

**RESOLUTION OF THE LOCAL PLANNING AGENCY OF
THE TOWN OF FORT MYERS BEACH, FLORIDA
RESOLUTION NUMBER 2007-13**

**A RESOLUTION OF THE LOCAL PLANNING AGENCY OF FORT MYERS BEACH,
FLORIDA:**

WHEREAS, McHarris Planning and Design (Applicant) has requested the Town Council rezone an approximately .52+/- acres from Commercial Boulevard (CB) and Residential Conservation (RC) to Commercial Planned Development (CPD) to allow the development of commercial, offices and residential multi-family units at 2500 Estero Boulevard; and

WHEREAS, Applicant has proposed two (2) options to the Town of Fort Myers Beach for consideration in the aforesaid application; and

WHEREAS, Option "A" as presented by Applicant offers a maximum of 23,067 square feet, consisting of 9,952 square feet of commercial and office plus three (3) residential units with a total of 13,115 square feet in two (2) buildings, not to exceed a maximum building height of 40 feet above base flood elevation/3 stories; and

WHEREAS, Option "B" as presented by Applicant offers a maximum of 22,990 square feet that consists of 6,795 square feet of commercial and office and four (4) residential units with a total of 16,195 square feet in two (2) buildings not to exceed a height of 40 feet above base flood elevation/3 stories; and

WHEREAS, the subject property is located at 2500 Estero Blvd, Fort Myers Beach, FL 33931(follow Estero Blvd South to 2500), in S19-T46S-R24E, in Fort Myers Beach, Lee County, FL; and

WHEREAS, Applicant has indicated the property's current STRAP numbers are 19-46-24-W3-0120A.0100 and 19-46-24-W3-01302.0000 with the legal description set forth on Exhibit "A" which is attached hereto and hereby incorporated by reference.

WHEREAS, a public hearing was legally advertised and held before the Local Planning Agency (LPA) on June 19, 2007; and,

WHEREAS, the LPA gave full and complete consideration to the recommendations of staff, the documents in the file, and the testimony of all interested persons; and

WHEREAS, the LPA recommends that the Town Council finds that the realization of either option contained in the application, as conditioned below, will be an asset to the Town; and

WHEREAS, the LPA was evenly divided as to the selection of Option A or Option B, as conditioned, for recommendation to the Town Council and therefore has decided to present both options within this Resolution.

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

As indicated below, three (3) members of the LPA recommend that the Town Council **APPROVE Option A and DISAPPROVE Option B** of the Applicant's alternative requests to rezone the subject property from CB and RC to CPD, and three (3) members of the LPA recommend that the Town Council **APPROVE Option B and DISAPPROVE Option A**. The

alternative recommendations are subject to the nine (9) conditions and one deviation set forth with specificity below.

A. CONDITIONS AND DEVIATIONS

A. CONDITIONS

1. The development of this project must be consistent with the six (6) page Master Concept Plan entitled "2500 Estero," stamped received October 6, 2006, which is attached hereto as Exhibit "B" and hereby incorporated by reference, except as modified by the conditions below. This development must comply with all requirements of the 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.
2. The following limits apply to the project and uses:

OPTION A: The project is limited to a maximum of 23,067 square feet and a maximum of 3 dwelling units of 13,115 square feet

OPTION B: The project is limited to a maximum of 22,990 square feet that consists of 6,795 square feet of commercial and office and four (4) residential units with a total of 16,195 square feet in two (2) buildings not to exceed a height of 35 feet above base flood elevation/3 stories.

a. **Schedule of Uses**

Residential

Dwelling Unit:

Multi-family - maximum of 3 units (**OPTION A**) or 4 units (**OPTION B**)

Live/work pursuant to LDC Section 34-1773 - maximum of 3 units (**OPTION A**) or 4 units (**OPTION B**)

Lodging

Rental of any permitted dwelling unit to a single family for periods of one week or longer pursuant to Section LDC 34-2391 through 34-2410

Office

Administrative Offices

Retail

Retail Store, small (less than 5,000 square feet)

Civic

Essential Services

Daycare center, adult or child (by Administrative Approval)

Cultural Facilities (by Administrative Approval)

b. **Site Development Regulations**

Minimum Lot Size: 23,067.00± Square Feet or 0.52 ± acres

Minimum Lot Width: 160 feet along Estero Boulevard

Minimum Lot Depth: 150± feet along Chapel Street

Minimum Lot Width: 119± feet along Cottage Street

Minimum Setbacks:

Street: 5 feet (Estero Boulevard)

10 feet (Chapel Street)

10 feet (Cottage Street)

Side: 5 feet

Floor Area Ratio (FAR): 1.0

Maximum Height: 30 feet above base flood elevation /3 stories

3. At the time of Development Order, the applicant must provide the following buffers:

Along Chapel Street (the west property line), a 10 foot wide buffer with a minimum of 4 trees per 100 linear feet (6 trees) and a 3 foot high hedge planted in a double staggered row.

Along the east property line that extends from Estero Boulevard for a distance of 100± feet, a 5 foot wide buffer with a minimum of 4 trees per 100 linear feet (4 trees) and a 3 foot high hedge planted in a double staggered row.

Along the southeast property lines that depicts a 6 foot high wall, a 3 foot high hedge planted in a double staggered row to be planted on the outside of the wall.

Along Cottage Avenue,(the south property line), a 10 foot wide buffer with a minimum of 4 trees per 100 linear feet (4 trees) and a 3 foot high hedge planted in a double staggered row to be planted in between the driveways to the residential units.

4. Approval of this zoning request does not address mitigation of the project's vehicular or pedestrian traffic impacts. Additional conditions consistent with the Fort Myers Beach Land Development Code ("LDC") may be required to obtain a local development order.
5. The local development order must be in compliance with LDC Section 14-71 through 14-79 regarding sea turtle lighting.
6. Approval of this zoning request does not give the Developer an undeniable right to receive local development order approval. Future development order approvals must satisfy the requirements of the Fort Myers Beach Comprehensive Plan ("Plan").
7. Development of this property must comply with all of the requirements of the LDC at the time of local development order approval, except as may be granted by deviations approved as part of this planned development.
8. Prior to local development order approval, the construction plans must indicate that pervious pavement and exfiltration will be incorporated throughout the project to maximize the overall stormwater management capacity.
9. Prior to local development order approval, the project developer will partner with the Town to coordinate survey, site preparation, and infrastructure improvements for the project with the Town's plans for work in the adjacent public rights-of-way.

B. DEVIATION

Deviation #1 is from Section 10-285 that requires driveways to be located at least 250 feet from the centerline of a local street such as Chapel Street, to allow a distance of 100 feet from Estero Boulevard. Chapel Street is a local street that is maintained by Town of Fort Myers Beach. The previous development on the site used this driveway as an access point and the proposed development will continue to use this driveway. The applicant is unable to meet the 250 foot separation distance, therefore the LPA recommends **approval** with a condition that the property owner voluntarily donate 5 feet of additional right-of-way along Estero Boulevard.

FINDINGS AND CONCLUSIONS

Based upon the presentations by Applicant, staff, and other interested parties at the hearing, and review of the application and the standards for planned development zoning approval, the LPA recommends the following findings and conclusion:

- 1A. The requested rezoning to the Commercial Planned Development (CPD) zoning district with **Option A, as recommended by three LPA members**, as conditioned, complies with:
 - a. The Plan;
 - b. LDC Chapter 34;
 - c. all other applicable Town ordinances and codes; and
 - d. the following additional requirements for planned development zoning requests:
 - i. Policies 4-B-5 and 4-C-3 on commercial and residential uses in the "Boulevard" future land use category; and
 - ii. Policy 4-C-5 on maximum residential densities for properties; and
 - iii. Policy 4-C-4 on maximum height limitations; and
 - iv. Policy 4-E-4 on flood proofing of commercial buildings.

- 1B. The requested rezoning to the Commercial Planned Development (CPD) zoning district with **Option B, as recommended by three LPA members**, as conditioned, complies with:
 - a. The Plan;
 - b. LDC Chapter 34;
 - c. all other applicable Town ordinances and codes; and
 - d. the following additional requirements for planned development zoning requests:
 - v. Policies 4-B-5 and 4-C-3 on commercial and residential uses in the "Boulevard" future land use category; and
 - vi. Policy 4-C-5 on maximum residential densities for properties; and
 - vii. Policy 4-C-4 on maximum height limitations; and
 - viii. Policy 4-E-4 on flood proofing of commercial buildings.

To the extent that the **Option B** proposal exceeds the maximum residential densities for properties as provided by Policy 4-C-5, the three LPA members recommending **Option B** recommend a finding that the reduced area of commercial square footage will result in reduced traffic impacts outweighing the impacts of the additional unit of density.

2. The proposed use or mix of uses, as conditioned above, is appropriate at the subject location.
3. Sufficient safeguards to the public interest are provided by the recommended conditions to the concept plan or by other applicable regulations.
4. All recommended conditions are reasonably related to the impacts on the public's interest created by or expected from the proposed development.
5. As to the requested deviation, as conditioned:
 - a. Each item enhances the achievement of the objectives of the planned development; and
 - b. The general intent of LDC Chapter 34 to protect the public health, safety, and welfare will be preserved and promoted; and
 - 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.

Approval of the Resolution was moved by LPA Member Weimer and seconded by LPA member Raymond. Upon being put to a vote, the result was as follows:

Thomas Babcock	<u>aye</u>	Bob Raymond	<u>aye</u>
Evie Barnes	<u>absent</u>	Bob Simon	<u>aye</u>
Rochelle Kay	<u>aye</u>	Dennis Weimer	<u>aye</u>
Alan Mandel	<u>aye</u>		

The specific recommendation of approval of Option A was moved by LPA Member Weimer and seconded by LPA Member Kay, and the specific recommendation of approval of Option B as set forth in the foregoing Resolution was moved by LPA Member Raymond and seconded by LPA Member Mandel. Upon being put to a vote, the result was as follows:

Thomas Babcock	<u>aye Option A</u>	Bob Raymond	<u>aye Option B</u>
Evie Barnes	<u>absent</u>	Bob Simon	<u>aye Option B</u>
Rochelle Kay	<u>aye Option A</u>	Dennis Weimer	<u>aye Option A</u>
Alan Mandel	<u>aye Option B</u>		

DULY PASSED AND ADOPTED THIS 11th day of June, 2007.

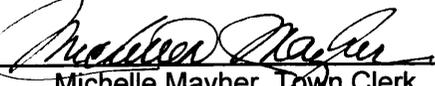
LOCAL PLANNING AGENCY OF THE TOWN OF FORT MYERS BEACH

By: 
Thomas Babcock, Chair

Approved as to legal sufficiency:

By: 
Anne Dalton, Esquire
LPA Attorney

ATTEST:

By: 
Michelle Mayher, Town Clerk

LAND SURVEY

LOT 2. **BLAKES SUBDIVISION**, ACCORDING TO THE MAP OR PLAT THEREOF ON FILE AND RECORDED IN PLAT BOOK 4, PAGE 44, AND LOTS 10, 11, 12, AND PART OF LOT 13, BLOCK A, **SEAGRAPE SUBDIVISION**, ACCORDING TO THE MAP OR PLAT THEREOF ON FILE AND RECORDED IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT IN PLAT BOOK 4, PAGE 17, ALL IN THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID LOT 13, BLOCK 'A': THENCE N 68°32'41"W, FOR A DISTANCE OF 67.20 FEET TO THE POINT OF BEGINNING: THENCE N 68°32'41"W, ALONG THE NORTH RIGHT OF WAY LINE OF COTTAGE AVENUE (30' WIDE) FOR A DISTANCE OF 119.95 FEET TO THE SOUTHWESTERLY CORNER OF SAID LOT 10: THENCE N 21°27'19"E, FOR A DISTANCE OF 150.00 FEET, ALONG THE EASTERLY RIGHT-OF-WAY LINE OF CHAPEL STREET, (30' WIDE), FOR A DISTANCE OF 150.00 FEET TO THE NORTHWESTERLY PROPERTY CORNER OF SAID LOT 12: THENCE S 68°32'41"E, ALONG THE SOUTHERLY RIGHT-OF-WAY LINE OF ESTERO BOULEVARD (50' WIDE) FOR A DISTANCE OF 160.59 FEET TO THE NORTHEASTERLY CORNER OF SAID LOT 2: THENCE S 09°00'00"E, ALONG THE EAST LINE OF SAID LOT 2, FOR A DISTANCE OF 100.00 FEET TO THE SOUTHEASTERLY CORNER OF SAID LOT 2: THENCE N68°32'41"W, FOR A DISTANCE OF 42.94 FEET: THENCE N 00°00'00"W, FOR A DISTANCE OF 10.45 FEET: THENCE N 72°57'20"W, FOR A DISTANCE OF 27.81 FEET: THENCE S 17°02'40"W, FOR A DISTANCE OF 3.61 FEET: THENCE N 72°57'20"W, FOR A DISTANCE OF 7.68 FEET: THENCE S 17°02'40"W, FOR A DISTANCE OF 60.50 FEET TO THE POINT OF BEGINNING. CONTAINING 23.067 SQUARE FEET, MORE OR LESS.

SUBJECT TO EASEMENTS AND RESTRICTIONS ON FILE IN THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA

**ATTORNEY'S
REAL ESTATE
LAND SURVEYING
INC.**

1930 PARK MEADOWS DRIVE
SUITE 9
FORT MYERS, FLORIDA
(239) 277-7330
(239) 277-7332 FAX



COMMUNITY DEVELOPMENT
REC'D SECOND FLOOR

[Signature]
LARRY GARDNER, SURVEYOR AND MAPPER #4294
NOT VALID WITHOUT EMBOSSED SEAL

Applicant's Legal Checked
by GSJ 1/5/07

JOB NUMBER: 05-1430A1

LAND SURVEY

LINE	BEARING	DISTANCE
L 1	N 68°32'41"W	42.94'
L 2	N 00°00'00"E	10.45'
L 3	N 72°57'20"W	27.81'
L 4	S 17°02'40"W	9.61'
L 5	N 72°57'20"W	7.88'

SURVEYOR'S NOTES:
 1) FIR - FOUND 1/2" IRON ROD
 UNLESS SHOWN OTHERWISE
 2) THE EAST LINE IS ASSUMED TO BEAR AS SHOWN.
 3) SIR - SET 1/2" IRON ROD *L86594.
 4) ELEVATIONS SHOWN THUS: 4.2, 5 REFER TO NGVD 1929 AND ARE RELATIVE TO BENCHMARK SHOWN.

THIS SURVEY IS CERTIFIED TO:
 2500 ESTERO BOULEVARD, L.L.C.,
 BANK LEUMI, USA,
 RUTHERFORD MULHALL, P.A.,
 CHICAGO TITLE INSURANCE
 COMPANY

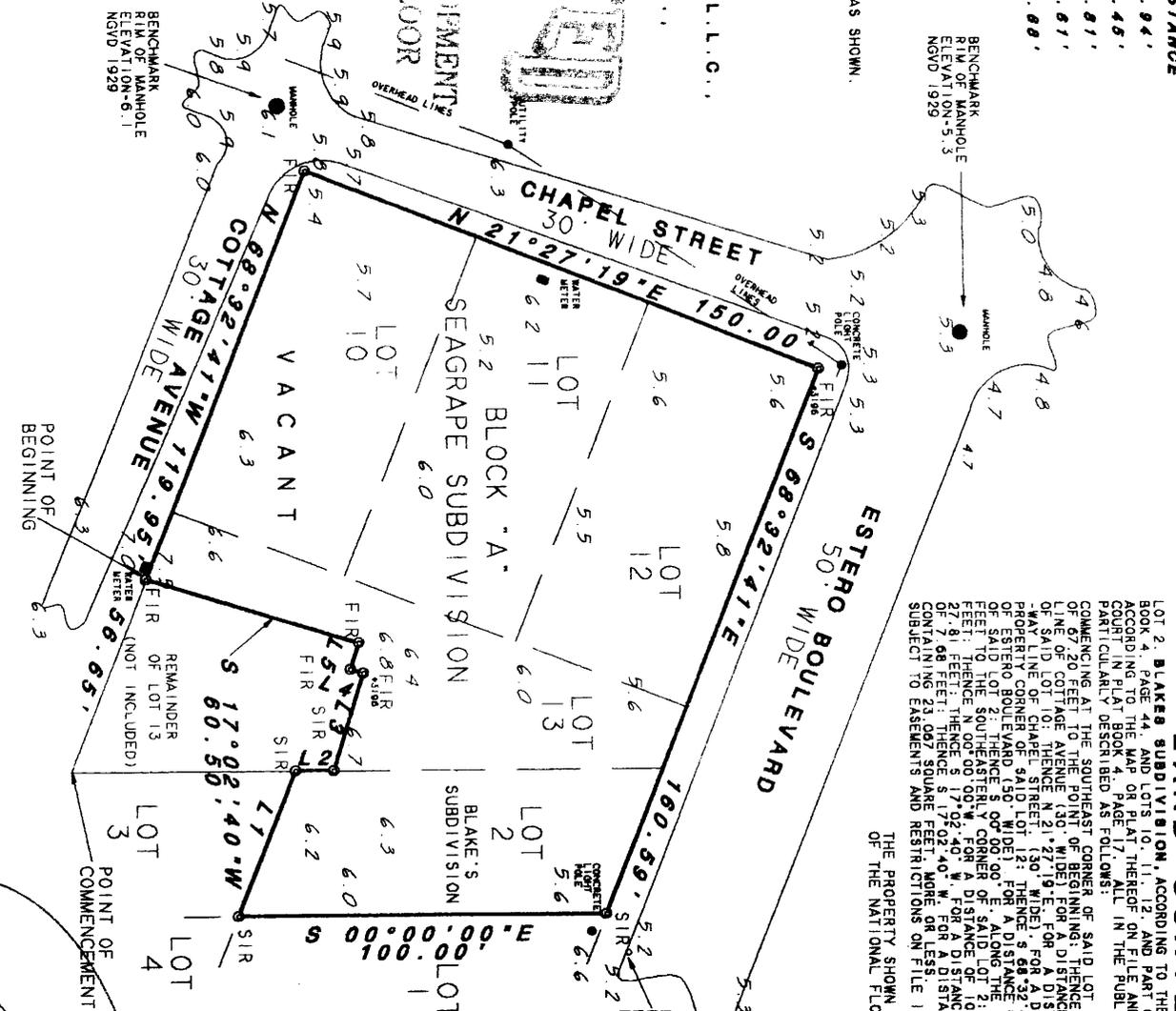


COMMUNITY DEVELOPMENT
 RECD SECOND FLOOR

REVISION:
 WROTE NEW LEGAL 1-4-07
 CERTIFICATIONS 8/29/2005
FILE DISK: AUG 05-1
CREW: LEWIS/MCE/RODRIGUEZ

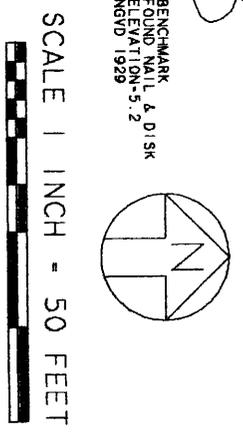
**ATTORNEY'S
 REAL ESTATE
 LAND SURVEYING
 INC.**

1930 PARK MEADOWS DRIVE
 SUITE 9
 FORT MYERS, FLORIDA
 (239) 277-7330
 (239) 277-7332 FAX



LOT 2, BLAKE'S SUBDIVISION, ACCORDING TO THE MAP OR PLAT THEREOF ON FILE AND RECORDED IN PLAT BOOK 4, PAGE 44, AND LOTS 10, 11, 12, AND PART OF LOT 13, BLOCK A, SEAGRAPE SUBDIVISION, ACCORDING TO THE MAP OR PLAT THEREOF ON FILE AND RECORDED IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT IN PLAT BOOK 4, PAGE 17, ALL IN THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
 COMMENCING AT THE SOUTHEAST CORNER OF SAID LOT 13, BLOCK "A", THERE N 68°32'41"W, FOR A DISTANCE OF 42.94 FEET TO THE POINT OF BEGINNING; THENCE S 17°02'40"W, FOR A DISTANCE OF 9.61 FEET TO THE SOUTHEAST CORNER OF SAID LOT 12; THENCE S 68°32'41"E, ALONG THE SOUTHERLY RIGHT-OF-WAY LINE OF CHAPEL STREET (30' WIDE) FOR A DISTANCE OF 150.00 FEET TO THE NORTHEASTLY CORNER OF SAID LOT 12; THENCE S 68°32'41"E, ALONG THE SOUTHERLY RIGHT-OF-WAY LINE OF ESTERO BOULEVARD (50' WIDE) FOR A DISTANCE OF 160.59 FEET TO THE NORTHEASTLY CORNER OF SAID LOT 2; THENCE S 00°00'00"E, ALONG THE EAST LINE OF SAID LOT 2 FOR A DISTANCE OF 100.00 FEET TO THE SOUTHEASTLY CORNER OF SAID LOT 2; THENCE S 17°02'40"W, FOR A DISTANCE OF 6.9 FEET TO THE POINT OF BEGINNING; THENCE S 17°02'40"W, FOR A DISTANCE OF 60.50 FEET TO THE POINT OF BEGINNING. SUBJECT TO EASEMENTS AND RESTRICTIONS ON FILE IN THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA

THE PROPERTY SHOWN HEREON IS LYING IN ZONE A12 OF THE NATIONAL FLOOD INSURANCE PROGRAM. ELEVATION - 14'.
 PROPERTY ADDRESS:
 2500/2510 ESTERO BOULEVARD
 FORT MYERS BEACH, FLORIDA



SCALE 1 INCH = 50 FEET
 Applicant's Legal Checked
 by *(Signature)* 1/15/06

DATE:
 AUGUST 1, 2005

THIS SURVEY IS HEREBY CERTIFIED AS MEETING THE MINIMUM TECHNICAL STANDARDS AS SET FORTH BY THE FLORIDA BOARD OF SURVEYORS AND MAPPERS PURSUANT TO CHAPTER 177, FLORIDA STATUTES, CHAPTER 472, STATUTES AND CHAPTER 61512, FAC AND IS CONSIDERED TO BE THE BEST OF THE SURVEYOR'S ABILITY TO DETERMINE THE POSITION OF THE POINTS AND THE BOUNDARIES OF THE LAND SURVEYED. THIS SURVEY IS NOT A GUARANTEE OF TITLE. THE SURVEYOR AND HIS OR HER OFFICE ARE NOT RESPONSIBLE FOR THE ACCURACY OF THE ORIGINAL SURVEY OR THE ORIGINAL ENGINEERING DRAWINGS. UNLESS IT APPEARS THE FLORIDA LICENSED SURVEYOR AND MAPPERS HAS REVIEWED THE ORIGINAL SURVEY AND MAPS AND HIS OR HER OFFICE HAS NOTED ANY DISCREPANCIES, HIS OR HER OFFICE SHALL BE MADE WITHOUT AUTHORIZATION.
 I, JAMES J. BROWN, SURVEYOR AND MAPPER #4294
 NOT VALID WITHOUT EMBOSSED SEAL.
 JOB NUMBER: 05-1430