

**RESOLUTION NUMBER 2017-010 OF THE LOCAL PLANNING  
AGENCY OF THE TOWN OF FORT MYERS BEACH FLORIDA  
SEZ17 - 0002 & VAR17 - 0002 – PAINE PARKING LOT  
PERMANENT SHARED PARKING LOT**

**WHEREAS**, Max Forgey, authorized agent for Fred & Nancy Paine are requesting a special exception and associated variances to construct a permanent shared parking lot consistent with Section 34-2011 of the Town of Fort Myers Beach Land Development Code; and

**WHEREAS**, the applicant has indicated that the STRAP number for the subject property is 24-46-23-W3-0050B.0070 and the legal description of the subject property is attached as *Exhibit A*; and

**WHEREAS**, the subject property is located at 821 Estero Boulevard Fort Myers Beach, FL 33931, zoned Downtown on the Official Zoning Map and Pedestrian Commercial category 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 November 14, 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 34-88.

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

**1. Determination.**

Based upon the recommendations, testimony, and evidence presented by the applicant, staff, and other interested persons at the hearing, and review of the application and the standards for granting variances, the LPA recommends approval of the following:

**a. Special Exception. (SEZ17-0002)**

The LPA recommends that the Town Council **APPROVE** the applicant's request for a special exception and associated variances to construct a permanent shared parking lot consistent with Section 34-2011 of the LDC to allow a 13 space shared parking lot as depicted on the site plan on the property described in attached Exhibit B.

b. **Variations.** (VAR17-0002)

- (1) Variance #1 from LDC section 10-416(d)(2) requirement from the right of way Type D buffer from 15 foot wide buffer consisting of 5 trees per 100 lineal feet and double staggered rows hedge and no wall to permit a 12 foot wide buffer consisting of 5 trees per 100 lineal feet and double staggered rows hedge and no wall adjacent to Lagoon Street is APPROVED.
- (2) Variance #2 from LDC section 10-416(d)(2) requirement from the Type C buffer from 15 foot wide buffer consisting of 5 trees per 100 lineal feet and double staggered rows hedge and wall to permit a 4 foot wide buffer with existing vegetation and no wall adjacent to 841 Lagoon Street is APPROVED.
- (3) Variance #3 from LDC section 10-416(d)(2) requirement from the right of way Type D buffer from 15 foot wide buffer consisting of 5 trees per 100 lineal feet and double staggered rows hedge and no wall to permit no buffer is APPROVED.
- (4) Variance #4 from 10-416(d)(2) requirement from the Type C buffer from 15 foot wide buffer consisting of 5 trees per 100 lineal feet and double staggered rows hedge and wall to permit a 6 foot wide buffer with 5 trees per 100 lineal feet and double staggered rows hedge and no wall adjacent to 831 Estero Boulevard is APPROVED.
- (5) Variance #5 the driveway separation requirement in LDC section 10-285 that connection separation centerline distance of a major street is 250 feet to permit approximately 70 feet and 90 feet for the exit and entrance centerline is APPROVED.

**RECOMMENDED FINDINGS AND CONCLUSIONS:**

a. Special Exception. In accordance with the requirements of LDC Section 34-88 for granting a special exception, the LPA recommends that the Town Council make the following findings and reach the following conclusions:

1. There **exist** changed or changing conditions which make approval of the request appropriate.
2. The request is **consistent** with the goals, objectives, policies and intent of the Fort Myers Beach Comprehensive Plan.
3. The request **meets or exceeds** all performance and locational standards set forth for the proposed use.
4. The request **will** protect, conserve, or preserve environmentally critical areas and natural resources.

5. The request **will** be compatible with existing or planned uses and not cause damage, hazard, nuisance, or other detriment to persons or property.

6. 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.

b. Variances. In accordance with LDC section 34-87, the LPA recommends that the Town Council finds the following:

- (1) That there **are** exceptional or extraordinary conditions or circumstances that are inherent to the property in question, or that the request is for a de minimis variance under circumstances or conditions where rigid compliance is not essential to protect public policy.
- (2) That the conditions justifying the variance **are not** the result of actions of the applicant taken after the adoption of the regulation in question.
- (3) That the variance granted **is** the minimum variance that will relieve the applicant of an unreasonable burden caused by the application of the regulation in question to his property.
- (4) That the granting of the variance **will not** be injurious to the neighborhood or otherwise detrimental to the public welfare.
- (5) That the conditions or circumstances on the specific piece of property for which the variance is sought **are not** of so general or recurrent a nature as to make it more reasonable and practical to amend the regulation in question.

### **CONDITIONS OF APPROVAL**

1. *Approval of this special exception does not exempt the subject property from any provisions of the LDC with the exception of the approved variances.*
2. *The property is allowed to operate a commercial shared parking lot following Town Council approval provided that the property must have a limited development order (LDO) within 180 days of the approval of this special exception or the property is subject to a one hundred dollar per day fine. Applicant can request additional 180 day extensions thru the Local Planning Agency and Town Council. The LDO must address a parking plan, stormwater retention/detention, access to the site, parking surface of the lot, buffering, and ADA issues.*
3. *Perimeter parking spaces must be delineated by placing a parking block three feet from the end of the parking space and centered between the sides of the space.*

4. Signs must always be in compliance with Chapter 30 of the LDC.
5. The operator of the parking lot will provide a trash receptacle and maintain the lot in a litter free manner. The operator will ensure that the trash receptacle is appropriately placed and regularly emptied and hauled away by the franchised garbage hauler.
6. A lighting plan has not been approved. One must be submitted and approved by the Town Council prior to the installation of any site lighting for the parking lot. No lighting poles may be installed, only ground mounted lighting may be used on site.
7. The parking lot hours of operation are limited to 7:30 AM to 10:00 PM unless a special event permit (limited to 6 a year) is applied for and approved to accommodate parking for events such as 4<sup>th</sup> of July fireworks or New Year's Eve.
8. Violation of any of these conditions will result in the owner of the property being subject to a ~~five~~ hundred dollar per day fine, payable to the Town once the violation has been resolved and prior to any other development orders being issued for the site.

The foregoing Resolution was adopted by the LPA upon a motion by LPA Member Hughes and seconded by LPA Member Plummer, and upon being put to a vote, the result was as follows:

Hank Zuba, Chair	AYE	Dan Hendrickson, Vice Chair	NAY
Megan Heil, Member	AYE	Dan Hughes, Member	AYE
Jane Plummer, Member	AYE	Scott Safford, Member	AYE
Lorrie Wolf, Member	AYE		

DULY PASSED AND ADOPTED THIS 14<sup>th</sup> day of NOVEMBER, 2017.

By:   
Hank Zuba, LPA Chair

Approved as to legal sufficiency:  
By:   
Jack Peterson  
LPA Attorney

ATTEST:  
By:   
Michelle Mayher  
Town Clerk