

ORDINANCE NO. 16-09

AN ORDINANCE AMENDING THE TOWN OF FORT MYERS BEACH LAND DEVELOPMENT CODE SECTION 34-694(d) PERTAINING TO THE RED COCONUT PARK WITHIN THE VILLAGE ZONING DISTRICT; AMENDING SETBACKS FROM THE RIGHT-OF-WAY; PROVIDING FOR SEVERABILITY; CONFLICTS OF LAW; CODIFICATION, SCRIVENER'S ERRORS; AND AN EFFECTIVE DATE.

WHEREAS, the Town Council has the authority to enact and amend ordinances and regulations pursuant to the provisions of Laws of Florida Chapter 95-494, Florida Statutes chapters 163 and 166 and its Town Charter section 3.01; and

WHEREAS, the Town adopted provisions applicable to the Village Zoning District as set forth in Land development Code (LDC) Chapter 34, Article III, Division 5, Subdivision IV in March 2003; and

WHEREAS, the stated intent of the Village Zoning District, as set forth in LDC section 34-691, is to allow the continuation of the current use (eg. Red Coconut RV Park) until the land is redeveloped; and

WHEREAS, the Town staff learned that the provisions of LDC s. 34-694 were amended in 2005 in a manner that inhibits the Red Coconut from continuing the use existing in 2003 and earlier; and

WHEREAS, the amendment set forth in this ordinance serves to restore the use of the Red Coconut property as intended when the Village Zoning District was created, while providing for the safety of the traveling public to the extent practicable.

WHEREAS, on December 13, 2016 the Local Planning Agency reviewed the proposed provisions and found they were not inconsistent with the Town's Comprehensive Plan; and

WHEREAS, the Town Council held public hearings concerning the proposed ordinance on December 5, 2016 and December 19, 2017; and

WHEREAS, the Town Council finds it is appropriate and in the best interest of the citizens and visitors of the Town of Fort Myers Beach to adopt this ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AS FOLLOWS:

SECTION 1: AMENDMENT TO TOWN OF FORT MYERS BEACH LAND DEVELOPMENT CODE SECTION 34-694.

The Town of Fort Myers Beach Land Development Code section 34-694(d) is hereby amended as follows, with strikethrough identifying deleted text and underlining identifying added text.

CHAPTER 34

ZONING DISTRICTS, DESIGN STANDARDS AND NONCONFORMITIES

ARTICLE III. ZONING DISTRICT REGULATIONS

DIVISION 5. REDEVELOPMENT ZONING DISTRICTS

Subdivision IV. Village Zoning District

Sec. 34-694. Regulations for existing mobile homes and recreational vehicles.

(a) – (c) *No change.*

(d) Red Coconut. Parts of a site plan for the Red Coconut were approved by Lee County on June 2, 1987. This plan was drawn by David Depew and was dated May 20, 1987.

(1) *Sites approved in 1987.* Lee County approved the replacement and potential enlargement of a mobile home or park trailer on each of the following sites: A-7-A9, A12-A15, B12, B14-B16, C1, C7, D1, D2, D8-D17, E1-E16, E18-E20, F1-F9, and G2-G12.

a. and b. *No change.*

~~c. — Replacement mobile home or park trailers on these sites, including lawful additions, storage sheds, and utility rooms, cannot be placed closer than 20 feet to any publically maintained road~~

(2) *Sites not approved in 1987.* Some smaller sites that also contained a mobile home or non-transient recreational vehicle were not approved for larger units in 1987: AA, A1-A6, A10-A11, A16-A17, B1-B11, B13, C2-C6a, C8-C10, D3-D5, D7-D7A, E17, K2, P2-P3, Z2-Z3, and 1-6 on the bay side of Estero Boulevard. Units on these sites may be replaced only by a unit of equal or smaller size, in accordance with the following regulations.

a. - d. *No change.*

~~e. — Replacement mobile home or park trailers on these sites, including lawful additions, storage sheds, and utility rooms, cannot be placed closer than 20 feet to any publically maintained street.~~

(3) *Transient RV park.* The remainder of the sites shown on this plan may continue in operation as a transient RV park. These sites can be identified on the 1987 site plan as follows: on the Gulf of Mexico, sites 1-53; on the bay side of Estero Boulevard, sites CE1-CE7, CWOO-CW6, CRD, H1-H10, J1-J10, K3-K18, L1-L4, M1-M4, N1-N14, P1, R1-R3, Y-Y-Y-Y and Z1. The following regulations apply to these 147 sites:

a. – e. *No change.*

- f. ~~Transient recreational vehicles cannot be placed closer than 20 feet to any publically maintained street.~~

SECTION 2: SEVERABILITY.

If any one of the provisions of this ordinance should be held contrary to any express provision of law or contrary to the policy of express law, although not expressly prohibited, or against public policy, or for any reason whatsoever beheld invalid, then such provision will be null and void and will be deemed separate from the remaining provisions of this ordinance, and in no way affect the validity of all other provisions of this ordinance.

SECTION 3: CONFLICTS OF LAW.

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 requirements will apply.

SECTION 4: CODIFICATION AND SCRIVENER’S ERRORS.

The Town Council intends that this ordinance will be made part of the Fort Myers beach Code of ordinances; and that sections of this ordinance can be renumbered or relettered and the word “ordinance” can be changed to “section”, “article” or some other appropriate word or phrase to accomplish codification, and regardless of whether this ordinance is ever codified, the ordinance can be renumbered or relettered and typographical errors that do not affect the intent can be corrected with the authorization of the Town Manager or designee, without the need for a public hearing.

SECTION 5: EFFECTIVE DATE.

This ordinance becomes effective immediately upon its adoption.

THE FOREGOING ORDINANCE was enacted by the Town Council upon a motion by Council Member Cereceda and seconded by Council Member Hosafros and, upon being put to a vote, the result was as follows:

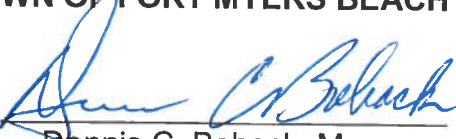
Dennis Boback	Nay
Tracey Gore	Aye
Rexann Hosafros	Aye
Anita Cereceda	Aye
Joanne Shamp	Aye

DULY PASSED AND ENACTED this 19th day of December, 2016.

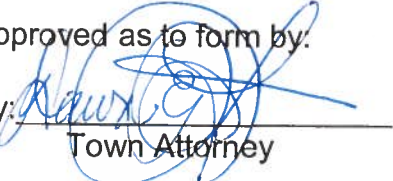
ATTEST:

TOWN OF FORT MYERS BEACH

By: 
Michelle Mayher, Town Clerk

By: 
Dennis C. Boback, Mayor

Approved as to form by:

By: 
Town Attorney