

RESOLUTION OF THE LOCAL PLANNING AGENCY OF  
THE TOWN OF FORT MYERS BEACH, FLORIDA  
RESOLUTION NUMBER 2005-01

A RESOLUTION OF THE LOCAL PLANNING AGENCY OF FORT  
MYERS BEACH

WHEREAS, SOB, Inc., in ref. to Smokin Oyster Brewery has requested a Special Exception for consumption on premises (4 COP beverage license for unrestricted service of beer, wine, and liquor) in the Downtown zoning district in conjunction with the Smokin Oyster Brewery Restaurant; and

WHEREAS, the subject property is located at 340 Old San Carlos Blvd., Ft. Myers Beach, in S24-T46S-R23, Lee County, FL.; and

WHEREAS, the applicant has indicated the property's current STRAP number is: 24-46-23-W3-00203.0010 and the legal description is attached as Exhibit "A" ; and

WHEREAS, a public hearing was legally advertised and held before the Local Planning Agency (LPA) on February 8, 2005, and,

WHEREAS, the LPA gave full and complete consideration to the recommendations of the Staff, the documents in the file, and the testimony of all interested persons.

NOW, THEREFORE BE IT RESOLVED BY THE LPA OF THE TOWN OF FORT MYERS BEACH, FLORIDA as follows:

That the LPA recommends that the Town Council approve the Applicant's request subject to the 5 conditions listed on Page 2 of the Staff Report dated January 28, 2005 and which is attached hereto and incorporated herein by reference with the following recommended changes to the 5 conditions;

1. Condition #1 stays the same..
2. Condition #2 shall read as follows; The approval of on premises consumption of alcoholic beverages for a 4-COP (Beer, Wine and Liquor) alcoholic beverage license is permitted in conjunction with a restaurant only. Sales of food must not fall below 50% of total sales *and shall be in compliance with Section 34-1264 (k) of the LDC.*

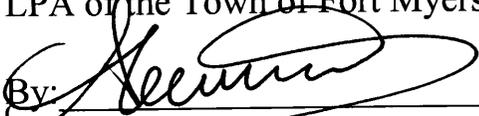
3. Condition #3 shall read as follows; Indoor music or entertainment is restricted to the hours of 11AM to 11PM and live music shall be limited to non-amplified music *until a noise buffer is installed that would adequately protect the residential area from noise impacts. That determination will be made by the Community Development Director and if the buffer is determined to be satisfactory then the restriction on non-amplified music may be lifted.*
4. Condition #4 shall read as follows; The indoor seating will only be used in conjunction with the service of alcoholic beverages between the hours of 8 AM and 12 AM, Monday through Sunday.
5. Condition #5 stays the same.

The LPA bases this recommendation on the Findings and Conclusions found on page 2 of the above-referenced Staff Report.

The foregoing Resolution was adopted by the LPA upon a motion by LPA Member Plummer and seconded by LPA Member Titus, and upon being put to a vote, the result was as follows:

Anita Cereceda	yes
Jessica Titus	yes
Betty Simpson	yes
Bob Raymond	yes
Jodi Hester	no
Hank Zuba	yes
Bob Simon	yes
Harold Huber	yes
Jane Plummer	yes

DULY PASSED AND ADOPTED THIS 8th day of February, 2005.  
LPA of the Town of Fort Myers Beach

By:   
Anita Cereceda, Chairman

ATTEST;  
By:   
Marsha Segal-George Secretary to the LPA

**FT. MYERS BEACH, FLORIDA**  
**DEPARTMENT OF COMMUNITY DEVELOPMENT**  
**ZONING DIVISION**  
**STAFF REPORT**

**TYPE OF CASE:** Special Exeption

**CASE NUMBER:** COP2004-00224

**FORT MYERS BEACH LPA DATE:** February 8, 2005

**TIME:** 12:00 Noon

**APPLICATION SUMMARY:**

Applicant: SOB, Inc. in ref. to Smokin Oyster Brewery

Request: Special Exception for consumption on premises (4COP beverage license for unrestricted service of Beer, Wine, and Liquor) in the Downtown zoning district in conjunction with the Smokin' Oyster Brewery Restaurant.

Location: The subject property is located at 340 Old San Carlos Blvd. (turn right after bridge, right on Old San Carlos Boulevard at intersection with Third St), in S24-T46S-R23E, in Fort Myers Beach, Lee County, FL.

**Future Land Use Plan Designation, Current Zoning and Use of Subject Property:**

Future Land Use Designation:	Pedestrian Commercial
Zoning :	Downtown
Current Use:	2,600+/- Square-feet Restaurant

**Surrounding Zoning & Land Use**

**Future Land Use Map**

North: Third Street then Commercial Parking Facility and Residence, zoned Commercial Planned Development (CPD) and Downtown respectively

Pedestrian Commercial

East: Commercial Parking Facility zoned Commercial Planned Development (CPD)

Pedestrian Commercial

South: Commercial Parking Facility zoned Commercial Planned Development (CPD)

Pedestrian Commercial

West: Old San Carlos Boulevard then Commercial Parking Facility zoned Commercial Planned Development (CPD)

Pedestrian Commercial

**Recommendation:**

1. **APPROVE**, with Conditions.

#### Conditions

1. The Special Exception is limited to on premises consumption of alcoholic beverages for a maximum of 89 seats, limited to a 4-COP beverage license to be used in conjunction with the Smokin' Oyster Brewery. A building floor plan is attached as attachment B. Outdoor Seating is prohibited.
2. The approval of on premises consumption of alcoholic beverages for a 4-COP(Beer, Wine, and Liquor) alcoholic beverage license is permitted in conjunction with a restaurant only. Sales of food must not fall below 50% of total sales. If sales of alcoholic beverages exceeds 50% of total sales this approval will become null and void.
3. Indoor music or entertainment is restricted to the hours of 11AM to 10 PM and live music is limited to non-amplified music.
4. The indoor seating will only be used in conjunction with the service of alcoholic beverages between the hours of 11 AM and 12 AM, Monday through Sunday.
5. A full service food menu must be available during hours of operation for consumption on premises.

#### (3) Findings. Findings & Conclusions

Based upon an analysis of the application and the standards for approval of a special exception, staff makes the following findings and conclusions:

1. The requested special exception:
  - a) is consistent with the goals, objectives, policies and intent of The Fort Myers Beach Comprehensive Plan;
  - b) meets or exceeds all performance and locational standards set forth for the proposed use in Chapter 34 of the Town of Fort Myers Beach Land Development Code;
  - c) will be in compliance with any other applicable town ordinances or code.

#### Introduction

The subject property is located on the southeast corner of Old San Carlos Boulevard and Third Street and is developed with a 2,600+/- square-foot restaurant known as the Smokin' Oyster Brewery, with a maximum seating