

ORDINANCE 18-07

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, APPROVING A COMMERCIAL PLANNED DEVELOPMENT TO THE CURRENT ZONING MAP FOR A PROPERTY LOCATED AT 2440 ESTERO BOULEVARD FORT MYERS BEACH FROM COMMERCIAL BOULEVARD (CB) ZONING DISTRICT TO COMMERCIAL PLANNED DEVELOPMENT (CPD) WITH A MASTER CONCEPT PLAN FOR A PERMANENT SHARED PARKING LOT WITH DEVIATIONS TO THE LDC BUFFER REQUIREMENTS, DRIVEWAY SEPARATION DISTANCE, AND PARKING STALL DIMENSIONS; CONTAINING .2+/- ACRES GENERALLY IDENTIFIED AS STRAP NUMBERS 19-46-24-W3-0120A.0050; PETITION DCI17-0007; PROVIDING FOR SCRIVENER'S ERRORS AND AN EFFECTIVE DATE.

WHEREAS, Greg Stuart of Stuart and Associates, applicant and agent for the property owner, Ronald Yanke, filed application to rezone the property from the Commercial Boulevard (CB) zoning district to CPD with Master Concept Plan (MCP), exhibit B, in order to develop a permanent shared parking lot, on .2+/- acres more or less property, located at 2440 Estero Boulevard in the Town of Fort Myers Beach; and

WHEREAS, the subject property is located in the Boulevard 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 the single owner, Ronald Yanke, 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 May 7th, 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 June 4, 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** the request to rezone the subject property to CPD with MCP, subject to the deviations and conditions set forth with specificity.

CONDITIONS:

Condition 1.

Approval of this rezoning and master concept plan, exhibit B, does not exempt the subject property from any provisions of the LDC with the exception of the approved deviations.

Condition 2.

The property is allowed to operate a commercial shared parking lot on the condition that the application for the Development Order application is received by the Town of Fort Myers Beach by August 17, 2018. The property is subject to a \$500 a day fine if any conditions of this approval are violated.

Condition 3.

Perimeter parking spaces must be delineated by placing a parking block three feet from the end of the parking space and centered between the sides of the space.

Condition 4.

Signs must always be in compliance with Chapter 30 of the LDC.

Condition 5.

The operator of the parking lot will provide a covered trash receptacle and maintain the lot in a litter free manner. The operator will ensure that the trash receptacle is regularly emptied and hauled away by the franchised garbage hauler.

Condition 6.

Hours of operation are limited to sun up to sun down. No overnight parking is approved and the lot will be secured at night to prevent unauthorized parking.

Condition 7.

Development of the property for any use listed in the schedule of uses other than the permanent, shared parking, shall be required to meet the typical landscape standards in width, tree type, and other requirements of the LDC for that selected use.

Condition 8.

All parking requirements of the selected use(s) shall be met per the LDC. No shared parking agreements with off-site businesses shall be permitted.

Condition 9

Development of the property other than as a permanent shared parking lot shall

require submittal of a new Master Concept Plan and subject to the requirements of the LDC at the time of submittal, including a Traffic Impact Statement.

Condition 10

The CPD schedule of uses includes the CB uses requested by the applicant as well as the permanent shared parking lot. Any use requiring a special exception (SE) will be required to go through the special exception process for approval.

Residential:

- Assisted Living Facility
- Home Care Facility
- Dwelling Unit – Single Family, Multiple Family, Two Family, Live/Work
- Timeshare Units
- Accessory Uses: Accessory Apartment, Residential Accessory Uses

Lodging:

Rental of any permitted dwelling unit to a single family for periods of one week or longer

Office:

Accessory Uses: Home Occupation (no outside help), Administrative Office

Retail:

ATM

Civic:

- Beach or Bay Access
- Essential Services
- Park, Neighborhood, Community or Regional
- Family Day Care Home Day Care,
- Adult or Child Permanent Shared
- Parking Lot Place of
- Worship/Religious Facility School

DEVIATIONS:

Deviation #1

A deviation from LDC 10-416(d)(2), which requires a 15-foot type "D" buffer with five trees per 100 linear feet and a double hedge. To allow a 5-foot wide buffer with a double native hedge along Estero Blvd.

Deviation #2

A deviation from LDC 10-416(d)(2), which requires a 15-foot wide type "D" buffer with five trees per 100 linear feet and a double, staggered row hedge, to permit a six-foot wide buffer with a four-foot high opaque fence, opaque landscaping to be planted at three feet in height and maintained at four feet height adjacent to Mango Street.

Deviation #3

A deviation from LDC section 10-416(d)(2) from a Type "C" buffer from 15-foot wide buffer consisting of five trees per 100 linear feet, 18 shrubs per 100 linear feet, and a six-foot solid wall, to permit a three foot buffer along the western boundary, facing Cottage Street, combined with an adjoining three foot landscape buffer easement on the applicant's adjoining property with a four-foot opaque fence to be planted with a continuous native hedge; and a four-foot high opaque fence adjacent to Keller William's and Mom's Restaurant property.

Deviation #4

A deviation from the LDC Section 10-285, Table 10-1, which requires a minimum 125-foot driveway street connection separation, to permit a 32-foot +/- and 26.3-foot +/- driveway connection separation to centerline as depicted on the site plan.

Deviation #5

A deviation from LDC Section 34-2016(2) Parking Stall Dimensions, with a 17.5-foot stall depth to wall standard for a 45-degree parking stall, and a 15.3-foot stall depth interlock for a 45-degree parking stall, to allow for the stall depths at the shortest tangent for parking spaces #6, #7, #12, #13, #14, #15 and #20 as depicted on the MCP.

CODIFICATION AND SCRIVENER'S ERRORS.

Upon second reading approval, the Town Council intends that this ordinance will not be made part of the Fort Myers Beach Code of Ordinances. 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 Council Member Butcher and, upon being put to a vote, the result was as follows:

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

DULY PASSED AND ENACTED this 4th day of June, 2018.

ATTEST:

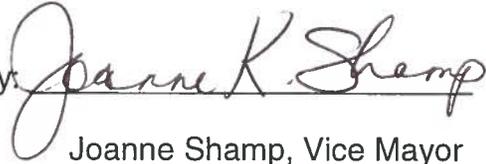
TOWN OF FORT MYERS BEACH

By:



Michelle D. Mayher, Town Clerk

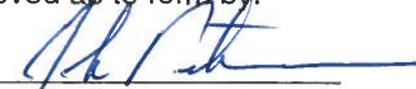
By:



Joanne Shamp, Vice Mayor

Approved as to form by:

By:



Peterson Law Group,
Town Attorney