

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

**WHEREAS**, Sheila F. Watts has requested to rezone 5335 +/- square feet from Santos to Residential Planned Development (RPD), with deviations, to allow the conversion of 3 dwelling units in an existing multiple-family building to 8 Bed & Breakfast guest units; and,

**WHEREAS**, the subject property is located at 1321 Santos Road, Fort Myers Beach, and the applicant has indicated the property's current STRAP number is: 19-46-24-W4-0060A.0370 and the legal description is as follows: LOT 37, BLOCK 'A', VENETIAN GARDENS SUBDIVISION, PLAT BOOK 6, PAGE 70, PUBLIC RECORDS, LEE COUNTY, FLORIDA ; and,

**WHEREAS**, a public hearing was held before the Local Planning Agency (LPA) and they recommended that the Town Council deny the Applicant's request for rezoning from Santos to Residential Planned Development (RPD), but in the alternative recommend approval of rezoning from Santos to Commercial Planned Development with the conditions and deviations and findings and conclusions found on pages 2-4 of the Staff Report which is dated January 5, 2003 and which is attached hereto and incorporated herein by reference with the following corrections or additions:

Condition 2.b. Site Development Regulations is corrected to state the Commercial Resort zoning district instead of the Residential Multifamily zoning district.

The applicant had proposed a new condition #4 but the LPA finds that the Staff's recommended #4 is more appropriate.

The LPA specifically requests that all right of way use for parking be removed from the Applicant's master concept plan.

The LPA has recommended that Deviation #4 be approved conceptually to allow the Staff and the Applicant to work out the correct rear setback necessary to accommodate existing stairs prior to this case being heard by the Town Council; 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, Zoning Districts.
- 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.

**Findings.** 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 Non-conformities

C. Any other applicable town ordinances or codes.

D. The proposed use or mix of uses is appropriate at the subject location;

E. Sufficient safeguards to the public interest are provided by the recommended conditions to the concept plan or by other applicable regulations;

F. All recommended conditions are reasonably related to the impacts on the public's interest created by or expected from the proposed development.

G. The proposed use meets all specific requirements of the comprehensive plan that are relevant to the requested planned development and the following criteria can be satisfied:

a. The proposed use or mix of uses is appropriate at the subject location;

b. Sufficient safeguards to the public interest are provided by the recommended conditions to the concept plan or by other applicable regulations;

c. All recommended conditions are reasonably related to the impacts on the public's interest created by or expected from the proposed development.

d. The proposed use meets all specific requirements of the comprehensive plan that are relevant to the requested planned development, such as the following:

1. Policies 4-B-4 and 4-C-3 on commercial uses in the "Mixed Residential" category.
2. Policies 4-B-5 and 4-C-3 on commercial rezonings in the "Boulevard" category.
3. Policy 4-C-4 on building heights taller than the standard height limit.
4. Policy 4-C-8 on density transfers.
5. Policy 4-E-1 on pre-disaster buildback.
6. Policy 7-J-2 on traffic impact analyses and potential design improvements that could offset traffic impacts.

NOW THEREFORE BE IT RESOLVED THAT THE APPLICATION IS CONTINUED FOR FURTHER CONSIDERATION/ APPROVED/ APPROVED WITH MODIFICATION/ DENIED

SUBJECT TO THE FOLLOWING conditions and requirements that are necessary for the protection of the health, safety, comfort, convenience and welfare of the general public and that are reasonably related to the request:

SEE ATTACHED

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	_____
Daniel Hughes	_____
Bill Thomas	_____
W. H. "Bill" Van Duzer	_____
Terry Cain	_____

APPLICATION DULY GRANTED/DENIED this 9th day of February, 2004.

ATTEST:

TOWN OF FORT MYERS BEACH

By: \_\_\_\_\_  
Marsha Segal-George, Town Clerk

By: \_\_\_\_\_  
Dan Hughes, Mayor

Approved as to form by:

\_\_\_\_\_  
Richard V.S. Roosa, Town Attorney