

RESOLUTION OF THE LOCAL PLANNING AGENCY OF
THE TOWN OF FORT MYERS BEACH FLORIDA
RESOLUTION NUMBER 2012-017
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 STRAP numbers for the subject property are 19-46-24-W3-0430000CE, 19-46-24-W3-0430N.0001 and 19-46-24-W3-0110A.0010 and the legal description of the subject property is attached as *Exhibit A*; 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.

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) to allow a monument sign with a 0' setback from the front right-of-way/property line of the subject property; and

The LPA recommends that the Town Council **APPROVE** the applicant's request for a variance from Section 30-154(c) of the LDC which incorporates a 4'6" tall sign base and an overall sign height of 8', 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, with the approval subject to the following conditions:

RECOMMENDED 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 8’.
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 4’6” 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 in place long the subject property’s Estero Boulevard property line must be maintained at 4’6” in height at all times. Removal of the hedge or maintenance of the hedge at a height less than 4’6” 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 60 days from the day of Town Council approval to permit and install the approved monument sign.
9. The applicant must provide an as-built survey of the sign and foundations to confirm the zero (0’) foot setback, and no right-of-way, encroachment, prior to Town approving the final inspection of the sign 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.

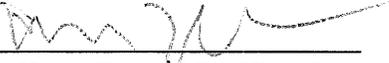
D. The granting of the variance **will not** be injurious to the neighborhood or otherwise detrimental to the public welfare.

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 **Kakatsch** and seconded by LPA Member **Durrett**, and upon being put to a vote, the result was as follows:

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

DULY PASSED AND ADOPTED THIS 13th day of **NOVEMBER, 2012**.

By: 
Hank Zuba, LPA Vice Chair

Approved as to legal sufficiency:
By: 
Fowler, White, Boggs
LPA 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 07, 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.