

**ORDINANCE 18-08**

**AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, ADOPTING A MASTER CONCEPT PLAN FOR A PROPERTY LOCATED AT 855 LAGOON STREET FORT MYERS BEACH ZONED RESIDENTIAL PLANNED DEVELOPMENT FOR A FOUR UNIT RESIDENTIAL STRUCTURE WITH DEVIATIONS TO THE LDC SETBACK REQUIREMENTS AND DRIVEWAY WIDTH; CONTAINING .2+/- ACRES GENERALLY IDENTIFIED AS STRAP NUMBER 24-46-23-W3-0050A.0330; PETITION DC117-0004; PROVIDING FOR SCRIVENER'S ERRORS AND AN EFFECTIVE DATE.**

**WHEREAS**, Alexis Crespo of Waldrop Engineering, applicant and agent for the property owner, James Purtell, as Trustee of the James F. Purtell Revocable Living Trust Dated January 8, 2014, filed application to adopt a Master Concept Plan (MCP) for the property zoned Residential Planned Development (RPD) zoning district in order to develop a four-unit residential structure, on .2+/- acres more or less property, located at 855 Lagoon Street in the Town of Fort Myers Beach; and

**WHEREAS**, the subject property is located in the Mixed Residential Future Land Use Category of the Comprehensive Plan of the Town of Fort Myers Beach; and

**WHEREAS**, the subject property is under common control of, James Purtell, Trustee of the James F. Purtell Revocable Living Trust, listed in the public records of Lee County Property Appraiser; and

**WHEREAS**, a public hearing was held before the Local Planning Agency (LPA) on March 13, 2018; and

**WHEREAS**, at the March 13, 2018 public hearing the LPA gave full and complete consideration of the request, recommendations by staff, the documents in the record, and the testimony of all interested persons, as required by Town Land Development Code (LDC) s. 34-85; and

**WHEREAS**, at the March 13, 2018 public hearing the LPA recommended approval by a 7-0 vote, subject to certain conditions; and

**WHEREAS**, on April 23<sup>rd</sup>, 2018 the Town Council held a first reading of the proposed Ordinance and gave full and complete consideration to the request of the Applicant, the recommendation of the LPA, the recommendation of staff, the documents in the record, and the testimony of all interested persons, as required by Fort Myers Beach Land Development Code (LDC) Section 34-85; and

**WHEREAS**, a second reading of the proposed Ordinance and a public hearing on this matter will be legally advertised and held before the Town Council on May 7, 2018 at which time the Town Council gave full and complete consideration to the

request of the Applicant, the recommendation of the LPA, the recommendation of staff, the documents in the record, and the testimony of all interested persons, as required by Fort Myers Beach Land Development Code (LDC) Section 34-85; and

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AS FOLLOWS:**

The Town Council votes to **APPROVE/DENY** the request to adopt the Master Concept Plan entitled Casa Bahia and dated 3-10-06, subject to the deviations and conditions set forth with specificity.

**CONDITIONS:**

**Condition 1.**

The development of the project must be substantially consistent with Master Concept Plan (MCP) entitled Casa Bahia Master Concept Plan dated 03-10-06, Attachment B. The development must comply with all current requirements of the Ft. Myers Beach Land Development Code (LDC) at time of local development order approval, except as may be granted by deviation as part of this planned development. If changes to the MCP are subsequently pursued, appropriate approvals will be necessary.

**Condition 2.**

The following uses apply to this project:

**Schedule of Uses**

Dwelling units: multiple-family, limited to four (4)

Rental of any permitted dwelling unit to a single family during any one-month period, with a minimum stay of one week (see LDC Section 34-2391 et seq. for rules and exceptions).

**Accessory Uses**

Residential accessory uses

Home occupation (no outside help)

Dock (for sole use of occupants of principal use)

**Condition 3.**

Approval of this zoning request does not address mitigation of the project's vehicular or pedestrian traffic impacts. Additional conditions consistent with the Fort Myers Beach LDC may be required to obtain a local development order.

**Condition 4.**

Approval of this zoning request does not give the Developer an undeniable right to receive local development order approval. Future development order approvals must satisfy the requirements of the Fort Myers Beach Comprehensive Plan ("Plan").

## **DEVIATIONS:**

### **Deviation #1**

Deviation from LDC Section 34-943 and Table 34-3, which requires a 20-foot side setback for multiple-family buildings on waterfront lots in the RM zoning district. The proposed MCP provides a 10-foot side setback along the southern and northern property lines. The current structures provide less than a 10-foot setback.

### **Deviation #2**

Deviation from LDC Section 34-943 and Table 34-3, which requires a 25-foot waterbody setback. The RPD and proposed MCP provides 5.5-foot setback.

### **Deviation #3**

Deviation from LDC Section 34-943 and Table 34-3, which requires a 20-foot rear setback. The RPD and proposed MCP provides 5.5-foot setback.

### **Deviation #4**

Deviation from LDC Section 34-2013, which requires a 20-foot minimum width at the property line for a two-way entrance to a parking lot. The RPD and proposed MCP provides a 12-foot wide drive.

## **CODIFICATION AND SCRIVENER'S ERRORS.**

Upon second reading approval, the Town Council intends that this ordinance will be made part of the Fort Myers Beach Code of Ordinances; and that sections of this ordinance can be renumbered or relettered and the word "ordinance" can be changed to "section", "article" or some other appropriate word or phrase to accomplish codification, and regardless of whether this ordinance is ever codified, the ordinance can be renumbered or relettered and typographical errors that do not affect the intent can be corrected with the authorization of the Town Manager or designee, without the need for a public hearing. Only the specific deviations granted by the Town Council and associated plan sheets reflecting those approvals with or without conditions are so incorporated.

## **EFFECTIVE DATE.**

This ordinance becomes effective immediately upon its adoption.

**THE FOREGOING ORDINANCE** was enacted by the Town Council upon a motion by Council Member Cereceda and seconded by Mayor Gore and, upon being put to a roll call vote, the result was as follows:

Tracey Gore, Mayor	Aye	Bruce Butcher	Aye
Anita Cereceda	Aye	Joanne Shamp, Vice Mayor	Aye
Dennis Boback	Aye		

**DULY PASSED AND ENACTED** this 7th day of May, 2018.

**ATTEST:**

**TOWN OF FORT MYERS BEACH**

By:

  
Michelle D. Mayher, Town Clerk

By:

  
Tracey Gore, Mayor

Approved as to form by:

By:

  
Peterson Law Group, Town Attorney