

RESOLUTION OF THE LOCAL PLANNING AGENCY OF
THE TOWN OF FORT MYERS BEACH FLORIDA
RESOLUTION NUMBER 2012-007
FMBDCI2012-0002
CVS/pharmacy CPD Amendment

WHEREAS, Holiday CVS, LLC, owner of property located at 7001 Estero Boulevard, Fort Myers Beach Florida has requested an amendment to expand the approved hours of operation in the existing CPD, formerly known as Eckerd Drugs, to allow CVS/pharmacy to operate from 7:00AM to 12:00Midnight; 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 applicant has indicated that the STRAP for the subject property 03-47-24-W1-00007.0000 and the legal description is provided as follows:

A parcel of land in government lot 1, Section 3, Township 47 South, Range 24 East, Lee County, Florida, more particularly described as follows:

Commence at the point of intersection of the Easterly right-of-way line of Estero Boulevard (S.R. No. 865, 80.00 feet wide) with the South line of said Government Lot 1; thence North 18°34'20" West for 63.00 feet to the Point of Beginning of the herein described parcel of land;

From said Point of Beginning; thence continue North 18°34'20" West for 209.51 feet; then North 89°11'00" East for 306.70 feet; thence South 00°49'00" East for 199.53 feet to an intersection with the Northerly right-of-way of Lenell Road (60.00 feet wide) as described in O.R. Book 849, Page 282 of the Public Records of Lee County, Florida; thence South 89°11'00" West along said right-of-way line for 242.81 feet to the Point of Beginning; and

WHEREAS, a public hearing on this matter was legally advertised and held before the Local Planning Agency (LPA) on *June 12, 2012*; and

WHEREAS, at the hearing the LPA gave full and complete consideration to the request of Applicant, 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 LPA 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 and the standards for granting special exceptions, the LPA recommends the following findings of fact, conditions for approval, and conclusions for consideration by the Town Council:

The LPA recommends that the Town Council **APPROVE** the applicant's request for an amendment to Condition #2 of Resolution 97-35 to change the permitted hours of operation from the previously approved 8:00 AM to 9:00 PM to 7:00 AM to 12:00 Midnight.

RECOMMENDED FINDINGS AND CONCLUSIONS:

1. *Whether there exists an error or ambiguity which must be corrected.*

There is no error or ambiguity to be corrected by the requested amendment to Condition #2 of Resolution 97-35. **APPROVE**

2. *Whether there exist changed or changing conditions that make approval of the request appropriate.*

The major change that has taken place is that this is now an established business on Fort Myers Beach, operating as a pharmacy/drugstore since 1998. CVS/pharmacy has operated from this location since August 2004. Also, in 2005, the neighboring property to the east was purchased by the Fort Myers Beach Fire Control District, and Fire Station 33 was constructed on the adjacent parcel. Therefore, there is no longer a potentially noise- or time-sensitive use adjacent to the subject property. Since the CVS/pharmacy began operating in August 2004, there have been no complaints about the expanded hours of operation. **APPROVE**

3. *The impact of a proposed change on the intent of LDC Chapter 34.*

The requested amendment to the CPD will not have an impact on the intent of LDC Chapter 34. **APPROVE**

4. *Whether 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.*

Resolution 97-35 found the requested CPD zoning to be in compliance with the Comprehensive Plan. Further, the subject property is located in the Pedestrian Commercial Future Land Use category, the highest-intensity land use category on Fort Myers Beach. **APPROVE**

5. *Whether the request meets or exceeds all performance and locational standards set forth for the proposed use.*

Resolution 97-35 found the requested CPD zoning to be in compliance with all 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 are available, as the subject property is already a customer of Beach Water, and roads and sidewalks are in place along both street frontages. **APPROVE**

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

Resolution 97-35 found that the requested CPD zoning protects, conserves and preserves environmentally critical areas and natural resources. **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.*

The requested hours of operation will be compatible with existing uses and will not cause damage, hazard, nuisance or other detriment to persons or nearby property. The CVS/pharmacy has operated at the subject location for more than 7 ½ years with the requested hours of operation, without so much as one complaint from a nearby property owner. The complaint that led to the Code Enforcement case CE12-0050 allegedly came from a disgruntled employee, not an affected property owner nearby. **APPROVE**

9. *Whether the location of the request places an undue burden upon existing transportation and other services and facilities and will be served by streets with the capacity to carry traffic generated by the development.*

The request will not place any burden on the transportation network or other facilities. In fact, the request may alleviate some burden on Estero Boulevard because customers will be able to access the CVS/pharmacy outside of the congested peak hours. **APPROVE**

10. *For planned development rezonings, see § 34-216 for additional considerations (below):*

1. *The proposed mix of uses is appropriate at the subject location.*
2. *Sufficient safeguards to the public interest are provided by the recommended special conditions to the concept plan or by other applicable regulations.*
3. *All recommended special conditions are reasonably related to the impacts on the public's interest created by or expected from the proposed development.*
4. *The proposed use meets all specific requirements of the comprehensive plan that are relevant to the requested planned development.*

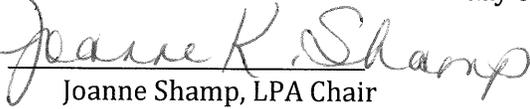
The request is appropriate at the subject location, does not negatively impact the public, and is consistent with the comprehensive plan. **APPROVE**

Remained of this page intentionally left blank

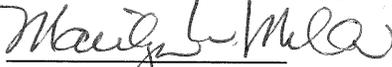
The foregoing Resolution was adopted by the LPA upon a motion by LPA Member **Andre** and seconded by LPA Member **Zuba**, and upon being put to a vote, the result was as follows:

Joanne Shamp, Chair	AYE	Dan Andre, Member	AYE
Al Durrett, Member	AYE	John Kakatsch, Member	AYE
Jane Plummer, Member	ABSENT	Alan Smith, Member	AYE
Hank Zuba, Member	AYE		

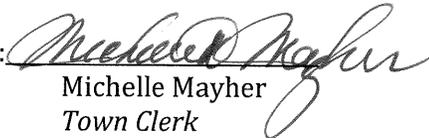
DULY PASSED AND ADOPTED THIS 12th day of JUNE 2012.

By: 
Joanne Shamp, LPA Chair

Approved as to legal sufficiency:

By: 
Fowler, White, Boggs
LPA Attorney

ATTEST:

By: 
Michelle Mayher
Town Clerk