

RESOLUTION OF THE LOCAL PLANNING AGENCY OF  
THE TOWN OF FORT MYERS BEACH, FLORIDA  
RESOLUTION NUMBER 2000-21

A RESOLUTION OF THE LOCAL PLANNING AGENCY OF FORT MYERS BEACH

WHEREAS, John Richard has filed a request to rezone from Commercial District (C-1) to Commercial Planned Development (CPD) to permit a mixed hotel/motel and commercial/professional office development consisting of a maximum of 86 hotel/motel units; 10,450 square feet of retail space; 4,000 square feet of restaurant use; 3,000 square feet of professional office use; and bar/cocktail lounge; and

WHEREAS, the subject property is located at 237/239, 245, 309, and 320 Old San Carlos Blvd., Fort Myers Beach, Florida, and is described more particularly as:

LEGAL DESCRIPTION: In Section 24, Township 46 South, Range 23 East, Lee County, Florida:

WHEREAS, the applicant has indicated the property's current STRAP numbers are: 24-46-23-W3-0050A.0030; 24-46-23-W3-00203.0020; 24-46-23-W3-0050A.0080; 24-46-23-W3-0050A.0100; and

WHEREAS, a public hearing was legally advertised and held before the Local Planning Agency (LPA) on December 19, and,

WHEREAS, the LPA gave full and complete consideration to the recommendations of the Staff, the documents in the file, and the testimony of all interested persons.

NOW, THEREFORE BE IT RESOLVED BY THE LPA OF THE TOWN OF FORT MYERS BEACH, FLORIDA as follows:

That the LPA recommends that the Town Council approve the Applicant's request for rezoning from C-1 Commercial to CPD Commercial Planned Development with the conditions and deviations as recommended on Pages 2-6 of the Staff Report dated December 14, 2000 which is attached hereto and incorporated herein by reference with the following changes;

1. Under the Schedule of Uses- Consumption on Premises for outdoor seating shall be by special permit only; Night Club will be allowed by special Permit only; Wholesale Establishment will be limited to Group III for small items like Jewelry, Coins and Shells only.
2. Under Site Development Regulations—The maximum gross square feet is limited to 25,000 square feet.
3. Deviation #5 as shown on Page 5 of the Staff Report is amended to read as follows: Deviation from LDC 34-2016 (1) which requires a minimum parking space dimension of 9' by 18', to permit parking space dimensions of 8' by 16' and 8' by 18'. Staff recommends approval as shown on the Master Concept Plan.
4. Deviation #9 is withdrawn.
5. Deviation #10 as shown on Page 5 of the Staff Report is amended to recommend approval to allow a height of 43.8' above base flood elevation.
6. The maximum of 86 hotel/motel units that are requested in this CPD are only potentially available on the property that has been made a part of this CPD and none of these units are eligible for transfer to any other property located within the Town.
7. In the Phasing Plan for this CPD, Phase 1 is located 6 feet South of the dimensions shown on the Master Concept Plan to accommodate a property line that was shown incorrectly.

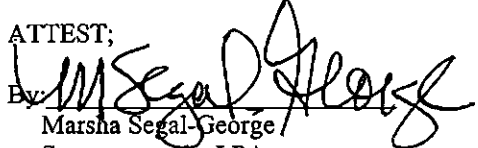
As grounds for this recommendation the LPA would offer the findings and Conclusions as found on Page 6 of the Staff Report dated December 14, 2000 which is attached hereto and incorporated herein by reference.

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

Jennifer Kaestner	yes
Dave Smith	yes
Jane Plummer	yes
Betty Simpson	yes
Roxie Smith	yes
Bill Van Duzer	yes
Jodi Hester	yes
Linda Beasley	yes
Harold Huber	yes

DULY PASSED AND ADOPTED THIS 19th day of December, 2000.

ATTEST;

By:   
Marsha Segal-George  
Secretary to the LPA

LPA of the Town of Fort Myers Beach

By:   
Roxie Smith, Chairman

II. **RECOMMENDATION:**

Staff recommends **APPROVAL** of the Applicant's request for rezoning from C-1 Commercial to CPD Commercial Planned Development with the following conditions and deviations:

A. **Conditions**

1. The development of this project must be consistent with the one page Master Concept Plan entitled "Rusty's", stamped received by the Permit Counter on December 8, 2000, except as modified by the conditions below. This development must comply with all requirements of the Town of Fort Myers Beach LDC at time of local Development Order Approval, except as may be granted by deviation as part of this planned development. If changes to the Master Concept Plan are subsequently pursued, appropriate approvals will be necessary.
2. The following limits apply to the project and uses:

a. **Schedule of Uses**

**(Staff recommended changes in bold)**

**Parcels "A" & "B"**

Accessory Uses and Structures

Administrative Offices

Animal Clinic

Banks and Financial Establishments **(No Drive Through)**

Bar and Cocktail Lounge **(By Special Permit Only)**

Bed and Breakfast

Boarding House

~~Broadcast Studio~~

Business Services (Group I & II)

Caretaker's Residence

~~Cleaning & Maintenance Services~~

Clothing Store General

~~Computers and Data Processing Services (Not permitted in CPD)~~

Consumption on Premises - **(Indoor Seating Only)**

**Outdoor Seating (Special Permit Only)**

Convenience Food and Beverage Store **(No Fuel Pumps)**

Drug Store/Pharmacy

Food & Beverage Service-Limited

Flea Market **(Indoor)**

Food Stores Group I & II

Gift and Souvenir Shop

Hardware Store

Healthcare Facility (Group I)

Hobby, Toy and Game Shops

~~Home Care Facility~~

Household and Office Furnishings

Hotel/Motel

Insurance Companies

Laundromat/Laundry & Dry Cleaning Group I  
 Medical Office  
**Night Club**  
 Non Store Retailers  
**Outdoor Seating (Not a defined Use)**  
 Package Store  
 Paint, Glass & Wallpaper  
 Parking Lots  
     Commercial  
     Accessory  
 Personal Services (Group I, II & IV)  
 Pet Services  
 Pet Shop  
 Police or Sheriff's Station  
 Post Office  
 Printing and Publishing  
 Recreational Facilities Commercial (Group I)  
 Real Estate Sales Office  
 Rental or Leasing Establishments (Group I & II)  
 Restaurant, Fast Food (Walk-In only)  
 Restaurant (Groups I, II & III)  
 Repair Shops (Groups I, II, III & IV)  
**Signs (In accordance with LDC Chapter 30)**  
 Social Services (Groups I & II)  
 Specialty Retail Shops (Groups I-IV)  
 Storage (Indoor only)  
 Studios  
**Supermarket**  
 Temporary Uses (In accordance with LDC 34-3041)  
~~Towers, Communication~~  
 Used Merchandise Stores (Group I & II)  
 Variety Store  
 Warehouse (Private)  
~~Wholesale Establishment~~

Parcel "A" Only

Bait and Tackle Shop  
 Boats : ~~Parts Store~~/ Rental/ Sales (Limited to recreational watercraft and  
           water taxi, No Personal Watercraft: Jet Ski)  
 Dwelling Unit Multi-Family (One Caretaker's Unit)  
**Marina**  
 Multi-Slip Docking Facility-Existing 16 Slips only  
 Time-Share Units

b. Site Development Regulations

Maximum Gross Square Feet:

Retail	10,450 SF
Retail Dead Storage	1,800 SF
Restaurant	4,000 SF

Bar & Cocktail Lounge	1,000 SF
Café (Resort Only)	1,300 SF
Office	3,000 SF
Private Warehouse	3,876 SF
Hotel/Motel Units	86 Units
Dwelling Units	1 Caretaker's Residence

Parking Note: No combination of uses may be developed which requires more than 123 parking spaces unless additional off-site parking is provided.

Setbacks (As shown on MCP)

Maximum Height and Stories

Parcel "A"	49 40 Feet above Base Flood Elevation
Parcel "B"	34 Feet above Base Flood Elevation

Phase I (Parcel "A")	2 Story Building
Phase II (Parcel "B")	2 Story Building
Phase III (Parcel "A")	4 Story Building
Phase IV (Parcel "A")	3 Story Building

3. Street trees, including sabal palm, coconut palm and other native vegetation, along Old San Carlos Boulevard will be incorporated into the Development Order design where possible. Street landscaping will be placed in irrigated planters where minimal disturbance from overhead obstructions would be present.
4. Prior to issuance of a local development order, the property owner must enter into a written agreement with the Town of Fort Myers Beach opting into the Downtown Overlay Zoning District.
5. Approval of this zoning request does not address mitigation of the project's vehicular or pedestrian traffic impacts. Additional conditions consistent with the Fort Myers Beach LDC may be required to obtain a local development order.
6. Approval of this rezoning does not give the Developer an undeniable right to receive local development order approval. Future development order approvals must satisfy the allocations for nonresidential uses in the Town of Fort Myers Beach Comprehensive Plan "Pedestrian Commercial" land use category.
7. This development must comply with all of the requirements of the LDC at the time of local development order approval, except as may be granted by deviations approved as part of this planned development.

B. Deviations

1. Deviation from LDC 10-285(a) which requires a connection separation of 125' on local roadways, to permit connection separations of 75' and 115'. Staff recommends **APPROVAL** of this deviation.

2. Deviation from LDC 10-285(a) which requires a connection separation of 125' on local roadways, to permit a connection separation of 7.41'. Staff recommends **APPROVAL** of this deviation.
3. Deviation from LDC 10-285(a) which requires a connection separation of 125' on local roadways, to permit connection separations of 40' and 125'. Staff recommends **APPROVAL** of this deviation.
4. Deviation from LDC 34-2016 (3) which requires a minimum two-way aisle width of 24', to permit an aisle width of 20'. Staff recommends **APPROVAL** of this deviation.
5. Deviation from LDC 34-2016(1) which requires a minimum parking space dimension of 9' by 18', to permit parking space dimensions of 8' by 16' and 8' by 18'. Staff recommends **APPROVAL** of this deviation with the condition that the 8' by 16' parking spaces are limited to the 10 valet parking spaces on Parcel "B" and the parking spaces on Parcel "A", which will be designated for "Compact Cars Only".
6. Deviation from LDC 34-2020(2) which requires a minimum number of parking spaces for retail and office space of 1 space per 200 SF to permit 1 space per 400 SF, from the minimum requirement for restaurants of 14 spaces per 1,000 SF to permit 3.75 spaces per 1,000 SF, and from the minimum requirement for bar and cocktail lounge of 21 spaces per 1,000 SF to permit 6 spaces per 1,000 SF. Staff recommends **APPROVAL** of this deviation with the condition that at no time will the combination of uses require more than the 123 spaces provided, unless additional parking is provided, either on or off-site.
7. Deviation from LDC 34-2013(b) which requires a minimum parking lot entrance width of 25' on two-way streets, to permit a width of 20'. Staff recommends **APPROVAL** of this deviation.
8. Deviation from LDC 34-2194(b) which requires a minimum setback from bodies of water other than the Gulf of Mexico of 25', to permit a water body setback of zero (0) feet. Staff recommends **APPROVAL** of this deviation with the condition that it be limited to the Phase I building.
9. Deviation from LDC 34-1749(c) which requires gates be designed to allow a minimum of five vehicles to pull safely off the public street while waiting to enter, to permit space for zero (0) vehicles. Staff recommends **DENIAL** of this deviation.
10. Deviation from LDC 34-1145(d) which permits a maximum height of 40' above base flood elevation in the Downtown Overlay District, to permit a maximum height of 49' above base flood elevation. Staff recommends **DENIAL** of the requested deviation, but instead recommends a maximum height of 40' above base flood elevation.
11. Deviation from LDC 34-1802(4) which sets the hotel/motel density multiplier at 1.0 hotel/motel unit equals 1.0 dwelling unit, to permit 86 hotel/motel rental units. Staff recommends **APPROVAL** of this deviation with the condition that the approved number of units must be consistent with the Comprehensive Plan at the time of the local development order. If the 86 hotel/motel units are not consistent, then the number of hotel/motel units allowed will be equivalent to the maximum number of

units permitted in the Old San Carlos portion of the Downtown Overlay district as allowed by the Comprehensive Plan at the time of the local development order. In no case will the total number of hotel/motel units exceed a total of 86 rental units.

**Findings and Conclusions:**

Based upon an analysis of the application and the standards for approval of planned development rezonings, staff makes the following findings and conclusions:

1. The applicant has proven entitlement to the rezoning by demonstrating compliance with the Town of Fort Myers Beach Comprehensive Plan, the Land Development Code, and other applicable codes and regulations.
2. The requested zoning as conditioned:
  - a) meets or exceeds all performance and locational standards set forth for the potential uses allowed by the request;
  - b) is consistent with the densities, intensities and general uses set forth in the Town of Fort Myers Beach Comprehensive Plan;
  - c) is compatible with existing or planned uses in the surrounding area; and
  - d) will not adversely affect environmentally critical areas or natural resources.
3. Approval of the request will not place an undue burden upon existing transportation or planned infrastructure facilities and the site will be served by streets with the capacity to carry traffic generated by the development.
4. Urban services, are, or will be, available and adequate to serve the proposed land use.
5. The proposed use or mix of uses is appropriate at the subject location.
6. The recommended conditions to the concept plan and other applicable regulations provide sufficient safeguards to the public interest.
7. The recommended conditions are reasonably related to the impacts on the public's interest created by or expected from the proposed development.
8. The deviations granted:
  - a) enhance the objectives of the planned development; and
  - b) preserve and promote the general intent of the LDC to protect the public health, safety and welfare.