



Fort Myers Beach Local Planning Agency

**DiamondHead Beach Resort
2000 Estero Blvd.
Fort Myers Beach, FL 33931**

Agenda

Tuesday, March 14, 2023

9:00 AM

ORDER OF BUSINESS

I. CALL TO ORDER

II. INVOCATION

III. PLEDGE OF ALLEGIANCE

IV. APPROVAL OF MINUTES

A.

V. PUBLIC COMMENT

VI. PUBLIC HEARINGS

- A. DCI 20230015 Rezoning from CPD to Institutional (IN) for 2545 Estero Boulevard

Approve/Approve with conditions/Deny Rezoning DCI 20230015 from CPD to Institutional for 2545 Estero Boulevard is consistent/inconsistent with LDC Sec 34-85 and the Comprehensive Plan.

VII. ADMINISTRATIVE AGENDA

- A. Historic Preservation Discussion
Historic Preservation Discussion
- B. Impact Fees Discussion
Impact Fees Discussion
- C. Commercial Design Standards Discussion
Commercial Design Standards
- D. Parallelogram Shaped Lots Discussion
Parallelogram Shaped Lots Discussion

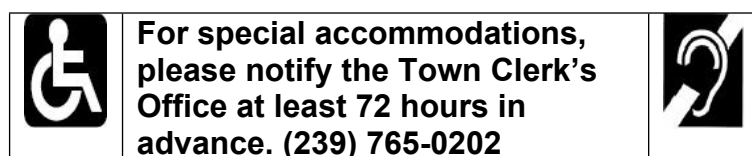
VIII. LPA MEMBERS ITEMS/REPORTS

IX. LPA ATTORNEY ITEMS/REPORTS

- X. COMMUNITY DEVELOPMENT ITEMS/REPORTS**
- XI. ITEMS FOR NEXT MONTHS AGENDA**
- XII. ADJOURNMENT**

NOTE: THIS MEETING IS STREAMED LIVE ON YOUTUBE.

IF A PERSON DECIDES TO APPEAL A DECISION MADE BY THE COUNCIL IN ANY MATTER CONSIDERED AT THIS MEETING/HEARING, SUCH PERSONS MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDING IS MADE, TO INCLUDE THE TESTIMONY AND EVIDENCE UPON WHICH ANY SUCH APPEAL IS TO BE BASED.



In accordance with the Americans with Disabilities Act (ADA), persons needing a special accommodation to participate in the Board's proceedings should contact the Town Clerk's Office not later than three days prior to the proceedings.

**Town of Fort Myers Beach
Agenda Item Summary**

Yellow Sheet Number: **2023-977**

1. **Requested Motion:**

Meeting Date: March 14, 2023

Approval of February 14, 2023 draft minutes

Why the action is necessary:

What the action accomplishes:

2. **Agenda:**

APPROVAL OF MINUTES

3. **Requirement/Purpose:**

5. **Background:**

Attachments:

1. Draft February 14 minutes
2. 2023-02-15 09-26

Financial Impact:

6. **Alternative Action**

7. **Staff Recommendations:**

8. **Recommended Approval:**

Steve Poposki, Community Development Director

Date: March 07, 2023

John R Herin Jr, Town Attorney

Date: March 07, 2023

Amy Baker, Town Clerk

Date: March 07, 2023



Fort Myers Beach Local Planning Agency

**Diamondhead
Beach Resort
2000 Estero Blvd.
Fort Myers Beach, FL 33931**

Minutes

**Tuesday, February 14,
2023**

9:00 AM

ORDER OF BUSINESS

I. CALL TO ORDER

Members present: Chair Cereceda, LPA Member Bowen, LPA Member Eckmann, LPA Member Plummer, LPA Member Safford, LPA Member Sudduth and LPA Member Vanasse.

II. INVOCATION

Chair Cereceda.

III. PLEDGE OF ALLEGIANCE

IV. APPROVAL OF MINUTES

A. Draft minutes January 18, 2023

LPA Member Safford moved to approve the minutes; second by LPA Member Bowen.

Motion carried unanimously.

PUBLIC COMMENT

Sue Patton, resident, described a lecture she attended on Sanibel regarding native plants. She suggested that 75% of the town's plantings be native. Charlie Eck, Vice President of the Estero Bay Improvement Association, commented on the proposed change to the future land use regarding the 55-acre Bay Beach property. He stated that the property served as a linchpin for the 132-acre stormwater system. He described the operational costs paid by the Bay Beach residents. He noted that a detailed letter was sent to members of the LPA and he was available to meet with them to answer questions.

V. PUBLIC HEARINGS

A. SEZ-20220120; 6875 Estero Blvd; Recommendation of approval of Special Exception for Work/ Live use

SEZ-20220120; 6875 Estero Blvd; Recommendation of approval of Special Exception for Work/ Live use

Chair Cereceda spoke with the applicant, but no other member disclosed ex parte communications. Town Attorney Herin, Jr. swore in those providing testimony.

Community Development Senior Planner Jason Smalley described a special exception request for a work/live project as stated on the yellow sheet. An existing commercial building would be rehabilitated and a second level would be added for a primary residence. He clarified the typo in the code concerning work/live use. The project exceeded the 50% rule and the applicant would be required to add dry floodproofing to the existing building. LPA Vanasse requested clarification regarding the buffering condition. Senior Planner Smalley responded that the building was surrounded by multi-families and buffering was adjacent to the property. Staff would request that the existing buffers be maintained and enhanced if approved.

LPA Member Sudduth requested clarification regarding limiting manufacturing and potential noise issues. Senior Planner Smalley commented that the use was for storage and not onsite manufacturing.

Ruby Pessotti and her husband Kyle acquired the property from her parents in January 2022. She indicated their goal was to use the first floor as a retail, office, storage and meeting space for the business and the second floor would be their residence. She noted that after the hurricane they moved out of Santini Plaza to a modular unit on the property. Ms. Pessotti stated that the second floor would not exceed 35 feet and provided renderings of the new building. She hoped to start the project within the next few months and open next year for season.

LPA Member Bowen requested clarification regarding generational bedrooms. Ms. Pessotti replied that the space could be used for children or grandparents.

Chair Cereceda disclosed that the applicants and Mike Wood were contractors for her home and she had known them for years. She questioned how noise from delivery trucks would affect the neighborhood and wondered whether an additional condition should be added to prohibit manufacturing.

Ms. Pessotti stated that the materials were ready-made and that no manufacturing would occur on the property. She added that they were investigating purchasing a building for additional storage off the island.

LPA Member Plummer questioned whether the applicants would agree with a set delivery time for trucks. Ms. Pessotti replied that operating hours were Monday-Friday from 8:00 a.m.-4:00 p.m. and deliveries were not accepted outside those hours.

Town Attorney Herin, Jr. recommended that Chair Cereceda abstain from voting based on her disclosure.

Public comment:

Cindy Salusk Hyduke from Captain's Bay South appreciated Ms. Pessotti's presentation. She invited the applicants to their board meeting on February 28, 2023, to answer questions. She added that native plants were important for buffering.

Public comment closed.

LPA Member Sudduth moved to recommend approval for the application with an additional condition 4 to limit deliveries to Monday-Friday from 7:30 a.m. to 5:30 p.m. and that the special exception met the criteria and was consistent with the comprehensive plan; second by LPA Member Plummer. Motion carried unanimously by roll call vote with Chair Cereceda abstaining.

B. SEZ 20220104 Texas Hol'em and Squeeze Me Inn Dune Walkover and Boardwalk

Approve/Approve with conditions/Deny SEZ 20220104 Texas Hold'em and Squeeze Me Inn Dune Walkover and Boardwalk based on the findings and conclusions with LDC Sec 34-88 Special Exceptions and Sec 34-87 Variances.

Ex parte communications: LPA Member Safford - site visit and multiple conversations with Mr. Rood; LPA Member Eckmann - visited the site and met with Mr. Rood; LPA Member Bowen - received emails from Mr. Rood; LPA Member Plummer - nothing this year; LPA Member Vanasse - site visit with applicant and phone call; LPA Member Sudduth - site visit and conversation with Mr. Rood; Chair Cereceda - site visit in the past. Chair Cereceda noted the LPA received several emails and Town Attorney Herin, Jr. stated they would be made part of the record. He reminded members that their decision should be based on what they heard today, not any other communications or site visits outside today's hearing. Chair Cereceda revealed that she had a conversation with Mr. Perry regarding the issue.

Town Attorney Herin, Jr. swore in those providing testimony.

Community Development Planner Jason Green reviewed the two different applications as detailed in the staff report. He noted that the proposed length was not clear in the site plan and the dimensions of the proposed structure were not provided. He stated that the FDEP (Florida Department of Environmental Protection) consolidated final order was included with the application. Planner Green noted the FDEP findings were not based on the town's special exception criteria and evaluation process. He read the definition of special exception use from LDC (Land Development Code) Chapter 34. Planner Green indicated that the applicants submitted a similar application in 2019 and staff recommended denial. The Town Council determined that the proposed use and structure were not consistent with the LDC and Comprehensive Plan. He noted that the current application included statements that Mr. Rood was a disabled person as defined by the Americans with Disabilities Act (ADA) and required assistance to access the public beach. Planner Green read the Findings and Conclusions from the staff report in the packet. He concluded that the staff recommended that the LPA recommend denial of SEZ 20220103 and VAR 20220104.

LPA Member Vanasse noted that a lot of information was not in the packet and questioned whether the previous information was part of the record. Planner Green stated that the applicant provided the information in the application.

LPA Member Bowen questioned whether the court ruled against the ADA claim and whether it was on appeal. He questioned how they could decide on a special exception if it was a pending issue. Town Attorney Herin, Jr. confirmed that the court ruled against the claim, which was on appeal. He read sections from page 19 of the court order regarding EC (Environmentally Critical) land and page 23 regarding the need for accommodation. The court found that the dune walkover was an unreasonable accommodation. Town Attorney Herin, Jr. made the court order part of the record.

LPA Member Bowen questioned whether ownership was in dispute with the federal government. Town Attorney Herin, Jr. replied that the current litigation between the applicants and corporate entities was against the state of Florida and the town was not a part of the matter. He stated that the town's zoning scheme was still in place, irrespective of ownership. He noted that where the dune walkover eventually ended was still a question that had to be resolved.

LPA Member Sudduth questioned whose land the structure was crossing and Town Attorney Herin, Jr. replied that it was state land.

LPA Member Plummer questioned how they could rule on no handrails if the ADA required accommodation. Town Attorney Herin, Jr. deferred to staff as to whether or not railings were required for that type of use. LPA Member Plummer noted that since the structure was not attached to their property, how could they bind the properties to maintain the structure if they sold the property? Planner Green was not sure.

Planner Green stated that a special exception for the use of that structure in the EC along with where the applicants proposed and the variance would be for the width, regardless of who owned the property. Town Attorney Herin, Jr. reiterated that language in the FDEP approval stated that the proposed use of state lands was still subject to the local government's approval.

LPA Member Eckmann requested a map to show the location of the proposed walkover in relation to the EC area.

LPA Member Safford questioned how much the town has spent on the issue since 2014. Town Attorney Herin, Jr. replied it was less than \$15,000.00.

LPA Member Safford noted that the applicants were in negotiations to allow neighbors to use the walkway at one point. Town Attorney Herin, Jr. responded that the issue was not in the current application.

Regarding ownership, LPA Member Vanasse requested that staff go on the record of what they believe was or was not presented. He stated the application was seriously lacking information and noted that two surveys showed the property lines to the Gulf. Planner Green commented that there was another mean-high water line that was part of the pond area. He believed he saw a permit from the FDEP that typically lasted five to ten years. LPA Member Vanasse mentioned a suit from the town and the Audobon

Society against Mr. Rood and the FDEP that was settled in their favor. He remarked that the LPA had to be careful concerning what they looked at and what was introduced regarding their findings. Planner Green commented that staff did not get into the lawsuits or the ADA component. The issue was the location, necessity, purpose and intent of the special exception request. Chair Cereceda stated that legal fees were irrelevant to the case. She noted this was the first time she had read a sufficiency report and Planner Green responded that sufficiency was usually mixed with comments. He felt the sufficiency review helped explain the staff report. Chair Cereceda was astonished that the matter was on the agenda with everything else that was on their plate and noted the application contained numerous deficiencies. She added that the current condition of that part of the beach post-hurricane had not even been addressed.

Interim Town Manager Wilkins indicated that the applicant had the right to due process.

LPA Member Vanasse described his frustration with the lack of information. LPA Member Safford noted that he asked about the cost because residents had approached him.

Town Attorney Herin, Jr. stated that the ADA matter was the only pending lawsuit that involved the applicant and the town.

Amy Petrick from Lewis Longman & Walker represented the applicants. She stated that her presentation addressed the special exception and the variance only. She noted the applicants went to the state for an environmental resource permit, a CCCL (Coastal Construction Control Line) permit and proprietary authorization to build the dune walkover to the extent that the walkover was on state property. She distributed her presentation and referred to page 4 regarding how the proposed walkover and the critical wildlife area boundary interrelate; page 6 showed what the area looked like currently; page 7 displayed the survey and an excerpt from a letter and page 8 provided an image regarding beach renourishment. She went back to page 7 to address ownership and setbacks and stated that the applicants received a lease from the FDEP. LPA Member Vanasse questioned the 2014 mean high water line in the survey and pointed out that the survey in their packet showed that the walkover was located fully within the applicants' land. He asked why the LPA was not given anything else, including evidence from the state regarding the lease. Attorney Petrick replied that everything was in the record. LPA Member Vanasse responded that the information was not in the current application and, therefore, not part of the record. Attorney Petrick responded that the information came from the applicant and the project was the same as in 2014. She stated that when one applied to reapply for an identical project, the material was updated. She did not know why the town chose to packet the materials the way they did and suggested that if the applicant knew they had to submit all the previous information, they would have. Chair Cereceda stated that the application was from the applicant and it was their obligation to present the information. Town Manager Herin, Jr. agreed and noted it was the applicant's responsibility to submit a full and

complete application. What took place years ago was a different application and that public hearing was final. Attorney Petrick mentioned the timeline regarding when they received the sufficiency letter. Planner Green responded that the applicant specifically asked for the date before receiving any comments.

LPA Member Vanasse cautioned the applicant that the LPA would not be able to render a decision without sufficient information. He brought up continuing the hearing to address the gaps, but Attorney Petrick hesitated to continue the hearing due to a timing issue with the state.

Attorney Petrick continued with a page that explained why the applicant believed they met the special exception and pages 11 and 12 depicted accretional patterns. She stated that one of the applicants had a change in their condition, making it difficult to access the beach. She reviewed the FDEP final order regarding the beneficial effect on the vegetation. LPA Member Plumber questioned how it would benefit the community when only two people used the walkover. Attorney Petrick replied that was the FDEP finding and continued her presentation by discussing crossing dune vegetation, a planned elevation, the CCCL building permit process, the design of the walkover and pages of boardwalks and dune walkovers.

LPA Member Safford questioned whether the applicant would allow the neighbors to use the walkover. Attorney Petrick replied that they were willing to explore opportunities for use within the neighborhood.

Attorney Petrick continued the presentation to address the variance request and requested that the LPA recommend approval for the special exception and variance.

LPA Member Sudduth commented on ADA requirements and the willingness of the applicants to share the use of the walkover.

LPA Member Plummer questioned who performed the maintenance for the life of the structure. Attorney Petrick replied that it was addressed in the CCCL permit and ran with the land.

Kurt Kroemer, applicant, explained that when he first purchased the property in 2011, it was beachfront, but in 2015 the neighbor closed the access, so he had to walk down the street to access the beach. He read a line from 253 Sec. 141 of the Florida statute and stated it was his right to access the beach. He said that even though his house was gone, he still wanted beach access and explained that he was willing to work with the town. He agreed to allow the neighbors to use the walkover and hoped today's information was enough for the town.

Eddie Rood, applicant, felt that they met the special exception and stated that they all had to come to a conclusion. He thought the town should listen to the FDEP order and that the walkover would end the whole thing. He reviewed the previous denial and indicated they were here today because of a new LPA and Town Council. He asked the LPA to move the project forward, put everything behind them, and get it over with. He described his physical condition in relation to the variance request for a five-foot walkover.

Public comment:

Larry Den Herder, neighbor, supported the project and saw a benefit. He encouraged the LPA to accept the project and felt the walkover was a good solution to get to the beach.

Dennis Prock, neighbor, described his property before accretion. He stated he was familiar with the nesting birds and wildlife. He received a permit from FDEP and FWCC (Fish & Wildlife Conservation Commission) to trim all the mangroves in the neighborhood and he knew how critical it was to protect the environment. He stated that the birds nested in the open sand and predators would not use the walkover.

John Cameron, neighbor, supported Mr. Rood. He stated that a pond had formed behind their neighborhood and now he was asked to sign an easement so the town could fill in the areas behind the condos, but the town wouldn't allow them to have a walkover. He felt that the FDEP knew better than a planning board regarding what was safe.

Brad Cornell represented Audobon Florida and noted they had monitored birds at the beach since 2010. He felt the request was contrary to the public interest and should not be on the agenda due to higher priorities. He explained why Audobon was opposed to the approval of the request for a special exception. He described documentation of threatened species that nested in the area and referred to the growth management plan in the LDC. He stated that building a permanent structure would be hazardous if they had another hurricane. He noted there was a walkway in front of the applicants to access the beach and it appeared the FDEP construction permit expired on May 1, 2021.

Bruce Butcher, resident, commented that the walkway Mr. Cornell referred to was private. He stated that the Corkscrew Sanctuary had a huge walkover. He described his experience of trudging through the muck in the lagoon. He added that the neighbor who installed a fence and signs ruined access for everyone. He noted that the birds nested in the wide-open sand and he supported the walkover.

Penny Jarrett, resident, monitored the beach-nesting birds in the critical wildlife area for the FWCC. She indicated the walkover was almost 300 feet long, went over two lagoons and landed near the dune. She explained that the lagoon formed part of the foraging habitat for threatened species. She did not think the structure was in the town's best interest because the area was unique and provided a habitat for a variety of birds. She felt that adding the structure would set a bad precedent.

Sue ? spoke about hurricanes in Maine and noted that one town purchased the beachfront properties and kept them open. She was concerned about setting a precedent that would allow other walkovers and suggested building a public walkover for many people to use. She felt that the residents wanted to protect the beauty of the beach and wildlife and they all took a chance when buying beach property. She felt the applicants should have included more information in their application.

Cheri Smith, resident, stated that the main reason the town incorporated was to allow residents to have a say concerning how the island was developed.

Their motto was preservation was progress and the critical wildlife area was beautiful. She addressed the precedent for allowing boardwalks on their beautiful beach.

Public comment closed.

Planner Green clarified that the staff focused on the land use policy and location decisions. He felt the applicants did not address the comprehensive plan consistently and did not see any reference to the angle of the structure.

LPA Member Eckmann questioned the permits and Attorney Petrick replied that the permits were all valid. LPA Member Vanasse asked whether all permits would be provided and Attorney Petrick replied affirmatively.

Attorney Petrick stated that the angle of the structure was less than 30 degrees. She added that Planner Green did not identify a specific comprehensive plan provision that the proposed use violated.

Planner Green stated that the applicant failed to meet criteria number five and two of the policies had nothing to do with their application.

Town Attorney Herin, Jr. suggested that the LPA consider whether the applicants met all the criteria to be entitled to the relief they requested. He noted that hearsay evidence could not be the sole basis of their decision and that it was independent of what was before them.

LPA Member Vanasse felt that the attorney's presentation filled in the gaps in the application and the final order addressed many of the issues. He noted the applicants had the right to ask for the dune walkover/boardwalk through a special exception. He thought they met the criteria and, in his opinion, the dunes and nesting areas were a public resource and the final order demonstrated an environmental benefit. In his mind, the public interest was to protect a public resource. He was satisfied with the presentation regarding setbacks and ownership and felt this special circumstance would not set a precedent. LPA Member Vanasse noted that they were asking for a special exception for a disability, not for a disability ruling. He supported the application with conditions that the applicants provide all the supporting information before going before the Town Council.

LPA Member Plummer agreed with LPA Member Vanasse regarding the incomplete application. She felt that allowing the neighbors access to the walkover was a benefit and, since it was a special area, it would not set a precedent. She supported the application.

LPA Member Sudduth agreed and supported the application.

LPA Member Eckmann suggested adding a condition that the applicants go through a formal process to create an easement to allow neighbors in the Grand Ole' Man subdivision access to the boardwalk and a condition that the applicants drop their lawsuit with the state regarding ownership. Town Attorney Herin, Jr. stated the town was not a party to that lawsuit.

LPA Member Bowen agreed that it was not precedent-setting and was disappointed in the incomplete packet from the applicants. He supported going forward.

LPA Member Safford concurred with LPA Member Plummer's analysis.

Attorney Petrick stated that the applicants indicated a willingness to allow

access in some form and the applicants intended to drop the lawsuit if the application was approved.

Chair Cereceda felt it was a mistake for the town to allow the special exception; however, she acknowledged that things were changing and there was a shift that was not necessarily good or bad.

LPA Member Vanasse moved to recommend approval for the special exception, finding they had met the criteria and they were consistent with the LDC and comprehensive plan and to include the condition put forth by LPA Member Eckmann to engage the neighbors to create cross-access easements to provide access to the structure and for them to report back to Council as to what that legal structure would be; a condition that the record is supplemented with documentation discussed including all environmental permits, CCCL permits, leases with the state and plans for the boardwalk and include some of the items that were considered additional criteria addressed verbally to supplement the record; second by LPA Member Plummer. Motion carried 6-1 by roll call vote with Chair Cereceda dissenting.

LPA Member Bowen moved to recommend approval for the one-foot variance request to go from four feet to five feet and that it met the criteria and was consistent with the LDC and comprehensive plan; second by LPA Member Sudduth.

Motion carried 6-1 by roll call vote with Chair Cereceda dissenting.

VI. ADMINISTRATIVE AGENDA

A. Public Hearing Process Options

Options to reduce time requirements in the public hearing process.

Planner Green noted that the special exceptions and variances could be changed, not rezoning cases. LPA Member Vanasse suggested that applicants meet sufficiency before being scheduled. Planner Green pointed out that under state law, the applicants had a right to a hearing after six months regardless of what was or was not submitted. LPA Member Vanasse brought up consent agendas for cases without public objections and unanimous approval from the LPA. Town Attorney Herin, Jr. stated they had to provide for due process where any affected party could ask that the item be pulled from the agenda. He added that meeting sufficiency worked for staff and the applicant and was something to consider.

LPA Member Vanasse suggested looking at how to establish guidelines for sufficient applications before the applicant could move forward in the process and Planner Green replied that they would look at formalizing the process.

VII. LPA MEMBERS ITEMS/REPORTS

Chair Cereceda noted that LPA Member Safford had to leave the meeting and before he left, he asked that Planner Green remember to look at the email regarding parallelogram lots. Planner Green will add the issue to an agenda for discussion.

LPA Member Plummer received an email regarding noise and lights on Estero Blvd. at 2:00

a.m. Chair Cereceda mentioned the Emergency Ordinance. LPA Member Plummer questioned why the town wasn't using the emergency management permitting system to expedite permits. Planner Green will pass the information to the building official but indicated that a wind event differed from a flooding event. LPA Member Vanasse thought creating a triage system for permits would be helpful. LPA Member Plummer brought up receiving the packet of information for the meeting on Friday after 5:00 p.m. Chair Cereceda agreed that a deadline should be set or it was postponed. Planner Green agreed and described how long it took staff to gather and review all the information for the packet. He added that they could work on that with the sufficiency part.

LPA Member Vanasse brought up a requirement to plant native species. Planner Green thought there was a 75% requirement for development but not for single families. LPA Member Eckmann endorsed a 50% requirement for residential. LPA Member Vanasse felt they should address architectural guidelines for commercial buildings and he distributed photos from different communities. He felt that four stories created a commercial mixed-use environment and did not feel imposing. He described other favorable aspects of the communities and provided an example of what their downtown could look like. He discussed the development details and noted that public input would be encouraged. Chair Cereceda revealed that the developers asked the Interim Town Manager what the town wanted to see as far as development and the Interim Town Manager did not know. She agreed that they had to discuss it now. Town Attorney Herin, Jr. stated that the Florida legislature preempted local municipalities from applying design standards to single and multi-family structures unless the town adopted standards and implemented them through an architectural review board. LPA Member Vanasse noted that some communities provided guidelines even though they could not be enforced. Planner Green indicated that the town did have criteria for the base and there was an opportunity to review those criteria. LPA Member Vanasse explained incentivizing hotel transient units versus density for residential and encouraged LPA Members to think about the topic. Planner Green stated that they had to be smart regarding being aware of where they were putting people in harm's way.

Chair Cereceda suggested that they add agenda management to future agendas. She also suggested that the LPA and the Town Council schedule a joint meeting to discuss planning issues. Planner Green indicated that Mr. Ng was scheduled for a March presentation with the Town Council. Chair Cereceda questioned reestablishing LPA representation at Town Council meetings and volunteered to appear at the next Town Council meeting. Consensus was reached to continue LPA representation when applicable.

LPA Member Vanasse suggested an inventory of what was destroyed. Planner Green stated they needed to discuss height versus density. He suggested they review the list of projects in the comprehensive plan created before incorporation that discussed density and intensity.

Chair Cereceda reviewed items they discussed to include in agenda management. LPA Member Vanasse stated a beach school meeting was scheduled for March 22, 2023, and public involvement was encouraged. He described the details of ongoing discussions and potential options.

No items from other members.

VIII. LPA ATTORNEY ITEMS/REPORTS

No items.

IX. COMMUNITY DEVELOPMENT ITEMS/REPORTS

Planner Green stated that historic preservation had to be addressed and a discussion concerning impact fees.

X. ITEMS FOR NEXT MONTHS AGENDA

Discussed previously.

XI. PUBLIC COMMENT

Louis **Wallery**, resident, discussed a bridge that was south of the Wyndham that went into disrepair. She would have liked a requirement that the beach walkover applicants had to take care of their structure.

XII. ADJOURNMENT

LPA Member Bowen moved to adjourn; second by LPA Member Plummer.
Motion carried unanimously.

The meeting was adjourned at 2:27 p.m.

DRAFT

FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS

LAST NAME—FIRST NAME—MIDDLE NAME <i>Cereceda Anita T</i>		NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE <i>Local Planning Agency</i>	
MAILING ADDRESS <i>14961 Reflection Key Circle #413</i>		THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF:	
CITY <i>St. Myers</i>	COUNTY <i>Lee</i>	☒ CITY	☐ COUNTY ☐ OTHER LOCAL AGENCY
DATE ON WHICH VOTE OCCURRED <i>2/14/23</i>		NAME OF POLITICAL SUBDIVISION <i>Town of St. Myers Beach</i>	
		MY POSITION IS ☐ ELECTIVE ☒ APPOINTIVE	

WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing and filing the form.

INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

A person holding elective or appointive county, municipal, or other local public office **MUST ABSTAIN** from voting on a measure which would inure to his or her special private gain or loss. Each elected or appointed local officer also **MUST ABSTAIN** from knowingly voting on a measure which would inure to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent, subsidiary, or sibling organization of a principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. Commissioners of community redevelopment agencies (CRAs) under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

PRIOR TO THE VOTE BEING TAKEN by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; *and*

WITHIN 15 DAYS AFTER THE VOTE OCCURS by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

APPOINTED OFFICERS:

Although you must abstain from voting in the situations described above, you are not prohibited by Section 112.3143 from otherwise participating in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes. (Continued on page 2)

APPOINTED OFFICERS (continued)

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, Amir Cerecedo, hereby disclose that on February 14, 2023:

(a) A measure came or will come before my agency which (check one or more)

- ☐ inured to my special private gain or loss;
- ☐ inured to the special gain or loss of my business associate, _____;
- ☐ inured to the special gain or loss of my relative, _____;
- ☒ inured to the special gain or loss of friend who I have contract with currently, whom I am retained; or
- ☐ inured to the special gain or loss of _____, which is the parent subsidiary, or sibling organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

Special Exception for work/Luc

If disclosure of specific information would violate confidentiality or privilege pursuant to law or rules governing attorneys, a public officer, who is also an attorney, may comply with the disclosure requirements of this section by disclosing the nature of the interest in such a way as to provide the public with notice of the conflict.

Date Filed

2/14/23

Signature

[Signature]

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.

**Town of Fort Myers Beach
Agenda Item Summary**

Yellow Sheet Number: **2023-980**

1. Requested Motion:

Meeting Date: March 14, 2023

Recommend to the Town Council that it Approve/Approve with conditions/Deny Rezoning DCI 20230015 from CPD to Institutional for 2545 Estero Boulevard is consistent/inconsistent with LDC Sec 34-85 and the Comprehensive Plan.

Why the action is necessary:

LPA must make a recommendation of compliance with LDC Sec 34-85 and the Comprehensive Plan to the Town Council.

What the action accomplishes:

Review by the LPA is required for a rezoning application.

2. Agenda:

PUBLIC HEARINGS

3. Requirement/Purpose:

Ordinance

5. Background:

The Fort Myers Beach Fire Control District purchased the subject property in 2020 with the intent of developing a public safety complex. The complex will be located across the street from the site owned by the Town and utilized as Town Hall. There are several civic uses within close proximity, including Bay Oaks parks and recreation facility, the elementary school, and library.

The proposed zoning district, Institutional (IN) is allowed within the Boulevard Future Land Use category.

Attachments:

1. DCI20230015- FMB Fire Control District Rezoning Staff Report LPA
2. FMBApplicationForPublicHearing
3. Final15Nov22_FMB FireDistrict_ZoningRequest
4. FMB_ConventionalRezoneApplicationsuppliment
5. Ex5-3 AreaLocationMap

Financial Impact:

6. Alternative Action

7. Staff Recommendations:

8. Recommended Approval:

Steve Poposki, Community Development Director

Date: March 09, 2023

John R Herin Jr, Town Attorney

Date: March 10, 2023

Amy Baker, Town Clerk

Date: March 10, 2023



Town of Fort Myers Beach
COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT

TYPE OF CASE: Rezoning

CASE NUMBER: DCI20230015

CASE NAME: request for Conventional rezoning of properties located at 2545 and 2555 Estero Blvd from CPD, Commercial Planned Development to IN, Institutional.

LPA

HEARING DATE: March 14, 2023, at 9.00 AM

STAFF

RECOMMENDATION: Approve

**PREPARED/
SUBMITTED BY:** Jason Green AICP

I. APPLICATION SUMMARY

Applicant/Owner: Fort Myers Beach Fire Control District

Request: The applicant wants to rezone the subject property from CPD, Commercial Planned Development to IN, Institutional to support a new fire station for the city.

Physical Address: 2545 Estero Blvd and 2555 Estero Blvd

STRAP #: 19-46-24-W3-00458.0000 and 19-46-24-W3-00458.0010

FLU: BOULEVARD

Zoning: CPD, Commercial Planned Development

Adjacent zoning and land uses:

North: MIXED RESIDENTIAL
RC, Residential conservation

South: BOULEVARD
RM, Multifamily residential

East: BOULEVARD
CB, Commercial Boulevard and IN, Institutional

West: BOULEVARD
CB, Commercial Boulevard

II. BACKGROUND AND ANALYSIS

Background:

Fort Myers Beach Fire Control District, the applicant for 2545 Estero Blvd and 2555 Estero Blvd is requesting rezoning the subject properties from CPD, Commercial Planned Development to IN, Institutional to support a new fire station for the Town.

The Town of Fort Myers Beach Comprehensive Plan was adopted in 1999, and significant amendments were made in 2008-2009. Prior to 2008, a shopping center, namely “Topps Shopping Center” was situated on the site. A CPD Ordinance 08-08 was then adopted, to allow 85,000 sq. ft. of commercial space for the continued use of the shopping center. However, the shopping center and the neighboring package storage facility was demolished few years back and the property was bought by the City’s Fire Control District on 07/30/2020 for the construction a fire station.

Civic uses like fire stations are permitted under Institutional zoning. Therefore, a rezoning is required to support the proposed fire station.

Analysis:

The Applicant is requesting a rezoning to support a new fire station for the city. More recently, reflecting the town’s recent destruction caused by Hurricane Ian, approximately one-half of the site is needed for an emergency response center. These change in conditions underpin the need for Institutional rezoning as appropriate.

Moreover, the need for a new fire station is also emphasized in Chapter 14- Intergovernmental Coordination, pg. 5 as

“The district’s comprehensive plan identifies the need for a larger facility for Station #1 than the existing site at Donora Boulevard can accommodate and proposes to sell the existing site and relocate further south on Estero Boulevard. The district may require rezoning and will need to obtain building permits from the town for this new facility.”

Neighborhood Compatibility:

The subject property is located adjacent to Town Hall and review of existing uses and the surrounding neighborhood, staff found the subject property is located within an area that supports similar uses. The area is a node for civic and cultural uses.

Findings and Conclusions:

LDC Sec. 34-85 sets forth the required findings and conclusions for the approval of a rezoning (staff analysis applicable only to the consumption on premises):

- a. Whether there exists an error or ambiguity which must be corrected.*

There exists no error or ambiguity that must be corrected.

- b. Whether there exist changed or changing conditions which make approval of the request appropriate.*

The major change in condition that make approval of this request appropriate is that the existing commercial uses were demolished over time and the Fort Myers Beach Fire Control District purchased the site on 07/30/20. The acquisition was to advance the town's public fire safety and welfare goals through the construction of a new fire station.

- c. The impact of a proposed change on the intent of this chapter.*

The conventional rezoning application supports with and complies to the town's LDC Chapter 34, and no negative impact is anticipated with this proposed rezoning.

- d. The testimony of any applicant.*

Applicant's testimony will be heard during the public hearing on March 14.

- e. The recommendation of staff and of the local planning agency.*

Recommendations of staff and of the local planning agency will be heard during the public hearing.

- f. The testimony of the public.*

Public testimony will be heard during the public hearing on March 14.

- g. Whether the request is consistent with the goals, objectives, policies, and intent, and with the densities, intensities, and general uses as set forth in the Fort Myers Beach Comprehensive Plan.*

The proposed rezoning is consistent with the goals, objectives, policies, and intent, and with the densities, intensities, and general uses as set forth in the Fort Myers Beach Comprehensive Plan.

- h. Whether the request meets or exceeds all performance and locational standards set forth for the proposed use.*

The request meets all locational and performance standards set forth for the proposed use. After approval of a rezoning, the property owner will be required to apply for a Development Order showing the specific site improvements related to construction of the site and must be in compliance with the Land Development Code.

- i. Whether urban services are, or will be, available and adequate to serve a proposed land use change.*

There are adequate urban services available on site.

- j. Whether the request will protect, conserve, or preserve environmentally critical areas and natural resources.*

The subject property is a vacant urban site. No additional detrimental impact on the environment is anticipated from the proposed development.

- k. Whether the request will be compatible with existing or planned uses and not cause damage, hazard, nuisance, or other detriment to persons or property.*

The proposed use is compatible with existing and planned uses in this neighborhood and no damage, hazard, nuisance, or other detriment to persons or property is anticipated.

- l. Whether the location of the request places an undue burden upon existing transportation or other services and facilities and will be served by streets with the capacity to carry traffic generated by the development.*

The location of the project will not place any undue burden upon city's existing transportation or other services and facilities. The site is accessible via Tropical Shores Way, Gulf Beach Road and Estero Blvd. As per the TIS, the trip generation characteristics of the fire station are identified as de minimis. Off site improvements may be needed but will be reviewed as part of a Development Order application.

- m. For planned development rezonings, see § 34-216 for additional considerations.*

The additional criterions dictated by LDC section 34-216 are applicable for rezonings to planned development. Since the Applicant is requesting to rezone existing CPD to IN, this criterion is not applicable.

III. RECOMMENDATION

Staff finds that the request does meet the required findings and conclusions for the approval of a Rezoning, found in Sec. 34-85 of the Land Development Code. Therefore, staff recommends **APPROVAL** of DCI20230015 to allow conventional rezoning for properties located at 2545 and 2555 Estero Blvd from CPD, Commercial Planned Development to IN, Institutional.



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

This is a first part of a two-part application. Please be sure to fill out this form, which requires general information, as well as the Supplemental Form application specific to action requested for the subject property. Please submit a complete Public Hearing application with required, supplemental information, exhibits and documents to zoningpermits@fmbgov.com. Please do not submit the instructions at the end of the application.

Site Address: 2545 + 2555 Estero Blvd, Fort Myers Beach
STRAP Number: 19-45-24-W3-00458.0000, 19-46-24-W3-00458.0000
Applicant: Fort Myers Beach Fire Control District Phone: 239 590 4200
Contact Name: Ron Martin Phone: _____
Email: rmartin@fmbfire.gov Fax: _____
Current Zoning District: CPD
Future Land Use Map (FLUM) Category: Boulevard
FLUM Density Range: NA Platted Overlay: ☐ YES ☒ NO

ACTION REQUESTED

- ☐ Special Exception
☐ Variance
☒ Conventional Rezoning
☐ Planned Development ☐ Commercial ☐ Residential
☐ Master Concept Plan Extension
☐ Appeal of Administrative Action
☐ Vacation of Platted Right-of-way and Easement
☐ Other – cite LDC Section: _____

SUPPLEMENTAL FORM REQUIRED

PH-A
PH-B
PH-C
PH-D
PH-E
PH-F
PH-G
attach on separate sheet

PART I – General Information

A. Applicant*: Ron Martin Phone: 239 590 4200
**Applicant must submit a statement under oath that he/she is the authorized representative of the property owner.
Please see PART III to complete the appropriate Affidavit form for the type of applicant.*
Applicant Mailing Address: 100 Voorhis Street Fort Myers Beach 33931
Email: rmartin@fmbfire.gov Fax: _____
Contact Name: Al Quattrone Phone: 239-936-5222



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

B. Relationship of Applicant to subject property:

- | | | |
|--|---|--|
| ☐ Owner* | ☐ Land Trust* | ☐ Partnership* |
| ☐ Corporation* | ☐ Association* | ☐ Condominium* |
| ☐ Subdivision* | ☐ Timeshare Condo* | ☐ Contract Purchaser* |
| ☒ Authorized Representative* | ☐ Other* (please indicate) _____ | |

**Applicant must submit a statement under oath that he/she is the authorized representative of the property owner.
Please see PART III to complete the appropriate Affidavit form for the type of applicant.*

C. Authorized Agent(s). Please list the name of Agent authorized to receive correspondence Agents

Name: Al Quattrone Quattrone & Associates, Inc Phone: 239-936-5222
Address: 4301 Veronica Shoemaker Blvd, Fort Myers, FL 33916
Email: permits@qainc.net Fax: _____

D. Other Agent(s). Please list the names of all Authorized Agents (attach extra sheets if necessary)

Name: Sharon Hrabak Phone: 239-936-5222
Address: 4301 Veronica Shoemaker Blvd, Fort Myers, FL 33916
Email: sharon@qainc.net Fax: _____

Name: Greg Stuart Phone: 239 677 6126
Address: 11860 Island Ave. Matlacha, FL 33993
Email: Greg@stuarturbandesign.com Fax: _____

PART II – Nature of Request

Requested Action (each request requires a separate application)

- ☐ Special Exception
- ☐ Variance from LDC Section _____ - _____
- ☒ Conventional Rezoning from CPD to IN
- ☐ Planned Development
- ☐ Rezoning from _____ to ☐ Commercial PD ☐ Residential PD
- ☐ Amendment. List the project number: _____
- ☐ Extension/reinstatement of Master Concept Plan. List project number: _____



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

☐ Appeal of Administrative Action

☐ Vacation

☐ Right-of-Way

☐ Easement

☐ Other. Please Explain: _____

PART III – Waivers

Please indicate any specific submittal items that have been waived by the Director for the request. Attach a copy of the signed approval as Exhibit 3-1. (Use additional sheets if necessary)

Code Section: Explanatory Notes – Part V_ D Description: Title Opinion

Will take 2 months given recent events and the approaching holidays.

Code Section: Explanatory Notes – Part VI_ G Description: Surrounding Labels

Code Section: App. For Public Hearing - Ownership Affidavit Description: Ownership Affidavit

The Affidavit Is Not Applicable The FMB Fire Control District is a FL Special District

PART IV – Property Ownership (Single Owner)

☐ Single Owner (individual or husband and wife)

Name: _____ Phone: _____

Mailing Address: _____

Email: _____ Fax: _____

AFFIDAVIT

APPLICATION IS SIGNED BY AN INDIVIDUAL OWNER OR APPLICANT

I, Ron Martin swear or affirm under oath, that I am the owner or the authorized representative of the owner(s) of the property and that:

I have full authority to secure the approval(s) requested and to impose covenants and restrictions on the referenced property as a result of any action approved by the Town of Fort Myers Beach in accordance with this application and the Land Development Code;

All answers to the questions in this application and any sketches, data or other supplementary matter attached hereto and made a part of this application are honest and true;



COMMUNITY DEVELOPMENT DEPARTMENT

APPLICATION for PUBLIC HEARING

I have authorized the staff of the Town of Fort Myers Beach Community Development to enter upon the property during normal working hours for the purpose of investigating and evaluating the request made thru this application; and that
The property will not be transferred, conveyed, sold or subdivided unencumbered by the conditions and restrictions imposed by the approved action.

Ron Martin
Signature

Ron Martin

Printed Name

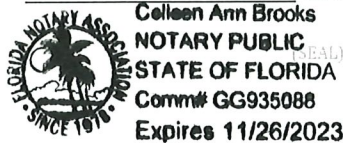
STATE OF FL COUNTY OF LEE

The foregoing instrument was certified and subscribed before me by means of ✓ physical

presence OR online notarization, this 15th day of December, 2022, by

Ron Martin, ✓ who is personally known to me OR who has produced

as identification.



Colleen Ann Brooks
Notary Public Signature

PART V

Property Ownership (Multiple Owners)

☐ Multiple Owners (including corporation, partnership, trust, association, condominium, timeshare, or subdivision)

- ☐ Complete Disclosure of Interest Form (see below)
- ☐ Attach list of property owners as Exhibit 5-1
- ☐ Attach map showing property owners interests as Exhibit 5-2 (for multiple parcels)
- ☐ For condominiums and timeshares see Explanatory Notes Part V - Exhibit 5-3
- ☐ Letter of Opinion - Exhibit 5-4

DISCLOSURE OF OWNERSHIP INTEREST

If the property is owned in fee simple by an INDIVIDUAL, tenancy by the entirety, tenancy in common, or joint tenancy, list all parties with an ownership interest as well as the percentage of such interest.

Name and Address

Percentage Ownership



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

If the property is owned by a CORPORATION, list the officers and stockholders and the percentage of stock owned by each.

Name, Address and Office

Percentage of Stock

_____	_____
_____	_____
_____	_____
_____	_____

If the property is in the name of a TRUSTEE, list the beneficiaries of the trust with percentage of interest.

Name and Address

Percentage of Interest

_____	_____
_____	_____
_____	_____
_____	_____

If the property is in the name of a GENERAL PARTNERSHIP OR LIMITED PARTNERSHIP, list the names of the general and limited partners.

Name and Address

Percentage of Ownership

_____	_____
_____	_____
_____	_____
_____	_____

If there is a CONTRACT FOR PURCHASE, whether contingent on this application or not, and whether a Corporation, Trustee, or Partnership, list the names of the contract purchasers below, including the officers, stockholders, beneficiaries, or partners.

Name, Address and Office

Percentage of Stock

_____	_____
_____	_____
_____	_____
_____	_____



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

Date of Contract: _____

If any contingency clause or contract terms involve additional parties, list all individuals or officers, if a corporation, partnership, or trust.

Name	Address
_____	_____
_____	_____
_____	_____
_____	_____

For any changes of ownership or changes in contracts for purchase subsequent to the date of the application, but prior to the date of final certificate of compliance, a supplemental disclosure of interest must be filed.

The above is a full disclosure of all parties of interest in this application, to the best of my knowledge and belief.

_____	_____
Signature	Printed Name

AFFIDAVIT

APPLICATION IS SIGNED BY A CORPORATION, LIMITED LIABILITY COMPANY (L.L.C.), LIMITED COMPANY (L.C.), PARTNERSHIP, LIMITED PARTNERSHIP, OR TRUSTEE

I, Ron Martin (name), as _____ (title) of _____ (company), swear or affirm under oath, that I am the owner or the authorized representative of the owner(s) of the property and that:

1. I have full authority to secure the approval(s) requested and to impose covenants and restrictions on the referenced property as a result of any action approved by the Town of Fort Myers Beach in accordance with this application and the Land Development Code;
2. All answers to the questions in this application and any sketches, data or other supplementary matter attached hereto and made a part of this application are honest and true;
3. I have authorized the staff of Fort Myers Beach Community Development to enter upon the property during normal working hours for the purpose of investigating and evaluating the request made thru this application; and that
4. The property will not be transferred, conveyed, sold or subdivided unencumbered by the conditions and restrictions imposed by the approved action.



COMMUNITY DEVELOPMENT DEPARTMENT
APPLICATION for PUBLIC HEARING

Name of Entity (corporation, partnership, LLP, LLC, etc)

Signature

Title

Typed or Printed Name

Date

STATE OF _____ COUNTY OF _____

The foregoing instrument was certified and subscribed before me by means of ____ physical presence OR ☐ online notarization, this ____ day of _____, 20____, by _____, ☐ who is personally known to me OR ☐ who has produced _____ as identification.

Seal

Notary Public Signature

PART VI- Property Information

A. Legal Description:

STRAP: 19-45-24-W3-00458.0000, 19-46-24-W3-00458.0000

Property Address: 2545 + 2555 Estero Blvd, Fort Myers Beach

Is the subject property within a platted subdivision recorded in the official Plat Books of Lee County? ☒ No. Attach a legible copy of the legal description as Exhibit 6-1.

☐ Yes. Property identified in subdivision: _____

Book: _____ Page: _____ Unit: _____ Block: _____ Lot(s): _____

B. Boundary Survey:

☒ Attach a Boundary Survey of the property meeting the minimum standards of Chapter 61G17-6 of the Florida Administrative Code. A Boundary Survey must bear the raised seal and original signature of a Professional Surveyor and Mapper licensed to practice Surveying and Mapping by the State of Florida. Attach and label as Exhibit 6-2.



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

C. Property Dimensions:

Width (please provide an average width if irregular in shape) 201 feet
Depth (please provide an average width if irregular in shape) 500 feet
Frontage on street: 208 feet. Frontage on waterbody: 80 +/- feet
Total land area: 2.16 ☒ acres ☐ square feet

D. General Location of Subject Property (from Sky Bridge or Big Carlos Pass Bridge):

Approximately 1 mile south of the Sky Bridge/Estero Blvd. to Tropical Shores Way.

☒ Attach Area Location Map as Exhibit 6-3

E. Property Restrictions (check applicable):

- ☒ There are no deed restrictions and/or covenants on the subject property.
- ☒ A list of deed restrictions and/or covenants affecting the subject property is attached as Exhibit 6-4.
- ☒ A narrative statement detailing how the restrictions/covenants may or may not affect the request is attached as Exhibit 6-5.

F. Surrounding Property Owners (these items can be obtained from the Lee County Property Appraiser):

- ☐ Attach a list of surrounding property owners within 500 feet as Exhibit 6-6.
- ☐ Attach a map showing the surrounding property owners as Exhibit 6-7.
- ☐ Provide Staff with two (2) sets of surrounding property owner mailing labels.

G. Future Land Use Category (see Future Land Use Map):

- | | |
|--|--|
| ☐ Low Density | ☐ Marina |
| ☐ Mixed Residential | ☐ Recreation |
| ☒ Boulevard | ☐ Wetlands |
| ☐ Pedestrian Commercial | ☐ Platted Overlay |



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

EXPLANATORY NOTES

Please do not print, copy and submit these instructions

Please submit required applications, supplemental information, exhibits and documents to zoningpermits@fmbgov.com.

Application fees are set by resolution of the Town Council of the Town of Fort Myers Beach and must be paid before any materials submitted will be considered an application.

The applicant is responsible for the accuracy and completeness of this application. Time delays or additional expenses necessitated by submitting inaccurate or incomplete information will be the responsibility of the applicant. Decisions regarding requests to waive submittal requirements are at the discretion of the Community Development Director and may not be appealed.

All information submitted with the application becomes a part of the public record and will be a permanent part of the file.

All attachments and exhibits must be legible, suitable for recording, and of a size that will fit or conveniently fold into a letter size (8 ½ by 11) folder.

Explanatory Notes – Part I

- A. Applicant's name: The applicant may be the landowner or an authorized agent.
- B. Relationship of applicant to property: Indicate if the applicant is the property owner, and if so, the type of ownership. If the applicant is not the owner of the property, indicate the relationship of the applicant to the owner and submit a notarized authorization from the owner(s) to the applicant.
- C. Agent's name: If the applicant will have others representing him/her in processing the application, indicate name, address, and phone number.
- D. Other agents: Provide contact information for any other agents that may be involved in the request.

Explanatory Notes – Part II

Indicate the requested action.

Explanatory Notes – Part III

If waiver of any application requirement has been approved by the Community Development Director, attach a copy of the approval. Please request waivers prior to applying. Exhibit 3-1

Explanatory Notes – Part IV

- A. If the property owner is an individual or husband and wife, check the box and provide the information.



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

Explanatory Notes – Part V

- A. If there are multiple property owners exhibit 5-1, complete the disclosure form and include the names and mailing addresses of all persons or entities having an ownership interest in the property, including the names of all stockholders and trust beneficiaries. Disclosure is not required of any entity whose interests are solely equity interests that are regularly traded on an established securities market in the United States or another country.
- B. If more than one parcel is involved, submit a list of all property owners and their mailing addresses. Provide a map keyed to the list of property owners showing their interests. The applicant is responsible for the accuracy of the list and map Exhibit 5-2
- C. Where the property is a condominium or timeshare condominium, the application must be initiated by both the condominium association and no less than 75% of the total number of unit owners. To verify ownership, the list of property owners must be identified by unit number and/or timeshare period as applicable, along with proof that the owners who did not join in the application were given actual written notice of the application by the applicants, who must verify the list and the notice by sworn affidavit. Attach this affidavit as Exhibit 5-3.
- D. In addition, a letter of opinion from an attorney licensed to practice law in the State of Florida addressing the considerations in LDC Section 34-201(a)(1)b.3. must be attached as Exhibit 5-4.

Explanatory Notes – Part VI

- A. Include the street address of the subject property. List STRAP number. If more than one parcel is involved, list all STRAP numbers. If you don't know the STRAP number, you can look up the property in the records of the Lee County Property Appraiser at <http://www.leepa.org>. If the application includes only one or more undivided platted lots within a subdivision officially recorded in the Plat Books of Lee County, Florida, identify the property by lot number(s), block if applicable, subdivision unit if applicable, subdivision name, and plat book number and page number. If the property is not one or more undivided platted lots or is in an "unrecorded" subdivision, attach a metes and bounds legal description giving accurate bearings and distances for each course. If multiple parcels are involved, the metes and bounds legal description must describe the perimeter of the entire property subject to the request. The initial point in the description must be related to at least one established identifiable real property corner, such as a government corner or a recorded corner. The bearings used in the description must be clearly referenced to a well-established and monumented line. Exhibit 6-1
- B. Submit a Boundary Survey meeting the minimum technical standards for surveying set out in Chapter 61G17-6 of the Florida Administrative Code. Make sure that the surveyor is aware of any specific needs of the survey (location of Coastal Construction Lines, locations of existing structures, locations of easements, etc) that are relevant to your request. The perimeter boundary of the entire subject property should be indicated clearly with a heavy



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

line. Exhibit 6-2

- C. Provide the property dimensions or the approximate dimensions if the property is not a regular quadrilateral.
- D. Describe how to get to the property starting from either the Sky Bridge or the Big Carlos Pass Bridge (specify which). Exhibit 6-3
- E. If there are any deed restrictions or covenants that might affect the requested action, provide the information. Exhibit 6-4
- F. A narrative statement detailing how the restrictions/covenants may or may not affect the request is attached as Exhibit 6-5
- G. Attach a list of the surrounding property owners within 500 feet of the perimeter of the area of the request. Also include two sets of mailing labels providing the names and addresses of the owners on this list, and a map showing the parcel boundaries within the 500-foot radius Exhibit 6-6. This information can be acquired for a small fee by requesting a "variance report" from the Map Sales Office at the Lee County Property Appraiser's Office. Contact information for the Property Appraiser can be found at <http://www.leepa.org>.
- H. Indicate the Future Land Use Map category or categories of the property as shown on the Fort Myers Beach Comprehensive Plan's Future Land Use Map, and whether the property is located in the "platted overlay" on the map.
- I. Indicate the current zoning of the property. In most cases the current zoning is shown on the official zoning map of the Town of Fort Myers Beach, as adopted by ordinance. If zoning actions affecting the subject property have been taken since March 2004, call Town Hall to verify the current zoning.

Explanatory Notes – Part IV & V

The applicant must sign and submit either of the affidavits in Part V & VI, as applicable.

SUPPLEMENT PH-C CONVENTIOMNAL ZONING REQUEST

Basis For Rezoning Approval _ Criteria

1. Whether there exists and error or ambiguity that must be corrected;
2. Whether there exist changed or changing conditions that make approval of the request appropriate;
3. The impact of the proposed change on the intent of LDC Chapter 34;
4. Whether the request is consistent with the goals, objectives, policies, and intent, and with the densities, intensities, and general uses set forth in the Fort Myers Beach Comprehensive Plan;
5. Whether the request meets all performance and locational standards for the proposed use;
6. Whether urban services are, or will be, available and adequate to serve a proposed land use change;
7. Whether the request will protect, conserve, or preserve environmentally critical areas and natural resources;
8. Whether the request will be compatible with existing or planned uses and will cause damage, hazard, nuisance, or other detriment to persons or property;
9. Whether the location of the request places an undue burden on existing transportation or other services and facilities, and will be served by streets with the capacity to carry traffic generated by the development.

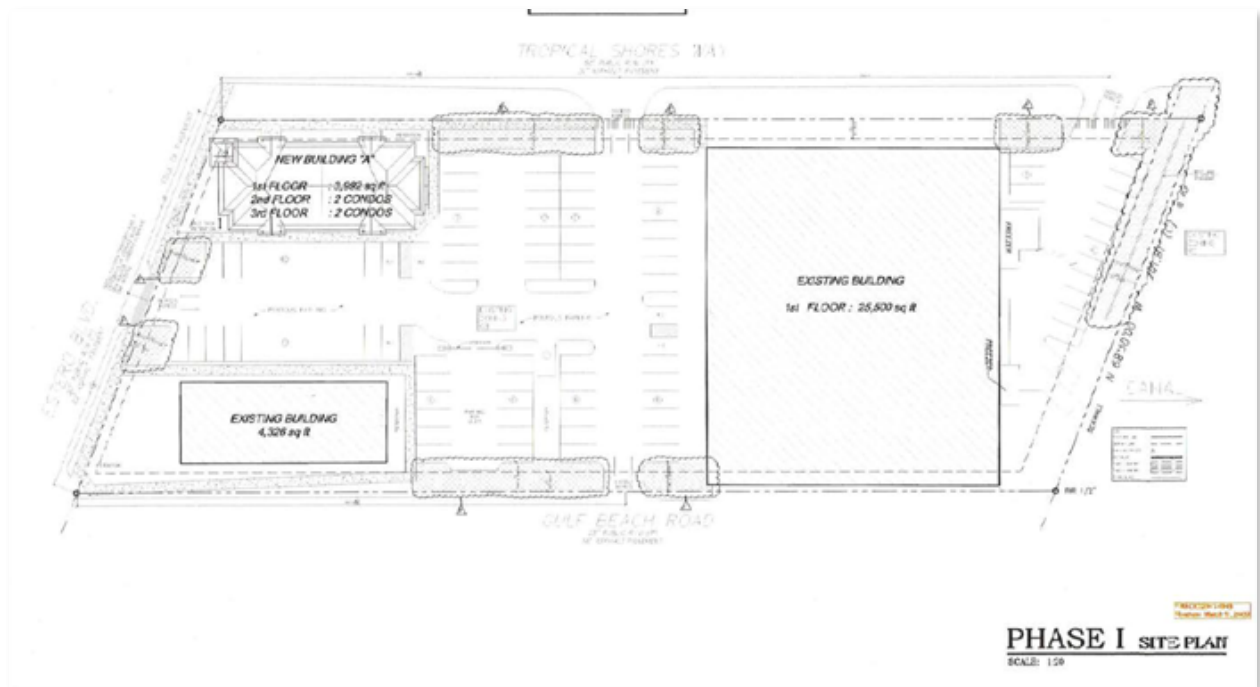
Basis For Rezoning Approval _ RESPONSE

1. Whether there exists and error or ambiguity that must be corrected.

The underlying CPD Ordinance 08-08 presents a zoning ambiguity that needs to be corrected. Ordinance 08-08 was based on the continuing use, and then the re-use, of the former Topps Shopping Center. The CPD granted 85,000 sf of commercial space. The former Topps Center and accompanying package store building have been demolished for some time. This fact, combined with 08-08's expired Master Concept Plan, creates a significant land use ambiguity that needs to be corrected. See page two for a copy of the 08-08 Phase One MCP.

2. Whether there exist changed or changing conditions that make approval of the request appropriate.

The major change in condition that make approval of this request appropriate is that the Fort Myers Beach Fire Control District purchased the shopping center site 07/30/20. The acquisition was to advance the town's public fire safety and welfare goals through the construction of a new fire station. The FMB Fire Control district does not need the existing CPD commercial uses. More recently, reflecting the town's recent destruction cause by Hurricane Ian, approximately one-half of the site is needed for an emergency response center. These change in conditions underpin Institutional rezoning appropriateness.



ORDINANCE 08-08 _ THE TOPPS CENTER EXPIRED MCP

3. The impact of the proposed change on the intent of LDC Chapter 34.

The conventional rezoning application supports with and complies to the town's LDC Chapter 34. As will be discussed in Question 4 the use and zoning complies with 34-619 (FMB Comprehensive Plan consistency) while conforming to 34-620 allowable land uses. The IN use complies with Table 34-2 in that the underlying Boulevard's future Civic land use allows for the Institutional zoning district by right. The zoning request complies with 34-649(a) in that the purpose of the IN zoning district is to provide suitable regulations for churches, civic buildings, schools and government buildings such as and including fire stations and emergency response centers. The request will be compatible with existing and planned uses and will not cause damage, hazard, nuisance, or other detriment to persons or property. Therefore the IN zoning request complies with 34-1(a)(1 - 10).

4. Whether the request is consistent with the goals, objectives, policies, and intent, and with the densities, intensities, and general uses set forth in the Fort Myers Beach Comprehensive Plan.

In April, 2008, based on Staff findings and recommendations and by approving Ordinance 08-08, the Town of Fort Myers Beach issued a finding of Town Comprehensive Plan Goals,

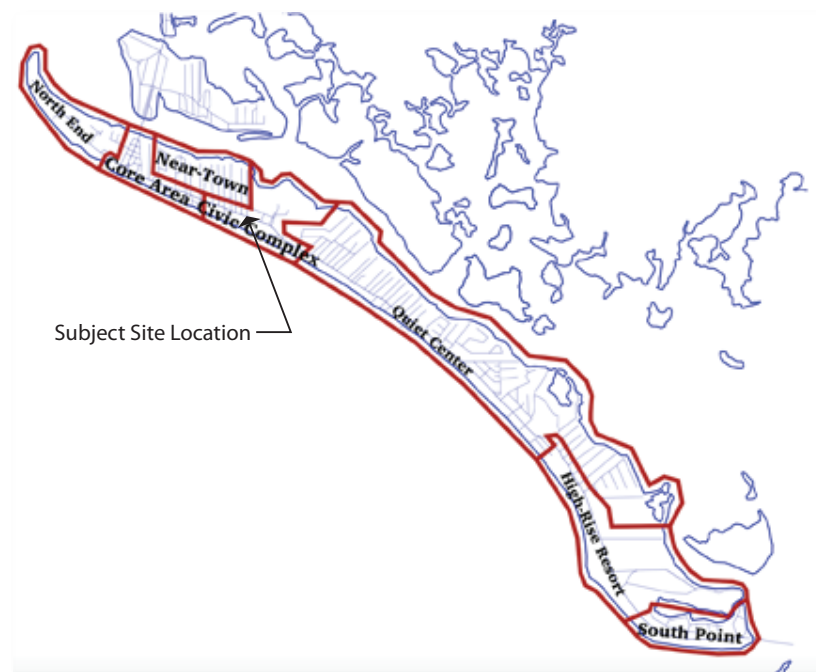
Objectives and Policies consistency. The 2008 Ordinance and MCP allowed by right Hotel/Motel, Health Care Facility Offices, General or Medical Offices, Personal Services, Restaurant, and Retail Store, Small, and other uses at a maximum intensity of 50,304 and 13 MF dwelling units. The IN zoning request is a far less intensive civic zoning use, characterized by reduced traffic impacts, lower community services, lower utility demands and lower compatibility impacts and issues. Since 2008, it is the Applicant's understanding that the FMB Comprehensive Plan has not undergone any significant amendments that would change the regulatory framework under consideration. Hence, there has been no significant external/neighborhood change since the original approval. Therefore, a finding of Comprehensive Plan consistency is a logical conclusion. A brief policy assessment is as follows:

Policy 4-B-5 _"BOULEVARD": *"a mixed-use district along portions of Estero Boulevard, including less intense commercial areas, historic cottages, and mixed housing types."*

Response _ The Future Boulevard land use allows for civic and institutional uses. As such, the requested Institutional zoning is consistent with its underlying Boulevard land use.

Objective 3-A Heart of the Island _ Redevelop the School/Library/Bay Oaks area as the new "heart of the island."

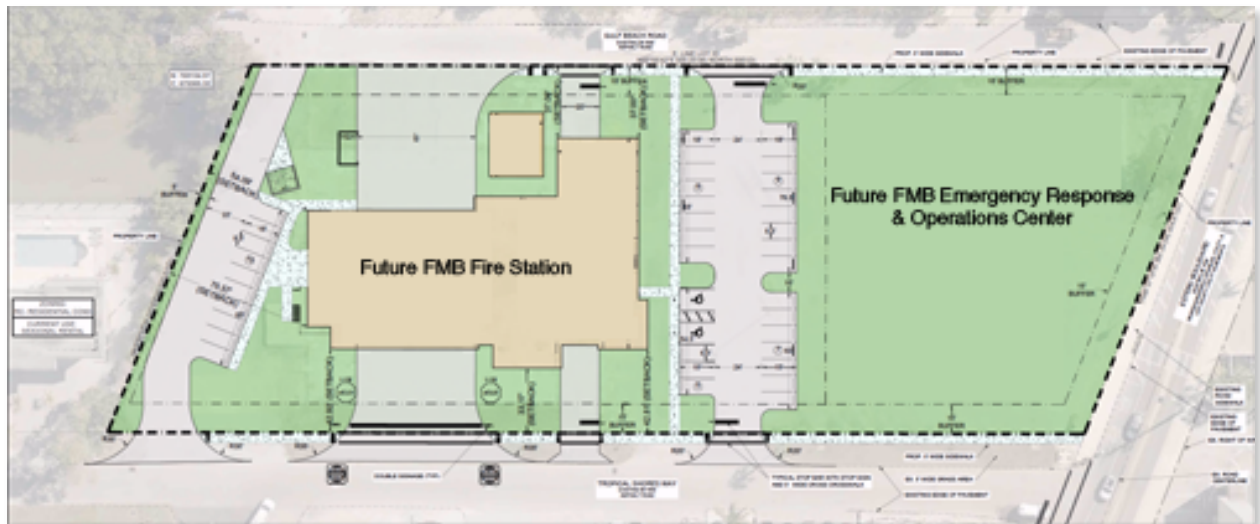
Response _ The new FMB Fire Station will strengthen the town's civic core and thus is consistent with Object 3-A



THE FMB CIVIC CORE LOCATION MAP

Policy 3-A-2 _ A prominent civic structure benefits the community most when its location serves the public conveniently and when its design helps shape the surrounding public spaces and provides a new and symbolic vista from other public places.

Response _ The new FMB Fire Station will strengthen the town's civic core and thus is consistent with Policy 3-A-2



THE FMB FIRE STATION CONCEPT PLAN

Policy 4-A-1 _ Maintaining the town's current "human scale" is a fundamental redevelopment principle. Fort Myers Beach is best enjoyed from outside a car; new buildings should be designed to encourage use or admiration by people on foot or bicycle, rather than separating them with gates, walls, deep setbacks, or unnecessary building heights.

Response _ The new FMB Fire Station is consistent with 4-A-1 in that it will be based on current town height standards and will incorporate sidewalks along Gulf Beach Blvd. and Tropical Shores Way.

Policy 4-A-3 _ The town shall protect residential neighborhoods from intrusive commercial activities.

Response _ The new FMB Fire Station is consistent with 4-A-3 in that it is a public institutional use with much lower compatibility related impacts to the surrounding residential area when compared to the site's existing CPD zoning.

Policy 4-C-4 _BUILDING HEIGHTS: The Land Development Code shall limit the height of new buildings under most conditions to two stories above flood elevation (exceptions may include the build-back situations (see Policies 4-D-1 and 4-E-1),

Response _ The new FMB Fire Station will comply with the code's building height rules. Therefore it will be consistent with Policy 4-C-4.

Intergovernmental Coordination pg. 14.5 _ *"The district's comprehensive plan identifies the need for a larger facility for Station #1 than the existing site at Donora Boulevard can accommodate, and proposes to sell the existing site and relocate further south on Estero Boulevard. The district may require rezoning and will need to obtain building permits from the town for this new facility."*

Response _ The zoning request is in response to the need for a new FMB Fire Station.

5. Whether the request meets all performance and locational standards for the proposed use.

Response _ Though there are no specific public civic institutional performance and locational standards, the new fire station and emergency response operations center will be located within the town's Civic Core area. Therefore the zoning meets FMB locational standards.

6. Whether urban services are, or will be, available and adequate to serve a proposed land use change.

Response _ The new fire station and emergency response center has available to it all required urban services. Potable water is supplied by Florida Cities Water Company; sanitary sewer service is provided by Lee Co. Utilities. The site also has a full range of solid waste and recycling services, and electric and cable services.

7. Whether the request will protect, conserve, or preserve environmentally critical areas and natural resources.

Response _ The new fire station and emergency response center site is a cleared and vacant urban site. It's surface is more or less impervious asphalt from the remains of the former Topp's Shopping Center parking lot. The property does not contain any natural systems or resources. Therefore the IN rezoning protects and conserves other FMB critical areas and natural resources.

8. Whether the request will be compatible with existing or planned uses and will cause damage, hazard, nuisance, or other detriment to persons or property.

Response _ The new fire station and emergency response center will be compatible with other adjacent FMB civic facilities including the Bay Oaks Park and the Town Hall. The fire station site plan incorporates a 15-ft landscape buffers around the site perimeter, including along the site's rear portion adjacent to Gulf Beach Way. It is noted that the residential neighborhood along Gulf Beach Way will not be impacted by the fire station and emergency response center. This is due to inherent compatibility of this

type of civic use. Automobile trips are nominal due to low trip generation. Light, noise and activity generated impacts are also nominal due to the infrequent active use of the new station and center. Finally, given the 2008 CPD findings of compatibility, it is logical to expect that a much less intensive use to also be granted a finding of compatibility.

9. Whether the location of the request places an undue burden on existing transportation or other services and facilities, and will be served by streets with the capacity to carry traffic generated by the development.

Response _ The new fire station access plan is ideal; it features direct access on to two local streets (Tropical Shores Way and Gulf Beach Road) along with direct access on to Estero Blvd. Therefore the request will not place an undue burden on existing transportation and other facilities. The trip generation characteristics of the fire station are identified as very low. Please refer to the accompanying TIS.



Case # _____ Date Received: _____

Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT

Supplement PH-C

Additional Required Information for a Conventional Rezoning Application

This is the second part of a two-part application. This part requests specific information for a conventional rezoning. Include this form with the Request for Public Hearing form.

Case Number:
Project Name:
Authorized Applicant:
STRAP Number:

Current Property Status:
Current Zoning:
Future Land Use Map (FLUM) Category:
Comp Plan Density: Platted Overlay? ☐ Yes ☐ No

Conventional rezoning:

From _____ (current zoning)
to _____ (requested zoning)

Any additional simultaneous zoning actions can be requested using the same Application for Public Hearing form but must include all parts of the required supplemental forms and documentation, and include the fees for each request.

Fee in the amount of \$5800.00/+ \$250.00 an acre over 1 acre

Guide to filing PH-B Additional Required Information for a Variance Application

Cover page

Case Number will be inserted by Community Development staff.

Project Name must be the same as the name used on the Request for Public Hearing form.

Applicant must be the same as on the Request for Public Hearing form.

STRAP numbers must be the same as on the Request for Public Hearing form.

Current status of property must be the same as on the Request for Public Hearing form.

LDC Section 34-85

The guidelines for decision-making regarding a request for rezoning are as follows:

1. Whether there exists an error or ambiguity that must be corrected;
2. Whether there exist changed or changing conditions that make approval of the request appropriate;
3. The impact of the proposed change on the intent of LDC Chapter 34;
4. Whether the request is consistent with the goals, objectives, policies, and intent, and with the densities, intensities, and general uses set forth in the Fort Myers Beach Comprehensive Plan;
5. Whether the request meets all performance and locational standards for the proposed use;
6. Whether urban services are, or will be, available and adequate to serve a proposed land use change;
7. Whether the request will protect, conserve, or preserve environmentally critical areas and natural resources;
8. Whether the request will be compatible with existing or planned uses and will cause damage, hazard, nuisance, or other detriment to persons or property;
9. Whether the location of the request places an undue burden on existing transportation or other services and facilities, and will be served by streets with the capacity to carry traffic generated by the development.



Tropical Shores Way

Gulf Beach Rd.

FMB Town Hall
FMB Fire Station Site
Bay Oaks Park, Pool & School
FMB Library

**Town of Fort Myers Beach
Agenda Item Summary**

Yellow Sheet Number: **2023-978**

1. **Requested Motion:**

Historic Preservation Discussion

Meeting Date: March 14, 2023

Why the action is necessary:

What the action accomplishes:

2. **Agenda:**

ADMINISTRATIVE AGENDA

3. **Requirement/Purpose:**

5. **Background:**

Attachments:

Financial Impact:

6. **Alternative Action**

7. **Staff Recommendations:**

8. **Recommended Approval:**

Steve Poposki, Community Development Director

Date: March 09, 2023

John R Herin Jr, Town Attorney

Date: March 09, 2023

Amy Baker, Town Clerk

Date: March 09, 2023

**Town of Fort Myers Beach
Agenda Item Summary**

Yellow Sheet Number: **2023-981**

1. Requested Motion:

Impact Fees Discussion

Meeting Date: March 14, 2023

Why the action is necessary:

What the action accomplishes:

2. Agenda:

ADMINISTRATIVE AGENDA

3. Requirement/Purpose:

5. Background:

The Town should consider updating their Impact Fee Ordinance and consider opportunities for mobility and other categories. The Town collects fees on behalf of the FMB Fire District and the Lee County School District. Those agencies set their own rates.

The Town collects for Transportation, Regional, and Community Park Impact Fees. Examples of other impact fee categories in Florida communities includes Mobility Fee, Government Building/General Government, Law Enforcement, Deferment or waiver for affordable housing, Solid Waste, and others.

The Town collects for residential based on units and typically non-residential based on square footage. Alternatives include collecting for residential based on square footage.

Attachments:

1. ARTICLE_IV.____IMPACT_FEES

Financial Impact:

6. Alternative Action

7. Staff Recommendations:

8. Recommended Approval:

Steve Poposki, Community Development Director

Date: March 09, 2023

John R Herin Jr, Town Attorney

Date: March 09, 2023

Amy Baker, Town Clerk

Date: March 09, 2023

ARTICLE IV. - IMPACT FEES

Sec. 2-301. - Statutory authority.

The Town of Fort Myers Beach has the authority to adopt this article pursuant to article VIII of the Constitution of the state, F.S. ch. 166 and F.S. §§ 163.3201, 163.3202 and 380.06(16).

Sec. 2-302. - Applicability of article.

This article shall apply to the entire incorporated area of the town.

Sec. 2-303. - Intent and purpose of article.

- (a) This article is intended to implement and be consistent with the Fort Myers Beach Comprehensive Plan.
- (b) The purpose of this article is to regulate the use and development of land so as to ensure that new development bears a proportionate share of the cost of capital expenditures for transportation, regional parks, community parks, and fire protection, as contemplated by the Fort Myers Beach Comprehensive Plan.
- (c) This article also reflects the required payment of school impact fees in accordance with Lee County Ordinance No. 01-21, which became effective on December 1, 2001.

Sec. 2-304. - Definitions and rules of construction.

- (a) For the purposes of administration and enforcement of this article, unless otherwise stated in this article, all transportation terms shall have the same meaning as in the Fort Myers Beach Comprehensive Plan, and in ch. 34 and ch. 10 of this LDC, unless otherwise indicated.
- (b) The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section and in the latest edition of the Institute of Transportation Engineers (ITE) Manuals, except where the context clearly indicates a different meaning:

Assisted living facility has the same meaning given it in ch. 34 of this LDC.

Building official means the same officer as appointed by the town manager through § 6-44 of this LDC.

Building permit means an official document or certification issued by the building official authorizing the construction, alteration, enlargement, conversion, reconstruction, remodeling, rehabilitation, erection, demolition, moving, or repair of a building or structure. In the case of a change in use or occupancy of an existing building or structure, the term shall specifically include certificates of occupancy and occupancy permits, as those permits are defined or required by this code.

Building with mixed uses means a building which contains more than one principal use, as that term is defined in ch. 34 of this LDC.

Capital improvement for community or regional parks means land acquisition, site improvements, including landscape plantings and the removal of exotic vegetation, off-site improvements associated with a new or expanded community or regional park, buildings and equipment. Off-site improvements may also include sidewalks and bikeways which connect to the park facility. Capital improvements do not include maintenance and operations.

Capital improvement for fire protection includes land acquisition and related expenses, site improvements, off-site improvements associated with new or expanded facilities, buildings, and equipment, including communications equipment, with an average useful life of at least three years, but excludes maintenance and operations.

Capital improvement for transportation means preliminary engineering, engineering design studies, land surveys, right-of-way acquisition, engineering, permitting, and construction of all the necessary features for transportation construction projects, including but not limited to:

- (1) Construction of new or improved through or turn lanes;
- (2) Construction of curbs, medians, sidewalks, bicycle paths, and shoulders in conjunction with roadway construction;
- (3) Construction of new pedestrian or bicycle facilities;
- (4) Construction of new bridges;
- (5) Construction of new drainage facilities in conjunction with other transportation construction;
- (6) Purchase and installation of traffic signalization (including both new installations and upgrading signalization);
- (7) Relocating utilities to accommodate new transportation construction; and
- (8) On-street and off-street parking when such parking is intended for and designed to protect or enhance the vehicular and pedestrian capacity of the existing street network. Site-related road improvements as defined herein are not a capital improvement for transportation under this definition.

Community park means a tract of land designated and used by the public primarily for active recreation but also used for educational and social purposes and passive recreation. Community parks also include bikeways that are designed and used primarily for active recreation. A community park generally serves a specific community composed of at least several neighborhoods. Community park standards are based upon several subclassifications of community parks: standard community parks, community recreation centers, community pools, and school parks. The term "community park" specifically includes school sites and publicly owned parks that are available for use by the surrounding neighborhoods.

Dwelling unit has the same meaning given it in ch. 34 of this LDC.

Fast-food restaurant has the same meaning given it in ch. 34 of this LDC.

Feepayer means a person applying to the town for the issuance of a building permit for a type of land development activity listed in the impact fee schedule in § 2-306 of this LDC, regardless of whether the person owns the land to be developed.

Fire district means the Fort Myers Beach Fire Control District, a special district which is authorized to provide fire protection and rescue service.

Fire protection means the prevention and extinguishment of fires, the protection of life and property from fire, and the enforcement of municipal, county, and state fire prevention codes, as well as any law pertaining to the prevention and control of fires, when enforcement duties are performed by firefighters, as defined in F.S. § 633.30, or by fire safety inspectors, as defined in F.S. § 633.021(8), and such other persons who may be employed by a fire district. The term "fire protection" also includes rescue and emergency medical services.

Fort Myers Beach Comprehensive Plan means the town's comprehensive plan adopted pursuant to F.S. ch. 163, as amended from time to time.

General office means, for the purpose of this article only, any type of office except a medical office. A general office building may contain accessory uses such as a beauty or barber shop, shack bar, cafeteria, day care center, or other uses where permitted by ch. 34 of this LDC.

Hotel/motel has the same meaning given it in ch. 34 of this LDC.

Land development activity means any change in land use, or any construction of buildings or structures, or any change in the use of any building or structure that adds dwelling units, attracts or produces vehicular trips, or requires fire protection.

Medical office has the same meaning given it in ch. 34 of this LDC.

Multiple-family building means and includes those definitions set forth in ch. 34 of this LDC for multiple-family building and two-family dwelling units.

Recreation facility has the same meanings given it in ch. 34 of this LDC.

Regional park means a tract of land designated and used by the public for active and passive recreation. A regional park draws users from a larger area than a community park, frequently from the entire county and beyond, by providing access to especially attractive natural resources, amenities, and specialized activities. It specifically includes municipally owned parks when they are used as regional parks.

Retail store means the use of a building to sell goods and to provide personal services (as described in ch. 34 of this LDC) to the general public.

Road has the same meaning given it in F.S. § 334.03.

Shopping center means an integrated group of commercial establishments planned and managed as a unit, consisting primarily of retail stores but sometimes containing other uses such as restaurants, offices, and personal services.

Single-family residence has the same meaning given it in ch. 34 of this LDC.

Site-related road improvements means physical improvements and right-of-way dedications for direct access improvements to the development in question. Direct access improvements include, but are not limited to the following:

- (1) Site driveways and roads;
- (2) Median cuts made necessary by those driveways or roads;
- (3) Right turn, left turn, and deceleration or acceleration lanes leading to or from those driveways or roads;
- (4) Traffic control measures for those driveways or roads; and
- (5) Roads or intersection improvements whose primary purpose at the time of construction is to provide access to the development.

Timeshare unit has the same meaning given it in ch. 34 of this LDC.

Town manager means the manager of the Town of Fort Myers Beach, or the officials that he or she may designate to administer the various provisions of this article.

Warehouse means the use of a building or structure primarily for the storage of goods, boats or vehicles.

Cross reference— Definitions and rules of construction generally, § 1-2 of this LDC.

Sec. 2-305. - Imposition.

- (a) Except as provided in §§ 2-312 through 2-314 of this chapter, any person who seeks to develop land by applying for the issuance of a building permit to make an improvement to land for one of the uses

which is specified in § 2-306 below, shall be required to pay impact fees in the manner and amount set forth in this article.

- (b) No building permit for any activity requiring payment of impact fees pursuant to § 2-306 below, shall be issued by the town unless and until the impact fees required by this article have been paid.
- (c) In the case of structures moved from one location to another, impact fees shall be collected for the new location if the structure is a type of land development listed in § 2-306 below, regardless of whether impact fees had been paid at the old location, unless the use at the new location is a replacement of an equivalent use. If the structure so moved is replaced by an equivalent use, no impact fees shall be owed for the replacement use. In every case, the burden of proving past payment of impact fees or equivalency of use rests with the feepayer.

Sec. 2-306. - Computation of amount.

- (a) At the option of the feepayer, the amount of the impact fees may be determined by the schedule set forth in this section.
- (b) References in this schedule to square feet refers to the gross square footage of each floor of a building measured to the exterior walls, and not to usable, interior, rentable, noncommon, or other forms of net square footage.

FORT MYERS BEACH IMPACT FEE SCHEDULE

	Impact Fees (rounded to nearest dollar) ¹				
LAND USE TYPE		— — Parks — —			
	Transportation	Regional	Community	Fire >Protection	Schools ²
Residential:					
Single-family residence	\$2,971.00	\$631	\$788.00	\$610.00	\$4,309.00
Multiple-family building (per dwelling unit)	\$2,059.00	\$518.00	\$591.00	\$478.00	\$1,704.00
Timeshare unit	\$2,237.00	\$518.00	\$591.00	\$478.00	\$0.00
Hotel/motel room	\$2,237.00	\$318.00	\$363.00	\$501.00	\$0.00
Assisted living facility (per dwelling unit) (see § 34-1415 for density equivalents)	\$1,017.00	\$0.00	\$0.00	\$478.00	\$0.00
Commercial (fee per 1,000 sq. ft. except as noted):					
Retail store or shopping center	\$5,063.00	\$0.00	\$0.00	\$476.00	\$0.00

Bank	\$8,038.00	\$0.00	\$0.00	\$476.00	\$0.00
Car wash, self-service (fee per stall)	\$1,683.00	\$0.00	\$0.00	\$476.00	\$0.00
Convenience store with gas pumps	\$11,250.00	\$0.00	\$0.00	\$476.00	\$0.00
Movie theater	\$7,427.00	\$0.00	\$0.00	\$476.00	\$0.00
Restaurant, fast-food	\$12,763.00	\$0.00	\$0.00	\$476.00	\$0.00
Restaurant, standard	\$6,504.00	\$0.00	\$0.00	\$476.00	\$0.00
Office (fee per 1,000 square feet):					
General office	\$2,336.00	\$0.00	\$0.00	\$222.00	\$0.00
Medical office	\$7,716.00	\$0.00	\$0.00	\$222.00	\$0.00
Institutional (fee per 1,000 square feet):					
Church	\$1,467.00	\$0.00	\$0.00	\$476.00	\$0.00
Day care center	\$4,107.00	\$0.00	\$0.00	\$476.00	\$0.00
Elementary/secondary school (private)	\$643.00	\$0.00	\$0.00	\$476.00	\$0.00
Warehouse (fee per 1,000 square feet):	\$1,461.00	\$0.00	\$0.00	\$216.00	\$0.00

¹ In addition to the impact fees listed, an additional three percent administrative charge will be levied in accordance with § 2-310(e).

² School impact fees are collected in accordance with Lee County Ordinance No. 05-25, effective January 1, 2006.

- (c) If a building permit is requested for a building with mixed uses, as defined in § 2-304 of this LDC, then the fees shall be determined according to the schedule by apportioning the total space within the building according to the space devoted to each principal use. A shopping center will be considered a principal use; however, when located within a shopping center, a fast-food restaurant or convenience store with gasoline sales will be considered a principal use.

- (d) If the type of development activity for which a building permit is applied is not specified on the schedule, the town manager shall use the fee applicable to the most nearly comparable type of land use on the schedule. For transportation impact fees, the town manager shall be guided in the selection of a comparable type by the Institute of Transportation Engineers' Trip Generation (latest edition), studies or reports by the federal, state, and county departments of transportation, and articles or reports appearing in the ITE Journal and other reliable sources. If the town manager determines that there is no comparable type of land use on the fee schedule set out in this subsection, then the town manager shall determine the fee by:
- (1) Using traffic generation statistics or other relevant data from the sources named in this subsection; and
 - (2) Applying the formula set forth in subsection (g)(3) of this section.
- (e) When change of use, redevelopment, or modification of an existing use requires the issuance of a building permit, impact fees shall be based upon the net increase in the impact fee for the new use as compared to the previous use. However, should the change of use, redevelopment, or modification result in a net decrease, no refunds or credits for past impact fees paid shall be made or created.
- (f) If an impact fee has been calculated and paid based on error or misrepresentation, it shall be recalculated and the difference refunded to the original feepayer or collected by the town, whichever is applicable. If impact fees are owed, no permits of any type may be issued for the building or structure in question, or for any other portion of a development of which the building or structure in question is a part, until all impact fees are paid. The building official may bring any action permitted by law or equity to collect unpaid fees.
- (g) The person applying for the issuance of a building permit may, at his option, submit evidence to the town manager indicating that the fees set out in the impact fee schedule in this section are not applicable to the particular development. Based upon convincing and competent evidence, which shall be prepared and submitted in accordance with any applicable administrative code, the town manager may adjust the fee to that appropriate for the particular development.
- (1) The adjustment may include a credit for recreation facilities provided to the development by the feepayer if the recreation facilities serve the same purposes and functions as set forth for regional and/or community parks.
 - (2) If a feepayer opts not to have the transportation impact fee determined according to the impact fee schedule in this section, then the feepayer shall prepare and submit to the town manager an independent fee calculation study for the land development activity for which a building permit is sought. The independent fee calculation study shall measure the impact of the development in question on the transportation system by following the prescribed methodologies and formats for such studies established by Lee County's Administrative Code. The feepayer must attend a preapplication meeting with town manager or designee to discuss the traffic engineering and economic documentation required to substantiate the request. The traffic engineering or economic documentation submitted must address all aspects of the impact fee formula that the county manager determines to be relevant in defining the project's impacts at the preapplication meeting and must show the basis upon which the independent fee calculation was made, including but not limited to the following:
 - a. *Traffic engineering studies.* All independent fee calculation studies must address all three of the following:
 1. Documentation of trip generation rates appropriate for the proposed land development activity;
 2. Documentation of trip length appropriate for the proposed land development activity; and
 3. Documentation of trip data appropriate for the proposed land development activity.
 - b. *Revenue credit studies.* The feepayer may also provide documentation substantiating that the revenue credits due to the development differ from the average figures used in

developing the fee schedule. This documentation shall be prepared and presented by qualified professionals in their respective fields and shall follow best professional practices and methodologies.

- (3) The following formula shall be used by the town manager to determine the transportation impact fee per unit of development:

Impact Fee = VMT x NET COST/VMT		
Where:	VMT =	ADT x %NEW
		x LENGTH ÷ 2
	ADT =	Trip ends during average weekday
	%NEW =	Percent of trips that are primary, as opposed to passby or diverted-link trips
	LENGTH =	Average length of a trip on the approved road system
	÷ 2 =	Avoids double-counting trips for origin and destination
	ADJUSTMENT =	Local adjustment factor, representing the ratio between the VMT predicted by national travel characteristics and observed VMT on the approved road system
NET COST/VMT = COST/VMT - CREDIT/VMT		
	COST/VMT =	COST/LANE-MILE ÷ AVG LANE CAPACITY
	COST/LANE-MILE =	Average cost to add a new lane to the approved roadway system
	AVG LANE CAPACITY =	Average daily capacity of a lane at level of service "D"
	CREDIT/VMT =	\$/GAL ÷ MPG x 365 x NPV
	\$/GAL =	Capacity-expanding funding for roads per gallon of gasoline consumed
	MPG =	Miles per gallon, average for U.S. motor vehicle fleet
	365 =	Days per year (used to convert daily VMT to annual VMT)

	NPV =	Net present value factor (i.e., 12.46 for 20 years at 5% discount)

Sec. 2-307. - Payment.

- (a) The feepayer shall pay the impact fees required by this article to the building official prior to the issuance of the building permit for which the fees are imposed. No building permit may be issued for any development listed in the impact fee schedule in § 2-306 of this LDC until the impact fees have been paid.
- (b) In lieu of cash, up to 100 percent of the impact fees may be paid by the use of credits created in accordance with the provisions of § 2-313 of this LDC.
- (c) All funds collected pursuant to this article shall be promptly transferred for deposit into the appropriate impact fee trust accounts and used solely for the purposes specified in this article.

Sec. 2-308. - Reserved.

Sec. 2-309. - Trust accounts.

- (a) There is hereby established five impact fee trust accounts, one each for transportation, regional parks, community parks, fire protection, and schools.
- (b) Funds withdrawn from these accounts must be used in accordance with the provisions of § 2-310 of this LDC.

Sec. 2-310. - Use of funds.

- (a) Funds collected from impact fees shall be used only for the purpose of capital improvements for transportation, regional parks, community parks, fire protection, and schools, as defined in § 2-304 of this LDC. Impact fee collections, including any interest earned thereon, but excluding administrative charges pursuant to subsection (e) of this section, shall be used exclusively for capital improvements or expansion. These impact fee funds shall be segregated from other funds and shall be expended in the order in which they are collected. Funds may be used or pledged in the course of bonding or other lawful financing techniques, so long as the proceeds raised thereby are used for the purpose of capital improvements.
- (b) Each fiscal year the town manager shall present to the town council a proposed capital improvement program for transportation, regional parks, and community parks, assigning funds, including any accrued interest, from the appropriate impact fee trust account to specific capital projects. Monies, including any accrued interest, not assigned in any fiscal period shall be retained in each impact fee trust account until the next fiscal period, except as provided by the refund provisions of this article.
- (c) The town shall remit fire protection impact fees to the fire district at least once each quarter, less any amounts retained or collected pursuant to subsection (e) of this section, unless another method is specified in an appropriate interlocal agreement.
- (d) The town shall remit school impact fees to Lee County at least monthly, less any amounts retained or collected pursuant to subsection (e) of this section, unless another method is specified in an appropriate interlocal agreement. Lee County will remit these school impacts to the school board in accordance with Lee County Ordinance No. 01-21.

- (e) The town is entitled to charge and collect three percent of the impact fees it collects in cash, or by a combination of cash and credits, as an administrative fee to offset the costs of administering this article. This administrative charge is in addition to the impact fee amounts required by this article. The applicant is responsible for payment of the additional administrative charge in conjunction with the payment of impact fees at the time a building permit or development order is issued.

Sec. 2-311. - Refund of fees paid.

- (a) If a building permit expires, is revoked, voluntarily surrendered, or otherwise becomes void, and no construction or improvement of land has been commenced, then the feepayer shall be entitled to a refund of the impact fees paid as a condition for its issuance, except that three percent of the impact fee paid shall be retained as an administrative fee to offset the cost of processing the refund. This administrative fee is in addition to the charge collected at the time of fee payment. No interest shall be paid to the feepayer on refunds due to noncommencement.
- (b) Any funds not expended or encumbered by the end of the calendar quarter immediately following ten years from the date the impact fee was paid shall, upon application of the feepayer within 180 days of that date, be returned to the feepayer with interest at the rate of six percent per annum. For school impact fees, this period is set at six years by Lee County Ordinance No. 01-21.

Sec. 2-312. - Exemptions.

- (a) The following shall be exempted from payment of the impact fees:
 - (1) Alteration or expansion of an existing building or use of land, where no additional dwelling units will be produced and where the use is not changed and where no additional vehicular trips or demand for fire protection will be produced over and above that produced by the existing use.
 - (2) The construction of accessory buildings or structures which will not produce additional dwelling units and where no additional vehicular trips or demand for fire protection will be produced over and above that produced by the existing use.
 - (3) The replacement of an existing building with a new building or structure of the same use and at the same location, provided that no additional dwelling units, vehicular trips, or fire protection demands will be produced over and above those produced by the original use of the land. However, no exemption will be granted if the existing building was removed five years or more before a building permit is issued for its replacement.
 - (4) A building permit obtained by or for the United States of America, the state, or the county school board.
 - (5) A building permit for which the impact fees thereof have been or will be paid or provided for pursuant to a written agreement, zoning approval, or development order which, by the written terms thereof, clearly and unequivocally was intended to provide for the full mitigation of the projected impact by enforcement of the agreement, zoning approval or development order, and not by the application of this article.
 - (6) A building permit which does not result in an additional dwelling unit, additional vehicular trips, or increased need for fire protection or emergency medical services.
- (b) Exemptions must be claimed by the feepayer at the time of the application for a building permit. Any exemptions not so claimed will be deemed waived by the feepayer.

Sec. 2-313. - Credits.

- (a) Impact fee credits are subject to the following:
 - (1) *Prohibitions.* No credit shall be given for design or construction of site-related road improvements or local roads. No credit shall be given for recreation facilities except pursuant to an independent fee calculation prepared and accepted in accordance with § 2-306(f) of this LDC.

- (2) *Eligibility.* Other approved capital improvements for transportation, regional or community parks, or fire protection may generate corresponding impact fee credits in amounts to be established pursuant to this section. The right to determine whether a capital improvement will be approved for credit purposes lies exclusively with the town.
- (3) *Conditions of credit approval.* Credit for capital improvement construction or land dedication is subject to the following:
- a. *Construction.* A formal request for impact fee construction credits must include a detailed project description and complete cost estimates prepared by qualified professionals and sufficient to enable the town manager to verify these cost estimates and thereby determine the amount of the credit which the town manager will recommend be authorized by the town council. Construction credits for transportation projects may be given as the town council shall determine on a case-by-case basis if it finds that the granting of such credits will not significantly affect future transportation impact fee collections within the town. The amount of credit shall be limited to the actual verified costs of construction and may be reduced by the percentage to which the capacity of the improvement in question is reasonably expected to be utilized by future development on adjacent lands owned or controlled by the grantor. This amount then may be further reduced, as the council shall determine, to reflect the council's estimate of the value of the accelerated construction in relation to the town's schedule for construction.
 - b. *Land dedication.* A formal request for impact fee credits for land dedication must include:
 - 1. A survey of the land to be dedicated, certified by a professional land surveyor duly registered and licensed by the state;
 - 2. A specimen of the deed which he proposes to use to convey title to the appropriate governmental body;
 - 3. An ALTA Form B title insurance policy in an amount equal to the approved value of the credits, to be issued by a company satisfactory to the town attorney and verifying that the proffered deed will convey unencumbered fee simple title to the appropriate governmental body;
 - 4. Property appraisals prepared by qualified professionals that appraise the land as part of the whole development or parent parcel; and
 - 5. A document from the tax collector stating the current status of property taxes on the land.
 - c. *Valuations.* In preparing their reports, appraisers shall value, except where a dedication is made pursuant to a condition of zoning approval, the land at its then-current zoning and without any enhanced value which could otherwise be attributed to improvements on adjacent lands. If the land in question is subject to a valid agreement, zoning approval or development order which prescribes a different valuation, the agreement, zoning approval, or development order shall control. If the dedication is made pursuant to a condition of zoning approval and is not a site-related improvement, and the zoning condition does not specifically prescribe otherwise, the land shall be valued based upon the zoning of the land as it existed prior to the zoning approval which contains the condition of dedication.
 - d. *Limitations on credit for land dedications.* The amount of credit which the council may approve shall be limited to the value of the land in question, as determined by the methodology and procedures set out in this section, and may be reduced by the percentage to which the capacity of the improvement in question is reasonably expected to be utilized by future development on adjacent lands owned or controlled by the grantor. This amount then may be further reduced, as the council shall determine, to reflect the council's estimate of the value of the accelerated acquisition in relation to the town's construction schedule.
 - e. *Independent determinations.* The town manager retains the right to independently determine the amount of credit to be recommended by securing other engineering and construction

cost estimates and/or property appraisals for those improvements or land dedications. In applicable cases, impact fee credits shall be calculated so as to be consistent with F.S. § 380.06(16), (1997).

- (4) *Timing of credit issuance.* Credits for construction shall be created when the construction is completed and accepted by the appropriate governmental body for maintenance, or when the feepayer posts security, as provided in this subsection, for the costs of such construction. Credits for land dedication shall be created when the title to the land has been accepted and recorded in the official records of the clerk of circuit court. Security in the form of cash, a performance bond, an irrevocable letter of credit or an escrow agreement shall be posted with the town council, made payable to the town in an amount approved by the town manager equal to 110 percent of the full cost of such construction. If the project will not be constructed within one year of the acceptance of the offer by the town, the amount of the security shall be increased by ten percent, compounded for each year of the life of the security. The security shall be reviewed and approved by the town attorney prior to acceptance of the security by the town.
- (5) *Transferability.* Impact fee credits shall be in transferable form and may be sold, assigned, or otherwise conveyed. They may be used to pay or otherwise offset the same type of impact fees required by this article.
 - a. Such transferable credits must be used within ten years of the date they are created, which date is the date the instruments conveying legal title to the land or improvements, which were given in exchange for credits, were recorded in the county's official record book. Credits not used during this period shall expire.
 - b. If impact fee rates are increased before the credits are used, the unused transferable credits, when used to pay for the impacts of a particular use listed in impact fee schedule, will be increased at the time they are used in the same percentage that the Consumer Price Index-All Urban Consumers (CUP-U), All Items, U.S. City Average (maintained by the Bureau of Labor Statistics) increased between the time the credits are used and the time the credits were created. If impact fee rates are decreased, unused transferable credits will not decrease in value.
 - c. Any person who accepts credits in exchange for the dedication of land or improvements does so subject to the limitations on the use, duration, nonrefund provisions and other restrictions prescribed in this article.
 - d. Impact fee credits previously issued by Lee County related to development or capital improvements in the town will be accepted as if they were issued by the town, provided the credits have not expired.
- (6) *Withdrawal of offer.* Any person who offers land or improvements in exchange for credits may withdraw the offer of dedication at any time prior to the transfer of legal title to the land or improvements in question and pay the full impact fees required by this article.
 - (b) Feepayers claiming credits shall submit documentation sufficient to permit the building official to determine whether such credits claimed are due and, if so, the amount of such credits.
 - (c) Credits must be claimed by the feepayer at the time of the application for a building permit. Any credits not so claimed shall be deemed waived by the feepayer.
 - (d) Once used, credits shall be canceled and shall not be reestablished even if the permit for which they were used expires without construction.
 - (e) Any person seeking credits for dedication of land must meet with the town manager or designee to seek agreement on appraisal methodology and assumptions before preparing any appraisals for valuation of land to be dedicated.
 - (f) The town may delegate to Lee County certain administrative matters regarding impact fees, pursuant to interlocal agreement.

Sec. 2-314. - Appeals.

Any decision made by the town manager or his designee, or by the building official, in the course of administering this article may be appealed in accordance with those procedures set forth in ch. 34 of this LDC for appeals of administrative decisions.

Sec. 2-315. - Enforcement of article; penalty; furnishing false information.

The director is authorized to pursue any one or combination of the enforcement mechanisms provided in this code (for example, § 1-5, or article V of ch. 2 of this LDC) for any violation of this article. In addition to or in lieu of any criminal or civil prosecution, the county, or any impact feepayer, shall have the power to sue for relief in civil court to enforce the provisions of this article. Knowingly furnishing false information to the town manager, his designee, or the building official on any matter relating to the administration of this article shall constitute a violation thereof.

Secs. 2-316—2-419. - Reserved.

**Town of Fort Myers Beach
Agenda Item Summary**

Yellow Sheet Number: **2023-982**

1. **Requested Motion:**

Commercial Design Standards

Meeting Date: March 14, 2023

Why the action is necessary:

Review of Article 7 Commercial Design Standards

What the action accomplishes:

2. **Agenda:**

ADMINISTRATIVE AGENDA

3. **Requirement/Purpose:**

5. **Background:**

The Town has Commercial Design Standards that are applicable to many non-residential developments.

Attachments:

1. DIVISION_7.____COMMERCIAL_DESIGN_STANDARDS

Financial Impact:

6. **Alternative Action**

7. **Staff Recommendations:**

8. **Recommended Approval:**

Steve Poposki, Community Development Director

Date: March 09, 2023

John R Herin Jr, Town Attorney

Date: March 09, 2023

Amy Baker, Town Clerk

Date: March 09, 2023

DIVISION 7. - COMMERCIAL DESIGN STANDARDS

Sec. 34-991. - Purpose and intent.

The purposes of design regulations for commercial buildings include:

- (1) Encouraging traditional building forms that reinforce the pedestrian orientation and desired visual quality of the Town of Fort Myers Beach.
- (2) Creating usable outdoor space through the arrangement of compatible commercial buildings along street frontages.
- (3) Encouraging buildings of compatible type and scale to have creative ornamentation using varied architectural styles.
- (4) Enhancing the town's business districts as attractive destinations for recreation, entertainment and shopping.
- (5) Maintaining and enhancing the town's sense of place and its property values.
- (6) Implementing the design concepts in the Fort Myers Beach Comprehensive Plan.

Sec. 34-992. - Applicability and compliance.

- (a) *Applicability.* Except where this code specifically provides otherwise, these commercial design standards apply to all commercial and mixed-use buildings or portions thereof that are being newly built, and to "substantial improvements" to such buildings as defined in § 6-405 of this LDC, on properties that are zoned in any of the following zoning districts:
 - (1) Santos (§ 34-648);
 - (2) Downtown (§§ 34-671—34-680);
 - (3) Santini (§§ 34-681—34-690);
 - (4) Village (§§ 34-691—34-700);
 - (5) CB (§§ 34-701—34-710); and
 - (6) CPD (commercial planned development) (§§ 34-951—34-960).
- (b) Commercial buildings on properties with a zoning resolution that incorporated specific architectural elevations shall be required to comply with these standards to the extent that the standards are not inconsistent with the approved elevations.
- (c) Commercial buildings such as hotels that will not contain commercial uses below base flood elevation shall not be required to comply with the ground-floor window and retail standards except along Old San Carlos Boulevard (see § 34-676(b)(2) of this chapter. However, the principal facades of these buildings must screen under-building parking areas in a manner acceptable to the town manager or designee.
- (d) *Compliance determinations.* Compliance with these standards shall be determined as follows:
 - (1) An applicant may seek conceptual or final approval of a specific building and site design during the commercial planned development rezoning process (see § 34-931 of this chapter). The resolution approving a commercial planned development may include specific site plans and building elevations and shall specify the extent to which these plans and elevations have or have not been determined to meet these commercial design standards and whether any deviations to these standards have been granted.
 - (2) Unless final approval has been granted pursuant to subsection (1), the town manager shall make a determination of substantial compliance with these standards before a development order can be issued pursuant to ch. 10 of this code, or before a building permit can be issued if a development order is not applicable.

- a. Compliance determinations of the town manager are administrative decisions which may be appealed in accordance with article II of this chapter.
 - b. The town manager shall provide written notice of each compliance determination to the town council within five calendar days. The town council, by majority vote at a public meeting within 30 days of the compliance determination, may file an appeal that will be heard by the town council in conformance with the procedures and standards in § 34-86 of this chapter.
 - c. Compliance determinations made by the town manager shall not become effective until the 30-day appeal period has passed without an appeal having been filed.
- (e) *Variances and deviations.* Requests to vary from a substantive provision of these standards may be filed using the variance procedures and evaluated using the findings in § 34-87 of this chapter, or may be requested during planned development rezonings as a deviation as described in § 34-932(b) of this chapter. The following are acceptable justifications for deviations from these commercial design standards (in addition to the general requirements of § 34-932(b) of this chapter):
- (1) The proposed substitution of materials or function accomplishes substantially the same goals as the required provisions in these standards and would make an equal or greater contribution to the public realm of the Town of Fort Myers Beach; or
 - (2) The proposed building is a civic building, which is expected to be more visually prominent than a typical commercial building.

Sec. 34-993. - Definitions.

Arcade means a series of columns topped by arches that support a permanent roof over a sidewalk.

Awning means a flexible roof-like cover that extends out from an exterior wall and shields a window, doorway, sidewalk, or other space below from the elements.

Balcony means a cantilevered, open, unroofed portion of an upper floor extending beyond (or indented into) a building's exterior wall.

Bay window means a series of windows which project beyond the wall of a building to form an alcove within.

Canopy means an awning-like projection from a wall that is made of rigid materials and is permanently attached to the principal facade of a building.

Civic building means a building that is allowed greater design flexibility due the prominence of its function and often its location. For purposes of these standards, civic buildings include buildings operated by governmental entities and certain privately owned buildings that serve religious, charitable, cultural, educational, or other public purposes.

Colonnade is similar to an arcade except that it is supported by vertical columns without arches.

Commercial building means, for purposes of these standards, any building used in whole or in part for any of the following uses: retail, office, hotel or motel rooms, institutional uses, commercial storage, restaurants, bars, and similar uses.

Cornice means a decorative horizontal feature that projects outward near the top of an exterior wall.

Courtyard means an unroofed area surrounded by buildings.

Expression line means a decorative horizontal feature that projects outward from an exterior wall to delineate the top of the first story of a building.

Facade, principal means the exterior wall of a building that is roughly parallel to a right-of-way or which faces a plaza or public park, and also that portion of a building's side wall that faces a pedestrian way or parking lot. Along the east side of Old San Carlos Boulevard only, the rear wall of buildings shall also be considered a principal facade whenever it is visible from the Matanzas Pass Sky Bridge.

Lintel means a structural or merely decorative horizontal member spanning a window opening.

Plaza means an unroofed public open space designed for pedestrians that is open to public sidewalks on at least one side.

Sill means is a piece of wood, stone, concrete, or similar material protruding from the bottom of a window frame.

Stoop means a small, elevated entrance platform or staircase leading to the entrance of a building.

(Ord. No. 14-05, § 2(Exh. A), 11-17-2014; Ord. No. [20-19](#), § 3, 1-19-2021)

Sec. 34-994. - Exterior walls.

- (a) *Generally.* These standards require commercial buildings to have traditional pedestrian-oriented exteriors and to be clad with typical Florida building materials that are durable and appropriate to the visual environment and climate. Design flexibility and creativity is encouraged using ornamentation from a wide variety of architectural styles.
- (b) *Finish materials for walls.* Exterior walls are the most visible part of most buildings. Their exterior finishes shall be as follows:
 - (1) Any of the following materials may be used for exterior walls and for columns, arches and piers:
 - a. Concrete block with stucco (CBS);
 - b. Reinforced concrete (with smooth finish or with stucco);
 - c. Natural stone or brick;
 - d. Wood, pressure-treated or naturally decay-resistant species.
 - (2) Exterior walls may also be covered with fiber-reinforced cement panels or boards, or with cast (simulated) stone or brick.
 - (3) Synthetic stucco (an exterior cladding system with a stucco-like outer finish applied over insulating boards) may be used as an exterior wall covering except on principal facades.
 - (4) Other materials for exterior walls may be used only if approved as a deviation from this section through the planned development rezoning process or when explicit approval has been granted to vary from these regulations (see § 34-992 of this chapter).
 - (5) Fastenings that are required to dry-floodproof the first story of commercial buildings shall be integrated into the design of principal facades or be visually unobtrusive.
- (c) *Types of exterior walls.* Principal facades are defined in § 34-993 above, and their requirements are described in § 34-995, below. Exterior walls that are not defined as principal facades require a lesser degree of finish and transparency, but must meet the following requirements:
 - (1) Transparent windows must cover at least 30 percent of the wall area below the expression line and at least ten percent of the wall area between the expression line and the cornice. These requirements shall not apply to walls facing and roughly parallel to rear lot lines, or to side walls being built closer than five feet to a side lot line if the adjoining lot also has a building with a side wall closer than five feet to the same side lot line. However, some rear and side walls qualify as principal facades in accordance with § 34-993 above, and must meet the more stringent requirements of § 34-995, below.
 - (2) All windows must have their glazing set back at least three inches from the surface plane of the wall, or set back at least two inches when wood frame construction is used.
 - (3) Rectangular window openings shall be oriented vertically (except for transom windows).

Sec. 34-995. - Principal facade walls.

- (a) *Facade elements.* Principal facades are the primary faces of buildings. Being in full public view, they shall be given special architectural treatment.
- (1) All principal facades shall have a prominent cornice and expression line, a working entrance, and windows (except for side-wall facades where entrances are not required).

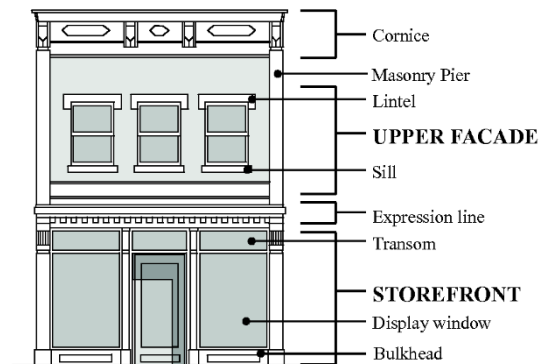
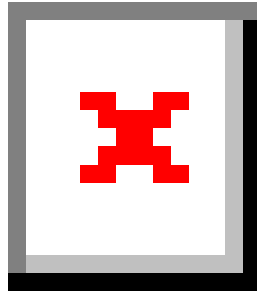


Figure 34-19

- (2) Buildings wider than 75 feet shall incorporate vertical elements in the principal facade to mimic smaller-scale development.
 - (3) Principal facades facing a primary street, plaza, or public park may not have blank walls (without doors or windows) greater than ten feet in length.
 - (4) Expression lines and cornices shall be a decorative molding or jog in the surface plane of the building that extend at least three inches out from the principal facade, or a permanent canopy may serve as an expression line.
 - (5) Awnings may not hide or substitute for required features such as expression lines and cornices.
 - (6) Entrances and windows are addressed in subsections (b) and (c) below.
- (b) *Entrances.* A primary entrance and views into the first floor of commercial buildings are fundamental to creating an interesting and safe pedestrian environment.
- (1) The primary entrance to all buildings shall face the street.
 - (2) Corner buildings shall have their primary entrance face either the intersection or the street of greater importance.
 - (3) Additional ground floor retail spaces within the same building shall all have their respective primary entrances face streets unless the retail spaces do not adjoin an exterior wall along a street.
 - (4) Where building frontages exceed 50 feet, operable doors or entrances with public access shall be provided along streets at intervals averaging no greater than 50 feet.

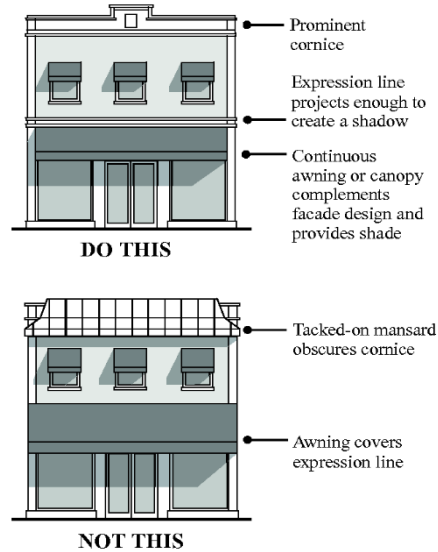
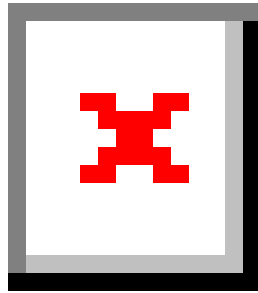


Figure 34-20

(c) *Windows.* Every principal facade must contain transparent windows on each story.

(1) *All windows.*

- a. Rectangular window openings on principal facades shall be oriented vertically (except for transom windows).
- b. All windows must:
 1. Contain visible sills and lintels on the exterior of the wall; and
 2. Have their glazing set back at least three inches from the surface plane of the wall, or set back at least two inches when wood frame construction is used.
- c. Glass in windows and doors, whether integrally tinted or with applied film, must transmit at least 50 percent of visible daylight.
- d. See subsection (e)(1) of this section regarding awnings.

(2) *First-story windows.* In order to provide clear views inward and to provide natural surveillance of exterior spaces, the first story of every commercial building's principal facade shall have transparent windows meeting the following requirements:

- a. Window openings shall cover at least 60 percent of the wall area below the expression line;
- b. The bottoms of the window opening can be no higher than 30 inches from sidewalk level; and
- c. These windows shall be maintained so that they provide continuous view of interior spaces lit from within. Private interior spaces such as offices may use operable interior blinds for privacy.

(3) *Upper-story windows.*

- a. All stories above the first story of every commercial building's principal facade shall contain between 15 percent and 75 percent of the wall area with transparent windows.
- b. No single pane of glass may exceed 36 square feet in area.

(d) *Corner buildings.* For buildings located at the intersection of two streets, the corner of the building at the intersection may be angled, curved, or chamfered. The distance from the corner shall not exceed

20 feet measured from the intersection of the right-of-way lines to the end of the angled or curved wall segment, unless a greater amount is required by the visibility triangles in § 34-662(b)(4) of this chapter.

- (e) *Facade projections.* Facade projections add visual interest to buildings. Some projections also provide protection from sun and rain for those passing by, others provide additional floor space for the building. The following types of facade projections are permitted as indicated below. At least one of these facade projections is required on each principal facade of all commercial buildings. Along both sides of Old San Carlos Boulevard, a continuous awning or canopy is required over the sidewalk except where the sidewalk is being shaded by an arcade or colonnade.

(1) *Awnings and canopies.*

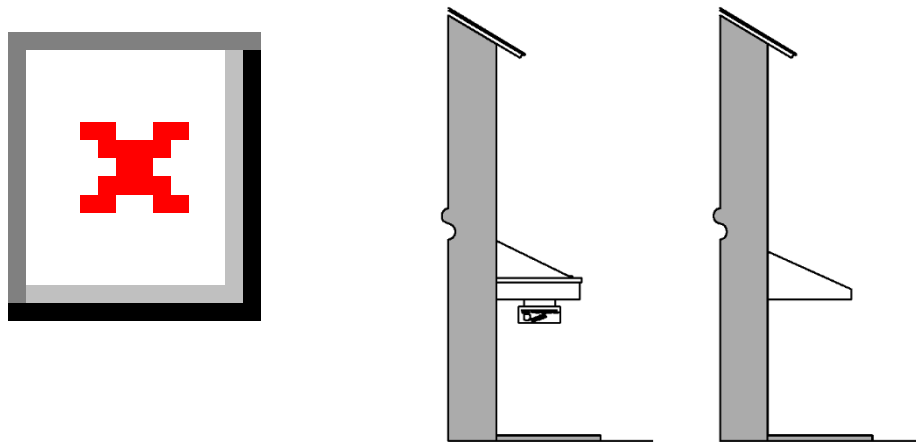


Figure 34-21

- a. Awnings and canopies may extend forward of the build-to line (see § 34-662 of this chapter) and may encroach into a street right-of-way.
 - b. Awning or canopies extending from the first story cannot exceed the following dimensions:
 1. Depth: Five feet (minimum) and strongly overlapping the sidewalk, but no closer than two feet to an existing or planned curb (see subsection (e) of this section regarding Old San Carlos Boulevard).
 2. Height: The lowest point on an awning or canopy shall be between nine feet and 12 feet above sidewalk level.
 3. Length: Twenty-five percent to 100 percent of the front of the building.
 - c. There are no minimum or maximum dimensions for awnings or canopies extending from a second story or higher.
 - d. Awnings shall be covered with fabric. High-gloss or plasticized fabrics are prohibited. Backlighting of awnings is prohibited.
- (2) *Balconies.*

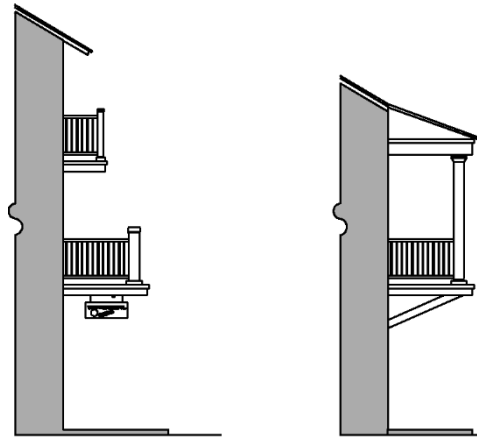
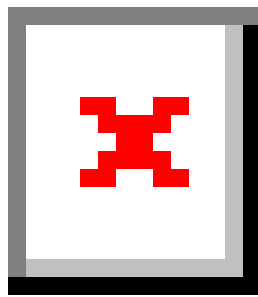


Figure 34-22

- a. Balconies may extend forward of the build-to line (see § 34-662 of this chapter) and may encroach into a street right-of-way.
 - b. Balconies cannot exceed the following dimensions:
 1. Depth: Six feet minimum for second story balconies; and no closer than two feet to the existing or planned curb.
 2. Height: Ten feet minimum if overhanging a sidewalk.
 3. Length: Twenty-five percent to 100 percent of the front of the building.
 4. Top of railing: Two and three-fourths-inch minimum.
 - c. Balconies may have roofs, but are required to be open, un-air conditioned parts of the buildings.
 - d. On corners, balconies may wrap around to the side of the building.
- (3) *Bay windows.*

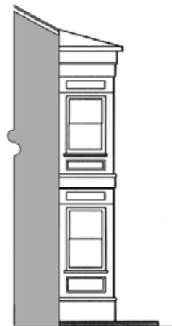
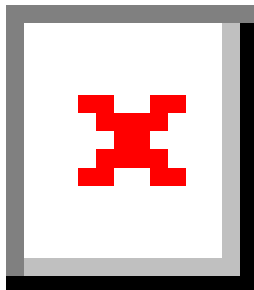
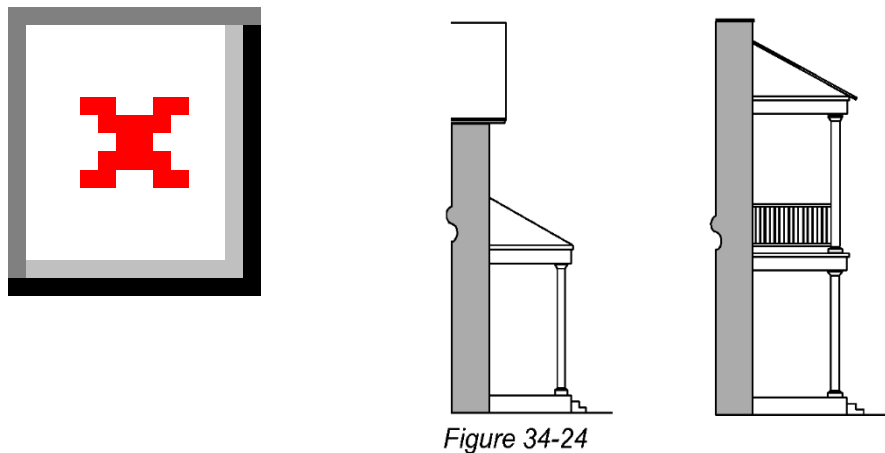


Figure 34-23

- a. Bay windows may extend forward of the build-to line (see § 34-662 of this chapter) but may not encroach into a street right-of-way.
 - b. Awning or canopies extending from the first story cannot exceed the following dimensions:
 - 1. Depth: Three feet (minimum).
 - 2. Height: Ten feet minimum above sidewalk.
 - 3. Length: Six feet minimum.
 - c. Bay windows shall have the same details required for principal facades: sills, lintels, cornices, and expression lines.
- (4) *Porches.*



- a. Front porches may extend forward of the build-to line (see § 34-662 of this chapter) but may not encroach into a street right-of-way.
 - b. Front porches cannot exceed the following dimensions:
 - 1. Depth: Eight feet (minimum).
 - 2. Length: Twenty-five percent to 90 percent of the front of the building; however, no more than 25 percent of the floor area of a porch shall be screened if the porch extends forward of the build-to line.
 - 3. Top of railing: Two and three-fourths-inch minimum.
 - c. Front porches may have multi-story verandas and/or balconies above.
 - d. Front porches are required to be open, un-air conditioned parts of a building.
- (5) *Stoops.*

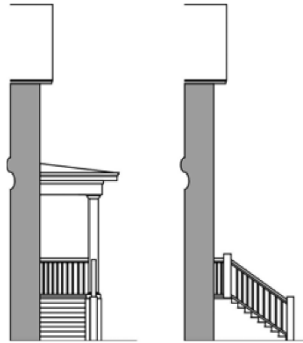
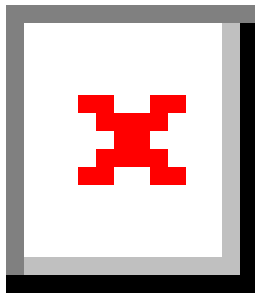


Figure 34-26

- a. Stoops may extend forward of the build-to line (see § 34-662 of this chapter) but may not encroach into a street right-of-way or sidewalk without specific approval by the town.
 - b. Stoops cannot exceed the following dimensions:
 1. Depth: Six feet (minimum).
 2. Length: Five feet (minimum).
 - c. Stoops may be roofed or unroofed but may not be screened or otherwise enclosed.
- (6) *Arcades and colonnades.*

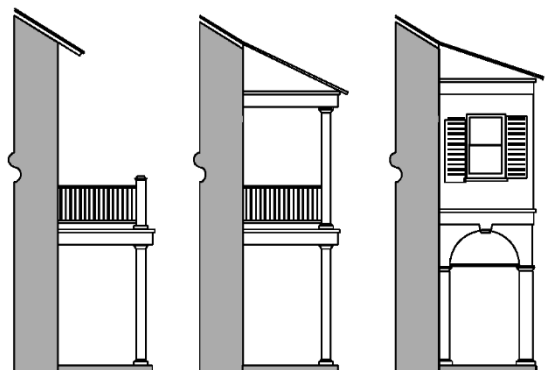
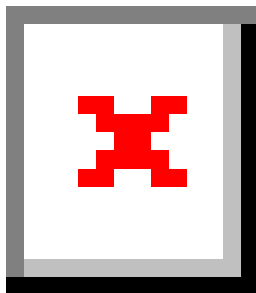


Figure 34-27

- a. Arcades and colonnades may extend forward of the build-to line (see § 34-662 of this chapter) and may encroach into a street right-of-way if explicit permission is granted by the town.
- b. Arcades and colonnades cannot exceed the following dimensions:
 1. Depth: Seven feet minimum from the building front to the inside face of the column.

2. No part of the column shall be closer than two feet to the existing or planned curb.
 3. Height: Ten feet minimum above sidewalk.
 4. Length: Seventy-five percent to 100 percent of the front of the building.
 5. Top of porch railing: Two and three-fourths-inch minimum.
- c. Open multi-story verandas, awnings, balconies, and enclosed useable space can be constructed above the colonnade.
 - d. Arcades and colonnades shall only be constructed where the minimum depth can be obtained.
 - e. On corners, arcades and colonnades may wrap around to the side of the building.
 - f. Columns shall be spaced no farther apart than they are tall.
 - g. Minimum column dimensions with enclosed space above shall be eight inches.
 - h. Minimum column dimension without enclosed space above:
 1. Rectangular columns: Six inches.
 2. Round columns: Six inches in diameter.

Sec. 34-996. - Roofs.

(a) *Definitions.*

Dormer means a projection from a sloping roof that contains a window and its own roof.

Gable roof means a ridged roof forming a gable at both ends.

Hip roof means a roof with pitched ends and sides.

Mansard roof means a roof having two slopes with the lower slope steeper than the upper, or a single steep slope topped with a flat roof, enclosing the building's top floor. A modern variant is a partial sloped roof that is attached near the top of an exterior wall in place of a traditional cornice or parapet, creating the visual effect of a sloped roof on a flat-roofed building but without enclosing any floor space.

Parapet means a short vertical extension of a wall that rises above roof level, hiding the roof's edge and any roof-mounted mechanical equipment.

Shed roof means a pitched roof that has only one slope.

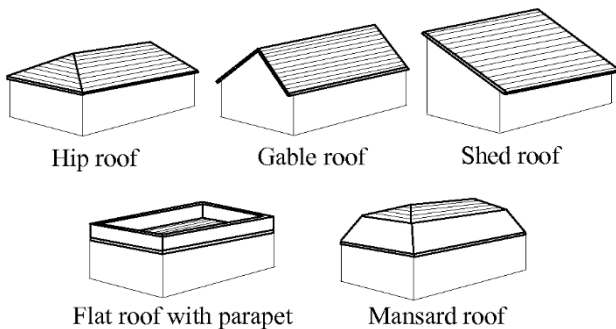
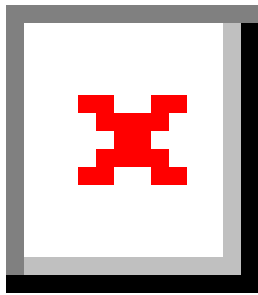


Figure 34-28

- (b) **Roof types permitted.** Commercial buildings may have any of the following roof types: hip roofs, gable roofs, shed roofs, flat roofs with parapets, or mansard roofs.
- (1) All flat roofs, and any shed roof with a slope of less than two inches vertical per 12 inches horizontal, must have their edges along all streets concealed with parapets.
 - (2) All hip roofs and gable roofs, and any shed roof with a slope of more than two inches vertical per 12 inches horizontal, must have overhangs of at least 18 inches.
 - a. Exposed rafter ends (or tabs) are encouraged.
 - b. Wide overhangs are encouraged and can be supported with decorative brackets.
 - (3) Mansard roofs are permitted only when the lowest sloped surface begins above a cornice line and then slopes upward and inward.
 - (4) Small towers, cupolas, and widow's walks are encouraged (see § 34-631 of this chapter for maximum dimensions).
 - (5) Dormers are permitted and encouraged on sloped roofs.
 - (6) Skylight glazing must be flat to the pitch of the roof if the skylight is visible from a primary street, plaza, or public park.
- (c) **Roofing materials permitted.** Commercial building roofs may be constructed with one or more of the following roofing materials:
- (1) **Metal:**

- a. Steel (galvanized, enameled or terne-coated);
 - b. Stainless steel;
 - c. Copper;
 - d. Aluminum.
- (2) *Shingles*:
 - a. Asphalt (laminated dimensional shingles only);
 - b. Fiber-reinforced cement;
 - c. Metal (same as subsection (c)(1) above).
- (3) *Tiles*:
 - a. Clay or terra cotta;
 - b. Concrete.
- (4) *Flat roofs*:
 - a. Any materials allowed by applicable building codes.
- (5) *Gutters and downspouts*:
 - a. Metal (same as subsection (c)(1) above).
- (d) *Other roof types and materials*. Other types of roofs and roofing materials are prohibited unless explicitly approved in accordance with § 34-992 of this chapter.

Sec. 34-997. - Plazas and courtyards.

- (a) *Generally*. New commercial buildings are generally oriented to public sidewalks. This section addresses other public open spaces that also can affect the orientation of commercial buildings.
- (b) *Plazas*. This code contains "build-to lines" (see § 34-662 of this chapter) that require new commercial buildings to be placed near public sidewalks. These build-to regulations allow up to 25 percent of a building's frontage to be recessed ten feet. Plazas meeting the following requirements are permitted to be recessed further than the standard ten feet:
 - (1) The plaza cannot exceed 25 percent of a building's frontage.
 - (2) The plaza is strictly for pedestrian usage and cannot be used to park vehicles.
 - (3) All building walls that surround the plaza must meet the design criteria for principal facades.
- (c) *Courtyards*. New commercial buildings that are on larger lots may include interior courtyards designed for public or private usage.
 - (1) If vehicular circulation is allowed through a courtyard, the only parking permitted will be in parallel spaces.
 - (2) Courtyards intended for public use are encouraged to have clear visual linkages between the courtyard and public sidewalks.
- (d) *Pedestrian passages*. Pedestrian passages, with or without a lane for vehicles, can be provided on private property to connect a courtyard to the sidewalk system, to provide walkways to parking lots behind buildings, or to provide additional retail frontages.

Secs. 34-998—34-1168. - Reserved.

**Town of Fort Myers Beach
Agenda Item Summary**

Yellow Sheet Number: **2023-983**

1. Requested Motion:

Parallelogram Shaped Lots Discussion

Meeting Date: March 14, 2023

Why the action is necessary:

Requested agenda item

What the action accomplishes:

2. Agenda:

ADMINISTRATIVE AGENDA

3. Requirement/Purpose:

5. Background:

LPA Member Scott Safford requested the LPA discuss a potentially unique situation that may have an impact on property setbacks. It appears the situation is applicable mostly to residentially developed areas.

Attachments:

1. FMB Parallelogram Lot Proposal

Financial Impact:

6. Alternative Action

7. Staff Recommendations:

8. Recommended Approval:

Steve Poposki, Community Development Director

Date: March 09, 2023

John R Herin Jr, Town Attorney

Date: March 09, 2023

Amy Baker, Town Clerk

Date: March 09, 2023



**HB PROPOSAL FOR SETBACK
AMENDMENTS ON FORT MYERS BEACH
PARALLELOGRAM LOTS**

Date: 02/07/2023

EXISTING PROBLEM

Parallelogram shaped lots are relatively common across Fort Myers Beach and are adversely affected by the existing zoning code. Relative to a rectangular lot with identical dimensions, the skewed shape reduces lot width as the angle of the parallelogram increases beyond 90. The current code stops the reduction of side setbacks by lot width at 50' ($50' \times 15\% = 7.5'$) with the 7.5' minimum side setback. With some lots having an effective width of 46.5' or less, their effective buildable area is brought down to 31.5' or less. Similarly, buildable depth is significantly reduced on these lots with current front and rear setbacks; as houses are typically constructed with rectangular footprints, there becomes an unusable triangle of space at both the front and the rear. Not only does this severely constrain what can be rebuilt on these, but it is also inconsistent with the streetscape of these lots prior to Hurricane Ian. Figure 1 below shows the “sawtooth” front building line of houses along Fairweather Lane.



Figure 1

SITES AFFECTED BY PARALLELOGRAM SHAPED LOTS

There are several streets across the island of Fort Myers Beach containing lots fitting into the parallelogram classification. The degree of hardship varies based on how far the obtuse angle is beyond 90 degrees. The lots below range from approximately 102-112 degrees with 112 degree angle lots having the most restricted buildable area. The higher degree angle lots not only constrain the effective lot width more, but also create less usable depth due to the extended "leftover" triangles within the buildable footprint beyond a typical rectangle. The proposed solution below accounts for the variability in angle by providing less relief to a lower degree angle lot and more relief for a higher degree angle lot. The affected streets we have documented are listed below but not necessarily limited to these locations:

- Miramar Street (32)
- Fairweather Lane (37)
- Voorhis Street (7)
- Eucalyptus Court (19)
- Madison Court (8)
- Estero Boulevard (between Voorhis St and Madison Ct)(4)
- Hercules Drive (18)
- Coconut Drive (23)

In total, we are estimating that 148 lots on these streets are affected by this lot shape.

PROPOSED SOLUTION

Figures 2-6 below show some of the more typical lot types we are seeing on these streets with existing setbacks (red), compared to a rectangular lot of the same dimensions (green), and overlaying our proposed changes (blue) to see how the buildable footprint is affected. These figures also provide insight into the variability of the relief based on the different degree angle lots typical of each street. A few notes while reviewing the visual aids:

- The equivalent rectangular lot (green) is intended to set a control or base standard for buildable footprint as zoning codes are typically designed to standard rectangular lots. The buildable footprint should be compared to both the existing (red) and proposed changes (blue) to understand how the hardships are alleviated and not giving too much leeway for these lots.
- When comparing the existing (red) and proposed (blue) overlaid diagrams, note that the buildable footprint area remains virtually unchanged and is simply reallocating the area to be more rectangular and constructable.

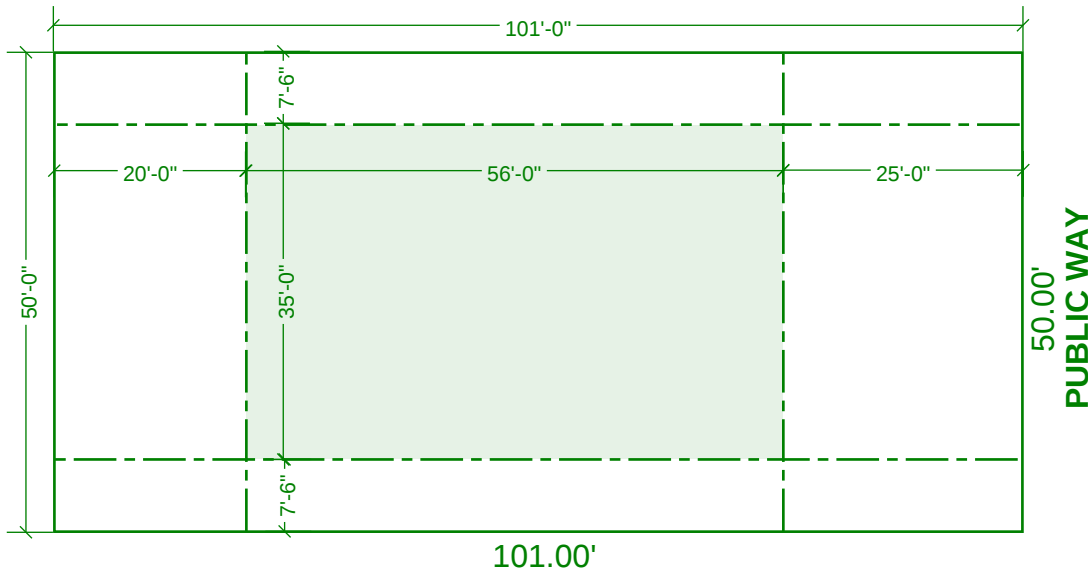
FRONT AND REAR SETBACKS

Due to the skewed shape of the lot (and in turn, buildable footprint), it is very difficult for a house to make use of the leftover triangles at both front and back beyond a standard rectangle. Our proposal is to maintain a 25' setback from the front property line and 20' setback from the rear property line but rotate the setback line at its midpoint so it is perpendicular to the side property lines. The resulting buildable footprint is rectangular in shape, maintains the same buildable area on the lot, and mimics the existing "sawtooth" pattern of the streetscape where these parallelogram lots exist (see Figure 1).

SIDE SETBACKS

The typical rules on side setbacks assumes minimum lot widths of 50' at which 15% of 50' = 7.5' setbacks and allows for a 35' buildable width. However, the parallelogram lots have 50' frontage and varying functional widths depending on the angle of the lot at which the 7.5' minimum becomes a hardship and limits the possible building width. The side setback based on lot width should be adjusted in a way that does not adversely affect the smallest or most constrained lots. Reducing the minimum side setback for parallelogram lots from 7.5' to 6' allows for functional lot widths of as little as 40' at which they would still have a buildable width of 28' (as opposed to 25' with the 7.5' minimum).

FIGURE 2
209 MIRAMAR STREET



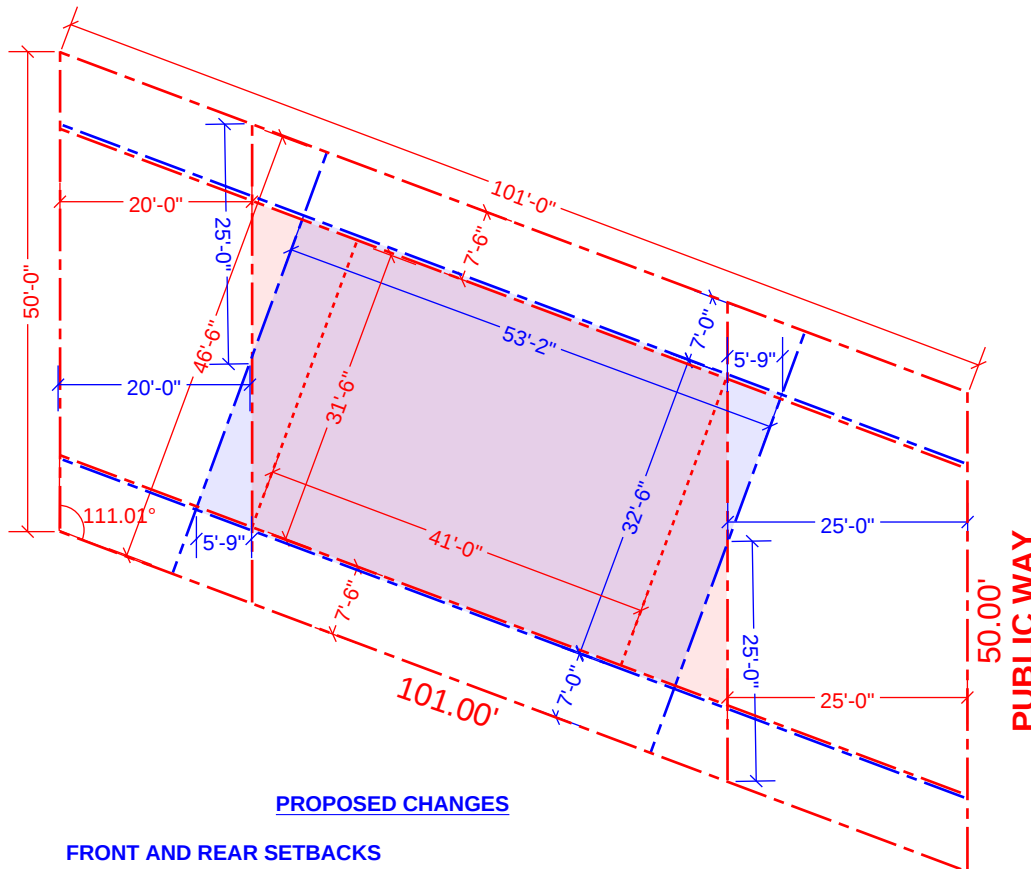
EXISTING RECTANGULAR LOT (50'W x 101'D)

FRONT SETBACK
25'

REAR SETBACK
20'

SIDE SETBACK
15% LOT WIDTH
OR 7.5' MIN.

BUILDABLE FOOTPRINT
35'-0" WIDE
56'-0" DEEP



EXISTING PARALLELOGRAM LOT (50'W x 101'D)

FRONT SETBACK
25'

REAR SETBACK
20'

SIDE SETBACK
15% LOT WIDTH
OR 7.5' MIN.

BUILDABLE FOOTPRINT
31'-6" WIDE
41'-0" DEEP

PROP. PARALLELOGRAM LOT (50'W x 101'D)

FRONT SETBACK
25' @ MIDPOINT OF LOT;
SETBACK LINE PERP. TO
SIDE PROPERTY LINES

REAR SETBACK
20' @ MIDPOINT OF LOT;
SETBACK LINE PERP. TO
SIDE PROPERTY LINES

SIDE SETBACK
15% LOT WIDTH
OR 6.0' MIN.

BUILDABLE FOOTPRINT
32'-6" WIDE
53'-2" DEEP

PROPOSED CHANGES

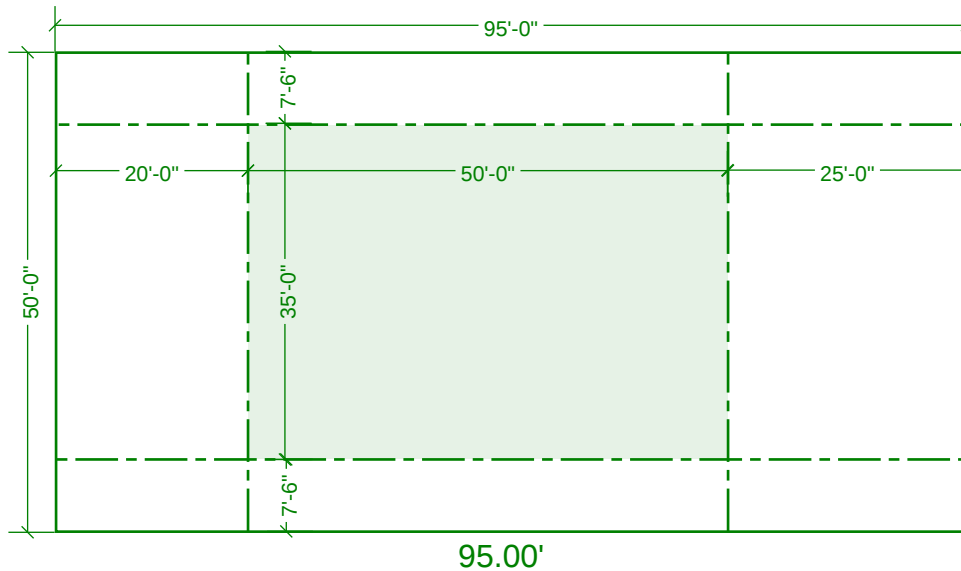
FRONT AND REAR SETBACKS

MEASURE 25' SETBACK; ROTATE LINE AT MIDPOINT PERPENDICULAR TO SIDE PROPERTY LINES TO EXTEND USABLE FOOTPRINT

SIDE SETBACKS

MAINTAIN 15% LOT WIDTH, BUT DECREASE MINIMUM TO 6'-0" MIN. SO BUILDABLE WIDTH NOT PUNISHED FOR SUB 50' LOT WIDTHS.

FIGURE 3
223 FAIRWEATHER LANE



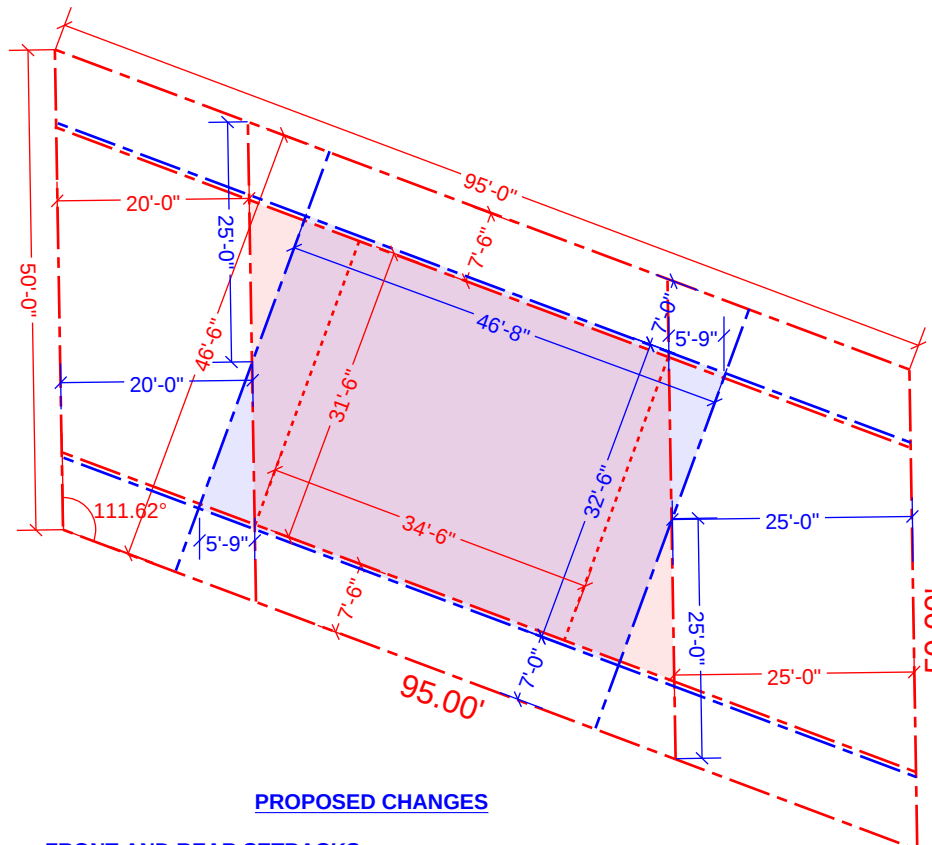
EXISTING RECTANGULAR LOT (50'W x 95'D)

FRONT SETBACK
25'

REAR SETBACK
20'

SIDE SETBACK
15% LOT WIDTH
OR 7.5' MIN.

BUILDABLE FOOTPRINT
35'-0" WIDE
50'-0" DEEP



EXISTING PARALLELOGRAM LOT (50'W x 95'D)

FRONT SETBACK
25'

REAR SETBACK
20'

SIDE SETBACK
15% LOT WIDTH
OR 7.5' MIN.

BUILDABLE FOOTPRINT
31'-6" WIDE
34'-6" DEEP

PROP. PARALLELOGRAM LOT (50'W x 95'D)

FRONT SETBACK
25' @ MIDPOINT OF LOT;
SETBACK LINE PERP. TO
SIDE PROPERTY LINES

REAR SETBACK
20' @ MIDPOINT OF LOT;
SETBACK LINE PERP. TO
SIDE PROPERTY LINES

SIDE SETBACK
15% LOT WIDTH
OR 6.0' MIN.

BUILDABLE FOOTPRINT
32'-6" WIDE
46'-8" DEEP

PROPOSED CHANGES

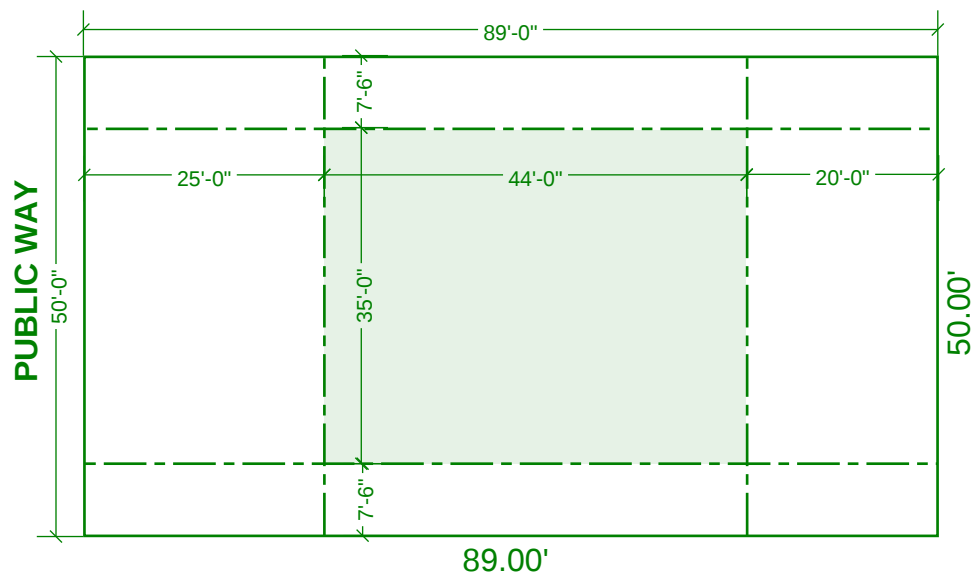
FRONT AND REAR SETBACKS

MEASURE 25' SETBACK; ROTATE LINE AT MIDPOINT PERPENDICULAR TO SIDE PROPERTY LINES TO EXTEND USABLE FOOTPRINT

SIDE SETBACKS

MAINTAIN 15% LOT WIDTH, BUT DECREASE MINIMUM TO 6'-0" MIN. SO BUILDABLE WIDTH NOT PUNISHED FOR SUB 50' LOT WIDTHS.

FIGURE 4
270 FAIRWEATHER LANE



**EXISTING RECTANGULAR
LOT (50'W x 89'D)**

FRONT SETBACK

25'

REAR SETBACK

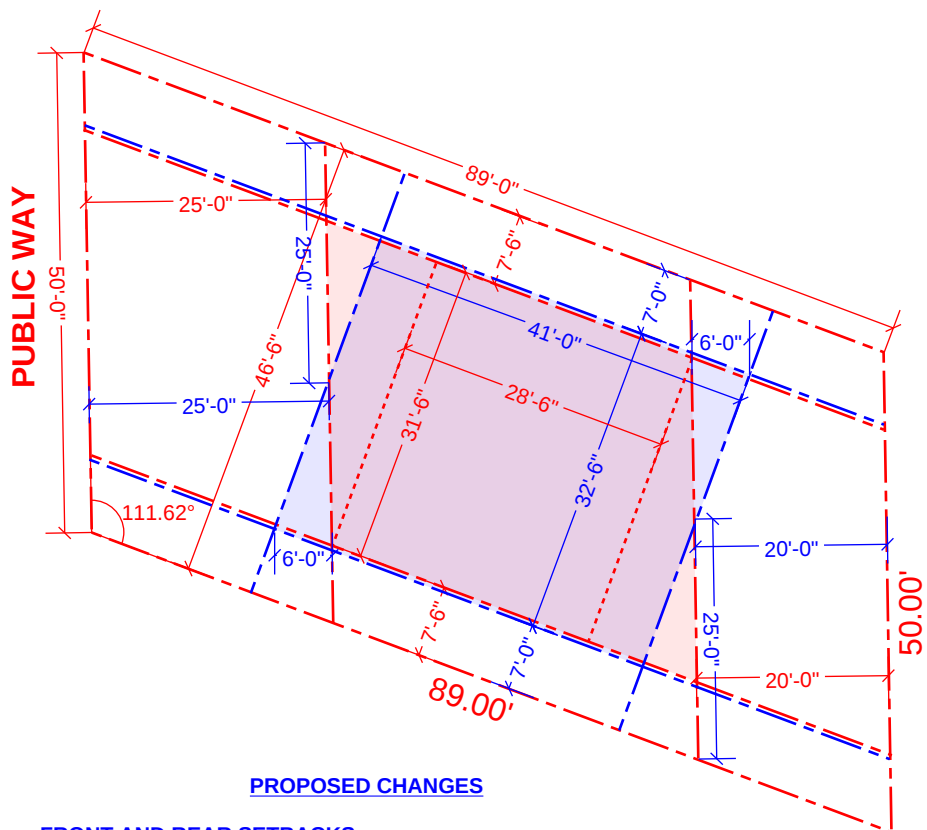
20'

SIDE SETBACK

15% LOT WIDTH
OR 7.5' MIN.

BUILDABLE FOOTPRINT

35'-0" WIDE
44'-0" DEEP



**EXISTING PARALLELOGRAM
LOT (50'W x 89'D)**

FRONT SETBACK

25'

REAR SETBACK

20'

SIDE SETBACK

15% LOT WIDTH
OR 7.5' MIN.

BUILDABLE FOOTPRINT

31'-6" WIDE
28'-6" DEEP

**PROP. PARALLELOGRAM LOT
(50'W x 89'D)**

FRONT SETBACK

25' @ MIDPOINT OF LOT;
SETBACK LINE PERP. TO
SIDE PROPERTY LINES

REAR SETBACK

20' @ MIDPOINT OF LOT;
SETBACK LINE PERP. TO
SIDE PROPERTY LINES

SIDE SETBACK

15% LOT WIDTH
OR 6.0' MIN.

BUILDABLE FOOTPRINT

32'-6" WIDE
41'-0" DEEP

PROPOSED CHANGES

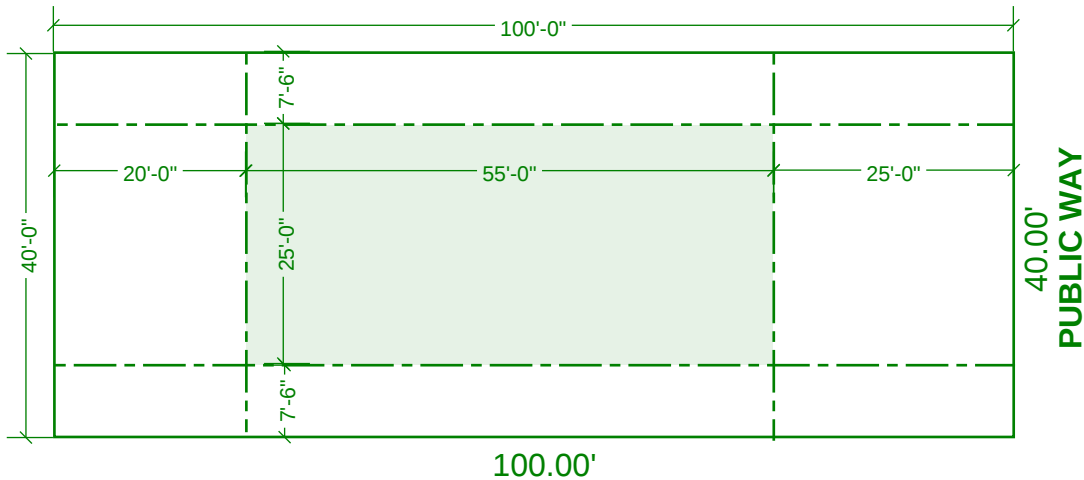
FRONT AND REAR SETBACKS

MEASURE 25' SETBACK; ROTATE LINE AT MIDPOINT
PERPENDICULAR TO SIDE PROPERTY LINES TO EXTEND
USABLE FOOTPRINT

SIDE SETBACKS

MAINTAIN 15% LOT WIDTH, BUT DECREASE MINIMUM TO
6'-0" MIN. SO BUILDABLE WIDTH NOT PUNISHED FOR SUB
50' LOT WIDTHS.

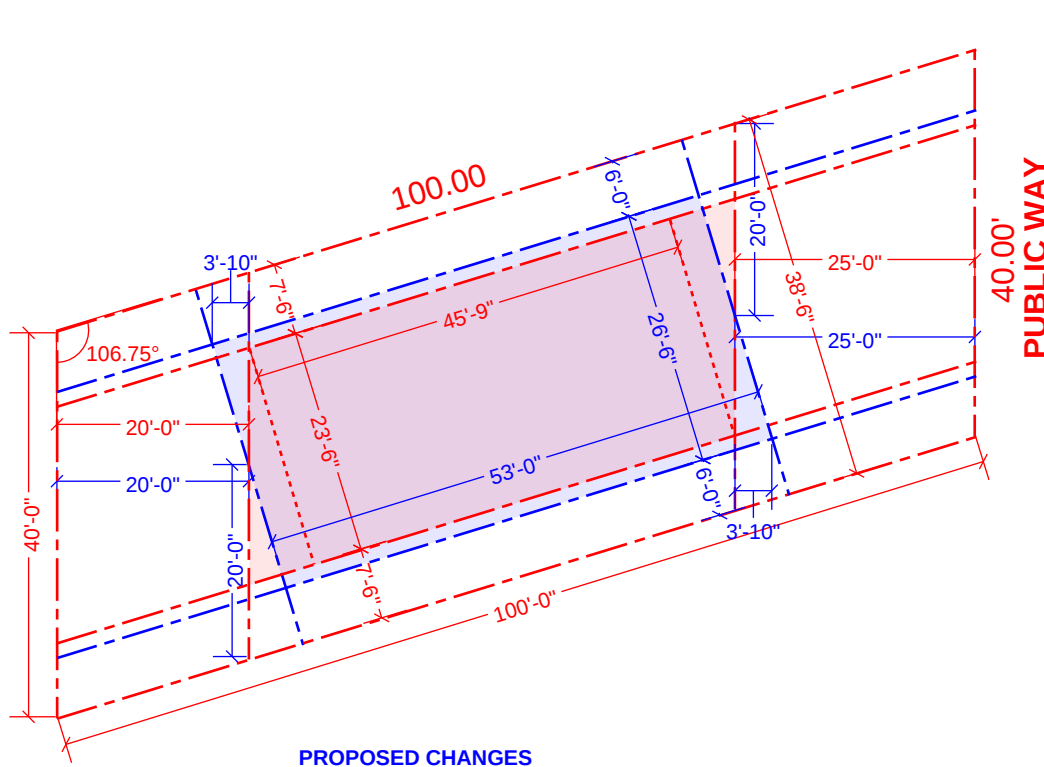
FIGURE 5
151 MADISON COURT



EXISTING RECTANGULAR LOT (40'W x 100'D)

FRONT SETBACK
25'
REAR SETBACK
20'
SIDE SETBACK
15% LOT WIDTH
OR 7.5' MIN.

BUILDABLE FOOTPRINT
25'-0" WIDE
55'-0" DEEP



EXISTING PARALLELOGRAM LOT (50'W x 101'D)

FRONT SETBACK
25'
REAR SETBACK
20'
SIDE SETBACK
15% LOT WIDTH
OR 7.5' MIN.

BUILDABLE FOOTPRINT
23'-6" WIDE
45'-9" DEEP

PROP. PARALLELOGRAM LOT (50'W x 101'D)

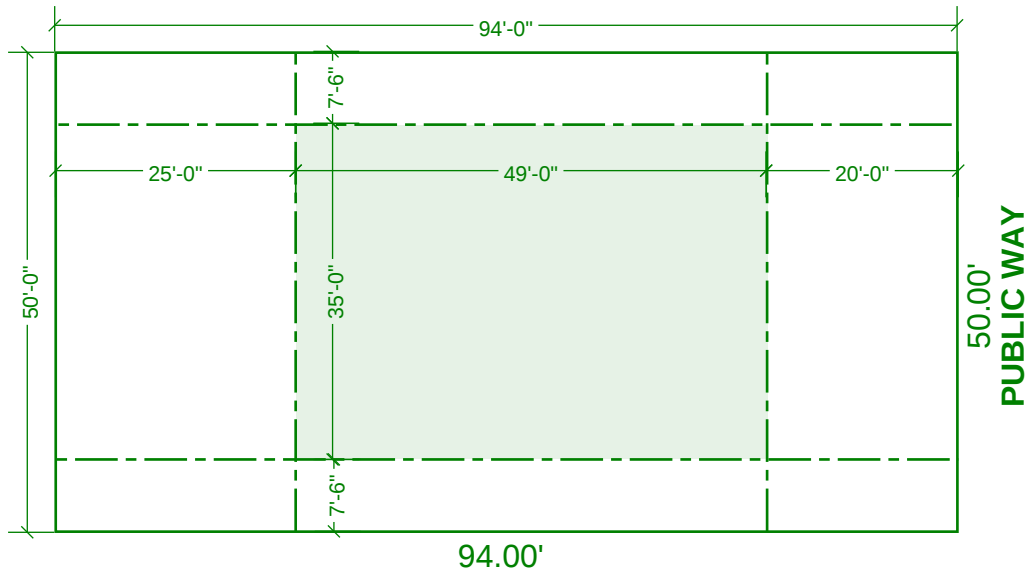
FRONT SETBACK
25' @ MIDPOINT OF LOT;
SETBACK LINE PERP. TO
SIDE PROPERTY LINES
REAR SETBACK
20' @ MIDPOINT OF LOT;
SETBACK LINE PERP. TO
SIDE PROPERTY LINES
SIDE SETBACK
15% LOT WIDTH
OR 6.0' MIN.

BUILDABLE FOOTPRINT
26'-6" WIDE
53'-0" DEEP

FRONT AND REAR SETBACKS
MEASURE 25' SETBACK; ROTATE LINE AT MIDPOINT
PERPENDICULAR TO SIDE PROPERTY LINES TO EXTEND
USABLE FOOTPRINT

SIDE SETBACKS
MAINTAIN 15% LOT WIDTH, BUT DECREASE MINIMUM TO
6'-0" MIN. SO BUILDABLE WIDTH NOT PUNISHED FOR SUB
50' LOT WIDTHS.

FIGURE 6
135 COCONUT DRIVE



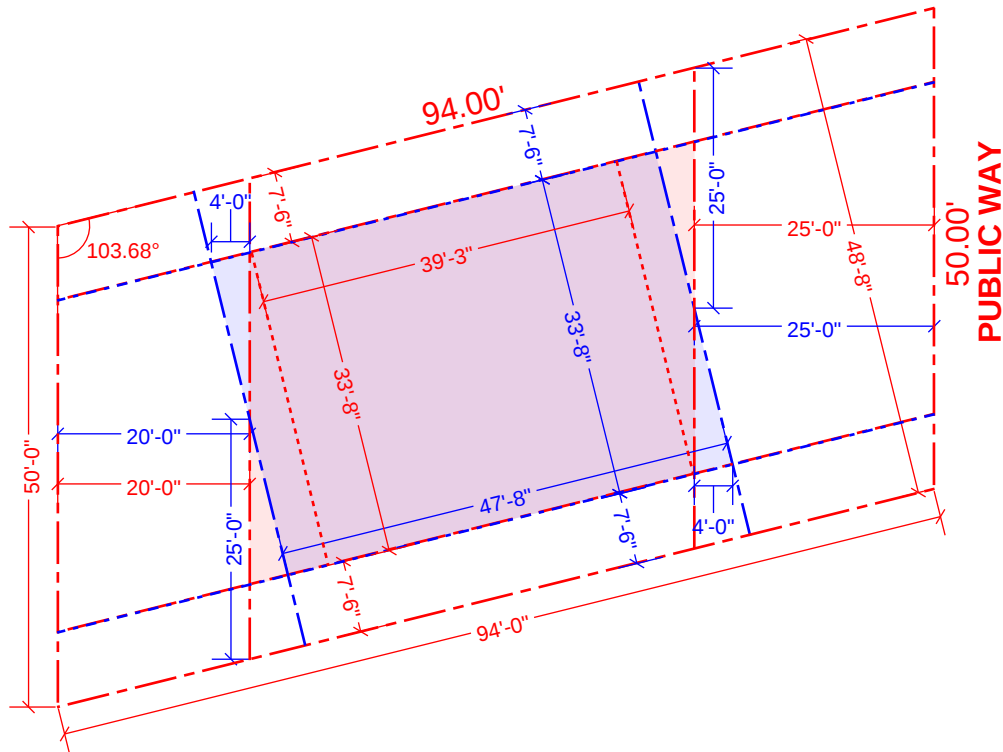
EXISTING RECTANGULAR LOT (50'W x 94'D)

FRONT SETBACK
25'

REAR SETBACK
20'

SIDE SETBACK
15% LOT WIDTH
OR 7.5' MIN.

BUILDABLE FOOTPRINT
35'-0" WIDE
49'-0" DEEP



EXISTING PARALLELOGRAM LOT (50'W x 94'D)

FRONT SETBACK
25'

REAR SETBACK
20'

SIDE SETBACK
15% LOT WIDTH
OR 7.5' MIN.

BUILDABLE FOOTPRINT
33'-8" WIDE
39'-3" DEEP

PROP. PARALLELOGRAM LOT (50'W x 94'D)

FRONT SETBACK
25' @ MIDPOINT OF LOT;
SETBACK LINE PERP. TO
SIDE PROPERTY LINES

REAR SETBACK
20' @ MIDPOINT OF LOT;
SETBACK LINE PERP. TO
SIDE PROPERTY LINES

SIDE SETBACK
15% LOT WIDTH
OR 6.0' MIN.

BUILDABLE FOOTPRINT
33'-8" WIDE
47'-8" DEEP

PROPOSED CHANGES

FRONT AND REAR SETBACKS

MEASURE 25' SETBACK; ROTATE LINE AT MIDPOINT
PERPENDICULAR TO SIDE PROPERTY LINES TO EXTEND
USABLE FOOTPRINT

SIDE SETBACKS

MAINTAIN 15% LOT WIDTH, BUT DECREASE MINIMUM TO
6'-0" MIN. SO BUILDABLE WIDTH NOT PUNISHED FOR SUB
50' LOT WIDTHS.