

**RESOLUTION 19-03**  
**THE TOWN OF FORT MYERS BEACH, FLORIDA**  
**SEZ 20180029 & VAR 20180030 & VAR 20190009 – LYNN HALL PARK DUNE**  
**WALKOVERS**

**WHEREAS**, Jesse Lavender, authorized agent for Lee County Board of County Commissioners is requesting a special exception and associated variances to construct a four dune walkovers consistent with Section 6-366 of the Town of Fort Myers Beach Land Development Code; and

**WHEREAS**, the applicant has indicated that the STRAP number for the subject property is 24-46-23-W3-00023.0000 and the legal description of the subject property is attached as *Exhibit A*; and

**WHEREAS**, the subject property is located at 950 Estero Boulevard Fort Myers Beach, FL 33931, zoned Community Facilities (CF) and Environmentally Critical (EC) on the Official Zoning Map and Recreation category of the Future Land Use Map of the Comprehensive Plan of the Town of Fort Myers Beach, Florida; and

**WHEREAS**, two public hearings on this matter were legally noticed and held before the Local Planning Agency (LPA) on January 8, 2019 and February 12, 2019; and

**WHEREAS**, at the hearing the LPA gave full and complete consideration to the request of Applicant, recommendations of staff, the documents in the file, and the testimony of all interested persons, as required by Fort Myers Beach Land Development Code (LDC) Sections 34-87 and 34-88.

**WHEREAS**, the Town Council determined it is in the best interest of the Town to approve the request.

**NOW THEREFORE, BE IT RESOLVED** by the Town Council of the Town of Fort Myers Beach, Florida, as follows:

1. **Determination.**

Based upon the recommendations, testimony, and evidence presented by the Town staff, LPA, applicant, and interested parties, the Town Council APPROVES the following:

a. **Special Exception.** (20180029) to construct four dune walkovers in the Environmentally Critical (EC) zoning district consistent with Section 6-366 of the LDC, as depicted on the site plan (Exhibit B) is **Approved**.

b. **Variances.** (20180030 and 20190009)

(1) Variance 20180030 from LDC section 6-366(d)(3) to allow dune walkovers wider than 6 feet for non-residential dune walkovers is **APPROVED**.

- (2) Variance 20190009 from LDC section 6-366(d)(4) to allow dune walkovers to be elevated less than 2 feet above the dune and vegetation is **Approved**.

**RECOMMENDED FINDINGS AND CONCLUSIONS:**

a. Special Exception. In accordance with the requirements of LDC Section 34-88 for granting a special exception, the Town Council make the following findings and reach the following conclusions:

1. There **exist** changed or changing conditions which make approval of the request appropriate.
2. The request **is consistent** with the goals, objectives, policies and intent of the Fort Myers Beach Comprehensive Plan.
3. The request **meets or exceeds** all performance and locational standards set forth for the proposed use.
4. The request **will** protect, conserve, or preserve environmentally critical areas and natural resources.
5. The request **will** be compatible with existing or planned uses and not cause damage, hazard, nuisance, or other detriment to persons or property.
6. The requested use **will** be in compliance with applicable general zoning provisions and supplemental regulations pertaining to the use set forth in the Land Development Code including Chapter 34.

b. Variances. In accordance with LDC section 34-87, the Town Council finds the following:

- (1) That there **are** exceptional or extraordinary conditions or circumstances that are inherent to the property in question, or that the request is for a de minimis variance under circumstances or conditions where rigid compliance is not essential to protect public policy.
- (2) That the conditions justifying the variance **are not** the result of actions of the applicant taken after the adoption of the regulation in question.
- (3) That the variance granted **is** the minimum variance that will relieve the applicant of an unreasonable burden caused by the application of the regulation in question to his property.
- (4) That the granting of the variance **will not** be injurious to the neighborhood or otherwise detrimental to the public welfare.

- (5) That the conditions or circumstances on the specific piece of property for which the variance is sought **are not** of so general or recurrent a nature as to make it more reasonable and practical to amend the regulation in question.

**CONDITIONS OF APPROVAL**

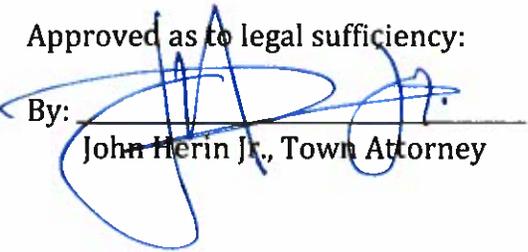
1. *Approval of this special exception does not exempt the subject property from any provisions of the LDC with the exception of the approved variances.*

The foregoing Resolution was adopted by the Town Council upon a motion by Vice Mayor Shamp and seconded by Council Member Cereceda and upon being put to a vote, the result was as follows:

Tracey Gore, Mayor	Aye	Joanne Shamp, Vice Mayor	Aye
Dennis Boback, Council Member	Nay	Anita Cereceda, Council Member	Aye
Bruce Butcher, Council Member	Excused Absence		

DULY PASSED AND ADOPTED THIS 4<sup>th</sup> day of March, 2019.

By:   
Tracey Gore, Mayor

Approved as to legal sufficiency:  
By:   
John Herin Jr., Town Attorney

ATTEST:  
By:   
Michelle D. Mayher, Town Clerk

# LEGAL DESCRIPTION

RESOLUTION NUMBER Z-87-151

## 2334041

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS

OF LEE COUNTY, FLORIDA

RECORD YEMMED - CHARLIE GREEN, CLERK  
BY: H. HENNINGTON, D.C.

10.50  
Bills

REF: 94 | PG 0388

WHEREAS, The Board of County Commissioners has properly filed an application on a project known as Lynn Hall Park for a rezoning from C-1 to CF-2; and

WHEREAS, the subject property is located at 1000 Estero Boulevard, described more particularly as:

LEGAL DESCRIPTION: In Section 24, Township 46 South, Range 23 East, Lee County, Florida:

A tract or parcel of land located in Government Lot 1, Section 24, Township 46 South, Range 23 East, on Estero Island in Lee County, Florida which tract or parcel of land is more particularly described as follows:

From the Northwesterly corner of Block 8 of Business Center, a subdivision according to a map or plat recorded in Plat Book 9, at pages 9 and 10 of the public records of Lee County, run Northwesterly along a prolongation of the Northerly line of said Block 8 for 33.22 feet to the center line of a County Road shown on said plat; THENCE run Southwesterly along the center line of said County Road for 0.15 feet; THENCE run Northwesterly, at an included angle north to west with the center line of said road of 81°24'20", for a distance of 33.37 feet to the intersection of the Southerly line of an existing road 60 feet wide with the Westerly right-of-way line, 33 feet from the center line, of the above mentioned County Road and the POINT OF BEGINNING of the lands herein described. From said point of beginning continue Northwesterly on the last mentioned course for 600 feet; THENCE run Southwesterly, parallel to the aforementioned County Road, for 285 feet more or less to the waters of the Gulf of Mexico; THENCE run Southeasterly along said waters to the above mentioned Westerly right-of-way line of the County Road; THENCE run Northeasterly along said right-of-way line, 33 feet from the center line, for 270 feet more or less to the POINT OF BEGINNING. TOGETHER with all riparian rights thereunto belonging.

WHEREAS, the applicant has indicated the property's current STRAP number is 24-46-23-00-0023.0000; and

WHEREAS, a public hearing was legally and properly advertised and held before the Lee County Planning and Zoning Commission, with full consideration of all the evidence available to the Planning and Zoning Commission; and

WHEREAS, the Lee County Planning and Zoning Commission fully reviewed the matter in a public hearing held on August 3, 1987; and

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HEARING NUMBER 87-8-3

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8-24-87

WHEREAS, a public hearing was legally and properly advertised and held before the Lee County Board of County Commissioners; and

WHEREAS, in the legislative process the Lee County Board of County Commissioners gave full and complete consideration to the recommendations of the staff, the Planning and Zoning Commission, the documents on file with the county, and the testimony of all interested persons.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS, that the Board of County Commissioners does hereby APPROVE a rezoning from C-1 to CF-2.

The foregoing Resolution was adopted by the Lee County Board of County Commissioners upon a motion by Commissioner Donald D. Slisher, and seconded by Commissioner Charles L. Bigelow, Jr. and, upon being put to a vote, the result was as follows:

Porter J. Goss	ABSENT
Charles L. Bigelow, Jr.	AYE
Mary Ann Wallace	ABSENT
Bill Fussell	AYE
Donald D. Slisher	AYE

DULY PASSED AND ADOPTED this 24th day of August, A.D., 1987.

ATTEST:  
 CHARLIE GREEN, CLERK  
 BY: Janet Pines  
 Deputy Clerk

BOARD OF COUNTY COMMISSIONERS  
OF LEE COUNTY, FLORIDA

BY: Bill Fussell  
Chairman

Approved as to form by:  
[Signature]  
County Attorney's Office

RECORDED AND INDEXED  
 CLERK OF CIRCUIT COURT  
 LEE COUNTY FLA.  
 SEP 10 8 19 AM '87

RECEIVED  
 AUG 1987  
 CHARLIE GREEN  
 CLERK CIRCUIT COURT  
 BY: Janet Pines D.C.

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