

RESOLUTION OF THE LOCAL PLANNING AGENCY OF
THE TOWN OF FORT MYERS BEACH FLORIDA
RESOLUTION NUMBER 2013-005
VAR2013-001 – 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 May 14, 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.

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/DENY** 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 H*;

The LPA recommends that the Town Council **APPROVE/DENY** 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 and illustrated on *Exhibit F*;

The LPA recommends that the Town Council **APPROVE/DENY** Staff's alternative recommendation for a variance from Section 30-154(c) of the LDC to allow a maximum height of 7' as measured from adjacent grade;

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/are not** exceptional or extraordinary conditions or circumstances that are inherent to the property in question, and the request **is/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/are not** the result of actions of the applicant taken after the adoption of the regulation in question.

C. The variance granted **is/is not** 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/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/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 _____ and seconded by LPA Member _____, and upon being put to a vote, the result was as follows:

Hank Zuba, Chair	AYE/NAY	Joanne Shamp, Vice Chair	AYE/NAY
Al Durrett, Member	AYE/NAY	John Kakatsch, Member	AYE/NAY
Jane Plummer, Member	AYE/NAY	Alan Smith, Member	AYE/NAY
Jim Steele, Member	AYE/NAY		

DULY PASSED AND ADOPTED THIS **11th** day of **JUNE, 2013**.

Local Planning Agency of the Town of Fort Myers Beach

By: _____
Hank Zuba, LPA Chair

Approved as to legal sufficiency:

By: _____
Fowler White Boggs, P.A.
LPA Attorney

ATTEST:

By: _____
Michelle Mayher
Town Clerk



Town of Fort Myers Beach
COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT

TYPE OF CASE: Sign Variance
CASE NUMBER: VAR2013-0001
LPA HEARING DATE: May 14, 2013
LPA HEARING TIME: 9:00 AM

I. APPLICATION SUMMARY

Applicant: Robert Burandt, Esq
Authorized Agent for Lani Kai, LP

Request: A sign variance from:

- Section 30-154(b) requiring monument signs to be setback a minimum of 3' from any public right-of-way to allow a setback of 1.7' from the Estero Boulevard right-of-way
- Section 30-154(c) requiring a maximum height of 5,' as measured from the crown of road or adjacent grade, for a monument sign to allow a maximum height of 9'7" as measured from the adjacent grade

Subject property: See *Exhibit A*

Physical Address: 1400 Estero Boulevard
Fort Myers Beach, Florida 33931

STRAP #: 19-46-24-W4-0070D.0020

FLU: Pedestrian Commercial

Zoning: DOWNTOWN

Current use(s): Lani Kai Island Resort

Adjacent zoning and land uses:

North:	Yo! Taco (Restaurant) DOWNTOWN Pedestrian Commercial
	Coastie's (Restaurant) DOWNTOWN Pedestrian Commercial
South:	Gulf of Mexico Environmentally Critical (EC) Recreation FLU
East:	Seasonal Parking Lot DOWNTOWN Pedestrian Commercial
	Residential DOWNTOWN Pedestrian Commercial
	Wicked Wings (Restaurant) DOWNTOWN Pedestrian Commercial
West:	Commercial DOWNTOWN Pedestrian Commercial

II. BACKGROUND AND ANALYSIS

Background:

Robert Burandt, agent for Lani Kai, LP, has applied for a variance and relief from Section 30-154(b) and Section 30-154(c) of Chapter 30 – Signs of the Town of Fort Myers Beach Land Development Code, for the property located at 1400 Estero Boulevard and commonly known as the Lani Kai Island Resort.

On April 18, 2011 Town Council adopted amendments to the sign ordinance (11-01) which became effective immediately upon adoption. The amendments included an amortization provision requiring that all non-conforming signs come into compliance by December 31, 2011.

The subject property was issued a notice of violation, and failing to comply within the specified time frame, a notice of hearing. They went before the special magistrate on January 30, 2013 who continued the case 120 days. Mr. Burandt applied for the sign variance immediately following the special magistrate hearing on January 30, 2013.

The subject property measures approximately 2.75± acres in size and contains a mixed use building with hotel units, commercial units and various beach and resort activities. Prior to the adoption of Ord. 11-01, the subject property had two existing monument signs that exceeded height and square footage requirements. Through the code enforcement process, the applicant has removed one of the monument signs, see *Exhibit B* (applicant photos 3&4), and has elected to submit this application for a variance to retain the remaining sign at its present location, see *Exhibit C* (applicant photos 1&2).

It should be noted that in 2007 the applicant submitted for consideration a request for designation as Historically Significant or Landmark Sign for the signs and the subject property and two other parcels. The LPA heard the case at their May 6 2008 meeting and in LPA Resolution 2008016 denied the request. (See *Exhibit D*) The applicant appealed the decision to Town Council, and at the January 15, 2009 in Resolution 08-45 upheld the LPA's decision to deny the request. (See *Exhibit E*).

Analysis:

The applicant is requesting relief from two sections of Chapter 30: the setback requirements for monument signs found in 30-154(b) and the maximum height for a monument sign found in 30-154(c).

The existing monument sign on the subject property is located on the north end of the property very close to the property line. It measures 11'7" in overall height, see *Exhibit H*, and its setback approximately 1.7' from the right-of-way line, see *Exhibit I*. The applicant is requesting to retain the existing 1.7' right-of-way setback in order to utilize the existing concrete base and they have proposed two options for reducing the overall height of the monument sign.

The application is brief and while it does provide some supporting material, the applicant often utilizes details that are irrelevant to the case and/or cannot be considered in determining justification for a variance, i.e the amount of taxes paid by the Lani Kai, the variance process does not use financial considerations a means for determining a hardship, or the size of the subject property, the sign code sets a universal size for all monument signs regardless of the size of the subject property.

Section 30-153(b) establishes the sign face maximum area per commercial establishment per parcel and reads as follows:

Section 30-153(b) Commercial uses in commercial zoning districts. All signs located in commercial zoning districts, except for those signs identified as

exempt signs in 30-6 and temporary signs in 30-141, shall comply with the following sign area limitations.

(1) For a parcel of land containing one (1) or two (2) business establishments each separate business establishment shall be allowed a maximum of thirty-two (32) square feet of sign area.

(2) For a parcel of land containing three (3) or more business establishments, each establishment shall be allowed a maximum of sixteen (16) square feet sign area. An additional thirty-two (32) square feet of sign area may be utilized to identify the commercial development.

(3) The maximum sign area provided herein may be allocated among a combination of one (1) or more monument signs, projecting signs, and/or wall signs.

The subject property, as a resort with multiple additional businesses, is therefore entitled to the provisions described in (2) above: each business a maximum of 16 square feet and an additional 32 square feet to identify the commercial development. In previous reviews of new signs applications for multiple occupancy properties, Staff and the Town Attorney determined that the 32 square feet for commercial identification could be per street frontage. Therefore arguably the subject property is entitled to 64 square feet to identify the commercial development, in this case the Lani Kai Island Resort.

In the insufficiency response, dated March 22, 2013, the applicant identifies that complying with the height requirement of 5' is complicated by existence of the Florida Power & Light (FPL) transfer box. This is the most compelling detail of the application.

Monument signs are governed by Section 30-154(c) which states as follows:

Section 30-154(c) *Monument signs may be elevated provided that the bottom of the sign is no more than eighteen (18) inches above the highest adjacent grade. The maximum height of a monument sign is five (5) feet.*

The applicant's Option 1, and their preferred option as indicated in verbal conversations with Staff, is attached as *Exhibit F*. This option would reduce the overall height from 11'7" to 9'7" and would have approximately 48 square feet of sign area.

Option 2, as provided by the applicant, is attached as *Exhibit G*. This option would further reduce the height from 11'7" to 8'6" and would have approximately 60 square feet of sign area.

Exhibit H provides the dimensions of existing sign base at 3'6". *Exhibit I* shows the height conflict and obstruction from the FPL transformer as well as a backflow

device and fire hydrant. In previous sign variance requests Town Council has recognized objects such as these and justifiable obstructions and has granted variance relief to those applicants. The two most similar cases would be Beach Shell Inn (VAR2011-0004) and the Pierview Hotel (VAR2011-0006). Both of those properties had physical obstructions and Council did grant height relief. The method used by Council was to clarify the height of the obstruction, then utilize that height as the new increased base height. Then the applicant was granted anywhere from 42" to 48" additional inches above that new base for the sign area to provide the minimum variance necessary.

Therefore by using the method already established by Town Council in previous sign variance cases, the base height as provided by the applicant for the sign on the subject property is 42". Staff's recommendation for the sign height above that base would be another 42" for an overall height of 84" or 7' as measured from adjacent grade.

With regard to the request for a setback variance from 3' to 1.7' Staff finds that the justification for the height, i.e the transformer and backflow obstructions are also relevant to the setback discussion.

Setbacks for monument signs are detailed in Section 30-154(b) which states as follows:

***Section 30-154(b) Location.** Monument signs must be set back at least three (3) feet from any public right-of-way or roadway easement, provided, however, that monument signs may be located in a lawfully developed landscape median strip that is within a public or private right-of-way or easement where the holder(s) of the right-of-way or easement have consented to the location of the monument sign in such a right-of-way or easement.*

Town Council in their consideration of case VAR2012-0001, sign variance from Neptune Inn, granted a 0' setback variance to help the applicant clear physical obstructions.

It is important to note that one element remains unclear in the applicant's narrative. And that is if they propose to refurbish the existing sign or completely re-face the sign. This is a concern of Staff as the existing sign is backlit which does not comply with the internal illumination requirements detailed in Section 30-154(a). Any illumination on the sign, whether existing or proposed, must comply with this section.

Findings and Conclusions:

Using the five decision making factors described in LDC Section 34-87(3), Staff recommends the following findings and conclusions:

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

Staff finds that the location of the FPL transformer and the backflow device and the fully developed site configuration of the subject property are circumstances unique to the property and obstruct compliance with the sign ordinance.

Staff recommends the finding that there **are** exceptional or extraordinary conditions or circumstances that are inherent and unique to the subject property and that the variance is, therefore **is** justified.

- b. *That the conditions justifying the variance are not the result of actions of the applicant taken after the adoption of the regulation in question.*

The subject property was initially developed in the 1970s and the existing sign was in place prior to the adoption of the Town's original sign ordinance and Ord. 11-01.

Therefore Staff recommends that the conditions justifying the variance **are not** the result of actions of the applicant taken after the adoption of the regulations in question.

- c. *That the variance granted is the minimum variance that will relieve the applicant of an unreasonable burden caused by the application of the regulation in question to his property.*

The applicant has provided two options for compliance, one reducing the height from 11'7" to 9'7" the other reducing the further to 8'6". Staff finds that neither are the minimum variance necessary to clear the obstruction of the FPL transformer and backflow device.

As to the setback request, the applicant provided little justification other than a desire to utilize the existing sign base. Staff does not feel that these requests reflect the minimum variance necessary as required by this code.

Staff recommends that the variance requested **is not** the minimum variance necessary to relieve an undue burden.

- d. *That the granting of the variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.*

The applicant is requesting relief from the setback and sign height requirements of Chapter 30 of the LDC. The current sign's height is well

above the 5' maximum height allowed under the current code, and the two options offered by the applicant do not meet the minimum variance necessary obligation. The setback request is minimal but the applicant does not provide any strong justification for the need.

It is Staff's opinion that the applicant has not provided Town Council an applicant reflecting the minimum variance necessary. There are obstacles in place on the subject property that could warrant granting of a variance however, the applicant is asking for more than the minimum.

Staff therefore recommends that granting the variance as requested by the applicant **would** be injurious to the neighborhood or otherwise detrimental to the public welfare by allowing the subject property relief from rules and regulations that all others must adhere to.

- e. That 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.*

With the adoption of the amended sign ordinance, and the consequent amortization period for conformity, numerous locations on the Beach have pursued variance requests from the amended requirements. However, by the very nature of the recent adoption of the sign ordinance Town Council has addressed the issue of signs (including height) and has made a decision to enact and enforce a uniform sign code.

Staff finds that the circumstances on the specific piece of property for which the variance is sought **are** general in nature, and therefore do not demonstrate a verifiable hardship.

III. RECOMMENDATION

Staff recommends **APPROVAL** of a sign variance request from Section 30-154(b) requiring monument signs to be setback a minimum of 3' from any public right-of-way to allow a setback of 1.7' from the Estero Boulevard right-of-way.

Staff recommends **DENIAL** of a sign variance request from Section 30-154(c) requiring a maximum height of 5,' as measured from the crown of road or adjacent grade, for a monument sign to allow a maximum height of 9'7" as measured from the adjacent grade.

Staff offers an alternative recommendation for a sign height variance from Section 30-154(c). Keeping the most similar previously approved variance requests in mind (VAR2011-0004 and VAR2011-0007), and recognizing the obstruction of the FPL transformer equipment, Staff would recommend that the minimum variance necessary would be between 7' and 7'6", not to exceed 7'6" in overall height as

measured from crown of road or adjacent grade. Staff believes that this alternative recommendation reflects the true minimum variance necessary.

IV. CONCLUSION

Staff recommends **APPROVAL** of a sign variance request from Section 30-154(b) requiring monument signs to be setback a minimum of 3' from any public right-of-way to allow a setback of 1.7' from the Estero Boulevard right-of-way.

However, Staff is of the opinion that the applicant has not provided the minimum variance necessary for the sign height request therefore:

Staff recommends **DENIAL** of a sign variance request from Section 30-154(c) requiring a maximum height of 5,' as measured from the crown of road or adjacent grade, for a monument signs to allow a maximum height of 9'7" as measured from the adjacent grade.

Exhibits:

- A – Legal Description
- B – Removed monument sign
- C – Existing monument sign
- D – LPA Resolution 2008-016
- E – Town Council Resolution 08-45
- F- Applicant Option 1
- G- Applicant Option 2
- H- Measurements of existing monument sign
- I- Survey of existing sign setback dimensions

EXHIBIT A

EXHIBIT A to Deed

1. **1345 Estero Blvd, Fort Myers Beach, FL 33931**
19-46-24-W4-0060B.0130

Lot 13, Block B, VENETIAN GARDENS, according to the map or plat thereof as recorded in Plat Book 6, Page 70, Public Records of Lee County, Florida.

2. **1331 Estero Blvd, Fort Myers Beach, FL 33931**
19-46-24-W4-0060B.0140

Lot 14, Block B, VENETIAN GARDENS, according to the map or plat thereof as recorded in Plat Book 6, Page 70, Public Records of Lee County, Florida.

3. **1325 Estero Blvd, Fort Myers Beach, FL 33931**
19-46-24-W4-0060B.0150

Lot 15, Block B, VENETIAN GARDENS, according to the map or plat thereof as recorded in Plat Book 6, Page 70, Public Records of Lee County, Florida.

4. **1400 Estero Blvd, Fort Myers Beach, FL 33931**
19-46-24-W4-0070D.0020

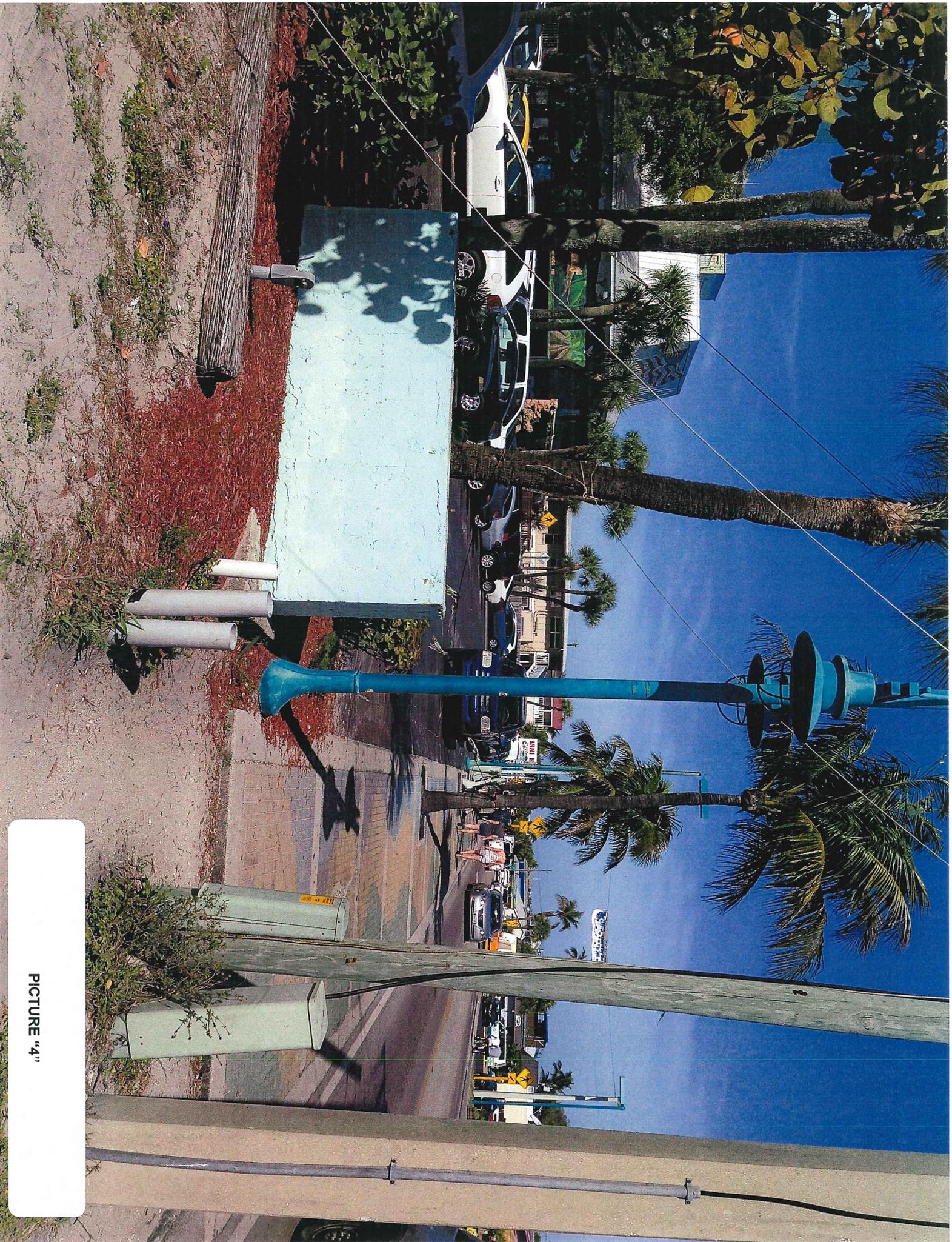
That parcel of land lying in Block "D" and "E" of Crescent Beach Subdivision, as per map or plat thereof recorded in Plat Book 4 at page 45, Public Records of Lee County, Florida, described as follows: Lots 2, 3, 6, 7, 8 and 9 of Block "D"; and Lots 1, 4, 5, 8, 9, 10 and 11 of Block "E"; and all of Lot 7 less the Westerly 16 feet thereof in Block "E"; and also the Easterly 30 feet of Lots 2, 3 and 6, and all of the Southerly 15 feet of Lot 6, all in Block "E"; also the vacated street and alley formerly known as Avenue B lying between Blocks "D" and "E" and running from Estero Boulevard to the Gulf of Mexico; also that certain alleyway lying between Lots 5 and 6 on the North and Lots 7, 8, 9, 10 and 11 on the South in said Block "E"; also the vacated alleyway between Lot 6 on the North and Lots 7, 8 and Westerly one-half of Lot 9 on the South in said Block "D".
END

\\Server\adamski shared\Conidaris\Deed - RC trust RC's Trust.wpd



REMOVE

PICTURE "3"



PICTURE "4"

EXHIBIT C



LANI KHI
Island Paradise
LIVE BAND
THE PARTY
FR - SU
930-130

A200
TUES

PICTURE "1"



PICTURE "2"

RESOLUTION OF THE LOCAL PLANNING AGENCY OF
THE TOWN OF FORT MYERS BEACH, FLORIDA
RESOLUTION NUMBER 2008-16

WHEREAS, Robert and Grace Conidaris, the property owners ("applicant"), filed a Petition for Designation of Historically Significant or Landmark Sign for the following sign: **Lani Kai**, pursuant to Section 30-56(b) of the Town of Fort Myers Beach Land Development Code (LDC) and Chapter 13 of the Town of Fort Myers Beach Comprehensive Plan (Comp Plan); and

WHEREAS, the subject property is located at 1400 Estero Boulevard, Fort Myers Beach, Lee County, Florida and has a current STRAP number of 19-46-24-W4-00700.0020; and

WHEREAS, a public hearing for this matter was legally advertised and held before the Town of Fort Myers Beach Local Planning Agency (LPA) on May 6, 2008; and

WHEREAS, at such hearing, the LPA gave full and complete consideration to the request of applicant, the documents in the file, the standards set forth in Chapter 13 of the Comp Plan and Section 30-56(b) of the LDC and the testimony of all interested persons.

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

The LPA determines that the sign **IS NOT** a landmark or an object of significance in history, architecture, archaeology, engineering or culture that may be related to a specific setting or environment for the reasons set forth below. Accordingly, the LPA **DOES NOT** designate the Lani Kai sign as a **landmark or historically significant sign**, pursuant to LDC Section 30-56(b) and Chapter 13 of the Comp Plan.

FINDINGS AND CONCLUSIONS

1. The sign:

a) **IS NOT** associated with events that significantly contributed to the broad patterns of Estero Island's history, or

b) **IS NOT** associated with the lives of persons significant in Estero Island's past, or

c) **DOES NOT** embody the distinctive characteristics of a type, period, or method of construction and **DOES NOT** possess high artistic values or represents a significant and distinguishable entity whose components may lack individual distinction; or

d) On an individual basis, the sign does not constitute a significant site, **AND DOES NOT** contribute to the overall significance of a district.

e) The LPA makes the following findings of fact in support of the conclusions reached in this subparagraph 1: Applicant has failed to submit sufficient documentation to support that the sign met the criteria above.

2. The sign **DOES NOT** meet sufficient integrity criteria to designate the sign as a either a landmark or historically significant sign. It:

- a) **DOES NOT** possess integrity of location; and
- b) **DOES NOT** possess integrity of design; and
- c) **DOES NOT** possess integrity of setting; and
- d) **DOES NOT** possess integrity of materials; and
- e) **DOES NOT** possess integrity of workmanship; and
- f) **DOES NOT** possess integrity of feeling; and
- g) **DOES NOT** possess integrity of association.

The LPA makes the following findings of fact in support of the conclusions reached in this subparagraph 2: Applicant has failed to submit sufficient documentation to support that the sign met the criteria above.

The foregoing Resolution was adopted by the LPA upon a motion by LPA Member Kay and seconded by LPA Member Van Duzer and upon being put to a vote, the result was as follows:

Dennis Weimer, Chair aye
Evie Barnes aye
Joanne Shamp aye
Joe Yerkes aye

Alan Mandel, Vice Chair absent
Rochelle Kay aye
Van Duzer aye

DULY PASSED AND ADOPTED THIS 6th day of May, 2008.

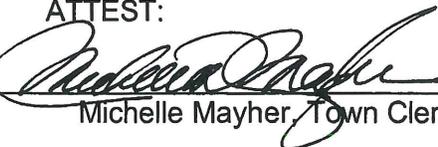
LPA of the Town of Fort Myers Beach

By: 
Dennis Weimer, LPA Chair

Approved as to legal sufficiency:

By: 
Anne Dalton, Esquire
LPA Attorney

ATTEST:

By: 
Michelle Mayher, Town Clerk

RESOLUTION OF THE TOWN COUNCIL OF
THE TOWN OF FORT MYERS BEACH, FLORIDA
RESOLUTION NUMBER 08-45

WHEREAS, Robert G Conidakis, the property owner, by and through Robert B. Burandt, Esquire, Agent ("Appellant"), filed a Petition for Designation of Historically Significant or Landmark Sign before the Town of Fort Myers Beach Local Planning Agency (LPA), for four signs located on the LANI KAI property (hereafter collectively referred to as "the signs"), pursuant to Section 30-56(b) of the Town of Fort Myers Beach Land Development Code (LDC) and Chapter 13 of the Town of Fort Myers Beach Comprehensive Plan (Comp Plan); and

WHEREAS, the signs are located on multiple subject properties, as follows 1325, 1331, 1345 Estero Boulevard (Islandview Restaurant sign); 1400 Estero Boulevard (Lani Kai (2 signs)); and 1479 Estero Boulevard (Lani Kai Bayside). The current STRAP numbers are as follows: 19-46-24-W4-0060B.0130, 19-46-24-W4-0060B.0140, 19-46-24-W4-0060B.0150, 19-46-24-W4-0070D.0020, and 19-46-24-W4-0060B.0070; and

WHEREAS, a public hearing for this matter was legally advertised and held before the Town of Fort Myers Beach Local Planning Agency (LPA) on May 6, 2008, at which time the LPA did not designate the Lani Kai signs as landmark or historically significant signs, for the reasons set forth in LPA Resolution 2008-16; and

WHEREAS, the Appellant filed an appeal of the LPA action pursuant to case number ADM2008-0002, which appeal was heard by Town Council at a hearing properly noticed and scheduled for October 20, 2008, at which time the hearing was continued to January 15, 2009; and

WHEREAS, at the hearings on October 20, 2008 and January 15, 2009, the Town Council gave full and complete consideration to the request of Appellant, the documents in the file, the standards set forth in Chapter 13 of the Comp Plan and Sections 30-56(b) and 34-86 of the LDC, any other relevant Town ordinances or regulations, LPA Resolution 2008-16, other documents from the LPA and the testimony of the appellant and all interested persons as required by LDC Section 34-86(2)(b).

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

FINDINGS AND CONCLUSIONS

SECTION 1. APPELLATE JURISDICTION OF TOWN COUNCIL

The Town Council finds that it DOES have jurisdiction to hear this appeal, for the following reason(s):

- a. The applicant HAS filed its appeal within the thirty (30) day period required by LDC Section 34-86(1)(b); and
- b. The appellant has alleged that the LPA has committed an error in the determination set forth in LPA Resolution 2008-16, and Town Council DOES

- have jurisdiction pursuant to LDC Section 34-86 (1) to review this matter;
and
- c. Accordingly, the Town Council **HAS** the authority to reverse, affirm, or modify the decision of the LPA, as set forth in LDC Section 34-86(3).

SECTION 2. REVIEW OF PROCEDURES FOLLOWED BY THE LOCAL PLANNING AGENCY

The Town Council finds that the LPA **DID** follow the proper procedures for consideration of Applicant's request, in that

- a. The LPA **DID** have jurisdiction under Section 30-56(b)(3) to conduct a hearing on the nomination request from Applicant; and
- b. the LPA hearing **WAS** properly noticed and conducted in accordance with standard quasi-judicial process followed by the Town Local Planning Agency; and
- c. the LPA **DID** utilize the appropriate standards from the LDC and Comp Plan in reviewing the application.

SECTION 3. CRITERIA FOR CONSIDERATION BY TOWN COUNCIL IN APPEALS

As required by Section 34-86(2)(a), the Town Council considered the following criteria, as well as any other issues which were pertinent and reasonable, in reaching the conclusion(s) set forth below:

- a. whether the appeal is of a nature properly brought for decision, or whether there is an established procedure for handling the request other than through the appeal process; and
The Town Council finds that this appeal is of a nature properly brought before it for decision, for the reasons outlined in Section 1 above.
- b. the intent of the ordinance being applied or interpreted; and
- c. the effect the ruling will have when applied generally to the LDC.

SECTION 4. COUNCIL DETERMINATION AND CONCLUSION

- a. The Town Council determines that the LPA **DID** properly apply the standards set forth in Chapter 13 of the Plan and LDC Section 30-56(b) to the facts presented in Appellant's request for designation of historic/landmark status to the Signs.
- b. For all of the above reasons, the Town Council concludes that the Signs **ARE NOT** landmark or object(s) of significance in history, architecture, archaeology, engineering or culture that may be related to a specific setting or environment.

THE TOWN COUNCIL hereby **AFFIRMS** the determination by the Local Planning Agency in the LPA Resolution 2008-16 on this 15TH day of January, 2009.

DULY ADOPTED THIS 15TH DAY OF JANUARY, 2009.

The foregoing Resolution was adopted upon a motion by Council Member Babcock and seconded by Council Member List. Upon being put to a vote, the result was as follows:

Herb Acken	<u> nay </u>	Tom Babcock	<u> aye </u>
Larry Kiker	<u> aye </u>	Jo List	<u> aye </u>
Bob Raymond	<u> aye </u>		

Town Council of the Town of Fort Myers Beach

BY: 
Larry Kiker, Mayor

Approved as to legal sufficiency:

By: 
Anne Dalton, Esquire
Town Attorney

ATTEST:

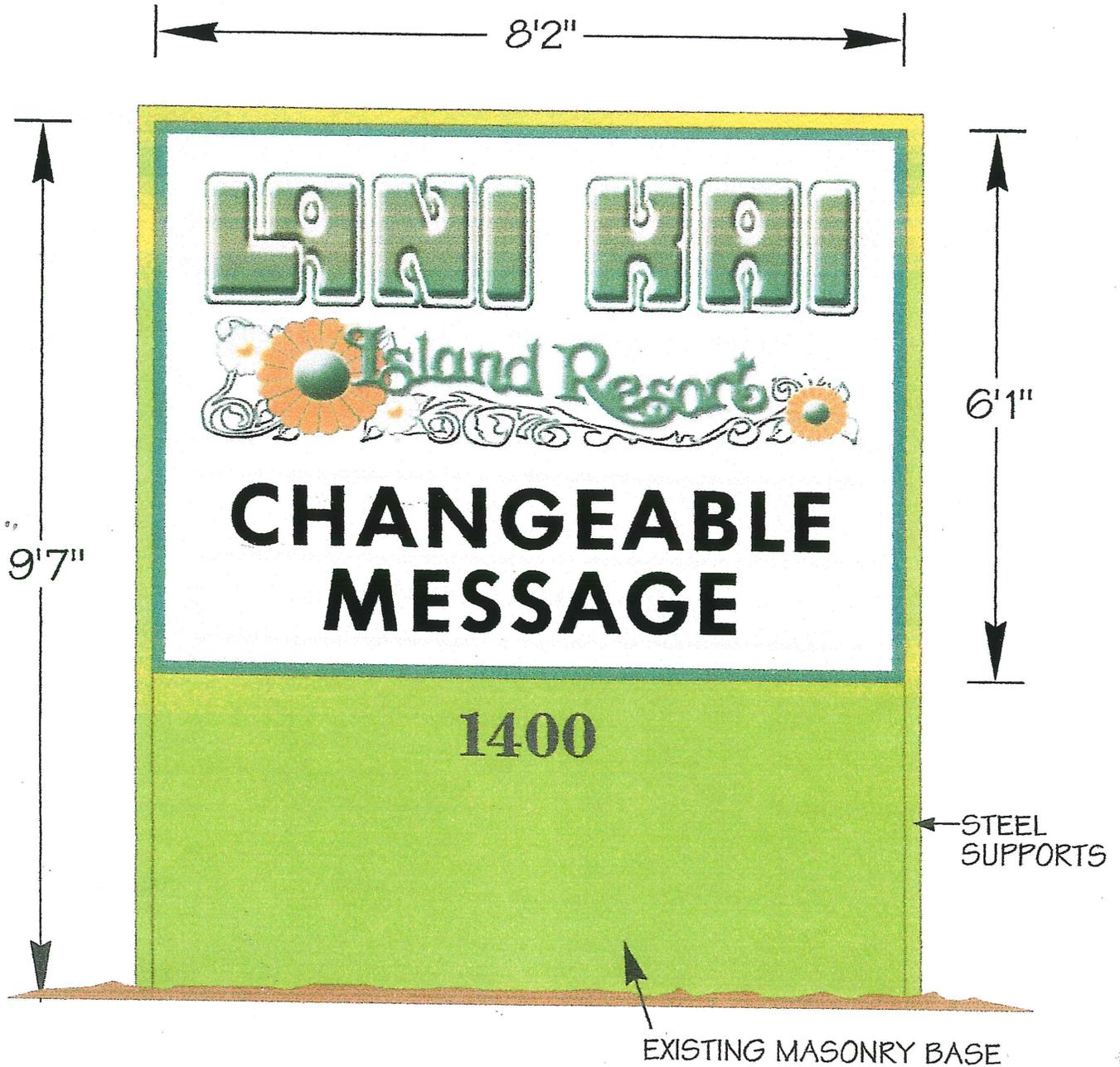
By: 
Michelle D. Mayher, Town Clerk

1400 ESTERO BLVD.
FT. MYERS BEACH, FL

EXHIBIT F

RENOVATION OF
NORTH SIGN

1



INTERNALLY ILLUMINATED ALUMINUM CABINET SIGN
WITH ACRYLIC FACES.
DOUBLE FACED.

(A)

	DATE
	12-17-12
	DRAWN BY
BILL RIDDLE	

OPTION # 1

EXHIBIT G

1400 ESTERO BLVD.
FT. MYERS BEACH, FL

INTERNALLY ILLUMINATED ALUMINUM CABINET SIGN
WITH ACRYLIC FACES.
DOUBLE FACED.

RENOVATION OF
NORTH SIGN



Option #2

ERIE'S SIGNS

DATE 12-17-12

DRAWN BY BILL RIDDLE

(B)

Option #2

8' - 2"



8' - 1"

11' - 7"

3' - 6"

EXISTING

NORTH SIGN



Burandt, Adamski & Feichthaler, P.L.

Attorneys and Counselors at Law

1714 Cape Coral Parkway East

Cape Coral, Florida 33904

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Facsimile: (239) 542-9203

Robert B. Burandt
Robert C. Adamski
Eric Feichthaler

March 22, 2013

Leslee Chapman
Zoning Coordinator
Town of Fort Myers Beach
2523 Estero Blvd.
Fort Myers, FL 33931

RE: VAR2013-0001 – LANI KAI SIGN VARIANCE

Dear Ms. Chapman:

In compliance with your letter and our meeting, I offer the following Amendments to the Community Development Department Application. Please supplement the former Page 3 of 13 with the new Page 3 of 13 of the Application and 2 of 6 of the Supplement PH-B.

The Lani Kai Island Resort was built in the 1970's and as part of the resort they had four (4) signs permitted. The first sign, which is the subject of this variance request, is located on the North side of the entrance to the property. (See Pictures #1 & 2). The other sign, which was a mirror of this sign was located on the South end of the property (See Pictures #3) and has been removed at the Town's request. (See Picture #4). Another monument sign was located across the street at 1479 Estero Blvd., Fort Myers Beach, Florida 33931 (See Pictures #5) and was removed at the Town's request. (See Pictures #6). A third sign was located across the street at 1331 Estero Blvd., Fort Myers Beach, Florida 33931 (See Pictures #7) from the sign requesting a variance and has been removed at the Town's request, which is used for over-flow parking. (See Pictures #8). The variance is being requested based on the fact that these signs were legally permitted and erected and three of the four signs have been removed at the request of the Town of Fort Myers Beach. The Lani Kai Island Resort has been there for over thirty (30) years and relied on these signs as its main source of advertising.

First of all, the placement of sign one is complicated by the fact that it sits on the boundary line of two properties. The sign in question is partially obstructed by motor vehicles that park on the adjacent property and without the increase in height would be almost totally obstructed by the

Florida Power & Light electrical boxes, which the Lani Kai Island Resort gratuitously allowed Florida Power & Light to place there when the Time Square redevelopment was developed. As you can see by the photographs, a five (5') foot sign would barely get the sign over the power boxes. The other part of the presentation is that the Lani Kai Island Resort employs over 100 employees and in 2012 paid:

- **\$108,307.17 in Tourist Tax last year;**
- **\$125,905.35 in Property Taxes;**
- **\$4,023.09 in Tangible Taxes;**
- **\$407,479.39 in Sales Tax; and**
- **\$1,826,117.28 in Payroll Taxes.**

Unfortunately, the Ordinance does not take any of that into consideration or the size of the establishment as compared to an adjacent piece of property that may be 50 x 100 sq. ft.

In order for a sign to be effective it has to be proportionate to the building and in this case, a smaller sign would be disproportionate to the building and a driver's eyes would be drawn to the building as opposed to the sign when passing by.

In addition, there is no other reasonable location for the sign to move it to the other end of the property where the sign has already been removed, but that creates several additional problems with visibility and obstruction. To move it to the middle of the parking lot also creates several additional problems, parking on Fort Myers Beach is at a premium and to move the sign in the middle of the parking lot: 1) would create a hazard for people trying to utilize the cross-walk which is located immediately in front of the Lani Kai; and 2) would also eliminate several parking spaces, which are government mandated by the State of Florida based on the size of the hotel, the number of restaurants and other establishments.

With respect to the set back from 3' feet to 1.5" feet, this is required to allow the sign to be visible to oncoming traffic and in order to utilize the base that is currently there. Once again, this particular monument sign has been previously consented to by Lee County, the public entity that owns the right-of-way therefore, pursuant to Section 30-154(b) it should be allowed to stay.

Therefore, the applicant would argue that there are exceptional extraordinary conditions or circumstances that are inherent to the property in question and that this request is for deminimous variance under circumstances or conditions where compliance is not essential to protect the public property. The exceptional extraordinary conditions are the size of the Lani Kai, the fact that there are visible obstructions leading up to both ends of the property and the fact that cars park on both sides of the sign and the signs had been previously approved by the County mandates, approved with this variance. Keeping in mind this sign was previously permitted by Lee County, this is a deminimous request, in that it only serves to allow the Lani Kai a 100 room hotel with multiple restaurants and shops to advertise relative to the size of the structure and the businesses located within.

The conditions justifying the variance are not the result of actions of the applicant taken after the adoption of the regulation in question; once again, these signs were properly permitted by both the Town and the County. These signs were made non-conforming by the passage of the "Sign

Ordinance”.

This variance is a minimum variance that will partially relieve the applicant of any unreasonable burden caused by the application of the regulation in question to his property. Once again, keep in mind that these signs have been properly permitted and were conforming signs until becoming non-conforming signs at the passage of the Town’s “Sign Ordinance”. This sign will not be injurious to the neighborhood or the otherwise detrimental to the public welfare. This sign has been there for over thirty years, and is not a new sign and will not have any new impact on the neighborhood, and since the sign has been there for over thirty years and there has never been an accident or injury as a result of the placement of the sign, the sign certainly would not be detrimental to the public welfare. The conditions or circumstance of this specific piece of property which the variance sought are specific to this property and not necessarily of a nature which would require amending the regulation or “Sign Ordinance” in question.

Very truly yours,



Robert B. Burandt
RBB:pdk

cc: Walter Fluegel

PART II – Nature of Request

Requested Action (each request requires a separate application)

- Special Exception
- Variance from LDC Section 30 - 154(c) max height & 30-154(b) set back requirement
- 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: _____
- 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 (individual or husband and wife)
 - Name: LANI KAI, LP Phone: (239) 363-3111
 - Mailing Address: 1400 Estero Blvd., Fort Myers Beach, FL 33931
 - Email: robert@capecoralattorney.com Fax: (239) 542-9203

PART I

Narrative Statements

30-154(c) - 30-154(b)

Request for variance from _____ (LDC Section number)

Explain the specific regulation contained in this section from which relief is sought:
Max Height Sign not to exceed 5'-0" - Section- 30-154 sets the standards for monument signs. Section 30-154(c) states that the maximum height of a monument sign is 5" from the highest adjacent grade. In this case, the Applicant is making a request for a variance from a maximum height of 5" to a maximum height of 9' 7" or in the alternative, 8' 6" from the adjacent grade. The second request the applicant is making is the variance from Section 30-154, which requires the base of the sign to be at least 3' from any public right of way. The applicant is requesting a variance of that 3' to 1.5'.

Reasons for request

Explain why the variance is needed:	SEE ATTACHED NARRATIVE
Amend existing sign on existing foundation	
Above existing FPL transformer 3'-6" high	
Existing sign 12' high	
(A) Lower to 9'-7" a 4'-7" Var. (55")	
or Option: (B) Lower to 8'-6" a 3'-6" Var. (42") (Same as existing basis).	
Sign Arisa	
Existing 64 sf	
(A) 49 sf	
or Option: (B) 60 sf	
Set back front 3' to 1'-5" (SW 15 Survey)	



PICTURE "1"

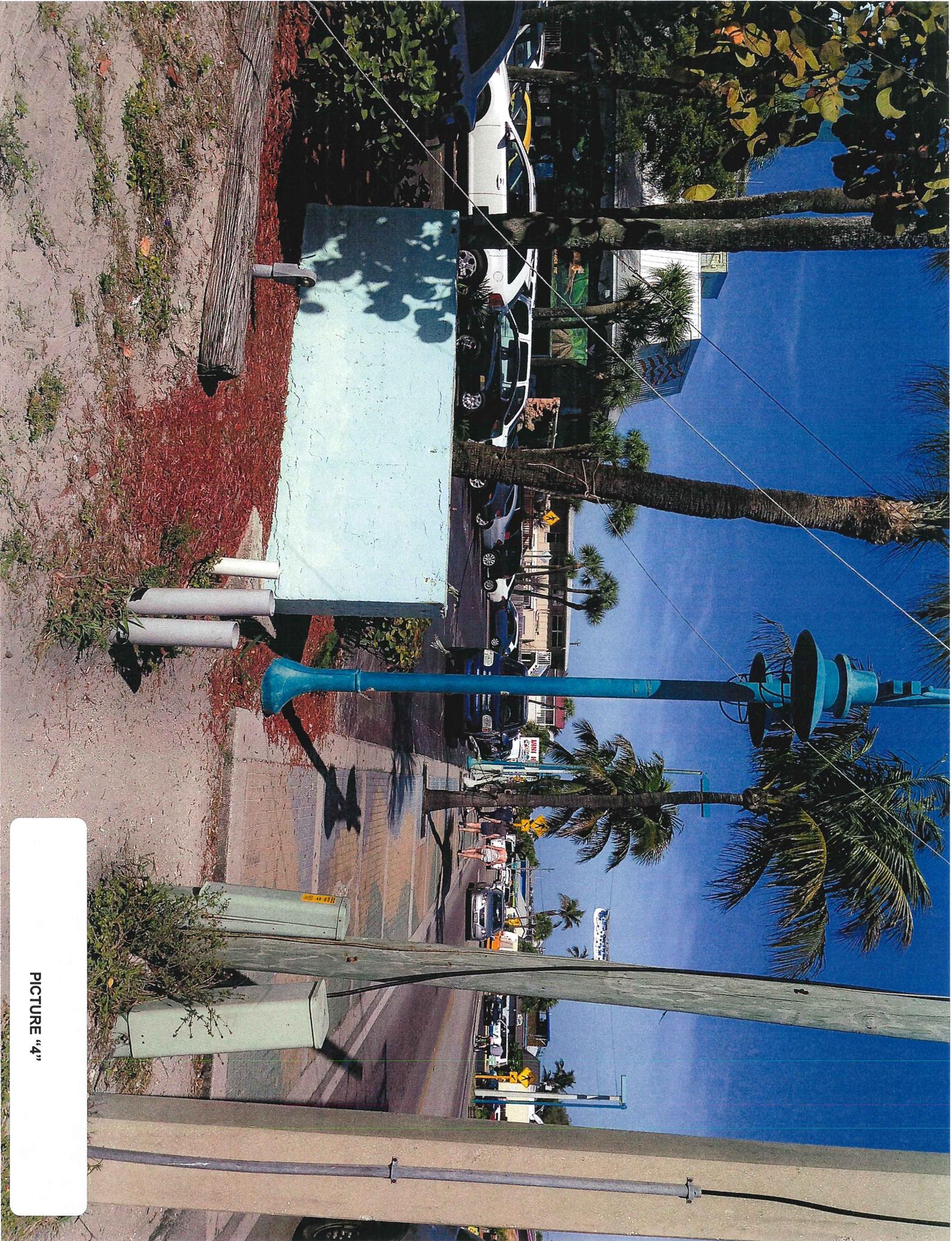


PICTURE "2"



REMOVE

PICTURE "3"

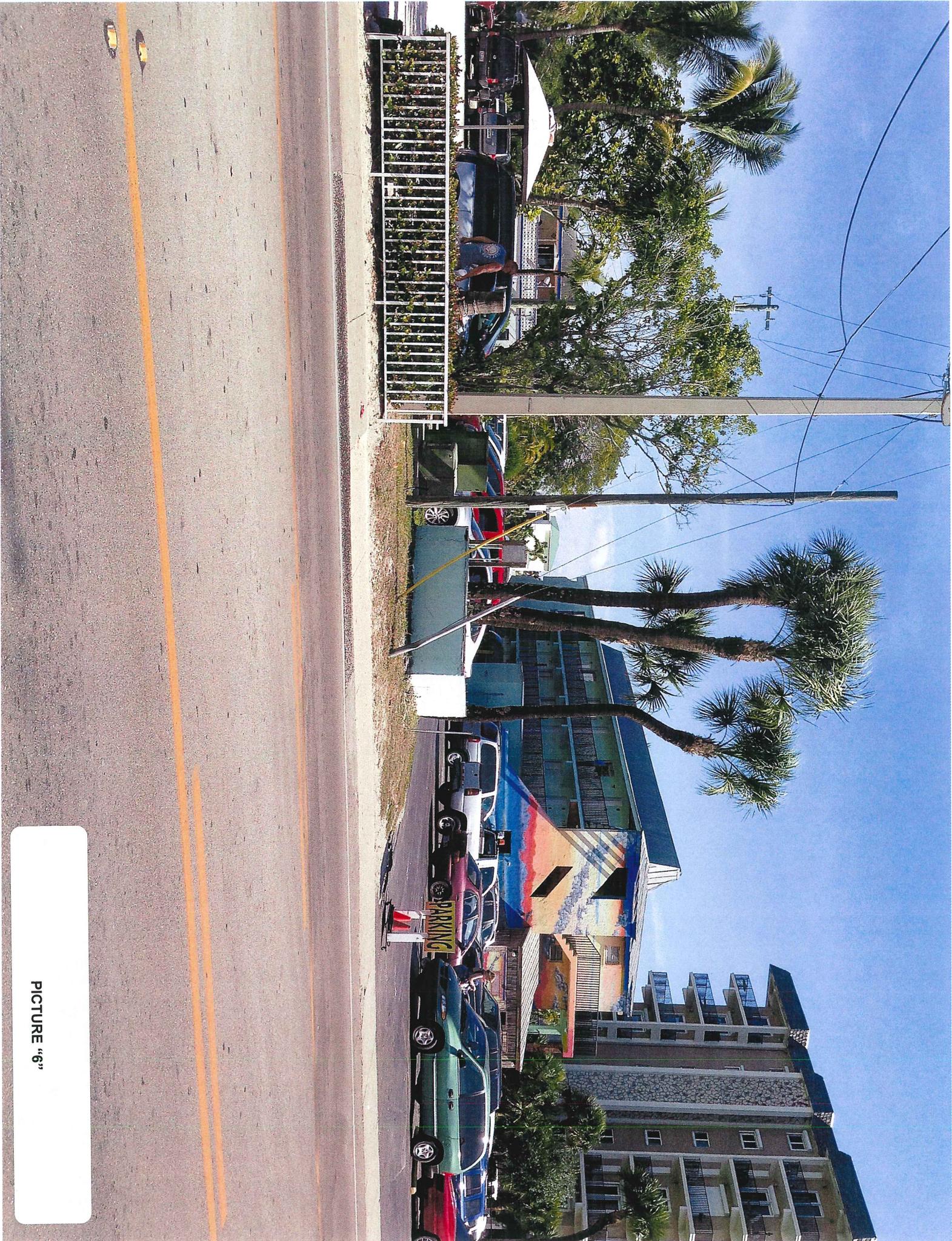


PICTURE "4"

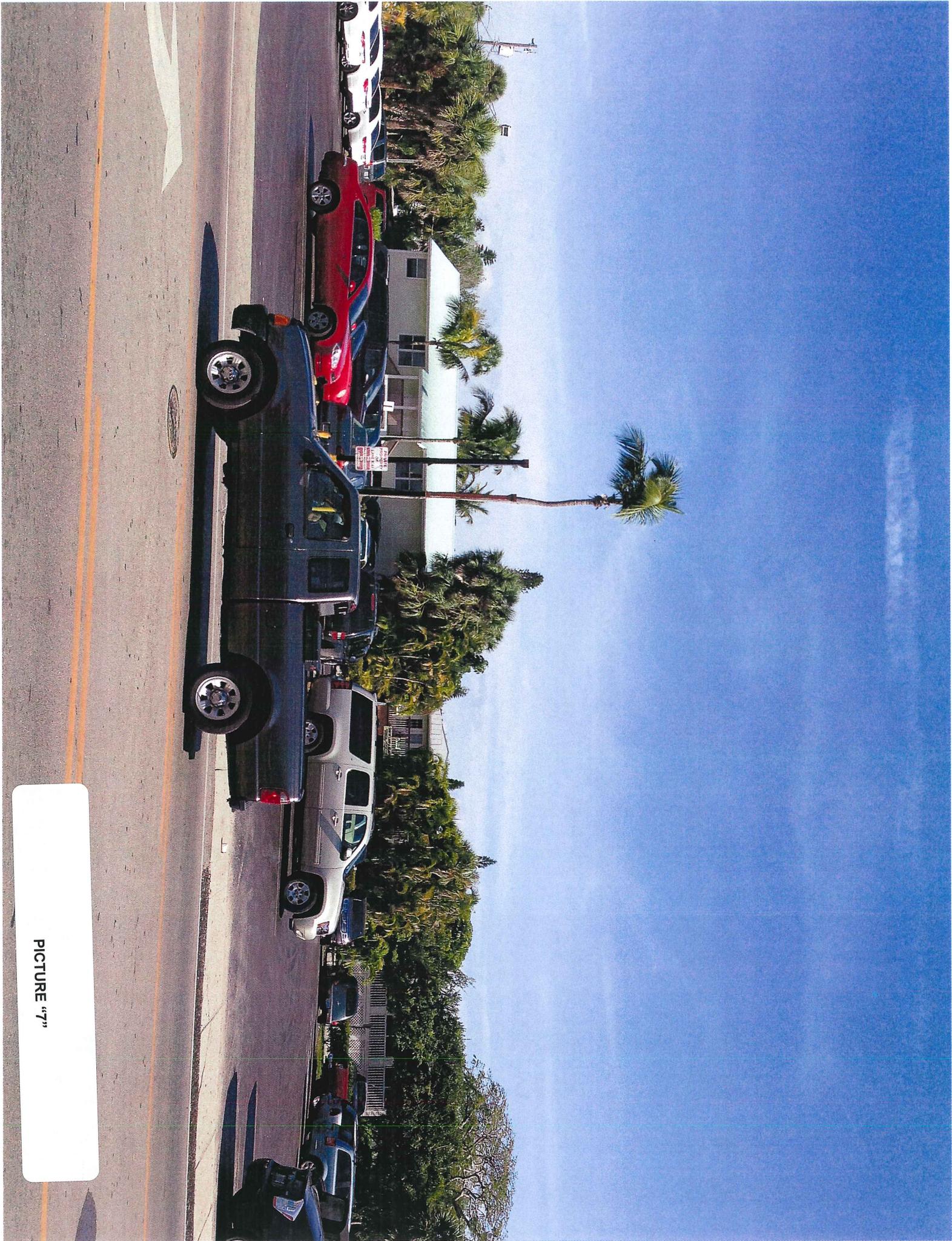
REMOVE EXISTING
NEW SIGN PERMITTED BY ERNIE'S SIGN
5' HIGHT 32 SF IN AREA



PICTURE "5"



PICTURE "6"



PICTURE "7"

Island View
RESTAURANT
FLORIDA'S FINEST
BREAKFAST SPECIALS
PRIVATE PARTYS
SUNSET WEDDINGS
239 463 3111

ISLAND VIEW PARKING SIGN
LOWER TO MAX. 5' - 0" HEIGHT
NEW SIGN OR SIZE TO MAX 32SF IN AREA
NEW SIGN PERMITTED BY ERNIE'S SIGNS

PICTURE "8"





Town of Fort Myers Beach

Community Development
2523 Estero Blvd Fort Myers Beach, Florida 33931
Phone: 239-765-0202 Fax: 239-765-0591

February 21, 2013

Robert B. Burandt, Esq.
1714 Cape Coral Parkway East
Cape Coral, FL 33904

Re: VAR2013-0001 - Lani Kai Sign Variance

Dear: Mr. Burandt,

The Community Development Department has reviewed the information provided for the above zoning application. The Town of Fort Myers Beach Land Development Code (LDC) required additional information for the application to be found sufficient. Please respond to each requirement not satisfied by the submitted application on the attached sufficiency checklists.

If you do not provide the requested supplements, corrections and fees within 60 calendar days of this letter, the LDC requires that this application be considered withdrawn. As reminder, at the January 30, 2013 Code Hearing the Special Magistrate continued the active code case (CE12-0440) dealing with the non-compliant sign for 120 days.

Please feel free to contact me if you have any questions or require further clarification.

Sincerely,

Leslee Chapman
Zoning Coordinator
Town of Fort Myers Beach
Community Development

Town of Fort Myers Beach

Community Development
2523 Estero Blvd Fort Myers Beach, Florida 33931
Phone: 239-765-0202 Fax: 239-765-0591

ZONING REVIEW – Leslee Chapman

The application and drawings submitted for the referenced project have been reviewed in accordance with the LDC, Florida Statutes as well as other applicable codes and ordinances as adopted by the Town of Fort Myers Beach. Your application requires the following additional information:

Application for Public Hearing

PART II – Nature of Request

Requested action lists a request for a variance from LDC Section 30-154(c), however upon review of the balance of the application, it appears that the variance request also includes a setback request.

Please amend the application and provide a specific list of the exact Chapter 30 section(s) from which the variance is being requested.

Supplement PH-B

Additional Required Information for a Variance Application

Variance is requested from: _____ LDC Section Number and Title of Section or Subsection.

Please provide a specific list of the exact Chapter 30 section(s) from which the variance is being requested.

PART 1 – Narrative Statements

Request for variance from _____ LDC Section Number. Explain the specific regulation contained in this section from which relief is sought.

Please provide a specific list of the exact Chapter 30 section(s) from which the variance is being requested.

Reasons for request. Explain why the variance is needed.

Please provide a detailed narrative account as to why the variance is needed; please direct the explanation to include a discussion as to why the subject property cannot come into compliance with all the requirements of Chapter 30 of the LDC.

Explain the hardship (what is unique about the property or the unreasonable burden compliance with Chapter would create on the subject property) that justifies relief from the regulations.

Please provide a detailed narrative account as to why the variance is needed. Please consider using any additional methods, i.e. maps, drawings, site plans, etc to help justify the request.

Town of Fort Myers Beach

Community Development

2523 Estero Blvd Fort Myers Beach, Florida 33931

Phone: 239-765-0202 Fax: 239-765-0591

Explain how the property qualifies for a variance. Direct this explanation to the guidelines for decision making compliance in LDC Section 34-87(3).

Please provide a detailed narrative account as to how and why the subject property qualifies for a variance. Please provide a detailed response to the five points within subsection 3 of LDC Section 34-87. For your convenience Section 34-87(3) is provided in its entirety below:

(3) **Findings.** Before granting any variance, the town council must find that all of the following exist:

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

Please make the corrections and resubmit with the necessary information so we can process your application. Please note that these comments represent only those of the reviewer signing below. Other comments may be forthcoming, and a re-submittal shall not occur until all reviewer comments are addressed.

Leslee Chapman
Zoning Coordinator
239-765-0202 ext 105



Town of Fort Myers Beach
COMMUNITY DEVELOPMENT DEPARTMENT

APPLICATION for PUBLIC HEARING

This is 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 *one ORIGINAL paper copy, eleven (11) copies and one digital/electronic copy* of all required applications, supplemental information, exhibits and documents. Please do not print and copy the instructions at the end of the application.

PROJECT NUMBER: VAR2013-0001 DATE: 1/30/13

Site Address: 1400 Estero Blvd, Fort Myers Beach, Florida 33931

STRAP Number: 19-46-24-W4-0070D.0020

Applicant: LANI KAI ISLAND RESORT Phone: (239) 463-3111

Contact Name: Robert B. Burandt, Esq. Phone: (239) 542-4733

Email: robert@capecoralattorney.com Fax: (239) 542-9203

Current Zoning District: Downtown

Future Land Use Map (FLUM) Category: N/A

FLUM Density Range: N/A Platted Overlay: YES NO

ACTION REQUESTED

SUPPLEMENTAL FORM REQUIRED

- | | |
|---|--------------------------|
| <input type="checkbox"/> Special Exception | PH-A |
| <input checked="" type="checkbox"/> Variance | x PH-B |
| <input type="checkbox"/> Conventional Rezoning | PH-C |
| <input type="checkbox"/> Planned Development <input type="checkbox"/> Commercial <input type="checkbox"/> Residential | PH-D |
| <input type="checkbox"/> Master Concept Plan Extension | PH-E |
| <input type="checkbox"/> Appeal of Administrative Action | PH-F |
| <input type="checkbox"/> Vacation of Platted Right-of-way and Easement | PH-G |
| <input type="checkbox"/> Other - cite LDC Section: _____ | attach on separate sheet |

PART I - General Information

A. **Applicant*:** LANI KAI, LP c/o Robert B. Burandt Phone: (239) 463-3111

**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: 1400 Estero Blvd., Fort Myers Beach, FL 33931

Email: robert@capecoralattorney.com Fax: (239) 542-9203

Contact Name: Robert Burandt, Esq. Phone: (239) 542-4733

B. **Relationship of Applicant to subject property:**

- | | | |
|--|---|--|
| <input type="checkbox"/> Owner* | <input type="checkbox"/> Land Trust* | <input type="checkbox"/> Partnership* |
| <input type="checkbox"/> Corporation* | <input type="checkbox"/> Association* | <input type="checkbox"/> Condominium* |
| <input type="checkbox"/> Subdivision* | <input type="checkbox"/> Timeshare Condo* | <input type="checkbox"/> Contract Purchaser* |
| <input checked="" type="checkbox"/> Authorized Representative* | <input type="checkbox"/> 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: Robert B. Burandt, Esq. Phone: (239) 542-4733

Address: 1714 Cape Coral Parkway East, Cape Coral, FL 33904

Email: robert@capecoralattorney.com Fax: (239) 542-9203

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: _____

Name: _____ Phone: _____

Address: _____

Email: _____ Fax: _____

PART II – Nature of Request

Requested Action (each request requires a separate application)

- Special Exception
 - Variance from LDC Section 30 - 154(c) max height
 - 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: _____
 - 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 (individual or husband and wife)
 - Name: LANI KAI, LP Phone: (239) 363-3111
 - Mailing Address: 1400 Estero Blvd., Fort Myers Beach, FL 33931
 - Email: robert@capecoralattorney.com Fax: (239) 542-9203

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 4-1

Attach map showing property owners interests as Exhibit 4-2 (for multiple parcels)

For condominiums and timeshares see Explanatory Notes Part IV (Page 11)

DISCLOSURE OF OWNERSHIP INTEREST

STRAP: _____

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
ROBERT CONIDARIS	100%
1400 ESTERO BLVD.	
FORT MYERS BEACH, FL 33931	

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
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

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]
Signature

ROBERT CONIDARIS
Printed Name

STATE OF FLORIDA)
COUNTY OF LEE)



The foregoing instrument was sworn to (or affirmed) and subscribed before me on 1-25-13 (date) by ROBERT CONIDARIS (name of person providing oath or affirmation), who is personally known to me or who has produced _____ (type of identification) as identification.

(SEAL)



Patricia D. Kelly
Signature

Patricia D. Kelly
Printed Name

PART V - Property Information

A. Legal Description:

STRAP: 19-46-24-W4-0070D.0020

Property Address: 1400 Estero Blvd, Fort Myers Beach, Florida 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 5-1.

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 5-2. (Survey of front NE corner only-per Dir. Fluegel-ok)

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):

3/4 mile South of Sky Bridges, West Side of Estero Blvd.

Attach Area Location Map as Exhibit 5-3

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 5-4.

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

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 5-6.
- Attach a map showing the surrounding property owners as Exhibit 5-7.
- Provide Staff with two (2) sets of surrounding property owner mailing labels.

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

- | | |
|--|--|
| <input type="checkbox"/> Low Density | <input type="checkbox"/> Marina |
| <input type="checkbox"/> Mixed Residential | <input type="checkbox"/> Recreation |
| <input checked="" type="checkbox"/> Boulevard | <input type="checkbox"/> Wetlands |
| <input type="checkbox"/> Pedestrian Commercial | <input type="checkbox"/> Platted Overlay |

H. Zoning (see official Zoning Map):

- | | |
|--|--|
| <input type="checkbox"/> RS (Residential Single-family) | <input type="checkbox"/> CF (Community Facilities) |
| <input type="checkbox"/> RC (Residential Conservation) | <input type="checkbox"/> IN (Institutional) |
| <input type="checkbox"/> RM (Residential Multifamily) | <input type="checkbox"/> BB (Bay Beach) |
| <input type="checkbox"/> RPD (Residential Planned Development) | <input type="checkbox"/> EC (Environmentally Critical) |
| <input type="checkbox"/> CM (Commercial Marine) | <input checked="" type="checkbox"/> DOWNTOWN |
| <input type="checkbox"/> CO (Commercial Office) | <input type="checkbox"/> SANTOS |
| <input type="checkbox"/> CB (Commercial Boulevard) | <input type="checkbox"/> VILLAGE |
| <input type="checkbox"/> CR (Commercial Resort) | <input type="checkbox"/> SANTINI |
| <input type="checkbox"/> CPD (Commercial Planned Development) | |

PART VII

AFFIDAVIT

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

I, ROBERT CONIDARIS (name), as OWNER (title) of LANI KAI, LP (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 County 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 Lee County 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.

LANI KAI, LP
Name of Entity (corporation, partnership, LLP, LLC, etc)

Signature

Title

ROBERT CONIDARIS
Typed or Printed Name

1-25-13
Date

STATE OF FLORIDA)
COUNTY OF LEE)

The foregoing instrument was sworn to (or affirmed) and subscribed before me on 1/25/13 (date) by ROBERT CONIDARIS (name of person providing oath or affirmation), who is personally known to me or who has produced (type of identification) as identification.

(SEAL)



Signature: Patricia D. Kelly
Printed Name: Patricia D. Kelly

AC# 6471237

STATE OF FLORIDA

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION
DIVISION OF HOTELS AND RESTAURANTS

SEQ# 112101500023

DATE	BATCH NUMBER	LICENSE NBR	OF THE STATE
10/19/2012	120178064	MOT1601875	100

NON-

The MOTEL (2002)
Named below is LICENSED
Under the provisions of Chapter
Expiration date: DEC 1, 2013

TRANSFERABLE

LANI KAI ISLAND RESORT INC
LANI KAI ISLAND RESORT
1400 ESTERO BOULEVARD
FORT MYERS BEACH FL 33931

RICK SCOTT
GOVERNOR

KEN LAWSON
SECRETARY

DISPLAY AS REQUIRED BY LAW





8' - 2"

LANI HANI



8' - 1"

11' - 7"

3' - 6"

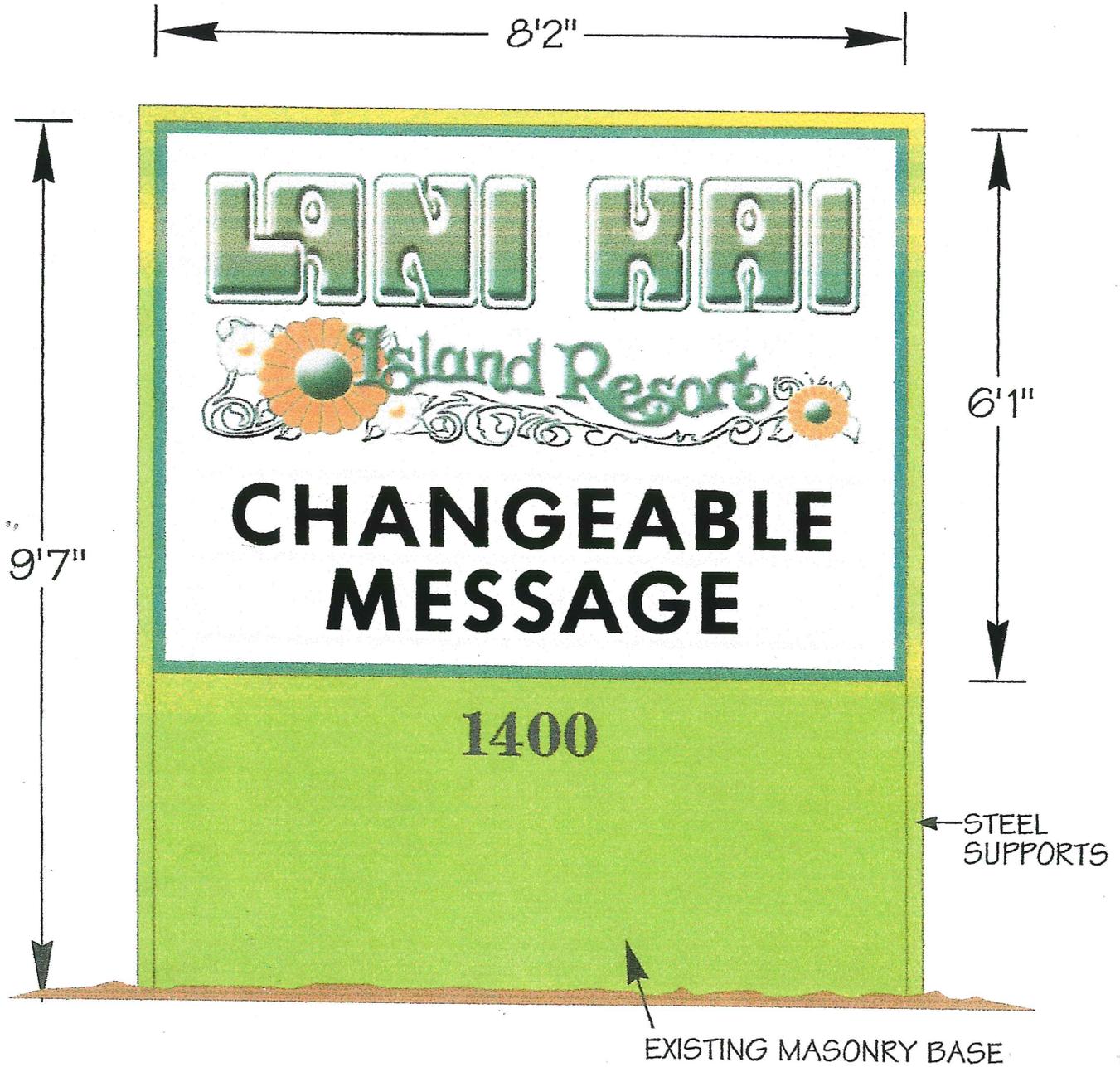
EXISTING

NORTH SIGN

1400 ESTERO BLVD.
FT. MYERS BEACH, FL

RENOVATION OF NORTH SIGN

1



INTERNALLY ILLUMINATED ALUMINUM CABINET SIGN
WITH ACRYLIC FACES.
DOUBLE FACED.

(A)

	DATE	12-17-12
	DRAWN BY	BILL RIDDLE

OPTION #1

OPTION # 2



(B)

	DATE	12-17-12
	DRAWN BY	BILL RIDDLE

INTERNALLY ILLUMINATED ALUMINUM CABINET SIGN
WITH ACRYLIC FACES.
DOUBLE FACED.

RENOVATION OF
NORTH SIGN

1400 ESTERO BLVD.
FT. MYERS BEACH, FL

OPTION # 2

Current
12/19/2011

This instrument prepared by:
ROBERT C. ADAMSKI, ESQUIRE
1714 Cape Coral Parkway
Cape Coral, Florida 33904
Tel: (239) 542-4733
Doc Stamps: \$.70
Record: 18.50
Total: \$19.20

(Space Above This Line for Recording Data)

WARRANTY DEED

This Indenture made this 19 day of December, 2011, between **ROBERT G. CONIDARIS, a single man, "GRANTOR"**, and **LANI KAI, LP, A Florida limited partnership, "GRANTEE"**, whose address is **c/o Robert G. Conidaris, 1400 Estero Boulevard, Fort Myers Beach, Florida 33931.**

WITNESSETH,

That said Grantor, for and in consideration of the sum of TEN AND 00/100'S (\$10.00) Dollars, to her or him in hand paid by said Grantee, the receipt whereof is hereby acknowledged, has granted, bargained and sold to said Grantee, her or his heirs and assigns, forever, the following described land located in the County of Lee, State of Florida, to wit:

All Grantor's interest in the real estate described on Exhibit A to this deed.

And said grantor does hereby fully warrant the title to said land, and will defend the same against the lawful claims of all persons whosoever.

This is a deed of convenience prepared without title examination.

This is a deed conveying assets from an individual to a limited partnership solely owned by the grantor and is exempt from documentary stamp tax.

TO HAVE AND TO HOLD the Property in fee simple upon the trusts and for the uses and purposes described in this Deed and in the trust agreement referred to above (hereafter the "Trust Agreement").

The terms "Grantor," "Grantee," "Trustee" and "Beneficiaries" are used for singular and plural, as the context requires.

IN WITNESS WHEREOF, Grantor has hereto set grantor's hand and seal this day and year first written above.

[Signature]
#1 Witness Signature
Timothy R. Cook
Print Witness #1 Name

[Signature]
ROBERT G. CONIDARIS

[Signature]
#2 Witness Signature
LAWRENCE A. PUCKETT
Print Witness #2 Name

STATE OF FLORIDA
COUNTY OF LEE

THE FOREGOING instrument was acknowledged before me this 19 day of December, 2011, by **ROBERT G. CONIDARIS**, who is (are) personally known to me or who has (have) produced _____ as identification and who did not take an oath.

(Seal)

NOTARY PUBLIC-STATE OF FLORIDA
Robert C. Adamski
Commission # DD903392
Expires: SEP. 20, 2013
BONDED THRU ATLANTIC BONDING CO., INC.

[Signature]
NOTARY PUBLIC

EXHIBIT A to Deed

1. **1345 Estero Blvd, Fort Myers Beach, FL 33931**
19-46-24-W4-0060B.0130

Lot 13, Block B, VENETIAN GARDENS, according to the map or plat thereof as recorded in Plat Book 6, Page 70, Public Records of Lee County, Florida.

2. **1331 Estero Blvd, Fort Myers Beach, FL 33931**
19-46-24-W4-0060B.0140

Lot 14, Block B, VENETIAN GARDENS, according to the map or plat thereof as recorded in Plat Book 6, Page 70, Public Records of Lee County, Florida.

3. **1325 Estero Blvd, Fort Myers Beach, FL 33931**
19-46-24-W4-0060B.0150

Lot 15, Block B, VENETIAN GARDENS, according to the map or plat thereof as recorded in Plat Book 6, Page 70, Public Records of Lee County, Florida.

4. **1400 Estero Blvd, Fort Myers Beach, FL 33931**
19-46-24-W4-0070D.0020

That parcel of land lying in Block "D" and "E" of Crescent Beach Subdivision, as per map or plat thereof recorded in Plat Book 4 at page 45, Public Records of Lee County, Florida, described as follows: Lots 2, 3, 6, 7, 8 and 9 of Block "D"; and Lots 1, 4, 5, 8, 9, 10 and 11 of Block "E"; and all of Lot 7 less the Westerly 16 feet thereof in Block "E"; and also the Easterly 30 feet of Lots 2, 3 and 6, and all of the Southerly 15 feet of Lot 6, all in Block "E"; also the vacated street and alley formerly known as Avenue B lying between Blocks "D" and "E" and running from Estero Boulevard to the Gulf of Mexico; also that certain alleyway lying between Lots 5 and 6 on the North and Lots 7, 8, 9, 10 and 11 on the South in said Block "E"; also the vacated alleyway between Lot 6 on the North and Lots 7, 8 and Westerly one-half of Lot 9 on the South in said Block "D".

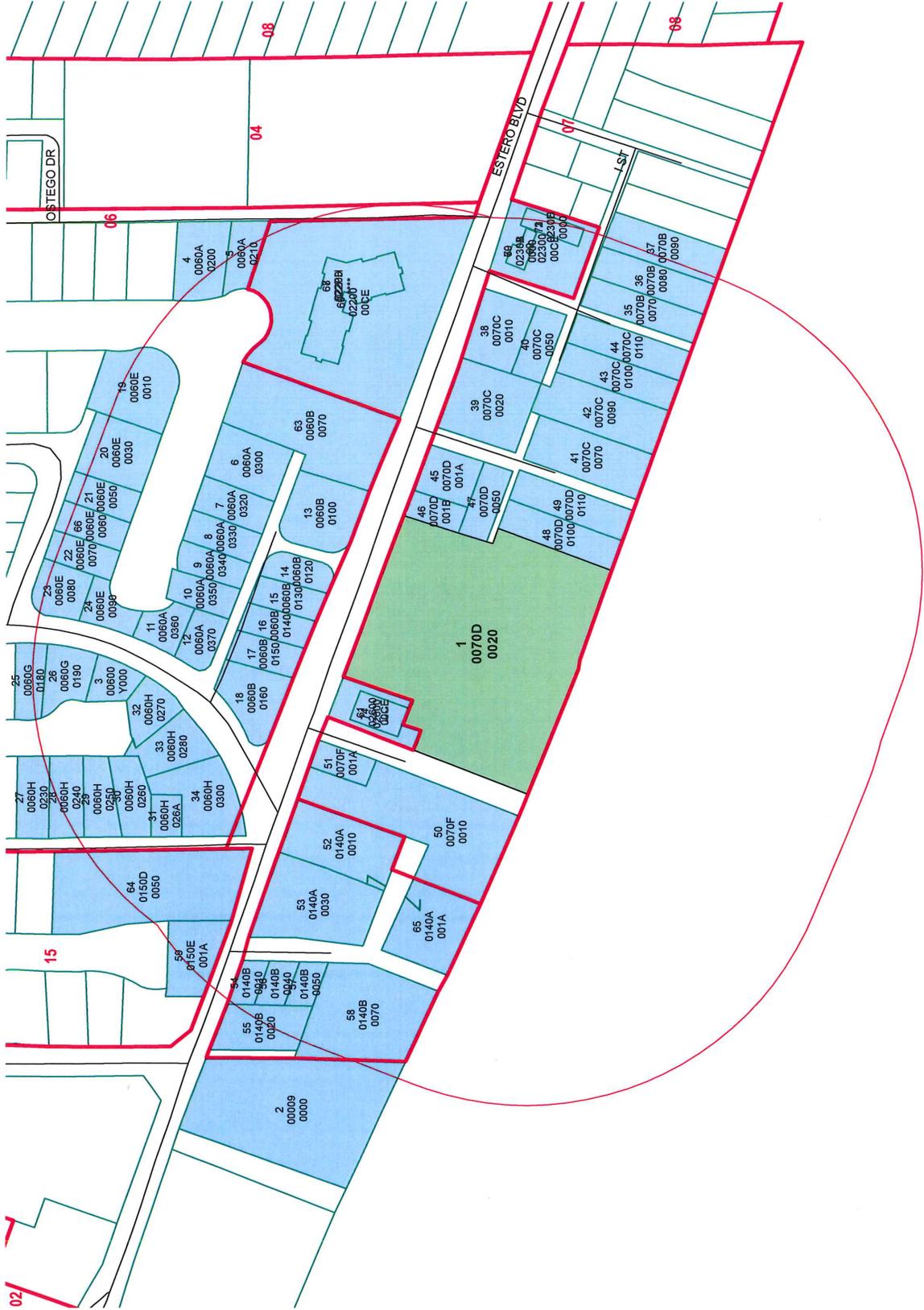
END

\\Server\adamski shared\Conidaris\Deed - RC trust RC's Trust.wpd

VARIANCE REPORT

1/2/2013

Subject Parcels: 1 Affected Parcels: 140 Buffer Distance: 500 ft



19-46-24-W4-0070D.0020

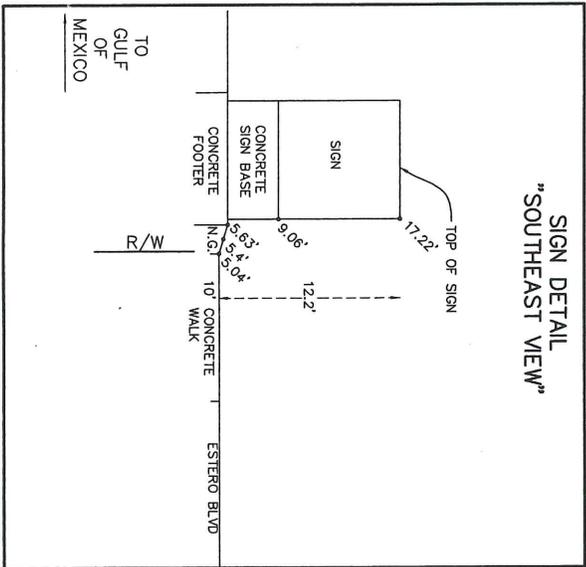
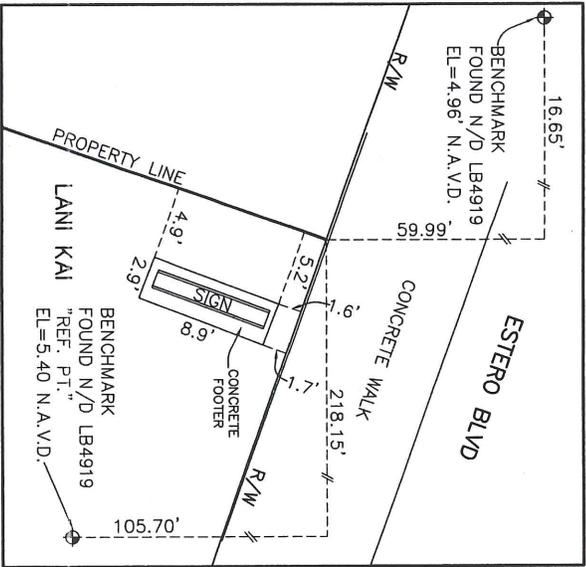




2002/01/08
12:02:33

SPECIFIC PURPOSE SURVEY

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



"SIGN DETAIL
"SOUTHEAST VIEW"

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

SIGN LOCATION AT LANI KAI

Bean, Whitaker, Lutz & Kreh, Inc. (LA 4919)

CONSULTING ENGINEERS - SURVEYORS AND MAPPERS - PLANNERS
13941 MCGREGOR BOULEVARD, FORT MYERS, FLORIDA 33919-9910 (239) 491-1331

DATE	PROJECT NO.	DRAWN BY	SCALE	SHEET	FILE NO. (S-1-R)
1-8-13	SR442160.DWG	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 NSG 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.

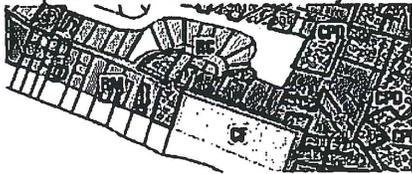
THIS PLAT PREPARED AS AN EXHIBIT BEING A SPECIFIC PURPOSE SURVEY TO SHOW THE LOCATION AND ELEVATION OF THE EXISTING SIGN ALONG THE RIGHT-OF-WAY LINE OF ESTERO BLVD AND THE WESTERLY PROPERTY LINE OF LANI KAI.
STRAP NO: 19-46-24-W4-00700.0020
ADDRESS: 1400 ESTERO BLVD, FORT MYERS BEACH, FL 33931
DATE OF 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 & KREH, INC.
SCOTT G. WHITAKER, P.S.M., NO. 154324
PROFESSIONAL SURVEYOR & MAPPER
- THIS CERTIFICATION 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 ABSTRACT OF TITLE AND ALL MATTERS OF TITLE SHOULD BE REFERRED TO AN ATTORNEY AT LAW.

Case # _____
 Planner _____

Date Received _____
 Date of Sufficiency/Completeness _____

Town of Fort Myers Beach
 Department of Community Development



Zoning Division

Supplement PH-B

**Additional Required Information for a
 Variance Application**

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

Case Number: VAR VAR2013-0001
Project Name: LANI KAI ISLAND RESORT - MONUMENT SIGN HEIGHT
Authorized Applicant: ROBERT B. BURANDT, ESQ.
LeePA STRAP Number: 19-46-24-W4-0070D.0020

Current Property Status: MOTEL/HOTEL
Current Zoning: DOWNTOWN
Future Land Use Map (FLUM) Category: N/A
Comp Plan Density: N/A Platted Overlay? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

Variance is requested from:

LDC Section Number	Title of Section or Subsection
30-154(c)	(Var from) Max Height Signs (A) 9'-7"
or Option 2:	(Var from) Max Height Signs (B) 8'-6"
	(Var from) Front set Back (A) & (B) 3' to 1'-5"

Complete the narrative statements below for EACH variance requested.

