

RESOLUTION OF THE TOWN COUNCIL OF
THE TOWN OF FORT MYERS BEACH FLORIDA
RESOLUTION NUMBER 12- 03
FMBSEZ2011-0003 (Paradise Tropical Wines)

WHEREAS, applicant Eric Malasky has requested a special exception in the DOWNTOWN zoning district to allow a 2COP alcoholic beverage license in conjunction with consumption on premises (wine tasting) and package sales of specialty fruit wines; and

WHEREAS, the subject property is located at 159 Old San Carlos Boulevard, Fort Myers Beach, FL 33931; and

WHEREAS, the applicant has indicated that the STRAP for the subject property is 24-46-23-W3-0050A.016A and the legal description of the subject property is attached as **Exhibit A**; and

WHEREAS, a public hearing on this matter was legally advertised and held before the Local Planning Agency (LPA) on January 10, 2012 at which time the LPA gave full and complete consideration to the request of the 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 34-88; and

WHEREAS, at its meeting of January 12, 2012 the LPA instructed Town staff to bring this application forward to Town Council without the necessity of having approved LPA minutes; and

WHEREAS, a public hearing on this matter was legally advertised and held before the Town Council on February 6, 2012, at which time the Town Council gave full and complete consideration to the request of Applicant, LPA Resolution 2012-01, 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 34-88.

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 2012-02 and the standards for granting special exceptions, the Town Council makes the following findings of fact, and reaches the following conclusions:

The Town Council **APPROVES** the applicant's request for a special exception in the DOWNTOWN zoning district to allow a 2COP alcoholic beverage license in conjunction with consumption on premises (wine tasting) and package sales of specialty wines, with such approval subject to the following conditions:

CONDITIONS OF APPROVAL:

- 1. That the special exception is approved only for a 2-COP (beer and wine) alcoholic beverage permit to allow consumption on premises (wine tasting) of specialty wines and the package sales thereof. If an increase in the alcoholic beverage licenses series is sought, a new approval in accordance with the LDC will be required.*

2. *Consumption on premises is limited to the retail store located at 159 Old San Carlos Boulevard, currently operated as East Winds, as shown on the attached floor plan Exhibit C.*
3. *The 2COP for consumption on premises is limited to tastings of one-half (1/2) to one (1) ounce servings to adults age 21 or above, who are interested in purchasing the specialty Florida fruit wines.*
4. *Sales of specialty wines for consumption off the premises must be in factory-sealed containers. At no time shall alcoholic beverages be sold "by the glass" for consumption on premises.*
5. *Hours of operation for consumption on premises shall be limited to the hours of 10:00 AM to 10:00 PM, daily. The retail store may be open during hours outside of this restriction, but consumption on premises shall be limited to the hours listed herein.*
6. *The subject application does not include consumption on premises in conjunction with outdoor seating areas. All consumption (tasting) activities must take place inside the retail store.*

FINDINGS AND CONCLUSIONS:

In accordance with the requirements of LDC Sections 34-84 and 34-88 regarding consideration of eligibility for a special exception, the Town Council makes the following findings and reaches the following conclusions:

1. Changed or changing conditions do that make the requested approval, as conditioned, appropriate:
2. The requested special exception, as conditioned, is consistent with the goals, objectives, policies, and intent of the Fort Myers Beach Comprehensive Plan:
3. The requested special exception, as conditioned, **meets or exceeds** all performance and locational standards set forth for the proposed use.
4. The requested special exception, as conditioned, **will** protect, conserve, or preserve environmentally critical areas and natural resources:
5. The requested special exception, as conditioned, **will** be compatible with existing or planned uses and **will not** cause damage, hazard, nuisance or other detriment to persons or property:
6. The requested special exception, as conditioned, **will** be in compliance with the applicable general zoning provisions and supplemental regulations pertaining to the use set forth in LDC Chapter 34:

The foregoing Resolution was adopted by the Town Council upon a motion by Councilmember Mandel and seconded by Councilmember Kosinski and upon being put to a vote, the result was as follows:

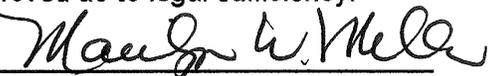
Larry Kiker, Mayor	AYE	Bob Raymond, Vice Mayor	AYE
Alan Mandel, Councilmember	AYE	Jo List, Councilmember	AYE
Joe Kosinski Councilmember	AYE		

DULY PASSED AND ADOPTED THIS 6th_ day of FEBRUARY, 2012.

Town Council of the Town of Fort Myers Beach

By: 
Larry Kiker, Mayor

Approved as to legal sufficiency:

By: 
Margaret A. Mello
Fowler White Boggs, P.A.
LPA Attorney

ATTEST:

By: 
Michelle Mayher
Town Clerk

EXHIBIT A

Legal description of property

24-46-23-W3-0050A.016A
159 Old San Carlos Boulevard
Fort Myers Beach, Florida 33931

LOTS 16 AND 17, BLOCK A, UNIT #2, ISLAND SHORES, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 9, AT PAGE 25, OF THE PUBLIC RECORDS OF LEE COUNTY FLORIDA, EXCEPT THAT PART OF LOT 17 DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWESTERLY CORNER OF SAID LOT 17, RUN NORTHEASTERLY ALONG THE WESTERLY LINE OF SAID LOT 17 FOR 16.50 FEET; THENCE RUN SOUTHEASTERLY PARALLEL WITH ESTERO BOULEVARD AS SHOWN ON SAID PLAT FOR 51.73 FEET TO A POINT 80 FEET, AS MEASURED ON A PERPENDICULAR, FROM THE WESTERLY LINE OF THE COUNTY ROAD AS SHOWN ON SAID PLAT; THENCE RUN SOUTHWESTERLY PARALLEL WITH SAID COUNTY ROAD FOR 8.58 FEET TO A POINT ON THE SOUTHERLY LINE OF SAID LOT 17; THENCE RUN NORTHWESTERLY ALONG SAID SOUTHERLY LINE AND PERPENDICULAR TO SAID COUNTY ROAD FOR 53.62 FEET TO THE POINT OF BEGINNING: TOGETHER WITH AN EASEMENT FOR WALKWAY PURPOSES OVER AND ALONG A STRIP OF LAND 4 FEET IN WIDTH, LYING 2 FEET FROM EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

FROM THE SOUTHWESTERLY CORNER OF LOT 19, IN SAID BLOCK A, RUN NORTHWESTERLY ALONG ESTERO BOULEVARD FOR 82.80 FEET TO THE POINT OF BEGINNING OF SAID CENTERLINE: FROM SAID POINT OF BEGINNING RUN NORTHEASTERLY PARALLEL WITH SAID COUNTY ROAD FOR 59.59 FEET TO A POINT ON THE NORTHEASTERLY BOUNDARY OF THE HEREINABOVE DESCRIBED EXCEPTION.