

RESOLUTION OF THE TOWN COUNCIL OF
THE TOWN OF FORT MYERS BEACH, FLORIDA
RESOLUTION NUMBER 01-08

WHEREAS, Edward F. Streit, Tr., has filed a request to rezone from Commercial District (C-1) to Commercial planned Development (CPD) to permit a maximum of 34 hotel units, 2,600 square feet of retail, 2,510 square feet of restaurant, 250 square feet of bar/cocktail lounge, consumption on premises and a caretaker's residence not to exceed 35 feet in height above base flood elevation, on 0.57+/- total acres of land; and,

WHEREAS, the subject property is located at 1130 First Street and the applicant has indicated the property's current STRAP numbers are: 24-46-23-W3-00201.0010; 24-46-23-W3-000005.0000; & 24-46-23-W3-000005.0010; and,

WHEREAS, a public hearing was held before the Local Planning Agency (LPA) on March 13, 2001, and the LPA recommended that the Town Council approve the Applicant's request for rezoning from C-1 Commercial to CPD Commercial Planned Development with the conditions and deviations as recommended on Pages 2-5 of the Staff Report which is dated February 5, 2001, with the following additional changes or conditions:

1. Restaurant and Lounge is approved as a Category III and appropriate parking recognizing the overlay parking deviations shall be required.
2. The applicant may use off-site parking if necessary to provide requisite parking and that parking must be adjacent or within 500 feet of Dockside Inn.
3. Retail parking is approved with a deviation from 1 per 200 square feet to 1 per 600 square feet.
4. The recommendation of the LPA does not address nor rely on any density multiplier for determining hotel use and further recognizes that hotel room density must be addressed separately through the Comprehensive Plan.

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:

The conditions in the attached: Page 2 of 10, Page 3 of 10, and Page 4 of 10, with the additional conditions of:

- . Restaurant and Lounge is approved as a Category III and appropriate parking recognizing the overlay parking deviations shall be required.
- . The applicant may use off-site parking if necessary to provide requisite parking and that parking must be adjacent or within 500 feet of Dockside Inn.
- . Retail parking is approved with a deviation from 1 per 200 square feet to 1 per 600 square feet.
- . The approval does not address nor rely on any density multiplier for determining hotel use and further recognizes that hotel room density must be addressed separately through the Comprehensive Plan.
- . A landscape plan must be submitted for review and approval prior to the issuance of the development order.

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

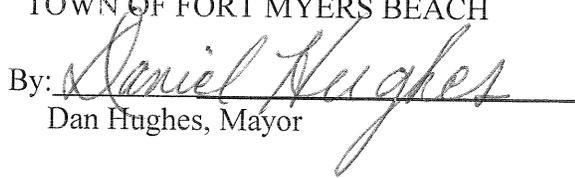
Dan Hughes	aye
Garr Reynolds	nay
Ray Murphy	aye
Terry Cain	aye
Howard Rynearson	aye

APPLICATION DULY GRANTED/~~DENIED~~ this 9th day of April, 2001.

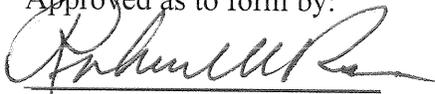
ATTEST:

By: 
 Marsha Segal-George, Town Clerk

TOWN OF FORT MYERS BEACH

By: 
 Dan Hughes, 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 Commercial C-1 to Commercial Planned Development CPD with the following conditions and deviations:

A. Conditions

1. The development of this project must be consistent with the three page Master Concept Plan entitled "Dockside Inn", prepared by Stephen M. Davis, Architect, page 1 of 3 stamped received September 13, 2000, and pages 2 & 3 of 3 stamped received December 8, 2000, last revised November 28, 2000, except as modified by the conditions below. This development must comply with all requirements of the Fort Myers Beach 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

Accessory Uses and Structures
Administrative Office (Hotel)
Bar/Cocktail Lounge
Caretaker's Quarters
Consumption on Premises - Indoor Only
Essential Services
Hotel/Motel
Recreation Facilities, Commercial Group I
Restaurant Groups I & II
Signs in Accordance with LDC Chapter 30
Specialty Retail Groups I & II

b. Site Development Regulations

Maximum Uses

Hotel/Motel	34 units (12 business, 22 efficiency)
Retail	2,600 Square Feet
Restaurant	2,510 Square Feet
Bar/Cocktail Lounge	250 Square Feet
Caretaker's Quarters	1,200 Square Feet

Setbacks As shown on approved Master Concept Plan

Maximum Height 35 feet above base flood elevation

3. To ensure quality, pedestrian friendly walkways, street trees, including sabal palm, coconut palm and other native vegetation, must be placed along Old San Carlos Boulevard and other public rights-of-way consistent with the

proposed improvements to Old San Carlos Boulevard. Street landscaping in irrigated planters must be placed where minimal disturbance from overhead obstructions would be present. These improvements will be incorporated into the Development Order design.

4. Prior to issuance of a local development order, the property owner must enter into a written agreement with the Town of Fort Myers Beach opting into the Downtown Overlay Zoning District.
5. Approval of this zoning request does not address mitigation of the project's vehicular or pedestrian traffic impacts. Additional conditions consistent with the Fort Myers Beach LDC may be required to obtain a local development order.
6. 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 "Pedestrian Commercial" land use category.
7. 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.

B. Deviations

- A. Deviation from LDC Section 34-1145(d) Table 2 which requires a street setback of 25' to allow a street setback of 0' on First and Second Streets. Staff recommends **APPROVAL** of the deviation with the condition that the 0' street setback is limited to the retail and hotel portions of the building while the lobby and restaurant will be setback 12' from the First Street right-of-way, as shown on the approved MCP.
- B. Deviation from LDC 34-1145(d) Table 2 which allows a maximum lot coverage of 60% to allow a maximum lot coverage of 100%. Staff recommends **APPROVAL** of the requested deviation.
- C. Deviation from LDC Section 34-1802(4) which establishes the density multiplier for dwelling units to motel units at 1:1, to allow 34 hotel/motel units. Staff recommends **APPROVAL** of this deviation with the condition that the approved number of units must be consistent with the Comprehensive Plan at the time of the local development order. If the 34 hotel/motel units are not consistent, then the number of hotel/motel units allowed will be equivalent to the maximum number of units permitted in the Old San Carlos portion of the Downtown Overlay district as allowed by the Comprehensive Plan at the time of the local development order. In no case will the total number of hotel/motel units exceed a total of 34 rental units.
- D. Deviation from LDC Section 34-1802(6) which establishes the maximum floor area for efficiency hotel units at 550 SF to allow a maximum floor area of 1270 SF. Staff recommends **APPROVAL** of the requested deviation.

- E. Deviation from LDC Section 34-1802(3)a which requires 39 parking spaces for the requested uses, to allow 38 parking spaces. Staff recommends **APPROVAL** of the requested deviation with the condition that parking spaces #36, 37 and 38 be clearly marked "Employee parking only", the restaurant must be located within the same building as the hotel and provided primarily for the employees and customers of the hotel as required in LDC Section 34-2020.
- F. Deviation from LDC Section 10-285, Table 1 which requires an intersection connection separation of 125' on local roadways to allow connection separation distances of approximately 75', 81' and 41'. Staff recommends **APPROVAL** of the requested deviations.
- G. Deviation from LDC Section 34-935(b) which requires a 15' building setback from the perimeter property line to allow an 8' setback on the east property line and a 0' setback on all other property lines. Staff recommends **APPROVAL** of the deviation with the condition it is limited to the buildings shown on the approved MCP.

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 Fort Myers Beach Comprehensive Plan, the Land Development Code, and other applicable codes and regulations.
2. The requested zoning, as conditioned:
 - a) meets or exceeds all performance and locational standards set forth for the potential uses allowed by the request;
 - b) is consistent with the densities, intensities and general uses set forth in the Comprehensive Plan;
 - c) is compatible with existing or planned uses in the surrounding area; and
 - d) will not adversely affect environmentally critical areas or natural resources.
3. Approval of the request will not place an undue burden upon existing transportation or planned infrastructure facilities and the site will be served by streets with the capacity to carry traffic generated by the development.
4. Urban services, are, or will be, available and adequate to serve the proposed land use.
5. The proposed use or mix of uses is appropriate at the subject location.