

RESOLUTION OF THE TOWN COUNCIL OF
THE TOWN OF FORT MYERS BEACH, FLORIDA
RESOLUTION NUMBER 11-03

WHEREAS, the Town Council, on February 9, 2004 held a public hearing to consider a request by the owner of Property located at 1321 Santos Road, Fort Myers Beach, FL to rezone the property in the SANTOS zoning district to RPD (Residential Planned Development) with certain deviations to allow the conversion of three (3) dwelling units in an existing multiple-family building to eight (8) bed and breakfast guest units; and

WHEREAS, the minutes for the Town Council meeting of February 9, 2004, indicate that the Council voted unanimously to approve the requested rezoning in Town Council resolution 04-04, subject to the applicant's attorney reviewing and approving the resolution; and

WHEREAS, the attorney for the property owner provided the Town with a letter dated October 28, 2009 that states that the resolution, as prepared by Jerry Murphy, is consistent with the action taken by the Town Council in 2004; and

WHEREAS, since the members of the Town Council who voted to approve Resolution 04-04 are no longer members of the Town Council and Resolution 04-04 was not approved by the property owner's attorney until October 28, 2009, it is necessary to have the current Town Council reaffirm Resolution 04-04, as approved by the property owner's attorney.

NOW, THEREFORE, be it resolved by the Town Council of the Town of Fort Myers Beach, Florida, as follows:

Section 1. The Town Council hereby reaffirms and approves Town Council Resolution 04-04 that was conditionally approved by the Town Council on February 9, 2004. The letter from the property owner's attorney, dated October 28, 2008 and unsigned Resolution 04-04 is attached hereto and incorporated herein by reference as Exhibit "A."

Section 2. Effective Date. This Resolution shall take effect immediately upon its adoption by the Town Council.

The foregoing Resolution was adopted by the Town Council upon a motion by Council Member Mandel and seconded by Vice Mayor Raymond and upon being put to a vote, the result was as follows:

Larry Kiker, Mayor	aye	Bob Raymond, Vice Mayor	aye
Joe Kosinski	aye	Jo List	absent
Alan Mandel	aye		

DULY PASSED AND ADOPTED THIS 4th DAY OF April 2011, BY THE TOWN
COUNCIL OF THE TOWN OF FORT MYERS BEACH

By: 
Larry Kiker, Mayor

ATTEST:

By: 
Michelle D. Mayher, Town Clerk

Approved as to form and legal sufficiency:

By: 
Fowler White Boggs, Town Attorney

RESOLUTION OF THE TOWN COUNCIL OF
THE TOWN OF FORT MYERS BEACH, FLORIDA
RESOLUTION NUMBER 04-04

WHEREAS, Sheila F. Watts has requested to rezone 5335 +/- square feet from Santos to Residential Planned Development (RPD), with deviations, to allow the conversion of 3 dwelling units in an existing multiple-family building to 8 Bed & Breakfast guest units; and,

WHEREAS, the subject property is located at 1321 Santos Road, Fort Myers Beach, and the applicant has indicated the property's current STRAP number is: 19-46-24-W4-0060A.0370 and the legal description is as follows: LOT 37, BLOCK 'A', VENETIAN GARDENS SUBDIVISION, PLAT BOOK 6, PAGE 70, PUBLIC RECORDS, LEE COUNTY, FLORIDA ; and,

WHEREAS, a public hearing was held before the Local Planning Agency (LPA) and they recommended that the Town Council deny the Applicant's request for rezoning from Santos to Residential Planned Development (RPD), but in the alternative recommend approval of rezoning from Santos to Commercial Planned Development with the conditions and deviations and findings and conclusions found on pages 2-4 of the Staff Report which is dated January 5, 2003 and which is attached hereto and incorporated herein by reference with the following corrections or additions:

Condition 2.b. Site Development Regulations is corrected to state the Commercial Resort zoning district instead of the Residential Multifamily zoning district.

The applicant had proposed a new condition #4 but the LPA finds that the Staff's recommended #4 is more appropriate.

The LPA specifically requests that all right of way use for parking be removed from the Applicant's master concept plan.

The LPA has recommended that Deviation #4 be approved conceptually to allow the Staff and the Applicant to work out the correct rear setback necessary to accommodate existing stairs prior to this case being heard by the Town Council; and,

WHEREAS a hearing was held and the council considered the following criteria, whenever applicable:

- a. Whether there exists an error or ambiguity which must be corrected.
- b. Whether there exist changed or changing conditions which make approval of the request appropriate.
- c. The impact of a proposed change on the intent of Chapter 34, Zoning Districts.
- d. The testimony of any applicant.
- e. The recommendation of staff and of the local planning agency.
- f. The testimony of the public.

g. Whether the request is consistent with the goals, objectives, policies, and intent, and with the densities, intensities, and general uses as set forth in the Fort Myers Beach Comprehensive Plan.

h. Whether the request meets or exceeds all performance and locational standards set forth for the proposed use.

i. Whether urban services are, or will be, available and adequate to serve a proposed land use change.

j. Whether the request will protect, conserve, or preserve environmentally critical areas and natural resources.

k. Whether the request will be compatible with existing or planned uses and not cause damage, hazard, nuisance, or other detriment to persons or property.

l. Whether the location of the request places an undue burden upon existing transportation or other services and facilities and will be served by streets with the capacity to carry traffic generated by the development.

Findings. The town council finds that the requested zoning district complies/does not comply with:

A. The Fort Myers Beach Comprehensive Plan.

B. Chapter 34, Zoning Districts, Design Standards, and Non-conformities

C. Any other applicable town ordinances or codes.

D. The proposed use or mix of uses is appropriate at the subject location;

E. Sufficient safeguards to the public interest are provided by the recommended conditions to the concept plan or by other applicable regulations;

F. All recommended conditions are reasonably related to the impacts on the public's interest created by or expected from the proposed development.

G. The proposed use meets all specific requirements of the comprehensive plan that are relevant to the requested planned development and the following criteria can be satisfied:

a. The proposed use or mix of uses is appropriate at the subject location;

b. Sufficient safeguards to the public interest are provided by the recommended conditions to the concept plan or by other applicable regulations;

c. All recommended conditions are reasonably related to the impacts on the public's interest created by or expected from the proposed development.

d. The proposed use meets all specific requirements of the comprehensive plan that are relevant to the requested planned development, such as the following:

1. Policies 4-B-4 and 4-C-3 on commercial uses in the "Mixed Residential" category.
2. Policies 4-B-5 and 4-C-3 on commercial rezonings in the "Boulevard" category.
3. Policy 4-C-4 on building heights taller than the standard height limit.
4. Policy 4-C-8 on density transfers.
5. Policy 4-E-1 on pre-disaster buildback.
6. Policy 7-J-2 on traffic impact analyses and potential design improvements that could offset traffic impacts.

NOW THEREFORE BE IT RESOLVED THAT THE APPLICATION IS CONTINUED FOR FURTHER CONSIDERATION/ APPROVED/ APPROVED WITH MODIFICATION/ DENIED

SUBJECT TO THE FOLLOWING conditions 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:

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

APPLICATION DULY GRANTED/DENIED this 9th day of February, 2004.

ATTEST:

TOWN OF FORT MYERS BEACH

By: _____
Marsha Segal-George, Town Clerk

By: _____
Dan Hughes, Mayor

Approved as to form by:

Richard V.S. Roosa, Town Attorney