

RESOLUTION OF THE TOWN COUNCIL OF
THE TOWN OF FORT MYERS BEACH, FLORIDA
RESOLUTION NUMBER 03-23

WHEREAS, Thomas F. Kolar, owner of Lighthouse Island Resort has requested to rezone from CPD (Commercial Planned Development) to CPD-Commercial Planned Development to add restaurant space of 4,300 square feet to the schedule of uses and to revise the Master Concept Plan; and,

WHEREAS, the subject property is located at 1051 5th Ave., Fort Myers Beach, and the applicant has indicated the property's current STRAP numbers are: 24-46-23-W3-000203.0010; 24-46-23-W3-00203.014A; 24-46-23-W3-00203.0090; 24-46-23-W3-00203.0190; 24-46-W3-00205.0060; and the legal description attached as Exhibit 'A':

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 recommended that the Town Council APPROVE the Applicant's request for rezoning subject to the conditions and deviations incorporated herein by reference; and

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 this chapter.
- 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.

NOW THEREFORE BE IT RESOLVED THAT THE Town Council finds that the requested zoning district complies with:

a. The Fort Myers Beach Comprehensive Plan.

b. Chapter 34, Zoning Districts, Design Standards, and Nonconformities

c. Any other applicable town ordinances or codes.

d. The proposed use or mix of uses is appropriate at the subject location;

e. Sufficient safeguards to the public interest are provided by the recommended conditions to the concept plan or by other applicable regulations;

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

g. 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.

THEREFORE 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:

SEE ATTACHED CONDITIONS

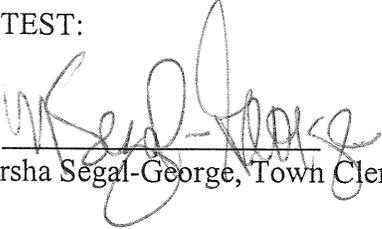
The foregoing resolution was adopted by the Fort Myers Beach Town Council upon being put to a vote, the result was as follows:

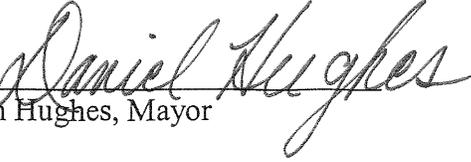
Howard Rynearson	Aye
Daniel Hughes	Aye
Bill Thomas	Nay
W. H. "Bill" Van Duzer	Aye
Terry Cain	Aye

APPLICATION DULY GRANTED this 30th day of June, 2003.

ATTEST:

TOWN OF FORT MYERS BEACH

By: 
Marsha Segal-George, Town Clerk

By: 
Dan Hughes, Mayor

Approved as to form by:


Richard V.S. Roosa, Town Attorney

**DCI2003-00016 LIGHTHOUSE ISLAND RESORT CPD
RESOLUTION NUMBER 03-23**

CONDITIONS

1. The development of this project must be consistent with the five (5) page master concept plan entitled "Master Concept Plan (CPD) for Lighthouse Island Resort" stamped received August 20, 2003 last revised June 19, 2003 except as modified by the conditions below.
2. The following limits apply to the project and uses:
 - a. **Schedule of Uses**

All uses permitted by right in the Downtown zoning district with the following limitations:
Restaurant is limited to 4,300 square feet
Retail is limited to 5,000 square feet
Office is limited to 420 square feet
Hotel/Motel units limited to a maximum total of 72 guest units, which total includes the unit for the caretaker
 - b. **Site Development Regulations**

Building placement, size, design, and all other property development regulations shall be the same as for the CR (Commercial) zoning district unless approved as a deviations as part of the approved zoning resolution.
3. Maximum building height may not exceed 37 feet above minimum flood elevation. No additional building height is approved within this planned development.
4. Approval of this zoning request does not address mitigation of the project's vehicular or pedestrian traffic impacts. Additional conditions consistent with the Lee County LDC may be required to obtain a local development order.
5. The final design of the building within this planned development must be approved by the Town Manager prior to the approval of any permits. The design must be in substantial compliance with the Town of Fort Myers Beach Comprehensive Plan, the Land Development Code, and all other applicable requirements.
6. The 5,000 square feet of retail uses are limited to the ground floor of the Phase 2 building as depicted on the approved Master Concept Plan. The ground floor will have to be dry flood proofed and must be constructed in compliance with Chapter 6 of the Land Development Code.

7. At no time will the total number of Hotel/Motel units exceed 72 guest units.
8. The existing cottage on Third Street (adjacent to the Sky Bridge) must be demolished no later than five (5) years from the date of the approval of this zoning resolution--or earlier if the Town moves ahead with improvements to Third Street--as indicated in the letter from Beverly Grady, dated April 18, 2003, attached to the Staff Report dated March 18, 2003, as Exhibit "B".
9. Prior to approval of a development order, the correct sidewalk easement must be recorded in the Public Records of Lee County, Florida.
10. Prior to seeking building permits for development on this site, the developer must combine the existing platted lots into one lot of record as part of the local development order for this CPD project.
11. Prior to each local development order approval, the developer must provide a current tally of the square feet for each use approved in all previous local development orders.
12. The total square feet of existing and proposed buildings must not exceed 57,132 square feet of total building area for buildings used as hotel/motel guest units.
13. Any off-site parking, other than the existing approved 5 off-site parking spaces, must be addressed through an amendment to this CPD.
14. Any outdoor seating for the restaurant and any sign that will require a deviation must be addressed through an amendment to this CPD.
15. 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.
16. This CPD project must be constructed to build-out no later than December 31, 2020.

DEVIATIONS

Deviation 1 request relief from LDC Section 10-285(a) which requires a minimum connection separation of 125 feet along a local road (Crescent Street); to allow a connection separation of 83 feet from Fifth Avenue. This deviation is unchanged from the previously approved MCP and is **APPROVED**.

Deviation 2 requests relief from LDC Section 10-285(a) which requires a minimum connection separation of 125 feet along a local road (Crescent Street); to allow a connection separation of 115 feet from Third Street. This deviation is unchanged from the previously approved MCP and is **APPROVED**.

Deviation 3 requests relief from LDC Table 34-3 which requires a minimum building separation of one-half the sum of the height of the structures, or 20 feet, whichever is

greater; to allow building separations of 19.1', 4.25', & 2.6'. This deviation is **APPROVED as depicted on the approved Master Concept Plan.**

Deviation 4 requests relief from LDC Table 34-3 which requires certain setbacks for structures, buildings, and pavement from the development perimeters; to allow the reduced setbacks of 7.4', 4.5', 3', 2.6', 1.5', 1.4', & 0' from the development perimeter as depicted on the Master Concept Plan. All of the setbacks, except for the 0' setback, were previously approved on the existing MCP for this project. This deviation is **APPROVED.**

Deviation 5 requests relief from LDC Table 34-3 which provides the property development regulations for the Fort Myers Beach Commercial Resort (CR) District; to allow street setbacks of 4.5', 2.0, and 0' feet along San Carlos Boulevard. All of the setbacks, except for the 0' setback, were previously approved on the existing MCP for this project. This deviation is **APPROVED.**

Deviation 6 requests relief from LDC Section 34-2016 which requires 90 degree parking spaces to be a minimum of 18' in length; to allow the 90 degree parking spaces to be 16' in length for the Phase 2 parking only. This deviation is **APPROVED as depicted on the approved Master Concept Plan and with the condition that these parking spaces will be removed at the time Phase 5 is constructed.**

Deviation 7 requests relief from LDC Section 34-2016(a) which requires parking aisles between parking spaces to be 22' in width to allow the parking aisles to be 20' in width for some areas for the Phase 2 parking only. This deviation is **APPROVED as depicted on the approved Master Concept Plan and with the condition that these parking aisles will be removed at the time Phase 5 is constructed.**

Deviation 8 request relief from LDC Section 10-285(a) which requires a minimum connection separation of 125 feet along a local road (Fifth Avenue); to allow a connection separation of 83 feet from two existing driveways. This deviation is **APPROVED.**

Deviation 9 requests relief from the F.A.R. requirements of LDC Section 34-953 and Table 34-3 to allow additional F.A.R. to exceed the total 66,852 square feet of residential and commercial uses to the extent necessary to develop on-site under building parking. This deviation is **APPROVED.**

EXHIBIT A

DESCRIPTION: (Per Survey)

A tract or parcel of land lying in Blocks 3 and 5 and a portion of vacated Fourth Street and a portion of vacated Fifth Avenue, all lying in BUSINESS CENTER, as recorded in Plat Book 9, at Pages 9 and 10, Public Records of Lee County, Florida and also lying in Section 24, Township 46 South, Range 23 East, Fort Myers Beach, Lee County, Florida, described as follows:

Beginning at the Northeastery corner of Lot 16, Block 3 of the aforesaid Business Center; thence run N.63°58'26"W, along the Southwesterly right-of-way line of Third Street (50 feet wide) for 137.00 feet; thence run S.26°01'34"W, for 95.00 feet; thence run N.63°58'26"W, for 28.00 feet to a point on the Northwesterly line of Lot 9 of the aforesaid Block 3 and the Southeastery right-of-way line of Estero Boulevard; thence run S.26°01'34"W, for 65.00 feet to the Southwesterly corner of said Lot 9, Block 3; thence continue S.26°01'34"W, for 226.05 feet to a point on the Northwesterly line of Lot 7 of the aforesaid Block 5; thence run N.67°37'17"E, along the Northwesterly line of Lots 7, 8 and 9 of said Block 5 for 92.74 feet to the Northeastery corner of said Lot 9, Block 5; thence run S.22°22'43"E, along the Easterly line of said Lot 9 for 80.00 feet to the Southeastery corner of said Lot 9 and the Northwesterly right-of-way line of Fifth Avenue; thence run N.67°37'17"E, for 28.38 feet; thence run N.48°59'05"E, for 46.47 feet to a point of curvature; thence run Northeastery for 56.05 feet along the arc of a curve concave Northwesterly, with a radius of 148.00 feet, a delta of 21°42'03"; a chord bearing of N.36°08'05"E, and a chord distance of 55.72 feet to a point of reverse curvature; thence run Northeastery for 102.54 feet along the arc of a curve concave Southeastery, with a radius of 212.00 feet, a delta of 27°42'49"; a chord bearing of N.39°08'22"E, and a chord distance of 101.55 feet to a point of non tangency; thence run N.57°31'39"E, along said non tangent line for 51.33 feet; thence run N.78°21'29"E, for 12.55 feet to a point on the Northeastery right-of-way line of the aforesaid Fourth Street; thence run S.63°58'26"E, along said Northeastery right-of-way line for 7.04 feet; thence run N.26°01'34"E, for 50.32 feet; thence run N.39°22'43"E, for 22.03 feet to the Westerly right-of-way line of Crescent Street; thence run N.00°37'17"W, for 22.14 feet to a point on the Southwesterly line of Lot 17 of the aforesaid Block 3; Thence run N.63°58'26"W, along said Southwesterly line of Lot 17 for 78.22 feet to the Southeastery corner of the aforesaid Lot 16, Block 3; thence run N.26°01'34"E, for 80.00 feet to the point of beginning.

Said tract contains 72,861.7 square feet, more or less, or 1.672 acres, more or less.

Bearings are based on the Southwesterly line of Third Street, Block 3, Business Center as being N.63°58'26"W.

[Handwritten Signature]
10/23/03