



# Town of Fort Myers Beach

## COMMUNITY DEVELOPMENT DEPARTMENT

### STAFF REPORT FOR TOWN COUNCIL

<b>TYPE OF APPLICATION:</b>	Commercial Planned Development (CPD) with Master Concept Plan (MCP), four deviations to equivalency factor, building height and stories, total floor area, respectively; request for Consumption on Premise (COP), pedestrian bridges over 5 <sup>th</sup> Street and Estero Boulevard; and to build a 290 unit hotel with accessory uses and aquatic venue.
<b>FILE NUMBER:</b>	DCI17-0001
<b>STAFF REPORT DATE:</b>	Recommendation Report: March 16, 2018
<b>LPA HEARING DATE:</b>	February 13, 2018 – Approval 5-2 with Conditions
<b>TOWN COUNCIL DATE:</b>	April 9, 2018
<b>PREPARED AND SUBMITTED BY:</b>	Jason W. Green, AICP, CFM

On February 19, 2018, staff was requested by Town Council to provide a recommendation separate from the other documents already on the record on the application for rezoning DCI 17-0001, TPI-FMB II, LLC request for a rezoning to CPD with a Master Concept Plan. The LDC requires the CPD zoning district to be the same as for the CR zoning district for those CPD's that are primarily lodging, unless the zoning approval specifies otherwise. Staff agrees with the sentiment that redevelopment of this area is desirable.

Prior to this report, several critical items were addressed in a previous report by staff that was a supplement to the Bill Spikowski LPA report. Additionally, the Local Planning Agency (LPA) has offered a recommendation of approval with conditions. This report provides information as a response to Council's request and focuses on the proposed deviations and associated conditions #1-3. The conditions recommended by the Local Planning Agency (LPA) are part of the agenda packet. It is important to note that the LPA's recommendations did not address the encroachment by the aquatic venue over the Coastal Construction Control Line and the Environmentally Critical (EC) zoning boundary.

In the aforementioned Spikowski report includes statements that indicate the deviations are interwoven (Spikowski LPA Report, Pg. 10) and require various degrees of consideration. Town staff analysis is primarily based on the key factors for these deviation discussions, and most notably, availability of infrastructure to meet the needs of the proposed development. One example is parking requirements previously discussed in the Staff Report prepared for the LPA. Another key factor is scale and consistency with surrounding developments, as well as, consistency with previous decisions when applicable.

### **Deviation #1 Equivalency Factor**

The applicant has requested 290 hotel rooms, which according to Spikowski's report (Pg. 10), is a 12.0 equivalency and four times greater than the 3.0 equivalency factor established within the Comprehensive Plan and Land Development Code.

### **Room analysis:**

Property – 4.74 acres x 6 du/ac (Pedestrian Commercial FLU) = 28 dwelling units by right available to the proposed project area for conversion (Spikowski LPA Report, Pg. 9)

28 dwelling units x 3.0 equivalency factor = 84 hotel rooms (<450 sq. ft.) (Spikowski LPA Report, Pg. 9)

Total hotel units permitted = 84 (increase to room size may reduce the equivalency factor per LDC 34-1803)

This analysis is summarized in Spikowski's LPA Report on page 10. Staff concurs with Mr. Spikowski that the total number (84) of hotel rooms permitted versus the 290 hotel rooms requested, which is a 12.0 equivalency and four times greater than the 3.0 equivalency factor established within the Comprehensive Plan and Land Development Code (LDC).

### **Deviation #2 Height**

On Page 15 of Spikowski's LPA report, he reports that that heights are set separately for three areas in the Downtown zoning district. The maximum height that applies to the bayside and north of Estero Boulevard property facing Crescent and Fifth (most of the proposed hotel development) is identified by Mr. Spikowski (B(2), Pg. 15) as 3 stories and up to 30 feet tall (above base flood elevation). He also reports these findings on Pg. 16 of his LPA Report. Staff concurs with these findings.

Mr. Spikowski states on page 10 of the LPA Report that if Council limited the structure to the 3 stories instead of the 4 stories requested by the applicant, then the loss of the 4<sup>th</sup> story "would eliminate about 113 hotel rooms, leaving only 177 rooms if the current design were otherwise retained."

### **Additional Height / Roof Issue**

In addition to the building height, the applicant has requested a "5<sup>th</sup> story" for a roof top terrace for seating during special events. This creates a defacto 5<sup>th</sup> story that is open air and has the potential to create visual and noise impacts to the surrounding area. Spikowski's LPA Report identifies that a seating area as proposed must meet the height limits set by the Council for this project (Pg. 17). Based on its location on the roof, it also presents challenges for Staff to enforce conditions on issues generated by the groups utilizing this space. Consequently, Staff recommends not including the roof top occupancy as a by right use and review applications for special events on a case-by-case basis as normally done.

Staff further recommends that the Council set 1) a clear maximum height above flood (as measured by the LDC); 2) to total height; and 3) to total number of stories. Any proposed deviation to height must be found to be compatible with the surrounding area. The proposed height of the building is not consistent with the surrounding area (See Town Staff LPA Report, Pg. 5 of 6). Staff also recommends that the Council consider limitations on roof and architectural features size and frequency to mitigate the additional height that these features create, as Mr. Spikowski also reports on Pg. 16 of the Spikowski LPA Report. Limiting roof and architectural features (example <20% of roof line) can achieve a less imposing appearance.

### **Deviation #3 Floor Area Ratio**

Bill Spikowski offers an analysis of the proposed Floor Area Ratio (FAR) (Spikowski LPA Report, Pg. 18) that includes two groups, Parcels 1 and 3 (bay side) and Parcel 2 (beach side). His analysis includes a summary of the LDC, which limits “by right” development of 1.4 FAR for properties fronting on Estero Boulevard and 1.0 for all other properties in the Downtown zoning district. He further states that the Town Council should not give consideration to the applicant’s justification for this deviation (Spikowski LPA Report, Pg. 18) and offers on page 19 of the LPA Report that “If Town Council approves all or most of the additional hotel rooms requested in Deviation #1, it should not be surprising that the building will be larger than anticipated by the LDC and that other regulations might need to be adjusted to accommodate the larger building.” Town staff concurs with this analysis and recommends the Council set the FAR to be consistent with the Comprehensive Plan and LDC.

### **Landscaping**

Details about landscaping were not discussed by the LPA; however, recommendations by Mr. Spikowski related to Condition #4 (Spikowski LPA Report, Pg. 24), mentions that the landowner shall be responsible to maintain the tree yards and street trees as long as the resort is in operation. Staff recommends that the Council consider requiring maintenance (and if needed, replacement) in perpetuity and other public plantings if the required amount cannot fit within the applicant’s buffers.

Additionally, the applicant’s requested deviation is based on creating a design that allows for public use of a sidewalk. The staff recommends that the Council require that in the event the applicant cannot meet any of the LDC requirements as currently adopted, then they shall be required to make the Town whole, for example plant any shortage of plant material on public property.

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**Parking**

The LDC requirement may be viewed as rigid in some cases, based on the applicant’s primary uses, without a strategy to protect the Town if the applicant’s stated best efforts to mitigate parking requirements by strategies such as asking their employees to use public transportation. The LDC based parking calculations are as follows (and previously provided in the LPA Staff Report, Pg. 3):

<b>Use</b>	<b>TPI FMB II</b>	<b>Spikowski</b>	<b>LDC</b>
Guest Room <450	333.6	334	334
Guest Room >450	18	18	18
Hotel Rest/ Bar	Included	Included	Included
Hotel Gift Shop	Included	Included	Included
Retail Out Bldg	Included	Included	6.9
<b>Subtotal</b>	<b>351.6</b>	<b>352</b>	<b>358.9</b>
<b> </b>			
Tiki Bar	Included	Included	108.75
Beachside Rest/Bar Indoor	128.472	129	128
Beachside Rest Outdoor	7.57	7	8
Beachside Bar Outdoor	Included	8	5
Employees	Included	Included	NOT Included
<b>Subtotal</b>	<b>136</b>	<b>144</b>	<b>249.75</b>
<b> </b>			
Aquatic Venue Hotel Users	Included Hotel	Included Hotel	N/A
Aquatic Venue Public	50.625	57	N/A
Aquatic Venue	N/A	N/A	237.5*
Employees	Included	Included	NOT Included
<b>Subtotal</b>	<b>50.625</b>	<b>57</b>	<b>237.5</b>
<b> </b>			
<b>Employee Parking</b>	<b>0</b>	<b>0</b>	<b>50</b>
<b> </b>			
<b>Subtotal Pre Discount</b>	<b>538.2</b>	<b>553</b>	<b>896.15</b>
<b> </b>			
<b>Parking after Downtown Discount (33%)</b>	<b>361</b>	<b>371</b>	<b>601*</b>

\*Staff recognizes that the LDC requirement for aquatic venue may be restrictive, however, extra parking spaces will insure sufficient parking until such time as the operations demonstrate a more precise demand at which the applicant could seek a reduction.

## **Parking Operations**

Staff also concludes that if the application is approved as submitted then the project does not have adequate space for stacking vehicles to be serviced through their proposed valet operation and vehicles will be stacked on the Town's public streets. Tetra Tech has provided additional study and analysis. However, Council's final determination of intensity and uses may affect our conclusions related to parking.

## **Traffic**

The Tetra Tech report on traffic study and related issues is attached. Staff does not recommend including the 5<sup>th</sup> Street pedestrian bridge. Approving a Pedestrian Bridge would be inconsistent with the Old San Carlos Boulevard – Crescent Street Master Plan (Pg. 20), where the Plan states:

*To reduce the traffic signal's constant disruptions to traffic flow, the Town Council has been considering a pedestrian overpass at this location. However, since most people are going to be even more reluctant to climb stairs or wait for an elevator than they are to wait for a traffic signal, a pedestrian overpass would reduce pedestrian crossings substantially only if some type of intimidating barriers are built alongside or in the median of Estero Boulevard. But such barriers run directly against the principle of keeping people out of their cars by enhancing the pedestrian experience, and against the principle of keeping Estero Boulevard as a spine through the island rather than a figurative or literal barrier. Also, physical barriers may present extreme safety hazards if they trap pedestrians in the travel lanes, or if pedestrians try to climb them.*

Additionally, staff does not have any information from Lee County regarding concurrence with or without specific requirements for the proposed Estero Blvd Pedestrian Bridge. We recommend excluding approval of that bridge in the CPD approval as well until all of those conditions are identified and accepted by the applicant and Lee County before the Town Council gives their approval for the proposed bridges. Pedestrian bridges can be added through another instrument or agreement.

## **Clarifications**

From Staff's prospective there are no implied approvals in the TPI application (i.e COP areas seaward of the coastal construction line). Town Council should be clear on specifically what approvals are included (i.e. specific listed uses). It should be documented that all other items shown on the materials submitted are specifically not approved until such time as a site plan is submitted and approved or otherwise conditioned by the Town Council.

## **Conclusion**

As noted by Mr. Spikowski (Spikowski LPA Report, Pg. 11) the LDC or Comprehensive Plan do not define "exceptional circumstances." This leaves it to the Council to make a decision on the value of any offered public benefit or exceptional circumstances determination on a case-by-case basis. Staff cannot recommend approval of the requested deviations as presented as many of them rely on a best case scenario with no back stop to protect the Town if the best case doesn't occur. However, if Town Council votes to grant a deviation(s) or conditions, below are a partial list of additional recommended conditions to consider for inclusion:

- Vacate the underlying plat for all lands within the MCP property boundary as part of the vehicle to restrict all future development beyond what is approved via the CPD and MCP
- Exclude the proposed parking lot and beach access (donation to the Town) from the CPD and MCP
- Require sufficient land to be developed as a parking lot meeting current LDC permanent shared parking lot requirements

- Require the parking lot / right-of-way being donated by the applicant to meet the current LDC, be completed within two years of approval, and be completed prior to acceptance by the Town
- Remove currently zoned EC lands from the CPD zoning request
- Limit hours of operation for the COP and amplified music
- Amend the Approved Schedule of Uses to reflect any modifications to what Council approves
- The applicant should identify all parking agreements with existing off-site commercial businesses for which the applicant is proposing to eliminate their parking by eliminating existing permanent shared parking lot(s).