

RESOLUTION OF THE LOCAL PLANNING AGENCY
THE TOWN OF FORT MYERS BEACH, FLORIDA
RESOLUTION NUMBER 2012-005
EAGLE EQUITY CAPITAL CPD

WHEREAS, Eagle Equity Capital, LLC, owner of property located at 2301 and 2311 Estero Boulevard and 111 and 121 Mango Street Fort Myers Beach, Florida has requested an amendment to expand the existing CPD, formerly known as Big John's Board Walk Eatery, to allow for required parking on-site for the existing restaurant uses, in addition to stormwater management, and landscape buffers; and

WHEREAS, the subject property is located in the both the Boulevard and Mixed Residential and Future Land Use Category of the Comprehensive Plan of the Town of Fort Myers Beach; and

WHEREAS, the STRAP numbers for the properties are 19-46-24-W3-0110D.0010, 19-46-24-W3-0120E.0010, 19-46-24-W3-0120E.0020 and 19-46-24-W3-0120E.0030; and

WHEREAS, the legal description for the properties is Lots 1 and 2, Block D of Beach Estates subdivision, according to the plat thereof recorded in Plat Book 6 Page 68; and Lots 1, 2, and 3, Block E of Seagrape subdivision, according to the plat thereof recorded in Plat Book 4 Page 17 of the Public Records of Lee County, Florida; and

WHEREAS, a public hearing was held before the Local Planning Agency (LPA) on April 10, 2012; and

WHEREAS, at the hearing the LPA gave full and complete consideration of the request, recommendations by staff, the documents in the file, and the testimony of all interested persons, as required by the Fort Myers Beach Land Development Code Section 34-85.

IT IS HEREBY RESOLVED BY THE LPA OF THE TOWN OF FORT MYERS BEACH, FLORIDA, as follows:

The LPA recommends the Town Council **APPROVE** the request to amend the CPD zoning for the subject property subject to the **9 conditions** and **11 deviations** set forth with specificity below.

RECOMMENDED CONDITIONS OF APPROVAL:

1. If the principal building on the subject property (2301 parcel) is removed or replaced for any reason, deviations 3, 4, 5, 6, and 7 will become null and void. Any new buildings replaced on the subject property must comply with required setbacks and any other regulations in effect at the time of permitting.
2. That the trolley stop concrete bench as shown on the southwest corner of the subject property, generally at the intersection of Fairweather Street and Estero Boulevard, be moved to the southeast corner of the subject property, generally near the intersection of Mango Street and Estero Boulevard.

3. Any changes or fracturing of ownership of the four parcels within the subject property will require, at a minimum, an administrative amendment to the Mast Concept Plan to reflect the change in ownership, which will include recorded unified control documentation.
4. The parking lot must be stabilized in accordance with the provisions in Section 34-2017(b)(1).
5. A local development order is required prior to any expansion of the existing restaurant or any use of the second restaurant bay in accordance with this planned development approval. Approval of this zoning request does not address mitigation of the project's vehicular or pedestrian traffic impacts. Additional conditions consistent with the LDC may be required to obtain a local development order, including payment of additional impact fees.
6. That a Traffic Impact Study (TIS) is not warranted and Town Council should overrule the Director's decision to require a TIS. The applicant has provided mitigation for any traffic impacts by providing the following: additional on-site parking for tenants and customers, landscape buffers, bike racks, extension of the sidewalk along Estero Boulevard in front of the property, elimination of the back out parking in front of the existing building, reduction of the outdoor dining to 1,000 square feet, and storm water management improvements. The current restaurant use has demonstrated that it is mainly a pedestrian and bicycle oriented destination and, as a result, the traffic impacts may actually be less than would be expected from a traffic impact study.
7. Bicycle racks shall be provided for a minimum of 8 bicycles.
8. The hours of operation for business use are 6am to 12 midnight. The hours of operation for indoor restaurant uses are 7 am to 12 midnight with outdoor seating area limited to between the hours of 7am and 10 pm, seven days a week.
9. No outdoor entertainment is permitted.

RECOMMENDED APPROVED DEVIATIONS:

Deviation #1

Deviation from the requirements of LDC Section 10-416(d)(2) and LDC Table 10-8, which requires a Type C/F buffer where proposed commercial uses abut single family residential uses, to allow for an eight (8) foot high solid stockade fence and 14-15 foot Type C buffers without a wall, as indicated on the MCP and landscape plan.

APPROVE

Deviation #2

Deviation from the requirements of LDC Section 10-416(d)(2) and LDC Table 10-8, which requires a 15 foot Type D buffer between parking areas and right-of-way, to allow for a 5 foot Type D buffer between parking areas and right-of-way.

APPROVE

Deviation #3

Deviation from the requirement of LDC Section 34-704(a), which requires buildings to be constructed between five (5) to ten (10) feet from Estero Boulevard, to allow a front setback of 46 feet to accommodate the existing building.

APPROVE

Deviation #4

Deviation from the requirements of LDC Section 34-707(b)(1)a, which requires a minimum 10 foot street setback to allow for a 2.39 foot street setback from Fairweather Lane to accommodate the existing building.

APPROVE

Deviation #5

Deviation from the requirement of LDC Section 34-704(b)(1)b, which requires a minimum 20 foot rear setback, to allow for a two-foot rear setback to accommodate the existing building.

APPROVE

Deviation #6

Deviation from the requirement of LDC Section 34-995(a)(3), which prohibits a principal façade facing a primary street from having blank walls greater than 10 feet in length, to allow for one (1) section of the principal façade to be 16 feet in length.

APPROVE

Deviation #7

Deviation from the requirements of LDC Section 34-995(d), which requires corner buildings to be located no more than 20 feet from the intersection of right-of-way lines, to allow the existing corner building to be located a distance of 48.5 feet from the intersection of Estero Boulevard and Fairweather Lane.

APPROVE

Deviation #8

Deviation from LDC Section 34-2020(d)(2)h, which requires 8 parking spaces per 1,000 square feet of total floor area, including any outdoor seating area (for a total of 47 required parking spaces) to allow for a 30% reduction from the LDC requirement for a total of 34 provided spaces.

APPROVE

Deviation #9

Deviation from LDC Section 34-2017, which requires high turnover parking lots to have a paved surface, to allow for a crushed shell or limerock surface.

APPROVE

Deviation #10

Deviation from LDC Section 34-285 and Table 10-1, which requires 125 feet of connection separation along local roads, to allow for 96± feet of connection separation along Mango Street.

APPROVE

Deviation #11

Deviation from LDC Section 10-289(d) which requires an 8 foot wide sidewalk along the property's Estero Boulevard frontage, to allow for a 5 foot wide sidewalk.

APPROVE

RECOMMENDED FINDINGS AND CONCLUSIONS

Based upon the presentations by the Applicant, staff, and other interested parties at the hearing, and a review of the application and standards for the planned development zoning approval, the LPA recommends that Town Council make the following findings and reach the following conclusions:

1. *Whether there exists an error or ambiguity which must be corrected.*
Resolution 06-30 did not specifically address parking for the restaurant uses as an on-site condition. This ambiguity in on-site parking requirements is being addressed and corrected with the proposed amendment to the CPD. **APPROVE**
2. *Whether there exist changed or changing conditions which make approval of the request appropriate.*
A single property owner has acquired all four parcels, 2301 and 2311 Estero Boulevard and 111 and 121 Mango Street, which comprise the subject property. This change in ownership allows for the required parking on the 2301 parcel to effectively be accommodated on-site. However, in order to permit an increase of commercial uses on parcels within the Boulevard and Mixed Residential FLU categories, a commercial planned development rezoning or amendment is required. **APPROVE**
3. *The impact of a proposed change on the intent of this chapter.*
The proposed amendment to the CPD will implement the provisions found in Section 34-702, the Commercial Boulevard zoning district, which requires rezoning to Planned Developments. The application and request, therefore, are consistent with the provisions found within Chapter 34 of the Land Development Code. **APPROVE**
4. *Whether the request is consistent with the goals, objectives, policies, and intent, and with the densities, intensities, and general uses as set forth in the Fort Myers Beach Comprehensive Plan.*
As discussed in the analysis section of the staff report, the requested amendment is consistent with the Comprehensive Plan, particularly with the provisions within both the Boulevard and Mixed Residential future land use categories that require commercial zoning changes to comply with the planned development zoning process.

It is important to note, however, that this CPD amendment request provides the Town with an opportunity to add a trolley pull-out at this location. Policy 7-D-2(ii) suggests that these trolley pull-offs can be installed when improvements to Estero Boulevard are constructed, but that policy also states that trolley pull-offs can be "required by the Land Development Code during the redevelopment process." **APPROVE**
5. *Whether the request meets or exceeds all performance and locational standards set forth for the proposed use.*
The request to amend the CPD for 2301 Estero to include land at 2311 Estero, 111 Mango and 121 Mango meets and exceeds all performance and locational standards for the proposed uses. No new structures or substantial improvements are proposed, therefore the Commercial Design Standards that are found in Section 34-991 and subsequent sections of the LDC do not apply. Furthermore, the proposed amendment is consistent with Policy 4-C-2 which requires that commercial uses in the Boulevard and Mixed Residential FLU be

designed to contribute to the pedestrian experience and to provide services for overnight guests and residents. **APPROVE**

6. *Whether urban services are, or will be, available and adequate to serve a proposed land use change.*

The applicant has provided Letters of Availability from Beach Water and Lee County Utilities, demonstrating water and sewer service capacity and availability. **APPROVE**

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

As existing commercially developed and vacant lots located on interior parcels of land away from both the Matanzas Pass waterfront and the Gulf of Mexico and beach, the subject property does not include any sensitive and/or environmentally critical lands. However, any lighting visible from the beach and/or included on development order plans will be required to meet all applicable environmental codes including, but not limited to, Sea Turtle lighting requirement as found in LDC Section 14-79. **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 property owner has recently made façade improvements and repairs to the existing building on the subject property. The CPD amendment proposes additional improvements and installations that will have a significant positive impact on the pedestrian experience, resident and visitor alike, and the overall aesthetic appeal of the subject property. Elimination of back out parking, installation of landscape buffers, and opportunity for new business ventures will serve to enhance the immediately surrounding area. The redevelopment of the subject property will be compatible with existing or planned uses and will not cause damage, hazard, nuisance, or other detriment to persons or property. **APPROVE**

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

The increase of trips from the prior approval of Resolution 06-30 is 6.43 peak hour trips. However, the site design improvements that accompany the requested CPD amendment demonstrate a significant improvement to bicycle and pedestrian safety and contribute to the overall positive visual appearance along the subject property's Estero Boulevard frontage. That being said, this request does present an opportunity to provide for a trolley pull off easement that would dramatically improve the public transportation system in the Town while possibly offsetting the additional vehicular trips generated by this request. **APPROVE**

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

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

DULY PASSED AND ADOPTED THIS 10th day of APRIL, 2012.

Local Planning Agency of the Town of Fort Myers Beach

By: Joanne K. Shamp
Joanne Shamp, LPA Chair

Approved as to legal sufficiency:

By: Marilyn W. Miller
Marilyn W. Miller, Esquire
LPA Attorney

ATTEST:

By: Michelle Mayher
Michelle Mayher
Town Clerk