

1. Requested Motion:

Meeting Date: January 7, 2013

For case VAR2012-0001, Neptune Inn sign variance, approve the variance request from LDC Section 30-93(b) (right-of-way setback) to allow a 0' setback and LDC Section 30-154(c) (standards for monument signs) to allow 4' sign base and an 7' overall sign height, with the approval subject to 9 conditions as recommended by Staff.

Why the action is necessary:

This action will approve the variance request and grant the applicant a monument sign base height of 4' and an overall sign height of 7' as recommended by Staff.

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:

Case VAR2012-0001, Neptune Inn sign variance, was originally heard at the October 1, 2012 Town Council meeting and was continued so that the applicant could meet with staff to review options for signage and provide additional detail and analysis pertaining to their request.

The applicant requested an additional variance (0' setback from the right of way) so Council remanded the case back to the LPA at the November 3rd Council meeting.

VAR2012-0001 was heard at the November 13th regular LPA meeting. The applicant presented its case which included a request for a zero (0) foot setback from the street right-of-way and a request for a 8' tall monument sign. Staff presented its case for with a recommendation of denial of the applicant's request as submitted and offered an alternative recommendation which included a monument sign proposed at 6'6". (Staff recommends approval of the 0' setback). The LPA voted 5-0 to approve the applicant's request of 8'tall monument sign and 0' setback with nine (9) conditions as recommended by Staff.

After the LPA meeting Staff contacted the applicant and offered a compromise to breach the difference between the 6'6" height recommended by Staff and the 8' height requested by the applicant. The applicant and Staff were able to agree to a compromised height of 7' with some minor modifications to the conditions of approval. This comprise solution is reflected in the Draft Resolution 13-02.

Attachments:

- Draft Council Resolution, 13-02
- Update Memo from Staff
- Applicant submittal, December 18 2012
- LPA resolution 2012-017
- LPA minutes from November 13, 2012 meeting
- Previous packet materials, including Staff memos, LPA Resolution 2012-009, August LPA minutes, original Staff report

6. Alternative Action:

7. Management Recommendations:

8. Recommended Approval:

Town Manager	Town Attorney	Finance Director	Public Works Director	Community Development Director	Parks & Recreation 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 13-02
VAR2012-0001 – Neptune Inn Sign Variance

WHEREAS, applicant Blue Vista Capital, LLC is requesting a variance from Section 30-93(b) and Section 30-154(c) of the Town of Fort Myers Beach Land Development Code; and

WHEREAS, the applicant has indicated that the STRAPs for the subject property are 19-46-24-W3-04300.00CE; 19-46-24-W3-0430N.0001 and 19-46-24-W3-0110A.0010 and the legal description of the subject property is contained in *Exhibit A* which is attached hereto and incorporated herein by reference; and

WHEREAS, the subject property is located at 2310 Estero Boulevard, Fort Myers Beach, FL 33931 in the Commercial Resort zoning category of the Official Zoning Map and the "Boulevard" category of the Future Land Use Map of the Comprehensive Plan of the Town of Fort Myers Beach, Florida; and

WHEREAS, a public hearing on this matter was legally advertised and held before the Local Planning Agency (LPA) on November 13, 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.

WHEREAS, a public hearing on this matter was legally advertised and held before the Town Council on January 7, 2013, at which time the Town Council gave full and complete consideration to the request of Applicant, LPA Resolution 2012-017, 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 34-87.

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 2012-017 and the standards for granting variances, the Town Council makes the following findings of fact, and reaches the following conclusions:

The Town Council **APPROVES/DENIES** the request for a variance from Section 30-93(b) of the LDC to allow a monument sign with a 0' setback from the Estero Boulevard right-of-way/property line of the subject property; and

The Town Council **APPROVES/DENIES** the request for a variance from Section 30-154(c) of the LDC to permit a 4' tall hedge/planter sign base and a sign face height of 3' for an overall sign height of 7' with such approval subject to the following conditions:

CONDITIONS OF APPROVAL:

1. The height of the sign, as measured from the highest adjacent grade or the crown of the adjacent street, whichever is higher, to the highest point of the sign face or its supporting structural elements is not to exceed 7'.
2. The sign base as measured from the highest adjacent grade or the crown of the adjacent street, whichever is higher, is not to exceed 4' in height.
3. The sign setback as measured from the front right-of-way/property line will be zero (0) feet.
4. The existing hedge planted around the base of the sign along the subject property's Estero Boulevard property line must be maintained at 42" in height at all times. Removal of the hedge or maintenance of the hedge at a height less than 42" will cause this variance to expire.
5. Approval of this variance does not exempt the subject property from the LDC Section 30-55 permit requirements for signs.
6. Construction and/or remodeling of the sign must comply with all applicable codes and regulations, including building codes and lighting standards.
7. If the principal building on the subject property is removed or replaced for any reason, this variance will expire. The sign allowed by this variance must be removed within 30 days of the issuance of any demolition permit for the principal building. If the building is destroyed or damaged by a natural disaster to the extent that it is rendered uninhabitable, then the sign must be removed within 30 days of the issuance of a demolition permit or within 30 days of the expiration of the federal, state, county, or local declaration of disaster, whichever occurs first. Placement of signage in conjunction with redevelopment of the site must comply with all regulations in effect at the time of application for a permit.
8. The applicant has 120 days from the day of Town Council approval to permit and install the approved monument sign or remove the existing non-conforming sign on the subject property.
9. The applicant must provide an as-built survey of the sign and foundations to confirm the zero (0') foot setback, and no right-of-way, encroachment, prior to Town approving the final inspection of the sign permit.

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

B. The conditions justifying the variance **are/are not** the result of actions of the applicant taken after the adoption of the regulation in question.

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

D. The granting of the variance **will/will not** be injurious to the neighborhood or otherwise detrimental to the public welfare.

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

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

Bob Raymond, Mayor	AYE/NAY	Alan Mandel, Vice Mayor	AYE/NAY
Jo List	AYE/NAY	Joe Kosinski	AYE/NAY
Dan Andre	AYE/NAY		

DULY PASSED AND ADOPTED THIS **7th** day of **JANUARY, 2013**.

By: _____
Bob Raymond, Mayor

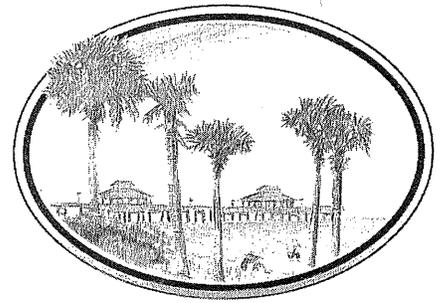
Approved as to legal sufficiency:

By: _____
Fowler, White, Boggs
Town Attorney

ATTEST:

By: _____
Michelle Mayher
Town Clerk

Town of Fort Myers Beach



Memorandum

To: Mayor, Vice Mayor and Town Councilmembers
From: Leslee Chapman, Zoning Coordinator
CC: Terry Stewart, Town Manager
Walter Fluegel, Community Development Director
Date: December 20, 2012
Re: VAR2012-0001 – The Neptune Inn sign variance

At the November 13, 2012 Local Planning Agency (LPA) hearing, the LPA recommended approval of both of the applicant's variance requests which included a 0' setback and an overall sign height of 8'.

Staff had recommend approval of the 0' setback. Staff had recommended denial of the 8' sign height and had offered an alternative height of 6'6".

With Council's directive from the October 1, 2012 meeting in mind (i.e. for Staff to work with the applicant to develop a solution), Staff reached out to the applicant to make another attempt to find resolution for the case.

As previously stated Staff and the applicant were in agreement on the matter of the 0' setback, it was the sign height that was the issue.

Throughout the public hearing process for this case, the applicant had expressed concern over cutting back the existing hedge along the Estero Boulevard frontage. The health and survivability of the shrub hedge is a concern to Staff as well, as we recognize its aesthetic value, not only to the subject property, but to the Estero Boulevard corridor in this area.

Using this concern as the basis, Staff presented the applicant with a proposal which would allow for a 48" sign and/or planter base with a 36" sign face height for an overall sign structure height of 7'. Staff indicated to the applicant that this recommendation would have Staff support.

The applicant considered the compromised proposal and agreed to the 7' overall height and offered a few minor changes to the 9 conditions of approval. Staff agreed to these minor changes.

Therefore, Staff recommends **APPROVAL** of the request from Section 30-93(b) to allow a 0' setback.

Staff recommends **APPROVAL** of the compromised solution which would permit a 4' tall hedge/planter sign base and a sign face height of 3' for an overall sign height of 7' with such approval subject to the following conditions:

1. The height of the sign, as measured from the highest adjacent grade or the crown of the adjacent street, whichever is higher, to the highest point of the sign face or its supporting structural elements is not to exceed 7'.
2. The sign base as measured from the highest adjacent grade or the crown of the adjacent street, whichever is higher, is not to exceed 4' in height.
3. The sign setback as measured from the front right-of-way/property line will be zero (0) feet.
4. The existing hedge planted in place long the subject property's Estero Boulevard property line must be maintained at 42" in height at all times. Removal of the hedge or maintenance of the hedge at a height less than 42" will cause this variance to expire.
5. Approval of this variance does not exempt the subject property from the LDC Section 30-55 permit requirements for signs.
6. Construction and/or remodeling of the sign must comply with all applicable codes and regulations, including building codes and lighting standards.
7. If the principal building on the subject property is removed or replaced for any reason, this variance will expire. The sign allowed by this variance must be removed within 30 days of the issuance of any demolition permit for the principal building. If the building is destroyed or damaged by a natural disaster to the extent that it is rendered uninhabitable, then the sign must be removed within 30 days of the issuance of a demolition permit or within 30 days of the expiration of the federal, state, county, or local declaration of disaster, whichever occurs first. Placement of signage in conjunction with redevelopment of the site must comply with all regulations in effect at the time of application for a permit.
8. The applicant has 120 days from the day of Town Council approval to permit and install the approved monument sign or remove the existing non-conforming sign on the subject property.
9. The applicant must provide an as-built survey of the sign and foundations to confirm the zero (0') foot setback, and no right-of-way, encroachment, prior to Town approving the final inspection of the sign permit.

BLUE VISTA CAPITAL LLC

P O Box 508, Richmond, Illinois 60071 (815) 678-3500 (815) 678-3051 Fax

December 18, 2012

KC Williams
Direct Dial: 847-815-7253
kcwilliams@haadvisors.com

Leslee Chapman, Zoning Coordinator
Town of Fort Myers Beach
2523 Estero Blvd
Fort Myers Beach, FL 33931

Re: Neptune Inn – Sign Variance Amendment
Case #FMBVAR2012-0001

Dear Leslee:

Following our review of the Resolution of the Local Planning Agency of the Town of Fort Myers Beach, Florida (“Resolution Number 2012-017”), we are proposing the following changes to our submittal package dated 11/8/2012:

- A reduction in the sign height from 8’0” with a total square footage of 29 square feet to 7’0” with a total square footage of 22 square feet per your request. A rendering of the proposed 7’0” sign is attached.
- A revised “Recommended Conditions of Approval” list. A copy of our proposed changes is also attached.

Please review the attached and put us on the January 7th Town Council meeting agenda for approval. As always, please call me with any questions.

Very truly yours,

Blue Vista Capital LLC



KC Williams
Agent

Encl.

Exhibit-2: REVISED RECOMMENDED CONDITIONS OF APPROVAL:

1. The height of the sign, as measured from the highest adjacent grade or the crown of the adjacent street, whichever is higher, to the highest point of the sign face of its supporting structural element is not to exceed 7'0".
2. The existing sign base as measured from the highest adjacent grade or the crown of the adjacent street, shall not exceed its current height of approximately 28"
3. The current sign setback as measured from the front right-of-way/property line may be zero (0) feet.
4. The existing hedgerow planted in placed along the subject property's Estero Boulevard property line must be maintained. Removal of the hedge or maintenance of the hedge at a height less than approximately 42" will cause this variance to expire
5. Approval of this variance does not exempt the subject property from the LDC Section 30-55 permit requirements for signs.
6. Construction and/or remodeling of the sign must comply with all applicable codes and regulations, including building codes and lighting standards.
7. If the principal building on the subject property is removed or replaced for any reason, this variance will expire. The sign allowed by this variance must be removed within 30 days of the issuance of any demolition permit for the principal building. If the building is substantially destroyed or damaged by a natural disaster to the extent that it is rendered uninhabitable then the sign must be removed within 30 day of the issuance of a demolition permit or within 30 days of the expirations of the federal, state, county, or local declaration of disaster, whichever occurs first. Placement of signage in conjunction with redevelopment of the site must comply with all regulation in effect at the time of application for a permit.
8. The applicant has 180 days from the day the Town Council approval to permit and install the approved monument sign.
9. The applicant must provide an as-built survey showing the sign and sign base to confirm the zero (0) foot setback, and no right-of-way, encroachment, prior to the Town approving the final inspection of the sign permit.

SIGN SPECS

- *RETROFIT CABINET TO EXISTING BASE
- *INTERNALLY ILLUMINATED TO FT MEYERS BCH CODE
- *2ND SURFACE VINYL
- *GE SOLAR GRADE LEXAN PANFORMED FACES
- *POWDER COATED, CLEAR COATED
- *1/8" ALUMINUM WELDED CABINET
- *22 Sq. Ft.

COLORS



Vacancy/No Vacancy Panel



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 1-800-770-8585 1-941-753-6935 Fax: 1-941-756-8912

APPROVED BY: _____

DATE: / / _____

DESIGN: # 164737 v15 CODE: 11-0712-SBW

This is an original, unpublished drawing, submitted in connection with a project we are planning for you. Please do not copy or show it to anyone outside of your organization without written permission from Robson Corporation.

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RESOLUTION OF THE LOCAL PLANNING AGENCY OF
THE TOWN OF FORT MYERS BEACH FLORIDA
RESOLUTION NUMBER 2012-017
VAR2012-0001 - Neptune Inn Sign Variance

WHEREAS, applicant Blue Vista Capital, LLC is requesting a variance from Section 30-93(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 numbers for the subject property are 19-46-24-W3-0430000CE, 19-46-24-W3-0430N.0001 and 19-46-24-W3-0110A.0010 and the legal description of the subject property is attached as *Exhibit A*; and

WHEREAS, the subject property is located at 2310 Estero Boulevard, Fort Myers Beach, FL 33931 in the 'Commercial Resort' zoning category of the Official Zoning Map and the 'Boulevard' category of the Future Land Use Map of the Comprehensive Plan of the Town of Fort Myers Beach, Florida; and

WHEREAS, a public hearing on this matter was legally advertised and held before the Local Planning Agency (LPA) on November 13, 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 variances, the LPA recommends the following findings of fact, conditions for approval, and conclusions for consideration by the Town Council:

The LPA recommends that the Town Council **APPROVE** the applicant's request for a variance from Section 30-93(b) to allow a monument sign with a 0' setback from the front right-of-way/property line of the subject property; and

The LPA recommends that the Town Council **APPROVE** the applicant's request for a variance from Section 30-154(c) of the LDC which incorporates a 4'6" tall sign base and an overall sign height of 8', measured from the highest adjacent grade or the crown of the adjacent street, whichever is higher, to the highest point of the sign face or its supporting structural elements, with the approval subject to the following conditions:

RECOMMENDED CONDITIONS OF APPROVAL:

1. The height of the sign, as measured from the highest adjacent grade or the crown of the adjacent street, whichever is higher, to the highest point of the sign face or its supporting structural elements is not to exceed 8’.
2. The sign base as measured from the highest adjacent grade or the crown of the adjacent street, whichever is higher, is not to exceed 4’6” in height.
3. The sign setback as measured from the front right-of-way/property line will be zero (0) feet.
4. The existing hedge planted in place long the subject property’s Estero Boulevard property line must be maintained at 4’6” in height at all times. Removal of the hedge or maintenance of the hedge at a height less than 4’6” will cause this variance to expire.
5. Approval of this variance does not exempt the subject property from the LDC Section 30-55 permit requirements for signs.
6. Construction and/or remodeling of the sign must comply with all applicable codes and regulations, including building codes and lighting standards.
7. If the principal building on the subject property is removed or replaced for any reason, this variance will expire. The sign allowed by this variance must be removed within 30 days of the issuance of any demolition permit for the principal building. If the building is destroyed or damaged by a natural disaster to the extent that it is rendered uninhabitable, then the sign must be removed within 30 days of the issuance of a demolition permit or within 30 days of the expiration of the federal, state, county, or local declaration of disaster, whichever occurs first. Placement of signage in conjunction with redevelopment of the site must comply with all regulations in effect at the time of application for a permit.
8. The applicant has 60 days from the day of Town Council approval to permit and install the approved monument sign.
9. The applicant must provide an as-built survey of the sign and foundations to confirm the zero (0’) foot setback, and no right-of-way, encroachment, prior to Town approving the final inspection of the sign permit.

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

under circumstances or conditions where rigid compliance is not essential to protect public policy.

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 **Kakatsch** and seconded by LPA Member **Durrett**, and upon being put to a vote, the result was as follows:

Joanne Shamp, Member	excused	Hank Zuba, Member	AYE
Al Durrett, Member	AYE	John Kakatsch, Member	AYE
Jane Plummer, Member	AYE	Alan Smith, Member	AYE

DULY PASSED AND ADOPTED THIS 13th day of **NOVEMBER, 2012**.

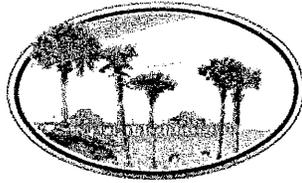
By: _____
Hank Zuba, LPA Vice Chair

Approved as to legal sufficiency:

By: _____
Fowler, White, Boggs
LPA Attorney

ATTEST:

By: _____
Michelle Mayher
Town Clerk



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

Town Hall – Council Chambers
2523 Estero Boulevard
Fort Myers Beach, Florida
November 13, 2012

I. CALL TO ORDER

Meeting was called to order at 9:05 a.m. by Vice Chair Zuba; other members present:

Al Durrett
John Kakatsch
Jane Plummer
Joanne Shamp – excused.
Alan Smith
Hank Zuba

LPA Attorney, Marilyn Miller
Staff Present: Walter Fluegel, Community Development Director
Leslee Chapman, Zoning Coordinator
Ken Miller, Building Safety Services Coordinator

II. PLEDGE OF ALLEGIANCE

III. INVOCATION

IV. MINUTES

A. Minutes of October 9, 2012

MOTION: Mr. Kakatsch moved to approve the October 9, 2012 minutes as presented; second by Ms. Plummer.

VOTE: Motion approved 5-0.

V. PUBLIC HEARING

A. VAR2012-0001 Neptune Inn

Vice Chair Zuba opened the hearing at 9:08 a.m.

LPA Attorney Miller swore in the witnesses.

Zoning Coordinator Chapman presented comments for VAR2012-0001 Neptune Inn sign variance on behalf of the Town of Fort Myers Beach. She noted the location of the subject property was 2310 Estero Boulevard; and the request was for a variance from 30-154(c), which limited the height of a monument sign to be elevated no more than 18" above grade and 5' overall to allow 4'6" for the monument supports and an overall height of 8'. She pointed out that also included was a new request for a variance from Section 30-93(b), which required a 3' setback from any street right-of-way to allow a 0' street setback; and she noted this new request had not been heard at the LPA meeting in August which was the reason why the variance request was remanded from the Town Council back to the LPA. She displayed photographs of the existing conditions of the subject property; reviewed site considerations (existing sign, planted hedge – at grade – maintained at 48-55" +/-). She reported the request was reviewed according to the Town's supporting regulations (Section 34-87), and that staff's position on their review remained the same as when the request came before the LPA in August. She discussed how staff worked to find the minimum variance for the subject property; displayed the artist's rendering of the initial request and monument sign dimensions (Section 30-154(c)-4'3" to the bottom of the sign and 8' 10" overall height) at the August 14, 2012 LPA meeting; and staff's original recommendation of denial and an alternative recommendation of 6'6" and the LPA's approval with a revised overall height allowance from staff's recommendation to a height of 8'7" from the August meeting. She briefly reviewed the public hearing from the Town Council Meeting on October 1, 2012; and how Council wanted additional detail and analysis before making a decision so they continued the case to their November 5th meeting with directives that the applicant was to provide additional analysis of the hardship on-site and reconsider their request to ensure it was the minimum variance necessary. She reported that staff met on-site with the applicant and his sign contractor on October 10th, and discussed alternative locations, wall signs, zero foot setback, height, and measured off the alternative recommendation height of 6'6", and the applicant was to provide updated documents to staff in time for the November 5th Council Meeting. Zoning Coordinator Chapman stated the applicant came back with a reduced height request from 8'10" to 6', and a new variance request for a zero foot setback which had not been heard by the LPA in August and ultimately required the Town Council to remand the request back to the LPA. She displayed an artist's rendering of the sign depicting the request at 6' and a zero foot setback; and noted that the applicant met with staff on-site on November 6, 2012 to discuss the 6' height request, hedge, and minimum variance necessary. She also discussed and displayed an artist's rendering of the current request for a zero foot setback and 4'6" to the bottom of the sign and an overall height of 8'; the applicant's concern about the hedge height; and the sign face. She noted that the applicant believed that wall signs were not an option because the building was set too far back and staff had disagreed. She mentioned staff did recognize the buffering value of the existing hedge. Staff recommended approval of the requested setback variance which required 3' to the zero foot setback; and denial of the requested variance for an overall height of 8'. She stated that staff did offer an alternative

recommendation with conditions and in particular pointed out #4, *“The existing hedge planted in place long the subject property’s Estero Boulevard property line must be maintained at 36” in height at all times. Removal of the hedge or maintenance of the hedge less than 36” will cause this variance to expire.”* She remarked that if the hedge was used as a justification for the variance then there needed to be a recommendation or condition as part of it that was clear that the hedge must be in place.

Ms. Plummer asked if there was a standard height for most vehicle headlights as it related to the hedge height.

Zoning Coordinator Chapman explained it depended upon the vehicle model.

Discussion ensued regarding a 36” height and the hood of a car; the proposed hedge height of 36” for the hedges that run parallel to Estero Boulevard; the previous approvals by the LPA for the subject property; and whether or not there were encroachment issues onto Estero Boulevard at the subject site.

KC Williams representing the Neptune Inn, and Grant Vosburg of Robson Corporation of Sarasota, introduced themselves.

KC Williams, representing the Neptune Inn, stated his presentation would include photos of a ‘physical mock-up of the sign’ with it held at different heights. He recounted his description of the meeting with staff on November 6, 2012. He prepared and utilized a PowerPoint presentation which highlighted the basis for his variance request such as but not limited to the height of certain vehicles with respect to sign visibility, the angle of the building as it related to Estero Boulevard and visibility, the planter box and hedge height, a zero setback, and the unsuitability of other locations for the sign on the property.

Discussion ensued regarding the hedge height, wall signage, the signage limitation of 32 square feet, and the proposed graphics on the sign.

Grant Vosburg from Robson Corporation of Sarasota explained the basis for why he configured the proposed sign as presented by the applicant.

Discussion was held concerning a ‘hanging sign’; the current height of the hedges (approximately 55”); the proposed maintenance height of the hedges and replacement if the hedge died; staff’s recommendation and the applicant’s requested sign dimensions; sign square footage, lettering, and graphics; and on-site vehicle parking as it related to sign visibility.

Community Development Director Fluegel explained how staff had struggled to find the minimum variance that was necessary, and how deliberation would need to determine the more important aesthetic consideration - the vegetation or the signage.

Public Comment opened.

No speakers.

Public Comment closed.

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

Zoning Coordinator Chapman restated that staff was recommending approval for the Staff recommended approval of the requested setback variance which requires 3' to allow the zero foot setback; and denial of the requested variance for an overall height of 8'. She stated that staff did offer an alternative recommendation of a 6'6" height requirement with a 36" base with a planter and shrubs maintained at 36" and the sign face would be the remainder of the 42" with the 6'6" overall and 9 conditions.

Discussion was held concerning the hedge height, viewing angle of the sign as it related to the hedge height, and the requested 8' overall sign height and zero setback.

Ms. Plummer requested Mr. Williams review his 'mock-up' photographs again.

KC Williams displayed and reviewed the photographs in his presentation showing a 'physical mock-up of the sign' held at different heights.

MOTION: Mr. Kakatsch moved to recommend for VAR2012-0001, Neptune Inn, that the Town Council approve the applicant's request for a variance from Section 30-93(b) to allow a monument sign with a 0' setback from the front right-of-way/property line of the subject property; and recommend the Town Council approve the applicant's request for a variance from Section 30-154(c) of the LDC which incorporates a 4'6" tall sign base and an overall sign height of 8', measured from the highest adjacent grade or the crown of the adjacent street, whichever is higher, to the highest point of the sign face or its supporting structural elements, with the approval subject to the following conditions:

1. The height of the sign, as measured from the highest adjacent grade or the crown of the adjacent street, whichever is higher, to the highest point of the sign face or its supporting structural elements is not to exceed 8'.
2. The sign base as measured from the highest adjacent grade or the crown of the adjacent street, whichever is higher, is not to exceed 4'6" in height.
3. The sign setback as measured from the front right-of-way/property line will be zero (0) feet.
4. The existing hedge planted in place along the subject property's Estero Boulevard property line must be maintained at 4'6" in height at all times. Removal of the hedge or maintenance of the hedge at a height less than 4'6" will cause this variance to expire.
5. Approval of this variance does not exempt the subject property from the LDC Section 30-55 permit requirements for signs.
6. Construction and/or remodeling of the sign must comply with all applicable codes and regulations, including building codes and lighting standards.

7. If the principal building on the subject property was removed or replaced for any reason, the variance would expire. The sign allowed by the variance must be removed within 30 days of the issuance of any demolition permit for the principal building. If the building is destroyed or damaged by natural disaster to the extent that it is rendered uninhabitable, then the sign must be removed within 30 days of the issuance of a demolition permit or within 30 days of the expiration of the federal, state, county, or local declaration of disaster, whichever occurs first. Placement of regulations in effect at the time of application for a permit.
8. The applicant has 60 days from the day of Town Council approval to permit and install the approved monument sign.
9. The applicant must provide an as-built survey of the sign and foundations to confirm the zero (0) foot setback, and no right-of-way, encroachment, prior to Town approving the final inspection of the sign permit.

Recommended Conditions of Approval:

- 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 under circumstances or conditions where rigid compliance is not essential to protect public policy.
- 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;
second by Mr. Durrett.

Discussion was held concerning the maintenance height of the hedge.

VOTE: Motion approved; 5-0.

Vice Chair Zuba closed the hearing at 10:08 a.m.

B. IPMC

LPA Attorney Miller noted that Chair Shamp had many good comments about the proposed ordinance concerning the International Property Maintenance Code (IPMC). She mentioned how she had prepared the proposed ordinance. She reviewed the 'red-line' copy of the proposed ordinance she submitted to the LPA which indicated the changes recommended by the LPA at the September 11, 2012 meeting.

Discussion ensued regarding the proposed added language in the red-line copy:

Town of Fort Myers Beach – Local Planning Agency

November 13, 2012

Page 5 of 9

- Page 6 – maintenance of trees and shrubs and horizontal and vertical clearance from sidewalks, bicycle paths, and street rights-of-way; weed control and sea oats; inoperable/unregistered motor vehicles or boats.
- Page 7 – exterior storage, outdoor storage; disposal of swimming pool water; use of the ASTM standard as it related to disposal of pool water.
- Page 8 - premise identification; placement times for trash cans and types of trash can screening; premise window screening and operable doors requirements; stairways and lighting.
- Page 9 – storm drainage; screening of mechanical equipment on commercial properties.

LPA Attorney Miller noted that some items were left out of the proposed ordinance because it was covered in other sections of the Town's Code such as but not limited to 'noise'.

Mr. Smith questioned Page 2, Section 6.2, regarding where 'International Building Code' appeared the term 'Florida Building Code' would be substituted.

LPA Attorney Miller explained that after Hurricane Andrew the State of Florida pre-empted to review buildings codes and developed their own buildings codes by State Statute.

Vice Chair Zuba asked if by adopting the IPMC into the Town's Codes gave them more tools to address deterioration.

Ken Miller, Building Safety Services Coordinator for the Town of Fort Myers Beach, responded in the affirmative. He added that the existing Land Development Code was vague in certain areas as it pertained to property maintenance.

Discussion was held concerning other Florida communities that had already adopted the IPMC; and the definitiveness of definitions in the Code and how that related to an enforcement tool.

Public Comment opened.

No speakers.

Public Comment closed.

MOTION: Ms. Plummer moved to recommend approval of the adoption of proposed Ordinance 2012-015 International Property Maintenance Code (IPMC); second by Mr. Smith.

VOTE: Motion approved; 5-0.

Vice Chair Zuba closed the Public Hearing at 10:44 a.m.

Adjourn as LPA and Reconvened as Historic Preservation Board - Withdrawn

VI. LPA MEMBER ITEMS AND REPORTS

A. Committee Reorganization

Vice Chair Zuba explained at this time it was necessary to discuss and determine the Chair and Vice Chair positions for the LPA.

LPA Attorney Miller ensured that the LPA Members all had received Chair Shamp's letter indicating that she did not wish to be nominated for Chair. She opened the floor for nominations.

Ms. Plummer nominated Mr. Zuba for Chair.

LPA Attorney Miller asked if there were any other nominations; seeing none, closed the floor for nominations.

QUESTION: LPA Attorney Miller asked who was in favor of Mr. Zuba as Chair of the LPA.

VOTE: Nomination approved 5-0.

LPA Attorney Miller opened the floor for nominations of Vice Chair.

Mr. Kakatsch nominated Ms. Shamp for Vice Chair.

LPA Attorney Miller asked if there were any other nominations; seeing none, closed the floor for nominations.

QUESTION: LPA Attorney Miller asked who was in favor of Ms. Shamp as Vice Chair of the LPA.

VOTE: Nomination approved 5-0.

Discussion was held regarding the Chair and Vice Chair positions for the Historical Preservation Board and the current Chair (Ms. Plummer) and Vice Chair (Mr. Kakatsch); and both indicated they would accept remaining in their respective capacity.

Chair Zuba nominated Ms. Plummer as Chair and Mr. Kakatsch as Vice Chair of the HPB.

LPA Attorney Miller asked if there were any other nominations; seeing none, closed the floor for nominations.

QUESTION: LPA Attorney Miller asked who was in favor of Ms. Plummer as Chair and Mr. Kakatsch as Vice Chair of the HPB.

VOTE: Nomination approved 5-0.

VII. LPA ATTORNEY ITEMS

LPA Attorney Miller – no items or report.

VIII. COMMUNITY DEVELOPMENT DIRECTOR ITEMS

Community Development Director Fluegel reported staff was working on a date for the joint meeting, and requested the LPA Members forward to him any topics they may want to consider for placement on the Joint Meeting Agenda.

Ms. Plummer suggested a play area on Fort Myers Beach since the Town was ‘family-oriented’.

Mr. Zuba suggested an update on the Seafarer property.

Community Development Director Fluegel suggested Seafarer be included within a ‘downtown and transportation issues’ update. He added that the Selection Advisory Committee was forwarding a recommendation to Town Council for November 19th for a land use consultant, and briefly described the consultant’s initial scope of work (i.e. Seafarer).

Discussion was held concerning five of the responsive consulting firms reviewed by the Selection Advisory Committee with Calvin Giordano ranked as number one.

Mr. Kakatsch commended staff for their work on the demolition of the buildings on 4545 Estero Boulevard.

Discussion was held concerning the building demolition; another potential demolition for an unsafe structure on Avenue E; the 50% rule and the National Flood Insurance Program; non-conforming structures; density and density credits; future Comp Plan review; deferred maintenance and unsafe structures; possible Town-initiated rezoning; and building elevations, FEMA elevation grants, and FEMA standards.

Mr. Kakatsch suggested placing the water and sewer issue on the Joint Meeting Agenda.

Zoning Coordinator Chapman recapped the suggested items for the Joint Meeting Agenda:

- Play areas
- Seafarer property
- Downtown and transit issues
- Estero Boulevard water, sewer, and drainage issues
- FEMA 50/50 rule

Mr. Kakatsch noted the activities on San Carlos Island.

Community Development Director Fluegel briefly described the Ebtide rezoning request to Lee County and gave an update on the status of the project. He noted the project would come before a Lee County Hearing Examiner tomorrow, and the Town had obtained the services of a traffic consultant to review Ebtide's proposal. He reported the traffic consultant did find some issues with Ebtide's project because there would be impacts on Estero and San Carlos Boulevards; and that Council did approve a resolution which would be part of the package presented by the staff to the Hearing Examiner. He added that the Town would be requesting the developer conduct a Traffic Impact Mitigation Plan to address the issues with Estero and San Carlos Boulevards.

Discussion was held concerning the traffic impacts to Estero and San Carlos Boulevards and potential impacts to water quality.

IX. LPA ACTION ITEM LIST REVIEW

X. ITEMS FOR NEXT MONTH'S AGENDA

XI. PUBLIC COMMENT

Public Comment opened.

No speakers.

Public Comment closed.

XII. ADJOURNMENT

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

VOTE: Motion approved, 5-0.

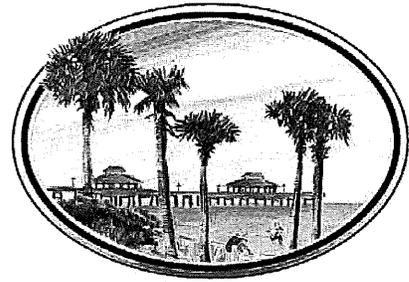
Meeting adjourned at 11:12 a.m.

Adopted 12/11/12 With/Without changes. Motion by Kakatsch, 2nd Plummer

Vote: 7-0


Signature

End of document.



Town of Fort Myers Beach

Memorandum

To: Local Planning Agency Members
From: Leslee Chapman, Zoning Coordinator
CC: Walter Fluegel, Community Development Director
Date: November 9, 2012
Re: VAR2012-0001 – The Neptune Inn sign variance

At the October 1, 2012 Town Council meeting, a final public hearing was held to consider case VAR2012-0001. The request in case VAR2012-0001 was for a variance from the maximum permitted overall sign height of 5' (Section 30-154(c)) to allow a new sign of 8'10" in overall height. After hearing from Staff, the applicant, and the LPA recommendation from its August 14th meeting Council indicated that the amount of detail and analysis provided by all parties was not sufficient for Council to make a decision. Council voted to continue the hearing to the November 5th meeting with the following directives:

1. The applicant (with clarification from Staff) should provide a more thorough analysis of the claimed hardship on the property that prevents the subject property from complying with the sign ordinance; and
2. The applicant should re-consider its request and be certain that the request is the *minimum variance necessary* to overcome the hardship on the subject property.

On October 2, Staff, including Leslee Chapman, Walter Fluegel and Terry Stewart, met on site at the Neptune Inn with the applicant's agent, KC Williams, and the applicant's sign contractor, Grant Vosburg from Robson Corporation. Alternative locations for signage, including wall signs, were discussed; however the applicant was insistent that wall signage was not an option. The discussion then moved to the proposed monument sign and location. The feasibility of a zero foot setback was discussed and the actual dimensions of Staff's alternative recommendation of an overall height of 6'6" was measured out and considered.

On October 22, Staff received the applicant's revised variance request which is attached to this memo as *Attachment A*. The applicant had revised their variance request to include a new request for a zero foot setback (Section 30-93(b)) and reduced the overall sign height from 8'10"

to 6'. A sketch of the proposed new sign is included on the third page of the applicant's submittal as Exhibit 1. As depicted on the drawing, the applicant is proposing to use the existing planter box as the sign base with the sign mounted above.

With respect to the zero foot setback request (Section 30-93(b)), because this was an additional variance that was not heard by the LPA, Council remanded the case back to the LPA for a public hearing and recommendation before hearing the case again. The public hearing in this case was opened at the November 5th Council meeting and Council voted, 5-0, to remand the case back to the LPA to hear the additional request for the zero foot setback.

In the letter provided with *Attachment A*, the applicant asks Staff and Council to consider the 'considerable expense' incurred by the property owner if the existing planter has to be removed. Financial burden, however real, is not the type of hardship that can be considered in deciding whether to grant a variance as described in Section 34-87(3) of the Land Development Code. Furthermore, were the applicant to remove even a foot of the planter base, the same sign area as shown on Exhibit 1 could be installed and would meet the 5' height requirement.

Also in the letter provided by the applicant, they state that because the building is setback approximately 60' from the edge of pavement, wall signage would not be visible and thus that justifies the request for a height variance on a monument sign.

Staff disagrees with the applicant in regards to the viability of wall signage. There is ample wall space on the numerous buildings on the subject property that could be utilized for signage. In fact, the applicant could divide their allowed 32 sq ft to provide signage on the walls that are angled toward both traffic lanes, thereby providing visibility in both directions.

As to site considerations and height; parked cars surround the existing (and proposed) monument sign location but, unlike other height variance requests that involved clear physical obstructions (i.e. utilities, mechanical equipment, code required fences, etc), the parking spaces on this property are a fluid and changing on-site condition that can be controlled to allow for maximum sign visibility.

Additionally, the existing hedge, along the Estero Boulevard property line measures approximately 55" tall north of the existing sign and somewhat less than 55" south of the existing sign. The applicant continues to use the existing hedge, at this height, as a basis for their height variance request. And while Staff recognizes the aesthetic and functional value of the hedge, it is not a code required hedge, and if it were a code required hedge, Section 10-416 and Table 10-9 require the hedge to be maintained at 36" in height.

Furthermore, by moving the sign to a zero foot setback, the proposed new sign will have more visibility along Estero Boulevard, and in Staff's opinion have less need to have a further height variance.

On November 6 Mr. Williams, the applicant's agent, called and requested an on-site meeting with Staff to view the proposed sign at the 6' height requested from the October 22 submittal. Again, there was a lengthy discussion about height, minimum variance necessary and the health of the shrub hedge should it be trimmed down to 36" in height. Staff also discussed with Mr. Williams the viability of reconfiguring and/or redesigning the actual sign face to better maximize the sign face area however, Mr. Williams said that due to the Neptune Inn's logo and branding, no other sign face configuration would work.

The health and survivability of the shrub hedge is a concern as Staff recognizes its aesthetic value, not only to the subject property, but to the Estero Boulevard corridor in this area. However, herein lies the difficulty of using living plant material as a hardship and justification for a permanent variance from the code – the living plant material may die or become diseased from any number of reasons, manmade or otherwise. Therefore, Staff strongly recommends that if the hedge is found as an acceptable justification for a variance, then conditions that require the replacement of it, should it become damaged or die back, be included in any approval.

At the November 6 on-site meeting Staff and Mr. Williams agreed that while they had submitted a 6' height request on October 22 (see *Attachment A*), that perhaps the true minimum variance necessary was the 6'6" that Staff had offered as their alternative recommendation in the original Staff Report. Because of this change, Staff extended the LPA packet deadline to give the applicant an opportunity to resubmit documentation and a proposed sign drawing reflecting the agreed upon 6'6" height.

On November 8, Staff received a packet submitted by the applicant, and attached to this memo as *Attachment B*, which reflects a request for an 8' overall sign height (see applicant Exhibit 1) and a 0' setback.

Upon review of these documents, which were not consistent with the discussions from the November 6th meetings in regards to the height requested, Staff continues in the opinion that wall signage is an option on the subject property. However, since the applicant does not feel that wall signage is a viable option; Staff has also considered both the setback and height requests. Staff is in support of the request for a zero foot street setback because it allows the sign to be closer to the street and therefore assist in ensuring that the height requested and approved is the minimum variance necessary. Staff is not in support of the request for an 8' overall sign height, as it is not the minimum variance necessary to relieve any undue burden on the subject property. Should Town Council find that the existing hedge is justification enough to request a height variance, then Staff recommends that the minimum variance necessary is a base height of 36" and an overall sign height of 6'6".

Therefore, Staff recommends **APPROVAL** of the request from Section 30-93(b) to allow a 0' setback.

Staff recommends **APPROVAL** of its alternative recommendation which would permit a variance from Section 30-154(c) to allow a planter/base height of 36" and an overall height of 6'6" with the approval subject to the following conditions:

1. The height of the sign, as measured from the highest adjacent grade or the crown of the adjacent street, whichever is higher, to the highest point of the sign face or its supporting structural elements is not to exceed 6'6".
2. The sign base as measured from the highest adjacent grade or the crown of the adjacent street, whichever is higher, is not to exceed 36" in height.
3. The sign setback as measured from the front right-of-way/property line will be zero (0) feet.
4. The existing hedge planted in place long the subject property's Estero Boulevard property line must be maintained at 36" in height at all times. Removal of the hedge or maintenance of the hedge at a height less than 36" will cause this variance to expire.
5. Approval of this variance does not exempt the subject property from the LDC Section 30-55 permit requirements for signs.
6. Construction and/or remodeling of the sign must comply with all applicable codes and regulations, including building codes and lighting standards.
7. If the principal building on the subject property is removed or replaced for any reason, this variance will expire. The sign allowed by this variance must be removed within 30 days of the issuance of any demolition permit for the principal building. If the building is destroyed or damaged by a natural disaster to the extent that it is rendered uninhabitable, then the sign must be removed within 30 days of the issuance of a demolition permit or within 30 days of the expiration of the federal, state, county, or local declaration of disaster, whichever occurs first. Placement of signage in conjunction with redevelopment of the site must comply with all regulations in effect at the time of application for a permit.
8. The applicant has 60 days from the time of Town Council approval to permit and install the new monument sign.
9. The applicant must provide an as-built survey of the sign and foundations to confirm the zero (0') foot setback, and no right-of-way, encroachment, prior to Town approving the final inspection of the sign permit.

BLUE VISTA CAPITAL LLC

P O Box 508, Richmond, Illinois 60071 (815) 678-3500 (815) 678-3051 Fax

ATTACHMENT A

October 22, 2012

KC Williams
Direct Dial: 847-815-7253
kcwilliams@haadvisors.com

Leslie Chapman, Zoning Coordinator
Town of Fort Myers Beach
2523 Estero Blvd
Fort Myers Beach, FL 33931

Re: Neptune Inn – Sign Variance Amendment
Case #FMBVAR2012-0001

Dear Leslie:

Please find enclosed updated documents for the Neptune Inn sign variance request. This will amend the previous sign variance submittal.

We are requesting a height and zero lot line variance. The rendering (Exhibit-1) shows that we have reduced the sign height from the original request of 8' 10" to 6' and requesting to move the sign to a zero lot line.

In order to accommodate existing hedge row and planter base the height of the sign including green space to be added must be 6' with zero set back.

We have also researched other locations for the signage and there are versus unique circumstances that make the alternatives unworkable;

- To the North there are utilities that will not permit room for the sign. (Exhibit-2)
- To the South there is an existing building that would block ability to see the sign from Estero. (Exhibit-3)
- Wall signage would not be effective as the property is laid out on an angle to Estero Boulevard the closest available walls are more than 60' back from the property line. The required 16 sq. ft. signs would be very difficult to identify and read. (Exhibits-4a, 4b)

Page 2
October 22, 2012

Please also consider the following hardship and unique circumstances we are facing:

- The existing planter box (base of sign) is solid concrete with brick face and cap. There would be considerable expense incurred by the Neptune Inn if we are required to cut or remove both the solid concrete and brick face in order to achieve the 18" base height and 5' total mounted height with a 0' setback. (Exhibit -5)
- Parking spaces are assigned per unit number and the spaces to the north and south of the sign would substantially block the view of a 5' mounted sign, even with a zero setback.

Please arrange for this item to be on the agenda for the November 5, 2012 Town Council meeting. Feel free to call with any questions.

Very truly yours,

Blue Vista Capital LLC

A handwritten signature in black ink, appearing to read "KC Williams", written over a horizontal line.

KC Williams
Agent

Enc.

Exhibit-1

SIGN SPECS

- COLORS**
- 3M SULTAN BLUE #3630-157
 - WHITE

- * RETROFIT CABINET TO EXISTING BASE
- * INTERNALLY ILLUMINATED TO FT MEYERS BCH CODE
- * 2ND SURFACE VINYL
- * GE SOLAR GRADE LEXAN PANELED FACES
- * POWDER COATED, CLEAR COATED
- * 1/8" ALUMINUM WELDED CABINET
- * 29 Sq. Ft.

Vacancy/No Vacancy Panel



Robson Corporation

"THE BEST BUY IN SIGNS"

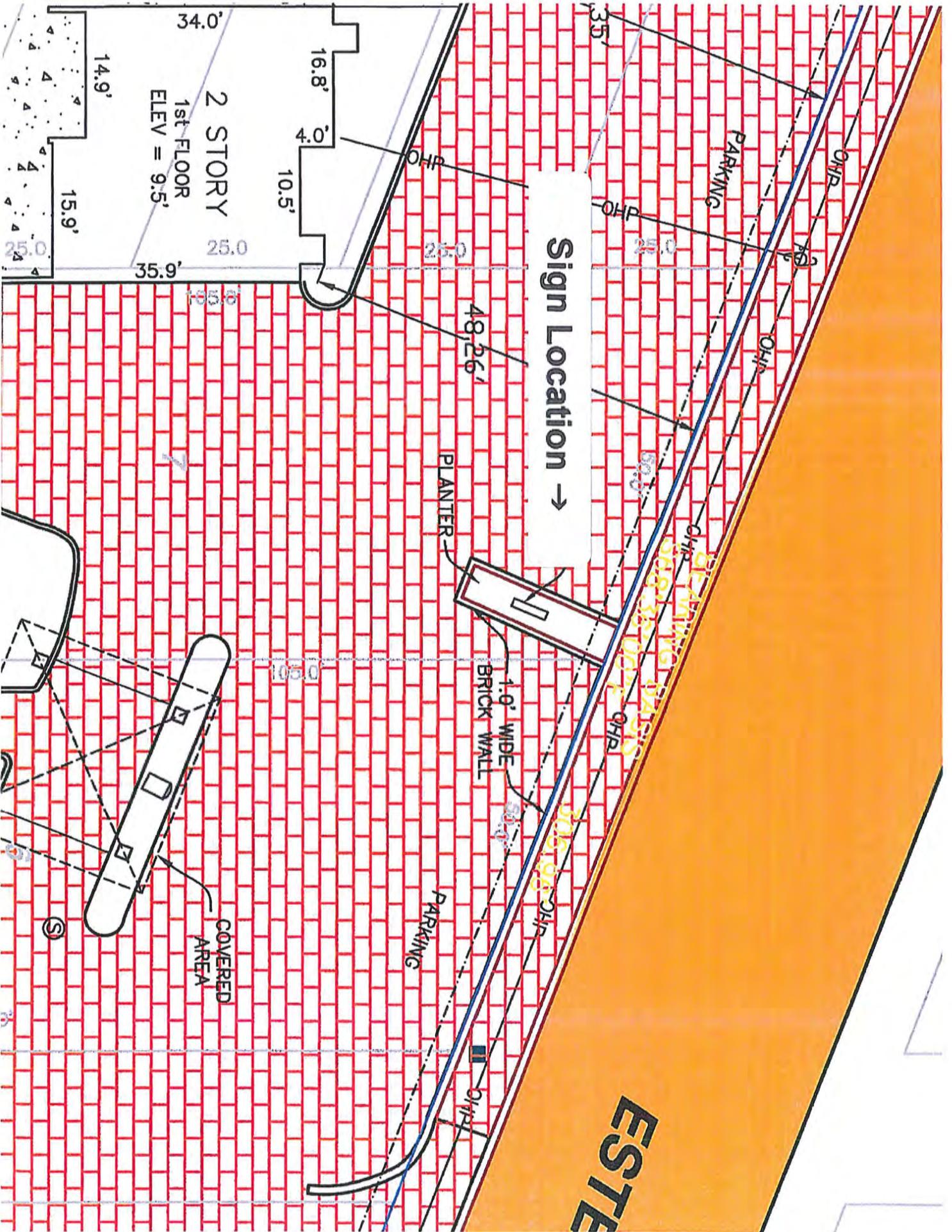
2231 Whitfield Park Loop, Sarasota, FL 34243
 1-800-770-8585 1-941-753-6935 Fax: 1-941-756-8912

DESIGN: #164737 V10 CODE: 07-3012-SBW

APPROVED BY: _____
 DATE: / /

This is an original, unpublished drawing submitted in connection with a project. We are planning for you. Please do not copy or show it to anyone outside of your organization without written permission from Robson Corporation.

© 2011



Sign Location →

2 STORY
1st FLOOR
ELEV = 9.5'

1.0' WIDE
BRICK WALL

PLANTER

PARKING

PARKING

ESTE

COVERED
AREA

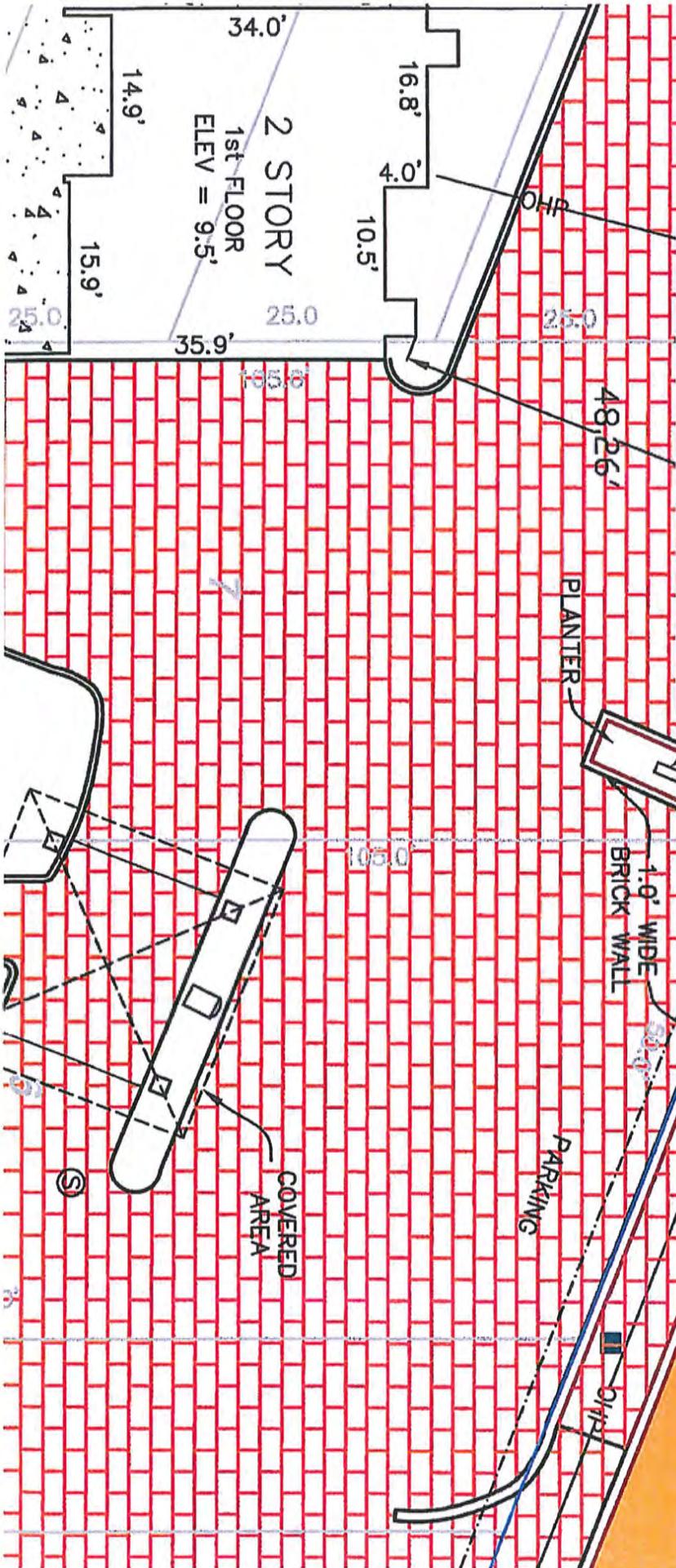
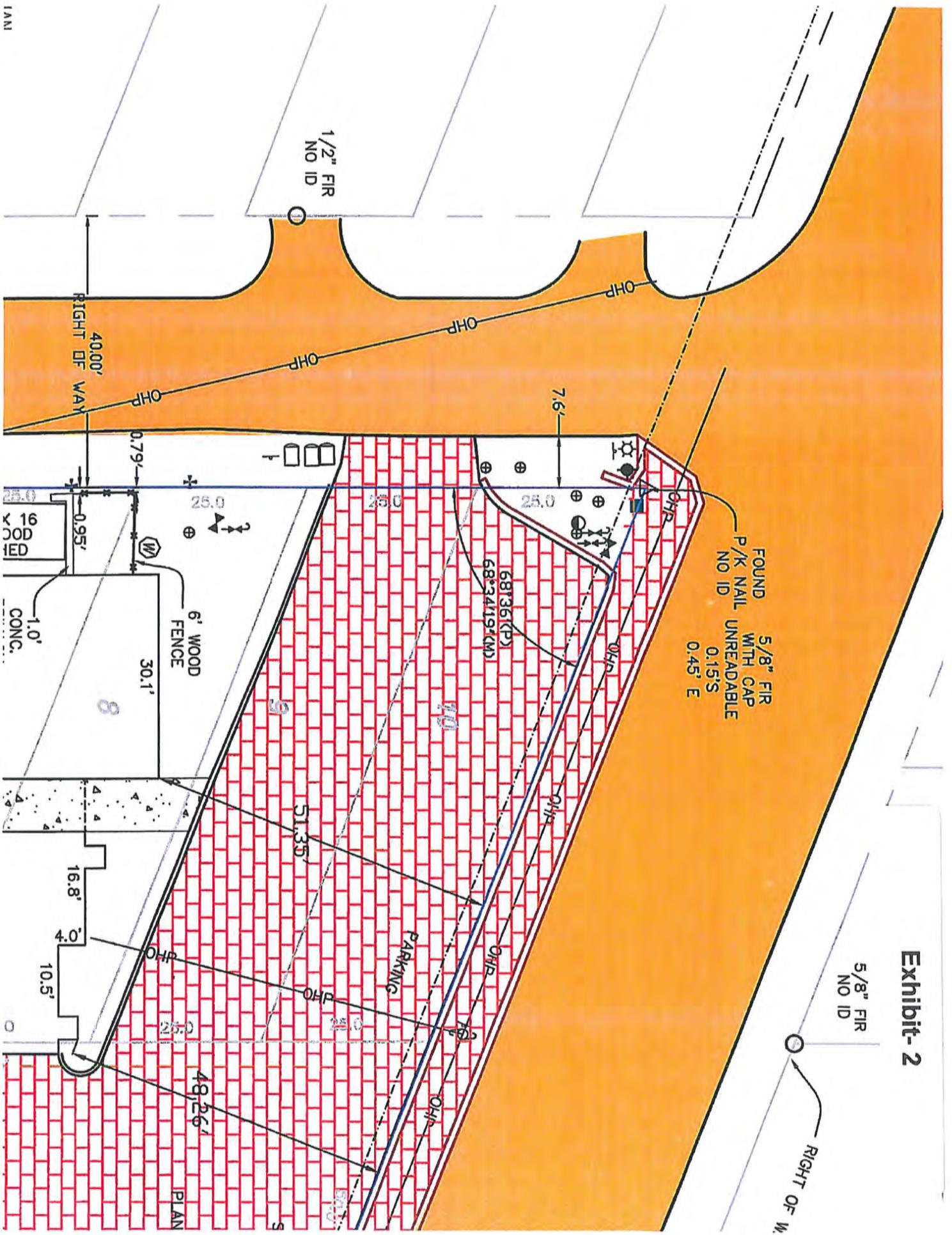
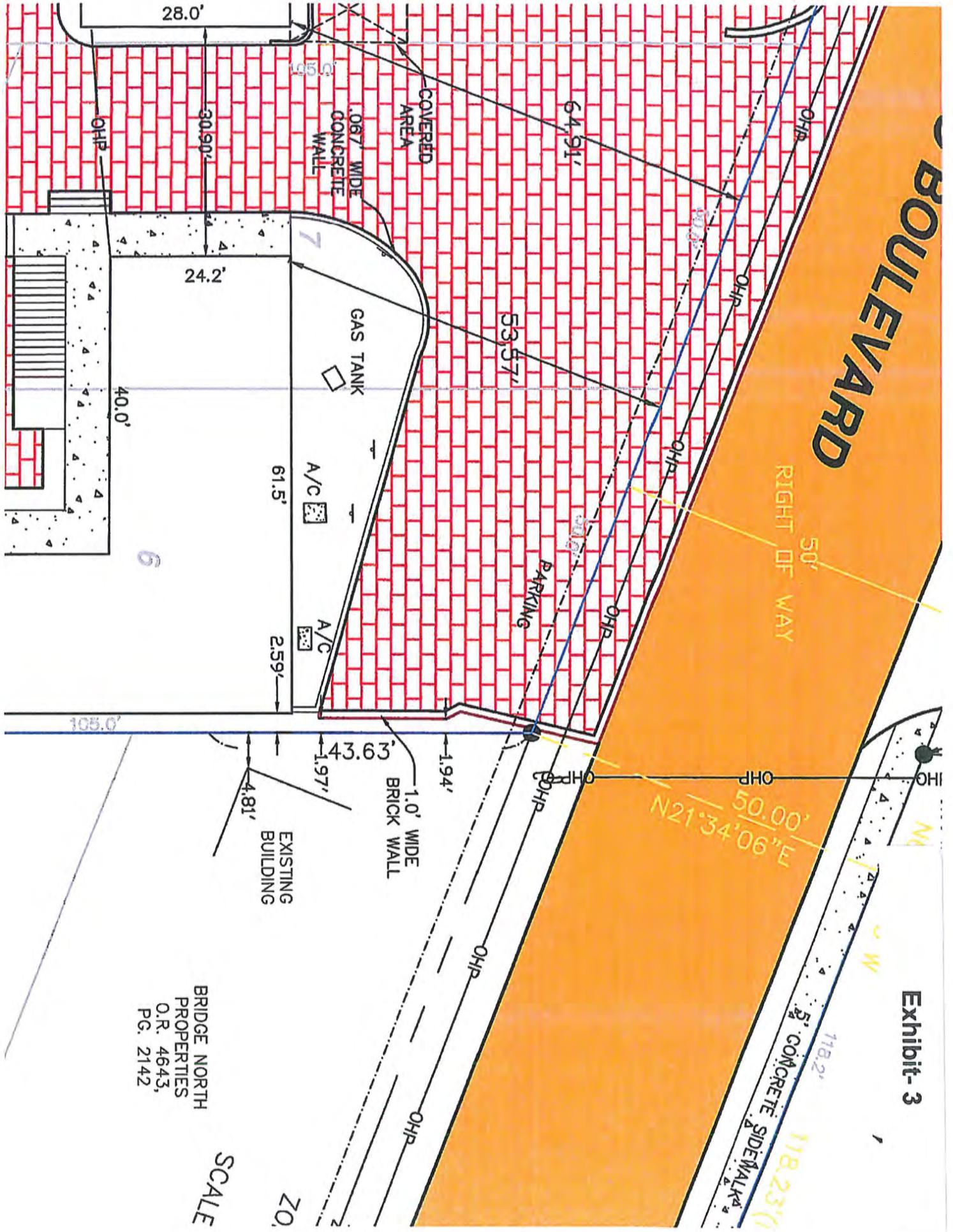


Exhibit-2



1" = 10'



BRIDGE NORTH
 PROPERTIES
 O.R. 4643,
 PG. 2142

SCALE

Exhibit-3

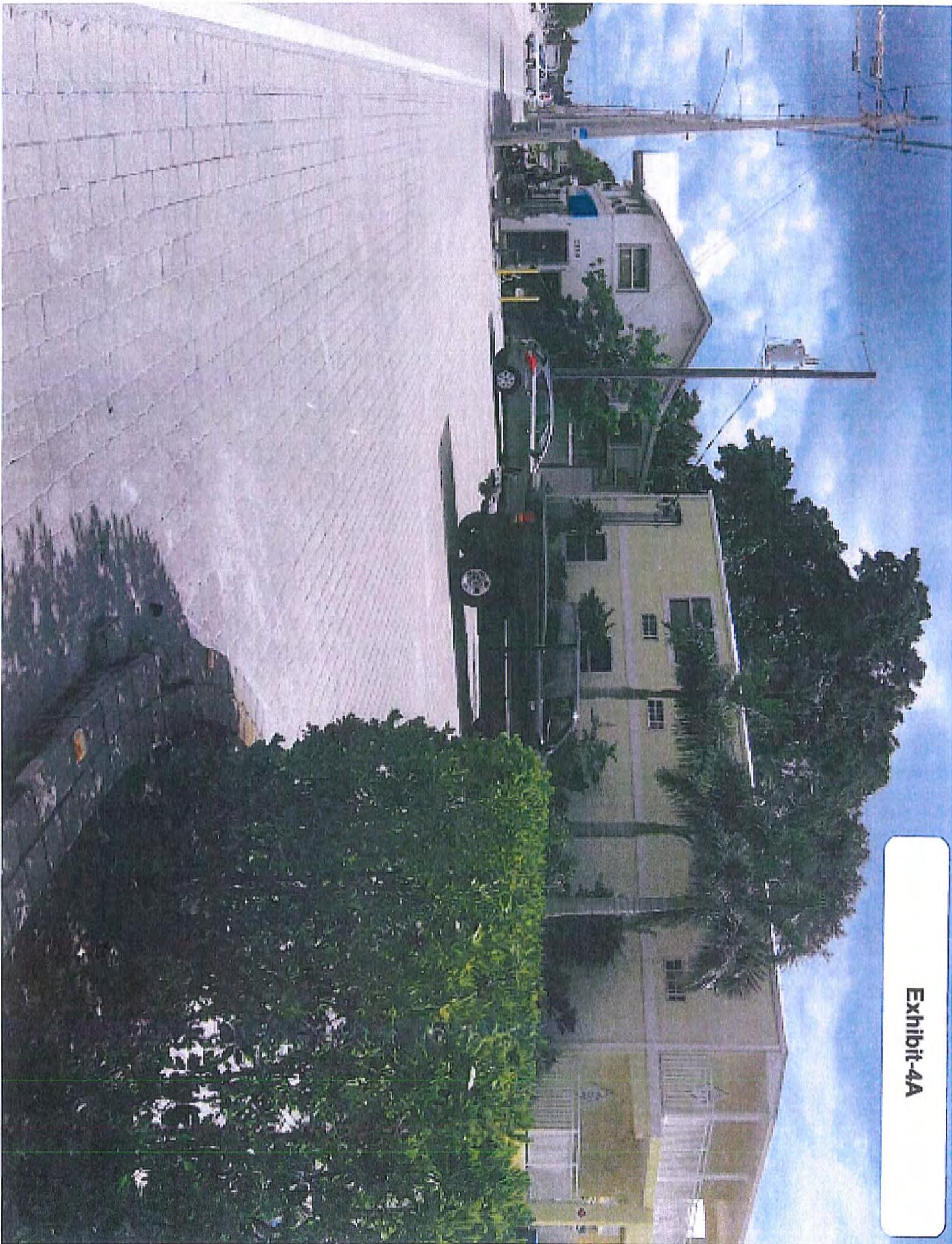


Exhibit-4A

Exhibit-4B





2 HEATED POOLS
239 463 6141
WALK IN SPECIALS

Exhibit- 5

Concrete planter box
with brick veneer

BLUE VISTA CAPITAL LLC

P O Box 508, Richmond, Illinois 60071 (815) 678-3500 (815) 678-3051 Fax

ATTACHMENT B

November 8, 2012

KC Williams
Direct Dial: 847-815-7253
kcwilliams@haadvisors.com

Leslee Chapman, Zoning Coordinator
Town of Fort Myers Beach
2523 Estero Blvd
Fort Myers Beach, FL 33931

Re: Neptune Inn – Sign Variance Amendment
Case #FMBVAR2012-0001

Dear Leslee:

Please find enclosed updated documents for the Neptune Inn sign variance request. This will amend the previous sign variance submittal.

We are requesting a height and zero lot line variance. The rendering (Exhibit-1) shows that we have reduced the sign height from the original request of 8'10" to 8'0" and moved the sign to a zero setback lot line.

In order to accommodate the existing hedge row, planter base and parked vehicles, the overall height of the sign must be 8'0", with a zero setback.

We have also researched other locations for the signage, and there are unique circumstances that make each alternative impractical:

- To the North, there are utilities that will not permit room for the sign. (Exhibit-2)
- To the South, there is an existing building that would block the ability to see the sign from Estero. (Exhibit-3)
- Wall signage would not be effective as the property is laid out on an angle to Estero Boulevard. The closest available walls are more than 60' back from the property line. The required 16 sq. ft. signs would be very difficult to identify and read. (Exhibits-4a, 4b)

Page 2
November 8, 2012

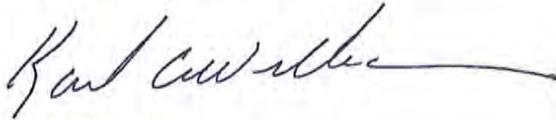
Please also consider the following challenges we are facing:

- The existing planter box (base of sign) is solid concrete with brick face and cap. There would be considerable expense incurred by the Neptune Inn if we are required to cut or remove both the solid concrete and brick face in order to achieve the 18" base height and 5' total mounted height with a 0' setback. (Exhibit -5)
- Parking spaces are assigned per unit number, and the spaces to the north and south of the sign would substantially block the view of a 5', 6' or 6'6" mounted sign, even with a zero setback. (Exhibit 6, 6a)
- If we are not granted the 8'0" overall height, the hedgerow would need to be lowered by approximately 2' to meet the Town Staff recommendation of a 6'6" overall height. This action could substantially damage the hedgerow, causing the plants to die.
- Other properties that don't have our unique set of circumstances can easily accommodate a 5' sign (Exhibit 7, 7a). They do not have the same issues with landscaping or parking.

In consideration of the above challenges, we conclude that the most appropriate solution for our property's sign is to have an overall height of 8'0" setback on a zero lot line (Exhibit 8). Please arrange for this item to be on the agenda for the November 13, 2012 Land Planning Agency meeting. Feel free to call with any questions.

Very truly yours,

Blue Vista Capital LLC



KC Williams
Agent

Enc.

Exhibit - 1

SIGN SPECS

- COLORS**
- 3M SULTAN BLUE #3630-157
 - WHITE

- *RETROFIT CABINET TO EXISTING BASE
- *INTERNALLY ILLUMINATED TO FTMEYERS BCH CODE
- *2ND SURFACE VINYL
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Vacancy/No Vacancy Panel



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 1-800-770-8585 1-941-753-6935 Fax: 1-941-756-8912

DESIGN: #164737 v14 CODE: 11-0712-SBW

APPROVED BY: _____

DATE: / /

This is an original, unpublished drawing, submitted in connection with a project we are planning for you. Please do not copy or show it to anyone outside of your organization without written permission from Robson Corporation.

© 2011

BOULEVARD

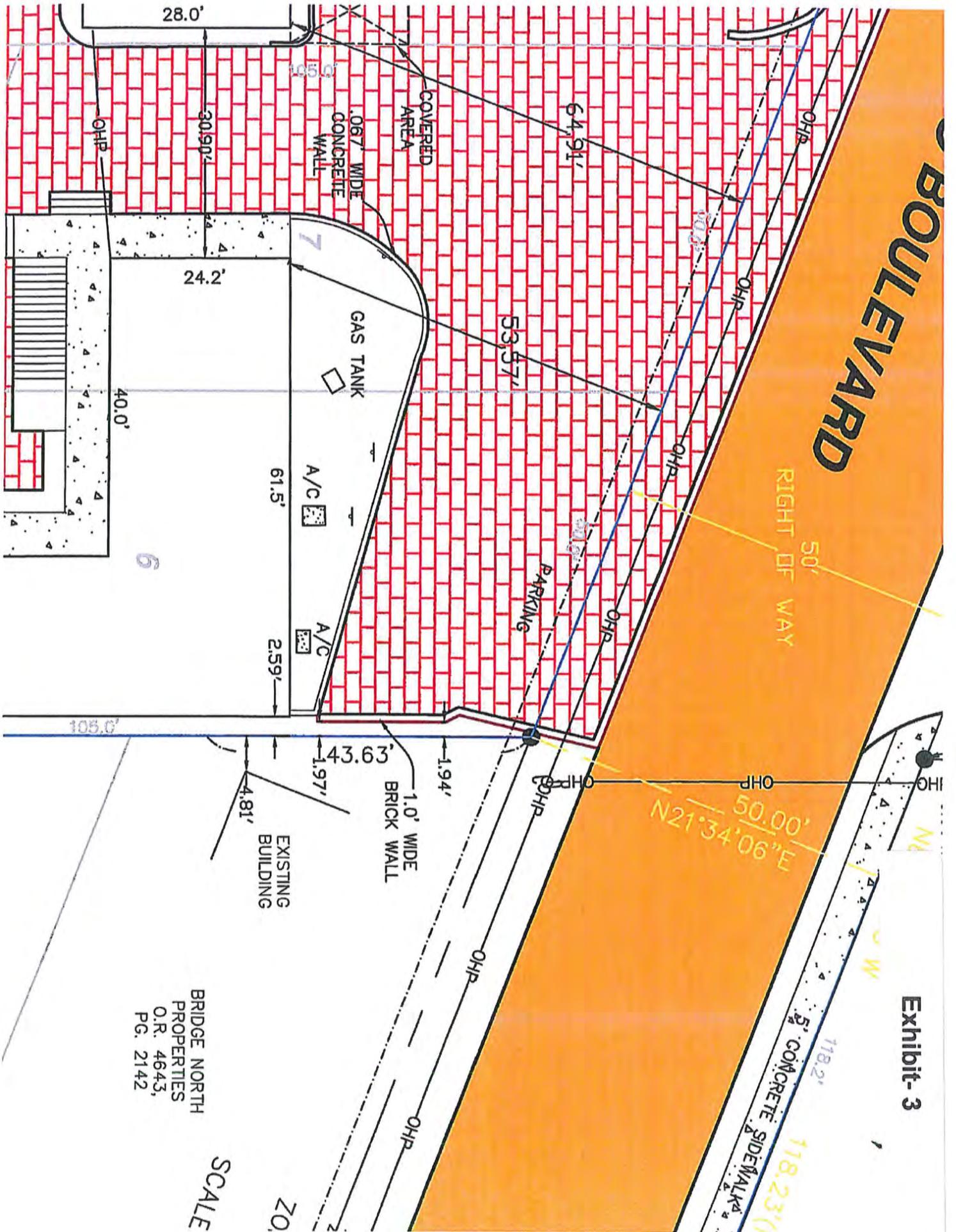


Exhibit-3

BRIDGE NORTH
PROPERTIES
O.R. 4645,
PG. 2142

SCALE

Exhibit-4A



Exhibit-4B



2 HEATED POOLS
239 463 6141
WALK IN SPECIALS

Exhibit- 5

Concrete planter box
with brick veneer

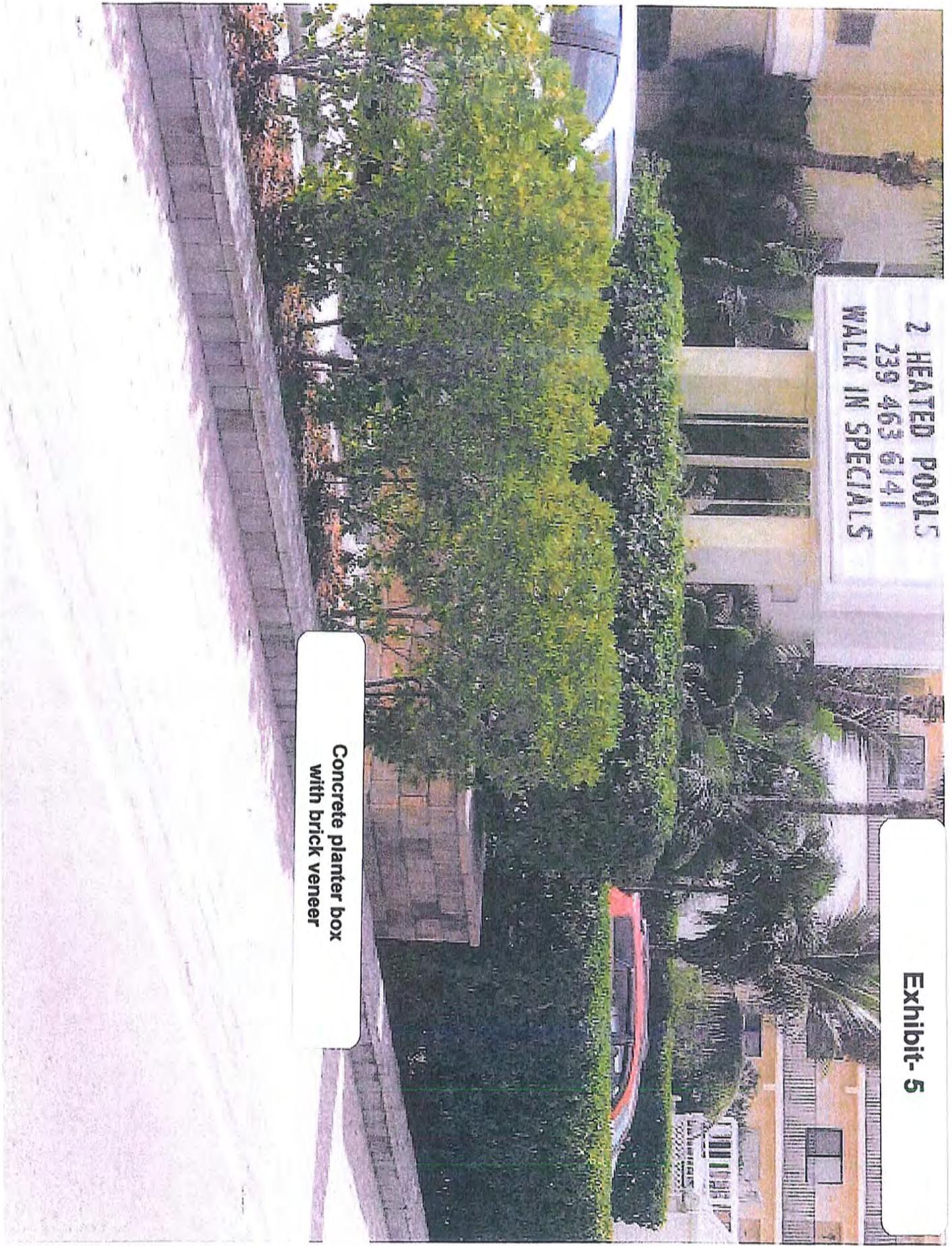




Exhibit - 6

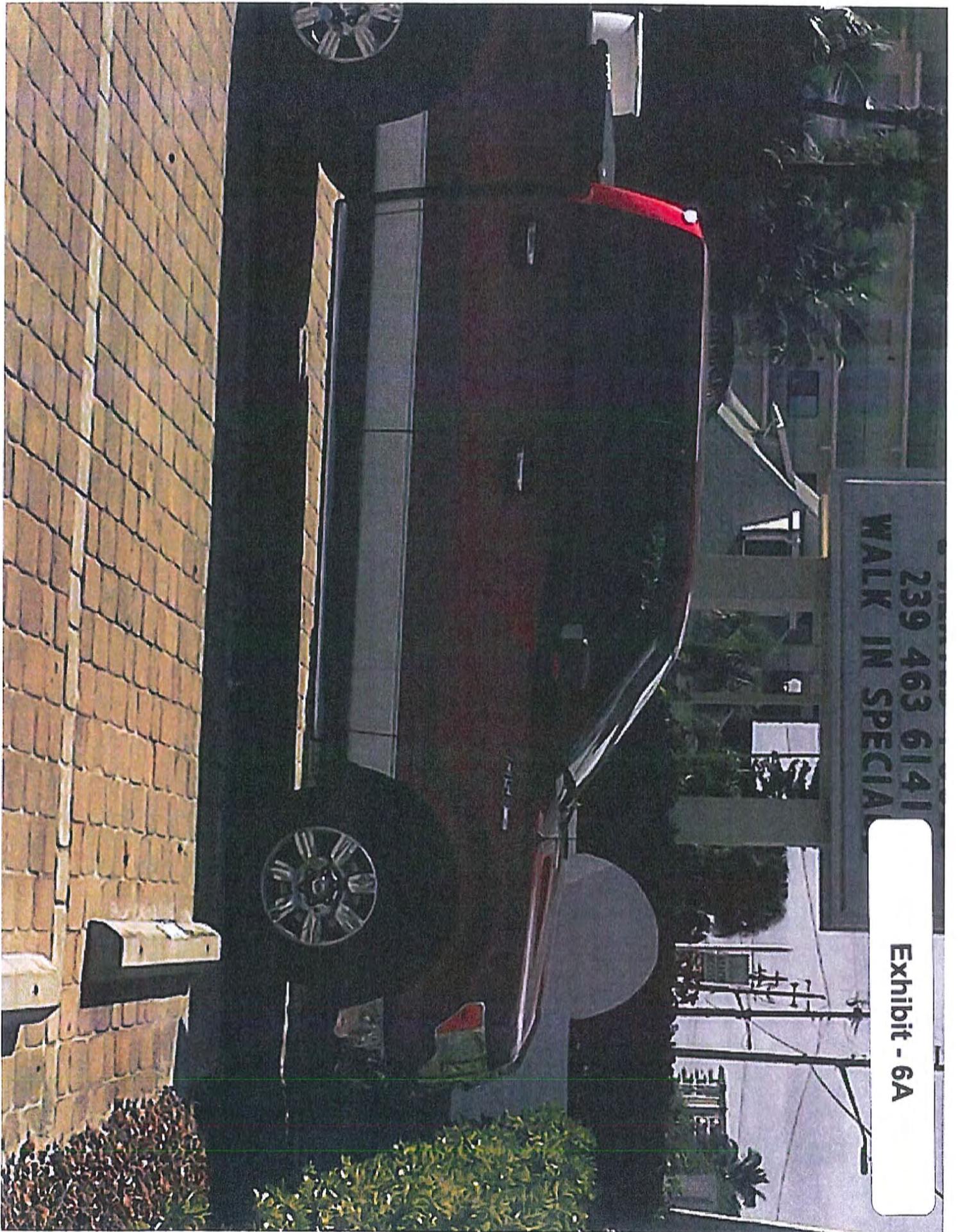


Exhibit - 6A

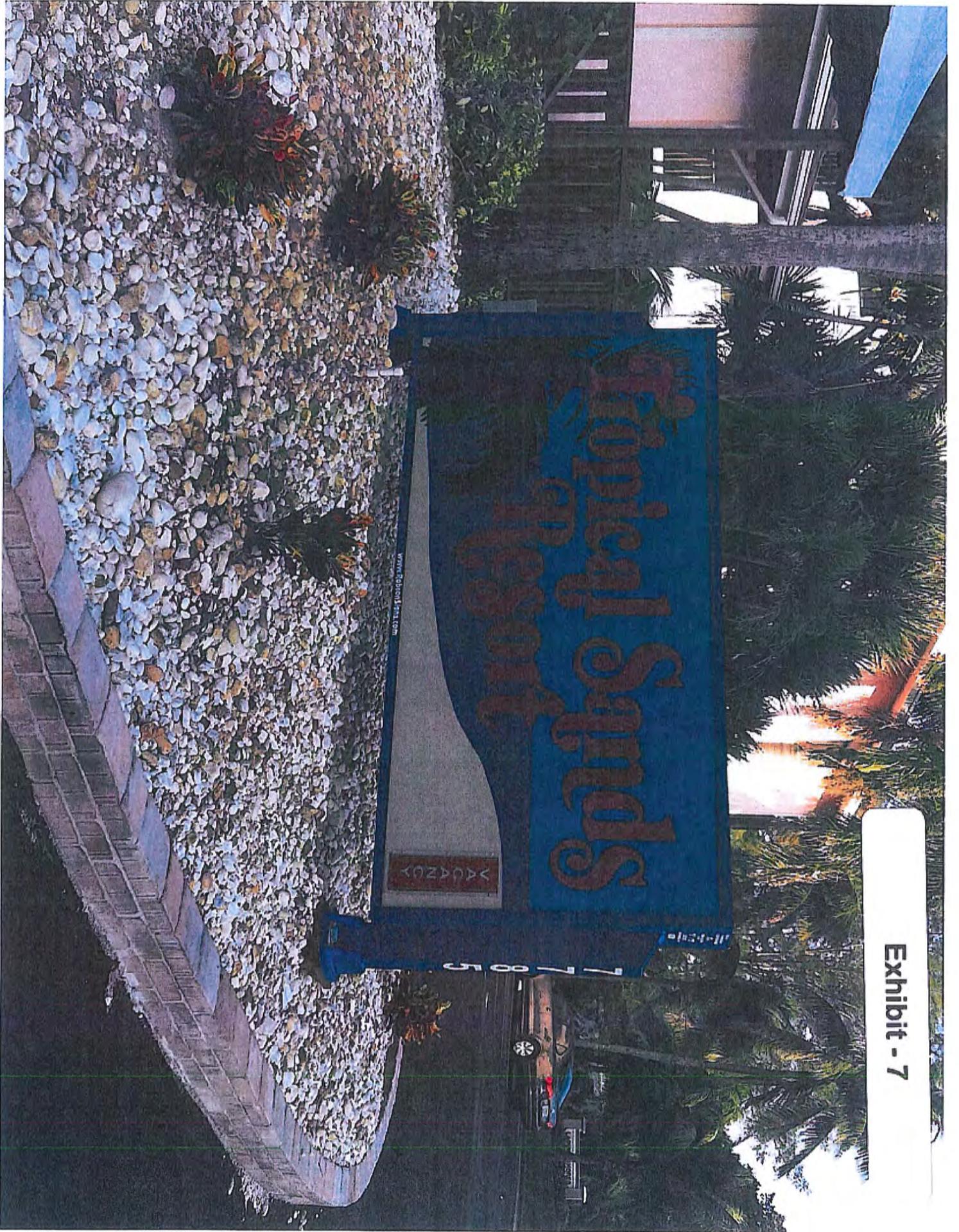


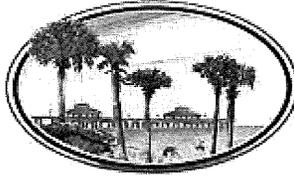
Exhibit - 7

Exhibit - 7A





Exhibit - 8



MINUTES

Monday, October 1, 2012

**FORT MYERS BEACH TOWN COUNCIL
TOWN HALL – COUNCIL CHAMBERS
2523 ESTERO BOULEVARD
FORT MYERS BEACH, FLORIDA 33931**

I. CALL TO ORDER

Mayor Kiker called to order the October 1, 2012 Regular Meeting of the Town Council at 9:02 a.m. Present along with Mayor Kiker: Vice Mayor Raymond, Council Members Kosinski, List, and Mandel. Also Present: Town Manager Stewart, Town Attorney Miller, Finance Director Wicks, Public Works Director Lewis, Community Development Director Fluegel, and Town Clerk Mayher.

II. INVOCATION - Rev. Jeanne Davis, Beach United Methodist Church

III. PLEDGE OF ALLEGIANCE

Town Clerk Mayher read the Proclamation in Recognition of Mayor Larry Kiker which highlighted his service to the community and expressed appreciation for his distinguished service to the Town of Fort Myers Beach.

Vice Mayor Raymond, Council Members, and the Town Manager presented Mayor Kiker with a plaque in recognition of his service to the community as a member on the Local Planning Agency and as Mayor of the Town.

Mayor Kiker expressed his appreciation for the kind words and gifts presented in honor of his last Council Meeting.

Recess at 9:10 a.m. – Reconvened at 9:45 a.m.

IV. APPROVAL OF FINAL AGENDA

Consensus approved the Agenda as presented.

V. PUBLIC COMMENT

Mayor Kiker noted Public Comment time was scheduled for discussion of items that were not on the agenda.

Public Comment opened.

Roy Hinkleman, President of the Laguna Shores Homeowners' Association, thanked Mayor Kiker for his many years of service to the Town and for doing a great job.

Richard Russell stated he was a 'snowbird' and that this was the first time he attended a Town Council Meeting. He reported he lived at Leonardo Arms and recounted his experience visiting the Town since his first visit in 1981 as it pertained to Little Estero Island and dredging. He requested the large white bags stay where they were currently located until after hurricane season. He requested the signage about 'no dogs allowed on the beach' be replaced as some appeared to be missing.

Jan Lee resident of Leonardo Arms, reported the beach at the south end needed some improvements to bring it back to the pristine appearance prior to Tropical Storm Isaac.

Public Comment closed.

Mayor Kiker noted to the Town Manager the requests to reinstall the signage regarding 'no dogs on the beach'; and to leave the 'bags' until the end of hurricane season.

Town Manager Stewart explained whether or not the 'bags' remained were up to the DEP under the Shoreline Declaration of Emergency. He noted that he would contact the DEP, but noted the condominium would have to come up with a long-term solution for that particular issue. He pointed out that the beach area described by Ms. Lee had a wildlife preserve designation and the DEP would not allow the Town to do as she requested.

VI. IMAGE OF FORT MYERS BEACH

No speakers.

VII. LOCAL ACHIEVEMENTS AND RECOGNITIONS

Council Member Mandel expressed the appreciation from the Horizon Council for the Town's support. He reviewed his discussions with the DEP, Army Corps of Engineers, and NEPA regarding the dredging project; and he offered thanks to Jacqueline Kaiser of the Army Corps of Engineers, Danielle from the DEP, and Lisa of Senator Nelson's Office for their efforts on behalf of the Town as it pertained to beach renourishment.

VIII. ADVISORY COMMITTEES ITEMS AND REPORTS

Jim Rodwell, Audit Committee Chair, recapped highlights from the Committee's September meeting and noted the Town did not have a formal investment policy and was not required to do so. However, he explained the Committee believed it would be beneficial to the Town to have a policy and requested approval from the Town Council to review and make recommendations to the Town for a formal investment policy.

Council Member Mandel discussed the Committee's request and his support of the request.

Town Manager Stewart reviewed his support of the Town having a formal investment policy in addition to the State guidelines. He recommended approval of the Committee's request.

Town Attorney Miller explained that if the Town does not have a formal investment policy adopted, then the Town was limited as to where they may invest funds.

Consensus approved the Audit Committee request to investigate and make a recommendation to the Council for a formal investment policy.

A. Presentation by the Public Safety Task Force

Mayor Kiker briefly reviewed the creation and purpose of the Public Safety Task Force which was different and separate from the Public Safety Committee. He noted there was now a formal Public Safety Task Force Committee that would be organized on October 15th and they would work on some of the results to be reported in this presentation.

Town Manager Stewart read the following statement concerning the Public Safety Task Force presentation: Motion to approve the expenditure of up to \$30,000 for pedestrian and cyclist safety enhancements as presented to the Public Safety Task Force recommendations and to authorize transfer of funds to cover those costs from the Town's financial reserves. He pointed out that he had prepared a motion for Council's consideration and mentioned that Lee County was prepared to spend funds (approximately \$120,000) for safety enhancements. He reported that various members of the Public Safety Task Force would each give a portion of the Task Force presentation.

Jean Webb, Town employee, gave the lighting aspects of the report using a PowerPoint presentation which included photographs, discussion, and information regarding the following:

- Estero Boulevard and Lennell – proposed railing, sidewalk, and crosswalk.
- Crosswalk lighting – 14 crosswalks with sub-standard lighting; lighting survey confirmed that 8 of the crosswalks had an average illumination of less than 1-foot candle; photometric analysis was recommended for 7 of the crosswalks; and proposed improvement to increase illumination to 1-foot candle. Crosswalks and recommendations reviewed were for Primo/Palmero, Miramar, Donora/Red Coconut, Lennell, Estero Beach and Tennis Club, Delmar, Buccaneer, Bahia Via, and Santini Plaza.

Mayor Kiker described the extensive research and site visits conducted by the Task Force members.

Jean Webb stated that as a result of the work by the Task Force over 30 lights had been reported to Florida Power & Light for repair.

Discussion ensued regarding photometric illumination; and crosswalks and missing pedestrian signage at Lennell.

Rob Phelan, Lee County Department of Transportation, gave the transportation aspects of the report using a PowerPoint presentation which included photographs, discussion, and information regarding the following:

- Crosswalks – adding crosswalks on Estero Boulevard; the need to provide ADA compliant crosswalks.
- Three identified improvements were a pedestrian median refuge, Rectangular Rapid Flashing Beacons (RRFB), and lighting at crosswalks. Sites reviewed and discussed included Estero Beach and Tennis Club, Estero Cove/Holiday Inn, Santini Plaza, Lennell, , and Red Coconut.
- The County was committed to improvements at the Estero Beach and Tennis Club and Estero Cove/Holiday Inn intersections and was seeking support from the Town for the proposed improvements to both locations (median refuge and RRFB).

He stated the County was requesting a letter or incorporation into the Council's motion approval for the recommendations (median refuge and RRFB) to the subject locations he outlined. He reported the County already had one RRFB in their possession and did support a second RRFB.

Consensus approved sending a letter to Lee County as requested.

John Pohland gave the signage aspects of the report which included photographs, discussion, and information regarding the following:

- Existing signage –
 - Removal of all 'no parking' signs on Estero Boulevard;
 - Add two signs with one at each end of the Island that says 'no parking in the right-of-way';
 - Removal of a temporary additional sign at the south end of the Island 'contractor violation sign';
 - Removal of all crosswalk signs that were not located at the actual crosswalk;
 - Removal of the ineffective 'no littering' signs;
 - Removal of two signs 'tune into 1640 radio';
 - Removal of the signs from the Matanzas bridge that were not permitted by FDOT as depicted in the presentation such as but not limited to 'beach parking', 'Pink Shell', 'farmers market';
 - Relocation of certain signs at the library.

He reported the Task Force intended to investigate the 'board signs'.

Town Manager Stewart explained that the Task Force had investigated signs as it related to safety in order to reduce the visual clutter and to help focus the driver's attention on the road.

Lt. Ron Martin, Fort Myers Beach Fire Department, gave the education and awareness initiative aspects of the report using a PowerPoint presentation which included photographs, discussion, and information regarding the following:

- Making the community aware of pedestrian safety; roadway signage/banners during 'season' at three locations (north, center, and south sections of the Island – approximate cost \$1,200); public education to help change risk-taking behavior at hotels, bike rentals, and community shopping centers; community outreach for an 'awareness day' in January/February 2013 in Santini Plaza; and help to increase visibility of pedestrians with the use of glow-in-the-dark bracelets in evening hours.

Mayor Kiker discussed the information gained from the Task Force such as but not limited to the need for a street light maintenance program and noted that there were 19 lights turned off during 'turtle time'.

Town Manager Stewart requested Council approval to petition Lee County to remove certain signage since it was in the County's right-of-way.

MOTION: Council Member Mandel moved to accept the report of the Public Safety Task Force that the Town Council approve \$30,000 for the pedestrian and cyclist safety enhancements, that the Town inform Lee County that the Town wanted two median refuges and two median refuge flashing signs; and that the signs as designated in the presentation should be taken down by the County; seconded by Council Member List.

Miffie Greer, resident, thanked the Task Force and Council for their work on public safety. She suggested that the informational pamphlet be given to the condominiums as it pertained to public education efforts, as well as the glow-in-the-dark bracelets.

Al Durrett, Public Safety Task Force member, expressed his pleasure with serving on the Task Force and noted how their work had positively impacted the Town.

Joanne Shamp, Chair of the LPA, noted the LPA had also discussed the problems with sign blight in the rights-of-way and that the LPA supported the proposed motion. She mentioned that public safety had been an issue of concern for Council Member Mandel since he was on the LPA many years ago. She reported that recently the owner/manager of 5580 Estero Boulevard informed her that several people had been hit at that site and that the resort was situated on both sides of the street. She recounted how New York City was placing the word 'Look' painted in the crosswalk.

Captain Powell, Lee County Sheriff's Office, mentioned that removing 'no parking' signs from the Island was not a good idea, especially as it pertained to special events and suggested further review.

Town Manager Stewart noted that during special events small 2' X 2' no parking signs were required to be placed on both sides of the roadway.

Mayor Kiker explained that the signs, if removed, could be reinstalled, if needed; and that the public safety work would be on-going through the Public Safety Committee.

Vice Mayor Raymond expressed his concern about public safety at 5580 Estero Boulevard.

VOTE: Motion approved, 5-0.

Recess at 11:10 a.m. – Reconvened at 11:30 a.m.

IX. APPROVAL OF MINUTES

- A. September 4, 2012 Town Council Meeting
- B. September 4, 2012 Downtown Redevelopment Agency

MOTION: Council Member List moved to approve the minutes of as presented; second by Council Member Mandel.

VOTE: Motion approved, 5-0.

X. CONSENT AGENDA

- A. Retainer Increase for Legal Services, Fowler White Boggs
A request for Council approval of a retainer increase to \$10,000/month

Public Comment opened.

No speakers.

Public Comment closed.

MOTION: Council Member List moved to approve Consent Agenda Item A; second by Council Member Mandel.

VOTE: Motion approved, 5-0.

XI. PUBLIC HEARINGS

- A. Quasi-Judicial Hearing: VAR2012-0002, Dolphin Inn Sign Variance
- B. Quasi-Judicial Hearing: VAR2012-001, Neptune Inn Sign Variance
- C. Quasi-Judicial Hearing: VAC2012-001, Windover Petition to Vacate
- D. Legislative Hearing: First and Only Public Hearing, Ordinance 12-07, Amendment of Chapter 10, LDC, Vacation of Plats

Mayor Kiker opened the Public Hearing at 11:32 a.m. for VAR2012-0002, Dolphin Inn Sign Variance.

Mayor Kiker asked if any Council Member had ex-parte communication regarding this item. Council Member Mandel – drove past the site; Council Member List – drove past the site; Mayor Kiker – drove

past the site; Council Member Kosinski – drove past the site; Vice Mayor Raymond – drove past the site.

Mayor Kiker asked the Town Attorney to swear in the witnesses; and Town Attorney Miller swore in the witnesses.

Zoning Coordinator Chapman stated the Applicant requested staff present first. She presented comments for VAR2012-0002 Dolphin Inn sign variance on behalf of the Town of Fort Myers Beach. She displayed an aerial photograph indicating the location of the subject property. She reported the applicant was requesting a variance from Sections 30-93(b), which required a 3' setback from any street right-of-way to allow a 0' street setback, and a variance from 30-154(c), which limited the height of a monument sign to be elevated no more than 18" above grade and 5' overall to allow 6'-7' for the monument supports and an overall height of 11'. She displayed a site map and photograph depicting the existing conditions and noted the distinct parking layout of the site. An artist's rendering of the proposed sign which was 6'-7' to the bottom of the sign and 11' overall in height. She reviewed the supporting Regulations of Section 34-87, Sections 34-87(3)(a), 34-87(3)(b), 34-87(3)(c), 34-87(3)(d), and 34-87(3)(e):

- There were exceptional or extraordinary conditions or circumstances that were 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 building was setback not only far from the property line but also from the edge of the pavement.
- Applicant did not provide analysis of alternative sign types or locations and addressed the parking.
- Staff recommended finding that there **are not** exceptional or extraordinary conditions or circumstances that are inherent and unique to the subject property and that it does not justify the variance requested.
- That the conditions justifying the variance **are not** the result of actions of the applicant after the adoption of the regulation in question. The subject property was developed prior to the incorporation of the Town.
- That the variance granted **is** the minimum variance that will relieve the applicant of the regulation in question to his property.
- The Applicant **did not** provide discussion or analysis as to why other sign types or locations on the subject property could not meet requirements of Chapter 30.
- Applicant did not completely address the details of the height; therefore, staff found that the variance requested and as depicted in Exhibit C **was not** the minimum variance necessary to relieve an undue burden.
- That granting of the variance **will not** be injurious to the neighborhood or otherwise detrimental to the public welfare; however, the proposed sign is only minimally smaller than the current sign. With little to no justification provided by the applicant as the necessity of the request or the hardship on the subject property, staff found that granting the variance as requested **would** be injurious to the neighborhood or otherwise detrimental to the public welfare.
- That the condition or circumstances on the specific piece of property for which the variance was 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 subject property did have a unique feature with the access driveway; however, staff found that the circumstances of this specific property on which the

variance was sought **is not** general in nature and could, therefore, justify the granting of the setback variance only and not the height variance.

She reported staff's recommendation as follows:

- **Approval** of the requested **setback variance** (Section 30-93(b)), based upon the requisite findings and conclusions for granting a variance under Section 34-87.
- **Denial** of the requested **height variance** (Section 30-154(c)), because the requisite findings and conclusions for granting a variance contained in LDC Section 34-87 have not been met.

She noted staff recognized that the condition of Estero Boulevard and proposed an alternative recommendation for consideration:

- Staff recommends that the height necessary to clear an average car was no more than 36”.
- Section 30-154(9)(c) allowed for a base or support for a monument sign that extends no higher than 18” above adjacent grade. This 18” included in the overall sign height maximum of 60”, which would leave 42” for the actual sign face.
- Staff suggested that the minimum variance necessary for the subject property would be a proposed sign modified to show a 3’ hedge/planter combination base and a sign height of 3’6” for an overall height of 6’6”. (This is a minimum variance staff recommended for the subject property.)

Zoning Coordinator Chapman reported staff an alternate recommendation as a viable option to recommend to Town Council, and staff recommended **approval** subject to the following conditions:

- Approval of the variance does not exempt the subject property from the LDC Section 30-55 permit requirements for signs.
- The overall height of the sign, measured from the elevation of the existing grade of the parking lot was not to exceed 6’6”.
- Construction and/or remodeling of the sign must comply with all applicable codes and regulations, including building codes and lighting standards.
- If the principal on the subject property was removed or replaced for any reason, the variance would expire. The sign allowed by the variance must be removed within 30 days of the issuance of any demolition permit for the principal building. If the building is destroyed or damaged by natural disaster to the extent that it is rendered uninhabitable, then the sign must be removed within 30 days of the issuance of a demolition permit or within 30 days of the expiration of the federal, state, county, or local declaration of disaster, whichever occurs first. Placement of regulations in effect at the time of application for a permit.

She reported the Public Hearing before the LPA was heard on August 13, 2012 at which time there was a vote of 5-0 (Chair Shamp excused absence) in favor of approval with a proposed revision to the overall height allowed from 6’6” to 9’.

Discussion ensued regarding the existing conditions at the subject property - grass area indicated on the site plan displayed.

Mr. Travis Owen, Applicant - Dolphin Inn, stated he agreed with the LPA's recommendation of a height allowance of 9'. He explained that on the south end of the subject property it went up to the Sea Watch property; and on the north end was the dumpster.

Discussion was held concerning the height consideration due to parked cars; potential restrictions for parking vans or trucks near the subject sign and the inability to control the type of vehicle parking;

minimal parking requirements at the site; relocation of the subject sign to other locations on the property and issues with sign visibility; signage dimensions and height as it related to the new sign ordinance.

Mr. Owen reported that he had examined his parking lot and explained how he was restricted as to where to place the sign.

Discussion continued regarding the height of the proposed sign as it related to visibility; vehicle obstruction to the current and proposed signage; and signage height and setback as it related to Exhibits D and E.

Mayor Kiker asked if there was a member of the LPA present for comment.

Al Durrett, LPA member, explained that the LPA had asked all of the same similar questions of the Applicant as Town Council and they came up with a vote to approve what the Applicant requested at 9' high.

Mayor Kiker asked if the LPA considered what would happen with future variance application as it pertained to a similar height request.

Al Durrett stated they looked at the subject application on an individual basis and decided that the Applicant should have the right to advertise his business since he was limited on parking.

Town Manager Stewart discussed how everyone wanted to have a business advertise with a sign that, in general, people could see. He noted that Council would look at what the Town's current regulations were and how they allowed for variances when there were certain existing conditions on-site that would not allow the regulations to fit. He pointed out that staff had recommended the minimum variance to be 6'6".

Discussion ensued regarding the requested variance and existing code; options for sign type, location, and size as discussed between staff and the Applicant.

Council Member List indicated her preference to actually view a 'visual' as it pertained to vehicle height and sign height.

Discussion was held concerning visual aide for the proposed request as it pertained to sign height; location of the current sign as it related to the County and adjoining property lines; and the potential for precedence.

Public Comment opened.

No speakers.

Public Comment closed.

Discussion was held regarding parking spaces at the subject property.

Town Manager Stewart noted that the Applicant could place their business sign on their wall; however, the Applicant was not receptive to the alternative. He discussed alternative solutions and minimal variance and how it would relate to precedence.

Mayor Kiker suggested the Council individually make a site visit to the subject property.

Discussion ensued regarding continuing the matter.

Mr. Owen agreed to a continuance.

MOTION: Council Member List moved to continue the Public Hearing on Resolution 12-19 variance to November 5, 2012 at 9:00 a.m.; second by Council Member Kosinski.

VOTE: Motion approved; 5-0;

Public Hearing continued at 12:25 p.m.

Mayor Kiker opened the Public Hearing at 12:26 p.m. for VAR2012-0001, Neptune Inn Sign Variance.

Mayor Kiker asked if any Council Member had ex-parte communication regarding this item. Council Member Mandel – none; Council Member List – none; Mayor Kiker – none; Council Member Kosinski – none; Vice Mayor Raymond – none.

Mayor Kiker asked the Town Attorney to swear in the witnesses; and Town Attorney Miller swore in the witnesses.

Mayor Kiker noted the Applicant requests Town staff to present first.

Zoning Coordinator Chapman presented comments for VAR2012-0001 Neptune Inn sign variance on behalf of the Town of Fort Myers Beach. She displayed an aerial photograph and indicated the location of the subject property. She reported the Applicant was seeking a variance form 30-154(c), which limited the height of a monument sign to be elevated no more than 18” above grade and 5’ overall to allow 4’3” for the monument supports and an overall height of 8’10”. Photographs of the sign’s existing location and condition at the subject property were displayed. She showed photographs of a planted hedge (at grade) maintained at 48” which the Applicant had reported had been in place for decades and was the basis for the requested variance. She stated staff conducted research on the hedge and showed aerial photographs of the subject site which indicated the first section of hedge did not appear until the third quarter of 2007. She displayed the rendering of the proposed sign which was 4’3” to the bottom of the sign and 8’10” overall in height, and sign face a little over 31 square feet. Zoning Coordinator Chapman reviewed the supporting regulations, Sections 34-87(3)(a), 34-87(3)(b), 34-87(3)(c), 34-87(3)(d), and 34-87(3)(e) and discussed the following:

- The exceptional or extraordinary conditions indicated on the application was the hedge location on the subject property, and staff found upon research that was not exceptional or extraordinary condition as it had only been fully planted within the last two years; therefore staff recommended

this **was not** an exceptional or extraordinary condition or circumstance and did not justify the variance requested.

- *That the conditions justifying the variance are not the result of actions of the applicant taken after the adoption of the regulation in question.* The hedge was more recently planted than indicated; and staff, therefore, finds that the conditions justifying the variance **are** the result of actions of the applicant taken after the adoption of the regulation in question.
- *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.* With little to no justification provided by the Applicant as to the necessity of the request or the hardship on the subject property; therefore, staff found that the granting of the variance as requested **is not** the minimum variance necessary to relieve an undue burden.
- *That the granting of the variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.* That the application was proposing a new monument sign that was smaller than the existing sign; however, it continued to be non-conforming with Chapter 30 of the LDC.
- Staff recommended the finding that the circumstances of the subject property for which the variance was sought are of so general or recurrent a nature as to make it more reasonable or practical to amend the regulation.

She stated staff made a recommendation of **denial** of the requested variance because the property does not meet the requirements for granting a variance under LDC Section 34-87. She noted that staff proposed an alternative recommendation to consider and discussed the following aspects of the alternative:

- The Applicant's proposed sign (Exhibit C) showed a height of 4'3" to the bottom of the sign and a sign height of 4'7" for an overall height of 8'10" measured from the adjacent grade.
- Staff recommended that the hedge and planter, combined, be maintained at no more than 36" tall.
- Section 34-1549(c) allowed for a base or support, for a monument sign, that extended no higher than 18" above adjacent grade. The 18" was included in the overall sign height maximum of 5', which would leave 3.5' for the actual sign face.
- Staff suggested that the minimum variance necessary for the subject property would be a proposed sign modified to show a 3' hedge/planter combination base and a sign height of 3'6" for an overall height of 6'6".

She displayed the 'Alternative Recommendation' should Town Council find the alternate recommendation as a viable option; staff would recommend **approval** subject to the following conditions:

1. Approval of this variance does not exempt the subject property from the LDC Section 30-55 permit requirements for signs.
2. The height of the sign, measured from the elevation of the existing grade of the parking lot to the base of the sign is not to exceed 6'6".
3. Construction and/or remodeling of the sign must comply with all applicable codes and regulations, including building codes and lighting standards.
4. The hedge and planter combination must be maintained at a height of no more than 36". Should the planter and/or hedge be removed for any reason, this variance will expire and the sign allowed by this variance must be removed within 30 days. Placement in conjunction with redevelopment must comply with all regulations in effect at the time of permitting.

5. If the principal building on the subject property is removed or replaced for any reason, this variance will expire. The sign allowed by this variance must be removed within 30 days of the issuance of any demolition permit for the principal building. If the building is destroyed or damaged by a natural disaster to the extent that it is rendered uninhabitable, then the sign must be removed within 30 days of the issuance of a demolition permit or within 30 days of the expiration of the federal, state, county, or local declaration of disaster, whichever occurs first. Placement signage in conjunction with redevelopment of the site must comply with all regulations in effect at the time of application for a permit.

She reported that the request was heard by the LPA on August 14, 2012 at which time they recommended approval (5-0 with Chair Shamp excused absence) with the revised overall height allowance from staff's recommendation of 6'6" to 8'7".

Discussion ensued regarding the new buffering requirements as it pertained to the subject property; the existing conditions; the height and benefits of the existing hedge on the subject property; the dimension/measurement of the proposed sign and the overall height as described in the Code.

Casey Williams, representing Blue Vista Capital and the Neptune Inn, reported that he did not physically meet with staff on the site. He reported the Applicant agreed with Ms. Chapman's information about the longevity of the hedge. He stated the Applicant did evaluate other locations for the sign on the property and a wall sign, and reviewed the reasons they believed other locations on the property were not suitable (i.e. location of a fire hydrant, homes, and the main driveway). He displayed an artist's rendering of the proposed sign which depicted an average compact car behind the sign and explained that keeping the original height request was mainly due to the height of certain vehicles such as but not limited to vans and SUVs that would block the line of sight. He explained that each unit had an assigned parking space (71 rooms and 75 spaces, and needed spaces for employee parking) which would make it difficult to assign spaces on either side of the sign for compact cars. He stated the hedge would be trimmed to approximately 36 inches. He requested approval of the variance at the height recommended by the LPA which was 3 inches less than what the Applicant had originally requested.

Discussion ensued regarding the setback and property line of the subject property; dimension/height and location of the proposed sign; the existing hedge and proposed height reduction.

Zoning Coordinator Chapman clarified that the existing Code allowed for an 18 inch base in a monument sign height within the overall 5 feet.

Town Manager Stewart reviewed variance granted for Diamond Head.

Town Attorney Miller clarified that the Diamond Head variance involved a height variance because of the underground County-required retention which involved a fence and that the situation was completely beyond the control of the Applicant. She noted the other variance was Pierview which was also totally beyond their control due to the location of a utility pole and standpipe.

Town Manager Stewart noted that the extra little semi-circle at the top of the proposed sign was an extra 1.75 feet.

No comment was offered by the LPA representative present.

Public Comment opened.

No speakers.

Public Comment closed.

Discussion ensued regarding the semi-circle at the top of the proposed sign.

Public Comment re-opened.

Ed Scott, resident, discussed his belief that the Diamond Head lowered their sign.

Public Comment closed.

Community Development Director Fluegel reported that the small 'pineapple articulation' at the top of the Diamond Head sign was 25 inches.

Council Member List discussed her concerns regarding the variance request as it pertained to using the 'hedges and cars' as the basis for granting the request.

Town Manager Stewart explained that palm trees were not a site impediment or part of the elevation or configuration of the site that would prevent moving the sign to another location.

Town Attorney Miller noted a prior comment about moving the sign to zero setback and noted that if that was an option the Council would have to amend it.

Mayor Kiker discussed his views that he was not comfortable with the options mentioned tonight and how the options should have already been discussed with the Applicant.

Council Member List explained what additional information she would prefer to receive about the variance request before making a decision.

Discussion was held concerning variance requests and the basis for variance requests; the hedge height; and the setback.

Casey Williams stated he would agree to a continuance with the stipulation that staff visit his site tomorrow morning at 8:30 a.m. when his sign contractor was on-site.

Town Manager Stewart reported that staff was able to meet with Mr. Williams and his sign contractor tomorrow morning.

MOTION: Council Member List moved to continue the Public Hearing on VAR2012-0001, Neptune Inn, to November 5, 2012 at 9:00 a.m.; second by Council Member Kosinski.

VOTE: Motion approved, 5-0.

Public Hearing continued at 1:10 p.m.

Recess at 1:10 p.m. – Reconvened at 1:25 p.m.

Mayor Kiker opened the Public Hearing at 1:25 p.m. for VAC2012-0001, Windover Petition to Vacate.

Town Clerk Mayher read the title of Resolution 12-21:

A RESOLUTION OF THE TOWN OF FORT MYERS BEACH, FLORIDA, PROVIDING FOR THE VACATION OF PLAT FOR AN EIGHT FOOT (8') WIDE PLATTED STRIP LOCATED ADJACENT TO LOTS 19, 19A, AND 19B, BLOCK 6 GULF HEIGHTS SUBDIVISION, AS MORE PARTICULARLY DESCRIBED HEREIN; PROPERTY LOCATED IN THE VICINITY OF 5200 ESTERO BOULEVARD; PROVIDING AN EFFECTIVE DATE.

Town Attorney Miller explained the request was for a vacation of plat under the current procedures and the Council would need to make a finding that the request was a *de minimus* vacation of which staff supported.

Beverly Grady, Roetzel & Andress, stated she was representing the Applicant and filed a petition to request a vacation for a plat filed in 1925. She displayed the plat and the aerial photograph of the subject site. She explained the subject site was a grassy, undeveloped strip of land. She reported the various utilities and the County were contacted, and no objections were received; and that she knew of no public use or claim to the subject property. She reported that Town staff has recommended approval of the *de minimus* request.

Public Comment opened.

No speakers.

Public Comment closed.

Town Manager Stewart pointed out that the various properties indicated were strapped under one number.

MOTION: Council Member Mandel moved to approve Resolution 12-21 vacating an eight foot strip of land located in Block 6 of Gulf Heights Subdivision as more particularly described in the Resolution; second by Council Member List.

VOTE: Motion approved, 5-0.

Public Hearing closed at 1:32 p.m.

Mayor Kiker opened the Public Hearing at 1:33 p.m. for Legislative Hearing: First and Only Public Hearing, Ordinance 12-07, Amendment of Chapter 10, LDC, Vacation of Plats.

Town Clerk Mayher read the title of Ordinance 12-07:

AN ORDINANCE AMENDING CHAPTER 10, ARTICLE II, DIVISION 5, SUBDIVISION II. OF THE TOWN OF FORT MYERS BEACH LAND DEVELOPMENT CODE, "VACATIONS;" AMENDING THE TITLE TO "VACATION OF PLATTED RIGHTS-OF-WAY AND EASEMENTS; AMENDING SECTION 10-218, PURPOSE AND INTENT, BY CHANGING THE WORDING TO REFLECT THE CHANGE IN TITLE; AMENDING SECTION 10-219, BY REVISING THE REQUIREMENTS FOR PETITIONS TO VACATE PLATTED RIGHTS-OF-WAY AND EASEMENTS; AMENDING SECTION 10-220, "PROCEDURE" BY REVISING THE PROCEDURE TO OBTAIN A VACATION OF A PLATTED RIGHT-OF-WAY OR EASEMENT, REVISING THE CRITERIA TO BE CONSIDERED FOR A PETITION TO VACATE, PROVIDING FOR THE RECORDING OF A RESOLUTION VACATING A PLATTED RIGHT-OF-WAY OR EASEMENT, AND PROVIDING FOR RESERVATION, IN CERTAIN INSTANCES, OF A UTILITY EASEMENT OVER A VACATED RIGHT-OF-WAY; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

Town Manager Stewart announced a request to reschedule the Resolution to October 15, 2012.

Discussion ensued as to whether or not to continue Resolution 12-07 to a date certain.

Town Attorney Miller reviewed the changes to the vacation of plat procedure to more accurately reflect State law requirements and to make the process less cumbersome. She noted the amendments would streamline the process while still assuring that vacations of rights-of-way and easements are only approved where it has been determined by Town Council that the right-of-way or easement was no longer needed. She explained that a person would seek to vacate a plat which was a dedicated area that was usually an easement or a road; people are required to go to the utilities to obtain Letters of No Objection; and that the proposed resolution allowed for the Town to preserve a utility easement and required the action be recorded in the public records. She reported that the LPA recommended approval of the resolution.

Public Comment opened.

No speakers.

Public Comment closed.

MOTION: Council Member Mandel moved to adopt Ordinance 12-07, Vacation of Plats; second by Council Member Kosinski.

VOTE: Motion approved, 5-0.

Public Hearing closed 1:40 p.m.

XII. ADMINISTRATIVE AGENDA

A. Appeal of Community Development Administrative Action, 2500 Estero Boulevard

A request for the Town Council to reconsider an Administrative Action regarding a property owner's request to build according to the base flood elevation that was in effect when the building permit was issued.

Town Manager Stewart reported the Town issued a permit a number of years ago to a site at a time when FEMA was preparing to change some regulations; at the same time the economy declined; and the viability for the financing of the project came into jeopardy. He added that the State required counties and cities/towns to extend permits for two years past when the permits were originally effective and then decided to extend the permits again. He recapped the property owner's actions to build according to the base flood elevation that was in effect at the time the building permit was issued; the appeal to the Community Development Director's Administrative Action extending the building permit but that the property had to comply with the current Town Floodplain Ordinance; and the direction to the Town Attorney from Council to seek an opinion from the State of Florida Attorney General concerning which legislation prevailed.

Town Attorney Miller reported the Attorney General responded and stated that due to the speculative nature of the question involved, that is, whether compliance with the special act which would require non-compliance with the flood plain ordinance could result in action by FEMA to disqualify the Town from the National Flood Insurance Program, they would not be rendering an opinion. She added that Attorney Pritt, representing the Applicant, has requested that this matter be brought back before the Town Council for a final determination of his appeal in light of the recent action by the Attorney General.

Attorney Pritt, representing the Applicant, reviewed action by the State Legislature to provide a means of relief when permits were issued and the building could not be done - "*Permits extended under this section shall continue to be governed by the rules in effect at the time the permit was issued, except if is demonstrated that the rules in effect at the time the permit was issued would create an immediate threat to public safety or health*". He noted he researched the definition of 'immediate threat to public safety or health' and reported there were 78 cases in the State of Florida where the courts interpreted 'immediate threat' as something that was going to happen right away. He argued his position that the case at hand did not have an 'immediate threat', and recapped his work as it pertained to the appeal. He stated he offered on behalf of his client that if the Town gets into a problem with FEMA over granting what was clearly allowed under State law (overriding the decision) that the Mr. Shockey would defend the Town. He stated his belief that this was the one and only permit that the Town had which would qualify under the subject provision.

Public Comment opened.

No speakers.

Public Comment closed.

Council Member Mandel noted that the last time this subject was discussed there were a number of residents present who expressed concerns about potential insurance rate increases and loss of the flood insurance program by FEMA as it pertained to the subject appeal. He questioned how the matter could be addressed by Council without having a letter from FEMA.

Town Manager Stewart stated that the Town asked FEMA for such a letter and they declined.

Town Attorney Miller explained the concern that the local floodplain ordinance was a federally-mandated ordinance in order to participate in the Flood Insurance Program.

Discussion was held regarding whether or not there was a timing issue involved in the matter and how the appeal process related to the permit extension.

Town Attorney Miller stated she would rather see a Federal Court tell the Town that they had to permit the Applicant to build below floodplain base elevation, and that she was not comfortable with the Town allowing the Applicant to build.

Town Manager Stewart recommended that Council deny the appeal.

Discussion ensued regarding the potential construction project; FEMA requirements; the Town's Comp Plan; and federal law.

Attorney Pritt discussed his views on taking the matter to a federal court and potential risks to the Town by taking the action to court.

Discussion was held regarding the Applicant's prior actions and decisions regarding whether or not to build; dates for permits issued for the subject property, extensions by the State, and FEMA regulations.

Council Member List discussed the basis for her support to deny the appeal.

Council Member Kosinski discussed his belief that the Applicant did not provide enough justification for the Council to consider their request.

Mayor Kiker noted the legal opinion offered by Town Attorney Miller.

Discussion ensued regarding whether or not the permit was expired.

Town Attorney Miller noted that the current State legislation stated that 'in no event shall a permit extend longer than four years'; and explained her belief that the permit was expired and the Council did not have the authority to extend it because of changes in building codes.

MOTION: Council Member Kosinski moved to deny the appeal and not allow the property owner to build according to the base flood elevation that was in effect when the building permit was issued; second by Council Member List.

VOTE: Motion approved, 4-1; Mayor Kiker dissenting.

B. Resolution 12-18, Joint Unified Local Mitigation Strategy

FEMA Community Rating System requires the Flood Mitigation Plan to be updated every 5 years.

Town Clerk Mayher read the title of Resolution 12-18:

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, RESCINDING RESOLUTION 08-22 WHICH ADOPTED THE JOINT UNIFIED LOCAL MITIGATION STRATEGY FOR LEE COUNTY; ADOPTING THE UPDATED LOCAL MITIGATION STRATEGY, PREPARED BY THE LOCAL MITIGATION STRATEGY WORKING GROUP OF LEE COUNTY, AS THE FORMAL GUIDE FOR THE TOWN OF FORT MYERS BEACH HAZARD MITIGATION ACTIVITIES; AND PROVIDING AN EFFECTIVE DATE.

Planning Coordinator Josh Overmyer reported the Joint Unified Local Mitigation Strategy was required to be updated every five years that all the communities in Lee County have worked together to keep updated; and it also qualified as the Town's Floodplain Management Plan.

Council Member Mandel asked if there were any historic Fort Myers Beach structures included.

Community Development Director Fluegel stated based upon the map it appeared there were historic structures included.

MOTION: Council Member Mandel moved to adopt the Unified Local Mitigation Strategy; second by Council Member Kosinski.

Public Comment opened.

No speakers.

Public Comment closed.

VOTE: Motion approved, 5-0.

XIII. PUBLIC COMMENT

Public Comment opened.

No speakers.

Public Comment closed.

XIV. TOWN MANAGER'S ITEMS

A. Mound House Update

Town Manager Stewart stated the Council was provided with a copy of the Public Works Mound House Projects Update Report; and that the Request for Proposals for the Mound House restoration has gone out and there had already been two meetings with potential construction firms.

He thanked the Mayor for the opportunity to work with him for the past two and a half years.

XVI. TOWN ATTORNEY'S ITEMS

Town Attorney Miller – no items or reports; and echoed the Town Manager's comments regarding working with the Mayor.

XVII. COUNCILMEMBER ITEMS AND REPORTS

Council Member Mandel – no items or reports.

Council Member List – reported the first session of the Fifth Grade Council will be held on Thursday at 8:00 a.m. She added that retired Federal Supreme Court Judge O'Connor was working on a program to increase Civics in schools across the country.

Vice Mayor Raymond – suggested if they could invite the people who would be at the Council Meeting to be interviewed by the Council to the Work Session on October 15th, and then the voting would be conducted during the Regular Meeting; and also suggested this be noted somehow in the newspaper. He stated that he would like to apply for the Mayor's position as Liaison on the Public Safety Committee.

Council Member Kosinski – no items or reports.

Mayor Kiker – thanked the Council and staff for sharing their time and lives.

XVIII. AGENDA MANGEMENT

No items to add.

XIX. RECAP OF ACTION ITEMS

Town Manager Stewart recapped the Action Items added during the meeting:

- Staff would set aside the \$30,000 approved for Public Safety Task Force recommendations
- Staff would prepare a letter to Lee County asking for the two median refuges and RRFBs and to remove the signage as indicated along Estero Boulevard
- Staff would initiate the retainer fee increase for Fowler White Boggs as approved
- Staff would work together with the Neptune Inn and Dolphin Inn as directed
- Staff would take the appropriate actions regarding the Petition to Vacate
- Staff would forward the notice of approval for the Joint Unified Mitigation Strategy as approved

Mayor Kiker passed the gavel to Vice Mayor Raymond.

Motion by Mayor Kiker, seconded Council Member List to adjourn. Meeting adjourned at 2:35 p.m.

Adopted _____ With/Without changes. Motion by _____

Vote: _____

Michelle D. Mayher, Town Clerk

- End of document.

RESOLUTION OF THE LOCAL PLANNING AGENCY OF
THE TOWN OF FORT MYERS BEACH FLORIDA
RESOLUTION NUMBER 2012-009
VAR2012-0001 – Neptune Inn Sign Variance

WHEREAS, applicant Blue Vista Capital, LLC is requesting a variance from Section 30-154(c) of the Town of Fort Myers Beach Land Development Code; and

WHEREAS, the applicant has indicated that the STRAPs for the subject property are 19-46-24-W3-04300.00CE; 19-46-24-W3-0430N.0001 and 19-46-24-W3-0110A.0010 and the legal description of the subject property is contained in *Exhibit A* which is attached hereto and incorporated herein by reference; and

WHEREAS, the subject property is located at 2310 Estero Boulevard, Fort Myers Beach, FL 33931 in the Commercial Resort zoning category of the Official Zoning Map and the “Boulevard” category of the Future Land Use Map of the Comprehensive Plan of the Town of Fort Myers Beach, Florida; and

WHEREAS, a public hearing on this matter was legally advertised and held before the Local Planning Agency (LPA) on August 14, 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 variances, 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** LPA’s recommended alternative variance request from Section 30-154(c) of the LDC which incorporates a 4’ tall hedge/planter base and a height of 4’7” to the top of the sign face for an overall sign height of 8’7” with any approval subject to the following conditions:

RECOMMENDED CONDITIONS OF APPROVAL:

1. Approval of this variance does not exempt the subject property from the LDC Section 30-55 permit requirements for signs.
2. The height of the sign, measured from the elevation of the highest adjacent grade or the crown of the adjacent street, whichever is higher, to the highest point of the sign face or its supporting structural elements is not to exceed 8’7”.

3. Construction and/or remodeling of the sign must comply with all applicable codes and regulations, including building codes and lighting standards.
4. The hedge and planter combination cannot exceed 4' in height. Should the planter and/or hedge be removed for any reason, this variance will expire and the sign allowed by this variance must be removed within 30 days. Placement of signage in conjunction with redevelopment of the site must comply with all regulations in effect at the time of permitting.
5. If the principal building on the subject property is removed or replaced for any reason, this variance will expire. The sign allowed by this variance must be removed within 30 days of the issuance of any demolition permit for the principal building. If the building is destroyed or damaged by a natural disaster to the extent that it is rendered uninhabitable, then the sign must be removed within 30 days of the issuance of a demolition permit or within 30 days of the expiration of the federal, state, county, or local declaration of disaster, whichever occurs first. Placement of signage in conjunction with redevelopment of the site must comply with all regulations in effect at the time of application for a permit.

RECOMMENDED FINDINGS AND CONCLUSIONS:

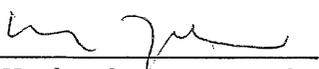
In accordance with the requirements of LDC Sections 34-84 and 34-87 regarding consideration of eligibility for a variance, the LPA recommends that the Town Council make the following findings and reach the following conclusions:

- 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 under circumstances or conditions where rigid compliance is not essential to protect public policy.
- 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.

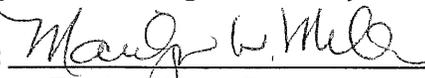
The foregoing Resolution was adopted by the LPA upon a motion by LPA Member **Plummer** and seconded by LPA Member **Smith**, and upon being put to a vote, the result was as follows:

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

DULY PASSED AND ADOPTED THIS 14th day of AUGUST, 2012.

By: 
Hank Zuba, LPA Vice Chair

Approved as to legal sufficiency:

By: 
Fowler, White, Boggs
LPA Attorney

ATTEST:

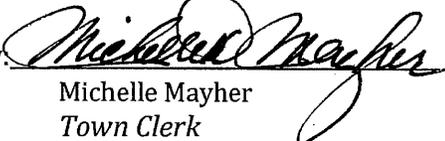
By: 
Michelle Mayher
Town Clerk

Exhibit A

LEGAL DESCRIPTION

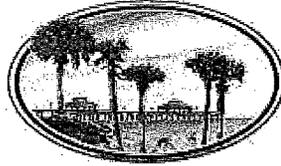
(EXHIBIT A* ATTORNEYS TITLE INSURANCE FUND, INC FUND #FILE No
18-2005-2214, DATED 3/04/05.)

PARCEL 1:

LOTS 1, 2, AND 3, BLOCK E, OF THAT CERTAIN SUBDIVISION KNOWN AS SEACRAPE ACCORDING TO THE MAP OR PLAT THEREOF ON FILE AND RECORDED IN THE OFFICE OF THE CLERK OF CIRCUIT COURT IN PLAT BOOK 4, AT PAGE 17, PUBLIC RECORDS OF LEE COUNTY, FLORIDA

PARCEL 2:

BLOCK "A" AND "B", IN THAT CERTAIN SUBDIVISION KNOWN AS BEACH ESTATES, ACCORDING TO THE MAP OR PLAT THEREOF ON FILE WITH AND RECORDED THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, IN PLAT BOOK 0, PAGE 68, TOGETHER WITH THAT PORTION OF THE STREET OR ALLEY LYING BETWEEN SAID BLOCKS VACATED BY ORDER OF THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA, TOGETHER WITH ALL OF BLOCK "A", TOGETHER WITH THE VACATED ALLEY THAT FORMERLY SEPARATED LOTS 1 AND 2 FROM LOT 3 ALL BEING IN THAT CERTAIN SUBDIVISION KNOWN AS W.W. WATSONS SUBDIVISION, 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 5, PAGE 07, TOGETHER WITH ALL IMPROVEMENTS THEREON WHICH IMPROVEMENTS ARE KNOWN AS THE "NEPTUNE INN" AND ALSO TOGETHER WITH ALL FURNITURE, FURNISHINGS, FIXTURES, AND EQUIPMENT LOCATED IN, ON OR ABOUT SAID IMPROVEMENTS, TOGETHER WITH ALL OF THAT CERTAIN BUSINESS KNOWN AS THE "NEPTUNE INN", INCLUDING THE NAME AND GOOD WILL THEREOF.



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

Town Hall – Council Chambers
2523 Estero Boulevard
Fort Myers Beach, Florida
August 14, 2012

I. CALL TO ORDER

Meeting was called to order at 9:01 a.m. by Vice Chair Zuba; other members present:

Dan Andre
Al Durrett
John Kakatsch
Jane Plummer
Joanne Shamp - 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 –

IV. MINUTES

A. Minutes of June 12, 2012

MOTION: Mr. Andre moved to approve the June 12, 2012 minutes with the changes noted in 'red'; second by Ms. Plummer.

VOTE: Motion approved 6-0; Ms. Shamp excused.

V. PUBLIC HEARING

A. VAR2011-0004 Beach Shell Inn Sign Variance

Vice Chair Zuba opened the hearing.

Vice Chair Zuba asked the LPA Attorney to swear in the witnesses; and LPA Attorney Miller swore in the witnesses.

Dave Depew, representing the Applicant – Beach Shell Inn, displayed an aerial photograph of the subject property, and indicated the location of Beach Shell Inn on the photograph. He stated the applicant was seeking to install a new sign on the site and showed a rendering of the proposed sign which had a total sign height of nine feet. He indicated on the aerial photograph how the subject property was very constrained as it was situated on the site; and the location of the current sign which was mixed in with pool heater and filter equipment along with a buried propane gas tank. He displayed a site plan of the subject property and noted the constrained parking on the site; that the property had an original plat from the 1940s and original construction in the 1950s; and the proposed location of the sign. He displayed a graphic depicting a mock-up of the new sign, three photos holding the mock-up sign on Estero Boulevard at the proper height, and explained how there was ‘stuff’ along the Boulevard that interfered with seeing the sign (i.e. power pole, beach access sign, park sign, a fence which was required by Code around the pool heater, etc.). He stated he was in agreement with everything in the Staff Report except for one item which was the potential language in condition #4 and distributed copies of his suggested language to the LPA Members. He indicated the language would apply to if the pool heater and equipment were removed for any reason, then the variance would disappear; however, when the pool heater equipment would be replaced at some point in the future, the equipment would go in the same approximate location. He described how the configuration of equipment, and vent stack may be slightly different from the old equipment, but the fence, filtering equipment, fence, propane tank, and parking spaces would not change. He stated he had added language to staff’s recommendation that if the configuration of the heater changed, that it would not change the need for the variance. He requested approval of the Staff Report, Findings and Conditions as modified in his handout.

Vice Chair Zuba asked if any LPA Member had ex-parte communication regarding this item. Mr. Kakatsch – site visit; Mr. Durrett –site visit; Mr. Zuba – site visit; Mr. Smith: - site visit; Mr. Andre – site visit.

Ms. Plummer questioned the required four foot high fence around the pool heater, and noted it appeared the fence was approximately three feet in the front and there was no fence on the left side.

Mr. Depew stated the fence surrounded the entire pool equipment and extended over to the edge of the parking lot.

Terry Lennick, Attorney for the Applicant, explained the fence was approximately three feet; however, when the sign is replaced the Applicant would bring the fence up to four feet.

Mr. Durrett questioned the Applicant's rewrite of Condition #4, "*if the pool heater and equipment is 15% lower, then the variance expires*" as it related to the height of the fence.

Mr. Depew stated "*if it is more than 15% lower, then the variance would expire*"; and stated he would agree to remove that language and say that "*if the fence or pool equipment is relocated, then the sign variance disappears*".

Vice Chair Zuba asked Community Development Director Fluegel for an update on compliance with the sign ordinance.

Community Development Director reported implementation of the new sign ordinance began on December 31, 2011; started with 130 signs not in compliance; and as of today there were 12 remaining properties that staff was working with and six of the remaining 12 had variances pending, one had a permit issued, and the balance had received a Notice of Violation.

Discussion ensued regarding future improvements to Estero Boulevard.

Zoning Coordinator Chapman presented comments for VAR2011-0004 Beach Shell Inn sign variance on behalf of the Town of Fort Myers Beach. She described the location of the subject property; and the variance request which was comprised two requests: 1) variance from Sections 30-93(b), which required a 3' setback from any street right-of-way to allow a 0' street setback; and 2) variance from 30-145(c), which limited the height of a monument sign to be elevated no more than 18" above grade and 5' overall to allow 4'6" for the monument supports and an overall height of 9'. She displayed photographs of the existing conditions at the subject site; and reviewed the site considerations (i.e. pool equipment, etc.). She reported the Applicant's request was for a 9' overall height which was 4' more than permitted by Code, and noted there would be 26' of copy area which allowed for an additional amount of copy area (business entitled to 32 square feet). She displayed a site plan indicating the 0' setback location of the proposed sign. Zoning Coordinator Chapman reviewed the request as it pertained to 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):

- That there were exceptional or extraordinary conditions or circumstances that were inherent to the property in question, or that the request is for a *de minimis* variance under circumstances or conditions where rigid compliance was not essential to protect public policy;
- Staff agreed that the pool equipment (and required clearance was unique to the subject property);
- That the conditions justifying the variance are not the result of actions of the applicant taken after the adoption of the regulation;
- The sign, pool heater, and required pool equipment fence were established on the subject property prior to the Town's incorporation in 1995 and prior to the adoption of Ordinance 11-01;
- That the variance granted is the minimum variance that would relieve the applicant from the undue burden caused by the application of the regulation (property owner came in well before the December 31, 2011 deadline to apply for the variance);

- Staff was confident that the proposed sign as depicted in Exhibit A and the proposed sign location depicted in Exhibit B was the minimum variance necessary to relieve the unreasonable burden caused by the application of Chapter 30 of the LDC;
- That the granting of the variance would not be detrimental to the neighborhood or public welfare, and that the conditions were unique to the property;
- That the conditions or circumstances on the specific piece of property for which the variance was sought are not of so general or recurrent a nature as to make it more reasonable and practical to amend the regulation in question.

She stated that staff recommended approval of the requested variance subject to conditions, and that staff was in agreement with the Applicant's recommended language for Condition #4. She requested to add language to Condition #2 so that it recognized the 0' setback as depicted in Exhibit B.

Ms. Plummer inquired if the Applicant was requesting a sign smaller than what they could have and they were reserving some extra for signage in other places.

Zoning Coordinator Chapman explained the sign face area as depicted on what the Applicant provided, it did indicate 26 square feet and they were entitled to 32 square feet.

Vice Chair Zuba requested clarification for the added language to Condition #2.

Zoning Coordinator Chapman explained that the original wording did not address the setback condition and staff wanted to be clear that the variance did address both the height and the setback. She explained Condition #2 would read "*The height of the sign, measured from the elevation to the existing grade of the parking lot to the base of the sign is not to exceed 4'6" and the height to highest point on the sign must not to exceed 9' as depicted on Exhibit A*" and staff could propose language such as 'the setback of 0' as depicted on *Exhibit B*'.

LPA Attorney Miller noted in the recommendations it recommended approval of the variance, but it was just clearer to note in Condition #2 that it was a 0' setback.

Public Comment opened.

Mr. Andre pointed out that at the last LPA meeting there was a variance request approved that involved public safety and the standpipe/fire equipment and how the LPA had not wanted to set a precedent. He discussed his concern regarding the average 3' base versus the dimension of the subject sign base.

LPA Attorney Miller recapped the variance requested by Diamond Head and the fence requirement which was similar to the subject request since it too had a fence requirement.

Discussion ensued regarding fence height requirements,

Mr. Kakatsch noted the cost of the proposed sign, and asked the Applicant if they considered a new electric pool heater that could be relocated versus a propane heater.

Community Development Director Fluegel stated the topic was discussed with the Applicant.

Mr. Depew reported the Applicant had researched changing the pool heater; however, it was discovered the work involved much more than replacing just the pool heater.

Discussion ensued regarding issues and aspects of changing/moving the pool heater equipment and how it would impact the subject property if moved.

Ms. Plummer asked if the sign itself would start at four feet.

Zoning Coordinator Chapman responded in the affirmative; noting the supports would be 4'6" and the base of the sign would start from there.

Public Comment closed.

MOTION: Ms. Plummer moved that the LPA recommends approval of Resolution 2012-008 with the Recommended Conditions of Approval 1 through 4, giving 4'6" height and a 0' setback, and the Recommended Findings and Conclusions, and the alternative language in place of the #4 in the Resolution, and the language on the 0' setback, and:

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 under circumstances or conditions where rigid compliance is not essential to protect public policy.

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;
second by Mr. Smith.

VOTE: Motion approved; 6-0; Ms. Shamp excused.

Vice Chair Zuba closed the hearing at 9:35 a.m.

B. VAR2012-0002 Dolphin Inn Sign Variance

Town of Fort Myers Beach – Local Planning Agency

August 14, 2012

Page 5 of 26

Vice Chair Zuba opened the hearing.

Vice Chair Zuba asked if any LPA Member had ex-parte communication regarding this item. Mr. Kakatsch – site visit; Mr. Durrett –site visit; Mr. Zuba – site visit; Mr. Smith: - site visit; Mr. Andre – site visit.

Vice Chair Zuba asked the LPA Attorney to swear in the witnesses; and LPA Attorney Miller swore in the witnesses.

Zoning Coordinator Chapman presented comments for VAR2012-0002 Dolphin Inn sign variance on behalf of the Town of Fort Myers Beach. She reported there were some corrections to be made to the Resolution:

1. Page 1, Paragraph 7, ~~special exceptions~~ change to variances;
2. And the conditions for approval in the Resolution – specifically Condition #4 should be taken from Page 7 of 8 from the Staff Report.

She displayed an aerial photograph indicating the location of the subject property. She reported the applicant was requesting a variance from Sections 30-93(b), which required a 3' setback from any street right-of-way to allow a 0' street setback, and a variance from 30-145(c), which limited the height of a monument sign to be elevated no more than 18" above grade and 5' overall to allow 6'-7' for the monument supports and an overall height of 11'. She displayed a site map and photograph depicting the existing conditions and noted the distinct parking layout of the site. An artist's rendering of the proposed sign which was 6'-7' to the bottom of the sign and 11' overall in height. She reviewed the supporting Regulations of Section 34-87, Sections 34-87(3)(a), 34-87(3)(b), 34-87(3)(c), 34-87(3)(d), and 34-87(3)(e):

- There were exceptional or extraordinary conditions or circumstances that were inherent to the property in question. The building was setback not only far from the property line but also from the edge of the pavement.
- The existing zoning district which the property was developed on would have actually only a 10' setback and not a 25' setback; so if the building was re-built, it would be significantly closer to the property line.
- Applicant did not provide analysis of alternative sign types of locations and addressed the parking.
- Staff recommended finding that there **are not** exceptional or extraordinary conditions or circumstances that are inherent and unique to the subject property and that it does not justify the variance requested.
- That the conditions justifying the variance **are not** the result of actions of the applicant after the adoption of the regulation in question.
- That the variance granted **is** the minimum variance that will relieve the applicant of the regulation in question to his property.
- The Applicant **did not** provide discussion or analysis as to why other locations on the subject property could not meet requirements of Chapter 30.

- Applicant did not completely address the details of the height; therefore, staff found that the variance requested and as depicted in Exhibit C **was not** the minimum variance necessary to relieve an undue burden.
- That granting of the variance **will not** be injurious to the neighborhood or otherwise detrimental to the public welfare; however, with little to no justification provided by the applicant as the necessity of the request or the hardship on the subject property, staff found that granting the variance as requested **would** be injurious to the neighborhood or otherwise detrimental to the public welfare.
- That the condition or circumstances on the specific piece of property for which the variance was 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 variances requested are for a 0' setback and for overall height; and staff found that the circumstances of this specific property on which the variance was sought **is not** general in nature and could, therefore, justify the granting of the setback variance only.

She reported staff's recommendation as follows:

- **Approval** of the requested **setback variance** (Section 30-93(b)), based upon the requisite findings and conclusions for granting a variance under Section 34-87.
- **Denial** of the requested **height variance** (Section 30-154(c)), because the requisite findings and conclusions for granting a variance contained in LDC Section 34-87 have not been met.

She noted staff recognized that the condition of Estero Boulevard and proposed an alternative recommendation for consideration:

- Staff recommends that the height necessary to clear an average car was no more than 36".
- Section 30-154(9)(c) allowed for a base or support for a monument sign that extends no higher than 18" above adjacent grade. This 18" included in the overall sign height maximum of 60", which would leave 42" for the actual sign face.
- Staff suggested that the minimum variance necessary for the subject property would be a proposed sign modified to show a 3' hedge/planter combination base and a sign height of 3'6" for an overall height of 6'6". (This is a minimum variance staff recommended for the subject property.)

Zoning Coordinator Chapman reported that should the LPA find the alternate recommendation a viable option to recommend to Town Council, staff would recommend **approval** subject to the following conditions:

- Approval of the variance does not exempt the subject property from the LDC Section 30-55 permit requirements for signs.
- The overall height of the sign, measured from the elevation of the existing grade of the parking lot was not to exceed 6'6".
- Construction and/or remodeling of the sign must comply with all applicable codes and regulations, including building codes and lighting standards.
- If the principal on the subject property was removed or replaced for any reason, the variance would expire. The sign allowed by the variance must be removed within 30 days of the issuance of any demolition permit for the principal building. If the building is destroyed or damaged by natural disaster to the extent that it is rendered uninhabitable, then the sign must be removed within 30 days of the issuance of a demolition permit or within 30 days of the expiration of the

federal, state, county, or local declaration of disaster, whichever occurs first. Placement of regulations in effect at the time of application for a permit.

Ms. Plummer discussed her concerns regarding the fact that the average car height was 36".

Zoning Coordinator Chapman explained that staff was not looking at the overall height at the top of the roof, rather more the height of the hood or trunk.

Discussion ensued regarding the proposed overall height of the sign as it pertained to the height of vehicles; the sign's encroachment into the right-of-way; setback dimensions; other potential sign types and locations on the subject property; and ways to manage parking spaces adjacent to the sign.

Mr. Smith questioned if there were alternate locations for the sign on the subject property.

Zoning Coordinator Chapman stated the Applicant indicated they wanted the sign to remain in the same location on the subject property. She expressed her belief that the Applicant wanted to use some of the structural framework in the new sign. She noted that the sign at 11' was shorter and smaller than the existing sign.

Discussion continued regarding the average car height as it pertained to the proposed sign; and staff's use of 3' uniformly when evaluating similar variance requests.

Vice Chair Zuba wanted to know, procedurally, if the LPA was to recommend staff's alternate recommendation, would it require denial of the Applicant's request and then approval of the alternate recommendation.

LPA Attorney Miller responded in the affirmative.

Discussion was held regarding the sign face dimensions and the overall height of the proposed sign.

Vice Chair Zuba asked if the request would be an issue of precedence.

Zoning Coordinator Chapman responded in the affirmative; and explained that the variances the LPA had addressed up until now had dealt with more solid obstructions (i.e. pipes, fences, etc.) and this variance dealt with parked cars which come and go.

Community Development Director Fluegel explained that staff was given a precedent from Town Council from the two they approved which were for a lesser height in similar circumstances – Diamond Head and Pierview.

Mr. Travis Owen, Dolphin Inn, approached the dais and using his personal electronic device, displayed a photograph of a 4'X8' sheet of plywood set at 3' at the 0' setback line to each LPA Member and described how it would be impacted by the parked cars.

Zoning Coordinator Chapman commented that the photograph the Applicant was showing them was included in the Staff Report.

Mr. Owen stated they did not propose an alternative because they believed with the lot line of the subject property that there were no other viable alternatives to be seen from the street. He requested to make an amendment to the alternate recommendation for a higher height so they could 'clear the van' as depicted in the photograph, and asked for a 10' height.

Mr. Smith asked the Applicant about the possibility of making the parking spots on either side of the sign with a designation for 'compact cars only'.

Mr. Owen explained he had no control over what type of vehicle parked in the spot.

Discussion was held concerning the requested 10' height; and the location of a parking curb and bicycle parking.

Public Comment opened.

No speakers.

Public Comment closed.

Vice Chair Zuba sought staff's input on the Applicant's alternate recommendation regarding the height.

Zoning Coordinator Chapman reported staff believed 10' was not the minimum variance necessary; and she pointed out that Section 30-154 did include 18" for a base.

Discussion was held concerning the requested variance versus the 100+ sign variances already approved; an issue of precedent; encroachment into the Estero Boulevard right-of-way by the existing sign; location of the sign in the middle of a parking lot which appeared to be unique circumstances to the subject property; average vehicle height as it pertained to the proposed sign; and the proposed sign height.

Vice Chair Zuba questioned the grade level and if any changes were anticipated to the site.

Zoning Coordinator Chapman noted that signs were measured from either adjacent grade or the crown of road, whichever was higher. She reported the Resolution described 'from the adjacent grade' and it could be amended to include 'from adjacent road or crown of road, whichever is higher'.

LPA Attorney Miller pointed out that the overall height in the previous variance case was allowed to go to 9' which would allow 4.5' to the base and an additional 5'.

Discussion ensued regarding LPA Attorney Miller's suggestion regarding overall height.

Mr. Kakatsch suggested a postponement of the variance request until the next meeting to allow for the Applicant to investigate the various aspects of the request such as but not limited to alternative sign locations.

Mr. Owen suggested the LPA Members look at the plat to see the uniqueness of the property with respect to things such as the parking and the location of the trash container which indicated to him there was no other viable location for the sign on the subject property.

Vice Chair Zuba asked Mr. Owen if he would consider coming back to the LPA indicating a reduction in height from the 10'.

Mr. Owen stated he would agree today to 9' from the crown of the road.

Community Development Director Fluegel recapped details of how staff and the applicant worked together on the previous Beach Shell Inn variance request. He stated for this variance with some of the recommended changes as discussed, staff would need to review the differences further.

Vice Chair Zuba suggested another meeting between staff and the Applicant to discuss more detail on the measurements.

Zoning Coordinator Chapman noted that the Pierview was approved for a 4' base and an 8' overall height.

Discussion ensued regarding the Applicant's variance request, signage dimensions, and setback from the road.

MOTION: Ms. Plummer moved to recommend approval of Resolution 2012-010 with Recommended Conditions of Approval 1-5 and with a modification of #4 so the base cannot exceed 4' high to the crown of the road to the bottom of the sign face and an overall height to be 9'; and the Recommended Findings and Conclusions A through E with the LPA finding the property to have extraordinary conditions based on the fact that the parking lot and the setback, and that it would be the minimum variance, and that the condition is not a result of the Applicant and would relieve the Applicant of an unreasonable burden, and that the variance will not be injurious to the neighborhood, and the conditions and the circumstances are not so general or reoccurring that would require to amend the regulation in question; second by Mr. Kakatsch.

VOTE: Motion approved; 6-0; Ms. Shamp excused.

Vice Chair Zuba closed the Public Hearing at 10:23 a.m.

C. VAR2012-0001 Neptune Inn Sign Variance

Vice Chair Zuba opened the hearing.

Town of Fort Myers Beach – Local Planning Agency

August 14, 2012

Page 10 of 26

Vice Chair Zuba asked if any LPA Member had ex-parte communication regarding this item. Mr. Kakatsch – site visit; Mr. Durrett –site visit; Mr. Zuba – site visit; Mr. Smith: - site visit; Mr. Andre – site visit.

Vice Chair Zuba asked the LPA Attorney to swear in the witnesses; and LPA Attorney Miller swore in the witnesses.

Zoning Coordinator Chapman presented comments for VAR2012-0001 Neptune Inn sign variance on behalf of the Town of Fort Myers Beach. She displayed an aerial photograph and indicated the location of the subject property. She reported the Applicant was seeking a variance form 30-154(c), which limited the height of a monument sign to be elevated no more than 18” above grade and 5’ overall to allow 4’3” for the monument supports and an overall height of 8’10”. Photographs of the sign’s existing location and condition at the subject property were displayed. She showed photographs of a planted hedge (at grade) maintained at 48” which the Applicant had reported had been in place for decades and was the basis for the requested variance. She stated staff conducted research on the hedge and showed aerial photographs of the subject site which indicated the first section of hedge did not appear until the third quarter of 2007. She displayed the rendering of the proposed sign which was 4’3” to the bottom of the sign and 8’10” overall in height, and sign face a little over 31 square feet. Zoning Coordinator Chapman reviewed the supporting regulations, Sections 34-87(3)(a), 34-87(3)(b), 34-87(3)(c), 34-87(3)(d), and 34-87(3)(e) and discussed the following:

- The exceptional or extraordinary conditions indicated on the application was the hedge location on the subject property, and staff found upon research that was not exceptional or extraordinary condition as it had only been fully planted within the last two years; therefore staff recommended this was not an exceptional or extraordinary condition or circumstance and did not justify the variance requested.
- The Applicant did not provide any other discussion or analysis on other sign types, as to why other locations on the subject property were not viable, or why the Applicant felt that this proposal was the minimum variance necessary. Staff recommended the variance requested was not the minimum variance necessary to relieve an undue burden.
- That the Applicant was proposing a new monument sign that was smaller than the existing sign; however, it continued to be non-conforming with Chapter 30 of the LDC. With little to no justification provided by the Applicant as to the necessity of the request or the hardship on the subject property, staff found that the granting of the variance as requested would be injurious to the neighborhood or otherwise detrimental to the public welfare.
- Staff recommended the finding that the circumstances of the subject property for which the variance was sought are of so general or recurrent a nature as to make it more reasonable or practical to amend the regulation.

She stated staff made a recommendation of **denial** of the requested variance because the property does not meet the requirements for granting a variance under LDC Section 34-87. She noted that staff proposed an alternative recommendation to consider and discussed the following aspects of the alternative:

- The Applicant's proposed sign (Exhibit C) showed a height of 4'3" to the bottom of the sign and a sign height of 4'7" for an overall height of 8'10" measured from the adjacent grade.
- Staff recommended that the hedge and planter, combined, be maintained at no more than 36" tall.
- Section 34-1549(c) allowed for a base or support, for a monument sign, that extended no higher than 18" above adjacent grade. The 18" was included in the overall sign height maximum of 5', which would leave 3.5' for the actual sign face.
- Staff suggested that the minimum variance necessary for the subject property would be a proposed sign modified to show a 3' hedge/planter combination base and a sign height of 3'6" for an overall height of 6'6".

She displayed the 'Alternative Recommendation' should Town Council find the alternate recommendation as a viable option; staff would recommend **approval** subject to the following conditions:

1. Approval of this variance does not exempt the subject property from the LDC Section 30-55 permit requirements for signs.
2. The height of the sign, measured from the elevation of the existing grade of the parking lot to the base of the sign is not to exceed 6'6".
3. Construction and/or remodeling of the sign must comply with all applicable codes and regulations, including building codes and lighting standards.
4. The hedge and planter combination must be maintained at a height of no more than 36". Should the planter and/or hedge be removed for any reason, this variance will expire and the sign allowed by this variance must be removed within 30 days. Placement in conjunction with redevelopment must comply with all regulations in effect at the time of permitting.
5. If the principal building on the subject property is removed or replaced for any reason, this variance will expire. The sign allowed by this variance must be removed within 30 days of the issuance of any demolition permit for the principal building. If the building is destroyed or damaged by a natural disaster to the extent that it is rendered uninhabitable, then the sign must be removed within 30 days of the issuance of a demolition permit or within 30 days of the expiration of the federal, state, county, or local declaration of disaster, whichever occurs first. Placement signage in conjunction with redevelopment of the site must comply with all regulations in effect at the time of application for a permit.

Ms. Plummer questioned the height of the sign itself.

Zoning Coordinator Chapman stated it was 4'7".

Discussion ensued regarding staff's recommendation for the dimension/measurement of the proposed sign as depicted in the rendering; and the benefits of the existing hedge on the subject property.

Casey Williams, representing Blue Vista Capital and the Neptune Inn, stated the Applicant wanted to keep their original request at the 8'10" height. He explained that keeping the original height request was mainly due to the height of certain vehicles such as but not limited to vans and SUVs and they would block the line of sight. He showed photographs of the existing sign which was approximately 21' tall and discussed trimming the hedge in the planter, sight line from Estero Boulevard, and the site plan for

the proposed sign. He stated the Applicant did evaluate other locations for the sign on the property and reviewed the reasons they believed other locations on the property were not suitable (i.e. location of a fire hydrant, homes, and the main driveway). He explained that each unit had an assigned parking space which would make it difficult to assign spaces on either side of the sign for compact cars. He requested approval of the variance as the Applicant had originally requested.

Ms. Plummer asked if the Applicant would accept the hedges trimmed at 3' and the sign height of 4'7" for an overall height of 7'7".

Mr. Williams said it could be done; however, it came back down to the vehicle aspect of it, for example if a mini-van parked next to the sign.

Discussion ensued regarding the dimension/height of the proposed sign; height of the existing planter blocks; and height of the existing hedge.

Ms. Plummer questioned the Applicant about the dimensions/measurement and asked if he would be agreeable to a sign height of 8'7" instead of the 8'10".

Mr. Williams responded in the affirmative.

Community Development Director Fluegel explained how staff conservatively analyzed sign variance applications to determine the minimum variance necessary.

Public Comment opened.

No speakers.

Public Comment closed.

MOTION: Ms. Plummer moved to recommend approval of Resolution 2012-0009, with Recommended Conditions of Approval 1-5, with the following changes to #2, the total height not to exceed 8'7"; #4, that the planter and hedge combination is not to exceed 48"; and to include the Findings and Conclusions that A) There **are** exceptional or extraordinary conditions; B) The conditions justify the variance **are not** the result of actions of the property owner; C) The variance granted **is** the minimum variance for the applicant; D) The granting of the variance **will not** be injurious to the neighborhood; E) The conditions of the property for which the variance is sought **are not** of so general to be covered in any other cases; second by Mr. Smith.

VOTE: Motion approved, 6-0; Ms. Shamp excused.

Vice Chair Zuba closed the hearing at 10:47 a.m.

D. VAR2012-0003 Matanzas Inn Sign Variance

Vice Chair Zuba opened the hearing.

Vice Chair Zuba asked if any LPA Member had ex-parte communication regarding this item. Mr. Kakatsch – site visit; Mr. Durrett –site visit; Mr. Zuba – site visit; Mr. Smith: - site visit; Mr. Andre – site visit.

Vice Chair Zuba asked the LPA Attorney to swear in the witnesses; and LPA Attorney Miller swore in the witnesses.

Zoning Coordinator Chapman presented comments for VAR2012-0003 Matanzas Inn sign variance on behalf of the Town of Fort Myers Beach. She reported there was a correction to be made to the Resolution as mentioned previously that on Page 1 ~~special exceptions~~ should be changed to variances. She displayed an aerial photograph and indicated the location of the subject property. She reported the Applicant was seeking a sign face area variance from Section 30-153(b)(1), which stated: *For a parcel of land containing one or two business establishments, each separate business establishment shall be allowed a sign area to allow the existing 98 square feet of sign area to remain.* She stated the Applicant was seeking to allow the existing sign face area of 98 square feet to remain. She noted there was an existing sign variance on the subject property granted by Lee County in 1989 (prior to the Town's incorporation), which:

- Limited to 64 square feet, advertising the restaurant only
- Limited to specific location on the roof
- Variance dealt with roof sign only – did not provide relief from total allowable sign area

She described the existing conditions on the property:

- Four signs on the subject property – 1 roof, 3 monument
- Three monument signs = 34 square feet
- Total on-site area = 98 square feet
- Total permitted sign area (for 2 businesses) = 64 square feet

She reported the Applicant was seeking to retain the existing total sign area of 98 square feet, and to retain all four signs (1 roof sign, per Lee County 89-10-12-V-4, and 3 monument signs). Zoning Coordinator Chapman reviewed the supporting regulations, Sections 34-87(3)(a), 34-87(3)(b), 34-87(3)(c), 34-87(3)(d), and 34-87(3)(e) and discussed the following:

- The Applicant did not identify the exceptional or extraordinary conditions other than identifying the sign variance in existence that was granted prior to incorporation of the Town; and the Applicant did not discuss why the existing roof sign is not sufficient signage for the entire property or whether the amount of roof signage could be reduced, or why keeping the current roof and monument signs is the minimum variance. Therefore, staff recommended this was not an exceptional or extraordinary condition or circumstance and did not justify the variance requested.

- The variance granting the roof sign was passed in 1989 prior to the Town's incorporation and the first sign ordinance was adopted. Staff was not able to find any permanent records as to when the monument signs were installed. Staff finds that the conditions justifying the variance are not the result of actions of the Applicant taken after the adoption of the regulations.
- That the Applicant was proposing a new monument sign that was smaller than the existing sign; however, it continued to be non-conforming with Chapter 30 of the LDC. With little to no justification provided by the Applicant as to the necessity of the request or the hardship on the subject property, staff found that the granting of the variance as requested would be injurious to the neighborhood or otherwise detrimental to the public welfare.
- The application does not discuss why the existing roof sign is not sufficient signage for the entire property; and does not discuss why keeping the roof and monument signs as is, constitutes the minimum variance necessary. Staff found that the variance requested was not the minimum variance necessary to relieve an undue burden.
- Staff's opinion that there was not a justifiable reason or hardship in existence on the subject property that would permit the granting of a sign area variance by Town Council. Staff found that granting the variance would be injurious to the neighborhood or public.
- Staff found that the variance sought was so general or recurrent a nature as to make it more reasonable or practical to amend the regulation.

Staff recommended **denial** based upon the requisite findings and conclusions for granting a variance contained in LDC Section 34-87; and stated that staff did not have an alternative recommendation. She reported the Applicant did submit verification of two business entities on the subject property.

Mr. Kakatsch asked if there were possibly three businesses on the subject property – restaurant, bar, and the marina.

Community Development Director Fluegel expressed his belief that the restaurant and bar operated under one license, and the marina under another.

Discussion ensued regarding business tax receipts as it pertained to distinguishing separate businesses.

Ms. Plummer questioned if the roof sign was an approved type of sign.

Zoning Coordinator Chapman responded that a roof sign was prohibited; however it may remain based upon the variance granted by Lee County.

Discussion was held concerning the roof sign, signage for the hotel and the restaurant, the monument signs, existing conditions of the subject property, and the burden of the applicant to present their case to the Town.

Mr. Andre asked if the County's variance for the rooftop sign included wording that if the sign was altered the variance would expire.

Zoning Coordinator Chapman stated the County Hearing Examiner approved the variance with three conditions:

1. The roof sign shall be limited to no more than 64 square feet and shall be located in the same position and manner as the existing sign unless it is determined by the appropriate Lee County Building Official that for safety considerations the sign should be repositioned in a different location on the roof.
2. The roof sign shall be limited to be used in conjunction only with the existing restaurant use and building. Should the building be removed, destroyed, or replaced or the restaurant use terminated, this variance shall terminate automatically.
3. The roof sign shall be signed and certified by a Florida registered engineer who shall submit sufficient data to enable the appropriate Lee County Building Official to determine whether the sign complies with the sign ordinance as amended.

Mr. Andre noted the sign was to be used 'in conjunction only with the existing restaurant use'.

Discussion was held concerning the rooftop sign and the other sign types on the subject property,

Mr. Chris Armburg reported he had been with the Matanzas Inn for 28 years. He noted the uniqueness of the subject property and stated the rooftop sign was for the waterfront; and the monument sign in front identified the restaurant and was permitted through Lee County. He stated they had a single monument sign at the motel and a monument sign in front of the restaurant which they believed were both necessary. He noted there was a third sign between these two which was on a wall that covered the 'back-flow preventer', and they would be willing to give that one up.

Discussion ensued regarding the height of the monument signs, current signage, and visibility of the current signage.

Ms. Plummer suggested the Applicant keep the sign on the rooftop and the sign with the 'vacancy sign' for the hotel; and eliminate the two other signs.

Mr. Armburg discussed the importance of having a sign to delineate the entrance to the restaurant.

Discussion ensued regarding the rooftop sign variance, and other signage the Applicant wanted to have remain on the site.

Zoning Coordinator Chapman noted the Applicant was agreeable to removing one of the monument signs which would be a reduction of 16 square feet in the overage of square footage for a total of 18 square feet the site would be over, if the other signs remained.

Mr. Andre pointed out the current codes did not address waterfront signs and questioned if the LPA should make a recommendation that for example, a waterfront location would be allowed another 32 square feet signage for the water sign.

Discussion continued regarding the rooftop signage and waterfront frontage, double-front signs, and waterfront rights-of-way and dependent uses; the unique aspects of the property; off-site signage; non-conforming signage; and the need for the Code to have language that addressed signage as it pertained to waterfront properties.

LPA Attorney Miller offered a suggestion of having two separate motions.

Discussion ensued regarding a potential motion or motions.

MOTION: Ms. Plummer recommended to approve Resolution 2012-0012 based on the fact there are two businesses side-by-side with an approved sign on the roof from 1989 and approve maintaining the rooftop sign based on waterfront view and approve the sign at the corner of Crescent and First Streets and the sign that has the vacancy sign on it with the removal of the middle sign; and the Findings and Conditions would be that A) There **are** an exceptional property because of the two businesses and being on waterfront and the visibility of being on a corner making it unique and having three sides needing direction, B) The conditions **are not** the result of the property owner, C) The variance **is** a minimum variance based on their unique conditions, D) The granting of the variance **would not** be injurious to the neighborhood, and E) the variance was **not** of so general so as to amend the regulations as they are; second by Mr. Durrett.

VOTE: Motion approved, 4-2; Messrs. Andre and Zuba dissenting; Ms. Shamp excused.

Vice Chair Zuba closed the Public Hearing at 11:47 a.m.

Recessed at 11:47 - Reconvened at 11:55

E. VAR2011-0007 Moss Marine Sign Variance

Vice Chair Zuba opened the hearing.

Vice Chair Zuba asked the LPA Attorney to swear in the witnesses; and LPA Attorney Miller swore in the witnesses.

Zoning Coordinator Chapman presented comments for VAR2011-0007 Moss Marine sign variance on behalf of the Town of Fort Myers Beach. She displayed an aerial photograph and indicated the location of the subject parcels where two businesses were located – Moss Marine and the Big M. She reviewed the request was for a variance from Section 30-5(18) prohibited signs, roof signs to allow an existing roof sign to remain; and a variance from Section 30-153(b)(1), which stated: *for a parcel of land*

containing one or two business establishments, each separate business establishment shall be allowed a maximum of 32 square feet of sign area to allow the existing sign area to remain. She displayed photographs of the existing conditions at the subject property and pointed out that the roof sign was in place since 1964, the Applicant did not pursue historic designation, the building was approximately 1,500 square feet and there were various types of signs such as but not limited to board signs, sandwich signs, and wall signs which had a total square footage that was well beyond the 64 square feet permitted. She stated that based upon the application as submitted that staff recommended denial; however, she explained that based upon the discussion held in the previous variance application, staff was considering to recommend continuing the case to a date certain (September or October) in order for staff to work out with the Applicant a precise signage package for what they needed on the property.

Community Development Director Fluegel suggested to continue the variance request to a date certain and to include that the applicant provide additional information quantifying all the signs on the subject property and to work with staff to bring the information back to the LPA.

Ms. Plummer asked if the Applicant was agreeable to the continuance.

Emily McDaniel, General Manager of Moss Marine, responded in the affirmative.

Mr. Zuba asked if the Applicant was willing to provide more information, if requested.

Emily McDaniel, General Manager of Moss Marine responded in the affirmative. She explained that she had been appointed General Manager in December 2011 and how she had been playing 'catch-up' with various matters such as the variance application.

Discussion was held concerning what date to continue the variance application – September or October.

Mr. Andre asked if the rooftop sign could obtain a historic variance and not impact other variances.

Zoning Coordinator Chapman stated she would research the matter with the LPA Attorney.

Discussion was held whether the Applicant would need to appear before the Historic Preservation Board prior to the LPA regarding a historic designation.

Public Comment opened.

No speakers.

Public Comment closed.

MOTION: Mr. Andre moved to continue VAR2011-0007, Moss Marine sign variance, until the October LPA Meeting; second Mr. Smith.

VOTE: Motion approved 6-0; Ms. Shamp excused.

Town of Fort Myers Beach – Local Planning Agency

August 14, 2012

Page 18 of 26

Vice Chair Zuba closed the Public Hearing at 12:10 pm.

Recessed at 12:10 - Reconvened at 12:45

F. MUD 2012-0002 Seagrape MUD

Planning Coordinator Overmyer distributed copies of emails staff received for additional public input. Attorney Matt Uhle, representing Mr. Jamieson, stated the Applicant was trying to establish through the minimum use provision that they were entitled to relief from the maximum of density permitted in the wetlands land use category in the Comprehensive Plan. He stated the Applicant was not trying to establish how many units could ultimately be built on the site today. He explained this was the first step in a series of steps that would have to be taken to identify that number which would involve the application of other provisions of the Comprehensive Plan, the Land Development Code, and state and federal regulations which would all be relevant to determining how many units could be built on the subject site. He distributed copies to the LPA of the standards in the Comprehensive Plan that needed to be applied for a minimum use determination and reviewed the:

1. Administrative Interpretations
2. Standards for the Single-Family Residence Provision – Sections entitled: Date Created (A), Minimum Lot Size, Ownership,
3. Subsection 4 (Construction Regulations – not relevant at this time)
4. Transferability

He stated he believed the Applicant met all three of the four standards with the exception of Construction Regulations which was not relevant at this point in time. He continued to address other information he claimed was given to the LPA which he believed was not relevant to the application:

- The northern half of the property was subject to a DEP Conservation Easement – he stated that according to the criteria that needed to be applied there was nothing that had to do with a DEP Conservation Easement. He reported the DEP owned the easement and not the Town; therefore, the DEP could determine if and what type of development they would allow on the property.
- A wetland determination – he claimed his client had a wetland determination performed by the Water Management District that established approximately 61% of the subject property met the standards for jurisdictional wetlands and submitted that to the Town with the expectation that the Town would change the remaining property; however, the Town decided not to do so. He stated there was a lot of property not designated as a ‘wetland’ under state and local regulations.
- A discussion with the Applicant could do a Comp Plan Amendment to change the upland portion of the subject property to another category other than wetlands – he reported the Applicant could and may at some point do that; however, it was not required and it was not a basis for making a determination for a minimum use.

He summarized that the Applicant was not asking for a number of units to be constructed on the property and asked for a minimum use determination for the 40 lots.

Planning Coordinator Overmyer presented comments on the Minimum Use Determination (MUD) 2012-0002 Seagrape on behalf of the Town of Fort Myers Beach. He displayed an aerial photograph and the plat, and described the location of the subject property, surrounding properties. He noted the Seagrape Subdivision was platted in 1919 which had a notation on the plat indicating there was a “mangrove marsh” on the bay side. He explained the Conservation Easement covered 21 of the 40 parcels which had been granted as part of the Seagrape Condominium, and subsequently a section was removed from the approval in Amendment #4 of the Development Order. He discussed aspects of the Conservation Easement:

- Easement conveys to the [Florida Department of Environmental Regulations][“a perpetual interest in the property, consisting of the following...”
 - a) “No construction or placing of buildings, roads, signs, billboards or other advertising, utilities or other structures of any kind whatsoever on or above the ground on the property shall be undertaken without prior written consent of [FDER].
 - c) No removal or destruction of native trees, shrubs or other vegetation on the property.

LPA Attorney Miller noted she provided the LPA with a memo concerning some of the issues raised with the application regarding development of a single-family lot under separate ownership. She noted that under the current situation this related to a number of contiguous lots, and it would be up to the LPA to decide what should apply in this instance because it did not deal with a single sub-standard non-conforming lot.

Mr. Kakatsch questioned if the property was paying taxes and who paid the taxes.

Attorney Uhle stated his client was being taxed as a vacant residential property.

Vice Chair Zuba questioned the implications of the Conservation Easement as it pertained to the tax bill.

Attorney Uhle stated his client could better answer that question and that his client informed him that he was being taxed as vacant residential property regardless of the Conservation Easement.

Vice Chair Zuba asked if the property owner knew of the Conservation Easement access when he purchased the property.

Attorney Uhle stated the owner knew the DER had a Conservation Easement.

LPA Attorney swore in the witnesses.

Attorney Uhle stated it was his belief the easement had been granted to a previous owner in connection with constructing a dock and had nothing to do with taxes.

Discussion was held regarding the Conservation Easement.

LPA Attorney Miller reported that per the Lee County Property Appraiser website, it indicated the subject property had one parcel assessed at \$43,125 and the other at \$37,875.

Town of Fort Myers Beach – Local Planning Agency

August 14, 2012

Page 20 of 26

Discussion ensued regarding assessed value of the subject property.

Public Comment opened.

Rich Sprague, representing the Board of Directors at Seagrape Bay Condominium Association, stated the subject property was located in an Environmentally Critical Zone which was designated by the land development codes and the Comp Plan. He discussed his interpretation of the code 'as one unit per 20 acres'. He reported that Seagrape Condominium owned a nature trail that went through approximately seven different lots starting at Mango Street to Chapel Street. He stated he discovered that the Town Council in 2002 had unanimously rejected a building proposal on the subject property in Resolution 02-20; and reviewed the highlights of the Resolution that enforced the opinion that the subject property was an environmentally critical area.

Alice Dickson, resident, noted her agreement with the previous speaker's comments, and explained that when she purchased her residence in 2008 she based her decision upon what was located across the canal from the house which was a 'critically environmental protected area'. She reported the mangroves had many bird habitats and the canal attracted manatees. She stated she opposed any proposed development of the subject property.

Terry Cain, resident, distributed copies of old photographs of the subject property. She stated she had been on Town Council in 2002 and explained the Town did not purchase the property at that time since it was in the Conservation 2020 loop and was being vetted for purchase; however, at the same time the owners decided to have an 'option to purchase' on the property and the current owner purchased the property, and thus ended the Conservation 2020 purchase process. She reported the subject property had always been a mangrove area and discussed related photographs from the 1920s, 1940s, and 1950s which indicated the site was a natural mangrove area and not ditched. She stated the Conservation Easement was not granted by the present owner, it was granted by the Seagrape Bay Development in 1989 and was given to the DEP. She asked the LPA to keep in mind the Town's land development codes as it pertained to single-family development, the environmentally critical area, and the Town's Comprehensive Plan.

James Rodwell, resident, stated he strongly opposed development of the subject property and discussed his opinion of the property owner's purchase of the site. He noted the matter may end up in litigation, and offered a suggestion that the Town consider the property for a 'pocket park'.

Don Hanyo, resident, reported he has owned his home for 26 years and has watched the mangroves, and discussed how the mangroves brought eagles, manatees, dolphins, sea otters to the area, and helped to purify the water and much more. He stated the Town needed 'green space' and the residents wanted 'green space'.

Tom Clift, resident, stated his residence of 15 years was adjacent to the subject property, and that he moved there because of the natural setting. He reported that he knew the former owner, Mrs. Higgins, and was aware of how she had wanted to preserve the area. He explained that other than Matanzas

Town of Fort Myers Beach – Local Planning Agency

August 14, 2012

Page 21 of 26

Preserve that the subject property was the only other similar area on the Island. He discussed his opposition to the application for the multiple dwelling unit determination.

Jay Light, resident, discussed the basis for his decision to purchase his home 20 years ago due to the beach access and the mangroves. He reviewed his opinion why there should be no change to the Environmentally Critical Zone status of the subject property (i.e. ecologically, population density, traffic, infrastructure, storm drainage, etc.). He noted his belief that changes to the mangroves would have an adverse effect on drainage and increase the chance of flooding on his property. He reviewed some historical facts regarding the purchase of the subject property. He mentioned it was his understanding that the Town was incorporated in order to prevent irresponsible and unwanted development. He noted his strong opposition to the application for the multiple dwelling unit determination.

Community Development Director Fluegel explained the application was for a minimum use determination; the applicant submitted an application which the staff and LPA/Town Attorney reviewed; and that staff was concerned for the potential interpretation because the application involved minimum use property rights. He reviewed how the application dealt with 40 platted lots.

Public Comment closed.

Discussion ensued regarding if the Town could have the subject property appraised as it pertained to the wetlands; how the current owner purchased the property with the current designation; the Administrative Interpretations of the Comp Plan as described by the Applicant; the listing/classification of platted lots (i.e. wetlands, uplands, etc.); and Future Land Use Map designation and zoning for the subject property.

Mr. Smith questioned the future use of the subject property.

Attorney Uhle stated it was not meaningful to discuss future development until the development rights were known. He explained the Applicant was seeking a baseline for a portion of the Comp Plan; and he anticipated some type of residential development but could not guess how large it would be until other issues were resolved.

Vice Chair Zuba questioned if the Applicant was seeking approval for a 40 unit development.

Attorney Uhle stated “not really” but he could understand why that might be the interpretation. He explained there was a lot more to the development process; however, he understood why staff may interpret it as one single-family residence on each lot, but that was probably not realistic. He noted that the zoning was not for single-family and would require a special exception; and that the Applicant would probably wind up asking for a Comp Plan amendment to address parcels that were in the upland area.

Vice Chair Zuba asked if the Applicant intended to request a vacation of the Conservation Easement.

Attorney Uhle responded in the affirmative.

Town of Fort Myers Beach – Local Planning Agency

August 14, 2012

Page 22 of 26

Discussion ensued regarding the definition of wetlands according to State statutes; potential purchase of the subject property by Conservation 2020 or the Town; percentage of wetlands on the subject property; suitability of the 'build-ability' of the subject property soil; and the location of certain lots in the Conservation Easement or upland designation.

Community Development Director Fluegel reported originally the Applicant requested a 'land use mapping error' which was denied by the Town Attorney and staff; and afterwards he suggested to the Applicant to submit a small-scale land use amendment and a concurrent Planned Development rezoning.

Mr. Zuba questioned the basis for the LPA Attorney's request in her memo dated June 11, 2012 for the LPA to make an administrative interpretation of whether the property owned by the Applicant qualified for a Minimum Use Determination and the density requirements.

LPA Attorney Miller explained that usually this would be to prevent someone from having a sub-standard non-conforming lot; however, in this instance there were other considerations involved.

Vice Chair Zuba questioned if the LPA Attorney agreed with the Community Development Director's assessment that the Applicant appeared to be seeking a determination for 40 residences for the 40 lots.

LPA Attorney Miller responded in the affirmative.

Discussion was held concerning possible approval or denial by the LPA; potential events that could happen if the MUD was approved, amended or denied; consistency with designation of wetlands and an Environmentally Critical Zone of the subject property; prior interpretation by the Town Council in 2002; the Conservation Easement and the number of lots; and the importance of the wetlands and estuaries.

MOTION: Mr. Durrett moved to deny the Minimum Use Determination and that the property does not meet the requirements contained in Section 34-3274 of the Land Development Code, and the property was not entitled to a minimum use determination under the single-family residence provision of the Fort Myers Beach Comprehensive Plan; Second by Mr. Andre.

Ms. Plummer noted her agreement that there should not be any development on the Conservation Easement, but questioned the value of the 19 lots and questioned what would be the next step.

LPA Attorney Miller stated it could be an appeal to Town Council.

Community Development Director Fluegel elaborated on what the next steps could be for the applicant if the LPA and Town Council denied the request and how it would impact transfer of development rights.

LPA Attorney Miller noted the application was more on the narrow issue of whether or not the Applicant was entitled to a Minimum Use Determination of, arguably, 40 dwelling units.

Discussion ensued regarding the MUD and potential for a small-scale land use map amendment on the subject property.

Mr. Kakatsch asked the Applicant to consider donating the subject property to the Town.

VOTE: Motion approved, 6-0; Ms. Shamp excused.

Vice Chair Zuba closed the Public Hearing.

G. Ordinance 12-XX Vacation of Plats

LPA Attorney Miller stated the matter came to the Town's attention because there had been people who were seeking to vacate plats for variance reasons and when she reviewed the process it appeared to be cumbersome and have many requirements that were not relevant to vacations of plats. She explained platted right-of-way or easement as it pertained to vacating interest; and reviewed the changes she proposed in order to streamline the process.

Community Development Director Fluegel concurred that the changes were to clean-up the ordinance and make the process more straight-forward.

Ms. Plummer discussed her concerns regarding the proposed changes.

LPA Attorney Miller responded and explained how Florida law addressed easements and vacations; and noted that vacation of plat requests would still come before the LPA and ultimately Town Council for approval.

Discussion ensued regarding the proposed changes to vacation of plat requests.

MOTION: Mr. Andre moved that the LPA recommends the Findings of Fact and Conclusions of Law that the proposed amendments are in the best interests of the health, safety and welfare of the citizens, residents, visitors, and business owners of the Town of Fort Myers Beach and the LPA hereby recommends that the Town Council adopt the proposed amendments to the Land Development Code; Second by Mr. Smith.

VOTE: Motion approved; 5-1; Ms. Plummer dissenting; Ms. Shamp excused.

H. Discussion of FY 2013 Capital Projects

Vice Chair Zuba asked if there was any objection to any element listed in the FY 2013 Capital Projects.

Mr. Kakatsch questioned the funding for stormwater and if included Estero Boulevard.

Community Development Director would research the matter and inform the LPA at the next meeting. He explained the matter was basically to determine that the projects listed were in line with the Comp Plan.

MOTION: Vice Chair Zuba moved that the FY 2013 Capital Projects were consistent with the Comprehensive Plan to the best of the knowledge of the LPA; second Mr. Andre.

VOTE: Motion approved 6-0; Ms. Shamp excused.

HISTORIC PRESERVATION BOARD

Withdrawn.

VI. LPA MEMBER ITEMS AND REPORTS

Mr. Andre – thanked staff for their hard work, volume of work, and dedication.

Ms. Plummer – inquired about the property located at 391 Palermo Circle; how it was being built; how it was being built seven cement blocks above the ground; and other aspects of the building.

Community Development Director Fluegel reported that it seemed to him that it did not meet the side yard setback.

Planning Coordinator Overmyer stated he believed the subject property was located in an AE Flood Zone.

Discussion ensued regarding the various elevation requirements by FEMA, DEP, and/or the Town.

Vice Chair Zuba requested that staff investigate the matter further and inform Ms. Plummer of their findings.

Ms. Plummer expressed her belief that it appeared two single-family homes were located on one lot.

Community Development Director Fluegel explained it was one house with a roof that spanned between the two sections with one kitchen. He noted that if the subject property violated the side setbacks (7.5') they may not meet the 40% lot coverage that would create a problem, and staff was investigating a Stop Work Order. He added that the house did meet base flood elevation.

Discussion was held concerning maximum lot coverage on the lot.

Mr. Smith – no items or report.

Mr. Zuba – no items or report.

Ms. Shamp – no items or report.

Mr. Durrett – no items or report.

Mr. Kakatsch – no items or report.

VII. LPA ATTORNEY ITEMS

LPA Attorney Miller – no items or report - excused.

VIII. COMMUNITY DEVELOPMENT DIRECTOR ITEMS

Community Development Director Fluegel thanked the staff and LPA Attorney for all the work they performed in order to get the five variances, minimum use determination and ordinance amendment ready for the meeting today. He reminded the LPA Members that if any of them wanted to seek reappointment to the LPA, they should send a letter to the Town Clerk before September 1, 2012 indicating their desire to seek reappointment.

IX. LPA ACTION ITEM LIST REVIEW

None.

X. ITEMS FOR NEXT MONTH'S AGENDA

None.

XI. PUBLIC COMMENT

Public Comment opened.

No speakers.

Public Comment closed.

XII. ADJOURNMENT

MOTION: Motion by Vice Chair Zuba, seconded by Ms. Smith to adjourn.

VOTE: Motion approved, 6-0; Ms. Shamp excused.

Meeting adjourned at 2:30 p.m.

Adopted _____ ~~With~~ Without changes. Motion by Plummer

Second by Andre.

East: Mixed Use
Commercial Boulevard (CB)
Boulevard

Single Family Residential
Commercial Boulevard (CB)
Boulevard

West: Polynesian Vacation Villas
Residential Multifamily (RM)
Boulevard

Single Family Residential
Residential Multifamily (RM)
Boulevard

II. BACKGROUND AND ANALYSIS

Background:

Blue Vista Capital, LLC, has applied for a variance and relief from Section 30-154(c) of Chapter 30 – Signs of the Town of Fort Myers Beach Land Development Code, the property located at 2310 Estero Boulevard and known as the Neptune Inn.

The subject property, measuring approximately 2.38 acres in size, contains a multiple building two-story motel, developed originally under Lee County zoning over 40 years ago. The existing sign on site measures 23' tall from the top of the triton to the parking lot grade and 45 square feet in sign face area.

On April 18, 2011 Town Council adopted amendments to the sign ordinance (11-01) which became effective immediately upon adoption. The amendments included an amortization provision requiring that all non-conforming signs come into compliance by December 31, 2011.

Blue Vista Capital applied for a variance from provisions in Ordinance 11-01 in January 3, 2012, just after the compliance deadline of December 31, 2011.

Analysis:

The applicant is requesting relief from the height requirement of Chapter 30, Section 30-154(c), and is proposing a new monument sign, see *Exhibit C*, .

The application is brief and details justifying the request are minimal, however the applicant does state that the reason for the request and the hardship that exists on the subject property is due to a 'mature hedgerow' along the Estero Boulevard property line 'that has been in place for decades.' Removing this long standing hedgerow, the applicant states, would create an undesirable result of visible parked

cars in the Neptune Inn parking lot. Therefore the applicant is requesting a sign variance to install a new sign that will be visible over the hedgerow.

Staff conducted a review of Lee County Property Appraiser data to determine if or when the planted hedge was established. A review of the aerials from 1998 to 2012 (attached as *Exhibit B*) illustrates that the hedge was partially installed sometime between when the 2005 and 2007 aerials were taken, and ran from the western property line to the existing sign location. The remaining hedge, from the existing sign location to the driveway entrance, was installed at some point between when the 2011 and 2012 aerials were taken.

The hedge does not appear, based on this evidence, to have been established for “decades” as the application states.

Monument signs are governed by Section 30-154(c) which states as follows:

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.*

Section 30-153(b) establishes the sign face allotment per commercial establishment per parcel and reads 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 Neptune Inn. 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. If a monument sign is utilized, the height of that monument sign can not exceed 5’.

Exhibit C illustrates the applicant’s proposed new monument sign. As indicated on the plans, the bottom of the sign is elevated above the maximum allowed height of

18" set forth in Section 30-154(c) to a height of 4'3". *Exhibit C* also shows an overall sign height of 8'10" as measured from the adjacent grade, exceeding the code maximum of 5' by 3'10".

The application seems to imply that if the current sign on the subject property is brought into compliance with the regulations set forth in Chapter 30, specifically the height requirement for monument signs in Section 30-154(c), the only result would be elimination of the hedge. Nevertheless, the subject property is entitled to utilize numerous forms of signage, see Section 30-153(b)(3), not just a monument sign. There was no discussion included in the application whether other sign options were considered by the applicant and, if so, why those alternative options are not feasible for the subject property.

Findings and Conclusions:

Using the five decision making factors described in LDC Section 34-87(3), 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 applicant does not identify in their narrative any 'exceptional or extraordinary circumstances' inherent on the subject property. The stated rationale for granting a variance is the established hedgerow which partially shields the Neptune Inn parking lot from the road.

A hedge is not an exceptional or extraordinary circumstance inherent to the subject property. It should be noted, however, that the Comprehensive Plan does emphasize the importance of landscaping along the Town's roadways, specifically Policy 1B-2 and Policy 1-A-1.

Due to the lack of analysis of alternative sign types and locations by the applicant, Staff recommends the finding that there **are not** exceptional or extraordinary conditions or circumstances that are inherent and unique to the subject property and that it **does not** justify the requested variance.

- 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.*

The applicant states that the shrub hedge along the property line adjacent to Estero Boulevard has been in place for decades.

A simple review of Lee County Property Appraiser aerials from 1998 to 2012 (*Exhibit B*) illustrates that the hedge was partially installed sometime between when the 2005 and 2007 aerials were taken, and ran from the

western property line to the existing sign location. The remaining hedge, from the existing sign location to the driveway entrance, was installed at some point between when the 2011 and 2012 aerials were taken.

Thus, the conditions stated by the applicant as justification for the variance are the result of actions taken by the applicant (or prior property owners) after the adoption of the original sign ordinance in 1999.

Staff finds that the conditions justifying the variance **are** the results 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 provided no discussion or analysis as to why other locations on the subject property that could meet the requirements of Chapter 30 are not viable. Nor does the applicant address the details of the proposed new sign (*Exhibit C*), and why it is felt that this proposal is the minimum variance necessary.

Therefore, based on scant evidence as to the necessity of the request, Staff finds that the variance requested **is not** the minimum variance necessary to relieve an undue burden.

- 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 height requirements of Chapter 30 of the LDC. The current sign's height is well above the 5' maximum height allowed under the current code. The applicant has proposed a new sign (*Exhibit C*) that continues to be non-conforming in height but is smaller in area than the current sign and closer to meeting the requirements of Section 30-154(c).

It is Staff's opinion that there is not a justifiable reason or hardship that exists on the subject property that would permit the granting of a height and area variance by Town Council. Staff therefore finds that granting the variance **would** be injurious to the neighborhood or otherwise detrimental to the public welfare by allowing the subject property relief from rules and regulations that all others must adhere to.

- 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, numerous locations on the Beach have pursued variance requests from the amended requirements. However, by the very nature of the recent adoption of the sign ordinance, Town Council has addressed the issue of signs (including height) and has made a decision to enact and enforce a uniform sign code.

Staff finds that the circumstances of the specific piece of property on which the variance is sought **are** general in nature and therefore do not demonstrate a verifiable hardship.

III. RECOMMENDATION

Staff recommends **DENIAL** of the requested variance because the property does not meet the requirements for granting a variance under LDC Section 34-87.

Alternate Recommendation

Staff does not feel that the applicant makes a compelling case for approval of the requested variance and is confident in our recommendation of DENIAL. However, Staff recognizes that the subject property does include site considerations that have value to the overall beauty and appeal of Estero Boulevard and Fort Myers Beach. Therefore, Staff has proposed an alternate recommendation for Town Council to consider.

The applicant's proposed sign (*Exhibit C*) shows a height of 4'3" to the bottom of the sign and a sign height of 4'7" for an overall height of 8'10" measured from adjacent grade. Staff suggests a modification of these heights. Staff recommends that the hedge and planter, combined, be maintained at no more than 36" tall which is the equivalent of a right-of-way buffer requirement if the property had been developed under Lee County and/or Town zoning. Section 34-1549(c) allows for a base or support, for a monument sign, that extends no higher than eighteen (18) inches above adjacent grade. This 18 inches is included in the overall sign height maximum of 5' (60 inches), which would leave 3.5' (42 inches) for the actual sign face. Thus, Staff suggests that the minimum variance necessary for the subject property would be a proposed sign modified to show a 3' hedge/planter combination base and a sign height of 3.5' for an overall height of 6'6".

Should Town Council find this alternate recommendation a viable option, Staff would recommend APPROVAL subject to the following conditions:

1. Approval of this variance does not exempt the subject property from the LDC Section 30-55 permit requirements for signs.
2. The height of the sign, measured from the elevation of the existing grade of the parking lot to the base of the sign is not to exceed 6'6".

3. Construction and/or remodeling of the sign must comply with all applicable codes and regulations, including building codes and lighting standards.
4. The hedge and planter combination must be maintained at a height of no more than 36". Should the planter and/or hedge be removed for any reason, this variance will expire and the sign allowed by this variance must be removed within 30 days. Placement of signage in conjunction with redevelopment must comply with all regulations in effect at the time of permitting.
5. If the principal building on the subject property is removed or replaced for any reason, this variance will expire. The sign allowed by this variance must be removed within 30 days of the issuance of any demolition permit for the principal building. If the building is destroyed or damaged by a natural disaster to the extent that it is rendered uninhabitable, then the sign must be removed within 30 days of the issuance of a demolition permit or with 30 days of the expiration of the federal, state, county, or local declaration of disaster, whichever occurs first. Placement of signage in conjunction with redevelopment of the site must comply with all regulations in effect at the time of application for a permit.

IV. CONCLUSION

Staff is of the opinion that the applicant has not demonstrated a justifiable or valid reason for Town Council to approve a variance from Chapter 30 of the LDC.

Therefore, Staff recommends **DENIAL** of the requested variance.

Exhibits:

A – Legal Description

B – Lee County Property Appraiser Aerials, 1998 – 2012

C – Applicant proposed new sign

Exhibit A

LEGAL DESCRIPTION

(“EXHIBIT A” ATTORNEYS TITLE INSURANCE FUND, INC. FUND FILE No. 18-2005-2214, DATED 3/04/05.)

PARCEL 1:

LOTS 1, 2, AND 3, BLOCK E, OF THAT CERTAIN SUBDIVISION KNOWN AS SEAGRAPE ACCORDING TO THE MAP OR PLAT THEREOF ON FILE AND RECORDED IN THE OFFICE OF THE CLERK OF CIRCUIT COURT IN PLAT BOOK 4, AT PAGE 17, PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

PARCEL 2:

BLOCK “A” AND “B”, IN THAT CERTAIN SUBDIVISION KNOWN AS BEACH ESTATES, ACCORDING TO THE MAP OR PLAT THEREOF ON FILE WITH AND RECORDED THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, IN PLAT BOOK 6, PAGE 68, TOGETHER WITH THAT PORTION OF THE STREET OR ALLEY LYING BETWEEN SAID BLOCKS VACATED BY ORDER OF THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA, TOGETHER WITH ALL OF BLOCK “A”, TOGETHER WITH THE VACATED ALLEY THAT FORMERLY SEPARATED LOTS 1 AND 2 FROM LOT 3 ALL BEING IN THAT CERTAIN SUBDIVISION KNOWN AS W.W. WATSONS SUBDIVISION, 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 5, PAGE 07. TOGETHER WITH ALL IMPROVEMENTS THEREON WHICH IMPROVEMENTS ARE KNOWN AS THE “NEPTUNE INN” AND ALSO TOGETHER WITH ALL FURNITURE, FURNISHINGS, FIXTURES, AND EQUIPMENT LOCATED IN, ON OR ABOUT SAID IMPROVEMENTS, TOGETHER WITH ALL OF THAT CERTAIN BUSINESS KNOWN AS THE “NEPTUNE INN”, INCLUDING THE NAME AND GOOD WILL THEREOF.



EXHIBIT C



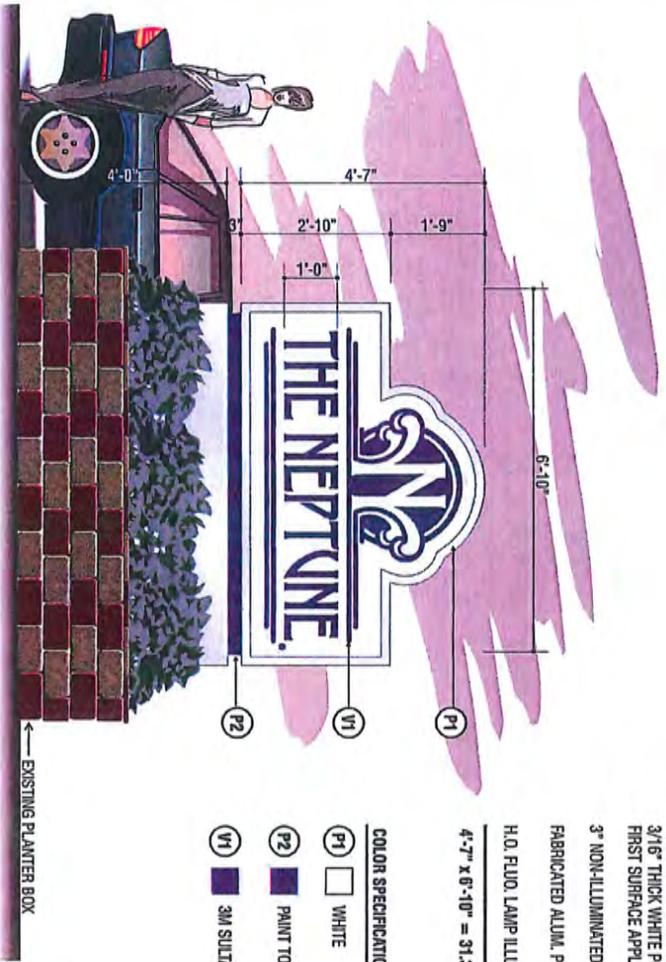
D/F Internally Illuminated Pylon

GENERAL SPECIFICATIONS

- D/F INTERNALLY ILLUMINATED PYLON
- ALUMINUM FILLER & REINFORCER
- 3/16" THICK WHITE POLYCARBONATE FACE W/
- HIRST SURFACE APPLIED 3M VINYL COPY & GRAPHICS. - SEE COLOR SCHEDULE.
- 3" NON-ILLUMINATED ALUM. REVEAL. - SEE COLOR SCHEDULE
- FABRICATED ALUM. POLE COVER
- H.O. FLUO. LAMP ILLUMINATION.
- 4'-7" x 6'-10" = 51.34 Sq. Ft.

COLOR SPECIFICATIONS: PAINT/VINYL

- P1** WHITE
- P2** PAINT TO MATCH 3M SULTAN BLUE #3630-157
- V1** 3M SULTAN BLUE #3630-157



Scale: 1/2" = 1'-0"



2011 KIEFFER & CO., INC.
595 Road Street - Mountain, IL 61895
Phone: (815) 528-1255 FAX: (815) 528-1543
www.kiefferpylon.com

customer: **THE NEPTUNE.**

location: Ft. Myers Beach, FL
sales: Mike Miller, estimator - MSO
date: 12/15/11

artwork
 design
 sign
Material selected by client

COMPARISON FILES

PRODUCTION PROCESSING
Order Item # _____
Job # _____
-081 _____
-082 _____
-083 _____

INITIALS: DATE:
MSO 12-22-11

REVISION:	LOWER SIGN TO HEDGE LINE
1	▲
2	▲
3	▲
4	▲
5	▲
6	▲
7	▲
8	▲
9	▲
10	▲

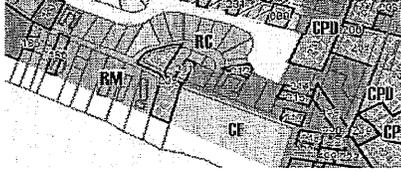
B62073

Case # _____
Planner _____

Date Received _____
Date of Sufficiency/Completeness _____

Town of Fort Myers Beach
Department of Community Development

TOWN OF
FORT MYERS BEACH



JUN - 6 2012

RECEIVED BY

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:	The Neptune Inn
Authorized Applicant:	Blue Vista Capital LLC
LeePA STRAP Number(s):	19-46-24-W3-0110A, 0010

Current Property Status:
Current Zoning: Commercial
Future Land Use Map (FLUM) Category:
Platted Overlay? ___yes___no FLUM Density Range:

Action Requested	Additional Form Required
<input type="checkbox"/> Special Exception	Form PH-A
<input 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

Case # _____
Planner _____

Date Received _____
Date of Sufficiency/Completeness _____

PART I - General Information

A. Applicant:

Name(s):	Blue Vista Capital LLC		
Address: Street:	PO Box 508		
City:	Richmond	State:	IL Zip Code: 60071
Phone:	815-678-3500		
Fax:	815-678-3051		
E-mail address:	PPBell@HAAadvisors.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 checked="" type="checkbox"/> Partnership LLC
<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 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:			
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.

Case # _____
 Planner _____

Date Received _____
 Date of Sufficiency/Completeness _____

PART II – Nature of Request

Requested Action (check applicable actions):

<input type="checkbox"/> Special Exception for:
<input checked="" type="checkbox"/> Variance for: <i>Sign</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 Director’s approval(s) as Exhibit 3-1.

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

PART IV – Property Ownership

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

Case # _____
Planner _____

Date Received _____
Date of Sufficiency/Completeness _____

<input 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 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 <input type="checkbox"/> No
If yes:
Subdivision name: <u>SEA Grape</u>
Plat Book Number: <u>4</u> Page: <u>17</u> 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):

<u>19-46-24-W3-0110A.0010</u>

D. Property Dimensions:

Area:	square feet	acres <u>2.89</u>
Width along roadway:	feet	Depth: feet

E. Property Street Address:

<u>2310 Estero Blvd, Ft Myers Beach, FL</u>

Case # _____
Planner _____

Date Received _____
Date of Sufficiency/Completeness _____

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

<i>one mile east of sky bridge</i>
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 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	

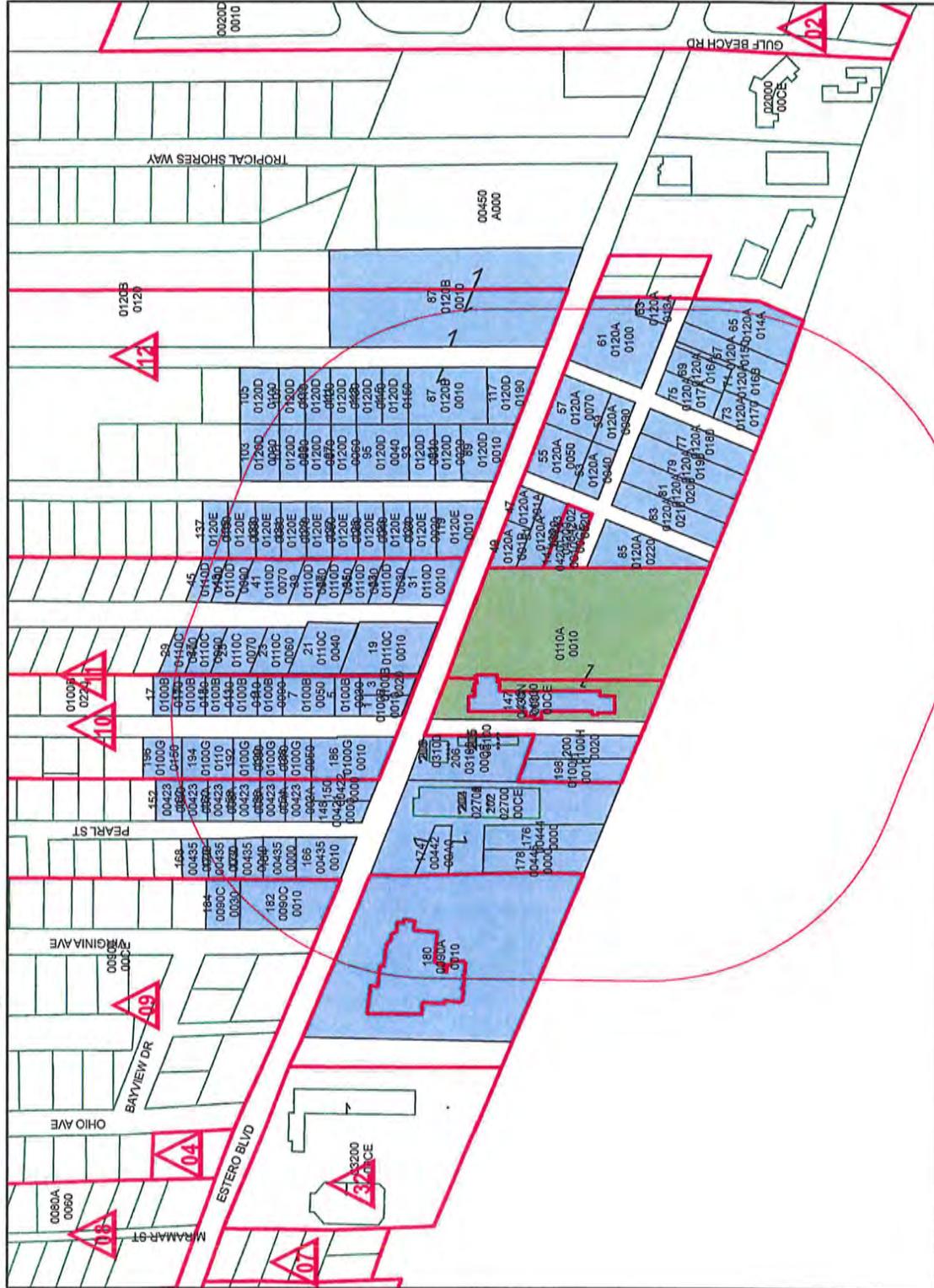
J. Zoning: (see official zoning map, as updated by subsequent actions)

<input type="checkbox"/> RS (Residential Single-family)	<input type="checkbox"/> CM (Commercial Marina)
<input 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)	

VARIANCE REPORT

6/5/2012

Subject Parcels : 1 Affected Parcels : 147 Buffer Distance : 500 ft



325 162.5 0 325 Feet

19-46-24-W3-0110A.0010



Case # FMBVAR2012-0001
Planner kl

Date Received 1/3/12
Date of Sufficiency/Completeness _____

Town of Fort Myers Beach
Department of Community Development



Zoning Division

TOWN OF
FORT MYERS BEACH

JAN - 3 2012

RECEIVED BY

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: <u>The Neptune Inn</u>
Authorized Applicant: <u>Blue Vista Capital LLC, by Peter Bell, mgr</u>
LeePA STRAP Number: <u>19-46-24-003-0430A, 0001</u>

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

Variance is requested from:

LDC Section Number

Title of Section or Subsection

Complete the narrative statements below for EACH variance requested.

Supplement PH-B

December 30, 2011

Project Name: 2310 Estero Blvd, Ft. Myers Beach FL

Applicant: Blue Vista Capital LLC, d/b/a The Neptune Inn
Peter Bell, Manager

Lee Strap #: 19-46-24-003-0430A.0001

Part I: Narrative Statements:

A Request for variance:

Current signage restricts signs to be greater than 60" above the ground level

B. Reasons for request:

The current hedgerow is a mature, extensive greenspace that shields the parking and cars @ The Neptune Inn; this provides a 'softer landscape view' to the public along Estero Blvd

C. Possible effect variance on surrounding properties:

Variance, if granted, would have a positive effect on surrounding commercial properties, providing greenspace along Estero Blvd

D. Hardship that justifies relief from regulation:

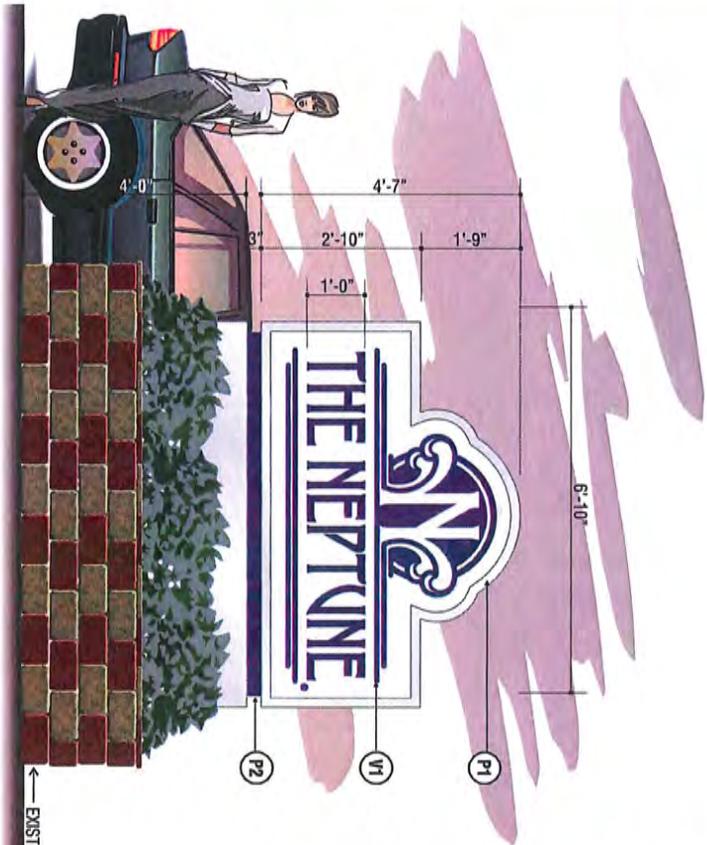
Neptune Inn is an iconic, beach resort that has recently undergone a major renovation to reposition this property an 'upscale hospitality resort'. Street 'curb appeal' is essential to the traveling public, and this hedgerow is an integral part of this. In particular softens the approach to the public and the guests shielding the parking lot and cars

E. Property qualifies for variance (LDC Section 34-87):

- 1) Current hedgerow has been in place for several decades and to remove this 'green feature' would create an unintended hardscape view of The Neptune Inn parking lot and cars. Currently this hedgerow shields from public view along Estero Blvd the cars and lot serving The Neptune Inn
- 2) Estero Blvd hedgerow has been in place for several decades and removal of this, longstanding existing hedgerow would have the unintended result of the public now viewing the parking lot and cars at The Neptune Inn
- 3) Current hedgerow is 54" +/-, very mature and attractive, removing or reducing this hedgerow, would compromise the intended effect, greenscape barrier to parking lot and cars
- 4) Variance would to continue to provide greenspace to a commercial area, and thus breaking up the concrete/asphalt that dominates this corridor, a greenspace benefit to the public
- 5) This variance request is specific to the Neptune Inn



D/F Internally Illuminated Pylon



GENERAL SPECIFICATIONS

D/F INTERNALLY ILLUMINATED PYLON
 ALUMINUM FILLER & REPAIRER
 3/16" THICK WHITE POLYCARBONATE FACE W/
 FIRST SURFACE APPLIED 3M VINYL COPY & GRAPHICS - SEE COLOR SCHEDULE.
 3" NON-ILLUMINATED ALUM. REVEAL - SEE COLOR SCHEDULE
 FABRICATED ALUM. POLE COVER
 H.O. FLUO. LAMP ILLUMINATION.
 4'-7" x 6'-10" = 31.34 Sq. Ft.

COLOR SPECIFICATIONS: PAINT/VINYL

- (P1) WHITE
- (P2) PAINT TO MATCH 3M SULTAN BLUE #3630-157
- (V1) 3M SULTAN BLUE #3630-157

← EXISTING PLANTER BOX

Scale: 1/2" = 1'-0"



2811 KIEFFER & CO., INC.
 524 East Street - Alton, Illinois, IL 62002
 PHONE: (618) 539-1255 FAX: (618) 539-1543
www.kiefferpylons.com

CUSTOMER: **THE NEPTUNE.**

LOCATION: Ft. Myers Beach, FL
 SALES: Mike Mays DESIGNER: MSO
 DATE: 12/16/11

Artwork
 Design
 Survey
 All items checked to show over LISTED
 COMPARISON FILES

PRODUCTION PROCESSING

Order Item #	
Job #	
-001	
-002	
-003	

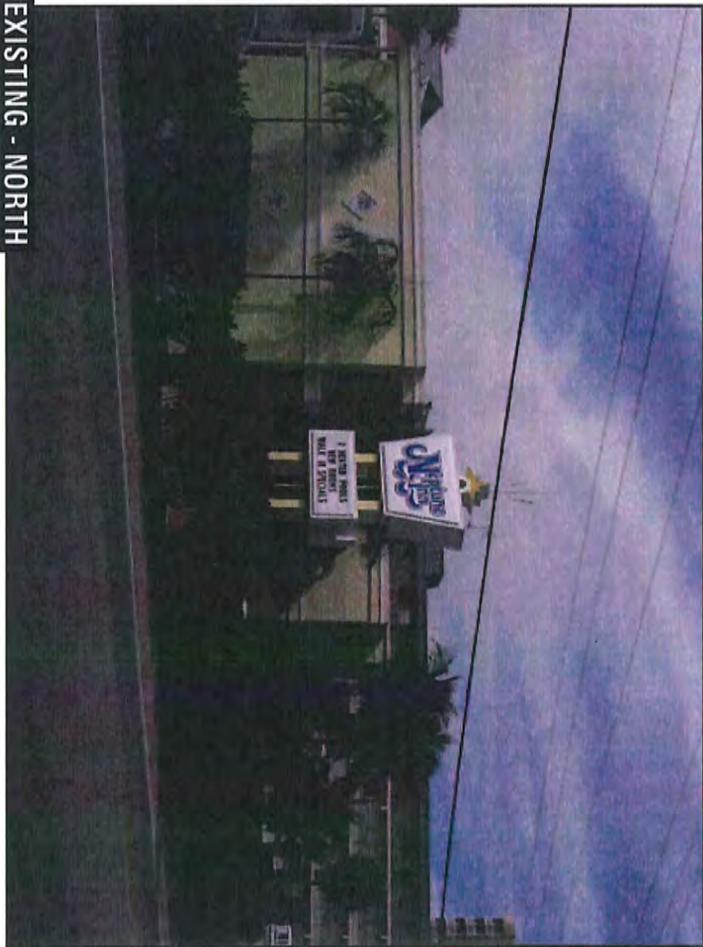
INITIALS: DATE:
 MSO 12-22-11

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B62073



D/F Internally Illuminated Pylon



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 5850 Industrial Blvd., Jacksonville, FL 32256
 PHONE: (904) 598-1255 FAX: (904) 598-1543
www.kieffergroup.com

CUSTOMER: **THE NEPTUNE.**

LOCATION: Ft. Meyers Beach, FL

SALES: Mike Miele DESIGNER: MSO

DATE: 12/16/11

Airtrack
 Design
 Signage
 All items indicated by Show Other

UL
 LISTED

COMPANION FILES

PRODUCTION PROCESSING

Order Item # _____

JOB # _____

-001 _____

-002 _____

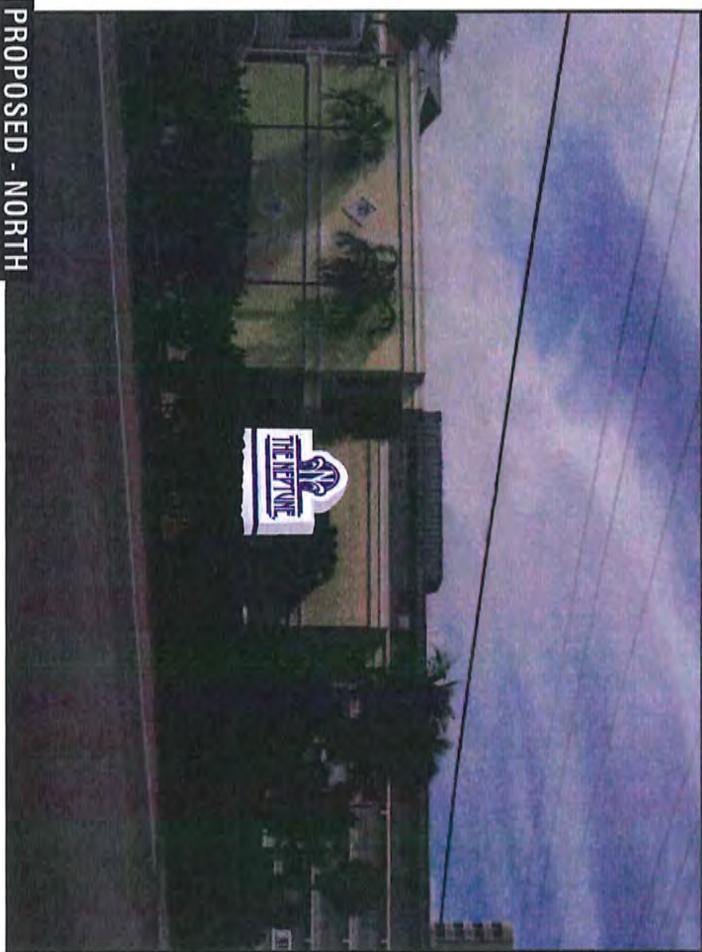
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B62073A

D/F Internally Illuminated Pylon



PROPOSED - NORTH

SEE DRAWING #B62073 FOR SIZE AND SPECIFICATIONS.

2801 KIEFFER & CO., INC.
5155 SHAW STREET - LARGENTON, VA 22083
PHONE: (847) 528-1253 FAX: (847) 528-1548
WWW.KIEFFERANDCO.COM

CUSTOMER: **THE NEPTUNE.**

LOCATION: **P. Meyers Beach, FL**
SALES: **Mike Miele** DESIGNER: **MSO**
DATE: **12/16/11**

Airmark
 Design
 Survey
LISTED

PRODUCTION PROCESSING

Job #	Initials	Date
-001		
-002		
-003		

INITIALS: DATE:
MSO 12-22-11

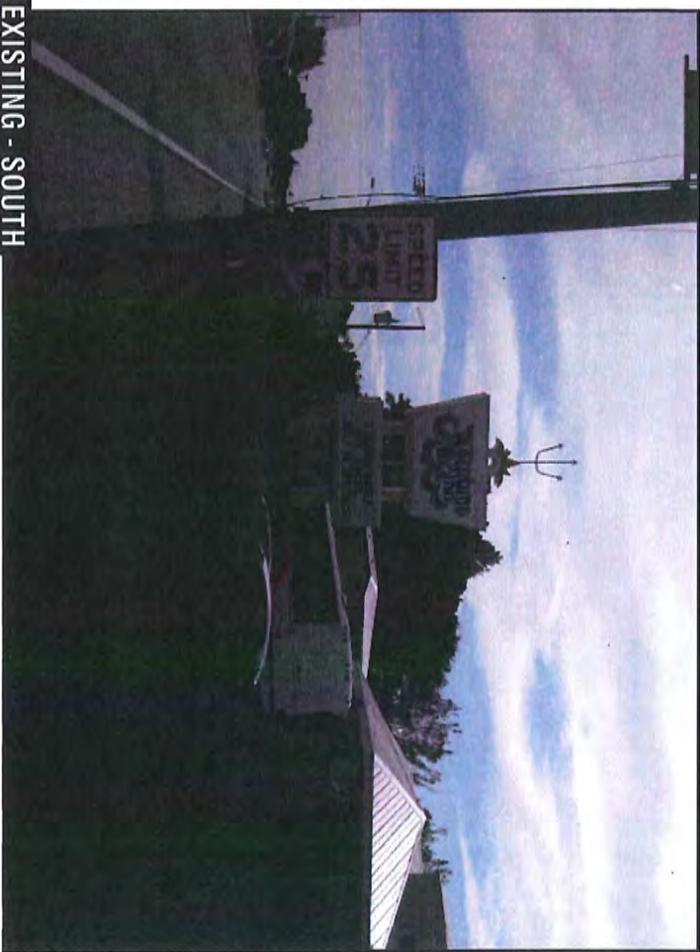
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B62073B



D/F Internally Illuminated Pylon



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585 Road Street - Lynchburg, VA 24002
PHONE: (847) 528-1255 FAX: (847) 528-1543
WWW.KIEFFERCO.COM

CUSTOMER: **THE NEPTUNE.**

LOCATION: Ft. Meyers Beach, FL

SALES: Mike Miele - estimator - MSO

DATE: 12/16/11

Network
 Design
 Survey
All items checked in our files

COMPANION FILES

PRODUCTION PROCESSING

Kieffer Item # _____

Job # _____

-001 _____

-002 _____

-003 _____

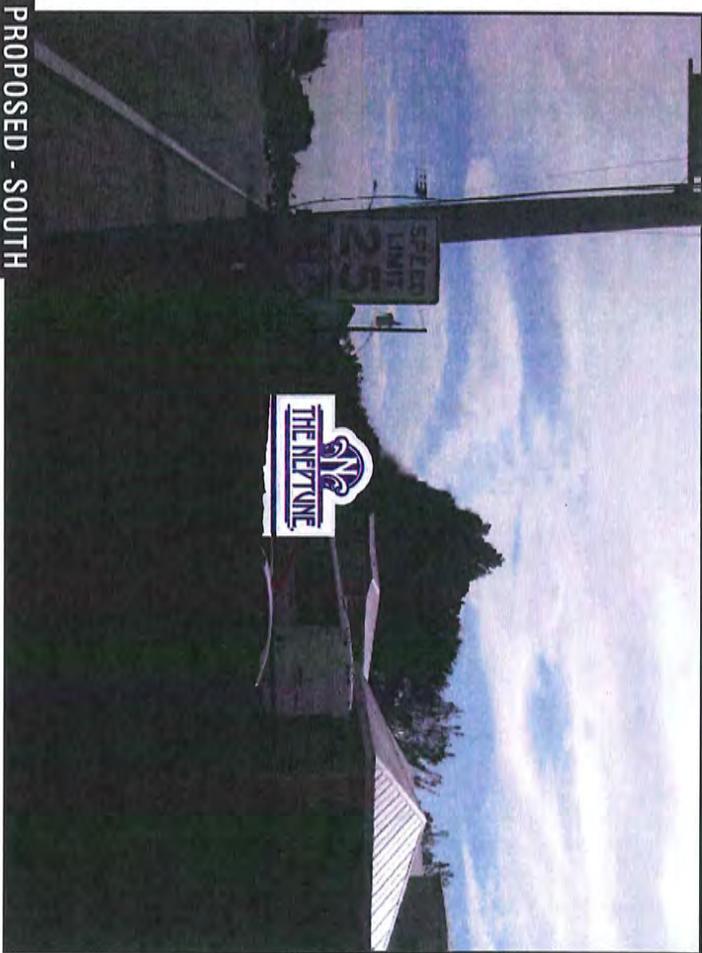
INITIALS: DATE:
MSO 12-22-11

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B62073C



D/F Internally Illuminated Pylon



PROPOSED - SOUTH

SEE DRAWING #862073 FOR SIZE AND SPECIFICATIONS.



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 385 East Street - Hazelton, N. Carolina
 Phone: (847) 393-1343 or (847) 383-1343
www.kiefferusa.com

CUSTOMER: **THE NETTUNE.**

LOCATION: E. MYERS BACH, FL

SALES: Mike Mabe DESIGNER: MSQ

DATE: 12/16/11

Artwork
 Design
 Survey
 All items checked to show order

COMPANION FILES

PRODUCTION PROCESSING

Job # _____

-001 _____

-002 _____

-003 _____

INITIALS: DATE:
 MSQ 12-22-11

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