

RESOLUTION OF THE TOWN COUNCIL OF  
THE TOWN OF FORT MYERS BEACH, FLORIDA  
RESOLUTION NUMBER 97- 10

A RESOLUTION OF THE TOWN OF FORT MYERS BEACH, FLORIDA  
APPROVING / ~~DENYING~~ THE REQUEST FOR CONSUMPTION ON PREMISES.

WHEREAS, Dan Reinfried /Transworld Resorts/Gullwing Convention Resort Hotel filed an application for a Special Permit in the CT (Tourist Commercial) district for the sale or service of alcoholic beverages for consumption on premises with outdoor seating for consumption on premises per Land Development Code Section 34-1264.; and 4-COP-SRX and S-Hotel

WHEREAS, the request for out door seating was withdrawn; and,

WHEREAS, the subject property is located at 6620 Estero Blvd. Fort Myers Beach. Florida and is described more particularly as: A tract or parcel of land situated in the State of Florida, County of Lee, being a part of Government Lot 1, Section 34, Township 46 South, Range 24 East and Further bounded and described as follows:

BEGINNING at point on the Southwesterly right-of-way line of Estero Boulevard, which point is 2,055 feet Southeasterly of, as measured at right angles, the Southeasterly side of Block "T": McPhie Park #2. according to the map or plat thereof recorded in Plat Book 8, Page 59, Public Records of said Lee County, Florida; THENCE S 50 degrees 42' 03" W, parallel with the Southeasterly line of said Block "T" for 533.5 feet to the Point of beginning of the herein described parcel; THENCE N 50 degrees 42' 03" E along the afore described line for 533.5 feet to a point on the Southwesterly right-of-way line of said Estero Boulevard; THENCE Northwesterly along raid right-of-way line for 152.7 feet more or less to an intersection with a line 1,905 feet Southeasterly of, as measured at right angles, me Southeasterly side of the aforesaid Block "T"; THENCE S 50 degrees 42' 03" W parallel with the Southeasterly side of said Block "T" for 515.8 feet; THENCE S 67 degrees 07' 11" W for 216 feet more or less, to the water of the Gulf of Mexico; THENCE Southeasterly along said waters for 157 feet, more or less, to an intersection with a Line that bears S 67 degrees 07' 11" W and passes through the Point of beginning; THENCE N 67 degrees 07' 11" E along said line for 230 feet, more or less, to the Point of beginning. Together with all Riparian and Littoral Rights appurtenant thereto.

WHEREAS. the applicant has indicated the property's current STRAP number is: 34-46-24-W4-00010.0000: and

WHEREAS, a public hearing was legally advertised and held before the Local Planning Agency (LPA) on March 11, and.

WHEREAS, the LPA gave full and complete consideration to the recommendations of the Staff. the documents in the file and the testimony of all interested persons.

WHEREAS, a public hearing was advertised and held on March 17,1997, before the Fort Myers Beach Town Council who gave full and complete consideration to the recommendations of the staff and the Local Planning Agency, the documents on file with Lee County, and the testimony of all interested persons.

NOW, THEREFORE, BE IT RESOLVED BY THE FORT MYERS BEACH TOWN COUNCIL, that the Council APPROVES / ~~DENIES~~ the request WITH/~~WITHOUT~~ conditions.attached.

#### FINDINGS AND CONCLUSIONS:

The following findings and conclusions were made in conjunction with the approval / ~~denial~~ of the requested modification:

1. The applicant did / ~~did not~~ comply with Section 34-1264 (2) b. which places the burden of proof upon the applicant to demonstrate that approval will not have any adverse affect on surrounding properties.
2. That there is / no error or ambiguity in the Land Development Code of Lee Plan which must be corrected by the Special Permit.
3. That the character and nature of the surrounding area make approval of the Special Permit, as conditioned, appropriate/ ~~inappropriate~~.
4. That the Special Permit, as conditioned, is consistent/ ~~inconsistent~~ with the goals, objectives, policies and intent of the Lee Plan, and the densities, intensities and general uses set forth in the Lee Plan and Land Development Code.
5. That the Special Permit, as conditioned, meets / ~~does not~~ meet all performance and locational standards set forth for the proposed use.
6. That there are no environmentally critical areas or natural resources to be adversely affected by the Special Permit, as conditioned.
7. That the Special Permit, as conditioned, will / ~~will not~~ be compatible with existing or planned uses and ~~will~~ / will not cause damage, hazard, nuisance or other detriment to persons or property.
8. That the location of the request ~~places~~ / does not place an undue burden upon existing transportation or other services and facilities and will / ~~will not~~ be served by streets with the capacity to carry traffic generated by the development.

9. That the Special Permit, as conditioned, will / ~~will not~~ be in compliance with all applicable general zoning provisions and supplemental regulations pertaining to the use, as set forth in the Land Use Regulations

**EXPIRATION**

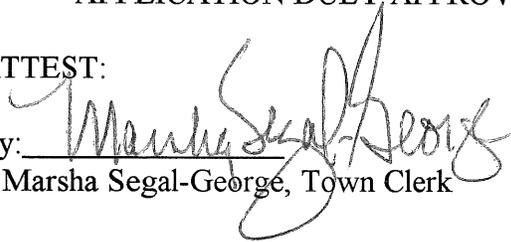
This permit expires 3/17/98 unless operation of the alcoholic beverage establishment has commenced. This may be further extended for six months by the Town Manager if substantial construction has occurred.

The foregoing resolution was adopted by the Fort Myers Beach Town Council upon being put to a vote, the result was as follows:

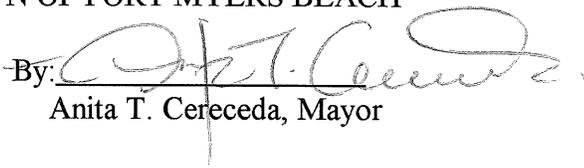
Anita T. Cereceda	<u>aye</u>
Ted FitzSimons	<u>nay</u>
William (Rusty) Isler	<u>aye</u>
Garr Reynolds	<u>aye</u>
Ray Murphy	<u>aye</u>

APPLICATION DULY APPROVED / ~~DENIED~~ this 17th Day of March, 1997.

ATTEST:

By:   
Marsha Segal-George, Town Clerk

TOWN OF FORT MYERS BEACH

By:   
Anita T. Cereceda, Mayor

Approved as to form by:

  
Richard V.S. Roosa, Town Attorney

Condition:

1. The consumption on premises for a 4-COP-SRX beverage license shall be used in conjunction with a Group II restaurant located on the 6<sup>th</sup> floor of the hotel.
2. The consumption on premises for an S-hotel beverage license shall be used in conjunction with a hotel convention hall and meeting rooms.
3. The hours of operation are limited to 7:00 A.M. to Midnight.