

RESOLUTION OF THE TOWN COUNCIL OF
THE TOWN OF FORT MYERS BEACH, FLORIDA
RESOLUTION NUMBER 05-06

WHEREAS, SOB, Inc. as applicant and owner of Smokin' Oyster Brewery has requested a Special Exception for consumption on premises (4 COP) in the Downtown zoning District; and

WHEREAS, the subject property is located at 340 Old San Carlos Blvd., Ft. Myers Beach, Florida, the applicant has indicated the property's current STRAP number is: 24-46-23-W3-00203.0010 and the legal description is as provided in Exhibit "A" which is attached hereto and incorporated herein by reference; and

WHEREAS, a public hearing was held before the Local Planning Agency (LPA) on February 8, 2005, 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, the LPA recommended approval of the Applicant's Special exception request with the following conditions:

1. The Special Exception is limited to on premises consumption of alcoholic beverages for a maximum of 89 seats, limited to a 4-COP beverage license to be used in conjunction with the Smokin' Oyster Brewery. A building floor plan is attached as Exhibit "B"
2. The approval of on premises consumption of alcoholic beverages for a 4-COP (Beer, Wine and Liquor) alcoholic beverage license is permitted in conjunction with a restaurant only. Sales of food must not fall below 50% of total sales and shall be in compliance with Section 34-1264(k) of the LDC.
3. Indoor music or entertainment is restricted to the hours of 11 AM to 11PM and live music shall be limited to non-amplified music until a noise buffer is installed that would adequately protect the residential area from noise impacts. That determination will be made by the Community Development Director and if the buffer is determined to be satisfactory then the restriction on non-amplified music may be lifted.
4. The indoor seating will only be used in conjunction with the service of alcoholic beverages between the hours of 8 AM and 12 AM, Monday through Sunday.
5. A full service menu must be available during hours of operation for consumption on premises.

NOW, THEREFORE, BE IT RESOLVED BY THE FORT MYERS BEACH TOWN COUNCIL, that the Council APPROVES the requested special exception.

FINDINGS AND CONCLUSIONS:

The following findings and conclusions were made in conjunction with the approval of the requested modification:

1. The applicant demonstrated compliance with the Fort Myers Beach Comprehensive Plan.
2. The applicant demonstrated compliance with Chapter 34 of the Land Development Code of the Town of Fort Myers Beach.
3. The applicant demonstrated compliance with the other applicable town ordinances or codes.
4. The Special Exception, as conditioned, is consistent with the goals, objectives, policies and intent of the Fort Myers Beach Comprehensive Plan..

5. That the Special Exception, as conditioned, meets all performance and locational standards set forth for the proposed use.

SUBJECT TO THE FOLLOWING CONDITIONS:

1. The Special Exception is limited to on premises consumption of alcoholic beverages for a maximum of 89 seats, limited to a 4-COP beverage license to be used in conjunction with the Smokin' Oyster Brewery. A building floor plan is attached as Exhibit B
2. The approval of on premises consumption of alcoholic beverages for a 4-COP (Beer, Wine and Liquor) alcoholic beverage license is permitted only in conjunction with a restaurant. Sales of food must not fall below 50% of total sales in accordance with LDC Section 34-1264(k).
3. Music or entertainment is only allowed within the building and is prohibited between the hours of 11PM and 11AM. Live music must be limited to non-amplified music until a noise buffer is installed that, in the determination of the Community Development Director, adequately protects the residential area from noise impacts. If the buffer is determined to be satisfactory then the restriction on non-amplified music may be lifted.
4. The seating area will only be used in conjunction with the service of alcoholic beverages between the hours of 11 AM and Midnight, Monday through Thursday, between the hours of 11 AM and 1 AM, Friday and Saturday, and between the hours of 8 AM and 10 PM on Sunday.
5. A full service menu must be available during hours of operation for consumption on premises.

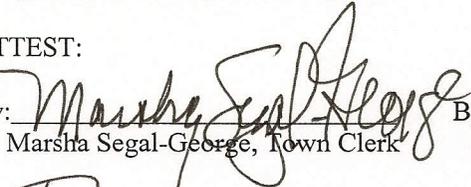
The foregoing resolution was adopted by the Fort Myers Beach Town Council upon being put to a vote, the result was as follows:

Howard Rynearson	YES
Don Massucco	YES
Bill Thomas	YES
W. H. "Bill" Van Duzer	YES
Garr Reynolds	NO

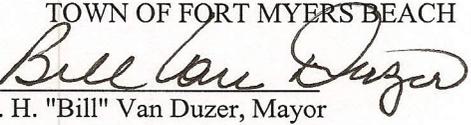
Adopted this 14th day of March, 2005.

ATTEST:

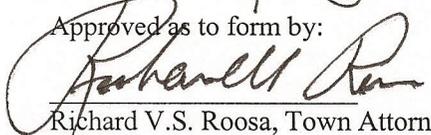
By:


Marsha Segal-George, Town Clerk

By:


W. H. "Bill" Van Duzer, Mayor

Approved as to form by:


Richard V.S. Roosa, Town Attorney

TOWN OF FORT MYERS BEACH

**COP2004-00224
SMOKIN' OYSTER BREWERY**

PROPERTY DESCRIPTION

IN SECTION 24, TOWNSHIP 46 SOUTH, RANGE 23 EAST, LEE COUNTY, FLORIDA:

LOT 1, BLOCK 3, BUSINESS CENTER SUBDIVISION ON ESTERO
ISLAND, PLAT BOOK 9, PAGE 10, PUBLIC RECORDS OF LEE
COUNTY, FLORIDA.

Applicant's Legal Checked
by *[Signature]* 22 Nov 04

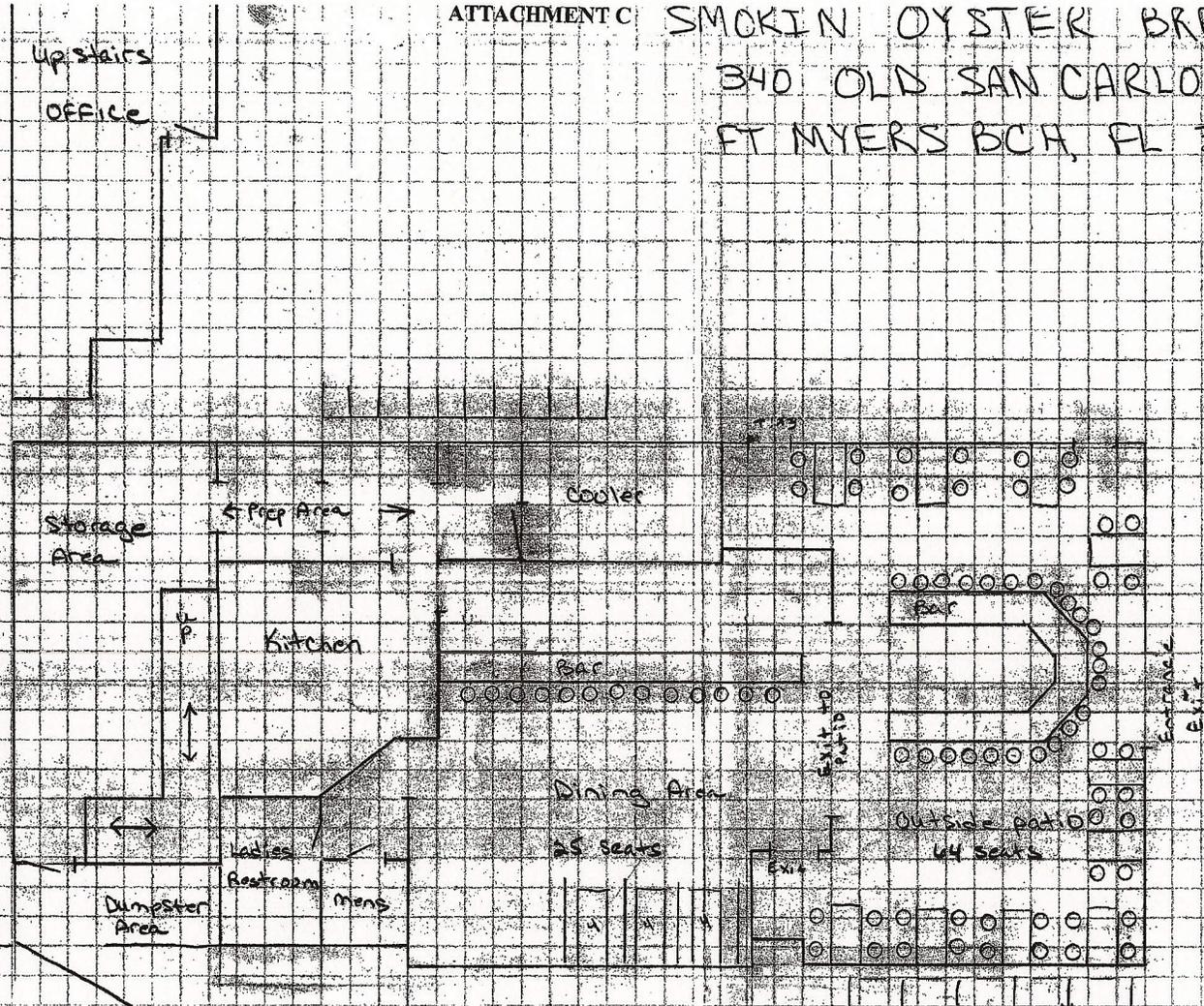
ATTACHMENT C

SMOKIN OYSTER BREWERY
340 OLD SAN CARLOS BLVD
FT MYERS BCH, FL 33931

PERMIT CENTER

NOV 9 2004

RECEIVED



SCALE 1/4" = 2ft.

Parking (not to scale)