

RESOLUTION OF THE TOWN COUNCIL OF
THE TOWN OF FORT MYERS BEACH FLORIDA
RESOLUTION NUMBER 11- 06

Merlo's Bar & Grill

WHEREAS, applicant Merlo's Bar and Grill, LLC. has requested a Special Exception in the DOWNTOWN zoning district to allow consumption-on-premises of alcoholic beverages in an outdoor seating area within 500 feet of a dwelling unit under separate ownership; and

WHEREAS, the subject property is located at 1365 Estero Boulevard, Fort Myers Beach, FL 33931; and

WHEREAS, the applicant has indicated that the STRAP for the subject property is 19-46-24-W4-0060B.0120 and the legal description of the subject property is Lot 12, Block B, Venetian Garden Subdivision, according to the plat thereof recorded in Plat Book 6, Page 70 in the Public Records of Lee County Florida; and

WHEREAS, a public hearing on this matter was legally advertised and held before the Local Planning Agency (LPA) on May 10, 2011 at which time the LPA gave full and complete consideration to the request of the Applicant, recommendations of staff, the documents in the file, and the testimony of all interested persons, as required by Fort Myers Beach Land Development Code (LDC) Section 34-88; and

WHEREAS, at its meeting of May 10, 2011 the LPA instructed Town staff to bring this application forward to Town Council without the necessity of having approved LPA minutes; and

WHEREAS, a public hearing on this matter was legally advertised and held before the Town Council on June 6, 2011, at which time the Town Council gave full and complete consideration to the request of Applicant, LPA Resolution 2011-07, the recommendations of staff, the documents in the file, and the testimony of all interested persons, as required by Fort Myers Beach Land Development Code (LDC) Section 34-88.

IT IS HEREBY RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, as follows:

Based upon the presentations by the applicant, staff, and other interested persons at the hearing, and review of the application, LPA Resolution 2011-07 and the standards for granting special exceptions, the Town Council makes the following findings of fact, and reaches the following conclusions:

The Town Council **APPROVES** the applicant's request for a special exception in the DOWNTOWN zoning district to allow consumption-on-premises of alcoholic beverages in an outdoor seating area within 500 feet of a dwelling unit under separate ownership, with such approval subject to the following conditions:

CONDITIONS OF APPROVAL:

1. *The area of the subject property used for outdoor consumption on premises must be confined entirely to the 470± square foot existing deck, illustrated by **Exhibit C**.*

2. *Sales, service, and consumption of alcoholic beverages outdoors must not begin earlier than 7:00 am and must end no later than 2:00 am each day.*
3. *Music is permitted, subject to the requirements of the Town noise ordinance.*
4. *Signage must be installed at Norm's Parking lot indicating which spaces are reserved exclusively for the subject property and the owner shall obtain and record a parking easement for those spaces.*
5. *The business owner shall be required to recycle all recoverable material generated by its business.*
6. *All signage must be in compliance with the Land Development Code.*

FINDINGS AND CONCLUSIONS:

In accordance with the requirements of LDC Sections 34-84 and 34-88 regarding consideration of eligibility for a special exception, the Town Council makes the following findings and reaches the following conclusions:

1. Changed or changing conditions exist that make the requested approval, as conditioned, appropriate:

The Comprehensive Plan notes in the Consensus on Commercial Uses: "The present concentration of commercial uses in the Times Square area is good for Fort Myers Beach. Despite severe congestion during peak season and a general seediness that had been developing, Times Square has always provided an urban beach environment that does not exist anywhere else in Lee County, and which cannot be easily duplicated because of today's floodplain regulations. The recent CRA improvements have sparked a renewed interest in Times Square among most islanders and has spurred a healthy movement to upgrade existing buildings."

As contemplated in the Comprehensive Plan, the Times Square/Downtown area has continued to emerge as a vibrant urban core for the Town, and as such the area can support a more intensive variety of uses which is consistent with the applicant's request

2. The requested special exception, as conditioned, is consistent with the goals, objectives, policies, and intent of the Fort Myers Beach Comprehensive Plan:

The subject property is located in what the Comprehensive Plan terms the Downtown Core. The Comprehensive Plan describes a vision for this area that "boasts a revitalized entertainment area with tree-shaded outdoor cafes, pedestrian streets, and an 'Old Estero Island' character to the buildings." The applicant's request for outdoor consumption on premises is in fitting with the vision for the area as described above.

Further, in both the Community Design Element and the Future Land Use Element, the Comprehensive Plan describes a vision for the Downtown Core/Times Square area as a "nucleus of commercial and tourist activities" with pedestrian oriented commercial uses that enhance the experience of both the resident and visitor. Again,

the applicant's request is in keeping with this vision, by providing an additional venue for the enjoyment of the unique outdoor environment of Fort Myers Beach.

3. The requested special exception, as conditioned, **meets or exceeds** all performance and locational standards set forth for the proposed use.

The very nature of this application indicates that the requested use of outdoor consumption on premises is not a use allowable by right on the subject property. It is however, a use permitted by special exception. (See Section 34-1264(a)(2)).

The applicant's request is appropriate at this site due to the subject property's location in the Downtown Core Area, and is in keeping with the goals, objectives, policies and intent of the Comprehensive Plan which describes a vibrant tourist commercial district in the Downtown Core.

4. The requested special exception, as conditioned, **will** protect, conserve, or preserve environmentally critical areas and natural resources:

The proposed outdoor consumption application will have virtually no negative effects on the environmentally critical areas and natural resources of Fort Myers Beach as the subject property and proposed deck in question are located in an established commercial district, landward of the coastal construction line(s) and far from environmentally critical areas and sensitive natural resources.

5. The requested special exception, as conditioned, **will** be compatible with existing or planned uses and **will not** cause damage, hazard, nuisance or other detriment to persons or property:

The subject property and the area immediately surrounding it, is within the Pedestrian Commercial future land use category and the Comprehensive Plan's vision of this area does not require that it be transformed from an intensively commercial area into a primarily residential district. It possesses a vibrant mix of uses and such Staff feels the applicant's request is compatible and appropriate within its neighborhood.

6. The requested special exception, as conditioned, **will** be in compliance with the applicable general zoning provisions and supplemental regulations pertaining to the use set forth in LDC Chapter 34:

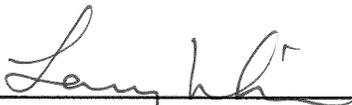
The outdoor consumption on premises of alcoholic beverages on the subject property will be required to comply with the applicable standards in the Fort Myers Beach LDC including but limited to 34-678(7)(e)(1), 34-678(7)(e)(4), and 34-1264. Staff recommends finding that the requested use, as conditioned, is in compliance with applicable general zoning provisions and supplemental regulations pertaining to the use set forth in LDC Chapter 34.

Upon a motion made by Councilmember List and seconded by Councilmember Kosinski, this Resolution was

DULY PASSED AND ADOPTED ON THIS 6TH DAY OF June, 2011.

Larry Kiker, Mayor AYE
Alan Mandel AYE
Joe Kosinski AYE

Bob Raymond, Vice Mayor AYE
Jo List AYE

By: 
Larry Kiker, Mayor

ATTEST:
By: 
Michelle D. Mayher, Town Clerk

Approved as to form and legal sufficiency:

By: 
FOWLER WHITE BOGGS
Town Attorney

Project Scope
 The scope of this project is to add a Handicap ramp to deck and to add a Handicap bathroom on the interior of the building.

General Notes

1. General Contractors shall field verify all dimensions and site conditions before commencing work.
2. As a minimum, all work shall conform to the 2004 Edition of the Florida Building Code.
3. All work shall conform to applicable state and county codes.
4. All work shall conform to the state of Florida handicap law, FS 76023 (10) & the Florida Building Code Chapter 11.
5. All structural systems and sub-components are designed to withstand 130 M.P.H. wind speed as per section 1609 of the 2004 Florida Building Code.
6. All work shall conform to the 2003 NFPA Life Safety Code 101.

Handicap Accessibility

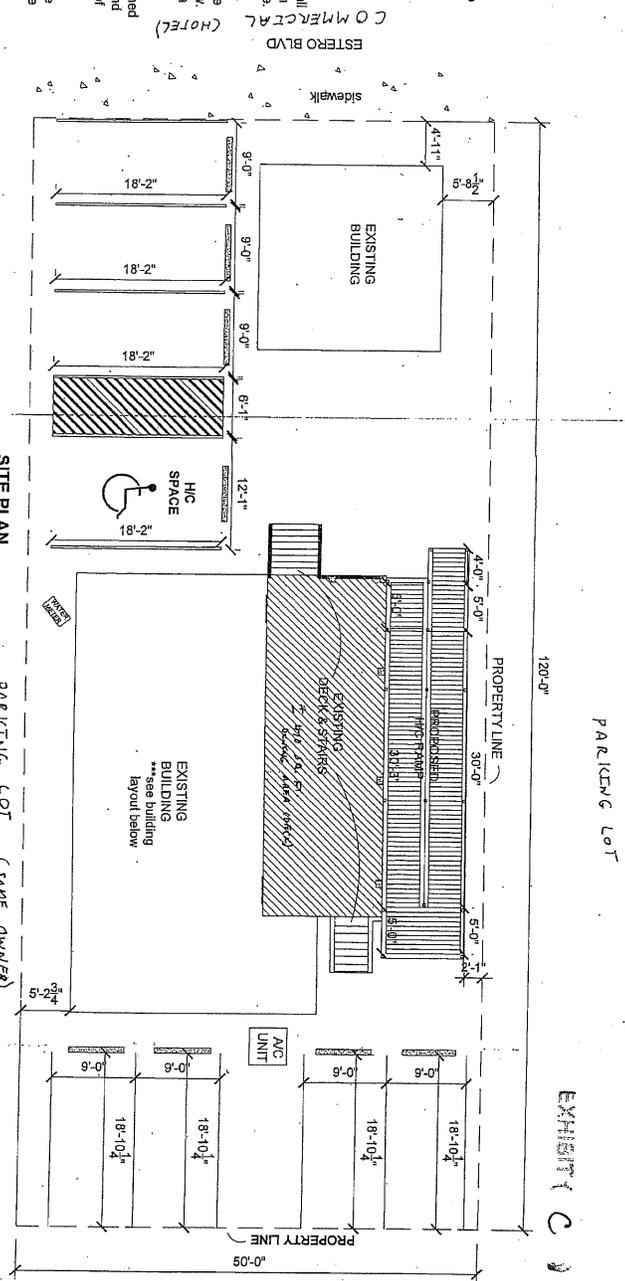
Requirements for accessibility:

1. Florida Building Code, 2004 edition - Chapter 11.

Wind Design:

This building/ structure has been designed in accordance with section 1609 of the 2004 Florida Building Code for gravity and pressures generated by a wind velocity of 130 MPH, 3 second gust.

- Basic Wind Speed: 130 MPH (3 second Gust)
- Importance Factor: 1.0
- Exposure: B
- Method of Design: FBC 2004, section 1609



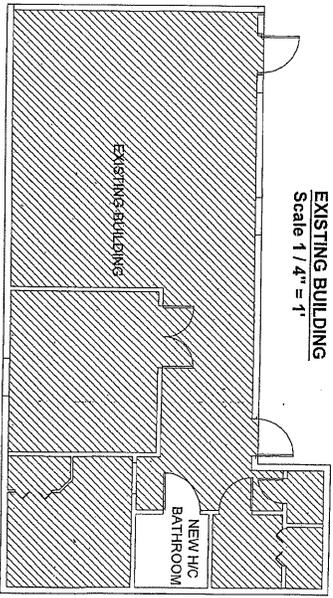
SITE PLAN
 Scale 1/4" = 1'

Code Compliance Verification
 J.C. Kosinski Engineering Inc. atests that to the best of our knowledge and belief that:

As of 4 - 5 - 06 the codes listed below are legally adopted requirements governing the work described herein to the best of our knowledge and belief has been designed in full compliance with these codes and interpretations:

- Building Code: FLORIDA BUILDING CODE, BUILDING 2004
- Plumbing Code: FLORIDA BUILDING CODE, PLUMBING 2004
- Life Safety Code: NFPA 101 2003 EDITION
- Accessibility Code: FLORIDA BUILDING CODE, BUILDING 2004

EXISTING BUILDING
 Scale 1/4" = 1'



SHEET A1 1 of 2	Bob Rockwell Construction, Inc. 11615 Chitwood Drive, Suite C Fort Myers, FL 33908 Office 239-466-8980 Fax 239-432-0113	PRIMEAU PROPERTY 1365/1375 ESTERO BLVD FT. MYERS BEACH STRAPH 19-40-24-W4-0000L0120	J.C. Kosinski Engineering, Inc. 135 Gulfview Ave. Fort Myers Beach, FL 33931 Office 239-872-2179 Fax 239-463-2780
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