



Fort Myers Beach Local Planning Agency

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

Agenda

Tuesday, April 11, 2023

9:00 AM

ORDER OF BUSINESS

- I. CALL TO ORDER**
- II. INVOCATION**
- III. PLEDGE OF ALLEGIANCE**
- IV. APPROVAL OF MINUTES**
 - A. Approval of March 14, 2023 draft minutes
- V. PUBLIC COMMENT**
- VI. SUNSHINE LAW REFRESHER**
- VII. PUBLIC HEARINGS**
 - A. Parallelogram lot regulations
Provide input regarding proposed parallelogram lot code language.
 - B. Discussion regarding setbacks for houses in primarily nonresidential districts
Provide input regarding setbacks on residential uses in nonresidential districts.
- VIII. ADMINISTRATIVE AGENDA**
- IX. LPA MEMBERS ITEMS/REPORTS**
- X. LPA ATTORNEY ITEMS/REPORTS**
- XI. COMMUNITY DEVELOPMENT ITEMS/REPORTS**
- XII. ITEMS FOR NEXT MONTHS AGENDA**
- XIII. 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.



For special accommodations, please notify the Town Clerk's Office at least 72 hours in advance. (239) 765-0202

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: **2023-1023**

1. **Requested Motion:**

Meeting Date: April 11, 2023

Approval of March 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. March 14 draft minutes 2023

Financial Impact:

6. **Alternative Action**

7. **Staff Recommendations:**

8. **Recommended Approval:**



Fort Myers Beach Local Planning Agency

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

Minutes

Tuesday, March 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 (arrived a few minutes late), LPA Member Safford, LPA Member Sudduth and LPA Member Vanasse.

II. INVOCATION

Chair Cereceda.

III. PLEDGE OF ALLEGIANCE

IV. APPROVAL OF MINUTES

- A. LPA Member Safford moved to approve the minutes; second by LPA Member Bowen.
Motion carried unanimously.

V. PUBLIC COMMENT

No public comment.

VI. PUBLIC HEARINGS

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

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.

Ex parte communications: LPA Member Safford - familiar with the project and

Chair Cereceda - familiar with the project, but no direct conversations. No disclosures from other members. Town Attorney Herin, Jr. swore in those providing testimony.

Senior Planner Jason Smalley reviewed the rezoning request from CPD (Commercial Planned Development) to IN (Institutional).

Fire Chief District Manager Ronald Martin indicated that a new fire station and emergency response facility would be built on the property, along with an office and training needs. Chair Cereceda thanked Chief Martin and the rest of the team for their service.

Greg Stuart represented Al Quattrone and distributed his presentation. He noted they had the use by right and the project was consistent with the code and the comp plan. He described the basis for rezoning per the code, there were changes in the condition of the property, there were no non-compliant issues with the code, it was a de-intensification, the site plan accurately reflected what would be built, the site complied with environmental considerations and there were no major impacts. Chief Martin stated that they did not have a timeline for completion.

No public comment.

LPA Member Vanasse encouraged the fire department to work with the town regarding landscaping design and signage.

LPA Member Eckmann moved to approve the application, including the findings and conclusions in the staff report on pages 3-5; second by LPA Member Vanasse.

Motion carried unanimously by roll call vote.

VII. ADMINISTRATIVE AGENDA

A. Historic Preservation Discussion

Historic Preservation Discussion

Chair Cereceda was not clear what their requirements were. LPA Member Safford questioned whether any structure was left to preserve after the hurricane. Senior Planner Smalley described historical registration versus historical recognition. Structures that qualified to appear on a state or national register were labeled as historic designation, which included the original school building. The historic recognition program included structures with local history designated as such by a plaque. LPA Member Safford questioned whether they wanted to recognize destroyed buildings and whether they should revisit the issue later. He felt that staff should focus on rebuilding. Chair Cereceda agreed with tabling the discussion until fall. LPA Member Sudduth suggested doing something to recognize historic buildings or sites in the rebuild.

B. Impact Fees Discussion

Impact Fees Discussion

LPA Member Vanasse stated that there were a lot of costs involved with rebuilding and the town's impact fees were very low. He supported impact

fees for new commercial buildings without stifling redevelopment. LPA Member Sudduth agreed and supported impact fees on sites with new and different uses. He noted that developers did look at the fees and he felt the town should keep its impact fees lower than other communities. Chair Cereceda questioned what kind of fee would make a significant difference based on the current cost of property in the town. LPA Member Sudduth replied that it depended on the type of business. LPA Vanasse revealed that impact fees for new homes in Collier County were close to \$30,000.00. LPA Member Safford felt they should go easy on people who owned Mom & Pop businesses and were trying to rebuild.

LPA Member Eckmann commented that impact fees should be based on a rational analysis and he felt they could offer incentives to smaller businesses. LPA Member Sudduth described offering incentives to small businesses that had already paid impact fees before the storm destroyed the business. LPA Member Vanasse noted that the town needed a study before setting impact fees. He supported having the Town Council determine whether the town needed to hire a consultant.

LPA Member Plummer felt that the town should be working with other municipalities regarding fees across the board. LPA Member Bowen felt there had to be a nexus between the fee and the service provided. If a study is required, the town should hire someone. He agreed with LPA Member Plummer and felt it would be of interest to see what other communities were charging and to see if there was a benefit to coordinating fees.

Consensus was reached to recommend that the Town Council and Interim Town Managers pursue a consultant to establish policies to protect or give incentives for existing businesses looking to rebuild especially boutique hotels and businesses.

C. Commercial Design Standards Discussion

Commercial Design Standards

Town Attorney Herin, Jr. stated that the state legislature adopted a state statute that significantly preempted the local government's ability to develop architectural standards for primarily residential development. LPA Member Plummer thought they could create design criteria for basic standards, but she did not want to tell businesses what the buildings had to look like. LPA Member Eckmann agreed that everything would look similar and the town may not be happy with the results. LPA Member Vanasse felt they should set a vision with guidelines. If they wanted to encourage certain things, they could implement build-to-lines versus setbacks to create activity near the public street. He noted there were good ideas in the code that had not been utilized due to lack of redevelopment. Senior Planner Smalley described running into a conflict with properties on corner lots regarding applying build-to-lines and applying see-through windows on buildings.

LPA Member Vanasse questioned whether Senior Planner Smalley kept a list of problematic issues for the LPA to review and senior Planner Smalley replied affirmatively. LPA Member Bowen felt the commercial design standards should be looked at with the comp plan for flexibility with the

different nodes, so they don't all look similar. Chair Cereceda felt they did not initially go far enough with telling people what the town wanted regarding standards. LPA Member Sudduth noted that they needed to utilize the standards in the code and mentioned the design of Interiors Unlimited. He indicated the building did not say Fort Myers Beach to him, but he loved the design.

LPA Member Plummer commented they had an opportunity to have a path of vision, but she did not want everything to look the same. Chair Cereceda mentioned that John Richard's properties on Old San Carlos Blvd. reflected an idea of the code. LPA Member Vanasse felt that planned development projects would propose a certain design that would set a tone for the town.

D. Parallelogram Shaped Lots Discussion

Parallelogram Shaped Lots Discussion

LPA Member Safford noted there were over 150 parallelogram lots and he wanted to allow administrative variances to save money and time.

Samir ?, the general manager of Homebound, noted the company was working with approximately 50 people on the beach. They requested an administrative variance for the 150 odd-shaped lots.

Drew Wading, referred to homes on Fairweather Lane, side setbacks, and proposed solutions. Slides displayed proposed changes to several lots. Senior Planner Smalley felt they were leaving a lot of leeway for the staff to determine what was reasonable and whether a five-faceted lot was as important to deal with and give additional protrusion space as they would with a parallelogram lot.

LPA Member Plummer thought it was a good idea and would solve a lot of issues in certain areas. LPA Member Vanasse liked what was proposed and noted they were not talking about creating a bigger box. He cautioned about protecting existing homeowners regarding side setbacks. He did not see any problem with encroaching a little in the rear or front. He agreed with exploring the issue and to include other odd-shaped lots.

LPA Members Bowen and Eckmann were not comfortable deviating from the 7.5-foot setback, but everything else looked okay. Chair Cereceda suggested that Homebound work with staff and bring the issue back for a hearing.

VIII. LPA MEMBERS ITEMS/REPORTS

LPA Member Plummer questioned the status of Bay Oaks and the school. LPA Member Vanasse replied that discussions were ongoing with the school board and he felt there would be a favorable solution. The remediation should be completed soon. The little league will make a presentation to the pro leagues for supplies, equipment and assistance with rebuilding the fields.
No items from other members.

IX. LPA ATTORNEY ITEMS/REPORTS

Town Attorney Herin, Jr. received a call from the school board's legal department regarding an interlocal agreement. He noted they had to look at existing interlocal agreements regarding Bay Oaks and what was proposed before the hurricane. He

thought a contract was awarded to rehab Bay Oaks for a temporary Town Hall. Discussion was held regarding support for the school and the community.

X. COMMUNITY DEVELOPMENT ITEMS/REPORTS

No items.

XI. ITEMS FOR NEXT MONTHS AGENDA

Chair Cereceda asked LPA members what they wanted the consultant to discuss at the next Town Council meeting. LPA Member Eckmann brought up density and the FAR seemed out of line with the vision. LPA Member Safford concurred and mentioned the Publix node being removed. The carwash and laundry mat area could be developed and they need to concentrate on heights in the different nodes. LPA Member Vanasse commented that the Moss Marine area should be added to a node.

Chair Cereceda questioned calculating the FAR ratio currently at ground level versus base flood. LPA Member Vanasse noted they needed to clarify it and if they changed the calculation they were giving more building intensity by right. LPA Member Sudduth clarified that it gave property owners three floors above parking. LPA Member Plummer mentioned the view and air corridors and felt it was a benefit to all.

Chair Cereceda indicated it was important to define Mom & Pop businesses and to identify past and existing inventory. LPA Member Safford volunteered to create a list based on units and lot size.

XII. ADJOURNMENT

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

The meeting was adjourned at 10:37 a.m.

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

Yellow Sheet Number: **2023-1017**

1. Requested Motion:

Meeting Date: April 11, 2023

Provide input regarding proposed parallelogram lot code language.

Why the action is necessary:

Feedback on the proposed language will ensure that staff has addressed the concerns of the LPA.

What the action accomplishes:

The discussion will provide staff with needed direction.

2. Agenda:

PUBLIC HEARINGS

3. Requirement/Purpose:

This will be an ordinance.

5. Background:

Several subdivisions within the community are platted with parallelogram lots. These oddly shaped lots make redevelopment more difficult because the homes have to be custom designed to fit the setbacks. The LPA asked staff to provide code options to allow these lots to be developed with rectangular homes.

Attachments:

1. Parallelogram lots memo

Financial Impact:

unknown

6. Alternative Action

Provide feedback regarding the proposed direction and language.

7. Staff Recommendations:

Provide feedback regarding the proposed direction.

8. Recommended Approval:

Steve Poposki, Community Development Director

Date: April 03, 2023

John R Herin Jr, Town Attorney

Date: April 03, 2023

Amy Baker, Town Clerk

Date: April 04, 2023

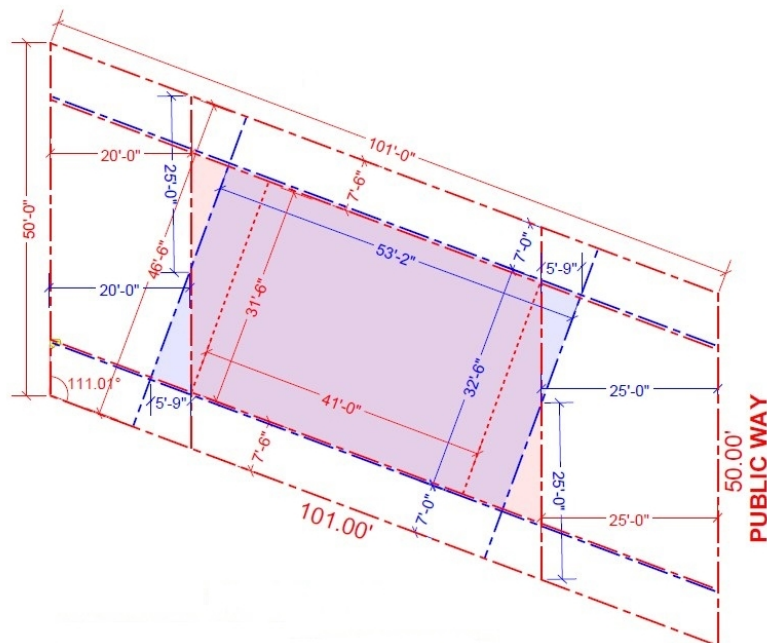


**Town of Fort Myers Beach
COMMUNITY DEVELOPMENT DEPARTMENT**

To: Local Planning Agency
From: Sarah Propst, Community Development
Date: April 14, 2023
Re: Parallelogram Lot Setbacks

BACKGROUND

The LPA asked that staff provide some options for quick fixes to codes, to resolve unnecessary conflicts. One item that was raised as an issue, at a previous LPA hearing, is reconstruction of homes on parallelogram lots. These lots were platted with the side setbacks at an angle from the right of way. These oddly shaped lots result in a non-rectangular buildable area. In order to rebuild on these lots and utilize the maximum buildable area, a custom home would have to be designed to meet the angle of the by-right setbacks on these lots. Almost 150 lots on the island are parallelograms. A layout of the lot shape and buildable area is below for illustration of the issue:



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Proposed Solution

The proposed solution would require that new homes on these parallelogram lots meet the side setback requirement but would provide flexibility on the front and rear setback requirements. This would allow rectangular shaped homes to sit at an angle from the right of way, one side of the home could be built up to eight feet into the front and rear setback. This is similar to what you see in the blue shaded box above. The 25-foot front setback and 20-foot rear setback would still be required but would be measured from the middle of the front and rear property lines, to the middle of the property at the setback line.

This code change would allow the construction of more standard, rectangular homes, rather than homes custom designed to meet the setbacks created by the parallelogram lots. The code change would result in a sawtooth pattern at the street front, this pattern is visible in many of the parallelogram lot neighborhoods. It appears that the original houses on these parcels were allowed similar flexibility with the front and rear setbacks but standard side setbacks were applied.



The original presentation from Homebound, included a request to decrease side setbacks also. Due to the angle of the lots, the width of the buildable area is less than the lot width along the front and rear property line would indicate. On a square lot you subtract the side setbacks from the width of the lot (as indicated by the measurement of the front and rear lot line lengths), however, measuring perpendicular to the side lot lines, across the lot, will result in a shorter distance than the front lot line would indicate.

Staff has not proposed an amendment to the side setbacks, however. The reason that staff is not suggesting a reduction in side setbacks is because the lot width is no different than any other lot width. The side lot lines are parallel and the front and rear property lines do not connect the parallel lines at the closest point, this means that the front property line indicates the lot width is longer than the shortest distance between the two lot lines. For example, on a 50-foot wide parallelogram lot, the actual lot width is 46.5 feet.

The code amendment to allow flexibility with front and rear setback for these lots provides an opportunity for the parallelogram lots to avoid expensive custom design costs required by the unique angles of the buildable area. However, providing a decrease in the required setback would give the owners of these lots special treatment, not afforded to other property owners having lots the same width as these.

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Staff proposes the following draft language for your consideration:

Sec. 34-269 – Parallelogram Lot Setback Variances

Existing parcels that have substantially parallel side lot lines at an angle other than 90° from the front and rear lot lines, may utilize modified setback. Front and rear setbacks may be altered to allow the construction of a rectangular building that meets the side setbacks.

The front and rear setback shall be measured from the midpoint of the front lot line to the midpoint of the building setback line and from the midpoint of the rear lot line to the midpoint of the rear building setback line.

In no instance shall the proposed structure encroach more than 8 feet into the front or rear setback.

Staff requests that the LPA provide feedback on the proposed direction and language.

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

Yellow Sheet Number: **2023-1018**

1. **Requested Motion:**

Meeting Date: April 11, 2023

Provide input regarding setbacks on residential uses in nonresidential districts.

Why the action is necessary:

This discussion will help staff develop language to address a code issue.

What the action accomplishes:

This discussion will help staff develop language to address a code issue.

2. **Agenda:**

PUBLIC HEARINGS

3. **Requirement/Purpose:**

This will become an ordinance.

5. **Background:**

Residential single-family and two-family homes are permitted in the Downtown, Santini, Commercial Boulevard and Commercial Resort zoning districts. These district dimensional regulations were created, primarily, with commercial developments in mind. The Downtown, Santini and Commercial Boulevard districts all have build-to lines, which require that a structure is built between 0 and 10 feet from the adjacent rights of way. The Commercial Resort district allows a 10-foot front setback and requires a 20-foot side setback

Attachments:

1. Commercial vs Residential Setbacks

Financial Impact:

unknown

6. **Alternative Action**

Provide feedback regarding preferred solution.

7. **Staff Recommendations:**

Provide feedback regarding preferred method of addressing setbacks for residential properties in primarily nonresidential districts.

8. **Recommended Approval:**

Steve Poposki, Community Development Director

Date: April 03, 2023

John R Herin Jr, Town Attorney

Date: April 03, 2023

Amy Baker, Town Clerk

Date: April 04, 2023



**Town of Fort Myers Beach
COMMUNITY DEVELOPMENT DEPARTMENT**

To: Local Planning Agency
From: Sarah Propst, Community Development
Date: April 14, 2023
Re: Setbacks for Houses in Primarily Non-Residential Districts

BACKGROUND

The LPA asked that staff provide some options for quick fixes to codes, to resolve unnecessary conflicts. One item that has arisen as a conflict, most recently, is reconstruction of homes in zoning districts with minimal front setbacks or build-to lines that are difficult to accommodate with a residence.

Residential single-family and two-family homes are permitted in the Downtown, Santini, Commercial Boulevard and Commercial Resort zoning districts. These district dimensional regulations were created, primarily, with commercial developments in mind. The Downtown, Santini and Commercial Boulevard districts all have build-to lines, which require that a structure is built between 0 and 10 feet from the adjacent rights of way. The Commercial Resort district allows a 10-foot front setback and requires a 20-foot side setback.

Requiring a single or two-family residential home to be developed 10 feet, or less, from a right-of-way or 20 feet from the side property lines could make redevelopment very difficult. The setbacks of the districts in discussion are included below.

Table 34-3— Dimensional Regulations in Conventional Zoning Districts								
ZONING DISTRICT	Street Setback	Side Setback - waterfront lot	Side Setback- non-waterfront	Rear Setback	Water body Setback	FAR (#) or Building Coverage (%)	Height (feet)	Height (stories)
<i>RS & RC</i>	25 (8)	7.5 or 10 (9)	7.5 or 10 (9)	20	25	40%	30	3
<i>CR Commercial</i>	10	20	15	20	25	1.2	30	3
<i>D Downtown</i>	0-10*	0-5	0-5	25	25	1.0 to 1.8	30 or 40	3
<i>Santini</i>	0-10*	0	0	0	25	1.0	30	2 or 3
<i>CB Commercial Boulevard</i>	5-10* (from Estero), 10 (other streets)	5	5	20	25	1.00	40	3
Note (6): Single-family and two-family homes in the RM zoning district must maintain a 7.5-foot side setback for lots up to 75 feet and 10 feet for lots wider than 75 feet.								
Note (9): Each side setback shall be 7.5 feet for lots 75 feet or less wide and 10 feet for lots wider than 75 feet.								

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PROPOSED SOLUTIONS

Option 1: Amend the code to implement RS and RC zoning setbacks for all single-family and two-family homes.

This option would ensure that no matter what zoning district a home is constructed in, it will have a standard front, side and rear setback. Currently Table 34-3 Dimensional Regulations in Conventional Zoning Districts includes a footnote that single family and two-family homes in the RM zoning district have the same side setback as the RS and RC zoning district.

Pros: This will allow homes to be designed in a standard way with a front yard and a driveway with room for a vehicle in front of the home. This is a standard design that is easy to accommodate. Having a very small setback would require that parking is either completely contained under the home or that the side yard is expanded to make room for a driveway. The standard RS and RC setbacks will work for most lot

Cons: Some owners may prefer to have the less restrictive setbacks of the commercial zoning district and may have purchased the property with the intent of developing a home that is designed to meet the current code requirements. Also, if all other development in the commercial zoning district is built to the front build-to line, the single family and two family residences will create a noticeable gap in the street façade.

Option 2: Allow flexibility regarding which dimensional regulations are applied.

This option would allow the property owner to develop the home to either the zoning district standard or the RS/RC zoning district standards. In the instance where a property was purchased with the intent of designing to meet the build-to lines and other applicable setback requirements, the property owner can choose which set of regulations are applied. It would be important to require that all of the applicable code requirements are applied, there would not be an opportunity to “mix and match” the regulations which would be difficult to regulate and could lead to over building on certain sites.

Pros: This would allow the property owner to design the home as they choose, either to fit in with the fabric of that zoning district or to design to a more typical residential setback.

Cons: Residential homes could be constructed with a more urban design, without a large front yard and setback.

Staff requests input from the LPA regarding the preferred direction to code amendments for residential structures in primarily nonresidential districts. Option 1 will require all homes to be built to the RS and RC zoning district setbacks no matter what district the property is located in. Option 2 would allow the property owner to choose whether they would like to construct to meet the zoning district standards of the zoning district that the property is in or whether they would prefer to develop per the regulations of the RS or RC zoning districts.