

**RESOLUTION 17-38**  
**THE TOWN OF FORT MYERS BEACH, FLORIDA**  
**SEZ17 - 0001 & VAR17 - 0005 – MANGO STREET PARKING LOT**  
**PERMANENT SHARED PARKING LOT**

**WHEREAS**, Greg Stuart, authorized agent for Ronald Yanke is requesting a special exception and associated variances to construct a permanent shared parking lot consistent with Section 34-2011 of the Town of Fort Myers Beach Land Development Code; and

**WHEREAS**, the applicant has indicated that the STRAP number for the subject property is 19-46-24-W3-0120A.0050 and the legal description of the subject property is attached as *Exhibit A*; and

**WHEREAS**, the subject property is located at 2440 Estero Boulevard Fort Myers Beach, FL 33931, zoned Commercial Boulevard (CB) on the Official Zoning Map and Boulevard category 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 advertised and held before the Local Planning Agency (LPA) on October 10, 2017; and

**WHEREAS**, at the hearing 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 Fort Myers Beach Land Development Code (LDC) Sections 34-87 and 34-88.

**WHEREAS**, the Town Council determined it is in the best interest of the Town to approve the request.

**NOW THEREFORE, BE IT ORDAINED** by the Town Council of the Town of Fort Myers Beach, Florida, as follows:

**1. Determination.**

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

a. **Special Exception.** (SEZ17-0001) to construct a permanent shared parking lot consistent with Section 34-2011 of the LDC to allow a space shared parking lot as depicted on the site plan (Exhibit B) that meets the LDC parking standards for layout, and number may vary.

b. **Variances.** (VAR17-0005)

- (1) Variance #1 from LDC section 10-416(d)(2) requirement from the right of way Type D buffer from 15 foot wide buffer consisting of five trees per 100 lineal feet and double staggered rows hedge and no wall to permit a five feet wide buffer with a single row hedge to be planted at three feet height and maintained as an opaque buffer at four feet height adjacent to Estero Boulevard is APPROVED.
- (2) Variance #2 from LDC section 10-416(d)(2) requirement from the right of way Type D buffer from 15 foot wide buffer consisting of five trees per 100 lineal feet and double staggered rows hedge and no wall to permit a seven feet wide buffer with a six feet high opaque fence, opaque landscaping to be planted at three feet in height and maintained at six feet height adjacent to Mango Street is APPROVED.
- (3) Variance #3 from LDC section 10-416(d)(2) requirement from a Type C buffer from 15 foot wide buffer consisting of five trees per 100 lineal feet and 18 shrubs per 100 lineal feet and wall to permit a seven feet wide buffer with a six feet high opaque fence, opaque landscaping to be planted at three feet in height and maintained at six feet height adjacent to Cottage Street; and a six feet high screening wall adjacent to Keller Williams and Mom's property is APPROVED.
- (4) Variance #4 from the driveway separation requirement in LDC section 10-285 that connection separation centerline distance of a local street is 125 feet to permit approximately 27 feet and 45.3 feet for the exit and entrance centerline as shown on the site plan is APPROVED.
- (5) Variance #5 from the parking stall dimensions from LDC section 34-2016(2) from a 19.1 stall depth to wall for a 60 degree space to permit for stall space #9 a 15 foot depth as shown on the site plan and from a 17.5 foot stall depth interlock to permit for stall space #10 a 15 foot stall depth, both to be utilized for compact cars is APPROVED.

**RECOMMENDED FINDINGS AND CONCLUSIONS:**

a. Special Exception. In accordance with the requirements of LDC Section 34-88 for granting a special exception, the Town Council make the following findings and reach the following conclusions:

1. There exist changed or changing conditions which make approval of the request appropriate.
2. The request is consistent with the goals, objectives, policies and intent of the Fort Myers Beach Comprehensive Plan.

3. The request **meets or exceeds** all performance and locational standards set forth for the proposed use.
4. The request **will** protect, conserve, or preserve environmentally critical areas and natural resources.
5. The request **will** be compatible with existing or planned uses and not cause damage, hazard, nuisance, or other detriment to persons or property.
6. The requested use **will** be in compliance with applicable general zoning provisions and supplemental regulations pertaining to the use set forth in the Land Development Code including Chapter 34.

b. Variances. In accordance with LDC section 34-87, the Town Council finds the following:

- (1) That there **are** exceptional or extraordinary conditions or circumstances that are inherent to the property in question, or that the request is for a de minimis variance under circumstances or conditions where rigid compliance is not essential to protect public policy.
- (2) That the conditions justifying the variance **are not** the result of actions of the applicant taken after the adoption of the regulation in question.
- (3) That the variance granted **is** the minimum variance that will relieve the applicant of an unreasonable burden caused by the application of the regulation in question to his property.
- (4) That the granting of the variance **will not** be injurious to the neighborhood or otherwise detrimental to the public welfare.
- (5) That the conditions or circumstances on the specific piece of 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. *Approval of this special exception does not exempt the subject property from any provisions of the LDC with the exception of the approved variances.*
2. *The property is allowed to operate a commercial shared parking lot following Town Council approval based upon that the application for a Commercial Planned Development will be completed by March 31, 2018. The property is subject to a \$500 a day fine if any conditions of this approval are violated.*

3. *Perimeter parking spaces must be delineated by placing a parking block three feet from the end of the parking space and centered between the sides of the space.*
4. *Signs must always be in compliance with Chapter 30 of the LDC.*
5. *The operator of the parking lot will provide a trash receptacle and maintain the lot in a litter free manner. The operator will ensure that the trash receptacle is regularly emptied and hauled away by the franchised garbage hauler.*
6. *Hours of operation are limited to sun up to sun down. No overnight parking is approved.*
7. *The applicant must submit a complete Commercial Planned Development application by January 30, 2018 and a non-refundable deposit for the CPD is required immediately.*
8. *The applicant must respond to any identified insufficiency items within 15 calendar days after receipt of the items.*
9. *Applicant must provide written acceptance of all conditions and findings prior to scheduling of the public hearings. Notice of the public hearings is anticipated to be the March LPA public hearing and Town Council in April.*
10. *If any deadlines are not met then the Special Exception approval will be null and voided. Upon approval of the Commercial Planned Development the Special Exception will become null and voided.*

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

Dennis Boback, Mayor	AYE	Tracey Gore, Vice Mayor	AYE
Bruce Butcher, Member	AYE	Anita Cereceda, Member	AYE
Joanne Shamp, Member	AYE		

DULY PASSED AND ADOPTED THIS 18<sup>th</sup> day of **DECEMBER, 2017**.

By:   
 Dennis C. Boback, Mayor

Approved as to legal sufficiency:

By:   
 Peterson Law Group  
 Town Attorney

ATTEST:

By:   
 Michelle Mayher  
 Town Clerk