



**Fort Myers Beach Town Council  
Joint Session with Local Planning Agency  
Council Chambers  
2525 Estero Blvd.  
Fort Myers Beach, FL 33931**

**Agenda**

**Monday, November 1, 2021  
ORDER OF BUSINESS**

**1:00 PM**

**I. CALL TO ORDER**

**II. PLEDGE OF ALLEGIANCE**

**III. ITEMS FOR DISCUSSION**

- A. Additional Setbacks on Consolidated Lots  
**Discussion of proposed regulatory modification(s) regarding consolidated lot setbacks.**
- B. Front setbacks and façade length for large residential structures.  
**Discussion of regulatory modification(s) regarding massing of large homes (exceeding 65 feet in length) and setback requirements.**

**IV. ADJOURNMENT**

**NOTE: This meeting is televised live on Comcast Channel 98 and 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.**

|                                                                                     |                                                                                                                       |                                                                                     |                                                                                                                                                   |
|-------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------|
|  | <b>For special accommodations, please notify the Town Clerk's Office at least 72 hours in advance. (239) 765-0202</b> |  | <b>Help for the hearing impaired is available through the Assistive Listening System. Receivers can be obtained from the Town Clerk's Office.</b> |
|-------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------|

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.

1. **Requested Motion:**

**Meeting Date: November 1, 2021**

Discussion of proposed regulatory modification(s) regarding consolidated lot setbacks.

**Why the action is necessary:**

This discussion will develop land development code language and policies that will address setbacks.

**What the action accomplishes:**

For discussion only.

2. **Agenda:**

ITEMS FOR DISCUSSION

3. **Requirement/Purpose:**

An ordinance amending the land development code will be required if the group decides an amendment is appropriate.

---

5. **Background:**

When multiple lots are combined for single-family and two-family home sites, the massing of the larger homes with only a typical side setback of 7.5-foot setback impacts the viewshed of the neighborhood. Staff has been asked to provide options to address this issue. The options being discussed are intended to apply to lots over 80 feet wide.

**Attachments:**

1. Consolidated Lots Memo Side Setbacks
2. Consolidated Lot Exhibit A Text Mod
3. Draft LPA minutes 10.20.21
4. Final 9.9.21 TC minutes

**Financial Impact:**

6. **Alternative Action**

7. **Staff Recommendations:**

8. **Recommended Approval:**

\_\_\_\_\_  
Jason Green, Community Development  
Services

Date: October 27, 2021

\_\_\_\_\_  
John R Herin Jr, Town Attorney

Date: October 27, 2021

\_\_\_\_\_  
Amy Baker, Town Clerk

Date: October 27, 2021

Date: October 28, 2021





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

**To:** Local Planning Agency  
**From:** Sarah Propst, Community Development  
**Date:** October 20, 2021  
**Re:** Additional Setbacks on Consolidated Lots

---

**BACKGROUND**

Multiple lots are being combined to develop single-family and two-family residential homes. The massing of the larger homes with only a typical side setback of 7.5 feet required, impacts the viewshed of the neighborhood. Staff has been asked to provide options to address this issue. The options contained in this memo are intended to apply to lots over 80 feet wide.

**PROPOSED SOLUTIONS**

**Option 1: Adding Up the Setbacks**

This option would add together all the setbacks that would have been required between lots being consolidated and require that total setback measurement as the side setback. The example on the following page (Example 1) shows how this option would work. The example assumes three, typical 50-foot, lots are combined into one lot. Each lot separately would have a 7.5' setback on each side. Lot A, Lot B and Lot C would each have a total of 15 feet in setbacks (7.5 feet X 2). When Lot A, B and C are combined the total number of setbacks would be added together and that would be the new side setback,  $15' + 7.5' = 22.5'$  on each side. The buildable width of three combined lots would be 105 feet.

**Pros and Cons:** This will result in the same amount of open space on the consolidated lots as would have been required on the individual lots. The combined open space may provide more benefits for stormwater, planting and viewsheds. One disadvantage to this approach is that not all lots on the island are the same size. The example is three average lots, however some lots on the island are already large and some are quite small. An owner consolidating three, 70-foot lots will have the same setback requirement as someone consolidating three 50-foot lots or three 45-foot lots.

**Consideration:** Should the lot consolidation be based on current, existing parcels or original subdivision lots? Many parcels have been combined or split over the years, WW. Watsons subdivision consisted of 25-foot lots which have all been combined to create more usable parcels. If we base it on current, existing parcels staff will need a snapshot of the current parcels to base future decisions on. Many codes

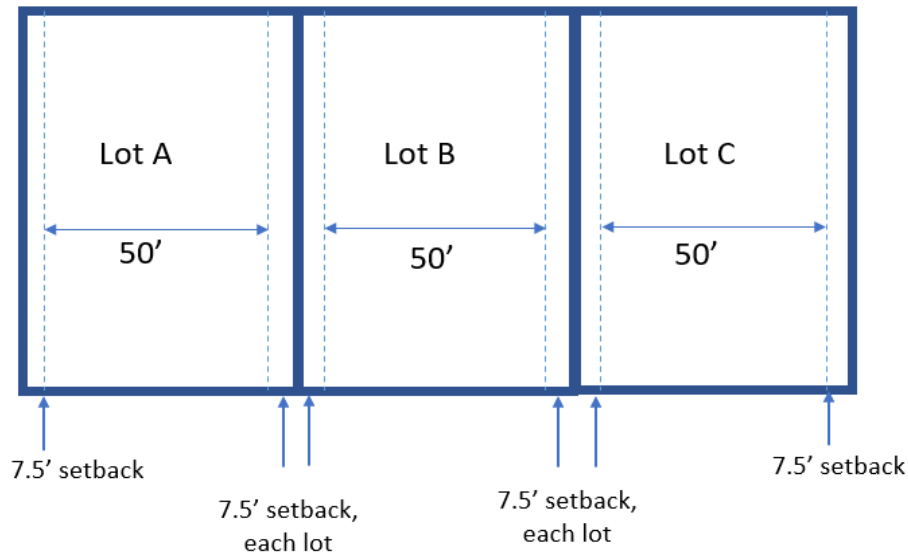
**FORT MYERS BEACH ESTERO ISLAND**



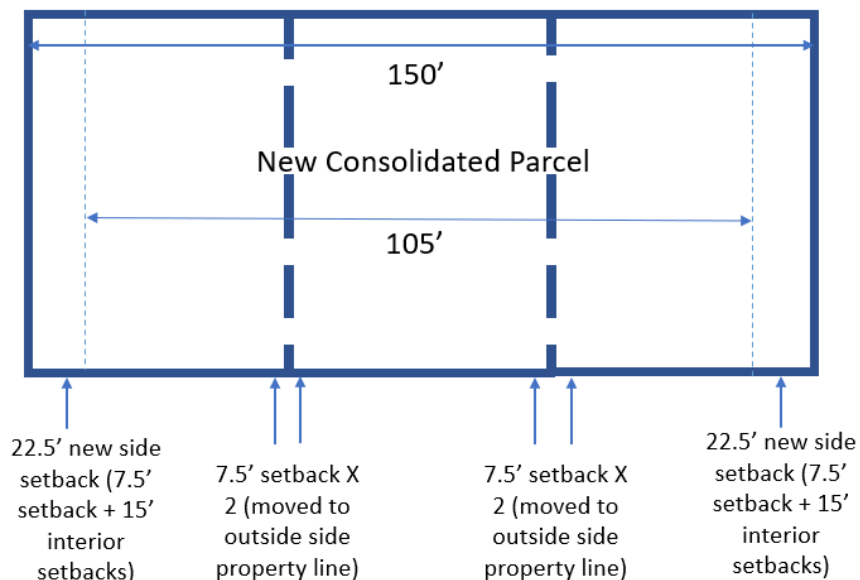
reference a specific year as the starting point for a regulation, but staff has no way of knowing the conditions at the time of the adoption. Also, how will this apply to portions of parcels, rather than combining whole parcels?

EXAMPLE 1: Three, 50-foot wide lots, interior setbacks would be moved to the outside for 22.5 feet side setbacks.

Three separate lots with required setbacks



Three lots combined into a single parcel



FORT MYERS BEACH ESTERO ISLAND

P. 239-765-0202 | F. 239-765-0909 | 2525 Estero Boulevard, Fort Myers Beach, FL 33931



## Option 2: Lot Size Percentage

A second option for addressing the lot consolidation setback issue is to base the setback on a percentage of the lot size. The current setbacks for a residential lot are 7.5 feet. On an average, 50-foot wide, lot the setback on each side of the parcel is 15%. If a property owner were to consolidate multiple parcels to build a home, the setback of the newly created parcel could be determined using that percentage.

For three, 50-foot wide, lots the setback would be 15% of the entire lot width 22.5 feet. The exact same new setbacks as would be required by Option 1 (See the example 2 on the following page). The Lot Size Percentage option is possibly more fair than Option 1: Adding Up the Setbacks because the percentage is based on the new parcel size, not just the number of lots that were combined. For instance, if a property owner is combining a 70-foot lot, and two 50-foot lots (a consolidated 170-foot wide lot) they would have to provide 25.5-foot setbacks on each side. If a property owner is combining a two 45-foot lots and a 50-foot lot (a consolidated 140-foot wide lot) they would have to provide 21-foot setback on each side. Using option 1: Adding up the Setbacks, both the 170-foot wide lot and the 140-foot wide lot would provide side setbacks of 22.5 feet.

Pros and Cons: This manner of applying setbacks as a percentage of the new lot width is more fair in that it is based on the size of the lot rather than the number of the lots combined. It will result in larger setbacks for larger consolidated lots.

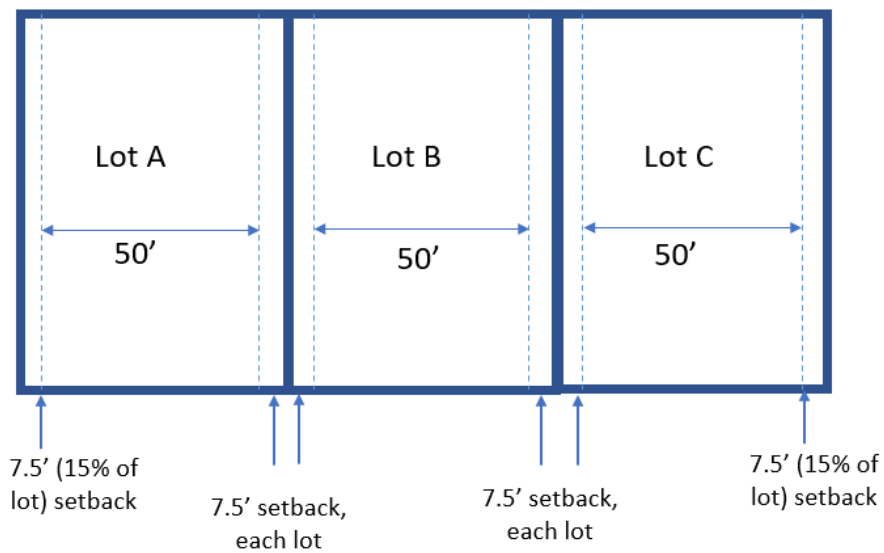
Considerations: It hese setbacks across all residential properties. There could be a minimum setback of 7.5 feet or 15% of the lot width, whichever is greater. This would ensure that the larger setbacks applied when properties are combined will remain in effect even when redevelopment of a property occurs. For example: Three properties are combined in 2022 and a new home is built. Staff recognizes that a greater setback needs to be applied to the new home being built because the properties were consolidated shortly before development permits were applied for. However, if new development occurs in 10 or 15 years such as an addition or complete rebuild, will staff know that the additional setbacks need to be applied? Combined properties can be identified through GIS or in a spreadsheet but maintenance of these documents can become a problem and staff turnover can lead to a loss of this knowledge.

Another twist on both options would be to allow the property owner to decide how to divide up the setback width between the sides. For example, the three-lot consolidation (50-foot lots) would result in a total of 45 feet of side setback. Rather than requiring the setbacks to be even on both sides, the property owner could choose to divide the total required setback to allow a smaller setback on one side and a larger setback on the other. It would be important that no setback could be less than the minimum required of that lot as a separate lot (never smaller than 7.5 feet). This would potentially allow for larger trees to be planted, more usable yard space, a nice viewshed. For the three-lot example, that could result in a 7.5-foot setback on one side of the property and a 37.5-foot setback on the other side of the property.

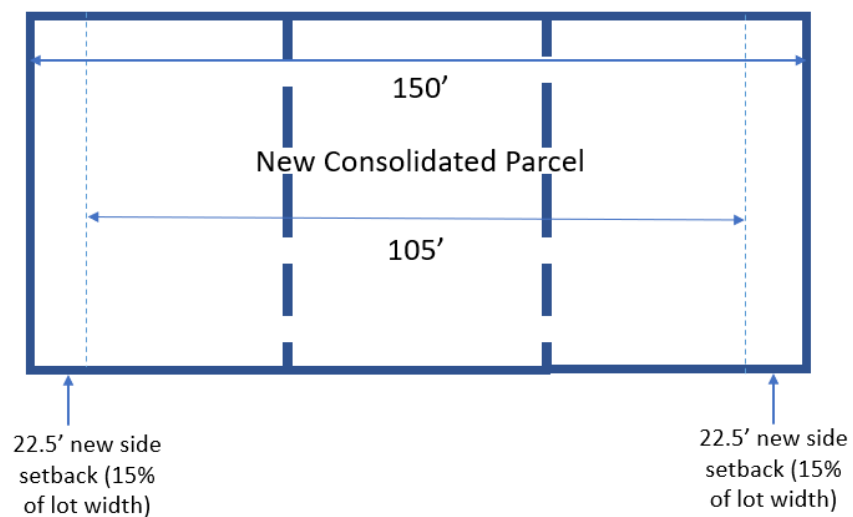


EXAMPLE 2 : Three, 50-foot wide, lots the setback would be 15% of the entire lot width 22.5 feet.

Three separate lots with required setbacks



Three lots combined into a single parcel



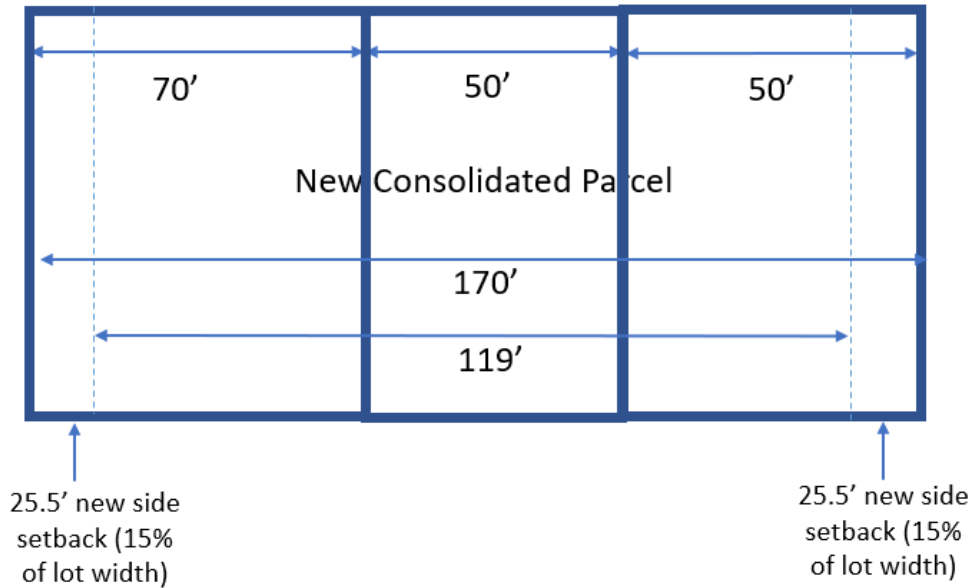
FORT MYERS BEACH ESTERO ISLAND

P. 239-765-0202 | F. 239-765-0909 | 2525 Estero Boulevard, Fort Myers Beach, FL 33931

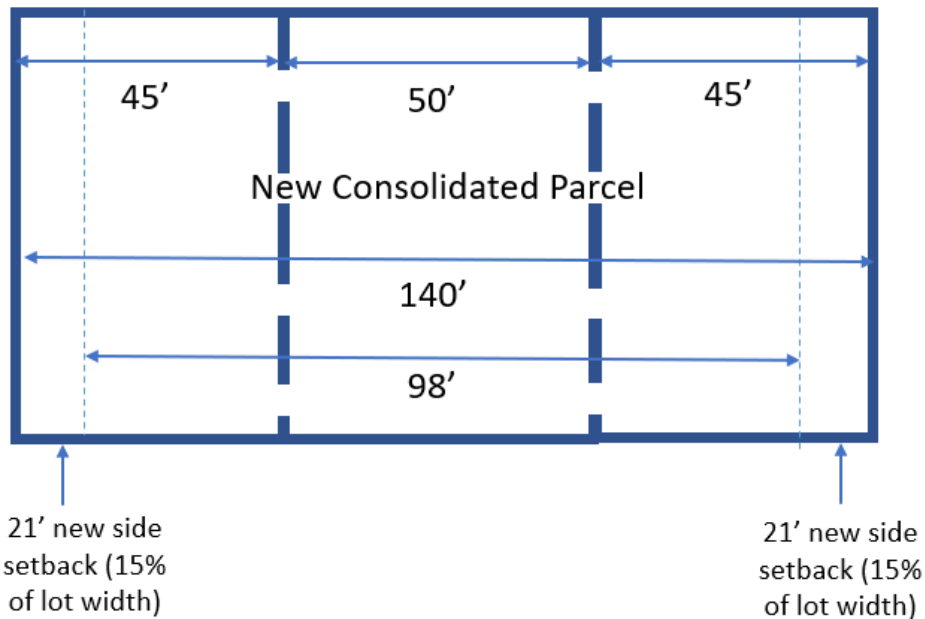


Example 3: Shows how two consolidated lots of different sizes would have setbacks based on the consolidated property width using the percentage option.

Three lots combined into  
a single parcel



Three lots combined  
into a single parcel



FORT MYERS BEACH ESTERO ISLAND

P. 239-765-0202 | F. 239-765-0909 | 2525 Estero Boulevard, Fort Myers Beach, FL 33931



### CODE MODIFICATION

The proposed strikethrough underline language is provided in Exhibit A. The changes proposed in this memo and the memo: Front Setbacks for Large Residential Structures, would require changes to two code sections, Sec. 34-638 Minimum Setbacks and Table 34-3 Dimensional Regulations. An exemption from both the side and front setback increases has been included for any residential development which chooses to enclose or screen 500 square feet or less of the ground floor of the home. Limited ground floor development decreases the visual magnitude of the structure and also reduces potential flood impacts.

## Exhibit B

### Sec. 34-638. - Minimum setbacks.

- (a) *Generally.* Most zoning districts require minimum setbacks between all buildings and structures and the street, the side lot line, the rear lot line, and any waterbody.
  - (1) Setbacks are minimum horizontal distances between a property line and the nearest point of all structures that ensure a minimum area without buildings. Detailed definitions are provided under "setback" in § 34-2 of this LDC.
    - a. Where an unusual lot configuration or orientation makes it unclear which property lines are street, side, or rear lot lines, the director will establish street, side, and rear lot lines for setback purposes after taking into account existing buildings on the same block as well as the intent of this code. Where access is provided by a shared driveway rather than a street, the director may determine that no street setback applies to that lot.
    - b. Once established through this process, the same setbacks will be applied by the director to other lots on that block.
  - (2) There are two types of side setbacks:
    - a. *Side setbacks - waterfront lots.* Larger side setbacks are required for waterfront lots, defined as lots that immediately adjoin a tidally influenced body of water, whether artificial or natural (see definitions in § 34-2 of this LDC).
    - b. *Side setbacks - non-waterfront lots.* Smaller side setbacks are required for all other lots.
  - (3) The distinction between street setback lines and build-to lines is explained in § 34-662 of this chapter.
  - (4) Certain exceptions to minimum setbacks are provided in subsection (d) below.
- (b) *Where to find minimum setback dimensions.* Minimum setback dimensions are specified as follows:
  - (1) *For principal buildings:*
    - a. For all conventional zoning districts, see Table 34-3.
    - b. For redevelopment zoning districts, as described for the individual districts in division 5 of this article.
    - c. For RPD districts, see § 34-943 of this chapter.
    - d. For CPD districts, see § 34-953 of this chapter.
  - (2) *For accessory buildings,* see §§ 34-1174—34-1176 of this chapter.
- (c) *Additional wetlands buffers.* New development must maintain a 75-foot separation between wetlands and buildings or other impervious surfaces, in accordance with Policy 4-C-12 of the Fort Myers Beach Comprehensive Plan.
  - (1) This requirement does not apply to lawfully existing subdivided lots.
  - (2) This requirement also does not apply to a previously approved development order to the extent it cannot reasonably be modified to comply with this requirement (see ch. 15 of the Fort Myers Beach Comprehensive Plan for details).
- (d) *Exceptions to setback dimensions.* In addition to the following general exceptions to minimum setbacks, commercial buildings that are subject to the commercial design standards may encroach into certain setbacks as provided in §§ 34-991—34-1010 of this chapter.
  - (1) *Exceptions to all setbacks.*

- a. *Administrative setback variances.* Under certain limited circumstances, administrative variances can be granted to minimum setbacks as provided in § 34-268 of this chapter.
  - b. *Overhangs.* An overhang which is part of a building may be permitted to encroach into any setback as long as the overhang does not extend more than three feet into the setback and does not permit any balcony, porch, or living space located above the overhang to extend into the setback.
  - c. *Shutters.* A shutter which is attached to a building may be permitted to encroach one foot into the setbacks.
  - d. *Awnings and canopies.*
    - 1. Awnings and canopies which are attached to a building may be permitted to encroach three feet into the setbacks, as long as their location does not interfere with traffic, ingress and egress, or life safety equipment.
    - 2. For purposes of this section, awnings and canopies may be attached to a nonconforming building and shall not be considered an extension or enlargement of a nonconformity, as long as the building is properly zoned for its use and the conditions as set forth in this section are met.
  - e. *Essential services.* Essential services and essential service equipment shall not be required to meet the minimum setbacks for the district wherein located (see § 34-1617 of this chapter).
  - f. *Two-family dwelling units.* If a two-family dwelling unit is on a lot of sufficient size to allow it to be subdivided into a separate lot under each dwelling unit (see Table 34-3), the side setback regulations in this section shall not be interpreted to forbid such subdivision. Existing two-family buildings that are being subdivided must be separated by not less than one-hour fire resistance.
  - g. *Mechanical equipment.* Mechanical equipment such as air conditioners may encroach up to three feet into rear and waterbody setbacks but must meet the same street and side setbacks as the building it serves. These requirements apply to new buildings and to new mechanical equipment but will not apply to replacement of mechanical equipment on existing buildings if the equipment was installed in conformance with prior regulations.
- (2) *Exceptions to street setbacks.* Certain structures are exempt from the street setback requirements as follows. See also § 34-1174 of this chapter.
- a. *Build-to lines.* Some zoning districts do not have any street setback requirements but instead have build-to lines, as described in § 34-662 of this chapter. Awnings, canopies, balconies, bay windows, porches, stoops, arcades, and colonnades may extend forward of the build-to line provided that they comply with the commercial design standards (see § 34-995(e) of this chapter).
  - b. *Porches, balconies and stoops.* Porches, balconies and stoops may extend up to ten feet into the street setback zone of residential buildings, provided that:
    - 1. Any walls, screened areas, or railings in the setback zone extend no higher than 42 inches above the floor of the porch, balcony or stoop; and
    - 2. No portion of a porch or balcony and no walls or screened areas may be closer than ten feet to the edge of any street right-of-way or street easement.

3. Porches, balconies and stoops, which extend into the front setback, may not exceed 35 feet in length.
  - c. *Mail and newspaper delivery boxes.* Mail and newspaper delivery boxes may be placed in accordance with U.S. Postal Service regulations; however, the support for a mail or newspaper delivery box must be of a suitable breakaway or yielding design, and any mail or newspaper delivery box placed in an unsafe or hazardous location can be removed by the government agency with jurisdiction over the right-of-way at the property owner's expense.

- d. *Bus shelters, bus stop benches and bicycle racks.* Bus shelters, bus stop benches, and bicycle racks may be located in any district without regard for minimum setbacks, provided the location of the structure is approved by the town manager. No advertising is permitted on bus stop benches.
- e. *Telephone booths.* Telephone booths and pay telephone stations may be located in any zoning district that permits multifamily or commercial uses without regard for minimum setbacks; provided that the location shall be approved by the director.

(3) *Waterbody setbacks.*

- a. *Gulf of Mexico.* Except as provided in this section or elsewhere in this code, no building or structure shall be placed closer to the Gulf of Mexico than set forth in ch. 6, articles III and IV of this LDC, or 50 feet from mean high-water, whichever is the most restrictive. See also special regulations for the EC zoning district in § 34-652 of this chapter and the coastal zone restrictions in § 34-1575 of this chapter.
- b. *Other bodies of water.* Except as provided in this section or elsewhere in this chapter, no building or structure shall be placed closer than 25 feet to a property line adjacent to a canal, bay, or other waterbody. For purposes of measuring setbacks from a canal, bay, or other body of water, the following will also be used:
  - 1. If the body of water is subject to tidal changes, the setback will be measured from the mean high-water line.
  - 2. If the body of water is not subject to tidal changes, the setback will be measured from the control elevation of the body of water if known, or from the ordinary high-water line if unknown.
  - 3. In addition to the property line setback, if the property has a seawall, a minimum setback of five feet will be measured from the seaward side of the seawall, not including the seawall cap.
  - 4. If property lines encroach into the waterbody, then no more than five feet shall be applied to the setback measurement.
  - 5. If plats or legal descriptions of property reference water bodies as boundaries, the mean high-water line shall be utilized, unless otherwise stated in those legal descriptions or survey.
- c. *Exceptions for certain accessory structures.* Certain accessory buildings and structures may be permitted closer to a body of water as follows:
  - 1. *Fences and walls.* See division 17 of this article.
  - 2. *Shoreline structures.* See § 34-1863 and ch. 26 of this LDC.
  - 3. *Nonroofed structures.* Swimming pools, tennis courts, patios, decks, and other nonroofed accessory structures or facilities which are not enclosed, except by fence, or which are enclosed on at least three sides with open-mesh screening from a height of 3½ feet above grade to the top of the enclosure, shall be permitted up to but not closer than:
    - (i) Five feet from a seawalled canal or seawalled natural body of water;
    - (ii) Ten feet from a nonseawalled artificial body of water; or
    - (iii) Twenty-five feet from a nonseawalled natural body of water;
 whichever is greater. Enclosures with any two or more sides enclosed by opaque material shall be required to comply with the setbacks set forth in subsections (d)(3)a. and (d)(3)b. of this section.
  - 4. *Roofed structures.*

- (i) Accessory structures with roofs intended to be impervious to weather and which are structurally built as part of the principal structure shall be required to comply with the setbacks set forth in subsections (a) and (b) of this section.
- (ii) Accessory structures with roofs intended to be impervious to weather and which are not structurally built as part of the principal structure may be permitted up to but not closer than 25 feet to a natural body of water, and ten feet to an artificial body of water.

(4) *Exceptions for certain nonconforming lots.*

- a. Certain nonconforming residential lots are subject to the modified side and rear setback requirements that are found in § 34-3273 of this chapter.
- b. Certain nonconforming mobile home lots in the village zoning district are subject to the modified side and rear setback requirements that are found in § 34-694 of this chapter.
- c. Certain nonconforming commercial lots are subject to the modified side and rear setback requirements that are found in § 34-3277 of this chapter.

(5) *Additional setbacks for large lot single-family and two-family development.*

- a. *Structures exceeding 65 feet in length in RS, RC and RM zoning districts shall have additional front setback requirements. Single-family and two-family residential structures in the RS, RC and RM zoning districts shall not be permitted to construct more than 65 feet of frontage to the front setback line (25 feet from right of way property line). Any portion of the structure exceeding 65 feet in width shall be set back an additional 12 feet (37 feet from the right of way property line).*
- b. *Parcels of land in the RS, RC and RM zoning districts 75 feet or more in width shall have additional side setback requirements. Parcels in the RS, RC and RM zoning districts that are 75 feet or more wide must provide side setbacks equal to 15% of the lot width, on each side.*
  - 1. *Lot width is measured from the property line adjacent to the right of way. Where the property is a corner lot, the front will be the side of the property that is deemed the front based on the setbacks (in relation to where the front setback, rear setback, and side setbacks are applied).*
  - 2. *The cumulative total of the side setbacks shall be 30% of the parcel width, however, the setbacks do not have to be equal on both sides. No side setback shall be less than 7.5 feet.*
- c. *Exemption from additional setbacks for open ground level. A residential structure with a maximum of 500 square feet enclosed or screened, at the ground level of the house (under house structure), shall be exempt from additional side and front setbacks.*

( [Ord. No. 20-08](#), § 2, 4-6-2020)

Secs. 34-653—34-660. - Reserved.

Table 34-3— Dimensional Regulations in Conventional Zoning Districts

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | street                                                          | side -<br>waterfront<br>lot | side -<br>non-<br>waterfront | rear | water<br>body (1) | Gulf of<br>Mexico<br>(2)                                         | area   | width | depth | ratio                 | percentage                       |                         | feet                         | stories |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------|-----------------------------|------------------------------|------|-------------------|------------------------------------------------------------------|--------|-------|-------|-----------------------|----------------------------------|-------------------------|------------------------------|---------|
| ZONING<br>DISTRICT                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | Setbacks<br>(see § 34-638<br>for explanation<br>and exceptions) |                             |                              |      |                   | Lot size<br>(see § 34-637<br>for explanations<br>and exceptions) |        |       |       | F.A.R.<br>§34-<br>633 | Building<br>Coverage<br>§ 34-634 | Density<br>§ 34-<br>632 | Height<br>(see § 34-<br>631) |         |
| <i>RS Residential Single-family</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | 25 (9)                                                          | 7.5 (8) (10)                | 7.5 (8)                      | 20   | 25                | 50                                                               | 7,500  | 75    | 100   | -                     | 40%                              | (3), (4)                | 25                           | 3       |
| <i>RC Residential Conservation</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | 25 (9)                                                          | 7.5 (10)                    | 7.5                          | 20   | 25                | 50                                                               | 4,000  | 45    | 80    | -                     | 40%                              | (3), (4),<br>(5)        | 25                           | 3       |
| <i>RM Residential Multifamily</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | 25 (9)                                                          | 20 (6) (10)                 | 20 (6)                       | 20   | 25                | 50                                                               | 7,500  | 75    | 100   | 1.2                   | -                                | (3), (4),<br>(5)        | 30                           | 3       |
| <i>CR Commercial Resort</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | 10                                                              | 20                          | 15                           | 20   | 25                | 50                                                               | 20,000 | 100   | 100   | 1.2                   | -                                | (3)                     | 30                           | 3       |
| <i>CM Commercial Marina</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | 20                                                              | 20                          | 20                           | 20   | 0                 | 50                                                               | 20,000 | 100   | 100   | 1.0                   | -                                | -                       | 35                           | 3       |
| <i>CO Commercial Office</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | 10                                                              | 10                          | 7                            | 20   | 25                | 50                                                               | 7,500  | 75    | 100   | 1.2                   | -                                | (3), (4),<br>(5)        | 30                           | 3       |
| <i>Santos</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | 10                                                              | 7                           | 5                            | 20   | 25                | 50                                                               | 5,000  | 50    | 100   | 0.6                   | -                                | (3), (4),<br>(5)        | 25                           | 3       |
| <i>IN Institutional</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | 20                                                              | 10                          | 7                            | 20   | 25                | 50                                                               | 7,500  | 75    | 100   | 0.8                   | -                                | (3)                     | 35                           | 3       |
| <i>CF Community Facilities</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | 20                                                              | 15                          | 10                           | 20   | 25                | 50                                                               | N/A    | N/A   | N/A   | 0.1                   | -                                | (3)                     | 35                           | 3       |
| <i>BB Bay Beach</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | — see § 34-651(b) —                                             |                             |                              |      |                   |                                                                  |        |       |       |                       |                                  |                         |                              |         |
| <i>EC Environmentally Critical</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | 20                                                              | 25                          | -                            | 25   | 20                | 50                                                               | (7)    | N/A   | N/A   | .01                   | -                                | (3), (7)                | 25                           | 2       |
| <p>Note (1): An additional wetland buffer is required for new development; see § 34-638(c).</p> <p>Note (2): See § 34-638(d)(3)a.</p> <p>Note (3): Maximum densities are established by the Fort Myers Beach Comprehensive Plan; see § 34-632.</p> <p>Note (4): Accessory apartments are allowed in owner-occupied homes under certain conditions; see §34-1178.</p> <p>Note (5): A second dwelling unit or accessory apartment may be allowed on larger lots; for details, see §§ 34-632, 34-1177, and 34-1178.</p> <p>Note (6): Single-family and two-family homes on waterfront lots in the RM zoning district must maintain only a 7.5-foot side setback.</p> <p>Note (7): See § 34-652(e)(3).</p> <p>Note (8): For all RS lots fronting on Matanzas Street and Matanzas Court, all side setbacks shall be at least 10 feet.</p> <p>Note (9): Maximum 65 feet of house may be built to the 25-foot front setback. Any house frontage exceeding 65 feet shall be built 37 feet from the front property line. See §34-638(d)(5)a.</p> <p>Note (10): For parcels exceeding 75 feet in width, each side setbacks will be equal to 15% of the property width. See § 34-638(d)(5)b.</p> |                                                                 |                             |                              |      |                   |                                                                  |        |       |       |                       |                                  |                         |                              |         |



## **Fort Myers Beach Local Planning Agency**

**Council Chambers  
2525 Estero Blvd.  
Fort Myers Beach, FL 33931**

**Minutes**

**Wednesday, October 20,  
2021**

**1:30 PM**

### **ORDER OF BUSINESS**

#### **I. CALL TO ORDER**

Members present: Chair Megan Heil, Anita Cereceda, Forrest Critser, Scott Safford, Patrick Vanasse and Karen Woodson.  
Excused: Jane Plummer.

#### **II. INVOCATION**

Chair Heil.

#### **III. PLEDGE OF ALLEGIANCE**

#### **IV. SUNSHINE LAW, PUBIC RECORDS, AND ETHICS**

A.

##### **Town Attorney Presentation**

Town Attorney Herin, Jr. reviewed the Sunshine Law, Public Records Law, Ethics Law and ex parte communications.

Community Development Director Jason Green provided handouts concerning rezoning, variances and special exceptions. He noted it was important to reference findings and considerations in motions. He reviewed the role of the LPA.

#### **V. REORGANIZATION**

A.

##### **Selection of Chair and Vice Chair**

LPA Member Safford nominated Megan Heil for Chair; second by LPA Member Critser.

Motion approved 6-0 with LPA Member Plummer excused.

LPA Member Safford nominated Jane Plummer as Vice Chair; second by  
**LPA Member ?**

Motion approved 6-0 with LPA Member Plummer excused.

## VI. APPROVAL OF MINUTES

### A. September 14, 2021

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

Motion approved 6-0 with LPA Member Plummer excused.

## VII. PUBLIC HEARINGS

### A. VAR20210073 6036-38 Estero Boulevard Pool Setback

#### **Approve/Approve with Conditions/Deny VAR20210073 6036-38 Estero Boulevard Pool Setback**

Town Attorney Herin, Jr. swore in those providing testimony for public hearings A and B. Ex parte communications: LPA Members Cereceda and Woodson utilized Google maps. No disclosures from other members. Chair Heil revealed the applicant had a scheduling issue and was unable to attend the meeting. Town Attorney Herin, Jr. recommended that the hearing be continued until the applicant could attend.

Chair Heil moved for a continuance to Tuesday, November 9, 2021, at 9:00 a.m.; second by LPA Member Safford.

Motion approved 6-0 with LPA Member Plummer excused.

### B. VAR20210039 71 Chapel Street Setback Variance

#### **Approve/Approve with conditions/Deny VAR20210039 71 Chapel Street Street Setback Variance**

Owner Ron Yanke described his property and noted he intended to demolish the current structure and build a two-story home.

Assistant Community Development Director Carl Bengé reviewed the property information, variance request, proposed building and staff findings and recommendations. He noted that staff recommended approval with conditions.

Sara Propst from Community Development clarified that the lot was existing and buildable. Assistant Director Bengé indicated that drainage would be reviewed but did not affect the variance request. LPA Member Safford questioned whether the applicant was aware that the roof overhang was the 10-foot marker, not the structure of the building. The applicant was not aware and was not in favor of the condition. Mr. Yanke stated that he would like to put the building at 10 feet. LPA Member Vanasse indicated that the LDC allowed for roof overhangs in setbacks. Assistant Director Bengé commented that the applicant planned to eventually install a pool in the back.

Public comment:

Susan Bonfigli, neighbor, questioned whether the overhang would block emergency vehicles on the narrow street. Assistant Director Bengé replied that the property line did not go all the way to the street. Mr. Yanke confirmed that the new structure would not go further than the current structure.

Public comment closed.

(The recording missed the beginning of the motion below.)

**LPA Member Cereceda moved to approve the variance and** (recording skipped to 1:03:36) the conditions justifying the variance are not the result of the applicant, that the variance granted is the minimum variance that will relieve the applicant of his burden and that the granting of the variance will not be injurious to the neighborhood or public welfare, the conditions of approval and the conditions or circumstances of that property are not general or recurrent and the staff conditions of approval 1-4; second by Chair Heil.

LPA Member Safford disagreed that the roof overhang should be included.

LPA Member Cereceda indicated that the applicant could redesign the house to fit.

Motion approved 6-0 with LPA Member Plummer excused.

C. LDC Amendment, Subdivision V, Commercial Boulevard Zoning District  
**Recommend Approve / Deny Recommended Amendments to Land Development Code Subdivision V, Commercial Boulevard Zoning District.**

Community Developer Propst presented recommended language to amend the CB zoning district provided in the packet of information. She clarified that she was referring to the entire Seagrape parcel, not a particular business on the parcel. LPA Member Cereceda suggested that it would be helpful to identify all properties in CB zoning.

Public comment:

Attorney Beverly Grady from Roetzel and Andress represented the owner of 2815 Estero Blvd., adjacent to the Seagrape Plaza across the street from the library. She noted that the CB zoning was the most restrictive she had ever seen. She distributed documents including a zoning map, aerials, a 1997 ordinance and a memo from Bill Spikowski. She reviewed the parcel's history and questioned whether a financial institution with five drive-thru windows qualified as retail. She noted the owner intended to open a furniture and design facility in the building. Attorney Grady questioned whether furniture, sales and design fell under retail. She stated that the sale of furniture was not listed in the permitted use section. She revealed that Wells Fargo sold the building with a deed restriction that it could not be used as a bank. She discussed the fact that five drive-thru windows had a more significant impact than an office. She shared specific language she drafted to address the

situation. LPA Member Vanasse felt that a physical bank was a retail use. Town Attorney Herin, Jr. commented that the proposed language in subsection A. of the agenda packet seemed to address the situation. Planner Propst felt that the proposed language submitted by Attorney Grady addressed the issue on the parcel.

LPA Member Vanasse questioned whether the code allowed for an expedient interpretation of use. Planner Propst replied affirmatively and described how Council could review the use. LPA Member Cereceda noted that the definition of financial institutions included products and services. Public comment closed.

LPA Member Vanasse moved to recommend approval of staff's recommended language and add language substantially similar to what Attorney Grady proposed with a recommendation to clarify the current parcel versus any historical parcel; second by LPA Member Cereceda. Motion passed 6-0 with LPA Member Plummer excused.

D. LDC Section 34-638, Minimum Setbacks and Size for Large Homes and Lots  
**Recommend Approve / Deny Recommended Amendments to Land Development Code Section 34-638, Minimum Setbacks.**

Planner Propst provided options to address multiple lots being consolidated to build large homes in single-family neighborhoods. The first option included removing setbacks between individual lots and pushing them to the outside. She displayed a slide titled Option 1: Adding up the Setbacks for clarification. The second option and slide were examples of lot percentages, which Planner Propst felt was more proportionate. Community Development Director Green discussed losing the view corridors and Planner Propst displayed slides of building massing examples and a building massing diagram. Chair Heil questioned whether they could give property owners a carrot to keep the first floor open. Planner Propst replied affirmatively and read a setback exemption.

Director Green commented that they were discussing parcels, not lots, to prevent people from getting around regulations. LPA Member Vanasse discussed using specific terms and that buyers had certain expectations when they purchased their property. Town Attorney Herin, Jr. indicated that Florida law stated that a property owner was not entitled to a particular type of zoning in perpetuity.

LPA Member Cereceda suggested including visual examples when they meet with Town Council. Discussion was held regarding dates for the joint meeting and the next LPA meeting.

No public comment.

E. LDC Text Amendment Article II Noise Control

**Recommend Approve / Deny Recommended Amendments to Land Development Code Article II Noise Control**

Planner Propst stated that the building official was uncomfortable with the language, so it had to be reworked. Director Green commented that the

building official indicated that nothing in the language worked. He noted that they could modify setbacks and provided examples.

LPA Member Vanasse suggested that new property owners be presented with ways to be good neighbors when designing their houses. LPA Member Cereceda agreed. Discussion was held concerning ways to try and buffer the noise.

#### **VIII. ADMINISTRATIVE AGENDA**

No items.

#### **IX. LPA MEMBERS ITEMS/REPORTS**

Chair Heil brought up the old LPA action item list and questioned whether they could receive it in the future.

No items from other members.

#### **X. LPA ATTORNEY ITEMS/REPORTS**

No items.

#### **XI. COMMUNITY DEVELOPMENT ITEMS/REPORTS**

Consensus was reached to meet with Town Council on November 1, 2021, and the next LPA meeting will be on Wednesday, November 17, 2021, at 2:00 p.m.

#### **XII. ITEMS FOR NEXT MONTHS AGENDA**

No items.

#### **XIII. PUBLIC COMMENT**

No public comment.

#### **XIV. ADJOURNMENT**

LPA Member Safford moved to adjourn the meeting; second by Chair Heil.

Motion approved 6-0 with LPA Member Plummer excused.

The meeting was adjourned at 4:53 p.m.



## **Fort Myers Beach Town Council**

**Council Chambers  
2525 Estero Blvd.  
Fort Myers Beach, FL 33931**

**Minutes**

**Thursday, September 9, 2021**

**5:01 PM**

### **ORDER OF BUSINESS**

#### **FINAL**

##### **I. CALL TO ORDER**

Members present: Mayor Murphy, Vice Mayor Hosafros, Council Member Allers, Council Member Atterholt and Council Member Veach.

##### **II. INVOCATION**

Town Clerk Baker.

##### **III. PLEDGE OF ALLEGIANCE**

##### **IV. APPROVAL OF FINAL AGENDA**

Council Member Atterholt moved to approve the agenda; second by Council Member Allers.

Motion carried unanimously.

##### **V. PUBLIC COMMENT**

Larry Drebes, 5750/5760 Estero Blvd. described new zoning issues affecting his property and asked to be grandfathered.

##### **VI. LOCAL ACHIEVEMENTS AND RECOGNITIONS**

Mayor Murphy presented Jan Fleming and Janeen Paulauskis with the 2021 Citizens of Distinction Award. He read a letter from Anita Cereceda nominating the two.

Council Member Veach thanked Carlos Point, Castle Beach and Islands End condominiums for cooperating with the FWCC (Fish & Wildlife Conservation Commission) and the Audubon Society regarding bird nesting sites on their properties.

Council Member Atterholt thanked Jan and Janeen for their efforts. Not items from other members.

## VII. ADVISORY COMMITTEES ITEMS AND REPORTS

Chair Steve Johnson from the Marine Resources Task Force (MRTF) requested direction regarding eradicating invasive species of vegetation. He noted there was nothing in place to prevent property owners from planting exotic invasive plants. He questioned whether MRTF should pursue a minimal exotic invasive management program. Council Member Veach and Vice Mayor Hosafros supported MRTF moving forward with the management program and Council Member Veach brought up a landscaper certification program. Chair Johnson mentioned dark skies and stated that the 2010 lighting ordinance was good but it was not pursued outside of new construction. He questioned starting a public information campaign to educate and guide homeowners regarding lighting. Vice Mayor Hosafros and Council Member Atterholt agreed with a public education campaign. Chair Johnson thanked the Community Foundation for their donation to the pop-up booth program.

## VIII. APPROVAL OF MINUTES

- A. August 16, 2021 Town Council meeting  
Vice Mayor Hosafros moved to approve the minutes; second by Council Member Veach.  
Motion carried unanimously.

## IX. CONSENT AGENDA

Vice Mayor Hosafros moved to approve the consent agenda; second by Mayor Murphy.  
Motion carried unanimously.

- A. Donation to Marine Resources Task Force (MRTF)  
**Accept the Fort Myers Beach Community Foundation donation to the Town of Fort Myers Beach in the amount of \$1,000 for use by the Marine Resources Task Force (MRTF) for their pop-up booth program.**  
Vice Mayor Hosafros moved to accept the donation; second by Mayor Murphy.  
Motion carried unanimously.
- B. ITB-21-16-PW Bayside Park Improvements  
**Authorize the Town Manager or designee to negotiate a best and final contract with Wright Construction for proposed improvements at Bayside Park.**  
Vice Mayor Hosafros moved to authorize; second by Mayor Murphy. Motion carried unanimously.
- C. Estero Bay Hotel Company Sidewalk/Utility Easement  
**Approve and accept the Sidewalk and Utility Easement from Estero Bay Hotel Company in accordance with their approved Master Concept Plan and authorize the execution of easement.**  
Vice Mayor Hosafros moved to approve; second by Mayor Murphy. Motion carried unanimously.

D. Managed IT Services

**Authorize the Town Manager to execute an agreement with Softrim, LLC as an emergency procurement as provided for in Section 2-480(d)(1) of the Town Code.**

Vice Mayor Hosafros moved to authorize; second by Mayor Murphy. Motion carried unanimously.

**X. PUBLIC HEARINGS**

A. Resolution 21-34, Setting Proposed Millage Rate for FY 21-22

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, ADOPTING THE PROPOSED AD VALOREM MILLAGE RATE FOR THE TOWN OF FORT MYERS BEACH, FLORIDA FOR FISCAL YEAR 2021-2022 COMMENCING OCTOBER 1, 2021 AND ENDING SEPTEMBER 30, 2022 FOR THE PURPOSE OF PROVIDING SUFFICIENT FUNDS FOR THE GENERAL FUND; SETTING THE SECOND AND FINAL BUDGET ADOPTION PUBLIC HEARING FOR THURSDAY SEPTEMBER 16, 2021 AT 5:01 P.M.; AND PROVIDING AN EFFECTIVE DATE.**

Mayor Murphy read the title of the resolution.

Vice Mayor Hosafros moved to table Resolution 21-34; second by Council Member Atterholt.

Motion carried unanimously.

Vice Mayor Hosafros moved to reopen Resolution 21-34; second by Council Member Atterholt.

Motion carried unanimously. No public comment.

Town Attorney Herin, Jr. read the title of the resolution.

Vice Mayor Hosafros moved to move this to a second and final adoption hearing for September 16, 2021, at 5:01 p.m.; second by Council Member Allers.

Motion carried 4-1 with Council Member Atterholt dissenting.

B. Resolution 21-41; Tentative FY 2021-2022 Budget

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, ADOPTING THE TENTATIVE BUDGET FOR FISCAL YEAR 2021-2022 COMMENCING OCTOBER 1, 2021 AND ENDING ON SEPTEMBER 30, 2022; SETTING THE SECOND AND FINAL BUDGET ADOPTION PUBLIC HEARING FOR THURSDAY SEPTEMBER 16, 2021 AT 5:01 P.M.; AND PROVIDING FOR AN EFFECTIVE DATE**

Mayor Murphy read the title of the resolution. Town Manager Hernstadt noted that a letter summarizing the budget was included and the add-on list had not changed since the last M&P session.

Council Member Veach discussed increasing parking rates from \$3.00 an hour to \$5.00 per hour to purchase a parking app and help accrue funds to

cover cost overruns with current projects. He noted the roll-back rate of .909 would cost \$157,000.00 per year. Raising the parking rates could cover the roll-back rate. Vice Mayor Hosafros supported an increase in parking rates, but she did not support applying it to a roll-back rate due to increased costs for the three projects. Council Member Allers was not opposed to a rate increase. Council Member Atterholt supported the parking app, but he preferred that the public provide input before raising rates. He questioned the cost of an app. Council Member Veach did not know. Town Manager Hernstadt described the installation of sensors for the app, but he did not have a cost estimate. Council Member Allers suggested contacting LeeTran to find out whether they had an app they could piggyback on. Town Manager Hernstadt commented that they would explore options with all government partners. Council Member Atterholt stated he would like to see data concerning how traffic was affected by parking fees. Town Manager Hernstadt indicated that they could set an effective future date for a fee increase after their questions were answered. Mayor Murphy questioned whether their parking fees were below the market. Town Manager Hernstadt replied that they charged less than most other places.

Council Member Atterholt questioned whether they would receive COVID-19 funds. Town Manager Hernstadt replied affirmatively but noted that the use of those funds was restricted.

Council Member Veach discussed increasing short-term rental fees from \$50.00 per year to \$300.00 per year. He stated in 2018, there were 1,258 registered short-term rentals and in 2021, there were 2,547. He suggested the increase go toward affordable workforce housing similar to Sanibel's project. He predicted an estimated revenue of \$636,000.00 per year. Council Member Atterholt discussed the drop in full-time residents according to the census and reiterated that he would like more time for public input. Council Member Veach described the nexus between short-term rental and affordable housing. He explained the difference between workforce housing and affordable housing and noted that he supported both, although workforce housing made the most sense if they acquired the property. Town Attorney Herin, Jr. noted that housing was a requirement in the Comprehensive Plan and the state requirements included affordable and workforce housing. He discussed low-interest loans, state and federal tax credits and the scoring system used for developers. Vice Mayor Hosafros supported the idea.

Council Member Allers wondered whether short-term rental companies would be interested in creating a non-profit to help with the seed money for housing. He was not opposed to the idea, but he wanted more time to answer questions.

Council Member Veach proposed moving forward with both rate increases next week and figuring out an effective date. He commented that they could get information regarding the app and the housing program in the meantime. Town Manager Hernstadt stated that they would not have a lot of new information by next week.

Council Member Atterholt questioned whether funds for two additional

community policing officers were in the proposed budget. Town Manager Hernstadt replied that \$230,000.00 was in the budget and would come from the millage rate or savings. Vice Mayor Hosafros would like funds for community policing to go toward installing cameras. Council Member Allers indicated that they could have both. He described community policing and felt it was a minimal investment. Council Member Atterholt was not opposed to cameras, but he strongly supported community policing. Vice Mayor Hosafros stated that adding two officers would not double the police presence. She did not support continuing to pay the Sheriff's Department extra for ordinary policing. Council Member Atterholt discussed enhancing the level of security. Council Member Veach explained why he supported cameras.

Mayor Murphy felt that they should get four more deputies and pay for two. He did not know how the program would be controlled or who set up the program. He commented that there were too many unknowns. He suggested additional officers could enforce the speed limit on Estero Blvd. and provide additional general enforcement. Mayor Murphy felt that community policing was a sales pitch by the Sheriff's Office. Council Member Allers discussed add-ons that did not benefit the entire town. Council Member Veach stated that the Laguna Shores project was a one-time deal and community policing was an annual occurrence and would have to be reconciled with an increase in taxes. Town Manager Hernstadt pointed out that the money for Laguna Shores was half the total cost. Vice Mayor Hosafros and Council Member Veach supported cameras rather than community policing.

Vice Mayor Hosafros questioned installing native plants in the right-of-way with the money from the county instead of grass that had to be maintained. Council Members Allers and Atterholt supported planting something other than grass. Vice Mayor Hosafros stated that Fort Myers planted native ground cover in their medians and rights-of-way years ago. Town Manager Hernstadt noted that they finally received the money from the county and could move forward.

Cultural Parks & Recreation Director Alison Giesen explained the increases in her budget.

Council Member Allers suggested that revenue from increasing parking fees could go toward community policing.

Council Member Veach moved to table the resolution; second by Vice Mayor Hosafros.

Motion carried unanimously.

Town Attorney Herin, Jr. read the title of the resolution. No public comment.

Council Member Allers moved to approve Resolution 21-41; second by Council Member Veach.

Motion carried 4-1 with Council Member Atterholt dissenting. After determining that Community Policing was included in the budget, Council Member Atterholt withdrew his dissent.

Motion carried unanimously.

## **XI. ADMINISTRATIVE AGENDA**

- A. Resolution 21-40; Funding Request to FDEP for Estero Island Shore Protection Project

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, AUTHORIZING TOWN STAFF TO SUBMIT A FUNDING REQUEST TO FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION FOR THE ESTERO ISLAND SHORE PROTECTION PROJECT; SEEK ADDITIONAL GRANT FUNDING FROM THE TOURIST DEVELOPMENT COUNCIL; AND AUTHORIZING LOCAL MATCHING FUNDS; AND PROVIDING FOR AN EFFECTIVE DATE.**

Mayor Murphy read the title of the resolution.

Council Member Allers moved to approve; second by Council Member Veach.

Council Member Veach did not think the beach in that area was eroded.

Motion carried unanimously.

- B. Lobbyist Ronald L. Book, P.A. Contract Renewal

**Authorize the Town Manager to renew and execute an agreement in the amount of \$45,000 with the Town's State Lobbyist, Ronald L. Book, P.A.**

Council Member Veach moved to authorize; second by Vice Mayor Hosafros.

Motion carried unanimously.

- C. FY22 Community Development Employment Agreements

**Approve four contractual Employee Agreements for FY2022 in the areas of Environmental Services, Planning/Zoning, Building Services, and Community Development Administration, together with such changes as may be acceptable to the City Manager and approved as to form and legality by the City Attorney, and authorize the Town Manager to execute the Agreements on behalf of the Town.**

Council Member Veach moved to approve; second by Vice Mayor Hosafros.

Motion carried unanimously.

## **XII. FINAL PUBLIC COMMENT**

No public comment.

### **XIII. TOWN MANAGER'S ITEMS**

Town Manager Hernstadt reported that LeeTran requested the use of regular screening material around the TOPS property. Consensus was reached to allow LeeTran to use regular screening.

Town Manager Hernstadt reviewed the fee schedule and noted staff recommended slight changes to the benefit of residents.

#### **A. 1054 Fifth Street Property License Agreement**

**Approval of a License Agreement with the Lee County Sheriff's Office for the use of the property located at 1054 Fifth Street (former Ocean Jewels property) as a community outreach center.**

Town Manager Hernstadt reviewed the background of the issue. Vice Mayor Hosafros mentioned the bullet points and Town Attorney Herin, Jr. replied that they had been incorporated into the draft. He stated that the contract could be extended. Town Manager Hernstadt suggested that the end date be moved to September 30, 2022.

Council Member Allers moved to approve the agreement and authorize the Town Manager and Town Attorney to work out the final agreement with the Sheriff's Office; second by Council Member Veatch.

Town Attorney Herin, Jr. reiterated that all bullet points had been included and addressed in the license agreement.

Motion carried unanimously.

### **XIV. TOWN ATTORNEY'S ITEMS**

Town Attorney Herin, Jr. stated that Mr. Jamison appealed the final orders issued by the trial court. He will keep Council posted.

Town Attorney Herin, Jr. discussed the ownership dispute over the Tropical Shores Way canal. He stated it was a private dispute regarding private issues. He indicated that he could file a declaratory judgment if Council requested.

### **XV. COUNCILMEMBERS ITEMS AND REPORTS**

Council Member Veatch suggested that a liaison be appointed to the Resiliency Council meeting on October 8, 2021. Council Member Atterholt nominated Council Member Veatch as liaison and Vice Mayor Hosafros volunteered to be the alternate. Council Member Atterholt requested that a discussion regarding the results of the census be added to an M&P Session. Vice Mayor Hosafros stated that the Town had a low response rate attributed to Covid and the data was online.

Mayor Murphy noted he was impressed with his tour of the Intelligence Center at the Sheriff's Office.

No items from other members.

A. Resolution 21-42; Zoning In Progress

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, INVOKING ZONING IN PROGRESS; DECLARING THE TOWN IS CONSIDERING AMENDING ITS LAND DEVELOPMENT CODE BY ADOPTING REGULATIONS LIMITING THE SIZE OF SINGLE-FAMILY HOMES BUILT ON ONE OR MORE LOTS ASSEMBLED FOR THAT PURPOSE; AND PROVIDING FOR AN EFFECTIVE DATE.**

Mayor Murphy read the title of the resolution. Council Member Atterholt questioned whether Mr. Drebes could be grandfathered. Town Attorney Herin, Jr. replied affirmatively. He discussed setting criteria for property owners who may be in the pipeline. Council Member Veach questioned homes built on one lot. Town Attorney Herin, Jr. replied that he specifically added that language to review very large homes built on single lots.

Discussion was held regarding homes being built on two or more lots. Council Member Allers thought they addressed three or more lots.

Vice Mayor Hosafros moved to adopt Resolution 21-42 as amended orally by the Town Attorney to two or more in the appropriate places; second by Council Member Veach.

Motion carried 4-1 with Council Member Allers dissenting.

B. Updated Town Council Policies and Procedures

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, APPROVING UPDATED TOWN COUNCIL POLICIES AND PROCEDURES MANUAL; AND PROVIDING AN EFFECTIVE DATE**

Vice Mayor Hosafros moved to continue Resolution 21-43 to the next Town Council meeting; second by Council Member Atterholt.

Motion carried unanimously.

**XVI. ADJOURNMENT**

Vice Mayor Hosafros moved to adjourn; second by Council Member Atterholt. Motion carried unanimously.

Meeting was adjourned at 7:52 p.m.

Minutes adopted, October 4, 2021; Motion by Vice Mayor Hosafros and seconded by Council Member Allers. Adopted 5-0.



Amy Baker, Town Clerk

1. **Requested Motion:**

**Meeting Date: November 1, 2021**

Discussion of regulatory modification(s) regarding massing of large homes (exceeding 65 feet in length) and setback requirements.

**Why the action is necessary:**

Discussion will seek to obtain consensus or narrow proposed options on massing and setbacks.

**What the action accomplishes:**

Starts the process to resolve the current zoning in progress freeze of affected applications.

2. **Agenda:**

ITEMS FOR DISCUSSION

3. **Requirement/Purpose:**

Amending the land  
development code will require  
an ordinance.

---

5. **Background:**

**Attachments:**

1. Large Residential Structures Memo
2. FOUNDATION SURVEY SLAB with measurements
3. Front View
4. View from East
5. View from West
6. View showing Western Setback

**Financial Impact:**

6. **Alternative Action**

7. **Staff Recommendations:**

8. **Recommended Approval:**

\_\_\_\_\_  
Jason Green, Community Development  
Services

Date: October 27, 2021

\_\_\_\_\_  
John R Herin Jr, Town Attorney

Date: October 27, 2021

\_\_\_\_\_  
Amy Baker, Town Clerk

Date: October 27, 2021

\_\_\_\_\_  
Roger Hernstadt, Town Manager

Date: October 28, 2021



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

**To:** Local Planning Agency  
**From:** Sarah Propst, Community Development  
**Date:** October 20, 2021  
**Re:** Front Setbacks for Large Residential Structures

---

**BACKGROUND**

When multiple lots are combined, very large residential structures may be built that are not compatible with the neighborhood. This can result in a negative visual impact, even if the home is quite nice. The comprehensive plan places high value on infill compatibility and renovation mixing gracefully with the existing neighborhood. Policy 3-B-1<sup>1</sup> recommends the review of setbacks and lot sizes as well as design guidelines. Staff has been asked to provide options to address the issue of houses that could be visually overwhelming to a neighborhood.

**PROPOSED SOLUTION**

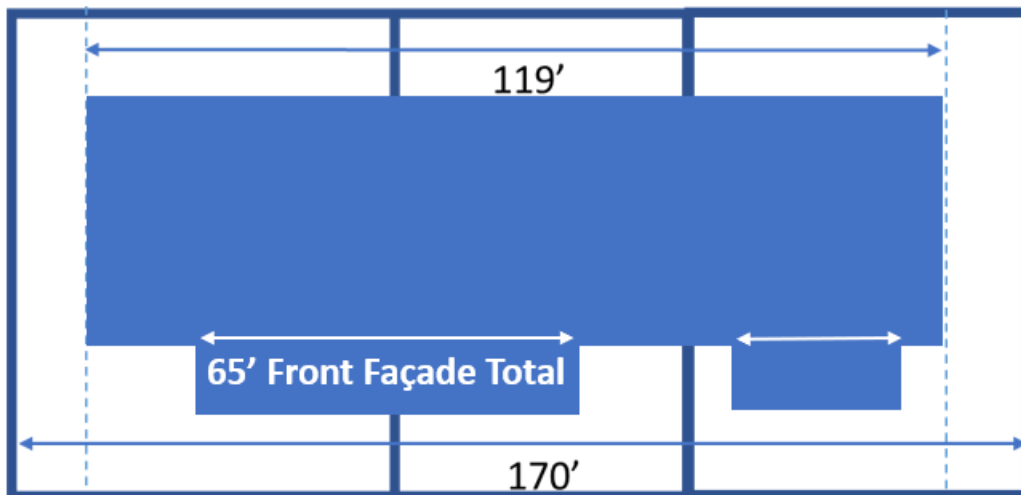
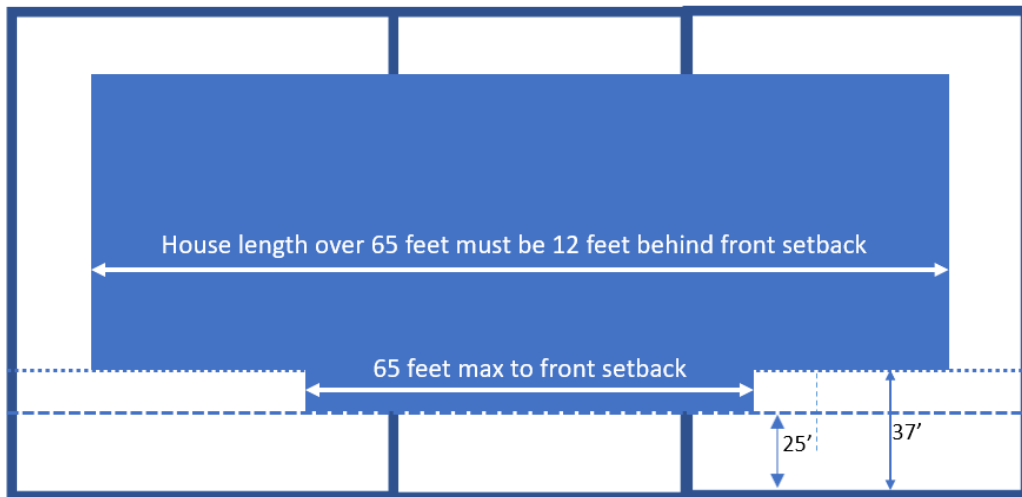
A limitation on frontage length of a residence may be appropriate to decrease the visual impact of homes which are out of scale with the surrounding development. One option would be to have a flat number as the max frontage, such as 65 feet. No more than 65 feet of house frontage may be constructed to the front 25-foot setback line. Any house length over 65 feet would be set back an additional 12 feet. All other criteria such as the allowable coverage, front and rear setbacks and building height would still apply. The house would still be substantially larger than nearby homes but would appear less impactful from the right of way. The front façade would not have to be continuous; it could be divided. The second example shows how a non-continuous façade could look.

---

<sup>1</sup> Policy 3-B-1 The town shall prepare and adopt land development regulations to apply to the older “near-town neighborhoods” that will encourage renovations and compatible infill development, using the following types of techniques: i. modifying lot size, setback, and parking requirements where the current regulations hinder redevelopment; ii. adding design guidelines to encourage front porches, decks, and other elements from the cottage design tradition to help frame public spaces and define private areas;



Example: A new 170' parcel (2, 50' parcels and a 70' parcel) is consolidated and has a total buildable width of 119' or 125' (with 25.5' or 22.5' setbacks on each side, depending on percentage or combined setbacks). The house is designed in such a way that 65 feet of the front of the house can be built to the 25-foot front setback. The remainder of the allowed house width would be allowed 12 feet behind the front setback (37 feet behind the front property line).



FORT MYERS BEACH ESTERO ISLAND

P. 239-765-0202 | F. 239-765-0909 | 2525 Estero Boulevard, Fort Myers Beach, FL 33931



### **CODE MODIFICATION**

The proposed strikethrough underline language is provided in Exhibit A. The changes proposed in this memo and the memo: Additional Setbacks on Consolidated Lots, would require changes to two code sections, Sec. 34-638 Minimum Setbacks and Table 34-3 Dimensional Regulations. An exemption from both the side and front setback increases has been included for any residential development which chooses to enclose or screen 500 square feet or less of the ground floor of the home. Limited ground floor development decreases the visual magnitude of the structure and also reduces potential flood impacts.

- ⬮ = BENCHMARK, SET PK NAIL AND DISK - "LB 6896"
- ▲ = FOUND PK NAIL AND DISK - "TWILK LB 4919"
- ⬮ = SET PK NAIL AND DISK - "DOWN LB 6896"
- = FOUND 5/8" REBAR AND CAP - "PLS 48339"
- = FOUND 5/8" REBAR - NO IDENTIFICATION
- = SET 5/8" REBAR AND CAP - "DOWN LB 6896"
- (M) = FIELD MEASURED DATA
- (P) = RECORD PLAT DATA
- <sup>a,b</sup> = SPOT ELEVATION, NAVD 1988
- = WOOD UTILITY POLE
- ⬮ = GUY ANCHOR
- ⊖ = WATER METER
- Ⓢ = SANITARY SEWER MANHOLE
- ▣ = CATCH BASIN WITH GRATE INLET
- ⊙ = TELEPHONE PEDESTAL
- ⦿ = METAL LIGHT POLE

**REVIEWED**  
By Carl Bengé -Zoning Review at 4:16 pm, Jan 15, 2021

| CURVE TABLE |           |            |         |                   |           |
|-------------|-----------|------------|---------|-------------------|-----------|
| CURVE       | DELTA (M) | RADIUS (M) | ARC (M) | CHORD BEARING (M) | CHORD (M) |
| C1          | 8'26"26"  | 1222.38'   | 180.04' | N49°29'10"W       | 179.88'   |
| C2          | 4'13'17"  | 1222.13'   | 90.04'  | N55°46'47"W       | 90.02'    |

| CURVE TABLE |           |            |         |                   |           |
|-------------|-----------|------------|---------|-------------------|-----------|
| CURVE       | DELTA (C) | RADIUS (P) | ARC (P) | CHORD BEARING (C) | CHORD (C) |
| C1          | 8'26"26"  | 1222.13'   | 180.0'  | N49°29'10"W       | 179.88'   |
| C2          | 4'13'13"  | 1222.13'   | 90.02'  | N55°48'55"W       | 90.00'    |

1. BEARINGS SHOWN HEREON ARE BASED ON THE NORTHEAST RIGHT-OF-WAY OF RANDY LANE, HAVING A CHORD BEARING OF N49°29'10"W, AS CALCULATED FROM THE PLAT OF RECORD.
2. NO UNDERGROUND IMPROVEMENTS OR FOUNDATIONS WERE LOCATED UNDER THE SCOPE OF THIS SURVEY.
3. THIS PARCEL LIES IN FLOOD ZONE "AE" BASED ON FEMA FLOOD INSURANCE RATE MAP PANEL 12071C0566F, DATED AUGUST 28, 2008. THIS PARCEL HAS A BASE FLOOD ELEVATION OF 10.0' (NAVD 1988).
4. BOUNDARY INFORMATION SHOWN HEREON IS BASED UPON THE RECORD PLAT AND LEGAL DESCRIPTION PROVIDED, NO SEARCH OF THE PUBLIC RECORD WAS PERFORMED BY THIS SURVEYOR. THERE MAY BE OTHER SETBACKS AND/OR EASEMENTS NOT KNOWN TO THIS SURVEYOR.
5. THE STREET ADDRESS IS:  
600 RANDY LANE  
FORT MYERS BEACH, FLORIDA 33931
6. ELEVATIONS SHOWN HEREON ARE REFERENCED TO THE NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD 1988). ELEVATIONS ARE BASED UPON TIES TO THE TRANSIT REAL-TIME KINEMATIC (RTK) GLOBAL POSITIONING SYSTEM (GPS) CONTROL NETWORK.
7. PARCEL SURVEYED CONTAINS 0.64 ACRES (28,010 SQ. FT.). MORE OR LESS.

LOTS 22 AND 23, GLENVIEW SUBDIVISION, ACCORDING TO THE  
PLAT THEREOF, RECORDED IN PLAT BOOK 10, PAGE(S) 25,  
OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

