

RESOLUTION OF THE TOWN COUNCIL OF  
THE TOWN OF FORT MYERS BEACH, FLORIDA  
RESOLUTION NUMBER 04-22

WHEREAS, Ecoventure Carousel, LTD in ref. to Carousel Inn RPD has requested to rezone 0.73 acres from Residential Multifamily (RM) and 0.96 acres from Commercial Resort (CR) to Residential Planned Development (RPD) to develop 16 multiple-family dwelling units in one multiple-story building with a deviation from the LDC pre-disaster buildback provision to allow 16 dwelling units and 83,103 +/- square feet; a deviation from the LDC building height limitations to allow building height not to exceed 4 stories over 1 story of parking not to exceed 55 feet above base flood elevation; and,

WHEREAS, the subject property is located at 6230 Estero Boulevard, Fort Myers Beach, and the applicant has indicated the property's current STRAP numbers are: 33-46-24-W3-00013.0020 and 33-46-24-00013.0030, and the legal description is marked as Exhibit-A and is attached; and,

WHEREAS, a public hearing was held before the Local Planning Agency (LPA), and the LPA gave full consideration to the application and recommended that the Town Council Deny the Applicant's request for rezoning from RM and CR to RPD with deviations and also deny the Applicant's request for Special Exception. *Further the LPA requests that if the Town Council wishes to re-interpret pre-disaster buildback to allow this application to be approved, then the LPA would respectfully request that the Council remand this case back to the LPA for further deliberation.*

WHEREAS a hearing was held and the council considered the following criteria, whenever applicable:

- a. Whether there exists an error or ambiguity that must be corrected.
- b. Whether there exist changed or changing conditions which make approval of the request appropriate.
- c. The impact of a proposed change on the intent of Chapter 34 of the Town LDC.
- d. The testimony of any applicant.
- e. The recommendation of staff and of the local planning agency.
- f. The testimony of the public.
- g. Whether the request is consistent with the goals, objectives, policies, and intent, and with the densities, intensities, and general uses as set forth in the Fort Myers Beach Comprehensive Plan.

h. Whether the request meets or exceeds all performance and locational standards set forth for the proposed use.

i. Whether urban services are, or will be, available and adequate to serve a proposed land use change.

j. Whether the request will protect, conserve, or preserve environmentally critical areas and natural resources.

k. Whether the request will be compatible with existing or planned uses and not cause damage, hazard, nuisance, or other detriment to persons or property.

l. Whether the location of the request places an undue burden upon existing transportation or other services and facilities and will be served by streets with the capacity to carry traffic generated by the development.

WHEREAS the town council finds that the requested zoning district does not comply with:

a. The Fort Myers Beach Comprehensive Plan.

b. Chapter 34, Zoning Districts, Design Standards, and Nonconformities

c. Any other applicable town ordinances or codes.

NOW THEREFORE BE IT RESOLVED THAT THE APPLICATION IS DENIED:

The foregoing resolution was adopted by the Fort Myers Beach Town Council upon being put to a vote, the result was as follows:

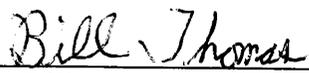
Howard Rynearson	No
Don Massucco	Yes
Bill Thomas	Yes
W. H. "Bill" Van Duzer	No
Garr Reynolds	Yes

APPLICATION DULY DENIED this 28th day of June, 2004.

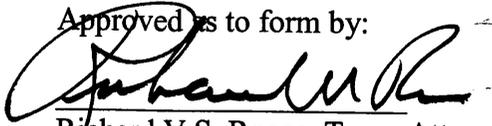
ATTEST:

By:   
Marsha Segal-George, Town Clerk

TOWN OF FORT MYERS BEACH

By:   
Bill Thomas, Mayor

Approved as to form by:

A handwritten signature in black ink, appearing to read "Richard V.S. Roosa". The signature is written in a cursive style with a large initial "R".

Richard V.S. Roosa, Town Attorney

**EXHIBIT II-B-1  
LEGAL DESCRIPTION**

**LEGAL DESCRIPTION**

**RPD PARCEL (RIGHT-OF-WAY TO SETBACK LINE)**

A LOT OR PARCEL OF LAND 180 FEET WIDE IN GOVERNMENT LOT 4, SECTION 33, TOWNSHIP 46 SOUTH, RANGE 24 EAST, EXTENDING FROM ESTERO BOULEVARD (STATE ROAD S-865) TO THE 1978 COASTAL CONSTRUCTION SETBACK LINE AS RECORDED IN ORDINANCE 76-3, WHICH LOT OR PARCEL IS DESCRIBED AS FOLLOWS:

**BEGINNING AT THE POINT OF INTERSECTION OF A LINE 690 FEET, MEASURED ON A PERPENDICULAR SOUTHEASTERLY FROM AND PARALLEL WITH THE SOUTHEASTERLY LINE OF BLOCK "I", UNIT 2, McPHIE PARK SUBDIVISION, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN PLAT BOOK 8, PAGE 59, PUBLIC RECORDS OF LEE COUNTY, FLORIDA, WITH THE SOUTHWESTERLY RIGHT-OF-WAY LINE OF SAID STATE ROAD NO. S-865 RUN SOUTHEASTERLY ALONG SAID RIGHT-OF-WAY LINE FOR 181.93 FEET, MORE OR LESS, TO AN INTERSECTION WITH A LINE 870 FEET SOUTHEASTERLY FROM AND PARALLEL WITH SAID SOUTHEASTERLY LINE OF BLOCK "I", UNIT 2, McPHIE PARK SUBDIVISION; THENCE RUN SOUTHWESTERLY ALONG SAID PARALLEL LINE 404.55' TO SAID 1978 COASTAL CONSTRUCTION SETBACK LINE; THENCE RUN NORTH 29°18'12" WEST, ALONG SAID SETBACK LINE, 56.90 FEET TO COASTAL CONSTRUCTION SETBACK LINE CONTROL MONUMENT "E-29"; THENCE RUN NORTH 39°10'40" WEST, ALONG SAID SETBACK LINE, 123.82 FEET TO AN INTERSECTION WITH A LINE THROUGH THE POINT OF BEGINNING, PARALLEL WITH SAID SOUTHEASTERLY LINE OF BLOCK "I"; THENCE RUN NORTHEASTERLY ALONG SAID PARALLEL LINE 420.67 FEET TO THE POINT OF BEGINNING TOGETHER WITH ALL RIPARIAN RIGHTS APPURTENANT THERETO.**

**CONTAINING 1.690 ACRES MORE OR LESS.**

**SUBJECT TO EASEMENTS, RESTRICTIONS AND RESERVATIONS OF RECORD.**

**BEARINGS ARE GRID BEARINGS FLORIDA STATE PLANE WEST ZONE, NORTH AMERICAN DATUM OF 1986, 1990 ADJUSTMENT (NAD 83(90)).**

**ENVIRONMENTALLY CRITICAL PARCEL (EC)**

A LOT OR PARCEL OF LAND 180 FEET WIDE IN GOVERNMENT LOT 4, SECTION 33, TOWNSHIP 46 SOUTH, RANGE 24 EAST, EXTENDING FROM THE 1978 COASTAL CONSTRUCTION SETBACK LINE AS RECORDED IN ORDINANCE 76-3, TO THE WATERS OF THE GULF OF MEXICO, WHICH LOT OR PARCEL IS DESCRIBED AS FOLLOWS:

**COMMENCING AT THE POINT OF INTERSECTION OF A LINE 690 FEET, MEASURED ON A PERPENDICULAR SOUTHEASTERLY FROM AND PARALLEL WITH THE SOUTHEASTERLY LINE OF BLOCK "I", UNIT 2, McPHIE PARK SUBDIVISION, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN PLAT BOOK 8, PAGE 59, PUBLIC RECORDS OF LEE COUNTY, FLORIDA, WITH THE SOUTHWESTERLY RIGHT-OF-WAY LINE OF SAID STATE ROAD NO. S-865 RUN SOUTHEASTERLY ALONG SAID RIGHT-OF-WAY LINE FOR 181.93 FEET, MORE OR LESS, TO AN INTERSECTION WITH A LINE 870 FEET SOUTHEASTERLY FROM AND PARALLEL WITH SAID SOUTHEASTERLY LINE OF BLOCK "I", UNIT 2, McPHIE PARK SUBDIVISION; THENCE RUN SOUTHWESTERLY ALONG SAID PARALLEL LINE 404.55 FEET TO SAID 1978 COASTAL CONSTRUCTION SETBACK LINE AND THE POINT OF BEGINNING; THENCE CONTINUE ALONG SAID PARALLEL LINE 603.69 FEET MORE OR LESS TO THE WATERS OF THE GULF OF MEXICO; THENCE RUN NORTH 30°18'02" WEST, ALONG SAID WATERS, 138.21 FEET; THENCE NORTH 21°02'47" WEST, ALONG SAID WATERS, TO AN INTERSECTION WITH A LINE THROUGH THE POINT OF COMMENCEMENT, PARALLEL WITH SAID SOUTHEASTERLY LINE OF BLOCK "I"; THENCE RUN NORTHEASTERLY ALONG SAID PARALLEL LINE 577.91 FEET TO SAID 1978 COASTAL CONSTRUCTION SETBACK LINE; THENCE SOUTH 39°10'40" EAST, ALONG SAID SETBACK LINE 123.82 FEET TO 1978 COASTAL CONSTRUCTION SETBACK LINE CONTROL MONUMENT "E-29"; THENCE SOUTH 29°18'12" EAST, ALONG SAID SETBACK LINE, 56.90 FEET TO THE POINT OF BEGINNING; TOGETHER WITH ALL RIPARIAN RIGHTS APPURTENANT THERETO.**

**CONTAINING 2.466 ACRES MORE OR LESS.**

**SUBJECT TO EASEMENTS, RESTRICTIONS AND RESERVATIONS OF RECORD.**

**BEARINGS ARE GRID BEARINGS FLORIDA STATE PLANE WEST ZONE, NORTH AMERICAN DATUM OF 1986, 1990 ADJUSTMENT (NAD 83(90)).**

RECEIVED  
JUN 27 2003

Applicant's Legal Checked  
by *Am* 11/24/03

DCI 2003-00034