

1. Requested Motion:

Meeting Date: December 2, 2013

Motion to Approve applicant's request to amend the Lighthouse Resort CPD to add an additional deviation from LDC Sec. 30-154(a) to allow the existing internally illuminated signs to remain.

Why the action is necessary:

The existing signage on the property is backlit, with the light emitting from the background. The LDC Chapter 30 requires backlit signs to emit light only through the letters and symbols on the sign face.

What the action accomplishes:

Allows Lighthouse Resort to keep existing backlit signage.

2. Agenda:

- Consent
- Administrative
- Public Hearing

3. Requirement/Purpose:

- Resolution
- Ordinance
- Other Special Events Permit

4. Submitter of Information:

- Council
- Town Staff – Com. Dev.
- Town Attorney

5. Background:

During the October 21, 2013 Public Hearing for the Lighthouse Resort CPD Amendment, Council moved that an additional deviation request go back to the LPA for consideration. On November 12, 2013, the LPA recommended approval of the additional deviation, with a 5-2 vote (Shamp and Kakatsch dissenting).

Exhibits

- Tab a – Draft Town Council Resolution
- Tab b – LPA Resolution 2013-021
- Tab c – Draft LPA Minutes of November 12, 2013
- Tab d – Staff Memo for additional deviation request DCI2012-0003
- Tab e – Applicant's narrative for additional deviation request

6. Alternative Action:

Council denies the requested deviation, and the property owner will be required to bring signs into compliance with LDC Chapter 30 requirements for illumination of signs.

7. Management Recommendations:

Approve per LPA recommendation.

8. Recommended Approval:

Town Manager	Town Attorney	Finance Director	Public Works Director	Community Development Director	Park & Recreation Director	Town Clerk
						

9. Council Action:

- Approved
- Denied
- Deferred
- Other

RESOLUTION OF THE TOWN COUNCIL OF
THE TOWN OF FORT MYERS BEACH FLORIDA
RESOLUTION NUMBER 13-29
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 a deviation from Chapter 30 (Signs) regarding internal illumination of existing signs from Sec. 30-154(a) 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 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 34-212.

WHEREAS, a public hearing on this matter was legally advertised and held before the Town Council on December 2, 2013, at which time the Town Council gave full and complete consideration to the request of Applicant, LPA Resolution 2013-021, 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 **APPROVE/DENY** the applicant's request for an amendment to an existing Commercial Planned Development to add a deviation from LDC Sec. 30-154(a), subject to the following condition:

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.*

DEVIATIONS

*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. This deviation is **APPROVED/DENIED**.*

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 sign standards 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, 03-23 and 13-24 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, 03-23 and 13-24 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, 03-23 and 13-24 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 Town Council upon a motion by Council Member _____ and seconded by Council Member _____, and upon being put to a vote, the result was as follows:

Alan Mandel, Mayor	AYE/NAY	Joe Kosinski, Vice Mayor	AYE/NAY
Jo List	AYE/NAY	Bob Raymond	AYE/NAY
Dan Andre	AYE/NAY		

DULY PASSED AND ADOPTED THIS **2nd** day of **DECEMBER, 2013**.

By: _____
Alan Mandel, Mayor

Approved as to legal sufficiency:

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

ATTEST:

By: _____
Michelle Mayher
Town Clerk

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** 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** 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**

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**

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.*

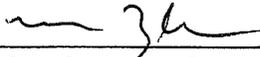
The request is appropriate at the subject location, does not negatively impact the public, and is consistent with the comprehensive plan. **APPROVE**

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

Hank Zuba, Chair	AYE	Joanne Champ, Vice Chair	NAY
Chuck Bodenhafer	AYE	Al Durrett	AYE
John Kakatsch	NAY	Jane Plummer	AYE
Jim Steele	AYE		

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:

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

ATTEST:

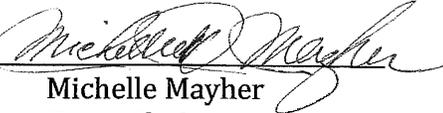
By: 
Michelle Mayher
Town Clerk

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.



**FORT MYERS BEACH
LOCAL PLANNING AGENCY (LPA)
MINUTES**

Town Hall – Council Chambers
2523 Estero Boulevard
Fort Myers Beach, Florida
Tuesday, November 12, 2013

I. CALL TO ORDER

Meeting was called to order at 9:01 a.m. by Chair Zuba; other members present:

Chuck Bodenhafer
Al Durrett
John Kakatsch
Jane Plummer
Joanne Shamp
James Steele
Hank Zuba

LPA Attorney, Marilyn Miller
Staff Present: Walter Fluegel, Community Development Director
Leslee Dulmer, Zoning Coordinator
Josh Overmyer, Planning Coordinator

II. PLEDGE OF ALLEGIANCE

III. INVOCATION

IV. MINUTES

A. Minutes of October 8, 2013

MOTION: Ms. Shamp moved to approve the Minutes for October 8, 2013; second by Mr. Bodenhafer.

Vice Chair Shamp requested her comments on Page 5 be changed to: “Vice Chair Shamp explained the basis for her agreement with the concept of an overlay; how she viewed all short-term and long-term rentals as ‘sleeping units’; her belief that noise levels ~~needed~~ should not be elevated ~~to be consistent~~; commented on the compatibility of communities cited in the Review of Various Noise and Entertainment Regulations for other communities and the hours of entertainment, and supported noise measurement from the property line...”

Motion maker and second agreed with the amendment.

VOTE: Motion approved, 7-0.

V. PUBLIC HEARING

A. DCI2012-0003 Lighthouse Resort CPD Amendment

Chair Zuba opened the Public Hearing.

LPA Attorney Miller swore in the witnesses.

Attorney Beverly Grady, authorized agent for Lighthouse Resort, Inc., explained how when the Applicant appeared before Town Council that it was realized there was an additional deviation that needed to come back to the LPA. She requested an additional deviation from LDC Sec. 30-154(a), the requirement for illumination of letters through an opaque background to allow the existing internally illuminated signs to remain (Signs A, B, C, & D). She requested approval of the Applicant’s request and staff’s recommendation.

Town Attorney Miller pointed out that under the Town’s current sign ordinance back-lit signs were not permitted; and that staff was recommending approval. She suggested the LPA might want to consider limiting it to these particular signs and if the signs were replaced, that the back-lit sign would no longer be permitted.

Planning Coordinator Overmyer noted the Town Attorney’s suggestion was included in the staff memo as a recommended condition of approval.

Planning Coordinator Overmyer presented comments for DCI2012-0003 Lighthouse Resort CPD Amendment (Sign Deviations), deviation from LDC Sec. 30-154(a), the requirement for illumination of letters through an opaque background to allow the existing internally illuminated signs to remain on behalf of the Town of Fort Myers Beach. He reviewed the deviation requested:

- Deviation #17 – 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; staff recommended **approval** of this deviation.

Vice Chair Shamp did not feel the request was for a *de minimis* variance, and questioned why staff did not recommend that the Applicant “*block out the background and allow light to shine through the letters and the symbols*”.

Planning Coordinator Overmyer explained how the Applicant’s request was for a deviation and not a variance.

Chair Zuba questioned if approval would set precedent.

Planning Coordinator Overmyer noted the subject property was a CPD; and that the Town Council had approved all the other requested deviations for the subject property.

Community Development Director Fluegel described what he believed could be one other instance where this had been allowed (i.e. variance at the Beach Theater).

Discussion was held concerning the Applicant’s spot-lit and back-lit signage; and problems with lighting shining up.

Mr. Kolar, Applicant, stated if any of the subject signage had lights shining up that he would make sure that was fixed and change them to lights shining downward on the sign.

Public Comment opened.

No speakers.

Public Comment closed.

Vice Chair Shamp discussed her belief that the request was not the *de minimis*.

Ms. Plummer noted the existing signage was part of a CPD.

Town Attorney Miller pointed out the original CPD did not address signage.

Ms. Grady indicated that the original CPD did not depict the height, the area or the back-lit situation, just the location.

MOTION: Vice Chair Shamp moved that the LPA recommended denial of the Applicant’s request; second by Mr. Kakatsch.

VOTE: Motion denied; 2-5. Messrs. Bodenhafer, Durrett, Steele, and Zuba and Ms. Plummer dissenting.

MOTION: Mr. Steele moved that the LPA recommend approval of the Applicant's request with Condition #18 made by staff; second Mr. Bodenhafer.

VOTE: Motion approved; 5-2. Vice Chair Shamp and Mr. Kakatsch dissenting.

B. Houseboat, LLC

Chair Zuba opened the Public Hearing.

- i. REZ2013-0001
- ii. SEZ2013-0005
- iii. VAR2013-0006

Town Attorney Miller reported she received a communication requesting a continuance of the case.

John Richard, Applicant, requested a continuance to January 14, 2014.

Public Comment opened.

No speakers.

Public Comment closed.

MOTION: Vice Chair Shamp moved that the LPA approve the Applicant's request to continue the hearing on REZ2013-0001, SEZ2013-0005, and VAR2013-0006 to a date certain of the LPA meeting of January 14, 2014; second Ms. Plummer.

Mr. Steele questioned the Applicant as to why he requested a continuance.

Mr. Richard explained the basis for his request as it pertained to zoning issues.

Discussion was held regarding conventional zoning, CPDs, and master concept plans.

VOTE: Motion approved; 7-0.

C. Rusty's Shipwreck

Chair Zuba opened the Public Hearing.

- i. REZ2013-0002
- ii. SEZ2013-0006
- iii. VAR2013-0007

John Richard, Applicant, requested a continuance to January 14, 2014.

Public Comment opened.

No speakers.

Public Comment closed.

MOTION: Ms. Plummer moved that the LPA approve the Applicant's request to continue the hearing on REZ2013-0002, SEZ2013-0006, and VAR2013-0007 to a date certain of the LPA meeting of January 14, 2014; second Mr. Steele.

VOTE: Motion approved; 7-0.

D. Ordinance 13-XX

AN ORDINANCE AMENDING CHAPTER 34, ARTICLE IV, DIVISION 2, IN THE TOWN OF FORT MYERS BEACH LAND DEVELOPMENT CODE, "ACCESSORY USES, BUILDINGS, AND STRUCTURES;" AMENDING SECTION 34-1173, "DEVELOPMENT REGULATIONS;" ADDING A NEW SUBSECTION (3), "HEIGHT" TO PROVIDE THAT ACCESSORY STRUCTURES MUST COMPLY WITH THE HEIGHT LIMITATIONS FOR PRINCIPAL STRUCTURES AND PROVIDING THAT SWIMMING POOLS AND SWIMMING POOL DECKS CANNOT BE HIGHER THAN THE CROWN OF THE ADJACENT ROADWAY, PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

Town Attorney Miller described how the Town Council had discussed and taken action on the issue of elevated pools. She reported the Council had approved that no building permits for elevated pools would be issued at this time, and if a person sought an elevated pool permit they would appear before Town Council on a case-by-case basis to request approval. She reviewed the proposed ordinance which was similar to Sanibel's ordinance; and noted how it would prohibit elevated pools until such time when Council had time to review and make a decision on the matter.

Discussion was held concerning the proposed ordinance; 25' waterway setbacks; FEMA regulations; accessory uses and principal structures; 'zoning in progress'; exceptions for certain accessory structures (i.e. non-roofed structures); swimming pools-at-grade; and setbacks for seawalled, artificial, and natural bodies of water properties as they related to elevated pools.

Community Development Director Fluegel reported Town Council would discuss further the topic of elevated pools at a Work Session on November 18th. He explained how staff presented the issue to Council on August 5, 2013, and discussed 'elevated scale' and view corridors.

Discussion continued regarding the proposed ordinance and FEMA standards related to pools.

Town Attorney suggested the LPA could make a recommendation to Town Council that they consider elevated pools and take into consideration view corridors.

Town of Fort Myers Beach – Local Planning Agency

November 12, 2013

Page 5 of 8

MOTION: Mr. Bodenhafer moved to approve the amendment as written; second by Mr. Kakatsch.

Ms. Plummer questioned if the proposed ordinance included patios, porches, and similar structures.

Community Development Director Fluegel explained if a permit was submitted with a substantially elevated deck, staff would probably request that the application go forward to Council for interpretation.

Discussion was held concerning attached and detached accessory structures; and accessory structures accessible from the house.

Town Attorney Miller suggested changing the proposed ordinance to include "*swimming pools, patios, or decks*".

Discussion continued regarding attached and detached accessory structures and setback requirements.

VOTE: Motion approved; 7-0.

Public Comment opened.

Robin Thurston, 1010 Estero, questioned if they would be on an upcoming LPA agenda.

Community Development Director Fluegel reviewed the status of the working group for the matter of outdoor displays; and estimated that the topic may come before the LPA in January or February.

Public Comment closed.

Mr. Steele questioned a 90-day delay as it pertained to permits for outdoor displays.

Community Development Director Fluegel discussed his belief that the outdoor display permit was extended to January 1st; and would probably have to go back before Council.

VI. LPA MEMBER ITEMS AND REPORTS

Vice Chair Champ – thanked Mr. Durrett, vendors, and people at Santini Plaza for the Paint the Beach event.

Mr. Durrett – hoped the Friends of the Arts would be able to do more similar events in the future.

Mr. Kakatsch – no items or report.

Mr. Bodenhafer – concurred with Vice Chair Champ.

Mr. Steele – no items or report.

Ms. Plummer - no items or report.

Chair Zuba – questioned the status of the flood insurance matter and the Biggert-Waters NFIP Reform Act and how the LPA could address the issue.

Community Development Director Fluegel discussed staff's concerns regarding flood insurance issues such as but not limited to rates, community rating system, 50% Rule, etc. He noted that staff thought it might be worth investigating an incentive elevation program, and would be interested in having a working session with the LPA.

Discussion was held concerning flood insurance issues; and consensus approved staff to schedule a working session for the LPA on the matter.

Discussion was held regarding who should attend the work session; and staff would check on the availability of Council Chambers for next Tuesday.

Discussion continued regarding FEMA regulations, flood insurance, and home insurance rates.

Consensus approved to change the Work Session from next week to December 3rd.

VII. LPA ATTORNEY ITEMS

LPA Attorney Miller – no items or report.

VIII. COMMUNITY DEVELOPMENT DIRECTOR ITEMS

Community Development Director Fluegel - no items or report.

IX. LPA ACTION ITEM LIST REVIEW

No discussion.

X. ITEMS FOR NEXT MONTH'S AGENDA

No discussion.

XI. PUBLIC COMMENT

None – discussed earlier in the meeting.

XII. ADJOURNMENT

Town of Fort Myers Beach – Local Planning Agency

November 12, 2013

Page 7 of 8

MOTION: Motion by Mr. Kakatsch, seconded by Mr. Steele to adjourn.

VOTE: Motion approved, 7-0.

Meeting adjourned at 10:10 a.m.

Adopted _____ With/Without changes. Motion by _____

Vote: _____

Signature

End of document.

DRAFT

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).