

Town of Fort Myers Beach
Agenda Item Summary

Blue Sheet Number: **2012-105**

1. Requested Motion:

Meeting Date: Nov. 5, 2012

Approve the request for a sign variance for the Dolphin Inn from LDC Section 30-93(b) (right-of-way setback) to allow a 0' setback.

Deny the request for a sign variance for the Dolphin Inn from LDC 30-154(c) (standards for monument signs) for a base height of 2'10" and overall height of 9'.

Why the action is necessary:

This action will grant the applicant a 0' setback which Staff and LPA recommend is the minimum variance necessary per LDC Section 34-87, and deny a sign height that is not the minimum variance necessary per Section 34-87.

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:

This is a continuance of case VAR2012-0002, Dolphin Inn sign variance, which was originally heard at the October 1, 2012 Town Council meeting.

After hearing from both Staff and the applicant, Council continued the case to November 5, 2012 meeting in order to allow the applicant, with assistance from Staff, to provide additional detail and analysis pertaining to their request.

Staff met with the applicant on-site on October 12th to further discuss the case. The applicant submitted the requisite additional rationale on October 22nd in which they maintain their request for a variance from Section 30-93(b), which requires a 3' setback from any street right-of-way to allow a 0' street setback, and a variance from 30-154(c), which limits the height of a monument sign to be elevated no more than 18" above grade and 5' overall to allow 2'10" for the monument base and an overall height of 9'.

Staff recommends an alternative sign height which includes a 3' sign base and a 6'6" overall sign height.

Attachments:

- Draft Town Council resolution, 12-19
- Update Memo from Staff
- Applicant submittal per Council direction from 10/1/12 meeting
- LPA resolution 2012-010
- LPA minutes from the August 14, 2012 meeting
- LPA packet including staff report from the August 14, 2012 meeting

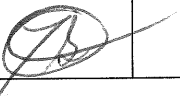
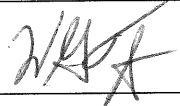
6. Alternative Action:

1. Deny the requested variance
2. Approved the requested variance including conditions
3. Approve the requested variance subject to alternative conditions

7. Management Recommendations:

Approve the requested sign variance for a 0' setback and approved the alternative sign height which includes a 3' base and 6'6" overall height as recommended by Staff.

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 12-19
VAR2012-0002 - Dolphin Inn Sign Variance

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

WHEREAS, the applicant has indicated that the STRAP number for the subject property is 134-46-24-W4-02600.00CE and the legal description of the subject property is attached as *Exhibit B*; and

WHEREAS, the subject property is located at 6555 Estero Boulevard, Fort Myers Beach, FL 33931 in the Commercial Resort zoning category of the Official Zoning Map and the Mixed Residential category of the Future Land Use Map of the Comprehensive Plan of the Town of Fort Myers Beach, Florida; and

WHEREAS, a public hearing on this matter was legally advertised and held before the Local Planning Agency (LPA) on August 14, 2012; and

WHEREAS, at the hearing the LPA gave full and complete consideration to the request of Applicant, recommendations of staff, the documents in the file, and the testimony of all interested persons, as required by Fort Myers Beach Land Development Code (LDC) Section 34-87.

WHEREAS, a public hearing on this matter was legally advertised and held before the Town Council on November 5, 2012, at which time the Town Council gave full and complete consideration to the request of Applicant, LPA Resolution 2012-010, the recommendations of Staff, the documents in the file, and the testimony of all interested persons, as required by Fort Myers Beach Land Development Code (LDC) Section 34-87.

IT IS HEREBY RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, as follows:

Based upon the presentations by the applicant, staff, and other interested persons at the hearing, and review of the application, LPA Resolution 2012-010 and the standards for granting variances, the Town Council makes the following findings of fact, and reaches the following conclusions:

The Town Council **APPROVES/DENIES** the applicant's request for a variance from Section 30-93(b) to allow a 0' setback from the property line of the subject property; and

The Town Council **APPROVES/DENIES** the applicant's request for a variance from Section 30-154(c) of the LDC to permit a _____' tall sign base and an overall sign height of _____', measured from the highest adjacent grade or the crown of the adjacent street, whichever is

higher, to the highest point of the sign face or its supporting structural elements, with the approval subject to the following conditions:

CONDITIONS OF APPROVAL:

1. Approval of this variance does not exempt the subject property from the LDC Section 30-55 permit requirements for signs.
2. Construction and/or remodeling of the sign must comply with all applicable codes and regulations, including building codes and lighting standards.
3. The height of the sign, as measured from the highest adjacent grade or the crown of the adjacent street, whichever is higher, to the highest point of the sign face or its supporting structural elements is not to exceed ____'.
4. The sign base as measured from the highest adjacent grade or the crown of the adjacent street, whichever is higher, is not to exceed ____' in height.
5. If the principal building on the subject property is removed or replaced for any reason, this variance will expire. The sign allowed by this variance must be removed within 30 days of the issuance of any demolition permit for the principal building. If the building is destroyed or damaged by a natural disaster to the extent that it is rendered uninhabitable, then the sign must be removed within 30 days of the issuance of a demolition permit or within 30 days of the expiration of the federal, state, county, or local declaration of disaster, whichever occurs first. Placement of signage in conjunction with redevelopment of the site must comply with all regulations in effect at the time of application for a permit.

FINDINGS AND CONCLUSIONS:

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

- A. There **are/are not** exceptional or extraordinary conditions or circumstances that are inherent to the property in question, and the request **is/is not** for a de minimis variance under circumstances or conditions where rigid compliance is not essential to protect public policy.
- B. The conditions justifying the variance **are/are not** the result of actions of the applicant taken after the adoption of the regulation in question.
- C. The variance granted **is/is not** the minimum variance that will relieve the applicant of an unreasonable burden caused by the application of the regulation to the property in question.

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

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

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

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

DULY PASSED AND ADOPTED THIS 5th day of NOVEMBER, 2012.

By: _____
Bob Raymond, Mayor

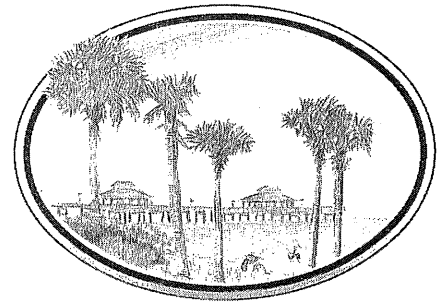
Approved as to legal sufficiency:

By: _____
Fowler, White, Boggs
Town Attorney

ATTEST:

By: _____
Michelle Mayher
Town Clerk

Town of Fort Myers Beach



Memorandum

To: Mayor, Vice Mayor and Town Councilmembers
From: Leslee Chapman, Zoning Coordinator
CC: Terry Stewart, Town Manager
Walter Fluegel, Community Development Director
Date: October 23, 2012
Re: VAR2012-0002 – The Dolphin Inn sign variance

At the October 1 Town Council meeting a final public hearing was held to consider case VAR2012-0002. The request in case VAR2012-0002 is for a variance from the maximum permitted overall sign height of 5' (Section 30-154(c)) to allow a new sign of 11' in overall height and a variance from the sign setback requirement of 3' (Section 30-93(b)) to allow for a 0' setback. The Local Planning Agency (LPA) recommended that a variance be granted to permit an overall sign height of 9' which the applicant agreed to. After hearing from both Staff and the applicant, Council indicated that the amount of detail and analysis provided was not sufficient for Council to make a decision. Council voted to continue the hearing to the November 5th meeting with the following directives:

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

On October 12, staff, Leslee Chapman, met on-site at the Dolphin Inn with the applicant. Alternative locations for a monument sign as well as the possibility of wall signs were discussed, however the applicant was insistent that wall signage is not an option not is any other location

for a monument sign on the subject property. At this point, Staff recommended that the applicant provide documentation explaining why these alternative locations are not feasible.

On October 22, Staff received the applicant's revised variance request which is attached to this memo as *Attachment A*. The applicant has provided additional justification for their request with respect to the location of the sign and the height (9' overall), including a drawing of the proposed new sign. Additionally, two photos of the existing sign are included, with tape showing the code required height of 5' (orange), the Staff recommended alternative height of 6'6" (blue), and their proposed sign height of 9' (white).

Staff agrees with the applicant that the existing sign location, including the 0' setback, is the most suitable location for a monument sign and this aspect of the variance request continues to have Staff support and recommendation for approval. The sign height, however, remains a disputed issue.

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

Section 34-87 requires, among other things, that any variance requested must be the minimum variance necessary to relieve the property of the burden that gave rise to the need for the variance. Upon review of the additional documents provided, together with conversations with the applicant, Staff cannot agree that 9' is the *minimum* variance necessary. Should Council could find that the parked cars are a hardship for the subject property, Staff is of the opinion that the *minimum* height to clear that obstruction is 36". Staff therefore recommends the original alternative of a 36" sign base and a 42" sign face above the base for a total overall maximum height of 6'6".

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

Staff recommends **DENIAL** of the request for a variance from Section 30-154(c) to allow a 9' overall height for a monument sign because it is not the minimum variance necessary.

Staff recommends **APPROVAL** of the alternative recommendation for a variance from Section 30-154(c) to allow a 6'6" overall height for a monument sign as Staff is of the opinion that this is the minimum variance.

Dolphin Inn Sign Proposal

The following are the 5 options for sign placement at the Dolphin Inn.

A. Far South end of Property

This location is unsuitable because it is directly on the property line and the visibility from the north would be obscured by the parked cars.

B. Wall sign next to office door

This location is unsuitable because 16sq ft. is not ample area to be seen and visibility from Estero Blvd. is also limited by the awnings.

C. Island to the right of office

This location is unsuitable because of the property lines proximity to the end of the parking spaces, the majority of the sign will be behind the park cars on the north side. The space directly in front of the entrance is not suitable because we are mandated by the ADA 2010 standards and we will be adding a handicap parking space.

D. Far North end of Property

This location is unsuitable because it is at the far north end of the property and the traffic will have missed our entrance before seeing the sign. Coming from the north the sign will be partially blocked by the stop sign, fire hydrant and telephone boxes.

E. Existing sign Location

I feel this is the only location that is visible and allows my signage to be seen both directions equally. A large portion of our traffic is from the south end with a lot of walk-in customers. These guests are travelling from Ft. Lauderdale, Miami, The Keys, and the Everglades. We are the first hotel across the street from the beach coming from the south end. A lot of Europeans and locals look for hotels across the street because they are not as expensive as Gulf Front. The 9 ft. height is needed to be fully visible from the south over vehicles in the lot.

Please see attached pictures.

The orange sign in the picture is 5 ft. high and zero setback. The blue line is 6ft 6 in high and zero setback. The white tape just over "Boat Dock" is 9 ft in height and zero setback . The bottom of the sign would be just below "Herzlich Willkommen"

Thanks Travis

Egret Street

Estero Blvd.

00' right-of-way
alt Pavement 17.00'

FNE

4

N 232440 E

5.00'

Lot 16, Sandpiper Village, PB 9-52

N 89°24'40" E

T=81.16'
L=126.81'

S 36°19'20" W

Portion of Lot 19, Sandpiper Village, PB 9-52

On Fence Metal Shed

Metal Shed

**Wood
Deck
Entry**

No.

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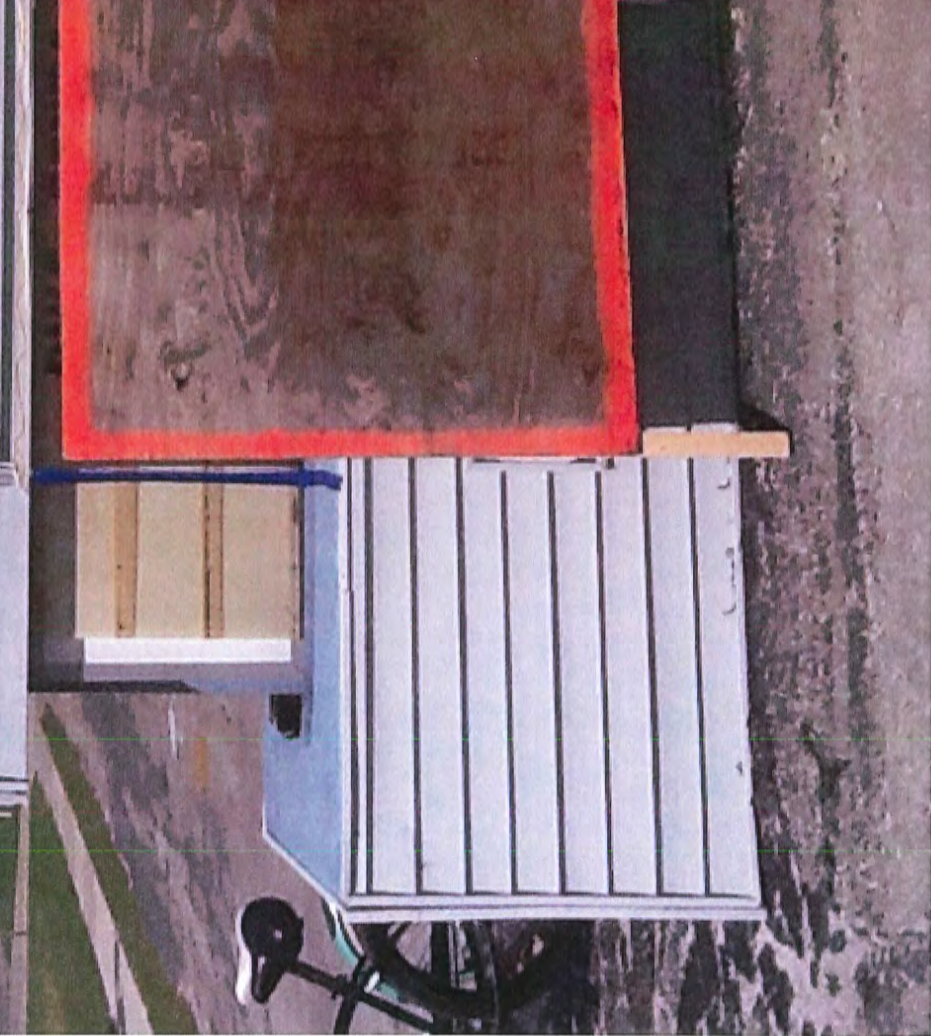
Dolphin Inn

Boat Dock
Heated Pool
Efficiencies
Beach Access

HERZLICH WILLKOMMEN

VACANCY





ILLUMINATED CABINET TO CODE, POWDER COATED & CLEAR COATED ALUMINUM SIGN
RETRO-FIT TO EXISTING BASE, ETC. - WITH JET CUT ALUMINUM ADDRESS LETTERS
4" CHANGEABLE COPY, TEXT & LOGO PANFACE AREA - = 29 SQ. FT.



Robson Corporation

"THE BEST BUY IN SIGNS"

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

APPROVED BY:

DATE: / /

© 2011

DESIGN: # 164860 CODE: 08-2312-SBW Scale: 1" = 12"

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

RESOLUTION OF THE LOCAL PLANNING AGENCY OF
THE TOWN OF FORT MYERS BEACH FLORIDA
RESOLUTION NUMBER 2012-010
VAR2012-0002 - Dolphin Inn Sign Variance

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

WHEREAS, the applicant has indicated that the STRAP number for the subject property is 134-46-24-W4-02600.00CE and the legal description of the subject property is attached as *Exhibit B*; and

WHEREAS, the subject property is located at 6555 Estero Boulevard, Fort Myers Beach, FL 33931 in the Commercial Resort zoning category of the Official Zoning Map and the Mixed Residential category of the Future Land Use Map of the Comprehensive Plan of the Town of Fort Myers Beach, Florida; and

WHEREAS, a public hearing on this matter was legally advertised and held before the Local Planning Agency (LPA) on August 14, 2012; and

WHEREAS, at the hearing the LPA gave full and complete consideration to the request of Applicant, recommendations of staff, the documents in the file, and the testimony of all interested persons, as required by Fort Myers Beach Land Development Code (LDC) Section 34-87.

IT IS HEREBY RESOLVED BY THE LPA OF THE TOWN OF FORT MYERS BEACH, FLORIDA, as follows:

Based upon the presentations by the applicant, staff, and other interested persons at the hearing, and review of the application and the standards for granting variances, the LPA recommends the following findings of fact, conditions for approval, and conclusions for consideration by the Town Council:

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

The LPA recommends that the Town Council **APPROVE** LPA's recommended alternative variance request from Section 30-154(c) of the LDC which incorporates a 4' tall base and an overall sign height of 9', measured from the highest adjacent grade or the crown of the adjacent street, whichever is higher, to the highest point of the sign face or its supporting structural elements, with the approval subject to the following conditions:

RECOMMENDED CONDITIONS OF APPROVAL:

1. Approval of this variance does not exempt the subject property from the LDC Section 30-55 permit requirements for signs.
2. The height of the sign, as measured from the highest adjacent grade or the crown of the adjacent street, whichever is higher, to the highest point of the sign face or its supporting structural elements is not to exceed 9'.
3. Construction and/or remodeling of the sign must comply with all applicable codes and regulations, including building codes and lighting standards.
4. The sign base as measured from the highest adjacent grade or the crown of the adjacent street, whichever is higher, is not to exceed 4' in height.
5. If the principal building on the subject property is removed or replaced for any reason, this variance will expire. The sign allowed by this variance must be removed within 30 days of the issuance of any demolition permit for the principal building. If the building is destroyed or damaged by a natural disaster to the extent that it is rendered uninhabitable, then the sign must be removed within 30 days of the issuance of a demolition permit or within 30 days of the expiration of the federal, state, county, or local declaration of disaster, whichever occurs first. Placement of signage in conjunction with redevelopment of the site must comply with all regulations in effect at the time of application for a permit.

RECOMMENDED FINDINGS AND CONCLUSIONS:

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

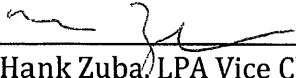
- A. There **are** exceptional or extraordinary conditions or circumstances that are inherent to the property in question, and the request **is** for a de minimis variance under circumstances or conditions where rigid compliance is not essential to protect public policy.
- B. The conditions justifying the variance **are not** the result of actions of the applicant taken after the adoption of the regulation in question.
- C. The variance granted **is** the minimum variance that will relieve the applicant of an unreasonable burden caused by the application of the regulation to the property in question.
- D. The granting of the variance **will not** be injurious to the neighborhood or otherwise detrimental to the public welfare.

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

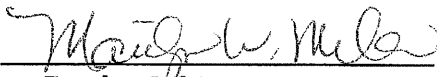
The foregoing Resolution was adopted by the LPA upon a motion by LPA Member **Plummer** and seconded by LPA Member **Kakatsch**, and upon being put to a vote, the result was as follows:

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

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

By: 
Hank Zuba, LPA Vice Chair

Approved as to legal sufficiency:

By: 
Fowler, White, Boggs
LPA Attorney

ATTEST:

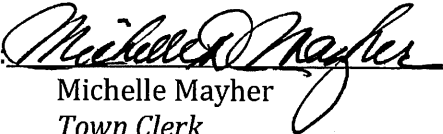
By: 
Michelle Mayher
Town Clerk

EXHIBIT B

DOLPHIN INN CONDOMINIUM

LEGAL DESCRIPTION OF LANDS SUBMITTED TO CONDOMINIUM

Lot 17 plus a portion of Lots 18 and 19 lying Northerly of the following described line; From the most Southerly corner of Lot 18, common with Lot 19, thence Northwesterly along the Southwesterly line of Lot 18, (being the Estero Blvd. right-of-way) for 36.84 feet to the Point of Beginning of said line; thence deflect right 88 41'40" and run 135.79 feet to the canal and the end of said line, at a point 19.39 feet, as measured on a chord from the most Easterly corner of Lot 19, (common with Lot 20). All being in Sandpiper Village, Unit 2, as recorded in Plat Book 9, at Page 52, Lee County, Florida, Public Records.

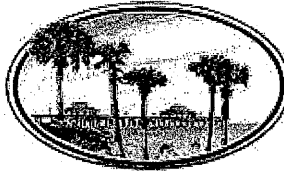
And all right, title and interest of the grantors in an easement from George E. Allen, Trustee, in liquidation of Estero Beach Properties, Inc., and Estero Development Corporation, Dissolved Florida Corporation to A. L. Mechling, Frank Gobes, L. H. Noble, as trustees for the present and future owners of Lots in Sandpiper Village Unit No. 1 and Unit No. 2, dated September 2, 1964, and recorded in O. R. Book 267 at Page 11 in Public Records of Lee County, Florida.

All that parcel of land situate lying and being in Lee County, Florida, more particularly described as follows:

A strip or parcel of land lying between Estero Boulevard and the Gulf of Mexico in Sections 33 and 34, Township 46 South, Range 24 East, Estero Island, Lee County, Florida, for walkway purposes, which strip or parcel is described as follows:

Beginning at a point on the Southwesterly side of Estero Boulevard, said point being 1440 feet (measured along line perpendicular to the south line of Block I, McPhie Park, Unit No. 2, according to plat recorded in Plat Book 8 at Page 59, Public Records of Lee County) run southeasterly along said southwesterly line of Estero Blvd. for 12.29 feet; thence run southwesterly parallel with said south line of Block I, McPhie Park, Unit No. 2, and 1452.16 feet south of said Block I for 470 feet more or less to the waters of the Gulf of Mexico, passing through concrete monuments at 175.44 feet and 352.69 feet; thence run northwesterly along said waters to an intersection with a line parallel with said south line of Block I passing through the point of beginning; thence run northeasterly along said parallel line to the point of beginning, passing through concrete monuments at 177.25 feet and 354.5 feet southwesterly of said point of beginning.

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

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

I. CALL TO ORDER

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

Dan Andre
Al Durrett
John Kakatsch
Jane Plummer
Joanne Shamp - excused
Alan Smith
Hank Zuba

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

II. PLEDGE OF ALLEGIANCE

III. INVOCATION –

IV. MINUTES

A. Minutes of June 12, 2012

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

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

V. PUBLIC HEARING

A. VAR2011-0004 Beach Shell Inn Sign Variance

Vice Chair Zuba opened the hearing.

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

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

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

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

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

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

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

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

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

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

Discussion ensued regarding future improvements to Estero Boulevard.

Zoning Coordinator Chapman presented comments for VAR2011-0004 Beach Shell Inn sign variance on behalf of the Town of Fort Myers Beach. She described the location of the subject property; and the variance request which was comprised two requests: 1) variance from Sections 30-93(b), which required a 3' setback from any street right-of-way to allow a 0' street setback; and 2) variance from 30-145(c), which limited the height of a monument sign to be elevated no more than 18" above grade and 5' overall to allow 4'6" for the monument supports and an overall height of 9'. She displayed photographs of the existing conditions at the subject site; and reviewed the site considerations (i.e. pool equipment, etc.). She reported the Applicant's request was for a 9' overall height which was 4' more than permitted by Code, and noted there would be 26' of copy area which allowed for an additional amount of copy area (business entitled to 32 square feet). She displayed a site plan indicating the 0' setback location of the proposed sign. Zoning Coordinator Chapman reviewed the request as it pertained to Section 34-87(3)(a), Section 34-87(3)(b), Section 34-87(3)(c), Section 34-87(3)(d), and Section 34-87(3)(e):

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

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

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

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

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

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

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

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

Public Comment opened.

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

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

Discussion ensued regarding fence height requirements,

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

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

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

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

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

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

Public Comment closed.

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

- A. There **are** exceptional or extraordinary conditions or circumstances that are inherent to the property in question, and the request **is** for a de minimis variance under circumstances or conditions where rigid compliance is not essential to protect public policy.
- B. The conditions justifying the variance **are not** the result of actions of the applicant taken after the adoption of the regulation in question.
- C. The variance granted **is** the minimum variance that will relieve the applicant of an unreasonable burden caused by the application of the regulation to the property in question.
- D. The granting of the variance **will not** be injurious to the neighborhood or otherwise detrimental to the public welfare.
- E. The conditions or circumstances on the specific piece of property for which the variance is sought **are not** of so general or recurrent a nature as to make it more reasonable and practical to amend the regulation in question;

second by Mr. Smith.

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

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

B. VAR2012-0002 Dolphin Inn Sign Variance

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Vice Chair Zuba opened the hearing.

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

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

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

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

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

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

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

She reported staff's recommendation as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

LPA Attorney Miller responded in the affirmative.

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

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

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

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

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

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

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

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

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

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

Public Comment opened.

No speakers.

Public Comment closed.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

C. VAR2012-0001 Neptune Inn Sign Variance

Vice Chair Zuba opened the hearing.

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

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

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

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

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

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

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

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

Ms. Plummer questioned the height of the sign itself.

Zoning Coordinator Chapman stated it was 4'7".

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

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

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

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

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

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

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

Mr. Williams responded in the affirmative.

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

Public Comment opened.

No speakers.

Public Comment closed.

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

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

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

D. VAR2012-0003 Matanzas Inn Sign Variance

Vice Chair Zuba opened the hearing.

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

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

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

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

She described the existing conditions on the property:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Discussion ensued regarding a potential motion or motions.

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

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

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

Recessed at 11:47 - Reconvened at 11:55

E. VAR2011-0007 Moss Marine Sign Variance

Vice Chair Zuba opened the hearing.

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

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

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

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

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

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

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

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

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

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

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

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

Public Comment opened.

No speakers.

Public Comment closed.

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

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

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

Recessed at 12:10 - Reconvened at 12:45

F. MUD 2012-0002 Seagrape MUD

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

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

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

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

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

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

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

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

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

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

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

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

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

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

LPA Attorney swore in the witnesses.

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

Discussion was held regarding the Conservation Easement.

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

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Discussion ensued regarding assessed value of the subject property.

Public Comment opened.

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

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

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

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

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

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

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

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

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

Public Comment closed.

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

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

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

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

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

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

Attorney Uhle responded in the affirmative.

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

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

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

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

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

LPA Attorney Miller responded in the affirmative.

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

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

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

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

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

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

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

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

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

Vice Chair Zuba closed the Public Hearing.

G. Ordinance 12-XX Vacation of Plats

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

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

Ms. Plummer discussed her concerns regarding the proposed changes.

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

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

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

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

H. Discussion of FY 2013 Capital Projects

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

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

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

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

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

HISTORIC PRESERVATION BOARD

Withdrawn.

VI. LPA MEMBER ITEMS AND REPORTS

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

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

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

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

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

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

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

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

Discussion was held concerning maximum lot coverage on the lot.

Mr. Smith – no items or report.

Mr. Zuba – no items or report.

Ms. Shamp – no items or report.

Mr. Durrett – no items or report.

Mr. Kakatsch – no items or report.

VII. LPA ATTORNEY ITEMS

LPA Attorney Miller – no items or report - excused.

VIII. COMMUNITY DEVELOPMENT DIRECTOR ITEMS

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

IX. LPA ACTION ITEM LIST REVIEW

None.

X. ITEMS FOR NEXT MONTH'S AGENDA

None.

XI. PUBLIC COMMENT

Public Comment opened.

No speakers.

Public Comment closed.

XII. ADJOURNMENT

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

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

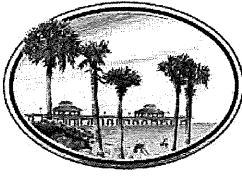
Meeting adjourned at 2:30 p.m.

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

Second by Andre.

Vote: 5-0, Sharp no vote (absent that meeting),
Jonack Sharp Zuba (excused)
Signature

End of document.



Town of Fort Myers Beach

DEPARTMENT OF COMMUNITY DEVELOPMENT STAFF REPORT

TYPE OF CASE: Sign Variance
CASE NUMBER: VAR2012-0002
LPA HEARING DATE: August 14, 2011
LPA HEARING TIME: 9:00 AM

I. APPLICATION SUMMARY

Applicant: Travis Owen
RTJP Investments, Inc.
Dolphin Inn

Request: Variance from Section 30-93(b) and Section 30-154(c)

Subject property: See *Exhibit B*

Physical Address: 6555 Estero Boulevard Fort Myers Beach, FL 33931

STRAP #: 34-46-24-W4-02600.00CE

FLU: Mixed Residential

Zoning: Commercial Resort (CR)

Current use(s): Hotel/Motel

Adjacent use, zoning and future land uses:

North: Beach Theater
Commercial Boulevard (CB)
Mixed Residential

Single Family Residential
Residential Single Family (RS)
Mixed Residential

South:	SeaWatch on the Beach Residential Multifamily (RM) Mixed Residential
East:	Artificial Canal
West:	Privateer Residential Multifamily (RM) Mixed Residential
	Briarwood Commercial Resort (CR) Mixed Residential

II. BACKGROUND AND ANALYSIS

Background:

RTJP Investments, Inc. has applied for a variance and relief from Section 30-93(b) and 30-154(c) of Chapter 30 – Signs of the Town of Fort Myers Beach Land Development Code, for the property located at 6555 Estero Boulevard and known as the Dolphin Inn.

The subject property measures approximately .57 acres in size and contains multiple two-story buildings currently in use as a motel and developed originally under Lee County zoning ordinance over 40 years ago. The existing sign on site measures approximately 20' tall appears to be over 32 square feet in area.

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

RTJP Investments, Inc. applied for variance from provisions of Ordinance 11-01 in February 13, 2012, six weeks after the compliance deadline of December 31, 2011.

In their sufficiency response, received in May 2012, the applicant amended their request to include relief from the height requirements as well as the setback requirement.

Analysis:

As depicted on *Exhibit A*, the applicant's existing sign is located within Lee County's Estero Boulevard right-of-way. Additionally, along the length of the subject property's Estero Boulevard frontage, there is a one-way frontage road/driveway that provides access to the Inn's parking spaces but lies completely within the

County right-of-way. The driveway within a right-of-way is unique to the subject property and does not occur on properties immediately adjacent to the Inn. The property line of the subject property appears to be approximately 30 or more feet from the edge of pavement of Estero Boulevard.

The applicant is requesting relief from the height requirement (Section 30-154(c)) and setback (Section 30-93(b)) requirement of Chapter 30, in order to maintain 'visibility' on Estero Boulevard of a monument sign for the subject property. The applicant is proposing a new monument sign (see *Exhibit C*), which they contend is the minimum variance necessary to relieve the unreasonable burden caused by the application of the current sign regulations.

The application is brief and includes very few details to support the request. The applicant states that the reason for the variance and the hardship that exists on the subject property is due to the wide expanse of the Estero Boulevard right-of-way. The applicant states that 'in order for our sign to be visible, we must elevate it over the height of the vehicles in the lot.' Therefore the applicant is requesting a sign variance to install a new sign that will be taller than parked cars and will be at a zero (0) foot setback.

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

Section 30-154(c) Monument signs may be elevated provided that the bottom of the sign is no more than eighteen (18) inches above the highest adjacent grade. The maximum height of a monument sign is five (5) feet.

Street setbacks for monument signs are regulated by Section 30-93(b) which states as follows:

Section 30-93(b) Street setbacks. No sign or portion of a sign shall be erected closer than three (3) feet to any sidewalk or bike path or street right-of-way unless eight (8) feet of vertical clearance is maintained.

Section 30-153(b) establishes the sign face maximum area per commercial establishment per parcel and reads as follows:

Section 30-153(b) Commercial uses in commercial zoning districts. All signs located in commercial zoning districts, except for those signs identified as exempt signs in 30-6 and temporary signs in 30-141, shall comply with the following sign area limitations.

(1) For a parcel of land containing one (1) or two (2) business establishments each separate business establishment shall be allowed a maximum of thirty-two (32) square feet of sign area.

(2) For a parcel of land containing three (3) or more business establishments, each establishment shall be allowed a maximum of sixteen (16) square feet sign area. An additional thirty-two (32) square

feet of sign area may be utilized to identify the commercial development.

(3) The maximum sign area provided herein may be allocated among a combination of one (1) or more monument signs, projecting signs, and/or wall signs.

The subject property, with one business, is therefore entitled to no more than 32 square feet of sign area to advertise the Dolphin Inn. This sign area can be allocated among a variety of different types of signs, provided that the total sign area does not exceed 32 square feet. If a monument sign is utilized, the height of that monument sign cannot exceed 5'.

Exhibit C illustrates the applicant's proposed new monument sign. As indicated on the plans, the bottom of the sign is elevated above the maximum allowed height of 18" (Section 30-154(c)) to a height of what appears to be approximately 6' to 7'. *Exhibit C* also shows an overall height for the sign of 11' as measured from the adjacent grade, which is more than twice the code maximum permitted height of 5'.

Exhibit D, which was provided by the applicant, depicts three views of a proposed sign (taken from south of the subject property facing north) with a 0' setback. The applicant states that the top of the orange post is at 7' and the orange outline indicates a 5' tall sign with 32 square feet of sign area.

Exhibit E, which was also provided by the applicant, depicts the same views as *Exhibit D*, but in this Exhibit, the 3' required setback per Section 30-93(b) has been met.

It should be noted that none of these photos show an average or compact sized vehicle in the parking spaces. The application does not include any explanation of how the applicant came to the conclusion that 6' to 7' is needed to clear the height of a parked vehicle. Anecdotal evidence indicates that the average height of a parked vehicle is somewhere between 4' and 5'.

As indicated above, the sign regulations permit various types of signs (see Section 30-153(b)(3)), not just a monument sign. There is nothing included in the application indicating whether other sign options or locations were considered by the applicant and if so, why those alternative options are not feasible for the subject property.

Findings and Conclusions:

Using the five decision making factors described in LDC Section 34-87(3), Staff recommends the following findings and conclusions:

- a. That there are exceptional or extraordinary conditions or circumstances that are inherent to the property in question, or that the request is for a de minimis*

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

The building on the property is setback 25' +/- from the right-of-way line and more than 60' from the edge of pavement (current zoning would require a minimum 10' setback). Within the Estero Boulevard right-of-way there is a unique driveway that fronts only on the subject property. (See *Exhibit A*) Structures on the immediately adjacent properties are also setback approximately the same distance from the right-of-way and from the edge of pavement and the structure on the subject property.

Staff does recognize that the driveway is unique to the property, however, with a lack of evidence as to why another sign type would not work at this location, Staff does not feel that the driveway in and of itself justifies the variance request.

Staff recommends the finding that there **are not** exceptional or extraordinary conditions or circumstances that are inherent and unique to the subject property and that the variance is, therefore **not** justified.

- 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 subject property was developed in the late 1960s, long before the current codes and ordinances governing the property were adopted. Therefore Staff finds that the conditions justifying the variance **are not** the result of actions of the applicant taken after the adoption of the regulations in question.

- c. That the variance granted is the minimum variance that will relieve the applicant of an unreasonable burden caused by the application of the regulation in question to his property.*

The applicant has provided no discussion or analysis as to why other locations on the subject property that would meet the requirements of Chapter 30 are not a viable option. Nor does the applicant address the details of the proposed new sign (*Exhibit C*), and why they feel the proposal is the minimum variance necessary.

Anecdotal evidence suggests that the proposed sign could easily be lowered by 3 to 4 feet and still be visible over parked cars.

Therefore based on limited information provided by the applicant to support the necessity of the request, Staff finds that the variance requested **is not** the minimum variance necessary to relieve an undue burden.

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

The applicant is requesting relief from the sign height and sign setback requirements of Chapter 30 of the LDC. The current sign's height is well above the 5' maximum height allowed under the current code, and the proposed zero foot setback is, as it would suggest, right on the property line abutting the Lee County right-of-way for Estero Boulevard. The applicant has proposed a new sign (*Exhibit C*) that continues to be non-conforming in height and setback and is only marginally smaller than the current sign. The proposed sign does, however, correct the encroachment of the existing sign into the right-of-way.

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

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

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

That being said, the subject property does have a unique, albeit off-site feature that could be taken into consideration. The wide Estero Boulevard right-of-way that allows for a frontage road/driveway serving the subject property's parking spaces is unusual.

Staff finds that the circumstance of this specific piece of property on which this variance is sought **is not** general in nature and could, therefore, justify the granting of the setback variance only.

III. RECOMMENDATION

Staff recommends **APPROVAL** of the requested setback variance (Section 30-93(b)), based upon the requisite findings and conclusions for granting a variance under LDC Section 34-87.

Staff recommends **DENIAL** of the requested height variance (Section 30-154(c)), because the requisite findings and conclusions for granting a variance contained in LDC Section 34-87 have not been met.

Alternate Recommendation

Staff is of the opinion that the applicant did not provide sufficient information to support approval of the requested height variance and is confident in our recommendation of **DENIAL**. However, Staff recognizes that the subject property does include site conditions that could be taken into consideration. Therefore Staff has proposed an alternate recommendation for Town Council to consider.

The applicant's proposed sign (*Exhibit C*) shows a height to the bottom of the sign of approximately 6' to 7' and a sign height of approximately 3'8" for an overall sign height of 8'11" measured from adjacent grade. Staff suggests a modification of these heights. Staff recommends that the height necessary to clear, at a minimum, the hood or trunk of a parked car is 3'. Section 34-154(c) allows for a base or support, for a monument sign, that extends no higher than eighteen (18) inches above adjacent grade. This 18 inches is included in the overall allowance of 5' (60 inches) maximum sign height which would leave 3.5' (42 inches) for sign face. Thus, Staff would recommend that the minimum variance necessary for the subject property would be a proposed sign modified so that the base height is 3' and the sign height is 3'6" for an overall sign height of 6'6". Staff would also suggest that the base include a planter to make the sign more aesthetically appealing.

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

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

IV. CONCLUSION

Staff is of the opinion that the applicant has not demonstrated a justifiable or valid reason for Town Council to approve the requested height variance from Chapter 30 of the LDC, but given the somewhat unique circumstance of the frontage road/driveway, the requested setback variance could be approved.

Staff therefore recommends **APPROVAL** of the requested setback variance and **DENIAL** of the requested height variance.

Exhibits:

- A – Site Plan
- B – Legal Description
- C – Proposed new sign
- D – Applicant site photos; 0' setback
- E – Applicant site photos; 3' setback

Egret Street

Estero Blvd.

Portion of Lot 19, Sandpiper Village, PB 9-52

EXHIBIT B

DOLPHIN INN CONDOMINIUM

LEGAL DESCRIPTION OF LANDS SUBMITTED TO CONDOMINIUM

Lot 17 plus a portion of Lots 18 and 19 lying Northerly of the following described line; From the most Southerly corner of Lot 18, common with Lot 19, thence Northwesterly along the Southwesterly line of Lot 18, (being the Estero Blvd. right-of-way) for 36.84 feet to the Point of Beginning of said line; thence deflect right 88 41'40" and run 135.79 feet to the canal and the end of said line, at a point 19.39 feet, as measured on a chord from the most Easterly corner of Lot 19, (common with Lot 20). All being in Sandpiper Village, Unit 2, as recorded in Plat Book 9, at Page 52, Lee County, Florida, Public Records.

And all right, title and interest of the grantors in an easement from George E. Allen, Trustee, in liquidation of Estero Beach Properties, Inc., and Estero Development Corporation, Dissolved Florida Corporation to A. L. Mechling, Frank Gobes, L. H. Noble, as trustees for the present and future owners of Lots in Sandpiper Village Unit No. 1 and Unit No. 2, dated September 2, 1964, and recorded in O. R. Book 267 at Page 11 in Public Records of Lee County, Florida.

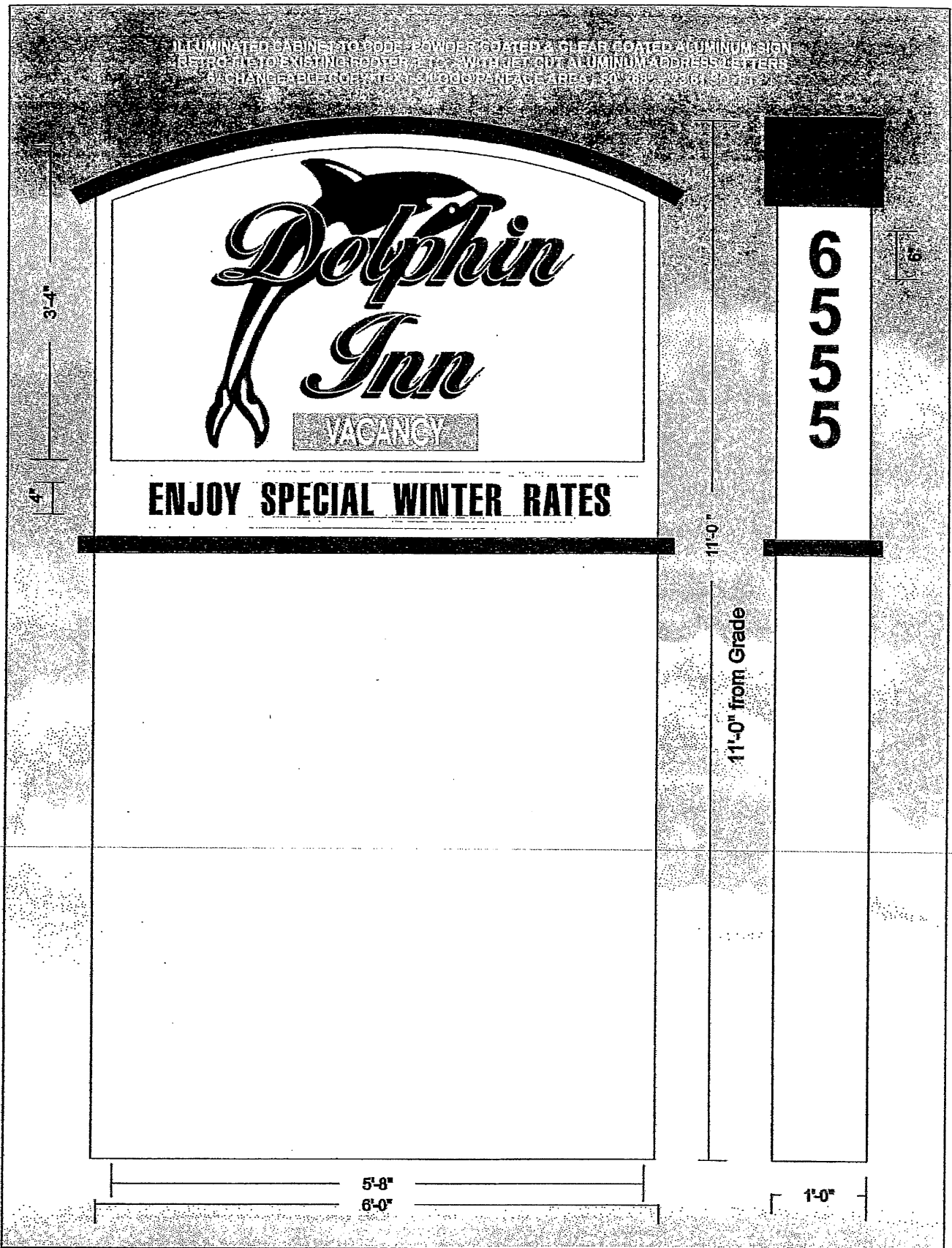
All that parcel of land situate lying and being in Lee County, Florida, more particularly described as follows:

A strip or parcel of land lying between Estero Boulevard and the Gulf of Mexico in Sections 33 and 34, Township 46 South, Range 24 East, Estero Island, Lee County, Florida, for walkway purposes, which strip or parcel is described as follows:

Beginning at a point on the Southwesterly side of Estero Boulevard, said point being 1440 feet (measured along line perpendicular to the south line of Block I, McPhie Park, Unit No. 2, according to plat recorded in Plat Book 8 at Page 59, Public Records of Lee County) run southeasterly along said southwesterly line of Estero Blvd. for 12.29 feet; thence run southwesterly parallel with said south line of Block I, McPhie Park, Unit No. 2, and 1452.16 feet south of said Block I for 470 feet more or less to the waters of the Gulf of Mexico, passing through concrete monuments at 175.44 feet and 352.69 feet; thence run northwesterly along said waters to an intersection with a line parallel with said south line of Block I passing through the point of beginning; thence run northeasterly along said parallel line to the point of beginning, passing through concrete monuments at 177.25 feet and 354.5 feet southwesterly of said point of beginning.

SEE
379.02861

EXHIBIT C



Robson Corporation

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

APPROVED BY:

DATE: / /

© 2011

DESIGN: #163820-R4 CODE: 01-1212-BL Scale: 1"=12"

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



EXHIBIT D







EXHIBIT E





Supplement PH-B

Part 1- Narrative Statements

Reason for request. Explanation of why variance is needed.

The Dolphin Inn is requesting a variance to the sign ordinance because by complying with the ordinance we will lose visibility of our sign from Estero Blvd.

Explanation of the hardship.

The Dolphin Inn's property line runs just behind the parking spaces in front of the hotel on Estero Blvd, as seen in exhibit A. The property from behind our parking spaces to Estero Blvd is right-of-way owned by the county. The county will not allow any signage in their right-of-way. In order for our sign to be visible we must elevate it over the height of the vehicles in the lot. We request a height variance of 11 ft from ground level to the top of the sign and a variance removing the property line setback of 3 ft. This will allow our sign to be visible from traffic on Estero Blvd.

Explanation of how the property qualifies for a variance.

1. The configuration of our property and the parking layout provide exceptional conditions that restrict our signs visibility in compliance.
2. The property layout has been unchanged since the construction in 1966.
3. The 11ft height is the height required to clear a truck or van in the parking spaces.
4. The setback from the road provides no obstructions of visibility from the sidewalk and is consistent in line of sight along the backs of the car spaces.
5. We are one of the few properties that have a deep right of way into their parking lot and this makes it impractical to change the regulation.

ILLUMINATED CABINET TO CODE, POWDER COATED & CLEAR COATED ALUMINUM SIGN
 RETRO FIT TO EXISTING FOOTER, ETC. WITH JET CUT ALUMINUM ADDRESS LETTERS
 9" CHANGEABLE COPY TEXT & LOGO PANFACE AREA - 50" X 68" = 23.61 SQ. FT.



Robson Corporation

"THE BEST BUY IN SIGNS"

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

APPROVED BY:

DATE: / /

© 2011

DESIGN: #163820-R4 CODE: 01-1212-BL Scale: 1"=12"

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

Exhibit A

Egret Street

12.50'

50.00' right-of-way
Asphalt Pavement 17.00'

FND NAIL

71.27'

N 28°24'40" E

Cone Mod. Exd.

67.50'

Asphalt Driveway

E 52°22'20" S

Estero Blvd.
Asphalt Pavement 34.40'

S 52°22'20" E

Asphalt Driveway

20.70'

24.72'

45.80'

10.25'

9.40'

34.55'

55.24'

10'

6.0'

4.1'

1' concrete walk

1' concrete walk

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Gas Tank

Pool Pump

Pool Heater

Pool Slab

12.20'

17.30'

3.27'

4'

3.27'

19.90'

Unit No. 30, 6 & 12

36.20'

Unit No. 5 & 11

36.20'

Unit No. 4 & 10

36.20'

Unit No. 2 & 8

36.20'

Unit No. 1 & 7

36.20'

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2 Story Cbs Bldg.

Lot 16, Sandpiper Village, PB 9-32
N 89°24'40" E

16.32'

1' = 81.16'
L = 126.81'

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Town of Fort Myers Beach

Community Development
2523 Estero Blvd Fort Myers Beach, Florida 33931
Phone: 239-765-0202 Fax: 239-765-0591

March 23, 2011

Travis Owen
6555 Estero Boulevard
Fort Myers Beach, FL33919

Re: FMBVAR2012-0002

Dear: Mr. Owen,

The Community Development Department has reviewed the information provided for the above zoning application. The Town of Fort Myers Beach Land Development Code (LDC) requires additional information for the application to be found sufficient. Please respond to each requirement not satisfied on the attached sufficiency checklists. For your assistance, we have enclosed any additional memoranda from the various other Town reviewing departments.

If you do not provide the requested supplements and corrections within 60 calendar days of this letter, the LDC requires that this application be considered withdrawn, and Code Enforcement will be required to issue a notice of violation for the signage on the subject property. Please feel free to contact me if you have any questions or require further clarification.

Sincerely,

Leslee Chapman
Zoning Coordinator
Town of Fort Myers Beach
Community Development

Town of Fort Myers Beach

Community Development
2523 Estero Blvd Fort Myers Beach, Florida 33931
Phone: 239-765-0202 Fax: 239-765-0591

ZONING REVIEW - Leslee Chapman

The application and drawings submitted for the referenced project have been reviewed in accordance with the LDC, Florida Statutes as well as other applicable codes and ordinances as adopted by the Town of Fort Myers Beach. Your application requires the following additional information:

Application for Public Hearing

H. Surrounding Property Owners

Please provide a list of surrounding property owners within 500 feet as requested in the application. This information can be obtained from the Lee County Property Appraiser at 239-533-6100.

Supplement PH-B

PART 1 - Narrative Statements

Reasons for request. Explain why the variance is needed.

The description provided is not sufficient to accurately review the proposed request. Please provide a more detailed account as to why the variance is needed; please direct the explanation to include a discussion as to why the subject property cannot come into compliance with all the requirements of Chapter 30 of the LDC. Applicants are encouraged to use additional methods of description, i.e. photos, maps, drawings, diagrams, etc, to assist in the explanation and aid in justifying the request.

Explain the hardship (what is unique about the property) that justifies relief from the regulations.

The description provided is not sufficient to accurately review the proposed request. Please provide a more detailed account as to why the variance is needed; please direct the explanation to include a discussion as to why the subject property cannot come into compliance with all the requirements of Chapter 30 of the LDC. Applicants are encouraged to use additional methods of description, i.e. photos, maps, drawings, diagrams, etc, to assist in the explanation and aid in justifying the request.

Explain how the property qualifies for a variance. Direct this explanation to the guidelines for decision making compliance in LDC Section 34-87(3).

The description provided is not sufficient to accurately review the proposed request. Please provide a more detailed account as to why the variance is needed; please direct the explanation to include a discussion as to why the subject property cannot come into compliance with all the requirements of Chapter 30 of the LDC. Applicants are encouraged to use additional methods of

Town of Fort Myers Beach

Community Development

2523 Estero Blvd Fort Myers Beach, Florida 33931

Phone: 239-765-0202 Fax: 239-765-0591

description, i.e. photos, maps, drawings, diagrams, etc, to assist in the explanation and aid in justifying the request. Please provide a more detailed response to the five points with subsection 3 of LDC Section 34-87.

Please make the corrections and resubmit with the necessary information so we can process your application. Please note that these comments represent only those of the reviewer signing below. Other comments may be forthcoming, and a re-submittal shall not occur until all reviewer comments are addressed.

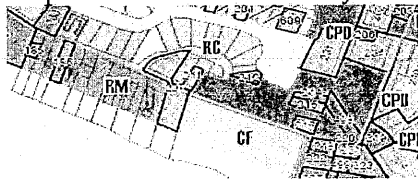
Leslee Chapman
Zoning Coordinator
239-765-0202 ext 105



Case # FMBVAR2012-6002
Planner Chapman

Date Received 2/13/12
Date of Sufficiency/Completeness _____

Town of Fort Myers Beach
Department of Community Development



Zoning Division

ORIGINAL

Application for Public Hearing

This is the first part of a two-part application. This part requests general information required by the Town of Fort Myers Beach for any request for a public hearing. The second part will address additional information for the specific type of action requested.

Project Name:	<u>Dolphin Inn Sign</u>
Authorized Applicant:	<u>Travis Owen</u>
LeePA STRAP Number(s):	<u>34-46-24-104-0200, 0205</u>

Current Property Status:	<u>Hotel</u>
Current Zoning:	<u>CR</u>
Future Land Use Map (FLUM) Category:	<u>CR</u>
Platted Overlay? <u>yes</u> ☒ <u>no</u> ☐	FLUM Density Range:

Action Requested	Additional Form Required
☐ Special Exception	Form PH-A
☒ Variance	Form PH-B
☐ Conventional Rezoning	Form PH-C
☐ Planned Development	Form PH-D
☐ Master Concept Plan Extension	Form PH-E
☐ Appeal of Administrative Action	Form PH-F
☐ Development of Regional Impact	Schedule Appointment
☐ Other (cite LDC section number: _____)	Attach Explanation

Town of Fort Myers Beach
Department of Community Development
2523 Estero Boulevard
Fort Myers Beach, FL 33931
(239) 765-0202

Case # _____
Planner _____

Date Received _____
Date of Sufficiency/Completeness _____

PART I – General Information

A. Applicant:

Name(s):	Travis Owen		
Address:	Street: 6555 Estero		
	City: FMB	State: FL	Zip Code: 33931
Phone:	239 - 822-4025		
Fax:	239 - 463-2148		
E-mail address:	dolphininn@embargo.com		

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

☒ Owner (indicate form of ownership below)	
☐ Individual (or husband/wife)	☐ Partnership
☐ Land Trust	☐ Association
☒ Corporation	☐ Condominium
☐ Subdivision	☐ Timeshare Condo
☐ Authorized representative (attach authorization(s) as Exhibit AA-1)	
☐ Contract Purchaser/vendee (attach authorization(s) as Exhibit AA-2)	
☐ Town of Fort Myers Beach (Date of Authorization: _____)	

C. Agent authorized to receive all correspondence:

Name:	Travis Owen		
Mailing address:	Street: Estero		
	City: FMB	State: FL	Zip Code: 33931
Contact Person:	Travis Owen		
Phone:	239 822 4025	Fax:	463 2148
E-mail address:	dolphininn@embargo.com		

D. Other agents:

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

Use additional sheets if necessary, and attach to this page.

Case # _____
Planner _____

Date Received _____
Date of Sufficiency/Completeness _____

PART II – Nature of Request

Requested Action (check applicable actions):

☐ Special Exception for:
☒ Variance for: <i>Removal of setback</i>
☐ Conventional Rezoning from _____ to:
☐ Planned Development
☐ Rezoning (or amendment) from _____ to:
☐ Extension/reinstatement of Master Concept Plan
☐ Public Hearing of DRI
☐ No rezoning required
☐ Rezoning from _____ to:
☐ Appeal of Administrative Action
☐ Other (explain):

PART III – Waivers

Waivers from application submittal requirements: Indicate any specific submittal items that have been waived by the Director for the request. Attach copies of the Director's approval(s) as Exhibit 3-1.

Code Section Number	Describe Item

PART IV – Property Ownership

☐ Single owner (individual or husband and wife)			
Name:			
Address:		Street:	
City:		State:	Zip Code:
Phone:		Fax:	
E-mail Address:			

Case # _____
Planner _____

Date Received _____
Date of Sufficiency/Completeness _____

☒ Multiple owners (including corporation, partnership, trust, association, condominium, timeshare condominium, or subdivision)
Attach Disclosure Form as Exhibit 4-1
Attach list of property owners as Exhibit 4-2
Attach map showing property owners' interests as Exhibit 4-3 if multiple parcels are involved
For condominiums, timeshare condominiums, and subdivisions, see instructions.

PART V – Property Information

A. Legal Description of Subject Property

Is the property entirely made up of one or more undivided platted lots officially recorded in the Plat Books of the Public Records of Lee County?
☒ Yes [] No
If yes:
Subdivision name:
Plat Book Number: <u>1899</u> Page: <u>2799</u> Unit: Block: Lot:
If no:
Attach a legible copy of the metes and bounds legal description, with accurate bearings and distances for every line, as Exhibit 5-1. The initial point in the description must be related to at least one established identifiable real property corner. Bearings must be referenced to a well-established and monumented line.

B. Boundary Survey

Attach a Boundary Survey of the property meeting the minimum standards of Chapter 61G17-6 of the Florida Administrative Code, as Exhibit 5-2. A Boundary Survey must bear the raised seal and original signature of a Professional Surveyor and Mapper licensed to practice Surveying and Mapping by the State of Florida.
--

C. STRAP Number(s):

<u>34-46-24-W4-02600.00GE</u>

D. Property Dimensions:

Area:	square feet	acres
Width along roadway:	<u>196.69</u> feet	Depth: <u>135.86</u> feet

E. Property Street Address:

<u>6555 Estero Blvd FNB FL 33931</u>

Case # _____
Planner _____

Date Received _____
Date of Sufficiency/Completeness _____

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

3.5 miles south from Sky Bridge.
Attach Area Location Map as Exhibit 5-3

G. Property Restrictions (check applicable):

☒ There are no deed restrictions or covenants on this property that affect this request.
☐ Restrictions and/or covenants are attached as Exhibit 5-4
☐ A narrative statement explaining how the deed restrictions and/or covenants may affect the request is attached as Exhibit 5-5.

H. Surrounding property owners:

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

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

☐ Low Density	☐ Marina
☒ Mixed Residential	☐ Recreation
☐ Boulevard	☐ Wetlands
☐ Pedestrian Commercial	☐ Tidal Water
Is the property located within the "Platted Overlay" area on the Future Land Use Map? ☐ Yes ☒ No	

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

☐ RS (Residential Single-family)	☐ CM (Commercial Marina)
☐ RC (Residential Conservation)	☐ CO (Commercial Office)
☐ RM (Residential Multifamily)	☐ CB (Commercial Boulevard)
☐ VILLAGE	☐ SANTINI
☐ SANTOS	☐ DOWNTOWN
☐ IN (Institutional)	☐ RPD (Residential Planned Dev.)
☐ CF (Community Facilities)	☐ CPD (Commercial Planned Dev.)
☒ CR (Commercial Resort)	☐ EC (Environmentally Critical)
☐ BB (Bay Beach)	

Case # _____
Planner _____

Date Received _____
Date of Sufficiency/Completeness _____

PART VI – Affidavit

Application Signed by a Corporation, Limited Liability Company (LLC), Limited Company (LC), Partnership, Limited Partnership, or Trustee

See attached explanatory notes for instructions

I, R. Travis Owen, as President
of RTJP INV. INC., swear or affirm under oath, that I am
the owner or the authorized representative of the owner(s) of the property and
that:

1. I have full authority to secure the approval(s) requested and to impose covenants and restrictions on the referenced property as a result of any action approved by the Town in accordance with this application and the Land Development Code;
2. All answers to the questions in this application and any sketches, data, or other supplemental matter attached hereto and made a part of this application are honest and true;
3. I hereby authorize Town staff or their designee(s) to enter upon the property during normal working hours (including Saturdays and Sundays) for purposes reasonably related to the subject matter of this application; and
4. The property will not be transferred, conveyed, sold, or subdivided unencumbered by the conditions and restrictions imposed by the approved action

RTJP INV. INC.
Name of Entity (corporation, LLC, partnership, etc)

Pres.
Title of Signatory

R. Travis Owen
Signature

R. Travis Owen
Typed or Printed Name

State of Florida
County of Lee

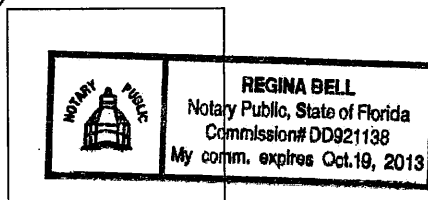
The foregoing instrument was sworn to (or affirmed) and subscribed
before me this February 9 2012 by R. Travis Owen
Date Name of person under oath or affirmation

who is personally known to me or who has produced Drivers License
Type of identification

as identification
Regina Bell
Signature of person administering oath

Regina Bell
Typed or Printed Name

SEAL:



Case # _____
Planner _____

Date Received _____
Date of Sufficiency/Completeness _____

EXHIBIT 4-1
DISCLOSURE OF INTEREST FORM

STRAP# _____

Attach additional sheets in the same format for each separate STRAP number in the application if multiple parcels with differing ownership are included.

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

Name and Address	Percentage

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

Name, Address, and office	Percentage
R. Travis Owen 6555 Estero Blvd #1113 (Pres)	25%
J. Preston Owen 1 Lafayette Mattom Fl. 61938 (Tres)	25%
Ross Marbarger 1091 Jefferson Ct. Evansville IN (VP)	25%
Jerry Lindley 1380 CR Mattom IT 61938 (Sec)	25%

Case # _____
Planner _____

Date Received _____
Date of Sufficiency/Completeness _____

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

Name and Address	Percentage

4. If the property is in the name of a GENERAL PARTNERSHIP or LIMITED PARTNERSHIP, list the names of the general and limited partners with the percentage of ownership.

Name and Address	Percentage

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

Name, Address, and Office (if applicable)	Percentage

Case # _____
Planner _____

Date Received _____
Date of Sufficiency/Completeness _____

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

Name and Address

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

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

Signature *R. Travis Owen*
Applicant
R. Travis Owen
Printed or typed name of applicant

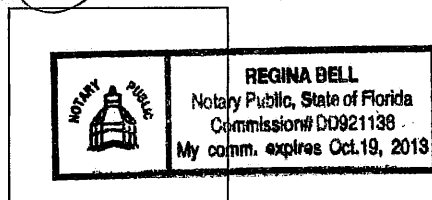
STATE OF Florida
COUNTY OF Lee

The foregoing instrument was acknowledged before me this 9 day of February, 2012 by R. Travis Owen who is personally known to me or who has produced Drivers License as identification and who did (or did not) take an oath.

Regina Bell
Signature of Notary

Regina Bell
Typed or Printed Name of Notary

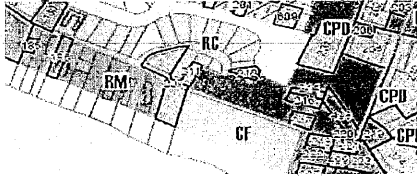
SEAL:



Case # _____
Planner _____

Date Received _____
Date of Sufficiency/Completeness _____

Town of Fort Myers Beach
Department of Community Development



Zoning Division

ORIGINAL

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:	FMBVAR 2012-6002
Project Name:	Dolphin Inn Sign
Authorized Applicant:	Travis Owen
LeePA STRAP Number:	34-46-24-W4-02600.00GE

Current Property Status:	Hotel
Current Zoning:	CR
Future Land Use Map (FLUM) Category:	CR
Comp Plan Density:	Platted Overlay? ☐ Yes ☒ No

Variance is requested from:

LDC Section Number

Title of Section or Subsection

Sec. 30-154(b.)	Location

Complete the narrative statements below for EACH variance requested.

Case # _____
Planner _____

Date Received _____
Date of Sufficiency/Completeness _____

PART I
Narrative Statements

Request for variance from 30-154(b) (LDC Section number)

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

Monument signs must be set back at least three (3) feet from any public right-of-way or roadway easement.

Reasons for request

Explain why the variance is needed:

Our parking lot configuration and property line only allow for a small area to place a sign. We need to place the sign as far forward as possible to be visible from the road and not be blocked by parked cars.

Case # _____
Planner _____

Date Received _____
Date of Sufficiency/Completeness _____

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

The variance would have no effect on any surrounding properties

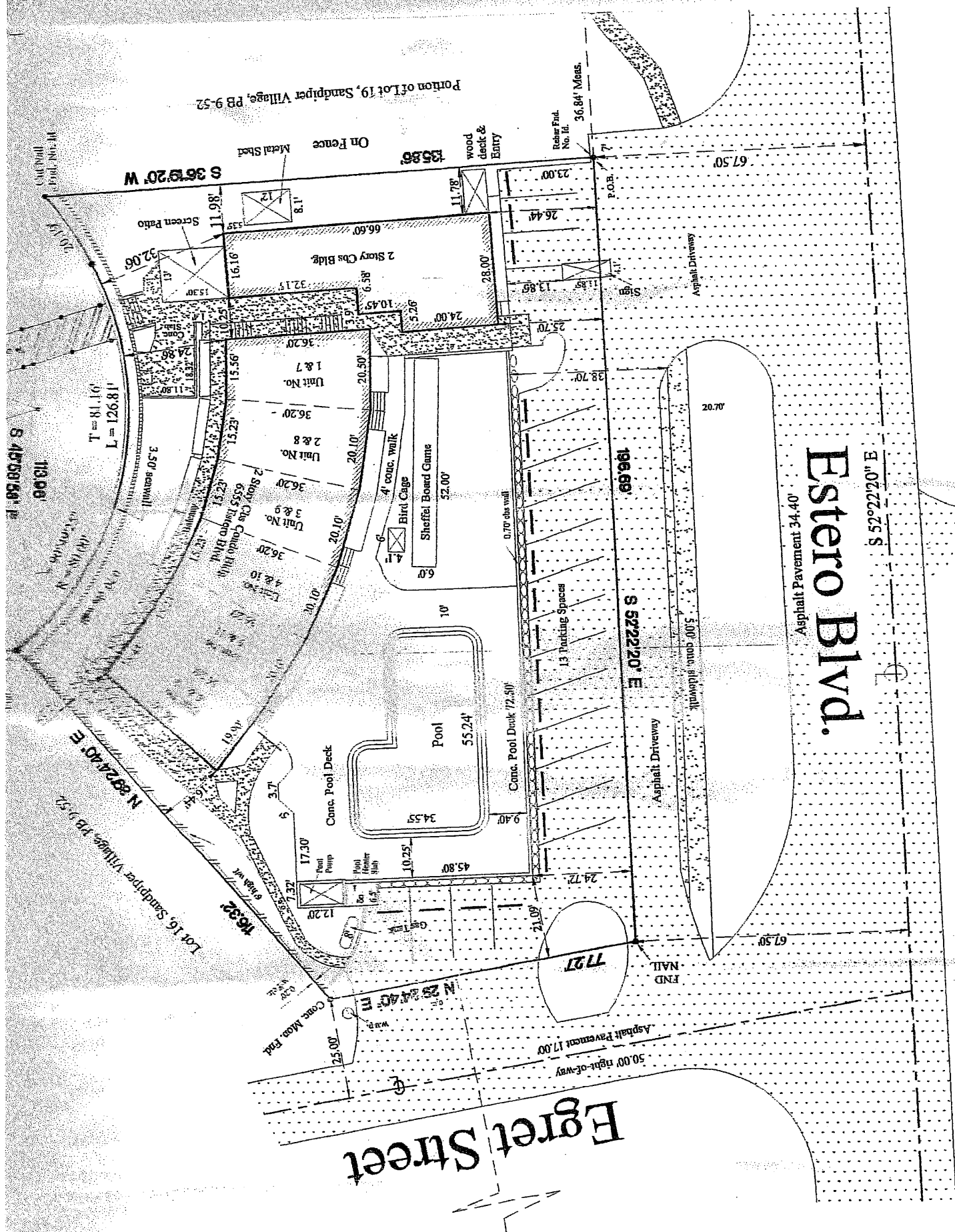
Explain the hardship (what is unique about the property) that justifies relief from the regulation:

Our property line runs at the end of our parking spaces and in so we have limited area for sign placement.

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

The property qualifies by meeting the five findings in Section 34-87

- A) The unique set-up of the property necessitates maximum exposure for signage. The parking ~~set~~ configuration and layout require the variance for visibility.
- B) The property hasn't changed since 1965.
- C) This is the minimal variance change for sign exposure.
- D) This variance will not ~~be~~ be detrimental in any way to the public
- E) This is a minor move for a unique property and it is not practical to amend the regulation



ILLUMINATED CABINET TO CODE. POWDER COATED & CLEAR COATED ALUMINUM SIGN
 RETRO-FIT TO EXISTING FOOTER, ETC. - WITH JET CUT ALUMINUM ADDRESS LETTERS
 6" CHANGEABLE COPY, TEXT & LOGO PANFACE AREA - 50"x68" = 23.61 SQ. FT.



6555

5'-0" from Grade

3'-4"

ENJOY SPECIAL WINTER RATES

4"

5'-8"

6'-0"

1'-0"

Robson Corporation

"THE BEST BUY IN SIGNS"

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

APPROVED BY:

DATE: / /

DESIGN: #163820-R1 CODE: 01-1212-BL Scale: 1"=12"

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