

RESOLUTION OF THE LOCAL PLANNING AGENCY OF
THE TOWN OF FORT MYERS BEACH, FLORIDA
RESOLUTION NUMBER 2014-004
DCI2013-0002 – Matanzas Inn CPD Amendment

WHEREAS, Jerry Murphy, authorized agent for the owner of property located at 414/416 Crescent Street and 1042/1044 Second Street Fort Myers Beach, Florida has requested to amend a Commercial Planned Development known as the Matanzas Inn CPD; 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 STRAP numbers for the subject property are 19-46-24-W4-0150E.0210, 24-46-26-W3-00202.0130 and 24-46-23-W3-00202.0150 and the legal description is attached as *Exhibit A*; and

WHEREAS, a public hearing was held before the Local Planning Agency (LPA) on March 11, 2014; 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 LPA OF THE TOWN OF FORT MYERS BEACH, FLORIDA, as follows:

The LPA recommends that the Town Council **APPROVE/DENY** the request to amend the Matanzas Inn CPD, subject to the **10 deviations** and **15 conditions** set forth with specificity below.

RECOMMENDED DEVIATIONS:

Deviation #1

Deviation (recast from previously approved deviations) from the requirements of LDC Section 34-953—that the building placement, size, design, and all other property development regulations in the CPD zoning district must be the same as for the CR or CB zoning district—to allow the dimensions indicated on the MCP. **APPROVE/DENY**

Deviation #2

Deviation from the LDC Section 34-632(3)c. limitation on combining three (3) or more lots into a development project to allow PARCEL A, PARCEL B, and PARCEL C to include one-half (1/2) of the width of the adjoining street and canals in lot area for the purposes of computing residential densities to allow a total of 44 guest units on PARCEL A. **APPROVE/DENY**

Deviation #3

Deviation from LDC Section 34-632(4) from the limitation on acreage used primarily for commercial purposes being included in the computation of residential density to allow a total of 44 guest units on PARCEL A. **APPROVE/DENY**

Deviation #4

Deviation from LDC Section 34-1803(a)(1) to allow guest units to average 1000 square feet in compliance with the proposed Schedule of Uses. **APPROVE/DENY**

Deviation #5

Deviation (recast from previously approved deviations) from LDC Section 34-675(b)(2) from the limitation on Crescent Street to building heights no taller than two (2) stories and 30 feet above base flood elevation, to allow 25 percent of the ground floors of the hotel/motel buildings to be enclosed non-living space for office and other accessory uses for the motel with a maximum building height of 30 feet above base flood elevation with a maximum of two (2) floors total living area over parking or enclosed non-living space. **APPROVE/DENY**

Deviation #6

Deviation (recast from previously approved deviations) from the provisions of LDC Chapter 34, Division 26, Parking: LDC Sections 34-2015 (location and design) and 34-2016 (dimensional requirements; delineation of parking spaces) to allow the parking plan delineated on the MCP. **APPROVE/DENY**

Deviation #7

Deviation (recast from previously approved deviation) from the provisions of LDC Chapter 10, Article III, Division 2, Transportation, Roadways, Streets, and Sidewalks: LDC Section 10-285(a) from the required connection separation for local roads of 125 feet to allow connection separations as indicated on the MCP. **APPROVE/DENY**

Deviation #8

Deviation (recast from previously approved deviations) from the provisions of LDC Chapter 10, Article III, Division 6, Open Space, Buffering, and Landscaping: LDC Sections 10-415 (open space) and 10-416 (landscaping standards) to allow the open space and buffers delineated on the MCP. **APPROVE/DENY**

Deviation #9

Deviation from LDC Chapter 30 to allow a sign package for Matanzas Inn & Resort comprised of the following commercial identification signs with locations indicated on the MCP:

1. "Matanzas Inn Resort Vacancy" Two (2) sided monument sign, existing. Not to exceed 6' x 1.5 x 2-sides = 18 sq. ft. total
2. "Matanzas Inn Resort" Monument sign near northern side of motel, existing. Not to exceed 2' x 8' = 16 sq. ft. total.
3. "Matanzas Inn Resort" Monument sign at restaurant parking lot entrance, existing. Not to exceed 1.5' x 6' = 9 sq. ft. total
4. "Upper Deck Entrance" Wall identification sign on western wall of restaurant, existing. Not to exceed 4' x 8' = 32 sq. ft. total.
5. "Matanzas Inn Resort" Two- (2)-sided Projecting sign on roof of restaurant, existing. Not to exceed 4' x 16' x 2-sides = 128 sq. ft. total.

Total commercial identification sign area not to exceed **210/139** square feet total. Other permitted signs not requiring a permit as provided in LDC Chapter 30 or otherwise permissible, allowed. **APPROVE/DENY**

Deviation #10

Deviation (recast from previously approved deviations) from the provisions of LDC Chapter 10, Article III, Division 6, Open Space, Buffering, and Landscaping: LDC Section 10-416 (landscaping standards), subsection (d)(2) and Table 10-8, Buffer Requirements to allow a reduction from the Type D buffer requirements between ROW (rights-of-way) and PRKG (parking and vehicle use areas) to allow the buffer widths delineated on the MCP. **APPROVE/DENY**

RECOMMENDED CONDITIONS OF APPROVAL:

1. The development of this project must be consistent with the two page master concept plan MCP entitled 'Master Concept Plan Matanzas Inn' stamped received February 20, 2014, except as modified by conditions below. This development must comply with all requirements of the Town of Fort Myers Beach Land Development Code (LDC) at time of Development Order amendment, except:
 - a. any additional restrictions provided in conditions of this approval; and
 - b. any restrictions modified or eliminated by approved deviations.If changes to the MCP are subsequently sought, appropriate approvals will be required.
2. Allowable uses are limited to the approved Schedule of Uses – See attached *Exhibit G*
3. All development, redevelopment, and substantial improvements approved and included in this CPD must meet or exceed the commercial design standards set forth in LDC Section 34-991 through 34-1010.
4. All outdoor entertainment must cease by 10:00 PM
5. All lot area associated with PARCEL B and PARCEL C for density purposes is attributed to PARCEL A as part of the MCP for this CPD district. (See attached *Exhibit D* for the Schedule of Deviations #2 and #3)
6. PARCEL A may be developed in phases in any order, but a certificate of compliance for the initial phase must be reasonably requested no more than 60 months following Town Council approval of this amended CPD. Certificates of compliance for the entire project must be reasonably requested not less than 160 months following Town Council approval of this amended CPD or the MCP will expire and be deemed vacated.
7. Any reconfiguration of the swimming pool located on PARCEL A must not result in an increased elevation of the top surface of the pool deck or the top edge of the pool.
8. The uses listed for PARCEL A are limited to 75,300 square feet of floor area. Of this total floor area, guest units are limited to 44 units; guest unit size is not to exceed a maximum area of 1,600 square feet, not to exceed an average of 1,000 square feet, and not to exceed a total floor area for guest units of 44,000 square feet.
9. All existing Development Order(s) must be revised to reflect the changed conditions of the approval and newly adopted MCP. The revisions must be submitted within 90 days of Town Council approval and reviewed and approved by Town Staff prior to commencement of any work.
10. Stormwater retention plans and drainage calculations for the project will be required at the time of submission of the Development Order revision.
11. This zoning approval does not address the mitigation of the project's vehicular or pedestrian traffic impacts. A Traffic Impact Statement (TIS) will be required at time of local development order revision and additional conditions may be required at that time.

12. Developer will construct sidewalks acceptable to the Town within or along the rights-of-way of Crescent Street, First Street, and Second Street along the boundary of the subject property. The precise locations, dimensions, and specifications for these sidewalks will be determined in cooperation with the Town Public Works Department, but will not exceed the requirements of LDC Section 10-289. The Developer will construct the sidewalks in conjunction with the Town's construction of other sidewalks along the aforementioned streets—or as part of the construction of Phases B2, C, or D—whichever occurs first.
13. Should the Developer and Town agree to construct all or a portion of the sidewalk on the property owned by the Developer, the elimination of any existing parking and/or buffer or landscaping or portion thereof necessary to complete the sidewalk improvement project will not cause the subject property's CPD/DO/Zoning to become non-compliant with the requirements as provided in the CPD/DO/Zoning.
14. Should it become necessary to utilize a portion of the Developer's property for the construction of the sidewalk, it shall be constructed in accordance with the provisions of LDC Section 10-289.
15. The unified sign package, methods of calculation and measurement provided for in Chapter 30 of the Land Development Code, is not to exceed a total sign area of **210/139** square feet. All sign locations are as shown on the approval Master Concept Plan, stamped received February 20, 2014 attached as *Exhibit H*.

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 reaches the following findings and conclusions:

- a. *Whether there exists an error or ambiguity which must be corrected.*
Staff does not find that any errors or ambiguity exist surrounding the subject property and its zoning category that require correction. **APPROVE/DENY**
- b. *Whether there exist changed or changing conditions which make approval of the request appropriate.*
The changing condition that exists on the subject property which supports the applicant's request for amending the CPD is the addition and sale of property. The 'Old San Carlos Parcel' was sold to a separate owner in the spring of 2013 and is now being considered for a separate zoning action. Additionally the property owner has acquired Lot 15, located immediately adjacent to the current PARCEL C (see MCP attached as *Exhibit H*), and is requesting to add that land area into the CPD. **APPROVE/DENY**
- c. *The impact of a proposed change on the intent of this chapter.*
Amending the existing Matanzas Inn CPD with the specifics of this request will have no impact on the intent of Chapter 34. **APPROVE/DENY**
- g. *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 this report, the requested amendment is consistent with the Comprehensive Plan, particularly with the provisions within the Pedestrian Commercial future land use category and the Pre-Disaster Buildback, Hazard Mitigation and Floodproofing policies. **APPROVE/DENY**

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

The request to amend the CPD for the Matanzas Inn meets and exceeds all performance and locational standards for the proposed uses. Removal and addition of parcels are requested, as well as density transfers with the subject property, revisions to the site plan and phasing plans, and requests for deviations to the sign requirements. Furthermore, the proposed amendments are consistent with the Comprehensive Plan, and will be required to comply with the Commercial Design Standards, found in Chapter 34-99, and all applicable building code and FEMA requirements. **APPROVE/DENY**

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

As the subject property is currently a functioning Inn and restaurant, urban services are available and adequate for the proposed changes. **APPROVE/DENY**

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

As existing commercially developed land, while located directly adjacent to Matanzas Pass, the subject property does not include any sensitive and/or environmentally critical lands. Nor do the proposed amendments to the existing CPD contemplate any land or use changes that would adversely effect critical or sensitive environmental area. However, all elements included on the revisions to the Development Order plans will be required to meet all applicable environmental codes. **APPROVE/DENY**

- k. 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 CPD amendment will allow the property owner additional flexibility in phasing the project and the construction of new flood compliant buildings. The buildings will be required to meet the commercial design standards and all other applicable codes. The requested uses are those found in the DOWNTOWN zoning district and 'for rent' boat slips are compatible within the existing neighborhood. The property owner has met with Public Works Staff and incorporated Town plans for right-of-way improvements on Crescent Street into their redevelopment plans, allowing for public and private compatibility of enhancements for that section of roadway. Therefore 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/DENY**

- l. 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 impact of the proposed amendments to the transportation network will be evaluated at the time of revision to the Development Order, due to the dynamic nature of roadway capacity. **APPROVE/DENY**

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

Hank Zuba, Chair	AYE/NAY	Joanne Shamp, Vice Chair	AYE/NAY
Al Durrett	AYE/NAY	John Kakatsch	AYE/NAY
Jane Plummer	AYE/NAY	Jim Steele	AYE/NAY
Chuck Bodenhafer	AYE/NAY		

DULY PASSED AND ADOPTED THIS **11th** day of **MARCH, 2014**.

Local Planning Agency of the Town of Fort Myers Beach

By: _____
Hank Zuba, LPA Chair

Approved as to legal sufficiency:

By: _____
Fowler White Boggs, P.A.
LPA Attorney

ATTEST:

By: _____
Michelle Mayher
Town Clerk



Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT

STAFF REPORT

TYPE OF CASE: Commercial Planned Development (CPD) Amendment

CASE NUMBER: DCI2013-0002

LPA HEARING DATE: March 11, 2014

LPA HEARING TIME: 9:00 AM

I. APPLICATION SUMMARY

Applicant: Murphy Planning for Leo J Salvatori Trust
Jerry Murphy, authorized agent

Request: Commercial Planned Development (CPD) amendment to the existing CPD, known as the Matanzas Inn CPD, and most recently amended by Resolution 30-35, to

1. Remove a parcel of land (the 'Old San Carlos Parcel') from the existing CPD;
2. Include a platted lot ('Lot 15') into PARCEL B;
3. Convert the 4 existing dwelling units (located on Lot 15) to 12 hotel/motel guest units;
4. Revise the phasing plan for expansion of the restaurant and redevelopment of the hotel/motel, add a phase B1 that proposes a second story on the western half of the southernmost hotel/motel building, and clarify that the phases of redevelopment may proceed in any order depending on market conditions; and
5. Deviate from the requirements of LDC Chapter 30 to adopt a unified sign package for the entire resort.

Subject property: See *Exhibit A*

Physical Address: 414/416 Crescent Street Fort Myers Beach, Florida 33931
1042/1044 Second Street Fort Myers Beach, Florida 33931

STRAP #: 19-46-24-W4-0150E.0210
24-46-23-W3-00202.0130
24-46-23-W3-00202.0150

FLU: Pedestrian Commercial

Zoning: CPD & DOWNTOWN

Current use(s): Matanzas Inn & Waterfront Restaurant

Adjacent zoning and land uses:

North: Matanzas Pass

South: Mixed Uses
RESIDENTIAL MULTI FAMILY
Pedestrian Commercial & Platted Overlay

East: Canal Waters

Residential (Primo Drive)
RESIDENTIAL CONSERVATION
Mixed Residential

West: Sky Bridge

Mixed Uses
DOWNTOWN
Pedestrian Commercial

II. BACKGROUND AND ANALYSIS

Background:

Prior to the incorporation as a Town in 1995, zoning on Fort Myers Beach was under the jurisdiction of Lee County and was governed by the Lee County Land Development Code. When the Town first incorporated, Lee County's Comprehensive Plan, Future Land Use Map (FLUM), Land Development Code (LDC) and zoning maps were adopted by the Town. These documents acted as interim land development regulations until Town Staff, after citizen input, drafted a new Comprehensive Plan, FLUM, LDC, and official zoning map for adoption by the Town Council.

In January of 1999, the Town adopted its Comprehensive Plan and Future Land Use Map.

In 2003, Ordinance 03-03 adopted the Town's Land Development Code (LDC) and interim zoning map, and the official zoning map was adopted by Resolution 04-16 in April, 2004.

The subject property, consisting of parcels located at 414/416 Crescent Street and 1042/1044 Second Street, are located in the Old San Carlos/Downtown Core Area of Fort Myers Beach, traditionally known for more intensive commercial uses.

Around the time of incorporation, due to the uncertainty of what Town-specific zoning and land use might look like, certain Downtown Core Area land owners opted to rezone their properties to Commercial Planned Development (CPD) in an attempt to retain densities, intensities or specific uses. The subject property was one of these properties, originally rezoned by Z-95-074 and known as the Matanzas Inn CPD. This CPD was most recently

amended by Resolution 03-35 (see *Exhibit B*). For a more complete summary of the land use history please see *Exhibit C*.

Analysis:

The application to amend the existing Matanzas Inn CPD includes five requests and 10 proposed deviations. The requests are as follows:

1. Remove a parcel of land (the 'Old San Carlos Parcel') from the existing CPD;
2. Include a platted lot ('Lot 15') into PARCEL B;
3. Convert the 4 existing dwelling units (located on Lot 15) to 12 hotel/motel guest units;
4. Revise the phasing plan for expansion of the restaurant and redevelopment of the hotel/motel, add a phase B1 that proposes a second story on the western half of the southernmost hotel/motel building, and clarify that the phases of redevelopment may proceed in any order depending on market conditions.
5. Deviate from the requirements of LDC chapter 30 to adopt a unified sign package for the entire resort.

The first request is to remove the 'Old San Carlos Parcel' – from the existing CPD. Chapter 34 and Chapter 10 of the LDC require land within planned developments to be under unified control. The property owner sold the 'Old San Carlos Parcel' to a new owner. That owner is pursuing a rezoning and other land development entitlements on that parcel separate from this application. At this point, therefore, the request to remove the 'Old San Carlos Parcel' is a mere formality.

The second request, which is to include the land area of Lot 15 into Parcel B is also a straightforward request, to which Staff has no objection.

The next item is a request to convert the existing 4 dwelling units currently located on Lot 15, to 12 hotel/motel units. Section 34-1803 allows property with residential dwelling units to convert them to hotel/motel units where permitted by the zoning district. In the Pedestrian Commercial Future Land Use, the conversion is calculated by the guest unit square footage; guest units less than 450 square feet use a factor of 3, guest units between 450 and 750 square feet can use a factor of 2.5 and guest units 750 to 1000 square feet use a factor of 2.

Since the applicant is asking to convert the 4 dwelling units to 12 guest units, it is clear they are using the 450 square foot equivalency factor of 3. However, the applicant is also asking for a deviation (Deviation #4, see *Exhibit D*) to allow guest units to average 1000 square feet while continuing to utilize the factor of 3. This deviation request is a carryover deviation and was previously approved by Town Council in Resolution 03-35 (see *Exhibit B*). Thus Staff is, therefore, in support of the request.

Item four is a request to revise the phasing plan for redevelopment and a request that phases be allowed to proceed in any order. The phasing plan is attached as *Exhibit E*. Staff has no objection to this request, because it allows the property owner flexibility in a redevelopment scenario that also accomplishes many of the objectives of both the LDC and Comprehensive Plan in terms of providing floodplain and commercial design standard compliant buildings.

The final request included in the application to amend the CPD is a request to adopt a unified sign package. Photos of the signs included as part of this unified sign package are included in *Exhibit F*. This request is also described in Deviation #9 (see *Exhibit D* for the Schedule of Deviations) and is stated by the applicant as follows:

Deviation from LDC Chapter 30 to allow a sign package for Matanzas Inn & Resort comprised of the following commercial identification signs with locations indicated on the MCP:

1. "Matanzas Inn Resort Vacancy" Two (2) sided monument sign, existing. Not to exceed 6' x 1.5 x 2-sides = 18 sq. ft. total
2. "Matanzas Inn Resort" Monument sign near northern side of motel, existing. Not to exceed 2' x 8' = 16 sq. ft. total.
3. "Matanzas Inn Resort" Monument sign at restaurant parking lot entrance, existing. Not to exceed 1.5' x 6' = 9 sq. ft. total
4. "Upper Deck Entrance" Wall identification sign on western wall of restaurant, existing. Not to exceed 4' x 8' = 32 sq. ft. total.
5. "Matanzas Inn Resort" Two- (2)-sided Projecting sign on roof of restaurant, existing. Not to exceed 4' x 16' x 2-sides = 128 sq. ft. total.

Total commercial identification sign area not to exceed 210 square feet total. Other permitted signs not requiring a permit as provided in LDC Chapter 30 or otherwise permissible, allowed.

The subject property was granted a variance by Lee County in 1989 to allow a roof sign that was a prohibited sign type per the code in effect at the time (Lee County Ordinance 85-26). The language of this variance approval covered the sign type only – not relief from total sign area – and was conditioned to a specific location on the roof and a maximum area of 64 square feet.

The current sign ordinance, adopted as Ord. 11-01, limits signage for a property with three or more businesses in the following section:

Section 30-153(b) Commercial uses in commercial zoning districts. All signs located in commercial zoning districts, except for those signs identified as exempt signs in 30-6 and temporary signs in 30-141, shall comply with the following sign area limitations.

(2) For a parcel of land containing three (3) or more business establishments, each establishment shall be allowed a maximum of sixteen (16) square feet of sign area. An additional thirty-two (32) square feet of sign area may be utilized to identify the commercial development.

With three business establishments on the subject property, the subject property is entitled to 32 square feet of sign area to identify the development and 16 square feet for each individual business establishment.

The existing roof sign is 64 square feet, the 'Upper Deck' sign is 32 square feet, and the combined monument sign area equals 43 square feet for a grand total of 139 square feet of sign area on the subject property. The applicant is requesting a grand total of 210 square feet for signage which is 74 square feet beyond the current 139 square feet of existing signage. This discrepancy is partly explained by the applicant including both sides of the roof sign in the total. Section 30-91 (c), however, states:

The area of a double-faced sign shall be computed on only one (1) side, provided, however, that where both sides are unequal in size, the area for the larger side shall be used.

Thus, the 139 square feet reflects a more accurate sign area total.

The applicant's justification for the increased sign area (see *Exhibit D*) is that the subject property is irregularly shaped and uniquely located, away from the main traffic corridors. Staff feels that this explanation does not justify a request to exceed the existing area by 74 square feet. However, the signs are existing on the subject property and since they are included as part of a deviation request they are not held to the same rigorous standard of a sign variance request.

One item not addressed in the deviation request is the sign height of the existing monument signs. Staff would caution that if the monument signs exceed the allowable height of 5 feet – data not included by the applicant - that the exact height should be reflected in any approval granted by Town Council, in an effort to reduce confusion in the future. Staff would support a modified deviation to allow 139 square feet of total sign area.

Schedule of Deviations.

Please see attached *Exhibit D* for the schedule of deviations as submitted by the applicant. Staff review of the deviations can be found in the Findings and Conclusions section of this report.

Schedule of Uses

Please see *Exhibit G* for the revised Schedule of Uses for the subject property.

Comprehensive Plan Analysis

Goal 4: To keep Fort Myers Beach a healthy and vibrant "small town," while capitalizing on the vitality and amenities available in a beach-resort environment and minimizing the damage that a hurricane could inflict.

The applicant's proposal would allow redevelopment of the property with new floodplain conforming buildings to replace older non-conforming buildings that are vulnerable to a flood event, even below the threshold of the 100-year storm. Improvements will be built to human scale and brought forward towards Crescent Street to improve the pedestrian experience.

Objective 4-B: FUTURE LAND USE MAP CATEGORIES - Reduce the potential for further overbuilding through a new Future Land Use Map that protects remaining natural and historic resources, preserves the small-town character of Fort Myers Beach, and protects residential neighborhoods against commercial intrusion.

Policy 4-B-6 "Pedestrian Commercial": a primarily commercial district applied to the intense activity centers of Times Square (including Old San Carlos and nearby portions of Estero Boulevard) and the area around Villa Santini Plaza. For new development, the maximum density is 6 dwelling units per acre (except where the Future Land Use Map's "platted overlay" indicates a maximum of 10 units per acre for affordable units consistent with the adopted redevelopment plan). Commercial activities must contribute to the pedestrian-oriented public realm as described in the comprehensive plan and must meet the design concepts of the plan and the Land Development Code. Where

commercial uses are permitted, residential uses are encouraged in upper floors. All “Marina” uses in Policy 4-B-7 are also allowed on parcels that were zoned for marinas prior to adoption of the plan. Non-residential uses (including motels and churches) now comprise 58.9% of the land in this category, and this percentage shall not exceed 90%.

The request is in compliance with the Pedestrian Commercial FLU category, as the Town’s highest intensity land use category creates a vibrant pedestrian core in and around the Times Square area.

Objective 4-C: APPLYING THE FUTURE LAND USE MAP – The Future Land Use Map shall be interpreted in accordance with the following policies.

Policy 4-C-2 Commercial Intensity: The maximum intensity of allowable commercial development in any category may be controlled by height regulations (See Policy 4-C-4) or by other provisions of the plan and the Land Development Code. Standards in the Land Development Code will encourage more intense commercial uses only in the “Pedestrian Commercial” category. The Land Development Code shall specify maximum commercial intensities using floor-area-ratios (the total floor area of the building divided by the area of the site in the category allowing commercial uses). The Land Development Code may allow floor-area-ratios in the “Pedestrian Commercial” category as high as 2.5, and in other categories as high as 1.5.

The proposed commercial development intensity is consistent with the Pedestrian Commercial category, and generally consistent with surrounding land uses. Other recent developments of in the same vicinity include Harbor House and Nervous Nellies, both of which were built at the same scale and pedestrian orientation of the applicant’s proposal.

Policy 4-C-3 COMMERCIAL LOCATIONS: When evaluating proposals for new or expanded commercial uses in categories where they are permitted, the following principles shall apply:

- ii. Where new or expanded commercial uses are encouraged, as in the “Pedestrian Commercial” category, the Land Development Code shall specify its permitted form and extent and provide a streamlined approval process. Landowners may also use the planned development rezoning process to seek approval of other forms of commercial development in that category.*

The existing hotel/motel project on the subject property was previously approved through the commercial planned development process. The planned improvements will also proceed through the planned development rezoning process, as an amendment to the existing CPD.

Policy 4-C-4 BUILDING HEIGHTS: The Land Development Code shall limit the height of new buildings under most conditions to two stories above flood elevation (exceptions may include the buildback situations [see Policies 4-D-1 and 4-E-1], and different heights may be applied to officially designate redevelopment areas such as Times Square, Red Coconut/Gulf View Colony, and Villa Santini Plaza). In those few cases where individual parcels of land are so surrounded by tall buildings on lots that are contiguous (or directly across the street) that this two-story height limit would be unreasonable, landowners may seek relief through the planned development rezoning process, which requires a public hearing and notification of adjacent property owners. The town will approve, modify, or deny such requests after evaluating the level of unfairness that would result from the specific circumstances and the degree the specific proposal conforms with all aspects of this comprehensive plan, including its land-use and design policies, pedestrian orientation, and natural resource criteria. Particular attention would be paid to any permanent view corridors to

Gulf or Bay waters that could be provided in exchange for allowing a building to be taller than two stories. In each case, the town shall balance the public benefits of the height limit against other public benefits that would result from the specific proposal.

The applicant has provided a color rendering that depicts the proposed redevelopment, which appears to comply with the building heights described above. Since this is also a pre-disaster buildback project, additional height may be granted by Town Council to provide an incentive to build conforming structures prior to a natural disaster; however the applicant has not requested any additional height allowance.

Policy 4-C-6 MOTEL DENSITIES: The Land Development Code shall specify equivalency factors between guest units (which include motel rooms) and full dwelling units. These factors may vary based on size of guest unit and on land-use categories on the Future Land Use Map. They may vary between a low of one guest unit and a high of three guest units for each dwelling unit. (These factors would apply only where guest units are already permitted.) In order to implement the 1999 Old San Carlos Boulevard / Crescent Street Master Plan that encourages mixed-use buildings with second and third floors over shops on Old San Carlos, hotel rooms may be substituted for otherwise allowable office space in that situation and location only without using the equivalency factors that apply elsewhere in the town. This alternate method for capping the number of hotel rooms applies only to properties between Fifth to First Streets that lie within 200 feet east and west of the centerline of Old San Carlos Boulevard. Hotel rooms built under this alternate method must have at least 250 square feet per rentable unit, and under no circumstances shall buildings they are located in exceed four stories (with the ground level counted as the first story).

The Pedestrian Commercial category has been designated by the Comprehensive Plan and Land Development Code as the preferred location in the Town for hotel/motel units to be constructed. LDC Sec. 34-1803 provides for allowable density ranges, with Pedestrian Commercial at the high end of the equivalency factors between dwelling units and guest units. Depending on the hotel room size, the Pedestrian Commercial category allows equivalency of 2.0, 2.5, or 3.0 hotel rooms for each equivalent allowable dwelling unit.

The applicant also points out that the Downtown district lost numerous hotel rooms from the destruction caused by Hurricane Charley, and the subsequent acquisition of these properties for use as a public park. While the subject property lies just outside the boundaries of the Old San Carlos hotel provisions [Sec. 34-1803(b)], it is still a part of the Old San Carlos Boulevard / Crescent Street Master Plan that encourages three-story buildings of commercial uses and hotel rooms.

Policy 4-C-8 DENSITY TRANSFERS: The Town Council may, at its discretion, permit the transfer of residential and hotel/motel development rights from one parcel to another if the following conditions are met:

- i. the transfer is clearly in the public interest, as determined by the Town Council;*
- ii. the parcels affected by the transfer are in close proximity to each other;*
- iii. the density of residential or hotel/motel units being transferred is based upon allowable density levels in the category from which the density is being transferred;*
- iv. the transfer is approved through the planned development rezoning process; and*
- v. binding permanent restrictions are placed on the property from which the development rights have been transferred to guarantee the permanence of the transfer.*

The planned density transfer as part of the proposed rezoning would eliminate an existing nonconforming quadruplex on PARCEL C, moving the equivalent hotel units to PARCEL A, and replace all of the existing buildings with structures that comply with flood regulations and current building codes.

Objective 4-E: HAZARD MITIGATION – Mitigate the potential effects of hurricanes by easing regulations that impede the strengthening of existing buildings, by encouraging the relocation of vulnerable structures and facilities, and by allowing the upgrading or replacement of grandfathered structures without first awaiting their destruction in a storm.

Policy 4-E-1 PRE-DISASTER BUILDBACK POLICY: Owners of existing developments that exceed the current density or height limits may also be permitted to replace for the same use at up to the existing lawful density and intensity (up to the original square footage) prior to a natural disaster. Landowners may request this option through the planned development rezoning process, which requires a public hearing and notification of adjacent property owners. The town will approve, modify, or deny such a request based on the conformance of the specific proposal with the comprehensive plan, including its land-use and design policies, pedestrian orientation, and natural resource criteria. The Town Council may approve additional enclosed square-footage only if an existing building is being elevated on property that allows commercial uses; dry-floodproofed commercial space at ground level could be permitted in addition to the replacement of the pre-existing enclosed square footage.

The applicant's primary objective is the pre-disaster buildback of the hotel/motel units on site. As part of the process, they have assembled additional units to combine into the overall project, which will be built to current floodplain regulations and building codes, while providing adequate parking areas for resort and restaurant guests. Replacement of these units *prior* to a natural disaster helps to ensure that these units are not destroyed in a disaster event, and would be more likely to resume operations more quickly *after* a storm event.

Policy 4-E-4 FLOODPROOFING OF COMMERCIAL BUILDINGS: Where commercial development is allowed by the comprehensive plan, full-height dry floodproofing is the most desirable alternative for providing ground-level commercial space in pedestrian areas.

Due to the property's location in AE-EL10 flood zone, the use of dry floodproofing methods is allowed. Dry floodproofing of non-residential buildings is allowed for space below the Base Flood Elevation. This would allow the entrance, reception desk, fitness room, and other office/maintenance and storage uses at the ground floor pedestrian level.

Policy 3-D-7 Continue to implement the stormwater management plan (an exfiltration system that integrates the existing storm sewer pipe system and inlets with exfiltration trenches under Estero Boulevard). Similar systems can be installed for private development under parking lots or open space.

As part of a local Development Order, the applicant will need to demonstrate how they plan to deal with their stormwater drainage on the properties. Crescent Street is a part of the Town that experiences standing water conditions during minimal rain events, so it is a primary consideration of Public Works Staff to address stormwater management during any redevelopment scenario.

Findings and Conclusions:

Based upon an analysis of the application and the standards for approval of a planned development rezoning found in Section 34-85 and 34-216 of the LDC, Staff makes the following findings and conclusions:

LDC Section 34-85

- a. *Whether there exists an error or ambiguity which must be corrected.*
Staff does not find that any errors or ambiguities exist surrounding the subject property and its zoning category that require correction.
- b. *Whether there exist changed or changing conditions which make approval of the request appropriate.*
The changing condition that exists on the subject property which supports the applicant's request for amending the CPD is the addition and sale of property. The 'Old San Carlos Parcel' was sold to a separate owner in the spring of 2013 and is now being considered as part of a separate zoning action. Additionally, the property owner has acquired Lot 15, located immediately adjacent to the current PARCEL C (see MCP attached as *Exhibit H*), and is requesting to add that land area to the CPD.
- c. *The impact of a proposed change on the intent of this chapter.*
Amending the existing Matanzas Inn CPD with the specifics of this request will have no impact on the intent of Chapter 34.
- g. *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 this report, the requested amendment is consistent with the Comprehensive Plan, particularly with the provisions within the Pedestrian Commercial future land use category and the Pre-Disaster Buildback, Hazard Mitigation and Floodproofing policies.
- h. *Whether the request meets or exceeds all performance and locational standards set forth for the proposed use.*
The request to amend the CPD for the Matanzas Inn meets and exceeds all performance and locational standards for the proposed uses. Removal and addition of parcels are requested, as well as density transfers with the subject property, revisions to the site plan and phasing plans, and requests for deviations to the sign requirements. Furthermore, the proposed amendments are consistent with the Comprehensive Plan, and will be required to comply with the Commercial Design Standards, found in Chapter 34-99, and all applicable building code and FEMA requirements.
- i. *Whether urban services are, or will be, available and adequate to serve a proposed land use change.*
As the subject property is currently a functioning Inn and restaurant, urban services are available and adequate for the proposed changes.
- j. *Whether the request will protect, conserve, or preserve environmentally critical areas and natural resources.*

As existing commercially developed land, while located directly adjacent to Matanzas Pass, the subject property does not include any sensitive and/or environmentally critical lands. Nor do the proposed amendments to the existing CPD contemplate any land or use changes that would adversely effect critical or sensitive environmental area. However, all revisions to the Development Order plans will be required to meet all applicable environmental codes.

- k. *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 CPD amendment will allow the property owner additional flexibility in phasing the project and the construction of new flood compliant buildings. The buildings will be required to meet the commercial design standards and all other applicable codes. The requested uses are those found in the DOWNTOWN zoning district, and 'for rent' boat slips are compatible within the existing neighborhood. The property owner has met with Public Works Staff and has incorporated Town plans for right-of-way improvements on Crescent Street into their redevelopment plans, allowing for public and private compatibility of enhancements for that section of roadway. The redevelopment of the subject property will, therefore, be compatible with existing or planned uses and will not cause damage, hazard, nuisance, or other detriment to persons or property.

- l. *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 impact of the proposed amendments to the transportation network will be evaluated at the time of revision to the Development Order, due to the dynamic nature of roadway capacity.

LDC Section 34-216

- a. *The proposed use or mix of uses is appropriate at the subject location;*

The request of this CPD amendment includes:

1. Remove a parcel of land (the 'Old San Carlos Parcel') from the existing CPD;
2. Include a platted lot ('Lot 15') into PARCEL B;
3. Convert the 4 existing dwelling units (located on Lot 15) to 12 hotel/motel guest units;
4. Revise the phasing plan for expansion of the restaurant and redevelopment of the hotel/motel, add a phase B1 that proposes a second story on the western half of the southernmost hotel/motel building, and clarify that the phases of redevelopment may proceed in any order depending on the market;
5. Deviate from the requirements of LDC Chapter 30 to adopt a unified sign package for the entire resort.

These amendments do not include any substantive changes to the Schedule of Uses (see *Exhibit G*) on the subject property. Therefore Staff recommends that the mix of uses on the subject property continue to remain appropriate at the subject location.

- b. *Sufficient safeguards to the public interest are provided by the recommended special conditions to the concept plan or by other applicable regulations;*

Staff finds that the conditions, as recommended, are sufficient safeguards to the public interest.

- c. *All recommended special conditions are reasonably related to the impacts on the public's interest created by or expected from the proposed development.*

Staff has conducted a review of all previously approved conditions from former approvals by Town Council. The conditions of approval included with the Staff Report reflect Staff's goal to simplify recommended project approvals. Staff finds that all conditions to the recommendation of approval are reasonably related to the proposed project's impacts on the surrounding neighborhood.

- d. *The proposed use meets all specific requirements of the comprehensive plan that are relevant to the requested planned development.*

As discussed in the analysis section, Staff finds that the proposed amendments to the existing Matanzas Inn CPD are consistent with the Town's Comprehensive Plan.

Requested Deviations:

Based on an analysis of the procedure for reviewing deviation requests as found in Section 34-216 which requires that each deviation be found to

- a. *Enhance the achievement of objectives of the planned development;*
- b. *Preserve and promote the general intent of the LDC to protect the public health, safety and welfare; and*
- c. *Operate to the benefit, or at least not to the detriment, of the public interest; and*
- d. *Is consistent with the Fort Myers Beach Comprehensive Plan.*

Staff makes the following recommendations regarding the requested deviations:

Deviation #1

Deviation (recast from previously approved deviations) from the requirements of LDC Section 34-953—that the building placement, size, design, and all other property development regulations in the CPD zoning district must be the same as for the CR or CB zoning district—to allow the dimensions indicated on the MCP.

For the applicant's Schedule of Deviations and Justifications please see Exhibit D

This deviation is predominately related to the buildings located along the canal on PARCEL A. The setbacks and dimensions indicated on page 1 of 2 of the MCP attached as *Exhibit H* displays dimensions previously approved by Town Council through Resolution 03-35. A review of page 2 of 2 of the MCP (see *Exhibit H*) indicates the removal of two existing buildings and replacement with a single new building (labeled Phase A) – the Matanzas Inn Waterfront Restaurant, pool, and pool deck remain unchanged. Further review of this section of PARCEL A shows that the new building is actually located further away from the canal and seawall than the existing conditions and therefore represents either an unchanged condition (for the restaurant building) or an increased setback (Phase A).

Staff recommends APPROVAL of the requested deviation.

Deviation #2

Deviation from the LDC Section 34-632(3)c. limitation on combining three (3) or more lots into a development project to allow PARCEL A, PARCEL B, and PARCEL C to include one-half (1/2) of the width of the adjoining street and canals in lot area for the purposes of computing residential densities to allow a total of 44 guest units on PARCEL A.

For the applicant's Schedule of Deviations and Justifications please see Exhibit D

This deviation was part of the previous approvals of the CPD, and the applicant is requesting that it be carried over because it reflects the justification for the computation of the density of guest units.

Staff recommends APPROVAL of the requested deviation.

Deviation #3

Deviation from LDC Section 34-632(4) from the limitation on acreage used primarily for commercial purposes being included in the computation of residential density to allow a total of 44 guest units on PARCEL A.

For the applicant's Schedule of Deviations and Justifications please see Exhibit D

This deviation was part of the previous approvals of the CPD, and the applicant is requesting it be carried over because it reflects the justification for the computation of the density of guest units.

Staff recommends APPROVAL of the requested deviation.

Deviation #4

Deviation from LDC Section 34-1803(a)(1) to allow guest units to average 1000 square feet in compliance with the proposed Schedule of Uses.

For the applicant's Schedule of Deviations and Justifications please see Exhibit D

This deviation was part of the previous approvals of the CPD, and the applicant is requesting it be carried over because it reflects the justification for the computation of average guest unit size as measured in square feet.

Staff recommends APPROVAL of the requested deviation.

Deviation #5

Deviation (recast from previously approved deviations) from LDC Section 34-675(b)(2) from the limitation on Crescent Street to building heights no taller than two (2) stories and 30 feet above base flood elevation, to allow 25 percent of the ground floors of the hotel/motel buildings to be enclosed non-living space for office and other accessory uses for the motel with a maximum building height of 30 feet above base flood elevation with a maximum of two (2) floors total living area over parking or enclosed non-living space.

For the applicant's Schedule of Deviations and Justifications please see Exhibit D

This deviation was an addition by the LPA in 2003 and was included in the final approval reflected in Resolution 03-35 (see *Exhibit B*).

Staff recommends APPROVAL of the requested deviation.

Deviation #6

Deviation (recast from previously approved deviations) from the provisions of LDC Chapter 34, Division 26, Parking: LDC Sections 34-2015 (location and design) and 34-2016 (dimensional requirements; delineation of parking spaces) to allow the parking plan delineated on the MCP.

For the applicant's Schedule of Deviations and Justifications please see Exhibit D

Please refer to *Exhibit I* for the applicant's parking calculations. At the completion of all phases of the proposed project the subject property will be providing 111 parking spaces. Resolution 03-35 (see *Exhibit B*) approved deviation #14 which allowed 90 degree parking spaces to be 16 feet in depth and deviation #15 which allowed for a two way drive aisle width of 19 feet. Section 34-2016 requires 90 degree spaces to be a minimum of 8.5' by 18' and two way drive aisles to be 22'. A review of page 2 of 2 of the MCP (see *Exhibit H*) will illustrate that the parking plan is not dimensioned as to the space width or depth nor is the two way drive aisle dimensioned. Staff remains unclear as to what exact dimensions the applicant is requesting.

Staff recommends DENIAL of the requested deviation

Deviation #7

Deviation (recast from previously approved deviation) from the provisions of LDC Chapter 10, Article III, Division 2, Transportation, Roadways, Streets, and Sidewalks: LDC Section 10-285(a) from the required connection separation for local roads of 125 feet to allow connection separations as indicated on the MCP.

For the applicant's Schedule of Deviations and Justifications please see Exhibit D

A review of the proposed MCP (see *Exhibit H*) indicates that the applicant is not proposing any new access points on Crescent Street. As illustrated on page 2 of 2, the applicant is proposing to remove numerous parking spaces that force drivers to back out into Crescent Street, as well as closing up two access points along the roadway. This action will reduce the number of entrances to the subject property from four to two, and provide for a more efficient vehicular circulation within the subject property. Staff encourages property owners to remove the back-out spaces whenever possible as they are an obvious vehicular and pedestrian hazard, even at low traffic speeds.

Staff recommends APPROVAL of the requested deviation.

Deviation #8

Deviation (recast from previously approved deviations) from the provisions of LDC Chapter 10, Article III, Division 6, Open Space, Buffering, and Landscaping: LDC Sections 10-415 (open space) and 10-416 (landscaping standards) to allow the open space and buffers delineated on the MCP.

For the applicant's Schedule of Deviations and Justifications please see Exhibit D

In an email to Staff dated 2/20/14 (see *Exhibit J*) the applicant provided a table of open space calculations for the subject property at final build out. Open space is illustrated by the gray shading on page 2 of 2 on the MCP (see *Exhibit H*).

Deviations #18-20 from the previous approval (Resolution 03-35 attached as *Exhibit B*) allowed the open space as shown on the MCP.

With a grand total of 28.4% open space provided at final build out, where surrounding properties zoned DOWNTOWN are encouraged by code to fully develop their property, Staff is encouraged to see that the applicant is providing adequate green and open space on the subject property.

Staff recommends APPROVAL of the deviation as requested.

Deviation #9

Deviation from LDC Chapter 30 to allow a sign package for Matanzas Inn & Resort comprised of the following commercial identification signs with locations indicated on the MCP:

1. "Matanzas Inn Resort Vacancy" Two (2) sided monument sign, existing. Not to exceed 6' x 1.5 x 2-sides = 18 sq. ft. total
2. "Matanzas Inn Resort" Monument sign near northern side of motel, existing. Not to exceed 2' x 8' = 16 sq. ft. total.
3. "Matanzas Inn Resort" Monument sign at restaurant parking lot entrance, existing. Not to exceed 1.5' x 6' = 9 sq. ft. total
4. "Upper Deck Entrance" Wall identification sign on western wall of restaurant, existing. Not to exceed 4' x 8' = 32 sq. ft. total.
5. "Matanzas Inn Resort" Two- (2)-sided Projecting sign on roof of restaurant, existing. Not to exceed 4' x 16' x 2-sides = 128 sq. ft. total.

Total commercial identification sign area not to exceed 210 square feet total. Other permitted signs not requiring a permit as provided in LDC Chapter 30 or otherwise permissible, allowed.

For the applicant's Schedule of Deviations and Justifications please see Exhibit ?D

The applicant is proposing to include items 1-5 above as their sign package for the subject property. Please see *Exhibit F* for photographs of the existing signs. The applicant's justification for sign area that exceeds the existing sign area by 74 square feet is not adequate and Staff would recommend that the deviation be revised to reflect a total sign area of 139 square feet, not 210. (See Staff's review of the sign package in the analysis section of this report.)

Staff recommends APPROVAL of this deviation as conditioned. See Conditions of Approval #15.

Deviation #10

Deviation (recast from previously approved deviations) from the provisions of LDC Chapter 10, Article III, Division 6, Open Space, Buffering, and Landscaping: LDC Section 10-416 (landscaping standards), subsection (d)(2) and Table 10-8, Buffer Requirements to allow a reduction from the Type D buffer requirements between ROW (rights-of-way) and PRKG (parking and vehicle use areas) to allow the buffer widths delineated on the MCP.

For the applicant's Schedule of Deviations and Justifications please see Exhibit D

Code requires a minimum Type D buffer between parking areas and rights-of-way. Since the subject property is located in the Downtown Core Area, Staff agrees with the applicant that a full Type D buffer is an onerous burden to comply with, taking into consideration the fact that the subject property is already providing almost 30% open space.

Staff recommends APPROVAL of the deviation as requested.

III. RECOMMENDATION

With consideration of current and existing conditions of the applicant's request for five amendments to the existing Matanzas CPD, Staff makes the following recommendations with conditions as listed below:

1. Remove a parcel of land (the 'Old San Carlos Parcel') from the existing CPD
2. Include a platted lot ('Lot 15') into Parcel C;
3. Convert the 4 existing dwelling units (located on Lot 15) to 12 hotel/motel guest units;
4. Revise the phasing plan for expansion of the restaurant and redevelopment of the hotel/motel, add a phase B1 that proposes a second story on the western half of the southernmost hotel/motel building, and clarify that the phases of redevelopment may proceed in any order depending on the market.
5. Deviate from the requirements of LDC chapter 30 to adopt a unified sign package for the entire resort.

Staff recommends **APPROVAL WITH CONDITIONS** of all five amendment requests. Recommended Conditions of Approval are as follows:

1. The development of this project must be consistent with the two page master concept plan MCP entitled 'Master Concept Plan Matanzas Inn' stamped received February 20, 2014, except as modified by conditions below. This development must comply with all requirements of the Town of Fort Myers Beach Land Development Code (LDC) at time of Development Order amendment, except:
 - a. any additional restrictions provided in conditions of this approval; and
 - b. any restrictions modified or eliminated by approved deviations.If changes to the MCP are subsequently sought, appropriate approvals will be required.
2. Allowable uses are limited to the approved Schedule of Uses – See attached *Exhibit G*

3. All development, redevelopment, and substantial improvements approved and included in this CPD must meet or exceed the commercial design standards set forth in LDC Section 34-991 through 34-1010.
4. All outdoor entertainment must cease by 10:00 PM
5. All lot area associated with PARCEL B and PARCEL C for density purposes is attributed to PARCEL A as part of the MCP for this CPD district. (See attached *Exhibit D* for the Schedule of Deviations #2 and #3)
6. PARCEL A may be developed in phases in any order, but a certificate of compliance for the initial phase must be reasonably requested no more than 60 months following Town Council approval of this amended CPD. Certificates of compliance for the entire project must be reasonably requested not less than 160 months following Town Council approval of this amended CPD or the MCP will expire and be deemed vacated.
7. Any reconfiguration of the swimming pool located on PARCEL A must not result in an increased elevation of the top surface of the pool deck or the top edge of the pool.
8. The uses listed for PARCEL A are limited to 75,300 square feet of floor area. Of this total floor area, guest units are limited to 44 units; guest unit size is not to exceed a maximum area of 1,600 square feet, not to exceed an average of 1,000 square feet, and not to exceed a total floor area for guest units of 44,000 square feet.
9. All existing Development Order(s) must be revised to reflect the changed conditions of the approval and newly adopted MCP. The revisions must be submitted within 90 days of Town Council approval and reviewed and approved by Town Staff prior to commencement of any work.
10. Stormwater retention plans and drainage calculations for the project will be required at the time of submission of the Development Order revision.
11. This zoning approval does not address the mitigation of the project's vehicular or pedestrian traffic impacts. A Traffic Impact Statement (TIS) will be required at time of local development order revision and additional conditions may be required at that time.
12. Developer will construct sidewalks acceptable to the Town within or along the rights-of-way of Crescent Street, First Street, and Second Street along the boundary the subject property. The precise locations, dimensions, and specifications for these sidewalks will be determined in cooperation with the Town Public Works Department, but will not exceed the requirements of LDC Section 10-289. The Developer will construct the sidewalks in conjunction with the Town's construction of other sidewalks along the aforementioned streets—or as part of the construction of Phases B2, C, or D—whichever occurs first.

13. Should the Developer and Town agree to construct all or a portion of the sidewalk on the property owned by the Developer, the elimination of any existing parking and/or buffer or landscaping or portion thereof necessary to complete the sidewalk improvement project will not cause the subject property's CPD/DO/Zoning to become non-compliant with the requirements as provided in the CPD/DO/Zoning.
14. Should it become necessary to utilize a portion of the Developer's property for the construction of the sidewalk, it shall be constructed in accordance with the provisions of LDC Section 10-289.
15. The unified sign package, methods of calculation and measurement provided for in Chapter 30 of the Land Development Code, is not to exceed a total sign area of 139 square feet. All sign locations are as shown on the approval Master Concept Plan, stamped received February 20, 2014 attached as *Exhibit H*.

IV. CONCLUSION

If Town Council finds that the requested use is contrary to the public interest or the health, safety, or welfare of the citizens of the Town, or that the request is in conflict with the criteria of LDC Section 34-85 and 34-216 regarding amendments to planned developments Town Council should deny the request as provided in LDC Section 34-85(4). If Town Council chooses to approve the request, special conditions necessary to protect the health, safety, or welfare of the public may be attached if Council finds that such conditions are reasonably related to the requested amendments. Staff has recommended conditions for the Town Council's convenience and consideration.

Staff recommends **APPROVAL WITH CONDITIONS**.

Exhibits:

- A – Legal Description
- B – Resolution 03-35
- C – Subject Property Land Use History
- D – Schedule of Deviations
- E – Phasing Plan
- F – Sign Photographs
- G – Schedule of Uses
- H- Master Concept Plan
- I – Parking Chart
- J – Open Space email