

ORDINANCE 18-17

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, APPROVING AN AMENDMENT TO THE CURRENT ZONING MAP FROM DOWNTOWN ZONING DISTRICT TO COMMERCIAL PLANNED DEVELOPMENT (CPD) AND AN AMENDMENT TO THE LIGHTHOUSE ISLAND RESORT MASTER CONCEPT PLAN PREVIOUSLY AMENDED AND APPROVED BY RESOLUTION 13-29, TO INCLUDE THE TWO PARCELS CONTAINING APPROXIMATELY 4,000 SQUARE FEET, AS DEVELOPED WITH MODIFIED CONDITIONS OF APPROVAL AND DEVIATIONS; GENERALLY IDENTIFIED AS STRAP NUMBERS 24-46-23-W3-00203.019A AND A PORTION OF LOT 14 CONSIDERED PART OF TOWN RIGHT-OF-WAY; PETITION DCI18-0002; PROVIDING FOR SCRIVENER'S ERRORS AND AN EFFECTIVE DATE.

WHEREAS, Lighthouse Island Resort, Inc. filed application to rezone the property from the Downtown zoning district to CPD with amended Master Concept Plan (MCP), in order to add two developed portions of property containing 4,000+/- square feet, and increase the total rooms from 72 to 75, to the Lighthouse Island Resort development located primarily at 1051 Fifth Street in the Town of Fort Myers Beach; and

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

WHEREAS, the property requested to be rezoned and included with the Lighthouse Island Resort are adjacent to the Lighthouse Island Resort property; and

WHEREAS, a public hearing was held before the Local Planning Agency (LPA) on October 9, 2018; and

WHEREAS, at the October 9th, 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 October 9th, 2018 public hearing the LPA recommended approval based on findings and considerations as outlined in the staff report, by a 7-0 vote, subject to certain conditions and deviations; and

WHEREAS, on November 5th, 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 legally advertised and held before the Town Council on November 19th, 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

WHEREAS, this approval is subject to the findings and considerations beginning on packet page 21 through 24, with the exception to Policy 4-E-1, which should read the predisaster buildback policy is being utilized for this development.

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 for with specificity.

CONDITIONS:

Condition 1.

The development of this project must be consistent with the five (5) page Master Concept Plan entitled "Master Concept Plan (CPD) for Lighthouse Island Resort" last revised 3-12-2013, except as modified by the conditions and deviations below. Phase 1-A is not accepted. A modified MCP set shall be submitted for the record and include any conditions of approval and deviations herein.

Condition 2.

The following limitations apply to the project and uses:

a. **Schedule of Uses**

All uses permitted by right in the Downtown zoning district with the following limitations:
Restaurant is limited to 4,300 square feet
Retail is limited to 5,000 square feet
Office is limited to 420 square feet
Hotel/Motel units limited to a maximum of 75 lawfully existing guest units, which total includes the unit for the caretaker and the permanent transfer of all dwelling units from 2639/2641 Estero Blvd. (19-46-24-W3-0020C.0180) for the exceptional circumstance to benefit the Heart of the Island recreational, historic, environmental, and cultural resources of the Town; to be used for increased access and egress, increase public access of the parcel, increase access to public facilities, non-occupied buildings and permanent ownership by the Town.

b. **Site Development Regulations**

Building placement, size, design, and all other property development regulations shall be the same as for the CR (Commercial Resort) zoning district unless approved as deviations as part of the approved zoning resolution.

Condition 3.

Maximum building height may not exceed 37 feet above Base Flood Elevation. No additional building height is approved within this planned development.

Condition 4.

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

Condition 5.

The final design of the building within this planned development must be approved by the Town Manager prior to the approval of any permits. The design must be in substantial compliance with the Town of Fort Myers Beach Comprehensive Plan, the Land Development Code, and all other applicable requirements.

Condition 6.

The 5,000 square feet of retail uses are limited to the ground floor of the Phase 2 building as depicted on the approved Master Concept Plan. The ground floor will have to be dry flood proofed and must be constructed in compliance with Chapter 6 of the Land Development Code.

Condition 7.

At no time will the total number of Hotel/Motel units exceed 75 guest units.

Condition 8.

Prior to approval of a development order, the correct sidewalk easement must be recorded in the Public Records of Lee County, Florida.

Condition 9.

Prior to seeking any building permits for development on this site, the developer must combine the existing platted lots into one lot of record as part of the local development order for this CPD project not later than February 28, 2019.

Condition 10.

Prior to each local development order approval, the developer must provide a current tally of the square feet for each use approved in all previous local development orders.

Condition 11.

The total square feet of existing and proposed buildings must not exceed 58,432 square feet of total building area for buildings used as hotel/motel guest units.

Condition 12.

Any off-site parking, other than the existing approved 5 off-site parking spaces, must be addressed through an amendment to this CPD.

Condition 13.

Any outdoor seating for the restaurant and any sign that will require a deviation must be addressed through an amendment to this CPD.

Condition 14.

This development must comply with all requirements of the 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 Master Concept Plan are subsequently pursued, appropriate approvals will be necessary.

Condition 15.

This CPD project must be constructed to build-out no later than December 31, 2025. A completed building permit and start of construction to the next phase shall occur prior to December 31, 2023.

Condition 16.

All signs containing commercial messages, including those shown for the proposed restaurant in Phase II-A, must be in compliance with LDC Chapter 30, except as approved herein by deviations.

Condition 17.

The deviation for internal illumination of signs is approved only for the existing signs. If the signage is moved, removed, or damaged beyond repair, the deviation will be null and void, and any new signage must comply with the regulations of the LDC.

Condition 18.

Any violation of these conditions shall be subject to a maximum \$500 per incident, per day fine.

DEVIATIONS:

Deviation #1

Deviation 1 requests relief from LDC Section 10-285(a) which requires a minimum connection separation of 125 feet along a local road (Crescent Street); to allow a connection separation of 83 feet from Fifth Avenue. This deviation is unchanged from the previously approved MCP and is APPROVED.

Deviation #2

Deviation 2 requests relief from LDC Section 10-285(a) which requires a minimum connection separation of 125 feet along a local road (Crescent Street); to allow a connection separation of 115 feet from Third Street. This deviation is unchanged from the previously approved MCP and is APPROVED.

Deviation #3

Deviation 3 was from a previous Lee County LDC requirement, and is no longer necessary. The Fort Myers Beach LDC does not regulate building separation within a project site.

Deviation #4

Deviation 4 requests relief from LDC Table 34-3 which requires certain setbacks for structures, buildings, and pavement from the development perimeters; to allow the reduced setbacks of 7.4', 4.5', 3', 2.6', 1.5', 1.4', & 0', from the development perimeter as depicted on the Master Concept

Plan. All of the setbacks were previously approved on the existing MCP for this project. This deviation is APPROVED.

Deviation #5

Deviation 5 requests relief from LDC Table 34-3 which provides the property development regulations for the Fort Myers Beach Commercial Resort (CR) zoning district; to allow street setbacks of 4.5', 2.0', and 0' along San Carlos Boulevard. All of the setbacks were previously approved on the existing MCP for this project. This deviation is APPROVED.

Deviation #6

Deviation 6 requests relief from LDC Section 34-2016 which requires 90 degree parking spaces to be a minimum of 18' in length; to allow 90 degree parking spaces to be 16' in length for Phase 2 parking only. This deviation is APPROVED as depicted on the approved Master Concept Plan and with the condition that these parking spaces will be removed at the time Phase 5 is constructed.

Deviation #7

Deviation 7 requests relief from LDC Section 34-2016(a) which requires parking aisles between parking spaces to be 22' in width to allow the parking aisles to be 20' in width for some areas for the Phase 2 parking only. This deviation is APPROVED as depicted on the approved Master Concept Plan and with the condition that these parking aisles will be removed at the time Phase 5 is constructed.

Deviation #8

Deviation 8 requests relief from LDC Section 10-285(a) which requires a minimum connection separation of 125 feet along a local road (Fifth Avenue); to allow a connection separation of 83 feet from two existing driveways. This deviation is APPROVED.

Deviation #9

Deviation 9 requests relief from the F.A.R. requirements of LDC Section 34-953 and Table 34-3 to allow additional F.A.R. to exceed the total of 66,852 square feet of residential and commercial uses to the extent necessary to develop on-site under building parking. This deviation is APPROVED.

Deviation #10

Deviation 10 requests relief from LDC Section 30-153(b)(1) which allows a maximum of 32 square feet of signage; to allow 126 square feet of total signage for Lighthouse Island Resort. This deviation is APPROVED.

Deviation #11

Deviation 11 requests relief from LDC Section 30-154(c) which allows a maximum height of 5 feet for a monument sign; to allow 25'6" for the Lighthouse "Sign D". This deviation is APPROVED.

Deviation #12

Deviation 12 requests relief from LDC Section 30-154(c) which allows a maximum height of 5 feet for a monument sign and 18 inches for the sign base; to allow the bottom of the sign at 4.1' and an overall height of 10.4' for "Sign A" on Third Street. This deviation is APPROVED, provided that the top of the sign face shall not exceed 8.1', as depicted in Sign Detail "A".

Deviation #13

Deviation 13 requests relief from LDC Section 30-154(c) which allows a maximum height of 5 feet for a monument sign and 18 inches for the sign base; to allow the bottom of the sign at 4.1' and an overall sign height of 9.7' for "Sign B" on Crescent Street." This deviation is APPROVED, provided that the top of the sign face shall not exceed 8.1', as depicted in Sign Detail "B".

Deviation #14

Deviation 14 requests relief from LDC Section 30-154(c) which allows a maximum height of 5 feet for a monument sign and 18 inches for the sign base; to allow the bottom of the sign at 4.1' and an overall height of 9.7' for "Sign C" on Fifth Street. This deviation is APPROVED, provided that the top of the sign face shall not exceed 8.1', as depicted in Sign Detail "C".

Deviation #15

Deviation 15 requests relief from LDC Section 30-154(b) which requires that all signs be set back a minimum 3 foot from any public right-of-way; to allow a 0' setback for "Sign A" located on Third Street. This deviation is APPROVED.

Deviation #16

Deviation 16 requests relief from LDC Section 30-154(b) which requires a minimum 3 foot setback from any public right-of-way; to allow "Sign B" to remain located entirely within the right-of-way at the intersection of Crescent Street and Fifth Street. This deviation is APPROVED.

Deviation #17

Deviation 17 requests relief from LDC Sec. 34-154(a) for internal illumination of the sign faces to remain as existing, where they would otherwise be required to emit light only from the letters and symbols of the sign face, subject to Condition #18. This deviation is APPROVED.

CODIFICATION AND SCRIVENER'S ERRORS.

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 Joanne Shamp and seconded by Council Member Dennis Boback and, upon being put to a roll call vote, the result was as follows:

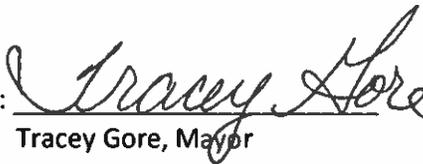
Tracey Gore, Mayor	NAY	Bruce Butcher	AYE
Anita Cereceda	AYE	Joanne Shamp, Vice Mayor	AYE
Dennis Boback	AYE		

DULY PASSED AND ENACTED this 19th day of November 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