

RESOLUTION NUMBER 16-16
RESOLUTION OF THE TOWN COUNCIL OF
THE TOWN OF FORT MYERS BEACH FLORIDA
SEZ2015-0003 Outdoor Seating and Consumption on Premises
For Fish Bowl Restaurant

WHEREAS, Peter M. Maastricht, authorized agent for Ron Yanke, applicant and owner of the subject property, filed applications to obtain a special exception in the DOWNTOWN zoning district for the expanded Fish Bowl Restaurant, comprised of 5,502 square feet +/-, which includes 2,711 square feet +/- of Outdoor Seating for consumption on premises (4 COP – SRX); and, to approve 2,711 square feet of outdoor seating for the expanded Fish Bowl Restaurant located at 1167 Estero Boulevard; and

WHEREAS, Applicant has indicated the STRAP number for the subject property is 19-46-24-W4-0150E.001A, and the subject property is legally described as indicated on attached Exhibit A; and

WHEREAS, the subject property is physically located at 1167 Estero Boulevard, Fort Myers Beach, Florida, 33931 and within the Downtown zoning district; and

WHEREAS, a duly advertised public hearing was held before the Local Planning Agency (LPA) on May 10th 2016; and

WHEREAS, the LPA recommended approval subject to certain conditions after full and complete consideration of the Applicant's request, recommendations of Town staff, documents in the record, and the testimony of all interested persons, as required by Town Land Development Code (LDC) s. 34-84; and

WHEREAS, on June 20, 2016, the Town Council held a duly advertised public hearing to fully consider the request of the Applicant, the recommendations of Town staff and the LPA, the documents in the record, and testimony of all interested persons as required by LDC s. 34-88; and

WHEREAS, at the conclusion of the hearing the Town Council voted to deny the request without prejudice.

NOW THEREFORE, BE IT ORDAINED by the Town Council of the Town of Fort Myers Beach, Florida, as follows:

1. **Determination.**

Based upon the recommendations, testimony, and evidence presented by Town staff, LPA, and interested parties, the Town Council **DENIES, without prejudice**, the request for **Special Exception** (SEZ2015-0003) to permit expanded outdoor

seating area with consumption on premises (4COP - SRX) for the Fish Bowl Restaurant.

The approvals and related conditions previously granted by the Town remain in full force and effect. These approvals as contained in the Town records are identified as follows: FMBCOP2009-0001, FMBUSE2009-0020, SEZ2010-0005, and USE14-0059.

2. Findings and Conclusions of Law.

In accordance with LDC s. 34-88, the Town Council finds as follows:

- (1) There are no changed or changing conditions that make approval of the special exception request inappropriate.
- (2) The request is consistent with the goals, objectives, policies and intent of the Fort Myers Beach Comprehensive Plan.
- (3) The request does meet all performance and locational standards set forth for the proposed use.
- (4) The request will not have negative effects on environmentally critical areas and natural resources.
- (5) The request, as presented, will not be compatible with existing or planned uses, and will cause damage, hazard, nuisance, or other detriment to persons or surrounding property.
- (6) The requested use, as presented, is in compliance with applicable general zoning provisions, but does not meet supplemental regulations pertaining parking to support the proposed use as set forth in LDC chapter 34.

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THE FOREGOING RESOLUTION was adopted by the Town Council upon a motion by Council Member Hosafros, seconded by Council Member Gore and upon being put to a vote the results was as follows:

Dennis Boback, Mayor	aye	Summer Stockton, Vice Mayor	aye
Anita Cereceda	nay	Tracey Gore	aye
Rexann Hosafros	aye		

DULY PASSED AND ADOPTED this 20th day of June, 2016.

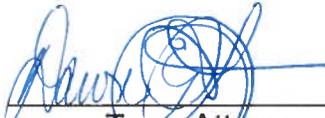
ATTEST:

FORT MYERS BEACH TOWN COUNCIL

By: 
Michelle D. Mayher, Town Clerk

By: 
Dennis C. Boback, Mayor

Approved as to legal sufficiency


Town Attorney

