

1. Requested Motion:

Meeting Date: Oct. 7, 2013

Motion to **APPROVE/DENY** the applicant's request for a variance from Section 34-638(b) of the Town of Fort Myers Beach Land Development Code (LDC) to allow a 12' side yard setback for the construction of an accessory structure (Chickee Hut) subject to the conditions proposed by LPA and contained in the draft Resolution 13-20.

Why the action is necessary:

Section 34-87 of the LDC provides that the Town Council shall hear and decide all requests for variances from the terms of the regulations or restrictions in the LDC.

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: VAR2013-0002 Pointe South Setback Variance

Homer Odum, authorized agent and property manager for Pointe South Condominium, is requesting a variance from Section 34-638(b) of the LDC to allow a side setback of 12' for the construction of an accessory structure (Chickee Hut) where a 20' side setback is otherwise required on the subject property located at 5000 Estero Boulevard.

The LPA held a public hearing on the request at their August 13, 2013 meeting. Staff presented its case along with a recommendation for approval of the setback request subject to two conditions. LPA had a question and answer period with the applicant, heard public comment, and asked questions of Staff. Ultimately, the LPA voted 4-0 (Members Steele, Shamp and Kakatsch were excused) to recommend approval of the setback variance as requested, including Staff's recommended conditions.

Attachments:

- Tab A - Draft Council Resolution 13-20
- Tab B - LPA Resolution 2013-007
- Tab C - Minutes from the August 13, 2013 LPA meeting
- Tab D - Staff Report
- Tab E – Original Application

6. Alternative Action:

- DENY the applicant's request for a setback variance

7. Management Recommendations:

- APPROVE the requested setback variance subject to the conditions in draft Resolution 13-20

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 13-20
VAR2013-0002 – Pointe South Condominium

WHEREAS, applicant Homer Odum, authorized agent and property manager for Pointe South Condominium, is requesting a variance from Section 34-638(b) of the Town of Fort Myers Beach Land Development Code; and

WHEREAS, the applicant has indicated that the STRAP number for the subject property is 28-46-24-W4-02000.00CE and the legal description of the subject property is attached as *Exhibit A*; and

WHEREAS, the subject property is located at 5000 Estero Boulevard, Fort Myers Beach, FL 33931 in the 'Residential Multifamily' and 'Environmentally Critical' zoning category of the Official Zoning Map and the 'Mixed Residential' and 'Recreation' 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 13, 2013; 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 October 7, 2013, at which time the Town Council gave full and complete consideration to the request of Applicant, LPA Resolution 2013-007, 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 2013-007 and the standards for granting variances, the Town Council makes the following findings of fact, and reaches the following conclusions:

The Town Council **APPROVE/DENY** the applicant's request for a variance from Section 34-638(b) of the Town of Fort Myers Beach Land Development Code to allow a 12' side yard setback subject to the following conditions:

CONDITIONS OF APPROVAL:

1. *That the request be limited to the 18' by 20' accessory structure as shown on the applicant's site plan attached as Exhibit B.*

2. *A Type B vegetative buffer as defined in LDC Section 10-416 (3) is implemented and continuous from the existing pool area to the existing grill area.*

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 Council Member _____ and seconded by Council Member _____, and upon being put to a vote, the result was as follows:

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

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

By: _____
Alan Mandel, Mayor

Approved as to legal sufficiency:

By: _____
Fowler White Boggs, P.A.
Town Attorney

ATTEST:

By: _____
Michelle Mayher
Town Clerk

Exhibit A

DESCRIPTION:

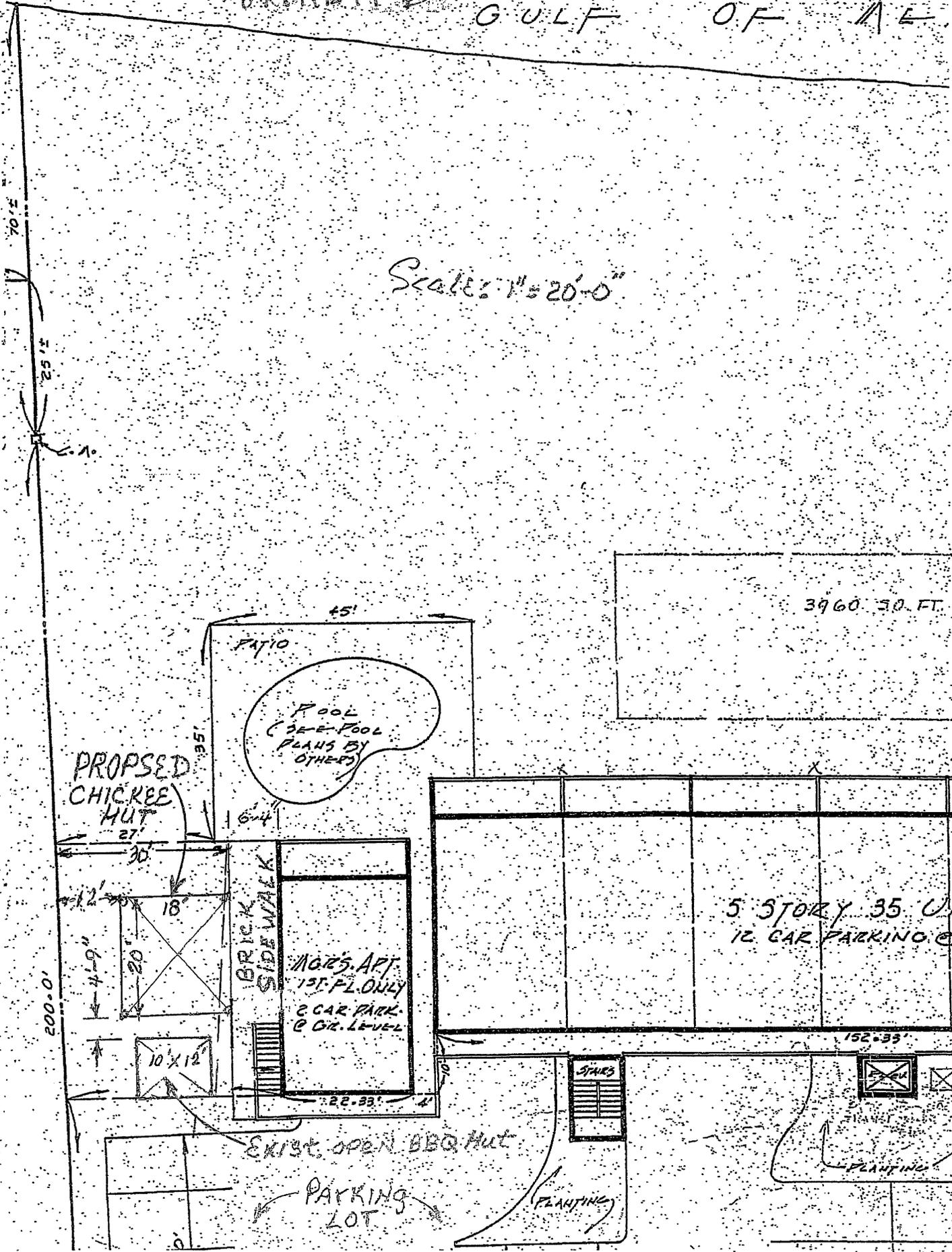
As Recorded in O. R. 1156 at Page 1214:

A tract or parcel of land lying in Government Lot 2, Section 20, Township 46 South, Range 24 East, Estero Island, Lee County, Florida, which tract or parcel is more particularly described as follows:

From the Southeast corner of the fractional Southwest quarter (SW 1/4) of Section 20, Township 46 South, Range 24 East, run westerly along the south line of said Section 20 for 164.37 feet to the northwesterly corner of Lot 20, Block 6 of Gulf Heights Subdivision, according to a map or plat thereof recorded in Plat Book 6 at page 39 of the Public Records of Lee County, Florida; thence run northwesterly at an angle of 139°39' east to northwest for 641.27 feet; thence run northeasterly at an angle of 92°00'00" southeasterly to northeasterly with the last mentioned course along the northwesterly line of the lands conveyed by deeds recorded in Deed Book 127, page 118 and Deed Book 268, pages 538 and 539 of said Public Records for 256 feet more or less to the centerline of Estero Boulevard (State Road No. S-865), the Point of Beginning, of the following described tract or parcel of land. From said Point of Beginning run southeasterly, at an angle of 88°22'00" southwesterly to southeasterly for 250.00 feet to an intersection with the southeasterly line of the lands conveyed by said deeds; thence run southwesterly at an angle of 91°30'00" northwesterly to southwesterly with the last mentioned course along the said southeasterly line to the waters of the Gulf of Mexico; thence run northwesterly along said waters to an intersection with the said northwesterly line of the lands conveyed by said deeds; thence run northeasterly along said northwesterly line to the Point of Beginning. SUBJECT TO the existing right-of-way of Estero Boulevard (State Road No. S-865).

EXHIBIT B GULF OF ME

Scale: 1" = 20'-0"



RESOLUTION OF THE LOCAL PLANNING AGENCY OF
THE TOWN OF FORT MYERS BEACH FLORIDA
RESOLUTION NUMBER 2013-007
VAR2013-0002 – Pointe South Condominium

WHEREAS, applicant Homer Odum, authorized agent for Fort Myers Beach Properties, LLC, is requesting a variance from Section 34-638(b) of the Town of Fort Myers Beach Land Development Code; and

WHEREAS, the applicant has indicated that the STRAP number for the subject property is 28-46-24-W4-02000.00CE and the legal description of the subject property is attached as *Exhibit A*; and

WHEREAS, the subject property is located at 5000 Estero Boulevard, Fort Myers Beach, FL 33931 in the 'Residential Multifamily' and 'Environmentally Critical' zoning category of the Official Zoning Map and the 'Mixed Residential' and 'Recreation' 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 13, 2013; 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 34-638(b) of the Town of Fort Myers Beach Land Development Code subject to the following conditions:

RECOMMENDED CONDITIONS OF APPROVAL:

1. *That the request be limited to the 18' by 20' accessory structure as shown on the applicant's site plan attached as Exhibit B.*
2. *A Type B vegetative buffer as defined in LDC Section 10-416 (3) is implemented and continuous from the existing pool area to the existing grill area.*

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:

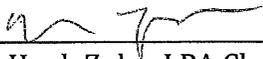
- A. There **are** exceptional or extraordinary conditions or circumstances that are inherent to the property in question, and the request **is** for a de minimis variance under circumstances or conditions where rigid compliance is not essential to protect public policy.
- B. The conditions justifying 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 **Smith** and seconded by LPA Member **Durrett**, and upon being put to a vote, the result was as follows:

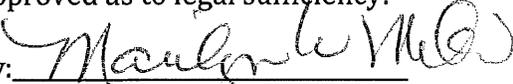
Hank Zuba, Chair	AYE	Joanne Shamp, Vice Chair	absent
Al Durrett, Member	AYE	John Kakatsch, Member	absent
Jane Plummer, Member	AYE	Alan Smith, Member	AYE
Jim Steele	absent		

DULY PASSED AND ADOPTED THIS **13th** day of **AUGUST, 2013**.

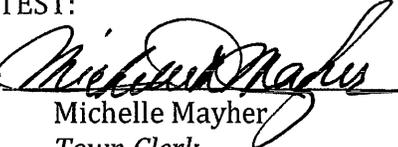
Local Planning Agency of the Town of Fort Myers Beach

By: 
Hank Zuba, LPA Chair

Approved as to legal sufficiency:

By: 
Fowler White Boggs, P.A.
LPA Attorney

ATTEST:

By: 
Michelle Mayher
Town Clerk

DESCRIPTION:

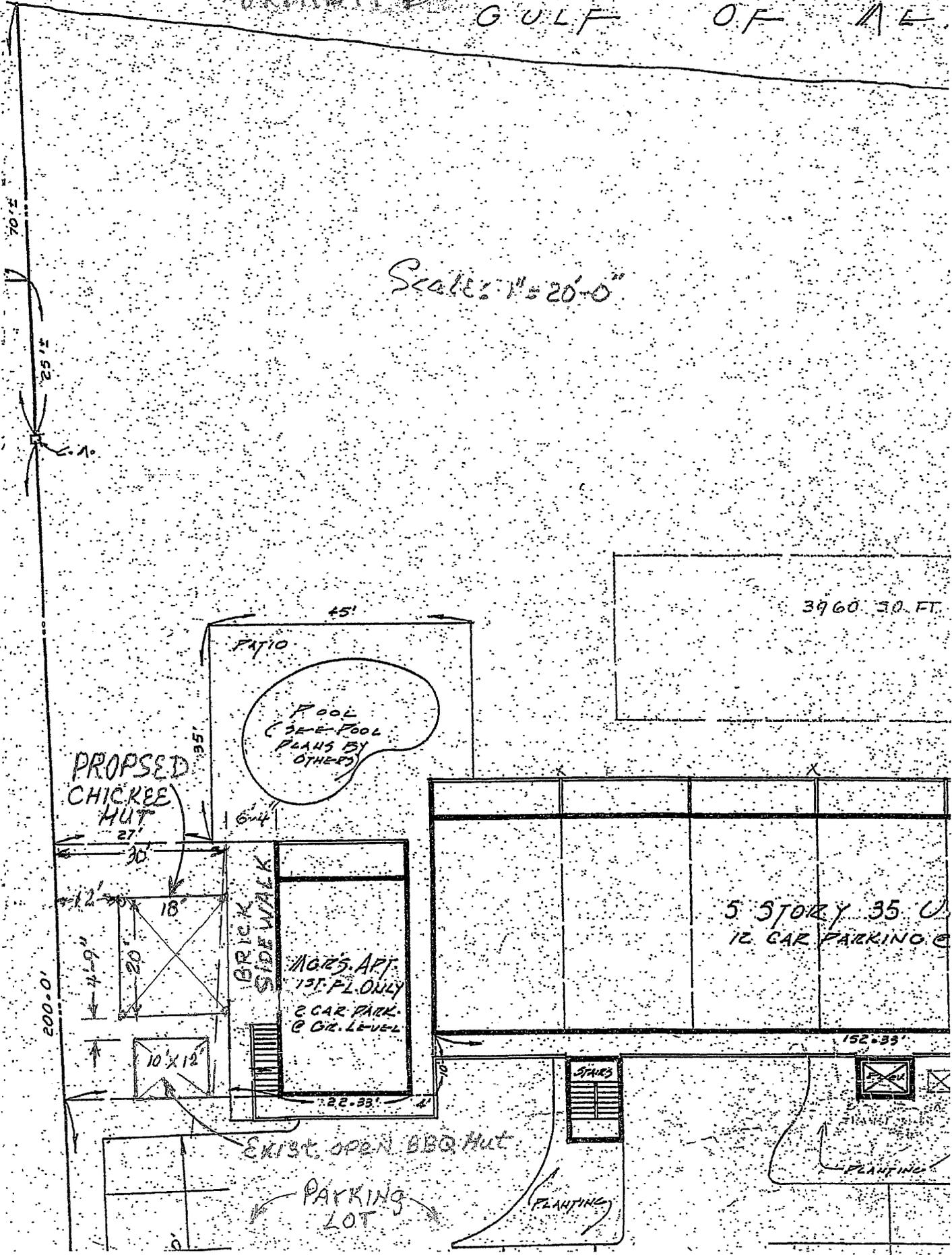
As Recorded in O. R. 1156 at Page 1214:

A tract or parcel of land lying in Government Lot 2, Section 20, Township 46 South, Range 24 East, Estero Island, Lee County, Florida, which tract or parcel is more particularly described as follows:

From the Southeast corner of the fractional Southwest quarter (SW 1/4) of Section 20, Township 46 South, Range 24 East, run westerly along the south line of said Section 20 for 164.37 feet to the northwesterly corner of Lot 20, Block 6 of Gulf Heights Subdivision, according to a map or plat thereof recorded in Plat Book 6 at page 39 of the Public Records of Lee County, Florida; thence run northwesterly at an angle of $139^{\circ}39'$ east to northwest for 641.27 feet; thence run northeasterly at an angle of $92^{\circ}00'00''$ southeasterly to northeasterly with the last mentioned course along the northwesterly line of the lands conveyed by deeds recorded in Deed Book 127, page 118 and Deed Book 268, pages 538 and 539 of said Public Records for 256 feet more or less to the centerline of Estero Boulevard (State Road No. 5-865), the Point of Beginning, of the following described tract or parcel of land. From said Point of Beginning run southeasterly, at an angle of $88^{\circ}22'00''$ southwesterly to southeasterly for 250.00 feet to an intersection with the southeasterly line of the lands conveyed by said deeds; thence run southwesterly at an angle of $91^{\circ}30'00''$ northwesterly to southwesterly with the last mentioned course along the said southeasterly line to the waters of the Gulf of Mexico; thence run northwesterly along said waters to an intersection with the said northwesterly line of the lands conveyed by said deeds; thence run northeasterly along said northwesterly line to the Point of Beginning. SUBJECT TO the existing right-of-way of Estero Boulevard (State Road No. 5-865).

EXHIBIT B GULF OF ME

Scale: 1" = 20'-0"



3960.30 FT.

5 STORY 35 U
12 CAR PARKING @

100'S APT.
1ST. FL. ONLY
2 CAR PARK.
@ GR. LEVEL

PROPOSED
CHICKEE
HUT

BRICK
SIDEWALK

PATIO

POOL
(SEE POOL
PLANS BY
OTHERS)

EXIST. OPEN BBQ HUT

PARKING
LOT

STAIRS

PLANTING

70'

252'

200'-0'

45'

35'

20'

12'

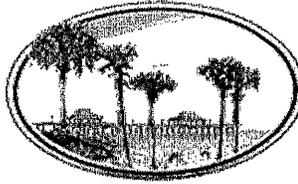
4'-9"

20'

10' x 12'

22'-33"

152'-33"



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

Town Hall – Council Chambers
2523 Estero Boulevard
Fort Myers Beach, Florida
Tuesday, August 13, 2013

I. CALL TO ORDER

Meeting was called to order at 9:03 a.m. by Chair Zuba; other members present:

Al Durrett
John Kakatsch – excused at 11:30 a.m.
Jane Plummer
Joanne Shamp – excused at 11:30 a.m.
Alan Smith
James Steele – excused.
Hank Zuba

LPA Attorney: Marilyn Miller
Staff Present: Walter Fluegel, Community Development Director
Leslee Dulmer, Zoning Coordinator
Josh Overmyer, Planning Coordinator
Shane Marit, DCD Intern

II. PLEDGE OF ALLEGIANCE

III. INVOCATION

IV. MINUTES

A. Minutes of June 11, 2013

Ms. Shamp noted that the time for the LPA reconvened was unknown (Page 8).

Discussion was held; and consensus approved that the Minutes on Page 8 should reflect the LPA reconvened at “approximately 10:30 a.m.”.

MOTION: Mr. Kakatsch moved to approve the Minutes for June 11, 2013 as amended; second by Ms. Shamp.

VOTE: Motion approved, 6-0; Mr. Steele excused.

V. WORKSHOP

A. Joint Workshop with the Outdoor Display Small Group

Retail Merchants Working Group members present: Beverly Grady, Mitch Krohn, John Richard, Bud Nocera, and Council Member Andre.

Zoning Coordinator Dulmer reviewed how last tourist season the Town’s Code Enforcement conducted a sweep of outdoor displays which resulted in community meetings with some of the retail merchants; and then the creation of a smaller group of 5-6 individuals who had been working with Town staff to craft possible amendments to the pertinent Land Development Code (outdoor display in the Downtown District section). She explained that Town staff wanted to present to the LPA, in a workshop format, the changes to the ordinance being proposed by the Retail Merchants Working Group:

- Outdoor display may not be subleased to a separate business/tenant/etc.
- Expressed a desire to adopt the definitions and changes as provided by Beverly Grady in regards to outdoor space, under engineered roof that can be secured at night (examples: Teeki Hut and Ocean Jewels)
- Restrict outdoor displays to private property only.
- All merchandise displayed outdoor must be moved and stored inside at the close of business every day (except for the Teeki Hut example).
- No limits on number or type of displays.
- No kiosk carts.
- All outdoor displays must be on a porch – no displays on patios, concrete, ground level.
- Annual permit is required – fee to be determined.
- No vending or displaying of any food items.
- Point of sale must be indoors.
- No changes to the allowances to tables and chairs for restaurants.

She explained how Town Staff wanted to see an open discussion between the LPA, staff, and the Retail Merchants Working Group, and ultimately a motion from the LPA on the matter. She suggested opening the discussion on the proposed changes.

LPA Attorney Miller noted a proposed ordinance would still need to be drafted and that staff was seeking some basic ideas on which direction the LPA felt staff should take on the matter.

Community Development Director Fluegel pointed out that after staff received input from the LPA today, then staff would continue to meet a few more times with the Retail Merchants Working Group and then begin to draft an ordinance.

Discussion with questions and answers ensued regarding the changes to the ordinance being proposed by the Retail Merchants Working Group (RMWG):

- Outdoor display may not be subleased to a separate business/tenant/etc.
 - DCD Director Fluegel noted the RMWG were fairly unanimous on this issue. Discussed the need for stronger language in the Code to address kiosks and the matter of possible unfair competitive advantage as it related to kiosks; location of existing and prior kiosks; and composition of the members of the RMWG.

Council Member Andre gave a brief history on the RMWG and how he was associated with this group's cause.

John Richard, member of the RMWG noted that the group was working with staff on the issue.

Mitch Krohn, member of the RMWG and owner of the Teeki Hut, offered a brief history of his business and mentioned that he hoped they could all come to a resolution on outdoor displays.

Beverly Grady, Attorney with Roetzel and Andress, noted she was assisting Mr. Krohn, had attended most of the RMWG meetings, and worked on some of the language for the proposed changes to the Code.

Zoning Coordinator Dulmer reported that Julie Schwab and Jacki Lyszak were also on the RMWG; however, they were unable to attend today's meeting but were satisfied with the information included in the memo.

Vice Chair Shamp discussed how she supported the concept wholeheartedly, and liked the 'funky' nature of the Town.

Community Development Director Fluegel reviewed the difficulties with enforcing the ordinance, and how the RMWG worked to eliminate the ambiguities in the ordinance.

Mr. Durrett questioned limitations on outdoor display outside of the Downtown District.

Community Development Director Fluegel noted there were stricter limitations on outdoor displays outside of the Downtown District.

Discussion was held concerning outdoor displays in a commercial shopping center (not in the Downtown District); recurring special events (i.e. farmers' market); and the Santini District and ensuring the proposed ordinance addressed the Santini District as it pertained to special/recurring events and outdoor displays.

Zoning Coordinator Dulmer suggested opening up any outdoor displays for commercially zoned properties.

Discussion ensued regarding outdoor displays in commercial zones outside of the Downtown District; examples of existing outdoor displays outside of the Downtown District (i.e. Publix); subleased kiosks in the Downtown District; and consideration for a separate category for the three designated shopping centers in the Town.

Chair Zuba noted two points from the discussion – 1) the purpose of the kiosk cannot be competitive with the store(s); and 2) it would have to be approved by the tenants in the shopping center.

Zoning Coordinator Dulmer acknowledged that tiers of rules for certain locations could be discussed; however, she noted that a situation should not be created where writing code amendments were allowing mobile vending.

Discussion was held regarding kiosks in a shopping center; restriction of outdoor displays to private property only; and outdoor displays under a covered porch.

Vice Chair Shamp noted the proposed changes submitted by the RMWG was self-regulating, showed an intent by the vendors to have the Town look nice, would help businesses succeed and be fair to competition; and help to keep the Town's rights-of-way clear.

Ms. Plummer questioned if properties without a deck would be able to have an outdoor display.

Zoning Coordinator Dulmer responded in the negative; and reviewed differences between the current code and the proposed changes (i.e. definition of porches and patios). She reviewed the 'forgiving' nature of the definition of a *patio*; and the removal of *patio* and how it would restrict the areas for an outdoor display and better define them.

Discussion was held concerning businesses that could be impacted by the removal of the word '*patio*'.

Zoning Coordinator Dulmer stated she would obtain information for Ms. Plummer regarding the number of businesses that could be impacted by the removal of '*patio*'.

Discussion with questions and answers continued regarding the changes to the ordinance being proposed by the Retail Merchants Working Group (RMWG):

- No limits on number or type of displays.
 - It was noted that "*all merchandise displayed outdoor must be moved and stored inside at the close of business every day*" was a 'self-limiting' proposal; that business had different sized porches; and the Fire Department would insure the ingress/egress was not blocked.
- No kiosk carts.

- Kiosks would have to be put into the primary business each night.
- Restrict outdoor displays to private property only.
 - Review of what could be the dimensions of a patio (i.e. where does it start and stop); how this would encourage people to invest in their buildings; staff to work on creating an overlay or a provision for “*any shopping centers over a total gross square footage of 25,000 square feet*”; more research required on ‘mobile vending’; and consideration for outdoor displays only on private property and not in the public right-of-way.
- Expressed a desire to adopt the definitions and changes as provided by Beverly Grady in regards to outdoor space, under engineered roof that can be secured at night
 - Attorney Grady reported Exhibit B was recognizing that those properties in the Downtown District (primarily in the Times Square area) were making a substantial investment in able to design an addition that was under a common roof for the conventional portion of the building and in the additional area that would be added that they would meet the design standards and they would be able to close it for security. It would have the requirement that in case of a hurricane the items would need to be removed to the inside of the conventional building.
 - Staff to investigate FAR regarding decks.

Community Development Director Fluegel thanked the LPA for the discussion, comments, and suggestions. He requested Mr. Durrett attend the next RMWG meeting.

Discussion was held concerning the appointment of Mr. Durrett by the LPA to represent the LPA at the RMWG meetings.

MOTION: Ms. Shamp moved to appoint Mr. Durrett as the LPA representative at the Retail Merchants Working Group meetings; second by Mr. Smith.

VOTE: Motion approved 6-0; Mr. Steele excused.

Council Member Andre noted the importance of scheduling the next RMWG meeting quickly.

Ms. Plummer questioned if the proposed changes to the ordinance would be for the entire Town or only the Downtown District.

Community Development Director Fluegel reported the changes would be for Section 34-3004, Outdoor Display of Merchandise for Sale or Rent, and would be used for areas outside of the Downtown District. He added at some point that section would reference back to the Downtown District language.

Zoning Coordinator Dulmer asked for a show of hands from the LPA to determine how many members would be in favor of opening the outdoor display, same set of rules, for any commercially zoned property regardless of whether or not it was in the Downtown District.

Chair Zuba, Mr. Kakatsch, and Ms. Plummer each raised their hand.

Discussion was held concerning outdoor displays at commercially zoned properties.

Recessed at 10:05 a.m. – Reconvened at approximately 10:17 a.m.

VI. PUBLIC HEARINGS

A. DCI2012-0003 Lighthouse Resort CPD Amendment

Chair Zuba opened the Public Hearing.

LPA Attorney Miller swore in the witnesses.

Beverly Grady, Attorney with Roetzel and Andress representing the Applicant, presented comments for the CPD Amendment request and noted the following:

- Subject property was a 1.72 acre parcel in the heart of downtown Fort Myers Beach.
- Subject property has been in the ‘Roessler and Kolar’ Family for decades.
- She reviewed historical photo(s) and the background of the subject property; Exhibit ‘C’ in the Staff Report; and how the location of the Sky Bridge had gone through the resort and had impacted the location of the Lighthouse Resort’s office and signage.
- Applicant (Mr. Kolar) remembered his grandfather had been promised a left turn from the Sky Bridge onto Fifth Street; however, the Applicant was not requesting that turn. The resort was surrounded by a public street on all four sides with no direct access into the resort for check-in.
- Displayed and discussed the Master Concept Plan for the subject property.

She commented that the Staff Report was all inclusive and had detailed information regarding the application and that the staff supported the height and location; therefore, she was focusing on the size of the sign. She discussed Exhibit ‘G’ and the depiction of each sign proposed by the Applicant’s sign professional. She reported the sign code in effect in 1999 when the subject property was rezoned a CPD provided for signage on each street; and when the most recent sign code was adopted the Applicant appeared before Council to request language where commercial parcels on two streets would be recognized for additional signage. She added that the Council recognized the subject property was in a unique position being a commercial resort surrounded by four streets without direct access to the main arterial road; and that due to their uniqueness they advised the Applicant to proceed with a public hearing for their request. Attorney Grady pointed out that staff had provided photographs indicating the location of each sign, and reviewed sign details on the visual aid displayed in the Chambers. She stated the Applicant was willing to remove the 18 square feet sign on the main Lighthouse sign; and noted the Lighthouse had acquired two separate businesses (Offshore Inn and a hair salon) which no longer existed. She mentioned the Applicant had one sign on Third Street, Crescent Street, and on Fifth Street. She requested approval of Exhibit ‘G’ signs A, B, C, D, and E with the elimination of 18 square feet on the main Lighthouse sign.

Chair Zuba asked if the Applicant had appeared before the Magistrate on the signage.

Attorney Grady responded in the negative. She reported the Applicant did not receive a Notice of Hearing, so the Magistrate might have spoken with the Code Enforcement officer. She repeated the Applicant did not receive a Notice and they have filed a challenge under the Dispute Resolution Statute.

Vice Chair Shamp asked if the Applicant had gone through the hearing process with the LPA and HPB in an attempt to have the tall lighthouse sign designated as a historic resource. She offered a copy of LPA Resolution 2008-19 to be placed into the record. She reported the Resolution indicated that the historic sign designation request was turned down.

Attorney Grady stated she did not handle the historic sign designation application; that she was aware under the 2011 Sign Code that there were different opportunities to request relief; and one relief would be to request an application for a historic sign; however, it was her understanding there was insufficient information. She noted that today's case was not a request under that provision in the Sign Code, and that it was a request for a deviation in the CPD.

Vice Chair Shamp explained the basis for her questions was due to Exhibit '55 Supplemental Narrative Response to Deviation Criteria' as it pertained to Sign #1.

Attorney Grady explained how the staff had asked if the Applicant was making a request for a historic sign designation and that her response had been in the negative.

Tom Kolar, Applicant, explained that the Lighthouse sign was there because the Sky Bridge was so tall and described problems the site has encountered pertaining to signage and site identification/location for customers.

Planning Coordinator Overmyer presented comments for DCI2012-0003 Lighthouse Resort CPD Amendment (Sign Deviations) on behalf of the Town of Fort Myers Beach. He displayed an aerial photograph of the site noting the location of the subject property which had four street frontages. He noted the existing zoning was CPD and the property was situated in the Pedestrian Commercial Future Land Use Category. He displayed and discussed a historic photograph prior to the Matanzas Pass Bridge of the subject property. He reviewed the Applicant's request to amend the Lighthouse Resort CPD to add deviations from Land Development Code Chapter 30 "Signs" including: numbered beginning from 10, due to nine previous deviations for the Lighthouse Resort CPD. He reviewed the deviations requested:

- Deviation #10 – Relief from LDC Section 30-153(b)(1) allotment of 32 square feet of signage for each of two businesses, for a total of 64 square feet; to allow 126 square feet for the Lighthouse Island Resort and 41.25 square feet for the Tiki Bar, for a total of 167.25 square feet of signage.
- Deviation #11 – Relief from LDC Section 30-154(c) which allows a maximum height of 5 feet for a monument sign; to allow 25' 6" for the Lighthouse "Sign D".
- Deviation #12 – Relief from LDC Section 30-154(c) which allows a maximum height of 5 feet for a monument sign and 18" for the sign base; to allow the bottom of the sign at 4.1' and an overall height of 10.4' for "Sign A" on Third Street.

- Deviation #13 – Relief from LDC Section 30-154(c) which allows a maximum height of 5 feet for a monument sign and 18” for the sign base; to allow the bottom of the sign at 4.1’ and an overall height of 9.7’ for “Sign B” on Crescent Street.
- Deviation #14 – Relief from LDC Section 30-154(c) which allows a maximum height of 5 feet for a monument sign and 18” for the sign base; to allow the bottom of the sign at 4.1’ and an overall height of 9.7’ for “Sign C” on Fifth Street.
- Deviation #15 - Relief from LDC Section 30-154(b) which requires a minimum 3’ setback from any public right-of-way; to allow a 0’ setback for “Sign A” located on Third Street.
- Deviation #16 – Relief from LDC Section 30-154(c) which requires a minimum 3’ setback from any public right-of-way; to allow “Sign B” to remain located entirely within the right-of-way at the intersection of Crescent Street and Fifth Street.

He described the property details:

- 1.673 Acres
- 1051 Fifth Street; 1041, 1049 and 1067 Fourth Street; 1030 Third Street
- Lighthouse Resort and Tiki Bar
- Current Zoning – Commercial Planned Development (CPD)
- Future Land Use – Pedestrian Commercial

He reported staff recommended approval of the requested Deviations #11-16, but recommended denial of Deviation #10 for 167.25 square feet of overall signage; and alternatively, staff recommended approval of 88.8 square feet for Lighthouse Island Resort and 41.25 square feet for Tiki Bar, for a total of 130.05 square feet. He added that staff recommended an alternative for Deviation #10 to allow the existing Lighthouse “Sign D” to remain, as well as a “Tiki Bar” sign located in the parking lot under one of the hotel buildings; and signs on Third, Crescent, and Fifth Streets would decrease from 4’ x 6.1’ in size to 3’ x 4’ (a reduction of 12 square feet per sign).

Mr. Smith questioned the basis for including the “Tiki Bar” sign since it appeared to almost be an ‘inside’ sign.

Planning Coordinator Overmyer explained how the sign could be seen from the right-of-way.

Mr. Kakatsch strongly urged the LPA consider a positive result for a unique piece of property that was difficult to identify and sign for people new to the Beach.

Vice Chair Shamp requested Planning Coordinator Overmyer to re-display certain photographs in order to question sections of the Code. Discussion was held regarding the photographs re-displayed on the overhead screen.

Planning Coordinator Overmyer pointed out that the Applicant was seeking a CPD Amendment for sign deviations and was not being held to variance standards.

Ms. Shamp asked if there was a major difference between the two request types, and LPA Attorney Miller stated “*Under the current codes, yes.*” She explained that the purpose of the CPD was to provide for more flexibility without necessarily having to meet the technical requirements of a variance.

Discussion continued concerning the photographs re-displayed (Sign "A") and the use of posts for the base of the signage in question.

Ms. Plummer asked if the Applicant was willing to shorten the posts (Sign "A") to be flush with the top of the sign face.

Planning Coordinator Overmyer turned to the Applicant in the audience regarding the question; and reported the Applicant's response was in the affirmative.

Discussion continued concerning the photographs re-displayed; and the parking setback for the subject property on Third Street.

Planning Coordinator Overmyer reported the subject property had a previous deviation in Resolution 03-23, Exhibit "F", for 7.4', 4.5', 3', 2.6', 1.5', 1.4', and 0' from the development perimeter as depicted on the Master Concept Plan.

Mr. Kolar, Applicant, reported that the sign displayed in the photograph was located at the property line, and in the future when they construct a new building, the sign would go away; and when he eventually constructed a new building in the front that the lighthouse sign would be removed. He stated the setback in question was a 0' setback.

Discussion was held concerning rights-of-way areas on the subject property and future roadwork; whether or not deviations were listed in the proposed resolution.

LPA Attorney Miller reported any deviations approved should be included in the proposed resolution.

Planning Coordinator Overmyer reviewed how Code Enforcement staff provided a Notice of Violation to someone in the front office at the Lighthouse and property was posted. He added that the Code Enforcement officer reported he provided the Notice of Hearing in the same manner.

Ms. Plummer recounted her personal experience with Code Enforcement posting a Notice of Violation.

Discussion was held concerning the Applicant's request regarding signage.

Attorney Grady reiterated that the Petitioner had not received a Notice of Hearing from the Town.

Discussion was held concerning the information noted by Attorney Grady regarding the Notice of Hearing.

Discussion was held regarding the proposed sign deviations requested by the Applicant; sign dimensions recommended by staff; and proposed conditions for approval.

Public Comment opened.

No speakers.

Public Comment closed.

MOTION: Mr. Kakatsch moved to approve the applicant's request.

LPA Attorney Miller pointed out that the Applicant was willing to make some adjustments: 1) remove 18' square feet from the large monument sign; and 2) cutting off the posts so that they are flush with the top of the other signs which meant that the maximum height of the other signs would be 8.1'.

Planning Coordinator Overmyer reviewed the amended language: a deviation from LDC Section 30-153(b)(1) to allow 149.25 square feet; deviation #3, 4, and #5 at the height of each should be 8.1'.

SECOND: Mr. Smith.

VOTE: Motion approved 4-2; Chair Zuba and Vice Chair Shamp dissenting; Mr. Steele excused.

Public Hearing closed.

Recessed at approximately 11:30 a.m. – Reconvened at 11:40 a.m.

Vice Chair Shamp and Mr. Kakatsch were excused.

B. VAR2013-0002 Pointe South Setback Variance

Chair Zuba opened the Public Hearing.

LPA Attorney Miller swore in the witnesses.

Zoning Coordinator Dulmer noted there were some 'housekeeping' issues:

1. Typo in the proposed resolution – correct number of the Resolution 2013-007.
2. Community Development Intern, Shane Marit, assisted with the case and would present the case.

Community Development Intern Marit presented comments for VAR2013-0002 Pointe South Setback Variance on behalf of the Town of Fort Myers Beach. He displayed an aerial photograph of the site and noted the location of the subject property. He reviewed the Applicant's request:

- Relief from Section 34-638(b) requiring a 20' minimum side setback in the residential multi-family zoning district.
- Specifically requested a 12' side setback where a 20' side setback was otherwise required.

He gave an overview of the background of the subject property:

- Property was developed in 1976

- Zoned under Lee County as Multiple Family Hotel and Motel District (RU-3) which stated “Accessory buildings in all zones shall not be closer than five feet to the side or rear property line”;
- Accessory structure (barbeque hut) and pool area constructed 10’ within the side setback; Florida Department of Health Section 64E-9.008(7.1) stated: “No food or beverages in pool or on pool wet deck”;
- Subject property was now zoned as residential multi-family (RM) and Environmentally Critical (EC).

He reviewed the existing conditions of the subject property as depicted in “Site Plan Exhibit B”, Exhibit “C”. He explained the proposed accessory structure was a Chickee Hut that was 18’ x 20’ with a setback of 12’ from the side property line. He noted the supporting regulations pertaining to the Applicant’s request:

- Section 34-87 – gives Town Council the authority to hear and decide all requests for variances from the terms and restrictions of the LDC; Council must consider whether the fact support the five required findings, staff report and LPA recommendations, testimony from the Applicant, and testimony from the public.
- Section 34-87(3) Findings – before granting any variance, the Town Council must find that all of the following exist:
 - Section 34-87(3)(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.* While the lack of space on a property is not as exceptional or extraordinary circumstances inherent to any property, the side setback in this case does represent a relative hardship to the subject property because the applicant has stated there is no other feasible location for the proposed structure near the existing barbeque hut. The proposed location is landward of the 1978 CCCL. The subject property also has to meet the Department of Health requirements, which prohibits eating or drinking in the pool area. Staff recommended the finding that there are exceptional or extraordinary conditions or circumstances that are inherent and unique to the subject property and that the variance is justified.
 - Section 34-87(3)(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 conditions are not the result of actions of the applicant taken after the adoption of the regulation in question, as the condo was constructed in 1976, well before the adoption of the LDC Section 34-638(b). The principal building was built in accordance with the Lee County Zoning Regulations and the side setback regulation for accessory structures has changed from 5’ to 20’.
 - Section 34-87(3)(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 variance requested is the minimum variance that will relieve the setback burden. The applicant stats the proposed pad of 18’ x 20’ is necessary for the structure to be functional. If the applicant was to construct an accessory structure built to current setback requirement in the proposed location, the structure would only

extend 8' deep. This would limit the functionality of the structure as an effective eating area. Staff recommended that the variance requested was the minimum variance necessary to relieve an undue burden.

- Section 34-87(3)(d) – *That the granting of the variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.* The granting of the variance would not be injurious to the neighborhood or detrimental to the overall public welfare. If granted, the variance may actually be an improvement to public welfare and safety due to the deterrence of residents and their guests eating in the pool area, which is not allowed by Health Department ordinances. Staff recommended that granting the variance as requested by the applicant would not 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.
- Section 34-87(3)(e) – *That the conditions or circumstances on the specific piece of property for which the variance is sought are not of so general a nature as to make it more reasonable and practical to amend the regulation in question.* The 20' side setback in question is not a recurring issue and can usually be complied with on most RM properties. Most RM properties do not have the unique existing circumstances as the subject property, such as the lack of space and feasible locations and the existing non-conforming structures within the setback. Staff found that the circumstances on the specific piece of property for which the variance was sought are not general in nature, and demonstrated a verifiable hardship.

He reported that staff recommended approval with conditions of a setback variance request from Section 34-638(b) to allow a 12' side setback for the construction of an accessory structure where a 20' setback was otherwise required, subject to the following conditions:

1. That the request be limited to the 18' x 20' accessory structure as shown on the applicant's site plan attached as Exhibit B.
2. A Type B vegetative buffer as defined in LDC Section 10-416(3) is implemented and continuous from the existing pool area to the existing grill area.

Zoning Coordinator Dulmer reported staff received 2-3 phone calls with questions about the subject request and that none voiced objections. She added that the proposed accessory structure would not encroach any further into the side setback; and approval would not increase the level of non-conformity.

Homer Odum for Pointe South noted the weekly rentals and how the Health Department was getting stricter as to where patrons were eating. He reported he met with representatives from Smugglers Cove regarding the location of the proposed accessory structure and assured them that the proposed structure would blend in with the landscaping.

Discussion was held concerning the proposed Chickee Hut structure.

Public Comment opened.

No speakers.

Public Comment closed.

Ex-parte communication discussed.

MOTION: Mr. Smith moved to approve VAR2013-0002 Pointe South Setback Variance with conditions as recommended by staff; second by Mr. Durrett.

LPA Attorney Miller noted that the motion should include the Recommended Findings and Conclusions.

Motion maker reviewed the Recommended Findings and Conclusions:

- 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.
- Conditions justifying the variance are not the result of actions of the applicant taken after the adoption of the regulation in question.
- The variance granted is the minimum variance that will relieve the applicant of an unreasonable burden caused by the application of the regulation.
- Granting of the variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.
- That the conditions or circumstances on the specific piece of property for which the variance is sought are not of so general a nature as to make it more reasonable and practical to amend the regulation in question.

VOTE: Motion approved, 4-0; Vice Chair Shamp, Mr. Kakatsch and Mr. Steele excused.

Public Hearing closed.

C. ORD 13-06

Planning Coordinator Overmyer reported staff recommended repeal and replacement of the existing flood regulations in Section 6-401 through 6-474 of the LDC. He added the request was due to the model ordinance was provided by the State's Floodplain Management Office and developed in conjunction with the Florida Building Code Commission to help Florida communities adopt regulations that coordinate with the flood provisions that were now found in the 2010 Florida Building Code. He reported that any higher regulatory codes need to be adopted as technical amendments to the Florida Building Code.

Discussion ensued regarding the proposed ordinance; the recommended repeal and replacement of the existing flood regulations in Section 6-401 through 6-474 of the LDC; flood insurance rates and the Biggert-Waters National Flood Insurance Reform Act of 2012; repetitive loss structures and substantial damage; and the Hazard Mitigation Grant Program; Appraisals from a MAI-certified appraiser; and updating Floodplain Regulations.

MOTION: Mr. Durrett moved to recommend approval of the Ordinance 13-06; second by Mr. Smith.

VOTE: Motion approved, 4-0; Vice Chair Champ, Mr. Kakatsch and Mr. Steele excused.

Historic Preservation Board – Withdrawn

VII. LPA MEMBER ITEMS AND REPORTS

Mr. Durrett – no report.

Mr. Smith – no report.

Chair Zuba – no report.

Zoning Coordinator Dulmer reported the term of three LPA members expired in October (Mr. Smith, Mr. Kakatsch, and Ms. Plummer). She noted that if the members were interested in reappointment that they should submit a letter of intent to the Town Council through the Town Clerk by September 1, 2013.

Ms. Plummer – discussed her views regarding the Town’s Code Enforcement process for posting a Notice of Violation on property.

Mr. Kakatsch – no report – excused earlier.

Vice Chair Champ – no report – excused earlier.

Mr. Steele – no report – excused.

VIII. LPA ATTORNEY ITEMS

LPA Attorney Miller – no items or report.

IX. COMMUNITY DEVELOPMENT DIRECTOR ITEMS

Community Development Director Fluegel no report

Zoning Coordinator Dulmer reported there was an evening Town Council Meeting schedule on August 19th and the Lani Kai sign variance would be on the agenda.

X. LPA ACTION ITEM LIST REVIEW

No discussion.

XI. ITEMS FOR NEXT MONTH'S AGENDA

No discussion.

XII. PUBLIC COMMENT

None.

XIII. ADJOURNMENT

MOTION: Motion by Mr. Durrett, seconded by Mr. Smith to adjourn.

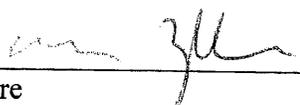
VOTE: Motion approved, 4-0; Vice Chair Shamp, Mr. Kakatsch and Mr. Steele excused.

Meeting adjourned at 12:35 p.m.

Adopted **September 17, 2013 WITH** changes.

Motion by: **Kakatsch**; Second by **Smith**

Vote: **5-0** (Plummer and Shamp excused)



Signature

End of document.



Town of Fort Myers Beach
COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT

TYPE OF CASE: Variance
CASE NUMBER: VAR2013-0002
LPA HEARING DATE: August 13, 2013
LPA HEARING TIME: 9:00 AM

I. APPLICATION SUMMARY

Applicant: Homer Odum,
Property Manager, Pointe South Condominium

Request: Variance in the RESIDENTIAL MULTIFAMILY zoning district from LDC Section 34-638(b) to allow a 12' side setback, where a 20' side setback is otherwise required, for the construction of an accessory structure.

Subject property: See *Exhibit A*

Physical Address: 5000 Estero Boulevard

STRAP #: 28-46-24-W4-02000.00CE

FLU: Mixed Residential & Recreation

Zoning: RESIDENTIAL MULTIFAMILY (RM)
ENVIRONMENTALLY CRITICAL (EC)

Current use(s): Multifamily Condominium

Adjacent zoning and land uses:

North: Recreation (Tennis Court),
RESIDENTIAL SINGLE FAMILY (RS),
Low Density

South: Gulf of Mexico
ENVIRONMENTALLY CRITICAL (EC)
Recreation

East: Multifamily Condominium
RESIDENTIAL MULTIFAMILY (RM)
Mixed Residential & Recreation

West: Single-family dwelling units
RESIDENTIAL PLANNED DEVELOPMENT (RPD)
Mixed Residential & Recreation

II. BACKGROUND AND ANALYSIS

Background:

The subject property was originally developed in 1976 with a five story multi-family residential structure and a two story office. The subject property was historically zoned as MULTIPLE FAMILY HOTEL and MOTEL DISTRICT (RU-3). Section 18(4) of the Lee County Zoning Regulations adopted June 27, 1962 states "accessory buildings in all zones shall not be closer than five feet (5') to the side or rear property line."

The variance requested is to allow a 12' side setback where the Land Development Code Section 34-683(b) requires a 20' side setback from any adjacent property (see attached Site Plan *Exhibit B*). There is a pool located on the Gulf side of the property. In addition to the pool, there is pool equipment and existing grill area (barbeque hut) located within the 20' required side setback; see attached Photos *Exhibit A*.

The applicant's plans call for an accessory structure (chickee hut) to be constructed between the pool equipment and barbeque hut within the 20' side setback. The proposed structure is to be constructed at a setback of 12' from the side property line. The applicant notes that this structure will not be any closer to the adjacent property than the existing pool or barbeque area. The proposed structure is landward of the 1978 Coastal Construction Control Line (CCCL). The proposed structure is proposed to be 18' by 20'; see attached Site Plan *Exhibit B*.

The applicant states the proposed chickee hut would be used as an outdoor eating area to complement the grill area. To be compliant with health department ordinances, the subject property is not able to have food or beverages within the fenced pool area.

Analysis:

The applicant would like to provide an outdoor eating area for guests who utilize the existing grill area. This cannot be accomplished with the current arrangement as health department regulations do not allow any food or beverages within the pool area. Florida Department of Health Section 64E-9.008(7.1) states, "No food or beverages in pool or on pool wet deck." This means there is a limited amount of options for where residents can eat outdoors, especially when they use the barbeque area to cook their food.

The requested variance would allow the proposed accessory structure to encroach 8' into the minimum 20' setback. The proposed accessory structure will not extend into the setback any further than the current existing non-conforming structures, i.e. pool and barbeque area. This variance would not affect the current setback of the distance between the side property boundary line to the nearest structure. This means if the variance is granted the level of non-conformity will not increase.

If the chickee hut were to be built to current setback requirements, the dimensions would be 8' by 20'. These dimensions would make the structure essentially unusable as an eating area.

Even though the applicant already has structures within the side setback, this does not mean he has a vested right to build additional structures within the setback. The applicant had previously abided by the Lee County Zoning regulations from 1962.

The change of the setback of 5' from the time the condo was built (1976) until the current setback of 20' has brought a hardship to the subject property. On most RM locations the 20' setback is acceptable, but a 12' setback is more reasonable for the subject property. The 8' setback decrease is not a very sizable request.

The proposed chickee hut is not a required improvement, but is an elective addition of the applicant. The applicant states that this proposal would provide an added amenity to the subject property. The purpose of the structure is to provide an outdoor eating area for residents and guests that meet Department of Health regulations.

The subject property is limited in the amount of area and options available to construct an outdoor eating area. The applicant has stated this is the only feasible place for this accessory structure. He also states that if the variance is granted, there will be no effect on any neighboring property, as the proposed location is hidden from view on three sides.

Findings and Conclusions:

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

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

While the lack of space on a property is not as exceptional or extraordinary circumstance inherent to any property, the side setback in this case does represent a relative hardship to the subject property because the applicant has stated there is no other feasible location for the proposed structure near the existing barbeque hut. The proposed location is landward of the 1978 CCCL. The subject property also has to meet the Department of Health requirements, which prohibits eating or drinking in the pool area.

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

The conditions are not the result of actions of the applicant taken after the adoption of the regulation in question, as the condo was construction in 1976 prior to the adoption of the LDC Section 34-638(b). The principal building was built in accordance to the Lee County Zoning Regulations and the side setback regulation for accessory structures has changed from 5' to 20'.

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

The variance requested is the minimum variance that will relieve the setback burden. The applicant states the proposed pad of 18' by 20' is necessary for the deck to be functional.

If the applicant was to construct an accessory structure built to current setback requirement in the proposed location, the structure would only extend 8' deep. This would limit the functionality of the structure as an effective eating area.

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

The granting of the variance will not be injurious to the neighborhood or detrimental to the overall public welfare. If granted, the variance may actually be an improvement to public welfare and safety due to the deterrence of residents and their guests eating in the pool area, which is not allowed by health department ordinances.

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

The 20' side setback in question is not a recurring issue and can usually be complied with on most RM properties. Most RM properties do not have the unique existing circumstances as the subject property, such as the lack of space and feasible locations and the existing non-conforming structures within the setback.

III. RECOMMENDATION

The applicant's request for a variance of the 20' setback relieved to 12' for a proposed accessory structure would not encroach on the adjacent property. The proposal of the applicant may not be *de minimis*, but the request would improve the services and safety of the guests for the subject property. The subject property is currently challenged by conflicting regulations between complying with health department standards and zoning setback requirements. Therefore, Staff recommends approval of the requested variance from LDC 34-638(b) to allow a 12' side setback for the construction of an accessory structure where a 20' setback is otherwise required, subject to the following conditions:

3. That the request be limited to the 18' by 20' accessory structure as shown on the applicant's site plan attached as *Exhibit B*.
4. A Type B vegetative buffer as defined in LDC Section 10-416 (3) is implemented and continuous from the existing pool area to the existing grill area.

IV. CONCLUSION

Staff recognizes the difficulty of the subject property to comply with both town setback regulations and Department of Health requirements. When considering that and the location of the existing pool equipment and barbeque hut that also encroach into the side setback, staff recommends **APPROVAL WITH CONDITIONS**.

Exhibits:

- A – Survey
- B – Site Plan
- C – Photos of subject property

The 20' side setback in question is not a recurring issue and can usually be complied with on most RM properties. Most RM properties do not have the unique existing circumstances as the subject property, such as the lack of space and feasible locations and the existing non-conforming structures within the setback.

III. RECOMMENDATION

The applicant's request for a variance of the 20' setback relieved to 12' for a proposed accessory structure would not encroach on the adjacent property. The proposal of the applicant may not be *de minimis*, but the request would improve the services and safety of the guests for the subject property. The subject property is currently challenged by conflicting regulations between complying with health department standards and zoning setback requirements. Therefore, Staff recommends approval of the requested variance from LDC 34-638(b) to allow a 12' side setback for the construction of an accessory structure where a 20' setback is otherwise required, subject to the following conditions:

1. That the request be limited to the 18' by 20' accessory structure as shown on the applicant's site plan attached as *Exhibit B*.
2. A Type B vegetative buffer as defined in LDC Section 10-416 (3) is implemented and continuous from the existing pool area to the existing grill area.

IV. CONCLUSION

Staff recognizes the difficulty of the subject property to comply with both town setback regulations and Department of Health requirements. When considering that and the location of the existing pool equipment and barbeque hut that also encroach into the side setback, staff recommends **APPROVAL WITH CONDITIONS**.

Exhibits:

A - Survey

B - Site Plan

C - Photos of subject property

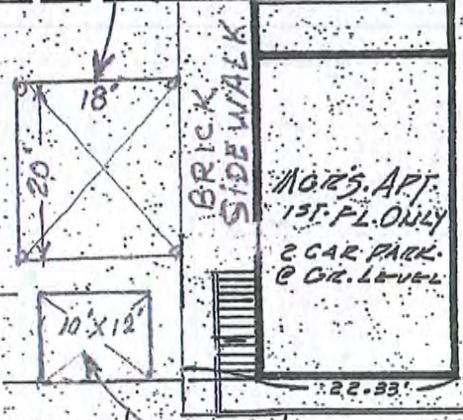
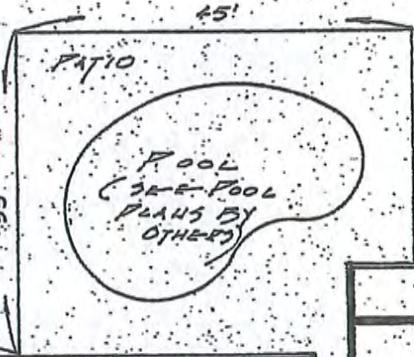
ADDITIONAL B GULF OF ME

Scale: 1" = 20'-0"

70.5'
25.5'
2.10

3960.30 FT.

PROPOSED CHICKEE HUT
27'



200.0'

152.33'

EXIST. OPEN BBQ HUT

PARKING LOT

PLANTING

PLANTING

STAIRS



EXHIBIT (C)

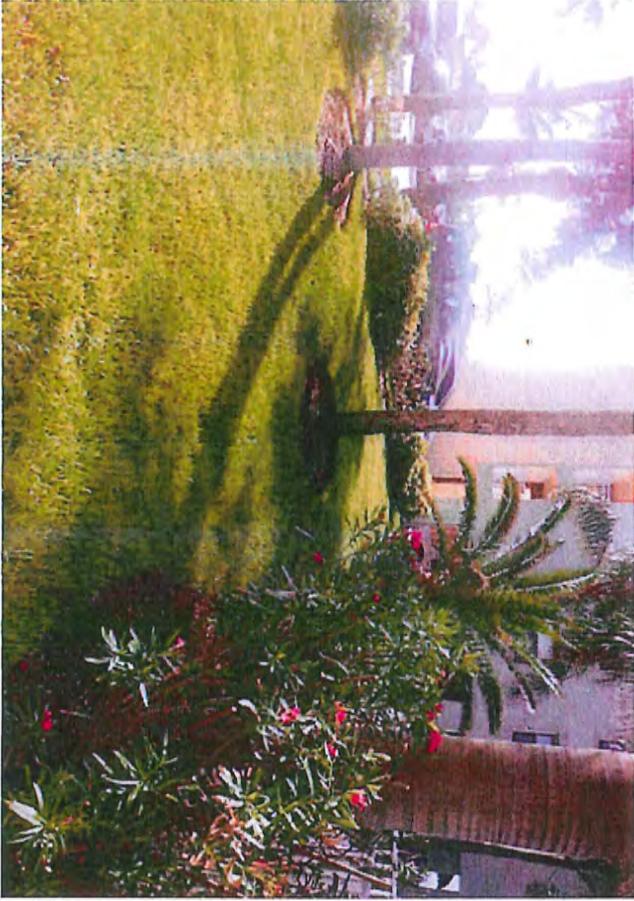


EXHIBIT C





EXHIBIT (C)







Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT

APPLICATION for PUBLIC HEARING

This is a two part application. Please be sure to fill out this form, which requires general information, as well as the Supplemental Form application specific to action requested for the subject property. Please submit *one ORIGINAL paper copy, eleven (11) copies and one digital/electronic copy* of all required applications, supplemental information, exhibits and documents. Please do not print and copy the instructions at the end of the application.

PROJECT NUMBER: VAR2013-0002 DATE: 6/25/13

Site Address: 5000 ESTERO BLVD

STRAP Number: 28-46-24-W4-02000-000.F

Applicant: Pointe South Condominium Phone: 239 463-4009

Contact Name: HomeR ODUM Phone: 239 989 8811

Email: PTESouth@Earthlink.net Fax: 239 463-4618

Current Zoning District: RM

Future Land Use Map (FLUM) Category: MR, R

FLUM Density Range: _____ Platted Overlay: YES NO

ACTION REQUESTED

SUPPLEMENTAL FORM REQUIRED

- | | |
|---|--------------------------|
| <input type="checkbox"/> Special Exception | PH-A |
| <input checked="" type="checkbox"/> Variance | PH-B |
| <input type="checkbox"/> Conventional Rezoning | PH-C |
| <input type="checkbox"/> Planned Development <input type="checkbox"/> Commercial <input type="checkbox"/> Residential | PH-D |
| <input type="checkbox"/> Master Concept Plan Extension | PH-E |
| <input type="checkbox"/> Appeal of Administrative Action | PH-F |
| <input type="checkbox"/> Vacation of Platted Right-of-way and Easement | PH-G |
| <input type="checkbox"/> Other - cite LDC Section: _____ | attach on separate sheet |

PART I - General Information

A. Applicant*: Pointe South Condo Phone: 239-463-4009

*Applicant must submit a statement under oath that he/she is the authorized representative of the property owner. Please see PART III to complete the appropriate Affidavit form for the type of applicant.

Applicant Mailing Address: 5000 ESTERO BLVD

Email: PTE SOUTH @ EARTHLINE.NET Fax: 239 463-4618

Contact Name: HOMER ODUM Phone: 239 989 8811

B. Relationship of Applicant to subject property:

- Owner*
- Land Trust*
- Partnership*
- Corporation*
- Association*
- Condominium*
- Subdivision*
- Timeshare Condo*
- Contract Purchaser*
- Authorized Representative*
- Other* (please indicate) _____

*Applicant must submit a statement under oath that he/she is the authorized representative of the property owner. Please see PART III to complete the appropriate Affidavit form for the type of applicant.

C. Authorized Agent(s). Please list the name of Agent authorized to receive correspondence Agents

Name: HOMER ODUM PROP MAN Phone: 239 989 8811

Address: 5000 ESTERO BLVD FT MYERS BEACH FL 33931

Email: HODUM @ COMCAST.NET Fax: _____

D. Other Agent(s). Please list the names of all Authorized Agents (attach extra sheets if necessary)

Name: JOHN WILHELM PRES Phone: 419-210-0983

Address: 5000 ESTERO BLVD #203-205

Email: PTE SOUTH @ EARTHLINE.NET Fax: 239.463.4618

Name: _____ Phone: _____

Address: _____

Email: _____ Fax: _____

Name: _____ Phone: _____

Address: _____

Email: _____ Fax: _____

PART II - Nature of Request

Requested Action (each request requires a separate application)

- Special Exception
- Variance from LDC Section 34 - 638(B)
- Conventional Rezoning from _____ to _____
- Planned Development
 - Rezoning from _____ to Commercial PD Residential PD
 - Amendment. List the project number: _____
 - Extension/reinstatement of Master Concept Plan. List project number: _____
- Appeal of Administrative Action
- Vacation Right-of-Way Easement
- Other. Please Explain: _____

PART III - Waivers

Please indicate any specific submittal items that have been waived by the Director for the request. Attach a copy of the signed approval as Exhibit 3-1. (Use additional sheets if necessary)

- Code Section: _____ Description: _____
- Code Section: _____ Description: _____
- Code Section: _____ Description: _____

PART IV - Property Ownership

- Single Owner (individual or husband and wife)
 - Name: _____ Phone: _____
 - Mailing Address: _____
 - Email: _____ Fax: _____

Multiple Owners (including corporation, partnership, trust, association, condominium, timeshare, or subdivision)

Complete Disclosure of Interest Form (see below)

Attach list of property owners as Exhibit 4-1

Attach map showing property owners interests as Exhibit 4-2 (for multiple parcels)

For condominiums and timeshares see Explanatory Notes Part IV (Page 11)

DISCLOSURE OF OWNERSHIP INTEREST

STRAP: 28-46-24-W4-02000.00CF

If the property is owned in fee simple by an INDIVIDUAL, tenancy by the entirety, tenancy in common, or joint tenancy, list all parties with an ownership interest as well as the percentage of such interest.

Name and Address

Percentage Ownership

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

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

Name, Address and Office

Percentage of Stock

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

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

Name and Address	Percentage of Interest
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

If the property is in the name of a GENERAL PARTNERSHIP OR LIMITED PARTNERSHIP, list the names of the general and limited partners.

Name and Address	Percentage of Ownership
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

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

Name, Address and Office	Percentage of Stock
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

Date of Contract: _____

EXHIBIT

4-1

1-098

Pointe South Condominium

5000 Estero Blvd.

Fort Myers Beach, FL 33931

239-463-4009

Owner Master List General

by Property

Run Date: 07/02/2013 11:35:41 AM

Property

Owner

Phone Numbers

PS100

Pointe South Rental#100

5000 Estero Blvd.

Fort Myers, FL 33931

Pointe South

5000 Estero Unit #100

Fort Meyers Beach

FL, FL 33931 US

Property Phone Number

Contact Phone Number

Contact Fax Number

(239) 210-3810 Apt

(239) 210-3810

Email ptesouth@earthlink.net

PS101

Pointe South Condo.#101

5000 Estero Blvd Unit 101

Fort Myers Beach, Fl 33931

Eugene Stack

142 N Western Avenue

Lake Forest, IL 60045 US

Property Phone Number

Contact Phone Number

Contact Fax Number

(239) 463-0669 Apt

(847) 234-3073 Home

(847) 234-3563 Mom

(239) 463-0669 Leo

(239) 463-0669

(239) 297-7454

Email e.stack@sbcglobal.net

PS102

Pointe South Condo.#102

5000 Estero Blvd Unit 102

Fort Myers Beach, Fl 33931

Carol Vonhoff

O So. 926 Skyline Drive

Batavia, IL 60510 US

Property Phone Number

Contact Phone Number

Contact Fax Number

(630) 879-9387 home

(630) 479-9387 cell

(239) 765-9387 Apt

(239) 765-9387

(630) 879-9426

Email c_vonhoff@yahoo.com

PS103

Pointe South Condo.#103

5000 Estero Blvd Unit 103

Fort Myers Beach, Fl 33931

James/Louise Shea

P.O. Box 423

Madison, CT 06443

Property Phone Number

Contact Phone Number

Contact Fax Number

(239) 314-0322 Apt

(203) 421-4360 Home

(239) 314-0322

Email jshea83477@sbcglobal.net

2048

Owner Master List General

by Property

Run Date: 07/02/2013 11:35:41 AM

<u>Property</u>	<u>Owner</u>	<u>Phone Numbers</u>
PS104 Pointe South Condo.#104 5000 Estero Blvd Unit 104 Fort Myers Beach, FI 33931	Robert Giordano 27 Chelsea Drive Oak Ridge, NJ 07438 US Property Phone Number Contact Phone Number Contact Fax Number	(239) 765-4167 Apt (973) 697-4451 Home (973) 214-0153 Cell (239) 765-4167 (973) 532-9794
Email robert@giordanocummings.com		
PS105 Pointe South Condo.#105 5000 Estero Blvd Unit 105 Fort Myers Beach, FI 33931	Doreen Eccelstone 59 Lashmere Copthorne Crawley West Sussex RH10 3RR UK Property Phone Number Contact Phone Number Contact Fax Number	(239) 463-0419 Apt (011) 441-342 (717) 228- (239) 463-0419
Email alidebmilliken@gmail.com		
PS106 Pointe South Condo.#106 5000 Estero Blvd Unit 106 Fort Myers Beach, FL 33931	Karin Dubuc 1220-37th Avenue N.E St. Petersburg, FL 33704 Property Phone Number Contact Phone Number Contact Fax Number	(239) 463-2624 Apt (727) 821-5558 Home (727) 368-4438 Tina (727) 418-8864 Cell (239) 463-2624
Email kdubuc1@hotmail.com		
PS107 Pointe South Condo.#107 5000 Estero Blvd Unit 107 Fort Myers Beach, FI 33931	Jack White 2085 Barren River Rd Bowling Green, KY 42101 US Property Phone Number Contact Phone Number Contact Fax Number	(270) 221-5243 home (270) 392-0526 cell (270) 904-0395 work (239) 314-0325 Apt (239) 314-0325 (270) 842-4078
Email ewr@insightbb.com		
PS201 Pointe South Condo.#201 5000 Estero Blvd Unit 201 Fort Myers Beach, FI 33931	Donna Thomasson P.O.Box 267 Durham, CT 06422 US Property Phone Number Contact Phone Number Contact Fax Number	(239) 765-4138 Apt (203) 481-8300 Home (860) 347-4686 Bus (203) 676-6339 Cell (239) 765-4138
Email djthouse@aol.com		

3 of 8

Owner Master List General

by Property

Run Date: 07/02/2013 11:35:41 AM

Property

PS202
Pointe South Condo.#202
5000 Estero Blvd Unit 202
Fort Myers Beach, FI 33931

Email gailcolby@sbcglobal.net

PS203
Pointe South Condo.#203
5000 Estero Blvd Unit 203
Fort Myers Beach, FI 33931

Email jack.wilhelm@columbus.rr.com

PS204
Pointe South Condo.#204
5000 Estero Blvd Unit 204
Fort Myers Beach, FI 33931

Email jnlange74@gmail.com

PS205
Pointe South Condo.#205
5000 Estero Blvd Unit 205
Fort Myers Beach, FI 33931

Email clubnev@comcast.net

PS206
Pointe South Condo.#206
5000 Estero Blvd Unit 206
Fort Myers Beach, FI 33931

Email RVMaplelawn@aol.com

Owner

Gail Colby
13 Bellstone Ave

Westbrook, CT 06498 US
Property Phone Number
Contact Phone Number
Contact Fax Number

Jack Wilhelm
323 South Marion Street

Cardington, OH 43315 US
Property Phone Number
Contact Phone Number
Contact Fax Number

John/Nancy Lange
418 Hawthorne Ave

South Milwaukee, WI 53172 US
Property Phone Number
Contact Phone Number
Contact Fax Number

Randy/ Maria Neverman
11947 Island Ave

Matlacha, FL 33993 US
Property Phone Number
Contact Phone Number
Contact Fax Number

Jack/Ruth Vickers
Rt 1 Box 140

Peterstown, WV 24963
Property Phone Number
Contact Phone Number
Contact Fax Number

Phone Numbers

(239) 314-0327 Apt
(203) 444-0291 Cell
(860) 399-6233 cott

(239) 314-0327

(239) 463-3648 Apt
(419) 864-2781 Home
(419) 210-0983 Cell
(419) 864-2781 Fax
(239) 463-3648

(419) 864-2781

(239) 463-5878 Apt
(414) 762-5213 Home
(414) 762-7770 Work
(414) 975-5213 Cell
(239) 463-5878

(414) 762-7555

(239) 765-5732 Apt
(239) 283-7579 Home
(239) 936-1553 Bus
(239) 470-0756 Cell
(239) 765-5732

(239) 283-3937

(239) 463-3639 Apt
(304) 753-4498 Home
(304) 887-2703 Cell
(304) 887-8205 Cell
(239) 463-3639

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Owner Master List General

by Property

Run Date: 07/02/2013 11:35:41 AM

<u>Property</u>	<u>Owner</u>	<u>Phone Numbers</u>
PS207 Pointe South Condo.#207 5000 Estero Blvd Unit 207 Fort Myers Beach, FI 33931	ILA M Spafford Trust 5242 Andrea Blvd Orlando, FL 32807 US Property Phone Number Contact Phone Number Contact Fax Number	(239) 463-5349 Apt (407) 737-4629 Home (321) 438-6535 Cell (239) 463-5349
Email ims207@aol.com		
PS301 Pointe South Condo.#301 5000 Estero Blvd Unit 301 Fort Myers Beach, FI 33931	Jim & Robin Paton 3206 Royal Fox Dr St. Charles, IL 60177 US Property Phone Number Contact Phone Number Contact Fax Number	(239) 463-0868 Apt (630) 584-0456 Home (847) 277-9850 Work (847) 571-7635 Cell (239) 463-0868 (847) 571-7253
Email jpaton@exceldirectinc.com		
PS302 Pointe South Condo.#302 5000 Estero Blvd Unit 302 Fort Myers Beach, FI 33931	William Cook 115 Shore Drive Lyme, CT 06371 Property Phone Number Contact Phone Number Contact Fax Number	(239) 463-1516 Apt (860) 434-2093 Home (203) 265-1678 Bus (203) 668-6506 Cell (239) 463-1516 (203) 265-1670
Email cookcottage@hotmail.com		
PS303 Pointe South Condo.#303 5000 Estero Blvd Unit 303 Fort Myers Beach, FL 33931	Duane Linden 6955 Carisle Court #D 209 Naples, FL 34109 US Property Phone Number Contact Phone Number Contact Fax Number	(239) 765-6159 Apt (239) 597-5863 Home (239) 765-6159
Email duanelinden@aol.com		
PS304 Pointe South Condo.#304 5000 Estero Blvd Unit 304 Fort Myers Beach, FI 33931	Dave & Anne Russell 9 Upper Ridge Court Markham Ontario L3S 3W6 CA Property Phone Number Contact Phone Number Contact Fax Number	(416) 518-9075 cell (416) 518-9074 cell (416) 293-9159 home (239) 463-2710
Email midsteel@hotmail.com		

50f8

Owner Master List General

by Property

Run Date: 07/02/2013 11:35:41 AM

<u>Property</u>	<u>Owner</u>	<u>Phone Numbers</u>
PS305 Pointe South Condo.#305 5000 Estero Blvd Unit 305 Fort Myers Beach, FI 33931 Email denysef@hotmail.com	John Wilhelm 323 South Marion Street Cardington, OH 43315 US Property Phone Number Contact Phone Number Contact Fax Number	(239) 463-5739 Apt (419) 864-2781 Home (419) 210-0983 Cell (239) 463-5739 (419) 864-2781
PS306 Pointe South Condo.#306 5000 Estero Blvd Unit 306 Fort Myers Beach, FI 33931 Email madvor@sbcglobal.net	Edward Dvorchak 413 East 14th Ave Naperville, IL 60540 US Property Phone Number Contact Phone Number Contact Fax Number	(239) 463-0778 Apt (630) 357-3313 Home (480) 641-8393 Arz (239) 463-0778
PS307 Pointe South Condo.#307 5000 Estero Blvd Unit 307 Fort Myers Beach, FI 33931 Email LKT1956@aol.com	Mary Steinhilber 3216 Royal Oak Ct. Edgwood, KY 41017 US Property Phone Number Contact Phone Number Contact Fax Number	(239) 463-3486 Apt (859) 578-0930 Lisa (859) 512-0733 Cell (239) 463-3486 (513) 624-1237
PS401 Pointe South Condo.#401 5000 Estero Blvd Unit 401 Fort Myers Beach, FI 33931 Email cespenlaub@embarqmail.com	Christine Howell 407 East Avenida del Rio Clewiston, FL 33440 Property Phone Number Contact Phone Number Contact Fax Number	(239) 314-0323 Apt (863) 983-7650 Home (561) 996-3165 Bus (863) 673-1179 Cell (239) 314-0323
PS402 Pointe South Condo.#402 5000 Estero Blve Unit 402 Fort Myers Beach, FI 33931 Email jgjensen8416@msn.com	George Jensen 8416 Palm Street N. W. Coon Rapids, MN 55433 Property Phone Number Contact Phone Number Contact Fax Number	(239) 463-0245 Apt (763) 712-0431 Home (763) 755-0446 Work (612) 240-4009 Cell (239) 463-0245

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Owner Master List General

by Property

Run Date: 07/02/2013 11:35:41 AM

Property

Owner

Phone Numbers

PS403
Pointe South Condo.#403
5000 Estero Blvd Unit 403
Fort Myers Beach, FL 33931

Pat Preston
1541 Seymour Ave N.W.

Grand Rapids, MI 49504
Property Phone Number
Contact Phone Number
Contact Fax Number

(239) 463-3485 Apt
(616) 453-6879 Home
(616) 784-2393 Bus
(616) 784-8144 Fax
(239) 463-3485

Email Irishlp340@att.net

PS404
Pointe South Condo.#404
5000 Estero Blvd Unit 404
Fort Myers Beach, FL 33931

Kevin/Carol Bennis
291 Fisher Landing Rd

Jarvisburg, NC 27947 US
Property Phone Number
Contact Phone Number
Contact Fax Number

(239) 314-0324 Apt
(703) 749-9120 Home
(252) 491-2305 Home
(203) 282-5649 Cell
(239) 314-0324

Email kevinbennis@verizon.net

PS405
Pointe South Condo.#405
5000 Estero Blvd Unit 405
Fort Myers Beach, FL 33931

David/Judi Trudel
1807 Settlers Reserve Way

Westlake, OH . 44145 US
Property Phone Number
Contact Phone Number
Contact Fax Number

(239) 463-0994 Apt
(440) 871-4975 Home
(440) 668-9228 Cell

Email trudels@ameritech.net

PS406
Pointe South Condo.#406
5000 Estero Blvd Unit 406
Fort Myers Beach, FL 33931

Mark/Judy Tanner
1848 North CR 225 East

Attica, IN 47918 US
Property Phone Number
Contact Phone Number
Contact Fax Number

(239) 463-9153 Apt
(765) 762-6821 Home
(765) 490-1328 Bus
(765) 490-6545 Cell
(239) 463-9153

Email Jtanner11@aol.com

PS407
Pointe South Condo.#407
5000 Estero Blvd Unit 407
Fort Myers Beach, FL 33931

Betty Putnam
143 Spinnaker Ridge Dr #41

Wells, ME 04090 US
Property Phone Number
Contact Phone Number
Contact Fax Number

(239) 463-4256 Apt
(207) 646-7542 Home
(207) 251-6562 Cell

Email bettyputman88@gmail.com

7-028

Owner Master List General

by Property

Run Date: 07/02/2013 11:35:41 AM

Property

Owner

Phone Numbers

PS501
Pointe South Condo.#501
5000 Estero Blvd Unit 501
Fort Myers Beach, FL 33931

Roxanne Kroese
16855 Marble Ave

Le Mars, IA 51031 US
Property Phone Number
Contact Phone Number
Contact Fax Number

(239) 463-4147 Apt
(712) 540-7777 Cell
(712) 546-4501 Home

(239) 463-1621

(712) 546-7239

Email rxiekroese@yahoo.com

PS502
Pointe South Condo.#502
5000 Estero Blvd Unit 502
Fort Myers Beach, FL 33931

Sally Carmichael
6740 Donald Avenue

(239) 463-3088 Apt
(216) 524-5819 Home
(216) 534-1222 Cell

Valley View, OH 44125
Property Phone Number
Contact Phone Number
Contact Fax Number

(239) 463-3088

(216) 573-1512

Email sallycarm@aol.com

PS503
Pointe South Condo.#503
5000 Estero Blvd Unit 503
Fort Myers Beach, FL 33931

Susan Soderstrom
11 Rocky Point Road

(239) 463-5360 Apt
(860) 388-6617 Home
(860) 227-3750 Cell

Old Saybrook, CT 06475 US
Property Phone Number
Contact Phone Number
Contact Fax Number

(239) 463-5360

Email bellanona@comcast.net

PS504
Pointe South Condo.#504
5000 Estero Blvd Unit 504
Fort Myers Beach, FL 33931

Robert Kroese
2310 Ridge Road

(239) 314-0329 Apt
(712) 722-1508 Home
(712) 441-1508 Cell

Sioux Center, IA 51250 US
Property Phone Number
Contact Phone Number
Contact Fax Number

(712) 441-2051 Cell
(239) 314-0329
(712) 722-3365

Email rpkroese@mtcnet.net

PS505
Pointe South Condo.#505
5000 Estero Blvd Unit 505
Fort Myers Beach, FL 33931

Robert & Patricia D. Weber
5748 Nicklaus Drive

(239) 210-0714 Apt
(970) 402-6285 cell
(970) 227-8377 cell

Fort Collins, CO 80528 US
Property Phone Number
Contact Phone Number
Contact Fax Number

(970) 266-8385 Home
(239) 210-0714

Email RFWeber53@gmail.com

8048

Owner Master List General

by Property

Run Date: 07/02/2013 11:35:41 AM

Property

PS506
Pointe South Condo.#506
5000 Estero Blvd Unit 506
Fort Myers Beach, FI 33931

Email iridium29@aol.com

PS507
Pointe South Condo.#507
5000 Estero Blvd Unit 507
Fort Myers Beach, FI 33931

Email evielay@gmail.com

Owner

Joseph Bombace
P.O.Box 182

Scarsdale, NY 10583
Property Phone Number
Contact Phone Number
Contact Fax Number

Evelyn Lay
480 Watters Road

Hackettstown, NJ 07840 US
Property Phone Number
Contact Phone Number
Contact Fax Number

Phone Numbers

(239) 765-4516 Apt
(914) 793-2317 Home
(914) 882-5216 Cell
(914) 793-7249 Fax
(239) 765-4516

(239) 765-4798 Apt
(908) 979-0908 Home
(201) 317-7328 Cell

(239) 765-4798

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

Name	Address

For any changes of ownership or changes in contracts for purchase subsequent to the date of the application, but prior to the date of final certificate of compliance, a supplemental disclosure of interest must be filed.

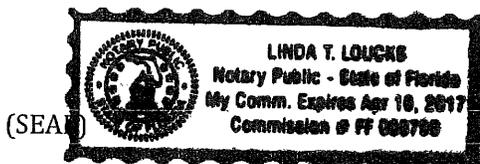
The above is a full disclosure of all parties of interest in this application, to the best of my knowledge and belief.

Homer Odum
Signature

HOMER ODUM
Printed Name

STATE OF FLORIDA)
COUNTY OF LEE)

The foregoing instrument was sworn to (or affirmed) and subscribed before me on June 25, 2013 (date) by Homer Odum (name of person providing oath or affirmation), who is personally known to me or who has produced _____ (type of identification) as identification.



Linda T. Loucks
Signature

LINDA T. LOUCKS
Printed Name

PART V - Property Information

A. Legal Description:

STRAP: 28-46-24-W4-02000.00CE

Property Address: 5000 ESTERO BLVD FT MYERS BEACH FL 33931

Is the subject property within a platted subdivision recorded in the official Plat Books of Lee

County? No. Attach a legible copy of the legal description as Exhibit 5-1.

Yes. Property identified in subdivision: _____

Book: _____ Page: _____ Unit: _____ Block: _____ Lot(s): _____

B. Boundary Survey:

Attach a Boundary Survey of the property meeting the minimum standards of Chapter 61G17-6 of the Florida Administrative Code. 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. Attach and label as Exhibit 5-2.

C. Property Dimensions:

Width (please provide an average width if irregular in shape) _____ feet

Depth (please provide an average width if irregular in shape) _____ feet

Frontage on street: _____ feet. Frontage on waterbody: _____ feet

Total land area: _____ acres square feet

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

Attach Area Location Map as Exhibit 5-3

E. Property Restrictions (check applicable):

There are no deed restrictions and/or covenants on the subject property.

A list of deed restrictions and/or covenants affecting the subject property is attached as Exhibit 5-4.

A narrative statement detailing how the restrictions/covenants may or may not affect the request is attached as Exhibit 5-5.

F. Surrounding Property Owners (these items can be obtained from the Lee County Property Appraiser):

- Attach a list of surrounding property owners within 500 feet as Exhibit 5-6.
- Attach a map showing the surrounding property owners as Exhibit 5-7.
- Provide Staff with two (2) sets of surrounding property owner mailing labels.

G. Future Land Use Category (see Future Land Use Map):

- | | |
|---|--|
| <input type="checkbox"/> Low Density | <input type="checkbox"/> Marina |
| <input checked="" type="checkbox"/> Mixed Residential | <input type="checkbox"/> Recreation |
| <input type="checkbox"/> Boulevard | <input type="checkbox"/> Wetlands |
| <input type="checkbox"/> Pedestrian Commercial | <input type="checkbox"/> Platted Overlay |

H. Zoning (see official Zoning Map):

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

PART VI

AFFIDAVIT

APPLICATION IS SIGNED BY AN INDIVIDUAL OWNER OR APPLICANT

I, Homer Odum swear or affirm under oath, that I am the owner or the authorized representative of the owner(s) of the property and that:

I have full authority to secure the approval(s) requested and to impose covenants and restrictions on the referenced property as a result of any action approved by the Town of Fort Myers Beach in accordance with this application and the Land Development Code;

All answers to the questions in this application and any sketches, data or other supplementary matter attached hereto and made a part of this application are honest and true;

I have authorized the staff of the Town of Fort Myers Beach Community Development to enter upon the property during normal working hours for the purpose of investigating and evaluating the request made thru this application; and that

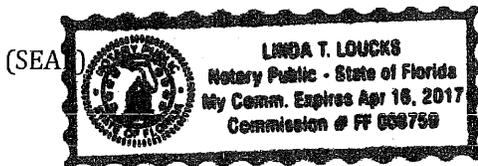
The property will not be transferred, conveyed, sold or subdivided unencumbered by the conditions and restrictions imposed by the approved action.

Homer Odum
Signature of owner or authorized agent

6/24/13
Date

STATE OF FLORIDA)
COUNTY OF LEE)

The foregoing instrument was sworn to (or affirmed) and subscribed before me on June 25, 2013 (date) by Homer Odum (name of person providing oath or affirmation), who is personally known to me or who has produced _____ (type of identification) as identification.



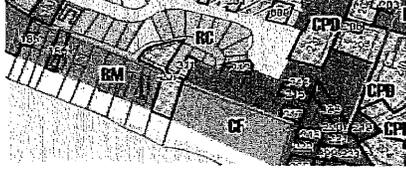
Linda J. Loucks
Signature

LINDA T. LOUCKS
Printed Name

Case # _____
Planner _____

Date Received _____
Date of Sufficiency/Completeness _____

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



Zoning Division

Supplement PH-B

**Additional Required Information for a
Variance Application**

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

Case Number:
Project Name:
Authorized Applicant:
LeePA STRAP Number: 28-46-24-W4-02000.00CE

Current Property Status:
Current Zoning:
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 34-638 (B)	Title of Section or Subsection

Complete the narrative statements below for EACH variance requested.

Case # _____
Planner _____

Date Received _____
Date of Sufficiency/Completeness _____

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

It would not have any effect on the property to our south because it will not be any closer than what our grill area or pool area is now see attached photos



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

We are a small complex and space is very hard to come by we have 35 owned unit, that are weekly rentals. We have a small pool area that we have used to try to accommodate our guest on places to eat when they cook out unfortunately the county Health Dept has always had a no drink or food in pool area rule that needs to be addressed so this was a to address it with out having any issues with our guest. We have looked at all areas of property and this is the only place that would work it is close to pool and grill area and is hide from street and gulf by our main building grilling area and landscaping. We generate bed tax and sales tax to the community and the two other complex that are close and like ours both have a nice eating area for there guest. If you have driven dy Pointe South Condominiums you would see the property is well maintained so this would be a great addition for us with out having any effect on any property. If you look at the drawings you can see that the north ,east and west sides of deck are all facing our property.

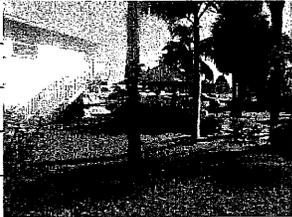
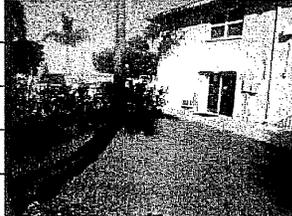
Pointe South Condominium thinks this would be a great asset to our property and to our rental program.

Thank You

Homer Odum

Case # _____
Planner _____

Date Received _____
Date of Sufficiency/Completeness _____

Explain how the property qualifies for a variance. Direct this explanation to the guidelines for decision-making in LDC Section 34-87.		
A. The least possible of the 20ft set back is 12ft for our deck		
B. This is not the result of actions taken after the adoption of the regulation in question		
C. No the variance is not to releive Pointe South Condominium of unreasonable burden caused by Pointe South of the regulation in question.		
D. Grantingthe variance would NOT be injurious to the neighborhood or detrimental to public walfare.		
E. This variance is for the use of Pointe South and Pointe South's guest to have a place to eat outside and to put us in compliance with the Board of Health as to not eat in pool area.		
		
		
		
The deck will not go any closer than our grilling area or pool fence the deck will be set in side of these soe you have a referrance.		
Thank You		
Homer Odum		

VARIANCE REPORT

7/3/2013

Subject Parcels: 1 Affected Parcels: 171 Buffer Distance: 500 ft



28-46-24-W4-02000.00CE

230172.5115 57.5 0

230 Feet

THE INFORMATION CONTAINED IN THIS REPORT IS GOVERNED BY FLORIDA STATUTE 119.071
(GENERAL EXEMPTIONS FROM INSPECTION OR COPYING OF PUBLIC RECORDS).

B GULF OF ME

Scale: 1" = 20'-0"

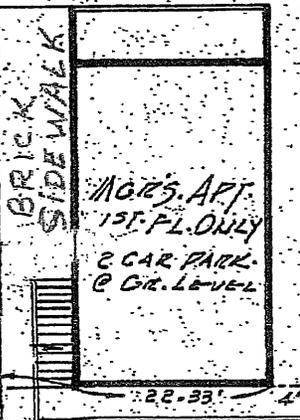
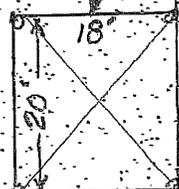
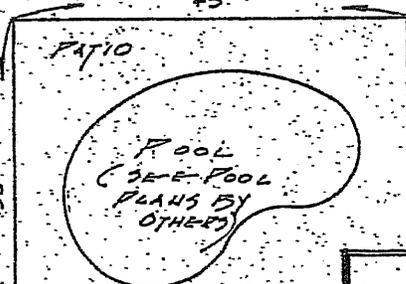
70'±

25'±

C.A.

3960.50 FT.

PROPOSED CHICKEE HUT
27'



152.33'

STAIRS

EXIST. CORN. BBQ HUT

PARKING LOT

PLANTING

PLANTING

200'-0"

