

RESOLUTION OF THE TOWN COUNCIL OF
THE TOWN OF FORT MYERS BEACH, FLORIDA
RESOLUTION NUMBER 96- 20

A RESOLUTION OF THE TOWN OF FORT MYERS BEACH, FLORIDA DENYING THE REQUEST FOR MODIFICATION OF A SPECIAL PERMIT FOR CONSUMPTION OF ALCOHOL ON PREMISES.

WHEREAS, Jim Figuerado filed an application for Modification of Condition #1 in Lee County Case 94-12-22-SP-01 to allow a 4-COP SRX beer, wine and liquor license in a 5,200 square foot restaurant; and,

WHEREAS, the subject property is located at 4765 Estero Boulevard, Ft. Myers Beach, and is described more particularly as in Section 28, Township 46 South, Range 24 East, Lee County, Florida; and,

WHEREAS, the applicant has indicated the property's current STRAP number is: 28-46-24-W4-00001.0030; and

WHEREAS, a public hearing was advertised and held on April 18, 1996, before the Fort Myers Beach Town Council who gave full and complete consideration to the recommendations of the staff, the documents on file with Lee County, and the testimony of all interested persons; and,

WHEREAS, the applicant filed for and received a Florida Statute Section 70.51, Special Master recommendation; and,

WHEREAS, a public hearing was advertised and held on July 15, 1996, before the Fort Myers Beach Town Council who gave full and complete consideration to the recommendations of the Special Master, and the testimony of all interested persons.

NOW, THEREFORE, BE IT RESOLVED BY THE FORT MYERS BEACH TOWN COUNCIL, that the Council DENIES the requested modification.

FINDINGS AND CONCLUSIONS:

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

1. The Special Master's Recommendation did not justify the adverse impact.
2. The property has been designated as a "Water Dependent Overlay Zone" and because the proposed modification constitutes a conversion to non-water-dependent use, requires a public hearing.
3. The proposed modification is an expansion of the restaurant and broadens the products sold from beer and wine to add liquor,

no changed or changing conditions make approval of this request appropriate.

4. Section 34-1264 (2) b. places the burden of proof upon the applicant to demonstrate that approval will not have any adverse affect on surrounding properties.

5. Approval of the proposal would violate Policy 5.1.5 by failing to protect existing residential areas from encroachment of uses that are destructive to the character and integrity of the residential area.

6. Approval of the proposal would violate Policy 18.2.1 in that it would expand or intrude a commercial development in to a residential neighborhood.

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

Anita T. Cereceda	<u>no</u>
Ted FitzSimons	<u>aye</u>
William (Rusty) Isler	<u>aye</u>
Garr Reynolds	<u>aye</u>
Ray Murphy	<u>no</u>

APPLICATION DULY DENIED this 15th day of July, 1996.


ATTEST:

TOWN OF FORT MYERS BEACH

By: 
Marsha Segal-George, Town Clerk

By: 
Anita T. Cereceda, Mayor

Approved as to form by:


Richard V.S. Roosa, Town Attorney