Height Discussion: Town Code Section 158.153(B)(1)

Planning & Zoning Board

December 13, 2016

COMPREHENSIVE PLAN

- Future Land Use Policy 1.1.10:
  - "Table 1 illustrates the maximum densities and intensities of development for each future land use category. Height restrictions for each category shall not apply to antennae, enclosed elevator shafts, enclosed stairwells and their parapet walls, enclosed mechanical equipment areas, chimneys, or house of worship spires, but the Town land development regulations shall limit their height."

- Policy 1.1.10 exempts these features from the height limitations in <u>all</u> future land use categories.

LDC SECTION 158.153(B)(1)

- 158.153(B). No exceptions to the height regulations shall be permitted except as specifically provided for below:
  - (1) One television or dish antenna per principal structure and enclosed elevator shafts, enclosed stairwells, and enclosed mechanical equipment areas not exceeding 15 percent of roof area and not exceeding the height regulations by more than ten feet of the district in which it is located; however, the elevator shafts, stairwells, and mechanical equipment areas, their location and visibility from adjoining streets or properties, should be the subject of site plan review considerations. Parapet walls shall also be permitted as an exception to the height regulations where such wall is required pursuant to the building code in conjunction with an enclosed stairwell.

LDC SECTION 158.153(B)(1) HISTORY

- Originally adopted in 1976 as part of the 1977 Zoning Code
  - Applicable to all zoning districts
  - Allowed “by right”
  - Limited these features to 10 percent of the total roof area
  - Did not include parapet walls
- Revised in 1997 as part of the 1998 Zoning Code
  - Applicable to all zoning districts
  - Allowed “by right”
  - Increased the allowable size to 15 percent of the total roof area
  - Included parapet walls
- Revisions were considered in 2012, related to potentially restricting the height of parapet walls, but no revisions were adopted.

LDC SECTION 158.153(B)(1) REVIEW PROCESS

- Based on available historic documents and recollection of multiple long-time Staff members, review has consistently been handled as part of the Building Plan Review for a Building Permit; the “site plan review considerations” were not handled as a separate review process
- Site Plan Review considerations for the additional height include:
  - Features do not exceed the allowed height
  - Features do not exceed the allowed roof area
  - Architectural theme consistent with rest of structure when viewed from adjoining street and properties
  - Building materials consistent with rest of structure when viewed from adjoining street and properties
  - Daylight Plane requirements are met
  - Size of features are minimal for their intended use

SIMILAR LDC ALLOWANCES

- In addition to Section 158.153(B)(1), the LDC contains numerous provisions that allow a property owner to exceed the lot standards in each zoning district
- Examples of these provisions that are allowed “by right” include, but are not limited to:
  - Unattached accessory structures are allowed to encroach into the rear setbacks on single-family properties
  - Unattached accessory structures are allowed to exceed the height limit for accessory structures by an additional 5 feet, if they have a pitched roof
  - An additional 5 percent of lot coverage, over the lot coverage for each zoning district, is allowed for a screened swimming pool or a non-screened swimming pool built 6 inches or more above finished grade
  - House of worship spires are allowed to exceed the height limit for the zoning district

EXAMPLES OF SINGLE-FAMILY HOMES UTILIZING 158.153(B)(1)*

YEAR BUILT	ADDRESS	ZONING DISTRICT
1985	5030 Gulf of Mexico Drive	R-1SF
1989	801 Broadway	R-6SF
1994	6609 Gulf of Mexico Drive	R-3SF
1996	700 Gulf Bay Drive	R-4SF
1997	5444 Gulf of Mexico Drive	R-3MX
2002	6665 Gulf of Mexico Drive	R-3SF
2003	5940 Gulf of Mexico Drive	R-3SF
2004	750 Hideaway Drive	R-4SF
2007	725 Hideaway Drive	R-4SF
2012	771 Old Compass Road	R-4SF
2012	572 Hornblower Lane	R-4SF (CCS – III)
2015	3456 Gulf of Mexico Drive	R-4MX
2015	3460 Gulf of Mexico Drive	R-4MX
2016	3470 Gulf of Mexico Drive	R-4MX
2016	585 Halyard Lane	R-4SF (CCS – IV)

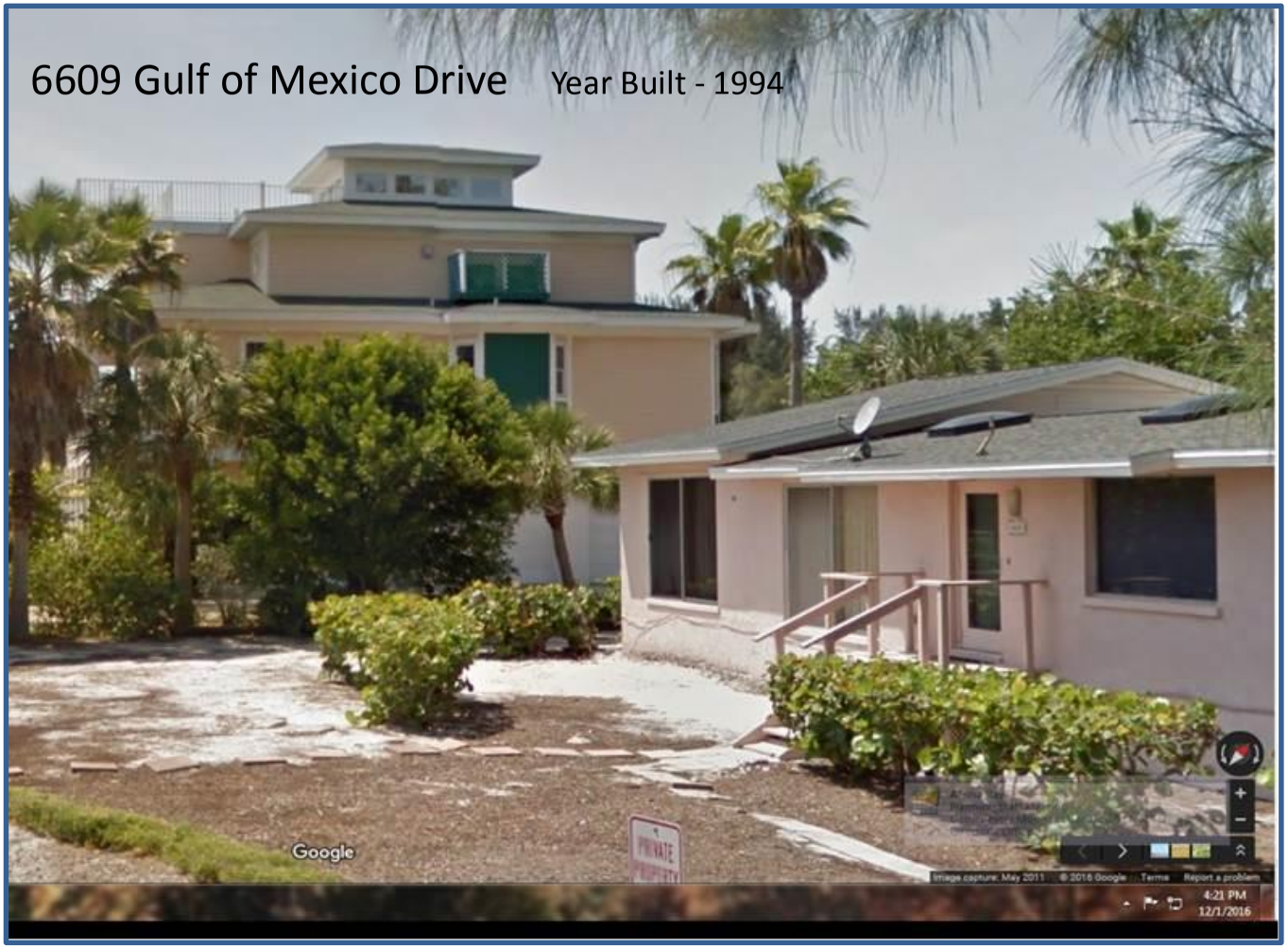
*This is not a complete list, but only a sampling since the adoption of 158.153(B)(1)

SINGLE-FAMILY BUILT 1985 (R-1SF)

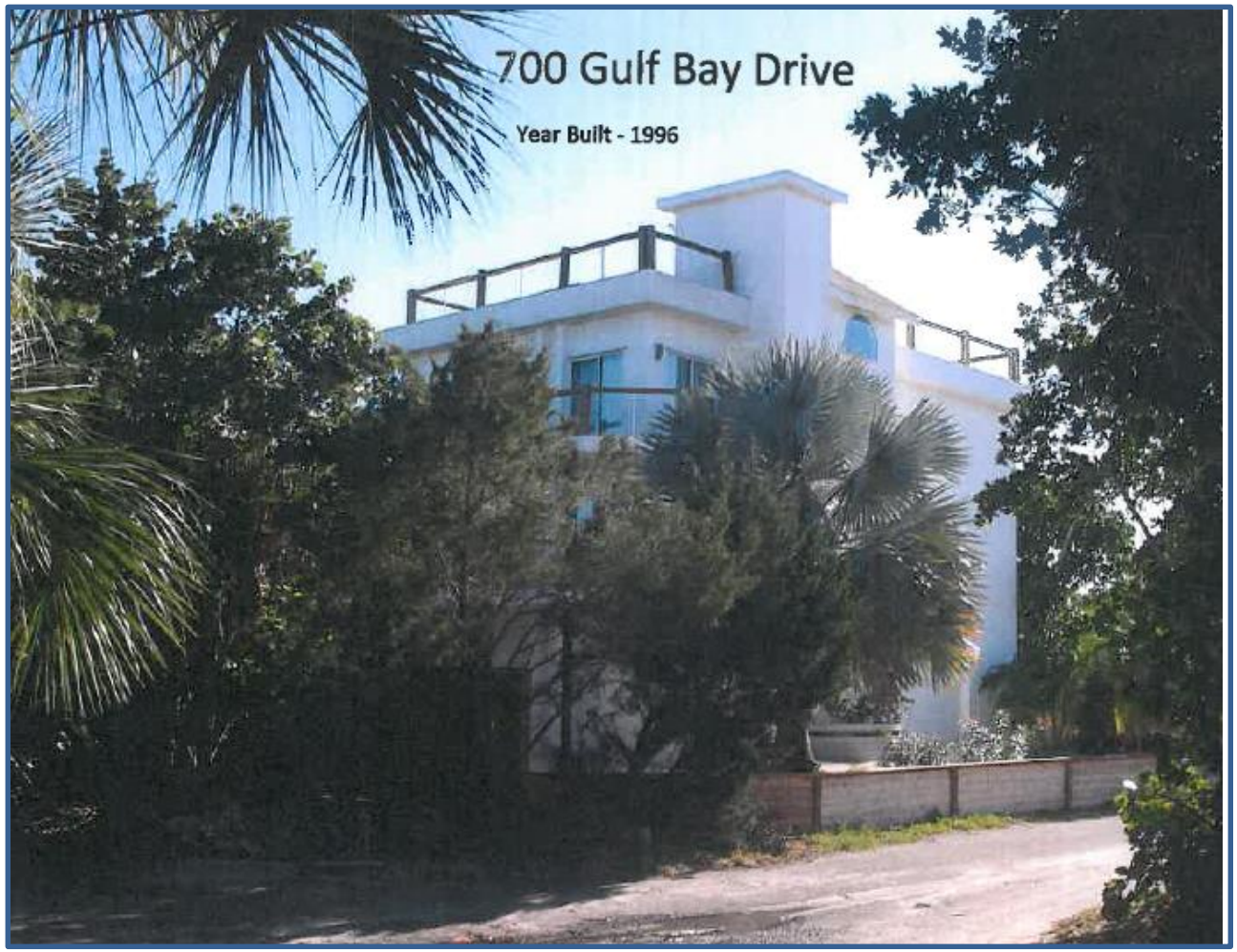
5030 Gulf of Mexico Drive Year Built - 1985

SINGLE-FAMILY BUILT 1989 (R-6SF)

SINGLE-FAMILY BUILT 1984 (R-3SF)



SINGLE-FAMILY BUILT 1996 (R-4SF)

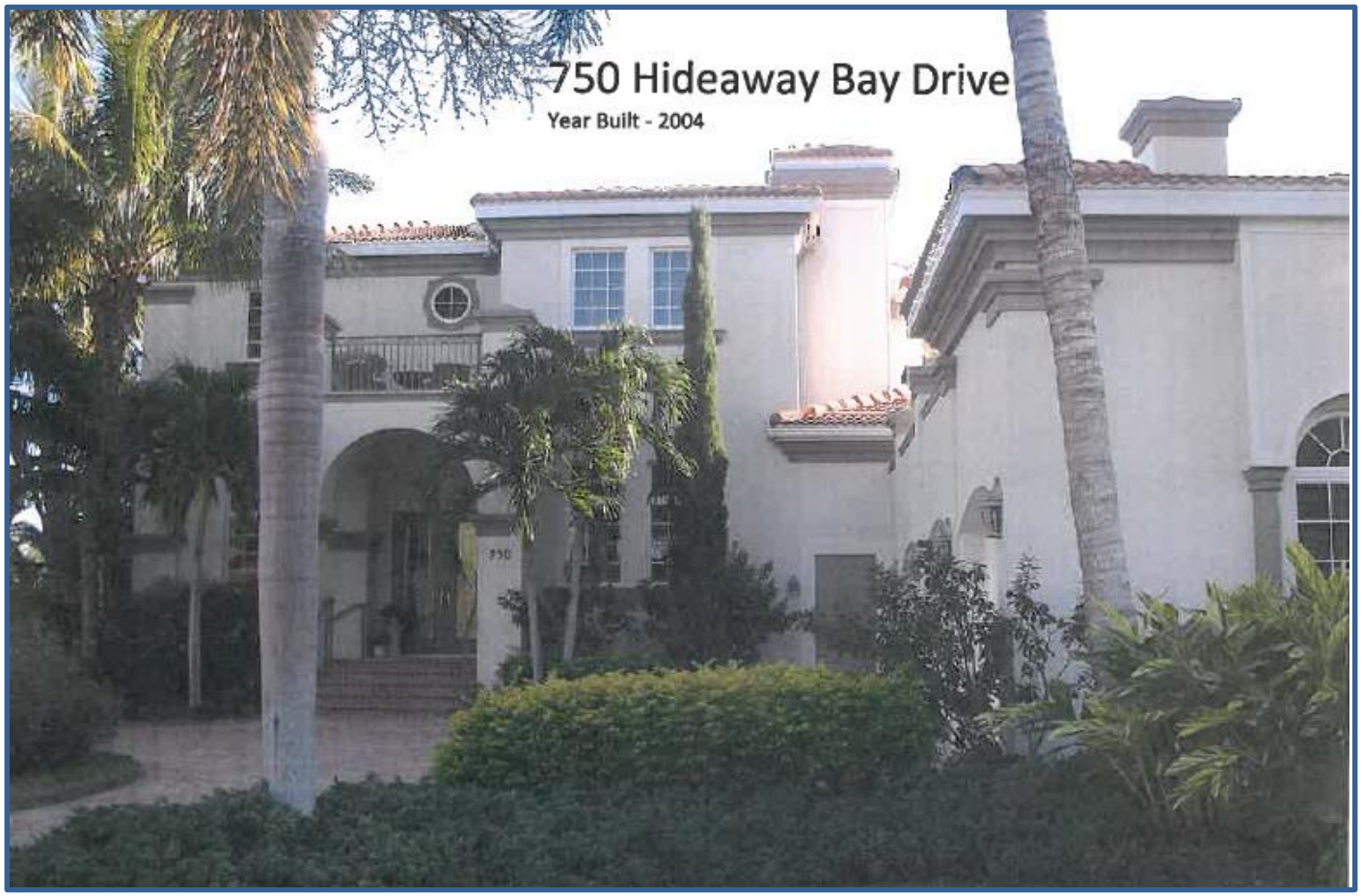


SINGLE-FAMILY BUILT 1997 (R-3MX)

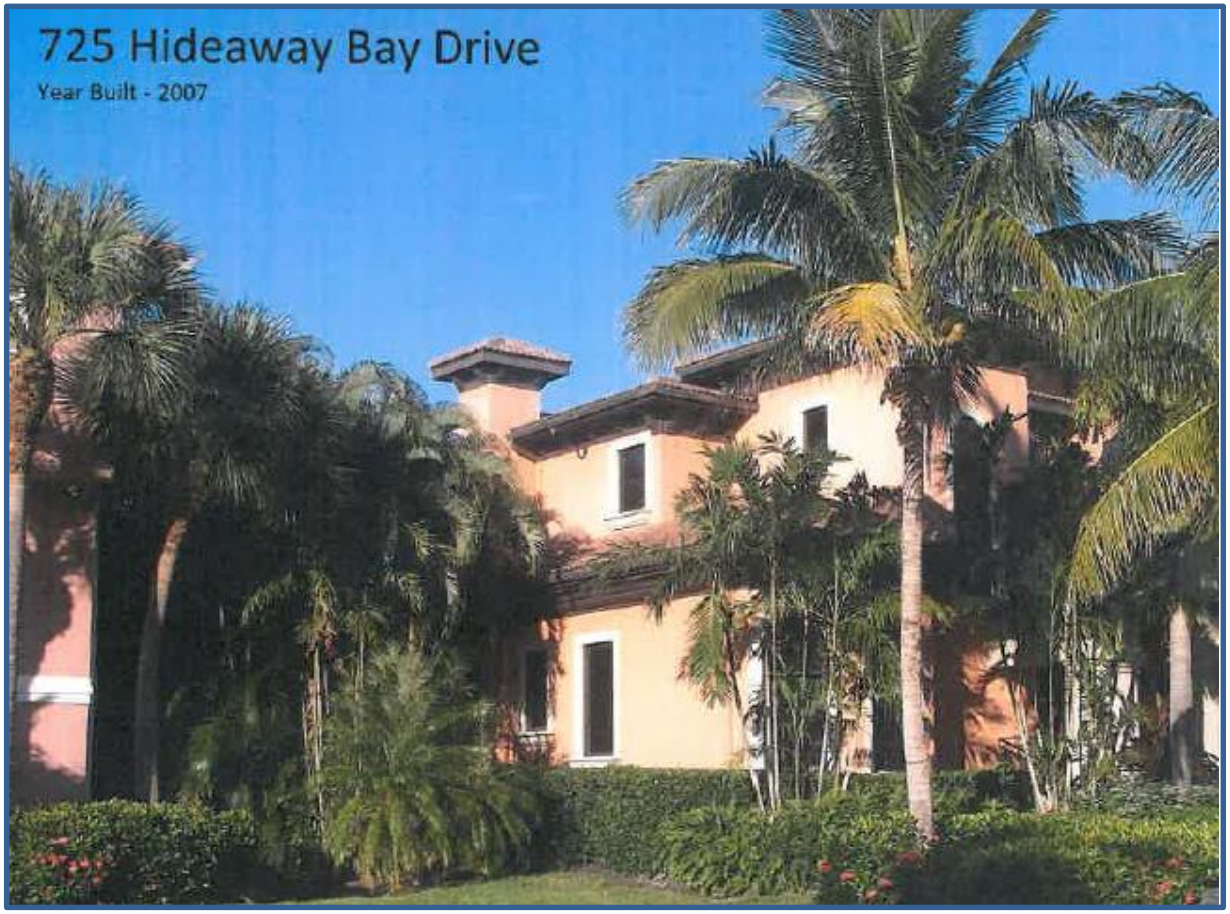
SINGLE-FAMILY BUILT 2002 (R-3SF)

SINGLE-FAMILY BUILT 2002 (R-3SF)

SINGLE-FAMILY BUILT 2004 (R-4SF)



SINGLE-FAMILY BUILT 2007 (R-4SF)

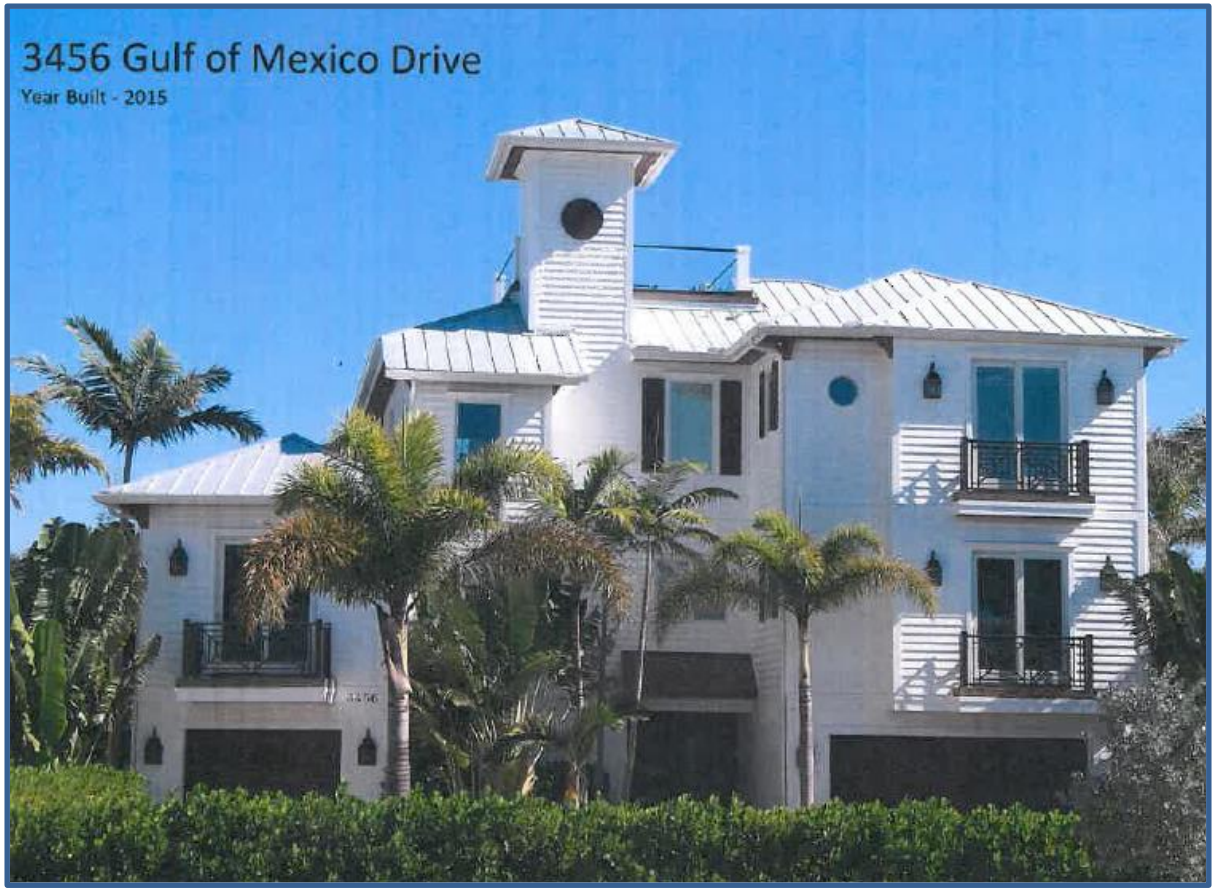


SINGLE-FAMILY BUILT 2012 (R-4SF)

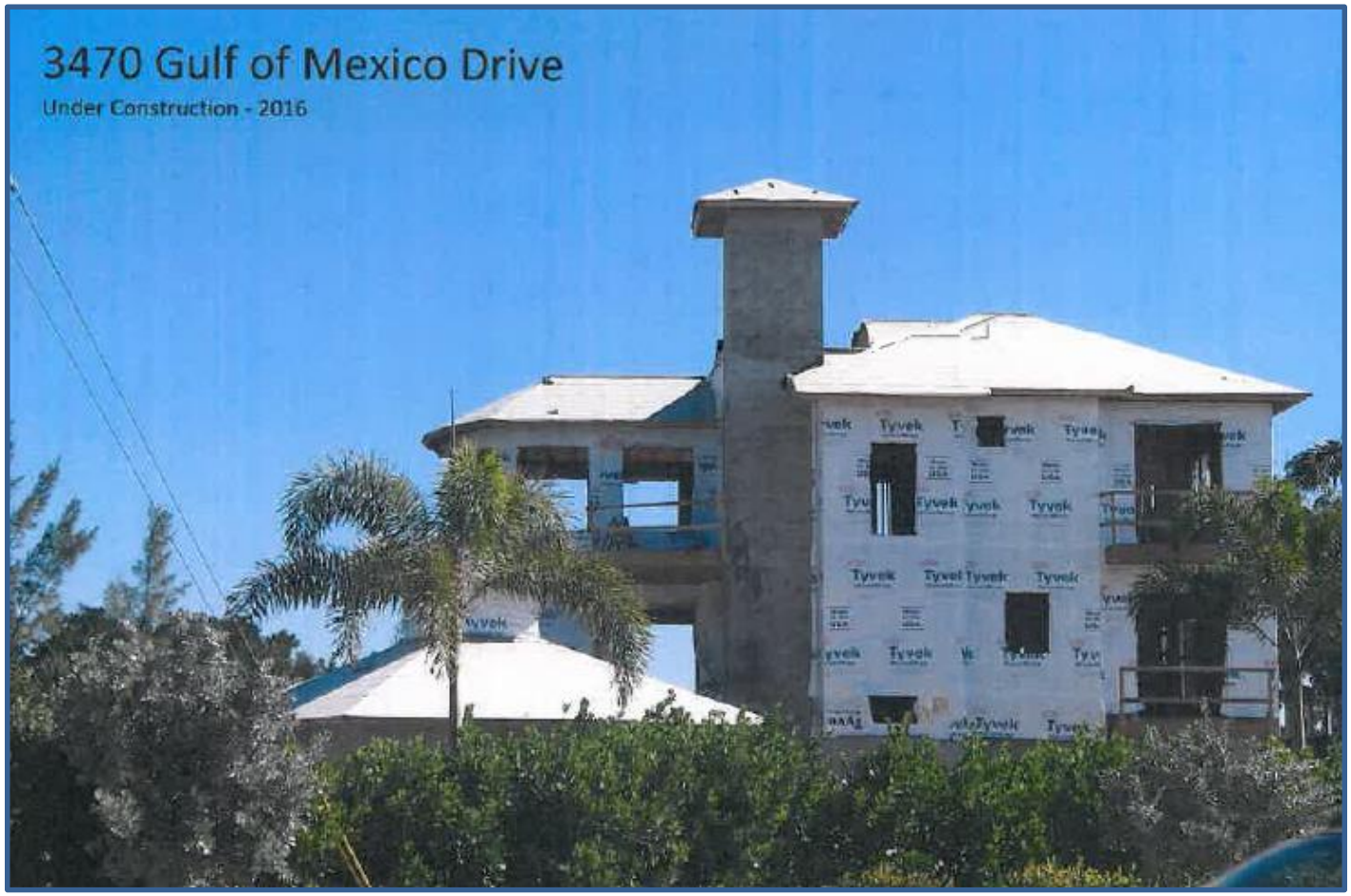
SINGLE-FAMILY BUILT 2012 (R-4SF)*

*** IN COUNTRY CLUB SHORES – SECTION III**

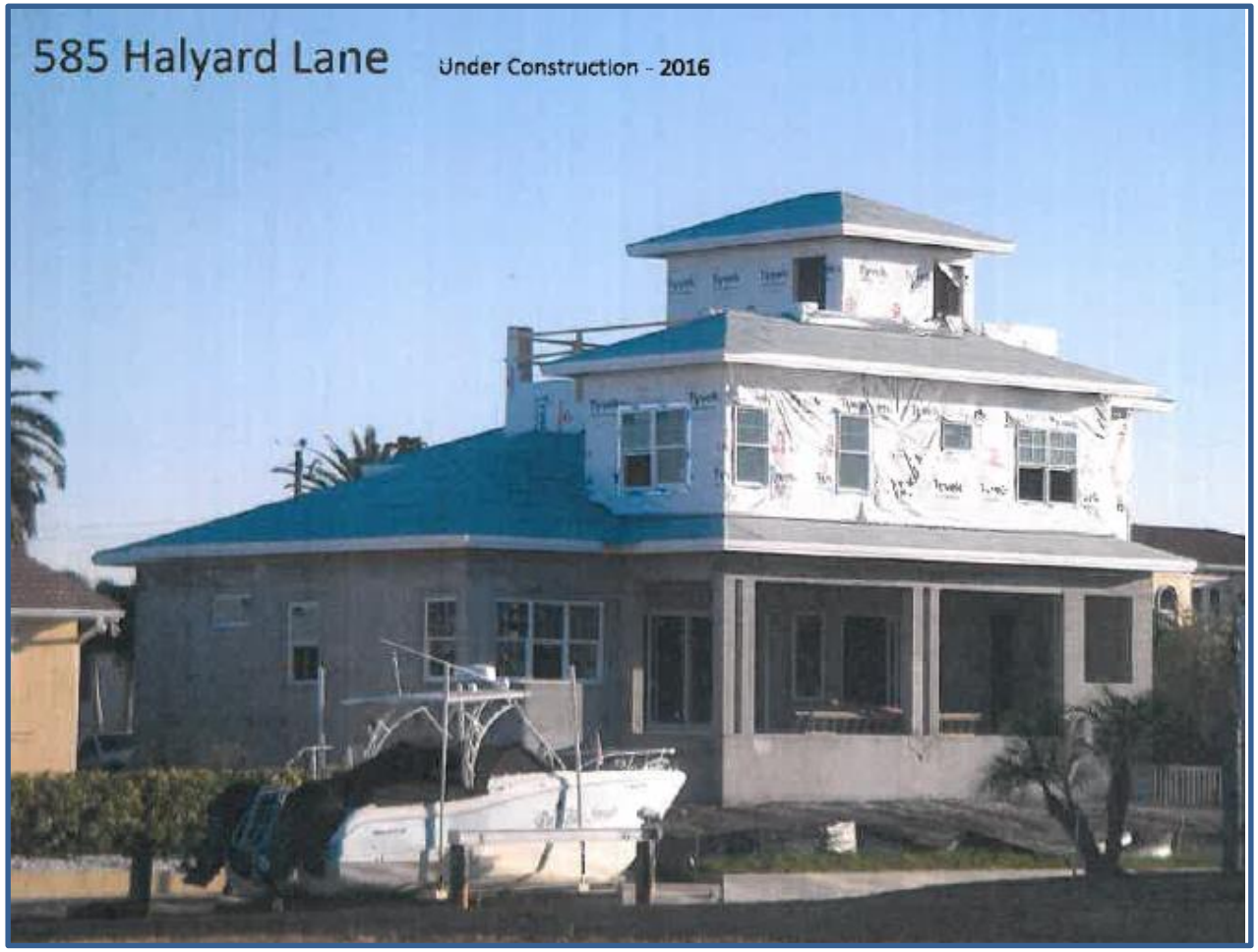
SINGLE-FAMILY BUILT 2015 (R-4MX)



SINGLE-FAMILY BUILT 2016 (R-4MX)



SINGLE-FAMILY BUILT 2016 (R-4SF)



CURRENT FLORIDA BUILDING CODE

- Does not include allowance for ceiling hatches for areas that are frequently used, such as a rooftop deck
  - Allows ceiling hatches for access to mechanical equipment
- Requires an enclosed weatherproof vestibule for all residential elevators
- Requires a landing at the top of stairs with a 3-foot minimum depth before reaching a door; top step cannot end at a door

TOWN CODE AND HOA CONFLICTS

- Property Owners are responsible for ensuring compliance with any HOA covenants and restrictions
- Town does not, and cannot, review plans for compliance with HOA covenants and restrictions
- If plans are in compliance with Town Code and Florida Building Code, State Law requires the Town to issue the permit, even if it conflicts with HOA covenants and restrictions
- If an HOA review committee rejects the plans, the property owner is responsible for submitting revised plans to the Town
- Town has no role in HOA review process and does not verify HOA approval of plans
- Long-time Staff members do not recall restricting 158.153(B)(1) to only certain zoning districts, but do recall that it couldn't be used in certain neighborhoods because they knew HOAs would not allow it

HOA AUTHORITY

- If construction occurs that was not approved by the appropriate HOA, the HOA has legal remedy against the property owner
  - Require structure in violation of HOA covenants and restrictions to be altered or removed
  - Grant a waiver or variance to the covenants or restrictions
  - Levy fines for noncompliance

COUNTRY CLUB SHORES (CCS)

- Town Code does not have special height provisions for CCS
- CCS was previously under five HOA Sections with covenants and restrictions; some covenants have expired
  - CCS HOAs have stricter development restrictions than the Town Code
  - CCS HOAs previously required structures to be “esthetically compatible” with the neighborhood; no such provision in Town Code
  - Several long-time Staff members recall that CCS HOAs would not approve anything over 30 feet and may have advised builders of that
  - Town does not review for compliance with these stricter HOA standards; Town can only review against Town Code and FBC
  - All issued Building Permits instruct Contractor/Owner to contact Community Association prior to start of any work
- At least one other home in CCS (572 Hornblower - Section III) was reviewed in 2011 and approved with additional height for an enclosed stairwell per 158.153(B)(1)

585 HALYARD - TOWN REVIEW

- 585 Halyard is located in a section of CCS with active HOA covenants and restrictions (CCS Section IV)
- Building plans were submitted to the Town and ultimately found in compliance with Town Code, current FBC, and FEMA
  - Rooftop deck, protective fencing around deck, and screened a/c compressors are below the 30-foot height limit for R-4SF (these features are not eligible for additional height)
  - Elevator shaft, enclosed mechanical area, and enclosed stairwell are within the 10-foot additional height limit allowed by 158.153(B)(1)
  - Enclosed elevator vestibule and stairwell landing are required by FBC and considered integral to the elevator and stairwell
  - Total constructed area of elevator, stairwell, and mechanical area is 233 square feet (8 percent of total roof area); Section 158.153(B)(1) would have allowed up to 449 s.f. based on roof area of 2,993 s.f.

585 HALYARD - HOA REVIEW

- Based on CCS – Section IV Covenants and Restrictions, the property owner would have been responsible for securing HOA approval of building plans HOA covenants requires property owner to submit 2 sets of building plans that have been approved by the Town
- HOA covenants state the Review Committee has 30 days to either issue a letter of no objection or reject the plans
- If HOA rejects the plans, the contractor would be responsible for submitting a Change Order to the Town for any needed revisions; the Town has not received any such Change Order
- Town is unaware as to whether the property owner submitted plans to the HOA or received HOA approval

AGE-FRIENDLY CONSTRUCTION

- AARP is developing a network of Age-Friendly Communities with such features as safe, walkable streets; better housing and transportation options; access to key services; and opportunities for residents to participate in community activities.
- Sarasota County has recently been certified as an Age-Friendly Community
- The Town has been approached by the Age-Friendly Community Network regarding becoming certified
- Aging in place is a key goal of the program
- Elevators and other methods of maintaining mobility within single-family homes are encouraged as age-friendly features that allow people to remain in their homes longer

RECENT TRENDS

- Trend for two-story homes has increased significantly
- Combination of required FEMA height and two-story constructions results in potential for water and/or scenic views from rooftops
- Potential for improved views has increased the interest in utilizing additional height allowed under Section 158.153 for elevators and stairwells in order to access rooftop decks
- Changes to the FBC in recent years has created additional requirements for residential elevators, stairwells, and access to frequently-used features

POTENTIAL REVISIONS

- Potential revisions that could be considered include, but are not limited to:
  - Eliminating Section 158.153 in its entirety
  - Restricting the use of Section 158.153 to certain zoning districts
  - Adding a statement that Section 158.153 is not applicable to single-family construction
  - Specifying that only stairwells are allowed for single-family construction under 158.153(B)(1)
  - Reducing the allowed size from 15 percent back to the original 10 percent
- Creation of nonconformities and potential impacts to certain property rights should be considered if revisions are pursued