



Fort Myers Beach Local Planning Agency

Town Hall Council Chambers
2731 Oak Street
Fort Myers Beach, FL 33931

Agenda

Tuesday, April 9, 2024

9:00 AM

ORDER OF BUSINESS

I. CALL TO ORDER

II. INVOCATION

III. PLEDGE OF ALLEGIANCE

IV. APPROVAL OF MINUTES

- A. LPA - March 12, 2024
- B. LPA Special Meeting - March 14, 2024

V. PUBLIC COMMENT

VI. PUBLIC HEARINGS

- A. SEZ20240024, 6614 Estero Blvd
A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA APPROVING / APPROVING WITH CONDITIONS / DENYING SPECIAL EXCEPTION SEZ20240024 TO ALLOW RECONSTRUCTION OF A WOODEN LANDSCAPE WALL IN THE ENVIRONMENTALLY CRITICAL (EC) ZONING DISTRICT, WITH CONDITIONS, FOR THE PROPERTY LOCATED AT 6614 ESTERO BOULEVARD; PROVIDING FOR SCRIVENER'S ERRORS, SEVERABILITY, AND AN EFFECTIVE DATE.
- B. VAR20240050- 590 Carlos Cir
A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING VARIANCE VAR20240050, REQUESTING TWO VARIANCES FROM LDC TABLE 34-3 A VARIANCE OF 16-FEET FROM THE REQUIRED 25-FOOT STREET SETBACK, AND A VARIANCE OF 5- FEET FROM THE REQUIRED 20-FOOT REAR SETBACK LOCATED AT 590 CARLOS CIR; PROVIDING FOR CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.
- C. Ordinance 24-08 Amending Downtown Building Stories

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING CHAPTER 34, ARTICLE III., DIVISION 5, SECTIONS 34-675 BUILDING SIZE TO 1) CHANGE BUILDING HEIGHT FROM 2 STORIES TO 3 STORIES FOR PROPERTIES THAT FRONT ON TIMES SQUARE AND BAYFRONT PEDESTRIAN PLAZAS, THE NORTH SIDE OF FIRST STREET, THE SOUTH SIDE OF ESTERO BOULEVARD BETWEEN OLD SAN CARLOS BOULEVARD AND THE MAIN PEDESTRIAN CROSSING; AND 2) CHANGE BUILDING HEIGHT FROM 2 STORIES TO 3 STORIES FOR PROPERTIES THAT FRONT ON LAGOON STREET, CRESCENT STREET, FIRST, SECOND, THIRD AND FIFTH STREETS (EAST OF SKY BRIDGE ONLY); PROVIDING FOR SEVERABILITY; CODIFICATION; SCRIVENER'S ERRORS; CONFLICTS OF LAW AND AN EFFECTIVE DATE.

- D. Moss Marina CPA20230152, 450 HARBOR COURT, 445 HARBOR COURT, 441 HARBOR COURT, 436 HARBOR COURT, 435 BONITA STREET, AND 438 BONITA STREET

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, APPROVING/ DENYING A COMPREHENSIVE PLAN FUTURE LAND USE MAP AMENDMENT FOR PROPERTIES LOCATED AT 450 HARBOR COURT, 445 HARBOR COURT, 441 HARBOR COURT, 436 HARBOR COURT, 435 BONITA STREET, AND 438 BONITA STREET FORT MYERS BEACH FROM MARINA (3.53 ACRES) AND MIXED RESIDENTIAL (1.00 ACRE) TO PEDESTRIAN COMMERCIAL; CONTAINING 4.53 ACRES GENERALLY IDENTIFIED AS STRAP NUMBERS 24-46-23-W3-00027.0000, 24-46-23-W3-00026.0020, 24-46-23-W3-0030B.0200, 24-46-23-W3-0030B.0190, 24-46-23-W3-0030C.0060, 24-46-23-W3-0030C.0040, 24-46-23-W3-0030A.0110, PORTIONS OF HARBOR COURT AND BONITA STREET RIGHT-OF-WAY; PROVIDING FOR SCRIVENER'S ERRORS AND AN EFFECTIVE DATE.

- E. Comprehensive Plan Update

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA ADOPTING AMENDMENTS TO THE TOWN OF FORT MYERS BEACH COMPREHENSIVE PLAN FUTURE LAND USE, HOUSING, COMMUNITY DESIGN, COASTAL MANAGEMENT, CONSERVATION, HISTORIC PRESERVATION, INTERGOVERNMENTAL COORDINATION, AND CAPITAL IMPROVEMENT ELEMENTS, TO UPDATE DATA AND ANALYSIS AND THE GOALS, OBJECTIVES, AND POLICIES RELATED TO THE REQUIREMENTS OF CHAPTER 163, FLORIDA STATUTES; PROVIDING FOR SEVERABILITY; SCRIVENER'S ERRORS; CONFLICTS OF LAW AND PROVIDING FOR AN EFFECTIVE DATE.

- F. Ordinance 24-04, Emergency Temporary Uses

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING AND RESTATING ORDINANCE 23-05 TO PERMIT A TEMPORARY USES IN CERTAIN ZONING DISTRICTS IN RESPONSE TO, AND AS A PART OF THE TOWN'S RECOVERY EFFORTS FOLLOWING A

NATURAL DISASTER OR OTHER EMERGENCY SITUATION: 1) BY A GOVERNMENTAL ENTITY FOR THE BENEFIT OF THE PUBLIC; 2) FOR RESIDENTIAL MANUFACTURED HOMES, MOBILE HOMES, MOTOR HOMES, RECREATIONAL VEHICLES OR OTHER TEMPORARY DWELLINGS FOR RESIDENTIAL PURPOSES; AND 3) FOR MOVEABLE COMMERCIAL STRUCTURES FOR THE DELIVERY AND SALE OF NEEDED GOODS AND SERVICES TO THE PUBLIC; PROVIDING FOR CONFLICT OF LAW, SCRIVENER'S ERRORS, SEVERABILITY, SUNSETTING OF THIS ORDINANCE, AND PROVIDING FOR AN EFFECTIVE DATE.

G. Ordinance 24-06, Draft Expedited Variance Review

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING SECTION 34-232 "REQUIRED HEARINGS" OF DIVISION 5 "PUBLIC HEARINGS AND REVIEW" OF ARTICLE II "ZONING PROCEDURES" OF CHAPTER 34 "ZONING DISTRICTS, DESIGN STANDARDS AND NONCONFORMITIES" TO REQUIRE ONLY ONE PUBLIC HEARING BEFORE THE LOCAL PLANNING AGENCY ("LPA") FOR VARIANCES AND EXTENSIONS, EXCEPT IF THE DECISION BY THE LPA IS NOT UNANIMOUS OR IF THE TOWN CLERK RECEIVES A REQUEST BY ANYONE FOR AN ADDITIONAL HEARING BEFORE THE TOWN COUNCIL WITHIN 10 DAYS AFTER THE LPA DECISION; A PUBLIC HEARING BEFORE THE TOWN COUNCIL IS REQUIRED FOR VARIANCES OR EXTENSIONS IF THE DECISION BY THE LPA IS NOT UNANIMOUS OR IF ANYONE REQUESTS SUCH HEARING WITHIN 10 DAYS AFTER THE LPA DECISION; PROVIDING FOR CODIFICATION, SEVERABILITY, SCRIVENER ERRORS, CONFLICTS OF LAW AND AN EFFECTIVE DATE.

VII. ADMINISTRATIVE AGENDA

VIII. LPA MEMBERS ITEMS/REPORTS

IX. LPA ATTORNEY ITEMS/REPORTS

X. COMMUNITY DEVELOPMENT ITEMS/REPORTS

XI. ITEMS FOR NEXT MONTHS AGENDA

XII. ADJOURNMENT

NOTE: THIS MEETING IS STREAMED LIVE ON FACEBOOK AND YOUTUBE.

IF A PERSON DECIDES TO APPEAL A DECISION MADE BY THE COUNCIL IN ANY MATTER CONSIDERED AT THIS MEETING/HEARING, SUCH PERSONS MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDING IS MADE, TO INCLUDE THE TESTIMONY AND EVIDENCE UPON WHICH ANY SUCH APPEAL IS TO BE BASED.



For special accommodation, please notify the Town Clerk's Office at least 72 hours in advance. (239) 765-0202

In accordance with the Americans with Disabilities Act (ADA), persons needing a special accommodation to participate in the Board's proceedings should contact the Town Clerk's Office not later than three days prior to the proceedings.



Fort Myers Beach Local Planning Agency

Diamondhead Beach Resort
2000 Estero Blvd.
Fort Myers Beach, FL 33931

Minutes

Tuesday, March 12, 2024

9:00 AM

ORDER OF BUSINESS

DRAFT

I. CALL TO ORDER

Members present: Chair Cereceda, LPA Member Boan, LPA Member Eckmann, LPA Member McLean, LPA Member Plummer, LPA Member Sudduth and LPA Member Vanasse.

Chair Cereceda welcomed new LPA Member McLean.

II. INVOCATION

Chair Cereceda.

III. PLEDGE OF ALLEGIANCE

IV. APPROVAL OF MINUTES

A. Local Planning Agency Regular Meeting - February 13, 2024

LPA Member Sudduth moved to approve the minutes; seconded by LPA Member Boan.

The motion carried unanimously.

B. Local Planning Agency Regular Meeting - February 27, 2024

LPA Member Sudduth moved to approve the minutes; seconded by LPA Member Boan.

The motion carried unanimously.

V. PUBLIC COMMENT

Jim Bowen, resident, discussed public beach access 41 at the Estero Island Beach Villas and the potential Pink Shell development. He requested that the town and county move access 41 from under their building to the property line north of their property to prevent unwanted trespassing and potential liability exposure.

VI. PUBLIC HEARINGS

Town Attorney Nancy Stuparich described the public hearing process. Town Clerk Baker confirmed that all items had been properly advertised. LPA Member Vanasse submitted a voting conflict form regarding Item B. and will abstain from voting. Town Clerk Baker swore in those providing testimony.

Morgan Hila, an attorney with Davies Duke reviewed her background in land use real estate law.

LPA Member Vanasse moved to accept her as an expert in her field; seconded by LPA Member Plummer

The motion carried unanimously.

A. Resolution 24-XX; VAR20240046, 718 Estero Blvd

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING VARIANCE VAR20240046, REQUESTING A VARIANCE FROM LDC TABLE 34-3 OF 15-FEET, PROVIDING A 10-FOOT FRONT SETBACK. THE LDC REQUIRES A SINGLE-FAMILY HOME IN RM ZONING DISTRICT TO PROVIDE A MINIMUM 25-FOOT STREET SETBACK, FOR THE PROPERTY LOCATED AT 718 ESTERO BOULEVARD; PROVIDING FOR CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

Chair Cereceda read the title of the resolution. No ex parte communication disclosures.

Community Development Planner Sarah Propst reviewed the background of the request as stated on the yellow sheet. She noted that since the proposed cottage was larger than the previous one, the owner could not utilize the cottage code to rebuild. Staff recommended approval.

Attorney Hila utilized PowerPoint for her presentation. Slides included an aerial view, Placement of the CCCL, a Before Picture and Proposed Structure and Requested Variance.

No public comment.

LPA Member Sudduth moved to approve the request to accompany the two-and-a-half foot setback and the two-and-a-half foot side setback; seconded by LPA Member Eckmann.

The motion carried unanimously by roll call vote.

B. Resolution 24-XX; VAR20240027 - 250 Tropical Shores Way

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING VARIANCE VAR20240027, REQUESTING A 4-FOOT VARIANCE FROM SEC. 34-638(5)(A)(1) WHICH REQUIRES AN ADDITIONAL 12-FEET OF STREET SETBACKS FOR RESIDENCES WIDER THAN 65-FEET, INSTEAD PROVIDING AN ADDITIONAL 8-FEET OF STREET SETBACK FOR THE PROPERTY LOCATED AT 250 TROPICAL SHORES WAY; PROVIDING FOR CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S

ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

Chair Cereceda read the title of the resolution. No ex parte communications were disclosed.

Community Development Senior Planner Jason Smalley reviewed the background of the request as stated on the yellow sheet. Staff recommended denial because the structure was a design choice and could be reduced to meet the code.

Ken Gallander from The Neighborhood Company represented the applicants. He utilized PowerPoint for his presentation. Slides included the Project Team, Presentation Overview, Background & Request, Property Location, Identified Setbacks, Front (West) Elevation, Right (South) Elevation, Findings and Conclusions and Conclusion.

No public comment.

LPA Member McLean questioned whether the code should be changed to allow flexibility for the architectural detail. Planner Propst replied that some of the language in the code would be reviewed. LPA Member Plummer commented that it was important that the design was not a big box, even though a different design could fit on the property. She felt the town should stress the importance of architectural design. LPA Member Sudduth agreed and thought the design of the house looked great.

LPA Member Sudduth moved to approve the request with the findings and conclusions and the staff conditions of approval; seconded by LPA Member Boan.

The motion carried unanimously by roll call vote, with LPA Member Vanasse abstaining.

C. Resolution 24-XX; SEZ20230302 - 450 Harbor Court

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING SPECIAL EXCEPTION SEZ20230302, REQUESTING CONSUMPTION ON PREMISES FOR A RESTAURANT WITH A BAR/ COCKTAIL LOUNGE THAT IS VISIBLE FROM THE EXTERIOR OF THE RESTAURANT PER SEC. 34-1264(B)(2)A.3., FOR THE PROPERTY LOCATED AT 450 HARBOR COURT; PROVIDING FOR CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

Chair Cereceda read the title of the resolution. Ex parte communications: LPA Member Plummer visited the establishment and spoke to the owner, but not about the case, LPA Member Vanasse visited the establishment, spoke to the owner, Kara Stewart and residents about the issue and Chair Cereceda received messages and she noted several letters were submitted. Planner Propst reviewed the background of the request as stated on the yellow sheet. She noted the temporary permit was approved on June 8, 2023. Staff suggested seven conditions of approval if the LPA approved the request.

Planner Propst stated that one of the reasons for denial was due to the number of complaints from the community. Chair Cereceda read the conditions of approval.

Lisa Lahners, applicant, distributed documents. She indicated that she hired Kara Stewart to help with the application and process to come into compliance. She stated the bar/cocktail lounge was not visible from the public streets or residences. She noted that the location of the live music had been adjusted and the musicians had been moved to the corner to play towards Matanzas Bridge. She described how they monitored the decibel readings on their property. She added that a privacy wall and plants were installed to help soften the sound and enclose the open space. She stated they had live music daily and were not open past 9:00 p.m. She shared how they arrived at the beach and hoped to eventually move into a brick-and-mortar building.

LPA Member Plummer asked what her plans were in six months. Ms. Lahners stated that she was looking at other locations and agreed not to use the stage for entertainment. She explained why they had amplified music and how the shipping containers would be removed before extreme weather events.

Public comment:

Lindsey Ofiaro, resident, worked for the owners of the Rude Shrimp and commented that they were great people.

John Samuelson, resident, stated that he had the right to enjoy his property and was not against music. He noted that the owners did not reply to him after he wrote a letter to complain, and he felt they were bullies. He did not think the area needed another bar.

Emily Samuelson, resident, added that she lost her trust in the owners and hoped future complaints would be responded to quickly.

Nick Becker, owner of Cruising Tikis, operated out of Moss Marina and supported the owners. He rarely heard their music and he was their closest neighbor. He added that the music was easy listening and described how they gave back to the community.

Jim Ink represented Freeland Holdings and stated their project was not quite ready to present, but it would be soon. He explained that the Rude Shrimp was part of their plans and were good tenants. He felt that the Rude Shrimp mitigated the sound and he supported their application.

Bob Grabo lived on the water and stated the music did not affect them. They enjoyed having the music and the restaurant. He commented that it was not too loud to have a conversation. He added that people in the big house nearby made more noise than the Rude Shrimp.

Christy Hennesey, resident, commented they were quiet people and did not enjoy loud music, but they were happy that the Rude Shrimp was there.

They loved the food and the owners. The patrons were not loud or rude and it was not a late night spot. She added that her friends who lived nearby also liked living there and were happy with the owners. She listed the numerous bars that were visible from the street.

Howie Hoffman, resident, stated that his softball team lost the Shamrock restaurant, but the Rude Shrimp picked up the sponsorship. He described how good the owners were and encouraged everyone to eat there.

Barry Lawrence, resident, entertainer and sound expert, stated the sound levels were no louder than any other place on the beach. He lived close and did not hear their music; however, he clearly heard the concerts held at Bayside. He felt the people who complained had a vendetta against the owners. He disagreed with the complaints.

Diane Grabo, resident, felt the noise complaints were unfounded. She heard the bands at Snug Harbor and private boats blasting music. She described the other noises in the area and commented that one could have a conversation, listen to nice music and eat while at the Rude Shrimp.

Marcus Free lived on the water, enjoyed the music at the Rude Shrimp and felt the complaints were a vendetta. He remarked that the complaints by one person were meritless and unfounded. He said the owners had never violated the sound ordinance. He felt they should be approved.

Dale Bonnema, resident, questioned why it took so long to address his complaints. He stated that he met with Lisa last summer and she refused to change the setup to help with the noise and Gary told him to put earplugs in and have a drink. He commented that the Rude Shrimp should not be compared to The Whale. He remarked that Moss Marina owned the SOB property and felt the real issue was that Moss Marina wanted to drag Times Square and the Lani Kai to his location. He indicated that everyone had lost a lot, but his neighborhood was quiet, and he did not want a bar in his neighborhood. He asked that they not allow music if the application was approved.

Jay Bonnema, resident, thanked the LPA and the staff for their hard work. She noted that zoning protected their rights and Moss Marina was not downtown. She questioned why the Rude Shrimp was allowed to operate without a permit for months. She stated that the sound carried over the water and even though the boats played loud music, they were not permanent.

Jay Birsch, resident, went to the Rude Shrimp because the place made him happy and was fun. He commented it was an outstanding place and that the owners were involved in the community. He felt that the six-month end date should be a review instead.

Dawn Thomas, resident, explained why she supported the Rude Shrimp. She encouraged the LPA to work with businesses and develop compromises and solutions to grow the community. She noted that the bar was only visible from the parking lot at Moss Marina and they were allowed to have a restaurant with music. She added that the Rude Shrimp would improve their space when the Coast Guard moved. She urged the LPA to support the business.

Ron Benak, resident, supported the Rude Shrimp and he questioned the bar part since it faced the back bay. He felt they had a good plan to address the neighborhood's concerns, but he disagreed with the end date of six months. Steven Park, resident, musician and social media influencer, played at the Rude Shrimp and loved the owners.

He stated that someone who watched him sing online booked a vacation to see the dolphins. He explained how he checked his sound and described his equipment. He noted that he sang at a level where people could hear themselves talk.

Dennis Carda, business owner, explained what she had to do to get an E2 visa. She stated that residents did not add to the economic value of the town like the Rude Shrimp did.

Robin Oaksatwood, her father lived next to the Bonnema's, commented that it was a quiet residential neighborhood. She agreed that the owners reeled in the music, but the partygoers yelled and cheered. She stated they were families and would like protection in their homes. She indicated that it sounded like the owners were good people, but that had nothing to do with loud music in their backyard.

Amy Loughrey, resident, explained why she supported the Rude Shrimp. She described how they contributed to the community, they were not a late-night venue and they respected the neighbors. She commented that they were in a brick-and-mortar before Ian and were looking to build again. She believed that they were aligned with rebuilding the island and asked that they be approved. She noted they could not hear the person singing when they ate. She acknowledged that balancing resident and tourist needs was difficult and hoped the LPA would consider their request. She did not think the six months were needed.

Kara Stewart addressed the six-month condition and asked that it be extended. She suggested that the owners could forward any complaints instead of having to come back in six months.

Pedro Gomez supported the Farmer's Market and felt the Rude Shrimp worked well in the area.

Chris Hayes, professional yacht captain, moved his operation to Moss Marina. He described his experience with loud venues and he felt the Rude Shrimp provided a good vibe. He wanted to see them have an opportunity to make money.

Public comments closed.

LPA Member Plummer questioned whether the Rude Shrimp was moving to where the Coast Guard station was. Ms. Lahners replied that they were unable to because it was not zoned commercial. Chair Cereceda questioned whether she had received complaints since the music was moved. Ms.

Lahners indicated that it seemed to be working well.

LPA Member Vanasse was happy to receive more information and details in the proposal, but he felt the application had a lot of gaps. He indicated it was an approved use and they had a permit. It was a restaurant and not a bar, which was allowed in the zoning district. The issue was that the bar faced the exterior, but there was a process for special exceptions. He thought it was an acceptable use and there were mitigation measures to address potential noise issues. He supported a review period.

LPA Member Eckmann stated that the bar faced the bay and was in a commercial marina. He understood the neighbors' noise concerns, but he agreed with LPA Member Vanasse that if the seven conditions were enforced, they would appear to be of acceptable use.

LPA Member Plummer addressed the feelings in the room. She felt if everyone respected each other, there would be a way for the neighborhood to come together. She thought the six-month review was very important and questioned whether a better barrier could be added as a condition. She would like a hurricane exit plan as a condition and another condition to prohibit entertainment at the current stage location.

She suggested putting the four revenue chairs on the stage and encouraged everyone to think before they speak to each other.

LPA Member Boan questioned whether the 50% food requirement was being met. He noted that it was a temporary use and they were trying to rebuild the town. He did not mind extending the six months and agreed they should add a condition for an evaluation plan.

LPA Member McLean thought steps had been made to mitigate the situation and supported the six-month review to ensure they were still working with the neighbors. He suggested that the current location of the music be codified.

LPA Member Eckmann agreed with the six-month review.

Chair Cereceda stated that she was not anti-Rude Shrimp. A temporary permit was issued, but they did not have everything they needed to have the temporary permit. Then, the noise issues with the neighbors came up. She was most troubled about the neighbor who lost her trust and noted that noise was challenging to deal with because it was very subjective. She hated to see Mr. and Mrs. Bonnema be vilified because they were trying to live their life. She felt the six-month review was necessary. She sympathized with the neighborhood but approved the special exception for the bar, which was before them. The noise element had to be mitigated by the owners.

Discussion was held regarding adding conditions for a hurricane evacuation plan and the speakers had to be positioned away from the residential neighborhood. LPA Member Sudduth commented that this was a request for a visible bar and had nothing to do with noise and they were using that to impose conditions. LPA Member Plummer supported the conditions to give people faith. LPA Member Vanasse stated that it was a temporary setup and they needed to address issues quickly.

LPA Member Vanasse moved to recommend approval with the conditions identified by staff except the six-month review process instead of an end date, incorporate an evacuation plan and a recommendation that the speakers be directed away from residents and toward the commercial marina and the six-month review would require coming back to the LPA and to renew the special exception; seconded by LPA Member Boan.

The motion carried unanimously by roll call vote.

VII. ADMINISTRATIVE AGENDA

Operations and Compliance Director Frankie Kropacek stated that after 18 months, it was time to look at how and who was applying for temporary use permits. He indicated that ordinances had to align with businesses and residents, but currently, they do not. He noted that they had to be consistent and fair to both groups. He added that the bottom line on the island was compliance, which his department was trying to achieve. LPA Member Plummer stated that temporary use permits were intended for businesses here before Ian but lost their building. Director Kropacek replied that the intent was never transmitted into the ordinance, but the old ordinance was being modified to make it stronger and fair. He addressed CBD products and indicated they did not include THC and were sold in many places. The mobile vendor selling CBD checked all the boxes and was granted a temporary permit. He stated that they had to be more vigilant and aware of the surroundings that would be impacted.

LPA Member Plummer questioned when people would have to clean up their yards and buildings. Director Kropacek explained that the guidelines in place did not work and had to be changed, including retraining staff with a focus on education. He noted that about 50 properties were derelict and the building official was now involved in the process. He described how BASE was renamed and retrained and how they made code compliance more legitimate.

VIII. LPA MEMBERS ITEMS/REPORTS

LPA Member Plummer thanked everyone for the parade on Saturday.

LPA Member Boan thanked Chair Cereceda for taking their concerns to the town council.

Chair Cereceda thanked businesses who cleaned up their properties, including the Red Coconut, London Bay and The Goodz. She thanked everyone for going the extra mile to keep their properties clean.

No items from other members.

IX. LPA ATTORNEY ITEMS/REPORTS

Town Attorney Stuparich provided information regarding the expedited review of non-controversial variances. The draft ordinance will come to the LPA for review and then to the town council. She added that she would bring back the temporary use permit to address.

A. Development Agreement with Deviations

Town Attorney Stuparich reviewed the draft resolution and attachments included in the information packet. She stated that this was the process, not the agreement. Mark Price, who purchased the Red Coconut, described the difference between the PD (planned development) process and the development agreement with deviations. He stated that the PD process cost more money and time, which added to the owners' bottom line. Town Attorney Stuparich addressed questions by LPA Member Vanasse regarding properties with multiple variances, rezoning and providing relief to Mom & Pop businesses. He questioned how one could have a development agreement without going through rezoning.

Town Attorney Stuparich referred to the first paragraph to answer his question. LPA Member Vanasse stated it addressed a site plan with deviations but not the other two options. Town Attorney Stuparich agreed but noted it was more than what they had now. LPA Member Vanasse commented that the other two options had to be addressed in the near future. Town Attorney Stuparich indicated that the other two options were not included because they were statutory.

Chair Cereceda questioned whether the town had the legal ability to determine which businesses qualified as a Mom & Pop business. LPA Member Vanasse felt they could qualify and quantify based on scale and noted that zoning was a discriminatory process. Town Attorney Stuparich will forward the draft resolution to the town council and request that they discuss concerns brought up by LPA Member Vanasse.

Planner Propst addressed the development agreement provision authorizing administrative amendments to the site plan, provided it does not increase height, density and intensity. Town Attorney Stuparich will provide clarification.

LPA Member Boan provided comments regarding language in the procedures.

LPA Member Boan moved to forward it on with comments by Town Attorney Stuparich with the understanding that she will provide answers to questions and issues by LPA Member Vanasse will be discussed; seconded by LPA Member Boan.

The motion carried unanimously.

X. COMMUNITY DEVELOPMENT ITEMS/REPORTS

No items.

XI. ITEMS FOR NEXT MONTHS AGENDA

Items will be addressed at the special meeting on Thursday.

XII. ADJOURNMENT

LPA Member Sudduth moved to adjourn; seconded by LPA Member Plummer. The motion carried unanimously.

The meeting was adjourned at 1:03 p.m.



Fort Myers Beach Local Planning Agency

Diamondhead Beach Resort
2000 Estero Blvd.
Fort Myers Beach, FL 33931

Minutes Thursday, March 14, 2024 11:30 AM

ORDER OF BUSINESS

I. CALL TO ORDER

Members present: Chair Cereceda, LPA Member Boan, LPA Member Eckmann, LPA Member McLean, LPA Member Plummer, LPA Member Sudduth and LPA Member Vanasse (arrived late).

II. INVOCATION

Chair Cereceda.

III. PLEDGE OF ALLEGIANCE

IV. PUBLIC COMMENT

Steve Johnson, Chair of MERTF (Marine & Environmental Resources Task Force), invited LPA members to the resiliency forum on March 21 from 9:00 a.m. to 11:00 a.m. in chambers.

James Ink spoke on behalf of Moss Marina. He discussed specific changes in the plan that would affect the three marinas. He noted that Fish Tale was the largest and would be a mixed use. The other two would stay in marina with proposed additions. He questioned whether the town needed marina in the future land use and whether the two marinas needed to be pedestrian commercial.

V. PUBLIC HEARINGS

A. Comprehensive Plan Discussion

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA ADOPTING AMENDMENTS TO THE TOWN OF FORT MYERS BEACH COMPREHENSIVE PLAN FUTURE LAND USE, HOUSING, COMMUNITY DESIGN, COASTAL MANAGEMENT, CONSERVATION, HISTORIC PRESERVATION, INTERGOVERNMENTAL COORDINATION, AND CAPITAL IMPROVEMENT ELEMENTS, TO UPDATE DATA AND ANALYSIS AND THE GOALS, OBJECTIVES, AND POLICIES RELATED TO THE REQUIREMENTS OF CHAPTER 163, FLORIDA STATUTES; PROVIDING FOR SEVERABILITY; SCRIVENER'S ERRORS; CONFLICTS OF LAW AND PROVIDING FOR AN EFFECTIVE DATE

Eddie Ng from the Corradino Group reviewed how they got to where they are now. Mr. Ng utilized PowerPoint for his presentation. Slides included Proposed Future Land Use Map. He noted that the mixed residential area should be medium residential. He recommended that one property adjacent to Santini Village be included as part of the node because it was already commercial use. The Pink Shell area could be left as is, or it could be a Boulevard type and be a transition from the public area back into the neighborhood. LPA Member Sudduth clarified that low-density areas were 30-day rentals, as represented by yellow on the map. The Matanzas Court neighborhood was changed to allow short-term rentals, but LPA members did not support the change. Discussion was held regarding the theater district expanding into one lot of the residential neighborhood at the end of Egret.

The presentation continued with the Future Land Use Categories and Mr. Ng addressed changes to the Boulevard district. Community Development Planner Sarah Propst pointed out that there was an option for a commercial planned development, but details would be worked out in the Land Development Code (LDC). LPA Member Vanasse identified an error in the language and Mr. Ng responded that he would strike the sentence. LPA Member Vanasse suggested that the Land Use Table be updated to increase the number of uses in the Boulevard category. Discussion was held regarding the option of ten dwelling units per acre, workforce housing and the platted overlay district. Planner Propst questioned whether it would be possible to make it more precise since there was so much confusion regarding how it worked.

LPA Member Plummer referred to Policy 1-A-4 regarding not vacating public areas. Planner Propst stated that they did not want to eliminate a number of easements by vacating and not replacing them. LPA Member Plummer noted the language was unclear, and Mr. Ng said he would fix it. Mr. Ng will also correct the FAR for mixed-use.

The next topic of discussion was the medium residential designation and how the change might conflict with SB250. Mixed-use districts were identified including Times Square and ~~Coconut Village~~ the Civic Center. The Center Island designation on lots from Sabal to Bayview was discussed. Planner Propst added that the three lots between Sabal and Bayview were RC-zoned and would not change because of rights. LPA Member Vanasse recommended that the Woman's Club stay as a civic use and be included in the Activity Center. Mr. Ng replied that he was asked to remove it, but if the LPA wanted it back as a node, he would recommend it, and the town council could make the final determination. A discussion was held regarding adding The Dolphin property to the Activity Center.

Mr. Ng will modify language in Pedestrian Commercial and Marina will stay with 1.5 FAR. LPA Member Vanasse did not think that density versus intensity was clear. Planner Propst believed applying intensity with a density limitation made sense and that it should be in the LDC. After discussion, members decided to keep the last sentence in the Recreation and Open

Space designation intact and remove "and compliant" from the school category because the school was designated historic. LPA Member Vanasse suggested that the existing school be exempt, and Mr. Ng will change it. LPA Member Eckmann had to leave the meeting.

Mario Duron took over for Mr. Ng, who had to leave.

LPA Member Vanasse suggested that Boulevard be added to Commercial Intensity. In the Building Heights section, LPA Member Boan proposed changing The Town may ~~encourage~~ consider (evaluate?) taller building heights... Under Auxiliary Dwelling Units, The Town shall ~~explore~~, evaluate and provide...

Remove some of the requirements in the Post-Disaster Buildback Policy and add them to the LDC. Add on or off Island under Workforce Housing Density.

The Historic Preservation section will be consolidated without disincentivizing historic preservation. Discussion was held regarding replacing shall where appropriate in the document. The Recreation and Open Space Element section will be reworked and Objective ROS-1-E: Monitoring will be condensed. LPA Member Vanasse had to leave the meeting.

Chair Cereceda suggested that the town council discuss Policy B-3 in the Transportation Element.

LPA Member Boan had to leave the meeting.

Remove mobile homes from the potable water service and sanitary sewer service sections in the Utilities Element. Planner Propst agreed with suggestions to add conservation and renewable energy concepts.

LPA Member Plummer moved that the comprehensive plan reviewed today be forwarded to the town council after corrections and comments are reviewed; seconded by LPA Member Sudduth.

The motion carried unanimously.

VI. ADJOURNMENT

The recording ended before a motion to adjourn.

**Town of Fort Myers Beach
Agenda Item Summary**

Yellow Sheet Number: **2024-1528**

1. Request:

Meeting Date: April 9, 2024

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA APPROVING / APPROVING WITH CONDITIONS / DENYING SPECIAL EXCEPTION SEZ20240024 TO ALLOW RECONSTRUCTION OF A WOODEN LANDSCAPE WALL IN THE ENVIRONMENTALLY CRITICAL (EC) ZONING DISTRICT, WITH CONDITIONS, FOR THE PROPERTY LOCATED AT 6614 ESTERO BOULEVARD; PROVIDING FOR SCRIVENER'S ERRORS, SEVERABILITY, AND AN EFFECTIVE DATE.

Why the action is necessary:

The LPA hears special exception requests and makes recommendations to the Town Council.

What the action accomplishes:

The Town Council will consider the recommendation of the LPA.

2. Agenda:

PUBLIC HEARINGS

3. Requirement/Purpose:

Resolution

5. Background:

The applicant is proposing the replacement of a 245-foot wooden landscaping wall fully within the Environmentally Critical (EC) zoning district. This feature is part of the common element for the Island Winds Condominium and was in existence in the proposed locations, prior to Hurricane Ian.

Attachments:

1. Resolution 24-XX ns edits
2. LPA Staff Report

Financial Impact:

unknown

6. Alternative Action

Deny

7. Staff Recommendations:

Approval

8. Recommended Approval:

Date: April 04, 2024

Frankie Kropacek, Operations & Compliance Director

Date: April 05, 2024

nancy stuparich, Town Attorney

Date: April 05, 2024

Amy Baker, Town Clerk

RESOLUTION NUMBER 24-XX

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA APPROVING / APPROVING WITH CONDITIONS / DENYING SPECIAL EXCEPTION SEZ20240024 TO ALLOW RECONSTRUCTION OF A WOODEN LANDSCAPE WALL IN THE ENVIRONMENTALLY CRITICAL (EC) ZONING DISTRICT, WITH CONDITIONS, FOR THE PROPERTY LOCATED AT 6614 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, Island Winds Condominium Association is requesting a special exception for the reconstruction of major accessory structures that were destroyed during hurricane Ian, including a pool deck, walkways, and a fence on its property, which is located in the Environmentally Critical zoning district; and

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

WHEREAS, the property is located in the "Recreation" category of the Future Land Use Map of the Comprehensive Plan 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 April 9, 2024, 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. The LPA found that the request is consistent/not consistent with the comprehensive plan and the requirements of the LDC and voted ____ to ____ to recommend approval/ approval with conditions/ denial of the special exception; and

WHEREAS, on April 15, 2024 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 Section 34-88 of the LDC; and

WHEREAS, the Town Council determined it is/is not in the best interest of the Town to approve/approve with conditions/deny 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 Applicant **did/did not** meet its burden of proof that the requested Special Exception **does/does not** meet the requirements of the Town Comprehensive Plan and LDC, and approving the Special Exception **is/is not** in the best interest of the Town to approve. Based upon the recommendations, testimony, and evidence presented by the Applicant, Town staff, and interested parties and public, the Town Council **approves/approves with conditions/denies** the Special Exception for the reconstruction of a pool deck, walkways and a fence in the Environmentally Critical zoning district.

Section 3. In approving 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/approves with conditions/denies the requested Special Exception and the following conditions of approval are imposed on the Applicant and the Property:

- A. Additional repairs to major structures in the EC zoning district will require a new special exception.

- B. Approval of this Special Exception does not give the Applicant an undeniable right to permit approval. Development or redevelopment 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.
- C. The applicant must apply for and receive all state and local permits required for the reconstruction of all proposed structures.
- D. Any violation of the conditions of approval shall render the special exception null and void.

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

Dan Allers, Mayor	_____
Jim Atterholt, Vice Mayor	_____
John R. King	_____
Scott Safford	_____
Karen Woodson	_____

ADOPTED this ____ day of _____, 2024 by the Town Council of the Town of Fort Myers Beach, Florida.

FORT MYERS BEACH TOWN COUNCIL

Dan Allers, 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 ONLY:**

Vose Law Firm, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this ____ day of _____, 2024.



Town of Fort Myers Beach
COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT

TYPE OF CASE: Special Exception

CASE NUMBER: SEZ20240024

CASE NAME: Special Exception for the replacement/repair of a wood retaining wall fully or partially in the EC zoning.

LPA

HEARING DATE: April 9, 2024 at 9:00 AM

STAFF

RECOMMENDATION: Deny Special Exception request

**PREPARED/
SUBMITTED BY:** Jason Smalley, Senior Planner

I. APPLICATION SUMMARY

Applicant/Owner: Island Winds Condominium Association

Requests: To return the wood retaining wall to pre-Ian condition

Physical Address: 6614 Estero Blvd

STRAP #: 34-46-24-W4-02100.00CE

FLU: Recreation

Zoning: Environmentally Critical

Adjacent zoning and land uses:

North:	Environmentally Critical Common Element of Seawatch on the Beach Resort
South:	Environmentally Critical (EC) Common Element of Gullwing Beach Resort
East:	Residential Multifamily (RM) Common Element of Island Winds Condominium
West:	Environmentally Critical (EC) Beach

II. BACKGROUND AND ANALYSIS

Background:

The applicant is proposing the replacement of a wood retaining wall partially or fully within the Environmentally Critical (EC) zoning district. The retaining wall is part of the common element for the Island Winds Condominium and was in existence in the proposed location, prior to Hurricane Ian.

This structure is considered major accessory structure and can be replaced in the EC zoning district with approval of a special exception, per Section 34-652 (e) of the land development code. The EC zoning district starts at the 1978 Coastal Construction Control Line (CCCL) and extends seaward to the water. The attached siteplan shows the CCCL as the solid blue line running through the back portion of the condominium property and running generally parallel to the retaining wall, with a maximum separation between the wall and CCCL of approximately 12-feet towards the south-southwest corner of the property.

Analysis:

Per the applicant's submittal, the building and common areas were developed in 1972 and 1974, while the application doesn't address when the wooden retaining wall was constructed staff can confirm through Lee Property Appraiser's aerials that the wall existed in 1998, the first year available with high-resolution photography.

The condominium has met the application criteria of providing notice to the condominium ownership of this special exception application and staff has received signed letters of acknowledgement from more than the code required 75% of owners.

The LDC was recently updated to allow major primary and accessory structures to be repaired in the EC zoning district with the approval of a special exception. Prior to the code change, only single-family residences could be repaired in the EC zoning district.

Neighborhood Compatibility:

A review of the aerials up and down the beach indicate that there are a number of primary and accessory structure that extend over the 1978 CCCL. The aerials are not precise but staff has fielded questions from condos and homeowners about the process of obtaining Special Exceptions for existing structures, indicating that there is a non-insignificant number of lots which may be affected. These residents may request to repair the primary and accessory structure in the same location or may choose to move the structures landward of the CCCL.

Findings and Conclusions:

Section 6-366(b)(3) Regulations and Considerations

LDC Section 6-366 includes additional regulations and considerations for special exception approval of repairs in the EC zoning district:

- a. Any repairs must comply with all relevant local and state floodplain regulations.*

The applicant has been coordinating with staff, and their own contractors to ensure compliance with all floodplain regulations related to rebuild of the retaining wall, and the eventual placement of a fence on the landward side of the 1978 CCCL.

- b. Repairs may not damage existing dunes or dune vegetation.*

The repairs are proposed in conjunctions with Environmental review to ensure that no dunes or native vegetation will be impacted.

- c. Repairs, other than those limited to emergency repairs to enclose a damaged structure may not be completed during sea turtle nesting season.*

Sea turtle nesting season will begin May 1st, and will end on October 31st. Staff will ensure that the applicant is aware that even if provided approval to replace the retaining wall that it must be done outside of turtle nesting season.

The condo has stated they are aware of this limitation in their application.

- d. A new special exception must be applied for each time the structure is repaired.*

This will be a condition of the special exception approval.

Special Exception Findings

LDC Sec. 34-88(b) sets forth the required findings and conclusions for the approval of a special exception:

- 1) *Whether there exist changed or changing conditions which make approval of the request appropriate.*

The retaining wall in the EC was severely damaged during Ian. While construction seaward of the CCCL should be limited, this request is to rebuild an existing structure that will only minimally contribute to future flooding, and which existed with few problems before the storm.

- 2) *Whether the request is consistent with the goals, objectives, policies, and intent of the Fort Myers Beach Comprehensive Plan.*

Policy 5-D-1 states: Development (other than minor structures) shall not be allowed seaward of the 1978 Coastal Construction Control Line. Development seaward of the 1991 Coastal Construction Control Line may be permitted provided it complies with this comprehensive plan and all state and local permitting requirements.

This proposed redevelopment does not create any new development or change the location from what previously existed on the site. Therefore staff believes that this proposed request does not fall within the definition of development in the Town's code of ordinance:

- The LDC defines *Development* as (1) A subdivision, as defined in this chapter; or (2) Any improvement to land, as defined in this chapter.
- The LDC defines *Improvement* to land as any change to land or to any structure on the land, and shall include any movement or grading of land, except grading which is incidental to the removal of exotic vegetation and which is not prohibited by ch. 22 of this LDC; clearing of indigenous plant communities; and the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure; provided, however, that any change to a building which does not involve a change in the building floor area shall not be deemed an improvement to land.

- 3) *Whether the request meets or exceeds all performance and locational standards for the proposed use.*

The request will comply with local, state, and federal air, noise and water pollution standards. It will not adversely affect water quality and it will not create a nuisance to adjacent properties.

- 4) *Whether the request will protect, conserve, or preserve environmentally critical areas and natural resources.*

The request will maintain what was previously constructed on this property. It will not have an additional negative impact.

- 5) *Whether the request will be compatible with existing or planned uses and not cause damage, hazard, nuisance, or other detriment to persons or property.*

There is no anticipated negative impact or injury to surrounding properties.

- 6) *Whether a 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.*

The EC zoning district allows only passive, movable structures, no new major structures of any kind are allowed, other than dune walkovers through a special exception. Prior to the recent code change, only repairs to primary structures were permitted through a special exception. The recent code amendment allows replacement of major accessory structures also.

III. RECOMMENDATION

Staff finds that the special exception for reconstruction of existing structures in the EC zoning district is in compliance with item Sec. 34-88(b)(1). Therefore, staff recommends **APPROVAL WITH CONDITIONS** of SEZ20240024 for the reconstruction of a retaining wall.

IV. CONDITIONS OF APPROVAL

- 1) Should the retaining wall be demolished, the approved Special Exception will become null and void and the new structure will be expected to be build to meet the codes at the time of review, landward of the CCCL
- 2) All other LDC requirements shall be met.

Staff Report Exhibits:

- A – Resolution 24-XXX
- B – Site Layout Plan
- C – SEZ Application Packet
- D - Survey

**Town of Fort Myers Beach
Agenda Item Summary**

Yellow Sheet Number: **2024-1542**

1. Request:

Meeting Date: April 9, 2024

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING VARIANCE VAR20240050, REQUESTING TWO VARIANCES FROM LDC TABLE 34-3 A VARIANCE OF 16-FEET FROM THE REQUIRED 25-FOOT STREET SETBACK, AND A VARIANCE OF 5-FEET FROM THE REQUIRED 20-FOOT REAR SETBACK LOCATED AT 590 CARLOS CIR; PROVIDING FOR CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

Why the action is necessary:

The LPA hears variances and makes recommendations to the Town Council.

What the action accomplishes:

Approval of the variance will allow reduced front and rear setbacks.

2. Agenda:

PUBLIC HEARINGS

3. Requirement/Purpose:

Resolution

5. Background:

Fred Drovdic, the applicant for 590 Carlos Cir, is requesting a variance from the Town's Land Development Code (LDC) Table 34-3 which requires a single-family home in the RC zoning district to provide a minimum street setback of 25 feet from the front property line, and 20 feet from the rear property line. The applicant is requesting a variance of 16 feet from the street setback for a front setback of 9 feet, and another variance of 5 feet from the rear setback for a rear setback of 15 feet to build a new single-family structure.

Attachments:

1. Res 24-XX- 590 Carlos Cir
2. 590 Carlos Cir- LPA staff report Final 3-29-2024
3. Exhibit A site plan
4. Exhibit B_LPA AND TC postcard 590 Carlos Cir
5. Exhibit C_ Application

Financial Impact:

N/A

6. Alternative Action

Deny

7. Staff Recommendations:

Approval with Conditions

8. Recommended Approval:

Date: March 29, 2024

Frankie Kropacek, Operations & Compliance Director

Date: April 05, 2024

nancy stuparich, Town Attorney

Date: April 05, 2024

Amy Baker, Town Clerk

RESOLUTION NUMBER 24-XX

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING VARIANCE VAR20240050, REQUESTING TWO VARIANCES FROM LDC TABLE 34-3 A VARIANCE OF 16-FEET FROM THE REQUIRED 25-FOOT STREET SETBACK, AND A VARIANCE OF 5-FEET FROM THE REQUIRED 20-FOOT REAR SETBACK LOCATED AT 590 CARLOS CIR; PROVIDING FOR CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY 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, Ellestad Florida Properties LL Lake Cottage LLC, owner of the property situated at 590 Carlos Circle is requesting a variance from LDC Table 34-3, which requires a single-family home in RC zoning district to provide a minimum 25-foot street setback and a 20-foot rear setback; and

WHEREAS, the STRAP number for the subject property is 24-46-23-W1-0070E.002A; and

WHEREAS, the Property is located in the "Mixed Residential" category of the Future Land Use Map of the Comprehensive Plan and the "Residential, Conservation" 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 April 9, 2024, 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 34-87 of the LDC. The LPA found that the request is/ is not consistent with the comprehensive plan and the requirements of the LDC and voted to recommend approval/ approval with conditions/ denial of the variance; and

WHEREAS, on May 6, 2024, 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 34-87 of the LDC; and

WHEREAS, the Town Council determined it is in the best interest of the Town to approve/ approve with conditions/ deny 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 Applicant did/ did not meet its burden of proof that the requested Variance does/ does not meet the requirements of the Town Comprehensive Plan and LDC and approving/ approving with conditions/ denying the Variance is in the best interest of the Town. Therefore, based upon the recommendations, testimony, and evidence presented by the Applicant, Town staff, interested parties and public, the Town Council APPROVES/ APPROVES WITH CONDITIONS/ DENIES a request for variance from LDC 34-638(d)(1)g. which requires new at-grade mechanical equipment to not encroach into a side yard setback and to be located on the side of the property with the larger setback, where there are differing side setback widths.

Section 3. In approving/ approving with conditions/ denying the Variance, the Town Council makes the following findings and conclusions in accordance with the requirements of Section 34-87 of the LDC:

- A. There are/ are not exceptional or extraordinary conditions or circumstances that are inherent to the property in question, and the request is/ is not for a de minimis variance under circumstances or conditions where rigid compliance is not essential to protect public policy.
- B. The conditions justifying approval of the variance are/ are not the result of actions of the Applicant taken after the adoption of the regulation in question.
- C. The variance is/ is not the minimum variance that will relieve the Applicant of an unreasonable burden caused by the application of the regulation to the Property.
- D. The granting of the variance will/ will not be injurious to the neighborhood or otherwise detrimental to the public welfare.
- E. The conditions or circumstances on the Property are/ are not of so general or recurrent a nature as to make it more reasonable and practical to amend the regulation in question.

Section 4. If the Town Council approves the requested variance, the following conditions of approval are imposed on the Applicant and the Property:

- A. Approval of this variance does not give the Applicant an undeniable right to permit approval. Development or redevelopment 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. The first floor shall not be enclosed. It should be made available as a private car park for the residents and their guests. All parked vehicles must be contained on the site and not encroach on the Town's Right of Way.
- C. The provided site plan indicates a driveway width of 10 feet. The driveway will be required to meet the Town of Fort Myers Beach Residential driveway requirements.

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

Dan Allers, Mayor	_____
Jim Atterholt, Vice Mayor	_____
John R. King	_____
Karen Woodson	_____
Scott Safford	_____

ADOPTED this ____ day of May 2024 by the Town Council of the Town of Fort Myers Beach, Florida.

FORT MYERS BEACH TOWN COUNCIL

Dan Allers, 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 ONLY:**

Vose Law Firm, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this ____ day of May 2024.



Town of Fort Myers Beach
COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT

TYPE OF CASE: Variance

CASE NUMBER: VAR20240050

CASE NAME: 590 Carlos Cir; requesting a variance from LDC Section 34-638 Table 34-3 Dimensional Regulations in Conventional Zoning Districts for the street and rear setbacks in the RC zoning district.

LPA

HEARING DATE: April 9, 2024, at 9 AM

STAFF

RECOMMENDATION: Approval w/conditions

**PREPARED/
SUBMITTED BY:** Jason Smalley- Senior Planner

I. APPLICATION SUMMARY

Applicant/Owner: Fred Drovdlc/Ellestad Florida Properties LL Lake Cottage LLC

Request: The applicant is requesting a variance of 16 feet from the street setback for a front setback of 9 feet, and a variance of 5 feet from the rear setback for a rear setback of 15 feet to build a new single-family structure.

Subject property: See attached site plan

Physical Address: 590 Carlos Cir

STRAP #: 24-46-23-W1-0070E.002A

FLU: Mixed Residential

Zoning: Residential Conservation (RC)

Adjacent zoning and land uses:

North:	RESIDENTIAL CONSERVATION (RC) Single-Family Residence/Two-Family
South:	RESIDENTIAL MULTI-FAMILY (RM) Single-Family Residence/ Two-Family
East:	RESIDENTIAL CONSERVATION (RC) Single-Family Residence/Two-Family
West:	RESIDENTIAL CONSERVATION (RC) Single-Family Residence/Two-Family

II. BACKGROUND AND ANALYSIS

Background:

Fred Drovdic, the applicant for 590 Carlos Cir, is requesting a variance from the Town's Land Development Code (LDC) Table 34-3 which requires a single-family home in the RC zoning district to provide a minimum street setback of 25 feet from the front property line, and 20 feet from the rear property line. The applicant is requesting a variance of 16 feet from the street setback for a front setback of 9 feet, and another variance of 5 feet from the rear setback for a rear setback of 15 feet to build a new single-family structure.

Analysis:

The property is zoned RC which recognizes certain older neighborhoods with a mix of housing types and lot sizes. The subject property is an interior lot that is irregularly shaped that fronts on Carlos Cir. The lot varies in width from approximately 51 feet to 52 feet. The lot depth varies from approximately 44 feet to 64 feet. The property previously had a single-family home, which was destroyed by Hurricane Ian.

The Applicant is requesting two variances for the construction of a single-family structure. The requests include a variance of 16 feet from the street setback for a front setback of 9 feet, another variance of 5 feet from the rear setback for a rear setback of 15 feet.

Neighborhood Compatibility:

This scenario is unique in nature due to the size and shape of the lot. There are not similar properties on Carlos Circle. The neighborhood primarily supported single-family residences prior to Hurricane Ian.

The reduced front yard may result in guest parking extending to the public ROW. Staff has provided a proposed condition for keeping the first floor open for all personal and guest parking to discourage parking within the Town's right of way if the variance

request is granted. Staff additionally notes that the driveway will need to be approved through the Town's review process.

Findings and Conclusions:

LDC Sec. 34-87 sets forth the required findings and conclusions for the approval of a variance:

- a. *That there **are**/are not exceptional or extraordinary conditions or circumstances that are inherent to the property in question, or that the request **is**/is not for a de minimis variance under circumstances or conditions where rigid compliance is not essential to protect public policy.*

The lot is nonconforming for size and is oddly shaped, it is 51 feet to 52 feet wide, with lot depth that varying from approximately 44 feet to 64 feet. The irregular shaped lot would require a variance for the construction of any home.

- b. *That the conditions justifying the variance are/**are not** the result of actions of the applicant taken after the adoption of the regulation in question.*

The conditions justifying the variance are not the result of the actions of the Applicant. The lot was originally part of a larger parcel that was subdivided in the 1970's creating this irregularly shaped lot.

- c. *That the variance granted **is**/is not the minimum variance that will relieve that applicant of an unreasonable burden caused by the application of the regulation in question to this property.*

Under current zoning codes the actual design of the home would be substantially smaller in design due the dimensions of the lot.

- d. *That the granting of the variance will/**will not** be injurious to the neighborhood or otherwise detrimental to the public welfare; and*

The reduced front yard could result in guest parking extending to the public ROW. Therefore, if approved, Town's staff recommends a condition to keep the first floor open for all personal and guest parking. It does not appear that the request will be injurious to neighbors, as long as parking concerns are addressed.

- e. *That the conditions or circumstances on the specific piece of property for which the variance is sought are/**are not** of so general or recurrent a nature as to make it more reasonable and practical to amend the regulation in question.*

The conditions or circumstances on this specific property for which a variance is sought are not general in nature and do not warrant a code change.

III. RECOMMENDATION

Staff has reviewed the request for a variance *from LDC Table 34-3 which requires that a lot in the RC zoning district have minimum 25-foot street setback, and 20-foot rear setback* and found that the variance request does meet the requirements set forth in sec. 34-87.

Therefore, staff recommends **approval with conditions** of VAR20240050, a request for variances of 16 feet from the street setback, 5 feet from the rear setback for a front setback of 9 feet and a rear setback of 15 feet.

IV. CONDITIONS FOR APPROVAL

If the Town's LPA recommends approval for the variance, town's staff recommends the following conditions of approval.

- 1) The first floor shall not be enclosed. It should be made available as a private car park for the residents and their guests. All parked vehicles must be contained on the site and not encroach on the Town's Right of Way.
- 2) Approval of these variances does not give the Applicant an undeniable right to permit approval. Development or redevelopment 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.
- 3) The provided site plan indicates a driveway width of 10 feet. The driveway will be required to meet the Town of Fort Myers Beach Residential driveway requirements.

V. EXHIBITS

- A. Proposed site plan
- B. Postcards
- C. Complete application





Town of Fort Myers Beach
Community Development Services - Planning Division
2525 Estero Blvd,
Fort Myers Beach, FL 33931

NOTICE TO PROPERTY OWNERS WITHIN 500 FEET

Notice is hereby given that the Local Planning Agency/ Town Council of the Town of Fort Myers Beach will be conducting a public hearing at the Town Hall Council Chambers located at 2731 Oak St, Fort Myers Beach, Florida, 33931.

TIME: 9 AM

DATE: LPA April 9, 2024, and Town Council May 6, 2024

CASE: VAR20240050

ADDRESS: 590 Carlos Cir

APPLICANT: Fred Drovdlc

REQUEST: The applicant is requesting a variance of 16 feet from the street setback for a front setback of 9 feet, and another variance of 5 feet from the rear setback for a rear setback of 15 feet to build a new single-family structure.

TOWN CONTACT: SARAH PROPST SARAH.PROPST@FMBGOV.COM

You may appear in person, through counsel, or through an authorized agent and provide testimony, legal argument, or other evidence. At this hearing, the **Local Planning Agency/ Town Council** will review the application materials and hear testimony to make a **recommendation/decision**. Complete records or transcripts of the proceedings are not provided by the Town.

Copies of the application and staff report are available for viewing at Fort Myers Beach Town Hall. Call 239-765-0202 for more information. Town Hall is open between the hours of 8:30 AM and 4:30 PM. Reasonable accommodations will be made in accordance with the Americans with Disabilities Act. If you need reasonable accommodation, contact Town Hall at 239-765-0202.



Town of Fort Myers Beach
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Town of Fort Myers Beach
2525 Estero Blvd,
Fort Myers Beach, FL 33931

Town of Fort Myers Beach
2525 Estero Blvd,
Fort Myers Beach, FL 33931

«OwnerName»
«MailAddress»
«MailCity», «MailState», «MailZip»«Next Record»

«OwnerName»
«MailAddress»
«MailCity», «MailState», «MailZip»«Next Record»

Town of Fort Myers Beach
2525 Estero Blvd,
Fort Myers Beach, FL 33931

Town of Fort Myers Beach
2525 Estero Blvd,
Fort Myers Beach, FL 33931

«OwnerName»
«MailAddress»
«MailCity», «MailState», «MailZip»«Next Record»

«OwnerName»
«MailAddress»
«MailCity», «MailState», «MailZip»

PROJECT NUMBER:

DATE:



Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT

APPLICATION for PUBLIC HEARING

This is a two part application. Please be sure to fill out this form, which requires general information, as well as the Supplemental Form application specific to action requested for the subject property. Please submit *one ORIGINAL paper copy, fourteen (14) copies* of all required applications, supplemental information, exhibits and documents. Please do not print and copy the instructions at the end of the application. In addition to application fees, the applicant is required to pay for (2) sets of mailings to neighboring property owners within 500', and all advertising fees.

Site Address: 590 Carlos Circle, Fort Myers Beach, FL 33931

STRAP Number: 24-46-23-W1-0070E.002A

Applicant: Lake Cottage LLC

Phone: 320 267 6373

Contact Name: Matt Wieber

Phone: _____

Email: mwieber@agencynorthre.com

Fax: _____

Current Zoning District: Residential Conservation (RC)

Future Land Use Map (FLUM) Category: Mixed Residential (MR)

FLUM Density Range: 6 du/acre

Platted Overlay: ☐ YES ☒ NO

ACTION REQUESTED

☐ Special Exception

☒ Variance

☐ Conventional Rezoning

☐ Planned Development ☐ Commercial ☐ Residential

☐ Master Concept Plan Extension

☐ Appeal of Administrative Action

☐ Vacation of Platted Right-of-way and Easement

☐ Other – cite LDC Section: _____

SUPPLEMENTAL FORM REQUIRED

PH-A

PH-B

PH-C

PH-D

PH-E

PH-F

PH-G

attach on separate sheet

PROJECT NUMBER:

DATE:

PART I – General Information

A. Applicant*: Lake Cottage LLC Phone: 320 267 6373

**Applicant must submit a statement under oath that he/she is the authorized representative of the property owner. Please see PART III to complete the appropriate Affidavit form for the type of applicant.*

Applicant Mailing Address: 2395 Troop Drive #102, Sartell, MN 56377

Email: mwieber@agencynorthre.com Fax: _____

Contact Name: Matt Wieber Phone: 320 267 6373

B. Relationship of Applicant to subject property:

- | | | |
|---|---|--|
| ☐ Owner* | ☐ Land Trust* | ☒ Partnership* |
| ☐ Corporation* | ☐ Association* | ☐ Condominium* |
| ☐ Subdivision* | ☐ Timeshare Condo* | ☐ Contract Purchaser* |
| ☐ Authorized Representative* | ☐ Other* (please indicate) _____ | |

**Applicant must submit a statement under oath that he/she is the authorized representative of the property owner. Please see PART III to complete the appropriate Affidavit form for the type of applicant.*

C. Authorized Agent(s). Please list the name of Agent authorized to receive correspondence Agents

Name: Fred Drovdlc, AICP Phone: 239-318-6707

Address: RVI Planning, 1514 Broadway #201, Fort Myers, FL 34195

Email: fdrovdlc@rviplanning.com Fax: 239-4989-3370

D. Other Agent(s). Please list the names of all Authorized Agents (attach extra sheets if necessary)

Name: Conrad Ellestad Phone: 612-607-9714

Address: 35494 County Rd 3, Crosslake, MN 56442

Email: ellestadproperties@gmail.com Fax: _____

Name: _____ Phone: _____

Address: _____

Email: _____ Fax: _____

PROJECT NUMBER:

DATE:

Name: _____

Phone: _____

Address: _____

Email: _____

Fax: _____

PART II – Nature of Request

Requested Action (each request requires a separate application)

☐ Special Exception

☒ Variance from LDC Section Table 34-3 - Street and Rear setback for non-conforming lot (RC District)

☐ Conventional Rezoning from _____ to _____

☐ Planned Development

☐ Rezoning from _____ to ☐ Commercial PD ☐ Residential PD

☐ Amendment. List the project number: _____

☐ Extension/reinstatement of Master Concept Plan. List project number: _____

☐ Appeal of Administrative Action

☐ Vacation ☐ Right-of-Way ☐ Easement

☐ Other. Please Explain: _____

PART III – Waivers N/A

Please indicate any specific submittal items that have been waived by the Director for the request.
Attach a copy of the signed approval as Exhibit 3-1. (Use additional sheets if necessary)

Code Section: _____

Description: _____

Code Section: _____

Description: _____

Code Section: _____

PROJECT NUMBER:

DATE:

Description: Table 34-3— Dimensional Regulations in Conventional Zoning Districts - requires a 25-foot street and 20-foot rear setback.

PART IV – Property Ownership

☐ Single Owner (individual or husband and wife)

Name: _____

Phone: _____

Mailing Address: _____

Email _____

Fax: _____

☒ Multiple Owners (including corporation, partnership, trust, association, condominium, timeshare, or subdivision)

☒ Complete Disclosure of Interest Form (see below)

☐ Attach list of property owners as Exhibit 4-1

☐ Attach map showing property owners interests as Exhibit 4-2 (for multiple parcels)

☐ For condominiums and timeshares see Explanatory Notes Part IV (Page 11)

DISCLOSURE OF OWNERSHIP INTEREST

STRAP: 24-46-23-W1-0070E.002A

If the property is owned in fee simple by an INDIVIDUAL, tenancy by the entirety, tenancy in common, or joint tenancy, list all parties with an ownership interest as well as the percentage of such interest.

Name and Address

Percentage Ownership

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

If the property is owned by a CORPORATION, list the officers and stockholders and the percentage of stock owned by each.

PROJECT NUMBER:

DATE:

Name, Address and Office

Percentage of Stock

If the property is in the name of a TRUSTEE, list the beneficiaries of the trust with percentage of interest.

Name and Address

Percentage of Interest

If the property is in the name of a GENERAL PARTNERSHIP OR LIMITED PARTNERSHIP, list the names of the general and limited partners.

Name and Address

Percentage of Ownership

Lake Cottage LLC (Matt Wieber)

2395 Troop Drive #102, Sartell, MN 56377

Ellestad Florida Properties LLC (Conrad Ellestad)

35494 County Rd 3, Crosslake, MN 56442

50%

50%

PROJECT NUMBER:

DATE:

If there is a CONTRACT FOR PURCHASE, whether contingent on this application or not, and whether a Corporation, Trustee, or Partnership, list the names of the contract purchasers below, including the officers, stockholders, beneficiaries, or partners.

Name, Address and Office

Percentage of Stock

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

Date of Contract:

If any contingency clause or contract terms involve additional parties, list all individuals or officers, if a corporation, partnership, or trust.

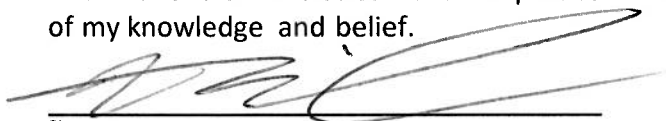
Name

Address

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

For any changes of ownership or changes in contracts for purchase subsequent to the date of the application, but prior to the date of final certificate of compliance, a supplemental disclosure of interest must be filed.

The above is a full disclosure of all parties of interest in this application, to the best of my knowledge and belief.


Signature

Matt Wieber

Printed Name

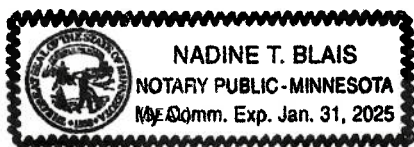
SIGN HERE

PROJECT NUMBER:

DATE:

STATE OF FLORIDA)
COUNTY OF LEE)

Subscribed and sworn to (or affirmed) before me this 29th day of January,
20 24, by Matt Wieber.



Nadine T. Blais
Notary Public Signature

Nadine T. Blais
Notary Printed Name

Personally Known _____ or Produced Identification X

Type of Identification Produced: Drivers License My Commission Expires: 1-31-2025

PART V - Property Information

A. Legal Description:

STRAP: 24-46-23-W1-0070E.002A

Property Address: 509 Carlos Circle, Fort Myers, FL 33931

Is the subject property within a platted subdivision recorded in the official Plat Books of Lee County? ☐ No. Attach a legible copy of the legal description as Exhibit 5-1.

☒ Yes. Property identified in subdivision: ISLAND SHORES UNIT 4 BLK E LOT 2

Book: 9 Page: 37 Unit: _____ Block: _____ Lot(s): _____

B. Boundary Survey:

☒ Attach a Boundary Survey of the property meeting the minimum standards of Chapter 61G17-6 of the Florida Administrative Code. A Boundary Survey must bear the raised seal and original signature of a Professional Surveyor and Mapper licensed to practice Surveying and Mapping by the State of Florida. Attach and label as Exhibit 5-2.

C. Property Dimensions:

Width (please provide an average width if irregular in shape) 52.0+/- feet

PROJECT NUMBER:

DATE:

Depth (please provide an average width if irregular in shape) 61.7+/- feet

Frontage on street: 51.4' Carlos feet. Frontage on waterbody: _____ feet

Total land area: 2,711+/- ☐ acres ☒ square feet

D. General Location of Subject Property (from Sky Bridge or Big Carlos Pass Bridge):

The Property is generally located 1/2 mile north/west of Times Square

1 block north of Estero Blvd on Carlos Circle

☒ Attach Area Location Map as Exhibit 5-3

E. Property Restrictions (check applicable):

☒ There are no deed restrictions and/or covenants on the subject property.

☐ A list of deed restrictions and/or covenants affecting the subject property is attached as Exhibit 5-4.

☐ A narrative statement detailing how the restrictions/covenants may or may not affect the request is attached as Exhibit 5-5.

F. Surrounding Property Owners (these items can be obtained from the Lee County Property Appraiser):

☒ Attach a list of surrounding property owners within 500 feet as Exhibit 5-6.

☒ Attach a map showing the surrounding property owners as Exhibit 5-7.

☒ Provide Staff with two (2) sets of surrounding property owner mailing labels.

G. Future Land Use Category (see Future Land Use Map):

☐ Low Density

☐ Marina

☒ Mixed Residential

☐ Recreation

☐ Boulevard

☐ Wetlands

☐ Pedestrian Commercial

☐ Platted Overlay

H. Zoning (see official Zoning Map):

☐ RS (Residential Single-family)

☐ CF (Community Facilities)

☒ RC (Residential Conservation)

☐ IN (Institutional)

PROJECT NUMBER:

DATE:

- | | |
|--|--|
| ☐ RM (Residential Multifamily) | ☐ BB (Bay Beach) |
| ☐ RPD (Residential Planned Development) | ☐ EC (Environmentally Critical) |
| ☐ CM (Commercial Marina) | ☐ DOWNTOWN |
| ☐ CO (Commercial Office) | ☐ SANTOS |
| ☐ CB (Commercial Boulevard) | ☐ VILLAGE |
| ☐ CR (Commercial Resort) | ☐ SANTINI |
| ☐ CPD (Commercial Planned Development) | |

PART VI SEE ATTACHED.

AFFIDAVIT

APPLICATION IS SIGNED BY AN INDIVIDUAL OWNER OR APPLICANT

I, Matt Wieber swear or affirm under oath, that I am the owner or the authorized representative of the owner(s) of the property and that:

I have full authority to secure the approval(s) requested and to impose covenants and restrictions on the referenced property as a result of any action approved by the Town of Fort Myers Beach in accordance with this application and the Land Development Code;

All answers to the questions in this application and any sketches, data or other supplementary matter attached hereto and made a part of this application are honest and true;

PROJECT NUMBER:

DATE:

I have authorized the staff of the Town of Fort Myers Beach Community Development to enter upon the property during normal working hours for the purpose of investigating and evaluating the request made thru this application; and that

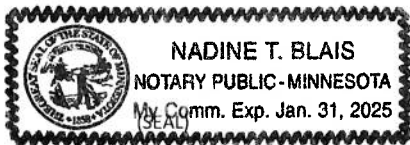
The property will not be transferred, conveyed, sold or subdivided unencumbered by the conditions and restrictions imposed by the approved action.

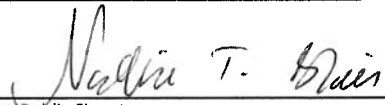

Signature of owner or authorized agent

1/29/24
Date

STATE OF FLORIDA)
COUNTY OF LEE)

Subscribed and sworn to (or affirmed) before me this 29th day of January,
20 24, by Matt Wieber.




Notary Public Signature

Nadine T. Blais
Notary Printed Name

Personally Known _____ or Produced Identification X

Type of Identification Produced: Drivers License My Commission Expires: 1-31-2025



Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT

Supplement PH-B

Additional Required Information for a Variance Application

This is the second part of a two-part application. This part requests specific information for a variance. Include this form with the Request for Public Hearing form.

Case Number: To be provided by Staff
Project Name: 590 Carlos Circle Variances
Authorized Applicant: Fred Drovdic, RVi Planning + Landscape Architecture
LeePA STRAP Number: 24-46-23-W1-0070E.002A

Current Property Status: Vacant Residential (former unit destroyed by Ian)
Current Zoning: Residential Singlefamily (RC)
Future Land Use Map (FLUM) Category: Mixed Residential (MR)
Comp Plan Density: 6 du/ac Platted Overlay? ☐ Yes ☒ No

Variance is requested from:

LDC Section Number

Title of Section or Subsection

1 block north of Estero Blvd on Carlos Circle

Complete the narrative statements below for EACH variance requested.

PART I Narrative Statements

Request for variance from Table 34-3 _____ (LDC Section number)

Explain the specific regulation contained in this section from which relief is sought:
1. LDC Table 34-3 - Street Setback for RC District
2. LDC Table 34-3 - Rear Setback for RC District
SEE LETTER OF INTENT FOR NARRATIVE DETAILS

Reasons for request

Explain why the variance is needed:
Please refer to the attached LETTER OF INTENT, which outlines the variance requests in detail.
Because of the odd shape and substandard size of the lot the required street and rear setbacks would not allow a livable home to be constructed.

Explain the possible effect the variance, if granted, would have on surrounding properties:
Please refer to the attached LETTER OF INTENT, which outlines the variance request in detail.
This variance would not have any impact on surrounding properties.
The requested street setback is equal to the setback of the destroyed unit.
The actual distance from the leading edge of the building to edge of pavement of Carlos Circle is more than 25 feet.
The requested rear setback improves the setback of the destroyed unit.
The rear setback of the former building was approximately 7.5 feet.
The new building is to have a 15-foot setback.

Explain the hardship (what is unique about the property) that justifies relief from the regulation:

Please refer to the attached LETTER OF INTENT, which outlines the variance request in detail.
In short, the lot is an odd shape that was platted prior to the modern codes.
It is smaller than the minimum lot area and depth of the RC District.
It is a legally non-conforming lot that wished to rebuild post-hurricane.
Because of the odd shape and substandard size the required street and rear setbacks would not allow a livable home to be constructed.

Explain how the property qualifies for a variance. Direct this explanation to the guidelines for decision-making in LDC Section 34-87.

Please refer to the attached LETTER OF INTENT, which outlines the variance request in detail.

PART 2 Submittal Requirements

All applications for a variance must submit fourteen (14) copies of this application form and all applicable exhibits.

Required Items

- Public Hearing Request Form
- Supplemental form PH-B
- Site Plan (to scale) including the current use of all existing structures on the site, and those on adjacent properties within 100 feet of the perimeter; and a clear illustration of the proposed variance

Guide to filing PH-B Additional Required Information for a Variance Application

Cover page

Case Number will be inserted by Community Development staff.

Project Name must be the same as the name used on the Request for Public Hearing form.

Applicant must be the same as on the Request for Public Hearing form.

STRAP numbers must be the same as on the Request for Public Hearing form.

Current status of property must be the same as on the Request for Public Hearing form.

“Variance is requested from...” Provide the section number and title of each section of the Fort Myers Beach Land Development Code from which a variance is being sought.

Narrative statements

If the application is for multiple variances, complete all of the narrative statements for each variance that is requested.

Site plan

The site plan must show all existing structures on the site; all existing structures within 100 feet of the perimeter boundary of the site; and a clear illustration of the proposed variance.

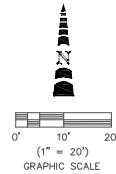
LDC Section 34-87

The guidelines for decision-making regarding a request for a variance are as follows:

1. Whether there are exceptional or extraordinary conditions or circumstances that are inherent to the property in question, or whether the request is for a *de minimis* variance under circumstances or conditions where rigid compliance is not necessary to protect public policy;
2. Whether the exceptional or extraordinary conditions justifying the variance are or are not the result of actions of the applicant taken after the adoption of the regulation in question;
3. Whether the requested variance is the minimum variance to relieve the applicant of an unreasonable burden caused by the application of the regulation in question;
4. Whether granting the variance would be injurious to the neighborhood or otherwise detrimental to the public welfare;
5. Whether the conditions or circumstances of the specific piece of property or the intended use of the property for which the variance is sought are of so general or recurrent a nature as to make it more reasonable and practical to amend the regulation in question.

SURVEY PLAT

OF A PORTION OF SECTION 24, TOWNSHIP 46 SOUTH, RANGE 23 EAST, LEE COUNTY, FLORIDA



NOTES:

SURVEY BASED ON THE PLAT OF ISLAND SHORES UNIT No. 4 ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 9 AT PAGE 37, DEEDS ON FILE IN THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA AND EXISTING MONUMENTATION.

BEARINGS BASED ON THE RIGHT OF WAY OF ESTERO BLVD AS BEING S.42°08'33"E.

THE ELEVATIONS SHOWN HEREON ARE NORTH AMERICAN VERTICAL DATUM OF 1988 (N.A.V.D. 88) IN FEET AND DECIMALS THEREOF AND BASED UPON CONTINUOUSLY OPERATING FLORIDA PERMANENT REFERENCE NETWORK (FPRN) STATIONS MAINTAINED BY THE FLORIDA DEPARTMENT OF TRANSPORTATION AND CHECKED TO LOCAL CONSTRUCTION BENCHMARKS.

PARCEL IS LOCATED WITHIN FLOOD ZONE VE, (HAVING A BASE FLOOD ELEVATION OF 13.0') PER FLOOD INSURANCE RATE MAP 120673 0554 G, HAVING AN EFFECTIVE DATE OF NOVEMBER 17, 2022.

THE F.E.M.A. FLOOD ZONE INFORMATION INDICATED HEREON IS BASED ON MAPS SUPPLIED BY THE FEDERAL GOVERNMENT. THIS FLOOD INFORMATION MUST BE VERIFIED WITH ALL PERMITTING REGULATORY ENTITIES PRIOR TO COMMENCING ANY WORK OR APPLICATION DEPENDANT ON SAID FLOOD INFORMATION.

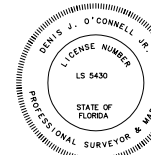
ABOVE GROUND OR UNDERGROUND IMPROVEMENTS, UTILITIES AND/OR FOUNDATIONS WERE NOT LOCATED UNLESS OTHERWISE NOTED.

THIS PLAT PREPARED AS A BOUNDARY AND TOPOGRAPHIC SURVEY AND IS NOT INTENDED TO DELINEATE THE JURISDICTION OR JURISDICTIONAL AREAS OF ANY FEDERAL, STATE, REGIONAL OR LOCAL AGENCY, BOARD, COMMISSION OR OTHER ENTITY.

SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS AND RIGHT-OF-WAY (RECORDED AND UNRECORDED, WRITTEN AND UNWRITTEN).

PARCEL CONTAINS 2,711 SQUARE FEET OR 0.062 ACRES, MORE OR LESS.

DATE OF LAST FIELD WORK: 3-14-23



Denis O'Connell
Digitally signed by Denis O'Connell
Date: 2023.03.17 09:09:23 -04'00'

DENIS J. O'CONNELL, JR.
PROFESSIONAL SURVEYOR AND MAPPER
FLORIDA CERTIFICATE NO. LSF# 5838

NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

THIS SURVEY IS ONLY FOR THE LANDS AS DESCRIBED. IT IS NOT A CERTIFICATE OF TITLE, ZONING, EASEMENTS OR FREEDOM OF ENCUMBRANCES.

THIS SURVEY WAS PREPARED WITHOUT BENEFIT OF A TITLE OPINION. ALL MATTERS OF TITLE SHOULD BE REFERRED TO AN ATTORNEY AT LAW.

TITLE: BOUNDARY AND TOPOGRAPHIC SURVEY

METRON
SURVEYING & MAPPING, LLC
LAND SURVEYORS-PLANNERS
L.B.M. 7071

10970 S. CLEVELAND AVENUE
SUITE #205
FORT MYERS, FLORIDA 33907
PHONE: (239) 275-8575
FAX: (239) 275-8457
www.metronfi.com

FILE NAME:	15394SR.DWG	FIELD BOOK/PAGE:	SEE FILE	PROJECT NO.:	15394	SHEET:	1 OF 1
SURVEY DATE:	3/15/23	DRAWN BY:	BUD	SCALE:	1"= 20'	CHECKED BY:	DJO
						FILE NO. (S-T-R)	24-46-23

LEGEND:

- = IRON ROD (ID AS SHOWN)
- = CONCRETE MONUMENT
- P.O.B. = POINT OF BEGINNING
- SIR = SET IRON ROD (LB #7071)
- FIR = FOUND IRON ROD (ID AS SHOWN)
- FCM = FOUND CONCRETE MONUMENT
- O.R. = OFFICIAL RECORDS BOOK
- P.S. = PLAT BOOK
- PG = PAGE
- EOP = EDGE OF PAVEMENT
- COND = CONCRETE
- ELEV = ELEVATION
- FND = FOUND
- TYP = TYPICAL
- NAVD 88 = NORTH AMERICAN VERTICAL DATUM 1988
- R/W = RIGHT-OF-WAY
- FEMA = FEDERAL EMERGENCY MANAGEMENT AGENCY
- (D) = PER DEED
- (M) = FIELD MEASURED
- ⊙ = WATER METER
- Ⓢ = TELEPHONE SERVICE BOX
- +3.7' = SPOT ELEVATION

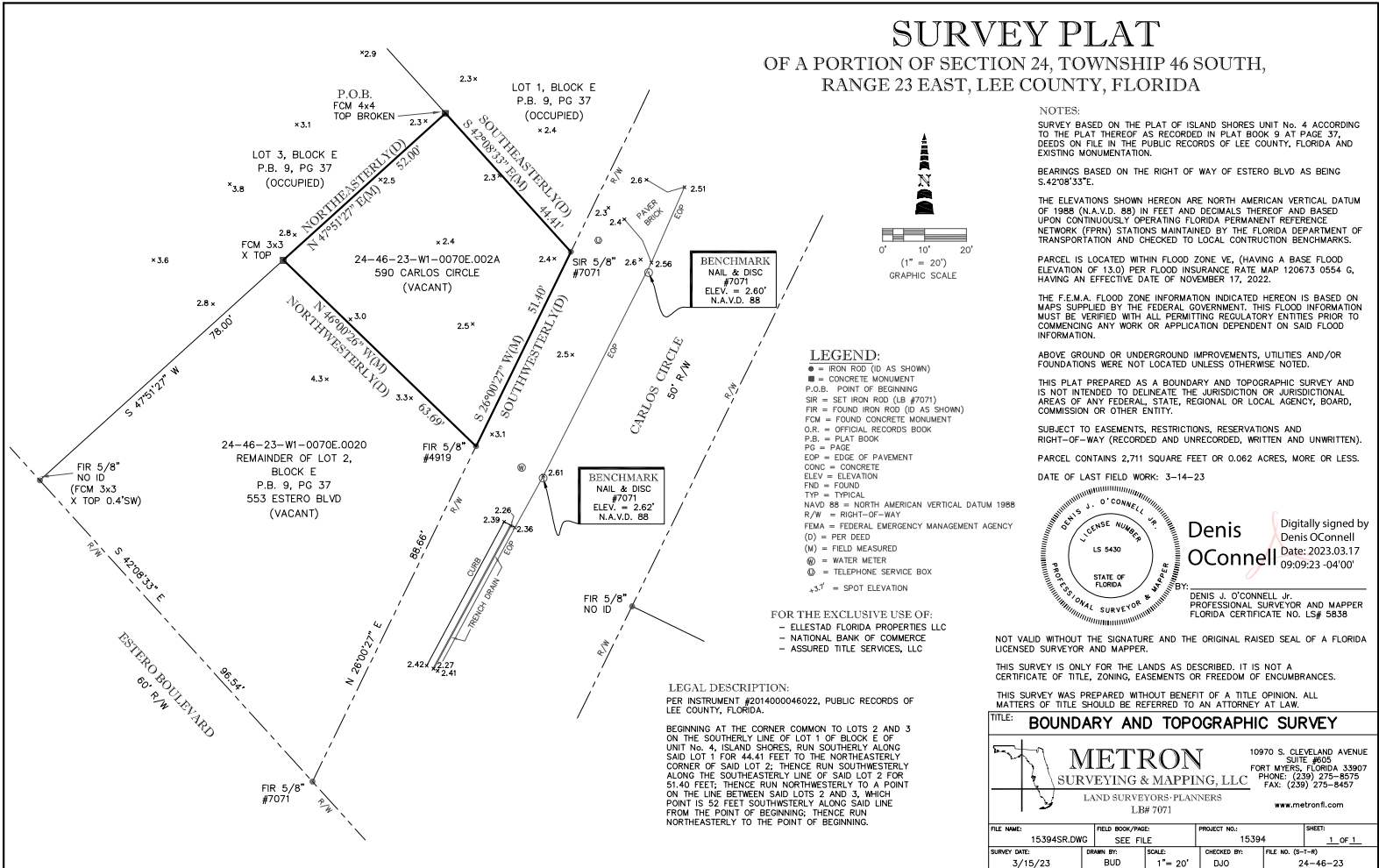
FOR THE EXCLUSIVE USE OF:

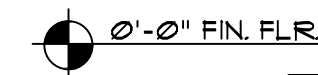
- ELLESTAD FLORIDA PROPERTIES LLC
- NATIONAL BANK OF COMMERCE
- ASSURED TITLE SERVICES, LLC

LEGAL DESCRIPTION:

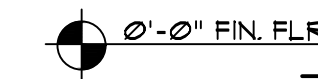
PER INSTRUMENT #2014000046022, PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

BEGINNING AT THE CORNER COMMON TO LOTS 2 AND 3 ON THE SOUTHERLY LINE OF LOT 1 OF BLOCK E OF UNIT No. 4, ISLAND SHORES, RUN SOUTHERLY ALONG SAID LOT 1 FOR 44.41 FEET TO THE NORTHEASTLY CORNER OF SAID LOT 2; THENCE RUN SOUTHWESTERLY ALONG THE SOUTHEASTLY LINE OF SAID LOT 2 FOR 51.40 FEET; THENCE RUN NORTHWESTERLY TO A POINT ON THE LINE BETWEEN SAID LOTS 2 AND 3, WHICH POINT IS 52 FEET SOUTHWESTERLY ALONG SAID LINE FROM THE POINT OF BEGINNING; THENCE RUN NORTHEASTERLY TO THE POINT OF BEGINNING.





FRONT ELEVATION



RIGHT-SIDE ELEVATION

CONRAD ELLESTAD
590 CARLOS CIR., FORT MYERS BEACH, FL 33931
EXTERIOR ELEVATIONS

SCALE:
1/4" = 1'-0"

DATE:
JANUARY 23, 2024

SHEET

A1

LLS
LLS ENGINEERING, LLC
5000 Florida 21420 Palms Beach Blvd. A1

CA NO.: 6853
CA NO.: 29005

**RESIDENTIAL & COMMERCIAL
ENGINEERING & DESIGN SERVICES**

1 32070 866 720 603 0744 www.F.U.S.E.com

APPROVED

ROBERT W. CASE
FLORIDA P.E. #44643
VALID ONLY WITH SEAL

NO:	REVISION:	DATE:
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IF ANY ERRORS OR OMISSIONS EXIST IN THESE DRAWINGS OR SPECIFICATIONS, THE CONTRACTOR AND/OR OWNER SHALL, WITHIN 10 DAYS, AFTER RECEIPT OF THESE DRAWINGS, AND PRIOR TO ANY COMMENCEMENT OF CONSTRUCTION, NOTIFY IN WRITING OF SAID ERROR OR OMISSION, OR BE FINALLY RESPONSIBLE FOR THE RESULTS AND COSTS OF RECTIFYING THE SAME. THE MAXIMUM LIABILITY OF LSI ENGINEERING, LLC SHALL NOT EXCEED THE FEE PAID TO LSI ENGINEERING, LLC FOR THESE PLANS. LSI ENGINEERING, LLC DOES NOT ASSUME ANY LIABILITY FOR THE CONSTRUCTION OF CONDOMINIUMS OR OTHER BUILDINGS DRAWN BY LSI ENGINEERING, LLC. SUB-CONTRACTORS SHALL STRICTLY ADHERE TO ALL FLORIDA BUILDING CODES AND ALL APPLICABLE BUILDING DEPARTMENTS.

**Town of Fort Myers Beach
Agenda Item Summary**

Yellow Sheet Number: **2024-16**

1. Request:

Meeting Date: April 9, 2024

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING CHAPTER 34, ARTICLE III., DIVISION 5, SECTIONS 34-675 BUILDING SIZE TO 1) CHANGE BUILDING HEIGHT FROM 2 STORIES TO 3 STORIES FOR PROPERTIES THAT FRONT ON TIMES SQUARE AND BAYFRONT PEDESTRIAN PLAZAS, THE NORTH SIDE OF FIRST STREET, THE SOUTH SIDE OF ESTERO BOULEVARD BETWEEN OLD SAN CARLOS BOULEVARD AND THE MAIN PEDESTRIAN CROSSING; AND 2) CHANGE BUILDING HEIGHT FROM 2 STORIES TO 3 STORIES FOR PROPERTIES THAT FRONT ON LAGOON STREET, CRESCENT STREET, FIRST, SECOND, THIRD AND FIFTH STREETS (EAST OF SKY BRIDGE ONLY); PROVIDING FOR SEVERABILITY; CODIFICATION; SCRIVENER'S ERRORS; CONFLICTS OF LAW AND AN EFFECTIVE DATE.

Why the action is necessary:

The LPA reviews and recommends changes to the LDC to the Town Council.

What the action accomplishes:

This change will allow buildings in certain parts of the Downtown zoning district to be a total of three stories tall and no more than 30 feet above base flood elevation.

2. Agenda:

PUBLIC HEARINGS

3. Requirement/Purpose:

Ordinance

5. Background:

The Downtown zoning ordinance language found in Section 34-675 currently limits the number of stories a building may have, to two stories, in several parts of the Downtown. The number of stories includes the ground floor, which is below the base flood elevation and limits the usable area of these buildings to a single story above flood. The allowable building height, in feet, is 30 feet above base flood elevation. This code mismatch needs to be resolved so that property owners are able to utilize the allowable building height and have the same development rights as other properties in the same zoning district.

Attachments:

1. Ordinance 24-08
2. LPA Memo
3. Exhibit A Amended Building Height

Financial Impact:

unknown

6. Alternative Action

Recommend changes and approval

7. Staff Recommendations:

Approval

8. Recommended Approval:

Date: April 04, 2024

Frankie Kropacek, Operations & Compliance Director

Date: April 05, 2024

nancy stuparich, Town Attorney

Date: April 05, 2024

Amy Baker, Town Clerk

ORDINANCE NO. 24-08

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING CHAPTER 34, ARTICLE III., DIVISION 5, SECTIONS 34-675 BUILDING SIZE TO 1) CHANGE BUILDING HEIGHT FROM 2 STORIES TO 3 STORIES FOR PROPERTIES THAT FRONT ON TIMES SQUARE AND BAYFRONT PEDESTRIAN PLAZAS, THE NORTH SIDE OF FIRST STREET, THE SOUTH SIDE OF ESTERO BOULEVARD BETWEEN OLD SAN CARLOS BOULEVARD AND THE MAIN PEDESTRIAN CROSSING; AND 2) CHANGE BUILDING HEIGHT FROM 2 STORIES TO 3 STORIES FOR PROPERTIES THAT FRONT ON LAGOON STREET, CRESCENT STREET, FIRST, SECOND, THIRD AND FIFTH STREETS (EAST OF SKY BRIDGE ONLY); PROVIDING FOR SEVERABILITY; CODIFICATION; SCRIVENER'S ERRORS; CONFLICTS OF LAW 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, the Town recognizes that redevelopment of the Town, following hurricane Ian requires evaluation and updates to the Land Development Code; and

WHEREAS, the Town Council desires updates to the Fort Myers Beach Land Development Code to clarify, improve and create consistency among sections; and

WHEREAS, a public hearing was held before the Local Planning Agency (LPA) on April 9, 2024, at time which the LPA gave full and complete consideration of the request, recommendations by staff, the documents in the record, and the testimony of all interested persons, and the LPA voted ___, to recommend approval of this Ordinance; and

WHEREAS, on _____, the Town Council held a first reading of the proposed Ordinance and gave full and complete consideration to the recommendation of the LPA, the recommendation of staff, the documents in the record, and the testimony of all interested persons to amend Ordinance 23-05 as provided herein and approved scheduling an adoption public hearing; and

WHEREAS, a Business Impact Estimate was prepared and posted on the City's website on the ___ day of _____, 2024, as required by Section 166.041(4), Florida Statutes; and

WHEREAS, an advertisement of the public hearing for adoption of the Ordinance was

published in the _____ on the ____ day of _____, 2024, which is 10 days prior to the second reading of the proposed Ordinance as required by Section 166.041; and

WHEREAS, on the ____ day of _____, 2024, the Town Council held a second reading of the Ordinance; at which time the Town Council gave full and complete consideration to the recommendations of staff and the LPA, and the testimony of all interested persons; and

WHEREAS, the Town finds that it is in the best interests of the health, safety, and welfare of the Town's business owners, residents, and visitors to adopt the proposed change.

NOW THEREFORE IT IS HEREBY ORDAINED BY THE TOWN OF FORT MYERS BEACH, FLORIDA:

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. Chapter 34, Article III., Division 5, Sections 34-675 Building Size is hereby amended to read as found in **attached Exhibit A** – Amended Sec. 34- Downtown Building Height:

Section 3. 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 4. Whenever the requirements or provisions of this ordinance conflict with the requirements or provisions of any other lawfully adopted ordinance or statute, the most restrictive shall apply.

Section 5. 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, or any part thereof, other than the part so declared.

Section 6. 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:

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

ADOPTED this ____ day of May 2023, by the Town Council of the Town of Fort Myers Beach, Florida.

TOWN OF FORT MYERS BEACH

Dan Allers, 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 ONLY:**

Vose Law Firm, Town Attorney

EXHIBITS

Exhibit A – Amended Downtown Building Height, Sec. 34-675



**Town of Fort Myers Beach
COMMUNITY DEVELOPMENT DEPARTMENT**

To: LPA
From: Sarah Propst, Community Development
Date: April 9, 2024
Re: Downtown Zoning District Number of Stories

EXISTING LANGUAGE ISSUE

The Downtown zoning ordinance language found in Section 34-675 currently limits the number of stories a building may have, to two stories, in several parts of the Downtown. The number of stories includes the ground floor, which is below the base flood elevation and limits the usable area of these buildings to a single story above flood. The allowable building height, in feet, is 30 feet above base flood elevation. This code mismatch needs to be resolved so that property owners are able to utilize the allowable building height and have the same development rights as other properties in the same zoning district.

RECOMMENDATION

This language makes development problematic for several parts of the Downtown zoning district. Staff asks that the LPA find this code language to be an appropriate solution to a glitch in the code and recommend approval to the Town Council.

EXHIBIT

Exhibit A – Proposed Language

Exhibit A – Amended Downtown Building Height

Subdivision II. – Downtown Zoning District

Sec. 34-675. - Building size.

(a) Building frontage. Building frontage limits (see § 34-663 of this chapter) vary according to the street types designated on Figure 34-7:

- (1) For pedestrian plazas and primary streets except for Crescent Street and for Fifth Avenue east of the Sky Bridge, building frontages shall be at least 70 percent of the lot frontage.
- (2) For all other streets, building frontages shall be at least 35 percent of the lot frontage.
- (3) For multiple adjoining lots under single control, or for a single lot with multiple buildings, the percentages above apply to the combination of lot(s) and building(s).
- (4) Exception for properties between Estero Boulevard and the Gulf: The required building frontage percentage may be reduced to 35 percent for properties between Estero Boulevard and the Gulf of Mexico provided that the open space thus created allows open views to the Gulf of Mexico.

(b) Building height. Building heights (see § 34-631 of this chapter) shall be limited to:

- (1) For properties that front on the following streets, a maximum of 30 feet above base flood elevation and no taller than ~~two~~ three stories:
 - a. Times Square and Bayfront pedestrian plazas (see Figure 34-7);
 - b. North side of First Street;
 - c. South side of Estero Boulevard between Old San Carlos Boulevard and the main pedestrian crossing;
 - d. Carolina Avenue.
- (2) For properties that front on the following streets, a maximum of 30 feet above base flood elevation and no taller than ~~two~~ three stories, ~~except that an elevated buildings are encouraged to limit~~ without enclosed space on the first story ~~may be three stories tall (but still limited to 30 feet above base flood elevation):~~
 - a. Lagoon Street;
 - b. Crescent Street;
 - c. First, Second, Third, and Fifth (east of the Sky Bridge only);
 - d. North side of Estero Boulevard west of Old San Carlos Boulevard and east of Crescent Street;
 - e. Primo Drive;

Exhibit A – Amended Downtown Building Height

- f. Palermo Circle;
- g. Miramar Street, north of Estero;
- h. Ohio Avenue;
- i. Virginia Avenue.

(3) For properties that front on the following streets, a maximum of 40 feet above base flood elevation and no taller than three stories:

- a. Old San Carlos Boulevard between Fifth and First Streets;
- b. South side of First and both sides of Second and Third (west of the Sky Bridge only);
- c. South side of Estero Boulevard east of the main pedestrian crossing;
- d. Canal Street;
- e. Avenues A, C, E, and I;
- f. Alva Drive;
- g. Miramar Street, south of Estero;
- h. Palm Avenue.

(c) Floor area ratio (FAR). Floor area ratios (see § 34-633 of this chapter) shall not exceed:

- (1) 1.8 for properties fronting on Old San Carlos between Fifth and First Streets and fronting on the Times Square pedestrian plaza (see Figure 34-7).
- (2) 1.4 for properties fronting on Estero Boulevard and fronting on the Bayfront pedestrian plazas.
- (3) 1.0 for all other properties in the Downtown district.

**Town of Fort Myers Beach
Agenda Item Summary**

Yellow Sheet Number: **2024-13**

1. Request:

Meeting Date: April 9, 2024

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, APPROVING/ DENYING A COMPREHENSIVE PLAN FUTURE LAND USE MAP AMENDMENT FOR PROPERTIES LOCATED AT 450 HARBOR COURT, 445 HARBOR COURT, 441 HARBOR COURT, 436 HARBOR COURT, 435 BONITA STREET, AND 438 BONITA STREET FORT MYERS BEACH FROM MARINA (3.53 ACRES) AND MIXED RESIDENTIAL (1.00 ACRE) TO PEDESTRIAN COMMERCIAL; CONTAINING 4.53 ACRES GENERALLY IDENTIFIED AS STRAP NUMBERS 24-46-23-W3-00027.0000, 24-46-23-W3-00026.0020, 24-46-23-W3-0030B.0200, 24-46-23-W3-0030B.0190, 24-46-23-W3-0030C.0060, 24-46-23-W3-0030C.0040, 24-46-23-W3-0030A.0110, PORTIONS OF HARBOR COURT AND BONITA STREET RIGHT-OF-WAY; PROVIDING FOR SCRIVENER'S ERRORS AND AN EFFECTIVE DATE.

Why the action is necessary:

The LPA reviews amendments to the Comprehensive Plan Future Land Use Map and makes recommendations to the Town Council.

What the action accomplishes:

The recommendation of the LPA will be forwarded to the Town Council.

2. Agenda:

PUBLIC HEARINGS

3. Requirement/Purpose:

Ordinance

5. Background:

Freeland FL Holdings LLC, owner of the subject property, and Jim Ink, PE, applicant for the owner, are requesting a Comprehensive Plan Future Land Use Map Amendment. The amendment requests a change of 3.53 acres of Marina Future Land Use (FLU), known as Moss Marina, and 1 acre of Mixed Residential FLU, to Pedestrian Commercial. There are no proposed text amendments to the Comprehensive Plan. The applicant has also applied for a Commercial Planned Development that encompasses three additional properties that are already mapped as Pedestrian Commercial and do not need to be amended.

Attachments:

1. CPA Ordinance 24-09 ns edits
2. Staff Report CPA
3. Exhibit A Map of CPA Area
4. Exhibit B FAR Visualization
5. Exhibit C CPA Application
6. Exhibit D Letters of Objection
7. Exhibit E LPA AND TC postcard
8. Exhibit F Ad for LPA hearing

Financial Impact:

Unknown

6. Alternative Action

approve

7. **Staff Recommendations:**

Recommend denial.

8. **Recommended Approval:**

Frankie Kropacek, Operations & Compliance Director

Date: April 04, 2024

nancy stuparich, Town Attorney

Date: April 05, 2024

Amy Baker, Town Clerk

Date: April 05, 2024

ORDINANCE 24-09

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING THE TOWN OF FORT MYERS BEACH ADOPTED FUTURE LAND USE MAP DATED JANUARY 1, 1999, FOR PROPERTIES LOCATED AT 450, 445, 441 & 436 HARBOR COURT, 435 & 438 BONITA STREET ALSO RESPECTIVELY IDENTIFIED AS STRAP NUMBERS 24-46-23-W3-00027.0000 & 24-46-23-W3-00026.0020, 24-46-23-W3-0030B.0200, 24-46-23-W3-0030B.0190, 24-46-23-W3-0030C.0060, 24-46-23-W3-0030C.0040 & 24-46-23-W3-0030A.0110, FORT MYERS BEACH; PROVIDING FOR CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY 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, James Inc ("Applicant"), on behalf of Freeland FL Holdings, LLC, owners of the property generally located at 450, 445, 441 & 436 Harbor Court, 435 & 438 Bonita Street also respectively identified as strap numbers 24-46-23-W3-00027.0000 & 24-46-23-W3-00026.0020, 24-46-23-W3-0030B.0200, 24-46-23-W3-0030B.0190, 24-46-23-W3-0030C.0060, 24-46-23-W3-0030C.0040 & 24-46-23-W3-0030A.0110, Fort Myers Beach ("Property"), filed an application for a small scale future land use map amendment to change the future land use of the property from Marina and Mixed Residential to Pedestrian Commercial; and

WHEREAS, the Property is in the Marina and Mixed Residential Future Land Use Category of the Comprehensive Plan of the Town of Fort Myers Beach, and is under common control of the owners as listed in the public records of Lee County Property Appraiser; and

WHEREAS, a public hearing was held before the Local Planning Agency (LPA) on April 9, 2024, at which the LPA gave full and complete consideration of the request, recommendations by staff, the documents in the record, and the testimony of all interested persons, and the LPA voted XXX to XXX to recommend approval/denial to the small scale map amendment request, and

WHEREAS, on May XX, 2024, the Town Council held a first reading of the proposed Ordinance and gave full and complete consideration to the request of the Applicant, the recommendation of the LPA, the recommendation of staff, the documents in the record, and the testimony of all interested persons, as required by Section 34-85 of the Fort Myers Beach Land Development Code ("LDC"); and

WHEREAS, the Town Council set a second reading of the proposed Ordinance and a public hearing on this matter to be legally advertised and held before the Town Council on June XX, 2024;

at which time the Town Council gave full and complete consideration to the request of the Applicant, the recommendation of the LPA, the recommendation of staff, including the consideration and findings in the staff report, the documents in the record, and the testimony of all interested persons, as required by Section 34-92 of the LDC and Policy 4-C-10 of the 1999 Comprehensive Plan (1999); and

WHEREAS, the Town Council finds the proposed small-scale map amendment request is **consistent/not consistent** with the Town of Fort Myers Beach Comprehensive Plan and LDC and voted to **approve/ deny** the Application.

NOW, THEREFORE, BE IT ORDAINED 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 Applicant **did/did not** meet its burden of proof that the requested small scale map amendment request **does/does not** meet the requirements of the Town Comprehensive Plan and LDC and approving the request for a small-scale Future Land Use Map Amendment from Marina and Mixed Residential to Pedestrian Commercial **is/is not** in the best interest of the Town. Therefore, based upon the recommendations, testimony, and evidence presented by the Applicant, Town staff, and interested parties and Section 34-92 of the Land Development Code, the Town Council **APPROVES/DENIES** the requested small scale future land use map amendment of the Property.

Section 3. Whenever the requirements or provisions of this Ordinance conflict with the requirements or provisions of any other lawfully adopted LDC or Town Code provision, ordinance, or statute, the most restrictive shall apply.

Section 4. Any typographical errors that do not affect the intent of this Ordinance may be corrected with notice to and authorization of the Town Manager without further process.

Section 5. 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 6. The proposed action does not result in a more restrictive or burdensome amendment to the Town's Comprehensive Plan or Land Development Code.

Section 7. Issuance of a development permit by the Town does not create any right to obtain a permit from a State or Federal agency and does not create any liability on the part of the Town for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a State or Federal agency or undertakes actions that result in a violation of State or Federal law.

Section 8. The effective date of this plan amendment shall be the earliest date permitted under

Section 163. 3187, Florida Statutes.

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:

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

ADOPTED this ____ day of May 2024, by the Town Council of the Town of Fort Myers Beach, Florida.

TOWN OF FORT MYERS BEACH

Dan Allers, 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 ONLY:**

Vose Law Firm, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this ____ day of June 2024.

Exhibits

Exhibit A Existing Future Land Use Map

Exhibit B Proposed Future Land Use Map



Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT

STAFF REPORT

TYPE OF CASE: Comprehensive Plan Amendment

CASE NUMBER: CPA20230152

CASE NAME: Arches Bayfront Comprehensive Plan Future Land Use Map Amendment (450 Harbor Court, 445 Harbor Court, 441 Harbor Court, 436 Harbor Court, 435 Bonita Street, 438 Bonita Street)

LPA HEARING DATE: April 9, 2024

STAFF RECOMMENDATION: DENIAL

**PREPARED/
SUBMITTED BY:** Sarah Propst, AICP, PMP / Jason Green, AICP, CFM

I. APPLICATION SUMMARY

Applicant/Owner: Freeland FL Holdings, LLC/Ink Engineering, Inc

Request: Comprehensive plan future land use map amendment to change 3.53 acres of Future Land Use Marina and 1.0 acre of Future Land Use Mixed Residential to Future Land Use Pedestrian Commercial

Subject property: See attached plan

Physical Address: 450 Harbor Court, 445 Harbor Court, 441 Harbor Court, 436 Harbor Court, 435 Bonita Street & 438 Bonita Street

STRAP #s: 24-46-23-W3-00027.0000, 24-46-23-W3-00026.0020, 24-46-23-W3-0030B.0200, 24-46-23-W3-0030B.0190, 24-46-23-W3-0030C.0060, 24-46-23-W3-0030C.0040, 24-46-23-W3-0030A.0110

FLU: Marina & Mixed Residential (Platted Overlay)

Zoning: Commercial Marina (CM) & Residential Conservation (RC)

Adjacent zoning and land uses:

North: Tidal Waters, Matanzas Pass

South: RESIDENTIAL CONSERVATION (RC)
Mixed Residential (Platted Overlay)

East: DOWNTOWN (D)
Pedestrian Commercial

West: Tidal Waters, Canal

II. BACKGROUND AND ANALYSIS

Background:

Freeland FL Holdings LLC, owner of the subject property, and Jim Ink, PE, applicant for the owner, are requesting a Comprehensive Plan Future Land Use Map Amendment. The amendment requests a change of 3.53 acres of Marina Future Land Use (FLU), known as Moss Marina, and 1 acre of Mixed Residential FLU, to Pedestrian Commercial. There are no proposed text amendments to the Comprehensive Plan.

The applicant has also applied for a Commercial Planned Development that encompasses three additional properties that are already mapped as Pedestrian Commercial and do not need to be amended. Those properties are shown on the attached area map (Exhibit A), outlined but not in color, they are 935 & 939 Third Street and 401 Old San Carlos Blvd.

Moss Marina was established in 1969. Matanzas View subdivision was platted in 1952, the first homes appear to have been built in the early 1950s. This neighborhood appears to have been primarily single family and two-family homes prior to hurricane Ian. More than half of the pre-Ian homes are still standing, however staff does not know what portion of the homes are currently habitable.

Analysis:

The **Marina FLU** is defined as *“designed for prime sites that can provide access to the valuable waters around Fort Myers Beach. This category provides services for recreational boating, including related accessory uses provide that they don’t displace recreational marina services. Cruise ships and similar uses that draw large amounts of vehicular traffic are not permitted in this category. Specific regulations will be places in the Land Development Code.”* And Marina Uses are described by the Comprehensive Plan as *“involving the use of prime waterfront sites to support recreational boating, such as wet or dry boat storage, sales/rentals of boats and supplies, and boat repair.”*

Marina FLU allows a maximum floor area ratio (FAR) of 1.5 and no density is listed in the Comprehensive Plan for the Marina FLU.

The **Mixed Residential FLU** is defined as “*designed for older subdivisions with mixed housing types on smaller lots, newer high-rise buildings, and mobile homes and RV parks. This category will ensure that Fort Myers Beach retains a variety of neighborhoods and housing types. For new development, the maximum density is 6 dwelling units per acre (except where the Future Land Use Map’s “platted overlay” indicates a maximum density of 10 units per acre for legally existing dwelling units. Commercial activities are limited to lower-impact uses such as offices, motels, churches, and public uses, and must be sensitive to nearby residential uses, complement any adjoining commercial uses, contribute to the public realm as described in this comprehensive plan, and meet the design concepts of this plan and the Land Development Code. The qualities and overall consistency with this comprehensive plan shall be evaluated by the town through the planned development rezoning process. Non-residential uses (including motels and churches) now comprises 7.9% of the land in this category, and this percentage shall not exceed 12%.*” The Mixed Residential FLU allows a maximum floor area ratio (FAR) of 1.5 and typically allows a density of six dwelling units per acre. This neighborhood is in the platted overlay which allows up to 10 dwelling units per acre for legally existing dwelling units. The single acre that is currently FLU Mixed Residential, appears to have contained a mix of single family and two family dwelling units prior to Hurricane Ian.

The combined Marina and Mixed Residential parcels, could allow a total of 295,990 square feet of floor area, through a CPD. The current zoning districts allow a lower square footage. The proposed change to Pedestrian Commercial could allow a total of 493,317 square feet of floor area, through a CPD. This is an increase of almost 200,000 square feet of development potential.

Neighborhood Compatibility:

The current Comprehensive Plan refers to this area as the “north end” in one section and the “core area”, in another section. It describes that “north end” area as follows: “*The north end of the island retains its residential and resort identity. Its motel rooms, older cottages and high-rises all benefit from their proximity to Bowditch Point and the downtown “core area,” yet are comfortably removed from seasonal traffic congestion and outdoor entertainment activities that many residents find intrusive.*” The 1999 Comprehensive Plan does not provide a vision or plan for this part of the “core area”.

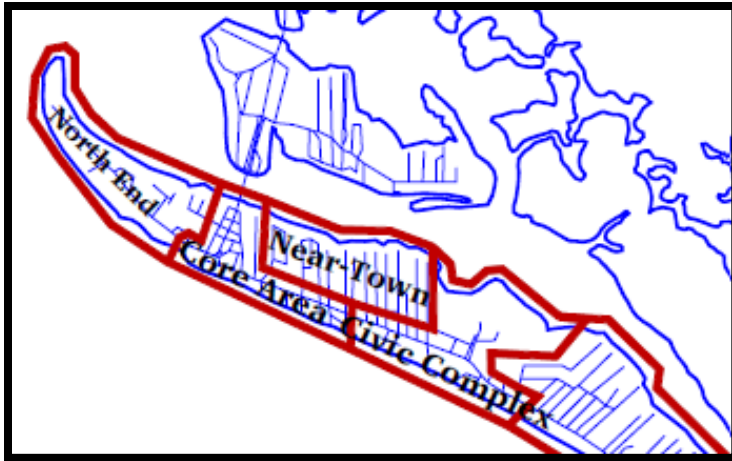


Figure from Page 2-2 of 1999 Town of Fort Myers Beach Comprehensive Plan

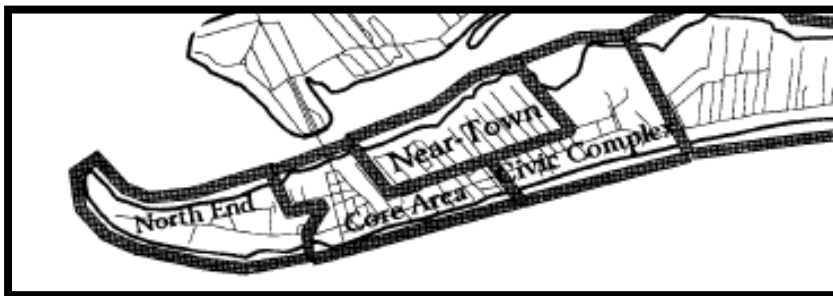
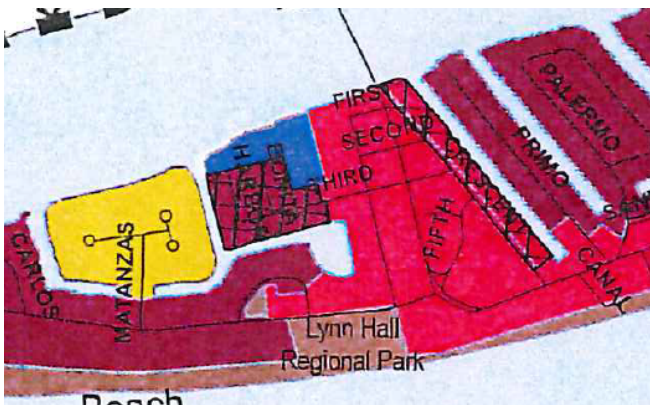


Figure from Page 3-4 of 1999 Town of Fort Myers Beach Comprehensive Plan

The 1999 Comprehensive Plan intended the North End to be quiet and downtown adjacent, whereas the Core Area was to be part of the action with a high level of commercial activity. Unfortunately, it is unclear whether the area of proposed future land use amendment was intended to be part of the North End or the Core Area. The addition of an intense commercial area which is accessible through the neighborhood will create additional traffic and noise impacts which would not be appropriate in a quiet neighborhood but would be acceptable in a downtown neighborhood.



1999 Comprehensive Plan Future Land Use Map

The pattern of Platted Overlay districts on both the east and west side of the Pedestrian Commercial District, creates a buffer between the higher impact downtown and the lower density residential districts. Elimination of that buffer between the intense commercial district and the neighborhoods could increase conflict. Uses that create additional noise in residential neighborhoods have been of particular concern to the Town of Fort Myers Beach in the past. Careful evaluation of outdoor music and activities will be necessary to ensure that nearby homes are not negatively impacted by proposed development on this site.

Infrastructure Impacts:

Evaluation of infrastructure impacts is important to ensure that the Town of Fort Myers Beach will be able to accommodate the additional development that will be allowed with the change from Marina and Mixed Residential to Pedestrian Commercial. The uses that are allowed in Pedestrian Commercial can have a much higher impact on traffic, water use and stormwater. While the applicant is proposing a rezoning to Commercial Planned Development (CPD), it would be possible for other developments to be proposed and approved in that area, therefore, we have to consider what impact other uses may have on the Town's infrastructure.

Traffic

The change from Marina and Residential to Pedestrian Commercial will increase density and intensity in the region and this could impact the surrounding streets. The applicant has not provided an analysis of the maximum development that could occur with the amendment of the Future Land Use Map.

The traffic impact statement for the proposed CPD application is still going through reviews. A final analysis of that traffic impact statement will be available when the review for the CPD is complete. The applicant's CPD is proposing the main entrance to the site from Old San Carlos Boulevard, through the existing Marina Village parking lot. However, it is important to note that Harbor Court and Bonita Street are public rights of way and traffic will be allowed through those streets. This will increase automobile and pedestrian traffic on Third Street, Harbor Court and Bonita Street which are not wide streets and do not have pedestrian and cyclist infrastructure.

Staff notes that if the proposed resort use were to be approved and developed on these parcels there may be a higher trip capture in the downtown area.

Water

The applicant provided a conceptual water and sewer usage that was accepted by Tetrattech, the Town's engineering reviewer. The usage is based primarily on resort hotel room and restaurant uses, which have a higher demand than most uses that could be developed in the Pedestrian Commercial FLU.

Tetrattech is in the process of completing a hydraulic model for the Town of Fort Myers Beach to determine future infrastructure needs. Per Tetrattech, "The (current) model shows that as long as Lee County Utilities (LCU) and/or the existing Moss

Marina Pump Station (PS) can provide enough supply at sufficient pressure, the FMB water distribution system has ample capacity to support the calculated peak hour water demand for the new development.”

The development may reduce additional demand on potable water by installing drought tolerant, native plants, cisterns and rain barrels and providing other water wise techniques to decrease their impacts on the Town’s water supply.

Stormwater

Stormwater is of high concern for development on a flood prone barrier island. All development will be required to meet the stormwater management requirements of the South Florida Water Management District and any local requirements. There may be exemptions based on the current development of the site. The applicant has not provided water quality or quantity data as part of this application.

Overall Impacts

Approval of the Comprehensive Plan Map Amendment will allow additional development on this 4.53 acres which will increase demand on infrastructure. There is currently insufficient infrastructure to serve bicycle and pedestrian needs which are appropriate for the Pedestrian Commercial FLU and potentially insufficient right-of-way width to provide the infrastructure. It is important for the Town of Fort Myers Beach to evaluate capacity and infrastructure availability for development at the time of the amendment to the comprehensive plan future land use map.

Findings and Conclusions:

LDC Sec. 34-92 states that: *Proposals to amend the Future Land Use Map must meet Comprehensive Plan Policy 4-C-10.*

Policy 4-C-10 Map Amendments: The intensity and density levels allowed by the Future Land Use Map may be increased through formal amendments to this plan if such increases are clearly in the public interest, not just in the private interest of a petitioning landowner. Petitions from landowners will be accepted annually. The Town Council may accept applications more frequently at its sole discretion.

Staff finds that the request to amend the Future Land Use Map to change 3.53 acres of Marina FLU and 1.0 acre of Mixed Residential FLU to Pedestrian Commercial FLU is not clearly in the public interest. Creating additional commercial land adjacent to the existing downtown does not necessarily provide a benefit to the Town and will result in traffic and noise impacts to nearby residential uses through elimination of the buffer between the intense commercial district and the neighborhood which could increase conflict. Additionally, the area lacks sufficient pedestrian and bicycle infrastructure to support the proposed amendment which will increase density and intensity.

III. RECOMMENDATION

Staff has reviewed the request for a Comprehensive Plan Amendment and found that the Comprehensive Plan Amendment request does not meet the requirements set forth in sec. 34-92 and Comprehensive Plan Policy 4-C-10. Therefore, staff recommends **DENIAL** of CPA20230152, a request for a Comprehensive Plan Amendment to change 3.53 acres of Marina FLU and 1.0 acre of Mixed Residential FLU to Pedestrian Commercial FLU.

IV. EXHIBITS

Exhibit A: Area Map

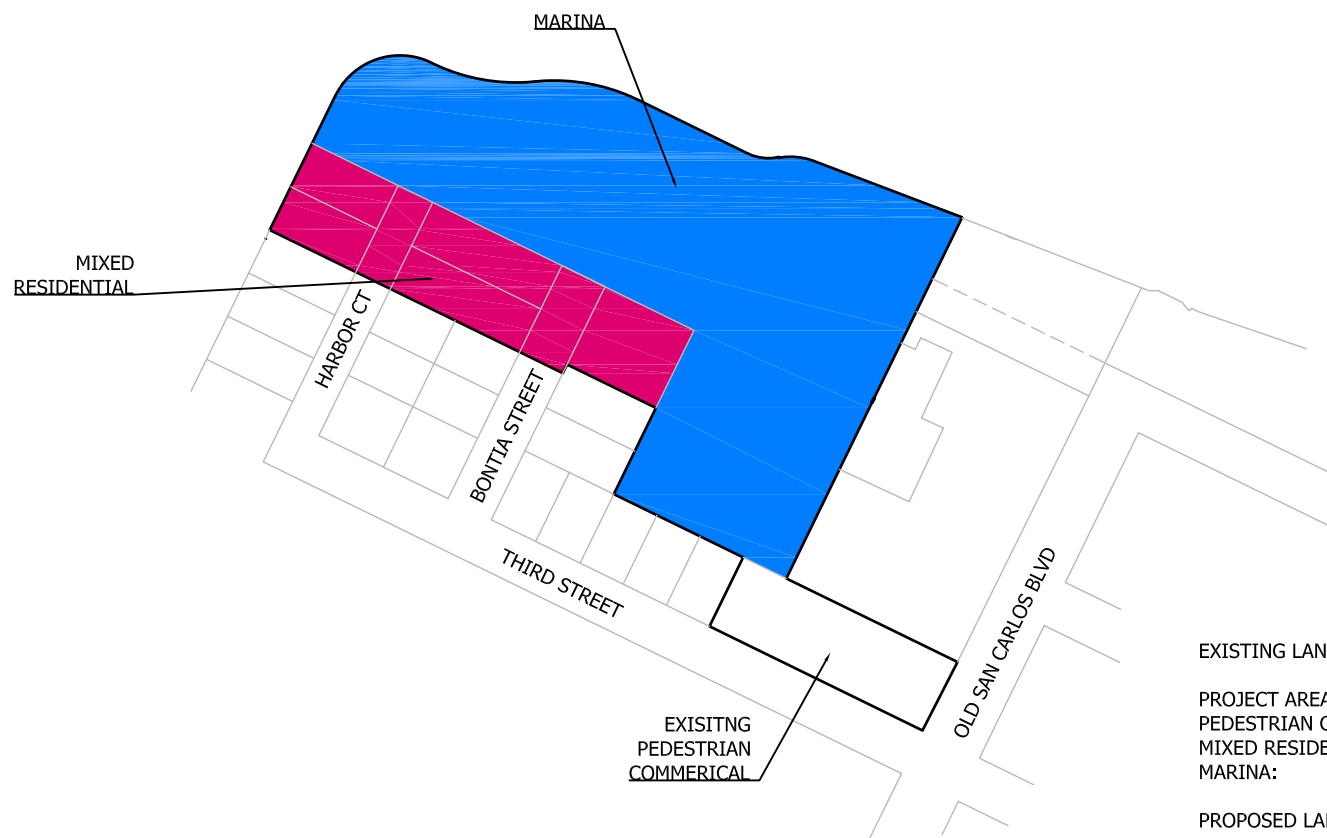
Exhibit B: FAR Visualization

Exhibit C: Complete Application

Exhibit D: Letters of Objection

Exhibit E: Post Cards

Exhibit F: Advertisement



EXISTING LAND USE TABLE

PROJECT AREA:	4.98 AC	100%
PEDESTRIAN COMMERCIAL:	0.45 AC	9.0%
MIXED RESIDENTIAL:	1.00 AC	20.1%
MARINA:	3.53 AC	70.90%

PROPOSED LAND USE TABLE

PEDESTRIAN COMMERCIAL:	4.98 AC	100%
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INK ENGINEERING, INC
2055 West First Street
Fort Myers, Florida 33901
E-mail: ink@inkengineeringinc.net

EXISTING COMPREHENSIVE PLAN MAP

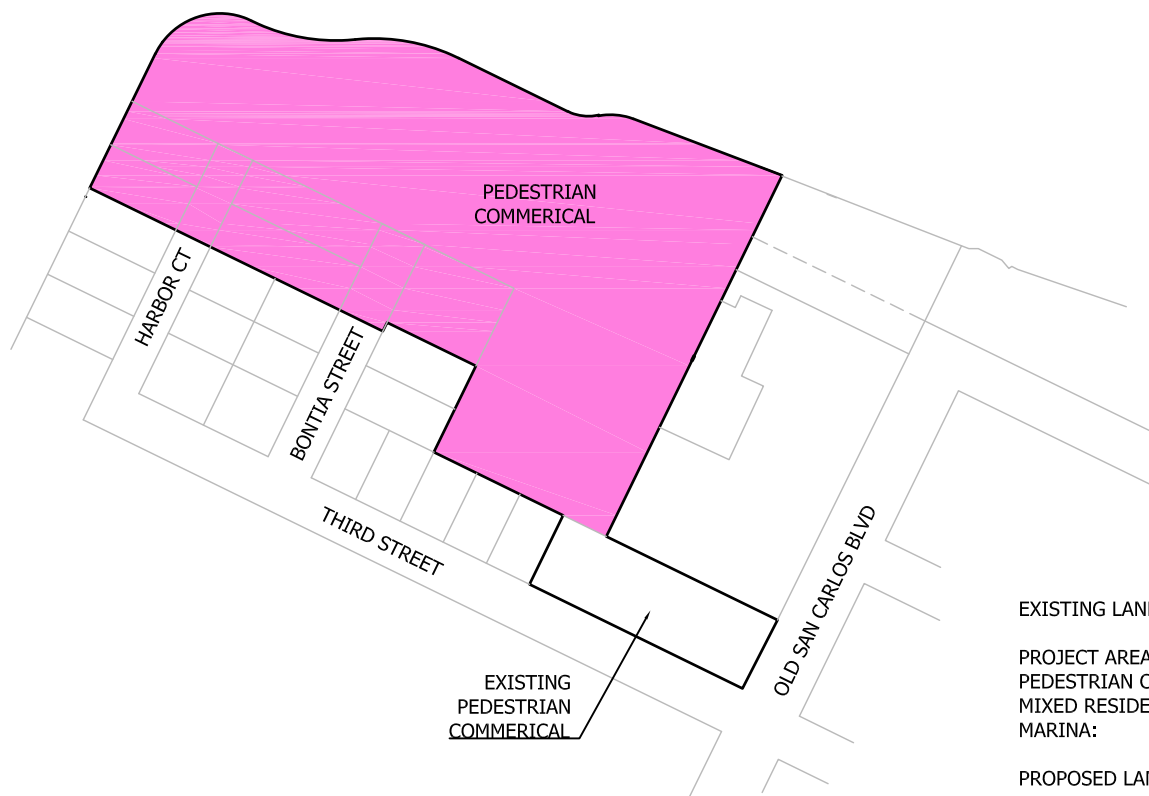
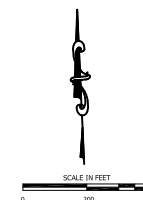
JOB #: 22037

ARCHES BAYSIDE CPA MAP AMENDMENT

DATE: 03.2024

450 HARBOR COURT, FT MYERS BEACH, FL

SHEET: 1 OF 2



EXISTING LAND USE TABLE

PROJECT AREA:	4.98 AC	100%
PEDESTRIAN COMMERCIAL:	0.45 AC	9.0%
MIXED RESIDENTIAL:	1.00 AC	20.1%
MARINA:	3.53 AC	70.90%

PROPOSED LAND USE TABLE

PEDESTRIAN COMMERCIAL:	4.98 AC	100%
------------------------	---------	------

INK ENGINEERING, INC
 2055 West First Street
 Fort Myers, Florida 33901
 E-mail: ink@inkengineeringinc.net

PROPOSED COMPREHENSIVE PLAN MAP

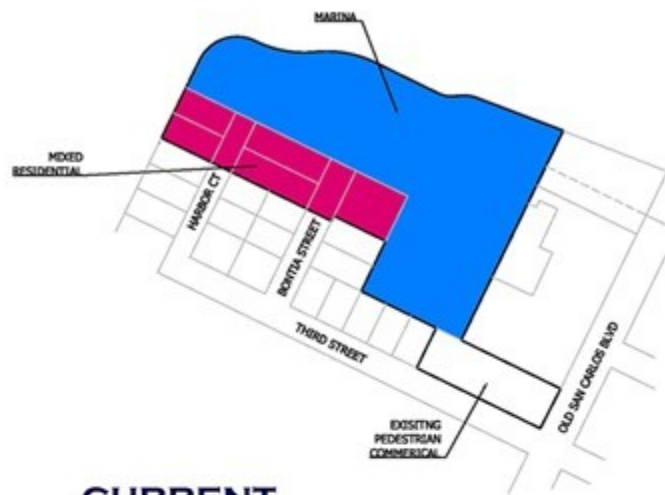
JOB #: 22037

ARCHES BAYSIDE CPA MAP AMENDMENT

DATE: 03.2024

450 HARBOR COURT, FT MYERS BEACH, FL

SHEET: 2 OF 2

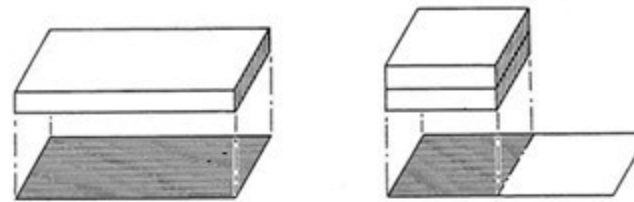


**CURRENT
FUTURE LAND USE**



**PROPOSED
FUTURE LAND USE**

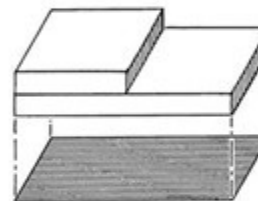
FLOOR AREA RATIO



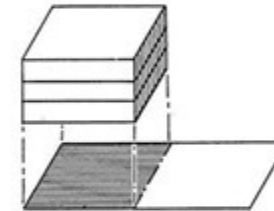
100 % LOT COVERED

50 % LOT COVERED

VISUAL REPRESENTATION OF F.A.R. = 1

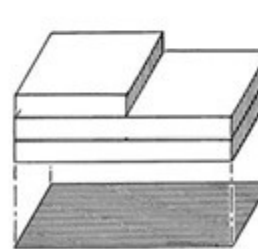


100 % LOT COVERED
(COMBINATION)

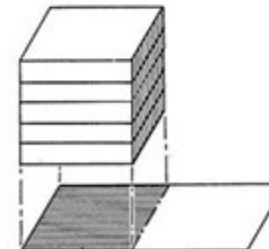


50 % LOT COVERED

**PERMITTED F.A.R. IN MARINA AND MIXED
RESIDENTIAL = 1.5**



100 % LOT COVERED
(COMBINATION)



50 % LOT COVERED

**PERMITTED F.A.R. AFTER FLUM CHANGE TO
PEDESTRIAN COMMERCIAL = 2.5**

NOTE: THIS VISUAL DOES NOT COUNT THE AREA BELOW THE BASE FLOOD ELEVATION TOWARDS THE F.A.R. CALCULATIONS.



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

This is a first part of a two-part application. Please be sure to fill out this form, which requires general information, as well as the Supplemental Form application specific to action requested for the subject property. Please submit a complete Public Hearing application with required, supplemental information, exhibits and documents to zoningpermits@fmbgov.com. Please do not submit the instructions at the end of the application.

Site Address: 401 San Carlos Blvd
 STRAP Number: See attached parcel information narrative
 Applicant: Freeland FL Holdings, LLC Phone: 615-337-7671
 Contact Name: James Ink PE c/o Ink Engineering, Inc Phone: 239-940-2504
 Email: jink@inkeengineeringinc.net Fax: _____
 Current Zoning District: Downtown, Marina, Residential Conversation
 Future Land Use Map (FLUM) Category: Pedestrian Commerical, Marina, Mixed Residential
 FLUM Density Range: _____ Platted Overlay: ☒ YES ☐ NO

ACTION REQUESTED

- ☐ Special Exception
☐ Variance
☐ Conventional Rezoning
☐ Planned Development ☐ Commercial ☐ Residential
☐ Master Concept Plan Extension
☐ Appeal of Administrative Action
☐ Vacation of Platted Right-of-way and Easement
☒ Other – cite LDC Section: Comp Plan small scale map Amendment

SUPPLEMENTAL FORM REQUIRED

PH-A
 PH-B
 PH-C
 PH-D
 PH-E
 PH-F
 PH-G
 attach on separate sheet

PART I – General Information

A. Applicant*: Ben Freeland Phone: (615) 337-7671
**Applicant must submit a statement under oath that he/she is the authorized representative of the property owner.
 Please see PART III to complete the appropriate Affidavit form for the type of applicant.*
 Applicant Mailing Address: 5333 Hickory Hollow Parkway, Anitoch, TN 37013
 Email: Ben.Freeland@freelandauto.com Fax: _____
 Contact Name: Ben Freeland Phone: (615) 337-7671



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

B. Relationship of Applicant to subject property:

- | | | |
|---|---|--|
| ☐ Owner* | ☐ Land Trust* | ☐ Partnership* |
| ☒ Corporation* | ☐ Association* | ☐ Condominium* |
| ☐ Subdivision* | ☐ Timeshare Condo* | ☐ Contract Purchaser* |
| ☐ Authorized Representative* | ☐ Other* (please indicate) _____ | |

**Applicant must submit a statement under oath that he/she is the authorized representative of the property owner.
Please see PART III to complete the appropriate Affidavit form for the type of applicant.*

C. Authorized Agent(s). Please list the name of Agent authorized to receive correspondence Agents

Name: James Ink PE, c/o Ink Engineering, Inc Phone: (239) 940-2504
Address: 2055 West First Street, Fort Myers, FL 33901
Email: jink@inkengineeringinc.net Fax: _____

D. Other Agent(s). Please list the names of all Authorized Agents (attach extra sheets if necessary)

Name: Bruce Strayhorn Esq. Phone: (239) 334-1260
Address: 2125 1st Street, Fort Myers, FL 33901
Email: bruce@strayhornlaw.com Fax: _____

Name: _____ Phone: _____
Address: _____
Email: _____ Fax: _____

PART II – Nature of Request

Requested Action (each request requires a separate application)

- ☐ Special Exception
- ☐ Variance from LDC Section _____ - _____
- ☐ Conventional Rezoning from _____ to _____
- ☐ Planned Development
- ☐ Rezoning from _____ to ☐ Commercial PD ☐ Residential PD
- ☐ Amendment. List the project number: _____
- ☐ Extension/reinstatement of Master Concept Plan. List project number: _____



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

- ☐ Appeal of Administrative Action
- ☐ Vacation ☐ Right-of-Way ☐ Easement
- ☒ Other. Please Explain: Comprehensive Plan Map Change
- _____
- _____

PART III – Waivers

Please indicate any specific submittal items that have been waived by the Director for the request. Attach a copy of the signed approval as Exhibit 3-1. (Use additional sheets if necessary)

Code Section: 34-212(6) Description: _____
Temporary waiver of Traffic Impact Statement to allow methodology determination

Code Section: _____ Description: _____

Code Section: _____ Description: _____

PART IV – Property Ownership (Single Owner)

☐ Single Owner (individual or husband and wife)

Name: _____ Phone: _____

Mailing Address: _____

Email: _____ Fax: _____

AFFIDAVIT APPLICATION IS SIGNED BY AN INDIVIDUAL OWNER OR APPLICANT

I, _____ swear or affirm under oath, that I am the owner or the authorized representative of the owner(s) of the property and that:

I have full authority to secure the approval(s) requested and to impose covenants and restrictions on the referenced property as a result of any action approved by the Town of Fort Myers Beach in accordance with this application and the Land Development Code;

All answers to the questions in this application and any sketches, data or other supplementary matter attached hereto and made a part of this application are honest and true;



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

I have authorized the staff of the Town of Fort Myers Beach Community Development to enter upon the property during normal working hours for the purpose of investigating and evaluating the request made thru this application; and that

The property will not be transferred, conveyed, sold or subdivided unencumbered by the conditions and restrictions imposed by the approved action.

Signature

Printed Name

STATE OF _____ COUNTY OF _____

The foregoing instrument was certified and subscribed before me by means of ____ physical

presence OR ____ online notarization, this ____ day of _____, 20____, by

_____, ☐ who is personally known to me OR ☐ who has produced

_____ as identification.

(SEAL)

Notary Public Signature

PART V

Property Ownership (Multiple Owners)

☐ Multiple Owners (including corporation, partnership, trust, association, condominium, timeshare, or subdivision)

- ☐ Complete Disclosure of Interest Form (see below)
- ☐ Attach list of property owners as Exhibit 5-1
- ☐ Attach map showing property owners interests as Exhibit 5-2 (for multiple parcels)
- ☐ For condominiums and timeshares see Explanatory Notes Part V - Exhibit 5-3
- ☐ Letter of Opinion - Exhibit 5-4

DISCLOSURE OF OWNERSHIP INTEREST

If the property is owned in fee simple by an INDIVIDUAL, tenancy by the entirety, tenancy in common, or joint tenancy, list all parties with an ownership interest as well as the percentage of such interest.

Name and Address

Percentage Ownership



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

If the property is owned by a CORPORATION, list the officers and stockholders and the percentage of stock owned by each.

Name, Address and Office

Percentage of Stock

_____	_____
_____	_____
_____	_____
_____	_____

If the property is in the name of a TRUSTEE, list the beneficiaries of the trust with percentage of interest.

Name and Address

Percentage of Interest

_____	_____
_____	_____
_____	_____
_____	_____

If the property is in the name of a GENERAL PARTNERSHIP OR LIMITED PARTNERSHIP, list the names of the general and limited partners.

Name and Address

Percentage of Ownership

_____	_____
_____	_____
_____	_____
_____	_____

If there is a CONTRACT FOR PURCHASE, whether contingent on this application or not, and whether a Corporation, Trustee, or Partnership, list the names of the contract purchasers below, including the officers, stockholders, beneficiaries, or partners.

Name, Address and Office

Percentage of Stock

_____	_____
_____	_____
_____	_____
_____	_____



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

Date of Contract: _____

If any contingency clause or contract terms involve additional parties, list all individuals or officers, if a corporation, partnership, or trust.

Name	Address
_____	_____
_____	_____
_____	_____
_____	_____

For any changes of ownership or changes in contracts for purchase subsequent to the date of the application, but prior to the date of final certificate of compliance, a supplemental disclosure of interest must be filed.

The above is a full disclosure of all parties of interest in this application, to the best of my knowledge and belief.

_____	_____
Signature	Printed Name

AFFIDAVIT

APPLICATION IS SIGNED BY A CORPORATION, LIMITED LIABILITY COMPANY (L.L.C.), LIMITED COMPANY (L.C.), PARTNERSHIP, LIMITED PARTNERSHIP, OR TRUSTEE

I, Ben Freeland (name), as Managing Member (title)
of Freeland FL Holdings, LLC (company), swear or affirm under oath, that I am the owner or the authorized representative of the owner(s) of the property and that:

1. I have full authority to secure the approval(s) requested and to impose covenants and restrictions on the referenced property as a result of any action approved by the Town of Fort Myers Beach in accordance with this application and the Land Development Code;
2. All answers to the questions in this application and any sketches, data or other supplementary matter attached hereto and made a part of this application are honest and true;
3. I have authorized the staff of Fort Myers Beach Community Development to enter upon the property during normal working hours for the purpose of investigating and evaluating the request made thru this application; and that
4. The property will not be transferred, conveyed, sold or subdivided unencumbered by the conditions and restrictions imposed by the approved action.



COMMUNITY DEVELOPMENT DEPARTMENT
APPLICATION for PUBLIC HEARING

Freeland FL Holdings, LLC

Name of Entity (corporation, partnership, LLP, LLC, etc)

Signature

Title

Typed or Printed Name

Date

STATE OF _____ COUNTY OF _____

The foregoing instrument was certified and subscribed before me by means of ____ physical presence OR ☐ online notarization, this ____ day of _____, 20____, by _____, ☐ who is personally known to me OR ☐ who has produced _____ as identification.

Seal

Notary Public Signature

PART VI- Property Information

A. Legal Description:

STRAP: See application narrative

Property Address: 401 San Carlos Blvd

Is the subject property within a platted subdivision recorded in the official Plat Books of Lee County? ☒ No. Attach a legible copy of the legal description as Exhibit 6-1.

☐ Yes. Property identified in subdivision: _____

Book: _____ Page: _____ Unit: _____ Block: _____ Lot(s): _____

B. Boundary Survey:

☒ Attach a Boundary Survey of the property meeting the minimum standards of Chapter 61G17-6 of the Florida Administrative Code. A Boundary Survey must bear the raised seal and original signature of a Professional Surveyor and Mapper licensed to practice Surveying and Mapping by the State of Florida. Attach and label as Exhibit 6-2.



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

C. Property Dimensions:

Width (please provide an average width if irregular in shape) 640 feet
Depth (please provide an average width if irregular in shape) 390 feet
Frontage on street: 430 feet. Frontage on waterbody: 660 feet
Total land area: 4.98 ☒ acres ☐ square feet

D. General Location of Subject Property (from Sky Bridge or Big Carlos Pass Bridge):

NW corner of Old San Carlos Blvd and Third street and extending NW along the
bayfront to the canal on the western property line.

☒ Attach Area Location Map as Exhibit 6-3

E. Property Restrictions (check applicable):

- ☒ There are no deed restrictions and/or covenants on the subject property.
☐ A list of deed restrictions and/or covenants affecting the subject property is attached as Exhibit 6-4.
☐ A narrative statement detailing how the restrictions/covenants may or may not affect the request is attached as Exhibit 6-5.

F. Surrounding Property Owners (these items can be obtained from the Lee County Property Appraiser):

- ☒ Attach a list of surrounding property owners within 500 feet as Exhibit 6-6.
☒ Attach a map showing the surrounding property owners as Exhibit 6-7.
☒ Provide Staff with two (2) sets of surrounding property owner mailing labels.

G. Future Land Use Category (see Future Land Use Map):

- | | |
|---|--|
| ☐ Low Density | ☒ Marina |
| ☒ Mixed Residential | ☐ Recreation |
| ☐ Boulevard | ☐ Wetlands |
| ☒ Pedestrian Commercial | ☐ Platted Overlay |

Ink Engineering, Inc.
Plan - Design - Engineer
2055 West First Street Fort Myers, FL 33901
jink@inkengineeringinc.net
(239) 940-2504

August 11, 2023

Andy Hoyt
Town Manager
Town of Fort Myers Beach
2525 Estero Blvd
Fort Myers Beach, FL 33931

Re: Arches Bayfront Public Hearing Application for Comp Plan Map change.

Dear Mr. Hoyt:

Our team is excited to start the formal entitlement process for the Arches Bayfront Marina Resort. Located on the current location of Moss Marina, Arches Bayfront is proposing an extraordinary Bayfront Marina Resort designed by the world-renowned urban planners DPZ CoDesign that developed the New Urbanism coastal village design concepts. Arches Bayfront was inspired by the 1924 Beach Rock arches that were at the arrival to Fort Myers beach. The project requests a map amendment to consolidate three different future land uses into one future land use consistent with the downtown district. The project will provide 860 linear feet of activated bay walk, elevated civic plazas, parking, a marina, and multiple hotel/restaurants/retail uses to the bayside of downtown district.

The following documents are provided as our application for consideration of approval by Town Council:

Comprehensive Plan Submittal Documents:

Public Hearing application with Affidavit
Boundary Survey
Comprehensive Plan request narrative
Sketch and Description
Surrounding owner list, labels, and map
XCP-2 TIS Waiver

XCP-3 Sanitary Sewer Availability
XCP-5 Fire EMS Letter of Availability
XCP-6 Solid Waste letter of Availability
XCP-7 Safety LCSO Letter of Availability
XCP-8 LeeTran Letter of Availability

If you have any questions, please feel free to call.

My good will and respect,



James M Ink PE

Arches Bayfront Comprehensive Plan Map Amendment

Freeland FL Holdings, LLC is seeking a public hearing for a Town of Fort Myers Beach Comprehensive Future Land Use map amendment.

Comprehensive Plan and Importance to Development in Florida:

Florida Statute 163.3177 – Required and optional elements of comprehensive plan; studies and surveys – paragraph (1) states:

The comprehensive plan shall provide the principles, guidelines, standards, and strategies for the orderly and balanced future economic, social, physical, environmental, and fiscal development of the area that reflects community commitments to implement the plan and its elements. These principles and strategies shall guide future decisions in a consistent manner and shall contain programs and activities to ensure comprehensive plans are implemented. The sections of the comprehensive plan containing the principles and strategies, generally provided as goals, objectives, and policies, shall describe how the local government's programs, activities, and land development regulations will be initiated, modified, or continued to implement the comprehensive plan in a consistent manner. It is not the intent of this part to require the inclusion of implementing regulations in the comprehensive plan but rather to require identification of those programs, activities, and land development regulations that will be part of the strategy for implementing the comprehensive plan and the principles that describe how the programs, activities, and land development regulations will be carried out. The plan shall establish meaningful and predictable standards for the use and development of land and provide meaningful guidelines for the content of more detailed land development and use regulations.

It is important to note in the statute that the comprehensive plan is a guide that provides the basis for the creation of the Land Development Code and “*is not the intent to require the inclusion of implementing regulations in the comprehensive plan but rather to require identification of those programs, activities, and land development regulations....*”

Paragraph (6)(a)(1) states:

Each future land use category must be defined in terms of uses included and must include standards to be followed in the control and distribution of population densities and building and structure intensities. The proposed distribution, location, and extent of the various categories of land use shall be shown on a land use map or map series which shall be supplemented by goals, policies, and measurable objectives.

Paragraph (6) is a list of requirements of the plan. The following are relevant sections to this application.

paragraph (6) 2. e states:

The need for redevelopment, including the renewal of blighted areas and the elimination of nonconforming uses which are inconsistent with the character of the community.

Paragraph (6) 2.i

The need for job creation, capital investment, and economic development that will strengthen and diversify the community's economy.

Paragraph (6) 8

Future land use map amendments shall be based upon the following analyses:

- a) An analysis of the availability of facilities and services.*
- b) An analysis of the suitability of the plan amendment for its proposed use considering the character of the development land, soils, topography, natural resources, and historic resources on site.*
- c) An analysis of the minimum amount of land needed to achieve the goals and requirements of this section.*

Summary of the statutes is that map amendments are allowed within the framework of an operating comprehensive plan subject to consistency with the Goals, Objectives, and Policies of the plan. The Land Development Code is the implementing regulatory code that must be adhered to during the zoning and site development process.

A comprehensive plan map not specify land uses on the property only a general description of categories (i.e. Residential, Commercial, Industrial). Currently the subject property has a Marina Future Land Use which is defined as:

POLICY 4-B-7 "MARINA": designed for prime sites that can provide access to the valuable waters around Fort Myers Beach. This category provides services for recreational boating, including related accessory uses provided that do not displace recreational marina services. Cruise ships and similar uses that draw large amounts of vehicular traffic are not permitted in this category. Specific regulations will be placed in the Land Development Code.

POLICY 4-B-12 LAND USE TYPES DEFINED (iii) Marina uses involve the use of prime waterfront sites to support recreational boating, such as wet or dry storage, sales/rentals of boats and supplies, and boat repair.

The current uses allowed under the Marina FLU is very restrictive and limits the potential use of the property in today's market. This is further supported by the Hurricane Ian damage in the town and loss of commercial property including retail, hotel/motel/ and other uses that are vital to the economic sustainability of the Town.

This application is designed to address the needs of the island and provide the subject property with a best use for the development.

The following is the information as required by the application for a map change.

Request Statement:

The request is to change eight (8) parcels of Land with a FLU of Marina and Mixed Residential to Pedestrian Commercial FLU and join two (2) existing parcels of Land with a FLU of Pedestrian Commercial. This will enlarge the Pedestrian Commercial FLU area by 4.98+/- acres in the downtown urban core of the Town of Fort Myers Beach.

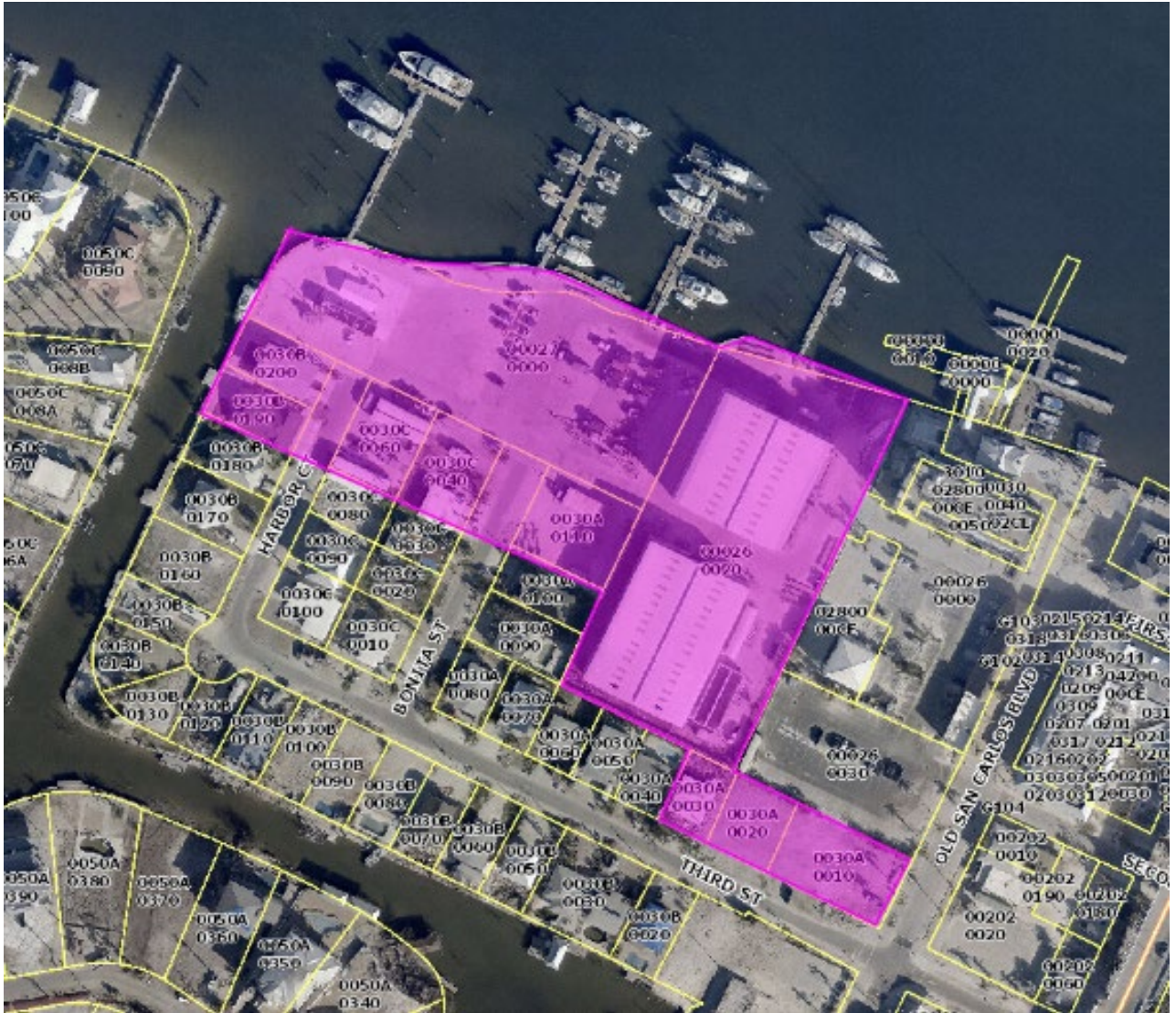
Applicant (Property Owner): Freeland FL Holdings, LLC
c/o Ben Freeland
53333 Hickory Hollow Parkway
Antioch, TN 37013
Ben@Freelandauto.com
(615) 696-4100

Agent (Planning): Ink Engineering, Inc
James Ink PE
2055 West First Street
Fort Myers, FL 33901
jink@inkengineeringinc.net
(239) 940-2504

Agent (Legal): Strayhorn, Persons-Mulicka & Fisher, P.I.
Bruce Strayhorn
2125 First Street
Fort Myers, FL 33901
Bruce@StrayhornLaw.com
(239) 334-1260

Property: The project application consists of ten (10) parcels of land. The following is the parcel listings with the current Future Land Use Classification:

Strap #	Address	Future Land Use
24-46-23-W3-00026.0020	450 Harbor Court	Marina
24-46-23-W3-00027.0020	450 Harbor Court	Marina
24-46-23-W3-0030B.0200	445 Harbor Court	Mixed Residential
24-46-23-W3-0030B.0190	441 Harbor Court	Mixed Residential
24-46-23-W3-0030C.0060	436 Harbor Court	Mixed Residential
24-46-23-W3-0030C.0040	435 Bonita Street	Mixed Residential
24-46-23-W3-0030A.0110	438 Bonita Street	Mixed Residential
24-46-23-W3-0030A.0030	935 Third Street	Mixed Residential
24-46-23-W3-0030A.0020	939 Third Street	Pedestrian Commercial
24-46-23-W3-0030A.0010	401 Old San Carlos	Pedestrian Commercial



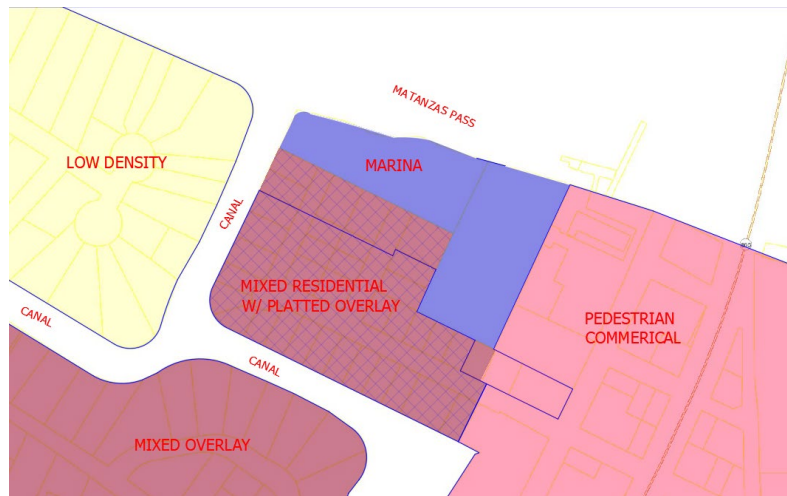
Project Location Map
(Exhibit 6-3)

Property Information:	<u>Total Acreage:</u>	4.98 ac	
	<u>Total Uplands:</u>	4.98 ac	
	<u>Total Wetlands:</u>	00 ac	
	<u>Current FLU:</u>	0.79 ac	Mixed Residential
		0.45 ac	Pedestrian Commercial
		3.74 ac	Marina
	<u>Proposed FLU:</u>	4.98 ac	Pedestrian Commercial

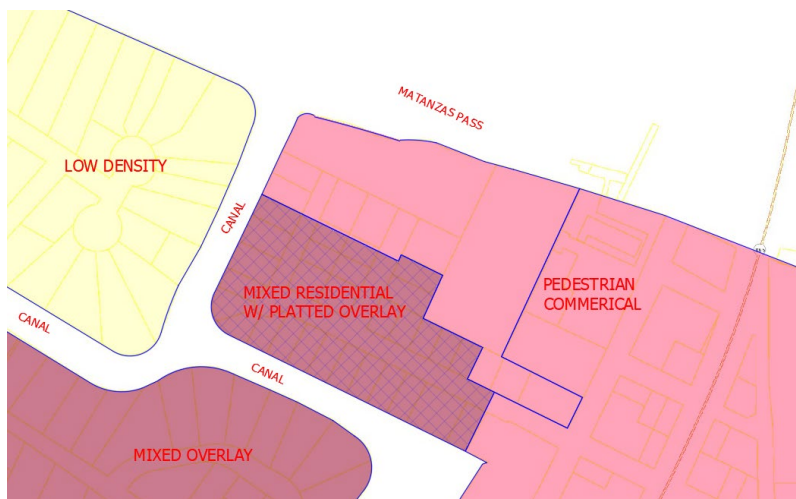
Comprehensive Plan – Map Change

The request is to change the existing Future Land Use from the existing one (1) parcel from Pedestrian Commercial FLU along Third Street, three (3) parcels on Harbor Ct from Mixed Residential with Platted overlay, two (2) parcels on Bonita St from Mixed Residential with Platted overlay, and two (2) parcels on Matanzas Pass from Marina to Pedestrian Commercial. This change will be joined to the two (2) existing parcels on Third St that are existing Pedestrian Commercial and create one (1) parcel with the Pedestrian Commercial Future Land Use consisting of 4.98+/- acres. There is a CPD application in process, however, the CPA is on an independent timeline and therefore this narrative is only for the CPA. There may be references to the CPD as providing some clarification, but the CPA must stand alone from a legal action standpoint.

The current and proposed FLU maps are:



Current Future Land Use Map



Proposed Future Land Use Map

Public Facilities Impacts:

<u>Traffic Circulation Analysis:</u>	A Traffic Impact Statement has been submitted. The town's traffic consultant provided comments January 3, 2024. A coordination meeting with town staff was held on January 17, 2024. Currently the TIS is being updated for the pending CPD application for resubmittal.
<u>Sanitary Sewer Analysis:</u>	Lee County Utilities will provide Sanitary Sewer. There is existing infrastructure that services the site uses. An attached letter (Exhibit XCP-3) from Lee County Utilities states that services are available.
<u>Potable Water:</u>	Town of Fort Myers Beach will provide Potable water. There is existing infrastructure that services the site uses. An attached letter (Exhibit XCP-4) from the Town of Fort Myers Beach states services is available.
<u>Surface Water:</u>	The parcels are of sufficient historical age that a stormwater management system does not exist. Redevelopment of the property will require issuance of an Environmental Resource Permit from SFWMD/FDEP for water quality and quantity.
<u>Parks:</u>	There are no impacts to the existing Town Park system. A rezoning that may provide for residential uses will have to be evaluated at time of zoning for any park impacts that may need to be mitigated.
<u>Recreation:</u>	There are no impacts to the recreation of the town. Rezoning to uses may provide increased recreational opportunities and public benefits that will be available for public use.
<u>Open Space:</u>	Any proposed uses will comply with the Town's Open Space requirements as set forth in the Land Development Code.
<u>Fire Protection:</u>	Fire Protection response is from the Fort Myers Beach Fire and Rescue district. A service availability letter (Exhibit XCP-5) is attached demonstrating adequate service is available.
<u>Solid Waste:</u>	The Lee County Solid Waste Department can provide solid waste collection for the project. A service availability letter is attached as Exhibit XCP-6.

Safety: The Lee County Sheriff's Office has jurisdiction in the Town for Public Safety. A service availability letter (Exhibit XCP-7) is attached demonstrating adequate service is available.

Mass Transit: LeeTran has jurisdiction in the Town for Mass Transportation Services. A service availability letter (Exhibit XCP-8) is attached demonstrating adequate service is available.

Environmental Impact: The project parcels do not have any jurisdictional wetlands. There are no upland environmental impacts. Currently the adjacent state lands are operating as a marina with wet slip dockage. The facility has operational authorization from FDEP and ACOE with conditions to address current environmental impacts. Any change in development will be required to be consistent with the comprehensive plan, land development code, FDEP, and ACOE rules, regulations, and requirements.

Historical Resources: The site has been developed for a significant period. There are no known Historic Resources on the site.

Internal Consistency:

Goal 1-3 Community Design

The following narrative is analysis of the Fort Myers Beach Comprehensive Plan and Goals, Objectives that are in support of the requested map change.

Goal 1: To continually improve the appearance and function of transportation corridors, commercial areas, and links to the natural and recreational areas.

The request is to change the FLU map to create a large expansion along the bay front of the Pedestrian Commercial Future Land Use. The shoreline is currently in the Marina FLU which has extremely limited uses to Marina activities only. Assigning the Pedestrian Commercial FLU does not remove the ability to have Marina activities but expands the options to other zoning use potential that provides public access to the waterfront. Currently, public access to the bayfront is limited to the 50' wide Bayfront Park at the end of Old San Carlos, a few restaurants in the downtown district and mid island, and Mound Key Park. Approval of this application will provide the potential increase the public's ability to access over 860' of waterfront. The requested change will also allow the ability through approved zoning to add hotel, retail, and commercial uses that will be at the bayfront end of the downtown corridor. Old San Carlos commercial would benefit from the increase in activity and use with a redevelopment project on the bay that would complement Margaritaville Resort on the Gulf. This creates two significant anchors and would provide a vibrant and sustainable downtown district.

Objective 3-D: TIME SQUARE – Stimulate the revitalization of the downtown core area (near Times Square) as the nucleus of commercial and tourist activities.

As supported in Goal 1 the ability to add uses to the Bayfront for public enjoyment is critical to the redevelopment of the Downtown district in the wake of Hurricane Ian. The ability to add commercial, hotel, retail, and restaurants with walkable opportunities will enhance the sense of place for residents and visitors experiencing the downtown district from the Gulf to the Bay. Fort Myers Beach downtown is only 300 yards wide between the Gulf and Bayfront making it a wonderful place on the human scale. The short distance along Old San Carlos is ideal to create a walkable community reducing the need for travel by car. Currently most hotel beds are along the Gulf at the east end of downtown and a few hotel beds on First Street near the bay. There exists a need for additional hotel beds with mixed use business that will create an incentive to travel the entire length of downtown by walking or bikes. This site has the significant potential to add a mixture of uses that enhances the downtown environment and provides a bayfront anchor for an active, vibrant, and sustainable downtown district.

Goal 4 Future Land Use Element

Goal 4: To keep Fort Myers Beach a healthy and vibrant "small town", while capitalizing on the vitality and amenities available in the beach-resort environment and minimizing the damage that a hurricane could inflict.

Unfortunately, on September 28, 2022, Hurricane Ian swept ashore with a large storm surge that caused catastrophic damage to the island. In one day, the beach buildings were significantly damaged or destroyed. The town suffered a damaging blow with a great loss of property. It is important that the "small town" known as Fort Myers Beach remains to protect the historical legacy of the island. However, replacing structures with current code, flood elevations and resiliency restraints comes at a significant cost. It is extremely difficult and impossible to replace what was lost in the same eclectic nature that took decades to build. Therefore, a new vision needs to be developed of how Fort Myers beach small town will be defined for redevelopment to a sustainable town. The use of new urbanism design principles creating walkable streets, housing, and shopping in proximity, and connected accessible public spaces. New urbanism focuses on human-scaled design not the typical suburbansim of the past. This is the intent of the request by expanding the allowable uses on a significant urban core property in the heart of the urban core of the town. Meeting this need cannot be accomplished under the current Marina FLU. This application requests changing eight parcels to Pedestrian Commercial FLU to with the two parcels already Pedestrian Commercial FLU to create a 5 acre tract in the urban core of the town. Pedestrian Commercial FLU is defined in the Comprehensive Plan as:

POLICY 4-B-6 "PEDESTRIAN COMMERCIAL": a primarily commercial district applied to the intense activity centers of Times Square (including Old San Carlos and nearby portions of Estero Boulevard) and the area around the Villa Santini Plaza. For new development, the maximum density is 6 dwelling units per acre

(except where the Future Land Use Map's "platted overly" indicates a maximum density of 10 units per acre for affordable units consistent with the adopted redevelopment plan). Commercial activities must contribute to the pedestrian-oriented public realm as described in this comprehensive plan and must meet the design concepts of this plan and the Land Development Code. Where commercial uses are permitted, residential uses are encouraged in upper floors. All "Marina" uses in Policy 4-B-7 are also allowed on parcels that were zoned for marinas prior to adoption of this plan. Non-residential uses (including motels and churches) now comprise 58.9% of the land in this category, and this percentage shall not exceed 90%.

The ability to have additional development parcels within the "Times Square" Pedestrian Commercial FLU through proper zoning and development regulations can be designed as a village designed for people, not cars and parking. The new urbanism design principles can create a zoning ordinance that defines how to create plazas, sidewalks, cafes, and a host of activities for human interaction within the framework of the mixed-use village commercial development. This adoption of this application expanding the existing Pedestrian Commercial FLU will create the ability to create an appropriate zoning ordinance for the new Fort Myers Beach healthy and vibrant "small town" that can be the model for the post Ian sustainable community redevelopment. The requested land use map change will not eliminate the historical marina waterfront uses as Pedestrian Commercial FLU as defined in Policy 4-B-6 allows all Marina Uses in Policy 4-B-7 the existing FLU designation. Therefore, the requested map change does not create an inconsistency with the Comprehensive Plan with the continued existing use of the parcels.

The Comprehensive Plan provides guidance on density, intensity, and height that are not relevant to the map change but are critical to a sustainable, resilient, and consistent redevelopment of the subject parcel through Rezoning as governed under Chapter 34 of the Land Development Code. These following Policies are presented as important contributory information of a rezoning process to be found consistent with the Comprehensive Plan.

***POLICY 4-C-6 MOTEL DENSITIES:** The Land Development Code shall specify equivalency factors between guest units (which include motel rooms) and full dwelling units. These factors may vary based on size of guest unit and on land-use categories on the Future Land Use Map. They may vary between a low of one guest unit and a high of three guest units for each dwelling unit. (These factors would apply only where guest units are already permitted.) In order to implement the 1999 Old San Carlos Boulevard/Crescent Street Master Plan that encourages mixed use buildings with second and third floors over shops on Old San Carlos, hotel rooms may be substituted for otherwise allowable office space in that situation and location without using the equivalency factors that apply everywhere else in the town. This alternate method for capping the number of hotel rooms applies only to properties between Fifth to First Streets that lie within 200 feet east and west of the centerline of Old San Carlos Boulevard. Hotel rooms built under this alternate method must have at least 250 square feet*

per rentable unit, and under no circumstances shall buildings they are located in exceed four stories (with the ground level counted as the first story).

It would appear to a brief read of this Policy that Hotel/Motels are a function of density with a room multiplier of one to three guest units for each allowable density unit. However, the correct read is in the following parentheses statement, "(These factors would apply only where guest units are already permitted.) New units would not fall under this factor requirement. This is reinforced and explained in the commentary of the Comprehensive Plan and Land Development Code regulations.

The commentary reads with emphasis added for clarification:

*A new motel (or hotel) that qualifies under the current zoning regulations can have substantially more rental units than would be allowed for multifamily housing. Under the current rules, a minimum of three "business hotel/motel units are guaranteed for each one regular dwelling that would otherwise be allowed (in zoning districts where motels are permitted); this ratio is two for one for "efficiency" motels. With a maximum number of new dwellings allowed under the comprehensive plan of 6 units per acre, 18 hotel or motel units can be built. **In addition, a landowner can request higher densities yet during a planned development rezoning (with no maximum cap) provided that the Town Council finds that the higher density would be "compatible with the surrounding area."** (Due to concerns over these density multipliers, they were suspended by ordinance in late 1997 pending the completion of this comprehensive plan.)*

The possibility of additional hotel/motel units that may be approved in a public hearing rezoning process of a property is detailed in Section 34-1803(2) – Allowable Intensity which states:

(2) Guest units exceeding these equivalency factors or exceeding 1,000 square feet each may be allowed under exceptional circumstances as described in the comprehensive plan if approved as a deviation through a planned development rezoning. Before approving such a deviation, the town council must find that:

- a. All other aspects of the development (height, traffic intensity of use, etc.) are compatible with the surrounding area.*
- b. The proposal clearly exceeds all standards of the Fort Myers Beach Comprehensive Plan; and*
- c. In no case can equivalency factor increase exceed the maximum intensities allowed by the Fort Myers Beach Comprehensive Plan.*

The conclusion on motel densities for new unpermitted rooms is that through the planned development process with providing "exceptional circumstances" and ensuring neighborhood compatibility Town Council can approve a deviation for the number of appropriate hotel units. This is a rezoning issue and not a Comprehensive Plan inconsistency. Any proposed motel/hotel uses will require a rezoning of the property

that is consistent with the Comprehensive Plan and Pedestrian Commercial FLU. The intensity of motel/hotel use on the property would be addressed in the rezoning of the property and through public hearings for consistency with the Comprehensive plan and Land Development Code.

Height is addressed in Policy 4-C-4 and like Motel Densities is not applicable to the map change request, but clarification should be illustrated for clarity. The Policy states:

POLICY 4-C-4 BUILDING HEIGHTS: The Land Development Code shall limit the height of new buildings under most conditions to two stories above flood elevation (exceptions may include the build back situations (See Policy 4-D-1 and 4-E-1), and different heights may be applied to officially designated redevelopment areas such as Times Square, Red Coconut/Gulf View Colony, and Villa Santini Plaza.) In those case where individual parcels of land are so surrounded by tall buildings on lots that contiguous (or directly across a street) that this two-story height limit would be unreasonable, landowners may seek relief through the planned development rezoning process, which requires a public hearing and notifications 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 the Gulf or Bay waters that could be provided in exchange for allowing buildings to be taller than two stories. In each case, the town shall balance the public benefits of the height limit against other public benefits that would result from the specific proposal.

The height determination of a project would be addressed in a rezoning case and would provide the context and deviation from the Land Development Code for height in the downtown district. Comprehensive Plan Policy on height states that through the public hearing process additional height may be obtained due to non-conforming building heights on adjacent properties.

The current Marina uses are not in conflict with a map change to Pedestrian Commercial as marina uses are allowed in the Pedestrian Commercial future land use. The request is required for the Arches Bayfront Commercial Planned Development public hearing application that is submitted concurrent with this Map Change Amendment application.

Goal 5 Coastal Management

Goal 5 Coastal Management addresses shoreline management.

OBJECTIVE 5-C POST-DISASTER REDEVELOPMENT – Plan for post-disaster rebuilding that will reduce the exposure of human life and property to future disasters and improve the community in other ways during the rebuilding process.

Adding this larger parcel to Pedestrian Commercial FLU gives the flexibility to spread the significant costs of the required post storm foundation and elevation of structures. Creating the ability to have an integrated village concept that will minimize impacts to property in future disasters. This is consistent with Objective 5-C specifically in Policy 5-C-4(iii) in which the town investigates the feasibility of promoting pedestrian activity with raising sidewalks to reduce dry floodproofing requirements.

OBJECTIVE 5-E Increase the number of well-maintained accesses to beaches, bays, and navigable waters to serve the existing and future population and visitors.

The proposed map change in the FLU will give the opportunity to redevelop through the zoning process to create a place that significantly activates the bayfront with plazas, parks and walkability integrated into a vibrant and sustainable downtown district.

POLICY 5-E-7 This plan minimizes the potential for land use conflicts between waterfront uses and other land uses through the following priorities for development/redevelopment of the shoreline:

- i. Intense multi-family uses are limited to areas vested by previous regulations; to the rebuilding of existing sites following a natural disaster (See Policy 4-D-1): and to voluntary rebuilding of existing sites in accordance with the Future Land Use Element.*
- ii. Future development or redevelopment of shoreline land uses must ensure compatibility with surrounding lands and provide proper buffering where needed.*
- iii. In determining applicable land uses for a site, priority shall be given to water dependent land uses in the following order*
 - Conservation uses;*
 - Water-dependent uses such as marinas which are available for use by the general public;*
 - Recreational uses; and*
 - Other uses that are compatible with the surrounding neighborhood.*

Item (i) does is not relevant to the map change as there is an existing marina and no vested areas of multi-family that may need to be rebuilt after a natural disaster.

Item (ii) would be consistent with the proposed map change due to the neighborhood being comprised of commercial to the east and residential to the south. The existing

marina with dry storage operates typically with industrial use which would be the most intense impact to the surrounding neighborhood. Changing to Pedestrian Commercial would allow other uses that have a lower impact on the existing neighborhood. The change would not increase impacts and most likely will provide a decrease in impact on the surrounding neighborhood.

Item (iii) would remain consistent with the proposed map change due to the requirement that any use other than allowable under the current Marina zoning district would require rezoning. This public hearing process could ensure that the continued use as a marina in some form due to 900 linear feet of shoreline and existing wet slips it can be assumed that first come first served wet slip boat leasing would be available. As addressed in Item (i) commercial and residential are existing uses in the surrounding neighborhood and adding additional commercial and residential uses would remain a compatible neighbor.

Goal 6 is the conservation element. The proposed map change would be a betterment to the Goals, Objectives, and Policies as the introduction of any redevelopment of the site would require the installation of a stormwater management system providing an improvement of stormwater entering the bay. (Objective 6-H Water Quality).

Goal 7 Transportation

GOAL 7: To improve peak season mobility without reducing the permeability of Estero Boulevard to foot traffic or damaging the small-town character of Fort Myers Beach. The town seeks to reduce speeding, improve evacuations capabilities, and improve mobility through balanced transportation improvements such as a continuous system of sidewalks and bikeways, a network of trolleys and water taxis lined to off island systems, and parking options matched to road capacity.

Transportation is one of the main concerns of development in the town. Approval of this FLU map change does not grant any specific uses of a property. Currently, the existing marina zoning district provides the schedule of allowable uses on the property. These existing uses can continue consistent with the change to Pedestrian Commercial FLU. Any redevelopment proposal other than marina uses will require a public hearing for a change of zoning request. The zoning request will demonstrate redevelopment of the site will meet the requirements of the Land Development Code and Comprehensive Plan including Goal 7. The Comprehensive Plan sets forth the Goals, Objectives, and Policy to provide a vision of the town. The Land Development Code is the implementation document for the rules and regulations governing development in the town. There are specific parts of the comprehensive plan that must be met by development to remain consistent with the Plan. Specific parts of the plan that are relevant to any redevelopment of any parcel of land in the town must be found consistent with the Comprehensive Plan. These sections of the plan are most relevant to a significant development plan:

Objective 7-C EVACUATION ROUTE – Estero Boulevard’s critical function as the sole evacuation route for Fort Myers Beach shall be considered in all planning and development activities.

POLICY 7-D-1 ARRIVE WITHOUT A CAR: Fewer vehicles would be driving to Fort Myer Beach if scheduled airport shuttle service were available. The town shall encourage this service and the designation of a central drop-off point that could include a trolley stop and taxi stand.

POLICY 7-D-2 IMPROVE TROLLEY SERVICE: Trolley ridership increases when service is more frequent and when fares are low or free, yet no long-term funding or operational plan has been developed for providing higher service levels. (remaining of Policy is not relevant to map change request)

POLICY 7-D-3 ALTERNATE TRAVEL MODES: The town shall support alternatives to car travel to free up road capacity for trips that do require a car. (remaining of Policy is not relevant to map change request)

POLICY 7-D-4 ENCOURAGE WATER TAXIS: Fort Myers Beach has great potential for water transportation, with its canals, natural waterways, and high levels of tourism. To encourage the private sector to provide this service, the town shall ease regulations that require a water taxi to provide adequate parking spaces at every stop and shall encourage restaurants, motels, and marinas to provide dockage for water taxis. Where possible, water taxi drop-off sites should avoid areas of high manatee concentration, use protective measures such as propeller guards, jet propulsion, or electric motors.

POLICY 7-H-9 PROFESSIONAL ASSISTANCE: The town may wish to retain a creative traffic engineer to provide advice on these experiments on a continuing basis.

These Policies show the towns desire to promote and when presented provide serious evaluation of creative and alternative methods of travel on the island and reduce the need to utilize the automobile as the first mode of transportation. This philosophy is valid and wise as the potential solutions to developments. This Map Amendment change of its level cannot address the Policies on how to provide these items. The zoning and Development Order applications are the proper public and staff review process that would present modes of traffic mitigation for a specific development intensity and density. This CPA application is a map change that presents the potential for expanded uses on the subject property. This CPA application does not grant any specific uses or construction authorization. The requested map change amendment is consistent with the Comprehensive Plan for the Policies discussed.

OBJECTIVE 7-I LEVEL OF SERVICE STANDARD – Maintain minimum acceptable levels of service for the transportation system.

The Comprehensive Plan requires that a development maintain a specific level of service. The map change would only allow the potential of adding uses over and above the Marina. Based on Pedestrian Commercial FLU, the property size of 5 acres, maximum Floor area ratio (FAR) of 2.5 (Policy 4-C-2), and a maximum residential density of 10 units per acre with affordable units the following could be the traffic generation for varied uses:

Current Allowable FAR for Marina FLU @ 1 FAR	217,800 SF
Maximum Potential Allowable for Pedestrian Commercial at 2.5 FAR	544,500 SF
Maximum Potential Allowable for Pedestrian Residential Units @ 10 units per acre	50 units

Trip Generation based on ITE rates (AM/PM peak):

Marina at maximum buildout (600 slips) at 50% usage	42/125
Potential Maximum Residential 50 Units	20/25
Pending COD Resort Hotel 400 rooms	101/110
Equal Distribution of Commercial including Restaurants (Multiple Types), Fast Food, Pharmacy, Grocery, Convenience Store, and retails	3,211/4,129

This calculation clearly demonstrates that even though the Comprehensive plan has maximum levels there are other constraints that must be considered in the design of a development that will limit and reduce the allowable rates in the Plan. It should be obvious that almost 4,129 PM Peak hour trips that are theoretically possible these uses would not be allowed because of the constraints of Traffic Impact Statement requirements at the zoning and Development Order review level. The Comprehensive Plan provides guidance on these constraints within Objective 7-I Level of Service Standards.

OBJECTIVE 7-I LEVEL-OF-SERVICE STANDARD – Maintain minimum acceptable levels of service for the transportation system.

POLICY 7-I-1 Traffic congestion is a serious problem at Fort Myers Beach, caused by a combination of high tourism demand for its beaches and past over-building relative to road capacity. Neither factor is within the control of the Town of Fort Myers Beach, although its residents must tolerate congestion every winter. This comprehensive plan seeks to manage congestion levels and encourage alternative means of mobility including walking, bicycling and trolleys.

POLICY 7-I-2 The peak capacity of Estero Boulevard's congested segments is 1,300 vehicles per hour. The minimum acceptable level-of-service standard for Estero Boulevard shall be that average monthly traffic flows from 10:00 am to 5:00 pm during each month do not exceed that level for more than four calendar

months is in any continuous twelve-month period. Measurements from the permanent count station at Donara Boulevard shall be used for this standard.

Summary

The assignment of a Future Land Use is solely the function of whether the location is consistent with the overall plan and neighborhood compatibility. The details of the density intensity and uses are regulated by the Land Development Code Chapter 34 for zoning and Chapter 10 for a Development Order application.

This analysis has shown that the proposed map change in FLU is consistent with the comprehensive plan as follows:

- a) The subject parcels under unified control are a mixture of three Future Land Use of Marina, Mixed Residential and Pedestrian Commercial. Redevelopment of the parcels should be in one land use.
- b) Assigning Pedestrian Commercial to all the parcels in the application will not create any inconsistencies with existing use. All current uses of the parcels are allowable in Pedestrian Commercial.
- c) The existing facility sustained severe damage from Hurricane Ian. Buildings were destroyed and the remaining buildings are damaged and are near the end of their life cycle.
- d) The subject parcel is of sufficient area to allow a significant redevelopment with uses that have been significantly affected by Hurricane Ian. Reconstruction of new uses allowed in Pedestrian Commercial will provide services, uses, and sustainable and significant economic impact.
- e) Determining impacts to the town for density, intensity, height, and other compatibility factors are evaluated within Rezoning and Development Order requirements governed under the Land Development Code. Rezoning is a public hearing process allowing public input on the specifics of the project.

The change of the Future Land Use to Pedestrian Commercial does not entitle the property to any specific uses, heights, and intensities, only gives the opportunity to develop with an expanded mix of uses beyond what is allowable in the Marina FLU.

In my professional opinion detailed by this narrative, I believe that the proposed map change from Marina FLU to Pedestrian Commercial FLU is consistent with the Comprehensive Plan and provides an opportunity to provide residents and visitors more uses that will be beneficial to the sustainability of the Town of Fort Myers Beach.



Fort Myers Beach Fire Control District

Life Safety Branch

100 Voorhis Street · Fort Myers Beach, Florida 33931

Phone (239) 590-4210 • Email: prevention@fmbfirefl.gov

June 16, 2023

Ink Engineering, Inc.
ATTN: James M. Ink, PE
2055 West First Street
Fort Myers, FL 33901
jink@inkengineeringinc.net

RE: Service Availability Request for Comp Plan Amendment
Arches Bayfront
450 Harbor Court
Fort Myers Beach, FL 33931

Mr. Ink:

Please let this letter serve as response to your request for a Letter of Service Availability for the proposed Comprehensive Plan Map amendment for the above referenced property. Based on a review of the information provided I have the following comments:

1. The proposed development will encompass some residential areas, specifically Third Street, Bonita Street and Harbor Court, which has the potential to create additional traffic and possible congestion. We feel this may have the ability to affect emergency response.

All other spaces are subject to the most current editions, at time of application, of the fire and life safety codes.

If there are any questions regarding this, please contact my office.

Thank You.

Jennifer Campbell, Fire Official
Life Safety Branch
Fort Myers Beach Fire District

Shaping Our Community Through Excellence

www.fmbfirefl.gov

Kevin Ruane
District One

June 13, 2023

Cecil L. Pendergrass
District Two

Arches Bayfront
450 Harbor Court
Fort Myers Beach, FL 33931

Ray Sandelli
District Three

Brian Hamman
District Four

**RE: Moss Marina Site on Fort Myers Beach
Letter of Service Availability Request**

Mike Greenwell
District Five

Mr. James M Ink,

Roger Desjarlais
County Manager

LeeTran has reviewed your request for service availability regarding a proposed Comprehensive Plan Amendment. After reviewing the site and comparing the location with our existing and planned route locations according to the 2020 Transit Development Plan (TDP), the following has been determined:

Richard Wesch
County Attorney

The proposed development is within one-quarter mile of a fixed-route corridor and the closest bus stop is Estero Blvd @ Lagoon St. Based on Lee County Transit LDC 10-442 (b)(1), if this becomes a DO or LDO type D, a bicycle storage rack is needed. However, the development is in Fort Myers Beach you are not required to make these improvements. Therefore, the developer will need to coordinate with the City of Fort Myers Beach on the required improvements based on their Transit LDC 10-442 (1).

Donna Marie Collins
County Hearing Examiner

If you have any questions or require further information, please do not hesitate to contact me at (239) 533-0340 or cmarinodiaz@leegov.com.

Sincerely,

Clarissa Marino Diaz

Clarissa Marino Diaz,

Transit Service Planner

Phone: (239) 533-0340

Carmine Marceno
Sheriff



State of Florida
County of Lee

"Proud to Serve"

May 30, 2023

James M. Ink
Ink Engineering, Inc.
2055 W. First St.
Fort Myers, FL 33901

Mr. Ink,

The Lee County Sheriff's Office has reviewed your Arches Bayfront Comprehensive Plan Amendment and Commercial Planned Development Rezoning Request Statement to rezone 4.98+- acres on Fort Myers Beach that includes the following parcels:

24-46-23-W3-00026.0020, 450 Harbor Court
24-46-23-W3-00027.0000, 450 Harbor Court
24-46-23-W3-0030B.0200, 445 Harbor Court
24-46-23-W3-0030B.0190, 441 Harbor Court
24-46-23-W3-0030C.0040, 435 Bonita Street
24-46-23-W3-0030A.0110, 438 Bonita Street
24-46-23-W3-0030A.0030 935, Third Street
24-46-23-W3-0030A.0020 939, Third Street
24-46-23-W3-0030A.0010, 401 San Carlos Blvd.

The proposed Comprehensive Plan Map Amendment would change the properties' Future Land Use designation from Marina to Pedestrian Commercial and expand the hotel matrix exemption to Bayfront properties with unique public benefits for civic space to activate the waterfront for public interaction. The zoning request would change the planned development's designation from Marina to CPD and allow for a maximum of 400 hotel motel units, a marina with a maximum of 75 wet boat slips, a maximum of 100,000 square feet of commercial retail/office space, a minimum 50,000 square feet of civic space and a maximum building height of 60 feet above design flood elevation (6 stories), with tiered setbacks.

This Agency evaluated your request solely on its ability to provide law enforcement service to the project. Based on that criterion, these proposed changes would not affect our ability to provide law enforcement services to the project and surrounding area.



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May 30, 2023

Page 2

Law enforcement services will be provided from our West District offices in Fort Myers. At the time of application for a development order or building permit, we request that the applicant provide a Crime Prevention Through Environmental Design (CPTED) report done by the applicant and given to the Lee County Sheriff's Office for review and comment. Please contact Community Response Unit Crime Prevention Practitioner Kim Swanson at (239) 477-1617 with any questions regarding the CPTED study.

Respectfully,

A handwritten signature in blue ink, appearing to be "Chris Reeves", with a stylized flourish extending to the right.

Chris Reeves
Major, Patrol Bureau



BOARD OF COUNTY COMMISSIONERS

Kevin Ruane
District One

June 2, 2023

Via E-Mail

Cecil L Pendergrass
District Two

Raymond Sandelli
District Three

Brian Hamman
District Four

Michael Greenwell
District Five

Roger Desjarlais
County Manager

Richard Wm Wesch
County Attorney

Donna Marie Collins
*County Chief
Hearing Examiner*

James Ink, P.E.
Ink Engineering, Inc.
2055 West First Street
Fort Myers, FL 33901

RE: **Wastewater Availability**
Arches Bayfront Resort – 450 Harbor Court
STRAP # 24-46-23-W3-00026.0020; 24-46-23-W3-00027.0000;
24-46-23-W3-0030B.0200; 24-46-23-W3-0030B.0190;
24-46-23-W3-0030C.0040; 24-46-23-W3-0030A.0110;
24-46-23-W3-0030A.0030; 24-46-23-W3-0030A.0020;
24-46-23-W3-0030A.0010

To whom this may concern:

The subject properties are located within Lee County Utilities Future Service Area as depicted on Map 4B of the Lee County Comprehensive Land Use Plan. Sanitary sewer lines are in operation adjacent to the property mentioned above. However, in order to provide service to the subject parcels, developer funded system enhancements such as line extensions may be required.

Your firm has indicated that this project will consist of four commercial units with an estimated flow demand of approximately 100,700 gallons per day. Lee County Utilities presently has sufficient capacity to provide sanitary sewer service as estimated above.

Sanitary sewer service will be provided by our Fort Myers Beach Water Reclamation Facility. The Lee County Utilities' Design Manual requires the project engineer to perform hydraulic computations to determine what impact this project will have on our existing system.

There are no reuse mains in the vicinity of these parcels.

Prior to beginning design work on this project, please meet with LCU Staff to determine the best point of connection and discuss requirements for construction.

This letter should not be construed as a commitment to serve, but only as to the availability of service. Lee County Utilities will commit to serve only upon receipt of all appropriate



P.O. Box 398, Fort Myers, Florida 33902-0398 (239) 533-2111

lee-county.com

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connection fees, a signed request for service and/or an executed service agreement, and the approval of all State and local regulatory agencies.

Further, this letter of availability of sanitary sewer service is to be utilized for Zoning and Comprehensive Plan Amendment only. Individual letters of availability will be required for the purpose of obtaining building permits.

Sincerely,

LEE COUNTY UTILITIES

Ashanti Shahriyar

Ashanti Shahriyar

Plan Reviewer

239-533-8531

UTILITIES ENGINEERING



Board of County Commissioners

Kevin Ruane
District One

May 26, 2023

Cecil L Pendergrass
District Two

Ray Sandelli
District Three

Brian Hamman
District Four

Mike Greenwell
District Five

Roger Desjarlais
County Manager

Richard Wm. Wesch
County Attorney

Donna Marie Collins
County Hearing
Examiner

Ink Engineering, Inc.

Attn: James M. Ink
2055 West First street,
Fort Myers, FL 33901

RE: Letter of Service Availability – Moss Marina

Dear Mr. Ink:

The Lee County Solid Waste Department is capable of providing solid waste collection service for future changes to the Moss Marina Comprehensive Plan and rezoning project to modify the marina use adding commercial/hotel with ancillary uses through the franchised hauling contractors. Disposal of the solid waste from this development will be accomplished at the Lee County Resource Recovery Facility and the Lee-Hendry Regional Landfill. Plans have been made, allowing for growth, to maintain long-term disposal capacity at these facilities.

Please review Lee County Land Development Code, Chapter 10, Section 261, with requirements for on-site space for placement and servicing of solid waste containers. Please note that the property owner will be responsible for all future applicable solid waste assessments and fees.

If you have any questions, please call me at (239) 533-8007.

Sincerely,

Justin Lighthall

Justin Lighthall
Manager, Public Utilities
Lee County Solid Waste Department



From: [Marilyn Anderson](#)
To: [Sarah Propst](#)
Subject: CPA20230152
Date: Sunday, March 31, 2024 8:58:44 PM

Dear LPA and Town Council-

I own the property at 929 Third St. FMB which backs to Moss Marine property. I am concerned about changing the zoning on this property from marina and mixed residential to pedestrian commercial prior to Moss Marine submitting a CPD for the entire project. Once the property is rezoned, it will give them additional benefits by right to build a hotel(s) without additional public benefit. The rezoning should be included as part of the entire project which should be submitted through the CPD process.

Thank you for your consideration
Marilyn Anderson

Note: Florida has a very broad public records law. Most communication(s) to or from Fort Myers Beach officials regarding Town business are public records available to the public and media upon request. Your email communications and email address may be subject to public disclosure.

Kathleen "Katie" O. Berkey, AICP
Shareholder and Certified Land Planner
Board Certified Attorney, City, County, and
Local Government Law
Phone: 239.628.4919 Fax: 239.433.5933
KBerkey@beckerlawyers.com



Becker & Poliakoff
Six Mile Corporate Park
12140 Carissa Commerce Court, Suite 200
Fort Myers, Florida 33966

Northern Trust Building
4001 Tamiami Trail North, Suite 270
Naples, Florida 34103

April 3, 2024

VIA E-MAIL ONLY: sarah.propst@fmbgov.com

Sarah Propst, AICP, PMP
Community Development, Planning Manager
Town of Fort Myers Beach

RE: Magnum FMB 1 LLC Opposition to Case No. 20230151 for Arches Bayfront Request to Change The Future Land Use For Eight (8) Parcels To Pedestrian Commercial, Respectively, at Parcel No. 244623W30030A0010, 401 OLD SAN CARLOS BLVD, FORT MYERS BEACH, 33931

Dear Ms. Propst:

I am an attorney who is certified in City, County, and Local Government Law by the Florida Bar representing Magnum FMB 1 LLC ("Magnum"), the owner of certain real property located at 725 Matanzas Court, Fort Myers Beach, Florida. Magnum is manager-managed by Mr. Dale Bonnema, who also resides at this address. Magnum's property is approximately 72-feet from the property subject to the proposed future land use change, which, if approved, will detrimentally affect Magnum and Mr. Bonnema. Accordingly, Magnum and Mr. Bonnema oppose the above-referenced application due to threatened harm and disproportionate impacts threatened by same.

Together with this letter, Magnum submits the **enclosed** Expert Planning Report prepared by Max Forgey, AICP, Forgey Planning, dated April 3, 2024, and Mr. Forgey's CV. Magnum has established the threat the proposed future land use change, at the greatest intensity permitted by the Comprehensive Plan, and that the proposal is incompatible with longstanding, surrounding uses. As a result, the proposal greatly diminishes the existing residents' quality of life. For all the above reasons and those enclosed in the Report, which are supported by substantial competent evidence, we respectfully urge the LPA to recommend denial to Town Council and for Town Council to ultimately deny this application.

Thank you.

Sarah Propst, AICP, PMP
April 3, 2024
Page 2

Very truly yours,



Kathleen O. Berkey
For the Firm

KOB/ma

Enclosures (as stated)

cc: Client
Max Forgey, AICP, Forgey Planning (via e-mail only w/encl: max@forgeyplanning.com)
Nancy Ann M. Stuparich, Esquire, Vose Law Firm LLP, Town Attorney (via e-mail only:
bvose@voselaw.com)

DARYL MAX FORGEY, AICP
LAND USE PLANNER & EXPERT WITNESS
FORGEY PLANNING LLC
max@forgeyplanning.com
239.560.5864

Town of Fort Myers Beach
Local Planning Agency
2731 Oak Street
Fort Myers Beach, FL 33931
239.765.0202

April 3, 2024

SUBJECT: JUSTIFICATION FOR DENIAL OF APPLICATION NO, 20230152, TO AMEND FUTURE LAND USE MAP SERIES (FLUM) OF THE TOWN OF FORT MYERS BEACH COMPREHENSIVE PLAN ON EIGHT (8) PARCELS OF LAND WITH A FLU DESIGNATION OF MARINA AND MIXED RESIDENTIAL TO PEDESTRIAN COMMERCIAL FLU AND JOIN TWO (2) EXISTING PARCELS OF LAND WITH A FLU OF PEDESTRIAN COMMERCIAL.

1. PURPOSE OF REPORT AND QUALIFICATIONS OF EXPERT

Purpose of this report. This report was prepared on behalf of client Magnum FMB 1 LLC (“Magnum”) who owns 725 Matanzas Ct, Fort Myers Beach, FL 33931-2119. Magnum is manager-managed by Dale Bonnema who also resides at this address and whose use and enjoyment of the property will be adversely affected by the proposed amendments to the Town of Fort Myers Beach Comprehensive Plan if approved. Magnum’s property is only approximately 72-feet from the property subject to the proposed future land use change.

This report sets forth the justifications for denial of the FLUM amendment, which is scheduled for public hearing on April 9, 2024, by Local Planning Agency (LPA). This report supplements testimony which will be provided in person on Mr. Bonnema’s behalf, as well as by neighbors and residents in the immediate vicinity. It should be noted that the staff report for this application was not available for review when this report was prepared, and Mr. Bonnema and his professional team reserve the right to augment their data and analysis based upon information which may be contained in the staff report or obtained in the LPA hearing.

Companion Application No. 20230151. There is a companion rezoning application on the same subject property for a DCI -Planned Development/ Rezoning. No date has been scheduled for the consideration of the rezoning application.

Qualifications and professional experience. The undersigned is a certified land use planner and expert witness with a Master of Public Affairs (MPA) degree with a concentration in Urban and Regional Planning from the O'Neill School of Public and Environmental Affairs at Indiana University Bloomington; and has been a member in good standing of the American Institute of Certified Planners (AICP) since 1993. A copy of the resume of Daryl Max Forgey, detailing his professional qualifications and career experiences, is appended to this report.

2. LEGISLATIVE NATURE OF CASE No. 20230152

Case No. 20230152 is legislative in nature; the companion application 20230151, which will not be heard on April 9th, is quasi-judicial. Comprehensive plans in Florida must be amended by legislative procedures. W. Thomas Hawkins, in his magisterial *Land Use Law in Florida* [Routledge, 2021] posits that “[l]egislative actions create a general rule or policy which will be applicable to an open class of individuals, interests, or situations,” and cites four examples of legislative actions, including Comprehensive Plan adoption and amendments, adoption of land development code, and rezoning of many properties. [pg. 51]. The proposed action is legislative in nature, because it would amend the Town of Fort Myers Beach Comprehensive Plan, imposing a dramatic change in scale and intensity of use on 4.98 acres on land that is incompatible with the surrounding neighborhood.

The Comprehensive Plan enshrines the Town’s vision of its future, one which provides guidance to property owners, local governments, and infrastructure and service providers, among others. A local government has every good reason to maintain its comprehensive plan and land development regulations in their existing state unless and until a better use reveals itself. The desires of one individual property owner for personal enrichment or aggrandizement should not justify replacing the property owner’s existing entitlement.

Hawkins summarized the judicial standard of review as follows: “Courts review legislative decisions using the fairly debatable standard. The standard has two parts. First, laws must bear a substantial relation to a legitimate police power purpose. Second, the connection between that rule and its purported purpose may not be clearly arbitrary and unreasonable.” [pg. 51]. In this case, there is no reason to doubt that the existing long-standing FLUM designations do not bear a substantial relation to a legitimate police power, and there is no reason to assume that denying an existing and long-standing FLUM designation could possibly be considered arbitrary or unreasonable.

The undersigned concludes that the existing land use designations on the subject property allow a reasonable use to the applicant. The Town Council, as the Town’s governing body, has no

obligation to transmit or adopt this amendment to its Comprehensive Plan, and should deny it outright.

3. INCOMPATIBILITY BETWEEN THE PROPOSED AND EXISTING USES

Florida Statutes define “compatibility” as follows: “(9) ‘Compatibility’ means a condition in which land uses or conditions can coexist in relative proximity to each other in a stable fashion over time such that no use or condition is unduly negatively impacted directly or indirectly by another use or condition.” [Ch. 163.3164(9)]. The proposed amendment to the Town of Fort Myers Beach Comprehensive Plan would, if adopted, introduce a condition of incompatibility upon Mr. Bonnema and other area residents by imposing a dense multi-story hotel on a less-than-five acre property towering over his existing single family dwelling. These two uses—low versus high-rise; single family residential versus 400-unit hotel; quiet versus noisy cannot coexist in such an extremely close proximity in a stable fashion over time without negatively impacting the use and enjoyment which is valued by Mr. Bonnema and his neighbors. The proposed use fails to meet the test established in Ch. 163.3164(9), Florida Statutes, and should be denied for that reason alone.

4. AREAS OF CONCERN AND INSUFFICIENCY

- A. **Comprehensive Plan Consistency: Existing Land Uses.** The Comprehensive Plan defines the existing character of the North End as generally lined with low-rise homes on the Bay, which are mostly single-family homes on larger lots than some of the older subdivisions [“Community Design Element,” pg. 3-10. The Comprehensive Plan also articulates a vision for the North End: “The north end of the island retains its residential and resort identity. Its motel rooms, older cottages and high-rises all benefit from their proximity to Bowditch Point and the downtown ‘core area,’ yet are comfortably removed from seasonal traffic congestion and outdoor entertainment activities that many residents find intrusive.” [“Envisioning Tomorrow’s Fort Myers Beach,” pg. 2-3, *emphasis added*].

The existing FLU designations of Marina and Mixed Residential provide land use entitlements with many options for land owners. “Marina,” which applies to only 6.9 acres island-wide, is defined as “water access services, primarily for pleasure boating, including related accessory uses provided they don’t displace marina services. Cruise ships and similar uses that draw large amounts of vehicular traffic are not permitted in this category.” [Future Land Use Element, pg. 4-40].

“Mixed Residential” is a more common use applying to 590.9 acres throughout the island, and is defined as “applied to older subdivisions with mixed housing types on smaller lots, and to newer high-rise buildings. The maximum density is 6 dwelling units per acre, except where a Future Land Use Map overlay indicates a maximum density of 10 units per acre

for legally existing dwelling units. Commercial activities are limited to lower-impact uses such as offices and motels.” [Future Land Use Element, pg. 4-40].

These FLUM designations have been in place since the island was incorporated, and Mr. Bonnema and his Matanzas neighbors have relied upon the representations of the Comprehensive Plan in good faith. The Applicant enjoys an entitlement far more than those across the canal, and any intensification of use would resound to the detriment of Mr. Bonnema and his neighbors. [Future Land Use Element, pg. 4-39].

- B. Comprehensive Plan Consistency: Proposed Pedestrian Commercial FLUM Designation.** The proposed Pedestrian Commercial designation applies to 77.8 acres island-wide and is defined as “a primarily commercial district applied to the intense activity centers of Times Square (including Old San Carlos and nearby portions of Estero Boulevard) and the area around the Villa Santini Plaza. The maximum density of residential development is 6 dwelling units per acre, except where a Future Land Use Map overlay indicates a density of 10 units per acre for affordable units consistent with the adopted redevelopment plan.”

While the proposed amendment would not increase the maximum densities allowed on the subject property, it would make two changes which would adversely impact the neighboring residential properties: (1) the historically residential property would be redesignated as “primarily commercial” within an “intense activity center;” and (2) the property would lose the existing restriction by which “[c]ommercial activities are limited to lower-impact uses such as offices and motels” [Future Land Use Element, pg. 4-40].

There is an additional concern to this proposed redesignation, and that is the simple fact that the applicant does not propose sidewalks or trails of any kind, negating any realistic pedestrian use of this property.

- C. Overbuilding: Inconsistency with Objective 4-B and Policy 4-B-1.** This objective and policy are stated *verbatim*:

“OBJECTIVE 4-B FUTURE LAND USE MAP CATEGORIES. Reduce the potential for further overbuilding through a new Future Land Use Map that protects remaining natural and historic resources, preserves the small-town character of Fort Myers Beach, and protects residential neighborhoods against commercial intrusions.

“POLICY 4-B-1 OVERBUILDING: Judicious planning could have avoided the kind of overbuilding found at Fort Myers Beach by limiting construction to match road capacity and the physical environment. Since such planning came too late, the town must deal with today’s congestion plus the impacts of future development that has vested rights to proceed. These conditions have shaped the vision of this plan, as development rights once granted

are not easily or lightly reversed; great care has been taken in this plan to balance important public and private rights.”

Reducing potential overbuilding and protecting the small town character are core values of the Town of Fort Myers Beach Comprehensive Plan. The proposed land use change would be inconsistent with Objective 4-B and Policy 4-B-1, and should be denied.

- D. **Community Value and Impact.** The benefits of the proposed use are similar to those of any commercial development on the island—the use would create some jobs, although it is unclear how many of the persons employed would be Fort Myers Beach residents, and it would generate tax revenues. Conversely, the impacts on neighboring uses, such as Mr. Bonnema’s residence and that of his neighbors, are profound and pose a risk to community identity and sustainability. Additionally, there is a danger to public safety inherent in the lack of sidewalks to this ostensibly pedestrian-oriented development, because there would be no separation between vehicular traffic and cyclists and pedestrians.
- E. **Public Engagement and Transparency.** There appears to have been little, if any, public engagement between the developer and the residential neighbors which might have resulted in a less impactful project.

5. RECOMMENDED FINDINGS OF FACT JUSTIFYING DENIAL OF APPLICATION

The Town of Fort Myers Beach LPA and Town Council should deny this proposed FLUM amendment based upon the following findings of fact:

Finding 1: The Fort Myers Beach Comprehensive Plan was adopted by ordinance and is applicable to all land uses in incorporated Fort Myers Beach.

Finding 2: The Comprehensive Plan, of which the Future Land Use Element (FLUE) and Future Land Use Map (FLUM) are constituent parts, has designated all portions of the subject property as either Marina or Mixed Residential.

Finding 3: The proposed amendment is a legislative action and the Town Council, as the Town’s governing body, is under no obligation to approve the application for FLUM amendment.

Finding 4: The owner of the subject property enjoys a bountiful entitlement that exceeds those enjoyed by neighboring residential properties, and would suffer no harm by proposed application were denied.

Finding 5: The proposed uses are incompatible, as the term is defined in Florida Statutes Sec. 163.3164(9), in scale and use with neighboring properties, and the incompatibility cannot be ameliorated over time if approved as proposed. In addition, if approved, the

proposed project will become the new example of which to assert compatibility for future projects, further threatening the low-intensity, quiet existing character of the North End.

Finding 6: The proposed redesignation of the property to Pedestrian Commercial would replace a predominately residential district with a predominately commercial district, with would have a profound impact on nearby residential uses in the form of traffic, noise, light, and 24-hour activities.

Finding 7: The proposed use should not be designated as a “pedestrian” use because it was designed with no pedestrian component.

Finding 8: The proposed use is inconsistent with Objective 4-B and Policy 4-B-1 of the Fort Myers Beach Comprehensive Plan because it would constitute overbuilding and would be contrary to the small town character which is a core value of the Plan.

Based upon the above findings, and the testimony which will be presented by Mr. Bonnema and his neighbors, the undersigned, in his professional opinion, recommends denial of this application.

Respectfully,

A handwritten signature in black ink that reads "Max Forgey". The signature is written in a cursive, flowing style.

Daryl Max Forgey AICP #051,330
max@forgeyplanning.com

cc: Dale Bonnema
Kathleen O. Berkey, Esquire, AICP
Tom Slaughter



Max Forgey is an experienced land use planner with more than three decades of professional experience and exceptional success in administration of local government comprehensive planning strategies, land development and regulatory controls, governmental relations, and public policy communications. Primary clients are governmental organizations and private property owners.

His professional knowledge encompasses creating and developing community and small-area plans, urban design and architectural standards, land development entitlements, project management, and expert witness testimony. Max has worked on more than 30 cases across 25 Florida counties and municipalities, appearing before local planning agencies, city and county elected bodies, hearing examiners, administrative law judges, and circuit court proceedings.

Max also actively participates in and leads speaking engagements at professional development conferences and symposia through the Promised Lands section of the American Planning Association Florida chapter, with the American Institute of Certified Planners, with 1000 Friends of Florida and other organizations.

Qualifications

- FORGEY PLANNING. Owner of an urban planning and land-use consulting practice.
- Master of Public Affairs (MPA) in Urban and Regional Planning, Indiana University.
- Member American Institute of Certified Planners (AICP).
- Qualified as an expert witness in Lee County Hearing Examiner proceedings.
- Former Planning and Community Development Director in Charlotte County.
- Former Planning Commissioner (LPA), City of Cape Coral, Florida.

Accomplishments

- Established FORGEY PLANNING, an urban planning and land use consulting practice.
- Developed a template for auditing the effectiveness of existing local governments comprehensive plans and zoning code for internal consistency of plan policy framework.
- Authored “The Platted Lands Challenge” report for the six-county area of Southwest Florida offering policy guidance for platted, scattered-lot properties.
- Development of implementation strategies which employ automation to create linked mixed media tools for restructuring and updating local government planning and zoning regulations.

Certification

AICP (American Institute of Certified Planners) Certification #051,330 Florida Chapter, APA Member in good standing since 1993. A national professional certification maintained by the American Planning Association. AICPs must first meet educational standards and then pass an examination covering all aspects of professional planning practice and are expected to maintain their membership through a self-directed program of study that is monitored by the national organization, which includes regular training in law and ethics.

Professional Experience

Forgey Planning

Cape Coral, FL

Owner. 2008-present. A solo planning practice concentrating comprehensive planning work for Lee and Sarasota Counties, the City of North Port, and the Captiva Community Panel. Developed a template for auditing the effectiveness of existing local governments comprehensive plans which has been applied in Sarasota County and the City of North Port. An expert witness since 2013, working on more than 30 cases in 25 Florida counties and municipalities, appearing before planning commissions, city councils, county commissions, hearing examiners, administrative law judges, and circuit court. Qualified as an expert witness in Lee County Hearing Examiner proceedings.

Zoning Technologies

Cape Coral, FL

President. 2011-2017. A start-up subsection 'S' corporation that specialized in restructuring and updating local government comprehensive plans and developing implementation strategies which employ automation to create linked tools (e.g. application forms, automated worksheets, case reports, and adopting resolutions). The Zoning Technologies expert system prototype products were marketed statewide and were demonstrated at the American Planning Association (APA) national conference in Atlanta in 2014.

Osceola County, Florida

Kissimmee, FL

Planning Coordinator. 2005-2008. Authored key elements of the Osceola County Comprehensive Plan and most of the County's 2008 Evaluation and Appraisal Report.

Clay County, Florida

Green Cove Springs, FL

Senior Planner. 2003-2005. Authored the county's Interlocal Service Delivery Agreement Report (ISDAR) mandated by the Florida legislature, identifying all service overlaps between and among all local governments within Clay County.

Lake County, Florida

Tavares, FL

Planning Director. 2001-2003. Staff liaison to the Environmental Lands Management Advisory Committee, a citizen organization created by the Board of County Commissioners to study the creation of an environmental land program. Recommended policies were ratified in November 2002, when Lake County voters approved a one-third mil assessment for the acquisition of environmental lands.

Southwest Florida Regional Planning Council

Fort Myers, FL

Planner. 1997-1998. Reviewed local government plan amendments throughout the six-county area and authored “The Platted Lands Challenge” report.

Charlotte County, Florida

Port Charlotte, FL

Community Development Director 1995-1997; Planning Director 1990-1995. Early in my tenure, Gulf Development Corporation (GDC), the County’s largest land subdivider, declared bankruptcy, shifting responsibility for completion of roads, bridges, drainage works, and utilities, to the public sector and forcing a host of development decisions upon the local government and public agencies. I had three memorable achievements during these seven years:

- Managed the research, preparation, and adoption of the County’s Evaluation and Appraisal Report (EAR) and Comprehensive Plan. Aggressively negotiated with the Florida Department of Community Affairs (DCA) to remove the Plan’s not-in-compliance finding.
- Led the staff team that rewrote the Charlotte County Comprehensive Plan and was the point person in the successful four-year effort to negotiate a stipulated settlement agreement between the Board of County Commissioners and the Florida Department of Community Affairs to find Charlotte County’s Comprehensive Plan in compliance with Florida’s Growth Management Act.
- Advocated against the rezoning of 42 parks (illustrated as such on GDC sales maps and the County’s Future Land Use Maps) to residential uses. The Company’s receivers eventually relented on their policy position and donated 41 parcels to the people of Charlotte County.

City of Cape Coral

Cape Coral, FL

Deputy Planning Director. 1985-1990. Authored and supervised preparation of key elements of the 1988 Comprehensive Plan (the City’s first plan under the 1985 Growth Management Act) and the City’s 1989 Land Development Code.

Education

Indiana University

Bloomington, IN

Master of Public Affairs (MPA) from the O’Neil School of Public and Environmental Affairs, 1982. Concentration in Urban and Regional Planning.

Bachelor of Arts (BA). 1976. Undergraduate degree in English Literature and History.

Important Cases, Continuing Education, Writing & Teaching

- Economic Development Plan for City of Cape Coral, Florida. A major evaluation of the

community's economy and resources with recommendations for improving the City's long-term outlook. Subcontractor with DCG Corplan LLC, Bruce M. Hoch, Managing Director, August 17th to present.

- Contract Planner & Expert Witness for Town of Kenneth City, a municipality of 5000 population in Pinellas County that has no professional planning staff. Preparing Evaluation and Appraisal Report and other products in collaboration with Town Manager Lacy LaFave and Town Attorney Ralf Brookes, August 16, 2023, to present.
- Attending and participating in American Planning Association, Florida Chapter State Conference in Jacksonville September 5th through 6th, 2023.
- Attending and participating in the 23rd Annual Florida Land Use Law Conference in Tampa on August 28th and 29th, 2023.
- Program chair for APA Florida/ FPZA *"The Perfect Storm Eight Months Out: A Symposium for Professional Planners, Design Professionals, Plan Commissioners & Regular People"* at the Charlotte County Event & Conference Center Punta Gorda May 12, 2023.
- Presenting a panel *"Incorporation, Annexation, and Disincorporation"* with Jim Studiale, AICP, and Luke Lirot, Esq. at APA Florida state conference on Orlando September 7, 2022.
- Co-presented a panel *"Legislative and Quasi-judicial: What Every Planner Needs to Know"* with Attorney Andrew Dickman, AICP, at annual conference of Florida Planning and Zoning Association on Captiva Island June 3, 2022.
- Program Chair for *"The Swamp Peddlers"*, an APA Florida/ Florida Planning & Zoning Association symposium conducted on August 6, 2021, in Punta Gorda. Keynote speaker Jason Vuic and other presenters explored the legacy of land sales scams in Southwest Florida on the twentieth anniversary of the General Development Corporation bankruptcy.
- Designed and co-presented *"Land Use 101"*, a seminar for planning commissioners, elected officials, and new planners, hosted by the City of Cape Coral on June 16 and July 14, 2021 with co-presenters Vince Cautero, AICP, the City's Community Development Director, and Attorney Ralf Brookes.
- Expert witness for client West Villagers for Responsible Government (WV4RG), a citizen organization which challenged the annexation of the 8730-acre non-contiguous West Villages subdivisions into the City of North Port. The City Commission rejected the Villagers' challenge by a unanimous vote, but following appeal presented by attorney Luke Lirot, the Twelfth District overturned the City's order denying petition for contraction in *West Villagers for Responsible Government v. City of North Port*.

- Moderated a panel for law credit at the September 9, 2020 Zoom-facilitated American Planning Association's Florida state conference. Co-presenters were attorneys Karen Consalo, Thomas Hawkins, and Andrew Dickman. "*The Rules are Very Different Here: How to Reform Florida's Land Use Decision-making Process*" surveyed the inconsistencies among local governments' handling of land use decision-making and proposed a new Environmental Land Management Study (ELMS) to improve those processes.
- Attended and participated in American Planning Association Florida chapter's 18th annual *Public Policy Workshop* at Florida State University, Tallahassee February 2020.
- Drafted update of Town of *Fort Myers Beach Sign Ordinance* to reflect SCOTUS *Reed v. Gilbert* opinion for Weiler Engineering Fall 2019-Winter 2020.
- Program chair for "*Planners in Peril: Law, Legislation, and Ethics for Design Professionals*," an APA Florida Promised Lands section symposium December 6, 2019 at Bonita Springs City Hall.
- Program chair for "*How High is the Water, Ma?: Rising Sea Level on the Florida Gulf Coast and what we can do about it*," sponsored by Friends of Boca Grande Community Center, March 22, 2019 at the Boca Grande Community Center Auditorium.
- Member, *Faith Presbyterian Affordable Housing Board*, a not-for-profit corporation which aspires to offer quality housing for low- and moderate-income persons in Cape Coral. Appointed 2018; appointment ended December 2020.
- Received 2018 American Planning Association Florida Chapter, Promised Lands section's first-ever *Wayne Daltry Award for Planning Programs* for developing professional education symposia.
- Prepared *policy audit of Town of Fort Myers Beach Comprehensive Plan* for Weiler Engineering, Summer 2018.
- Program chair for American Planning Association symposium "*Warped Tour '18: Land Use Law for Planners*" March 23, 2018, in Punta Gorda.
- Attended and participated in the hurricane-shortened APA Florida chapter annual conference in Daytona Beach September 4-6, 2017. Led panel with Greg Beliveau, AICP and Jane West Esq. entitled "*How to Build a Better Client.*"
- Program chair for Captiva Community Panel/ Florida APA symposium "*Now in My Back Yard: Rising Sea Level on Florida's Gulf Coast and what can be done about it*" January 13, 2017, at South Seas Resort on Captiva Island.

- Co-authored article with Karen Consalo, Esq. *“Best Practices for Local Government Land Use Decision-making”* in Summer 2016 edition of *Florida Planning*.
- Speaker at American Planning Association Florida Chapter Annual Conference in Tampa, September 9, 2016. *“A Pre-tirement Guide for Perplexed Planners: Making the Transition to Solo Practitioner.”*
- Attended and participated in CLE International’s annual *Land Use Law symposium* in Tampa, August 18-19, 2016, and August 6-7, 2015.
- Speaker at University of Central Florida 2016 Public Administration Research Conference April 8, 2016. Topic: *“What’s the Big Idea: New Software that Aids Land Use Decisions.”*
- Attended and participated in *APA Florida chapter annual conference* in Hollywood, Florida September 10-13, 2015.
- Coordinator and presenter for daylong FAPA-sponsored symposium *“Everything You Ever Wanted to Know about Florida Land Use”* in Cape Coral May 16, 2014.

Jurisdictions - Expert Witness Work

Bonita Springs
 Bradenton
 Cape Coral (5)
 Charlotte County (2)
 Collier County (2)
 DeSoto County
 Fort Myers Beach (2)
 Hardee County
 Hendry County (C Court)
 Hernando County
 Highlands County
 Hillsborough County (3)
 Hillsboro Beach
 Kenneth City
 Lantana
 Lee County (8)

Miramar
 Monroe Co (ALJ)
 North Port
 Orange County
 Ormond Beach
 Pasco County (2)
 Palm Beach County (ALJ) Polk
 County (C court)
 Punta Gorda (2)
 St. Johns County (4)
 Sarasota County
 Sumter County
 Suwannee County
 Venice

Max Forgey



Max@ForgeyPlanning.com



239.560.5864



236 SE 45th Street
 Cape Coral, FL 33904





Town of Fort Myers Beach
Community Development Services - Planning Division
2525 Estero Blvd,
Fort Myers Beach, FL 33931

NOTICE TO PROPERTY OWNERS WITHIN 500 FEET

Notice is hereby given that the Local Planning Agency/ Town Council of the Town of Fort Myers Beach will be conducting a public hearing at the Town Hall Council Chambers located at 2731 Oak St, Fort Myers Beach, Florida, 33931.

TIME: 9 AM

DATE: LPA April 9, 2024, and 1st Town Council May 6, 2024

CASE: CPA20230152

ADDRESS: 450 Harbor Ct

APPLICANT: Ink Engineering Inc

REQUEST: Comprehensive plan map amendment to change 3.53 acres of Marina Future Land Use District (450 Harbor Court) and 1 acre of Mixed Residential Future Land Use District (445, 441, & 436 Harbor Court & 435 & 438 Bonita Street) to Pedestrian Commercial Future Land Use District.

TOWN CONTACT: SARAH PROPST SARAH.PROPST@FMBGOV.COM

You may appear in person, through counsel, or through an authorized agent and provide testimony, legal argument, or other evidence. At this hearing, the **Local Planning Agency/ Town Council** will review the application materials and hear testimony to make a **recommendation/decision**. Complete records or transcripts of the proceedings are not provided by the Town.

Copies of the application and staff report are available for viewing at Fort Myers Beach Town Hall. Call 239-765-0202 for more information. Town Hall is open between the hours of 8:30 AM and 4:30 PM. Reasonable accommodations will be made in accordance with the Americans with Disabilities Act. If you need reasonable accommodation, contact Town Hall at 239-765-0202.

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Town of Fort Myers Beach
2525 Estero Blvd,
Fort Myers Beach, FL 33931

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2525 Estero Blvd,
Fort Myers Beach, FL 33931

«OwnerName»
«MailAddress»
«MailCity», «MailState», «MailZip»«Next Record»

«OwnerName»
«MailAddress»
«MailCity», «MailState», «MailZip»«Next Record»

Town of Fort Myers Beach
2525 Estero Blvd,
Fort Myers Beach, FL 33931

Town of Fort Myers Beach
2525 Estero Blvd,
Fort Myers Beach, FL 33931

«OwnerName»
«MailAddress»
«MailCity», «MailState», «MailZip»«Next Record»

«OwnerName»
«MailAddress»
«MailCity», «MailState», «MailZip»

NOTICE OF PUBLIC HEARINGS

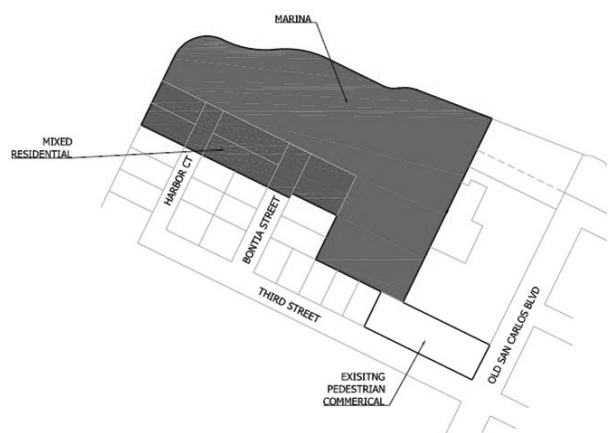
Notice is hereby given that the Town of Fort Myers Beach will hold a public hearing at a Local Planning Agency meeting beginning at 9:00 AM on Tuesday, April 9, 2024 regarding the ordinances listed below, and then at a Town Council meeting beginning at 9:00 AM on Monday, May 6, 2024 regarding the ordinances listed below. Both meetings and public hearings will take place at the Town Hall located at 2731 Oak Street, Fort Myers Beach, FL 33931.

ORDINANCE 24-08

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING THE TOWN OF FORT MYERS BEACH COMPREHENSIVE PLAN IN ITS ENTIRETY, PURSUANT TO 163.3184 (3), FLORIDA STATUTES; PROVIDING FOR ADOPTION OF THE TOWN OF FORT MYERS BEACH COMPREHENSIVE PLAN 2040, INCLUDING AMENDMENTS TO THE FUTURE LAND USE ELEMENT AND THE FUTURE LAND USE MAP, THE COMMUNITY DESIGN ELEMENT, THE TRANSPORTATION ELEMENT, THE HOUSING ELEMENT, THE HISTORIC PRESERVATION ELEMENT, THE UTILITIES ELEMENT, THE CONSERVATION ELEMENT, THE COASTAL MANAGEMENT ELEMENT, THE RECREATION, & OPEN SPACE ELEMENT, THE INTERGOVERNMENTAL COORDINATION ELEMENT, AND THE CAPITAL IMPROVEMENTS ELEMENT; INCLUSIVE OF ALL ASSOCIATED TABLES, EXHIBITS AND MAPS; AUTHORIZING FINDINGS AND ADMINISTRATIVE ACTIONS; PROVIDING FOR TRANSMITTAL; PROVIDING FOR SEVERABILITY; PROVIDING FOR SCRIVENER'S ERRORS; AND PROVIDING FOR EFFECTIVE DATE.

ORDINANCE 24-09

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING TOWN OF FORT MYERS BEACH ADOPTED FUTURE LAND USE MAP DATED JANUARY 1, 1999, FOR THE PROPERTIES LOCATED AT 450, 445, 441 & 436 HARBOR COURT, 435 & 438 BONITA STREET ALSO RESPECTIVELY IDENTIFIED AS STRAP NUMBERS 24-46-23-W3-00027.0000 & 24-46-23-W3-00026.0020, 24-46-23-W3-0030B.0200, 24-46-23-W3-0030B.0190, 24-46-23-W3-0030C.0060, 24-46-23-W3-0030C.0040 & 24-46-23-W3-0030A.0110, FORT MYERS BEACH; PROVIDING FOR CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.



If any person should choose to appeal a decision made at this public hearing, such person would need a record of the proceedings, and for that purpose may need to ensure that a verbatim record of the proceedings is made, which record indicates the testimony and evidence upon which the appeal is to be based. Copies of the full ordinance text are available at Fort Myers Beach Town Hall. Call 239-765-0202 for more information. Town Hall is open between the hours of 8:30 AM and 4:30 PM. Reasonable accommodations will be made in accordance with the Americans with Disabilities Act. If you are in need of reasonable accommodation, contact Town Hall at 239-765-0202. Amy Baker, Town Clerk

**Town of Fort Myers Beach
Agenda Item Summary**

Yellow Sheet Number: **2024-1537**

1. Request:

Meeting Date: April 9, 2024

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA ADOPTING AMENDMENTS TO THE TOWN OF FORT MYERS BEACH COMPREHENSIVE PLAN FUTURE LAND USE, HOUSING, COMMUNITY DESIGN, COASTAL MANAGEMENT, CONSERVATION, HISTORIC PRESERVATION, INTERGOVERNMENTAL COORDINATION, AND CAPITAL IMPROVEMENT ELEMENTS, TO UPDATE DATA AND ANALYSIS AND THE GOALS, OBJECTIVES, AND POLICIES RELATED TO THE REQUIREMENTS OF CHAPTER 163, FLORIDA STATUTES; PROVIDING FOR SEVERABILITY; SCRIVENER'S ERRORS; CONFLICTS OF LAW AND PROVIDING FOR AN EFFECTIVE DATE.

Why the action is necessary:

The LPA makes Comprehensive Plan recommendations to the Town Council.

What the action accomplishes:

The LPA recommendation will be forwarded to the Town Council for approval and transmittal to the state.

2. Agenda:

PUBLIC HEARINGS

3. Requirement/Purpose:

Ordinance

5. Background:

This meeting is an opportunity for the LPA to view the changes to the draft Comprehensive Plan which were requested at the LPA hearing on March 14, 2024, and recommend adoption of the Comprehensive Plan to the Town Council.

Attachments:

1. Ordinance 24-10 CP edits
2. Exhibit A-1: Entire FLUM
3. Exhibit A-2: Time Square Mixed Use
4. Exhibit A-3: Civic Center Mixed Use
5. Exhibit A-4: Center Island Mixed Use
6. Exhibit A-5: Arts and Theater Mixed Use
7. Exhibit A-6: Santini Village Mixed Use
8. Exhibit A-7: Future Land Use Element APRIL 2024
9. Exhibit A-8: Comm Design FMB_April2024
10. Exhibit A-9: Housing ElementFMB_ April 2024
11. Exhibit A-10: ROS-FMBApril2024
12. Exhibit A-11: Coastal Management FMB-April2024
13. Exhibit A-12: ConservationFMB_April2024
14. Exhibit A-13: FMB_Property Rights GOPs
15. Exhibit A-14: Transportation Element_April2024
16. Exhibit A-15: Utilities FMB_ April2024
17. Exhibit A-16: InterGovCord_FMBApril2024

Financial Impact:

Unknown

6. Alternative Action

Recommend changes and forward to the Town Council.

7. **Staff Recommendations:**

Recommend the Comprehensive Plan with changes to the Town Council.

8. **Recommended Approval:**

Frankie Kropacek, Operations & Compliance Director

Date: April 05, 2024

nancy stuparich, Town Attorney

Date: April 05, 2024

Amy Baker, Town Clerk

Date: April 05, 2024

ORDINANCE 24-10

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA ADOPTING AMENDMENTS TO THE TOWN OF FORT MYERS BEACH COMPREHENSIVE PLAN FUTURE LAND USE, HOUSING, COMMUNITY DESIGN, COASTAL MANAGEMENT, CONSERVATION, HISTORIC PRESERVATION, INTERGOVERNMENTAL COORDINATION, AND CAPITAL IMPROVEMENT ELEMENTS, TO UPDATE DATA AND ANALYSIS AND THE GOALS, OBJECTIVES, AND POLICIES RELATED TO THE REQUIREMENTS OF CHAPTER 163, FLORIDA STATUTES; PROVIDING FOR SEVERABILITY; 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 has completed a comprehensive review of the elements contained in the Town of Fort Myers Beach Comprehensive Plan and desires to make the textual changes contained herein; and

WHEREAS, a public hearing was held before the Local Planning Agency (LPA) on April 9, 2024, at which the LPA gave full and complete consideration of the request, recommendations by staff, the documents in the record, and the testimony of all interested persons, and the LPA voted ____ to ____ to recommend approval/denial of the textual changes; and

WHEREAS, on the ____ day of _____, 2024, the Town Council held a first reading of the Ordinance and gave full and complete consideration to the proposed changes, the recommendation of the LPA, the recommendation of staff, the documents in the record, and the testimony of all interested persons; and

WHEREAS, a Business Impact Estimate was prepared and posted on the Town's website on the ____ day of _____, 2024, as required by Section 166.041(4), Florida Statutes; and

WHEREAS, an advertisement of the public hearing for adoption of the Ordinance was published in the _____ on the ____ day of _____, which is 10 days prior to the second reading of the proposed Ordinance as required by Section 166.041, Florida Statutes; and

WHEREAS, on the ____ day of _____, 2024, the Town Council held a second reading of the Ordinance as required by Section 166.041, Florida Statutes and reviewed the textual changes in accordance with Section 34-92 of the LDC; and

WHEREAS, the Town Council determined by a vote of ____ to ____ that adoption of the Ordinance as provided herein is in the best interest of the health, safety and welfare of the public.

NOW, THEREFORE, BE IT ORDAINED 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 hereby adopts the changes to the Town of Fort Myers Beach Comprehensive Plan as shown in Exhibit A.

Section 3. Whenever the requirements or provisions of this Ordinance conflict with the requirements or provisions of any other lawfully adopted LDC or Town Code provision, ordinance, or statute, the most restrictive shall apply.

Section 4. Any typographical errors that do not affect the intent of this Ordinance may be corrected with notice to and authorization of the Town Manager without further process.

Section 5. 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 6. The proposed action does not result in a more restrictive or burdensome amendment to the Town's Comprehensive Plan or Land Development Code.

Section 7. Issuance of a development permit by the Town does not create any right to obtain a permit from a State or Federal agency and does not create any liability on the part of the Town for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a State or Federal agency or undertakes actions that result in a violation of State or Federal law.

Section 8. The effective date of this plan amendment shall be the earliest date permitted under Florida law.

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:

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

ADOPTED this ____ day of _____ 2024, by the Town Council of the Town of Fort Myers Beach, Florida.

TOWN OF FORT MYERS BEACH

Dan Allers, 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 ONLY:**

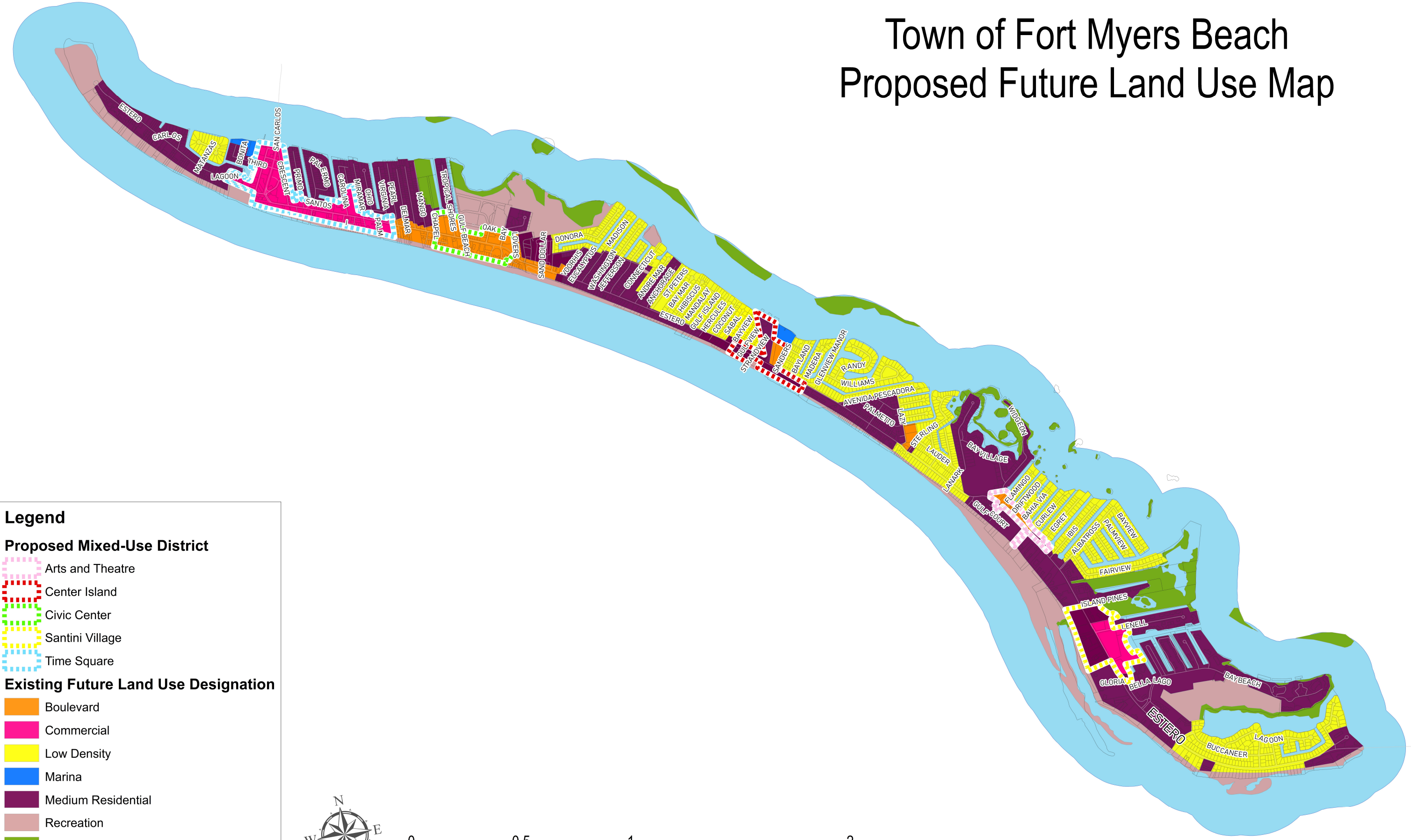
Vose Law Firm, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this ____ day of _____ 2024.

Exhibits

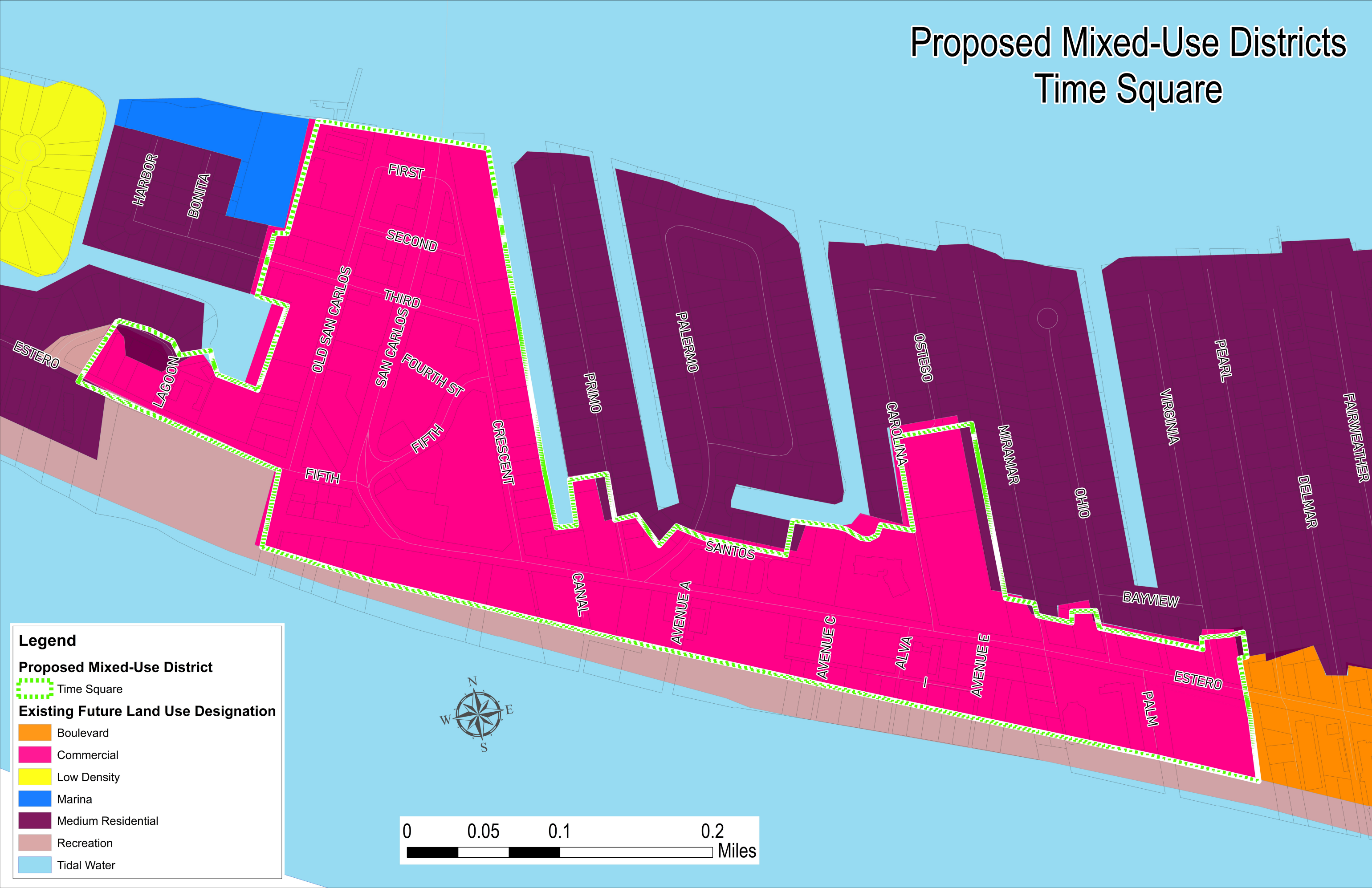
Exhibit A Proposed CP changes

Town of Fort Myers Beach Proposed Future Land Use Map



Proposed Mixed-Use Districts

Time Square



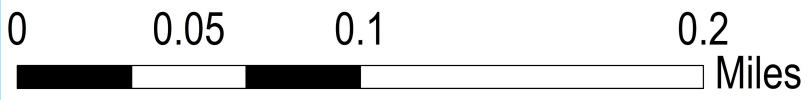
Legend

Proposed Mixed-Use District

Time Square

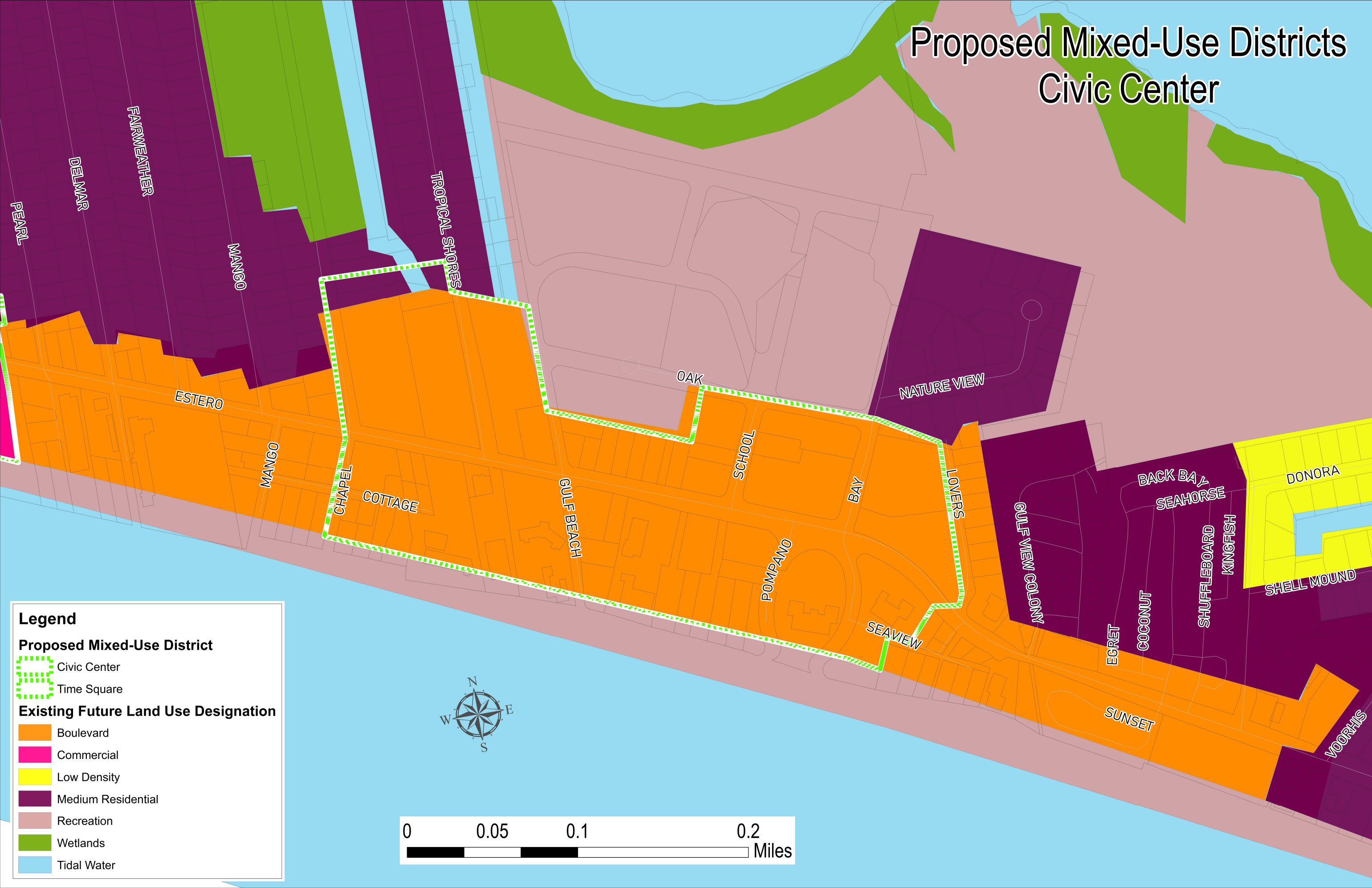
Existing Future Land Use Designation

- Boulevard
- Commercial
- Low Density
- Marina
- Medium Residential
- Recreation
- Tidal Water



Proposed Mixed-Use Districts

Civic Center



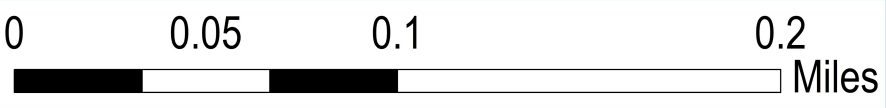
Legend

Proposed Mixed-Use District

- Civic Center
- Time Square

Existing Future Land Use Designation

- Boulevard
- Commercial
- Low Density
- Medium Residential
- Recreation
- Wetlands
- Tidal Water

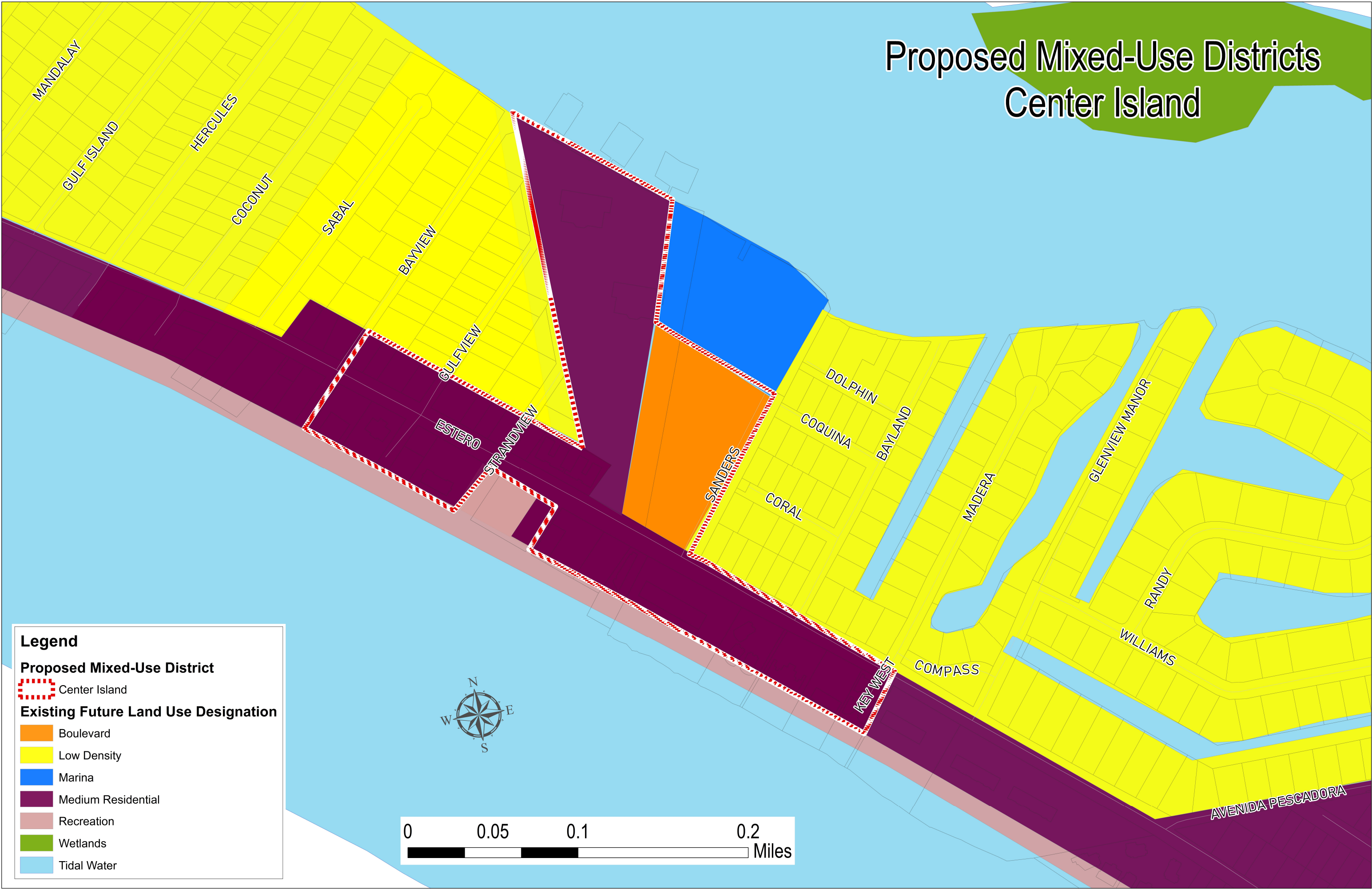
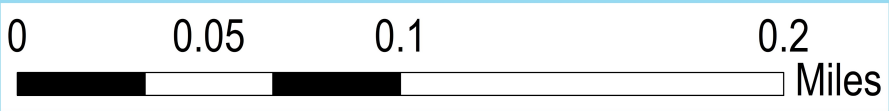


Proposed Mixed-Use Districts Center Island

Legend

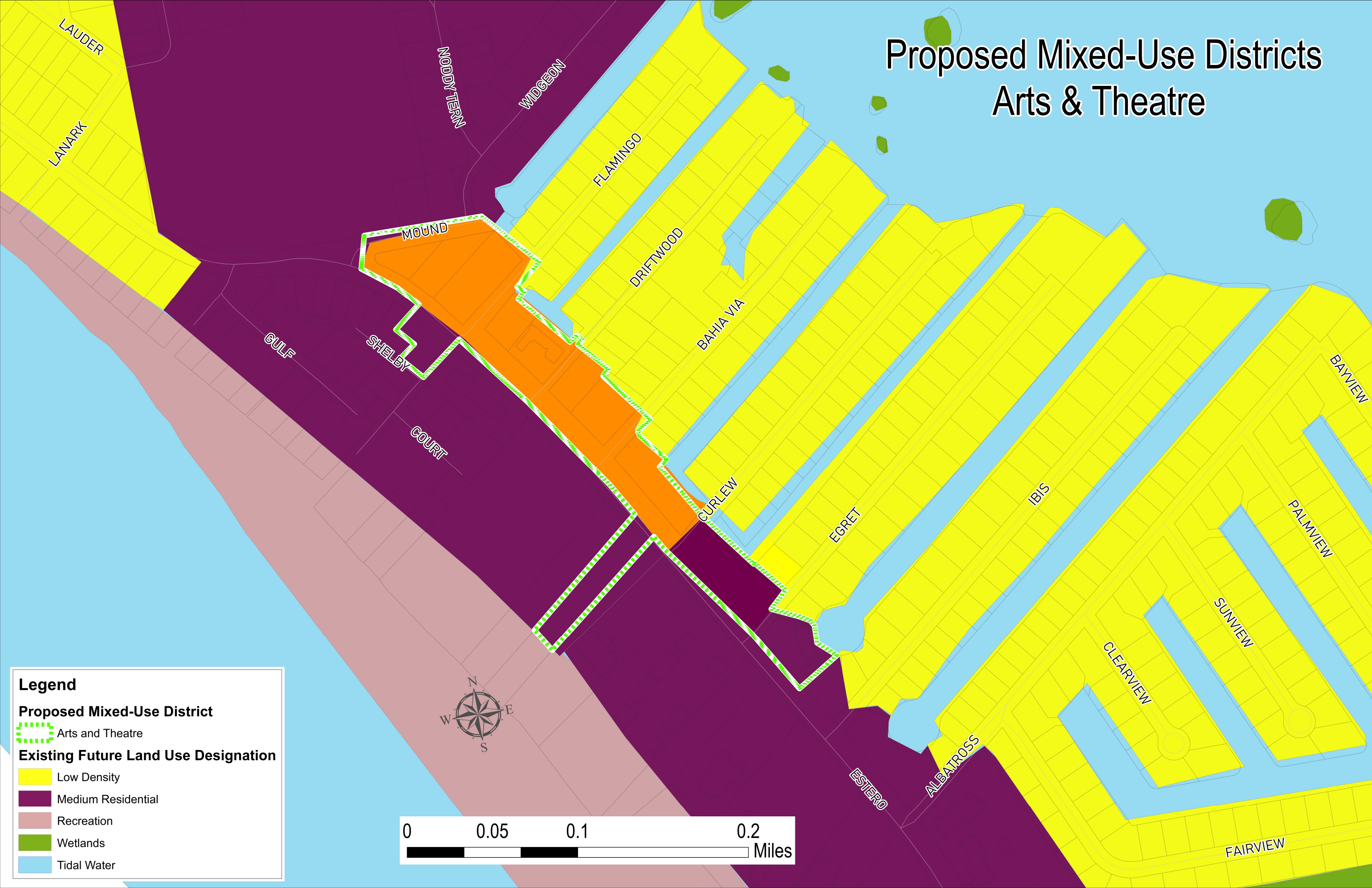
Proposed Mixed-Use District
 Center Island

Existing Future Land Use Designation
 Boulevard
 Low Density
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 Medium Residential
 Recreation
 Wetlands
 Tidal Water



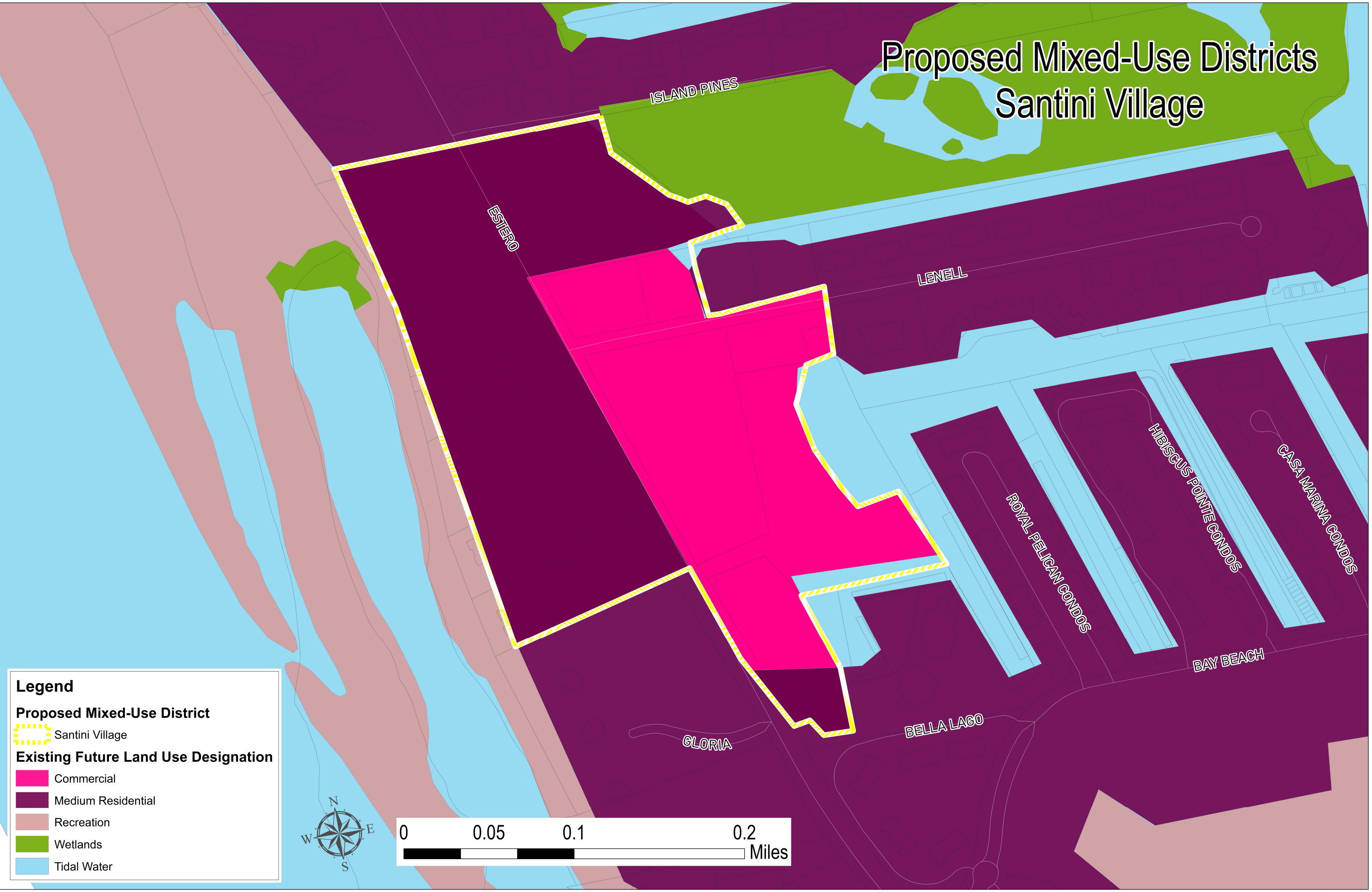
Proposed Mixed-Use Districts

Arts & Theatre



Proposed Mixed-Use Districts

Santini Village



Legend

Proposed Mixed-Use District

 Santini Village

Existing Future Land Use Designation

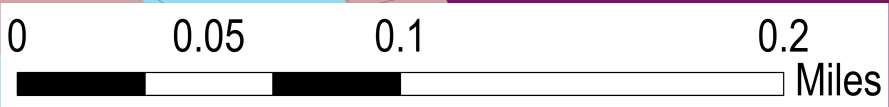
 Commercial

 Medium Residential

 Recreation

 Wetlands

 Tidal Water



Town of FMB: Future Land Use Element

EXISTING		PROPOSED	
GOAL 4:	To keep Fort Myers Beach a healthy and vibrant “small town,” while capitalizing on the vitality and amenities available in a beach–resort environment and minimizing the damage that a hurricane could inflict.	GOAL-4- <u>FLU-1</u>	To keep Fort Myers Beach a healthy and vibrant “small town,” while capitalizing on the vitality and amenities available in a beach–resort environment and minimizing the damage <u>to the natural and built environment</u> that a hurricane, <u>sea-level rise</u> , and coastal erosion could inflict.
OBJECTIVE 4	-A SMALL-TOWN CHARACTER — Maintain the small-town character of Fort Myers Beach and the pedestrian-oriented “public realm” that allows people to move around without their cars even in the midst of peak-season congestion.	OBJECTIVE 4 <u>FLU-1-A</u>	SMALL-TOWN CHARACTER — Maintain the small-town character of Fort Myers Beach and the pedestrian-oriented “public realm” that allows people to move <u>throughout the island around</u> without their <u>the need of</u> cars even in the midst of peak-season congestion.
POLICY 4-A-1	Maintaining the town’s current “human scale” is a fundamental redevelopment principle. Fort Myers Beach is best enjoyed from outside a car; new buildings should be designed to encourage use or admiration by people on foot or bicycle, rather than separating them with gates, walls, deep setbacks, or unnecessary building heights.	POLICY 4-A-1 <u>FLU-1-A-1</u>	Maintaining the town’s current “human scale” is a fundamental redevelopment principle. Fort Myers Beach is best enjoyed from outside a car; n <u>New buildings should be designed to encourage use or admiration by people on foot or bicycle, rather than separating them with gates, walls, deep setbacks, or unnecessary building heights. The Land Development Codes shall ensure that improvements which potentially impact the appearance of Estero Boulevard, as well as major activity centers such as Times Square and Villa Santini, the mixed-use districts, the town’s shoreline, scenic views of the waterfront and tidal waters, public parks and other public grounds and institutions are managed and enhanced through application of the site plan review process.</u> <u>Community character is reflected in Floor to Area Ratios (FAR), lot sizes, house sizes, site placement, height, architectural features and existing vegetation. The Town shall strive to stabilize and preserve neighborhoods and establish urban design standards which protect and promote quality of life, in order to prevent teardowns, encourage re-use, infill and new development.</u>
POLICY 4-A-2	The Town of Fort Myers Beach values its vibrant economy and walkable commercial areas. Through this plan, the town will ensure that new commercial activities, when allowed, will contribute to the pedestrian-oriented public realm.	POLICY 4-A-2 <u>FLU-1-A-2</u>	The Town of Fort Myers Beach values its vibrant economy and walkable commercial areas. Through this plan, the town will ensure that new commercial activities, when allowed, will contribute to the pedestrian-oriented public realm. <u>All new development is encouraged to provide for amenities that enhance the public realm, including, but not limited to: art, benches, bike racks, trash receptacles, right-of-way landscaping, etc.</u>
POLICY 4-A-3	The town shall protect residential neighborhoods from intrusive commercial activities (see Policies 4-C-2 and 4-C-3 below).	POLICY 4-A-3 <u>FLU-1-A-3</u>	The <u>T</u> town shall protect residential neighborhoods from intrusive commercial activities (see Policies 4-C-2 and 4-C-3 below). <u>Stable residential areas shall be protected from encroachment by incompatible development. However, within residential areas, the</u>

			<u>Land Development Codes shall allow home-based businesses that do not detract from the residential quality of the neighborhood. These regulations shall incorporate criteria for determining compatible home occupation uses, and standards to ascertain that no negative impacts on adjoining properties result.</u>
POLICY 4-A-4	Easy walking access to the beach is a key element of the town's human scale. Development trends that inhibit this access are undesirable (including traffic improvements to Estero Boulevard that would make it a barrier to the beach for pedestrians).	POLICY 4-A-4 <u>FLU-1-A-4</u>	Easy walking access to the beach is a key element of the town's human scale. Development trends that inhibit this access are undesirable. (including traffic improvements to Estero Boulevard that would make it a barrier to the beach for pedestrians). <u>The Town shall not vacate, diminish, or otherwise impair publicly owned pathways (without replacement or demonstrated benefit to the Town), sidewalks, roads, ends of roads, parking areas, docks or boat launching facilities, and other access points currently used, or susceptible to use, by the public to access the shorelines, consistent with Comprehensive Plan unless there is documented evidence that physical public access is destabilizing unaltered shorelines. Further, the Town shall not abandon any right-of-way, improved or unimproved, which terminates on a body of water.</u>
NEW	NEW	<u>POLICY FLU-1-A-5</u>	<u>The Town shall explore opportunities to provide innovative parking solutions on the Island to meet future demands. The town shall maximize efficient use of land, minimize gaps in the urban landscape, and improve urban form by: encouraging redevelopment of existing surface parking lots; discouraging creation of new surface lots; consolidate parking in strategically located parking structures; and manage parking as a system. The Town shall consider/encourage the use of shared parking.</u>
POLICY 4-A-5	The town contains many important natural resources despite its urbanized character. Preservation of those resources is of the highest importance and is a frequent theme throughout this plan.	POLICY 4-A-5 <u>FLU-1-A-6</u>	The town contains many important natural resources despite its urbanized character. Preservation of those resources is of the highest importance and is a frequent theme throughout this plan. <u>Efforts shall be made to update the Town's Land Development Codes to address development in floodplains, shoreline protection, wetlands protection, water quality, urban forestry and habitats for listed protected or endangered species.</u>
POLICY 4-A-6	The beaches provide incomparable recreational and environmental benefits to the town; careful management of the beach, including renourishment when necessary, can increase both. Frequent beach accesses are essential to the town's character and shall be maintained and expanded where possible.	POLICY 4-A-6 <u>FLU-1-A-7</u>	The beaches provide incomparable recreational and environmental benefits to the town; careful management of the beach, including renourishment when necessary, can increase both. Frequent beach accesses are essential to the town's character and shall be maintained and expanded where possible.

NEW	NEW	<u>POLICY FLU -1-A-8</u>	<u>The Town, together with the private sector, shall consider proactive steps and pilot programs to adapt for sea level rise and storm surges, including but not limited to preserving transportation options, increasing residential building resiliency, preserving landscaping and residential building aesthetics, and preserving water quality.</u>
POLICY 4-A-7	Estero Bay also provides great benefits to the town and can be enhanced by improving public access and reversing the decline in water quality. The Conservation and Coastal Management Elements of this plan outline the town's efforts on these matters.	<u>POLICY 4-A-7 FLU-1-A-9</u>	Estero Bay also provides great benefits to the town and can be enhanced by improving public access and reversing the decline in water quality. The Conservation and Coastal/ Management Elements of this plan outline the town's efforts on these matters.
POLICY 4-A-8	The town shall establish clear and consistent rules and processes that govern private and public development. They shall be incorporated into an illustrated Land Development Code that: i. defines the permitted uses and illustrates the dimensions needed to implement this comprehensive plan; ii. illustrates the types and dimensions of allowable signs that will identify businesses and other destinations without damaging the aesthetic qualities of the town; iii. resolves inconsistencies between current zoning and land development regulations and this comprehensive plan using the guidelines found in Chapter 15; iv. encourages the conservation and re-use of historic buildings as described in the Historic Preservation Element; v. in existing subdivisions, controls the scale of new homes to avoid the replacement of existing homes with excessively large structures; and vi. ensures the availability of public facilities at the levels of service specified in this plan concurrently with the impacts of development (see Capital Improvements Element for a summary of these levels of service plus guidelines for the town's Concurrency Management System).	<u>POLICY 4-A-8 FLU-1-A-10</u>	The town shall establish clear and consistent rules and processes that govern private and public development. They Town shall be <u>consider the need to</u> incorporated into an illustrated <u>portions of the</u> Land Development Code that: i. Defines the permitted uses and illustrates the dimensions needed to implement this comprehensive plan; ii. illustrates the types and dimensions of allowable signs that will identify businesses and other destinations without damaging the aesthetic qualities of the town; iii. resolves inconsistencies between current zoning and land development regulations and this comprehensive plan using the guidelines found in Chapter 15; iv. encourages the conservation and re-use of historic buildings as described in the Historic Preservation Element; v. in existing subdivisions, controls the scale of new homes to avoid the replacement of existing homes with excessively large structures; and vi. ensures the availability of public facilities at the levels of service specified in this plan concurrently with the impacts of development (see Capital Improvements Element for a summary of these levels of service plus guidelines for the town's Concurrency Management System). vii. <u>ensures that the approval of all development shall be subject to the availability of adequate levels of service for all facilities and services that are subject to concurrency management requirements.</u>
POLICY 4-A-9	Many amenities available to local residents are the result of the local tourist economy and would diminish if hotels and motels were displaced.	<u>POLICY 4-A-9 FLU-1-A-11</u>	Many amenities available to local residents are the result of the local tourist economy and would diminish if hotels and motels were displaced. Landowners may redevelop hotels and motels for other

	Landowners may redevelop hotels and motels for other uses, but special incentives of this plan such as post-disaster and pre-disaster buildback (Objectives 4-D and 4-E) only apply if the current use is maintained.		uses, but special incentives of this plan such as post-disaster and pre-disaster buildback (Objectives 4-D and 4-E) only apply if the current use is maintained. <u>Hotels and motels with special incentives as provided by this plan may be rebuilt as post-disaster and pre-disaster buildback only if the current Hotel or Motel use is maintained.</u>
POLICY 4-A-10	Hotels and motels may be constructed or converted to condominium ownership provided they are operated as hotels or motels. The Land Development Code provides detailed regulations that distinguish hotels and motels from residential uses and other types of lodging.	POLICY 4-A-10 <u>FLU-1-A-12</u>	Hotels and motels may be constructed or converted to condominium ownership provided they are operated as hotels or motels. The Land Development Code shall provides detailed regulations that distinguish hotels and motels from residential uses and other types of lodging.
NEW	NEW	<u>POLICY FLU-1-A-13</u>	<u>The Land Development Codes shall be amended to be consistent with this Comprehensive Plan within 12 months of any Comprehensive Plan update.</u>
OBJECTIVE 4-B	FUTURE LAND USE MAP CATEGORIES — Reduce the potential for further overbuilding through a new Future Land Use Map that protects remaining natural and historic resources, preserves the small-town character of Fort Myers Beach, and protects residential neighborhoods against commercial intrusions.	OBJECTIVE 4-B <u>FLU-1-B</u>	FUTURE LAND USE MAP CATEGORIES -- Reduce the potential for further overbuilding through a new Future Land Use Map that protects <u>and enhances the</u> remaining natural and historic resources, preserves the small-town character of Fort Myers Beach, and protects residential neighborhoods against commercial intrusions.
POLICY 4-B-1	OVERBUILDING: Judicious planning could have avoided the kind of overbuilding found at Fort Myers Beach by limiting construction to match road capacity and the physical environment. Since such planning came too late, the town must deal with today's congestion plus the impacts of future development that has vested rights to proceed. These conditions have shaped the vision of this plan, as development rights once granted are not easily or lightly reversed; great care has been taken in this plan to balance important public and private rights.	POLICY 4-B-1	OVERBUILDING: Judicious planning could have avoided the kind of overbuilding found at Fort Myers Beach by limiting construction to match road capacity and the physical environment. Since such planning came too late, the town must deal with today's congestion plus the impacts of future development that has vested rights to proceed. These conditions have shaped the vision of this plan, as development rights once granted are not easily or lightly reversed; great care has been taken in this plan to balance important public and private rights.
POLICY 4-B-2	MAP ADOPTION: The Town of Fort Myers Beach hereby adopts a Future Land Use Map (Figure 16) to govern further subdivision and development within its municipal boundary. The entire town is located within the coastal high-hazard area, as shown on Figure 17 which is part of the adopted Future Land Use Map series. This map advances the principles of this comprehensive plan by	POLICY 4-B-2 <u>FLU-1-B-1</u>	MAP ADOPTION: The Town of Fort Myers Beach hereby adopts a Future Land Use Map (Figure 16) to govern further subdivision and development within its municipal boundary. The entire town is located within the coastal high-hazard area, as shown on <u>the Coastal High Hazard Areas map Figure 17</u> which is part of the adopted Future Land Use Map series. This map advances the principles of this comprehensive plan by assigning one of <u>nine</u> eight categories to all land and water, based on its location, condition, and existing uses.

	assigning one of eight categories to all land and water, based on its location, condition, and existing uses.		
NEW	NEW	<u>POLICY FLU-1-B-2</u>	<u>LAND USE CATEGORIES</u> The following Future Land Use designations shall be applied to the Future Land Use Map:
POLICY 4-B-3	“LOW DENSITY”: designed for existing subdivisions with an established low-density character (primarily single-family homes). For new development, the maximum density is 4 dwelling units per acre, and commercial activities are limited to home occupations as described in the Land Development Code (limited to incidental uses by the dwelling unit’s occupant that do not attract customers or generate additional traffic).	<u>POLICY 4-B-3 FLU-1-B-3</u>	“ <u>LOW DENSITY RESIDENTIAL</u> ”: designed for existing subdivisions with an established low-density character (primarily single-family homes). For new development, the maximum density is 4 dwelling units per acre, and commercial activities are limited to home occupations as described in the Land Development Code (limited to incidental uses by the dwelling unit’s occupant that do not attract customers or generate additional traffic).
POLICY 4-B-4	“MIXED RESIDENTIAL”: designed for older subdivisions with mixed housing types on smaller lots, newer high-rise buildings, and mobile home and RV parks. This category will ensure that Fort Myers Beach retains a variety of neighborhoods and housing types. For new development, the maximum density is 6 dwelling units per acre (except where the Future Land Use Map’s “platted overlay” indicates a maximum density of 10 units per acre for legally existing dwelling units). Commercial activities are limited to lower-impact uses such as offices, motels, churches, and public uses, and must be sensitive to nearby residential uses, complement any adjoining commercial uses, contribute to the public realm as described in this comprehensive plan, and meet the design concepts of this plan and the Land Development Code. These qualities and overall consistency with this comprehensive plan shall be evaluated by the town through the planned development rezoning process. Non-residential uses (including motels and churches) now comprise 7.9% of the land in this category, and this percentage shall not exceed 12%.	<u>POLICY 4-B-4 FLU-1-B-4</u>	“ <u>MIXED MEDIUM RESIDENTIAL</u> ”: designed for older subdivisions with mixed housing types on smaller lots, newer high-rise buildings, and mobile home and RV parks . This category will ensure that Fort Myers Beach retains a variety of neighborhoods and housing types. For new development, the maximum density is 6 dwelling units per acre (except where the Future Land Use Map’s “platted overlay” indicates a maximum density of 10 units per acre for legally existing dwelling units). <u>except those developments previously vested with 10 units under the “platted overlay” may continue.</u> Commercial activities are limited to lower impact uses such as offices, motels, churches, and public uses, and must be sensitive to nearby residential uses, complement any adjoining commercial uses, contribute to the public realm as described in this comprehensive plan, and meet the design concepts of this plan and the Land Development Code. These qualities and overall consistency with this comprehensive plan shall be evaluated by the town through the planned development rezoning process. Non-residential uses (including motels and churches) now comprise 7.9% of the land in this category, and this percentage shall not exceed 12%.
NEW	NEW		“ <u>MIXED-USE</u> ”: This land use designation is designed for portions of the Town along Estero Boulevard to allow for commercial and multifamily residential development. Each mixed-use district is prescribed a maximum density and intensity. To obtain approval for new or expanded commercial activities, proposals must be sensitive to nearby residential uses, contribute to the public realm as described in this comprehensive plan, and meet the design concepts

		<u>POLICY FLU-1-B-5</u>	of this plan and the Land Development Code. These qualities and overall consistency with this comprehensive plan shall be evaluated by the Town. Where commercial uses are permitted, residential uses are encouraged in upper floors. Within the Mixed-Use land use category, all existing “Marina” uses described shall be preserved and allowed to remain on parcels that were zoned for marinas prior to adoption of this plan. The following provides for the specific Mixed-Use Districts a. <u>TIME SQUARE MIXED-USED (TS-MU) DISTRICT</u> Purpose: The Time Square Mixed-Use District serves as the Town’s main tourist destination. The district is located at the Town’s northern gateway and is generally bounded by First Street to Estero Boulevard, and from Old San Carlos Boulevard to Pearl Street. The district shall encourage mixed-uses and compact urban design that enhances the pedestrian experience and limits the use of vehicles. The Town shall encourage the preservation of existing housing on the bay side of Estero Boulevard. Properties abutting Estero Boulevard shall be encouraged to develop to primarily meet the needs of visitors. Uses which may be permitted: Where permissible and consistent with Flood regulations, development on Estero Boulevard shall be in a mixed-use context with commercial uses required on the ground floor. Development shall encourage preservation or enhancement of existing hotel/motel and multifamily densities east of Estero Boulevard. Uses permitted include, general retail, personal services, restaurants/bars (including outdoor dining), take-out and outdoor walk-up facilities, marine-dependent and marine related uses, lodging/hotel accommodations, and live entertainment venues. New surface parking lots as a principal use are discouraged. The Land Development Codes shall prescribe and limit the permitted uses in this district. Intensity: The District’s maximum building height shall be established by the Land Development Codes. Maximum building heights shall include considerations of flood elevation, freeboard standards as may be adopted and amended from time to time by the Town and provide for provisions for non-habitable ground floor space as applicable. The non-residential Floor Area Ratios (FAR) shall not exceed the highest of the following:
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			• <u>2.5 for properties fronting on Old San Carlos between Fifth and First Streets and fronting on the Times Square pedestrian plaza.</u> • <u>1.5 for properties fronting on Estero Boulevard and fronting on the Bayfront pedestrian plazas.</u> • <u>1.5 for all other properties in the Downtown district.</u> <u>Transient residential (hotel and motel) shall be counted as non-residential development and subject to rules on FAR.</u> <u>Density:</u> <u>The permitted density is up to six (6) units per acre.</u> b. <u>CIVIC CENTER MIXED-USE (CC-MU) DISTRICT</u> <u>Purpose:</u> <u>The Civic Center Mixed-Use District includes properties adjacent to Estero Boulevard from Chapel Street to Lover's Lane as provided for in the Future Land Use Map. The CC-MU District's core, approximately bounded by Chapel Street and School Street, is envisioned to support a mix of housing options and neighborhood-serving retail uses for the immediate residential cluster. The town shall encourage the collocation of any redeveloped or new municipal services and educational facilities within the district. Encroachment into the adjacent low-density residential districts shall be prohibited. The use of landscaping, increased setbacks and reduced building heights shall be employed to serve as a transition between the land use categories.</u> <u>Uses which may be permitted:</u> <u>As limited by the Land Development Codes, permitted uses shall include civic/municipal uses, business and professional offices (including emergency, medical and dental), retail sales and personal service establishments, restaurants (including outdoor dining). Hotel/motel uses shall be conditional. Compact residential developments that support various housing types for permanent residents of the Island is encouraged in this district, including but not limited to Workforce Housing. When permitted, properties along Estero Boulevard shall be redeveloped in a mixed-use context only with retail or commercial uses required on the ground floor.</u> <u>Intensity:</u> <u>The District's maximum building height shall be established by the Land Development Codes. Maximum building heights shall include considerations of flood elevation, freeboard standards as may be adopted and amended from time to time by the Town and provide for</u>
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			<u>provisions for non-habitable ground floor space as applicable.</u> <u>Density:</u> The maximum density is up to six (6) dwelling units per acre. c. <u>CENTER ISLAND MIXED-USE (CI-MU) DISTRICT</u> <u>Purpose:</u> The Center Island Mixed-Use District's general boundaries are generally from Estero Bay to the Gulf, and from Bayview Avenue to Madera Road. The Center Island Mixed-Use District is envisioned as a lifestyle retail center with a mix of uses that supports the existing marina. The intent of this district is to provide development opportunities for existing and new medium-intensity commercial uses to serve the Town. <u>Uses which may be permitted:</u> As limited by the Land Development Codes, permitted uses include various types of commercial business and professional offices (including medical and dental), retail sales and personal service establishments, restaurants (including outdoor dining), and residential (only in mixed-use context). Marine-related and marine-dependent uses that support an active waterfront and marina are highly encouraged. Elimination or reduction of the marina use is prohibited. <u>Intensity:</u> The District's maximum building height shall be established by the Land Development Codes. Maximum building heights shall include considerations of flood elevation, freeboard standards as may be adopted and amended from time to time by the Town, and provide for provisions for non-habitable ground floor space as applicable. <u>Density:</u> The maximum density is up to six (6) dwelling units per acre. d. <u>THEATRE & ARTS MIXED-USE DISTRICT</u> <u>Purpose:</u> The Theatre & Arts Mixed- Use District is envisioned as the cultural, theater, and arts district for the Island. The TA-MU District is composed of the properties abutting Estero Boulevard to the west, from Mound Road to Ibis Street, and includes the Beach Theatre site. The Town shall encourage the preservation of the theatre. <u>Uses which may be permitted:</u> Uses that support and enhance the Town's cultural assets are encouraged in the TA-MU District. Permitted uses, as limited by the Land Development Codes, includes commercial recreation, retail, restaurants (including outdoor dining), venue spaces,
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			theaters, artisanal retail, art galleries, music and dance studios, arts education, and live/work units. Live/work units are permitted on the ground level. Exclusively residential uses are permitted only above the ground floor. Intensity: The District's maximum building height shall be established by the Land Development Codes. Maximum building heights shall include considerations of flood elevation, freeboard standards as may be adopted and amended from time to time by the Town, and provide for provisions for non-habitable ground floor space as applicable. Density: The maximum density is up to six (6) dwelling units per acre. e. <u>THE SANTINI VILLAGE MIXED-USE DISTRICT</u> <u>Purpose:</u> Santini Village Mixed-Use District is the tallest and most dense district on the island with tourist supporting services and commercial uses. It is also envisioned as a redevelopment opportunity with more entertainment, tourist and neighborhood commercial uses at the southern gateway of the Island. The SV-MU District includes the existing Santini Marina Plaza Shops. The general boundaries include the properties along Estero Boulevard from Island Pines Way south to Bella Lago Drive as depicted on the Future Land Use map. The City's redevelopment plan for Santini Plaza, prepared by Dover, Kohl & Partners established a vision for this area. The plan shall serve as a guide to the District's redevelopment. Special consideration shall be given to the existing marina. The marina site shall be redeveloped in a mixed-use context to promote an active waterfront with a mix of uses. The marina use shall not be eliminated by the site's redevelopment. Uses which may be permitted: Uses shall serve the needs of residents and visitors, as limited by the Land Development Codes. Permitted uses include general retail, amusement centers, bars, restaurants (including outdoor dining), residential, personal services, professional offices (including dental and medical), assisted living facilities, hotel/lodging accommodations, and marine-related/dependent uses. For properties abutting Estero Boulevard, commercial development is required on the ground floor, subject to FEMA regulations. Intensity: The District's maximum building height shall be established by the Land Development Codes. Maximum building heights shall include considerations of flood
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			<u>elevation, freeboard standards as may be adopted and amended from time to time by the Town, and provide for provisions for non-habitable ground floor space as applicable.</u> <u>The maximum non-residential FAR for the district is 1.0.</u> <u>Density:</u> <u>The maximum density is up to six (6) dwelling units per acre.</u>
POLICY 4-B-5	“BOULEVARD”: a mixed-use district along portions of Estero Boulevard, including less intense commercial areas, historic cottages, and mixed housing types. This category is not intended to allow commercial uses on all properties; its mixed-use nature is intended to remain permanently. For new residential development, the maximum density is 6 dwelling units per acre (except where the Future Land Use Map’s “platted overlay” indicates a maximum density of 10 units per acre for legally existing dwelling units). To obtain approval for new or expanded commercial activities, proposals must be sensitive to nearby residential uses, complement any adjoining commercial uses, contribute to the public realm as described in this comprehensive plan, and meet the design concepts of this plan and the Land Development Code. These qualities and overall consistency with this comprehensive plan shall be evaluated by the town through the planned development rezoning process. Non-residential uses (including motels and churches) now comprise 46.9% of the land in this category, and this percentage shall not exceed 70%.	POLICY 4-B-5 <u>FLU-1-B-6</u>	“BOULEVARD”: a mixed-use district along portions of Estero Boulevard, including less intense commercial areas, traditionally comprised of historic cottages, and mixed housing types. This category is not intended to allow commercial uses on all properties; its mixed-use nature is intended to remain permanently. For new residential development, the maximum density is 6 dwelling units per acre (except where the Future Land Use Map’s “platted overlay” indicates a maximum density of 10 units per acre for legally existing dwelling units). To obtain approval for new or expanded commercial activities, proposals must be sensitive to nearby residential uses, complement any adjoining commercial uses, contribute to the public realm as described in this comprehensive plan, and meet the design concepts of this plan and the Land Development Code. These qualities and overall consistency with this comprehensive plan shall be evaluated by the town through the planned development rezoning process. Non-residential uses (including motels and churches) now comprise 46.9% of the land in this category, and this percentage shall not exceed 70%. <u>Density:</u> <u>Permitted density may be increased up to ten (10) units per acre provided that at least 10% of the development is for affordable or workforce housing as covenanted for a minimum of 30 years.</u>

POLICY 4-B-6	“PEDESTRIAN COMMERCIAL”: a primarily commercial district applied to the intense activity centers of Times Square (including Old San Carlos and nearby portions of Estero Boulevard) and the area around the Villa Santini Plaza. For new development, the maximum density is 6 dwelling units per acre (except where the Future Land Use Map’s “platted overlay” indicates a maximum density of 10 units per acre for affordable units consistent with the adopted redevelopment plan). Commercial activities must contribute to the pedestrian-oriented public realm as described in this comprehensive plan and must meet the design concepts of this plan and the Land Development Code. Where commercial uses are permitted, residential uses are encouraged in upper floors. All “Marina” uses in Policy 4-B-7 are also allowed on parcels that were zoned for marinas prior to adoption of this plan. Nonresidential uses (including motels and churches) now comprise 58.9% of the land in this category, and this percentage shall not exceed 90%.	POLICY 4-B-6 <u>FLU-1-B-7</u>	“PEDESTRIAN COMMERCIAL”: a primarily commercial district applied to the intense activity centers of Times Square (including Old San Carlos and nearby portions of Estero Boulevard) and the area around the Villa Santini Plaza. For new development, the maximum density is up to 6 dwelling units per acre (except where the Future Land Use Map’s “platted overlay” indicates a maximum density of 10 units per acre for affordable units consistent with the adopted redevelopment plan). Commercial activities must contribute to the pedestrian-oriented public realm as described in this comprehensive plan and must meet the design concepts of this plan and the Land Development Code. Where commercial uses are permitted, residential uses are encouraged in upper floors. All “Marina” uses in Policy 4-B-7 are also allowed on parcels that were zoned for marinas prior to adoption of this plan. Nonresidential uses (including motels and churches) now comprise 58.9% of the land in this category, and this percentage shall not exceed 90%.
POLICY 4-B-7	“MARINA”: designed for prime sites that can provide access to the valuable waters around Fort Myers Beach. This category provides services for recreational boating, including related accessory uses provided that don’t displace recreational marina services. Cruise ships and similar uses that draw large amounts of vehicular traffic are not permitted in this category. Specific regulations will be placed in the Land Development Code.	POLICY 4-B-7 <u>FLU-1-B-8</u>	“MARINA”: designed for prime sites that can provide access to the valuable waters around Fort Myers Beach. This category provides services for recreational boating, including related accessory uses provided that don’t displace recreational marina services. Cruise ships and similar uses that draw large amounts of vehicular traffic are not permitted in this category. Specific regulations will be placed in the Land Development Code. <u>Existing Marinas are prime sites that can provide access to the valuable waters around Fort Myers Beach. Development within the Marina district shall be limited to 1.5 FAR and up to 4 dwelling units per acre. This category shall prioritize services for limited industrial and recreational boating, including related accessory uses. The redevelopment of existing Marinas shall encourage a working waterfront with mixed-use development, inclusive of commercial and residential uses, provided the uses do not displace marina dependent and related services. Specific regulations will be placed in the Land Development Code.</u>

POLICY 4-B-8	“RECREATION”: applied to public parks, schools, undevelopable portions of Bay Beach, and those parts of Gulf beaches that lie seaward of the 1978 coastal construction control line. Additional accretions of beach, whether by natural causes or through beach renourishment, will automatically be assigned to this category. No new residential development is permitted (although several existing buildings were legally constructed partially seaward of the 1978 control line). The maximum density of residential development here is 1 dwelling units per 20 acres, with all dwelling units to be constructed outside his category. Allowable uses are parks, schools, libraries, bathing beaches, beach access points, and related public facilities. Non-recreational uses (such as the elementary school) now comprise 2.7% of the land in this category; additional school sites and public buildings shall not increase this percentage beyond 6%.	POLICY 4-B-8 <u>FLU-1-B-9</u>	“RECREATION AND OPEN SPACE”: This designation provides for applied to public parks, schools, undevelopable portions of Bay Beach, and those parts of Gulf beaches that lie seaward of the 1978 coastal construction control line. Additional accretions of beach, whether by natural causes or through beach renourishment, will automatically be assigned to this category. No new residential development is permitted (although several existing buildings were legally constructed partially seaward of the 1978 control line). The maximum density of residential development here is 1 dwelling units per 20 acres, with all dwelling units to be constructed outside his category. Allowable uses are parks, schools, libraries, bathing beaches, beach access points, and related public facilities. Non-recreational uses (such as the elementary school) now comprise 2.7% of the land in this category; additional school sites and public buildings shall not increase this percentage beyond 6%.
POLICY 4-B-9	“WETLANDS”: a conservation district applied to all remaining wetlands. The maximum density of residential development here is 1 dwelling units per 20 acres. Other allowable uses, if compatible with wetland functions, are passive recreation, walking access to tidal waters (boardwalks and docks), and restoration of degraded habitats. Prohibited activities include placement of fill material; dredging of boat basins and channels; placement of seawalls or other shoreline stabilization; and removal of native vegetation.	POLICY 4-B-9 <u>FLU-1-B-10</u>	“WETLANDS”: a conservation district applied to all remaining wetlands. The maximum density of residential development here is 1 dwelling units per 20 acres. Other allowable uses, if compatible with wetland functions, are passive recreation, walking access to tidal waters (boardwalks and docks), and restoration of degraded habitats. Prohibited activities include placement of fill material; dredging of boat basins and channels; placement of seawalls or other shoreline stabilization; and removal of native vegetation.
POLICY 4-B-10	“TIDAL WATER”: applied to all saltwater canals and all waters surrounding Estero Island that lie within the municipal boundary (out 1,000 feet). No residential development is permitted. Allowable uses are water sports, boating, swimming, fishing, and similar uses. Also allowed are fixed structures for water access provided they comply with Land Development Code provisions designed to avoid impeding navigation and to minimize environmental damage and interference with aesthetic enjoyment of surrounding waters.	POLICY 4-B-10 <u>FLU-1-B-11</u>	“TIDAL WATER”: applied to all saltwater canals and all waters surrounding Estero Island that lie within the municipal boundary (out 1,000 feet). No residential development is permitted. Allowable uses are water sports, boating, swimming, fishing, and similar uses. Also allowed are fixed structures for water access provided they comply with Land Development Code provisions designed to avoid impeding navigation and to minimize environmental damage and interference with aesthetic enjoyment of surrounding waters.
POLICY 4-B-11	PLATTED OVERLAY: This is not a separate category on the Future Land Use Map, but is applied in addition to one of the eight categories	POLICY 4-B-11 <u>FLU-1-B-12</u>	PLATTED OVERLAY: This is not a separate category on the Future Land Use Map, but is applied in addition to one of the eight categories listed above. Allowable land uses are the same as in the

	listed above. Allowable land uses are the same as in the underlying category, but the maximum residential density is 10 units per acre. This density level applies in the Pedestrian Commercial category only for affordable units consistent with the adopted redevelopment plan; in other categories it applies only to recognize existing dwelling units that were built legally but which would be non-conforming under a density cap of 6 units per acre.		underlying category, but the maximum residential density is 10 units per acre. This density level applies in the Pedestrian Commercial category only for affordable units consistent with the adopted redevelopment plan; in other categories it applies only to recognize existing dwelling units that were built legally but which would be non-conforming under a density cap of 6 units per acre. <u>The Mixed-Use, Boulevard, and Pedestrian Commercial future land use designations signify the areas within the town envisioned for the most intense development and land use activities. The intensity of development is determined by the recommended Floor Area Ratio (FAR) specified for each land use district.</u>
POLICY 4-B-12	LAND-USE TYPES DEFINED: For purposes of this comprehensive plan, land uses are divided into the following types: i. Residential uses include detached homes, accessory apartments (see Policy 4-C-7), home occupations (see Policy 4- B-3), mobile homes, apartments, and condominiums, provided that no dwellings are rented for periods shorter than one week. ii. Commercial uses involve the sale or rental of goods or services, including businesses such as retail stores, offices, restaurants/bars, service/craft/rental businesses, RV parks, and hotels/motels/resorts; churches and civic buildings are also included in this category. iii. Marina uses involve the use of prime waterfront sites to support recreational boating, such as wet or dry boat storage, sales/rentals of boats and supplies, and boat repair. iv. Industrial uses such as manufacturing, seafood processing, and warehousing are not permitted in the Town of Fort Myers Beach, except for dry storage of boats at approved marinas. v. Recreational uses include beaches, parks, playgrounds, and similar uses. vi. Mixed uses means some combination of the above land-use types in a single building, or on a single site, or on different sites within a single category on the Future Land Use Map, depending on the context.	POLICY 4-B-12 <u>FLU-1-B-13</u>	LAND-USE TYPES DEFINED: For purposes of this comprehensive plan, land uses are divided into the following types: i. Residential uses include detached homes, accessory apartments (see Policy 4-C-7), home occupations (see Policy 4- B-3), <u>mobile homes, assisted living facilities, apartments, live-work units, accessory dwelling units for commercial structures,</u> and condominiums, provided that no dwellings are rented for periods shorter than one week. ii. Commercial uses involve the sale or rental of goods or services, including businesses such as <u>art galleries, art/music/dance/theater studios, retail stores, offices (including medical and veterinary), urgent care facilities,</u> restaurants/bars, service/craft/rental businesses, <u>RV</u> parks, and hotels/motels/resorts; churches and civic buildings are also included in this category. iii. Marina uses involve the use of prime waterfront sites to support <u>a mix of uses, including residential, commercial,</u> recreational boating, such as wet or dry boat storage, sales/rentals of boats and supplies, and boat repair. iv. Industrial uses such as manufacturing, seafood processing, and warehousing are not permitted in the Town of Fort Myers Beach, except for dry storage of boats at approved marinas. v. Recreational uses include beaches, parks, playgrounds, and similar uses. vi. Mixed uses means some combination of the above land-use types in a single building, or on a single site, or on different sites within a single category on the Future Land Use Map, depending on the context.
POLICY 4-B-13	PUBLIC FACILITIES: Most public facilities such as parks, schools, libraries, fire stations, and	POLICY 4-B-13 <u>FLU-1-B-14</u>	PUBLIC FACILITIES: Most p <u>Public facilities such as parks, schools, libraries, fire stations, and government buildings will may continue be</u>

	government buildings will continue be located within the “Recreation” category (but only park structures are allowed seaward of the 1978 Coastal Construction Control Line). When no suitable sites can be found in the “Recreation” category, public facilities may also be located in “Mixed Residential,” “Boulevard,” and “Pedestrian Commercial” categories as may be allowed by the Land Development Code.		located within the “Recreation” category (but only <u>non-habitable</u> park structures are allowed seaward of the 1978 Coastal Construction Control Line), <u>and all mixed-use, commercial, and boulevard land use categories</u> . When no suitable sites can be found in the “Recreation” category, public facilities may also be located in “Mixed Residential,” “Boulevard,” and “Pedestrian Commercial” categories as may be allowed by the Land Development Code.
POLICY 4-B-14	SCHOOLS: Public and private schools may be located in the following categories on the future land use map: Mixed Residential, Boulevard, Pedestrian Commercial, or Recreation (but never seaward of the 1978 coastal construction control line). The maximum intensity of new or expanded schools shall not exceed a floor-area-ratio of 0.50 (the total floor area of the building divided by the buildable area of the site). Governmental agencies providing parks, libraries and community centers are strongly encouraged to locate them near schools.	POLICY 4-B-14 <u>FLU-1-B-15</u>	SCHOOLS: Public and private schools may be located in <u>all mixed-use, commercial, and boulevard land use categories except for Wetlands and Recreation and Open Space</u> , provided that the school <u>is the following categories on the future land use map: Mixed Residential, Boulevard, Pedestrian Commercial “Mixed-Use”, or Recreation (but never not</u> seaward of the 1978 coastal construction control line) <u>and compliant with Flood and other regulations as established by the Land Development Codes. The historic Beach Elementary School shall be exempted.</u> The maximum intensity of new or expanded schools shall not exceed a floor-area-ratio of 0.50 (the total floor area of the building divided by the buildable area of the site). Governmental agencies providing parks, libraries and community centers are strongly encouraged to locate them near schools.
OBJECTIVE 4-C	APPLYING THE FUTURE LAND USE MAP — The Future Land Use Map shall be interpreted in accordance with the following policies.	OBJECTIVE 4-C <u>FLU-1-C</u>	APPLYING THE FUTURE LAND USE MAP — The Future Land Use Map shall be interpreted in accordance with the following policies.
POLICY 4-C-1	LEGAL EFFECT: The density limits and land-use restrictions described above for each category are legally binding immediately upon adoption of this comprehensive plan. During the preparation of the new Land Development Code that will fully implement this plan, conflicts may arise with previous regulations and zoning districts. Chapter 15 of this plan describes how such conflicts will be resolved.	POLICY 4-C-1 <u>FLU-1-C-1</u>	LEGAL EFFECT: The density limits and land-use restrictions described above for each category are legally binding immediately upon adoption of this comprehensive plan. During the preparation of the new Land Development Code that will fully implement this plan, conflicts may arise with previous regulations and zoning districts. Chapter 15 of this plan describes how such conflicts will be resolved.
POLICY 4-C-2	COMMERCIAL INTENSITY: The maximum intensity of allowable commercial development in any category may be controlled by height regulations (see Policy 4-C-4) or by other provisions of this plan and the Land Development Code. Standards in the Land Development Code will encourage more intense commercial uses only in the “Pedestrian Commercial” category. The Land Development Code shall specify maximum	POLICY 4-C-2 <u>FLU-1-C-2</u>	COMMERCIAL INTENSITY: The maximum intensity of allowable commercial development in any category may be controlled by height and Floor to Area Ratio (FAR) regulations (see Policy 4-C-4) or by other provisions of this plan and the Land Development Code. Standards in the Land Development Code will encourage more intense commercial uses <u>on properties with frontage on Estero Boulevard and only in the “Pedestrian Commercial” “Mixed-Use” and “Boulevard” category-categories.</u> The Land Development Code shall specify maximum commercial intensities using floor-area-ratios (the

	commercial intensities using floor-area-ratios (the total floor area of the building divided by the area of the site in the category allowing commercial uses). The Land Development Code may allow floor-area-ratios in the “Pedestrian Commercial” category as high as 2.5, and in other categories as high as 1.5,		total floor area of the building divided by the area of the site in the category allowing commercial uses). The Land Development Code may allow floor-area-ratios in the “Pedestrian Commercial” category as high as 2.5, and in other categories as high as 1.5,
POLICY 4-C-3	COMMERCIAL LOCATIONS: When evaluating proposals for new or expanded commercial uses in categories where they are permitted, the following principles shall apply: i. No rezonings for commercial uses shall be allowed in the “Low Density” category. ii. Where new or expanded commercial uses are encouraged, as in the “Pedestrian Commercial” category, the Land Development Code shall specify its permitted form and extent and provide a streamlined approval process. Landowners may also use the planned development rezoning process to seek approval of other forms of commercial development in that category. iii. In the “Mixed Residential” category, commercial uses are limited to lower-impact uses such as offices, motels, and public uses, and must be sensitive to nearby residential uses, complement any adjoining commercial uses, contribute to the public realm as described in this comprehensive plan, and meet the design concepts of this plan and the Land Development Code. Landowners may seek commercial rezoning only through the planned development process. iv. In the “Boulevard” category, where mixed-use development including some commercial uses may be permissible, landowners may seek commercial rezoning only through the planned development process. Proposals must be sensitive to nearby residential uses, complement any adjoining commercial uses, contribute to the public realm as described in this comprehensive plan, and meet the design concepts of this plan and the Land Development Code. v. The following principles shall be considered by the town when evaluating requests for new commercial uses:	POLICY 4-C-3 <u>FLU-1-C-3</u>	COMMERCIAL LOCATIONS: When evaluating proposals for new or expanded commercial uses in categories where they are permitted, the following principles shall apply: i. No rezonings for purely commercial uses shall be allowed in the “Low Density Residential” category. ii. Where new or expanded commercial uses are encouraged, as in the “Pedestrian Commercial” category, the Land Development Code shall specify its permitted form and extent and provide a streamlined approval process. Landowners may also use the planned development rezoning process to seek approval of other forms of commercial development in that category. iii. In the “Mixed Residential” category, commercial uses are limited to lower impact uses such as offices, motels, and public uses, and must be sensitive to nearby residential uses, complement any adjoining commercial uses, contribute to the public realm as described in this comprehensive plan, <u>satisfy concurrency requirements for public facilities</u>, and meet the design concepts of this plan and the Land Development Code. Landowners may seek commercial rezoning only through the planned development process. iv. In the “Boulevard” and “Mixed-Use” category, where mixed-use development including some commercial and <u>residential</u> uses may be <u>are</u> permissible, landowners may seek commercial rezoning only through the planned development process. Proposals must be sensitive to nearby residential uses, complement any adjoining commercial uses, contribute to the public realm as described in this comprehensive plan, and meet the design concepts of this plan and the Land Development Code. v. The following principles shall be considered by the town <u>When</u> evaluating requests for new commercial uses: <u>shopping</u> a. Shopping and services for residents and overnight guests are strongly preferred over shopping and

	a. Shopping and services for residents and overnight guests are strongly preferred over shopping and services that will attract additional day visitors during peak-season congestion. b. Shopping and services that contribute to the pedestrian character of the town are strongly preferred over buildings designed primarily for vehicular access. vi. The neighborhood context of proposed commercial uses is of paramount importance. The sensitivity of a proposed commercial activity to nearby residential areas can be affected by: a. the type of commercial activities (such as traffic to be generated, hours of operation, and noise); b. its physical scale (such as the height, and bulk of proposed buildings); and c. the orientation of buildings and parking). Commercial activities that will intrude into residential neighborhoods because of their type, scale, or orientation shall not be approved.		services that will attract additional day visitors during peak-season congestion. b. Shopping and services that contribute to the pedestrian character of the town are strongly preferred over buildings designed primarily for vehicular access. vi. The neighborhood context of proposed commercial uses is of paramount importance. The sensitivity of a proposed commercial activity to nearby residential areas can be affected by: a. the type of commercial activities (such as traffic to be generated, hours of operation, and noise); b. its physical scale (such as the height, and bulk of proposed buildings); and c. the orientation of buildings and parking). Commercial activities that will intrude into residential neighborhoods because of their type, scale, or orientation shall not be approved.
POLICY 4-C-4	BUILDING HEIGHTS: The Land Development Code shall limit the height of new buildings under most conditions to two stories above flood elevation (exceptions may include the buildback situations (see Policies 4-D-1 and 4-E-1), and different heights may be applied to officially designated redevelopment areas such as Times Square, Red Coconut/Gulf View Colony, and Villa Santini Plaza). 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 this two-story height limit 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	POLICY 4-C-4 FLU-1-C-4	BUILDING HEIGHTS: The Land Development Code shall limit the height of new buildings under most conditions to two <u>three stories or 30 feet</u> above flood elevation except where otherwise noted in this Comprehensive Plan Land Use categories and to provide for workforce housing units protected by a minimum 30-year covenant, (exceptions may include the buildback situations (see Policies 4-D-1 and 4-E-1), and different heights may be applied to officially designated redevelopment <u>Mixed-Use</u> areas such as Times Square, Red Coconut/Gulf View Colony, and Villa Santini Plaza). <u>The town may consider taller building heights in the mixed-use districts, if appropriate. Mixed-use district regulations shall include provisions to limit heights or provide for additional buffers when the development is located within 100 ft of detached single-family residences.</u> 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 this two <u>three-story</u> height limit 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.

	waters that could be provided in exchange for allowing a building to be taller than two stories. In each case, the town shall balance the public benefits of the height limit against other public benefits that would result from the specific proposal.		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 two <u>three</u> stories, including the ground story. <u>The ground floor for developments along the Gulf side of Estero Boulevard shall be encouraged to provide non-habitable uses that enhance the view corridors to the Gulf.</u> In each case, the town shall balance the public benefits of the height limit against other public benefits that would result from the specific proposal.
POLICY 4-C-5	DENSITY: This plan establishes density levels as the maximum number of residential dwelling units allowed per acre of land (DU/acre). This acreage includes all residential land plus land within the development to be used for street and utility rights-of-way, recreation and open space, water management, and existing lakes that are entirely contained within the residential development. Commercial and other non-residential land shall not be included in this acreage; however, where mixed uses are permitted in a single building, residential densities will be computed without regard for commercial uses located on lower floors. When computing densities on existing subdivisions where lots are smaller than 15,000 square feet, one-half the width of adjoining streets and canals may be included in the acreage, and computed densities greater than 1.50 DU/acre may be rounded up to two dwelling units where multiple dwelling are permitted.	POLICY 4-C-5 <u>FLU-1-C-5</u>	DENSITY: This plan establishes density levels as the maximum number of residential dwelling units allowed per acre of land (DU/acre). This acreage includes all residential land plus land within the development to be used for street and utility rights-of-way, recreation and open space, water management, and existing lakes that are entirely contained within the residential development. Commercial and other non-residential land shall not be included in this acreage; however, where mixed uses are permitted in a single building, residential densities will be computed without regard for commercial uses located on lower floors. When computing densities on existing subdivisions where lots are smaller than 15,000 square feet, one-half the width of adjoining streets and canals may be included in the acreage, and computed densities greater than 1.50 DU/acre may be rounded up to two dwelling units where multiple dwelling are permitted.
POLICY 4-C-6	MOTEL DENSITIES: The Land Development Code shall specify equivalency factors between guest units (which include motel rooms) and full dwelling units. These factors may vary based on size of guest unit and on land-use categories on the Future Land Use Map. They may vary between a low of one guest unit and a high of three guest units for each dwelling unit. (These factors would apply only where guest units are already permitted.) In order to implement the 1999 Old San Carlos Boulevard / Crescent Street Master Plan that encourages mixed-use buildings with second and third floors over shops on Old San Carlos, hotel rooms may be substituted for otherwise allowable office space in that situation and location only without using the equivalency factors that apply	POLICY 4-C-6 <u>FLU-1-C-6</u>	MOTEL TRANSIENT DENSITIES: The Land Development Code shall provide for the usage of commercial, mixed-use, or transient residential FAR, and minimum hotel/motel unit sizes as the basis for calculating transient residential unit. –specify equivalency factors between guest units (which include motel rooms) and full dwelling units. These factors may vary based on size of guest unit and on land-use categories on the Future Land Use Map. They may vary between a low of one guest unit and a high of three guest units for each dwelling unit. (These factors would apply only where guest units are already permitted.) In order to implement the 1999 Old San Carlos Boulevard / Crescent Street Master Plan that encourages mixed-use buildings with second and third floors over shops on Old San Carlos, hotel rooms may be substituted for otherwise allowable office space in that situation and location only without using the equivalency factors that apply everywhere else in the town. This alternate method for capping the number of hotel rooms applies only

	everywhere else in the town. This alternate method for capping the number of hotel rooms applies only to properties between Fifth to First Streets that lie within 200 feet east and west of the centerline of Old San Carlos Boulevard. Hotel rooms built under this alternate method must have at least 250 square feet per rentable unit, and under no circumstances shall buildings they are located in exceed four stories (with the ground level counted as the first story).		to properties between Fifth to First Streets that lie within 200 feet east and west of the centerline of Old San Carlos Boulevard. Hotel rooms built under this alternate method must have at least 250 square feet per rentable unit, and under no circumstances shall buildings they are located in exceed four stories (with the ground level counted as the first story).
POLICY 4-C-7	ACCESSORY APARTMENTS: Accessory apartments are common at Fort Myers Beach and may be legal under several circumstances: i. If the apartment is in a building that meets all requirements (including density limits in this plan); or ii. If the apartment was built prior to zoning in 1962 and has been in continuous use, it may qualify as a “legally non-conforming use” and can continue in use until taken out of service; or iii. If the apartment was built between 1962 and 1984 and complies with all requirements except the density cap of 6 dwelling units per acre and the floodplain elevation requirements (both of which took effect in 1984); or iv. If a single existing apartment is in an owner-occupied home, it is not considered an independent dwelling unit and may be allowed under certain conditions as specified in the Land Development Code.	POLICY 4-C-7 <u>FLU-1-C-7</u>	ACCESSORY DWELLING UNITS FOR RESIDENTIAL PROPERTIES APARTMENTS: Accessory apartments are common provide an option for inclusive housing in at Fort Myers Beach and may be legal under several circumstances. For the purposes of density calculation, accessory dwelling units shall be counted as 0.5 units. i. If the apartment is in a building that meets all requirements (including density limits in this plan); or ii. If the apartment was built prior to zoning in 1962 and has been in continuous use, it may qualify as a “legally non-conforming use” and can continue in use until taken out of service; or iii. If the apartment was built between 1962 and 1984 and complies with all requirements except the density cap of 6 dwelling units per acre and the floodplain elevation requirements (both of which took effect in 1984); or iv. If a single existing apartment is in an owner-occupied home, it is not considered an independent dwelling unit and may be allowed under certain conditions as specified in the Land Development Code.
NEW	NEW	POLICY <u>FLU-1-C-8</u>	<u>AUXILIARY DWELLING UNITS FOR COMMERCIAL PROPERTIES:</u> The Town shall evaluate and provide for Land Development Codes that provide auxiliary dwelling units in existing commercial structures, while maintaining commercial uses on the ground floor. The Town shall explore density transfer of existing transient units in properties designated Commercial, to facilitate the development of auxiliary dwelling units on properties with a land use designation of Commercial.
POLICY 4-C-8	DENSITY TRANSFERS: The Town Council may, at its discretion, permit the transfer of residential and hotel/motel development rights from one parcel to another if the following conditions are met:	POLICY 4-C-8 <u>FLU-1-C-9</u>	DENSITY TRANSFERS: The Town Council may, at its discretion, permit the transfer of residential and <u>transient (including hotel/motel)</u> development rights from one parcel to another if the following conditions are met:

	i. the transfer is clearly in the public interest, as determined by the Town Council; ii. the parcels affected by the transfer are in close proximity to each other; iii. the density of residential or hotel/motel units being transferred is based upon allowable density levels in the category from which the density is being transferred; iv. the transfer is approved through the planned development rezoning process; and v. binding permanent restrictions are placed on the property from which development rights have been transferred to guarantee the permanence of the transfer.		i. the transfer is clearly in the public interest, as determined by the Town Council; ii. the parcels affected by the transfer are in close proximity to each other; iii. the density of residential or hotel/motel units being transferred is based upon allowable density levels in the category from which the density is being transferred; iv. the transfer is approved through the planned development rezoning process; and v. binding permanent restrictions are placed on the property from which development rights have been transferred to guarantee the permanence of the transfer.
POLICY 4-C-9	UTILITY SERVICES: Utility services may be constructed in any category on the Future Land Use Map provided all development regulations are met including proper zoning.	POLICY 4-C-9 <u>FLU-1-C-10</u>	UTILITY SERVICES: Utility services may be constructed in any category on the Future Land Use Map provided all development regulations are met including proper zoning.
POLICY 4-C-10	MAP AMENDMENTS: The intensity and density levels allowed by the Future Land Use Map may be increased through formal amendments to this plan if such increases are clearly in the public interest, not just in the private interest of a petitioning landowner. Petitions from landowners will be accepted annually. The Town Council may accept applications more frequently at its sole discretion.	POLICY 4-C-10 <u>FLU-1-C-11</u>	MAP AMENDMENTS: The intensity and density levels allowed by the Future Land Use Map may be increased through formal amendments to this plan if such increases are clearly in the public interest, not just in the private interest of a petitioning landowner. Petitions from landowners will be accepted annually. The Town Council may accept applications more frequently at its sole discretion.
POLICY 4-C-11	SANTOS ROAD: The town is interested in considering land-use alternatives for parcels bordering Palermo Circle, Santos Road, and Estero Boulevard. Alternatives may include: Santos Road being added into the pedestrian zone; limited retail on the ground floor along Santos, with shared off-site parking; better buffering of existing parking and refuse areas; and a clear separation between all commercial uses and the residential areas on Palermo Circle. These options would be explored by a privately-funded but town-initiated planning process, with full involvement of affected and nearby landowners.	POLICY 4-C-11	POLICY 4-C-11 SANTOS ROAD: The town is interested in considering land-use alternatives for parcels bordering Palermo Circle, Santos Road, and Estero Boulevard. Alternatives may include: Santos Road being added into the pedestrian zone; limited retail on the ground floor along Santos, with shared off-site parking; better buffering of existing parking and refuse areas; and a clear separation between all commercial uses and the residential areas on Palermo Circle. These options would be explored by a privately-funded but town-initiated planning process, with full involvement of affected and nearby landowners.
POLICY 4-C-12	WETLAND BUFFERS: Upland development shall maintain a 75-foot separation between wetlands and buildings or other impervious surfaces. This requirement shall not apply to platted lots, or to a previously approved development order to the extent it cannot reasonably be modified to comply	POLICY 4-C-12 <u>FLU-1-C-12</u>	WETLAND BUFFERS: Upland development shall maintain a 75-foot separation between wetlands and buildings or other impervious surfaces. This requirement shall not apply to platted lots, or to a previously approved development order to the extent it cannot reasonably be modified to comply with this requirement (see Chapter 15 of this plan for details).

	with this requirement (see Chapter 15 of this plan for details).		
OBJECTIVE 4-D	POST-DISASTER REDEVELOPMENT —Provide for the organized and healthy reconstruction of Fort Myers Beach after a major storm by showcasing successful local examples of floodproofing, by requiring redevelopment activities to meet stricter standards for flood- and wind-resistance, and by improving the current post-disaster buildback policy.	OBJECTIVE 4-D <u>FLU-1-D</u>	POST-DISASTER REDEVELOPMENT — Provide for the organized and healthy reconstruction of Fort Myers Beach after a major storm by showcasing successful local examples of flood- proofing, by requiring redevelopment activities to meet stricter standards for flood- and wind-resistance, and by improving the current post-disaster buildback policy.
POLICY 4-D-1	POST-DISASTER BUILDBACK POLICY: Following a natural disaster, land may be redeveloped in accordance with the Future Land Use Map or, at the landowner's option, in accordance with the following "buildback policy" begun by Lee County in 1989. This policy applies only where development is damaged by fire, hurricane or other natural disaster, and allows the following options: i. Buildings/development damaged less than 50% of their replacement cost (measured at the time of damage) can be rebuilt to their original condition, subject only to current building and life safety codes. ii. Buildings/development damaged more than 50% of their replacement cost can be rebuilt to their legally documented actual use, density, intensity, size, and style provided the new construction complies with: a. federal requirements for elevation above the 100-year flood level; b. any building code requirements for floodproofing; c. current building and life safety codes; d. Coastal Construction Control Line requirements; and e. any required zoning or other development regulations (other than density or intensity), except where compliance with such regulations would preclude reconstruction otherwise intended by this policy. iii. Redevelopment of damaged property is not allowed for a more intense use or at a density higher than the original lawful density except where	POLICY 4-D-1 <u>FLU-1-D-1</u>	POLICY 4-D-1 POST-DISASTER BUILDBACK POLICY: Following a natural disaster, land may be redeveloped in accordance with the Future Land Use Map or, at the landowner's option, in accordance with the following "buildback policy" begun by Lee County in 1989. This policy applies only where development is damaged by fire, hurricane or other natural disaster, and allows the following options: i. Buildings/development damaged less than 50% of their replacement cost (measured at the time of damage-can be rebuilt to their original condition, subject only to current building and life safety codes. ii. Buildings/development damaged more than 50% of their replacement cost can be rebuilt to their legally documented actual use, density, intensity, and size, and style provided the new construction complies with: a. <u>current</u> federal requirements for elevation above flood level; b. any building code requirements for floodproofing; c. current building and life safety codes; d. Coastal Construction Control Line requirements; and e. any required zoning or other development regulations (other than density or intensity), except where compliance with such regulations would preclude reconstruction otherwise intended by this policy. iii. Redevelopment of damaged property is not allowed for a more intense use or at a density higher than the original lawful density except where such higher density is permitted under this plan and the town's Land Development Codes. To further implement this policy, the town may establish blanket reductions in non-vital development regulations (e.g. buffering, open space, side setbacks, etc.) to minimize the need for individual variances or compliance determinations prior to

	such higher density is permitted under this plan and the town's land development regulations. To further implement this policy, the town may establish blanket reductions in non-vital development regulations (e.g. buffering, open space, side setbacks, etc.) to minimize the need for individual variances or compliance determinations prior to reconstruction. The Land Development Code may also establish procedures to document actual uses, densities, and intensities, and compliance with regulations in effect at the time of construction, through such means as photographs, diagrams, plans, affidavits, permits, appraisals, tax records, etc.		reconstruction. The Land Development Code may also establish procedures to document actual uses, densities, and intensities, and compliance with regulations in effect at the time of construction, through such means as photographs, diagrams, plans, affidavits, permits, appraisals, tax records, etc.
OBJECTIVE 4-E	HAZARD MITIGATION — Mitigate the potential effects of hurricanes by easing regulations that impede the strengthening of existing buildings, by encouraging the relocation of vulnerable structures and facilities, and by allowing the upgrading or replacement of grandfathered structures without first awaiting their destruction in a storm.	OBJECTIVE <u>FLU-1-E</u>	HAZARD MITIGATION — Mitigate the potential effects of <u>storm surges, flooding, sea-level rise, coastal erosion, and hurricanes</u> by easing regulations that impede the strengthening of existing buildings, by encouraging the relocation of vulnerable structures and facilities, and by allowing the upgrading or replacement of grandfathered structures without first awaiting their destruction in a storm.
POLICY 4-E-1	PRE-DISASTER BUILDBACK POLICY: Owners of existing developments that exceed the current density or height limits may also be permitted to replace for the same use it at up to the existing lawful density and intensity (up to the original square footage) prior to a natural disaster. Landowners may request this option 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 a request based on the conformance of the specific proposal with this comprehensive plan, including its land-use and design policies, pedestrian orientation, and natural resource criteria. The Town Council may approve additional enclosed square-footage only if an existing building is being elevated on property that allows commercial uses; dry-floodproofed commercial space at ground level could be permitted in addition to the replacement of the pre-existing enclosed square footage.	POLICY 4-E-1 <u>FLU-1-E-1</u>	PRE-DISASTER BUILDBACK POLICY: Owners of existing developments that exceed the current density or height limits may also be permitted to replace for the same use it at up to the existing lawful density and intensity (up to the original square footage) prior to a natural disaster. Landowners may request this option 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 a request based on the conformance of the specific proposal with this comprehensive plan, including its land-use and design policies, pedestrian orientation, and natural resource criteria. <u>Such development shall be deemed legally non-conforming where applicable. The Town may require that the new building be built to a higher resiliency standard as a condition to allow the non-conformity, including adherence to FEMA regulations and the Florida Building Code.</u> The Town Council may approve additional enclosed square-footage only if an existing building is being elevated on property that allows commercial uses; dry-flood-proofed commercial space at ground level could be permitted in addition to the replacement of the pre-existing enclosed square footage.
POLICY 4-E-2	COASTAL SETBACKS: To protect against future storm damage and to maintain healthy beaches,	POLICY 4-E-2 <u>FLU-1-E-2</u>	COASTAL SETBACKS: To protect against future storm damage and to maintain healthy beaches, the Town of Fort Myers Beach wishes

	the Town of Fort Myers Beach wishes to see all buildings relocated landward of the 1978 Coastal Construction Control Line. This line has been used on the Future Land Use Map to delineate the edge of land-use categories allowing urban development. Some existing buildings lie partially seaward of this line; when these buildings are reconstructed (either before or after a natural disaster), they shall be rebuilt landward of this line. Exceptions to this rule may be permitted by the town only where it can be scientifically demonstrated that the 1978 line is irrelevant because of more recent changes to the natural shoreline. The town shall seek the opinion of the Florida Department of Environmental Protection in evaluating any requests for exceptions. (Exceptions must also comply with all state laws and regulations regarding coastal construction.)		to see all buildings relocated landward of the 1978 Coastal Construction Control Line. This line has been used on the Future Land Use Map to delineate the edge of land-use categories allowing urban development. Some existing buildings lie partially seaward of this line; when these buildings are reconstructed (either before or after a natural disaster), they shall be rebuilt landward of this line. Exceptions to this rule may be permitted by the town only where it can be scientifically demonstrated that the 1978 line is irrelevant because of more recent changes to the natural shoreline. The town shall seek the opinion of the Florida Department of Environmental Protection in evaluating any requests for exceptions. (Exceptions must also comply with all state laws and regulations regarding coastal construction.)
POLICY 4-E-3	NATIONAL FLOOD INSURANCE PROGRAM: The town will continually maintain a floodplain ordinance that reduces future damage from flooding and qualifies landowners for the National Flood Insurance Program. The town shall modify its current floodplain ordinance in accordance with this comprehensive plan through measures such as: i. not counting costs of strengthening buildings as “improvements” that are limited to 50% of a building’s value; and ii. minimizing the negative effects of the 50% rule on historic buildings; and iii. adjusting the time period for calculating the 50% rule to encourage healthy redevelopment in this plan’s “Pedestrian Commercial” category; and iv. providing reasonable alternatives for determining the value of older buildings.	POLICY 4-E-3 <u>FLU-1-E-3</u>	NATIONAL FLOOD INSURANCE PROGRAM: The town will continually maintain a floodplain ordinance that reduces future damage from flooding and qualifies landowners for the National Flood Insurance Program (NFIP). The town shall modify its current floodplain ordinance in accordance with this comprehensive plan through measures such as: <u>means that encourage higher standards and strategies that will improve the Town’s NFIP Community Rating System (CRS) rating and ensure availability of flood insurance and flood insurance premium discounts for residents.</u> i. not counting costs of strengthening buildings as “improvements” that are limited to 50% of a building’s value; and ii. minimizing the negative effects of the 50% rule on historic buildings; and iii. adjusting the time period for calculating the 50% rule to encourage healthy redevelopment in this plan’s “Pedestrian Commercial” “Mixed-Use” category; and iv. providing reasonable alternatives for determining the value of older buildings.
POLICY 4-E-4	FLOODPROOFING OF COMMERCIAL BUILDINGS: Where commercial development is allowed by this comprehensive plan, full-height dry floodproofing is the most desirable alternative for providing ground-level commercial space in pedestrian areas.	POLICY 4-E-3 <u>FLU-1-E-3</u>	FLOODPROOFING OF COMMERCIAL BUILDINGS: Where commercial development is allowed by this comprehensive plan, full-height dry floodproofing is the most desirable alternative for providing ground-level commercial space in pedestrian areas.

POLICY 4-E-5	COASTAL BUILDING REGULATIONS: The town shall request state approval of an island-wide (rather than parcel-by-parcel) approach to limiting obstructions below flood elevation if this change is needed to avoid the loss of pedestrian activity near Times Square.	POLICY 4-E-5	COASTAL BUILDING REGULATIONS: The town shall request state approval of an island-wide (rather than parcel-by-parcel) approach to limiting obstructions below flood elevation if this change is needed to avoid the loss of pedestrian activity near Times Square.
OBJECTIVE 4-F	REDEVELOPMENT — Take positive steps to redevelop areas that are reaching obsolescence or beginning to show blight by designing and implementing public improvements near Times Square to spur private redevelopment there, by supporting the conversion of the Villa Santini Plaza into a pedestrian precinct, by providing an opportunity for landowners to replace vulnerable mobile homes and recreational vehicles with permanent structures in the Gulfview Colony/Red Coconut area, and by providing building code relief for historic buildings.	OBJECTIVE 4-F <u>FLU-1-F</u>	REDEVELOPMENT — Take positive steps to redevelop areas that are reaching obsolescence or beginning to show blight by designing and implementing public improvements near Times Square to spur private redevelopment there, by supporting the conversion of the Villa Santini Plaza into a pedestrian precinct, by providing an opportunity for landowners to replace vulnerable mobile homes and recreational vehicles with permanent structures in the Gulfview Colony/Red Coconut area, <u>and the proposed Arts and Theater district,</u> and by providing building code relief for historic buildings.
POLICY 4-F-1	HISTORIC BUILDINGS: The protection of historic buildings is of great importance to the town, and shall be aided by implementing the policies set forth in other elements of this comprehensive plan.	POLICY 4-F-1 <u>FLU-1-F-1</u>	HISTORIC BUILDINGS: The protection of historic buildings is of great importance to the town, and shall be aided by implementing the policies set forth in other elements of this comprehensive plan.
POLICY 4-F-2	SPECIFIC REDEVELOPMENT PLANS: This comprehensive plan anticipates substantial redevelopment over the coming years. Specific concepts have been developed for three specific areas: i. Times Square – The Estero Island CRA's plan for the Times Square area is reflected in this plan, bounded by the “Pedestrian Commercial” category at Times Square. Implementation of that plan will be on-going as discussed through this comprehensive plan and in accordance with the specific regulations provided in the Land Development Code. The Times Square redevelopment plan is described in Community Design Policies 3-D-1 through 3-D-13. ii. Villa Santini Plaza – This area is shown as “Pedestrian Commercial” on the Future Land Use Map. Existing land uses may continue. If landowners wish to redevelop part or all of this property, the following concepts shall apply: a. buildings are brought closer to the street; b. drainage has been placed underground to make room for wide sidewalks, street trees, and some	POLICY 4-F-2 <u>FLU-1-F-2</u>	SPECIFIC REDEVELOPMENT PLANS: This comprehensive plan anticipates substantial redevelopment over the coming years. Specific concepts have been developed for <u>three specific areas the Gulfview Colony/Red Coconut Village, and Santini Village.</u> i. Times Square – The Estero Island CRA's plan for the Times Square area is reflected in this plan, bounded by the “Pedestrian Commercial” category at Times Square. Implementation of that plan will be on-going as discussed through this comprehensive plan and in accordance with the specific regulations provided in the Land Development Code. The Times Square redevelopment plan is described in Community Design Policies 3-D-1 through 3-D-13. ii. Villa Santini Plaza – This area is shown as “Pedestrian Commercial” the Future Land Use Map. Existing land uses may continue. If landowners wish to redevelop part or all of this property, the following concepts shall apply: a. buildings are brought closer to the street; b. drainage has been placed underground to make room for wide sidewalks, street trees, and some on-street parking (once passive traffic calming activities have reduced speeding on Estero Boulevard);

	on-street parking (once passive traffic calming activities have reduced speeding on Estero Boulevard); c. the shopping center is reconfigured with a central green plaza and better ties to the marina to the rear; and d. off-street loading areas are provided for delivery vehicles; This redevelopment plan can only be accomplished through a public-private partnership as described in Community Design Policies 3-C-1 and 3-C-2. iii. Gulfview Colony/Red Coconut – This area is shown as “Mixed Residential” and “Boulevard” on the Future Land Use Map. If landowners wish to redevelop part or all of this property, the following concepts are encouraged, and shall form the basis for a preapproved redevelopment option in the Land Development Code: a. traditional neighborhood design emphasizing porches on the front; primary entrances visible from the street; and cars to the rear (except for on-street parking); b. detached houses or cottages (with optional accessory apartments) abutting existing single-family homes; c. low-rise townhouses or apartments allowed toward the center; d. walkable narrow streets with shade trees that double as view corridor to the Preserve and Gulf; e. substantial open space with views to be maintained from Estero Boulevard to the Gulf; f. mixed commercial and residential uses along the Bay side of Estero Boulevard; g. quiet internal street connections to the north and south; h. significantly reduced density from the existing level of 27 RV/mobile homes per acre at the Red Coconut to a maximum level of 15 dwelling units per acre; i. provision for a publicly acquired access point to the Matanzas Pass Preserve. This redevelopment plan is described in Community Design Policies 3-A-5 and 3-A- 6. Different redevelopment concepts that are consistent with this comprehensive plan may also		c. the shopping center is reconfigured with a central green plaza and better ties to the marina to the rear; and d. off-street loading areas are provided for delivery vehicles; This redevelopment plan can only be accomplished through a public-private partnership as described in Community Design Policies 3-C-1 and 3-C-2. This area is shown as “Mixed Residential” and “Boulevard” the Future Land Use Map. If landowners wish to redevelop part or all of this property, the following concepts are encouraged, and shall form the basis for a pre- approved redevelopment option in the Land Development Code: a. traditional neighborhood design emphasizing porches on the front; primary entrances visible from the street; and cars to the rear (except for on-street parking); b. detached houses or cottages (with optional accessory apartments) abutting existing single-family homes; c. low-rise townhouses or apartments allowed toward the center; d. walkable narrow streets with shade trees that double as view corridor to the Preserve and Gulf; e. substantial open space with views to be maintained from Estero Boulevard to the Gulf; f. mixed commercial and residential uses along the Bay side of Estero Boulevard; g. quiet internal street connections to the north and south; h. significantly reduced density from the existing level of 27 RV/mobile homes per acre at the Red Coconut to a maximum level of 15 dwelling units per acre; i. provision for a publicly acquired access point to the Matanzas Pass Preserve. This redevelopment plan is described in Community Design Policies 3-A-5 and 3-A- 6. j. Floor area ratios shall not exceed 1.5. k. Residential density shall allow up to 15 dwelling units per acre for redevelopment in accordance with this section. Different redevelopment concepts that are consistent with this comprehensive plan may also be proposed for
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	be proposed for any of these areas through the planned development rezoning process.		any of these areas through the planned development rezoning process.
NEW	NEW	<u>POLICY FLU-1-F-3</u>	<u>WORKFORCE HOUSING DENSITY: The Town shall evaluate the implementation of a workforce housing policy to allow additional density and building heights in the mixed-use areas. To qualify, developers shall provide a minimum of 10% of workforce housing as covenanted for a minimum of 30 years unless otherwise noted in the Land Use Designations in this Comprehensive Plan. Additional building height can be achieved as an incentive for providing workforce housing on or off island. The Town's Land Development Code provides the guidelines for additional building height and density.</u>

Strikethrough: Text to be removed.

Underline: Text to be added.

Town of FMB: Community Design Element

EXISTING		PROPOSED	
GOAL 1	To continually improve the appearance and functioning of transportation corridors, commercial areas, and links to natural and recreational areas.	<u>GOAL CD-1</u>	<u>GROWTH AND DEVELOPMENT</u> <u>Accommodate growth while preserving the island's beachfront character by providing an alternative growth pattern that addresses traffic congestion, promotes a compatible mix of uses and encourages a variety of housing types and affordability to rejuvenate the existing fabric of the community and community character.</u>
OBJECTIVE 1-A	ESTERO BOULEVARD — Improve the functioning and appearance of Estero Boulevard as the premier public space and primary circulation route of Fort Myers Beach.	<u>OBJECTIVE CD-1-A</u>	<u>NEIGHBORHOOD SERVING COMMERCIAL CORES</u> <u>Identify mixed-use commercial districts throughout the island that provide neighborhood serving commercial uses and lifestyle retail around clusters of residential uses.</u>
POLICY 1-A-1	Changes along Estero Boulevard should improve on the characteristics that make it a boulevard in character and not just in name: safe and interesting to walk along, impressive landscaping, and scaled to people rather than high-speed traffic.	<u>POLICY CD-1-A-1</u>	<u>MIX OF USES</u> <u>Provide a complementary mix of land uses with design characteristics that provide:</u> i. <u>Uses that meet the daily needs of residents</u> ii. <u>A variety of affordable housing types</u>
POLICY 1-A-2	The town should develop a sidewalk and streetscape plan for all of Estero Boulevard that builds on the design theme of the 1997 improvements from Times Square and to the Lani Kai. This plan should recreate the historic "Avenue of Palms" concept by adding appropriate palm trees such as coconuts on both sides between the sidewalk and new curbs. This plan should also address related needs such as parking and trolley pull-offs, and should be sufficiently detailed to estimate costs and suggest potential phases of construction. Priorities should include positive impacts on: i. stimulating revitalization consistent with the town's overall vision in this comprehensive plan ii. completing pedestrian and bike path linkages from one end of the island to the other; iii. managing traffic flow; iv. improving pedestrian crossings; including push button (demand) lights; textured materials to emphasize crossings to drivers; and covered seating areas and other "oasis" amenities at trolley stops and beach accesses;	<u>POLICY CD-1-A-2</u>	<u>CREATE THE TIMES SQUARE MIXED-USE DISTRICT.</u> <u>The Times Square Mixed-Use District is the main tourist/entertainment district which will accommodate the most growth in terms of height and density with a predominance of residential uses on the east side of Estero Boulevard and hotel lodging and commercial uses on the west side. It is the main gateway to the island. Entertainment and tourist supporting commercial uses should be clustered here to reduce the need to drive throughout the island and to encourage walking.</u>

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	v. lowering construction and maintenance costs from the original design; vi. correcting drainage problems; vii. coordinating with utility undergrounding; and viii. working within new and available sources of funds. After completing that plan, the town shall establish a phased schedule of capital improvements to complete this network.		
POLICY 1-A-3	In commercial and mixed-use areas, the town shall identify specific portions of Estero Boulevard where changes in land development regulations could work towards a more coherent “framing” of the Boulevard. New regulations should accomplish the following design goals over time through infill and redevelopment: i. bringing buildings closer to the side- walk; ii. encouraging or requiring compatible means of meeting the mandatory flood elevation requirements (for example; using dry-floodproofing techniques, or designs such as the old hardware store which is built close to the street with outside steps up, but with added steps up inside to reach the flood elevation); iii. locating most parking to the rear of buildings, limiting curb cuts, and promoting shared parking areas; iv. facilitating pedestrian and bicycle access and contributing to the interconnected- ness of the circulation system; v. adopting design guidelines that encourage architecture and urbanism along Estero Boulevard that contributes to the human scale and “beach cottage character” (such as the Huston Studio or Hussey tourist information center).	Policy CD-1-A-3	<u>CREATE THE CIVIC CENTER MIXED-USE DISTRICT</u> <u>Civic Center Mixed-Use District is a commercial district with residential on the east side of Estero Boulevard and commercial on the west. A strong mixed-use core is envisioned on the east side of Estero Boulevard as a redevelopment site. The core will support a mix of housing options and neighborhood serving retail uses for the immediate residential cluster.</u>
OBJECTIVE 1-B	OTHER PUBLIC SPACES — Beautify public spaces throughout the island.	POLICY CD-1-A-4	<u>CREATE THE CENTER ISLAND MIXED-USE DISTRICT</u> <u>The Center Island Mixed-Use District will support the nearby marina uses and provide lifestyle retail uses like cafes with outdoor dining and neighborhood serving retail for the surrounding residential neighborhood.</u>
POLICY 1-B-1	Create Estero Boulevard gateways or entry features at the south end near Big Carlos Pass and near the touchdown of the Matanzas Pass bridge.	POLICY CD-1-A-5	<u>CREATE THE THEATRE & ARTS MIXED-USE DISTRICT</u> <u>The Theatre & Arts Mixed- Use District is envisioned with arts and theatre related uses like cafes, art galleries, art studios,</u>

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			<u>and restaurants. Existing views to the water here should be preserved.</u>
POLICY 1-B-2	Improve the appearance of the town throughout by landscaping public property and rights-of-way with native vegetation.	<u>POLICY CD-1-A-6</u>	<u>CREATE THE SANTINI VILLAGE MIXED-USE DISTRICT</u> Santini Village Mixed-Use District is the tallest and most dense district on the island with tourist supporting uses and commercial. It is also envisioned as a redevelopment opportunity with more entertainment, tourist and neighborhood commercial uses as the southern gateway to the island.
POLICY 1-B-3	Identify potential mechanisms to implement and maintain special amenities such as entry features, monuments, or other special land- scape projects.	<u>OBJECTIVE CD-1-B</u>	<u>TRANSITION ZONES AND CONSERVATION DISTRICTS</u> Create language to prevent commercial intrusion into the residential neighborhoods by providing transitions from commercial to residential uses. Use Conservation Districts to maintain the scale, massing and character of Fort Myers Beach and new construction.
POLICY 1-B-4	Monitor the effectiveness of the county's pro- gram for removing trash and debris from the beachfront and Bay accesses.	<u>POLICY CD-1-B-1</u>	<u>TRANSITION ZONES</u> New development on properties abutting single family homes and one and two story multi-family homes shall provide a building profile that matches the height of the abutting property as prescribed in the land development codes, to create an incremental transition in height.
POLICY 1-B-5	Develop a program for placing utilities underground that addresses both public and private sector development.	<u>POLICY CD-1-B-2</u>	<u>CREATE CONSERVATION DISTRICTS</u> Develop specific standards for the Conservation District. Use Conservation Districts to maintain the scale, massing and character of Fort Myers Beach and new construction. New buildings and additions should match the height and bulk of existing building form, with architectural treatments and building articulation that are consistent with the existing building vernacular.
POLICY 1-B-6	Conduct regular and adequate street cleaning (sweeping or vacuuming) throughout the town. Evaluate effective methods to keep streets and drainage systems clean despite the abundance of blown sand and the absence of curbs.	<u>OBJECTIVE CD-1-C</u>	<u>Workforce Housing Through Density and Height Bonus</u>
GOAL 2	To upgrade residential neighbor- hoods throughout Estero Island.	<u>POLICY CD-1-C-1</u>	<u>Each of the mixed-use districts may provide for additional bonus height for developments that provide a workforce housing component.</u>
OBJECTIVE 2-A	HIDDEN PATHS — Create an additional interconnected system of pedestrian and bicycle pathways throughout the island to improve mobility and promote community inter- action.	<u>POLICY CD-1-C-2</u>	<u>The Town shall determine the minimum requirements for the workforce housing component as a policy in the land development regulations.</u>
POLICY 2-A-1	The town should encourage a community- sponsored program to identify and build a system of existing and potential "hidden paths" parallel to but behind Estero Boulevard. A local foundation or community land trust	<u>OBJECTIVE CD-1-D</u>	<u>MASTER PLANNED DEVELOPMENT</u> Provide mechanisms to incentivize master planning large parcels and land assemblies for mixed-use development.

	could identify and acquire existing vacant lots or easements to gradually complete the network. These parcels could be transferred back to the town for long-term maintenance.		
POLICY 2-A-2	The town shall adopt changes to the land development regulations to allow small portions of existing lots to become a part of the hidden-path network without diminishing future uses of those lots.	<u>POLICY CD-1-D-1</u>	<u>The Town may consider and approve requests for Master Planned Developments. Assembled parcels that exceed four (4) acres can be master planned such that the applicant can propose new building scale, massing and uses from the underlying zoning.</u>
POLICY 2-A-3	The town shall ensure coordination between efforts to develop this hidden-path network and its new streetscape plan for Estero Boulevard.	<u>POLICY CD-1-D-2</u>	<u>Assembled parcels that exceed seven (7) acres must have a workforce housing and housing component to enjoy the benefits of changing the underlying zoning to be determined by the Town.</u>
OBJECTIVE 2-B	SIDE STREETS — Encourage residents to achieve a higher ambition for their residential streets, improving their walkability, comfort, beauty, inter- connectedness, and safety.	<u>POLICY CD-1-D-3</u>	<u>Assembled parcels that exceed seven (7) acres must provide a master plan for approval by the Town at a public hearing.</u>
POLICY 2-B-1	The town strongly supports the planting of regularly spaced street trees in public rights- of-way on residential streets. The selection of specific trees shall be guided by public input and the following criteria: i. amount of shade provided, especially during the summer months; ii. the amount of water and other regular maintenance that will be required (such as types of leaves, fronds, and fruit); iii. potential damage from extensive root systems or other characteristics of specific trees; iv. variety and beauty, including flowering characteristics; v. the potential for wildlife utilization; vi. a strong preference for native trees such as live oak, gumbo limbo, sea grape, cabbage palm, mastic, Jamaica dog- wood, mahogany, black olive, strangler fig, pigeon plum, and buttonwood; and vii. a prohibition on the use of invasive trees such as Australian pine, Brazilian pepper, melaleuca, and Java plum.	<u>OBJECTIVE CD-1-E</u>	<u>PRESERVING BUILDING SCALE BY ADAPTIVE REUSE OF EXISTING BUILDING STOCK</u> <u>Encourage conversions from vacation rentals and motels to condominiums to provide affordable housing options for Fort Myers Beach's workforce.</u>
POLICY 2-B-2	The town should develop a residential streets program that provides guidelines and technical assistance to neighborhoods that wish to improve their public spaces as civic projects. The program could include the following elements:	<u>POLICY CD-1-E-1</u>	<u>ADAPTIVE REUSE</u> <u>Encourage the adaptive reuse of existing structures located within mixed-use and commercial land use designations, particularly those that were originally established as motels or vacation rentals are over 50 years old, by providing</u>

	i. assistance in developing a workable approach on a street-by-street basis, consistent with the island-wide concept; ii. volunteer local arborists to provide specific advice and technical assistance; iii. assistance in preparing a planting plan for street trees; iv. financial assistance for planting street trees; v. a booklet describing the characteristics of desirable street trees for Fort Myers Beach; vi. a guidebook for tree planting, irrigation, and pruning methods; vii. a plan for short- and long-term maintenance of planted areas and street trees; viii. a current list of contact persons and a description of the process for requesting street repairs and maintenance and for reporting code violations; and ix. information on how to form a street lighting district.		<u>incentives, such as relief in the Land Development Regulations, grants to facilitate retrofitting or rehabilitation, etc.</u>
GOAL 3	To revitalize and improve specific transitional neighborhoods.	<u>POLICY CD-1-E-2</u>	<u>INCENTIVES FOR ADAPTIVE REUSE</u> <u>Develop an incentives package in the Land Development Regulations that encourage adaptive reuse of motels and vacation rentals to convert to condominiums to maintain the historic character and development pattern over time.</u>
OBJECTIVE 3-A	HEART OF THE ISLAND — Redevelop the School/Library/Bay Oaks area as the new “heart of the island.”	<u>OBJECTIVE CD-1-F</u>	<u>STREET FRONTAGES AND PARKING LOTS</u> <u>Develop policies to limit parking lots fronting main streets in the Land Development Regulations.</u>
POLICY 3-A-1	The complex of civic activities in the Bay Oaks area is a key community asset. Its access and significance would be enhanced by creating a main entryway; School Street could become a walkable palm-lined street of restored and infill cottages that announce the entry to this center of civic activity.	<u>POLICY CD-1-F-1</u>	<u>RESTRICTING PARKING AS A PRIMARY USE ON ESTERO BOULEVARD</u> <u>Parking lots shall not be encouraged as a primary use on Estero Boulevard.</u>
POLICY 3-A-2	A prominent civic structure benefits the community most when its location serves the public conveniently and when its design helps shape the surrounding public spaces and provides a new and symbolic vista from other public places.	<u>POLICY CD-1-F-2</u>	<u>RESTRICTING PARKING FRONTAGE LENGTH ON ESTERO BOULEVARD</u> <u>Parking lot frontages shall be limited in size to one fourth the lot width on Estero Boulevard.</u>
POLICY 3-A-3	If the town ever decides to build a Town Hall rather than renting office space, a new building, even if modest in size, should help complete a center of public activity and should be visually prominent as a showcase of urban design.	<u>POLICY CD-1-F-3</u>	<u>PARKING STANDARDS FOR NEW DEVELOPMENT IN MIXED-USE COMMERCIAL DISTRICTS</u> <u>Within the Mixed-Use Commercial Districts, new development shall locate and design off-street parking areas in a manner that does not detract from the character by providing standards in the Land Development Regulations,</u>

			such as locating parking to rear of buildings, limiting curb cuts, and landscaping and façade requirements.
POLICY 3-A-4	A “heart of the island” plan should be pre- pared to coordinate the public and private actions needed to fully implement this concept, including identifying the sequence of actions, responsibilities for implementation, and potential funding sources. Initial actions should include: i. develop a design concept consistent with the new streetscape plan for Estero Boulevard, identifying approximate costs, potential funding sources, and suggested phasing; ii. refine regulations that would allow a compatible mix of uses such as residential, live-work spaces such as studios or galleries, and small-scale specialty retail uses consistent with the historic theme, including eased setback and parking regulations to accommodate the unique needs of renovations of existing and move-on cottages; and iii. prepare architectural guidelines for cottage renovations and for infill development.	<u>POLICY CD-1-F-4</u>	<u>PARKING STANDARDS IN TIMES SQUARE</u> <u>Improve the current parking situation near Times Square through the means outlined in the Transportation Element of this plan.</u>
POLICY 3-A-5	Provide in the new Land Development Code a pre-approved option for the future redevelopment of the Red Coconut/Gulfview Colony properties consistent with the town’s vision of traditional neighborhoods — neighborhoods that recreate a small-town feel; which are pedestrian and bicycle friendly with an internal circulation system that makes it possible to walk or bicycle to schools and services without always using Estero Boulevard; which retain the psychological connection and views to both the Bay and the beach; and which offer a variety of housing types and opportunity for mixed uses.	<u>POLICY CD-1-F-5</u>	<u>PARKING SUPPLY</u> <u>Evaluate parking supply needs by conducting a parking supply study and determine parking solutions including shared parking, structured parking that meets the character of the Island and parking management practices like centralized parking and offsite parking for employees.</u>
POLICY 3-A-6	In accordance with Policies 4-E-1 and 4-F-2 of the Future Land Use Element, evaluate any alternative redevelopment concepts for any portion of the Gulfview Colony/ Red Coconut properties as to the following design principles: i. retains and/or creates water views through street layout, site design, and architectural design; ii. provides a variety of housing types rather than uniformity;	<u>OBJECTIVE CD-1-G</u>	<u>DESIGN STANDARDS FOR PRESERVING BEACHFRONT CHARACTER</u> <u>Develop building design standards to preserve and enhance the existing beachfront character.</u>

	iii. locates the more durable housing types and mix of uses along the Bay side of Estero Boulevard; iv. new streets create a highly connected network which includes mid-block paths or alleys; v. streets have sidewalks and street trees; vi. local streets are interconnected from Donora and Shell Mound through to the north.		
OBJECTIVE 3-B	NEAR-TOWN NEIGHBORHOODS — Revitalize older residential areas using traditional neighborhood techniques for renovations and infill.	<u>POLICY CD-1-G-1</u>	<u>NEIGHBORHOODS AND MIXED-USE DISTRICTS</u> Maintain design standards in the Land Development Regulations for neighborhoods and districts which protect and enhance their unique character through building setbacks, building footprint, massing and scale. These can be enhanced through Conservation District language to protect the Fort Myers Beach building vernacular and encourage adaptive reuse for motels and vacation rentals.
POLICY 3-B-1	The town shall prepare and adopt land development regulations to apply to the older “near-town neighborhoods” that will encourage renovations and compatible infill development, using the following types of techniques: i. modifying lot size, setback, and parking requirements where the current regulations hinder redevelopment; ii. adding design guidelines to encourage front porches, decks, and other elements from the cottage design tradition to help frame public spaces and define private areas; iii. modifying permitted uses to accommodate quiet home offices and possibly other mixed uses; iv. modifying current limitations on the number of guests and/or length of stays to protect residential areas from excessive intrusion by poorly regulated short- term rentals.	<u>POLICY CD-1-G-2</u>	<u>ESTERO BOULEVARD</u> Continue to make improvements to Estero Boulevard in terms of the eclectic character of building design with incentives in the Land Development Regulations.
OBJECTIVE 3-C	SANTINI “MAIN STREET” — Redevelop the Villa Santini Plaza and its environs as a “Main Street” town center for the south end of the island.	<u>POLICY CD-1-G-3</u>	<u>GUIDELINES FOR BUILDING COMPATIBILITY WITH FLOOD REGULATIONS</u> Encourage or require compatible means of meeting the mandatory flood elevation requirements (for example, using dry-floodproofing techniques, having maximum allowable floor to ceiling height that match adjacent structures especially for buildings that need to be elevated at grade level and using gradual inclines for grade changes on commercial properties.

POLICY 3-C-1	The town wishes to convert, over time, the existing Villa Santini Plaza and surrounding land from its current configuration of auto- oriented commercial uses. The desired plan would create a new "Main Street" shopping and civic center to serve residents of the south end of Estero Island and visitors to the state park on Black Island and Lovers Key (see Policy 4-F-2(ii) of the Future Land Use Element). To accomplish this goal, the town wishes to structure a public/private partner- ship agreement that provides for the following: i. outlines the public improvements necessary to implement the concept, and identifies the agencies and entities in- volved and their respective roles; ii. provides the town's design criteria to guide the preparation of the development plan by the property owners; and iii. sets forth the process for the partner- ship, identifies responsibilities, areas of commitment, timing and process, order of magnitude costs, fiscal impacts/bene- fits, and any reimbursements.	GOAL CD-2	<u>COMMUNITY CHARACTER OF PUBLIC SPACES</u> <u>Improve the physical appearance of the island's public spaces, paths, streets and streetscape to achieve a unified small town character which balances the needs of both residents and tourists.</u>
POLICY 3-C-2	The town shall adopt new development regulations for this area to bring about the desired redevelopment pattern in the Villa Santini area. Along the nearby section of Estero Boulevard, buildings being constructed or renovated shall extend closer to the street and provide front access to pedestrians and on-street parking. Internal site layouts shall be reconfigured to accommodate a central green/plaza area for overflow parking and a trolley transfer point generally consistent with the 1997 design concept pre- pared by Dover, Kohl & Partners.	OBJECTIVE CD-2-A	<u>PUBLIC SPACES AND VIEWS TO THE WATER</u> <u>Use urban design standards to reinforce walkable streets, public and private spaces and a sense of community through the public realm.</u>
OBJECTIVE 3-D	TIMES SQUARE — Stimulate the revitalization of the downtown core area (near Times Square) as the nucleus of commercial and tourist activities.	POLICY CD-2-A-2	<u>OPEN SPACE AND LAND USE</u> <u>Beautify public spaces throughout the island and preserve and protect natural areas that serve and benefit the public.</u>
POLICY 3-D-1	The town shall create a Downtown Redevelopment Agency to assist the Main Street pro- gram in revitalizing downtown as a lively, inviting, comfortable, and safe public environment.	POLICY CD-2-A-3	<u>VIEW CORRIDORS</u> <u>Maintain existing public rights-of-way that provide view corridors to water bodies and, whenever possible, provide features such as benches, landscaping, and trash receptacles to enhance the areas as pocket parks, and develop a process and criteria for identifying specific scenic resources, view corridors, and vistas that should be preserved or enhanced as new development and redevelopment occurs.</u>

POLICY 3-D-2	Downtown revitalization shall be based on the concepts in the Core Area Master Plan prepared for the Estero Island CRA Commit- tee in 1993-94, as refined during the continuing implementation of that plan. Those concepts are summarized in the following policies.	<u>POLICY CD-2-A-4</u>	<u>ENTRY GATEWAYS</u> <u>Create Estero Boulevard gateways or entry features at the south end near Big Carlos Pass and near the touchdown of the Matanzas Pass bridge.</u>
POLICY 3-D-3	Continue with sidewalk improvements: i. Standard sidewalk widths should be provided by the public sector and/or private developers in each development project as it is implemented. Consider a program for private sidewalk reservation through dedication or easement, particularly along Old San Carlos. ii. Use selected materials in public rights- of-way and private property improvements adjacent to sidewalks, such as in plazas or building setbacks. iii. Provide special design treatment (e.g. continuation of sidewalk paving patterns) at major intersections of the primary pedestrian streets to create a visual link and distinguish the pedestrian surface from the vehicular right-of- way.	<u>OBJECTIVE CD-2-B</u>	<u>STREETSCAPE</u> <u>Enhance the existing paths and sidewalks and streetscape to foster a more appealing environment for walking and biking.</u>
POLICY 3-D-4	Implement the pedestrian circulation plan: i. Complete the Bay-side sidewalk and streetscape improvements for Estero Boulevard within the Core area with underground utilities and improved sidewalks. ii. Construct sidewalks (5' wide minimum sidewalk) along all streets in the Core Area. iii. Provide a bike path along Estero Boule- vard utilizing Crescent Street to Third Street across to Old San Carlos and then connecting back to Estero Boulevard and north to Bowditch Point. iv. Promote the function of Old San Carlos as a pedestrian spine linking Times Square and the marina by implementing public sidewalks and major crosswalks designed to work in conjunction with arcades or plazas located on private property. v. Work with the private sector to establish a site for a new public pedestrian plaza at the east of Old San Carlos.	<u>POLICY CD-2-B-1</u>	<u>COMMERCIAL STREETSCAPE</u> <u>Improve the appearance of the town throughout by developing land development regulations for landscaping public property and rights-of-way with native vegetation and ensuring sidewalks are six (6) feet wide in residential zones and up to twelve (12) feet wide in mixed-use commercial districts.</u>

	vi. Provide new on-street parking and side-walk on the south side of Crescent Street. vii. Reconfigure Third and Fourth Streets with on-street parking and sidewalks on both sides of the street. viii. Coordinate all proposed improvements with the pedestrian, parking, mass transit, and traffic circulation concepts in the Transportation Element of this plan.		
POLICY 3-D-5	Improve the current parking situation near Times Square through the means outlined in the Transportation Element of this plan. Suggestions from the Core Area Master Plan include: i. Implement parking management practices that create a positive experience for visitors and business operations. ii. Encourage the private sector to build and operate expanded parking areas, using public sector assistance if needed for land assembly and regulatory relief. iii. Expand the supply of shared on-street parking with 165 new parallel and angled spaces. iv. If the new supply of parking will be inadequate and a parking garage must be built, appropriate locations would be to the rear of new storefronts facing Old San Carlos.	<u>POLICY CD-2-B-2</u>	<u>LANDSCAPE FEATURES</u> Identify potential mechanisms to implement and maintain special amenities such as entry features, monuments, or other special landscape projects through a formal landscape planning process.
POLICY 3-D-6	Design and construct streetscape improvements for Old San Carlos, Crescent Street, Center Street, and First through Fifth Street. These include on-street parking, new side-walks, buried utilities, and landscaping.	<u>POLICY CD-2-B-3</u>	<u>STREET CROSSINGS</u> Improve pedestrian crossings; including push button (demand) lights; textured materials to emphasize crossings to drivers; and covered seating areas and other "oasis" amenities at trolley stops and beach accesses that are consistent with the Manual of Uniform Traffic Control Devices and the Florida Design Manual as applicable.
POLICY 3-D-7	Continue to implement the stormwater management plan (an exfiltration system that integrates the existing storm sewer pipe system and inlets with exfiltration trenches under Estero Boulevard). Similar systems can be installed for private development under parking lots or open space.	<u>POLICY CD-2-B-4</u>	<u>RESIDENTIAL STREETSCAPE</u> Develop a landscape plan in the Land Development Regulations for residential streets. The plan should consider regularly spaced street trees in public rights-of-way on residential streets which provide adequate shade, color and interest, are low maintenance, with root systems that will not damage sidewalks, accommodate wildlife, are non-invasive.
POLICY 3-D-8	Provide technical assistance regarding dry flood proofing methods and design to individuals seeking to develop or improve their properties.	<u>POLICY CD-2-B-5:</u>	<u>RESIDENTIAL STREET PROGRAM</u> The town should develop a residential streets program to implement the landscape plan. The Program can provide:

			i. <u>assistance in developing a workable approach on a street-by-street basis, consistent with the island-wide concept.</u> ii. <u>volunteer local arborists to provide specific advice and technical assistance.</u> iii. <u>financial assistance for planting trees.</u> iv. <u>a booklet describing the characteristics of desirable street trees for Fort Myers Beach.</u> v. <u>a guidebook for tree planting, irrigation, and pruning methods.</u> vi. <u>a plan for short- and long-term maintenance of planted areas and street trees.</u>
POLICY 3-D-9	Enhance Lynn Hall Park with continuing beach renourishment, beach volleyball areas, and possibly a performance pavilion (in the southeast corner of the park next to Times Square). Include a pedestrian path linking the beach and the northern portion of Estero Boulevard.	<u>GOAL CD-3</u>	<u>CONNECTIVITY AND MOBILITY TO REDUCE TRAFFIC IMPACTS</u> <u>Plan for interconnected streets and pedestrian paths that connect to mixed-use commercial districts to enhance mobility options.</u>
		<u>OBJECTIVE CD-3-A</u>	<u>COMPLETE STREETS AND BICYCLE INFRASTRUCTURE</u> <u>Provide for comfortable streets, street grid and interconnected paths that includes designated spaces for walking, biking, cars and transit that seamlessly connect to mixed-use commercial districts.</u>
		<u>POLICY CD-3-A-1</u>	<u>INTERCONNECTED PATHS</u> <u>Create an additional interconnected system of pedestrian and bicycle pathways throughout the island to improve mobility and promote community interaction that connects to mixed-use commercial districts behind Estero Boulevard.</u>
		<u>POLICY CD-3-A-2</u>	<u>STREET CONNECTIVITY</u> <u>Preserve, enhance, and provide connectivity for the downtown character and neighborhoods while fostering complete streets initiatives. Maintain and enhance the tightly gridded, interconnected street network that facilitates the dispersal of traffic and contributes to the character of Fort Myers Beach.</u>
		<u>POLICY CD-3-A-3</u>	<u>MAINTAIN PEDESTRIAN CIRCULATION</u> <u>Maintain the pedestrian circulation plan:</u> i. <u>Bayside sidewalk and streetscape improvements for Estero Boulevard within the Core area with underground utilities and improved sidewalks.</u> ii. <u>Sidewalks (5' wide minimum sidewalk) along all streets in the Core Area.</u>

			iii. <u>Bike path along Estero Boulevard utilizing Crescent Street to Third Street across to Old San Carlos and then connecting back to Estero Boulevard and north to Bowditch Point.</u> iv. <u>Old San Carlos as a pedestrian spine linking Times Square and the marina by implementing public sidewalks and major crosswalks designed to work in conjunction with arcades or plazas located on private property.</u> v. <u>A new public pedestrian plaza at the east of Old San Carlos.</u> vi. <u>New on-street parking and side- walk on the south side of Crescent Street.</u> vii. <u>Third and Fourth Streets with on-street parking and sidewalks on both sides of the street.</u> <u>Proposed improvements with the pedestrian, parking, mass transit, and traffic circulation concepts in the Transportation Element of this plan.</u>
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Town of FMB: Housing Element

Strikethrough: Text to be removed.

Underline: Text to be added.

EXISTING		PROPOSED	
GOAL 12:	To keep a wide variety of housing types available to people at all stages of their lives.	GOAL 12 <u>HOU-1</u>	To keep a wide variety of housing types available to people at all stages of their lives. <u>Encourage the availability of attainable housing options within Fort Myers Beach for residents of all ages.</u>
OBJECTIVE 12-A	GENERAL HOUSING STRATEGIES — Maintain or increase 1997 federal/ state funding levels for affordable housing; maintain an adequate supply of land to meet forecasted housing needs; and maintain current levels of on-island housing suitable for employees working within the town.	OBJECTIVE 12-A <u>HOU-1-A</u>	GENERAL HOUSING STRATEGIES — Maintain or increase 1997 federal/state funding levels for affordable housing; m <u>Maintain an adequate supply of land to meet forecasted housing needs; and maintain current levels of on-island housing suitable for employees working within the town.</u>
POLICY 12-A-1	The town shall pursue the following affordable housing strategies: i. Provide liaison and technical assistance in linking eligible activities to partnerships and governmental funding sources; ii. Encourage a variety of housing types and cost ranges through flexible provisions in the Land Development Code (see Policy 12-C-1); iii. Focus planning efforts on specific areas that are in transition, such as the near-town neighborhoods between Times Square and Bay Oaks, and reinforces the quality of existing stable neighborhoods; iv. Implement an incentive-driven regulatory system and the town's new policy regarding accessory apartments (see Policy 4-C-7); v. Promote revitalization of existing housing including historic structures (see specific programs in the Historic Preservation Element); and vi. Assist service workers to find suitable housing on the island.	POLICY 12-A-1 <u>HOU-1-A-1</u>	The town shall pursue the following affordable housing strategies: i. Provide liaison and technical assistance in linking eligible activities to partnerships and governmental funding sources; ii. Encourage a variety of housing types and cost ranges through flexible provisions in the Land Development Code, <u>including accessory dwelling units in single family residential areas (see Policy 12-C-1);</u> iii. Focus planning efforts on specific areas that are in transition, such as the near-town neighborhoods between Times Square and Bay Oaks, and reinforces the quality of existing stable neighborhoods; iv. <u>Consider implementation of</u> Implement an incentive-driven regulatory system and the town's new policy regarding <u>create and maintain policies on accessory apartments, pathways for hotel to condo conversions, and single family to duplex, triplex, and quadruplex as appropriate (see Policy 4-C-7);</u> v. <u>Consider development of land development codes that support and enable its aging population to remain independent and in their own home or in a non-health care environment for as long as their health allows. Development</u>

			<u>and design strategies that enable older residents to remain in their community as their housing needs change allowing accessory dwelling units, such as garage apartments and “in law” suites in all residential areas and connecting residential neighborhoods to daily commercial needs by allowing mixed-income and mixed housing types to be located close to neighborhood or commercial shopping areas, civic or cultural institutions, and parks and open space areas;</u> vi. Promote revitalization of existing housing including historic structures (see specific programs in the Historic Preservation Element); and vii. Assist service workers to find suitable housing on the island.
POLICY 12-A-2	This plan’s Future Land Use Map shall continually designate sufficient residential and mixed-use land for varying housing densities and housing types to accommodate the town’s forecasted housing needs through build-out.	POLICY 12-A-2 <u>HOU-1-A-2</u>	This plan’s Future Land Use Map shall continually designate sufficient residential and mixed-use land for varying housing densities and housing types to accommodate the town’s forecasted housing needs through build-out.
POLICY 12-A-3	The town shall help provide access to affordable housing services for its residents with special attention to the needs of its low-income and “special needs” population. i. The town shall seek an agreement with Lee County to retain the town’s standing as an eligible area for expenditures under the county’s federal and state entitlement programs, provided assurances are made that town residents received a reasonable share of these expenditures over time. Unless determined to be infeasible or undesirable, the town shall enter into a cooperative agreement with Lee County before October 1998. ii. The town shall promote the use of public-private partnerships wherever feasible to accomplish the implementation of its housing objectives. Such partnerships could include a Downtown Redevelopment Agency, non-profit housing providers, and private developers and builders. iii. Encourage local lenders to provide affordable homeownership opportunities (including needed renovations) through programs such as mortgage assistance, reduced closing costs, and lower interest rates.	POLICY 12-A-3 <u>HOU-1-A-3</u>	The town shall help provide access to affordable housing services for its residents with special attention to the needs of its low-income and “special needs” population. i. The town shall seek an agreement with Lee County to retain the town’s standing as an eligible area for expenditures under the county’s federal and state entitlement programs, provided assurances are made that town residents received a reasonable share of these expenditures over time. Unless determined to be infeasible or undesirable, the town shall enter into a cooperative agreement with Lee County before October 1998. ii. The town shall promote the use of public-private partnerships wherever feasible to accomplish the implementation of its housing objectives. Such partnerships could include a Downtown Redevelopment Agency, non-profit housing providers, and private developers and builders. iii. Encourage local lenders to provide affordable homeownership opportunities (including needed renovations) through programs such as

			mortgage assistance, reduced closing costs, and lower interest rates.
POLICY 12-A-4	The town shall strive to eliminate substandard housing conditions and improve the structural and aesthetic qualities of existing housing. The town shall identify unsafe or substandard structures and take appropriate actions to address such conditions by adopting the Standard Housing Code by 1999 and enforcing it to regulate conditions in rental housing. Emphasis shall be on renovation rather than demolition wherever possible.	POLICY 12-A-4 <u>HOU-1-A-4</u>	The town shall strive to eliminate substandard housing conditions and improve the structural and aesthetic qualities of existing housing. The town shall identify unsafe or substandard structures and take appropriate actions to address such conditions by adopting the Standard Housing Code by 1999 and enforcing it to regulate conditions in rental housing. Emphasis shall be on renovation rather than demolition wherever possible. <u>New housing shall be built to comply with the applicable Florida Building Code and FEMA standards.</u>
POLICY 12-A-5	If ever necessary, the town shall provide equitable housing for citizens who must be relocated through government action supported by federal funds consistent with Chapter 421.55 F.S.	POLICY 12-A-5	If ever necessary, the town shall provide equitable housing for citizens who must be relocated through government action supported by federal funds consistent with Chapter 421.55 F.S.
POLICY 12-A-6	The town shall update this element using a state-approved methodology after census data for the year 2000 is available and no later than the town's next scheduled evaluation and appraisal report.	POLICY 12-A-6 <u>HOU-1-A-5</u>	The town shall update this element using a state-approved methodology after census data for the year 2000 <u>2020</u> is available and no later than the town's next scheduled evaluation and appraisal report.
OBJECTIVE 12-B	NEIGHBORHOOD-SPECIFIC HOUSING STRATEGIES — This plan's vision for revitalized and stable neighborhoods shall guide neighborhood-specific strategies to upgrade the housing stock and maintain a wide range of housing types and costs.	OBJECTIVE 12-B <u>HOU-1-B</u>	NEIGHBORHOOD-SPECIFIC HOUSING STRATEGIES — This plan's vision for revitalized and stable neighborhoods shall guide neighborhood-specific strategies to upgrade the housing stock and maintain a wide range of housing types and costs.
POLICY 12-B-1	DOWNTOWN (TIMES SQUARE) — Promote new construction and rehabilitation of existing structures for compact moderate-priced housing on Crescent Street consisting of multi-family units of various sizes, targeted for yearround occupancy for persons who wish to live or work downtown, through: i. The regulatory framework and incentives provided through the redevelopment overlay zone; ii. Activities of a Downtown Redevelopment Agency (if established, see Community Design Element Policy 3-D-1) such as land assembly, provision of infrastructure (drainage, sidewalks, streetscape, undergrounding of utilities etc), and low-interest revolving loans. iii. Other measures to encourage residential uses over retail throughout the downtown area.	POLICY 12-B-1 <u>HOU-1-B-1</u>	DOWNTOWN (TIMES SQUARE) — Promote new construction and <u>redevelopment to include</u> rehabilitation of existing structures for compact moderate-priced housing on Crescent Street consisting of multi-family units of various sizes, targeted for year- round occupancy for persons who wish to live or work downtown, through: i. The regulatory framework and incentives provided through the redevelopment overlay zone; ii. Activities of a Downtown Redevelopment Agency (if established, see Community Design Element Policy 3-D-1) such as land assembly, provision of infrastructure (drainage, sidewalks, streetscape, undergrounding of utilities etc), and low-interest revolving loans.

			iii. Other measures to encourage residential uses over <u>along with</u> retail throughout the downtown area.
POLICY 12-B-2	HEART OF THE ISLAND – CIVIC CENTER — Promote the revitalization of the School Street (see Community Design Policy 3-A-4) as a walkable palm-lined street of restored and infill cottages for residential use, live-work spaces such as studios or galleries, and small-scale specialty retail uses consistent with the historic theme with retail on the ground floor and residential above. i. Prepare regulations that would allow a compatible mix of uses and would ease setback and parking requirements to accommodate the unique needs of renovations of existing and move-on cottages. ii. Provide architectural and design guidelines which illustrate cost-effective rehabilitation techniques consistent with the historic theme. iii. In partnership with the Estero Island Historic Society, seek grant funds to reduce costs of move-on and rehabilitation of historic cottages.	POLICY 12-B-2 <u>HOU-1-B-2</u>	HEART OF THE ISLAND – CIVIC CENTER — Promote the revitalization of the <u>area</u> School Street (see Community Design Policy 3-A-4) as a walkable palm-lined street of restored and infill cottages for residential use, <u>housing to age in place</u>, live-work spaces such as studios or galleries, and small-scale specialty retail uses consistent with the historic theme with retail on the ground floor and residential above. i. Prepare regulations that would allow a compatible mix of uses and would ease setback and parking requirements to accommodate the unique needs of renovations of existing and move-on cottages. ii. Provide architectural and design guidelines which illustrate cost-effective rehabilitation techniques consistent with the historic theme. iii. In partnership with the Estero Island Historic Society, Seek grant funds to reduce costs of move-on and rehabilitation of historic cottages.
POLICY 12-B-3	RED COCONUT/GULFVIEW COLONY AREA — Support the continued use of the Red Coconut/Gulfview Colony area (see Community Design Policy 3-A-5) as a pleasant home for visitors and long-term residents, and provide a pre-approved option for redevelopment as a traditional neighborhood with a variety of housing types.	POLICY 12-B-3 <u>HOU-1-B-3</u>	RED COCONUT/GULFVIEW COLONY AREA — Support the continued use of the Red Coconut/Gulfview Colony area (see Community Design Policy 3-A-5) as a pleasant home for visitors and long-term residents, and provide a pre-approved option for redevelopment as a traditional <u>mixed-use</u> neighborhood with a variety of housing types.
POLICY 12-B-4	NEAR-TOWN NEIGHBORHOODS — Revitalize the older near-town residential areas using traditional neighborhood techniques for renovations and infill (see Community Design Policy 3-B-1), using methods such as: i. Modify current regulations that have proven to be barriers to redevelopment. ii. Encourage the cottage design tradition of front porches and decks to help frame public spaces and define private areas, promoting neighborhood safety. iii. Permit quiet home offices (and possibly other mixed uses as determined appropriate). iv. Protect residential areas from intrusion by poorly regulated shortterm rentals. v. Provide access to federal and state housing programs available to income qualifying owners through Lee County's programs.	POLICY 12-B-4 <u>HOU-1-B-4</u>	NEAR-TOWN NEIGHBORHOODS <u>PRESERVATION</u> — Revitalize the older near-town residential areas using traditional neighborhood <u>smart-growth</u> techniques for renovations and infill (see Community Design Policy 3-B-1), using methods such as: i. Modify current regulations that have proven to be barriers to redevelopment. ii. Encourage the cottage design tradition of front porches and decks to help frame public spaces and define private areas, promoting neighborhood safety. iii. Permit quiet home offices (and possibly other mixed uses as determined appropriate). iv. Protect residential areas from intrusion by poorly regulated short-term rentals.

			v. Provide access to federal and state housing programs available to income-qualifying owners through Lee County's programs. vi. <u>Promote compact, walkable, neighborhoods that serve the diverse needs of both visitors and residents.</u> vii. <u>Provide for redevelopment of single-family dwellings to multifamily dwellings in the form of duplex, triplex, and quadruplexes, provided the facade is visually consistent with surrounding development.</u>
OBJECTIVE 12-C	REVISE THE CURRENT REGULATORY SYSTEM — Complete a thorough revision of the town's land development regulations by the end of 1999 to provide clear and consistent rules for development and redevelopment.	OBJECTIVE 12-C <u>HOU-1-C</u>	REVISE THE CURRENT REGULATORY SYSTEM — Complete a thorough revision of t The town's land development regulations by the end of 1999 to <u>shall</u> provide clear and consistent rules for <u>housing</u> development and redevelopment.
POLICY 12-C-1	The town's zoning and development regulations shall allow a variety of lot sizes, densities, and housing types.	POLICY 12-C-1 <u>HOU-1-C-1</u>	The town's zoning and development regulations shall allow a variety of lot sizes, densities, and housing types.
POLICY 12-C-2	Implement the town's new policy on accessory apartments in residential neighborhoods and include standards by which to measure compliance.	POLICY 12-C-2 <u>HOU-1-C-2</u>	Implement t The town's <u>land development code new policy on</u> <u>shall provide for attached and detached accessory dwelling units</u> apartments in residential neighborhoods and include standards by which to measure compliance. <u>Where permitted, the Town shall set specific standards and conditions regarding the design, size and occupancy, among other conditions as necessary, to ensure quality development and maintenance of neighborhood standards as appropriate.</u>
POLICY 12-C-3	Adopt the Standard Existing Buildings Code by 1999 (see Historic Preservation Policy 13-B-6).	POLICY 12-C-3 <u>HOU-1-C-3</u>	Adopt <u>Update/Revise</u> the Standard Existing Buildings Code by 1999 (see Historic Preservation Policy 13-B-6).
POLICY 12-C-4	The land development regulations shall include measures to implement Chapter 419 F.S. about the proper siting of group homes and foster care facilities.	POLICY 12-C-4 <u>HOU-1-C-4</u>	The land development regulations shall include measures <u>for</u> to implement Chapter 419 F.S. about the proper siting of group homes and foster care facilities.
POLICY 12-C-5	Consider (and implement as feasible) various methods to reduce the cost of constructing or rehabilitating housing, such as: i. adjusting impact fee schedules so that small units or housing designed for island employees would pay less than larger housing units; ii. supporting DCA's new "residential construction mitigation program" to help lower-income residents	POLICY 12-C-5 <u>HOU-1-C-5</u>	12-C-5 Consider (and implement as feasible) various methods to reduce the cost of constructing or rehabilitating housing, such as: i. adjusting impact fee schedules so that small units or <u>affordable or workforce housing</u> designed for island employees would pay less than larger housing units;

	retrofit their homes to increase their safety and protect their investments before a disaster occurs using low-interest loans or grants; iii. considering a bonus system to allow densities above what is normally allowed if reserved for housing in a price range affordable by low- or moderate-income residents; or iv. relaxing rules that require many sound buildings to be elevated above expected flood levels before they can be structurally improved.		ii. supporting DCA's new "residential construction mitigation program" to help lower-income residents retrofit their homes to increase their safety and protect their investments before a disaster occurs using low-interest loans or grants; iii. <u>considering Utilize a bonus system land with mixed-use designation to allow densities above what is normally allowed if reserved for housing in a price range affordable by low- or moderate-income residents; or</u> iv. relaxing rules that require many sound buildings to be elevated above expected flood levels before they can be structurally improved. v. <u>Expediting permitting and reduction of permitting fees</u>
OBJECTIVE 12-D	HISTORICALLY SIGNIFICANT HOUSING — Retain at least 90% of the town's historically significant housing for residential uses (or appropriate adaptive re-uses).	OBJECTIVE 12-D <u>HOU-1-D</u>	HISTORICALLY SIGNIFICANT HOUSING — Retain at least 90% of the town's historically significant housing <u>where appropriate</u> for residential uses (or appropriate adaptive re-uses).
POLICY 12-D-1	The town shall maintain the inventory of historic structures contained in the Historic Preservation Element.	POLICY 12-D-1 <u>HOU-1-D-1</u>	The town shall maintain the inventory of historic structures contained in the Historic Preservation Element.
POLICY 12-D-2	The town, in cooperation with the Estero Island Historic Society, will assist owners of historically significant housing in locating funds to restore or rehabilitate their homes. Assistance may be provided to move buildings if there is no other option to save the home.	POLICY 12-D-2 <u>HOU-1-D-2</u>	The town, in cooperation with the Estero Island Historic Society, will assist owners of historically significant housing in locating funds to restore or rehabilitate their homes. Assistance may be provided to move buildings if there is no other option to save the home.
POLICY 12-D-3	The town shall consider other incentives to encourage renovation of historic structures, as detailed in the Historic Preservation Element. Such incentives could include property tax relief, transfer of development rights, and below-market interest rate loans.	POLICY 12-D-3 <u>HOU-1-D-3</u>	The town shall consider other incentives to encourage renovation of historic structures, as detailed in the Historic Preservation Element. Such incentives could include property tax relief, transfer of development rights, and below-market interest rate loans.
NEW	NEW	<u>OBJECTIVE HOU-1-E</u>	<u>HOUSING AFFORDABILITY AND ATTAINABILITY -- The Town shall evaluate current programs to incentivize the construction and development of affordable housing.</u>

NEW	NEW	<u>POLICY HOU-1-E-1</u>	<u>The Town shall consider implementing an inclusionary zoning ordinance, to encourage construction of affordable housing with new residential construction in its designed activity centers.</u>
NEW	NEW	<u>POLICY HOU-1-E-2</u>	<u>The Town shall continue to review financial and other incentives to assist the private sector in the provision of workforce housing including, but not limited to:</u> • <u>Temporary decreases in property tax assessment</u> • <u>Density bonuses</u> • <u>Tax increment financing (TIF)</u> • <u>Municipal land agreements (land banking and land swapping or conveyance, or rental of land)</u> • <u>Application fee reductions</u> • <u>Other financing that incentivizes the development of affordable and workforce housing</u>
NEW	NEW	<u>POLICY HOU-1-E-3</u>	<u>The Town shall aim to expedite the processing of building permits for Affordable, Attainable and Workforce Housing Units.</u>
NEW	NEW	<u>POLICY HOU-1-E-4</u>	<u>The Town may consider allowing reduced parking requirements for affordable and workforce housing.</u>
NEW	NEW	<u>POLICY HOU-1-E-5</u>	<u>The Town shall explore the creation of pre-approved designs for workforce housing in order to reduce development costs for such developments.</u>
NEW	NEW	<u>POLICY HOU-1-E-6</u>	<u>The Town shall continue to maintain an inventory of Town owned property available for use as affordable housing as required by Florida Statutes.</u>
NEW	NEW	<u>POLICY HOU-1-E-7</u>	<u>The Town shall consider opportunities for partnerships with private and public sector partners to explore the acquisition of vacant parcels and construct new single-family homes for very-low- income, and low-income households that are first-time home buyers.</u>

NEW	NEW	<u>POLICY HOU-1-E-8</u>	<u>The Town shall consider the creation of a community land trust for affordable housing, and consider mechanisms like land assembly of city-owned vacant lots to support development of affordable housing.</u>
NEW	NEW	<u>POLICY HOU-1-E-9</u>	<u>The City shall periodically evaluate minimum unit sizes in its land development regulations to determine impact on housing attainability and amend regulations as needed to enhance local housing availability and affordability.</u>
NEW	NEW	<u>POLICY HOU-1-E-10</u>	<u>To preserve diversity of housing and to prevent over proliferation of undersized units on the basis of affordable or workforce housing, the Town will limit the number of microunits, defined as units between 250 and 500 square feet in size, to 15% maximum of all multifamily developments.</u>
NEW	NEW	<u>POLICY HOU-1-E-11</u>	<u>The Town shall consider incorporating into its code, workforce dwelling bonuses for development of auxiliary dwellings, residential dwellings in commercial spaces, and for affordable and workforce housing in commercial zones of the Town.</u>
NEW	NEW	<u>POLICY HOU-1-E-12</u>	<u>The Town shall consider incorporating into its land development regulations, provisions for conversion of underutilized office space into workforce housing. The Town will encourage form-based zoning in commercial, transient residential, and mixed-use areas of the Town to provide for conversions for additional housing by adopting such regulations into its land development code by 2025.</u>

RECREATION AND OPEN SPACE ELEMENT

OBJECTIVE ROS-1-B: PUBLIC ACCESS AT BEACHES AND BAYS

Increase the number and quality of public access points to the Gulf beaches and Estero Bay, parks and natural preserves.

POLICY ROS-1-B -BG-1: Beach Access

Maintain or improve existing levels of beach and bay access which provide for the continued maintenance of existing beach access points, and evaluate the need for more parking.

POLICY ROS-1-B-2: View Corridors

The town shall aim to preserve and enhance publicly-owned view corridors to the beach and water, and encourage additional preservation of scenic vistas on private property, when possible.

POLICY ROS-1-B G-3: Great Calusa Blueway

Support and participate in Lee County's "Great Calusa Blueway" paddling trail by making convenient links between the trail and the town's environmental, cultural, and historical points of interest.

POLICY ROS-1-B G-4: Beach Access to Mound House and Mantanza's Pass Preserve

~~Acquire one or more beach access points at the southern end of the island in addition to acquiring the Newton estate~~ Specifically provide enhancements for beach access and paddling trail points at Mound House and Mantanza's Pass Preserve for additional public access to the beach. ~~and as a mid-island interpretative facility and rest area for the "Great Calusa Blueway" and the natural walking trail that is provided by the continuous beachfront along Estero Island.~~

OBJECTIVE 10-E POLICY ROS-1-B-5: Natural Preserves

Enhance public access to the town's nature preserve areas, while ensuring their ecological sustainability and providing for their long-term maintenance.

~~POLICY 10-B-4-1 MATANZAS PASS PRESERVE Prepare for the transition of the long-term maintenance responsibility of the Matanzas Pass Preserve from Lee County in accordance with Conservation Policy 6-B-3.~~

POLICY ROS-1-B -6-E-2-: Little Estero Island Critical Wildlife Area and Mantanza Pass Preserve

Enhance access for the public enjoyment and protection of the areas.

~~POLICY 10-B-4-3 OTHER NATURAL PRESERVES — Establish a citizen task force to evaluate opportunities to designate additional open spaces and natural preserves, and to identify potential funding sources including grants and a 3% utility tax.~~

POLICY ROS-1-B-7: OBJECTIVE 10-B Bowditch Point Park

~~Enhance the natural resources at Bowditch Point Park~~ Increase accessibility for recreational purposes by:

- i. ~~Actively promote alternate means of access to Bowditch Point Park such as electric trams and more~~ frequent and free trolley service, and especially the construction of public docks on the Bay side for private boats and a water taxis stop. Actions to support these activities shall include appropriate changes to the Land Development Code, any required rezoning's, and formal requests for funding to Lee County, and may also include further public transit subsidies or financial support for dock construction.
- ii. ~~POLICY 10-B-3 If requested by Lee County, consider the costs and benefits of assuming management responsibility for Bowditch Point Park while ensuring its~~ ensure continued accessibility to visitors from throughout the county and beyond.
- iii. ~~POLICY 10-B-4 Encourage and support~~ Lee County to provide additional on-site parking for the general public at Bowditch Point (in addition to the existing spaces for the handicapped) by adopting an appropriate resolution of support by the town council and by granting the required zoning changes.

POLICY ROS-1-B-8 -F-1 Linking Mound House to Great Calusa Blueway

Link the Mound House ~~Site facility~~ to other cultural and recreational points of interest by providing appropriate dockage to serve the Great Calusa Blueway paddling trail and water taxis as well as links to bike and pedestrian paths.

POLICY ROS-1-B-9: Wayfinding

Increase public awareness of available recreation opportunities through signage on roadways, at park entrances, and within large parks.

~~-F-3 Acquire the beachfront estate of James and Eleanor Newton and operate it as a small community park with close links to the paddling trail in Matanzas Pass, the pedestrian and bicycle facilities on Estero Boulevard, and the adjoining public beach.~~

OBJECTIVE ROS-1-C: SUSTAINABILITY

Develop policies to promote sustainability in the parks.

POLICY ROS-1-C-1 OBJECTIVE 10-A Lead Efforts to Improve Natural Areas

Assume a leadership role with other agencies to improve the viability of the natural areas around the town as an integral part of a comprehensive recreational system. Measures of success may include public acquisition of additional beachfront land; designation of canoe trails or water shuttle service linking Fort Myers Beach to

surrounding natural resources; ~~for the successful implementation of a plan for the coordinated use and protection of Matanzas Pass.~~

POLICY ROS-1-C-1 A-1 Marine Task Force

Expand the purview of the town's Marine Resources Task Force to include the sustainability of recreational use of marine resources. ~~along with the activities described in Conservation Policy 6-A-4.~~

POLICY 10-C-5A-4 ~~Promote the use of a water shuttle to link the components of the town's recreational system without adding traffic on the roads.~~

POLICY ROS-1-C-2 A-5 Public Land Acquisition to Meet Sustainability Priorities

Support the following priorities for public land acquisition outside the town's boundaries:

- i. Land that will contribute to the sustainability and enhancement of the comprehensive recreation system;
- ii. Land that can provide opportunities for public appreciation of environmental and archaeological resources;
- iii. Land that will provide additional beach access (such as Bunche Beach) for visitors who cannot reach Fort Myers Beach due to congested roads.

POLICY ROS-1-C-3 Eco/heritage Task Force

Establish a task force on eco/heritage tourism to develop and implement the town's "eco/heritage" program. The task force would work closely with Marine Resources Task Force to advise the town on appropriate components of the statewide plan of the Governor's Advisory Committee on Eco-Heritage Tourism where adopted.

~~POLICY 10-C-11 Encourage Lee County to plant native shade trees at Bowditch Point and~~

~~control the spread of invasive exotic vegetation such as Australian pines~~

~~to improve wildlife habitat and enhance opportunities for bird watching. If~~

~~the Australian pines are destroyed by high winds, the town encourages~~

~~their re-placement with native shade trees. This encouragement may be~~

~~expressed by resolution of the town council if requested by Lee County.~~

POLICY ROS-1-C-4: Florida Friendly and Native Plants

Use Florida Friendly and native plants in all parks and open spaces to the greatest extent possible.

OBJECTIVE 10-~~1~~ROS-1-D: Implementation and Coordination— Provide a Maintain a comprehensive and cost-effective recreational system that meets the future needs of Fort Myers Beach.

~~POLICY 10-D-1~~ — ~~Demonstrate through the annual budget and five-year Capital Improvements Program that the park and recreation standards of this plan are being met.~~

POLICY ROS-1-D-1 ~~10-D-4~~: Coordinating Funding Sources

The town shall work with the county, surrounding jurisdictions, state and federal agencies, non-profit organizations, national, state and local land trusts, private organizations and corporations, and other groups to identify funding sources and mechanisms and to structure partnerships to implement the policies of this Recreation Element.

POLICY ROS-1-D-2 ~~10-D-2~~ Cost Sharing Mechanisms

Promote a cooperative effort among the town, Lee County, city of Sanibel, and other counties and regional agencies to develop cost-sharing mechanisms for improvements needed to improve the experience of visitors.

POLICY ROS-1-D-3 ~~10-D-3~~ Adequate Private Recreational Facilities for New Development

The town shall require through its development regulations that major redevelopment activities include adequate private recreational facilities for their residents.

POLICY ROS-1-D-4 ~~10-D-4~~: Maintenance

Ensure a high level of maintenance and facility development to preserve and enhance quality of parks and recreational facilities.

POLICY ROS-1-D-5 ~~10-D-5~~: Matanzas Pass

Maintain ~~initiating~~ a cooperative planning process for Matanzas Pass and surrounding waterways. ~~by 1998.~~

POLICY ROS-1-D-6: ~~10-D-6~~ Agency on Bay Management

Actively participate in the Agency on Bay Management and the Southwest Florida Regional Harbor Board.

OBJECTIVE ROS-1-E: Monitoring

The following measures shall be used to monitor the achievement of the objectives in the Recreation and Open Space Element:

- The amount of funds expended for and number of capital projects improving

on-site access for automobiles, bicycles, pedestrians, and mass transit to the Town's recreation and open space facilities between 2022 and 2029.

- The number of projects and amount of funds expended for improving the handicapped accessibility of Town's recreation and open space facilities between 2022 and 2029.
- The number of projects and amount of funds expended for the acquisition and protection of the Town's beaches for preservation and increased public access.
- Achievement of the LOS standard.
- Comparison of park acreage from 2022 to 2029.
- The number of interagency partnerships, school agreements and interlocal agreements.
- The number of comprehensive resource management programs that have been developed for designated natural resource areas
- The implementation status of strategies to maintain and increase public participation in park planning, construction, and operational issues, and to increase the public's awareness of recreational opportunities.

COASTAL MANAGEMENT ELEMENT

GOAL CM-1 5: To keep the public aware of the potential effects of flooding, sea-level rise, hurricanes and tropical storms and to plan a more sustainable redevelopment pattern that protects coastal resources, minimizes threats to life and property, and limits public expenditures in areas subject to destruction by storms.

OBJECTIVE CM-1 5-A COASTAL PLANNING GENERALLY —Protect and enhance coastal resources through an on-going planning process that recognizes the advantages and limitations of living within a sensitive coastal environment. Enhancement of coastal resources can be measured by increased sea turtle nesting, improvements in estuarine water quality, and restoration of sand dunes. Important limitations on development in this coastal high hazard area include the existing over-concentration of people plus town, state, and federal policies against public expenditures that subsidize further private development.

POLICY CM-1 5-A-1 The town shall maintain and enforce building codes at least as stringent as required by Florida law to limit the potential damage of structures from hurricanes, tropical storms, and flooding. These codes shall include wind-resistance commensurate with the risk of a coastal environment and building elevation requirements that conform with federal laws and Flood Insurance Rate Maps.

POLICY CM-1 5-A-2 The maximum density of future residential development is limited to the densities described in the Future Land Use Element in recognition of natural hazards and existing population concentrations. For rebuilding of existing development, refer to the buildback policies under ~~Objective 4-D and 4-E~~ of the Future Land Use Element.

POLICY CM-1 5-A-3 When state funding is required for the relocation or replacement of infrastructure currently within the Coastal Building Zone, the capacity of the replacement structure shall be limited to maintaining required service levels, protecting existing residents, and providing for recreation and open space needs.

POLICY CM-1 5-A-4 Since the entire Town of Fort Myers Beach is within the coastal planning area and is designated as a coastal high hazard area, specific policies addressing historic buildings, phasing of infrastructure, limitations on development, and environmental resources are contained in other elements of this plan and are not repeated here.

POLICY CM-1 5-A-5 Due to the physical constraints of its coastal location, the Town of Fort Myers Beach commits to a future policy of no increase in the net development capacity (island-wide) that would be allowed by the Fort Myers Beach comprehensive plan.

POLICY CM-1 5-A-6 The entire town is located within the coastal high-hazard area, as shown on the Coastal High Hazard Area map ~~Figure 17~~ which is part of the adopted Future Land Use Map series (see Policy 4-B-2).

OBJECTIVE CM-1 5-B NATURAL DISASTER PLANNING — Reduce the threat of loss of life and property resulting from catastrophic storms by reducing evacuation times and improving shelter capabilities from their current levels.

POLICY CM-1 5-B-1 The town shall work to improve the capability of evacuating Fort Myers Beach when a tropical storm or hurricane threatens to strike. Specific problem areas include:

- i. County officials may be reluctant to order a county-wide evacuation even though an evacuation may be warranted for low-lying coastal areas such as Fort Myers Beach. town officials should be prepared to order a local evacuation if one is warranted.
- ii. Australian pines and other trees not native to Florida situated along evacuation routes can pose a threat to evacuation routes due to decay or shallow root systems; such trees need to be identified, pruned or removed. If feasible, the removed tree shall be replaced with a Florida native-tree, following FPL best practices Right Tree, Right place, and shall be equal in diameter at breast height (DBH) or height.
- iii. In a cooperative process with Lee County, Sanibel, and the Southwest Florida Regional Planning Council, the town shall seek to improve mainland shelter capacities including private sheltering options.
- iv. The town shall work closely with Lee County and Florida DOT to maintain or improve hurricane evacuation times and procedures, including off-island traffic bottlenecks.

POLICY CM-1 5-B-2 The town shall participate fully in the federal government's National Flood Insurance Program and seek constant improvements under the Community Rating System.

POLICY CM-1 5-B-3 The town shall encourage owners of private buildings to strengthen or otherwise protect them before severe storms strike to reduce avoidable damage to life and property. Town regulations that unnecessarily interfere with this important form of hazard mitigation shall be modified as described in ~~Policy 4-E-3~~ of the Future Land Use Element.

POLICY CM-1 5-B-4 The town shall develop and adopt a storm emergency plan for preparing for, responding to, and recovering from a hurricane or tropical storm. The emergency plan shall be reviewed and updated every five (5) years in conjunction with any updates to the town's roadway level of service. Hazard mitigation recommendations of local peacetime emergency plan or interagency hazard mitigation reports shall be evaluated for inclusion in the town's plans.

POLICY CM-1 5-B-5 Capital improvements to infrastructure and facilities under the town's jurisdiction that can maintain or improve evacuation times will be identified and included in the Capital Improvements Element.

POLICY CM-1 5-B-6 The town shall maintain substantial reserve funds for emergency work that will be needed immediately following a major storm.

OBJECTIVE CM-1 5-C POST-DISASTER REDEVELOPMENT —

Plan for post-disaster rebuilding that will reduce the exposure of human life and property to future disasters and improve the community in other ways during the rebuilding process.

POLICY CM-1 5-C-1 ~~By 1999, the~~ The town in cooperation with Lee County officials shall prepare a post-disaster redevelopment plan. Such plan shall be consistent with this comprehensive plan and use the following priorities:

- i. Activities which prevent further loss of life or that minimize public health risks;
- ii. Activities which restore the basic public infrastructure and services to support the population;
- iii. Activities which prevent further damage to public or private property;
- iv. Activities which begin the rebuilding process as promptly as possible.

POLICY CM-1 5-C-2 ~~By 1998, the~~ The town shall evaluate the elevation and drainage characteristics of evacuation routes to the mainland to identify problem areas that may prematurely block evacuation. Solutions shall be sought in cooperation with agencies having jurisdiction over such facilities.

POLICY CM-1 5-C-3 Rebuilding after a natural disaster is allowed in accordance with the “buildback policy” found in ~~Policy 4-C-7~~ of the Future Land Use Element.

POLICY CM-1 5-C-4 To further coordinate the redevelopment activities proposed under this plan with state and federal floodplain management programs, the town shall pursue the following activities:

- i. Pursue all potential measures to encourage corrective and preventative measures to existing houses and businesses to increase their resistance to flooding and high winds before a disaster occurs. Examples include storm shutters; shatter- proof glass; strengthening roof attachments, floors, and walls; and minor floodproofing.
- ii. Allow non-conforming buildings to be modified provided the modifications do not increase the non-conformity to current development standards in the Land Development Regulations.
- iii. Investigate the feasibility promoting pedestrian activity in some redeveloping commercial zones by raising the existing grade of roads and sidewalks one to three feet, thus allowing adjoining commercial space to remain at ground level while reducing the required height of dry floodproofing.
- iv. Explore with the Department of Environmental Protection an alternative method of controlling building intensity seaward of the Coastal Construction Control Line. The current rule allows 20% of any single building’s frontage to be enclosed at ground level. This percentage may be too high for most parts of the town, but is too low where pedestrian zones exist or are being created. An alternative means of computing the 20% rule could better meet the state’s coastal management goals and the town’s revitalization program.

POLICY CM-1 5-C-5 New publicly funded buildings within the town shall be designed to withstand major storms and be able to serve as shelters/operation centers for emergency personnel. New public buildings shall comply with State and FEMA requirements, and be encouraged to pursue LEED accreditation.

POLICY CM-1 5-C-6 Design new and replacement infrastructure to minimize damage caused by flooding and high winds:

- i. Power lines shall be relocated under-ground whenever possible.
- ii. Water and sewer systems should eliminate infiltration of flood waters and be designed to function with auxiliary power when needed.
- iii. Roads should be designed to manage minimum levels of flooding and be located where least susceptible to storm damage.

POLICY CM-1 5-C-7 Continue to inventory buildings that are repeatedly damaged by flood waters to identify those that have recorded one or more National Flood Insurance Program (NFIP) flood losses of \$1,000 or more since 1978. Buildings identified as a repetitive loss by FEMA since 1978

shall be demolished and shall be permitted to be reconstructed under the town's build back policy, or current regulations.

OBJECTIVE CM-1 5--D BEACHES AND DUNES — Conserve and enhance the shoreline of Estero Island by protecting natural areas, increasing the amount of dunes, renourishing beaches to counter natural erosion, and reducing negative man-made impacts on beaches and dunes.

POLICY 5-D-1 The town's policies on shoreline protection measures shall be as follows (see also Objective 5 and related policies in the Conservation Element of this plan):

- i. Beach renourishment will be necessary along much of the Gulf beach. The long-term recreational and economic benefits will offset the cost. The town shall work closely with Lee County, which has agreed to take the lead role in carrying out this important activity. All practical measures shall be taken to ensure that beach renourishment improves sea turtle nesting and migratory bird nesting habitats rather than interfering with it. Public access to existing and renourished beaches is an important priority of the town of Fort Myers Beach.
- ii. Sand dunes should be protected and recreated wherever they have been removed. Native dune plants should be protected and non-native exotics removed. Dune walkovers should be constructed where they do not exist and existing structures should be maintained.
- iii. The use of vehicles on any part of the beach should be severely limited in accordance with Conservation element Policy 6-E-4(iv).
- iv. Buildings and other structures should be located as far away from the shoreline and dune system as possible since the beach is a constantly changing environment. Beachfront development shall be protected from coastal erosion, wave action, and storms by vegetation, setbacks, and/or beach renourishment rather than by seawalls or other hardened structures which tend to hasten beach erosion, interfere with public access, and block sea turtle nesting.
- v. Development (other than minor structures) shall not be allowed seaward of the 1978 Coastal Construction Control Line. Development seaward of the 1991 Coastal Construction Control Line may be permitted provided it complies with this comprehensive plan and all state and local permitting requirements.
- vi. Where buildings are threatened by erosion that cannot be reversed by major beach renourishment, the town's priorities are (1) to allow the structure to be moved away from the beach; (2) to allow emergency renourishment (including the use of trucked-in sand); and (3) to allow rip-rap only when the previous priorities are not possible. Existing seawalls on the beach may be maintained or removed but not rebuilt.
- vii. The absolute last resort for shoreline protection is the use of hardened structures (except that terminal groins may be permitted at inlets if acceptable to state and federal permitting agencies). New beachfront buildings requiring seawalls for protection from coastal erosion shall not be permitted.
- viii. Fish kills resulting from Red Tide and other harmful algal blooms have a negative impact on the town's shoreline. The town shall manage removal and remediate impacted shoreline for the continued enjoyment of residents and visitors. The town shall collaborate with local, state, and federal agencies, coalitions, and nonprofit

organizations to support policies/programs that address the impacts of harmful algal blooms that impact the town's shoreline.

OBJECTIVE CM-1 5--E ACCESS TO THE WATER — ~~Increase the number of well-maintained~~ Improve accesses to beaches, bays, and navigable waters to serve the existing and future population and visitors.

POLICY CM-1 5--E-1 Ensure the continued maintenance of existing beach access points, currently provided by Lee County with funds from the Tourist Development Council.

POLICY CM-1 5--E-2 Evaluate the need for expanded parking areas and the potential for revenue generation from metered parking as a funding source for additional public access amenities.

POLICY CM-1 5--E-3 The town encourages Lee County to continue its program of improving beach access points that are not currently marked.

POLICY CM-1 5--E-4 The town shall identify any water access points that are hidden, fenced off, or blocked by encroachments, and then ensure that appropriate public access is restored. Wayfinding shall be encouraged to be provided at key locations in town to identify and promote use of beach access points.

POLICY CM-1 5--E-5 The town shall attempt to acquire one or more beach access points at the southern end of the island.

POLICY CM-1 5--E-6 The town shall monitor the effectiveness of its ordinances regulating water activities (vessel control, water safety, personal watercraft, and parasailing), and install manatee habitat education signs at waterfront locations. In cooperation with providers and citizens, develop a program of education, interagency cooperation for enforcement, and additional regulation as needed to protect the coastal waters and the safety and welfare of residents and visitors.

POLICY CM-1 5--E-7 This plan minimizes the potential for land use conflicts between waterfront uses and other land uses through the following priorities for development/ redevelopment of the shoreline:

- i. Intense multi-family uses are limited to areas vested by previous regulations; to the rebuilding of existing sites following a natural disaster (~~see Policy 4-D-1~~); and to voluntary rebuilding of existing sites in accordance with the Future Land Use Element.
- ii. Future development or redevelopment of shoreline land uses must ensure compatibility with surrounding lands and provide proper buffering where needed.
- iii. ~~In determining applicable land uses for a site, priority~~ Site, priority shall be given to water dependent land uses in the following order:
 - Conservation uses
 - Water-dependent uses such as marinas which are available for use by the general public;
 - Recreational uses; and
 - Other uses that are compatible with the surrounding neighborhood.

OBJECTIVE CM-1 5--F HARBOR PLANNING — Initiate a cooperative planning process for Matanzas Pass and surrounding waterways ~~by 1998~~.

POLICY CM-1_5--F-1 The town shall take an active role in initiating and participating in the planning process for Matanzas Pass and nearby waters ~~envisioned by Policy 94.6.3 of the Lee County Comprehensive Plan~~. This process would be conducted by a new entity charged with both planning and implementation. This entity would have the following characteristics:

- i. Balanced representation of competing interests such as local governments, recreational and commercial boating interests, and regional/state/federal agencies with jurisdiction over these waters;
- ii. A commitment to address and resolve competing interests for use and protection of these water, including commercial fishing and shipping, recreational boating, public anchorage, environmental protection, and protection of other shoreline users; and
- iii. The process will be public to seek the active support of all interests so that this planning process can be the first step to- wards long-term cooperation and protection of these valuable resources.

CONSERVATION ELEMENT

GOAL CON-1 6:

~~To protect the natural resources in and around the town from further damage and improve their future health and sustainability through regulations, education, enforcement, timely management, public improvements, and cooperation with other entities with similar goals.~~

Maintain and improve the Town of Fort Myers Beach's coastal resources with ongoing commitment through regulations, education, land acquisition and preservation, evaluation, programs, and for cooperation with the federal and county governments and related agencies.

OBJECTIVE CON 1-6-A: ESTUARIES AND BAYS

Improve the condition and function of estuaries and bays surrounding Estero Island, including their components such as seagrass meadows, tidal flats, soft bottoms, oyster bars, tidal creeks, and open water. Improve the viability of existing native coastal and upland habitats and establish additional areas for nature preserve and conservation uses to expand habitat areas and improve the conditions of estuaries and bays surrounding Estero Island.

POLICY CON 1-6-A-1: Protecting Marine Habitats/Resources:

~~Estuaries are the ecological transition between fresh and saltwater systems. They provide extensive habitat for fish and WILDLIFE including the feeding, breeding, and nursery ground for most of the commercially important fish and shellfish and many species of local and migratory birds, while offering a broad array of recreational opportunities. The Town of Fort Myers Beach will take all feasible steps to protect its marine and estuarine habitats and finfish/shellfish resources to ensure their long-term viability and productivity for scientific, commercial, sport, and recreational purposes. The town shall take a leadership role in enacting ordinances and facilitating resolution of jurisdictional problems.~~

The Town of Fort Myers Beach will take all feasible steps to protect its marine and estuarine habitats and finfish/shellfish resources to ensure their long-term viability with enacting ordinances and facilitating resolution will cooperation with other governmental agencies.

~~POLICY 6-A-2 The town will cooperate closely with other governmental agencies in formulating, monitoring, and enforcing regulations to protect the healthy functioning of the estuary, including but not limited to:~~

- ~~i. Marking existing channels crossing through seagrass beds to help boaters avoid damaging them (and their boats);~~ ii.
(i). Establishing permitting criteria for activities within the Town's 1000-foot jurisdiction beyond Estero Island to protect seagrass beds, oyster bars, soft bottoms, and other benthic communities from damage from docks, boat ramps, navigation channels, etc. These criteria would be coordinated with other regulatory agencies to prevent damage and to ensure that every effort is

~~made to protect marine habitats to locate these facilities away from valuable environmental resources. If permits are issued without concurrence from the town, the town may choose to withhold local building permits if a better location or technique could avoid damage to seagrass beds, oyster bars, or other sensitive benthic communities.~~

- ~~(ii) Controlling point and non-point sources of pollution including drainage, sewage pollution, and stormwater runoff.~~
- ~~(iii) Providing hardened shoreline stabilization such as seawalls;~~
- ~~iii. maintaining proper quality and timing of freshwater inputs.~~
- ~~(iv.) Protecting habitats from dredge-and-fill activities.~~
- ~~(v.) protecting sea grasses from “prop scarring” and excessive shading from docks; and protecting important uplands adjacent to wetlands.~~

~~POLICY 6-A-3 In cooperation with other jurisdictions, evaluate the effectiveness of existing regulations and enforcement techniques in preserving the bay and estuary system. Recommend and support such additional measures as necessary to ensure their sustainability, such:~~

- ~~i. Marking existing channels crossing through seagrass beds to help boaters avoid damaging them (and their boats);~~
- ~~ii. Establishing permitting criteria for activities within the town’s 1000-foot jurisdiction beyond Estero Island to protect seagrass beds, oyster bars, soft bottoms, and other benthic communities from damage from docks, boat ramps, navigation channels, etc. These criteria would be coordinated with other regulatory agencies to ensure that every effort is made to locate these facilities away from valuable environmental resources. If permits are issued without concurrence from the town, the town may choose to withhold local building permits if a better location or technique could avoid damage to seagrass beds, oyster bars, or other sensitive benthic communities.~~

~~POLICY 6-A-4 Encourage the organization of a local task force to coordinate and reconcile efforts of various organizations, governments, and businesses to promote long-term sustainability of the estuary. Potential perspectives include eco-tourism, water quality, habitat protection, commercial and recreational uses, and economic development. The task force would promote cooperative activities, assess needs, and recommend methods of coordinating reporting and enforcement of violations. The task force would make recommendations to the town regarding issues such as:~~

- ~~i. Establishing restricted areas and other methods of controlling boat traffic in Estero Bay, particularly around rookery islands and seagrass beds.~~
- ~~ii. Locating a suitable launching point on the Gulf for use by personal watercraft to reduce traffic on the bay side.~~
- ~~iii. Adopting a ban on the commercial collection of live shells.~~
- ~~iv. Recommending capital projects to improve water quality.~~
- ~~v. Recommending regulations to protect local waters.~~

~~POLICY CON 1-6-A-5: Improve Water Quality:~~

~~Maintain or improve estuarine water quality in accordance with policy under Objective 8 below, and economic value of the water bodies surrounding the Town of Fort Myers Beach.~~

~~POLICY 6-A-6 Regularly examine activities that may be within the town's jurisdiction to determine whether more stringent regulations or other actions are needed to ensure the functioning and long-term viability of natural systems.~~

OBJECTIVE CON 1-6-B: COASTAL LANDS

Develop policies to improve and protect coastal lands.

POLICY 6-A-7 CON 1-B-1: PARTICIPATION IN EFFORT TO IMPROVE ESTERO BAY

Participate actively in the Agency on Bay Management, the Charlotte Harbor National Estuary Program, The Estero Bay Management Plan and other entities attempting to improve the environmental health of Estero Bay.

POLICY 6-A-8 CON 1-B-2: PURCHASE 16,000 ACRES FOR ESTERO BAY PRESERVE

Actively encourage the purchase of the full 16,000 mainland acres adjoining Estero Bay to become an expanded Estero Bay State Buffer Preserve.

~~OBJECTIVE 6-B WILDLIFE AND NATIVE HABITATS — Improve the viability of existing native coastal and upland habitats and establish additional areas for nature preserve and conservation uses.~~

~~POLICY 6-B-1 CONSERVATION PROGRAMS GENERALLY — The town will cooperate with local, state, and federal regulatory agencies in establishing and managing natural reserves, preserves, and critical wildlife areas. This cooperation will include increasing public awareness, allowing appropriate access, properly protecting natural resources, and documenting and reporting violations of laws and regulations.~~

~~POLICY 6-B-2 LITTLE ESTERO ISLAND CRITICAL WILDLIFE AREA — In cooperation with state agencies, the town will aid in the stewardship of the Little Estero Island Critical Wildlife Area through activities such as:~~

- ~~i. Prohibit commercial activities within the defined boundaries of Little Estero Island.~~
- ~~ii. Support legislative measures as necessary to protect the long-term future of the preserve.~~
- ~~iii. Inform residents and visitors of the uniqueness and fragility of the island's habitats and identify funding for measures such as designating pedestrian trails and dune walkovers, adding information and interpretive signs, producing educational brochures, and conducting seminars to encourage proper use.~~
- ~~iv. Sponsor a volunteer task force to work with the Florida Game and Fish Water Fish Commission to oversee the daily stewardship of Little Estero Island through activities such as:~~
 - ~~• Identify potentially destructive practices (such as mowing or raking on the shoreline, litter, boat traffic, low flying airplanes, disturbances from vehicles and dogs, etc.) and determine appropriate methods to address them.~~
 - ~~• Inform residents and visitors of the uniqueness and fragility of the island's habitats; plant shoreline vegetation to replace vegetation damaged by visitors or other unnatural causes;~~

~~place and maintain interpretive signs; produce educational brochures; and conduct seminars to encourage proper use.~~

- ~~• Promote voluntary enforcement and possible citizen “volunteer patrols” to educate residents and visitors of the rules of the island and why they are needed.~~
- ~~• Develop guidelines to protect the fragile environment of the preserve and, where appropriate, urge their adoption as land development regulations or part of the town’s code of ordinances.~~

POLICY 6-B-9 CON 1-B-3: Acquisition of Additional Sites:

The town will strive to expand the opportunities for conservation and public appreciation of natural resources through acquisition of additional areas with rare or unique ecological or botanical features, or which provide access to such areas, through activities such as the following:

- i. Identify specific sites that would be desirable for public acquisition.
- ii. Support the efforts of other entities acquiring land that will contribute to the conservation effort (for example, aquatic preserve buffer areas, Bunche Beach, etc.)
- iii. Consider alternative means of land acquisition, such as supporting the efforts of nonprofit conservation land trust or acquiring development rights in lieu of full acquisition.
- iv. Accept donations of land for nature preserves or other resource conservation areas with the following general conditions: if such lands contain ecologically valuable habitat and/or if public ownership of such lands would expand existing or provide increased preservation or resource conservation areas.
- v. When acquiring property, determine the best entity to be responsible to implement a long-range management plan.

POLICY CON 1-6-B-4: Matanzas Pass Preserve:

Prepare for the transition of the long-term maintenance responsibility of the Matanzas Pass Preserve from Lee County to a partnership among the county, the town, and a local non-profit organization such as the Friends of the Matanzas Pass Preserve.

- ~~i. Reinforce and support the efforts of the non-profit organization to expand the voluntary community-based portion of the operation and maintenance of the preserve. Assist their efforts to implement the restoration plan (which includes site preparation, revegetation, and long-term management) and future improvements including new foot trails, repairing and extending boardwalks, providing a canoe/kayak access point, and adding a fishing pier/observation deck. This assistance may take the form of seeking grant funds, lending technical assistance, providing equipment (either directly or through leases with the county), or partial funding.~~
- ~~ii. Negotiate an agreement with the county that assigns responsibilities for the long term maintenance, restoration, and improvement of the preserve, that reflects its status as both a county-wide and local amenity and its importance as natural habitat.~~

POLICY CON 1-6-B-5: Upland Habitat:

Preserve all remaining coastal strand and hammocks and improve the existing habitat through removal infestations of exotic plants and replanting with native species. When these habitats are in private ownership.

- ~~i. Land uses must not result in the degradation of the values and functions of adjoining and nearby wetlands.~~
- ~~ii. Beaches seaward of the 1978 Coastal Construction Control Line are designated on the Future Land Use Map as “Recreation” to preclude their use for further urban development.~~
- ~~iii. Known remaining coastal hammocks are designated on the Future Land Use Map as “Recreation” to preclude their use for further urban development.~~

OBJECTIVE CON 1-C: PROTECTING RESOURCES FROM NON-DEVELOPMENT ACTIVITIES

Develop policies to protect natural resources from non-development activities.

POLICY CON 1-C -1: Wetlands Improvements

Structures or facilities that will improve the functional value of wetlands or provide “no-impact” use for observation, education, research, or passage shall include such structures as public boardwalks, observation decks, or launching areas for non-motorized watercraft shall be conditionally permitted, as appropriate, in the land development regulations.

In accordance with Florida Statutes, the Town will not undertake an independent review of the impacts to wetlands resulting from development in wetlands that is specifically authorized by a state Environmental Resource Permit or exemption. However, no development approval shall be issued by the Town for any project which impacts wetland resources until all requisite permits from other agencies have been obtained and provided to the Town. All conditions placed on such permits shall be incorporated into the final development approval issues by the Town. Violations of such conditions shall be prosecuted through the Town’s code enforcement procedures.

POLICY CON 1-C 2: Prohibitions On Excavation and Mining

Commercial excavation and mining activities are prohibited in the Town of Fort Myers Beach due to potentially detrimental effects to groundwater, surface water, wildlife habitats, and surrounding land uses and values.

POLICY CON 1-C-3: Offshore Gas and Oil Exploration

The Town of Fort Myers Beach opposes offshore gas and oil exploration and excavation activities which may be reasonably expected to threaten the quality of coastal beaches and estuarine ecosystems; or would place oil- or gas-related facilities on coastal beaches, islands, or wetlands; or would require the placement of oil or gas storage facilities on the island.

POLICY CON 1-C -4: Dredging Tidal Canals

The dredging of additional tidal canals is prohibited.

POLICY CON 1-C -5: Water and Sewer Connections and Septic Tanks

The Town shall require connection to central water and sewer systems. No permits shall be issued for new septic tanks within the Town of Fort Myers Beach.

GOAL CON 2: HEALTHY WILDLIFE HABITAT:

OBJECTIVE CON 2-A: PROTECTED SPECIES

The Town of Fort Myers Beach will protect and ensure the management of designated protected species in cooperation with local, state, and federal agencies.

POLICY CON 2-A-1: Additional Protections:

The Town shall assist in the application of state and federal regulations regarding listed species through activities such as:

- i. Prohibit unmitigated development in and around areas designated as habitats, nesting areas, or feeding sites for wildlife listed as endangered or threatened.
- ii. Provide information regarding listed species on properties undergoing development review.
- iii. Withhold development approval until such time as all applicable state and federal permits pertaining to such species have been obtained and copies provided to the town.
- iv. Cooperate with Lee County and other agencies in the establishment of mitigation parks and banks to allow this form of mitigation for local impacts to listed wildlife species and native communities.
- vi. Support public education on the value of wildlife, native communities, and other natural resources through such means as brochures, newspaper articles, public presentations and workshops, and the placement of interpretive displays and development of observation trails at appropriate park sites.
- vii. Encourage and provide technical assistance to volunteer and non-profit organizations such as Turtle Time, Estero Bay Foundation, Estero Bay Buddies, and the Friends of the Matanzas Pass Preserve in their conservation efforts.

POLICY CON 2-A-2: Bald Eagles:

Maintain Lee County's ordinance protecting bald eagle nesting habitat in case bald eagles begin nesting on Estero Island, and urge adherence during development activities to "Habitat Management Guidelines for the Bald Eagle in the Southern Region" prepared by the U.S. Fish and WILDLIFE Service which recommends a primary protection zone with a radius of 750 to 1500 feet around active nests in which no development should occur, and a secondary zone an additional 750 feet to a mile from the outer edge of the primary zone to remain undisturbed during the nesting seasons.

POLICY CON 2-A-3: Manatees:

Recognizing that the waters of the Town provide important habitat for the endangered West Indian manatee, the Town will cooperate with local, state, and federal agencies in the establishment of manatee protection programs, including designation, marking, enforcement of slow-speed manatee protection areas and restriction of activities known to adversely affect manatees. The Town waters or portions of Town waters, as properly marked and permitted through the Florida

Fish and Wildlife Conservation Commission, are hereby established as all year slow speed manatee protection zones:

- i. All waters of Matanzas Pass and Estero Bay east of a line that bears 360° from the northernmost tip (approximate latitude 26°27'56" North, approximate longitude 81°58'04" West) of Estero Island, and west and southwest of a line 1,000 feet east and northeast of and parallel to the general contour of the east and northeastern shorelines of Estero Island, and west of a line beginning at a point (approximate latitude 26°24'34" North, approximate longitude 81°53'03" West) on the eastern shoreline of Estero Island and bearing 36° to a point (approximate latitude 26°24'40" North, approximate longitude 81°53'00" West) on the southern shoreline of Coon Key, but excluding the portions of the marked North-South channel in northern Estero Bay from Green Channel Marker "37" (approximate latitude 26°26'02" North, approximate longitude 81°54'29" West) to Green Channel Marker "57" (approximate latitude 26°25'08" North, approximate longitude 81°53'29" West).
- ii. All waters of Buccaneer Lagoon at the southern end of Estero Island.

POLICY CON 2-A-4: Gopher Tortoises:

The town's policy is to protect gopher tortoise burrows wherever they are found. If unavoidable conflicts make on-site protection infeasible, then off-site mitigation may be provided in accordance with FGFWFC requirements.

POLICY CON 2-A-5: Sea Turtles:

To protect nesting and hatchling sea turtle on the beaches in the Town of Fort Myers Beach ("Town") by ensuring that their nesting habitat is not degraded by artificial light. The objective is to ensure artificial light does not interfere with sea turtle nesting and hatching events through the appropriate design and implementation of coastal lighting systems. In order to further the objective of full implementation, this article also includes provisions designed to educate residents and beach users in the town on the benefits of appropriate coastal lighting and provides for weekly inspections to ensure compliance with the acceptable lighting standards.

GOAL CON 3: GUIDELINES FOR NEW DEVELOPMENT

Development adjacent to aquatic and other nature preserves, wildlife refuges, and recreation areas shall protect the natural character and public benefit of these areas including, but not limited to, scenic values for the benefit of future generations.

OBJECTIVE CON 3-A: WETLANDS PROTECTION

Protect wetlands from development activities.

POLICY CON 3-A-1: Wetlands Definition:

Wetlands include tidal marshes, salt flats, and mangrove swamps that provide valuable habitat, buffering from storms, shoreline stabilization, and production of food for estuarine and coastal waters. The town will cooperate with state and agencies in the formulation, monitoring, and enforcement of regulations restricting activities that contribute to the destruction of wetlands and/or of the

adjacent upland communities that cleanse stormwater inflows. Such potentially destructive activities include construction fill that encroaches on edges of canals and bay waters, dredging of boat basins and channels, use of seawalls, rip rap, and other similar forms of shoreline stabilization, ditching for mosquito control, and any filling or removal of mangrove systems.

POLICY CON 3-A-2: Wetland Boundaries

The Future Land Use Map provides a close approximation of wetland boundaries. Wetland regulations in this plan and in the land development regulations include all wetlands, even in not specifically shown on the Future Land Use Map, that are identified as wetlands in accordance per Florida Statute “Through the use of the unified state delineation methodology described, as ratified and amended by Florida Statue. If the Future Land Use Map is incorrect due to a clear factual error, an administrative process is contained to establish the precise boundary of any wetland.

OBJECTIVE CON 3-B: Protecting Dunes

Protect, maintain and improve dunes and beaches as recreation areas, valuable habitat, protection from storms, and areas of high scenic and aesthetic value. The effect of the town’s efforts may be a noticeable transition from today’s manicured and compacted beach towards a naturally appearing and functioning beach. This transition will be accomplished through education, regulation, and assistance in physical restoration activities.

POLICY CON 3-B-1: Dune Walkover Structures

For any beachfront development approved after the adoption of this plan and for all public beach areas within the town, state-approved dune walk-over structures shall be required at appropriate crossing points. These same structures are also encouraged wherever pedestrians will be crossing dune areas. Minor structures includes, but is not limited to, pile- supported elevated dune and beach walkover structures; beach access ramps and walkways; stairways; pile-supported elevated viewing platforms

POLICY CON 3-B-2: Additional Protections for Dunes and Beaches

The following activities are prohibited to protect dunes and beaches:

- i. Removal of dune vegetation and stabilization of submerged and exposed beach by artificial means other than replenishment with compatible sand.
- ii. Excavation or destructive alteration of beach and dune systems. (Minimal disturbance necessary to accomplish approved beach restoration or renourishment activities or construct dune crossovers is allowable)
- i. Plant appropriate vegetation such as sea oats wherever sand dunes have been destroyed.
- ii. Undertake a management and maintenance program to control invasive exotic vegetation.
- iii. Removal of dune vegetation and stabilization of submerged and exposed beach by artificial means other than replenishment with compatible sand.
- iv. Excavation or destructive alteration of beach and dune systems. (Minimal disturbance necessary to accomplish approved beach

restoration or renourishment activities or construct dune crossovers is allowable.)

POLICY CON 3-B-3: Sea Turtle Nests

All coastal construction projects, including beach restoration and renourishment, shall protect sea turtle nesting areas by limiting construction in dune and beach areas to non-nesting periods (except under emergency conditions). In historic shorebird nesting areas, construction must be completed prior to shorebird nesting. Protection zones shall be marked around sea turtle nests and shorebird nesting areas to ensure that construction activities landward of the dune and beach system are limited to the actual construction site.

POLICY CON 3-B-4: 50ft Buffer Between Structures

The town will-promote the restoration of beach and dune systems to require that lots and parcels created after the adoption of this plan shall be of sufficient size and dimension to ensure a 50-foot buffer between any structures (except dune cross- overs) and the landward edge of the primary dune. This buffer shall remain in its natural state except for the minimum disturbance necessary to accommodate dune crossovers.

POLICY CON 3-B-5: Coastal Construction Line

Any construction activity seaward of the Coastal Construction Control Line not specifically approved by the DEP. Construction of artificial shoreline hardening structures is prohibited except for the emergency use of such structures constructed in compliance the Florida Statute

GOAL CON 4: MONITORING AND EDUCATION

Wetlands and the surrounding natural habitats will be protected, conserved, and monitored.

OBJECTIVE CON 4-A: Monitoring Natural Resources

Develop policies to monitor Fort Meyers Beach's natural resources.

POLICY CON 4-A-1: Evaluating Existing Regulations and Enforcement

In cooperation with other jurisdictions, evaluate the effectiveness of existing regulations and enforcement techniques in preserving the bay and estuary system.

POLICY CON 4-A-2: Monitor Water Quality

In cooperation with Lee County and other agencies, encourage continued water quality monitoring and identify sources of non-point water pollution, especially those found to be occurring from within the town. Develop a program to reduce or eliminate those pollution sources that may include education, regulation, and incentives, and follow-up enforcement.

POLICY CON 4-A-3: Surface Water Contamination

The Town shall comply the requirements of the National Pollutant Discharge Elimination System by prohibiting the discharge of runoff, wastewater, or other potential sources of contamination into surface waters which results in the degradation of the quality of the receiving water body below the applicable standards.

POLICY CON 4-A-4: Soil Erosion

Conserve and protect soils to reduce water and air pollution from wind and water erosion.

POLICY: CON 4-A-5: Monitoring Native Soil and Prevent Erosion

The Town shall implement the following measures to ensure conservation of native soils and prevention of erosion and its polluting impacts:

- i. To reduce airborne pollutants and protect tidal waters from dust caused by wind erosion, adopt requirements for protecting cleared land during construction.
- ii. Land clearing prior to issuance of a building permit or development order.
- iii. An erosion control plan shall be submitted and approved by the town prior to the issuance of a development order. Such plan shall reference the property's topography, vegetation, and hydrology and utilize the best management practices such as the use of staked hay bales or filter cloth between the development site and adjacent swales, surface waters, or wetlands; sodding, seeding, or mulching immediately after final grading; and maintenance of vegetation following development activities in order to reduce the erosion by wind or water.

POLICY CON 4-A-6: Native Soils

The town shall implement the following measures to ensure conservation of native soils and prevention of erosion and its polluting impacts:

- i. To reduce airborne pollutants and protect tidal waters and adhere to the requirements for protecting cleared land during construction.
- ii. An erosion control plan shall be submitted and approved by the town prior to the issuance of a development order and be in compliance with Fort Myers Beach code of ordinances and compliance with NPDES erosion control standards

POLICY CON 4-A-7: Air Quality

Continue to meet or exceed federal air quality standards based on monitoring results from state agencies.

POLICY CON 4-A-8: Information Sharing

Share information, data, and maps with other entities involved with conservation land acquisition and management through measures such as:

- i. Cooperating with Lee County in the following activities:
 - Maintaining a central clearinghouse for environmental studies and recommendations from public and private information sources. Compiling, maintaining, and regularly updating vegetation mapping, listed species, data regarding their habitat, and water resources data.
 - Updating the Lee County Habitat Inventory Map using the county's Geographic Information System.

ii. Cooperate with Lee County and FGFWFC in maintaining an inventory of all native communities and natural habitats to aid in land-use decision-making, development approvals, and ranking of potential acquisitions

iii. Recommend and evaluate such additional measures as necessary to ensure their enforcement techniques in preserving the bay and estuary systems as described per Florida Statute: Florida Legislature has declared as “aquatic preserves” certain submerged lands and associated waters that are of “exceptional biological, aesthetic, and scientific value.” These preserves are “set aside forever... for the benefit of future generations”. Develop a clear approach for evaluating existing regulations and its ongoing enforcement for preserving the bay and estuary system.

OBJECTIVE CON 4-B-: EDUCATION:

POLICY CON 4-B-1: Conservation Programs Generally

Increase education access and protection. The town will develop educational programming for allowing appropriate access, protecting natural resources, and documenting and reporting violations of laws and regulations.

POLICY CON 4-B-2: Little Estero Island Critical Wildlife Area

In cooperation with state agencies, the town will aid in the stewardship of the Little Estero Island Critical WILDLIFE Area through activities such as:

i. Prohibit commercial activities within the defined boundaries of Little Estero Island.

ii. Support legislative measures as necessary to protect the long-term future of the preserve.

iii. Inform residents and visitors of the uniqueness and fragility of the island’s habitats and identify funding for measures such as designating pedestrian trails and dune walkovers, adding information and interpretive signs, producing educational brochures, and conducting seminars to encourage proper use.

iv. Sponsor a volunteer task force to work with the Florida Game and Fish Water Fish Commission to oversee the daily stewardship of Little Estero Island through activities such as:

- Identify potentially destructive practices (such as mowing or raking on the shoreline, litter, boat traffic, low flying airplanes, disturbances from vehicles and dogs, etc.) and determine appropriate methods to address them.

- Inform residents and visitors of the uniqueness and fragility of the island’s habitats; plant shoreline vegetation to replace vegetation damaged by visitors or other unnatural causes; place and maintain interpretive signs; produce educational brochures; and conduct seminars to encourage proper use.

- Develop guidelines to protect the fragile environment of the preserve and, where appropriate, urge their adoption as land development regulations or part of the town’s code of ordinances.

POLICY CON 4-B-3: Task Force Element

Create a local task force to coordinate and reconcile efforts of various organizations, governments, and businesses to promote long- term sustainability of the estuary. The task force would make recommendations to the town regarding issues such as:

- i. Establishing restricted areas and other methods of controlling boat traffic in Estero Bay, particularly around rookery islands and seagrass beds.
- ii. Locating a suitable launching point on the Gulf for use by personal watercraft to reduce traffic on the bay side.
- iii. Adopting a ban on the commercial collection of live shells.
- iv. Recommending capital projects to improve water quality.
- v. Recommending regulations to protect local water

GOAL CON-5: WATER SUPPLY

Protect the water supply.

OBJECTIVE CON-5-A: Water Supply

The City shall protect, monitor, and address issues to ensure quality and quantity of water supply and ensure continued supplies of drinking water of sufficient quantity and quality to meet the projected demands of all consumers and the environment.

POLICY CON-5-A-1: Water Conservation

The town will cooperate with emergency water conservation measures of the South Florida Water Management District.

POLICY CON-5-A-2: Purchasing Bulk Water

The town will continue to purchase bulk water from Lee County Utilities in lieu of providing an independent supply of potable water. Lee County Utilities considers the Town of Fort Myers Beach to be part of its potable water service area and has demonstrated its ability to expand raw water supply and treatment facilities to meet anticipated growth consistent with the 2017 Lower West Coast Water Supply Plan Update prepared by the South Florida Water Management District.

POLICY CON-5-A-3: Water Quality New Development

Maintain or improve estuarine water quality by requiring new development or redevelopment to meet the following standards:

- i. Development shall not degrade the estuarine quality of Estero Bay below those standards established by the state for Class II Outstanding Florida Waters.
- ii. Development shall not degrade surface or ground water quality below state standards established in Chapter 62-302 FAC for surface water; Chapter 52-520, for ground water; and Chapter 10D-6 for bathing places.

POLICY CON-5-A-4: Water and Wastewater Management

Incorporate into the land development code measures applicable to new development and redevelopment to encourage water and wastewater management such as low-volume irrigation systems, xeriscape landscaping techniques, potential hook-ups to re-use water systems, and use of other conservation and recycling techniques demands on groundwater.

Goal CON-6: Solid Waste

The Town will support solid waste management and disaster planning which protects the environment and promotes public health. The Town aspires to support conservation and local sustainability and resiliency efforts by ensuring that solid waste collection needs of the Town are reduced over time through actions that reduce the solid waste generation rate through recycling, yard waste reuse, and education.

Objective CON-6-A: Waste Management to Support Sustainability and Conservation

The Town shall ensure the regular collection, management, and maintenance of solid waste to protect the environment and public health.

Policy CON-6-A-1: The Town shall ensure the collection and management of residential, multifamily and commercial solid waste through municipal, contracted or Town-licensed haulers, and ensure the adequate management of waste streams.

Policy CON-6-A-2: The Town will provide receptacles and solid waste collection services, including recycling, on Town properties and in public places as appropriate.

Policy CON-6-A-3: The Town shall incorporate recycling programs with the goal of achieving 75% recycling of all waste in municipal buildings and offices by 2030.

Policy CON-6-A-4: The Town shall promote, endorse, and implement education and outreach programs on waste conservation, management, and diversion, including, as applicable, the promotion of recycling, beneficial reuse of yard waste, reuse and diversions.

Policy CON-6-A-5: The Town shall conduct regular maintenance and code enforcement to mitigate and abate solid waste impacts from disasters, including, but not limited to regular tree canopy trimming and storm preparation of public property.

Policy CON-6-A-6: The City will incorporate debris removal and management as a component of standard operating procedures for pre-disaster planning and post-disaster recovery efforts.

OBJECTIVE CON-6-B: Waste Reduction

The Town shall promote waste reduction to support a sustainable community.

Policy CON-6-B-1: Eliminating Plastics and Polystyrene

The Town shall consider the elimination of use of single use plastics and polystyrene by the Town, licensees operating on Town property, and users of Town facilities and at permitted events on Town property.

Policy CON-6-B-2: Construction Waste

The Town shall strive to divert municipal construction and demolition waste as feasible.

Policy CON-6-B-3: Residential Composting

The Town shall assess the feasibility of implementing a residential composting

program.

Policy CON-6-B-4: Commercial Waste

The Town shall encourage commercial waste reduction through policies or incentives, including Zero Waste programs.

Objective CON-6-C: Hazardous Waste

The Town shall coordinate with the appropriate entities ensure hazardous wastes are handled, collected, transported, stored, disposed of, and recycled in a manner that protects human health, safety, and the environment.

Policy CON-6-C-1: The Town shall support programs which aims to regulate small generators of hazardous wastes and reduce the volume produced in the Town.

Policy CON-6-C-2: The Town, in conjunction with Lee County and neighboring local governments, shall perform public outreach to inform residents of effective methods to minimize the use of, safely store, dispose of, and recycle hazardous waste products such as oils, solvents, and paints.

Policy CON-6-C-3: The Town shall encourage residents to deposit household hazardous waste at the appropriate collection centers.

~~POLICY 6-B-5 ADJACENT DEVELOPMENT—Development adjacent to aquatic and other nature preserves, wildlife refuges, and recreation areas shall protect the natural character and public benefit of these areas including, but not limited to, scenic values for the benefit of future generations.~~

~~POLICY 6-B-6 RESOURCE MANAGEMENT PLANS—The town will participate with other agencies in preparing and implementing water management plans such as the Charlotte Harbor Management Plan, Surface Water Improvement and Management (SWIM) plans, Estero Bay Aquatic Preserve Management Plans, and similar efforts. The town will reevaluate its policies for protecting and enhancing natural resources upon a review of newly adopted or revised plan by other agencies.~~

~~POLICY 6-B-7 INVASIVE EXOTIC PLANTS—Invasive exotic plants may not be used to meet landscaping requirements for new development. Prohibited species shall be identified in the land development regulations.~~

~~POLICY 6-B-8 SEAWALLS—The town shall encourage planting of mangroves or placement of rip-rap in artificial and natural canal systems to replace existing seawalls in need of repair. Build back of vertical seawalls will not be permitted along natural waterbodies if one or more of the following conditions exist:~~

- ~~i. Build back would cause excessive shoreline erosion or endanger shorelines of surrounding properties.~~

- ~~ii. Build back would threaten wetlands.~~
- ~~iii. Build back would be a threat to public safety or block access to state-owned land or beaches.~~
- ~~iv. Build back would be waterward of the existing seawall alignment on adjacent shorelines.~~

~~POLICY 6-B-9 ACQUISITION OF ADDITIONAL SITES — The town will strive to expand the~~

~~opportunities for conservation and public appreciation of natural resources through acquisition of additional areas with rare or unique ecological or botanical features, or which provide access to such areas, through activities such as the following:~~

- ~~i. Identify specific sites that would be desirable for public acquisition.~~
- ~~ii. Support the efforts of other entities acquiring land that will contribute to the conservation effort (for example, aquatic preserve buffer areas, Bunche Beach, etc.)~~
- ~~iii. Consider alternative means of land acquisition, such as supporting the efforts of non-profit conservation land trust or acquiring development rights in lieu of full acquisition.~~
- ~~iv. Accept donations of land for nature preserves or other resource conservation areas with the following general conditions: if such lands contain ecologically valuable habitat and/or if public ownership of such lands would expand existing or provide increased preservation or resource conservation areas.~~
- ~~v. When acquiring property, determine the best entity to be responsible to implement a long-range management plan.~~

~~POLICY 6-B-10 INFORMATION SHARING — Share information, data, and maps with other entities involved with conservation land acquisition and management through measures such as:~~

- ~~i. Cooperating with Lee County in the following activities:

 - ~~• Maintaining a central clearinghouse for environmental studies and recommendations from public and private information sources.~~
 - ~~• Compiling, maintaining, and regularly updating vegetation mapping, listed species, data regarding their habitat, and water resources data.~~
 - ~~• Updating the Lee County Habitat Inventory Map using the county's Geographic Information System.~~~~
- ~~ii. Cooperate with Lee County and FGFWFC in maintaining an inventory of all native communities and natural habitats to aid in land-use decision-making, development approvals, and ranking of potential acquisitions.~~

~~OBJECTIVE 6-C PROTECTED SPECIES — Increase cooperation with local, state, and federal agencies in protecting wildlife species listed as endangered, threatened, or of special concern, and conserve the habitats upon which they depend in order to maintain balanced, biologically productive ecosystems.~~

~~POLICY 6-C-1 PROTECTIVE MEASURES GENERALLY —~~

~~The town shall assist in the application of state and federal regulations regarding listed species through activities such as:~~

- ~~i. Provide information regarding listed species on properties undergoing~~

development review.

ii. ~~Withhold development approval until such time as all applicable state and federal permits pertaining to such species have been obtained and copies provided to the town.~~

iii. ~~Cooperate with local, state, and federal agencies in developing species-specific Habitat Conservation Plans as authorize by the Endangered Species Act. Until such plans are developed, the town's criteria for approval of development proposals shall be consistent with the provisions of the listed species guidelines promulgated by the FGFWFC.~~

iv. ~~Cooperate with Lee County and other agencies in the establishment of mitigation parks and banks to allow this form of mitigation for local impacts to listed wildlife species and native communities.~~

v. ~~Support public education on the value of wildlife, native communities, and other natural resources through such means as brochures, newspaper articles, public presentations and workshops, and the placement of interpretive displays and development of observation trails at appropriate park sites.~~

vi. ~~Encourage and provide technical assistance to volunteer and non-profit organizations such as Turtle Time, Estero Bay Foundation, Estero Bay Buddies, and the Friends of the Matanzas Pass Preserve in their conservation efforts.~~

~~POLICY 6-C-2 BALD EAGLES — Maintain Lee County's ordinance protecting bald eagle nesting habitat in case bald eagles begin nesting on Estero Island, and urge adherence during~~

~~development activities to "Habitat Management Guidelines for the Bald Eagle in the Southern Region" prepared by the U.S. Fish and Wildlife Service which recommends a primary protection zone with a radius of 750 to 1500 feet around active nests in which no development should occur, and a secondary zone an additional 750 feet to a mile from the outer edge of the primary zone to remain undisturbed during the nesting seasons. Nest trees should not be touched in any way by development activities unless the nest site has been de-classified by the FGFWFC.~~

~~POLICY 6-C-3 MANATEES — Recognizing that the waters of the town provide important habitat for the endangered West Indian manatee, the town will cooperate with local, state, and federal agencies in the establishment of manatee protection programs, including restriction of activities known to adversely affect manatees. The town shall cooperate in the designation, marking, and enforcement of slow-speed manatee protection areas. The town shall cooperate with Lee County in preparing and implementing a manatee protection plan, particularly in providing educational materials and programs to inform the town's boating population of the presence of manatees and of how to avoid destruction of manatee habitat and avoid manatee/boat collisions. The town supports the incorporation of the SWFRPC's 1995 marina siting study into Lee County's Manatee Protection Plan.~~

~~POLICY 6-C-4 GOPHER TORTOISES — The town's policy is to protect gopher tortoise burrows wherever they are found. If unavoidable conflicts make on-site protection infeasible, then off-site mitigation may be provided in accordance with FGFWFC requirements.~~

~~POLICY 6-C-5 SEA TURTLES — The town shall prepare and adopt a new sea turtle ordinance by the end of 1998 to supersede Lee County's existing Sea Turtle Protection Ordinance. The new ordinance shall provide standards for coastal uses and development~~

~~and shall prohibit, during sea turtle nesting season, any point source of light or any reflective surface of a light fixture being visible from the beach;
also, areas seaward of a frontal dune must not be directly, indirectly, or cumulatively illuminated. Other beach activities to be regulated include:~~

- ~~i. Beach raking, scraping, and other activities that unnecessarily compact the sand and/or damage dunes or prevent the re-creation of dunes;~~
- ~~ii. Unauthorized vehicular traffic on the beach;~~
- ~~iii. Storage of beach furniture, cabanas, jet skis, sailboats, and other equipment on the beach that may interfere with sea turtle nesting;~~
- ~~iv. Drainage of swimming pools, parking lots, and building roofs into point discharges directly onto the beach.~~

~~OBJECTIVE 6-D WETLANDS — Preserve all remaining wetlands; protect them from further degradation; and improve their condition and natural functions.~~

~~POLICY 6-D-1 Wetlands include tidal marshes, salt flats, and mangrove swamps that provide valuable habitat, buffering from storms, shoreline stabilization, and production of food for estuarine and coastal waters. The town will cooperate with state and federal agencies in the formulation, monitoring, and enforcement of regulations restricting activities that contribute to the destruction of wetlands and/or of the adjacent upland communities that cleanse stormwater inflows. Such potentially destructive activities include construction fill that encroaches on edges of canals and bay waters, dredging of boat basins and channels, use of seawalls, rip rap, and other similar forms of shoreline stabilization, ditching for mosquito control, and any filling or removal of mangrove systems.~~

~~POLICY 6-D-2 The Future Land Use Map provides a close approximation of wetland boundaries. Wetland regulations in this plan and in the land development regulations include all wetlands, even in not specifically shown on the Future Land Use Map, that are identified as wetlands in accordance with F.S. 373.019 (17) through the use of the unified state delineation methodology described in FAC Chapter 62-340, as ratified and amended by F.S. 373.4211. If the Future Land Use Map is incorrect due to a clear factual error, an administrative process is contained in Chapter 15 to establish the precise boundary of any wetland.~~

~~POLICY 6-D-3 In accordance with F.S. 163.3184(6)(c), the town will not undertake an independent review of the impacts to wetlands resulting from development in wetlands that is specifically authorized by a state Environmental Resource Permit or exemption. However, no development approval shall be issued by the town for any project which impacts wetland resources until all requisite permits from other agencies have been obtained and provided to the town. All conditions placed on such permits shall be incorporated into the final development approval issues by the town. Violations of such conditions shall be prosecuted through the town's code enforcement procedures.~~

~~POLICY 6-D-4 The following activities in and near wetlands may be desirable and are not forbidden by this comprehensive plan: —~~

- i. ~~Activities necessary to prevent or eliminate a public hazard, such as elimination of a dangerous curve in a road, dredging in order to clean up a spill of hazardous waste, or removal of underwater obstructions to boat traffic.~~
- ii. ~~Activities which provide a direct benefit to the public at large which would exceed any public loss as a result of the activity, such as removal of exotic species, restoration of natural hydroperiods, impacts associated with the maintenance of existing drainage works, or providing water access that is open to the public.~~
- iii. ~~Resource-oriented activities such as passive recreation, outdoor education, or other uses where protection of wetland functions and values is the primary attraction.~~
- iv. ~~Structures or facilities that will improve the functional value of wetlands or provide “no-impact” use for observation, education, research, or passage (walking or non-motorized boats); these could include such structures as public boardwalks, observation decks, or launching areas for non-motorized watercraft.~~

~~POLICY 6-E-1 For any beachfront development approved after the adoption of this plan and for all public beach areas within the town, state-approved dune walk-over structures shall be required at appropriate crossing points. These same structures are also encouraged wherever pedestrians will be crossing dune areas.~~

~~POLICY 6-E-2 All coastal construction projects, including beach restoration and renourishment, shall protect sea turtle nesting areas by limiting construction in dune and beach areas to non-nesting periods (except under emergency conditions). In historic shorebird nesting areas, construction must be completed prior to shorebird nesting.~~

~~POLICY 6-E-3 The town will implement the following measures to promote the restoration of beach and dune systems:~~

- i. ~~Initiate a program to recreate a dune line and plant appropriate vegetation such as sea oats wherever sand dunes have been destroyed.~~
- ii. ~~Require the use of indigenous plants species for public and private dune restoration or renourishment projects.~~
- iii. ~~Require that lots and parcels created after the adoption of this plan shall be of sufficient size and dimension to ensure a 50-foot buffer between any structures (except dune cross-overs) and the landward edge of the primary dune. This buffer shall remain in its natural state except for the minimum disturbance necessary to accommodate dune crossovers.~~
- iv. ~~Undertake a management and maintenance program to control invasive exotic vegetation as a cooperative effort of the town and its citizenry.~~
- v. ~~Consider erosion control taxing/benefit units, grants, and other cost-sharing funding mechanisms to provide funds for beach renourishment and management projects (see Coastal Management Element for strategies on beach renourishment).~~

~~POLICY 6-E-4 The following activities are prohibited to protect dunes and beaches:~~

- i. ~~Removal of dune vegetation and stabilization of submerged and exposed beach by artificial means other than replenishment with compatible sand.~~

- ii. ~~Excavation or destructive alteration of beach and dune systems. (Minimal disturbance necessary to accomplish approved beach restoration or renourishment activities or construct dune cross-overs is allowable under this policy.)~~
- iii. ~~Operation of motor vehicles on beaches and dunes (except in association with law enforcement activities, emergency medical services, public land/resources management, state-licensed sea turtle monitoring, once-daily delivery and pickup of beach equipment, minimal cleaning of litter and of excessive accumulations of natural debris, or as necessitated by an approved restoration, renourishment, or emergency project).~~
- iv. ~~Any construction activity seaward of the Coastal Construction Control Line not specifically approved by the DEP.~~
- v. ~~Construction of artificial shoreline hardening structures except the emergency use of such structures constructed in compliance with Chapter 161, F.S. If a hardened structure is absolutely necessary along the beach, riprap revetments are preferred. New seawalls are not permitted.~~

~~OBJECTIVE 6-F AIR QUALITY—Continue to meet or exceed federal air quality standards based on monitoring results from state agencies.~~

~~POLICY 6-F-1 Ensure that the town's land development regulations do not include any disincentives to the use of clean alternative energy sources such as active and passive solar technology.~~

~~POLICY 6-F-2 Reduce automobile emissions through programs developed in the Transportation Element to reduce single-occupant automobile trips. Mobility alternatives include increased ridership on the trolley system; introduction of an electric tram system throughout the Island, incentives for visitors to park off-island or park once on-island, a water taxi or water shuttle system; and an interconnected system of bicycle and pedestrian paths.~~

~~POLICY 6-F-3 Establish criteria for any new facility that would require an air quality permit including monitoring procedures to supplement those provided by the state and enter into agreements with Lee County and other relevant agencies to ensure that the town's concerns are addressed during the permitting stages of potential point source pollution generators.~~

~~OBJECTIVE 6-G SOIL EROSION—Conserve and protect soils to reduce water and air pollution from wind and water erosion.~~

~~POLICY 6-G-1 The town shall implement the following measures to ensure conservation of native soils and prevention of erosion and its polluting impacts:~~

- i. ~~To reduce airborne pollutants and protect tidal waters from dust caused by wind erosion, adopt requirements for protecting cleared land during construction.~~
- ii. ~~Land clearing prior to issuance of a building permit or development order.....~~
- iii. ~~An erosion control plan shall be submitted and approved by the town prior to the~~

~~issuance of a development order. Such plan shall reference the property's topography, vegetation, and hydrology and utilize the best management practices such as the use of staked hay bales or filter cloth between the development site and adjacent swales, surface waters, or wetlands; sodding, seeding, or mulching immediately after final grading; and maintenance of vegetation following development activities in order to reduce the erosion by wind or water.~~

~~OBJECTIVE 6-H WATER QUALITY—Improve the water quality and economic value of the water bodies surrounding the Town of Fort Myers Beach beyond the levels existing in 1997.~~

~~POLICY 6-H-1 As an integral part of the Estero Bay estuary system, the town shall take all feasible measures in an intergovernmental effort to protect, maintain, and improve water quality in Estero Bay.~~

~~POLICY 6-H-2 No garbage or untreated sewage shall be discharged into tidal waters.~~

~~POLICY 6-H-3 Maintain or improve estuarine water quality by requiring new development or redevelopment to meet the following standards:~~

- ~~i. Development shall not degrade the estuarine quality of Estero Bay below those standards established by the state for Class II Outstanding Florida Waters.~~
- ~~ii. Development shall not degrade surface or ground water quality below state standards established in Chapter 62-302 FAC for surface water; Chapter 52-520, for ground water; and Chapter 10D-6 for bathing places.~~

~~POLICY 6-H-4 In cooperation with Lee County and other agencies, encourage continued water quality monitoring and identify sources of non-point water pollution, especially those found to be occurring from within the town. Develop a program to reduce or eliminate those pollution sources that may include education, regulation, and incentives, and follow-up enforcement.~~

~~POLICY 6-H-5 The town will implement the measures adopted in the Stormwater Management Element to reduce the polluting impacts of stormwater runoff.~~

~~POLICY 6-H-6 The town shall comply the requirements of the National Pollutant Discharge Elimination System by prohibiting the discharge of runoff, wastewater, or other potential sources of contamination into surface waters which results in the degradation of the quality of the receiving water body below the applicable standards.~~

~~OBJECTIVE 6-I WATER SUPPLY—Ensure continued supplies of drinking water of sufficient quantity and quality to meet the projected demands of all consumers and the environment.~~

~~POLICY 6-I-1 Incorporate into the land development code measures applicable to new development and~~

~~redevelopment to encourage water and wastewater management such as low-volume irrigation systems, xeriscape landscaping techniques, potential hook-ups to re-use water systems, and use of other conservation and recycling techniques.~~

~~POLICY 6-I-2 The town will cooperate with emergency water conservation measures of the South Florida Water Management District.~~

~~POLICY 6-I-3 The town will continue to purchase bulk water from Lee County Utilities in lieu of providing an independent supply of potable water. Lee County Utilities considers the Town of Fort Myers Beach to be part of its potable water service area and has demonstrated its ability to expand raw water supply and treatment facilities to meet anticipated growth consistent with the 2005–2006 Lower West Coast Water Supply Plan Update (prepared by the South Florida Water Management District).~~

OBJECTIVE 6-J GROUNDWATER — Maintain the quality of groundwater resources and improve as necessary to meet state or federal standards.

~~POLICY 6-J-1 Commercial excavation and mining activities are prohibited in the Town of Fort Myers Beach due to potentially detrimental effects to groundwater, surface water, wildlife habitats, and surrounding land uses and values.~~

~~POLICY 6-J-2 The Town of Fort Myers Beach opposes offshore gas and oil exploration and excavation activities which may be reasonably expected to threaten the quality of coastal beaches and estuarine ecosystems; or would place oil or gas-related facilities on coastal beaches, islands, or wetlands; or would require the placement of oil or gas storage facilities on the island.~~

~~POLICY 6-J-3 The dredging of additional tidal canals is prohibited.~~

~~POLICY 6-J-4 The town shall support Lee County's programs to properly dispose of hazardous wastes.~~

~~POLICY 6-J-5 The town shall require connection to central water and sewer systems to eliminate demands on groundwater and reduce the potential for contamination from septic tanks.~~

~~POLICY 6-J-6 Identify any remaining septic tanks and require their use be discontinued~~

PROPERTY RIGHTS ELEMENT

Goal : **The Town of Fort Myers Beach will make decisions with respect for property rights and with respect for people’s rights to participate in decisions that affect their lives and property.**

Objective 1 The Town of Fort Myers Beach will respect judicially acknowledged and constitutionally protected private property rights.

Policy 1.1 The Town of Fort Myers Beach will consider in its decision-making the right of a property owner to physically possess and control his or her interests in the property, including easements, leases, or mineral rights.

Policy 1.2 The Town of Fort Myers Beach will consider in its decision-making the right of a property owner to use, maintain, develop, and improve his or her property for personal use or for the use of any other person, subject to state law and local ordinances.

Policy 1.3 The Town of Fort Myers Beach will consider in its decision-making the right of the property owner to privacy and to exclude others from the property to protect the owner’s possessions and property.

Policy 1.4 The Town of Fort Myers Beach will consider in its decision-making the right of a property owner to dispose of his or her property through sale or gift.

TRANSPORTATION ELEMENT

GOAL ~~7~~ T-1: To improve ~~peak-season~~ mobility without reducing the permeability of Estero Boulevard to foot traffic or damaging the small-town character of Fort Myers Beach. The town seeks to reduce speeding, improve evacuation capabilities, and improve mobility through balanced transportation improvements such as a continuous system of sidewalks and bikeways, a network of trolleys and water taxis linked to off-island systems, and parking options matched to road capacity.

OBJECTIVE T-17-A DEFINING THE PROBLEMS — Through this plan, the Town of Fort Myers Beach will address its three major transportation problems: congestion (by supporting public transit and pedestrian improvements), parking (by improving public parking near Times Square), and speeding (through passive traffic calming on Estero Boulevard).

POLICY T-17-A-1 CONGESTION: ~~Every winter~~ During peak times Estero Boulevard ~~can~~ becomes so crowded that traffic backs up, sometimes for miles in both directions. Much of this congestion is caused by visitors, who will continue to frequent the beaches regardless of development levels on Estero Island. Despite the road congestion, the town welcomes visitors and intends to provide mobility alternatives as described in this plan.

POLICY T-17-A-2 PARKING: Even though existing parking lots are not used to capacity, parking is not abundant at Fort Myers Beach. ~~The welcome rebirth of commercial activity near Times Square will increase the demand for parking.~~ The Town of Fort Myers Beach will address parking shortages through the methods outlined in this plan.

POLICY T-17-A-3 SPEEDING: Despite the virtual crawl of traffic on parts of Estero Boulevard, speeding is also a problem. ~~If motorists didn't speed on Estero Boulevard, many more people would get out of their own cars.~~ The town will protect the pedestrian environment along Estero Boulevard and will ~~not widen travel lanes or discourage~~ encourage safe pedestrian movement across the boulevard and throughout the Town.

OBJECTIVE T-17-B CONVENTIONAL SOLUTIONS — The usual response to traffic congestion is widening roads or building alternate routes. Estero Island's long narrow shape, frequent navigable canals, sensitive environmental, and highly urbanized character preclude these solutions. Congestion management at Fort Myers Beach must aim to reduce delay and improve safety, not just for motorists but for pedestrians and bicyclists as well.

POLICY T-17-B-1 DELAY AND SAFETY: The town recognizes that many efforts to reduce delay and improve safety for motorists have the opposite effect on pedestrians. Creative solutions will be required to address both concerns, particularly for pedestrians.

POLICY T-17-B-2 WIDENING: Under no circumstances shall conventional four-laning of Estero Boulevard be considered as a desirable means of improving traffic circulation on Estero Island.

POLICY T-17-B-3 IMPROVEMENTS TO ESTERO BOULEVARD: The Town of Fort Myers Beach shall initiate additional pedestrian and streetscape improvements along Estero Boulevard beginning in 1999, and shall negotiate with Lee County for the turnover of responsibility for its maintenance if necessary to carry out these improvements or to further other town policies.

OBJECTIVE T-17-C EVACUATION ROUTE — Estero Boulevard's critical function as the sole evacuation route for Fort Myers Beach shall be considered in all planning and development activities.

POLICY T-17-C-1 EVACUATION CAPACITY: Evacuation routes do not need to be designed as high-speed roadways. The critical factor is the total number of cars that can evacuate in a given period of time. The town shall evaluate all efforts by Lee County or by the town to reduce speeding on Estero Boulevard during the design phase to ensure that these efforts will not hinder an effective evacuation.

POLICY T-17-C-2 FLOODING: The town shall analyze actual flooding of evacuation routes ~~that occurs due to tropical storms or hurricanes~~, and shall initiate physical improvements that can avoid future flooding at those locations.

OBJECTIVE T-17-D VARIETY OF TRAVEL MODES — The Town of Fort Myers Beach shall make efforts every year to improve mobility for its residents and visitors, striving for a balanced transportation system that allows safe movement ~~even during peak periods of traffic congestion of pedestrians and vehicles.~~ These efforts may include further subsidies to improve the trolley system, the use of impact fees to improve sidewalks, and creation of critical links on the hidden-path system.

POLICY T-17-D-1 ARRIVE WITHOUT A CAR: Fewer vehicles would be driven to Fort Myers Beach if scheduled airport shuttle service were available. The town shall encourage this service and the designation of a central drop-off point that could include a trolley stop and taxi stand.

POLICY T-1-D-2 REDUCE NEED OF CAR: Promote compact development, enhance pedestrian realm, and promote modes of transportation other than single occupancy vehicles.

POLICY T-1-D-3 OFF-ISLAND PARKING: Work with Lee County to secure off-island land for the purposes of extended parking. Continue to encourage or incentives visitors to park off the island to reduce number of vehicles.

POLICY T-17-D-24 IMPROVE TROLLEY SERVICE: Trolley ridership increases when service is more frequent and when fares are low or free, yet no long-term funding or operational plan has been developed for providing higher service levels. Practical measures to improve trolley usage include:

- i. Recurring subsidies from tourism sources so that service can be enhanced and congestion minimized during heavy seasonal traffic;

- ii. Pull-offs at important stops along Estero Boulevard so that passengers can safely board and traffic is not blocked excessively; these pull-offs could be built during other improvements to Estero Boulevard or required by the Land Development Code during the re-development process.
- iii. Clear signs at every stop with full route and fare information;
- iv. Bus shelters at key locations, with roofs, benches, and transparent sides;
- v. Replacement of the existing trolley buses with clean-fuel vehicles so that businesses won't object to having trolleys stop at their front doors; and
- vi. Accommodation of the special needs of the transportation disadvantaged.

POLICY T-17-D-35 ALTERNATE TRAVEL MODES: The town shall support alternatives to car travel to free up road capacity for trips that do require a car. Public funding sources shall include county/state gasoline taxes and road impact fees. The town shall modify its road impact fee ordinance by 1999 to allow these fees to be spent (within legal limits) on capital improvements that relieve road congestion, such as better sidewalks, trolley improvements, and off-island parking areas. ~~The town seeks to at least double the usage of the trolley system by the year 2001 (from its 1996 total ridership level of 238,754).~~

POLICY T-17-D-46 ENCOURAGE WATER TAXIS: Fort Myers Beach has great potential for water transportation, with its canals, natural waterways, and high levels of tourism. To encourage the private sector to provide this service, the town shall ease regulations that require a water taxi to provide dedicated parking spaces at every stop and shall encourage restaurants, motels, and marinas to provide dockage for water taxis. Where possible, water taxi drop-off sites should avoid areas of high manatee concentration, or use protective measure such as propeller guards, jet propulsion, or electric motors.

POLICY T-17-D-57 HIDDEN-PATH SYSTEM: The town shall support the creation of a quiet network of "hidden paths" running on the Bay side parallel to Estero Boulevard. This network would provide an alternative to walking and cycling along Estero Boulevard (as described further in the Community Design Element). Initial land acquisition shall begin in 1999.

T-1-D-8 Coordination with Lee County: The town shall collaborate with Lee County to expand the LeeTran route on Estero Island.

OBJECTIVE T-17-E UPGRADE ESTERO BOULEVARD — As part of its ~~congestion-avoidance strategy to enhance pedestrian amenities and reduce the use of single occupancy vehicles~~, the town shall methodically upgrade Estero Boulevard to reduce speeding and encourage walking, as higher traffic speeds and car-oriented businesses are antithetical to its pedestrian character. ~~(If a suitable partnership to this end cannot be achieved with Lee County, the town may consider taking on maintenance responsibility for Estero Boulevard.)~~

POLICY T-17-E-1 TIMES SQUARE STREETSCAPE: The town shall ~~begin work by 1999~~ toward extending southward the curbs, colorful sidewalks, and street trees installed by the Estero Island CRA in 1996. Similar side- walks should be placed on both sides of Estero Boulevard as far south as the public library, including drainage, lighting, and trolley improvements. Unspent funds from the Estero Island CRA should be sought from Lee County toward this end. Generous urban sidewalks should also be built in the future around the Villa Santini Plaza as part of its redevelopment (as described in the Community Design Element).

POLICY ~~T-17-E-2~~ TRAFFIC CALMING: The town shall support two types of traffic calming to reduce speeding, which endangers lives and diminishes the quality of the pedestrian environment of Fort Myers Beach:

- i. The first is “active” or traditional traffic calming along residential streets, using physical techniques such as speed humps, narrowed lanes, landscaping, traffic diverters, jogs, or traffic circles at intersections, ~~where appropriate.~~
- ii. Preferred method is ~~The second is~~ “passive” traffic calming along Estero Boulevard, to control speeding without reducing the number of vehicles that can use the road. Techniques include full curbs and sidewalks separated by street trees; buildings nearer the road; interesting vistas for drivers; and avoidance of overly wide travel lanes or intersections.

POLICY ~~T-17-E-3~~ BUILDINGS CLOSE TO THE STREET: ~~Where pedestrian levels are high, buildings~~ Buildings should adjoin the sidewalk rather than be separated by parking spaces. Front walls of stores, offices, and restaurants should have large windows rather than blank walls, preferably shaded by awnings or canopies. Access to parking areas shall be off side streets wherever possible. The town’s Land Development Code shall implement these concepts ~~beginning in 1999.~~

POLICY ~~T-17-E-4~~ SIDEWALKS AND BIKEWAYS: The town shall work toward major expansion of sidewalks and bikeways. In addition to the next phase of Estero Boulevard sidewalks (see Policy 7-E-1 above), the town shall support the following projects:

- i. Support Lee County’s imminent plans to fill the gaps from Buccaneer to Estrellita Drive and from the Villa Santini Plaza to Bay Beach Lane using federal funds;
- ii. Initiate extensive improvements ~~by 1999~~ to Old San Carlos and Crescent Street in conjunction with parking improvements (see Policy ~~T-1-F-2~~ ~~7-F-2~~);
- iii. Initiate engineering studies ~~by 1999~~ for bikeways and additional sidewalks on the second side of Estero Boulevard and improved pedestrian crossings, including consideration of a pedestrian overpass at Times Square.

OBJECTIVE ~~T-17-F~~ OPTIMIZE THE PARKING SUPPLY — Off-island parking facilities served by convenient public transportation should be provided to meet peak-season demands. For year-around demand, the town shall provide additional on-island public parking spaces, based in part on a new peak- season occupancy survey of existing public parking spaces.

POLICY ~~T-17-F-1~~ ENCOURAGE SHARED PARKING LOTS: Parking lots serving a variety of land uses require much less space than separate on-site lots for each business. Shared lots waste less land and encourage walking because businesses aren’t separated by large parking lots. The town shall encourage shared parking lots when businesses are relatively small, are clustered together, and have different busy periods.

POLICY ~~T-17-F-2~~ SHARED PARKING NEAR TIMES SQUARE: The town shall strive to alleviate parking congestion and enhance accessibility for visitors and residents near Time Square by supporting or encouraging the development of shared parking facilities or a parking garage.

~~The Estero Island CRA recommended a reservoir of shared parking behind businesses along Old San Carlos and adding 165 on-street parking spaces near Times Square (although some of these spaces would merely replace spaces lost to new recreational facilities at Lynn Hall Park). The town shall investigate the feasibility of this concept in 1998-1999 and proceed toward implementation, or create an alternate plan that may include a parking garages near Times Square.~~

POLICY T-17-F-3 BETTER PARKING LOTS: Large parking lots or garages are usually more cost-efficient to build and maintain, but may not be the best solution for Fort Myers Beach. Disadvantages of large lots include high capital costs; the possibility of providing more parking than is needed or can be handled by the road system; and the unsightliness of most large parking lots and garages.

POLICY 7-F-4 DIRECT VISITORS TO AVAILABLE PARKING: Many visitors are unaware of existing parking lots; others would be dissuaded from driving if they were aware of the shortage of parking. Variable message signs can aid both situations. The town should encourage Lee County and FDOT to install these signs with information about all major parking areas, including the state park at Lovers Key.

OBJECTIVE T-17-G THE FUTURE OF THE BRIDGES — Match bridge capacity to Estero Island with the capacity of Estero Boulevard.

~~POLICY 7-G-1 ADEQUACY OF THE SKY BRIDGE: There is little evidence that traffic congestion at Fort Myers Beach is caused by any inadequacy of the Matanzas Pass Sky Bridge, which unlike Estero Boulevard has no interference from intersecting streets, parking spaces, or pedestrians crossing the street.~~

POLICY T-1-G-1 ~~7-G-2~~ CHANGES TO THE SKY BRIDGE: If parking lots at Bowditch Point or Times Square greatly increase demand for north-bound turns at the foot of the bridge, striping a third lane on the existing bridge might be considered, as might a reversible third lane during the peak season.

POLICY T-1-G-2 ~~7-G-3~~ RESPONSIBILITY FOR THE SKY BRIDGE: FDOT may be willing to turn over responsibility for the Sky Bridge to the Town of Fort Myers Beach. This would be advantageous to the town only if part of a congestion management system with peak-period tolls, off-island parking lots, and improved mass transit .

POLICY ~~7-G-4~~ ADDITIONAL BRIDGE CAPACITY: Additional bridge capacity should not be directed to Times Square (except for the potential re-striping in Policy ~~7-T-1-D-2~~). New lanes to Old San Carlos or Crescent Street would also be undesirable, as most congestion is caused by conditions on Estero Boulevard south of Times Square. Previously proposed bridges from Winkler Road or Coconut Road are infeasible from environmental and financial standpoints and need not be considered further.

OBJECTIVE T-17-H EXPERIMENT WIDELY — The town shall constantly search for innovative solutions to long-standing traffic problems and to new problems as they develop, and shall

coordinate its efforts with those of the Lee County Metropolitan Planning Organization. The town shall serve as a catalyst for traffic engineering experiments that would evaluate minor improvements that might improve traffic flow at Fort Myers Beach. Some potential improvements are described in the following policies.

POLICY T-17-H-1 PEDESTRIAN OVERPASSES: Although pedestrian overpasses are often ignored by pedestrians, an overpass providing a panoramic view of the Gulf might be attractive enough to reduce at-grade crossings at Times Square without discouraging foot traffic in this highly congested area. Even without an overpass, the pedestrian-actuated stop light may be replaceable with a flashing caution light to minimize effects of the crossing on traffic flow.

POLICY T-17-H-2 SAN CARLOS BOULEVARD: The five-laning of San Carlos Boulevard has created severe problems near the approach to the Sky Bridge. Creative experiments are needed to discourage drivers from using the right-hand lane, or side streets on San Carlos Island, to bypass the line of cars waiting to enter the bridge.

POLICY T-17-H-3 RESERVED

POLICY T-17-H-4 VARIABLE MESSAGE SIGNS: These signs could advise motorists of congestion delays as well as available parking. The town should urge the detailed study of this concept by Lee County, FDOT, and the Metropolitan Planning Organization.

POLICY T-17-H-5 ORIGIN/DESTINATION DATA: Better data is needed on the origins and destinations of motorists during the peak season, and the town supports the MPO's efforts to obtain this data.

POLICY T-17-H-6 TRANSPORTATION DEMAND MANAGEMENT: This part of a congestion avoidance strategy reduces the number of single-occupant vehicles during peak traffic periods, either by eliminating some trips completely, or by accommodating existing trips in fewer vehicles, or by moving some trips before or after the most congested periods. This strategy may alleviate peak-season traffic congestion if implemented aggressively in cooperation with area businesses.

POLICY T-17-H-7 DELIVERY VEHICLES: To avoid interference with traffic and pedestrian flow, the town shall develop a strategy to limit commercial deliveries during peak traffic periods. Redevelopment plans shall require loading plan with preference to off-street loading. No on-street loading permitted on Estero Blvd.

POLICY T-17-H-8 FLOODING: During periods of minor flooding, the town shall monitor the performance of roadside drainage systems on and off Estero Island to identify areas where an evacuation could be prematurely halted.

POLICY T-17-H-9 PROFESSIONAL ASSISTANCE: The town may wish to retain a creative traffic engineer to provide advice on these experiments on a continuing basis.

POLICY T-17-H-10 CONNECTIONS TO ESTERO BOULEVARD: An excessive number of streets and driveways have direct access to Estero Boulevard, reducing its ability to handle peak-season traffic. The town shall take advantage of any suitable opportunities to consolidate street connections into fewer access points onto Estero Boulevard.

OBJECTIVE T-17-I LEVEL-OF-SERVICE STANDARD — Maintain minimum acceptable levels of service for the transportation system.

POLICY T-17-I-1: Traffic congestion is a serious problem at Fort Myers Beach, caused by a combination of high tourism demand for its beaches and past over-building relative to road capacity. Neither factor is within the control of the Town of Fort Myers Beach, although its residents must tolerate congestion every winter. This comprehensive plan seeks to manage congestion levels and encourage alternate means of mobility including walking, bicycling, and trolleys.

POLICY T-17-I-2: The peak capacity of Estero Boulevard's congested segments is 1,300 vehicles per hour. The minimum acceptable level-of-service standard for Estero Boulevard shall be that average monthly traffic flows from 10:00 A.M. to 5:00 P.M. during each month do not exceed that level for more than four calendar months in any continuous twelve-month period. Measurements from the permanent count station at Donora Boulevard shall be used for this standard.

POLICY T-17-I-3: Figure 18 of this element is hereby adopted as the future transportation map of the Town of Fort Myers Beach.

OBJECTIVE T-17-J PROTECTING PUBLIC ACCESS — Although no future right-of-way needs have been identified, some existing town and county rights-of-way are substandard and few are wider than needed. The town shall review request to not vacate or acquiesce in the vacation of existing rights-of-way, and shall make efforts to ensure no recognized public access is negatively impacted by vacating the ~~except where no public purpose would be served by retaining the right-of-way.~~

POLICY T-17-J-1 RIGHTS-OF-WAY: Town and county rights-of-way are needed for the undergrounding of utilities; for the expansion of sidewalks and bike paths; for water accesses; for on-street parking; for public transit and road improvements; and for other public purposes. The town shall ~~strictly limit~~ consider limiting vacations of rights-of-way and easements to preserve future access for these purposes.

POLICY T-17-J-2 TRAFFIC IMPACT ANALYSES: A thorough traffic impact analysis is currently required only for major rezonings and very large development orders. The town shall amend its Land Development Code ~~during 2010 to:~~

- i. decrease the thresholds for requiring traffic impact analyses;
- ii. require them to study the cumulative impacts of potential development; and
- iii. use the results in assessing whether impacts are acceptable, and whether an improved design could offset some of the impacts.

UTILITIES ELEMENT

GOAL U-18: To improve the existing systems that provide safe drinking water, irrigation water, sewer service, and solid waste disposal in order to reduce environmental impacts on land and water while keeping costs as economical as possible.

OBJECTIVE U-1-8-A RELATIONS WITH UTILITIES — Increase the town's role in influencing utility providers about service alternatives, facility locations, and conservation of resources.

POLICY U-1-8-A-1 Mandatory customer connections to water and sewer utilities shall continue to be the policy of the Town of Fort Myers Beach.

POLICY U-1-8-A-2 When considering improvements to utility systems, utility companies should expect involvement by the ~~town~~ Town in evaluating alternatives and seeking the best interests of utility customers and other people and resources affected by those decisions.

POLICY U-1-8--A-3 The ~~town~~ Town shall seek a significant role in policy matters concerning Lee County Utilities' sewer service, based on the ~~town's~~ Town's dual roles as a major user of this service and its location directly downstream of any effluent discharges into tidal waters.

POLICY U-1-8--A-4 The ~~town's~~ Town's potable water supply distribution system is supplied by Lee County Utilities under terms set forth in a bulk water agreement approved in August 2001. Lee County Utilities has a long-term expansion plan that details existing and proposed uses of traditional and alternative water supply sources, in accordance with SFWMD's Lower West Coast Water Supply Plan Update (~~July 2006~~ December 2016). Lee County Utilities' expansion plan, the Water Supply Facilities Work Plan, was last updated in ~~July 2008~~ January 2016 and is incorporated herein by reference.

POLICY U-1-8--A-5 The ~~town~~ Town shares a common interest with Lee County government in ensuring that potable water supplies will be sufficient to meet future demands. The ~~town~~ Town will coordinate with Lee County on an ongoing basis on the following matters:

1. Analyzing peak season demands and providing sufficient allocations of water.
2. Using consistent population projections and level-of-service standards.
3. Conserving water by adopting a conservation rate structure (see Policy 8-C-6).
4. Implementing a leak detection program and replacing obsolete portions of the water supply system.

Policy U-1-A-6: The town shall collaborate with its utility service partners to promote green and environmentally friendly practices, fostering sustainability and environmental stewardship in the town's development.

OBJECTIVE U-1-8-B LEVELS OF SERVICE — Maintain minimum acceptable levels of service for potable water, sanitary sewer, and solid waste disposal.

POLICY U-1-8-B-1 The minimum acceptable level of service standards for utility services within the Town of Fort Myers Beach shall be:

i. for potable water service:

(a) available supply, treatment, and delivery capacity of 260 gallons per day per equivalent residential connection (ERC), and delivery of potable water at a minimum pressure of 20 pounds per square inch (psi) at the meter anywhere in the system.

(b) Prior to issuance of building permits, the town must obtain assurances from Lee County Utilities that an adequate bulk water supply will be available to the town's water distribution system to serve new development at these same rates.

ii. for sanitary sewer service: available capacity to collect, treat, and dispose of wastewater of 200 475 gallons per day per equivalent residential unit (ERU) or individually metered units, 160 GPD per multi-family, and 80 GPD per RV park unit. connection (ERC).

iii. for solid waste disposal service: the ability to collect and manage 7 pounds of municipal solid waste (or equivalent volume) per day per capita, pursuant to Lee Plan Policy 62.2.5 and Lee County Ordinance 17-19. per person per day.

~~An ERC is defined as the total number of meter equivalents using the methodology of the Florida Public Service Commission (and is synonymous with their use of the term "equivalent residential units"). ERCs are used to convert commercial and industrial water or sanitary sewer use into standard units that are based on typical rates of use in dwelling units.~~

POLICY U-1-8-B-2 The ~~town~~ Town will enforce these levels of service under the concurrency requirements of Florida law by requiring one of the following before issuance of development permits:

i. development orders or building permits

will be issued subject to the condition that, at the time of the issuance of a certificate of occupancy, the necessary facilities and services must be in place and available to serve the development being authorized; or

ii. at the time development orders or building permits are issued, the necessary facilities and services are guaranteed to be in place and available to serve the development at the time of issuance of a certificate of occupancy through an enforceable development agreement pursuant to Section 163.3220, *Florida Statutes*, or through an agreement or development order pursuant to Chapter 380, *Florida Statutes*.

POLICY U-1-8-B-3 The concurrency management system in the ~~town's~~ Town's Land Development

Code shall be amended to requirement the assessment of water supply capacity, in addition to treatment plant capacity, when determining compliance with the potable water level of service specified in Policy 8-B-1.

OBJECTIVE U-1-8-C WATER CONSERVATION — Take all reasonable steps to conserve potable water supplies, ~~aiming for a 10% per-capita reduction in water use by 2005.~~

POLICY U-1-8-C-1 The town shall, by resolution, encourage Lee County Utilities to expand its facilities and agreements for recycling treated wastewater for reuse as irrigation water; deep-well injection of surplus wastewater should be limited to emergency use only.

POLICY U-1-8-C-2 The town shall consult with the South Florida Water Management District to obtain suggestions on regulations to conserve water before adopting such regulations.

POLICY U-1-8-C-3 The town will use drought-tolerant vegetation, xeriscape techniques, recycled water, or other available methods for landscaping publicly owned lands, and encourages private landowners to do the same to reduce usage of potable water for irrigation purposes.

POLICY U-1-8-C-4 The town will continue to require, through its building codes, the use of water-saving plumbing fixtures in all new development and redevelopment.

POLICY U-1-8-C-5 The town will support public educational programs that encourage water conservation practices.

POLICY U-1-8-C-6 The town should consider implementing a strong conservation rate program where large water users pay a higher rate per gallon than is charged to frugal users.

OBJECTIVE U-1-8-D SOLID WASTE — Add recycling pickup at commercial enterprises, and maintain an efficient solid waste system that stresses recycling of reusable materials plus safe and efficient disposal of that which cannot be recycled.

POLICY U-1-8-D-1 The town will ensure the routine collection of residential and commercial wastes; special collections of bulky items; separate curbside and bulk collection of recyclable materials; and separate collection of yard wastes and construction debris.

POLICY U-1-8-D-2 The town will continue its participation in Lee County's program of recycling, incineration, and disposal of solid wastes.

POLICY U-1-8-D-3 The town will seek to expand the current program to collect recyclables from motels and other tourist lodgings, and to collect and recycle additional materials.

POLICY U-1-8-D-4 The town will consider an ordinance requiring mandatory recycling of solid waste if voluntary participation does not achieve standards set by state or regional agencies.

POLICY U-1-8-D-5 The town will evaluate methods of improving the cost-effectiveness of solid waste collection, and may consider franchising the collection process independently of Lee County.

POLICY U-1-8-D-6 The town will cooperate with Lee County in implementing programs to decrease the volume of solid waste requiring landfilling (e.g. source separation of material which can be reused, recycled, or disposed of in another manner). The town shall also support and assist in programs to reduce roadside litter and illegal dumping, such as Keep Lee County Beautiful' s annual coastal cleanups.

POLICY U-1-8-D-7 The town will cooperate with the Lee County in educating businesses and residents on the proper management of hazardous wastes and the provision of convenient disposal opportunities for the benefit of the town's citizens and visitors. This cooperation shall include distributing written material prepared by Lee County and publicizing their regular schedule of household hazardous waste collection days.

INTERGOVERNMENTAL COORDINATION

GOAL IGC14: To efficiently coordinate plans, policies, and public services among the many public and private agencies that play important community roles.

OBJECTIVE IGC-A14-ACOORDINATION OF PLANS — Ensure coordination of this comprehensive plan with comprehensive plans of Lee County and the Lee County School Board, other units of local government providing services but not having regulatory authority over the use of land, and with regional and state plans.

POLICY IGC- 14-A-1 The town will coordinate planning activities called for by this comprehensive plan with other local governments, the school board, other units of local government providing services but not having regulatory authority over the use of land, the regional planning council, and the state through informal coordination, working groups, workshops, joint meetings of governing boards, participation in coordinating organizations, special task forces, and by formal interlocal agreements as the need arises.

POLICY IGC- 14-A-2 In the areas where the town's comprehensive plan addresses the subject matter of the State Comprehensive Plan in Chapter 187 F.S. and/or the ~~1995~~ 2002 Southwest Florida Strategic Regional Policy Plan, the town's plan has been designed to be compatible with and further these plans. Future amendments to this plan shall maintain this compatibility. The town will incorporate into the land development code appropriate regulations to further attain mutually held objectives.

POLICY IGC- 14--A-3 Where conflicts with other entities cannot be resolved through discussion among those concerned or other means, the town shall consider resolution through interlocal agreements and/or the informal mediation process of the Southwest Florida Regional Planning Council.

POLICY IGC- 14--A-4 Pursuant to the 1996 amendments to Chapter 163.3177 F.S., the town shall cooperate with the Lee County and other municipalities within the county, the Lee County School Board and any unit of local government providing services in the county in the following activities:

- i. Developing principles and guidelines to be used in the accomplishment of coordination of the adopted comprehensive plans;
- ii. Describing joint processes for collaborative planning and decision-making on population projections and public school siting, the location and extension of public facilities subject to concurrency, and siting facilities with countywide significance

The town will cooperate in establishing, by interlocal or other formal agreement executed by all affected entities, the joint processes described above, pursuant to the schedule to be established by the state land planning agency.

POLICY IGC- 14--A-5 The town will coordinate with Lee County and the South Florida Water Management District to ~~insure~~ ensure that this Comprehensive Plan remains consistent with Lee County's Water Supply Facilities Work Plan (~~last updated in July 2008~~) and SFWMD's ~~2017~~2005–2006 Lower West Coast Water Supply Plan Update (~~approved on July 12, 2006~~). The town commits to updating this Comprehensive Plan in accordance with statutory timeframes, ~~which in 2009 required this update within 18 months after SFWMD updates or amends its 2006 Lower West Coast Water Supply Plan Update.~~

OBJECTIVE IGC-B COORDINATION OF SERVICES — Ensure coordination among relevant entities in establishing level-of-service standards for public facilities, providing for efficient delivery of services, monitoring progress toward goals, and constructing improvements.

POLICY IGC- 14--B-1 Along Old San Carlos and Estero Boulevard, ~~T~~the town would like to see major power lines placed underground to protect the lines, to avoid interruptions to evacuation due to fallen lines, and to improve the visual experience for tourists and residents.

POLICY ~~IGC- 14--B-2~~ Level-of-service standards for public facilities, as specified in Policies 2-A through 2-D of the Capital Improvements Element, have been coordinated with the level-of-service standards of entities operating these facilities. Future amendments to these standards shall be similarly coordinated.

POLICY ~~IGC- 14--B-3~~ To foster coordination with special districts, the town shall review the annual public facilities report prepared by special districts pursuant to Section 189.415, F.S.

POLICY ~~IGC- 14--B-4~~ The Town Council shall appoint a committee ~~by 1999~~ to evaluate the relationship between the town and the three independent special districts and suggest whether efficiencies could be achieved through closer cooperation.

POLICY ~~IGC- 14--B-5~~ The town shall continue to cooperate with Lee County's process of monitoring for conflicts in level-of-service standards for public facilities, and shall help resolve any conflicts.

POLICY ~~IGC- 14--B-6~~ The town shall work closely with public and private service providers to coordinate expected utility improvements with roadway projects and/or become a party to the county's interlocal agreement with such entities.

POLICY ~~IGC- 14--B-7~~ The town shall seek a significant role in policy matters concerning Lee County Utilities' sewer service, based on the town's dual roles as a major user of this service and its location directly downstream of any effluent discharges into tidal waters.

OBJECTIVE ~~IGC- 14-C~~ COORDINATION OF NEW DEVELOPMENT — Work closely with Lee County in evaluating and addressing the effects of new development.

POLICY ~~IGC- 14-C-1~~ ~~During 1998, resolve the current~~ Resolve any ambiguity over the county's and town's roles in collecting and spending road impact fees.

POLICY ~~IGC- 14-C-2~~ In cooperation with Lee County, establish a process and enter into interlocal agreements as needed to address the following:

- i. Impacts of proposed new development or re-development in Lee County outside the town's boundaries which may impact the town's levels of service, natural resource standards, evacuation times, or other significant impacts.
- ii. Impacts, if any, of development proposed in the town's comprehensive plan upon development in the adjacent county area.
- iii. Resolution of annexation issues that may arise.
- iv. Implementation of joint planning areas and/or joint infrastructure service areas.
- v. Procedure for notification and exchange of information regarding changes in land use or zoning and/or other issues potentially affecting the area adjacent to the town's boundaries.

OBJECTIVE ~~IGC-14-D~~ COORDINATION OF IMPLEMENTATION — Promote cooperative solutions to multi-jurisdictional problems and opportunities through active participation in coordinating entities, strengthening coordination mechanisms, leading by example (particularly through timely implementation of the policies of the town's comprehensive plan), and fostering community involvement in implementing this plan.

POLICY ~~IGC- 14-D-1~~ The town shall continue to participate actively in the Lee County Metropolitan Planning Organization and ~~intends to join~~ the Southwest Florida Regional Planning Council.

POLICY IGC-14-D-2 The town shall continue to participate in relevant coordinating entities sponsored by the regional planning council such as:

- i. Southwest Florida Chief Administrative Officers
- ii. Regional Harbor Board
- iii. Estero Bay Agency on Bay Management
- iv. Beach Restoration working group convened by WCIND, SWFRPC, and Lee County Coastal Advisory Council
- v. Southwest Florida Issues Group of the Governor's Commission for a Sustainable South Florida
- vi. Charlotte Harbor National Estuary Program

POLICY IGC-14-D-3 The town shall continue to foster close cooperation among WCIND, SFWMD, DEP, FGFWFC, DCA, other state and federal agencies as appropriate, Lee County, local task forces, non-profit organizations and volunteer groups to implement the policies of the town's comprehensive plan.

POLICY IGC-14-D-4 The town shall actively participate in efforts that promote the consistent and coordinated management of bays, estuaries, and harbors that fall under the jurisdiction of more than one local government through the entities described in Policies 5- D-1/2/3 and specifically by implementing Policy 5-F-1 of the Coastal Management Element initiating a cooperative planning process for Matanzas Pass and surrounding waterways by 1998.

POLICY IGC-14-D-5 The town shall coordinate implementation of the comprehensive plan with the programs and permitting requirements of all relevant regional, state, and federal agencies and shall support the regulatory and enforcement efforts of those agencies by requiring applicants for development orders to obtain approval from these other agencies prior to the city's authorizing commencement of development activities.

POLICY IGC-14-D-6 The town will continue cooperating with Lee County over appropriate long-term responsibilities, cost sharing, and the transition process for county-owned facilities within the jurisdictional boundaries of the town, formalizing resolution of these matters through interlocal agreements.

POLICY IGC-14-D-7 The town shall continue to coordinate informally with the Fort Myers Beach Elementary School and the Fort Myers Beach Library District to address mutual needs.

POLICY IGC-14-D-8 The town will exchange information with the Fort Myers Beach Fire Control District and solicit input from the fire district on development proposals.

POLICY IGC-14-D-9 The town will consider joining the Lee County Regional Water Supply Authority.

POLICY IGC-14-D-10 Should the need for a new permanent dredge spoil disposal site arise, the town will coordinate with Lee County and the West Coast Inland Navigational District and resolve conflicts between the town and a public agency seeking a dredge spoil disposal site through the Coastal Resources Interagency Management Committee's dispute resolution process.

**Town of Fort Myers Beach
Agenda Item Summary**

Yellow Sheet Number: **2024-14**

1. Request:

Meeting Date: April 9, 2024

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING AND RESTATING ORDINANCE 23-05 TO PERMIT A TEMPORARY USES IN CERTAIN ZONING DISTRICTS IN RESPONSE TO, AND AS A PART OF THE TOWN'S RECOVERY EFFORTS FOLLOWING A NATURAL DISASTER OR OTHER EMERGENCY SITUATION: 1) BY A GOVERNMENTAL ENTITY FOR THE BENEFIT OF THE PUBLIC; 2) FOR RESIDENTIAL MANUFACTURED HOMES, MOBILE HOMES, MOTOR HOMES, RECREATIONAL VEHICLES OR OTHER TEMPORARY DWELLINGS FOR RESIDENTIAL PURPOSES; AND 3) FOR MOVEABLE COMMERCIAL STRUCTURES FOR THE DELIVERY AND SALE OF NEEDED GOODS AND SERVICES TO THE PUBLIC; PROVIDING FOR CONFLICT OF LAW, SCRIVENER'S ERRORS, SEVERABILITY, SUNSETTING OF THIS ORDINANCE, AND PROVIDING FOR AN EFFECTIVE DATE.

Why the action is necessary:

Eliminate confusion related to administrative approvals of temporary placement permits for residential, commercial and governmental uses.

What the action accomplishes:

Provides clarification and codification of the existing procedures, requirements for temporary placement permits, consistent with the town council's intent at the time Ordinance 23-05 was adopted.

2. Agenda:

PUBLIC HEARINGS

3. Requirement/Purpose:

As directed by the Town Council

5. Background:

Review and recommend for approval of a draft ordinance to clarify the town council's prior intent to allow temporary placement permits in certain zoning districts for governmental, commercial and residential uses following a natural disaster or emergency, and to codify general conditions of approval that have been previously applied by town staff following Hurricane Ian.

Discussion by the town council also included consideration of whether an area could be identified where temporary commercial uses, which may not have existed prior to Hurricane Ian, could be permitted to operate. The example of a food truck court in existence in other communities was used to further elaborate on this topic.

At the March 7, 2024 Management and Planning Meeting, the Town Council discussed the manner in which temporary placement permits (Ordinance 23-05) were approved. It became clear that the town council's intent when Ordinance 23-05 was adopted following Hurricane Ian was not clearly reflected in the adopted ordinance. The draft ordinance clarifies the town council's prior intent and also codifies requirements previously contained in the application for a temporary placement permit. It is prospective in application and doesn't adversely impact any previously approved temporary placement permits. To date, 159 residential temporary placement permits, 2 governmental temporary placement permits, and 46 commercial temporary placement permits remain active.

Attachments:

1. LPA Ordinance 24-05 Emergency Temporary Uses
2. Temporary Placement Application -11-7-2023

Financial Impact:

6. **Alternative Action**

7. **Staff Recommendations:**

Approve.

8. **Recommended Approval:**

Sarah Propst, Planning & Zoning

Date: April 05, 2024

nancy stuparich, Town Attorney

Date: April 05, 2024

Amy Baker, Town Clerk

Date: April 05, 2024

ORDINANCE 24-__

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING AND RESTATING ORDINANCE 23-05 TO PERMIT A TEMPORARY USES IN CERTAIN ZONING DISTRICTS IN RESPONSE TO, AND AS A PART OF THE TOWN'S RECOVERY EFFORTS FOLLOWING A NATURAL DISASTER OR OTHER EMERGENCY SITUATION: 1) BY A GOVERNMENTAL ENTITY FOR THE BENEFIT OF THE PUBLIC; 2) FOR RESIDENTIAL MANUFACTURED HOMES, MOBILE HOMES, MOTOR HOMES, RECREATIONAL VEHICLES OR OTHER TEMPORARY DWELLINGS FOR RESIDENTIAL PURPOSES; AND 3) FOR MOVEABLE COMMERCIAL STRUCTURES FOR THE DELIVERY AND SALE OF NEEDED GOODS AND SERVICES TO THE PUBLIC; PROVIDING FOR CONFLICT OF LAW, SCRIVENER'S ERRORS, SEVERABILITY, SUNSETTING OF THIS ORDINANCE, 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 recognizes that recovery and redevelopment of the Town, following a natural disaster, such as Hurricane Ian creates a need for temporary uses in areas that were not damaged in order to provide goods and services to the public

WHEREAS, the Town adopted Ordinance 23-05 following Hurricane Ian and desires to revise the Ordinance in order to clarify its intent at the time of adoption, facilitate continued recovery and have more detailed regulations in place in the event of a future natural disaster or emergency; and

WHEREAS, a public hearing was held before the Local Planning Agency (LPA) on April 9, 2024, at time which the LPA gave full and complete consideration of the request, recommendations by staff, the documents in the record, and the testimony of all interested persons, and the LPA voted ___, to recommend approval of this Ordinance; and

WHEREAS, on _____, the Town Council held a first reading of the proposed Ordinance and gave full and complete consideration to the recommendation of the LPA, the recommendation of staff, the documents in the record, and the testimony of all interested persons to amend Ordinance 23-05 as provided herein; and

WHEREAS, a Business Impact Estimate was prepared and posted on the City's website

on the ____ day of _____, 2024, as required by Section 166.041(4), Florida Statutes; and

WHEREAS, an advertisement of the public hearing for adoption of the Ordinance was published in the _____ on the ____ day of _____, 2024, which is 10 days prior to the second reading of the proposed Ordinance as required by Section 166.041; and

WHEREAS, on the ____ day of _____, 2024, the Town Council held a second reading of the Ordinance; at which time the Town Council gave full and complete consideration to the recommendations of staff and the LPA, and the testimony of all interested persons; and

WHEREAS, the Town finds that it is in the best interests of the health, safety, and welfare of the Town's business owners, residents, and visitors to allow for the temporary use of property in certain zoning districts for residential, commercial and governmental purposes. .

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, 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. The Town Council determines that adoption of the following interim regulations is in the best interests of the health, safety, and welfare of the Town's business owners, residents, and visitors, which regulations shall read as follows:

**Temporary ~~Placement of Emergency Governmental, Uses,~~
~~Residential (Manufactured Homes, Mobile Homes, Motor~~
~~Homes, Recreational Vehicles Other Temporary Residential~~
~~Dwelling) or Temporary Moveable Commercial Uses following~~
~~Natural Disasters or Other Emergencies~~Units**

- (1) ~~An emergency~~ Governmental, ~~use,~~ residential
(manufactured home, mobile home, motor home,
recreational vehicle, or other temporary unit), or moveable
commercial uses may be permitted on a limited basis by the
issuance of a temporary emergency placement permit
(ETPP) by the Town.
- (2) Unless otherwise provided in this Ordinance, any emergency
governmental use, residential (manufactured home, mobile
home, motor home, recreational vehicle, or other temporary
residential dwelling) or moveable commercial use unit shall
be removed from the site 1) no later than ~~within~~ thirty (30)

^{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.

days after issuance of a certificate of occupancy or certificate of use associated with an the approved permit; 2) or at the time of the expiration of the ETPP as provided herein; or 3) at the time of expiration of any local or state declaration of emergency or law, whichever is earlier. The ETPP shall not be used for the purpose of short-term commercial or residential rental for new businesses or tenants, who did not otherwise have a business or residence in the town prior to the natural disaster or emergency. placing and operating a Short Term Rental.

A. A TPP may be granted as indicated below:

- (i) **Governmental Use.** Within any Commercial or Institutional Zoning District, a TPP may be issued for the purpose of providing an emergency governmental use to provide an essential governmental services or aid to -the public adversely impacted due to a natural disaster, or emergency. adverse weather or other acts of God.
- (ii) **Residential Use.** Within any Commercial, Institutional or Residential Zoning District, a TPP may be issued for the purposes of placing a manufactured home, mobile home, motor home, recreational vehicle, or other temporary unit for displaced owner-occupants or tenants if their existing living unit(s) has/have become uninhabitable due to adverse weather damage or other acts of God. Habitability of the existing residential unit(s) shall be determined by an inspection by the City building official, Florida certified building inspector, architect, or engineer, and subject to the following requirements and restrictions:
 - (a) No more than one (1) manufactured home, mobile home, motor home, recreational vehicle, or other temporary unit shall be allowed per living unit, for single family and two-family homes. Additional units may only be allowed with approval of a waiver by the Town Council. For

condominium units, the HOA must apply for any temporary placement permits and provide evidence of an appropriate location with individual utilities for each temporary unit.

- (b) The TPP shall only be allowed while the damaged living unit is uninhabitable and in the process of repair or a replacement living unit is in the process of being constructed.
- (c) Placement of a manufactured home, mobile home, motor home, recreational vehicle, or other temporary unit on a site must meet all State requirements for tie-downs. Mobile homes shall be installed by a licensed mobile home contractor and in accordance with requirements of Florida Statutes and the Florida Building Code.
- (d) Only verified residents of Fort Myers Beach may be granted a TPP.

(iii) **Commercial Uses.** Within Commercial zoning districts, a ETPP may be issued to an owner or lessee of the property to operate a business that was existing on the property prior to the natural disaster or emergency or a similar new business. A new business or change in use dissimilar to the use that was in existence prior to the natural disaster or emergency, by an owner or lessee of the property, is not eligible for a ETPP.

1. A permit applicant for a commercial use must have a Lee County Tax-ID.

2. Vehicles and structures placed on commercial lots must be setback by no less than the width of the vehicle/structure (i.e. track width) and may not protrude into the right-of-way.

3. Food Service Kitchens are permitted on their brick-and-mortar

commercial site that is zoned for that type of activity.

4. Structures which are not on wheels must be tied-down on a stabilized surface or secured with appropriate helical piles, or other method to resist hydro-dynamic forces.

5. Vehicles must be on wheels and be able to quickly disconnect utility connections and be towed by a light utility vehicle.

6. No more than one commercial use may occur on the property unless more than one use existed on the property prior to the natural disaster or emergency.

~~(iii)~~(iv) **Review Period/Extension.** All approved The ETPPs shall be issued in increments of six (6) months subject to by review by of the Town and shall not be issued for a period exceeding eighteen (18) months from the date of this ordinance adoption. The Town may, however, grant extensions to a ETPP permit exceeding eighteen (18) months if a ETPP permit holder demonstrates that a significant hardship exists. The Town Manager or designee shall decide if a hardship exists based upon evidence provided by the permit holder that they have exercised all due diligence in obtaining permits either for repair or replacement of the affected structure. The Town Manager may consider whether the applicant has had difficulties in completing insurance claims, obtaining an architect or engineer, obtaining construction materials, or obtaining a contractor, and if relevant, whether they have had difficulty in obtaining grants or loans to assist in repair or replacement of the affected structure, other identified extenuating circumstances, or state of emergency extension or state law.

~~(iv)~~(v) The holder of the TPP shall apply for a building permit for the damaged or destroyed dwelling unit no later than six (6) months

~~after the date of this ordinance adoption. The Town Manager or designee may, however, grant extensions to this deadline requirement based upon evidence provided by the property owner that they have exercised all due diligence in obtaining permits either for repair or replacement of the affected structure. The Town Manager may consider whether the applicant has had difficulties in completing insurance claims, obtaining an architect or engineer, obtaining construction materials, or obtaining a contractor, and if relevant, whether they have had difficulty in obtaining grants or loans to assist in repair or replacement of the affected structure.~~

(v) ~~Noncompliance.~~ Noncompliance with regulations contained herein, or any other applicable federal law/regulations, state law or town code may result in revocation of the ETPP, including but not limited to noise, debris removal, fire safety, lighting, parking in the right-of-way etc. Any requested deviation of a requirement contained in the existing town code shall require approval by the town council.

(vi) ~~The~~ occupants of any the manufactured home, mobile home, motor home, recreational vehicle, or other temporary residential unit and owners and lessees of commercial properties must comply with all mandatory federal, state and local hurricane evacuation requirements. Failure to do so may result in the revocation of the ETPP or code enforcement action.

3. Submission Requirements:

- A. A completed ETPP application providing details of the specific desired temporary use and specifications; and
- B. Map or other documentation indicating the proposed location of the manufactured home, mobile home,

motor home, recreational vehicle, or other temporary residential unit or commercial use; and

- C. State Department of Health, State Department of Environmental Protection, and Town permit(s) authorizing the connection of the manufactured home, mobile home, motor home, recreational vehicle, or other temporary residential unit or commercial structure to an on-site or existing community wastewater treatment system and power source. Commercial structures must obtain a Trade permit from the Building Department.

(i) A temporary power pole connection is required. An appeal of this requirement may be made to the Town Manager or designee.

4. An ETPP may include additional conditions of approval unique to the request. An appeal of any administrative decision made under this Ordinance may be made pursuant to the provisions found in Section 34-86 of the Town's Land Development Code.

5. This ordinance shall apply to ETPPs issued subsequent to the date of its adoption and sunset as provided in Section 6.

Section 3. Whenever the requirements or provisions of this Ordinance conflict with the requirements or provisions of any other lawfully adopted Town Code provision, ordinance, or statute, this Ordinance shall apply.

Section 4. Any typographical errors that do not affect the intent of this Ordinance may be corrected with notice to and authorization of the Town Manager without further process.

Section 5. 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 6. Absent extension of this Ordinance in accordance with State law, Executive Order 22-218, and the Town Code, this Ordinance shall terminate effective within 30 days eighteen months (18) from its effective date and shall be of no further force or effect after such date.

Section 7. This Ordinance shall become effective upon adoption by the Town Council.

The foregoing Ordinance was adopted by the Town Council upon a motion by Council Member Council Member Veach and seconded by Vice Mayor Atterholt, and upon being put to a roll call

vote, the result was as follows:

Dan Allers, Mayor	aye	_____
Jim Atterholt, Vice Mayor	aye	_____
John R. King, Council Member	aye	_____
Scott Stafford Bill Veach , Council Member	_____	aye _____
Karen Woodson, Council Member	aye	_____

ADOPTED this 15th day of May 20243, by the Town Council of the Town of Fort Myers Beach, Florida.

TOWN OF FORT MYERS BEACH

Dan Allers, 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 ONLY:**

Vose Law Firm John R. Herin, Jr., Town Attorney

This Ordinance was filed in the Office of the Town Clerk on this ____ day of _____, 2023.



Temporary Placement Application

Emergency Uses, Manufactured Homes, Mobile Homes, Recreational Vehicles Other
Temporary Residential Dwelling or Temporary Movable Commercial Units
Email application to temporaryuse@fmbgov.com

Property Address: _____
Property Owner's Name: _____ Strap Number: _____
Contractor (required for approved FEMA/FDEM Temp House): _____
Phone # 1: _____ Phone # 2: _____
Email: _____
Effective Date Requested: _____ Do You Require A New Water-Meter (Y/ N): _____
If RV - Make and Model: _____ Vehicle/ Dimensions: Length: _____
Width: _____ Height: _____ Tag #: _____ Expiration date: _____

Choose RV Type:

- | | | |
|---|---|---|
| ☐ Class A Park Model | ☐ Pop Up Camper | ☐ Food Service Kitchen (must supply FL DBPR license) |
| ☐ Class B | ☐ Travel Trailer | ☐ Temp House (FEMA/ FDEM) |
| ☐ Class C | ☐ Truck Camper | ☐ Outdoor Sales/ Display |
| ☐ Fifth Wheel | ☐ Storage Trailer/ Pod | ☐ Other _____ |
| ☐ Park Model | ☐ Food Truck (must supply FL DBPR license) | |

SUBMITTAL REQUIREMENTS

- A. A completed Temporary Placement Application
- B. Map or other documentation indicating the proposed location of the manufactured home, mobile home, motor home, recreational vehicle, or other temporary residential unit; and
- C. Temp power and sewer connection must be permitted by submitting a Trade permit application.

REGULATIONS

- D. The applicant must be the property owner/commercial tenant of the lot and the vendor must have a Lee County Tax-ID; or with the Town's consent, have the permission of the property owner to operate at that location (permission must be supplied with registration form).
- E. All vehicles and structures must be completely on the lot and may not extend into the public right-of-way.
- F. Vehicles and structures placed on commercial lots must be setback by no less than the width of the vehicle/structure (i.e. track width) from any property line and not protrude into the right of way.
- G. Food Service Kitchens are permitted on their brick-and-mortar commercial site that is zoned for that type of activity.
 - a. Other retail stores may not accommodate food trucks.
- H. Structures which are not on wheels must be tied-down on a stabilized surface or secured with appropriate helical piles, or other method to resist hydro-dynamic forces.
- I. Vehicle and mobile home must be on wheels and be able to quickly disconnect utility connections and be removed from the property after a hurricane watch has been issued.



Temporary Placement Application

**Emergency Uses, Manufactured Homes, Mobile Homes, Recreational Vehicles Other
Temporary Residential Dwelling or Temporary Movable Commercial Units**
Email application to temporaryuse@fmbgov.com

REQUIREMENTS AND RESTRICTIONS:

- A. The temporary unit shall be removed from the site within thirty (30) days after issuance of a certificate of occupancy or certificate of use associated with the approved permit, or at the time of the expiration of the TPP, whichever is earlier. TPP shall not be used for the purpose of placing and operating a Short Term Rental.
- B. Within any Commercial, Institutional or Residential Zoning District, a TPP may be issued for the purposes of placing a manufactured home, mobile home, motor home, recreational vehicle, or other temporary unit for displaced owner-occupants or tenants if their existing living unit(s) has/have become uninhabitable due to adverse weather damage or other acts of God.

Restrictions:

- 1. No more than one (1) manufactured home, mobile home, motor home, recreational vehicle, or other temporary unit shall be allowed per living unit, for single-family and two-family homes. Additional units may only be allowed with approval of a waiver by the Town Council.
- 2. The TPP shall only be allowed while the damaged living unit is uninhabitable and in the process of repair or a replacement living unit is in the process of being constructed.
- 3. Placement of a manufactured home, mobile home, motor home, recreational vehicle, or other temporary unit on a site must meet all State requirements for tie-downs. Mobile homes shall be installed by a licensed mobile home contractor and in accordance with the requirements of Florida Statutes and the Florida Building Code.
- 4. Only verified residents of Fort Myers beach may be granted a TPP.
- 5. The TPP shall be issued in increments of six (6) months by review of the Town and shall not be issued for a period exceeding eighteen (18) months from the date of this ordinance adoption. The Town may, however, grant extensions to a TPP permit exceeding eighteen (18) months if a TPP permit holder demonstrates that a significant hardship exists. The Town Manager or designee shall decide if a hardship exists based upon evidence provided by the permit holder that they have exercised all due diligence in obtaining permits either for repair or replacement of the affected structure. The Town Manager may consider whether the applicant has had difficulties in completing insurance claims, obtaining an architect or engineer, obtaining construction materials or obtaining a contractor, and if relevant, whether they have had difficulty in obtaining grants or loans to assist in repair or replacement of the affected structure.



Temporary Placement Application

**Emergency Uses, Manufactured Homes, Mobile Homes, Recreational Vehicles Other
Temporary Residential Dwelling or Temporary Movable Commercial Units**
Email application to temporaryuse@fmbgov.com

6. The holder of the TPP shall apply for a building permit for the damaged or destroyed dwelling unit no later than six (6) months after the date of this ordinance adoption. The Town Manager or designee may, however, grant extensions to this deadline requirement based upon evidence provided by the property owner that they have exercised all due diligence in obtaining permits either for repair or replacement of the affected structure. The Town Manager may consider whether the applicant has had difficulties in completing insurance claims, obtaining an architect or engineer, obtaining construction materials or obtaining a contractor, and if relevant, whether they have had difficulty in obtaining grants or loans to assist in repair or replacement of the affected structure.
7. Noncompliance may result in revocation of the TPP.
8. The occupants of the manufactured home, mobile home, motor home, recreational vehicle, or other temporary residential unit must comply with all mandatory hurricane evacuation requirements. Failure to do so may result in the revocation of the TPP.

The undersigned applicant agrees to comply with the Town of Fort Myers Beach Land Development Code and any other applicable codes and certifies that to the best of his/her knowledge, the information submitted for the temporary permit is true and correct. Any unregistered temporary use will be subject to \$500 per incident per day through code enforcement.

Signature (property owner/authorized agent)_____ Date: _____

Typed or printed name_____

Signature (Lease Holders)_____ Date: _____

Typed or printed name_____

**Town of Fort Myers Beach
2525 Estero Blvd. Fort Myers Beach, FL 33931
Email application to temporaryuse@fmbgov.com**

**Town of Fort Myers Beach
Agenda Item Summary**

Yellow Sheet Number: **2024-15**

1. Request:

Meeting Date: April 9, 2024

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING SECTION 34-232 "REQUIRED HEARINGS" OF DIVISION 5 "PUBLIC HEARINGS AND REVIEW" OF ARTICLE II "ZONING PROCEDURES" OF CHAPTER 34 "ZONING DISTRICTS, DESIGN STANDARDS AND NONCONFORMITIES" TO REQUIRE ONLY ONE PUBLIC HEARING BEFORE THE LOCAL PLANNING AGENCY ("LPA") FOR VARIANCES AND EXTENSIONS, EXCEPT IF THE DECISION BY THE LPA IS NOT UNANIMOUS OR IF THE TOWN CLERK RECEIVES A REQUEST BY ANYONE FOR AN ADDITIONAL HEARING BEFORE THE TOWN COUNCIL WITHIN 10 DAYS AFTER THE LPA DECISION; A PUBLIC HEARING BEFORE THE TOWN COUNCIL IS REQUIRED FOR VARIANCES OR EXTENSIONS IF THE DECISION BY THE LPA IS NOT UNANIMOUS OR IF ANYONE REQUESTS SUCH HEARING WITHIN 10 DAYS AFTER THE LPA DECISION; PROVIDING FOR CODIFICATION, SEVERABILITY, SCRIVENER ERRORS, CONFLICTS OF LAW AND AN EFFECTIVE DATE.

Why the action is necessary:

The Town Council has shown an interest in looking at methods of expediting non-controversial land use requests to assist with the rebuilding efforts of the Town. The LPA makes determinations of consistency of proposed ordinances with the Town's adopted Comprehensive Plan.

What the action accomplishes:

This proposed Ordinance would eliminate the need for a second public hearing before the Town Council if a land use approval for variances or an extension/satisfaction of condition is unanimously approved by the LPA and no one requests a second hearing before the Town Council as to the request within ten calendar days after the LPA meeting. This would potentially expedite non-controversial requests and potentially save the expense of having an owner representative appear at two public hearings.

If the ordinance is approved, the town council directed that the LPA inform the public during the public hearing of the opportunity to request a second hearing before the town council. Notice of the opportunity shall also be included in the LPA written agenda.

2. Agenda:

PUBLIC HEARINGS

3. Requirement/Purpose:

As directed by the Town Council

5. Background:

Review and recommend for approval a draft ordinance to eliminate an additional public hearing before the Town Council for certain land use applications for variances, or extensions or evidence of satisfaction of conditions in prior approvals, when the LPA's decision is unanimous and there is no request for an additional hearing by anyone at the LPA public hearing.

At the March 7, 2024 Management and Planning Meeting, the Town Council reviewed a draft ordinance, which would potentially eliminate the need for an additional public hearing before the Town Council for variances, which were unanimously recommended by the LPA without any concerns raised by members of the public. Thereafter at a subsequent public meeting, Town Council directed the Town Attorney to add requests for extensions, which currently require review by both the LPA and the Town Council, to only require review by the LPA under similar circumstances. Additionally, satisfaction of conditions could also be considered for approval with only one public hearing before the LPA, which has also been added.

Attachments:

1. Expedited Variance Review Ordinance 24-06

Financial Impact:

6. **Alternative Action**

Recommend denial.

7. **Staff Recommendations:**

8. **Recommended Approval:**

Sarah Propst, Planning & Zoning

Date: April 05, 2024

Nancy Stuparich, Town Attorney

Date: April 05, 2024

nancy stuparich, Town Attorney

Date: April 05, 2024

Amy Baker, Town Clerk

Date: April 05, 2024

ORDINANCE NO. 24-06

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING SECTION 34-232 “REQUIRED HEARINGS” OF DIVISION 5 “PUBLIC HEARINGS AND REVIEW” OF ARTICLE II “ZONING PROCEDURES” OF CHAPTER 34 “ZONING DISTRICTS, DESIGN STANDARDS AND NONCONFORMITIES” TO REQUIRE ONLY ONE PUBLIC HEARING BEFORE THE LOCAL PLANNING AGENCY (“LPA”) FOR VARIANCES AND EXTENSIONS, EXCEPT IF THE DECISION BY THE LPA IS NOT UNANIMOUS OR IF THE TOWN CLERK RECEIVES A REQUEST BY ANYONE FOR AN ADDITIONAL HEARING BEFORE THE TOWN COUNCIL WITHIN 10 DAYS AFTER THE LPA DECISION; A PUBLIC HEARING BEFORE THE TOWN COUNCIL IS REQUIRED FOR VARIANCES OR EXTENSIONS IF THE DECISION BY THE LPA IS NOT UNANIMOUS OR IF ANYONE REQUESTS SUCH HEARING WITHIN 10 DAYS AFTER THE LPA DECISION; PROVIDING FOR CODIFICATION, SEVERABILITY, SCRIVENER ERRORS, CONFLICTS OF LAW 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, Section 34-232 of the Town’s Land Development Code currently requires 2 public hearings for variance applications, one before the local planning agency (“LPA”) and one before the town council; and

WHEREAS, in the recent past a number of variance and other land use requests have been unanimously approved by the LPA for consistency with the Town of Fort Myers Beach Comprehensive Plan and Land Development Code with no opposition from the public or adjacent property owners; and

WHEREAS, the time and expense of requiring a second public hearing before the town council unless such a hearing is needed is in conflict with the town’s efforts to rebuild the community; and

WHEREAS, notwithstanding the need to expedite the rebuilding of the town, there may be situations where issues arise during the LPA meeting, which may require further evaluation by the town council; and

WHEREAS, a public hearing of this Ordinance was held before the LPA on the 9th day of April, 2024, at which time the LPA gave full and complete consideration of the request, recommendations by staff, the documents in the record, and the testimony of all interested persons, and made a finding of consistency with the Fort Myers Beach Comprehensive Plan and Land Development Code and thereafter voted ___ to ___, to recommend approval of this Ordinance amending the referenced section of the Land Development Code to the town council; and

WHEREAS, on the ___ day of _____, 2024, the town council held a first reading of the Ordinance and gave full and complete consideration to the request of the proposed ordinance to amend Section 34-232 of the Land Development Code, the recommendation of the local planning agency, the recommendation of staff, the documents in the record, and the testimony of all interested persons; and

WHEREAS, a Business Impact Estimate was prepared and posted on the City’s website on the ___ day of _____, 2024, as required by Section 166.041(4), Florida Statutes; and

WHEREAS, an advertisement of the public hearing for adoption of the Ordinance was published in the _____ on the ___ day of _____, which is 10 days prior to the second reading of the proposed Ordinance as required by Section 166.041, Florida Statutes; and

WHEREAS, on the ___ day of _____, 2024, the Town Council held a second reading of the Ordinance; and

WHEREAS, the Town Council determined by a vote of ___ to ___ that adoption of the Ordinance as provided herein is in the best interest of the health, safety and welfare of the public.

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

Section 1. That 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. That Section 34-232 “Required Hearings” of Division 5 “Public Hearings and Review” of Article II “Zoning Procedures” of Chapter 34 “Zoning Districts, Design Standards and Nonconformities is hereby amended as follows:

Section 34-232 – Required hearings.

(a) Amendment or adoption of land use ordinances.

(1) Any proposed amendment to this chapter or to any land use ordinance, or adoption of any new land use ordinance, shall be enacted pursuant to the requirements set forth in F.S. § 166.041.

(2) Prior to a final required hearing by the town council, the local planning agency shall review the amendment at a public hearing.

(b) *Owner-initiated requests.* Owner-initiated requests for ~~rezonings, variances,~~ special exceptions, and developments of regional impact require one public hearing before the local planning agency and one public hearing before the town council.

(c) Owner-initiated requests. Owner-initiated requests for rezonings and development agreements require one public hearing before the local planning agency and two public hearings before the town council

(d) Owner-initiated requests for variances, or required reviews to extend or to provide evidence of satisfaction of conditions contained in prior land use approvals, that are:

a) unanimously approved by the local planning agency, and

b) where there is no request for an additional public hearing before the town council made by anyone that is received by the town clerk within 10 business days after the date of the local planning agency decision, excluding holidays,

only require one public hearing before the local planning agency, and the local planning agency decision is final agency action.

If the decision by the local planning agency is not unanimous or if there is a timely request made for an additional public hearing before the town council, the owner-initiated request for variances or required reviews to extend or to provide evidence of satisfaction of conditions contained in prior land use approvals, shall require public hearings before the local planning agency and before the town council.

~~(e)~~(c) Town-initiated requests. Town-initiated requests for rezonings, variances, special exceptions, and developments of regional impact require one public hearing before the local planning agency and:

(1) Applications covering less than ten abutting acres of land will require a single public hearing before the town council.

(2) Applications covering more than ten abutting acres of land will require two public hearings before the town council in accordance with F.S. § 166.041.

Section 3. That the town council intends that the provisions of this ordinance be made a part of the Fort Myers Beach Land Development Code, 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 4. Whenever the requirements or provisions of this Ordinance conflict with the requirements or provisions of any other lawfully adopted ordinance or statute, the most restrictive shall apply.

Section 5. 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 6. This Ordinance shall become effective upon adoption by the town council.

The forgoing Ordinance was adopted by the town council upon a motion by _____ and seconded by _____, and upon being put on a roll call vote, the results was as follows:

Dan Allers, Mayor	_____
Jim Atterholt, Vice Mayor	_____
John R. King, Council Member	_____
Karen Woodson, Council Member	_____
Scott Stafford, Council Member	_____

ADOPTED this ____ day of _____, 2024 by the town council of the Town of Fort Myers Beach, Florida.

TOWN OF FORT MYERS BEACH

Dan Allers, 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 ONLY:**

Vose Law Firm, Town Attorney

This Ordinance was filed in the Office of the Town Clerk on this ____ day of _____, 2024.

