

RESOLUTION OF THE TOWN COUNCIL OF
THE TOWN OF FORT MYERS BEACH, FLORIDA
RESOLUTION NUMBER 98- 19

RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT
MYERS BEACH, FLORIDA DETERMINING THE CONSISTENCY OF
RESOLUTION 98-11 WITH THE COMPREHENSIVE PLAN
PROVIDING REAFFIRMATION AND AN EFFECTIVE DATE.

WHEREAS, the Town Of Fort Myers Beach has been presented with a verified complaint pursuant to Florida Statute 163.3215, challenging the consistency of Resolution 98-11 with certain provisions of the Town's Comprehensive Plan, to wit: policies 2.1.2, 2.2.1, 5.1.5, 6.1.1, 6.1.2, 6.1.5, 6.1.10, 13.1, 18.2.1, 25.1.6 and 100.9.5.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA:

Section 1. The Town Council finds as follows:

a. The development permitted by the rezoning of the subject property conforms to and furthers the objectives, policies, land uses, densities and intensities of the Town's comprehensive plan. (See Fla. Stat. 163.3194)

b. The rezoned property fronts on Estero Boulevard and is designated Urban Community by the Town's comprehensive plan. Estero Blvd. Is a two way arterial road that serves as access, directly or indirectly, to mot of the lands on Fort Myers Beach and as a through way for the traveling public. The Urban Community land use category allows both residential and commercial development. (See policies 1.1.4; see also policies 18.2.1 & 18.2.2)

c. The rezoned property is a part of a larger tract which has been used as a marina since 1910, long before the formation of the Town of Fort Myers each or the adoption of the comprehensive plan which guides this zoning decision. The use of the site as a marina is authorized by the RM-2 zoning previously placed on the site. The portion of the site rezoned by resolution 98-11 is presently used for boat sales and has an development order authorizing expansion of the marina use by construction of additional dry storage facilities to accommodate more boats and permanent boat sales facilities.

d. The property to the North is used as a high rise condominium which was constructed pursuant to a variance to the then existing development regulations and zoning plan. The high rise development has itself provided a fence and vegetation buffer to mitigate any negative impacts of the existing commercial use of the rezoned site. That existing buffering coupled with the additional buffering, both conventional (plantings and setbacks) and unconventional (sound and visual screening of mechanical elements and loading areas), required by the rezoning provides an enhanced buffer mitigating any impacts of the commercial use of the rezoned parcel. (See policies 5.1.5; 6.1.1 & 6.1.2.)

e. The property to the South is a single family neighborhood accessed directly from Estero Blvd. Or a system of local roads connected to Estero Blvd. The single family homes are buffered from the existing commercial use of the rezoned site by a fence. Enhances buffering, consisting of mounds and dense vegetation, is required by the rezoning and will provide a better shield from any negative impacts of a commercial use on the site. The prohibition of access from the rezoned site to the local roads of the residential neighborhood will prevent intrusion of commercial traffic into the neighborhood. (See policies 5.1.5; 6.1.1 & 6.1.2; see also 18.2.1.)

f. The permitted use under the rezoning is restricted to a grocery supermarket. This use at this location with the conditions attached to the rezoning is appropriate and compatible with the existing and permitted use on adjoining and nearby properties and any negative impacts of this commercial use as limited and conditioned by the rezoning resolution are less than the currently existing and vested potential uses of the site. (See policies 5.1.5; 6.1.1 & 6.1.2.)

g. The major access point to the development approved by the rezoning provides access directly from a major arterial road (Estero Blvd.) And will not cause traffic to pass through areas of lower density or intensity. (See policy 25.1.6)

h. The rezoned site is within the discretionary limits of the plan's site location guidelines for developments of this type and is a reasonable location for a supermarket because the location lies within the store's anticipated trade area and provides a necessary service (convenient food shopping) to the residents of the middle and south end of Estero Island and minimizes the cost of access to that service (see policies 6/1/5 & 1/3/1 & Objective 2.1)

i. The supermarket as approved does not expand or intrude into any of the nearby residential neighborhoods, but instead supports the service needs of the residential neighborhoods within the middle and southern portions of Estero Island. (See policy 18.2.1.) The rezoning will not encourage more commercial uses or strip commercial development because of the limitations of the land use categories of the adjoining lands. (See policies 6.1.5 & 18.2.1)

j. While the marina use of the property may be permitted or vested under existing ordinances, that use poses a potential conflict with the environmental objectives of the conservation and coastal management sections of the plan. The rezoning limits the potential environmental conflicts inherent in the marina use, if developed to its full potential. (See objectives 77.4 77.7, 83.1 and related policies.)

k. The approval of the rezoning furthers the overall objectives of the Town's comprehensive plan because it: 1.) Promotes and improves the public health, safety, comfort, convenience and general welfare, b.) Protects natural resources and c.) Furthers efficient and convenient land development within a land use system that provides suitable shopping and other private human needs and opportunities consistent with the public interest.

Section 2. Reaffirmation. Having considered the impact of the proposed development on the nearby residential neighborhoods, on the traffic system and on the Fort Myers Beach community as a whole, this Council elected to adopt Resolution 98-11. Having reviewed the matters raised by the verified complaint, this Council reaffirms the prior resolution and declines to take action on the verified complaint.

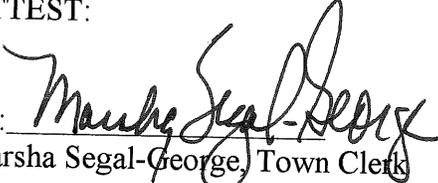
Section 3. Effective Date. This resolution shall take effect immediately.

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

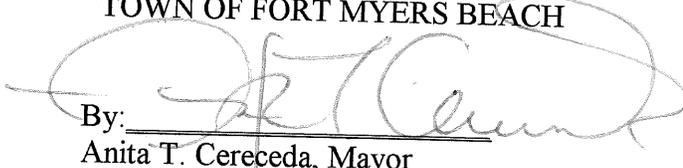
Anita T. Cereceda	<u>aye</u>
Daniel Hughes	<u>aye</u>
John Mulholland	<u>aye</u>
Garr Reynolds	<u>no</u>
Ray Murphy	<u>aye</u>

DULY ADOPTED this 29th day of June, 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