

RESOLUTION OF THE TOWN COUNCIL OF
THE TOWN OF FORT MYERS BEACH FLORIDA
RESOLUTION NUMBER 12-22
VAR2011-0004 - Beach Shell Inn Sign Variance

WHEREAS, applicant Beach Shell Enterprises, LLC is requesting a variance from Section 30-93(b) and Section 30-154(c) of the Town of Fort Myers Beach Land Development Code; and

WHEREAS, the applicant has indicated that the STRAP for the subject property is 19-46-24-W2-0020B.0010 and the legal description of the subject property is Winkler Subdivision Block B Plat Book 8 Page 45 Lots 1, 2 & 3; and

WHEREAS, the subject property is located at 2610 Estero Boulevard, Fort Myers Beach, FL 33931 in the Commercial Resort zoning category of the Official Zoning Map and the "Boulevard" category of the Future Land Use Map of the Comprehensive Plan of the Town of Fort Myers Beach, Florida; and

WHEREAS, a public hearing on this matter was legally advertised and held before the Local Planning Agency (LPA) on August 14, 2012; and

WHEREAS, at the hearing the LPA gave full and complete consideration to the request of the Applicant, recommendations of staff, the documents in the file, and the testimony of all interested persons, as required by Fort Myers Beach Land Development Code (LDC) Section 34-87.

WHEREAS, a public hearing on this matter was legally advertised and held before the Town Council on October 15, 2012, at which time the Town Council gave full and complete consideration to the request of Applicant, LPA Resolution 2012-008, the recommendations of Staff, the documents in the file, and the testimony of all interested persons, as required by Fort Myers Beach Land Development Code (LDC) Section 34-87.

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

Based upon the presentations by the applicant, staff, and other interested persons at the hearing, and review of the application, LPA Resolution 2012-008 and the standards for granting variances, the Town Council makes the following findings of fact, and reaches the following conclusions:

The Town Council **APPROVES** the applicant's request for a variance from Section 30-93(b) and Section 30-154(c) of the LDC, with any approval subject to the following conditions:

CONDITIONS OF APPROVAL:

1. Approval of this variance does not exempt the subject property from the LDC Section 30-55 permit requirements for signs.

2. The height of the sign, measured from the elevation of the highest adjacent grade or the crown of the adjacent street, whichever is higher, to the base of the sign is not to exceed 4'6" and the height to highest point on the sign must not exceed 9' as depicted on *Exhibit A*; and the sign setback measured from the property line of the subject property will be 0' as depicted on *Exhibit B*.
3. Construction and/or remodeling of the sign must comply with all applicable codes and regulations, including building codes and lighting standards.
4. If the pool equipment, including the pool heater and exhaust, on the subject property is removed, this variance will expire. If the pool heater, fence or pool equipment is substantially relocated, or is modified or replaced such that the height of the pool heater, fence or pool equipment is more than fifteen (15%) lower than the current height of these items, then this variance will expire. The sign allowed by this variance must be removed within 30 days of the issuance of any demolition permit for the principal building. If the building is destroyed or damaged by a natural disaster to the extent that it is rendered uninhabitable, then the sign must be removed within 30 days of the issuance of a demolition permit or within 30 days of the expiration of the federal, state, county, or local declaration of disaster, whichever comes first. Placement of signage in conjunction with redevelopment of the site must comply with all regulations in effect at the time of application for a permit.

FINDINGS AND CONCLUSIONS:

In accordance with the requirements of LDC Sections 34-84 and 34-87 regarding consideration of eligibility for a variance, the Town Council makes the following findings and reach the following conclusions:

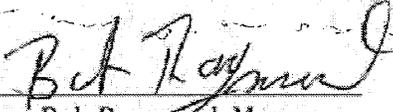
- A. There are exceptional or extraordinary conditions or circumstances that are inherent to the property in question, and the request is for a de minimis variance under circumstances or conditions where rigid compliance is not essential to protect public policy.
- B. The conditions justifying the variance are **not** the result of actions of the applicant taken after the adoption of the regulation in question.
- C. The variance granted **is** the minimum variance that will relieve the applicant of an unreasonable burden caused by the application of the regulation to the property in question.
- D. The granting of the variance **will not** be injurious to the neighborhood or otherwise detrimental to the public welfare.

E. The conditions or circumstances on the specific piece of property for which the variance is sought are **not** of so general or recurrent a nature as to make it more reasonable and practical to amend the regulation in question.

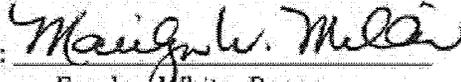
The foregoing Resolution was adopted by the Town Council upon a motion by Council member Kosinski and seconded by Councilmember List, and upon being put to a vote, the result was as follows:

| | | | |
|--------------------|-----|-------------------------|-----|
| Bob Raymond, Mayor | AYE | Alan Mandel, Vice Mayor | AYE |
| Jo List | AYE | Joe Kosinski | AYE |

DULY PASSED AND ADOPTED THIS 15th day of October, 2012.

By: 
Bob Raymond, Mayor

Approved as to legal sufficiency:

By: 
Fowler, White, Boggs
Town Attorney

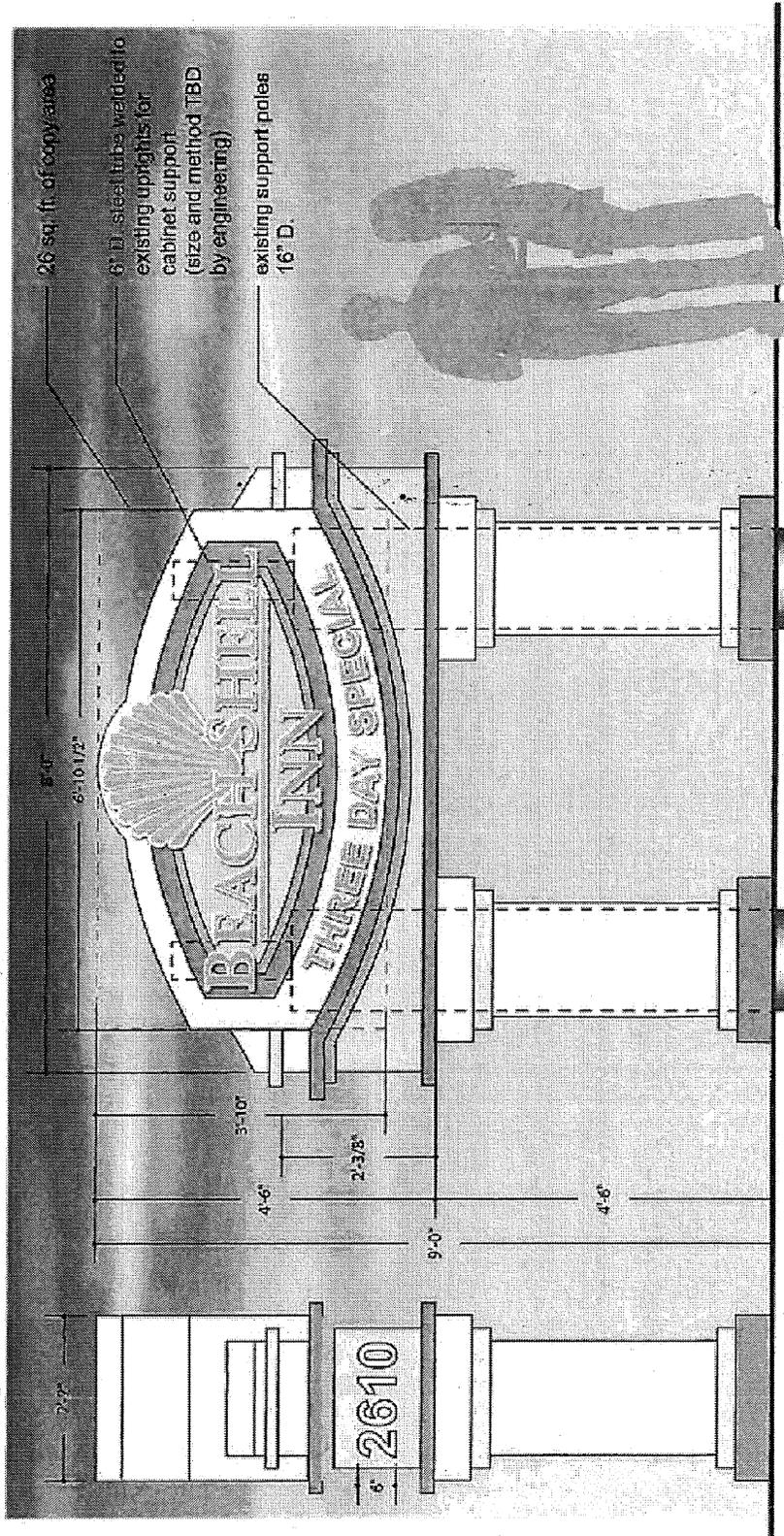
ATTEST:

By: 
Michelle Mayher
Town Clerk

EXHIBIT A

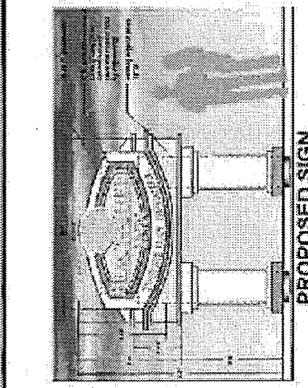
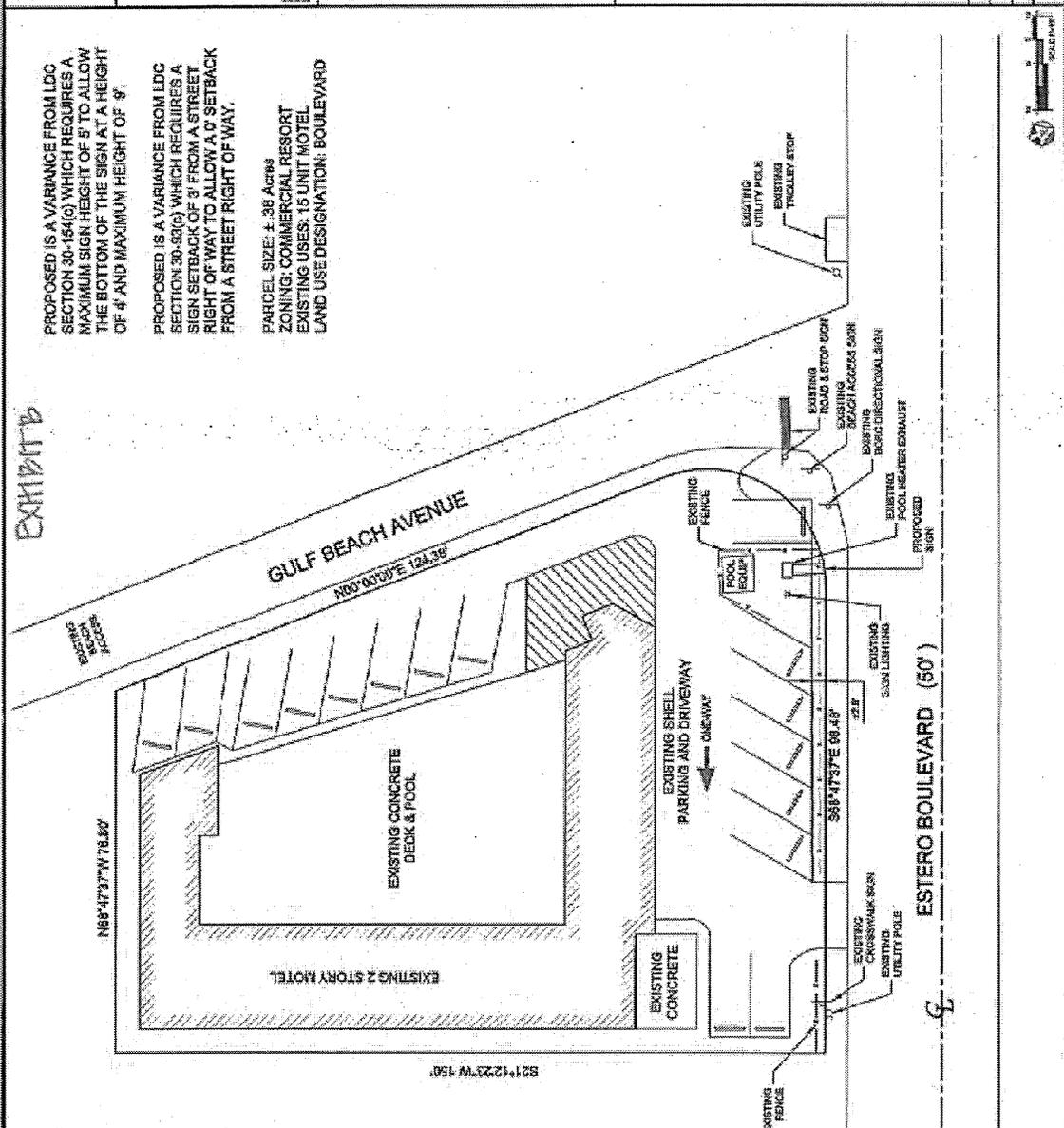
Monument Sign - Revised Design (v2)

- 26' square footage of copy area
- Internally illuminated aluminum sign cabinet (H.O. fluorescent lamps)
- Push-through acrylic letters with vinyl inset applied
- Stucco finish applied to cabinet and trim
- exact paint colors TBD



1 Wall Elevation
Scale: 1/2" = 1'-0"

| | | | | |
|---|---|---------------------------------------|--|--|
|  | A: 3300 Palm Ave. Fort Myers, FL 33901 P: 239.278.4245 F: 239.278.3912 | Designer: Matt Salesperson: Elisha | Client: Beach Shell Inn Location: Fort Myers Beach, FL Filepath: W:\gr\A\B\Beach Shell Inn\Beach Shell Inn_rev2b | Drawings Dates Initial: 3/19/12 Revisions: 3/21/12, 4/5/12 |
| | THIS SIGN INCLUDING BUT NOT LIMITED TO ALL PLASTIC OR SIMILAR COMPONENTS THEREOF HAS BEEN DESIGNED IN COMPLIANCE WITH THE 2007/2009 AMENDMENTS TO THE FLORIDA BUILDING CODE INCLUDING SEC. 1609 WIND LOADS AND SEC. 3107 SIGNS. THIS DESIGN IS THE EXCLUSIVE PROPERTY OF TSP SIGNS LLC AND IS NOT TO BE REPRODUCED OR COPIED IN WHOLE OR IN PART BY ANY OTHER PARTIES WITHOUT WRITTEN PERMISSION BY TSP SIGNS LLC. DIMENSIONS AND COLORS MAY VARY SLIGHTLY DUE TO LIMITATIONS WITH FABRICATIVE MATERIALS. | | | |



RESOLUTION OF THE TOWN COUNCIL OF
THE TOWN OF FORT MYERS BEACH FLORIDA
RESOLUTION NUMBER 11-20
FMBVAR2008-0003 (DiamondHead Sign Variance)

WHEREAS, applicants Neil Hopgood and Randy Kares have requested a Variance from Section 30-153(b) and Section 30-154(c) of the Town of Fort Myers Beach Land Development Code; and

WHEREAS, the applicant has indicated that the STRAP for the subject property is 19-46-24-W4-0090A.001 and the legal description of the subject property is GULF BAY VIEW BLK A PB 8 PG 69 LOTS 1 THRU 11 +VACATED STREET OR 648/318; and

WHEREAS, the subject property is located at 2000 Estero Boulevard in the DOWNTOWN zoning district of the Official Zoning Map and the Pedestrian Commercial category of the Future Land Use Map of the Comprehensive Plan of the Town of Fort Myers Beach, Florida; and

WHEREAS, a public hearing on this matter was legally advertised and held before the Local Planning Agency (LPA) on September 13, 2011; and

WHEREAS, at its meeting of September 13, 2011 the LPA instructed Town staff to bring this application forward to Town Council without the necessity of having approved LPA minutes; and

WHEREAS, a public hearing on this matter was legally advertised and held before the Town Council on October 17, 2011, at which time the Town Council gave full and complete consideration to the request of Applicant, LPA Resolution 2011-07, the recommendations of staff, the documents in the file, and the testimony of all interested persons, as required by Fort Myers Beach Land Development Code (LDC) Section 34-88.

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

Based upon the presentations by the applicant, staff, and other interested persons at the hearing, and review of the application, LPA Resolution 2011-010 and the standards for granting variances, the Town Council makes the following findings of fact, and reaches the following conclusions:

The Town Council **APPROVES** the applicant's request for a Variance from Section 30-153(b) and Section 30-154(c) of the LDC, with any approval subject to the following conditions:

CONDITIONS OF APPROVAL:

1. *Approval of this variance does not exempt the subject property from the LDC Section 30-55 permit requirements for signs.*
2. *The height of the sign, measured from the elevation of the existing grade of the elevated parking lot to the highest point on the sign must not exceed 8'6" except for the diamond shaped extension, provided the area of said extension shall not to exceed the dimensions shown in **Exhibit E**.*
3. *Construction and/or remodeling of the sign must comply with all applicable codes and regulations, including building codes and lighting standards.*
4. *If the principal building on the subject property is removed or replaced for any reason, this variance will expire and the sign allowed by this variance must be removed within 30 days of the issuance of the demolition permit for the principal building or within 30 days of the expiration of the federal, state, county, or local declaration of disaster, whichever condition(s) applies and whichever comes first. Placement of signage in conjunction with redevelopment must comply with all regulations in effect at the time of permitting.*
5. *Landscaping shall be installed and maintained around the base of the sign at a height so that no more than 18" of the monument base is visible .*

FINDINGS AND CONCLUSIONS:

In accordance with the requirements of LDC Sections 34-84 and 34-87 regarding consideration of eligibility for a variance, the Town Council makes the following findings and reaches the following conclusions:

- A. There **are** exceptional or extraordinary conditions or circumstances that are inherent to the property in question.
- B. The conditions justifying the variance **are not** the result of actions of the applicant taken after the adoption of the regulation in question.
- C. The variance granted **is** the minimum variance that will relieve the applicant of an unreasonable burden caused by the application of the regulation to the property in question.
- D. The granting of the variance **will not** be injurious to the neighborhood or otherwise detrimental to the public welfare.

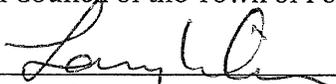
E. The conditions or circumstances on the specific piece of property for which the variance is sought **are not** of so general or recurrent a nature as to make it more reasonable and practical to amend the regulation in question.

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

| | | | |
|--------------------|-----|-------------------------|-----|
| Larry Kiker, Mayor | AYE | Bob Raymond, Vice Mayor | AYE |
| Alan Mandel | AYE | Jo List | AYE |
| Joe Kosinski | AYE | | |

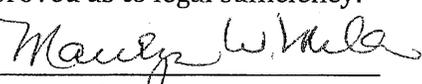
DULY PASSED AND ADOPTED THIS 17th day of OCTOBER, 2011.

Town Council of the Town of Fort Myers Beach

By: 

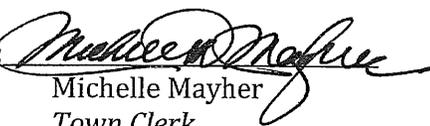
Larry Kiker, Mayor

Approved as to legal sufficiency:

By: 

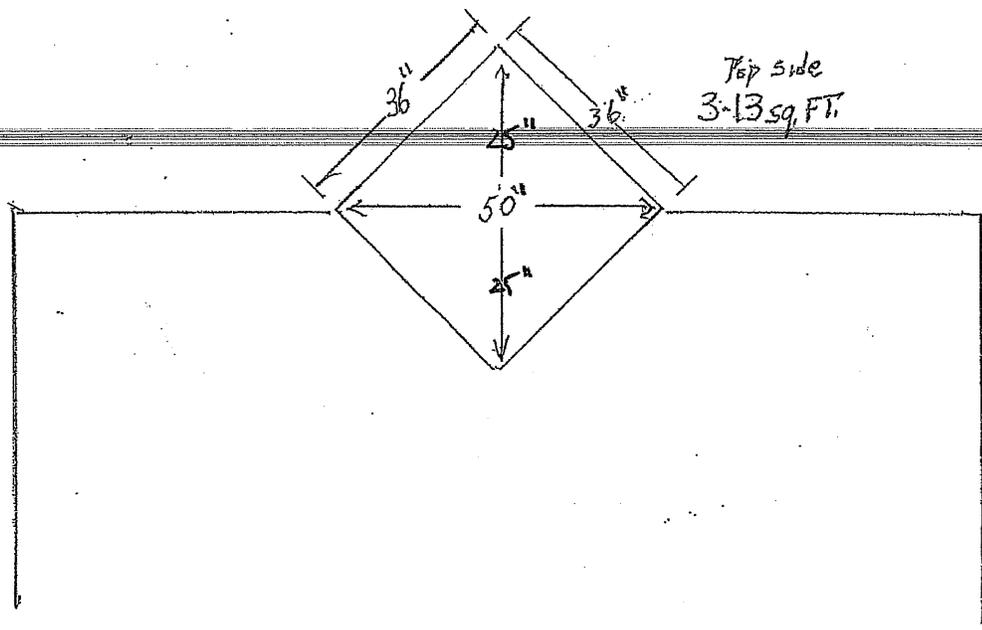
Fowler, White, Boggs
Town Attorney

ATTEST:

By: 

Michelle Mayher
Town Clerk

EXHIBIT (E)



RESOLUTION OF THE TOWN COUNCIL OF
THE TOWN OF FORT MYERS BEACH FLORIDA
RESOLUTION NUMBER 12-19
VAR2012-0002 - Dolphin Inn Sign Variance

WHEREAS, applicant RTJP Investments, Inc is requesting a variance from Section 30-93(b) and Section 30-154(c) of the Town of Fort Myers Beach Land Development Code; and

WHEREAS, the applicant has indicated that the STRAP number for the subject property is 134-46-24-W4-02600.00CE and the legal description of the subject property is attached as *Exhibit B*; and

WHEREAS, the subject property is located at 6555 Estero Boulevard, Fort Myers Beach, FL 33931 in the Commercial Resort zoning category of the Official Zoning Map and the Mixed Residential category of the Future Land Use Map of the Comprehensive Plan of the Town of Fort Myers Beach, Florida; and

WHEREAS, a public hearing on this matter was legally advertised and held before the Local Planning Agency (LPA) on August 14, 2012; and

WHEREAS, at the 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 Fort Myers Beach Land Development Code (LDC) Section 34-87.

WHEREAS, a public hearing on this matter was legally advertised and held before the Town Council on November 5, 2012, at which time the Town Council gave full and complete consideration to the request of Applicant, LPA Resolution 2012-010, the recommendations of Staff, the documents in the file, and the testimony of all interested persons, as required by Fort Myers Beach Land Development Code (LDC) Section 34-87.

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

Based upon the presentations by the applicant, staff, and other interested persons at the hearing, and review of the application, LPA Resolution 2012-010 and the standards for granting variances, the Town Council makes the following findings of fact, and reaches the following conclusions:

The Town Council **APPROVES** the applicant's request for a variance from Section 30-93(b) to allow a 0' setback from the property line of the subject property; and

The Town Council **APPROVES** the applicant's request for a variance from Section 30-154(c) of the LDC to permit a 2'10" tall sign base and an overall sign height of 9', measured from the highest adjacent grade to the highest point of the sign face or its supporting structural elements, with the approval subject to the following conditions:

CONDITIONS OF APPROVAL:

1. Approval of this variance does not exempt the subject property from the LDC Section 30-55 permit requirements for signs.
2. Construction and/or remodeling of the sign must comply with all applicable codes and regulations, including building codes and lighting standards.
3. The height of the sign, as measured from the highest adjacent grade to the highest point of the sign face or its supporting structural elements is not to exceed 9'.
4. The sign base as measured from the highest adjacent grade is not to exceed 2'10" in height.
5. If the principal building on the subject property is removed or replaced for any reason, this variance will expire. The sign allowed by this variance must be removed within 30 days of the issuance of any demolition permit for the principal building. If the building is destroyed or damaged by a natural disaster to the extent that it is rendered uninhabitable, then the sign must be removed within 30 days of the issuance of a demolition permit or within 30 days of the expiration of the federal, state, county, or local declaration of disaster, whichever occurs first. Placement of signage in conjunction with redevelopment of the site must comply with all regulations in effect at the time of application for a permit.

FINDINGS AND CONCLUSIONS:

In accordance with the requirements of LDC Sections 34-84 and 34-87 regarding consideration of eligibility for a variance, the Town Council makes the following findings and reaches the following conclusions:

A. There **are** exceptional or extraordinary conditions or circumstances that are inherent to the property in question, and the request **is** for a de minimis variance under circumstances or conditions where rigid compliance is not essential to protect public policy.

B. The conditions justifying the variance **are not** the result of actions of the applicant taken after the adoption of the regulation in question.

C. The variance granted **is** the minimum variance that will relieve the applicant of an unreasonable burden caused by the application of the regulation to the property in question.

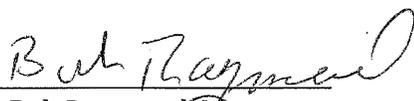
D. The granting of the variance **will not** be injurious to the neighborhood or otherwise detrimental to the public welfare.

E. The conditions or circumstances on the specific piece of property for which the variance is sought **are not** of so general or recurrent a nature as to make it more reasonable and practical to amend the regulation in question.

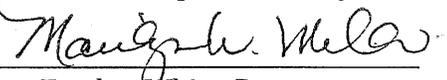
The foregoing Resolution was adopted by the Town Council upon a motion by Councilmember **Kosinski** and seconded by Councilmember **List**, and upon being put to a vote, the result was as follows:

| | | | |
|-----------------------------|-----|-------------------------|-----|
| Bob Raymond, Mayor | AYE | Alan Mandel, Vice Mayor | NAY |
| Dan Andre, Councilmember | NAY | Jo List, Councilmember | AYE |
| Joe Kosinski, Councilmember | AYE | | |

DULY PASSED AND ADOPTED THIS 5th day of NOVEMBER, 2012.

By: 
Bob Raymond, Mayor

Approved as to legal sufficiency:

By: 
Fowler, White, Boggs
Town Attorney

ATTEST:

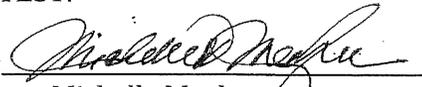
By: 
Michelle Mayher
Town Clerk

EXHIBIT B

DOLPHIN INN CONDOMINIUM

LEGAL DESCRIPTION OF LANDS SUBMITTED TO CONDOMINIUM

Lot 17 plus a portion of Lots 18 and 19 lying Northerly of the following described line; From the most Southerly corner of Lot 18, common with Lot 19, thence Northwesterly along the Southwesterly line of Lot 18, (being the Estero Blvd. right-of-way) for 36.84 feet to the Point of Beginning of said line; thence deflect right 88 41'40" and run 135.79 feet to the canal and the end of said line, at a point 19.39 feet, as measured on a chord from the most Easterly corner of Lot 19, (common with Lot 20). All being in Sandpiper Village, Unit 2, as recorded in Plat Book 9, at Page 52, Lee County, Florida, Public Records.

And all right, title and interest of the grantors in an easement from George E. Allen, Trustee, in liquidation of Estero Beach Properties, Inc., and Estero Development Corporation, Dissolved Florida Corporation to A. L. Mechling, Frank Gobes, L. H. Noble, as trustees for the present and future owners of Lots in Sandpiper Village Unit No. 1 and Unit No. 2, dated September 2, 1964, and recorded in O. R. Book 267 at Page 11 in Public Records of Lee County, Florida.

All that parcel of land situate lying and being in Lee County, Florida, more particularly described as follows:

A strip or parcel of land lying between Estero Boulevard and the Gulf of Mexico in Sections 33 and 34, Township 46 South, Range 24 East, Estero Island, Lee County, Florida, for walkway purposes, which strip or parcel is described as follows:

Beginning at a point on the Southwesterly side of Estero Boulevard, said point being 1440 feet (measured along line perpendicular to the south line of Block I, McPhie Park, Unit No. 2, according to plat recorded in Plat Book 8 at Page 59, Public Records of Lee County) run southeasterly along said southwesterly line of Estero Blvd. for 12.29 feet; thence run southwesterly parallel with said south line of Block I, McPhie Park, Unit No. 2, and 1452.16 feet south of said Block I for 470 feet more or less to the waters of the Gulf of Mexico, passing through concrete monuments at 175.44 feet and 352.69 feet; thence run northwesterly along said waters to an intersection with a line parallel with said south line of Block I passing through the point of beginning; thence run northeasterly along said parallel line to the point of beginning, passing through concrete monuments at 177.25 feet and 354.5 feet southwesterly of said point of beginning.

REC
279122851

RESOLUTION OF THE TOWN COUNCIL OF
THE TOWN OF FORT MYERS BEACH FLORIDA
RESOLUTION NUMBER 12-11
VAR2011-0006 (Pierview Hotel Sign Variance)

WHEREAS, Broadway Investment Partners, LLC ("Applicants") have requested three Variances from Section 30-154(b) and Section 30-154(c) of the Town of Fort Myers Beach Land Development Code; and

WHEREAS, the applicant has indicated that the STRAP for the subject property is 24-46-23-W3-00009.0000 and the legal description of the subject property is attached as "**Exhibit A**"; and

WHEREAS, the subject property is located at 1160 Estero Boulevard in the DOWNTOWN zoning district of the Official Zoning Map and the Pedestrian Commercial category of the Future Land Use Map of the Comprehensive Plan of the Town of Fort Myers Beach, Florida; and

WHEREAS, a public hearing on this matter was legally advertised and held before the Local Planning Agency (LPA) on June 12, 2012; and

WHEREAS, at its meeting of June 12, 2012, the LPA instructed Town staff to bring this application forward to Town Council without the necessity of having approved LPA minutes; and

WHEREAS, a public hearing on this matter was legally advertised and held before the Town Council on August 6, 2012, at which time the Town Council gave full and complete consideration to the request of Applicant, LPA Resolution 2011-07, the recommendations of staff, the documents in the file, and the testimony of all interested persons, as required by Fort Myers Beach Land Development Code (LDC) Section 34-88.

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

Based upon the presentations by the applicant, staff, and other interested persons at the hearing, and review of the application, LPA Resolution 2012-006 and the standards for granting variances, the Town Council makes the following findings of fact, and reaches the following conclusions:

The Town Council **APPROVES** the applicant's request for three Variances from Section 30-153(b) and Section 30-154(c) of the LDC, with any approval subject to the following conditions:

CONDITIONS:

1. The sign must be set back a minimum of 1 foot from the Estero Boulevard right-of-way.
2. The sign pedestal cannot exceed 4 feet in height, so as to allow the sign to be seen over the above-ground utilities on-site.
3. The maximum sign height is 8 feet, as measured from the adjacent grade or crown of the road.
4. If the location of any of the existing utilities changes from what is depicted in the attached Exhibit D, then this variance shall terminate and the property owner shall be required to apply for a new variance and the Town shall waive the fee for such variance application.

FINDINGS AND CONCLUSIONS:

In accordance with the requirements of LDC Sections 34-84 and 34-87 regarding consideration of eligibility for a variance, the Town Council makes the following findings and reaches the following conclusions:

- A. There **are** exceptional or extraordinary conditions or circumstances that are inherent to the property in question, **and** the request **is** for a de minimis variance to protect public safety by not obstructing access to the public utilities and fire protection facilities.
- B. The conditions justifying the variance **are not** the result of actions of the applicant taken after the adoption of the regulation in question.
- C. The variance granted **is** the minimum variance that will relieve the applicant of an unreasonable burden caused by the application of the regulation to the property in question.
- D. The granting of the variance **will not** be injurious to the neighborhood or otherwise detrimental to the public welfare.
- E. The conditions or circumstances on the specific piece of property for which the variance is sought **are not** of so general or recurrent a nature as to make it more reasonable and practical to amend the regulation in question.

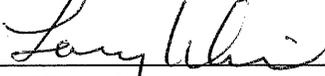
The foregoing Resolution was adopted by the Town Council upon a motion by Councilmember Kosinski and seconded by Vice Mayor Raymond, and upon being put to a vote, the result was as follows:

Larry Kiker, Mayor AYE
Alan Mandel AYE
Joe Kosinski AYE

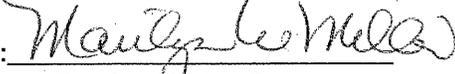
Bob Raymond, Vice Mayor AYE
Jo List AYE

DULY PASSED AND ADOPTED THIS 6th day of AUGUST, 2012.

Town Council of the Town of Fort Myers Beach

By: 
Larry Kiker, Mayor

Approved as to legal sufficiency:

By: 
Fowler, White, Boggs
Town Attorney

ATTEST:

By: 
Michelle Mayher
Town Clerk

"Exhibit A"
Legal Description
24-46-23-W3-00009.0000

From the Southwest corner of Block E, of that certain subdivision known as CRESCENT PARK ADDITION, according to the map or plat thereof on file and recorded in Plat Book 4, Page 46, of the public records of Lee County, Florida; on the East line of Section 24, Township 46 South, Range 23 East, Lee County, Florida, run South along said line 53.24 feet to the South line of an existing County Road right-of-way 50 feet wide and Point of Beginning of the lands herein described; thence Northwesterly at an inclusive angle of $69^{\circ}54'$ with said section line along the South line of said right-of-way a distance of 122.63 feet; thence Southwesterly perpendicular to said road for 213 feet, more or less, to the Gulf of Mexico; thence Southeasterly along said Gulf to the East line of said Section 24; thence Northerly along said line a distance of 258 feet, more or less, to the Point of Beginning.

RESOLUTION OF THE TOWN COUNCIL OF
THE TOWN OF FORT MYERS BEACH FLORIDA
RESOLUTION NUMBER 13-02
VAR2012-0001 – Neptune Inn Sign Variance

WHEREAS, applicant Blue Vista Capital, LLC is requesting a variance from Section 30-93(b) and Section 30-154(c) of the Town of Fort Myers Beach Land Development Code; and

WHEREAS, the applicant has indicated that the STRAPs for the subject property are 19-46-24-W3-04300.00CE; 19-46-24-W3-0430N.0001 and 19-46-24-W3-0110A.0010 and the legal description of the subject property is contained in *Exhibit A* which is attached hereto and incorporated herein by reference; and

WHEREAS, the subject property is located at 2310 Estero Boulevard, Fort Myers Beach, FL 33931 in the Commercial Resort zoning category of the Official Zoning Map and the “Boulevard” category of the Future Land Use Map of the Comprehensive Plan of the Town of Fort Myers Beach, Florida; and

WHEREAS, a public hearing on this matter was legally advertised and held before the Local Planning Agency (LPA) on November 13, 2012; and

WHEREAS, at the 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 Fort Myers Beach Land Development Code (LDC) Section 34-87.

WHEREAS, a public hearing on this matter was legally advertised and held before the Town Council on January 7, 2013, at which time the Town Council gave full and complete consideration to the request of Applicant, LPA Resolution 2012-017, the recommendations of Staff, the documents in the file, and the testimony of all interested persons, as required by Fort Myers Beach Land Development Code (LDC) Section 34-87.

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

Based upon the presentations by the applicant, staff, and other interested persons at the hearing, and review of the application, LPA Resolution 2012-017 and the standards for granting variances, the Town Council makes the following findings of fact, and reaches the following conclusions:

The Town Council **APPROVES** the request for a variance from Section 30-93(b) of the LDC to allow a monument sign with a 0’ setback from the Estero Boulevard right-of-way/property line of the subject property; and

The Town Council **APPROVES** the request for a variance from Section 30-154(c) of the LDC to permit a 4' tall hedge/planter sign base and a sign face height of 3' for an overall sign height of 7' with such approval subject to the following conditions:

CONDITIONS OF APPROVAL:

1. The height of the sign, as measured from the highest adjacent grade or the crown of the adjacent street, whichever is higher, to the highest point of the sign face or its supporting structural elements is not to exceed 7'.
2. The sign base as measured from the highest adjacent grade or the crown of the adjacent street, whichever is higher, is not to exceed 4' in height.
3. The sign setback as measured from the front right-of-way/property line will be zero (0) feet.
4. The existing hedge planted around the base of the sign along the subject property's Estero Boulevard property line must be maintained at 42" in height at all times. Removal of the hedge or maintenance of the hedge at a height less than 42" will cause this variance to expire.
5. Approval of this variance does not exempt the subject property from the LDC Section 30-55 permit requirements for signs.
6. Construction and/or remodeling of the sign must comply with all applicable codes and regulations, including building codes and lighting standards.
7. If the principal building on the subject property is removed or replaced for any reason, this variance will expire. The sign allowed by this variance must be removed within 30 days of the issuance of any demolition permit for the principal building. If the building is destroyed or damaged by a natural disaster to the extent that it is rendered uninhabitable, then the sign must be removed within 30 days of the issuance of a demolition permit or within 30 days of the expiration of the federal, state, county, or local declaration of disaster, whichever occurs first. Placement of signage in conjunction with redevelopment of the site must comply with all regulations in effect at the time of application for a permit.
8. The applicant has 120 days from the day of Town Council approval to permit and install the approved monument sign or remove the existing non-conforming sign on the subject property.

FINDINGS AND CONCLUSIONS:

In accordance with the requirements of LDC Sections 34-84 and 34-87 regarding consideration of eligibility for a variance, the Town Council makes the following findings and reaches the following conclusions:

A. There **are** exceptional or extraordinary conditions or circumstances that are inherent to the property in question, and the request **is** for a de minimis variance under circumstances or conditions where rigid compliance is not essential to protect public policy.

B. The conditions justifying the variance **are not** the result of actions of the applicant taken after the adoption of the regulation in question.

C. The variance granted **is** the minimum variance that will relieve the applicant of an unreasonable burden caused by the application of the regulation to the property in question.

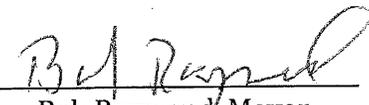
D. The granting of the variance **will not** be injurious to the neighborhood or otherwise detrimental to the public welfare.

E. The conditions or circumstances on the specific piece of property for which the variance is sought **are not** of so general or recurrent a nature as to make it more reasonable and practical to amend the regulation in question.

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

| | | | |
|--------------------|-----|-------------------------|-----|
| Bob Raymond, Mayor | AYE | Alan Mandel, Vice Mayor | AYE |
| Jo List | AYE | Joe Kosinski | AYE |
| Dan Andre | AYE | | |

DULY PASSED AND ADOPTED THIS 7th day of JANUARY, 2013.

By: 
Bob Raymond, Mayor

Approved as to legal sufficiency:

By: 
Fowler, White, Boggs
Town Attorney

ATTEST:

By: 
Michelle Mayher
Town Clerk

Exhibit A

LEGAL DESCRIPTION

(EXHIBIT A ATTORNEYS TITLE INSURANCE FUND, INC FUND FILE No
18-2005-2314, DATED 3/04/05.)

PARCEL 1:

LOTS 1, 2, AND 3, BLOCK E, OF THAT CERTAIN SUBDIVISION KNOWN AS SEAGRAPE ACCORDING TO THE MAP OR PLAN THEREOF ON FILE AND RECORDED IN THE OFFICE OF THE CLERK OF CIRCUIT COURT IN PLAT BOOK 4, AT PAGE 17, PUBLIC RECORDS OF LEE COUNTY, FLORIDA

PARCEL 2:

BLOCK "A" AND "B", IN THAT CERTAIN SUBDIVISION KNOWN AS BEACH ESTATES, ACCORDING TO THE MAP OR PLAN THEREOF ON FILE WITH AND RECORDED IN THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, IN PLAT BOOK 5, PAGE 68, TOGETHER WITH THAT PORTION OF THE STREET OR ALLEY LYING BETWEEN SAID BLOCKS VACATED BY ORDER OF THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA, TOGETHER WITH ALL OF BLOCK "A", TOGETHER WITH THE VACATED ALLEY THAT FORMERLY SEPARATED LOTS 1 AND 2 FROM LOT 3 ALL BEING IN THAT CERTAIN SUBDIVISION KNOWN AS W.W. WATSONS SUBDIVISION, ACCORDING TO THE MAP OR PLAN THEREOF ON FILE AND RECORDED IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT OF LEE COUNTY, FLORIDA, IN PLAT BOOK 5, PAGE 07, TOGETHER WITH ALL IMPROVEMENTS THEREON WHICH IMPROVEMENTS ARE KNOWN AS THE "NEPTUNE INN" AND ALSO TOGETHER WITH ALL FURNITURE, FURNISHINGS, FIXTURES, AND EQUIPMENT LOCATED IN, ON OR ABOUT SAID IMPROVEMENTS, TOGETHER WITH ALL OF THAT CERTAIN BUSINESS KNOWN AS THE "NEPTUNE INN", INCLUDING THE NAME AND GOOD WILL THEREOF.

RESOLUTION OF THE TOWN COUNCIL OF
THE TOWN OF FORT MYERS BEACH FLORIDA
RESOLUTION NUMBER 13-03
VAR2012-0006 - The Beach Theater

WHEREAS, applicant William McMullan, authorized agent for Fort Myers Beach Properties, LLC, is requesting a variance from Section 30-153 (b)(1), Section 30-154(a), and Section 30-154(c) of the Town of Fort Myers Beach Land Development Code; and

WHEREAS, the applicant has indicated that the STRAP number for the subject property is 34-46-24-W4-00046.0000 and the legal description of the subject property is attached as *Exhibit A*; and

WHEREAS, the subject property is located at 6425 Estero Boulevard, Fort Myers Beach, FL 33931 in the 'Commercial Boulevard' zoning category of the Official Zoning Map and the 'Mixed-Residential' category of the Future Land Use Map of the Comprehensive Plan of the Town of Fort Myers Beach, Florida; and

WHEREAS, a public hearing on this matter was legally advertised and held before the Local Planning Agency (LPA) on January 8, 2013; and

WHEREAS, at the 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 Fort Myers Beach Land Development Code (LDC) Section 34-87.

WHEREAS, a public hearing on this matter was legally advertised and held before the Town Council on February 4, 2013, at which time the Town Council gave full and complete consideration to the request of Applicant, LPA Resolution 2013-001, the recommendations of Staff, the documents in the file, and the testimony of all interested persons, as required by Fort Myers Beach Land Development Code (LDC) Section 34-87.

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

Based upon the presentations by the applicant, staff, and other interested persons at the hearing, and review of the application, LPA Resolution 2013-001 and the standards for granting variances, the Town Council makes the following findings of fact, and reaches the following conclusions:

The Town Council **APPROVES** the applicant's request for a variance from Section 30-153 (b)(1), Section 30-154(a), and Section 30-154(c) of the Town of Fort Myers Beach Land Development Code to permit an existing monument sign with a backlit changeable message panel, thirty-seven (37) square feet of sign face area, and 7'10" in overall sign height.

CONDITIONS OF APPROVAL:

1. *If the property ceases to be used as a movie theater, then this variance will expire.*

FINDINGS AND CONCLUSIONS:

In accordance with the requirements of LDC Sections 34-84 and 34-87 regarding consideration of eligibility for a variance, the LPA recommends that the Town Council make the following findings and reach the following conclusions:

- A. There **are** exceptional or extraordinary conditions or circumstances that are inherent to the property in question, and the request **is** for a de minimis variance under circumstances or conditions where rigid compliance is not essential to protect public policy.
- B. The conditions justifying the variance **are not** the result of actions of the applicant taken after the adoption of the regulation in question.
- C. The variance granted **is** the minimum variance that will relieve the applicant of an unreasonable burden caused by the application of the regulation to the property in question.
- D. The granting of the variance **will not** be injurious to the neighborhood or otherwise detrimental to the public welfare.
- E. The conditions or circumstances on the specific piece of property for which the variance is sought **are not** of so general or recurrent a nature as to make it more reasonable and practical to amend the regulation in question.

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

| | | | |
|--------------------|--------|-------------------------|-----|
| Bob Raymond, Mayor | absent | Alan Mandel, Vice Mayor | AYE |
| Jo List | AYE | Joe Kosinski | AYE |
| Dan Andre | AYE | | |

DULY PASSED AND ADOPTED THIS 4th day of FEBRUARY, 2013.

By: Alan Mandel
Alan Mandel, Acting Mayor

Approved as to legal sufficiency:

By: Maury W. Wells
Fowler, White, Boggs
Town Attorney

ATTEST:

By: Michelle Mayher
Michelle Mayher
Town Clerk

LEGAL DESCRIPTION

EXHIBIT A

NORTHERLY PARCEL

LOTS 1, 2 AND 3 OF BLOCK D, SANTINI CROSS UNRECORDED PLAT, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEASTERLY CORNER OF BLOCK I, McPHIE PARK, UNIT NO. 2 AS PER PLAT THEREOF ON THE AND RECORDED IN PLAT BOOK 8 AT PAGE 59, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE RUN SOUTHEASTERLY AT RIGHT ANGLES TO THE SOUTHEASTERLY BOUNDARY LINE OF SAID BLOCK I A DISTANCE OF 590 FEET; THENCE NORTHEASTERLY AT RIGHT ANGLE TO THE LAST MENTIONED COURSE IN THE EASTERLY BOUNDARY LINE OF ESTERO BOULEVARD; THENCE RUN SOUTHEASTERLY ALONG SAID EASTERLY BOUNDARY LINE OF SAID BOULEVARD A DISTANCE OF 404.16 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE ON THE SAME COURSE A DISTANCE OF 165.26 FEET; THENCE RUN NORTHEASTERLY AT RIGHT ANGLES TO THE LAST MENTIONED COURSE A DISTANCE OF 115 FEET TO THE WESTERLY BOUNDARY LINE OF THE EXISTING CANAL; THENCE RUN NORTHWESTERLY ALONG SAID WESTERLY BOUNDARY OF SAID CANAL A DISTANCE OF 181.87 FEET TO THE SOUTHEASTERLY BOUNDARY LINE OF A DEDICATED STREET, THENCE RUN SOUTHWESTERLY ALONG SAID SOUTHEASTERLY BOUNDARY LINE OF SAID STREET A DISTANCE OF 116.19 FEET TO THE POINT OF BEGINNING; BEING IN SECTION 34, TOWNSHIP 45 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA.

CONTAINING 0.458 ACRES, MORE OR LESS.

AND

SOUTHERLY PARCEL

A PARCEL OF LAND LYING IN GOVERNMENT LOT 1 OF SECTION 34, TOWNSHIP 46 SOUTH, RANGE 24 EAST, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTHEASTERLY SIDE OF COUNTY ROAD RIGHT-OF-WAY CONVEYED BY DEED RECORDED IN DEED BOOK 193, PAGE 583, PUBLIC RECORDS OF LEE COUNTY, FLORIDA, WHICH POINT IS 1,290 FEET SOUTHEASTERLY, AS MEASURED AT RIGHT ANGLES FROM THE SOUTHEASTERLY LINE OF BLOCK I, UNIT NO. 2, McPHIE PARK ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN PLAT BOOK 8, PAGE 59, PUBLIC RECORDS OF LEE COUNTY, FLORIDA; RUN NORTHERLY ALONG SAID COUNTY ROAD FOR 137.86 FEET; THENCE RUN NORTHEASTERLY PERPENDICULAR TO SAID ROAD FOR 115 FEET TO THE SOUTHERNMOST CORNER OF THAT CERTAIN BOAT CANAL DESCRIBED IN PARAGRAPH 2(B) OF THAT CERTAIN DEED RECORDED IN DEED BOOK 200 AT PAGE 194, PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE RUN NORTHEASTERLY ALONG SAID CANAL FOR 36.53 FEET; THENCE RUN SOUTHEASTERLY PERPENDICULAR TO SAID CANAL FOR 120 FEET TO THAT CERTAIN STREET DEDICATED TO THE PUBLIC USE AS DESCRIBED IN PARAGRAPH 1(C) OF THE ABOVE MENTIONED DEED; THENCE RUN SOUTHWESTERLY ALONG THE NORTHWESTERLY SIDE OF SAID STREET FOR 170.05 FEET TO THE POINT OF BEGINNING.

CONTAINING 0.467 ACRES, MORE OR LESS.

SUBJECT TO STATE OWNERSHIP OF SOVEREIGNTY SUBMERGED LANDS, FLORIDA COASTAL MAPPING ACT OF 1974, CHAPTER 177, PART II, F.S.

RESOLUTION OF THE TOWN COUNCIL OF
THE TOWN OF FORT MYERS BEACH FLORIDA
RESOLUTION NUMBER 13-14
VAR2013-0001 – Lani Kai Sign Variance

WHEREAS, applicant Robert Burandt, Esq, authorized agent for Lani Kai, LP, is requesting a variance from Section 30-154(b), and Section 30-154(c) of the Town of Fort Myers Beach Land Development Code; and

WHEREAS, the applicant has indicated that the STRAP number for the subject property is 19-46-24-W4-0070D.0020 and the legal description of the subject property is attached as *Exhibit A*; and

WHEREAS, the subject property is located at 1400 Estero Boulevard, Fort Myers Beach, FL 33931 in the 'DOWNTOWN' zoning category of the Official Zoning Map and the 'Pedestrian Commercial' category of the Future Land Use Map of the Comprehensive Plan of the Town of Fort Myers Beach, Florida; and

WHEREAS, a public hearing on this matter was legally advertised and held before the Local Planning Agency (LPA) on June 11, 2013; and

WHEREAS, at the 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 Fort Myers Beach Land Development Code (LDC) Section 34-87.

WHEREAS, a public hearing on this matter was legally advertised and held before the Town Council on August 19, 2013, at which time the Town Council gave full and complete consideration to the request of Applicant, LPA Resolution 2013-005, the recommendations of Staff, the documents in the file, and the testimony of all interested persons, as required by Fort Myers Beach Land Development Code (LDC) Section 34-87.

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

Based upon the presentations by the applicant, staff, and other interested persons at the hearing, and review of the application, LPA Resolution 2013-005 and the standards for granting variances, the Town Council makes the following findings of fact, and reaches the following conclusions:

The Town Council **APPROVES** the applicant's request for a variance from Section 30-154(b) of the LDC to allow a right-of way setback of 1.7' as depicted on *Exhibit I*;

The Town Council **APPROVES** the applicant's request for a variance from Section 30-154(c) of the LDC to allow a sign height of 9'7" as measured from adjacent grade or crown of road, whichever is higher, subject to the following condition;

CONDITIONS OF APPROVAL:

1. The width of the sign structure shall not exceed 8'2".
2. Landscaping shall be installed around the sign base wherever possible.

FINDINGS AND CONCLUSIONS:

In accordance with the requirements of LDC Sections 34-84 and 34-87 regarding consideration of eligibility for a variance, the LPA recommends that the Town Council make the following findings and reach the following conclusions:

- A. There **are** exceptional or extraordinary conditions or circumstances that are inherent to the property in question, and the request **is** for a de minimis variance under circumstances or conditions where rigid compliance is not essential to protect public policy.
- B. The conditions justifying the variance **are not** the result of actions of the applicant taken after the adoption of the regulation in question.
- C. The variance granted **is** the minimum variance that will relieve the applicant of an unreasonable burden caused by the application of the regulation to the property in question.
- D. The granting of the variance **will not** be injurious to the neighborhood or otherwise detrimental to the public welfare.
- E. The conditions or circumstances on the specific piece of property for which the variance is sought **are not** of so general or recurrent a nature as to make it more reasonable and practical to amend the regulation in question.

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

| | | | |
|--------------------|-----|--------------------------|-----|
| Alan Mandel, Mayor | AYE | Joe Kosinski, Vice Mayor | AYE |
| Jo List | AYE | Bob Raymond | AYE |
| Dan Andre | AYE | | |

DULY PASSED AND ADOPTED THIS 19th day of AUGUST, 2013.

By: _____

Alan Mandel, Mayor

Approved as to legal sufficiency:

By: _____

Fowler White Boggs, P.A.
Town Attorney

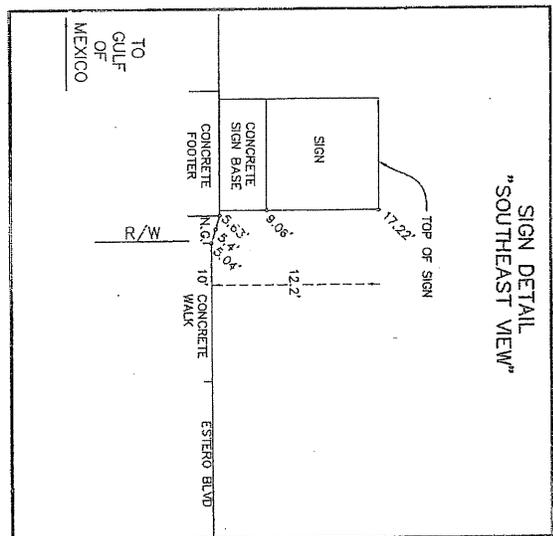
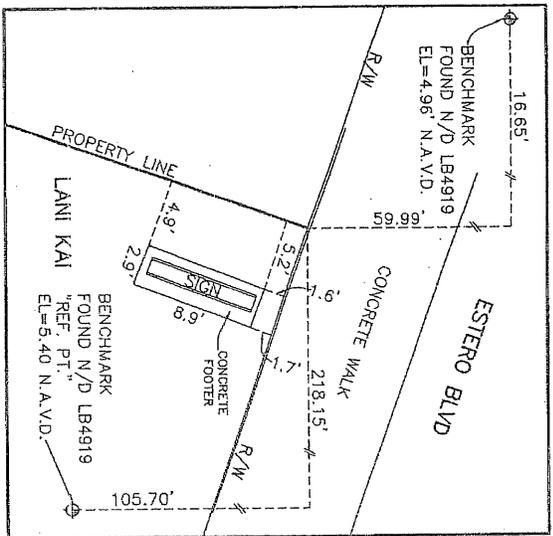
ATTEST:

By: _____

Michelle Mayher
Town Clerk

SPECIFIC PURPOSE SURVEY

OF
A PARCEL OF LAND
LYING IN
SECTION 19, TOWNSHIP 46 SOUTH, RANGE 24 EAST,
FORT MYERS BEACH, LEE COUNTY, FLORIDA



SIGN LOCATION AT LANI KAI

Bean, Whitaker, Lutz & Karih, Inc. (DB 4919)
CONSULTING ENGINEERS - SURVEYORS AND MAPPERS - FLANNERS
13041 McCRESOR BOULEVARD, FORT MYERS, FLORIDA 33919-9310 (239) 491-1331

| | | | | | | |
|--------|-------------|-------------|----------|----------|--------|----------|
| DATE | SR42160 DWG | PROJECT NO. | DRAWN BY | SCALE | SHEET | FILE NO. |
| 1-8-13 | 42160 | 42160 | S.PIERCE | 1" = 10' | 1 OF 1 | 19-46-24 |

NOTES:
SURVEY BASED ON THE R/W MAPS FOR ESTERO BLVD PREVIOUSLY PREPARED BY THIS FIRM.
ELEVATIONS ARE BASED ON N.A.V.D. 1988 AND NGS BENCHMARK AD1327.
DIMENSIONS ARE IN FEET AND DECIMAL PARTS THEREOF.
PARCEL SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS AND RIGHTS-OF-WAY (RECORDED AND UNRECORDED, WRITTEN AND UNWRITTEN).
UNDERGROUND IMPROVEMENTS, UTILITIES AND/OR FOUNDATIONS WERE NOT LOCATED UNLESS OTHERWISE NOTED.
ALL UTILITIES AND IMPROVEMENTS ARE NOT SHOWN.

THIS PLAT PREPARED AS AN EXHIBIT BEING A SPECIFIC PURPOSE SURVEY TO SHOW THE LOCATION AND ELEVATION OF THE EXISTING SIGN ALONG THE RIGHT-OF-WAY LINE OF ESTERO BLVD AND THE WESTERLY PROPERTY LINE OF LANI KAI.
STRAP NO: 19-46-24-W4-00700.0020
ADDRESS: 1400 ESTERO BLVD, FORT MYERS BEACH, FL 33931
DATE OF LAST FIELD WORK: 1-8-13.

*NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
BEAN, WHITAKER, LUTZ & KARIH, INC.
SCOTT C. WHITAKER, P.S.M., NO. LS4324
PROFESSIONAL SURVEYOR & MAPPER
STATE OF FLORIDA
- THIS SURVEY IS ONLY FOR THE LANDS DESCRIBED HEREON.
- IT IS NOT A CERTIFICATION OF TITLE, ZONING, SETBACKS, OR FREEDOM OF ENCUMBRANCES.
- THIS SURVEY WAS PREPARED WITHOUT BENEFIT OF AERIAL PHOTOGRAPHY AND ALL MEASUREMENTS AT LKAI SHOULD BE REFERRED TO AN INSTRUMENT AT LKAI.

LEGEND
E.O.P. = EDGE OF PAVEMENT
CONC = CONCRETE
R/W = RIGHT OF WAY
N.G.S. = NATIONAL GEODETIC SURVEY
N.A.V.D. = NORTH AMERICAN VERTICAL DATUM
N.G. = NATURAL GROUND
N/D = NAIL AND DISC