

RESOLUTION OF THE TOWN COUNCIL OF  
THE TOWN OF FORT MYERS BEACH, FLORIDA  
RESOLUTION NUMBER 03-22

**WHEREAS**, Fort Myers Beach Fire Control District requested an amendment to the approved Master Concept Plan for a Commercial Planned Development (CPD) zoning district comprised of 0.263 +/- total acres of land to eliminate the fence from the required buffers for the development of this parcel as the offices of the Fort Myers Beach Fire Control District with a maximum of 3,000 square feet of gross floor area and a maximum building height of 35 feet; and,

**WHEREAS**, the subject property is located at 100 & 102 Voorhis Street, Fort Myers Beach; and,

**WHEREAS**, the applicant has indicated the property's current STRAP number is: 29-46-24-W1-0020C.0200 and the legal description is as follows:

LOTS 20 THROUGH 25, BLOCK 'C', EUCALYPTUS PARK  
SUBDIVISION, PLAT BOOK 4, PAGE 34, PUBLIC RECORDS OF  
LEE COUNTY, FLORIDA

**WHEREAS**, a public hearing was legally advertised and held before the Local Planning Agency who have recommended that the Town Council approve the Applicant's requested amended CPD subject to the Conditions and Deviations found at pages 2 and 3 of the Staff Report dated May 13, 2003 with additional conditions as follows;

1. That a maintenance contract for landscaping is in force and effect.
2. That the parking lot area is chained off after work hours so that the parking lot area will not be used as a traffic turn-around.
3. That further enhancements to the landscaping including but not limited to the planting of 30 additional green multi-branched buttonwood be installed pursuant to a plan for placement of the buttonwoods that is agreed to by the Fire District and Rick Joyce of Lee County DCD.
4. That the dumpster is screened "around" the perimeter.
5. That existing dead vegetation, including myrtles and a cabbage palm are replaced.

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

- a. Whether there exists an error or ambiguity which must be corrected.
- b. Whether there exist changed or changing conditions which make approval of the request appropriate.
- c. The impact of a proposed change on the intent of chapter 34 of the LDC.
- d. The testimony of any applicant.
- e. The recommendation of staff and of the local planning agency.
- f. The testimony of the public.
- g. Whether the request is consistent with the goals, objectives, policies, and intent, and with the densities, intensities, and general uses as set forth in the Fort Myers Beach Comprehensive Plan.
- h. Whether the request meets or exceeds all performance and locational standards set forth for the proposed use.
- i. Whether urban services are, or will be, available and adequate to serve a proposed land use change.
- j. Whether the request will protect, conserve, or preserve environmentally critical areas

and natural resources.

k. Whether the request will be compatible with existing or planned uses and not cause damage, hazard, nuisance, or other detriment to persons or property.

l. Whether the location of the request places an undue burden upon existing transportation or other services and facilities and will be served by streets with the capacity to carry traffic generated by the development.

**WHEREAS** before granting any rezoning, the town council shall find that the requested zoning district complies with:

a. The Fort Myers Beach Comprehensive Plan.

b. Chapter 34 of the LDC.

c. Any other applicable town ordinances or codes.

d. All recommended conditions are reasonably related to the impacts on the public's interest created by or expected from the proposed development.

e. The proposed use meets all specific requirements of the comprehensive plan that are relevant to the requested planned development, such as the following:

1. Policies 4-B-4 and 4-C-3 on commercial uses in the "Mixed Residential" category.

2. Policies 4-B-5 and 4-C-3 on commercial rezonings in the "Boulevard" category.

3. Policy 4-C-4 on building heights taller than the standard height limit.

4. Policy 4-C-8 on density transfers.

5. Policy 4-E-1 on pre-disaster buildback.

6. Policy 7-J-2 on traffic impact analyses and potential design improvements that could offset traffic impacts.

**WHEREAS** all deviations from other provisions of the LDC:

a. Enhance the achievement of the objectives of the planned development; and

b. The general intent of this chapter to protect the public health, safety, and welfare will be preserved and promoted.;

c. Each deviation operates to the benefit, or at least not to the detriment, of the public interest; and

d. Each deviation is consistent with the Fort Myers Beach Comprehensive Plan.

**NOW THEREFORE BE IT RESOLVED THAT:**

**THE REQUESTED AMENDED COMMERCIAL PLANNED DEVELOPMENT COMPLIES WITH:**

a. The Fort Myers Beach Comprehensive Plan.

b. Chapter 34 of the LDC.

c. Any other applicable town ordinances or codes.

d. All recommended conditions are reasonably related to the impacts on the public's interest created by or expected from the proposed development.

e. The proposed use meets all specific requirements of the comprehensive plan that are relevant to the requested planned development, such as the following:

1. Policies 4-B-4 and 4-C-3 on commercial uses in the "Mixed Residential" category.

2. Policies 4-B-5 and 4-C-3 on commercial rezonings in the "Boulevard" category.

3. Policy 4-C-4 on building heights taller than the standard height limit.

4. Policy 4-C-8 on density transfers.

5. Policy 4-E-1 on pre-disaster buildback.

6. Policy 7-J-2 on traffic impact analyses and potential design improvements that could

offset traffic impacts.

ALL DEVIATIONS FROM OTHER PROVISIONS OF THE LDC:

- a. Enhance the achievement of the objectives of the planned development; and
- b. The general intent of this chapter to protect the public health, safety, and welfare will be preserved and promoted.;
- c. Each deviation operates to the benefit, or at least not to the detriment, of the public interest; and
- d. Each deviation is consistent with the Fort Myers Beach Comprehensive Plan.

THE APPLICATION IS APPROVED 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 and Deviations found at pages 2 and 3 of the Staff Report dated May 13, 2003 (with the addition of Special service as a scheduled use) which is attached hereto and incorporated herein by reference and with additional conditions as follows;

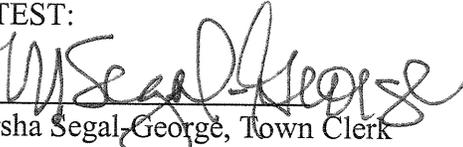
- 1. That a maintenance contract for landscaping is in force and effect.
- 2. That the parking lot area is chained off after work hours so that the parking lot area will not be used as a traffic turn-around.
- 3. That further enhancements to the landscaping including but not limited to the planting of 30 additional green multi-branched buttonwood be installed pursuant to a plan for placement of the buttonwoods that is agreed to by the Fire District and Rick Joyce of Lee County DCD.
- 4. That the dumpster is screened "around".
- 5. That existing dead vegetation, including myrtles and a cabbage palm are replaced.

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

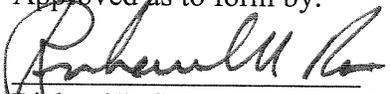
Howard Rynearson	aye
Daniel Hughes	aye
Bill Thomas	aye
W. H. "Bill" Van Duzer	aye
Terry Cain	aye

**APPROVED** this 9th day of June, 2003.

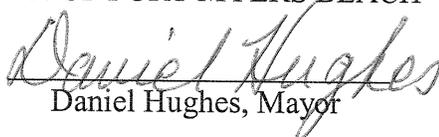
ATTEST:

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

II. **RECOMMENDATION:**

Staff recommends APPROVAL of the Applicant's request to amend the Master Concept Plan for this Commercial Planned Development (CPD) with the following conditions and deviations:

A. **Conditions**

1. The development of this project must be consistent with the one-page Master Concept Plan (MCP) (**Exhibit A**) entitled "Fort Myers Beach Fire Control District Office Building," stamped received April 24, 2000, except as modified by the conditions below. This development must comply with all requirements of the Town of Fort Myers Beach Land Development Code (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.

A maximum of 3,000 square feet of gross floor area is permitted within this planned development.

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

a. **Schedule of Uses**

OFFICES, GENERAL—3,000 square feet maximum (limited to use by the Fire Control District)  
ESSENTIAL SERVICES

b. **Site Development Regulations**

Development of this CPD will comply with the following Property Development Regulations:

Minimum Lot Area and Dimensions:

Area: 12000 square feet  
Width: 120.00 feet  
Depth: 100.00 feet

Minimum Setbacks:

Street: 25 feet  
Side: 10 feet  
Rear: 10 feet (see Deviation 5, below)

Minimum open space: 20%

Minimum first habitable floor elevation: 14 feet

Maximum building height: 35 feet

Maximum floor area: 3,000 square feet

3. Development of the structure must be substantially consistent with the architectural rendering from The Fowler Company, stamped received May 18, 2000 (**Exhibit B**).

4. Development of the property must be substantially consistent with the As-Built Landscape Plan prepared by Native Landscapes, dated July 9, 2001, last revised April 5, 2002 (**Exhibit C**).
5. Any proposed additional use of this land must go through the public hearing process to amend this approved planned development.

B. Deviations

**Note:** the following deviations were previously approved. They have been revised below, as necessary, to reference the appropriate section of the LDC and to eliminate the requirement for an 8 feet high fence as part of the perimeter buffer.

Deviation 1 approved relief from LDC Section 10-285(a), Table 1, which requires a minimum intersection separation of 125 feet on a local road; to allow a separation of 70.2 feet northerly along Voorhis Street and 21.8 feet southerly along Voorhis Street. Staff recommends this deviation remain **APPROVED**.

Deviation 2 inaccurately approved relief from LDC Section 10-414.d.2. The appropriate relief is from LDC Section 10-414(a) which requires a buffer width of 15 feet along the northerly property line adjacent to the existing residential development; to allow a minimum buffer width of 11 feet. Applicant wishes to amend this Deviation to include relief from the required fence, wall, or berm to provide only vegetative buffering. Staff recommends this amended deviation be **APPROVED**, as the schedule of uses has been specifically limited to the FMBFCD.

Deviation 3 inaccurately approved relief from LDC Section 10-414.d.2. The appropriate relief is from LDC Section 10-414(a) which requires a buffer width of 15 feet along the easterly property line adjacent to the existing residential development; to allow a minimum buffer width of 10 feet. Applicant wishes to amend this Deviation to include relief from the required fence, wall, or berm to provide only vegetative buffering. Staff recommends this amended deviation be **APPROVED**, as the schedule of uses has been specifically limited to the FMBFCD.

Deviation 4 inaccurately approved relief from LDC Section 10-414.d.2. The appropriate relief is from LDC Section 10-414(a) which requires a buffer width of 15 feet along the southerly property line adjacent to the existing residential development; to allow a minimum buffer width of 10 feet. Applicant wishes to amend this Deviation to include relief from the required fence, wall, or berm to provide only vegetative buffering. Staff recommends this amended deviation be **APPROVED**, as the schedule of uses has been specifically limited to the FMBFCD.

**Note:** the following deviation is new and responds to recent changes in Chapter 34 of the LDC.

Deviation 5 provides relief from the rear setback required by LDC Sections 34-953 and 34-704 to allow a rear setback of 10 feet. Staff recommends this additional deviation be **APPROVED**, as this relief granted by this deviation--now required by LDC Chapter 34--was contemplated by the original approval.

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: