

RESOLUTION OF THE TOWN COUNCIL OF  
THE TOWN OF FORT MYERS BEACH, FLORIDA  
RESOLUTION NUMBER 00- 33

WHEREAS, AFA Rentals, Inc. (applicant) has appealed an Administrative interpretation made by the Development Services Division, Department of Community Development regarding the denial of a Development Order for a Taco Bell drive through restaurant/ convenience store;

WHEREAS, the subject property is located at 6321 Estero Blvd., Fort Myers Beach; Florida:

WHEREAS, the applicant has indicated the property's current STRAP number is: 33-46-24-W3-00012.0020; and

WHEREAS, a public hearing has legally advertised and held before the Local Planning Agency (LPA) and, the LPA gave full and complete consideration to the recommendations of the Staff, the documents in the file, the exhibits and the testimony of all interested persons.

WHEREAS a hearing was held and the council considered the documents in the file, recommendations and testimony of the staff, testimony from the applicant and the testimony from public.

NOW THEREFORE BE IT RESOLVED THAT:

**IT IS THE FINDING** of this council that this appeal is of a nature properly brought to the Council for decision and considering the intent of the ordinance being interpreted and the effect the ruling will have when applied generally, the Council in reviewing the Development Services Division Department of Community Development interpretation regarding the denial of a Development Order for a Taco Bell drive through restaurant/ convenience store movie theater finds:

1. The subject property is in the Boulevard land use category.
2. The subject property has been used commercially and the proposed use is commercial.
3. The proposed renovation from a service gas station to a Taco Bell drive through restaurant/ convenience store is a new or expanded commercial activity.

**APPLICABLE LAW:**

The Town Comprehensive Plan provides:

**POLICY 4-B-5 "BOULEVARD"**: a mixed-use district along portions of Estero Boulevard, including less intense commercial areas, historic cottages, and mixed housing types. This category is not intended to allow commercial uses on all properties; its mixed-use nature is intended to remain permanently. For new residential development, the

maximum density is 6 dwelling units per acre (except where the Future Land Use Map's "platted overlay" indicates a maximum density of 10 units per acre for legally existing dwelling units). To obtain approval for new or expanded commercial activities, proposals must be sensitive to nearby residential uses, complement any adjoining commercial uses, contribute to the public realm as described in this comprehensive plan, and meet the design concepts of this plan and the Land Development Code. These qualities and overall consistency with this comprehensive plan shall be evaluated by the town through the planned development rezoning process. Non-residential uses (including motels and churches) now comprise 46.9% of the land in this category, and this percentage shall not exceed 70%.

**THE INTERPRETATION** of the Development Services Division/Department of Community Development on behalf of the Town, that Development Orders for new or expanded commercial uses located in both the C-1 District and Boulevard Future Land use category must be preceded by rezoning to one of the PD planned development districts is affirmed with the understanding that the applicant may utilize any uses currently available C-1 zoning in their PD application.

**EFFECTIVE DATE.** This resolution shall become effective upon adoption.

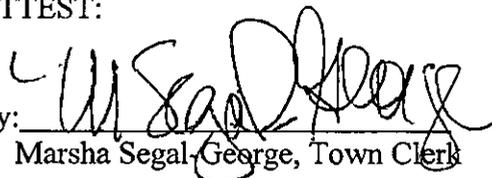
The foregoing resolution was adopted by the Fort Myers Beach Town Council upon being put to a vote, the result was as follows:

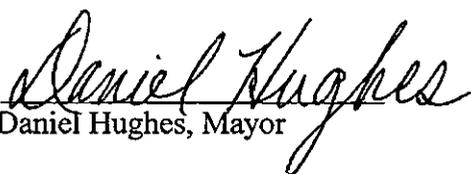
Anita T. Cereceda	aye
Daniel Hughes	aye
Garr Reynolds	aye
Ray Murphy	aye
Terry Cain	aye

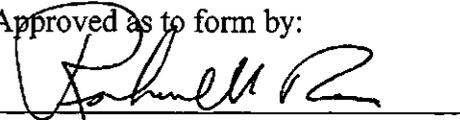
APPROVED this 11th day of September, 2000.

ATTEST:

TOWN OF FORT MYERS BEACH

By:   
Marsha Segal-George, Town Clerk

By:   
Daniel Hughes, Mayor

Approved as to form by:  
  
Richard V.S. Roosa, Town Attorney