



Fort Myers Beach Town Council

Town Hall Council Chambers
2731 Oak Street
Fort Myers Beach, FL 33931

Agenda

Thursday, April 4, 2024

11:00 AM

ORDER OF BUSINESS

- I. CALL TO ORDER
- II. INVOCATION
- III. PLEDGE OF ALLEGIANCE
- IV. APPROVAL OF FINAL AGENDA
- V. PUBLIC COMMENT
- VI. PUBLIC HEARINGS

- A. Continued from April 1, 2024; Resolution 24-56, SEZ20230302 450 Harbor Court - Rude Shrimp

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING SPECIAL EXCEPTION SEZ20230302, REQUESTING CONSUMPTION ON PREMISES FOR A RESTAURANT WITH A BAR/ COCKTAIL LOUNGE THAT IS VISIBLE FROM THE EXTERIOR OF THE RESTAURANT PER SEC. 34-1264(B)(2)A.3., FOR THE PROPERTY LOCATED AT 450 HARBOR COURT; PROVIDING FOR CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

VII. ADMINISTRATIVE AGENDA

- A. Fees
Discussion on Development Agreement or Site Plan with Deviations Fees
- B. FEMA National Flood Insurance Program (NFIP)
To authorize the Town Manager or his designee(s) to investigate the impact of FEMA's recent determination communicated to Lee County regarding a change in the National Flood Insurance Program CRS rating and to take any and all necessary steps to mitigate any potential financial impact on residents of Fort Myers Beach, and to authorize the

Mayor to sign any and all needed documents to implement needed action.

VIII. FINAL PUBLIC COMMENT

IX. ADJOURNMENT

NOTE: THIS MEETING IS STREAMED LIVE ON FACEBOOK AND YOUTUBE.

IF A PERSON DECIDES TO APPEAL A DECISION MADE BY THE COUNCIL IN ANY MATTER CONSIDERED AT THIS MEETING/HEARING, SUCH PERSONS MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDING IS MADE, TO INCLUDE THE TESTIMONY AND EVIDENCE UPON WHICH ANY SUCH APPEAL IS TO BE BASED.



For special accommodation, please notify the Town Clerk's Office at least 72 hours in advance. (239) 765-0202

In accordance with the Americans with Disabilities Act (ADA), persons needing a special accommodation to participate in the Board's proceedings should contact the Town Clerk's Office not later than three days prior to the proceedings.

1. **Request:**

Meeting Date: April 4, 2024

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING SPECIAL EXCEPTION SEZ20230302, REQUESTING CONSUMPTION ON PREMISES FOR A RESTAURANT WITH A BAR/ COCKTAIL LOUNGE THAT IS VISIBLE FROM THE EXTERIOR OF THE RESTAURANT PER SEC. 34-1264(B)(2)A.3., FOR THE PROPERTY LOCATED AT 450 HARBOR COURT; PROVIDING FOR CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

Why the action is necessary:

Special Exceptions are reviewed and decided by the Town Council

What the action accomplishes:

Approval of the special exception will allow consumption on premises for a bar that is visible from the exterior of a restaurant.

2. **Agenda:**

PUBLIC HEARINGS

3. **Requirement/Purpose:**

resolution

4. **Submitter of Information:**

5. **Background:**

The applicant for Rude Shrimp at 450 Harbor Court is requesting a Special Exception to allow on-premise consumption of alcohol at a restaurant with a bar that is visible from the exterior of the restaurant. Restaurants are allowed to serve alcohol without a special exception unless they fail to meet several requirements. One of those requirements is Section 34-1264(b)(2)a.3. which states that there must be no bar visible from the exterior of the restaurant. The Rude Shrimp has a bar in a trailer, which is visible from the exterior of the restaurant.

The request was reviewed and recommended for approval with conditions to the Town Council by the LPA on March 12, 2024. The Town Council at the April 1, 2024 public hearing, reviewed the request and voted 5-0 to continue the matter to a Special Meeting to be held on April 4, 2024 in order to allow the town staff and applicant additional time to resolve pending issues. Town staff met with the applicant and has revised the conditions in the Resolution for further review by the Town Council. A copy of the revised resolution is attached.

Attachments:

1. revised Res 24-56 SEZ 450 Harbor Ct
2. Staff Report
3. Exhibit A - Aerial Layout
4. Exhibit B - Complete Application
5. Exhibit C - LPA AND TC postcard

Financial Impact:

unknown

6. **Alternative Action**

approve with conditions

7. **Management Recommendations:**

denial

8. **Recommended Approval:**

Sarah Propst, Planning & Zoning

Created/Initiated - 4/1/2024

RESOLUTION NUMBER 24-56

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING SPECIAL EXCEPTION SEZ20230302, REQUESTING CONSUMPTION ON PREMISES FOR A RESTAURANT WITH A BAR/ COCKTAIL LOUNGE THAT IS VISIBLE FROM THE EXTERIOR OF THE RESTAURANT PER SEC. 34-1264(B)(2)A.3., FOR THE PROPERTY LOCATED AT 450 HARBOR COURT; PROVIDING FOR CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Florida Statutes provide that municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal service, and exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, Article X of the Town Charter of the Town of Fort Myers Beach empowers the Town to adopt, amend, or repeal such ordinances and resolutions as may be required for the proper governing of the Town; and

WHEREAS, Freeland FL Holdings LLC, owners of the property situated at 450 Harbor Court, is requesting a special exception which requires Requesting a Special Exception for Consumption on Premises for a restaurant with a bar/ cocktail lounge that is visible from the exterior of the restaurant per Sec. 34-1264(b)(2)a.3. and for live and amplified music; and

WHEREAS, the STRAP number for the subject property is 24-46-23-W3-00027.0000; and

WHEREAS, the Property is located in the "Marina" category of the Future Land Use Map of the Comprehensive Plan and the "Commercial Marina" zoning district of the Official Zoning Map of the Town of Fort Myers Beach, Florida; and

WHEREAS, a public hearing on this matter was legally noticed and held before the Local Planning Agency (LPA) on March 12, 2024, and at said 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 Section 34-87 of the LDC. The LPA found that the request is consistent with the comprehensive plan and the requirements of the LDC and voted to recommend approval with conditions of the variance; and

WHEREAS, on April 1, 2024, and on April 4, 2024 the Town Council held duly noticed public hearings 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 34-87 of the LDC; and

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

NOW THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AS FOLLOWS:

Section 1. The above recitals are true, correct, incorporated herein by this reference, and adopted as the legislative and administrative findings of the Town Council.

Section 2. The Town Council determines the Applicant did/ did not meet its burden of proof that the requested special exception does/ does not meet the requirements of the Town Comprehensive Plan and LDC and approving/ approving with conditions/ denying the special exception is in the best interest of the Town. Therefore, based upon the recommendations, testimony, and evidence presented by the Applicant, Town staff, interested parties and public, the Town Council APPROVES/ APPROVES WITH CONDITIONS/ DENIES a request for special exception for consumption on premises for a restaurant with a bar/ cocktail lounge that is visible from the exterior of the restaurant per Sec. 34-1264(b)(2)a.3. and for live and amplified music.

Section 3. In approving/ approving with conditions/ denying the special exception, the Town Council makes the following findings and conclusions in accordance with the requirements of Section 34-88 of the LDC:

- A. Changed or changing conditions which make approval of the request appropriate.
- B. The request is consistent with the goals, objectives, policies, and intent of the Fort Myers Beach Comprehensive Plan.
- C. The request meets all performance and locational standards for the proposed use.
- D. The request will protect, conserve, or preserve environmentally critical areas and natural resources.
- E. The request will be compatible with existing or planned uses and not cause damage, hazard, nuisance, or other detriment to persons or property.
- F. The requested use will be in compliance with the applicable general zoning provisions and supplemental regulations set forth in Chapter 34 of the Land Development Code; and

Section 4. If the Town Council approves the requested special exception, the following conditions of approval are imposed on the Applicant and the Property:

- A. Approval of this special exception does not give the Applicant an undeniable right to permit approval. Development or redevelopment of the Property must comply with all applicable requirements of the Fort Myers Beach Comprehensive Plan and LDC in effect at the time of permit approval, except as specifically modified herein.
- B. Lighting must be downward directed, shielded and may not create glare off of property.
- C. The special exception to allow an outdoor bar shall be reviewed for continuing appropriateness every 6 months from the date of this resolution until ~~or until construction of a new building has begun, whichever happens first.~~ 1) construction of a new building has begun; 2) upon expiration of the temporary permit; or 3) upon mandate from a state or federal agency, whichever happens first. The special exception shall expire if the applicant fails to coordinate with staff and attend the semi-annual public hearing review.
- D. Live music is allowed on 450 Harbor Court but drums are not allowed as part of the entertainment.
- E. Amplified music is allowed on 450 Harbor Court until 6:30pm Sunday through Thursday, after which amplified music may not be louder than 65-decibels as long as the other conditions of approval are upheld.
- F. Amplified music is allowed on 450 Harbor Court on Friday and Saturday and will be controlled by the Town's noise ordinance (LDC sec. 14-23; Table-1), as long as the other conditions of approval are upheld.
- G. The variance shall only apply to the lot as shown on the provided site plan.
- H. A hurricane evacuation and container removal plan shall be created and submitted to the Town. ~~This plan should be implemented in the case of an evacuation order, no later than June 1, 2024.~~ The plan shall be implemented 1) in the event of a named 2024 or 2025 storm necessitating a Declaration of a Local or State of Emergency, which includes the geographic area of Lee County, or 2) at the discretion of the Building Official. The plan shall require the removal of all personal property used in the business from the site including but not limited to tables, chairs, the bar, the tent, stages, bathrooms, the food truck, merchandise and display, speakers, food prep equipment, and storage boxes. The plan shall require the bar, food truck, bathrooms, and merchandise display to be towed by a light utility vehicle.
- I. Speakers shall be positioned to direct music away from residential neighborhoods.

The foregoing Resolution was adopted by the Town Council upon a motion by Council Member_____ and seconded by Council Member_____, and upon being put to a vote, the result was as follows:

Dan Allers, Mayor	_____
Jim Atterholt, Vice Mayor	_____
John R. King, Council Member	_____
Scott Safford, Council Member	_____
Karen Woodson, Council Member	_____

ADOPTED this __ day of April 2024 by the Town Council of the Town of Fort Myers Beach, Florida.

FORT MYERS BEACH TOWN COUNCIL

Dan Allers, Mayor

ATTEST:

Amy Baker, Town Clerk

**APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE USE
AND RELIANCE OF THE TOWN OF FORT MYERS BEACH ONLY:**

Vose Law Firm, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this ____ day of March 2024.



Town of Fort Myers Beach
COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT

TYPE OF CASE: Special Exception

CASE NUMBER: SEZ—Special Exception, 20230302

CASE NAME: 450 Harbor Court, Consumption on Premises for a restaurant with a bar/ cocktail lounge that is visible from the exterior of the restaurant per Sec. 34-1264(b)(2)a.3.

TOWN COUNCIL HEARING DATE: April 1, 2024 at 9:00 AM

LPA HEARING DATE: March 12, 2024 at 9:00 AM

STAFF RECOMMENDATION: Denial

PREPARED/ SUBMITTED BY: Sarah Propst, AICP, PMP

I. APPLICATION SUMMARY

Applicant/Owner: Lisa Lahners/Freeland FL Holdings LLC

Request: Requesting a Special Exception for Consumption on Premises for a restaurant with a bar/ cocktail lounge that is visible from the exterior of the restaurant per Sec. 34-1264(b)(2)a.3. and for live and amplified music.

Subject property: See attached drawing

Physical Address: 450 Harbor Court

STRAP #: 24-46-23-W3-00027.0000

FLU: Marina

Zoning: Commercial Marina (CM)

Adjacent zoning and land uses:

North:	Water/Matanzas Pass
South:	Residential Conservation (RC) Mixed Residential
East:	Downtown (D) Pedestrian Commercial
West:	Canal then Residential Single-Family Low Density

II. BACKGROUND AND ANALYSIS

Background:

Lisa Lahners, applicant for Rude Shrimp at 450 Harbor Court is requesting a Special Exception to allow on-premise consumption of alcohol at a restaurant with a bar that is visible from the exterior of the restaurant. Restaurants are allowed to serve alcohol without a special exception unless they fail to meet several requirements, one of those requirements is Section 34-1264(b)(2)a.3. which states that there must be no bar visible from the exterior of the restaurant. The Rude Shrimp has a bar in a trailer, which is visible from the exterior of the restaurant.

The CM zoning district allows “marina accessory uses” as an accessory use to a marina. The code defines ***Marina accessory uses*** as *uses normally ancillary and subordinate to a marina, including but not limited to: boat dealers; sale of marine fuel and lubricants, marine supplies, boat motors, and boat parts; restaurant or refreshment facility, boat rental, minor boat rigging, boat repair and service, and motor repair. However, no dredge, barge, or other work dockage or service is permitted and no boat construction or reconstruction is permitted.*

The drawing provided by the applicant (Exhibit A) shows the proposed site layout for The Rude Shrimp trailers. From right to left of the drawing (east to west) a smaller, square shipping container (used for merchandise), the black rectangle is the bar shipping container, the red rectangle is the indoor seating shipping container, the next square is the dry storage shipping container, the next square is the current mobile food truck, and the last square will be a new, 2nd food truck. Of important note, this is not the current location of the trailer units. The Coast Guard is currently in that location on the property.

Analysis:

After Hurricane Ian, The Rude Shrimp moved from a Downtown zoned property to the Commercial Marina zoned property known as Moss Marina. The application for a temporary restaurant with storage and merchandising. The temporary permit was approved June 8, 2023 and is valid until September of 2025.

On June 26th, 2023 the Town was notified of a complaint from a neighbor regarding loud music and bright lights from the site. This was a code issue, which planning staff did not get involved with. In November it was brought to planning staff's attention that there was an exterior bar on this site. At this point planning staff notified management of the need for a special exception to allow this use to continue.

Neighborhood Compatibility:

The abutting neighborhood, on Third Street, Bonita Street and Harbor Court is zoned Residential Conservation. This neighborhood has several homes that are duplexes and the homes may be rented weekly. Many homes were damaged in that neighborhood, staff cannot speak to whether most of the remaining homes are habitable.

The neighborhood across the canal from 450 Harbor Court is zoned Residential Single-Family. This neighborhood has primarily single-family residences and is allowed monthly rentals.

Staff has received complaints regarding noise and music, however, could find no code compliance cases associated with this establishment.

Findings and Conclusions:

LDC Sec. 34-88 sets forth the required findings and conclusions for the approval of a special exception:

a. Whether there exist changed or changing condition which make approval of the request appropriate

Much of the island experienced a high level of damage from Hurricane Ian. This destroyed both homes and businesses. The Rude Shrimp, in response to the loss, has moved and expanded to the site of Moss Marina. Many nearby residential sites are undergoing complete reconstruction or remediation and are intended to remain as residential neighborhoods.

b. Whether the request is consistent with the goals, objectives, policies, and intent of the Fort Myers Beach Comprehensive Plan.

Due to the nature of the zoning on this site and the adjacent neighborhoods' zoning, approval of a special exception for a bar with live music may not be appropriate without safeguards to ensure that nuisances associated with these uses do not impact the nearby residents.

The use is consistent with some of the comp plan goals, objectives, and policies and less in compliance with others. The Comprehensive Plan describes this neighborhood as “The BOWDITCH/NORTH END retains its residential and resort identity. Its motel rooms, older cottages, and highrises all benefit from their proximity to Bowditch Point and the downtown core area yet are comfortably removed from seasonal traffic congestion and outdoor entertainment activities that many residents find intrusive.”

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: vi. The neighborhood context of proposed commercial uses is of paramount importance. The sensitivity of a proposed commercial activity to nearby residential areas can be affected by:

- a. the type of commercial activities (such as traffic to be generated, hours of operation, and noise);
- b. its physical scale (such as the height, and bulk of proposed buildings); and
- c. the orientation of buildings and parking). Commercial activities that will intrude into residential neighborhoods because of their type, scale, or orientation shall not be approved.

POLICY 4-B-7 “MARINA”: designed for prime sites that can provide access to the valuable waters around Fort Myers Beach. This category provides services for recreational boating, including related accessory uses provided that don’t displace recreational marina services. Cruise ships and similar uses that draw large amounts of vehicular traffic are not permitted in this category. Specific regulations will be placed in the Land Development Code.

POLICY 4-B-4 “MIXED RESIDENTIAL”: designed for older subdivisions with mixed housing types on smaller lots, newer high-rise buildings, and mobile home and RV parks. This category will ensure that Fort Myers Beach retains a variety of neighborhoods and housing types. 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 density of 10 units per acre for legally existing dwelling units). Commercial activities are limited to lower-impact uses such as offices, motels, churches, and public uses, and must be sensitive to nearby residential uses, complement any adjoining commercial uses, contribute to the public realm as described in this comprehensive plan, and meet the design concepts of this plan and the Land Development Code. These qualities and overall consistency with this comprehensive plan shall be evaluated by the town through the planned development rezoning process. Non-residential uses (including motels and churches) now comprise 7.9% of the land in this category, and this percentage shall not exceed 12%.

POLICY 4-B-3 “LOW DENSITY”: designed for existing subdivisions with an established low-density character (primarily single-family homes). For new

development, the maximum density is 4 dwelling units per acre, and commercial activities are limited to home occupations as described in the Land Development Code (limited to incidental uses by the dwelling unit's occupant that do not attract customers or generate additional traffic).

c. Whether the request meets or exceeds all performance and locational standards for the proposed use

The request will be required to comply with local, state, and federal air, noise and water pollution standards. It will not adversely affect water quality. Because complaints have been received for this use at this location, staff cannot ensure that it will not create a nuisance to adjacent properties.

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

The request will have no impact on protection, conservation, or preservation of environmentally critical areas and natural resources

e. 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 use is unlikely to cause damage or hazard to adjacent persons or property. It is unknown whether it will cause nuisance or detriment to adjacent persons or property.

f. Whether a requested use will be in compliance with the applicable general zoning provisions and supplemental regulations set forth in Chapter 34 of the Town's Land Development Code.

The request may not be in compliance with the setbacks, based on the location provided to staff in the application packet. However, no setbacks are shown on the document. The setback distance should be equal to the width of the units.

III. RECOMMENDATION

Staff finds that the request for a bar/ cocktail lounge Special Exception does not meet the criteria set forth in Section 34-88 of the LDC.

Therefore, staff recommends that the LPA recommend **DENIAL** of SEZ-20230202. If the LPA chooses to recommend approval to allow consumption on premises for a restaurant with a bar/ cocktail lounge that is visible from the exterior of the restaurant per Sec. 34-1264(b)(2)a.3. the following conditions are recommended.

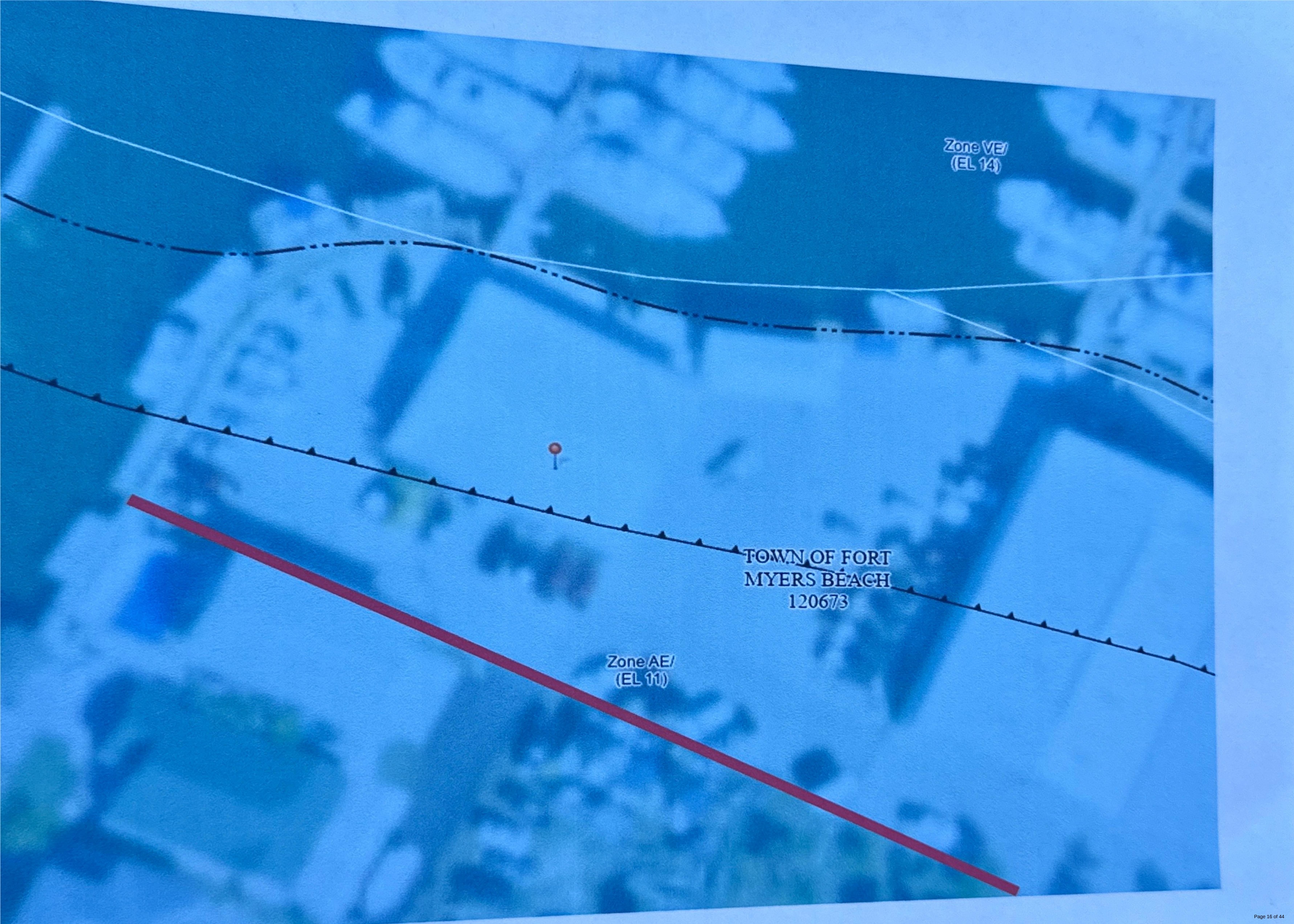
At the March 12, 2024 LPA hearing the LPA recommended unanimous approval of this request with the addition of two conditions and one modification. Changes and additions are included below in strike through underline format for clarity.

IV. CONDITIONS OF APPROVAL

- 1) Approval of this special exception does not give the Applicant an undeniable right to permit approval. Development or redevelopment of the Property must comply with all applicable requirements of the Fort Myers Beach Comprehensive Plan and LDC in effect at the time of permit approval, except as specifically modified herein.
- 2) Lighting must be downward directed, shielded and may not create glare off of property.
- 3) The special exception to allow an outdoor bar shall be reviewed for continuing appropriateness ~~temporary, for a period of every 6 months~~ from the date of this resolution or until construction of a new building has begun, whichever happens first. The special exception shall expire if the applicant fails to coordinate with staff and attend the semi-annual public hearing review.
- 4) Live music is allowed on 450 Harbor Court but drums are not allowed as part of the entertainment.
- 5) Amplified music is allowed on 450 Harbor Court until 6:30pm Sunday through Thursday, after which amplified music may not be louder than 65-decibels as long as the other conditions of approval are upheld.
- 6) Amplified music is allowed on 450 Harbor Court on Friday and Saturday and will be controlled by the Town's noise ordinance (LDC sec. 14-23; Table-1), as long as the other conditions of approval are upheld.
- 7) The variance shall only apply to the lot as shown on the provided site plan.
- 8) A hurricane evacuation and container removal plan shall be created and submitted to the Town. This plan should be implemented in the case of an evacuation order.
- 9) Speakers shall be positioned to direct music away from residential neighborhoods.

Staff Report Exhibits:

- A – Aerial with trailer locations
- B – Complete application
- C – Postcards to adjacent properties
- D – Letters from adjacent property owners



Zone VE/
(EL 14)

TOWN OF FORT
MYERS BEACH
120673

Zone AE/
(EL 11)



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

This is a first part of a two-part application. Please be sure to fill out this form, which requires general information, as well as the Supplemental Form application specific to action requested for the subject property. Please submit a complete Public Hearing application with required, supplemental information, exhibits and documents to zoningpermits@fmbgov.com. Please do not submit the instructions at the end of the application.

Site Address: 450 HARBOR CT, FORT MYERS BEACH, FL 33931
STRAP Number: 244623W3000260000
Applicant: LISA LAHNERS Phone: 239-396-0246
Contact Name: LISA LAHNERS Phone: _____
Email: therudeshrimpc@gmail.com Fax: _____
Current Zoning District: Commercial Marina
Future Land Use Map (FLUM) Category: Marina
FLUM Density Range: _____ Platted Overlay: ☐ YES ☒ NO

ACTION REQUESTED

- ☒ Special Exception
☐ Variance
☐ Conventional Rezoning
☐ Planned Development ☐ Commercial ☐ Residential
☐ Master Concept Plan Extension
☐ Appeal of Administrative Action
☐ Vacation of Platted Right-of-way and Easement
☐ Other – cite LDC Section: _____

SUPPLEMENTAL FORM REQUIRED

PH-A
PH-B
PH-C
PH-D
PH-E
PH-F
PH-G
attach on separate sheet

PART I – General Information

A. Applicant*: LISA LAHNERS Phone: 239-396-0246
**Applicant must submit a statement under oath that he/she is the authorized representative of the property owner.
Please see PART III to complete the appropriate Affidavit form for the type of applicant.*
Applicant Mailing Address: _____
Email: therudeshrimpc@gmail.com Fax: _____
Contact Name: LISA LAHNERS Phone: 239-396-0246



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

B. Relationship of Applicant to subject property:

- | | | |
|--|---|--|
| ☐ Owner* | ☐ Land Trust* | ☐ Partnership* |
| ☐ Corporation* | ☐ Association* | ☐ Condominium* |
| ☐ Subdivision* | ☐ Timeshare Condo* | ☐ Contract Purchaser* |
| ☒ Authorized Representative* | ☐ Other* (please indicate) _____ | |

**Applicant must submit a statement under oath that he/she is the authorized representative of the property owner.
Please see PART III to complete the appropriate Affidavit form for the type of applicant.*

C. Authorized Agent(s). Please list the name of Agent authorized to receive correspondence Agents

Name: _____ Phone: _____
Address: _____
Email: _____ Fax: _____

D. Other Agent(s). Please list the names of all Authorized Agents (attach extra sheets if necessary)

Name: _____ Phone: _____
Address: _____
Email: _____ Fax: _____

Name: _____ Phone: _____
Address: _____
Email: _____ Fax: _____

PART II – Nature of Request

Requested Action (each request requires a separate application)

- ☒ Special Exception
- ☐ Variance from LDC Section _____ - _____
- ☐ Conventional Rezoning from _____ to _____
- ☐ Planned Development
- ☐ Rezoning from _____ to ☐ Commercial PD ☐ Residential PD
- ☐ Amendment. List the project number: _____
- ☐ Extension/reinstatement of Master Concept Plan. List project number: _____



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

☐ Appeal of Administrative Action

☐ Vacation

☐ Right-of-Way

☐ Easement

☐ Other. Please Explain: _____

PART III – Waivers

Please indicate any specific submittal items that have been waived by the Director for the request. Attach a copy of the signed approval as Exhibit 3-1. (Use additional sheets if necessary)

Code Section: _____ Description: _____

Code Section: _____ Description: _____

Code Section: _____ Description: _____

PART IV – Property Ownership (Single Owner)

☐ Single Owner (individual or husband and wife)

Name: Ben Freeland Phone: 615-696-4100

Mailing Address: P.O. Box 656 Antioch, TN, 37011

Email: thomas.freeland@freelandmanagement.com Fax: _____

AFFIDAVIT

APPLICATION IS SIGNED BY AN INDIVIDUAL OWNER OR APPLICANT

I, Ben Freeland swear or affirm under oath, that I am the owner or the authorized representative of the owner(s) of the property and that:

I have full authority to secure the approval(s) requested and to impose covenants and restrictions on the referenced property as a result of any action approved by the Town of Fort Myers Beach in accordance with this application and the Land Development Code;

All answers to the questions in this application and any sketches, data or other supplementary matter attached hereto and made a part of this application are honest and true;



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

I have authorized the staff of the Town of Fort Myers Beach Community Development to enter upon the property during normal working hours for the purpose of investigating and evaluating the request made thru this application; and that

The property will not be transferred, conveyed, sold or subdivided unencumbered by the conditions and restrictions imposed by the approved action.

Signature

Ben Freeland

Printed Name

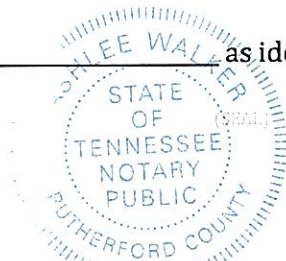
STATE OF TN COUNTY OF Davidson

The foregoing instrument was certified and subscribed before me by means of X physical

presence OR _____ online notarization, this 5 day of January, 2024, by

_____, ☒ who is personally known to me OR ☐ who has produced

_____, _____ as identification.



Notary Public Signature

PART V

Property Ownership (Multiple Owners)

☐ Multiple Owners (including corporation, partnership, trust, association, condominium, timeshare, or subdivision)

- ☐ Complete Disclosure of Interest Form (see below)
- ☐ Attach list of property owners as Exhibit 5-1
- ☐ Attach map showing property owners interests as Exhibit 5-2 (for multiple parcels)
- ☐ For condominiums and timeshares see Explanatory Notes Part V - Exhibit 5-3
- ☐ Letter of Opinion - Exhibit 5-4

DISCLOSURE OF OWNERSHIP INTEREST

If the property is owned in fee simple by an INDIVIDUAL, tenancy by the entirety, tenancy in common, or joint tenancy, list all parties with an ownership interest as well as the percentage of such interest.

Name and Address

Percentage Ownership



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

If the property is owned by a CORPORATION, list the officers and stockholders and the percentage of stock owned by each.

Name, Address and Office

Percentage of Stock

_____	_____
_____	_____
_____	_____
_____	_____

If the property is in the name of a TRUSTEE, list the beneficiaries of the trust with percentage of interest.

Name and Address

Percentage of Interest

_____	_____
_____	_____
_____	_____
_____	_____

If the property is in the name of a GENERAL PARTNERSHIP OR LIMITED PARTNERSHIP, list the names of the general and limited partners.

Name and Address

Percentage of Ownership

_____	_____
_____	_____
_____	_____
_____	_____

If there is a CONTRACT FOR PURCHASE, whether contingent on this application or not, and whether a Corporation, Trustee, or Partnership, list the names of the contract purchasers below, including the officers, stockholders, beneficiaries, or partners.

Name, Address and Office

Percentage of Stock

_____	_____
_____	_____
_____	_____
_____	_____



COMMUNITY DEVELOPMENT DEPARTMENT

APPLICATION for PUBLIC HEARING

Date of Contract: _____

If any contingency clause or contract terms involve additional parties, list all individuals or officers, if a corporation, partnership, or trust.

Name	Address
_____	_____
_____	_____
_____	_____
_____	_____

For any changes of ownership or changes in contracts for purchase subsequent to the date of the application, but prior to the date of final certificate of compliance, a supplemental disclosure of interest must be filed.

The above is a full disclosure of all parties of interest in this application, to the best of my knowledge and belief.

_____	_____
Signature	Printed Name

AFFIDAVIT

APPLICATION IS SIGNED BY A CORPORATION, LIMITED LIABILITY COMPANY (L.L.C.), LIMITED COMPANY (L.C.), PARTNERSHIP, LIMITED PARTNERSHIP, OR TRUSTEE

I, _____ (name), as _____ (title) of _____ (company), swear or affirm under oath, that I am the owner or the authorized representative of the owner(s) of the property and that:

1. I have full authority to secure the approval(s) requested and to impose covenants and restrictions on the referenced property as a result of any action approved by the Town of Fort Myers Beach in accordance with this application and the Land Development Code;
2. All answers to the questions in this application and any sketches, data or other supplementary matter attached hereto and made a part of this application are honest and true;
3. I have authorized the staff of Fort Myers Beach Community Development to enter upon the property during normal working hours for the purpose of investigating and evaluating the request made thru this application; and that
4. The property will not be transferred, conveyed, sold or subdivided unencumbered by the conditions and restrictions imposed by the approved action.



COMMUNITY DEVELOPMENT DEPARTMENT
APPLICATION for PUBLIC HEARING

Name of Entity (corporation, partnership, LLP, LLC, etc)

Signature

Title

Typed or Printed Name

Date

STATE OF _____ COUNTY OF _____

The foregoing instrument was certified and subscribed before me by means of ____ physical presence OR ☐ online notarization, this ____ day of _____, 20____, by _____, ☐ who is personally known to me OR ☐ who has produced _____ as identification.

Seal

Notary Public Signature

PART VI- Property Information

A. Legal Description:

STRAP: 244623W3000260000

Property Address: 450 HARBOR CT FORT MYERS BEACH, 33931

Is the subject property within a platted subdivision recorded in the official Plat Books of Lee County? ☐ No. Attach a legible copy of the legal description as Exhibit 6-1.

☐ Yes. Property identified in subdivision: _____

Book: _____ Page: _____ Unit: _____ Block: _____ Lot(s): _____

B. Boundary Survey:

☒ Attach a Boundary Survey of the property meeting the minimum standards of Chapter 61G17-6 of the Florida Administrative Code. A Boundary Survey must bear the raised seal and original signature of a Professional Surveyor and Mapper licensed to practice Surveying and Mapping by the State of Florida. Attach and label as Exhibit 6-2.



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

C. Property Dimensions:

Width (please provide an average width if irregular in shape) _____ feet

Depth (please provide an average width if irregular in shape) _____ feet

Frontage on street: _____ feet. Frontage on waterbody: _____ feet

Total land area: _____ ☐ acres ☐ square feet

D. General Location of Subject Property (from Sky Bridge or Big Carlos Pass Bridge):

☐ Attach Area Location Map as Exhibit 6-3

E. Property Restrictions (check applicable):

☐ There are no deed restrictions and/or covenants on the subject property.

☐ A list of deed restrictions and/or covenants affecting the subject property is attached as Exhibit 6-4.

☐ A narrative statement detailing how the restrictions/covenants may or may not affect the request is attached as Exhibit 6-5.

F. Surrounding Property Owners (these items can be obtained from the Lee County Property Appraiser):

☐ Attach a list of surrounding property owners within 500 feet as Exhibit 6-6.

☐ Attach a map showing the surrounding property owners as Exhibit 6-7.

☐ Provide Staff with two (2) sets of surrounding property owner mailing labels.

G. Future Land Use Category (see Future Land Use Map):

☐ Low Density

☐ Mixed Residential

☐ Boulevard

☐ Pedestrian Commercial

☒ Marina

☐ Recreation

☐ Wetlands

☐ Platted Overlay



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

EXPLANATORY NOTES

Please do not print, copy and submit these instructions

Please submit required applications, supplemental information, exhibits and documents to zoningpermits@fmbgov.com.

Application fees are set by resolution of the Town Council of the Town of Fort Myers Beach and must be paid before any materials submitted will be considered an application.

The applicant is responsible for the accuracy and completeness of this application. Time delays or additional expenses necessitated by submitting inaccurate or incomplete information will be the responsibility of the applicant. Decisions regarding requests to waive submittal requirements are at the discretion of the Community Development Director and may not be appealed.

All information submitted with the application becomes a part of the public record and will be a permanent part of the file.

All attachments and exhibits must be legible, suitable for recording, and of a size that will fit or conveniently fold into a letter size (8 ½ by 11) folder.

Explanatory Notes – Part I

- A. Applicant's name: The applicant may be the landowner or an authorized agent.
- B. Relationship of applicant to property: Indicate if the applicant is the property owner, and if so, the type of ownership. If the applicant is not the owner of the property, indicate the relationship of the applicant to the owner and submit a notarized authorization from the owner(s) to the applicant.
- C. Agent's name: If the applicant will have others representing him/her in processing the application, indicate name, address, and phone number.
- D. Other agents: Provide contact information for any other agents that may be involved in the request.

Explanatory Notes – Part II

Indicate the requested action.

Explanatory Notes – Part III

If waiver of any application requirement has been approved by the Community Development Director, attach a copy of the approval. Please request waivers prior to applying. Exhibit 3-1

Explanatory Notes – Part IV

- A. If the property owner is an individual or husband and wife, check the box and provide the information.



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

Explanatory Notes – Part V

- A. If there are multiple property owners exhibit 5-1, complete the disclosure form and include the names and mailing addresses of all persons or entities having an ownership interest in the property, including the names of all stockholders and trust beneficiaries. Disclosure is not required of any entity whose interests are solely equity interests that are regularly traded on an established securities market in the United States or another country.
- B. If more than one parcel is involved, submit a list of all property owners and their mailing addresses. Provide a map keyed to the list of property owners showing their interests. The applicant is responsible for the accuracy of the list and map Exhibit 5-2
- C. Where the property is a condominium or timeshare condominium, the application must be initiated by both the condominium association and no less than 75% of the total number of unit owners. To verify ownership, the list of property owners must be identified by unit number and/or timeshare period as applicable, along with proof that the owners who did not join in the application were given actual written notice of the application by the applicants, who must verify the list and the notice by sworn affidavit. Attach this affidavit as Exhibit 5-3.
- D. In addition, a letter of opinion from an attorney licensed to practice law in the State of Florida addressing the considerations in LDC Section 34-201(a)(1)b.3. must be attached as Exhibit 5-4.

Explanatory Notes – Part VI

- A. Include the street address of the subject property. List STRAP number. If more than one parcel is involved, list all STRAP numbers. If you don't know the STRAP number, you can look up the property in the records of the Lee County Property Appraiser at <http://www.leepa.org>. If the application includes only one or more undivided platted lots within a subdivision officially recorded in the Plat Books of Lee County, Florida, identify the property by lot number(s), block if applicable, subdivision unit if applicable, subdivision name, and plat book number and page number. If the property is not one or more undivided platted lots or is in an "unrecorded" subdivision, attach a metes and bounds legal description giving accurate bearings and distances for each course. If multiple parcels are involved, the metes and bounds legal description must describe the perimeter of the entire property subject to the request. The initial point in the description must be related to at least one established identifiable real property corner, such as a government corner or a recorded corner. The bearings used in the description must be clearly referenced to a well-established and monumented line. Exhibit 6-1
- B. Submit a Boundary Survey meeting the minimum technical standards for surveying set out in Chapter 61G17-6 of the Florida Administrative Code. Make sure that the surveyor is aware of any specific needs of the survey (location of Coastal Construction Lines, locations of existing structures, locations of easements, etc) that are relevant to your request. The perimeter boundary of the entire subject property should be indicated clearly with a heavy



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

- line. Exhibit 6-2
- C. Provide the property dimensions or the approximate dimensions if the property is not a regular quadrilateral.
 - D. Describe how to get to the property starting from either the Sky Bridge or the Big Carlos Pass Bridge (specify which). Exhibit 6-3
 - E. If there are any deed restrictions or covenants that might affect the requested action, provide the information. Exhibit 6-4
 - F. A narrative statement detailing how the restrictions/covenants may or may not affect the request is attached as Exhibit 6-5
 - G. Attach a list of the surrounding property owners within 500 feet of the perimeter of the area of the request. Also include two sets of mailing labels providing the names and addresses of the owners on this list, and a map showing the parcel boundaries within the 500-foot radius Exhibit 6-6. This information can be acquired for a small fee by requesting a “variance report” from the Map Sales Office at the Lee County Property Appraiser’s Office. Contact information for the Property Appraiser can be found at <http://www.leepa.org>.
 - H. Indicate the Future Land Use Map category or categories of the property as shown on the Fort Myers Beach Comprehensive Plan’s Future Land Use Map, and whether the property is located in the “platted overlay” on the map.
 - I. Indicate the current zoning of the property. In most cases the current zoning is shown on the official zoning map of the Town of Fort Myers Beach, as adopted by ordinance. If zoning actions affecting the subject property have been taken since March 2004, call Town Hall to verify the current zoning.

Explanatory Notes – Part IV & V

The applicant must sign and submit either of the affidavits in Part V & VI, as applicable.



Case# _____

Date Received: _____

Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT

Supplement PH-A

Additional Required Information for a Special Exception Application

This is the second part of a two-part application. This part requests specific information for a special exception. Include this form with the Request for Public Hearing form.

Project Name: RUDE SHRIMP
Authorized Applicant: LISA LAHNERS
LEOPA STRAP Number(s): 244623W3000260000

Current Property Status:
Current Zoning: CM
Future Land Use Map (FLUM) Category: COMMERCIAL MARINA
Platted Overlay? ☐ yes ☐ no FLUM Density Range:

Requested Action:

☐	Use of premises in the EC (Environmentally Critical) zoning district for:
☒	Use of premises in the COMMERCIAL MARINA zoning district for:

PART I

Narrative Statements

A. Request for: (indicate the proposed use that requires a special exception)

Special exception for COP.

We are requesting a special exception approval to have live music at our business. Music will be daily during season, with a mixture of acoustic and amplified music, played by single and duo musicians. Live music ends by 8PM and we will continue to adhere to the rules and code regarding decibels and times allowed. If we host any events where music will be played later than 8PM, and/or book a larger music group, we will apply for a special event permit.

B. Reasons for request: (state how the property qualifies for a special exception and what impact granting the request could have on surrounding properties. Direct these statements toward the guidelines in LDC Section 34-88)

The property qualifies for a Special Exception because:

Sec. 34-1264. - Sale or service for on-premises consumption.

Restaurants, provided the standards set forth in subsections (b)(2)a. and (b)(3) of this section are met

(2) Exceptions to location standards. Exceptions to location standards are as follows:

a. Restaurants, provided:

3. Only a service bar is used and the sale or service of alcoholic beverages is only to patrons ordering meals, or, if the restaurant contains a cocktail lounge for patrons waiting to be seated at dining tables, the lounge shall be located so that there is no indication from the outside of the structure that the cocktail lounge is within the building;

Granting the requested Special Exception could impact surrounding properties as follows:

Granting the special exception will not impact surrounding properties. Moss Marina (450 Harbor CT) is properly zoned per code (see section 34-2) to allow a restaurant and bar to operate on the property. We are providing an establishment for both locals and tourists to enjoy, as well as providing employment to 15-20 individuals.

PART 2

Submittal Requirements

All applications for a special exception must submit fourteen (14) copies of this application form and all applicable exhibits.

Required Items

- Public Hearing Request Form
- Supplemental form PH-A
- Site Plan (to scale) including the current use of all existing structures on the site, and those on adjacent properties within 100 feet of the perimeter; all proposed structures and uses for the site; and any proposed fencing and screening.
- Fee in the amount of \$3800.00/\$3300.00 for an amendment

For New Communication Towers:

- a. Lee County Application for Communication Tower
- b. Shared-Use Plan Agreement



Town of Fort Myers Beach
Community Development Services - Planning Division
2525 Estero Blvd,
Fort Myers Beach, FL 33931

NOTICE TO PROPERTY OWNERS WITHIN 500 FEET

Notice is hereby given that the Local Planning Agency/ Town Council of the Town of Fort Myers Beach will be conducting a public hearing at the Town Hall Council Chambers located at 2731 Oak St, Fort Myers Beach, Florida, 33931.

TIME: 9 AM

DATE: LPA March 12, 2024, and Town Council April 1, 2024

CASE: SEZ20230302

ADDRESS: 450 Harbor Ct

APPLICANT: Lisa Lahners

REQUEST: The applicant is requesting a Special Exception for Consumption on Premises for a restaurant with a bar/ cocktail lounge that is visible from the exterior of the restaurant per Sec. 34-1264(b)(2) a.3. and for live and amplified music

TOWN CONTACT: SARAH PROPST SARAH.PROPST@FMBGOV.COM

You may appear in person, through counsel, or through an authorized agent and provide testimony, legal argument, or other evidence. At this hearing, the **Local Planning Agency/ Town Council** will review the application materials and hear testimony to make a **recommendation/decision**. Complete records or transcripts of the proceedings are not provided by the Town.

Copies of the application and staff report are available for viewing at Fort Myers Beach Town Hall. Call 239-765-0202 for more information. Town Hall is open between the hours of 8:30 AM and 4:30 PM. Reasonable accommodations will be made in accordance with the Americans with Disabilities Act. If you need reasonable accommodation, contact Town Hall at 239-765-0202.



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Town of Fort Myers Beach
2525 Estero Blvd,
Fort Myers Beach, FL 33931

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«OwnerName»
«MailAddress»
«MailCity», «MailState», «MailZip»«Next Record»

«OwnerName»
«MailAddress»
«MailCity», «MailState», «MailZip»«Next Record»

Town of Fort Myers Beach
2525 Estero Blvd,
Fort Myers Beach, FL 33931

Town of Fort Myers Beach
2525 Estero Blvd,
Fort Myers Beach, FL 33931

«OwnerName»
«MailAddress»
«MailCity», «MailState», «MailZip»«Next Record»

«OwnerName»
«MailAddress»
«MailCity», «MailState», «MailZip»

1. **Request:**

Meeting Date: April 4, 2024

Discussion on Development Agreement or Site Plan with Deviations Fees

Why the action is necessary:

What the action accomplishes:

2. **Agenda:**

ADMINISTRATIVE AGENDA

3. **Requirement/Purpose:**

4. **Submitter of Information:**

5. **Background:**

During the April 1, 2024 Town Council meeting, the Town Council requested a discussion on development order fees during the April 4, 2024 Special Meeting.

Attachments:

1. Development agreement with Deviations application procedures
2. FY24 Fee Schedule

Financial Impact:

6. **Alternative Action**

7. **Management Recommendations:**

8. **Recommended Approval:**

Jason Freeman, Legislative Liaison / Deputy Town Clerk

Created/Initiated - 4/3/2024



COMMUNITY DEVELOPMENT DEPARTMENT DEVELOPMENT AGREEMENT WITH DEVIATIONS APPLICATION

Name of Applicant: _____
Address: _____
City, State, Zip: _____
Phone: _____
Email Address: _____

RELATIONSHIP OF APPLICANT TO OWNER (CHECK ONE)

- ☐ Applicant is the sole owner of the property.
☐ Applicant has been authorized by the owner(s) to represent them for this action.
☐ Application is Town-initiated.

A. Authorized Agent: (if different than applicant) Please list the name of the person who is to receive all Town's initiated correspondence regarding this application.

Name: _____
Phone: _____
Address: _____
Email: _____

1. Additional Agent(s): Provide the names of other agents that the Town may contact concerning this application.

PROPERTY OWNERSHIP

☐ **Property Owner(s):** If multiple owners (corporation, partnership, trust, association, condominium, timeshare, or subdivision)

Name: _____
Phone: _____
Address: _____
Email: _____

☐ **Single Owner (individual or husband and wife)**

Name: _____
Phone: _____
Address: _____
Email: _____

COMMUNITY DEVELOPMENT DEPARTMENT DEVELOPMENT AGREEMENT WITH DEVIATIONS APPLICATION

A. Certification of Title and Encumbrances

Title certification document, no greater than 90 days old.

Date property was acquired by present owner(s): _____

PROPERTY INFORMATION

B. Legal Description: Book: _____ Page: _____ Unit: _____ Block: _____ Lot(s): _____

If the property is in a platted subdivision recorded in the official Plat Books of Lee County, provide the subdivision _____

C. Strap Number(s): [Attach extra sheets if additional space is needed.]

D. Street Address of Property: _____

E. Any deed restrictions existing or being imposed upon the Land, and a description of any current or proposed reservation or dedication of land for public purposes?

YES _____ NO _____

F. Property Restrictions (check applicable):

- ☐ There are no deed restrictions and/or covenants on the subject property.
☐ A list of deed restrictions and/or covenants affecting the subject.

SUBMITTAL REQUIREMENTS

☐ Attach a Boundary Survey (must bear the raised seal and original signature of a Professional Surveyor) showing the approximate location of all environmentally sensitive lands, or lands subject to the jurisdiction of the U.S. Army Corps of Engineers, Florida Department of Environmental Regulation, the Southwest Florida Water Management District or Lee County, Florida.

☐ Site plan showing where buildings (with heights), structures, parking, and other features/amenities of the proposed development shall be located. If the Land is located on the water, any view corridors or public access location(s), if any, will be located.

☐ A statement and finding demonstrating that the proposed Development Agreement will be consistent with the comprehensive plan of the town.

COMMUNITY DEVELOPMENT DEPARTMENT DEVELOPMENT AGREEMENT WITH DEVIATIONS APPLICATION

- ☐ The desired duration of the Development Agreement shall not be less than the expected completion of the development on the Land.
- ☐ Development uses and regulations currently legally permitted on the Land, including densities, intensities, heights of structures, and setbacks; and, if different, any of the same that are currently on the Land, or that were on the Land at any time in the last 24 months.
- ☐ Development uses and regulations, including densities, intensities, heights of structures, and setbacks being requested on the Land.
- ☐ A description of the public facilities which will provide services to support the development, the approximate date that new public facilities, if needed, will be constructed, and a schedule to assure that the public facilities and services will be available concurrent with the impacts of development
- ☐ A description of any current or proposed reservation or dedication of land for public purposes.
- ☐ The application must explicitly identify each instance of conflict with existing ordinances and expressly provide for the Development Agreement to control, or else all of the provisions of such conflicting ordinances shall control to the extent that the Development Agreement fails to expressly provide otherwise. Any ambiguity with respect to whether a Development Agreement or an ordinance is to control shall be interpreted to favor the ordinance. A statement listing all contemplated zoning districts or land use modifications or requests for more flexibility that will be required if the proposed Development Agreement were to be approved.
- ☐ A statement that a copy of the Development Agreement with Deviations Application has been furnished by First Class U.S. Mail to all property owners within 100 feet of the boundaries of the Land at the addresses of such property owners found on the Lee County Property Appraiser website, and a list of such property owners and addresses.
- ☐ A concise and complete recital of the proposed contents of the Development Agreement using the Form of Development Agreement with Deviations attached as Ex. "A".
- ☐ The duration of the development agreement, which duration shall not be less than the anticipated time period needed to fully build out the development.
- ☐ The development rights to be permitted on the land, and setting forth densities, intensities, building height(s), and setbacks. Uses of the land shall be those allowed in the underlying zoning district unless otherwise specifically provided, such as when a special exception is a part of the development agreement.
- ☐ A description of the public facilities and services, including on-site improvements that will serve the proposed project, including designation of the entity or agency that shall be providing such

COMMUNITY DEVELOPMENT DEPARTMENT DEVELOPMENT AGREEMENT WITH DEVIATIONS APPLICATION

facilities. Additionally, if new facilities are needed to serve the project, the date by which such facilities will be constructed and a schedule to assure that public facilities and services shall be available concurrent with the impact of the development project.

☐ A description of any reservation or dedication of land for public purposes. The Development Agreement shall provide specifically how the land dedication obligation for the project, if any, is to be met. In the event that land or any interest herein is to be conveyed to the town or other entity in discharge of the foregoing, the Development Agreement shall provide that such conveyance or dedication will be by warranty deed or easement, or other instrument in form and substance acceptable to the town attorney, together with evidence of title in form acceptable to the town attorney prepared by an attorney who is a member of the Florida Bar, or a title company licensed in Florida, all depicting who is the owner in fee simple of the land subject to the conveyance or dedication, and the holders of any other interest or liens affecting said land.

☐ A description of all local permits approved or needed to be approved for the development of the Land, specifically to include at least the following:

Any required submission to the Southwest Florida Regional Planning Council and any required permission of the State of Florida, Department of Environmental Regulation, the U.S. Corps of Army Engineers, the Southwest Florida Water Management District, the U.S. Environmental Protection Agency or any other required governmental permission. The Development Agreement shall specifically provide that said development permission will be obtained at the sole cost of the owner of the Land, and that any approvals previously given, including the Development Agreement, shall not in any manner obligate the town or any other governmental agency to grant other permit approvals. Under these conditions, action in reliance on the Development Agreement or expenditures in pursuance of its terms or any rights accruing to the project owner thereunder shall not vest any development rights in the owner of the Land or the project to a continuation of the Development Agreement.

☐ A specific finding in the Development Agreement that the proposed project permitted or proposed is consistent with the town's Comprehensive Plan and Land Development Code, or that, if deviations are necessary for the zoning district or land use plan designations on the subject Land, such Development Agreement specifically lists such deviations in detail.

☐ Statement in the Development Agreement showing how sidewalk and pedestrian travel is being addressed in a conceptual plan showing the proposed layout of streets, lots, green areas, conservation areas, bike ways, parks, public facilities and such other amenities.

☐ A statement in the Development Agreement describing how environmentally sensitive land, if any, will be preserved and managed.

☐ A statement in the Development Agreement describing how threatened or endangered species are being protected.

COMMUNITY DEVELOPMENT DEPARTMENT DEVELOPMENT AGREEMENT WITH DEVIATIONS APPLICATION

- ☐ A statement in the Development Agreement explicitly identifying each instance of conflict with existing ordinances and expressly providing for the Development Agreement to control, or else all of the provisions of such conflicting ordinances shall control to the extent that the Development Agreement fails to expressly provide otherwise. Any ambiguity with respect to whether a Development Agreement or an ordinance is to control shall be interpreted to favor the ordinance. A statement indicating that failure of the Development Agreement to address a particular permit condition, term or restriction shall not relieve the owner or developer of the necessity of complying with the laws governing said permitting requirements, conditions, terms or restriction.
- ☐ A provision that any matter or action required under existing ordinances of the town shall not be otherwise amended, modified or waived, unless such modification, amendment or waiver is expressly provided for in the Development Agreement with specific reference to the Code provision so waived, modified or amended ("deviations").
- ☐ A statement whereby if the applicant, upon approval of the Development Agreement, fails to comply with the terms of the agreement, the town may bring an action in a court of law with competent jurisdiction to protect its rights and interests. All associated reasonable costs and attorney's fees shall be reimbursed to the town if an action at law is necessary regardless of whether the Town is the prevailing party.
- ☐ Post-Development Agreement requirements. An acknowledgement that prior to the issuance of any building permits being issued for the development that:
- ☐ All existing and proposed utilities and the manner in which existing utilities will be extended to the site and/or expanded for the use of the development including water, sewer, gas, electricity, cable television, and other utilities shall have been approved by the Town;
- ☐ The proposed drainage plan for the proposed project shall have been approved by the Town;
- ☐ The proposed grading plan and elevation requirements of the town, including, but not limited to those related to the National Flood Insurance Program as applicable to the town shall have been approved by the town;
- ☐ The traffic impact and parking plans as applicable to the town shall have been approved by the town; and
- ☐ All other town requirements are met that are necessary for the initial building permits to build the project on the Land.
- ☐ An acknowledgement that the town shall not have any liability whatsoever for any expenses or other damages that may be incurred as a result of denial of the Development Agreement or for

COMMUNITY DEVELOPMENT DEPARTMENT DEVELOPMENT AGREEMENT WITH DEVIATIONS APPLICATION

denial of building permits due to the failure to meet the town's requirements as to any Post-Development Agreement requirements.

☐ A description of any special benefit to the Town as a result of the development such as, the promotion of economic development, affordable housing, hurricane recovery, provision of needed public facilities, provision of public land or recreation, and/or elimination of blight.

☐ A finding that the proposed Development Agreement is reasonable and not arbitrary and in the best interest of the town.

DRAFT



FY2023-2024

Town Wide Fee Schedules



FY 2023-2024 TOWN WIDE FEE SCHEDULE

	CURRENT FEE	PROPOSED FEE	NOTES
ADMINISTRATIVE ACTIONS			
Administrative COP	1000		
Administrative Setback Variance	750		
ABT Review (Alcoholic Beverages & Tobacco)	50		
Wireless Communication Facility	1500		
Single-Family Minimum Use Determinations (MUD)	350		
Appeal	1000		
Accessory Apartment Determination (AAD)	350		
Base Flood Elevation Determination Letter (FED) BFE	250		
DEP Setback Letter (DEP) (setbacks only - all other inquiries are ZVL or AI)	250		
Zoning Verification Letter (ZVL)	250		
Residential Zoning Requests	\$25 for first 15 minutes of staff time; \$10 for each additional 15 minute increments of staff time		
Historical Review	150		
Recognition Plaque	50		
Administrative Interpretation (ADI)	\$250 + \$100 for each additional issue/question		
Joint-use parking lot approvals	300		
Certificate of Use - Commercial	100		
Temporary Use Permit	100		
Home Occupation Certificate	25		
Sign Permit - Up to 2 signs & additional review after 2 charged at applicable review fees	\$100 + building permit fees as applicable + \$25.00 each additional		
Temporary Sign Permit (i.e. business opening signs)	50		
Garage Sale Permit	10		
Administrative Relief	500		
Pre-Application meetings (1st one No Charge)	\$250 + hourly costs for time over 1hr		
All Grant processing fees	500		
PD Administrative Amendment	1500		
Development Agreement-Original Agreement	5000		
Advertising Costs - Additional	at cost + 10%		
Development Agreement-Amendment	2500		
Advertising Costs - Additional	at cost + 10%		
CODE ENFORCEMENT			
Initial Inspection, Re-Inspection, Pre-Magistrate and Compliance per ½ hour	50		
Mail fees	Actual Postage Cost		
Recording Fees	24		
Code Enforcement Citation Fee	Not to exceed \$500		
Code Enforcement Irreparable/Irreversible Citation Fee	Not to exceed \$5000		
Compliance Agreement Fee	100		
Administrative Support 1 Hour	30		
Fire Department Enforcement Fee	TBD		
Lien Search Fee	50		
Special Magistrate Administrative Fee	250		
Simplifile Fee	Actual Cost to file electronically		
DEVELOPMENT ORDERS			
Development Orders	3000		
Development Order Amendment	775		
LIMITED DEVELOPMENT ORDERS			
Type 1a: Cumulative addition or enlargement of an existing impervious area.	500		
Reseal or Restripe	350		
Type 2: Any out-of-door recreational facilities, provided the total cumulative additional impervious area does not exceed 8,000 sq. ft.	350		
Type 3: Any one-time subdivision of land into 4 or less lots where zoning district regulations permit such subdivision. / Condo creation	\$350 residential splits/\$500 commercial splits		
Type 4: Any single building accessory improvements thereto on a single non-conforming lot as defined in LDC Section 34-3271(b).	500		
Type 5: Any improvements for public water access purposes in town-owned or town-maintained rights-of-way.	350		

Adopted: September 25, 2023 - Resolution 23-115 Fee Schedule



FY 2023-2024 TOWN WIDE FEE SCHEDULE

	CURRENT FEE	PROPOSED FEE	NOTES
DEVELOPMENT ORDERS (Continued)			
Type 6: Any development for fenced or screened outdoor storage as defined in Ch. 34.	350		
Type 7: The installation of new utility lines in existing right-of-ways.	1100		
Type 8: Any other improvement to land determined by the director to have insignificant impacts on public facilities.	1100		
LDO Amendment	50		
Resubmittal	100		
MOORING FIELD (plus all applicable taxes)			
Daily Rate	25		
Weekly Rate	175		
Monthly Rate	410		
Mooring Field Pump Out Paid Rented Mooring	1 pump free/24 hr		
Mooring Field Pump Out Non Mooring Field Rental per Pump Out	5		
DOCKWA Credit Card Processing Fee 3.5%	3.50%		
Lost FOB	25		
Late Fee	5/day		
Merchandise	Price as Marked		
Mooring Field Parking Permit plus any applicable fees	\$30/length of contract		
PARKING FEES			
Annual Rate - Resident i.e. Estero Island Property Owner	25		
Business Owner - Annual	50		
Parking bags per bag	6		
Parking Spot Per Hour (incl. Special Event)	5		
Parking Decal Lost/Stolen/Replacement	5		
Charging Stations	Level 2 - not to exceed \$2/hr Level 3 - not to exceed .60/min		
Right of Way (ROW) per Resolution 18-20	\$100/spot 1st Calendar Yr; \$50/spot per Calendar Yr if paid by Nov. 30th		
PARKS AND RECREATION ORDINANCE 97-5			
Parks and Recreation Ordinance 97-5 Violations	Up to \$500		
PUBLIC HEARING			
500 ft Notification Fee	1.50/strap number/mailling recipient		
Rezoning (conventional)	\$5800 + \$250/Ac over 1 Acre		
Special Exception	\$3800/\$3300 for amendment		
Variance (residential)	1800		
Additional Variance	500		
Variance (non-residential)	2800		
Additional Variance	700		
Application for land development code text amendment*	2800		
Per Added section	if actual charge		
Comprehensive Plan FLUM amendment*	5800		
Per Added acre	if actual charge		
Per Additional acre	1000		
Comprehensive Plan text amendment*	5800		
Per Added policy	if actual charge		
COMPREHENSIVE PLAN SMALL SCALE AMENDMENT			
Placement of Fill	1000		
With drainage plan	700		
Adjacent property owner notifications >50	Cost + 10%		
Administrative / Advertising Fee	Cost + 10%		
Vacations (ROW and/or Plat)	1000		
PD Amendment Minor (<1 acre total property area, Public Hearing)	2000		
MCP Extension / Application (w/o rezoning)	3000		
PD Reinstatement	4000		
*Outside consultant fees associated with any application will be passed through to the applicant at 103% of rate billed to the Town by consultant			
Hearings and Appeals going to Council	1000		
PD Base Fee (up to one acre)	\$8000 + \$1000/additional acre		
PD Amendment	6500		
Deviations (residential)	1-5: \$1800/6+: additional \$150/ea		

Adopted: September 25, 2023 - Resolution 23-115 Fee Schedule



FY 2023-2024 TOWN WIDE FEE SCHEDULE

	CURRENT FEE	PROPOSED FEE	NOTES
PUBLIC HEARING (Continued)			
Deviations (non-residential)	Outside consultant fees associated and required for any application will be passed through to the applicant at a rate determined by the Town Manager and billed to the Town by consultant		
Continuance (case scheduled and advertised)	500		
Deferrals	\$250 after advert./NC before		
Withdrawal	\$250 after advert./NC before		
Appeal to LPA	150		
PUBLIC WORKS			
Labor/Maintenance Cost (Grass cutting, lawn maintenance, special event tasks, etc.)	Actual Cost + \$35/ea		
Inspections/Review/Re-Inspection(s)	50		
Memorial Benches	\$575 (includes intallation) / must pay inscription cost @ \$4/letter		
REGISTRATIONS AND YEARLY RENEWALS			
Displays, Rentals and Permits	150		
Contractor Registration / yearly renewal	25		
Driveway re-inspection	25		
REVIEW FEES			
Zoning Review	100		
Floodplain Review	\$100; \$50 ea submittal after 2nd or \$25 tradees, valuation & scope review		
LOMR/LOMA Review	500		
Environmental Review	100		
Re-inspection Fee	50		
FMB Review Fee	25		
Public Works Review Fee	\$70 + cost of subconsultant services		
FMB Review -Resubmittal	\$50 ea submittal after the 2nd resubmittal		
Parking Lot Permit	Per Code		
Parking Lot Yearly Inspection Fee	50		
RIGHT OF WAY PERMIT			
Right of Way Permit	50		
Business Extension/Sidewalk Café Policy per Resolution 18-46	12.50/Sq Ft		
Daily Rental of Bay Side Park (non business extension)	150/hr		
Times Square Event Rentals	To Be Approved By Council Per Event		
SPECIAL EVENTS			
Regular Special Event Permit	50		
Late Fees < 30 days Regular / <45 days Council for a COMPLETED app	50		
Special Event Permits going before Town Council	100		
Farmers Markets	100 + 10/day		
Events With More Than 10 Days	Additional 10% per day		
Beach Access Rental for Group of 11 or more	350		
Beach Access Rental for Group of 10 or less	150		
STORMWATER REVIEW FEES			
Stormwater Ordinance 15-08	Per Ordinance		
Administrative Fee	Per Ordinance		
Stormwater Review, Inspection and Re-Inspection	50		
NPDES Annual Inspection	100		

Adopted: September 25, 2023 - Resolution 23-115 Fee Schedule

1. **Request:**

Meeting Date: April 4, 2024

To authorize the Town Manager or his designee(s) to investigate the impact of FEMA's recent determination communicated to Lee County regarding a change in the National Flood Insurance Program CRS rating and to take any and all necessary steps to mitigate any potential financial impact on residents of Fort Myers Beach, and to authorize the Mayor to sign any and all needed documents to implement needed action.

Why the action is necessary:

What the action accomplishes:

2. **Agenda:**

ADMINISTRATIVE AGENDA

3. **Requirement/Purpose:**

Other

4. **Submitter of Information:**

5. **Background:**

Attachments:

Financial Impact:

6. **Alternative Action**

7. **Management Recommendations:**

8. **Recommended Approval:**

Amy Baker, Town Clerk

Created/Initiated - 4/3/2024