

RESOLUTION OF THE TOWN COUNCIL OF
THE TOWN OF FORT MYERS BEACH, FLORIDA
RESOLUTION NUMBER 02- 17

WHEREAS, Lawrence & Karen Drebes, the property owner, filed an appeal of an administrative interpretation that the floor plan of the proposed single-family dwelling to be constructed at 5850 Estero Blvd. represents the layout of a bed and breakfast; and,

WHEREAS, the applicant has indicated the property's current STRAP number is: 33-46-24-W2-0030C.0050; 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 and recommends that the Town Council uphold the Staff's finding that the proposed building design could represent the layout of a bed and breakfast but acknowledges the applicant's intent to build a single family home according to the design that has been marked as Exhibit 1 and which is attached hereto and incorporated herein by reference. The LPA also accepts the statement of intent made by the applicant that the structure to be built has been designed to serve the needs of a large family but its intended use is as a single family home. The LPA further acknowledges and supports the applicant's offer to record a covenant that would run with the land in the public record that would state the applicant's recognition that the property is zoned RS-1 and that as long as it is zoned RS-1, the applicant acknowledges that it is therefore restricted to a conventional single family residence and may not be used as a bed and breakfast or other commercial motel/hotel purpose; and,

WHEREAS, the Town Council in reviewing such an appeal shall consider only information submitted in the administrative interpretation process and shall review only whether the proper standards set forth in this plan have been applied to the facts presented such as:

1. Interpretations which would be confiscatory, arbitrary, capricious, unreasonable, or which would deny all economically viable use of property shall be avoided;
2. Interpretations should be consistent with background data, other policies, and objectives of the plan as a whole; and
3. Interpretations should, to the extent practical, be consistent with comparable prior interpretations,

with no additional evidence to be considered by the Town Council; and,

WHEREAS, the Council may adopt the administrative interpretation being appealed, or may overrule it, with a written decisions to be rendered by the Town Clerk in writing within thirty days after the date of the hearing.

IT IS THE FINDING of this council that this appeal is of a nature properly brought to the Council for decision and considering the intent of the ordinance being interpreted and the effect the ruling will have when applied generally, the Council in reviewing the interpretation finds:

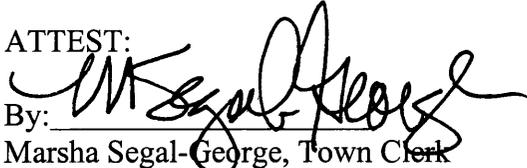
The Staff's finding that the proposed building design could represent the layout of a bed and breakfast is justified, but acknowledges the applicant's intent to build a single family home and offer to record a covenant that would run with the land in the public record that would state the applicant's recognition that the property is zoned RS-1 and that as long as it is zoned RS-1, the applicant acknowledges that it is restricted to a conventional single family residence and may not be used as a bed and breakfast or other commercial motel/hotel purpose; the plans are approved subject to the Town Attorney's acknowledgment of a properly recorded covenant.

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

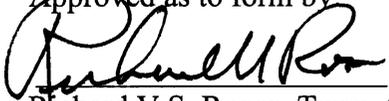
Howard Rynearson	<i>aye</i>
Daniel Hughes	<i>aye</i>
Bill Thomas	<i>aye</i>
W. H. "Bill" Van Duzer	<i>aye</i>
Terry Cain	<i>aye</i>

APPROVED this 8th day of April, 2002.

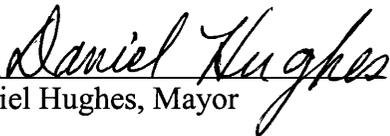
ATTEST:

By: 
Marsha Segal-George, Town Clerk

Approved as to form by:


Richard V.S. Roosa, Town Attorney

TOWN OF FORT MYERS BEACH

By: 
Daniel Hughes, Mayor

Recording of approved covenant
on 9-17, 2002. 2003


Richard V.S. Roosa, Town Attorney

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NOW THEREFORE, to fulfill a condition of the approval of the plans for their new single family home as required by the aforesaid Resolution of the Town Council of the Town of Fort Myers Beach, the Drebes Trust states as follows:

1. The foregoing recitals are true and correct.
2. The Drebes Trust hereby agrees that as long as the Subject Property is zoned RS-1, the new single family residence the Drebes Trust will construct on the Subject Property will be used for only such purposes as are permitted in the current RS-1 zoning of the Subject Property, which do not include a bed and breakfast establishment.
3. This Covenant is executed as required by the Town in Resolution Number 02-17 approving the Drebes Trust's administrative appeal, but it does not preclude any future change in zoning of the Subject Property, if such change is ever requested by the Drebes Trust, or its successors and assigns, and approved by the Town of Fort Myers Beach, or any successor local governing authority.
4. This Covenant shall be enforceable by the Town of Fort Myers Beach.

IN WITNESS WHEREOF the Drebes Trust sets its hand and seal on the date first above written.

Witnesses as to Both Trustees:

Drebes Family Trust dated March 6, 1988

Josephine H. Dwyer
1st Witness

Josephine H. Dwyer
Printed Name

Kelly Allen
2nd Witness

KELLY ALLEN
Printed Name

By: Lawrence T. Drebes, Jr.
LAWRENCE T. DREBES, JR., Trustee

By: Karen M. Drebes
KAREN M. DREBES, Trustee

(Notaries on Following Page)

OR BOOK 03700 PAGE 4791

STATE OF OREGON)
) SS.
COUNTY OF CLATSOP)

The foregoing instrument was acknowledged before me on this 5th day of AUGUST, 2002, by LAWRENCE T. DREBES, JR., as Trustee of the Drebes Family Trust dated March 6, 1988. He is personally known to me or who has produced OREGON DRIVER'S LICENCE as identification and who did not take an oath.

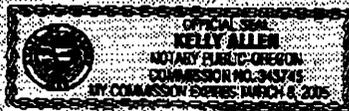


(SEAL/STAMP)

Kelly Allen
NOTARY PUBLIC
KELLY ALLEN
PRINTED NOTARY NAME
343745 MARCH 6, 2005
COMMISSION NUMBER & EXPIRATION DATE

STATE OF OREGON)
) SS.
COUNTY OF CLATSOP)

The foregoing instrument was acknowledged before me on this 5th day of AUGUST, 2002, by KAREN M. DREBES, as Trustee of the Drebes Family Trust dated March 6, 1988. She is personally known to me or who has produced OREGON DRIVER'S LICENCE as identification and who did not take an oath.



(SEAL/STAMP)

Kelly Allen
NOTARY PUBLIC
KELLY ALLEN
PRINTED NOTARY NAME
343745 MARCH 6, 2005
COMMISSION NUMBER & EXPIRATION DATE