

RESOLUTION OF THE LOCAL PLANNING AGENCY OF
THE TOWN OF FORT MYERS BEACH FLORIDA
RESOLUTION NUMBER 2012-008
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 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.

IT IS HEREBY RESOLVED BY THE LPA 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 and the standards for granting variances, the LPA recommends the following findings of fact, conditions for approval, and conclusions for consideration by the Town Council:

The LPA recommends that the Town Council **APPROVE** 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:

RECOMMENDED 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.

RECOMMENDED FINDINGS AND CONCLUSIONS:

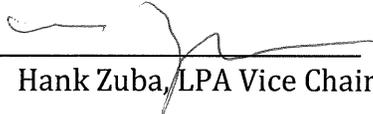
In accordance with the requirements of LDC Sections 34-84 and 34-87 regarding consideration of eligibility for a variance, the LPA recommends that the Town Council make the following findings and reach the following conclusions:

- 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 LPA upon a motion by LPA Member **Plummer** and seconded by LPA Member **Smith**, and upon being put to a vote, the result was as follows:

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

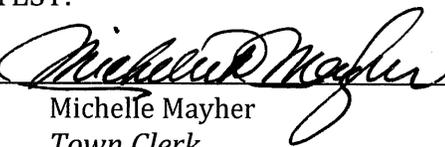
DULY PASSED AND ADOPTED THIS 14th day of AUGUST, 2012.

By: 
Hank Zuba, LPA Vice Chair

Approved as to legal sufficiency:

By: 
Fowler, White, Boggs
LPA Attorney

ATTEST:

By: 
Michelle Mayher
Town Clerk