

ROETZEL & ADDRESS

A LEGAL PROFESSIONAL ASSOCIATION
TOWN OF
FORT MYERS BEACH

2320 FIRST STREET
SUITE 1000
FORT MYERS, FL 33901-2904
239.338.4207 DIRECT
239.337.3850 MAIN
239.337.0970 FAX
bgrady@ralaw.com
www.ralaw.com

SEP 10 2012

RECEIVED BY

September 6, 2012

Joshua R. Overmyer
Planning Coordinator
Town of Fort Myers Beach
2523 Estero Boulevard
Fort Myers, Florida 33931

Re: Lighthouse Resort CPD Sign Deviation – DCI2012-0003

Dear Mr. Overmyer:

We are in receipt of your August 22, 2012 correspondence. Here are our responses.

1. *LDC Sec. 30-153(b)(1) states that "For a parcel of land containing one (1) or two (2) business establishments, each separate business establishment shall be allowed a maximum of thirty-two (32) square feet of sign area."*

To prepare a response to your letter we reviewed the adoption hearing of April 18, 2011 and the sign ordinance which clarified (as did your question) that the support structure does not need to be included in the square footage of the request – we should only include the sign face. Therefore, we are recalculating the actual sign face square footage for sign #1 and request an extension to provide that square footage within the next two weeks.

2. *Furthermore, LDC Sec. 30-153(b)(3) states that "the maximum sign area provided herein may be allocated among a combination of one (1) or more monument signs, projecting signs, and/or wall signs."*

We are revising our narrative to recognize the new regulations limit a commercial parcel with one or two business establishments to thirty-two (32) square feet per each establishment. We have revised our narrative for the middle of page 2 to states as follows: If Lighthouse Resort is limited to thirty-two (32) square feet or sixty-four (64) square feet that is completely insufficient signage as there can be customers looking for Lighthouse on four separate streets:

- Matanzas Bridge/Estero Boulevard (you can see Lighthouse but there is no access)
- Third Street South
- Crescent Street

- Fifth Avenue.

By the time one is on Fifth Avenue in a vehicle one is:

- Leaving the island,
- Looking for the main entrance to Lighthouse, or
- Looking for the ingress alley to Seafarers

There was an extensive discussion by Council during the adoption of Ordinance 11-01 regarding parcels with multiple street frontages. There was language proposed at the time of the hearing to recognize additional square footage for multiple frontage commercial parcels. But, then there was a concern that parcels at the intersection of a residential street and Estero Boulevard could benefit from this potential revision but placing signage toward a residential area. It was decided that it would be better to give relief to commercial parcels where it did not impact a residential neighborhood.

Lighthouse is in the heart of Fort Myers Beach Pedestrian Commercial Future Land Use Designation – the Downtown which is the most intensive area of the Town. Lighthouse is surrounded by intense commercial uses: a shopping center parcel across Fifth Avenue; the primarily commercial street of Crescent with restaurant, resort, and retail and rentals; Third Street South – rental, resort and commercial parking and finally a bridge which is Estero Boulevard with the highest traffic count in the Town.

3. *The narrative indicates that the "Lighthouse Sign" (Sign #1) qualifies for approval as a historically significant sign, in accordance with LDC Sec. 30-57. If you desire the protection for the sign as a historically significant sign, please submit an application to the Historic Preservation Board to have the sign reviewed and designated as a historic sign. Otherwise, any protections provided to a historic sign cannot be considered as part of this deviation.*

In support of the deviation, we are presenting the uniqueness of sign 1 – an actual lighthouse sign which is a local landmark. We believe good planning should recognize the value of a unique and artistic sign that is part of the Town's historic fabric. But this is not a request at this time under Section 30-57 and believe this answer should clarify our position.

4. *You have argued that this deviation is essentially being reviewed as a variance, so please specifically respond to the 5 required findings that must be made in order to receive a variance. These are found in LDC Sec. 34-87(3) and read as follows:*

Lighthouse Resort was rezoned from C-1 to Commercial Planned Development (CPD) on February 14, 2000 and later amended on June 30, 2003. The sign regulations were adopted by the Town in Ordinance 99-11 in November 1999. The planned development application requires that the property owner expend substantial monies and energy to go through the lengthy and time consuming planned development process. Planned development zoning costs the owner thousands of dollars in the application fee, engineering design, legal fees and in the time and energy allocated to going through this process.

**Exhibit 5-5 and
Supplement PH-D
ADDENDUM TO NARRATIVE
Response to Deviation Criteria**

Lighthouse Resort is a 1.72 acre parcel in the heart of downtown Fort Myers Beach. The property has been in the Kolar family as an attractive resort for many decades. The resort has accommodated the construction of the Sky Bridge, the bifurcation of Fourth Street and the institution of the FEMA height requirements. The Resort contributes to the vision of the Downtown of Fort Myers Beach including accomplishing the "park once" concept. People who stay at the Resort, utilize the park "once" and then are able to enjoy the resort amenities as well as the beach, the Bay and the commercial opportunities offered by Times Square and Old San Carlos.

Signage provides an identification of the Resort as well as directional information on how to find the Resort which has a unique location since construction of the Sky Bridge - not on Estero Boulevard or in Times Square or on Old San Carlos.

When one crosses over the Sky Bridge, one of the first things you see is the "lighthouse" sign of Lighthouse Resort. Although you can see Lighthouse Resort, figuring out how to get there for the first time is not easy in bumper to bumper traffic or when the traffic is moving along at a smooth pace.

Section 30-54 specifically provides that the request for deviation for signage shall be administered and decided in conformance with the requirements for deviations which are set forth in Chapter 34, Section 34-932(b) which authorizes the granting where the health, safety and welfare of the public is maintained.

This is a request for deviations from Section 30-153 (b) for commercial signage to permit certain but not all existing commercial free standing business establishment signs on each street frontage to remain for Lighthouse CPD Resort; and a deviation from the maximum height for sign#2 below and a deviation from the setback for sign #3 below.

The following deviations are requested:

- A deviation from LDC 30-153(b) for commercial signage to permit the following sign area on each street frontage to remain for Lighthouse Resort CPD as follows:

Sign 1 Lighthouse Main Freestanding Identification Sign 45.5 square feet and 18 square feet for the second business for a total of 63.5 square feet per sign face which is the sign on San Carlos/Estero Boulevard (Sky Bridge Touchdown).

Sign 2. Freestanding sign with face of 6 x 4 plus the vacancy sign (5' x 6') for a total of 30 square feet located on Fifth Avenue at the entrance to the Lighthouse Resort office. This is the key sign that serves northbound travellers on Estero Boulevard to make the correct turn onto Fifth Avenue to enter Lighthouse Resort before going over the Sky Bridge to San Carlos Island.

Sign 3 24 square feet (6' x 4') sign face the intersection of Crescent and Fifth Avenue.

Sign 4 24 square feet (Freestanding sign of 6' x 4') plus the vacancy and directional sign to the office on Third Street – 30 square feet.

Sign 5 An internal directional sign for the Tiki bar (2' x 19') mounted under roof and building.

- A deviation from LDC 30-154 (c) which allows a maximum height of 5' for monument signs provided that the bottom of the sign there is no more than 18" above highest adjacent grade to allow the bottom of the sign at approximately 4' 3" with a maximum height of 9' 3" for sign #2 located on Fifth Avenue.
- A deviation from LDC 30-93(b) which provides for a 3' setback to any sidewalk or bike path or street right of way to zero foot setback from the property boundary for sign 4 located on Third Street.

Pictures of each sign where the signs were labeled 1, 2, 3, 4 and 5 were previously filed. The Master Concept Plan illustrating the location of each sign was previously filed.

Lighthouse Resort is not located on Estero Boulevard which is the only arterial thoroughfare in the Town of Fort Myers Beach and it is not located on the water. When originally constructed Lighthouse had direct access from the main travelled way. At the time of construction of the Sky Bridge which removed the main access to the current touchdown point which bifurcated Lighthouse Resort. The grandfather of the current owner was promised a left turn from Sky Bridge touchdown/Estero Boulevard onto Fifth Avenue to access Lighthouse Resort. If Lighthouse Resort could have a direct left turn onto Fifth Avenue, there would be no need for the requested deviation for additional signage area. A left turn from Estero Boulevard onto Fifth Avenue would permit all traffic to immediately find Lighthouse Resort office.

Lighthouse Resort has been located on this site for more than forty years. However, the government has caused dramatic changes with the construction of the Sky Bridge which bifurcated the resort. In addition, Lighthouse Resort has worked with the Town of Fort Myers Beach and has conveyed a sidewalk easement along Fifth Avenue to the Town of Fort Myers Beach. At the time of the original rezoning to CPD and the amendment to the CPD the signs were depicted on the Master Concept Plan. The owner has worked closely with the Town on their redevelopment plan for Lighthouse Resort including the signs. The owner relied on the approval of the Town and submit that the signs were placed and approved by Town Council.

In addition to the file signage pictures, reflecting the necessity for signage as a prerequisite to finding the location of Lighthouse Resort, an additional picture of sign #2 taken from Estero Boulevard turning onto Fifth Avenue. The landscape on the parcel at the intersection of the Sky Bridge and Fifth Avenue which is under separate ownership completely block the visibility of sign #2 for all the northbound traffic on Estero Boulevard attempting to find Lighthouse Resort if lowered to the new height provision.

Upon approval of the setback variance, the owner of Lighthouse Resort intends to lower the Third Street sign (sign #4) and the Crescent Street sign (sign #3) to the required height.

We respectfully submit that by maintaining the signage as requested that this enhances and promotes the health, safety and welfare of the public. Signage enables the travelling public to safely find the location of Lighthouse Resort.

