

**MINUTES**  
**FORT MYERS BEACH**  
**Code Enforcement**  
Town Hall  
2525 Estero Boulevard  
Fort Myers Beach, FL 33931

**Wednesday, February 22, 2017**

**Hearing Examiner - Special Magistrate:** Mr. Joe Madden

Mr. Madden swore in those providing testimony.

Property Owner: WHITE SWAN INVESTMENTS LLC (Continued)  
SUBJECT: LDC Section: 34-621 Non-Permitted USE - Converted SFR to Quad-Plex  
LOCATION: 203/205 Fairweather Ln.  
STRAP NO: 19-46-24-W3-0110C.0090  
CODE OFFICER: Molly Jacobs  
REFERENCE NO: CE16-0445

Ms. Jacobs inspected the property on August 9, 2016 and September 7, 2016. She found the following condition: non-permitted use - a converted single family residence to a quadplex. The action necessary to correct the violation is to revert the structure to a single family residence, obtain all permits and pass all subsequent inspections. Notice of violation was provided to the property owner via certified mail on September 9, 2016 and was unclaimed. Notice of violation was sent to the registered agent via certified mail on August 15, 2016 and it was claimed. Notice of hearing was sent to the property owner via certified mail on September 24, 2016 and it was claimed. It was sent to the registered agent via certified mail on September 26, 2016 and it was claimed. An amended notice of hearing was communicated to the property owner and registered owner verbally on November 15, 2016.

Ms. Jacobs presented pictures of the condition she took on August 9, 2016 and by the Lee County Property Appraiser (LEEPA) on November, 2004 and August, 2013. The pictures accurately reflected the condition of the property. Ms. Jacobs inspected the property on January 24, 2017 and February 21, 2017 and found the violation still existed. Ms. Jacobs revealed that an application for a remodel was submitted on June 6, 2016.

If the hearing found a violation, the Town requested a finding of fact, revert to a single family residence, obtain all required permits and pass all subsequent inspections by March 17, 2017; otherwise, a fine per day pursuant to code with \$175 in administrative costs.

(Jim Moon represented the respondent and spoke starting at 25:29 but he was not recorded.) Ms. Jacobs noted that the field card stated it was a triplex in 1965. The application and appraisal submitted June 6, 2016 indicated there were four units. (Mr. Moon spoke again at 27:11, but was not recorded.) He provided Ms. Jacobs with photos. Ms. Jacobs did not have any objections.

Mr. Moon indicated that the first time it was shown as a quadplex was in 2013. He submitted evidence to Ms. Jacobs and Mr. Madden. There were no objections to including the exhibit as evidence. The evidence was an MLS listing of the property when it was marketed in 2013 as a

Siegle

quadplex. He noted there were multiple code enforcement checks on the property. He stated the property owner was attempting to improve the structure and he asked that it be left as a triplex, at the very least, but they preferred that it be considered a quadplex. Mr. Moon referred to the Seagull decision regarding shipping containers and the document was entered into the record. He could not provide evidence of when the triplex was converted to a quadplex. Ms. Jacobs agreed that the property was considered a triplex since 1965.

Mr. Madden questioned whether the Town was amenable to finding it as a triplex. Ms. Jacobs noted the lower level appeared to be removed and replaced. Mr. Moon suggested leaving two units upstairs and one downstairs. Mr. Moon suggested meeting with the owner and the Town to come up with a solution.

Mr. Madden found that the quadplex was a non-permitted use in the zoning category. The evidence substantiated that the property was developed as a triplex at some point in the past. He gave the Respondent until April 14, 2017 to submit all permits and May 19, 2017 to have final inspections; otherwise a fine of \$100.00 per day will be charged. Mr. Madden ordered \$175.00 in administrative costs to be paid by April 14, 2017.

To demo 1 lower unit

Property Owner: ISLANDS END CONDO PHASE III  
SUBJECT: Town of FMB Code Sec. 26-45 Unpermitted Kayak Ramp  
LOCATION: 8405 Estero Blvd.  
STRAP NO: 03-47-24-W3-05400.00CE  
CODE OFFICER: Rae Blake, Environmental & Stormwater Technician acting as Environmental Code Officer  
REFERENCE NO: CE16-0692

An agreement was reached between Mr. Repetti, President of the Condominium Association, and Ms. Blake that a permit will be submitted to the Town by April 14, 2107 and final inspections passed by April 26, 2017. Mr. Repetti received a letter from Tetra Tech concerning a violation on an open permit in 2012. Mr. Repetti indicated that he was not sure whether the issue would hold up him regarding obtaining a permit. He stated he may need to ask for more time. Mr. Madden did not see a problem with an extension.

Ms. Jacobs remarked that the driveway code case could be addressed at another time. The other cases had two months to be completed. She stated she would be willing to allow three months for the driveway case. Mr. Repetti replied that all cases would be completed in two months and if more time was needed, he would contact Ms. Jacobs. He requested a copy of the file on the driveway permit. Ms. Jacobs agreed to provide it by the end of the day.

Mr. Madden found that regarding case CE16-0692, the Town and Respondent agreed the kayak permit will be submitted by April 14, 2017 with final inspections due April 26, 2017; otherwise a fine of \$150.00 per day will be charged. Administrative fees of \$175.00 are due by April 14, 2016. Mr. Madden noted that Case CE16-0682 regarding the unsafe dock was structured the same with administrative fees waived. The same time and fee structure is in place for CE16-0660 regarding work without a permit structure by the pool with electric with administrative fees waived. The same time and fee structure is in place for CE16-0683 expired permit for the driveway with administrative fees waived.

Property Owner: UNKNOWN HEIRS OF MANNER RICHARD  
SUBJECT: LDC SEC 6-111 Unsafe Building  
LOCATION: 1667 I Street  
STRAP NO: 19-46-24-W4-0070B.005A  
CODE OFFICER: Molly Jacobs  
REFERENCE NO: CE16-0645

Ms. Jacobs and Lee County Building Inspector Randy Southerd inspected the property on November 2, 2016. She found the following condition: an unsafe building. The action necessary to correct the violation is to obtain a permit within 60 days of receipt of notice and complete work within 120 days of receipt of permit. Permit application for a deck was submitted on August 10, 2015.

Notice of violation was provided to the property owner on November 5, 2016 and it was claimed. It was posted on the property on November 2, 2016 and posted at Town Hall on November 3, 2016. Notice of hearing was provided to the property owner on January 11, 2017 and it was claimed.

Ms. Jacobs presented pictures she took on November 2, 2016 that accurately reflected the condition of the property. Ms. Jacobs and Mr. Southerd inspected the property on February 17, 2017 and found the violation still existed.

If the hearing found a violation, the Town requested a finding of fact, vacate the building and obtain a permit to repair or demo structure and pass all subsequent inspections by April 14, 2017; otherwise, a fine per day pursuant to code with \$275 in administrative costs. Ms. Jacobs noted that CE14-0191 had a lien on it for replacing the decking without a permit.

Hal Eskin  
Harold ? (couldn't hear last name) represented the heirs. He indicated the tenant finally vacated the property and they were in a position to evaluate what had to be done. He did not contest the condition of the property and he requested 60 days to apply for a permit and 60 days thereafter to do construction if they decided to renovate. Ms. Jacobs agreed with the timeline.

Mr. Madden ordered that the permits be obtained by April 14, 2017 and the structure remain vacant until final permits have been inspected and passed by June 4, 2017; otherwise a fine of \$150.00 per day will be imposed. He ordered an administrative fee of \$275.00 to be paid by April 14, 2017.

Property Owner: EDISON PETROLEUM INC. - REOCCURRING VIOLATION  
SUBJECT: LDC Section : 34-621 Operating outside of the USE of the property  
LOCATION: 1510 Estero Blvd  
STRAP NO: 19-46-24-W4-0070C.0020  
CODE OFFICER: Molly Jacobs  
REFERENCE NO: CE17-0069

On February 4 and 5, 2017, Beach and Street Enforcement Officer Nello Cernoia witnessed the property being used as a parking lot. Ms. Jacobs witnessed the violation on February 6 and 7, 2017.

She found the following condition: operating outside the use of the property. The action necessary to correct the violation is to discontinue use of a parking lot or obtain a permit for the change in use. A combined notice of violation and hearing was provided to the property owner on February 16, 2017 and was unclaimed. The notices were sent to the registered agent on February 8, 2016 and were claimed. The notices were posted to the property and at Town Hall on February 6, 2017.

Ms. Jacobs presented pictures taken by Nello Cernoia on February 4 and 5, 2017 and pictures she took on February 6 and 7, 2017 that accurately reflected the condition of the property. She inspected the property on February 17 and 21, 2017 and found the violation no longer existed.

If the hearing found a violation, the Town requested a finding of fact, an administrative fee of \$223.00 from the January 25, 2017 Magistrate Hearing, \$175.00 administrative costs from the February 22, 2017 hearing and a fine of \$900.00, which was four instances of violation at \$225.00 each. Ms. Jacobs noted the store was not open.

Joe Orlandini stated that he purchased the property and was waiting to close. He has established a lease on the property, but the neighboring parking lot had been using his lot to park. Mr. Orlandini caught him numerous times and he tried blocking access to the parking lot.

Mr. Madden found that a violation occurred, \$223.00<sup>fine</sup> deferred administrative cost ~~will be~~ imposed if it happens again, \$175.00 in administrative fees will be charged and \$900.00 to be paid. *JS*

#### MITIGATION CASES TO BE HEARD:

Property Owner: RICK CHRISTENSON  
SUBJECT: LDC Section: 6-111 Adoption of Florida Building Code 105.1 Required  
LOCATION: 320 Lazy Way  
STRAP NO: 33-46-24-W2-0090B.0010  
CODE OFFICER: Molly Jacobs  
REFERENCE NO: CE16-0101

Ms. Jacobs reviewed the case and noted they were ordered to pass all inspections prior to August 31, 2016; otherwise a fine of \$100.00 per day would be charged. The administrative fee of \$175.00 was paid. The total amount was \$17,000.00. Ms. Jacobs recommended \$500.00.

Mr. Christenson did not realize he needed a permit for the outdoor kitchen and he had medical issues to attend to out-of-state. Mr. Madden mitigated the fine to \$250.00 payable within 30 days.

Property Owner: STINGRAYS RAW BAR INC  
SUBJECT: LDC Section: 6-111 Occupying Outdoor Seating Area w/out a CO  
LOCATION: 250 Old San Carlos  
STRAP NO: 24-46-23-W3-00204.0010  
CODE OFFICER: Molly Jacobs  
REFERENCE NO: CE16-0417

Ms. Jacobs noted the case was brought to the Magistrate on September 28, 2016. The issued order required Respondent to secure required permit and pass subsequent inspections prior to

October 20, 2016; otherwise a fine of \$250.00 per day. LDO 2015-0002 was closed on December 19, 2016 and commercial permit COM 14-0326 was final on December 20, 2016. The lien was \$13,000.00. Ms. Jacobs will accept \$1,500.00.

Tommy Kolar, owner, appreciated the reduction in fine and he requested another reduction. He stated they were not able to meet some deadlines due to the installation of a sprinkler system and a monitoring system. He requested \$750.00.

Mr. Madden ordered Mr. Kolar to pay \$1,000.00 within 30 days.

**RECALL CASES TO BE HEARD:**

Property Owner: LUEBKER HAL H TR FOR HA  
SUBJECT: LDC Section: 6-111 Adoption of Florida Building Code 105.1 Required  
LOCATION: 130 Bahia Via  
STRAP NO: 34-46-24-W4-00021.0010  
CODE OFFICER: Molly Jacobs  
REFERENCE NO: CE16-0110

Ms. Jacobs stated the case was originally brought before the Magistrate on June 29, 2016. The Respondent was ordered to obtain a permit for renovation to ground level by July 29, 2016 and pass all inspections by January 27, 2017; otherwise a fine of \$100.00 per day. Neither requirement had been met and she asked the court to issue the order to lien. Ms. Jacobs noted she has not had contact with the Respondent.

Mr. Madden found that the violation had not been abated by the abatement date and he imposed ??? - audio broke up.

Property Owner: PFITZ II LLC  
SUBJECT: Town Code 304.2 Property Maintenance  
LOCATION: 2633 Estero Blvd.  
STRAP NO: 19-46-24-W3-0020C.0160  
CODE OFFICER: Molly Jacobs  
REFERENCE NO: CE16-0350

Ms. Jacobs stated the case was brought before the Magistrate on January 25, 2017. The issued order required necessary repairs or replacements along with required permits prior to February 10, 2017; otherwise a fine of \$150.00 per day. As of February 21, 2017 the violation still exists. Ms. Jacobs asked the court to issue the order to lien.

Mr. Madden imposed the lien and found the abatement did not occur.

Cases abated: CE16-0577, CE16-0603, CE16-0604, CE16-0633, CE16-0673, CE16-0652, CE16-0665, CE16-0619, CE17-0054, CE17-0055, CE17-0010, CE17-0083 and CE16-0488 was withdrawn.

Vote: OK 3/8/17 Signature: [Handwritten Signature]

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Property Owner: Adalberto Rocha  
SUBJECT: Handicap  
LOCATION: Estero Blvd  
BASE OFFICER: Dean Heasley  
REFERENCE NO: Citation 72500438

While patrolling the area on January 31, 2017 at approximately 11:29 a.m., Mr. Heasley approached a silver Mercedes, FL license 1Y0YI that was parked in a handicapped space at 2211 Estero Blvd. He issued a citation and asked for a \$250.00 fine and \$175.00 for administration fees. Mr. Heasley provided pictures.

Mr. Rocha stated that the parking space was located at his place of business and he was unloading the car. There were the only two cars there 96% of the time. He was concerned that Mr. Heasley did not go into the store to locate the owner and that he was not issued a warning like his neighbor. Mr. Rocha indicated that no one else in the store. Mr. Heasley stated that he did not look for owners and did not issue warnings. Mr. Rocha lamented the hefty amount for a first-time offense.

Mr. Madden found that a violation did exist and ordered Mr. Rocha to pay the \$250.00 fine within 45 days and he waived the administrative fees.

Property Owner: Frank Pizzuti  
SUBJECT: Not a legal space  
LOCATION: Strandview Ave  
BASE OFFICER: Jim Rediske  
REFERENCE NO: Citation 70923812

Mr. Rediske was patrolling the area on February 3, 2017 at 2:42 p.m. when he saw a red Harley Davidson motorcycle, Florida license plate 6972LV, that was not parked in a legal space on Strandview Avenue. He issued a parking citation for parking in an illegal space. He asked that a fine of \$75.00 be paid plus \$175.00 in administrative fees. Mr. Rediske provided photos.

Mr. Pizzuti stated that he entered Newton Park to use the restroom. He was concerned that his motorcycle would fall over in the sandy lot, so he parked it on the tarmac next to the fence. He indicated it did not obstruct anyone. Mr. Rediske commented that he would have obstructed vehicles backing out of the handicapped space and the shell base was very hard.

Mr. Madden ordered Mr. Pizzuti to pay a fine of \$75.00 and \$67.50 in administrative fees within 45 days.

Property Owner: Chad Gehrs  
SUBJECT: Prohibited by Sign  
LOCATION: Third Street  
BASE OFFICER: Todd Sears  
REFERENCE NO: Citation 71014344

While patrolling the area on January 12, 2017 at about 1:50 p.m., Mr. Sears observed a vehicle parked in a no parking zone on Third Street. He issued a citation and asked for a \$75.00 fine and \$175.00 in administrative fees. Mr. Sears provided pictures.

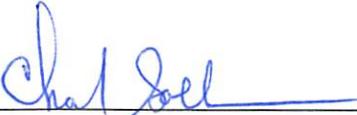
Mr. Madden entered the order for \$75.00 and \$175.00 in administrative fees payable within 45 days.

Property Owner: Chris D. Blackburn  
SUBJECT: Vehicle on the Beach (Quad)  
LOCATION:  
BASE OFFICER: Todd Sears  
REFERENCE NO: 0110

Mr. Sears was notified by Scott Baker, Public Works Director, on January 25, 2017 at approximately 12:30 p.m. that a red Quad runner was travelling southbound on the sand. Mr. Sears found the vehicle parked on the sand behind Junkanoo. Mr. Blackburn admitted to driving on the beach. Mr. Sears issued a citation for no vehicles on the beach, which Mr. Blackburn took. He asked for a \$100.00 fine plus \$175.00 in administrative fees.

Mr. Madden entered an order of \$100.00 plus \$175.00 in administrative fees, payable within 45 days.

Cases abated: 0108, 0109 and Citation 70922655.

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

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