

RESOLUTION NUMBER 25-335

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING WITH CONDITIONS SPECIAL EXCEPTION SEZ20250116 TO ALLOW LIKE-TO-LIKE REPLACEMENT OF A TIKI HUT IN EC ZONING DISTRICT SEAWARD OF 1978 CCCL, FOR THE PROPERTY LOCATED AT 6612 ESTERO BOULEVARD; PROVIDING FOR SCRIVENER'S ERRORS, SEVERABILITY, AND 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, applicant David Nusbaum on behalf of owner Island Winds Condominium Association, is requesting a special exception to allow like-for-like replacement of a tiki hut in Environmentally Critical zoning district seaward of 1978 CCCL; and

WHEREAS, the STRAP number for the subject property is 34-46-24-W4-02100.00CE; and

WHEREAS, the Property is located in the “Medium Residential” and “Recreation” category of the Future Land Use Map of the Comprehensive Plan; and

WHEREAS, the Property is located in the “multi-family residential” and the “Environmentally Critical” zoning district of the Official Zoning Map of the Town of Fort Myers Beach, Florida; and

WHEREAS, a public hearing on this matter was legally noticed and held before the Local Planning Agency (LPA) on September 09, 2025, and at said hearing the LPA gave full and complete consideration to the request of Applicant, recommendations of staff, the documents in the file, and the testimony of all interested persons, as required by Section 34-88 of the LDC and voted 6 to 0 to recommend approval with conditions of the special exception request; and

WHEREAS, on October 6, 2025 the Town Council held a duly noticed public hearing to fully consider the request of the Applicant, the recommendations of Town staff and the LPA, the documents in the record, and testimony of all interested persons as required by 34-88 of the LDC; and

WHEREAS, the Town Council determined it is in the best interest of the Town to approve with conditions the request.

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

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

Section 2. The Town Council determines the Applicants did meet their burden of proof that the requested Special Exception does meet the requirements of the Town Comprehensive Plan and LDC, and approving the Special Exception is in the best interest of the Town to approve. Therefore, based upon the recommendations, testimony, and evidence presented by the Applicants, Town staff, and interested parties and public, the Town Council **APPROVES WITH CONDITIONS** the special exception request to allow like-for-like replacement of a tiki hut in Environmentally Critical zoning district seaward of 1978 CCCL.

Section 3. In approving with conditions the Special Exception, the Town Council makes the following findings and conclusions in accordance with the requirements of Section 34-88 of the LDC:

- A. Changed or changing conditions which make approval of the request appropriate.
- B. The request is consistent with the goals, objectives, policies, and intent of the Fort Myers Beach Comprehensive Plan.
- C. The request meets all performance and locational standards for the proposed use.
- D. The request will protect, conserve, or preserve environmentally critical areas and natural resources.
- E. The request will be compatible with existing or planned uses and not cause damage, hazard, nuisance, or other detriment to persons or property.
- F. The requested use will be in compliance with the applicable general zoning provisions and supplemental regulations set forth in Chapter 34 of the Land Development Code; and

In accordance with the additional regulations and considerations found in Section 6-366 of the LDC:

- A. Any repairs must comply with all relevant local and state floodplain regulations.
- B. Repairs may not damage existing dunes or dune vegetation.
- C. Repairs, other than those limited to emergency repairs to enclose a damaged structure, may not be completed during sea turtle nesting season.
- D. A new special exception must be applied for each time the structure is repaired.

Section 4. If the Town Council approves the requested special exception and the following conditions of approval are imposed on the Applicants and the Property:

- A. Approval of this special exception does not give the Applicant an undeniable right to permit approval. Development of the Property must comply with all applicable requirements of the Fort Myers Beach Comprehensive Plan and LDC in effect at the time of permit approval, except as specifically modified herein.
- B. Each time the structure is repaired, the applicant must request a new special exception approval and permit prior to beginning construction.
- C. Failure to comply with any of the above-mentioned conditions of approval for the Special Exception will render this approval null and void.

The foregoing Resolution was adopted by the Town Council upon a motion by Council Member King and seconded by Council member Woodson and upon being put to a vote, the result was as follows:

Dan Allers, Mayor	Aye
Jim Atterholt, Vice-Mayor	Aye
John R. King, Council Member	Aye
Scott Safford, Council Member	Aye
Karen Woodson, Council Member	Aye

ADOPTED this 6th day of October 2025 by the Town Council of the Town of Fort Myers Beach, Florida.

FORT MYERS BEACH TOWN COUNCIL

Dan Allers
Dan Allers (Nov 18, 2025 15:39:42 EST)

 Dan Allers, Mayor

ATTEST:

Amy Baker
Amy Baker (Nov 19, 2025 09:15:40 EST)

 Amy Baker, Town Clerk

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

[Signature]
[Signature] (Nov 18, 2025 18:41:59 EST)

 Vose Law Firm, Town Attorney

This Resolution was filed in the Office of the Town Clerk on Nov 19, 2025.

- EXHIBITS:**
 Exhibit A: Site Plan
 Exhibit B: Pictures of pre-storm tiki hut





Island Winds Condominium Association, Inc. 6610 Estero Blvd. Fort Myers Beach, FL 33931