



Fort Myers Beach Local Planning Agency

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

Agenda

Tuesday, September 12, 2023

9:00 AM

ORDER OF BUSINESS

I. CALL TO ORDER

II. INVOCATION

III. PLEDGE OF ALLEGIANCE

IV. APPROVAL OF MINUTES

- A. Approval of August 8th draft minutes

V. PUBLIC COMMENT

VI. PUBLIC HEARINGS

- A. EC Zoning District changes to allow repair of accessory structures by special exception and criteria for special exceptions.

Proposed amendments to Sections 34-652 and 6-366 to allow repair of accessory structures

- B. Variance requests to Sections 34-1744(b)(1) to increase fence height; 34-1742(c) allowing chain link fence in front yards; and 34-3131(b) limiting obstructions in visibility triangle

APPROVE/ APPROVE WITH CONDITIONS/ DENY VAR20230071 for 185 Jefferson Street which is requesting a variance of 2 feet of height to provide a 6-foot tall fence within the front 25-foot setback of the property, while the LDC limits fences to 4-feet in those areas; requesting a variance of 19-feet to allow a chain-link fence within the 25-foot front-yard setback; and a variance disallowing obstructions between 2-feet and 6-feet above grade within a visibility triangle.

- C.

**Comprehensive Plan Future Land Use Element, Future Land Use Map,
and Housing Element**

- VII. ADMINISTRATIVE AGENDA**
- 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 TELEVISED LIVE ON COMCAST CHANNEL 98.

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		Help for the hearing impaired is available through the Assistive Listening System. Receivers can be obtained from the Town Clerk's Office.
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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: **2023-1210**

1. **Requested Motion:**

Meeting Date: September 12, 2023

Approval of August 8th draft minutes

Why the action is necessary:

What the action accomplishes:

2. **Agenda:**

APPROVAL OF MINUTES

3. **Requirement/Purpose:**

5. **Background:**

Attachments:

1. August 8th draft minutes

Financial Impact:

6. **Alternative Action**

7. **Staff Recommendations:**

8. **Recommended Approval:**

Steve Poposki, Community Development Director

Gretchen R.H. Vose, Town Attorney

Date: August 31, 2023

Date: August 31, 2023



Fort Myers Beach Local Planning Agency

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

Minutes

Tuesday, August 8, 2023

9:00 AM

ORDER OF BUSINESS

I. CALL TO ORDER

(No recording.)

Members present: Vice Chair Plummer, LPA Member Eckmann, LPA Member Sudduth and LPA Member Vanasse.

Excused: Chair Cereceda, LPA Member Boan and LPA Member Safford.

II. INVOCATION

(No recording.)

III. PLEDGE OF ALLEGIANCE

IV. APPROVAL OF MINUTES

- A. Approval of June 27th draft minutes
(No recording.)

V. PUBLIC COMMENT

(Recording started.)

Town Attorney Vose swore in those providing testimony for all public hearings.
No public comment.

VI. PUBLIC HEARINGS

- A. VAR20230088, 125 Strandview Ave, front and rear setback variance.
Approve/Approve with Conditions/Deny VAR20230088, 125 Strandview Ave, A variance of 6 feet for the front setback and a variance of 7.5 feet from the rear setback.

Ex parte communications: Vice Chair Plummer and LPA Member Eckmann drove by the property. No disclosures from

IX. LPA ATTORNEY ITEMS/REPORTS

No items.

X. COMMUNITY DEVELOPMENT ITEMS/REPORTS

No items.

XI. ITEMS FOR NEXT MONTHS AGENDA

Addressed in VII.

XII. ADJOURNMENT

LPA Member Sudduth moved to adjourn; second by LPA Member Vanasse.
Motion carried unanimously.

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

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

Yellow Sheet Number: **2023-1216**

1. Requested Motion:

Meeting Date: September 12, 2023

Proposed amendments to Sections 34-652 and 6-366 to allow repair of accessory structures

Why the action is necessary:

The LPA makes recommendations for LDC changes to the Town Council.

What the action accomplishes:

Recommended changes will allow repairs to accessory structures located in the EC zoning district.

2. Agenda:

PUBLIC HEARINGS

3. Requirement/Purpose:

Ordinance

5. Background:

The Land Development Code (LDC) limits allowable uses to those that are movable and temporary. The code also lists several items that are allowed by special exception, and they include Sec. 34-652(e)(3) "Redevelopment of existing single family residences, which encroach into the EC district and their customary accessory uses." Sec. 6-366(b). Staff has been directed by Council to provide recommended language that allows an option for accessory structures to be repaired seaward of the CCCL.

Attachments:

1. EC Zoning District Memo
2. Exhibit A - Proposed Amended Language
3. Exhibit B - Ord 20-02, Amending Sec 34-652, EC Zoning District

Financial Impact:

unknown

6. Alternative Action

Recommend changes to



The Town can amend the code in some other fashion that allows repairs of major accessory structures.

SUMMARY

The Town has the option to leave the language for construction in the EC zoning district the same or to change it to provide a special exception option for primary or accessory major structures in the EC zoning district, with approval of a special exception. The proposed language also includes additional special exception requirements for all major structures seeking a special exception in the EC zoning district.

EXHIBITS

Exhibit A – Proposed Amended Language

Exhibit B – Ordinance 20-02

Sec. 34-652. - Environmentally Critical (EC) zoning district.

(a) *Purpose.* The purpose of the EC zoning district is to designate beaches and significant wetlands whose preservation is deemed critical to the Town of Fort Myers Beach through its comprehensive plan, including:

(1) Beaches that have been designated in the "Recreation" category on the future land use map; and

(2) Wetlands that have been correctly designated in the "Wetlands" category on the future land use map.

(b) *Intent.* The application of the EC district is intended to prevent a public harm by precluding the use of land for purposes for which it is unsuited in its natural state and which injures the rights of others or otherwise adversely affects a defined public interest.

(c) *Accretion.* Accretions of beaches or wetlands, whether by natural causes or through beach renourishment or approved filling, may be permitted in the EC zoning district, with appropriate easements as may be required by regulatory agencies.

(d) *Permitted uses and structures.* In the EC district, no land or water use shall be permitted by right except for those uses and developments described below and consistent with the Fort Myers Beach Comprehensive Plan for uses in wetlands and beaches, as applicable, including:

(1) Boating, with no motors permitted except electric trolling motors.

(2) Fishing.

(3) Removal of intrusive, exotic species or diseased or dead trees, and pest control.

(4) Outdoor education, in keeping with the intent of the district.

(5) Passive recreation activities on public property. These activities and uses include passive recreation that may requires temporary structures but no alteration of the natural landscape. Any temporary

structure used in conjunction with such uses must comply with all provisions of this land development code (for instance, see chapters 14 and 27).

(6) Outdoor accessory uses, including the rental of beach furniture, when accessory to a multifamily residential or resort building located adjacent to the Gulf of Mexico containing more than 50 dwelling units.

(7) Wildlife management, as wildlife preserves.

(8) Expansion of area designated for the consumption and service of alcoholic beverages, subject to the regulations in § 34-1264(g)(l).

(9) Temporary, movable structures on private property that do not alter the natural environment. landscape or obstruct pedestrian traffic. Artificial lighting and signs are prohibited unless the lighting or signage complies with §§ 14-5 or 27-51 of this LDC.

(10) Temporary. movable structures that are part of a permitted special event in accordance with § 14-1 I of this LDC.

(11) Licensed beach vendor rental equipment or a temporary movable structure permitted in accordance with § 14-5, ch. 27, and § 34-3151 of this LDC.

a. During the sea turtle nesting season (May 1 through October 31) temporary, movable structures may not be moved across the beach unless:

1. The movement is after 9:00 a.m., or after completion of daily monitoring for turtle nesting activity by a FWCC-authorized marine turtle permit holder, whichever occurs first; and

2. The movement does not disturb any sea turtle or sea turtle nest.

(12) On-grade, pathways through a dune, not to exceed 40 inches in width. subject in compliance with all applicable state and local environmental regulations. No more than one (1) pathway per property.

(e) *Special exception uses and structures.* Upon a finding that the proposed use or structure is consistent with the standards set forth in § 34-88 of this LDC, as well as all other applicable town regulations, the town council may approve with or without conditions as a special exception, the following structures or uses:

(1) Accessory structures, which are accessory to a use permitted by special exception in the EC district.

(2) Nature study center, noncommercial, and its customary accessory uses.

(3) Repair Redevelopment of existing primary structures single-family residences, which encroach into the EC district and their customary accessory uses. In accordance with § 6-366 (b) of this code of ordinances.

(4) Minor structures, which shall be located as close to the landward edge of the EC zoning district line as possible and must minimize adverse effects on the beach and dune system.

(5) Artificial lighting, in compliance with sea turtle lighting regulations.

(6) Perpendicular dune walkovers on property. when required to protect indigenous plant communities and when elevation change exists, in accordance with § 10-415(b) and subsection (f), below.

(7) Signs, as approved by a planned development.

(f) *Additional regulations:*

(1) Article I in Ch. 14 pertaining to beach and dune management; and

(2) Any dune walkover must be state approved and constructed consistent with the following requirements:

a. Walkovers must be placed perpendicular to the dune or no more than 30 degrees from perpendicular. New walkovers cannot be placed closer than 150 feet to the nearest

walkover.

b. Walkovers must be supported on posts embedded to a sufficient depth to provide structural stability. These posts may not be encased in concrete.

c. Walkovers cannot exceed four feet in width when serving single-family homes or six feet in width otherwise. Alternate widths require a variance.

d. Walkovers must be elevated at least two feet, and no more than 3 feet, above the highest point of the dune and dune vegetation and must extend to the seaward toe of any existing dun and dune vegetation.

e. Walkovers must be constructed in a manner that minimizes short-term disturbance of the dune system. Any dune vegetation destroyed during

construction must be replaced with similar native vegetation that is suitable for beach and dune stabilization and increases either plant density or area of plantings.

f. Walkovers may not be constructed during the sea turtle nesting season (May 1 through October 31).

g. Walkovers may not be attached to any other structures.

(3) Article IV of Ch. 14 pertaining to wetlands protection; and

(4) Coastal zone regulations in§ 34-1575 of this LDC.

Sec. 6-366. - Location of construction near beaches.

(a) All construction must be located a sufficient distance landward of the beach to permit natural shoreline fluctuations and to preserve dune stability. In addition to complying with all other provisions of this code, major structures must be built

d. The structure must be moved landward of the CCCL, if it is reasonable to do so.

(c) For newly created lots and parcels, a 50-foot separation between structures and dunes is required by § 10-415(b) of this LDC.

6. **Alternative Action**

APPROVE/ APPROVE WITH CONDITIONS

7. **Staff Recommendations:**

N/A

8. **Recommended Approval:**

Steve Poposki, Community Development Director

Date: September 06, 2023

Gretchen R.H. Vose, Town Attorney

Date: September 08, 2023

Amy Baker, Town Clerk

Date: September 08, 2023

