

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.

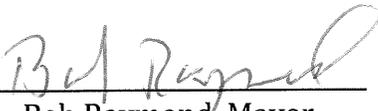
D. The granting of the variance **will not** be injurious to the neighborhood or otherwise detrimental to the public welfare.

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
18-2005-2214, DATED 3/04/05.)

PARCEL 1:

LOTS 1, 2, AND 3, BLOCK E, OF THAT CERTAIN SUBDIVISION KNOWN AS SEACRAPE ACCORDING TO THE MAP OR PLAT 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 PLAT THEREOF ON FILE WITH AND RECORDED THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, IN PLAT BOOK 6, 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 PLAT THEREOF ON FILE AND RECORDED IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT OF LEE COUNTY, FLORIDA, IN PLAT BOOK 5, PAGE 87, 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.