

RESOLUTION OF THE TOWN COUNCIL OF  
THE TOWN OF FORT MYERS BEACH, FLORIDA  
RESOLUTION NUMBER 14-06  
REZ2013-0002 – Shipwreck Rezoning

WHEREAS, Beverly Grady, authorized agent for the owner of property located at 237, 245, 309, 320, and 330 Old San Carlos Boulevard Fort Myers Beach, Florida has requested to rezone two parcels from Commercial Planned Development zoning to the DOWNTOWN zoning district; 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-W3-00203.0020 and 24-46-23-W3-0050A.0080 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 2013-018, 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 2013-018 and the standards for granting rezonings, the Town Council makes the following findings of fact, and reaches the following conclusions:

The Town Council **APPROVES** 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:

- a. *Whether there exists an error or ambiguity which must be corrected.*  
There are no errors or ambiguity surrounding the subject property and its zoning category that require correction. **APPROVE**
- b. *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 the existence of the DOWNTOWN zoning district. At the time of the Rusty's CPD approval, the Town had not yet developed Town-specific zoning districts. Now that the DOWNTOWN district exists the applicant is requesting this rezoning. **APPROVE**
- c. *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**
- 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.*  
As discussed in the analysis section of the staff 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**
- h. *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 the request for rezoning. They have indicated to Staff there is no immediate intention to redevelop any portion of the subject property, merely a desire to obtain DOWNTOWN zoning. The applicant is aware that by requesting this action they are losing all approvals to deviate from code requirements and any approval for density above and beyond code requirements. The Town retains 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 utilizing the applicable specific land use regulations. **APPROVE**
- i. *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**
- j. *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**

- 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.*

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. The Town does, however, 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 utilizing the applicable specific land use regulations. **APPROVE**

- 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.*

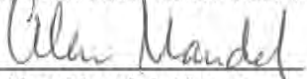
As evidenced by recent requests for zoning changes, Town Council has determined that the appropriate time to study traffic impacts is at the time of redevelopment or development order. The applicant has indicated there are no current plans for redevelopment. The continuation of existing uses, therefore, will not increase any traffic burden on local streets or other local services or facilities.

It is not anticipate that 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**


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

Alan Mandel, Mayor	AYE	Joe Kosinski, Vice Mayor	AYE
Jo List	AYE	Bob Raymond	AYE
Dan Andre	AYE		

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

## Exhibit A

### Legal Description

Lots 2 through 6, 22 & 23, Block 3, Business Center Subdivision, and the Northerly  $\frac{1}{2}$  of Vacated Fourth Street, according to the Map or Plat thereof as recorded in Plat Book 9, Pages 9 and 10, Public Records of Lee County, Florida.

AND

Lots 3 through 12, Block A, Island Shores Unit 2, according to the Map or Plat thereof as recorded in Plat Book 9, Page 25, Public Records of Lee County, Florida,

AND

Beginning at the Southwest Corner of Lot 9, Block A, Island Shores Subdivision, Unit No. 2, as recorded in Plat Book 9 at Page 25 of the Public Records of Lee County, Florida; thence run N  $63^{\circ}58'21''$  W, 11.82 feet to the outer face of a seawall; thence run N  $29^{\circ}45'28''$  E, 50.11 feet to the outer face of a second seawall; thence run N  $26^{\circ}01'39''$  E, 58.50 feet along said second seawall to a point of curve to the left in said second seawall; said curve having a radius of 10 feet; thence run along said seawall and curve an arc distance of 6.39 feet thru a delta angle of  $36^{\circ}37'27''$  to a point which bears S  $71^{\circ}01'39''$  W, 14.90 feet from the Northwest corner of Lot 5, Block A, of said subdivision; thence run S  $26^{\circ}01'39''$  W, 125.00 feet to the Point of Beginning. Said parcel contains 1120.6 square feet more or less.