

RESOLUTION OF THE LOCAL PLANNING AGENCY OF
THE TOWN OF FORT MYERS BEACH, FLORIDA
RESOLUTION NUMBER 2000- 18

A RESOLUTION OF THE LOCAL PLANNING AGENCY OF FORT MYERS BEACH

WHEREAS, Captain Investments, Inc., in ref. To Captain's Bay East have made two requests for administrative Interpretations of the Town of fort Myers Beach Comprehensive Plan. The first request questions whether Phase IV of Captain's Bay has been (or should have been) designated "Wetlands" on the basis of a clear factual error as set forth in Chapter 15, page 3, Section A.1. The second requests a determination that the building height of 80 feet (as measured from the base flood elevation to the tops of the wall) in Phase IV of Captain's Bay is deemed consistent with the Town's Comprehensive Plan as set forth in Chapter 15; and

WHEREAS, the subject property is located at 22676 Island Pines Way, Ft. Myers Beach, in S03-T47S-R24E, Lee County, FL.; and

WHEREAS, the applicant has indicated the property's current STRAP number is: 03-47-24-W1-00002.0040 and

WHEREAS, a public hearing was legally advertised and held before the Local Planning Agency (LPA) on October 10, 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.

NOW, THEREFORE BE IT RESOLVED BY THE LPA OF THE TOWN OF FORT MYERS BEACH, FLORIDA as follows:

I. That as to request #1 questioning whether Phase IV of Captain's Bay has been or should have been designated "Wetlands"; The LPA recommends the following;

1. That the property be designated Mixed Residential and deemed consistent with the Plan to complete the development of the project with 64 units for a total of 193 units pursuant to the F-0015 site plan approved in Exemption 83-09-120.00E with the following conditions;

- a. Phase IV must be reviewed by the south Florida Water Management District or Florida
- b. The development approval should be amended to require stabilization of the fill slope.

2. Pursuant to this recommendation, the LPA finds the following;

Findings & Conclusions;

- a. A designation of Wetland would be confiscatory, arbitrary, capricious, unreasonable or would deny all economically viable use of property.
- b. A change to Mixed Residential is consistent with background data, other policies, and objectives of the plan as a whole.
- c. The interpretation is the first requested and therefore cannot be compared with prior interpretations.
- d. The project is deemed consistent with the Town's Comprehensive Plan for 193 dwelling units to be developed in compliance with the F-0015 site plan approved in Exemption #83-09-120.00E.

II. That as to request #2 questioning whether the building height of 80 feet in Phase IV of Captain's Bay is consistent with Chapter 15 of the comprehensive Plan; The LPA recommends the following;

1. That the requested building height of 80 feet as measured from the base flood elevation to the top of the wall in Phase IV of Captain's Bay is deemed inconsistent with the Town's Comprehensive Plan as set forth in Chapter 15 and is not vested based on the information presented and the facts as known at this time. The LPA believes that a height of 79.8 feet NGVD is vested based upon the information presented.

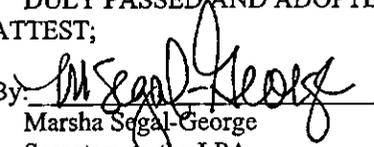
2. That the 2 decisions made by Lee County Staff in March 1999 and December 1999 were made in error and should be held to be invalid.

The foregoing Resolution was adopted by the LPA upon a motion by LPA Member Van Duzer and seconded by LPA Member Hester, and upon being put to a vote, the result was as follows:

Jennifer Kaestner	yes
Dave Smith	absent
Betty Simpson	yes
Roxie Smith	yes
Bill Van Duzer	yes
Jodi Hester	yes
Linda Beasley	yes
Harold Huber	absent
Jane Plummer	absent

DULY PASSED AND ADOPTED THIS 10th day of October, 2000.

ATTEST;

By: 
Marsha Segal-George
Secretary to the LPA

LPA of the Town of Fort Myers Beach

By: 
Roxie Smith, Chairman