

RESOLUTION OF THE LOCAL PLANNING AGENCY OF  
THE TOWN OF FORT MYERS BEACH FLORIDA  
RESOLUTION NUMBER 2011-010  
FMBVAR2008-0003 (DiamondHead Sign)

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 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 September 13, 2011; 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 special exceptions, 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 30-153(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 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. *Landscape material shall be installed and maintained around the base of the sign in such a way as to comply with the 18" monument base provision in Section 30-154(c).*

#### **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:

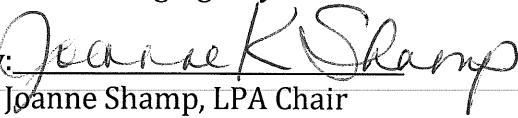
- A. There **are** exceptional or extraordinary conditions or circumstances that are inherent to the property in question, **or** the request **is not** for a de minimis variance under circumstances or conditions where rigid compliance is not essential to protect public policy.
- B. The conditions justifying 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 **Cameron** and seconded by LPA Member **Zuba** and upon being put to a vote, the result was as follows:


Joanne Shamp, Chair	NAY	Bill Van Duzer, Member	Absent
Rochelle Kay, Member	NAY	John Kakatsch, Member	AYE
Hank Zuba, Member	AYE	Tom Cameron, Member	AYE

DULY PASSED AND ADOPTED THIS 13<sup>th</sup> day of SEPTEMBER, 2011.

Local Planning Agency of the Town of Fort Myers Beach

By:   
Joanne Shamp, LPA Chair

Approved as to legal sufficiency:

By:   
Fowler, White, Boggs  
LPA Attorney

ATTEST.


By:   
Michelle Mayher  
Town Clerk

EXHIBIT ( E )

