

RESOLUTION OF THE TOWN COUNCIL OF
THE TOWN OF FORT MYERS BEACH FLORIDA
RESOLUTION NUMBER 13-21
SEZ2013-0003 - Beach Bums COP

WHEREAS, applicants Sherry Bertucelli and Dianne Boulay have requested approval of a Special Exception in the DOWNTOWN zoning district to allow outdoor consumption of alcoholic beverages on premises on the subject property; and

WHEREAS, the subject property is located at 1190 Estero Boulevard, Fort Myers Beach, FL 33931; and

WHEREAS, the applicant has indicated that the STRAP for the subject property is 19-46-24-W4-0140B.0010 and the legal description of the subject property is CRESENT PARK BLK B PB 4 PG 39 LOT 1; and

WHEREAS, a public hearing on this matter was legally advertised and held before the Local Planning Agency (LPA) on September 17, 2013; 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 34-88.

WHEREAS, a public hearing on this matter was legally advertised and held before the Town Council on October 21, 2013, at which time the Town Council gave full and complete consideration to the request of Applicant, LPA Resolution 2013-011, 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 34-88.

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 2013-011 and the standards for granting variances, the Town Council makes the following findings of fact, and reaches the following conclusions:

The Town Council **APPROVES** the applicant's request for a Special Exception in the DOWNTOWN zoning district to allow outdoor consumption on premises on the subject property subject to the following conditions:

CONDITIONS OF APPROVAL:

1. *Legible signs will be clearly posted at each entrance to the seating area for the areas not approved for on-premise consumption stating "Alcoholic Beverages are Prohibited Beyond this Point."*
2. *The COP area must be restricted by rope and posts.*
3. *Lighting on the outdoor seating areas must be shuttered and shielded from the surrounding properties and must comply with sea turtle lighting provisions.*

4. *The hours of alcohol service shall be from 11:00 AM to 1:45 AM Monday through Saturday and 11:00 AM to 11:00 PM on Sunday.*
5. *The outdoor seating area cannot exceed current building, fire and life safety codes for number of tables and chairs and will be re-evaluated on an annual basis for compliance.*
6. *The approved area is limited to the attached Site Plan Exhibit B.*

FINDINGS AND CONCLUSIONS:

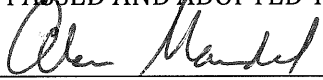
In accordance with the requirements of LDC Sections 34-84 and 34-88 regarding consideration of eligibility for a special exception, the LPA recommends that the Town Council make the following findings and reach the following conclusions:

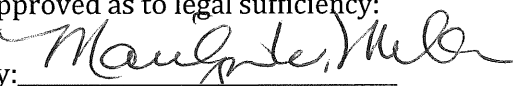
1. Changed or changing conditions **do** exist that make the requested approval, as conditioned, appropriate;
2. The requested special exception, as conditioned, **is** consistent with the goals, objectives, policies, and intent of the Fort Myers Beach Comprehensive Plan;
3. The requested special exception, as conditioned, **meets or exceeds** all performance and locational standards set forth for the proposed use;
4. The requested special exception, as conditioned, **will** protect, conserve, or preserve environmentally critical areas and natural resources;
5. The requested special exception, as conditioned, **will** be compatible with existing or planned uses and **will not** cause damage, hazard, nuisance or other detriment to persons or property;
6. The requested special exception, as conditioned, **will** be in compliance with the applicable general zoning provisions and supplemental regulations pertaining to the use set forth in LDC Chapter 34.


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

Alan Mandel, Mayor	AYE	Joe Kosinski, Vice Mayor	AYE
Jo List	AYE	Bob Raymond	AYE
Dan Andre	AYE		

DULY PASSED AND ADOPTED THIS **21st** day of **OCTOBER, 2013**.

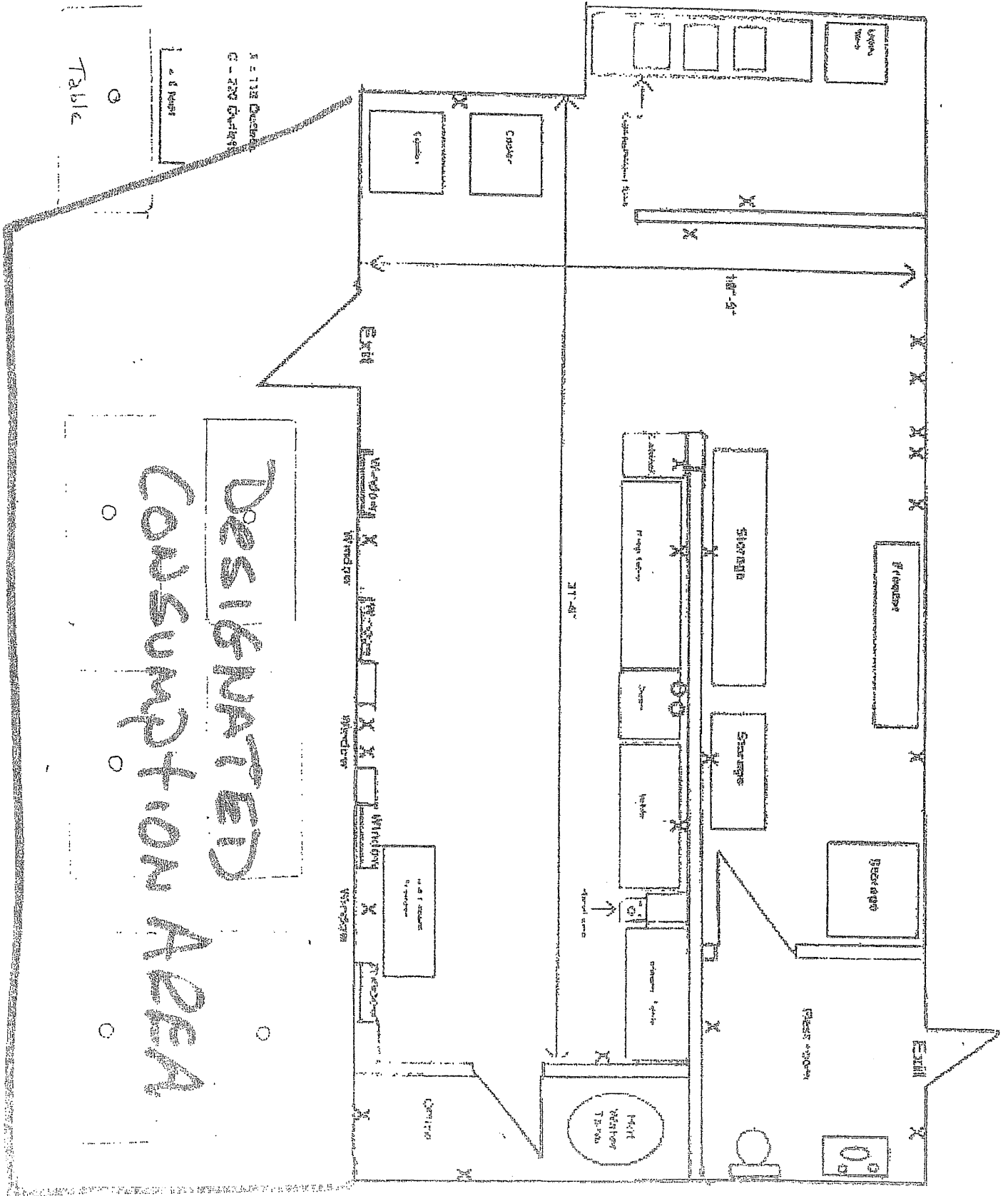
By: 
 Alan Mandel, Mayor

Approved as to legal sufficiency:
 By: 
 Fowler White Boggs, P.A.
 Town Attorney

ATTEST:
 By: 
 Michelle Mayher
 Town Clerk

1998 4300 Hwy 11
190 Hwy 11
190 Hwy 11

EXHIBIT (B)



DESIGNATED
Consumption Area

Table

S - 1132 Counter
C - 232 Cabinet

Cupboard
Cooker

Countertop / Sink

18'-4"

21'-4"

Windows

Windows

Windows

Windows

Sink

Counter

Storage

Storage

Refrigerator

Refrigerator

Exit

Refrigerator

Hot
Ventilation
Table