

RESOLUTION OF THE LOCAL PLANNING AGENCY OF
THE TOWN OF FORT MYERS BEACH FLORIDA
RESOLUTION NUMBER 2013-021
DCI2012-0003 – Lighthouse Resort CPD Amendment

WHEREAS, applicant Beverly Grady, authorized agent for Lighthouse Resort, Inc., has requested an additional deviation from LDC Sec. 30-154(a) requirement for illumination of letters through an opaque background to allow the existing internally illuminated signs to remain; and

WHEREAS, the applicant has indicated that the STRAP numbers for the subject property 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 the legal description of the subject property is attached as *Exhibit A*; and

WHEREAS, the subject property is located at 1051 Fifth Street, 1041, 1049 & 1067 Fourth Street, 1030 Third Street, Fort Myers Beach, FL 33931 in the Commercial Planned Development (CPD) zoning category of the Official Zoning Map and the Pedestrian Commercial category of the Future Land Use Map of the Comprehensive Plan of the Town of Fort Myers Beach, Florida; and

WHEREAS, a public hearing on this matter was legally advertised and held before the Local Planning Agency (LPA) on November 12, 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 34-85.

IT IS HEREBY RESOLVED BY THE LPA 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 and the standards for granting rezonings, the LPA recommends the following findings of fact, conditions for approval, and conclusions for consideration by the Town Council:

The LPA recommends that the Town Council **APPROVE/DENY** the applicant's request to amend the existing CPD to include certain deviations from Sec. 30-154(a) of the Town of Fort Myers Beach Land Development Code subject to the following:

RECOMMENDED CONDITION OF APPROVAL:

18. *The deviation for internal illumination of signs is approved only for the existing signs. If the signage is moved, removed, or damaged beyond repair, the deviation will be null and void, and any new signage must comply with the regulations of the LDC.*

RECOMMENDED DEVIATION:

*Deviation 17 requests relief from LDC Sec. 34-154(a) for internal illumination of the sign faces to remain as existing, where they would otherwise be required to emit light only from the letters and symbols of the sign face, subject to Condition #18. The LPA recommends **APPROVAL/DENIAL** of this deviation.*

RECOMMENDED 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/DENY**

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 requirements for monument signs throughout the Town. **APPROVE/DENY**

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/DENY**

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/DENY**

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/DENY**

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/DENY**

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/DENY**

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/DENY**

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/DENY**

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/DENY**

The foregoing Resolution was adopted by the LPA upon a motion by LPA Member _____ and seconded by LPA Member _____, and upon being put to a vote, the result was as follows:

Hank Zuba, Chair	AYE/NAY	Joanne Shamp, Vice Chair	AYE/NAY
Chuck Bodenhafer	AYE/NAY	Al Durrett	AYE/NAY

John Kakatsch
Jim Steele

AYE/NAY
AYE/NAY

Jane Plummer

AYE/NAY

DULY PASSED AND ADOPTED THIS **12th** day of **NOVEMBER, 2013**.

Local Planning Agency of the Town of Fort Myers Beach

By: _____
Hank Zuba, LPA Chair

Approved as to legal sufficiency:

ATTEST:

By: _____
Fowler White Boggs, P.A.
LPA Attorney

By: _____
Michelle Mayher
Town Clerk

MEMORANDUM



To: Local Planning Agency members
From: Josh Overmyer, Planning Coordinator
CC: Walter Fluegel, Community Development Director
Date: November 1, 2013
Re: Lighthouse Resort (DCI2012-0003) additional deviation

The LPA heard the Lighthouse Resort CPD Amendment case on August 13, 2013, and voted 4-2 to recommend approval to the Town Council. That request was approved by Town Council on October 21 with a 5-0 vote.

A few days prior to the Town Council hearing on October 21st, it was discovered that the request language dealt with the dimensional requirements (setback, height and overall sign square footage), but did not deal with the character of the sign face itself. As Staff mentioned in the Staff Report, the applicant intended to request the deviations necessary to accomplish the "do nothing alternative," in other words, to retain its existing signage for the resort in place as it has existed for more than a decade. It was determined that an additional deviation was necessary for the internally illuminated sign faces to remain.

The Land Development Code recognizes that additional deviations may be necessary from time to time in a Planned Development rezoning request that were not initially proposed or contemplated by the applicant. LDC Sec. 34-216(4) provides that "*if the local planning agency concludes that the application omits necessary deviations, it may include the necessary deviations in its recommendation without an additional hearing.*" The LDC does not, however, provide the Town Council with that same ability. Therefore, even though it was known to Town Council, they could not act upon the additional necessary deviation, and have sent that portion of the request back to the LPA for a public hearing and recommendation to the Town Council.

The requested Deviation #17 is from LDC Sec. 30-154(a) which requires that: "*when internally lit signs are permitted for buildings that are not required to meet the commercial design standards, the sign face must be designed so that illumination occurs only on individual letters or symbols. An opaque background must be used so that the internal light only passes through the letters or symbols. This requirement also applies to all signs with changeable copy.*" The applicant's request would allow the existing signs to remain,

which have solid letters and symbols, but allow the light to project through a white background. If the deviation is not approved, the applicant would be required to bring the sign faces into compliance, either by changing the sign face altogether, or by blocking out the background and allowing light to shine through the letters and symbols.



Example of signage at Lighthouse Resort

The applicant has made the argument that lighting is an integral part of being able to find the Lighthouse Resort. During the peak tourist season, daylight hours are at their shortest of the year, requiring lighting to see the resort's signs for a longer period of each day. In addition, the resort is named the "Lighthouse Resort," therefore the applicant contends that lighting is an integral part of the name of the resort.

The LPA and Town Council have recognized the applicant's need for deviations from the typical requirements of the LDC Chapter 30 – Signs, due to its unique location and its situation surrounded by roads, inaccessible from the main route its users will travel. The requested deviation is congruent with the deviations approved in Resolution 13-24.

Staff recommends **APPROVAL** of the applicant's requested Deviation #17, in conjunction with Condition #18:

Deviation #17 requests relief from LDC Sec. 30-154(a) for internal illumination of the sign faces to remain as existing, where they would otherwise be required to emit light only from the letters and symbols of the sign face, subject to Condition #18.

Condition #18. The deviation for internal illumination of signs is approved only for the existing signs. If the signage is moved, removed, or damaged beyond repair, the deviation will be null and void, and any new signage must comply with the regulations of the LDC.

Attachment: Applicant's requested deviation and narrative



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October 29, 2013

VIA E-MAIL (Josh@fortmyersbeachfl.gov)
AND REGULAR U. S. MAIL

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

RE: Amend Lighthouse Island Resort CPD to add Deviation 17
relating to illumination

Dear Mr. Overmyer:

Please find enclosed the requested deviation and the narrative which responds to Supplement PH-D, Additional Required Information for Planned Development application which should be sufficient for the November 12, 2013 Local Planning Agency meeting.

Thank you for your cooperation in this matter.

Very truly yours,

ROETZEL & ANDRESS, LPA

Beverly Grady

BG/ro

Enclosure

cc: Tom Kolar (via e-mail only w/enc.)
Brian Roessler (via e-mail only w/enc.)
Marilyn Miller (via e-mail only w/enc.)

**LIGHTHOUSE ISLAND RESORT
SIGN DEVIATION
NARRATIVE STATEMENT ADDENDUM
DCI2012-0003
OCTOBER 29, 2013**

PART I:

A. There are no comprehensive plan amendments pending that could affect future use of this property.

B. Phasing of construction. The development regarding signs will be a single phase.

C. Comprehensive Plan Compliance; D. Design Standards Compliance; E. Decision-making Compliance and F. Schedule of Deviations or Written Justification. We incorporate all prior Narratives submitted in DCI2012-0003 to be supplemented by the following Narrative:

This is a request for a deviation from Section 30-154 "Standards from Monument Signs, Projecting Signs and Wall Signs in Commercial Districts" (a) regarding internal lighting to retain existing illumination for Signs A, B, C and D. This will be Deviation 17 in DCI2012-0003.

The request is to permit the existing Signs A, B, C and D to remain as part of the Lighthouse CPD signage as originally requested when filed in July 2012. Additional information was filed to supplement that application on September 6, 2012, October 26, 2012, February 25, 2013 and May 30, 2013. As the request moved along, it focused on specific relief rather than the original request of approval of the existing signs regarding square footage, height and the location and the illumination relief was no longer set forth.

Land Development Code Section 34-932(b) provides that deviations are "to allow design flexibility in developing land, deviations from specific provisions of this code may be permitted where it can be demonstrated that the planned development will be enhanced and that the intent of such regulations to protect health, safety and welfare will be served."

Both the LPA and Town Council have recognized the unique situation of being surrounded by four (4) streets and location of Lighthouse Island Resort that was, in effect, relocated through no action of its own from the main street corridor to a block removed from the main commercial corridor.

Recognizing that Lighthouse Island Resort through the prior deviation process removed certain square footage from the request and lowered its height as to certain signs, resulted in the LPA's recommendation of approval and the Town Council's approval of the sign deviations for the existing signage to remain as to the existing location of the signs, the existing square footage of the signs, and the height as approved by the LPA.

This unique location is surrounded by four (4) streets none of which are the main commercial corridor in Fort Myers Beach is the basis for retaining the current illumination of the main Lighthouse sign (Sign D) and the signs on Third Street (Sign A), Crescent Street (Sign B),

and the office sign on Fifth Street (Sign C). The Tiki Bar sign does not require relief as that sign is limited to letters.

Not only is lighting an integral part of being able to find the Lighthouse Island Resort at nighttime but also is an integral part of the actual name of the resort. A "lighthouse" theme requires lighting. The purpose of the request filed by Lighthouse was to retain its existing signage from the time of its relocation from the main entrance onto Old San Carlos from the swing bridge to the bifurcation by the Sky Bridge which then precluded any direct access to the Lighthouse Island Resort. This will complete approval of a unified sign package for the resort which is a valuable asset in the redevelopment of downtown Fort Myers Beach.

Please incorporate the exhibits and narratives filed in support of DCI2012-0003 and the exhibits provided to the LPA and to the Town Council. We respectfully request staff support of the deviation to 30-154(a).