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MEMORANDUM

TO: Marine Resources Task Force
FROM: Bill Spikowski
DATE: November 29, 2004
SUBJECT: LAND DEVELOPMENT CODE AMENDMENTS, CHAPTERS 6 – 14 – 27 – 34

Thank you for reviewing the proposed amendments to Chapters 6, 14, 27, and 34 of the Land Development Code during your November 10th meeting.

Prior to your December 8th meeting, please review the attached material, which contains:

- A clarifying revision to § 6-366(b)(1)c. as requested on November 10. In addition, this section now contains standards for the siting and construction of dune walkovers (see subsection (d)).
- Possible alternative language for § 14-5 requested on November 10 regarding removal of beach furniture and equipment from the beach.
- A series of aerial photographs showing two sets of coastal construction control lines. The yellow line *farthest* from the Gulf of Mexico is the 1991 coastal construction control line; buildings seaward of that line must meet stricter building codes and obtain permits from the state of Florida. The yellow line *nearest* the Gulf is based on the 1978 coastal construction control line; the EC zoning district has been applied to all land seaward of the 1978 line.

Attachments:

- ▶ *Preferred alternative for § 6-366*
- ▶ *Possible alternative for § 14-5*
- ▶ *Aerial photographs showing both coastal construction control lines*

OCTOBER 28th DRAFT:

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

(a) *[unchanged]*

(b) Occasional minor structures are permitted by right in the EC zoning district if they are placed on private property and do not alter the natural landscape or obstruct pedestrian traffic (examples are mono-post shade structures, movable picnic tables, beach volleyball courts, and similar recreational equipment, see § 34-652). Artificial lighting and signs may not be installed in the EC zoning district unless approved by special exception or as a deviation in the planned development rezoning process or unless explicitly permitted by §§ 14-5 or 27-51.

- (1) Other provisions of this code provide for certain other minor structures in the EC zoning district:
 - a. Perpendicular dune walkovers are permitted by right in accordance with § 10-415(b).
 - b. Some temporary structures such as tents may be permitted through a temporary use permit for special events held on the beach, in accordance with § 14-11.
 - c. Under certain circumstances, licensed beach vendors may place rental equipment and/or a temporary movable structure in accordance with § 14-5, ch. 27, and § 34-3151 of this code.
- (2) Minor structures that are not permitted by right may be approved in the EC zoning district through the special exception process or as deviations in the planned development rezoning process. Such minor structures may include stairways, walkways, ramps, fences, walls, decks, bathhouses, viewing platforms, gazebos, chickees, patios, and other paved areas. These structures should be located as close to the landward edge of the EC zoning district as possible and must minimize adverse effects on the beach and dune system. See §§ 34-88, 34-932(b), and 34-652 for details.
- (3) Minor structures not qualifying by right, by special exception, or through another provision of this code are not permitted in the EC zoning district. See § 34-652 for details.

(c) *[unchanged]*

(d) New and expanded beachfront development must construct state-approved dune walkover structures at appropriate crossing points (see § 10-415(b)).

PREFERRED ALTERNATIVE:

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

(a) *[unchanged]*

(b) Occasional minor structures are permitted by right in the EC zoning district if they are placed on private property and do not alter the natural landscape or obstruct pedestrian traffic (examples are mono-post shade structures, movable picnic tables, beach volleyball courts, and similar recreational equipment, see § 34-652). Artificial lighting and signs may not be installed in the EC zoning district unless approved by special exception or as a deviation in the planned development rezoning process or unless explicitly permitted by §§ 14-5 or 27-51.

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- (3) Minor structures not qualifying by right, by special exception, or through another provision of this code are not permitted in the EC zoning district. See § 34-652 for details.

(c) *[unchanged]*

(d) New and expanded beachfront development must construct state-approved dune walkover structures at appropriate crossing points (see § 10-415(b)). **All walkovers must meet these criteria in addition to state approval:**

- (1) Walkovers must be placed perpendicular to the dune or no more than 30 degrees from perpendicular. New walkovers cannot be placed closer than 150 feet to the nearest walkover.
- (2) Walkovers must be supported on posts embedded to a sufficient depth to provide structural stability. These posts may not be encased in concrete.
- (3) Walkovers cannot exceed 4 feet in width when serving single-family homes or 6 feet in width otherwise.
- (4) Walkovers must be elevated at least 2 feet above the highest point of the dune and dune vegetation and must extend to the seaward toe of any existing dune and dune vegetation.
- (5) Walkovers must be constructed in a manner that minimizes short-term disturbance of the dune system. Any dune vegetation destroyed during construction must be replaced with similar native vegetation that is suitable for beach and dune stabilization.
- (6) Walkovers may not be constructed during the sea turtle nesting season (May 1 through October 31).

OCTOBER 28th DRAFT:

Sec. 14-5. Beach furniture and equipment.

(a) ~~From May 1 through October 31, All beach furniture and equipment must be removed from the beach as follows: (1) All beach furniture and equipment must be removed from the beach EC zoning district (seaward of the 1978 coastal construction control line) between the hours of 9:00 P.M. until 7:00 8:00 A.M.~~

~~(2) The beach furniture and equipment must be moved daily either behind the permanent dune line; or where no dune line is present and the beach is wide, then 200 feet from the mean high water line; or where the beach is narrow to the adjacent permanent structure and landward of any seawall.~~

(1) Where compliance with the foregoing provisions would cause an undue hardship due to a physical barrier such as a tall seawall, the town manager may, after determining the minimum variance from the requirements of this ordinance to reflect the physical barrier, designate the storage location. ~~(3) Beach furniture and equipment that is removed from~~ allowed to remain on the beach pursuant to a variance must be the maximum distance from the water, at least 10 feet from a sea turtle nest and from a dune or dune vegetation, and as specified in § 14-5(a)(2) shall then be safely stacked in areas no larger than 10 feet by 10 feet and each stack must be at least 50 feet removed or apart from the next stack. Stacking is not required for personal watercraft; all wooden cabanas must be stacked after May 1, 2006.

(2) *[remainder unchanged]*

POSSIBLE ALTERNATIVE:

Sec. 14-5. Beach furniture and equipment.

(a) ~~From May 1 through October 31, All beach furniture and equipment must be removed from the beach as follows: (1) All beach furniture and equipment must be removed from the beach between the hours of 9:00 P.M. until 7:00 8:00 A.M. as follows:~~

(1) From May 1 through October 31, all beach furniture and equipment must be removed from the EC zoning district (seaward of the 1978 coastal construction control line) between the hours of 9:00 P.M. until 8:00 A.M. No exceptions or variances can be made to this rule.

(2) From November 1 through April 30, the beach furniture and equipment must be moved daily either behind the permanent dune line (the farthest landward extent of dunes and dune vegetation); or where no dune line is present and the beach is wide, then 500 200 feet from the mean high water line; or where the beach is narrow, to the adjacent permanent structure and landward of any seawall. Where compliance with the foregoing provisions would cause an undue hardship due to a physical barrier such as a tall seawall, the town manager may, after determining the minimum variance from the requirements of this ordinance to reflect the physical barrier, designate the storage location. (3) Beach furniture and equipment that is removed from allowed to remain on the beach pursuant to an administrative variance must be the maximum distance from the water, at least 10 feet from a sea turtle nest and from a dune or dune vegetation, and as specified in § 14-5(a)(2) shall then be safely stacked in areas no larger than 10 feet by 10 feet and each stack must be at least 50 feet removed or apart from the next stack. Stacking is not required for personal watercraft; all wooden cabanas must be stacked after May 1, 2006.

(3) *[remainder unchanged]*

[comparable changes would also be made to § 27-49(9) regarding personal watercraft]