

ORDINANCE NO. 19-10

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, REPLACING TOWN OF FORT MYERS BEACH RESOLUTION 05-13, AND AMENDING THE SCHEDULE OF USES FOR THE MOUND HOUSE CPD; PROVIDING FOR REVISIONS TO CONDITIONS OF APPROVAL, AND OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS OF LAW; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, The Town of Fort Myers Beach's Mound House property comprising 2.77+/- acres (located at 451 Connecticut St; Strap number 29-46-24-W2-00146.0010), was rezoned from Residential Single-family (RS) to Commercial Planned Development (CPD) pursuant to Resolution 05-13; and

WHEREAS, this Ordinance replaces Resolution 05-13 and modifies and clarifies the schedule of uses and conditions of approval for the subject property; and

WHEREAS, at a public hearing on June 4, 2019, the LPA gave full and complete consideration of the request, recommendation of approval by staff, the documents in the public record, and the testimony of all interested parties; and recommended approval by a 7-0 vote; and

WHEREAS, on August 5, 2019 the Town Council held a first reading of this Ordinance and set a second hearing, by a majority plus one vote, to consider the recommendation of the LPA, staff, and testimony of the public and interested parties for August 19, 2019 at 9 a.m. as required by Section 166.041(3)(c)2., *Fla. Stat.*, and Section 34-85 of the Fort Myers Beach Land Development Code (LDC); and

WHEREAS, On August 19, 2019 at 9 a.m. the Town Council held a duly advertised second public hearing to fully consider the Ordinance, the recommendation of the LPA, staff, and testimony of the public and interested parties, as required by Section 34-85 of the LDC.

NOW THEREFORE BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH THAT

Section 1. The above recitals are true, correct, and incorporated herein by this reference.

Section 2. Town Resolution 05-13 is hereby replaced and the schedule of uses and conditions of approval for the Mound House CPD as set forth in Exhibit "A," attached hereto and incorporated herein by this reference is hereby approved.

Section 3. Whenever the requirements or provisions of this Ordinance are in conflict with the requirements or provisions of any other lawfully adopted ordinance or statute, the most restrictive requirements will apply.

Section 4. If any Section or portion of this Ordinance proves to be invalid, unlawful, or unconstitutional, it will not invalidate or impair the validity, force, or effect of any other Section or part of this Ordinance.

Section 5. This ordinance will take effect immediately upon adoption by the Town Council.

The foregoing Ordinance was adopted by the Town Council upon a motion by Vice Mayor Ray Murphy and seconded by Councilmember Rexann Hosafros and upon being put to a roll call vote, the result was as follows:

Anita Cereceda, Mayor	aye
Ray Murphy, Vice Mayor	aye
Joanne Shamp, Councilmember	aye
Rexann Hosafros, Councilmember	aye
Bruce Butcher, Councilmember	aye

ADOPTED this 19th day of August, 2019 by the Town Council of the Town of Fort Myers Beach, Florida.

TOWN OF FORT MYERS BEACH



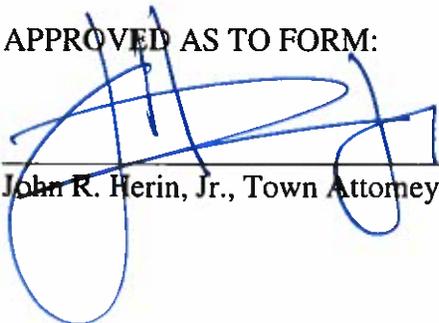
Anita T. Cereceda, Mayor

ATTEST:



Michelle D. Mayher, Town Clerk

APPROVED AS TO FORM:



John R. Herin, Jr., Town Attorney

Exhibit "A"

1. The development of this project must be consistent with the 1 page Master Concept Plan entitled "Mound House," stamped received January 26,2005, last revised 11/1/04, except as modified by the conditions below. This development must comply with all requirements of the Fort Myers Beach Land Development Code (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. All proposed events with on-premises consumption of alcoholic beverages must apply for and receive a permit for the service of alcoholic beverages in accordance with 34-2442, permits for special events.~~

~~32.~~ The following limits apply to the project and uses:

a. Schedule of Use Groups and Uses:

Civic-Open

~~Recreation facility, public –limited to use of the structures indicated on the MCP and passive recreation appropriate to the existing level of development of the Mound House property~~

~~Day care center, child –limited to day camp type activities and no more children than can be safely accommodated in accordance with the occupancy level attributed by the Fire Marshal to the Mound House's largest room~~

~~Place of worship –limited to no more persons than can be safely accommodated in accordance with the occupancy level attributed by the Fire Marshal to the Mound House's largest room and with a temporary use permit issued by the Town~~

~~School –limited to no more persons than can be safely accommodated in accordance with the occupancy level attributed by the Fire Marshal to the Mound House's largest room~~

~~Theater –limited to areas inside the Mound House building to no more persons than can be safely accommodated in accordance with the occupancy level attributed by the Fire Marshall to the Mound House's largest room; and limited outside to the area forward (toward Matanzas Pass) of the Mound House and north of the northern side of the Mound House, and that it be only allowed in conjunction with an approved Special Event permit with amplification consistent with the Town of Fort Myers Beach Noise Control Ordinance (Ordinance 96-24).~~

Cultural Facility

Marine – Limited

~~Dock (for use by water taxi or water shuttle) –limited to use as a destination only~~
Mooring is limited to Mound House visitors during posted operation hours or as otherwise authorized by Town Council.

Retail – Open

Retail store, small- limited to 500 square feet of the floor area of the Mound house for retail operations appropriate to the operation of the Mound House as a Cultural Facility
Membership organization—limited to no more persons than can be safely accommodated in accordance with the occupancy level attributed by the Fire Marshal to the Mound House's largest room

Temporary Uses - only with the appropriate permit issued by the Town.

Consumption On-premises consumption of alcoholic beverages—limited to beer and wine and liquor.,—limited to the interior of the Mound House building, only in conjunction with a permitted special event., limited to no more than two (2) hours, and no later than 9:00PM.

Office - Limited

Administrative office - limited to use by the staff, volunteers and contracted agents of the Town and the Mound House and the Town of Fort Myers Beach.

43. The Mound House property ~~will~~may only be open to the public from Sunrise 8:00 A.M. to one half hour past Sunset until 9 P.M. Use or hours after 9 P.M. will require approval from the Town Council. ~~and any extended hours approved in conjunction with a permitted Special Event and any other use consistent with the Management Plan.~~

54. The use of the property ~~must be consistent with~~ Operations will be governed by the Mound House Operational and special events Policy approved by Town Council. ~~manual that the Cultural and Environmental Learning Center Advisory Board (CELCAB) will refer to the Town Council for approval and modifications from time to time.~~

6. ~~Members of Town staff and four (4) selected residents of the immediate area will be afforded an opportunity for one additional meeting no later than September 20, 2005 to address possible compromises to the remaining issues and a report from that meeting will be forwarded to the CELCAB for inclusion in the operational and special events policy manual that, when complete, will be forwarded to Town Council for consideration and adoptions.~~