

RESOLUTION OF THE LOCAL PLANNING AGENCY OF
THE TOWN OF FORT MYERS BEACH FLORIDA
RESOLUTION NUMBER 2012- 002
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; 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 34-88.

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 special exceptions, 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 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 any approval subject to the following conditions:

RECOMMENDED CONDITIONS OF APPROVAL:

- 1. That the special exception be 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.*

RECOMMENDED 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 LPA recommends that the Town Council make the following findings and reach 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:


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The foregoing Resolution was adopted by the LPA upon a motion by LPA Member Smith and seconded by LPA Member Plummer and upon being put to a vote, the result was as follows:

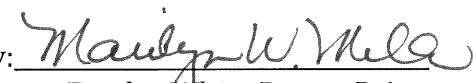
Joanne Shamp, Chair	AYE	Al Durrett, Member	AYE
Alan Smith, Member	AYE	John Kakatsch, Member	AYE
Hank Zuba, Member	AYE	Jane Plummer, Member	AYE

DULY PASSED AND ADOPTED THIS **10th** day of JANUARY, 2012.

Local Planning Agency of the Town of Fort Myers Beach

By: 
Joanne Shamp, LPA Chair

Approved as to legal sufficiency:

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

ATTEST:

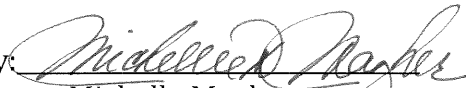
By: 
Michelle Mayher
Town Clerk

EXHIBIT A

Legal description of property

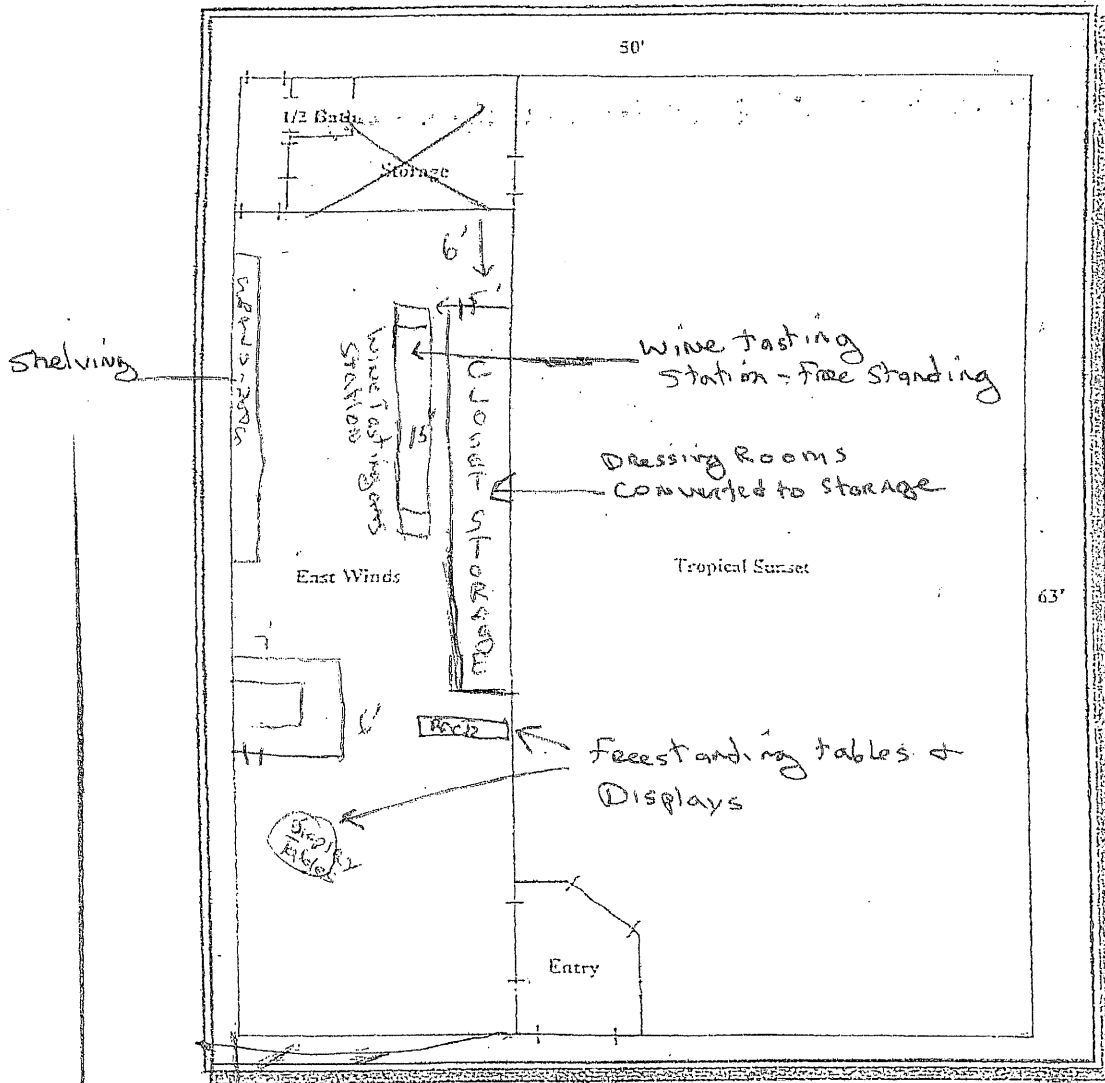
24-46-23-W3-0050A.016A
159 Old San Carlos Boulevard
Fort Myers Beach, Florida 33931

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.

EXHIBIT C



Reception
stand up
Bistro tables

FLOORPLAN

Proposed floorplan