

RESOLUTION NUMBER 16-05

**RESOLUTION OF THE TOWN COUNCIL OF
THE TOWN OF FORT MYERS BEACH FLORIDA
SEZ 2015-0008- Expansion of Outdoor Seating and
Outdoor Consumption on Premises
for Sunset Beach Tropical Grill Restaurant**

WHEREAS, Terry Persaud, applicant and owner of the subject property, filed an application to obtain a special exception to expand the outdoor consumption on premises (4COP) approval for the Sunset Beach Tropical Grill Restaurant to include an additional 160 square foot area in Times Square consistent with Administrative Code 1-2; and

WHEREAS, Applicant has indicated the STRAP number for the subject property is 24-46-23-W3-00017.0000, and the subject property is legally described as indicated on attached Exhibit A; and

WHEREAS, the subject property is physically located at 1028 Estero Boulevard, Fort Myers Beach, Florida, and within the Downtown and EC zoning districts; and

WHEREAS, a duly advertised public hearing was held before the Local Planning Agency (LPA) on February 9, 2016; and

WHEREAS, the LPA recommended approval subject to certain conditions after full and complete consideration to the Applicant's request, recommendations of Town staff, documents in the record, and the testimony of all interested persons, as required by Town Land Development Code (LDC) s. 34-84; and

WHEREAS, on February 16, 2016, the Town Council held a duly advertised public hearing to fully consider the request of the Applicant, the recommendations of Town staff and the LPA, the documents in the record, and testimony of all interested persons as required by LDC s. 34-88; and

WHEREAS, the Town Council determined it is in the best interest of the Town to approve the request.

NOW THEREFORE, BE IT ORDAINED by the Town Council of the Town of Fort Myers Beach, Florida, as follows:

1. **Determination.**

Based upon the recommendations, testimony, and evidence presented by Town staff, LPA, and interested parties, **Special Exception SEZ2015-0008** to expand the outdoor consumption on premises (4COP) approval for the Sunset Beach

Tropical Grill Restaurant to include an additional 160 square foot area in Times Square as contained on Exhibit B is APPROVED, subject to the conditions set forth in this Resolution.

2. Conditions.

- a. Approval of the special exception does not exempt the subject property from any provisions of the LDC.
- b. The area of expansion into Times Square is limited to 160 square feet and is limited to locations depicted on Exhibit B. No outdoor entertainment is approved.
- c. Hours of operation for the Times Square outdoor seating area are from 11:00 AM to 11:00 PM.
- d. A permit, consistent with the requirements of Administrative Code 1-2, must be applied for, and be approved, prior to the use being established in Times Square.

3. Findings and Conclusions of Law.

In accordance with LDC s. 34-88, the Town Council finds as follows:

- a. There are changed or changing conditions that make approval of the special exception request appropriate.
- b. The request is consistent with the goals, objective, policies and intent of the Fort Myers Beach Comprehensive Plan.
- c. The request meets or exceeds all performance and locational standards set forth for the proposed use.
- d. The request will have no negative effects on environmentally critical areas and natural resources.
- e. The request will be compatible with existing or planned uses and will not cause damage, hazard, nuisance, or other detriment to persons or property.
- f. The requested use will be in compliance with applicable general zoning provisions and supplemental regulations pertaining to the use set forth in this chapter.

THE FOREGOING RESOLUTION was adopted by the Town Council upon a motion by Council Member Hosafros seconded by Council Member Mandel and upon being put to a vote the results was as follows:

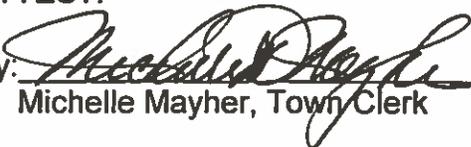
Anita Cereceda, Mayor	aye	Dan Andre, Vice Mayor	aye
Rexann Hosafros	aye	Alan Mandel	aye
Summer Stockton	aye		

DULY PASSED AND ADOPTED this 16th day of February, 2016.

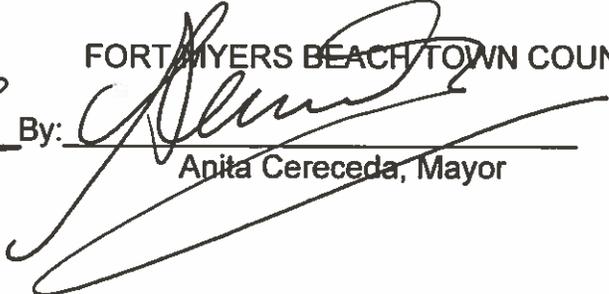
ATTEST: .

FORT MYERS BEACH TOWN COUNCIL

By:


Michelle Mayher, Town Clerk

By:


Anita Cereceda, Mayor

Approved as to legal sufficiency

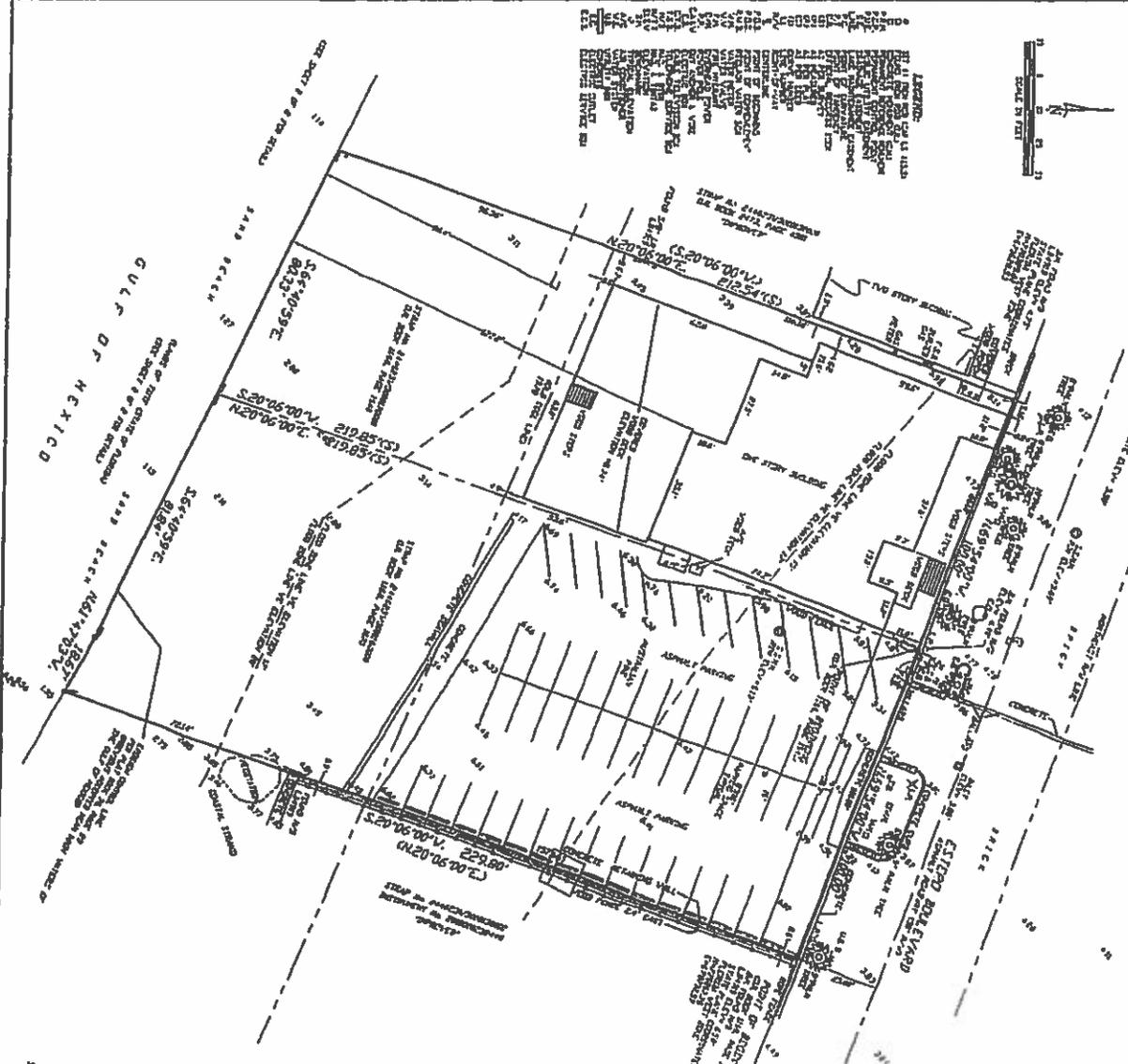
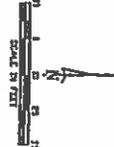


Town Attorney

Exhibits

- A: Legal and Sketch of entire parcel
- B: Proposed Outdoor Seating Area

SHEET 1 OF 1



**PARCELS OF LAND
LYING IN A PORTION OF
SOUTHEAST QUARTER SECTION 24,
T4N R10E S14E**

LEGAL DESCRIPTION AS PROVIDED
 IN THE PUBLIC RECORDS OF THE COUNTY OF
 HARRIS, TEXAS
 THE SEVERAL PARTS OF THE SEVERAL PARCELS
 DESCRIBED IN THE PUBLIC RECORDS OF THE COUNTY OF
 HARRIS, TEXAS, AS SET FORTH IN THE
 LEGAL DESCRIPTIONS OF SAID PARCELS, ARE
 HEREBY REPRODUCED IN FULL, AS THE SAME
 APPEAR IN SAID RECORDS, FOR THE PURPOSES
 OF THIS INSTRUMENT.
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 HEREBY REPRODUCED IN FULL, AS THE SAME
 APPEAR IN SAID RECORDS, FOR THE PURPOSES
 OF THIS INSTRUMENT.

- SURVEY NOTES:**
1. ALL DISTANCES ARE IN FEET AND DECIMALS THEREOF.
 2. ALL BEARINGS ARE TRUE BEARINGS.
 3. ALL CORNERS ARE MARKED WITH IRON PIPES OR IRON NAILS.
 4. ALL DISTANCES ARE MEASURED ALONG THE LINE.
 5. ALL BEARINGS ARE MEASURED FROM THE SOUTH OR NORTH.
 6. ALL DISTANCES ARE MEASURED ALONG THE LINE.
 7. ALL BEARINGS ARE MEASURED FROM THE SOUTH OR NORTH.
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NO.	SECTION	DATE	REMARKS
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Form of Fort Myers Beach
 DEC 29 2015
 Beach Community Dept

