

**Lee County Board Of County Commissioners
Agenda Item Summary**

Blue Sheet No. 20031122

1. REQUESTED MOTION:

ACTION REQUESTED: Authorize transfer in the amount of \$969,230 from Regional Park Impact Fee Reserves and amend FY 02/03 – 06/07 CIP with the establishment of the Newton Estates Project. Authorize payment of \$969,230 to the Town of Ft. Myers Beach for purchase of the Newton Property. Approve Interlocal Agreement with Town of Fort Myers Beach for Newton property.

WHY ACTION IS NECESSARY: Board approval is required for amendments to CIP.

WHAT ACTION ACCOMPLISHES: Approval allows the Town of Fort Myers Beach to acquire the Newton Beach parcel for public recreational use.

2. DEPARTMENTAL CATEGORY:
COMMISSION DISTRICT #

A11A

3. MEETING DATE:

09-30-2003

4. AGENDA:

- CONSENT
- ADMINISTRATIVE
- APPEALS
- PUBLIC
- WALK ON
- TIME REQUIRED:

5. REQUIREMENT/PURPOSE:
(Specify)

- STATUTE
- ORDINANCE
- ADMIN.
- CODE
- OTHER

6. REQUESTOR OF INFORMATION:

- A. COMMISSIONER Ray Judah
- B. DEPARTMENT Parks & Recreation
- C. DIVISION

BY: John Yarbrough, Dept. Director

John Yarbrough

7. BACKGROUND:

On July 2, 2002, (blue sheet 20020805), the Board of County Commissioners approved increasing the portion the County would fund up to \$969,230 to participate with the Town of Fort Myers Beach in the potential purchase of the Newton Estate on Fort Myers Beach. On August 6, 2002 (blue sheet 20020900) the Board capped the County's share in the potential purchase for a not to exceed amount of \$969,230.

The Town has applied for a 50% matching grant from the Florida Communities Trust in the acquisition of the .8 acre known as "Newton Beach". The Count's contribution will be used toward the 50% local match required for the grant. The Town is approaching closing time on the property and funds need to be transferred to the Town to complete the transaction.

Funds will be available in account 20200918700.508309.

8. MANAGEMENT RECOMMENDATIONS:

9. RECOMMENDED APPROVAL:

ccm

A Department Director	B Purchasing or Contracts	C Human Resources	D Other	E County Attorney	F Budget Services				G County Manager
<i>by 9-17-03</i>	<i>SAO 9/17/03</i>		<i>SAO 9/17</i>	<i>WJF 9/17/03</i>	<i>OA 9-17-03</i>	<i>OM 9/17/03</i>	<i>Risk 9/17/03</i>	<i>GC 9/17/03</i>	<i>9-17 [Signature]</i>

10. COMMISSION ACTION:

- APPROVED
- DENIED
- DEFERRED
- OTHER

for scheduling

Rec. by CoAtty

Date: *9/17/03*

Time: *2:03 pm*

Forwarded To:

RECEIVED BY
COUNTY ADMIN:

9/17/03

2:03 pm

COUNTY ADMIN
FORWARDED TO:

REQUEST FOR TRANSFER OF FUNDS

FUND NAME: Regional Park Impact Fees DATE: 08/22/03 BATCH NO. _____

FISCAL YEAR: 02/03 FUND #: 18700 DOC TYPE: YB LEDGER TYPE: BA

TO: Capital Projects Parks Capital Projects
 (DIVISION NAME) (PROGRAM NAME)

NOTE: PLEASE LIST THE ACCOUNT NUMBER BELOW IN THE FOLLOWING ORDER:
 FUND #-DEPT/DIV #-PROGRAM #-OBJECT CODE #-SUBFUND #-PROJECT#-COST CENTER #.
 (EXAMPLE: BB5120100100.503450)

ACCOUNT NUMBER	OBJECT NAME	DEBIT
<u>20200918700.508309</u>	<u>Other Grants and Aids</u>	\$ 969,230
	TOTAL TO:	\$ 969,230

FROM: <u>Non-Departmental</u> (DIVISION NAME)	<u>Reserves</u> (PROGRAM NAME)	
ACCOUNT NUMBER	OBJECT NAME	CREDIT
<u>GC5890118700.509930</u>	<u>Reserves for Future Capital Outlays</u>	\$ 969,230
	TOTAL FROM:	\$ 969,230

EXPLANATION: Establish budget for the Newton Estates Acquisition property by transferring funds from Regional Park Impact Fee Reserves

DIVISION DIRECTOR SIGNATURE	DATE
DBS: APPROVAL <u>✓</u> DENIAL _____	
APPROVAL <u>J</u> DENIAL _____	
CO. ADMIN.: APPROVAL <u>J</u> DENIAL _____	

DEPARTMENT DIRECTOR SIGNATURE	DATE
<u>James X. Wolf</u>	<u>9-17-03</u>
OPERATIONS ANALYST SIGNATURE	DATE
<u>[Signature]</u>	<u>9/17/03</u>
BUDGET OPERATIONS MANAGER SIGNATURE	DATE
<u>[Signature]</u>	<u>9-17-03</u>
CO. ADMIN. SIGNATURE	DATE

BCC APPROVAL DATE _____

BCC CHAIRMAN SIGNATURE _____

BA NO: _____ AUTH CODE: _____ TRANS DATE: _____ REV. 05/93

**INTERLOCAL AGREEMENT FOR COUNTY GRANT FUNDING
OF THE NEWTON BEACH PROPERTY**

THIS INTERLOCAL AGREEMENT is made and entered into this _____ day of _____, 2003, by and between Lee County, a political subdivision and charter county of the State of Florida, acting by and through its Board of County Commissioners, "COUNTY" and the Town of Fort Myers Beach, a municipal corporation of the State of Florida, "TOWN" acting by and through its Town Council.

WITNESSETH

1. **WHEREAS**, the Board of County Commissioners as the governing body for Lee County has certain powers relative to providing parks, cultural facilities and programs to the public; and

2. **WHEREAS**, Chapters 125, 163, and 166, Laws of Florida, and other applicable laws authorize the County and Town to enter into this joint funding and county grant interlocal agreement in order for the Parties to provide for and improve parks, museums and cultural facilities for the benefit of its respective citizens; and

3. **WHEREAS**, the Town of Fort Myers Beach is purchasing the property located at 4610 Estero Blvd., 4650 Estero Blvd., and 4600 Estero Blvd., commonly known as the "Jim and Ellie Newton" Property, Strap Nos. 264624-W3-0080.H.0050, 294624-W3-0080H.0030 and 294624-W3-0080H.0010; and

4. **WHEREAS**, the Town of Fort Myers Beach has requested the County's financial assistance in the purchase of the property by providing certain County funds so that the property may be acquired and used for public purposes; and

5. **WHEREAS**, the Town is receiving certain grant funds from the Florida Communities Trust, a nonregulatory agency within the Department of Community Affairs, and is contractually bound by certain covenants and restrictions contained in the grant contract (attached as "Exhibit B") to protect the interests of the people of Florida; and

6. **WHEREAS**, the Board has carefully reviewed the request and finds that the purchase of the property by the Town of Fort Myers Beach serves a County public purpose and is in the public's interest; and

7. **WHEREAS**, the Board finds that it serves a County public purpose to provide grant funding in the amount of \$969,230.00 to the Town of Fort Myers Beach to assist the Town with the purchase of the property.

NOW THEREFORE, the Parties as cited above in consideration of the recitations in the preamble the covenants herein, and other good and valuable consideration agree to and accepted by the Parties, each to the other, now agree to the following terms and conditions as indicated by the signatures of their duly authorized representatives, below.

SECTION ONE: RECITALS

- (A) The provisions and findings of the "Whereas" clauses above are incorporated herein as if set out at length.
- (B) This agreement is entered into pursuant to the Lee County Charter, Chapters 125, 163, and 166, Laws of Florida and other applicable law.

SECTION TWO: PURPOSE

The purpose of this Interlocal Agreement is to provide the Town of Fort Myers Beach with \$969,230.00 of County funds in order to assist the Town with the purchase of the "Newton" Property as described above. (The "Project").

SECTION THREE: OBLIGATIONS OF THE PARTIES

- 1. County hereby agrees to grant and Town hereby agrees to accept subject to the terms and conditions hereinafter set forth, \$969,230.00, to be used by the Town for the purchase of the "Newton" Property, located at 4610, 4650

and 4600 Estero Blvd., Fort Myers Beach. Upon acquiring title, the Town will assume full financial responsibility for the operation and maintenance of the property.

2. The County's grant of \$969,230.00 to the Town of Fort Myers Beach is to be used by the Town solely for the purpose of acquiring the Newton Property identified in #1 above.
3. The Town warrants that such property is being acquired to preserve the historic character of the property and to convert the property into a public park; as described in the attached Exhibit "A" [Management Plan] and incorporated herein.
4. Within one year of acquisition, the Town agrees to use all due diligence in opening such park property for public use.
5. The Town of Fort Myers Beach will be solely responsible for all management, maintenance, patrol and trash collection at the site. Town warrants that the property will be managed for the conservation, protection and enhancement of natural resources, and for outdoor recreation compatible with those goals.
6. The Town acknowledges that the 1940's residence located at 4610 Estero Blvd. is a historic structure indicative of Florida beach residents of that era and Town covenants and agrees to preserve forever its historic character and cultural significance.
7. The Town agrees that in the event that the Town should discontinue use of the property for purposes of a public park or public facility or fail to preserve or maintain the property or its accompanying structures as described above, upon written demand from the County, the Town will return to the County within 180 days of receipt of such written notice, all grant funds tendered by the County and the TDC to the Town for the project, plus accrued interest, at the rate of 12% per year. In the event that the property is sold by the Town, the Town will provide the County with its pro rata portion of the proceeds from the sale within 90 calendar days of closing.

8. The Town may implement and enforce a parking fee program at the "Newton" Park, provided that the same parking fee is applicable equally to town residents and non-residents alike, and is not discriminatory.
9. Failure of Town to materially comply with any of the provisions of this agreement shall be considered a breach of this agreement and shall be cause for immediate termination of the agreement at the discretion of the County. Such termination by County will not cancel or terminate the obligation of the Town to repay to County the sum of any County grant funds that County may have previously disbursed to the Town.

SECTION FOUR: EVENTS OF DEFAULT

- A. Failure to maintain the 1940's historic character and cultural significance of the property.
- B. Failure to provide for reasonable times and availability of the park to the public for recreational use, tours and leisure activities.
- C. Maintaining a discriminatory parking fee structure at park is grounds for default.
- E. Failure to provide for proper management, maintenance and patrol at the park.
- F. Failure to manage property for the protection and enhancement of natural resources or for outdoor recreation compatible with those goals.
- G. Failure of Town to keep the Newton Park Facility open to the general public shall be considered an automatic breach of the terms of this agreement subject to immediate termination by the County.

SECTION FIVE: REMEDIES OF THE COUNTY

- A. Any breach of this agreement will be provided in writing to the Town by the County via certified mail.

1. Upon said County termination as provided for in this Agreement, Town shall be responsible for and shall repay to the County within 180 days of termination, all County funds that have been disbursed to the Town to include any interest, fees and costs incurred by County in collecting the payment of said funds due and owing by the Town hereunder.
 2. The County may terminate or cancel this agreement without cause by providing thirty (30) days prior written notice to the Town. Under no circumstances may Town terminate or cancel this agreement without a refund or repayment to Lee County of the county funds plus interest (12% accrue annually) as provided and paid by the County to the Town hereunder. Town shall repay the funds within 180 days of cancellation or termination.
- B. If the County determines that the performance of the Town is not satisfactory, the County shall have the option of (i) immediately terminating this Agreement, or (ii) notifying the Town of the deficiency with a requirement that the deficiency be corrected within a specified time, otherwise the Agreement will be terminated at the end of such time, or (iii) take whatever action is deemed appropriate by the County, including but not limited to, an action for specific performance. In the event that it becomes necessary that the County file an action for specific performance to compel Town to comply with the terms and conditions of this Agreement, then Town will reimburse County for court costs and legal fees incurred in such action.
- C. If any part of this Agreement shall be determined to be invalid or unenforceable by a court of competent jurisdiction or by any other legally constituted body having the jurisdiction to make such determination, the remainder of this Agreement shall remain in full force and effect provided that the part of this Agreement thus invalidated or declared unenforceable is not material to the intended operation of this Agreement.
- D. This Agreement contains the entire agreement between the County and

Town, any verbal understanding, statements or prior writings or agreements to the contrary notwithstanding.

- E. No change or modification to this Agreement shall be effective unless the same is in writing and signed by both parties.
- F. No assignment of this Agreement may be made without written consent of the County.

SECTION SIX: INSURANCE

The Town shall extend its insurance coverage to the property when the Town acquires title and shall ensure that such property is adequately covered by its existing policies.

SECTION SEVEN: INDEMNIFICATION/HOLD HARMLESS

Subject to the limitations as set out in Florida Statutes §768.28 and §252.51, the Town shall defend, hold harmless and indemnify County from and against any and all claims, actions, damages, liability, cost and expense, including those arising from bodily injury, death and/or property damage or any other lawful expense, including but not limited to, attorney's fees and court costs, brought by third parties arising from the act or omission of the Town, its agents, employees, contractors or during Town's ownership, operation and maintenance of the premises.

IN WITNESS HEREOF, the parties hereto have caused these presence to be executed by their duly authorized officers and their official seals hereto affixed, on the day and year as first written above.

ATTEST:

TOWN OF FORT MYERS BEACH

By: _____
Town Clerk

By: _____
Mayor

APPROVED AS TO LEGAL FORM:

By: _____
Town Attorney

ATTEST:
CHARLIE GREEN, CLERK

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

By: _____
Deputy Clerk

By: _____
Chairman

APPROVED AS TO LEGAL FORM:

By: _____
Lee County Attorney's Office

Management Plan
for
Newton Beach Park
The Town of Fort Myers Beach
FCT Project Number 02-098-FF2

June, 2003

JUL 21 2003

TABLE OF CONTENTS

I. Introduction 1
 A. Location/Ownership
 B. Land Use and Zoning
 C. History

II. Purpose 6
 A. Preservation of Natural and Cultural Resources
 B. Environmental and Cultural Resource Education and Recreation
 C. Comprehensive Plan/Florida Forever Conformance
 D. Greenway Management
 E. Management Objectives

III. Structures and Improvements 10
 A. Existing Improvements
 B. Proposed Improvements
 C. Required Permitting
 D. Easements, Concessions, and Leases

IV. Key Management Activities 20
 A. Maintenance
 B. Security
 C. Staffing
 D. Vegetative Community Assessment/Natural Resource Protection
 E. Archaeological/Historical Elements
 F. Management Coordination

V. Resource Enhancement 25
 A. Exotic Plant Removal
 B. Habitat Enhancement for Listed Species
 C. Cultural Resource Enhancement

VI. Cost/Funding 26
 A. Development Cost Estimate
 B. Funding Sources

VII. Monitoring 28
 A. Management Objectives
 B. Annual Implementation Report and Progress Assessment
 C. Plan Updates

LIST OF TABLES

Table 1: Estimated Management and Development Costs 27

LIST OF FIGURES

Figure A: Location Map 3
 Figure B: Vicinity Map 4
 Figure C: Great Calusa Blueway – Estero Island Section 5
 Figure D: Existing Conditions Map 11
 Figure E: Master Site Development Plan Alternate 1 13
 Figure F: Master Site Development Plan Alternate 2 18
 Figure G: Natural Communities Map 22
 Figure H: Management Activities Timeline 30

LIST OF APPENDICES

Appendix A: Land Development Code, Chapter 22 – Historic Preservation
 Appendix B: FCT Conceptual Approval Agreement
 Appendix C: FLEPPC List of Exotic Plants / FNAI Species Report Forms
 Appendix D: FCT Grant Award Agreement and Recorded Deed

SECTION I – INTRODUCTION

Newton Beach Park is located in the residential middle section of Estero Island in the Town of Fort Myers Beach. The project site includes 3 contiguous lots, each with a residence and associated outbuildings. The park contains approximately 0.8 acres of land, and provides 196 feet of beach frontage on the Gulf of Mexico. Natural communities represented on the site include coastal strand and tropical maritime hammock, although exotic plant species dominate the developed landscape. One of the residences, the Newton beach cottage, was constructed circa 1940 and exemplifies a residential architectural style from that period.

An important aspect of the park is its commemoration of the lives and contributions of Jim and Ellie Newton. The Newtons have been prominent residents of Estero Island, recognized for important contributions to society, and for their close friendships with five famous figures of 20th Century American history: Thomas Edison, Harvey Firestone, Henry Ford, Charles Lindbergh and Alex Carrel.

Picnicking, nature interpretation, cultural and natural resource education programs and small community gatherings will be supported by the facilities proposed at Newton Beach Park. Resource management activities at the park will include preservation of a locally important historic structure, restoration of natural vegetative communities, and recreation of a short section of beach dune. The park will provide a needed public recreational and cultural site and museum for the residents and tourist visitors to this densely-populated beach community, with interpretation of the Newton family, local history, resource management activities occurring on site, and other cultural and environmental education opportunities.

Grant funding from the Florida Communities Trust is being used to acquire the Newton Beach Park project site. This plan was developed to meet the management plan requirements of the Florida Forever program and the Florida Communities Trust, to ensure that the property will be developed in accordance with the FCT Grant Award Agreement (Agreement #02-098-FF2) and in furtherance of the purposes of the grant application.

This management plan was developed to provide guidelines for the Town of Fort Myers Beach for natural and cultural resource management and development of public facilities. The plan is organized into the **Introduction**, providing information on the project's location and current ownership, adjacent land use and zoning issues and the history of the land. The **Purpose** section outlines the purposes of acquisition, the relationship of this acquisition to the directives of the Town of Fort Myers Beach Comprehensive Plan and identifies the primary management goals for the project. The **Structures and Improvements** section identifies existing

and proposed structures and improvements, describes permitting requirements for the proposed improvements, and discusses any easements, concessions or leases anticipated to be necessary to implement the plan. The **Key Management Activities** section discusses site maintenance, security and staffing issues, inventories natural and cultural resources found on the site, and outlines general resource protection and restoration activities. This section also identifies and discusses management coordination actions by the Town with other local, state and federal agencies pursuant to the management responsibilities outlined in the plan. The **Resource Enhancement** section discusses specific natural community restoration, exotic plant removal efforts and protected species habitat preservation and enhancement measures, and outlines the process for analysis and preservation of the historic Newton beach cottage. The **Cost/Funding** section estimates natural and cultural resource management costs, facilities development costs and maintenance costs, and discusses funding sources that will be applied to the management of the property in the future. Finally, the **Monitoring** section outlines the ongoing activities that will monitor the success of the Town's management program, and describes the reporting system that will inform the FCT of progress toward implementation of the plan's goals and objectives. This section includes a projected timeline of management activities. Addenda to the plan include a list of plants and animals potentially inhabiting the site and a list of protected species known to inhabit or use the site, the FCT Conceptual Approval Agreement, the Florida Natural Areas Inventory Species Report Forms and the Exotic Pest Plant Council's current List of Exotic Plants. When they are available, the Appendices will also include the FCT Grant Award Agreement and Recorded Deed

A. Location and Ownership

The Newton Beach Park is located in the middle section of Fort Myers Beach between Estero Boulevard and the Gulf of Mexico (see Figures A and B). The property is held in trusts of the estate of James Newton, and Mrs. Ellie Newton is in residence as part of a life estate agreement.

B. Land Use and Zoning

The Town of Fort Myers Beach Future Land Use Map and Land Development Regulations designate the project site as Mixed Residential land use and Residential Conservation zoning. Adjacent lots to the southeast have existing residences, and the lot immediately southeast of the park is site of construction for a new residence. The Strandview Towers Condominium, a multifamily residential unit is located on the lot northwest of the park. A public beach access route and small parking area is located on Strandview Avenue between the park and the condominium. A second public beach access right of way, 20 feet wide, is located between the Newton property and the single-family residential lot to the southeast.

FIG. B - VICINITY MAP

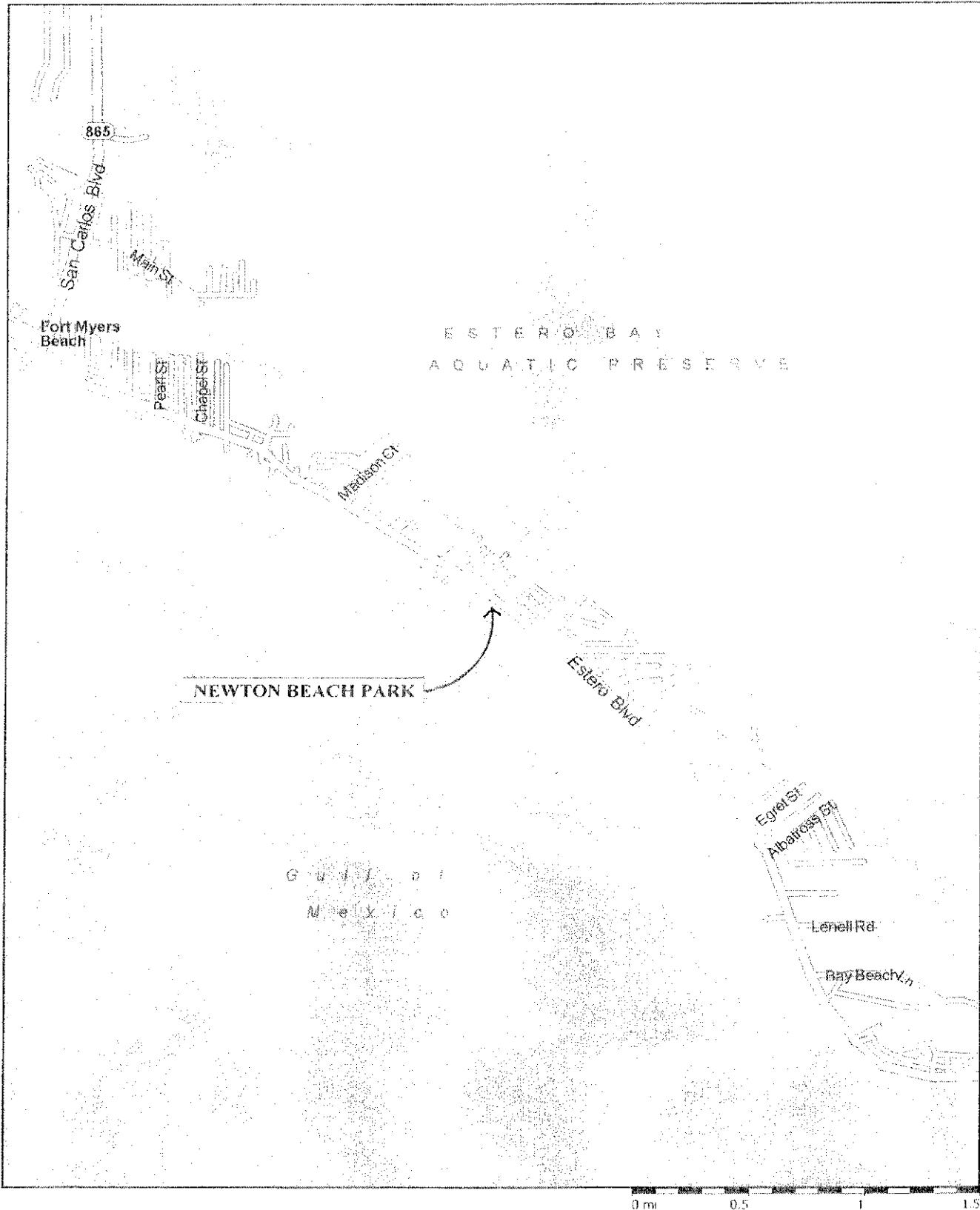
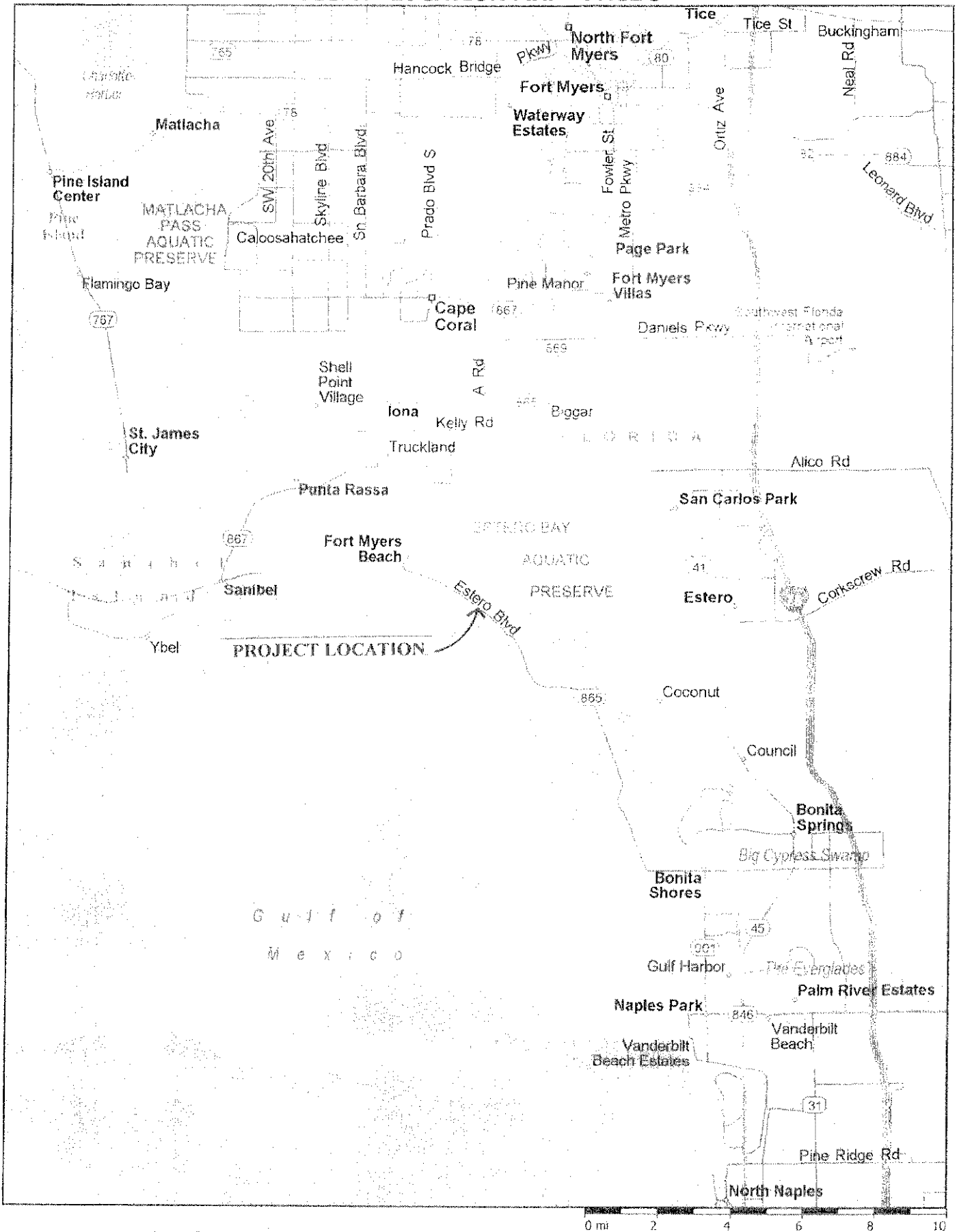
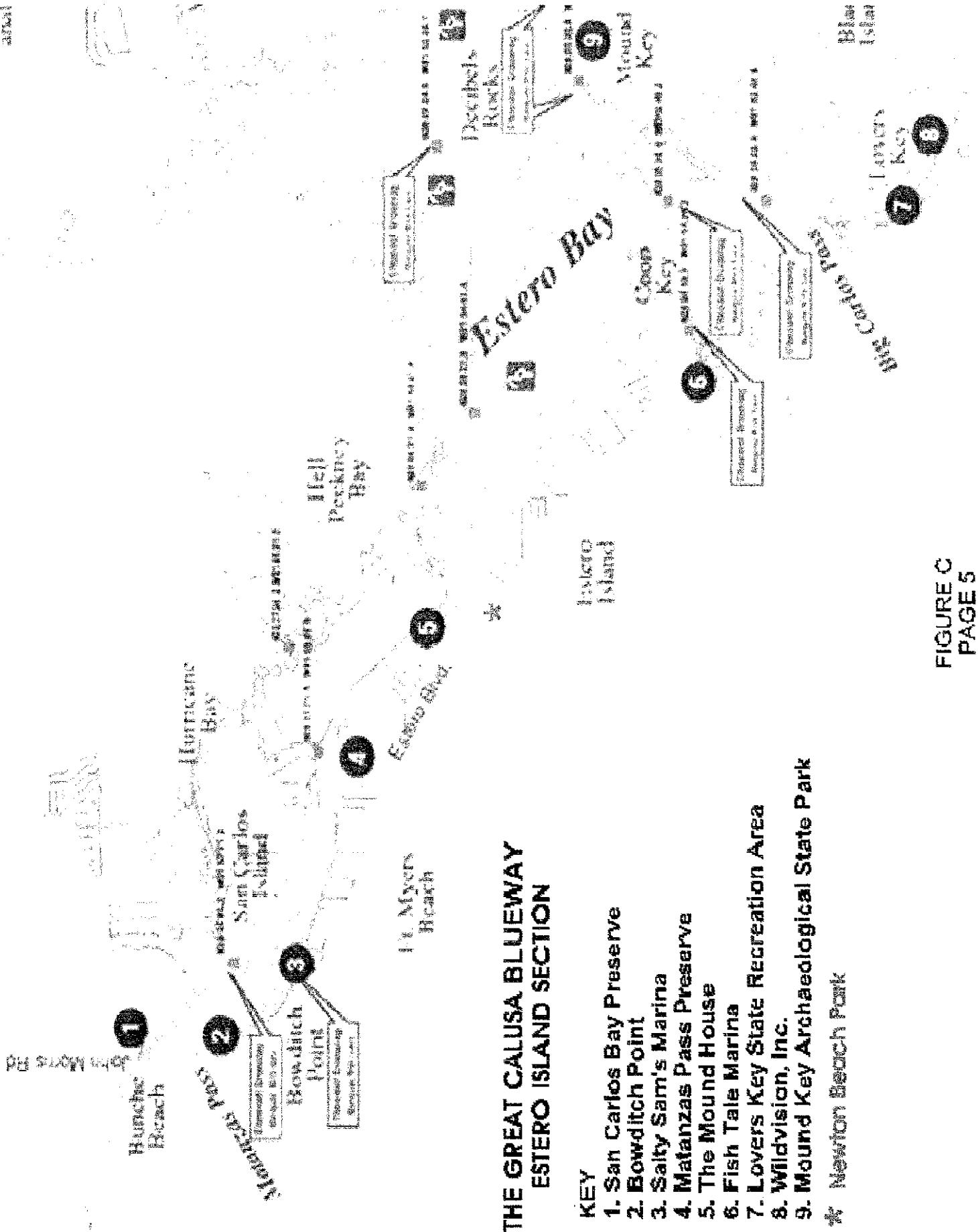


FIG. A - LOCATION MAP - PAGE 3





**THE GREAT CALUSA BLUEWAY
ESTERO ISLAND SECTION**

KEY

- 1. San Carlos Bay Preserve
 - 2. Bowditch Point
 - 3. Salty Sam's Marina
 - 4. Matanzas Pass Preserve
 - 5. The Mound House
 - 6. Fish Tale Marina
 - 7. Lovers Key State Recreation Area
 - 8. Wildvision, Inc.
 - 9. Mound Key Archaeological State Park
- * Newton Beach Park

**FIGURE C
PAGE 5**

C. **History**

Fort Myers Beach has been an incorporated city for a short time, but development of Estero Island dates from the early 20th Century. The island has been a popular beach residence area and a destination for winter tourists since the 1920's. The Newton Beach Park property includes one residential structure dating from around 1940. Mr. and Mrs. Jim Newton purchased the property in the early 1950's and built both the residence now occupied by Mrs. Newton and a third residence in 1954 and 1984, respectively. The most notable historic connection of the property stems from the Newtons' long-time friendship with Charles Lindbergh and Anne Morrow Lindbergh, who were frequent visitors at their home on Estero Island.

SECTION II - PURPOSE

A. **Preservation of Natural and Cultural Resources**

As with all public land purchases in Florida today, the preservation of natural resources is a priority purpose of the Newton Beach project. The history of land use on Estero Island, and the project site in particular, leaves only a few remnant examples of the original natural plant communities and dune and swale topographic features that originally characterized the island. At Newton Beach Park, an important purpose of public ownership will be the restoration of native upland plant species as part of a systematic removal of exotic plants, several of which are invasive species. The property will be managed for the conservation, protection and enhancement of natural resources, and for outdoor recreation compatible with those goals. Recreation of the dune topography along the park's beach frontage will provide several ecological benefits while creating a valuable interpretive opportunity for residents and island visitors (who see few examples of the islands original topography, beach dune and coastal strand natural communities).

More significant is the cultural value of the Newton property. The 1940's beach cottage is an excellent example of Florida beach residences constructed in that era, few of which survive today in good condition. Coupled with the importance of preserving the historic structure is the commemoration of the two outstanding persons who lived here for so many years. Jim Newton's book Uncommon Friends, which was written here, chronicles the long friendships between the Newtons and Thomas Edison, Harvey Firestone, Henry Ford, Charles Lindberg and Alex Carrel. More importantly, this project celebrates the strong spiritual, moral and ethical foundation for personal action that was the basis of the Newtons' lifetime successes in business and in personal accomplishments. These qualities of friendship and high ethical standards, which are so valuable to the health of society, can be very effectively displayed and discussed through the setting and proposed facilities of Newton Beach Park.

B. Environmental and Cultural Resource Education and Recreation

The removal of exotic plant species and restoration of native species and habitat to the project site will create a small ecological benefit, but a large interpretive and educational benefit for the citizens of Fort Myers Beach. Interpretive programs on the site will highlight the importance of native plant and animal species and how local residents can protect them through the decisions they make in managing their own landscapes. The recreation of a natural dune at the park will serve as a stormwater retention berm, stopping the delivery of untreated stormwater to the Gulf beach. The dune will also provide a more effective buffer for the property from storm winds and tides than the existing concrete seawall that protects the beach cottage and modern beachfront residence. These facts will also be featured in interpretive programs, to educate residents and visitors about the dynamics of the coastal system and the cumulative effects of the urban land use decisions that have been made here, over time, on the original natural systems of Estero Island. At least 24 regularly scheduled environmental and historical education programs will be provided each year by trained educators or resource professionals, targeting K-12 and adult audiences.

A number of active and passive recreational opportunities will be created through the development of Newton Beach Park. The park is conceived as an "Oasis Park", small neighborhood parks and open spaces located in areas of the Town that supplement the existing open space areas maintained by the Town and by Lee County. Oasis Parks will provide public "breathing room" in densely populated and often congested areas of the Town. Resource based activities proposed for the park include traditional beach activities (sunbathing, swimming, shell collecting, etc.) and environmental education programs based both on the beach and Gulf of Mexico and on the restoration projects planned for the park. Picnicking and visiting with friends will be passive recreational activities encouraged at the park with the provision of scattered picnic tables, benches and a short nature walk. Historic interpretation both of the lives of Jim and Ellie Newton and the history of Fort Myers Beach is the planned use for the historic beach cottage, and multi-purpose public meeting space will be provided in one of the other existing structures. For more active recreational tastes, a beach volleyball net will be located just beyond the reconstructed dune on the beach, and a shuffle board court is proposed for the back dune area, adjacent to the picnic area.

C. Comprehensive Plan/Florida Forever Program Conformance

The Town of Fort Myers Beach Comprehensive Plan provides specific policy directives regarding preservation of environmentally sensitive lands and cultural resource sites within the Town. The Newton Beach Park project addresses the following specific policy goals and objectives of the Town's Comprehensive Plan:

Recreation and Open Space Element 10-D, Policy 10-D-3 and 10-H-3: to increase access to recreational facilities, maintain levels of service for community parks. Policy 10-H-3 specifically directs the establishment of the Newton property as the Town's first "oasis park", small neighborhood parks and open spaces within the developed residential areas of the city.

Conservation Element, Objective 6-B. Policies 6-B-1, 6-B-9 and 6-B-4: to improve existing and establish additional areas for nature preserve and conservation uses, coordinating with other public agencies in establishing and managing natural reserves, expanding opportunities for conservation and public appreciation of natural resources and preserving remaining coastal strand and hammock natural communities.

Coastal Management Element, Objective 5-E, Policy 5-E-4, Recreation Element, Objective 10-G, Future Land Use Element, Policy 4-A-6: to increase the number and quality of public beach access points for Town residents and visitors.

Recreation Element, Objective 10-A, Policies 10-F-1, 10-G-2 and 10-G-3: to improve natural areas as a comprehensive recreational system, including designation of canoe trails, to link cultural and recreational points of interest by providing bike and pedestrian paths, to acquire the Newton Estate for a stopping point for the Great Calusa Blueway.

Conservation Elements 6-B and 6-C, Policies 6-B-4 and 6-B-9: to preserve all remaining coastal strand and hammock natural communities and improve existing habitat, to expand opportunities for conservation and public appreciation of natural areas and to protect listed wildlife species and habitats.

Recreation Element, Objective 10-A, Policy 10-I-2, Conservation Element 6-B, Policy 6-B-9.v: to assume a leadership role with other agencies to improve natural areas, to work with Lee County, surrounding jurisdictions, state and federal agencies, non-profit organizations, corporation and others to identify funding and partnerships to implement the Recreation Element.

Coastal Management Element, Objective 5-D, Policy 5-D-1, Conservation Element, Policies 6-B-4, 6-E-3, Community Design Element, Policy 1-B-2: to conserve and enhance the shoreline by increasing the number of dunes, construction of dune walkovers, removal of non-native species, preserve remaining coastal strands and hammocks by removal of exotic species and replanting of native species, to landscape public property with native vegetation.

Historic Preservation Element, Objectives 13-A and C: to develop programs to identify, document and evaluate historic and archaeological resources for their long-term protection, to heighten public appreciation of the Town's history and culture and improve public access to publicly supported resources.

Town of Fort Myers Beach will amend the Future Land Use Classification for the Park on its next Comprehensive Plan amendment cycle after the acquisition. The classification will be changed to Recreation land use, and rezoning of the area to Community Facilities zoning designation will follow the amendment of the Comprehensive Plan. Monitoring of the development review process and enforcement of the provisions of the Town's land use, zoning and land development regulations on adjacent undeveloped land will serve to adequately buffer the project site from adverse impacts of future adjacent land uses.

D. Paddling Trail Network

The Great Calusa Blueway is a county-wide paddling trail created by Lee County Resolution 01-11-06 in November, 2001. The Blueway is envisioned to link environmental and recreational sites on a canoeing and kayaking trail throughout Lee County and extending into adjacent counties. In the vicinity of the Newton Beach Park, the Blueway circumnavigates Estero Island, linking Lee County's Bowditch Regional Park, Lover's Key State Park, and the Mound House, an historic house and prehistoric mound site on the Estero Bay side of Estero Island, located approximately 1 mile from the Newton property (see Figure C). The Town and Lee County intend to include Newton Beach Park as a much-needed mid-island point of interest and rest area on the Great Calusa Blueway. At the time that the park is opened to the public, Town staff will coordinate with County staff to include the park on maps of the Blueway, and will provide a sign in the park that identifies it as a site on the Blueway and informing the public about the Blueway.

E. Management Objectives

Following is a prioritized list of management objectives for Newton Beach Park:

1. Preserve the historic beach cottage and garage structures and commemorate the lives of Jim and Ellie Newton through static interpretive displays and personal contact with on-site staff. The Museum will be opened to the public within one year of the assumption of management responsibility of the property by the Town of Fort Myers Beach.

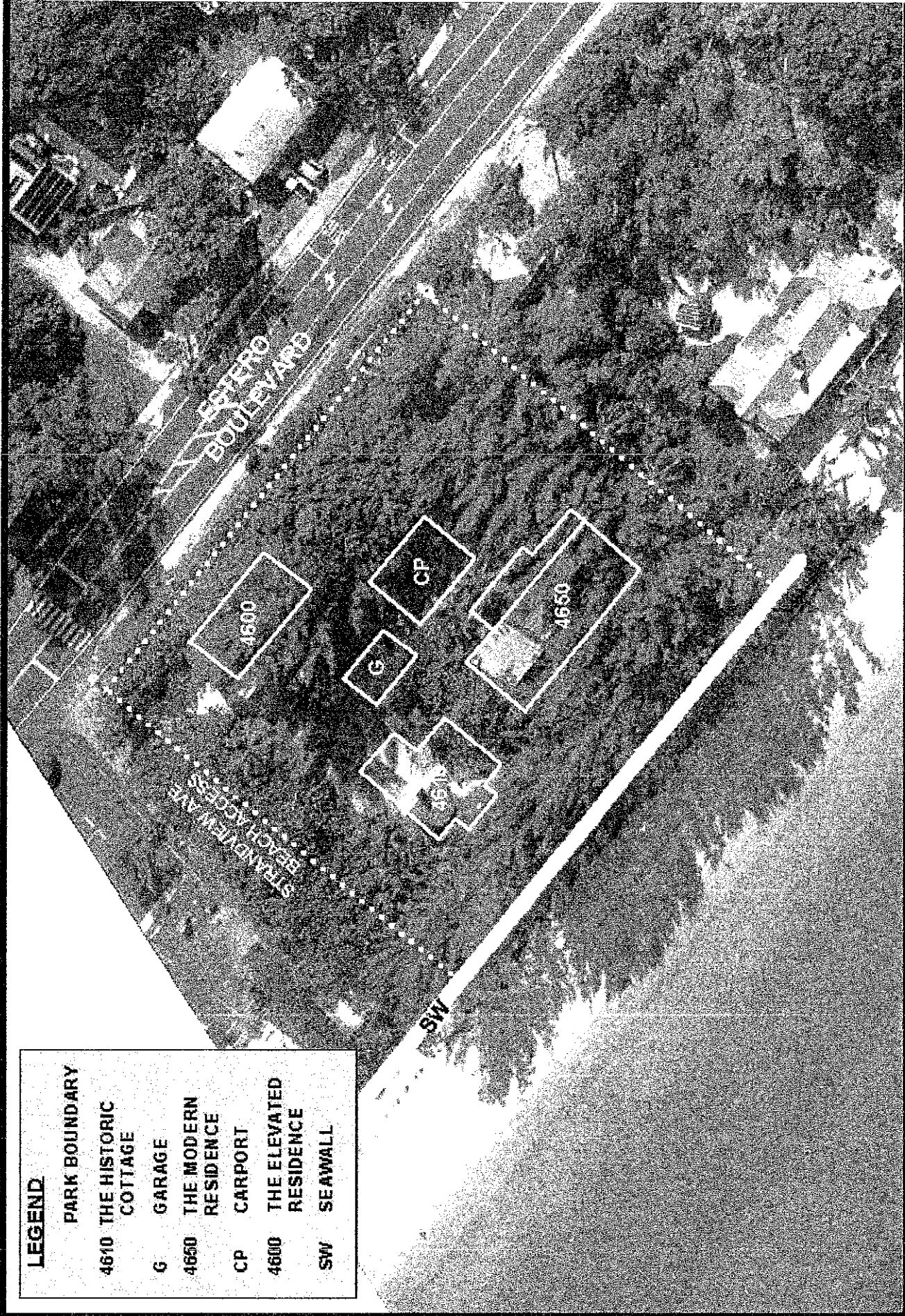
2. Conserve and manage native upland plant communities through active removal of exotic plants, follow-up treatment of exotic plant infestations and replanting to restore tropical maritime hammock, coastal strand and beach dune natural communities, adapted to the landscape needs of a neighborhood park and cultural site.
3. If feasible, remove the existing beach seawall. Recreate a natural dune and swale topography along the beachfront of the property in place of the seawall or anchored to it, and stabilize the created dune with appropriate native coastal vegetation.
4. Create active and passive recreational opportunities by developing a small picnic area, a nature trail with interpretive signs, 2 dune crossover boardwalks for beach access, shuffleboard and beach volleyball facilities.
5. Provide public meeting space and restroom and beach bathhouse facilities.
6. Provide a continuing environmental education program using the natural and cultural resources of the park, on-site meeting facilities, and the adjacent Gulf shoreline, the Great Calusa Blueway and the Mound House historic site.

SECTION III - STRUCTURES AND IMPROVEMENTS

A. Existing Improvements

Including the seawall, there are 6 existing structures on the project site. See Figure D for the locations of the structures, referenced by the address number or initials underlined below. Following are brief descriptions and condition assessments of each:

The Historic Beach Cottage (4610 Estero Boulevard) is a single-story residence with 2 bedrooms and 2 baths. The base floor area is 1,413 square feet, and an enclosed porch of 256 square feet faces the Gulf of Mexico. The Cottage was constructed in 1944, and updated in 1984, at which time modern windows and other needed improvements were installed. The construction is wood frame, off-grade, and the house is sided with cement shingles and has a fiberglass shingle roof. The cottage appears to be in excellent condition and should be easily adapted to the uses proposed by this plan. Currently, the cottage is leased on a monthly basis.



LEGEND

PARK BOUNDARY
4610 THE HISTORIC COTTAGE
G GARAGE
4650 THE MODERN RESIDENCE
CP CARPORT
4600 THE ELEVATED RESIDENCE
SW SEAWALL

NEWTON BEACH PARK
EXISTING CONDITIONS MAP

The Cottage Garage (G) is also a wood frame structure and was built at the same time as the Cottage. It is sided and roofed with matching materials. The garage has been adapted for use as a small guest apartment, but is currently not rented.

The Modern Beachfront Residence (4650 Estero Boulevard) is a one-story wood frame residence with 2 bedrooms and 2 baths. The base floor area is 1,796 square feet, with 504 square foot and 40 square foot porches back and front, respectively. This residence was constructed in 1954 by the Newtons. It is currently occupied by Mrs. Ellie Newton.

The Carport (CP) is an open wood frame structure constructed at the same time as the modern residence.

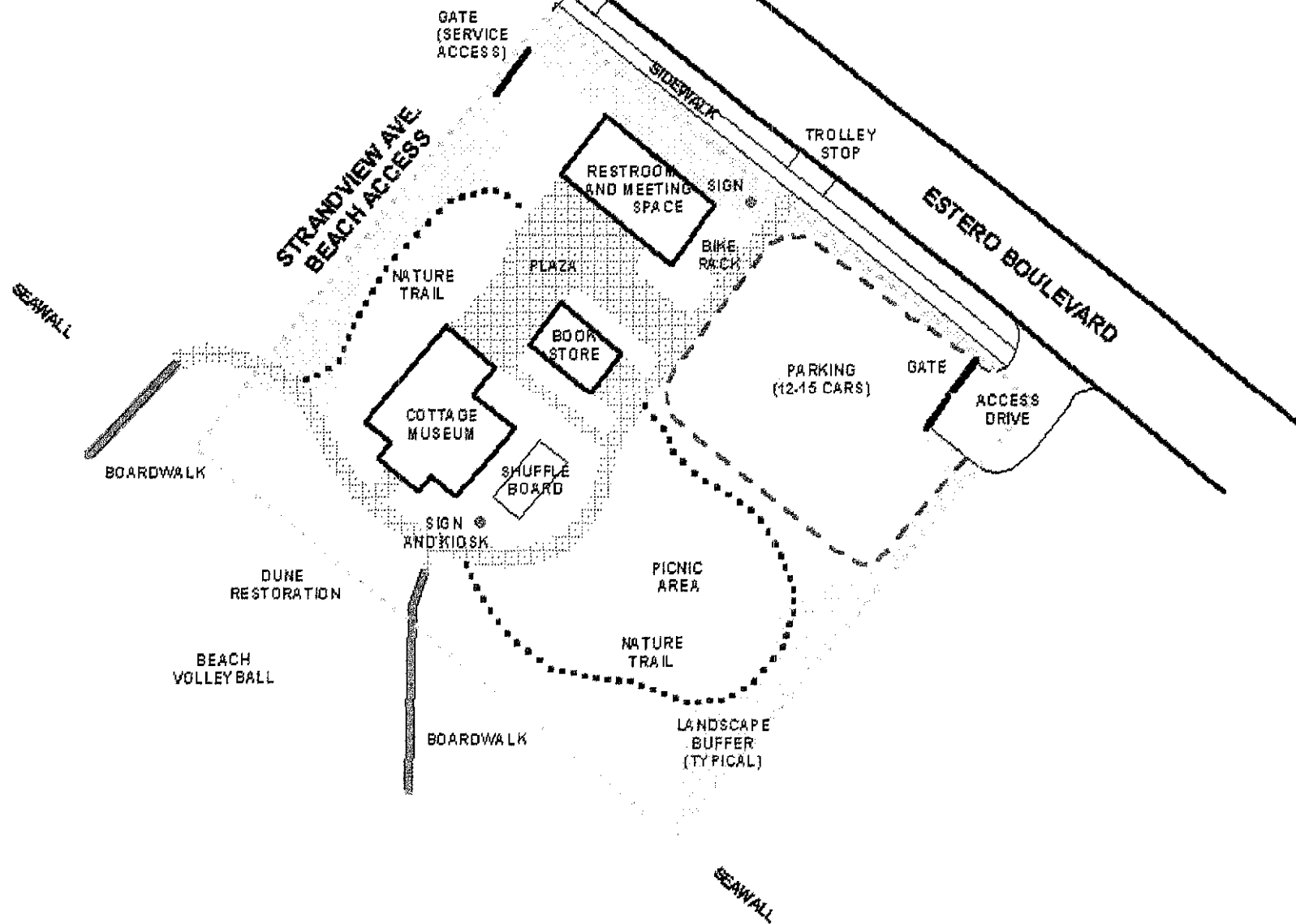
The Elevated Residence (4600 Estero Boulevard) is a modern residence elevated on posts above the 100 year flood elevation. The elevated residence has 3 bedrooms, 3 baths and contains 1,056 square feet on the upper level. There is a 462 square foot finished office space on the lower level. Also of wood frame construction, this residence was constructed in 1984. This residence is occupied by Mrs. Newton's primary caregiver. The current lease expires in January, 2004. The bottom floor office is used by Mrs. Newton's personal secretary.

Each of these buildings are in excellent condition, based on outside observation. They are occupied by Mrs. Newton and rental occupants, and complete building inspections are needed for more thorough evaluation of maintenance needs and the extent of renovations needed for the uses discussed below.

The Seawall (SW) is 196 feet long, located along the Gulf-front property line. The seawall appears to have been reconditioned, possibly in 1984 when renovations and new construction occurred on the property. The seawall is connected to seawalls protecting properties on both sides of the Newton property. Additional study by a coastal engineer is needed to determine whether the seawall can safely be removed, given its connection to adjacent structures.

B. Proposed Improvements

New construction projects and renovations of the existing structures are proposed to adapt the residential property to public park uses. Figures E and F are alternative Master Site Development Plans for the project. Design studies and coordination with other government and non-government organizations are needed to determine which alternative should be implemented. These additional planning activities will be conducted during the first year of ownership of the property by the Town, and final recommendations will be provided to the FCT with the first annual update of the management plan.



NEWTON BEACH PARK
 CONCEPTUAL MASTER SITE
 DEVELOPMENT PLAN
 ALTERNATIVE 1

THE TOWN OF FORT MYERS BEACH
 FCT PROJECT 02-098-FF2
 JUNE, 2003



 NOT TO SCALE

FIGURE E
 PAGE 13

All activities outlined in the FCT application are supported by both alternatives. Alternative 2 follows the proposals made in the application, converting the modern residence to use for public meeting space. Alternative 1, currently the preferred alternative, provides a much larger open space area to benefit the park by relocating the modern residence, possibly to the Thomas Edison House campus in Fort Myers. This idea is being discussed by Town staff, Fort Myers city government, and the board of the Edison–Ford Winter Estates Foundation at this time.

Alternative 1 (Figure E)

1. The Historic Residence will be converted to a museum and interpretive center, within one year of the Town's assumption of management responsibility for the property. The lives and times of Jim and Ellie Newton and their famous acquaintances and the history of Fort Myers Beach and southwest Florida will be central themes of the museum exhibits. Interpretive exhibits explaining the restoration of natural communities on the Newton Park site will also be provided.
2. The garage will provide space for a small museum gift shop and bookstore. Storage space for the museum and for sports equipment and a small museum office may be a secondary functions of the garage structure.
3. The elevated residence may be converted to provide beach bathhouse facilities at ground level. Public meeting space would be provided in the elevated portion of the building. Additional architectural design study is needed to confirm that the building can support these functions. An option is to demolish the residential building, and construct a new facility providing beach restroom/bathhouse and meeting space. A small elevator will be required to satisfy the requirement for universal accessibility to the meeting space located on the second floor of this building. It should be designed in a manner to minimize visual impact.
4. A small parking area will be provided in the northeastern corner of the park. Twelve to 15 automobile spaces (2 universally accessible spaces) will be provided by constructing a pervious paving surface. Wheel stops will be installed to organize parking. A 2-lane entrance drive will connect the parking area to Estero Boulevard. With the reduced stormwater management requirement of pervious surfacing, and the construction of the dune (discussed below) it is anticipated that no stormwater swale or retention area will be required for the parking area.
5. Alternative 1 proposes the relocation of the modern residence to

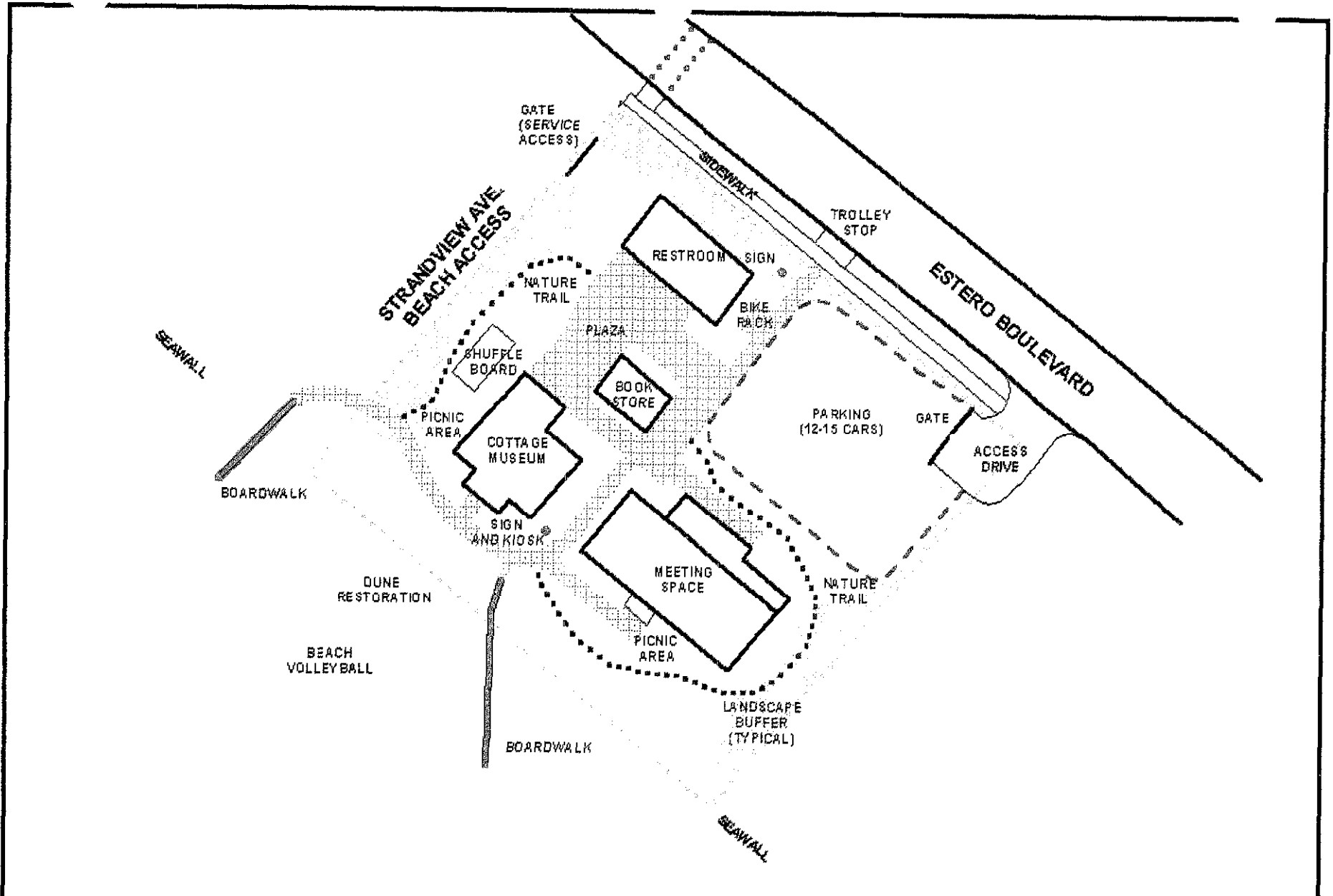
another site and removal of the Carport, creating approximately 6,000 square feet of open space. This area will support picnicking activities, group activities for environmental education, the shuffle board court, and interpretation of the various restoration projects described below.

6. At this time, the US Army Corps of Engineers and the Department of Environmental Protection (DEP) Office of Beaches and Wetland Resources are coordinating a major beach restoration project for Fort Myers Beach. The project is scheduled to commence in late-spring, 2004. The project will import beach-quality sand and restore the Fort Myers Beach shoreline to approximately 200 feet beyond the current mean high water line, which is now a scant 20 to 30 feet seaward of the Newton Park seawall.

As mentioned above, a coastal engineering study is needed to inform the Town regarding the disposition of the seawall. The intent is to create natural dune topography between the Cottage Museum and the beach. If the seawall cannot be safely removed, then it will be covered over by the constructed dune, and may serve to anchor the dune. The design and permitting of the dune project will begin as soon as possible after acquisition of Newton Beach Park by the Town of Fort Myers Beach, so that the project can, if possible, be incorporated in the larger beach restoration operation next year.

Approximately 10,400 square feet of area will be covered by the restored dune. Beach-quality sand will be imported and piled to an elevation of 2 to 4 feet above existing grade. Geotextile fabric may be used to stabilize the dune until vegetation has taken root. Sand fencing or rope or split rail fencing will be installed at the edges of the restored area to exclude foot traffic, and boardwalks will be constructed from the two proposed points of access to carry pedestrians across the dune. Planting will be accomplished as soon after the deposition of sand as possible, and the planted area will be monitored for at least 6 months. Failed plants will be removed and replaced as soon as they are observed.

Native salt tolerant plant species will be used for the restoration project, including sea oats (*Uniola paniculata*), railroad vine (*Ipomoea pes-caprae*), beach morning glory (*Ipomoea imperati*), beach elder (*Iva imbricata*) and coastal sea-rocket (*Cakile lanceolata*) in the fore dune area, and dune and coastal strand species such as baycedar (*Suriana maritima*), hairgrass (*Muhlenbergia capillaries*), Seagrape (*Coccoloba uvifera*), and Sabal palm (*Sabal palmetto*) on the back dune area.



NEWTON BEACH PARK
 CONCEPTUAL MASTER SITE
 DEVELOPMENT PLAN
 ALTERNATIVE 2

THE TOWN OF FORT MYERS BEACH
 FCT PROJECT 02-098-FF2
 JUNE, 2003

▲
 N
 NOT TO SCALE

FIGURE F
 PAGE 15

7. Circulation of visitors to Newton Beach Park will be provided by a variety of elements, one of which is the parking area described above. Strandview Avenue, a public right of way located immediately northwest of the park, is one of the public beach access points maintained by the Town. Strandview Avenue also provides vehicular access to the east parking area of Strandview Towers, the residential condominium adjacent to the park. The eight to ten public parking spaces at Strandview Avenue will remain for beach access, and will provide alternative parking for access to the park.

As part of its long-range streetscape plan, the Town intends to place overhead utilities along the southern side of Estero Boulevard underground, allowing the construction of a continuous sidewalk along that side of the public road. For safety reasons, the sidewalk depicted on both alternative site development plans should be constructed only from the Trolley Stop to the Strandview Avenue crosswalk on Estero Boulevard, until there can be a continuous sidewalk extending in both directions from the park. (A continuous sidewalk is in place along the northern side of the boulevard.) The Trolley Stop on the Lee County Transit Beach Trolley route should be provided as shown on both alternative plans as part of the initial development of the park, to facilitate use of public transit to reach the site.

Bicycle racks will be installed at two locations to facilitate biking to the park. One rack should be located adjacent to the pathway connecting to Estero Boulevard at the proposed Trolley Stop, and the second should be placed adjacent to a pathway connecting the park to the Strandview Avenue beach access. Due to the small scale of Newton Beach Park, bicycle riding inside the park will be discouraged.

Pedestrian pathways through and within the park should be constructed on a pervious paving system, such as turf pavers, or by installation of natural surfaced pathways using crushed shell or wood mulch materials. The space between the Cottage Museum and the bathhouse building may need to be surfaced throughout, to manage the volume of pedestrian traffic the area will attract on busy beach use days and during interpretive programs and special events at the park. Pedestrian access to the beach will be by two boardwalk ramps, allowing universal access across the constructed dune. A nature trail approximately 600 feet long will be incorporated into the paved and boardwalk pathways, and along a natural-surface path circumnavigating the site. Interpretive signs will explain the natural communities, plant and animal species and

the cultural importance of Newton Beach Park. An interpretive kiosk explaining the historical significance of the site and the Newton Family should be placed at an intersection of various the pathways. Trash receptacles will be placed at picnic areas, parking areas, the restroom and at other locations in the park, as needed.

8. Landscaping will be a major element of the creation of Newton Beach Park. A master landscape plan should be developed that combines the goals of natural community restoration with the complex relationships generated by this highly urban neighborhood park. Buffer plantings should be located at the northwestern and southeastern property lines to provide privacy screens for adjacent residents. Canopy trees and palms native to the tropical maritime hammock should provide a shady respite from the beach and roadway in the park's picnic, museum and bathhouse areas. Openings in understory plantings should be designed to allow glimpses of the beach for passing motorists on Estero Boulevard, providing a traditional visual experience that has nearly vanished in Florida's urbanized coastal cities. Finally, the landscape design for the park should keep in mind the environmental education and interpretive values of the project, and the potential for high levels of use by visitors of all ages. Plant species should be located to facilitate interpretive programs. At the same time, consideration should be given to the public safety impacts that some hammock species, nickerbean and poison ivy, for instance, may present. The proposed landscaped area of the site will cover approximately 12,500square feet.
9. A shuffle board court (approximately 12' x 50') and a beach volleyball net are the user based recreational facilities proposed for the park. The facilities will be located so that natural communities restoration projects are not disrupted by the facilities or activities.
10. Signs identifying Newton Beach Park (and all literature and advertising) will include the notification that the property is open to the public and purchased with funds from the Florida Communities Trust. Signs will be placed at 2 of the access points, and will be 2'x3' in size, include the FCT, Town of Fort Myers Beach and Lee County logos and the year the site was acquired.

Alternative 2

Figure F is the second alternative Master Site Development Plan. With the exception of the removal of the modern residence and carport, the plan element descriptions above pertain to this alternative. If the residence remains, then public meeting space will be provided by renovation of the interior of the house. In that case, the upper level of the elevated residence could be used for office and storage space, or that structure might better be removed and a new, single-story bathhouse facility constructed in its place.

The City of Fort Myers and the Edison House Foundation have been asked to consider relocating the Modern Residence to the Edison-Ford Winter Estates campus. That location for the residence could be an excellent venue for telling the story of Jim Newton's relationship with Edison, Ford and Firestone, as described in his 1984 memoir, Uncommon Friends, and a more secure location to store associated memorabilia, papers and photographs. Additional discussion is needed between the Town, the City, the Foundation and staff of the Florida Communities Trust to explore this possibility. It is obvious from the alternative drawings that a significant benefit could be gained by removing the structures in favor of open space located just off the beach in the neighborhood park. Staff of the Town look forward to collaborating with FCT on the decision making process necessary to select between the two alternative plans presented here.

C. Required Permitting

Development review and building permits in the Town of Fort Myers Beach are provided by Lee County under an intergovernmental agreement. Stormwater management permits are also issued by Lee County. Permits for construction of a dune and dune crossovers will be required by the US Army Corps of Engineers and the DEP Office of Beaches and Wetland Resources.

D. Easements, Concessions and Leases

As noted above, 4650 Estero Blvd. is occupied by Mrs. Ellie Newton; 4600 Estero Boulevard - ground floor is the office of Mrs. Newton's personal secretary and the upstairs dwelling unit is occupied by Mrs. Newton's primary caregiver. The Historic Cottage (4610 Estero Blvd.) is rented on a monthly basis. At the end of the life estate occupied by Mrs. Newton, the leased properties will be vacated by the residents within 60 days.

With the exception of the proposed Museum bookstore and gift shop, the Town of Fort Myers Beach has no intention at this time to develop concessions, new leases or other revenue-generating uses or agreements at Newton Beach Park. The Museum bookstore and gift shop will be

operated by Museum staff. If such arrangements are considered in the future, FCT will receive a request for prior written approval a minimum of 60 days before the execution of any lease, operation of any concession, the granting of any easement, any sale or option or any management contract affecting the park. Any revenue generated at the park will be placed in a separate account and go to the upkeep and maintenance in order to be within allowable limits set by the Internal Revenue Service.

Likewise, any revenues collected through the education programs at the park will only be used for the upkeep and maintenance. Town staff will update FCT in its annual report on the various educational activities, any revenues collected for such activities and will provide detailed accounts of how such revenues were expended.

SECTION IV- KEY MANAGEMENT ACTIVITIES

A. Maintenance

Regular facilities maintenance, patrol, and trash collection at the site will be provided by the Town of Fort Myers Beach staff, volunteers, or by contracts with private entities. The Town currently manages beach access facilities, trolley stops, the Times Square Pedestrian Mall, the Old San Carlos streetscape, and the Mound House Cultural and Environmental Learning Center through contract arrangements.

B. Security

Law Enforcement is provided to the Town by the Lee County Sheriff's Department. Regular patrol of the park will be coordinated by Town staff. Gates will be installed at the two vehicle access points to the park, and the park will be closed at sunset or after evening programs have concluded. Security alarm systems will be installed in the museum and public meeting facilities.

The purchase of this property supports the Town's hazard mitigation plan by removing the possibility that there will be residential or commercial land uses here in the future. The entire site lies within the 100 year flood zone and coastal high hazard area, but the structures have obviously weathered storms for up to 60 years. Structural improvements to enhance their ability to withstand hurricane force winds and storm surge will be incorporated in renovation designs for the existing buildings. The design for any new structure, such as the proposed bathhouse, will meet current floodplain and Florida Building Code standards. During the first year of ownership, the Town will develop an emergency action plan to guide activities by staff whenever the park is threatened by tropical storms.

C. Staffing

The Town of Fort Myers Beach employs a small staff to provide city services. On-site management of Newton Beach Park will be arranged through a contract agreement with qualified individuals, possibly with Florida Gulf Coast University, as is now the case with the Mound House historic site. At least one full-time position will be arranged to staff the Cottage Museum, supervise activities in the park, and coordinate meetings, and events. Volunteer support to help provide public access, interpretive and educational activities, and resource management assistance will be encouraged and coordinated by Town Manager's Office. Staff from Lee County government, the Estero Island Historic Society, Turtle Time, Inc. and members of the local Native Plant Society, the Audubon Society, the Sierra Club and other organized groups and individuals may provide valuable assistance in operation, interpretation and resource enhancement activities at the park. Contract labor will be employed by the Town, as needed.

Resource management activities will be the shared responsibility of the Town Manager and the park manager. Town staff, contract labor and volunteer labor will be assigned to tasks such as exotic plant removal and restoration of native vegetation. Assistance for resource management projects may be provided by the Florida Fish and Wildlife Conservation Commission (FWC).

D. Vegetative Community Assessment and Natural Resource Protection

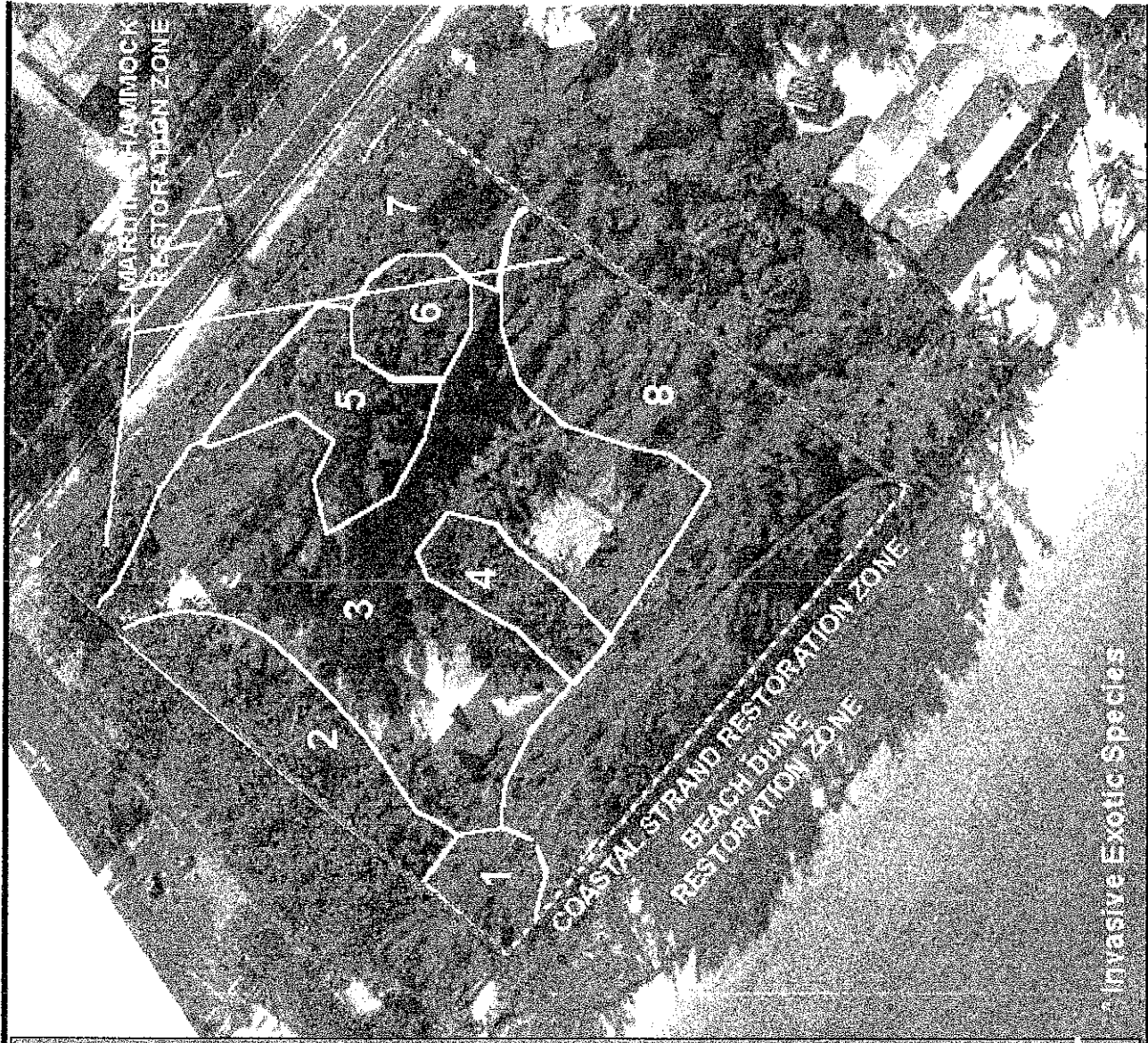
The beach dune, coastal strand and tropical maritime hammock natural communities that once existed on Estero Island have been severely degraded by urban land development. The Newton Beach Park site has been developed and redeveloped over the past 60 years, resulting in the introduction of exotic ornamental plants such as Seaside mahoe, *Sanseveria* spp. and Benjamin fig. Invasive exotic plant species, most notably the Australian pine, now dominate the site. Sea grapes, remnant species native to the coastal strand community, do persist along the edge of the property, along the concrete seawall, and Cabbage palms and silver buttonwoods can be found between the beachfront structures and Estero Boulevard. These trees are native to the maritime hammock community.

Figure G is the Natural Communities Map for the Newton Beach Park project. It notes the location and identity of the predominant exotic species on the property, and indicates the zones for proposed restoration of the three antecedent natural communities.

Three listed animal species have been documented as using the Newton property, on occasion. Most important is nesting of sea turtles along the Gulf beach. According to Turtle Time, Inc., a local sea turtle protection organization certified by the FWC for monitoring nesting activities, 20

Existing vegetation is located and identified by the yellow lines and numbers on the map. Following are brief descriptions for each of the numbered areas.

1. Australian pine* (AP) overstory, remnant sea grape understorey.
2. Seaside mahoe hedge.
3. Developed area, scattered Cabbage palms, exotic ornamental shrubs, AP around elevated residence (northwest corner).
4. Native and exotic palms, shrubs between residences.
5. AP overstory, scattered native and exotic palms, exotic shrubs.
6. Large Benjamin fig* specimens (2).
7. Seaside mahoe hedge, AP overstory at southeast end.
8. Thick AP overstory, Sanseveria spp.* groundcover, exotic ornamental shrubs.



NEWTON BEACH PARK
EXIST VEGETATION/
NATURAL COMMUNITIES
RESTORATION MAP

THE TOWN OF FORT MYERS BEACH
FCT PROJECT 02-098-FF2
JUNE, 2003

▲
NOT TO SCALE

Loggerhead sea turtle nests and 115 non-nesting emergences have occurred in this specific area of Fort Myers Beach since 1989. The other listed species documented as using the site are Brown pelicans and Snowy egrets, also observed along the beachfront area of the site.

The proposed restoration of natural communities will greatly improve the ecological function of the park site. Some animal species native to these communities may return, although local populations are likely minimal, given the extent of development surrounding the park. The greatest enhancement to natural habitat will occur with the creation of a beach dune community along the park's beachfront. Sea turtle nesting may be enhanced by the provision of a dune line and a dark shoreline, and shorebird habitat will be improved by the naturalized "edge" created by the dune. Interpretive programs at the park must emphasize the value of even this small amount of habitat, and pattern visitor behavior to avoid disturbance to the animals to the greatest extent possible.

E. Archaeological and Historical Elements

A Level I cultural resource survey, including subsurface testing, will be conducted in the first year after acquisition of the property, although it is doubtful that prehistoric cultural sites remain after the long history of development on the site. If recommended by the Level I Survey report, site-specific surveys by qualified archaeologists will be conducted for the proposed development sites during the design of public access facilities. Reports containing the results of these surveys will be provided to the Department of State, Division of Historical Resources on completion of the studies. The collection of artifacts or the disturbance of archaeological and historical sites at the site will be prohibited without authorization from the Department of State, Division of Historical Resources. Appropriate protective measures will be taken in the event cultural sites are discovered on the property in the future. Management of cultural resources will be coordinated with the Division of Historical Resources, and will comply with the provisions of Chapter 267 Florida Statutes, specifically sections 267.061 (2)(a) and (b).

The most significant cultural resources of this site are the historic cottage and garage structures that were constructed in 1944. They are excellent examples of mid- Twentieth Century residential architecture on the southwest Florida coast and will be conserved and interpreted through the programs outlined in this plan. Based on the historic significance of these structures and the prominence of the Newton family, the Newton property has been designated by the Fort Myers Beach Historic Preservation Board as a historically significant property (Resolution FMB HD 2002-01).

After the Town assumes management of the property, the historic cottage and garage will be designated as historic resources, putting into effect the

provisions of the Fort Myers Beach Historic Preservation regulations outlined in Chapter 22 of the Land Development Code (See Appendix A). Town staff will also submit Florida Master Site File forms to the Florida Department of State, Division of Historic Resources at that time. The planning, design and management of Newton Beach Park will be implemented with the guidance of the Historic Preservation ordinance. Criteria established by the ordinance will place a rigorous process of review and approval on the adaptation of the historic structures. The Town's Historic Preservation Board and the Division of Historic Resources will be consulted on all issues related to the historic resources of the park property.

The Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings will be used to guide alterations to the historic structures. As part of the design studies discussed below, a determination on the suitability of these structures for listing on the National Register of Historic Places will be made, and an application to the U.S. Department of the Interior will be developed, if it is determined that they are eligible for listing.

F. Management Coordination

Town staff will develop open lines of communication with adjacent landowners and will insure that buffering requirements and other protective measures contained in existing land use regulations are enforced. Special efforts will be made to encourage owners to eliminate invasive exotic plants from their lands adjacent to the Park and replace them with a buffer of native plant species.

Neighbors will also be informed regarding laws regulating stray animals. The property will be monitored daily by park staff for the presence of feral animals. Animal control services are contracted by the Town with the Lee County animal control service. All feral animals, including dogs and cats, will be removed immediately, once the Town assumes management responsibility for the property.

Development of this plan has been coordinated with the FWC Office of Environmental Services to ensure the protection of listed wildlife species at the park. Management for listed plant and animal species that may be introduced to the site will be coordinated with the FWC.

A standing Resource Management Committee will be established by the Newton Beach Park site manager, with other appropriate Town staff, staff of the Lee County Historical Society, the Town of Fort Myers Beach Historic Preservation Board, DHR and FWC, supplemented as needed by representatives of the local Native Plant Society, Audubon Society, and others. Leaders in the Fort Myers Beach community and the local neighborhood will be invited to participate in the process to encourage

community involvement and support.

SECTION V - RESOURCE ENHANCEMENT

A. Exotic Plant Control

Within one year of acquisition, The Town will develop a comprehensive landscape and natural communities restoration master plan and a schedule for removing exotic plants wherever they occur on the site. The master plan will include an exotic plant monitoring and control plan with a re-treatment and maintenance component to guide continuous monitoring and herbicide application or manual removal of volunteer plants, since exotic plant re-invasion from surrounding areas will be a continuing threat. The Exotic Pest Plant Council's List of Florida's Most Invasive Species (Appendix C) shall be used to identify invasive exotic vegetation on the project site. Eradication of invasive exotic plants will be the highest priority resource management action under the Town's ownership of Park.

B. Habitat Enhancement for Listed Species

The proposed efforts toward recreation of natural vegetative communities in the beach dune, coastal strand and maritime hammock zones of Newton Beach Park could provide a limited area of habitat for a variety of listed species. With the exception of sea turtles and listed bird species, other listed animals or plants will probably not occur on this site unless they are deliberately introduced. The FWC will be consulted regarding the advisability of introducing species to this small natural area, during the development of the landscape/natural communities restoration master plan. The protection of nesting sea turtles along the adjacent beach will be a high priority in design and management of the park. Turtle-friendly lighting will be included in designs for all park improvements, and interpretive signs that discuss turtle nesting habitat and the need to protect nesting females and the nests from any disturbance will be placed at the beach boardwalks. Town staff will work closely with Turtle Time, Inc., and the FWC to enhance and protect the beachfront of the park for nesting habitat.

C. Cultural Resource Enhancement

Architectural design studies are needed for the historic cottage and garage, as well as the modern residences on the Newton property. The cottage and garage are the notable historic structures of the site, and both buildings have been altered over time, most significantly in 1984. The architect's recommendations and subsequent design work should include measures to restore details of the historic structures that may have been obscured during past renovations, were possible. As noted above, *The Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings* will be used to guide alterations to the historic structures. A maintenance plan for the structures will be developed as part of the design work for adaptive reuse of the cottage and

garage. Ongoing maintenance activities will follow the plan to assure sensitive preservation of the historic structures over time.

D. Water Quality Enhancement and Protection

Traditional development practices allowed the construction of roads, parking areas and residences with no management of stormwater runoff. Existing conditions allow untreated stormwater from the residential site and Estero Boulevard to flow, untreated, to the Gulf of Mexico. The development of dune and swale topography across the beachfront of the park will serve to retain and treat that runoff, before it reaches the Gulf, providing a small measure of enhancement of water quality.

SECTION VI - COST/FUNDING

A. Resource Management and Development Cost Estimate

The cost estimate shown in Table 1 is a preliminary estimate. It is based on current market costs and estimated quantities for the resource management program and park improvements outlined in this plan. The estimate assumes that the Town will select private contractors for all exotic plant removal, initial follow-up treatment, native species planting, and for the design and construction of public facilities.

The authors have attempted to provide the best estimate possible based on the information at hand, and the level of planning completed. Some adjustments in these estimates may be necessary as more detailed plans are developed. Over time, market conditions and prevailing rates of inflation in the general economy may act to increase or decrease actual costs for contract services and construction.

B. Funding Sources

The Town of Fort Myers Beach has been awarded a grant of \$500,000 from the Lee County Tourism Development Council for development of Newton Beach Park. Additional planning and design work for the project will be funded from the Town's budget. Funds for annual operating costs will also be provided by the Town. Additional support may be acquired from grants and donations of cash, materials or labor by local businesses and citizens, and Florida Department of State, Division of Historical Resources grants may be a source of funding for planning, restoration and management activities for the historic structures. The Florida Recreational Assistance Program may also provide a source of funding for the development of park facilities.

**TABLE 1
NEWTON BEACH PARK
ESTIMATED MANAGEMENT AND DEVELOPMENT COSTS**

1. Resource Management		
Archaeological survey	\$	500.00
Seawall removal/dune restoration and planting		100,000.00
Exotic Plant Removal and Revegetation		75,000.00
Gates		<u>600.00</u>
	Subtotal	\$176,100.00
 2. Park Improvements		
Architectural studies, design and permitting	\$	80,000.00
Landscape / natural communities restoration master plan		10,000.00
Cottage Museum/Garage Renovations		30,000.00
Museum exhibits		15,000.00
Bathhouse		150,000.00
Renovations for public meeting space		15,000.00
Pathways and Trails		10,000.00
Shuffleboard court		1,500.00
Volleyball court		500.00
Interpretive signs and kiosk		5,000.00
Bicycle racks (2)		500.00
Picnic tables (8)		2,000.00
Parking area (15 cars)		15,000.00
Entrance signs (2)		500.00
Dune crossovers (150')		20,000.00
Building relocation *		<u>*25,000.00</u>
	Subtotal	\$355,000 to 380,000.00
	Total Resource Management/Development Costs	\$531,100 to 556,100.00
 3. Annual Maintenance/Operations Costs		
Exotic plant management (Monitoring, exotic plant retreatment)	\$	2,000.00
Periodic listed plant and animal surveys		1,000.00
Sea turtle nesting management/protection		1,000.00
Routine facilities maintenance		6,000.00
Educational and Interpretive Programs (incl. salary or contract staff)		40,000.00
	Total Annual Operational Costs	\$50,000.00

* Estimated building relocation costs to move the modern residence are included, and the development subtotal is calculated with and without that cost.

SECTION VII - MONITORING

A. Management Objectives

The following list summarizes the management activities set forth in this management plan, in priority order. Figure E represents the management activities in a graphic timeline format, beginning with the date of acquisition of the property by the Town of Fort Myers Beach. The schedule of activities is subject to adjustment, as the schedule depends on the availability of funding, staffing and inter-governmental assistance for the management of the project site. Scheduling for this project is unique in that Mrs. Newton holds a life estate on the property. The planning and design activities outlined in the plan will proceed from the date of acquisition. Active management of the property will not occur until the estate is relinquished. Until that time, maintenance and upkeep will be the responsibility of the estate trust, per the terms of the acquisition contract.

1. Conduct reconnaissance level archaeological survey.
2. Design and permit seawall removal / dune construction project
3. Conduct architectural studies and commence facilities design and permitting
4. Develop landscape / natural communities restoration master plan
5. Amend Comprehensive Plan and Zoning designations
6. Open Museum to the public
7. Implement seawall removal / dune construction project
8. Implement facilities development projects
9. Begin natural communities restoration project
10. Conduct educational programs
11. Ongoing facilities management and maintenance
12. Ongoing listed species monitoring programs
13. Ongoing exotic species monitoring and management

B. Annual Implementation Report and Progress Assessment

An Annual Report, due on January 30th of every year, will be compiled by Town staff and submitted to the FCT. The Annual Report will include a review of the provisions of this management plan and will serve to update the resource inventories for the property on file with the FCT. To provide an annual progress assessment, the Annual Report will provide numerical descriptions, where possible, of progress made in meeting the management objectives of this plan, such as area and percentage figures for exotic plant removal, native plant community restoration, etc. Town staff will forward listed species information to the Florida Natural Areas Inventory on appropriate forms, concurrently with filing the Annual Report. (See Appendix C.) The annual report will comply with the requirements of 9K-4.13 F.A.C. Through the annual reports or by separate correspondence, the Town will request written approval from FCT before undertaking any site alterations or physical improvements that are not addressed in the approved management plan.

Figure H is the current projected timeline for the activities recommended by this management plan. The priority goals set forth in the plan are the cultural site preservation, public facilities development and resource enhancement elements. After the natural communities restoration projects have been completed, annual monitoring surveys of plant and animal species will be instituted to help evaluate progress toward the goal of habitat restoration. Sea turtle survey information will be provided in each annual report, as will recorded occurrences of any other listed animal species' using the site.

After facilities are developed, the site manager will estimate annual visitation and include a narrative summary of use of the project site by organized groups in the Annual Report.

C. Plan Updates

The Annual Report will serve to update the management plan. Changes, if any, in the management regime or the conceptual development scheme described in this plan will be explained in detail in the annual reports.

**APPENDIX A
TOWN OF FORT MYERS BEACH
HISTORIC PRESERVATION ORDINANCE
(CH 22-LAND DEVELOPMENT CODE)**

http://www.spikowski.com/New_Ch22.pdf

FORT MYERS BEACH LAND DEVELOPMENT CODE

CHAPTER 22 HISTORIC PRESERVATION¹

ARTICLE I. IN GENERAL

- Sec. 22-1. Purpose.
- Sec. 22-2. Applicability.
- Sec. 22-3. Definitions.
- Sec. 22-4. Penalty.
- Secs. 22-5--22-40. Reserved.

ARTICLE II. ADMINISTRATION AND ENFORCEMENT

Division 1. Generally

- Sec. 22-41. Appeals.
- Secs. 22-42--22-70. Reserved.

Division 2. Historic Preservation Board

- Sec. 22-71. General authority.
- Sec. 22-72. Reserved.
- Sec. 22-73. Reserved.
- Sec. 22-74. Powers and duties.
- Secs. 22-75--22-100. Reserved.

Division 3. Certificate of Appropriateness

- Sec. 22-101. Required.
- Sec. 22-102. Regular certificate of appropriateness.
- Sec. 22-103. Special certificate of appropriateness.
- Sec. 22-104. Demolition.
- Sec. 22-105. Moving permits.

Division 4. Archaeological sites

- Sec. 22-106. Archaeological sites.
- Secs. 22-107--22-140. Reserved.

ARTICLE III. DESIGNATION OF HISTORIC RESOURCES AND DISTRICTS

Division 1. Generally

- Secs. 22-141--22-170. Reserved.

Division 2. Incentives

- Sec. 22-171. Financial assistance.
- Sec. 22-172. Nomination to National Register of Historic Places.
- Sec. 22-173. Relief from building regulations.
- Sec. 22-174. Relief from zoning and development regulations.
- Sec. 22-175. Variances from floodplain regulations.
- Secs. 22-176--22-200. Reserved.

Division 3. Designation Procedure

- Sec. 22-201. Initiation of designation process.
- Sec. 22-202. Designation report.
- Sec. 22-203. Required notices; action by historic preservation board.
- Sec. 22-204. Criteria for designation.
- Sec. 22-205. Amendment or withdrawal of designation.
- Secs. 22-206--22-240. Reserved.

ARTICLE IV. MAINTENANCE AND REPAIR

- Sec. 22-241. Ordinary maintenance and repair.
- Sec. 22-242. Correction of deficiencies generally.
- Sec. 22-243. Unsafe structures.
- Sec. 22-244. Emergency work.
- Sec. 22-245. Demolition by neglect.

¹Cross reference(s)—Buildings codes and floodplain regulations, ch. 6; zoning, ch. 34.

**ARTICLE I.
IN GENERAL**

Sec. 22-1. Purpose.

The purpose of this chapter is to identify, evaluate, preserve, and protect historical and archaeological sites and districts, and to promote the cultural, health, moral, economic, educational, aesthetic, and general welfare of the public by:

- (1) Establishing a historic preservation board with the power and duty to review historic sites, areas, structures, and buildings for possible designation as historic resources.
- (2) Empowering the historic preservation board to determine the historical significance of a designated historic resource.
- (3) Protecting designated historic resources by requiring the issuance of certificates of appropriateness and certificates to dig before allowing alterations to those resources.
- (4) Encouraging historic preservation by creating programs of technical assistance and financial incentives for preservation practices.
- (5) Stabilizing and improving property values through the revitalization of older residential and commercial neighborhoods.
- (6) Enhancing the town's attraction to visitors and the ensuing positive impact on the economy as a result of historic preservation activities.
- (7) Creating and promoting cultural and educational programs aimed at fostering a better understanding of the community's heritage.
- (8) Promoting the sensitive use of historic and archaeological sites, resources, and districts for the education, pleasure, and welfare of the people of the town and county.
- (9) Implementing the historic preservation element of the Fort Myers Beach Comprehensive Plan.

Sec. 22-2. Applicability.

(a) This chapter shall govern and be applicable to all property located in the incorporated area of the town.

(b) Nothing contained in this chapter shall be deemed to supersede or conflict with applicable

building and zoning codes except as specifically provided in this chapter.

Sec. 22-3. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Archaeological site means an individual historic resource recognized for its prehistoric or historic artifacts and features.

Archaeologist means a person who is qualified under the professional standards of the Florida Archaeological Council or the Society of Professional Archaeologists to conduct archaeological surveys, assessments, or excavations, or is recognized as qualified to perform those tasks by the county.

Area of archaeological sensitivity means an area identified in the survey entitled "An Archaeological Site Inventory and Zone Management Plan For Lee County, Florida" (Piper Archaeological Research, Inc., 1987), as known or being likely to yield information on the history and prehistory of the town based on prehistoric settlement patterns and existing topographical features. Areas of archaeological sensitivity are divided into the following categories:

- (1) *Sensitivity Level 1:* Those areas containing known archaeological sites that are considered to be significant or potentially significant historic resources. These areas include sites listed on the National Register of Historic Places and those considered eligible or potentially eligible for listing on the National Register of Historic Places or local historic resource designation.
- (2) *Sensitivity Level 2:* Those areas containing known archaeological sites that have not been assessed for significance but are likely to conform to the criteria for local designation, or areas where there is a high likelihood that unrecorded sites of potential significance are present.

Building means any structure, either temporary or permanent, having a roof intended to be impervious to weather, and used or built for the

shelter or enclosure of persons, animals, or property of any kind.

Building official means the same officer as appointed by the town manager through § 6-44.

Certificate of appropriateness means a written authorization by the director or the historic preservation board to the owners of a designated historic resource or any building, structure, or site within a designated historic district, allowing a proposed alteration, relocation, or the demolition of a building, structure, or site. Certificates of appropriateness are divided into the following two classes:

- (1) **Regular certificate of appropriateness** means a certificate of appropriateness issued by the director allowing minor activities which require the issuance of a building permit but which will result in little or no change in appearance.
- (2) **Special certificate of appropriateness** means a certificate of appropriateness issued directly by the historic preservation board and required for any proposed work that will result in alteration, demolition, relocation, reconstruction, new construction, or excavation, but which does not qualify for a regular certificate of appropriateness.

Certificate to dig means a certificate issued by the director or the historic preservation board authorizing certain clearing, digging, archaeological investigation, or archaeological development projects that may involve the exploration of established or suspected archaeological sites in areas of archaeological sensitivity level 1 or 2.

Contributing property means any building, structure, or site which contributes to the overall historic significance of a designated historic district and was present during the period of historic significance and possesses historic integrity reflecting the character of that time or is capable of yielding important information about the historically significant period, or which independently meets the criteria for designation as a historic resource.

Demolition means the complete removal of a building or structure, or portions thereof, from a site.

Demolition by neglect means the willful abandonment of a building or structure by the owner resulting in such a state of deterioration that its self-destruction is inevitable or where demolition of the building or structure to remove a health and safety hazard is a likely result.

Designated means that the town has established the historical, cultural, architectural, aesthetic, or archaeological significance of a specific historic resource or district in accordance with §§ 22-201--22-204 of this chapter.

Designation report means a written document indicating the basis for the findings of the historic preservation board concerning the proposed designation of a historic resource or district pursuant to this chapter.

Director means the person to whom the town manager has delegated the authority to administer this chapter, or that person's designee.

Exterior means all outside surfaces of a building or structure visible from a public right-of-way or the street easement of the building or structure.

Guidelines mean specific criteria set out in a designation report for a historic district that, if adopted by the historic preservation board, will be used to evaluate alterations, demolitions, relocations, excavations, and new construction within a historic district.

Historic district means a geographically definable area designated pursuant to this chapter possessing a significant concentration, linkage, or continuity of sites, buildings, structures, or objects united by past events or aesthetically by plan or physical development. A historic district may also be comprised of individual elements separated geographically but linked by association or history. A historic district may contain both contributing and noncontributing properties.

Historic preservation board or board means the local planning agency, a board of citizens appointed by the town council in accordance with ch. 34, article II, division 3 of this code, that will administer the provisions of this chapter in addition to its other duties.

Historic resource means any prehistoric or historic district, site, building, structure, object, or other real or personal property of historical, architectural or archaeological value. Historic resources may also include but are not limited to monuments, memorials, Indian habitations, ceremonial sites, abandoned settlements, sunken or abandoned ships, engineering works, or other objects with intrinsic historical or archaeological value, or any part thereof, relating to the history, government, or culture of the town, the county, the state or the United States. Significant historic resources may be "designated" by the town in accordance with §§ 22-201–22-204 of this chapter.

Historic resource database means the compilation of data gathered on historical and archaeological sites in the town, based on the findings of the surveys entitled "Historical and Architectural Survey, Lee County" (Florida Preservation Services 1986), "Historical Report and Survey Supplement for Lee County, Florida" (Janus Research 1992, and "An Archaeological Site Inventory and Zone Management Plan for Lee County, Florida" (Piper Archaeological Research 1987), and any subsequent historic or archaeological survey.

National Register of Historic Places means a federal listing maintained by the U.S. Department of the Interior of buildings, sites, structures, and districts that have attained a quality of significance as determined by the Historic Preservation Act of 1966 as amended, 16 USC 470, as such act may be amended, renumbered, or replaced, and its implementing regulation, 36 CFR 60, "National Register of Historic Places," as such regulations may be amended, renumbered, or replaced.

Noncontributing property means any building, structure or site which does not contribute to the overall historic significance of a designated historic district due to alterations, disturbances, or other changes and therefore no longer possesses historic integrity, or was not present during the period of historic significance or is incapable of yielding important information about that period.

Ordinary maintenance and repairs means work done to prevent deterioration, decay, or damage to a building or structure, or any part thereof, by restoring the building or structure as nearly as

practicable to its condition prior to such deterioration, decay, or damage.

Owner means those individuals, partnerships, corporations, or public agencies holding fee simple title to real property. The term "owner" does not include individuals, partnerships, corporations, or public agencies holding easements or less than a fee simple interest (including leaseholds) in real property.

Structure means that which is built or constructed. The term "structure" shall be construed as if followed by the words "or part thereof."

Undue economic hardship means an onerous and excessive financial burden that would be placed upon a property owner by the failure to issue a special certificate of appropriateness for demolition, thereby amounting to the taking of the owner's property without just compensation.

Cross reference(s)—Definitions and rules of construction generally, § 1-2.

Sec. 22-4. Penalty.

The director is authorized to pursue any one or combination of the enforcement mechanisms provided in this code (for example, § 1-5, or article V of ch. 2) for any violation of this chapter.

Secs. 22-5–22-40. Reserved.

ARTICLE II. ADMINISTRATION AND ENFORCEMENT

DIVISION 1. GENERALLY

Sec. 22-41. Appeals.

(a) Any owner of a building, structure, or site affected by the operation of this chapter may appeal a decision of the historic preservation board by filing a written notice of appeal within 15 days of the date the written decision of the historic preservation board was rendered. The notice of appeal shall state the decision being appealed, the

grounds for the appeal, and a summary of the relief sought.

(b) Appeals shall be pursued using the procedure set forth in § 34-86 pertaining to appeals from administrative matters, except that the local planning agency shall not be required to hold a second public hearing to render a separate opinion from the decision it made while sitting as the historic preservation board.

Secs. 22-42--22-70. Reserved.

DIVISION 2. HISTORIC PRESERVATION BOARD

Sec. 22-71. General authority.

The local planning agency, as established through ch. 34, article II, division 3 of this code, shall serve as the historic preservation board for the Town of Fort Myers Beach. The historic preservation board is hereby vested with the power, authority, and jurisdiction to designate, regulate, and administer historical, cultural, archaeological, and architectural resources in the town, as prescribed by this chapter.

Sec. 22-72. Reserved.

Sec. 22-73. Reserved.

Sec. 22-74. Powers and duties.

The historic preservation board shall have the following powers and duties:

- (1) To propose rules and procedures to implement the provisions of this chapter to the town council.
- (2) To maintain and update the findings of the historical and archaeological surveys and validate those findings.
- (3) To evaluate the significance and eligibility of historic resources for designation pursuant to this chapter.
- (4) To designate eligible historic resources pursuant to this chapter.
- (5) To nominate historic resources to the National Register of Historic Places.
- (6) To approve, deny, or approve with conditions applications for special

certificates of appropriateness and certificates to dig applicable to historic resources designated pursuant to this chapter.

- (7) To issue certificates, place historical markers, and administer other programs aimed at the proper recognition of designated historic resources.
- (8) To advise the town council on all matters related to historic preservation policy, including use, administration, and maintenance of town-owned designated sites and districts.
- (9) To recommend zoning and building code amendments to the town council to assist in the preservation of designated historic resources or districts.
- (10) To review and make recommendations to the town council on proposed amendments to the comprehensive plan or this code that may affect designated historic resources and districts or buildings, structures, districts, or sites eligible for designation.
- (11) To propose and recommend to the town council financial and technical incentive programs to further the objectives of historic preservation.
- (12) To increase the awareness of historic preservation and its community benefits by promoting public education programs.
- (13) To record and maintain records of the actions and decisions of the historic preservation board.
- (14) To apply for, in the name of the town only, grant assistance from state, federal or private sources for the purpose of furthering the objectives of historic preservation.
- (15) To perform any other function or duty assigned to it by the town council.

Secs. 22-75--22-100. Reserved.

DIVISION 3. CERTIFICATE OF APPROPRIATENESS

Sec. 22-101. Required.

(a) No building, moving or demolition permit shall be issued for a designated historic resource, or a building, structure, or site which is part of a designated historic or archaeological district, until a certificate of appropriateness has been issued.

(b) The criteria for issuance of a certificate of appropriateness (regular or special) shall be:

- (1) *For designated historic resources and contributing properties in a historic district:*
 - a. The U.S. Secretary of the Interior's *Standards for Rehabilitation*, 36 CFR 67.7 (1990), as such standards may be amended, renumbered, or replaced, which are hereby adopted by reference as though set forth fully in this article. Guidance in interpreting the *Standards for Rehabilitation* may be found in the rehabilitation chapter of *The Secretary of the Interior's Standards for the Treatment of Historic Properties, With Guidelines for Preserving, Rehabilitating, Restoring & Reconstructing Historic Buildings*, published by the Department of the Interior's National Park Service in 1995; and
 - b. The specific guidelines, if any, set out in the resolution designating the historic district where the property is located.
- (2) *For noncontributing properties in a historic district:* The specific guidelines, if any, set out for noncontributing properties in the resolution designating the historic district where the property is located.

Sec. 22-102. Regular certificate of appropriateness.

(a) A regular certificate of appropriateness shall be required for work requiring a building permit and classified as ordinary maintenance and repair by this chapter, or for any work that will result, to the satisfaction of the director, in the close resemblance in appearance of the building, architectural feature, or landscape feature to its appearance when it was built or was likely to have been built, or to its appearance as it presently exists so long as the present appearance is appropriate to the style and materials.

(b) The director shall, within five working days from the date a complete application has been filed, approve, deny, or approve with conditions an application for a regular certificate of appropriateness presented by the owner of a designated historic resource or a property within a designated historic district. The findings of the director shall be mailed by certified mail, return

receipt requested, to the applicant within two working days of the decision, accompanied by a statement explaining the decision. The applicant shall have an opportunity to appeal the director's decision by applying for a special certificate of appropriateness within 30 calendar days of the date the decision is issued.

Sec. 22-103. Special certificate of appropriateness.

(a) *Required.*

- (1) A special certificate of appropriateness shall be issued by the historic preservation board prior to initiation of any work involving alteration, demolition, relocation, reconstruction, excavation, or new construction which will result in a change to the original appearance of a designated historic resource or a contributing property within a designated historic district.
- (2) A special certificate of appropriateness is also required prior to any new construction, reconstruction, or alteration of a noncontributing property within a designated historic district, except where the director has issued a regular certificate of appropriateness for minor activities that will result in little or no change in appearance.
- (3) A special certificate of appropriateness may also be issued to reverse or modify the director's decision regarding an application for a regular certificate of appropriateness or a conditional certificate to dig.

(b) *Application.* An applicant for a special certificate of appropriateness shall submit an application to the director accompanied by full plans and specifications, a site plan, and, in the case of sites involving buildings or structures, samples of materials as deemed appropriate by the historic preservation board to fully describe the proposed appearance, color, texture, materials, or design of the building or structure and any outbuilding, wall, courtyard, fence, landscape feature, paving, signage, or exterior lighting. The applicant shall provide adequate information to enable the historic preservation board to visualize the effect of the proposed action on the historic resource and on adjacent buildings and streetscapes within a historic district.

(c) **Public hearing.** The historic preservation board shall hold a public hearing upon an application for a special certificate of appropriateness affecting designated historic resources or districts. Notice of the public hearing shall be given to the property owners by certified mail, return receipt requested, and to other interested parties by an advertisement in a newspaper of general circulation at least five calendar days but no sooner than 20 calendar days prior to the date of hearing.

(d) **Action of historic preservation board.** The historic preservation board shall meet and act upon an application for a special certificate of appropriateness on or within 70 calendar days from the date the application and materials adequately describing the proposed action are received. The historic preservation board shall approve, deny, or approve the special certificate of appropriateness with conditions, or suspend action on the application for a period not to exceed 35 calendar days in order to seek technical advice from outside sources or to meet further with the applicant to revise or modify the application. Failure of the historic preservation board to act upon an application on or within 70 calendar days (if no additional information is required) or 105 calendar days (if additional information is required by the historic preservation board) from the date the application was received shall result in the immediate issuance of the special certificate of appropriateness applied for, without further action by the historic preservation board.

(e) **Notice of decision.** All decisions of the historic preservation board shall be in writing and shall include findings of fact. Evidence of approval of the application shall be by the special certificate of appropriateness issued by the historic preservation board or the director on the board's behalf. Notice of a decision shall be given to the applicant and to the building official, the director and any other appropriate public agency, as determined by the historic preservation board. When an application is denied, the notice of the historic preservation board shall provide an adequate written explanation of its decision to deny the application. The director shall keep a record of the historic preservation board's actions under this chapter.

Sec. 22-104. Demolition.

(a) Demolition of a designated historic resource or a contributing property within a designated historic district may only occur pursuant to an order of a governmental body or board or an order of a court of competent jurisdiction and pursuant to approval of an application by the owner for a special certificate of appropriateness for demolition.

(b) Governmental agencies having the authority to demolish unsafe structures shall receive notice of the designation of historic resources and districts pursuant to article III of this chapter. The historic preservation board shall be deemed an interested party and shall be entitled to receive notice of any public hearings conducted by such agencies regarding demolition of any designated historic resource or contributing property to a designated historic district. The historic preservation board may make recommendations and suggestions to the governmental agency and the owner relative to the feasibility of and the public interest in preserving the designated resource.

(c) No permit for voluntary demolition of a designated historic resource or contributing site within a historic district shall be issued to the owner thereof until an application for a special certificate of appropriateness has been submitted to the historic preservation board and approved pursuant to the procedures in this article. The historic preservation board shall approve, deny, or approve with conditions the application for a special certificate of appropriateness for demolition. Refusal by the historic preservation board to grant a special certificate of appropriateness for demolition shall be evidenced by a written order detailing the public interest which is sought to be preserved. The historic preservation board may grant a special certificate of appropriateness for demolition which may provide for a delayed effective date of six months to allow the historic preservation board to seek possible alternatives to demolition. During the demolition delay period the historic preservation board may take such steps as it deems necessary to preserve the structure concerned, in accordance with the purpose of this chapter. Such steps may include but shall not be limited to consultation with civic groups, public agencies, and interested citizens, recommendations for acquisition of property by public or private bodies or agencies,

and exploration of the possibility of moving the building or other feature.

(d) The historic preservation board shall consider the following criteria in evaluating applications for certificates of appropriateness for demolition of designated historic resources or contributing properties within a designated historic district:

- (1) Is the building or structure of such interest or quality that it would reasonably meet national, state, or local criteria for additional designation as a historic or architectural landmark?
- (2) Is the building or structure of such design, craftsmanship, or material that it could be reproduced only with great difficulty or expense?
- (3) Is the building or structure one of the last remaining examples of its kind in the neighborhood, the town, the county, or the region?
- (4) Does the building or structure contribute significantly to the historic character of a designated historic district?
- (5) Would retention of the building or structure promote the general welfare of the town by providing an opportunity for the study of local history or prehistory, architecture, and design, or by developing an understanding of the importance and value of a particular culture and heritage?
- (6) Are there definite plans for reuse of the property if the proposed demolition is carried out, and what will be the effect of those plans on the character of the surrounding area?
- (7) Has demolition of the designated building or structure been ordered by the appropriate public agency due to unsafe conditions?

(e) Unless demolition has been ordered by a court of competent jurisdiction or another governmental body, a special certificate of appropriateness for demolition of a designated building or structure shall not be issued until there are definite plans for reuse of the property and a building permit or development order for the new construction has been applied for.

(f) If an undue economic hardship is claimed by the property owner as a result of the denial of a special certificate of appropriateness for demolition, the historic preservation board shall have the power to vary or modify adherence to its original decision

no later than 35 calendar days from the date the original decision is issued. Any variance or modification of a prior order shall be based upon sufficient evidence submitted by the owner and a subsequent finding by the historic preservation board that retention of the building or structure would deny the owner of all economically viable use of the property, thus creating an undue economic hardship. The owner may present the following evidence as grounds for such a finding:

- (1) For all property, the owner may present:
 - a. The amount paid for the property, the date of purchase, and the party from whom purchased;
 - b. The assessed value of the land and improvements thereon according to the two most recent property tax assessments;
 - c. The amount of real estate taxes for the previous two years;
 - d. The annual debt service, if any, for the previous two years;
 - e. All appraisals obtained within the previous two years by the owner or applicant in connection with the purchase, financing, or ownership of the property;
 - f. Any listings of the property for sale or lease, the price asked, and offers received, if any; and
 - g. Any profitable adaptive uses for the property which have been considered by the owner.
- (2) In addition to the items set forth in subsection (f)(1) of this section, the owner may present, for income-producing property:
 - a. The annual gross income from the property for the previous two years;
 - b. Itemized operating and maintenance expenses for the previous two years; and
 - c. The annual cash flow, if any, for the previous two years.

Sec. 22-105. Moving permits.

The historic preservation board shall consider the following criteria for applications for special certificates of appropriateness for the moving of all historic resources and contributing properties located within a designated historic district:

- (1) The historic character and aesthetic interest the building or structure contributes to its present setting.

- (2) The reasons for the proposed move.
- (3) The proposed new setting and the general environment of the proposed new setting.
- (4) Whether the building or structure can be moved without significant damage to its physical integrity.
- (5) Whether the proposed relocation site is compatible with the historical and architectural character of the building or structure.
- (6) When applicable, the effect of the move on the distinctive historical and visual character of a designated historic district.

DIVISION 4. ARCHAEOLOGICAL SITES

Sec. 22-106. Archaeological sites.

(a) *Identification.* The survey entitled "An Archaeological Site Inventory and Zone Management Plan for Lee County, Florida" (Piper Archaeological Research, Inc., 1987) was the basis for Figure 22-1, which shall be used:

- (1) to identify areas of archaeological sensitivity levels 1 and 2, for which certificates to dig must be obtained (see § 22-106(c)); and
- (2) as the initial database when considering the formal designation of areas of archaeological sensitivity level 1 as historic resources pursuant to §§ 22-201–22-204.

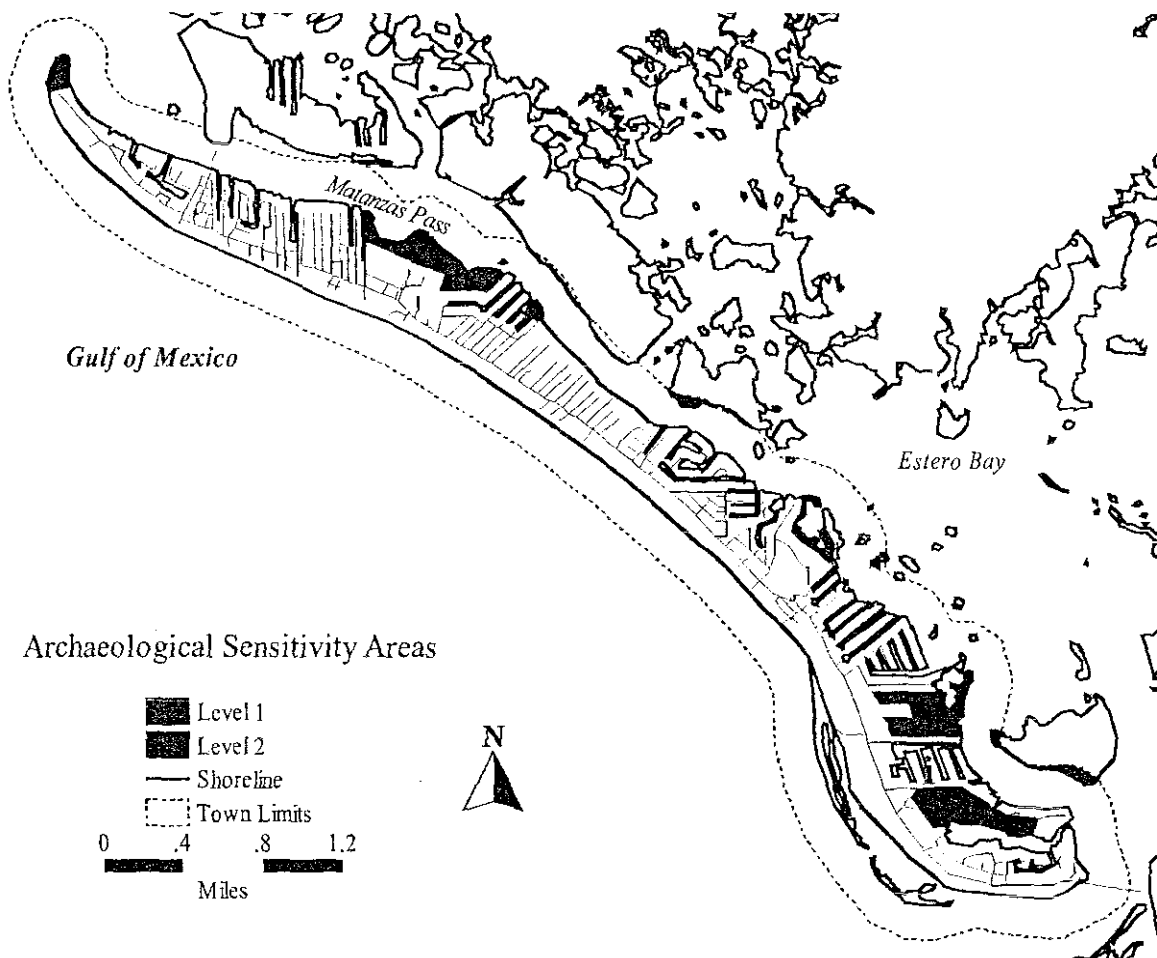


Figure 22-1 – Archaeological Sensitivity Areas, Levels 1 and 2

(b) **Certificate of appropriateness.** A certificate of appropriateness shall be required prior to the issuance of a development order or building permit for activity within an archaeological site that has been designated as a historic resource pursuant to §§ 22-201–22-204.

- (1) An application for a certificate of appropriateness in accordance with §§ 22-101–22-105 shall be accompanied by full plans and specifications indicating areas of work that might affect the surface and subsurface of the archaeological site or sites.
- (2) In reviewing the application for a special certificate of appropriateness for a designated archaeological site, the historic preservation board may also require any or all of the following:
 - a. Scientific excavation and evaluation of the site by an archaeologist at the owner's expense.
 - b. An archaeological survey, conducted by an archaeologist, containing an analysis of the impact of the proposed activity on the archaeological site.
 - c. Proposal for mitigation measures.
 - d. Protection or preservation of all or part of the designated archaeological site for green space, in exchange for incentives as provided in article III, division 2, of this chapter.

(c) **Certificate to dig.** A certificate to dig shall be required prior to or in conjunction with the issuance of a development order or building permit for activity within any area of archaeological sensitivity levels 1 and 2 that may involve new construction, filling, digging, removal of trees, or any other activity that may alter or reveal an interred archaeological site.

- (1) If submerged or wetland areas, such as ponds, sloughs, or swamps, are also to be damaged by development or by dredge and fill activities, these shall also be assessed for their potential to contain significant archaeological sites.
- (2) The purpose of a certificate to dig shall be to allow sufficient time to conduct any necessary investigations, including the location, evaluation, and protection of significant archaeological sites in areas suspected of having such archaeological sites.
- (3) The director shall, within 15 calendar days of receipt of a complete application for a

certificate to dig, approve the application for a certificate to dig, or approve the certificate to dig subject to specified conditions, including but not limited to a delay not to exceed 60 days to allow any necessary site excavation or additional archaeological assessment prior to commencement of the proposed construction activity. The director's decision shall be based on the application and any other guidelines which the historic preservation board may establish. If the approved certificate to dig requires archaeological excavation, the certificate shall specify a period of time during which excavation shall occur, not to exceed 60 days unless the owner agrees to an extension. The owner shall have an archaeologist conduct excavations as necessary during this period. The certificate to dig and any findings shall be mailed to the applicant by certified mail, return receipt requested, within seven calendar days of its review and approval.

- (4) The applicant shall have the opportunity to appeal any conditions attached to a certificate to dig by applying for a special certificate of appropriateness within 30 calendar days of the date the conditional certificate to dig is issued. The historic preservation board shall convene no later than 50 calendar days after the date a completed application for a special certificate of appropriateness is filed. Approved certificates to dig shall contain an effective date not to exceed 60 calendar days, at which time the proposed activity may begin, unless the archaeological excavation should uncover evidence of such significance that it warrants designation of the archaeological site as a historic resource pursuant to §§ 22-201–22-204.
- (5) All work performed pursuant to the issuance of a certificate to dig shall conform to the requirements of such certificate. It shall be the duty of the director to inspect work for compliance with such certificate. In the event of noncompliance, the director or the building official shall have the power to issue a stop work order and all work shall cease.

(d) **Human burials.** To knowingly disturb human burial remains is a third degree felony in the state, pursuant to F.S. ch. 872, pertaining to offenses concerning dead bodies and graves. The law includes prehistoric as well as historic period

interments, and aboriginal burial mounds or cemeteries as well as historic period cemeteries. Procedures for dealing with the accidental discovery of unmarked human burials are outlined in F.S. ch. 872.

- (1) If unmarked human burials are suspected or known in an area under consideration for any certificate of appropriateness or certificate to dig, the area shall be surveyed by a professional archaeologist to locate such remains.
- (2) Procedures for dealing with human remains shall be carried out according to F.S. ch. 872. Any located human interments should be preserved in place if at all possible. If it is necessary to excavate or otherwise move the remains, every effort shall be made to identify and contact persons who may have a direct kinship, tribal, community, or ethnic relationship with the deceased in order to arrange for their appropriate reinterment or disposition.

Secs. 22-107--22-140. Reserved.

**ARTICLE III.
DESIGNATION OF HISTORIC
RESOURCES AND DISTRICTS**

DIVISION 1. GENERALLY

Secs. 22-141--22-170. Reserved.

DIVISION 2. INCENTIVES

Sec. 22-171. Financial assistance.

All properties designated as historic resources or as a contributing property to a designated historic district shall be eligible for any financial assistance set aside for historic preservation projects by the town, the county, the state, or the federal government, provided they meet any additional requirements of those financial assistance programs.

Sec. 22-172. Nomination to National Register of Historic Places.

The historic preservation board shall encourage and assist in the nomination of eligible properties to the National Register of Historic Places in order to make available to those property owners the investment tax credits for certified rehabilitations pursuant to the Tax Reform Act of 1986 and any other programs offered through the National Register of Historic Places.

Sec. 22-173. Relief from building regulations.

Designated historic resources and any property in a designated historic district may be eligible for administrative variances or other forms of relief from applicable building codes as follows: Repairs, alterations, and additions necessary for the preservation, restoration, rehabilitation, or continued use of a building or structure may be made without conformance to the technical requirements of the Standard Building Code when the proposed work has been approved by a regular or special certificate of appropriateness and also by the building official, pursuant to the authority granted to the building official by other ordinances or statutes, provided that:

- (1) The restored building will be no more hazardous based on considerations of life, fire, sanitation, and safety than it was in its original condition.
- (2) Plans and specifications are sealed by a Florida registered architect or engineer, if required by the building official.
- (3) The building official has required the minimum necessary corrections to be made before use and occupancy which will be in the public interest of health, safety, and welfare.

Cross reference--Building codes, ch. 6, article II, divisions 3 and 4; floodplain regulations, ch. 6, article IV.

Sec. 22-174. Relief from zoning and development regulations.

The director may, by written administrative decision, approve any relief request for designated historic resources or any property in a designated historic district for matters involving setbacks, lot width, depth, area requirements, height limitations, open space requirements, parking requirements, and other similar relief from this code not related to a

change in use of the property in question.

- (1) Before granting relief, the director must find that:
 - a. The relief will be in harmony with the general appearance and character of the community.
 - b. The relief will not be injurious to the area involved or otherwise detrimental to the public health, safety, or welfare.
 - c. The proposed work is designed and arranged on the site in a manner that minimizes aural and visual impact on the adjacent properties while affording the owner a reasonable use of his land.
- (2) In granting any relief, the director may prescribe any appropriate conditions necessary to protect and further the interest of the area and abutting properties, including but not limited to:
 - a. Landscape materials, walls and fences as required buffering.
 - b. Modifications of the orientation of any openings.
 - c. Modifications of site arrangements.

The owner of a building, structure or site affected by the operation of this chapter and the decision of the director may appeal that decision according to the provisions of ch. 34.

Cross reference(s)—Zoning, ch. 34.

Sec. 22-175. Variances from floodplain regulations.

Variances from the floodplain regulations may be requested pursuant to the terms of ch. 6, article IV.

Secs. 22-176--22-200. Reserved.

**DIVISION 3.
DESIGNATION PROCEDURE**

Sec. 22-201. Initiation of designation process.

The designation process under this chapter may be initiated by a written petition from the property owner, by a majority vote of the historic preservation board, or at the request of the town council. The historic resource database shall be used initially to identify buildings, structures, and sites

potentially eligible for historic designation.

- (1) **Designation proposed by owner.** When designation is requested by the owner, a written petition for designation shall be filed, accompanied by sufficient information to warrant further investigation of the property and to aid in the preparation of a designation report. The historic preservation board shall, based on the request and information presented, either ask the director to begin or assist in preparation of a designation report, accept and direct the filing of a designation report prepared by the owner, reject a report submitted for filing, or deny the designation petition. Upon the filing of a designation report, the historic preservation board may request the director to commence the designation and notice process.
- (2) **Designation proposed by historic preservation board or town council.** Upon the recommendation of the director, a request by a member of the historic preservation board, or a request by the town council, the historic preservation board may ask the director to prepare or assist in preparation of a designation report. Upon completion of the designation report, the historic preservation board may, by majority vote, initiate the designation process by a motion asking the director to file the designation report and begin the notification process.

Sec. 22-202. Designation report.

Prior to the designation of any historic resource or historic district pursuant to this chapter, a designation report shall be filed with the historic preservation board. The designation report shall contain the following information:

- (1) **Individual buildings or sites.** For individual historic or archaeological buildings, structures or sites:
 - a. A physical description of the building, structure or site and its character-defining features, accompanied by photographs.
 - b. A statement of the historical, cultural, architectural, archaeological, or other significance of the building, structure, or site as defined by the criteria for designation established by this chapter.
 - c. A description of the existing condition of the building, structure, or site, including any potential threats or other

- d. A statement of rehabilitative or adaptive use proposals.
 - e. A location map, showing relevant zoning and land use information.
 - f. The director's recommendations concerning the eligibility of the building, structure, or site for designation pursuant to this chapter, and a listing of those features of the building's structure or site which require specific historic preservation treatments.
- (2) **Historic districts.** For historic or archaeological districts:
- a. A physical description of the district, accompanied by photographs of buildings, structures, or sites within the district indicating examples of contributing and noncontributing properties within the district; also, a list of all contributing properties outside the proposed boundaries of the district.
 - b. A description of typical architectural styles, character-defining features, and types of buildings, structures, or sites within the district.
 - c. An identification of all buildings, structures, and sites within the district and the proposed classification of each as contributing, contributing with modifications, or noncontributing, with an explanation of the criteria utilized for the proposed classification.
 - d. A statement of the historical, cultural, architectural, archaeological, or other significance of the district as defined by the criteria for designation established by this chapter.
 - e. A statement of recommended boundaries for the district and a justification for those boundaries, along with a map showing the recommended boundaries.
 - f. A statement of incentives requested, if any, and the specific guidelines which should be used in authorizing any alteration, demolition, relocation, excavation, or new construction within the boundaries of the district.

Sec. 22-203. Required notices; action by historic preservation board.

The historic preservation board shall hold timely public hearings upon every petition for designation made pursuant to this chapter. References in this chapter to calendar days shall include Saturdays, Sundays, and legal holidays. References in this chapter to working days exclude Saturdays, Sundays, and legal holidays.

- (1) **Notice to owner.** The historic preservation board shall notify the property owners of its intent to consider a proposed designation at least 20 calendar days prior to the date of the public hearing. Notice shall be sent by certified mail, return receipt requested, to the record owners of the property as reflected by the current ad valorem tax roll. Prior to the hearing, the director shall furnish the owners with copies of the designation report and this chapter. The director shall make a reasonable effort to contact the owners after mailing the notice of intent to designate, answer the owner's questions, and address areas of concern prior to the public hearing.
- (2) **Notification of public hearing.** For each proposed designation pursuant to this chapter, the historic preservation board shall hold a public hearing no sooner than 20 calendar days and no later than 70 calendar days from the date a designation report has been filed with the historic preservation board and notice of the intent to designate sent to the owners. Notice of the public hearing shall be published in a newspaper of general circulation at least five calendar days but no sooner than 20 calendar days prior to the date of the public hearing.
- (3) **Decision deadlines.** Within 14 calendar days after the date of the public hearing, the historic preservation board shall render, by written resolution, its decision approving, denying, or approving with conditions a proposed designation pursuant to this chapter. The rendering of a decision by the historic preservation board shall constitute final administrative action. The historic preservation board shall notify the following parties of its actions and shall attach a copy of the resolution:
 - a. The owner of the affected property.
 - b. The building official.
 - c. The county clerk.

- d. The county property appraiser.
 - e. Any other county, municipal, state, or federal agency, including agencies with demolition powers, that may be affected by the decision of the historic preservation board.
- (4) **Recording of designation.** All resolutions designating historic resources shall be recorded in the public records of the county within 25 calendar days of the date the historic preservation board renders its decision, unless an appeal of that decision has been filed within the time limits established by this chapter.
- (5) **Suspension of activities.** Upon the filing of a designation report, no permits may be issued authorizing building, demolition, relocation, or excavation on the subject property until final administrative action occurs or the expiration of 75 calendar days from the date the designation report is filed with the historic preservation board, whichever occurs first, unless an appeal of the decision of the historic preservation board is filed. If an appeal is filed as provided in this chapter, the suspension of activities shall continue in effect for an additional 35 calendar days from the date the historic preservation board renders its decision or until the rendering of a decision on the appeal, whichever occurs first. The property owner may waive the suspension of activities deadlines set out in this section. Waivers shall be in the form of a notarized statement to the historic preservation board for inclusion in the board's files. The historic preservation board shall notify all affected government agencies of the suspension of activities upon the filing of a designation report. The suspension of activities expires after 60 days if no public hearing is held.

Sec. 22-204. Criteria for designation.

- (a) **Significance generally.** The historic preservation board shall have the authority to designate historic resources based upon their significance in the town's or county's history, architecture, archaeology or culture, or for their integrity of location, design, setting, materials, workmanship, or associations, and because they:
- (1) Are associated with distinctive elements of the cultural, social, political, economic,

- scientific, religious, prehistoric, or architectural history that have contributed to the pattern of history in the community, the county, southwestern Florida, the state, or the nation;
- (2) Are associated with the lives of persons significant in our past;
- (3) Embody the distinctive characteristics of a type, period, style, or method of construction or are the work of a master; or possess high artistic value or represent a distinguishable entity whose components may lack individual distinction;
- (4) Have yielded or are likely to yield information on history or prehistory; or
- (5) Are listed or have been determined eligible for listing in the National Register of Historic Places.

(b) **Historical or cultural significance.** A historic resource shall be deemed to have historical or cultural significance if it is:

- (1) Associated with the life or activities of a person of importance in local, state, or national history;
- (2) The site of a historic event with a significant effect upon the town, county, state, or nation;
- (3) Associated in a significant way with a major historic event;
- (4) Exemplary of the historical, political, cultural, economic, or social trends of the community in history; or
- (5) Associated in a significant way with a past or continuing institution which has contributed substantially to the life of the community.

(c) **Architectural or aesthetic significance.** A historic resource shall be deemed to have architectural or aesthetic significance if it fulfills one or more of the following criteria:

- (1) Portrays the environment in an era of history characterized by one or more distinctive architectural styles;
- (2) Embodies the characteristics of an architectural style, period, or method of construction;
- (3) Is a historic or outstanding work of a prominent architect, designer, or landscape architect; or
- (4) Contains elements of design, detail, material, or craftsmanship which are of outstanding quality or which represented, in its time, a significant innovation, adaptation or response

to the south Florida environment.

(d) **Archaeological significance.** A historic resource shall be deemed to have archaeological significance if it meets one or more of the following criteria:

- (1) There is an important historical event or person associated with the site;
- (2) The quality of the site or the data recoverable from the site is significant enough that it would provide unique or representative information on prehistoric or historical events;
- (3) The site was the locus of discrete types of activities such as habitation, religious, burial, fortification, etc.;
- (4) The site was the location of historic or prehistoric activities during a particular period of time; or
- (5) The site maintains a sufficient degree of environmental integrity to provide useful archaeological data. Such integrity shall be defined as follows:
 - a. The site is intact and has had little or no subsurface disturbance; or
 - b. The site is *slightly to moderately* disturbed, but the remains have considerable potential for providing useful information.

(c) **Not generally eligible.** Properties not generally considered eligible for designation include cemeteries, birthplaces, or graves of historical figures, properties owned by religious institutions or used for religious purposes, structures that have been moved from their original locations, buildings or sites primarily commemorative in nature, reconstructed historic buildings, and properties that have achieved significance less than 50 years prior to the date the property is proposed for designation. However, such properties will qualify if they are integral parts of districts that do meet the criteria described in this section or if they fall within one or more of the following categories:

- (1) A religious property deriving primary significance from architectural or artistic distinction of historical importance.
- (2) A building or structure removed from its location but which is primarily significant for

architectural value, or is the surviving structure most importantly associated with a historic event or person.

- (3) A birthplace or grave of a historical figure of outstanding importance if there is no other appropriate site or building directly associated with his productive life.
- (4) A cemetery which derives its primary significance from graves of persons of transcendent importance, from age, from distinctive design features, or from association with historic events.
- (5) A property primarily commemorative in nature if design, age, tradition, or symbolic value have invested it with its own historical significance.
- (6) A building, structure, site, or district achieving significance less than 50 years from the date it is proposed for designation if it is of exceptional historical importance.

Sec. 22-205. Amendment or withdrawal of designation.

(a) A request to amend or withdraw the designation of a historic resource shall be made and processed in accordance with the designation procedures and criteria in effect at the time the withdrawal is requested.

(b) A withdrawal request shall also be evaluated as to the following factors:

- (1) Whether any reduction or loss of historic or archaeological value was caused by the owner of the designated historic resource (as opposed to unavoidable actions of others or acts of god).
- (2) Whether the owner of the designated historic resource has taken advantage of relief pursuant to this chapter that would not have been available without the historic designation.
- (3) Whether the requested withdrawal would adversely affect other designated historic resources or nearby historic districts.

Secs. 22-206--22-240. Reserved.

**ARTICLE IV.
MAINTENANCE AND REPAIR**

Sec. 22-241. Ordinary maintenance and repair.

Nothing in this chapter shall be construed to prevent or discourage the ordinary maintenance and repair of the exterior elements of any historic resource or any property within a designated historic district when such maintenance and repair do not involve a change of design, appearance (other than color), or material, and do not require a building permit.

Cross reference—Ordinary minor repairs allowed without permits, see building codes, §§ 6-111, 6-131, 6-151, and 6-171.

Sec. 22-242. Correction of deficiencies generally.

When the historic preservation board determines that the exterior of a designated historic resource, or a contributing property within a designated historic district, is endangered by lack of ordinary maintenance and repair, or that other improvements in visual proximity of a designated historic resource or historic district are endangered by lack of ordinary maintenance, or are in danger of deterioration to such an extent that it detracts from the desirable character of the designated historic resource or historic district, the historic preservation board may request appropriate officials or agencies of government to require correction of such deficiencies under the authority and procedures of applicable ordinances, laws, and regulations.

Sec. 22-243. Unsafe structures.

If the building official determines that any designated historic resource or contributing property is unsafe pursuant to the provisions of this code, the building official will immediately notify the historic preservation board by submitting copies of such findings. Where appropriate and not in conflict with this code, the historic preservation board shall encourage repair of the building or structure rather than demolition. The building official will, in these instances, take into consideration any comments and recommendations made by the historic preservation board. The historic preservation board may also endeavor to negotiate with the owner and interested parties, provided such actions do not interfere with procedures established in this code.

Sec. 22-244. Emergency work.

For the purpose of remedying an emergency condition determined to be imminently dangerous to life, health, or property, nothing contained in this chapter will prevent the temporary construction, reconstruction, demolition, or other repairs to a historic structure, building, or site or a contributing or noncontributing property, structural improvement, landscape feature, or archaeological site within a designated historic district.

- (1) Such temporary construction, reconstruction, or demolition must take place pursuant to permission granted by the building official, and only such work as is reasonably necessary to correct the emergency conditions may be carried out.
- (2) The owner of a building or structure damaged by fire or natural calamity will be permitted to immediately stabilize the building or structure and to later rehabilitate it under the procedures required by this chapter.
- (3) The owner may request a special meeting of the historic preservation board to consider an application for a certificate of appropriateness to provide for permanent repairs.

Sec. 22-245. Demolition by neglect.

If the director or the building official informs the historic preservation board that a designated historic resource or contributing property within a historic district is being demolished by neglect, as defined pursuant to this chapter, the historic preservation board shall notify the owners of record by certified mail of its preliminary findings and intent to hold a public hearing no later than 35 calendar days from the date the notice was sent to determine evidence of neglect. The owner shall have until the time of the public hearing to make necessary repairs to rectify the evidence of neglect as identified in the certified notice. Upon failure by the owner to abate the structural, health, or safety hazards identified in the initial notice within 35 calendar days, the historic preservation board shall hold a public hearing to consider recommending to the building official that the owner be issued a citation for code violation. The owner shall have the right to rebut the preliminary findings of the historic preservation board at the public hearing. If the historic preservation board finds that the building or structure is being demolished by neglect pursuant to this chapter, the historic preservation board may

recommend to the building official that the owner be issued a citation for code violations and that penalties be instituted pursuant to this chapter.

**CHAPTERS 23–25
RESERVED**

APPENDIX B
FLORIDA COMMUNITIES TRUST CONCEPTUAL APPROVAL AGREEMENT
PROJECT #02-098-FF2

FCT Contract Number 03-CT-7M-02-F2-A1-098
FLORIDA COMMUNITIES TRUST
02-098-FF2
NEWTON BEACH PARK
CSFA # 52002

GRANT CONTRACT

THIS AGREEMENT is entered into on February 4, 2003, the date the last party executes this Agreement, by and between the FLORIDA COMMUNITIES TRUST (FCT), a nonregulatory agency within the State of Florida Department of Community Affairs, and TOWN OF FORT MYERS BEACH, a local government of the State of Florida (Recipient). The intent of this Agreement is to impose terms and conditions on the use of the proceeds of certain bonds, hereinafter described, and the lands acquired with such proceeds (Project Site), that are necessary to ensure compliance with applicable Florida law and federal income tax law and to otherwise implement provisions of Sections 259.105, 259.1051, and Chapter 380, Part III, Florida Statutes (F.S.).

* * * * *

WHEREAS, Chapter 380, Part III, F.S., the Florida Communities Trust Act, creates a nonregulatory agency within the Department of Community Affairs (Department) that will assist local governments in bringing local comprehensive plans into compliance and implementing the goals, objectives, and policies of the conservation, recreation and open space, and coastal management elements of local comprehensive plans, or in conserving natural resources and resolving land use conflicts by providing financial assistance to local governments and nonprofit environmental organizations to carry out projects and activities authorized by the Florida Communities Trust Act;

WHEREAS, Section 259.105(3)(c), F.S., of the Florida Forever Act provides for the distribution of twenty-two percent (22%) less certain reductions of the net Florida Forever Revenue Bond proceeds to the Department to provide land acquisition grants to local governments or nonprofit environmental organizations through the FCT for acquisition of community-based projects, urban open spaces, parks, greenways, and recreational trail systems to implement local comprehensive plans;

WHEREAS, the Bonds are issued as tax-exempt bonds, meaning that the interest on the Bonds is excluded from the gross income of bondholders for federal income tax purposes;

WHEREAS, Rule Chapter 9K-7, Florida Administrative Code (F.A.C.), describes the procedures for evaluation and selection of lands proposed for acquisition using funds allocated to the FCT through the Department from the Florida Forever Trust Fund;

WHEREAS, the FCT Governing Board met on November 14 – 15, 2002, to score, rank, and select projects to receive approval for funding;

02-098-FF2
12/20/2002
Joint Acquisition-

WHEREAS, the Recipient's project, described in an application submitted for evaluation, was selected for funding and in accordance with Rule Chapter 9K-7, F.A.C., and as more particularly described within this Agreement;

WHEREAS, Rule 9K-7.009(1), F.A.C., authorizes FCT to impose conditions for funding on those FCT applicants whose projects are selected for funding; and

WHEREAS, the purpose of this Agreement is to set forth the conditions that must be satisfied by Recipient prior to the disbursement of any FCT Florida Forever funds awarded, as well as the restrictions that are imposed on the Project Site subsequent to its acquisition with the Bond proceeds.

NOW THEREFORE, FCT and Recipient mutually agree as follows:

I. GENERAL CONDITIONS

1. At least two original copies of this Agreement shall be executed by the Recipient and returned to the FCT office at 2555 Shumard Oak Boulevard, Tallahassee, FL 32399-2100, as soon as possible and before January 21, 2003. If Recipient requires more than one original document, the Recipient should photocopy the number of additional copies needed, and then execute each as an original document. Upon receipt of the signed Agreements, FCT will execute the Agreements, retain one original copy and return all other copies that have been executed to the Recipient.

2. This Agreement between the parties sets forth the requirements and responsibilities for acquisition and management of the Project Site, described in the application that was submitted and selected for funding by FCT (Application). Since the entire Project Site has not yet been negotiated for acquisition, some elements of the project are not yet known, such as the purchase price, other project costs, and the terms upon which an owner will voluntarily convey the property.

3. Approval for funding shall be until November 15, 2003. In the event that the Project Plan described in Section V. below has not been approved by the Expiration Date, this Agreement shall be terminated. The FCT may extend this Agreement beyond the Expiration Date if the Recipient demonstrates that significant progress is being made toward Project Plan approval or that extenuating circumstances warrant an extension of time. A request for an extension must be made in writing to FCT, fully explaining the reason for the delay and why the extension is necessary. If the Recipient does not request an extension, or if an extension is not granted to the Recipient by the FCT, the Florida Forever award granted to the Recipient shall terminate and all obligations hereunder shall cease.

4. This Agreement may be terminated before its Expiration Date at the written request of the Recipient. Such a request shall fully describe the circumstances that compel the Recipient to terminate the project. A request for termination should be mailed to the FCT at the address given in paragraph 1 above.

5. This Agreement may be terminated before its Expiration Date by the FCT if it is determined by the FCT that no significant progress is being made toward the acquisition of the Project Site, non-performance by the Recipient of the requirements listed or that other circumstances are present that would, in all likelihood, preclude or prevent the successful acquisition of the Project Site within the established time frame. Prior to termination, notice of the proposed termination shall be mailed to the Recipient at the address given in paragraph 13 below.

6. Recipient agrees to submit the documentation to FCT that is required in this Agreement as soon as possible so that the Project Site may be acquired in an expeditious manner. Deadlines stated in this Agreement, as well as deadlines associated with any FCT activity relating to the project, are strictly enforced. Failure to adhere to deadlines may result in delays in the project, may result in allocation of time or resources to other recipients that responded timely, and may result in this Agreement being terminated by FCT.

It is the responsibility of the Recipient and its representatives to know all project deadlines, to devise a method of monitoring the project, and to adhere to all deadlines. If the Recipient is identified in paragraph III.1. below as the party responsible for all negotiation and acquisition activities, the Recipient shall provide a monthly status report to FCT of acquisition activities on the Project Site. The monthly report shall contain dates that appraisals are ordered and due, as well as dates that purchase agreements are sent to sellers and the status of each contract, as appropriate.

7. The FCT Florida Forever award granted to the Recipient will in no event exceed the lesser of Fifty Percent (50.00%) of the final total eligible project costs, as defined in Rule 9K-7.002(29), F.A.C., or One Million Two Hundred Seventy Nine Thousand Two Hundred Fifty Dollars And No Cents (\$1,279,250.00) unless the FCT approves a different amount, after determination of the Maximum Approved Purchase Price as provided in Rule 9K-8.007, F.A.C., and which shall be reflected in an addendum to this Agreement. The amount of the grant shall not exceed the Limitation of Award provided in Rule 9K-7.003(3), F.A.C., and as advertised in the Notice of Application.

8. The grant amount stated in paragraph 7 above is based on the Recipient's estimate of total project costs in its Application, as well as limits on awards in the notice of application period announcing the application cycle. When disbursing funds for the project, the FCT will recognize the actual total project costs, defined in Rule 9K-7.002(29), F.A.C., for acquisition of the Project Site. The total project costs will be reflected on a grant reconciliation statement prepared pursuant to paragraph 10 below. The FCT will participate in the land cost at either the actual purchase price, or the Maximum Approved Purchase Price based on appraisal reports that comply with requirements set forth in Rule 9K-8.007, F.A.C., whichever is less, and multiplied by the percent stated in paragraph 7 above.

9. The FCT Governing Board selected the Recipient's Application for funding to acquire the entire Project Site identified in its Application. The FCT reserves the right to withdraw or adjust the FCT award if the acreage that comprises the Project Site is reduced or the project design is changed so that the objectives of the acquisition cannot be achieved. Any request for modification of the boundary of the Project Site identified in the Application may be considered by the FCT following the procedures for submission and review of boundary modification requests set forth in Rule 9K-7.010, F.A.C.

If the Project Site is comprised of multiple parcels and multiple owners, an Acquisition Plan was required in the application. The FCT reserves the right to withdraw or adjust the FCT award if the priority parcel(s), or a significant portion of the Project Site identified in the Acquisition Plan, incorporated by reference herein and attached as Exhibit "A," cannot be acquired. Approval of this Agreement shall constitute approval of the Acquisition Plan by FCT.

10. The FCT funds shall be delivered either in the form of eligible project costs prepaid by FCT to vendors or in the form of a State of Florida warrant at the closing of the Project Site, payable to the Seller or the Seller's designated agent authorized by law to receive such payment, provided the Comptroller determines that such disbursement is consistent with good business practices and can be completed in a manner minimizing costs and risks to the State of Florida. If the Project Site is comprised of multiple parcels, FCT shall deliver at the closing of each parcel only the share of the FCT award that corresponds to the parcel being closed. FCT will prepare a grant reconciliation statement prior to the closing of the Project Site parcel that will evidence the amount of local match, if any is required, provided by the Recipient and the portion of the FCT award that corresponds to the parcel being closed. Funds expended by the FCT for eligible project costs incurred by the FCT will be recognized as part of the FCT grant award amount on the grant reconciliation statement.

11. The Recipient's local match, if any is required, shall be delivered either in the form of eligible project costs prepaid to vendors by the Recipient; eligible documented donation by Seller of land value; or Recipient's funds at the closing of the Project Site. If the Project Site is comprised of multiple parcels, the Recipient shall deliver at the closing of each parcel the share of the local match, that corresponds to the parcel being closed. The cash expended by the Recipient for eligible project costs incurred by the Recipient conducting acquisition activities will be recognized as part of the local match, on the grant reconciliation statement prepared pursuant to paragraph 10 above. In the event that land value is the source of local match, if any is required, the value attributed to the land local match, shall be determined after an appraisal report that complies with the procedures and requirements set forth in Rule 9K-8.007, F.A.C. Such appraisal report shall be subject to review and approval by FCT prior to FCT funds being delivered for the project.

12. The FCT Governing Board selected applications for funding on November 14-15, 2002, at which time the Project Site became part of a list of lands that were approved for consideration for land acquisition. If action initiated by the Recipient that is the local government having jurisdiction over the Project Site, subsequent to November 14 - 15, 2002, results in a governmentally-derived higher value due to an enhanced highest and best use, the FCT acquisition activities will be terminated unless the Seller agrees that the appraisal will be based on the highest and best use of the Project Site on or before November 14 - 15, 2002.

13. Recipient hereby notifies the FCT that the following administrator, officer, or employee is the authorized key contact, or project manager, on behalf of the Recipient for purposes of coordinating project activities for the duration of the project:

Name: Daniel Folke
Title: Community Development Coordinator
Address: 2523 Estero Blvd., Ft. Myers Beach, FL 33931
Phone: 239-765-0202 Fax: 239-765-0909
Email: folke@fmbeach.org

All contact and correspondence from FCT and the Recipient will be through with the key contact. The Recipient must notify the FCT as to any change in the authorization of the key contact on behalf of the Recipient named above. This notification must be made in writing to the Executive Director and signed by the appropriate authorized administrator, officer, or employee named in paragraph III.6.d. below.

14. This Agreement may be amended at any time and must be set forth in a written instrument and agreed to by both the FCT and the Recipient. Such amendments shall become a part of this Agreement.

II. AUDIT REQUIREMENTS

Section 215.97, Florida Statutes, the Florida Single Audit Act, provides uniform state audit requirements for state financial assistance provided by state agencies over the audit threshold as defined in that Section as follows:

1. The Recipient agrees to maintain financial procedures and support documents, in accordance with generally accepted accounting principles, to account for the receipt and expenditure of funds under this Agreement.

2. These records shall be available at all reasonable times for inspection, review, or audit by state personnel and other personnel duly authorized by FCT. "Reasonable" shall be construed according to circumstances, but ordinarily shall mean normal business hours of 8:00 a.m. to 5:00 p.m., local time, Monday through Friday.

3. The Recipient shall also provide FCT with the records, reports or financial statements upon request for the purposes of auditing and monitoring the funds awarded under this Agreement.

4. In the event that the Recipient expends a total amount of State financial assistance from all state sources equal to or in excess of \$300,000 in any fiscal year of such Recipient, the Recipient must have a State single or project-specific audit for such fiscal year in accordance with Section 215.97, Florida Statutes; applicable rules of the Executive Office of the Governor and the Comptroller, and Chapter 10.550 and 10.650, Rules of the Auditor General.

Section I.7. above indicates State financial assistance through FCT by this Agreement. In determining the State financial assistance expended in its fiscal year, the Recipient shall consider all sources of State financial assistance, including State funds received from FCT, except that State financial assistance received by a nonstate entity for Federal program matching requirements shall be excluded from consideration. The funding for this Agreement was received by FCT as a grant appropriation.

- a. The annual financial audit report shall include all management letters and the Recipient's response to all findings, including corrective actions to be taken.
- b. The annual financial audit report shall include a schedule of financial assistance specifically identifying all Agreement and other revenue by sponsoring agency and Agreement number.

- c. The complete financial audit report, including all items specified in (d) below, shall be sent directly to:

Department of Community Affairs
Office of Audit Services
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399-2100

and

State of Florida Auditor General
Room 401, Claude Pepper Building
111 West Madison Street
Tallahassee, Florida 32399-1450

- d. In connection with the audit requirements addressed above, the Recipient shall ensure that the audit complies with the requirements of Section 215.97(7), Florida Statutes. This includes submission of a reporting package as defined by Section 215.97(2)(d), Florida Statutes, and Chapter 10.550 and 10.650, Rules of the Auditor General.
- e. If the Recipient expends less than \$300,000 in State financial assistance in its fiscal year, an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, is not required. In the event that the Recipient expends less than \$300,000 in State financial assistance in its fiscal year and elects to have an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, the cost of the audit must be paid from non-State funds (i.e., the cost of such an audit must be paid from recipient funds obtained from other than State entities).

5. In the event the audit shows that the entire funds disbursed hereunder, or any portion thereof, were not spent in accordance with the conditions of this Agreement, the Recipient shall be held liable for reimbursement to FCT of all funds not spent in accordance with these applicable regulations and Agreement provisions within thirty (30) days after FCT has notified the Recipient of such non-compliance.

6. The Recipient shall retain all financial records, supporting documents, statistical records, and any other documents pertinent to this contract for a period of five years after the date of submission of the final expenditures report. However, if litigation or an audit has been initiated prior to the expiration of the five-year period, the records shall be retained until the litigation or audit findings have been resolved.

7. The Recipient shall have all audits completed in accordance with Section 215.97, Florida Statutes, by an independent certified public accountant (IPA) who shall either be a certified public accountant or a public accountant licensed under Chapter 473, Florida Statutes. The IPA shall state that the audit complied with the applicable provisions noted above.

III. REQUIREMENTS THAT MUST BE MET PRIOR TO INITIATION OF PROJECT SITE NEGOTIATION

1. If the Project Site consists of five or fewer ownerships, as reflected on the Acquisition Plan, either the FCT or the Recipient may act as the party responsible for all negotiation and acquisition activities. If the Project Site consists of six or more ownerships, as reflected on the Acquisition Plan, the Recipient shall act as the party responsible for all negotiation and acquisition activities. The Recipient hereby notifies the FCT that Town of Fort Myers Beach [Note: Elect FCT or Recipient] will be the party responsible for all negotiation and acquisition activities. If the Recipient is named herein and represented by an agent, the Recipient hereby notifies the FCT that the Recipient's agent is:

Name: N/A

Title: _____

Address: _____

Phone: _____ Fax: _____

Email: _____

2. The Recipient hereby notifies the FCT that the Recipient's Federal Employer Identification Number(s) is 65-0632342.

3. No later than **January 21, 2003**, the Recipient must deliver to FCT a written statement from the Project Site property owner(s) evidencing that the owner(s) is willing to entertain an offer from the Recipient and FCT, if not previously provided in the Application. No negotiation or acquisition activity is to be commenced prior to FCT receipt of this statement.

4. No later than **January 21, 2003**, the Recipient must deliver to FCT the executed Confidentiality Agreement provided to the Recipient by FCT, pursuant to Rule 9K-8.008(3), F.A.C.. No negotiation or acquisition activity is to be commenced prior to FCT receipt of the executed Confidentiality Agreement.

5. The party named in paragraph I above as the party responsible for all negotiation and acquisition activities, shall provide the following:

- a. Title report(s) and appraisal(s) as required by Rule 9K-8.007 (1) - (4), F.A.C., for review by a date not to exceed 90 days after execution of this Agreement. FCT will review the appraisal(s) and, upon approval, will determine the Maximum Approved Purchase Price as provided in Rule 9K-8.007(5) and (6), F.A.C. ; and
- b. Purchase agreement(s), based on the Acquisition Plan (if applicable), must be approved by FCT and sent to owner(s) within 45 days of receipt of the appraisal review memo from FCT establishing the Maximum Approved Purchase Price.

6. By execution of this Agreement, the Recipient affirms that:

- a. the Recipient is ready, willing and able to provide the local match, if any is required;
- b. the Recipient reaffirms the representations made in its Application;
- c. the Recipient shall, on January 30 of each year after acquisition of the Project Site, prepare and submit to FCT an annual stewardship report as required by Rule 9K-7.013, F.A.C.;
- d. the Recipient authorizes the administrator, employee, or officer named in this paragraph to execute all documents in connection with this project on behalf of the Recipient, including but not limited to the Grant Contract or any addenda thereto, purchase agreement for the property, grant reconciliation statement, closing documents, statements submitted as a part of the Project Plan, and Grant Award Agreement:

Name: Marsha Segal-George

Title: Town Manager

Address: 2523 Estero Boulevard

Phone: 239-765-0202 Fax: 239-765-0909

Email: marsha@fmbeach.org

The Recipient must notify the FCT as to any change in the authorization of the administrator, officer or employee named in this paragraph to execute all documents on behalf of the Recipient. This notification must be made in writing to the Executive Director and signed by the appropriate administrator, officer or employee.

IV. MANAGEMENT PLAN APPROVAL

1. Prior to approval of the Project Plan (described in Section V below), signature of the purchase agreement(s), closing(s) of the real estate transaction(s) and final disbursement of award funds by FCT, the Recipient must prepare a Management Plan that complies with Rule Chapter 9K-7.011, F.A.C., and addresses the criteria and conditions set forth in Sections IV, VI, VII, VIII, and IX herein. Recipient is strongly urged to coordinate with the FCT staff in order to ensure that the FCT approval of the Management Plan occurs prior to the closing date of the real estate transaction(s) associated with the project and delivery of FCT funds.

2. The Management Plan, which is intended to explain how the Project Site will be managed to further the purposes of the project and meet the terms and conditions of this Agreement, shall include the following:

- a. An introduction containing the project name, location and other background information relevant to management.
- b. The stated purpose for acquiring the Project Site as proposed in the Application and a prioritized list of management objectives.
- c. The identification of known natural resources including natural communities, listed plant and animal species, soil types, surface and groundwater characteristics.
- d. A detailed description of all proposed uses including existing and proposed physical improvements and the impact on natural resources.
- e. A detailed description of proposed restoration or enhancement activities, if any, including the objective of the effort and the techniques to be used.
- f. A scaled site plan drawing showing the project site boundary, existing and proposed physical improvements and any natural resource restoration or enhancement areas.
- g. The identification and protection of known cultural or historical resources and a commitment to conduct surveys prior to any ground disturbing activity, if applicable.

- h. A description of proposed educational displays and programs to be offered, if applicable.
- i. A description of how the management will be coordinated with other agencies and public lands, if applicable.
- j. A schedule for implementing the development and management activities of the Management Plan.
- k. Cost estimates and funding sources to implement the Management Plan.

3. If the Recipient is not the proposed managing entity, the Management Plan must include a signed agreement between the Recipient and the managing entity stating the managing entity's willingness to manage the site, the manner in which the site will be managed to further the purpose(s) of the project, and identification of the source of funding for management.

In the event that the Recipient is a partnership, the Recipient must also provide FCT with the interlocal agreement that sets forth the relationship among the partners and the fiscal and management responsibilities and obligations incurred by each partner for the Project Site as a part of its Project Plan.

4. To ensure that future management funds will be available for the management of the site in perpetuity pursuant to Section 259.105 and Chapter 380, Part III, F.S., the Recipient(s) shall be required to provide the FCT with Reasonable Assurance, pursuant to Rule 9K-7.002(32), F.A.C., that it has the financial resources, background, qualifications and competence to manage the Project Site in perpetuity in a reasonable and professional manner. Where the Recipient does not include at least one Local Government, the FCT may: require the Recipient to post a performance or other bond in an amount sufficient to ensure that the Project Site shall be reasonably and professionally managed in perpetuity; require the Recipient to establish an endowment or other fund in an amount sufficient to ensure performance; require a guaranty or pledge by the Local Government, in whose jurisdiction the Project Site is located, which shall require the Local Government to take over the responsibility for management of the Project Site in the event the Nonprofit Environmental Organization Recipient is unable to, and may require the Local Government to be a named co-signer on the Grant Award Agreement; or require such other assurances as the Governing Board may deem necessary to adequately protect the public interest.

V. PROJECT PLAN APPROVAL

1. Prior to FCT approval of the signed purchase agreement(s), closing(s) of the real estate transaction(s) to acquire the Project Site, and final disbursement of award funds by FCT, the Recipient must submit to FCT a Project Plan that complies with Rule 9K-8.011, F.A.C. This Project Plan is a compilation of the following items listed below, which must be reviewed and approved by FCT.

The Project Plan shall include, and shall not be considered by FCT unless it includes all of the following documents, to be reviewed and approved by FCT to ensure that the interest of the State of Florida will be protected:

- a. A purchase agreement, in a form previously approved by FCT staff, fully executed by both the Seller and the Recipient, and that is based on an appraisal(s) approved by FCT and consistent with the requirements of Rule Chapter 9K-8, F.A.C.
- b. A letter from FCT indicating approval of the Management Plan written according to Rule Chapter 9K-7.011, F.A.C., and as described in Section IV above.
- c. A statement of the total Project Cost as defined in Rule Chapter 9K-7.002(29), F.A.C.
- d. A statement of the amount of the award being requested from the FCT.
- e. Supporting documentation that the conditions imposed as part of this Agreement have been satisfied.
- f. A signed statement by the Recipient that the Recipient is not aware of any pending criminal, civil or regulatory violations imposed on the Project Site by any governmental agency or body.
- g. Additional documentation as may be requested by FCT to provide Reasonable Assurance as set forth in Section IV.4. above.

2. The FCT strongly encourages the Recipient to request a courtesy review of its Project Plan, prior to submission of the Project Plan for approval and release of funds. The FCT will recommend approval of complete and accurate Project Plans or disapproval of incomplete or insufficient Project Plans. Recipient is strongly urged to coordinate with the FCT staff in order that the FCT review of the Project Plan coincides with the closing date of the real estate transaction(s) associated with the project.

3. Real estate transactions associated with the project may close only after FCT approval of the Project Plan and compliance with all purchase agreement requirements. In addition, pursuant to Rule 9K-8.011(4), F.A.C., the FCT shall publish a Notice of Approval for Florida Forever funds in the *Florida Administrative Weekly* that shall list each Project Plan that has received approval for funding and the amount of funding approved. Any person with a substantial interest that is or may be determined by the decision of the FCT to reject or approve the Project Plan may request an administrative proceeding pursuant to Section 120.57, F.S., within 21 days from publication of the Notice of Approval for Florida Forever funds. Real estate closings associated with the project may close only after expiration of the 21-day notice period, so long as no requests for an administrative proceeding have been filed.

VI. PROJECT SITE ACQUISITION REQUIREMENTS IMPOSED BY CHAPTER 259 AND CHAPTER 380, PART III, F.S.

RECIPIENT AGREES AS FOLLOWS:

1. FCT shall approve the terms under which the interest in land is acquired, pursuant to Section 380.510(3), F.S. Such approval is deemed given when the FCT approves and executes the purchase agreement for acquisition of the Project Site, further described in Section V.1.a. above, to which FCT is a party.

2. Title to the Project Site shall be titled in the Recipient, unless the Recipient specifically requests that title shall permanently vest in the Board of Trustees of the Internal Improvement Trust Fund (Trustees). Such request shall be subject to the approval of FCT and the Trustees. The Recipient hereby elects that title to the Project Site shall be vested in

Town of Fort Myers Beach [Note: Insert either the name of Recipient or Board of Trustees of Internal Improvement Trust Fund.] If the Recipient elects that title shall vest in the Trustees, then all acquisition activities shall be administered by the Division of State Lands as specified in Section 253.025, F.S., and Rule 18-1, F.A.C. FCT signature of this Agreement shall constitute approval of this election.

3. The transfer of title to the Recipient for the Project Site shall not occur until the requirements for the acquisition of lands, as specified in Section 380.507(11), F.S., and Rule Chapter 9K-8, F.A.C., have been fully complied with by the Recipient and FCT.

4. Each parcel to which the Recipient acquires title in the Project Site shall be subject to such covenants and restrictions as are, at a minimum, sufficient to ensure that the use of the Project Site at all times complies with Section 375.051 and 380.510, F.S.; Section 11(e), Article VII of the State Constitution; the applicable bond indenture under which the Bonds were issued; and any provision of the Internal Revenue Code or the regulations promulgated thereunder that pertain to tax exempt bonds and shall contain clauses providing for the conveyance of title to the Project Site in the Board of Trustees of the Internal Improvement Trust Fund or another local government or nonprofit organization, upon failure to use the Project Site conveyed thereby for such purposes.

5. A Grant Award Agreement containing such covenants and restrictions as referenced in paragraph 4 above and describing the real property subject to the Agreement shall be executed by the FCT and Recipient at the time of the conveyance of the Project Site and shall be recorded in the county(s) in which the Project Site is located. The Grant Award Agreement shall restate the conditions that were placed on the Project Site at the time of project selection and initial grant approval. All statements contained in the Grant Award Agreement are contained in this Agreement, with the exception of statements that do not survive the real estate closing of the Project Site.

6. If any essential term or condition of the Grant Award Agreement is violated, and the Recipient does not correct the violation within 30 days of written notice of violation, title to all interest in the Project Site shall be conveyed to the Board of Trustees of the Internal Improvement Trust Fund. The deed transferring title to the Project Site to the Recipient shall set forth the executory interest of the Board of Trustees of the Internal Improvement Trust Fund.

7. The interest acquired by the Recipient in the Project Site shall not serve as security for any debt of the Recipient.

8. If the existence of the Recipient terminates for any reason, title to the Project Site shall be conveyed to the Board of Trustees of the Internal Improvement Trust Fund, unless FCT negotiates an agreement with another local government or nonprofit organization which agrees to accept title to all interest in and to manage the Project Site.

VII. OBLIGATIONS OF THE FCT RECIPIENT AS A CONDITION OF PROJECT FUNDING

1. Following the acquisition of the Project Site, the Recipient shall ensure that the future land use designation assigned to the Project Site is for a category dedicated to open space, conservation, or outdoor recreation uses as appropriate. If an amendment to the applicable comprehensive plan is required, the amendment shall be proposed at the next comprehensive plan amendment cycle available to the Recipient subsequent to the Project Site's acquisition.

2. Recipient shall ensure, and provide evidence thereof to FCT, that all activities under this Agreement comply with all applicable local, state, regional and federal laws and regulations, including zoning ordinances and the applicable adopted and approved comprehensive plan.

3. The Recipient shall, through its agents and employees, prevent the unauthorized use of the Project Site or any use thereof not in conformity with the Management Plan approved by the FCT as a part of the Project Plan.

4. FCT staff or its duly authorized representatives shall have the right at any time to inspect the Project Site and the operations of the Recipient at the Project Site.

5. All buildings, structures, improvements, and signs shall require the prior written approval of FCT as to purpose. Further, tree removal, other than non-native species, and major land alterations shall require the written approval of FCT. The approvals required from FCT shall not be unreasonably withheld by FCT upon sufficient demonstration that the proposed structures, buildings, improvements, signs, vegetation removal or land alterations will not adversely impact the natural resources of the Project Site. The approval by FCT of the Recipient's Management Plan addressing the items mentioned herein shall be considered written approval from FCT.

VIII. OBLIGATIONS OF THE RECIPIENT RELATING TO THE USE OF BOND PROCEEDS

1. FCT is authorized by Section 380.510, F.S., to impose conditions for funding on Recipient in order to ensure that the project complies with the requirements for the use of Florida Forever Bond proceeds including without limitation the provisions of the Internal Revenue Code and the regulations promulgated thereunder as the same pertain to tax exempt bonds.

2. Recipient agrees and acknowledges that the below listed transactions, events, and circumstances, collectively referred to as the "disallowable activities", may be disallowed on the Project Site, as they may have negative legal and tax consequences under Florida law and federal income tax law. The Recipient further agrees and acknowledges that these disallowable activities may be allowed up to a certain extent based on guidelines or tests outlined in the Federal Private Activity regulations of the Internal Revenue Service:

- a. any sale or lease of any interest in the Project Site to any person or organization;
- b. the operation of any concession on the Project Site by any person or organization;
- c. any sales contract or option to buy things attached to the Project Site to be severed from the Project Site, with any person or organization;
- d. any use of the Project Site by any person other than in such person's capacity as a member of the general public;
- e. any change in the character or use of the Project Site from that use expected at the date of the issuance of any series of Bonds from which the disbursement is to be made;
- f. a management contract of the Project Site with any person or organization; or
- g. such other activity or interest as may be specified from time to time in writing by FCT to the Recipient.

3. If the Project Site, after its acquisition by the Recipient and/or the Trustees, is to remain subject to any of the "disallowable activities", the Recipient shall provide to FCT at least 60 calendar days advance written notice of any such transactions, events, and circumstances, and shall provide to FCT such information as FCT reasonably requests in order to evaluate the legal and tax consequences of such activity or interest for FCT approval.

4. In the event that FCT determines at any time that the Recipient is engaging or allowing others to engage in disallowable activities on the Project Site, the Recipient agrees to immediately cease or cause the cessation of the disallowable activity upon receipt of written notice from the FCT. In addition to all other rights and remedies at law or in equity, FCT shall have the right to seek temporary and permanent injunctions against Recipient for any disallowable activity on the Project Site.

DELEGATIONS AND CONTRACTUAL ARRANGEMENTS BETWEEN THE RECIPIENT AND OTHER GOVERNMENTAL BODIES, NONPROFIT ENTITIES, OR NON GOVERNMENTAL PERSONS FOR USE OR MANAGEMENT OF THE PROJECT SITE WILL IN NO WAY RELIEVE THE RECIPIENT OF THE RESPONSIBILITY TO ENSURE THAT THE CONDITIONS IMPOSED HEREIN ON THE PROJECT SITE AS A RESULT OF UTILIZING BOND PROCEEDS TO ACQUIRE THE PROJECT SITE ARE FULLY COMPLIED WITH BY THE CONTRACTING PARTY.

IX. CONDITIONS PARTICULAR TO THE PROJECT SITE THAT MUST BE ADDRESSED IN THE MANAGEMENT PLAN

The Management Plan for the Project Site is mentioned throughout this Agreement, and is particularly described in Section IV. above. In addition to the various conditions already described in this Agreement, which apply to all sites acquired with FCT funds, the Management Plan shall address the following conditions that are particular to the Project Site and result from either commitments made in the application that received scoring points or observations made by the FCT staff during the site visit described in Rule 9K-7.009(1), F.A.C.:

1. Two or more resource-based outdoor recreational facilities, including picnic facilities and a nature trail, and two or more user-oriented outdoor recreation facilities, including a beach volleyball court and shuffleboard court, shall be provided at the Project Site. The facilities shall be designed and located with minimal impact to natural resources on the Project Site.

2. A permanent recognition sign shall be maintained in the entrance area of the Project Site. The sign shall acknowledge that the Project Site is open to the public and was purchased with funds from the Florida Communities Trust Program and the Town of Ft. Myers Beach.

3. Interpretive signage shall be provided to educate visitors about the natural environment and unique history of the Project Site.

4. At least 24 environmental and historical education classes or programs shall be conducted annually at the Project Site by trained educators or resource professionals.

5. A staffed museum that provides year- round education programming shall be established on the Project Site.

6. The Project Site shall be managed in a manner that protects and enhances habitat for native wildlife species that utilize or could potentially utilize the site, including sea turtles. The development of the Management Plan shall be coordinated with the Fish and Wildlife Conservation Commission's Office of Environmental Services to ensure the preservation and viability of native wildlife species and their habitat. Periodic surveys shall be conducted to ensure that site management is compatible with the listed species using the Project Site.

7. The water quality of Gulf of Mexico adjacent to the Project Site shall be protected and enhanced. The County shall implement a plan to improve water quality in the area including the removal of an existing scawall and creation of a beach dune. The dune will serve as a stormwater retention berm capturing upland runoff and filtering the stormwater through the berm.

8. Any proposed stormwater facility for the Project Site shall be designed to provide recreational open space or wildlife habitat.

9. Invasive exotic vegetation shall be removed from the project site and the disturbed areas will be planted with native vegetation to enhance the function and appearance of the Project Site.

10. The existing seawall will be removed and a beach dune will be created and restored to a natural condition in terms of biological composition and ecological function.

11. An ongoing monitoring and control program for invasive vegetation including exotic (non-native) and nuisance native plant species shall be implemented at the Project Site. The objective of the control program shall be the elimination of invasive exotic plant species and the maintenance of a diverse association of native vegetation. The Management Plan shall reference the Exotic Pest Plant Council's List of Florida's Most Invasive Species to assist in identifying invasive exotics on the Project Site.

12. A feral animal removal program shall be developed and implemented, as necessary, for dogs, cats, and other non-native wildlife that may be found on the Project Site.

13. A protection plan shall be developed and implemented, in conjunction with the Department of State, Division of Historic Resources, for the protection of known historical resources located on the Project Site. Information on significant historical sites shall be provided to the Division of Historic Resources for the purpose of updating the Florida Master Site File.

14. The location and design of the parking and other site improvements shall have minimal impact on natural resources. The parking area shall incorporate pervious material wherever feasible.

15. Pedestrian and bicycle access to the Project Site shall be promoted through the provision of pedestrian oriented walkways and bicycle facilities that link the Project Site with adjacent residential neighborhoods. Bike parking stands shall be installed at the Project Site to provide an alternative to automobile transportation to the Project Site.

16. The development and management of the Project Site shall be coordinated with the agencies managing the Great Calusa Blueway, to ensure the Project Site is managed as a stopping point and destination on the County's canoe and kayak trail system.

17. Proposed site improvements shall be designed and located to minimize or eliminate the long term risk of storm damage or flooding in conjunction with appropriate hazard mitigation agencies or experts.

18. The requirements imposed by other grant program funds that may be sought for activities associated with the Project Site shall not conflict with the terms and conditions of this Agreement.

This Agreement including Exhibit "A", if required, embodies the entire agreement between the parties.

THE FLORIDA COMMUNITIES TRUST'S OBLIGATION TO PROVIDE FUNDS UNDER THIS AGREEMENT IS CONTINGENT UPON AN ANNUAL APPROPRIATION BY THE LEGISLATURE.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement.

TOWN OF FORT MYERS BEACH

By: *Daniel Hughes*
Print Name: Daniel J. Hughes
Title: Mayor
Date: Jan. 15, 2003

Approved as to Form and Legality:

By: *Richard V. S. Roosa*
Print Name: RICHARD V. S. ROOSA

FLORIDA COMMUNITIES TRUST

By: *Janice Browning*
Janice Browning
Executive Director
Date: 2/4/03

Approved as to Form and Legality:

By: *Ann J. Wild*
Ann J. Wild, Trust Counsel

Appendix C

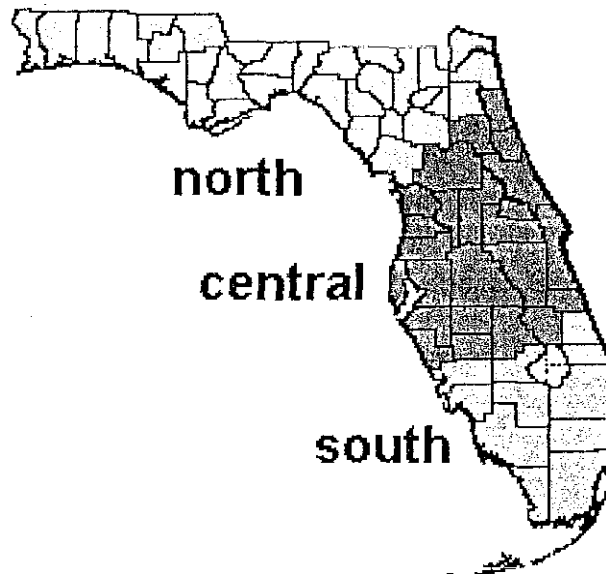
Florida Exotic Pest Plant Council's

2001

List of Invasive Species

Purpose of the List: *To focus attention on --*

- the adverse effects of exotic pest plants on Florida's biodiversity and ecosystems,
- the habitat losses from exotic pest plant infestations,
- the impacts on endangered species via habitat loss and alteration,
- the need to prevent habitat losses through pest-plant management,
- the socioeconomic impacts of these plants (e.g., increased wildfires in Melaleuca areas),
- changes in the seriousness of different pest plants over time,
- the need to provide information that helps managers set priorities for control programs.
-



DEFINITIONS: *Exotic*—a species introduced to Florida, purposefully or accidentally, from a natural range outside of Florida. *Native*—a species whose natural range included Florida at the time of European contact (1500 AD). *Naturalized exotic*—an exotic that sustains itself outside cultivation (it is still exotic; it

has not "become" native). *Invasive exotic*—an exotic that not only has naturalized but is expanding on its own in Florida plant communities.

Abbreviations used:

for "Gov. list": **P** = Prohibited by Fla. Dept. of Environmental Protection, **N** = Noxious weed listed by Fla. Dept. of Agriculture & Consumer Services, **U** = Noxious weed listed by U.S. Department of Agriculture.

for "Reg. Dis.": **N** = north, **C** = central, **S** = south, referring to each species' current distribution in general regions of Florida (not its potential range in the state). See following map.

For additional information on distributions of particular species by county, visit the Atlas of Florida Vascular Plants web site, www.plantatlas.usf.edu

For other additional information on plants included in this list, see related links and pages at this web site on the [home page](#) menu.

Category I - Invasive exotics that are altering native plant communities by displacing native species, changing community structures or ecological functions, or hybridizing with natives. *This definition does not rely on the economic severity or geographic range of the problem, but on the documented ecological damage caused.*

Scientific Name	Common Name	EPPC Cat.	Gov. list	Reg. Dist.
<i>Abrus precatorius</i>	rosary pea	I		C, S
<i>Acacia auriculiformis</i>	earleaf acacia	I		S
<i>Albizia julibrissin</i>	mimosa, silk tree	I		N, C
<i>Albizia lebeck</i>	woman's tongue	I		C, S
<i>Ardisia crenata</i> (= <i>A. crenulata</i>)	coral ardisia	I		N, C
<i>Ardisia elliptica</i> (= <i>A. humilis</i>)	shoebutton ardisia	I		S
<i>Asparagus densiflorus</i>	asparagus-fern	I		C, S
<i>Bauhinia variegata</i>	orchid tree	I		C, S
<i>Bischofia javanica</i>	bischofia	I		C, S
<i>Calophyllum antillanum</i> (= <i>C. calaba</i> ; <i>C. inophyllum</i> misapplied)	santa maria (names "mast wood," "Alexandrian laurel" used in cultivation)	I		S
<i>Casuarina equisetifolia</i>	Australian pine	I	P	N,C,S
<i>Casuarina glauca</i>	suckering Australian pine	I	P	C, S
<i>Cestrum diurnum</i>	day jessamine	I		C, S
<i>Cinnamomum camphora</i>	camphor-tree	I		N,C,S

<i>Colocasia esculenta</i>	wild taro	I		N,C,S
<i>Colubrina asiatica</i>	lather leaf	I		S
<i>Cupaniopsis anacardioides</i>	carrotwood	I	N	C, S
<i>Dioscorea alata</i>	winged yam	I	N	N,C,S
<i>Dioscorea bulbifera</i>	air-potato	I	N	N,C,S
<i>Eichhornia crassipes</i>	water-hyacinth	I	P	N,C,S
<i>Eugenia uniflora</i>	Surinam cherry	I		C, S
<i>Ficus microcarpa</i> (<i>F. nitida</i> and <i>F. retusa</i> var. <i>nitida</i> misapplied)	laurel fig	I		C, S
<i>Hydrilla verticillata</i>	hydrilla	I	P, U	N,C,S
<i>Hygrophila polysperma</i>	green hygro	I	P, U	N,C,S
<i>Hymenachne amplexicaulis</i>	West Indian marsh grass	I		C, S
<i>Imperata cylindrica</i> (<i>I. brasiliensis</i> misapplied)	cogon grass	I	N, U	N, C, S
<i>Ipomoea aquatica</i>	waterspinach	I	P, U	C
<i>Jasminum dichotomum</i>	Gold Coast jasmine	I		C, S
<i>Jasminum fluminense</i>	Brazilian jasmine	I		C, S
<i>Lantana camara</i>	lantana, shrub verbena	I		N,C,S
<i>Ligustrum lucidum</i>	glossy privet	I		N, C
<i>Ligustrum sinense</i>	Chinese privet, hedge privet	I		N,C,S
<i>Lonicera japonica</i>	Japanese honeysuckle	I		N,C,S
<i>Lygodium japonicum</i>	Japanese climbing fern	I	N	N,C, S
<i>Lygodium microphyllum</i>	Old World climbing fern	I	N	C, S
<i>Macfadyena unguis-cati</i>	cat's claw vine	I		N,C, S
<i>Manilkara zapota</i>	sapodilla	I		S
<i>Melaleuca quinquenervia</i>	melaleuca, paper bark	I	P, N, U	C, S
<i>Melia azedarach</i>	Chinaberry	I		N,C,S
<i>Mimosa pigra</i>	catclaw mimosa	I	P, N, U	C, S
<i>Nandina domestica</i>	nandina, heavenly bamboo	I		N
<i>Nephrolepis cordifolia</i>	sword fern	I		N,C,S
<i>Nephrolepis multiflora</i>	Asian sword fern	I		C, S
<i>Neyraudia reynaudiana</i>	Burma reed; cane grass	I	N	S
<i>Paederia cruddasiana</i>	sewer vine, onion vine	I	N	S
<i>Paederia foetida</i>	skunk vine	I	N	N,C,S
<i>Panicum repens</i>	torpedo grass	I		N,C,S
<i>Pennisetum purpureum</i>	Napier grass	I		C, S

<i>Pistia stratiotes</i>	water lettuce	I	P	N, C, S
<i>Psidium cattleianum</i> (= <i>P. littorale</i>)	strawberry guava	I		C, S
<i>Psidium guajava</i>	guava	I		C, S
<i>Pueraria montana</i> (= <i>P. lobata</i>)	kudzu	I	N, U	N, C, S
<i>Rhodomyrtus tomentosa</i>	downy rose-myrtle	I	N	C, S
<i>Rhoeo spathacea</i> (see <i>Tradescantia spathacea</i>)				
<i>Ruellia brittoniana</i>	Mexican petunia	I		N, C, S
<i>Sapium sebiferum</i>	popcorn tree, Chinese tallow tree	I	N	N, C, S
<i>Scaevola sericea</i> (= <i>Scaevola taccada</i> var. <i>sericea</i> , <i>S. frutescens</i>)	scaevola, half-flower, beach naupaka	I		C, S
<i>Schefflera actinophylla</i> (= <i>Brassaia actinophylla</i>)	schefflera, Queensland umbrella tree	I		C, S
<i>Schinus terebinthifolius</i>	Brazilian pepper	I	P, N	N, C, S
<i>Senna pendula</i> (= <i>Cassia coluteoides</i>)	climbing cassia, Christmas cassia, Christmas senna	I		C, S
<i>Solanum tampicense</i> (= <i>S. houstonii</i>)	wetland night shade, aquatic soda apple	I	N, U	C, S
<i>Solanum viarum</i>	tropical soda apple	I	N, U	N, C, S
<i>Syngonium podophyllum</i>	arrowhead vine	I		C, S
<i>Syzygium cumini</i>	jambolan, Java plum	I		C, S
<i>Tectaria incisa</i>	incised halberd fern	I		S
<i>Thespesia populnea</i>	seaside mahoe	I		C, S
<i>Tradescantia fluminensis</i>	white-flowered wandering jew	I		N, C
<i>Tradescantia spathacea</i> (= <i>Rhoeo spathacea</i> , <i>Rhoeo discolor</i>)	oyster plant	I		S
<i>Urochloa mutica</i> (= <i>Brachiaria mutica</i>)	Pará grass	I		C, S

Category II - Invasive exotics that have increased in abundance or frequency but have not yet altered Florida plant communities to the extent shown by Category I species. *These species may become ranked Category I, if ecological damage is demonstrated.*

Scientific Name	Common Name	EPPC	Gov.	Reg.
		Cat.	list	Dist.
<i>Adenantha pavonina</i>	red sandalwood	II		S
<i>Agave sisalana</i>	sisal hemp	II		C, S
<i>Aleurites fordii</i> (= <i>Vernicia fordii</i>)	tung oil tree	II		N, C
<i>Alstonia macrophylla</i>	devil-tree	II		S
<i>Alternanthera philoxeroides</i>	alligator weed	II	P	N, C, S
<i>Antigonon leptopus</i>	coral vine	II		N, C, S
<i>Aristolochia littoralis</i>	calico flower	II		N, C
<i>Asystasia gangetica</i>	Ganges prinrose	II		C, S
<i>Begonia cucullata</i>	begonia	II		N, C
<i>Broussonetia papyrifera</i>	paper mulberry	II		N, C
<i>Callisia fragrans</i>	inch plant, spironema	II		C, S
<i>Casuarina cunninghamiana</i>	Australian pine	II	P	C, S
<i>Cordia dichotoma</i>	sebsten plum	II		S
<i>Cryptostegia madagascariensis</i>	rubber vine	II		C, S
<i>Cyperus involucratus</i> (<i>C. alternifolius</i> misapplied)	umbrella plant	II		C, S
<i>Cyperus prolifer</i>	dwarf papyrus	II		C
<i>Dalbergia sissoo</i>	Indian rosewood, sissoo	II		C, S
<i>Elaeagnus pungens</i>	thorny eleagnus	II		N, C
<i>Epipremnum pinnatum</i> cv. Aureum	pothos	II		C, S
<i>Ficus altissima</i>	false banyan	II		S
<i>Flacourtia indica</i>	governor's plum	II		S
<i>Flueggea virosa</i>	Chinese waterberry	II		S
<i>Hibiscus tiliaceus</i>	mahoe, sea hibiscus	II		C, S
<i>Hiptage benghalensis</i>	hiptage	II		S
<i>Jasminum sambac</i>	Arabian jasmine	II		S
<i>Koelreuteria elegans</i>	flamegold tree	II		C, S
<i>Leucaena leucocephala</i>	lead tree	II		N, C, S
<i>Limnophila sessiliflora</i>	Asian marshweed	II		N, C, S
<i>Melinis minutiflora</i>	molasses grass	II		S
<i>Merremia tuberosa</i>	wood-rose	II		S

<i>Murraya paniculata</i>	orange-jessamine	II		S
<i>Myriophyllum spicatum</i>	Eurasian water-milfoil	II	P	N, C, S
<i>Ochrosia elliptica</i> (= <i>O. parviflora</i>)	kopsia	II		C, S
<i>Oeceoclades maculata</i>	ground orchid	II		C, S
<i>Passiflora biflora</i>	twin-flowered passion vine	II		S
<i>Passiflora foetida</i>	stinking passion-flower	II		C, S
<i>Pennisetum setaceum</i>	green fountain grass	II		S
<i>Phoenix reclinata</i>	Senegal date palm	II		C, S
<i>Phyllostachys aurea</i>	golden bamboo	II		N, C
<i>Pteris vittata</i>	Chinese brake fern	II		N, C, S
<i>Ptychosperma elegans</i>	solitary palm	II		S
<i>Rhynchelytrum repens</i>	Natal grass	II		N, C, S
<i>Ricinus communis</i>	castor bean	II		N, C, S
<i>Sansevieria hyacinthoides</i>	bowstring hemp	II		C, S
<i>Sesbania punicea</i>	purple sesban, rattlebox	II		N, C, S
<i>Solanum diphyllum</i>	twinleaf nightshade	II		N, C, S
<i>Solanum jamaicense</i>	Jamaica nightshade	II		C
<i>Solanum torvum</i>	susumber, turkey berry	II	N, U	N, C, S
<i>Syzygium jambos</i>	rose-apple	II		C, S
<i>Terminalia catappa</i>	tropical almond	II		C, S
<i>Terminalia muelleri</i>	Australian almond	II		C, S
<i>Tribulus cistoides</i>	puncture vine, bur-nut	II		N, C, S
<i>Urena lobata</i>	Caesar's weed	II		N, C, S
<i>Wedelia trilobata</i>	wedelia	II		N, C, S
<i>Wisteria sinensis</i>	Chinese wisteria	II		N, C
<i>Xanthosoma sagittifolium</i>	malanga, elephant ear	II		N, C, S

FLORIDA NATURAL AREAS INVENTORY
FIELD REPORT FORM FOR RARE PLANTS

Thank you for taking the time to complete and mail this form. Information from knowledgeable individuals such as yourself makes an important contribution to the FNAI Biological Conservation Database. If you need help with this form, or would like additional information, please call the FNAI Botanist at 850-224-8207.

Scientific name: _____ Common name: _____

Basis for identification/manual used: _____ Date(s) seen: _____

Photograph taken? _____ Specimen deposited at a herbarium? _____ Name of herbarium: _____

Quad name: _____ County: _____ Site or managed area name: _____ Directions

(please mark site on copy of USGS 7.5 minute quad map and attach to this form, or draw a detailed map on back of this page, or give GPS coordinates):

Describe the site where the plant was seen; habitat/plant community; topography; hydrology; dominant species in tree, shrub, and ground layers:

Estimated Size of Population (no. of individuals & size of area occupied): _____

Flowering? Yes___ No___ Fruiting? Yes___ No___ In bud? Yes___ No___ In leaf? Yes___ No___ Dormant? Yes___ No

Comments

Have you seen this species at the same location in the past? Yes___ No___ If yes, give dates: _____ If yes, describe changes, if any, to site and population since last visit

Are there disturbances or threats (e.g. vehicle use, trash dumping, fire suppression, exotic species invasion) to the population?

If yes, please describe: _____ Is there evidence (e.g., fire breaks, scorching) of fire at the site? Yes___ No___ if yes, describe and give dates of recent fires, if known

Other useful information concerning the population, its ecological conditions, management history, management needs, names of individuals who might be helpful, etc.:

Your name: _____ Tel no.: _____ E-mail: _____

Address: _____

Please include any additional information on the back of this sheet. Please send this form to: Botanist, Florida Natural Areas Inventory, 1018 Thomasville Rd., Suite 200-C, Tallahassee, FL 32303. THANK YOU!

Scientific Name: _____
Common Name: _____
Basis for Identification: _____

County: _____
Date observed: _____
Investigator: _____

Location of Animal (please attach map and give specific directions; if possible, mark site on copy of USGS 7.5 minute topo map or draw detailed map on back of this page):

Describe habitat/plant community, list dominant species:

Extent of this habitat at site that may support animal (e.g., acres, miles) _____
Number of individuals (or nests, burrows, etc.) seen: _____

Estimated no. of individuals in population: _____

Age/population structure (adults, young, etc.) _____

Ecological/behavioral notes (e.g., reproductive stage, activity type, feeding, flying, nesting):

Have you seen this species at the same location in the past? Yes _____ No _____

If yes, please give date(s): _____ Previous condition: _____

Is there evidence of disturbance at the site? Yes _____ No _____

If yes, please describe:

Owner(s) of site: _____

Is owner protecting this animal? Yes ___ No _____

Conservation/Management

Needs _____

Comments (other useful information concerning this animal and site - e.g., names and addresses of individuals who might be helpful, publications, museum specimen numbers, etc) _____

(please include any additional information on the back of this sheet.)

Additional forms may be obtained upon request. Please send completed field report forms to:

Submitted by: _____	Zoologist
Affiliation: _____	Florida Natural Areas Inventory
Address: _____	1018 Thomasville Rd., Suite 200-C
Phone _____	Tallahassee, FL 32303; ph. (850) 224-8207
Date: _____	Fax (850) 681-9364; dhipes@fnai.org

** note: each form should include only one species, one locality, and one date

APPENDIX D
FCT GRANT AWARD AGREEMENT AND RECORDED DEED

