

1. Requested Motion:

Meeting Date: December 7, 2020

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING THE DEFINITIONS IN THE FORT MYERS BEACH LAND DEVELOPMENT CODE AND AMENDING DIVISION 3 OF ARTICLE III OF CHAPTER 34, OF THE FORT MYERS BEACH LAND DEVELOPMENT CODE, ENTITLED "EXPLANATION OF PROPERTY DEVELOPMENT REGULATIONS FOR ALL ZONING DISTRICTS" REVISING HEIGHT AND SETBACK REQUIREMENTS; PROVIDING FOR SEVERABILITY; CODIFICATION; SCRIVENER'S ERRORS; CONFLICTS OF LAW AND PROVIDING FOR AN EFFECTIVE DATE. Open the first public hearing and schedule for second reading and final adoption on January 11, 2021 at 9:00 AM

Why the action is necessary:

Town Council has directed staff to preview matter with the LDC.

What the action accomplishes:

The proposed edits incorporates the Town Council's direction on how to address height and setback related issues with new development.

2. Agenda:

PUBLIC HEARINGS

3. Requirement/Purpose:

Ordinance to amend the Land
Development Code

4. Submitter of Information:

5. Background:

The Town Council has discussed options to address height and setback issues with new development since September of 2019. In February and March of 2020, the Town Council directed staff to make edits to staff prepared and proposed language for various sections addressing height and setbacks. The updated Staff Report provides a summary of the changes incorporated per the Council's direction. The Council's direction included providing a "carrot and stick" method to encourage greater setbacks for new development.

Attachments:

1. 20-19, LDC Amendment Ch 34 Height and Setbacks (1)-C3
2. 20-19 Height and Setbacks Exhibit A
3. Height and Setbacks LDC Memo Town Council Dec 7 First Reading

Financial Impact:

N/A

6. Alternative Action

Direct staff to make changes

7. Management Recommendations:

Recommend setting a second and final adoption hearing for January 11, 2021.

8. Recommended Approval:

Jason Green, Community Development Services

Created/Initiated - 12/1/2020

Jason Green, Community Development Services
John R Herin Jr, Town Attorney
Amy Baker, Deputy Town Clerk
Roger Hernstadt, Town Manager

Approved - 12/1/2020
Approved - 12/3/2020
Approved - 12/3/2020
Final Approval - 12/3/2020

ORDINANCE NO. 20-19

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING THE DEFINITIONS IN THE FORT MYERS BEACH LAND DEVELOPMENT CODE AND AMENDING DIVISION 3 OF ARTICLE III OF CHAPTER 34, OF THE FORT MYERS BEACH LAND DEVELOPMENT CODE, ENTITLED “EXPLANATION OF PROPERTY DEVELOPMENT REGULATIONS FOR ALL ZONING DISTRICTS” REVISING HEIGHT AND SETBACK REQUIREMENTS; PROVIDING FOR SEVERABILITY; CODIFICATION; SCRIVENER’S ERRORS; CONFLICTS OF LAW AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, Florida Statutes provide that municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal service, and exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, Article X of the Town Charter of the Town of Fort Myers Beach empowers the Town to adopt, amend, or repeal such ordinances and resolutions as may be required for the proper governing of the Town; and

WHEREAS, the Town Council desires to update the Fort Myers Beach Land Development Code to clarify, improve, and create consistency among sections regarding building heights and setbacks; and

WHEREAS, on December 1, 2020 the Local Planning Agency, after giving consideration to the staff recommendation, public testimony, and consistency with the Comprehensive Plan, recommended approval of the proposed amendments; and

WHEREAS, on December 7, 2020 the Town Council held a first reading of the proposed Ordinance; and.

WHEREAS, on January 11, 2020 the Town Council held a second reading of the proposed Ordinance; and.

NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE TOWN OF FORT MYERS BEACH AS FOLLOWS:¹

Section 1. The above recitals are true and correct, and incorporated herein by this reference and are hereby adopted as the legislative and administrative findings of the Town Council.

Section 2. Section 34-2 of the Fort Myers Beach Land Development Code is hereby amended to read as follows:

^{1/} Additions to existing text are shown by underline, changes to existing text on second reading are shown by double underline, and deletions are shown as ~~strikethrough~~.

Sec. 34-2. - Definitions

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

Porch is a single-story wooden or concrete structure that is elevated off of the ground and has a railing at least 42 inches tall. A porch must be covered with an awning or roof ~~or umbrellas~~. ~~Wood must be painted or stained.~~

Section 3. Section 34-933 of the Fort Myers Beach Land Development Code is hereby amended to read as follows:

Sec. 34-933 – Definitions

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

Section 4. Division 3, of Article III, of Chapter 34 of the Town of Fort Myers Beach Land Development Code entitled “Explanation of Property Development Regulations for All Zoning Districts” is hereby amended to read as follows (edits to Table 34-3 “Dimensional Regulations in Conventional Zoning Districts” are included as Exhibit “A” attached hereto and incorporated herein):

Sec. 34-631 – Building Height

(a) *Methods of measurement.* Maximum building heights specified in this code are measured in two ways, as shown in Figure 34-1-a. Both measurement methods apply to each building.

(1) *Measured in stories,* the height includes enclosed or unenclosed space at ground level as the first story, provided it is six feet or more in height.

a. Space within a roofline that is entirely non-habitable shall not be considered to be a separate story, for example overhead space enclosed by a cathedral ceiling, cupola, or similar roof enclosure.

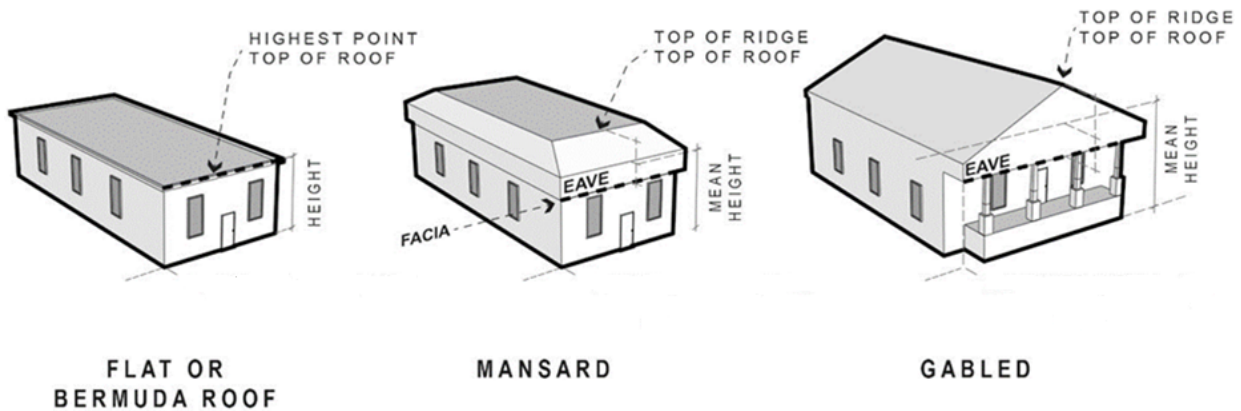
b. ~~Any single story cannot exceed 16 feet in height, including structural members, except that the first story may be taller if required to comply with any regulation in this code.~~

(2) Measured in feet, the height of a building shall be the vertical distance measured from ~~is the vertical distance between~~ one foot above the base flood elevation (BFE), (up to three feet above the BFE if the developer chooses to elevate the first living level more than the required minimum) to the following point on each roof type:

a. Flat or Bermuda Roof, the high point is the highest point on the roof, the roof itself or parapet walls;

b. Mansard Roof, the high point is the mean height between the eave and highest part of the roof;

c. Gable, Hip and Gambrel Roof, the high point is the mean height between eaves and ridge and the top of the structural members that serve as the ceiling for the highest habitable story of the building.



a. ~~Where ceilings are sloped, height is measured to the highest vertical point on a wall of the highest habitable story of the building.~~

b. ~~For parking garages, height is measured to the top of the structural members of the highest ceiling, or if parking is allowed on the roof level, to the highest point on the rooftop parking level.~~

~~e. — When determining maximum building heights only, base flood elevation (BFE) means the minimum required elevation for a property as established by the floodplain maps described in § 6-408 of this chapter, or the minimum 100-year storm elevation as established by the Florida Department of Environmental Protection for structures seaward of the 1991 coastal construction control line, whichever is higher for a particular property.~~

~~d. — On July 31, 2006, FEMA released maps showing preliminary BFE increases that could become mandatory in 2007. Landowners who voluntarily meet the higher elevations shown on the preliminary FEMA maps may measure their building's height in feet from the higher elevation.~~

~~e. — Landowners who to choose to elevate up to three feet above the heights in subsections c. or d. above, may increase their maximum building height by the same number of feet.~~

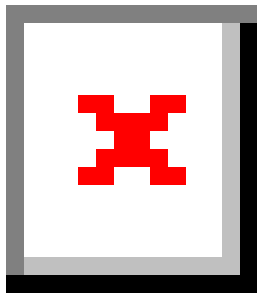
(3) *Specific height regulations* are provided for each zoning district.

a. For conventional zoning districts, see Table 34-3 in division 4 of this chapter.

b. For redevelopment zoning districts, see individual districts in division 5 of this chapter.

c. For planned development zoning districts, see division 6 of this chapter.

(b) *Exceptions to height regulations.*



Roofed towers, Figure 34-1-b

(1) ~~Roof structures and parapet walls may exceed the height limit defined in any zoning district provided there is no habitable space inside the roof structure~~ For structures to receive an additional 5 feet of height above the current building height regulations:

a. The third story (second story above BFE) must be set back an additional 5 feet from the required property line setback; and

b. The third story must not begin more than 15 feet above base flood elevation; and

c. Roof overhangs may not protrude more than 3 feet into the additional required setback. Balconies may not encroach the additional setback; and

d. Vegetation in side yards will be limited to trees and low shrubs, which will not block the view corridor above six feet along beach and bay front properties.

(2) ~~Non-habitable architectural appurtenances such as cupolas, clerestories, and steeples may also extend above the height limit if they do not exceed an area of 250 square feet. A habitable roofed tower up to 150 square feet, whether open-sided or enclosed, may also qualify as an acceptable architectural appurtenance and extend above the height limit provided it is roofed in a manner consistent with the design of the building. Decks do not qualify as architectural~~

~~appurtenances for the purposes of this subsection. Any proposed appurtenance taller than an additional 15 feet or larger than the specified sizes would require a variance from this code~~ For structures to receive an additional story. The overall height shall not exceed 5 feet of height above the current building height regulations and the following requirements shall apply:

a. The primary structure setbacks for the building shall be increased by 5 feet on all sides or the first floor; and one or more of the following:

1. Below flood must be unenclosed other than a maximum 300 square feet enclosure for parking, storage, or upper level access;

2. A signed Declaration of Restrictive Covenant in a form acceptable to the Town shall be recorded in the Lee County Public Records prior to issuance of the Certificate of Occupancy stating the ground floor, below flood, may never be enclosed.

3. All requirements for the 5-foot increase in height shall apply.

4. The fourth story (third story above BFE) must be set back 10 feet from all of the required property line setbacks.

5. Roof overhangs may not protrude into the additional required setback.

6. Vegetation in side yards will be limited to trees and low shrubs, which will not block the view corridor above six feet along beach and bay front property.

Sec 34-638 – Minimum Setbacks

(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.

(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 25-foot street setback on the first living level 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.

(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.~~

~~a~~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.

be. Certain nonconforming commercial lots are subject to the modified side and rear setback requirements that are found in § 34-3277 of this chapter.

Section 5. The Town Council intends that the provisions of this ordinance be made a part of the Fort Myers Beach Code of Ordinances, and that sections herein may be renumbered or re-lettered and the words or phrases herein may be changed to accomplish codification; regardless, typographical errors that do not affect intent may be corrected with notice to and authorization of the Town Manager without further process.

Section 6. Whenever the requirements or provisions of this ordinance are in conflict with the requirements or provisions of any other lawfully adopted ordinance or statute, the most restrictive shall apply.

Section 7. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason, declared by a court of competent jurisdiction to be unconstitutional or invalid, such decision will not affect the validity of the ordinance as a whole, or any part thereof, other than the part so declared.

Section 8. This ordinance shall become effective upon adoption by the Town Council.

The foregoing Ordinance was adopted by the Town Council upon a motion by Councilmember _____ and seconded by _____ and upon being put to a roll call vote, the result was as follows:

Raymond P. Murphy, Mayor	_____
Rexann Hosafros, Vice Mayor	_____
Dan Allers, Council Member	_____
Jim Atterholt, Council Member	_____
Bill Veach, Council Member	_____

ADOPTED this ____ day of _____, 2021 by the Town Council of the Town of Fort Myers Beach, Florida.

TOWN OF FORT MYERS BEACH

Raymond P. Murphy, Mayor

ATTEST:

Amy Baker, Town Clerk

**APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE USE
AND RELIANCE OF THE TOWN OF FORT MYERS BEACH SOLELY:**

John R. Herin, Jr., Town Attorney

This Ordinance was filed in the Office of the Town Clerk on this __ day of _____, 2021.

Table 34-3— Dimensional Regulations in Conventional Zoning Districts

	street	side - waterfront lot	side - non-waterfront	rear	water body (1)	Gulf of Mexico (2)	area	width	depth	ratio	percentage		feet	stories
ZONING DISTRICT	Setbacks (see § 34-638 for explanation and exceptions)						Lot size (see § 34-637 for explanations and exceptions)			F.A.R. §34-633	Building Coverage § 34-634	Density § 34-632	Height (see § 34-631)	
<i>RS Residential Single-family</i>	25	7.5 (8)(9)/ <u>10 (9)</u>	7.5 (8)(9)/ <u>10 (9)</u>	20	25	50	7,500	75	100	-	40%	(3), (4)	25 <u>30</u>	3
<i>RC Residential Conservation</i>	25	7.5 (8)(9)/ <u>10 (9)</u>	7.5 (9)/ <u>10 (9)</u>	20	25	50	4,000	45	80	-	40%	(3), (4), (5)	25 <u>30</u>	3
<i>RM Residential Multifamily</i>	25	20 (6)	20 (6)	20	25	50	7,500	75	100	1.2	-	(3), (4), (5)	30 <u>35</u>	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</i>	10	10	7	20	25	50	7,500	75	100	1.2	-	(3), (4),	30	3

<i>Office</i>												(5)		
<i>Santos</i>	10	7	5	20	25	50	5,000	50	100	0.6	-	(3), (4), (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

Note (1): An additional wetland buffer is required for new development; see § 34-638(c).

Note (2): See § 34-638(d)(3)a.

Note (3): Maximum densities are established by the Fort Myers Beach Comprehensive Plan; see § 34-632.

Note (4): Accessory apartments are allowed in owner-occupied homes under certain conditions; see §34-1178.

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.

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 for lots less than 70 feet in width and 10 feet for lots 70 feet or greater in width.

Note (7): See § 34-652(e)(3).

Note (8): For all RS lots fronting on Matanzas Street and Matanzas Court, all side setbacks shall be at least 10 feet.

Note (9): Side yard setbacks for all RS and RC lots less than 70 feet in width shall be 7.5 feet; lots 70 feet or greater in width shall be 10 feet.



Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT STAFF REPORT

TYPE OF CASE: Text Amendment to Chapter 34 Land Development Code, Including but not limited to Table 34-3; LDC Section 34-638 Minimum Setbacks; LDC Sect 34-631 Building Height; Figure 34-1-a.

STAFF RECOMMENDATION: Requesting approval of recommended edits to staff proposed changes

SUBMITTED BY: Carl Bengé
Jason W. Green, AICP, CFM

BACKGROUND

Staff has been directed to propose options that may resolve or improve some of the negative impacts from new development which is currently occurring on Ft. Myers Beach. Very tall homes are being constructed with little change in wall planes or articulation to break up the massing. In some cases this leads to flat walls up to 40 feet above grade only 7.5 feet from the property line. These structures cause adjacent properties to be overshadowed. The following are requested as amendments to LDC Sections as applicable.

The following alternative options have been provided based on feedback from multiple meetings with the LPA.

RECOMMENDATION

Original Discussion Item 1: Side Setbacks and Porch Setbacks

Side Yard:

At the LPA hearings the discussion centered around increasing side yard setbacks from 7.5 ft. to 10 ft. for lots that are 55 feet wide or more. This lot width cutoff may not be correct, staff has gotten feedback from some architects regarding this provision that a more appropriate lot width may be 65 feet.

Revision:

Revise Table 34-3 to remove RS and RC zoning district specific setbacks and add note <u>5570 ft lot: 7.5 ft setback; ≥5570 ft lot or any lots on water: 10 ft setback.</u>

Original Discussion Porch:

Currently the code allows porches to extend up to 10 feet into the right-of-way setback. This has led to double decker porches that create a front façade only 15 feet from the right-of-way. Several

photos which opted for the two story porches are attached as exhibit A.

The LPA members voiced support for allowing a porch to encroach into the right-of-way setback up to 10 feet only on the first living level. Staff proposes the following changes to definitions, in the strikethrough/underline format, to accomplish the goal of clarifying which types of structures are permitted to encroach.

Revisions

Porch Definition: Porch is a single-story wooden or concrete structure that is elevated off of the ground and has a railing at least 42 inches tall. A porch must be covered with an awning or roof ~~or umbrellas~~. ~~Wood must be painted or stained.~~

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

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

Below is the ~~strikethrough~~/underlined edits that implement the side setback and porch option recommended by the LPA at the December 10th 2019 hearing for LDC 34-638 Minimum Setbacks. *No changes since discussion.*

(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 25-foot street setback on the first living level 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.

(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.~~

ab. 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.

be. Certain nonconforming commercial lots are subject to the modified side and rear setback requirements that are found in § 34-3277 of this chapter.

Discussion Item 2: Height

Proposed “Sticks and Carrots” Option:

This option was selected by the LPA as the preferred method of accomplishing a change to the height of buildings. This option includes additional regulations which permit opportunities to exceed current requirements for height and number of stories if additional setbacks are provided. The recommended trade-offs would include limitations on vegetation, increases in setbacks for the ground floor and additional stories, keeping area below flood unenclosed in exchange for additional height and additional stories.

One way this could be structured is as follows:

Revisions to be added to 34-631:

1. *For structures to receive an additional 5 feet of height above the current building height regulations:*

a. *The third story (second story above BFE) must be set back an additional 5 feet from the required property line setback; and*

b. *The third story must not begin more than 15 feet above base flood elevation; and*

c. *Roof overhangs may not protrude more than 3 feet into the additional required setback. Balconies may not encroach the additional setback; and*

d. *Vegetation in side yards will be limited to trees and low shrubs which will not block the view corridor above six feet along beach and bay front properties.*

2. *For structures to receive an additional story. The overall height shall not exceed 5 feet of height above the current building height regulations and the following requirements shall apply:*

a. *The primary structure setbacks for the building shall be increased by 5 feet on all sides or the first floor; and one or more of the following:*

b. *below flood must be unenclosed other than a maximum 300 square feet enclosure for upper level access;*

i. *A signed Declaration of Land Restriction (Nonconversion Agreement) shall be recorded on the property deed prior to issuance of the Certificate of Occupancy. This agreement shall state that the ground floor, below flood, may never be enclosed.*

c. *All requirements for the 5-foot increase in height shall apply ((d)(2)a. b. and c.);*

d. *The fourth story (third story above BFE) must be set back 10 feet from all of the required property line setbacks;*

e. *Roof overhangs may not protrude into the additional required setback;*

f. *Vegetation in side yards will be limited to trees and low shrubs which will not block the view corridor above six feet along beach and bay front property.*

Discussion Item 3: How Height is Measured

Staff is proposing a new way of measuring height. Height is currently measured to the highest vertical point on a wall of the highest habitable story of the building. Staff proposes that building height be measured to the mean height of the roof, between the eave and the peak. This change will require that architects consider the height of the overall roof when complying with the building height requirements. This will result in roofs that are thoughtful in size, rather than as large and spacious as some are currently be constructed.

This change could be coupled with an increase in allowable height in RS and RC districts, from 25 ft. to 30 ft. This would allow substantially similar height structures as are currently permitted with the roof height considered as part of that measurement. This is similar to many surrounding communities. The LPA recommended increasing the height from 25 ft. to 30 ft.

Below is the ~~strikethrough~~/underlined edits that implement the recommended change to implement the proposed way of measuring building height and if an increase to buildable height is desirable, this change would be implemented through changes in Table 34-3 and Sec 34-631:

Sec. 34-631. - Building heights.

(a) *Methods of measurement.* Maximum building heights specified in this code are measured in two ways, as shown in Figure 34-1-a. Both measurement methods apply to each building.

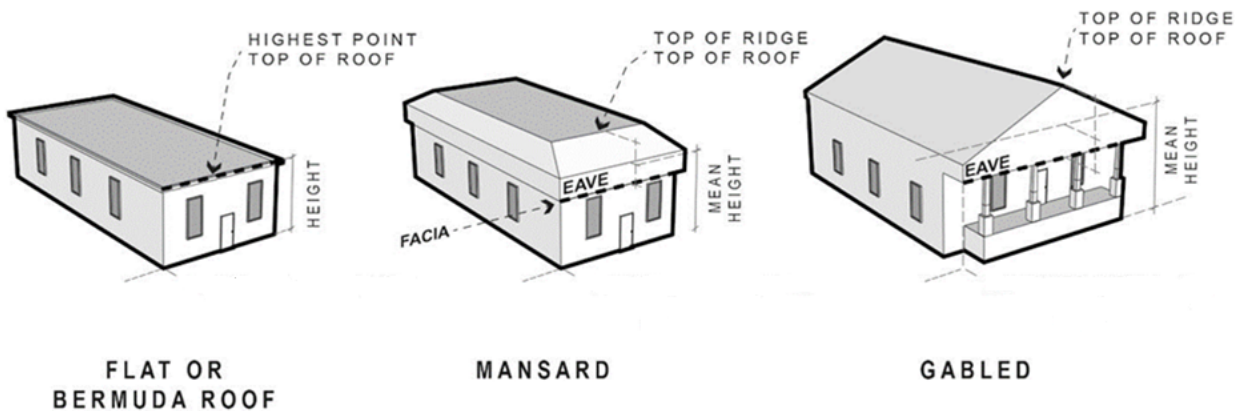
(1) *Measured in stories,* the height includes enclosed or unenclosed space at ground level as the first story, provided it is six feet or more in height.

a. Space within a roofline that is entirely non-habitable shall not be considered to be a separate story, for example overhead space enclosed by a cathedral ceiling, cupola, or similar roof enclosure.

b. ~~Any single story cannot exceed 16 feet in height, including structural members, except that the first story may be taller if required to comply with any regulation in this code.~~

(2) Measured in feet, the height of a building shall be the vertical distance measured from is the vertical distance between one foot above the base flood elevation (BFE), (up to three feet above the BFE if the developer chooses to elevate the first living level more than the required minimum) to the following point on each roof type:

- Flat or Bermuda Roof, the high point is the highest point on the roof, the roof itself or parapet walls;
- Mansard Roof, the high point is the mean height between the eave and highest part of the roof;
- Gable, Hip and Gambrel Roof, the high point is the mean height between eaves and ridge.



and the top of the structural members that serve as the ceiling for the highest habitable story of the building.

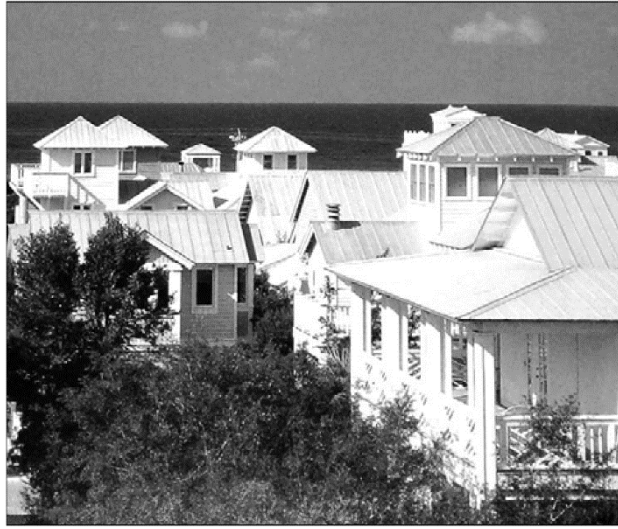
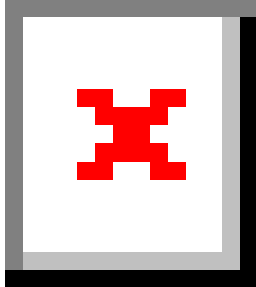
- a. ~~Where ceilings are sloped, height is measured to the highest vertical point on a wall of the highest habitable story of the building.~~
- b. ~~For parking garages, height is measured to the top of the structural members of the highest ceiling, or if parking is allowed on the roof level, to the highest point on the rooftop parking level.~~
- c. ~~When determining maximum building heights only, base flood elevation (BFE) means the minimum required elevation for a property as established by the floodplain maps described in § 6-408 of this chapter, or the minimum 100-year storm elevation as established by the Florida Department of Environmental Protection for structures seaward of the 1991 coastal construction control line, whichever is higher for a particular property.~~
- d. ~~On July 31, 2006, FEMA released maps showing preliminary BFE increases that could become mandatory in 2007. Landowners who voluntarily meet the higher elevations shown on the preliminary FEMA maps may measure their building's height in feet from the higher elevation.~~
- e. ~~Landowners who to choose to elevate up to three feet above the heights in subsections c. or d. above, may increase their maximum building height by the same number of feet.~~

(3) *Specific height regulations* are provided for each zoning district.

- a. For conventional zoning districts, see Table 34-3 in division 4 of this chapter.

- b. For redevelopment zoning districts, see individual districts in division 5 of this chapter.
- c. For planned development zoning districts, see division 6 of this chapter.

(b) *Exceptions to height regulations.*



Roofed towers, Figure 34-1-b

(1)—~~Roof structures and parapet walls may exceed the height limit defined in any zoning district provided there is no habitable space inside the roof structure.~~ For structures to receive an additional 5 feet of height above the current building height regulations:

- c. The third story (second story above BFE) must be set back an additional 5 feet from the required property line setback; and
- d. The third story must not begin more than 15 feet above base flood elevation; and
- e. Roof overhangs may not protrude more than 3 feet into the additional required setback. Balconies may not encroach the additional setback; and
- f. Vegetation in side yards will be limited to trees and low shrubs which will not block the view corridor above six feet along beach and bay front properties.

(2)—~~Non-habitable architectural appurtenances such as cupolas, clerestories, and steeples may also extend above the height limit if they do not exceed an area of 250 square feet. A habitable roofed tower up to 150 square feet, whether open-sided or enclosed, may also qualify as an acceptable architectural appurtenance and extend above the height limit provided it is roofed in a manner consistent with the design of the building. Decks do not qualify as architectural appurtenances for the purposes of this subsection. Any proposed appurtenance taller than an additional 15 feet or larger than the specified sizes would require a variance from this code.~~ For structures to receive an additional story. The overall height shall not exceed 5 feet of height above the current building height regulations and the following requirements shall apply:

- a. The primary structure setbacks for the building shall be increased by 5 feet on all sides or the first floor; and one or more of the following:
 - b. below flood must be unenclosed other than a maximum 300 square feet enclosure for upper level access;
 - ii. A signed Declaration of Land Restriction (Nonconversion Agreement) shall be recorded on the property deed prior to issuance of the Certificate of Occupancy. This agreement shall state that the ground floor, below flood, may never be enclosed.
- g. All requirements for the 5-foot increase in height shall apply ((d)(2)a. b. and c.);
- h. The fourth story (third story above BFE) must be set back 10 feet from all of the required

property line setbacks;

i. Roof overhangs may not protrude into the additional required setback;

j. Vegetation in side yards will be limited to trees and low shrubs which will not block the view corridor above six feet along beach and bay front property.

- (3) Mechanical or structural appurtenances such as elevator and stairwell enclosures, air conditioning equipment, and antennas may also extend above the height limit provided these appurtenances:
 - a. Do not exceed 250 square feet per type; and
 - b. Screening is provided as required by this code (see, for example, § 6-2(f) of this LDC for rooftop mechanical equipment).
 - (4) When properties are being rebuilt pursuant to the buildback regulations in § 34-3237 and 34-3238 of this chapter, specific height regulations in those sections may supersede the height regulations established for that property's zoning district.
 - (5) In those few cases where individual parcels of land are so surrounded by tall buildings on lots that are contiguous (or directly across a street) that the height regulations in this chapter would be unreasonable, landowners may seek relief through the planned development rezoning process, which requires a public hearing and notification of adjacent property owners. The town will approve, modify, or deny such requests after evaluating the level of unfairness that would result from the specific circumstances and the degree the specific proposal conforms with all aspects of this comprehensive plan, including its land use and design policies, pedestrian orientation, and natural resource criteria. Particular attention would be paid to any permanent view corridors to gulf or bay waters that could be provided in exchange for allowing a building to be taller than the height limits in this chapter. In each case, the town shall balance the public benefits of the standard height limit against other public benefits that would result from the specific proposal.
 - (6) For amateur radio antennas/towers, see § 34-1175 of this chapter. For communication towers and commercial antennas, see §§ 34-1441—34-1550 of this chapter).
- (c) *Space at ground level.*
- (1) Commercial space below the base flood elevation (at ground level) requires dry-floodproofing of the building (see §§ 6-401—6-474 of this LDC).
 - (2) Space below the base flood elevation in new residential buildings may be used only for parking and limited storage (see §§ 6-401—6-474 of this LDC).

REQUEST

Staff requests that Council approve the revisions to Chapter 34 of the Land Development Code regarding the topics included in this staff report.

1. Requested Motion:

Meeting Date: December 7, 2020

Approve the purchase of the replacement vehicle from Sam Galloway Ford in the amount of \$40,457.25 as budgeted in FY 20 budget, piggybacking Lee County Contract ITB160545, and authorizing auction of old van to replace the 2011 Ford F350XL Passenger Van.

Why the action is necessary:

This is a 2011 Ford 350 XL Van that is due for replacement. In 2020, it has exceed its service life and is proposed for replacement. Funding has been set aside and is available for the purchase.

What the action accomplishes:

Replacement and purchase of authorized vehicle using Capital Improvements funding, account codes: 40.50.572.64020.171.

2. Agenda:

ADMINISTRATIVE AGENDA

3. Requirement/Purpose:

4. Submitter of Information:

Alison Giesen, Director of
Cultural, Parks & Recreation

5. Background:

The purchasing policies allow the Town to purchase goods under a contract awarded by another governmental entity if the purchase is advantageous for the Town. Staff has identified another governmental entity, Lee County, which has contracted with Sam Galloway Ford ITB160545 Ford Automobiles, Sport Utility Vehicles, Passenger & Light Duty Vans, Light & Medium Duty Trucks, and Cab & Chassis. Per Lee County Contract, Section14: AUTHORITY TO PIGGYBACK, the Town of Fort Myers Beach may piggyback this contract.

This is the second (of two) vehicle replacements.

The Finance Director has reviewed the bid and determined this purchase methodology would be advantageous for the Town.

Attachments:

1. ITB160545 2020 Renewal
2. Final Bid Package ITB 160545
3. FMB 2021 TRANSIT QUOTE ITB160545

Financial Impact:

6. Alternative Action

Do not approve.

7. Management Recommendations:

Approve requested motion.

8. Recommended Approval:

Randy Paniaqua, Administrative Officer

Created/Initiated - 11/30/2020