

RESOLUTION OF THE TOWN COUNCIL OF
THE TOWN OF FORT MYERS BEACH, FLORIDA
RESOLUTION NUMBER 99- 26

WHEREAS, Murray Carslake has requested that the Town rezone, from Commercial Planned Development (vacated) to Commercial Planned Development, to allow development for the site for a commercial use which may include a parking lot, bank, drugstore, laundry/dry cleaning establishment, professional offices, specialty retail shop, fast food restaurant with drive-thru (take out only), restaurant and consumption on the premises. Development is proposed in two phases; Phase 1 parking lot and Phase 2 development with a commercial building; and,

WHEREAS, the subject property is located at 1999 Virginia Ave. Blvd., Ft. Myers Beach, in S19-T46S-R24E, Lee County, Florida; and,

WHEREAS, the applicant has indicated the property's current STRAP number is: 19-46-24-09-0000B.0020 ; and,

WHEREAS, a public hearing was legally advertised and held before the Local Planning Agency and they recommended that the Town Council reinstate a Master Concept Plan and allow the use as a commercial parking lot with the phasing plan as established in the staff report and with the conditions and deviations as set out on pages 2, 3 and 4 of the Staff Report; and,

WHEREAS a hearing was held and the council considered the following criteria, whenever applicable:

- a. Whether there exist changed or changing conditions that make approval of the request appropriate.
- b. The testimony of any applicant.
- c. The recommendation of staff.
- d. The testimony of the public.
- e. Whether the request is consistent with the goals, objectives, policies and intent of the Town Plan.
- f. Whether the request meets or exceeds all performance and locational standards set forth for the proposed use.
- g. Whether the request will protect, conserve or preserve environmentally critical areas and natural resources.

- h. Whether the request will be compatible with existing or planned uses.
- i. Whether the request will cause damage, hazard, nuisance or other detriment to persons or property.
- j. Whether a requested use will be in compliance with all general zoning provisions and supplemental regulations pertaining to the use set forth in this chapter.

NOW THEREFORE BE IT RESOLVED THAT THE APPLICATION IS APPROVED \DENIED SUBJECT TO THE FOLLOWING conditions and requirements that are necessary for the protection of the health, safety, comfort, convenience and welfare of the general public and that are reasonably related to the request:

SEE ATTACHED

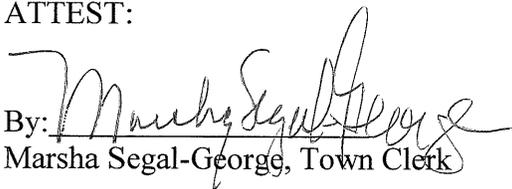
The foregoing resolution was adopted by the Fort Myers Beach Town Council upon being put to a vote, the result was as follows:

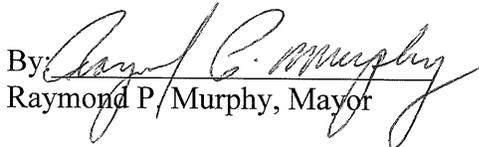
Anita T. Cereceda	<u>aye</u>
Daniel Hughes	<u>aye</u>
John Mulholland	<u>aye</u>
Garr Reynolds	<u>aye</u>
Ray Murphy	<u>aye</u>

APPLICATION DULY GRANTED/DENIED this 21st day of June, 1999.

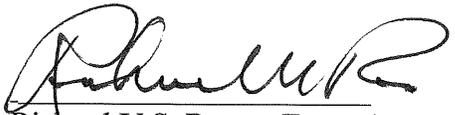
ATTEST:

TOWN OF FORT MYERS BEACH

By: 
Marsha Segal-George, Town Clerk

By: 
Raymond P. Murphy, Mayor

Approved as to form by:


Richard V.S. Roosa, Town Attorney

II. **RECOMMENDATION:**

Staff recommends APPROVAL of the Applicant's request for rezoning from CPD (vacated) to CPD with the following conditions and deviations:

A. **Conditions**

1. The development of this project must be consistent with the Two-page Master Concept Plan entitled "Minor CPD Master Plan for Murray Carslake" dated May 18, 1999 and stamped received June 1, 1999 by the Zoning Counter, except as modified by the conditions below. This development must comply with all requirements of the Lee County 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.

2. The following limits apply to the project and uses:

a. **Schedule of Uses**

Phase I

Parking Lot, commercial

Phase II

Banks and Financial Establishments-Group I
Business Services - Group I
Drugstore
Laundry or Dry Cleaning - Group I
Offices - Medical
Personal Services - Groups I, II & III (except
massage parlors)
Repair Shops - Groups I, II, & III
Restaurants - Groups I and II
Signs, in conformance with LDC, Chapter 30
Specialty Retail -Groups I, II & III
Studio

3. No use within this planned development shall be permitted to have a drive-thru facility.
4. Approval of this zoning request does not address mitigation of the project's vehicular or pedestrian traffic impacts. Additional conditions consistent with the Town of Fort Myers Beach LDC may be required to obtain a local development order.
5. Approval of this rezoning does not give the Developer an undeniable right to receive local development order approval. Future development order approvals must satisfy the allocations for nonresidential uses in the Town of Fort Myers Beach Comprehensive Plan "Boulevard" land use category.
6. This development must comply with all of the requirements of the LDC at the time of local development order approval, except as may be granted by deviations approved as part of this planned development.

7. Development for both Phase I and Phase II must provide pedestrian ways or paths at the time of Development Order. The pedestrian ways or paths must be designed and constructed to provide access from the parking area/building to the sidewalk located on Estero Boulevard.
8. The minimum building setbacks for Phase II must be in accordance with the CN-2 zoning district.
9. Phase II development will require an eight-foot wall to be constructed along the southernmost portion of the proposed fifteen (15) foot buffer along the northern property line. A 100 percent native vegetative screen is required and must consist of shrubs, a minimum of eight feet in height, and trees, a minimum of twelve (12) feet in height, both as measured above the soil line at the time of planting. The total number of shrubs shall be 18 per 100 linear feet and total number of trees shall be 10 per 100 linear feet. Existing native trees and shrubs within the proposed buffer along the northern property line shall be preserved and credited toward the buffer requirements. No fill shall be allowed within the buffer, except for that required for water management purposes.
10. Phase II development will be permitted one access point directly onto Estero Boulevard, but it shall be limited to right-turn out only.
11. Off-street parking for uses permitted in Phase II must be based upon the minimum requirements set forth for the use in the Town of Fort Myers Beach Land Development Code.
12. Phase I, the commercial parking lot is limited to employee parking and/or leased parking; hourly parking is prohibited.
13. Phase I, may be developed as a low turnover parking lot, with alternative surfaces provided that the areas are adequately drained and continuously maintained in a dust free manner. Parking on grass or other unimproved surfaces such as sand or dirt is prohibited.
14. Landscaping for Phase I may be achieved thru an "Alternate Landscape Betterment Plan" with a minimum of 20% open space provided and no less than 100% of the trees installed must be native species. A fence, that is no less than 8 feet in height must be installed no closer than 5 feet from the northern property line. A buffer consisting of a minimum of 5 trees and 18 shrubs per 100 linear feet will be installed in this area. Existing native trees and shrubs shall be preserved and credited toward the buffer requirements.
15. Development of Phase I may be achieved through a Type 12, Limited Review Development Order. The applicant must apply for the Development Order within 30 days of the Town's approval.
16. Lighting must be designed so as to prevent direct glare, light spillage or hazardous interference with automotive and pedestrian traffic on abutting streets and all abutting

properties. Any exterior artificial light in either Phase I or II must comply with the requirements set forth in LDC Chapter 14 for new development.

17. Phasing of the development will occur as follows:
Phase I - from date of approval of this planned development for a period of time not exceeding 5 years, at which time the use of the parking lot will cease. If Phase II, is not constructed the parking lot will be removed and the lot graded and planted with grass.

B. Deviations

Deviation (1) to allow measurement for height to be from finished grade is Withdrawn.

Deviation (2) is a request to deviate from LDC Section 34-935(b)5 from the required 25 foot setback for structures and pavements from the perimeter of development to a public right-of-way to 11 feet on Virginia Ave, 10 feet on Estero Blvd., and 7 feet on the alley. This deviation is hereby APPROVED for Phase II.

Deviation (3) is a request from LDC Section 10-415(b) from the required 10 landscaped strips adjacent to all street rights-of-way, to allow 7 feet (alley) and 11 feet (Virginia Avenue) per the Master Concept Plan. This deviation is hereby APPROVED.

Deviation (4) from LDC Section 10-285 and Table 1 from the connection separation of 660 feet for an arterial road (Estero Blvd.), to allow connection separations 84± feet and 99± feet and from the connection separation of 125 feet for a local road (Virginia Ave.) to 109 feet and 8 feet. This deviation is hereby APPROVED with a right turn out only onto Estero Boulevard. At time of Development Order review the connection must be designed, including signing and pavement marking, to prohibit entering and left-turn exiting traffic.

Deviation (5) from LDC Section 10-285 and Table 1 from the connection separation of 125 feet on a local road (alleyway) to allow a 75 foot separation for access for Phase I. This deviation is hereby APPROVED for Phase I.

Findings and Conclusions:

Based upon an analysis of the application and the standards for approval of planned development rezonings, staff makes the following findings and conclusions:

1. The applicant has proven entitlement to the rezoning by demonstrating compliance with the Town of Fort Myers Beach Comprehensive Plan, the Land Development Code, and other applicable codes and regulations.
2. The requested zoning:
 - a) meets or exceeds all performance and locational standards set forth for the potential uses allowed by the request;