

RESOLUTION OF THE TOWN COUNCIL OF
THE TOWN OF FORT MYERS BEACH, FLORIDA
RESOLUTION NUMBER 12-12
PAINE/PURTELL REZONING

WHEREAS, Alexis Crespo, authorized applicant for the owners of property located at 821 and 831 Estero Boulevard Fort Myers Beach, Florida has requested to rezone .33 acres from Residential Conservation (RC) 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 for the property is 24-46-23-W3-0050B.0050 and 24-46-23-W3-0050B.0070 and the legal description for the property is Lots 5, 6, 7, 8 and part of lots 9, 13, & 14, Island Shores Unit 2 Block B, according to the plat thereof recorded in Plat Book 9 Page 25, of the Public Records of Lee County, Florida; and

WHEREAS, a public hearing on this matter was legally advertised and held before the Local Planning Agency (LPA) on June 12, 2012 at which time the LPA gave full and complete consideration to the CPD amendment requested by the Applicant, 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; and

WHEREAS, a public hearing on this matter was legally advertised and held before the Town Council on August 6, 2012, at which time the Town Council gave full and complete consideration to the request of Applicant, LPA Resolution 2012-004, 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 2012-004 and the standards for granting planned development rezoning, 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 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 the conventional rezoning approval, the Town Council makes the following findings and reached the following conclusions:

1. *Whether there exists an error or ambiguity which must be corrected.*
Staff does not find that any errors or ambiguity exist surrounding the subject property and its zoning category that require correction. **APPROVE**

2. *Whether there exist changed or changing conditions which make approval of the request appropriate.*
Staff acknowledges that changed conditions do exist, namely the change in future land use designation that makes the consideration of the proposed request for rezoning appropriate. **APPROVE**

3. *The impact of a proposed change on the intent of Chapter 34 of the Fort Myers Beach Land Development Code.*
Staff does not anticipate that the proposed rezoning from RC to DOWNTOWN will have any negative impact on the intent of Chapter 34. **APPROVE**

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 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**

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 no intention to change current uses on the subject property, merely a desire to return to a commercial zoning similar to the zoning category the subject property had prior to the Town's incorporation. With no plan to review, it is difficult to determine if the request meets or exceeds performance and locational standards. **APPROVE**

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. Lee County Utilities has indicated available sanitary sewer capacity however, Town Staff has notified the applicant that the existing stormwater

system on Estero Boulevard is not designed to handle runoff from existing properties or increased density on existing properties. Any increased density or intensity at the subject property will necessitate a thorough stormwater management plan and review prior to any permit or use approvals. **APPROVE**

7. *Whether the request will protect, conserve, or preserve environmentally critical areas and natural resources.*

As existing residentially developed lots located on interior parcels of land away from both the Matanzas Pass waterfront and the Gulf of Mexico beach, the subject property does not include any sensitive and/or environmentally critical lands. However, should these parcels be redeveloped into more intense uses as permitted within the DOWNTOWN zoning district any development would be required to meet all applicable environmental codes including but limited to Sea Turtle lighting requirement as found in LDC Section 14-79. **APPROVE**

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.*

Due to the location of the subject property on the fringe of the established DOWNTOWN zoning district, there is a conceivable argument that the proposed rezoning is compatible with surrounding uses. However, across Lagoon Street and even directly adjacent to the subject property RC zoned parcels remain and given the lack of buffering requirements in the DOWNTOWN district and the lack of any redevelopment plans accompanying this request, true compatibility is difficult to determine. Further, the DOWNTOWN zoning district is the Town's most permissive zoning district with a wide variety of allowable uses by right. Nevertheless, the Town does retain land and property development controls throughout the Pedestrian Commercial future land use, 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. **APPROVE**

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.*

The applicant requested a waiver from the TIS requirement, stating that the subject property is in a 'park-once' location and that any commercial uses developed on the property would be supportive to the existing surrounding hotels/motels, etc. and therefore would not be high traffic generators. By approving this waiver Staff has agreed that the more appropriate venue for traffic discussions is at the time of DO.

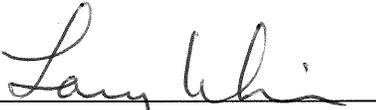
Staff does not anticipate the requested rezoning from RC to DOWNTOWN will generate any additional capacity need for the Lee County School District or the Town's Parks and Recreation Department. **APPROVE**

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

Larry Kiker, Mayor	AYE	Bob Raymond, Vice Mayor	AYE
Alan Mandel, Councilmember	AYE	Jo List, Councilmember	AYE
Joe Kosinski Councilmember	AYE		

DULY PASSED AND ADOPTED THIS 6th day of AUGUST, 2012.

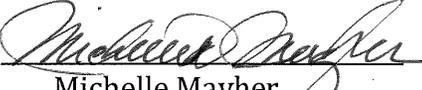
Town Council of the Town of Fort Myers Beach

By: 
Larry Kiker, Mayor

Approved as to legal sufficiency:

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

ATTEST:

By: 
Michelle Mayher
Town Clerk