

**ORDINANCE  
19-04**

**AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, APPROVING AN AMENDMENT TO THE LIST OF USES IN A COMMERCIAL PLANNED DEVELOPMENT FOR A PROPERTY LOCATED AT 830 ESTERO BOULEVARD FORT MYERS BEACH TO ALLOW A PARASAILING OPERATIONS BOOTH AND PICKUP LOCATION; CONTAINING .9+/- ACRES GENERALLY IDENTIFIED AS STRAP NUMBERS 19-24-46-23-W3-00400.0010; PETITION DCI 2019-0002; PROVIDING FOR SCRIVENER'S ERRORS AND AN EFFECTIVE DATE.**

**WHEREAS**, First Central Investment Corp, owner of the property, filed application to amend the list of permitted uses in the existing CPD to allow a parasailing operations booth and pickup location within the EC zoned portion of the property, located at 830 Estero Boulevard in the Town of Fort Myers Beach; and

**WHEREAS**, the subject property is located in the Mixed Residential Land Use Category of the Future Land Use Map of the Town of Fort Myers Beach; and

**WHEREAS**, the subject property is under common control of a corporation, First Central Investment Corp, listed in the public records of Lee County Property Appraiser; and

**WHEREAS**, a public hearing was held before the Local Planning Agency (LPA) on March 12, 2019; and

**WHEREAS**, at the March 13, 2018 public hearing the LPA gave full and complete consideration of the request, recommendations by staff, the documents in the record, and the testimony of all interested persons, as required by Town Land Development Code (LDC) s. 34-85; and

**WHEREAS**, at the March 13, 2018 public hearing the LPA recommended approval by a 7-0 vote; and

**WHEREAS**, on April 1st, 2019 the Town Council held a first reading of the proposed Ordinance and gave full and complete consideration to the request of the Applicant, the recommendation of the LPA, the recommendation of staff, the documents in the record, and the testimony of all interested persons, as required by Fort Myers Beach Land Development Code (LDC) Section 34-85; and

**WHEREAS**, a second reading of the proposed Ordinance and a public hearing on this matter will be legally advertised and held before the Town

Council on May 6, 2019 at which time the Town Council will give full and complete consideration to the request of the Applicant, the recommendation of the LPA, the recommendation of staff, the documents in the record, and the testimony of all interested persons, as required by Fort Myers Beach Land Development Code (LDC) Section 34-85; and

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AS FOLLOWS:**

The Town Council **APPROVES/DISAPPROVES** the Applicant's request to rezone its CPD to a new CPD subject to the **five (4) conditions** and **no deviations** set forth with specificity below.

**A. CONDITIONS**

1. This approval does not permit any new, permanent construction or change to the Master Concept Plan. If changes to the Master Concept Plan are subsequently pursued, appropriate approvals will be necessary.

2. The following limits apply to the project and uses:

a. Schedule of Uses

Residential:

Dwelling Unit, Caretaker (one unit, existing only)  
Residential Accessory Uses  
Recreation facilities, private on-site

Lodging:

Hotel/Motel (24 units, existing only)

Office:

Administrative Office (accessory)  
Home Occupation (no outside help)

Civic:

Beach access  
Essential services  
Essential service equipment

Marine:

Parasail Operations Office and Pickup Location

b. Site Development Regulations

Minimum Lot Width:	<b>100± feet</b>
Minimum Lot Depth:	<b>324± feet</b>
Minimum Lot Area:	<b>0.9± acres</b>
Maximum Floor Area Ratio:	<b>Existing only</b> (approximately 0.75)
Maximum Building Height:	<b>35.7 feet</b> above base flood elevation as defined by LDC Section 34-631 (existing) <b>5 stories</b> (existing)

Setbacks:

Street:	<b>100± feet</b>
Side:	<b>9.7 feet</b> (existing)
Gulf of Mexico:	<b>50 feet</b>

3. That portion of the subject property located seaward of the Coastal Construction Setback Line recorded in Plat Book 31 of the Public Records of Lee County, Florida, is zoned EC (Environmentally Critical) and is not rezoned but is included in the Master Concept Plan. No permanent construction or development within the EC zoning district is authorized by this rezoning, the use of parasailing office and pickup location is permitted within the EC zoning district.

4. Approval of this CPD amendment request does not grant the owner any additional right to receive additional approvals.

FINDINGS AND CONCLUSIONS

Based upon the presentations by the Applicant, staff, and other interested parties at the hearing, and review of the application and the standards for planned development zoning approval, the Town Council makes the following findings and reaches the following conclusions:

1. The requested CPD amendment, as conditioned, **is consistent with** and **complies** with all specific requirements, goals objectives, policies and intent and with the densities, intensities and general uses set forth in the Fort Myers Beach Comprehensive Plan, Land Development Code Chapter 34 and all other applicable town ordinances or codes that are relevant to the requested planned development;
2. There **is** an error or ambiguity which must be corrected;
3. There **do not exist** changed or changing conditions which make approval of the request, as conditioned, appropriate.
4. The proposed use or mix of uses, as conditioned, **will not** have an impact on the intent of LDC Chapter 34;
5. The request **is** consistent with the goals, objectives, policies and intent, and with the densities, intensities, and general uses set forth in the Fort Myers Beach Comprehensive Plan;
6. The proposed use or mix of uses, as conditioned, **meets** all performance and locational standards set forth for the proposed use;
7. The urban services **are** available and adequate to serve the proposed use change;
8. The request **will** protect, conserve or preserve environmentally critical areas;

9. The request **is** compatible with existing uses and **will not** cause damage, hazard, nuisance, or other detriment to persons or property;
10. The location of the request **does not** place an undue burden on existing transportation and other services and facilities;
11. The proposed mix of uses **is** appropriate at the subject location;
12. Sufficient safeguards to the public interest **are provided** by the recommended special conditions to the concept plan or by other applicable regulations;
13. All recommended special conditions **are** reasonably related to the impacts on the public's interest created by or expected from the proposed additional use;
14. The proposed use **meets** all specific requirements of the comprehensive plan that are relevant to the requested amendment to the planned development;

DULY PASSED AND ADOPTED ON THIS 6<sup>TH</sup> DAY OF MAY, 2019.

Anita Cereceda, Mayor \_\_\_\_\_  
 Ray Murphy, Vice Mayor \_\_\_\_\_  
 Joanne Champ \_\_\_\_\_

Bruce Butcher \_\_\_\_\_  
 Rexann Hosafros \_\_\_\_\_

ATTEST:

TOWN OF FORT MYERS BEACH

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

By: \_\_\_\_\_  
 Anita Cereceda, Mayor

Approved as to legal sufficiency by:

By: \_\_\_\_\_  
 John Herin, Town Attorney