

RESOLUTION OF THE TOWN COUNCIL OF
THE TOWN OF FORT MYERS BEACH, FLORIDA
RESOLUTION NUMBER 03- 35

WHEREAS, Douglas Speirn-Smith in reference to Matanzas Inn has requested to rezone from CPD (Commercial Planned Development) to CPD-Commercial Planned Development to permit a maximum of 106,112 square feet of mixed commercial uses on 2.03 total acres of land; and,

WHEREAS, the subject property is located at 416 Crescent, 420/430/440 Old San Carlos Blvd., 1010 Second Street, and 1042 Second Street, Ft. Myers Beach, and the applicant has indicated the property's current STRAP numbers are: 19-46-24-W4-0150E.0210, 24-46-23-W3-00202.0030.0020, 24-46-23-W3-00202.0010, 24-46-23-W3-00202.0190, 24-46-W3-00202.0130, and the legal description is Exhibit A attached; and,

WHEREAS, a public hearing was held before the Local Planning Agency (LPA) on October 14, 2003, and after giving full and complete consideration to the recommendations of the Staff, the documents in the file, and the testimony of all interested persons, recommended that the Town Council APPROVE the Applicant's request for rezoning subject to the conditions and deviations found on pages 3 through 7 of the Staff Report dated October 6, 2003, which is attached hereto and incorporated herein by reference, with the following changes;

1. Condition #2 –Schedule of Uses, a. is eliminated and in the alternative a., is changed as follows; guest units size not to exceed a maximum area of ~~1,500~~, 1200 square feet, not to exceed an average of ~~1,350~~, 800 square feet, and not to exceed a total floor area for guest units of ~~43,200~~, 25,600 square feet.
2. Condition #18 shall read as follows with the added words in italics; A local development order for Parcel "B" must be received within 48 months of the zoning approval of this CPD, *or the Master Concept Plan (MCP) will expire.*
3. A new condition #19 is added to read as follows; The document that the applicant passed out at the LPA Hearing entitled, "Proposed Language. CPD Matanzas Inn", was not considered at the LPA hearing and is specifically not part of this recommendation of approval.
4. Deviation #12 is recommended by the LPA for approval.
5. A new deviation #21 is added to read as follows; Deviation from LDC Section 34-675 (b) (2) from the limitation on Crescent Street of building heights no taller than two stories and 30 feet above base flood elevation, to allow 25% of the ground floors of phases II through V of the motel to be enclosed non-living space, office and other accessory uses for the motel with a maximum height of 30 feet above base flood elevation with a maximum of 2 floors total living area over parking or enclosed non-living space.

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.

Findings. 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.

NOW THEREFORE BE IT RESOLVED THAT 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 on pages 3 through 7 (conditions 5, 6, 15 were met prior to hearing) of the Staff Report dated October 6, 2003, which is attached hereto and incorporated herein by reference, with the following changes;

1. Condition #2 –Schedule of Uses, a. is eliminated and in the alternative a., is changed as follows; A total of 32 guest units are approved, guest unit size not to exceed a maximum area of 1200 square feet, not to exceed an average of 800 square feet, and not to exceed a total floor area for guest units of 25,600 square feet.

2. Condition #18 shall read as follows with the added words in italics; A local development order for Parcel "B" must be received within 48 months of the zoning approval of this CPD, *or the Master Concept Plan (MCP) will expire.*

3. A new condition #19 is added to read as follows; The document that the applicant passed out at the LPA Hearing entitled, "Proposed Language. CPD Matanzas Inn", was not considered at the LPA hearing and is specifically not part of this recommendation of approval.

4. Condition #11 is changed to read: All outdoor music or entertainment must cease no later than 10 PM. Applicant shall, within six months of the date of this resolution, employ an independent sound consultant to design best management practices to reasonably minimize the sound impact on residential property and comply with the Town noise ordinance.

5. Deviation #12 is approved

6. A new deviation #21 is added to read as follows; Deviation from LDC Section 34-675 (b) (2) from the limitation on Crescent Street of building heights no taller than two stories and 30 feet above base flood elevation, to allow 25% of the ground floors of phases II through V of the motel to be enclosed non-living space, office and other accessory uses

for the motel with a maximum height of 30 feet above base flood elevation with a maximum of 2 floors total living area over parking or enclosed non-living space.

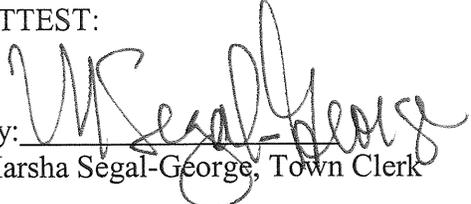
The foregoing resolution was adopted by the Fort Myers Beach Town Council upon being put to a vote, the result was as follows:

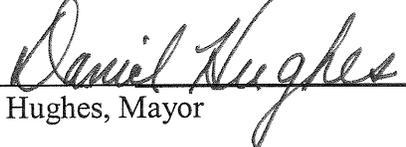
Howard Rynearson	aye
Daniel Hughes	aye
Bill Thomas	aye
W. H. "Bill" Van Duzer	aye
Terry Cain	aye

APPLICATION DULY GRANTED/DENIED this 10th day of November, 2003.

ATTEST:

TOWN OF FORT MYERS BEACH

By: 
Marsha Segal-George, Town Clerk

By: 
Dan Hughes, Mayor

Approved as to form by:


Robert Burandt for
Richard V.S. Roosa, Town Attorney

FT. MYERS BEACH, FLORIDA
DEPARTMENT OF COMMUNITY DEVELOPMENT ZONING DIVISION
REVISED STAFF REPORT

TYPE OF CASE: Planned Development

CASE NUMBER: DCI2001-00067

LOCAL PLANNING AGENCY DATE: October 14, 2003 (original LPA date 05/14/02)

TIME: 12:00 Noon

I. APPLICATION SUMMARY:

- A. Applicant:** Douglas Speirn-Smith in reference to Matanzas Inn
- B. Request:** R ezone f rom C ommercial P lanned D evelopment (CPD) to CPD (primarily lodging) to permit a maximum of total of 106.112 square feet of mixed commercial uses on 2.03 total acres of land.

NOTE: If approved, the Master Concept Plan (available for inspection at 1500 Monroe St., Ft. Myers) will deviate from certain Land Development Code (LDC) standards.
- C. Location:** The subject properties are located at 416/416 Crescent St., 420/430/440 Old San Carlos Blvd, 1010 Second St., and 1042 Second Street, Ft. Myers Beach, FL, in Section 24, Township 46 South, Range 23 East, and Section 19 Township 46 South, Range 24 East, Lee County, FL
- D. Future Land Use Plan Designation, Current Zoning, and Use of Subject Property:** Pedestrian Commercial; Commercial Planned Development; Restaurant, Motel, Commercial, Multiple-Family Dwelling Units, and Parking.
- E. Surrounding Land Use:** "Motel and Restaurant Site" Parcel

<u>Existing Zoning & Land Use</u>	<u>Future Land Use Map</u>
North: Matanzas Pass	Water
East: Canal, then Residential Conservation (RC), single family residences	Water, then Mixed Residential
South: Residential Conservation (RC)	Pedestrian Commercial/Platted Overlay
West: Downtown, Crescent Street, 2-story multiple-family ,Bridge, then Snug Harbor; and Commercial Planned Development Parcel "D" and Parcel "C"	Pedestrian Commercial

Parcel "D" ("Triangle" Parcel)

Existing Zoning & Land Use

Future Land Use Map

North: Commercial Planned Development, First Street, then "Motel and Restaurant Site" Parcel developed with Matanzas Inn

Pedestrian Commercial

East: Commercial Planned Development, Crescent Street, then then "Motel and Restaurant Site" Parcel developed with Matanzas Inn

Pedestrian Commercial/Platted Overlay

South: Downtown, 2-story multiple family residence

Pedestrian Commercial

West: Commercial Planned Development, public parking, then Dockside Sports Pub

Pedestrian Commercial

Parcel "C" ("Shell Shop" Parcel)

Existing Zoning & Land Use

Future Land Use Map

North: Downtown, Second Street, then 2-story multiple family residence

Pedestrian Commercial

East: Commercial Planned Development, Crescent Street, then then "Motel and Restaurant Site" Parcel, Matanzas Inn

Pedestrian Commercial/Platted Overlay

South: Downtown, single family residence

Pedestrian Commercial

West: Downtown, commercial

Pedestrian Commercial

Parcel "B" ("Old San Carlos" Parcel)

Existing Zoning & Land Use

Future Land Use Map

North: Commercial Planned Development, parking for Dockside Sports Pub

Pedestrian Commercial

East: Downtown, single family residence

Pedestrian Commercial

South: Downtown, Third Street, then Smokin' Oyster Brewery

Pedestrian Commercial

West: Downtown, Old San Carlos, then parking lot for Snug Harbor and commercial office

Pedestrian Commercial

F. <u>Size of Property:</u>	Motel and Restaurant Site	1.41 acres +/-
	Parcel "B" ("Old San Carlos" Parcel)	0.42 acres +/-
	Parcel "C" ("Shell Shop" Parcel)	0.13 acres +/-
	Parcel "D" ("Triangle" Parcel)	0.07 acres +/-
	Total	2.03 acres +/-

II. RECOMMENDATION:

Staff recommends **APPROVAL** of the Applicant's request for rezoning from CPD and CPD with the following deviations and conditions:

A. Conditions

1. The development of this project must be consistent with the one page Master Concept Plan (MCP) entitled "Matanzas Inn Redevelopment," stamped received December 4, 2003, last revision dated April 3, 2004, except as modified by the conditions below. This development must comply with all requirements of the Town of Fort Myers Beach LDC at time of local Development Order Approval, except:

- a. any additional restrictions as provided in conditions of this approval; and
- b. any restrictions modified or eliminated by approved deviations.

If changes to the Master Concept Plan are subsequently pursued, appropriate approvals will be necessary.

2. The following additional restrictions and limitations apply to the project and uses:

Schedule of Uses

"MOTEL AND RESTAURANT SITE" PARCEL (between Crescent Street and the Canal)

All principal and accessory uses permitted in DOWNTOWN zoning district,
Plus the following additional uses:

Bar/Cocktail lounge - limited to two, one each on ground and second floor of restaurant

On premise consumption of alcoholic beverages (COP) (anywhere inside restaurant)

Outdoor seating, in conjunction with COP (where indicated on MCP)

Boat slips available for public rental/leasing, limited to 18 maximum (existing)

Commercial party fishing boats (existing)

Parking lot, shared permanent

Note: The above uses are limited to 73, 635 total square feet of floor area within the subject parcel, including Parcels "C" and "D". Of this total floor area:

- a. Guest units are limited to at total of 32 units, each under 450 square feet, not to exceed a total floor area for guest units of 14,400.

ALTERNATIVELY, Applicant has requested the following language:

- a. Guest units are limited to a total of 32 units, guest unit size not to exceed a maximum area of 1,500 square feet, not to exceed an average of 1,350 square feet, and not to exceed a total floor area for guest units of 43,200 square feet.
- b. Restaurant, Bar/Cocktail lounge, and associated Outdoor seating combined must not exceed a total floor area of ~~20,000~~16,700 square feet.

PARCEL "B" ("Old San Carlos" Parcel)

All principal and accessory uses permitted in the DOWNTOWN zoning district.

Note: The above uses are limited to a maximum of 36,900 square feet, but only if the FAR for the entire project does not exceed 1.2.

PARCELS "C" AND "D" ("Shell Shop" and "Triangle" Parcels)

Essential services

Parking lot, shared permanent

3. This zoning approval does not address the mitigation of the project's vehicular or pedestrian traffic impacts. A Traffic Impact Statement (TIS) will be required at time of local development order and additional conditions may be required at that time.
4. A driveway access from Third Street into the parking lot of the Old San Carlos/Second Street parcel must be provided at time of local development order.
5. Not less than fifteen (15) working days prior to public hearing of this planned development before Town Council, the applicant must revise the MCP for this planned development to indicate and dimension (as necessary) the requested deviations on the MCP in accordance with the numbering scheme and provisions of this Report, to clarify which deviations are requested at which locations.
6. Not less than fifteen (15) working days prior to public hearing of this planned development before Town Council, the applicant will provide staff with architectural elevation drawings as required by LDC Sections 34-212 and 34-202(b)(5) and request any deviations necessary from the commercial design standards in LDC Sections 34-991 through 34-1010 in accordance with LDC Section 34-932(b).
7. Prior to seeking building permits for development on the "Motel and Restaurant Site" Parcel, the developer must combine the existing platted lots in the "Motel and Restaurant Site" Parcel, into one lot of record, the existing platted lots in Parcel "B" ("Old San Carlos" Parcel) into one lot of record, and the existing platted lots in Parcel "C" ("Shell Shop" Parcel) into one lot of record as part of the local development order for any development on the "Motel and Restaurant Site" Parcel portion of this CPD project.
8. Prior to seeking building permits for development on Parcel "B", the developer must combine the existing platted lots into one lot of record as part of the local development order for that portion of this CPD project.

9. All development, redevelopment, and substantial improvements in this CPD district must meet or exceed the commercial design standards. See LDC 34-991-1010.
10. All use of the pool area must cease by 10 PM.
11. All outdoor music or entertainment must cease no later than 10 PM and live music is limited to non-amplified acoustical music.
12. The maximum floor area ration for the entire CPD must not exceed 1.2 (2.03 acres x 43560 square feet per acre = 106.112 square feet total floor area).
13. Parcels "C" and "D" have no lot area for the purposes of residential/motel density. All lot area associated with these parcels for density purposes is attributed to the "Motel and Restaurant Site" Parcel as part of the MCP for this CPD.
14. Parcels "C" and "D" are limited exclusively to use as shared permanent parking lot for the benefit of the "Motel and Restaurant Site" Parcel and Parcel "B".
15. Not less than fifteen (15) working days prior to public hearing of this planned development before Town Council, the applicant will provide staff with sample detail drawings and a revised MCP that illustrate the effect of the proposed deviations in accordance with LDC Section 34-212(4)j.
16. Off-street parking reductions allowed by LDC Section 34-676 pursuant to Deviation 17 are limited to Parcel "B" in conjunction with the Permanent shared parking lots on Parcels "C" and "D".
17. Phases II through V on the "Motel and Restaurant Site" Parcel may be developed in any order, but a local development order for one of these phases must be received within 36 months of the zoning approval of this CPD, and local development order for subsequent phases must be received in subsequent 36 month increments. Local development orders for all Phases must be received within 144 months of the zoning approval of this CPD.
18. A local development order for Parcel "B" must be received within 48 months of the zoning approval of this CPD.

B. Deviations: Note: The MCP must be revised to accord with the deviations listed below, identified where agreed necessary by staff and Applicant

1. Deviation from LDC Table 34-3 from the required 10 feet setback from a street right-of-way to allow reduced street setbacks on the "Motel and Restaurant Site" Parcel and to allow the developer to build to the right-of-way line for Old San Carlos on Parcel "B", as indicated by deviation 1 symbols and dimensions on the MCP. Staff recommends **APPROVAL** of this deviation, as conditioned.
2. Deviation from LDC Table 34-3 from the required 20 feet side setbacks on a waterfront lot to allow reduced side setbacks on the "Motel and Restaurant Site" Parcel as indicated by deviation 2 symbols on the MCP. Staff recommends **APPROVAL** of this deviation, as conditioned.

3. Deviation from LDC Table 34-3 from the required 15 feet side setbacks on non-waterfront lots to allow the developer to build to the right-of-way lines for Second and Third Streets on Parcel "B", as indicated by deviation 3 symbols on the MCP. Staff recommends **APPROVAL** of this deviation, as conditioned.
4. Deviation from LDC Table 34-3 from the required 20 feet rear setbacks to allow reduced rear setbacks on the "Motel and Restaurant Site" Parcel as indicated by deviation 4 symbols and dimensions on the MCP. Staff recommends **APPROVAL** of this deviation, as conditioned.
5. Deviation from LDC Table 34-3 from the required 25 feet setback from a waterbody to allow reduced waterbody setbacks on the "Motel and Restaurant Site" Parcel as indicated by deviation 5 symbols and dimensions on the MCP. Staff recommends **APPROVAL** of this deviation, as conditioned.
6. Deviation from LDC Table 34-3 from the required 20,000 square feet of lot area to allow minimum lot sizes of 18,456 square feet for Parcel "B", 5,550 square feet for Parcel "C", and 3,049 square feet for Parcel "D". Staff recommends **APPROVAL** of this deviation, as conditioned.
7. Deviation from LDC Table 34-3 from the required 100 feet of lot width to allow a minimum lot width of 72.5 feet for Parcel "C". Staff recommends **APPROVAL** of this deviation, as conditioned.
8. Deviation from LDC Table 34-3 from the required 100 feet of lot depth to allow a minimum lot depth of 74 feet for Parcel "C" and 30 feet for Parcel "D". Staff recommends **APPROVAL** of this deviation, as conditioned.
9. Deviation from LDC Table 34-3 from the maximum floor area ratio (FAR) of 1.2 to allow a maximum FAR on Parcel "B" of 2.0. Staff recommends **APPROVAL** of this deviation, as conditioned to provide that the maximum FAR for the entire CPD must not exceed 1.2. See Condition 12.
10. Deviation from LDC Section 34-632(3)c. from the limitation on combining three (3) or more lots into a development project to allow the "Motel and Restaurant Site" Parcel, Parcel "C" ("Shell Shop"), and Parcel "D" ("Triangle" Parcel) to include one-half the width of adjoining streets and canals in lot area for the purposes of computing residential densities, to allow a total of 32 guest units on the "Motel and Restaurant Site" Parcel. Staff recommends **APPROVAL** of this deviation, as conditioned. See Condition 13.
11. Deviation from LDC Section 34-632(4) from the limitation on including acreage used primarily for commercial purposes in computation of residential density to include the portion of the "Motel and Restaurant Site" Parcel used primarily for the Matanzas Restaurant to be included in the acreage of the portion of the CPD project abutting Crescent Street, to allow a total of 32 guest units on the "Motel and Restaurant Site" Parcel. Staff recommends **APPROVAL** of this deviation, as conditioned. See Condition 13.
12. Deviation from the equivalency factor table in LDC Section 34-1803(a)(1) to allow quest units with over 450 square feet of floor area to utilize an equivalency factor of 3.0 in the

PEDESTRIAN COMMERCIAL land use category. Staff recommend **DENIAL** of this deviation.

13. Deviation from LDC Section 34-2015(1) from the requirement that parking spaces that are required to support specific land uses must be provided on the same premises, to allow parking spaces located on Parcels "C" and "D" of this commercial planned development and to be used by all approved uses on the "Motel and Restaurant Site" Parcel and Parcel "B". Staff recommends **APPROVAL** of this deviation, as conditioned. See Condition 14.
14. Deviation from LDC Section 34-2016(1) from the requirement that parking lots with ninety degree (90°) angle of parking spaces have length of 18 feet to allow a parking space length of 16 feet as indicated by deviation 14 symbols and dimensions on the MCP. Staff recommends **APPROVAL** of this deviation, as conditioned.
15. Deviation from LDC Section 34-2016(1) from the requirement that parking lots with ninety degree (90°) angle of parking spaces and two-way aisles have an aisle width of 22 feet to allow an aisle width of 19 feet as indicated by deviation 15 symbols and dimensions on the MCP. Staff recommends **APPROVAL** of this deviation, as conditioned.
16. Deviation from LDC Section 34-2020 from the minimum requirements for off-street parking spaces for uses permitted on Parcel "B" to allow Parcel "B" to utilize the off-street parking reductions of the Downtown zoning district provided in LDC Section 34-676(a)(1). Staff recommends **APPROVAL** of this deviation, as conditioned. See Condition 16.
17. Deviation from LDC Section 10-285(a) from the required connection separation for local roads of 125 feet to allow connection separations as indicated by deviation 18 symbols and dimensions on the MCP. Staff recommends **APPROVAL** of this deviation, as conditioned.
18. Deviation from LDC Section 10-413(d)(1) from the minimum dimensional requirement of ten (10) feet of width of open space areas to allow open space shown on the MCP. Staff recommends **APPROVAL** of this deviation, as conditioned.
19. Deviation from LDC Section 10-413(d)(2) from the minimum dimensional requirement of 180 square feet of area of open space to allow open space areas shown on the MCP. Staff recommends **APPROVAL** of this deviation, as conditioned.
20. Deviation from LDC Section 10-414(a) from the minimum dimensional and compositional requirements for buffers to allow buffers shown on the MCP. Staff recommends **APPROVAL** of this deviation, as conditioned.

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 requested commercial planned development zoning district, as conditioned, complies with the comprehensive plan, chapter 34 of the land development code, and other applicable codes and regulations.
2. The proposed use or mix of uses, as conditioned, is appropriate at the subject location.

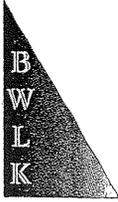


EXHIBIT A
Bean, Whitaker, Lutz & Kareh, Inc.

13041 McGregor Boulevard, Suite 1
Fort Myers, Florida 33919-5910
email - fmoffice@bwlk.net
(Ph) 941-481-1331 (Fax) 941-481-1073

Description of a Parcel of Land
Lying in
Section 24, Township 46 South, Range 23 East
and
Section 19, Township 46 South, Range 24 East
Lee County, Florida
(Motel and Restaurant Site)

A tract or parcel of land situated in the State of Florida, County of Lee, lying on Estero Island, being a part of Section 24, Township 46 South, Range 23 East and Section 19, Township 46 South, Range 24 East and further described as follows:

Commencing at the southwest corner of Lot 20, Block E, Crescent Park Addition as recorded in Plat Book 4 at Page 46, Public Records of Lee County, Florida; thence N00°43'09"W along the westerly line of said Lot 20 for 30.00 feet; thence N89°16'51"E for 11.60 feet to the easterly line of a right-of-way taking parcel per Settlement Case 93-203-CA-RWP (Parcel No. 19) and the Point of Beginning; thence N02°09'14"W along said taking parcel for 124.21 feet; thence N05°46'55"W along said easterly line for 96.21 feet to the northwest corner of Lot 24, Block E of said Crescent Park Addition; thence N00°43'09"W along the easterly line of Crescent Street (25 feet wide) and along the range line between said Sections 24 and 19 for 158.83 feet to an intersection of said easterly line with the northeasterly line of First Street (50.00 feet wide); thence N64°00'09"W along said northeasterly line for 18.87 feet to a point on a curve concave to the northwest having a radius of 2904.79 feet and to which point a radial line bears S71°26'08.3"E; thence northeasterly along said curve and the southeasterly line of State Road #865 through a central angle of 02°17'53.8" for 116.52 feet to a PK nail with brass disk stamped LB4919 in a concrete seawall along the waters of Matanzas Pass; thence S70°18'52"E along said waters and seawall for 82.79 feet to the beginning of a curve in said seawall, said curve being described with the following chord bearings and distances; thence S59°52'04"E for 13.95 feet; thence S47°54'41"E for 10.35 feet; thence S36°30'10"E for 10.02 feet; thence S25°39'44"E for 10.08 feet; thence S14°17'28"E for 10.56 feet; thence S07°08'02"E for 10.56 feet to the end of said curve; thence S00°20'42"E along said waters and said seawall for 55.38 feet to a steel pin in said seawall; thence S83°09'31"E for 2.71 feet to the west line of a canal (60 foot right-of-way) as shown on the record plat of said Crescent Park Addition; thence S00°43'09"E along the westerly line of said platted canal for 361.22 feet to an intersection with a line perpendicular to said east line of said Crescent Street passing through the Point of Beginning; thence deflect 90° to the left and run S89°16'51"W perpendicular to said east line of said Crescent Street for 121.07 feet to the Point of Beginning.

Containing 1.41 acres (61,400 square feet), more or less.



Continued...

page 1 of 5

PRINCIPALS:
WILLIAM E. BEAN, PSM, CHAIRMAN
SCOTT C. WHITAKER, PSM, PRESIDENT
JOSEPH L. LUTZ, PSM
AHMAD R. KAREH, PE, MSCE, VICE PRESIDENT

PERMIT COUNCIL SURVEYORS AND MAPPERS - PLANNERS
CONSULTING ENGINEERS

ASSOCIATES:
CHARLES D. KNIGHT, PSM
ELWOOD FINEFIELD, PSM
TRACY N. BEAN, AICP
PAUL T. POKORNY, PE



DCT 2001-00067

Description of a Parcel of Land
Lying in
Section 24, Township 46 South, Range 23 East
and
Section 19, Township 46 South, Range 24 East
Lee County, Florida
(Motel and Restaurant Site)
- Continued -

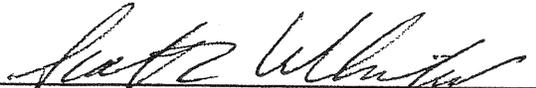
Bearings are based on the easterly right-of-way line of Crescent Street as bearing N00°43'09"W relative to the Florida Department of Transportation Right-of-Way Maps (Section 12530-2614).

Subject to easements, restrictions, reservations and rights of way (recorded and unrecorded, written and unwritten).

Bean, Whitaker, Lutz & Kareh, Inc. (LB 4919)

28958DESC4

4/11/02



Scott C. Whitaker, P.S.M. 4324

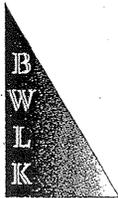
Applicant's Legal Checked
by Jan 5/30/03

RECEIVED
MAY 11 2002

PERMIT COUNTER

page 2 of 5

DCI 2001-00067



Bean, Whitaker, Lutz & Kareh, Inc.

13041 McGregor Boulevard, Suite 1
Fort Myers, Florida 33919-5910
email - fmoffice@bwk.net
(Ph) 941-481-1331 (Fax) 941-481-1073

Description of a Parcel of Land Lying in Section 24, Township 46 South, Range 23 East Town of Fort Myers Beach, Lee County, Florida (Parcel B)

A parcel of land situated in the State of Florida, County of Lee, Town of Fort Myers Beach, being all of Lots 1, 2, 3, 4, 5 and 19, Block 2, Business Center, a subdivision recorded in Plat Book 9 at Pages 9 and 10 and further described as follows:

Beginning at the northwest corner of Lot 1, Block 2 of said subdivision, the same being the intersection of the southerly right-of-way line of Second Street (50 feet wide) and the easterly right-of-way line of San Carlos Boulevard (33 feet from the centerline); thence S64°00'09"E along the southerly right-of-way line of said Second Street for 120.00 feet to the northeast corner of Lot 19, Block 2 of said subdivision; thence S25°59'51"W for 153.80 feet to the southeast corner of Lot 5, Block 2 of said subdivision and the northerly right-of-way line of Third Street (50 feet wide); thence N64°00'09"W along said northerly right-of-way line for 120.00 feet to the southwest corner of Lot 4, Block 2 of said subdivision, the same being the intersection of the northerly right-of-way line of said Third Street and the easterly right-of-way line of said San Carlos Boulevard; thence N25°59'51"E along the easterly right-of-way line of said San Carlos Boulevard for 153.80 feet to the Point of Beginning.

Containing 18,456 square feet, more or less.

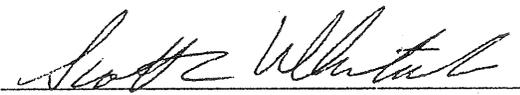
Subject to easements, restrictions, reservations and rights-of-way (recorded and unrecorded, written and unwritten).

Bearings are based on the easterly right-of-way line of San Carlos Boulevard as bearing N25°59'51"E.

Bean, Whitaker, Lutz & Kareh, Inc. (LB 4919)

Applicant's Legal Checked

by gms 5/30/03


Scott C. Whitaker, P.S.M. 4324

28958DESC1

10/8/01

page 3 of 5

PRINCIPALS:

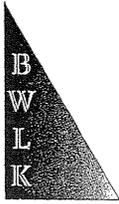
- WILLIAM E. BEAN, PSM, CHAIRMAN
- SCOTT C. WHITAKER, PSM, PRESIDENT
- JOSEPH L. LUTZ, PSM
- AHMAD R. KAREH, PE, MSCE, VICE PRESIDENT

CONSULTING ENGINEERS - SURVEYORS AND MAPPERS - PLANNERS



ASSOCIATES:

- CHARLES D. KNIGHT, PSM
- ELWOOD FINEFIELD, PSM
- TRACY N. BEAN, AICP
- PAUL T. POKORNY, PE



Bean, Whitaker, Lutz & Kareh, Inc.

13041 McGregor Boulevard, Suite 1
Fort Myers, Florida 33919-5910
email - fmooffice@bwlk.net
(Ph) 941-481-1331 (Fax) 941-481-1073

Description of a Parcel of Land Lying in Section 24, Township 46 South, Range 23 East Town of Fort Myers Beach, Lee County, Florida (Parcel C)

A parcel of land situated in the State of Florida, County of Lee, Town of Fort Myers Beach, Section 24, Township 46 South, Range 23 East and further described as follows:

Lots 13 and 14, Block 2, Business Center according to the map or plat thereof as recorded in Plat Book 9, Pages 9 and 10, Public Records of Lee County, Florida.

Less and Except:

Part of Lot 13, Block 2, Business Center, a Subdivision in Section 24, Township 46 South, Range 23 East, as shown on the plat recorded in Plat Book 9, Pages 9 and 10 of the Public Records of Lee County, Florida, more particularly described as follows:

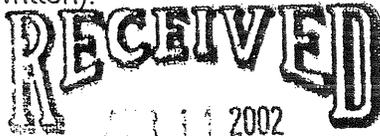
Beginning at the northeast corner of said Lot 13; thence run S00°43'09"E along the east line of said Lot 13 for 82.62 feet (82.59 record) to the southeast corner of said Lot 13; thence run N64°00'09"W along the south line of said Lot 13 for 6.15 feet; thence run N02°09'05"W for 78.56 (78.52 record) feet; thence run N34°44'19"W for 9.27 feet to the northerly line of said Lot 13; thence run S64°00'09"E along said northerly line for 14.16 feet to the Point of Beginning.

Said excepted parcel having been conveyed to Lee County by instrument recorded in Official Record Book 2311, Page 2801, Public Records of Lee County, Florida.

Remaining parcel containing 0.13 acres, more or less.

Bearings are based on the easterly right-of-way line of Crescent Street as bearing N00°43'09"W relative to the Florida Department of Transportation Right-of-Way Maps (Section 12530-2614).

Subject to easements, restrictions, reservations and rights of way (recorded and unrecorded, written and unwritten).



Bean, Whitaker, Lutz & Kareh, Inc. (LB 4919)

Scott C. Whitaker, P.S.M. 4324

28958DESC1 PERMIT COUNTER 4/11/02

Applicant's Legal Checked by gm 5/30/03

page 4 of 5

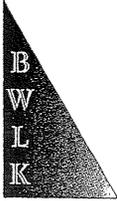
CONSULTING ENGINEERS - SURVEYORS AND MAPPERS - PLANNERS

PRINCIPALS:
WILLIAM E. BEAN, PSM, CHAIRMAN
SCOTT C. WHITAKER, PSM, PRESIDENT
JOSEPH L. LUTZ, PSM
AHMAD R. KAREH, PE, MSCE, VICE PRESIDENT

ASSOCIATES:
CHARLES D. KNIGHT, PSM
ELWOOD FINEFIELD, PSM
TRACY N. BEAN, AICP
PAUL T. POKORNY, PE



ACT 2001-00069



Bean, Whitaker, Lutz & Kareh, Inc.

13041 McGregor Boulevard, Suite 1
Fort Myers, Florida 33919-5910
email - fmooffice@bwlk.net
(Ph) 941-481-1331 (Fax) 941-481-1073

Description of a Parcel of Land Lying in Section 24, Township 46 South, Range 23 East Town of Fort Myers Beach, Lee County, Florida (Parcel D)

A parcel of land situated in the State of Florida, County of Lee, Town of Fort Myers Beach, Section 24, Township 46 South, Range 23 East and further described as follows:

Commencing at the northwesterly corner of Lot 25, Block E, Crescent Park Addition, according to a plat or map thereof recorded in Plat Book 4 at Page 46 of the Public Records of Lee County, Florida, said point being on the east line of said Section 24, run northwesterly at an angle of 63°16'50" north to northwest with said section line for 27.99 feet to the northeasterly corner of lands described in Deed Book 262 at Page 191 of the Public Records of Lee County and to the Point of Beginning; thence run N64°00'09"W along the northwesterly line of said lands described in said Deed Book 262 at Page 191 along with the southwesterly line of First Street described in Deed Book 191 at Page 274 of said Public Records for 9.97 feet to an intersection with the easterly right-of-way line for Matanzas Pass Bridge recorded in Official Record Book 1167, Page 1576, Lee County Public Records; thence run along said easterly right-of-way line along the arc of a curve to the right having a radius of 2904.79 feet, said curve having a central angle of 01°58'53", a chord and chord bearing of S20°32'55"W, 100.45 feet; thence run along the arc of said curve for 100.46 feet to the north line of Lot 6, Block 1, Business Center as recorded in Plat Book 9 at Pages 9 and 10, Public Records; thence run S64°00'09"E for 50.76 feet to an intersection with the westerly right-of-way line of Crescent Street; thence run N00°43'09"W along said westerly right-of-way line for 111.95 feet to the Point of Beginning.

Parcel contains 0.07 acres, more or less.

Bearings are based on the easterly right-of-way line of Crescent Street as bearing N00°43'09"W relative to the Florida Department of Transportation Right-of-Way Maps (Section 12530-2614).

Subject to easements, restrictions, reservations and rights of way (recorded and unrecorded, written and unwritten).

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APR 11 2002

Bean, Whitaker, Lutz & Kareh, Inc. (LB 4919)

Scott C. Whitaker, P.S.M. 4324

28958DESC2 PERMIT COUNTER
4/11/02
Applicant's Legal Checked
by Jm 5/30/03

page 5 of 5

PRINCIPALS:
WILLIAM E. BEAN, PSM, CHAIRMAN
SCOTT C. WHITAKER, PSM, PRESIDENT
JOSEPH L. LUTZ, PSM
AHMAD R. KAREH, PE, MSCE, VICE PRESIDENT

CONSULTING ENGINEERS - SURVEYORS AND MAPPERS - PLANNERS

ASSOCIATES:
CHARLES D. KNIGHT, PSM
ELWOOD FINEFIELD, PSM
TRACY N. BEAN, AICP
PAUL T. POKORNY, PE

DCI 2001-00069



CHARTER MEMBER
AMERICAN INSTITUTE
OF CERTIFIED
PLANNERS



CHARTER MEMBER
AMERICAN PLANNING
ASSOCIATION

100 ESTERO BOULEVARD, SUITE 434
FORT MYERS BEACH, FLORIDA 33931
239-463-3929 • CELL 239-281-6312

HAND DELIVERED

December 4, 2003

Jerry Murphy
Lee County DCD/Zoning Division
PO Box 398
Ft. Myers, FL 33902

Re: Final Revised MCP-Matanzas Inn CPD Case DCI 2001-0067

Dear Jerry:

Per our meeting yesterday, attached is the revised MCP for Matanzas Inn CPD. There are 10 full size copies and 2 reduced versions. As also discussed, when you have the draft resolution, please forward it to Doug and myself, hopefully, in word format so that we may review it for any corrections. Thank you for your assistance with this case.

Sincerely,

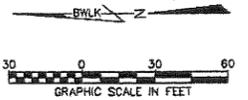
Carleton Ryffel, AICP

C: Doug Speirn-Smith

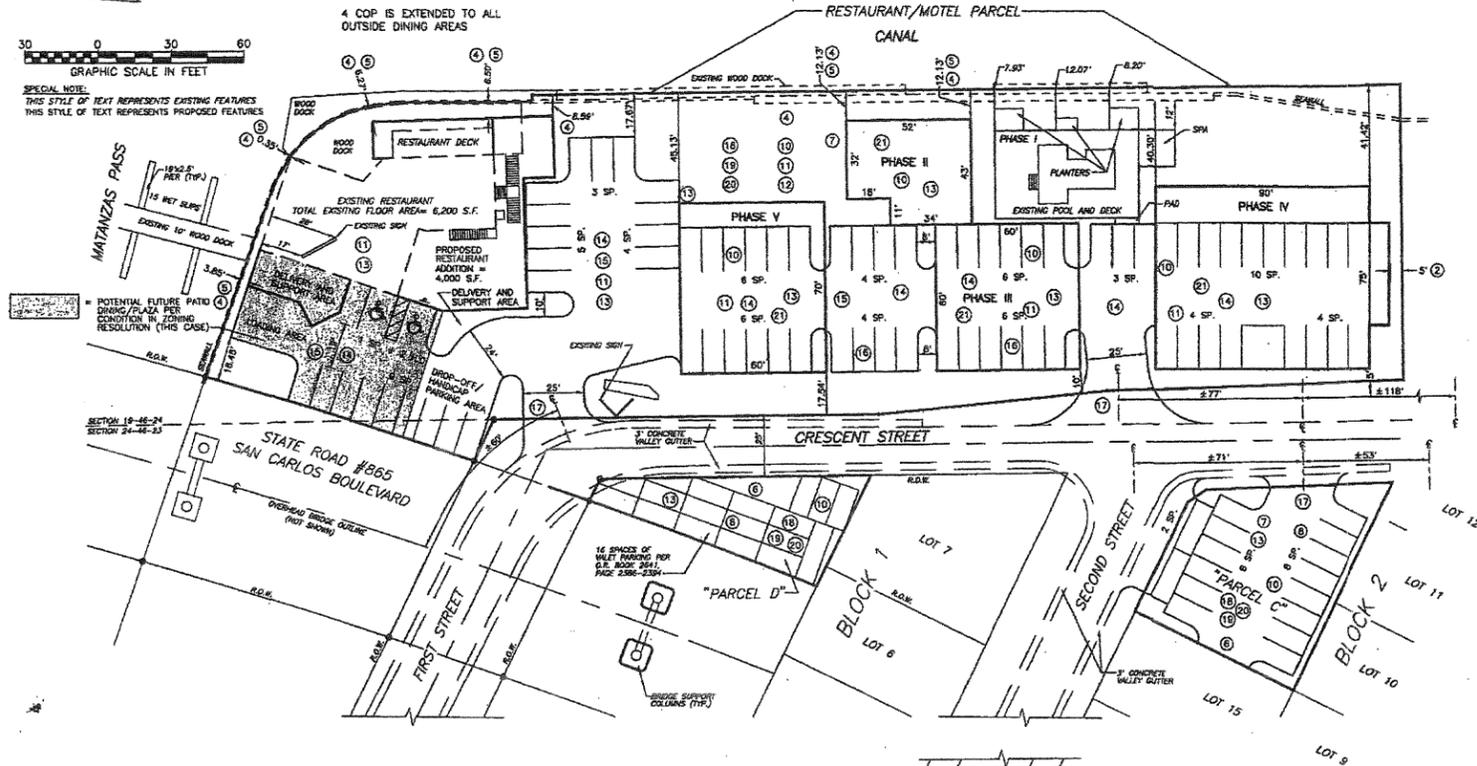
DCI 2001-00067

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PERMIT COUNTER



SPECIAL NOTE:
THIS STYLE OF TEXT REPRESENTS EXISTING FEATURES
THIS STYLE OF TEXT REPRESENTS PROPOSED FEATURES



SCHEDULE OF USES:

PERMITTED USES:

RESTAURANT AND MOTEL PARCEL (BETWEEN CRESCENT STREET AND CANAL)

ALL PRINCIPAL AND ACCESSORY USES THAT ARE PERMITTED BY RIGHT IN THE DOWNTOWN ZONING DISTRICT, PLUS THE FOLLOWING ADDITIONAL USES:
BAR/COCKTAIL LOUNGE (TWO (2), ONE (1) EACH ON GROUND AND SECOND FLOOR OF THE RESTAURANT)
ON-PREMISES CONSUMPTION OF ALCOHOLIC BEVERAGES (ANYWHERE IN THE RESTAURANT)
OUTDOOR SEATING IN CONJUNCTION WITH COP
BOAT SLIPS AVAILABLE TO THE PUBLIC FOR RENT
COMMERCIAL PARTY FISHING BOATS

PARCELS C & D

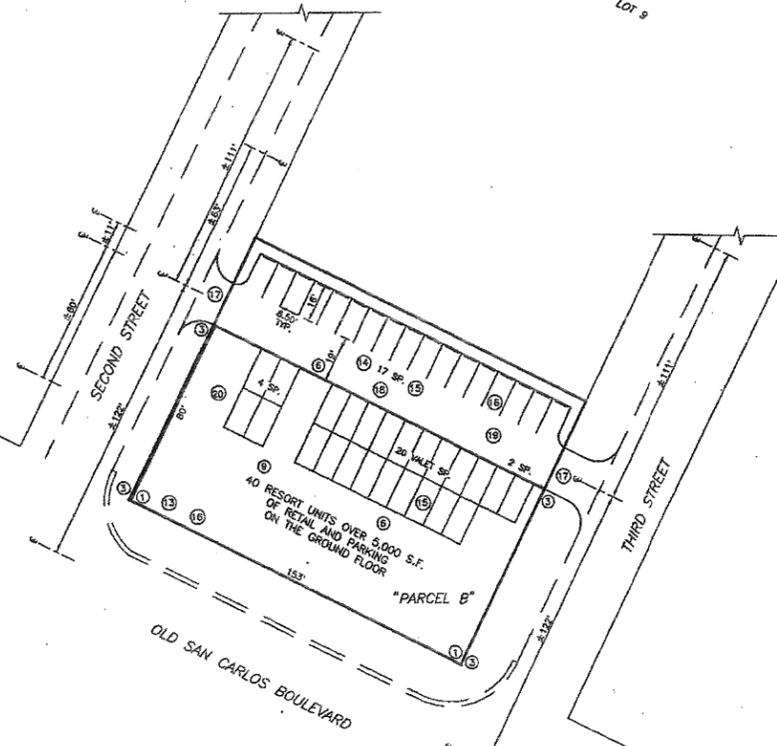
PARKING LOT, SHARED PERMANENT ESSENTIAL SERVICES

OLD SAN CARLOS PARCEL

ALL PRINCIPAL AND ACCESSORY USES THAT ARE PERMITTED BY RIGHT IN THE DOWNTOWN ZONING DISTRICT

MAXIMUM INTENSITY OF USES:

COMMERCIAL/RESTAURANT PARCEL	PRIMARY BUILDING SIZE/QUANTITY	SIZE OF PARCEL	F.A.R. MAXIMUM SIZE @ 1.2
RESTAURANT/SUPPORT SERVICES/MARINA/RELATED SERVICES	16,700 S.F.	0.32 ACRES	16,727 S.F.
MOTEL/ANCILLARY PARCELS			
RESORT UNITS/MARINA/SUPPORTING RESORT SERVICE/UNDERBUILDING PARKING	(32 UNITS)	1.28 ACRES	65,808 S.F.
PHASE V	8,190 S.F.		
PHASE III	9,450 S.F.		
PHASE II	6,114 S.F.		
PHASE IV	20,250 S.F.		
	43,914 TOTAL S.F.		
OLD SAN CARLOS PARCEL			
PROPOSED COMMERCIAL - GROUND LEVEL	5,425 S.F.	±0.43 ACRES	±22,477 S.F.
PROPOSED TWO (2) STORES OF RESORT HOUSING/OFFICE/ETC.	24,800 S.F.		
PROPOSED GROUND FLOOR COVERED PARKING	6,878 S.F.		
	37,203 TOTAL S.F.		
GRAND TOTAL	97,814 S.F.	2.05 ACRES	106,112 S.F.



OLD SAN CARLOS BOULEVARD DEVELOPMENT:

5,000 S.F. OF COMMERCIAL/RETAIL ON STREET LEVEL FLOOR WITH OPTIONAL HOTEL/RESORT USE AND OFFICE SPACE ON THE SECOND FLOOR. MAXIMUM HEIGHT OF 40 FEET ABOVE FLOOD ELEVATION, AND MAXIMUM OF 32,800 S.F. OF BUILDING GROSS AREA.

MOTEL/RESORT UNIT DEVELOPMENT:

MAXIMUM NUMBER OF HOTEL/RESORT UNITS IS 32 INCLUDING A MANGER'S UNIT. MAXIMUM HEIGHT IS TWO (2) LIVING FLOORS ABOVE FLOOD ELEVATION AND 30 FEET ABOVE FLOOD ELEVATION. PHASING OF DEVELOPMENT MAY VARY DEPENDING ON APPLICANT'S PREFERENCES AT TIME OF DEVELOPMENT. AVERAGE SIZE SHALL NOT EXCEED 800 S.F. OF LIVING AREA PER UNIT.

RESTAURANT DEVELOPMENT:

MAXIMUM RESTAURANT BUILDING SIZE IS THE EXISTING SPACE PLUS AN ADDITIONAL 4,000 S.F. OF RESTAURANT SPACE. MAXIMUM HEIGHT IS 40 FEET OR TWO (2) FLOORS ABOVE FLOOD ELEVATION. NO PARKING WILL BE PERMITTED UNDER THE COMMERCIAL STRUCTURE.

SCHEDULE OF DEVIATIONS:

- DEVIATION FROM LDC TABLE 34-3 FROM THE REQUIRED 10 FEET SETBACK FROM A STREET RIGHT-OF-WAY TO ALLOW REDUCED STREET SETBACKS ON THE MOTEL/RESTAURANT PARCEL AND FOR OLD SAN CARLOS ON PARCEL "D", AS INDICATED BY DEVIATION 1 SYMBOLS AND ON THE MCP.
- DEVIATION FROM LDC TABLE 34-3 FROM THE REQUIRED 20 FEET SIDE SETBACKS ON A WATERFRONT LOT TO ALLOW 5 FEET SIDE SETBACKS ON THE MOTEL AND RESTAURANT SITE AS INDICATED BY DEVIATION 2 SYMBOLS ON THE MCP.
- DEVIATION FROM LDC TABLE 34-3 FROM THE REQUIRED 15 FEET SIDE SETBACKS ON NON-WATERFRONT LOTS TO ALLOW THE DEVELOPER TO BUILD TO THE RIGHT-OF-WAY LINES FOR SECOND AND THIRD STREETS ON PARCEL "B", AS INDICATED BY DEVIATION 3 SYMBOLS ON THE MCP.
- DEVIATION FROM LDC TABLE 34-3 FROM THE REQUIRED 20 FEET REAR SETBACKS TO ALLOW REDUCED REAR SETBACKS ON THE MOTEL AND RESTAURANT SITE AS INDICATED BY DEVIATION 4 SYMBOLS AND DIMENSIONS ON THE MCP.
- DEVIATION FROM LDC TABLE 34-3 FROM THE REQUIRED 25 FEET SETBACK FROM A WATERBODY TO ALLOW REDUCED WATERBODY SETBACKS ON THE MOTEL AND RESTAURANT SITE AS INDICATED BY DEVIATION 5 SYMBOLS AND DIMENSIONS ON THE MCP.
- DEVIATION FROM LDC TABLE 34-3 FROM THE REQUIRED 20,000 SQUARE FEET OF LOT AREA TO ALLOW MINIMUM LOT SIZES OF 16,456 SQUARE FEET FOR PARCEL "B", 5,550 SQUARE FEET FOR PARCEL "C", AND 3,049 SQUARE FEET FOR PARCEL "D".
- DEVIATION FROM LDC TABLE 34-3 FROM THE REQUIRED 100 FEET OF LOT WIDTH TO ALLOW A MINIMUM LOT WIDTH OF 72.5 FEET FOR PARCEL "C".
- DEVIATION FROM LDC TABLE 34-3 FROM THE REQUIRED 100 FEET OF LOT DEPTH TO ALLOW A MINIMUM LOT DEPTH OF 74 FEET FOR PARCEL "C" AND 30 FEET FOR PARCEL "D".
- DEVIATION FROM LDC TABLE 34-3 FROM THE MAXIMUM FLOOR AREA RATIO (FAR) OF 1.2 TO ALLOW A MAXIMUM FAR ON PARCEL "B" OF 2.0.
- DEVIATION FROM LDC SECTION 34-632(3)c FROM THE LIMITATION ON COMBINING THREE (3) OR MORE LOTS INTO A DEVELOPMENT PROJECT TO ALLOW THE "MOTEL AND RESTAURANT SITE" PARCEL, PARCEL "C" ("SHELL SHOP"), AND PARCEL "D" ("TRIANGLE PARCEL") TO INCLUDE ONE-HALF THE WIDTH OF ADJOINING STREETS AND CANALS IN LOT AREA FOR THE PURPOSES OF COMPUTING RESIDENTIAL DENSITIES, TO ALLOW A TOTAL OF 32 GUEST UNITS ON THE "MOTEL AND RESTAURANT SITE" PARCEL.
- DEVIATION FROM LDC SECTION 34-632(4) FROM THE LIMITATION ON INCLUDING ACRES USED PRIMARILY FOR COMMERCIAL PURPOSES IN COMPUTATION OF RESIDENTIAL DENSITY TO INCLUDE THE PORTION OF THE "MOTEL AND RESTAURANT SITE" PARCEL USED PRIMARILY FOR THE MATANZAS RESTAURANT TO BE INCLUDED IN THE ACRES OF THE CPD PROJECT ADJUTING CRESCENT STREET, TO ALLOW A TOTAL OF 32 GUEST UNITS ON THE "MOTEL AND RESTAURANT SITE" PARCEL.
- DEVIATION FROM THE EQUIVALENCY FACTOR TABLE IN LDC SECTION 34-1803(a)(1) TO ALLOW GUEST UNITS WITH OVER 450 SQUARE FEET OF FLOOR AREA TO UTILIZE AN EQUIVALENCY FACTOR OF 3.0 IN THE PEDESTRIAN COMMERCIAL LAND USE CATEGORY.
- DEVIATION FROM LDC SECTION 34-2015(1) FROM THE REQUIREMENT THAT PARKING SPACES THAT ARE REQUIRED TO SUPPORT SPECIFIC LAND USES MUST BE PROVIDED ON THE SAME PREMISES, TO ALLOW PARKING SPACES LOCATED ON PARCELS "C" AND "D" OF THIS COMMERCIAL PLANNED DEVELOPMENT TO BE USED BY ALL APPROVED USES ON THE "MOTEL AND RESTAURANT SITE" PARCEL AND PARCEL "B".
- DEVIATION FROM LDC SECTION 34-2016(1) FROM THE REQUIREMENT THAT PARKING LOTS WITH NINETY DEGREE (90°) ANGLE OF PARKING SPACES HAVE LENGTH OF 18 FEET TO ALLOW A PARKING SPACE LENGTH OF 16 FEET AS INDICATED BY DEVIATION 14 SYMBOLS AND DIMENSIONS ON THE MCP.
- DEVIATION FROM LDC SECTION 34-2016(1) FROM THE REQUIREMENT THAT PARKING LOTS WITH NINETY DEGREE (90°) ANGLE OF PARKING SPACES AND TWO-WAY AISLES HAVE AN AISLE WIDTH OF 22 FEET TO ALLOW AN AISLE WIDTH OF 19 FEET AS INDICATED BY DEVIATION 15 SYMBOLS AND DIMENSIONS ON THE MCP.
- DEVIATION FROM LDC SECTION 34-2020 FROM THE MINIMUM REQUIREMENTS FOR OFF STREET PARKING SPACES FOR USES PERMITTED ON PARCEL "B" TO ALLOW PARCEL "B" TO UTILIZE THE OFF-STREET PARKING REDUCTIONS OF THE DOWNTOWN ZONING DISTRICT PROVIDED IN LDC SECTION 34-676(a)(1).
- DEVIATION FROM LDC SECTION 10-285(a) FROM THE REQUIRED CONNECTION SEPARATION FOR LOCAL ROADS OF 125 FEET TO ALLOW CONNECTION SEPARATIONS OF ±11', ±60', ±63', ±111', ±122', ±53', ±71', ±118', ±77', AND ±60' AS INDICATED BY DEVIATION 17 SYMBOLS AND DIMENSIONS ON THE MCP.
- DEVIATION FROM LDC SECTION 10-413(d)(1) FROM THE MINIMUM DIMENSIONAL REQUIREMENT OF TEN (10) FEET OF WIDTH OF OPEN SPACE AREAS TO ALLOW OPEN SPACE WIDTHS AS SHOWN ON THE MCP.
- DEVIATION FROM LDC SECTION 10-413(d)(2) FROM THE MINIMUM DIMENSIONAL REQUIREMENT OF 160 SQUARE FEET OF AREA OF OPEN SPACE TO ALLOW OPEN SPACE AREAS AS SHOWN ON THE MCP.
- DEVIATION FROM LDC SECTION 10-414(c) FROM THE MINIMUM DIMENSIONAL AND COMPOSITIONAL REQUIREMENTS FOR BUFFERS TO ALLOW BUFFERS AS SHOWN ON THE MCP.
- DEVIATION FROM LDC SECTION 34-675(b)(2) FROM NO ENCLOSED SPACE ON THE GROUND FLOOR TO ALLOW 25% OF THE GROUND FLOOR TO BE USED FOR ANCILLARY SUPPORT SERVICES SUCH AS OFFICES, LAUNDRY, STORAGE, ETC.

APPROVED
Master Concept Plan
Site Plan # 03-035 Page 1 of 1
Subject to conditions in Resolution JC-03-035
Case # DC12001-00067
TOWN OF FORT MYERS BEACH

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PERMIT COUNTY

REVISIONS PER TOWN OF FORT MYERS BEACH - 12/03/2003
REVISIONS PER TOWN OF FORT MYERS BEACH - 10/21/2003

PRINTED
DEC 03 2003

MR. DOUGLAS H. SPERRIN-SMITH
4100 CAMDENWAY STREET
FORT MYERS BEACH, FLORIDA 33931 (239) 765-8866

MATANZAS INN REDEVELOPMENT
SECTION 19, T 48S, R 24E, LEE COUNTY, FLORIDA

Carleton Ryffel, AICP
LAND PLANNER - ZONING CONSULTANT
100 ESTERO BOULEVARD, SUITE 434, FORT MYERS BEACH, FL 33931
PHONE (239) 463-3029
FAX (239) 463-3029

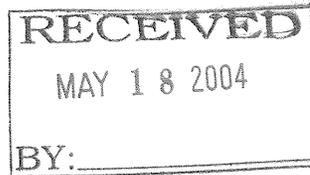
DRAWING BY: K. MAHLER
CHECKED BY: C. RYFFEL
PROJECT NUMBER: 3337402-41
DATE: SEPTEMBER 4, 2003
SCALE: 1" = 30'

MASTER CONCEPT PLAN

SHEET 1 OF 1

19-46-24

May 14, 2004



Mr. Dan Folke
Town of Fort Myers Beach
2523 Estero Blvd.
Fort Myers Beach, FL 33931

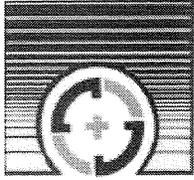
Dear Mr. Folke,

Mr. Doug Speirn-Smith instructed me to forward this sound report to your attention on behalf of Matanzas Inn.

Sincerely,

A handwritten signature in cursive script, appearing to read "Chris Arnberg".

Chris Arnberg
Matanzas Inn
416 Crescent Street
Fort Myers Beach, FL 33931
239/765-8866



ENVIRONMENTAL SAFETY ASSOCIATES
(ESA Consulting Services)

P.O. Box 151, Baldwinsville, NY 13027-0151
2600 Kings Lake Blvd., Naples, FL 34112-5409

Tel/Fax: NY 315-635-1929 ~ FL 239-774-5194 ~ Toll-Free 1-888-667-3723 ~ E-Mail: bob@oshex.com

March 30, 2004

Chris Arnberg, Manager
Estero Bay Hotel Company
Matanzas Inn
416 Crescent Street
Fort Myers Beach, FL

Dear Chris:

In response to my earlier report of findings from noise measurements taken in and around your property on March 5, 2004, you asked a simple question: "As a result of actions taken to reduce the sound generated by our entertainment, are we in compliance with the Town of Fort Myers Beach noise ordinance?" The answer is far from simple.

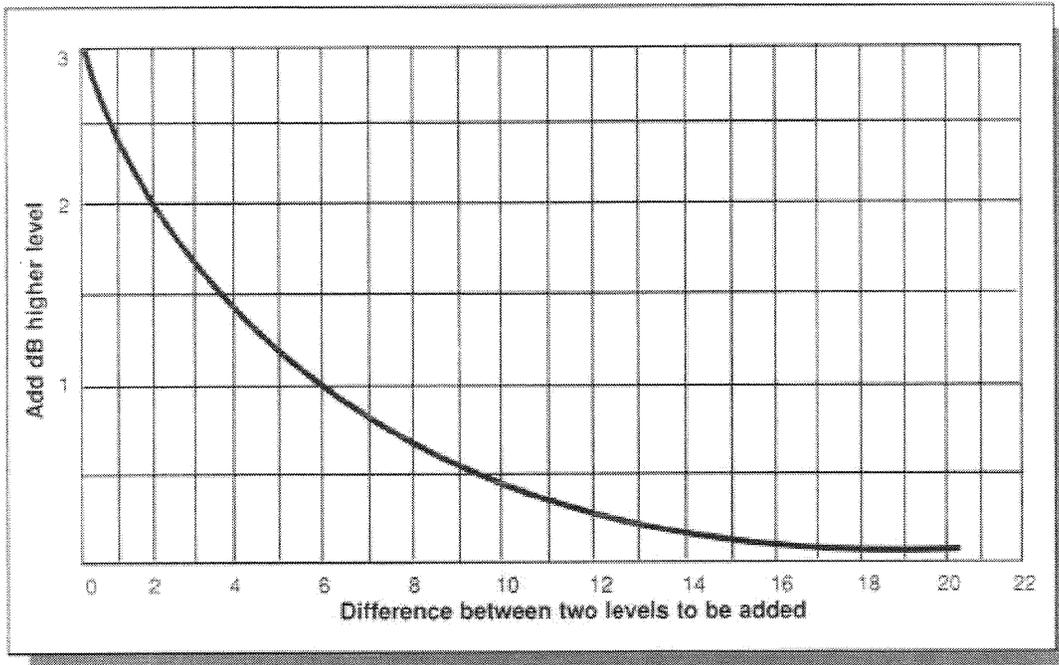
Ordinance 96-24 defines that measurements be taken using a *sound level meter* conforming to ANSI S1.4, Type 2, using slow response and "A" weighting. There is no mention of ANSI E1014-84, the Standard Guide for Measurement of Outdoor A-Weighted Sound Levels. This document provides instructions on how those measurements are to be taken. The ordinance does not.

In our measurements, we recorded RMS *maximum levels* (L_{max}) and *average levels* (L_{eq}) (that equate closely to an L_{10} exceedance level, or level that is exceeded only 10% of the time.) This is the measure typically used to describe environmental noise – because spurious sounds like passing cars or aircraft, people laughing, doors slamming, or an occasional dog bark could cause the sound measurement to easily "exceed" a stated maximum level – particularly one that is so close to the ambient sound level in an area.

The measurements taken during our most recent visit indicate that the changes that you have made have resulted in a decrease of about 3-5dBA in the carryover sound from your entertainment, compared to the previous readings taken in December and earlier this month. The average reading taken at the property directly across the canal, with the entertainment in session, dropped from 59dBA to 54dBA.

Prior and current measurements indicate that the ambient sound level in the area on a typical evening at the time of the measurements is about 53dBA. Correcting for this (see

the chart below), this indicates that the entertainment is contributing less than 50dBA to the total, and is certainly in compliance with the 66dBA allowable maximum for a residential receiving land use defined in Table I of the ordinance.



Going one step further, Section 5B of the ordinance states that, from 7AM until 10PM, the allowable level from impulsive sound is increased by 10dBA. During my observations, it was clear that the sound from your entertainment varied greatly as the singer sang and played. The rise and fall of the singers voice does not meet the criteria of “Continuous Noise” spelled out in Section 3C of the ordinance (as would sound from a running generator or air conditioning unit), but it is also not what we typically call “impulsive” sound (such as a gunshot or door slamming). This adds another element of ambiguity. Because of the way the definition is written, the entertainment may well be considered impulsive sound, thus providing a 10dBA “cushion.”

A conflict appears in Section 5C, where the ordinance stipulates that amplified sound that exceeds 60dBA between the hours of 10AM and 10PM is prohibited. If we look at the L_{10} or L_{eq} (average) as the effective maximum, and correct for the background (ambient) in both the Primo Drive and Crescent Street locations, your entertainment is now compliant with the requirements of the ordinance.

If we look at the RMS maximum level, compliance is “borderline.” It is clear that your contributed sound level at these property edge locations are *below* that of numerous other sites featuring outdoor entertainment in this commercially-zoned area, as noted in our report dated March 12, 2004.

It is my opinion that, with your current speaker configuration and amplifier settings, the sound from this entertainer complies with the ordinance, insomuch as our measurements

could determine¹, and that no further action is necessary at this time. Under the terms of the ordinance, you are permitted to extend the entertainment until 10PM, if you wish.

Respectfully submitted:
ENVIRONMENTAL SAFETY ASSOCIATES

Robert N. Andres, CSP, DABFE
Principal

¹ We did not have the equipment to measure at the center of the canal at the elevation of the entertainment, nor permission to take readings on the second floor of any residence along Primo Drive.