

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

WHEREAS, Robert G Conidaris, 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 15<sup>TH</sup> day of January, 2009.

DULY ADOPTED THIS 15<sup>TH</sup> 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*  
Larry Kiker, Mayor

Approved as to legal sufficiency:

By: *A. Dalton*  
Anne Dalton, Esquire  
Town Attorney

ATTEST:

By: *Michelle D. Mayher*  
Michelle D. Mayher, Town Clerk

