RESOLUTION OF THE LOCAL PLANNING AGENCY OF
THE TOWN OF FORT MYERS BEACH FLORIDA
RESOLUTION NUMBER 2013-005
VAR2013-001 – Lani Kai Sign Variance

WHERAS, 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** 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 I*;

The LPA recommends that the Town Council **APPROVE** the applicant's request for a variance from Section 30-154(c) of the LDC to allow a sign height of 9' as measured from adjacent grade or crown of road whichever is higher subject to the following condition;

RECOMMENDED CONDITION OF APPROVAL:

1. Landscaping shall be installed around the sign base wherever possible.

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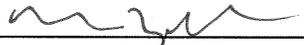
A. There **are** exceptional or extraordinary conditions or circumstances that are inherent to the property in question, and the request **is** for a de minimis variance under circumstances or conditions where rigid compliance is not essential to protect public policy.

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 **Steele** and seconded by LPA Member **Smith**, and upon being put to a vote, the result was as follows:
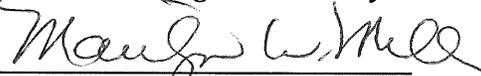
Hank Zuba, Chair	NAY	Joanne Shamp, Vice Chair	NAY
Al Durrett, Member	AYE	John Kakatsch, Member	AYE
Jane Plummer, Member	excused	Alan Smith, Member	AYE
Jim Steele, Member	AYE		

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: ATTEST:

By:_____   By:_____
Fowler White Boggs, P.A.   Michelle Mayher
LPA Attorney   *Town Clerk*