up to 10 feet into the street setback. That being said, the entryway/foyer will only be 5'6" by approximately 8'6" in area, which does not accommodate much in the way of "living space."

Findings and Conclusions:

LDC Sec. 34-87 sets forth the required findings and conclusions for the approval of a variance:

- a. *That there are/are not exceptional or extraordinary conditions or circumstances that are inherent to the property in question, or that the request is/is not for a de minimis variance under circumstances or conditions where rigid compliance is not essential to protect public policy.*

There is nothing exceptional or extraordinary about the property in question (a rectangular 50 ft x 80.88 ft lot), and the variance request is not *de minimis* even though other front entry structures are permitted to extend up to 10 feet into the 25 foot setback. If this were an elevated house, a front porch or stoop could be located only 15 feet from the Pearl Street right-of-way, but this is partly due to increased flood height requirements and provision for adequate ingress/egress stairways to the elevated unit.

However, given the history of deferred maintenance on the subject property, the proposed improvements would eliminate an exceptional eyesore in the neighborhood.

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

The property was originally constructed as a single-family dwelling with an accessory apartment located beneath. The applicant's plan to convert the property into a single-family dwelling has caused the need for the variance. Without the zoning relief to allow the foyer, extensive renovations to the home will be required, including perhaps elevating the entire structure. However, if the home were elevated, the applicant could install a front entry stairway and porch, which is permitted to encroach up to 10 feet into the setback.

- c. *That the variance granted is/**is not** the minimum variance that will relieve that applicant of an unreasonable burden caused by the application of the regulation in question to his property.*

It would be possible for the applicant to renovate the interior of the existing structure to accommodate a foyer within the existing layout. While these costs may budge the applicant closer to the 50% rule for the planned renovations, cost cannot be considered for justification or the cause of unreasonable burden borne by the application of the standard setback rules to the property in question. However, strict adherence to the LDC would not resolve the generic breadbox appearance of the existing home.

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

The property is already set back further from Pearl Street than adjacent properties, and the reduced setback, limited to the construction of a foyer, will not be closer to the road than either neighboring parcel.

- e. *That 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.*

In this particular instance, aesthetic improvement of the existing home is a primary justification for the variance.

III. RECOMMENDATION

The applicant's planned improvements will provide a major facelift to one of the biggest eyesores on Fort Myers Beach. The necessity for the variance is being caused by the applicant's planned enclosure and the request is not *de minimis*, but this minimal variance has the ability to dramatically improve the look of the entire neighborhood. Therefore, staff recommends **APPROVAL** of the requested variance

from LDC Table 34-3 to allow a 20 foot setback for the construction of a front entryway/foyer where 25 feet is otherwise required, subject to the following conditions:

1. That the request be approved only for the 5'6" by 8'6" foyer as shown on the applicant's site plan.
2. If the structure is removed for any reason, the property must be rebuilt in accordance with all applicable provisions of the Land Development Code for setbacks and Base Flood Elevation requirements.

IV. CONCLUSION

Staff applauds the applicant's willingness to tackle a problem property and make a positive change for the Pearl Street neighborhood. And while the need for the variance is being caused by the applicant's plans to erect a foyer in front of the existing structure, staff has recommended approval of the street setback variance as a means to eliminate a source of blight in the neighborhood. As conditioned, the request is appropriate to allow the necessary improvements to the existing structure, and will be an improvement to neighboring property owners.

Exhibits:

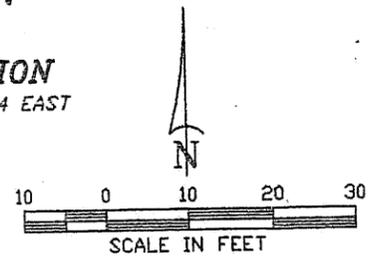
A – Survey

B – Site Plan

C – Photo of existing structure

Exhibit A

AS-BUILT SURVEY OF
LOT 1, BLOCK N
C.L. YENT
UNRECORDED SUBDIVISION
 SECTION 19, TOWNSHIP 46 SOUTH, RANGE 24 EAST
 (INSTRUMENT No. 2007000259498)
 LEE COUNTY, FLORIDA



DESCRIPTION: (INSTRUMENT No. 2007000259498)

FROM THE SOUTHWEST CORNER OF LOT 19, OF THAT CERTAIN SUBDIVISION KNOWN AS T.P. HILLS SUBDIVISION, OF GOVERNMENT LOT 2, 3 AND 4, IN SECTION 19, TOWNSHIP 46 SOUTH, RANGE 24 EAST, ACCORDING TO THE MAP OR PLAT THEREOF ON FILE AND RECORDED IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT OF LEE COUNTY, FLORIDA, IN PLAT BOOK 3, PAGE 84, PUBLIC RECORDS OF LEE COUNTY, FLORIDA, RUN NORTH 590.65 FEET TO THE POINT OF BEGINNING; THENCE NORTH 50 FEET; THENCE EAST 80.88 FEET; THENCE SOUTH 50 FEET; THENCE WEST 80.88 FEET TO THE POINT OF BEGINNING, SAME BEING ALSO KNOWN AS LOT 1, BLOCK N OF C.L. YENT'S SUBDIVISION, UNRECORDED.

LEGEND:

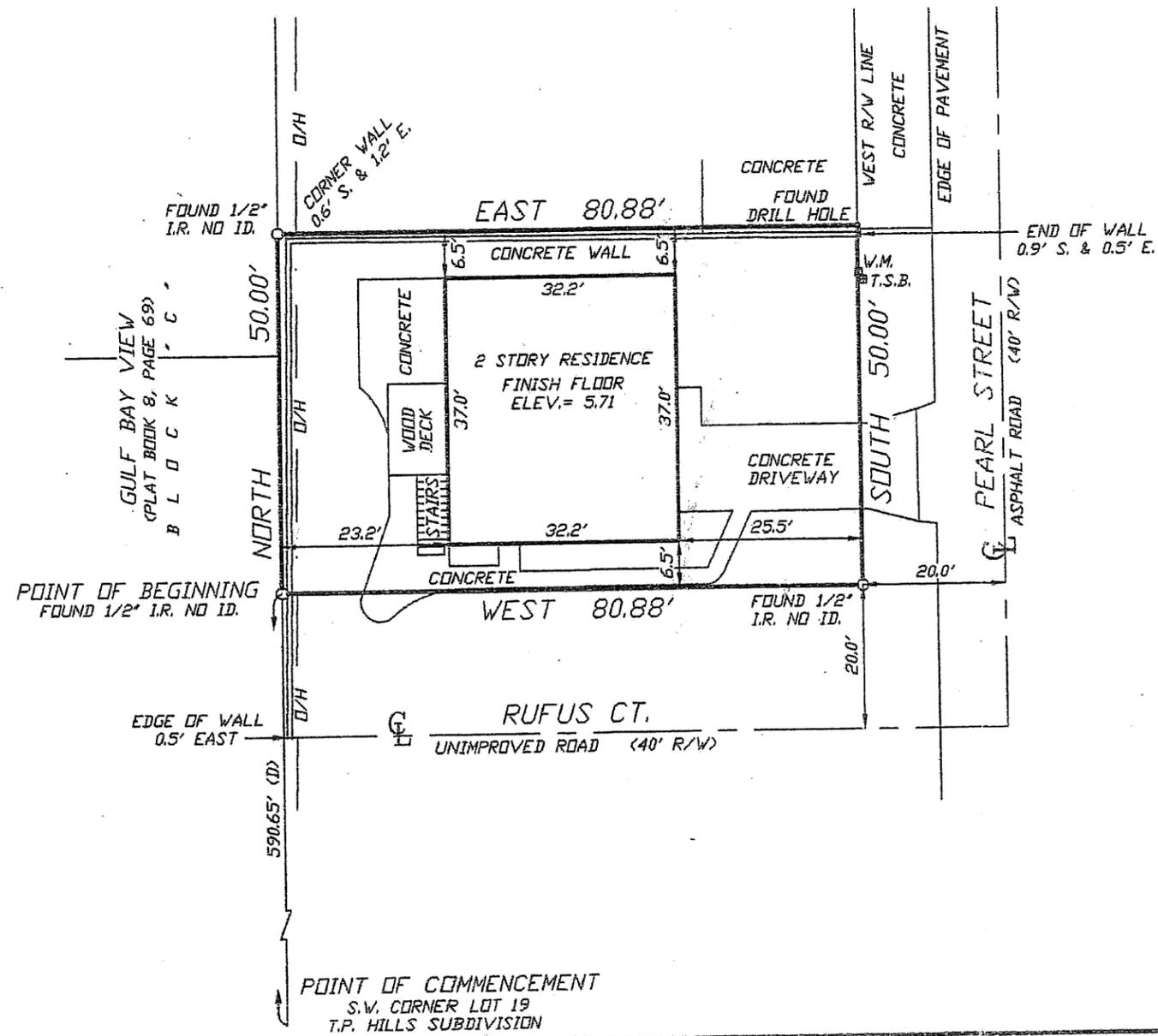
●	SET IRON ROD (CAP. PLS #4631)	R.W.B.	RECLAIM WATER BOX
○	FOUND IRON ROD (I.R.)	W.M.	WATER METER
□	CONCRETE MONUMENT (C.M.)	W.V.	WATER VALVE
P.R.M.	PERMANENT REFERENCE MONUMENT	F.H.	FIRE HYDRANT
P.C.P.	PERMANENT CONTROL POINT	O/H	OVERHEAD POWER
P.U.E.	PUBLIC UTILITY EASEMENT	P.P.	POWER POLE
D.E.	DRAINAGE EASEMENT	G.A.&W.	GUY ANCHOR & WIRE
L.M.E.	LAKE MAINTENANCE EASEMENT	E.B.	ELECTRIC BOX
P.C.	POINT OF CURVATURE	C.T.B.	CABLE TELEVISION BOX
P.T.	POINT OF TANGENCY	T.S.B.	TELEPHONE SERVICE BOX
O.R.	OFFICIAL RECORDS BOOK	N/D	NAIL & DISK
(S)	AS PER SURVEY	N/T.T.	NAIL & TINTAB
(M)	AS MEASURED	ELEV.	ELEVATION
(P)	AS PER PLAT	B.M.	BENCHMARK
(D)	AS PER DEED	⊕	TYPICAL ELEVATION
(C)	CURVE NUMBER	A/C	AIR CONDITIONER
LI	LINE NUMBER	W.S.	WATER SYSTEM
R/W	RIGHT-OF-WAY	P.E.	POOL EQUIPMENT
⊕	CENTERLINE	CONCRETE	CONCRETE

SURVEY NOTES:

1. BASIS OF BEARING SHOWN HEREON TAKEN FROM THE WEST RIGHT-OF-WAY LINE OF PEARL STREET, AS BEING SOUTH.
 2. FIELD NOTES IN C.L. YENT'S UNRECORDED SUBDIVISION.
 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 MONUMENTATION IN THE FIELD.
 6. UNDERGROUND STRUCTURES AND UTILITIES, IF ANY, ARE NOT INCLUDED.
 7. THIS MAP/PLAT IS NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
 8. ALL BEARINGS AND DISTANCES ARE PLAT AND MEASURED, UNLESS OTHERWISE SHOWN.
 9. BENCHMARK DERIVED FROM CAPE CORAL BENCHMARK NUMBER 371-22-01, ELEVATION
 10. ELEVATIONS ARE NORTH AMERICAN VERTICAL DATUM OF 1988 (N.A.V.D.)
- FLOOD ZONE: "AE" ELEVATION: 11.00 N.A.V.D.
 COMMUNITY No. 120673 PANEL No. 0554
 SUFFIX --- F REVISION DATE: 8/28/08
 MAP NUMBER: 12071C0554F

THIS SURVEY IS CERTIFIED TO:
 Lee County Acquisitions, LLC

JOHN B. HARRIS
 SURVEYOR
 CERTIFICATE

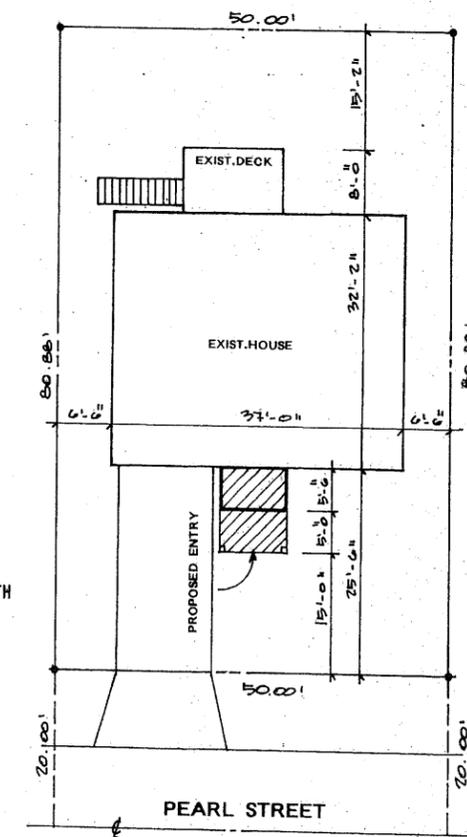


REVISED	DESCRIPTION	BY
DATE OF LAST FIELD WORK: 7/31/12		
DRAWN: FBH	CHECK: JBH	SCALE: 1"=20'
SURVEY DATE: 7/31/12		PROJ. #: 12G372
FILE NO.: 46-24-19		SHT. - 1 OF - 1
HARRIS-JORGENSEN, INC. 3046 DEL FRADO BLVD. S. CAPE CORAL, FLORIDA 33904 PHONE: (239) 257-2624 FAX: (239) 257-2921		
FLORIDA CERTIFICATE OF AUTHORIZATION # LB 6921		



PROPOSED FRONT ELEV.

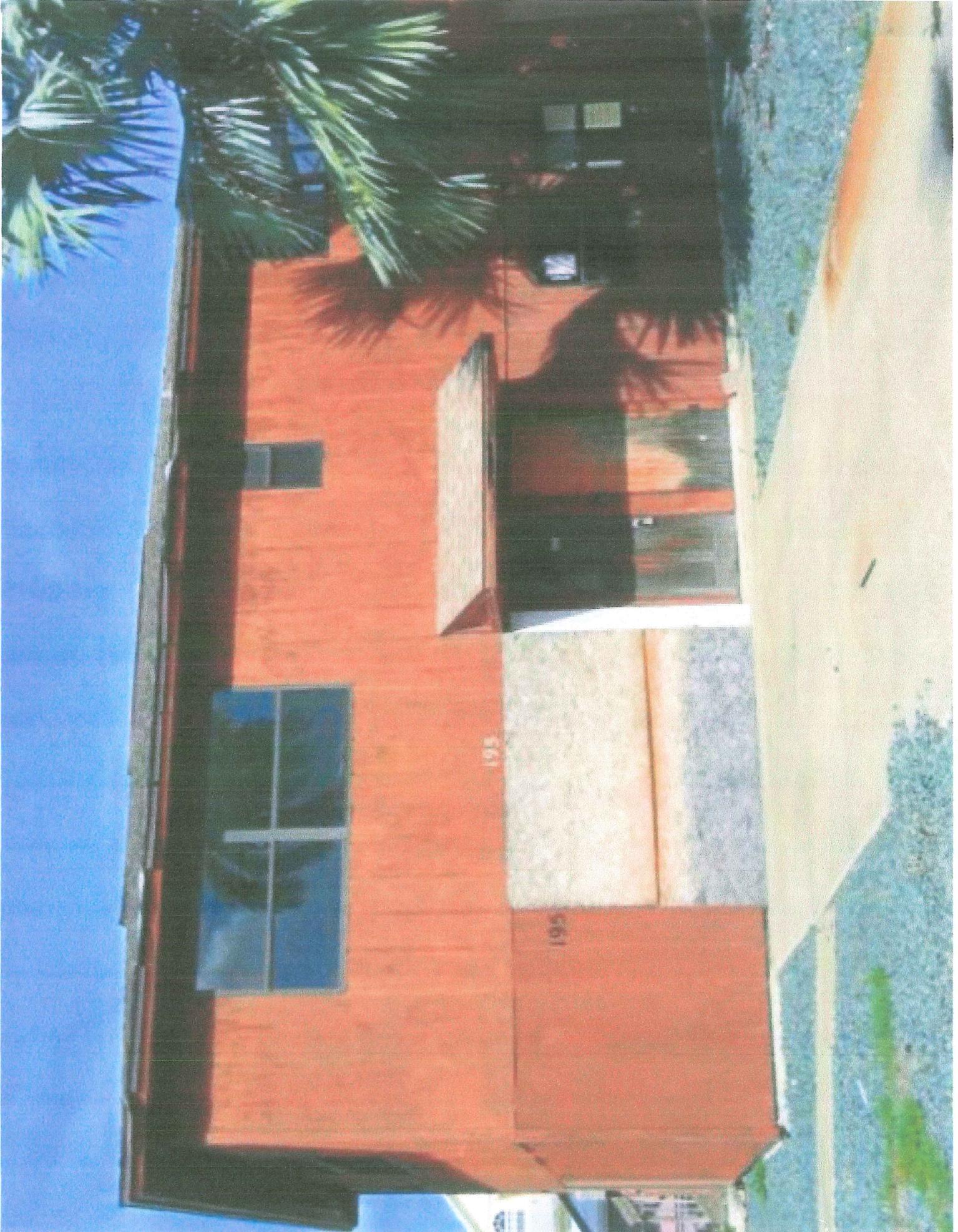
2010



SITE PLAN

SCALE: 1"=0'-10"-0"

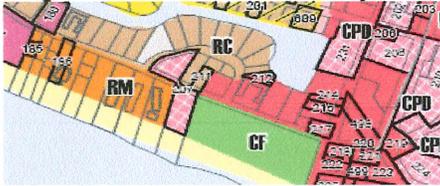
PROJECT: PROPOSED VARIANCE FOR ENTRY		CONTRACTOR: Woodwind CONTRACTING (239) 910-3272	
JOB# MDJ-9-8-12	Owner Of Record HELLSBEND 10330 W. PALM BLVD. WEST PALM BEACH, FL 33411	Designs by Janus FRANK JANUS 239-574-4201 Fax: 239-574-5763 168 S.E. Third Terrace, Cape Coral, FL 33909	ATLAS ENGINEERING & SURVEYING, INC. 1000 N. UNIVERSITY BLVD. SUITE 200 WEST PALM BEACH, FL 33411 TEL: 561-833-1111 FAX: 561-833-1112 WWW.ATLASENGINEERING.COM
DATE: 9-8-12	Legal Description HELLSBEND 10330 W. PALM BLVD. WEST PALM BEACH, FL 33411	REVISIONS:	SIGNATURE-DATE:
SHEET # 1-1	Site Address 158 PEARL CT. FORT MYERS BEACH FL 33931	STRAP # 19-46-24-W4-00425-0000	



Case # VAR 2012-0005
Planner _____

Date Received 10/3/12
Date of Sufficiency/Completeness _____

Town of Fort Myers Beach
Department of Community Development



Zoning Division

**TOWN OF
FORT MYERS BEACH**

OCT - 3 2012

RECEIVED BY

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:	<u>195 Pearl St.</u>
Authorized Applicant:	<u>Robert Moore</u>
LeePA STRAP Number(s):	<u>19-46-24-W4-00426.0000</u>

Current Property Status:	<u>Improved</u>
Current Zoning:	<u>R-C</u>
Future Land Use Map (FLUM) Category:	<u>Mixed Res</u>
Platted Overlay? <input type="checkbox"/> yes <input checked="" type="checkbox"/> no	FLUM Density Range: <u>6/acre</u>

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):	Robert Moore		
Address:	5837 Street: Riverside Lane		
City:	Ft. Myers	State:	FL Zip Code: 33919
Phone:	239-910-5222		
Fax:	239-489-2472		
E-mail address:	Bobs@woodwindcontracting.com		

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

<input 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 type="checkbox"/>	Corporation	<input type="checkbox"/> Condominium
<input type="checkbox"/>	Subdivision	<input type="checkbox"/> Timeshare Condo
<input checked="" 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:	Applicant		
Mailing address:	Street:		
City:	State:	Zip Code:	
Contact Person:			
Phone:	Fax:		
E-mail address:			

D. Other agents:

Name(s):			
Mailing address:	Street:		
City:	State:	Zip Code:	
Phone:	Fax:		
E-mail address:			

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: <u>Front setback</u>
<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 Director’s approval(s) as Exhibit 3-1.

Code Section Number	Describe Item
<u>N/A</u>	

PART IV – Property Ownership

<input type="checkbox"/> Single owner (individual or husband and wife)
Name: <u>Lee County Acquisition, LLC</u>
Address: <u>5837</u> Street: <u>Riverside Lane</u>
City: <u>Ft Myers</u> State: <u>FL</u> Zip Code: <u>33919</u>
Phone: <u>239-910-5222</u> Fax: <u>239-489-2472</u>
E-mail Address: <u>Bda@woodwindcontracting.com</u>

<input checked="" type="checkbox"/> Multiple owners (including corporation, partnership, trust, association, condominium, timeshare condominium, or subdivision)
Attach Disclosure Form as Exhibit 4-1 <i>Attached.</i>
Attach list of property owners as Exhibit 4-2
Attach map showing property owners' 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: <i>Hills T P Subdivision</i>
Plat Book Number: <i>3</i> Page: <i>84</i> Unit: Block: <i>N</i> Lot: <i>1</i>
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):

<i>19-46-24-W4-00426.0000</i>

D Property Dimensions:

Area: <i>4050</i> square feet <input checked="" type="checkbox"/> acres
Width along roadway: <i>50</i> feet Depth: <i>80.88</i> feet

E. Property Street Address:

<i>195 Pearl St.</i>

F. General Location of Property (from Sky Bridge or Big Carlos Pass Bridge):

From sky bridge proceed south to Pearl St.
Attach Area Location Map as Exhibit 5-3

G. Property Restrictions (check applicable):

<input checked="" type="checkbox"/> There are no deed restrictions or covenants on this property that affect this request.
<input type="checkbox"/> Restrictions and/or covenants are attached as Exhibit 5-4
<input type="checkbox"/> 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:

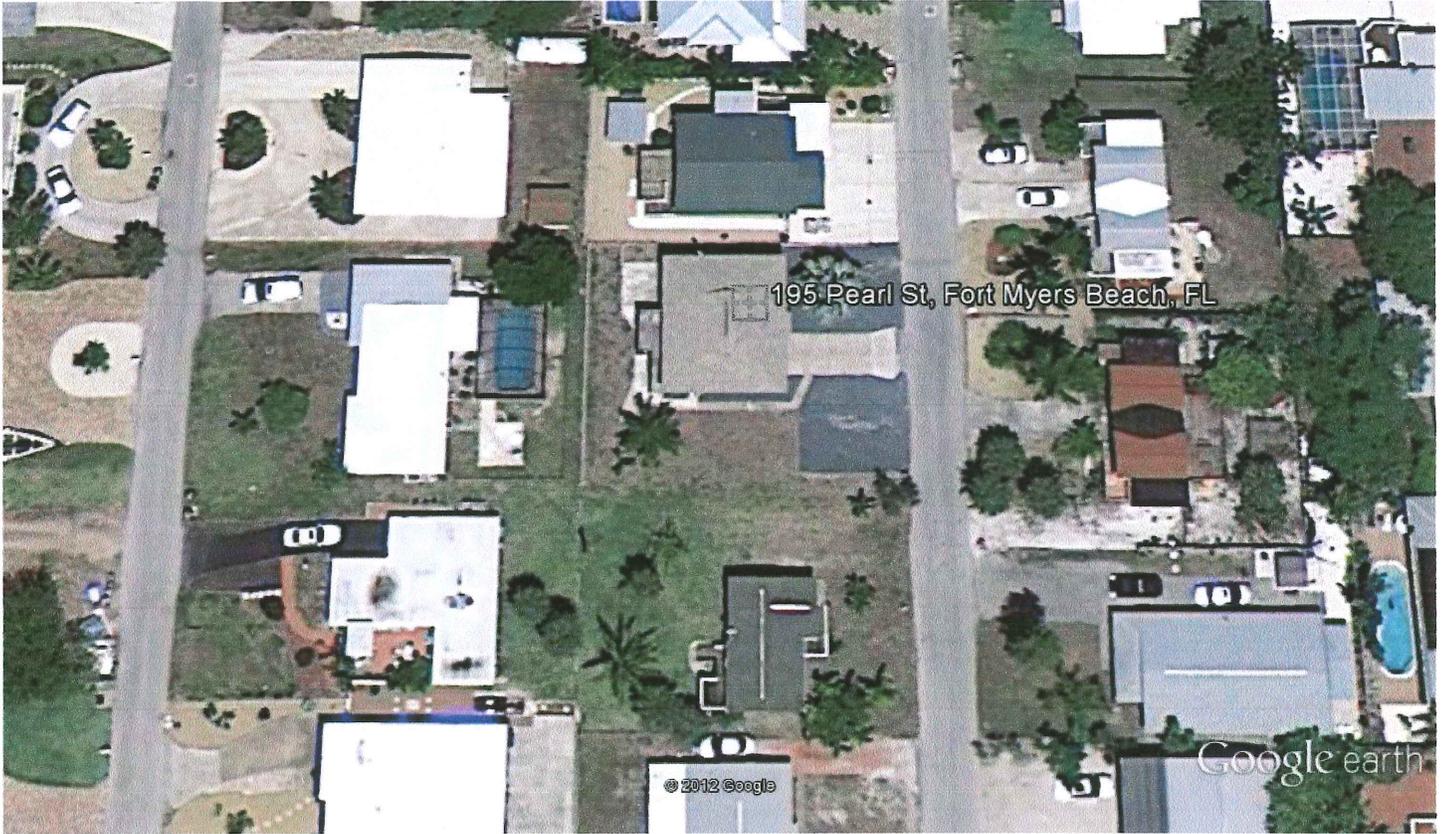
Attach list of surrounding property owners (within 500 feet) as Exhibit 5-6
Attach two sets of mailing labels as Exhibit 5-7
Attach a map showing the surrounding property owners as Exhibit 5-8

I. Future Land Use Category: (see Comprehensive Plan Future Land Use Map)

<input type="checkbox"/> Low Density	<input type="checkbox"/> Marina
<input checked="" type="checkbox"/> Mixed Residential	<input type="checkbox"/> Recreation
<input type="checkbox"/> Boulevard	<input type="checkbox"/> Wetlands
<input type="checkbox"/> Pedestrian Commercial	<input type="checkbox"/> Tidal Water
Is the property located within the "Platted Overlay" area on the Future Land Use Map? <input type="checkbox"/> Yes <input type="checkbox"/> 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 checked="" 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 type="checkbox"/> CR (Commercial Resort)	<input type="checkbox"/> EC (Environmentally Critical)
<input type="checkbox"/> BB (Bay Beach)	



195 Pearl St, Fort Myers Beach, FL

Google earth

© 2012 Google

Google earth



PART VI – Affidavit

Application Signed by Individual Owner or Authorized Applicant

I, Robert Moore, 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.

[Signature]
Signature

Robert Moore
Typed or Printed Name

State of Florida
County of Lee

The foregoing instrument was sworn to (or affirmed) and subscribed

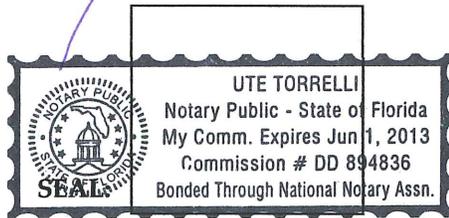
before me this 10/3/12 by Robert Moore
(date) (name of person under oath or affirmation)

who is personally known to me or produced Fl ID
(type of identification)

as identification.

[Signature]
Signature of person administering oath

Ute Torrelli
Typed or Printed Name



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

STRAP# 19-46-24-64-00426.0000

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>Lee County Acquisition, LLC</u>	<u>100%</u>
<u>owned by:</u>	
<u>33.34%</u> <u>Entrust Freedom, LLC FBO Robert Moore 60848TR</u>	
<u>33.33%</u> <u>Entrust Freedom, LLC FBO Rhonda Riggsby 60850TR</u>	
<u>33.33%</u> <u>Entrust Freedom, LLC FBO Daniel Reed 60890SE</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
N/A	

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
N/A	

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
N/A	

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

N/A

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 _____

[Handwritten Signature]

Applicant

Robert Moore

Printed or typed name of applicant

STATE OF FL
COUNTY OF Lee

The foregoing instrument was acknowledged before me this 3rd day of Oct, 2012 by Robert Moore, who is personally known to me or who has produced Drivers License as identification and who did (or did not) take an oath.

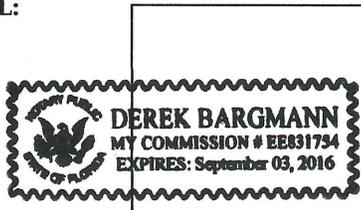
[Handwritten Signature]

Signature of Notary

Derek Bergmann

Typed or Printed Name of Notary

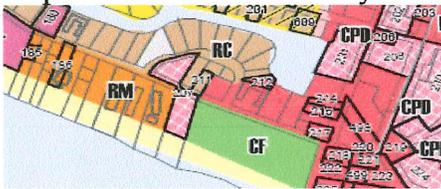
SEAL:



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.

Case Number:	
Project Name:	195 Pearl St
Authorized Applicant:	Robert Moore
LeePA STRAP Number:	19-46-24-W4-00426.0000

Current Property Status:	Improved
Current Zoning:	R-C
Future Land Use Map (FLUM) Category:	Mixed Res.
Comp Plan Density:	6/Acre
Platted Overlay?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Variance is requested from:

LDC Section Number	Title of Section or Subsection
34-638	Minimum setbacks

Complete the narrative statements below for EACH variance requested.

PART I
Narrative Statements

Request for variance from 34-638 (LDC Section number)

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

From table 34-3:

RC - Front setback = 25'

Reasons for request

Explain why the variance is needed:

The property is currently a duplex with two front entry doors.

We wish to convert it to single family.

In order to do so, we need to decrease our current 25.5' setback to 20', allowing a foyer to be built that will create one entry instead of the current two.

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

Minimal effect on surrounding properties.

The new entry will accommodate the change to Single Family from Duplex.

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

We believe that single family is more appropriate for the neighborhood

Explain how the property qualifies for a variance. Direct this explanation to the guidelines for decision-making in LDC Section 34-87.

34-87 (3) a. Creating one entry is necessary for the conversion to single family from duplex. The construction of the existing two entry's doesn't allow for the change without the variance.

b. The property was constructed in 1978, long before our acquisition and conversion plan.

c. The 5.5' variance keeps the setback at 20' (equal or ~~less~~ greater than adjacent properties) and is just enough to allow the foyer to be built.

d. Adjacent properties appear to be setback well below the 25' setback requirement. we will not be closer to the road than either neighbor.

e. The condition is unique to this property, as it was setback further than its neighbors and is a duplex in a predominately single family area.

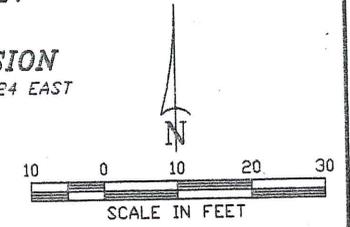


195

195



AS-BUILT SURVEY OF
LOT 1, BLOCK N
C.L. YENT
UNRECORDED SUBDIVISION
 SECTION 19, TOWNSHIP 46 SOUTH, RANGE 24 EAST
 (INSTRUMENT No. 2007000259498)
 LEE COUNTY, FLORIDA



DESCRIPTION: (INSTRUMENT No. 2007000259498)

FROM THE SOUTHWEST CORNER OF LOT 19, OF THAT CERTAIN SUBDIVISION KNOWN AS T.P. HILLS SUBDIVISION, OF GOVERNMENT LOT 2, 3 AND 4, IN SECTION 19, TOWNSHIP 46 SOUTH, RANGE 24 EAST, ACCORDING TO THE MAP OR PLAT THEREOF ON FILE AND RECORDED IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT OF LEE COUNTY, FLORIDA, IN PLAT BOOK 3, PAGE 84, PUBLIC RECORDS OF LEE COUNTY, FLORIDA, RUN NORTH 590.65 FEET TO THE POINT OF BEGINNING; THENCE NORTH 50 FEET; THENCE EAST 80.88 FEET; THENCE SOUTH 50 FEET; THENCE WEST 80.88 FEET TO THE POINT OF BEGINNING, SAME BEING ALSO KNOWN AS LOT 1, BLOCK N OF C.L. YENT'S SUBDIVISION, UNRECORDED.

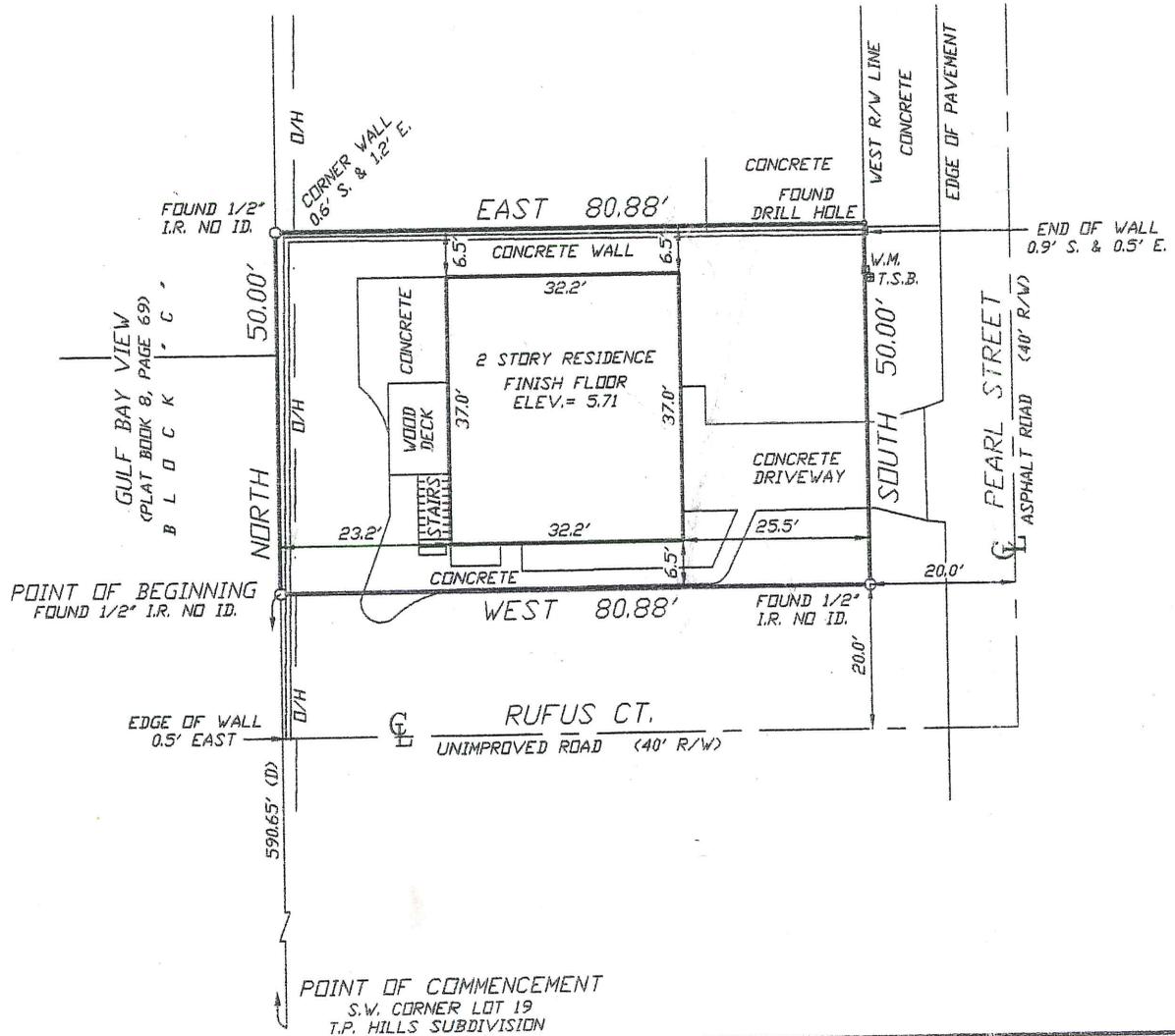
LEGEND:

●	SET IRON ROD (CAP PLS #4631)	R.W.B.	RECLAIM WATER BOX
○	FOUND IRON ROD (I.R.)	W.M.	WATER METER
□	CONCRETE MONUMENT (C.M.)	W.V.	WATER VALVE
P.R.M.	PERMANENT REFERENCE MONUMENT	F.H.	FIRE HYDRANT
P.C.P.	PERMANENT CONTROL POINT	O/H	OVERHEAD POWER
P.U.E.	PUBLIC UTILITY EASEMENT	P.P.	POWER POLE
D.E.	DRAINAGE EASEMENT	G.A.&W.	GUY ANCHOR & WIRE
L.M.E.	LAKE MAINTENANCE EASEMENT	E.B.	ELECTRIC BOX
P.C.	POINT OF CURVATURE	C.T.B.	CABLE TELEVISION BOX
P.T.	POINT OF TANGENCY	T.S.B.	TELEPHONE SERVICE BOX
O.R.	OFFICIAL RECORDS BOOK	N/D	NAIL & DISK
(S)	AS PER SURVEY	N/T.T.	NAIL & TINTAB
(M)	AS MEASURED	ELEV.	ELEVATION
(P)	AS PER PLAT	B.M.	BENCHMARK
(D)	AS PER DEED	BS	TYPICAL ELEVATION
(C)	CURVE NUMBER	A/C	AIR CONDITIONER
LI	LINE NUMBER	V.S.	WATER SYSTEM
R/W	RIGHT-OF-WAY	P.E.	POOL EQUIPMENT
CL	CENTERLINE	CONCRETE	CONCRETE

SURVEY NOTES:

1. BASIS OF BEARING SHOWN HEREON TAKEN FROM THE WEST RIGHT-OF-WAY LINE OF PEARL STREET, AS BEING SOUTH.
2. FIELD NOTES IN C.L. YENT'S UNRECORDED SUBDIVISION.
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 MONUMENTATION IN THE FIELD.
6. UNDERGROUND STRUCTURES AND UTILITIES, IF ANY, ARE NOT INCLUDED.
7. THIS MAP/PLAT IS NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
8. ALL BEARINGS AND DISTANCES ARE PLAT AND MEASURED, UNLESS OTHERWISE SHOWN.
9. BENCHMARK DERIVED FROM CAPE CORAL BENCHMARK NUMBER 371-22-01, ELEVATION
10. ELEVATIONS ARE NORTH AMERICAN VERTICAL DATUM OF 1988 (N.A.V.D.) FLOOD ZONE: "AE" ELEVATION: 11.00 N.A.V.D. COMMUNITY No: 120673 PANEL No: 0554 SUFFIX --- F REVISION DATE: 8/28/08 MAP NUMBER: 12071C0554F

THIS SURVEY IS CERTIFIED TO:
 Lee County Acquisitions, LLC

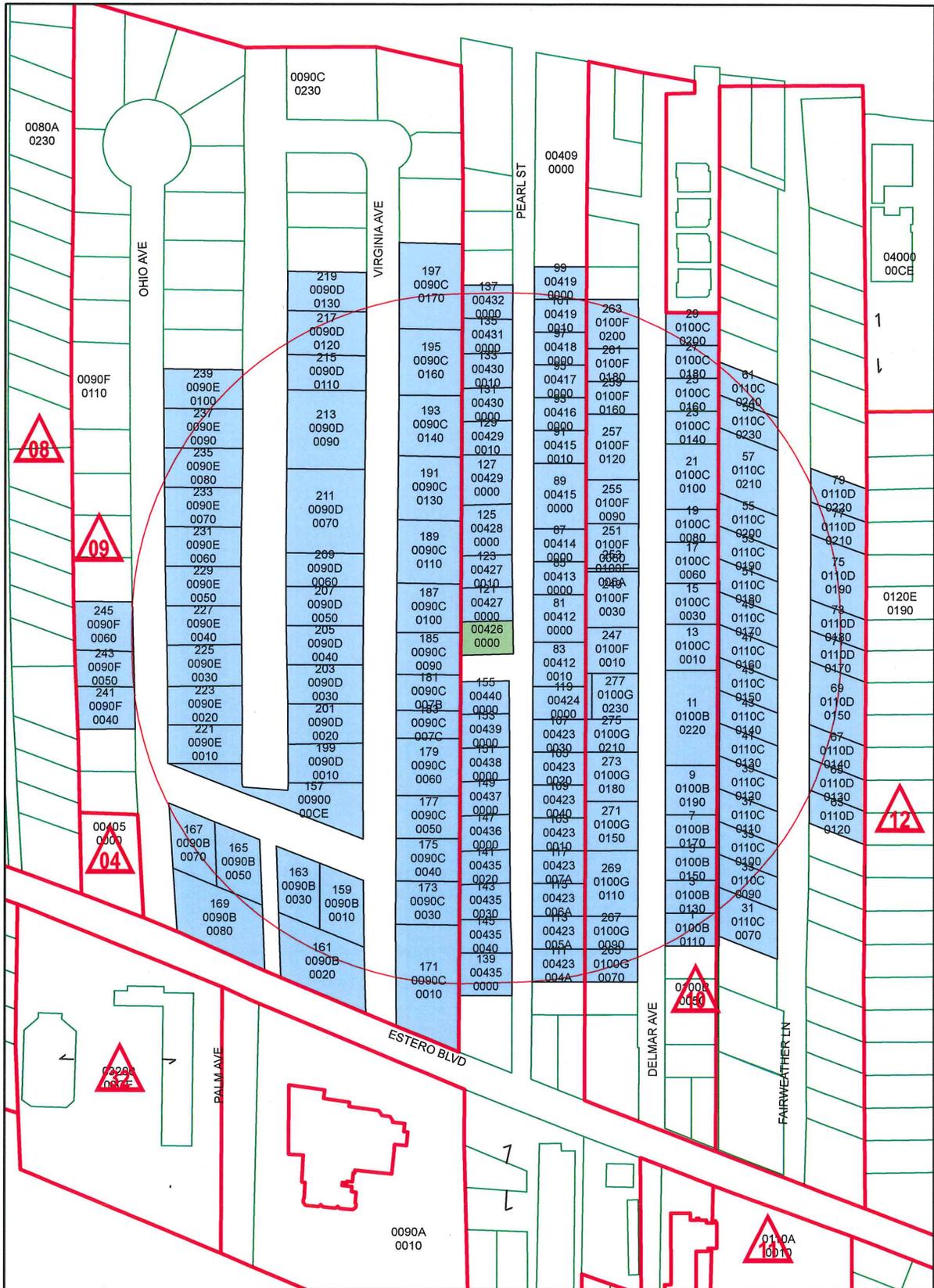


REVISED	DESCRIPTION	BY
		John B. Harris
		August 8, 2012
DATE OF LAST FIELD WORK: 7/31/12		
DRAWN:	CHECK:	SCALE:
FBH	JBH	1"=20'
SURVEY DATE		FILE NO.
7/31/12		46-24-19
SHT. - 1		OF - 1
JOHN B. HARRIS FLORIDA LAND SURVEYOR #4631 HARRIS-JORGENSEN, INC. 3046 DEL PRADO BLVD. S. CAPE CORAL, FLORIDA 33904 PHONE: (239) 257-2624 FAX: (239) 257-2921		
FLORIDA CERTIFICATE OF AUTHORIZATION # LB 6921		

VARIANCE REPORT

8/23/2012

Subject Parcels : 1 Affected Parcels : 139 Buffer Distance : 500 ft



19-46-24-W4-00426.0000

250 125 0 250 Feet