

RESOLUTION OF THE TOWN COUNCIL OF  
THE TOWN OF FORT MYERS BEACH, FLORIDA  
RESOLUTION NUMBER 09-14  
CASA BAHIA DEVELOPMENT ORDER EXTENSION

WHEREAS, Jon R. Guiles Revocable Trust, tenant in common with James F. Purtell and Kevin G. Purtell, by and through Jon R. Guiles, Trustee ("Applicant") has requested an extension of the development order DOS 2006-00041; and

WHEREAS, the subject property has a legal description of Lot 33, Black A, Island Shores Unit 2 Subdivision, as recorded in Plat book 9, Page 25, Public Records of Lee County, Florida, and is located at 855 Lagoon Street, Fort Myers Beach, Florida; and

WHEREAS, the Applicant has indicated the property's current STRAP number is 24-46-23-W3-0050A.0330; and

WHEREAS, the Town Council approved rezoning of the applicable RPD zoning district via Town Resolution 04-21 on June 28, 2004; and

WHEREAS, Development Order DOS 2006-00041 was issued to applicant on behalf of the Town of Fort Myers Beach ("Town") by Lee County Department of Community Development, Division of Development Services, on August 1, 2006, which Development Order authorized development in accordance with the aforesaid Town Resolution 04-21; and

WHEREAS, the Town Land Development Code (LDC) Section 10-115 provides that a development order is valid for three (3) years from the date of issuance, which means that the subject Development Order expires on July 31, 2009, absent further action by the applicant and the Town; and

WHEREAS, LDC Section 10-123 provides that the Town Council may grant sequential extensions of such development orders of two (2) years in duration as a matter of discretion prior to the expiration of the term of the current Development Order approval, provided that the five (5) criteria set forth in the LDC are met by applicant; and

WHEREAS, at its meeting of May 18, 2009, the Town Council considered the application, the staff report dated May 7, 2009, from the Town Community Development Department, and all other relevant documents and comments.

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

The Town Council **APPROVES** the Applicant's request to extend Development Order DOS2006-00041 for a period of two (2) years, to August 1, 2011.

**FINDINGS OF FACT AND CONCLUSIONS.** The Town Council makes the following findings of fact and conclusions:

1. The applicant has requested the extension in writing prior to the expiration date of the development order, as required by LDC Section 10-123(a)(1).

*The applicant's request, accompanied by the requisite fee, was received by the Town on February 23, 2009. The development order expires on July 21, 2009.*

2. The applicant has identified the reasons for the extension, as required by LDC Section 10-123(a)(2); and

*The applicant's application lists the current economic climate creating difficulty in the financial feasibility of development at this time, as well as the cost of preparation of plans congruent with the development order as the reasons for the request for an extension.*

3. The applicant has proven that all surety or performance bonds have been extended by the developer, as required by LDC Section 10-123(a)(3); and

*Surety and performance bonds were not required at the time the original development order approvals were given, as there were no off-site improvements and LDC Section 10-154(24) did not require such bonds for the on-site improvements.*

4. The development order is in compliance with the Fort Myers Beach Comprehensive Plan and the LDC, as required by LDC Section 10-123(a)(4); and

*The subject property was rezoned to RPD in 2004 with a finding of consistency with the Comprehensive Plan, partly on the basis of buildback provisions. A development order was issued within three years of the date of zoning approval so the planned development approval, including the Master Concept Plan, remain in effect. A permit to construct the proposed improvements was not issued prior to August 28, 2008, so construction will be required to comply with current flood-plain regulations. This may require a minor change or amendment to the approved development order.*

5. The development order does not conflict with any incipient policies of the Town Council, as required by LDC Section 10-123(a)(5).

*There do not appear to be any incipient policies of the Town Council that would effectively rezone planned development zoning districts.*

The foregoing Resolution was adopted by the Town Council upon a motion by Councilmember Babcock and seconded by Councilmember List and upon being put to a vote, the result was as follows:

Larry Kiker, Mayor aye  
Tom Babcock aye  
Bob Raymond aye

Herb Acken, Vice Mayor aye  
Jo List aye

DULY PASSED AND ADOPTED THIS 18<sup>th</sup> DAY OF MAY, 2009, 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 legal sufficiency:

By:   
Anne Dalton, Esquire, Town Attorney