

**RESOLUTION OF THE LOCAL PLANNING AGENCY OF
THE TOWN OF FORT MYERS BEACH, FLORIDA
RESOLUTION NUMBER 2007-21**

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

WHEREAS, Derrick Christy (Applicant) has requested the Town Council rezone an approximately 0.67+/- acre parcel from Commercial Resort (CR) to Residential Planned Development (RPD) to allow the redevelopment of a property named Bella Beach Villas; and

WHEREAS, the Applicant for the proposed Bella Beach Villas RPD requests approval of 1 building of approximately 9,602 square feet, with 10 residential units, a swimming pool and a shuffleboard court, with a height not to exceed 25 feet and 3 stories high. The redevelopment would be per the pre-disaster build back policy of the Town of Fort Myers Beach Land Development Code.

WHEREAS, the subject property is located at 4501 & 4545 Estero Blvd, Fort Myers Beach, in Section 29, Township 46 South, Range 24 East, Estero Island, Lee County, Florida; and

WHEREAS, Applicant has indicated the property's current STRAP numbers are 29-46-24-W3-0080F.0040 and 29-46-24-W3-0080F.0010, with the legal description attached hereto as Exhibit "A" and hereby incorporated by reference;

WHEREAS, a public hearing was legally advertised and held before the Local Planning Agency (LPA) on December 12, 2006 and continued to February 13, 2007, at which time it was not heard since the revised Master Concept Plan was not received by the Town until May 24, 2007. The LPA held the public hearing, following legal advertisement, on October 16, 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.

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

The LPA recommends that the Town Council **APPROVE** the Applicant's request to rezone the subject property from CR to RPD.

RECOMMENDATION: The LPA further recommends that the Town Council **APPROVE** redevelopment of the subject property with a building limited to 4,902 square feet interior area and up to 10 residential units, subject to the following conditions:

A. CONDITIONS

1. The Master Concept Plan entitled "Bella Beach Villas," prepared by Speath Engineering, stamped received May 24, 2007, last revised 5/21/07, must be modified to conform to the requirements set forth in

5/21/07, must be modified to conform to the requirements set forth in this Resolution, including but not limited to 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 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 development of this project must be consistent with the Master Concept Plan as revised pursuant to #1 above. The following limits apply to the project and uses:

- a. Schedule of Uses

Residential multi-family units not to exceed a maximum of 10 units and not to exceed a total of 4,920 square feet interior area

Recreation facility: private on-site
Residential accessory uses

- b. Site Development Regulations

Minimum Lot Area: 29,348 square feet or 0.67+/- acres
Minimum Lot Width: 249 feet along Estero Boulevard
Minimum Lot Depth: 114 feet along Gulfview Avenue and Strandview Avenue

Minimum Setbacks

Streets: 34 feet from Estero Boulevard
57 feet from Strandview Avenue
27 feet from Gulfview Avenue

Side: 57 feet from Strandview Avenue
27 feet from Gulfview Avenue

Rear: 15 feet

Open Space: 43.1%
Maximum Height: 25 feet/3 stories above base flood elevation

3. The proposed development must be in compliance with LDC Section 14-76 regarding Sea Turtle review. The Applicant must submit a lighting plan to the Town of Fort Myers Beach prior to the issuance of a Development Order.
4. The project's entrance gates are limited to gates that are attached to the buildings at the entrances to the parking area under the building.
5. 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.

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.

B. Deviations

To achieve the proposed development, the Applicant had requested 4 deviations:

1. The request for Deviation #1 has been **WITHDRAWN** by the Applicant.
2. The request for Deviation #2 has been **WITHDRAWN** by the Applicant.
3. The request for Deviation #3 is from Chapter 10, Table 10-9 which requires a Type "B", 15 wide landscape buffer along the rear property line when it abuts a single family residence, to allow a 6.2 foot wide buffer along the shuffleboard court and a 6.4 foot wide buffer along the pool deck. The Applicant's justification is the deviation decreases the buffer width to 5 feet only for the shuffleboard court and the pool deck. The required buffer of 5 trees per 100 linear feet and a double staggered hedge will still be provided in the remaining areas.

The LPA recommends **APPROVAL** of Deviation #3 with the condition that the buffer deviation distances be revised prior to the hearing before Town Council to capture the representations of the applicant at the public hearing before the LPA.

4. The request for Deviation #4 is from Section 10-285 that requires driveways to be located at least 250 feet from the centerline of a local street such as Gulfview Avenue and Strandview Avenue, to allow a distance of 78.7 feet from Gulfview Avenue and 102.9 feet from Strandview Avenue along Estero Boulevard.

The LPA recommends **DENIAL** of Deviation #4.

Findings and Conclusions:

Based upon an analysis of the application and the standards for approval of planned development zoning approval, the LPA make the following findings and conclusions:

1. The requested rezoning zoning district, 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:

2. The proposed use or mix of uses 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. The proposed use(s) meet(s) all specified requirements of the Plan that are relevant to the requested planned development, such as the following:
 - a. Policies 4-B-4 and 4-C-3 on commercial uses in the "Mixed Residential" future land use category.

6. As to the requested Deviation 3:
 - a. Deviation #3 **WILL** enhance the achievement of the objectives of the planned development. The Applicant has designed a product that is too large for the site; and
 - b. The general intent of LDC Chapter 34 to protect the public health, safety, and welfare **WILL** be preserved and promoted in Deviations #3; and
 - c. Deviation #3 **WILL** operate to the benefit of the public interest; and
 - d. Deviation #3 **IS** consistent with the Fort Myers Beach Comprehensive Plan.

As to the requested Deviation #4:

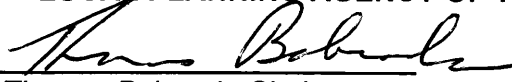
- a. Deviation #4 **WILL NOT** enhance the achievement of the objectives of the planned development; and
- b. The general intent of LDC Chapter 34 to protect the public health, safety, and welfare **WILL NOT** be preserved and promoted in Deviation #4; and
- c. Deviation #4 **WILL NOT** operate to the benefit, or at least not to the detriment, of the public interest; and
- d. Deviation #4 **IS NOT** consistent with the Fort Myers Beach Comprehensive Plan.

The foregoing Resolution was adopted by the LPA upon a motion by LPA Member Alan Mandel and seconded by LPA Member Bob Raymond, and upon being put to a vote, the result was as follows:

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

DULY PASSED AND ADOPTED THIS 16th day of October, 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 D. Mayher, LPA Clerk