

RESOLUTION NUMBER 20-06

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA REGARDING APPLICATION VAR 20200018, FOR A VARIANCE TO THE REQUIREMENTS OF THE FORT MYERS BEACH LAND DEVELOPMENT CODE FOR THE PROPERTY LOCATED AT 3001 ESTERO BOULEVARD; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, applicant Red Coconut RV Park LLP (“Applicant”), owners of the property located at 3001 Estero Boulevard (“Property”), are requesting a variance from Section 34-1744 of the Town of Fort Myers Beach Land Development Code (“LDC”); and

WHEREAS, the STRAP number for the Property is 29-46-24-W1-00145.1000 and the legal description of the Property is attached as *Exhibit A*; and

WHEREAS, the Property is located in the ‘Village’ and ‘Environmentally Critical’ zoning districts of the Official Zoning Map and the ‘Boulevard’ and ‘Recreation’ 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 noticed and held before the Local Planning Agency (LPA) on February 11, 2020, at which 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 Section 34-84 of the LDC; and

WHEREAS, on March 2, 2020 the Town Council held a duly noticed public hearing to fully consider the request of the Applicant, the recommendations of Town staff and the LPA, the documents in the record, and testimony of all interested persons as required by LDC 34-87, and the Town Council determined it is in the best interest of the Town to approve the request.

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

Determination.

Based upon the recommendations, testimony, and evidence presented by the applicant, Town staff, and interested parties, the Town Council **APPROVES** the following:

- A. A variance from Sec. 34-1744 Location and Height of Fences and Walls, to allow a fence 6 feet in height, within 0 feet of the Estero Blvd right-of-way. For a variance of 3 feet from the required 3 foot setback requirement.

Recommended Findings and Conclusions:

In accordance with the requirements of Sections 34-84 and 34-87 of the LDC regarding consideration of eligibility for a variance, the Town Council makes the following findings and reaches the following conclusions:

A. There **are** exceptional or extraordinary conditions or circumstances that are inherent to the property in question, and the request is for a de minimus variance under circumstances or conditions where rigid compliance is not essential to protect public policy.

B. The conditions justifying the variance **are not** the result of actions of the applicant taken after the adoption of the regulation in question.

C. The variance granted is the minimum variance that will relieve the applicant of an unreasonable burden caused by the application of the regulation to the property in question.

D. The granting of the variance **will not** be injurious to the neighborhood or otherwise detrimental to the public welfare.

E. The conditions or circumstances on the 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. Nothing in the approval of this variance, including any of the attached conditions, may be construed as a variance or deviation from the provisions of LDC Chapter 6, Article IV Floodplain regulations. Approval of this rezoning does not exempt the subject property from any provisions of the LDC with the exception of the approved variance.
2. Approval of this variance does not give the developer an undeniable right to permit 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 permit approval, except as specifically modified herein.

Effective Date.

This Resolution shall take effect immediately upon adoption.

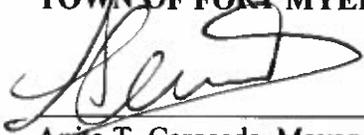
The foregoing Resolution was adopted by the Town Council upon a motion by Vice Mayor Murphy and seconded by Member Butcher and upon being put to a vote, the result was as follows:

DULY PASSED AND ADOPTED on this 2nd day of March, 2020.

Anita Cereceda, Mayor Aye
Ray Murphy, Vice Mayor Aye
Bruce Butcher, Councilmember Aye

Joanne Shamp, Councilmember Aye
Rexann Hosafros, Councilmember Aye

TOWN OF FORT MYERS BEACH



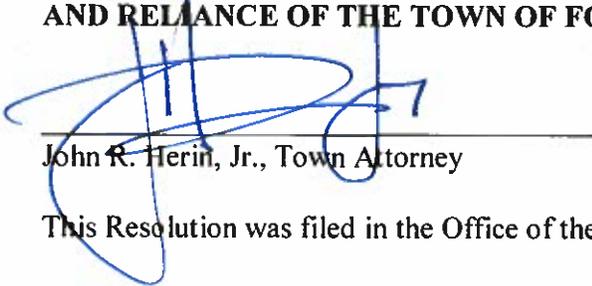
Anita T. Cereceda, Mayor

ATTEST:



Michelle D. Mayher, Town Clerk

**APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE USE
AND RELIANCE OF THE TOWN OF FORT MYERS BEACH ONLY:**



John R. Herin, Jr., Town Attorney

This Resolution was filed in the Office of the Town Clerk on this 13th day of March 2020.

