

RESOLUTION OF THE TOWN COUNCIL OF
THE TOWN OF FORT MYERS BEACH, FLORIDA
RESOLUTION NUMBER 05-10

A RESOLUTION OF THE TOWN COUNCIL OF FORT MYERS BEACH

WHEREAS, Ecoventure Carousel, LTD in ref. to Carousel Inn RPD (following FLUEDRA mediation) has requested to rezone 0.73 acres from Residential Multifamily (RM) and 0.96 acres from Commercial Resort (CR) to Residential Planned Development (RPD) to develop 12 multiple-family dwelling units in one multiple-story building with 48,926 square feet of interior space and a deviation from the LDC building height limitations to allow building height not to exceed 3 stories over 1 story of parking and 45 feet above base flood elevation; and

WHEREAS, the subject property is located at 6230 Estero Boulevard, Fort Myers Beach, in S33-T46S-R24E, Lee County, Florida; and

WHEREAS, the applicant has indicated the property's current STRAP numbers are: 33-46-24-W3-00013.0020 and 33-46-24-00013.0030, and the legal description is marked as Exhibit A and is attached hereto and incorporated herein by reference; and

WHEREAS, a public hearing was legally advertised and held before the Local Planning Agency (LPA) on April 19, 2005; and

WHEREAS, a public hearing was legally advertised and held before the Town Council on May 16, 2005; and

WHEREAS, the Town Council gave full and complete consideration to the recommendations of the Staff, the documents in the file, and the testimony of all interested persons.

NOW, THEREFORE BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA as follows:

That the Town Council approves Applicant's request for zoning change from RM and CR to RPD with a deviation from LDC Section 34-943 and Table 34-3 to allow 3 stories over 1 story of parking not to exceed 45 feet above base flood elevation and the following conditions:

Conditions:

1. The development of this project must be consistent with the three (3) page Master Concept Plan (MCP) prepared by RWA Consulting, Inc., except as modified by the conditions below. The development must comply with the Land Development Code at the time of local development order approval except for deviations that are granted or conditions and other requirements of this Residential Planned Development approval. Changes to the MCP or RPD approval must be requested and reviewed for appropriateness through the procedures provided in the Land Development Code.

2. Site Development Regulations:

A. Schedule of Uses:

Residential

Dwelling unit, multiple family, limited to 12 total units

Recreation facility, private on site

Residential accessory uses

Lodging

Rental of any permitted dwelling unit to a single family for periods of one week or longer

Office

Administrative office

Home occupation (no outside help)

Civic

Beach access

Essential services

Hidden path

Essential service equipment

B. Dimensional Regulations:

Minimum Setbacks

Street: 80 feet

Side: 20 feet

Rear: 20 feet

Gulf of Mexico: 50 feet

Minimum Lot Dimensions:

Lot size: 1.69 acres [see Condition 3]

Lot width: 180 feet

Lot depth: 400 feet

Maximum Interior Space:

48,926 square feet

Maximum Density:

12 multiple-family dwelling units

Building Height:

45 feet ABFE / 4 stories

3. Prior to issuance of a local development order for the project, the property owner will recombine the property into one lot of record in accordance with LDC Section 10-217 and record the requisite deed.
4. Prior to issuance of a local development order for the project, the property owner will execute and record the appropriate legal instrument creating the five (5)-foot wide public beach access easement indicated conceptually on the MCP. The ultimate design of the beach access will be agreed upon by the Community Development Director and the property owner prior to or during the development review process.
5. Two weeks prior to the public hearing of this case before Town Council, a Beach and Dune Restoration Plan acceptable to staff as a 24" by 36" plan must be included as an additional page of the MCP.
6. Prior to issuance of a local development order for the project, the development order plans must include a detailed dune creation and crossover plan revised according to the Condition 5 and with the following revisions:

- A. All plants must be a minimum of 1 gallon container size.
 - B. Plant quantities must be calculated on 1 gallon container size plants, 3-foot on center. Plant quantities may be adjusted when larger container size plants are used.
 - C. plants must be installed in a random manner to mimic a natural system and details of the sand used to create the dunes must be included with cross-sections of the dunes.
 - D. A temporary irrigation system must be installed.
 - E. The dune crossovers must terminate on the seaward side of the secondary dune with the beach access blending into a meandering sand path to be roped to direct pedestrian traffic.
 - F. Wording and location of dune restoration signs and any temporary roping must be shown on the plans.
7. The dune crossovers shall be designed to be compatible with each other and the project. Prior to the issuance of any Certificate of Compliance for the project, the dune restoration and crossovers must be constructed.
 8. The covered transit stop structure must be designed to be compatible with the architecture of the project. Prior to the issuance of any Certificate of Compliance for the project, the covered transit stop must be constructed and operational.

Findings and Conclusions –Planned Development Rezoning:

Based upon an analysis of the application and the standards for approval of planned development zoning districts following a FLUEDRA (Florida Land Use and Environmental Dispute Resolution Act) mediation, Town Council makes the following findings and conclusions:

1. The requested residential planned development zoning district complies with the comprehensive plan, chapter 34 of the land development code, and other applicable codes and regulations.
2. The requested zoning:
 - A. is consistent with the goals, objectives, policies, intent, and with the densities, intensities, and general uses set forth in the Fort Myers Beach Comprehensive Plan; and
 - B. meets or exceeds all performance and locational standards set forth for the potential uses allowed by the request; and
 - C. will, protect, conserve, or preserve environmentally critical areas or natural resources; and
 - D. is compatible with existing or planned uses and will not cause damage, hazard, nuisance or other detriment to persons or property.
3. Urban services are, or will be available and adequate to serve the proposed land use change at this location.
4. Approval of the request will not place an undue burden upon existing transportation or planned infrastructure facilities and the site will be served by streets with the capacity to carry traffic generated by the development.
5. The proposed use or mix of uses is appropriate at the subject location.

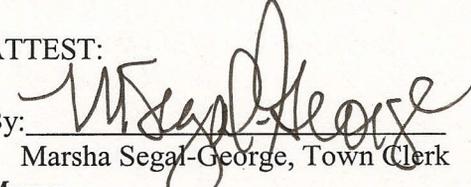
6. The recommended conditions to the concept plan and other applicable regulations provide sufficient safeguards to the public interest.
7. The recommended conditions are reasonably related to the impacts on the public's interest created by or expected from the proposed development.
8. The proposed use or mix of uses meets all specific requirements of the comprehensive plan that are relevant to the requested planned development, including:
 - A. **Policy 4-B-4** on development in Mixed Residential future land use map category
 - B. **Policy 4-C-4** on building heights taller than the standard height limit
9. The requested deviations:
 - A. enhance the objectives of the planned development; and
 - B. preserve and promote the general intent of the LDC to protect the public health, safety and welfare; and
 - C. operate to the benefit, or at least not the detriment, of the public interest; and
 - D. are consistent with the Comprehensive Plan.

The foregoing Resolution was adopted by the Town Council upon a motion made by Councilman Rynearson and seconded by Councilman Katcko and, upon being put to a vote, the result was as follows:

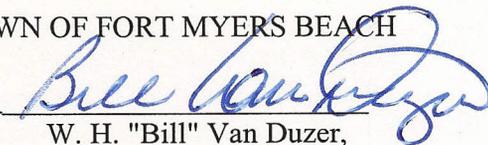
Howard Rynearson	<u>Aye</u>
Don Massucco	<u>Aye</u>
Ken Katcko	<u>Aye</u>
W. H. "Bill" Van Duzer	<u>Aye</u>
Garr Reynolds	<u>Aye</u>

Adopted this 16th day of May, 2005.

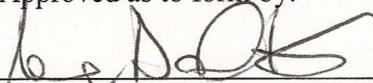
ATTEST:

By: 
 Marsha Segal-George, Town Clerk
 Mayor

TOWN OF FORT MYERS BEACH

By: 
 W. H. "Bill" Van Duzer,

Approved as to form by:


 Anne Dalton, Interim Town Attorney