

RESOLUTION OF THE TOWN COUNCIL OF  
THE TOWN OF FORT MYERS BEACH, FLORIDA  
RESOLUTION NUMBER 04-21

WHEREAS, JKJ Developers, Inc. in ref. to Casa Bahia has requested to rezone 0.2 acres from Residential Conservation (RC) to Residential Planned Development (RPD) to buildback 4 multiple-family dwelling units with deviations from setback and driveway width requirements and to allow an increase in interior space; and,

WHEREAS, the subject property is located at 855 Lagoon Street, Fort Myers Beach, in S24-T46S-R23E, and the applicant has indicated the property's legal description is as follows: LOT 33, BLOCK 'A', UNIT NO. 2 ISLAND SHORES SUBDIVISION, PLAT BOOK 9, PAGE 25, PUBLIC RECORDS, LEE COUNTY, FLORIDA; and,

WHEREAS, a public hearing was held before the Local Planning Agency (LPA) and the LPA gave full consideration to the application and recommended that the Town Council deny the Applicant's request to rezone from RC to RPD; and,

WHEREAS a hearing was held and the council considered the following criteria, whenever applicable:

- a. Whether there exists an error or ambiguity which must be corrected.
- b. Whether there exist changed or changing conditions which make approval of the request appropriate.
- c. The impact of a proposed change on the intent of Chapter 34 of the Town LDC.
- d. The testimony of any applicant.
- e. The recommendation of staff and of the local planning agency.
- f. The testimony of the public.
- g. Whether the request is consistent with the goals, objectives, policies, and intent, and with the densities, intensities, and general uses as set forth in the Fort Myers Beach Comprehensive Plan.
- h. Whether the request meets or exceeds all performance and locational standards set forth for the proposed use.
- i. Whether urban services are, or will be, available and adequate to serve a proposed land use change.
- j. Whether the request will protect, conserve, or preserve environmentally critical areas

and natural resources.

k. Whether the request will be compatible with existing or planned uses and not cause damage, hazard, nuisance, or other detriment to persons or property.

l. Whether the location of the request places an undue burden upon existing transportation or other services and facilities and will be served by streets with the capacity to carry traffic generated by the development; and,

WHEREAS the town council finds that the requested zoning district complies/does not comply with:

- a. The Fort Myers Beach Comprehensive Plan.
- b. Chapter 34, Zoning Districts, Design Standards, and Nonconformities
- c. Any other applicable town ordinances or codes.

NOW THEREFORE BE IT RESOLVED THAT THE APPLICATION IS APPROVED to rezone from RC to RPD with certain deviations, subject to the conditions found on pages 2 & 3 of the Staff Report dated May 26, 2004, which is attached hereto and incorporated herein by reference, with the exception that condition #4 be stricken. The Council also recommends that the deviations be approved with the modifications found at page 3 of above referenced Staff Report.

The foregoing resolution was adopted by the Fort Myers Beach Town Council upon being put to a vote, the result was as follows:

Howard Rynearson	<u>Yes</u>
Don Massucco	<u>Yes</u>
Bill Thomas	<u>Yes</u>
W. H. "Bill" Van Duzer	<u>Yes</u>
Garr Reynolds	<u>Yes</u>

APPLICATION DULY GRANTED this 28th day of June, 2004.

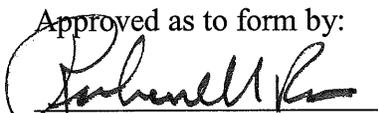
ATTEST:

By:   
 Marsha Segal-George, Town Clerk

TOWN OF FORT MYERS BEACH

By:   
 Bill Thomas, Mayor

Approved as to form by:

  
 Richard V.S. Roosa, Town Attorney

## II. RECOMMENDATION:

Staff recommend **DENIAL** of the Applicant's request to rezone from RC to RPD with certain deviations. Alternatively, if the Local Planning Agency recommends and Town Council moves **APPROVAL** of the RPD, staff recommend the following conditions:

### A. Conditions

1. The development of this project must be consistent with the one (1) page Master Concept Plan ("MCP") entitled "MASTER CONCEPT PLAN CASA BAHIA," stamped RECEIVED MAY 18, 2004 COMMUNITY DEVELOPMENT (**Exhibit "A"**), last revised April 26 2004, except as modified by the recommended conditions and deviations below. The development of this project must also be consistent with the four (4) page set of floor plans and elevations attached thereto. This development must comply with all requirements of the Fort 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.
2. The following limits apply to the project and uses:

#### 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).

#### As Accessory Uses

Residential accessory uses  
Home occupation (no outside help)  
Dock (for sole use by occupants of principal use)

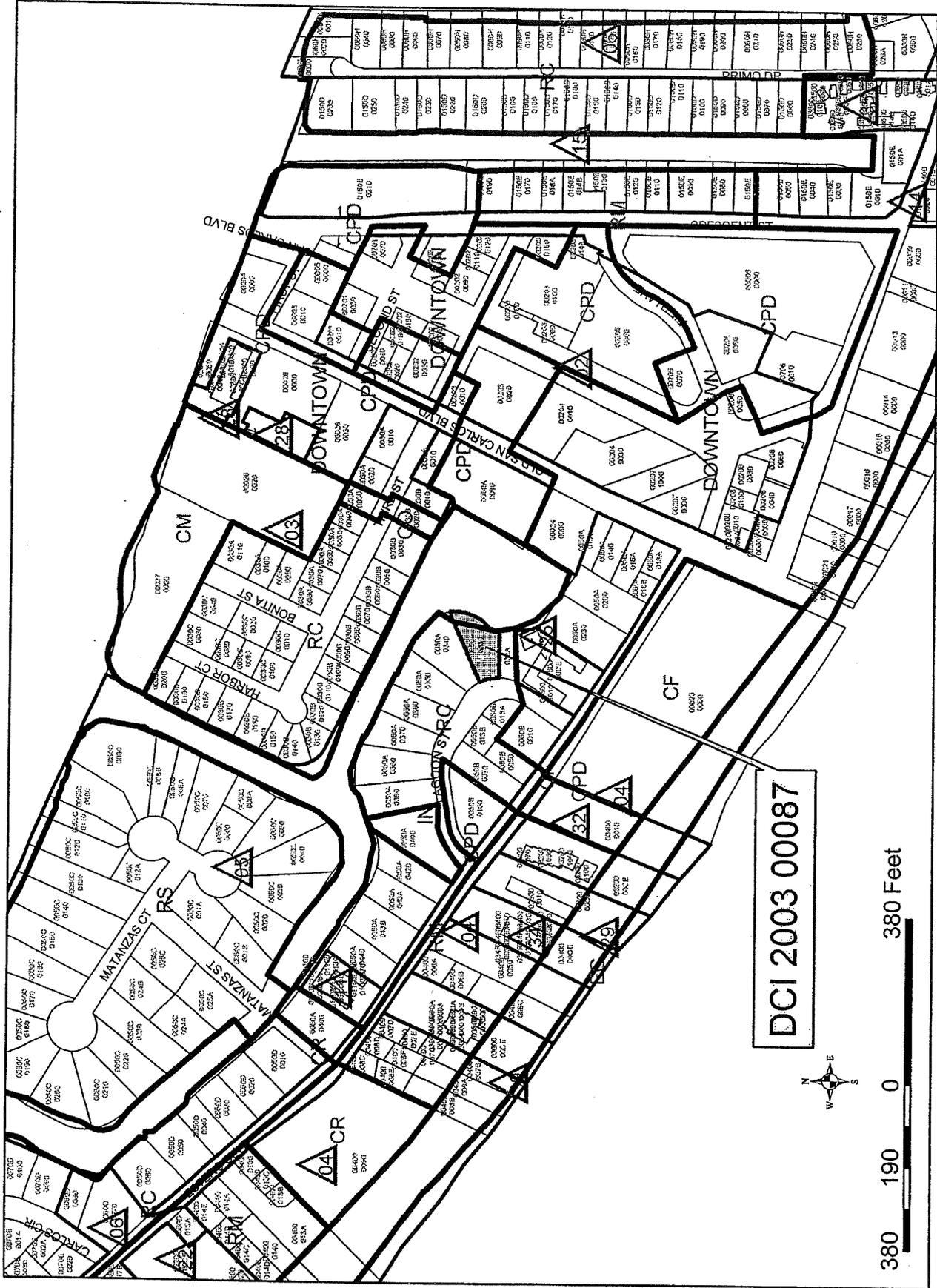
3. The existing tiki hut must be removed at time of demolition of the existing buildings.
4. Prior to receiving any building permits, the developer will install a transit stop acceptable to the Director of Community Development proximate to the southerly intersection of Lagoon Street and Estero Boulevard.
5. Any future conversion from residential dwelling units to hotel/motel or bed and breakfast guest units is strictly limited to an equivalency factor of 1.0.
6. 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.
7. 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").

8. No later than two weeks prior to the public hearing before Town Council, Applicant must revise the MCP to indicate all ground level parking spaces and revise the floor plans and elevations to reflect the reductions in interior square footage proposed by the revised MCP referenced in Condition 1.
- B. **Deviations:** Staff recommend **DENIAL** of the requested RPD, and thereby **DENIAL** of the requested deviations. However, if the LPA decides to recommend that Town Council **APPROVE** the requested RPD, staff recommend that the requested deviation be modified as follows.
1. Deviation from LDC Section 34-943 and Table 34-3, which require a 20-foot side setback for multiple-family buildings on waterfront lots in the RPD zoning district, to allow a side setback of 10 feet on the southerly and northwesterly sides.
  2. Deviation from LDC Section 34-943 and Table 34-3, which require a 25-foot waterbody setback on lots in the RPD zoning district, to allow a waterbody setback of 5.5 feet.
  3. Deviation from LDC Section 34-943 and Table 34-3, which require a 20-foot rear setback on lots in the RPD zoning district, to allow a rear setback of 5.5 feet.
  4. Deviation from LDC Section 34-2013, which requires a 20-foot minimum width at the property line for two-way entrances to parking lots, to allow a minimum width of 12 feet.

Findings and Conclusions:

Based upon an analysis of the application and the standards for approval of planned development zoning, staff recommend **DENIAL** of the requested RPD zoning district and MCP. However, if the LPA recommends **APPROVAL** of the subject request as modified by reduced deviations and as conditioned, staff recommend the LPA make the following findings and conclusions:

1. The requested Residential Planned Development (RPD) zoning district, as conditioned, complies with:
  - a. The Comprehensive Plan;
  - b. LDC Chapter 34;
  - c. all other applicable Town ordinances and codes; and
  - d. the following additional requirements for planned development zoning requests:
2. The proposed use or mix of uses is appropriate at the subject location.
3. Sufficient safeguards to the public interest are provided by the recommended conditions to the concept plan or by other applicable regulations.
4. All recommended conditions are reasonably related to the impacts on the public's interest created by or expected from the proposed development.



SURROUNDING ZONING