

RESOLUTION OF THE TOWN COUNCIL OF  
THE TOWN OF FORT MYERS BEACH, FLORIDA  
RESOLUTION NUMBER 04-14

A RESOLUTION OF THE TOWN OF FORT MYERS BEACH, FLORIDA  
APPROVING THE REQUEST FOR CONSUMPTION ON PREMISES

WHEREAS, Prismatic Corp., Times Square Coffee Shop has requested a Special Exception for consumption on premises (2-COP) of alcoholic beverages with outdoor seating in conjunction with a cafe; and,

WHEREAS, the subject property is located at 1035 Estero Blvd., and the applicant has indicated the property's current STRAP number is: 24-46-23-W3-00208.0060 and the legal description is attached as Exhibit "A" ; and,

WHEREAS, the LPA gave full and complete consideration to the recommendations of the Staff, the documents in the file, and the testimony of all interested persons and recommended that the Town Council approve the Applicant's request subject to the 8 conditions listed on Page 2 of the Staff Report dated March 11, 2004 and which is attached hereto and incorporated herein by reference with the following change:

Condition #4. *Esthetically pleasing* legible signs will be clearly posted for the areas not approved for on premise consumption stating "Alcoholic beverages are prohibited beyond this point."

FINDINGS AND CONCLUSIONS:

The following findings and conclusions were made in conjunction with the approval of the requested modification:

1. The applicant did comply with Section 34-1264 (2) b. which places the burden of proof upon the applicant to demonstrate that approval will not have any adverse affect on surrounding properties.
2. That there is no error or ambiguity in the Land Development Code or Town Plan which must be corrected by the Special Permit.
3. That the character and nature of the surrounding area make approval of the Special Permit, as conditioned, appropriate.
4. That the Special Permit, as conditioned, is consistent with the goals, objectives, policies and intent of the Town Plan, and the densities, intensities and general uses set forth in the Town Plan and Land Development Code.
4. That the Special Permit, as conditioned, meets all performance and locational standards set forth for the proposed use.
5. That urban services will be available and adequate to serve the proposed use when it is constructed.

6. That there are no environmentally critical areas or natural resources to be adversely affected by the Special Permit, as conditioned.

NOW, THEREFORE, BE IT RESOLVED BY THE FORT MYERS BEACH TOWN COUNCIL, that the Council APPROVES the requested modification with the following conditions:

the 8 conditions listed on Page 2 of the Staff Report dated March 11, 2004 and which is attached hereto and incorporated herein by reference with the following change:

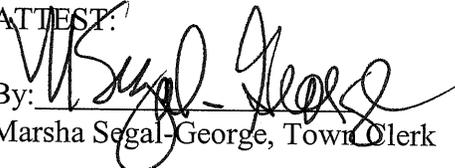
Condition #4. *Esthetically pleasing* legible signs will be clearly posted for the areas not approved for on premise consumption stating "Alcoholic beverages are prohibited beyond this point."

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

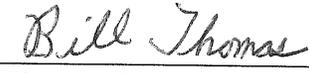
Howard Rynearson	<u>AYE</u>
Don Massucco	<u>NAY</u>
Bill Thomas	<u>AYE</u>
W. H. "Bill" Van Duzer	<u>AYE</u>
Garr Reynolds	<u>NAY</u>

Adopted this 19th day of April, 2004.

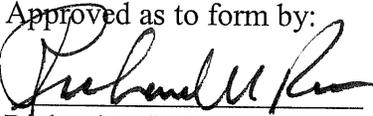
ATTEST:

By:   
Marsha Segal-George, Town Clerk

TOWN OF FORT MYERS BEACH

By:   
Bill Thomas, Mayor

Approved as to form by:

  
Richard V.S. Roosa, Town Attorney

**II. BACKGROUND INFORMATION AND RECOMMENDATION:**

**A. Recommendation: Staff recommends APPROVAL of the request with the following conditions:**

- 1. The Special Exception is limited to on premises consumption of alcoholic beverages in conjunction with outdoor seating and is limited to a 2-COP beverage license to be used in conjunction with the café.**
- 2. Prior to the issuance of a Certificate of Occupancy for the use, the applicant must obtain a yearly permit agreement with the Town of Fort Myers Beach to allow the placement of tables and chairs within the Times Square area.**
- 3. Indoor seating is not approved as part of this Special Exception. The consumption on premises for outdoor seating is limited to the area shown on attached Exhibit "B" and the area leased from the Town of Fort Myers Beach located within the Times Square area and is limited to a maximum of 10 tables with a maximum seating capacity of 42 seats.**
- 4. Legible signs will be clearly posted for the areas not approved for on premise consumption stating "Alcoholic beverages are prohibited beyond this point.**
- 5. Lighting on the outdoor seating areas will be shuttered and shielded from the surrounding properties.**
- 6. The hours for the outdoor seating area will only be used between 8:00 a.m. to 12:00 Midnight, 7-days a week, Sunday through Saturday.**
- 7. Entertainment is limited to recorded background music between the hours of 8:00 a.m. to 12:00 Midnight, 7-days a week, Sunday through Saturday.**
- 8. Prior to the issuance of a Certificate of Occupancy for the use, the applicant and property owner must comply with the provisions of the Land Development Code, Sections 14-71 through 14-79 relating to the protection of Sea Turtles.**

**Findings & Conclusions**

Based upon an analysis of the application and the standards for approval of a special exception, staff makes the following findings and conclusions:

- 1. The requested special exception, as conditioned:**

**COP2003-00091**

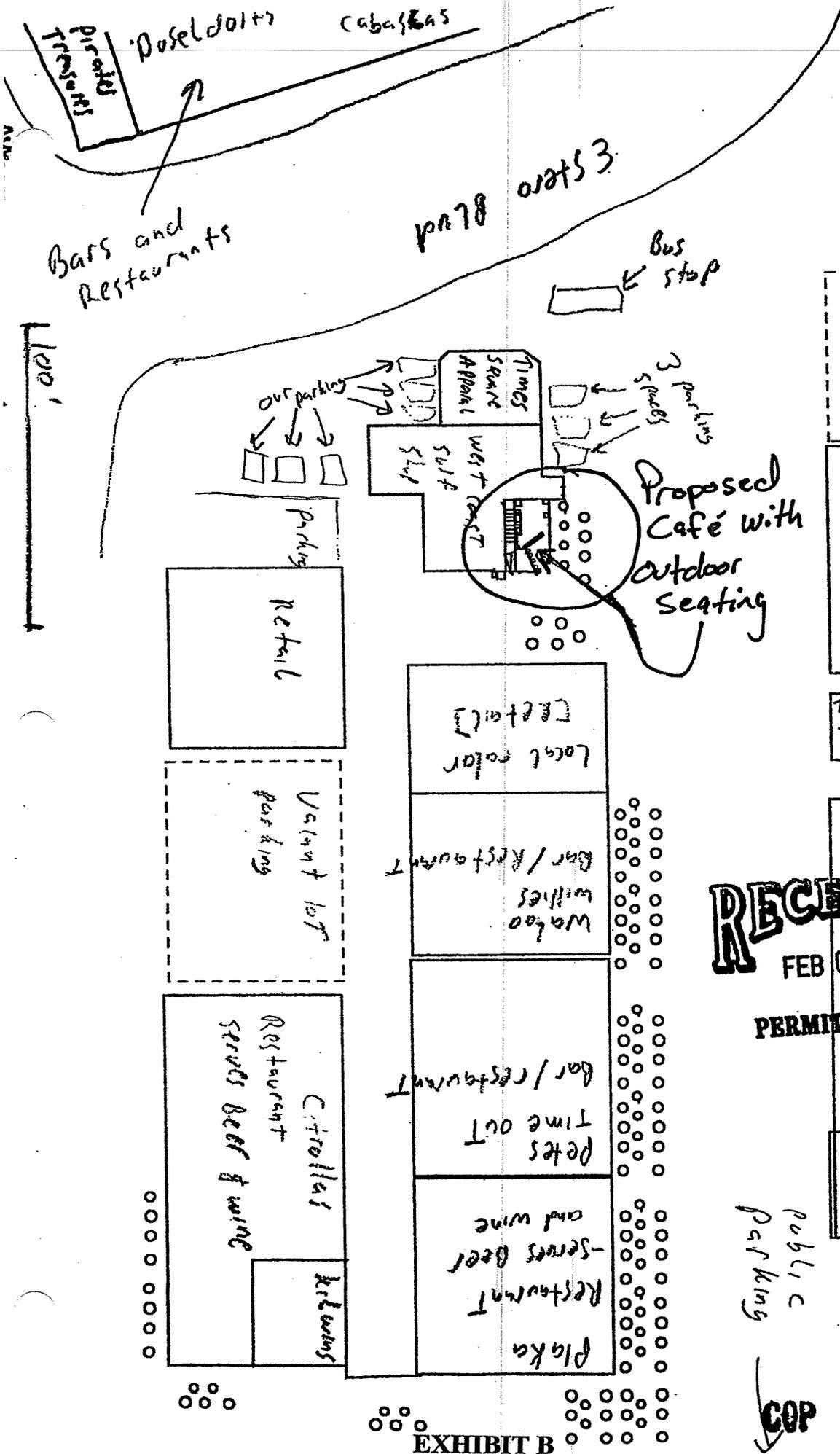
**PROPERTY DESCRIPTION  
EXHIBIT "A"**

**IN SECTION 24, TOWNSHIP 46 SOUTH, RANGE 23 EAST, LEE  
COUNTY, FLORIDA:**

**A TRACT OR PARCEL OF LAND IN THE BUSINESS  
CENTER SUBDIVISION, PLAT BOOK 9, PAGE 9, BLOCK  
8, LOTS 6 & 7, ESTERO ISLAND, FT. MYERS BEACH,  
PUBLIC RECORDS, LEE COUNTY, FLORIDA.**

**Applicant's Legal Checked**  
by *AMM* 07JULY03

Figure 1



RECEIVED  
FEB 02 2004

PERMIT COUNTER

Pier Paddler
Darry
Queen

Pier →

public parking

COP

2005-00155

EXHIBIT B