

RESOLUTION OF THE TOWN COUNCIL OF
THE TOWN OF FORT MYERS BEACH, FLORIDA
RESOLUTION NUMBER 01-15

A RESOLUTION OF THE TOWN OF FORT MYERS BEACH, FLORIDA
APPROVING / DENYING THE REQUEST FOR SPECIAL PERMIT IN THE C-1
(COMMERCIAL) DISTRICT FOR CONSUMPTION ON PREMISES

WHEREAS, Diamondhead Island Beach Resort has filed an application for a Special Permit in the C-1 (Commercial) district for consumption on premises for outdoor seating in conjunction with an existing 4-COP-S (beer, wine and liquor) beverage license for a hotel/motel per LDC section 34-1264(a)(2)a.2.; and,

WHEREAS, the subject property is located at 2000 Estero Blvd., Fort Myers Beach, Florida, and the applicant has indicated the property's current STRAP number is: 19-46-24-W4-0090A.0010; and,

WHEREAS, a public hearing was held before the Local Planning Agency (LPA) on May 15, 2001, when they recommended that the Town Council approve the request for a Special Permit for Consumption on Premises for outdoor seating with conditions:

WHEREAS, a public hearing was advertised and held on June 4, 2001, before the Fort Myers Beach Town Council who gave full and complete consideration to the recommendations of the staff and the Local Planning Agency, the documents on file with Lee County, and the testimony of all interested persons.

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

1. Consumption on premises approval for the 2 outdoor seating areas is in conjunction with the existing 4-COP-S hotel/motel license.
2. Consumption on premises for the 2 outdoor seating areas is restricted to the areas depicted on the attached site plan, Attachment G (8,324 square feet pool-deck service area and 2,280 square foot deck located on the first elevated floor), which is attached hereto and incorporated herein by reference.
3. The hours of operation for the 2 outdoor seating areas, for consumption on premises and for outdoor music and/or entertainment, will be restricted to the hours of 9:00 am to 10:00 p.m. daily.
4. The following conditions will apply to any outdoor music and/or entertainment located around the pool area or the proposed elevated deck:
 - a. Recorded background music that is restricted to a mono background system, which is defined as a 60 amps system with speakers limited to 1 to 2 watts that provides for a volume that is kept at or below normal conversation level, is allowed.

- b. Only non-amplified string instruments are allowed to be played "live" without plugging into the mono background system.
- c. Entertainment and/or live music, (excluding non-amplified string instruments), which is defined as a keyboard that is limited to the function of a piano with or without a Disc Jockey, referred to as a "DJ" and/or a vocalist is allowed only when the keyboard and all microphones, for a "DJ" or vocalist are plugged into the mono background system and the volume is kept at or below normal conversation level.
- d. Any music that is played in the Lounge Area located on the first elevated floor must comply with Conditions 4.a., 4.b., and 4.c., or else the outside door(s) from the Lounge to the proposed elevated deck must be closed.
5. Prior to the issuance of a Certificate of compliancy by the Development Services Division, the applicant must install, at a minimum, the Landscape Buffer depicted in Exhibit E of the staff report dated May 7, 2001, which is attached hereto and incorporated herein by reference. Any additional landscaping required by the limited review development order (LDO2000-00166) must also be installed. This Landscape Buffer must be installed prior to the mono background system on the elevated deck becoming operational.

FINDINGS AND CONCLUSIONS:

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

1. The applicant did 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 of Lee 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.
4. That the Special Permit, as conditioned, is consistent with the goals, objectives, policies and intent of the Lee Plan, and the densities, intensities and general uses set forth in the Lee Plan and Land Development Code.
5. That the Special Permit, as conditioned, meets all performance and locational standards set forth for the proposed use.
6. That urban services will 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.

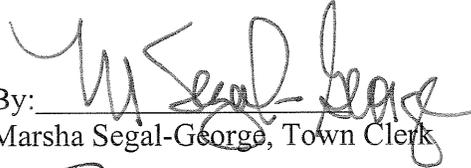
The foregoing resolution was adopted by the Fort Myers Beach Town Council upon being put to a vote, the result was as follows:

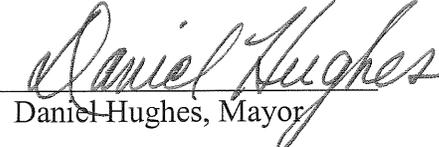
Daniel Hughes	yes
Garr Reynolds	yes
Ray Murphy	yes
Terry Cain	no
Howard Rynearson	yes

APPROVED this 4th day of June, 2001.

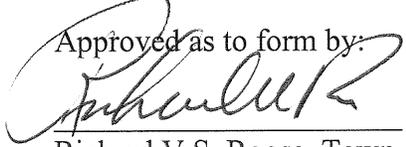
ATTEST:

TOWN OF FORT MYERS BEACH

By: 
Marsha Segal-George, Town Clerk

By: 
Daniel Hughes, Mayor

Approved as to form by:


Richard V.S. Roosa, Town Attorney

