

RESOLUTION OF THE TOWN COUNCIL OF  
THE TOWN OF FORT MYERS BEACH FLORIDA  
RESOLUTION NUMBER 13-24  
DCI2012-0003 Lighthouse Resort CPD Amendment

WHEREAS, Beverly Grady, Esq., authorized agent for Lighthouse Resort, Inc., is requesting amendment of an existing CPD to add certain deviations from Chapter 30 (Signs) of the Town of Fort Myers Beach Land Development Code; 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 STRAP numbers are 24-46-23-W3-00203.014A, 24-46-23-W3-00203.0090, 24-46-23-W3-00203.0190, 24-46-23-W3-00203.0100, and 24-46-23-W3-00205.0060; and

WHEREAS, the legal description for the subject property is attached as *Exhibit A*; and

WHEREAS, a public hearing on this matter was legally advertised and held before the Local Planning Agency (LPA) on August 13, 2013; 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) Section 34-212.

WHEREAS, a public hearing on this matter was legally advertised and held before the Town Council on October 21, 2013, at which time the Town Council gave full and complete consideration to the request of Applicant, LPA Resolution 2013-008, the 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) Section 34-212.

IT IS HEREBY RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, as follows:

Based upon the presentations by the applicant, staff, and other interested persons at the hearing, and review of the application, LPA Resolution 2013-008 and the standards for rezoning, the Town Council makes the following findings of fact, and reaches the following conclusions:

The Town Council **APPROVES** the applicant's request for an amendment to an existing Commercial Planned Development to add seven (7) deviations from the provisions of LDC Chapter 30 (Signs), subject to the following conditions:

**CONDITIONS OF APPROVAL**

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.
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 72 guest units, which total includes the unit for the caretaker

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.

3. Maximum building height may not exceed 37 feet above Base Flood Elevation. No additional building height is approved within this planned development.
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.
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.
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.
7. At no time will the total number of Hotel/Motel units exceed 72 guest units.
8. The existing cottage on Third Street (adjacent to the Sky Bridge) must be demolished no later than five (5) years from the date of the approval of zoning Resolution 03-23 (June 30th, 2003) – or earlier if the Town moves ahead with improvements to Third Street – as indicated in the letter from Beverly Grady, dated April 18, 2003, attached to the Staff Report as Exhibit J. *Yet to be completed*
9. Prior to approval of a development order, the correct sidewalk easement must be recorded in the Public Records of Lee County, Florida.
10. 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. *Yet to be completed*

11. 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.
12. The total square feet of existing and proposed buildings must not exceed 57,132 square feet of total building area for buildings used as hotel/motel guest units.
13. Any off-site parking, other than the existing approved 5 off-site parking spaces, must be addressed through an amendment to this CPD.
14. Any outdoor seating for the restaurant and any sign that will require a deviation must be addressed through an amendment to this CPD.
15. 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.
16. This CPD project must be constructed to build-out no later than December 31, 2020.
17. *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.*

#### **APPROVED DEVIATIONS**

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 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 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 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 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 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 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 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 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 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 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 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 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 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 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 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**.

### **FINDINGS AND CONCLUSIONS**

In accordance with the requirements of LDC Sections 34-84 and 34-87 regarding consideration of eligibility for a variance, the LPA recommends that the Town Council make the following findings and reach the following conclusions:

1. *Whether there exists an error or ambiguity which must be corrected.*

There is no error or ambiguity to be corrected by the requested amendment to Chapter 30 sign regulations. **APPROVE**

2. *Whether there exist changed or changing conditions which make approval of the request appropriate.*

The major change that has taken place is the adoption by Town Council of a new Sign Ordinance, codified as Chapter 30 of the Land Development Code. Regulations were established for more unified height and setback requirements for monument signs throughout the Town. **APPROVE**

3. *The impact of a proposed change on the intent of Chapter 34.*

The requested amendment to the CPD will not have an impact on the intent of Chapter 34. **APPROVE**

4. *Whether the request is consistent with the goals, objectives, policies and intent, and with the densities, intensities, and general uses set forth in the Fort Myers Beach Comprehensive Plan.*

Resolutions 00-09 and 03-23 found the requested CPD zoning to be in compliance with the Comprehensive Plan. Further, the subject property is located in the Pedestrian Commercial Future Land Use category, the highest-intensity land use category on Fort Myers Beach. **APPROVE**

5. *Whether the request meets or exceeds all performance and locational standards set forth for the proposed use.*

Resolutions 00-09 and 03-23 found the requested CPD zoning to be in compliance with all performance and locational standards, including the sign at Crescent and Fifth Streets that is located outside the project boundaries. **APPROVE**

6. *Whether urban services are, or will be, available and adequate to serve a proposed land use change.*

Urban services are available, as the subject property is already a customer of Beach Water, and sidewalks are in place along Fifth Street and Crescent Street. **APPROVE**

7. *Whether the request will protect, conserve, or preserve environmentally critical areas and natural resources.*

Resolutions 00-09 and 03-23 found the requested CPD zoning to protect, conserve and preserve environmentally critical areas and natural resources. **APPROVE**

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

The requested sign deviations, as conditioned, will be compatible with existing uses, since the signs on the property are existing. **APPROVE**

9. *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.*

The request will not place any burden on the transportation network or other facilities. In fact, the request may help alleviate future traffic burdens by assisting visitors and guests to locate the resort. **APPROVE**

10. *For planned development rezonings, see § 34-216 for additional considerations (below):*
- A. The proposed mix of uses is appropriate at the subject location.*
  - B. Sufficient safeguards to the public interest are provided by the recommended special conditions to the concept plan or by other applicable regulations.*
  - C. All recommended special 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.*

The request is appropriate at the subject location, does not negatively impact the public, and is consistent with the comprehensive plan. **APPROVE**

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

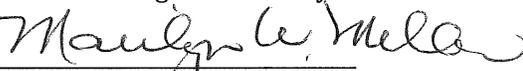
Alan Mandel, Mayor    AYE  
Jo List                    AYE  
Dan Andre                AYE

Joe Kosinski, Vice Mayor    ABSTAIN  
Bob Raymond                AYE

DULY PASSED AND ADOPTED THIS **21st** day of **OCTOBER, 2013**.

By:   
Alan Mandel, Mayor

Approved as to legal sufficiency:

By:   
Fowler White Boggs, P.A.  
Town Attorney

ATTEST:

By:   
Michelle Mayher  
Town Clerk

EXHIBIT A

DESCRIPTION: ( Per Survey )

A tract or parcel of land lying in Blocks 3 and 5 and a portion of vacated Fourth Street and a portion of vacated Fifth Avenue, all lying in BUSINESS CENTER, as recorded in Plat Book 9, at Pages 9 and 10, Public Records of Lee County, Florida and also lying in Section 24, Township 46 South, Range 23 East, Fort Myers Beach, Lee County, Florida, described as follows:

Beginning at the Northeasterly corner of Lot 16, Block 3 of the aforesaid Business Center; thence run N.63°58'26"W. along the Southwesterly right-of-way line of Third Street (50 feet wide) for 137.00 feet; thence run S.26°01'34"W. for 95.00 feet; thence run N.63°58'26"W. for 28.00 feet to a point on the Northwesterly line of Lot 9 of the aforesaid Block 3 and the Southeasterly right-of-way line of Estero Boulevard; thence run S.26°01'34"W. for 65.00 feet to the Southwesterly corner of said Lot 9, Block 3; thence continue S.26°01'34"W. for 286.05 feet to a point on the Northwesterly line of Lot 7 of the aforesaid Block 5; thence run N.67°37'17"E. along the Northwesterly line of Lots 7, 8 and 9 of said Block 5 for 92.74 feet to the Northeasterly corner of said Lot 9, Block 5; thence run S.22°22'43"E. along the Easterly line of said Lot 9 for 80.00 feet to the Southeasterly corner of said Lot 9 and the Northwesterly right-of-way line of Fifth Avenue; thence run N.67°37'17"E. for 28.38 feet; thence run N.46°59'05"E. for 46.47 feet to a point of curvature; thence run Northeasterly for 56.05 feet along the arc of a curve concave Northwesterly, with a radius of 148.00 feet, a delta of 21°42'03". a chord bearing of N.36°08'05"E. and a chord distance of 55.72 feet to a point of reverse curvature; thence run Northeasterly for 102.54 feet along the arc of a curve concave Southeasterly, with a radius of 212.00 feet, a delta of 27°42'49", a chord bearing of N.39°08'22"E. and a chord distance of 101.55 feet to a point of non tangency; thence run N.57°31'39"E. along said non tangent line for 51.33 feet; thence run N.78°21'29"E. for 12.55 feet to a point on the Northeasterly right-of-way line of the aforesaid Fourth Street; thence run S.63°58'26"E. along said Northeasterly right-of-way line for 7.04 feet; thence run N.26°01'34"E. for 50.32 feet; thence run N.89°22'43"E. for 22.03 feet to the Westerly right-of-way line of Crescent Street; thence run N.00°37'17"W. for 22.14 feet to a point on the Southwesterly line of Lot 17 of the aforesaid Block 3; Thence run N.63°58'26"W. along said Southwesterly line of Lot 17 for 78.22 feet to the Southeasterly corner of the aforesaid Lot 16, Block 3; thence run N.26°01'34"E. for 80.00 feet to the point of beginning.

Said tract contains 72,861.7 square feet, more or less, or 1.672 acres, more or less.

Bearings are based on the Southwesterly line of Third Street, Block 3, Business Center as being N.63°58'26"W.