

**RESOLUTION NUMBER 2017-007 OF THE LOCAL PLANNING
AGENCY OF THE TOWN OF FORT MYERS BEACH FLORIDA
DCI17-0005 – OLDE SEAPORT COMMERCIAL
PLANNED DEVELOPMENT AMENDMENT**

WHEREAS, applicant Robert Fowler, authorized agent for Olde Seaport Place Inc. is requesting an amendment to an already approved Master Concept Plan consistent with Section 34-214 of the Town of Fort Myers Beach Land Development Code; and

WHEREAS, the applicant has indicated that the STRAP numbers for the subject property are 24-46-23-W3-00026.0000, 24-46-23-W3-00026.0030, and 24-46-23-W2-000000.0000 and the legal description of the subject property is attached as *Exhibit A*; and

WHEREAS, the subject property is located at 645 Old San Carlos Boulevard Fort Myers Beach, FL 33931, zoned Commercial Planned Development on the Official Zoning Map and is located in the Pedestrian Commercial and Tidal Water categories of the Future Land Use Map of the Comprehensive Plan of the Town of Fort Myers Beach, Florida; and

WHEREAS, a public hearing on this matter was legally advertised and held before the Local Planning Agency (LPA) on October 10, 2017; and

WHEREAS, at the hearing the LPA gave full and complete consideration to the request of Applicant, recommendations of staff, the documents in the file, and the testimony of all interested persons, as required by Fort Myers Beach Land Development Code (LDC) Section 34-85.

IT IS HEREBY RESOLVED BY THE LPA OF THE TOWN OF FORT MYERS BEACH, FLORIDA, as follows:

Based upon the presentations by the applicant, staff, and other interested persons at the hearing, and review of the application and the standards for granting an amendment to an approved Master Concept Plan, the LPA recommends the following findings of fact, conditions for approval, and conclusions for consideration by the Town Council:

The LPA recommends that the Town Council **APPROVE** the applicant's request for an amendment to an already approved Master Concept Plan. The request amends the approval as follows: Within Parcel #1 replace the 4,020 square feet of Open Air Shops with a 3,744 square foot restaurant (with up to 800 square feet of bar area) with COP (4COPSRX); Within Parcel #2 the 1,140 square feet of History House/Public Use area is replaced by 900 square feet of open restaurant seating that will be served by "on land" facilities; Within Parcel #4 reduce the amount of Butler Act property utilized from 2,697 square feet to 1,600 square feet (with COP) of covered seating and 390 square feet of walk-way service area (1,990 square feet total).

RECOMMENDED FINDINGS AND CONCLUSIONS:

In accordance with the requirements of LDC Section 34-85 for granting a rezoning, the LPA recommends that the Town Council make the following findings and reach the following conclusions:

- A. There **exist** changed or changing conditions which make approval of the request appropriate.
- B. The request is **consistent** with the goals, objectives, policies and intent of the Fort Myers Beach Comprehensive Plan.
- C. The request **meets or exceeds** all performance and locational standards set forth for the proposed use.
- D. The request **will** protect, conserve, or preserve environmentally critical areas and natural resources.
- E. The request **will** be compatible with existing or planned uses and not cause damage, hazard, nuisance, or other detriment to persons or property.
- F. The requested use **will** be in compliance with applicable general zoning provisions and supplemental regulations pertaining to the use set forth in the Land Development Code including Chapter 34.

CONDITIONS OF APPROVAL

1. Development must be consistent with the master concept plan (MCP) titled "Olde Seaport of Fort Myers Beach" (Exhibit C) for case DCI17-0005, last revised 8/3/17, except as modified by conditions or deviations discussed herein. In accordance with LDC Section 34216(b)(5), the MCP must be updated to reflect the deviations and conditions approved by Town Council. If changes to the MCP are subsequently pursued, appropriate approvals will be required.

2. The following limits apply to the project and uses:

Schedule of Uses

Parcel #1 (North Parcel – 645 Old San Carlos Blvd.)

Consumption on Premises

Parking Lot, shared permanent

Personal Services

Restaurants

Seating areas

Retail store, small

Parcel #2 (Submerged Land Lease)

Boat slips

Docks

Marina & related activities

Seating areas (in connection with adjacent parcels, restaurants and food preparation areas)

Consumption on Premises

Parcel #3 (South Parcel – 441/445 Old San Carlos Blvd.)

Parking Lot, shared permanent

Parcel #4 (Butler Act property)

Seating areas (in connection with adjacent parcels restaurants and food preparation areas)

Consumption on Premises

Accessory uses on all parcels:

Bay access

Essential services

Essential services equipment

3. Nothing in this rezoning, including any of the attached conditions, may be construed as a variance from the provisions of LDC Chapter 6, Article IV Floodplain regulations.
4. Approval of this rezoning does not give the developer an undeniable right to local development order approval. Development or redevelopment of the subject property must comply with all applicable requirements of the Fort Myers Beach Comprehensive Plan and Land Development Code in effect at the time of development order approval and permitting, except as specifically modified herein.
5. The development must comply with LDC Sec. 14-76 requirements for sea turtle conservation applicable to new development.
6. No structure may be placed in or over, and no work may occur in, any navigable water of the United States unless properly authorized by the United States Army Corps of Engineers or its designee.
7. No stormwater management system, dam, impoundment, reservoir, appurtenant work, or works may be constructed or altered on the subject property, including submerged lands and riparian leased areas, without property permit or exemption, and unless in compliance with all conditions of such permit or exemption, from the South Florida Water Management District or Florida Department of Environmental Protection, as applicable. Stormwater management for the subject property must comply with all applicable requirements of the Land Development Code at the time of development order approval and must provide for the capture and retention of all stormwater on the site.

8. Approval of this rezoning does not address the compliance or noncompliance of proposed building elevations with the commercial design standards included in LDC Chapter 34, Article III, Division 7. Development of the subject property must meet the commercial design standards effective at the time of local development order approval.

9. Docks for use by occupants of principal uses on the subject property, docks for lease to non-occupants of principal uses on the subject property, and docks for use by water taxi or water shuttle are limited to the areas within the existing submerged land leases and submerged land described in Exhibit A. These docks are and must remain accessory to the principal use(s) of the subject property. The number of slips within the area of a submerged land lease may not exceed the number authorized by that lease without proper approval. Construction of additional or replacement docks must comply with all applicable requirements of the LDC and all applicable state and federal regulations at the time of permitting. No live-aboard units are allowed.

10. Hours of operation:

- All restaurants and outdoor seating areas may operate from 8:00AM to 10:00 PM.
- The street side restaurant may extend operation until 11:00 PM in areas where seating is fully enclosed. Consumption on Premises and music/entertainment will comply with local ordinances during that time period.
- Consumption on Premises in conjunction with outdoor seating shall be from 11:30AM-10:00PM. Live entertainment permitted only inside the building on the dock, limited to non-amplified, acoustical music.

11. Steamers must be located outside of the Marina Village at Snug Harbor Condominium building.

12. No deliveries will be permitted between 9:00PM and 7:00AM.

13. Commercial garbage collection must be provided six days a week (excluding Sundays).

14. Parking lot must be reconfigured to allow vehicular traffic flow without dead-ends.


15. Public restroom facilities must be provided in Unit C of the Marina Village at Snug Harbor Condominium building.

16. Upon the completion of the street side restaurant on parcel #1 (issuance of certificate of occupancy) no beach parking of any kind (shared parking) shall be permitted on the subject properties at any time, all designated parking spaces shall be used for the uses established in this resolution.

The foregoing Resolution, and adding condition #16, was adopted by the LPA upon a motion by LPA Member Jane Plummer and seconded by LPA Member Hank Zuba, and upon being put to a vote, the result was as follows:

| | | | |
|----------------------|-----|-----------------------|--------|
| Hank Zuba, Chair | AYE | Dan Hendrickson, VC | AYE |
| Megan Heil, Member | AYE | Dan Hughes, Member | Absent |
| Jane Plummer, Member | AYE | Scott Safford, Member | AYE |
| Lorrie Wolf, Member | AYE | | |

DULY PASSED AND ADOPTED THIS 10th day OCTOBER, 2017.

By: 
Hank Zuba, LPA Chair

Approved as to legal sufficiency:

By: 
Jack Peterson
LPA Attorney

ATTEST:


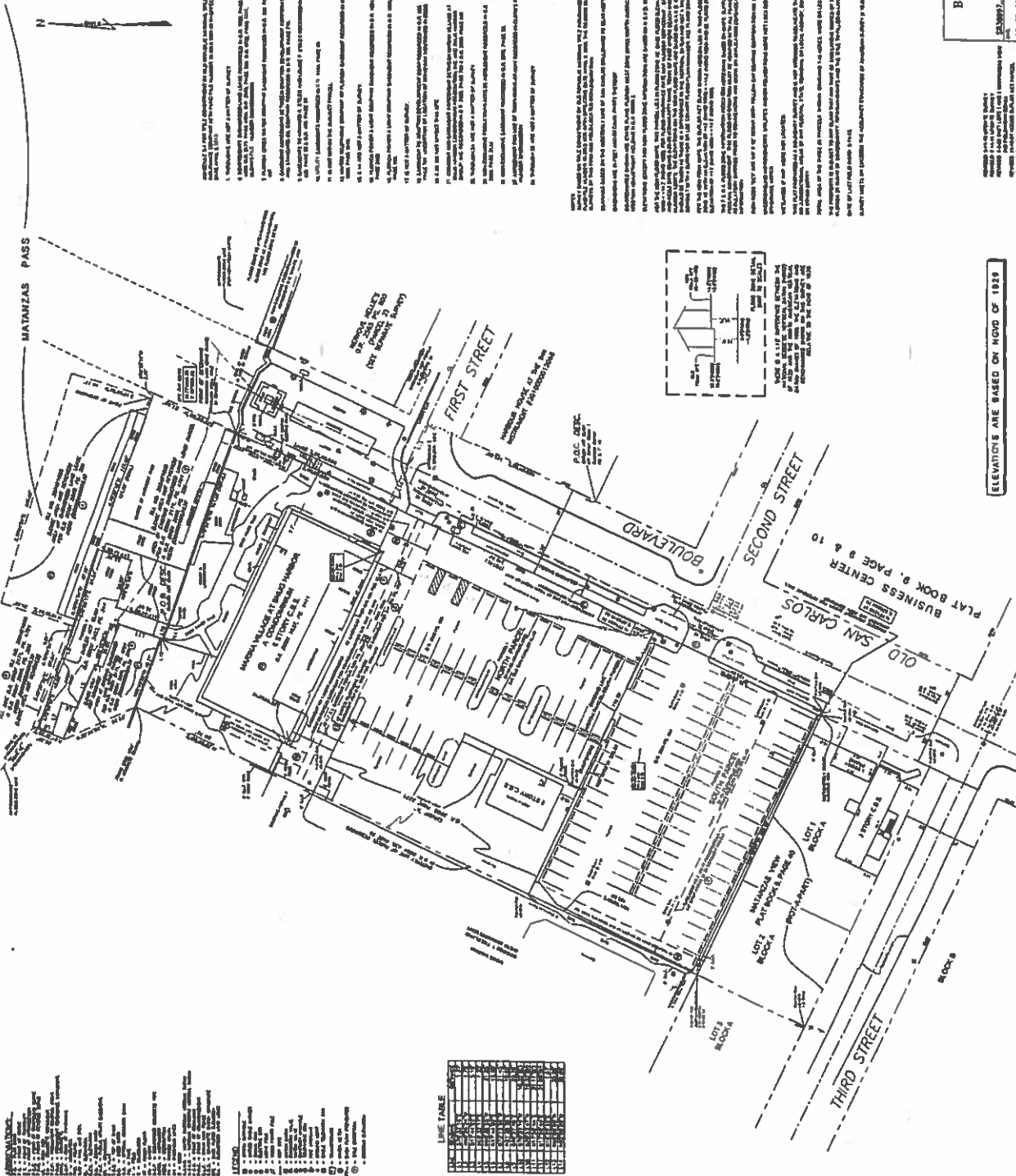
By: 
Michelle Mayher
Town Clerk

EXHIBIT A

SURVEY PLAT

A PARCEL OF LAND
LYING IN

SECTION 24, TOWNSHIP 48 SOUTH, RANGE 23 EAST
TOWN OF FORT MYERS BEACH
LEE COUNTY, FLORIDA



LEGEND

| | |
|----|----------------|
| 1 | Lot |
| 2 | Block |
| 3 | Street |
| 4 | Right of Way |
| 5 | Water |
| 6 | Highway |
| 7 | Power Line |
| 8 | Telephone Line |
| 9 | Gas Line |
| 10 | Water Main |
| 11 | Sanitary Sewer |
| 12 | Storm Sewer |
| 13 | Drainage |
| 14 | Survey |
| 15 | Boundary |
| 16 | Corner |
| 17 | Iron Pipe |
| 18 | Cement Pipe |
| 19 | Wood Pipe |
| 20 | Other |

LINE TABLE

| LINE NO. | DESCRIPTION | BEARING | DISTANCE |
|----------|-------------|---------|----------|
| 1 | ... | ... | ... |
| 2 | ... | ... | ... |
| 3 | ... | ... | ... |
| 4 | ... | ... | ... |
| 5 | ... | ... | ... |
| 6 | ... | ... | ... |
| 7 | ... | ... | ... |
| 8 | ... | ... | ... |
| 9 | ... | ... | ... |
| 10 | ... | ... | ... |
| 11 | ... | ... | ... |
| 12 | ... | ... | ... |
| 13 | ... | ... | ... |
| 14 | ... | ... | ... |
| 15 | ... | ... | ... |
| 16 | ... | ... | ... |
| 17 | ... | ... | ... |
| 18 | ... | ... | ... |
| 19 | ... | ... | ... |
| 20 | ... | ... | ... |

1. The plat is a true and correct copy of the original survey as shown on the ground and as shown on the original plat filed for record in the office of the State Engineer, Lee County, Florida, on this 12th day of August, 1919.

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ELEVATIONS ARE BASED ON GRID OF 1919

PLAT BOOK 9, PAGE 9 & 10
SAN CARLOS

BUSINESS CENTER

OLD SAN CARLOS

THIRD STREET

ROCK

BEAN, WHITAKER, LUTZ & KAREH, INC. AS SURV
CIVIL ENGINEERS, SURVEYORS AND ARCHITECTS - PLAINFIELD
12-25-1919

KIRIC INVESTMENTS

BEAN, WHITAKER, LUTZ & KAREH, INC. AS SURV
CIVIL ENGINEERS, SURVEYORS AND ARCHITECTS - PLAINFIELD
12-25-1919

BEAN, WHITAKER, LUTZ & KAREH, INC. AS SURV
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