

RESOLUTION OF THE TOWN COUNCIL OF  
THE TOWN OF FORT MYERS BEACH, FLORIDA  
RESOLUTION NUMBER 02-39

A RESOLUTION OF THE TOWN OF FORT MYERS BEACH, FLORIDA  
APPROVING / DENYING THE REQUEST FOR CONSUMPTION ON PREMISES

WHEREAS, Fort Myers Beach Hooters has filed an application for a Special Exception in the Pedestrian Commercial district for consumption on premises (a 2COP license – beer and wine) and outdoor seating on a deck enclosure and deck expansion; and,

WHEREAS, the subject property is located at 1600 Estero Blvd., Fort Myers Beach, in S19-T46S-R24E, Lee County, Florida and the applicant has indicated the property's current STRAP number is: 19-46-24-W4-0230A.0000, and the legal description is: LOTS 2, 3, & 6, BLOCK 'B', CRESCENT BEACH, PLAT BOOK 4, PAGE 45, PUBLIC RECORDS OF LEE COUNTY, FLORIDA; and,

WHEREAS, a public hearing was held before the Local Planning Agency (LPA) on September 17, 2002, when the LPA made the following recommendation:

That the Town Council approve the request subject to the following conditions:

1. The Special Exception is limited to the expansion of an existing on premises consumption of alcoholic beverages in conjunction with outdoor seating to include a proposed enclosure and expansion of the wooden deck in the front of the existing restaurant at this location.
2. The outdoor seating is limited to use in conjunction with the existing Hooters Restaurant. The consumption on premises is limited to a 2-COP beverage license to be used in conjunction with a restaurant, group 3, including outdoor seating.
3. The total outdoor seating capacity is limited to a total of 64 seats. The location of the outdoor seating area is limited to the "Existing rear deck" and "New front room addition" as shown in the Staff Report dated 9/6/02 which is attached hereto and incorporated herein by reference.
4. There will be no advertisement visible from Estero Boulevard or Alva Avenue indicating the service of alcoholic beverages.
5. Outdoor music or entertainment is prohibited.
6. The outdoor seating will only be used between the hours of 11 AM and 12 AM, Monday through Thursday and between the hours of 11 AM and 1 AM, Friday and Saturday and between the hours of 12 PM and 10 PM on Sunday.

NOW, THEREFORE, BE IT RESOLVED BY THE FORT MYERS BEACH TOWN COUNCIL, that the Council APPROVES / DENIES the requested modification with the following conditions:

FINDINGS AND CONCLUSIONS:

The following findings and conclusions were made in conjunction with the approval / denial of the requested modification:

1. The applicant did / did not comply with Section 34-1264 (2) b. which places the burden of proof upon the applicant to demonstrate that approval will not have any adverse affect on surrounding properties.
2. That there is no error or ambiguity in the Land Development Code or Town Plan which must be corrected by the Special Permit.
3. That the character and nature of the surrounding area make approval of the Special Permit, as conditioned, appropriate/ inappropriate.
4. That the Special Permit, as conditioned, is consistent/ inconsistent with the goals, objectives, policies and intent of the Town Plan, and the densities, intensities and general uses set forth in the Town Plan and Land Development Code.
5. That the Special Permit, as conditioned, meets / does not meet all performance and locational standards set forth for the proposed use.
6. That urban services will / will not be available and adequate to serve the proposed use when it is constructed.
7. That there are no environmentally critical areas or natural resources to be adversely affected by the Special Permit, as conditioned.

The foregoing resolution was adopted by the Fort Myers Beach Town Council upon being put to a vote, the result was as follows:

Howard Rynearson	_____
Daniel Hughes	_____
Bill Thomas	_____
W. H. "Bill" Van Duzer	_____
Terry Cain	_____

Adopted this 14th day of October, 2002.

ATTEST:

TOWN OF FORT MYERS BEACH

By: \_\_\_\_\_  
Marsha Segal-George, Town Clerk  
Approved as to form by:

By: \_\_\_\_\_  
Daniel Hughes, Mayor

\_\_\_\_\_  
Richard V.S. Roosa, Town Attorney