

RESOLUTION OF THE TOWN COUNCIL OF
THE TOWN OF FORT MYERS BEACH, FLORIDA
RESOLUTION NUMBER 97-9

A RESOLUTION OF THE TOWN OF FORT MYERS BEACH, FLORIDA
APPROVING / ~~DENYING~~ THE REQUEST FOR OUTDOOR SEATING FOR
CONSUMPTION ON PREMISES.

WHEREAS, George W. Ganim and Seraphina Tarick filed an application for a Special Permit in the C-1 (Commercial) district for outdoor seating for consumption on premises per Land Development Code Section 34-1264(a)(2)a.2.; and,

WHEREAS. the subject property is located at 1450-78 Estero Blvd., Fort Myers Beach, Florida, and is described more particularly as: In Section 19. Township 46 South, Range 24 East. Lee County, Florida:
Lot 1 and 4, Block D, CRESCENT BEACH SUBDIVISION, as recorded in Plat Book 4, Page 45, of the Public Records of Lee County, Florida.

WHEREAS. the applicant has indicated the property's current STRAP number is: 19-46-24-W4-0070D.001A and 19-46-24-W4-O7OD.001B; and,

WHEREAS. a public hearing was Legally advertised and held before the Local Planning Agency (LPA) on March 11, 1997, and,

WHEREAS. the LPA gave full and complete consideration to the recommendations of the Staff, the documents in the file, and the testimony of all interested persons; and,

WHEREAS the LPA recommended that the Town Council approve the Applicant's request with the following conditions:

1. The consumption on premises is limited to a 2-COP beverage license to be used in conjunction with a restaurant. group III. A bar or cocktail Lounge is prohibited.
2. The location of the outdoor seating area is limited to the 785 square foot deck as shown on the applicant's site plan attached as Exhibit B. Use of a bar for the service of alcoholic beverage is prohibited. The applicant is limited to 52 seats on the outside deck and 50 seats inside the restaurant.
3. Any outdoor entertainment is prohibited.
4. The hours of operation for the outdoor seating area will be restricted to the hours of 11:00 a.m. to 12:00 midnight for Monday through Thursday, the hours of 11:00 am. to 1:00 a.m. for Friday and Saturday, and the hours of 12:00 noon to 10:00 p.m. on Sunday with food service available during all hours of operation.
5. Lighting on the deck will be shuttered and shielded from the surrounding properties.

6. There will be no advertisement visible from Estero Boulevard or from the beach indicating the service of Alcoholic Beverages.

7. The applicant shall provide a vegetative buffer along the south property line within the 9 feet of open space consisting of 5 trees and 24 shrubs per 100 linear feet. The trees will be a minimum of 10 feet high, at planting and the shrubs will be a minimum of 36 inches high at planting. All trees and shrubs will be native, salt tolerant vegetation.

WHEREAS, a public hearing was advertised and held on March 17, 1997, before the Fort Myers Beach Town Council who gave full and complete consideration to the recommendations of the staff and the Local Planning Agency, the documents on file with Lee County, and the testimony of all interested persons.

NOW, THEREFORE, BE IT RESOLVED BY THE FORT MYERS BEACH TOWN COUNCIL, that the Council APPROVES / ~~DENIES~~ the request WITH / ~~WITHOUT~~ conditions.:

1. The applicant must provide proof semi-annually that food sales exceed 50% of total revenue.

FINDINGS AND CONCLUSIONS:

The following findings and conclusions were made in conjunction with the approval / ~~denial~~ of the requested modification:

1. The applicant did / ~~did not~~ comply with Section 34-1264 (2) b. which places the burden of proof upon the applicant to demonstrate that approval will not have any adverse affect on surrounding properties.
2. That there is / ~~no~~ error or ambiguity in the Land Development Code of Lee Plan which must be corrected by the Special Permit.
3. That the character and nature of the surrounding area make approval of the Special Permit, as conditioned, appropriate / ~~inappropriate~~.
4. That the Special Permit, as conditioned, is consistent / ~~inconsistent~~ with the goals, objectives, policies and intent of the Lee Plan, and the densities, intensities and general uses set forth in the Lee Plan and Land Development Code.
5. That the Special Permit, as conditioned, meets / ~~does not meet~~ all performance and locational standards set forth for the proposed use.
6. That there are no environmentally critical areas or natural resources to be adversely affected by the Special Permit, as conditioned.
7. That the Special Permit, 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.

8. That the location of the request ~~places~~ / does not place an undue burden upon existing transportation or other services and facilities and will / ~~will not~~ be served by streets with the capacity to carry traffic generated by the development.

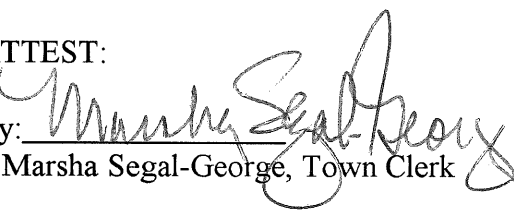
9. That the Special Permit, as conditioned, will / ~~will not~~ be in compliance with all applicable general zoning provisions and supplemental regulations pertaining to the use, as set forth in the Land Use Regulations

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	<u>aye</u>
Ted FitzSimons	<u>aye</u>
William (Rusty) Isler	<u>aye</u>
Garr Reynolds	<u>nay</u>
Ray Murphy	<u>aye</u>

APPLICATION DULY APPROVED / ~~DENIED~~ this 17th Day of March, 1997.


ATTEST:

By: 
Marsha Segal-George, Town Clerk

TOWN OF FORT MYERS BEACH

By: 
Anita T. Cereceda, Mayor

Approved as to form by:


Richard V.S. Roosa, Town Attorney