

RESOLUTION OF THE TOWN COUNCIL OF  
THE TOWN OF FORT MYERS BEACH, FLORIDA  
RESOLUTION NUMBER 14-03  
REZ2013-0001 – Houseboat, LLC Rezoning

WHEREAS, Beverly Grady, authorized agent for the owner of property located at 420, 430, 440, Old San Carlos Boulevard and 1010 Second Street Fort Myers Beach, Florida has requested to rezone approximately .42 acres from Commercial Planned Development (CPD) to DOWNTOWN; and

WHEREAS, the subject property is located in the Pedestrian Commercial Future Land Use Category of the Comprehensive Plan of the Town of Fort Myers Beach; and

WHEREAS, the STRAP numbers for the subject property are 24-46-23-W3-00202.0010, 24-46-23-W3-00202.0020, 24-46-23-W3-00202.0030, and 24-46-23-W3-00202.0190 and the legal description is attached as *Exhibit A*; and

WHEREAS, a public hearing was held before the Local Planning Agency (LPA) on November 12, 2013; and

WHEREAS, at the November LPA hearing the applicant requested and was granted a continuance of case REZ2013-0001 to a date certain of the January 14, 2014 LPA meeting; and

WHEREAS, a public hearing was held before the LPA on January 14, 2014; and

WHEREAS, at the hearing the LPA gave full and complete consideration of the request, recommendations by Staff, the documents in the file, and the testimony of all interested persons, as required by the Fort Myers Beach Land Development Code Section 34-85.

WHEREAS, a public hearing on this matter was legally advertised and held before the Town Council on March 3, 2014, at which time the Town Council gave full and complete consideration to the request of Applicant, LPA Resolution 2013-015, the 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) Section 34-85.

IT IS HEREBY RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, as follows:

Based upon the presentations by the applicant, staff, and other interested persons at the hearing, and review of the application, LPA Resolution 2013-015 and the standards for granting rezonings, the Town Council makes the following findings of fact, and reaches the following conclusions:

The Town Council **APPROVES/DENIES** the request to rezone the subject property from CPD to the DOWNTOWN zoning district.

## **FINDINGS AND CONCLUSIONS**

Based upon the presentations by the Applicant, Staff, and other interested parties at the hearing, and a review of the application and standards for conventional rezoning approval, the Town Council reaches the following findings and conclusions:

1. *Whether there exists an error or ambiguity which must be corrected.*  
There are no errors or ambiguity that exists surrounding the subject property and its zoning category that require correction. **APPROVE/DENY**
2. *Whether there exist changed or changing conditions which make approval of the request appropriate.*  
The only changed condition that exists which supports the applicant's request for rezoning is 1) the existence of the DOWNTOWN zoning district and 2) the subject property is no longer part of the original CPD. At the time of the Matanzas CPD approval, the Town had not yet adopted Town-specific zoning districts. Now that the DOWNTOWN district exists and the property has changed ownership, the applicant is requesting this rezoning. **APPROVE/DENY**
3. *The impact of a proposed change on the intent of Chapter 34 of the Fort Myers Beach Land Development Code.*  
It is not anticipated that the proposed rezoning from CPD to DOWNTOWN will have any negative impact on the intent of Chapter 34. **APPROVE/DENY**
4. *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.*  
As discussed in the analysis section of this report the request is generally consistent with the goals, objectives, policies, and intent as well the densities, intensities and general uses of Comprehensive Plan. **APPROVE/DENY**
5. *Whether the request meets or exceeds all performance and locational standards set forth for the proposed use.*  
The applicant has not submitted a plan for redevelopment with this request for rezoning. They have indicated to Staff that there is no immediate intention to change current uses on the subject property, merely a desire to obtain DOWNTOWN zoning. The current schedule of uses as adopted by Resolution 03-35 grants the full complement of land uses permitted by DOWNTOWN zoning. **APPROVE/DENY**
6. *Whether urban services are, or will be, available and adequate to serve a proposed land use change.*  
Urban services including water, sewer, and electric are available at the subject property. Any redevelopment or increase in density or intensity at the subject property will necessitate a thorough stormwater management plan and review prior to any permit or use approvals. **APPROVE/DENY**
7. *Whether the request will protect, conserve, or preserve environmentally critical areas and natural resources.*  
As existing commercially zoned and developed lots located in the downtown core area along Old San Carlos Boulevard, the subject property does not include any sensitive and/or environmentally critical lands. However, should these parcels be redeveloped

with uses as permitted within the DOWNTOWN zoning district all applicable environmental codes including but not limited to Sea Turtle lighting requirement as found in LDC Section 14-79 must be met. **APPROVE/DENY**

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

With its central location within the downtown core area, the subject property's proposed change from CPD to DOWNTOWN zoning is clearly compatible with existing and planned uses. Further, with the approval of Resolution 03-35, and as contained in the approved schedule of uses for the Matanzas CPD, the subject property has already been granted the same uses that are allowed in the DOWNTOWN zoning district. The Town, however, does retain land and property development controls including but not limited to Section 34-671: DOWNTOWN zoning district regulations, Section 34-677: Commercial Design Standards; FEMA flood elevation and substantial improvement compliance, and other sections of the Land Development Code. Any redevelopment will be subject to reviews pursuant to applicable specific land use regulations. **APPROVE/DENY**

9. *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.*

As evidenced by recent requests for zoning changes, Town Council has determined that the appropriate time to study traffic impacts is at the time of redevelopment or development order. The applicant has indicated there are no current plans for redevelopment. The continuation of existing uses, therefore, will not increase any traffic burden on local streets or other local services or facilities. Staff does not anticipate the requested rezoning from CPD to DOWNTOWN will generate any additional capacity or need for the Lee County School District or the Town's Parks and Recreation Department. **APPROVE/DENY**

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

|                    |         |
|--------------------|---------|
| Alan Mandel, Mayor | AYE/NAY |
| Jo List            | AYE/NAY |
| Dan Andre          | AYE/NAY |

|                          |         |
|--------------------------|---------|
| Joe Kosinski, Vice Mayor | AYE/NAY |
| Bob Raymond              | AYE/NAY |

DULY PASSED AND ADOPTED THIS **3rd** day of **MARCH, 2014**.

By: \_\_\_\_\_  
Alan Mandel, Mayor

Approved as to legal sufficiency:

By: \_\_\_\_\_  
Fowler White Boggs, P.A.  
Town Attorney

ATTEST:

By: \_\_\_\_\_  
Michelle Mayher  
Town Clerk

RESOLUTION OF THE LTOWN COUNCIL OF  
THE TOWN OF FORT MYERS BEACH, FLORIDA  
RESOLUTION NUMBER 14-04  
SEZ2013-0005 – Houseboat, LLC Special Exception

WHEREAS, Beverly Grady, authorized agent for the owner of property located at 420, 430, 440, Old San Carlos Boulevard and 1010 Second Street Fort Myers Beach, Florida has requested to add 'retail store, large,' as defined in LDC Chapter 34 with gross floor area in excess of 5,000 square feet, and 'parking lot, shared permanent' as special exception uses on the subject property; and

WHEREAS, the subject property is located in the Pedestrian Commercial Future Land Use Category of the Comprehensive Plan of the Town of Fort Myers Beach; and

WHEREAS, the STRAP numbers for the subject property are 24-46-23-W3-00202.0010, 24-46-23-W3-00202.0020, 24-46-23-W3-00202.0030, and 24-46-23-W3-00202.0190 and the legal description is attached as *Exhibit A*; and

WHEREAS, a public hearing was held before the Local Planning Agency (LPA) on November 12, 2013; and

WHEREAS, at the November LPA hearing the applicant requested and was granted a continuance of case SEZ2013-0005 to a date certain of the January 14, 2014 LPA meeting; and

WHEREAS, a public hearing was held before the LPA on January 14, 2014; and

WHEREAS, at the hearing the LPA gave full and complete consideration of the request, recommendations by staff, the documents in the file, and the testimony of all interested persons, as required by the Fort Myers Beach Land Development Code Section 34-88.

WHEREAS, a public hearing on this matter was legally advertised and held before the Town Council on March 3, 2014, at which time the Town Council gave full and complete consideration to the request of Applicant, LPA Resolution 2013-016, the 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) Section 34-88.

IT IS HEREBY RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, as follows:

Based upon the presentations by the applicant, staff, and other interested persons at the hearing, and review of the application, LPA Resolution 2013-016 and the standards for granting special exceptions, the Town Council makes the following findings of fact, and reaches the following conclusions:

The Town Council **APPROVES/DENIES** the requested special exception to add 'retail store, large,' as defined in LDC Chapter 34 with gross floor area larger than 5,000 square feet and 'parking lot, shared permanent' as approved uses on the subject property.

**FINDINGS AND CONCLUSIONS:**

In accordance with the requirements of LDC Sections 34-84 and 34-88 regarding approval of special exceptions, the Town Council reaches the following findings and conclusions:

1. Changed or changing conditions **do/do not** exist that make the requested approval, as conditioned, appropriate;
2. The requested special exception, as conditioned, **is/is not** consistent with the goals, objectives, policies, and intent of the Fort Myers Beach Comprehensive Plan;
3. The requested special exception, as conditioned, **meets or exceeds/does not meet or exceed** all performance and locational standards set forth for the proposed use;
4. The requested special exception, as conditioned, **will/will not** protect, conserve, or preserve environmentally critical areas and natural resources;
5. The requested special exception, as conditioned, **will/will not** be compatible with existing or planned uses and **will/will not** cause damage, hazard, nuisance or other detriment to persons or property;
6. The requested special exception, as conditioned, **will/will not** in compliance with the applicable general zoning provisions and supplemental regulations pertaining to the use set forth in LDC Chapter 34.

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

Alan Mandel, Mayor    AYE/NAY  
Jo List                    AYE/NAY  
Dan Andre                AYE/NAY

Joe Kosinski, Vice Mayor    AYE/NAY  
Bob Raymond                AYE/NAY

DULY PASSED AND ADOPTED THIS **3rd** day of **MARCH, 2014**.

By: \_\_\_\_\_  
Alan Mandel, Mayor

Approved as to legal sufficiency:

By: \_\_\_\_\_  
Fowler White Boggs, P.A.  
Town Attorney

ATTEST:

By: \_\_\_\_\_  
Michelle Mayher  
Town Clerk

RESOLUTION OF THE LOCAL PLANNING AGENCY  
THE TOWN OF FORT MYERS BEACH, FLORIDA  
RESOLUTION NUMBER 2013-017  
VAR2013-0006 – Houseboat, LLC Variance

WHEREAS, Beverly Grady, authorized agent for the owner of property located at 420, 430, 440, Old San Carlos Boulevard and 1010 Second Street Fort Myers Beach, Florida has requested the following variances from the following sections of the Fort Myers Beach Land Development Code:

1. Section 34-676(b), parking lot location, to permit off-street parking in the front and side yard as depicted on the site plan *Exhibit E*.
2. Table 10-8 Type D buffer, Section 10-416(d) requiring a buffer between the parking lot and ROW, and Section 34-677(b)(3) requiring a buffer between off street parking and a ROW to allow a 2.5' buffer along Old San Carlos and Third Street.
3. Section 10-416(d) requiring a type C/F buffer along the rear property line to allow an existing six (6') foot fence along rear property line.
4. Section 34-2016 (1) and (2), parking dimensions to allow the following:

| Angle | Parking Dim. | One-Way | Two-Way |
|-------|--------------|---------|---------|
| 45°   | 8' x 16'     | 10'     | 20'     |
| 60°   | 8' x 16'     | 12'     | 20'     |
| 75°   | 8' x 16'     | 15'     | 20'     |
| 90°   | 8' x 16'     | 18'     | 20'     |
5. Section 34-622 (b) and 34-3131 from visibility triangle for Second and Third Streets to allow reduced triangle as depicted in attached sketch; and

WHEREAS, the subject property is located in the Pedestrian Commercial Future Land Use Category of the Comprehensive Plan of the Town of Fort Myers Beach; and

WHEREAS, the STRAP numbers for the subject property are 24-46-23-W3-00202.0010, 24-46-23-W3-00202.0020, 24-46-23-W3-00202.0030, and 24-46-23-W3-00202.0190 and the legal description is attached as *Exhibit A*; and

WHEREAS, at the November LPA hearing the applicant requested and was granted a continuance of case VAR2013-0006 to a date certain of the January 14, 2014 LPA meeting; and

WHEREAS, a public hearing was held before the Local Planning Agency (LPA) on January 14, 2014; and

WHEREAS, at the hearing the LPA gave full and complete consideration of the request, recommendations by staff, the documents in the file, and the testimony of all interested persons, as required by the Fort Myers Beach Land Development Code Section 34-87;

WHEREAS, a public hearing on this matter was legally advertised and held before the Town Council on March 3, 2014, at which time the Town Council gave full and complete consideration to the request of Applicant, LPA Resolution 2013-017, the 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) Section 34-87.

IT IS HEREBY RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, as follows:

The Town Council **APPROVES/DENIES** the requested for variances from the following sections:

1. Section 34-676(b), parking lot location, to permit off-street parking in the front and side yard as depicted on the site plan *Exhibit E*.
2. Table 10-8 Type D buffer, Section 10-416(d) requiring a buffer between the parking lot and ROW, and Section 34-677(b)(3) requiring a buffer between off street parking and a ROW to allow a 2.5' buffer along Old San Carlos and Third Street.
3. Section 10-416(d) requiring a type C/F buffer along the rear property line to allow an existing six (6') foot fence along rear property line.
4. Section 34-2016 (1) and (2), parking dimensions to allow the following:

| Angle | Parking Dim. | One-Way | Two-Way |
|-------|--------------|---------|---------|
| 45°   | 8' x 16'     | 10'     | 20'     |
| 60°   | 8' x 16'     | 12'     | 20'     |
| 75°   | 8' x 16'     | 15'     | 20'     |
| 90°   | 8' x 16'     | 18'     | 20'     |
5. Section 34-622 (b) and 34-3131 from visibility triangle for Second and Third Streets to allow reduced triangle as depicted in attached sketch; and

**CONDITIONS OF APPROVAL:**

1. The applicant shall install a 2.5' wide buffer with a minimum height of 41 inches.
2. Applicant may utilize the parking dimensions described in variance recommended approval #4 above, provided, however, at the time of redevelopment or the application of a building permit for the subject property, the parking space dimensions must come into compliance with all provisions of Section 34-2016.
3. At the time of redevelopment, the parking lot variance allowing a front and side lot will expire and the property must come into compliance and the parking lot must be located in the rear of the subject property
4. The LPA recommends approval of a building overhang extending up to 12' into the right-of-way.

**FINDINGS AND CONCLUSIONS:**

In accordance with the requirements of LDC Sections 34-84 and 34-87 regarding approval of variance requests, the Town Council reaches the following findings and conclusions:

- a. There **are/are not** exceptional or extraordinary conditions or circumstances that are inherent to the property in question, and the request **is not** for a de minimis variance under circumstances or conditions where rigid compliance is not essential to protect public policy.
- b. The conditions justifying the variance **are/are not** the result of actions of the applicant taken after the adoption of the regulation in question.
- c. The variance granted **is/is not** 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/will not** be injurious to the neighborhood or otherwise detrimental to the public welfare.

- e. The conditions or circumstances on the specific piece of property for which the variance is sought **are/are not** of so general or recurrent a nature as to make it more reasonable and practical to amend the regulation in question.

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

Alan Mandel, Mayor    AYE/NAY  
Jo List                    AYE/NAY  
Dan Andre                AYE/NAY

Joe Kosinski, Vice Mayor    AYE/NAY  
Bob Raymond                AYE/NAY

DULY PASSED AND ADOPTED THIS **3rd** day of **MARCH, 2014**.

By: \_\_\_\_\_  
Alan Mandel, Mayor

Approved as to legal sufficiency:

By: \_\_\_\_\_  
Fowler White Boggs, P.A.  
Town Attorney

ATTEST:

By: \_\_\_\_\_  
Michelle Mayher  
Town Clerk