

RESOLUTION 19-35

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA APPROVING WITH CONDITIONS APPLICATIONS VAC18-0002, VAC18-0003, VAC18-0004 AND VAC18-0005, REQUESTING TO VACATE PORTIONS OF TOWN OF FORT MYERS BEACH, FLORIDA RIGHT-OF-WAY AND PORTIONS OF THE “CRESCENT PARK” PLAT OWNED BY THE TOWN OF FORT MYERS BEACH, AS MORE PARTICULARLY DESCRIBED IN EXHIBIT “A” ATTACHED TO THIS RESOLUTION; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, TPI-FMB I, LLC (“Applicant”), in accordance with Chapter 177, *Florida Statutes*, the Town of Fort Myers Beach Land Development Code (“LDC”), DCI 17-0002, and Ordinance 18-04 approving the project known as “Margaritaville”, filed applications with the Town of Fort Myers Beach (“Town”) to vacate portions of Town right-of-way and portions of the Crescent Park Plat legally described in attached Exhibit “A”(“Request to Vacate”); and

WHEREAS, LDC Section 10-220 requires the Town Council to consider the complete staff report, staff recommendations, and the Local Planning Agency (“LPA”) minutes and recommendation before granting or denying the Request to Vacate; and

WHEREAS, following proper notice and as required under the LDC, the LPA conducted a public hearing on August 21, 2018 to consider and recommend approval, approval with conditions, or deny the Request to Vacate.

WHEREAS, on October 21, 2019, the Town Council gave consideration to the Request to Vacate and directed the Town Manager to publish notice of a public hearing on November 18, 2019, to consider and potentially adopt a Resolution approving the Request to Vacate pursuant to Subdivision II, Section 10-220 of the LDC; and

WHEREAS, on November 18, 2019, the Town Council conducted a properly noticed public hearing to consider the Request to Vacate.

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

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

Section 2. The Town Council makes the following findings of fact with respect to the Request to Vacate:

- a. The Town owns and is responsible for the maintenance of the right-of-way and platted property that is the subject of the Request to Vacate.
- b. The Applicant is the owner of land adjacent to the right-of-way and land sought to be vacated.
- c. The Applicant and the Town are the only affected property owners

- concerning the intent of the Request to Vacate.
- d. The general public will benefit from the vacation of the Town right-of-way and property, and that such right-of-way and property are no longer required for the public use and convenience.
 - e. The Town's interest in the right-of-way, plat or portion of a plat described in Exhibit "A" to this Resolution is hereby vacated.

Section 3. Granting of the Request to Vacate is subject to the following conditions:

- a. The Applicant is responsible for removing all driveways and street connections at the intersection of Canal Street and Estero Boulevard. Sidewalks shall be constructed to connect existing sidewalk sections to create a seamless and consistent sidewalk across the vacated right-of-way and property.
- b. The Applicant is responsible for permitting, removal, disposal and replacement of all utilities within the vacated right-of-way and property, including but not limited to, a Town owned and operated water line.
- c. All conditions shall be completed within a timeframe approved by the Town Manager and in conjunction with the conditions included in DCI 17-0002 and Ordinance 18-04 or the vacated right-of-way and property shall automatically revert to the Town.

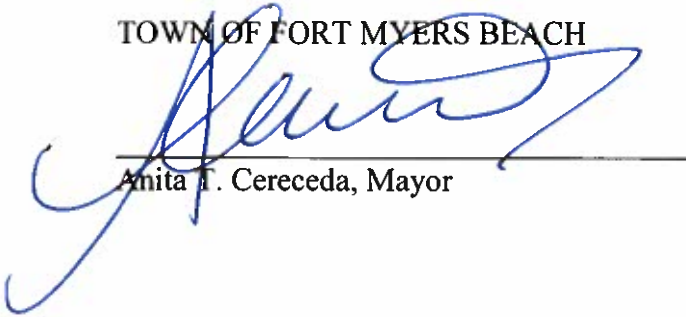
Section 4. This Resolution shall take effect immediately upon its adoption.

The foregoing Resolution was adopted by the Town Council upon a motion by Council Member Hosafros and seconded by Council Member Shamp and upon being put to a 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 18th day of November, 2019 by the Town Council of the Town of Fort Myers Beach, Florida.

TOWN OF FORT MYERS BEACH



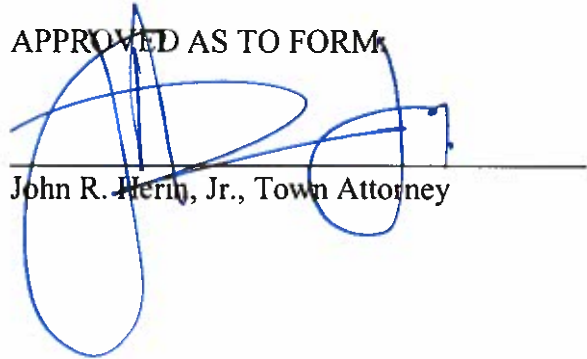
Anita T. Cereceda, Mayor

ATTEST:



Michelle D. Mayher, Town Clerk

APPROVED AS TO FORM



John R. Herli, Jr., Town Attorney



EXHIBIT "A"

VAC18-002

A portion of Town right-of-way, described as parcel of land lying in Section 19, Township 46 South, Range 24 East, Town of Fort Myers Beach, Estero Island, Lee County, Florida, being all of that portion of Canal Street lying north of a line that connects the Southwest Corner of Block "A" with the Southeast Corner of Lot 8, Block "B", all as shown on the Plat of "Crescent Park", as recorded in Plat Book 4, Page 39, Public Records of Lee County, Florida, containing 5,601 square feet, more or less.

VAC18-003

A portion of Town right-of-way, described as a parcel of land lying in Section 19, Township 46 South, Range 24 East, Town of Fort Myers Beach, Estero Island, Lee County, Florida, being a portion of the 12.00 foot wide strip shown on the Plat of "Crescent Park", as recorded in Plat Book 4, Page 39, Public records of Lee County, Florida, containing 1,500 square feet, more or less.

VAC18-004

A portion of the Crescent Park Plat, described as a parcel of land lying in Section 19, Township 46 South, Range 24 East, Town of Fort Myers Beach, Estero Island, Lee County, Florida, being all of Lots 1, 2, 3, 4, 5, 6, 7, And 8, Block "B" as shown on the Plat of "Crescent Park" as recorded in Plat Book 4, Page 39, Public Records of Lee County, Florida, containing 25,346 square feet, more or less.

VAC18-005

A portion of the Crescent Park Plat, described as a parcel of land lying in Section 19, Township 46 South, Range 24 East, Town of Fort Myers Beach, Estero Island, Lee County, Florida, being Lots 3, 4, 5, 6, and 7, of Block "A" as shown on the Plat of "Crescent Park", as recorded in Plat Book 4, Page 39, Public Records of Lee County, Florida, containing 20,241 square feet, more or less.