



# Memorandum

**Meeting Details:** July 10, 2023, Planning Commission Meeting

**Prepared For:** Planning Commission

**From:** Community Development Department

**Subject:** 2 ½ foot setback to allow vegetation control

---

**Background:** The Madeira Beach Land Development Regulations (LDRs), Sec. 82-2 – Definitions, lists *Minor structure* as items such as sidewalks, driveways, parking areas, et al. Given this definition, sidewalks, driveways, and parking areas become subject to another code reference, *Accessory Structures. Accessory Structures*, with definitions in Sec. 14-62 and Sec. 94-93, results in the subsequent setback requirements in Ch. 110, Article VI, Division 4 – Accessory Structures, which requires a minimum 2 ½ foot setback.

**Discussion:** During the permit review process, city staff continually enforces and explains the 2 ½ foot setback requirement, however many properties throughout the city have encroachment of walkways, driveways, and other hard surfaces into the 2 ½ foot setback causing confusion over enforcement and consistency with the LDRs. The original intent of the setback is for vegetation control and a pervious buffer between properties for proper drainage.

***Residential Zones, R-1, R-2 and R-3:*** Many residential properties contain a primary structure built to their minimum side yard setback (ranging from 5 to 7 feet) or have legally nonconforming primary structures with minimal side yard setbacks. The 2 ½ foot setback required for hardscapes often creates narrow walkway widths along the side yards. This makes reasonable use of a pathway difficult, and ultimately, throughout the years, has appeared to encourage the unpermitted placement of walkways and other hardscape material leading to confusion over allowable placement.

**Commercial Zone, C-1:** C-1 Zoning District is the only zone outside R-1, R-2 and R-3 which has the same 2 ½ foot setback constraint. C-1 Zoning District encompasses Johns Pass Village. Most properties in this district do not conform to the 2 ½ foot setback requirement and were built prior to the creation of the LDRs, and therefore are legally nonconforming.

**Alternative Non-vegetative Pervious Materials:** These materials include, but are not limited to, pervious pavers and artificial turf with permeability qualities. These two example options would require no vegetative control and are advertised as pervious but are not specified within the LDRs and as such pose challenges.

- **Criteria for Permitting:** Would the city require engineered specification sheets of the proposed material or other?
- **Location:** Would the city limit to private property only, thus not allowing within the ROW or easements, noting that “average” driveway pavers are currently permitted within the ROW for driveway construction? Would these materials be permitted all the way up to the property line?
- **Impact on the Impervious Surface Ratio (ISR):** Would these materials be calculated as 100% pervious giving full credit or partial credit? Some municipalities calculate these materials at a percentage towards the ISR. If the LDRs calculates the material at a percentage, would there be a limit to the percentage of allowable pervious area that can be covered by these non-vegetative alternatives?

**Fiscal Impact or Other:** There will be no foreseeable fiscal impact to the city. A potential impact will be to the Community Rating System (CRS) and points the city receives based on our commitment to “open space”, as we have, in the past, referenced the LDRs requirement that residential structures maintain this 2 ½ foot setback.

**Recommendation(s):** City staff fully recognizes the challenges of the 2 ½ foot setback but also understands the intent of its requirement. Staff recommends better defining of hardscape items used for decking, walkways, driveways, etc. as well as better definitions for “non-vegetative” pervious options. Staff recommends drafting more defined requirements for installation and use of non-vegetative pervious options and setting criteria by which the 2 ½ foot setback may not be required but still hold permittee’s/homeowners responsible for proper vegetation control as well as not directing stormwater runoff to adjacent properties. City staff proposes to do the research

necessary to develop more relevant definitions for previously mentioned terms as well as research to support the “what, where, and how” as related to the use of non-vegetative, pervious material.

**Attachments:**

- Madeira Beach Land Development Regulations
- Madeira Beach Zoning Map