

ORDINANCE 18-11

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, ADOPTING A MASTER CONCEPT PLAN FOR A PROPERTY LOCATED AT 6230 AND 6240 ESTERO BOULEVARD FORT MYERS BEACH ZONED RESIDENTIAL PLANNED DEVELOPMENT (RPD) FOR A TWO PHASED, TWELVE UNIT MULTIFAMILY DEVELOPMENT WITH CONDITIONS AND WITH DEVIATIONS TO THE LDC LIMITS OF HEIGHT AND STORIES; CONTAINING 1.69+/- ACRES (RPD), GENERALLY IDENTIFIED AS STRAP NUMBERS 33-46-24-W3-00013.0020 AND 33-46-24-W3-00013.0030; PETITION DCI17-0008; PROVIDING FOR SCRIVENER'S ERRORS AND AN EFFECTIVE DATE.

WHEREAS, 6240 Holdings, LLC, applicant filed application for a Master Concept Plan for the property currently zoned RPD with an expired Master Concept Plan (MCP), in order to develop a twelve-unit multifamily development of two buildings; and

WHEREAS, the request includes a schedule of uses and a requested deviation to stories, where the requested height deviation is consistent with the previously approved MCP (Res 05-10), but the request for five stories is one greater than previously approved; and

WHEREAS, the project consists of 1.69+/- acres of land zoned RPD, as provided in Exhibit A, while the remaining 2.5+/- acres will remain zoned as EC; and

WHEREAS, the subject property is located in the Mixed Residential Future Land Use Category of the Comprehensive Plan of the Town of Fort Myers Beach; and

WHEREAS, the subject property is under control of 6230 Carousel, LLC and 6240 Holdings, LLC, listed in the public records of Lee County Property Appraiser; and

WHEREAS, a public hearing was held before the Local Planning Agency (LPA) on May 8, 2018; and

WHEREAS, at the May 8, 2018 public hearing the LPA gave full and complete consideration of the request, recommendations by staff, the documents in the record, and the testimony of all interested persons; and

WHEREAS, at the May 24, 2018 public hearing the LPA again gave consideration to the applicants request and voted 7-0 to recommend approval of the Master Concept Plan, schedule of uses, and deviation to allow five stories, four of which are over parking and within a height of 45 feet above base flood elevation; and

WHEREAS, on June 4th, 2018 the Town Council held a first reading of the proposed Ordinance and gave full and complete consideration to the request of the

Applicant, the recommendation of the LPA, the recommendation of staff, the documents in the record, and the testimony of all interested persons, as required by Fort Myers Beach Land Development Code (LDC) Section 34-85; and

WHEREAS, the Town Council set a second reading of the proposed Ordinance and a public hearing on this matter to be legally advertised and held before the Town Council on June 18th, 2018; at which time the Town Council gave full and complete consideration to the request of the Applicant, the recommendation of the LPA, the recommendation of staff, the documents in the record, and the testimony of all interested persons, as required by Fort Myers Beach Land Development Code (LDC) Section 34-85; and

WHEREAS, the Town Council considered all relevant factors and made formal findings and conclusions based on the findings and conclusions outlined in the staff report for items 1 a-c and 2 a-g before its final decision on the requested application;

NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AS FOLLOWS:

The Town Council votes to **APPROVE** the request to approve an MCP for the RPD zoning district, subject to the deviations and conditions set forth with specificity.

CONDITIONS

1. The development of the project must be substantially consistent with Master Concept Plan (MCP) entitled Carousel Inn RPD Master Concept Plan received as part of the “response to insufficiency letter,” which is dated March 29, 2018. The development must comply with all current requirements of the Ft. Myers Beach Land Development Code (LDC) at time of local development order approval, except as may be granted by deviation or condition as part of this residential planned development and MCP. If changes to the MCP are subsequently pursued, appropriate approvals will be necessary.
2. All conditions and approvals included with this MCP approval replace any previous approvals, including, but not limited to, all conditions and MCP or exhibits related to Resolution 05-10.
3. The MCP boundary shall include the area designated for dune restoration, but remain zoned EC. The Schedule of Uses does not apply to the EC and dune restoration area. The following provisions apply to the dune restoration area:
 - a. A dune walkover for both the public access area and the owner’s access may be required as part of the final dune restoration plan and are permitted as part of the MCP approval. Final design and location approval will be given by the Community Development Director based on compliance with

local regulations. The proposed dune restoration detail provided in the MCP is not of sufficient detail to be approved at this time.

- b. Any dune walkovers shall be designed to be compatible with each other and the project. Prior to issuance of any temporary or Certificate of Completion or Occupancy for the project, the dune restoration and walkover(s) must be constructed.
 - c. Plant quantities must be calculated on minimum 1-gallon container size plants, 3-foot on center. Plant quantities may be adjusted when larger container size plants are used.
 - d. All plants shall be installed and maintained consistent with the Town's code and best management practices for dune restoration, including temporary irrigation.
4. The following uses apply to this project:

Schedule of Uses

Residential

Dwelling units: multiple-family, limited to twelve (12)(Phase 1 maximum 4 units, Phase 2 maximum 8 units)

Storage Shed <100 sq. ft.

Recreation Facility, Private on -site

Residential Accessory Uses (for occupants and guests only)

Garages (under building)

Gazebos

Patios

Pools (2)

Pool Deck(S)

Cabana

Screen Enclosure (balconies)

Fence

Walls

Dumpster Enclosure

Tot lot

Lodging

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

Office

Administrative Office (to support the Association)

Home Occupation (no outside help)

Civic

Public Beach Access

Essential Services
Hidden Path
Essential Service Equipment

5. Prior to commencement of Phase 2, the property owner will combine the property into one lot of record in accordance with LDC Section 10-217 and record the requisite deed.
6. 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 perpetual pedestrian beach access easement in a form acceptable to the Town Attorney, and as indicated on the MCP. The easement shall be recorded prior to Town approval of a temporary certificate of occupancy. 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 order review process. Improvements will be consistent with all applicable ADA requirements. The beach access shall contain flags and public access signage and be numbered, a bollard rope shall be placed at the beach access along the Outrigger property line.
7. The storage shed shall be limited to a disposable structure, built with flood resilient materials, unfinished inside, and less than 100 square feet, to be used for storage only.
8. If the project and/or phases are not completed within the timeframes established in s. 34-220 (2) a and b, then the Town reserves its right to complete a rezoning to an appropriate district.
9. 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") and Land Development Code. Where deviations and conditions do not address specific issues, any local development order shall address requirements in place at the time of submittal.
10. Any violation of the RPD conditions of approval or deviations on the part of the applicant shall constitute an appealable to special magistrate \$500 per day per incident civil violation.
11. Prior to filing a development order for phase 2, the applicant will confirm with Lee County whether subject property is appropriate location for transportation stop structure. If appropriate, the development order shall include a transit stop structure. If County plans do not include a transit stop, this condition is null and void.

DEVIATIONS:

Rezoning to an RPD requires that the building placement, size, design, and all other property development regulations shall be the same as for the RM zoning district, unless the zoning resolution specifies otherwise. The MCP applied to this property includes one deviation, which was previously approved with Resolution 05-10 and the applicant has revised the MCP and requested a deviation to that approved deviation.

- 1. Deviation from Table 34-3, which limits stories to three and height to 30 feet, and from previously approved deviation (Res 05-10) to limit stories to four and height to 45 feet above base flood elevation; to allow a limitation of five stories and 45 feet in height above base flood elevation.

CODIFICATION AND SCRIVENER'S ERRORS.

Upon second reading approval, the Town Council intends that this ordinance will not be made part of the Fort Myers Beach Code of Ordinances. Typographical errors that do not affect the intent can be corrected with the authorization of the Town Manager or designee, without the need for a public hearing. Only the specific deviations granted by the Town Council and associated plan sheets reflecting those approvals with or without conditions are so incorporated.

EFFECTIVE DATE.

This ordinance becomes effective immediately upon its adoption.

THE FOREGOING ORDINANCE was enacted by the Town Council upon a motion by Vice Mayor Shamp and seconded by Council Member Cereceda and, upon being put to a roll call vote, the result was as follows:

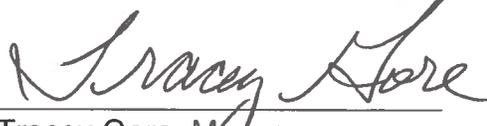
Tracey Gore, Mayor	AYE	Bruce Butcher	AYE
Anita Cereceda	AYE	Joanne Shamp, Vice Mayor	AYE
Dennis Boback	AYE		

DULY PASSED AND ENACTED this 18TH day of June, 2018.

ATTEST:

TOWN OF FORT MYERS BEACH

By: 
Michelle D. Mayher, Town Clerk

By: 
Tracey Gore, Mayor

Approved as to form by:

By: 
Peterson Law Group, Town Attorney

