

NOTE: For purposes of clarification, the conditions attached to this resolution have been amended to more specifically reflect the motion as made by Mr. Murphy and seconded by Mr. Mulholland.

RESOLUTION OF THE TOWN COUNCIL OF
THE TOWN OF FORT MYERS BEACH, FLORIDA
RESOLUTION NUMBER 98-10A

WHEREAS, SPAS PASEV, represented by Bill Van Duzer, in reference to the Sandbar Resort, filed a request to rezone from Residential Multiple Family (RM-2) to Commercial Planned Development (CPD) to permit a maximum of a 12 unit hotel/motel in a building not to exceed 56 feet in height on 0.5475 acres of land; and,

WHEREAS, the subject property is located at 5480 Estero Blvd., Fort Myers Beach, Florida, and is described more particularly as:

LEGAL DESCRIPTION: In Section 33, Township 46 South, Range 24 East, Lee County, Florida:
Lots 1, 2, 41 and 42, Block 6, GULF HEIGHTS SUBDIVISION, as recorded in Plat Book 6, Page 39, of the Public Records of Lee County, Florida, lying in Section 33, Township 46 South, range 24 East, Lee County, Florida.

WHEREAS, the applicant has indicated the property's current STRAP number is: 33-46-24-02-00006.0010; and,

WHEREAS, a public hearing was legally advertised and held before the Local Planning Agency on March 31, and after full and complete consideration to the recommendations of the Staff, the documents in the file, and the testimony of all interested persons, recommended denial of the request; and,

WHEREAS a hearing was held by the Town Council and the Council considered the following criteria, whenever applicable:

- a. Whether there exist changed or changing conditions that make approval of the request appropriate.
- b. The testimony of any applicant.
- c. The recommendation of staff.
- d. The testimony of the public.
- e. Whether the request is consistent with the goals, objectives, policies and intent of the Lee Plan.
- f. Whether the request meets or exceeds all performance and locational standards set forth for the proposed use.

- g. Whether the request will protect, conserve or preserve environmentally critical areas and natural resources.
- h. Whether the request will be compatible with existing or planned uses.
- i. Whether the request will cause damage, hazard, nuisance or other detriment to persons or property.
- j. Whether a requested use will be in compliance with all general zoning provisions and supplemental regulations pertaining to the use set forth in this chapter.

NOW THEREFORE BE IT RESOLVED THAT THE APPLICATION IS APPROVED SUBJECT TO THE FOLLOWING conditions, deviations, and requirements that are necessary for the protection of the health, safety, comfort, convenience and welfare of the general public and that are reasonably related to the request:

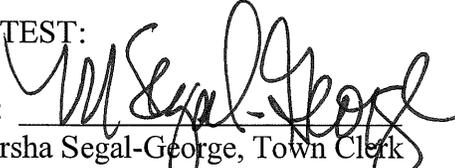
SEE ATTACHED

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

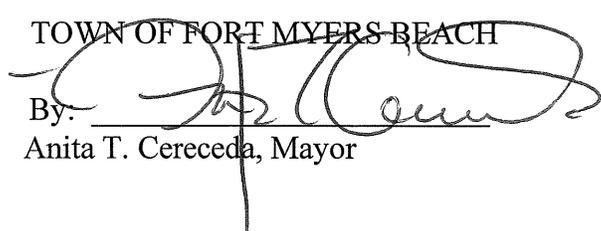
Anita T. Cereceda	aye
Ted FitzSimons	no
John Mulholland	aye
Garr Reynolds	no
Ray Murphy	aye

APPLICATION DULY GRANTED this 20th day of April, 1998.

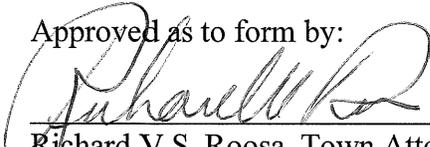
ATTEST:

By: 
Marsha Segal-George, Town Clerk

TOWN OF FORT MYERS BEACH

By: 
Anita T. Cereceda, Mayor

Approved as to form by:


Richard V.S. Roosa, Town Attorney

CONDITIONS

1. The development and use of the subject property will be in substantial compliance with the approved Master Concept Plan entitled "SANDBAR RESORT" (stamped received February 12, 1998), except as modified by the conditions herein. Unless specifically approved as part of this rezoning, development must comply with all applicable local development regulations.
2. A maximum of 12 hotel/motel units are allowed within this planned development.
3. The approved uses within this planned development are:

ADMINISTRATIVE OFFICE
ESSENTIAL SERVICES
ESSENTIAL SERVICE FACILITIES, Group I
HOTEL/MOTEL
RECREATIONAL FACILITIES, Personal
SIGNS, IN ACCORDANCE WITH CHAPTER 30

4. Development of the CPD must be in compliance with the adopted Master Concept Plan.

Accessory Use and Structure setbacks must comply with LDC Sections 34-1171 et seq, and 34-2194.

Maximum Lot Coverage: 14%

Maximum Building Height: 49.7 feet above grade

5. The two cabbage palms located on the northwestern boundary of the site and the one cabbage palm located on the southern boundary of the site must be preserved per the Master Concept Plan. At the time of local development order submittal, notes must be on the plans delineating the cabbage palms "to remain". The three remaining cabbage palms must be transplanted to the buffers or open space areas. Notes delineating the trees "to be transplanted" must be on the development order plans.
6. Approval of this zoning request does not address mitigation of the project's vehicular or pedestrian traffic requirements. Additional conditions may be required to obtain a local development order, consistent with local development regulations.

7. This rezoning approval does not give the Developer an undeniable right to receive local development order approval that exceeds the Year 2010 Overlay use allocation, if such allocation exists, for the applicable district.
8. Consumption on premises is to be limited to in-guestroom only.
9. No commercial water-related rental operations, which includes personal watercraft rental operations and/or parasail rental operations, will be allowed at this location.

DEVIATIONS

Deviation 1 for relief from LDC Section 34-2175 which allows a maximum building height of 25 feet; to allow a maximum height of 40 feet above flood plain.

Deviation 2 for relief from LDC Section 10-285(a) which requires a 660 foot intersection separation along an arterial road; to allow a separation of 66.8 feet.

Deviation 3 for relief from LDC Section 34-935 which requires a 25 foot setback from the perimeter boundary; to allow 10 foot and 15 foot setbacks.

Deviation 4 for relief from LDC Section 34-1802(l) which allows one (1) hotel unit equals one (1) dwelling unit, maximum of 3 units on this tract; to allow a maximum of 12 units.

Deviation 5 for relief from one parking space requirement, if needed, in order to achieve a trolley pullout stop.