Fort Myers Beach Town Council

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

AMENDED Agenda **Monday, September 9, 2024** **9:00 AM**

ORDER OF BUSINESS

I. CALL TO ORDER

II. INVOCATION

III. PLEDGE OF ALLEGIANCE

IV. APPROVAL OF FINAL AGENDA

V. PUBLIC COMMENT

VI. LOCAL ACHIEVEMENTS AND RECOGNITIONS

VII. ADVISORY COMMITTEES ITEMS / REPORTS / APPOINTMENTS

VIII. APPROVAL OF MINUTES

A. Emergency Town Council - August 5, 2024

B. Town Council - August 19, 2024

IX. CONSENT AGENDA

A. Resolutions 24-162 through 24-165; Extending Local State of Emergency for Hurricane Ian

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING AND EXTENDING THE PROCLAMATION THAT A STATE OF LOCAL EMERGENCY EXISTS BECAUSE OF THE CATASTROPHIC IMPACTS CAUSED BY HURRICANE IAN; PROVIDING FOR CONFLICTS; PROVIDING FOR SCRIVENER ERRORS, PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

B. Resolutions 24-166 through 24-169; Extending Local State of Emergency for Hurricane Idalia

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, EXTENDING THE DECLARATION OF STATE OF LOCAL EMERGENCY DUE TO HURRICANE IDALIA; PROVIDING THE TOWN WITH POWERS, INCLUDING, BUT NOT LIMITED TO THOSE PURSUANT TO FLORIDA STATUTES, CHAPTER 252, AND TOWN CODE

CHAPTER 2, ARTICLE VI; PROVIDING FOR PENALTIES FOR VIOLATIONS; PROVIDING FOR CONFLICTS, SEVERABILITY, AND FOR AN EFFECTIVE DATE AND A TERMINATION DATE.

C. Resolutions 24-170 through 24-173; Extending Local State of Emergency for Tropical Storm Debby

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, EXTENDING THE DECLARATION OF STATE OF LOCAL EMERGENCY DUE TO TROPICAL STORM DEBBY PROVIDING THE TOWN WITH POWERS, INCLUDING, BUT NOT LIMITED TO THOSE PURSUANT TO FLORIDA STATUTES, CHAPTER 252, AND TOWN CODE CHAPTER 2, ARTICLE VI; PROVIDING FOR PENALTIES FOR VIOLATIONS; PROVIDING FOR CONFLICTS, SEVERABILITY, AND FOR AN EFFECTIVE DATE AND A TERMINATION DATE.

X. ITEMS REMOVED FROM CONSENT AGENDA

XI. PUBLIC HEARINGS

A. Resolution 24-xx; VAR20240100, 51 Pearl Street

Applicant has requested a continuance to a later date. A RESOLUTION OF THE TOWN OF FORT MYERS BEACH APPROVING WITH CONDITIONS VARIANCE 20240100, REQUESTING VARIANCES FROM LDC TABLE 34-3 OF 13 FEET FROM THE STREET SETBACK FOR A FRONT SETBACK OF 12 FEET, A VARIANCE OF 3 FEET FROM THE WEST SIDE SETBACK FOR A SIDE SETBACK OF 4 FEET 6 INCHES FOR THE MECHANICAL EQUIPMENT AND BALCONY AND ANOTHER VARIANCE OF 15.11% FROM THE BUILDING COVERAGE FOR A BUILDING COVERAGE OF 55.11% TO BUILD A NEW SINGLE FAMILY STRUCTURE IN THE RM ZONING DISTRICT, FOR THE PROPERTY LOCATED AT 51 PEARL STREET, FORT MYERS BEACH, FLORIDA; AND PROVIDING FOR AN EFFECTIVE DATE.

B. Ordinance 24-18; DCI20240143, 1668 I St, Beach Bar

Second reading and Public Hearing on proposed Ordinance 24-18 entitled: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING A REQUEST TO REZONE THE PROPERTY LOCATED AT 1668 I STREET, GENERALLY IDENTIFIED AS STRAP NUMBER 19-46-24-W4-0070B.0110 FORT MYERS BEACH, FROM DOWNTOWN TO COMMERCIAL PLANNED DEVELOPMENT (CPD) ZONING, WITH DEVIATIONS, FOR A BAR AND RESIDENCE; PROVIDING FOR OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

C. Ordinance 24-20; Margaritaville

First Reading and Public Hearing on a proposed ordinance entitled: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING TOWN OF FORT MYERS BEACH ORDINANCE NO. 24-01, AND APPROVING DEVIATIONS FOR THE COMMERCIAL PLANNED

DEVELOPMENT ZONING FOR THE PROPERTY LOCATED AT 1170, 1180/1192, 1204/1206 ESTERO BLVD., 251 CRESCENT ST., 1150 FIFTH ST. AND UNADDRESSED PARCELS, PARCELS GENERALLY IDENTIFIED AS STRAP NUMBERS 24-46-23-W3-00205.0070 (MCP PARCEL #3), 24-46-23-W3-00006.0000 (MCP PARCEL #1), 24-46-23-W3-00206.0060 (MCP PARCEL #1), 24-46-23-W3-00009.0000 (MCP PARCELS #2 AND #5), 19-46-24-W4-U0494.2609 (MCP PARCEL #2), 24-46-23-W3-00205.0070, 19-46-24-W4-U0491.2610 (MCP PARCEL #2), 19-46-24-W4-0140B.0070 (MCP PARCELS #2 AND #5), 19-46-24-W4-U0496.2608 (MCP PARCEL #2), AND 19-46-24-W4-U0498.2607 (MCP PARCELS #2 AND #6) FORT MYERS BEACH; PROVIDING FOR OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE. Open the public hearing and schedule for second reading and final adoption on September 23, 2024 at 6:00 PM.

D. Ordinance 24-10; Comprehensive Plan Adoption Hearing

Continued from August 19, 2024
Second Reading, Adoption and Final Public Hearing of an Ordinance Entitled: 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.

E. Ordinance 24-17; Advisory Committees

Second Reading and Final Public Hearing of an Ordinance entitled: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING SECTION 2-94 "QUALIFICATIONS AND APPOINTMENTS OF MEMBERS" AND SECTION 2-96 "REMOVAL OF AGENCY, BOARD, COMMITTEE OR COMMISSION MEMBERS" OF DIVISION 2 "PROCEDURES FOR THE ESTABLISHMENT OF BOARDS, COMMITTEES AND COMMISSIONS" OF ARTICLE IV "BOARDS, COMMISSIONS, COMMITTEES AND OTHER AGENCIES" OF CHAPTER 2 "ADMINISTRATION" AND SECTION 34-113 "COMPOSITION,

APPOINTMENT AND COMPENSATION OF MEMBERS" OF DIVISION 3 "LOCAL PLANNING AGENCY" OF ARTICLE II "ZONING PROCEDURES" OF CHAPTER 34 "ZONING DISTRICTS, DESIGN STANDARDS AND NONCONFORMITIES" OF THE CODE OF ORDINANCES OF THE TOWN OF FORT MYERS BEACH, FLORIDA, REMOVING PROPERTY OWNERSHIP AS A QUALIFICATION REQUIREMENT FOR THE MEMBERS OF THE TOWN'S AGENCIES, BOARDS, COMMITTEES OR COMMISSIONS, INCLUDING THE TOWN'S LOCAL PLANNING AGENCY; ELIMINATING DUPLICATIVE LANGUAGE; ADDING A GRANDFATHER PROVISION FOR CURRENT NON-QUALIFYING MEMBERS OF THE TOWN'S BOARDS, AGENCIES, COMMISSIONS, AND COMMITTEES; ADDING A PROVISION TO SECTION 34-113, REGARDING THE MANDATORY ANNUAL FINANCIAL DISCLOSURE FORM AS REQUIRED BY THE FLORIDA COMMISSION ON ETHICS; PROVIDING FOR CODIFICATION, SEVERABILITY, SCRIVENER'S ERRORS, CONFLICTS OF LAW, AND AN EFFECTIVE DATE.

F. Resolution 24-178; Updating Town Council Procedure and Policy Manual

A RESOLUTION OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING SECTIONS 2 AND 5 OF THE TOWN'S POLICIES AND PROCEDURES MANUAL TO MAKE IT CONSISTENT WITH ELIGIBILITY REQUIREMENTS FOR MEMBERS OF THE TOWN'S AGENCIES, BOARDS, COMMITTEES AND COMMISSIONS AND TO UPDATE REFERENCE TO REQUIRED FINANCIAL DISCLOSURE FORMS; AND PROVIDING FOR AN EFFECTIVE DATE.

G. Ordinance 24-19; Amendment for Immobilization Payment Options

First Reading and Public Hearing on proposed Ordinance 24-19 entitled AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING SECTION 28-30 "IMMOBILIZATION AND IMPOUNDING OF ILLEGALLY PARKED VEHICLES" OF DIVISION 1 "GENERALLY" OF ARTICLE II "STOPPING, STANDING AND PARKING" OF CHAPTER 28 "TRAFFIC AND VEHICLES" OF THE CODE OF ORDINANCES OF THE TOWN OF FORT MYERS BEACH, TO INCLUDE THE ACCEPTED METHODS OF PAYMENT OF ANY FINES AND CHARGES RELATED TO ILLEGAL PARKING AND IMMOBILIZATION OF ILLEGALLY PARKED VEHICLES; PROVIDING FOR CODIFICATION, SEVERABILITY, SCRIVENER'S ERRORS, CONFLICTS OF LAW, AND AN EFFECTIVE DATE. Open the public hearing and schedule for second reading and final adoption on September 23, 2024 at 6:00 PM.

H. Ordinance 24-25; Public Camping or Sleeping

First Reading and Public Hearing on proposed Ordinance 24-25 entitled: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING CHAPTER 16, ARTICLE I OF THE CODE OF ORDINANCES OF THE TOWN OF FORT MYERS BEACH BY CREATING SECTION 16-1 "PUBLIC CAMPING OR SLEEPING ON ANY PUBLIC PROPERTY, PUBLIC BUILDING, OR PUBLIC RIGHT-OF-WAY PROHIBITED," AND

AMENDING ARTICLE IV OF CHAPTER 32, TO REMOVE SECTIONS 32-70 "APPLICABILITY," 32-71 "INTENT," AND 32-72 "PROHIBITED"; PROVIDING FOR CODIFICATION, SEVERABILITY, SCRIVENER'S ERRORS, CONFLICTS OF LAW, AND AN EFFECTIVE DATE. Open the public hearing and schedule for second reading and final adoption on September 23, 2024 at 6:00 PM.

I. Ordinance 24-24; Building Coverage Instead of FAR

First Reading and Public Hearing of an ordinance entitled: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING 1) TABLE 34-3 TITLED "DIMENSIONAL REGULATIONS IN CONVENTIONAL ZONING DISTRICTS" IN CHAPTER 34, ARTICLE III, DIVISION 4 TO CREATE NOTE (10) TO PROVIDE THAT DETACHED SINGLE-FAMILY AND TWO-FAMILY HOMES WITHOUT A COMMERCIAL USE, IN ANY CONVENTIONAL ZONING DISTRICT WHERE THAT USE IS ALLOWED, MAY BE EVALUATED BY BUILDING COVERAGE RATHER THAN FAR; 2) SECTION 34-675(C) IN CHAPTER 34, ARTICLE III, DIVISION 5 TO PROVIDE THAT BUILDING INTENSITY OF COMMERCIAL AND MIXED-USE BUILDINGS SHALL BE EVALUATED USING FLOOR AREA RATIO (FAR) AND DETACHED SINGLE-FAMILY AND TWO-FAMILY RESIDENCE INTENSITY SHALL BE EVALUATED USING BUILDING COVERAGE NOT TO EXCEED 40% IN THE DOWNTOWN ZONING DISTRICT; 3) SECTION 34-683 IN CHAPTER 34, ARTICLE III, DIVISION 5 RELATED TO THE CREATION OF NEIGHBORHOOD CENTERS IN THE SANTINI ZONING DISTRICT TO PROVIDE THAT DETACHED SINGLE-FAMILY AND TWO-FAMILY RESIDENCE BUILDING COVERAGE SHALL NOT EXCEED 40%; 4) SECTION 34-693 IN THE VILLAGE ZONING DISTRICT REGULATIONS TO PROVIDE THAT COMMERCIAL AND MIXED-USE BUILDING INTENSITY SHALL BE EVALUATED USING FLOOR AREA RATIO (FAR) AND DETACHED SINGLE-FAMILY AND TWO-FAMILY RESIDENCE INTENSITY SHALL BE EVALUATED USING BUILDING COVERAGE AND SHALL NOT EXCEED 40%; 5) SECTION 34-705 IN THE CB ZONING DISTRICT TO PROVIDE THAT FOR COMMERCIAL AND MIXED-USE DEVELOPMENTS FLOOR AREA RATIOS SHALL NOT EXCEED 1.0 AND BUILDING COVERAGE FOR DETACHED SINGLE-FAMILY AND TWO-FAMILY RESIDENCES, BUILDING COVERAGE SHALL NOT EXCEED 40%; PROVIDING FOR SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS; CONFLICTS OF LAW; AND PROVIDING AN EFFECTIVE DATE. Open the public hearing and set the second reading and final hearing for September 23, 2024 at 6:00 PM

J. Emergency Ordinance 24-29; Unsafe Building Appeals

First and Final Reading and Public Hearing on proposed Emergency Ordinance entitled: AN EMERGENCY ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING 1) DIVISION 3 "UNSAFE BUILDING ABATEMENT CODE" OF ARTICLE I "PROPERTY

MAINTENANCE CODES"; AND 2) DIVISION 2 "LEE COUNTY'S BOARDS OF ADJUSTMENT AND APPEALS" OF ARTICLE II "BUILDING CODES" OF CHAPTER 6 "MAINTENANCE CODES, BUILDING CODES AND COASTAL REGULATIONS" OF THE LAND DEVELOPMENT CODE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, TO AMEND EXISTING PROVISIONS RELATED TO APPEALS OF THE BUILDING OFFICIAL'S DECISIONS; DIVESTING THE LEE COUNTY CONSTRUCTION BOARD OF ADJUSTMENT AND APPEALS OF THE RESPONSIBILITY FOR REVIEW OF APPEALS OF THE TOWN BUILDING OFFICIAL'S DECISIONS INCLUDING BUT NOT LIMITED TO DETERMINATION OF AN UNSAFE BUILDING; AUTHORIZING THE TOWN OF FORT MYERS BEACH SPECIAL MAGISTRATES TO HEAR APPEALS OF THE TOWN'S BUILDING OFFICIAL'S DECISIONS; PROVIDING FOR NON-CODIFICATION, SEVERABILITY, SCRIVENER ERRORS, CONFLICTS OF LAW, AND AN EFFECTIVE DATE.

K. Ordinance 24-30; Unsafe Building Code Appeals

First Reading and Public Hearing on proposed Ordinance entitled: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING: 1) DIVISION 3 "UNSAFE BUILDING ABATEMENT CODE" OF ARTICLE I "PROPERTY MAINTENANCE CODES"; AND 2) DIVISION 2 "LEE COUNTY'S BOARDS OF ADJUSTMENT AND APPEALS" OF ARTICLE II "BUILDING CODES" OF CHAPTER 6 "MAINTENANCE CODES, BUILDING CODES AND COASTAL REGULATIONS" OF THE LAND DEVELOPMENT CODE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, TO AMEND EXISTING PROVISIONS RELATED TO APPEALS OF THE BUILDING OFFICIAL'S DECISIONS; DIVESTING THE LEE COUNTY CONSTRUCTION BOARD OF ADJUSTMENT AND APPEALS OF THE RESPONSIBILITY FOR REVIEW OF APPEALS OF THE TOWN BUILDING OFFICIAL'S DECISIONS INCLUDING BUT NOT LIMITED TO DETERMINATION OF AN UNSAFE BUILDING; AUTHORIZING THE TOWN OF FORT MYERS BEACH SPECIAL MAGISTRATES TO HEAR APPEALS OF THE TOWN'S BUILDING OFFICIAL'S DECISIONS; PROVIDING FOR CODIFICATION, SEVERABILITY, SCRIVENER ERRORS, CONFLICTS OF LAW, AND AN EFFECTIVE DATE. Open the public hearing and schedule for second reading and final adoption on September 23, 2024 at 6:00 PM.

L. Resolution 24-180; Schmucker Special Magistrate Second Amendment

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, APPROVING A SECOND AMENDMENT TO THE AGREEMENT FOR SPECIAL MAGISTRATE SERVICES BETWEEN THE TOWN AND MONICA SCHMUCKER, TO PROVIDE SERVICES FOR APPELLATE REVIEW OF THE TOWN BUILDING OFFICIAL'S DECISIONS AS MAY BE REQUIRED UNDER THE TOWN CODE; ADDING REQUIRED STATUTORY PROVISIONS RELATED TO COERCION OF LABOR OR SERVICES TO THE AGREEMENT; AND PROVIDING FOR AN EFFECTIVE

DATE.

M. Resolution 24-181; DOAH First Amendment

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, APPROVING A FIRST AMENDMENT TO THE ADMINISTRATIVE LAW JUDGE SERVICES BETWEEN THE TOWN AND DEPARTMENT OF ADMINISTRATIVE HEARINGS TO PROVIDE SERVICES FOR APPELLATE REVIEW OF THE TOWN BUILDING OFFICIAL'S DECISIONS AS MAY BE REQUIRED UNDER THE TOWN CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

XII. ADMINISTRATIVE AGENDA

A. Resolution 24-177; STA 38 Carlos Circle

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH AUTHORIZING THE TOWN MANAGER OR HIS DESIGNEE TO APPROVE STA 38 IN THE AMOUNT OF 145,990.00 WITH TETRA TECH UNDER CONTRACT NO. 22-25-AD FOR TIER 1 PROJECT CARLOS CIRCLE AND ANY ASSOCIATED DOCUMENTS; AND PROVIDING FOR AN EFFECTIVE DATE.

B. Resolution 24-179; Town Hall Emergency Elevator Repairs

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, APPROVING THE EMERGENCY ACCEPTANCE AND PURCHASE BY THE TOWN MANAGER OF SERVICES FROM GENERAL ELEVATOR SOLUTIONS IN THE AMOUNT OF $139,553.00 FOR THE COMPLETION OF A HYDRAULIC ELEVATOR MODERNIZATION FOR THE NEW TOWN HALL BUILDING; AND PROVIDING AN EFFECTIVE DATE.

C. Special Event: Revive the Vibe Fest 2024

Requesting approval of a special event permit for the Revive The Vibe Fest 2024 on Saturday, September 14, 2024. Requesting approval to close First through Third Streets off of Old San Carlos Blvd, allowing for open containers and allowing amplified sound, contingent upon approval of the Lee County Sheriffs Office and FMB Fire District.

D. FY24-25 Benefit Renewal

Town of Fort Myers Beach Insurance Plan Year 24-25 Renewal Overview

E. Authorize Auditor Engagement Letters

Authorize the Town Manager to execute the Engagement Letters with Mauldin & Jenkins to provide independent external auditor services for Fiscal Year 2024.

F. Town CEMP Administrative Updates

Town Comprehensive Emergency Management Plan (CEMP) Administrative Updates and Input

G. Angela Crist - USF Institute of Government

Town Council Strategic Planning Proposal Input

NEW H. Resolution 24-182; Implementing FEMA letter dated July 19, 2024

A RESOLUTION OF THE TOWN OF FORT MYERS BEACH, FLORIDA, DIRECTING THE TOWN MANAGER TO IMPLEMENT ALL REQUIREMENTS SET FORTH IN A LETTER DATED JULY 19, 2024, FROM THE FEDERAL EMERGENCY MANAGEMENT AGENCY ("FEMA"); AND PROVIDING FOR AN EFFECTIVE DATE.

NEW I. 24-183, Resolution Authorizing Town Manager to Sign FEMA CDL Application

A RESOLUTION TO AUTHORIZE THE TOWN MANAGER OF THE TOWN OF FORT MYERS BEACH, TO REQUEST A LOAN UNDER THE COMMUNITY DISASTER LOAN PROGRAM OF THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) FOR A MAXIMUM AMOUNT OF $4,081,357, TO DRAW UPON IF NEEDED TO FUND ESSENTIAL GOVERNMENT SERVICES AS A RESULT OF LOST REVENUES, TO RECEIVE AND MANAGE THESE FUNDS, AND FOR OTHER PURPOSES; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

XIII. FINAL PUBLIC COMMENT

XIV. TOWN MANAGER'S ITEMS

XV. TOWN ATTORNEY'S ITEMS

XVI. COUNCILMEMBERS ITEMS AND REPORTS

XVII. 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 Emergency Town Council

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

Minutes **Monday, August 5, 2024** **9:00 AM**

ORDER OF BUSINESS

I. CALL TO ORDER

Members present: Mayor Allers, Vice Mayor Atterholt, Council Member King, Council Member Safford and Council Member Woodson.

II. PUBLIC COMMENT

No public comment.

III. ADMINISTRATIVE AGENDA

A. Resolution 24-154; Local State of Emergency, Tropical Storm Debby

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, DECLARING A STATE OF LOCAL EMERGENCY DUE TO THE APPROACH OF TROPICAL STORM DEBBY; PROVIDING THE TOWN WITH POWERS, INCLUDING, BUT NOT LIMITED TO THOSE PURSUANT TO FLORIDA STATUTES, CHAPTER 252, AND TOWN CODE CHAPTER 2, ARTICLE VI; PROVIDING FOR PENALTIES FOR VIOLATIONS; PROVIDING FOR CONFLICTS, SEVERABILITY, AND FOR AN EFFECTIVE DATE AND A TERMINATION DATE

Mayor Allers read the title of the resolution. Town Manager Hyatt explained why the resolution was necessary and how staff cleaned up after the storm. He reported that the radios worked perfectly. Operations & Compliance Director Frankie Kropacek described how the tier 1 streets would be affected and how the outfalls worked. Mayor Allers asked the community to be patient with the dump trucks and sweep cleaners on the roads. Director Kropacek cautioned people about rip currents. Mayor Allers added that people should wear shoes on the beach due to washed-up debris. Culture, Parks & Recreation Director Jeff Hauge reported that staff were shoveling a lot of sand, especially around the drains.

Council Member King moved to approve the resolution, seconded by Council Member Safford.
The motion carried unanimously by roll call vote.

DRAFT

IV. ADJOURNMENT

Council Member King moved to adjourn, seconded by Mayor Allers.
The motion carried unanimously.

The meeting was adjourned at 9:15 a.m.

DRAFT

Fort Myers Beach Town Council

Bay Oaks Recreation Center
2731 Oak Street
Fort Myers Beach, FL 33931

Minutes **Monday, August 19, 2024** **9:00 AM**

ORDER OF BUSINESS

DRAFT

I. CALL TO ORDER

Members present: Mayor Allers, Vice Mayor Atterholt, Council Member King, Council Member Safford and Council Member Woodson.

II. INVOCATION

Town Clerk Baker.

III. PLEDGE OF ALLEGIANCE

IV. APPROVAL OF FINAL AGENDA

Council Member King moved to approve the amended final agenda, seconded by Council Member Woodson.
The motion carried unanimously.

V. PUBLIC COMMENT

Bill Veach, resident, congratulated Jennifer Rusk and MERTF (Marine and Environmental Resources Task Force) for creating the activity book. He noted that he received many complaints regarding replacing planted spaces with fabric and rock and discussed creating impervious surfaces.

VI. LOCAL ACHIEVEMENTS AND RECOGNITIONS

Council Member Safford recognized Al Durrett and his family and described Mr. Durrett's character.
Council Member Woodson echoed Council Member Safford's comments. She stated that the activity book was fun and very educational. She recognized Town Manager Hyatt and his team for their hard work and persistence regarding purchasing the new Town Hall.

Vice Mayor Atterholt (partially inaudible) indicated that St. Rafael's did a good job restoring the church. He recognized Council Member Safford for laying sod and helping to clean up the area. The church will hold a ceremony on Friday, August 23, at 11:30 to announce an Ian memorial plaque and garden.

Council Member King thanked the town manager, staff and attorneys for securing the new Town Hall and recognized Sen. Martin and Rep. Botana for helping to secure the funds.

Mayor Allers stated that Mr. Durrett was a one-of-a-kind person. He thanked the staff for filling the hole on the beach and reminded people not to dig holes.

VII. ADVISORY COMMITTEES ITEMS / REPORTS / APPOINTMENTS

Jennifer Rusk, MERTF member, presented the activity book for children and listed where they were available. The beach school received 175 last week. She thanked Town Manager Hyatt, staff and MERTF for assisting with the creation.

The pop-up events will continue every other Saturday in September at the Farmer's Market. She noted that she would reapply to participate in MERTF. She described Mr. Durrett and mentioned he was her first friend on the island and would be sorely missed in the community.

A. Tidal Basin Update

Adrian LaBlanc described the role of Tidal Basin. He stated that eight projects were obligated at just under $20 million and they were working on an additional 22 projects at $28 million. The state is now reviewing the obligated projects. Mr. LaBlanc indicated that they were applying for $50 million in total. He explained the obligation process and noted the categories were work to be completed and work completed. FEMA will provide a fixed-cost estimate for the pool and the town could agree with the figure or offer a counteroffer. He described the difference between a PA project and a 428, a fixed-cost offer program. He listed the current projects that FEMA obligated and pending projects. He provided a list of all the projects.

Diedrik Bissett from hazard mitigation noted there were 47 applicants for elevation and 59 applicants for reconstruction. He described the 404 program and noted it was a separate bucket of money. He stated it was imperative that work not be started before the projects were approved. He indicated that all required paperwork had been submitted to FEMA and was under review. Additional details were on the website.

VIII. APPROVAL OF MINUTES

A. Town Council - August 7, 2024

The paragraph at the bottom of Page 5 was repeated on the top of Page 6.

Len Januzik represented his company, J&L Resources Inc. Although Tom Sylke is an attorney, he did not participate in that capacity; he represented his company, Electric Island Systems.

Council Member King moved to approve the amended minutes, seconded by Council Member Safford.
The motion carried unanimously.

B. Management & Planning Session - August 7, 2024
Council Member King moved to approve the minutes, seconded by Council Member Safford.
The motion carried unanimously.

IX. CONSENT AGENDA
No items.

X. ITEMS REMOVED FROM CONSENT AGENDA

XI. PUBLIC HEARINGS
Town Attorney Stuparich explained the quasi-judicial procedures. Town Clerk Baker confirmed that the agenda item was properly noticed, and she swore in those providing testimony.

A. Ordinance 24-17; Advisory Committees

**** ITEM TO BE RESCHEDULED TO SEPTEMBER 9, 2024 9:00 AM MEETING DUE TO ADVERTISING REQUIREMENTS**

Second Reading and Final Public Hearing of an Ordinance entitled: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING SECTION 2-94 "QUALIFICATIONS AND APPOINTMENTS OF MEMBERS" AND SECTION 2-96 "REMOVAL OF AGENCY, BOARD, COMMITTEE OR COMMISSION MEMBERS" OF DIVISION 2 "PROCEDURES FOR THE ESTABLISHMENT OF BOARDS, COMMITTEES AND COMMISSIONS" OF ARTICLE IV "BOARDS, COMMISSIONS, COMMITTEES AND OTHER AGENCIES" OF CHAPTER 2 "ADMINISTRATION" AND SECTION 34-113 "COMPOSITION, APPOINTMENT AND COMPENSATION OF MEMBERS" OF DIVISION 3 "LOCAL PLANNING AGENCY" OF ARTICLE II "ZONING PROCEDURES" OF CHAPTER 34 "ZONING DISTRICTS, DESIGN STANDARDS AND NONCONFORMITIES" OF THE CODE OF ORDINANCES OF THE TOWN OF FORT MYERS BEACH, FLORIDA, REMOVING PROPERTY OWNERSHIP AS A QUALIFICATION REQUIREMENT FOR THE MEMBERS OF THE TOWN'S AGENCIES, BOARDS, COMMITTEES OR COMMISSIONS, INCLUDING THE TOWN'S LOCAL PLANNING AGENCY; ELIMINATING DUPLICATIVE LANGUAGE; ADDING A GRANDFATHER PROVISION FOR CURRENT NON-QUALIFYING MEMBERS OF THE TOWN'S BOARDS, AGENCIES, COMMISSIONS, AND COMMITTEES; ADDING A PROVISION TO SECTION 34-113, REGARDING THE MANDATORY ANNUAL FINANCIAL DISCLOSURE FORM AS REQUIRED BY THE FLORIDA COMMISSION ON ETHICS; PROVIDING FOR CODIFICATION, SEVERABILITY, SCRIVENER'S ERRORS, CONFLICTS OF LAW, AND AN EFFECTIVE DATE.

Rescheduled to September 9, 2024, at 9 00 a.m.

B. Ordinance 24-18; DCI20240143, 1668 I St, Beach Bar

First reading and Public Hearing on proposed Ordinance 24-19 entitled: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING A REQUEST TO REZONE THE PROPERTY LOCATED AT 1668 I STREET, GENERALLY IDENTIFIED AS STRAP NUMBER 19-46-24-W4-0070B.0110 FORT MYERS BEACH, FROM DOWNTOWN TO COMMERCIAL PLANNED DEVELOPMENT (CPD) ZONING, WITH DEVIATIONS, FOR A BAR AND RESIDENCE; PROVIDING FOR OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.
Open the public hearing and schedule for second reading and final adoption on September 9, 2024 at 9:00 AM.

Mayor Allers read the title of the resolution. Ex parte communications: Council Member Safford - familiar with the property; Council Member Woodson - familiar with the property; Mayor Allers - familiar with the property and conversations with the applicant; Council Member King - knows where the property is located; and Vice Mayor Atterholt - none. The applicants confirmed receipt of the agenda and background materials.

Community Development Planner Sarah Propst reviewed the background of the request as stated in the blue sheet. She noted the LPA (Local Planning Agency) unanimously recommended approval.

James Ink represented the applicants and noted they were asking for one deviation. Slides in his presentation included Request Statement, South Downtown, Future Land Use Plan, Current Survey, Master Site Plan, Property Regulations, Schedule of Uses, Deviation Request, The Neighborhood, Conditions and Request Statement.

Mayor Allers pointed out that they were decreasing density.

Greg Boyd, owner, described the structure's interior and noted that the restrooms and cooler would be on wheels for easy evacuation. He expected construction to take eight months to complete.

No public comment.

Council Member Safford moved to approve the ordinance and send it to a second reading on September 9, 2024 at 9:00 a.m., seconded by Vice Mayor Atterholt.

The motion carried unanimously by roll call vote.

C. Ordinance 24-19; Amendment for Immobilization Payment Options

1st Reading and Public Hearing on proposed Ordinance 24-19 entitled AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING SECTION 28-30 "IMMOBILIZATION AND IMPOUNDING OF ILLEGALLY PARKED VEHICLES" OF DIVISION 1 "GENERALLY" OF ARTICLE II "STOPPING, STANDING AND PARKING" OF CHAPTER 28 "TRAFFIC AND VEHICLES" OF THE CODE OF ORDINANCES OF THE TOWN OF FORT MYERS BEACH, TO INCLUDE THE ACCEPTED METHODS OF PAYMENT OF ANY FINES AND CHARGES RELATED TO ILLEGAL PARKING AND IMMOBILIZATION OF ILLEGALLY PARKED

VEHICLES; PROVIDING FOR CODIFICATION, SEVERABILITY, SCRIVENER'S ERRORS, CONFLICTS OF LAW, AND AN EFFECTIVE DATE. Open the public hearing and schedule for second reading and final adoption on September 9, 2024 at 9:00 AM.

Rescheduled to September 9, 2024 at 9:00 a.m.

D. Ordinance 24-10; Comprehensive Plan Adoption Hearing

Second Reading, Adoption and Final Public Hearing of an Ordinance Entitled: 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.

Mayor Allers read the title of the ordinance.

Public comment:

Jim Ink represented the Woman's Club and noted that their property may be changed to commercial boulevard. He wanted to ensure that the change did not create a problem with existing entitlements.

Bill Veach, resident, discussed the multiplier regarding the density of commercial properties by right. He indicated that corresponding LDC (Land Development Code) changes went along with the plan and cautioned that until the changes were made, a window was open.

Public comment closed.

Council Member King moved to continue to September 9, 2024, seconded by Council Member Woodson.

The motion carried unanimously by roll call vote.

XII. ADMINISTRATIVE AGENDA

A. Resolution 24-160; Estero Island Shore Protection Project

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, AUTHORIZING TOWN STAFF TO SUBMIT A FUNDING REQUEST TO FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION FOR THE ESTERO ISLAND SHORE PROTECTION PROJECT; AND AUTHORIZING LOCAL MATCHING FUNDS FOR FUNDING RECEIVED FROM THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION; AND PROVIDING FOR AN EFFECTIVE DATE

Mayor Allers read the title of the resolution.
Environmental Projects Manager Chadd Chustz described the reason for the request.

Council Member King moved to approve the resolution, seconded by Council Member Safford.
The motion carried unanimously by roll call vote.

B. Resolution 24-153; Budget Amendment #6 - Purchase of New Town Hall and Acceptance of Grant

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, LEE COUNTY, FLORIDA, APPROVING ACCEPTANCE OF FLORIDA DEPARTMENT OF COMMERCE GRANT FOR NEW TOWN HALL; APPROVING A GRANT AGREEMENT WITH THE STATE OF FLORIDA; APPROVING A REQUIRED BUDGET ADJUSTMENT (#6); AUTHORIZING THE MAYOR OR TOWN MANAGER TO SIGN ANY AND ALL NECESSARY DOCUMENTS TO ACQUIRE THE GRANT; AND PROVIDING AN EFFECTIVE DATE.

Mayor Allers read the title of the resolution.
Finance Director Joe Onzick presented the resolution to accept the $8 million grant from the state of Florida to fund the new Town Hall. Slides included Grant & Budget for Town Hall, Funding Sources and Uses of Funds. Town Attorney Stuparich stated that the funds were in the escrow account and the documents from the seller were being reviewed. The money would be wired to the seller and the deed would be recorded. Once the deed is recorded, the property will officially be under town ownership. Director Onzick explained that more funds were probably coming from the insurance company. Town Manager Hyatt confirmed that the town was underinsured before Hurricane Ian and noted that the town would be fully insured after all assets were identified.

Council Member Woodson moved to approve the resolution, seconded by Council Member Safford.
The motion carried unanimously by roll call vote.

C. Resolution 24-159; ICS Materials Inc, TS Debby Beach Cleanup

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, RATIFYING ACTION OF THE TOWN TAKEN AUGUST 9, 2024, UNDER THE EMERGENCY PROCUREMENT POLICY TO CONTRACT WITH ICS MATERIALS INC. TO TAKE EMERGENCY PROTECTIVE MEASURES TO REMOVE HAZARDS TO PUBLIC HEALTH AND SAFETY FROM THE BEACH; AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Allers read the title of the resolution.
Projects Manager Chustz noted that the scour near the pier would be filled soon. He indicated he had before-and-after photos of the clean-up.

Council Member Safford moved to approve the resolution, seconded by Council Member King.

The motion carried unanimously by roll call vote.

D. STA 14; GIS Mapping and Technical Support

Approve Supplemental Task Authorizations #14 for GIS Mapping and Technical Support, in the amount of $36,000, performed by Axis Engineering, and authorize the Town Manager to execute the required documentation.

Town Manager Hyatt indicated the process was necessary to get the town GIS mapped. Planner Propst explained the GIS process and stated the current mapping may not be accurate and needed to be cleaned up.

Council Member King moved to approve the authorization, seconded by Mayor Allers.
The motion carried unanimously by roll call vote.

E. STA 15, Continued Planning & Zoning Services

Approve Supplemental Task Authorizations #15 for continued Planning/Zoning services performed by Axis Engineering, and authorize the Town Manager to execute the required documentation.

Town Manager Hyatt stated that the authorization was a continuation of supplemental payment. Planner Propst explained that she was paid through pass-through costs.

Council Member King moved to approve the authorization, seconded by Council Member Woodson.
The motion carried unanimously by roll call vote.

F. Town Hall Purchase

Approve an amendment to the Commercial Contract entered into on May 29, 2024,as amended on July 17, 2024, by and between the Town of Fort Myers Beach ("the Buyer") and 6231 Estero LLC, (the "Seller," "Owner" or "Exchanger") for the purchase of the property for the new town hall for the purpose of amending the existing terms and conditions of the agreement between the parties as follows: 1) to document the Owner's intent to do a like-kind tax-deferred exchange in accordance with IRC Regulation Section 1.1031(k)-1; (2) to permit assignment of the contract, as amended, to the qualified intermediary; and (3) to ensure the Buyer will be held harmless with no additional expense as a result of the exchange; and (4) extension of the Closing Date.

The item was removed because the seller changed their mind.

XIII. FINAL PUBLIC COMMENT

No public comment.

XIV. TOWN MANAGER'S ITEMS

Town Manager Hyatt noted that the voting machines had been delivered and the Council Chamber was locked until tomorrow. The top two floors of the new Town Hall needed slight changes, with the first floor requiring the majority and the building would be painted. The adjacent parking lot would be elevated for storm control. He will present the Strategic Planning Proposal at the next M&P. The lighting project has started, the beach renourishment is ongoing, and the Tier 1 project continues. He felt that the town would receive more insurance money. The FDOT (Florida Department of Transportation) started the bridge project and Town Manager Hyatt noted there were no flag people to stop traffic. He will contact them to express his concerns. He discussed the traffic pattern at Margaritaville and indicated they would continue to work with FDOT.

Mayor Allers moved to give the Town Manager discretion to do what he needed to open the town-owned area behind the Surf Style shop or underneath the bridge for the FDOT project, seconded by Council Member Safford.
The motion carried unanimously.

Vice Mayor Atterholt received several inquiries regarding proper landscaping by the wavy wall. Town Manager Hyatt will meet with the Garden Club. Deputy Clerk Jason Freeman reviewed options for funding the purchase of the Strandview property next to Newton Beach Park.
Town Manager Hyatt stated that Council members would be sworn in at the new Town Hall and he hoped to have Council meetings on the second floor by the first of the year.

XV. TOWN ATTORNEY'S ITEMS

Town Attorney Stuparich questioned whether Council members wanted her to draft an ordinance prohibiting public sleeping and camping due to new legislation. She received consent. She will follow up with Town Manager Hyatt regarding the CRA. She was working on a legal way to address the street preacher. Town Attorney Stuparich stated that she was still working on the e-bike issue.

XVI. COUNCILMEMBERS ITEMS AND REPORTS

Council Member Safford stated that a ribbon cutting for a new home will be held on Wednesday at 4:00 p.m. at 122 Hibiscus. On Friday, August 30, 2024, the Chamber will be hosting a mini-masters tournament. September meeting dates and times were clarified.
Council Member Woodson commented on Seagate's public meetings and noted that residents rudely interrupted the speaker multiple times. She felt the meetings should be respectful and was embarrassed by the community's behavior.
Mayor Allers described the Florida League of Cities conference.
No items from other members.

XVII. ADJOURNMENT

Council Member King moved to adjourn, seconded by Council Member Woodson. The motion carried unanimously.

The meeting was adjourned at 11:37 a.m.

DRAFT

Town of Fort Myers Beach
Agenda Item Summary

Blue Sheet Number: **2024-213**

1. **Request:**

Meeting Date: September 9, 2024

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING AND EXTENDING THE PROCLAMATION THAT A STATE OF LOCAL EMERGENCY EXISTS BECAUSE OF THE CATASTROPHIC IMPACTS CAUSED BY HURRICANE IAN; PROVIDING FOR CONFLICTS; PROVIDING FOR SCRIVENER ERRORS, PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Why the action is necessary:

Extending the local state of emergency provides the Town with the needed flexibility to respond to the catastrophic disaster caused by Hurricane Ian and maintains the Town's eligibility for federal and state reimbursement funding for the costs of recovery.

What the action accomplishes:

Extends the Town's Declarion of state of local emergency.

2. **Agenda:**	3. **Requirement/Purpose:**	4. **Submitter of Information:**
CONSENT AGENDA	Resolution	Amy Baker, Town Clerk

5. **Background:**

Hurricane Ian has caused a catastrophic disaster in the Town, causing extensive damage to public utilities, public buildings, public communication systems, public streets and roads, public drainage systems, commercial and residential buildings, and areas. Approving and ratifying these Resolutions will maintain in place the Town Declaration of State of Local Emergency originally adopted via Resolution 22-34.

Attachments:

1. 24-162, Extending Declaration of Local Emergency Ian 9.9.24-9.15.24
2. 24-163, Extending Declaration of Local Emergency Ian 9.16.24-9.22.24
3. 24-164, Extending Declaration of Local Emergency Ian 9.23.24-9.29.24
4. 24-165, Extending Declaration of Local Emergency Ian 9.30.24-10.7.24

Financial Impact:

6. **Alternative Action**

Not adopt resolutions and the end the Local State of Emergency for Fort Myers Beach

7. **Management Recommendations:**

Approve

8. **Recommended Approval:**

Amy Baker, Town Clerk	Created/Initiated - 8/22/2024
nancy stuparich, Town Attorney	Approved - 8/25/2024
Amy Baker, Town Clerk	Approved - 8/28/2024
Andy Hyatt, Town Manager	Final Approval - 8/28/2024

RESOLUTION 24-162

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING AND EXTENDING THE PROCLAMATION THAT A STATE OF LOCAL EMERGENCY EXISTS BECAUSE OF THE CATASTROPHIC IMPACTS CAUSED BY HURRICANE IAN; PROVIDING FOR CONFLICTS; PROVIDING FOR SCRIVENER ERRORS, PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Chapter 252, *Florida Statutes*, authorizes the waiver of procedures and formalities, otherwise required of municipalities, and to take whatever prudent action is necessary to ensure the health, safety, and welfare of the community in the event of a state of emergency; and

WHEREAS, Section 252.38 *Florida Statutes*, specifically authorizes municipalities to declare a state of local emergency and to waive the procedures and formalities otherwise required of political subdivisions required by law pertaining to performance of public work and taking whatever action is necessary to ensure the health, safety, and welfare of the community such as but not limited to entering into contracts; incurring obligations; employing permanent and temporary workers; utilizing volunteer workers; renting of equipment; acquiring and distributing supplies, materials and facilities with or without compensation, and appropriating and expending public funds; and

WHEREAS, the Town of Fort Myers Beach, Florida (Town), pursuant to its inherent home rule powers under Florida Constitution and otherwise has adopted certain emergency procedures set forth in Chapter 12, Article II – "Emergency and Disaster Planning" of the Code of Ordinances, Town of Fort Myers Beach, Florida ("Code"), and is otherwise authorized to activate the Town's emergency plan; and

WHEREAS, the State of Florida and Lee County have declared a state of local emergency due to the catastrophic impacts of Hurricane Ian to Lee County; and

WHEREAS, as defined in the Code, Hurricane Ian has caused a catastrophic disaster in the Town causing extensive damage to public utilities, public buildings, public communication systems, public streets and roads, public drainage systems, commercial and residential buildings, and areas; and

WHEREAS, Section 12-21 of the Code provides that where it is not possible to obtain a quorum to convene an emergency meeting to proclaim a state of local emergency, or extend or rescind such a proclamation, the Mayor, Vice-Mayor, or Town Manager are authorized to proclaim, extend, or rescind a local state of emergency.

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

Section 1. The foregoing whereas clauses are true and correct and hereby adopted as the legislative and administrative findings of the Town Council and made a specific part of this Resolution; all exhibits attached hereto are incorporated herein and made a specific part of this Resolution.

Section 2. Hurricane Ian has caused a catastrophic disaster in the Town, damaging, or destroying over ninety percent (90%) of the Town's public utilities, public buildings, public communication systems, public streets and roads, public drainage systems, commercial and residential buildings, and areas and continues to pose a serious threat to the health, lives, property, and safety of the business owners and residents of the Town. Accordingly, the state of local emergency is hereby extended for seven (7) additional days *nun pro tunc* from 9:00 AM on the 9th day of September 2024.

Section 3. The amendment and extension of the proclamation of a state of local emergency set forth in Resolution 22-35 is an emergency measure necessary for the protection of the public safety, due to the catastrophic disaster caused by Hurricane Ian.

Section 4. As provided in Section 252.38(3)(a), *Florida Statutes* and Chapter 12, Article II of the Code, the Town hereby waives the procedures and formalities otherwise required by law of a municipality as set forth in said State law and the Code.

Section 5. The Town Manager or designee is hereby designated as the declaring official for purposes of implementing the emergency and disaster regulations of the Town. The Town Manager or designee will exercise all powers necessary to protect the health and safety of the public set forth in any Executive Order that may be issued by the Governor, Chapter 252, Fla. Stat., and Chapter 12, Article II of the Code. This proclamation also authorizes the Town Manager or designee to utilize government employees and volunteers to assist in securing private property to minimize the overall damage to the Town.

Section 6. The state of local emergency shall remain in effect until terminated as provided in Section 12-21 of the Code. However, the mandatory curfew and prohibition regarding the use of fresh water supplied by the County or local water company for any purpose other than cooking, drinking, or bathing set forth in Section 12-24 of the Code are hereby waived at this time.

Section 7. As provided in Section 12-21(a) of the Code, the Mayor, Vice-Mayor, or Town Manager may extend the proclamation of a state of local emergency as the "responsible official" of the Town.

Section 8. All resolutions or parts of resolutions in conflict herewith are hereby repealed to the extent of such conflict.

Section 9. Any scrivener or typographical errors that do not affect intent of this Resolution may be corrected with notice to and authorization of the Town Attorney and Town Manager without further process.

Section 10. If any clause, section, other part, or application of this Resolution is held by any court of competent jurisdiction to be unconstitutional or invalid, in part or application, it shall not affect the validity of the remaining portions or applications of this Resolution.

Section 11. This Resolution shall become effective upon the signature of the Mayor.

The foregoing Resolution was adopted by the Town Council upon a motion by _____ 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 9th day of September 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, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on the ___ day of September 2024.

RESOLUTION 24-163

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING AND EXTENDING THE PROCLAMATION THAT A STATE OF LOCAL EMERGENCY EXISTS BECAUSE OF THE CATASTROPHIC IMPACTS CAUSED BY HURRICANE IAN; PROVIDING FOR CONFLICTS; PROVIDING FOR SCRIVENER ERRORS, PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Chapter 252, *Florida Statutes*, authorizes the waiver of procedures and formalities, otherwise required of municipalities, and to take whatever prudent action is necessary to ensure the health, safety, and welfare of the community in the event of a state of emergency; and

WHEREAS, Section 252.38 *Florida Statutes*, specifically authorizes municipalities to declare a state of local emergency and to waive the procedures and formalities otherwise required of political subdivisions required by law pertaining to performance of public work and taking whatever action is necessary to ensure the health, safety, and welfare of the community such as but not limited to entering into contracts; incurring obligations; employing permanent and temporary workers; utilizing volunteer workers; renting of equipment; acquiring and distributing supplies, materials and facilities with or without compensation, and appropriating and expending public funds; and

WHEREAS, the Town of Fort Myers Beach, Florida (Town), pursuant to its inherent home rule powers under Florida Constitution and otherwise has adopted certain emergency procedures set forth in Chapter 12, Article II – "Emergency and Disaster Planning" of the Code of Ordinances, Town of Fort Myers Beach, Florida ("Code"), and is otherwise authorized to activate the Town's emergency plan; and

WHEREAS, the State of Florida and Lee County have declared a state of local emergency due to the catastrophic impacts of Hurricane Ian to Lee County; and

WHEREAS, as defined in the Code, Hurricane Ian has caused a catastrophic disaster in the Town causing extensive damage to public utilities, public buildings, public communication systems, public streets and roads, public drainage systems, commercial and residential buildings, and areas; and

WHEREAS, Section 12-21 of the Code provides that where it is not possible to obtain a quorum to convene an emergency meeting to proclaim a state of local emergency, or extend or rescind such a proclamation, the Mayor, Vice-Mayor, or Town Manager are authorized to proclaim, extend, or rescind a local state of emergency.

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

Section 1. The foregoing whereas clauses are true and correct and hereby adopted as the legislative and administrative findings of the Town Council and made a specific part of this Resolution; all exhibits attached hereto are incorporated herein and made a specific part of this Resolution.

Section 2. Hurricane Ian has caused a catastrophic disaster in the Town, damaging, or destroying over ninety percent (90%) of the Town's public utilities, public buildings, public communication systems, public streets and roads, public drainage systems, commercial and residential buildings, and areas and continues to pose a serious threat to the health, lives, property, and safety of the business owners and residents of the Town. Accordingly, the state of local emergency is hereby extended for seven (7) additional days *nun pro tunc* from 9:00 AM on the 16th day of September 2024.

Section 3. The amendment and extension of the proclamation of a state of local emergency set forth in Resolution 22-35 is an emergency measure necessary for the protection of the public safety, due to the catastrophic disaster caused by Hurricane Ian.

Section 4. As provided in Section 252.38(3)(a), *Florida Statutes* and Chapter 12, Article II of the Code, the Town hereby waives the procedures and formalities otherwise required by law of a municipality as set forth in said State law and the Code.

Section 5. The Town Manager or designee is hereby designated as the declaring official for purposes of implementing the emergency and disaster regulations of the Town. The Town Manager or designee will exercise all powers necessary to protect the health and safety of the public set forth in any Executive Order that may be issued by the Governor, Chapter 252, Fla. Stat., and Chapter 12, Article II of the Code. This proclamation also authorizes the Town Manager or designee to utilize government employees and volunteers to assist in securing private property to minimize the overall damage to the Town.

Section 6. The state of local emergency shall remain in effect until terminated as provided in Section 12-21 of the Code. However, the mandatory curfew and prohibition regarding the use of fresh water supplied by the County or local water company for any purpose other than cooking, drinking, or bathing set forth in Section 12-24 of the Code are hereby waived at this time.

Section 7. As provided in Section 12-21(a) of the Code, the Mayor, Vice-Mayor, or Town Manager may extend the proclamation of a state of local emergency as the "responsible official" of the Town.

Section 8. All resolutions or parts of resolutions in conflict herewith are hereby repealed to the extent of such conflict.

Section 9. Any scrivener or typographical errors that do not affect intent of this Resolution may be corrected with notice to and authorization of the Town Attorney and Town Manager without further process.

Section 10. If any clause, section, other part, or application of this Resolution is held by any court of competent jurisdiction to be unconstitutional or invalid, in part or application, it shall not affect the validity of the remaining portions or applications of this Resolution.

Section 11. This Resolution shall become effective upon the signature of the Mayor.

The foregoing Resolution was adopted by the Town Council upon a motion by _____ 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 9th day of September 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, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on the ___ day of September 2024.

RESOLUTION 24-164

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING AND EXTENDING THE PROCLAMATION THAT A STATE OF LOCAL EMERGENCY EXISTS BECAUSE OF THE CATASTROPHIC IMPACTS CAUSED BY HURRICANE IAN; PROVIDING FOR CONFLICTS; PROVIDING FOR SCRIVENER ERRORS, PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Chapter 252, *Florida Statutes*, authorizes the waiver of procedures and formalities, otherwise required of municipalities, and to take whatever prudent action is necessary to ensure the health, safety, and welfare of the community in the event of a state of emergency; and

WHEREAS, Section 252.38 *Florida Statutes*, specifically authorizes municipalities to declare a state of local emergency and to waive the procedures and formalities otherwise required of political subdivisions required by law pertaining to performance of public work and taking whatever action is necessary to ensure the health, safety, and welfare of the community such as but not limited to entering into contracts; incurring obligations; employing permanent and temporary workers; utilizing volunteer workers; renting of equipment; acquiring and distributing supplies, materials and facilities with or without compensation, and appropriating and expending public funds; and

WHEREAS, the Town of Fort Myers Beach, Florida (Town), pursuant to its inherent home rule powers under Florida Constitution and otherwise has adopted certain emergency procedures set forth in Chapter 12, Article II – "Emergency and Disaster Planning" of the Code of Ordinances, Town of Fort Myers Beach, Florida ("Code"), and is otherwise authorized to activate the Town's emergency plan; and

WHEREAS, the State of Florida and Lee County have declared a state of local emergency due to the catastrophic impacts of Hurricane Ian to Lee County; and

WHEREAS, as defined in the Code, Hurricane Ian has caused a catastrophic disaster in the Town causing extensive damage to public utilities, public buildings, public communication systems, public streets and roads, public drainage systems, commercial and residential buildings, and areas; and

WHEREAS, Section 12-21 of the Code provides that where it is not possible to obtain a quorum to convene an emergency meeting to proclaim a state of local emergency, or extend or rescind such a proclamation, the Mayor, Vice-Mayor, or Town Manager are authorized to proclaim, extend, or rescind a local state of emergency.

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

Section 1. The foregoing whereas clauses are true and correct and hereby adopted as the legislative and administrative findings of the Town Council and made a specific part of this Resolution; all exhibits attached hereto are incorporated herein and made a specific part of this Resolution.

Section 2. Hurricane Ian has caused a catastrophic disaster in the Town, damaging, or destroying over ninety percent (90%) of the Town's public utilities, public buildings, public communication systems, public streets and roads, public drainage systems, commercial and residential buildings, and areas and continues to pose a serious threat to the health, lives, property, and safety of the business owners and residents of the Town. Accordingly, the state of local emergency is hereby extended for seven (7) additional days *nun pro tunc* from 9:00 AM on the 23rd day of September 2024.

Section 3. The amendment and extension of the proclamation of a state of local emergency set forth in Resolution 22-35 is an emergency measure necessary for the protection of the public safety, due to the catastrophic disaster caused by Hurricane Ian.

Section 4. As provided in Section 252.38(3)(a), *Florida Statutes* and Chapter 12, Article II of the Code, the Town hereby waives the procedures and formalities otherwise required by law of a municipality as set forth in said State law and the Code.

Section 5. The Town Manager or designee is hereby designated as the declaring official for purposes of implementing the emergency and disaster regulations of the Town. The Town Manager or designee will exercise all powers necessary to protect the health and safety of the public set forth in any Executive Order that may be issued by the Governor, Chapter 252, Fla. Stat., and Chapter 12, Article II of the Code. This proclamation also authorizes the Town Manager or designee to utilize government employees and volunteers to assist in securing private property to minimize the overall damage to the Town.

Section 6. The state of local emergency shall remain in effect until terminated as provided in Section 12-21 of the Code. However, the mandatory curfew and prohibition regarding the use of fresh water supplied by the County or local water company for any purpose other than cooking, drinking, or bathing set forth in Section 12-24 of the Code are hereby waived at this time.

Section 7. As provided in Section 12-21(a) of the Code, the Mayor, Vice-Mayor, or Town Manager may extend the proclamation of a state of local emergency as the "responsible official" of the Town.

Section 8. All resolutions or parts of resolutions in conflict herewith are hereby repealed to the extent of such conflict.

Section 9. Any scrivener or typographical errors that do not affect intent of this Resolution may be corrected with notice to and authorization of the Town Attorney and Town Manager without further process.

Section 10. If any clause, section, other part, or application of this Resolution is held by any court of competent jurisdiction to be unconstitutional or invalid, in part or application, it shall not affect the validity of the remaining portions or applications of this Resolution.

Section 11. This Resolution shall become effective upon the signature of the Mayor.

The foregoing Resolution was adopted by the Town Council upon a motion by _____ 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 9th day of September 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, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on the ___ day of September 2024.

RESOLUTION 24-165

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING AND EXTENDING THE PROCLAMATION THAT A STATE OF LOCAL EMERGENCY EXISTS BECAUSE OF THE CATASTROPHIC IMPACTS CAUSED BY HURRICANE IAN; PROVIDING FOR CONFLICTS; PROVIDING FOR SCRIVENER ERRORS, PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Chapter 252, *Florida Statutes*, authorizes the waiver of procedures and formalities, otherwise required of municipalities, and to take whatever prudent action is necessary to ensure the health, safety, and welfare of the community in the event of a state of emergency; and

WHEREAS, Section 252.38 *Florida Statutes*, specifically authorizes municipalities to declare a state of local emergency and to waive the procedures and formalities otherwise required of political subdivisions required by law pertaining to performance of public work and taking whatever action is necessary to ensure the health, safety, and welfare of the community such as but not limited to entering into contracts; incurring obligations; employing permanent and temporary workers; utilizing volunteer workers; renting of equipment; acquiring and distributing supplies, materials and facilities with or without compensation, and appropriating and expending public funds; and

WHEREAS, the Town of Fort Myers Beach, Florida (Town), pursuant to its inherent home rule powers under Florida Constitution and otherwise has adopted certain emergency procedures set forth in Chapter 12, Article II – "Emergency and Disaster Planning" of the Code of Ordinances, Town of Fort Myers Beach, Florida ("Code"), and is otherwise authorized to activate the Town's emergency plan; and

WHEREAS, the State of Florida and Lee County have declared a state of local emergency due to the catastrophic impacts of Hurricane Ian to Lee County; and

WHEREAS, as defined in the Code, Hurricane Ian has caused a catastrophic disaster in the Town causing extensive damage to public utilities, public buildings, public communication systems, public streets and roads, public drainage systems, commercial and residential buildings, and areas; and

WHEREAS, Section 12-21 of the Code provides that where it is not possible to obtain a quorum to convene an emergency meeting to proclaim a state of local emergency, or extend or rescind such a proclamation, the Mayor, Vice-Mayor, or Town Manager are authorized to proclaim, extend, or rescind a local state of emergency.

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

Section 1. The foregoing whereas clauses are true and correct and hereby adopted as the legislative and administrative findings of the Town Council and made a specific part of this Resolution; all exhibits attached hereto are incorporated herein and made a specific part of this Resolution.

Section 2. Hurricane Ian has caused a catastrophic disaster in the Town, damaging, or destroying over ninety percent (90%) of the Town's public utilities, public buildings, public communication systems, public streets and roads, public drainage systems, commercial and residential buildings, and areas and continues to pose a serious threat to the health, lives, property, and safety of the business owners and residents of the Town. Accordingly, the state of local emergency is hereby extended for seven (7) additional days *nun pro tunc* from 9:00 AM on the 30th day of September 2024.

Section 3. The amendment and extension of the proclamation of a state of local emergency set forth in Resolution 22-35 is an emergency measure necessary for the protection of the public safety, due to the catastrophic disaster caused by Hurricane Ian.

Section 4. As provided in Section 252.38(3)(a), *Florida Statutes* and Chapter 12, Article II of the Code, the Town hereby waives the procedures and formalities otherwise required by law of a municipality as set forth in said State law and the Code.

Section 5. The Town Manager or designee is hereby designated as the declaring official for purposes of implementing the emergency and disaster regulations of the Town. The Town Manager or designee will exercise all powers necessary to protect the health and safety of the public set forth in any Executive Order that may be issued by the Governor, Chapter 252, Fla. Stat., and Chapter 12, Article II of the Code. This proclamation also authorizes the Town Manager or designee to utilize government employees and volunteers to assist in securing private property to minimize the overall damage to the Town.

Section 6. The state of local emergency shall remain in effect until terminated as provided in Section 12-21 of the Code. However, the mandatory curfew and prohibition regarding the use of fresh water supplied by the County or local water company for any purpose other than cooking, drinking, or bathing set forth in Section 12-24 of the Code are hereby waived at this time.

Section 7. As provided in Section 12-21(a) of the Code, the Mayor, Vice-Mayor, or Town Manager may extend the proclamation of a state of local emergency as the "responsible official" of the Town.

Section 8. All resolutions or parts of resolutions in conflict herewith are hereby repealed to the extent of such conflict.

Section 9. Any scrivener or typographical errors that do not affect intent of this Resolution may be corrected with notice to and authorization of the Town Attorney and Town Manager without further process.

Section 10. If any clause, section, other part, or application of this Resolution is held by any court of competent jurisdiction to be unconstitutional or invalid, in part or application, it shall not affect the validity of the remaining portions or applications of this Resolution.

Section 11. This Resolution shall become effective upon the signature of the Mayor.

The foregoing Resolution was adopted by the Town Council upon a motion by _____ 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 9th day of September 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, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on the ___ day of September 2024.

Town of Fort Myers Beach
Agenda Item Summary

Blue Sheet Number: **2024-160**

1. **Request:**

Meeting Date: September 9, 2024

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, EXTENDING THE DECLARATION OF STATE OF LOCAL EMERGENCY DUE TO HURRICANE IDALIA; PROVIDING THE TOWN WITH POWERS, INCLUDING, BUT NOT LIMITED TO THOSE PURSUANT TO FLORIDA STATUTES, CHAPTER 252, AND TOWN CODE CHAPTER 2, ARTICLE VI; PROVIDING FOR PENALTIES FOR VIOLATIONS; PROVIDING FOR CONFLICTS, SEVERABILITY, AND FOR AN EFFECTIVE DATE AND A TERMINATION DATE.

Why the action is necessary:

Keeps the Local State of Emergency in effect for Hurricane Idalia

What the action accomplishes:

2. **Agenda:**	3. **Requirement/Purpose:**	4. **Submitter of Information:**
CONSENT AGENDA	Resolution	Amy Baker, Town Clerk

5. **Background:**

Approving and ratifying this Resolution will maintain in place the Town Declaration of State of Local Emergency originally adopted via Resolution 23-99.

Attachments:

1. 24-166, Extension of Local Emergency - Idalia 9.9.24-9.15.24
2. 24-167, Extension of Local Emergency - Idalia 9.16.24-9.22.24
3. 24-168, Extension of Local Emergency - Idalia 9.23.24-9.29.24
4. 24-169, Extension of Local Emergency - Idalia 9.30.24-10.7.24

Financial Impact:

6. **Alternative Action**

Do not approve and end the Local State of Emergency for Hurricane Idalia

7. **Management Recommendations:**

Approve

8. **Recommended Approval:**

Amy Baker, Town Clerk	Created/Initiated - 8/22/2024
nancy stuparich, Town Attorney	Approved - 8/25/2024
Amy Baker, Town Clerk	Approved - 8/28/2024
Andy Hyatt, Town Manager	Final Approval - 8/28/2024

RESOLUTION NUMBER 24-166

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, EXTENDING THE DECLARATION OF STATE OF LOCAL EMERGENCY DUE TO HURRICANE IDALIA; PROVIDING THE TOWN WITH POWERS, INCLUDING, BUT NOT LIMITED TO THOSE PURSUANT TO FLORIDA STATUTES, CHAPTER 252, AND TOWN CODE CHAPTER 2, ARTICLE VI; PROVIDING FOR PENALTIES FOR VIOLATIONS; PROVIDING FOR CONFLICTS, SEVERABILITY, AND FOR AN EFFECTIVE DATE AND A TERMINATION DATE

WHEREAS, Section 252.38(3), Florida Statutes, authorizes the Town of Fort Myers Beach to declare a state of local emergency and to waive the procedures and formalities otherwise required of political subdivisions by law; and

WHEREAS, Chapter 12 of the Town Code of the Town of Fort Myers Beach authorizes certain powers in the event of a local state of emergency; and

WHEREAS, a state of local emergency proclamation is allowed for seven (7) days with appropriate extensions pursuant to law; and

WHEREAS, the effects of Hurricane Idalia impacted Fort Myers Beach and the current declaration of emergency that was adopted relating to that storm on August 29, 2023, must be extended.

THEREFORE, under the powers vested in it pursuant to Chapter 252, Florida Statutes, and under Chapter 12 of the Town Code of the Town of Fort Myers Beach, the **Town Council does hereby extend the proclamation of a state of local emergency in the Town of Fort Myers Beach, Florida, as identified above beginning at the end of the previously adopted state of local emergency to 7 days thereafter.**

SECTION 1. State of Local Emergency. The following emergency powers and other provisions shall be in force during this state of local emergency:

1. The Town Manager, or designee, is authorized to take all actions necessary and appropriate to protect human life and property, including the promulgation of rules and orders as may be necessary subject to the limitations of Section 252.33, Florida Statutes. This resolution further authorizes the Town Manager, or designee, to utilize all lawful authority granted to the Town of Fort Myers Beach by Federal, State, County, or Town Emergency Management Laws, Rules, Regulations, Orders and, including, but not limited to, Section 252.46 and Section 252.38(3)(a)(1) through Section 252.38(3)(a)(5), Florida Statutes, inclusive.

2. All existing laws, ordinances, and rules inconsistent with the provisions of Sections 252.31 to Section 252.905, Florida Statutes, inclusive, or inconsistent with any rule or order

specifically promulgated under this resolution shall be suspended during this period of time and to the extent that such conflict exists.

3. The Town Manager may suspend, toll or extend the time requirements, notice requirements and deadlines for final action on applications for permits, licenses, rates and other approvals under the Town of Fort Myers Beach Code of Ordinances, to the extent necessary to accommodate the emergency.

4. Pursuant to Section 252.38(3)(a)(5), Florida Statutes, the Town hereby exercises its authority and waives the procedures and formalities otherwise required of a political subdivision by law, pertaining to:

- Performance of public work and taking whatever prudent action is necessary to ensure the health, safety, and welfare of the community;
- Entering into contracts;
- Incurring obligations;
- Employment of permanent and temporary workers;
- Utilization of volunteer workers;
- Rental of equipment;
- Acquisition and distribution, with or without compensation, of supplies, materials, and facilities; and
- Appropriation and expenditure of public funds

5. The Town Manager shall follow FEMA guidelines in procuring services, materials, labor and equipment necessary to respond to the emergency, including recovery efforts. The Town Manager shall abide by the "Uniform Administrative Requirements, Cost Principles, and Audit Requirements" for federal awards, codified at 2 C.F.R. §§200.317 through 200.326.

6. Pursuant to Section 12-23, of the Code of the Town of Fort Myers Beach, in addition to any other powers conferred by law, the town manager or designees shall have the power and authority to order and promulgate all or any of the following emergency measures to be effective during the period of such emergency in whole or in part, with such limitation and conditions as the town manager or designees may deem appropriate to protect the town's health, safety and welfare, and/or waive the procedures and formalities otherwise required of the town by law pertaining to these measures:

(a) To appropriate and expend funds; make contracts; incur obligations; obtain and distribute equipment, materials, and supplies for emergency management purposes; provide for the health and safety of persons and property, including emergency assistance to victims of any emergency; and direct and coordinate the implementation of emergency management plans and programs in accordance with the requirements of state and federal law.

(b) To appoint, employ, remove, or provide (with or without compensation) rescue teams, coordinators, other emergency management workers and other permanent or temporary workers.

(c) To establish, as necessary, primary and secondary emergency operating centers to provide continuity of government and direction and control of emergency operations.

(d) To assign and make available for duty the offices and agencies of the town, including the employees, property, or equipment thereof relating to health, medical and related services, transportation, construction, and similar items or services for emergency operation purposes, for deployment within or outside the limits of the town.

(e) To request state assistance or invoke emergency-related mutual-aid assistance pursuant to existing contracts and/or state or local law.

(f) To waive any procedures and formalities otherwise required of the town by law pertaining to performance of public work and/or the taking of whatever prudent action is necessary to ensure the health, safety, and welfare of the people of the town.

(g) To suspend or limit the sale, dispensing, or transportation of alcoholic beverages, firearms, explosives and/or combustibles.

(h) To utilize all available resources of the town government as reasonably necessary to cope with the emergency occasioned by the disaster.

(i) To make provisions for availability and use of temporary emergency housing and emergency warehousing of materials.

(j) Preceding or during the emergency, to call on the National Guard or the Army, Coast Guard or other law enforcement division or other agency as necessary to assist in the mitigation of the emergency or to help maintain law and order, rescue and traffic control.

7. Pursuant to Sec. 12-24, "Prohibitions during state of emergency", of the Code of the Town of Fort Myers Beach, whenever a state of local emergency has been declared, and until such state of local emergency is terminated, the following prohibitions shall apply throughout the town, unless and until the same shall be waived or modified by a quorum of the town council at a general, special or emergency meeting:

(a) It shall be unlawful and an offense against the town for any person to use the fresh water supplied by the county or local water company for any purpose other than cooking, drinking or bathing.

(b) It shall be unlawful for any person to be out and about on the public rights-of-way or other public areas of the town between the dusk and dawn, except for law enforcement officers, members of the town fire control district, emergency medical personnel, town councilmembers, other persons authorized by the town manager, and regular employees of local businesses while traveling to and from their jobs for their regular hours, providing such employees have in their possession personal identification and identification of the business by which they are employed.

8. Any person who refuses to comply with or violates any provision of this declaration of local emergency shall be guilty of a municipal violation. Each day of such violation shall constitute a separate offense. Nothing herein contained shall prevent the town from taking such other lawful action in any court of competent jurisdiction as is necessary to prevent or remedy any refusal to comply with, or violation of, this article or the emergency measures which may be made effective pursuant to this article. Such other lawful action

shall include but shall not be limited to, an equitable action for injunctive relief or an action at law for damages. In addition, any person violating any rule or order issued pursuant to this Resolution or any person who willfully fails or refuses to comply with the order or orders of any duly authorized law enforcement officer or personnel charged with the responsibility for the enforcement of such orders shall, upon conviction therefor, be punished as provided by Section 252.50, Florida Statutes, and by such other laws as may be applicable to the offense.

SECTION 2. Conflicts. Any and all Resolutions or parts of Resolutions in conflict herewith are hereby repealed.

SECTION 3. Severability. If any provision or portion of this Resolution or the application is held invalid, the invalidity shall not affect other provisions, portions or applications of the Resolution, which can be given effect without the invalid provision, portion or application, and to this end the provisions, portions, or applications of this Resolution are declared severable.

SECTION 4. Effective Date and Termination Date. This Resolution shall take effect immediately upon the termination of the previously adopted state of local emergency and shall terminate automatically seven (7) days from that date unless terminated earlier or extended by a document of equal dignity herewith.

SECTION 5. Direction to Implement. The Town Manager is directed to implement this Resolution.

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, Council Member
Scott Safford, Council Member
Karen Woodson, Council Member

ADOPTED this 9th day of August 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, LLP, Town Attorney

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

RESOLUTION NUMBER 24-167

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, EXTENDING THE DECLARATION OF STATE OF LOCAL EMERGENCY DUE TO HURRICANE IDALIA; PROVIDING THE TOWN WITH POWERS, INCLUDING, BUT NOT LIMITED TO THOSE PURSUANT TO FLORIDA STATUTES, CHAPTER 252, AND TOWN CODE CHAPTER 2, ARTICLE VI; PROVIDING FOR PENALTIES FOR VIOLATIONS; PROVIDING FOR CONFLICTS, SEVERABILITY, AND FOR AN EFFECTIVE DATE AND A TERMINATION DATE

WHEREAS, Section 252.38(3), Florida Statutes, authorizes the Town of Fort Myers Beach to declare a state of local emergency and to waive the procedures and formalities otherwise required of political subdivisions by law; and

WHEREAS, Chapter 12 of the Town Code of the Town of Fort Myers Beach authorizes certain powers in the event of a local state of emergency; and

WHEREAS, a state of local emergency proclamation is allowed for seven (7) days with appropriate extensions pursuant to law; and

WHEREAS, the effects of Hurricane Idalia impacted Fort Myers Beach and the current declaration of emergency that was adopted relating to that storm on August 29, 2023, must be extended.

THEREFORE, under the powers vested in it pursuant to Chapter 252, Florida Statutes, and under Chapter 12 of the Town Code of the Town of Fort Myers Beach, the **Town Council does hereby extend the proclamation of a state of local emergency in the Town of Fort Myers Beach, Florida, as identified above beginning at the end of the previously adopted state of local emergency to 7 days thereafter.**

SECTION 1. State of Local Emergency. The following emergency powers and other provisions shall be in force during this state of local emergency:

1. The Town Manager, or designee, is authorized to take all actions necessary and appropriate to protect human life and property, including the promulgation of rules and orders as may be necessary subject to the limitations of Section 252.33, Florida Statutes. This resolution further authorizes the Town Manager, or designee, to utilize all lawful authority granted to the Town of Fort Myers Beach by Federal, State, County, or Town Emergency Management Laws, Rules, Regulations, Orders and, including, but not limited to, Section 252.46 and Section 252.38(3)(a)(1) through Section 252.38(3)(a)(5), Florida Statutes, inclusive.

2. All existing laws, ordinances, and rules inconsistent with the provisions of Sections 252.31 to Section 252.905, Florida Statutes, inclusive, or inconsistent with any rule or order

specifically promulgated under this resolution shall be suspended during this period of time and to the extent that such conflict exists.

3. The Town Manager may suspend, toll or extend the time requirements, notice requirements and deadlines for final action on applications for permits, licenses, rates and other approvals under the Town of Fort Myers Beach Code of Ordinances, to the extent necessary to accommodate the emergency.

4. Pursuant to Section 252.38(3)(a)(5), Florida Statutes, the Town hereby exercises its authority and waives the procedures and formalities otherwise required of a political subdivision by law, pertaining to:

- Performance of public work and taking whatever prudent action is necessary to ensure the health, safety, and welfare of the community;
- Entering into contracts;
- Incurring obligations;
- Employment of permanent and temporary workers;
- Utilization of volunteer workers;
- Rental of equipment;
- Acquisition and distribution, with or without compensation, of supplies, materials, and facilities; and
- Appropriation and expenditure of public funds

5. The Town Manager shall follow FEMA guidelines in procuring services, materials, labor and equipment necessary to respond to the emergency, including recovery efforts. The Town Manager shall abide by the "Uniform Administrative Requirements, Cost Principles, and Audit Requirements" for federal awards, codified at 2 C.F.R. §§200.317 through 200.326.

6. Pursuant to Section 12-23, of the Code of the Town of Fort Myers Beach, in addition to any other powers conferred by law, the town manager or designees shall have the power and authority to order and promulgate all or any of the following emergency measures to be effective during the period of such emergency in whole or in part, with such limitation and conditions as the town manager or designees may deem appropriate to protect the town's health, safety and welfare, and/or waive the procedures and formalities otherwise required of the town by law pertaining to these measures:

(a) To appropriate and expend funds; make contracts; incur obligations; obtain and distribute equipment, materials, and supplies for emergency management purposes; provide for the health and safety of persons and property, including emergency assistance to victims of any emergency; and direct and coordinate the implementation of emergency management plans and programs in accordance with the requirements of state and federal law.

(b) To appoint, employ, remove, or provide (with or without compensation) rescue teams, coordinators, other emergency management workers and other permanent or temporary workers.

(c) To establish, as necessary, primary and secondary emergency operating centers to provide continuity of government and direction and control of emergency operations.

(d) To assign and make available for duty the offices and agencies of the town, including the employees, property, or equipment thereof relating to health, medical and related services, transportation, construction, and similar items or services for emergency operation purposes, for deployment within or outside the limits of the town.

(e) To request state assistance or invoke emergency-related mutual-aid assistance pursuant to existing contracts and/or state or local law.

(f) To waive any procedures and formalities otherwise required of the town by law pertaining to performance of public work and/or the taking of whatever prudent action is necessary to ensure the health, safety, and welfare of the people of the town.

(g) To suspend or limit the sale, dispensing, or transportation of alcoholic beverages, firearms, explosives and/or combustibles.

(h) To utilize all available resources of the town government as reasonably necessary to cope with the emergency occasioned by the disaster.

(i) To make provisions for availability and use of temporary emergency housing and emergency warehousing of materials.

(j) Preceding or during the emergency, to call on the National Guard or the Army, Coast Guard or other law enforcement division or other agency as necessary to assist in the mitigation of the emergency or to help maintain law and order, rescue and traffic control.

7. Pursuant to Sec. 12-24, "Prohibitions during state of emergency", of the Code of the Town of Fort Myers Beach, whenever a state of local emergency has been declared, and until such state of local emergency is terminated, the following prohibitions shall apply throughout the town, unless and until the same shall be waived or modified by a quorum of the town council at a general, special or emergency meeting:

(a) It shall be unlawful and an offense against the town for any person to use the fresh water supplied by the county or local water company for any purpose other than cooking, drinking or bathing.

(b) It shall be unlawful for any person to be out and about on the public rights-of-way or other public areas of the town between the dusk and dawn, except for law enforcement officers, members of the town fire control district, emergency medical personnel, town councilmembers, other persons authorized by the town manager, and regular employees of local businesses while traveling to and from their jobs for their regular hours, providing such employees have in their possession personal identification and identification of the business by which they are employed.

8. Any person who refuses to comply with or violates any provision of this declaration of local emergency shall be guilty of a municipal violation. Each day of such violation shall constitute a separate offense. Nothing herein contained shall prevent the town from taking such other lawful action in any court of competent jurisdiction as is necessary to prevent or remedy any refusal to comply with, or violation of, this article or the emergency measures which may be made effective pursuant to this article. Such other lawful action

shall include but shall not be limited to, an equitable action for injunctive relief or an action at law for damages. In addition, any person violating any rule or order issued pursuant to this Resolution or any person who willfully fails or refuses to comply with the order or orders of any duly authorized law enforcement officer or personnel charged with the responsibility for the enforcement of such orders shall, upon conviction therefor, be punished as provided by Section 252.50, Florida Statutes, and by such other laws as may be applicable to the offense.

SECTION 2. Conflicts. Any and all Resolutions or parts of Resolutions in conflict herewith are hereby repealed.

SECTION 3. Severability. If any provision or portion of this Resolution or the application is held invalid, the invalidity shall not affect other provisions, portions or applications of the Resolution, which can be given effect without the invalid provision, portion or application, and to this end the provisions, portions, or applications of this Resolution are declared severable.

SECTION 4. Effective Date and Termination Date. This Resolution shall take effect immediately upon the termination of the previously adopted state of local emergency and shall terminate automatically seven (7) days from that date unless terminated earlier or extended by a document of equal dignity herewith.

SECTION 5. Direction to Implement. The Town Manager is directed to implement this Resolution.

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, Council Member
Scott Safford, Council Member
Karen Woodson, Council Member

ADOPTED this 9th day of August 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, LLP, Town Attorney

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

RESOLUTION NUMBER 24-168

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, EXTENDING THE DECLARATION OF STATE OF LOCAL EMERGENCY DUE TO HURRICANE IDALIA; PROVIDING THE TOWN WITH POWERS, INCLUDING, BUT NOT LIMITED TO THOSE PURSUANT TO FLORIDA STATUTES, CHAPTER 252, AND TOWN CODE CHAPTER 2, ARTICLE VI; PROVIDING FOR PENALTIES FOR VIOLATIONS; PROVIDING FOR CONFLICTS, SEVERABILITY, AND FOR AN EFFECTIVE DATE AND A TERMINATION DATE

WHEREAS, Section 252.38(3), Florida Statutes, authorizes the Town of Fort Myers Beach to declare a state of local emergency and to waive the procedures and formalities otherwise required of political subdivisions by law; and

WHEREAS, Chapter 12 of the Town Code of the Town of Fort Myers Beach authorizes certain powers in the event of a local state of emergency; and

WHEREAS, a state of local emergency proclamation is allowed for seven (7) days with appropriate extensions pursuant to law; and

WHEREAS, the effects of Hurricane Idalia impacted Fort Myers Beach and the current declaration of emergency that was adopted relating to that storm on August 29, 2023, must be extended.

THEREFORE, under the powers vested in it pursuant to Chapter 252, Florida Statutes, and under Chapter 12 of the Town Code of the Town of Fort Myers Beach, the **Town Council does hereby extend the proclamation of a state of local emergency in the Town of Fort Myers Beach, Florida, as identified above beginning at the end of the previously adopted state of local emergency to 7 days thereafter.**

SECTION 1. State of Local Emergency. The following emergency powers and other provisions shall be in force during this state of local emergency:

1. The Town Manager, or designee, is authorized to take all actions necessary and appropriate to protect human life and property, including the promulgation of rules and orders as may be necessary subject to the limitations of Section 252.33, Florida Statutes. This resolution further authorizes the Town Manager, or designee, to utilize all lawful authority granted to the Town of Fort Myers Beach by Federal, State, County, or Town Emergency Management Laws, Rules, Regulations, Orders and, including, but not limited to, Section 252.46 and Section 252.38(3)(a)(1) through Section 252.38(3)(a)(5), Florida Statutes, inclusive.

2. All existing laws, ordinances, and rules inconsistent with the provisions of Sections 252.31 to Section 252.905, Florida Statutes, inclusive, or inconsistent with any rule or order

specifically promulgated under this resolution shall be suspended during this period of time and to the extent that such conflict exists.

3. The Town Manager may suspend, toll or extend the time requirements, notice requirements and deadlines for final action on applications for permits, licenses, rates and other approvals under the Town of Fort Myers Beach Code of Ordinances, to the extent necessary to accommodate the emergency.

4. Pursuant to Section 252.38(3)(a)(5), Florida Statutes, the Town hereby exercises its authority and waives the procedures and formalities otherwise required of a political subdivision by law, pertaining to:

- Performance of public work and taking whatever prudent action is necessary to ensure the health, safety, and welfare of the community;
- Entering into contracts;
- Incurring obligations;
- Employment of permanent and temporary workers;
- Utilization of volunteer workers;
- Rental of equipment;
- Acquisition and distribution, with or without compensation, of supplies, materials, and facilities; and
- Appropriation and expenditure of public funds

5. The Town Manager shall follow FEMA guidelines in procuring services, materials, labor and equipment necessary to respond to the emergency, including recovery efforts. The Town Manager shall abide by the "Uniform Administrative Requirements, Cost Principles, and Audit Requirements" for federal awards, codified at 2 C.F.R. §§200.317 through 200.326.

6. Pursuant to Section 12-23, of the Code of the Town of Fort Myers Beach, in addition to any other powers conferred by law, the town manager or designees shall have the power and authority to order and promulgate all or any of the following emergency measures to be effective during the period of such emergency in whole or in part, with such limitation and conditions as the town manager or designees may deem appropriate to protect the town's health, safety and welfare, and/or waive the procedures and formalities otherwise required of the town by law pertaining to these measures:

(a) To appropriate and expend funds; make contracts; incur obligations; obtain and distribute equipment, materials, and supplies for emergency management purposes; provide for the health and safety of persons and property, including emergency assistance to victims of any emergency; and direct and coordinate the implementation of emergency management plans and programs in accordance with the requirements of state and federal law.

(b) To appoint, employ, remove, or provide (with or without compensation) rescue teams, coordinators, other emergency management workers and other permanent or temporary workers.

(c) To establish, as necessary, primary and secondary emergency operating centers to provide continuity of government and direction and control of emergency operations.

(d) To assign and make available for duty the offices and agencies of the town, including the employees, property, or equipment thereof relating to health, medical and related services, transportation, construction, and similar items or services for emergency operation purposes, for deployment within or outside the limits of the town.

(e) To request state assistance or invoke emergency-related mutual-aid assistance pursuant to existing contracts and/or state or local law.

(f) To waive any procedures and formalities otherwise required of the town by law pertaining to performance of public work and/or the taking of whatever prudent action is necessary to ensure the health, safety, and welfare of the people of the town.

(g) To suspend or limit the sale, dispensing, or transportation of alcoholic beverages, firearms, explosives and/or combustibles.

(h) To utilize all available resources of the town government as reasonably necessary to cope with the emergency occasioned by the disaster.

(i) To make provisions for availability and use of temporary emergency housing and emergency warehousing of materials.

(j) Preceding or during the emergency, to call on the National Guard or the Army, Coast Guard or other law enforcement division or other agency as necessary to assist in the mitigation of the emergency or to help maintain law and order, rescue and traffic control.

7. Pursuant to Sec. 12-24, "Prohibitions during state of emergency", of the Code of the Town of Fort Myers Beach, whenever a state of local emergency has been declared, and until such state of local emergency is terminated, the following prohibitions shall apply throughout the town, unless and until the same shall be waived or modified by a quorum of the town council at a general, special or emergency meeting:

(a) It shall be unlawful and an offense against the town for any person to use the fresh water supplied by the county or local water company for any purpose other than cooking, drinking or bathing.

(b) It shall be unlawful for any person to be out and about on the public rights-of-way or other public areas of the town between the dusk and dawn, except for law enforcement officers, members of the town fire control district, emergency medical personnel, town councilmembers, other persons authorized by the town manager, and regular employees of local businesses while traveling to and from their jobs for their regular hours, providing such employees have in their possession personal identification and identification of the business by which they are employed.

8. Any person who refuses to comply with or violates any provision of this declaration of local emergency shall be guilty of a municipal violation. Each day of such violation shall constitute a separate offense. Nothing herein contained shall prevent the town from taking such other lawful action in any court of competent jurisdiction as is necessary to prevent or remedy any refusal to comply with, or violation of, this article or the emergency measures which may be made effective pursuant to this article. Such other lawful action

shall include but shall not be limited to, an equitable action for injunctive relief or an action at law for damages. In addition, any person violating any rule or order issued pursuant to this Resolution or any person who willfully fails or refuses to comply with the order or orders of any duly authorized law enforcement officer or personnel charged with the responsibility for the enforcement of such orders shall, upon conviction therefor, be punished as provided by Section 252.50, Florida Statutes, and by such other laws as may be applicable to the offense.

SECTION 2. Conflicts. Any and all Resolutions or parts of Resolutions in conflict herewith are hereby repealed.

SECTION 3. Severability. If any provision or portion of this Resolution or the application is held invalid, the invalidity shall not affect other provisions, portions or applications of the Resolution, which can be given effect without the invalid provision, portion or application, and to this end the provisions, portions, or applications of this Resolution are declared severable.

SECTION 4. Effective Date and Termination Date. This Resolution shall take effect immediately upon the termination of the previously adopted state of local emergency and shall terminate automatically seven (7) days from that date unless terminated earlier or extended by a document of equal dignity herewith.

SECTION 5. Direction to Implement. The Town Manager is directed to implement this Resolution.

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, Council Member
Scott Safford, Council Member
Karen Woodson, Council Member

ADOPTED this 9th day of August 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, LLP, Town Attorney

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

RESOLUTION NUMBER 24-169

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, EXTENDING THE DECLARATION OF STATE OF LOCAL EMERGENCY DUE TO HURRICANE IDALIA; PROVIDING THE TOWN WITH POWERS, INCLUDING, BUT NOT LIMITED TO THOSE PURSUANT TO FLORIDA STATUTES, CHAPTER 252, AND TOWN CODE CHAPTER 2, ARTICLE VI; PROVIDING FOR PENALTIES FOR VIOLATIONS; PROVIDING FOR CONFLICTS, SEVERABILITY, AND FOR AN EFFECTIVE DATE AND A TERMINATION DATE

WHEREAS, Section 252.38(3), Florida Statutes, authorizes the Town of Fort Myers Beach to declare a state of local emergency and to waive the procedures and formalities otherwise required of political subdivisions by law; and

WHEREAS, Chapter 12 of the Town Code of the Town of Fort Myers Beach authorizes certain powers in the event of a local state of emergency; and

WHEREAS, a state of local emergency proclamation is allowed for seven (7) days with appropriate extensions pursuant to law; and

WHEREAS, the effects of Hurricane Idalia impacted Fort Myers Beach and the current declaration of emergency that was adopted relating to that storm on August 29, 2023, must be extended.

THEREFORE, under the powers vested in it pursuant to Chapter 252, Florida Statutes, and under Chapter 12 of the Town Code of the Town of Fort Myers Beach, the **Town Council does hereby extend the proclamation of a state of local emergency in the Town of Fort Myers Beach, Florida, as identified above beginning at the end of the previously adopted state of local emergency to 7 days thereafter.**

SECTION 1. State of Local Emergency. The following emergency powers and other provisions shall be in force during this state of local emergency:

1. The Town Manager, or designee, is authorized to take all actions necessary and appropriate to protect human life and property, including the promulgation of rules and orders as may be necessary subject to the limitations of Section 252.33, Florida Statutes. This resolution further authorizes the Town Manager, or designee, to utilize all lawful authority granted to the Town of Fort Myers Beach by Federal, State, County, or Town Emergency Management Laws, Rules, Regulations, Orders and, including, but not limited to, Section 252.46 and Section 252.38(3)(a)(1) through Section 252.38(3)(a)(5), Florida Statutes, inclusive.

2. All existing laws, ordinances, and rules inconsistent with the provisions of Sections 252.31 to Section 252.905, Florida Statutes, inclusive, or inconsistent with any rule or order

specifically promulgated under this resolution shall be suspended during this period of time and to the extent that such conflict exists.

3. The Town Manager may suspend, toll or extend the time requirements, notice requirements and deadlines for final action on applications for permits, licenses, rates and other approvals under the Town of Fort Myers Beach Code of Ordinances, to the extent necessary to accommodate the emergency.

4. Pursuant to Section 252.38(3)(a)(5), Florida Statutes, the Town hereby exercises its authority and waives the procedures and formalities otherwise required of a political subdivision by law, pertaining to:

- Performance of public work and taking whatever prudent action is necessary to ensure the health, safety, and welfare of the community;
- Entering into contracts;
- Incurring obligations;
- Employment of permanent and temporary workers;
- Utilization of volunteer workers;
- Rental of equipment;
- Acquisition and distribution, with or without compensation, of supplies, materials, and facilities; and
- Appropriation and expenditure of public funds

5. The Town Manager shall follow FEMA guidelines in procuring services, materials, labor and equipment necessary to respond to the emergency, including recovery efforts. The Town Manager shall abide by the "Uniform Administrative Requirements, Cost Principles, and Audit Requirements" for federal awards, codified at 2 C.F.R. §§200.317 through 200.326.

6. Pursuant to Section 12-23, of the Code of the Town of Fort Myers Beach, in addition to any other powers conferred by law, the town manager or designees shall have the power and authority to order and promulgate all or any of the following emergency measures to be effective during the period of such emergency in whole or in part, with such limitation and conditions as the town manager or designees may deem appropriate to protect the town's health, safety and welfare, and/or waive the procedures and formalities otherwise required of the town by law pertaining to these measures:

(a) To appropriate and expend funds; make contracts; incur obligations; obtain and distribute equipment, materials, and supplies for emergency management purposes; provide for the health and safety of persons and property, including emergency assistance to victims of any emergency; and direct and coordinate the implementation of emergency management plans and programs in accordance with the requirements of state and federal law.

(b) To appoint, employ, remove, or provide (with or without compensation) rescue teams, coordinators, other emergency management workers and other permanent or temporary workers.

(c) To establish, as necessary, primary and secondary emergency operating centers to provide continuity of government and direction and control of emergency operations.

(d) To assign and make available for duty the offices and agencies of the town, including the employees, property, or equipment thereof relating to health, medical and related services, transportation, construction, and similar items or services for emergency operation purposes, for deployment within or outside the limits of the town.

(e) To request state assistance or invoke emergency-related mutual-aid assistance pursuant to existing contracts and/or state or local law.

(f) To waive any procedures and formalities otherwise required of the town by law pertaining to performance of public work and/or the taking of whatever prudent action is necessary to ensure the health, safety, and welfare of the people of the town.

(g) To suspend or limit the sale, dispensing, or transportation of alcoholic beverages, firearms, explosives and/or combustibles.

(h) To utilize all available resources of the town government as reasonably necessary to cope with the emergency occasioned by the disaster.

(i) To make provisions for availability and use of temporary emergency housing and emergency warehousing of materials.

(j) Preceding or during the emergency, to call on the National Guard or the Army, Coast Guard or other law enforcement division or other agency as necessary to assist in the mitigation of the emergency or to help maintain law and order, rescue and traffic control.

7. Pursuant to Sec. 12-24, "Prohibitions during state of emergency", of the Code of the Town of Fort Myers Beach, whenever a state of local emergency has been declared, and until such state of local emergency is terminated, the following prohibitions shall apply throughout the town, unless and until the same shall be waived or modified by a quorum of the town council at a general, special or emergency meeting:

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8. Any person who refuses to comply with or violates any provision of this declaration of local emergency shall be guilty of a municipal violation. Each day of such violation shall constitute a separate offense. Nothing herein contained shall prevent the town from taking such other lawful action in any court of competent jurisdiction as is necessary to prevent or remedy any refusal to comply with, or violation of, this article or the emergency measures which may be made effective pursuant to this article. Such other lawful action

shall include but shall not be limited to, an equitable action for injunctive relief or an action at law for damages. In addition, any person violating any rule or order issued pursuant to this Resolution or any person who willfully fails or refuses to comply with the order or orders of any duly authorized law enforcement officer or personnel charged with the responsibility for the enforcement of such orders shall, upon conviction therefor, be punished as provided by Section 252.50, Florida Statutes, and by such other laws as may be applicable to the offense.

SECTION 2. Conflicts. Any and all Resolutions or parts of Resolutions in conflict herewith are hereby repealed.

SECTION 3. Severability. If any provision or portion of this Resolution or the application is held invalid, the invalidity shall not affect other provisions, portions or applications of the Resolution, which can be given effect without the invalid provision, portion or application, and to this end the provisions, portions, or applications of this Resolution are declared severable.

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

ADOPTED this 9th day of August 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, LLP, Town Attorney

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

Town of Fort Myers Beach
Agenda Item Summary

Blue Sheet Number: **2024-190**

1. **Request:**

Meeting Date: September 9, 2024

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, EXTENDING THE DECLARATION OF STATE OF LOCAL EMERGENCY DUE TO TROPICAL STORM DEBBY PROVIDING THE TOWN WITH POWERS, INCLUDING, BUT NOT LIMITED TO THOSE PURSUANT TO FLORIDA STATUTES, CHAPTER 252, AND TOWN CODE CHAPTER 2, ARTICLE VI; PROVIDING FOR PENALTIES FOR VIOLATIONS; PROVIDING FOR CONFLICTS, SEVERABILITY, AND FOR AN EFFECTIVE DATE AND A TERMINATION DATE.

Why the action is necessary:

Keeps the Local State of Emergency in effect for Tropical Storm Debby

What the action accomplishes:

2. **Agenda:**	3. **Requirement/Purpose:**	4. **Submitter of Information:**
CONSENT AGENDA	Resolution	Amy Baker, Town Clerk

5. **Background:**

Approving and ratifying this Resolution will maintain in place the Town Declaration of State of Local Emergency originally adopted via Resolution 24-154.

Attachments:

1. 24-170, Extension of Local Emergency - Debby 9.9.24-9.15.24
2. 24-171, Extension of Local Emergency - Debby 9.16.24-9.22.24
3. 24-172, Extension of Local Emergency - Debby 9.23.24-9.29.24
4. 24-173, Extension of Local Emergency - Debby 9.30.24-10.7.24

Financial Impact:

6. **Alternative Action**

Do not approve and end the Local State of Emergency for Tropical Storm Debby

7. **Management Recommendations:**

Approve

8. **Recommended Approval:**

Amy Baker, Town Clerk	Created/Initiated - 8/22/2024
nancy stuparich, Town Attorney	Approved - 8/25/2024
Andy Hyatt, Town Manager	Final Approval - 8/26/2024

RESOLUTION NUMBER 24-170

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, EXTENDING THE DECLARATION OF STATE OF LOCAL EMERGENCY DUE TO TROPICAL STORM DEBBY; PROVIDING THE TOWN WITH POWERS, INCLUDING, BUT NOT LIMITED TO THOSE PURSUANT TO FLORIDA STATUTES, CHAPTER 252, AND TOWN CODE CHAPTER 2, ARTICLE VI; PROVIDING FOR PENALTIES FOR VIOLATIONS; PROVIDING FOR CONFLICTS, SEVERABILITY, AND FOR AN EFFECTIVE DATE AND A TERMINATION DATE

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WHEREAS, Chapter 12 of the Town Code of the Town of Fort Myers Beach authorizes certain powers in the event of a local state of emergency; and

WHEREAS, a state of local emergency proclamation is allowed for seven (7) days with appropriate extensions pursuant to law; and

WHEREAS, the effects of Tropical Storm Debby impacted Fort Myers Beach and the current declaration of emergency that was adopted relating to that storm on August 5, 2024, must be extended.

THEREFORE, under the powers vested in it pursuant to Chapter 252, Florida Statutes, and under Chapter 12 of the Town Code of the Town of Fort Myers Beach, the **Town Council does hereby extend the proclamation of a state of local emergency in the Town of Fort Myers Beach, Florida, as identified above beginning at the end of the previously adopted state of local emergency to 7 days thereafter.**

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specifically promulgated under this resolution shall be suspended during this period of time and to the extent that such conflict exists.

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5. The Town Manager shall follow FEMA guidelines in procuring services, materials, labor and equipment necessary to respond to the emergency, including recovery efforts. The Town Manager shall abide by the "Uniform Administrative Requirements, Cost Principles, and Audit Requirements" for federal awards, codified at 2 C.F.R. §§200.317 through 200.326.

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

ADOPTED this 9th day of September 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, LLP, Town Attorney

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

RESOLUTION NUMBER 24-171

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FORT MYERS BEACH TOWN COUNCIL

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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, LLP, Town Attorney

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

RESOLUTION NUMBER 24-172

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, EXTENDING THE DECLARATION OF STATE OF LOCAL EMERGENCY DUE TO TROPICAL STORM DEBBY; PROVIDING THE TOWN WITH POWERS, INCLUDING, BUT NOT LIMITED TO THOSE PURSUANT TO FLORIDA STATUTES, CHAPTER 252, AND TOWN CODE CHAPTER 2, ARTICLE VI; PROVIDING FOR PENALTIES FOR VIOLATIONS; PROVIDING FOR CONFLICTS, SEVERABILITY, AND FOR AN EFFECTIVE DATE AND A TERMINATION DATE

WHEREAS, Section 252.38(3), Florida Statutes, authorizes the Town of Fort Myers Beach to declare a state of local emergency and to waive the procedures and formalities otherwise required of political subdivisions by law; and

WHEREAS, Chapter 12 of the Town Code of the Town of Fort Myers Beach authorizes certain powers in the event of a local state of emergency; and

WHEREAS, a state of local emergency proclamation is allowed for seven (7) days with appropriate extensions pursuant to law; and

WHEREAS, the effects of Tropical Storm Debby impacted Fort Myers Beach and the current declaration of emergency that was adopted relating to that storm on August 5, 2024, must be extended.

THEREFORE, under the powers vested in it pursuant to Chapter 252, Florida Statutes, and under Chapter 12 of the Town Code of the Town of Fort Myers Beach, the **Town Council does hereby extend the proclamation of a state of local emergency in the Town of Fort Myers Beach, Florida, as identified above beginning at the end of the previously adopted state of local emergency to 7 days thereafter.**

SECTION 1. State of Local Emergency. The following emergency powers and other provisions shall be in force during this state of local emergency:

1. The Town Manager, or designee, is authorized to take all actions necessary and appropriate to protect human life and property, including the promulgation of rules and orders as may be necessary subject to the limitations of Section 252.33, Florida Statutes. This resolution further authorizes the Town Manager, or designee, to utilize all lawful authority granted to the Town of Fort Myers Beach by Federal, State, County, or Town Emergency Management Laws, Rules, Regulations, Orders and, including, but not limited to, Section 252.46 and Section 252.38(3)(a)(1) through Section 252.38(3)(a)(5), Florida Statutes, inclusive.

2. All existing laws, ordinances, and rules inconsistent with the provisions of Sections 252.31 to Section 252.905, Florida Statutes, inclusive, or inconsistent with any rule or order

specifically promulgated under this resolution shall be suspended during this period of time and to the extent that such conflict exists.

3. The Town Manager may suspend, toll or extend the time requirements, notice requirements and deadlines for final action on applications for permits, licenses, rates and other approvals under the Town of Fort Myers Beach Code of Ordinances, to the extent necessary to accommodate the emergency.

4. Pursuant to Section 252.38(3)(a)(5), Florida Statutes, the Town hereby exercises its authority and waives the procedures and formalities otherwise required of a political subdivision by law, pertaining to:

- Performance of public work and taking whatever prudent action is necessary to ensure the health, safety, and welfare of the community;
- Entering into contracts;
- Incurring obligations;
- Employment of permanent and temporary workers;
- Utilization of volunteer workers;
- Rental of equipment;
- Acquisition and distribution, with or without compensation, of supplies, materials, and facilities; and
- Appropriation and expenditure of public funds

5. The Town Manager shall follow FEMA guidelines in procuring services, materials, labor and equipment necessary to respond to the emergency, including recovery efforts. The Town Manager shall abide by the "Uniform Administrative Requirements, Cost Principles, and Audit Requirements" for federal awards, codified at 2 C.F.R. §§200.317 through 200.326.

6. Pursuant to Section 12-23, of the Code of the Town of Fort Myers Beach, in addition to any other powers conferred by law, the town manager or designees shall have the power and authority to order and promulgate all or any of the following emergency measures to be effective during the period of such emergency in whole or in part, with such limitation and conditions as the town manager or designees may deem appropriate to protect the town's health, safety and welfare, and/or waive the procedures and formalities otherwise required of the town by law pertaining to these measures:

(a) To appropriate and expend funds; make contracts; incur obligations; obtain and distribute equipment, materials, and supplies for emergency management purposes; provide for the health and safety of persons and property, including emergency assistance to victims of any emergency; and direct and coordinate the implementation of emergency management plans and programs in accordance with the requirements of state and federal law.

(b) To appoint, employ, remove, or provide (with or without compensation) rescue teams, coordinators, other emergency management workers and other permanent or temporary workers.

(c) To establish, as necessary, primary and secondary emergency operating centers to provide continuity of government and direction and control of emergency operations.

(d) To assign and make available for duty the offices and agencies of the town, including the employees, property, or equipment thereof relating to health, medical and related services, transportation, construction, and similar items or services for emergency operation purposes, for deployment within or outside the limits of the town.

(e) To request state assistance or invoke emergency-related mutual-aid assistance pursuant to existing contracts and/or state or local law.

(f) To waive any procedures and formalities otherwise required of the town by law pertaining to performance of public work and/or the taking of whatever prudent action is necessary to ensure the health, safety, and welfare of the people of the town.

(g) To suspend or limit the sale, dispensing, or transportation of alcoholic beverages, firearms, explosives and/or combustibles.

(h) To utilize all available resources of the town government as reasonably necessary to cope with the emergency occasioned by the disaster.

(i) To make provisions for availability and use of temporary emergency housing and emergency warehousing of materials.

(j) Preceding or during the emergency, to call on the National Guard or the Army, Coast Guard or other law enforcement division or other agency as necessary to assist in the mitigation of the emergency or to help maintain law and order, rescue and traffic control.

7. Pursuant to Sec. 12-24, "Prohibitions during state of emergency", of the Code of the Town of Fort Myers Beach, whenever a state of local emergency has been declared, and until such state of local emergency is terminated, the following prohibitions shall apply throughout the town, unless and until the same shall be waived or modified by a quorum of the town council at a general, special or emergency meeting:

(a) It shall be unlawful and an offense against the town for any person to use the fresh water supplied by the county or local water company for any purpose other than cooking, drinking or bathing.

(b) It shall be unlawful for any person to be out and about on the public rights-of-way or other public areas of the town between the dusk and dawn, except for law enforcement officers, members of the town fire control district, emergency medical personnel, town councilmembers, other persons authorized by the town manager, and regular employees of local businesses while traveling to and from their jobs for their regular hours, providing such employees have in their possession personal identification and identification of the business by which they are employed.

8. Any person who refuses to comply with or violates any provision of this declaration of local emergency shall be guilty of a municipal violation. Each day of such violation shall constitute a separate offense. Nothing herein contained shall prevent the town from taking such other lawful action in any court of competent jurisdiction as is necessary to prevent or remedy any refusal to comply with, or violation of, this article or the emergency measures which may be made effective pursuant to this article. Such other lawful action shall include but shall not be limited to,

an equitable action for injunctive relief or an action at law for damages. In addition, any person violating any rule or order issued pursuant to this Resolution or any person who willfully fails or refuses to comply with the order or orders of any duly authorized law enforcement officer or personnel charged with the responsibility for the enforcement of such orders shall, upon conviction therefore, be punished as provided by Section 252.50, Florida Statutes, and by such other laws as may be applicable to the offense.

SECTION 2. Conflicts. Any and all Resolutions or parts of Resolutions in conflict herewith are hereby repealed.

SECTION 3. Severability. If any provision or portion of this Resolution or the application is held invalid, the invalidity shall not affect other provisions, portions or applications of the Resolution, which can be given effect without the invalid provision, portion or application, and to this end the provisions, portions, or applications of this Resolution are declared severable.

SECTION 4. Effective Date and Termination Date. This Resolution shall take effect immediately upon the termination of the previously adopted state of local emergency and shall terminate automatically seven (7) days from that date unless terminated earlier or extended by a document of equal dignity herewith.

SECTION 5. Direction to Implement. The Town Manager is directed to implement this Resolution.

The foregoing Resolution was adopted by the Town Council upon a motion by _____ 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 9th day of September 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, LLP, Town Attorney

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RESOLUTION NUMBER 24-173

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(b) To appoint, employ, remove, or provide (with or without compensation) rescue teams, coordinators, other emergency management workers and other permanent or temporary workers.

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(d) To assign and make available for duty the offices and agencies of the town, including the employees, property, or equipment thereof relating to health, medical and related services, transportation, construction, and similar items or services for emergency operation purposes, for deployment within or outside the limits of the town.

(e) To request state assistance or invoke emergency-related mutual-aid assistance pursuant to existing contracts and/or state or local law.

(f) To waive any procedures and formalities otherwise required of the town by law pertaining to performance of public work and/or the taking of whatever prudent action is necessary to ensure the health, safety, and welfare of the people of the town.

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(j) Preceding or during the emergency, to call on the National Guard or the Army, Coast Guard or other law enforcement division or other agency as necessary to assist in the mitigation of the emergency or to help maintain law and order, rescue and traffic control.

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8. Any person who refuses to comply with or violates any provision of this declaration of local emergency shall be guilty of a municipal violation. Each day of such violation shall constitute a separate offense. Nothing herein contained shall prevent the town from taking such other lawful action in any court of competent jurisdiction as is necessary to prevent or remedy any refusal to comply with, or violation of, this article or the emergency measures which may be made effective pursuant to this article. Such other lawful action shall include but shall not be limited to,

an equitable action for injunctive relief or an action at law for damages. In addition, any person violating any rule or order issued pursuant to this Resolution or any person who willfully fails or refuses to comply with the order or orders of any duly authorized law enforcement officer or personnel charged with the responsibility for the enforcement of such orders shall, upon conviction therefore, be punished as provided by Section 252.50, Florida Statutes, and by such other laws as may be applicable to the offense.

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

ADOPTED this 9th day of September 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, LLP, Town Attorney

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

Town of Fort Myers Beach
Agenda Item Summary Blue Sheet Number: **2024-214**

1. **Request:** **Meeting Date: September 9, 2024**

Applicant has requested a continuance to a later date. A RESOLUTION OF THE TOWN OF FORT MYERS BEACH APPROVING WITH CONDITIONS VARIANCE 20240100, REQUESTING VARIANCES FROM LDC TABLE 34-3 OF 13 FEET FROM THE STREET SETBACK FOR A FRONT SETBACK OF 12 FEET, A VARIANCE OF 3 FEET FROM THE WEST SIDE SETBACK FOR A SIDE SETBACK OF 4 FEET 6 INCHES FOR THE MECHANICAL EQUIPMENT AND BALCONY AND ANOTHER VARIANCE OF 15.11% FROM THE BUILDING COVERAGE FOR A BUILDING COVERAGE OF 55.11% TO BUILD A NEW SINGLE FAMILY STRUCTURE IN THE RM ZONING DISTRICT, FOR THE PROPERTY LOCATED AT 51 PEARL STREET, FORT MYERS BEACH, FLORIDA; AND PROVIDING FOR AN EFFECTIVE DATE.

Why the action is necessary:
The Town Council approves or denies variance requests.

What the action accomplishes:
Approval of the variances allows for the construction of a new single-family residence with reduced setbacks and increased building coverage.

2. **Agenda:**	3. **Requirement/Purpose:**	4. **Submitter of Information:**
PUBLIC HEARINGS	Resolution	

5. **Background:**
Penelope Porter, the owner and applicant for 51 Pearl Street, is requesting a variance from the Town's Land Development Code (LDC) Table 34-3 which requires a single-family home in the RM zoning district to provide a minimum street setback of 25 feet from the front property line, 7.5 feet from the side property lines and a maximum lot coverage of 40%. The applicant is requesting a variance of 13 feet from the street setback for a front setback of 12 feet, a variance of 3 feet from the west side setback for a side setback of 4 feet 6 inches for the mechanical equipment and balcony and another variance of 15.11% from the lot coverage maximum for a lot coverage of 55.11% for a new single-family structure.

The subject property is a beachfront lot adjacent to Pearl Street and is accessible via a driveway easement. LDC Sec 34-2 defines street as a public or private thoroughfare which affords vehicle access to the principal means of ingress or egress to a lot. For purposes of measuring the street setback, LDC Sec 34-2 defines street setback as the setback extending across the front of a lot measured from the edge of an existing street right-of-way or street easement.

At the LPA hearing held on August 23, 2024, LPA member John McLean made a motion, seconded by LPA member Jim Dunlap, to recommend denial of all three variances, citing the reasons in the staff report. The LPA voted 6-1 to deny the variance requests.

Attachments:
1. TC Staff Report
2. Resolution 24-XX- 51 Pearl
3. Property Survey
4. Exhibit A- Completed Application
5. Exhibit B- Postcards
6. Exhibit C.- Site Plan and Elevations

Financial Impact:
unknown

6. **Alternative Action**
Approve with conditions.

7. **Management Recommendations:**
Deny

8. **Recommended Approval:**

Kendra Rosa, Zoning Coordinator	Created/Initiated - 8/28/2024
Frankie Kropacek, Operations & Compliance Director	Approved - 8/28/2024
nancy stuparich, Town Attorney	Approved - 8/29/2024
Amy Baker, Town Clerk	Approved - 9/3/2024
Andy Hyatt, Town Manager	Final Approval - 9/3/2024

Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT

TYPE OF CASE:	**Variance**
CASE NUMBER:	**VAR20240100**
CASE NAME:	**51 Pearl St; requesting a variance from Table 34-3 Dimensional Regulations in Conventional Zoning Districts for the street and side setbacks and building coverage in the RM zoning district.**
LPA HEARING DATE:	**August 23, 2024, at 9 AM**
TOWN COUNCIL HEARING DATE:	**September 9, 2024, at 9 AM**
STAFF RECOMMENDATION:	**DENIAL**
PREPARED/ SUBMITTED BY:	**Eli Lee, Planner, & Sarah Propst AICP, PMP**

I. APPLICATION SUMMARY

Applicant/Owner:	Penelope Porter/Jenkins Wayne & Porter Penelope
Request:	The applicant is requesting a variance of 13 feet from the street setback for a front setback of 12 feet, a variance of 3 feet from the side setback for a side setback of 4 feet 6 inches for the mechanical equipment and balcony and another variance of 15.11% from the building coverage for a building coverage of 55.11% to build a new single-family structure.
Subject property:	See attached site plan
Physical Address:	51 Pearl St
STRAP #:	19-46-24-W4-00445.0000

FLU: Boulevard

Zoning: Residential Multi-family (RM)

Adjacent zoning and land uses:

North: RESIDENTIAL CONSERVATION (RC)
Multi-Family

South: ENVIRONMENTALLY CRITCAL (EC)
Recreation

East: RESIDENTIAL CONSERVATION (RC)
Single-Family Residence/Multi-Family

West: DOWNTOWN
Hotel/Recreation

II. BACKGROUND AND ANALYSIS

Background:
Penelope Porter, the owner and applicant for 51 Pearl Street, is requesting a variance from the Town's Land Development Code (LDC) Table 34-3 which requires a single-family home in the RM zoning district to provide a minimum street setback of 25 feet from the front property line, 7.5 feet from the side property lines and a maximum lot coverage of 40%. The applicant is requesting a variance of 13 feet from the street setback for a front setback of 12 feet, a variance of 3 feet from the west side setback for a side setback of 4 feet 6 inches for the mechanical equipment and balcony and another variance of 15.11% from the lot coverage maximum for a lot coverage of 55.11% for a new single-family structure.

The subject property is a beachfront lot adjacent to Pearl Street and is accessible via a driveway easement. LDC Sec 34-2 defines street as a public or private thoroughfare which affords vehicle access to the principal means of ingress or egress to a lot. For purposes of measuring the street setback, LDC Sec 34-2 defines street setback as the setback extending across the front of a lot measured from the edge of an existing street right-of-way or street easement.

Analysis:
The first variance request is for the single-family home to be constructed 12 feet from the front property line. The property owner/applicant understood that since the subject property faces an easement and not a street ROW, the street setback should not apply. However, this is not in-line with the LDC definition of a street as noted above. The reduced setback would allow the home to gain more square footage and outdoor space, thus increasing the massing of the structure. The second request is for the mechanical equipment and balcony located on the west portion of the structure

to encroach 3 feet into the required 7.5-foot side setback. The placement of the mechanical equipment on the west side of the structure will be away from the neighbor on the east reducing the potential for nuisance noise to impact the neighbor. The cantilevered balcony above the equipment would protect the mechanical equipment as stated by the applicant. The third request is to exceed the maximum building coverage by 15.11% to accommodate additional living space.

The RM zoning district does not have a building coverage limit but is restricted by Floor Area Ratio (FAR). Staff was directed by Town Council in June 2024 to present a code change that would allow single family homes in the RM zoning district to utilize the 40% building coverage instead of FAR because they believed that it would be appropriate for that zoning district, and it would be consistent with other residential zoning districts within the island. The updated code language would be presented to LPA on August 23rd, 2024 for approval before proceeding to Town Council for approval and adoption. The property owner was made aware of the matter and was comfortable with proceeding as is.

Neighborhood Compatibility:
The subject property is part of an existing residential neighborhood. It appears that the previous structure was a single-family home that did not meet the current required setbacks prior to Hurricane Ian.

The site abuts the Diamondhead Resort parking lot, therefore placement of mechanical equipment on that side of the lot would be unlikely to disturb any resort guests.

The neighboring property of 41 Pearl Street had a single-family home constructed in 2009 that adhered to the setbacks at that time.

Findings and Conclusions:
LDC Sec. 34-87(c) 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 subject property is a beachfront lot that is off Pearl Street and is accessible via a driveway easement. The lot varies in width from approximately 50 feet to 54 feet. The buildable (landward of the 1978 CCCL) lot depth varies from approximately 74 to 95 feet. The lot contains a sufficient area to construct a home. The applicant is opting to rebuild a home that is substantially larger than what existed previously and what is allowed by right. The request is not for a de minimis variance. The LPA should determine whether "*rigid compliance is not essential to protect public policy"* in this case.

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 the result of the Applicant's design choices. The applicant has chosen to design a new residence that is not in compliance with the street setbacks, side setbacks, or building lot coverage set forth by Table 34-3 of the LDC.

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.*

The design of the home could be smaller to be compatible with the dimensions of the lot. The need for this variance is a result of a design choice and is subjective in nature.

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

The granting of the variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare. The proposed location of the mechanical equipment is on the west side of the single-family structure, which faces a parking lot and does not abut the neighboring single-family residence to the east.

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

The proposed location of the single-family residence being 12 feet from the front property line will be closer to the easement than the neighboring property to the east and the plane of the homes would not match. Views could also be negatively affected.

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

The increase in building coverage would cause the home to have more square footage under roof, which would create more massing of the structure, however the site would not exceed the maximum 67% impervious as required in code sec. 6-14.

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 RM zoning district have minimum 25-foot street setback, 7.5-foot side setback, and 40% maximum building coverage* and found that the variance request does not meet the requirements set forth in sec. 34-87.

Therefore, staff recommends **Denial** of VAR20240100, a variance of 13 feet from the street setback for a front setback of 12 feet, a variance of 3 feet from the west side setback for a side setback of 4 feet 6 inches for the mechanical equipment and balcony and another variance of 15.11% from the building coverage for a building coverage of 55.11% to build a new single-family structure.

At the LPA hearing held on August 23, 2024, LPA member John McLean made a motion and seconded by LPA member Jim Dunlap to recommend denial for all three variances citing the reasons in the staff report. The vote was 6 to 1, with LPA member Jane Plummer recommending approval.

IV. CONDITIONS FOR APPROVAL

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

1) Approval of these variances does not give the Applicant an undeniable right to permit approval. Development of the Property must comply with all applicable requirements of the Fort Myers Beach Comprehensive Plan and LDC in effect at the time of permit approval, except as specifically modified herein.
2) Property owner must ensure that they adhere to the Neighborhood flooding ordinance for drainage and 67% maximum impervious requirements.
3) The variance shall only apply to the single-family home as shown on the provided site plan. Demolition or substantial damage to the residential structure shall render the variances to be null and void.
4) No portions of the deck shall extend past the 1978 Lee County Line (CCCL).

V. EXHIBITS

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

TOWN COUNCIL
RESOLUTION NUMBER 24-XX

A RESOLUTION OF THE FORT MYERS BEACH LOCAL PLANNING AGENCY APPROVING/APPROVING WITH CONDITIONS/ DENY VARIANCE 20240100, REQUESTING VARIANCES FROM LDC TABLE 34-3 OF 13 FEET FROM THE STREET SETBACK FOR A FRONT SETBACK OF 12 FEET, A VARIANCE OF 3 FEET FROM THE WEST SIDE SETBACK FOR A SIDE SETBACK OF 4 FEET 6 INCHES FOR THE MECHANICAL EQUIPMENT AND BALCONY AND ANOTHER VARIANCE OF 15.11% FROM THE BUILDING COVERAGE FOR A BUILDING COVERAGE OF 55.11% TO BUILD A NEW SINGLE FAMILY STRUCTURE IN THE RM ZONING DISTRICT, FOR THE PROPERTY LOCATED AT 51 PEARL STREET, FORT MYERS BEACH, FLORIDA; 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, 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, Penelope Porter ("Applicant") is the owner(s) of the property located at 51 Pearl Street (Property), and is requesting variances from LDC Table 34-3 of 13 feet from the street setback for a front setback of 12 feet, a variance of 3 feet from the west side setback for a side setback of 4 feet 6 inches for the mechanical equipment and balcony and another variance of 15.11% from the building coverage for a building coverage of 55.11% to build a new single-family structure in the RM zoning district; and

WHEREAS, the STRAP number for the subject property is 19-46-24-W4-00445.0000; and

WHEREAS, the Property is located in the "Boulevard" and "Recreation" Future Land Use of the Comprehensive Plan and the "Residential" and "Multifamily" zoning districts 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 August 23, 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 not consistent with the comprehensive plan and the requirements of the LDC and by roll call voted 6 to 1 to recommend denial of the variances; and

WHEREAS, on September 9, 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 Variances **do/ do not** meet the requirements of the Town Comprehensive Plan and LDC and **approving/ approving with conditions/ denying** the Variances 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 variances from LDC 34-3 of 13 feet from the street setback for a front setback of 12 feet, a variance of 3 feet from the west side setback for a side setback of 4 feet 6 inches for the mechanical equipment and balcony and another variance of 15.11% from the building coverage for a building coverage of 55.11% to build a new single-family structure in the RM zoning district.

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 de minimis variances under circumstances or conditions where rigid compliance is not essential to protect public policy.

B. The conditions justifying approval of the variances **are/ are not** the result of actions of the Applicant taken after the adoption of the regulation in question.

C. The variances **are/ are not** the minimum variances that will relieve the Applicant of an unreasonable burden caused by the application of the regulation to the Property.

D. The granting of the variances **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 variances, the following conditions of approval are imposed on the Applicant and the Property:

A. Approval of these variances does not give the Applicant an undeniable right to permit approval. Development of the Property must comply with all applicable requirements of the Fort Myers Beach Comprehensive Plan and LDC in effect at the time of permit approval, except as specifically modified herein.
B. Property owner must adhere to the Neighborhood flooding ordinance for drainage and 67% maximum impervious requirements.
C. The variance shall only apply to the single-family home as shown on the provided site plan. Demolition or substantial damage to the residential structure shall render the variances to be null and void.
D. No portions of the deck shall extend past the 1978 Lee County Line (CCCL).

Section 5. This resolution shall be effective upon adoption by the Town Council.

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 roll call vote, the result was as follows:

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

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

DRAFT

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.

EXHIBIT A: Proposed Site Plan

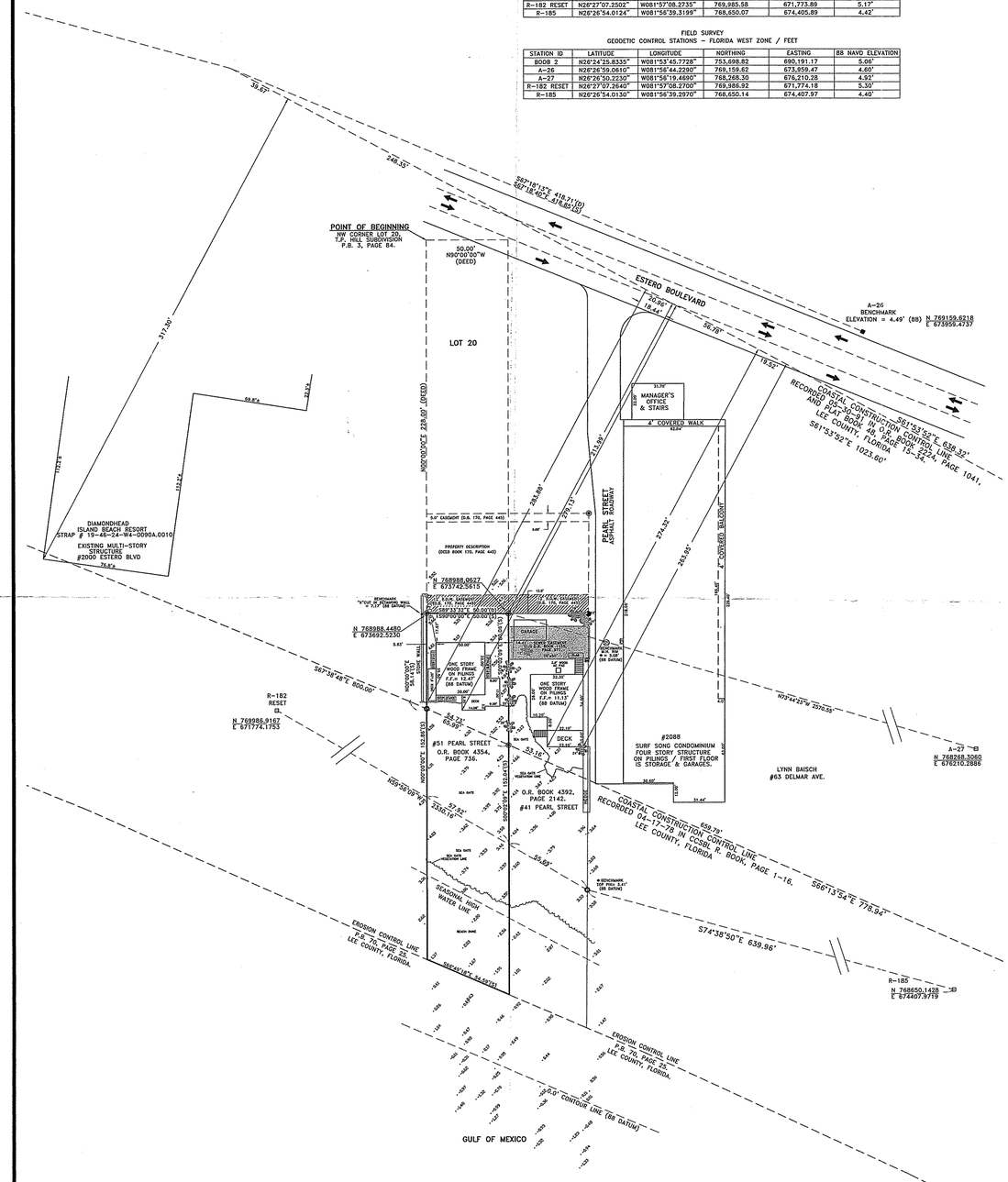
DRAFT

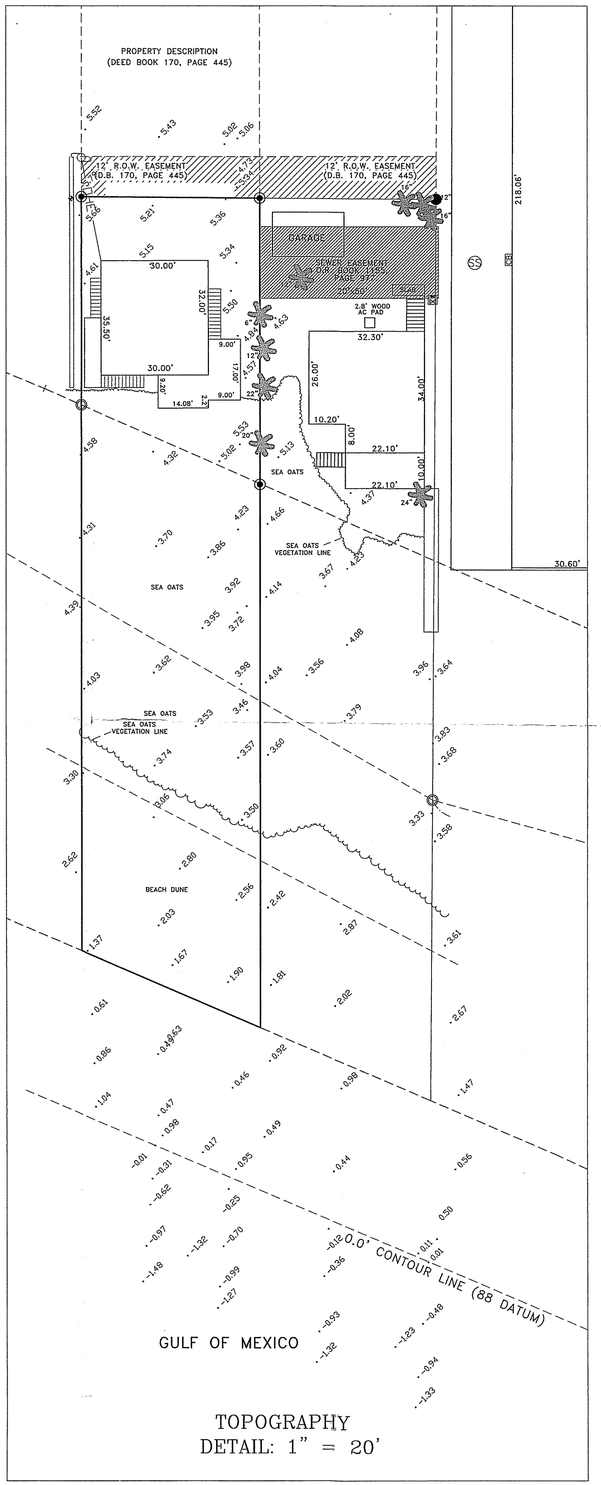
PUBLISHED
GEODETIC CONTROL STATIONS – FLORIDA WEST ZONE / FEET
CORPSCON SOFTWARE USED TO CONVERT 1927 COORDINATES TO 1983 COORDINATES / "A" MONUMENTS

STATION ID	LATITUDE	LONGITUDE	NORTHING	EASTING	88 NAVD ELEVATION
BOOB 2	N26°24'25.8335"	W081°53'45.7728"	753,698.82	680,191.17	5.06'
A-26	N26°26'59.0512"	W081°56'44.2492"	769,158.62	673,957.65	4.49'
A-27	N26°26'50.2133"	W081°56'19.4860"	768,267.30	676,208.72	4.81'
R-182 RESET	N26°27'07.2502"	W081°57'08.2735"	769,985.58	671,773.89	5.17'
R-185	N26°26'54.0124"	W081°56'39.3199"	768,650.07	674,405.89	4.42'

FIELD SURVEY
GEODETIC CONTROL STATIONS – FLORIDA WEST ZONE / FEET

STATION ID	LATITUDE	LONGITUDE	NORTHING	EASTING	88 NAVD ELEVATION
BOOB 2	N26°24'25.8335"	W081°53'45.7728"	753,698.82	680,191.17	5.06'
A-26	N26°26'59.0610"	W081°56'44.2290"	769,159.62	673,959.47	4.60'
A-27	N26°26'50.2230"	W081°56'19.4690"	768,268.30	676,210.28	4.92'
R-182 RESET	N26°27'07.2640"	W081°57'08.2700"	769,986.92	671,774.18	5.30'
R-185	N26°26'54.0150"	W081°56'39.2970"	768,650.14	674,407.97	4.40'





TOPOGRAPHY
DETAIL: 1" = 20'

LEGEND

S = SURVEY
D = DESCRIPTION
F.I.P. = FOUND IRON PIN
F.C.M. = FOUND CONCRETE MONUMENT
R.O.W. = RIGHT OF WAY
OHE = OVERHEAD ELECTRIC LINES
E.O.P. = EDGE OF PAVEMENT
P.U.E. = PUBLIC UTILITY EASEMENT
D.E. = DRAINAGE EASEMENT
S = STORM MANHOLE
W = WATER METER
FH = FIRE HYDRANT
UTS = UNITED TELEPHONE SERVICE BOX
S = SEWER MANHOLE
SS = SEWER SERVICE
CB = CATCH BASIN
GV = GATE VALVE
PP = WOOD POWER POLE
GW = GUY WIRE ANCHOR
BWF = BARBED WIRE FENCE
OR = OFFICIAL RECORD
ROW = RIGHT OF WAY
UTS = TELEPHONE BOX
PRM = PERMANENT REFERENCE MONUMENT
POB = POINT OF BEGINNING
POC = POINT OF COMMENCEMENT
= LIGHTPOLE
T = TRANSFORMER PAD
C = CABLEVISION SERVICE BOX
G = GASLINE MARKER
SQ = SQUARE
CM = CONCRETE MONUMENT
FD = FOUND
COR = CORNER
FF = FINISH FLOOR ELEVATION
INFO = INFORMATION
= PALM TREE (SIZE AS NOTED)

N

40 0 20 40 80

SCALE: 1" = 40'

GENERAL NOTES:

1. BEARINGS BASED ON STATE PLANE COORDINATES, FLORIDA WEST ZONE. GEODETIC CONTROL STATION "BOOB 2", ELEVATION = 6.22' (1929 N.G.V.D.) NAD 83 (1999) / 26°24'25.8342 (N), 81°53'45.7729 (W) ELEVATION = 5.06' (1988 N.A.V.D.)
2. SUBJECT TO EASEMENTS, RESTRICTIONS, AND RESERVATIONS OF RECORD.
3. ALL DISTANCES ARE IN FEET AND DECIMALS THEREOF.
4. VALID TO DATE OF SURVEY, NOT DATE OF SIGNATURE.
5. △ = PK NAIL & DISC STAMPED AS NOTED.
6. ○ = SET 5/8" IRON PIN AND CAP – "CEC LB 2464".
7. ◉ = FOUND 5/8" PIN – NO CAP.
8. SUBJECT PROPERTY LIES WITHIN FLOOD ZONE "A12", ELEVATION 14.00', AS PER FLOOD INSURANCE RATE MAP (F.I.R.M.) 125124 0429 D, DATED 09-20-1996. (1929 N.G.V.D.)
9. UNDERGROUND IMPROVEMENTS, UTILITIES AND/OR FOUNDATIONS WERE NOT LOCATED UNLESS OTHERWISE NOTED.
10. PARCELS CONTAINS 0.25± ACRES OF LAND, MORE OR LESS.
11. DATE OF LAST FIELD WORK 01-25-06.
12. NO SEARCH OF PUBLIC RECORDS WAS MADE BY THIS OFFICE FOR ERRORS AND/OR OMISSIONS OF SAID DESCRIPTION.
13. ELEVATIONS BASED ON DNR MONUMENT A-26 & BOOB2 (SEE NOTE #1) ELEVATION = 5.76, 1929 N.G.V.D, (NATIONAL GEODETIC VERTICAL DATUM). ELEVATION = 4.49, 1988 N.A.V.D, (NORTH AMERICAN VERTICAL DATUM).
14. ■ = FOUND 4" BRASS DISC
15. ⊡ = FOUND CONCRETE MONUMENT & 4" DISC .
16. ● = FOUND 5/8" PIN – STAMPED "DENI & ASSOC."
17. EXISTING TOPOGRAPHY IN 1988 N.A.V.D.

SEASONAL HIGH WATER LINE:

SHW = MHW+(1.5xMR)= 3.1 FEET
WHERE MHW = 0.27 FT 1988 NAVD
AND MR = 1.89
INFORMATION TAKEN FROM LABINS MHW INTERACTIVE MAP
http://data.labins.org/imf3/IMHW3/imfStyle2.jsp

MHW = MEAN HIGH WATER
MR = MIDRANGE TIDE READING
DATUM USED = 1988 NAVD

LEGAL DESCRIPTION

OFFICIAL RECORD BOOK 4354, PAGE 736.

BEGINNING AT THE NORTHWEST CORNER OF LOT #20 OF T.P. HILL'S SUBDIVISION, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 3 AT PAGE 84, PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE SOUTH ALONG THE WEST BOUNDARY OF SAID LOT #20 A DISTANCE OF 228 FEET TO THE POINT OF BEGINNING; THENCE EAST AT AN ANGLE OF 90 DEGREES WITH A WEST BOUNDARY OF SAID LOT #20, A DISTANCE OF 50 FEET; THENCE SOUTH PARALLEL WITH THE WEST BOUNDARY OF SAID LOT #20 TO THE SOUTH BOUNDARY THEREOF; THENCE WESTERLY ALONG THE SOUTH BOUNDARY OF SAID LOT #20 TO A POINT IN THE WEST LINE OF LOT #20 SOUTH OF THE POINT OF BEGINNING; THENCE NORTH TO THE POINT OF BEGINNG TOGETHER WITH ALL RIPARIAN RIGHTS THEREUNTO BELONGING, AND THE EASEMENT FOR RIGHT OF WAY PURPOSES RESERVE BY THE PARTY OF THE FIRST PART IN A DEED TO JAMES CITY WOODSON DATED JUNE 13, 1946, RECORDED IN DEED BOOK 170 AT PAGE 445, PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

STRAP # 19-46-24-W4-00445.0000

SAID PARCEL CONTAINING 0.25 ACRES OF LAND, MORE OR LESS.

SUBJECT TO EASEMENTS, RESTRICTIONS AND RESERVATIONS OF RECORD.

I HEREBY CERTIFY THAT THIS SURVEY MEETS THE MINIMUM TECHNICAL REQUIREMENTS AS SET FORTH IN CHAPTER 61G17, F.A.C (MINIMUM TECHMICAL STANDARDS)

GEODETIC INFORMATION USED WAS TAKEN FROM LEE COUNTY, FLORIDA, DNR GPS NETWORK 1990-1992, CREATED BY DENI ASSOCIATES.

GPS UNIT USED – LEICA 500 RTK GPS UNIT WITH A VERTICAL TOLERANCE OF 0.10±

CERTIFICATIONS:

MR. TOM RONNKVIST

COASTAL ENGINEERING CONSULTANTS, INC.
FLORIDA BUSINESS AUTHORIZATION NO. LB 2464

MR. DANA L. WORLEY, P.S.M.
PROFESSIONAL SURVEYOR AND MAPPER
FLORIDA CERTIFICATE NO. 5651
NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER
DATE OF FIELD SURVEY: 01-25-06
DATE OF SIGNATURE: 02-02-06

THIS DOCUMENT AND THE DESIGNS AND RECORDS THEREIN ARE AN INSTRUMENT OF SERVICE AND SHALL REMAIN THE PROPERTY OF COASTAL ENGINEERING CONSULTANTS, INC. AND WERE PREPARED FOR THE SPECIFIC PURPOSE AND CLIENT FOR WHICH IT WAS PREPARED. REUSE OF AND IMPROPER RELIANCE ON THIS DOCUMENT WITHOUT WRITTEN AUTHORIZATION AND ADAPTATION BY COASTAL ENGINEERING CONSULTANTS, INC. (CECI) OR ITS SUBSIDIARIES, SHALL BE WITHOUT LIABILITY TO CECI OR ITS SUBSIDIARIES.

NO.	DATE	BY	REVISION DESCRIPTION

DATE: 01-30-06 SCALE: 1"=40'
DRAWN: DLW F.B. LC542 & LC572
CHECKED: DLW PG. 59 & 35&43
SEC: 19 TWP: 46S RNG: 24E
ACAD NO. 06.009
REF. NO. 06.009.dwg

CLIENT: TOM RONNKVIST

TITLE: TOPOGRAPHIC SURVEY
OF LANDS LOCATED IN SECTION 19, TOWNSHIP 46 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA.
(STRAP 19-46-24-W4-00445.0000)

CIVIL ENGINEERING
SURVEY & MAPPING
COASTAL ENGINEERING
REAL ESTATE PLANNING

PHONE: (239)643-2324
FAX: (239)643-1143
www.coastalengineering.com
E-Mail: engcollier@cecifl.com

COASTAL ENGINEERING CONSULTANTS INC.
A CECI GROUP COMPANY
Serving Florida Since 1977
3106 SOUTH HORSESHOE DRIVE
NAPLES, FLORIDA 34104

SHEET 1 OF 1
FILE NO.: 06.009

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: 51 Pearl Street Fort Myers Beach FL 33931

STRAP Number: 194624W4004450000

Applicant: Penelope Porter Phone: 613 561 1340

Contact Name: Penelope Porter Phone: _____

Email: penelopejporter@gmail.com Fax: _____

Current Zoning District: RC

Future Land Use Map (FLUM) Category: _____

FLUM Density Range: _____ Platted Overlay: ☐ YES ☐ NO

ACTION REQUESTED	SUPPLEMENTAL FORM REQUIRED
☐ Special Exception	PH-A
☒ Variance	PH-B
☐ Conventional Rezoning	PH-C
☐ Planned Development ☐ Commercial ☐ Residential	PH-D
☐ Master Concept Plan Extension	PH-E
☐ Appeal of Administrative Action	PH-F
☐ Vacation of Platted Right-of-way and Easement	PH-G
☐ Other – cite LDC Section: _____	attach on separate sheet

PART I – General Information

A. Applicant*: Penelope Porter Phone: 613-561-1340

**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: Suite 421 829 Norwest Rd Kingston Ontario K7P2

Email: penelopejporter@gmail.com Fax: _____

Contact Name: Penelope Porter Phone: 613-561-1340

COMMUNITY DEVELOPMENT DEPARTMENT
APPLICATION for PUBLIC HEARING

B. Relationship of Applicant to subject property:

- [x] Owner*
- [ ] Corporation*
- [ ] Subdivision*
- [ ] Authorized Representative*
- [ ] Land Trust*
- [ ] Association*
- [ ] Timeshare Condo*
- [ ] Other* (please indicate)_____
- [ ] Partnership*
- [ ] Condominium*
- [ ] Contract Purchaser*

**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: N/A Phone: _____

Address: _____

Email: _____ Fax: _____

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

Name: N/A Phone: _____

Address: _____

Email: _____ Fax: _____

Name: N/A Phone: _____

Address: _____

Email: _____ Fax: _____

PART II – Nature of Request

Requested Action (each request requires a separate application)

- [ ] Special Exception
- [x] Variance from LDC Section 34 - 3
- [ ] 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

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: _____ Description: _____

_____

PART IV – Property Ownership (Single Owner)

☒ Single Owner (individual or husband and wife)

Name: Penelope Porter Phone: _____

Mailing Address: Suite 421 829 Norwest Rd Kingston On K7P2N3

Email: penelopejporter@gmail.com Fax: _____

AFFIDAVIT
APPLICATION IS SIGNED BY AN INDIVIDUAL OWNER OR APPLICANT

I, Penelope Porter 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

Penelope Porter
Printed Name

STATE OF Florida **COUNTY OF** Lee

The foregoing instrument was certified and subscribed before me by means of X physical presence OR ____ online notarization, this 3rd day of April, 2024, by Penelope Porter, ☐ who is personally known to me OR ☒ who has produced passport as identification.

Notary Public Signature

NOTARY PUBLIC STATE OF FLORIDA
ASHLEY SHEPARD
Commission # HH 253125
Expires April 14, 2026

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

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, _____ (name), as _____ (title) of _____ (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.

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: 19-46-24-w4-00445-0000

Property Address: 51 Pearl Street Fort Myers Beach 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 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.

C. Property Dimensions:

Width (please provide an average width if irregular in shape) 50 feet

Depth (please provide an average width if irregular in shape) 152 feet

Frontage on street: 50 feet. Frontage on waterbody: 50 feet

Total land area: 7600 ☐ acres ☐ square feet

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

West from Sky Bridge to Pearl Street South. Property is between Surf Song Condo and Diamond Head Hotel

☒ 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
☐ Mixed Residential
☐ Boulevard
☐ Pedestrian Commercial
☐ Marina
☐ Recreation
☐ Wetlands
☐ Platted Overlay

Town of Fort Myers Beach 2525 Estero Blvd Fort Myers Beach, Florida 33931
Phone: 239-765-0202 zoningpermits@fmbgov.com Fax: 239-765-0909

Case # _____ Date Received: _____

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:
Project Name: PORTER
Authorized Applicant: PORTER, PENELOPE
LeePA STRAP Number: 194624W4004450000

Current Property Status: Vacant Lot			
Current Zoning: RC			
Future Land Use Map (FLUM) Category:			
Comp Plan Density:	**Platted Overlay?**	☐ **Yes**	☐ **No**

Variance is requested from:

LDC Section Number	**Title of Section or Subsection**
Table 34-3 Dimensional	
Front yard setback	
Side yard encroachment West side only	
Lot coverage increase	

Complete the narrative statements below for EACH variance requested.

Case # _____ Date Received: _____

PART I

Narrative Statements

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

Explain the specific regulation contained in this section from which relief is sought:
Front Yard Set back relief. The property zoning currently requires a 25 foot front yard set back.
I am requesting a variance of 13 feet so that it be reduced to 12 feet. The front yard does not front on a street
it fronts on a driveway easement and a parking lot
The west side yard relief is being sought to allow for air conditioning units to
hang on the new structure side wall below a three foot cantilevered deck, both the units and the deck would
protrude into the 7.5 setback by 3 feet and are above the BFE on the Diamond Head Side of
the property which is a parking lot, separated by a fence and stone wall.
The lot coverage relief sought is for an increase in lot coverage from 40% to 56%

Reasons for request

Explain why the variance is needed:
The variances are needed to allow for construction of a three storey single
family residence. The lot had a cottage on the property which was destroyed by
Ian, The front yard, and lot coverage relief are needed in
order to construct a single family home. The buildable area of the lot is very small
and irregular shaped. The trapezoid angles make one side of the lot very narrow.
The request for the A/C units to hang on the west side (Diamond Head Parking Lot)
with a cantilever deck is in order to minimize the intrusion to the neighbour to the
east from the A/C noise and also protect the A/C units with
a cantilever deck above.

Case # _____ Date Received: _____

Explain the possible effect the variance, if granted, would have on surrounding properties:
The property is one of two properties located between the Diamond Head Resort
and the surf song Condominiums. The property is accessed by a Right of Way
Easement from Pearl Street.
The front yard is accessed by the Right of Way which is beside a parking lot.
The property does not front on a public road nor sidewalk
The side yard encroachment is on the Diamond Head property side and any noise
created by the air conditioners would not impact the hotel guests due to the
distance from the hotel. The encroachment is beside a parking lot which
is separated from my property by a stone wall and fence.
Lot coverage has been calculated using only the area north of the CCL. The impervious
coverage is significantly lower and more reflective of the actual lot.
The lot coverage increase has no effect on the surrounding properties

Explain the hardship (what is unique about the property) that justifies relief from the regulation:
The property is one of two homes located between the surf song condominiums
and the Diamond Head Hotel. The west side of the property looks out to a
parking lot.
This property fronts on a private driveway easment which is accessed from Pearl
street, the property frontage is not on a traveled street nor public access and
the front of the property looks out onto a parking lot which abuts the driveway
The property is unique in that it abuts both the diamond head parking lot on the
west side and the Surfsong parking lot on the north side.
The property buildable area is very small and oddly shaped, the west property line
to the CCL is only 58 feet which makes it impracticle to design a structure with a
a 25 foot frontage. The lot coverage regulation is very confining in this case as
only using the buildable area for the calculation rather than the entire lot size
makes it very difficult to stay within the allowable percentage.

Case # _____ Date Received: _____

Explain how the property qualifies for a variance. Direct this explanation to the guidelines for decision-making in LDC Section 34-87.
There are special and exceptional circumstances of this property in respect to
its location and buildable size. The variances sought are minor in nature, have no negative effect on neighbours
nor municipal infrastructure.
The reducing of the front yard setback will have no negative effect on the public
and given the unique circumstance of this property's location, rigid compliance
is not required to protect public policy.
The 3 foot encroachment of a deck with AC units underneath into the 7.5 foot side yard setback
has no impact on the public, the east side abuts a parking lot and any noise from the Air units
would not affect the hotel due to the buffering of the parking lot
and the distance from my property to actual hotel rooms.
I am requesting the minimum relief required.
Granting of the variances would neither be injurous to the neighbouhood
nor detrimental to the public welfare.
The conditions and circumstances are unique to this property and are
not general in nature to warrant an amendment to the regulation.

Town of Fort Myers Beach
Community Development Services - Planning Division
2731 Oak St,
Fort Myers Beach, FL 33931

NOTICE TO PROPERTY OWNERS WITHIN 500 FEET
(Variances, Extensions, Satisfaction of Conditions)

VAR20240100 – requesting a variance from Table 34-3 Dimensional Regulations in Conventional Zoning Districts for the street and side setbacks and building coverage in the RM zoning district.

ADDRESS: 51 Pearl St **APPLICANT: Penelope Porter**

LOCAL PLANNING AGENCY PUBLIC HEARING
TIME: 9 AM
DATE: AUG 23, 2024
LOCATION: 2731 Oak St, FMB, Florida 33931
TOWN CONTACT: SARAH.PROPST@FMBGOV.COM

TOWN COUNCIL PUBLIC HEARING*
TIME: 9 AM
DATE: SEPTEMBER 9, 2024
LOCATION: 2731 Oak St. , FMB, Florida 33931

***NOTE: THE TOWN COUNCIL PUBLIC HEARING MAY BE CANCELLED IF THE LOCAL PLANNING AGENCY UNANIMOUSLY APPROVES THE REQUEST AND NO REQUEST FOR A HEARING IS RECEIVED BY THE TOWN CLERK WITHIN 10 BUSINESS DAYS OF THE LOCAL PLANNING AGENCY DECISION. CHECK www.fortmyersbeachfl.gov/209/Meetings-Agendas FOR UPDATED SCHEDULING.**

You may appear in person, through counsel, or through an authorized agent, and provide testimony, legal argument, or other evidence. At the public hearing(s), the request and related materials will be reviewed and a recommendation made. If a person decides to appeal any decision made, he or she will need a record of the proceedings, and may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. 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
Community Development Services - Planning Division
2731 Oak St,
Fort Myers Beach, FL 33931

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

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

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

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

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2525 Estero Blvd,
Fort Myers Beach, FL 33931

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

51 Pearl Street

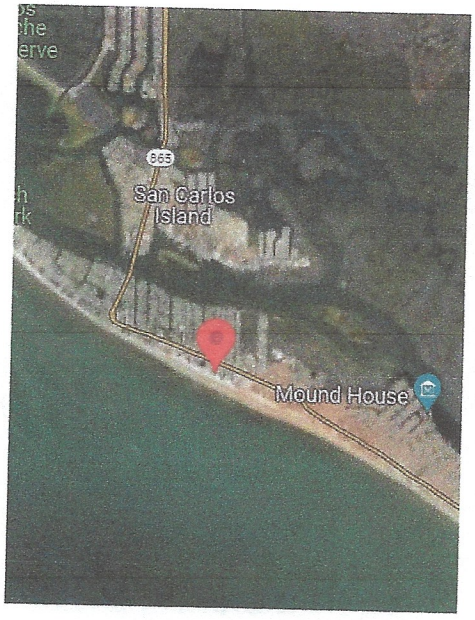
Fort Myers Beach

Application for Variance

Penelope Porter

LEGAL DESCRIPTION
HILLS T.P.SUBD. PB 3 PG 84 BEG 216 FT S OF NW COR LOT
APPLICABLE BUILDING CODES
FLORIDA BUILDING CODE 2020, RESIDENTIAL, 7TH EDITION

AERIAL



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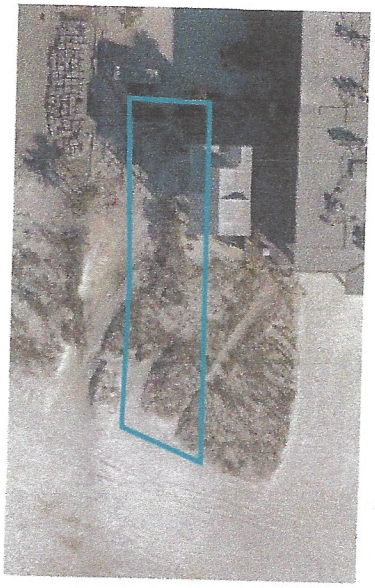
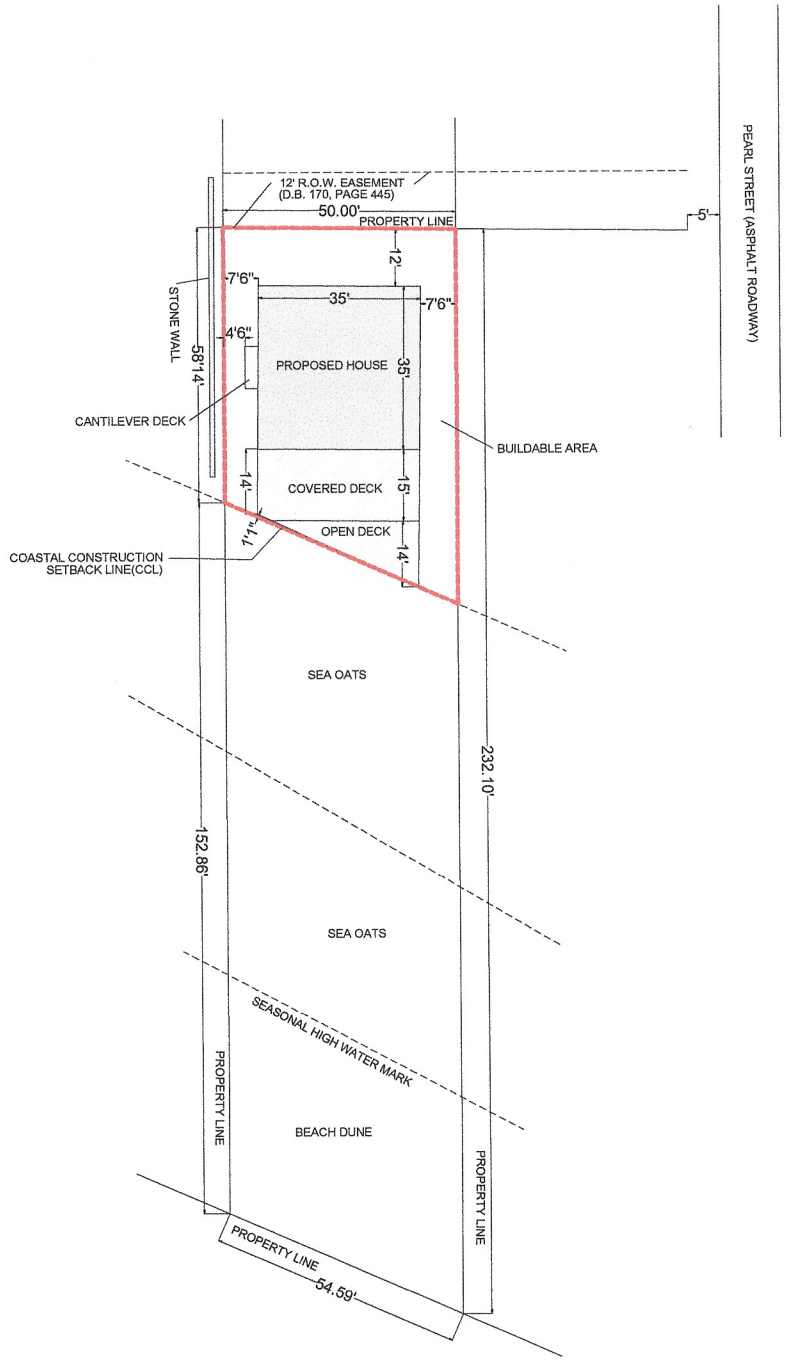


LOT COVERAGE CALCULATIONS:
TOTAL BUILDABLE AREA = 3,492 SQ.FT.
PROPOSED HOUSE = 1,225 SQ.FT
COVERED DECK = 531 SQ.FT
EAVES = 168.5 SQ.FT
TOTAL LOT COVERAGE: SQ.FT.= 1,924.5 = 55.11%

IMPERVIOUS AREA CALCULATIONS:
PROPOSED HOUSE = 1,225 SQ.FT
COVERED DECK = 531 SQ.FT
DECK = 223 SQ.FT
TOTAL LOT AREA = 10,890 SQ.FT.
TOTAL IMPERVIOUS AREA = 1,979 SQ.FT = 18.17%



NOTES:

ADDRESS:
51 PEARL ST
FORT MYERS BEACH, FL 33931

SITE PLAN

PARCEL ID: 194624W4004450000

LOT AREA: 0.25 ACRES

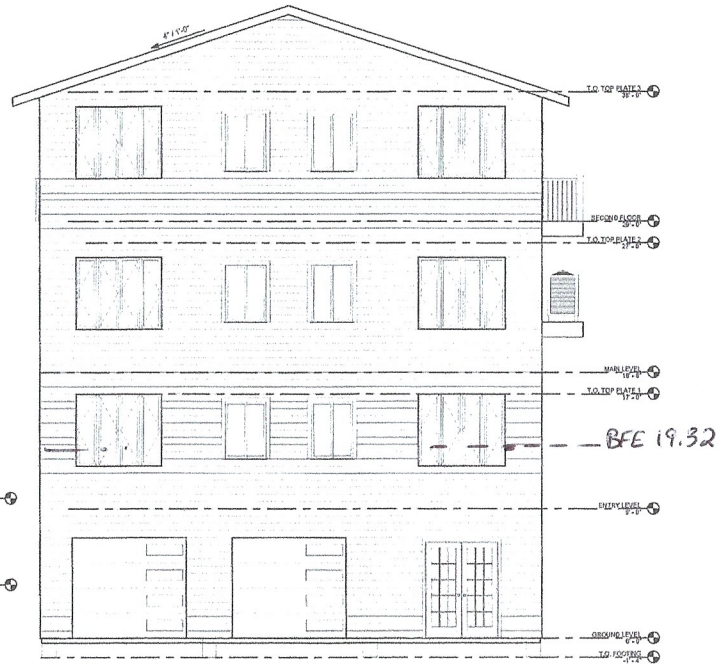
PLOT SIZE: 8.5" X 11"

DRAWING SCALE: 1"=40'

N

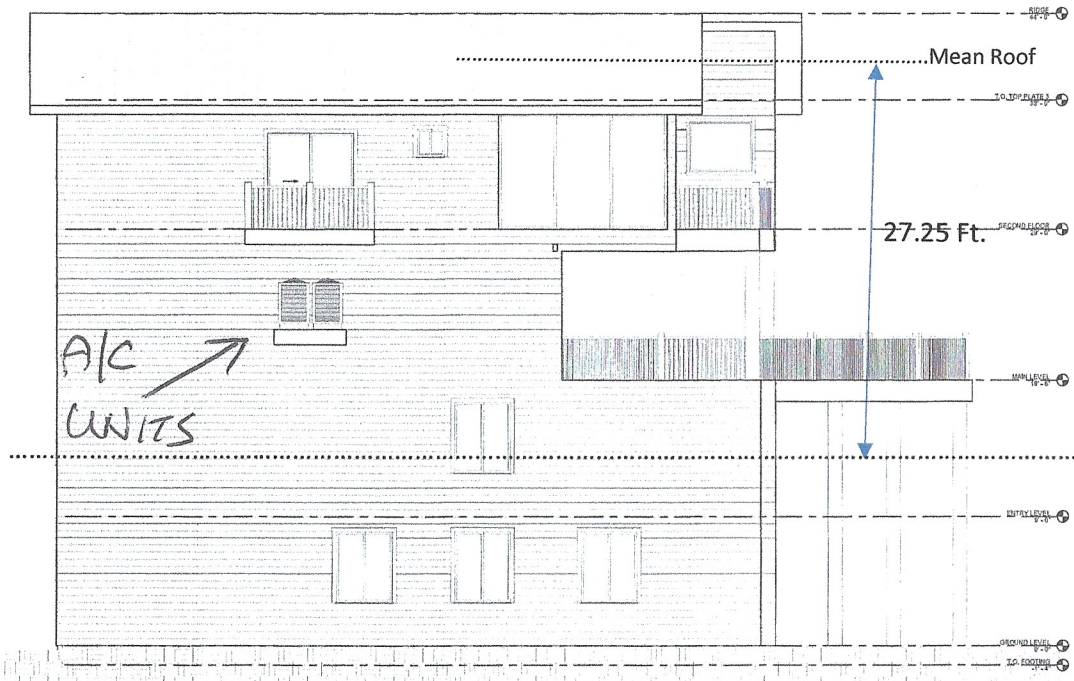
MATERIAL LEGEND

- NEW 11" CORE ICF BLOCK WALLS
- NEW STONE CLADDING, COLOR PER OWNER, COORDINATE PER SHEARWALL SCHEDULE. INSTALL PER MFR. REQUIREMENTS.
- NEW 29 GA. METAL ROOF, COLOR PER OWNER
- HARDI BOARD LAP SIDING



NORTH ELEVATION

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



WEST ELEVATION

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

Project Status

Engineer

HARRIS

Licensed in FL, AL, MS, TX, GA, D, AR

ELEVATIONS

PORTER RESIDENCE

51 PEARL STREET
FORT MYERS BEACH, FLORIDA 33931

Drafter

Elms Design LLC
Custom Home Designs
Phone: (541) 980-2029
Email: elmsdesignllc@gmail.com
937 N Shiling Avenue
Hayden, ID 83835

07-23

2/6/23

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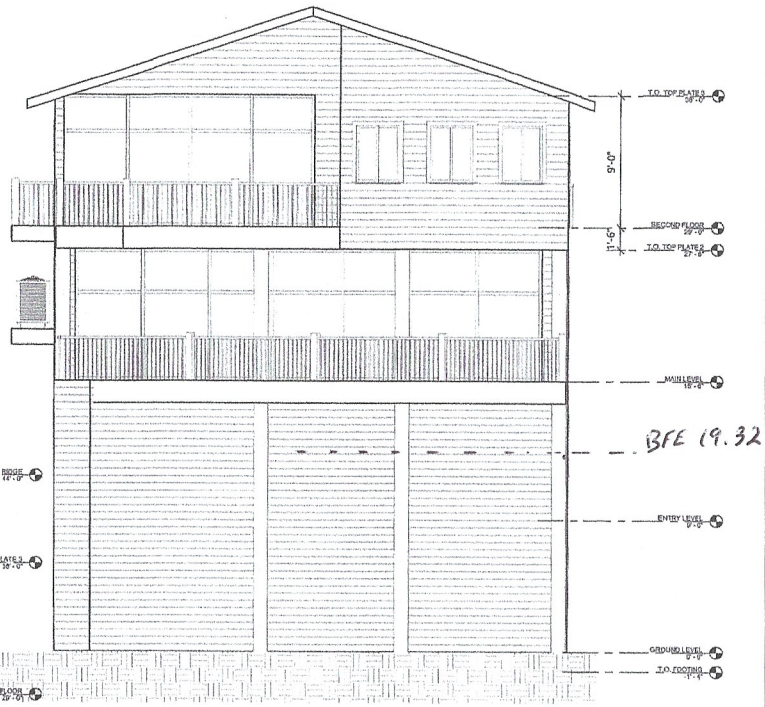
MATERIAL LEGEND

- NEW 11" CORE ICF BLOCK WALLS
- NEW STONE CLADDING, COLOR PER OWNER, COORDINATE PER SHEARWALL SCHEDULE. INSTALL PER MFR. REQUIREMENTS.
- NEW 20 GA. METAL ROOF, COLOR PER OWNER
- HARDI BOARD LAP SIDING



SOUTH ELEVATION

SCALE: 1/8" = 1'-0"

ELEVATION

SCALE: 1/8" = 1'-0"

EAST.

5/2/2024 10:04:23 AM

Project Status

Engineer

HARRIS
Licensed In
FL, AL, MS, TX, GA, IL, AR

ELEVATIONS

PORTER RESIDENCE

51 PEARL STREET
FORT MYERS BEACH, FLORIDA 33931

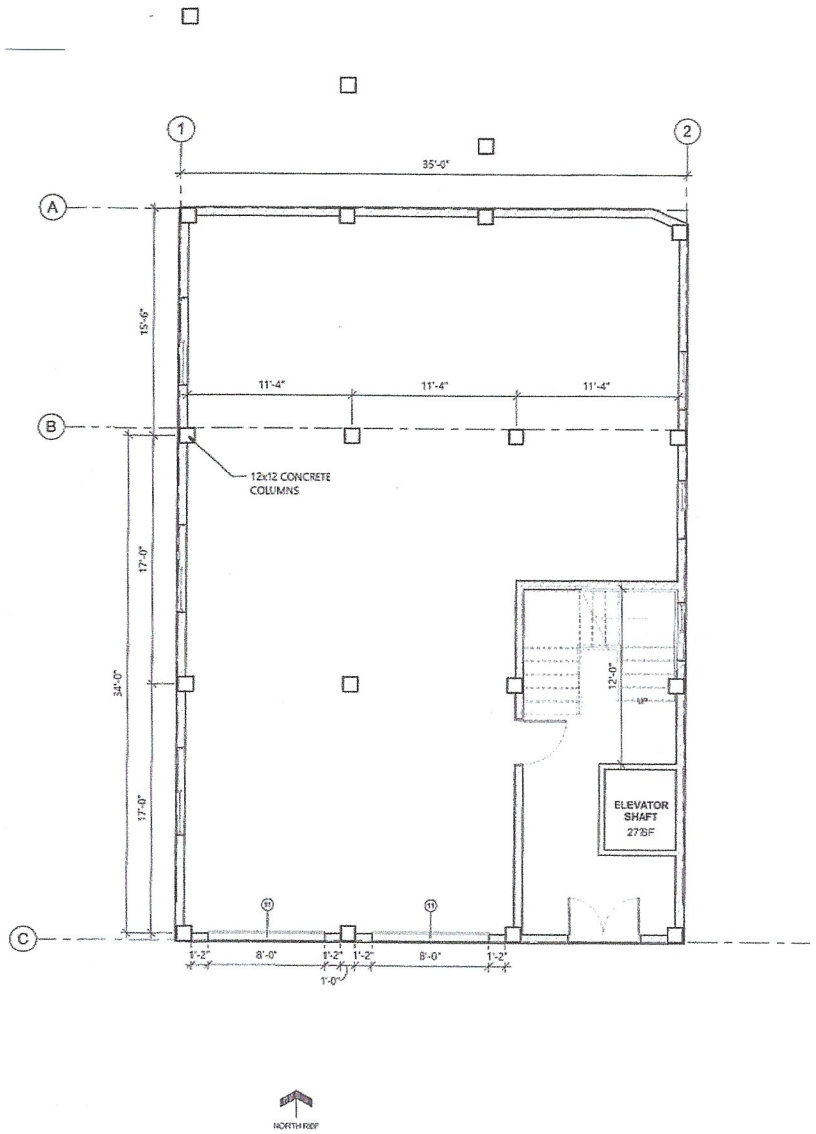
Drafter

Elms Design LLC
Custom Home Designs
Phone: 541-610-5339
Email: elmsdesigns@gmail.com
937 N Shilling Avenue
Blackfoot, ID 83221

07-23

3/8/23

A201



1 GROUND LEVEL FLOOR PLAN
1/4" = 1'-0"

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PLAN LEGEND

103	INDICATES ROOM NUMBER W/ FINISHES PER SCHEDULE.
X	INDICATES DOOR NUMBER PER SCHEDULE ON SHEET A4. VERIFY ALL OPENINGS, SPECIFICATIONS AND CONDITIONS.
X	INDICATES WINDOW NUMBER PER SCHEDULE ON SHEET A4. VERIFY ALL OPENINGS, SPECIFICATIONS AND CONDITIONS.
X / XX	DETAIL NUMBER / SHEET NUMBER — SECTION LETTER / SHEET NUMBER
A / D / B / C	WALL ELEVATION / SHEET NUMBER
	DIMENSION TO FACE OF STRUCTURE EXCEPT BATHROOM FIXTURES AND CASEWORK TO GYP. CK STRUCTURE.
DS	DOWN SPOUTS PER PLAN COORDINATE W/ DRAINAGE SYSTEM. SEE CIVIL DRAWINGS

WALL LEGEND

EXISTING 8"X12"X16" CMU WALL. EXTERIOR FACE OF WALLS ALIGN WITH GRIDLINES

NEW 11"X 8"X16" ICF WALL REINFORCED PER FOUNDATION PLAN w/ MOISTURE BARRIER. BLOCK TO BE FULLY SEALED ON INTERIOR AND EXTERIOR. VERIFY BLOCK COLOR WITH ELEVATIONS AND OWNER PRIOR TO CONSTRUCTION.

NEW INTERIOR STUD WALL: 2X4 @ 16" O.C. STUD WALL AT 16" O.C. W/R-19 SOUND INSULATION AND 5/8" GYPSUM B.A. FADE FINISH PER SCHEDULE SHEET XX. VERIFY ALL FINISHES AND REQUIREMENTS.

GENERAL NOTES

VENTILATION: PROVIDE VENTILATION PER APPLICABLE CODE. (DESIGN BY OTHERS)

INSULATION: ALL EXPOSED INSULATION SHALL FOLLOW THE MINIMUM REQUIREMENTS IN ACCORDANCE OF THE 2020 FBC, RESIDENTIAL, 7TH ED. CHAPTER 11 AND EXTERIOR ENVELOPE EFFICIENCY SECTION M1104.

WALL AND CEILING FINISHES FLAME SPREAD CLASS OR FINISH MATERIALS USED ON EXTERIOR WALL AND CEILING SHALL HAVE A MAXIMUM FLAME SPREAD AND SMOKE DEVELOPED INDEX PER 2020 FBC, RESIDENTIAL, 7TH ED. SECTION R302.9-R302.10.

DWELLING/GARAGE FIRE SEPERATION: PER 2020 FBC, RESIDENTIAL, 7TH ED. DWELLING/GARAGE OPENING/PENETRATION PROTECTION. OPENINGS AND PENETRATIONS THROUGH THE WALLS OR CEILINGS SEPARATING THE DWELLING FROM THE GARAGE SHALL BE FIRE RATED IN ACCORDANCE WITH SECTIONS 302.5.1 THROUGH 302.5.2.

GENERAL:

R302.5.1 OPENING PROTECTION:
OPENINGS FROM A PRIVATE GARAGE DIRECTLY INTO A ROOM USED FOR SLEEPING PURPOSES SHALL NOT BE PERMITTED. OTHER OPENINGS BETWEEN THE GARAGE AND RESIDENCE SHALL BE EQUIPPED WITH SOLID WOOD DOORS NOT LESS THAN 1-3/8 INCHES (35 MM)IN THICKNESS, SOLID OR HONEYCOMB CORE STEEL DOORS NOT LESS THAN 1-3/8 INCHES (33 MM) THICK, OR DOORS RATED FIRE-RATED DOORS.

R302.5.2 DUCT PENETRATION:
DUCTS IN THE GARAGE AND DUCTS PENETRATING THE WALLS OR CEILINGS SEPARATING THE DWELLING FROM THE GARAGE SHALL BE CONSTRUCTED OF A MINIMUM 26 GAGE (0.48MM) SHEET STEEL, 1 INCH (25.4 MM) NOMINAL RIGID NONMETALLIC CLASS C OR CLASS 1 DUCT BOARD, OR OTHER APPROVED MATERIAL AND SHALL NOT HAVE OPENINGS INTO THE GARAGE.

R302.5.3 OTHER PENETRATIONS:
PENETRATIONS THROUGH THE SEPARATION REQUIRED IN SECTION R302.6 SHALL BE PROTECTED AS REQUIRED BY SECTION R302.11, ITEM 4.

R322.6 DWELLING/GARAGE FIRE SEPARATION:
THE GARAGE SHALL BE SEPARATED AS REQUIRED BY TABLE R302.6. OPENINGS IN GARAGE WALLS SHALL COMPLY WITH SECTION R302.5. ATTACHMENT OF GYPSUM BOARD SHALL COMPLY WITH TABLE R702.3.5. THE WALL SEPARATION PROVISIONS OF TABLE R302.6 SHALL NOT APPLY TO GARAGE WALLS THAT ARE PERPENDICULAR TO THE ADJACENT DWELLING UNIT WALL.

R302.7 UNDER STAIR PROTECTION
ENCLOSED ACCESSIBLE SPACE UNDER STAIRS SHALL HAVE WALLS, UNDER-STAIR SURFACE AND ANY SOFFITS PROTECTED ON THE ENCLOSED SIDES W/ 1/2 GYPSUM BOARD.

VERIFY ALL DIMENSIONS OF DOORS, WINDOWS, WALLS, CASEWORK, ETC. PRIOR TO CONSTRUCTION. VERIFY ALL DOOR TYPES, FINISHES, PAINT, AND WINDOW TYPES WITH OWNER PRIOR TO PERCHASING MATERIALS.

ALL DOORS ARE TO BE PLACED 4" FROM STUD WALLS UNLESS OTHERWISE NOTED

DIMENSIONS SHOWN ARE BASED ON DRAWINGS SUPPLIED TO ALH. ALL DIMENSIONS SHALL BE VERIFIED PRIOR TO BIDDING AND CHANGES OR DEVIATIONS OCCURRING WITH ENGINEER. ANY DESIRED ALTERATIONS TO STRUCTURE FOR TENANT IMPROVEMENTS SHALL BE COORDINATED w/ ENGINEER PRIOR TO ANY MODIFICATION CONSTRUCTION

FIRE BLOCKING: IN COMBUSTIBLE CONSTRUCTION FIRE BLOCKING SHALL BE PROVIDED TO CUT OFF ALL CONCEALED DRAFT OPENINGS BOTH VERTICALLY AND HORIZONTALLY AND TO FORMIN EFFECTIVE FIRE BARRIER BETWEEN STORIES, AND BETWEEN A TOP STORY AND THE ROOF SPACE.

FIRE BLOCKING SHALL BE PROVIDED IN THE FOLLOWING LOCATIONS:
1. IN CONCEALED SPACES OF STUD WALLS AND PARTITIONS INCLUDING FURRED SPACES AND PARALLEL ROWS OF STUDS OR STAGGERED STUDS AS FOLLOWS
A. VERTICALLY AT THE CEILING AND FLOOR LEVELS
B. HORIZONTAL AT INTERVALS NOT EXCEEDING 10'-0"

2. AT ALL INTERCONNECTIONS BETWEEN CONCEALED VERTICAL AND HORIZONTAL SPACES SUCH AS THEY OCCUR AT SOFFITS, DROP CEILINGS, AND COVE CEILINGS.

3. IN CONCEALED SPACES BETWEEN STAIR STRINGERS AT THE TOP AND BTM. OF THE RUN.

4. AT OPENINGS AROUND VENTS, PIPES, DUCTS, CABLES, AND WIRES AT CEILING AND FLOOR LEVEL WITH AN APPROVED MATERIAL TO RESIST THE FREE PASSAGE OF FLAME AND PRODUCTS OF COMBUSTION.

5. AT CHIMNEYS AND FIREPLACES PER FBC R1003.19

DRAFT STOPPING: IN COMBUSTIBLE CONSTRUCTION WHERE THERE IS USABLE SPACE BOTH ABOVE AND BELOW THE CONCEALED SPACE OF A FLOOR/CEILING ASSEMBLY, DRAFTSTOPS SHALL BE INSTALLED SO THAT THE AREA OF THE CONCEALED SPACE DOES NOT EXCEED 1,000 SQ/FT. DRAFTSTOPPING IS ALL DIVIDE THE CONCEALED SPACE INTO APPROX. EQUAL AREAS. WHERE THE ASSEMBLY IS ENCLOSED BY A FLOOR MEMBRANE ABOVE, AND A CEILING MEMBRANE BELOW DRAFTSTOPPING SHALL BE PROVIDED IN FLOOR/CEILING ASSEMBLIES UNDER THE FOLLOWING CIRCUMSTANCES
1. CEILING IS SUSPENDED UNDER THE FLOOR FRAMING
2. FLOOR FRAMING IS CONSTRUCTED OF TRUSS-TYPE OPEN WEB OR PERFORATED MEMBERS

SMOKE DETECTION: SMOKE DETECTORS SHALL BE INTERCONNECTED AND INSTALLED IN EACH SLEEPING AREA, IMMEDIATELY OUTSIDE BEDROOMS, AND ONE ON EACH STORY OF DWELLING (EXCLUDING BASEMENTS AND ATTICS) PER SECTION R314. SMOKE ALARMS SHALL BE INSTALLED IN THE FOLLOWING LOCATIONS
1. SMOKE ALARMS SHALL NOT BE INSTALLED LESS THAN 20 FEET HORIZONTALLY FROM A PERMANENTLY INSTALLED COOKING APPLIANCE. 10 FEET W/ ALARM SILENCING AND 6 FEET W/ PHOTOELECTRIC APPLIANCE.

MECHANICAL EQUIPMENT: ALL IGNITION SOURCES SHALL BE MIN. 18" A.F.F. EXHAUSTS PER TABLE M1507.3 MECHANICAL EQUIPMENT CLEARANCES PER TABLE M1306.2

EGRESS AND LIGHTING:
1 HABITABLE ROOM WINDOWS SHALL BE MIN. 8% OF FLOOR SPACE AND 4% FOR NATURAL VENTILATION TO THE OUTSIDE PER SECTION R303.1
2. ALL INTERIOR AND EXTERIOR STAIRWAYS SHALL BE PROVIDED ILLUMINATION, INCLUDING LANDINGS AND TREAD PER SECTION R303.6.
3 HANDRAILS SHALL BE PROVIDED ON AT LEAST ONE SIDE OF EACH RUN OF TREADS. HANDRAIL HEIGHT SHALL BE MIN. 30" AND MAX 38" ABOVE NOSING PER SECTION R311.7
4. TEMPERED GLAZING REQUIRED IN THE FOLLOWING LOCATIONS:
A. WHEN LOCATED WITH 24" TO A DOOR
B. IN BATHROOMS IF LESS THAN 60" A.F.F.
C. ALONG WALKING SURFACE WITHIN 36" A.F.F.

5. R311.2 EGRESS DOORS: NOT LESS THAN ONE EGRESS DOOR SHALL BE PROVIDED FOR EACH DWELLING UNIT. THE EGRESS DOOR SHALL BE SIDE HINGED, AND SHALL PROVIDE A CLEAR W IDTH OF NOT LESS THAN 32 INCHES. THE CLEAR HEIGHT OF THE DOOR SHALL NOT BE LESS THAN 78 INCHES

6. R311.3.1: LANDINGS OR FINISHED FLOORS AT THE REQUIRED EGRESS DOOR SHALL NOT BE MORE THAN 1.5 INCHES LOWER THAN THE TOP OF THE THRESHOLD. EXCEPTION: THE LANDING OR FLOOR ON THE EXTERIOR SIDE SHALL BE NOT MORE THAN 7.75 INCHES BELOW THE TOP OF THE THRESHOLD PROVIDED THE DOOR DOES NOT SWING OVER THE LANDING OR FLOOR.

7. R311.3.2 EXCEPTION: A TOP LANDING IS NOT REQUIRED WHERE A STAIRWAY OF NOT MORE THAN 2 RISERS IS LOCATED ON THE EXTERIOR SIDE OF THE DOOR.

Project Status

Engineer

HARRIS
Licensed in FL, AL, GA, LA, AR

GROUND LEVEL FLOOR PLAN

PORTER RESIDENCE

51 PEARL STREET
FORT MYERS BEACH, FLORIDA 33931

Drafter

Elvis Design LLC
Custom Home Designs
Phone: 239.470.3639
Email: elvisdesignsusa@gmail.com
107 N Shilling Avenue
Bushkill, PA 18324

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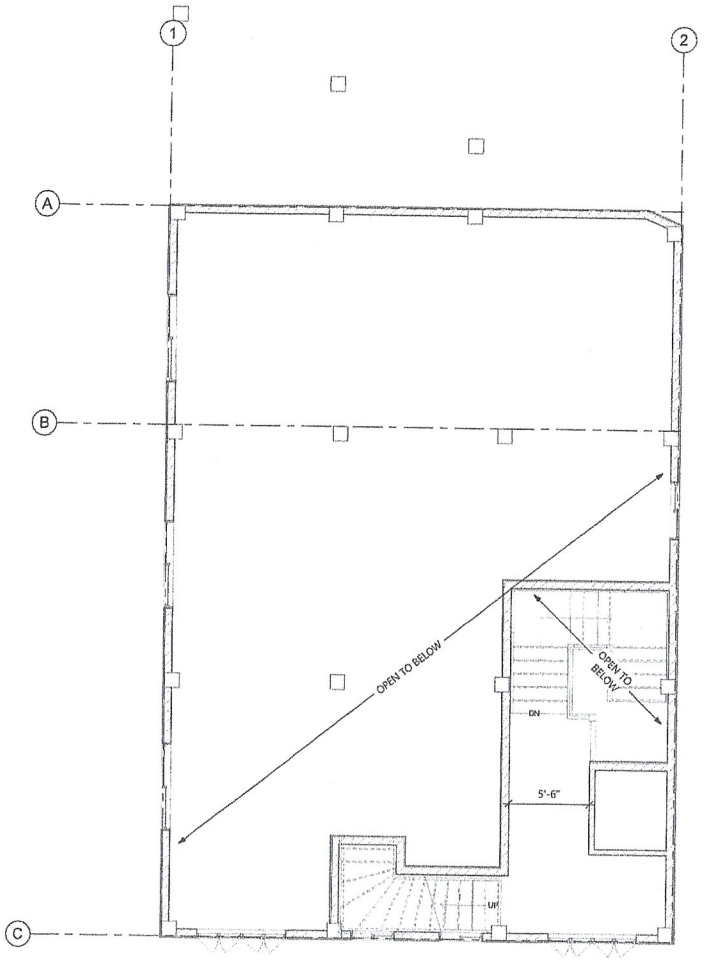
3/6/23

A101



Project Status

Engineer

HARRIS
Licensed In
FL, AL, MS, TX, GA, IA, AR

ENTRY LEVEL FLOOR PLAN

PORTER RESIDENCE

51 PEARL STREET
FORT MYERS BEACH, FLORIDA 33931

Drafter

Ebris Design LLC
Custom Home Designs
Phone: 541-403-5639
Email: ebrisinternational@gmail.com
687 N Shilling Avenue
Blackfoot, ID 83221

07-23

3/8/23

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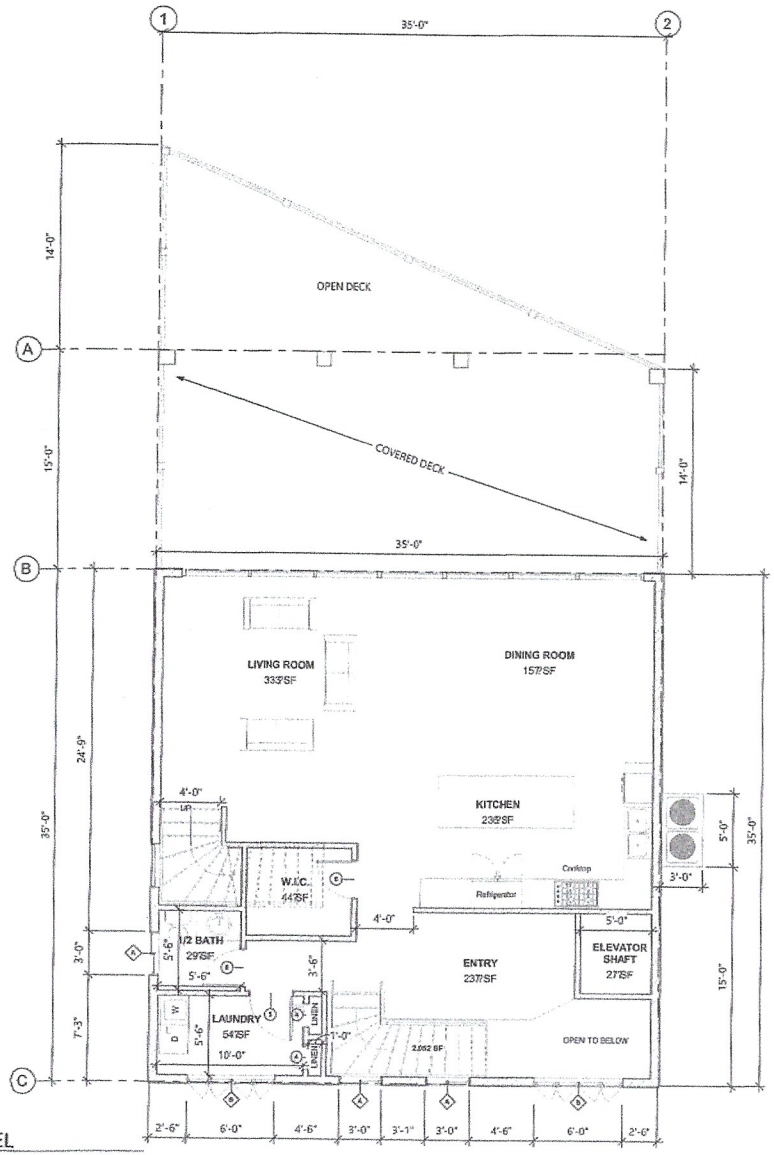


MAIN LEVEL

SCALE: 1/8" = 1'-0"

Window Schedule				
Mark	Width	Height	Count	Comments
A	3'-8"	4'-0"	2	
B	5'-0"	5'-0"	4	
C	3'-0"	5'-0"	1	
D	4'-8"	5'-0"	1	
E	5'-0"	4'-0"	1	
F	3'-0"	11'-8"	1	
G	3'-0"	5'-0"	1	
H	5'-0"	5'-0"	1	
I	3'-0"	4'-0"	1	
J	3'-0"	4'-0"	1	
K	5'-0"	5'-0"	1	
L	5'-0"	5'-0"	1	
M	12'-0"	5'-0"	1	
N	6'-0"	4'-0"	1	
P	6'-0"	4'-0"	1	
Q	4'-0"	5'-0"	1	
R	4'-0"	5'-0"	1	
S	4'-8"	5'-0"	1	
T	5'-0"	4'-0"	1	
U	5'-0"	4'-0"	1	
V	4'-8"	5'-0"	1	
W	5'-0"	4'-0"	1	
X	10'-0"	4'-0"	1	
Y	10'-0"	5'-0"	1	

Door Schedule				
Mark	Width	Height	Count	Comments
3	6'-0"	6'-8"	1	
4	11'-8"	8'-0"	3	
5	3'-0"	6'-8"	1	
6	2'-8"	7'-0"	10	
7	6'-8"	6'-8"	1	
8	6'-0"	6'-8"	2	
9	5'-0"	6'-8"	1	
10	3'-0"	8'-0"	1	
11	8'-0"	7'-0"	2	

PLAN LEGEND

100	INDICATES ROOM NUMBER W/ FINISHES PER SCHEDULE
X	INDICATES DOOR NUMBER PER SCHEDULE ON SHEET A4. VERIFY ALL OPENINGS, SPECIFICATIONS AND CONDITIONS.
X	INDICATES WINDOW NUMBER PER SCHEDULE ON SHEET A4. VERIFY ALL OPENINGS, SPECIFICATIONS AND CONDITIONS.
X / XX	DETAIL NUMBER / SHEET NUMBER
X / XX	SECTION LETTER / SHEET NUMBER
A B C D / XX	WALL ELEVATION / SHEET NUMBER
	DIMENSION TO FACE OF STRUCTURE, EXCEPT BATHROOM FIXTURES AND CASEWORK TO GYP. OR STRUCTURE.
DS	DOWN SPOUTS PER PLAN COORDINATE W/ DRAINAGE SYSTEM, SEE CIVIL DRAWINGS

WALL LEGEND

- EXISTING 8"X12"X24" CMU WALL. EXTERIOR FACE OF WALLS ALIGN WITH GRIDLINES
- NEW 11"X 8"X16" ICF WALL REINFORCED PER FOUNDATION PLAN W/ MOISTURE BARRIER, BLOCK TO BE FULLY SEALED ON INTERIOR AND EXTERIOR, VERIFY BLOCK COLOR WITH ELEVATIONS AND OWNER PRIOR TO CONSTRUCTION.
- NEW INTERIOR STUD WALL: 2X6 @ 16" O.C. STUD WALL AT 16" O.C. WR-19 SOUND INSULATION AND 5/8" GYPSUM BA. FACE FINISH PER SCHEDULE SHEET XX. VERIFY ALL FINISHES AND REQUIREMENTS.

GENERAL NOTES

VENTILATION: PROVIDE VENTILATION PER APPLICABLE CODE. (DESIGN BY OTHERS).

INSULATION: ALL EXPOSED INSULATION SHALL FOLLOW THE MINIMUM REQUIREMENTS IN ACCORDANCE OF THE 2020 FBC, RESIDENTIAL, 7TH ED. CHAPTER 11 AND EXTERIOR ENVELOPE EFFICIENCY SECTION N1104

WALLS AND CEILING FINISHES: FLAME SPREAD CLASS OR FINISH MATERIALS USED ON INTERIOR WALL AND CEILING SHALL HAVE A MAXIMUM FLAME SPREAD AND SMOKE DEVELOPED INDEX PER 2020 FBC, RESIDENTIAL, 7TH ED. SECTION R302.9-R302.10.

DWELLING/GARAGE FIRE SEPERATION: PER 2020 FBC, RESIDENTIAL, 7TH ED. DWELLING/GARAGE OPENING/PENETRATION PROTECTION: OPENINGS AND PENETRATIONS THROUGH THE WALLS OR CEILINGS SEPARATING THE DWELLING FROM THE GARAGE SHALL BE FIRE RATED IN ACCORDANCE WITH SECTIONS 302.6.1 THROUGH 302.6.3

GENERAL:

R302.6.1 OPENING PROTECTION:
OPENINGS FROM A PRIVATE GARAGE DIRECTLY INTO A ROOM USED FOR SLEEPING PURPOSES SHALL NOT BE PERMITTED. OTHER OPENINGS BETWEEN THE GARAGE AND RESIDENCE SHALL BE EQUIPPED WITH SOLID WOOD DOORS NOT LESS THAN 1-3/8 INCHES (35 MM) IN THICKNESS, SOLID OR HONEYCOMB CORE STEEL DOORS NOT LESS THAN 1-3/8 INCHES (35 MM) THICK, OR 20-MINUTE FIRE-RATED DOORS.

R302.5.2 DUCT PENETRATION:
DUCTS IN THE GARAGE AND DUCTS PENETRATING THE WALLS OR CEILINGS SEPARATING THE DWELLING FROM THE GARAGE SHALL BE CONSTRUCTED OF A MINIMUM NO. 26 GAGE (0.48 MM) SHEET STEEL, 1 INCH (25.4 MM) NOMINAL ROUND HOMOTALLIC CLASS 1 OR CLASS 1 DUCT BOARD, OR OTHER APPROVED MATERIAL AND SHALL NOT HAVE OPENINGS INTO THE GARAGE.

R302.5.3 OTHER PENETRATIONS:
PENETRATIONS THROUGH THE SEPARATION REQUIRED IN SECTION R302.6 SHALL BE PROTECTED AS REQUIRED BY SECTION R302.11.1TEM 4.

R302.6 DWELLING/GARAGE FIRE SEPARATION:
THE GARAGE SHALL BE SEPARATED AS REQUIRED BY TABLE R302.6. OPENINGS IN GARAGE WALLS SHALL COMPLY WITH SECTION R302.5. ATTACHMENT OF GYPSUM BOARD SHALL COMPLY WITH TABLE R702.3.5. THE WALL SEPARATION PROVISIONS OF TABLE R302.6 SHALL NOT APPLY TO GARAGE WALLS THAT ARE PERPENDICULAR TO THE ADJACENT DWELLING UNIT WALL.

R302.7 UNDER STAIR PROTECTION:
ENCLOSED ACCESSIBLE SPACE UNDER STAIRS SHALL HAVE WALLS, UNDER-STAIR SURFACE AND ANY SOFFITS PROTECTED ON THE ENCLOSED SIDE W/ 1/2 GYPSUM BOARD.

VERIFY ALL DIMENSIONS OF DOORS, WINDOWS, WALLS, CASEWORK, ETC. PRIOR TO CONSTRUCTION. VERIFY ALL DOOR TYPES, FINISHES, PAINT, AND WINDOW TYPES WITH OWNER PRIOR TO PURCHASING MATERIALS.

ALL DOORS ARE TO BE PLACED 6" FROM STUD WALLS UNLESS OTHERWISE NOTED

DIMENSIONS SHOWN ARE BASED ON DRAWINGS SUPPLIED TO A2K. ALL DIMENSIONS SHALL BE VERIFIED PRIOR TO BIDDING AND CHANGES OR DEVIATIONS COORDINATED WITH ENGINEER. ANY DESIRED ALTERATIONS TO STRUCTURE FOR TENANT IMPROVEMENTS SHALL BE COORDINATED W/ ENGINEER PRIOR TO ANY MODIFICATION CONSTRUCTION

FIRE BLOCKING: IN COMBUSTIBLE CONSTRUCTION FIRE BLOCKING SHALL BE PROVIDED TO CUT OFF ALL CONCEALED DRAFT OPENINGS (BOTH VERTICALLY AND HORIZONTALLY) AND TO FORM AN EFFECTIVE FIRE BARRIER BETWEEN STORIES, AND BETWEEN A TOP STORY AND THE ROOF SPACE.

FIRE BLOCKING SHALL BE PROVIDED IN THE FOLLOWING LOCATIONS:
1. IN CONCEALED SPACES OF STUD WALLS AND PARTITIONS INCLUDING FURRED SPACES AND PARALLEL ROWS OF STUDS OR STAGGERED STUDS AS FOLLOWS
   A. VERTICALLY AT THE CEILING AND FLOOR LEVELS
   B. HORIZONTAL AT INTERVALS NOT EXCEEDING 10'-0"
2. AT ALL INTERCONNECTIONS BETWEEN CONCEALED VERTICAL AND HORIZONTAL SPACES SUCH AS THEY OCCUR AT SOFFITS, DROP CEILINGS, AND COVE CEILINGS
3. IN CONCEALED SPACES BETWEEN STAIR STRINGERS AT THE TOP AND BTM. OF THE RUN.
4. AT OPENINGS AROUND VENTS, PIPES, DUCTS, CABLES, AND WIRES AT CEILING AND FLOOR LEVEL WITH AN APPROVED MATERIAL TO RESIST THE FREE PASSAGE OF FLAME AND PRODUCTS OF COMBUSTION.
5. AT CHIMNEYS AND FIREPLACES PER FBC R1003.19

DRAFT STOPPING: IN COMBUSTIBLE CONSTRUCTION IN HERE THERE IS USABLE SPACE BOTH ABOVE AND BELOW THE CONCEALED SPACE OF A FLOOR/CEILING ASSEMBLY, DRAFTSTOPS SHALL BE INSTALLED SO THAT THE AREA OF THE CONCEALED SPACE DOES NOT EXCEED 1,000 SQ FT. DRAFTSTOPPING SHALL DIVIDE THE CONCEALED SPACE INTO APPROX. EQUAL AREAS. WHERE THE ASSEMBLY IS ENCLOSED BY A FLOOR MEMBRANE ABOVE AND A CEILING MEMBRANE BELOW, DRAFTSTOPPING SHALL BE PROVIDED IN FLOOR/CEILING ASSEMBLIES UNDER THE FOLLOWING CIRCUMSTANCES.
1. CEILING IS SUSPENDED UNDER THE FLOOR FRAMING
2. FLOOR FRAMING IS CONSTRUCTED OF TRUSS-TYPE OPEN WEB OR PERFORATED MEMBERS

SMOKE DETECTION: SMOKE DETECTORS SHALL BE INTERCONNECTED AND INSTALLED IN EACH SLEEPING AREA, IMMEDIATELY OUTSIDE BEDROOMS, AND ONE ON EACH STORY OF DWELLING (EXCLUDING BASEMENTS AND ATTICS) PER SECTION R314.3. SMOKE ALARMS SHALL BE INSTALLED IN THE FOLLOWING LOCATIONS
1. SMOKE ALARMS SHALL NOT BE INSTALLED LESS THAN 20 FEET HORIZONTALLY FROM A PERMANENTLY INSTALLED COOKING APPLIANCE. 10 FEET W/ ALARM BEEPING AND 5 FEET W/ PHOTOELECTRIC APPLIANCE.

MECHANICAL EQUIPMENT: ALL IGNITION SOURCES SHALL BE MIN. 18" A.F.F., EXHAUSTS PER TABLE M1507.3 MECHANICAL EQUIPMENT CLEARANCES PER TABLE M1306.2

EGRESS AND LIGHTING:
1. HABITABLE ROOM WINDOWS SHALL BE MIN. 8% OF FLOOR SPACE AND 4% FOR NATURAL VENTILATION TO THE OUTSIDE PER SECTION R303.1
2. ALL INTERIOR AND EXTERIOR STAIRWAYS SHALL BE PROVIDED ILLUMINATION, INCLUDING LANDINGS AND TREAD PER SECTION R303.8
3. HANDRAILS SHALL BE PROVIDED ON AT LEAST ONE SIDE OF EACH RUN OF TREADS. HANDRAIL HEIGHT SHALL BE MIN. 30" AND MAX 34" ABOVE NOSING PER SECTION R311.7.
4. TEMPERED GLAZING REQUIRED IN THE FOLLOWING LOCATIONS:
   A. WHEN LOCATED WITH 24" TO A DOOR.
   B. IN BATHROOMS IF LESS THAN 60" A.F.F.
   C. ALONG WALKING SURFACE WITHIN 36" A.F.F.
5. R311.2 EGRESS DOORS: NOT LESS THAN ONE EGRESS DOOR SHALL BE PROVIDED FOR EACH DWELLING UNIT. THE EGRESS DOOR SHALL BE SIDE-HINGED, AND SHALL PROVIDE A CLEAR WIDTH OF NOT LESS THAN 32 INCHES. THE CLEAR HEIGHT OF THE DOOR SHALL NOT BE LESS THAN 78 INCHES.
6. R311.3.1: LANDINGS OR FINISHED FLOORS AT THE REQUIRED EGRESS DOOR SHALL NOT BE MORE THAN 1-3/4 INCHES LOWER THAN THE TOP OF THE THRESHOLD. EXCEPTION: THE LANDING OR FLOOR ON THE EXTERIOR SIDE SHALL BE NOT MORE THAN 7.75 INCHES BELOW THE TOP OF THE THRESHOLD PROVIDED THE DOOR DOES NOT SWING OVER THE LANDING OR FLOOR.
7. R311.3.2 EXCEPTION: A TOP LANDING IS NOT REQUIRED WHERE A STAIRWAY OF NOT MORE THAN 2 RISERS IS LOCATED ON THE EXTERIOR SIDE OF THE DOOR.

Project Status

Engineer

HARRIS
Licensed in FL, AL, MS, TX, GA, IA, AR

MAIN LEVEL FLOOR PLAN

PORTER RESIDENCE

51 PEARL STREET
FORT MYERS BEACH, FLORIDA 33931

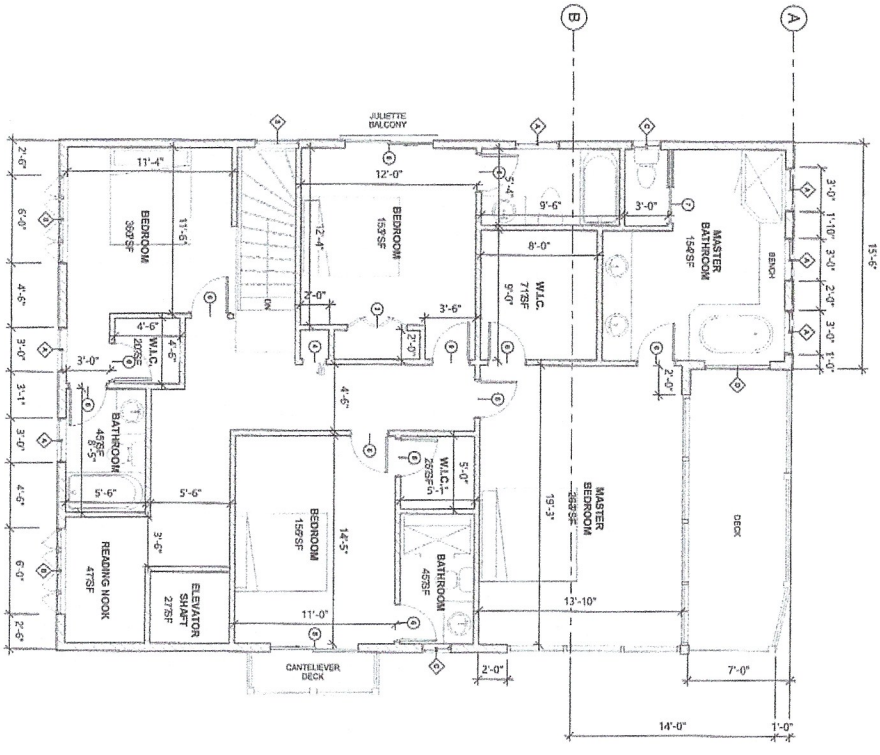
Drafter

Elms Design LLC
Custom Home Designs
Phone: 214-616-5539
Email: rebecca@elmsdesign.com
307 N Shilling Avenue
Blackfoot, ID 83221

07-23

3/5/23

A103



1 SECOND FLOOR
1/4" = 1'-0"

5/28/2024 10:34:08 AM

SECOND FLOOR PLAN

PORTER RESIDENCE

51 PEARL STREET
FORT MYERS BEACH, FLORIDA 33931

Elms Design LLC
Glenn Elms Design
Phone: 239.850.9270
Email: glenn@elmsdesign.com
8270 Bilbao Avenue
Naples, FL 34114

Drafter

Engineer

HARRIS
Licensed FL, AL, MS, TX, GA, SC & NC

Project Status

07.23

25923

A104

Town of Fort Myers Beach
Agenda Item Summary

Blue Sheet Number: **2024-126**

1. **Request:**

Meeting Date: September 9, 2024

Second reading and Public Hearing on proposed Ordinance 24-18 entitled: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING A REQUEST TO REZONE THE PROPERTY LOCATED AT 1668 I STREET, GENERALLY IDENTIFIED AS STRAP NUMBER 19-46-24-W4-0070B.0110 FORT MYERS BEACH, FROM DOWNTOWN TO COMMERCIAL PLANNED DEVELOPMENT (CPD) ZONING, WITH DEVIATIONS, FOR A BAR AND RESIDENCE; PROVIDING FOR OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

Why the action is necessary:

The Town Council hears and approves rezoning cases.

What the action accomplishes:

The CPD rezoning will allow development of a residence and bar that exceeds the FAR allowed in that location in the Downtown zoning district.

2. **Agenda:**	3. **Requirement/Purpose:**	4. **Submitter of Information:**
PUBLIC HEARINGS	Ordinance	Jason Smalley, Senior Planner

5. **Background:**

The applicant is requesting a rezoning from Downtown to Commercial Planned Development for the redevelopment of a bar and dwelling unit. The residential use is allowed in the Downtown zoning district and the bar use received approval through Lee County Special Permit Case 95-10-173 (attached as Exhibit C) and has been in operation since that time. The CPD includes a deviation to increase the floor area ratio (FAR) from 1.0 to 1.4.

Attachments:

1. Ordinance 24-18
2. Staff Report
3. Exhibit A - MCP
4. Exhibit B - Uses, Deviations & Conditions
5. Exhibit C - 95-10-173-02
6. Exhibit D - BZA-88-339
7. Exhibit E - Architectural Plans
8. Exhibit F - Application
9. 24-18, Business Impact Estimate DCI20240143-1668 I St-Beach Bar

Financial Impact:

Unknown

6. **Alternative Action**

Deny

7. **Management Recommendations:**

Recommend approval with conditions

8. **Recommended Approval:**

Sarah Propst, Community Development, Planning Manager	Created/Initiated - 9/3/2024
Frankie Kropacek, Operations & Compliance Director	Approved - 9/3/2024
nancy stuparich, Town Attorney	Approved - 9/3/2024
Amy Baker, Town Clerk	Approved - 9/4/2024
Andy Hyatt, Town Manager	Final Approval - 9/4/2024

ORDINANCE 24-18

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING A REQUEST TO REZONE THE PROPERTY LOCATED AT 1668 I STREET, GENERALLY IDENTIFIED AS STRAP NUMBER 19-46-24-W4-0070B.0110 FORT MYERS BEACH, FROM DOWNTOWN TO COMMERCIAL PLANNED DEVELOPMENT (CPD) ZONING, WITH DEVIATIONS, FOR A BAR AND RESIDENCE; PROVIDING FOR OTHER 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, B & B Properties of Fort Myers, as owner, and Jim Ink, Ink Engineering Inc., as agent for the owner of property located at 1668 I Street, and generally identified as STRAP numbers 19-46-24-W4-0070B.0110 ("Subject Property") in the Town of Fort Myers Beach, filed an application to rezone the property from the Downtown Zoning District to Commercial Planned Development (CPD) with a Master Concept Plan (MCP) and a request for certain deviations to the Land Development Code (LDC) in order to develop a bar and residence; and

WHEREAS, the Subject Property is a single parcel located in the Pedestrian Commercial Future Land Use Category of the Comprehensive Plan of the Town of Fort Myers Beach; and

WHEREAS, a public hearing was held before the Local Planning Agency (LPA) on June 11, 2024; and

WHEREAS, at the June 11, 2024 public hearing 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, as required by Town Land Development Code (LDC) sec. 34-85; and

WHEREAS, at the June 11, 2024 public hearing the LPA found that the request is **consistent** with the comprehensive plan and the requirements of the LDC and voted to recommend **approval with conditions** of the rezoning by a 6-0 vote; and

WHEREAS, on August 19, 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 Fort Myers Beach Land Development Code

(LDC) Section 34-85; and

WHEREAS, the Town Council voted to have a second reading of the proposed Ordinance and a public hearing on this matter was legally noticed in the News Press 10 days prior to the Town Council's meeting on September 9, 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, the documents in the record, and the testimony of all interested persons, as required by Fort Myers Beach Land Development Code (LDC) Section 34- 85; and

WHEREAS, the applicant has resolved and is current on any outstanding fees associated with notice, advertisement, and consulting services required by the Town; and

WHEREAS, a Business Impact Estimate has been prepared and timely published on the Town's website; and

WHEREAS, the Town Council finds approval of the request with requirements and conditions to be in the interest of the public's health, safety, and welfare as well as in compliance with the comprehensive plan and the Land Development Code; and

WHEREAS, Exhibit A provides the approved Master Concept Plan (MCP), which future development should be substantially in compliance with; and

WHEREAS, Exhibit B is the schedule of uses, conditions of approval, and approved deviations for this CPD, to be used during the permitting process; and

WHEREAS, the Town Council finds that this request to rezone the property from the Downtown Zoning District to CPD with MCP with certain deviations to the Land Development Code (LDC) in order to develop a bar and residence, is a unique and individual application which does not set precedent for future development or rezoning applications. Approved deviations include:

Deviation #1

Request to deviate from 34-675(c)3 that states, Floor area ratio (FAR). Floor area ratios (see 34-633) of the chapter) shall not exceed: (3) 1.0 for all other properties in the Downtown District" to allow an FAR of 1.4 consistent with properties fronting Estero Blvd per 34-675(c)(2).

WHEREAS, the Town Council has considered all relevant factors and made the following formal findings before making its final decision on the requested rezone to a Commercial Planned Development (see LDC 34-85 and 34-216):

a. Minor ambiguities were resolved through the deviation process.
b. The Town Council carefully considered the testimony of the applicant, the recommendations of staff and of the local planning agency, and testimony from the public.
c. The rezoning would be consistent with the goals, objectives, policies, and intent, and

with the densities, intensities, and general uses in the Comprehensive Plan.

d. The rezoning would meet or exceed all performance and locational standards set forth for the proposed use.

e. Urban services are available and adequate to serve the proposed use.

f. The rezoning would protect, conserve, or preserve environmentally critical areas and natural resources.

g. The rezoning would be compatible with existing and planned uses and not cause damage, hazard, nuisance, or other detriment to persons or property.

h. The rezoning would not place an undue burden upon existing transportation or other services and facilities and will be served by streets with the capacity to carry traffic generated by the development.

i. The rezoning, with the mitigating factors volunteered by the applicant and the special conditions imposed by the Town Council, is consistent with the Fort Myers Beach Comprehensive Plan, Land Development Code, and other applicable town ordinances or codes.

l. The proposed use or mix of uses is appropriate at the subject location.

m. Sufficient safeguards to the public interest are provided by the recommended special conditions to the master concept plan and by other applicable regulations.

n. All recommended special conditions are reasonably related to the impacts on the public's interest created by or expected from the proposed development.

WHEREAS, the Town Council made the following formal findings before making final decisions on the one requested deviation from "by-right" requirements of the Land Development Code (see LDC 34-216):

a. Each item enhances the achievement of the objectives of the planned development; and
b. The general intent of this chapter to protect the public health, safety and welfare will be preserved and promoted; and
c. Each deviation operates to the benefit, or at least not to the detriment, of the public interest; and
d. Each deviation is consistent with the Fort Myers Beach Comprehensive Plan.

WHEREAS, the Town Council finds that this application to approve Ordinance 24-02 which is, **consistent/ not consistent** with the Town of Fort Myers Beach Comprehensive Plan and LDC and voted to **deny/ approve/ approve with conditions** the Application.

NOW, THEREFORE, IT IS HEREBY 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 request to approve Town of Fort Myers Beach's Ordinance No. 24-05 and the conditions of approval for the CPD **does/ does not** meet the requirements of the Town Comprehensive Plan and LDC.

Therefore, based upon the recommendations, testimony, and evidence presented by the Applicant, Town staff, and interested parties, the Town Council **DENY/ APPROVE/ APPROVE WITH CONDITIONS AND REQUIREMENTS** as contained in the Master Concept Plan in Exhibit A and the schedule of uses, deviations, and conditions of approval for the Property's CPD set forth in Exhibit B, which shall be attached to and incorporated by this reference to approval of the Ordinance.

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. This Ordinance will take effect immediately upon adoption by the Town Council.

THE FOREGOING ORDINANCE 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:

DULY PASSED AND ADOPTED on this 9th day of September 2024.

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

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, LLP, Town Attorney

This Ordinance was filed in the Office of the Town Clerk on this ___ day of September 2024.

Attachments:

A – Master Concept Plan (MCP)
B – Schedule of Uses, Conditions of Approval and Deviation

Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT

TYPE OF CASE:	**Commercial Planned Development**
CASE NUMBER:	**DCI Rezoning, 20240143**
CASE NAME:	**1668 I St, rezone the property from Downtown Zoning to Commercial Planned Development for the redevelopment of a bar and dwelling unit.**
2nd TOWN COUNCIL HEARING DATE:	**September 9, 2024 at 9 AM**
1st TOWN COUNCIL HEARING DATE:	**August 19, 2024 at 9 AM**
LPA HEARING DATE:	**June 11, 2024 at 9 AM**
STAFF RECOMMENDATION:	**Approve with conditions**
PREPARED/ SUBMITTED BY:	**Sarah Propst, AICP, PMP**

I. APPLICATION SUMMARY

Applicant/Owner:	James Ink, Ink Engineering Inc. / B & B Properties of Fort Myers
Request:	Rezone the property from Downtown Zoning to Commercial Planned Development with one deviation, for the redevelopment of a bar and residential dwelling.
Subject property:	See attached site plan
Physical Address:	1668 I Street

STRAP #: 19-46-24-W4-0070B.0110

FLU: Pedestrian Commercial

Zoning: Downtown

Adjacent zoning and land uses:

North: Downtown/ Pedestrian Commercial
Vacant, previously residence

South: Environmentally Critical/Recreation
Beach

East: Downtown/ Pedestrian Commercial
Residence

West: Downtown/ Pedestrian Commercial
Vacant

II. BACKGROUND AND ANALYSIS

Background:

James Ink on behalf of B & B Properties of Fort Myers, owner of 1668 I Street, is requesting a rezoning from Downtown to Commercial Planned Development for the redevelopment of a bar and dwelling unit. The residential use is allowed in the Downtown zoning district and the bar use received approvals through Lee County Special Permit Case 95-10-173 (attached as Exhibit C) and has been in operation since that time. A reduction in parking requirements from 10 parking spaces to 0 parking spaces was approved per Lee County Resolution BZA-88-339 (Attached as Exhibit D).

Analysis:

1668 I Street has been used as a bar and since at least 1995. Pre Ian, the property included a ground floor retail store with alcohol sales and a second story with two residential units, for a total of approximately 3,690 square feet, per the Lee Property Appraiser property details. The proposed development will contain a ground floor open area used as a bar which will open to the beach where a sand seating area is located. A residence is proposed on the second and third floor of the structure. The total proposed gross square footage is 5,822 square feet.

The applicant is requesting a CPD in order to increase the allowable floor area ratio

(FAR) from 1.0 to 1.4 to allow additional square footage of the proposed development. The Downtown zoning district provides three FAR limits, depending on the location of the parcel:

1) Parcels along Old San Carlos, between 5th and 1st Streets and fronting on Times Square pedestrian plaza are limited to 1.8 FAR.
2) Parcels fronting on Estero Blvd and fronting on the Bayfront pedestrian plaza are limited to 1.4 FAR
3) All other Downtown zoned parcels are limited to 1.0 FAR.

This parcel is located in the 1.0 FAR area and contains only 4,159 square feet of Downtown zoned property. The remainder of the property is located in the Environmentally Critical (EC) zoning district and this district does not grant any additional FAR. Based on the portion of the lot in the Downtown zoning district, an FAR of 1.0 would allow a maximum of 4,159 square feet. The underlying future land use district, Pedestrian Commercial, provides the top limit of 2.5 FAR for a CPD.

Requested Deviations:

1) **Request to deviate from 34-675(c)3 that states, "Floor area ration (FAR). Floor area ratios (see 34-633) of the chapter) shall not exceed: (3) 1.0 for all other properties in the Downtown District" to allow an FAR of 1.4 consistent with properties fronting Estero Blvd per 34-675(c)(2).**

   Applicant Justification: *The subject property was developed as a two unit elevated single story residential structure with a commercial bar facility on the ground level operating under a Lee County Resolution Number BZA-88-339 and Hearing Examiner Case 95-10-173.02s. These entitlements were established before incorporation of the Town of Fort Myers Beach on December 31, 1995. Prior the town incorporating, Lee County did not use Floor Area Ratios to determine density and intensities. The subject property was bound for development by density, setbacks, and heights. The Town adopted their Comprehensive Plan on January 1, 1999. The plan developed Future Land Use categories for determining use and development of the parcels consistent with the Comprehensive Plan. The plan splits the subject property into two future land use categories. They are Pedestrian Commercial and Recreation. Pedestrian Commercial has a maximum Floor Area Ration of 2.5 and Recreation does not allow development. The Town further restricted the use of the subject property with the adoption of the town's Land Development Code setting an allowable FAR of 1.0 on the subject property. These actions changed development rights from development based on density, height, and setbacks to a highly restrictive FAR in a Future Land Use category that is the highest allowable in the Comprehensive Plan. There is only one zoning district (Santos) that allows residential with a FAR*

of less than the subject property. Santos zoning district is a transitional community that is a buffer between high intensities on Estero Blvd and low-density residential portions of Venetian Gardens Subdivision. The subject property and all lots along Alva Drive and I Street do not provide any transition to a lower density neighborhood. If fact this area is in the heart of Gulf front properties that could support much higher FAR's. This poor planning perspective is further supported in the apparent lack of the town to enforcement of the restrictive FAR at 1560 I Street and 61 Alva Drive.

Staff Comment: The proposed request meets all of the setback and height requirements of the Downtown zoning district. While the square footage is greater than would be allowed by the strict interpretation of the ordinance, it is unlikely to have any noticeable impact. The proposed development contains approximately 300 additional square feet of first floor bar area than the previous development. The residence above will be unlikely to impact adjacent properties.

Neighborhood Compatibility:
Many of the previously existing commercial and residential properties in the area were destroyed by hurricane Ian. Very few structures remain standing. The proposed development will decrease density from two units to a single unit, although the unit will be larger. The bar use has been in place for several decades and the existing conditions, repeated in this staff report and the ordinance, will remain in effect.

While the square footage increases the FAR above the code allowed 1.0, it does appear that some developments in this same FAR category may exceed the allowed 1.0 FAR. Properties less than 100 feet from this property are allowed an FAR of 1.4.

Findings and Conclusions:
LDC Sec. 34-85(b) and (c) and 34-216(2) sets forth the required considerations and findings for the approval of a rezoning.

(b) Considerations. In reaching its decision, the town council shall consider the following, whenever applicable:
(1) Whether there exists an error or ambiguity which must be corrected.
No errors or ambiguities exist.

(2) Whether there exist changed or changing conditions which make approval of the request appropriate.
The previous structure was destroyed by Hurricane Ian and the property owner would like to build a larger structure. This is a design choice, not a changing condition.

(3) The impact of a proposed change on the intent of this chapter.
If the intent of the code was to encourage smaller, quaint beach homes, this may affect the intent. However, that intent is not explicit, only inferred from the regulatory requirements.

(4) The testimony of any applicant.

(5) The recommendation of staff and of the local planning agency.

(6)The testimony of the public.

(7) Whether the request is consistent with the goals, objectives, policies, and intent, and with the densities, intensities, and general uses as set forth in the Fort Myers Beach Comprehensive Plan.
The proposed development is in compliance with the intent and intensity of the future land use district, as the maximum allowed intensity is 2.5.
The proposed development is not consistent with the intent of Policy 4-A-8, as the lower intensity of 1.0 was developed following the adoption of this Comprehensive Plan policy.

- ***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: v. In existing subdivisions, controls the scale of new homes to avoid the replacement of existing homes with excessively large structures.*

The proposed use is, however, consistent with Policy 4-B-6, which recommends residential uses over commercial uses in the Pedestrian Commercial district.

(8) Whether the request meets or exceeds all performance and locational standards set forth for the proposed use.
The proposed development will meet performance standards set for the in 34-2031 and 34-2032. An approved photometric plan will be required prior Certificate of Occupancy..
There are no special location standards for residences and the bar use has been previously approved by Lee County Special Permit 95-10-173.

(9) Whether urban services are, or will be, available and adequate to serve a proposed land use change.
The urban services exist in this location.

(10) Whether the request will protect, conserve, or preserve environmentally critical areas and natural resources.
The requested FAR increase is landward of the EC zoning district. The seating area is

located within the EC zoning district but has been approved and in existence for several decades. The dune and plantings will be located seaward of the proposed outdoor seating area.

(11) Whether the request will be compatible with existing or planned uses and not cause damage, hazard, nuisance, or other detriment to persons or property.
The proposed use has been in existence in this location for many decades. It is not anticipated to have any detrimental impacts on existing or planned uses. The structure will be approximately 2,100 square feet larger than the previous structure. The impact of the structure size is unknown.

(12) Whether the location of the request places an undue burden upon existing transportation or other services and facilities and will be served by streets with the capacity to carry traffic generated by the development.
This use in this location will not place additional burden on the transportation network or other facilities and services. The two parking spaces provided will be for the residential unit, not the bar.

(13) For planned development rezonings, see § 34-216 for additional considerations.

(c) Findings. Before granting any rezoning, the town council shall find that the requested zoning district complies with:
(1) The Fort Myers Beach Comprehensive Plan.
The proposed use and requested deviation for the CPD comply with the Comprehensive Plan.

(2) This chapter.
The proposed use complies with this chapter except in regard to the deviation to increase the FAR.

(3) Any other applicable town ordinances or codes.
The proposed request complies with the town ordinances and codes, except in regard to the deviation to increase the FAR.

(4) For planned development rezonings, see § 34-216 of this chapter for additional findings.

Sec. 34-216 Findings:

a. The proposed use or mix of uses is appropriate at the subject location;
The uses are allowed in this location.

b. Sufficient safeguards to the public interest are provided by the recommended special conditions to the concept plan or by other applicable regulations;
Sufficient safeguards are provided for the public interest.

c. All recommended special conditions are reasonably related to the impacts on the public's interest created by or expected from the proposed development;
All conditions are related to the impacts on the public interest.

d. The proposed use meets all specific requirements of the comprehensive plan that are relevant to the requested planned development, such as the following:

1. Policies 4-B-4 and 4-C-3 on commercial uses in the "mixed residential" category.
It is not in the "mixed residential" category, 4-B-4 is not applicable. 4-C-3: An expansion of commercial use is proposed but it is not in the "mixed residential" category. However, the expansion is unlikely to cause increased impacts because conditions are in place which limit hours of operation and live music. Additionally, the seating area is not being increased with the expansion.

2. Policies 4-B-5 and 4-C-3 on commercial rezonings in the "boulevard" category.
It is not in the "boulevard" category.

3. Policy 4-C-4 on building heights taller than the standard height limit.
Not applicable.

4. Policy 4-C-8 on density transfers.
Not applicable.

5. Policy 4-E-1 on pre-disaster buildback.
Not applicable.

6. Policy 7-J-2 on traffic impact analyses and potential design improvements that could offset traffic impacts.
The proposed development does not provide parking for bar patrons and is unlikely to cause any additional traffic impacts. The seating area will not expanded.

<u>Findings for Deviation Requests:</u>
Per Sec. 34-216(4) all deviations must be approved, approved with modification or rejected based upon a finding that:
a. Each item enhances the achievement of the objectives of the planned development; and
The requested deviations allows a 1,660 square foot larger structure on the site than would be allowed without the CPD deviation.

b. The general intent of this chapter to protect the public health, safety and welfare will be preserved and promoted; and
The proposed deviations does not have any impact on public health, safety and wlfare.

c. Each deviation operates to the benefit, or at least not to the detriment, of the public interest; and
The deviations are not a detriment to the public interest.

d. Each deviation is consistent with the Fort Myers Beach Comprehensive Plan.
The deviations are consistent with the comprehensive plan in that the plan allows up to 2.5 FAR in the pedestrian commercial future land use. It does, however, indicate that larger structures should not be promoted but does not provide a size reference for that policy.

III. RECOMMENDATION

At the June 11, 2024 LPA hearing James Boan made a motion to approve the request with conditions recommended by staff, John McLean seconded the motion. The LPA unanimously voted to approve the request. At the August 19, 2024 Town Council hearing the Town Council voted unanimously to move the ordinance to a second hearing on September 9, 2024.

Staff finds that the CPD with deviations meets the criteria set forth in Sec. 34-85(b) and (c) and 34-216(2) of the LDC and recommends approval of DCI20240143 with the attached conditions. Staff notes that the previous zoning approvals from Lee County included conditions and that staff recommends these conditions continue to be enforced. These conditions are listed and include the reference to the corresponding case.

IV. CONDITIONS OF APPROVAL

1. 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.
2. The proposed development must be substantially in compliance with the Master Concept Plan attached to the ordinance.
3. A Landscaping Plan and Photometric Plan must be approved prior to CO.
4. From BZA-88-339: The commercial use shall be limited to the retail sales of beach-oriented convenience items, including packaged food and beverage and beach recreational rentals; and

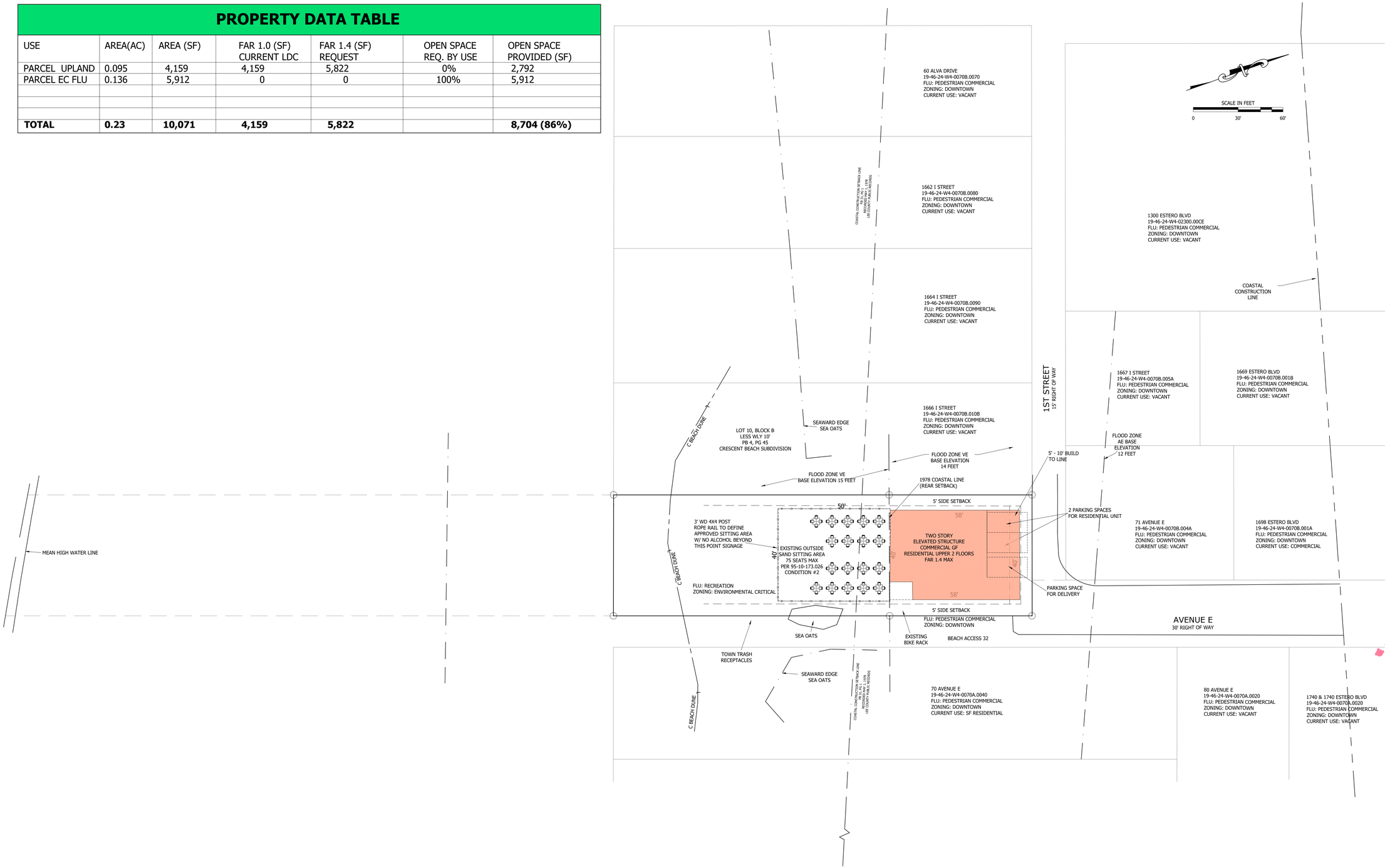
5. From BZA-88-339: Public access shall be limited to the beach on Gulf side of the business.
6. From 95-10-173: The Special Permit for consumption on premises in conjunction with outdoor seating is limited to the use in conjunction with the existing retail use. The use of a bar/service bar on this property is prohibited. However, this does not prohibit the sale of draft beer or wine which is poured from a large bottle, so long as it is consumed only in the designated locations. There will be no waiter or waitress service: the customers must order their drinks from inside the premises and directly from the person who pours the drinks.
7. From 95-10-173: The location of the Special Permit for consumption on premises in conjunction with outdoor seating is limited to the outdoor deck area (approximately 10 feet by 40 feet as shown on Attachment B to the Staff report) which separates the retail use from the beach area, and on the first 50 feet of the beach which extends south from the deck area toward the water. The seating for both areas may not exceed 75 seats. The alcohol consumption portion of the beach area will be clearly marked.
8. From 95-10-173: Hours of operation for the outdoor seating area are limited to 10:00 a.m. to 10:00 p.m., daily.
9. From 95-10-173: Live entertainment is limited to the hours of 10 a.m. to 8 p.m., daily.
10. The conditions of Resolution No. BZA-88-339 and from Special Permit 95-10-173 will remain in full force and effect to the extent that they are not in conflict with this ordinance.

Staff Report Exhibits:

A – Master Concept Plan
B – Schedule of Uses, Approved Deviations, & Conditions of Approval
C – Special Permit Case 95-10-173
D – BZA-88-339
E – Architectural Plan
F – Application

PROPERTY DATA TABLE

USE	AREA(AC)	AREA (SF)	FAR 1.0 (SF) CURRENT LDC	FAR 1.4 (SF) REQUEST	OPEN SPACE REQ. BY USE	OPEN SPACE PROVIDED (SF)
PARCEL UPLAND	0.095	4,159	4,159	5,822	0%	2,792
PARCEL EC FLU	0.136	5,912	0	0	100%	5,912
TOTAL	**0.23**	**10,071**	**4,159**	**5,822**		**8,704 (86%)**



BEACH BAR - CPD APPLICATION

NO.	DATE	DESCRIPTION	BY
REVISION			

MASTER CONCEPT PLAN

THE BEACH BAR

B&B PROPERTIES OF FORT MYERS

1668 I STREET, FORT MYERS BEACH, FL 33931

THESE DRAWINGS ARE NOT TO BE USED OR REVISED WITHOUT THE WRITTEN PERMISSION FROM INK ENGINEERING INC.

James Ink, P.E.
Florida Reg. No. 44705

DATE

INFORMATIONAL COPY ONLY, UNLESS ENDORSED WITH REGISTERED ENGINEERS SEAL

INK ENGINEERING INC.
CONSULTING ENGINEERS • PLANNING
2055 WEST FIRST STREET
FORT MYERS, FL 33901
JINK@INKENGINEERINGINC.NET

PROJECT NO.	23002
PROJECT MANAGER	James Ink P.E.
DRAWN BY	BWM
DATE	05.2024
SCALE	1"= 10'
SHEET NO. OF	2 OF 2

Exhibit B

Schedule of Uses

- Dwelling unit, single-family
- Administrative Office
- Commercial Accessory Uses
- ATM
- On-Premises consumption of alcoholic beverages – existing conditions
- Bar or Cocktail Lounge – existing conditions
- Retail Store, Small – existing conditions

Deviation

Request to deviate from 34-675(c)3 that states, "Floor area ration (FAR). Floor area ratios (see 34-633) of the chapter) shall not exceed: (3) 1.0 for all other properties in the Downtown District" to allow an FAR of 1.4 consistent with properties fronting Estero Blvd per 34-675(c)(2).

Conditions

1. 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.
2. The proposed development must be substantially in compliance with the Master Concept Plan attached to the ordinance.
3. A Landscaping Plan and Photometric Plan must be approved prior to CO.
4. From BZA-88-339: The commercial use shall be limited to the retail sales of beach-oriented convenience items, including packaged food and beverage and beach recreational rentals; and
5. From BZA-88-339: Public access shall be limited to the beach on Gulf side of the business.
6. From 95-10-173: The Special Permit for consumption on premises in conjunction with outdoor seating is limited to the use in conjunction with the existing retail use. The use of a bar/service bar on this property is prohibited. However, this does not prohibit the sale of draft beer or wine which is poured from a large bottle, so long as it is consumed only in the designated locations. There will be no waiter or waitress service: the

customers must order their drinks from inside the premises and directly from the person who pours the drinks.

7. From 95-10-173: The location of the Special Permit for consumption on premises in conjunction with outdoor seating is limited to the outdoor deck area (approximately 10 feet by 40 feet as shown on Attachment B to the Staff report) which separates the retail use from the beach area, and on the first 50 feet of the beach which extends south from the deck area toward the water. The seating for both areas may not exceed 75 seats. The alcohol consumption portion of the beach area will be clearly marked.
8. From 95-10-173: Hours of operation for the outdoor seating area are limited to 10:00 a.m. to 10:00 p.m., daily.
9. From 95-10-173: Live entertainment is limited to the hours of 10 a.m. to 8 p.m., daily.
10. The conditions of Resolution No. BZA-88-339 and from Special Permit 95-10-173 will remain in full force and effect to the extent that they are not in conflict with this ordinance.

OFFICE OF THE HEARING EXAMINER, LEE COUNTY, FLORIDA

HEARING EXAMINER DECISION

SPECIAL PERMIT: CASE 95-10-173.02S
APPLICANT: MURRAY CARSLAKE, rep. by LINDA KANE, in ref. to TIKI KLUB
HEARING DATE: December 7, 1995

I. APPLICATION:

Filed by LINDA KANE, 12140 Siesta Dr., Ft. Myers Beach, FL 33931 (Applicant); MURRAY CARSLAKE, 5770 Estero Blvd., Ft. Myers Beach, FL 33931 (Owner); CARLETON RYFFEL, AICP, 6309 Corporate Ct., #207, Ft. Myers, FL 33919 (Agent).

Request is for a Special Permit in the C-1 (Commercial) district for consumption on premises with outdoor seating per Land Development Code Section 34-1264(a).

The subject property is located at 1668 I Street, Fort Myers Beach (over Sky Bridge to Estero Blvd., south to Ave E [just beyond Hooters] turn right to I St., building is on Gulf, directly to the right of public access), in S19-T46S-R24E, Lee County, FL. (District #3)

The Strap # as furnished by the Applicant is: 19-46-24-07-0000B.0110

II. STAFF RECOMMENDATION:

The Department of Community Development Staff Report was prepared by Mike Pavese. The staff report is incorporated herein by this reference.

III. HEARING EXAMINER DECISION:

The undersigned Lee County Hearing Examiner APPROVES the Applicant's request and GRANTS a Special Permit in the C-1 (Commercial) district for consumption on premises with outdoor seating per Land Development Code Section 34-1264(a) for the real estate described in Section VIII. Legal Description WITH THE FOLLOWING CONDITION(S):

1. The Special Permit for consumption on premises in conjunction with outdoor seating is limited to the use in conjunction with the existing retail use. The use of a bar/service bar on this property is prohibited. However, this does not prohibit the sale of draft beer or wine which is poured from a large bottle, so long as it is consumed only in the designated locations. There will be no waiter or waitress service; the customers must order their drinks from inside the premises and directly from the person who pours the drinks.

2. The location of the Special Permit for consumption on premises in conjunction with outdoor seating is limited to the outdoor deck area (approximately 10 feet by 40 feet as shown on Attachment B to the Staff Report) which separates the retail use from the beach area, and on the first 50 feet of the beach which extends south from the deck area toward the water. The seating for both areas may not exceed 75 seats. The alcohol consumption portion of the beach area will be clearly marked.

3. Hours of operation for the outdoor seating area are limited to 10:00 a.m. to 10:00 p.m., daily.

4. Live entertainment is limited to the hours of 10:00 a.m. to 8:00 p.m., daily.

5. The conditions of Resolution No. BZA-88-339 will remain in full force and effect to the extent that they are not in conflict with this Special Permit.

95 DEC 19 AM 8:59

IV. HEARING EXAMINER DISCUSSION:

The Applicant, Murry Carslake, represented by Linda Kane, in reference to the Tiki Klub, is requesting a Special Permit in the C-1 (Commercial) zoning district to allow consumption of beer and wine on the premises which is located at 1668 I Street, Fort Myers Beach.

The Staff is recommending approval of the request with four conditions which would limit the location of the alcohol consumption and the hours of operations of the outdoor portion of the business.

The Applicant objected to the stringent nature of the conditions, and put on testimony which was designed to loosen them somewhat without eliminating them completely.

The Tiki Klub is located in a 2-story building which contains a combination of commercial and residential uses. The upper portion of the building contains two residential units and the lower portion contains a small retail store which sells beach related convenience items and packaged food and beverages. There is also a portion of the lower floor which is used for storage. Ancillary uses which occur on the site include jet ski and parasail rentals and ultralight rides. It was also noted that the beach area behind the building is often used for volleyball games.

The retail business on the site has had a (2 APS) license since 1981, which permits the sale of beer and wine for off-site consumption. The site was also the subject of a variance in 1988 which reduced the number of parking space to zero, and which limited the public access to the beach; it also limited the use to the sale of those items enumerated above.

The subject site and the properties surrounding it are in the C-1 zoning category. It was pointed out that this is an area of the beach which is tourist and entertainment oriented and which caters, primarily, to a transient, younger clientele. As such the requested use is not an intrusion into a more sedate area.

The Staff was of the opinion that the sale of beer and wine for on premise consumption would be proper, but they were also of the opinion that the use of kegs of beer (rather than cans and bottles), and the sale of wine by the drink (rather than by the bottle), would be too intense a use for the location. Therefore, the difference from what is being requested and what the Staff is recommending is one of degree. However, it was not clear to this Hearing Examiner what the difference would be if drinks were sold by the glass rather than by the can or bottle. Rather, it would appear that beer and wine sold by the glass would be safer and cleaner than by beer and wine sold by the can or bottle because there would be less trash as a result of the discarding of the cans and bottles.

Testimony was offered by the Applicant which demonstrated that entertainment already existed at the subject location, and that the condition recommended by the Staff to prohibit live entertainment would be taking something away from the Applicant which has never been a problem at this location.

Given the resort oriented character of the properties around the subject location, and given the already existing sale of alcohol and the existence of live entertainment on those surrounding properties, it is this Hearing Examiner's opinion that the requested use, as conditioned, is not contrary to the public's interest nor does it pose a public health, safety, comfort, convenience or welfare threat to the citizens of the County.

Therefore, the Special Permit, as conditioned is approved.

V. FINDINGS AND CONCLUSIONS:

Based upon the staff report, the testimony and exhibits presented in connection with this matter, the undersigned Hearing Examiner makes the following findings and conclusions:

A. There is no negative impact on the intent of the Land Development Code as a result of the granting of the Special Permit, conditioned as set out above.

B. That the granting of the Special Permit, conditioned as set out above, is consistent with the goals, objectives, policies and intent of the Lee Plan, as last amended.

C. That the Special Permit, conditioned as set out above, meets or exceeds all performance and locational standards set forth for the proposed use.

D. That the Special Permit, conditioned as set out above, is consistent with the densities, intensities and general uses set forth in the Lee Plan.

E. That granting the Special Permit, conditioned as set out above, will protect, conserve and preserve environmentally critical areas and natural resources.

F. That the Special Permit, conditioned as set out above, will be compatible with existing or planned uses and will not cause damage, nuisance, hazard or other detriment to persons or property.

G. That the location of the requested Special Permit does not place undue burden upon existing transportation or other services and facilities and will be served by streets with the capacity to carry traffic generated by the use(s) which will be developed in conjunction with the Special Permit.

H. That the requested use is in compliance with all applicable general zoning provisions and supplemental regulations pertaining to the use, as set forth in the Land Development Code, as last amended.

I. That granting the requested Special Permit, conditioned as set out above, is not contrary to the public interest, public health, public safety, public convenience or public welfare of the citizens of Lee County.

VI. PRESENTATION SUMMARY:

After the Hearing Examiner placed all witnesses under oath, Mike Pavese, Division of Zoning and Development Services, presented the Staff Report in this request for a Special Permit in the C-1 (Commercial) district for consumption on premises (COP) with outdoor seating. The subject property is located on I Street, on the Gulf side of Estero Boulevard, Fort Myers Beach.

The subject property is developed with a 2-story building that was constructed in 1966. The existing structure is a combination of residential and commercial uses. There are two residential units upstairs while a portion of the first floor is used as a small retail operation specializing in the sale of beach related convenience items, and packaged food and drink to go.

The property was previously the subject of a variance request in 1988. The Applicant purchased the property approximately one year before that and attempted to obtain an occupational license for basically the same type of retail use. At that time he attempted to obtain a license for an existing shed which was located between the existing structure and the Gulf of Mexico. Because the County determined the existing use was nonconforming, the application for an occupational license was denied.

As a resolution to the Applicant's problem, the County suggested that he apply for a variance and attempt to relocate the retail use that had previously been located in the shed to the ground floor of the commercial structure. This caused a problem from the standpoint that, in order to relocate to the other building, he would have to provide the appropriate

parking for the use. At that time there was no parking available on site; therefore, a variance from the minimum requirement of 10 spaces, to zero spaces was requested and approved.

In approving the variance request the Board of Zoning Adjustments applied two conditions. The first condition provided that the commercial use would be limited to the retail sales of beach oriented convenience items including package food and beverage and beach recreational rentals. The second condition was that public access to the commercial use would be limited to the beach on the Gulf side of the business.

The instant request is for a 2-COP license. The proposed outdoor seating area is a 10-foot by 40-foot deck which is located at the rear of the building, and facing the Gulf of Mexico.

Staff has recommended approval of the request with five conditions. Condition 1 states that the COP is limited to use in conjunction with the existing retail use. The use of a bar/service bar on this property is prohibited. Condition 2 limits the proposed outdoor seating area to the 10-foot by 40-foot deck located to the rear of the existing structure. Condition 3 limits the hours of operation of the outdoor seating area to the hours of 10:00 a.m. to 10:00 p.m., daily. Condition 4 states that live entertainment is prohibited; and Condition 5 states that the conditions of resolution number BZA 88-339 is to remain in full force and effect.

The surrounding zoning is C-1. The existing uses surrounding this property are primarily residential, but they are of a seasonal rental nature. There are some commercial uses in the general vicinity that are located closer to Estero Boulevard.

Staff felt that the request, as conditioned, was consistent with the Lee Plan and with the surrounding zoning and land uses; therefore, they recommended approval.

The Hearing Examiner noted that Staff was keeping the other conditions in place and that there was a provision in the old resolution that limited the request to packaged food and beverage. He asked if there would be a conflict since this request, if approved, would allow outside consumption? Mr. Pavese stated that there could be a conflict if the Applicant was planning on selling draft beer which is not sold in a factory sealed container. The Hearing Examiner asked if Staff would object if he changed the language to state that the other resolution was in effect to the extent that it is not in conflict with this resolution, and Mr. Pavese replied that would be acceptable.

The Hearing Examiner asked why this request was not handled administratively? Mr. Pavese replied that these types of requests were done administratively in conjunction with a restaurant use; however, this use was not a restaurant, it is a retail operation.

Matt Uhle, the Applicant's attorney, referenced the last sentence of Condition 1 which states that "the use of a bar/service bar on this property is prohibited." He questioned the Staff about the differences between selling wine and beer by the bottle or can, as opposed to selling it by the glass. Staff indicated that their concern was that, if beer and wine were sold by the glass, it might create a "bar" situation. The existing use is a retail use. The proposed uses are specifically restricted by a previous resolution that permits only packaged food and beverages for sale. To allow draft beer to be served from a keg, or wine to be served by the glass, would go against the conditions approved in that resolution.

After further discussion the Hearing Examiner asked what the Applicant would be allowed to do on the property if approval of the 2-COP license is granted. Mr. Pavese stated that they would be allowed to sell beer and wine in factory sealed containers, and people would be allowed to consume it on premises in the designated area.

Mr. Uhle asked what public interest would be served by selling packaged liquor, as opposed to non-packaged liquor, to which Mr. Pavese stated that he didn't feel the subject location was appropriate for a bar, in that it is surrounded by predominantly residential uses. In response to further questioning by Mr. Uhle, Mr. Pavese stated that Staff was concerned that people would tend to stay at the site longer if non-package liquor was sold.

Mr. Uhle referenced Condition 2 and stated that the outdoor seating area included the deck and the private beach located contiguous to the deck. He noted that the Staff Report did not make reference to the private beach area, and questioned what the rationale for this limitation was, to which Mr. Pavese replied that this also related to the intensity of the use. The County could not control how much seating is on the beach and how far it extends out into the area that is traversed by the public. In response to Mr. Uhle's question as to why Staff couldn't impose a setback condition, Mr. Pavese stated that the amount of seating is easier to control within an existing building or deck. This goes back to the intensity of the use. Staff also had to consider parking. The previous variance issued was conditioned to allow a certain type of use on this property. To allow the COP to encroach out into the beach area changes the intended use of the property. Mr. Uhle noted that the LDC does not require any particular parking for outdoor seating.

Mr. Uhle referred to the issue of the enforceability of the condition and asked Mr. Pavese if he has been to the beach lately, to which Mr. Pavese replied yes. He agreed that there are roped off areas indicating boundaries of property in this area and throughout the beach, and that this could be done fairly easily on the subject site. This would be an objective standard and could be enforceable if a setback of a particular distance was established.

Mr. Pavese agreed that the sandy beach area would be further away from the adjacent uses than the deck currently is, whether it was extended or not. However, as proposed by the Applicant, it is closer.

In response to further questioning by Mr. Uhle, Mr. Pavese confirmed that the beach area is frequently used for volleyball games, and for live entertainment. The impacts caused by someone consuming alcohol at a table on the surrounding areas is greater than the impact created by live music at the same location.

He also confirmed that the Applicant already has a license to sell alcohol off-site. Mr. Uhle asked Mr. Pavese if he could make the distinction in the regulations between "off-premises" and "on-premises"? Mr. Pavese stated that with regard to the licenses issued by the State, a 2 APS license permits the sale of alcoholic beverages (beer and wine) for consumption off the licensed premises. A 2-COP allows for the sale of beer and wine for consumption on the licensed premises.

Mr. Uhle stated that he really was asking for the definition of "on the premises." He noted that the building has residential units on the second floor. He asked if it would be considered "on-premises" if someone were to come down and buy a beer in a can and then go up to their residence and drink it, assuming the Applicant didn't have a COP at this location. Mr. Pavese replied, literally, this would be on-premises consumption, but with respect to the Zoning Ordinance, and the subject case, that was not really relevant. The on-premises consumption that Staff was referring to was on a licensed premises. Mr. Uhle stated that this was merely a hypothetical question. He asked if it would be a violation of the County regulations for someone to do that, to which Mr. Pavese replied no.

Mr. Uhle asked, hypothetically, if it would be considered "off-premises" if someone from one of the adjacent cottages were to walk over to the subject property, buy a beer, and walk back to their own property and drink it, to which Mr. Pavese replied yes.

Mr. Uhle asked if it would be a violation of County regulations for someone to buy a beer at the subject property, and drink next door assuming

they had permission to do, to which Mr. Pavese replied he believed it may be a violation of the open container law. Mr. Uhle stated that it would be private property; therefore, he did not believe the open container law would apply. He asked if selling beer to somebody who is consuming it on-premises would be a violation in terms of the zoning regulations, to which Mr. Pavese replied no.

In response to Mr. Uhle's questions with regard to Condition 4, Mr. Pavese confirmed that he was aware that live entertainment has been on the premises in the past. This particular condition would actually require the property owner to give up something he already has. The subject property is approximately 500 feet from the Lani Kai Resort. To the best of his knowledge the Lani Kai does have outdoor seating and COP. He was not sure if they had live entertainment.

With regard to the live entertainment on the subject property in the past, Mr. Pavese was not aware of outstanding allegations of code violations, or Noise Ordinance violations.

Mr. Uhle asked if a permit was required to have live entertainment on a piece of property, to which Mr. Pavese replied that he was not aware of any ordinance that would prohibit someone from playing a guitar or singing on a piece of property, if they weren't being compensated for it. Mr. Uhle asked if the condition would prohibit an adjacent property owner from having live entertainment. Mr. Pavese stated that he did not know of any ordinance that would prohibit an adjacent property owner from playing music on their property, unless they were charging admission.

Mr. Uhle asked if Condition 3 would also limit the hours of operation for live entertainment if live entertainment was allowed. Mr. Pavese stated that Condition 3 would not limit the hours for live entertainment because the time limitation is only related to the outdoor seating area. Mr. Uhle asked if it would be possible to write a condition that would limit the hours of outdoor entertainment if, in fact, the tranquillity of the neighborhood at night is one of Staff's concerns, to which Mr. Pavese replied yes. Mr. Uhle asked if the tranquillity of the neighborhood was one of Staff's concern, to which Mr. Pavese replied it was a minimal concern. The main reasoning for the condition related to the existing use and its intensity. Mr. Uhle noted that the intensity of the existing use involved live entertainment. Mr. Pavese stated that the County could not really control live entertainment being performed on the property if the people are not being charged admission, or the performers are not being compensated.

The Hearing Examiner asked if Staff was proposing that the Applicant be allowed to sell sealed containers of wine and beer to customers who will be allowed to drink them on the deck, to which Mr. Pavese replied yes. Staff has limited the hours of operation for the deck and prohibited live entertainment. This was a very minimal increase in the intensity of the use of the property. Staff believed that anything beyond that would be too great of an increase in intensity.

Carleton Ryffel, for the Applicant, stated that the subject property is located in a high activity level area near the Times Square area on the beach. Some adjacent and nearby uses include Gulf front seasonal rentals, a Hooters Restaurant, offices, and a variety of retail uses. The Lani Kai is approximately nine lots away from the subject property. Most of the lots along the gulf are 50-foot-wide lots, therefore, as Mr. Uhle stated, the subject property is approximately 500 feet away from the subject property.

The Applicant and/or his wife own six cottages immediately to the west of the subject property. To the east are other cottages which are seasonal rentals. The owner of the Tiki Klub lives in the cottage (under separate ownership) immediately adjacent to the subject property. Most of the cottages in the area cannot be rented on an annual basis due to the high level of activity in the area. This particular area of the island caters to young people and tourists. Most of the cottages are rented on a short

term basis. The ambiance of this area is a "party" atmosphere. This is where jet ski and other water sports abound, and volleyball is a common activity among younger people. The entire area is zoned C-1.

The Hearing Examiner stated that it might help him to know what the Applicant would like and why they believe their request should be approved. Mr. Ryffel stated that the Applicant would like to continue with the outdoor entertainment, which is something they already have. Mr. Uhle stated that the Applicant would also like to be allowed to use the private sandy beach area, located immediately south of the deck, for outdoor seating. He noted that he would be proposing an alternative condition to address this issue in the event the Hearing Examiner believed such a condition was necessary.

In terms of the sale of alcohol, the Applicant did not need a physical structure for a bar. However, they would like permission to be able sell draft beer out of kegs and to be able to keep wine in a refrigerator and pour into cups and be able to serve it. The Hearing Examiner asked if the Applicant wanted to have alcohol in bulk rather than individual containers, to which Mr. Uhle replied that was correct. The Hearing Examiner asked if there would be any indoor seating or area for patrons to consume alcohol, to which Mr. Uhle replied no.

Mr. Ryffel stated that there were several reasons the Applicant wanted to serve wine out of the bottle, however, as a practical matter, he has never seen wine come in a can. Serving wine or wine coolers in a bottle would mean there would be glass containers on the beach which is not appropriate for the type of activity in the area.

The property has evolved in use over the years. Long ago it was a duplex, and it remains a duplex upstairs. The downstairs was made into a beach clothing store, and then it became and remains the home base of jet ski, ultra-light boat rentals, sale of beach convenience items, i.e., sun glasses, T-shirts, suntan oil, and the package liquor store. In addition to these activities volleyball is played by anyone who walks by the property on the beach side. Televisions are available on the lower deck to watch sporting events. Live musical entertainment is provided on most weekends.

Mr. Ryffel submitted and reviewed several photographs (Applicant's Exhibits 1 through 13). These pictures depicted the front of the subject building, the view of Estero Boulevard (taken from the subject building), the upper and lower portions of the building, the sales counter and convenience items, the deck area, the television and scoreboard, and the outdoor seating area on the beach. He noted that Applicant's Exhibits 14 and 15 were also photographs which would be discussed later.

The Applicant has asked for 75 outdoor seats for COP which is reasonable considering the present activity level of the property. Some of the seating will be on the deck; the remainder on the sand. The Applicant intends to have the seating area on the sand within 50 feet of the back deck of the subject building. Mr. Ryffel submitted an as-built survey (Applicant's Exhibit 16) and pointed out the location where the Applicant wanted to have the outdoor seating.

As depicted on the as-built survey, the property line is 186 feet from the mean high tide to the road right-of-way of I Street. Between the existing building, and the 50-foot-wide area proposed for the outdoor seating on the sand, there is an additional 90 feet of private property before the water's edge. Even though the 90-foot-wide area is private property, the Applicant would limit the seating to the 50-foot-wide area. The 90-foot-wide area would not have any seating.

Mr. Ryffel submitted two photographs (Applicant's Exhibits 14 and 15) which depicted the 50-foot-wide area of sandy beach that will be used for seating. He referenced his letter to Pam Houck, dated October 15, 1995 (submitted with the application), and noted that it described the Applicant's response to the review criteria for a Special Permit. His letter states "the number of seats requested is 75, of which about 20 would be

on the adjoining ground level deck ...." As a correction to this statement Mr. Ryffel noted that, given the size of the deck, there would be room for approximately ten tables (40 seats). Therefore, Applicant did not want to be limited as to how many of the 75 seats they could put on the deck.

With regard to the second criteria of whether there are "changed or changing conditions which makes approval of the application appropriate," Mr. Ryffel noted that outdoor seating has become increasingly popular especially in tourist and beach areas which is the instant case. This would be considered a changing condition and one which would be consistent with this premise.

With regard to the question of whether the request is consistent with the goals, objectives, policies and intent of the Lee Plan. Mr. Ryffel noted that his letter lists approximately ten policies that the request is consistent with. With regard to Policy 18.2.1, his letter states:

> Since the nature of the business and its outward appearance will not change, i.e., it was and continues to be a mixed commercial use, it will not be an intrusion into any residential neighborhood. In fact there really is no owner occupied neighborhood near the present use. The proposed use should be considered as a logical adjunct to the existing use of the property.

He referred to the criteria of whether the requested use will be compatible with the existing or planned uses, and stated that the property is in a mixed use area and it will, therefore, be compatible with other uses.

The location of the project will not place a greater burden upon existing transportation facilities than it has in the past. Allowing the uses may actually reduce trips. Moreover, the proposed use is intended to primarily serve customers already on the property. The Applicant has no advertising from Estero Boulevard. They do not intend to draw automobile traffic, in that parking would be a problem in this area. The Applicant's business relies on the pedestrian traffic along the beach.

With regard to Condition 2 which limits the outdoor seating to the outdoor deck area, the Applicant feels that there is no logical reason to not permit outdoor seating on a private beach owned by an individual. There is seating already provided during the daylight hours. People use these tables and chairs to watch sporting activities at the property, especially volleyball.

Outdoor seating with a COP occurs nearby at Jimmy B's (with outdoor entertainment) and at the Lani Kai where there is sometimes more than one band. The Lani Kai has approximately four bars, jet ski rentals, retail stores, and beach convenience items. Jimmy B's and the Lani Kai sell hard liquor, while the Applicant will only sell beer and wine. The recently approved application for the Jewell Real Estate property will allow outdoor seating and COP, and was approved for outdoor entertainment. The Applicant was not proposing a physical bar; they merely wanted to dispense beer and wine.

He referred to Condition 4 and stated that, given the location and the activity level of the area, there is no reason to prevent outdoor entertainment. There have been no noise complaints against this property to the best knowledge of the Applicant. There were no letters of opposition from neighbors, but rather letters of support. He asked "What then are we protecting?"

He submitted a map of the subject property (Applicant's Exhibit 17) which showed the location and names of all adjoining property owners. He noted that the following letter was written by the Applicant and signed by all the adjacent property owners. (See Section VIII.)

> I am requesting a Special Permit in the C-1 (Commercial) district for consumption on premises with outdoor seating per Land Development Code Section 34-1264(a), at the above stated premises. I currently hold an alcohol license at this location,

I am simply expanding the usage. Because you are adjacent and/or very near to our operation, we are asking for your support.

The only property owner who did not sign the letter was the owner of the Outlaws Steakhouse. Mr. Ryffel believed that the only reason they didn't sign the letter was because they couldn't be found. He believed they would have signed because they were former clients of his.

Due to the support from all of the neighbors, outdoor entertainment should not be a problem. Outdoor entertainment has been an ongoing activity in the neighborhood. The Applicant will comply with the County Noise Ordinance, and wants to be treated as anyone else would. It should be noted that outdoor entertainment does not require permission or public hearings; just compliance with the law. The Applicant has agreed to limit the hours of outdoor entertainment from 10:00 a.m. to 10:00 p.m., as stated in the Staff Report. As a practical matter, the Applicant could set up a band on his adjacent property and have the same effect, because Staff's condition only applies to the subject property.

It was Mr. Ryffel's understanding that Special Permits are not discretionary unless a public harm is found. In this case Staff sees outdoor seating and music on a private beach as public harm. The Applicant feels that these things are a public good in that these activities are part of the beach lifestyle in this particular area. It probably wouldn't be appropriate in more purely residential areas away from this busy area. However, in a place where this type of activity is commonplace, it makes no sense to impose conditions that serve no purpose and are easily circumvented. In short, the young people and tourist guests need these types of places to recreate and socialize without these obstructions.

In response to Mr. Uhle's questions Mr. Ryffel stated that the subject property and surrounding properties are zoned C-1. Mr. Ryffel did not agree with Mr. Pavese's earlier statement that consumption on premises would have a greater impact than volleyball games and live music on surrounding uses. Volleyball games get fairly vocal since people cheer on the players. He did not think that sitting down and drinking a beer is a very noisy thing to do.

Mr. Ryffel confirmed that the location of the project would not place an undue burden on existing transportation facilities because the property is not readily visible from Estero Boulevard. It is a very integrated use of the property and it is well known. People normally come to this type of establishment on the weekends. To keep it "one stop shopping" would limit traffic impacts overall on the island.

Mr. Ryffel was not aware of any greater impact to the public if alcohol is poured into containers as opposed to being sold in packaged containers.

The Hearing Examiner asked if there was anything prohibiting outdoor seating at the subject property at this time, and whether the only difference in approval would be that people could drink alcohol in the outdoor seating area. Mr. Pavese replied that there are no regulations that prohibit people from sitting in chairs outside on the property at this time. There is also no prohibition against there being live entertainment.

Pam Houck, Division of Zoning and Development Services, referred to Mr. Ryffel's earlier statement and asked if there was a package store existing or anticipated at this site, to which Mr. Ryffel stated that, at this time, the Applicant has a package license and they sell beer in cans. Mrs. Houck noted that a package store has different regulations. While it may permitted in this district, it does have a specific 500-foot setback requirement from residential uses, day-care centers, churches, etc., and would not be allowed unless a variance were granted. A variance has not been requested for the subject property in the past or in this case. She wanted to make it clear whether or not a package store was indeed on the premises or anticipated. Mr. Ryffel stated that the

Applicant sells canned beer which is in a cooler. Mrs. Houck stated that the Applicant would be allowed to have incidental sales of packaged alcoholic beverages.

The Hearing Examiner asked Mrs. Houck if she was making the distinction between a liquor store or package store that sells primary beer and wine, as opposed to one that sells it in conjunction with other items. Mr. Ryffel noted that the Applicant has a package license, rather than a package store. Mrs. Houck pointed out that this was specifically defined in Section 34-1263, the Zoning Ordinance portion of the LDC.

Case 95-05-101.02S (Jimmy B's) was specifically approved as a bar. Case 95-07-161.02S (Jay Ursoleo) was specifically approved as a restaurant. Staff's primary concern, and the reason they limited the subject request by conditions, was because this case was heard previously and granted variance for specific uses. Staff's primary concerned related to changing the use of the property to a bar or a restaurant, in that there was no place for parking at the site. The approved variances were not in place for these uses and variances have not been requested.

The Hearing Examiner stated that if the Applicant had come in for a variance, or just consumption on premises, there is no parking requirement for outdoor seating. Mrs. Houck stated that Staff's concern related to a change of use. If the use is changed to a bar, although there would be no parking requirements, a Special Permit would be required for a bar. The Hearing Examiner asked if Staff believed the use would be considered a bar if there was outdoor seating on the beach and on the deck area, but not inside the premises, to which Mrs. Houck replied not necessarily.

In response to the Hearing Examiner's question, Mrs. Houck confirmed that it was possible due to the increase in the use of alcohol on the premises a variance would be required. The Hearing Examiner stated that the concern was that normally a variance would be needed to obtain the other permission. This may be inadvertently intensifying the use of the property to the level where a variance would have been required, and it has not been required in this case.

Mr. Ryffel stated that the use is not intended to be a bar. The Applicant would be selling beer and wine like they would sell sunglasses or another convenience item. The activity includes volleyball and music and he did not feel the request would make any change in intensity at all. If there is an area that should be intense, this was it. Intense uses had to be somewhere, and he could not see why Staff would try to diminish that at this point in the area's history.

Mr. Uhle noted that the variety of mix of uses on the parcel would remain essentially the same. There was no obvious distinction in terms of the impacts with regard to how the alcohol is sold to people walking on the beach or people living in the beach cottages. He did not believe there was any credible evidence to indicate there was any distinction. In addition, the Applicant has established that outdoor seating does not require any additional parking. Furthermore, there is every reason to believe that, if there is an increase in use of this parcel, it is probably going to be caused by people walking along the beach because the parcel is not readily visible from Estero Boulevard and there is no signage on Estero Boulevard. Approval of this request would not result in a tremendous change in the character of the area.

Mr. Uhle stated that he has heard concerns from the Staff, but he has not heard any specific facts or specific LDC requirements that causes the problem that they are concerned about.

The Hearing Examiner asked if a customer would have go into the store to get a drink, or if someone would be serving them outside, and Mr. Uhle stated there would be no service outside. The Hearing Examiner noted that, if he were to approve the request, he would place this type of prohibition on the use. Mr. Ryffel stated that there would be no wait staff.

In response to the Hearing Examiner's question, Mrs. Houck stated that someone would be prohibited from bringing alcohol onto the subject property that they bought elsewhere. Even though it is private property, the Applicant is not licensed for consumption on premises and the use is a retail outlet rather than a private home.

Mr. Uhle stated that County regulations regarding this point are not particularly clear. One of the reasons he asked the hypothetical questions of Mr. Pavese was to indicate that a number of anomalies could come up that really don't have any bearing in terms of the actual impacts of the proposed use on the surrounding neighborhood.

In response to the Hearing Examiner's questions regarding the conditions, Mr. Uhle stated that the Applicant would like to be able to operate their business in the manner describe earlier with the sale of wine and beer by the glass. They would like to keep bottles of wine in a refrigerator and have kegs of beer. They were not asking for a physical structure or for permission to have outside service.

With regard to Condition 2 the Applicant would like a condition that would basically permit the outdoor seating to take place, not simply within the deck, but in an area with the northern boundary being the southernmost boundary of the deck, and then extending 50 feet to the south of that. The Applicant would not have a problem marking that area off. This was an objective standard and one that could be enforced.

If the Staff believes that Condition 3 is not clear enough as to its applicability to outdoor music, the Applicant did not have a problem limiting the hours from 10:00 a.m. to 10:00 p.m. However, Condition 4, needs to be deleted, in that it is "costing" the Applicant a use that they already have. In response to the Hearing Examiner's question, Mr. Uhle stated that it would be appropriate to add language stating that the subject conditions would not conflict with the conditions of the previous variance approval.

Gerald Crowley, property owner of a cottage located approximately 200 feet from the subject property, stated that he believed the COP would be more suitable than the current way the property operates. Currently, people who buy beer at the premises go over to his yard and throw the empty cans over their head. If the consumption was constricted to the area of purchase, this would not happen.

With regard to the hours for outdoor entertainment, he believed 10:00 p.m. was a bit late. He rents to older couples three to four months out of the year. The County shuts down the beach at sunset. There are signs at the access that state that the beach closes at sunset. Therefore, sunrise to sunset would seem like more suitable hours for live entertainment. The Hearing Examiner stated that the hours of sunrise and sunset would vary on the season, to which Mr. Crowley replied yes. Someone might want to go to bed at 8:00 p.m. when the sun goes down at 5:00 p.m.

The Hearing Examiner asked Mr. Crowley if the people staying at this place had any problem with the noise, to which he replied currently his place is not rented. However, last Sunday he was sitting approximately 200 feet from the band and he could not listen to a football game on his television. He had the volume all the way up and he could not hear it. He never received one of the letters that Mr. Ryffel referenced.

Lonnie Clark, Applicant's partner, stated that they did not want to create any noise problem for any of the neighbors. They would be happy to work with any suggestions to correct any problems. Within the immediate vicinity, including Mr. Crowley's property, all the owners have jet ski businesses. These type of businesses allow for motors to be run on the beach. All of the jet ski businesses create noise situations. He did not believe that the music situation would create any additional problem than what is currently going on. He enjoyed having Mr. Crowley as a neighbor and he would certainly be willing to comply with conditions that would create a situation where everyone would be happy.

Mr. Pavese concurred with Mrs. Houck's previous statement. To Staff's knowledge there is no package store existing at the subject location. The uses at Jimmy B's and the Lani Kai are really not comparable to the use on the subject property; they are totally different. The intensity is also not comparable.

The Hearing Examiner asked Mr. Pavese if he prepared the Staff Report, and if it accurately reflected his position at the time he prepared it, to which Mr. Pavese replied yes. He asked Mr. Pavese if anything he had heard during the hearing would change his mind about his recommended conditions, and Mr. Pavese replied no. This included the live entertainment condition, especially in light of what Mr. Crowley has stated.

Mr. Uhle submitted copies of the Hearing Examiner's Decisions for cases 95-05-101.02S and 95-07-161.02S (Applicant's Exhibits 18 and 19), both of which permit outdoor entertainment, but restrict the hours in a way that is consistent to what has been proposed. The Applicant has also indicated that she would not object to limiting the hours of outdoor entertainment to 8:00 p.m., but not the hours of operation.

He could understand where the Staff was coming from in this case, but he believed they were talking about an abstract regulatory kind of problem rather than a practical problem. As depicted in the photographs, this is an area of very intense uses. He did not think that the Staff's proposed conditions address any significant legal or practical problems that would be created by the use of this location.

Mr. Ryffel stated that he had never had a case where there has been so much neighborhood cooperation. No one objected, and he felt that this spoke for itself. He asked if they could have the Hearing Examiner's Decision in as timely a manner as possible, given the situation at the beach, specifically by December 31, 1995.

The Hearing Examiner stated that he did not see a big distinction between the sale of beer and wine in bulk as opposed to in an individual container. He would, however, visit the site before making his final decision.

Mr. Ryffel noted that the property owner had cleaned up the property considerably since he bought it. He has placed 22 garbage cans, even on property that wasn't his, as a way of keeping the area clean. The owners are very good and competent people. He felt they would cooperate with any problems the neighbors may have and he felt they were an asset to the beach. The Hearing Examiner pointed out, however, that the property owner could sell the property and the next people who come in may not be so nice. This was a consideration since any approval would run with the land.

Mr. Ryffel submitted a copy of his presentation and notes (Applicant's Exhibit's 20) for the record.

VII. PUBLIC PARTICIPATION: The following persons appeared at the hearing or became "parties of record" in this case by submitting written materials:

ADDITIONAL APPLICANT'S REPRESENTATIVES:

1. Matt UHLE, Esquire, c/o Humphrey & Knott, P.A., 1625 Hendry St., Ft. Myers, FL 33901
Testimony: See Section VI. Presentation Summary

ADDITIONAL COUNTY STAFF:

1. Joseph M. MADDEN, Jr., Assistant County Attorney, Lee County, P.O. Box 398, Ft. Myers, FL 33902-0398

2. Pam HOUCK, Division of Zoning and Development Services, Lee County, P.O. Box 398, Ft. Myers, FL 33902-0398

FOR:

1. Terry HILL, 1600 Estero Blvd., Ft. Myers Bch., FL 33931

2. ESTERO ISLAND HARDWARE, 1741 Estero Blvd., Ft. Myers Bch., FL 33931

3. H. E. TRACY, 71 Ave. E., Ft. Myers Bch., FL 33931

4. Jeffery M. WILLICH, 4870 Dolphin Ln., Ft. Myers Bch., FL 33931

5. Marc WOODARD, 4265 Bay Beach Ln., Ft. Myers Bch., FL 33931

6. Kenny CATHERS, 1830 Estero Blvd., Ft. Myers Bch., FL 33931

7. SPORTS ADDICTION, 1801 Estero Blvd., Ft. Myers Bch., FL 33931

8. Antonina RIGBY, 307 Fairweather Ln., Ft. Myers Bch., FL 33931

9. GLORIA SHORTLIDGE ESTATE, 70 Ave. E., Ft. Myers Bch., FL 33931

10. FT. MYERS BEACH SCOOTERS, INC., 1698 Estero Blvd., Ft. Myers Bch., FL 33931

AGAINST: NONE

GENERAL:

1. Robert MOFFA, 37728 Lois Dr., Sterling Heights, MI 48310

2. Denise FAIR, c/o Humphrey & Knott, P.A., 1625 Hendry St., Ft. Myers, FL 33901

3. Richard CROWLEY, 808 Sunset Vista Dr., Ft. Myers Bch., FL 33931
Testimony: See Section VI. Presentation Summary.

VIII. LEGAL DESCRIPTION:

Lot 11, Block B, CRESCENT BEACH SUBDIVISION, as recorded in Plat Book 4, Page 45 of the Public Records of Lee County, Florida, lying in Section 19, Township 46 South, Range 24 East, Lee County, Florida.

IX. UNAUTHORIZED COMMUNICATIONS:

Unauthorized communications shall include any direct or indirect communication in any form, whether written, verbal or graphic, with the Hearing Examiner, or the Hearing Examiner's staff, any individual County Commissioner or their executive assistant, by any person outside of a public hearing and not on the record concerning substantive issues in any proposed or pending matter relating to appeals, variances, special permits, rezonings, special exceptions, or any other matter assigned by statute, ordinance or administrative code to the Hearing Examiner for decision or recommendation .... [Administrative Code AC-2-5]

No person shall knowingly have or attempt to initiate an unauthorized communication with the hearing examiner or any county commissioner [or their staff] .... [LDC Section 34-52(a)(1), emphasis added]

Any person who knowingly makes or attempts to initiate an unauthorized communication ... [may] be subject to civil or criminal penalties which may include: [Section 34-52(b)(1), emphasis added]

Revocation, suspension or amendment of any permit variance, special exception or rezoning granted as a result of the hearing examiner action which is the subject of the unauthorized communication. [LDC Section 34-52(b)(1)b.2.]; OR

A fine not exceeding $500.00 per offense, by imprisonment in the county jail for a term not exceeding 60 days, or by both such fine and imprisonment. [LDC Section 1-5(c)]

X. APPEALS:

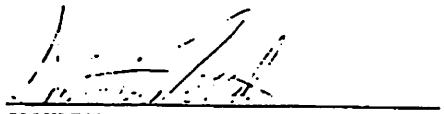
This Decision becomes final on the date rendered. A Hearing Examiner Decision may be appealed to the Circuit Court in Lee County. Appeals must be filed within thirty (30) days of the date the Hearing Examiner Decision is rendered.

XI. COPIES OF TESTIMONY AND TRANSCRIPTS:

A. A complete verbatim transcript of the testimony presented at the hearing can be purchased from the Official Court Reporter, 20th Judicial Circuit, Lee County Justice Center, Fort Myers, Florida. The original documents and original file in connection with this matter are located at the Lee County Department of Community Development, 1831 Hendry Street, Fort Myers, Florida.

B. The original file and documents used at the hearing will remain in the care and custody of the Department of Community Development. The documents are available for examination and copying by all interested parties during normal business hours.

This decision is rendered this 18th day of December, 1995. Copies of this decision will be delivered to the offices of the Lee County Board of County Commissioners.



SALVATORE TERRITO
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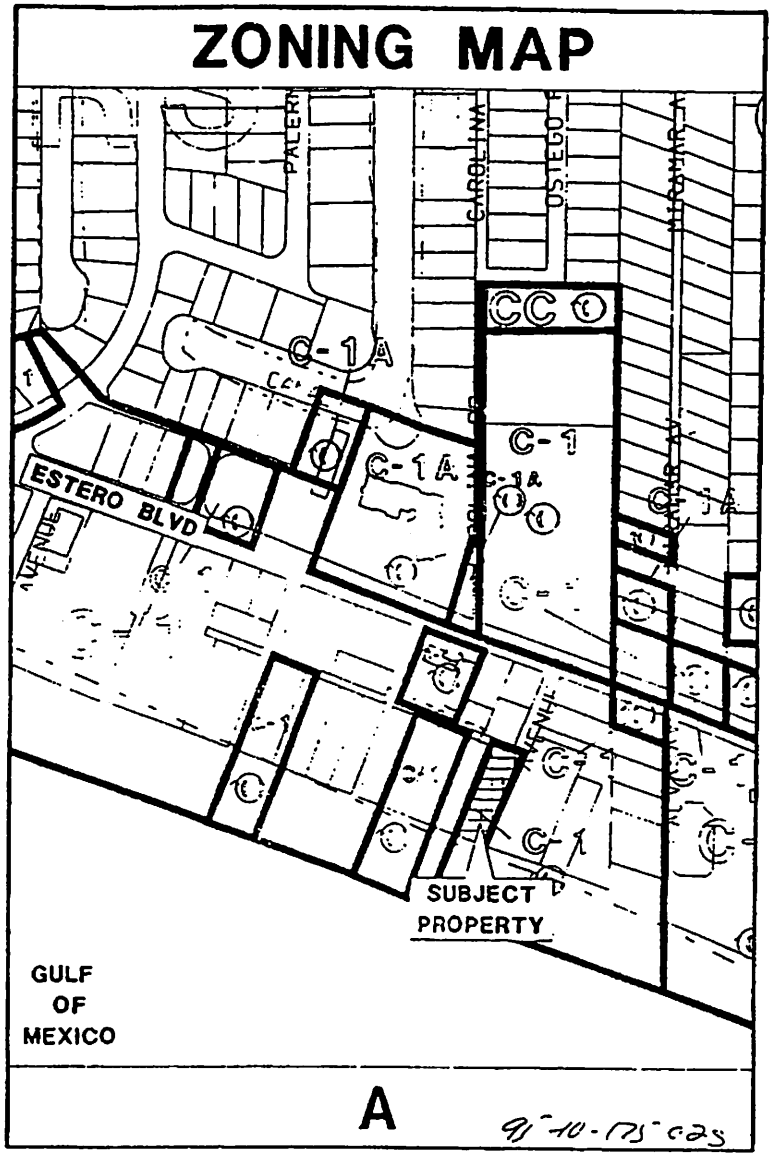
2269 Bay Street
Post Office Box 398
Fort Myers, FL 33902-0398
Telephone: 941/338-3190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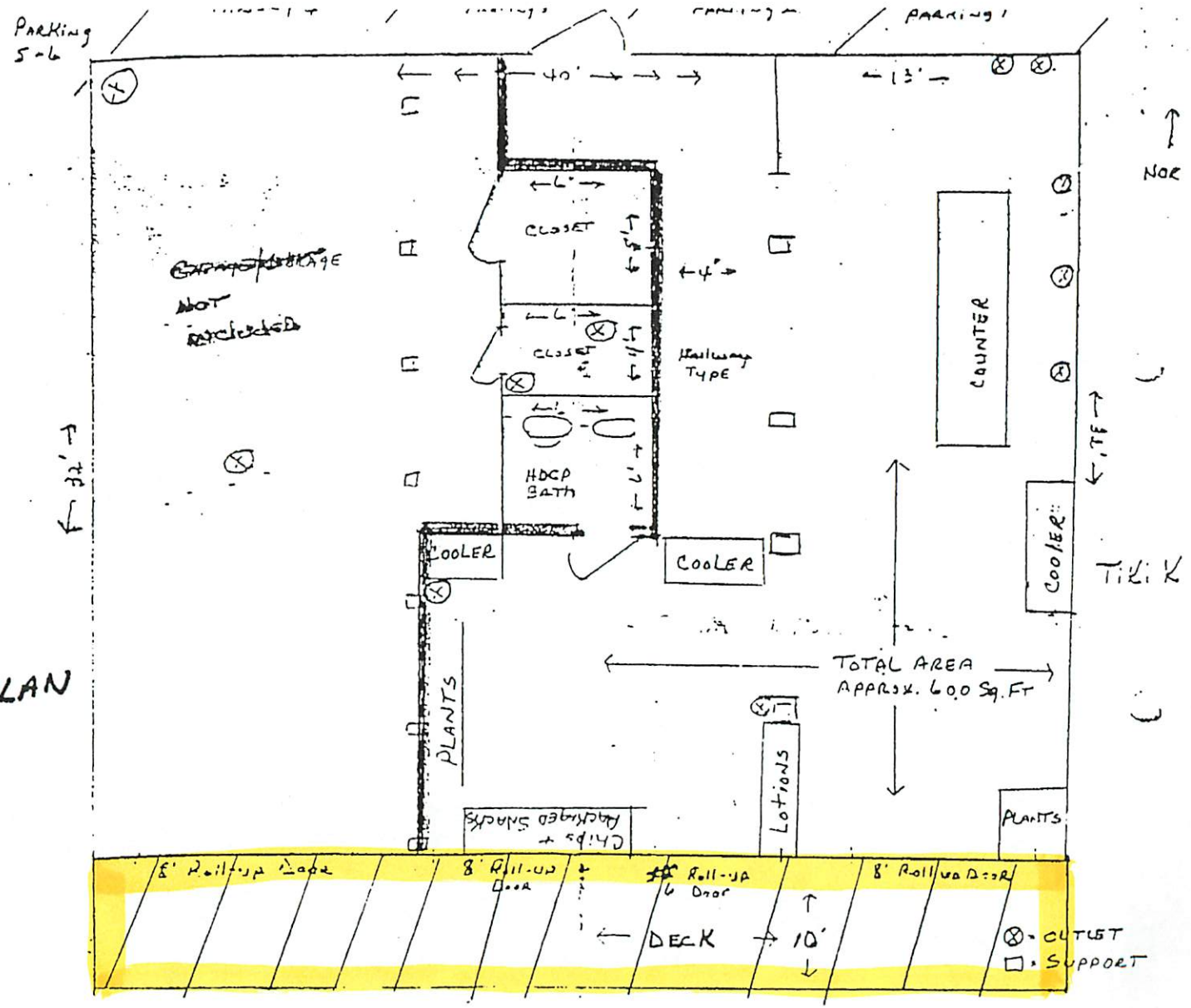


GROUND FLOOR FLOOR PLAN

10.50
BILLED

Prepared by:

N. Gluck, Zoning and
Development Review Division
P.O. Box 398
Fort Myers, FL 33901

2568964

RECORD VERIFIED - CHARLIE GREEN, CLERK
BY: H. FERNSTROM, D.C.

RESOLUTION NUMBER BZA-88-339

RESOLUTION OF THE BOARD OF ZONING ADJUSTMENTS

OF LEE COUNTY, FLORIDA

OR2036

WHEREAS, Murray Carslake has properly filed an application for a variance in the C-1 district from the minimum required 10 parking spaces, to zero (0) parking spaces; and

WHEREAS, the subject property is located at 1668 "I" Street, Fort Myers Beach, described more particularly as:

LEGAL DESCRIPTION: In Section 19, Township 46 South, Range 24 East, Lee County, Florida:

> Lot 11, Block B, Crescent Beach Subdivision, as recorded in Plat Book 4, Page 45, of the Public Records of Lee County, Florida.

PG1731

WHEREAS, the applicant has indicated the property's current STRAP number is 19-46-24-07-0000B.0110; and

WHEREAS, proper authorization has been given to Neale E. Montgomery of Pavese, Garner, Haverfield, et al., The Fowler Company, and Gregory E. Fox of Century 21 - AAIM Realty Group, Inc., by Murray Carslake, the owner of the subject parcel, to act as agent to pursue this zoning application; and

WHEREAS, a public hearing was legally and properly advertised and held before the Lee County Board of Zoning Adjustments; and

WHEREAS, in the hearing process the Lee County Board of Zoning Adjustments gave full and complete consideration to the recommendations of the staff, the documents on file with the county, and the testimony of all interested persons.

LEGISLATIVE HISTORY:

Staff recommended approval with conditions. The recommendation is based on the analysis contained in the summary report dated November 21, 1988. The request was found to be consistent with the Lee Plan as it does not conflict with the goals, objectives and policies of the Lee Plan. The Board concurred with staff's recommendations and granted approval with conditions.

NOW, THEREFORE, BE IT RESOLVED BY THE LEE COUNTY BOARD OF ZONING ADJUSTMENTS that the Board of Zoning Adjustments does hereby APPROVE with conditions a variance in the C-1 district from the minimum required 10 parking spaces, to zero (0) parking spaces; and

This approval is conditioned to the following:

1. The commercial use shall be limited to the retail sales of beach oriented convenience items, including packaged food and beverage and beach recreational rentals; and

2. Public access shall be limited to the beach on Gulf side of the business.

The foregoing Resolution was adopted by the Lee County Board of Zoning Adjustments upon a motion by Board Member Jennie Daniel, and seconded by Board Member Douglas Morgan and, upon being put to a vote, the result was as follows:

Jennie Daniel	Aye
Marjorie Berry	Aye
Ellen Peterson	Aye
Douglas Morgan	Aye
Marie Keohane	Aye

DULY PASSED AND ADOPTED this 21st day of November, A.D., 1988.

OR2036 PG1732

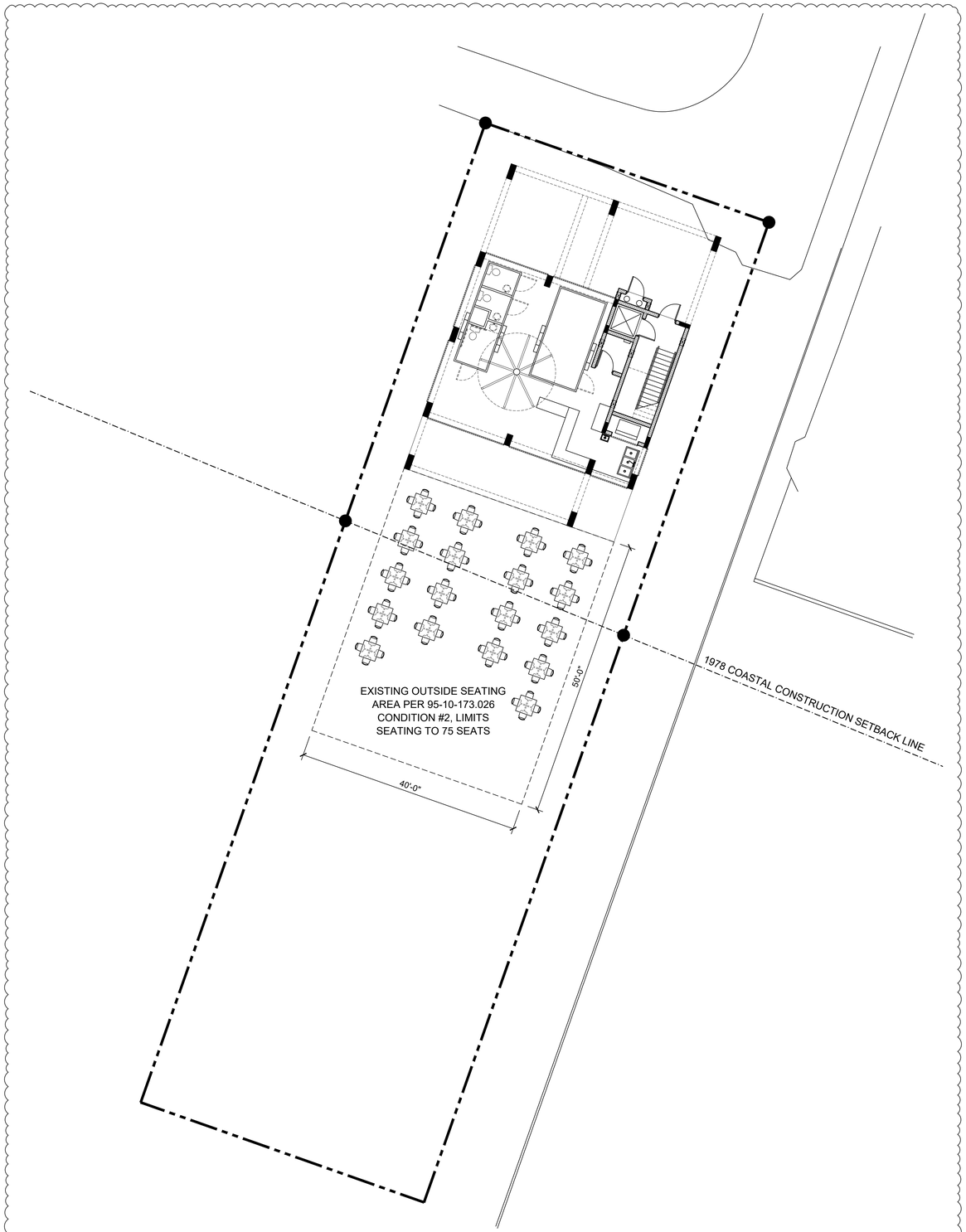
APPROVED AS TO FORM

BY: Paul W. Taylor
Office of the
County Attorney

BOARD OF ZONING ADJUSTMENTS
OF LEE COUNTY, FLORIDA

BY: Marie Keohane
Chairman

RECORDED & RECORD VERIFIED
DEC 29 2 16 PM '88



NORTH

OVERALL SITE PLAN - SHOWING OUTDOOR SEATING AREA

SCALE: 3/32" = 1'-0"

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A NEW BUILDING FOR: THE BEACH BAR HOUSE

1668 I STREET
FORT MYERS BEACH, FLORIDA

CONSULTANT:

STATE OF FLORIDA
ALBERT PAUL DAMBROSE
AR 93689
REGISTERED ARCHITECT

ALBERT DAMBROSE
AR93689

Digitally signed by Albert Dambrose AR 93689 State of Florida
DN: C=US, E=apd@studioad.net, O=Studio A.D., CN=Albert Dambrose AR 93689 State of Florida
Date: 2024.04.15 10:18:09-04'00'

DATE ISSUED: 20 FEB 2024

REVISIONS:

1	9 APRIL 2024

SHEET

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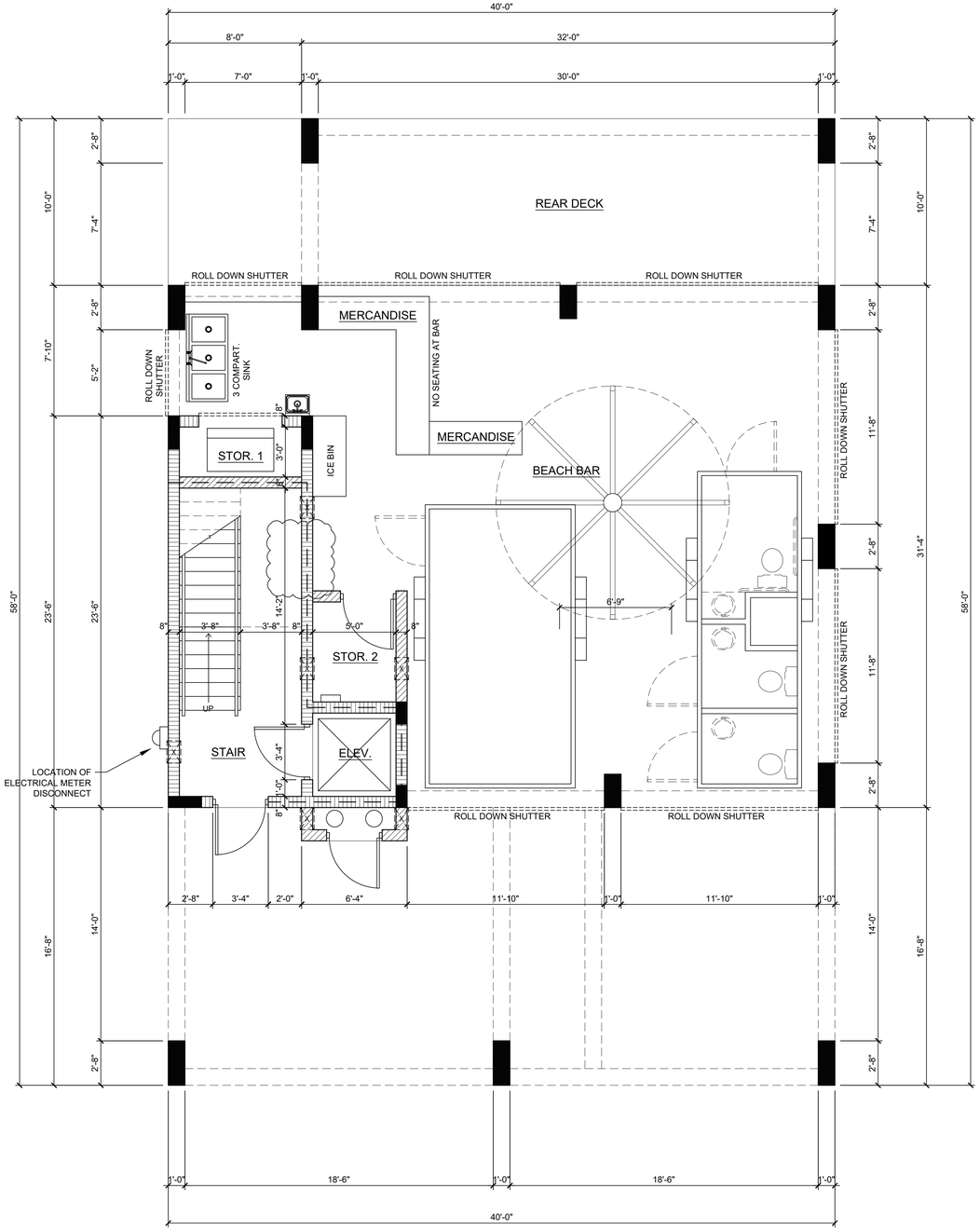
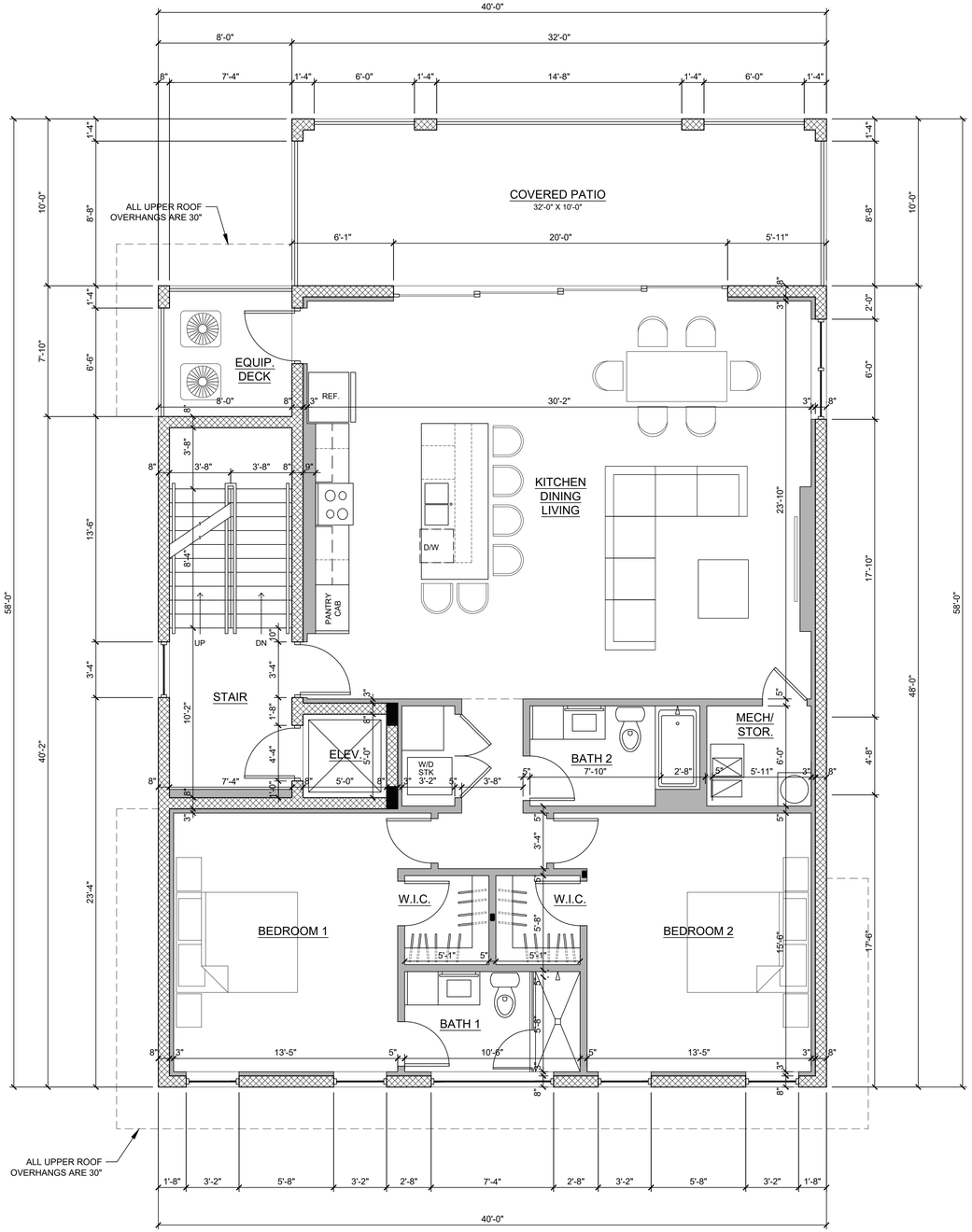
OF 1



1ST FLOOR SCHEMATIC FLOOR PLAN

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

NORTH



2ND FLOOR SCHEMATIC FLOOR PLAN

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

NORTH

WALL SYMBOL LEGEND

- 8" BREAK-AWAY CMU WALL STRUCTURE - REFER TO WALL SECTIONS AND STRUCTURAL SHEETS.
- 8" REINFORCED CONCRETE SHEAR WALL STRUCTURE - REFER TO WALL SECTIONS AND STRUCTURAL SHEETS.
- 8" REINFORCED CMU WALL STRUCTURE - REFER TO WALL SECTIONS AND STRUCTURAL SHEETS.
- 8" REINFORCED CMU PERIMETER WALL W/ 3/4" THICK (R-5) EXTRUDED POLYSTYRENE RIGID INSULATION (RUN UP TO TOP OF CMU WALL) W/ 1/2" THICK, LIGHT TEXTURE FINISH, GYPSUM BOARD ON 1-5/8" METAL FURRING. REFER TO WALL SECTIONS.
- INTERIOR 3-5/8" OR 6" METAL STUD FRAME WALL W/ 1/2" THICK, LIGHT TEXTURE FINISH, GYPSUM BOARD. REFER TO WALL SECTIONS.
- INDICATES LOCATION OF TWO HOUR FIRE RATED CMU BLOCK WALL UP TO FIRST CONCRETE DECK - REFER TO TABLE 722.3.2 AT SHEET A5.
- INDICATES CAST-IN PLACE CONCRETE COLUMN - REFER TO STRUCTURAL PLANS.
- INDICATES STRUCTURAL STEEL COLUMN - REFER TO STRUCTURAL PLANS.

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AR 93689
REGISTERED ARCHITECT

ALBERT DAMBROSE
AR93689

DATE ISSUED: 20 FEB 2024

REVISIONS:

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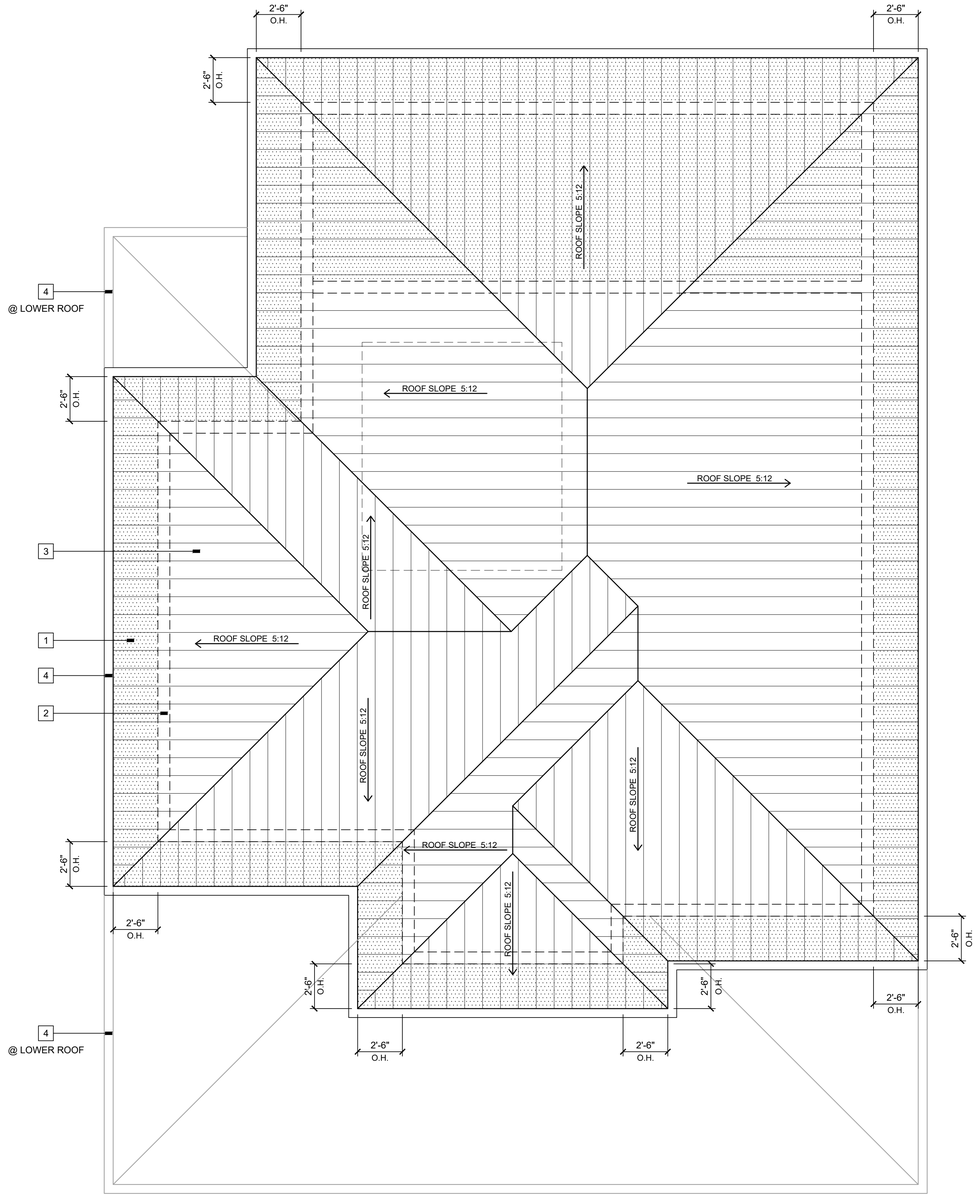
SHEET

A1

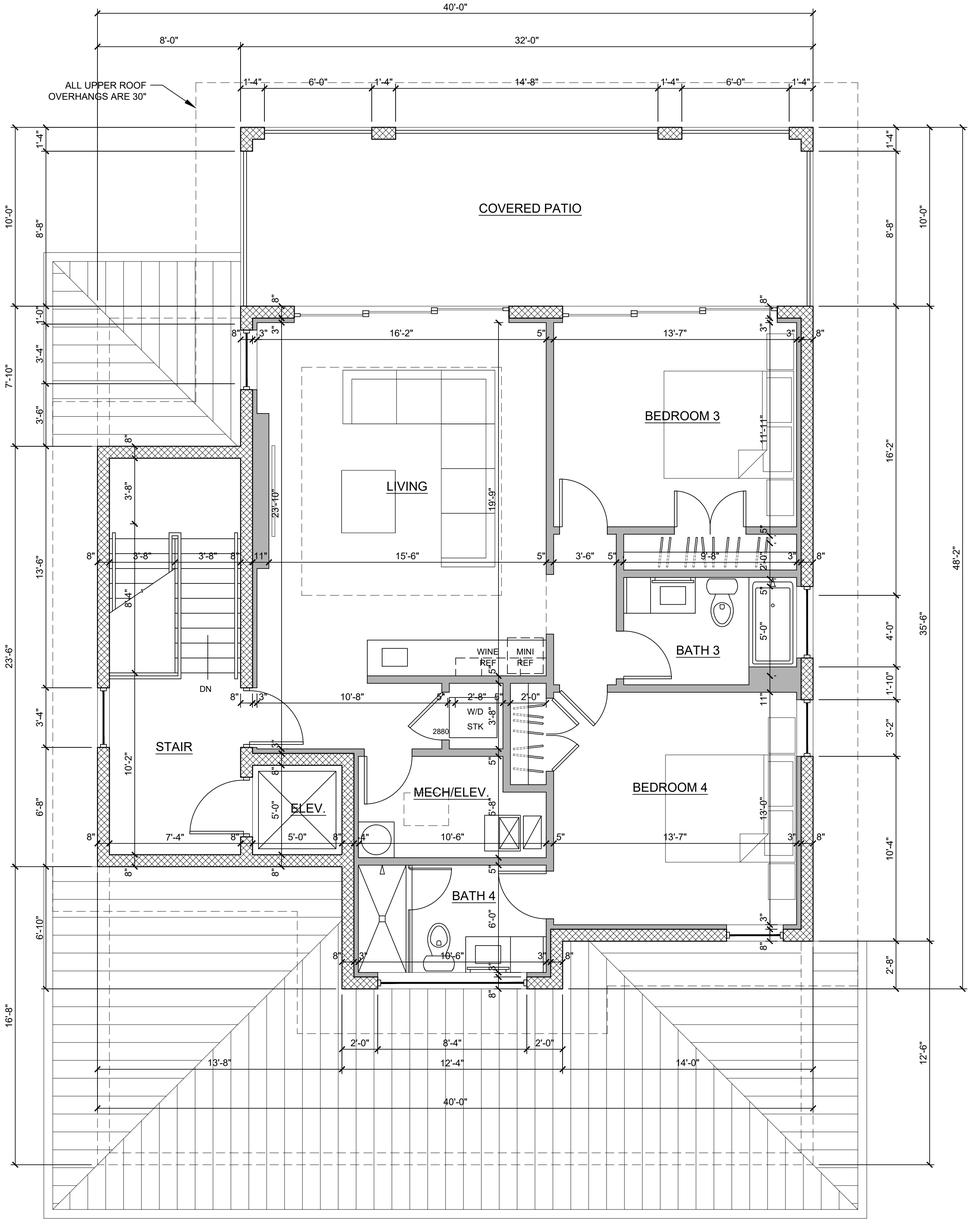
OF 6



SCHEMATIC UPPER ROOF PLAN

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

NORTH



3RD FLOOR SCHEMATIC FLOOR PLAN

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

NORTH

KEYNOTES

1. INDICATES HARDIE BOYS ELEMENTS STAIN SERIES PVC, V-GROOVE SOFFIT PANELS
2. INDICATES PERIMETER 8" CMU WALL OR CONCRETE BEAM BELOW.
3. PROVIDE & INSTALL STANDING SEAM, ALUMINUM ROOFING PANELS W/ 16" WIDE PANELS.
4. INDICATES PERIMETER ROLLED FORMED ALUMINUM GUTTER AT ALL ROOF EDGES AT ALL LEVELS. ALL TIED INTO STORMWATER SYSTEM DESIGN PER CIVIL ENGINEER.

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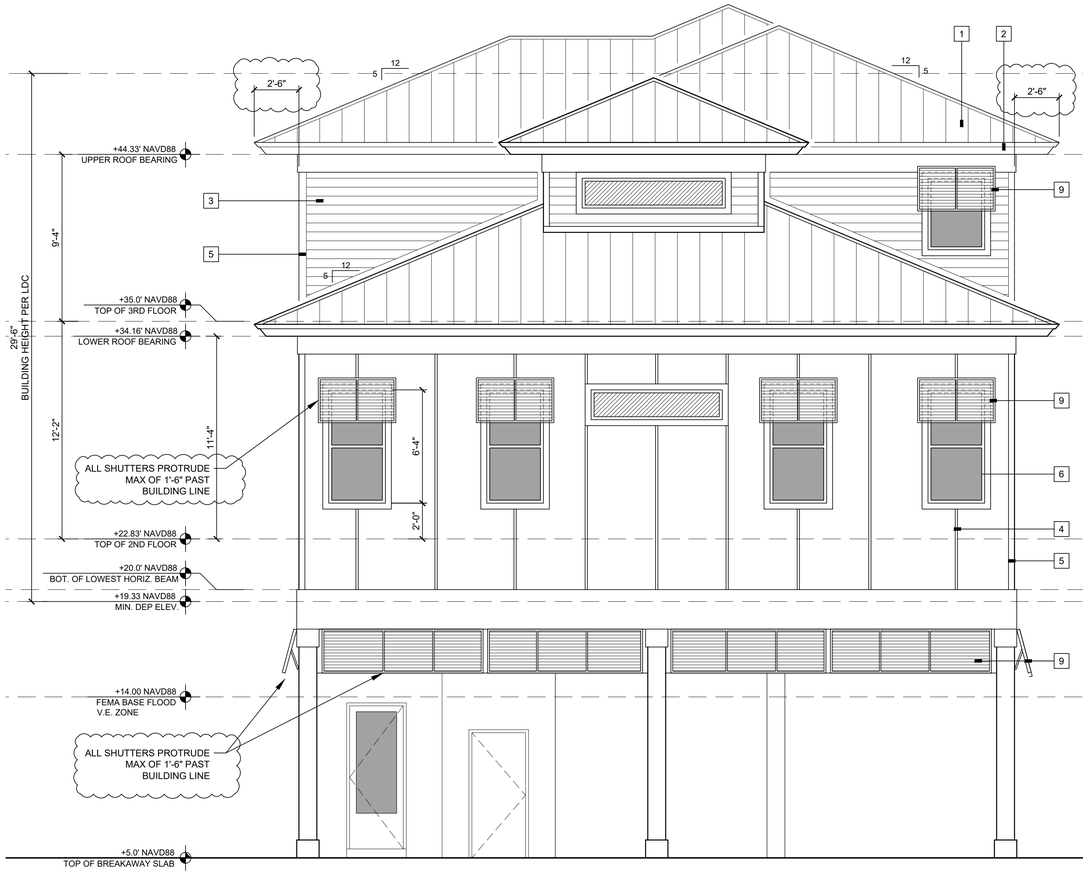
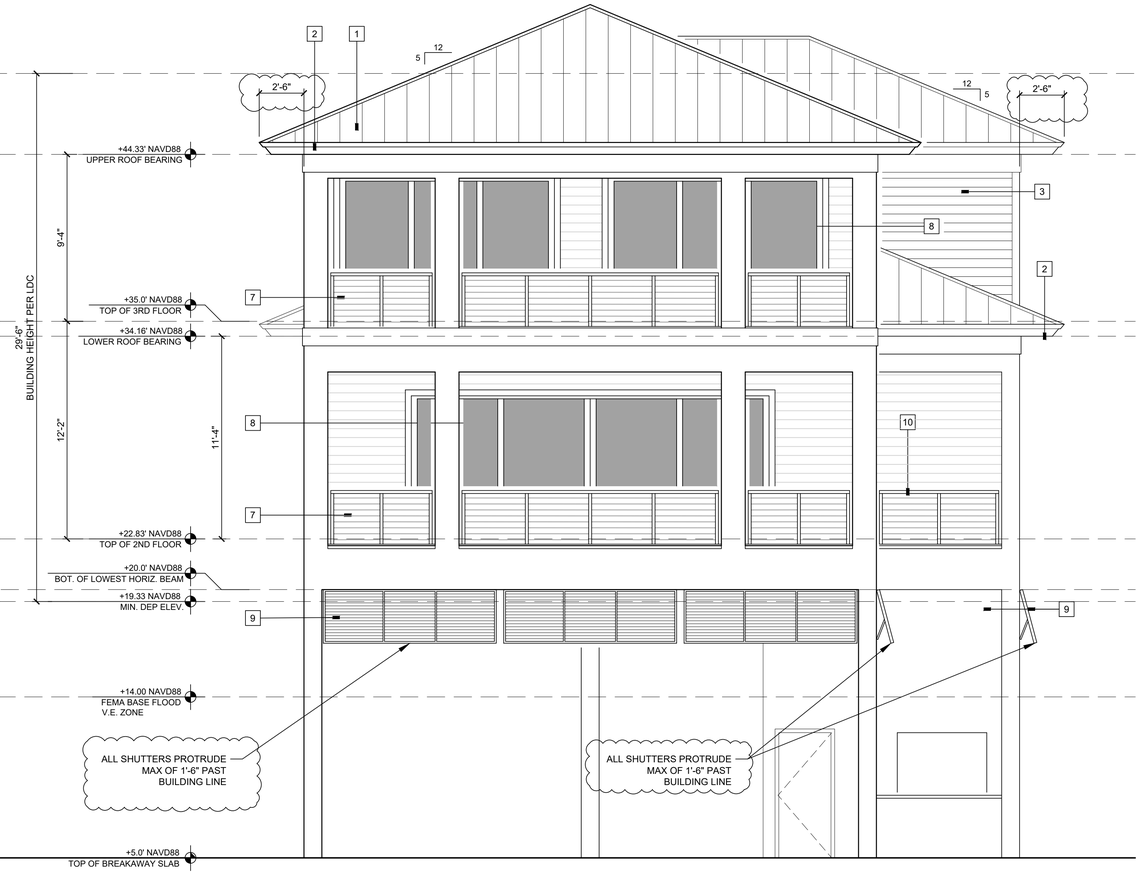
A2

OF 6



FRONT (NORTH EAST) ELEVATION

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



REAR (SOUTH WEST) ELEVATION

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

FLORIDA SEA TURTLE NOTE

ALL NEW WINDOWS/DOORS WITH GLAZING SHALL BE TINTED WITH .45 VISIBLE LIGHT TRANSMITTANCE VALUE OR LESS TO COMPLY WITH THE FLORIDA SEA TURTLE PROTECTION CODE.

KEYNOTES

1	PROVIDE & INSTALL OWNER SELECT COLOR, ALUMINUM STANDING SEAM METAL ROOFING PANELS W/ 16" WIDE PANELS.
2	CONTINUOUS PRE-PAINTED GALVANIZED STEEL DRIP STRIP ON PAINTED 1 X 8 CEMENTITIOUS FASCIA ON 2X SUB-FASCIA.
3	SIMULATED SIDING. STUCCO VENEER ON TOP OF CMU BLOCK WALL.
4	SIMULATED BOARD AND BATTEN, STUCCO VENEER ON TOP OF CMU BLOCK WALL.
5	4" WIDE THICKENED STUCCO BAND TO SIMULATE CORNER TRIM BOARDS. PROVIDE SAME AROUND WINDOWS AND DOORS.
6	IMPACT RESISTANT ALUMINUM WINDOW SYSTEM
7	36" HIGH POWDER COATED ALUMINUM GUARDRAIL
8	IMPACT RESISTANT ALUMINUM SLIDING GLASS DOOR SYSTEM
9	POWDER COATED ALUMINUM BAHAMA SHUTTER
10	POWDER COATED ALUMINUM GUARDRAIL W/ LOUVERS TO CONVEAL A/C CONDENSER UNITS.

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A NEW BUILDING FOR: THE BEACH BAR HOUSE

1668 I STREET
FORT MYERS BEACH, FLORIDA

CONSULTANT:

STATE OF FLORIDA
ALBERT PAUL DAMBROSE
AR 93689
REGISTERED ARCHITECT

ALBERT DAMBROSE
AR93689

DATE ISSUED: 20 FEB 2024

REVISIONS:

1	9 APRIL 2024

SHEET

A3

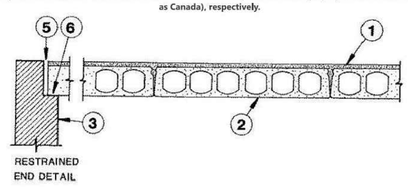
OF 6

Design No. **J995**

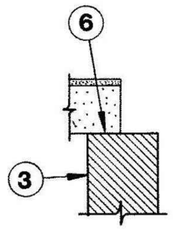
June 8, 2023

Restrained Assembly Ratings — 2, 3 and 4 Hr.
Unrestrained Assembly Rating — 2 Hr.
This design was evaluated using a load design method other than the Limit States Design Method (e.g., Working Stress Design Method). For jurisdictions employing the Limit States Design Method, such as Canada, a load restriction factor shall be used — See Guide BXUV or BXUV7

*** Indicates such products shall bear the UL or cUL Certification Mark for jurisdictions employing the UL or cUL Certification (such as Canada), respectively.**



RESTRAINED
END DETAIL



UNRESTRAINED END DETAIL

1. **Concrete Topping —** 3000 psi compressive strength, 110 to 153 pcf unit weight.

Assembly Rating Hr	Min Topping Thkns In.
2	0
3	1-1/2
4	2-5/8

2. **Precast Concrete Units* —** Nom 8, 10 or 12 in. deep by 4 ft wide units. Carbonate aggregate, cross-section similar to above illustration.
CORESLAB STRUCTURES INC
COUNTY MATERIALS CORP
GAGE BROS CONCRETE PRODUCTS INC
KERKSTRA PRECAST INC
LARRY E KNIGHT INC
OLDCASTLE PRECAST INC
SAY-CORE INC

3. **End Detail —** Restrained and Unrestrained.

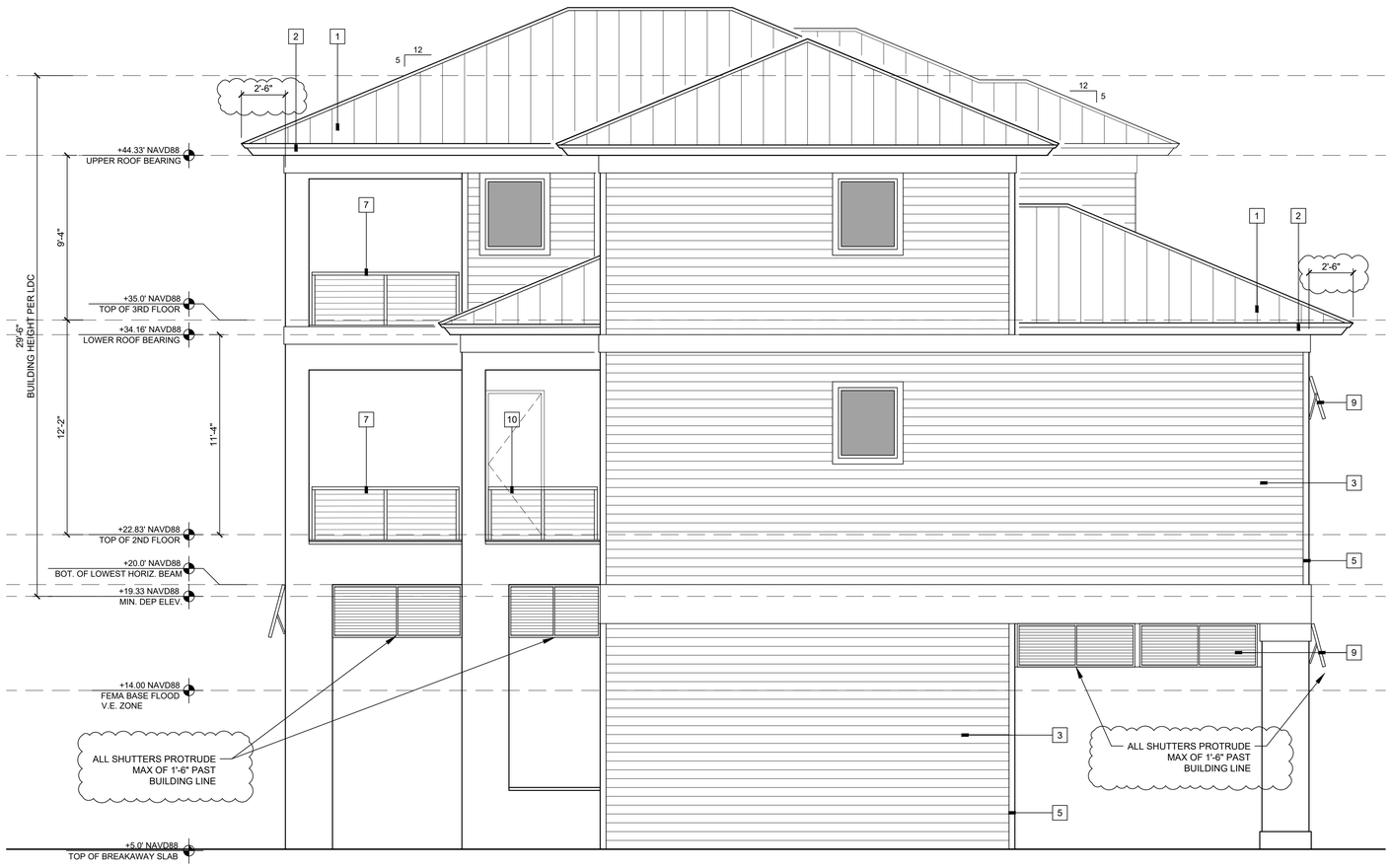
4. **Joint (not shown) —** Grouted full length with sand-cement grout unless concrete topping is used.
Note: A 3/8 in. wide lateral expansion joint to be provided the full length and depth of the slabs for each 14 ft of width. Expansion obtained with noncombustible, compressible material, for example 6 sheets of 1/8 in. thick ceramic fiber paper.

5. **End Clearance —** Clearance for expansion at each end of slab shall be equal to (L/17) x (1/4 +/or/- 1/16) in. where "L" is equal to length of span in ft.

6. **Min Bearing —** 1-1/2 in. for assembly rating of 3 Hr. or less and 3 in. for assembly rating of 4 Hr.

*** Indicates such products shall bear the UL or cUL Certification Mark for jurisdictions employing the UL or cUL Certification (such as Canada), respectively.**

Last Updated on 2023-06-08



LEFT (SOUTH EAST) ELEVATION

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

FLORIDA SEA TURTLE NOTE

ALL NEW WINDOWS/DOORS WITH GLAZING SHALL BE TINTED WITH .45 VISIBLE LIGHT TRANSMITTANCE VALUE OR LESS TO COMPLY WITH THE FLORIDA SEA TURTLE PROTECTION CODE.

KEYNOTES

1. PROVIDE & INSTALL OWNER SELECT COLOR, ALUMINUM STANDING SEAM METAL ROOFING PANELS W/ 16" WIDE PANELS.
2. CONTINUOUS PRE-PAINTED GALVANIZED STEEL DRIP STRIP ON PAINTED 1 X 8 CEMENTITIOUS FASCIA ON 2X SUB-FASCIA.
3. SIMULATED SIDING. STUCCO VENEER ON TOP OF CMU BLOCK WALL.
4. SIMULATED BOARD AND BATTEN, STUCCO VENEER ON TOP OF CMU BLOCK WALL.
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A NEW BUILDING FOR: THE BEACH BAR HOUSE

1668 I STREET
FORT MYERS BEACH, FLORIDA

CONSULTANT:

STATE OF FLORIDA
ALBERT PAUL DAMBROSE
AR 93689
REGISTERED ARCHITECT

ALBERT DAMBROSE
AR93689

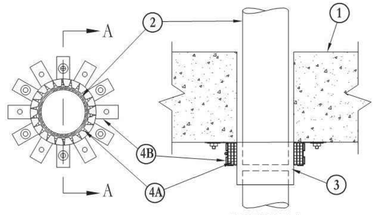
DATE ISSUED: 20 FEB 2024

REVISIONS:

1	9 APRIL 2024

SHEET
A4
OF 6

System No. C-AJ-2143
November 20, 2009
F Rating – 2 Hr
T Rating – 1/4 Hr



SECTION A-A

1. **Floor or Wall Assembly** – Min 4-1/2 in. (114 mm) thick lightweight or normal weight (100-150 pcf or 1600 - 2400 kg/m^3) concrete. Wall may also be constructed of any UL Classified **Concrete Blocks***. Diam of opening through floor or wall to be 1/2 to 5/8 in. (13 to 16 mm) larger than the outside diam of through-penetrant (Item 2). Max diam of opening is 5 in. (127 mm).
   See **Concrete Blocks** (CAZT) category in the Fire Resistance Directory for names of manufacturers.
2. **Through Penetrants** – One nonmetallic pipe or conduit centered in the through opening. Pipe or conduit to be rigidly supported on both sides of floor or wall assembly. The following types and sizes of nonmetallic pipes or conduits may be used.
   A. **Polyvinyl Chloride (PVC)Pipe** – Nom 4 in. (102 mm) diam (or smaller) Schedule 40 solid core PVC pipe for use in closed (process or supply) or vented (drain, waste or vent) piping system.
   B. **Rigid Nonmetallic Conduit**+ – Nom 4 in. (102 mm) diam (or smaller) Schedule 40 PVC conduit installed in accordance with Article 347 of the National Electrical Code (NFPA No. 70).
   C. **Chlorinated Polyvinyl Chloride (CPVC) Pipe** – Nom 4 in. (102 mm) diam (or smaller) SDR13.5 CPVC pipe for use in closed (process or supply) piping systems.
3. **Nonmetallic Pipe Coupling** – Nom 4 in. (102 mm) diam (or smaller) Schedule 40 PVC pipe coupling or nom 4 in. (102 mm) diam (or smaller) SDR13.5 CPVC pipe coupling installed such that the top of the coupling is flush with the bottom surface of the floor assembly or flush with either side of the wall assembly and extending outward.
4. **Firestop System** – The details of the firestop system shall be as follows:
   A. **Fill, Void or Cavity Materials*** – **Wrap Strip** – Nom 1/4 in. (6 mm) thick intumescent elastomeric material faced on one side with aluminum foil, supplied in 2 in. (51 mm) wide strips. Min four layers of wrap strips tightly wrapped around nonmetallic pipe coupling (foil side exposed) with the top edges butted against the underside of the floor. In wall assemblies, a min four layers of wrap strips tightly wrapped around nonmetallic pipe coupling (foil side exposed) and butted tightly against outer surface of wall. For the pipe or conduit on the side of the wall opposite the pipe coupling, the wrap strips shall be wrapped tightly around the pipe or conduit and butted tightly against outer surface of wall. For nom 1/2 in. (13 mm) to nom 1-1/2 in. (38 mm) diam pipes or conduits, a min of one layer of wrap strip is required. For nom 2, 2-1/2 and 3 in. (51, 64 and 76 mm) diam pipes or conduits, a min of two layers of wrap strip is required. For nom 3-1/2 and 4 in. (89 and 102 mm) diam pipes or conduits, a min of three layers of wrap strip is required. Each layer of wrap strip to be installed with butted seam, with butted seams in successive layers staggered. Wrap strip layers temporarily held in position using aluminum foil tape, steel wire tie or equivalent.
      3M COMPANY – FS-195+
   B. **Steel Collar** – Nom 2 in. (51 mm) deep collar with 1-1/4 in. (32 mm) wide by 2 in. (51 mm) long anchor tabs and min 1/2 in. (13 mm) long tabs to retain wrap strip. Coils of precut min 0.016 in. (0.41 mm) thick (28 gauge) galv sheet steel available from wrap strip manufacturer. As an alternate, collar may be field-fabricated from min 0.016 in. (0.41 mm) thick (28 gauge) galv sheet steel in accordance with instruction sheet supplied by wrap strip manufacturer. Collar, with anchor tabs bent outward 90 degrees, wrapped tightly around wrap strip with min 1 in. (25 mm) overlap at seam and compressed around wrap strip(s) using a min 1/2 in. (13 mm) wide by min 0.028 in. (0.71 mm) thick stainless steel band at the collar midheight. Collar anchor tabs pressed tightly against floor or wall surface(s) and secured to floor or wall surface(s) with 1/4 in. (6 mm) diam by min 1-1/2 in. (38 mm) long steel expansion bolts or equivalent in conjunction with steel nuts and min 1-1/4 in. (32 mm) diam steel fender washers. Min of five anchor bolts used for collar installed around pipe coupling. For the collars installed around pipes or conduits in wall assemblies on the side opposite the pipe coupling, a min of two anchor bolts are required for nom 1/2 to 2 in. (13 to 51 mm) pipes or conduits, a min of three anchor bolts for nom 2-1/2 and 3 in. (64 and 76 mm) pipes or conduits and a min of our anchor bolts for nom 3-1/2 and 4 in. (89 and 102 mm) pipes or conduits, symmetrically located. Retainer tabs bent 90 degrees toward pipe to lock wrap strip(s) in position.

Through Penetrations | Non-Metallic Pipes | 2000 Series | Concrete | CAJ

System No. C-AJ-2143 *continued*

C. **Fill, Void or Cavity Materials*** – **Caulk, Sealant or Putty** (Optional, not required) – Bead of caulk or putty may be applied to outer perimeter of steel collar at its interface with floor or wall surface(s). In floor assemblies, a bead of caulk may be used within the annular space on the top side of the floor.
3M COMPANY – CP-WB+ caulk, FB-3000 WT sealant, MP+ Stix putty, IC 15WB+ caulk or FireDam 150+ caulk.
(Note: CP 25WB+ and FireDam 150+ not suitable for use with CPVC pipes.)

*Bearing the UL Classification Marking

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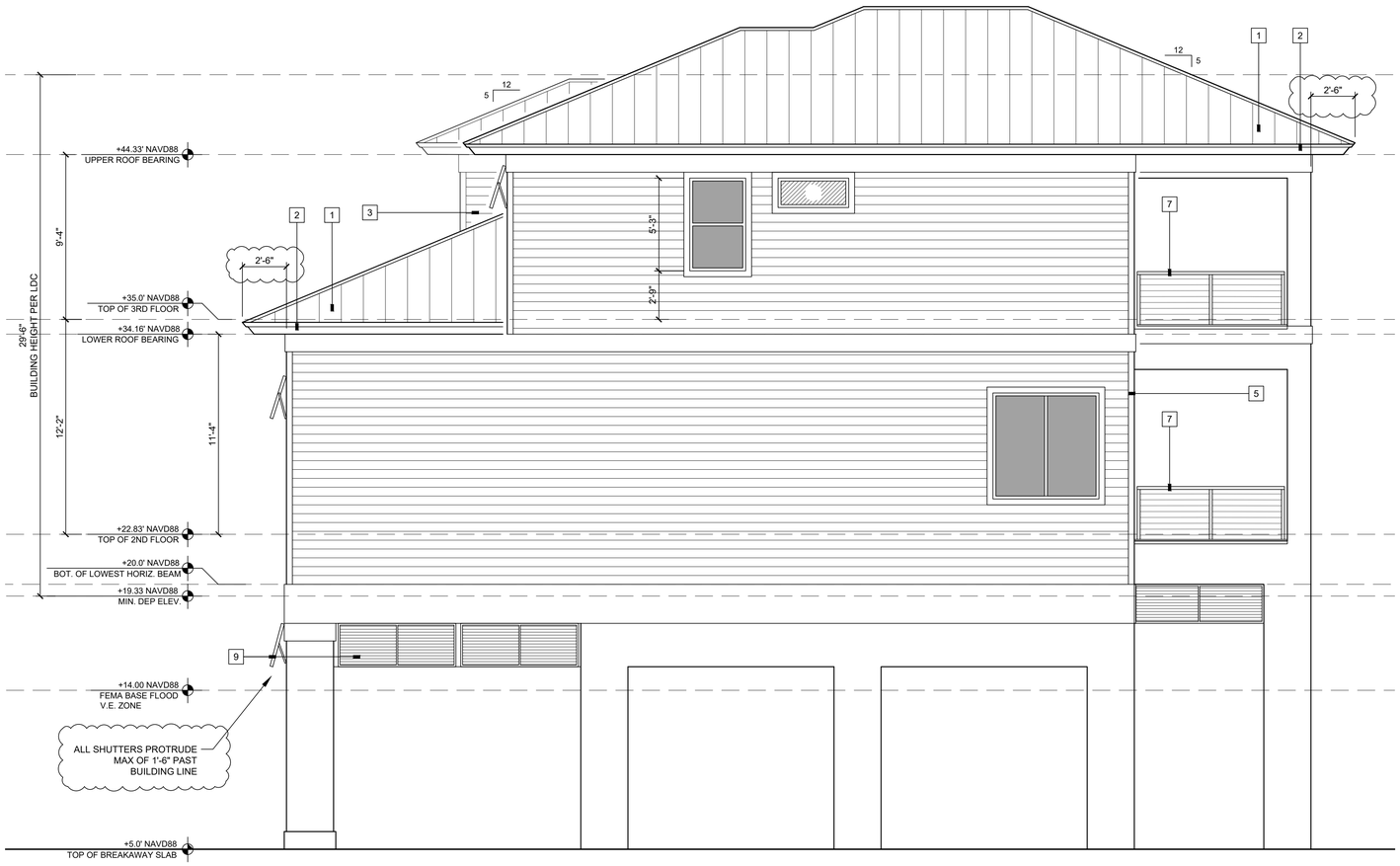
Through Penetrations | Non-Metallic Pipes | 2000 Series | Concrete | CAJ



RIGHT (NORTH WEST) ELEVATION

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

TABLE 722.3.2
MINIMUM EQUIVALENT THICKNESS (inches) OF BEARING OR NONBEARING CONCRETE MASONRY WALLS[a,b,c,d]

TYPE OF AGGREGATE	FIRE-RESISTANCE RATING (hours)													
	1/2	3/4	1	1 1/4	1 1/2	1 3/4	2	2 1/4	2 1/2	2 3/4	3	3 1/4	3 1/2	3 3/4	4
Pumice or expanded slag	1.5	1.9	2.1	2.5	2.7	3.0	3.2	3.4	3.6	3.8	4.0	4.2	4.4	4.5	4.7
Expanded shale, clay or slate	1.8	2.2	2.6	2.9	3.3	3.4	3.6	3.8	4.0	4.2	4.4	4.6	4.8	4.9	5.1
Limestone, cinders or unexpanded slag	1.9	2.3	2.7	3.1	3.4	3.7	4.0	4.3	4.5	4.8	5.0	5.2	5.5	5.7	5.9
Calcareous or siliceous gravel	2.0	2.4	2.8	3.2	3.6	3.9	4.2	4.5	4.8	5.0	5.3	5.5	5.8	6.0	6.2

For SI: 1 inch = 25.4 mm.
a. Values between those shown in the table can be determined by direct interpolation.
b. Where combustible members are framed into the wall, the thickness of solid material between the end of each member and the opposite face of the wall, or between members set in from opposite sides, shall not be less than 93 percent of the thickness shown in the table.
c. Requirements of ASTM C 55, ASTM C 73, ASTM C 90 or ASTM C 744 shall apply.
d. Minimum required equivalent thickness corresponding to the hourly fire-resistance rating for units with a combination of aggregate shall be determined by linear interpolation based on the percent by volume of each aggregate used in manufacture.

FLORIDA SEA TURTLE NOTE

ALL NEW WINDOWS/DOORS WITH GLAZING SHALL BE TINTED WITH .45 VISIBLE LIGHT TRANSMITTANCE VALUE OR LESS TO COMPLY WITH THE FLORIDA SEA TURTLE PROTECTION CODE.

KEYNOTES

1. PROVIDE & INSTALL OWNER SELECT COLOR, ALUMINUM STANDING SEAM METAL ROOFING PANELS W/ 16" WIDE PANELS.
2. CONTINUOUS PRE-PAINTED GALVANIZED STEEL DRIP STRIP ON PAINTED 1 X 8 CEMENTITIOUS FASCIA ON 2X SUB-FASCIA.
3. SIMULATED SIDING. STUCCO VENEER ON TOP OF CMU BLOCK WALL.
4. SIMULATED BOARD AND BATTEN, STUCCO VENEER ON TOP OF CMU BLOCK WALL.
5. 4" WIDE THICKENED STUCCO BAND TO SIMULATE CORNER TRIM BOARDS. PROVIDE SAME AROUND WINDOWS AND DOORS.
6. IMPACT RESISTANT ALUMINUM WINDOW SYSTEM
7. 36" HIGH POWDER COATED ALUMINUM GUARDRAIL
8. IMPACT RESISTANT ALUMINUM SLIDING GLASS DOOR SYSTEM
9. POWDER COATED ALUMINUM BAHAMA SHUTTER
10. POWDER COATED ALUMINUM GUARDRAIL W/ LOUVERS TO CONVEAL A/C CONDENSER UNITS.

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A NEW BUILDING FOR: THE BEACH BAR HOUSE

1668 I STREET
FORT MYERS BEACH, FLORIDA

CONSULTANT:

STATE OF FLORIDA
ALBERT PAUL DAMBROSE
AR 93689
REGISTERED ARCHITECT

ALBERT DAMBROSE
AR93689

DATE ISSUED: 20 FEB 2024

REVISIONS:

1	9 APRIL 2024

SHEET

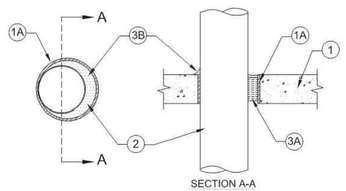
A5

OF 6

Through Penetrations | Metallic Pipes | 1000 Series | Concrete | CAJ

System No. C-AJ-1427

March 05, 2007
F Rating – 3 Hr
T Rating – 0 Hr
W Rating – Class 1 (See Item 3)



SECTION A-A

1. **Floor or Wall Assembly** – Min 2-1/2 in. (64 mm) thick reinforced lightweight or normal weight (100-150 pcf or 1600 - 2400 kg/m³) concrete floors or min 3 in. (76 mm) thick reinforced lightweight or normal weight concrete walls. Floor assembly may also be constructed of any min 6 in.(152 mm) thick UL Classified hollow-core **Precast Concrete Units***. Wall may also be constructed of any UL Classified **Concrete Blocks***. Max diam of opening 12-3/4 in. (324 mm). Max diam of opening in floors constructed of hollow-core concrete is 7 in. (78 mm).

   See **Concrete Blocks** (CAZT) and **Precast Concrete Units** (CFTV) categories in Fire Resistance Directory for names of manufacturers.

1A. **Steel Sleeve** – (Optional) - Nom 12 in. (305 mm) diam (or smaller) Schedule 10 (or heavier) steel sleeve cast or grouted into floor or wall assembly. Steel sleeve may be installed flush or may project max 2 in. (51 mm) beyond the floor or wall surfaces. As an alternate, nom 12 in. (305 mm) diam (or smaller) sleeve fabricated from nom 0.019 in. (0.48 mm) thick galv steel cast or grouted into floor or wall assembly flush with floor or wall surfaces.

2. **Through Penetrant** – One metallic pipe, conduit, tubing or flexible metal piping installed concentrically or eccentrically within opening. Annular space between penetrant and periphery of opening or sleeve shall be min of 0 in. (0 mm) (point contact) to max 2 in. (51 mm). Penetrant to be rigidly supported on both sides of floor or wall assembly. The following types and sizes of penetrants may be used:
   - A. **Steel Pipe** – Nom 10 in. (254 mm) diam (or smaller) Schedule 10 (or heavier) steel pipe.
   - B. **Iron Pipe** – Nom 10 in. (254 mm) diam (or smaller) cast or ductile iron pipe.
   - C. **Conduit** – Nom 6 in. (152 mm) diam (or smaller) steel conduit or nom 4 in. (102 mm) diam (or smaller) steel electrical metallic tubing.
   - D. **Copper Tubing** – Nom 4 in. (102 mm) diam (or smaller) Type L (or heavier) copper tubing.
   - E. **Copper Pipe** – Nom 4 in. (102 mm) diam (or smaller) Regular (or heavier) copper pipe.
   - F. **Through Penetrating Product* – Flexible Metal Piping** – The following types of steel flexible metal gas piping may be used:
     1.) Nom 2 in. (51 mm) diam (or smaller) steel flexible metal gas piping. Plastic covering on piping may or may not be removed on both sides of floor or wall assembly.
     OMEGA FLEX INC
     2.) Nom 1 in. (25 mm) diam (or smaller) steel flexible metal gas piping. Plastic covering on piping may or may not be removed on both sides of floor or wall assembly.
     GASTITE, DIV OF TITEFLEX
     3.) Nom 1 in. (25 mm) diam (or smaller) steel flexible metal gas piping. Plastic covering on piping may or may not be removed on both sides of floor or wall assembly.
     WARD MFG INC

3. **Firestop System** – The details of the firestop system shall be as follows:
   - A. **Packing Material** – Min 2 in. (51 mm) thickness of min 4 pcf (64 kg/m³) mineral wool batt insulation firmly packed into opening as a permanent form. Packing material to be recessed from top surface of floor or top edge of sleeve or from both surfaces of wall or both ends of sleeve as required to accommodate the required thickness of fill material. In floors constructed of hollow-core concrete, packing material to be recessed from top and bottom surfaces of floor or sleeve as required to accommodate the required thickness of fill material.
   - B. **Fill,Void or Cavity Materials*** – **Caulk or Sealant** – Min 1/2 in. (13 mm) thickness of caulk applied within the annulus, flush with top surface of floor or top edge of sleeve or with both surfaces of wall or both ends of sleeves. In floors constructed of hollow-core concrete, min 1/2 in. (13 mm) thickness of caulk applied within the annulus, flush with top and bottom surfaces of floor or sleeve. Min 1/4 in. (6 mm) diam bead of caulk applied to the penetrant/concrete or penetrant/sleeve interface at the point contact location on the top surface of floor or both surfaces of wall or hollow-core.

     3M COMPANY– IC 15WB+, CP 25WB+ caulk or FB-3000 WT sealant
     (Note: W Rating applies only when FB-3000 WT is used.)

*Bearing the UL Classification Mark

This material was extracted and drawn by 3M Fire Protection Products from the 2007 edition of the UL Fire Resistance Directory.

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1668 I STREET
FORT MYERS BEACH, FLORIDA

CONSULTANT:

STATE OF FLORIDA · ALBERT PAUL DAMBROSE · AR 93689 · REGISTERED ARCHITECT

ALBERT DAMBROSE
AR93689

DATE ISSUED: 20 FEB 2024

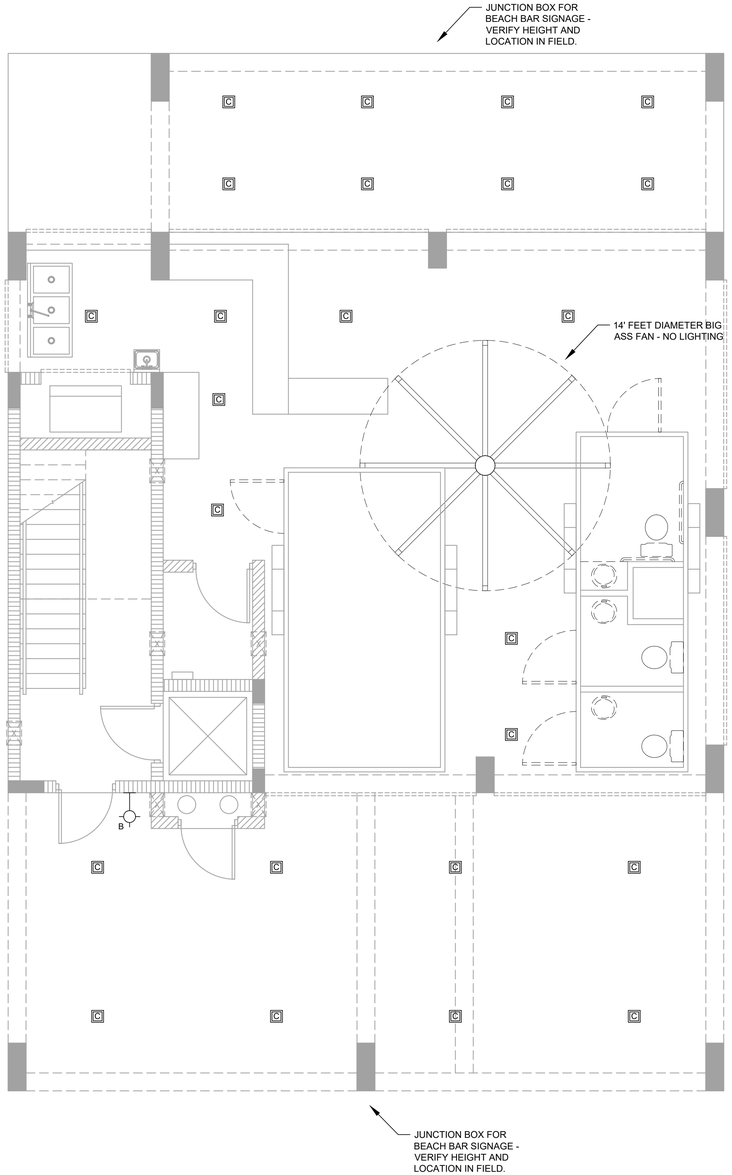
REVISIONS:

1	9 APRIL 2024

SHEET

A6

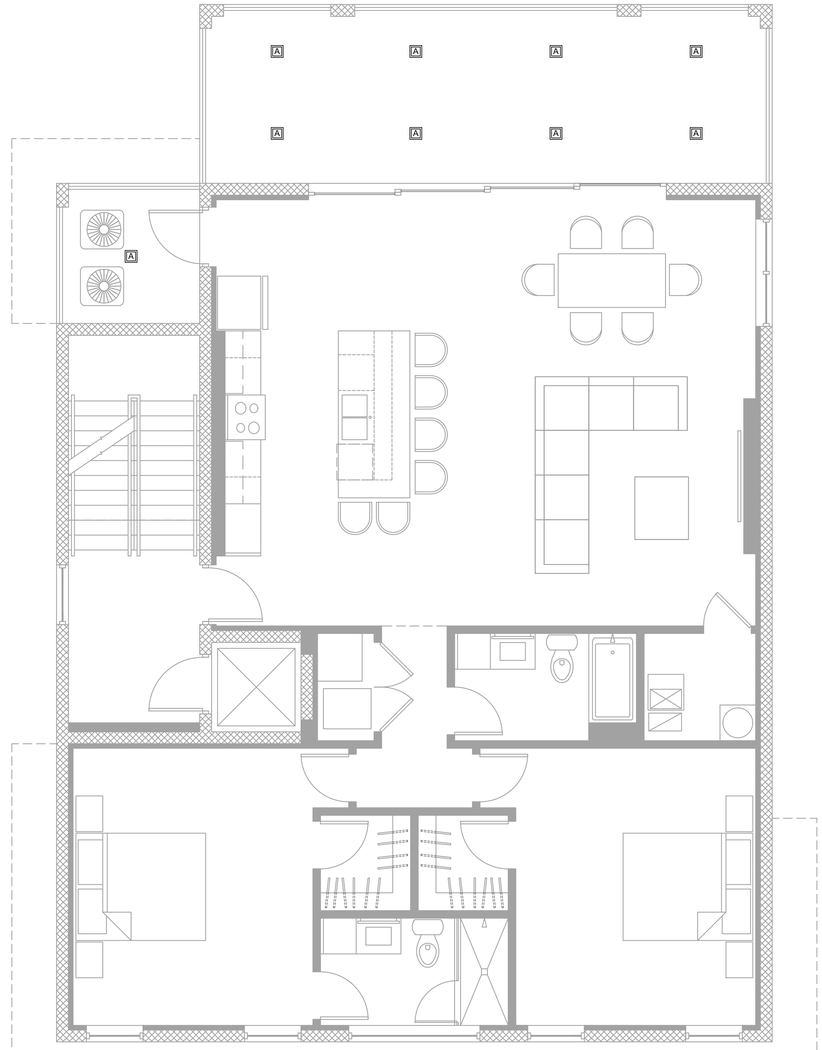
OF 6



1ST FLOOR ELECTRICAL EXTERIOR LIGHTING PLAN

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

NORTH



2ND FLOOR ELECTRICAL EXTERIOR LIGHTING PLAN

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

NORTH

ELECTRICAL SYMBOL LEGEND

- A — 4" SQUARE RECESSED LED CEILING LIGHT BY BEVELED LIGHTING (AMBER LED DOWNLIGHT) - REFER TO SPECIFICATIONS AT SHEET E3.
- B — 6" DIA. WALL SCONCE LED LIGHT BY LUMINIS LIGHTING (AMBER LED DOWNLIGHT) - REFER TO SPECIFICATIONS AT SHEET E3.
- C — 8" ROUND SURFACE MOUNTED CYLINDER LED CEILING LIGHT BY LUMINIS LIGHTING (AMBER LED DOWNLIGHT) - REFER TO SPECIFICATIONS AT SHEET E3.

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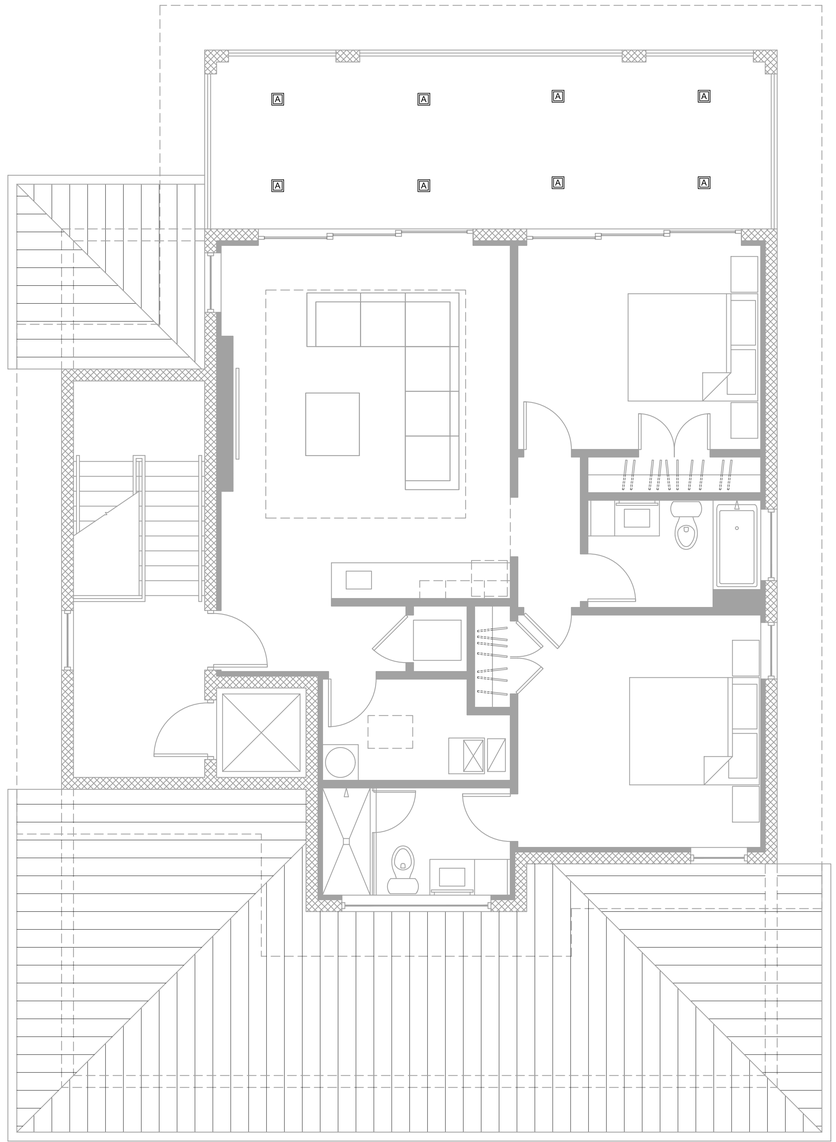
SHEET
E1
OF 3



3RD FLOOR ELECTRICAL EXTERIOR LIGHTING PLAN

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

NORTH

ELECTRICAL SYMBOL LEGEND

A	4" SQUARE RECESSED LED CEILING LIGHT BY BEVELED LIGHTING (AMBER LED DOWNLIGHT) - REFER TO SPECIFICATIONS AT SHEET E3.
B	6" DIA. WALL SCONCE LED LIGHT BY LUMINIS LIGHTING (AMBER LED DOWNLIGHT) - REFER TO SPECIFICATIONS AT SHEET E3.
C	8" ROUND SURFACE MOUNTED CYLINDER LED CEILING LIGHT BY LUMINIS LIGHTING (AMBER LED DOWNLIGHT) - REFER TO SPECIFICATIONS AT SHEET E3.

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AR 93689
REGISTERED ARCHITECT

ALBERT DAMBROSE
AR93689

DATE ISSUED: 20 FEB 2024

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1	9 APRIL 2024

SHEET
E2
OF 3

BeveLED® COLORS - AMBER

Florida Fish and Wildlife Certified Certification #2017-002

PROJECT INFORMATION
PROJECT Beach Bar
DATE December 2023
TYPE Fixture 'A'

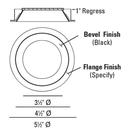
DOWNLIGHT 302A

1" Regress

BeveLED Colors - Amber Recessed Downlight - USAI Lighting's sea turtle-safe lighting series is designed to promote and preserve existing nesting and hatchling patterns of endangered sea turtles on the North American coastline. The light output is specifically selected to have minimal impact on the sea turtle's vision in a dark environment, ensuring that the ocean will always be the brightest object in their field of view. Specify these products to meet Florida Fish and Wildlife Conservation sea turtle lighting requirements and give baby sea turtles their best chance of survival.

DELIVERED PERFORMANCE

BeveLED COLORS AMBER DOWNLIGHT	15 Watts
Lumens per Watt	32
Source Lumens	800
Delivered Lumens	**475**



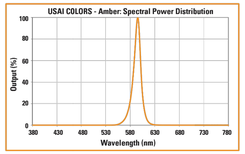
HOW TO SPECIFY

Ordering Example: Specify trim code and housing code to order: Example : **302A - BB1 - S - 21N - LRTD4 - 9015 - UC1-595 - 30 - NC - 277V - DIML2 - CB27**

TRIM ORDERING INFORMATION

TRIM	BEVEL STYLE	LENS	FLANGE FINISH	OPTIONAL OPTICAL ACCESSORY
302A	BB1	S	10N	

302A	BB1	S	21N	HX
Round Downlight 1" Regress Amber LED, Coastal Environment	1" Regress Bevel, Die Cast, Black	Solite	Black Natatorium Finish 10N White Coastal Finish	Hex Cell Louver



HOUSING ORDERING INFORMATION

HOUSING CODE	WATTAGE	ENGINE CODE	REFLECTOR	HOUSING TYPE	VOLTAGE	DIMMING DRIVER	ACCESSORIES
LRTD4	9015	UC1-595	50	NC	120V	DIML2	CB27

LRTD4	9015 15W LED	UC1-595 Monochromatic 595nm Amber Light Engine	30 30° beam 50 50° beam 80 80° beam	NC New Construction FT Flat Housing New Construction NCSM Narrow Width CP Chicago Plenum IC Insulation-Contact Rated / Airtight	120V 277V **For use with 120V or 277V** DIML2 0-10V dim, 10% (provided standard) DIML6A ElkoLED 0-10V,0.1%, logarithmic / Lutron controls DIML6B ElkoLED 0-10V, 0.1%, linear controls DIML6E ElkoLED 0-10V,1%, logarithmic/Lutron controls DIML6F ElkoLED 0-10V, 1%, linear controls DIML7 ElkoLED DALI, 0.1% DIML8 ElkoLED DMX, 0.1% [1] **For use with 120V only** 120V DIML19 Phase 2-wire dimming, 1% 120V only [1]N/A with FT housing.	CB27 27" C-Channel Bars CB52 52" C-Channel Bars

USAI® Lighting
www.usailighting.com
info@usailighting.com
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F 845-561-1130

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Revised 10/12/2022

Beach Bar

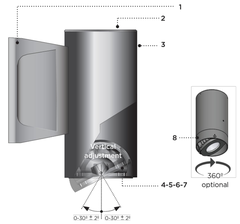
December 2023
Fixture 'B'

LUMINIS®

SY600 SERIES
SYRIOS
6" WALL UP OR DOWN LIGHT

TYPE: _____ QUANTITY: _____ PROJECT: _____

CATALOG NUMBER:	SY600	L1L3K2A	R30	120V	GRT-MG			
	FIXTURE	SUFFIX	REFLECTOR	VOLTAGE	FINISH	OPTION	OPTION	OPTION



SY600

1- Cast aluminum driver housing. Includes galvanized steel wall mount pressure plate.
2- Cast aluminum ventilated top cover.
3- Seamless extruded aluminum cylindrical housing.
4- Fully sealed cast aluminum light assembly.
5- Sealed cast aluminum lens frame.
6- Clear tempered glass lens.
7- Faceted specular aluminum reflector.
8- Optional 360° adjustable rotation.

All stainless steel hardware.

Syrios light module is designed with a tilting mechanism allowing forward and back light adjustability. The ±30° directional module allows to aim the light beam in the desired direction, without disturbing the luminaire mounting. The module can be secured using the built in locking mechanism.
Fully adjustable 360° rotation also available, see option A360.

Other adjustment factory set positions are available. Please consult factory.

MATERIALS
Syrios is made of corrosion resistant 356 aluminum alloy with a copper (CU) content of less than 0.1%.
The main housing is made of seamless extruded aluminum, with an integrally sealed LED light module designed for optimal heat dissipation, and lighting performance.
Syrios is standard with a unique proprietary design allowing the sealed LED module to tilt within the cylindrical housing.
The top cast aluminum cover includes ventilation slots allowing air circulation and cooling of assembly.
Syrios SY600 series is standard with 30° optic. See options section for alternate selection.

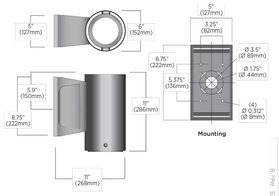
ELECTRICAL
DRIVER Standard driver is 0-10V dimming-ready (dims to 10%) with: 120-277 multi-volt compatibility (50-60Hz), operating temperature range of -40°C/-40°F to 55°C/131°F, output over voltage protection, output over current protection and output short circuit protection with auto-recovery.
LED Standard 4000K/80CRI. Optional 2700K, 3000K & 3500K.
Optional Amber LED for turtle sensitive areas.
Wavelengths: 584.5nm to 597nm.

LIFE
60,000hrs $L_{70}B_{50}$ (based on IESNA TM-21 Test Method and LM-80 data).
Up to 70,000hrs $L_{70}B_{50}$ (calculated projection from LM-80 data).

FINISH
Five-stage preparation process including preheating of cast aluminum parts for air extraction, and an environmentally friendly alloy sealant. Polyester powder coating is applied through an electrostatic process and oven cured for long term finish.

MOUNTING
Maximum weight: 9 lbs (4.1 kg)
The mounting plate is designed to fit on a 4" (102mm) octagonal electrical box using 3.5" (89mm) C/C mounting holes.
Additional mounting holes are provided as per site requirements.

CERTIFICATION
Certified and approved as per CSA C22.2 No.: 250.0 standard and ANSI/UL 1598 standard, for wet location. Rated IP66.



Sept. 2023 Rev. 8

Beach Bar

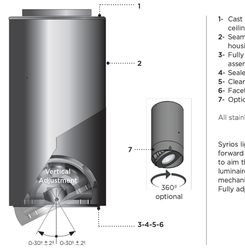
December 2023
Fixture 'C'

LUMINIS®

SY810 SERIES
SYRIOS
8" SURFACE CEILING DOWN LIGHT

TYPE: _____ QUANTITY: _____ PROJECT: _____

CATALOG NUMBER:	SY810	L1L3K2A	R30	120V	GRT-MG			
	FIXTURE	SUFFIX	REFLECTOR	VOLTAGE	FINISH	OPTION	OPTION	OPTION



SY810

1- Cast aluminum ventilated top cover with ceiling mounting plate.
2- Seamless extruded aluminum cylindrical housing.
3- Fully sealed cast aluminum down light assembly.
4- Sealed cast aluminum lens frame.
5- Clear tempered glass lens.
6- Faceted specular aluminum reflector.
7- Optional 360° adjustable rotation.

All stainless steel hardware.

Syrios light module is designed with a tilting mechanism allowing forward and back light adjustability. The ±30° directional module allows to aim the light beam in the desired direction, without disturbing the luminaire mounting. The module can be secured using the built in locking mechanism.
Fully adjustable 360° rotation also available, see option A360.

MATERIALS
Syrios is made of corrosion resistant 356 aluminum alloy with a copper (CU) content of less than 0.1%.
The main housing is made of seamless extruded aluminum, with an integrally sealed LED light module designed for optimal heat dissipation, and lighting performance.
Syrios is standard with a unique proprietary design allowing the sealed LED module to tilt within the cylindrical housing.
The top cast aluminum cover includes ventilation slots allowing air circulation and cooling of assembly.
Syrios SY810 series is standard with 28° optic. See options section for alternate selection.

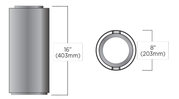
ELECTRICAL
DRIVER Standard driver is 0-10V dimming-ready (dims to 10%) with: 120-277 multi-volt compatibility (50-60Hz), operating temperature range of -40°C/-40°F to 55°C/131°F, output over voltage protection, output over current protection and output short circuit protection with auto-recovery.
LED Standard 4000K/80CRI. Optional 2700K, 3000K & 3500K.
Optional Amber LED for turtle sensitive areas.
Wavelengths: 584.5nm to 597nm.

LIFE
60,000hrs $L_{70}B_{50}$ (based on IESNA TM-21 Test Method and LM-80 data).
Up to 135,000hrs $L_{70}B_{50}$ (calculated projection from LM-80 data).

FINISH
Five-stage preparation process including preheating of cast aluminum parts for air extraction, and an environmentally friendly alloy sealant. Polyester powder coating is applied through an electrostatic process and oven cured for long term finish.

MOUNTING
Maximum weight: 20.7 lbs (9.3 kg)
The mounting plate is designed to fit on a 4" (102mm) octagonal electrical box using 3.5" (89mm) C/C mounting holes.
Fixture must be installed on a finished ceiling for exterior applications and/or exposed to inclement weather.

CERTIFICATION
Certified and Approved as per CSA C22.2 No.: 250.0 standard and ANSI/UL 1598 standard, for wet location. Rated IP66.



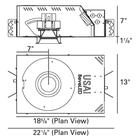
Sept. 2023 Rev. 7

BeveLED® COLORS - AMBER

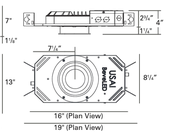
DOWNLIGHT 302A

HOUSING INFORMATION

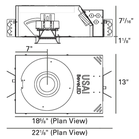
New Construction Universal Style Housing - NC



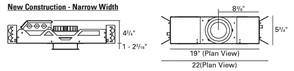
New Construction Flat Housing - FT



Chicago Plenum - CP IC / Airtight - IC



New Construction - Narrow Width



SPECIFICATIONS

TRIM: 4-1/2" round aperture with a 1° regressed bevel and 1/2" flange, retained by two mounting clips. Die cast aluminum bevel is painted black for brightness control. Flange is available in either black or white contrast painted finish. Trim is gasketed and triple-coated with a corrosion-resistant natatorium finish for coastal environments.

TRIM LENS: Trim is shipped with integral solite lens standard.

REFLECTOR: Interchangeable precision injection molded specular polycarbonate reflector optimized for 30°, 50° or 80° beam distribution.

FIELD REPLACEABLE LIGHT ENGINE: Available in a 15W light engine. Engine is field replaceable through the aperture without tools.

COLOR: BeveLED Colors Amber is available in the optimal spectral power distribution for preservation of endangered sea turtle populations, with a light output that is outside the range of sea turtles' visual sensitivity. LEDs are tightly binned for fixture-to-fixture color consistency.

RATED LIFE: Based on IESNA LM80-2008 50,000 hours at 70% lumen maintenance (L70).

THERMAL MANAGEMENT: Proprietary high performance aluminum die cast heatsink for maximum LED life. Ambient temperatures at fixture location should not exceed 40°C during normal operation.

FIELD REPLACEABLE DRIVER: 0-10V, 100% - 10% dim, solid state electronic constant current driver with a high power factor provided standard. DIML2 dimming driver sources 2mA. Specify 120V or 277V. Driver complies with IEEE C62.41 surge protection.

DIMMING OPTIONS: Multiple dimming drivers available. See compatibility chart attached. Some on time delay may be experienced depending on control system used. Note: DIML6A and DIML6E logarithmic control are intended for use with Lutron control systems; DIML6B and 6F linear control are intended for use with non-Lutron controls. DIML8 dimming drivers source 2mA.

MOUNTING: Butterfly brackets and adjustable nailer bars with integral nails provided. Nailer bars are extendible from 14" to 24" centers.

HOUSING: Fabricated of 20 ga. galvanized steel with thru wire J-box, 4 in 4 out at min. 90°C, #12 AWG thru branch circuit wiring.

MAXIMUM CEILING THICKNESS: As per drawings above.

CEILING CUT OUT: 5-1/16"Ø

LISTINGS: Dry/Damp/Wet location listed. NRTL/CSA-US tested to UL standards. Florida Fish and Wildlife Certified - Certification #2017-002. IBEW union made. All USAI Lighting products are Buy American Act (BAA) compliant.

WARRANTY: 5 years

NOTES:
• Use of pressure washer voids warranty.

USAI® Lighting
www.usailighting.com
info@usailighting.com
1126 River Road
New Windsor, NY 12553
T 845-565-8500
F 845-561-1130

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Revised 10/12/2022

LUMINIS®

SY600 SERIES
SYRIOS

LUMINAIRE SELECTION

❶ MODEL#	❷ LED LIGHT SELECTION	DELIVERED LUMENS	INPUT WATTS	CRI	CCT °K	❸ REFLECTORS*	❹ VOLTAGE	❺ FINISH
☐ SY600	☐ L1L15	1599	15W	80	4000	☐ R15 Narrow optics 15°	☐ 120V	STANDARD COLORS*
	☐ L1L25	2543	26W	80	4000	☐ R30 Flood optics 30° (standard)	☐ 277V	☐ WHT Snow white
	☐ L1L40	4102	48W	80	4000	☐ R55 Wide flood optics 52°	Optional ☐ 347V [1]	☐ BKT Jet black
	AMBER LED					*Depending on direction fixture is installed add U (for uplight) or D (for downlight) to suffix for all reflectors listed above. (i.e. R55U is 52° uplight)		☐ BZT Bronze
	☐ L1L3K2A	263	11W	AMBER				☐ MST Matte silver
	VERY NARROW DISTRIBUTION							☐ GRT Titanium gray
	☐ L1L20NR	1690	31W	80	4000	☐ R9 Very narrow optics 9° Field angle 18° (46,151 candela)		☐ DGT Gun metal
								☐ CHT Champagne
								☐ SGT Steel gray
								☐ BGT English cream
								OPTIONAL COLORS
								☐ CS Custom color
								☐ RAL RAL# color
								ENVIRONMENT
								☐ MG Marine grade [1]
								☐ NT Natatorium [1,2]
								*Refer to color chart

OPTIONS

ELECTRICAL
☐ FS Fuse
☐ PH Photocell [1]
☐ MS PIR motion sensor (Device is located at bottom of luminaire wall box) [4]
☐ REML2-50 7W remote emergency battery backup for LED, 90 min. Remote mount 50ft - 12" (305mm) square enclosure with access cover [2]

LIGHT & OPTICS
Alternate CCT °K LED (LCF: Lumen conversion factor)
☐ K27 2700K CCT 80 CRI (LCF: 0.91) [4]
☐ K3 3000K CCT 80 CRI (LCF: 0.94) [4]
☐ K35 3500K CCT 80 CRI (LCF: 0.983)
NOTE: Other CCT & higher CRI available, please consult factory.
☐ A360 360° adjustable rotation
☐ RG Regressed light module [3]

FAUX WOOD COLORS [3]
☐ ADG American douglas
☐ BRC Birch
☐ CHN Chestnut
☐ CRY Cherry
☐ KNP Knotty pine
☐ MPL Maple
☐ OFL Oak
☐ RSW Rosewood
☐ TEK Teak
☐ WLN Walnut

ACCESSORIES
☐ HL Hexcell louver
☐ SL Solite lens (light loss factor [LLF]: 0.9)
☐ LSL Linear spread lens (Asymmetric lens distribution is achieved when light module is tilted)

MOUNTING
☐ SWK Adaptor box for suface 3/4" conduit feed (4 sides plus back entry)
☐ UP Option required for uplight installation
☐ UH Uniform height matching SY602 [3]

For IDA certification compliance, luminaire must be ordered with 3000K or warmer.

NOTES
1- Photocell (PH) not available with REML2-50 option.
2- The remote enclosure must be interior.
3- Cylindrical housing extended by 1" (25.4mm) for increased cut-off.)
4- PIR motion sensor (MS) not available with REML2-50 option.
5- 347V not compatible with Amber LED L1L3K2A.
6- K27 and K35 options not available with the R9 optics.
7- Faux wood finish not applied to driver housing, lens frame or accessories.
8- For UH with A360 and/or RG consult factory.
9- For harsh, coastal environment and exposure to salt water. Longer lead time may apply please contact factory for info.
10- Only available in WHT and BKT.

Sept. 2023 Rev. 8

LUMINIS®

SY810 SERIES
SYRIOS

LUMINAIRE SELECTION

❶ MODEL#	❷ LED LIGHT SELECTION	DELIVERED LUMENS	INPUT WATTS	CRI	CCT °K	❸ REFLECTORS*	❹ VOLTAGE	❺ FINISH
☐ SY810	☐ L1L20	2157	22W	80	4000	☐ R15 Narrow optics 12° (not available on L1L75)	☐ 120V	STANDARD COLORS*
	☐ L1L35	3572	40W	80	4000	☐ R30 Flood optics 28° (standard)	☐ 277V	☐ WHT Snow white
	☐ L1L50	5357	55W	80	4000	☐ R40 Wide flood optics 38°	Optional ☐ 347V	☐ BKT Jet black
	☐ L1L75 [1]	7440	77W	80	4000	☐ R55 Wide flood optics 55°		☐ BZT Bronze
	AMBER LED							☐ MST Matte silver
	☐ L1L4K2A	440	11W	AMBER				☐ GRT Titanium gray
	VERY NARROW DISTRIBUTION							☐ DGT Gun metal
	☐ L1L30NR	2954	50W	80	4000	☐ R9 Very narrow optics 9° Field angle 21° (64,940 candela)		☐ CHT Champagne
								☐ SGT Steel gray
								☐ BGT English cream
								OPTIONAL COLORS
								☐ CS Custom color
								☐ RAL RAL# color
								ENVIRONMENT
								☐ MG Marine grade [1]
								☐ NT Natatorium [1]
								*Refer to color chart

OPTIONS

ELECTRICAL
☐ FS Fuse
☐ 347L Step down transformer for 347V input
☐ REML2-50 7W remote emergency battery backup for LED, 90 min. Remote mount 50ft - 12" (305mm) square enclosure with access cover [1]

LIGHT & OPTICS
Alternate CCT °K LED (LCF: Lumen conversion factor)
☐ K27 2700K CCT 80 CRI (LCF: 0.91) [4]
☐ K3 3000K CCT 80 CRI (LCF: 0.94)
☐ K35 3500K CCT 80 CRI (LCF: 0.983) [4]
NOTE: Other CCT & higher CRI available, please consult factory.
☐ A360 360° adjustable rotation
☐ RG Regressed light module [2]

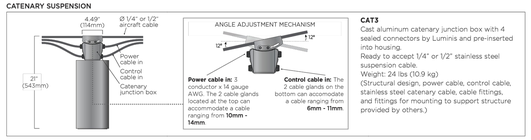
FAUX WOOD COLORS [3]
☐ ADG American douglas
☐ BRC Birch
☐ CHN Chestnut
☐ CRY Cherry
☐ KNP Knotty pine
☐ MPL Maple
☐ OFL Oak
☐ RSW Rosewood
☐ TEK Teak
☐ WLN Walnut

ACCESSORIES
☐ HL Hexcell louver
☐ SL Solite lens (light loss factor [LLF]: 0.9)
☐ LSL Linear spread lens (Asymmetric lens distribution is achieved when light module is tilted)

MOUNTING
☐ CAT3 Catenary suspension attachment with 12" adjustment mechanism

For IDA certification compliance, luminaire must be ordered with 3000K or warmer.

CATENARY SUSPENSION



CAT3
Cast aluminum catenary junction box with 4 sealed connectors by Luminis and pre-inserted into housing.
Ready to accept 1/4" or 1/2" stainless steel suspension cable.
Weight: 24 lbs (10.9 kg)
(Structural design, power cable, control cable, stainless steel catenary cable, cable fittings, and fittings for mounting to support structure provided by others.)

NOTES
1- The remote enclosure must be interior.
2- Cylindrical housing extended by 1" (25.4mm) for increased cut-off.
3- L1L75 Lumen is unavailable in 347V.
4- K27 and K35 options not available with the R9 optics.
5- Faux wood finish not applied to lens frame, accessories or catenary parts (if selected).
6- For harsh, coastal environment and exposure to salt water. Longer lead time may apply please contact factory for info.
7- Only available in WHT and BKT.

Sept. 2023 Rev. 7

STUDIO A.D. ARCHITECT
6202 Presidential Ct Suite D
Fort Myers, FL 33919
T: 239.292.4098
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apd@studioad.net
www.studioad.net
FL LIC # AA-26001437

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A NEW BUILDING FOR:
THE BEACH BAR HOUSE
1668 I STREET
FORT MYERS BEACH, FLORIDA

CONSULTANT:

STATE OF FLORIDA
ALBERT PAUL DAMBROSE
AR 93689
REGISTERED ARCHITECT
ALBERT DAMBROSE
AR93689

DATE ISSUED: 20 FEB 2024

REVISIONS:

1	9 APRIL 2024

SHEET
E3
OF 3

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: 1668 I Street

STRAP Number: 19-46-24-W4-0070B.0110

Applicant: B&B Properties of Fort Myers Phone: _____

Contact Name: Greg Boyd Phone: (845) 234-5006

Email: beachbeerboyd@gmail.com Fax: _____

Current Zoning District: Downtown

Future Land Use Map (FLUM) Category: Pedestrian Commercial

FLUM Density Range: FAR 2.5 Platted Overlay: ☐ YES ☑ NO

ACTION REQUESTED	SUPPLEMENTAL FORM REQUIRED
☐ Special Exception	PH-A
☐ Variance	PH-B
☐ Conventional Rezoning	PH-C
☑ Planned Development ■ Commercial ☐ Residential	PH-D
☐ Master Concept Plan Extension	PH-E
☐ Appeal of Administrative Action	PH-F
☐ Vacation of Platted Right-of-way and Easement	PH-G
☐ Other – cite LDC Section: _____	attach on separate sheet

PART I – General Information

A. Applicant*: B&B Properties of Fort Myers Phone: (845) 234-5006

**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: 21050 Saint Peters Drive, Fort Myers Beach, FL 33931

Email: beachbeerboyd@gmail.com Fax: _____

Contact Name: Greg Boyd Phone: (845) 234-5006

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 c/o Ink Engineering Inc Phone: (239) 940-2504
Address: 2055 West First Street, Ft 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: _____ Phone: _____
Address: _____
Email: _____ 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 Downtown to ☑ Commercial PD ☐ Residential PD
☐ Amendment. List the project number: _____
☐ Extension/reinstatement of Master Concept Plan. List project number: _____

Town of Fort Myers Beach 2525 Estero Blvd Fort Myers Beach, Florida 33931
Phone: 239-765-0202 zoningpermits@fmbgov.com Fax: 239-765-0909

☐ Appeal of Administrative Action

☐ Vacation ☐ Right-of-Way ☐ Easement

☐ Other. Please Explain: _____

_____

_____

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: Requested waiver for Traffic Impact Statement

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 Gregory J. Boyd

STATE OF Florida **COUNTY OF** Lee

The foregoing instrument was certified and subscribed before me by means of X physical presence OR ____ online notarization, this 16th day of MAY, 2024, by Gregory J. Boyd ☐ who is personally known to me OR ☒ who has produced Drivers License as identification.

LEROY LEWIS
Notary Public
State of Florida
Comm# HH366302
Expires 2/26/2027

(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

Town of Fort Myers Beach 2525 Estero Blvd Fort Myers Beach, Florida 33931
Phone: 239-765-0202 zoningpermits@fmbgov.com Fax: 239-765-0909

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
Gregory Boyd, 21050 St Peters Dr, Ft Myers Beach, FL 33931	
Madeline Boyd, 604 Hudson St #2, Hoboken, HJ 07030	

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

Town of Fort Myers Beach 2525 Estero Blvd Fort Myers Beach, Florida 33931
Phone: 239-765-0202 zoningpermits@fmbgov.com Fax: 239-765-0909

COMMUNITY DEVELOPMENT DEPARTMENT
APPLICATION for PUBLIC HEARING

Date of Contract: 5/16/24

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

Gregory J. Boyd
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, Greg Boyd (name), as Manager (title) of B + B Properties of Fort Myers Beach, 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

B + B Properties of Fort Myers Beach, LLC
Name of Entity (corporation, partnership, LLP, LLC, etc)

Signature

Manager
Title

Gregory Boyd
Typed or Printed Name

5/17/24
Date

STATE OF Florida **COUNTY OF** Lee

The foregoing instrument was certified and subscribed before me by means of ___ physical presence OR ☐ online notarization, this 17th day of May, 2024, by Gregory S. Boyd, ☐ who is personally known to me OR ☒ who has produced Drivers License as identification.

Seal

LEROY LEWIS
Notary Public
State of Florida
Comm# HH366302
Expires 2/26/2027

Notary Public Signature

PART VI– Property Information

A. Legal Description:

STRAP: 19-46-24-W4-0070B.0110

Property Address: 1668 I Street

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: Crescent Beach

Book: 4 Page: 45 Unit: _____ Block: B Lot(s): 11

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.

C. Property Dimensions:

Width (please provide an average width if irregular in shape) 54 feet

Depth (please provide an average width if irregular in shape) 186 feet

Frontage on street: 54 feet. Frontage on waterbody: 54 feet

Total land area: 0.23 ☑ acres ☐ square feet

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

South on Estero Blvd, Right of Avenue E, subject property as intersection of Avenue E and I Street fronting the Gulf of Mexico

☑ 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
☐ Mixed Residential
☐ Boulevard
☑ Pedestrian Commercial
☐ Marina
☐ Recreation
☐ Wetlands
☐ Platted Overlay

Town of Fort Myers Beach 2525 Estero Blvd Fort Myers Beach, Florida 33931
Phone: 239-765-0202 zoningpermits@fmbgov.com Fax: 239-765-0909

THE BEACH BAR

AMENDMENT #1 FOR DESIGN AND PERMITTING

Summary

This document is an agreement amendment for professional services for providing entitlement services for the design and permitting site and building layout at 1668 I Street, Fort Myers Beach, FL 33931

INK ENGINEERING INC.
CONSULTING ENGINEERS • PLANNING
2055 WEST FIRST STREET
FORT MYERS, FL 33901
JINK@INKENGINEERINGINC.NET

Project Intent:

This document is to serve as an amendment to the existing development agreement for the design and permitting for the site and proposed building at the subject site. The included concept plan includes, but not limited to consistency with the following:

- Town of Fort Myers Beach Comprehensive Plan
- Town of Fort Myers Beach Land Development Code
- Florida Department of Environmental Protection, Coastal Construction Control Line Program
- FEMA Technical Bulletins on construction in a coastal zone.

This work will include application, support and representation for a Commercial Planned Development rezoning action.

Client:

Name:	B & B Properties of Fort Myers, LLC
Address:	21050 Sanit Peters Drive Fort Myers Beach, FL 33931

Parcel Information:

Lot 11, Block B Crescent Beach Subdivision as recorded in Plat Book 4 Page 45 of the official records of Lee County, FL

Strap 19-46-24-W4-0070B.0110

Scope:

The scope of work is to petition the Town of Fort Myers Beach for rezoning the subject property from Downtown to a commercial planned development to increase the allowable Floor Area Ratio from 1.0 to 1.4. This will require a deviation to omit the ground floor parking from the FAR calculations.

Tasks:

The scope of work includes the following tasks:

Task Four – Outside Documents **$3,500 TM**

- Obtain an Attorney Title Opinion per Fort Myers Beach Land Development Code for rezoning requests.
- Update existing boundary survey to reference Attorney Title Opinion.

Task Five – Commerical Planned Development Application **$5,000 FF**

- Prepare application for a rezoning application from Downtown to Commercial Planned Development. Application to include:
  - Application
  - CPD Supplemental application
  - Compliance with Comprehensive Plan Narrative
  - Compliance with Design Standards Narrative
  - Compliance with Decision making standards Narrative.
  - Schedule of Deviations and justification Narrative
  - Traffic Impact Statement Waiver request
  - Coordination of other required documents
  - Upload to Town permit portal.

Task Six – Support Application for Sufficiency **$1,500 FF**

- Prepare documents as required to respond to staff comments to reach sufficiency. Sufficiency is where all information as required by staff has been submitted to prepare a staff report and schedule public hearings.

Task Seven – Public Hearing LPA **$1,500 FF.**

- Prepare and present petition before the LPA. Note the LPA meets only the third Tuesday of each month. LPA will recommend their findings to Town Council.

Task Eight – Public Hearing Town Council **$2,000 FF.**

- Prepare and present petition before Town Council for case determination. This is up to two public hearings. Note the Town Council meets only the first and third Monday of each month and not in July.

FF = Fixed Fee, adjusted for allowance reductions
TM = Time and Materials, not to exceed without written authorization

- **Fee Schedule for additional services, if required and approved**

Professional Engineer	$320.00 per hour
Planner	$250.00 per hour
Design Manager	$200.00 per hour
CADD/Project Management	$175.00 per hour
Clerical	$75.00 per hour
Materials	Cost plus 10%

THE ABOVE AGREEMENT HAS BEEN READ AND UNDERSTOOD AND I HEREBY AUTHORIZE the performance of the services as described herein and agrees to pay the charges resulting thereby as identified above. I warrant and represent that I am authorized to enter this agreement.

Accepted this 16 day of May, 2024.

CLIENT –

Sign: _____

Name
Title

CONSULTANT – Ink Engineering, Inc

Sign: _____

Name James Ink P.E.
Title – President

Terms and Conditions

The following standard contractual paragraphs are provided and shall form a basis of this agreement.

Work not specified.

Work not specified in the above proposal items will not be performed without your prior knowledge and written approval. We will provide a fixed fee for additional services, if required. INK ENGINEERING, INC has no control over regulatory changes. Proposal is based on regulations and codes at time of agreement execution unless noted in agreement. You will be notified as soon as it becomes know of any regulatory changes which affect our ability to perform our services at the agreed upon fees. Should this occur, we would negotiate any additional costs that may occur.

Liability

INK ENGINEERING, INC maintains professional liability insurance in the course of business activities. Any damages suffered by the claimant are solely economic in nature and do not include personal injuries or damage to property that is not subject to this contract.

PER FLORIDA STATUTE INDIVIDUAL EMPLOYEE OR AGENTS' MAY NOT BE HELD INDIVIDUALLY LIABLE FOR NEGLIGENCE.

Permit Application/ Submittal Fees

The above stated fees do not include the payment of the listed governmental agency submittal or processing fees. Additional fees may be required and will be provided by owner. Details of application fees will be included in task one findings.

Termination

The Client and consultant jointly reserve the right to terminate or suspend this agreement without cause by giving the other party fifteen (15) days written notice. The Client will pay the Consultant for terminated or suspended services through the date of termination or suspension including the cost to terminate or suspend services provided by others.

Sub-consultant Services

The Consultant will rely on this agreement to obtain services of others and make commitments within the Consultant's office to meet the provisions of this agreement. These services may include but not limited to Surveying Services, Environmental Consultants, Traffic Engineering, Landscape Architecture, and other engineering consultants as required performing services. Any additional Services that are not included and may be required that require sub-consultant services will be added to this agreement at direct costs plus 10% upon written approval from Client.

Reimbursable Expenses

The work as defined above will require the reproduction of numerous documents. These costs are included in this agreement. All travel expenses within Lee County shall be included in this agreement. Owner will approve any other travel.

Invoicing and Payment

Work will be invoiced monthly at completion of tasks, on approximately the 25th day of each month based upon a proration of work completed to date, or at time of completion of the project or a task of the work efforts performed. Payment is expected by the 10th of the following month. If payment is not received within 30 days of the invoice date, a late charge may be added to the invoice in an amount not to exceed 1½% per month of the outstanding balance. Accounts over 60 days' delinquent from date of oldest invoice will have services suspended until entire balance is current.

Retainer

No retainer is required with this agreement.

Case # _____ Date Received: _____

Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT

Supplement PH-D

Additional Required Information for a Planned Development Application

This is the second part of a two-part application. This part requests specific information for a planned development rezoning or an amendment to an approved planned development. Include this form with the Request for Public Hearing form.

Fee in the amount of $8000.00 up to 1 acre +1000.00 per additional acre
$2000.00 PD Amendment minor (< acre total property area)
$4000.00 PD Reinstatement or $6500.00 PD Amendment

Project Name: Beach Bar CPD
Authorized Applicant: B&B Properties of Fort Myers
STRAP Number(s): 19-46-24-W4-0070B.0110

Current Property Status: Commercial Bar
Current Zoning: Downtown
Future Land Use Map (FLUM) Category: Pedestrian Commercial
Platted Overlay? ☐ **yes,** ☑ **no** **FLUM Density Range:**

Requested Action:

☐	DRI (with rezoning)
☑	Planned Development (also check below) CPD
☐	Rezoning from: to:
☐	Amendment to Master Concept Plan/attendant documentation

Town of Fort Myers Beach 2525 Estero Blvd. Fort Myers Beach, FL 33931
Phone 239 765-0202 Zoningpermits@fmbgov.com Fax 239 765-0909

PART I
Narrative Statements

A. **Comprehensive Plan Amendments** (check one)

☑ There are NO Comprehensive Plan Amendments pending that could affect the future use of this property.
☐ The following Comprehensive Plan Amendments ARE pending and could affect the future use of this property (list the amendment and give a brief explanation of its possible effect)

B. **Phasing of Construction**

☑ The development is to be constructed in a single phase.
☐ The development is to be constructed in phases as follows: (describe proposed phasing below)

C. **Comprehensive Plan Compliance.**

Explain how the proposed development complies with applicable Goals, Objectives, and Policies of the Fort Myers Beach Comprehensive Plan.

See Attached Narrative

D. Design Standards Compliance

For projects required to meet Commercial Design Standards, explain how the proposed development complies with the design standards set forth in LDC Sections 34-991 through 34-997.

See Attached Narrative

E. Decision-making Compliance

Explain how the proposed development complies with the guidelines for decision-making embodied in LDC Section 34-85.

See Attached Narrative

F. Schedule of deviations and written justification

Provide a list of the requested deviations keyed to the Master Concept Plan and provide a written justification for each deviation. The location of each deviation should be indicated on the Master Concept Plan.

See attached Deviations and justification narrative

G. Administrative amendments to approved Master Concept Plan

For amendments to an approved Master Concept Plan, indicate the specific amendments that could not be approved administratively as set forth in LDC Section 34-219.

None

PART 2

Submittal Requirements

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

Required Items

Public Hearing Request Form
Supplement Form PH-D
Master Concept Plan
Traffic Impact Statement
Architectural Elevations
Schedule of Uses
Fee in the amount of $8000.00 up to 1 acre +1000.00 per additional acre
$2000.00 PD Amendment minor (< acre total property area)
$4000.00 PD Reinstatement or $6500.00 PD Amendment

For DRI: A Binding letter of interpretation from DCA or a complete and sufficient ADA.

Beach Bar CPD
Supplement PH-D Narrative

The following narrative is information requested in the Additional Required Information for a Planned Development Application.

C: Comprehensive Plan Compliance:

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.

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.

Unfortunately, on September 28, 2022, Hurricane Ian swept ashore with a large storm surge that caused catastrophic damage to the island. In one day, beach structures were significantly damaged or destroyed. The Beach Bar CPD is proposed to build back like the pre-Ian uses, retaining commercial uses, and replacing a two-unit residential area with a single-family residential use. Due to the location and town induced property area restrictions this application requests an increase in FAR from 1.0 to 1.4. The 1.4 FAR is consistent with surrounding properties. The increase does not impact any lower density land use.

POLICY 4-B-6 "PEDESTRIAN COMMERICAL" 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 Villas Santini Plaza…… …… 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 marina 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%.

Pedestrian Commercial allows for all intended uses.

POLICY 4-C-2 COMMERICIAL 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 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.

The proposed FAR increase to 1.4 from the allowable 1.0 remains an exceptionally low level from the allowable 2.5 in Pedestrian Commercial Future Land Use.

D: Design Standards Compliance

The Architectural Plans submitted are the same plan set that has been provided with a development order application and have been reviewed with no outstanding comments relating to design standards as required in 34-991 – 34-1010 Land Development Code of the Town of Fort Myers Beach

E: Decision-making compliance

Guidelines for decision-making is found in LDC Section 34-85

> The application shall consist of sufficient documentation, plans, and reports such that Town staff can find the application sufficient and prepare a recommendation to the boards having jurisdiction. The application will be heard before the Local Planning Agency to review and determine a recommendation to the Town Council considering substantial competent evidence presented by applicant, staff and public. Town Council will hold two public hearings to hear and consider submitted substantial competent evidence presented by applicant, staff and public. A determination will be issued at the close of the second hearing. Section 34-85 FMBLDC addresses the following requirements. Commentary of compliance is provided.
>
> *(1) Whether there exists an error or ambiguity which must be correct.*
>
> Any errors or ambiguities will be resolved during staff review, LPA hearing and recommendations, and during Town Council public hearings.
>
> *(2) Whether there exist changed or changing conditions which make approval of the request appropriate.*
>
> Hurricane Ian drastically changed the conditions on the island. Prior to the storm the subject property was a two-unit residential structure above a ground level open commercial activity with a bar use per previous entitlement approvals. The rebuilding of the subject property will be a single-family two-story home above the commercial activity use as a walk-up bar. The commercial activity will be same after as pre storm function.
>
> *(3) The impact of a proposed change on the intent of this chapter*
>
> Beach Bar CPD is consistent with the Purpose of the zoning chapter by providing needs of the Town and providing safe, healthy, convenient, prosperity and welfare of the citizens of the Town of Fort Myers Beach.

(4) The testimony of the applicant

The applicant will provide a professional presentation at LPA and Town council to present the facts of the case. There will be substantial competent evidence and testimony that will be introduced into the record during the review and public hearing process that will be without question.

(5) The recommendation of staff and of the local planning agency

The application and public hearing testimony of applicant, staff and public will be considered in the recommendations provided by staff and LPA.

(6) The testimony of the public

The public will be afforded an opportunity to comment in the public hearings to voice their opinions. This testimony will be considered, as appropriate, to the request in the decisions and recommendations of the Council and LPA.

(7) Whether the request is consistent with the goals, objectives, policies, and intent, and with the densities, intensities, and general uses as set forth in the Fort Myers Beach Comprehensive Plan.

The rebuilding of the Beach Bar is like the pre-Ian use with only a change from two unit residential to single family use. As presented in Section C of this narrative, commentary has been provided of how the proposed application is consistent with the Comprehensive Plan subject to the adoption of the companion Comprehensive Plan Map amendment.

(8) Whether the request meets or exceeds all performance and location standards set forth for the proposed use.

Beach Bar CPD is a rebuild of the commercial bar with a larger single-family use to replace the two-family residential use that existed before Hurricane Ian.

(9) Whether urban services are or will be available and adequate to serve a proposed land use change.

Public providers of services of Potable Water, Sanitary Sewer, Solid Waste, Public Transportation, Fire, EMS, and Sheriff have serviced the site for many years.

(10) Where the request will protect, conserve, or preserve environmentally critical areas and natural resources.

Development is like pre-Ian condition and all structures are within Downtown zoning uplands.

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

Beach Bar is the same use that has existed for years.

(12) Whether the location of the request places an undue burden upon existing transportation or other services and facilities and will be served by streets with the capacity to carry traffic generated by the development.

The service requirement is the same as pre-Ian levels and will not change with the proposed CPD. The site has existing services in place to service the site.

(13) For Planned Development rezonings See 34-216 for additional considerations.

The analysis for this section is included in 34-216(2) as follows:

a. The proposed use or mix of uses is appropriate at the subject location.

The Schedule of Uses are listed in a specific section of this application narrative. These uses exist in the downtown district.

b. Sufficient safeguards for the public interest are provided by the recommended special conditions to the concept plan or by other applicable regulations.

Special Conditions are already restricted by the two previous zoning documents that are to remain.

c. All recommended special conditions are reasonably related to the impacts on the public's interest created by or expected from the proposed development.

Special Conditions are already restricted by the two previous zoning documents that are to remain.

d. The proposed use meets all specific requirements of the comprehensive plan that are relevant to the requested planned development.

The schedule of uses is the same as existing and the proposed use is the same as pre-Ian. The only proposed change is to increase the FAR to be consistent with the location of property in an intense area of the Pedestrian Commercial Future Land Use.

.

F: Schedule of Deviations and written Justification

The requested deviation for FAR per 34-675 is attached as a separate document.

Beach Bar CPD
Deviation Request and Justification

Deviation Request #1:

Request to deviate from 34-675(c)3 that states, "Floor area ration (FAR). Floor area ratios (see 34-633) of the chapter) shall not exceed: (3) 1.0 for all other properties in the Downtown District" to allow an FAR of 1.4 consistent with properties fronting Estero Blvd per 34-675(c)(2).

Justification:

The subject property was developed as a two unit elevated single story residential structure with a commercial bar facility on the ground level operating under a Lee County Resolution Number BZA-88-339 and Hearing Examiner Case 95-10-173.02s. These entitlements were established before incorporation of the Town of Fort Myers Beach on December 31, 1995. Prior the town incorporating, Lee County did not use Floor Area Ratios to determine density and intensities. The subject property was bound for development by density, setbacks, and heights. The Town adopted their Comprehensive Plan on January 1, 1999. The plan developed Future Land Use categories for determining use and development of the parcels consistent with the Comprehensive Plan. The plan splits the subject property into two future land use categories. They are Pedestrian Commercial and Recreation. Pedestrian Commercial has a maximum Floor Area Ration of 2.5 and Recreation does not allow development. The Town further restricted the use of the subject property with the adoption of the town's Land Development Code setting an allowable FAR of 1.0 on the subject property. These actions changed development rights from development based on density, height, and setbacks to a highly restrictive FAR in a Future Land Use category that is the highest allowable in the Comprehensive Plan. There is only one zoning district (Santos) that allows residential with a FAR of less than the subject property. Santos zoning district is a transitional community that is a buffer between high intensities on Estero Blvd and low-density residential portions of Venetian Gardens Subdivision. The subject property and all lots along Alva Drive and I Street do not provide any transition to a lower density neighborhood. If fact this area is in the heart of Gulf front properties that could support much higher FAR's. This poor planning perspective is further supported in the apparent lack of the town to enforcement of the restrictive FAR at 1560 I Street and 61 Alva Drive.

Beach Bar CPD
Development Regulations and Schedule of Uses

SETBACKS:

Front build to line:	0 to 5 feet
Side setback	5 feet
Rear setback	Not seaward of 1978 CCCL
Waterbody	Not Applicable

FAR (max) 1.4

BUILDING COVERAGE: Not Applicable

HEIGHT:

40 feet above design flood elevation (DFE) and no taller than three stories

SCHEDULE OF USES:

The allowable uses shall be the same as the Downtown zoning district as shown in Table 34-2 Use Sub-Groups Permitted in Each Zoning District and 34-1, Land Uses Assigned to Use Groups

Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT

Application for Waiver of Submittal Requirements

Submit a request for waiver of submittal requirements prior to submitting an application for public hearing or administrative action. Requesting a waiver of submittal requirements simultaneously with an application may delay your application. The request and the director's response will become part of the application file.

Waiver is requested for items required for:

Public Hearing

_____General Requirements
_____DRI
X Planned Development
_____Conventional Rezoning
_____Special Exception
_____Variance
_____Appeal
_____Other

Administrative Action

_____General Requirements
_____Planned Dev. Amendment
_____Commercial Antenna
_____Consumption on Premises
_____Forced Relocation of a Business
_____Interpretation of LDC
_____Minimum Use Determination
_____Setback Variance
_____Other

Name of Project: Beach Bar CPD
Applicant: B&B Properties of Fort Myers
Strap Number: 19-46-24-W4-0070B.0110
Street Address: 1668 I Street
Phone Number: 239-940-2504
Email: jink@nkengineeringinc.net

Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT

Application for Waiver of Submittal Requirements

Specific requirements from which waiver is sought

Section Number	Requirement
34-212(6)	Traffic Impact Statement

Scope of project and reasons for request

Explain the nature of the project and give reasons why you think specific requirements are inapplicable or otherwise should be waived.

The existing use before Hurricane Ian was a commerical bar with restrictions and a two unit residential use. Hurricane Ian destroyed the structures. The proposed use is a commerical bar with the same restrictions as pre-Ian and only one single family use. This reduction from two residential uses to one use is a reduction of generated trips and therefore a reduction of intensity to the original pre-Ian use. A TIS would add an unreasonable financial impact to a proposed use that is less than pre-Ian

I hereby state that the information provided above is accurate to the best of my knowledge. I recognize that if my project changes from what is described above approval of this waiver request may no longer be valid.

Signature _____ Date 5/17/24

Director's Decision _____**Approved** _____**Denied**

Comments:

Signature _____ Date _____

Town of Fort Myers Beach
2525 Estero Blvd., Fort Myers Beach, Florida 33931
Phone: 239-765-0202 Permits@FortMyersBeachFL.gov Fax: 239-765-0909

SUBMIT

Business Impact Estimate

This form should be included in the agenda packet for the item under which the proposed ordinance is to be considered and must be posted on the Town of Fort Myers Beach's website by the time notice of the proposed ordinance is published.

Proposed ordinance's title/reference:
Ordinance 24-18 AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING A REQUEST TO REZONE THE PROPERTY LOCATED AT 1668 I STREET, GENERALLY IDENTIFIED AS STRAP NUMBER 19-46-24-W4-0070B.0110 FORT MYERS BEACH, FROM DOWNTOWN TO COMMERCIAL PLANNED DEVELOPMENT (CPD) ZONING, WITH DEVIATIONS, FOR A BAR AND RESIDENCE; PROVIDING FOR OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

This Business Impact Estimate is provided in accordance with section 166.041(4), Florida Statutes. If one or more boxes are checked below, this means the Town of Fort Myers Beach is of the view that a business impact estimate is not required by state law[1] for the proposed ordinance, but the Town of Fort Myers Beach is, nevertheless, providing this Business Impact Estimate as a courtesy and to avoid any procedural issues that could impact the enactment of the proposed ordinance. This Business Impact Estimate may be revised following its initial posting.

- ☐ The proposed ordinance is required for compliance with Federal or State law or regulation;
- ☐ The proposed ordinance relates to the issuance or refinancing of debt;
- ☐ The proposed ordinance relates to the adoption of budgets or budget amendments, including revenue sources necessary to fund the budget;
- ☐ The proposed ordinance is required to implement a contract or an agreement, including, but not limited to, any Federal, State, local, or private grant or other financial assistance accepted by the municipal government;
- ☐ The proposed ordinance is an emergency ordinance;
- ☐ The ordinance relates to procurement; or
- ☒ The proposed ordinance is enacted to implement the following:
  a. Part II of Chapter 163, Florida Statutes, relating to growth policy, county and municipal planning, and land development regulation, including zoning, development orders, development agreements and development permits;
  b. Sections 190.005 and 190.046, Florida Statutes, regarding community development districts;
  c. Section 553.73, Florida Statutes, relating to the Florida Building Code; or
  d. Section 633.202, Florida Statutes, relating to the Florida Fire Prevention Code.

[1] See Section 166.041(4)(c), Florida Statutes.

In accordance with the provisions of controlling law, even notwithstanding the fact that an exemption noted above may apply, the Town of Fort Myers Beach hereby publishes the following information:

1. Summary of the proposed ordinance (must include a statement of the public purpose, such as serving the public health, safety, morals and welfare):

The proposed ordinance is a request by a property owner to allow a higher FAR than is allowed in that zoning district and location.

2. An estimate of the direct economic impact of the proposed ordinance on private, for-profit businesses in the Town of Fort Myers Beach, including the following, if any:
(a) An estimate of direct compliance costs that businesses may reasonably incur;
(b) Any new charge or fee imposed by the proposed ordinance or for which businesses will be financially responsible; and
(c) An estimate of the Town of Fort Myers Beach's regulatory costs, including estimated revenues from any new charges or fees to cover such costs.

There are unlikely to be direct compliance costs associated with Ordinance 24-18.

Ordinance 24-18 does not impose any new charge or fee on businesses.

There are no new charges or fees that will be imposed on businesses by the ordinance.

The Town will not likely incur additional costs.

3. Good faith estimate of the number of businesses likely to be impacted by the proposed ordinance:

The Town estimates that a one private, for-profit businesses in the Town would potentially be impacted by Ordinance 24-18. The impact should be positive for the business.

4. Additional information the governing body deems useful (if any):

Town of Fort Myers Beach
Agenda Item Summary

Blue Sheet Number: **2024-247**

1. **Request:**

Meeting Date: September 9, 2024

First Reading and Public Hearing on a proposed ordinance entitled: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING TOWN OF FORT MYERS BEACH ORDINANCE NO. 24-01, AND APPROVING DEVIATIONS FOR THE COMMERCIAL PLANNED DEVELOPMENT ZONING FOR THE PROPERTY LOCATED AT 1170, 1180/1192, 1204/1206 ESTERO BLVD., 251 CRESCENT ST., 1150 FIFTH ST. AND UNADDRESSED PARCELS, PARCELS GENERALLY IDENTIFIED AS STRAP NUMBERS 24-46-23-W3-00205.0070 (MCP PARCEL #3), 24-46-23-W3-00006.0000 (MCP PARCEL #1), 24-46-23-W3-00206.0060 (MCP PARCEL #1), 24-46-23-W3-00009.0000 (MCP PARCELS #2 AND #5), 19-46-24-W4-U0494.2609 (MCP PARCEL #2), 24-46-23-W3-00205.0070, 19-46-24-W4-U0491.2610 (MCP PARCEL #2), 19-46-24-W4-0140B.0070 (MCP PARCELS #2 AND #5), 19-46-24-W4-U0496.2608 (MCP PARCEL #2), AND 19-46-24-W4-U0498.2607 (MCP PARCELS #2 AND #6) FORT MYERS BEACH; PROVIDING FOR OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE. Open the public hearing and schedule for second reading and final adoption on September 23, 2024 at 6:00 PM.

Why the action is necessary:

The signs as currently designed/ placed are not compliant with the LDC or the approved CPD, this request is to legalize both signs for setbacks and height, as well as sign-type deviation for the pole sign on the corner of Estero and Crescent.

What the action accomplishes:

Allows the existing, non-compliant signs to remain where they've been installed.

2. **Agenda:**	3. **Requirement/Purpose:**	4. **Submitter of Information:**
PUBLIC HEARINGS	Ordinance to amend an existing CPD	Jason Smalley, Senior Planner

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5. **Background:**

During the construction of the "Margaritaville" resort, a sign package was approved requiring standard 3' setbacks from the rear of a sidewalk, both signs in-question were constructed within the 3' setback. The pole sign on the corner of Estero and Crescent is also too tall, pole signs are not allowed as a sign-type and will require deviations for all three issues (sign-type, maximum height and setbacks); the monument sign across Estero at the entrance to the aquatic center also requires two deviations for setbacks from the sidewalk and maximum height.

Attachments:

1. 24-20; DCI20240130_MARGARITAVILLE SIGN (2)
2. TC Staff Report
3. Narrative Statement
4. Comment Response Letter
5. Deviation Narrative
6. MCP_Deviations

Financial Impact:

N/A

6. **Alternative Action**
Approve with conditions

7. **Management Recommendations:**
N/A

8. **Recommended Approval:**

Kendra Rosa, Zoning Coordinator	Created/Initiated - 9/4/2024
nancy stuparich, Town Attorney	Approved - 9/4/2024
Amy Baker, Town Clerk	Approved - 9/5/2024
Andy Hyatt, Town Manager	Final Approval - 9/5/2024

ORDINANCE 24-20

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING TOWN OF FORT MYERS BEACH ORDINANCE NO. 24-01, AND APPROVING DEVIATIONS FOR THE COMMERCIAL PLANNED DEVELOPMENT ZONING FOR THE PROPERTY LOCATED AT 1170, 1180/1192, 1204/1206 ESTERO BLVD., 251 CRESCENT ST., 1150 FIFTH ST. AND UNADDRESSED PARCELS, PARCELS GENERALLY IDENTIFIED AS STRAP NUMBERS 24-46-23-W3-00205.0070 (MCP PARCEL #3), 24-46-23-W3-00006.0000 (MCP PARCEL #1), 24-46-23-W3-00206.0060 (MCP PARCEL #1), 24-46-23-W3-00009.0000 (MCP PARCELS #2 AND #5), 19-46-24-W4-U0494.2609 (MCP PARCEL #2), 24-46-23-W3-00205.0070, 19-46-24-W4-U0491.2610 (MCP PARCEL #2), 19-46-24-W4-0140B.0070 (MCP PARCELS #2 AND #5), 19-46-24-W4-U0496.2608 (MCP PARCEL #2), AND 19-46-24-W4-U0498.2607 (MCP PARCELS #2 AND #6) FORT MYERS BEACH; PROVIDING FOR OTHER 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, TPI-FMB LLC and Steve Hartsell with Pavese Law Firm, applicants and agents for the property owners, generally located at 1170, 1180/1192, 1204/1206 Estero Boulevard, 251 Crescent St, 1150 Fifth St. and other unaddressed parcels, parcels generally identified as STRAP numbers 24-46-23-W3-00205.0070 (MCP parcel #3), 24-46-23-W3-00006.0000 (MCP parcel #1), 24-46-23-W3-00206.0060 (MCP parcel #1), 24-46-23-W3-00009.0000 (MCP parcels #2 AND #5), 19-46-24-W4-U0494.2609 (MCP parcel #2), 24-46-23-W3-00205.0070, 19-46-24-W4-U0491.2610 (MCP parcel #2), 19-46-24-W4-0140B.0070 (MCP parcels #2 AND #5), 19-46-24-W4-U0496.2608 (MCP parcel #2), AND 19-46-24-W4-U0498.2607 (MCP parcels #2 AND #6) in the Town of Fort Myers Beach, filed applications to amend Ordinance 18-04 and amend conditions of approval of the commercial planned development zoning; and

WHEREAS, Ordinance 24-01 amended the existing CPD to remove limitations on development of the beachfront lot on 5.1+/- acres more or less property, located at 1170, 1180/1192, 1204/1206 Estero Boulevard in the Town of Fort Myers Beach; and

WHEREAS, the subject property is located in the Pedestrian Commercial and Recreation Future Land Use Category of the Comprehensive Plan of the Town of Fort Myers Beach; and

WHEREAS, with the exception of portions of Town or County right-of-way, the applicant has indicated the subject property is under common control and Tom Torgerson serves as the managing member for each ownership listed in the public records of Lee County Property Appraiser; and

WHEREAS, a public hearing was held before the Local Planning Agency (LPA) on August 23, 2024; and

WHEREAS, at the August 23, 2024 public hearing 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, as required by Town Land Development Code (LDC) s. 34-85; and

WHEREAS, at the August 23, 2024 public hearing the LPA recommended approval by a X-X vote with one member abstaining; and

WHEREAS, on September 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 Fort Myers Beach Land Development Code (LDC) Section 34-85; and

WHEREAS, the Town Council voted to have a second reading of the proposed Ordinance and a public hearing on this matter was legally advertised and held before the Town Council on September 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, the documents in the record, and the testimony of all interested persons, as required by Fort Myers Beach Land Development Code (LDC) Section 34- 85; and

WHEREAS, the applicant has resolved and is current on any outstanding fees associated with notice, advertisement, and consulting services required by the Town; and

WHEREAS, with the following terms, conditions, and requirements which the Town Council finds to be in the public health, safety, and welfare, all of which are in compliance with the comprehensive plan and the Land Development Code; and

WHEREAS, Exhibit A provides the approved property development regulations, the schedule of uses and conditions of approval for this CPD to be used during the permitting process; and

WHEREAS, Exhibit B is the approved Master Concept Plan, updated per the adopted Ordinance 24-01; and

WHEREAS, the Town Council finds that this request to amend existing ordinance 24-01 for a CPD, is a unique and individual application which does not set precedent for future development or rezoning applications.

Deviation #1

Deviation seeks relief from LDC Section 30-8 which prohibits pole signs, to allow for one (1) directional pole sign in the location shown on the MCP.

Deviation #2

Deviation seeks relief from LDC Section 30-5(a)(1)b.3.iii which requires freestanding signs in commercial districts not to exceed 5-feet in height above finished grade, to allow for one (1) directional pole sign to be a maximum height of 9-feet above finished grade in the location shown on the MCP.

Deviation #3 & 4

Deviation seeks relief from LDC Section 30-5(a)(1)b.3.iv, which requires freestanding signs in commercial districts to be setback at least 3-feet from any public right-of-way or easement, to allow for one (1) monument sign and one (1) directional pole sign to be setback a minimum of 6 inches from the public right-of-way in the locations shown on the MCP.

Deviation #5

Deviation seeks relief from LDC Section 30-5(a)(1)b.3.iii which requires monument signs not to exceed 5-feet in height above finished grade, to allow for one (1) monument sign to be a maximum height of 7.5-feet above finished grade in the location shown on the MCP.

Findings for the rezoning:

WHEREAS, the Town Council considered all relevant factors and made the following formal findings before making its final decision on the requested amendment to Commercial Planned Development (see LDC 34-85 and 34-216) ordinance 24-01:

a. Minor ambiguities were resolved through the deviation process.
b. Long-standing blighted conditions on the subject property can be ameliorated through approval of this rezoning.
c. The rezoning would carry out the policies and requirements of the Comprehensive Plan and Land Development Code.
d. The Town Council carefully considered the testimony of the applicant, the recommendations of staff and of the local planning agency, and testimony from the public.
e. The rezoning would be consistent with the goals, objectives, policies, and intent, and with the densities, intensities, and general uses in the Comprehensive Plan.
f. The rezoning would meet or exceed all performance and locational standards set forth for the proposed use.
g. Urban services are available and adequate to serve the proposed use.
h. The rezoning would protect, conserve, or preserve environmentally critical areas and natural resources.
i. The rezoning would be compatible with existing and planned uses and not cause damage, hazard, nuisance, or other detriment to persons or property.
j. The rezoning would not place an undue burden upon existing transportation or other services and facilities and will be served by streets with the capacity to carry traffic generated by the development.

k. The rezoning, with the mitigating factors volunteered by the applicant and the special conditions imposed by the Town Council, is consistent with the Fort Myers Beach Comprehensive Plan, Land Development Code, and other applicable town ordinances or codes.

l. The proposed use or mix of uses is appropriate at the subject location.

m. Sufficient safeguards to the public interest are provided by the recommended special conditions to the master concept plan and by other applicable regulations.

n. All recommended special conditions are reasonably related to the impacts on the public's interest created by or expected from the proposed development.

o. The rezoning meets all specific requirements of the Comprehensive Plan that are relevant to the request, including the following:
   - Policy 4-C-4 on building heights taller than the standard height limit
   - Policy 4-C-6 on hotel/motel densities
   - Policy 4-C-8 on density transfers
   - Policy 7-J-2 on traffic impact analyses and potential design improvements that could offset traffic impacts

WHEREAS, the Town Council made the following formal findings before making final decisions on the four requested deviations from "by-right" requirements of the Land Development Code (see LDC 34-216 and 34-1803):

1. Deviations #1, #2, and #3 are being partially approved only due to the exceptional circumstances presented by the coordinated redevelopment of several critical parcels in the downtown zoning district in furtherance of policies in the Comprehensive Plan and design guidance provided by the Old San Carlos Boulevard / Crescent Street Master Plan. Key public benefits offered by the applicant include a perpetual view corridor along 324 feet of the beach side Estero Boulevard across the beach club resulting from a permanent transfer of density and development rights from the VE zone to the AE zone; and a second perpetual view corridor at the foot of the Matanzas Pass Bridge resulting from the permant transfer of density and development rights, no buildings on Parcel 3, and the donation of Parcel 4 to the Town of Fort Myers Beach.
2. All aspects of the proposed development, as limited by the special conditions being imposed by the Town Council, are compatible with the surrounding area,

including building height, traffic flow, and intensity of use.

3. The proposed development, as modified by these deviations, clearly exceeds all standards of the Fort Myers Beach Comprehensive Plan.
4. The proposed development, with the modified deviations being approved, does not exceed any maximum intensities contained in the Fort Myers Beach Comprehensive Plan.
5. Granting these deviations will enhance the achievement of the objectives of the proposed development.
6. The general intent of the LDC to protect the public health, safety, and welfare will be preserved and promoted with these deviations.
7. These deviations operate to the benefit, or at least not to the detriment, of the public interest.
8. These deviations are consistent with the Fort Myers Beach Comprehensive Plan.

WHEREAS, the Town Council finds that this application to amend Ordinance 24-01 and amend conditions of approval of the commercial planned development zoning, **consistent/ not consistent** with the Town of Fort Myers Beach Comprehensive Plan and LDC and voted to **deny/ approve/ approve with conditions** the Application.

NOW, THEREFORE, IT IS HEREBY 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 meet its burden of proof that the request to amend Town of Fort Myers Beach's Ordinance no. 18-04 and amend the conditions of approval for the commercial planned development zoning, **does/ does not** meet the requirements of the Town Comprehensive Plan and LDC. Therefore, based upon the recommendations, testimony, and evidence presented by the Applicant, Town staff, and interested parties, the Town Council **DENY/ APPROVE/ APPROVE WITH CONDITIONS** the requested application.

Section 3. Town Ordinance 18-04 is amended by this Ordinance and the schedule of uses and conditions of approval for the Property's CPD set forth in Exhibit A, attached hereto and incorporated herein by this reference is approved.

Section 4. 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 5. 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 6. 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 7. This Ordinance will take effect immediately upon adoption by the Town Council.

THE FOREGOING ORDINANCE 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:

DULY PASSED AND ADOPTED on this XX day of September 2024.

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

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:

_____
Gretchen R. H. Vose, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this ___ day of September 2024.

Exhibit A CONDITIONS OF APPROVAL

This project area includes six (6) parcels as demonstrated in MCP X-103-BNDY.01 Boundary Survey. Parcels 1, 2 and 3 are to be rezoned to Commercial Planned Development (CPD). Parcels 4, 5, and 6 will retain their existing zoning classifications. All parcels are included in the Master Concept Plan and subject to the conditions as outlined below:

1 Parcels 1, 2, and 3 are authorized for a maximum of 254 hotel rooms. Parcel 1 is approved for a maximum of 224 hotel rooms. Parcel 2 is approved for a maximum of 30 hotel rooms. Parcel 3 is approved for surface parking only and no other improvements or hotel rooms, other than an accessory surface parking lot, is permitted. The transfer of density and development rights of Parcel 3 is permanent and binding.

2 The CPD is authorized to allow building heights as follows, with these heights measured in accordance with 34-631 of the LDC, as depicted on the Master Concept Plan, and as described:

a. The main resort building on Parcel 1 may be up to 4 stories and up to 38 feet, 10 inches above base flood elevation, provided that the highest points of the roofline and any architectural features across the property shall not exceed 52 feet from 4.5 feet above mean sea level elevation.

b. The larger building on Parcel 2 may be up to 4 stories, provided that the highest points of the roofline and any architectural features shall be a height of 52 feet, 4 inches or less, above existing typical ground level. Approved building heights for all buildings on Parcel 2 are shown in the Master Concept Plan.

c. No buildings or vertical structures are permitted on Parcel 3. The transfer of density and developments rights on Parcel 3 is permanent and binding.

3 The CPD is authorized to allow floor area ratios as follows, measured in accordance with 34-633 of the LDC. The total land area of Parcel 1, 2, and 3 may be utilized for the floor area ratio calculation of 1.55. The square footage of the proposed buildings may be clustered as depicted on the Master Concept Plan and includes:

a. The constructed floor area ratio on Parcel 3 and 5 shall be 0.0. Buildings, or any other improvements other than improvements associated with an at surface grade parking lot on Parcel 3 and a pool security fence on Parcel 5, are prohibited on these parcels.

4 The CPD is authorized to replace the Type D buffer required by 10-416(d)(2) of the LDC with the buffer and sidewalk plan for Estero Boulevard, Crescent Street, and Fifth Street as shown on Sheets X-502-RW.00 through X-504-RW .02 of the Master Concept Plan as revised through May 2018, subject to the following requirements:

a. Prior to obtaining any development orders, the landowner will dedicate to the town/public a perpetual public sidewalk easement to accommodate a sidewalk of seven (7) feet in width on the south side of Fifth Street where the MCP shows portions of the proposed sidewalk on private land.

b. The landowner will construct the sidewalks, curbs, and tree yards and will plant the lawn and street trees, as shown on the Master Concept Plan, prior to the issuance of any temporary certificates of occupancy including for adjoining buildings. These improvements must meet technical specifications of the Town of Fort Myers Beach along Fifth Street and Crescent Street and of Lee County along Estero Boulevard, except for such deviations as granted by the Town when reviewing and approving the Master Concept Plan. The landowner will maintain the tree yards and street trees in perpetuity.

c. The street trees shown along Estero Boulevard will be located closer to the curb if, prior to approval of the Development Order, but no later than January 2019 and with appropriate documentation of coordination, FDOT and Lee County approves the new 1.5-foot lateral offset standard alignment of the Florida Department of Transportation.

d. Prior to Development Order application, the landowner will document their efforts to the Town to seek approval from Lee County to re-route stormwater from the existing drainage inlet on Estero Boulevard into the resort's stormwater system so that roots from street trees on this block cannot interfere with any underground exfiltration trench. The conveyance of the Estero Boulevard drainage into the resort stormwater system will only be constructed if there are no adverse impacts or backflow into the existing system.

e. No buffer vegetation may be planted in any public right-of-way or any sidewalk easement other than depicted on the Town approved Master Concept Plan.

f. While the Town approved Master Concept Plan provides conceptual approval of under-building screening of parking areas, as required by LDC 34-992 (d)(1); a compliance and enforcement determination of the materials, technical specifications, and minimum opacity of the latticework around the ground story are subject to approval of the Town Manager or designee, as required by 34-992(c) and 34-992(d)(2) of the LDC. At the concurrence of the land owner, the Town Manager may allow occasional segments of latticework to be replaced by an opaque screen to allow works of art to be displayed in place of climbing vegetation.

g. If at the end of the one (1) year plant establishment period from the end of the Temporary Certificate of Occupancy, the buffer plantings and climbing vegetation planted on the latticework do not visually

screen activities in the ground story, the Town Manager will require corrective action. Corrective actions may include, but are not limited to, different vegetation, different management techniques, and supplemental screening behind the latticework, among other practices. The property owner will take corrective action within 30-days of written notification from the Town regarding the deficiencies in the buffer. Failure to respond to any 30-day written notice shall constitute an appealable $500 per incident per day civil violation.

5 The approved property development regulations for this CPD are presented in the attached Exhibit A, which will be substituted during the permitting process for the property development regulations that the LDC provides for the DOWNTOWN zoning district.

6 The approved schedule of uses for this CPD is limited to the following:

Parcel 1 (Bay Side)	**Parcel 2** (Gulf Side)	**Parcel 3**
LODGING use group: **Hotel** **Uses Accessory to** ATM Administrative Offices Consumption on Premises, outdoor service and seating limited to locations on Sheets X-505-COP.01 & X-506-COP.02 Parking Lot, Accessory Subordinate Uses Temporary Uses, if permitted by Ch. 34 **MARINE** use group No Marina Uses	**LODGING** use group: **Hotel** **RETAIL** use group: **Recreation Facilities, Commercial** (limited to 325 total people per day who are not staying at the hotel) **Restaurant** **Commercial Accessory Uses:** ATM Administrative Offices Consumption on Premises, outdoor service and seating limited to locations on Sheets X-506-COP.01 & X-507-COP.02 Subordinate Commercial Water-oriented Rentals **MARINE** use group: (if permitted by Chapter 27) **Parasailing Operations Office** **Personal Watercraft Operations Office**	**LODGING** use group: **Uses Accessory to** Parking Lot, Accessory (the only use permitted on Parcel 3)

7. The property owner is responsible for accounting and enforcement of the per day limitation of 325 non-resort guests at the aquatic venue or lesser number based upon Fire Department occupancy limitations; and, if requested, for providing records to the Town on demand for verification. Failure to provide records or limit non-hotel guests and/or hotel guests to the approved maximum limits per day shall constitute a $500 per day per incident civil violation.

8 This CPD approves structures up to the following square-footage maximum on Parcels 1 and 2 which are entirely landward of the 1978 coastal construction control line and within the CPD zoning district boundary:

a. ***Hotel***

1. 250,783 SF, of which up to 96,085 SF could be guest units and up to 95,751 SF could be ground-story parking.

2. 224 guest units to be on bay-side Parcel 1 (above parking) and up to 84,745 square feet could be guest units.

3. 30 guest units to be on gulf-side Parcel 2 and up to 11,340 square feet.

b. Restaurant on Parcel 2

1. 15,870 SF for a restaurant, of which 1,514 SF would be a bar; plus, an additional 1,364 SF for outdoor seating and an additional 2,000 SF for indoor storage

c. Beach Club on Parcel 2

1. 3,786 SF for an ancillary restaurant

2. 2,508 SF in an existing building for ancillary restrooms and lockers

d. Pedestrian Bridges between Parcels 1- 2 if approved by Lee County

1. 2,691 SF for the access area required for a publicly accessible pedestrian bridge;

2. 1,380 SF for the pedestrian bridge that is not included in the FAR.

9 Redevelopment and future uses on the subject property must be consistent with the attached Master Concept Plan as approved by the Town Council as part of this request. All prior Master Concept Plans, CPD zoning approvals, special conditions, and development agreements for the subject property are no longer valid. All development activities and future uses must comply with all the requirements of the Town of Fort Myers Beach Land Development Code at the time of Development Order approval, except as explicitly modified by this CPD approval. Lot lines

shown on existing plats must be vacated or replatted, as appropriate and as administratively determined by the Town Attorney, prior to issuance of Development Orders. If changes to this approval are requested, they will be reviewed as requests to formally modify this CPD. This CPD's new Master Concept Plan consists of these 26 sheets:

a. X-G01 - Cover Sheet

b. X-101-FLU - Future Land Use and Project Boundary

c. X-103-BNDY.00 - Boundary Survey (1 of 2)

d. X-103-BNDY.01 - Boundary Survey (2 of 2)

e. X-104-DA - Developable Area Exhibit

f. X-105-MCP.00- *Floor Area Ratio* First Floor

g. X-106-MCP.01 - Floor Area Ratio Second Floor

h. X-107-MCP.02- Floor Area Ratio Third Floor

i. X-108-MCP.03 - Floor Area Ratio Fourth Floor

j. X-109-MCP.00 - Master Concept Plan First Floor

k. X-110-MCP.01 - Master Concept Plan Second Floor

l. X-111-MCP.02 - Master Concept Plan Third Floor

m. X-112-MCP.03 - Master Concept Plan Fourth Floor

n. X-113-MCP.04 - Master Concept Plan Deviations and Notes

o. X-114-MCP.05 - Master Concept Plan Building Height

p. X-A201 -Exterior Elevations

q. X-A202 -Exterior Elevations

r. X-A203 - Exterior Elevations

s. X-A301 - Building Sections

t. X-501 - Parking Locations and Calculations

u. X-502-RW.00 - Right-of-way and sidewalk/buffer plan

v. X-503-RW.01 - Right-of-way and sidewalk/buffer plan

w. X-504-RW.02 - Right-of-way and sidewalk/buffer plan

x. X-505-COP.01 - Consumption on Premises Diagrams

y. X-506-COP.02 - Consumption on Premises Diagrams Pedestrian Circulation

z. X-507-VT-Visibility Triangles

10 A pedestrian bridge across Estero Boulevard is shown on the Master Concept Plan. Conceptual approval of this bridge is subject to the following requirements for design, approval, and operation:

a. The pedestrian bridge must be constructed simultaneously with the buildings it connects.

b. The elevated terrace on the second story of the main resort building on Parcel 1 must include a public ADA compliant access for public use.

c. Visible publicly accessible stairwells and elevators on both sides of Estero Boulevard must connect the sidewalks to each end of the pedestrian bridge. The stairwell on Parcel 2 must provide access to publicly accessible restrooms in the restaurant building, with clear signage indicating the public's access and rights to use these restrooms and pedestrian bridge, if approved, without a fee or charge.

d. In order to guarantee the general public's permanent right to use the bridge and the adjoining stairways, elevators, and restrooms, the landowner must execute an instrument that guarantees this access in a form suitable to the Town Attorney.

e. Before constructing the bridge over Estero Boulevard, the landowner must obtain review and approval from Lee County and must enter into a formal agreement with Lee County regarding design, maintenance, liability, operations, future changes, and other relevant details. The bridge design must allow and not interfere with nor prevent all elements necessary for a traffic signal and grade level pedestrian crosswalk at the Estero Boulevard-Crescent Street intersection. If necessary, FDOT review and approval must be obtained.

f. All FDOT and Lee County approvals must be received by the applicant prior to approval by the Town. The Town's approval shall be limited to aesthetic and non-structural design.

11 Sheet X-109-MCP.00 of the Master Concept Plan identifies certain important features on Parcels 2 and 6 (the beach-side parcels) that will require separate critical actions by the Town and by the landowner at a later date. This sheet is being included in the Master Concept Plan with these understandings:

a. As shown on Sheet X-105, the landowner intends to request the vacation of a narrow right-of way at the end of Crescent Street, plus the first 185 feet of Canal Street south of Estero Boulevard which is part of Town-maintained Beach Access #36. Understanding that the Town's Comprehensive Plan strictly limits vacations of rights-of-way in order to preserve future access to the water, the landowner has agreed to provide a net increase in public access by donating Parcel 6 to the Town and constructing on it a new public street replacing Canal Street. The new public street will also be providing beach access and public parking spaces on 67 feet wide new rectangular

right-of-way beginning at Estero Boulevard. The Town Manager or designee shall be responsible for design approval of the new street. The new street will be completed on or before twelve (12) months following the issuance of a Development Order.

b. The landowner has also agreed to construct and dedicate a five-feet wide perpetual public access easement for a new pedestrian beach access at the "north" end of Parcel 2 that meets ADA accessibility requirements and the Town Manager's specifications as to design, surfacing and signage. The easement shall be constructed, completed, and open to the public on or before twenty-four (24) months following the issuance of the associated Development Order. During construction of the project the property owner shall maintain a minimum of one 25' wide ADA accessible beach access from Estero to the end of the property at or near the water.

c. The landowner will execute instruments to complete donations, the easement(s) for new pedestrian beach access easement and Parcel 6, in a form suitable to the Town Attorney and will provide them to the Town Attorney, who will not record either instrument unless the Town Council formally vacates the two existing rights-of-way shown on Sheet X-105; and:

   i. The landowner either completes the construction of the new street or allows continued public use of Canal Street or Temporary Beach Access until the new street is completed.

   ii. The Town will not issue development orders for demolition, site work, or new buildings on Parcels 1 or 2 unless the Town agrees to vacate both rights-of-way and related or associated property transfers are executed.

   iii. After the new street is constructed by the applicant and turned over to the Town, Parcel 6 will no longer be subject to any requirements of this CPD.

12 The beach club on Parcel 2 must meet these additional requirements:

a. To allow the reduced building frontage on the south side of Estero Boulevard (see LDC 34-675), development order plans must demonstrate three view corridors from Estero Boulevard to the beach (two totaling 319 feet; one totaling five feet) that total at least 324 feet along Estero Boulevard.

b. Any perimeter fence on the beach side of Estero Boulevard must be at least 80 percent transparent, must be placed within a landscaped planting area at least five (5) feet wide, and shall be maintained at a height of three (3) feet. If the Florida Building Code requires a taller fence at this location, the Fort Myers Beach Building Official shall adjust the fence height accordingly.

c. A detailed lighting plan, including any lit signage, must be provided with the development order application for the beach club; this plan must comply with LDC requirements in 10-154(8) and 14-76 for sea turtle conservation.

d. A detailed landscaping plan showing the location and type of all plantings, including beach plantings adjacent to the existing retaining wall, must be provided with the development order application for the beach club.

e. Directional signage approved by the Town as to design, installation methodology, and location shall be erected along Estero Boulevard that advises the public of both new public beach accesses.

f. The beach club and its ancillary uses may operate only from 7am to one hour after sunset, but never later than 9 pm. That is the Beach Clubs hours of operation unless otherwise temporarily altered in the Town's special event use regulations in Section 34-1264 of the LDC.

g. To implement the applicant's commitment to limit access to the beach club to 325 people per day who are not staying at the hotel, the resort will be required to submit monthly reports to the Town within 10 days after the end of each month showing the number of non-guest admissions for each day; and shall provide such information on demand and allow Town officials immediate access to this information for the current day at a designated location in the resort.

h. The beach club and aquatic venue shall provide no less than one security personnel per 200 guests.

i. All necessary dune plantings and walkovers shall be provided in compliance with Town codes and ordinances.

13 The following transportation and access features are shown on the Master Concept Plan and are an integral part of this approval:

a. All existing vehicular access points on Estero Boulevard shall be closed except the access to the one new public street on Parcel 6.

b. The one and only access point on Crescent Street will be an entrance-only driveway near the intersection with Fifth Street, which will be the main entrance for resort guests.

c. Access points on Fifth Street are limited to the one main exit for resort guests and a separate entrance and exit for service vehicles on Parcel 1, plus two existing driveways to the surface parking lot on Parcel 3.

~~**14** Prior to the Town issuing any development orders for demolition, site work, or new buildings on Parcel 2, the landowner must execute and record a restrictive covenant in favor of and enforceable by the Town in perpetuity that acknowledges that this CPD approval has consumed all~~

~~allowable density and intensity on Parcels 1, 2, 3, and 5 and that no~~ **No** additional development may occur beyond that which is approved by this CPD **without prior approval of the Town Council**. ~~Prior to issuance of a temporary or final certificate of completion on Parcel 2 (but not later than 36 months after commencing construction), the landowner must convey to the Town a perpetual conservation easement in a form acceptable to the Town Attorney, which after acceptance will be recorded in the Public Records of Lee County, over those portions of Parcels 2 and 3 on which structures or pavement are not constructed or proposed to be constructed under the Master Concept Plan adopted as part of this CPD.~~ The intent of this condition is to ~~limit in perpetuity the density and intensity of Parcels 2 and 3 to that which is approved by this CPD and to maintain all areas on which buildings and pavement are not constructed and as shown on the Master Concept Plan, only for outdoor recreation area on Parcel 2 and a single-level surface parking lot on Parcel 3, but specifically excluding any additional parking facilities, buildings, and other similar structures or any additional improvements~~ **require that any future changes to this CPD must comply with the Fort Myers Beach Plan and LDC in effect at the time of any future application**.

15 Development order plans must identify the location of 359 off-street parking spaces within the area now identified for parking on Parcels 1 and 3. The public parking spaces to be constructed on Parcel 6 cannot be counted toward the 359 spaces reserved for resort parking.

a. None of the 359 spaces are eligible for joint-use agreements or sharing agreements that would allow any of these spaces to substitute for off-street parking that is required by the LDC for businesses located outside this CPD's Master Concept Plan.

b. Prior to the issuance of a Temporary Certificate of Occupancy, the applicant will also construct or provide 75 dedicated parking spaces at an off-site location along the trolley route from the Beach Park & Ride facility to be available for the entire resorts parking needs within 2.8 miles of Parcel 1.

c. Three or more years after issuance of the resort's certificate of occupancy, the applicant may request to modify this condition to eliminate some or all of these off-site parking spaces upon a convincing showing that this condition requires more parking spaces than are needed for the entire resorts parking needs.

d. Identify to the Town if any shared use parking agreements are currently in existence and will be terminated to meet this CPD condition.

16 Development order plans must demonstrate that vehicles can be accommodated by a multi-vehicle parking mechanism per parking spot. Valet parking must be managed so that vehicles are never stacked on Crescent Street or 5th Street waiting to access the valet area. The property owner shall install No Stop/Stand signs on Crescent and 5th

Street.

17 Individual signs may be placed on this site during and after development as may be allowed by the LDC regulations that are in effect at that time. Murals are permitted in compliance with LDC regulations.

18 Service of alcoholic beverages for on-premises consumption is approved at the locations shown on Sheets X-505-COP.01 and X-506-COP.02 of the Master Concept Plan, subject to these limitations:

a. Service to outdoor seating is permitted on the second story outdoor terrace on Parcel 1, in the public restaurant on Parcel 2, and in the beach club on Parcel 2 provided service remains in substantial compliance with the COP diagrams on Sheets X-506-COP.01 and X-507-COP.02. Beverages purchased in approved indoor or outdoor service areas on Parcels 1 or 2 shall not be carried across the pedestrian bridge. The designated service areas shall be identified separately from areas where consumption is permitted, but not part of a service and/or seating area.

b. Alcoholic beverages and amplified music in the beach club are limited to 7:00 a.m. to one hour after sunset, but not later than 9:00 p.m. Expansion of COP onto the sandy beach seaward of the seawall is prohibited.

c. Amplified music on the outdoor terrace on Parcel 1 is limited 7:00 a.m. to one hour after sunset, but not later than 9:00 p.m.

d. Amplified music in unenclosed hotel restaurant and bar on Parcel 2 are limited to 7:00 a.m. to midnight.

e. Alcoholic beverages may not be served at locations other than those shown on the Master Concept Plan unless approved by special use permit, special exception or by administrative approval, as provided in 34-1264 of the LDC.

19 Prior to applying for a permit for the stormwater management system from the SFWMD, the landowner shall evaluate the receiving of drainage from the intersection of Crescent and Fifth for suitability and consistency with SFWMD requirements. Provided these two components can be combined under those requirements, the landowner will design and construct the project to receive stormwater from the intersection of Crescent Street and Fifth Street into and through the project's stormwater system, including cost of upsizing the project stormwater system. In order to be considered feasible, any routing of stormwater from the intersection of Crescent and Fifth Streets must accommodate the project's design as approved by this CPD and it shall be borne by the property owner. The property owner will provide copies of the SFWMD permit application, and all subsequent responses to requests for additional information, to the Town's stormwater consultant for review and concurrent with filing with the **SFWMD.**

20 In order to provide an additional view corridor along the approach to the Town from the Matanzas Pass Bridge, the applicant has offered and the Town has accepted the following changes to the Master Concept Plan:

a. No buildings will be constructed on Parcel 3 in perpetuity. Parcel 3 shall remain as a 21-space surface parking lot for the resort because all development rights on Parcel 3 are being used on Parcels 1 and 2. ~~Parcel 3 will be included in the covenants and conservation easement described in Condition 14.~~ Landscape buffers shall be done in accordance with MCP X-504-RW.02.

b. No buildings will be constructed on Parcel 4 by the applicant and the existing building will be removed. Parcel 4 will be donated by the applicant to the Town for civic, public purposes and will include a reverter in the event the parcel is not used for such civic, public purposes. The demolition and re-grading of the property will be completed no later than September 30th, 2018. The Town shall receive Parcel 4 within 60 calendar days of the issuance of all necessary approvals related to the development order and approvals of the pedestrian bridge. After the existing building is removed by the applicant and the property transfer is completed, Parcel 4 will no longer be subject to any requirements of this CPD. Demolition of Parcel 4 may be completed prior to development order being issued.

21 Barring a direct hurricane or other Acts of God and governmental-related delays, Parcel 1 and the Parcel 1 main hotel shall be completed and open for operation within three years of the issuance of a development order approval. All other portions, phases, and uses shall be in operation within five years of issuance of a development order approval. A Development Order application for development of Parcel 1 shall be submitted no later than 270 calendar days from effective date of the rezoning ordinance.

22 Additional approvals of special events are allowed. Application for such special event approvals shall be submitted through the Town's adopted Special Event processes and may temporarily alter hours of operation, amplified music limits, and public user capacity, among other items.

23 Bicycle racks for public use will be provided as shown on the Master Concept Plan. All bicycles and similar alternative transportation options shall be provided within the approved development footprint. Operations of any bicycle loan business or operation shall require the returning of bicycles to the CPD properties on a daily basis; as well as comply with Town Codes, and provide education materials about Town codes and regulations to bicycle users.

24 Construction staging shall be authorized when in compliance with all applicable Town codes, except that concrete delivery/pumping for the building's foundations and terrace may occur no earlier than 4:00 am. No staging shall be permitted on Parcel 4 or Parcel 6 after donation to the

Town. No other approvals are inferred from approval of the CPD. The landowner or developer shall be responsible for submittal of any requests for additional staging or construction management approvals from the Town Council.

25 Any violation of the CPD conditions of approval or deviations shall constitute a $500 per day per incident civil violation.

26 The applicant has offered to provide residents of the Fort Myers Beach community a "Discount Plan," which provides a 25 percent discount on food, alcohol and non-alcohol beverages, Family Beach Club Admission, and retail store purchases, to anyone with a valid FL Driver's License with a home address in zip code 33931.

27 Per LDC Section 34-216(b)(5), the revised Master Concept Plan must be submitted to the director reflecting all modifications to the deviations and conditions as made herein by the Town Council.

Findings Regarding the Conditions

1. All recommended special conditions are reasonably related to the impacts on the public interest created by or expected from the proposed development.

Town of Fort Myers Beach
COMMUNITY DEVELOPMENT DEPARTMENT STAFF REPORT

TYPE OF CASE:	**Commercial Planned Development Amendment**
CASE NUMBER:	**PD Amendment, 20240130**
CASE NAME:	**251 Crescent Street (incl. all associated addresses) approving five (5) deviations for a pole sign and monument sign adjacent to Estero Blvd.**
TOWN COUNCIL HEARING DATE:	**September 9, 2024 at 9 AM**
STAFF RECOMMENDATION:	**APPROVE WITH CONDITIONS**
PREPARED/ SUBMITTED BY:	**Jason Smalley; Senior Planner**

I. LPA OUTCOME

Discussion of the signs mainly focused on what codes the signs had violated and whether an amendment to the existing CPD was absolutely necessary. It was noted by staff that if the signs had met minimum setbacks and dimensions then they would eligible for an administrative amendment, but the signs did not meet code and thus must go through the full CPD amendment process. The LPA recommended approval by a vote of 7-0

II. APPLICATION SUMMARY

Applicant/Owner:	Morris-Depew/ TPI-FMB LLC (TPI)
Request:	CPD amendment approving deviations for a monument and pole sign; **1)** allow for a pole sign, **2)** allow for pole sign to be 9-feet tall and, **3)** allow sign to be less than 3-feet setback from the rear of a sidewalk or right-of-way; **4)** allow for monument sign to be 7.5-feet tall and, **5)** allow for monument sign to be setback a minimum of 6-inches from the rear of a sidewalk or right-of-way.
Subject property:	See attached site plan.
Physical Address:	251 Crescent St (incl. all associated addresses)

STRAP #:	24-46-23-W3-00205.0070 (MCP PARCEL #3), 24-46-23-W3-00006.0000 (MCP PARCEL #1), 24-46-23-W3-00206.0060 (MCP PARCEL #1), 24-46-23-W3-00009.0000 (MCP PARCELS #2 AND #5), 19-46-24-W4-U0494.2609 (MCP PARCEL #2), 24-46-23-W3-00205.0070, 19-46-24-W4-U0491.2610 (MCP PARCEL #2), 19-46-24-W4-0140B.0070 (MCP PARCELS #2 AND #5), 19-46-24-W4-U0496.2608 (MCP PARCEL #2), AND 19-46-24-W4-U0498.2607 (MCP PARCELS #2 AND #6)
FLU:	Pedestrian Commercial
Zoning:	Commercial Planned Development (CPD)

Adjacent zoning and land uses:

North:	CPD; Resort
South:	Environmentally Critical Area (EC)
East:	Downtown; Commercial Office/ Multi-Use
West:	Downtown; Public Park

III. BACKGROUND AND ANALYSIS

Background:

Morris-Depew, the contractor for TPI has applied to amend an existing CPD (24-01) to allow for five (5) deviations from the LDC to approve two existing signs, a pole sign and a monument sign. The signs have been installed at the corner of Estero Blvd and Crescent St., and the entrance to the applicant's aquatic center entrance on Estero Blvd.

A sign permit was applied for in August of 2022 and completed in November of 2022. In January of 2024 the Town received a signed Certificate of Completion from the applicant's inspector asserting that the signs had been installed to proper code. It was determined at the time that the signs had not met the minimum setback requirements of 3-feet from the rear of a sidewalk/ right-of-way. During the review of the non-compliant setbacks it was determined that the type of sign (pole sign) and heights of both the pole and monument signs were not compliant and that all deviations from the LDC should be approved through the CPD amendment process.

Analysis:

The signs in-question have already been installed in their approved locations, the size and placement of the signs do not appear to be injurious to the wider neighborhood, nor

present a risk to motorists or pedestrians. The right-of way adjacent to both signs are controlled by Lee County despite being within the Town's jurisdiction.

Five deviations from the Land Development Code are requested. Those are listed below and include the applicant's justification as well as a staff comment.

Requested Deviations:

1. **Deviation seeks relief from LDC Section 30-8 which prohibits pole signs, to allow for one (1) directional pole sign in the location shown on the MCP.**
   Applicant Justification: *As shown on the MCP, the location of the monument sign on Estero Blvd. provides pedestrians, the general public, and vehicular traffic with the ability to identify the location of the Margaritaville Beach Resort. As shown on the MCP, the location of the directional pole sign provides pedestrians with the ability to quickly navigate to other locations within the resort. Due to the location of the resort, bisecting Estero Blvd., the enhanced wayfinding signage is necessary for the traveling public to safely locate the resort while passing by in a generally congested area of Estero Blvd. Well-designed and strategically placed signage enhances navigation and improves the overall wayfinding experience by providing clear visual cues to help guide people to their destination.*

   Staff Comment: While pole signs are specifically disallowed in the Town's Land Development Code (LDC), the prohibition seems to be generally aesthetic in nature. Allowing the pole sign does not pose a risk to the wider community.

2. **Deviation seeks relief from LDC Section 30-5(a)(1)b.3.iii which requires freestanding signs in commercial districts not to exceed 5-feet in height above finished grade, to allow for one (1) directional pole sign to be a maximum height of 9-feet above finished grade in the location shown on the MCP.**
   Applicant Justification: *The heights and setbacks demonstrate a human-scale approach to wayfinding signage and works in concert with the other wayfinding resort signage to assist the user in orienting themselves and navigating to a specific destination within the resort campus. The monument sign provides the iconic brand identity for the Margaritaville Beach Resort brand, making it easy for pedestrians and the traveling public to safely locate while traveling along Estero Blvd. Relocating the signs would disrupt the established visual identity of the commercial development, which has been operating on Fort Myers Beach since December 2023*

   Staff Comment: The proposed heights are not out of scale for the size of the resort and the zone in which they are located, the signs do not appear to pose a risk to motorists or pedestrians wishing to cross Estero, or motorists driving north or south on Estero Blvd.

3. **Deviation seeks relief from LDC Section 30-5(a)(1)b.3.iv, which requires freestanding signs in commercial districts to be setback at least 3-feet from any public right-of-way or easement, to allow for one (1) monument sign and one (1) directional pole sign to be setback a minimum of 6 inches from the public right-of-way in the locations shown on the MCP.**

   Applicant Justification: *The location of the directional pole sign provides pedestrians with the ability to quickly navigate to other locations within the resort. Due to the location of the resort, bisecting Estero Blvd., the enhanced wayfinding signage is necessary for the traveling public to safely locate the resort while passing by in a generally congested area of Estero Blvd. Well-designed and strategically placed signage enhances navigation and improves the overall wayfinding experience by providing clear visual cues to help guide people to their destination. The heights and setbacks demonstrate a human-scale approach to wayfinding signage and works in concert with the other wayfinding resort signage to assist the user in orienting themselves and navigating to a specific destination within the resort campus.*

   Staff Comment: The location of the monument sign placed closer to the sidewalk/ right-of-way may present a minor risk to bicyclists, but in the months that the signs have been present the Town is not aware of pedestrians/ bicyclists at risk from running into the signs.

4. **Deviation seeks relief from LDC Section 30-5(a)(1)b.3.iii which requires monument signs not to exceed 5-feet in height above finished grade, to allow for one (1) monument sign to be a maximum height of 7.5-feet above finished grade in the location shown on the MCP.**

   Applicant Justification: *The heights and setbacks demonstrate a human-scale approach to wayfinding signage and works in concert with the other wayfinding resort signage to assist the user in orienting themselves and navigating to a specific destination within the resort campus. The monument sign provides the iconic brand identity for the Margaritaville Beach Resort brand, making it easy for pedestrians and the traveling public to safely locate while traveling along Estero Blvd. Relocating the signs would disrupt the established visual identity of the commercial development, which has been operating on Fort Myers Beach since December 2023*

   Staff Comment: The proposed heights are not out of scale for the size of the resort and the zone in which they are located, the signs do not appear to pose a risk to motorists or pedestrians wishing to cross Estero, or motorists driving north or south on Estero Blvd.

Neighborhood Compatibility:

Margaritaville resort is within the Town's Downtown zoning district and was previously approved through a CPD, the request for deviations to sign size and placement are not likely to change the character of the neighborhood or constitute a nuisance to neighbors.

Findings and Conclusions:

LDC Sec. 34-85(b) and (c) and 34-216(2) sets forth the required considerations and findings

for the approval of a rezoning.

(b) Considerations. In reaching its decision, the town council shall consider the following, whenever applicable:
(1) Whether there exists an error or ambiguity which must be corrected.
Staff response: No errors or ambiguities exist.

(2) Whether there exist changed or changing conditions which make approval of the request appropriate.
Staff response: The previous structure was destroyed by Hurricane Ian and redevelopment of the site makes the requests appropriate.

(3) The impact of a proposed change on the intent of this chapter.
Staff response: No impact on the intent of this chapter will occur.

(4) The testimony of any applicant.

(5) The recommendation of staff and of the local planning agency.

(6) The testimony of the public.

(7) Whether the request is consistent with the goals, objectives, policies, and intent, and with the densities, intensities, and general uses as set forth in the Fort Myers Beach Comprehensive Plan.
Staff response: The proposed development is in compliance with the intensity of the previously approved CPD

(8) Whether the request meets or exceeds all performance and locational standards set forth for the proposed use.
Staff response: The signs do not currently meet size, type or location requirements in the LDC, approval of the amendment would validate the deviations.

(9) Whether urban services are, or will be, available and adequate to serve a proposed land use change.
Staff response: The urban services exist in this location.

(10) Whether the request will protect, conserve, or preserve environmentally critical areas and natural resources.
Staff response: The request will have no impact on environmentally critical areas and natural resources.

(11) Whether the request will be compatible with existing or planned uses and not cause damage, hazard, nuisance, or other detriment to persons or property.
Staff response: The signs are currently installed in the requested locations on-site, the signs do not appear to be a risk to health and safety of motorists and pedestrians.

(12) Whether the location of the request places an undue burden upon existing transportation or other services and facilities and will be served by streets with the capacity to carry traffic generated by the development.
Staff response: The sign placement in these locations will not place an additional burden on the transportation network or other facilities and services.

(13) For planned development rezonings, see § 34-216 for additional considerations.

(c) Findings. Before granting any rezoning, the town council shall find that the requested zoning district complies with:
(1) The Fort Myers Beach Comprehensive Plan.
Staff response: The proposed uses and requested deviations for the CPD comply with the Comprehensive Plan.

(2) This chapter.
Staff response: The proposed uses comply with this chapter except in regard to the deviations.

(3) Any other applicable town ordinances or codes.
Staff response: The proposed request complies with the town ordinances and codes, except in regard to the deviations.

(4) For planned development rezonings, see § 34-216 of this chapter for additional findings.

a. The proposed use or mix of uses is appropriate at the subject location;
Staff response: The proposed mix of uses is appropriate in this location, it is in the Pedestrian Commercial Future land use and will be located in the Civic Center Mixed-Use District.

b. Sufficient safeguards to the public interest are provided by the recommended special conditions to the concept plan or by other applicable regulations;
Staff response: Sufficient safeguards are provided for the public interest.

c. All recommended special conditions are reasonably related to the impacts on the public's interest created by or expected from the proposed development;
Staff response: All conditions are related to the impacts on the public interest.

d. The proposed use meets all specific requirements of the comprehensive plan that are relevant to the requested planned development, such as the following:

1. Policies 4-B-4 and 4-C-3 on commercial uses in the "mixed residential" category.
Staff response: Not applicable.

2. Policies 4-B-5 and 4-C-3 on commercial rezonings in the "boulevard" category.
Staff response: Not applicable

3. Policy 4-C-4 on building heights taller than the standard height limit.

Staff response: Not applicable

4. Policy 4-C-8 on density transfers.
Staff response: Not applicable.

5. Policy 4-E-1 on pre-disaster build back.
Staff response: Not applicable.

6. Policy 7-J-2 on traffic impact analyses and potential design improvements that could offset traffic impacts.
Staff response: Not applicable

Findings for Deviation Requests:
Per Sec. 34-216(4) all deviations must be approved, approved with modification, or rejected based upon a finding that:

a. Each item enhances the achievement of the objectives of the planned development; and
Staff response: The requested deviations allow the development of the signage.

b. The general intent of this chapter to protect the public health, safety and welfare will be preserved and promoted; and
Staff response: The proposed deviations preserve public health.

c. Each deviation operates to the benefit, or at least not to the detriment, of the public interest; and
Staff response: The deviations are not a detriment to the public interest, it will be the responsibility of the applicant to ensure that any signage does not interfere with official signage along Estero or Crescent.

d. Each deviation is consistent with the Fort Myers Beach Comprehensive Plan.
Staff response: The deviations are consistent with the comprehensive plan.

IV. RECOMMENDATION

Staff finds that the CPD amendment meets the criteria set forth in Sec. 34-85(b) and (c) and 34-216(2) of the LDC and recommends approval of **DCI20240130** with the attached conditions.

V. CONDITIONS OF APPROVAL

1. All state and local permits, including but not limited to right of way and stormwater permits, must be applied for and received prior to site development.

2. All signage and landscaping must meet the Vehicle Visibility at Intersection requirements found in Sec. 34-3131

Staff Report Exhibits:
A – Amended Master Concept Plan

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Margaritaville Beach Resort

Commercial Planned Development Amendment

Request Narrative

July 31, 2024

I. PROPERTY INFORMATION & REQUEST

The 5.8+/-acre Subject Property is located at 251 Crescent Street, in the Town of Fort Myers Beach. It is located more specifically at the base of the Sky Bridge located on the north and south sides of Estero Blvd. and in between Crescent Street and Fifth Street. It is zoned Commercial Planned Development pursuant to Zoning Resolution #18-04 and is designated Pedestrian Commercial on the Future Land Use Map. Since the adoption of 18-04, amendments to the CPD were approved by Ordinances 23-09 and 24-01.

The applicant is requesting approval of a CPD amendment to allow for four (4) sign deviations. Approval of these deviation requests will allow for an existing 7.5 foot tall monument sign and an existing 9 foot tall directional pole sign to remain in their locations proximate to the intersection of Estero Blvd. and Crescent St. with 6-inch minimum setbacks .

Figure 1: Aerial Location Map

II. Background

Subsequent to sign permit approval (Permit 221492), the Applicant received notification that two (2) separate signs at the Resort do not comply with the Town's LDC. The Applicant is submitting this application to request relief from the strict requirements of the LDC in order to memorialize the approval of this signage and ensure that it will be allowed to remain as permitted.

One of the signs is a Monument Sign, shown in Figure 4 below, located on Estero Blvd. Deviations are being requested for this signage as follows:

- To provide relief from the maximum height requirement
- To provide relief from the minimum setback requirement

The other signage, shown in Figures 2 and 3 below, meets the definition of Directional Sign, pursuant to LDC 30-3:

> *Directional sign. Any sign which serves solely to designate the location of or direction to any place, activity, facility, or area.*

The signs point to various destinations on the resort campus and do not contain any advertising. Additionally, as each of the individual sign arrows is less than 4 sq ft in area, this signage also qualifies as an Exempt Sign, pursuant to LDC 30-4(a):

> *The following signs do not require a sign permit… Directional or instructional signs or symbols, such as entrance, exit, caution, slow, direction arrows, etc. located on and pertaining to a parcel or development and not to exceed four square feet in area or containing any advertising.*

However, Town planning staff is indicating that because this signage was already processed and approved as part of a larger sign permit package, it no longer qualifies as exempt, and deviations must be approved to allow it to remain. Staff indicated that it should be considered a "Pole Sign" and deviations should be requested as follows:

- To allow a pole sign which is not a permitted sign type.
- To provide relief from the maximum height requirement.
- To provide relief from the minimum setback requirement.

Please refer to the enclosed Deviations and Justifications narrative, which provides a detailed analysis of the deviation requests.

Figure 2: Margaritaville Directional Pole Sign

Figure 3: Margaritaville Directional Pole Sign

Figure 4: Margaritaville Monument Sign

Narrative Statements Per Supplement PH-D

A. Comprehensive Plan Amendments

There are no Comprehensive Plan Amendments pending that could affect the future use of this property.

B. Phasing of Construction

Not Applicable – the resort is entirely built out. This request is limited to signage deviations for an existing resort sign.

C. Comprehensive Plan Compliance - Explain how the proposed development complies with applicable Goals, Objectives, and Policies of the Fort Myers Beach Comprehensive Plan.

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%.

The Applicant's request is in direct compliance with the Pedestrian Commercial FLU category. The established Margaritaville Beach Resort contributes significantly to the walkable and pedestrian-oriented nature of this area of Fort Myers Beach. The resort provides pedestrian connectivity along both sides of Estero Blvd. utilizing innovative design techniques including a pedestrian bridge and provides a beachfront destination for tourists and locals alike. The development has already been approved and this request is limited to signage deviations for existing resort signage.

D. Design Standards Compliance - For projects required to meet Commercial Design Standards, explain how the proposed development complies with the design standards set forth in LDC Sections 34-991 through 34-997.

The Margaritaville Beach Resort is an approved and fully developed and operational development on Fort Myers Beach. Thus, the CPD is in full compliance with the design standards as outlined in LDC Sec. 34-991 – 34-997 as this project was previously approved and this request is limited to four (4) signage deviations for two (2) signs.

E. Decision-making Compliance - Explain how the proposed development complies with the guidelines for decision-making embodied in LDC Section 34-85.

LDC Sec. 34-85. - Rezonings.

(b) Considerations. In reaching its decision, the town council shall consider the following, whenever applicable:

(1) Whether there exists an error or ambiguity which must be corrected.

There is no error or ambiguity which must be corrected. The request is limited to signage deviations for an existing and built sign at the previously approved and fully developed Margaritaville Beach Resort.

(2) Whether there exist changed or changing conditions which make approval of the request appropriate.

The location of the sign is a result of building setbacks that were approved previously through the planned development approval process, as well as coordination with Lee County Department of Transportation and utility providers that mandated avoidance of existing equipment. The area that was ultimately allotted for the placement of the subject monument sign is confined, leaving no other alternative than the location that is the subject of this request. Had the

directional pole sign been installed without a sign permit, it would be exempt and allowed. Because it was included in a larger sign permit package it is no longer considered exempt by reviewing staff and deviations are now being requested.

(3) The impact of a proposed change on the intent of this chapter.

There is no considerable impact the proposed change has on the intent of this chapter. The request is limited to signage deviations for existing signs at a fully operational resort in the heart of Fort Myers Beach. The signage is necessary and critical for wayfinding purposes and provides visibility and identification of the resort to the traveling public as well as the pedestrian traffic. The signage upholds the intent of the LDC by assisting pedestrians and motorists with navigation and safely locating the resort, which is located on an often congested stretch of Estero Blvd.

(4) The testimony of any applicant.

To be provided at the hearing for the Town Council to consider.

(5) The recommendation of staff and of the local planning agency.

To be provided prior to the hearing for the Town Council to consider.

(6) The testimony of the public.

To be provided at the hearing for the Town Council to consider.

(7) Whether the request is consistent with the goals, objectives, policies, and intent, and with the densities, intensities, and general uses as set forth in the Fort Myers Beach Comprehensive Plan.

The request is consistent with the goals, objectives, policies, intent, and with the densities, intensities and general uses as set forth in the Fort Myers Beach Comprehensive Plan. The signs are located in the Pedestrian Commercial FLU, which encourages walkability and pedestrian-oriented design. The signs provide wayfinding for pedestrians and the traveling public and assist in identifying the resort. The request enhances the pedestrian orientation and aesthetic of the downtown area of the island as laid out in policy 4-B-6. Additionally, the development has already been approved and built and this amendment does not change the density, intensity, or any of the uses associated with the property.

(8) Whether the request meets or exceeds all performance and locational standards set forth for the proposed use.

The CPD meets or exceeds all performance and locational standards set forth for the proposed use, which is a beachfront resort, except where deviations have been approved or requested.

(9) Whether urban services are, or will be, available and adequate to serve a proposed land use change.

The CPD is completely developed and has adequate access to available urban services and existing public infrastructure.

(10) Whether the request will protect, conserve, or preserve environmentally critical areas and natural resources.

The site has been approved by FDEP through their permitting process and has already been developed. This request for signage deviations adjacent to the existing buildings and public rights-of-way does not change the site in any way that would cause harm to the environment.

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

The request is compatible with existing and planned uses in the surrounding area, which consist mainly of tourist support uses such as restaurants, bars, retail shops, and other beach resorts. The CPD and the Applicant's sign deviation requests will not cause damage, hazard, nuisance, or other detriment, but in fact will serve as a net gain for the community and will provide the essential wayfinding necessary for a beach resort located in the Pedestrian Commercial FLU.

(12) Whether the location of the request places an undue burden upon existing transportation or other services and facilities and will be served by streets with the capacity to carry traffic generated by the development.

The request will not place any undue burden upon existing transportation or other services as it only requests four (4) deviations from the sign code and does not change the density or intensity of the existing approved development.

(13) For planned development rezonings, see § 34-216 for additional considerations.

The Applicant is only requesting approval of sign deviations for an existing CPD, not a rezoning. Only 34-216(a)(4) is applicable.

LDC Sec. 34-216(a)(4), Deviations:

a. Each item enhances the achievement of the objectives of the planned development

LDC 34-612 states that the purpose of the planned development districts is to provide a degree of flexibility for a landowner to propose the development of land in a manner that differs from the specific provisions of this code. The requested deviations allow for signs to be located proximate to Estero Blvd. and Crescent St. with enhanced visibility to provide pedestrians and visitors to the resort with the ability to easily identify and locate the resort and be directed to various locations around the resort. Due to input from FDOT and Teco Gas, the

monument sign needed to be relocated closer to the right-of-way. The CPD allows for a beachfront resort that spans Estero Blvd. and requires enhanced visibility.

b. The general intent of this chapter to protect the public health, safety and welfare will be preserved and promoted

With safety at the forefront of this request, the deviation does not adversely impact the general public health, safety or welfare.

The location of the signs is also a result of building setbacks that were approved previously through the planned development approval process, as well as coordination with Lee County Department of Transportation and utility providers that mandated avoidance of existing equipment. The area that was ultimately allotted for the placement of the subject monument sign is confined, leaving no other alternative than the location that is the subject of this request. The location of the directional pole sign proximate to the intersection of Estero Blvd. and Crescent St. serves the purpose of that signage as a wayfinding tool.

c. Each deviation operates to the benefit, or at least not to the detriment, of the public interest

The requested deviations are directly aligned with providing a benefit to the public interest. The monument sign in the current location will enhance the visibility of the resort and reinforces the pedestrian oriented nature of this area of Fort Myers Beach. The human-scale design of the monument sign and the placement of the directional pole sign in a key location work together to enhance the users experience with a scenic approach to wayfinding.

d. Each deviation is consistent with the Fort Myers Beach Comprehensive Plan.

The requested deviations are consistent with the Pedestrian Commercial FLU, which encourages pedestrian-oriented design to improve walkability and wayfinding.

F. Schedule of deviations and written justification - Provide a list of the requested deviations keyed to the Master Concept Plan and provide a written justification for each deviation. The location of each deviation should be indicated on the Master Concept Plan.

Please see attached Schedule of Deviations and Justification Narrative, which outlines the requested deviations and their associated justifications. Please see attached revised Deviations sheet from the Master Concept Plan, which provides the locations that the requested deviations will be applied to.

G. Administrative amendments to approved Master Concept Plan - For amendments to an approved Master Concept Plan, indicate the specific amendments that could not be approved administratively as set forth in LDC Section 34-219.

LDC section 34-219(b)(1)b provides that the authority is granted to the Director to eliminate unnecessary processing delays for proposed changes that are in conformance with all Town regulations and plans. The request is seeking relief from the LDC through a deviation, so this request does not meet this criterion.

The deviations do not adversely impact public health, safety or welfare. For the reasons listed above, the Applicant respectfully requests approval of the four (4) sign deviations.

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July 31, 2024 SENT VIA EMAIL

Kendra Rosa
Zoning Coordinator
Town of Fort Myers Beach
Community Development Department
zoningpermits@fmbgov.com

RE: 251 Crescent St, Fort Myers Beach, FL 33931 Strap # 244623W3000060000
PD Amendment -MCP # 20240130 – To allow signs deviations

Dear Kendra:

The purpose of this letter is to provide a response to the Community Development Department review comments dated July 17, 2024 for the above referenced application. We always appreciate interaction with Staff on matters related to this application and welcome additional calls and emails that will assist us to address all the concerns in the most efficient manner to the extent this request can be approved.

Community Development Department

Comment/Condition:

1. *Narrative disputes that the applicant even needs approval for the revised "directional sign", but staff has been clear that this sign was originally permitted as part of the larger sign package and its original approval wasn't as a "directional sign". Their narrative and request for administrative amendment of their existing MCP doesn't address staff's position that this sign should be approved as part of the deviation requests. The applicant has proposed a "pole sign" which is a disallowed type of sign, the deviation ask is to approve a pole sign, the height of the pole sign and allow for the reduced setbacks to a public right-of-way.*

   Response: Please see attached revised narrative, revised schedule of deviations, and revised MCP Deviations sheet which have been updated to request deviations to allow a pole sign.

Comment/Condition:

2. "Revised MCP": This document has deviations listed that aren't relevant to this ask. "Meeting Building" and "Ancillary Retail" are noted on this MCP, those uses in those areas haven't been approved and aren't relevant. The deviations should be focused on just the locations of the two signs in question.

   Response: Please see attached revised MCP which is based on the most recently approved MCP.

Comment/Condition:

3. "Request Narrative": This document references "Zoning Resolution 18-04" but there was a newer, updated CPD ordinance and MCP approved through Ord. 24-01, you will be amending this CPD.

Response: Please see attached revised narrative which clarifies that since the adoption of 18-04, amendments to the CPD were approved by Ordinance 23-09 and 24-01.

Comment/Condition:

4. "Request Narrative": In this document it is noted that you are requesting an "administrative amendment" but that isn't correct, this will be a full MCP Amendment.

Response: Please see attached revised narrative which no longer requests or references an administrative amendment.

Please let us know if there is anything else needed for the approval of this request.

Sincerely,
MORRIS-DEPEW ASSOCIATES, INC.

Ben Smith
Director of Planning, Morris-Depew Associates Inc

Enclosure:
Revised Narrative
Revised Schedule of Deviations
Revised MCP Deviations Sheet

Cc: Jason Smalley, Senior Planner, Town of Fort Myers Beach

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Margaritaville Beach Resort

Commercial Planned Development

Schedule of Deviations and Justifications

July 31, 2024

Deviation 5 seeks relief from LDC Section 30-5(a)(1)b.3.iii which requires monument signs not to exceed 5-feet in height above finished grade, to allow for one (1) monument sign to be a maximum height of 7.5-feet above finished grade in the location shown on the MCP.

Deviation 6 seeks relief from LDC Section 30-5(a)(1)b.3.iv, which requires freestanding signs in commercial districts to be setback at least 3-feet from any public right-of-way or easement, to allow for one (1) monument sign and one (1) directional pole sign to be setback a minimum of 6 inches from the public right-of-way in the locations shown on the MCP.

Deviation 7 seeks relief from LDC Section 30-5(a)(1)b.3.iii which requires freestanding signs in commercial districts not to exceed 5-feet in height above finished grade, to allow for one (1) directional pole sign to be a maximum height of 9-feet above finished grade in the location shown on the MCP.

Deviation 8 seeks relief from LDC Section 30-8 which prohibits pole signs, to allow for one (1) directional pole sign in the location shown on the MCP.

As shown on the MCP, the location of the monument sign on Estero Blvd. provides pedestrians, the general public, and vehicular traffic with the ability to identify the location of the Margaritaville Beach Resort. As shown on the MCP, the location of the directional pole sign provides pedestrians with the ability to quickly navigate to other locations within the resort. Due to the location of the resort, bisecting Estero Blvd., the enhanced wayfinding signage is necessary for the traveling public to safely locate the resort while passing by in a generally congested area of Estero Blvd. Well-designed and strategically placed signage enhances navigation and improves the overall wayfinding experience by providing clear visual cues to help guide people to their destination. The heights and setbacks demonstrate a human-scale approach to wayfinding signage and works in concert with the other wayfinding resort signage to assist the user in orienting themselves and navigating to a specific destination within the resort campus. The monument sign provides the iconic brand identity for the Margaritaville Beach Resort brand, making it easy for pedestrians and the traveling public to safely locate while traveling along Estero Blvd. Relocating the signs would disrupt the established visual identity of the commercial development, which has been operating on Fort Myers Beach since December 2023. As one of the first major developments to open on Fort Myers Beach post-Hurricane Ian, the resort offers

a beachfront venue attracting visitors from around the world. For first-time visitors to Fort Myers Beach the monument sign at this exact location is critical to locating the resort and making the left turn on Crescent Street to park or enter the resort, and the directional pole sign location is critical to navigating the resort campus. The placement of the signs has been carefully considered to maximize visibility and accessibility for both pedestrians and motorists and provides essential wayfinding for the general public, which is essential to a tourist-oriented destination. The monument sign aligns with the intent of the LDC, which permits monument signs within landscaped medians. By doing so, the code implicitly acknowledges the value of strategic placement in enhancing streetscape aesthetics and promoting effective wayfinding. The directional pole sign aligns with the intent of the LDC which allows for directional signs to be exempt from permitting. In this context, the requested deviations uphold the underlying principles of the code while accommodating the signage of the resort. With safety at the forefront of this request, the deviation does not adversely impact the general public health, safety or welfare.

The location of the signs is also a result of building setbacks that were approved previously through the planned development approval process, as well as coordination with Lee County Department of Transportation and utility providers that mandated avoidance of existing equipment. The area that was ultimately allotted for the placement of the subject monument sign is confined, leaving no other alternative than the location that is the subject of this request.

For these reasons, the Applicant respectfully requests approval of these deviation requests to allow the existing monument sign and the existing directional pole sign to remain in the locations shown on the MCP. Photographs of the existing signs and their exact locations are provided in the Figures below.

Figure 1: Existing Monument Sign

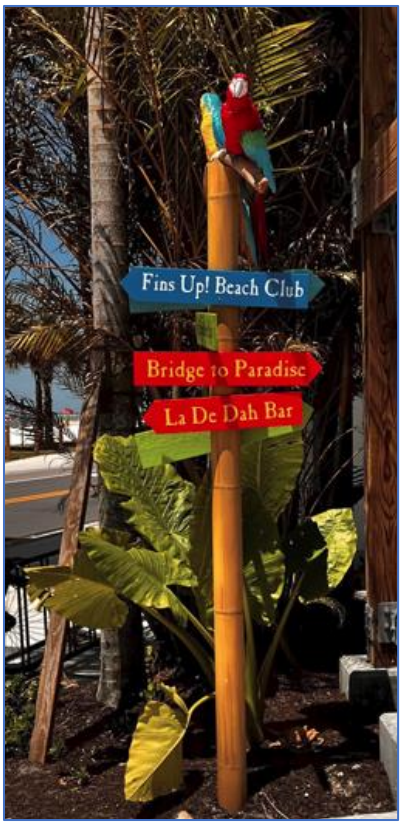
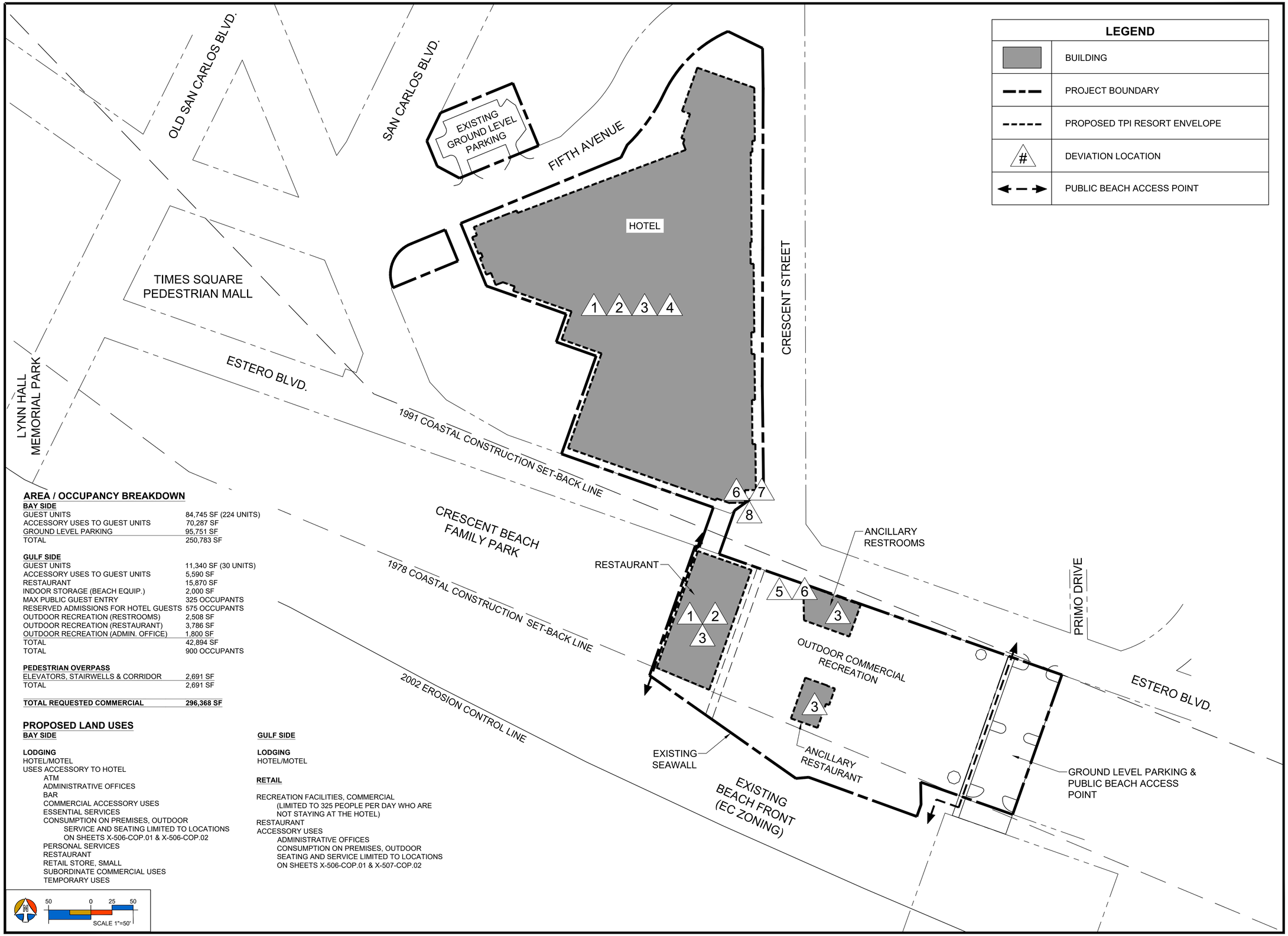


Figure 2: Existing Directional Pole Sign

Figure 3: Sign Location Map



LEGEND

	BUILDING
	PROJECT BOUNDARY
	PROPOSED TPI RESORT ENVELOPE
#	DEVIATION LOCATION
	PUBLIC BEACH ACCESS POINT

AREA / OCCUPANCY BREAKDOWN

BAY SIDE

GUEST UNITS	84,745 SF (224 UNITS)
ACCESSORY USES TO GUEST UNITS	70,287 SF
GROUND LEVEL PARKING	95,751 SF
TOTAL	250,783 SF

GULF SIDE

GUEST UNITS	11,340 SF (30 UNITS)
ACCESSORY USES TO GUEST UNITS	5,590 SF
RESTAURANT	15,870 SF
INDOOR STORAGE (BEACH EQUIP.)	2,000 SF
MAX PUBLIC GUEST ENTRY	325 OCCUPANTS
RESERVED ADMISSIONS FOR HOTEL GUESTS	575 OCCUPANTS
OUTDOOR RECREATION (RESTROOMS)	2,508 SF
OUTDOOR RECREATION (RESTAURANT)	3,786 SF
OUTDOOR RECREATION (ADMIN. OFFICE)	1,800 SF
TOTAL	42,894 SF
TOTAL	900 OCCUPANTS

PEDESTRIAN OVERPASS

ELEVATORS, STAIRWELLS & CORRIDOR	2,691 SF
TOTAL	2,691 SF

TOTAL REQUESTED COMMERCIAL	**296,368 SF**

PROPOSED LAND USES

BAY SIDE

LODGING
HOTEL/MOTEL
USES ACCESSORY TO HOTEL
- ATM
- ADMINISTRATIVE OFFICES
- BAR
- COMMERCIAL ACCESSORY USES
- ESSENTIAL SERVICES
- CONSUMPTION ON PREMISES, OUTDOOR SERVICE AND SEATING LIMITED TO LOCATIONS ON SHEETS X-506-COP.01 & X-506-COP.02
- PERSONAL SERVICES
- RESTAURANT
- RETAIL STORE, SMALL
- SUBORDINATE COMMERCIAL USES
- TEMPORARY USES

GULF SIDE

LODGING
HOTEL/MOTEL

RETAIL

RECREATION FACILITIES, COMMERCIAL
- (LIMITED TO 325 PEOPLE PER DAY WHO ARE NOT STAYING AT THE HOTEL)

RESTAURANT
ACCESSORY USES
- ADMINISTRATIVE OFFICES
- CONSUMPTION ON PREMISES, OUTDOOR SEATING AND SERVICE LIMITED TO LOCATIONS ON SHEETS X-506-COP.01 & X-507-COP.02

50 0 25 50
SCALE 1"=50'

PROJECT:

TPI-FMB CPD

LOCATION:

FORT MYERS BEACH
FLORIDA

CLIENT:

TPI HOSPITALITY
100% Employee Owned

TPI HOSPITALITY
103 FIFTEEN AVE. NW
WILLMAR, MN 56201
PHONE (320) 235-7207, FAX (320) 235-5563

CONSULTANTS:

ARCHITECT
RAMAKER & ASSOCIATES, INC.
103 FIFTEEN AVE. NW
WILLMAR, MN 56201
PHONE (320) 235-7775, FAX (320) 235-8673

PLANNING, CIVIL, SURVEY & LANDSCAPE ARCHITECTURE
MORRIS-DEPEW ASSOCIATES, INC.
2914 CLEVELAND AVENUE
FORT MYERS, FL 33901
PHONE (239) 337-3993, FAX (239) 337-3994

TRANSPORTATION
DAVID PLUMMER & ASSOCIATES
2149 MCGREGOR BLVD.
FORT MYERS, FL 33901
PHONE (239) 332-2617, FAX (239) 332-2645

REVISIONS	DATE

PROJECT MANAGER:	TME
DRAWING BY:	DAL
JURISDICTION:	TOWN OF FORT MYERS BEACH
DATE:	07/31/2024

SHEET TITLE:

MASTER CONCEPT PLAN
DEVIATIONS AND NOTES

SHEET NUMBER: X-113-MCP.04

JOB/FILE NUMBER: 15069-14

Town of Fort Myers Beach
Agenda Item Summary

Blue Sheet Number: **2024-192**

1. **Request:**

Meeting Date: September 9, 2024

Continued from August 19, 2024
Second Reading, Adoption and Final Public Hearing of an Ordinance Entitled: 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.

Why the action is necessary:
This is the second hearing for adoption of the ordinance that adopts the comprehensive plan and future land use map.

What the action accomplishes:
Adoption of the comprehensive plan is required by the state and will allow the Town to move forward on other related updates.

2. **Agenda:**
PUBLIC HEARINGS

3. **Requirement/Purpose:**
Ordinance

4. **Submitter of Information:**
Sarah Propst, Community Development, Planning Manager

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5. **Background:**
The Comprehensive Plan was approved by the Town Council for transmittal to the state. The state agency comments have been received and the response to those comments can be found in the agenda packet, along with the entire comprehensive plan for adoption. This is the second and final hearing for adoption of the comprehensive plan.

Attachments:
1. 24-10, Comprehensive Plan
2. Response Memo for adoption hearing
3. Coastal Management Element
4. Community Design Element
5. Conservation Element
6. Historic Preservation Element
7. Housing Element
8. InterGovernmental Coordination
9. Property Right Element
10. Recreation and Open Space Element
11. Transportation Element
12. Utlities Element

13. FLUM Map Complete
14. FLUM Mixed Use Areas

Financial Impact:
Unknown

6. **Alternative Action**
Recommend changes and adoption

7. **Management Recommendations:**
Adopt Ordinance 24-10

8. **Recommended Approval:**

Sarah Propst, Community Development, Planning Manager	Created/Initiated - 8/19/2024
nancy stuparich, Town Attorney	Approved - 8/25/2024
Amy Baker, Town Clerk	Approved - 8/28/2024
Andy Hyatt, Town Manager	Final Approval - 8/28/2024

ORDINANCE 24-10

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.

WHEREAS, The Town of Fort Myers Beach, Florida, has adopted a comprehensive plan by X-X and subsequently amended by Ordinance 24-08; and

WHEREAS, the Town Council of the Town of Fort Myers Beach, Florida, desires to amend the Town of Fort Myers Beach's Comprehensive Plan in its entirety, in accordance with Chapter 163.3184(3); and,

WHEREAS, the City Council has provided notice of the proposed Comprehensive Plan 2040 Amendment and has conducted the required public bearings to receive citizen input; and,

WHEREAS, the Comprehensive Plan contains goals, objectives, and policies to guide the development of the Town of Fort Myers Beach through the year 2040, addressing 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; and,

WHEREAS, the Local Planning Agency of the Town of Fort Myers Beach, held a public hearing at its duly noticed April 9, 2024 public meeting to consider the proposed Comprehensive Plan amendment and recommended that Town Council adopt the same; and,

WHEREAS, the Town Council has reviewed and considered all relevant evidence, information and testimony, as well as the recommendations of the Local Planning Agency, witnesses, the public, and Town staff and has determined that the proposed amendment is in compliance with Chapters 163.3184 and 166.041, Florida Statutes; and,

WHEREAS, the adoption of the Town's Comprehensive Plan furthers the health, safety and welfare of its citizens, local businesses and visitors of the Town; and,

WHEREAS, all the necessary hearings and public notices, in conformity with the procedural and

substantive requirements of Florida Statutes and the Comprehensive Plan have been complied with.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF FORT MYERSBEACH, LEE COUNTY, FLORIDA, as follows:

Section 1. Ratification of Recitals. The Town Council of the Town of Fort Myers Beach, Florida, hereby adopts and ratifies those matters as set forth in the foregoing recitals.

Section 2. Comprehensive plan amendment. The amendment to the Town of Fort Myers Beach Comprehensive Plan 2040 is hereby adopted amending the Goals, Objectives & Policies and Data Inventory & Analysis, including the Future Land Use Maps and all tables incorporated by reference, for the following elements: 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, as set forth in the attached Exhibit "A". A certified copy of the Stown of Fort Myers Beach Comprehensive Plan 2040 shall be located in the Town Clerk's office.
Section 3. Transmittal. The Town of Fort Myers Beach shall transmit within ten (10) working days, the amendment or amendments and appropriate supporting data and analyses to the reviewing agencies in accordance with 163.3l 84(3)(b)1, Florida Statute, and as specified in the State Land Planning Agency's procedural rules. Also, the Town of Fort Myers Beach shall transmit a copy of the amendments and supporting data and analyses to any other local government or governmental agency that has filed a written request with the Town of Fort Myers Beach.

Section 4. Severability. The provisions of this Ordinance are intended to be severable. If any provision of this Ordinance is determined to void or declared illegal, invalid, or unconstitutional by a court of competent jurisdiction, the remainder of this Ordinance shall remain in full force and effect.

Section 5. Repeal of Laws in Conflict. If any ordinances, or parts of ordinances, or if any sections, or parts of sections, of the Ordinances of the Town of Fort Myers Beach, Florida, are in conflict herewith, this Ordinance shall control to the extent of the conflicting provisions.

Section 6. Scrivener's Errors. Sections of this Ordinance may be renumbered or re-lettered and corrections of typographical errors, which do not affect the intent, may be authorized by the Town Manager, or the Town Manager's designee, without need of public hearing, by filing a corrected or re-codified copy of same with the Town Clerk.

Section 7. Effective Date. The effective date of this plan amendment, if the amendment is not timely challenged, shall be thirty-one (31) days after the state land planning agency notifies the Town of Fort Myers Beach that the plan amendment package is complete. If timely challenged, this amendment shall become effective on the date the state land planning agency or the Administration Commission enters a final order determining the adopted amendment to be in compliance in accordance with 166.3184 (3)(c)(4), Florida Statute. No development orders, development permits, or land uses dependent on this amendment may be issued or commence before it has become effective. If a final order of noncompliance is issued by the Administration Commission this amendment may nevertheless be made effective by adoption of a resolution affirming its effective status, a copy of which resolution shall be sent to the state land planning agency.

FIRST READING FOR TRANSMITTAL TO STATE AGENCIES
The foregoing Ordinance was heard by Town Council and moved for passage upon first reading this 6th day of May 2024.

PASSAGE UPON SECOND READING

The foregoing Ordinance was moved for passage upon second reading this ____ day of ___, 2024, by Council Member_____. The motion was seconded by Council Member _____. Upon being put to a vote, the vote was as follows:

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

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.

MEMORANDUM

Date: July 23rd, 2024

To: Town of Fort Myers Beach Town Council & LPA

Via: Town of Fort Myers Beach Community Development Department

From: The Corradino Group

Subject: Response to "Objections, Recommendations & Comments" from "Expedited State Review" of Comprehensive Plan Amendments under Ordinance No. 24-10

This memo outlines the review process for the Town's Comprehensive Plan amendments transmitted to the Florida Department of Commerce under Ordinance No. 24-10. It includes responses to comments received from state agencies based on their review of the transmittal package.

1. **Local Planning Agency Review**:

   The Town's Local Planning Agency reviewed the proposed amendments during a public special meeting on March 14, 2024.

2. **Town Council Hearing and Approval**:

   A public hearing was held by the Town Council on May 6, 2024, where the first reading of Ordinance No. 24-10 was approved for transmittal of the proposed amendments.

3. **Transmittal Process**:

   After the first reading, the Town of Fort Myers Beach transmitted the proposed amendments along with supporting data and analyses to the Florida Department of Commerce and reviewing agencies, as required by 163.3184(3)(b)1, Florida Statutes. The transmittal occurred on May 17, 2024, under the State Expedited Review process.

4. **Reviewing Agencies**:

   The proposed Comprehensive Plan Amendment Package (CPAP) was sent concurrently to the following agencies for review and response:

   - Southwest Florida Regional Planning Council
   - Lee County, Florida
   - Florida Department of Environmental Protection (FDEP)
   - Florida Department of Transportation (FDOT)

- South Florida Water Management District (SFWMD)
- Florida Department of State
- Florida Department of Education

5. **Responses Received**:

   - **Florida Department of Environmental Protection**: No provisions of the CPAP were found that would result in adverse impacts to the state resources under the Department's jurisdiction.
   - **Florida Department of Transportation, District 1**: Provided technical assistance and determined that the amendments are not anticipated to have significant adverse impacts on state transportation resources or facilities.
   - **South Florida Water Management District**: No regionally significant water resource issues were identified; however, advisory comments were provided.

6. **Technical Comments**:

   Please refer to the attached table for responses to the technical comments received from the South Florida Water Management District and FDOT District 1.

Attachments

1. Table of responses to technical comments from SFWMD and FDOT District 1.
2. Updated elements: Community Design, Conservation, and Transportation.

TABLE OF RESPONSES TO COMMENTS

ORIGINAL TEXT	AGENCY	COMMENT	RESPONSE	UPDATES TO ORIGINAL TEXT
Community Design Element				
POLICY CD-1-A-1 MIX OF USES Provide a complementary mix of land uses with design characteristics that provide: i. Uses that meet the daily needs of residents ii. A variety of affordable housing types	FDOT	Pg. 1 **Mixed-Use:** In addition to supplying a mix of uses, please take into account the difference between multiple uses and 'mixed use', which is vertically mixing uses within one building. This also will help with congestion and is encouraged in urban, walkable areas.	In our context, mixed-use includes both horizontal and vertical integration of uses. This approach promotes flexibility, functionality, and walkability in various urban settings.	None
OBJECTIVE CD-1-D MASTER PLANNED DEVELOPMENT Provide mechanisms to incentivize master planning large parcels and land assemblies for mixed-use development.		Pg. 4 **Infill/Reuse:** Promote traditional scale incremental development through infill development with streamline[d] processes, waiver of fees, maximization of administrative variances and waivers, and normalization of by-right approvals. Consider density or other incentives to encourage infill development.	Currently, the Town is not considering promoting traditional scale incremental development through these specific measures.	None
OBJECTIVE CD-1-F STREET FRONTAGES AND PARKING LOTS Develop policies to limit parking lots fronting main streets in the Land Development Regulations.		Pg. 5 **Parking:** In addition to strategies list here in policies, consider: • Setting parking maximums instead of parking minimums, consider context-based parking requirements allowing for a better-match of parking supply and demand than use-based requirements. • Shared-parking agreements and provide language to developers to enter into agreements. • Establish policies for in-lieu parking fees and centralized parking allowing for developers to pay a fee instead of providing in-site parking and use the revenue to fund public parking facilities or multimodal transportation improvements. • Establish requirements for short-term and long-term bicycle parking based on use and proximity to shared use path. • Establish parking cash-out programs for municipal employees and incentives such as transit passes or electric bicycle rebates. • Explore Demand Based Pricing / Dynamic Pricing for lots.	Revision made to new policy CD1-F-5 to include clarification of parking supply definition. Additional recommendations will be explored during the development of the Transportation and Mobility Master Plan under policy T-17-H-3.	POLICY CD-1-F-5 PARKING SUPPLY 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. For the purposes of this policy, parking supply shall mean vehicular, bicycle, and any future micromobility options.
POLICY CD-1-F-3 PARKING STANDARDS FOR NEW DEVELOPMENT IN MIXED-USE COMMERCIAL DISTRICTS 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, such as locating parking to rear of buildings, limiting curb cuts, and landscaping and façade requirements.		Pg. 5 **Parking Design:** Consider minimum widths for standard spaces as low as 8.5 ft. To discourage lots along Estero Blvd, adopt minimum front street to parking setbacks to encourage placement behind buildings.	This will be addressed in the updates to the Land Development Regulations.	None
OBJECTIVE CD-3-A COMPLETE STREETS AND BICYCLE INFRASTRUCTURE		Pg. 11 **Complete Streets:** Adopt a local roadway context classification system which defines what makes roadways 'complete' based on their context (including land use) and likely users and integrate into land developments regulations and comprehensive plan.	Noted, the Town will explore this approach during the development of the Transportation & Mobility Master Plan under policy T-17-H-3.	None

ORIGINAL TEXT	AGENCY	COMMENT	RESPONSE	UPDATES TO ORIGINAL TEXT
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.				
POLICY CD-3-A-3 MAINTAIN PEDESTRIAN CIRCULATION Maintain the pedestrian circulation plan: i. Bayside sidewalk and streetscape improvements for Estero Boulevard within the Core area with underground utilities and improved sidewalks. ii. Sidewalks (5' wide minimum sidewalk) along all streets in the Core Area. iii. 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. iv. 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. A new public pedestrian plaza at the east of Old San Carlos. vi. New on-street parking and side- walk on the south side of Crescent Street. vii. Third and Fourth Streets with on-street parking and sidewalks on both sides of the street. Proposed improvements with the pedestrian, parking, mass transit, and traffic circulation concepts in the Transportation Element of this plan.		Pg. 11 **Multimodal Infrastructure Implementation:** FDOTs Highway Safety Grant Program Subgrants May be awarded to assist in addressing pedestrian and bicycle safety deficiencies. Adopt Transit Buffer Zones or Overlays for reduced parking requirements and enhances pedestrian and bike infrastructure contributions. This may be integrated with Transit Oriented Development district/overlay which allows for more intense development. Consider Pedestrian Overlay Districts with standards for widening sidewalks and enhancing streetscape, ground-floor retail, and active uses. These may also be called Pedestrian Priority Zones.	Noted. The Town will explore measures and policy to adopt that enhance pedestrian and bike infrastructure during the development of the Transportation & Mobility Master Plan under policy T-17-H-3.	None
Future Land Use	*Element*			
POLICY FLU-1-C-8 AUXILIARY DWELLING UNITS FOR COMMERCIAL PROPERTIES: 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.	FDOT	Pg. 18 **Accessory Dwelling Unit:** Explore codes from City of Tampa, City of DeLand, Clay County for Accessory Dwelling Unit policies.	The Town will explore these codes for potential updates to the Land Development Regulations.	None
	Transportation Element			

ORIGINAL TEXT	AGENCY	COMMENT	RESPONSE	UPDATES TO ORIGINAL TEXT
POLICY T-17-H-3 RESERVED TRANSPORTATION MASTER PLAN: The Town shall maintain and regularly update a Transportation Master Plan or a Transportation Design Standard/Manual, using context-sensitive approaches to enhance safety and improve multimodal infrastructure and connectivity for residents and businesses. The Master Plan/Design Standard will at minimum create a standard approach to the design of Estero Boulevard, including, but not limited to, considerations of sidewalk width, pedestrian crossings, pedestrian bridges, landscaping and barriers as appropriate, beachfront access locations, trolley/bus stops, bicycle facilities, and micromobility options. Any Master Plan for the Town will consider parking locations on and off-island, as well as the necessary transit improvements to alleviate single-occupant vehicle usage.	FDOT	Pg. 6 **Transportation Plan: C**onsider enhancing Plan into Mobility Plan which could direct funding Mobility Fees to go towards road improvements, transit services, pedestrian, and bike facilities (similar to what was mentioned for Transportation Plan). Florida municipalities have the authority to tailor these fees to support local objectives within the bounds established in Statute 163.31801.	Updates to the policy clarify that the master plan encompasses both transportation and mobility.	POLICY T-1~~7~~-H-3 ~~RESERVED~~ TRANSPORTATION & MOBILITY MASTER PLAN: The Town shall maintain and regularly update a Transportation & Mobility Master Plan or a Transportation & Mobility Design Standard/Manual, using context-sensitive approaches to enhance safety and improve multimodal infrastructure and connectivity for residents and businesses. The Master Plan/Design Standard will at minimum create a standard approach to the design of Estero Boulevard, including, but not limited to, considerations of sidewalk width, pedestrian crossings, pedestrian bridges, landscaping and barriers as appropriate, beachfront access locations, trolley/bus stops, bicycle facilities, and micromobility options. Any Master Plan for the Town will consider parking locations on and off-island, as well as the necessary transit improvements to alleviate single-occupant vehicle usage.
	Conservation Element			
	SFWMD	The Conservation goals, objectives, and policies are lacking in substantive conservation policies and strategies throughout. The District recommends the Town consider the following items to substantiate the Town's commitment to water conservation: Inclusion of indoor or outdoor water conservation programs in the Conservation goals, objectives, and policies.		None
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-1 states the town will develop educational programming and that they will support public educational programs that encourage water conservation practices but does not explain the specific water conservation programs or how these conservation programs might be implemented.	POLICY CON-5-A-4 has been updated to ensure the Town adheres to established guidelines and procedures for water conservation. The Town will support and disseminate educational resources on water conservation created by the County, the SFWMD, or the Town, making them available to the public in both digital and paper formats.	None changes to policy CON 4-B-1. Refer to policy CON-5-A-4 for updated text. POLICY CON-5-A-4: Water and Wastewater Management Incorporate into the land development code measures applicable to new development and redevelopment to encourages year-round landscape irrigation conservation measures, and water and wastewater management such as low-volume irrigation systems, ~~xeriscape~~ Florida Friendly landscaping techniques, potential hook-ups to re-use water systems, and use of other conservation and recycling techniques demands on groundwater. The Town shall regularly review and adopt any local guidelines established by the South Florida Water Management District or Lee County, which will aid the Town's to conserve water.

ORIGINAL TEXT	AGENCY	COMMENT	RESPONSE	UPDATES TO ORIGINAL TEXT
		The Town should consider developing a website page dedicated to Water Conservation, which provides information on the Town's conservation education and outreach program, as well as links to educational water conservation information throughout the state.	Noted.	None
		Include a description of how the Town has been implementing the District's Mandatory Year-Round Landscape Irrigation Conservation Measures, as detailed in Chapter 40E-24, Florida Administrative Code (F.A.C.), which restricts the times and number of days landscape irrigation is allowed.	Updates to the Land Development Regulations will include language to ensure consistency with the mandatory year-round landscape irrigation conservation measures outlined in Chapter 40E-24 of the Florida Administrative Code (F.A.C.).	None
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-2: References to the 2017 Lower West Coast (LWC) Water Supply Plan should be updated to be the 2022 LWC WSP throughout the comprehensive plan.	Corrected to "2022".	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~~ 2022 Lower West Coast Water Supply Plan Update prepared by the South Florida Water Management District.
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.		Policy CON-5-A-4: The term 'xeriscape landscaping techniques' is dated language that has been replaced by Florida-Friendly Landscaping. The District recommends that the Town update this language to reflect current Florida Statutes.	Updated the terminology to 'Florida-Friendly Landscaping' to align with current Florida Statutes. Additionally, we have included language to ensure that any established Lee County guidelines for water and wastewater management are incorporated and applied, ensuring consistency with the SFWMD and county's conservation efforts.	POLICY CON-5-A-4: Water and Wastewater Management Incorporate into the land development code measures applicable to new development and redevelopment to encourages year-round landscape irrigation conservation measures, and water and wastewater management such as low-volume irrigation systems, ~~xeriscape~~ Florida Friendly landscaping techniques, potential hook-ups to re-use water systems, and use of other conservation and recycling techniques demands on groundwater. The Town shall regularly review and adopt any local guidelines established by the South Florida Water Management District or Lee County, which will aid the Town's to conserve water.
		Fort Myers Beach is required to revise its Water Supply Facilities Work Plan (Work Plan) within 18 months after approval of the LWC Water Supply Plan Update by the District's Governing Board. The District's Governing Board approved the 2022 LWC Water Supply Plan Update in December 2022. Therefore, the Town's Work Plan needed to be updated and adopted by June 2024.	Noted.	None

UPDATED ELEMENTS

~~Strikethrough~~: Text to be removed.
Underline: Text to be added.

New Text between 1st & 2nd reading

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.	GOAL CD-1	GROWTH AND DEVELOPMENT 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.
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.	OBJECTIVE CD-1-A	NEIGHBORHOOD SERVING COMMERCIAL CORES Identify mixed-use commercial districts throughout the island that provide neighborhood serving commercial uses and lifestyle retail around clusters of residential uses.
POLICY 1-A-1	Changes along Estero Boulevard should im- pose 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.	POLICY CD-1-A-1	MIX OF USES Provide a complementary mix of land uses with design characteristics that provide: i. Uses that meet the daily needs of residents ii. A variety of affordable housing types
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"	POLICY CD-1-A-2	CREATE THE TIMES SQUARE MIXED-USE DISTRICT. 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.

	amenities at trolley stops and beach accesses; 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	CREATE THE CIVIC CENTER MIXED-USE DISTRICT 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.
OBJECTIVE 1-B	OTHER PUBLIC SPACES — Beautify public spaces throughout the island.	POLICY CD-1-A-4	CREATE THE CENTER ISLAND MIXED-USE DISTRICT 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.

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	CREATE THE THEATRE & ARTS MIXED-USE DISTRICT The Theatre & Arts Mixed- Use District is envisioned with arts and theatre related uses like cafes, art galleries, art studios, and restaurants. Existing views to the water here should be preserved.
POLICY 1-B-2	Improve the appearance of the town throughout by landscaping public property and rights-of-way with native vegetation.	POLICY CD-1-A-6	CREATE THE SANTINI VILLAGE MIXED-USE DISTRICT 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.	OBJECTIVE CD-1-B	TRANSITION ZONES AND CONSERVATION DISTRICTS 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.	POLICY CD-1-B-1	TRANSITION ZONES 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.	POLICY CD-1-B-2	CREATE CONSERVATION DISTRICTS 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.	OBJECTIVE CD-1-C	Workforce Housing Through Density and Height Bonus
GOAL 2	To upgrade residential neighbor- hoods throughout Estero Island.	POLICY CD-1-C-1	Each of the mixed-use districts may provide for additional bonus height for developments that provide a workforce housing component.
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.	POLICY CD-1-C-2	The Town shall determine the minimum requirements for the workforce housing component as a policy in the land development regulations.

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 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.	OBJECTIVE CD-1-D	MASTER PLANNED DEVELOPMENT Provide mechanisms to incentivize master planning large parcels and land assemblies for mixed-use development.
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.	POLICY CD-1-D-1	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.
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.	POLICY CD-1-D-2	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.
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.	POLICY CD-1-D-3	Assembled parcels that exceed seven (7) acres must provide a master plan for approval by the Town at a public hearing.
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 spe- cific 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 pep- per, melaleuca, and Java plum.	OBJECTIVE CD-1-E	PRESERVING BUILDING SCALE BY ADAPTIVE REUSE OF EXISTING BUILDING STOCK Encourage conversions from vacation rentals and motels to condominiums to provide affordable housing options for Fort Myers Beach's workforce.

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: 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.	POLICY CD-1-E-1	ADAPTIVE REUSE 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 incentives, such as relief in the Land Development Regulations, grants to facilitate retrofitting or rehabilitation, etc.
GOAL 3	To revitalize and improve specific transitional neighborhoods.	POLICY CD-1-E-2	INCENTIVES FOR ADAPTIVE REUSE 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.
OBJECTIVE 3-A	HEART OF THE ISLAND — Redevelop the School/Library/Bay Oaks area as the new “heart of the island.”	OBJECTIVE CD-1-F	STREET FRONTAGES AND PARKING LOTS Develop policies to limit parking lots fronting main streets in the Land Development Regulations.
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.	POLICY CD-1-F-1	RESTRICTING PARKING AS A PRIMARY USE ON ESTERO BOULEVARD Parking lots shall not be encouraged as a primary use on Estero Boulevard.
POLICY 3-A-2	A prominent civic structure benefits the com- munity 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.	POLICY CD-1-F-2	RESTRICTING PARKING FRONTAGE LENGTH ON ESTERO BOULEVARD Parking lot frontages shall ideally be limited in size to one fourth the lot width on Estero Boulevard.

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.	POLICY CD-1-F-3	PARKING STANDARDS FOR NEW DEVELOPMENT IN MIXED-USE COMMERCIAL DISTRICTS 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, 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.	POLICY CD-1-F-4	PARKING STANDARDS IN TIMES SQUARE Improve the current parking situation near Times Square through the means outlined in the Transportation Element of this plan.
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 — neighbor-hoods 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.	POLICY CD-1-F-5	PARKING SUPPLY 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. For the purposes of this policy, parking supply shall mean vehicular, bicycle, and any future micromobility options.
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:	OBJECTIVE CD-1-G	DESIGN STANDARDS FOR PRESERVING BEACHFRONT CHARACTER Develop building design standards to preserve and enhance the existing beachfront character.

	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; 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.	POLICY CD-1-G-1	NEIGHBORHOODS AND MIXED-USE DISTRICTS 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.	POLICY CD-1-G-2	ESTERO BOULEVARD 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.	POLICY CD-1-G-3	GUIDELINES FOR BUILDING COMPATIBILITY WITH FLOOD REGULATIONS 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	COMMUNITY CHARACTER OF PUBLIC SPACES 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.
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	PUBLIC SPACES AND VIEWS TO THE WATER Use urban design standards to reinforce walkable streets, public and private spaces and a sense of community through the public realm.
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	OPEN SPACE AND LAND USE Beautify public spaces throughout the island and preserve and protect natural areas that serve and benefit the public.
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	VIEW CORRIDORS 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.
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.	POLICY CD-2-A-4	ENTRY GATEWAYS 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 3-D-3	Continue with sidewalk improvements: i. Standard sidewalk widths should be pro- vided 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.	OBJECTIVE CD-2-B	STREETSCAPE Enhance the existing paths and sidewalks and streetscape to foster a more appealing environment for walking and biking.
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	POLICY CD-2-B-1	COMMERCIAL STREETSCAPE 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.

	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. 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 in-adequate and a parking garage must be built, appropriate locations would be to the rear of new storefronts facing Old San Carlos.	POLICY CD-2-B-2	LANDSCAPE FEATURES 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.	POLICY CD-2-B-3	STREET CROSSINGS 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 un-der Estero Boulevard). Similar systems can be installed for private development under parking lots or open space.	POLICY CD-2-B-4	RESIDENTIAL STREETSCAPE 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.	POLICY CD-2-B-5:	RESIDENTIAL STREET PROGRAM The town should develop a residential streets program to implement the landscape plan. The Program can provide: 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. financial assistance for planting trees. iv. a booklet describing the characteristics of desirable street trees for Fort Myers Beach. v. a guidebook for tree planting, irrigation, and pruning methods. vi. a plan for short- and long-term maintenance of planted areas and street trees.
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.	GOAL CD-3	CONNECTIVITY AND MOBILITY TO REDUCE TRAFFIC IMPACTS Plan for interconnected streets and pedestrian paths that connect to mixed-use commercial districts to enhance mobility options.
		OBJECTIVE CD-3-A	COMPLETE STREETS AND BICYCLE INFRASTRUCTURE 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.
		POLICY CD-3-A-1	INTERCONNECTED PATHS 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.
		POLICY CD-3-A-2	STREET CONNECTIVITY 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.
		POLICY CD-3-A-3	MAINTAIN PEDESTRIAN CIRCULATION

			Maintain the pedestrian circulation plan: i. Bayside sidewalk and streetscape improvements for Estero Boulevard within the Core area with underground utilities and improved sidewalks. ii. Sidewalks (5' wide minimum sidewalk) along all streets in the Core Area. iii. 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. iv. 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. A new public pedestrian plaza at the east of Old San Carlos. vi. New on-street parking and side- walk on the south side of Crescent Street. vii. Third and Fourth Streets with on-street parking and sidewalks on both sides of the street. viii. Proposed improvements with the pedestrian, parking, mass transit, and traffic circulation concepts in the Transportation Element of this plan.

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 sunder 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 form 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.
]v. 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 wate

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 2022 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 encourages year-round landscape irrigation conservation measures, and 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. The Town shall regularly review and adopt any local guidelines established by the South Florida Water Management District or Lee County, which will aid the Town's efforts to conserve water.

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 property 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~~

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/ferries linked to off-island systems, and parking options matched to road capacity.

OBJECTIVE T-1~~7~~-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-1~~7~~-A-1 CONGESTION: ~~Every winter~~ During peak times Estero Boulevard can become~~s~~ 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-1~~7~~-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 and other appropriate initiatives.

POLICY T-1~~7~~-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-1~~7~~-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-1~~7~~-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-1~~7~~-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-1~~7~~-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 additional appropriate right-of-way

improvements. ~~the turnover of responsibility for its maintenance if necessary to carry out these improvements or to further other town policies.~~

OBJECTIVE T-1~~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 T-1~~7~~-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-1~~7~~-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-1~~7~~-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-1~~7~~-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. The Town will encourage businesses to develop creative programs that incentivize visitors and employees to arrive without a car.

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-1~~7~~-D-~~2~~4 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-1~~7~~-D-~~3~~5 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-1~~7~~-D-~~4~~6 ENCOURAGE WATER ~~TAXIS~~ TRANSPORTATION: 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 or provide assistance, as deemed appropriate by the Town Council, 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~~ transportation. Where possible, water ~~taxi~~ transportation 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-1~~7~~-D-~~5~~7 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-1~~7~~-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 suit- able partnership to this end cannot be achieved with Lee County, the town may consider taking on maintenance responsibility for Estero Boulevard.)~~

POLICY T-1~~7~~-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-1~~7~~-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-1~~7~~-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-1~~7~~-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.

POLICY T-1-E-5: PARTNERSHIPS FOR PEDESTRIAN BRIDGES: The Town will evaluate partnerships between development projects that are across from each other along Estero Boulevard to incentivize pedestrian bridge crossings provided as a public benefit. Collaboration with property owners and the Town shall also be encouraged to provide pedestrian safety and walkability through the implementation of pedestrian bridges.

OBJECTIVE T-1~~7~~-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-1~~7~~-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-1~~7~~-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-1~~7~~-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 T-1-4 ~~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-1~~7~~-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, The Town will encourage development of an overpasses throughout the Town that provideing 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 pPedestrian-actuated stop lights may be replaceable with a flashing caution lights crosswalk beacons may be appropriate where pedestrian overpasses are not warranted 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 TRANSPORTATION & MOBILITY MASTER PLAN: The Town shall maintain and regularly update a Transportation & Mobility Master Plan or a Transportation & Mobility Design Standard/Manual, using context-sensitive approaches to enhance safety and improve multimodal infrastructure and connectivity for residents and businesses. The Master Plan/Design Standard will at minimum create a standard approach to the design of Estero Boulevard, including, but not limited to, considerations of sidewalk width, pedestrian crossings, pedestrian bridges, landscaping and barriers as appropriate, beachfront access locations, trolley/bus stops, bicycle facilities, and micromobility options. Any Master Plan for the Town will consider parking locations on and off-island, as well as the necessary transit improvements to alleviate single-occupant vehicle usage.

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-1~~7~~-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-1~~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.

POLICY T-1~~7~~-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.

POLICY T-1-H-11 TRANSPORTATION ALTERNATIVES: The Town will establish within its development standards, as appropriate, measures and requirements of transportation alternatives for new developments, including transportation technologies and approaches that will impact travel patterns, signalization, curb management, cycling, pedestrian travel, parking, loading/unloading demand, supporting infrastructure, and roadway design. The Town will establish, as appropriate, community-oriented solutions and benefits to alleviate traffic impacts from tourist-based industries, including hotels/motels, such as voucher or shuttle programs for visitors and workforce transportation, among other transportation demand management techniques.

Policy T-1-H-12: EMERGING TECHNOLOGIES: The Town will continue to evaluate emerging transportation technologies including, but not limited to autonomous vehicles, traffic signalization, parking information, enhanced real time communication, and artificial intelligence in relation to the impacts these advancements will have on transportation, land use, and the mobility options. This evaluation will also include best practices and methods for the safe and context sensitive implementation of shared mobility and micromobility solutions, such as microtransit, dockless bicycle share, dockless scooters, and e-bikes as appropriate for the Town.

OBJECTIVE T-1~~7~~-I LEVEL-OF-SERVICE STANDARD — Maintain minimum acceptable levels of service for the transportation system.

POLICY T-1~~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 alternate means of mobility including walking, bicycling, and trolleys.

POLICY T-1~~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 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-1~~7~~-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 requests 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.

Coastal Management Element

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 of 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 the 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 access~~es~~ 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 gen eral 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.

Community Design Element

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Underline: Text to be added.

New Text between 1st & 2nd reading

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.	GOAL CD-1	GROWTH AND DEVELOPMENT 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.
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.	OBJECTIVE CD-1-A	NEIGHBORHOOD SERVING COMMERCIAL CORES Identify mixed-use commercial districts throughout the island that provide neighborhood serving commercial uses and lifestyle retail around clusters of residential uses.
POLICY 1-A-1	Changes along Estero Boulevard should im- pose 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.	POLICY CD-1-A-1	MIX OF USES Provide a complementary mix of land uses with design characteristics that provide: i. Uses that meet the daily needs of residents ii. A variety of affordable housing types
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"	POLICY CD-1-A-2	CREATE THE TIMES SQUARE MIXED-USE DISTRICT. 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.

	amenities at trolley stops and beach accesses; 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	CREATE THE CIVIC CENTER MIXED-USE DISTRICT 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.
OBJECTIVE 1-B	OTHER PUBLIC SPACES — Beautify public spaces throughout the island.	POLICY CD-1-A-4	CREATE THE CENTER ISLAND MIXED-USE DISTRICT 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.

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	CREATE THE THEATRE & ARTS MIXED-USE DISTRICT The Theatre & Arts Mixed- Use District is envisioned with arts and theatre related uses like cafes, art galleries, art studios, and restaurants. Existing views to the water here should be preserved.
POLICY 1-B-2	Improve the appearance of the town throughout by landscaping public property and rights-of-way with native vegetation.	POLICY CD-1-A-6	CREATE THE SANTINI VILLAGE MIXED-USE DISTRICT 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.	OBJECTIVE CD-1-B	TRANSITION ZONES AND CONSERVATION DISTRICTS 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.	POLICY CD-1-B-1	TRANSITION ZONES 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.	POLICY CD-1-B-2	CREATE CONSERVATION DISTRICTS 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.	OBJECTIVE CD-1-C	Workforce Housing Through Density and Height Bonus
GOAL 2	To upgrade residential neighbor- hoods throughout Estero Island.	POLICY CD-1-C-1	Each of the mixed-use districts may provide for additional bonus height for developments that provide a workforce housing component.
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.	POLICY CD-1-C-2	The Town shall determine the minimum requirements for the workforce housing component as a policy in the land development regulations.

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 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.	OBJECTIVE CD-1-D	MASTER PLANNED DEVELOPMENT Provide mechanisms to incentivize master planning large parcels and land assemblies for mixed-use development.
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.	POLICY CD-1-D-1	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.
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.	POLICY CD-1-D-2	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.
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.	POLICY CD-1-D-3	Assembled parcels that exceed seven (7) acres must provide a master plan for approval by the Town at a public hearing.
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 spe- cific 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 pep- per, melaleuca, and Java plum.	OBJECTIVE CD-1-E	PRESERVING BUILDING SCALE BY ADAPTIVE REUSE OF EXISTING BUILDING STOCK Encourage conversions from vacation rentals and motels to condominiums to provide affordable housing options for Fort Myers Beach's workforce.

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: 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.	POLICY CD-1-E-1	ADAPTIVE REUSE 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 incentives, such as relief in the Land Development Regulations, grants to facilitate retrofitting or rehabilitation, etc.
GOAL 3	To revitalize and improve specific transitional neighborhoods.	POLICY CD-1-E-2	INCENTIVES FOR ADAPTIVE REUSE 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.
OBJECTIVE 3-A	HEART OF THE ISLAND — Redevelop the School/Library/Bay Oaks area as the new “heart of the island.”	OBJECTIVE CD-1-F	STREET FRONTAGES AND PARKING LOTS Develop policies to limit parking lots fronting main streets in the Land Development Regulations.
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.	POLICY CD-1-F-1	RESTRICTING PARKING AS A PRIMARY USE ON ESTERO BOULEVARD Parking lots shall not be encouraged as a primary use on Estero Boulevard.
POLICY 3-A-2	A prominent civic structure benefits the com- munity 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.	POLICY CD-1-F-2	RESTRICTING PARKING FRONTAGE LENGTH ON ESTERO BOULEVARD Parking lot frontages shall ideally be limited in size to one fourth the lot width on Estero Boulevard.

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.	POLICY CD-1-F-3	PARKING STANDARDS FOR NEW DEVELOPMENT IN MIXED-USE COMMERCIAL DISTRICTS 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, 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.	POLICY CD-1-F-4	PARKING STANDARDS IN TIMES SQUARE Improve the current parking situation near Times Square through the means outlined in the Transportation Element of this plan.
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 — neighbor-hoods 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.	POLICY CD-1-F-5	PARKING SUPPLY 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. For the purposes of this policy, parking supply shall mean vehicular, bicycle, and any future micromobility options.
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:	OBJECTIVE CD-1-G	DESIGN STANDARDS FOR PRESERVING BEACHFRONT CHARACTER Develop building design standards to preserve and enhance the existing beachfront character.

	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; 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.	POLICY CD-1-G-1	NEIGHBORHOODS AND MIXED-USE DISTRICTS 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.	POLICY CD-1-G-2	ESTERO BOULEVARD 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.	POLICY CD-1-G-3	GUIDELINES FOR BUILDING COMPATIBILITY WITH FLOOD REGULATIONS 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	COMMUNITY CHARACTER OF PUBLIC SPACES 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.
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	PUBLIC SPACES AND VIEWS TO THE WATER Use urban design standards to reinforce walkable streets, public and private spaces and a sense of community through the public realm.
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	OPEN SPACE AND LAND USE Beautify public spaces throughout the island and preserve and protect natural areas that serve and benefit the public.
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	VIEW CORRIDORS 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.
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.	POLICY CD-2-A-4	ENTRY GATEWAYS 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 3-D-3	Continue with sidewalk improvements: i. Standard sidewalk widths should be pro- vided 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.	OBJECTIVE CD-2-B	STREETSCAPE Enhance the existing paths and sidewalks and streetscape to foster a more appealing environment for walking and biking.
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	POLICY CD-2-B-1	COMMERCIAL STREETSCAPE 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.

	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. 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 in-adequate and a parking garage must be built, appropriate locations would be to the rear of new storefronts facing Old San Carlos.	POLICY CD-2-B-2	LANDSCAPE FEATURES 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.	POLICY CD-2-B-3	STREET CROSSINGS 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 un-der Estero Boulevard). Similar systems can be installed for private development under parking lots or open space.	POLICY CD-2-B-4	RESIDENTIAL STREETSCAPE 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.	POLICY CD-2-B-5:	RESIDENTIAL STREET PROGRAM The town should develop a residential streets program to implement the landscape plan. The Program can provide: 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. financial assistance for planting trees. iv. a booklet describing the characteristics of desirable street trees for Fort Myers Beach. v. a guidebook for tree planting, irrigation, and pruning methods. vi. a plan for short- and long-term maintenance of planted areas and street trees.
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.	GOAL CD-3	CONNECTIVITY AND MOBILITY TO REDUCE TRAFFIC IMPACTS Plan for interconnected streets and pedestrian paths that connect to mixed-use commercial districts to enhance mobility options.
		OBJECTIVE CD-3-A	COMPLETE STREETS AND BICYCLE INFRASTRUCTURE 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.
		POLICY CD-3-A-1	INTERCONNECTED PATHS 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.
		POLICY CD-3-A-2	STREET CONNECTIVITY 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.
		POLICY CD-3-A-3	MAINTAIN PEDESTRIAN CIRCULATION

			Maintain the pedestrian circulation plan: i. Bayside sidewalk and streetscape improvements for Estero Boulevard within the Core area with underground utilities and improved sidewalks. ii. Sidewalks (5' wide minimum sidewalk) along all streets in the Core Area. iii. 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. iv. 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. A new public pedestrian plaza at the east of Old San Carlos. vi. New on-street parking and side- walk on the south side of Crescent Street. vii. Third and Fourth Streets with on-street parking and sidewalks on both sides of the street. viii. Proposed improvements with the pedestrian, parking, mass transit, and traffic circulation concepts in the Transportation Element of this plan.

Conservation Element

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 sunder 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 form 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.
]v. 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 wate

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 2022 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 encourages year-round landscape irrigation conservation measures, and 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. The Town shall regularly review and adopt any local guidelines established by the South Florida Water Management District or Lee County, which will aid the Town's efforts to conserve water.

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 property 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~~

Historic Preservation Element

Town of FMB: HISTORIC PRESERVATION (HP)

EXISTING		PROPOSED	
GOAL 13	To maintain "the best of the old" when redeveloping our community by appreciating, protecting, and promoting the historic resources of Fort Myers Beach. To provide stewardship of the legacy of our predecessors, cultivating our understanding of the past as a means of sustaining our future.	GOAL ~~13~~ HP-1	~~To maintain "the best of the old" when redeveloping our community by appreciating, protecting, and promoting the historic resources of Fort Myers Beach. To provide stewardship of the legacy of our predecessors, cultivating our understanding of the past as a means of sustaining our future~~. Create a lasting heritage as the foundation of the town's historic preservation with key principals: environmental resources, character, sustainability, and preservation maintenance to protect for future generations.
OBJECTIVE 13-F	GENERAL STRATEGIES — Begin in 1999 to develop programs to aggressively identify, document, and evaluate historic and archaeological resources in and around the Town of Fort Myers Beach in order to encourage their long-term protection.	OBJECTIVE ~~13-F~~ HP-1-A	~~GENERAL STRATEGIES — Begin in 1999 to develop programs to aggressively identify, document, and evaluate historic and archaeological resources in and around the Town of Fort Myers Beach in order to encourage their long-term protection.~~ IDENTIFY AND EVALUATE HISTORIC RESOURCES The town shall identify historic resources to help protect the town's heritage and to coincide with its Land Development Codes for historically significant structures.
POLICY 13-F-1	In 1999 the town shall convene an ad hoc historic working group to develop programs, organize volunteers, and make recommendations to the LPA and Town Council relating to Policies 13-A-2, 13-A-3, 13-A-5, 13-B- 1, 13-B-3, 13-B-6, and 13-C-3. This group shall include representatives of the Estero Island Historic Society, the LPA, the Lee County Planning Division, and others with expertise in archaeology, history, and/or construction.	POLICY ~~13-F-1~~ HP-1-A-1	~~In 1999 the town shall convene an ad hoc historic working group to develop programs, organize volunteers, and make recommendations to the LPA and Town Council relating to Policies 13-A-2, 13-A-3, 13-A-5, 13-B- 1, 13-B-3, 13-B-6, and 13-C-3. This group shall include representatives of the Estero Island Historic Society, the LPA, the Lee County Planning Division, and others with expertise in archaeology, history, and/or construction.~~ HISTORIC RESOURCE MAP The Town shall explore efforts to regularly update the historic resources map for properties and historic districts listed on the Local and/or National Registers of Historic Places. Architectural, archaeological, and other related cultural resource surveys shall be conducted pursuant to the standards and policies of the Florida Department of State, Division of Historical Resources and/or the provisions of the National Historic Preservation Act (1966).

POLICY 13-F-2	Acquire high-quality reproductions of all files and photographs from the Florida Master Site File and the Florida Archives for buildings on Estero Island, and make copies available to the public at Town Hall and the public library. This files should be supplemented by an accurate listing of street addresses and parcel numbers, plus a listing of buildings that have been demolished or renovated beyond recognition.After this updating, the town shall notify all property owners of sites listed on the Florida Master Site File.	POLICY ~~13-F-2~~ HP-1-A-2	FLORIDA MASTER SITE FILES AND PHOTOGRAPHS Acquire high-quality reproductions of all files and photographs from the Florida Master Site File and the Florida Archives for buildings on Estero Island, and make copies available to the public at Town Hall and the public library. These ~~This~~ files should be supplemented by an accurate listing of street addresses and parcel numbers~~, plus a listing of buildings that have been demolished or renovated beyond recognition.After this updating, the town shall notify all property owners of sites listed on the Florida Master Site File~~.
POLICY 13-F-3	Periodically review and update Lee County's 1986 and 1992 surveys of historic buildings on Estero Island. Additional buildings shall be documented for submission to the Florida Master Site File, and buildings that have been demolished or altered shall be so noted. New information shall be transmit- ted to the Florida Department of State via the Lee County Planning Division.	POLICY ~~13-F-3~~ HP-1-A-3	Updates to Historic Building Survey The town shall periodically review and support efforts to update Lee County's ~~1986 and 1992~~ surveys of historic buildings on Estero Island. Additional buildings shall be documented for submission to the Florida Master Site File, and buildings that have been demolished or altered shall be so noted. New information shall be transmitted to the Florida Department of State via the Lee County Planning Division.
POLICY 13-F-4	Require all applications for development review to identify the location and status of historic resources and archaeological sites, utilizing as data bases the 1986 Lee County Historic Sites Survey, the 1987 Archaeological Site Inventory and Zone Management Plan for Lee County, the 1992 Historical Report and Survey Supplement for Lee County, and updated information from implementation of Policies 13-A-3 and 13-A-6. This identification of historic and archaeological resources will assist in administering protective regulations.	~~POLICY 13-F-4~~	~~Require all applications for development review to identify the location and status of historic resources and archaeological sites, utilizing as data bases the 1986 Lee County Historic Sites Survey, the 1987 Archaeological Site Inventory and Zone Management Plan for Lee County, the 1992 Historical Report and Survey Supplement for Lee County, and updated information from implementation of Policies 13-A-3 and 13-A-6. This identification of historic and archaeological resources will assist in administering protective regulations.~~
POLICY 13-F-5	Continue the program begun by Lee County for formally designating historic and archaeological resources, with the following changes: i. Designate the town's Local Planning Agency to serve as the historic preservation board required by the Land Development Code. ii. Contract with Lee County for consultation, technical assistance, and on-going staff support for the town's historic preservation program.	~~POLICY 13-F-5~~	~~Continue the program begun by Lee County for formally designating historic and archaeological resources, with the following changes:~~ ~~i. Designate the town's Local Planning Agency to serve as the historic preservation board required by the Land Development Code.~~ ~~ii. Contract with Lee County for consultation, technical assistance, and on-going staff support for the town's historic preservation program.~~

POLICY 13-F-6	By 1999, the town shall begin the process of designating one or more historic districts which would include most of the buildings listed on the Florida Master Site File.	~~POLICY 13-F-6~~	~~By 1999, the town shall begin the process of designating one or more historic districts which would include most of the buildings listed on the Florida Master Site File.~~
POLICY 13-F-7	Request the Estero Island Historic Society to identify appropriate buildings or sites for nomination by the town to the National Register of Historic Places.	POLICY ~~13-F-7~~ HP-1-A-4	NATIONAL REGISTER OF HISTORIC PLACES The town shall engage with the ~~Request the~~ Estero Island Historic Society to ~~regularly~~ identify any remaining appropriate buildings or sites for nomination by the town to the National Register of Historic Places.
POLICY 13-F-8	Encourage a private program that would visibly recognize historic building through plaques, certificates, historic markers, awards programs, or certificates of historical and/or archaeological significance.	~~POLICY 13-F-8~~	~~Encourage a private program that would visibly recognize historic building through plaques, certificates, historic markers, awards programs, or certificates of historical and/or archaeological significance.~~
POLICY 13-F-9	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. Particular attention should be given to recommendations in the Community Design Element.	POLICY ~~13-F-9~~ HP-1-A-5	PROCESS FOR PRESERVING SCENIC RESOURCES The town shall explore the ~~Develop~~ development of 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. ~~Particular attention should be given to recommendations in the Community Design Element.~~
		OBJECTIVE HP-1-B	DESIGNATION ~~Maintain and increase the town's historic resources listed in the Local and/or National Historic Registers of Historic Places.~~ To promote the preservation of the town's historic character, encourage the maintenance and potential expansion of historic resources listed in the Local and/or National Historic Registers of Historic Places.
		POLICY HP-1-B-1	HISTORIC DESIGNATION OF BUILDINGS Explore potential to designate historic structures from all historic resources.
		POLICY HP-1-B-2	HISTORIC DESIGNATION OF DISTRICTS The town shall explore the designation of a historic districts which would include most of the buildings listed on the Florida Master Site File.
OBJECTIVE 13-G	REGULATIONS AND INCENTIVES — By the end of 1998, establish and maintain a regulatory and incentive system that promotes restoration, reconstruction, and re-use of the town's historic buildings.	OBJECTIVE ~~13-G~~ HP-1-C	~~REGULATIONS AND INCENTIVES —~~ REGULATORY TECHNIQUES ~~By the end of 1998, e~~ The town shall evaluate ~~Establish and maintain~~ the establishment of a regulatory and incentive system that promotes restoration, reconstruction, and re-use of the town's historic buildings.
POLICY 13-G-1	Evaluate the provisions of the Certified Local Government program to determine if the town should become certified.	POLICY ~~13-G-1~~ HP-1-C-1	CERTIFICATION The Town shall evaluate the provisions of the Certified Local Government program to determine if the town should become certified.

POLICY 13-G-2	Implement Community Design and Housing Policies that call for preparing and adopting land development regulations that will encourage the revitalization of older and historic housing using elements from the cottage design tradition.	POLICY ~~13-G-2~~ HP-1-C-2	COMMUNITY DESIGN HOUSING POLICIES The town shall consider the implementation of ~~Implement~~ Community Design and Housing Policies that call for preparing and adopting land development codes that will encourage the revitalization of older and historic housing using elements from the cottage design tradition.
POLICY 13-G-3	Using specific existing historic properties in Fort Myers Beach, determine additional regulatory relief that could be provided to designated historic properties to promote their preservation and rehabilitation.	POLICY ~~13-G-3~~ HP-1-C-3	REGULATORY RELIEF The town shall explore the use of ~~Using~~ specific existing historic properties in Fort Myers Beach, ~~determine additional~~ and consider regulatory relief that could be provided to designated historic properties to promote their preservation and rehabilitation.
POLICY 13-G-4	Study the feasibility of a variety of incentives including transfer of development rights and property tax relief to encourage preservation and rehabilitation of historic properties.	POLICY ~~13-G-4~~ HP-1-C-4	REGULATORY INCENTIVES FOR HISTORIC PRESERVATION The town shall explore ~~Study~~ the feasibility of a variety of incentives including transfer of development rights and property tax relief to encourage preservation and rehabilitation of historic properties, and consider~~.~~ ~~Continue to develop~~ new land use and zoning incentives for eligible and historic resources within the land development codes, such as encouraging the adaptive reuse of historic structures within mixed-use zoning districts and providing parking relief strategies.
POLICY 13-G-5	Consider financial incentives for historic preservation that might include a revolving loan fund, grants, federal and state funds for income-eligible recipients, tax increment funds (if a CRA is established), or technical support for the use of investment tax cred- its.	POLICY ~~13-G-5~~ HP-1-C-5	FINANCIAL INCENTIVES FOR HISTORIC PRESERVATION ~~Consider~~ Evaluate financial incentives for historic preservation that might include a revolving loan fund, grants, federal and state funds for income-eligible recipients, tax increment funds (if a CRA is established), or technical support for the use of investment tax cred~~-~~its.
POLICY 13-G-6	The town shall adopt the Standard Existing Buildings Code into its land development code to encourage the rehabilitation of older buildings throughout the town.	POLICY ~~13-G-6~~ HP-1-C-6	STANDARD EXISTING BUILDING CODE The town shall adopt the Standard Existing Buildings Code into its land development code to encourage the rehabilitation of older buildings throughout the town.
		POLICY HP-1-C-7	IDENTIFYING HISTORIC AND ARCHAEOLOGICAL RESOURCES Require all applications for development review to identify the location and status of historic resources and archaeological sites, utilizing as databases information available from the Town, Lee County's Historic Preservation program, and Florida Department of State as appropriate.
		POLICY HP-1-C-8	AMENDMENTS TO LAND DEVELOPMENT CODES The Town will encourage sensitive, adaptive reuse and rehabilitation of structures eligible for historic designation as a preferred alternative to demolition. To this end, as necessary, the Town will regularly evaluate and, where

			necessary, amend the Land Development Codes to ensure the protection ——of historic resources.
OBJECTIVE 13-H	CELEBRATING OUR HERITAGE — Continually heighten the appreciation of the town's recent and ancient history and cultural life, and improve opportunities for appropriate public access to publicly sup- ported resources.	OBJECTIVE ~~13-H~~ HP-1-D	~~CELEBRATING OUR HERITAGE —~~ ~~Continually heighten the appreciation of the town's recent and ancient history and cultural life, and improve opportunities for appropriate public access to publicly sup-ported resources.~~ PRESERVATION PROGRAMS- Support and expand the city's historic preservation program with the State of Florida office and to comply with the town's ordinances for preservation to coincide with Land Development Codes.
POLICY 13-H-1	Continue to pursue the acquisition of the William Case home (Long Estate). Assist the foundation that will provide long-term management with funding for start-up costs (with the amount needed to be evaluated annually). Link this facility to other cultural, scientific, educational, and recreational activities.	POLICY ~~13-H-1~~ HP-1-D-1	~~Continue to pursue the acquisition of the William Case home (Long Estate). Assist the foundation that will provide long-term management with funding for start-up costs (with the amount needed to be evaluated annually). Link this facility to other cultural, scientific, educational, and recreational activities.~~ CHANGES TO FORMAL DESIGNATION The town shall consider continuing the program begun by Lee County for formally designating historic and archaeological resources. It shall explore the designation of the town's Local Planning Agency to serve as the historic preservation board as required by the Land Development Code. Contract with Lee County for consultation, technical assistance, and on-going staff support for the town's historic preservation program.
POLICY 13-H-2	Support the nomination of the Fort Myers Beach Elementary School and the William Case home (and its site) for the National Register of Historic Places.	POLICY ~~13-H-2~~ HP-1-D-2	~~Support the nomination of the Fort Myers Beach Elementary School and the William Case home (and its site) for the National Register of Historic Places.~~ Encourage privately run programs that would visibly recognize historic building through plaques, certificates, historic markers, awards programs, or certificates of historical and/or archaeological significance.
POLICY 13-H-3	Examine methods that the town could use to aid in the protection of Mound Key.	POLICY ~~13-H-3~~ HP-1-D-3	~~Examine methods that the town could use to aid in the protection of Mound Key.~~ HISTORIC PRESERVATION BOARD The town shall consider the establishment of a qualified Historic Preservation Board that meets the Florida Certified Local Government Guidelines to oversee and further develop the functions of the historic preservation program.

POLICY 13-H-4	Work with Lee County in establishing a net- work of canoe and kayak trails linking the sites of historic and archaeological significance from Pine Island to Estero Bay.	POLICY 13-H-4 HP-1-D-4	~~Work with Lee County in establishing a net- work of canoe and kayak trails linking the sites of historic and archaeological significance from Pine Island to Estero Bay.~~ STATE COMPREHENSIVE PLAN AND HISTORIC PRESERVATION PLAN Continue to work cooperatively and in conjunction with the State Historic Preservation Office to achieve the goals set forth in the State Comprehensive Plan and the Comprehensive Statewide Historic Preservation Plan.
POLICY 13-H-5	Establish a task force to develop and implement the town's eco/heritage program. The task force would work with the Marine Resources Task Force to advise the town about implementing the recently adopted recommendations of the Governor's Advisory Committee on Eco-heritage Tourism.	POLICY ~~13-H-5~~ HP-1-D-5	~~Establish a task force to develop and implement the town's eco/heritage program. The task force would work with the Marine Resources Task Force to advise the town about implementing the recently adopted recommendations of the Governor's Advisory Committee on Eco-heritage Tourism.~~ CONSISTENCY WITH HISTORIC PRESERVATION ORDINANCES Ensure historic resources remain consistent with the Historic Preservation Ordinances relating to affirmative maintenance, demolition by neglect and boarding, which are adopted in the Land Development Codes and the Code of Ordinances.
POLICY 13-H-6	In cooperation with the Estero Island Historic Society, develop self-guided walking/biking tours of the island's historic points of interest; interpretive panels; and other ways to share the history of the island with visitors.	POLICY ~~13-H-6~~ HP-1-D-6	~~In cooperation with the Estero Island Historic Society, develop self-guided walking/biking tours of the island's historic points of interest; interpretive panels; and other ways to share the history of the island with visitors.~~ ACQUIRING HISTORIC AND CULTURAL RESOURCES The town shall consider the acquisition of historic and cultural resources when ownership would provide a public benefit and when financial resources can be secured.
POLICY 13-H-7	Continue to improve availability and appropriate public access to historic and cultural resources by implementing Community Design Policies 2-A-1/4, 3-D-4, and 3-D-6 and Recreation Policy 10-A-4.	POLICY ~~13-H-7~~ HP-1-D-7	~~Continue to improve availability and appropriate public access to historic and cultural resources by implementing Community Design Policies 2-A-1/4, 3-D-4, and 3-D-6 and Recreation Policy 10-A-4.~~ PUBLIC USES The town shall explore the use historic buildings to accommodate public uses whenever feasible.
		OBJECTIVE HP-1-E	EDUCATION AND PROGRAMMING The town shall support efforts that heighten the appreciation of the town's recent and ancient history and cultural life and

			improve opportunities for appropriate public access to publicly supported resources.
		POLICY HP-1-E-1	Network of Canoe and Kayak Trails Support Lee County in establishing a network of canoe and kayak trails linking the sites of historic and archaeological significance from Pine Island to Estero Bay.
		POLICY HP-1-E-2	TASK FORCE FOR TOWN'S ECO/HERITAGE PROGRAM Consider establishing a task force to develop and implement the town's eco/heritage program. The task force would work with the Marine Resources Task Force to advise the town about implementing the recently adopted recommendations of the Governor's Advisory Committee on Eco-heritage Tourism.
		POLICY HP-1-E-3	SELF-GUIDED WALKING/BIKING TOURS In cooperation with the Estero Island Historic Society, the town shall consider the development of self-guided walking/biking tours of the island's historic points of interest; interpretive panels; and other ways to share the history of the island with visitors.
		POLICY HP-1-E-4	SUBMERGED ARCHAEOLOGICAL SITES Promote knowledge of submerged archaeological sites as cultural heritage and patrimony.
		POLICY HP-1-E-5	PROMOTING HISTORIC AD-VALOREM TAX EXEMPTION PROGRAM Continue to promote the Historic Ad-Valorem Tax Exemption program to property owners of eligible and historic resources. Continue to provide information regarding all local, state and federal financial incentives to the public such as, the City and County Historic Ad- Valorem Tax Exemption program and the Federal Historic Preservation Tax Incentives programs.
		POLICY HP-1-E-6	PROMOTIONAL AND REFERENCE MATERIAL Develop promotional and reference materials about local historic resources, preservation and cultural heritage; such information will be available at City Hall and on the City website.

Housing Element

Town of FMB: Housing Element

EXISTING		PROPOSED	
GOAL 12:	To keep a wide variety of housing types available to people at all stages of their lives.	GOAL ~~12~~ HOU-1	~~To keep a wide variety of housing types available to people at all stages of their lives.~~ Encourage the availability of attainable housing options within Fort Myers Beach for residents of all ages.
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~~ HOU-1-A	GENERAL HOUSING STRATEGIES — ~~Maintain or increase 1997 federal/state funding levels for affordable housing; m~~ 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.
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~~ HOU-1-A-1	The town shall ~~pursue~~ evaluate 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, including accessory dwelling units in single family residential areas ~~(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. Consider implementation of ~~Implement~~ an incentive-driven regulatory system ~~and the town's new policy regarding~~ 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)~~; v. 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

			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; 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~~ HOU-1-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-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~~ HOU-1-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-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~~ HOU-1-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.~~ New housing shall be built to comply with the applicable Florida Building Code and FEMA standards.
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~~ HOU-1-A-5	The town shall update this element using a state-approved methodology after census data for the year ~~2000~~ 2020 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~~ HOU-1-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.
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~~ HOU-1-B-1	DOWNTOWN (TIMES SQUARE) — Promote new construction and redevelopment to include ~~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~~ along with 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~~ HOU-1-B-2	HEART OF THE ISLAND – CIVIC CENTER — Promote the revitalization of the area ~~School Street (see Community Design Policy 3-A-4)~~ as a walkable palm-lined street of restored and infill cottages for residential use, housing to age in place, 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, S~~eek 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~~ HOU-1-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~~ mixed-use 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~~ HOU-1-B-4	~~NEAR-TOWN~~ NEIGHBORHOOD~~S~~ PRESERVATION — Revitalize the older ~~near-town~~ residential areas using ~~traditional neighborhood~~ smart-growth 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. Promote compact, walkable, neighborhoods that serve the diverse needs of both visitors and residents. vii. 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.
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~~ HOU-1-C	REVISE THE CURRENT REGULATORY SYSTEM — ~~Complete a thorough revision of t~~ The town's land development regulations ~~by the end of 1999~~ ~~to~~ shall provide clear and consistent rules for housing 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~~ HOU-1-C-1	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~~ HOU-1-C-2	~~Implement t~~ The town's land development code ~~new policy on~~ shall provide for attached and detached accessory dwelling units ~~apartments~~ in residential neighborhoods and include standards by which to measure compliance. 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.
POLICY 12-C-3	Adopt the Standard Existing Buildings Code by 1999 (see Historic Preservation Policy 13-B-6).	POLICY ~~12-C-3~~ HOU-1-C-3	~~Adopt~~ Update/Revise 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~~ HOU-1-C-4	The land development regulations shall include measures for ~~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~~ HOU-1-C-5	~~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 affordable or workforce housing ~~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. ~~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 ~~iv. relaxing rules that require many sound buildings to be elevated above expected flood levels before they can be structurally improved.~~ v. Expediting permitting and reduction of permitting fees
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~~ HOU-1-D	HISTORICALLY SIGNIFICANT HOUSING — Retain ~~at least 90% of~~ the town's historically significant housing where appropriate 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~~ HOU-1-D-1	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~~ HOU-1-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-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~~ HOU-1-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.
NEW	NEW	OBJECTIVE HOU-1-E	HOUSING AFFORDABILITY AND ATTAINABILITY -- The Town may evaluate current programs to incentivize the construction and development of affordable housing.

NEW	NEW	POLICY HOU-1-E-1	The Town shall consider implementing an inclusionary zoning ordinance, to encourage construction of affordable housing with new residential construction in its designed activity centers.
NEW	NEW	POLICY HOU-1-E-2	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: • Temporary decreases in property tax assessment • Density bonuses • Tax increment financing (TIF) • Municipal land agreements (land banking and land swapping or conveyance, or rental of land) • Application fee reductions • Other financing that incentivizes the development of affordable and workforce housing
NEW	NEW	POLICY HOU-1-E-3	The Town shall aim to expedite the processing of building permits for Affordable, Attainable and Workforce Housing Units.
NEW	NEW	POLICY HOU-1-E-4	The Town may consider allowing reduced parking requirements for affordable and workforce housing.
NEW	NEW	POLICY HOU-1-E-5	The Town shall explore the creation of pre-approved designs for workforce housing in order to reduce development costs for such developments.
NEW	NEW	POLICY HOU-1-E-6	The Town shall continue to maintain an inventory of Town owned property available for use as affordable housing as required by Florida Statutes.
NEW	NEW	POLICY HOU-1-E-7	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.

NEW	NEW	POLICY HOU-1-E-8	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.
NEW	NEW	POLICY HOU-1-E-9	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.
NEW	NEW	POLICY HOU-1-E-10	To preserve diversity of housing and to prevent over proliferation of undersized units on the basis of affordable or workforce housing, the Town will consider limiting the number of microunits, defined as units between 250 and 500 square feet in size, to 15% maximum of all multifamily developments.
NEW	NEW	POLICY HOU-1-E-11	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.
NEW	NEW	POLICY HOU-1-E-12	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.

Intergovernmental Coordination Element

INTERGOVERNMENTAL COORDINATION

GOAL IGC~~14~~: To efficiently coordinate plans, policies, and public services among the many public and private agencies that play important community roles.

OBJECTIVE IGC-A~~14-A~~COORDINATION 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.

Property Rights Element

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.

Recreation & Open Space Element

RECREATION AND OPEN SPACE ELEMENT

GOAL: To provide residents and visitors of all ages a comprehensive, accessible system of parks, active recreation areas, open spaces, beach accesses, natural preserves, private recreational facilities, and cultural activities that provide a variety of recreational opportunities and promote an understanding of our community's environmental and cultural heritage.

OBJECTIVE ROS-1-A: 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-A -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-A-2: View Corridors
The town shall aim to increase, 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-A-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-A-4: Beach Access to Mound House and Mantanza's Pass Preserve
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 for the "Great Calusa Blueway" and the natural walking trail that is provided by the continuous beachfront along Estero Island.

POLICY ROS-1-A-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 ROS-1-A-6: Little Estero Island Critical Wildlife Area and Mantanza Pass Preserve
Enhance access for the public enjoyment and protection of the areas.

POLICY ROS-1-A-7: Bowditch Point Park
Increase accessibility for recreational purposes by:

i. Actively promote alternate means of access to Bowditch Point Park frequent and free trolley service, and especially the construction of public docks on the Bay side for private boats and a water taxis or ferry 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. Bowditch Point Park ensure continued accessibility to visitors from throughout the county and beyond.

POLICY ROS-1-A-8: Encourage Lee County to provide 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-A-9: Linking Mound House to Great Calusa Blueway
Link the Mound House 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-A-10: Wayfinding
Increase public awareness of available recreation opportunities through signage on roadways, at park entrances, and within large parks.

OBJECTIVE ROS-1-B: SUSTAINABILITY
Develop policies to promote sustainability in the parks.

POLICY ROS-1-B-1: 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.

POLICY ROS-1-B-2: Marine Task Force
Expand the purview of the town's Marine Resources Task Force to include the sustainability of recreational use of marine resources.

POLICY ROS-1-B-3: 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-B-4: 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 ROS-1-B-5: Florida Friendly and Native Plants
Use Florida Friendly and native plants in all parks and open spaces to the greatest extent possible.

OBJECTIVE ROS-1-C: Implementation and Coordination
Maintain a comprehensive and cost-effective recreational system that meets the future needs of Fort Myers Beach.

POLICY ROS-1-C-1: 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-C-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-C-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-C-4: Maintenance
Ensure a high level of maintenance and facility development to preserve and enhance quality of parks and recreational facilities.

POLICY ROS-1-C-5: Matanzas Pass
Maintain a cooperative planning process for Matanzas Pass and surrounding waterways.

POLICY ROS-1-C-6: Agency on Bay Management
Actively participate in the Agency on Bay Management and the Southwest Florida Regional Harbor Board.

OBJECTIVE ROS-1-D: Monitoring
The following measures shall be used to monitor the achievement of the objectives in the Recreation and Open Space Element:

- 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 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.
- Implementing ADA accessibility requirements in Publicly owned park space.

~~GOALS - OBJECTIVES - POLICIES~~
~~Based on the analysis of recreation issues in this element, the following goals, objectives, and policies are adopted into~~
~~the Fort Myers Beach Comprehensive Plan:~~

~~GOAL 10: To provide residents and visitors of all ages a comprehensive, accessi- ble system of parks, active recre- ation areas, open spaces, beach accesses, natural preserves, private recreational facilities, and~~

~~cultural activities that provide a variety of recreational opportunities and pro- mote an understanding of our com- munity's environmental and cul- tural heritage.~~

~~OBJECTIVE 10-A NATURAL RESOURCES — Assume a leadership role with other agencies to improve the viability of the natu- ral areas around the town as an inte- gral part of a comprehensive recre- ational system. Measures of success may include public acquisition of additional beachfront land; designa- tion of canoe trails or water shuttle service linking Fort Myers Beach to surrounding natural resources; or the successful implementation of a plan for the coordinated use and protection of Matanzas Pass.~~

~~POLICY 10-A-1 Expand the purview of the town's Marine Resources Task Force to include the sustain- ability of recreational use of marine resources along with the activities described in Conservation Policy 6-A-4.~~

~~POLICY 10-A-2 Implement Coastal Management Policy 5-F-1 initiating a cooperative planning pro- cess for Matanzas Pass and surrounding waterways by 1998.~~

~~POLICY 10-A-3 Actively participate in the Agency on Bay Management and the Southwest Florida Regional Harbor Board.~~

~~POLICY 10-A-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 10-A-5 Support the following priorities for public land acquisition outside the town's bound- aries: Land that will contribute to the sustain- ability and enhancement of the compre- hensive recreation system; Land that can provide opportunities for public appreciation of environmental and archaeological resources; Land that will provide additional beach access (such as Bunche Beach) for visi- tors who cannot reach Fort Myers Beach due to congested roads.~~

~~OBJECTIVE 10-B BOWDITCH POINT PARK — Enhance the natural resources at Bowditch Point Park while increasing its acces- sibility for recreational purposes.~~

~~POLICY 10-B-1 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 watch- ing. 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 10-B-2 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 appro- priate changes to the Land Development Code, any required rezonings, and formal requests for funding to Lee County, and may also include further public transit subsidies or financial support for dock construction.~~

~~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 continued accessibility to visi- tors from throughout the county and be- yond.~~

~~POLICY 10-B-4 Encourage Lee County to provide on-site parking for the general public at Bowditch Point (in addition to the existing spaces for the handicapped) by adopting an appropri- ate resolution of support by the town coun- cil and by granting the required zoning changes.~~

~~OBJECTIVE 10-C DOWNTOWN AS A RECREATION HUB — Make the Times Square area the nucleus of the town's comprehensive recreational system.~~

~~POLICY 10-C-1 LYNN HALL MEMORIAL PARK:~~

~~Enhance Lynn Hall Park as recommended in Community Design Policy 3-D-12, including continuing beach renourishment and the addition of beach volleyball areas.~~

~~In cooperation with the town's Main Street Program, encourage entertain- ment that appeals to residents and visi- tors while reinforcing the downtown as a recreation and entertainment destina- tion. These could include musical or art-in-the-park events, community festi- vals, and other family-oriented special events.~~

After at least one year of experience with such events, consider the feasibility of including a performance pavilion in the southeast corner of Lynn Hall Park.
In cooperation with local environmental and business interests, consider the fea- sibility of constructing a boardwalk along the beachfront to connect the beach access near the Lani Kai to Lynn Hall Park on the landward side of the dune line (see Community Design Policy 3-D-4(iii)).
POLICY 10-C-2 PUBLIC PEDESTRIAN PLAZAS
TIMES SQUARE — Maintain Times Square as a pedestrian mall and civic plaza consistent with Community De- sign Policy 3-D-5(ii). Integrate the park with the plaza by creating pedestrian friendly pass-through areas in place of the current fence.
MARINA PLAZA — Work with the private sector to establish a site for a new public pedestrian plaza at the north end of Old San Carlos to increase public activity to the marina and cruise ship docks, consistent with Community De- sign Policy 3-D-4(v). Investigate the feasibility of improving the existing pier within the town's right-of-way under the
Skybridge for public docking, and incor- porating the pier and parking area into the Marina Plaza concept. This will pro- vide a second focus for a "walking path" around the core area and a close-by neighborhood common area for local residents; and will link the Times Square area to the water taxi system and dinghy dock. The town can assist in locating grant funding to develop this amenity.
CENTRAL GREEN — Promote the es- tablishment of a third public pedestrian plaza to serve the south end of the is- land by implementing Community De- sign Policies 3-C-1 and 3-C-2 regarding the redevelopment of Villa Santini Plaza.

OBJECTIVE 10-D COMMUNITY RECREATION —
Increase the already high level of access to recreation facilities, and maintain the required level of ser- vice for community parks.
POLICY 10-D-1 Negotiate with Lee County to determine an appropriate balance for operating Bay Oaks Recreation Center without excluding non- town residents, and establish an equitable system of user fees to help fund its opera- tion and enhancements.
POLICY 10-D-2 Support the efforts of the "Build-a-Pool
Committee" which has committed to the Town Council to be responsible for raising the funds for the ongoing operation and maintenance of the new public swimming pool. Sources of funds will include user fees, concessions, special events, business sponsorships, and community fund raisers.

POLICY 10-D-3 The town adopts the following level-of-ser- vice standard for community parks: for each 7,500 permanent residents, 1 centrally located recreation complex that includes 2 ballfields, 2 tennis courts, outdoor basket- balls courts, play equipment, an indoor gymnasium, and community meeting spaces. Programming shall address all age groups and encompass active recreation, physical improvement, and social, educa- tional, and cultural activities. The town also will maintain a cultural and environmental learning center at the historic Mound House, and contingent on obtaining grant funding for property acquisition, will pur- chase the Newton estate to serve as an oasis park with interpretive and rest facilities for those traversing Lee County's "Great Calusa Blueway," Estero Boulevard, and the walk- ing trail provided by the public beachfront.
POLICY 10-D-4 To identify important gaps in the recreation system, the town shall conduct a community-wide survey to evaluate the ade- quacy of facilities and programming and measure willingness to pay fees or raise taxes to provide additional services. These services may include the following items that have been suggested in previous com- munity workshops:

- more emphasis on inter-generational programs
- in-line skating and skateboarding facili- ties
- dog walk areas
- little theater group
- shuffleboard courts
- more tennis courts

~~POLICY 10-D-5 If the survey indicates sufficient demand, the town should investigate acquiring the privately owned Bay Beach Tennis Club which may be replaced by future phases of development of Bay Beach. A tennis club could be the nucleus of a "satellite" recre- ation center at the south end of the Island.~~

~~OBJECTIVE 10-E 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-E-1 MATANZAS PASS PRESERVE — Prepare for the transition of the long-term maintenance responsibility of the Matanzas Pass Preserve from Lee County in accor- dance with Conservation Policy 6-B-3.~~
~~POLICY 10-E-2 LITTLE ESTERO ISLAND CRITICAL WILDLIFE AREA — Enhance the public enjoyment and protection of the area in accordance with Conservation Policy 6-B-2.~~
~~POLICY 10-E-3 OTHER NATURAL PRESERVES — Establish a citizen task force to evaluate opportunities to designate additional open spaces and natural preserves, and to identify poten- tial funding sources including grants and a 3% utility tax.~~

~~OBJECTIVE 10-F CULTURAL FACILITIES AND PROGRAMS — Achieve a heightened appreciation of the town's recent and ancient history and cultural life.~~
~~POLICY 10-F-1 Manage the Cultural and Environmental Learning Center in the historic "Mound House" (formerly known as the Long Es- tate). Thoroughly analyze the archaeologi- cal remains on this site. Link this 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 10-F-2 Establish a task force on eco/heritage tour- ism to develop and implement the town's "eco/heritage" program. The task force would work closely with the 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 when adopted.~~
~~POLICY 10-F-3 Acquire the beachfront estate of James and Eleanor Newton and operate it as a small community park with close links to the pad- dling trail in Matanzas Pass, the pedestrian and bicycle facilities on Estero Boulevard, and the adjoining public beach.~~

~~OBJECTIVE 10-G PUBLIC ACCESS — Increase the number and quality of public access points to the Gulf beaches and Estero Bay.~~
~~POLICY 10-G-1 Maintain or improve existing levels of beach and bay access pursuant to Coastal Management Policies 5-E-1, 5-E-2, and 5-E-3 which provide for the continued maintenance of existing beach access points, and evaluate the need for more parking.~~
~~POLICY 10-G-2 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 10-G-3 Acquire one or more beach access points at the southern end of the island in addition to acquiring the Newton estate (see Policy 10-~~

~~F-3) 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-H NEIGHBORHOOD PARKS — Within five years, begin providing small- scale parks to serve individual neighborhoods and pedestrians.~~

~~POLICY 10-H-1 Provide a mechanism for requesting neigh- borhoods to create and manage a small chil- dren's play area or "visiting" area, as a part of the "hidden paths" and/or "residential streets" programs described in the Commu- nity Design Policies 2-A-1 and 2-B-2. De- velop a program of guidelines and technical assistance available to requesting neighbor- hoods. Evaluate the program within two years of initiation and, based on actual de- mand, and set standards if necessary to reg- ulate the pace and equity of implementation.~~

~~POLICY 10-H-2 As provided for in Community Design Policy 2-A-1, facilitate the establishment of a local foundation or community land trust which among other responsibilities, would be re- sponsible for planning and acquiring vacant parcels or easements for the hidden path and "postage stamp" park concept.~~

~~POLICY 10-H-3 Provide occasional "oasis" areas (resting places for pedestrians and bicyclists) at se- lected trolley stops and other strategic locations along Estero Boulevard as a part of the Estero Boulevard Streetscape Plan described in Community Design Policy 1-A-3(iv). The first oasis area shall be the Newton estate at Strandview Avenue (see Policy 10-F-3) which shall be closely linked to the Great Calusa Blueway paddling trail, the public trolleys and sidewalks/bike paths along Estero Boulevard, and to the public beach- front.~~

~~OBJECTIVE 10-I IMPLEMENTATION — Provide a com- prehensive and cost-effective recreational system that meets the future needs of Fort Myers Beach.~~

~~POLICY 10-I-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 10-I-2 The town shall work with the county, sur- rounding jurisdictions, state and federal agencies, non-profit organizations, national, state and local land trusts, private organiza- tions and corporations, and other groups to identify funding sources and mechanisms and to structure partnerships to implement the policies of this Recreation Element.~~

~~POLICY 10-I-3 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 visi- tors.~~

~~POLICY 10-I-4 The town shall require through its develop- ment regulations that major redevelopment activities include adequate private recre- ational facilities for their residents.~~

Transportation Element

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/ferries linked to off-island systems, and parking options matched to road capacity.

OBJECTIVE T-1~~7~~-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-1~~7~~-A-1 CONGESTION: ~~Every winter~~ During peak times Estero Boulevard can become~~s~~ 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-1~~7~~-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 and other appropriate initiatives.

POLICY T-1~~7~~-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-1~~7~~-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-1~~7~~-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-1~~7~~-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-1~~7~~-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 additional appropriate right-of-way

improvements. ~~the turnover of responsibility for its maintenance if necessary to carry out these improvements or to further other town policies.~~

OBJECTIVE T-1~~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 T-1~~7~~-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-1~~7~~-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-1~~7~~-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-1~~7~~-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. The Town will encourage businesses to develop creative programs that incentivize visitors and employees to arrive without a car.

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-1~~7~~-D-~~2~~4 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-1~~7~~-D-~~3~~5 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-1~~7~~-D-~~4~~6 ENCOURAGE WATER ~~TAXIS~~ TRANSPORTATION: 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 or provide assistance, as deemed appropriate by the Town Council, 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~~ transportation. Where possible, water ~~taxi~~ transportation 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-1~~7~~-D-~~5~~7 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-1~~7~~-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 suit- able partnership to this end cannot be achieved with Lee County, the town may consider taking on maintenance responsibility for Estero Boulevard.)~~

POLICY T-1~~7~~-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.

POLICY T-1-E-5: PARTNERSHIPS FOR PEDESTRIAN BRIDGES: The Town will evaluate partnerships between development projects that are across from each other along Estero Boulevard to incentivize pedestrian bridge crossings provided as a public benefit. Collaboration with property owners and the Town shall also be encouraged to provide pedestrian safety and walkability through the implementation of pedestrian bridges.

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-1~~7~~-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-1~~7~~-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 T-1-4 ~~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-1~~7~~-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, The Town will encourage development of an overpasses throughout the Town that provideing 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 pPedestrian-actuated stop lights may be replaceable with a flashing caution lights crosswalk beacons may be appropriate where pedestrian overpasses are not warranted 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 TRANSPORTATION & MOBILITY MASTER PLAN: The Town shall maintain and regularly update a Transportation & Mobility Master Plan or a Transportation & Mobility Design Standard/Manual, using context-sensitive approaches to enhance safety and improve multimodal infrastructure and connectivity for residents and businesses. The Master Plan/Design Standard will at minimum create a standard approach to the design of Estero Boulevard, including, but not limited to, considerations of sidewalk width, pedestrian crossings, pedestrian bridges, landscaping and barriers as appropriate, beachfront access locations, trolley/bus stops, bicycle facilities, and micromobility options. Any Master Plan for the Town will consider parking locations on and off-island, as well as the necessary transit improvements to alleviate single-occupant vehicle usage.

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.

POLICY T-1-H-11 TRANSPORTATION ALTERNATIVES: The Town will establish within its development standards, as appropriate, measures and requirements of transportation alternatives for new developments, including transportation technologies and approaches that will impact travel patterns, signalization, curb management, cycling, pedestrian travel, parking, loading/unloading demand, supporting infrastructure, and roadway design. The Town will establish, as appropriate, community-oriented solutions and benefits to alleviate traffic impacts from tourist-based industries, including hotels/motels, such as voucher or shuttle programs for visitors and workforce transportation, among other transportation demand management techniques.

Policy T-1-H-12: EMERGING TECHNOLOGIES: The Town will continue to evaluate emerging transportation technologies including, but not limited to autonomous vehicles, traffic signalization, parking information, enhanced real time communication, and artificial intelligence in relation to the impacts these advancements will have on transportation, land use, and the mobility options. This evaluation will also include best practices and methods for the safe and context sensitive implementation of shared mobility and micromobility solutions, such as microtransit, dockless bicycle share, dockless scooters, and e-bikes as appropriate for the Town.

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 requests 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

UTILITIES ELEMENT

GOAL U-1~~8~~: 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.

POLICY U-1-A-7: The Town shall study the feasibility of a microgrid to provide power to the island.

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~~ 275 gallons per day per equivalent residential connection (ERC), and delivery of potable water at a minimum pressure of ~~20~~ 40 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:** Compatible with Lee County's current sanitary sewer standards ~~available capacity to collect, treat, and dispose of wastewater of 175 gallons per day per equivalent 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.

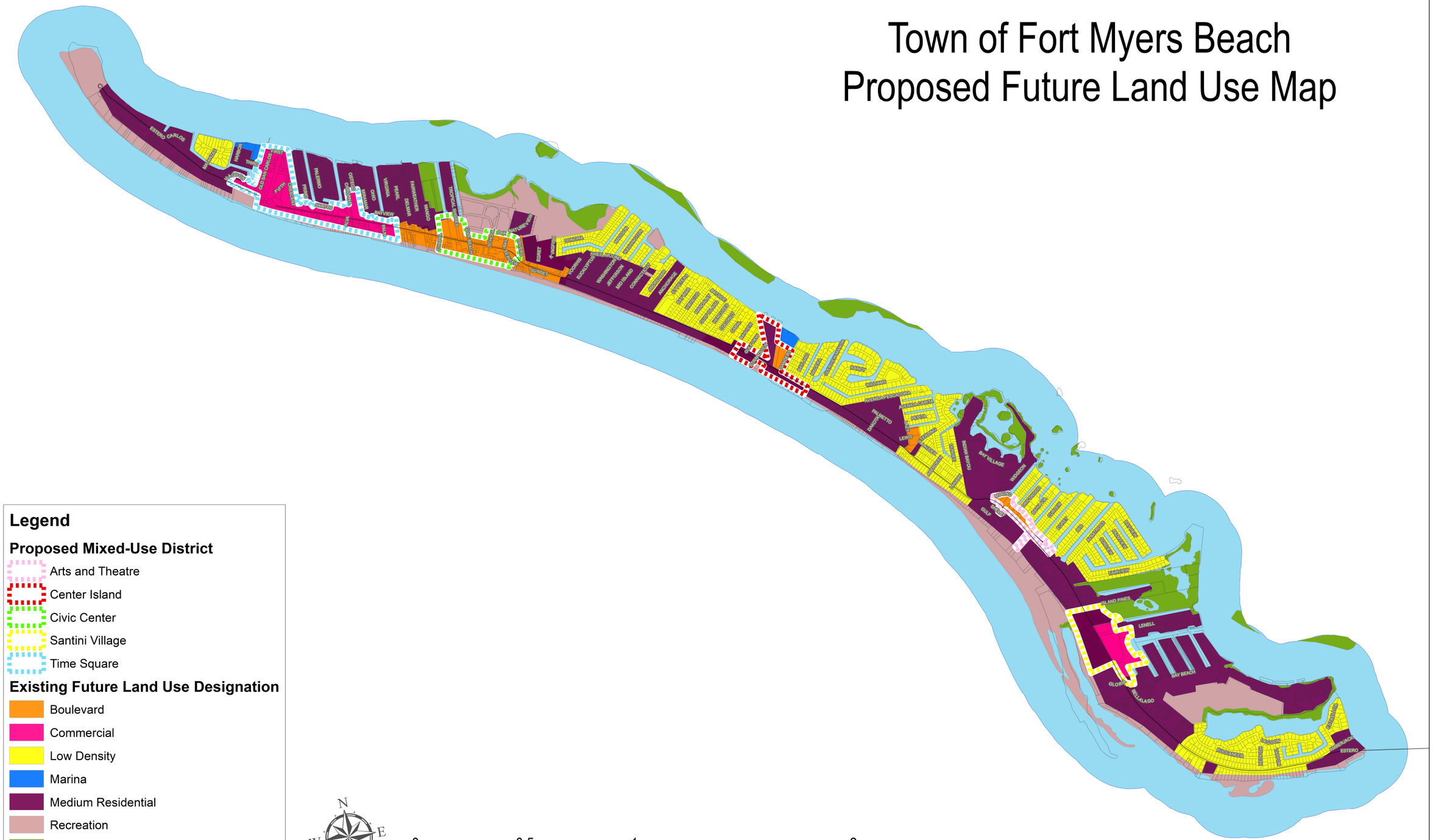
POLICY U-1-~~8~~-D-4 The town will consider an ordinance requiring mandatory recycling of solid waste if voluntary participation does not achieve standards set by state or regional agencies.

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.

Town of Fort Myers Beach
Proposed Future Land Use Map



Legend

Proposed Mixed-Use District

- Arts and Theatre
- Center Island
- Civic Center
- Santini Village
- Time Square

Existing Future Land Use Designation

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

N W E S

0 0.5 1 2 Miles

May 1, 2024

Proposed Mixed-Use Districts
Time Square

HARBOR
BONITA
FIRST
SECOND
THIRD
FOURTH ST
FIFTH
OLD SAN CARLOS
SAN CARLOS
CRESCENT
PRIMO
PALERMO
OSTEGO
CAROLINA
MIRAMAR
OHIO
PEARL
VIRGINIA
DELMAR
FAIRWEATHER
ESTERO
LAGOON
SANTOS
CANAL
AVENUE A
AVENUE C
ALVA
AVENUE E
BAYVIEW
PALM

Legend

Proposed Mixed-Use District

- Time Square

Existing Future Land Use Designation

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

N
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Proposed Mixed-Use Districts
Civic Center

PEARL
DELMAR
FAIRWEATHER
MANGO
TROPICAL SHORES
ESTERO
OAK
NATURE VIEW
MANGO
CHAPEL
COTTAGE
GULF BEACH
SCHOOL
BAY
LOVERS
POMPANO
SEAVIEW
GULF VIEW COLONY
BACK BAY
SEAHORSE
DONORA
EGRET
COCONUT
SHUFFLEBOARD
KINGFISH
SHELL MOUND
SUNSET
VOORHIS

Legend

Proposed Mixed-Use District

- Civic Center

Existing Future Land Use Designation

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

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Proposed Mixed-Use Districts
Center Island

HIBISCUS
MANDALAY
GULF ISLAND
HERCULES
COCONUT
SABAL
BAYVIEW
GULFVIEW
STRANDVIEW
SANDERS
DOLPHIN
COQUINA
BAYLAND
CORAL
MADERA
GLENVIEW MANOR
RANDY
COMPASS
KEY WEST
WILLIAMS
AVENIDA PESCADORA
ESTEVAN

Legend

Proposed Mixed-Use District

- Center Island

Existing Future Land Use Designation

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

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May 1, 2024

Proposed Mixed-Use Districts
Arts & Theatre

LAUDER
LANARK
NODDY TERN
WIDGEON
FLAMINGO
DRIFTWOOD
BAHIA VIA
BAYVIEW
MOUND
GULF
SHELBY
COURT
CURLEW
EGRET
IBIS
PALMVIEW
SUNVIEW
CLEARVIEW
ESTERO
ALBATROSS
FAIRVIEW

Legend

Proposed Mixed-Use District

- Arts and Theatre

Existing Future Land Use Designation

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

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Proposed Mixed-Use Districts
Santini Village

ISLAND PINES

ESTERO

LENELL

ROYAL PELICAN CONDOS

HIBISCUS POINTE CONDOS

CASA MARINA CONDOS

BAY BEACH

BELLA LAGO

GLORIA

Legend

Proposed Mixed-Use District

Santini Village

Existing Future Land Use Designation

- Commercial
- Medium Residential
- Recreation
- Wetlands
- Tidal Water

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Miles

Town of Fort Myers Beach
Agenda Item Summary Blue Sheet Number: **2024-194**

1. **Request:** **Meeting Date: September 9, 2024**

Second Reading and Final Public Hearing of an Ordinance entitled: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING SECTION 2-94 "QUALIFICATIONS AND APPOINTMENTS OF MEMBERS" AND SECTION 2-96 "REMOVAL OF AGENCY, BOARD, COMMITTEE OR COMMISSION MEMBERS" OF DIVISION 2 "PROCEDURES FOR THE ESTABLISHMENT OF BOARDS, COMMITTEES AND COMMISSIONS" OF ARTICLE IV "BOARDS, COMMISSIONS, COMMITTEES AND OTHER AGENCIES" OF CHAPTER 2 "ADMINISTRATION" AND SECTION 34-113 "COMPOSITION, APPOINTMENT AND COMPENSATION OF MEMBERS" OF DIVISION 3 "LOCAL PLANNING AGENCY" OF ARTICLE II "ZONING PROCEDURES" OF CHAPTER 34 "ZONING DISTRICTS, DESIGN STANDARDS AND NONCONFORMITIES" OF THE CODE OF ORDINANCES OF THE TOWN OF FORT MYERS BEACH, FLORIDA, REMOVING PROPERTY OWNERSHIP AS A QUALIFICATION REQUIREMENT FOR THE MEMBERS OF THE TOWN'S AGENCIES, BOARDS, COMMITTEES OR COMMISSIONS, INCLUDING THE TOWN'S LOCAL PLANNING AGENCY; ELIMINATING DUPLICATIVE LANGUAGE; ADDING A GRANDFATHER PROVISION FOR CURRENT NON-QUALIFYING MEMBERS OF THE TOWN'S BOARDS, AGENCIES, COMMISSIONS, AND COMMITTEES; ADDING A PROVISION TO SECTION 34-113, REGARDING THE MANDATORY ANNUAL FINANCIAL DISCLOSURE FORM AS REQUIRED BY THE FLORIDA COMMISSION ON ETHICS; PROVIDING FOR CODIFICATION, SEVERABILITY, SCRIVENER'S ERRORS, CONFLICTS OF LAW, AND AN EFFECTIVE DATE.

Why the action is necessary:

The passage of this ordinance is necessary to ensure only involved members of the community with a vested interest in the Town's operations (i.e. registered voters within the territorial boundaries of Fort Myers Beach) can be appointed to the Town's boards, agencies, commissions, and committees, including the Town's local planning agency; to streamline the Town Code by removing duplicative language; to add a grandfather provision to allow current non-qualifying members of the Town's boards, agencies, commissions or committees to keep their appointment; and to add a clause regarding the mandatory annual financial disclosure for the members of the Town's local planning agency as required by the Florida Commission on Ethics.

What the action accomplishes:

The ordinance restricts the appointment of individuals to the Town's boards, agencies, committees and commissions, including the Town's local planning agency, exclusively to registered voters within the Town's territorial boundaries, removes property ownership as a qualification criteria for appointment, adds a grandfather clause to allow current non-qualifying members to keep their appointment for the full term, eliminates duplicative language from the Code, and adds a reference to the mandatory annual financial disclosure required by Florida Commission on Ethics.

2. **Agenda:**	3. **Requirement/Purpose:**	4. **Submitter of Information:**
PUBLIC HEARINGS	Ordinance	Nancy Stuparich, Town Attorney

5. **Background:**

On June 17, 2024, the Town held a first reading of Ordinance 24-17. Following a discussion, the Town Council gave the Town Attorney a directive to research the requirements for the members of various committees and to revise Ordinance 24-17 to add a grandfather provision to the Ordinance, which resulted in a substantial change to the title of that Ordinance, necessitating a

second first reading of this proposed Ordinance at the August 5, 2024 Town Council meeting.

The proposed ordinance change would clarify that the criteria for appointment to the Town's committee, agency or boards is that the individual must be a registered voter and eliminates the requirement for property ownership and use of the ambiguous term "residency." Section 163.3174, Florida Statutes, discusses the formation and the functions of a local planning agency, and does not set out a residency or a property ownership requirement for the members of a local planning agency. Section 218.391, Florida Statutes, discusses the functions and operations of an auditor selection committee. This section, just like Section 163.3174, does not set forth residency or property ownership within the jurisdiction as a qualification requirement for the appointed members to serve on the committee.

Based on the Town Council's discussion and the Town Attorney's research, revisions have been made to the prior draft Ordinance to remove property ownership and residency as criteria for appointment to the Town's boards, agencies, commissions or committees. The term "residency" is ambiguous and raises questions regarding its application. Therefore, the revised draft ordinance provides that only individuals who are registered voters are eligible for appointment to the Town's boards, agencies, commissions or committees. Voter registration is easy to and limits appointment to those individuals who have a vested interest in the Town as a registered voter.

The Town Council further discussed the necessity for inclusion of a grandfather provision, to allow any current members of the Town's agencies, boards, commissions or committees, including the members of the Town's local planning agency, who may own property in the Town, but are not registered voters, to keep their appointment for the full term.

A question arose between the first and second reading regarding whether the grandfather provision would also apply to a current member of an appointed board or committee, who would no longer be eligible to serve based on the new language in the code but who would want to apply for reappointment when their term expires. Staff seeks clarification and direction regarding this question.

The proposed ordinance further adds a provision to Section 34-113 of the Town Code, obligating the members of the Town's local planning agency to comply with mandatory annual financial disclosure pursuant to the requirements set forth by the Florida Commission on Ethics.

Lastly, to ensure uniformity between the Town Code and the Town's procedural rules and policies, the Town's procedural rules and policies will require an amendment to Section 5 as it pertains to the residency requirements of the members of the Town's advisory boards, agencies, and committees. This amendment can be accomplished by a Resolution.

Attachments:

1. 24-17, Committee Member Reqs Ordinance (updated)
2. Business Impact Estimate (final) Committee Member Reqs
3. Fort Myers Beach, FL Code of Ordinances Sec. 2-94
4. Fort Myers Beach, FL Code of Ordinances Sec. 2-96
5. Fort Myers Beach, FL Code of Ordinances Sec. 34-113
6. Statutes & Constitution _View Statutes _ Online Sunshine Sec. 163.3174 FS
7. Statutes & Constitution _View Statutes _ Online Sunshine Sec. 218.391 FS

Financial Impact:

None

6. **Alternative Action**

7. **Management Recommendations:**
Approve the ordinance.

8. **Recommended Approval:**

Amy Baker, Town Clerk	Created/Initiated - 8/19/2024
nancy stuparich, Town Attorney	Approved - 9/3/2024
Amy Baker, Town Clerk	Approved - 9/4/2024
Andy Hyatt, Town Manager	Final Approval - 9/4/2024

ORDINANCE NO. 24-17

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING SECTION 2-94 "QUALIFICATIONS AND APPOINTMENTS OF MEMBERS" AND SECTION 2-96 "REMOVAL OF AGENCY, BOARD, COMMITTEE OR COMMISSION MEMBERS" OF DIVISION 2 "PROCEDURES FOR THE ESTABLISHMENT OF BOARDS, COMMITTEES AND COMMISSIONS" OF ARTICLE IV "BOARDS, COMMISSIONS, COMMITTEES AND OTHER AGENCIES" OF CHAPTER 2 "ADMINISTRATION" AND SECTION 34-113 "COMPOSITION, APPOINTMENT AND COMPENSATION OF MEMBERS" OF DIVISION 3 "LOCAL PLANNING AGENCY" OF ARTICLE II "ZONING PROCEDURES" OF CHAPTER 34 "ZONING DISTRICTS, DESIGN STANDARDS AND NONCONFORMITIES" OF THE CODE OF ORDINANCES OF THE TOWN OF FORT MYERS BEACH, FLORIDA, REMOVING PROPERTY OWNERSHIP AS A QUALIFICATION REQUIREMENT FOR THE MEMBERS OF THE TOWN'S AGENCIES, BOARDS, COMMITTEES OR COMMISSIONS, INCLUDING THE TOWN'S LOCAL PLANNING AGENCY; ELIMINATING DUPLICATIVE LANGUAGE; ADDING A GRANDFATHER PROVISION FOR CURRENT NON-QUALIFYING MEMBERS OF THE TOWN'S BOARDS, AGENCIES, COMMISSIONS, AND COMMITTEES; ADDING A PROVISION TO SECTION 34-113, REGARDING THE MANDATORY ANNUAL FINANCIAL DISCLOSURE FORM AS REQUIRED BY THE FLORIDA COMMISSION ON ETHICS; PROVIDING FOR CODIFICATION, SEVERABILITY, 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, on June 6, 2024, the Town Council held a discussion regarding the proposed changes to the Code of Ordinances of the Town of Fort Myers Beach, to eliminate property ownership within the Town's territorial boundaries as a qualification requirement for the appointed members of the Town's agencies, boards, committees or commissions, including the Town's local planning agency; and

WHEREAS, the Town desires to amend the Town Code to remove property ownership as a criteria, qualifying individuals for the Town's boards, agencies, commissions and committees; and

WHEREAS, the Town wishes to restrict the appointment to those individuals, who are registered voters within the territorial boundaries of the Town; and

WHEREAS, the reasons for removal of the appointed members from the Town's agencies, boards, committees or commissions are already addressed in Section 2-96 of the Town Code; and

WHEREAS, the Town desires to amend Section 2-94 to eliminate the duplicative language related to the removal of the Town's agency, board, committee or commission members; and

WHEREAS, the Town further wishes to add grandfather clauses to Sections 2-94 and 2-96, to allow current non-qualifying members of the Town's agencies, boards, committees or commissions to keep their appointment for the full term, regardless of whether such non-qualifying members meet the required criteria under the Town Code as of the effective date of this ordinance; and

WHEREAS, on the 17th day of June, 2024, the Town Council held a first reading of Ordinance 24-17 and gave direction to the Town Attorney to revise Ordinance 24-17 to add a grandfather clause; and

WHEREAS, the revisions proposed by the Town Council resulted in a substantial change to the title of Ordinance 24-17, necessitating a second first reading of the Ordinance; and

WHEREAS, on the 7th day of August, 2024, the Town Council held a second first reading of this Ordinance and gave full and complete consideration to the request of the proposed ordinance, 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 _____, 2024, 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 9th day of September, 2024, the Town Council held a second reading of the Ordinance; and

WHEREAS, the Town Council determined that adoption of the ordinance as provided herein is in the best interests of the health, safety, and welfare of the Town's residents.

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

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. Section 2-94 "Qualifications and appointments of members" and Section 2-96 "Removal of agency, board, committee or commission members" of Division 2 "Procedures for the Establishment of Boards, Committees and Commissions" of Article IV "Boards, Commissions, Committees and Other Agencies" of Chapter 2 "Administration" of the Code of Ordinances of the Town of Fort Myers Beach, Florida, as well as Section 34-113 "Composition, appointment and compensation of members" of Division 3 "Local Planning Agency" of Article II "Zoning Procedures" of Chapter 34 "Zoning Districts, Design Standards and Nonconformities" of the Town's Land Development Code, are hereby amended to read as follows:

Sec. 2-94. - Qualifications and appointments of members.

In addition to qualifications, which may be specified for membership by state statutes, Charter, ordinance, or resolution, a person appointed to an agency, board, committee, or commission after ____ day of _____, 2024, shall be given preference ~~to~~ if that person is a registered voter within ~~the town's jurisdiction~~ the territorial boundaries of the Town of Fort Myers Beach. ~~or a property owner within the town's jurisdiction.~~ Although no specific experience requirements shall be necessary as a prerequisite to appointment, consideration shall be given to applicants who have experience or who have shown interest in the subject matter. ~~If any member is no longer a qualified elector or is convicted of a felony, an offense involving moral turpitude while in office, or has unpaid fines or liens due the Town of Fort Myers Beach, the town council shall terminate the appointment of such person as a member of the agency, board, committee, or commission.~~ Any member of the Town's board, agency, commission or committee who holds office and who is not a registered voter within the Town's jurisdiction as of ____ day of _____, 2024, shall keep his or her appointment for the full term.

(1) *Anchorage advisory committee.* The anchorage advisory committee shall advise the town council concerning all matters relevant to the management and use of the waters of the town for mooring and anchoring. The anchorage advisory committee shall prepare and submit the Matanzas Harbor Management Plan and any amendments thereto for review and approval by the town council and make recommendations for the establishment of managed municipal anchorages and mooring fields where warranted by objective evidence of environmental damage or user conflicts; or any other topics as assigned by the town council.

(2) *Audit committee.* All members of the audit committee shall be town residents who do not have any direct financial or business interests involving the town. The town council may waive the residency requirements by majority vote if there are an insufficient number of applicants who reside in the town. All members should, through education and experience, possess a basic understanding of governmental financial reporting and auditing. At least one member of the audit committee shall

have accounting, auditing, or related financial management expertise that is specifically relevant to the government sector. The audit committee shall advise the town council on these matters and other matters pursu~~it~~ant to F.S. § 218.391, or any other topics as assigned by the town council.

(3) ~~a.~~ *Bay Oaks Recreational Campus Advisory Board.* The purpose of BORCAB is to serve the town as a community center and recreational facility providing individuals and groups passive and active recreational, social and community activities and events for both residents and visitors. BORCAB members shall work closely and in cooperation with the parks and recreation director, and advise the town council regarding matters concerning the Bay Oaks Recreational Campus and the community pool; or any other topics as assigned by the town council.

~~b.~~ (4) *Community resource advisory board.* The broad objectives of CRAB are to further the welfare of the citizens of the town in the implementation of our community as a "living park" as defined in the comprehensive plan and make recommendations to the town council on acquisition and management of public areas including, but no limited to, pools, parks, beach accesses, streetscapes and other public easements and property to further the living park concept. The CRAB shall advise the town council on these matters or any other topics as assigned by the town council.

~~c.~~ (5) *Cultural and environmental learning center advisory board.* The broad objectives of CELCAB are to ensure and promote the mission of the Mound House and Newton Beach Park to be accomplished through stewardship, advocacy and oversight according to best practices of museums and the requirement as stated in the Florida Communities Trust Agreements for each property. The CELCAB shall advise the town council on these matters or any other topics as assigned by the town council.

~~(4)~~ (6) *Marine and environmental resource and task force.* The broad objectives of MERTF are to further the welfare of the business owners, residents, and visitors of the town by helping to promote a better, more healthful, safe, and attractive community environment and to ensure that the unique and natural characteristics of our marine and environmental resources are preserved; or any other topics as assigned by the town council.

~~(5)~~ (7) *Public safety committee.* The PSC shall address any safety and transportation issues specifically assigned to the committee by the town council for the purpose of the health, safety and welfare of the business owners, residents, and visitors to the town. The committee shall review, discuss, and evaluate the most significant safety and transportation issues within the town. The PSC shall advise the town council on these matters or any other topics as assigned by the town council.

(8) *Local Planning Agency.* Notwithstanding the criteria set forth herein, the criteria for the members of the Local Planning Agency of Fort Myers Beach as outlined in section 34-113 shall prevail.

Sec. 2-96. – Removal of agency, board, committee or commission members.

Unless otherwise precluded by state statutes, ordinance, or resolution, any member of an agency, board, committee or commission shall serve at the pleasure of town council and may be removed by town council with or without cause. In the event that any member is no longer a registered voter within the ~~town's jurisdiction~~ territorial boundaries of the Town of Fort Myers Beach ~~or a property owner within the town's jurisdiction,~~ or is convicted of a felony, an offense involving moral turpitude, while in office or has unpaid fines or liens due the Town of Fort Myers Beach, the town council shall terminate the appointment of such person as a member of the agency, board, committee or commission. No member of the Town's agency, board, commission, committee, or local planning agency holding office as of ____ day of _____, 2024, may be removed for failure to meet the qualification criteria as set forth in section 2-94.

Sec. 34-113. - Composition, appointment and compensation of members.

(a) The local planning agency shall consist of up to seven members appointed by the town council. No members of the local planning agency shall be salaried officials of the town. Membership on the local planning agency shall not affect a person's eligibility for membership on any other advisory committee for the Town of Fort Myers Beach during his/her term of office. One spouse per household will be eligible for membership on the local planning agency during any given term of office. No current member of town council shall be eligible to serve on the local planning agency. Except for inclusion of members required under Florida law, all members must be ~~residents of, or owners of real property located within, the territorial limits of~~ registered voters within the territorial boundaries of the Town of Fort Myers Beach at the time of application for membership on the local planning agency and during the period of service on the local planning agency. All applicants must apply on or before October 1 of the appointment year. Each application must include a short biography and short explanation as to why the applicant wishes to serve on the local planning agency.

(b) The members of the local planning agency shall serve without compensation but may be reimbursed for expenses as are necessary to conduct the work of the agency from funds appropriated by the town council.

(c) In addition to the up to seven voting members, the local planning agency shall also include as a nonvoting member a representative of the Lee County School District, as designated by the Lee County School Board, to attend and participate in those meetings at which the local planning agency considers comprehensive plan amendments and rezonings that would, if approved, increase residential

density on the property that is the subject of the application (see F.S. 163.3174(1), 2002).

(d) All appointed members of the local planning agency must file an annual financial disclosure as required by the Florida Commission on Ethics.

Section 3. That the Town Council intends that the provisions of this ordinance be made a part of the Fort Myers Beach, Florida, 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, word, 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 foregoing 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 were 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, Town 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.

ORDINANCE NO. 24-17

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING SECTION 2-94 "QUALIFICATIONS AND APPOINTMENTS OF MEMBERS" AND SECTION 2-96 "REMOVAL OF AGENCY, BOARD, COMMITTEE OR COMMISSION MEMBERS" OF DIVISION 2 "PROCEDURES FOR THE ESTABLISHMENT OF BOARDS, COMMITTEES AND COMMISSIONS" OF ARTICLE IV "BOARDS, COMMISSIONS, COMMITTEES AND OTHER AGENCIES" OF CHAPTER 2 "ADMINISTRATION" AND SECTION 34-113 "COMPOSITION, APPOINTMENT AND COMPENSATION OF MEMBERS" OF DIVISION 3 "LOCAL PLANNING AGENCY" OF ARTICLE II "ZONING PROCEDURES" OF CHAPTER 34 "ZONING DISTRICTS, DESIGN STANDARDS AND NONCONFORMITIES" OF THE CODE OF ORDINANCES OF THE TOWN OF FORT MYERS BEACH, FLORIDA, REMOVING PROPERTY OWNERSHIP AS A QUALIFICATION REQUIREMENT FOR THE MEMBERS OF THE TOWN'S AGENCIES, BOARDS, COMMITTEES OR COMMISSIONS, INCLUDING THE TOWN'S LOCAL PLANNING AGENCY; ELIMINATING DUPLICATIVE LANGUAGE; ADDING A GRANDFATHER PROVISION FOR CURRENT NON-QUALIFYING MEMBERS OF THE TOWN'S BOARDS, AGENCIES, COMMISSIONS, AND COMMITTEES; ADDING A PROVISION TO SECTION 34-113, REGARDING THE MANDATORY ANNUAL FINANCIAL DISCLOSURE FORM AS REQUIRED BY THE FLORIDA COMMISSION ON ETHICS; PROVIDING FOR CODIFICATION, SEVERABILITY, 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, on June 6, 2024, the Town Council held a discussion regarding the proposed changes to the Code of Ordinances of the Town of Fort Myers Beach, to eliminate property ownership within the Town's territorial boundaries as a qualification requirement for the appointed members of the Town's agencies, boards, committees or commissions, including the Town's local planning agency; and

WHEREAS, the Town desires to amend the Town Code to remove property ownership as a criteria, qualifying individuals for the Town's boards, agencies, commissions and committees; and

WHEREAS, the Town wishes to restrict the appointment to those individuals, who are registered voters within the territorial boundaries of the Town; and

WHEREAS, the reasons for removal of the appointed members from the Town's agencies, boards, committees or commissions are already addressed in Section 2-96 of the Town Code; and

WHEREAS, the Town desires to amend Section 2-94 to eliminate the duplicative language related to the removal of the Town's agency, board, committee or commission members; and

WHEREAS, the Town further wishes to add grandfather clauses to Sections 2-94 and 2-96, to allow current non-qualifying members of the Town's agencies, boards, committees or commissions to keep their appointment for the full term, regardless of whether such non-qualifying members meet the required criteria under the Town Code as of the effective date of this ordinance; and

WHEREAS, on the 17th day of June, 2024, the Town Council held a first reading of Ordinance 24-17 and gave direction to the Town Attorney to revise Ordinance 24-17 to add a grandfather clause; and

WHEREAS, the revisions proposed by the Town Council resulted in a substantial change to the title of Ordinance 24-17, necessitating a second first reading of the Ordinance; and

WHEREAS, on the 5th day of August, 2024, the Town Council held a second first reading of this Ordinance and gave full and complete consideration to the request of the proposed ordinance, the recommendation of staff, the documents in the record, and the testimony of all interested persons; and

WHEREAS, an advertisement of the public hearing for adoption of the Ordinance was published in The News-Press on the 14th day of August 2024, 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 9th day of September 2024, the Town Council held a second reading of the Ordinance; and

WHEREAS, the Town Council determined that adoption of the ordinance as provided herein is in the best interests of the health, safety, and welfare of the Town's residents.

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

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. Section 2-94 "Qualifications and appointments of members" and Section 2-96 "Removal of agency, board, committee or commission members" of Division 2 "Procedures

for the Establishment of Boards, Committees and Commissions" of Article IV "Boards, Commissions, Committees and Other Agencies" of Chapter 2 "Administration" of the Code of Ordinances of the Town of Fort Myers Beach, Florida, as well as Section 34-113 "Composition, appointment and compensation of members" of Division 3 "Local Planning Agency" of Article II "Zoning Procedures" of Chapter 34 "Zoning Districts, Design Standards and Nonconformities" of the Town's Land Development Code, are hereby amended to read as follows:

Sec. 2-94. - Qualifications and appointments of members.

In addition to qualifications, which may be specified for membership by state statutes, Charter, ordinance, or resolution, a person appointed to an agency, board, committee, or commission after August 5, 2024, shall be given preference ~~to~~ if that person is a registered voter within ~~the town's jurisdiction~~ the territorial boundaries of the Town of Fort Myers Beach. ~~or a property owner within the town's jurisdiction.~~ Although no specific experience requirements shall be necessary as a prerequisite to appointment, consideration shall be given to applicants who have experience or who have shown interest in the subject matter. ~~If any member is no longer a qualified elector or is convicted of a felony, an offense involving moral turpitude while in office, or has unpaid fines or liens due the Town of Fort Myers Beach, the town council shall terminate the appointment of such person as a member of the agency, board, committee, or commission.~~ Any member of the Town's board, agency, commission or committee who holds office and who is not a registered voter within the Town's jurisdiction as of August 5, 2024, shall keep his or her appointment for the full term.

(1) *Anchorage advisory committee.* The anchorage advisory committee shall advise the town council concerning all matters relevant to the management and use of the waters of the town for mooring and anchoring. The anchorage advisory committee shall prepare and submit the Matanzas Harbor Management Plan and any amendments thereto for review and approval by the town council and make recommendations for the establishment of managed municipal anchorages and mooring fields where warranted by objective evidence of environmental damage or user conflicts; or any other topics as assigned by the town council.

(2) *Audit committee.* All members of the audit committee shall be town residents who do not have any direct financial or business interests involving the town. The town council may waive the residency requirements by majority vote if there are an insufficient number of applicants who reside in the town. All members should, through education and experience, possess a basic understanding of governmental financial reporting and auditing. At least one member of the audit committee shall have accounting, auditing, or related financial management expertise that is specifically relevant to the government sector. The audit committee shall advise the town council on these matters and other matters pursu~~it~~ant to F.S. § 218.391, or any other topics as assigned by the town council.

(3) ~~a.~~ *Bay Oaks Recreational Campus Advisory Board.* The purpose of BORCAB is to serve the town as a community center and recreational facility providing individuals and groups passive and active recreational, social and community activities and events for both residents and visitors. BORCAB members shall work closely and in cooperation with the parks and recreation director, and advise the town council regarding matters concerning the Bay Oaks Recreational Campus and the community pool; or any other topics as assigned by the town council.

~~b.~~ (4) *Community resource advisory board.* The broad objectives of CRAB are to further the welfare of the citizens of the town in the implementation of our community as a "living park" as defined in the comprehensive plan and make recommendations to the town council on acquisition and management of public areas including, but no limited to, pools, parks, beach accesses, streetscapes and other public easements and property to further the living park concept. The CRAB shall advise the town council on these matters or any other topics as assigned by the town council.

~~c.~~ (5) *Cultural and environmental learning center advisory board.* The broad objectives of CELCAB are to ensure and promote the mission of the Mound House and Newton Beach Park to be accomplished through stewardship, advocacy and oversight according to best practices of museums and the requirement as stated in the Florida Communities Trust Agreements for each property. The CELCAB shall advise the town council on these matters or any other topics as assigned by the town council.

~~(4)~~ (6) *Marine and environmental resource and task force.* The broad objectives of MERTF are to further the welfare of the business owners, residents, and visitors of the town by helping to promote a better, more healthful, safe, and attractive community environment and to ensure that the unique and natural characteristics of our marine and environmental resources are preserved; or any other topics as assigned by the town council.

~~(5)~~ (7) *Public safety committee.* The PSC shall address any safety and transportation issues specifically assigned to the committee by the town council for the purpose of the health, safety and welfare of the business owners, residents, and visitors to the town. The committee shall review, discuss, and evaluate the most significant safety and transportation issues within the town. The PSC shall advise the town council on these matters or any other topics as assigned by the town council.

(8) *Local Planning Agency.* Notwithstanding the criteria set forth herein, the criteria for the members of the Local Planning Agency of Fort Myers Beach as outlined in section 34-113 shall prevail.

Sec. 2-96. – Removal of agency, board, committee or commission members.

Unless otherwise precluded by state statutes, ordinance, or resolution, any member of an agency, board, committee or commission shall serve at the pleasure of town council and may be removed by town council with or without cause. In the event that any member is no longer a registered voter within the ~~town's jurisdiction~~ territorial boundaries of the Town of Fort Myers Beach ~~or a property owner within the town's jurisdiction,~~ or is convicted of a felony, an offense involving moral turpitude, while in office or has unpaid fines or liens due the Town of Fort Myers Beach, the town council shall terminate the appointment of such person as a member of the agency, board, committee or commission. No member of the Town's agency, board, commission, committee, or local planning agency holding office as of August 5, 2024, may be removed for failure to meet the qualification criteria as set forth in section 2-94.

Sec. 34-113. - Composition, appointment and compensation of members.

(a) The local planning agency shall consist of up to seven members appointed by the town council. No members of the local planning agency shall be salaried officials of the town. Membership on the local planning agency shall not affect a person's eligibility for membership on any other advisory committee for the Town of Fort Myers Beach during his/her term of office. One spouse per household will be eligible for membership on the local planning agency during any given term of office. No current member of town council shall be eligible to serve on the local planning agency. Except for inclusion of members required under Florida law, all members must be ~~residents of, or owners of real property located within, the territorial limits of~~ registered voters within the territorial boundaries of the Town of Fort Myers Beach at the time of application for membership on the local planning agency and during the period of service on the local planning agency. All applicants must apply on or before October 1 of the appointment year. Each application must include a short biography and short explanation as to why the applicant wishes to serve on the local planning agency.

(b) The members of the local planning agency shall serve without compensation but may be reimbursed for expenses as are necessary to conduct the work of the agency from funds appropriated by the town council.

(c) In addition to the up to seven voting members, the local planning agency shall also include as a nonvoting member a representative of the Lee County School District, as designated by the Lee County School Board, to attend and participate in those meetings at which the local planning agency considers comprehensive plan amendments and rezonings that would, if approved, increase residential density on the property that is the subject of the application (see F.S. 163.3174(1), 2002).

(d) All appointed members of the local planning agency must file an annual financial disclosure as required by the Florida Commission on Ethics.

Section 3. That the Town Council intends that the provisions of this ordinance be made a part of the Fort Myers Beach, Florida, 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, word, 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 foregoing 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 were 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, Town 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.

Sec. 2-94. - Qualifications and appointments of members.

In addition to qualifications, which may be specified for membership by state statutes, Charter, ordinance, or resolution, a person appointed to an agency, board, committee, or commission shall give preference to a registered voter within the town's jurisdiction or a property owner within the town's jurisdiction. Although no specific experience requirements shall be necessary as a prerequisite to appointment, consideration shall be given to applicants who have experience or who have shown interest in the subject matter. If any member is no longer a qualified elector, or is convicted of a felony, an offense involving moral turpitude while in office, or has unpaid fines or liens due the Town of Fort Myers Beach, the town council shall terminate the appointment of such person as a member of the agency, board, committee, or commission.

(1) *Anchorage advisory committee.* The anchorage advisory committee shall advise the town council concerning all matters relevant to the management and use of the waters of the town for mooring and anchoring. The anchorage advisory committee shall prepare and submit the Matanzas Harbor Management Plan and any amendments thereto for review and approval by the town council and make recommendations for the establishment of managed municipal anchorages and mooring fields where warranted by objective evidence of environmental damage or user conflicts; or any other topics as assigned by the town council.

(2) *Audit committee.* All members of the audit committee shall be town residents who do not have any direct financial or business interests involving the town. The town council may waive the residency requirements by majority vote if there are an insufficient number of applicants who reside in the town. All members should, through education and experience, possess a basic understanding of governmental financial reporting and auditing. At least one member of the audit committee shall have accounting, auditing, or related financial management expertise that is specifically relevant to the government sector. The audit committee shall advise the town council on these matters and other matters pursuit to F.S. § 218.391, or any other topics as assigned by the town council.

(3) a. *Bay Oaks Recreational Campus Advisory Board.* The purpose of BORCAB is to serve the town as a community center and recreational facility providing individuals and groups passive and active recreational, social and community activities and events for both residents and visitors. BORCAB members shall work closely and in cooperation with the parks and recreation director, and advise the town council regarding matters concerning the Bay Oaks Recreational Campus and the community pool; or any other topics as assigned by the town council.

b. *Community resource advisory board.* The broad objectives of CRAB are to further the welfare of the citizens of the town in the implementation of our community as a "living park" as defined in the comprehensive plan and make recommendations to the town

council on acquisition and management of public areas including, but no limited to, pools, parks, beach accesses, streetscapes and other public easements and property to further the living park concept. The CRAB shall advise the town council on these matters or any other topics as assigned by the town council.

c. *Cultural and environmental learning center advisory board.* The broad objectives of CELCAB are to ensure and promote the mission of the Mound House and Newton Beach Park to be accomplished through stewardship, advocacy and oversight according to best practices of museums and the requirement as stated in the Florida Communities Trust Agreements for each property. The CELCAB shall advise the town council on these matters or any other topics as assigned by the town council.

(4) *Marine and environmental resource and task force.* The broad objectives of MERTF are to further the welfare of the business owners, residents, and visitors of the town by helping to promote a better, more healthful, safe, and attractive community environment and to ensure that the unique and natural characteristics of our marine and environmental resources are preserved; or any other topics as assigned by the town council.

(5) *Public safety committee.* The PSC shall address any safety and transportation issues specifically assigned to the committee by the town council for the purpose of the health, safety and welfare of the business owners, residents, and visitors to the town. The committee shall review, discuss, and evaluate the most significant safety and transportation issues within the town. The PSC shall advise the town council on these matters or any other topics as assigned by the town council.

(Ord. No. 18-06, § 2, 5-7-2018; Ord. No. 22-10, § 2, 6-6-2022)

Sec. 2-96. - Removal of agency, board, committee or commission members.

Unless otherwise precluded by state statutes, ordinance, or resolution, any member of an agency, board, committee or commission shall serve at the pleasure of town council and may be removed by town council with or without cause. In the event that any member is no longer a registered voter within the town's jurisdiction or a property owner within the town's jurisdiction, or is convicted of a felony, an offense involving moral turpitude while in office or has unpaid fines or liens due the Town of Fort Myers Beach, the town council shall terminate the appointment of such person as a member of the agency, board, committee or commission.

(Ord. No. 18-06, § 4, 5-7-2018)

Sec. 34-113. - Composition, appointment and compensation of members.

(a) The local planning agency shall consist of up to seven members appointed by the town council. No members of the local planning agency shall be salaried officials of the town. Membership on the local planning agency shall not affect a person's eligibility for membership on any other advisory committee for the Town of Fort Myers Beach during his/her term of office. One spouse per household will be eligible for membership on the local planning agency during any given term of office. No current member of town council shall be eligible to serve on the local planning agency. Except for inclusion of members required under Florida law, all members must be residents of, or owners of real property located within, the territorial limits of the Town of Fort Myers Beach at the time of application for membership on the local planning agency and during the period of service on the local planning agency. All applicants must apply on or before October 1 of the appointment year. Each application must include a short biography and short explanation as to why the applicant wishes to serve on the local planning agency.

(b) The members of the local planning agency shall serve without compensation but may be reimbursed for expenses as are necessary to conduct the work of the agency from funds appropriated by the town council.

(c) In addition to the up to seven voting members, the local planning agency shall also include as a nonvoting member a representative of the Lee County School District, as designated by the Lee County School Board, to attend and participate in those meetings at which the local planning agency considers comprehensive plan amendments and rezonings that would, if approved, increase residential density on the property that is the subject of the application (see F.S. 163.3174(1), 2002).

163.3174 Local planning agency.—

(1) The governing body of each local government, individually or in combination as provided in s. 163.3171, shall designate and by ordinance establish a "local planning agency," unless the agency is otherwise established by law. Notwithstanding any special act to the contrary, all local planning agencies or equivalent agencies that first review rezoning and comprehensive plan amendments in each municipality and county shall include a representative of the school district appointed by the school board as a nonvoting member of the local planning agency or equivalent agency to attend those meetings at which the agency considers comprehensive plan amendments and rezonings that would, if approved, increase residential density on the property that is the subject of the application. However, this subsection does not prevent the governing body of the local government from granting voting status to the school board member. The governing body may designate itself as the local planning agency pursuant to this subsection with the addition of a nonvoting school board representative. All local planning agencies shall provide opportunities for involvement by applicable community college boards, which may be accomplished by formal representation, membership on technical advisory committees, or other appropriate means. The local planning agency shall prepare the comprehensive plan or plan amendment after hearings to be held after public notice and shall make recommendations to the governing body regarding the adoption or amendment of the plan. The agency may be a local planning commission, the planning department of the local government, or other instrumentality, including a countywide planning entity established by special act or a council of local government officials created pursuant to s. 163.02, provided the composition of the council is fairly representative of all the governing bodies in the county or planning area; however:

(a) If a joint planning entity is in existence on the effective date of this act which authorizes the governing bodies to adopt and enforce a land use plan effective throughout the joint planning area, that entity shall be the agency for those local governments until such time as the authority of the joint planning entity is modified by law.

(b) In the case of chartered counties, the planning responsibility between the county and the several municipalities therein shall be as stipulated in the charter.

(2) Nothing in this act shall prevent the governing body of a local government that participates in creating a local planning agency serving two or more jurisdictions from continuing or creating its own local planning agency. Any such governing body which continues or creates its own local planning agency may designate which local planning agency functions, powers, and duties will be performed by each such local planning agency.

(3) The governing body or bodies shall appropriate funds for salaries, fees, and expenses necessary in the conduct of the work of the local planning agency and shall also establish a schedule of fees to be charged by the agency. To accomplish the purposes and activities authorized by this act, the local planning agency, with the approval of the governing body or bodies and in accord with the fiscal practices thereof, may expend all sums so appropriated and other sums made available for use from fees, gifts, state or federal grants, state or federal loans, and other sources; however, acceptance of loans must be approved by the governing bodies involved.

(4) The local planning agency shall have the general responsibility for the conduct of the comprehensive planning program. Specifically, the local planning agency shall:

(a) Be the agency responsible for the preparation of the comprehensive plan or plan amendment and shall make recommendations to the governing body regarding the adoption or amendment of such plan. During the preparation of the plan or plan amendment and prior to any recommendation to the governing body, the local planning agency shall hold at least one public hearing, with public notice, on the proposed plan or plan amendment. The governing body in cooperation with the local planning agency may designate any agency, committee, department, or person to prepare the comprehensive plan or plan amendment, but final recommendation of the adoption of such plan or plan amendment to the governing body shall be the responsibility of the local planning agency.

(b) Monitor and oversee the effectiveness and status of the comprehensive plan and recommend to the governing body such changes in the comprehensive plan as may from time to time be required, including the periodic evaluation and appraisal of the comprehensive plan required by s. 163.3191.

(c) Review proposed land development regulations, land development codes, or amendments thereto, and make recommendations to the governing body as to the consistency of the proposal with the adopted comprehensive plan, or element or portion thereof, when the local planning agency is serving as the land development regulation commission or the local government requires review by both the local planning agency and the land development regulation commission.

(d) Perform any other functions, duties, and responsibilities assigned to it by the governing body or by general or special law.

(5) All meetings of the local planning agency shall be public meetings, and agency records shall be public records.

History.—s. 6, ch. 75-257; s. 1, ch. 77-223; s. 5, ch. 85-55; s. 2, ch. 92-129; s. 9, ch. 95-310; s. 9, ch. 95-341; s. 1, ch. 2002-296; s. 10, ch. 2011-139; s. 2, ch. 2012-99.

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The 2024 Florida Statutes

218.391 Auditor selection procedures.—

(1) Each local governmental entity, district school board, charter school, or charter technical career center, prior to entering into a written contract pursuant to subsection (7), except as provided in subsection (8), shall use auditor selection procedures when selecting an auditor to conduct the annual financial audit required in s. 218.39.

(2) The governing body of a county, municipality, special district, district school board, charter school, or charter technical career center shall establish an auditor selection committee.

(a) The auditor selection committee for a county must, at a minimum, consist of each of the county officers elected pursuant to the county charter or s. 1(d), Art. VIII of the State Constitution or their respective designees and one member of the board of county commissioners or its designee.

(b) The auditor selection committee for a municipality, special district, district school board, charter school, or charter technical career center must consist of at least three members. One member of the auditor selection committee must be a member of the governing body of an entity specified in this paragraph, who shall serve as the chair of the committee.

(c) An employee, a chief executive officer, or a chief financial officer of the county, municipality, special district, district school board, charter school, or charter technical career center may not serve as a member of an auditor selection committee established under this subsection; however, an employee, a chief executive officer, or a chief financial officer of the county, municipality, special district, district school board, charter school, or charter technical career center may serve in an advisory capacity.

(d) The primary purpose of the auditor selection committee is to assist the governing body in selecting an auditor to conduct the annual financial audit required in s. 218.39; however, the committee may serve other audit oversight purposes as determined by the entity's governing body. The public may not be excluded from the proceedings under this section.

(3) The auditor selection committee shall:

(a) Establish factors to use for the evaluation of audit services to be provided by a certified public accounting firm duly licensed under chapter 473 and qualified to conduct audits in accordance with government auditing standards as adopted by the Florida Board of Accountancy. Such factors shall include, but are not limited to, ability of personnel, experience, ability to furnish the required services, and such other factors as may be determined by the committee to be applicable to its particular requirements.

(b) Publicly announce requests for proposals. Public announcements must include, at a minimum, a brief description of the audit and indicate how interested firms can apply for consideration.

(c) Provide interested firms with a request for proposal. The request for proposal shall include information on how proposals are to be evaluated and such other information the committee determines is necessary for the firm to prepare a proposal.

(d) Evaluate proposals provided by qualified firms. If compensation is one of the factors established pursuant to paragraph (a), it shall not be the sole or predominant factor used to evaluate proposals.

(e) Rank and recommend in order of preference no fewer than three firms deemed to be the most highly qualified to perform the required services after considering the factors established pursuant to paragraph (a). If

fewer than three firms respond to the request for proposal, the committee shall recommend such firms as it deems to be the most highly qualified.

(4) The governing body shall inquire of qualified firms as to the basis of compensation, select one of the firms recommended by the auditor selection committee, and negotiate a contract, using one of the following methods:

(a) If compensation is not one of the factors established pursuant to paragraph (3)(a) and not used to evaluate firms pursuant to paragraph (3)(e), the governing body shall negotiate a contract with the firm ranked first. If the governing body is unable to negotiate a satisfactory contract with that firm, negotiations with that firm shall be formally terminated, and the governing body shall then undertake negotiations with the second-ranked firm. Failing accord with the second-ranked firm, negotiations shall then be terminated with that firm and undertaken with the third-ranked firm. Negotiations with the other ranked firms shall be undertaken in the same manner. The governing body, in negotiating with firms, may reopen formal negotiations with any one of the three top-ranked firms, but it may not negotiate with more than one firm at a time.

(b) If compensation is one of the factors established pursuant to paragraph (3)(a) and used in the evaluation of proposals pursuant to paragraph (3)(d), the governing body shall select the highest-ranked qualified firm or must document in its public records the reason for not selecting the highest-ranked qualified firm.

(c) The governing body may select a firm recommended by the audit committee and negotiate a contract with one of the recommended firms using an appropriate alternative negotiation method for which compensation is not the sole or predominant factor used to select the firm.

(d) In negotiations with firms under this section, the governing body may allow a designee to conduct negotiations on its behalf.

(5) The method used by the governing body to select a firm recommended by the audit committee and negotiate a contract with such firm must ensure that the agreed-upon compensation is reasonable to satisfy the requirements of s. 218.39 and the needs of the governing body.

(6) If the governing body is unable to negotiate a satisfactory contract with any of the recommended firms, the committee shall recommend additional firms, and negotiations shall continue in accordance with this section until an agreement is reached.

(7) Every procurement of audit services shall be evidenced by a written contract embodying all provisions and conditions of the procurement of such services. For purposes of this section, an engagement letter signed and executed by both parties shall constitute a written contract. The written contract shall, at a minimum, include the following:

(a) A provision specifying the services to be provided and fees or other compensation for such services.

(b) A provision requiring that invoices for fees or other compensation be submitted in sufficient detail to demonstrate compliance with the terms of the contract.

(c) A provision specifying the contract period, including renewals, and conditions under which the contract may be terminated or renewed.

(8) Written contracts entered into pursuant to subsection (7) may be renewed. Such renewals may be done without the use of the auditor selection procedures provided in this section. Renewal of a contract shall be in writing.

(9) If the entity fails to select the auditor in accordance with the requirements of subsections (3)-(6), the entity must again perform the auditor selection process in accordance with this section to select an auditor to conduct audits for subsequent fiscal years.

History.—s. 65, ch. 2001-266; s. 1, ch. 2005-32; s. 15, ch. 2019-15.

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Town of Fort Myers Beach
Agenda Item Summary

Blue Sheet Number: **2024-131**

1. **Request:**

Meeting Date: September 9, 2024

A RESOLUTION OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING SECTIONS 2 AND 5 OF THE TOWN'S POLICIES AND PROCEDURES MANUAL TO MAKE IT CONSISTENT WITH ELIGIBILITY REQUIREMENTS FOR MEMBERS OF THE TOWN'S AGENCIES, BOARDS, COMMITTEES AND COMMISSIONS AND TO UPDATE REFERENCE TO REQUIRED FINANCIAL DISCLOSURE FORMS; AND PROVIDING FOR AN EFFECTIVE DATE.

Why the action is necessary:

The passage of this proposed Resolution is necessary to ensure the Town Council's Policies and Procedures manual is updated pursuant to the recent changes in the Florida law regarding mandatory financial disclosure forms required from the local government officials every year, and revised for uniformity and consistency with the newly amended Town Code, which removes property ownership within the Town's jurisdiction as a qualification requirement for an individual to serve on the Town's board, agency, committee or commission, only requiring voter registration within the Town's territorial boundaries as an eligibility criteria.

What the action accomplishes:

The proposed resolution updates the language of the Town Council's Policies and Procedures Manual by (1) replacing the reference to Form 6 with a reference to Form 1, in compliance with the recent change in the Florida law regarding the required annual financial disclosure forms from the members of the local government, and (2) deleting the reference to residency within the Town's jurisdiction as a qualification requirement to serve as a committee/commission/agency/board member of the Town from Section 5 to ensure uniformity and consistency with the recent changes to the Town's Code of Ordinances after adoption of Ordinance 24-17.

2. **Agenda:**	3. **Requirement/Purpose:**	4. **Submitter of Information:**
PUBLIC HEARINGS	Resolution	nancy stuparich, Town Attorney

5. **Background:**

On June 6, 2024, the Town Council discussed proposed amendments to the Town Code, eliminating property ownership as a qualifying criteria for a member of the Town's board, agency, committee or commission, and leaving only voter registration within the Town's jurisdiction as a qualification criteria. The Town Council directed the Town Attorney to draft a corresponding Ordinance.

On June 17, 2024, the Town Council held a first reading of the proposed Ordinance (24-17) and discussed proposed revisions to the Ordinance. On September 9, 2024, the Town Council will hold a second reading of the Ordinance. If the Ordinance is not challenged at the second reading and no other changes are suggested by the members of the Town Council, the Ordinance will be adopted. Upon adoption of the Ordinance, the Town Council's Policies and Procedures Manual will require revisions to be consistent with the newly amended Town Code.

Additionally, on June 10, 2024, the US District Court for the Southern District of Florida held that elected officials were not required to file a Form 6 (Full and Public Disclosure of Financial Interests) and instead must file a Form 1 (Statement of Financial Interests).

For the foregoing reasons, the Town Council's Policies and Procedures Manual needs to be

updated. This can accomplished by passing a Resolution, which amends the relevant portions of the Town Council's Policies and Procedures Manual to be consistent with the updated language of the Town Code and the recent changes in the Florida law.

Attachments:

1. Resolution 24-178, Amending Sections 2 and 5 of Town's Manual 9-4-24 noon mrns
2. 23-182, Town Council PnP
3. 24-17, Committee Member Reqs Ordinance (updated) 9-4-24 12.15pm mr

Financial Impact:

None

6. **Alternative Action**

7. **Management Recommendations:**

Pass the Resolution.

8. **Recommended Approval:**

Jason Freeman, Legislative Liaison / Deputy Town Clerk	Created/Initiated - 9/3/2024
nancy stuparich, Town Attorney	Approved - 9/4/2024
Amy Baker, Town Clerk	Approved - 9/4/2024
Andy Hyatt, Town Manager	Final Approval - 9/4/2024

RESOLUTION NUMBER 24-178

A RESOLUTION OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING RESOLUTION 23-182 TO AMEND SECTIONS 2 AND 5 OF THE TOWN'S POLICIES AND PROCEDURES MANUAL TO MAKE IT CONSISTENT WITH ELIGIBILITY REQUIREMENTS FOR MEMBERS OF THE TOWN'S AGENCIES, BOARDS, COMMITTEES AND COMMISSIONS AND TO UPDATE REFERENCE TO REQUIRED FINANCIAL DISCLOSURE FORMS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Article VIII, Section 2 of the State Constitution and Chapter 166 of the 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 services, and exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, Article X of the Town Charter empowers the Town Council to adopt, amend, or repeal such ordinances and resolutions as may be required for the proper governing of the Town; and

WHEREAS, on January 22, 2024, the Town Council amended its Policies and Procedures Manual by approval of Resolution 23-182; and

WHEREAS, on June 6, 2024, during the Town Council meeting, the Town Council discussed removal of property ownership within the Town's territorial boundaries as a qualification for an individual to serve on a Town board, agency, committee or commission, and considered amending sections 2-94 and 2-96 of the Town of Fort Myers Beach Code of Ordinances, and section 34-113 of the Town's Land Development Code; and

WHEREAS, shortly thereafter on June 10, 2024, a Federal Court granted a preliminary injunction that changed the form filing requirement for financial disclosures from a 2023 Form 6 back to a 2023 Form 1 for mayors and city/village/town governing board members, which was effective immediately; and

WHEREAS, following a first reading on August 7, 2024, on September 9, 2024 the Town Council adopted Ordinance 24-17, amending the noted sections of the Town Code of Ordinances to remove ambiguous language and property ownership as a qualification requirement to serve on the Town's board, agency, commission or committee, leaving only voter registration within the Town's territorial boundaries as a requirement for eligibility to serve the Town; and

WHEREAS, the Town Council desires to now amend and update Sections 2 and 5 of the Town's Council Policies and Procedures Manual, previously approved by Resolution 23-182, to ensure the Town's Manual is updated and consistent with the current financial disclosure requirements under Florida law for local government officials and the amended Town of Fort

Myers Beach Code of Ordinances as it pertains to the updated committee member eligibility.

NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE TOWN OF FORT MYERS BEACH AS FOLLOWS:

Section 1. The foregoing Whereas clauses are ratified and confirmed as being true and correct, are the legislative and administrative findings of the Town Council and made a specific part of this Resolution.

Section 2. Revisions to sections 2 and 5 of the Town Council's Policies and Procedures Manual, as amended in Exhibit "A," are approved.

Section 3. This Resolution shall take effect immediately upon its adoption by the Town Council of the Town of Fort Myers Beach.

THE FOREGOING RESOLUTION was adopted by the Town Council upon 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	___
Karen Woodson, Council Member	___
Scott Safford, Council Member	___
John R. King, 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, LLP, Town Attorney

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

EXHIBIT "A"

2. Town Council Mission and Job Description

Mission:

To legislate and police the powers of the Town, including establishing boards, commissions and committees; to perform all duties and obligations imposed on the municipality by law; to insure by strategic planning and clear policies that the unique and natural characteristics of the island are preserved; to supervise the Town Manager and Town Attorney; to perform all actions for the welfare of the residents, owners, businesspersons, and guests of the Island in adherence to the Town Charter, State and Federal Law.

Functions, Powers and Duties:

- Review and interpret the Comprehensive Plan and conduct public hearings as needed to make changes.
- Review and interpret the Land Development Code and conduct public hearings as needed to make changes.
- Conduct hearings regarding land use matters.
- Introduce and approve Charter Amendments for adoption by referendum.
- Appoint a Town Manager.
- Appoint a Town Attorney.
- Introduce and enact ordinances.
- Introduce and adopt resolutions.
- Review and adopt the Operations and Capital Improvement budgets.
- Review and approve budget amendments.
- Create Special Assessment Districts as may be needed.
- Establish advisory committees as needed.
- Review and approve inter-local agreements.
- Review and approve contracts with the Town above the threshold limit allowed to Town Manager.
- Elect a Mayor and Vice Mayor.
- Perform any other duties that are lawfully defined by the Charter and Florida statutes.

Council Member Requirements:

- Electronically file a Statement of Financial Interests and Ethics Training (Form ~~6~~ 1) on the Florida Commission on Ethics website every year.
- Complete and file Form 1 ~~6F~~ – Final Statement of Financial Interest, within 60 days of leaving office.
- Pursuant to state law, all Council members must complete 4 hours of ethics training each calendar year, which addresses, at a minimum, s. 8, Art. II of the State Constitution, the Code of Ethics for Public Officers and Employees, and the public records and public meetings laws of the State of Florida.

5. Town Advisory Committees, Boards and Agencies Standing Advisory Committees

Council Selection of Advisory Board, Agency, and Committee Members:

~~Residency: As provided by Sec 2-94 of the Town Code, committee members shall be a registered voter or a property owner in the Town's jurisdiction.~~

Advertising: All advisory committees are listed on the Town website. Information included will be the committee mission, current projects, when the committee meets and current members on the committee and whether submission of an annual Form 1 (Financial Disclosure) is required by the Florida Commission on Ethics.

Openings: In the event of an opening for an advisory board or committee, Town staff will list the opening on the website with a date when applications must be submitted to the Town Clerk for consideration by Town Council. Whenever possible, committee selection will be scheduled 30 days after proper notification. Advertising in local newspapers can be considered if approved by the Town Manager. Committee candidates will be encouraged to appear for interviews during the selection process.

Preliminary matters: The Council should decide how to go about voting prior to any voting taking place and decide the number of members on a committee ahead of time.

Voting:

1. Each Council member makes selections, marking no more than the total number of seats available (or writes the names down), and initials his ballot.
2. Those receiving the most votes are selected to seats available.
3. If there is a tie for any number of seats still left open, there will be a runoff consisting only of the persons who are tied.

Examples of voting procedure:

First Ballot:
Seats available – 9
Candidates – 15

Votes on First Ballot: Results of First Ballot

3 get 5 votes apiece 3 are elected
3 get 4 votes apiece 3 are elected
4 get 3 votes apiece 4 go on a second ballot
3 get 2 votes apiece 3 are eliminated
2 get 0 votes apiece 2 are eliminated

There would be a second ballot containing only the names of the four candidates who got three votes. Council would vote for three candidates. This process would be repeated in case of a tie until all seats are filled. A variation on this method of voting is that after the first ballot, if there is a tie which prevents all the seats from being filled, the runoff would consist of all the un-selected candidates, not just the ones involved in the tie.

4. The ballots are given to the Town Clerk, who conducts the tallying and announces the results.
5. Once all selections are made, Council adopts a motion containing the new members' names.

Effective Date of Appointment and Follow Up:

Newly appointed advisory board, agency and committee members who are required to file a Financial Disclosure Statement, will be notified of the disclosure requirements no later than the date of appointment. The Town Manager or designee is responsible for such notification. These appointments should be made effective as of some future date, so that there is sufficient time to provide the required notification. For convenience, the notice could be accompanied by a copy of the required disclosure forms, which are available on-line from the Florida Commission on Ethics (http://www.ethics.state.fl.us/)

Ad Hoc Committees:

Town Council has the authority to form ad hoc committees requesting participation by volunteers. Ad hoc Committees can be used at Town Council's discretion to address specialized and or short-term Town issues.

The mission, specific objectives, expected products, membership and timelines of an ad hoc committee should be clearly stated and agreed to by Town Council. One Town Council member will be an ex-officio member of each ad hoc committee. Where possible, an attempt will be made to have a balanced committee membership. Minutes or verbal reports will keep Town Council informed on a regular basis. A final report will document findings and recommendations and will be presented at a Town Council meeting or workshop.

Ad hoc committees are subject to the public records laws, sunshine laws, quorum, and statutory ethical requirements. It is the Town's responsibility to ensure that each committee member is educated on these issues.

Outline of Committee Orientation Material:

- Meeting Requirements
    - Notice
    - Location Requirements, such as ADA compliance
    - Agendas
    - Quorum
- Sunshine Requirements
- Public Records Requirements
- Statutory Ethical Requirements

RESOLUTION NUMBER 23-182

A RESOLUTION OF THE TOWN OF FORT MYERS BEACH, FLORIDA, ADOPTING AND AMENDING THE TOWN COUNCIL POLICIES AND PROCEDURES MANUAL; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Article VIII, Section 2 of the State Constitution and Chapter 166 of the 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 services, and exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, Article X of the Town Charter empowers the Town Council to adopt, amend, or repeal such ordinances and resolutions as may be required for the proper governing of the Town; and

WHEREAS, the Town Council has adopted a Policies and Procedures Manual to standardize the way the Town Council conducts its meetings, acts on items before it and adopts, amends, and implements legislative and policy decisions; and

WHEREAS, the Town Council desires to amend and update the Town Council Policies and Procedures Manual previously approved by Resolution 23-30.

NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE TOWN OF FORT MYERS BEACH AS FOLLOWS:

Section 1. The foregoing whereas clauses are ratified and confirmed as being true and correct, are the legislative and administrative findings of the Town Council and made a specific part of this Resolution.

Section 2. The amended Town Council Policies and Procedures Manual, attached as Exhibit "A" is approved.

Section 3. This Resolution shall take effect immediately upon its adoption by the Town Council of the Town of Fort Myers Beach.

THE FOREGOING RESOLUTION was adopted by the Town Council upon motion by Council Member Woodson and seconded by Council Member King, and upon being put to a roll vote, the result was as follows:

Dan Allers, Mayor	Aye
Jim Atterholt, Vice Mayor	Aye
John King, Council Member	Aye
Vacant, Council Member	N/A
Karen Woodson, Council Member	Aye

ADOPTED this 22nd day of January 2024, by the Town Council of the Town of Fort Myers Beach, Florida.

TOWN OF FORT MYERS BEACH

Dan Allers
Dan Allers (Mar 6, 2024 08:29 EST)

Dan Allers, Mayor

ATTEST:

Amy Baker (Mar 6, 2024 15:53 EST)

Amy Baker, Town Clerk

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

Nancy Parish (Mar 5, 2024 09:52 EST)

Vose Law Firm LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this 12th day of February 2024.

EXHIBIT "A"

Town of Fort Myers Beach Town Council
Policies and Procedures Manual
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EXHIBIT "A"

1. Introduction

This Town Council Policies and Procedures Manual is for the purpose of helping the Council Members in the discharge of their duties. They are intended to be guidelines, not "rules" on how to conduct business. Town Council may vary from these policies and procedures on a case-by-case basis by a majority vote unless in conflict with Florida law, the Town Charter, the Land Development Code, Code of Ordinances, Comprehensive Plan or other Town guiding documents. As the Town Council continues to discover situations that are unique to Fort Myers Beach, it will want to update and amend this manual. Experience may show that some of these policies and procedures need to be modified or eliminated and new ones adopted.

By adopting this manual, members of Council will find in one handy reference, answers to policy and procedure questions that come up from time to time. By having an agreed-upon guide, members of Council also may develop common expectations on proper conduct of Council meetings, dealings with the public, and the roles of Town staff and committees.

This manual should be used in conjunction with the Town Charter, Comprehensive Land Use Plan (Comp Plan), Land Development Code (LDC), Code of Ordinances, and the annual budget as necessary. In the event of a conflict between this document and Florida statutes, Town Charter or other Town guiding documents, such other document shall prevail over the language in the Policies and Procedures manual.

2. Town Council Mission and Job Description

Mission:

> To legislate and police the powers of the Town, including establishing boards, commissions and committees; to perform all duties and obligations imposed on the municipality by law; to insure by strategic planning and clear policies that the unique and natural characteristics of the island are preserved; to supervise the Town Manager and Town Attorney; to perform all actions for the welfare of the residents, owners, businesspersons, and guests of the Island in adherence to the Town Charter, State and Federal Law.

Functions, Powers and Duties:

- Review and interpret the Comprehensive Plan and conduct public hearings as needed to make changes.
- Review and interpret the Land Development Code and conduct public hearings as needed to make changes.
- Conduct hearings regarding land use matters.
- Introduce and approve Charter Amendments for adoption by referendum.
- Appoint a Town Manager.
- Appoint a Town Attorney.
- Introduce and enact ordinances.

- Introduce and adopt resolutions.
- Review and adopt the Operations and Capital Improvement budgets.
- Review and approve budget amendments.
- Create Special Assessment Districts as may be needed.
- Establish advisory committees as needed.
- Review and approve inter-local agreements.
- Review and approve contracts with the Town above the threshold limit allowed to Town Manager.
- Elect a Mayor and Vice Mayor.
- Perform any other duties that are lawfully defined by the Charter and Florida statutes.

Council Member Requirements:

- Electronically file a Statement of Financial Interests and Ethics Training (Form 6) on the Florida Commission on Ethics website every year.
- Complete and file Form 6F – Final Statement of Financial Interest, within 60 days of leaving office.
- Pursuant to state law, all Council members must complete 4 hours of ethics training each calendar year, which addresses, at a minimum, s. 8, Art. II of the State Constitution, the Code of Ethics for Public Officers and Employees, and the public records and public meetings laws of the State of Florida.

3. How Town Council Will Operate

Code of Conduct:

Recognizing that persons holding a position of public trust are under constant observation, and recognizing that maintaining the integrity and dignity of the public office is essential for maintaining high levels of public confidence in our institutions of government, every member of the Town Council pledges to adhere to the following CODE OF CONDUCT:

1. Regularly attend all scheduled meetings of the Town Council as well as special or called meetings relevant to the office.
2. Regularly attend all scheduled meetings of outside committees of which they are a member.
3. Prepare for each meeting.
4. Create a positive environment in meetings of Town Council.
5. Maintain an attitude of courtesy and consideration toward colleagues, residents, and staff during all discussions and deliberations.
6. Allow residents, colleagues, and staff sufficient opportunity to present their views within the prescribed rules for conduct of meetings of Town Council.

7. Avoid the use of abusive, threatening, or intimidating language or gestures directed at colleagues, residents, or staff.
8. Avoid comments, body language or distracting activity that conveys a message of disrespect and lack of interest.
9. Respect all local, state, and federal laws, rules, and other regulations.
10. Electronically submit completed financial disclosure forms via the Florida Commission on Ethics website by the specified deadline.
11. Publicly acknowledge the adopted position when asked about a decision of Town Council.
12. Read the Town Comprehensive Plan and follow its directives in all decision-making processes for the Town.
13. Follow the procedural and substantive requirements of the LDC.

Code of Ethics:

Members should ethically serve the public interest by making decisions and taking actions that will enhance the public health, safety and welfare of the region and the residents served by the Town Council and by promoting public confidence in the integrity, independence, ability and impartiality of Town Council.

1. Members shall not convey the impression that they can influence the outcome of a decision of Town Council and shall not attempt to use their office to direct or influence staff recommendations, the Town Manager or Town Attorney without the concurrence of the Town Council.
2. Members shall discharge their duties and responsibilities without favor, bias or prejudice toward any person or group. Members should not allow personal or business relationships to impact upon their conduct or decisions in connection with Town Council business and shall not lend their influence towards the advancement of personal interests, towards the advancement of the interests of friends or business associates or other conflict of interest situations.
3. Members shall avoid creating the appearance of impropriety by refraining from engaging in private discussions with an applicant – or their representatives about specific upcoming Town Council quasi-judicial agenda items unless the ex parte communication is disclosed as required. If a member receives a private written, telephonic or electronic communication about an agenda item, the member will promptly forward the information to the Town Manager and the Town Clerk, or to the member's Town e-mail account so that it may be shared with all other members and filed with the Town official records to comply with the Public Records Law requirement. Any private written, telephonic, or electronic communication about an agenda item, must be submitted to the Town Clerk prior to the commencement of the Town Council meeting at which the agenda item is discussed or it cannot be mentioned or read by any member unless otherwise allowed by majority vote of the Town Council.

4. No member shall communicate, receive, send, or solicit any private written, telephonic, or electronic communication during a Town Council meeting if disruptive to the orderly conduct of the meeting, unless it pertains to an emergency situation (example: audio or video feed of Council meeting not working properly).
5. Members shall refrain from any private discussion of Town Council business, or matters that could come before the Town Council, with other members per the requirements of Florida's Government-in-the-Sunshine Law, Chapter 286, Florida Statutes.
6. Consistent with Florida law, Members shall not accept or solicit a gift, loan, payment, favor, service, promise of employment or business contract, meal, transportation or anything else of value, if such thing is given with the understanding or possibility that it will influence the official action of the Members during Town Council proceedings. Florida law prohibits the spouse or minor child of that member from soliciting or accepting these as well, and the Member shall be vigilant in ensuring compliance from those family members. Members should contact the Town Attorney or the Florida Commission on Ethics if they have any questions about compliance with Florida law as to gifts.
7. A member whose personal employment or business relationship with a person or entity that is subject to a recommendation of Town Council shall seek the advice and counsel of the Town Attorney, if such relationship could conceivably influence the members' impartiality during Town Council discussion of the subject. The provisions of Chapter 112, Florida Statutes and the Code of Ethics for Public Officers and Employees, shall govern conflict of interest determinations.
8. Members shall remain vigilant against deviations from Town Council policies and procedures.

As a legislative and quasi-judicial body, Town Council must be ever cognizant of the important legal requirements of due process and equal protection. These principles are derived from the United States Constitution, the Constitution of the State of Florida, and Florida Statutes, the Town Charter, Town code and LDC, and apply to legislative and quasi-judicial actions. The legal requirement for due process is separated into two prongs: substantive due process and procedural due process. The principle of substantive due process requires the benefits of a given regulation be within the scope of governmental authority, i.e., health, safety, morals, or general welfare, and that the regulations be accomplished in a rational manner, i.e., not be unreasonable, arbitrary or capricious. This is a principle of fundamental fairness in the substance of a given regulatory scheme or provision.

The other due process prong, procedural due process, requires a fair method of adjudicating the rights of property owners, requiring notice and an opportunity to be heard by an impartial decision maker. In legislative matters, this requirement is derived from Florida Statutes, the Town Code and LDC that provide the type and period of notice depending on the nature of the property interest subject to regulation at a public hearing. Quasi-judicial decisions have an underlying Constitutional requirement for procedural due process.

Equal protection limits governmental regulation from establishing irrational classifications, protects the rights of suspect and quasi-suspect classes, and assures against the exercise of fundamental or important rights of persons in ways different from others. Key overarching principles to keep in mind are that every person must be treated equally and reasonably by the quasi-judicial or legislative substance and process and that decisions and recommendations be deliberated in an open process with adequate notice and allowance for participation of affected parties. Reasonable, consistent, and timely notifications in quasi-judicial matters to be heard by the Town Council provide an applicant and other parties potentially affected by a requested decision these fundamental protections.

Assignment of a Town Council Representative:

Town Council may choose to assign a member to lead a project or assess an issue. The Town Council Representative, or often called a "Point Person" may be assigned to do fact-finding and/or research, recommend a course of action and report back to Town Council for direction. Final decisions are made by a majority of Town Council.

Sunshine Issues:

Members of Town Council and all Town advisory committees, boards and agencies are subject to the Sunshine Law (F.S. 286.011). This means that any gathering of, or communication between, two or more members of the same advisory committee, board or agency must comply with all the Sunshine Law requirements if they participate in any discussion, directly or indirectly, regarding any matter where there is known or could be foreseeable action taken by communication through a spouse or other go-between.

Town Council members cannot engage in discussions with each other (directly or indirectly) at outside meetings such as the Chamber of Commerce or civic groups regarding any matter on which it is known or foreseeable that action may be taken, unless the Sunshine requirements are met. These rules apply equally to any gathering, formal or casual, such as a Rotary Club (or other business or fraternal club gathering), fund-raiser, etc. They also apply to social events and functions unconnected to the advisory committee, such as a neighbor's backyard barbeque. They also apply to casual discussions between or among members coming in the door for the committee meeting, at breaks during the meeting, and going out the door after the meeting. Every component of the decision-making process must occur in the Sunshine.

The penalties for violating the Sunshine law are severe and can include criminal and civil sanctions. The process of investigation of Sunshine violations is always unpleasant, embarrassing, and expensive, even if the person is ultimately cleared.

EXHIBIT "A"

Email and Texting Policy:

Email and texting are convenient ways to communicate with staff, Town Council, residents, and others. However, it presents unique legal and ethical challenges. All email and texts regarding Town business must be properly retained as a public record. Furthermore, any email or text regarding an issue that will come before Council in a quasi-judicial hearing must be properly disclosed as an ex-parte communication as appropriate. Council members must be vigilant to not accidentally violate Sunshine Law requirements. Emailing or texting anyone stating a position on an issue that will come before Town Council is particularly risky. Email and text actions to avoid include:

1. Sending an email to another Council member with anything that could be construed as a position.
2. Copying another Council member on a response to an email sent by a resident, staff member or other person.
3. If another Town Council member's email is inadvertently forwarded to you, respond to the sender recognizing its accidental nature, the fact that it is a Sunshine issue and retain a copy of your response.
4. Sending an email "Reply All" when more than one Council member is also on the email that was received.

Florida has a very broad public records law. Most written communications to or from Fort Myers Beach officials regarding Town business are public records available to the public and media upon request. Your email and text communications and email address and mobile phone number may be subject to public disclosure. (This statement must be included in the closing of any email regarding Town business).

Public Records:

It is the policy of the State of Florida that municipal records shall be open for personal inspection by any person (s. 119.01, F.S.). To that end, the Legislature has enacted the Public Records Law (Ch. 119, F.S.), which contains requirements that public records, as defined in s. 119.011, F.S., be made available for public inspection, they be kept in usable condition, they be kept in safe places, they be kept in convenient places, and copying of records be provided at reasonable costs. A public record is "any material prepared in connection with official agency business which is intended to perpetuate, communicate, or formalize knowledge of some type."

Council members' responsibility is to ensure their own public records are properly handled and preserved, and to see that the law is adhered to by all employees of the Town. The Town Clerk has been assigned the responsibility of being the custodian of public records. Council members must further understand that their public record must be retained even after leaving office.

Any use of personal electronic equipment or email accounts for government business is allowed, but for a council member's own protection, it is suggested that a copy of any documents produced is sent to their Town email account for proper retention. Materials prepared for Town Council meetings, hearings, minutes, and workshop will already be managed by the custodian of public

records and do not need to be retained by the Council member. If there are any questions on retention of a particular document, consult with the custodian of public records and/or the Town Attorney before destroying.

4. Training Materials and First Meeting

Training Materials:

The Town Clerk will provide each new member of the Town Council with copies of:

- Town Charter.
- Comprehensive Plan.
- Land Development Code.
- Code of Ordinances.
- Florida Code of Ethics.
- Florida Sunshine and Public Records Laws.
- Emergency Operations Plan.
- Town Council Policies and Procedures Manual.
- Local Planning Agency Policies and Procedures Manual.
- Town Personnel Manual.
- Town Purchasing and Procurement Manual.
- Other materials as determined by the Town Attorney, Town Manager and Town Council members.

As part of a Council member's orientation, they will be provided a tour of the Town facilities with introductions with all staff members. ~~Pursuant to state law, all Council members must complete 4 hours of ethics training each calendar year, which addresses, at a minimum, s. 8, Art. II of the State Constitution, the Code of Ethics for Public Officers and Employees, and the public records and public meetings laws of the State of Florida.~~

Training Recommendations:

- Successful completion of all courses required by the National Incident Management System (NIMS).
- Florida League of Cities, Inc., Institute of Elected Municipal Officials (IEMO) Basic Course.
- Making Good Planning Decisions.
- Hands-on Emergency Operations Training.
- Other courses as determined by the Town Attorney, Town Manager and Town Council members.

EXHIBIT "A"

Election of Officers:

At the first meeting after the second Tuesday in November, the Council's Mayor and Vice Mayor will be chosen. Each Council member may nominate a person for each of these positions. A second is not required. The voting procedure will be agreed upon in advance.

Outside Committee Representation:

Charlotte Harbor National Estuary Program – www.chnep.org
Meetings: The Policy Committee meets the third Monday every other month at 9:30 am*.
Mission: The CHNEP is a partnership that protects the estuaries and watersheds from Venice to Bonita Springs to Winter Haven. This partnership gives citizens, elected officials, resource managers, and commercial and recreational resource users in the 4,700-square mile study area a voice to address diverse resource management concerns including fish and wildlife habitat loss, water quality and water flow. The watershed in the study area includes all or parts of Lee, Charlotte, Sarasota, Manatee, Polk, Hardee and DeSoto counties.

Coastal Advisory Committee – https://www.leegov.com/naturalresources/marine/beachmgmnt/CAC
Meetings: Last Monday of each month at 9:30 am.*
Mission: The Council's charge is to advise the Board of County Commissioners, staff and the various related advisory boards when proceeding with a project affecting beach and shoreline preservation regarding the proper methods in helping to conserve the Beaches of Lee County.

Horizon Council – https://www.leecountybusiness.com/horizon-council/
Meetings: First Friday of each month*
Mission: The Horizon Council is the advisory board to the county commission on economic development issues. This unique public-private partnership is made up of 62 members from government, education, business, and community organizations. Established in 1991, the mission of the Horizon Council is to:

- Work toward improving the business environment in Lee County; and
- Retain and encourage the expansion of existing businesses; and
- Attract new and diversified employment to the area

Human Services Council – https://www.leegov.com/dhs
Meetings: Third Tuesday of each month*
Mission: The Council will ensure the efficient delivery of community health and human services through:

- Communication
- Coordination
- Strategic Planning
- Innovation
- Integration and collaboration
- Measurable Outcomes

Metropolitan Planning Organization – https://leempo.com/
Meetings: Third Friday of each month at 9 am*
Mission: The MPO is responsible for conducting a continuing, cooperative, and comprehensive transportation planning process for all of Lee County. It must plan for the movement of both people and goods within the county by all modes of travel – including highways, public transportation, bicycles, and foot. It also plans for the connections (such as airports, seaports, or bus, railroad, and pipeline terminals) linking these modes or tying us to the rest of the world.

The MPO sets priorities among surface transportation improvement projects within Lee County for state or federal funding. To be eligible for federal funds, federal law requires that the MPO endorse a transportation improvement program identifying the projects to be done over the next few years.

Southwest Florida Regional Planning Council – www.swfrpc.org
Meetings: Third Thursday of each month at 9 am*
Mission: The Southwest Florida Regional Planning Council is a locally formed regional planning agency serving six counties: Charlotte, Collier, Glades, Hendry, Lee, and Sarasota. Its mission is to protect and improve the region's physical, economic, and social environment. The agency is directed by a thirty-four-member Council composed of local elected officials and gubernatorial appointees. The activities of the Southwest Florida RPC can be classified into three major areas: long range planning, tactical planning, and transportation planning.

Estero Bay Agency on Bay Management – https://www.esterobayabm.org/contact
Meetings: Second Monday of each month at 9:30 am*
Mission: Its directive is to make comments and recommendations regarding the management of Estero Bay and its watershed. The ABM collects and maintains data and it reviews and comments to regulatory agencies on issues affecting the watershed

*Meeting times are subject to change.

5. Town Advisory Committees, Boards and Agencies Standing Advisory Committees

Council Selection of Advisory Board, Agency, and Committee Members:

Residency: ~~Except as required by Town Charter, Town Ordinance or Florida statute, residency on Fort Myers Beach will not be a requirement for nomination or election to a committee, commission, or board of the Town.~~ As provided by Sec 2-94 of the Town Code, committee members shall be a registered voter or a property owner in the Town's jurisdiction.

Advertising: All advisory committees are listed on the Town website. Information included will be the committee mission, current projects, when the committee meets and current members on the committee and whether submission of an annual Form 1 (Financial Disclosure) is required by the Florida Commission on Ethics.

EXHIBIT "A"

Openings: In the event of an opening for an advisory board or committee, Town staff will list the opening on the website with a date when applications must be submitted to the Town Clerk for consideration by Town Council. Whenever possible, committee selection will be scheduled 30 days after proper notification. Advertising in local newspapers can be considered if approved by the Town Manager. Committee candidates will be encouraged to appear for interviews during the selection process.

Preliminary matters: The Council should decide how to go about voting prior to any voting taking place and decide the number of members on a committee ahead of time.

Voting:

1. Each Council member makes selections, marking no more than the total number of seats available (or writes the names down), and initials his ballot.
2. Those receiving the most votes are selected to seats available.
3. If there is a tie for any number of seats still left open, there will be a runoff consisting only of the persons who are tied.

Examples of voting procedure:

First Ballot:
Seats available – 9
Candidates – 15
Votes on First Ballot: Results of First Ballot
3 get 5 votes apiece 3 are elected
3 get 4 votes apiece 3 are elected
4 get 3 votes apiece 4 go on a second ballot
3 get 2 votes apiece 3 are eliminated
2 get 0 votes apiece 2 are eliminated

There would be a second ballot containing only the names of the four candidates who got three votes. Council would vote for three candidates. This process would be repeated in case of a tie until all seats are filled. A variation on this method of voting is that after the first ballot, if there is a tie which prevents all the seats from being filled, the runoff would consist of all the un-selected candidates, not just the ones involved in the tie.

4. The ballots are given to the Town Clerk, who conducts the tallying and announces the results.
5. Once all selections are made, Council adopts a motion containing the new members' names.

EXHIBIT "A"

Effective Date of Appointment and Follow Up:

Newly appointed advisory board, agency and committee members who are required to file a Financial Disclosure Statement, will be notified of the disclosure requirements no later than the date of appointment. The Town Manager or designee is responsible for such notification. These appointments should be made effective as of some future date, so that there is sufficient time to provide the required notification. For convenience, the notice could be accompanied by a copy of the required disclosure forms, which are available on-line from the Florida Commission on Ethics (http://www.ethics.state.fl.us/)

Ad Hoc Committees:

Town Council has the authority to form ad hoc committees requesting participation by volunteers. Ad hoc Committees can be used at Town Council's discretion to address specialized and or short-term Town issues.

The mission, specific objectives, expected products, membership and timelines of an ad hoc committee should be clearly stated and agreed to by Town Council. One Town Council member will be an ex-officio member of each ad hoc committee. Where possible, an attempt will be made to have a balanced committee membership. Minutes or verbal reports will keep Town Council informed on a regular basis. A final report will document findings and recommendations and will be presented at a Town Council meeting or workshop.

Ad hoc committees are subject to the public records laws, sunshine laws, quorum, and statutory ethical requirements. It is the Town's responsibility to ensure that each committee member is educated on these issues.

Outline of Committee Orientation Material:

- Meeting Requirements
  - Notice
  - Location Requirements, such as ADA compliance
  - Agendas
  - Quorum
- Sunshine Requirements
- Public Records Requirements
- Statutory Ethical Requirements

6. Meeting Preparation and Planning

Meeting Schedule:

Regular meetings of Town Council may be found on the website calendar. Management and Planning meetings (M&Ps) are work sessions and are scheduled to discuss financial and other issues before the Town. The need for workshops special meetings, continuances, or rescheduled meetings will be determined by consensus of the Town Council members or the Town Manager and Town Attorney.

Source of Items:

Items for Town Council agendas are generated by requests and/or legislation (ordinances or resolutions) from members of Town Council prepared by the Town Attorney, requests and actions from the Local Planning Agency, continuations from previous council meetings, in addition to anything Council members, the Town Manager or Town Attorney may wish to have included. Some of these inquiries are routine and can be handled by staff because Town Council policy and procedures have been previously approved which apply.

When an item arises that requires Town Council action either to make a decision or to direct staff or the Town Attorney how to proceed it will appear on the agenda identified as a Council member's request or as an item under the Town Manager's section of the agenda which is the "catch all" for miscellaneous items, or Town Attorney's section, as appropriate. For an item to appear on an agenda, at least two Council members must agree and shall direct the Town Manager to do so, provided time schedules allow. (Note the agenda preparation timetable below).

Whenever possible, any material written and distributed by Council members as part of the agenda should be included in Council members' packets – allowing ample time for review. This preserves the integrity of the seated Council, conforms to the Florida Public Records law, and lessens the opportunity for misunderstandings and miscommunication. No significant Town staff or Town Attorney time will be spent on an agenda item requested by an individual Council member without advance approval by a majority of the Council. Written requests to be placed on a Council agenda from the public should be submitted directly to the Town Manager. Agenda Management for future meetings is reviewed at each Management & Planning Session.

Timetable and Preparation Process:

A draft agenda will be sent to Town Council for review and comment within 24 hours. The Town Council chair may modify the order of the agenda subject to the approval of the Town Council. Absent an emergency or pressing need, by close of business on the Wednesday prior to the next regular Council meeting, a packet including the finalized agenda and supporting material will be placed in the Council members' mailboxes and placed on the Town website.

The Council members' packets include complete documentation for agenda items (actions required, implications, backup information, memos, ordinances, resolutions, etc.). A sincere effort is made to see that Council packets are complete; if something is not available, a written

explanation will be provided. Generally, items requiring documentation (recommendations, memos, ordinances, resolutions, etc.) will not be included on an agenda until the documentation is complete.

The agenda is posted at Town Hall and on the Town website. Meetings may be announced in local newspapers. Hearing notices will be advertised as required by law and may be provided as a service to local newspapers. Occasionally an item comes up late and may be placed on an amended agenda, or as an "add on" (added too late to be included on the published agenda). Such additions should be an exception and require a majority vote prior to the approval of the final agenda at the beginning of the meeting.

Continued Hearings and Legislative Issues:

It is the goal of the Town Council to complete a hearing during the scheduled meeting. If additional time is required and the hearing must be continued to a later date, any Town Council member who missed the initial hearing should attempt to review the DVD prior to participating in the continued hearing or legislative discussion and resolution. If the applicant submits new information or modification(s) to previously submitted information at the hearing, or immediately prior to the hearing, the Town Council shall consult with the Town Manager and the Town Attorney to determine if a continuance of the hearing is appropriate and proceed accordingly. Nothing contained in this section shall be construed to limit the Director's discretion to defer or continue the public hearing as set forth in LDC Section 34-213(3).

Attendance Policy:

The Charter states "A member of Council may forfeit the office, if the member: (d) Misses three consecutive regularly scheduled council meetings without an excused absence." This statement recognizes that because of the significant meeting preparation required by staff, applicants, and other supporting personnel, it is important that a quorum of the Town Council members be present for all noticed meetings. The Town Manager should be notified of a planned Council member's absence as soon as known. The Town Manager or designee will notify the Town Attorney and Mayor. It is important that the Town Council know that it will have a quorum of its members prior to notification of a meeting/hearing. Work session attendance is equally important since that is often when information is shared, and issues resolved before putting the item on an agenda of a regular meeting for a vote.

Participation by Videoconference:

A Council member may participate in a Town Council meeting via videoconference if one of the following conditions is met:

1. Permission is granted from the Council for an "extraordinary circumstance", including but not limited to a medical situation, unexpected travel delay, transportation issue, etc. or.
2. An emergency order or executive order authorizes the use of communications media technology, as provided in s. 120.54(5)(b)2, F.S.

A quorum of Town Council members must be met without the missing Council member(s) in attendance unless this requirement is suspended by emergency order or executive order.

7. Meeting Procedures

Generally, the Order of Agenda Items:

1. Call to Order
2. Invocation
3. Pledge of Allegiance
4. Approval of Final Agenda
5. Public Comment (Any issue can be discussed, but if an agenda item is addressed, the speaker cannot comment at the time such agenda item comes up. For testimony to be considered for a public hearing, it must be made during the hearing).
6. Local Achievements and Recognitions
7. Advisory Committee Items / Reports / Appointments
8. Approval of Minutes
9. Consent Agenda
10. Items Removed from Consent Agenda
11. Public Hearings of proposed ordinances (At conclusion of hearing, requires motion and roll call vote)
12. Administrative Agenda
    a. Introduction of proposed ordinances (Requires a motion and a majority vote for scheduling the hearing).
    b. Resolutions (Requires a motion and vote for passage)
    c. Unfinished business (Items from previous agendas scheduled by Town Manager – should be listed separately on the agenda)
13. Final Public Comment (not limited to agenda items)
14. Town Manager's Items and Reports
15. Town Attorney's Items and Reports
11. Council Members Items and Reports
17. Adjournment (Requires a motion and vote – no second is required. It is a privileged motion allowing no discussion before vote)

Conduct of Council Meetings:

- The Mayor will conduct Council meetings, and in the Mayor's absence the Vice Mayor will do so.
- The Town Clerk shall deliver a nondenominational invocation.
- Robert's Rules of Order shall be the reference for parliamentary procedure governing the conduct of Town Council meetings when not in conflict with the Town Charter, Town Ordinances, Florida Statutes or these Policies and Procedures. It is not intended that

Council meetings be unnecessarily formalistic, but rather that parliamentary procedure will be invoked only when necessary to facilitate the business of the meeting.

- All participants and audiences at Town Council meetings are expected to exhibit common courtesy and proper decorum. No personal attacks will be tolerated. The Chair may request that someone who is being disruptive be removed from chambers after providing the individual with notice that the continuation of the disruption will result in removal.
- Individuals wishing to speak during the Public Comment times are requested to (1) fill out an index card (available in the meeting room) indicating their name and the topic they will address and (2) give that card to the Clerk prior to the start of the meeting. When recognized by the Chair, the speakers will advance to the podium and state their name for the public record.
- Public Comments will generally be limited to three minutes per speaker. The Chair may modify the three-minute limit with approval by vote of the Council. The Public Comment times are intended as opportunities for interested parties to present their viewpoints to the Council members. They are not intended as question-and-answer sessions or as dialog with the Council. Response to questions and/or clarifications requested during public comment may, with the approval of Town Council, be answered immediately if there is a straight-forward, short answer, directed to the appropriate person for response at a later time or placed on an agenda for a future Council meeting.
- After a proper motion and second, discussion by the Council members shall be limited to agenda items with expression of ideas, facts, and conclusions. No member will speak twice on the item until all others who want to speak have spoken.
- The discussion by Council members is intended as an opportunity for Council members to share their viewpoints with each other. Since this opportunity does not exist outside of Council meetings under the Florida Sunshine Law, this is the primary purpose of this time and it generally should not be used to obtain information from the Town Manager or Town Attorney, which could be obtained outside of the Council meeting. While there is no time limit or censorship on comments, Council members should take into consideration the total time available in the meeting for the published agenda and the time allocated for the specific item in the agenda.

Any Council member may present resolutions related to celebrations or in support of causes for the benefit of the Town, which must be previously reviewed for form and sufficiency by the Town Attorney and subject to a vote by the Town Council.

Rules of Civility:

The Town of Fort Myers Beach Town Council recognizes that public discourse is essential to the democratic system of government. It also embraces civility in public deliberations. Rules for Council discussion and public participation while conducting meetings and workshops are as follows:

1. Speakers are permitted to deliver his or her comments without interruption, absent inappropriate language, conduct or personal attacks.
2. Speakers and debates should focus on issues, not on persons or personalities.
3. Persons are encouraged to participate in the governmental process.

4. To allow time to hear all points of view, speakers are allotted 3 minutes.
5. Sidebar discussions while others are speaking are discouraged in Council Chambers. These discussions are to be removed from the chambers so as not to be disruptive to those conducting and following Council business.
6. Only the speaker recognized by the Chairperson has the floor. Speakers should identify themselves for the record. Speakers should utilize the microphone so that their comments can be recorded.
7. We seek to understand one another's points of view.
8. Anger, rudeness, ridicule, impatience, and lack of respect for others are not acceptable behavior. Demonstrations in support or opposition to a speaker or idea such as clapping, cheering, booing, or hissing or intimidating body language are not permitted in Council Chambers or workshop facilities.
9. We should all take initiative to make things better. Our goal is to foster an environment which encourages a fair discussion and exchange of ideas without fear of personal attacks.
10. No use of profanity will be tolerated.
11. Any email or other digital or internet platform used to communicate with the Town Council, individual members of the Town Council, Town Manager, Town Attorney, or Town staff that contain personal attacks, offensive language or slurs; that are belligerent, sarcastic, accusatory or unsigned shall be deemed by the Town Council as non-compliant with these "Rules of Civility." Such communications place absolutely no obligation upon Town Council Members, the Town Manager, the Town Attorney or Town staff to respond.

Minutes:

Notes will be taken of all meetings and work sessions. The notes are then transcribed into summary minutes that become the written record of subjects discussed, conclusions reached, actions taken, and assignments given. The minutes include the names of all those participating in the meeting including Council members, staff, the Town Attorney, applicants, their attorneys and witnesses, and people who offer public comments. The minutes also serve as a record of motions and votes on all Council decisions.

Once completed, the minutes are provided to Council members for approval at their next meeting. The approval of the minutes is intended for Council members to accurately document the proceedings of the Town Council. Before moving approval, the minutes should be amended, if necessary, to portray more accurately what occurred at a Council meeting. This time is not intended for comment or discussion on what should have or should not have been done, but rather to document what was done. Once approved by Council, the original is filed in a secure file and a copy is placed on the Town's web page.

EXHIBIT "A"

Video and/or audio recordings when made are available at the request of the public or anyone who wishes to listen to the meeting or a portion of the meeting. The original video and audio recordings are stored in a secured area for safekeeping. Any request for production of a verbatim transcript, in whole or in part, of any meeting, workshop or other function of the Town Council or any Town committee thereof by a member of the public shall be paid for by the member of the public. Any need for a verbatim transcript requested by Town staff shall require prior consent of payment by the Town Council, except when such requests are required by a court of competent jurisdiction or quasi-judicial officer in the proper exercise of its powers. Video and audio recordings are only the legal record in the absence of approved minutes.

Council Members Items and Reports:

Items and Reports time is set aside for Council Members to report on activities of interest to fellow members, staff, and the public. Council Members are encouraged to send as much information as possible prior to the meeting. Unless an issue is time sensitive, the item will be placed on a future agenda if a vote is required.

Agenda Management:

The Town Manager is responsible for compiling and distributing a schedule of future meetings and work sessions.

Action List:

The Town Manager is responsible for compiling and distributing a list of action items that includes a short status and expected date of completion.

How Voting Order is Established for Roll Call Votes:

The voting order for calling the roll-on Town Council votes shall be conducted at the direction of the Town Clerk. Votes on ordinances require a roll call vote; any Council member may call for a roll call vote on any motion before the Council.

Voting Conflicts:

Florida Statute has very specific rules regarding voting conflicts. If a Town Council member has a voting conflict, he/she must publicly disclose that conflict at the latest at the beginning of the discussion of the subject at the meeting. A Town Council member is permitted to participate in the discussion but cannot vote on the subject. The specific rules are set out in s. 112.3143(3)(a), F.S. as amended, quoted below:

> "(3)(a) No county, municipal, or other local public officer shall vote in an official capacity upon any measure which would inure to the special private gain or loss of any principal by whom he or she is retained or to the parent organization or subsidiary of a corporate principal by which he or she is retained, other than an agency as defined in s. 112.312(2); or which he or she knows would inure to the special private gain or loss of a relative or

business associate of the public officer. Such public officer shall, prior to the vote being taken, publicly state to the assembly the nature of the officer's interest in the matter from which he or she is abstaining from voting and, within 15 days after the vote occurs, disclose the nature of his or her interest as a public record in a memorandum filed with the person responsible for recording the minutes of the meeting, who shall incorporate the memorandum in the minutes."

NOTE: s. 112.3143(b) F.S. defines "relative" as follows: "any father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, or daughter-in-law. Also, Section 112.3143(4) prohibits participation by an appointed (as opposed to an elected) official in the event of a voting conflict of interest.

Guidelines for Legislative Hearing Procedures:

1. The Chair opens the hearing.
2. Staff presents Affidavit of Publication or copy of the legal advertisement from the newspaper of record when applicable and a copy of the business impact estimate when applicable, which shall be maintained by Town staff with the hearing's resulting ordinance or resolution as required.
3. The Chair or Town Attorney reads the ordinance or resolution title.
4. Staff and/or the Town Attorney present(s) a brief overview of the ordinance or resolution.
5. Public input is taken.
6. Public input is closed.
7. Town Council members ask questions, if any, of staff/Town Attorney
8. Town Council members discuss ordinance or resolution, including changes, deletions, etc.
9. A motion is made and seconded to either approve the ordinance or resolution as is, or with modifications, or to take some other action.
10. The motion is discussed and voted upon, with roll call voting as appropriate. Upon consideration and passage of all appropriate motions, the Chair declares the hearing on the ordinance or resolution to be concluded, continued, tabled, or other action in conformity with the motion.
11. If an ordinance is approved, the Town Council shall schedule a second reading of the ordinance for adoption.

Notes: There is no ex parte disclosure for legislative hearings.
Members of the public are not sworn in.
.
The above is intended as a guide and the Council may conduct the legislative hearing utilizing another procedure, so long as due process requirements are met.

EXHIBIT "A"

Guidelines for Quasi-Judicial Land Use Hearing:

1. The Chair opens the hearing.
2. Staff present an Affidavit of Publication or copy of the legal advertisement from the newspaper of record when applicable, which shall be kept by Town staff with the hearing's resulting resolution or Order.
3. The Chair asks if any Council member has a conflict of interest or has had an ex parte communication regarding this matter. This includes any site visit, receipt of expert opinion, conducting of investigations, discussions with any person, or any direct or indirect communication in any form with any person outside a public hearing and not on the record. See section 34-52 of the Land Development Code.
4. All witnesses are sworn in. This includes Town staff, applicant and applicant's representatives, and anyone who wishes to make public sworn testimony on this case. All persons are requested to state their name for the record when they address the Council and if presenting testimony as an expert, shall state their qualifications and area of expertise. Town Council shall vote to accept or reject the testimony as expert testimony. No statement of qualifications or additional vote is needed if the individual has been previously accepted as an expert in a particular area and this is stated in the record.
5. The applicant presents its case, including any testimony by its experts or others in support of the applicant's request. Town Council may ask clarification questions of the applicant and others giving testimony in support of the applicant's request. *
6. Town staff presents its report and recommendation. Town Council may ask for clarification or questions of staff. *
7. Local Planning Agency representative, if available, presents LPA recommendation. Town Council may ask clarification questions of the LPA representative.
8. Public sworn testimony is opened. At its conclusion, the Chair closes the public sworn testimony portion of the hearing.
9. Applicant presents rebuttal, if any. Town Council may ask detailed informational questions of applicant. **
10. Staff presents rebuttal, if any. Town Council may ask detailed informational questions of staff. **
11. The testimony portion of the hearing is closed, and Council discussion starts.
12. Council votes on a resolution or Order, or takes other action if approval by ordinance is required.
13. Thereafter the hearing is closed or continued, or other action is taken in conformity with the successful motion, and the time of closure is verbally noted for the record.

*Council has determined that these Council questions are to clarify the applicant's and staff's presentations of information and are intended to be short Qs and As.
**Council has determined that these Council questions are to discuss detailed, substantive matters involving the application.

NOTE: The above is intended as a guide and the Council may conduct the quasi-judicial hearing utilizing another procedure, so long as due process requirements are met.

If new evidence is submitted prior to or at a Town Council hearing for a quasi-judicial matter after the final LPA hearing, Town Council can choose to:

1. Send the matter back to the LPA for review and recommendation.
2. To continue the hearing to provide sufficient time for the staff and Town Attorney to make recommendations; or
3. To complete the hearing if agreeable to the staff and Town Attorney.

8. Reimbursement Procedures

Travel Expenses:

It is the desire of the Town of Fort Myers Beach that Town Council members be reimbursed for certain expenses incurred while traveling on Town business. Appropriate allowances, forms and procedures are documented in the Town Personnel Manual.

Business Expenses:

From time to time, it may be necessary for members of Town Council to entertain various Federal, State and County officials while transacting official Town business. Such business expenses would normally include lunches and/or dinners. A Direct Expense Voucher may be submitted for reimbursement and must be signed by the person requesting reimbursement, and the Town Manager. Invoices must be attached as supporting documentary evidence.

Educational Reimbursement:

The Educational Reimbursement Program is used to encourage Town Council members to improve their knowledge and skills needed for the Town's effectiveness. Reimbursement conditions, forms and procedures are documented in the Town Personnel Manual.

9. Council Communications Policy and Processing Procedures

Council Communications Policy:

Any communication by individual Council members to the media, other governmental agencies, or in public forums should, as clearly as possible, distinguish between personal opinions and actions or direction taken by Town Council. This policy in no way means to censor viewpoints or restrict individual rights but is solely suggested to preserve the integrity of the Council, staff, and the Town.

Mail Processing Procedures:

Mail for the Town should be addressed to the current address. All mail is opened stamped and distributed (it is all public record). Council mail is given to the Administrative Assistant to log and process. Any Council mail that needs a prompt or detailed answer is pulled, copied, and a draft response is prepared for review, usually by the Mayor. The original is distributed, along with other mail, with a note stating a draft response is being prepared. When the response is finalized, it is copied and distributed to all Council members for reading at their leisure.

Communications with Potential Applicants for Zoning and Communications with Vendors or Service Providers:

Section 34-52 of the LDC specifies regulations regarding communications with public officials in non-quasi-judicial matters and ex parte communications with public officials in quasi-judicial matters.

10. Non-Discrimination and Harassment

Policies:

These policies are documented in the Town Personnel Manual

EXHIBIT "A"

11. Interview/Selection Process for Legal Services

The Town Council shall competitively procure Legal Services (Town Attorney) candidates in accordance with the Town's adopted procurement policies and procedures. The following applicant form, and ranking sheet shall be used in the selection of Legal Services candidates. The Town Council may direct the Town Manager or designee to review the proposals submitted by the applicants for Legal Services and provide the Town Council with a list of five (5) candidates, with two (alternates) for interviews as provided for herein. If there are less than five (5) qualified candidates (i.e., meet the criteria in the RFP/RFQ) all candidates shall be interviewed.

INTERVIEW PROCESS FOR LEGAL SERVICES

Individual 30-minute blocks for private interviews by each Councilor with each applicant.

RFP#: _____. Interview date: _____

	9:00-9:30 (Public Gathering)	9:30 – 10:00	10:00-10:30	10:30-11:00	11:00-11:30	11:30-12:00	12:00-1:00
Councilor 1		Applicant 1	Applicant 2	Applicant 3	Applicant 4	Applicant 5	Lunch
Councilor 2		Applicant 2	Applicant 3	Applicant 4	Applicant 5	Applicant 1	Lunch
Councilor 3		Applicant 3	Applicant 4	Applicant 5	Applicant 1	Applicant 2	Lunch
Councilor 4		Applicant 4	Applicant 5	Applicant 1	Applicant 2	Applicant 3	Lunch
Councilor 5		Applicant 5	Applicant 1	Applicant 2	Applicant 3	Applicant 4	Lunch

Applicant 1: _____
Applicant 2: _____
Applicant 3: _____
Applicant 4: _____
Applicant 5: _____

NOTE: Chart for town councilor and applicant names shall be in alphabetical order for impartiality.

AFTERNOON SCHEDULE: Each applicant has 15-minute question and answer session in town hall chambers with all five Town Councilors present (5-minute transition between applicants in schedule). Applicants will address Council in alphabetical order.

TIME	Applicant Name
1:00 – 1:15	Applicant 1
1:20 – 1:35	Applicant 2
1:40 – 1:55	Applicant 3
2:00 – 2:15	Applicant 4
2:20 – 2:35	Applicant 5

EXHIBIT "A"

2:40 – 3:00	Break
3:00	Town Councilors have open discussion. Each Councilmember uses RANKING SHEET to list order of selection, with 1 being the top choice. The Town Clerk will tally the votes and announce each applicant's combined ranking score with the lowest score being the candidate selected. In case of a tie, Town Council will have a head-to-head discussion of only the tied candidates and use another RANKING SHEET to list their order for only the tied candidates. Ranking scores are tallied and announced by Town Clerk. Contract negotiator from Town Council is selected. Transition period of legal services, if necessary, is discussed including assignment of representation for ongoing municipal litigation cases.
FIRST AVAILABLE COUNCIL MEETING AFTER INTERVIEW PROCESS	When contract negotiations are complete, contract is presented to Town Council for approval. Transition period, if necessary, is approved.
IF SELECTED APPLICANT DOES NOT COME TO AGREEMENT WITH TOWN ON CONTRACT	Town Council shall vote to negotiate with second ranked candidate or resolicit for applications and repeat interview process if necessary. Town Council shall vote at the first Town Council meeting following opening of applications to rank the applicants using the RANKING SHEET.

EXHIBIT “A”

TOWN COUNCIL RANKING SHEET FOR LEGAL SERVICES
RFP#_____
DATE: _____

Councilor Name:

_____

Councilor Signature:

_____

Ranking (#1 is top choice)
1._____
2. _____
3. _____
4. _____
5. _____

EXHIBIT "A"

12. Interview/Selection Process for Town Manager

The Town Council shall competitively procure Town Manager candidates in accordance with the Town's adopted procurement policies and procedures. The following applicant form, and ranking sheet shall be used in the selection of Manager candidates. The Town Council may direct the acting current Town Manager or designee to review the proposals submitted by the applicants for Town Manger Services and provide the Town Council with a list of five (5) candidates, with two (alternates) for interviews as provided for herein. If there are less than five (5) qualified candidates (i.e., meet the criteria in the RFP/RFQ) all candidates shall be interviewed.

INTERVIEW PROCESS FOR TOWN MANAGER

Councilors rank top 5 candidates from applications. Top 5 overall are invited and scheduled for individual 30-minute blocks for private interviews by each Councilor with each applicant.

RFP#_____ Interview date: _____

	9:00-9:30 Public Gathering	9:30 – 10:00	10:00-10:30	10:30-11:00	11:00-11:30	11:30-12:00	12:00-1:00
Councilor 1		Applicant 1	Applicant 2	Applicant 3	Applicant 4	Applicant 5	Lunch
Councilor 2		Applicant 2	Applicant 3	Applicant 4	Applicant 5	Applicant 1	Lunch
Councilor 3		Applicant 3	Applicant 4	Applicant 5	Applicant 1	Applicant 2	Lunch
Councilor 4		Applicant 4	Applicant 5	Applicant 1	Applicant 2	Applicant 3	Lunch
Councilor 5		Applicant 5	Applicant 1	Applicant 2	Applicant 3	Applicant 4	Lunch

Applicant 1:_____

Applicant 2:_____

Applicant 3:_____

Applicant 4:_____

Applicant 5:_____

NOTE: Chart for town councilor and applicant names shall be in alphabetical order for impartiality.

AFTERNOON SCHEDULE: Each applicant has 15-minute question and answer session in town hall chambers with all five Town Councilors present (5-minute transition between applicants in schedule). Applicants will address Council in alphabetical order.

EXHIBIT "A"

TIME	Applicant Name
1:00 – 1:15	Applicant 1
1:20 – 1:35	Applicant 2
1:40 – 1:55	Applicant 3
2:00 – 2:15	Applicant 4
2:20 – 2:35	Applicant 5
2:40 – 3:00	Break
3:00	Town Councilors have open discussion. Each Councilmember uses RANKING SHEET to list order of selection, with 1 being the top choice. The Town Clerk will tally the votes and announce each applicant's combined ranking score with the lowest score being the candidate selected. In case of a tie, Town Council will have a head-to-head discussion of only the tied candidates and use another RANKING SHEET to list their order for only the tied candidates. Ranking scores are tallied and announced by Town Clerk. Contract negotiator from Town Council is selected. Transition period, if necessary, is discussed.
FIRST AVAILABLE COUNCIL MEETING AFTER INTERVIEW PROCESS	When contract negotiations are complete, contract is presented to Town Council for approval. Transition period, if necessary, is approved.
IF SELECTED APPLICANT DOES NOT COME TO AGREEMENT WITH TOWN ON CONTRACT	Town Council shall vote to negotiate with second ranked candidate or resolicit for applications and repeat interview process if necessary. Town Council shall vote at the first Town Council meeting following opening of applications to rank the applicants using the RANKING SHEET.

EXHIBIT “A”

TOWN COUNCIL RANKING SHEET FOR TOWN MANAGER
RFP# _____
DATE: _____

Councilor Name: _____

Councilor Signature:_____

Ranking (#1 is top choice)
1._____
2._____
3. _____
4. _____
5. _____

EXHIBIT “A”

13.Appointment to Vacant Council Seats

In the event of a vacancy on the Town Council pursuant to Sec. 4-06 of the Town Charter, the Town Council shall:

1.Declare and announce at a public meeting the reason the vacancy has been created;

2.Direct the Town Manager or designee to notify the public as soon as reasonable by the most appropriate means, including but not limited to posting on the Town’s website, a press release, social media, advertisement, that a vacancy on the Town Council has occurred with instructions on how to apply to serve as a Town Council member and notice that a Form 6 must be filed with the Florida Commission on Ethics pursuant to Florida law.

3.Thereafter the Town Council shall appoint an individual, who is qualified as provided in Section 4.01(c) of the Town Charter, to serve as a Town Council member prior to the expiration of the term of the vacant seat.

ORDINANCE NO. 24-17

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING SECTION 2-94 "QUALIFICATIONS AND APPOINTMENTS OF MEMBERS" AND SECTION 2-96 "REMOVAL OF AGENCY, BOARD, COMMITTEE OR COMMISSION MEMBERS" OF DIVISION 2 "PROCEDURES FOR THE ESTABLISHMENT OF BOARDS, COMMITTEES AND COMMISSIONS" OF ARTICLE IV "BOARDS, COMMISSIONS, COMMITTEES AND OTHER AGENCIES" OF CHAPTER 2 "ADMINISTRATION" AND SECTION 34-113 "COMPOSITION, APPOINTMENT AND COMPENSATION OF MEMBERS" OF DIVISION 3 "LOCAL PLANNING AGENCY" OF ARTICLE II "ZONING PROCEDURES" OF CHAPTER 34 "ZONING DISTRICTS, DESIGN STANDARDS AND NONCONFORMITIES" OF THE CODE OF ORDINANCES OF THE TOWN OF FORT MYERS BEACH, FLORIDA, REMOVING PROPERTY OWNERSHIP AS A QUALIFICATION REQUIREMENT FOR THE MEMBERS OF THE TOWN'S AGENCIES, BOARDS, COMMITTEES OR COMMISSIONS, INCLUDING THE TOWN'S LOCAL PLANNING AGENCY; ELIMINATING DUPLICATIVE LANGUAGE; ADDING A GRANDFATHER PROVISION FOR CURRENT NON-QUALIFYING MEMBERS OF THE TOWN'S BOARDS, AGENCIES, COMMISSIONS, AND COMMITTEES; ADDING A PROVISION TO SECTION 34-113, REGARDING THE MANDATORY ANNUAL FINANCIAL DISCLOSURE FORM AS REQUIRED BY THE FLORIDA COMMISSION ON ETHICS; PROVIDING FOR CODIFICATION, SEVERABILITY, 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, on June 6, 2024, the Town Council held a discussion regarding the proposed changes to the Code of Ordinances of the Town of Fort Myers Beach, to eliminate property ownership within the Town's territorial boundaries as a qualification requirement for the appointed members of the Town's agencies, boards, committees or commissions, including the Town's local planning agency; and

WHEREAS, the Town desires to amend the Town Code to remove property ownership as a criteria, qualifying individuals for the Town's boards, agencies, commissions and committees; and

WHEREAS, the Town wishes to restrict the appointment to those individuals, who are registered voters within the territorial boundaries of the Town; and

WHEREAS, the reasons for removal of the appointed members from the Town's agencies, boards, committees or commissions are already addressed in Section 2-96 of the Town Code; and

WHEREAS, the Town desires to amend Section 2-94 to eliminate the duplicative language related to the removal of the Town's agency, board, committee or commission members; and

WHEREAS, the Town further wishes to add grandfather clauses to Sections 2-94 and 2-96, to allow current non-qualifying members of the Town's agencies, boards, committees or commissions to keep their appointment for the full term, regardless of whether such non-qualifying members meet the required criteria under the Town Code as of the effective date of this ordinance; and

WHEREAS, on the 17th day of June, 2024, the Town Council held a first reading of Ordinance 24-17 and gave direction to the Town Attorney to revise Ordinance 24-17 to add a grandfather clause; and

WHEREAS, the revisions proposed by the Town Council resulted in a substantial change to the title of Ordinance 24-17, necessitating a second first reading of the Ordinance; and

WHEREAS, on the 7th day of August, 2024, the Town Council held a second first reading of this Ordinance and gave full and complete consideration to the request of the proposed ordinance, 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 _____, 2024, 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 9th day of September, 2024, the Town Council held a second reading of the Ordinance; and

WHEREAS, the Town Council determined that adoption of the ordinance as provided herein is in the best interests of the health, safety, and welfare of the Town's residents.

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

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. Section 2-94 "Qualifications and appointments of members" and Section 2-96 "Removal of agency, board, committee or commission members" of Division 2 "Procedures for the Establishment of Boards, Committees and Commissions" of Article IV "Boards, Commissions, Committees and Other Agencies" of Chapter 2 "Administration" of the Code of Ordinances of the Town of Fort Myers Beach, Florida, as well as Section 34-113 "Composition, appointment and compensation of members" of Division 3 "Local Planning Agency" of Article II "Zoning Procedures" of Chapter 34 "Zoning Districts, Design Standards and Nonconformities" of the Town's Land Development Code, are hereby amended to read as follows:

Sec. 2-94. - Qualifications and appointments of members.

In addition to qualifications, which may be specified for membership by state statutes, Charter, ordinance, or resolution, a person appointed to an agency, board, committee, or commission after ____ day of _____, 2024, shall be given preference ~~to~~ if that person is a registered voter within ~~the town's jurisdiction~~ the territorial boundaries of the Town of Fort Myers Beach. ~~or a property owner within the town's jurisdiction.~~ Although no specific experience requirements shall be necessary as a prerequisite to appointment, consideration shall be given to applicants who have experience or who have shown interest in the subject matter. ~~If any member is no longer a qualified elector or is convicted of a felony, an offense involving moral turpitude while in office, or has unpaid fines or liens due the Town of Fort Myers Beach, the town council shall terminate the appointment of such person as a member of the agency, board, committee, or commission.~~ Any member of the Town's board, agency, commission or committee who holds office and who is not a registered voter within the Town's jurisdiction as of ____ day of _____, 2024, shall keep his or her appointment for the full term.

(1) *Anchorage advisory committee.* The anchorage advisory committee shall advise the town council concerning all matters relevant to the management and use of the waters of the town for mooring and anchoring. The anchorage advisory committee shall prepare and submit the Matanzas Harbor Management Plan and any amendments thereto for review and approval by the town council and make recommendations for the establishment of managed municipal anchorages and mooring fields where warranted by objective evidence of environmental damage or user conflicts; or any other topics as assigned by the town council.

(2) *Audit committee.* All members of the audit committee shall be town residents who do not have any direct financial or business interests involving the town. The town council may waive the residency requirements by majority vote if there are an insufficient number of applicants who reside in the town. All members should, through education and experience, possess a basic understanding of governmental financial reporting and auditing. At least one member of the audit committee shall

have accounting, auditing, or related financial management expertise that is specifically relevant to the government sector. The audit committee shall advise the town council on these matters and other matters pursu~~it~~ant to F.S. § 218.391, or any other topics as assigned by the town council.

(3) ~~a.~~ *Bay Oaks Recreational Campus Advisory Board.* The purpose of BORCAB is to serve the town as a community center and recreational facility providing individuals and groups passive and active recreational, social and community activities and events for both residents and visitors. BORCAB members shall work closely and in cooperation with the parks and recreation director, and advise the town council regarding matters concerning the Bay Oaks Recreational Campus and the community pool; or any other topics as assigned by the town council.

~~b.~~ (4) *Community resource advisory board.* The broad objectives of CRAB are to further the welfare of the citizens of the town in the implementation of our community as a "living park" as defined in the comprehensive plan and make recommendations to the town council on acquisition and management of public areas including, but no limited to, pools, parks, beach accesses, streetscapes and other public easements and property to further the living park concept. The CRAB shall advise the town council on these matters or any other topics as assigned by the town council.

~~c.~~ (5) *Cultural and environmental learning center advisory board.* The broad objectives of CELCAB are to ensure and promote the mission of the Mound House and Newton Beach Park to be accomplished through stewardship, advocacy and oversight according to best practices of museums and the requirement as stated in the Florida Communities Trust Agreements for each property. The CELCAB shall advise the town council on these matters or any other topics as assigned by the town council.

~~(4)~~ (6) *Marine and environmental resource and task force.* The broad objectives of MERTF are to further the welfare of the business owners, residents, and visitors of the town by helping to promote a better, more healthful, safe, and attractive community environment and to ensure that the unique and natural characteristics of our marine and environmental resources are preserved; or any other topics as assigned by the town council.

~~(5)~~ (7) *Public safety committee.* The PSC shall address any safety and transportation issues specifically assigned to the committee by the town council for the purpose of the health, safety and welfare of the business owners, residents, and visitors to the town. The committee shall review, discuss, and evaluate the most significant safety and transportation issues within the town. The PSC shall advise the town council on these matters or any other topics as assigned by the town council.

(8) *Local Planning Agency.* Notwithstanding the criteria set forth herein, the criteria for the members of the Local Planning Agency of Fort Myers Beach as outlined in section 34-113 shall prevail.

Sec. 2-96. – Removal of agency, board, committee or commission members.

Unless otherwise precluded by state statutes, ordinance, or resolution, any member of an agency, board, committee or commission shall serve at the pleasure of town council and may be removed by town council with or without cause. In the event that any member is no longer a registered voter within the ~~town's jurisdiction~~ territorial boundaries of the Town of Fort Myers Beach ~~or a property owner within the town's jurisdiction,~~ or is convicted of a felony, an offense involving moral turpitude, while in office or has unpaid fines or liens due the Town of Fort Myers Beach, the town council shall terminate the appointment of such person as a member of the agency, board, committee or commission. No member of the Town's agency, board, commission, committee, or local planning agency holding office as of ____ day of _____, 2024, may be removed for failure to meet the qualification criteria as set forth in section 2-94.

Sec. 34-113. - Composition, appointment and compensation of members.

(a) The local planning agency shall consist of up to seven members appointed by the town council. No members of the local planning agency shall be salaried officials of the town. Membership on the local planning agency shall not affect a person's eligibility for membership on any other advisory committee for the Town of Fort Myers Beach during his/her term of office. One spouse per household will be eligible for membership on the local planning agency during any given term of office. No current member of town council shall be eligible to serve on the local planning agency. Except for inclusion of members required under Florida law, all members must be ~~residents of, or owners of real property located within, the territorial limits of~~ registered voters within the territorial boundaries of the Town of Fort Myers Beach at the time of application for membership on the local planning agency and during the period of service on the local planning agency. All applicants must apply on or before October 1 of the appointment year. Each application must include a short biography and short explanation as to why the applicant wishes to serve on the local planning agency.

(b) The members of the local planning agency shall serve without compensation but may be reimbursed for expenses as are necessary to conduct the work of the agency from funds appropriated by the town council.

(c) In addition to the up to seven voting members, the local planning agency shall also include as a nonvoting member a representative of the Lee County School District, as designated by the Lee County School Board, to attend and participate in those meetings at which the local planning agency considers comprehensive plan amendments and rezonings that would, if approved, increase residential

density on the property that is the subject of the application (see F.S. 163.3174(1), 2002).

(d) All appointed members of the local planning agency must file an annual financial disclosure as required by the Florida Commission on Ethics.

Section 3. That the Town Council intends that the provisions of this ordinance be made a part of the Fort Myers Beach, Florida, 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, word, 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 foregoing 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 were 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, Town 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.

Town of Fort Myers Beach
Agenda Item Summary

Blue Sheet Number: **2024-191**

1. **Request:**

Meeting Date: September 9, 2024

First Reading and Public Hearing on proposed Ordinance 24-19 entitled AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING SECTION 28-30 "IMMOBILIZATION AND IMPOUNDING OF ILLEGALLY PARKED VEHICLES" OF DIVISION 1 "GENERALLY" OF ARTICLE II "STOPPING, STANDING AND PARKING" OF CHAPTER 28 "TRAFFIC AND VEHICLES" OF THE CODE OF ORDINANCES OF THE TOWN OF FORT MYERS BEACH, TO INCLUDE THE ACCEPTED METHODS OF PAYMENT OF ANY FINES AND CHARGES RELATED TO ILLEGAL PARKING AND IMMOBILIZATION OF ILLEGALLY PARKED VEHICLES; PROVIDING FOR CODIFICATION, SEVERABILITY, SCRIVENER'S ERRORS, CONFLICTS OF LAW, AND AN EFFECTIVE DATE. Open the public hearing and schedule for second reading and final adoption on September 23, 2024 at 6:00 PM.

Why the action is necessary:

The passage of this ordinance is necessary to prevent the owners of illegally parked and/or immobilized vehicles from disputing the transactions related to illegal parking/immobilization fines and charges with their financial institutions upon release of the vehicles by the Town.

What the action accomplishes:

The proposed ordinance amends the existing language of Section 28-30 "Immobilization and impounding of illegally parked vehicles" of Division 1 "Generally" of Article II "Stopping, Standing and Parking" of Chapter 28 "Traffic and Vehicles" of the Code of Ordinances of the Town of Fort Myers Beach, Florida, restricting the accepted methods of payment of any fines and charges related to illegal parking and immobilization of illegally parked vehicles to a cashier's check or a money order.

2. **Agenda:**	3. **Requirement/Purpose:**	4. **Submitter of Information:**
PUBLIC HEARINGS	Ordinance	Thomas Yozzo, Operations & Compliance Manager

5. **Background:**

The Town staff has encountered an issue with collection of the fines and charges related to illegally parked and/or immobilized vehicles. Specifically, the Town staff noticed that some violators dispute the paid fines and charges with their financial institution as soon as the boot is removed from the vehicle and the vehicle is released to the violator. The Town staff is forced to engage in time- and resource-consuming battles over the funds that it is rightfully entitled to, rendering the enforcement process of the parking regulations within the Town ineffective. The Neighborhood Community Services Department worked with the Town Attorney to amend the Town's Code for the Town Council's consideration to address this issue.

The draft ordinance would amend Section 28-30 of the Town of Fort Myers Beach Code of Ordinances to limit acceptable forms of payment of any fines and charges related to illegally parked and/or immobilized vehicles to a cashier's check or a money order. This change would simplify the payment process and improve collection efforts.

Attachments:

1. 24-19, FMB Illegal Parking
2. 24-19, Business Impact Estimate Illegal Parking

Financial Impact:
None

6. **Alternative Action**

7. **Management Recommendations:**
Accept

8. **Recommended Approval:**

Thomas Yozzo, Operations & Compliance Manager	Created/Initiated - 8/19/2024
Thomas Yozzo, Operations & Compliance Manager	Approved - 8/28/2024
Frankie Kropacek, Operations & Compliance Director	Approved - 8/28/2024
nancy stuparich, Town Attorney	Approved - 8/29/2024
Amy Baker, Town Clerk	Approved - 9/3/2024
Andy Hyatt, Town Manager	Final Approval - 9/3/2024

ORDINANCE NO. 24-19

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING SECTION 28-30 "IMMOBILIZATION AND IMPOUNDING OF ILLEGALLY PARKED VEHICLES" OF DIVISION 1 "GENERALLY" OF ARTICLE II "STOPPING, STANDING AND PARKING" OF CHAPTER 28 "TRAFFIC AND VEHICLES" OF THE CODE OF ORDINANCES OF THE TOWN OF FORT MYERS BEACH, TO INCLUDE THE ACCEPTED METHODS OF PAYMENT OF ANY FINES AND CHARGES RELATED TO ILLEGAL PARKING AND IMMOBILIZATION OF ILLEGALLY PARKED VEHICLES; PROVIDING FOR CODIFICATION, SEVERABILITY, 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 desires to amend the Town Code to include the accepted methods of payment of any fines and charges related to illegal parking and immobilization of illegaly parked vehicles; and

WHEREAS, the Town wishes to restrict the accepted methods of payment of any such fines and charges to a cashier's check or a money order; and

WHEREAS, on the 19th day of August, 2024, the Town Council held a first reading of this Ordinance and gave full and complete consideration to the request of the proposed ordinance, 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 this Ordinance was published in the _____ on the ___ day of _____, 2024, which is 10 days prior to the second reading of this 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 this Ordinance; and

WHEREAS, the Town Council determined that adoption of the ordinance as provided herein is in the best interests of the health, safety, welfare, and morals of the Town's residents.

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

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. Section 28-30 "Immobilization and impounding of illegally parked vehicles" of Division 1 "Generally" of Article II "Stopping, Standing and Parking" of Chapter 28 "Traffic and Vehicles" of the Code of Ordinances of the Town of Fort Myers Beach, Florida, is hereby amended to read as follows:

Sec. 28-30. – Immobilization and impounding of illegally parked vehicles.

(a) The town is authorized to attach a device that is capable of immobilizing a motor vehicle so that it cannot be moved under its own power or have the vehicle towed at the owner's expense whenever such a vehicle is found upon a public street or highway, a public parking lot or other public property in the town or parked overnight on public property, provided there are five unpaid and outstanding parking tickets or one unpaid and outstanding disability violation issued to the vehicle.

(b) The immobilizing device will be attached to the motor vehicle at the location where the vehicle is parked, except that no motor vehicle will be immobilized within the traveled portion of a street or on a portion of a street when immobilization at such location will create a hazard to the public or traffic on the street. At the time the immobilizing device is attached to a motor vehicle, a notice will be affixed to the windshield, the driver side window, or other prominent place on the motor vehicle, where the operator of the vehicle would reasonably be expected to observe it, stating the following:

(1) The immobilizing device has been so attached, that the operator should not attempt to operate the motor vehicle while the immobilizing device is attached;

(2) The total amount of fines and charges due for illegal parking and immobilization and the methods of payment accepted by the town; and

(3) Where the operator may pay the fines to have the immobilizing device removed from the motor vehicle.

Any attempt to remove or otherwise tamper with the immobilization device, or any attempt to threaten or otherwise harass a town representative will constitute an offense against the town.

(c) The immobilizing device will be removed from the motor vehicle upon payment of the total fines due to the town. The town shall only accept a cashier's check or a

money order as a form of payment of any fines and charges due to the town. No other forms of payment will be accepted by the town. The town may also approve the removal of the immobilizing device upon obtaining a satisfactory arrangement for payment of the fines due. Written proof of the owner or operator's arrangement for payment must be shown to the town before the immobilization device may be removed. If the owner or operator has failed to pay or make a satisfactory arrangement for payment by the end of the next immediate business day after the date of the immobilization, then the immobilized vehicle will be referred to the county sheriff. The vehicle will then be towed by a designated town towing company and placed into the impound yard. The parking enforcement specialist on duty at the time of tow will ensure that the immobilization device is removed in order for the towing agency to safely remove the vehicle. If the immobilization device is damaged or tampered with by anyone other than the parking enforcement specialist, the owner of the vehicle is liable for any damage to the immobilization device or the vehicle. If the device is damaged beyond repair, the owner of the vehicle must replace the device.

(d) The town is hereby vested with authority, and it will be their duty, to impound any unoccupied vehicle parked in violation of any of the parking regulations of the town and to move or cause to be moved any illegally parked vehicle by wrecker or otherwise. As an alternative to immobilizing a motor vehicle as provided herein, the town may immediately cause any illegally parked motor vehicle to be towed in accordance with this section. All expenses for towing and impoundment will be the responsibility of the owner of the vehicle. All towing and impoundment hereunder must be accomplished in accordance with this section and applicable state and federal law.

(e) Upon being impounded, the towing company can only release the towed vehicle after full payment, excluding the amount of any ticket issued concurrently with the immobilization device, provided the owner or operator wishes to contest the newly-issued ticket, has been received by the town and a receipt of that payment is presented to the towing company.

(f) Parking enforcement personnel must not accept any payments for violations.

Section 3. That the Town Council intends that the provisions of this ordinance be made a part of the Fort Myers Beach, Florida, 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, word, 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 foregoing 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 were 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, Town 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.

Business Impact Estimate

Proposed ordinance's title/reference:

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING SECTION 28-30 "IMMOBILIZATION AND IMPOUNDING OF ILLEGALLY PARKED VEHICLES" OF DIVISION 1 "GENERALLY" OF ARTICLE II "STOPPING, STANDING AND PARKING" OF CHAPTER 28 "TRAFFIC AND VEHICLES" OF THE CODE OF ORDINANCES OF THE TOWN OF FORT MYERS BEACH, TO INCLUDE THE ACCEPTED METHODS OF PAYMENT OF ANY FINES AND CHARGES RELATED TO ILLEGAL PARKING AND IMMOBILIZATION OF ILLEGALLY PARKED VEHICLES; PROVIDING FOR CODIFICATION, SEVERABILITY, SCRIVENER'S ERRORS, CONFLICTS OF LAW, AND AN EFFECTIVE DATE.

This Business Impact Estimate is provided in accordance with section 166.041(4), Florida Statutes. If one or more boxes are checked below, this means the Fort Myers Beach is of the view that a business impact estimate is not required by state law[1] for the proposed ordinance, but the Fort Myers Beach is, nevertheless, providing this Business Impact Estimate as a courtesy and to avoid any procedural issues that could impact the enactment of the proposed ordinance. This Business Impact Estimate may be revised following its initial posting.

- ☐ The proposed ordinance is required for compliance with Federal or State law or regulation;
- ☐ The proposed ordinance relates to the issuance or refinancing of debt;
- ☐ The proposed ordinance relates to the adoption of budgets or budget amendments, including revenue sources necessary to fund the budget;
- ☐ The proposed ordinance is required to implement a contract or an agreement, including, but not limited to, any Federal, State, local, or private grant or other financial assistance accepted by the municipal government;
- ☐ The proposed ordinance is an emergency ordinance;
- ☐ The ordinance relates to procurement; or
- ☐ The proposed ordinance is enacted to implement the following:
  a. Part II of Chapter 163, Florida Statutes, relating to growth policy, county and municipal planning, and land development regulation, including zoning, development orders, development agreements and development permits;
  b. Sections 190.005 and 190.046, Florida Statutes, regarding community development districts;
  c. Section 553.73, Florida Statutes, relating to the Florida Building Code; or
  d. Section 633.202, Florida Statutes, relating to the Florida Fire Prevention Code.

[1] See Section 166.041(4)(c), Florida Statutes.

In accordance with the provisions of controlling law, even notwithstanding the fact that an exemption noted above may apply, the Fort Myers Beach hereby publishes the following information:

1. Summary of the proposed ordinance (must include a statement of the public purpose, such as serving the public health, safety, morals and welfare):

The proposed ordinance amends the existing language of Section 28-30 “Immobilization and impounding of illegally parked vehicles” of Division 1 “Generally” of Article II “Stopping, Standing and Parking” of Chapter 28 “Traffic and Vehicles” of the Code of Ordinances of the Town of Fort Myers Beach, Florida, to restrict the accepted methods of payment of any fines and charges related to illegal parking and immobilization of illegally parked vehicles to a cashier’s check or a money order, eliminating the violators’ ability to later dispute the fines and charges paid to the Town with third party financial institutions. The proposed ordinance promotes the health, safety, welfare, and morals of the residents of the Town by allowing the Town to collect the fines and charges it is rightfully entitled to without engaging in disputes over the funds.

2. An estimate of the direct economic impact of the proposed ordinance on private, for-profit businesses in the Fort Myers Beach, including the following, if any:
(a) An estimate of direct compliance costs that businesses may reasonably incur;
(b) Any new charge or fee imposed by the proposed ordinance or for which businesses will be financially responsible; and
(c) An estimate of the Fort Myers Beach regulatory costs, including estimated revenues from any new charges or fees to cover such costs.

None.

3. Good faith estimate of the number of businesses likely to be impacted by the proposed ordinance:

None.

4. Additional information the governing body deems useful (if any):

[*You may wish to include in this section the methodology or data used to prepare the Business Impact Estimate. For example: Fort Myers Beach staff solicited comments from businesses in the Fort Myers Beach as to the potential impact of the proposed ordinance by contacting the chamber of commerce, social media posting, direct mail or direct email, posting on Fort Myers Beach website, public workshop, etc. You may also wish to include efforts made to reduce the potential fiscal impact on businesses. You may also wish to state here that the proposed ordinance is a generally applicable ordinance that applies to all persons similarly situated (individuals as well as businesses) and, therefore, the proposed ordinance does not affect only businesses*).

Not applicable.

1. **Request:** **Meeting Date: September 9, 2024**

First Reading and Public Hearing on proposed Ordinance 24-25 entitled: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING CHAPTER 16, ARTICLE I OF THE CODE OF ORDINANCES OF THE TOWN OF FORT MYERS BEACH BY CREATING SECTION 16-1 "PUBLIC CAMPING OR SLEEPING ON ANY PUBLIC PROPERTY, PUBLIC BUILDING, OR PUBLIC RIGHT-OF-WAY PROHIBITED," AND AMENDING ARTICLE IV OF CHAPTER 32, TO REMOVE SECTIONS 32-70 "APPLICABILITY," 32-71 "INTENT," AND 32-72 "PROHIBITED"; PROVIDING FOR CODIFICATION, SEVERABILITY, SCRIVENER'S ERRORS, CONFLICTS OF LAW, AND AN EFFECTIVE DATE. Open the public hearing and schedule for second reading and final adoption on September 23, 2024 at 6:00 PM.

Why the action is necessary:

The passage of this ordinance is necessary to allow the Town to enforce the new Florida law, which goes into effect on October 1, 2024, and which regulates public sleeping and public camping. The passage of this Ordinance is necessary to ensure the Town can enforce the new law when it goes into effect and regulate public camping and sleeping within the Town's territorial jurisdiction as necessary.

What the action accomplishes:

The proposed ordinance amends Article I of Chapter 16 "Offenses" to adopt regulations pertaining to public sleeping and camping, and amends Article IV "Night Sleeping on Beach" of Chapter 32 to remove any inconsistencies with the new language of Article I of Chapter 16 as it pertains to sleeping on a public beach.

2. **Agenda:**	3. **Requirement/Purpose:**	4. **Submitter of Information:**
PUBLIC HEARINGS	Ordinance	nancy stuparich, Town Attorney

5. **Background:**

On March 20, 2024, Governor Ron DeSantis signed House Bill 1365, which has been codified as Chapter 2024-11, Laws of Florida. The new law will go into effect on October 1, 2024, and will create Section 125.0231, Florida Statutes.

The purpose of the law is to regulate public camping and public sleeping and is focused on Florida's homeless population, which is over 30,000 persons. While enacting House Bill 1365, the Florida Legislature considered evidence that approximately 50 percent of people experiencing homelessness in Florida were unsheltered, meaning their primary nighttime residence is a place not suitable for human habitation, such as sidewalks, vehicles, abandoned buildings or parks. Living unsheltered can have significant impacts on a person's health and safety.

The Town of Fort Myers Beach has a significant interest in providing a safe and pleasant environment and in eliminating public camping or sleeping on any public property, public building, or public right-of-way. As of the date of the first reading of this Ordinance, the Town Code only addresses night sleeping on the beach in Article IV "Night Sleeping on Beach" of Chapter 32. It is in the Town's and its residents' best interests to pass this Ordinance to ensure the Town can regulate and comply with the new Florida Law once the law goes into effect on October 1, 2024. Additionally, the Town Code should be amended to delete the existing language of Article IV of Chapter 32 addressing sleeping on the Town's beaches to prevent any potential conflict between the two provisions of the Town Code pertaining to sleeping in public areas.

Attachments:

1. 24-25, Business Impact Estimate Public Sleeping and Camping (BIE) 8-23-24 mr
2. Final First Reading 24-25, Prohibition against Public Sleeping and Camping 8-23-24 mrns

Financial Impact:

None

6. **Alternative Action**

7. **Management Recommendations:**

8. **Recommended Approval:**

Amy Baker, Town Clerk	Created/Initiated - 8/23/2024
Amy Baker, Town Clerk	Approved - 8/27/2024
nancy stuparich, Town Attorney	Approved - 9/3/2024
Amy Baker, Town Clerk	Approved - 9/3/2024
Andy Hyatt, Town Manager	Final Approval - 9/3/2024

Business Impact Estimate

This form should be included in the agenda packet for the item under which the proposed ordinance is to be considered and must be posted on the Fort Myers Beach website by the time notice of the proposed ordinance is published.

Proposed ordinance's title/reference:

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING CHAPTER 16, ARTICLE I OF THE CODE OF ORDINANCES OF THE TOWN OF FORT MYERS BEACH BY CREATING SECTION 16-1 "PUBLIC CAMPING OR SLEEPING ON ANY PUBLIC PROPERTY, PUBLIC BUILDING, OR PUBLIC RIGHT-OF-WAY PROHIBITED," AND AMENDING ARTICLE IV OF CHAPTER 32, TO REMOVE SECTIONS 32-70 "APPLICABILITY," 32-71 "INTENT," AND 32-72 "PROHIBITED"; PROVIDING FOR CODIFICATION, SEVERABILITY, SCRIVENER'S ERRORS, CONFLICTS OF LAW, AND AN EFFECTIVE DATE.

This Business Impact Estimate is provided in accordance with section 166.041(4), Florida Statutes. If one or more boxes are checked below, this means the Fort Myers Beach is of the view that a business impact estimate is not required by state law[1] for the proposed ordinance, but the Fort Myers Beach is, nevertheless, providing this Business Impact Estimate as a courtesy and to avoid any procedural issues that could impact the enactment of the proposed ordinance. This Business Impact Estimate may be revised following its initial posting.

- ☐ The proposed ordinance is required for compliance with Federal or State law or regulation;
- ☐ The proposed ordinance relates to the issuance or refinancing of debt;
- ☐ The proposed ordinance relates to the adoption of budgets or budget amendments, including revenue sources necessary to fund the budget;
- ☐ The proposed ordinance is required to implement a contract or an agreement, including, but not limited to, any Federal, State, local, or private grant or other financial assistance accepted by the municipal government;
- ☐ The proposed ordinance is an emergency ordinance;
- ☐ The ordinance relates to procurement; or
- ☐ The proposed ordinance is enacted to implement the following:
  a. Part II of Chapter 163, Florida Statutes, relating to growth policy, county and municipal planning, and land development regulation, including zoning, development orders, development agreements and development permits;
  b. Sections 190.005 and 190.046, Florida Statutes, regarding community development districts;
  c. Section 553.73, Florida Statutes, relating to the Florida Building Code; or
  d. Section 633.202, Florida Statutes, relating to the Florida Fire Prevention Code.

[1] See Section 166.041(4)(c), Florida Statutes.

In accordance with the provisions of controlling law, even notwithstanding the fact that an exemption noted above may apply, the Fort Myers Beach hereby publishes the following information:

1. Summary of the proposed ordinance (must include a statement of the public purpose, such as serving the public health, safety, morals and welfare):

Proposed Ordinance No. 24-25 serves to protect the public health, safety, morals, and welfare by prohibiting public camping and sleeping. While enacting House Bill 1365, the Florida Legislature considered evidence that approximately 50 percent of people experiencing homelessness in Florida were unsheltered, meaning their primary nighttime residence is a place not suitable for human habitation, such as a sidewalk, vehicle, abandoned building, or park. Living unsheltered can have significant impacts on a person's health and safety. The Town of Fort Myers Beach has a significant interest in providing a safe and pleasant environment and in eliminating public camping or sleeping on any public property, public building or public right-of-way.

2. An estimate of the direct economic impact of the proposed ordinance on private, for-profit businesses in the Fort Myers Beach, including the following, if any:
(a) An estimate of direct compliance costs that businesses may reasonably incur;
(b) Any new charge or fee imposed by the proposed ordinance or for which businesses will be financially responsible; and
(c) An estimate of the Fort Myers Beach regulatory costs, including estimated revenues from any new charges or fees to cover such costs.

None.

3. Good faith estimate of the number of businesses likely to be impacted by the proposed ordinance:

None.

4. Additional information the governing body deems useful (if any):

[*You may wish to include in this section the methodology or data used to prepare the Business Impact Estimate. For example: Fort Myers Beach staff solicited comments from businesses in the Fort Myers Beach as to the potential impact of the proposed ordinance by contacting the chamber of commerce, social media posting, direct mail or direct email, posting on Fort Myers Beach website, public workshop, etc. You may also wish to include efforts made to reduce the potential fiscal impact on businesses. You may also wish to state here that the proposed ordinance is a generally applicable ordinance that applies to all persons similarly situated (individuals as well as businesses) and, therefore, the proposed ordinance does not affect only businesses*).

Not applicable.

ORDINANCE NO. 24-25

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING CHAPTER 16, ARTICLE I OF THE CODE OF ORDINANCES OF THE TOWN OF FORT MYERS BEACH BY CREATING SECTION 16-1 "PUBLIC CAMPING OR SLEEPING ON ANY PUBLIC PROPERTY, PUBLIC BUILDING, OR PUBLIC RIGHT-OF-WAY PROHIBITED," AND AMENDING ARTICLE IV OF CHAPTER 32, TO REMOVE SECTIONS 32-70 "APPLICABILITY," 32-71 "INTENT," AND 32-72 "PROHIBITED"; PROVIDING FOR CODIFICATION, SEVERABILITY, SCRIVENER'S ERRORS, CONFLICTS OF LAW, AND AN EFFECTIVE DATE.

WHEREAS, Chapter 166, Florida Statutes authorizes a municipality to enact regulations to protect the health, safety, welfare, and morals of its citizens; and

WHEREAS, On March 20, 2024, Governor Ron DeSantis signed House Bill 1365, which has been codified as Chapter 2024-11, Laws of Florida. The new law goes into effect on October 1, 2024, and creates Section 125.0231, Florida Statutes. The purpose of the law is to regulate public camping and public sleeping and is focused on Florida's homeless population, which is over 30,000 persons; and

WHEREAS, while enacting House Bill 1365, the Florida Legislature considered evidence that approximately 50 percent of people experiencing homelessness in Florida were unsheltered, meaning their primary nighttime residence is a place not suitable for human habitation, such as sidewalks, vehicles, abandoned buildings or parks. Living unsheltered can have significant impacts on a person's health and safety; and

WHEREAS, the Town of Fort Myers Beach has a significant interest in providing a safe and pleasant environment and in eliminating public camping or sleeping on any public property, public building, or public right-of-way; and

WHEREAS, the Town Council of the Town of Fort Myers Beach finds it is in the best interests and welfare of the citizens, business owners, visitors and the homeless population of the Town of Fort Myers Beach to enact this Ordinance; and

WHEREAS, on the 9th day of September 2024, the Town Council held a first reading of this Ordinance and gave full and complete consideration to the request of the proposed ordinance, 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 this Ordinance was

published in the _____ on the ____ day of _____, 2024, which is 10 days prior to the second reading of this 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 this Ordinance; and

WHEREAS, the Town Council determined that adoption of the ordinance as provided herein is in the best interests of the health, safety, welfare, and morals of the Town's residents.

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

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. Article I "In General" of Chapter 16 "Offenses" of the Code of Ordinances of the Town of Fort Myers Beach, Florida, is hereby amended to read as follows:

ARTICLE I. – ~~IN GENERAL~~ PUBLIC CAMPING AND SLEEPING

Sec. 16-1. – Public camping or sleeping on any public property, public building, or public right-of-way prohibited.

(a) **Findings.** The Town of Fort Myers Beach has a significant interest in providing a safe and pleasant environment for its citizens, business owners, visitors and its homeless population by eliminating public camping or sleeping on any public property, public building, or public right-of-way. Public camping or public sleeping in a public place not suitable for human habitation, such as a sidewalk, vehicle, abandoned building, or park can have significant impacts on a person's health and safety. The Town Council of the Town of Fort Myers Beach hereby determines that this Section fulfills an important Town purpose by ensuring the health, safety, welfare, quality of life, and aesthetics of the Town of Fort Myers Beach; and

(b) **Intent.** The purpose and intent of this Section is to recognize the constitutional right of persons to gather in any lawful manner or place or time; however public sleeping and public camping constitutes a threat and danger to health, safety, security and welfare to the citizens, business owners, visitors and the homeless population of the Town of Fort Myers Beach. The goal of this Section is to ensure the foregoing constitutional rights while through reasonable regulation, acting to protect citizens, business owners, visitors and the homeless population.

(c) **Definition**. The following definition is hereby adopted for this Section:

1. "Public camping or sleeping" means:

a. Lodging or residing overnight in a temporary outdoor habitation used as a dwelling or living space and evidenced by the erection of a tent or other temporary shelter, the presence of bedding or pillows, or the storage of personal belongings; or

b. Lodging or residing overnight in an outdoor space without a tent or other temporary shelter.

2. The term does not include:

a. Lodging or residing overnight in a motor vehicle that is registered, insured, and located in a place where it may lawfully be.

b. Camping for recreational purposes on property designated for such purposes.

(d) **Violations.** All Town code enforcement and law enforcement officers are hereby authorized to enforce this Section, as follows:

1. No person may engage in public camping or sleeping on any public property, including, but not limited to, any public building or its grounds or any public right-of-way.

2. The penalty for the first violation shall be no less than a $50 fine; the penalty for a second offense shall be no less than a $100 fine; and the penalty for all subsequent violations shall be no less than a $200 fine for each and every offense thereafter. A warning notice may be issued in lieu of fine if no prior violations have occurred. In addition to any penalty mentioned herein, A law enforcement officer may issue a trespass warning, or any other penalty prescribed for a violation of any applicable section of Chapter 810, Florida Statutes.

3. All fines collected resulting from violations of this Section shall be held by the Town of Fort Myers Beach for the care of the homeless population to fund any non-profit organization that provides shelter, food, or medical care at the discretion and selection by majority vote of the Town Council.

4. Nothing within this Section precludes the Town of Fort Myers Beach from pursuing other remedies authorized in the Town of Fort Myers Beach Code of Ordinances or any civil or administrative remedies.

Secs. 16-~~12~~—16-18. – Reserved.

ARTICLE IV. – ~~NIGHT SLEEPING ON BEACH~~ RESERVED

~~**Sec. 32-70. - Applicability.**~~

~~This article shall apply to all public beaches located in the town. For purposes of this article, the term "public beaches" means any beach within the territorial boundaries of the town which:~~

~~(1) Is below the mean high-water lines;~~

~~(2) Is owned by the county or the town;~~

~~(3) Has arisen upon it a right of customary use by the public;~~

~~(4) Has arisen upon it a public easement, prescriptive or otherwise; or~~

~~(5) Is the foreshore of tidal navigable waters, that is the land between the high-water and low-water marks, and is owned by the state.~~

~~**Sec. 32-71. - Intent.**~~

~~It is the intent of the town council in the adoption of the ordinance from which this article is derived to preserve and protect the beauty of the public beaches since such beaches are invaluable natural assets which are held in trust by the town for recreational use by residents and visitors alike. The town council has made the following findings in reaching the determination that:~~

~~(1) Sleeping on the beaches during nighttime hours must be prohibited;~~

~~(2) The beaches are one of its most valuable natural assets;~~

~~(3) The beaches are intended to be used solely for recreational purposes and are not intended to be used for sleeping during nighttime hours;~~

~~(4) The town's economic well-being is substantially dependent upon tourism which is, in turn, dependent upon maintaining attractive and inviting beaches;~~

~~(5) Permitting persons to sleep upon the beaches during nighttime hours will negatively affect the appearance of the beaches, will have a deleterious effect upon the town's tourism industry and will require the unwarranted expenditure of funds in order to provide a reasonably safe and healthy sleeping environment for those who may choose to sleep upon the beaches during nighttime hours;~~

~~(6) Persons asleep on beaches during nighttime hours are exposed to the risk of harm from others or from the elements; and~~

~~(7) Prohibiting persons from sleeping upon the beaches during nighttime hours will promote the public health, safety and welfare.~~

~~**Sec. 32-72. - Prohibited.**~~

~~It shall be unlawful for any person to sleep on any public beach within the town between the hours of 10:00 p.m. and 6:00 a.m. of the following day.~~

Secs. 32-73~~0~~__0__—32-100. - Reserved.

Section 3. That the Town Council intends that the provisions of this Ordinance be made a part of the Fort Myers Beach, Florida, 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, word, 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 immediately upon adoption by the Town Council.

The foregoing 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 were 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, Town 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.

1. **Request:** **Meeting Date: September 9, 2024**

First Reading and Public Hearing of an ordinance entitled: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING 1) TABLE 34-3 TITLED "DIMENSIONAL REGULATIONS IN CONVENTIONAL ZONING DISTRICTS" IN CHAPTER 34, ARTICLE III, DIVISION 4 TO CREATE NOTE (10) TO PROVIDE THAT DETACHED SINGLE-FAMILY AND TWO-FAMILY HOMES WITHOUT A COMMERCIAL USE, IN ANY CONVENTIONAL ZONING DISTRICT WHERE THAT USE IS ALLOWED, MAY BE EVALUATED BY BUILDING COVERAGE RATHER THAN FAR; 2) SECTION 34-675(C) IN CHAPTER 34, ARTICLE III, DIVISION 5 TO PROVIDE THAT BUILDING INTENSITY OF COMMERCIAL AND MIXED-USE BUILDINGS SHALL BE EVALUATED USING FLOOR AREA RATIO (FAR) AND DETACHED SINGLE-FAMILY AND TWO-FAMILY RESIDENCE INTENSITY SHALL BE EVALUATED USING BUILDING COVERAGE NOT TO EXCEED 40% IN THE DOWNTOWN ZONING DISTRICT; 3) SECTION 34-683 IN CHAPTER 34, ARTICLE III, DIVISION 5 RELATED TO THE CREATION OF NEIGHBORHOOD CENTERS IN THE SANTINI ZONING DISTRICT TO PROVIDE THAT DETACHED SINGLE-FAMILY AND TWO-FAMILY RESIDENCE BUILDING COVERAGE SHALL NOT EXCEED 40%; 4) SECTION 34-693 IN THE VILLAGE ZONING DISTRICT REGULATIONS TO PROVIDE THAT COMMERCIAL AND MIXED-USE BUILDING INTENSITY SHALL BE EVALUATED USING FLOOR AREA RATIO (FAR) AND DETACHED SINGLE-FAMILY AND TWO-FAMILY RESIDENCE INTENSITY SHALL BE EVALUATED USING BUILDING COVERAGE AND SHALL NOT EXCEED 40%; 5) SECTION 34-705 IN THE CB ZONING DISTRICT TO PROVIDE THAT FOR COMMERCIAL AND MIXED-USE DEVELOPMENTS FLOOR AREA RATIOS SHALL NOT EXCEED 1.0 AND BUILDING COVERAGE FOR DETACHED SINGLE-FAMILY AND TWO-FAMILY RESIDENCES, BUILDING COVERAGE SHALL NOT EXCEED 40%; PROVIDING FOR SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS; CONFLICTS OF LAW; AND PROVIDING AN EFFECTIVE DATE. Open the public hearing and set the second reading and final hearing for September 23, 2024 at 6:00 PM

Why the action is necessary:

The Town Council makes final decisions regarding changes to the LDC.

What the action accomplishes:

This will allow single family and two family residential structures to be measured using the building coverage rather than floor area ratio measurement.

2. **Agenda:**	3. **Requirement/Purpose:**	4. **Submitter of Information:**
PUBLIC HEARINGS	Ordinance	Sarah Propst, Community Development, Planning Manager

5. **Background:**

The Land Development Code (LDC) has two ways of measuring building intensity: building coverage or Floor Area Ratio (FAR). The RS zoning district and the RC zoning use building coverage and all of the other zoning districts use FAR. At the June 6, 2024 M & P meeting the Town Council discussed whether it was appropriate for residences to be measured by FAR, even in primarily commercial districts. The discussion ended with staff understanding that Single-Family and Two-Family residence intensity should be evaluated by building coverage, even in primarily commercial districts. Mixed use buildings and completely commercial buildings should be evaluated using the FAR regulations. Multifamily buildings were not discussed in this conversation

Attachments:

1. Ordinance 24-24
2. Memorandum to TC
3. Exhibit A - Amended Building Intesity for Detached
4. business-impact-estimate-24-24

Financial Impact:

Unknown

6. **Alternative Action**

Recommend changes

7. **Management Recommendations:**

Recommend approval

8. **Recommended Approval:**

Sarah Propst, Community Development, Planning Manager	Created/Initiated - 8/27/2024
Frankie Kropacek, Operations & Compliance Director	Approved - 8/29/2024
nancy stuparich, Town Attorney	Approved - 8/29/2024
Amy Baker, Town Clerk	Final Approval - 9/3/2024

ORDINANCE NO. 24-24

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING 1) TABLE 34-3 TITLED "DIMENSIONAL REGULATIONS IN CONVENTIONAL ZONING DISTRICTS" IN CHAPTER 34, ARTICLE III, DIVISION 4 TO CREATE NOTE (10) TO PROVIDE THAT DETACHED SINGLE-FAMILY AND TWO-FAMILY HOMES WITHOUT A COMMERCIAL USE, IN ANY CONVENTIONAL ZONING DISTRICT WHERE THAT USE IS ALLOWED, MAY BE EVALUATED BY BUILDING COVERAGE RATHER THAN FAR; 2) SECTION 34-675(C) IN CHAPTER 34, ARTICLE III, DIVISION 5 TO PROVIDE THAT BUILDING INTENSITY OF COMMERCIAL AND MIXED-USE BUILDINGS SHALL BE EVALUATED USING FLOOR AREA RATIO (FAR) AND DETACHED SINGLE-FAMILY AND TWO-FAMILY RESIDENCE INTENSITY SHALL BE EVALUATED USING BUILDING COVERAGE NOT TO EXCEED 40% IN THE DOWNTOWN ZONING DISTRICT; 3) SECTION 34-683 IN CHAPTER 34, ARTICLE III, DIVISION 5 RELATED TO THE CREATION OF NEIGHBORHOOD CENTERS IN THE SANTINI ZONING DISTRICT TO PROVIDE THAT DETACHED SINGLE-FAMILY AND TWO-FAMILY RESIDENCE BUILDING COVERAGE SHALL NOT EXCEED 40%; 4) SECTION 34-693 IN THE VILLAGE ZONING DISTRICT REGULATIONS TO PROVIDE THAT COMMERCIAL AND MIXED-USE BUILDING INTENSITY SHALL BE EVALUATED USING FLOOR AREA RATIO (FAR) AND DETACHED SINGLE-FAMILY AND TWO-FAMILY RESIDENCE INTENSITY SHALL BE EVALUATED USING BUILDING COVERAGE AND SHALL NOT EXCEED 40%; 5) SECTION 34-705 IN THE CB ZONING DISTRICT TO PROVIDE THAT FOR COMMERCIAL AND MIXED-USE DEVELOPMENTS FLOOR AREA RATIOS SHALL NOT EXCEED 1.0 AND BUILDING COVERAGE FOR DETACHED SINGLE-FAMILY AND TWO-FAMILY RESIDENCES, BUILDING COVERAGE SHALL NOT EXCEED 40%; PROVIDING FOR SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS; CONFLICTS OF LAW; AND PROVIDING 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 August 23, 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 7-0, to recommend approval of this Ordinance; and

WHEREAS, on September 9, 2024, 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 adopt Ordinance 24-24 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 30th day of August, 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 News-Press on the 31st day of August, 2024, which is 10 days prior to the second reading of the proposed Ordinance as required by Section 166.041; and

WHEREAS, on the 23rd day of September 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. Table 34-3 Dimensional Regulations in Conventional Zoning Districts, in Chapter 34, Article III, Division 4 and Sections 34-675, 34-683, 34-693, and 34-705 in Subdivisions in Division 5 are hereby amended to read as provided in Exhibit A.

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 Council Member ____ 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 23rd day of September 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

The foregoing Ordinance was filed in the Office of the Town Clerk on the ___ day of _____, 2024.

Town of Fort Myers Beach
COMMUNITY DEVELOPMENT DEPARTMENT

To: **Town Council**

From: **Sarah Propst, Community Development**

Date: **September 9, 2024**

Re: **Building Coverage for Single-Family and Two-Family Residences**

BACKGROUND

The Land Development Code (LDC) has two ways of measuring building intensity: building coverage or Floor Area Ratio (FAR). The RS zoning district and the RC zoning use building coverage and all of the other zoning districts use FAR. At the June 6, 2024 M & P meeting the Town Council discussed whether it was appropriate for residences to be measured by FAR, even in primarily commercial districts. The discussion ended with staff understanding that Single-Family and Two-Family residence intensity should be evaluated by building coverage, even in primarily commercial districts. Mixed use buildings and completely commercial buildings should be evaluated using the FAR regulations. Multifamily buildings were not discussed in this conversation

PROPOSED SOLUTIONS

To accomplish this amendment, several code sections would need to be amended in the LDC. Table 34-3— Dimensional Regulations in Conventional Zoning Districts currently only lists building coverage in the RS and RC zoning districts. 40% will be added to the building coverage column in all zoning districts in the table, other than EC, and a note will be added, stating: "Detached, single-family and two-family homes without a commercial use, in any conventional zoning district where that use is allowed, may be evaluated by building coverage rather than FAR." The 40% building coverage option is not provided in the EC zoning district because a house is not an allowed use in the EC zoning district.

The Downtown, Commercial Boulevard, Village, and Santini zoning district sections also would need several minor amendments. All needed amendments are included as attachments in the agenda.

Residential multifamily development is not included in this change and will continue to be measured using FAR, per this proposed language. If the Town Council would like to see that changed, this will need to be amended in the proposed language for the second hearing.

At the LPA hearing the LPA recommended that the Town Council reconsider whether it would be appropriate to include the EC zoned portion of the property in the calculation for the allowable buildable coverage. This was discussed at the LPA but it was not recommended as a change at that hearing.

At the LPA hearing Jim Dunlap made motion to recommend approval of the proposed changes and the motion was seconded by James Boan. The LPA voted unanimously in favor.

Table 34-3— Dimensional Regulations in Conventional Zoning Districts														
	street	side - waterfront lot	side - non-waterfront	rear	water body (1)	Gulf of Mexico (2)	area	width	depth	ratio	percentage		feet	stories
ZONING DISTRICT	Setbacks (see § 34-638 for explantions and exceptions)						Lot size (see § 34-637 for explanations and exceptions)			F.A.R. §34-633	Building Coverage § 34-634	Density § 34-632	Height (see § 34-631)	
RS Residential Single-family	25*(8)*	6.5, 7.5 or 10 *(9)*	6.5, 7.5 or 10 *(9)*	20	25	50	7,500	75	100	-	40%	*(3), (4)*	30	3
RC Residential Conservation	25*(9)*	6.5, 7.5 or 10 (9)	6.5, 7.5 or 10 (9)	20	25	50	4,000	45	80	-	40%	*(3), (4), (5)*	30	3
RM Residential Multifamily	25*(8)*	20 *(6)*	20 *(6)*	20	25	50	7,500	75	100	1.2	40% *(10)*	*(3), (4), (5)*	35	3

CR Commercial Resort	10	20	15	20	25	50	20,000	100	100	1.2	40% *(10)*	*(3)*	30	3
CM Commercial Marina	20	20	20	20	0	50	20,000	100	100	1.0	40% *(10)*	-	35	3
CO Commercial Office	10	10	7	20	25	50	7,500	75	100	1.2	40% *(10)*	*(3), (4), (5)*	30	3
Santos	10	7	5	20	25	50	5,000	50	100	0.6	40% *(10)*	*(3), (4), (5)*	25	3
IN Institutional	20	10	7	20	25	50	7,500	75	100	0.8	40% *(10)*	*(3)*	35	3
CF Community Facilities	20	15	10	20	25	50	N/A	N/A	N/A	0.1	40% *(10)*	*(3)*	35	3
BB Bay Beach	— see § 34-651(b) —													
EC Environmentally Critical	20	25	-	25	20	50	*(7)*	N/A	N/A	0.01	-	*(3), (7)*	25	2

Note *(1)*: An additional wetland buffer is required for new development; see § 34-638(c).
Note *(2)*: See § 34-638(d)(3)a.
Note *(3)*: Maximum densities are established by the Fort Myers Beach Comprehensive Plan; see Section 34-632
Note *(4)*: Accessory apartments are allowed in owner-occupied homes under certain conditions; see Section 34-1178.
Note *(5)*: A second dwelling unit or accessory apartment may be allowed on larger lots; for details, see Section 34-632, 34-1177, and 34-1178
Note *(6)*: Single-family and two-family homes in the RM zoning district must maintain a 6.5-foot side setback for lots less than 50 feet wide, 7.5-foot side setback for lots 50 feet wide up to 75 feet wide, and 10 feet for lots wider than 75 feet.
Note *(7)*: See Section 34-652(e)(3).
Note *(8)*: Maximum 65 feet of house may be built to the 25-foot front setback. Any house frontage exceeding 65 feet in length shall be subject to additional setbacks from the street property line. See Section 34-638(d)(5)a.
Note *(9)*: Each side setback shall be 6.5 feet for lots less than 50 feet wide, 7.5 feet for lots 50 feet wide to 75 feet or less wide, and 10 feet for lots wider than 75 feet.
Note *(10)*: Detached single-family and two-family homes without a commercial use, in any conventional zoning district where that use is allowed, may be evaluated by building coverage rather than FAR.

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 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 three stories, elevated building are encouraged to limit enclosed space on the first story:

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;

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) *Building intensity.* Commercial and mixed-use building intensity shall be evaluated using floor area ratio (FAR). Detached single-family and two-family residence intensity shall be evaluated using building coverage (see § 34-634 of this chapter).

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

a. 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).

b. 1.4 for properties fronting on Estero Boulevard and fronting on the Bayfront pedestrian plazas.

c. 1.0 for all other properties in the Downtown district.

(2) *Building coverage.* Building coverage (See § 34-634 of this chapter) for detached single-family and two-family residences shall not exceed 40%.

(d) *Hotel rooms.*

(1) Along both sides of Old San Carlos Boulevard (properties between Fifth and First Streets that lie within 200 feet east and west of the centerline of Old San Carlos only), a property owner may substitute hotel rooms for allowable office space on upper floors without the limitations otherwise provided by the hotel-room

equivalency factor found in § 34-1802 of this chapter. However, these hotel rooms must have at least 250 square feet per rentable unit.

(2) In all other properties in the Downtown district, the number of hotel rooms are limited by the hotel-room equivalency factor found in § 34-1802 of this chapter.

(Ord. No. 24-08, § 2(Exh. A), 5-6-2024)

Sec. 34-683. - Creation of neighborhood center.

(a) *Purpose.* This section provides detailed regulations for the transformation of existing businesses into a neighborhood center.

(1) This transformation may be required by § 34-682(3) of this chapter or may be chosen by any landowner in the Santini district.

(2) Once this option is chosen or required, all subsections of this § 34-683 become mandatory requirements, except where they are clearly inapplicable to a given portion of the property.

(b) *Agreement for streetscape improvements.* Landowners who choose to partially or fully develop their land in the Santini district into a neighborhood center may simultaneously request public streetscape improvements by entering into a development agreement with the town (see §§ 2-91—2-102 of this LDC).

(1) This agreement would establish a public/private partnership for the necessary improvements, identifying responsibilities, timing, approximate costs, and funding.

(2) This agreement would also contain a detailed plan for the redevelopment of the property consistent with the regulations in the remainder of this section.

(c) *Allowable uses.* Allowable uses for the Santini zoning district are defined in Tables 34-1 and 34-2.

(d) *Streets.* Secondary streets and alleys shall be laid out and dedicated to the public generally in accordance with Figure 34-17 to improve circulation for vehicles and pedestrians.

(e) *Plazas.* An urban plaza at least one-half acre in size shall be provided along Estero Boulevard as a focal point for mixed-use buildings and as a public gathering place. This plaza may also be used for overflow parking.

(f) *Build-to lines established.* Build-to lines (see § 34-662 of this chapter) vary according to the streets and street types designated on Figure 34-17.

(1) Build-to lines for all primary streets and streets surrounding the plaza are 0 feet to five feet.

(2) Build-to lines for all secondary streets are 0 feet to ten feet.

(3) Awnings, canopies, and marquees over sidewalks and pedestrian walkways are encouraged by the commercial design standards (§§ 34-991—34-1010 of this chapter), especially along Estero Boulevard.

(4) Compliance with build-to lines is not required for buildings that are used for the storage of boats or for marina accessory uses, or for any buildings extend closer than 40 feet to the waterfront.

(5) Buildings used for the storage of boats or cars must be separated from Estero Boulevard by a liner building that provides usable building space at least 20 feet deep (see example in Figure 34-8).

a. This requirement applies to all buildings that extend closer than 75 feet to Estero Boulevard.

b. Liner buildings must be two stories or more in height.

c. Liner buildings may be detached from or attached to building space used for the storage of boats or cars.

d. Liner buildings must be constructed simultaneously with those portions of buildings that are subject to this requirement.

e. Liner buildings and any visible portions of the principal facade of buildings that are used for the storage of boats or cars must meet the commercial design standards (see §§ 34-991—34-1010 of this chapter).

(g) *Setback lines.* No minimum setbacks are required (see § 34-662 of this chapter).

(h) *Building frontage.* Building frontage limits (see § 34-663 of this chapter) vary according to the street types designated on Figure 34-17:

(1) For primary streets and streets surrounding the plaza, building frontages shall be at least 70 percent of the lot frontage.

(2) For secondary 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) Phased redevelopment is permitted provided that a site plan is provided showing how the building frontage percentages will be met upon completion of the redevelopment

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

(1) For parcels immediately abutting a plaza of at least one-half acre in size and for parcels immediately abutting canals, a maximum of 40 feet above base flood elevation and no taller than three stories.

(2) For all other parcels, a maximum of 30 feet above base flood elevation and no taller than two stories.

(j) *Floor area ratio (FAR).* Floor area ratios shall not exceed 1.0 (see § 34-633 of this chapter).

(k) *Residential density.* Residential units can be constructed in the Santini district up to the maximum density allowed by the Fort Myers Beach Comprehensive Plan.

(l) *Residential intensity*. Detached single-family and two-family residence building coverage shall not exceed 40%.

(~~l~~ m) *Guest units.* Guest units may be substituted for dwelling units in accordance with the equivalency factors found in § 34-1802 of this chapter.

(~~m~~ n) *Reductions to minimum parking requirements.* Neighborhood centers are "park-once" districts with preference given to pedestrian movement. The number of parking spaces normally required by § 34-2020 of this chapter shall be multiplied by 67 percent to determine the adjusted parking requirement for the Santini district. Adjoining on-street parking spaces may be counted toward this parking requirement.

(~~n~~ o) *Parking location.* Off-street parking may be provided under commercial or mixed-use buildings provided that:

(1) All under-building parking spaces must be separated from primary streets and the plaza by usable commercial space at least 20 feet deep that meets all commercial design guidelines; and

(2) Driveways leading to under-building parking spaces must connect to a driveway, secondary street, or alley, and may not be accessed from a primary street or pedestrian plaza.

(~~o~~ p) *Commercial design standards.* The commercial design standards (§§ 34-991—34-1010 of this chapter) shall apply to all commercial and mixed-use buildings, or portions thereof, that are being newly built, and to "substantial improvements" to such buildings as defined in § 6-405 of this LDC.

Sec. 34-693. Regulations to obtain development order for pre-approved redevelopment option.

(a) *Purpose.* his section provides detailed regulations for the pre-approved redevelopment option if that option is chosen by landowners, as described in § 34-692(3) of this chapter.

(b) *Allowable uses.* Allowable uses in the Village district are defined in Tables 34-1 and 34-2. If a development order is issued pursuant to § 34-692(3) of this chapter, the additional uses in the "Open" subgroup of Table 34-1 for the residential, lodging, office, and retail groups will be permitted on property that is subject to the development order.

(c) *Streets.* Secondary streets shall be laid out and dedicated to the public generally in accordance with Figure 34-18 to improve circulation for vehicles and pedestrians.

(1) Figure 34-18 provides two acceptable options for the new network of secondary streets.

(2) Under either option, the street design must incorporate the extension of a through street from Donora Boulevard to Lovers Lane that will be permanently accessible by the public.

(d) *View corridor.* A view corridor at least 50 feet wide shall be provided between Estero Boulevard and the Gulf as a focal point for abutting buildings and as part of a prominent visual corridor to the water. This view corridor need not be available for public use.

(e) *Build-to lines established.* Build-to lines (see § 34-662 of this chapter) for all streets shall be 0 feet to ten feet.

(f) *Setback lines established.* Setback lines (see § 34-662 of this chapter) are established as follows:

(1) For principal buildings, minimum setbacks are as follows:

a. Rear setbacks: 20 feet.

b. Waterbody setbacks: see § 34-638(d)(3) of this chapter.

(2) For accessory structures, minimum setbacks are set forth in §§ 34-1171—34-1176 of this chapter.

(g) *Building frontage.* Building frontage limits (see § 34-663 of this chapter) vary according to the street types designated on Figure 34-18:

(1) For primary streets, building frontages shall be at least 50 percent of the lot frontage. This 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.

(2) 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).

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

(1) For properties that front on the bay side of Estero Boulevard and all streets other than Estero Boulevard, a maximum of 30 feet above base flood elevation and no taller than two stories. However, for mixed-use buildings and for elevated buildings without enclosed space on the first story, the maximum height is three stories (but still limited to 30 feet above base flood elevation).

(2) For properties that front on the beach side of Estero Boulevard, a maximum of 40 feet above base flood elevation and no taller than three stories.

(i) *Building intensity.* Commercial and mixed-use building intensity shall be evaluated using floor area ratio (FAR). Detached single-family and two-family residence intensity shall be evaluated using building coverage (see § 34-634 of this chapter).

(1) *Floor area ratio (FAR).* Floor area ratios shall not exceed 1.2.

(2) *Building coverage.* Building coverage (See § 34-634 of this chapter) for detached single-family and two-family residences shall not exceed 40%.

(j) *Residential density.* Policy 4-F-2-iii of the Fort Myers Beach Comprehensive Plan allows up to 15 dwelling units per acre for redevelopment in accordance with this section. Any land used for roadway or access purposes may be included in this density computation.

(k) *Guest units.* Guest units may be substituted for dwelling units in accordance with the equivalency factors found in § 34-1802 of this chapter.

(l) *Circulation and parking.* Off-street parking may be provided under commercial or mixed-use buildings provided that:

(1) All under-building parking spaces must be separated from primary streets and the plaza by usable commercial space at least 20 feet deep that meets all commercial building design guidelines; and

(2) Driveways leading to under-building parking spaces must connect to a secondary street or an alley and may not be accessed from a primary street or pedestrian plaza.

(m) *Commercial design standards.* The commercial design standards (§§ 34-991—34-1010 of this chapter) shall apply to all commercial and mixed-use buildings that are visible from Estero Boulevard, or portions thereof, that are being newly built, and to "substantial improvements" to such buildings as defined in § 6-405 of this LDC.

Sec. 34-705. - Building size.

(a) *Building frontage.* Building frontage limits (see § 34-663 of this chapter) are established as follows:

(1) For Estero Boulevard, building frontages shall be at least 50 percent of the lot frontage. This 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.

(2) 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).

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

(1) For properties that front on the bay side of Estero Boulevard and all streets other than Estero Boulevard, a maximum of 30 feet above base flood elevation and no taller than two stories, except that an elevated building without enclosed space on the first story may be three stories tall (but still limited to 30 feet above base flood elevation).

(2) For properties that front on the beach side of Estero Boulevard, a maximum of 40 feet above base flood elevation and no taller than three stories.

(c) *Floor area ratio (FAR).* For commercial and mixed-use developments ~~F~~floor area ratios (see § 34-633 of this chapter) shall not exceed 1.0.

(d) *Building coverage*. For detached single-family and two-family residences, building coverage (see § 34-634 of this chapter) shall not exceed 40%.

Business Impact Estimate

This form should be included in the agenda packet for the item under which the proposed ordinance is to be considered and must be posted on the [City's/Town's/Village's] website by the time notice of the proposed ordinance is published.

Proposed ordinance's title/reference:
Ordinance 24-24 AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING 1) TABLE 34-3 TITLED "DIMENSIONAL REGULATIONS IN CONVENTIONAL ZONING DISTRICTS" IN CHAPTER 34, ARTICLE III, DIVISION 4 TO CREATE NOTE (10) TO PROVIDE THAT DETACHED SINGLE-FAMILY AND TWO-FAMILY HOMES WITHOUT A COMMERCIAL USE, IN ANY CONVENTIONAL ZONING DISTRICT WHERE THAT USE IS ALLOWED, MAY BE EVALUATED BY BUILDING COVERAGE RATHER THAN FAR; 2) SECTION 34-675(C) IN CHAPTER 34, ARTICLE III, DIVISION 5 TO PROVIDE THAT BUILDING INTENSITY OF COMMERCIAL AND MIXED-USE BUILDINGS SHALL BE EVALUATED USING FLOOR AREA RATIO (FAR) AND DETACHED SINGLE-FAMILY AND TWO-FAMILY RESIDENCE INTENSITY SHALL BE EVALUATED USING BUILDING COVERAGE NOT TO EXCEED 40% IN THE DOWNTOWN ZONING DISTRICT; 3) SECTION 34-683 IN CHAPTER 34, ARTICLE III, DIVISION 5 RELATED TO THE CREATION OF NEIGHBORHOOD CENTERS IN THE SANTINI ZONING DISTRICT TO PROVIDE THAT DETACHED SINGLE-FAMILY AND TWO-FAMILY RESIDENCE BUILDING COVERAGE SHALL NOT EXCEED 40%; 4) SECTION 34-693 IN THE VILLAGE ZONING DISTRICT REGULATIONS TO PROVIDE THAT COMMERCIAL AND MIXED-USE BUILDING INTENSITY SHALL BE EVALUATED USING FLOOR AREA RATIO (FAR) AND DETACHED SINGLE-FAMILY AND TWO-FAMILY RESIDENCE INTENSITY SHALL BE EVALUATED USING BUILDING COVERAGE AND SHALL NOT EXCEED 40%; 5) SECTION 34-705 IN THE CB ZONING DISTRICT TO PROVIDE THAT FOR COMMERCIAL AND MIXED-USE DEVELOPMENTS FLOOR AREA RATIOS SHALL NOT EXCEED 1.0 AND BUILDING COVERAGE FOR DETACHED SINGLE-FAMILY AND TWO-FAMILY RESIDENCES, BUILDING COVERAGE SHALL NOT EXCEED 40%; PROVIDING FOR SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS; CONFLICTS OF LAW; AND PROVIDING AN EFFECTIVE DATE.

This Business Impact Estimate is provided in accordance with section 166.041(4), Florida Statutes. If one or more boxes are checked below, this means the [City/Town/Village] is of the view that a business impact estimate is not required by state law[1] for the proposed ordinance, but the [City/Town/Village] is, nevertheless, providing this Business Impact Estimate as a courtesy and to avoid any procedural issues that could impact the

[1] See Section 166.041(4)(c), Florida Statutes.

enactment of the proposed ordinance. This Business Impact Estimate may be revised following its initial posting.

☐ The proposed ordinance is required for compliance with Federal or State law or regulation;
☐ The proposed ordinance relates to the issuance or refinancing of debt;
☐ The proposed ordinance relates to the adoption of budgets or budget amendments, including revenue sources necessary to fund the budget;
☐ The proposed ordinance is required to implement a contract or an agreement, including, but not limited to, any Federal, State, local, or private grant or other financial assistance accepted by the municipal government;
☐ The proposed ordinance is an emergency ordinance;
☐ The ordinance relates to procurement; or
☒ The proposed ordinance is enacted to implement the following:
  a. Part II of Chapter 163, Florida Statutes, relating to growth policy, county and municipal planning, and land development regulation, including zoning, development orders, development agreements and development permits;
  b. Sections 190.005 and 190.046, Florida Statutes, regarding community development districts;
  c. Section 553.73, Florida Statutes, relating to the Florida Building Code; or
  d. Section 633.202, Florida Statutes, relating to the Florida Fire Prevention Code.

In accordance with the provisions of controlling law, even notwithstanding the fact that an exemption noted above may apply, the [City/Town/Village] hereby publishes the following information:

1. Summary of the proposed ordinance (must include a statement of the public purpose, such as serving the public health, safety, morals and welfare):

The proposed ordinance amends allows for single family and two family residential structures to be measured by building coverage rather than floor area ratio.

2. An estimate of the direct economic impact of the proposed ordinance on private, for-profit businesses in the [City/Town/Village], including the following, if any:
(a) An estimate of direct compliance costs that businesses may reasonably incur;
(b) Any new charge or fee imposed by the proposed ordinance or for which businesses will be financially responsible; and
(c) An estimate of the [City's/Town's/Village's] regulatory costs, including estimated revenues from any new charges or fees to cover such costs.

There are unlikely to be direct compliance costs associated with Ordinance 23-24.

Ordinance 24-24 does not impose any new charge or fee on businesses.

There are no new charges or fees that will be imposed on businesses by the ordinance.

The Town will not likely incur additional costs.

3. Good faith estimate of the number of businesses likely to be impacted by the proposed ordinance:

This ordinance applies only to single family and two family residential structures, not businesses.

4. Additional information the governing body deems useful (if any):
[*You may wish to include in this section the methodology or data used to prepare the Business Impact Estimate. For example: [City/Town/Village] staff solicited comments from businesses in the [City/Town/Village] as to the potential impact of the proposed ordinance by contacting the chamber of commerce, social media posting, direct mail or direct email, posting on [City/Town/Village] website, public workshop, etc. You may also wish to include efforts made to reduce the potential fiscal impact on businesses. You may also wish to state here that the proposed ordinance is a generally applicable ordinance that applies to all persons similarly situated (individuals as well as businesses) and, therefore, the proposed ordinance does not affect only businesses*).

Town of Fort Myers Beach
Agenda Item Summary

Blue Sheet Number: **2024-233**

1. **Request:**

Meeting Date: September 9, 2024

First and Final Reading and Public Hearing on proposed Emergency Ordinance entitled: AN EMERGENCY ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING 1) DIVISION 3 "UNSAFE BUILDING ABATEMENT CODE" OF ARTICLE I "PROPERTY MAINTENANCE CODES"; AND 2) DIVISION 2 "LEE COUNTY'S BOARDS OF ADJUSTMENT AND APPEALS" OF ARTICLE II "BUILDING CODES" OF CHAPTER 6 "MAINTENANCE CODES, BUILDING CODES AND COASTAL REGULATIONS" OF THE LAND DEVELOPMENT CODE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, TO AMEND EXISTING PROVISIONS RELATED TO APPEALS OF THE BUILDING OFFICIAL'S DECISIONS; DIVESTING THE LEE COUNTY CONSTRUCTION BOARD OF ADJUSTMENT AND APPEALS OF THE RESPONSIBILITY FOR REVIEW OF APPEALS OF THE TOWN BUILDING OFFICIAL'S DECISIONS INCLUDING BUT NOT LIMITED TO DETERMINATION OF AN UNSAFE BUILDING; AUTHORIZING THE TOWN OF FORT MYERS BEACH SPECIAL MAGISTRATES TO HEAR APPEALS OF THE TOWN'S BUILDING OFFICIAL'S DECISIONS; PROVIDING FOR NON-CODIFICATION, SEVERABILITY, SCRIVENER ERRORS, CONFLICTS OF LAW, AND AN EFFECTIVE DATE.

Why the action is necessary:

The interlocal agreement between the Town of Fort Myers Beach and Lee County, allowing the Town to defer review of appeals regarding unsafe structures to Lee County Board of Adjustment and Appeals, expired in 2017. The passage of this emergency ordinance is necessary to ensure the Town has an adequate appeal process for those property owners, whose properties have been deemed unsafe and noticed for demolition by the Town Building Official.

What the action accomplishes:

This emergency ordinance reassigns the responsibility of appellate review of the Town Building Official's decisions from Lee County Board of Adjustment and Appeals to the Town of Fort Myers Beach Special Magistrates, on an emergency basis.

2. **Agenda:**	3. **Requirement/Purpose:**	4. **Submitter of Information:**
PUBLIC HEARINGS	EMERGENCY Ordinance	nancy stuparich, Town Attorney

5. **Background:**

After the Town's incorporation, the Town and Lee County entered into an Interlocal Agreement, pursuant to which Lee County's Board of Adjustment and Appeals agreed to provide appellate review of the Town's Building Official's decisions. The Town recently became aware that the Interlocal Agreement between the Town and Lee County related to the Lee County Board of Adjustment and Appeals' appellate review of the Town Building Official's decisions regarding unsafe structures expired in 2017. The Town has an immediate need for a reassignment of the responsibility for review of the Building Official's decisions related to demolition of unsafe structures in the Town. In the absence of an opportunity for an appeal structure, the rights of property owners within the town are endangered. To afford property owners whose structures have been identified for demolition an immediate opportunity for an appeal, it is recommended that the Town reassign the responsibility of appellate review of the Town Building Official's decisions from Lee County Board of Adjustment and Appeals to the Town of Fort Myers Beach Special Magistrates via an emergency ordinance until a permanent process is codified in the Town's Code of Ordinances.

Attachments:

1. 24-29, EMERGENCY ORDINANCE - Unsafe Structures - 8-29-24 mrns
2. ILA - 2015-2017 - Community Development - EXECUTED
3. Art. 1, Div 3 Fort Myers Beach, FL Code of Ordinances
4. Art 11, Div 2 - Fort Myers Beach, FL Code of Ordinances

Financial Impact:
None

6. **Alternative Action**

7. **Management Recommendations:**
Approve this emergency ordinance.

8. **Recommended Approval:**

Amy Baker, Town Clerk	Created/Initiated - 9/3/2024
nancy stuparich, Town Attorney	Approved - 9/3/2024
Amy Baker, Town Clerk	Approved - 9/4/2024
Andy Hyatt, Town Manager	Final Approval - 9/4/2024

EMERGENCY ORDINANCE NO. 24-29

AN EMERGENCY ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING 1) DIVISION 3 "UNSAFE BUILDING ABATEMENT CODE" OF ARTICLE I "PROPERTY MAINTENANCE CODES"; AND 2) DIVISION 2 "LEE COUNTY'S BOARDS OF ADJUSTMENT AND APPEALS" OF ARTICLE II "BUILDING CODES" OF CHAPTER 6 "MAINTENANCE CODES, BUILDING CODES AND COASTAL REGULATIONS" OF THE LAND DEVELOPMENT CODE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, TO AMEND EXISTING PROVISIONS RELATED TO APPEALS OF THE BUILDING OFFICIAL'S DECISIONS; DIVESTING THE LEE COUNTY CONSTRUCTION BOARD OF ADJUSTMENT AND APPEALS OF THE RESPONSIBILITY FOR REVIEW OF APPEALS OF THE TOWN BUILDING OFFICIAL'S DECISIONS INCLUDING BUT NOT LIMITED TO DETERMINATION OF AN UNSAFE BUILDING; AUTHORIZING THE TOWN OF FORT MYERS BEACH SPECIAL MAGISTRATES TO HEAR APPEALS OF THE TOWN'S BUILDING OFFICIAL'S DECISIONS; PROVIDING FOR NON-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 166.041(3)(b), Florida Statutes, permits the governing body of a municipality, by a two-thirds vote, to enact an emergency ordinance without complying with the requirements of paragraph (a) of Section 166.041; and

WHEREAS, Section 6-37 "Exceptions and revisions" of the Town's Land Development Code states that appeals of the Town's Building Official's decisions regarding unsafe conditions of structures shall go to the Lee County Board of Adjustment and Appeals; and

WHEREAS, division 2 "Lee County's Boards of Adjustment and Appeals" of article II "Building Codes" of chapter 6 "Maintenance Codes, Building Codes and Coastal Regulations" of the Town's Land Development Code establishes an appeals process for review of decisions by the Building Official to be heard by the Lee County Boards of Adjustment and Appeals; and

WHEREAS, subsequent to the Town's incorporation, the Town and Lee County entered into an Interlocal Agreement which provided that the Lee County Board of Adjustment and Appeals would provide appellate review of the Town's Building Official's decisions; and

WHEREAS, the Town has recently become aware that the Interlocal Agreement between the Town and the Lee County related to the Board's appellate review of the Town Building Official's decisions expired in 2017 and there exists an immediate need for a reassignment of this responsibility; and

WHEREAS, in the absence of an opportunity for appellate review, the rights of property owners within the Town are endangered; and

WHEREAS, the Town desires to reassign the responsibility for appellate review of decisions by the Town Building Official from Lee County Board of Adjustment and Appeals to the Town of Fort Myers Beach Special Magistrates via this Emergency Ordinance; and

WHEREAS, adoption of this Emergency Ordinance is in the best interests of the health, safety, welfare, and morals of the Town's residents.

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

Section 1. That the above recitals are true and correct, and incorporated herein by this reference.

Section 2. This Emergency Ordinance is adopted to address a situation in the Town of Fort Myers Beach in the interests of the public health, safety, welfare, and morals, and for the following purposes:

a. To address the fact that currently the interlocal agreement between the Town and Lee County is expired, which eliminates the opportunity for an affected property owner to appeal an adverse decision by the Town's Building Official; and

b. To ensure that a property owner's rights are not violated, immediate action is needed by the Town to reestablish its appellate review process; and

c. To provide the Town with time to formally amend section 6-37 of division 3 of article I, and division 2 of article II, of chapter 6 of the Town's Land Development Code with a reassignment of appellate review of the Town's Building Official's decisions from the Lee County Board of Adjustment to the Town of Fort Myers Beach Special Magistrates.

As a result, immediate revisions to section 6-37 "Exceptions and revisions" of Division 3 "Unsafe Building Abatement Code" of Article I "Property Maintenance Codes," and Division 2 "Lee County's Boards of Adjustment and Appeals" of Article II "Building Codes," of Chapter 6 "Maintenance Codes, Building Codes and Coastal Regulations" of the Town's Land Development Code, are needed as set forth herein. These immediate revisions are enacted to avoid any infringement upon property owners' due process rights.

Section 3. That Section 6-37 "Exceptions and revisions" of Division 3 "Unsafe Building Abatement Code" of Article I "Property Maintenance Codes," is hereby amended as follows:

DIVISION 3. - UNSAFE BUILDING ABATEMENT CODE

Sec. 6-37. - Exceptions and revisions.

a) Section 105 of Chapter I, Administration is hereby amended as follows:

Section 105, relating to the board of adjustment and appeals, is deleted, and replaced by the procedures set forth for the delegation of authority to the Town of Fort Myers Beach Special Magistrates ~~Lee County's Construction Board of Adjustment and Appeals~~ found in division 2 of article II of this chapter. Any reference to the board of adjustment and appeal as may be in other Chapters shall be amended as provided herein by reference.

b) Sections 302.1.1(4) and 302.1.2-302.1.4 in Chapter III, Inspection and Notice of Noncompliance are hereby amended as follows:

302.1.1(4) A statement advising that any person having any legal interest in the property may appeal the notice by the Building Official to the Town of Fort Myers Beach Special Magistrates ~~Lee County Board of Adjustment and Appeals;~~ and that such appeal shall be in writing and shall be filed with the Building Official within 30 days from the date of the notice in accordance with Division 2 of Article II of Chapter 6 of the Fort Myers Beach Code of Ordinances and that failure to appeal in the time specified will constitute a waiver of all rights to an administrative hearing.

302.1.2 The notice and all attachments thereto shall be served upon the property owner as identified on the records of the Lee County Property Appraiser and posted on the property. Failure of the building official to serve any person or entity other than the owner of record shall not invalidate any proceedings hereunder nor shall it relieve any other person or entity served from any obligation imposed on that person or entity.

302.1.3 The notice shall be served either personally by hand delivery by Town staff or a process server or by certified mail, postage prepaid, return receipt requested, to the owner of record at the address shown for the owner on the Lee County Property Appraiser's website. Notice shall also be mailed to the address of the building or structure involved in the proceedings. The failure of any person or entity to receive notice, either actual or constructive, other than the owner of record, shall not invalidate any proceedings under this section. Service by certified or registered mail as herein described shall be effective on the date the notice was received as indicated on the return receipt.

302.1.4 Proof of service of the notice shall be by written affidavit indicating the date, time and manner in which service was made. In the event service is not perfected by certified mailing

or hand delivery, the property owner shall be subject to constructive service using the methods as provided in Chapter 49, Florida Statutes.

c) *Chapter VI, Implementation* is hereby amended as follows:

601.2.2 Subsequent to posting the building, the building official may cause the building to be repaired to the extent required to render it safe or if the notice required demolition, to cause the building or structure to be demolished and all debris removed from the premise. The cost of repair or demolition, and all reasonable attorney's fees and costs, and costs of notices related thereto, and all collection costs and expenses and the administrative fee as provided hereinafter, shall constitute a lien on the property and shall be collected in a manner provided by law.

d) *Chapter VII, Recovery of Cost of Repair or Demolition* is hereby amended as follows:

If the building official proceeds to demolish the building or structure as set forth herein, the town council shall, by proper resolution, assess the entire cost of such demolition and removal, and all reasonable attorney's fees and costs, and costs of notices related thereto, and all collection costs and expenses plus an administrative fee in an amount as adopted by the town council by resolution, against the real property upon which such cost and fee was incurred, which assessment, when made, shall constitute a lien upon the property superior to all others except taxes. The lien shall be filed in the public land records of the county. The resolution of assessment and lien must indicate the nature of the assessment and lien, the lien amount, and an accurate description of the property affected. The lien becomes effective on the date of filing such notice of lien and shall bear interest from such date at the rate of ten percent per annum until paid. If the resulting lien remains unpaid the town may:

(1) File suit to foreclose on the liened property as provided by law in suits to foreclose mortgages; or

(2) Follow any other lawful process or procedure available for enforcement or collection of the lien, including, but not limited to, the Uniform Method of Collection in accordance with any general law of the state relating to the enforcement or collection of municipal liens.

Section 4. That Division 2 "Lee County's Boards of Adjustment and Appeals" of Article II "Building Codes," of Chapter 6 "Maintenance Codes, Building Codes and Coastal Regulations," of the Land Development Code of the Town of Fort Myers Beach, Florida, are hereby amended to read as follows:

DIVISION 2. - ~~LEE COUNTY'S BOARDS OF ADJUSTMENT AND~~ APPEALS
APPEAL OF DECISIONS BY THE TOWN'S BUILDING OFFICIAL

Sec. 6-71. - Applicability of division.

This division shall include, but not be limited to, any contractor, owner, agent, manufacturer or supplier providing construction services or materials regulated by standard codes enforced by the Town of Fort Myers Beach.

Sec. 6-72. - Intent of division.

The town has adopted various standard codes relating to building, plumbing, mechanical, gas, electrical, unsafe buildings, housing and fire. This division is intended to be construed in conjunction with these codes and identify a process for appeal of a decision by the Town's Building Official.

~~**Sec. 6-73. - Boards established; jurisdiction.**~~

~~Lee County has established a construction board of adjustment and appeals known as the Lee County Board of Adjustment and Appeals. The purpose of that board is to hear and decide appeals from the decision of the county's building official and fire official or their designees on any of the various standard codes regulated and enforced by the county except the plumbing code and mechanical code. Lee County has also established separate boards of adjustment and appeals to arbitrate matters involving the plumbing code and mechanical code.~~

~~**Sec. 6-74. - Delegation of authority to Lee County's Boards of Adjustment and Appeals.**~~

~~(a) The Town of Fort Myers Beach hereby delegates to each of the three Lee County Boards of Adjustment and Appeals the authority to make decisions on appeals that may be filed in accordance with § 6-80 of this division.~~

~~(b) The town attorney will provide legal advice to each of the three Lee County Boards of Adjustment and Appeals when warranted.~~

~~**Secs. 6-75—6-79. - Reserved.**~~

Secs. 6-73—6-79. - Reserved.

Sec. 6-80. - Right of appeal; notice of appeal.

(a) Whenever the building official or fire official or their designees shall reject or refuse to approve the mode or manner of construction to be followed or materials to be used, or when it is claimed that the provisions of a code do not apply, or that an equally good or more desirable form of construction can be employed in any specific case, or when it is claimed that the true intent and meaning of a code or any of the regulations thereunder have been misconstrued or wrongly interpreted, the owner of such building or structure, or his duly authorized agent, may appeal from the decision of the building official or fire official or their designees to the Town of Fort Myers Beach Special Magistrates ~~Lee County's appropriate Board of Adjustment and Appeals~~. Notice of appeal shall be in writing and filed within 30 days after the decision is rendered by the building official or fire official or their designees. All requests for appeal shall be on forms provided by the building official with payment of the appropriate fee.

(b) In the case of a building or structure which in the opinion of the building official is unsafe or dangerous, the building official may, in his order, limit the time for such appeal to a shorter period.

Sec. 6-81. - Variations and modifications.

(a) ~~Lee County's Boards of Adjustment and Appeals~~ A Town of Fort Myers Beach Special Magistrate, pursuant to an appeal from a decision of the building official or fire official or their designees, may vary the application of a code to any particular case when, in its opinion and based upon sufficient evidence, the enforcement thereof would do manifest injustice and would be contrary to the spirit and purpose of a code or public interest, or when, in its opinion and based upon sufficient evidence to the contrary, the interpretation of the building official or fire official or their designees should be modified or reversed.

(b) Any decision of ~~Lee County Boards of Adjustment and Appeals~~ the Town of Fort Myers Beach Special Magistrate to vary the application of any provision of a code or to modify an order of the building official or fire official or their designees shall specify the variation or modification made, the conditions upon which it is made, and the reasons therefor.

(c) Variances to the floodplain regulations must meet the additional criteria in article IV of this chapter.

Sec. 6-82. - Decisions.

(a) Every decision of ~~Lee County's Boards of Adjustment and Appeals~~ the Town of Fort Myers Beach Special Magistrate shall be final; subject, however, to any remedy an aggrieved party might have at law or in equity. Every decision shall be in writing. ~~and shall indicate the vote upon the decision. Every decision of Lee County's Boards of Adjustment and Appeals shall be signed and attested to by the chairman of the board.~~

(b) ~~Lee County's Boards of Adjustment and Appeals~~ The Town of Fort Myers Beach Special Magistrate shall, in every case, reach a decision without unreasonable or unnecessary delay.

(c) If a decision of any of the Town of Fort Myers Beach Special Magistrates ~~Lee County's Boards of Adjustment and Appeals~~ reverses or modifies a refusal, order or disallowance of the building official or fire official or their designees, or varies the application of any provision of a code, the appropriate official shall immediately take action in accordance with such decision.

(d) Any aggrieved person may obtain judicial review of the decision of ~~Lee County's Boards of Adjustment and Appeals~~ the Town of Fort Myers Beach Special Magistrate by filing a petition for writ of certiorari in the circuit court. Such petition must be filed within 30 calendar days after the ~~board of adjustment and appeals'~~ Special Magistrate's decision, but not thereafter, pursuant to the Florida Rules of Civil Procedure. The original petition for writ of certiorari must be filed with the clerk of the circuit court. Copies of the petition shall be filed with the building official for forwarding to the town attorney.

Secs. 6-83—6-110. - Reserved.

Section 5. The provisions of this Ordinance shall not be codified as it is temporary in nature.

Section 6. 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 7. If any section, subsection, sentence, clause, word, 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 8. This Ordinance shall take effect immediately upon its final adoption and shall remain effective until such time as actions by the Town have enacted a revision to Section 6-37 "Exceptions and revisions" of Division 3 "Unsafe Building Abatement Code," and Division 2 "Lee County's Boards of Adjustment and Appeals" of Article II "Building Codes" of Chapter 6 "Maintenance Codes, Building Codes and Coastal Regulations" of the Town's Land Development Code, as otherwise provided under Florida law. This Emergency Ordinance shall apply to any notices mailed by the Town to property owners advising of the unsafe condition of their structure, as of July 19, 2024.

The foregoing emergency 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 were 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.

2015-2017

COMMUNITY DEVELOPMENT

INTERLOCAL AGREEMENT BETWEEN LEE COUNTY

AND TOWN OF FORT MYERS BEACH

THIS INTERLOCAL AGREEMENT is made and entered into this 9 day of September, 2015, by and between the TOWN OF FORT MYERS BEACH, a municipal corporation of the State of Florida, acting by and through its Town Council, the governing body thereof, "Town", and LEE COUNTY, a political subdivision of the State of Florida, acting by and through its Board of County Commissioners, the governing body thereof, "County", collectively, "the Parties" hereto.

WITNESSETH:

WHEREAS, the Town Council is the governing body in and for the Town and the Board of County Commissioners is the governing body in and for the County; and,

WHEREAS, both the County and the Town are duly empowered pursuant to Florida Statutes, in particular Section 163.01, to enter into Interlocal Agreements for the delegation of certain shared municipal powers from the Town to the County; and,

WHEREAS, pursuant to Chapter 95-494, Laws of Florida, the Town has assumed all governmental, corporate and proprietary powers provided by law to Florida municipalities as of December 31, 1995 and thereafter; and,

WHEREAS, in order to continue services from the County to the Town for the protection of the public health, safety and welfare of the citizens of the Town, the Town Council has determined it appropriate to delegate certain services to the County as provided for by the charter of the Town;

NOW, THEREFORE, in consideration of the foregoing, and of the mutual covenants and conditions hereinafter set forth, the Town and the County, intending to be legally bound, hereby agree as follows:

SECTION I PURPOSE

It is the purpose and intent of this Agreement to define the terms and conditions for the Town's delegation of certain development review and certain building code enforcement authority to the County, and the terms and conditions under which the County will provide such services. This Agreement is intended to provide to the Town, through a delegation of certain municipal authority and powers to the County, certain services relating to Development Review,

Item 2
9-15-15

Building Plan Review and Building Inspections for enforcement of the Town of Fort Myers Beach Land Development Code and the Florida Building Code.

All terms and conditions of this Agreement shall be interpreted in a manner consistent with, and in furtherance of, the purpose as set forth above.

SECTION II AUTHORITY FOR AGREEMENT

The Town represents to the County that the execution and delivery of this Agreement has been duly authorized by all appropriate actions of the duly elected and authorized Town Council, has been executed and delivered by an authorized officer of the Town, and constitutes a legal, valid, and binding obligation of the Town. The County represents to the Town that the execution and delivery of this Agreement has been duly authorized by all appropriate actions of the Board of County Commissioners, has been executed and delivered by an authorized officer of the County, and constitutes a legal, valid, and binding obligation of the County.

SECTION III TERM OF AGREEMENT

The term of this Agreement shall commence as of October 1, 2015 and continue to September 30, 2017, subject to termination or reduction in the scope of services to be provided hereunder as set forth elsewhere in this Agreement.

SECTION IV SCOPE OF SERVICES

1. The County shall provide the following services to the Town:

Scope of Services

A. Building Code Plan Review
Building Code Inspections
Building Official Oversight

B. Review of Development Orders, as needed, on the basis of standard adopted County Development Order fees

2. The County will provide the Town with records of any administrative actions.
3. The Town will provide the County with copies of all ordinance changes or resolutions adopted by the Town pertaining to matters covered herein.
4. The parties acknowledge that the Town may reduce the scope of services to be provided by the County as set forth above, in the Town's sole discretion at any time during the term hereof upon thirty (30) days' prior written notice, without penalty to the Town. Upon such occurrence, if any, the cost of the services shall be reduced on a per-service basis, and pro-rated on a twelve-month basis. The appropriate adjustment shall be made as part of the next and subsequent monthly payments.

5. Subject to the provisions of paragraph 4 above, the cost for the Town to receive services from the County, in addition to the fees and charges normally collected by the County for building permits and Development Orders (and excluding impact fees) totals $44,636.00, and payment of $3,720.00 will be made monthly no later than the 15th of the month. Such payment shall be made by the Town by the due date or the County may suspend services hereunder.

SECTION V RESERVATION OF CERTAIN POWERS & DUTIES TO THE TOWN

Notwithstanding any provisions to the contrary set forth elsewhere in this Agreement, the Town hereby specifically reserves unto itself all of the final, determinative powers exercised by similarly situated municipalities in the State of Florida and/or as set forth in its charter and ordinances, whichever is broader, with respect to final decisions concerning the implementation of the Town of Fort Myers Beach Comprehensive Plan, Town of Fort Myers Beach Land Development Code and other Town ordinances and regulations as they may be amended or revised by the Town from time to time.

SECTION VI TERMINATION OF INTERLOCAL AGREEMENT

In addition to the Town's ability to reduce services by the County hereunder, this Agreement may be terminated by either party at any time, with or without cause, upon thirty (30) days' prior written notice to the non-terminating party.

SECTION VII LIABILITY

The parties agree that by execution of this Agreement, neither party will be deemed to have waived its statutory defense of sovereign immunity, or increased its limits of liability as provided for in Section 768.28, Florida Statutes.

SECTION VIII PRIOR AGREEMENTS

This Agreement shall supersede any other Agreement between the Town and the County relating to the delegation of certain municipal powers to the extent that the terms and provisions of any such other Agreement conflict with the terms and provisions of this Agreement.

SECTION IX ASSIGNMENT

No assignment, delegation, transfer or novation of this Agreement or part hereof shall be made, unless approved by the Town and the County.

SECTION X NOTICES

Any notices or other documents permitted or required to be delivered pursuant to this Agreement shall be delivered to the County, at the Office of the County Manager, and to the Town, at the Office of the Town Manager.

SECTION XI AMENDMENT

This Agreement may only be amended by writing duly executed by the Town and the County.

IN WITNESS WHEREOF, the Town and the County have executed this Agreement on the day, month, and year first written above.

ATTEST:
LINDA DOGGETT, CLERK

By: _____
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

By: _____
Chairman

APPROVED AS TO FORM:

By: _____
Office of County Attorney

ATTEST:

By: _____
Town Clerk

TOWN OF FORT MYERS BEACH

By: _____
Mayor

APPROVED AS TO FORM:

By: _____
Town Attorney

LEE COUNTY
SOUTHWEST FLORIDA

LETTER OF TRANSMITTAL

Lee County
Department of Community Development
PO Box 398
Fort Myers, FL 33902-0398
(239) 533-8345
Fax (239) 485-8341

TOWN OF
FORT MYERS BEACH

OCT 07 2015

RECEIVED BY

October 5, 2015

TO: Amy Baker
Contracts Manager
Town of Fort Myers Beach
2523 Estero Blvd.
Fort Myers Beach, FL 33931

Date	No.	Description
Sept 2015	1	Original Executed Interlocal Agreement (Oct. 2015 – Sept 2017

Signed: Debbie Carpenter

Debbie Carpenter
Administrative Assistant

S:\WRITERS\CARPENTERD\TRANSMITTAL.DOCX

DIVISION 3. - UNSAFE BUILDING ABATEMENT CODE

Sec. 6-36. - Adoption; amendments.

The 1985 Standard Unsafe Building Abatement Code, as published by Southern Building Code Congress International, Inc., 900 Montclair Road, Birmingham, Alabama 35213-1206, is hereby adopted by reference and made part of this article, with the exceptions and revisions set forth in section 6-37.

(Ord. No. 24-13, § 2, 6-3-2024)

Sec. 6-37. - Exceptions and revisions.

a) *Section 105 of Chapter I, Administration* is hereby amended as follows:

Section 105, relating to the board of adjustment and appeals, is deleted, and replaced by the procedures set forth for the delegation of authority to Lee County's Construction Board of Adjustment and Appeals found in division 2 of article II of this chapter. Any reference to the board of adjustment and appeal as may be in other Chapters shall be amended as provided herein by reference.

b) *Sections 302.1.1(4) and 302.1.2-302.1.4 in Chapter III, Inspection and Notice of Noncompliance* are hereby amended as follows:

302.1.1(4) A statement advising that any person having any legal interest in the property may appeal the notice by the Building Official to the Lee County Board of Adjustment and Appeals; and that such appeal shall be in writing and shall be filed with the Building Official within 30 days from the date of the notice in accordance with Division 2 of Article II of Chapter 6 of the Fort Myers Beach Code of Ordinances and that failure to appeal in the time specified will constitute a waiver of all rights to an administrative hearing.

302.1.2 The notice and all attachments thereto shall be served upon the property owner as identified on the records of the Lee County Property Appraiser and posted on the property. Failure of the building official to serve any person or entity other than the owner of record shall not invalidate any proceedings hereunder nor shall it relieve any other person or entity served from any obligation imposed on that person or entity.

302.1.3 The notice shall be served either personally by hand delivery by Town staff or a process server or by certified mail, postage prepaid, return receipt requested, to the owner of record at the address shown for the owner on the Lee County Property Appraiser's website. Notice shall also be mailed to the address of the building or structure involved in the proceedings. The failure of any person or entity to receive notice, either actual or constructive, other than the owner of record, shall not invalidate any proceedings under this section. Service by certified or registered mail as herein described shall be effective on the date the notice was received as indicated on the return receipt.

302.1.4 Proof of service of the notice shall be by written affidavit indicating the date, time and manner in which service was made. In the event service is not perfected by certified mailing or hand delivery, the property owner shall be subject to constructive service using the methods as provided in Chapter 49,

Florida Statutes.

c) *Chapter VI, Implementation* is hereby amended as follows:

601.2.2 Subsequent to posting the building, the building official may cause the building to be repaired to the extent required to render it safe or if the notice required demolition, to cause the building or structure to be demolished and all debris removed from the premise. The cost of repair or demolition, and all reasonable attorney's fees and costs, and costs of notices related thereto, and all collection costs and expenses and the administrative fee as provided hereinafter, shall constitute a lien on the property and shall be collected in a manner provided by law.

d) *Chapter VII, Recovery of Cost of Repair or Demolition* is hereby amended as follows:

If the building official proceeds to demolish the building or structure as set forth herein, the town council shall, by proper resolution, assess the entire cost of such demolition and removal, and all reasonable attorney's fees and costs, and costs of notices related thereto, and all collection costs and expenses plus an administrative fee in an amount as adopted by the town council by resolution, against the real property upon which such cost and fee was incurred, which assessment, when made, shall constitute a lien upon the property superior to all others except taxes. The lien shall be filed in the public land records of the county. The resolution of assessment and lien must indicate the nature of the assessment and lien, the lien amount, and an accurate description of the property affected. The lien becomes effective on the date of filing such notice of lien and shall bear interest from such date at the rate of ten percent per annum until paid. If the resulting lien remains unpaid the town may:

(1) File suit to foreclose on the liened property as provided by law in suits to foreclose mortgages; or

(2) Follow any other lawful process or procedure available for enforcement or collection of the lien, including, but not limited to, the Uniform Method of Collection in accordance with any general law of the state relating to the enforcement or collection of municipal liens.

(Ord. No. 24-13, § 2, 6-3-2024)

Secs. 6-38—6-40. - Reserved.

DIVISION 2. - LEE COUNTY'S BOARDS OF ADJUSTMENT AND APPEALS

Sec. 6-71. - Applicability of division.

This division shall include, but not be limited to, any contractor, owner, agent, manufacturer or supplier providing construction services or materials regulated by standard codes enforced by the Town of Fort Myers Beach.

Sec. 6-72. - Intent of division.

The town has adopted various standard codes relating to building, plumbing, mechanical, gas, electrical, unsafe buildings, housing and fire. This division is intended to be construed in conjunction with these codes.

Sec. 6-73. - Boards established; jurisdiction.

Lee County has established a construction board of adjustment and appeals known as the Lee County Board of Adjustment and Appeals. The purpose of that board is to hear and decide appeals from the decision of the county's building official and fire official or their designees on any of the various standard codes regulated and enforced by the county except the plumbing code and mechanical code. Lee County has also established separate boards of adjustment and appeals to arbitrate matters involving the plumbing code and mechanical code.

(Ord. No. 21-01, § 2(Exh. A), 3-15-2021)

Sec. 6-74. - Delegation of authority to Lee County's Boards of Adjustment and Appeals.

(a) The Town of Fort Myers Beach hereby delegates to each of the three Lee County Boards of Adjustment and Appeals the authority to make decisions on appeals that may be filed in accordance with § 6-80 of this division.

(b) The town attorney will provide legal advice to each of the three Lee County Boards of Adjustment and Appeals when warranted.

Secs. 6-75—6-79. - Reserved.

Sec. 6-80. - Right of appeal; notice of appeal.

(a) Whenever the building official or fire official or their designees shall reject or refuse to approve the mode or manner of construction to be followed or materials to be used, or when it is claimed that the provisions of a code do not apply, or that an equally good or more desirable form of construction can be employed in any specific case, or when it is claimed that the true intent and meaning of a code or any of the regulations thereunder have been misconstrued or wrongly interpreted, the owner of such building or structure, or his duly authorized agent, may appeal from the decision of the building official or fire official or their designees to Lee County's appropriate Board of Adjustment and Appeals. Notice of appeal shall be in writing and filed within 30 days after the decision is rendered by the building official or fire official or their designees. All requests for appeal shall be on forms provided by the building official with payment of the appropriate fee.

(b) In the case of a building or structure which in the opinion of the building official is unsafe or dangerous, the building official may, in his order, limit the time for such appeal to a shorter period.

Sec. 6-81. - Variations and modifications.

(a) Lee County's Boards of Adjustment and Appeals, pursuant to an appeal from a decision of the building official or fire official or their designees, may vary the application of a code to any particular case when, in its opinion and based upon sufficient evidence, the enforcement thereof would do manifest injustice and would be contrary to the spirit and purpose of a code or public interest, or when, in its opinion and based upon sufficient evidence to the contrary, the interpretation of the building official or fire official or their designees should be modified or reversed.

(b) Any decision of Lee County Boards of Adjustment and Appeals to vary the application of any provision of a code or to modify an order of the building official or fire official or their designees shall specify the variation or modification made, the conditions upon which it is made, and the reasons therefor.

(c) Variances to the floodplain regulations must meet the additional criteria in article IV of this chapter.

Sec. 6-82. - Decisions.

(a) Every decision of Lee County's Boards of Adjustment and Appeals shall be final; subject, however, to any remedy an aggrieved party might have at law or in equity. Every decision shall be in writing and shall indicate the vote upon the decision. Every decision of Lee County's Boards of Adjustment and Appeals shall be signed and attested to by the chairman of the board.

(b) Lee County's Boards of Adjustment and Appeals shall, in every case, reach a decision without unreasonable or unnecessary delay.

(c) If a decision of any of Lee County's Boards of Adjustment and Appeals reverses or modifies a refusal, order or disallowance of the building official or fire official or their designees, or varies the application of any provision of a code, the appropriate official shall immediately take action in accordance with such decision.

(d) Any aggrieved person may obtain judicial review of the decision of Lee County's Boards of Adjustment and Appeals by filing a petition for writ of certiorari in the circuit court. Such petition must be filed within 30 calendar days after the board of adjustment and appeals' decision, but not thereafter, pursuant to the Florida Rules of Civil Procedure. The original petition for writ of certiorari must be filed with the clerk of the circuit court. Copies of the petition shall be filed with the building official for forwarding to the town attorney.

Secs. 6-83—6-110. - Reserved.

Town of Fort Myers Beach
Agenda Item Summary

Blue Sheet Number: **2024-234**

1. **Request:**

Meeting Date: September 9, 2024

First Reading and Public Hearing on proposed Ordinance entitled: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING: 1) DIVISION 3 "UNSAFE BUILDING ABATEMENT CODE" OF ARTICLE I "PROPERTY MAINTENANCE CODES"; AND 2) DIVISION 2 "LEE COUNTY'S BOARDS OF ADJUSTMENT AND APPEALS" OF ARTICLE II "BUILDING CODES" OF CHAPTER 6 "MAINTENANCE CODES, BUILDING CODES AND COASTAL REGULATIONS" OF THE LAND DEVELOPMENT CODE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, TO AMEND EXISTING PROVISIONS RELATED TO APPEALS OF THE BUILDING OFFICIAL'S DECISIONS; DIVESTING THE LEE COUNTY CONSTRUCTION BOARD OF ADJUSTMENT AND APPEALS OF THE RESPONSIBILITY FOR REVIEW OF APPEALS OF THE TOWN BUILDING OFFICIAL'S DECISIONS INCLUDING BUT NOT LIMITED TO DETERMINATION OF AN UNSAFE BUILDING; AUTHORIZING THE TOWN OF FORT MYERS BEACH SPECIAL MAGISTRATES TO HEAR APPEALS OF THE TOWN'S BUILDING OFFICIAL'S DECISIONS; PROVIDING FOR CODIFICATION, SEVERABILITY, SCRIVENER ERRORS, CONFLICTS OF LAW, AND AN EFFECTIVE DATE. Open the public hearing and schedule for second reading and final adoption on September 23, 2024 at 6:00 PM.

Why the action is necessary:

The interlocal agreement between the Town of Fort Myers Beach and Lee County, stating that the appellate review of appeals of property owners regarding unsafe structures shall be deferred to Lee County Board of Adjustment and Appeals, expired in 2017. The passage of this ordinance is necessary to ensure that the Town has an adequate appeal process in place for those property owners, whose properties have been deemed unsafe and noticed for demolition by the Town Building Official, and to ensure that their due process rights are not violated.

What the action accomplishes:

This ordinance reassigns the responsibility of appellate review of the Town Building Official's decisions from Lee County Board of Adjustment and Appeals to the Town of Fort Myers Beach Special Magistrates.

2. **Agenda:**	3. **Requirement/Purpose:**	4. **Submitter of Information:**
PUBLIC HEARINGS	Ordinance	Nancy Stuparich, Town Attorney

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5. **Background:**

Subsequent to the Town's incorporation, the Town and Lee County entered into an Interlocal Agreement, pursuant to which Lee County's Board of Adjustment and Appeals agreed to provide appellate review of the Town's Building Official's decisions. The Town has recently become aware that the Interlocal Agreement between the Town and the Lee County Board of Adjustment and Appeals related to the Board's appellate review of the Town Building Official's decisions regarding unsafe structures under Division 3 "Unsafe Building Abatement Code" of Article I "Property Maintenance Codes" of Chapter 6 "Maintenance Codes, Building Codes and Coastal Regulations" of the Town's Land Development Code expired in 2017. The Town should consider reassigning the responsibility of appellate review of the Town Building Official's decisions from Lee County Board of Adjustment and Appeals to the Town of Fort Myers Beach Special Magistrates.

Attachments:

1. Final 24-30, Unsafe Building Code Amendment Ordinance (1st reading) 8-29-24 mrns

2. Art. 1, Div 3 Fort Myers Beach, FL Code of Ordinances
3. Art 11, Div 2 - Fort Myers Beach, FL Code of Ordinances
4. 24-30, Business Impact Estimate - Unsafe Building Code Amendment Appeals 9-3-24 mr

Financial Impact:
None

6. **Alternative Action**

7. **Management Recommendations:**
Approve this ordinance.

8. **Recommended Approval:**

Amy Baker, Town Clerk	Created/Initiated - 9/3/2024
nancy stuparich, Town Attorney	Approved - 9/3/2024
Amy Baker, Town Clerk	Approved - 9/4/2024
Andy Hyatt, Town Manager	Final Approval - 9/4/2024

ORDINANCE NO. 24-30

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING: 1) DIVISION 3 "UNSAFE BUILDING ABATEMENT CODE" OF ARTICLE I "PROPERTY MAINTENANCE CODES"; AND 2) DIVISION 2 "LEE COUNTY'S BOARDS OF ADJUSTMENT AND APPEALS" OF ARTICLE II "BUILDING CODES" OF CHAPTER 6 "MAINTENANCE CODES, BUILDING CODES AND COASTAL REGULATIONS" OF THE LAND DEVELOPMENT CODE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, TO AMEND EXISTING PROVISIONS RELATED TO APPEALS OF THE BUILDING OFFICIAL'S DECISIONS; DIVESTING THE LEE COUNTY'S CONSTRUCTION BOARD OF ADJUSTMENT AND APPEALS OF THE RESPONSIBILITY FOR REVIEW OF APPEALS OF THE TOWN BUILDING OFFICIAL'S DECISIONS REGARDING UNSAFE BUILDINGS; AUTHORIZING THE TOWN OF FORT MYERS BEACH SPECIAL MAGISTRATES TO HEAR APPEALS OF THE TOWN'S BUILDING OFFICIAL'S DECISIONS; 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, on September 28, 2022, residences and businesses in the Town of Fort Myers Beach were destroyed by Hurricane Ian, resulting in the loss of lives, the displacement of lives and catastrophic financial losses; and

WHEREAS, although the Town, residents and businesses have engaged in recovery efforts to repair and rebuild structures in existence prior to Hurricane Ian, the Building Official has identified structures that have sustained significant damage and remain in an unsafe condition; and

WHEREAS, the Town's "Unsafe Building Abatement Code" incorporates the 1985 Standard Unsafe Building Abatement Code to provide a procedure for the Building Official to follow if a structure is determined to be unsafe and requires demolition, with exceptions; and

WHEREAS, the Unsafe Building Abatement Code currently provides that any appeals of the Building Official decision would be reviewed by the Lee County's Construction Board of Adjustment and Appeals (the "Board"); and

WHEREAS, the Interlocal Agreement between the Town and the Lee County Board of County Commissioners related to the Board's appellate review of the Town's Building Official's decisions has expired; and

WHEREAS, it is in the Town's best interest to reassign the responsibility of appellate review of the Town's Building Official's decisions to the Town of Fort Myers Beach Special Magistrate; and

WHEREAS, on the 9th day of September, 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 the Unsafe Building Abatement Code as provided herein; and

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

WHEREAS, an advertisement of the public hearing for adoption of the Ordinance was published 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 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 COUNIL OF FORT MYERS BEACH, FLORIDA, 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 6-37 of Division 3 "Unsafe Building Abatement Code" of Article I "Property Maintenance Codes," is hereby amended to read as follows:

DIVISION 3. - UNSAFE BUILDING ABATEMENT CODE

Sec. 6-37. - Exceptions and revisions.

a) Section 105 of Chapter I, Administration is hereby amended as follows:

Section 105, relating to the board of adjustment and appeals, is deleted, and replaced by the procedures set forth for the delegation of authority to the Town of Fort Myers Beach Special Magistrates ~~Lee County's Construction Board of Adjustment and Appeals~~ found in division 2 of article II of this chapter. Any reference to the board of adjustment and appeal as may be in other Chapters shall be amended as provided herein by reference.

b) Sections 302.1.1(4) and 302.1.2-302.1.4 in Chapter III, Inspection and Notice of Noncompliance are hereby amended as follows:

302.1.1(4) A statement advising that any person having any legal interest in the property may appeal the notice by the Building Official to the Town of Fort Myers Beach Special Magistrates ~~Lee County Board of Adjustment and Appeals;~~ and that such appeal shall be in writing and shall be filed with the Building Official within 30 days from the date of the notice in accordance with Division 2 of Article II of Chapter 6 of the Fort Myers Beach Code of Ordinances and that failure to appeal in the time specified will constitute a waiver of all rights to an administrative hearing.

302.1.2 The notice and all attachments thereto shall be served upon the property owner as identified on the records of the Lee County Property Appraiser and posted on the property. Failure of the building official to serve any person or entity other than the owner of record shall not invalidate any proceedings hereunder nor shall it relieve any other person or entity served from any obligation imposed on that person or entity.

302.1.3 The notice shall be served either personally by hand delivery by Town staff or a process server or by certified mail, postage prepaid, return receipt requested, to the owner of record at the address shown for the owner on the Lee County Property Appraiser's website. Notice shall also be mailed to the address of the building or structure involved in the proceedings. The failure of any person or entity to receive notice, either actual or constructive, other than the owner of record, shall not invalidate any proceedings under this section. Service by certified or registered mail as herein described shall be effective on the date the notice was received as indicated on the return receipt.

302.1.4 Proof of service of the notice shall be by written affidavit indicating the date, time and manner in which service was made. In the event service is not perfected by certified mailing or hand delivery, the property owner shall be subject to constructive service using the methods as provided in Chapter 49, Florida Statutes.

c) *Chapter VI, Implementation* is hereby amended as follows:

601.2.2 Subsequent to posting the building, the building official may cause the building to be repaired to the extent required to render it safe or if the notice required demolition, to cause the building or structure to be demolished and all debris removed from the premise. The cost of repair or demolition, and all reasonable attorney's fees and costs, and costs of notices related thereto, and all collection costs and expenses and the administrative fee as provided hereinafter, shall constitute a lien on the property and shall be collected in a manner provided by law.

d) *Chapter VII, Recovery of Cost of Repair or Demolition* is hereby amended as follows:

If the building official proceeds to demolish the building or structure as set forth herein, the town council shall, by proper resolution, assess the entire cost of such demolition and removal, and all reasonable attorney's fees and costs, and costs of notices related thereto, and all collection

costs and expenses plus an administrative fee in an amount as adopted by the town council by resolution, against the real property upon which such cost and fee was incurred, which assessment, when made, shall constitute a lien upon the property superior to all others except taxes. The lien shall be filed in the public land records of the county. The resolution of assessment and lien must indicate the nature of the assessment and lien, the lien amount, and an accurate description of the property affected. The lien becomes effective on the date of filing such notice of lien and shall bear interest from such date at the rate of ten percent per annum until paid. If the resulting lien remains unpaid the town may:

(1) File suit to foreclose on the liened property as provided by law in suits to foreclose mortgages; or

(2) Follow any other lawful process or procedure available for enforcement or collection of the lien, including, but not limited to, the Uniform Method of Collection in accordance with any general law of the state relating to the enforcement or collection of municipal liens.

Section 3. That Division 2 "Lee County's Boards of Adjustment and Appeals" of Article II "Building Codes," of Chapter 6 "Maintenance Codes, Building Codes and Coastal Regulations," of the Land Development Code of the Town of Fort Myers Beach, Florida, are hereby amended to read as follows:

DIVISION 2. - ~~LEE COUNTY'S BOARDS OF ADJUSTMENT AND APPEALS~~ APPEALS OF DECISIONS BY THE TOWN'S BUILDING OFFICIAL

Sec. 6-71. - Applicability of division.

This division shall include, but not be limited to, any contractor, owner, agent, manufacturer or supplier providing construction services or materials regulated by standard codes enforced by the Town of Fort Myers Beach.

Sec. 6-72. - Intent of division.

The town has adopted various standard codes relating to building, plumbing, mechanical, gas, electrical, unsafe buildings, housing and fire. This division is intended to be construed in conjunction with these codes.

~~**Sec. 6-73. - Boards established; jurisdiction.**~~

~~Lee County has established a construction board of adjustment and appeals known as the Lee County Board of Adjustment and Appeals. The purpose of that board is to hear and decide appeals from the decision of the county's building official and fire official or their designees on any of the various standard codes regulated and enforced by the county except the plumbing code and mechanical code. Lee County has also established separate boards of adjustment and appeals to arbitrate matters involving the plumbing code and mechanical code.~~

~~**Sec. 6-74. - Delegation of authority to Lee County's Boards of Adjustment and Appeals.**~~

~~(a) The Town of Fort Myers Beach hereby delegates to each of the three Lee County Boards of Adjustment and Appeals the authority to make decisions on appeals that may be filed in accordance with § 6-80 of this division.~~

~~(b) The town attorney will provide legal advice to each of the three Lee County Boards of Adjustment and Appeals when warranted.~~

~~**Secs. 6-75—6-79. - Reserved.**~~

Secs. 6-73—6-79. - Reserved.

Sec. 6-80. - Right of appeal; notice of appeal.

(a) Whenever the building official or fire official or their designees shall reject or refuse to approve the mode or manner of construction to be followed or materials to be used, or when it is claimed that the provisions of a code do not apply, or that an equally good or more desirable form of construction can be employed in any specific case, or when it is claimed that the true intent and meaning of a code or any of the regulations thereunder have been misconstrued or wrongly interpreted, the owner of such building or structure, or his duly authorized agent, may appeal from the decision of the building official or fire official or their designees to the Town of Fort Myers Beach Special Magistrates ~~Lee County's appropriate Board of Adjustment and Appeals.~~ Notice of appeal shall be in writing and filed within 30 days after the decision is rendered by the building official or fire official or their designees. All requests for appeal shall be on forms provided by the building official with payment of the appropriate fee.

(b) In the case of a building or structure which in the opinion of the building official is unsafe or dangerous, the building official may, in his order, limit the time for such appeal to a shorter period.

Sec. 6-81. - Variations and modifications.

(a) ~~Lee County's Boards of Adjustment and Appeals~~ A Town of Fort Myers Beach Special Magistrate, pursuant to an appeal from a decision of the building official or fire official or their designees, may vary the application of a code to any particular case when, in its opinion and based upon sufficient evidence, the enforcement thereof would do manifest injustice and would be contrary to the spirit and purpose of a code or public interest, or when, in its opinion and based upon sufficient evidence to the contrary, the interpretation of the building official or fire official or their designees should be modified or reversed.

(b) Any decision of ~~Lee County Boards of Adjustment and Appeals~~ the Town of Fort Myers Beach Special Magistrate to vary the application of any provision of a code or to modify an order of the building official or fire official or their designees shall specify the variation or modification made, the conditions upon which it is made, and the reasons therefor.

(c) Variances to the floodplain regulations must meet the additional criteria in article IV of this chapter.

Sec. 6-82. - Decisions.

(a) Every decision of ~~Lee County's Boards of Adjustment and Appeals~~ the Town of Fort Myers Beach Special Magistrate shall be final; subject, however, to any remedy an aggrieved party might have at law or in equity. Every decision shall be in writing. ~~and shall indicate the vote upon the decision. Every decision of Lee County's Boards of Adjustment and Appeals shall be signed and attested to by the chairman of the board.~~

(b) ~~Lee County's Boards of Adjustment and Appeals~~ The Town of Fort Myers Beach Special Magistrate shall, in every case, reach a decision without unreasonable or unnecessary delay.

(c) If a decision of any of the Town of Fort Myers Beach Special Magistrates ~~Lee County's Boards of Adjustment and Appeals~~ reverses or modifies a refusal, order or disallowance of the building official or fire official or their designees, or varies the application of any provision of a code, the appropriate official shall immediately take action in accordance with such decision.

(d) Any aggrieved person may obtain judicial review of the decision of ~~Lee County's Boards of Adjustment and Appeals~~ the Town of Fort Myers Beach Special Magistrate by filing a petition for writ of certiorari in the circuit court. Such petition must be filed within 30 calendar days after the ~~board of adjustment and appeals'~~ Special Magistrate's decision, but not thereafter, pursuant to the Florida Rules of Civil Procedure. The original petition for writ of certiorari must be filed with the clerk of the circuit court. Copies of the petition shall be filed with the building official for forwarding to the town attorney.

Secs. 6-83—6-110. - Reserved.

Section 4. That the town council intends that the provisions of this ordinance be made a part of the Fort Myers Beach, Florida, 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 5. 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 6. If any section, subsection, sentence, clause, word, 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 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 _____ and seconded by Council Member _____, and upon being put on a roll call vote, the results were 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.

DIVISION 3. - UNSAFE BUILDING ABATEMENT CODE

Sec. 6-36. - Adoption; amendments.

The 1985 Standard Unsafe Building Abatement Code, as published by Southern Building Code Congress International, Inc., 900 Montclair Road, Birmingham, Alabama 35213-1206, is hereby adopted by reference and made part of this article, with the exceptions and revisions set forth in section 6-37.

(Ord. No. 24-13, § 2, 6-3-2024)

Sec. 6-37. - Exceptions and revisions.

a) *Section 105 of Chapter I, Administration* is hereby amended as follows:

Section 105, relating to the board of adjustment and appeals, is deleted, and replaced by the procedures set forth for the delegation of authority to Lee County's Construction Board of Adjustment and Appeals found in division 2 of article II of this chapter. Any reference to the board of adjustment and appeal as may be in other Chapters shall be amended as provided herein by reference.

b) *Sections 302.1.1(4) and 302.1.2-302.1.4 in Chapter III, Inspection and Notice of Noncompliance* are hereby amended as follows:

302.1.1(4) A statement advising that any person having any legal interest in the property may appeal the notice by the Building Official to the Lee County Board of Adjustment and Appeals; and that such appeal shall be in writing and shall be filed with the Building Official within 30 days from the date of the notice in accordance with Division 2 of Article II of Chapter 6 of the Fort Myers Beach Code of Ordinances and that failure to appeal in the time specified will constitute a waiver of all rights to an administrative hearing.

302.1.2 The notice and all attachments thereto shall be served upon the property owner as identified on the records of the Lee County Property Appraiser and posted on the property. Failure of the building official to serve any person or entity other than the owner of record shall not invalidate any proceedings hereunder nor shall it relieve any other person or entity served from any obligation imposed on that person or entity.

302.1.3 The notice shall be served either personally by hand delivery by Town staff or a process server or by certified mail, postage prepaid, return receipt requested, to the owner of record at the address shown for the owner on the Lee County Property Appraiser's website. Notice shall also be mailed to the address of the building or structure involved in the proceedings. The failure of any person or entity to receive notice, either actual or constructive, other than the owner of record, shall not invalidate any proceedings under this section. Service by certified or registered mail as herein described shall be effective on the date the notice was received as indicated on the return receipt.

302.1.4 Proof of service of the notice shall be by written affidavit indicating the date, time and manner in which service was made. In the event service is not perfected by certified mailing or hand delivery, the property owner shall be subject to constructive service using the methods as provided in Chapter 49,

Florida Statutes.

c) *Chapter VI, Implementation* is hereby amended as follows:

601.2.2 Subsequent to posting the building, the building official may cause the building to be repaired to the extent required to render it safe or if the notice required demolition, to cause the building or structure to be demolished and all debris removed from the premise. The cost of repair or demolition, and all reasonable attorney's fees and costs, and costs of notices related thereto, and all collection costs and expenses and the administrative fee as provided hereinafter, shall constitute a lien on the property and shall be collected in a manner provided by law.

d) *Chapter VII, Recovery of Cost of Repair or Demolition* is hereby amended as follows:

If the building official proceeds to demolish the building or structure as set forth herein, the town council shall, by proper resolution, assess the entire cost of such demolition and removal, and all reasonable attorney's fees and costs, and costs of notices related thereto, and all collection costs and expenses plus an administrative fee in an amount as adopted by the town council by resolution, against the real property upon which such cost and fee was incurred, which assessment, when made, shall constitute a lien upon the property superior to all others except taxes. The lien shall be filed in the public land records of the county. The resolution of assessment and lien must indicate the nature of the assessment and lien, the lien amount, and an accurate description of the property affected. The lien becomes effective on the date of filing such notice of lien and shall bear interest from such date at the rate of ten percent per annum until paid. If the resulting lien remains unpaid the town may:

(1) File suit to foreclose on the liened property as provided by law in suits to foreclose mortgages; or

(2) Follow any other lawful process or procedure available for enforcement or collection of the lien, including, but not limited to, the Uniform Method of Collection in accordance with any general law of the state relating to the enforcement or collection of municipal liens.

(Ord. No. 24-13, § 2, 6-3-2024)

Secs. 6-38—6-40. - Reserved.

DIVISION 2. - LEE COUNTY'S BOARDS OF ADJUSTMENT AND APPEALS

Sec. 6-71. - Applicability of division.

This division shall include, but not be limited to, any contractor, owner, agent, manufacturer or supplier providing construction services or materials regulated by standard codes enforced by the Town of Fort Myers Beach.

Sec. 6-72. - Intent of division.

The town has adopted various standard codes relating to building, plumbing, mechanical, gas, electrical, unsafe buildings, housing and fire. This division is intended to be construed in conjunction with these codes.

Sec. 6-73. - Boards established; jurisdiction.

Lee County has established a construction board of adjustment and appeals known as the Lee County Board of Adjustment and Appeals. The purpose of that board is to hear and decide appeals from the decision of the county's building official and fire official or their designees on any of the various standard codes regulated and enforced by the county except the plumbing code and mechanical code. Lee County has also established separate boards of adjustment and appeals to arbitrate matters involving the plumbing code and mechanical code.

(Ord. No. 21-01, § 2(Exh. A), 3-15-2021)

Sec. 6-74. - Delegation of authority to Lee County's Boards of Adjustment and Appeals.

(a) The Town of Fort Myers Beach hereby delegates to each of the three Lee County Boards of Adjustment and Appeals the authority to make decisions on appeals that may be filed in accordance with § 6-80 of this division.

(b) The town attorney will provide legal advice to each of the three Lee County Boards of Adjustment and Appeals when warranted.

Secs. 6-75—6-79. - Reserved.

Sec. 6-80. - Right of appeal; notice of appeal.

(a) Whenever the building official or fire official or their designees shall reject or refuse to approve the mode or manner of construction to be followed or materials to be used, or when it is claimed that the provisions of a code do not apply, or that an equally good or more desirable form of construction can be employed in any specific case, or when it is claimed that the true intent and meaning of a code or any of the regulations thereunder have been misconstrued or wrongly interpreted, the owner of such building or structure, or his duly authorized agent, may appeal from the decision of the building official or fire official or their designees to Lee County's appropriate Board of Adjustment and Appeals. Notice of appeal shall be in writing and filed within 30 days after the decision is rendered by the building official or fire official or their designees. All requests for appeal shall be on forms provided by the building official with payment of the appropriate fee.

(b) In the case of a building or structure which in the opinion of the building official is unsafe or dangerous, the building official may, in his order, limit the time for such appeal to a shorter period.

Sec. 6-81. - Variations and modifications.

(a) Lee County's Boards of Adjustment and Appeals, pursuant to an appeal from a decision of the building official or fire official or their designees, may vary the application of a code to any particular case when, in its opinion and based upon sufficient evidence, the enforcement thereof would do manifest injustice and would be contrary to the spirit and purpose of a code or public interest, or when, in its opinion and based upon sufficient evidence to the contrary, the interpretation of the building official or fire official or their designees should be modified or reversed.

(b) Any decision of Lee County Boards of Adjustment and Appeals to vary the application of any provision of a code or to modify an order of the building official or fire official or their designees shall specify the variation or modification made, the conditions upon which it is made, and the reasons therefor.

(c) Variances to the floodplain regulations must meet the additional criteria in article IV of this chapter.

Sec. 6-82. - Decisions.

(a) Every decision of Lee County's Boards of Adjustment and Appeals shall be final; subject, however, to any remedy an aggrieved party might have at law or in equity. Every decision shall be in writing and shall indicate the vote upon the decision. Every decision of Lee County's Boards of Adjustment and Appeals shall be signed and attested to by the chairman of the board.

(b) Lee County's Boards of Adjustment and Appeals shall, in every case, reach a decision without unreasonable or unnecessary delay.

(c) If a decision of any of Lee County's Boards of Adjustment and Appeals reverses or modifies a refusal, order or disallowance of the building official or fire official or their designees, or varies the application of any provision of a code, the appropriate official shall immediately take action in accordance with such decision.

(d) Any aggrieved person may obtain judicial review of the decision of Lee County's Boards of Adjustment and Appeals by filing a petition for writ of certiorari in the circuit court. Such petition must be filed within 30 calendar days after the board of adjustment and appeals' decision, but not thereafter, pursuant to the Florida Rules of Civil Procedure. The original petition for writ of certiorari must be filed with the clerk of the circuit court. Copies of the petition shall be filed with the building official for forwarding to the town attorney.

Secs. 6-83—6-110. - Reserved.

Business Impact Estimate

This form should be included in the agenda packet for the item under which the proposed ordinance is to be considered and must be posted on the Fort Myers Beach website by the time notice of the proposed ordinance is published.

Proposed ordinance's title/reference: **AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING DIVISION 3 "UNSAFE BUILDING ABATEMENT CODE" OF ARTICLE I "PROPERTY MAINTENANCE CODES" AND DIVISION 2 "LEE COUNTY'S BOARDS OF ADJUSTMENT AND APPEALS" OF ARTICLE II "BUILDING CODES" OF CHAPTER 6 "MAINTENANCE CODES, BUILDING CODES AND COASTAL REGULATIONS" OF THE LAND DEVELOPMENT CODE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, TO AMEND EXISTING PROVISIONS RELATED TO APPEALS OF THE BUILDING OFFICIAL'S DECISIONS; DIVESTING THE LEE COUNTY'S CONSTRUCTION BOARD OF ADJUSTMENT AND APPEALS OF THE RESPONSIBILITY FOR REVIEW OF APPEALS OF THE TOWN BUILDING OFFICIAL'S DECISIONS REGARDING UNSAFE BUILDINGS; AUTHORIZING THE TOWN OF FORT MYERS BEACH SPECIAL MAGISTRATES TO HEAR APPEALS OF THE TOWN'S BUILDING OFFICIAL'S DECISIONS; PROVIDING FOR CODIFICATION, SEVERABILITY, SCRIVENER ERRORS, CONFLICTS OF LAW, AND AN EFFECTIVE DATE.**

This Business Impact Estimate is provided in accordance with section 166.041(4), Florida Statutes. If one or more boxes are checked below, this means the Fort Myers Beach is of the view that a business impact estimate is not required by state law[1] for the proposed ordinance, but the Fort Myers Beach is, nevertheless, providing this Business Impact Estimate as a courtesy and to avoid any procedural issues that could impact the enactment of the proposed ordinance. This Business Impact Estimate may be revised following its initial posting.

- ☐ The proposed ordinance is required for compliance with Federal or State law or regulation;
- ☐ The proposed ordinance relates to the issuance or refinancing of debt;
- ☐ The proposed ordinance relates to the adoption of budgets or budget amendments, including revenue sources necessary to fund the budget;
- ☐ The proposed ordinance is required to implement a contract or an agreement, including, but not limited to, any Federal, State, local, or private grant or other financial assistance accepted by the municipal government;
- ☐ The proposed ordinance is an emergency ordinance;
- ☐ The ordinance relates to procurement; or
- ☐ The proposed ordinance is enacted to implement the following:

[1] See Section 166.041(4)(c), Florida Statutes.

a. Part II of Chapter 163, Florida Statutes, relating to growth policy, county and municipal planning, and land development regulation, including zoning, development orders, development agreements and development permits;
b. Sections 190.005 and 190.046, Florida Statutes, regarding community development districts;
c. Section 553.73, Florida Statutes, relating to the Florida Building Code; or
d. Section 633.202, Florida Statutes, relating to the Florida Fire Prevention Code.

In accordance with the provisions of controlling law, even notwithstanding the fact that an exemption noted above may apply, the Fort Myers Beach hereby publishes the following information:

1. Summary of the proposed ordinance (must include a statement of the public purpose, such as serving the public health, safety, morals and welfare):

The interlocal agreement between the Town of Fort Myers Beach and Lee County, stating that the review of appeals of property owners whose properties have been deemed unsafe and noticed for a demolition by the Town Building Official shall be deferred to Lee County Board of Adjustment and Appeals, expired in 2017. This ordinance reassigns that responsibility from Lee County Board of Adjustment and Appeals to the Town of Fort Myers Beach Special Magistrates. This ordinance serves the health, safety, morals, and welfare of the Town's residents and safeguards their due process rights by ensuring that the affected property owners have an opportunity to challenge the Town Building Official's determination.

2. An estimate of the direct economic impact of the proposed ordinance on private, for-profit businesses in the Fort Myers Beach, including the following, if any:
(a) An estimate of direct compliance costs that businesses may reasonably incur;
(b) Any new charge or fee imposed by the proposed ordinance or for which businesses will be financially responsible; and
(c) An estimate of the Fort Myers Beach regulatory costs, including estimated revenues from any new charges or fees to cover such costs.

None.

3. Good faith estimate of the number of businesses likely to be impacted by the proposed ordinance:

None.

4. Additional information the governing body deems useful (if any):[*You may wish to include in this section the methodology or data used to prepare the Business Impact Estimate. For example: Fort Myers Beach staff solicited comments from businesses in the Fort Myers Beach as to the potential impact of the proposed ordinance by contacting the chamber of commerce, social media posting, direct mail or direct email, posting on Fort Myers Beach website, public workshop, etc. You may also wish to include efforts made to reduce the potential fiscal impact on businesses. You may also wish to state here that the proposed ordinance is a generally applicable ordinance that applies to all persons similarly situated (individuals as well as businesses) and, therefore, the proposed ordinance does not affect only businesses*).

Not applicable.

Town of Fort Myers Beach
Agenda Item Summary

Blue Sheet Number: **2024-239**

1. **Request:**

Meeting Date: September 9, 2024

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, APPROVING A SECOND AMENDMENT TO THE AGREEMENT FOR SPECIAL MAGISTRATE SERVICES BETWEEN THE TOWN AND MONICA SCHMUCKER, TO PROVIDE SERVICES FOR APPELLATE REVIEW OF THE TOWN BUILDING OFFICIAL'S DECISIONS AS MAY BE REQUIRED UNDER THE TOWN CODE; ADDING REQUIRED STATUTORY PROVISIONS RELATED TO COERCION OF LABOR OR SERVICES TO THE AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE.

Why the action is necessary:

A Second Amendment to the Town's existing agreement with Monica Schmucker for Special Magistrate services is necessary to ensure the Town has an adequate process in place for review of appeals of those property owners, whose properties have been deemed unsafe and noticed for demolition by the Town building official, and to also include the required statutory language related to coercion of labor or services.

What the action accomplishes:

The proposed Second Amendment to the Town's existing agreement with Monica Schmucker for special magistrate services expands the scope of services to include review of appeals of those property owners, whose properties have been deemed unsafe and noticed for demolition by the Town building official. The proposed Second Amendment also adds required statutory provisions related to coercion of labor or services to the Agreement.

2. **Agenda:**
PUBLIC HEARINGS

3. **Requirement/Purpose:**
Contract Amendment

4. **Submitter of Information:**

5. **Background:**

5. **Background:**

Subsequent to the Town's incorporation, the Town and Lee County entered into an Interlocal Agreement, pursuant to which Lee County's Board of Adjustment and Appeals agreed to provide appellate review of the Town's Building Official's decisions.

The Town has recently become aware that the Interlocal Agreement between the Town and the Lee County Board of Adjustment and Appeals related to the Board's appellate review of the Town Building Official's decisions regarding unsafe structures under Division 3 "Unsafe Building Abatement Code" of Article I "Property Maintenance Codes" of Chapter 6 "Maintenance Codes, Building Codes and Coastal Regulations" of the Town's Land Development Code expired in 2017.

The Town has an immediate need for a reassignment of said responsibility due to recent decisions by the Town's Building Official to demolish certain unsafe structures in the Town of Fort Myers Beach. In the absence of an opportunity for an appellate review, the due process rights of property owners within the Town are endangered.

Additionally, Florida law now requires local government contracts to contain certain provisions pertaining to coercion of labor or services. This proposed Second Amendment contains such required language.

Approval of the Second Amendment to the Agreement for Special Magistrate Services with Monica Schmucker would be in the Town's best interests and would promote the health, safety, welfare, and morals of the Town's residents, and would also meet the newly added statutory requirements pertaining to coercion of labor or services.

Attachments:

1. 24-180, 2nd Amendment to Monica Schmucker's Agreement for SM services
2. 24-32, Special Magistrate Schmucker and DOAH Signed

Financial Impact:

6. **Alternative Action**

7. **Management Recommendations:**

Approve the Second Amendment.

8. **Recommended Approval:**

Amy Baker, Town Clerk	Created/Initiated - 9/4/2024
nancy stuparich, Town Attorney	Approved - 9/4/2024
Amy Baker, Town Clerk	Approved - 9/5/2024
Andy Hyatt, Town Manager	Final Approval - 9/5/2024

RESOLUTION NUMBER 24-180

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, APPROVING A SECOND AMENDMENT TO THE AGREEMENT FOR SPECIAL MAGISTRATE SERVICES BETWEEN THE TOWN AND MONICA SCHMUCKER, TO PROVIDE SERVICES FOR APPELLATE REVIEW OF THE TOWN BUILDING OFFICIAL'S DECISIONS AS MAY BE REQUIRED UNDER THE TOWN CODE; ADDING REQUIRED STATUTORY PROVISIONS RELATED TO COERCION OF LABOR OR SERVICES TO THE AGREEMENT; 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, on February 5, 2024, the Town and the Special Magistrate entered into an Agreement, for the Special Magistrate to perform the duties and responsibilities of a Special Magistrate as provided in the Town's Code of Ordinances and Chapter 162, Florida Statutes, and to perform such services as may be requested by the Town; and

WHEREAS, Florida law now requires the inclusion of contractual language prohibiting coercion of labor or services, which has now been added to the standard addendum; and

WHEREAS, the Town is in a need of a hearing officer to adjudicate appeals of the decisions by the Town of Fort Myers Beach Building Official, as provided in Division 3 of Article I, and Division 2 of Article II, of Chapter 6 of the Town of Fort Myers Beach Land Development Code; and

WHEREAS, the Town and the Special Magistrate wish to amend the Agreement to expand the Special Magistrate's duties to include review of appeals as provided in Division 3 of Article I, and Division 2 of Article II, of Chapter 6 of the Town of Fort Myers Beach Land Development Code; and

WHEREAS, the Town Council has determined it is in the best interests of the Town to approve the proposed Second Amendment.

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 hereby approves the Second Amendment to an Agreement for Special Magistrate Services between the Town and the Special Magistrate. A copy of the Second Amendment is attached to this Resolution as Exhibit "A."

Section 3. The foregoing Whereas clauses are ratified and confirmed as being true and correct, are the legislative and administrative findings of the Town Council and made a specific part of this Resolution.

Section 4. This Resolution shall take effect immediately upon its adoption by the Town Council of the Town of Fort Myers Beach.

This 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	___
Karen Woodson, Council Member	___
Scott Safford, Council Member	___
John R. King, 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, LLP, Town Attorney

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

EXHIBIT "A"

SECOND AMENDMENT TO AGREEMENT FOR SPECIAL MAGISTRATE SERVICES

THIS SECOND AMENDMENT ("Second Amendment") is made and entered into by and between the TOWN OF FORT MYERS BEACH, a municipal corporation of the State of Florida ("Town") and MONICA SCHMUCKER of Schmucker & Lavy Legal, PLLC ("Special Magistrate"), to amend that certain Agreement for Special Magistrate Services, dated February 5, 2024 ("Agreement").

WITNESSETH:

WHEREAS, on February 5, 2024, the Town and the Special Magistrate entered into an Agreement, for the Special Magistrate to perform the duties and responsibilities of a Special Magistrate as provided in the Town's Code of Ordinances and Chapter 162, Florida Statutes, and to perform such services as may be requested by the Town; and

WHEREAS, the Town is in a need of a hearing officer to adjudicate appeals of the decisions by the Town of Fort Myers Beach Building Official, as provided in Division 3 of Article I, and Division 2 of Article II, of Chapter 6 of the Town of Fort Myers Beach Land Development Code; and

WHEREAS, the Town and the Special Magistrate wish to amend the Agreement to expand the Special Magistrate's duties to include review of appeals as provided in Division 3 of Article I, and Division 2 of Article II, of Chapter 6 of the Town of Fort Myers Beach Land Development Code; and

WHEREAS, this Amendment is in the best interests of the Town and is consistent with promotion of the health, safety, welfare, and morals of its residents.

NOW, THEREFORE, in consideration of the covenants set forth herein, the Town and Special Magistrate agree to amend the Agreement as follows:

1. **SCOPE OF SERVICES.** Paragraph 2 of the Agreement is hereby amended to include Special Magistrate's review of appeals by property owners, whose properties have been deemed unsafe by the Town Building Official, in accordance with Division 3 of Article I, and Division 2 of Article II, of Chapter 6 of the Town of Fort Myers Beach Land Development Code.

2. **NO COERCION FOR LABOR OR SERVICES.** The Special Magistrate swears under penalty of perjury that the Special Magistrate does not use coercion for labor or services as defined as follows:

"Coercion" means:

1. Using or threatening to use physical force against any person;
2. Restraining, isolating, or confining or threatening to restrain, isolate, or confine any person without lawful authority and against her or his will;
3. Using lending or other credit methods to establish a debt by any person when labor or services are pledged as a security for the debt, if the value of the labor or services

as reasonably assessed is not applied toward the liquidation of the debt, the length and nature of the labor or services are not respectively limited and defined;

4. Destroying, concealing, removing, confiscating, withholding, or possessing any actual or purported passport, visa, or other immigration document, or any other actual or purported government identification document, of any person;

5. Causing or threatening to cause financial harm to any person;

6. Enticing or luring any person by fraud or deceit; or

7. Providing a controlled substance as outlined in Schedule I or Schedule II of Sec. 893.03, Fla. Stat. to any person for the purpose of exploitation of that person.

3. **REMAINING TERMS.** All other terms and conditions of the Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the Town and the Special Magistrate have executed this Second Amendment to the Agreement as of the date signed by the last party.

WITNESSES:

_____
1st Witness Signature

_____
1st Witness Print Name

_____
2nd Witness Signature

_____
2nd Witness Print Name

SPECIAL MAGISTRATE

_____
Print Name: _____
Date: _____

TOWN OF FORT MYERS BEACH

_____
Dan Allers, Mayor of Fort Myers Beach
Date: _____

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, LLP, Town Attorney

RESOLUTION NUMBER 24-32

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, APPROVING AN AGREEMENT WITH THE FLORIDA DEPARTMENT OF ADMINISTRATIVE HEARINGS AND MONICA SCHMUCKER FOR SPECIAL MAGISTRATE SERVICES; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the current special magistrate for code enforcement matters has informed the Town that she desires to terminate her contract; and

WHEREAS, it is anticipated that there may be a need for additional code enforcement services in the near future; and

WHEREAS, having more than one code enforcement special magistrate provides the Town with needed resources to avoid schedule or other conflicts of interest; and

WHEREAS, the Florida Department of Administrative Hearings provides qualified hearing officials to serve as local hearing examiners for local governments in matters such as code enforcement at a cost of $200 per hours; and

WHEREAS, Monica Schmucker is a local attorney, who is similarly qualified to provide special magistrate services at a cost of $250 per hour; and

WHEREAS, it is in the best interest of the Town to enter into the negotiated contracts with both Ms. Schmucker and DOAH for performance of special magistrate services.

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

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

Section 2. That the Town Council hereby approves the agreement with addendum with Ms. Schmucker, attached as Exhibit A, and the agreement with DOAH, attached as Exhibit B, for the performance of special magistrate services for the Town's code enforcement cases.

Section 3. That this Resolution shall take effect immediately upon adoption.

The foregoing Resolution was adopted by the Town Council upon a motion by Council Member Woodson and seconded by Council Member King, 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
Karen Woodson, Council Member	Aye
Vacant, Council Member	N/A

ADOPTED this 5th day of February 2024 by the Town Council of the Town of Fort Myers Beach, Florida.

FORT MYERS BEACH TOWN COUNCIL

Dan Allers
Dan Allers (Feb 14, 2024 20:22 EST)

Dan Allers, Mayor

ATTEST:

Amy Baker (Mar 7, 2024 15:04 EST)

Amy Baker, Town Clerk

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

Nancy Stuparich
Nancy Stuparich (Feb 21, 2024 12:24 EST)

Vose Law Firm, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this 14th day of February 2024.

AGREEMENT FOR SPECIAL MAGISTRATE SERVICES
TOWN OF FORT MYERS BEACH

THIS AGREEMENT is made and entered into on this 5th day of February, 2024, by and between the Town of Fort Myers Beach, hereinafter referred to as the "Town", and Monica Schmucker of Schmucker & Lavy Legal, PLLC, hereinafter referred to as the "Special Magistrate".

WHEREAS, the Town periodically requires the services of a special magistrate to adjudicate various code enforcement matters in the Town as set forth in Article V-Code Enforcement, Division 2 of the Town of Fort Myers Beach Code of Ordinances and Chapter 162, Florida Statutes; and

WHEREAS**,** the Fort Myers Beach Town Council at their duly advertised public meeting on January 22, 2024 authorized staff to negotiate an agreement for the delivery of professional services to the Town of Fort Myers Beach as its Special Magistrate;

WHEREAS, the Special Magistrate is a licensed Florida attorney familiar with and qualified to perform the duties and responsibilities of a Special Magistrate as provided in the Town's Code of Ordinances and Chapter 162, Florida Statutes and agrees to perform such services as may be requested by the Town.

NOW, THEREFORE, in consideration of the covenants set forth herein, the parties agree to this addendum as follows:

1. TERM. The term of this agreement shall begin on the 5th day of February, 2024, and shall continue for two (2-1) years, renewable on same terms or changed as agreed to by both parties as provided in Section 2-425(e), of the Town of Fort Myers Beach Code of Ordinances.

2. SCOPE OF SERVICES. The Special Magistrate will provide the Town with professional services relating to code enforcement issues in accordance Article V-Code Enforcement, Division 2 of the Town of Fort Myers Beach Code of Ordinances and Chapter 162, Florida Statutes

3. COMPENSATION. Town shall compensate the Special Magistrate for services rendered as follows:

a. Fees associated with professional services will be billed at a rate of $250.00 per hour, rounded up to the nearest quarter hour. This rate shall apply to all relevant services rendered by the Special Magistrate, to include conducting hearings, reasonable preparation for hearings, and reasonable post-hearing activities necessary such as preparing findings, orders, or other necessary post-hearing documents.
b. Out of pocket costs will be charged at cost, with no mark-up or multiplier. There would be no separately billed copying charges unless it is deemed necessary to make copies through a third-party copying firm.
c. Travel and travel time will not be billed to the Town.
d. Fees will be billed monthly based on the hours of work performed. Billing will be due on the fifteenth day of each month.

4. EXPERIENCE & COMPETENCY. Special Magistrate represents to the Town that she has relevant experience and competency to deliver the services identified herein. A copy of the Special Magistrate's resume is attached as Exhibit A.

5. INDEPENDENT CONTRACTOR. It is agreed that Special Magistrate is providing the services pursuant to this Agreement as an independent contractor and is not an employee of the Town. Special Magistrate shall not be eligible to receive any benefits otherwise provided to employees of the Town. This is not an exclusive agreement. Special Magistrate is free to contract with other parties for similar services.

6. INDEMNIFICATION. Special Magistrate agrees to defend, indemnify, and hold the Town harmless for any and all claims, losses, or injuries that may arise out of or result from Special Magistrate's actions or omissions of action relating to the services to be performed under the terms of this agreement.

7. TERMINATION. The Town or Special Magistrate may terminate this agreement for any or no cause with thirty (30) days written notice. In the event of termination, Special Magistrate will be paid for al1 services rendered to the date of termination. At conclusion, the Town shall be entitled to all files created and maintained pursuant to this Agreement.

8. LIMITATION ON REPRESENTATION. During the term of this appointment Special Magistrate shall not act as an agent or attorney in any proceeding, application or matter before any commission, board, agent, or other office of the TOWN.

STATUTORY REQUIRED PROVISION. Pursuant to Florida Statutes, required statutory contract clauses will be a part of and incorporated into this Agreement by virtue of an Addendum, dated February 5, 2024.

IN WITNESS WHEREOF, the parties hereto have executed, or caused to be executed by their duly authorized officials, this Agreement in duplicate on the respective dates indicated below.

_____	_____
Monica Schmucker, Esq. Date	Mayor Dan Allers Date
Approved as to form:	ATTEST:
_____	_____
Town Attorney	Town Clerk

TOWN OF FORT MYERS BEACH, FLORIDA
CONTRACT ADDENDUM

THIS STANDARD CONTRACT ADDENDUM is made and entered into this 5th day of February, 2024, by and between the TOWN OF FORT MYERS BEACH, a Florida municipality, hereinafter referred to as the "Town", and Monica Schmucker of Schmucker & Lavy Legal, PLLC hereinafter referred to as "Contractor", concerning that certain Agreement for Special Magistrate Services, approved by the Town Council of the Town of Fort Myers Beach on February 5, 2024.

WITNESSETH:

WHEREAS, Section 119.0701, Fla. Stat., requires that certain public agency contracts must include certain statutorily required provisions concerning a contractor's compliance with Florida's Public Records Act; and

WHEREAS, Section 768.28, Fla. Stat., sets forth certain mandatory limitations on indemnification and liability for Florida public agencies; and

WHEREAS, Florida law requires that public agency contracts be subject to non-appropriation and thereby contingent upon appropriation during the public agency's statutorily mandated annual budget approval process; and

WHEREAS, Section 448.095, Fla. Stat., imposes certain obligations on public agencies with regard to the use of the E-Verify system by their contractors and subcontractors; and

WHEREAS, Section 286.101, Florida Statutes contains a list of "foreign countries of concern" including, the People's Republic of China, the Russian Federation, the Islamic Republic of Iran, the Democratic People's Republic of Korea, the Republic of Cuba, the Venezuelan regime of Nicolás Maduro, or the Syrian Arab Republic, including any agency of or any other entity under significant control of such "foreign country of concern" and any entity that does business with a state agency or political subdivision must disclose certain of their dealings with those "foreign countries of concern" to the Florida Department of Financial Services; and

WHEREAS, Sections 287.133 and 287.135, Florida Statutes contain restrictions on local governments contracting with companies that are considered "Scrutinized Companies" or who appear on convicted vendor lists; and

WHEREAS, additional terms consistent with Sections 282.3185(5) and (6) related to data management and Section 287.05701 related to social government and corporate activism are also added by virtue of this Addendum

NOW, THEREFORE, in consideration of the covenants set forth herein, the parties agree to this addendum as follows:

1. Amendment. This Addendum hereby amends and supplements the terms of the Agreement. In the event of a conflict between the terms of the Agreement and terms of the Addendum, the terms of the Addendum shall prevail.

2. Public Records Compliance. Contractor agrees that, to the extent that it may "act on behalf" of the Town within the meaning of Section 119.0701(1)(a), Florida Statutes in providing its services under this Agreement, it shall:

(a) Keep and maintain public records required by the public agency to perform the service.

(b) Upon request from the public agency's custodian of public records, provide the public agency with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law.

(c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the contractor does not transfer the records to the public agency.

(d) Upon completion of the contract, transfer, at no cost, to the public agency all public records in possession of the contractor or keep and maintain public records required by the public agency to perform the service. If the contractor transfers all public records to the public agency upon completion of the contract, the contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the contractor keeps and maintains public records upon completion of the contract, the contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the public agency, upon request from the Town's custodian of public records, in a format that is compatible with the information technology systems of the Town.

(e) Pursuant to Section 119.0701(2)(a), Fla. Stat., **IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:**

TOWN HALL
2525 ESTERO BLVD.
FORT MYERS BEACH, FL. 33931
(239)765-0202
AMY@FMBGOV.COM

3. Public Records Compliance Indemnification. Contractor agrees to indemnify and hold the Town harmless against any and all claims, damage awards, and causes of action arising from the contractor's failure to comply with the public records disclosure requirements of Section 119.07(1), Florida Statutes, or by contractor's failure to maintain public records that are exempt or confidential and exempt from the public records disclosure requirements, including, but

not limited to, any third party claims or awards for attorneys' fees and costs arising therefrom. Contractor authorizes the public agency to seek declaratory, injunctive, or other appropriate relief against Contractor in Lee County Circuit Court on an expedited basis to enforce the requirements of this section.

4. Compliance/Consistency with Section 768.28, Fla. Stat. Any indemnification or agreement to defend or hold harmless by Town specified in the Agreement shall not be construed as a waiver of Town's sovereign immunity, and shall be limited to such indemnification and liability limits consistent with the requirements of Section 768.28, Fla. Stat. and subject to the procedural requirements set forth therein. Any other purported indemnification by Town in the Agreement in derogation hereof shall be void and of no force or effect.

5. Non-appropriation. Town's performance and obligation to pay under this Agreement is contingent upon an appropriation during the Town's annual budget approval process. If funds are not appropriated for a fiscal year, then the Contractor shall be notified as soon as is practical by memorandum from the Town Manager or designee that funds have not been appropriated for continuation of the Agreement, and the Agreement shall expire at the end of the fiscal year for which funding has been appropriated. The termination of the Agreement at fiscal year end shall be without penalty or expense to the Town subject to the Town paying all invoices for services rendered during the period the Agreement was funded by appropriations.

6. E-Verify Compliance. By entering into this Agreement, the Contractor is obligated to comply with the provisions of Section 448.095, Florida Statutes "Employment Eligibility," as amended from time to time. This includes but is not limited to register with and use the E-Verify System to verify the work authorization status of all newly hired employees, and requiring all subcontractors to provide an affidavit to Contractor attesting that the subcontractor does not employ, contract with, or subcontract with, an unauthorized alien. Contractor agrees to maintain a copy of such affidavit for the duration of this Agreement. Failure to comply with this paragraph will result in the termination of this Agreement as provided in Section 448.095, Florida Statutes, as amended and Contractor will not be awarded a public contract for at least one (1) year after the date on which the Agreement was terminated. Contractor will also be liable for any additional costs to the Town as a result of the termination of this Agreement in accordance with this paragraph. Contractor affirmatively states, under penalty of perjury, that in accordance with Section 448.095, Florida Statutes, Contractor is registered with and uses the E-Verify system to verify the work authorization status of all newly hired employees, that in accordance with such statute, Contractor requires from each of its subcontractors an affidavit stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien, and that Contractor is otherwise in compliance with Sections 448.09 and 448.095, Florida Statutes.

7. Compliance/Consistency with Scrutinized Companies Provisions of Florida Statutes. Section 287.135(2)(a), Florida Statutes, prohibits a company from bidding on, submitting a proposal for, or entering into or renewing a contract for goods or services of any amount if, at the time of contracting or renewal, the company is on the Scrutinized Companies that Boycott Israel List, created pursuant to section 215.4725, Florida Statutes, or is engaged in a boycott of Israel. Section 287.135(2)(b), Florida Statutes, further prohibits a company from bidding on, submitting a proposal for, or entering into or renewing a contract for goods or services over one million dollars ($1,000,000) if, at the time of contracting or renewal, the company is on either the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with

Activities in the Iran Petroleum Energy Sector List, both created pursuant to section 215.473, Florida Statutes, or the company is engaged in business operations in Cuba or Syria. Contractor hereby certifies that Contractor is not listed on any of the following: (i) the Scrutinized Companies that Boycott Israel List, (ii) Scrutinized Companies with Activities in Sudan List, or (iii) the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List. Contractor further hereby certifies that Contractor is not engaged in a boycott of Israel or engaged in business operations in Cuba or Syria. Contractor understands that pursuant to section 287.135, Florida Statutes, the submission of a false certification may subject Contractor to civil penalties, attorney's fees, and/or costs. Contractor further understands that any contract with Town for goods or services of any amount may be terminated at the option of Town if Contractor (i) is found to have submitted a false certification, (ii) has been placed on the Scrutinized Companies that Boycott Israel List, or (iii) is engaged in a boycott of Israel. And, in addition to the foregoing, if the amount of the contract is one million dollars ($1,000,000) or more, the contract may be terminated at the option of Town if the company is found to have submitted a false certification, has been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or has been engaged in business operations in Cuba or Syria.

Moreover, Contractor shall comply with the disclosure requirements set forth is section 286.101 (3) (a), F.S., which requires "Any entity that applies to a state agency or political subdivision for a grant or proposes having a contract value of $100,000 or more shall disclose to the state agency or political subdivision any current or prior interest of, any contract with, or any grant or gift received from a "foreign country of concern" if such interest, contract, grant or gift received from a "foreign country of concern" if such interest, contract, grant or gift has a value of $50,000 or more and such interest existed at any time or such contract, grant or gift was received or in force at any time during the previous five (5) years. Such disclosure shall contain the name and mailing address of the disclosing entity, the amount of the gift or the value of the interest disclosed, the applicable "foreign country of concern" and, if applicable the date of termination of the contract or interest, the date of receipt of the grant or gift and the name of the agent or controlled entity that is the source or interest holder. Within one (1) year before applying for any grant or proposing any contract, such entity must provide a copy of such disclosure to the Department of Financial Services". Pursuant to section 268.101(7), F.S.: "In addition to any fine assessed under [section 286.101(7)(a), F.S.], a final order determining a third or subsequent violation by an entity other than a state agency or political subdivision shall automatically disqualify the entity from eligibility for any grant or contract funded by a state agency or any political subdivision until such ineligibility is lifted by the Administration Commission for good cause."

8. Venue and Jurisdiction. Notwithstanding any of other provision to the contrary, this Agreement and the parties' actions under this Agreement shall be governed by and construed under the laws of the state of Florida, without reference to conflict of law principles. As a material condition of this Agreement, each Party hereby irrevocably and unconditionally: i) consents to submit and does submit to the jurisdiction of the Circuit Court in and for Lee County, Florida for any actions, suits or proceedings arising out of or relating to this Agreement; and ii) agrees to waive the right to file any action, suit or proceeding in, or remove any action, suit or proceeding to, any Federal Court.

9. Attorneys' Fees and Costs. Notwithstanding any of other provision to the contrary, if litigation ensues regarding this Agreement, each party hereto shall bear its own attorneys' fee and costs.

10. Public Entities Crime or Convicted Vendor List. Contractor agrees and assumes a continuous duty to disclose to the Town if the Contractor or any of its affiliates as defined by Section 287.133(1)(a), Florida Statutes are placed on the Convicted Vendor List or the Antitrust Violator Vendor List maintained by the Florida Department of Management Services.

11. Data Management; Notice of Breach. Contractor shall cooperate with the Town and provide timely incident reporting, response activities/fact gathering, public and agency notification, severity level assessment, after-action reports etc, which the Town must report in accordance with Sections 282.3185(5) & (6), Florida Statutes in the event of a data breach.

12. Environmental and Social Government and Corporate Activism. The Town has not given preference or requested documentation from the Contractor based on Contractor's social, political or ideological interest. Contractor agrees to similarly not request documentation or give preference to any subcontractor based on the subcontractor's social, political or ideological interests.

13. Taxes. The Town shall not be liable for any taxes and assessments imposed by a federal, state or local governmental agency as provided in Section 11.4 of the Agreement, to the extent that the Town is exempt from same by Florida law, including but not limited to any sales or use tax.

14. Additional Terms. Notwithstanding any of other provision to the contrary, the parties agree as follows:

A. None.

IN WITNESS WHEREOF, the parties hereto have executed and delivered this instrument on the days and year indicated below and the signatories below to bind the parties set forth herein.

Contractor: Monica Schmucker

_____

Print Name: Monica Schmucker

Company: Schmucker & Lavy Legal, PLLC

ATTEST:

_____
Amy Baker, Town Clerk

Town of Fort Myers Beach

_____
Dan Allers, Mayor

APPROVED AS TO FORM & SUFFICIENCY

(Last Rev. 12/23)

Vose Law Firm, Town Attorney

(Last Rev. 12/23)

ADMINISTRATIVE LAW JUDGE SERVICES CONTRACT

This CONTRACT is between the TOWN OF FORT MYERS BEACH, (hereinafter the

"TOWN"), and the State of Florida, Division of Administrative Hearings

(DOAH).

WHEREAS, Section 120.65, Florida Statutes, authorizes DOAH to provide Administrative Law Judges (ALJs) on a contract basis to any governmental entity;

WHEREAS, the TOWN desires to use the services of DOAH's ALJs to conduct hearings for code enforcement hearings for which ALJs may adjudicate violations, liens, and enforcement as provided by Chapter 162, Florida Statutes and the TOWN Code of Ordinances; and

NOW, THEREFORE, the parties, for valuable consideration and the mutual promises between them, agree as follows:

1. Scope of Services. The foregoing Recitals are hereby incorporated herein as if fully restated. DOAH agrees to make ALJs available to the TOWN. The ALJs will be full-time judges employed by the State of Florida, Division of Administrative Hearings, and are experts in the adjudication of administrative disputes.
2. Compensation. The fiscal year 2003-2004 General Appropriation Act, Chapter 2003-397, Laws of Florida, requires DOAH to renegotiate its contracts for ALJ services annually so that the hourly rate charged is based on a total – cost recovery methodology. The rate has been determined to be $200.00 per hour beginning October 1, 2023. DOAH will notify the TOWN of the amended hourly rate on or about the first day of September of each year. That rate will become effective on the first day of October of that same year. The TOWN agrees to compensate DOAH for each hour actually worked, and subsequently, at the hourly rate determined in accordance with the Florida Legislature's directive. This rate will apply for ALJ services in preparing for hearings, traveling to hearings, conducting hearings, and preparing Recommended Orders.

3. Expenses. The TOWN agrees to pay the actual travel expenses, if required, of the assigned ALJ in the amount provided pursuant to Chapter 112, Florida Statutes. DOAH will submit invoices monthly and the TOWN agrees to remit payment monthly in accordance with Chapter 218, Part VII, Florida Statutes. DOAH agrees to provide the TOWN an itemized statement of the charges and costs in the invoice. Unless otherwise requested the parties agree that hearings will be held electronically when possible negating the need for the payment of travel expense.
4. Contract Management. Megan Silver, Executive Director & Administrative Law Judge, and Patricia Kenyon, Operations Manager, will provide contract management services under this Contract for DOAH.
5. Term. This contract is for a term of one (1) year and will automatically renew for succeeding yearly periods one year from the date last signed. This contract may be amended from time to time by mutual agreement of the parties, and may be terminated by either party for the convenience of that party upon thirty (30) days' written notice.
6. Request for Services. To initiate a proceeding, the TOWN shall send a letter to the Chief Judge, Division of Administrative Hearings, requesting the assignment of an ALJ and shall include with such request a copy of the relevant agency action letter, claim asserted and/or request for hearing, as well as any code provisions or other local procedure that governs the type of hearing requested. DOAH shall assign an ALJ promptly after receipt of the letter.
7. Effective Date. This Contract will become effective on the date the last signature is made.
8. Notices. All notices required or permitted by this Contract shall be in writing, and shall be deemed to have been duly given if mailed first-class, certified postage prepaid, addressed as follows:

To *The Entity*

Town Manager
Town of Fort Myers Beach
2525 Estero Boulevard
Fort Myers Beach, Florida 33931
239-765-0202

To: DOAH
State of Florida, Division of Administrative Hearings
Attn: Patricia Kenyon, Operations Manager
1230 Apalachee Parkway
Tallahassee, FL 32301
850-488-9675

WHEREUPON, the parties have executed this Contract as follows:

TOWN OF FORT MYERS BEACH

_____
Dan Allers, Mayor

ATTEST:

_____
Amy Baker, Town Clerk
Approved by the Town Council on the ___ day of _____, 2024

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

STATE OF FLORIDA, DIVISION
OF ADMINISTRATIVE HEARINGS

_____ _____

Megan S. Silver Date
Executive Director & Administrative Law Judge

Town of Fort Myers Beach
Agenda Item Summary

Blue Sheet Number: **2024-249**

1. **Request:**

Meeting Date: September 9, 2024

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, APPROVING A FIRST AMENDMENT TO THE ADMINISTRATIVE LAW JUDGE SERVICES BETWEEN THE TOWN AND DEPARTMENT OF ADMINISTRATIVE HEARINGS TO PROVIDE SERVICES FOR APPELLATE REVIEW OF THE TOWN BUILDING OFFICIAL'S DECISIONS AS MAY BE REQUIRED UNDER THE TOWN CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

Why the action is necessary:

A First Amendment to the Town's existing contract with DOAH for Special Magistrate services is necessary to ensure the Town has an adequate process in place for review of appeals of those property owners, whose properties have been deemed unsafe and noticed for demolition by the Town building official.

What the action accomplishes:

The proposed First Amendment to the Town's existing agreement with DOAH for special magistrate services expands the scope of services to include review of appeals of those property owners, whose properties have been deemed unsafe and noticed for demolition by the Town building official.

2. **Agenda:**
PUBLIC HEARINGS

3. **Requirement/Purpose:**
Contract Amendment

4. **Submitter of Information:**

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5. **Background:**

Subsequent to the Town's incorporation, the Town and Lee County entered into an Interlocal Agreement, pursuant to which Lee County's Board of Adjustment and Appeals agreed to provide appellate review of the Town's Building Official's decisions.

The Town has recently become aware that the Interlocal Agreement between the Town and the Lee County Board of Adjustment and Appeals related to the Board's appellate review of the Town Building Official's decisions regarding unsafe structures under Division 3 "Unsafe Building Abatement Code" of Article I "Property Maintenance Codes" of Chapter 6 "Maintenance Codes, Building Codes and Coastal Regulations" of the Town's Land Development Code expired in 2017.

The Town has an immediate need for a reassignment of said responsibility due to recent decisions by the Town's Building Official to demolish certain unsafe structures in the Town of Fort Myers Beach. In the absence of an opportunity for an appellate review, the due process rights of property owners within the Town are endangered.

Approval of the First Amendment to the Town's Contract for Special Magistrate Services DOAH would be in the Town's best interests and would promote the health, safety, welfare, and morals of the Town's residents.

Attachments:

1. 24-181, Approve 1st Amendment to DOAH Contract for SM services
2. Final FMB DOAH Contract Signed

Financial Impact:

6. **Alternative Action**

7. **Management Recommendations:**
Approve the First Amendment.

8. **Recommended Approval:**

Jason Freeman, Legislative Liaison / Deputy Town Clerk	Created/Initiated - 9/4/2024
nancy stuparich, Town Attorney	Approved - 9/4/2024
Amy Baker, Town Clerk	Approved - 9/5/2024
Andy Hyatt, Town Manager	Final Approval - 9/5/2024

RESOLUTION NUMBER 24-181

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, APPROVING A FIRST AMENDMENT TO THE ADMINISTRATIVE LAW JUDGE SERVICES BETWEEN THE TOWN AND DEPARTMENT OF ADMINISTRATIVE HEARINGS TO PROVIDE SERVICES FOR APPELLATE REVIEW OF THE TOWN BUILDING OFFICIAL'S DECISIONS AS MAY BE REQUIRED UNDER THE TOWN CODE; 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, on March 7, 2024, the Town and the Department of Administrative Hearings ("DOAH") entered into a Contract, for DOAH's Administrative Law Judges ("ALJs") to conduct hearings for code enforcement hearings for which DOAH's ALJs may adjudicate violations, liens, and enforcement, as provided by Chapter 162, Florida Statutes and the Town Code of Ordinances; and

WHEREAS, the Town is in a need of a hearing officer to adjudicate appeals of the decisions by the Town of Fort Myers Beach Building Official, as provided in Division 3 of Article I, and Division 2 of Article II, of Chapter 6 of the Town of Fort Myers Beach Land Development Code; and

WHEREAS, the Town and DOAH wish to amend the Contract to expand the duties of DOAH's ALJs to include to include review of appeals as provided in Division 3 of Article I, and Division 2 of Article II, of Chapter 6 of the Town of Fort Myers Beach Land Development Code; and

WHEREAS, the Town Council has determined it is in the best interests of the Town to approve the proposed First Amendment.

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 hereby approves the First Amendment to the Administrative Law Judge Services Contract between the Town and DOAH. A copy of the First Amendment to the Contract is attached to this Resolution as Exhibit "A."

Section 3. The foregoing Whereas clauses are ratified and confirmed as being true and correct, are the legislative and administrative findings of the Town Council and made a specific part of this Resolution.

Section 4. This Resolution shall take effect immediately upon its adoption by the Town Council of the Town of Fort Myers Beach.

This 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	___
Karen Woodson, Council Member	___
Scott Safford, Council Member	___
John R. King, 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, LLP, Town Attorney

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

EXHIBIT "A"

FIRST AMENDMENT TO ADMINISTRATIVE LAW JUDGE SERVICES CONTRACT

THIS FIRST AMENDMENT ("First Amendment") is made and entered into by and between the TOWN OF FORT MYERS BEACH, a municipal corporation of the State of Florida, ("Town") and THE STATE OF FLORIDA, DEPARTMENT OF ADMINISTRATIVE HEARINGS ("DOAH"), to amend that certain Administrative Law Judge Services Contract, dated March 7, 2024 ("Contract").

WITNESSETH:

WHEREAS, on March 7, 2024, the Town and DOAH entered into a Contract, for DOAH's Administrative Law Judges ("ALJs") to conduct hearings for code enforcement hearings for which DOAH's ALJs may adjudicate violations, liens, and enforcement, as provided by Chapter 162, Florida Statutes and the Town Code of Ordinances; and

WHEREAS, the Town is in a need of a hearing officer to adjudicate appeals of the decisions by the Town of Fort Myers Beach Building Official, as provided in Division 3 of Article I, and Division 2 of Article II, of Chapter 6 of the Town of Fort Myers Beach Land Development Code; and

WHEREAS, the Town and DOAH wish to amend the Contract to expand the duties of DOAH's ALJs to include to include review of appeals as provided in Division 3 of Article I, and Division 2 of Article II, of Chapter 6 of the Town of Fort Myers Beach Land Development Code; and

WHEREAS, this First Amendment is in the best interests of the Town and is consistent with promotion of the health, safety, welfare, and morals of its residents.

NOW, THEREFORE, in consideration of the covenants set forth herein, the Town and DOAH agree to amend the Contract as follows:

1. **SCOPE OF SERVICES.** Paragraph 1 of the Contract is hereby amended to include DOAH ALJs' review of appeals by property owners, whose properties have been deemed unsafe by the Town Building Official, in accordance with Division 3 of Article I, and Division 2 of Article II, of Chapter 6 of the Town of Fort Myers Beach Land Development Code.

2. **REMAINING TERMS.** All other terms and conditions of the Contract shall remain in full force and effect.

IN WITNESS WHEREOF, the Town and DOAH have executed this First Amendment to the Contract as of the date signed by the last party.

[Signature Page to Follow]

ATTEST:

STATE OF FLORIDA, DIVISION OF ADMINISTRATIVE HEARINGS

_____
Print Name: _____
Print Title: _____

_____
Print Name: _____
Print Title: _____
Date: _____

TOWN OF FORT MYERS BEACH

_____
Dan Allers, Mayor of Fort Myers Beach

Date: _____

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

ADMINISTRATIVE LAW JUDGE SERVICES CONTRACT

This CONTRACT is between the TOWN OF FORT MYERS BEACH, (hereinafter the

"TOWN"), and the State of Florida, Division of Administrative Hearings

(DOAH).

WHEREAS, Section 120.65, Florida Statutes, authorizes DOAH to provide Administrative Law Judges (ALJs) on a contract basis to any governmental entity;

WHEREAS, the TOWN desires to use the services of DOAH's ALJs to conduct hearings for code enforcement hearings for which ALJs may adjudicate violations, liens, and enforcement as provided by Chapter 162, Florida Statutes and the TOWN Code of Ordinances; and

NOW, THEREFORE, the parties, for valuable consideration and the mutual promises between them, agree as follows:

1. Scope of Services. The foregoing Recitals are hereby incorporated herein as if fully restated. DOAH agrees to make ALJs available to the TOWN. The ALJs will be full-time judges employed by the State of Florida, Division of Administrative Hearings, and are experts in the adjudication of administrative disputes.
2. Compensation. The fiscal year 2003-2004 General Appropriation Act, Chapter 2003-397, Laws of Florida, requires DOAH to renegotiate its contracts for ALJ services annually so that the hourly rate charged is based on a total – cost recovery methodology. The rate has been determined to be $200.00 per hour beginning October 1, 2023. DOAH will notify the TOWN of the amended hourly rate on or about the first day of September of each year. That rate will become effective on the first day of October of that same year. The TOWN agrees to compensate DOAH for each hour actually worked, and subsequently, at the hourly rate determined in accordance with the Florida Legislature's directive. This rate will apply for ALJ services in preparing for hearings, traveling to hearings, conducting hearings, and preparing Recommended Orders.

3. Expenses. The TOWN agrees to pay the actual travel expenses, if required, of the assigned ALJ in the amount provided pursuant to Chapter 112, Florida Statutes. DOAH will submit invoices monthly and the TOWN agrees to remit payment monthly in accordance with Chapter 218, Part VII, Florida Statutes. DOAH agrees to provide the TOWN an itemized statement of the charges and costs in the invoice. Unless otherwise requested the parties agree that hearings will be held electronically when possible, negating the need for the payment of travel expenses.
4. Contract Management. Megan Silver, Executive Director & Administrative Law Judge, and Patricia Kenyon, Operations Manager, will provide contract management services under this Contract for DOAH.
5. Term. This contract is for a term of one (1) year and will automatically renew for succeeding yearly periods one year from the date last signed. This contract may be amended from time to time by mutual agreement of the parties and may be terminated by either party for the convenience of that party upon thirty (30) days' written notice.
6. Request for Services. To initiate a proceeding, the TOWN shall send a letter to the Chief Judge, Division of Administrative Hearings, requesting the assignment of an ALJ and shall include with such request a copy of the relevant agency action letter, claim asserted and/or request for hearing, as well as any code provisions or other local procedure that governs the type of hearing requested. DOAH shall assign an ALJ promptly after receipt of the letter.
7. Effective Date. This Contract will become effective on the date the last signature is made.
8. Notices. All notices required or permitted by this Contract shall be in writing, and shall be deemed to have been duly given if mailed first-class, certified postage prepaid, addressed as follows:
9.

ADMINISTRATIVE LAW JUDGE SERVICES CONTRACT

To *The Entity*

Town Manager

Town of Fort Myers Beach

2525 Estero Boulevard

Fort Myers Beach, Florida 33931

239-765-0202

To: DOAH

State of Florida, Division of Administrative Hearings

Attn: Patricia Kenyon, Operations Manager

1230 Apalachee Parkway

Tallahassee, FL 32301

850-488-9675

WHEREUPON the parties have executed this Contract as follows:

TOWN OF FORT MYERS BEACH

Dan Allers
Dan Allers (Feb 14, 2024 20:17 EST)

Dan Allers, Mayor

ATTEST:

Amy Baker (Mar 7, 2024 14:58 EST)

Amy Baker, Town Clerk
Approved by the Town Council on the 5th day of February 2024

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

Nancy Stuparich
Nancy Stuparich (Feb 21, 2024 12:24 EST)

Vose Law Firm, Town Attorney

STATE OF FLORIDA, DIVISION
OF ADMINISTRATIVE HEARINGS

_____ _____

Megan S. Silver Date
Executive Director & Administrative Law Judge

Town of Fort Myers Beach
Agenda Item Summary

Blue Sheet Number: **2024-232**

1. **Request:**

Meeting Date: September 9, 2024

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH AUTHORIZING THE TOWN MANAGER OR HIS DESIGNEE TO APPROVE STA 38 IN THE AMOUNT OF 145,990.00 WITH TETRA TECH UNDER CONTRACT NO. 22-25-AD FOR TIER 1 PROJECT CARLOS CIRCLE AND ANY ASSOCIATED DOCUMENTS; AND PROVIDING FOR AN EFFECTIVE DATE.

Why the action is necessary:

Carlos Circle lacks the infrastructure to properly collect and transmit stormwater.

What the action accomplishes:

This action will accomplish flood-free streets, allowing residents to go about their daily business in a rain event.

2. **Agenda:**	3. **Requirement/Purpose:**	4. **Submitter of Information:**
ADMINISTRATIVE AGENDA	Resolution	Mark Ashton, Public Works/Utilities Director

5. **Background:**

Carlos Circle experiences severe flooding during normal rain events. With extreme rain events, it can get up to a foot - foot and a half of flooding. The stormwater project that was installed was not finished or adequate to handle that amount of water. According to the engineers, the issue with Carlos Circle is the lack of infrastructure to properly collect and transmit stormwater off of the island. As a result, flooding occurs routinely. It is understood that there may be an outfall pipe located at the southeastern end of the circle. However, the outfall (if it still exists) is not connected to any infrastructure. It is also unknown the condition or size, and there is no easement for this or any other outfall. The drainage off of Carlos Circle is no longer there due to Hurricane Ian and residents are rebuilding their lots and seawalls. People are trapped in their houses for days because it takes at least 72 hours for the water to recede into the ground.

Attachments:

1. Resolution STA 38 Carlos Cicle ns
2. STA 38 - Carlos Drainage_

Financial Impact:

6. **Alternative Action**

7. **Management Recommendations:**

8. **Recommended Approval:**

Vanessa Kraft, Utilities Compliance Coordinator	Created/Initiated - 8/30/2024
Jeff Hauge, Culture, Parks & Recreation Director	Approved - 9/3/2024
Joe Onzick, Finance Director	Approved - 9/3/2024
nancy stuparich, Town Attorney	Approved - 9/3/2024
Amy Baker, Town Clerk	Approved - 9/4/2024
Andy Hyatt, Town Manager	Final Approval - 9/4/2024

RESOLUTION NUMBER 24-59

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH AUTHORIZING THE TOWN MANAGER OR HIS DESIGNEE TO APPROVE STA 38 IN THE AMOUNT OF 145,990.00 WITH TETRA TECH UNDER CONTRACT NO. 22-25-AD FOR TIER 1 PROJECT CARLOS CIRCLE AND ANY ASSOCIATED DOCUMENTS; 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 is requesting approval to utilize a combination of swales and piping and release stormwater into Mantanzas Pass via a legal outfall or to Estero Boulevard; and

WHEREAS, the proposed improvements will be performed as a change order with the Contractor currently performing improvements on "Tier 1"; and

WHEREAS, without this stormwater improvement to Carlos Circle, the area will continue to flood routinely with every rain event; and

WHEREAS, the Town Council has determined it is in the best interest of the Town to approve the requested Agreement.

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 hereby approves the Agreement and authorizes the Town Manager or his designee to execute any documentation related to the Agreement which is attached hereto as "Attachment A".

The foregoing Resolution was adopted by the Town Council upon a motion by _____ 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 9th of September, 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, LLP, Town Attorney

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

TOWN OF FORT MYERS BEACH SERVICE AGREEMENT

SUPPLEMENTAL TASK AUTHORIZATION

_X_ Supplemental Task Authorization NO.: 38

CONTRACT/PROJECT NAME: Carlos Circle Drainage Improvements

CONSULTANT: Tetra Tech, Inc. PROJECT NO.:

SOLICIT NO.: 20-22-AD CONTRACT NO.: 20-22-AD

REQUESTED BY: Mark Ashton, Utilities Director DATE OF REQUEST: 8/13/2024

Upon the completion and execution of this Supplemental Task Authorization by both parties, the Consultant/Provider is authorized to and shall proceed with the following:

EXHIBIT "A"	SCOPE OF PROFESSIONAL SERVICE:	DATED: 8/13/2024
EXHIBIT "B"	COMPENSATION & METHOD OF PAYMENT:	DATED: 8/13/2024
EXHIBIT "C"	TIME AND SCHEDULE OF PERFORMANCE:	DATED: 8/13/2024
EXHIBIT "D"	CONSULTANT'S/PROVIDER'S ASSOCIATED SUB-CONSULTANT(S)/SUB-CONTRACTORS:	DATED: 8/13/2024

It is understood and agreed that the acceptance of this modification by the CONSULTANT/PROVIDER constitutes an accord and satisfaction.

RECOMMENDED:

By: _____ By: _____
Department Director Date Contracts Manager
Date

ACCEPTED:

By: _____
Consultant/Provider Date

TOWN APPROVAL:

By: _____
Town Manager Date

N.T.E. $145,990

Date 8/13/2024

EXHIBIT A

SCOPE OF PROFESSIONAL SERVICES

Background:

The Town of Fort Myers Beach (TOWN) provides stormwater management throughout the TOWN's jurisdiction and has been working over the past several years to make improvements. One area of concern has been Carlos Circle, which is located towards the north end of the island. The issue with Carlos Circle is the lack of infrastructure to properly collect and transmit stormwater off of the island. As a result, flooding occurs routinely. It is understood that there may be an outfall pipe located at the southeastern end of the circle, however, the outfall (if it still exists) is not connected to any infrastructure. It is also unknown of the condition or size, and there is no easement for this or any other outfall. Prior to hurricane Ian, swales were installed to assist, locally with drainage. However, those swales provided minimum benefit due to the lack of outfalls. The swales were also filled in and remain unusable following Hurricane Ian.

To assist the property owners along Carlos Circle, there are two (2) potential options:

- Utilize a combination of swales and piping and release stormwater to Mantanzas Pass via a legal outfall
- Utilize a combination of swales and piping and release stormwater to Estero Boulevard

Other than the method of release, both options are anticipated to be the same in terms of collection and transmission. For the outfall, an easement will be required from one of the property owners with access to the adjacent surface water. For release to Estero Boulevard, an evaluation of the existing infrastructure would need to be performed in order to determine if the existing system has sufficient capacity to accept the additional water and if such connection would result in a potential surcharge of Carlos Circle due to differences in elevation. It is noted that Estero Boulevard is approximately 1.4 feet higher than Carlos Circle, so this evaluation will need to consider the depth of the system(s) and potential to surcharge with or without the use of a check valve.

This scope of services includes evaluation of Estero Boulevard along with the design, permitting and construction oversight for the proposed improvements. It is understood that the proposed improvements will be performed as a change order with the Contractor currently performing improvements on "Tier 1".

To fast-track a solution, the TOWN/CONSULTANT will be pursuing an easement, simultaneously while the CONSULTANT evaluates the available capacity of the existing Estero Boulevard system.

Scope of Services

Task 1: Evaluation

Evaluation

CONSULTANT will perform the following to determine if the existing infrastructure along Estero Boulevard is sufficient to accept additional stormwater from Carlos Circle:

1. Collect existing data including the existing environmental resource permit (ERP) for Estero Boulevard, as-built drawings, and if available, shop drawings of the perforated pipe and exfiltration boxes.

2. Perform a site visit to review the system and the exfiltration boxes to verify condition and sizes.

3. Perform calculations in order to estimate the stormwater flow generated within Carlos Circle during a 25-year, 72-hour storm event. This is anticipated to include using the hydraulic model data within the existing ERP and preparing an AdICPR model, if needed.

4. Utilizing the calculated flow, combined with the flow from the existing ERP, evaluate the ability of the existing Estero Boulevard system (piping and exfiltration boxes) to accept the additional flow without surcharging Carlos Circle as a result of elevation differences.

5. Simultaneously with the Estero Boulevard system evaluation, the CONSULTANT will assist the TOWN in researching property owners and attempting to secure an easement for an outfall. For the purpose of this proposal it is anticipated that only those 4-5 property owners near the intersection of Carlos Circle and Estero Boulevard with vacant lots will be approached.

If from the calculations it is determined that Estero Boulevard cannot accept additional flow, then the outfall alternative would be the only viable option. If it is determined that the Estero Boulevard system can handle the additional flow and without surcharging Carlos Circle, then the TOWN would need to choose which alternative they desire to proceed with (provided an easement for an outfall can be secured). If neither an easement can be secured for an outfall, nor the Estero Boulevard system is sufficient, then no further services would be performed.

Task 2: Final Design & Permitting

Once an alternative has been selected by the TOWN, the CONSULTANT will proceed with the following final design and permitting tasks:

<u>Surveying</u>

1. CONSULTANT will perform surveying along Carlos Circle (approx.. 820 linear feet) as well as at the point of proposed discharge (either outfall or connection to existing Estero Boulevard piping). The purpose of the survey will be to collect topographic data and above-ground features in the vicinity of proposed construction. Horizontal data will be in feet and shall be projected on the Florida State Plane Coordinate System, West Zone, NAD83 (2011). Vertical data will be in feet and shall be referenced to the North American Vertical Datum of 1988, NAVD88. All surveying efforts will be performed to the minimum standards as set forth in Chapter 472 of the Florida Statutes.

2. Utilizing a subconsultant (to be determined), perform limited subsurface utility exploration (SUE) to include ground penetrating radar and vacuum exploration in the vicinity of proposed underground construction activities. As the need and extent of SUE efforts are unknown at this time, this scope of services includes an allowance of $7,000 for SUE efforts.

3. For the outfall option, if selected, CONSULTANT will prepare a sketch and legal description for the area required for the TOWN to secure an easement for the outfall. It is understood that the TOWN will negotiate and record the easement and that other than preparation of the sketch and legal description, no other assistance from CONSULTANT is required.

<u>Final Design</u>

1. Utilizing survey and SUE data collected, CONSULTANT will proceed with the final design, which will result in preparation of engineering drawings for use in construction by the TOWN's current Contractor performing the Tier 1 Water and Stormwater Improvements. As such, design will be reduced to deliverable submission to the TOWN for review at 75-, and 100-percent completion levels. The design is anticipated to include a combination of swales and closed

piping along with either a connection to existing piping or a new outfall for discharge. The drawings shall generally include but not be limited to the following:

Civil – 3 sheets
Plan/Profile – 3 sheets

Structural – 2 sheets
Outfall/Seawall Reconstruction – 2 sheets

2. Perform quality assurance/control reviews at the 75- and 100-percent completion stages.

3. Furnish a PDF set of drawings, Technical Specifications and opinion of probable construction costs (OPCC) at the 75- and 100-percent completion stages.

4. Schedule and attend review meetings with the TOWN following their review of the 75-percent and 100-percent submittals.

Permitting

1. Prepare and submit an Individual ERP application to the SFWMD for the proposed improvements.
    a. In support of the application, Form 62-330.301(26) “Certification of Financial Capability for Perpetual Operations and Maintenance” shall be prepared. This will include the preparation of a written Operation and Maintenance (O&M) plan which shall specifically identify the activities required to ensure the perpetual performance of the system. Overall inspection, maintenance, schedule and future capital expenditures shall be included.

2. Prepare and submit an application to the United States Army Corps of Engineers (USACE) (for the outfall option) to include the outfall as a permitted part of surface water discharge.

3. Prepare and submit to the SFWMD a Notice of Intent (NOI) and Stormwater Pollution Prevention Plan (SWP3) for stormwater control during construction.

4. The CONSULTANT shall respond to one (1) request for additional information (RAI) from each permitting agency to clarify the original application(s). Comments after each initial RAI would require additional services due to unknown services required at this time.

Permitting Notes:

1. The TOWN currently holds a master dewatering permit with the South Florida Water Management District (SFWMD). The Contractor will be required to prepare a submittal package outlining their plans to perform dewatering in accordance with the TOWN's existing permit submit it to the SFWMD. As such, no services associated with dewatering or a dewatering permit.

2. DRAFT permit applications for required permits will be submitted to the TOWN for review with the 75-percent submittal. Upon review by the TOWN, the CONSULTANT will finalize all applications and submit them to the TOWN for signature. The intent will be to submit the applications at the 100-percent completion stage.

3. The CONSULTANT will coordinate payment of required permit application fees with the TOWN and will provide backup documentation to the TOWN. All permit application fees will be paid by the TOWN.

4. At this time, no impact to threatened or endangered species is anticipated, and therefore, no associated permitting is proposed at this time.

Task 3: Construction Phase Services

Tetra Tech will assist the TOWN with the following:

1. Prepare and provide the drawings to Andrew Site Work along with a request for proposal.

2. Assist the TOWN in addressing questions regarding the design and with negotiating a change order.

3. Prepare a change order for execution between the TOWN and Andrew Site Work once a change order has been negotiated.

4. Serve as an extension of staff providing project management oversight and coordination activities.

5. Review shop drawing submittals to confirm conformance of proposed products with the Contract Documents. It is anticipated that up to 10 shop drawings will be submitted.

6. Prepare responses to Contractor requests for information (RFIs). Up to 3 RFIs are anticipated.

7. Make site visits at various stages of construction to observe the progress and quality of the various aspects of contractor's work. It is anticipated 5 visits will be performed. CONSULTANT will determine if work is proceeding in accordance with the Contract Documents. The purpose of the site visits will be to enable CONSULTANT to observe construction to the extent necessary to certify the project’s completion in conformance with permit approvals.

8. Utilizing the resident project representative (RPR) assigned to the Tier 1 Side Streets Water and Stormwater Improvements project, provide up to 80 hours of construction engineering and inspection (CEI) services to observe pipe installation, connection to existing piping or new outfall construction, and other critical aspects of construction such as maintenance of traffic and roadway restoration.

9. Conduct an inspection to determine if the work is substantially complete and a final inspection to determine if the completed work is acceptable so that the CONSULTANT may recommend, in writing, final payment to Contractor and give written notice to the TOWN and the Contractor that the work is acceptable.

10. Prepare a set of reproducible Record Drawings showing those changes made during the construction process, based on the marked-up prints, drawings and other data furnished to the CONSULTANT by the Contractor.

11. Prepare a certification of completion for closeout of the ERP and USACE permits.

EXHIBIT B

Date 8/13/2024

COMPENSATION AND METHOD OF PAYMENT

Carlos Circle Drainage Improvements

Section 1. BASIC SERVICES/TASK(S)

The TOWN shall compensate the CONSULTANT for providing and performing the Task(s) set forth and enumerated in EXHIBIT "A", entitled "SCOPE OF PROFESSIONAL SERVICES", as follows:

NOTE: A Lump Sum (L.S.) or Not-to-Exceed (N.T.E.) amount of compensation to be paid the CONSULTANT should be established and set forth below for each task or sub-task described and authorized in Exhibit "A". In accordance with Agreement Article 5.02(2) "Method of Payment", tasks to be paid on a Work-in-Progress payment basis should be identified (WIPP).

Task Number	Task Title	Amount of Compensation	Indicate Basis of Compensation LS or NTE	If Applicable Indicate (W.I.P.P.)
1	Evaluation	$20,440	NTE	WIPP
2	Final Design & Permitting	$78,985	NTE	WIPP
3	Construction Phase Services	$46,565	NTE	WIPP
TOTAL		$145,990		

(Unless list is continued on next page)

Section 2. ADDITIONAL SERVICES

The TOWN shall compensate the CONSULTANT for such ADDITIONAL SERVICES as are requested and authorized in writing for such amounts or on such a basis as may be mutually agreed to in writing by both parties to this Agreement. The basis and/or amount of compensation to be paid the CONSULTANT for ADDITIONAL SERVICES requested and authorized in writing by the TOWN shall be as set forth in Article 4 of this Agreement.

Should it be mutually agreed to base compensation for ADDITIONAL SERVICES on an hourly rate charge basis for each involved professional and technical employee's wage rate classification, the applicable hourly rates to be charged are as set forth and contained in ATTACHMENT NO. 1 hereto dated 8/13/2024, entitled "CONSULTANT'S PERSONNEL HOURLY RATE SCHEDULE".

Section 3. REIMBURSABLE EXPENSES AND COSTS

When the CONSULTANT'S compensation and method of payment is based on an hourly rate for professional and/or technical personnel, the CONSULTANT shall, in addition to such hourly rates as are set forth in Attachment No. 1 hereto, be entitled to reimbursement of out-of-pocket, non-personnel expenses and costs as set forth in ATTACHMENT NO. 2 hereto dated 8/13/2024, entitled "NON-PERSONNEL REIMBURSABLE EXPENSES AND COSTS".

ATTACHMENT NO. 1 TO EXHIBIT B

Date: 8/13/2024

CONSULTANT'S PERSONNEL HOURLY RATE SCHEDULE *** FOR

Carlos Circle Drainage Improvements

Consultant or Sub-consultant Name: Tetra Tech, Inc.
(A separate Attachment No. 1 should be included for each Sub-Consultant)

(1) Project Position or Classification (Function to be Performed)	(2) Current Direct* Payroll Average Hourly Rate	(3) Multiplier**	(4) Hourly Rate To Be Charged (Column 2x3)
N/A (per master contract)			

*NOTE: Direct Payroll hourly rate means the actual gross hourly wage paid.
**NOTE: Indicate applicable multiplier for indirect personnel costs, general administrative & overhead costs, and profit.
***NOTE: A separate personnel hourly rate schedule should also be attached for each Sub-Consultant listed in Exhibit "D".

ATTACHMENT NO. 2 TO EXHIBIT B

Date: 8/13/2024

NON-PERSONNEL REIMBURSABLE EXPENSES AND COSTS

Carlos Circle Drainage Improvements

CONSULTANT OR SUB-CONSULTANT NAME: Tetra Tech
(A separate Attachment No. 2 should be included for each Sub-Consultant)

ITEM	BASIS OF CHARGE
Telephone (Long Distance)	Actual Cost
Postage and Shipping	Actual Cost
Commercial Air Travel	Actual Cost (Coach)
Vehicle Travel Allowance (N.T.E. 50 miles one-way) (or)	$0.54/mile
Vehicle Rental/Gas	Actual Cost
Lodging (Per Person)	Actual Cost or NTE $100.00
Meals: Breakfast Lunch Dinner In accordance with the Runzheimer rate service for Travel utilizing the "average", dated 5/4/06	 $12.01 $11.82 $24.72
Reproduction (Photocopy) 8 ½" x 11"	$0.15/Page
8 ½" x 14"	$0.20/Page
11" x 14"	$0.35/Page
Reproduction (Blue/White Prints)	$0.20/Sq. Ft.
Printing/Binding	Actual Cost
Mylar Sheets	Actual Cost
Photographic Supplies & Services	Actual Cost
Tolls	Actual Cost
*List other specific project related reimbursables (i.e. film/developing):	
NOTE: Receipts or in-house logs are required for all non-personnel reimbursable expenses unless exempt (such as meals).	
Administrative Services Fee – Applicable only when specifically authorized by the Town, for administering the procurement of special additional services, equipment, reimbursables etc. not covered under the costs and/or changes established in the Agreement.	

NOTE: N.T.E. indicates Not-To-Exceed

EXHIBIT C

Date: 8/13/2024

TIME AND SCHEDULE OF PERFORMANCE

Carlos Circle Drainage Improvements

This EXHIBIT “C” establishes times of completion for the various phases and tasks required to provide and perform the services and work set forth in EXHIBIT "A" of this Agreement. The times and schedule of performance set forth hereinafter is established pursuant to this Agreement.

Phase and/or Task Reference As Enumerated in EXHIBIT “A”	NAME OR TITLE Of Phase and/Task	Number Of Calendar Days For Completion Of Each Phase And/or Task	Cumulative Number Of Calendar Days For Completion From Date of Notice to Proceed
1	Evaluation	30	30
2	Final Design & Permitting	150	180
4	Construction Phase Services	150	330

EXHIBIT D

Date: 8/13/2024

CONSULTANT'S ASSOCIATED SUB-CONSULTANT(S) AND SUBCONTRACTOR(S)

Carlos Circle Drainage Improvements

CONSULTANT has identified the following Sub-Consultant(s) and/or Subcontractor(s) which may be engaged to assist the CONSULTANT in providing and performing services and work on this Project:
(If none, enter the word "none" in the space below.)

Service and/or Work to be Provided or Performed	Name and Address of Individual or Firm				Sub-Consultant Services are Exempted from Prime Consultant's Insurance Coverage	
					Yes	No
Subsurface Utility Exploration	To Be Determined					

Price Proposal

Carlos Circle Drainage Improvements

Improvements to alleviate flooding

Submitted to: Town of Fort Myers Beach (Attn: Mark Ashton)

Contract Type: T&M

Labor Plan

14 Resources

Project Phases / Tasks	Total Labor Hrs	Sr Project Maanger (Eric Fey)	Engineer 3 (Drew Brady)	Sr GIS Application Developer (Betty Morris)	Sr CAD Designer 1 (Steve Cyr)	Sr Engineer 1 (Tim Vanderwalker)	Project Engineer 1 (Shannon Leicht)	Project Administrator (Jessi Zubaty)	Sr Construction Administrator (Bob Fergusan)	Project Manager 2 (Survey) (Eddie Jenkins)	Survey Tech 2 (Charles Woodard)	Survey Crew Chief (Tom Niarchos)	Engineer 3 (Jacob Thomas)	Project Engineer 1 (Tidus Madela)	Sr CAD Designer 2 (Brent Fox)
Bill Rate >		250.00	130.00	170.00	135.00	225.00	150.00	95.00	116.00	210.00	95.00	105.00	130.00	150.00	150.00
	857	181	204	-	130	39	44	39	80	14	20	20	34	12	40
Task 1 - Evaluation	**120**	**28**	**34**	**-**	**4**	**8**	**42**	**4**	**-**	**-**	**-**	**-**	**-**	**-**	**-**
Data Collection/Review	16	4	6	-		2	4								
Site Visit	16	8	8	-											
Calculations/Modeling	38	4		-		4	30								
Evaluation and Surcharge Review	18	4		-	4	2	8								
Easement Exploration Assistance	32	8	20	-				4							
Task 2 - Final Design & Permitting	**447**	**78**	**90**	**-**	**100**	**27**	**2**	**20**	**-**	**14**	**20**	**20**	**24**	**12**	**40**
Surveying	**86**	**4**	**4**	**-**	**24**	**-**	**-**	**-**	**-**	**14**	**20**	**20**	**-**	**-**	**-**
Field Surveying	70	2	4	-	16					8	20	20			
Subsurface Utility Exploration	1	1		-											
Sketch & Legal Description	15	1		-	8					6					
Final Design	**204**	**36**	**30**	**-**	**48**	**14**	**-**	**-**	**-**	**-**	**-**	**-**	**24**	**12**	**40**
Drawings	**166**	**22**	**24**	**-**	**48**	**4**	**-**	**-**	**-**	**-**	**-**	**-**	**24**	**4**	**40**
Civil Sheets (3)	96	20	24	-	48	4									
Structural Sheets (2)	70	2		-									24	4	40
QA/QC Reviews	26	8		-		10								8	
75% & 100% Review Meetings with TOWN	12	6	6	-											
Permitting	**157**	**38**	**56**	**-**	**28**	**13**	**2**	**20**	**-**	**-**	**-**	**-**	**-**	**-**	**-**
ERP Application Submittal	**73**	**20**	**28**	**-**	**12**	**3**	**2**	**8**	**-**	**-**	**-**	**-**	**-**	**-**	**-**
Application	21	4	8	-	4	1	2	2							
O&M Plan & Supporting Documents	52	16	20	-	8	2		6							
USACE Submittal	24	2	8	-	4	6		4							
Respond to RAIs (2 budgeted)	60	16	20	-	12	4		8							
Task 3 - Construction Phase Services	**290**	**75**	**80**	**-**	**26**	**4**	**-**	**15**	**80**	**-**	**-**	**-**	**10**	**-**	**-**
Prepare/Provide Drawings to Andrew Site Work	4	2		-	2										
Change Order Negotiation/Preparation	10	4	4	-				2							
Project Management as Extension of Staff	40	40		-											
Shop Drawing Review (10 est.)	42	4	20	-		4		4					10		
Respond to RFIs (3)	14	4	8	-				2							
Site Visits (5)	42	8	30	-				4							
RPR Services	80			-					80						
Substantial Completion Walkthrough	13	6	6	-				1							
Final Completion Walkthrough	8	4	4	-											
Record Drawing Preparation	23	1	2	-	20										
SFWMD & USACE Certifications	14	2	6	-	4			2							
Totals	**857**	**181**	**204**	**-**	**130**	**39**	**44**	**39**	**80**	**14**	**20**	**20**	**34**	**12**	**40**

Price Summary / Totals

Task Pricing Totals	145,990
Total Price	**145,990**

Pricing by Resource

	Labor	Subs	ODCs	Task Pricing Totals
	136,840	7,700	1,450	145,990
Task 1 - Evaluation	**20,440**	**-**	**-**	**20,440**
Data Collection/Review	2,830			2,830
Site Visit	3,040			3,040
Calculations/Modeling	6,400			6,400
Evaluation and Surcharge Review	3,190			3,190
Easement Exploration Assistance	4,980			4,980
Task 2 - Final Design & Permitting	**70,835**	**7,700**	**450**	**78,985**
Surveying	**11,700**	**7,700**	**450**	**19,850**
Field Surveying	8,860		400	9,260
Subsurface Utility Exploration	250	7,700	50	8,000
Sketch & Legal Description	2,590			2,590
Final Design	**33,450**	**-**	**-**	**33,450**
Drawings	**25,720**	**-**	**-**	**25,720**
Civil Sheets (3)	15,500			15,500
Structural Sheets (2)	10,220			10,220
QA/QC Reviews	5,450			5,450
75% & 100% Review Meetings with TOWN	2,280			2,280
Permitting	**25,685**	**-**	**-**	**25,685**
ERP Application Submittal	**11,995**	**-**	**-**	**11,995**
Application	3,295			3,295
O&M Plan & Supporting Documents	8,700			8,700
USACE Submittal	3,810			3,810
Respond to RAIs (2 budgeted)	9,880			9,880
Task 3 - Construction Phase Services	**45,565**	**-**	**1,000**	**46,565**
Prepare/Provide Drawings to Andrew Site Work	770			770
Change Order Negotiation/Preparation	1,710			1,710
Project Management as Extension of Staff	10,000			10,000
Shop Drawing Review (10 est.)	6,180			6,180
Respond to RFIs (3)	2,230			2,230
Site Visits (5)	6,280		$1,000	7,280
RPR Services	9,280			9,280
Substantial Completion Walkthrough	2,375			2,375
Final Completion Walkthrough	1,520			1,520
Record Drawing Preparation	3,210			3,210
SFWMD & USACE Certifications	2,010			2,010
Totals	**136,840**	**7,700**	**1,450**	**145,990**

Town of Fort Myers Beach
Agenda Item Summary

Blue Sheet Number: **2024-238**

1. **Request:**

Meeting Date: September 9, 2024

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, APPROVING THE EMERGENCY ACCEPTANCE AND PURCHASE BY THE TOWN MANAGER OF SERVICES FROM GENERAL ELEVATOR SOLUTIONS IN THE AMOUNT OF $139,553.00 FOR THE COMPLETION OF A HYDRAULIC ELEVATOR MODERNIZATION FOR THE NEW TOWN HALL BUILDING; AND PROVIDING AN EFFECTIVE DATE.

Why the action is necessary:

An emergency purchase in this amount is required to be approved by the Town Council in accordance with the Town's purchasing policies. This elevator is a critical component in ensuring accessibility within our new Town Hall building.

What the action accomplishes:

Authorizes the acceptance of the elevator repair proposal and allows for staff to coordinate required elevator repairs as quickly as possible

2. **Agenda:**

ADMINISTRATIVE AGENDA

3. **Requirement/Purpose:**

4. **Submitter of Information:**

Frankie Kropacek, Operations & Compliance Director

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5. **Background:**

The purchase of the new Town Hall building at 6231 Estero Boulevard is complete and staff are working diligently to prepare the building for Town Hall operations as quickly as possible.

Elevator repairs and lead times have been historically delayed since Hurricane Ian, and the Town has found a vendor willing to perform the required elevator repair services to the existing elevator within a reasonable timeframe. These repairs will assist in ensuring the Town Hall is ADA accessible and available for employees and visitors use as needed and will keep the Town on track for opening as soon as possible.

Attachments:

1. 24-179, Emergency Town Hall Elevator Repairs
2. General Elevator Solutions Town Hall Proposal

Financial Impact:

$139,553.00

6. **Alternative Action**

Do not approve and seek alternatives.

7. **Management Recommendations:**

Authorize the emergency purchase and allow for the scheduling of elevator repairs.

8. **Recommended Approval:**

Jason Freeman, Legislative Liaison / Deputy Town Clerk	Created/Initiated - 9/4/2024
Frankie Kropacek, Operations & Compliance Director	Approved - 9/4/2024

nancy stuparich, Town Attorney	Approved - 9/4/2024
Amy Baker, Town Clerk	Approved - 9/4/2024
Andy Hyatt, Town Manager	Final Approval - 9/4/2024

RESOLUTION NUMBER 24-179

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, APPROVING THE EMERGENCY ACCEPTANCE AND PURCHASE BY THE TOWN MANAGER OF SERVICES FROM GENERAL ELEVATOR SOLUTIONS IN THE AMOUNT OF $139,553.00 FOR THE COMPLETION OF A HYDRAULIC ELEVATOR MODERNIZATION FOR THE NEW TOWN HALL BUILDING; AND PROVIDING 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 ("Town") 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 purchased and closed on the property at 6231 Estero Boulevard to be used as the new Town Hall location; and

WHEREAS, Section 2-480(d)(1) of the Fort Myers Beach Code of Ordinances authorizes the Town Manager to make emergency purchases of services when there exists a threat to the health, welfare or safety of the public, provided that such emergency purchases are made with such competition as is practicable under the circumstances; and

WHEREAS, the elevator in the existing building is not functional and currently limits accessibility and elevator repair lead times are acknowledged to be longer after Hurricane Ian; and

WHEREAS, the General Elevator Solutions has committed to repairing and returning the elevator to functionality within a reasonable timeframe to assist in accessibility to the future Town Hall offices; and

WHEREAS, Town Manager has certified the need for an emergency purchase of the needed services and authorized repairs to the elevator on an emergency basis to be performed by General Elevator Solutions, which were to be completed as part of the attached proposal obtained by the Town; and

WHEREAS, Section 2-480(d)(2) requires the Town Manager to submit any emergency purchase in excess of $25,000.00 to the town attorney for review and to the Town Council for approval and ratification, as soon as practicable after the purchase.

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

Section 1. The above recitals are true and correct and are hereby incorporated by reference as though fully set forth herein and are hereby adopted as the legislative and administrative findings of the Town Council.

Section 2. This Resolution approves the emergency purchase authorized by the Town Manager in the amount of $139,553.00 for the hydraulic elevator modernization performed by General Elevator Modernization.

Section 3. This resolution shall take effect immediately upon its adoption by the Town Council of the Town of Fort Myers Beach.

The foregoing Resolution was adopted by the Town Council upon a motion by _____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 9th day of September 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, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this ___ day September 2024.

General Elevator Solutions

HYDRAULIC ELEVATOR MODERNIZATION

August 27, 2024

Town of Fort Myers Beach Town Hall

6231 Estero Boulevard
Fort Myers Beach, Florida 33931

PREPARED FOR:

Frankie Kropacek
Operations Director
Town of Fort Myers Beach
6231 Estero Boulevard
Fort Myers Beach, Florida 33931
Phone: 239-955-3612
E-mail: fkropacek@fmbgov.com

PREPARED BY:

Allen Dennison
Phone: 239-257-0074
Cell: 239-443-6530
E-mail: allen.dennison@generalelevatorfl.com

SCOPE OF WORK

One (1) Hydraulic Passenger Elevator

As requested, GENERAL ELEVATOR SOLUTIONS, LLC (hereinafter **G.E.S.**) propose the following elevator modernization for the elevator(s) at the Town of Fort Myers Beach Town Hall

HYDRAULIC ELEVATOR MODERNIZATION SPECIFICATIONS

GENERAL: This section covers the fabrication, furnishing and installation of related items covered by specifications hereinafter for the elevator and complies with the ASME A17.1 Code for which it was installed.

Capacity:	2100	Pounds
Speed:	150	Feet Per Minute
Landings:	3	
Front Openings:	3	
Rear Openings:	0	
Travel:	23	In Feet
Power Supply	208 volts, 3 phase	
State Serial Number(s):	92719	

Remove the existing obsolete Controls and install new Microcomputer Solid State Controls. Installation includes new hoistway, machine room and car wiring.

ENGINEERING DESIGN: All new material furnished will be specifically designated to operate with the original equipment being retained, thus assuring maximum performance and eliminating any divided responsibility

NEW ELEVATOR CONTROL SYSTEM: We will provide new microprocessor elevator controller enclosed in a metal box with a hinged or screw cover and protected against dirt and all of the functions of safe elevator motion and elevator door control. The controller cabinet containing memory equipment shall be properly shielded from line pollution. Microcomputer system shall be designed to accept reprogramming with minimum system down time. This shall include all of the hardware required to connect, transfer and interrupt power, and protect the motor against overloading.

Model: Third Party Non-Proprietary Hydraulic Controller.

- Control parameter stored permanently on erasable programmable read-only memories (EPROM)
- Fire Service Phase I and II features
- Field replacement computer output devices
- Motor/Valve protection
- Hoistway Landing System for Positioning and Leveling Elevator
- Solid State Starter
- Battery Lowering

EMERGENCY FIRE SERVICE OPERATION: The elevator contractor shall provide contacts on the elevator controller to receive signals from the Fire recall system. Special Emergency Service Phase I to return the elevator non-stop to a designated floor shall be initiated by a fire alarm initiating device system or a key switch provided in a lobby fixture. Special Emergency Service Phase II key switch in the car shall be provided for in-car control of each elevator.

The Fire Recall System is to be provided by others. (SEE WORK BY OTHERS)

CAB INTERIOR: New seven (7) panel raised design with stainless steel reveals, new hand rails, stainless steel pan ceiling with LED downlighting, waterproof LVT flooring and new protective pads with hooks. *Customer will choose color scheme and final design. $15,000.00 allowance included in total cost.*

CAR OPERATING STATION: Remove existing car operating panel and install with new panel located at handicap height, which complies with all current code requirements. The new panel will contain all necessary pushbuttons and key switches. Pushbuttons will be stainless steel with LED illumination.

EMERGENCY VIDEO MONITORING: A camera will be integrated into the car operating station. When the emergency button is pressed video will actuate allowing emergency response visual of the elevator cab interior and passengers.

EMERGENCY CAR LIGHTING: Backup emergency power, by a 12-volt sealed rechargeable battery will be provided that shall illuminate the elevator car station and provide current to the alarm bell in the event of a normal power failure.

CAR POSITION INDICATOR: A car position indicator shall be installed. The position of the car in the hoist way shall be shown by illumination of the indication corresponding to the landing at which the car is stopped or passing.

AUDIBLE SIGNAL (INDICATED PASSING OR STOPPING AT LANDING): An audible signal shall sound in the car to tell passengers that the car is either stopping or passing a landing served by the elevator.

HANDICAPPED MARKINGS (BRAILLE): Raised markings shall be furnished for the car buttons and car controls in compliance with the latest revision of the ANSI/ASME Handicapped requirements. Braille plates will also be installed on hoist way entrance jambs.

"IN CAR" DIRECTION LANTERNS: Install a new in car direction indicator lantern system in the cab visible for hall pushbuttons

CAR TOP INSPECTION STATION: Install new car top inspection station, which contains the new code required control functions.

HALL STATIONS: New first floor hall pushbutton fixture at handicap code height will contain the new fireman's service key switch. When a call is registered by momentary pressure on a landing button, that button shall become illuminated and remain illuminated until the car is answered. A light, buzzer and key switch to monitor the elevator phone line. All other hall stations will be new and contain a car position.The position of the car in the hoist way shall be shown by illumination of the indication corresponding to the landing at which the car is stopped or passing. Pushbuttons will be stainless steel with LED illumination. Engraved "In Case of Fire" pictograph included on each fixture.

PHONE LINE MONITOR: Electronic monitoring system that will test the phone line at least once daily and give notification upon line failure.

DOORS: Furnish and install three (3) new brushed #4 stainless steel hall doors and one (1) new brushed #4 stainless steel cab door.

ENTRANCE JAMBS: Clad existing jambs at each landing in new #4 stainless steel.

DOOR EQUIPMENT: Furnish and install on the elevator, a new heavy duty door operator package complete with heavy duty motorized door operator, car door zone lock clutch, new double roller pick-up assemblies, reel closures, door rollers, door gibs and interlock contacts. ***This new door operator package will increase door efficiency and durability.***

DOOR SCAN: The system features a unique beam array and separate receiver array with a very narrow depth that allows it to fit every door configuration...including jambs of side opening doors. The curtain consists of 64 invisible light beams rising to a height of 64 inches. Thus, full protection "to obstructions of a size relating to body dimensions,

or those appliances relating to impaired mobility in the path of the closing door(s)" will be detected by the Micro-Scan Curtain Unit and in turn the door(s) will either reopen or remain open until the beams are clear.

PUMP UNIT: Furnish and install new submersible type hydraulic pump unit assembly in the elevator machine room. A new hydraulic control valve will be mounted above the new pump/motor assembly, which will be submerged in a heavy-duty oil reservoir. New oil line piping as needed and fully replace hydraulic oil.

HYDRAULIC JACK*: Furnish and install new cylinder encased in PVC, cylinder head, piston, pit channels and buffers.

ROLLER GUIDES: Furnish and install new Elsco model B guide assemblies and rollers.

MISCELLANIOUS: Scrape and paint pit metal. Clean and paint pit floor. Paint machine room floor. Furnish and install new car top vent fan. Furnish and install new pit ladder.

PERMITS AND INSPECTIONS: The elevator contractor shall furnish all licenses and permits and shall arrange for and make all inspections and test required thereby. If re-inspection(s) is/are required due to non-functioning of fire alarm initiating device(s), work by others, violations that are the responsibility of the owner, or any factor not caused by, or outside of the responsibility of G.E.S. as outlined in this agreement, such inspection(s) shall be the sole responsibility of the building owner and/or its representative, and will be billed separately from this agreement.

Replacement of hydraulic jack involves drilling underground sight unseen. Additional work may be necessary to remove foreign material and plumb jack. If necessary, a separate proposal for additional time and material will be presented

WORK BY OTHERS:

Electrician: To add an auxiliary contact to the disconnect for interface to the battery lowering device and to check for correct main line fuses for 3 phase power at the disconnect switch. To install 110vac disconnect for elevator cab/fan lighting.

Fire Alarm: This will include, but is not limited to, installing one (1) smoke detector or fire alarm initiating device at all lobby landings and one (1) smoke detector in the machine room for phase one recall (per ANSI A17.1 Section 2.27)

NOTE: G.E.S. will not schedule its work to begin until customer has scheduled with Fire Alarm Initiating Device Company to complete any and all work on fire alarm initiating device system. In the event that the fire alarm initiating device system work is not completed at time of first inspection, customer will be entirely responsible for cost of re-inspection(s) once work is completed.

Lead Time: Approximately 24 weeks after the signed approval are received back in our office.

Estimated Installation Time: Eighteen (18) business days.

TERMS AND CONDITIONS

TERMS: See Project Payment Schedule below

This proposal is valid for **(90) ninety days** and subject to the following terms and conditions and the purchaser's acceptance of this proposal. This contract upon its approval by an executive officer of G.E.S. will constitute exclusively the agreement for the work herein described. No changes in or additions to this agreement will be recognized unless otherwise made in writing and properly executed by both parties. This proposal specifically contemplates work outside the scope of any maintenance contract currently in effect between the parties as related to this equipment, and any such contract shall be unaffected by this proposal.

GENERAL CONDITIONS: All work is to be performed during regular working hours and days of the elevator trade, 8:00 a.m. - 4:30 p.m. Monday – Friday. Purchaser shall pay; in addition to the price stated, any taxes or fees imposed on or after the date this proposal was submitted.

Necessary electric power for lights, tools, etc. during the subject work will be provided by others. Purchaser agrees to provide a safe workplace for our personnel, and to remove any hazardous materials in accordance with applicable laws and regulations. Removal of all existing elevator equipment becomes the property of G.E.S.

Owner to provide suitable machine room including proper size disconnect switches, secured doors, waterproofing, lighting, ventilation, heat or air to maintain the room at a temperature of 50 degrees F to 90 degrees F maximum.

No work, service or liability on the part of G.E.S., other than specifically mentioned herein is included or intended. G.E.S. does not assume control, possession or management of any part of the elevator equipment. This will remain Purchaser's exclusive responsibility as the owner, lessee, or agent of the owner or lessee. Purchaser is solely responsible for all requirements imposed by a federal, state or local law, ordinances, code requirements or regulation.

In the performance of any tests that are included in this Agreement, Purchaser understands that the test imposed upon the equipment greater strains than those arising from normal operation. Therefore, it is agreed that in making such tests, G.E.S. shall not be liable for leakage, loss, damage, injury or destruction of persons or property, except those of G.E.S. because of the action or failure of any of these devices. If repairs are necessary before or after such test to meet code or performance requirements, such work shall be considered as an extra to this Agreement and payable as a separate order.

Purchaser agrees to provide G.E.S. unrestricted access to all areas of the building in which any part of the elevators is located and to keep machine rooms and pit areas free from water, stored materials, and excessive debris and to indemnify and hold us harmless from any damage to any or all of our material or work on the premises caused by fire, theft or otherwise unless such damage be occasioned by us or those in our employment.

G.E.S. shall not be liable for any loss, damage or detention or delay cause by accidents, strikes, lockouts, material shortages, or by any other cause which is beyond its control, or in any event, for any incidental or consequential damages or any kind regardless of cause.

PAYMENTS: Payments are to be made in full upon completion unless otherwise agreed. We reserve the right to discontinue our work at any time until payments shall have been made as agreed and we have assurance satisfactory to us that the subsequent payments will be made as they fall due.

It is agreed that we retain title to and possession of all machinery, implements, apparatus and property of every kind provided by us under this proposal until final cash payment has been made. G.E.S. reserves the right to remove any part or the whole of whatever has been installed by us while there is default of payment of any installment hereunder.

GUARANTEE: Every part of the equipment provided by us will be installed in a workmanlike and substantial manner and is guaranteed to be free from defects in material and workmanship for one (1) year from the date of final acceptance of the installation.

PROJECT PAYMENT SCHEDULE

Draw #1	Due upon Acceptance	35%	$48,843.55
Draw #2	Due upon Material Delivered to Job Site	35%	$48,843.55
Draw #3	Due upon completion of 1st elevator	20%	$27,910.60
Draw #4	Due upon Job Final Acceptance	10%	$13,955.30

Total Price 1 Car(s)..... $139,553.00

One Hundred Thirty-Nine Thousand Five Hundred Fifty-Three Dollars and 00/100

CUSTOMER ACCEPTANCE:

The foregoing proposal and contract is hereby accepted and signed in duplicate.

Approved on _____, 2024

Firm: _____

By: _____

Signature: _____

ACCEPTED FOR: GENERAL ELEVATOR SOLUTIONS, LLC

By: _____

Title: _____

Date: _____, 2024

The following is a list of common elevator inspection items which are the responsibility of the building owner/contractor. This must be completed by the building owner prior to the scheduling elevator work. This list is only intended as a guideline for the owner/contractor based upon our experience with state inspectors and knowledge of the applicable code. It is not an official document and does not in any way change requirements defined elsewhere.

1. GFCI duplex outlets in the machine room and pit.
2. Install proper machine room lighting.
3. Separate outlet for sump pump in pit (if a sump pump is already present).
4. Sump pump may not drain into the sewer system.
5. Install proper pit lighting. Two vapor proof fixtures are required.
6. Provide a Class ABC fire extinguisher, to be located within reach of machine room doorway.
7. Remove all foreign pipes, wiring, material, etc. from the machine room. Only elevator related equipment is allowed.
8. 120v cab light disconnect adjacent to the main line disconnect on the opening side of the machine room door.
9. Main line disconnect shall have means to be locked in the "OFF" position and cover may not be opened while in the "ON" position. Dual element slow blow fuses and rejection pins are required by the national electrical code. Disconnect must have an auxiliary contact to disconnect the battery lowering device if such rescue device is being installed.
10. A proper earth ground must be installed for proper grounding of the new equipment.
11. Install smoke and heat sensors per code. Supervisory panel may not be located in the machine room. Provide dry contacts closer from all three zones from the device to inside or adjacent to the elevator controller. Each elevator opening must have an automatic means of fire detection. Local Authority Having Jurisdiction (AHJ) will have final code interpretation. (Have your alarm company speak with us before they give you a quote).
12. Provide proper clear, safe access to the machine room.
13. Contract qualified third party for service and monitoring of in cab emergency video.
14. Machine room door must be a 1 ½ fire rated door that is self-closing and self-locking.
15. Provide HVAC per code in machine room.

Customer Acknowledgement:

Signature:_____

Date: _____

Town of Fort Myers Beach
Agenda Item Summary

Blue Sheet Number: **2024-231**

1. **Request:**

Meeting Date: September 9, 2024

Requesting approval of a special event permit for the Revive The Vibe Fest 2024 on Saturday, September 14, 2024. Requesting approval to close First through Third Streets off of Old San Carlos Blvd, allowing for open containers and allowing amplified sound, contingent upon approval of the Lee County Sheriffs Office and FMB Fire District.

Why the action is necessary:

Applicant is asking for a waiver of Open Container and Noise

What the action accomplishes:

Allows the event to take place.

2. **Agenda:**	3. **Requirement/Purpose:**	4. **Submitter of Information:**
ADMINISTRATIVE AGENDA	Other	Frankie Kropacek, Operations & Compliance Director

5. **Background:**

Revive The Vibe is an annual festival held on Fort Myers Beach. A day to bring the community together, showing support for local businesses, musicians, and all who love Fort Myers Beach, displaying its vibrance to those near and far. Our small town's larger than-life character deserves to be appreciated. This year's celebration will be held with all-day music on two stages featuring local musicians, a VIP tent with food and drinks, a vendor market, and a premier live theatre performance of The Wizard of Oz; Theatre Under the Sun. The festival showcases Fort Myers Beach and nearby restaurants and bars as a boost to visitation to the island and to show locals and vacationers that their favorite places and local talent are here ready to welcome the public. We are seeking to erect two stages - one in Bayside Park and one in Moss Marina for live music. Theatre Performance will run at Moss Marina stage from 10:00am-1:00pm Music will run on the stage at Moss Marina from 2:00pm-10:00 pm Music will run on the stage at Bayside park from 11:00am-8:00pm (sunset) Vendors can begin setting up their booths at 7:00 a.m. and must be ready by 10:00am an hour before the public, when the gates open at 11:00 a.m. Vendors located in the parking spots on Old San Carlos Blvd will be required to break down at 8:00pm followed by removal of booths and clean up. Local venues such as Wahoo Willie's, Snug Harbour and Nervous Nellies will remain serving until their scheduled closing hours. Food trucks and vendors located inside Moss Marina will not be permitted to breakdown until after 10pm when it becomes safe to do so, and public foot traffic has left the area and it is safe to do so

Attachments:

1. 22086548-FMB Revival - Special Event Application 2024
2. 22154042-FMBR Letter of Permission - Moss Marina
3. 22086551-FMBR Letter of Permission - Nervous Nellies & Wahoo
4. 22086550-FMB Revival Attachment A
5. 22086550-FMB Revival Attachment A
6. 22086549-FMBR Letter of Permission - Shipwreck
7. 22086547-FMBR Letter of Permission - Marina Village Condos
8. 22086546-Town of FMB - Insurance FMB Revival 2
9. 22086537-500ft Letter - Revive The Vibe 2024
10. 22090395-variancelabels
11. 22086536-RTV 2024 Map.zip - 3

Financial Impact:

6. **Alternative Action**
Do not approve the Special Event permit

7. **Management Recommendations:**
Approve the permit

8. **Recommended Approval:**

Patty Prevost, Senior Administrative Assistant	Created/Initiated - 9/4/2024
nancy stuparich, Town Attorney	Approved - 9/4/2024
Amy Baker, Town Clerk	Approved - 9/4/2024
Andy Hyatt, Town Manager	Final Approval - 9/4/2024

Town of Fort Myers Beach
Special Event Application Checklist

2525 Estero Boulevard, Fort Myers Beach, Florida 33931
Tel: (239) 765-0202 ext. 1303 * Email: Specialevents@fmbgov.com

- ☐ All necessary department approvals – an application is not considered completed until all approvals have been turned in to Town Hall.
- ☐ Detailed description of entire event including set up and breakdown
- ☐ Liability Insurance ($1 million each occurrence and $2 million general aggregate) naming the Town of Fort Myers Beach as certificate holder
- ☐ Site plan – marked off with placement of objects (chairs, tables, tents, etc.)
- ☐ Parking Plan – if applicable
- ☐ A copy of the 500 foot notification letter for any amplification along with the mailing list
- ☐ Letters of permission if using someone else's property for event.
- ☐ A **completed** application is to be turned in 45 days **prior** to the event or a $5.00 per day cost will be added to the permit cost.
- ☐ If Town Council action is required the **completed** application must be turned in 60 days prior to the event in order to get put on the Council agenda to be brought forth to Council, also any application turned in after the 60 days a 10% additional charge to the permit will be added.

Town of Fort Myers Beach

2525 Estero Boulevard, Fort Myers Beach, Florida 33931
Tel: (239) 765-0202 Email: Specialevents@fmbgov.com

Name of event Revive The Vibe Festival 2024
Attach separate sheet of paper with detailed description of event

Date(s) and times of event September 14th 2024 – 11am–10pm

Address of event Old San Carlos Blvd, Between 1st and 3rd St

Expected # of participants/attendees 3000

Sponsoring Organization Fort Myers Beach Revival

Organization address 15961 McGregor Blvd, St 1, Fort Myers, Florida, 33908

Contact Person/Phone# Zoe Wright 239-666-4043

E-mail fmbrevival@gmail.com

Amplified Music Y [Y] N [ ] 500 Ft Notifications Y Copy of Letter Y

Renting Town Property Y [Y] N [ ] Renting Parking Spaces Y [ ] N [N]

How many Spaces? 0 How many hours _____

Extension of Premises? Y [ ] N [N] ABT Form _____ How many days? 1 (Over 3 days needs to go to Council)

Letters of Permission to use Property Y

Letters of Permission to use Parking N/A Parking Plan Attached see map

Site Plan Y Insurance Y (Naming Town of FMB as Certificate Holder)

Requesting Water Y [Y] N [ ] Electric Y [Y] N [ ]

Requires Council Approval:
Waiver of open container Y [Y] N [ ] Waiver of Town parking fees Y [Y] N [ ]

Waiver of Noise Ordinance Y [Y] N [ ] Recurring Event Y [Y] N [ ]

Applicant Signature Zoe Wright

Printed Name Zoë Wright

This permit is subject to the applicant meeting all requirements contained in Fort Myers Beach Code of Ordinance Book Part 2 Chapter 22 and in compliance with all items in the special event application.

Applicant to Complete:

Company managing trash removal: _____

No. of dumpsters: 1 **Type of dumpsters:** Dumpster Trailer

Who is responsible for clean-up and payment: _____

_____

City right-of-way Parking Use: _____ **Number of spaces:** _____

To be completed by Town Hall employees:

FMB Public Works:

Public Works remarks: _____

_____

_____

Approval: _____ **Date:** _____

FMB Environment Science: Tel (239)765-0202

FMB Environmental Sciences remarks: _____

_____

Approval: _____ **Date:** _____

Please forward the completed application and site plan along with the individual approval request to each identified agency below. Once complete return all to our office.

Florida DEP: DEP now provides an online application process for minor event approval

Self Certification for CCCL Permit Guidance Document: http://www.dep.state.fl.us/beaches/

FOR MAJOR EVENTS ONLY CONTACT

Kelly Cramer **Tel (239)770-7502 Fax(850)412-0590**
Email: kelly.cramer@floridadep.gov

Florida DEP remarks: _____

_____

_____

Check list: Application _____ **Site Plan** _____ **Description** _____

Florida DEP approval: _____ **Date:** _____

Turtle Time Inc.: Eve Haverfield **Tel (239)481-5566 eve@turtletime.org**

Turtle Season is May 1 through October 31

Turtle Time remarks: _____

_____

Turtle Time approval: _____ **Date:** _____

FORT MYERS BEACH FIRE DEPT
100 Voorhis Street · Fort Myers Beach, Florida 33931 **Tel (239) 590-4210**

Fire Guards: (how many?) _____

Fee: _____

Flammable Vegetation: _____

First Aid Equipment: _____

Fire Extinguishing Equipment: _____

Special Arrangements: _____

_____

_____ _____ _____
Print Name **Approval Signature** **Date**

prevention@fmbfire.org – **For Fire Department Handbook and additional application.**

LEE COUNTY SHERIFF'S DEPT **Tel (239)477-1830 Fax (239)432-0268**
15650 Pine Ridge Road, Fort Myers, FL 33908

Parking: _____

Deputies (how many?)_____

Traffic Control: _____

_____

Fees: _____

Special Arrangements: _____

_____

_____

_____ _____ _____
Print Name **Approval Signature** **Date**

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

Special Events Application and Guidebook

Event Type:

	Small Outdoor/Indoor Event	✔	Large Outdoor/Indoor Event		Firework Display

Date of Application: 07/19/2024	Date of Event: 09/28/2024	
Location: Old San Carlos Blvd, 1st - 3rd St		
Event Start Date/Time: 11am	Event End Date/Time: 8pm	
Setup Date: Sept 14th	Setup Time: 7:00am	Inspection Time:
Event Sponsor: FMB Revival		
Sponsor Contact: Zoë Wright	Sponsor Phone #: 239-666-4043	Sponsor Email: fmbrevival@gmail.com
Anticipated Number of Attendees: 3000	Anticipated Number of Event Workers: 50	
Will there be carnival or mechanical rides: No	Number of Stages: 2	
Total Number of Vendors: 40	Total Number of Hot Food Vendors: 10	
Number of Tents larger than 20 x 20: 2	Number of 10 x 10 Tents: 30	

Every vendor with a booth will receive a fire inspection and is responsible for paying an inspection fee. Please list the contact information for the responsible party below.

Zoë Wright

Please Note: If the event sponsor elects not to pay the vendor's inspection fee, a list of vendors, with full contact information, must be provided to the Fort Myers Beach Fire District. This information shall include contact name, number, and e-mail. All inspection fees will be due at time of service, and must be paid prior to release of any approvals.

Event applications submitted less than thirty (30) days prior to the event will be subject to additional fees. An expedited review may be requested and will be based upon availability, additional fees will apply.

Applications shall include the following:

1. A legible site plan to include proposed layout of the event; fire hydrant locations; fire/emergency access; and distances to any structures.
2. A life safety evaluation may be required based on the size of the event in accordance with the fire code.
3. All vendors should review FMBFD guidelines, on our website at www.FMBFirefl.gov
4. Failure to comply with requirements of the FMBFD may result in additional fees and/or shutdown of the vendor(s).

Zoë Wright
Submitting Party Name (Print)

Zoe Wright
Submitting Party Name (Sign)

Date:

OUTDOOR FESTIVAL and SPECIAL EVENT GUIDEBOOK

The purpose of this guidebook is to establish responsibilities for event promoters, sponsors, and vendors.

Event Sponsor: The Event Sponsor assumes overall responsibility for overseeing the setup and activities of the event, and ensures compliance with all applicable fire and life safety codes.

The Event Sponsor shall:

1. Ensure completion and approval of all required permits from the Fort Myers Beach Fire District, Town of Fort Myers Beach and/or Lee County.
2. Provide a site plan to the FMBFD with the following information:
    a. Name of all streets and areas that are included in the event.
    b. Location(s) of fire lanes (minimum 20 feet) width.
    c. Location of all stages, non-food booth vendors, food vendors, and all displays. Provide details for cooking operations and displays that use heat-producing appliances.
    d. Identify all emergency exits.
    e. Identify any fire hydrants that are in the vicinity of the event.
    f. A list of all food vendors with the type of food and cooking method is required.
    g. Event Sponsor is responsible for distributing a copy of the Fire District's requirements to the hot food vendors.
    h. Event radios (if used) shall be provided with a list of assigned channels.
    i. **PARADE FLOATS:** Refer to float inspection/checklist provided on page 6 of this document.

Event Vendors: Event Vendors are responsible for the safe operation of their booth, display and/or attraction. All vendors shall coordinate with the Event Sponsor on the event setup, take down times, and ensure their setup complies with the following:

1. Fire lanes, fire department connections, and building access is clear and unobstructed.
2. Be prepared, at any time, for a fire inspection and correct any cited deficiencies prior to event start time.
3. Shall ensure all fire and life safety code requirements are maintained for the duration of the event.

Fire Department Special Event Staff: FMBFD staff will conduct an inspection on the special event prior to the scheduled start day and time. If required, correction notices shall be issued and a follow-up inspection will be required prior to opening. Fire inspections will include, but is not limited to, the following:

1. Hot food vendors – cooking operations, setup, extinguishing systems, fire extinguishers.
2. Fire Department Access – minimum 20 foot width; vertical clearance of 13.5 foot.
3. Access to fire hydrants, fire department connections, fire alarm panels, and command centers.
4. Event egress – accessible exits, required signage.
5. Rides and displays – inspect for safety and proper state certification tags.
6. Generators and propane tanks – location of fuel, stable base provided.
7. Stages – location of stage setup, extension cords used, fire extinguisher provided.
8. Non-Food vendors – setup, required fire extinguisher provided operations.
9. Beer and wine gardens – setup, exits marked, required fire extinguisher provided.
10. Pyrotechnic displays and open flame effects. **REQUIRES SEPARATE PERMIT –** Refer to permit application/checklist provided on page 8 of this document.

Pyrotechnic Displays and Open Flame Effects: Pyrotechnic displays require a separate permit from the FMBFD. Refer to permit application and checklist provided on page 7 of this document. The FMBFD shall review all open flame and theatrical flame effects. Open flame effects shall include, but are not limited to the following:

1. Fire dancing
2. Stage props and effects
3. Fire eating
4. Magic acts

Access for Fire Apparatus: During large events, it is important to maintain access points for apparatus. This includes not only fire trucks for suppression, but also other emergency vehicles including medical units. To ensure a safe event, all fire access requirements shall be enforced at all times.

Access through the event shall include the following:

1. A designated fire lane, no less than 20 feet wide with a vertical clearance of no less than 13.5 feet.
2. Access roads that exceed 150 feet with no exit, shall be provided with a means to turn around. A FMBFD representative shall approve all turning radiuses.
3. Any designated fire accesses shall be clearly identified with signage indicating "Fire Access – No Parking".

Access to Structures: Access to structures and walkways shall be provided as required by FMBFD. Identified access points shall be reviewed at the time of permit submittal and may vary depending on the building and the venue. Access to the following shall be required:

1. All exterior doors and openings
2. Fire control rooms
3. Fire pump rooms
4. Parking structures
5. Exterior utility distribution vaults

Access to Water Supplies: Event Sponsors, Vendors, and all other event staff shall be required to maintain a 15-foot clearance around all fire hydrants and other water supply connections. If a setup is found to be blocking access to water supplies the set-up shall be immediately relocated. Access to the following shall be maintained at all times:

1. Fire Hydrants
2. Fire Department Connections
3. Post indicator valves – fire backflows – OS&Y valves

Event Egress: This section shall apply to two (2) types of events:

1. Fenced events – commonly located in parks or other large open areas.
2. Blocked streets – commonly done at events where main streets and cross streets are closed.

Fenced Events: These events typically take place in a park or other large open area where the designated area for the event is closed off by temporary fencing.

1. The number of exits shall be in addition to what is defined as the main entrance of the event. Three (3) exits shall be provided when the site accommodates 1,000 to 3,000 attendees and four (4) exits shall be provided when the site accommodates more than 3,000 attendees.
2. Exits shall be spaced equally along the perimeter of the fence. The maximum travel distance between exits shall not exceed 400 feet of travel. Additional exits shall be added, if needed.
3. The width of exits on temporary fencing shall be no less than 48 inches or approximately one (1) panel width.
    A. A member of security shall staff every exit. The security provider shall be able to provide a gate assignment roster upon request.
4. Emergency exits shall be marked by one (1) of the following:
    A. Exit signs shall have a white background with contrasting red letters.
    B. Exit signs shall measure, at a minimum, 18 inches x 24 inches.
    C. Sign letters shall measure 12 inches in height.
    D. Signs shall be placed at the top center of exit panels.

Blocked Streets: Some events will require that main or cross streets be blocked from vehicular traffic. These types of closures shall account for fire and emergency vehicles and public egress.

1. Exits shall be located at each end of any street closure. Cross streets shall also have emergency exit access.
2. A fire lane, no less than 20 feet wide and no less than 13.5 feet high, shall be maintained as designed by FMBFD.

TENTS, CANOPIES and TEMPORARY MEMBRANE STRUCTURES

Tents and canopies used for occupancy and/or cooking operations are subject to a fire inspection.

Sources of Ignition: Smoking is prohibited in or around tents, canopies, and temporary membrane structures. "No Smoking" signs shall be clearly posted. Fireworks, open flames, and any other device that is capable of igniting combustible materials shall not be used in any area in or around tents, canopies, and temporary membrane structures as well as around any combustible material. **Propane heaters are not permitted inside any enclosed area.**

Applications for any tent, canopy, or temporary membrane structure shall include the following:

1. A site plan with the proposed location of the tent including measurements showing distances to surrounding buildings, and/or property lines. A minimum 20-foot separation and fire access is required.
2. Proposed floor plan of the tent, showing the location and number of exits, fire extinguishers, stages, seating arrangements, tables and, any other items.
3. Certificates of flame retardant shall be submitted with the application and should be the manufacturers' documentation attesting to the certification.
4. Any cooking and/or open flames.
5. Heaters and ventilation.
6. Items specific to the event should be included for review.

FMBFD MAY REQUEST APPLICANTS TO SUBMIT A LIFE SAFETY EVALUATION ALONG WITH A SPECIAL EVENT APPLICATION. Life Safety Evaluation:

1. Name of event, participants, and projected number of attendees.
2. Access and egress movement, including crowd density problems.
3. Medical emergency mitigation plan.
4. Fire hazards.
5. Permanent and temporary structural systems.
6. Severe weather mitigation plan.
7. Civil or other disturbances mitigation plan.
8. Mitigation plan for a hazardous material incident within or near the facility.
9. Relationships among facility management, event participants, emergency response agencies, and others that have a role in the events taking place in the facility.
10.

Please ensure that all items are addressed, any missing and/or incomplete evaluations will result in a delay and/or denial of the submitted application.

TENT INSPECTION CHECKLIST

☐	Fire extinguishers shall be provided by each vendor with a current state inspection tag from a licensed contractor. (Minimum size permitted is 2A:10BC). Operations conducting deep-frying shall have a K Class fire extinguisher with a current state inspection tag.
☐	Propane tanks shall be installed not less than 5 feet from tents, properly secured, and identified.
☐	"No Smoking" signs shall be clearly posted.
☐	Tents larger than 10x10 shall have the manufacturer's flame retardant tag affixed and visible.
☐	Cooking under tents will be permitted **ONLY** when a manufacturer's flame retardant tag is affixed to the tent, the tent is not enclosed (on any side), and only persons preparing food are permitted under the tent. Any size tent that fails to have the affixed flame retardant tag may not be used to cook under.
☐	Heavy duty grounded type only extension cords may be used. Wiring shall not be frayed, damaged, or spliced.
☐	Temporary lights or lamps may be used, but must be UL Listed. Wiring shall not be frayed, damaged, or spliced.
☐	Exit signs and/or emergency lights (if required) must be clearly visible.
☐	Occupant load sign (if required) must be clearly visible.
☐	Tents shall not obstruct any fire department access.

Please be advised that FMBFD inspects tents for the safety of all parties involved. These are minimum safety requirements and all parties must be in compliance.

HOT FOOD VENDOR REQUIREMENTS

The use of food booths or food trucks is regulated by FMBFD. These requirements shall apply to single vendors, freestanding booths, and food trucks. Cooking within tents containing seating is subject to additional requirements. All food vendors are subject to inspection prior to the start of the event. ***Failure to comply with the following regulations may result in closure until compliance is met.***

Flame Retardant Requirements: All sidewalls, drops, and tops of tents and canopies, shall be of flame resistant material or treated with a flame retardant application as recommended by the manufacturer.

Portable Fire Extinguishers: Each food booth shall have, at a minimum, one (1) – 2A:10BC fire extinguisher with a current state inspection tag from a licensed contractor. If there will be any deep fat frying or cooking that produces grease-laden vapors, a Class K fire extinguisher with a current state inspection tag from a licensed contractor, shall be provided in addition to the ABC type.

Vendor Location: Food booths shall have a clearance of at least 20 feet on two (2) sides. The booth shall not be located within 10 feet of any rides or devices. Cooking that produces sparks and/or grease-laden vapors shall not be conducted within 10 feet of a structure or combustible overhang.

Cooking Appliances: Any cooking appliance used shall be listed for its intended use.

1. Deep fat fryers are not permitted to be used under tents and shall be located at least 18 inches from the outside wall of the tent. If a fryer is to be used in conjunction with a Barbeque (BBQ), it shall be at least three (3) feet away from the BBQ. Use of fryers also requires a Class K fire extinguisher as outlined above.
2. BBQ's are not permitted to be used in food booths. In addition, any fuels are to be kept at least 10 feet away from any heat source. BBQ's that are in use shall be located at least 10 feet from a structure, combustible materials, and overhangs. BBQ's and other open flame devices located outside of a structure, shall be secured from falling and kept away from contact by the public.

Smoking: Smoking is prohibited at all times within food booths, or within 25 feet of any fuel source.

Generators: Generators shall be located a minimum of 20 feet from tents or canopies and isolated from the public by a means approved by the FMBFD.

1. Flammable liquid filled equipment shall not be used within temporary membrane structures, tents, or canopies.
2. Flammable and combustible liquids shall be stored outside and in approved/marked containers. Containers shall be located no less than 50 feet from temporary membrane structures, tents, or canopies.
3. Refueling shall be performed in an approved location not less than 20 feet from temporary membrane structures, tents, or canopies. **Refueling of hot generators is not permitted.**
4. A 2A:10BC fire extinguisher with a current state inspection tag is required for any operation with a generator.

Fuel: Fuel tanks (LPG) shall be stored outside of the structure. The tanks shall be secured (to prevent tipping) and located away from any public contact. The size of the tank is restricted to 25 pounds, unless prior approval is received from the FMBFD. Propane tanks, fittings, and hoses will be checked to ensure there are no leaks.

FLOAT INSPECTION CHECKLIST

It is recommended that owners and/or operators be advised of their compliance with these regulations.

☐	Exhaust pipes on vehicles shall not come in contact with anything flammable on floats.
☐	Exhaust pipes shall be kept clear allowing for proper ventilation of fumes and preventing a carbon monoxide hazard.
☐	All dried vegetation, or similar items being used shall be fire resistant or treated with fire retardant materials. Documentation shall be forwarded to FMBFD for review.
☐	No smoking is permitted on or around any floats.
☐	No re-fueling of generator while generator is running or hot.
☐	All generators shall be secured and provided with a shut-off switch that is easily visible and accessible.
☐	Gasoline containers shall be UL listed type safety cans.
☐	All pull behind trailers and floats shall be equipped with a 2A:10BC fire extinguisher with a current state inspection tag from a licensed contractor. The fire extinguisher shall be mounted so that it is visible and easily accessible.
☐	All seating shall be properly secured to float.
☐	Trailer hitches shall be secured in the locked position by a tie strap or bolt.
☐	Trailers must have safety chains attached to tow vehicle.
☐	All extension cords shall be listed and approved for outdoor use.

Please remember that this list is subject to change and additional fire and life safety requirements may be required.

PYROTECHNICS PERMIT APPLICATION

Please be advised that application must be filed at least 30 days prior to the scheduled event. All permit fees must be paid prior to approval. Permits are non-transferable.

Date of Application: _____

Sponsoring Organization: _____

Phone/Emergency Contact Number: _____

Applicant/Company Name: _____

Phone/Emergency Contact Number: _____

Name and Address of technician: _____

Name(s) of assistants: _____

A copy of the technician's driver's license must be included along with a resume and three (3) references. Please include a copy of all assistants' drivers' licenses indicating they are a minimum of 18 years of age.

Date, Time and expected length of show: _____

Location of Display: _____

(Attach aerial site map showing required fall out and safety zones)

DISCHARGE DETAILS: Displays are only permitted to be electronically fired. Please provide detail on quantity, size, type, number of bursts (single/multiple) as well as a description of the display in the space below:

QTY	Size	Type	# of burst	Description of Display

The following documents/information must be submitted along with completed application:

1. Event Itinerary
2. Security/Fire Watch Agreement (if required)
3. Coast Guard Application and Approval Letter (if required)
4. FAA Application and Approval Letter (if required)
5. Aerial Site Plan indicating minimum setbacks/required radius, per NFPA Standard

Notification shall be given prior to the Life Safety Division arriving at the site with transport vehicle. Final approval is subject to an onsite inspection. The FMBFD reserves the right to deny or revoke any permit for unsafe conditions, acts, or non-compliance with provisions of applicable standards. Shows may be cancelled or delayed based on changes in weather or other conditions as deemed necessary by the onsite Life Safety Division representative.

MEMORANDUM

Date: August 1st, 2024

From: Gary Foco

To: Town of Fort Myers Beach

RE: Permission to use property

Please be advised that the FMB Revival has my permission to use the parking lot on my property at 401 San Carlos Blvd, Fort Myers Beach, FL 33931, 939 Third St, Fort Myers Beach, FL 33931 and Moss Marina 450 Harbor Ct, Fort Myers Beach, FL 33931 for Revive the Vibe Fest on September 14th 2024.

Thank you,

FOCO, GARY

450 HARBOUR COURT,
FORT MYERS BEACH, FL
33931

MEMORANDUM

Date: August 1st, 2023

From: Peter Ennis

To: Town of Fort Myers Beach

RE: Permission to use property

Please be advised that the Fort Myers Beach Revival has my permission to use my property at Wahoo Willies located at 645 Old San Carlos Blvd, Fort Myers Beach, FL 33931 for Revive the Vibe Fest on September 28th 2023.

Thank you,

ENNIS, PETER

645 OLD SAN CARLOS BOULEVARD
FORT MYERS BEACH, FL 33931

Attachment A

EVENT: Fort Myers Beach Revival - Revive The Vibe Fest 2024

DATE: September 14th 2024

EVENT HOURS: 10:00am until 10:00pm
Bayside Park & Old San Carols Blvd 11:00am-8:00pm
Moss Marina 10:00am-10:00pm
(hours that local venues operate minus one hour to ensure guests leave the area in time for close and noise ordinance)

SET UP TIMES: Set up on Sept 14th from 7:00 a.m. until 9:00 a.m. (10:00am on Old San Carlos)
(all vendors, tents, stages, sound etc set one hour prior to guests arriving)

BREAKDOWN TIMES: 8:00pm on Old San Carlos (sunset) with lighting to ensure safety). with hopes to reopen the street by 11:00pm latest.
10:00pm at Moss Marina.

SET UP LOGISTICS: There will be one overall Leader for each volunteer group ie. Music, Restaurants, Merchandise, vendors, Sponsors, Trash, Bathrooms etc. with a team of at least 5 volunteers split into two shifts for each half of the day.

LOCATION: Old San Carlos Blvd. on Fort Myers Beach between First and Third Street hosting vendors and lifting open container in the street. Bayfront Park and Moss Marina will host two stages. The parking lots located at 401 Old San Carlos, 420 Old San Carlos and 939 Third st will be used for parking.

EVENT DESCRIPTION AND SCHEDULE:
Revive The Vibe is an annual festival held on Fort Myers Beach. A day to bring the community together, showing support for local businesses, musicians, and all who love Fort Myers Beach, displaying its vibrance to those near and far. Our small town's larger-than-life character deserves to be appreciated.

This year's celebration will be held with all-day music on two stages featuring local musicians, a VIP tent with food and drinks, a vendor market, and a premier live theatre performance of The Wizard of Oz; Theatre Under the Sun.

The festival showcases Fort Myers Beach and nearby restaurants and bars as a boost to visitation to the island and to show locals and vacationers that their favourite places and local talent are here ready to welcome the public.

We are seeking to erect two stages - one in Bayside Park and one in Moss Marina for live music.
Theatre Performance will run at Moss Marina stage from 10:00am-1:00pm
Music will run on the stage at Moss Marina from 2:00pm-10:00pm
Music will run on the stage at Bayside park from 11:00am-8:00pm (sunset)

Vendors can begin setting up their booths at 7:00 a.m. and must be ready by 10:00am an hour before the public, when the gates open at 11:00 a.m. Vendors located in the parking spots on Old San Carlos Blvd will be required to break down at 8:00pm followed by removal of booths and clean up. Local venues such as Wahoo Willie's, Snug Harbour and Nervous Nellies will remain serving until their scheduled closing hours. Food trucks and vendors located inside Moss Marina will not be permitted to breakdown until after 10pm when it becomes safe to do so, and public foot traffic has left the area and it is safe to do so.

SITE PLAN: See Attachment B.

EXPECTED ATTENDANCE: 4,000.

REQUEST TO USE RIGHT-OF-WAY: FMB Revival is requesting to use Old San Carlos Blvd. from Third Street to First Street and Bayfront Park.

VEHICLE PARKING MANAGEMENT: There are in excess of 800 public and private parking spaces within a five minute walk of the event. An additional 300 spaces are within a 10 minute walk oft the event. We also plan to use the parking lots at 420 Old San Carlos Blvd, 1011 Third St and 1039 Third St for parking,(two parking lots owned by Moss Marina (left) and John Richard (right) on the intersections of Third St and Old San Carlos Blvd) sectioned off from foot traffic.

TOWN PARKING: FMB Revival is requesting that the fees for town parking on Old San Carlos Blvd from Third to First St be waived for the day as we will be using/closing these spaces with our street closure plans.

TRASH MANAGEMENT: FMB Revival is requesting to use an FMB Town dump trailer for the event, placed inside Wahoo Willies/Marina Village Condo Building parking spaces (which we have permission for)
30 trash receptacles from Waste Management will be placed around the site. FMB Revival will have a trash team organized to empty all trash receptacles (including the town's) on an as-needed basis. In addition, the team will be picking up trash on the ground during and after the event.

REQUEST TO CLOSE STREETS: We request that Old San Carlos Blvd. be closed from Third Street to First Street and Bayside Park. The parking lot at 645 Old San Carlos Blvd will be accessible through Bonita Street and a blocked off section of Moss Marine for vehicle traffic only with foot traffic only.

TIME OF CLOSURE: September 14th from 7:00 a.m. until 11:00p.m. We may open the street earlier than 11:00 p.m. if street clean-up is completed earlier.
Please note: Third Street will need to revert to a two-way
street for the day of the event to allow vehicle access to North Estero Blvd from the south end of the island.

TOWN BARRICADES NEEDED: A total of ten barricades are requested: Two at the corner of First Street and Old San Carlos Blvd.; two at the corner of Second Street and Old Sand Carlos Blvd.; two at Third Street and Old San Carlos Blvd; Two at the end of Old San Carlos and 645 Old San Carlos Parking lot (to stop visitors walking through here with open container into Moss; and two at the end of Harbour Ct and Moss Marine (this road will be closed)

REQUEST TO HANG BANNERS: Yes only surrounding the 'stage' at bayside park and on individual vendor tents along Old San Carlos Blvd in the close street area on vendor tents.

ALCOHOL PERMIT TO BE REQUESTED: Yes.
We would like to lift open container from Third to First St along Old San Carlos Blvd and enable attendees to bring their drinks to the vendor tents located in the street and Bayside park. Snug Harbour and Nervous Nellies will also likely add extra satellite bars closer to Bayside Park. We will also be hosting food trucks inside Moss Marina along with a bar with seating hosted by The Whale.

When we have a final list of vendors we are happy to provide what they will be selling in terms of food and alcohol if this is required.

REQUEST TO WAIVE OPEN CONTAINER ORDINANCE: Yes.

We request open container to be lifted on Old San Carlos from 3rd to 1st St from 11:00am until 8:00pm on September 14th 2024.

DETAILS OF ENTERTAINMENT TIMES AND LOCATIONS:
A stage will be placed at Bayside Park with music running from 11:00am until 8:00pm The music in Bayside park will end 8pm, an hour before local restaurants close to ensure we can clear this area of guests and breakdown before noise ordinance commences at 10:00pm
A second stage will be placed inside Moss Marina and music will run from 2:00pm until 10:00pm when noise ordinance ends.

REQUEST TO WAIVE BAYSIDE PARK FEES: FMB Revival requests the fees for rental and electric to be waived for Bayside Park on September 14th 2024.

MUNICIPAL ELECTRIC CONNECTION REQUIRED: Yes, Bayfront Park.

CERTIFICATE OF INSURANCE: See Attachment C.

PERMISSION TO USE PRIVATE PROPERTY: See Attachments.

MUNICIPAL WATER CONNECTION REQUIRED: Yes, 3rd St and Old San Carlos.

Attachment A

EVENT: Fort Myers Beach Revival - Revive The Vibe Fest 2024

DATE: September 14th 2024

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Moss Marina 10:00am-10:00pm
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(all vendors, tents, stages, sound etc set one hour prior to guests arriving)

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TIME OF CLOSURE: September 14th from 7:00 a.m. until 11:00p.m. We may open the street earlier than 11:00 p.m. if street clean-up is completed earlier.
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MUNICIPAL ELECTRIC CONNECTION REQUIRED: Yes, Bayfront Park.

CERTIFICATE OF INSURANCE: See Attachment C.

PERMISSION TO USE PRIVATE PROPERTY: See Attachments.

MUNICIPAL WATER CONNECTION REQUIRED: Yes, 3rd St and Old San Carlos.

MEMORANDUM

Date: August 1st, 2023

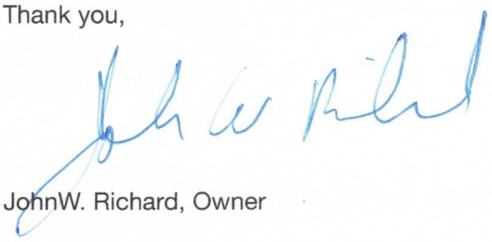
From: John W. Richard

To: Town of Fort Myers Beach

RE: Permission to use property

Please be advised that Fort Myers Beach Revival has my permission to use the property located on the Northeast corner of the intersection of Old San Carlos Blvd, and 3rd Street for Revive the Vibe Fest on September 14th 2023.

Thank you,



JohnW. Richard, Owner

Ocean Jewels Ent., inc.
Shipwreck Motel Inc.
Houseboat LLC
John W. Richard Revocable Trust
237Old San Carlos Blvd
Fort Myers Beach,FL 33931

Fort Myers Beach

Revival

MEMORANDUM

Date: August 1st, 2024

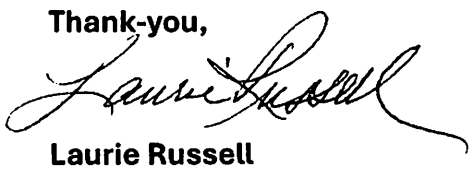
From: Laurie Russell

To: Town of Fort Myers Beach

Re: Understanding of Revival at Bay Park

Please be advised that I am aware and approve the Fort Myers Beach Revival will be at Bay Park for the Vibe Fest, September 14th 2024.

Thank-you,



Laurie Russell

General Manager

Marina Village @Snug Harbor

645 Old San Carlos Blvd

Fort Myers Beach, FL 33931

239-463-3949

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 08/15/2024

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER	CONTACT NAME: Darleen Palmer	
Keen Battle Mead & Company 7850 Northwest 146th Street Suite 200 Miami Lakes FL 33016	PHONE (A/C, No, Ext): (561) 613-6097	FAX (A/C, No): (305) 822-4722
	E-MAIL ADDRESS: dpalmer@kbmco.com	

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : United States Liability Insurance Group	25895
INSURER B :	
INSURER C :	
INSURER D :	
INSURER E :	
INSURER F :	

INSURED

Fort Myers Beach Revival
15961 McGregor Blvd
Ste 1
Fort Myers FL 33908

COVERAGES **CERTIFICATE NUMBER:** 9/14/24 Event **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	[X] COMMERCIAL GENERAL LIABILITY [ ] CLAIMS-MADE [X] OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: [ ] POLICY [ ] PRO-JECT [ ] LOC [ ] OTHER:			SE1125087	09/14/2024	09/16/2024	EACH OCCURRENCE	$ 1,000,000
							DAMAGE TO RENTED PREMISES (Ea occurrence)	$ 100,000
							MED EXP (Any one person)	$ 1,000
							PERSONAL & ADV INJURY	$ 1,000,000
							GENERAL AGGREGATE	$ 2,000,000
							PRODUCTS - COMP/OP AGG	$ Excluded
								$
	AUTOMOBILE LIABILITY [ ] ANY AUTO [ ] OWNED AUTOS ONLY [ ] SCHEDULED AUTOS [ ] HIRED AUTOS ONLY [ ] NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident)	$
							BODILY INJURY (Per person)	$
							BODILY INJURY (Per accident)	$
							PROPERTY DAMAGE (Per accident)	$
								$
	[ ] UMBRELLA LIAB [ ] OCCUR [ ] EXCESS LIAB [ ] CLAIMS-MADE [ ] DED [ ] RETENTION $						EACH OCCURRENCE	$
							AGGREGATE	$
								$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y / N ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? [ ] N / A (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below						[ ] PER STATUTE [ ] OTH-ER	
							E.L. EACH ACCIDENT	$
							E.L. DISEASE - EA EMPLOYEE	$
							E.L. DISEASE - POLICY LIMIT	$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Re: Old San Carlos Blvd, Fort Myers Beach, FL 33931. Certificate holder is listed as additional insured when required by written agreement or contract.

CERTIFICATE HOLDER

Town of Fort Myers Beach
2523 Estero Blvd
Fort Myers FL 33931

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Darleen Palmer

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August 13th, 2024

MailAddress
MailCity, MailState, MailZip

Dear OwnerName

Pursuant to the requirements of the Town of Fort Myers Beach Ordinance#16-03, FMB Revival would like to notify you that we have applied for a Town of Fort Myers Beach Special Event Permit for the 2nd annual Fort Myers Beach Revival Festival held from 11:00 a.m. until 10:00 p.m. on September 14th 2024.

You are receiving this notice because the event application includes amplified sound from a stage located in Bayside Park and a stage located at Moss Marina (450 Harbor Ct, Fort Myers Beach, FL 33931), which are within a 500 foot radius of the edge of your property.

The performances will be from 10:00am until 10:00pm during the event. Please be advised that, as a residential property within this radius, should you have an objection to the amplified sound, you may submit a letter of objection to the Town Manager at Town Hall within ten business days, or no later than on or before close of business on August 1st 2024.

Sincerely,

Zoë Wright

FMB Revival
15961 McGregor Blvd, Suite 1,
Fort Myers, Florida, 33908

OLD SEAPORT PLACE INC
JIM FIGUERADO
5628 SHADDELEE LN W
FORT MYERS FL 33919

OLD SEAPORT PLACE INC
JIM FIGUERADO
5628 SHADDELEE LN W
FORT MYERS FL 33919

RICHARD JOHN W TR
237 OLD SAN CARLOS BLVD
FORT MYERS BEACH FL 33931

OLD SEAPORT PLACE INC
JIM FIGUERADO
5628 SHADDELEE LN W
FORT MYERS FL 33919

FIRST STREET RESTAURANTS INC
450 OLD SAN CARLOS BLVD #7
FORT MYERS BEACH FL 33931

HOUSEBOAT LLC
237 OLD SAN CARLOS BLVD
FORT MYERS BEACH FL 33931

MERSCHMAN I LLC
1421 E LAKE SHORE DR
SPRINGFIELD IL 62712

FMB MATANZAS LLC
5880 STALEY RD
FORT MYERS FL 33905

HOUSEBOAT LLC
237 OLD SAN CARLOS BLVD
FORT MYERS BEACH FL 33931

RICHARD JOHN W TR
237 OLD SAN CARLOS BLVD
FORT MYERS BEACH FL 33931

Page Break

FREELAND FL HOLDINGS LLC
5333 HICKORY HOLLOW PKWY
ANTIOCH TN 37013

OLD SEAPORT PLACE INC
JIM FIGUERADO
5628 SHADDELEE LN W
FORT MYERS FL 33919

OLD SEAPORT PLACE INC
JIM FIGUERADO
5628 SHADDELEE LN W
FORT MYERS FL 33919

FREELAND FL HOLDINGS LLC
BERNARD G FREELAND
5333 HICKORY HOLLOW PKWY
ANTIOCH TN 37013

FMB MATANZAS LLC
5880 STALEY RD
FORT MYERS FL 33905

HOUSEBOAT LLC
237 OLD SAN CARLOS BLVD
FORT MYERS BEACH FL 33931

HOUSEBOAT LLC
237 OLD SAN CARLOS BLVD
FORT MYERS BEACH FL 33931

PIERHOUSE-FT MYERS BEACH LTD
1000 ESTERO BLVD
FORT MYERS BEACH FL 33931

FREELAND FL HOLDINGS LLC
PO BOX 656
ANTIOCH TN 37011

STINGRAYS RAW BAR INC
250 OLD SAN CARLOS BLVD
FORT MYERS BEACH FL 33931

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DIANNE HOLLAND TRUST +
570 KULAIWI DR
WAILUKU HI 96793

FREELAND FL HOLDINGS LLC
PO BOX 656
ANTIOCH TN 37011

ANDERSON BRENT KORY &
13302 COACHFORD AVE
ROSEMOUNT MN 55068

HOULIHAN MARY N TR
917 THIRD ST
FORT MYERS BEACH FL 33931

CASEY KATHLEEN M +
32917 PEACH TREE LN
LEWES DE 19958

URIAN JULIE A TR
432 BONITA ST
FORT MYERS BEACH FL 33931

TOMAIOLO FRANKLIN L &
934 THIRD ST
FORT MYERS BEACH FL 33931

DUDDY BRIAN PATRICK TR
14 STETSON PL
DUXBURY MA 02332

VANSOLKEMA TIMOTHY
7360 ROYAL RIDGE DR SE
CALEDONIA MI 49316

KOSTER RODNEY A & THERESE A
880 THIRD ST
FORT MYERS BEACH FL 33931

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FREELAND FL HOLDINGS LLC
PO BOX 656
ANTIOCH TN 37011

FREELAND FL HOLDINGS LLC
PO BOX 656
ANTIOCH TN 37011

MOSTEIRO CHRISTOPHER C +
923 THIRD ST
FORT MYERS BEACH FL 33931

GLOCK JACOB
1602 WOODFORD AVE
FORT MYERS FL 33901

GREGG LEAH
253 PALERMO CIR
FORT MYERS BEACH FL 33931

FREELAND FL HOLDINGS LLC
BERNARD G FREELAND
5333 HICKORY HOLLOW PKWY
ANTIOCH TN 37013

932 THIRD STREET LLC
932 THIRD ST
FORT MYERS BEACH FL 33931

VANSOLKEMA TIMOTHY
7360 ROYAL RIDGE DR SE
CALEDONIA MI 49316

KOSTER RODNEY A & THERESA A
880 THIRD ST
FORT MYERS BEACH FL 33931

TAMIA SA
949 STRATFORD DR
ENCINITAS CA 92024

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WOODSON MARK T + KAREN K
820 THIRD ST
FORT MYERS BEACH FL 33931

SCHMELING ROBERT W +
1621 SE 84TH CT
VANCOUVER WA 98664

SCHROEDER KURT & GERALDINE
405 HARBOR CT
FORT MYERS BEACH FL 33931

SERVADIO NORMA L TR
10 SAGAMORE DR
SIMSBURY CT 06070

FREELAND FL HOLDINGS LLC
5333 HICKORY HOLLOW PKWY
ANTIOCH TN 37013

KOSTER RODNEY A & THERESE A
880 THIRD ST
FORT MYERS BEACH FL 33931

PHELPS MICHAEL +
329 MEADOW RD
FARMINGTON CT 06032

FREELAND FL HOLDINGS LLC
BERNARD G FREELAND
5333 HICKORY HOLLOW PKWY
ANTIOCH TN 37013

KIMYABAYKI SOROUSH +
91 PRINCESS DIANA DR
MARKHAM ON L6C 0H2
CANADA

RICHARD JOHN W TR
237 OLD SAN CARLOS BLVD
FORT MYERS BEACH FL 33931

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KADO KELLY +
2560 ESTERO BLVD #6A
FORT MYERS BEACH FL 33931

SWING THOMAS J TR
2560 TURF PARADISE DR
STOW OH 44224

SERVADIO NORMA LEARD TR
10 SAGAMORE DR
SIMSBURY CT 06070

TEAL PHILLIP L TR
3699 PEARL DR UNIT 8
MONROE MI 48162

FREELAND FL HOLDINGS LLC
5333 HICKORY HOLLOW PKWY
ANTIOCH TN 37013

PHELPS MICHAEL +
329 MEADOW RD
FARMINGTON CT 06032

FREELAND FL HOLDINGS LLC
5333 HICKORY HOLLOW PKWY
ANTIOCH TN 37013

ASHLAND PROPERTIES
10940 S PARKER RD #512
PARKER CO 80134

GRIFFIS LLC
9051 E CHICAGO RD
JEROME MI 49249

HOLBROOK LESLIE E
114 KINCORA DR
BUCYRUS OH 44820

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PURTELL JAMES F TR
60 STONEY BEACH RD
OSHKOSH WI 54902

DULLARD ROBERT TR
PO BOX 2695
FT MYERS BCH FL 33932

ISLAND GEM LLC
8044 ESTERO BLVD
FORT MYERS BEACH FL 33931

ISLAND SHORES HOMEOWNERS ASSOC
MATANZAS ST
FORT MYERS BEACH FL 33931

MARINA VILLAGE AT SNUG HARBOR
PO BOX 2430
FORT MYERS BEACH FL 33932

L & R PROPERTIES OF SOUTHWEST
798 CYPRESS LAKE CIR
FORT MYERS FL 33919

JENKINS FMB LLC
4407 SE 19TH PL
CAPE CORAL FL 33904

HOLDEN RICHARD D TR
PO BOX 150429
CAPE CORAL FL 33915

STUDE INVESTMENTS LLC
271 VENETIAN PALMS
NEW SMYRNA BEACH FL 32168

VANDERMEERSCH PROPERTIES LLC
35406 1700 N AVE
ARLINGTON IL 61312

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BOYD TODD & JULIE
1206 HAIGHT LN
SARNIA ON N7S 2M5
CANADA

BLOCDAHL LEASING LLC
3538 TIMBER RIDGE TRL
CEDAR RAPIDS IA 52411

J&J SNA PROPERTIES LLC
470 OAKRIDGE AVE
NORTH ATTLEBORO MA 02760

SAND CASTLE BEACH CLUB CONDO
905 ESTERO BLVD
FORT MYERS BEACH FL 33931

HARBOUR HOUSE AT THE INN CONDO

L & R PROPERTIES OF SOUTHWEST
798 CYPRESS LAKE CIRCLE
FORT MYERS FL 33919

FIVE MILE STRETCH
2480 SHIPS WATCH CT
VIRGINIA BEACH VA 23451

BEACH AT HARBOUR HOUSE LLC
2770 REYNOLDSBURG NEW ALBANY RD
BLACKLICK OH 43004

PMS PROPERTY MANAGEMENT LLC
JEFF ELEY
2574 HILLOCK PL
LIMA OH 45805

FRASCHETTI EDWARD TR
450 OLD SAN CARLOS BLVD #312
FORT MYERS BEACH FL 33931

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FLORIDA CONFERENCE ASSOCIATION
351 S STATE ROAD 434
ALTAMONTE SPRINGS FL 32714

BOWLING LARRY L +
1691 BATTLESBURG ST SE
EAST SPARTA OH 44626

SERRA LUIGI
5490 PRINCE EDWARD AVE # 30
NIAGARA FALLS ON L2G 0G5
CANADA

HARBOUR HOUSE AT THE INN CONDO
PO BOX 152047
CAPE CORAL FL 33915

SOLANS ENRIC & ANTOINETTE TR
1821 BOULDER DR
MOUNT PROSPECT IL 60056

WEBER ROBERT & LINDA
798 CYPRESS LAKE CIR
FORT MYERS FL 33919

MIDLAND IRA INC
6410 COPPERLEAF CT
HOLLAND MI 49423

CONTINENTAL LAND MANAGEMENT IN
24545 WILLOWBY AVENUE
EASTPOINTE MI 48021

EVENING BREEZE PROPERTIES LLC
12111 CRESTFIELD CT
CINCINNATI OH 45249

VANDERMEERSCH PROPERTIES LLC
35406 1700 NORTH AVE
ARLINGTON IL 61312

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EVENING BREEZE PROPERTIES LLC
12111 CRESTFIELD CT
CINCINNATI OH 45249

PMS PROPERTY MANAGEMENT LLC
PO BOX 161
DELPHOS OH 45833

BLAIN GAIL
450 OLD SAN CARLOS BLVD #216
FORT MYERS BEACH FL 33931

LETS JUST DO IT LLC
1331 N LELA LN
GREENFIELD IN 46140

DIVITO JAMES & LAURIE
27 RUSHMORE RD
FOX LAKE IL 60020

KNISELY JAMES E & DEBRA M
322 BOWERS AVE NW
NEW PHILADELPHIA OH 44663

FINCH WADE J + REBECCA J
711 1ST AVE NW
BRITT IA 50423

HOLLINGER PROPERTIES LLC
8868 CASCADE PRICE CIR
NORTH FORT MYERS FL 33917

BUCHINGER DAVID
465 S WEST ST # 8
VASSAR MI 48768

IMPACT USA INC
KENNETH W HELMS
506 VENETIAN DR
SANDUSKY OH 44870

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IMPACT USA INC
KENNETH W HELMS
506 VENETIAN DR
SANDUSKY OH 44870

LETS JUST DO IT LLC
1331 N LELA LANE
GREENFIELD IN 46140

TCB PROPERTIES
112 MILLER ROAD
SPRING MILLS PA 16875

I DREAM ICE CREAM INC
702 EARLS BEACH RD
MIDDLE RIVER MD 21220

HARBOR HOUSE AT THE INN
PO BOX 152047
CAPE CORAL FL 33915

LAVALLE TAYLOR
640 ESTERO BLVD
FORT MYERS BEACH FL 33931

TITUS VINCENT E & JESSICA L
300 SEMINOLE WAY
FORT MYERS BEACH FL 33931

ESTERO BAY HOTEL CO
416 CRESCENT ST
FORT MYERS BEACH FL 33931

OLD SEAPORT PLACE INC
JIM FIGUERADO
5628 SHADDELEE LN W
FORT MYERS FL 33919

OLD SEAPORT PLACE INC
JIM FIGUERADO
5628 SHADDELEE LN W
FORT MYERS FL 33919

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DJURIN GORAN & BRANKICA
8954 ELSMERE DR
PARMA OH 44130

CALLAHAN DANIEL A TR
105 110TH ST
SEATON IL 61476

T + J HOMES SWFL LLC
450 OLD SAN CARLOS BLVD #G101
FORT MYERS BEACH FL 33931

JOHNSON NANCY MARIE
15250 SWEETWATER CT
FORT MYERS FL 33912

HARBOUR HOUSE AT THE INN CONDO
PO BOX 152047
CAPE CORAL FL 33915

OLD SAN CARLOS INN DEVELOPMENT
416 CRESCENT ST
FORT MYERS BEACH FL 33931

FMB MATANZAS LLC
5880 STALEY RD
FORT MYERS FL 33905

FMB MATANZAS LLC
5880 STALEY RD
FORT MYERS FL 33905

OLD SEAPORT PLACE INC
JIM FIGUERADO
5628 SHADDELEE LN W
FORT MYERS FL 33919

MARINA VILLAGE AT SNUG HARBOR
645 OLD SAN CARLOS BLVD #2
FORT MYERS BEACH FL 33931

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MARINA VILLAGE AT SNUG HARBOR
645 OLD SAN CARLOS BLVD
FORT MYERS BEACH FL 33931

REVIVE
THE VIBE
FORT MYERS BEACH 2024
VIP
MOSS MARINA
FORT MYERS BEACH
KEEP WALKING
SNUG HARBOR
BAYSIDE
PARK
MOSS STAGE
FOOD TRUCK
PARK
BAR
FIRST STREET
P
PARKING
WAHOO WILLIES
HARBOUR
HOUSE
VENDORS
VENDORS
CAR TRAFFIC
SECOND STREET
CIGAR BAR
ICE TRUCK
WELCOME
TENT
BONITA STREET
CAR TRAFFIC
MAP KEY
STAGE & MUSIC
COCKTAILS
FOOD
ICE TRUCK
RESTROOM
FOOD TRUCK
OPEN
MOSS MARINE
WAHOO WILLIES
SNUG HARBOUR &
MARINA VILLAGE CONDOS
PARKING DETOUR
PARKING
PARKING
THIRD STREET
CAR TRAFFIC
THIRD STREET

Town of Fort Myers Beach
Agenda Item Summary

Blue Sheet Number: **2024-215**

1. **Request:**

Meeting Date: September 9, 2024

Town of Fort Myers Beach Insurance Plan Year 24-25 Renewal Overview

Why the action is necessary:

The Town must renew their insurance plans on an annual basis.

What the action accomplishes:

Renews Town insurance plans for eligible employees.

2. **Agenda:**

ADMINISTRATIVE AGENDA

3. **Requirement/Purpose:**

4. **Submitter of Information:**

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5. **Background:**

Human Resources is requesting approval for the renewal of the Town of Fort Myers Beach insurance plan for the year 24-25. The proposed renewal includes a 7% increase on the medical plan, amounting to $63,005 in employer costs, and a 3.1% increase on the dental plan, totaling $1,521 in employer costs. This results in a combined total cost of $64,526 to the Town.

It's important to note that the Town had budgeted for an estimated total increase of 8.8% or $82,384 on the medical plan; the actual renewal came in $17,858 below this budgeted figure. The insurance plan design for FY24-25 mirrors the current favorable plan design, and the Town will not be changing carriers.

Attachments:

1. 082124 - FMB - Renewal Evaluation Packet

Financial Impact:

The proposed renewal includes a 7% increase on the medical plan, amounting to $63,005 in employer costs, and a 3.1% increase on the dental plan, totaling $1,521 in employer costs. This results in a combined total cost of $64,526 to the Town.
It's important to note that the Town had budgeted for an estimated total increase of 8.8% or $82,384 on the medical plan; the actual renewal came in $17,858 below this budgeted figure.

6. **Alternative Action**

7. **Management Recommendations:**

The Town currently offers a favorable and cost-saving insurance plan that has garnered positive feedback from our current employees. To maintain employee satisfaction and continue providing this valuable benefit, we recommend approving the insurance renewal. By doing so, the Town will not only retain this important benefit for our existing employees but also enhance our ability to attract and incentivize new talent to join our workforce.

8. **Recommended Approval:**

Talissa Oliveira, HR Manager	Created/Initiated - 8/23/2024
nancy stuparich, Town Attorney	Approved - 8/25/2024
Amy Baker, Town Clerk	Approved - 8/28/2024

Andy Hyatt, Town Manager Final Approval - 8/28/2024

Town of Fort Myers Beach
Medical Insurance Evaluation
Effective Date: October 1, 2024

		Current		Renewal	
SCHEDULE OF BENEFITS		**FMIT Plan 2 Choice +**		**FMIT Plan 2 Choice +**	
		In Network	*Out of Network*	*In Network*	*Out of Network*
Calendar Year Deductible					
Single		$250	$500	$250	$500
Family		$500	$1,000	$500	$1,000
Out of Pocket Maximum		*Includes CYD, Coins, and Copays*		*Includes CYD, Coins, and Copays*	
Single		$2,500	$5,000	$2,500	$5,000
Family		$5,000	$10,000	$5,000	$10,000
Coinsurance (Member)		10%	30%	10%	30%
Office Visits					
Primary Care Physician		$15	CYD + 30%	$15	CYD + 30%
Specialist Physician		$30	CYD + 30%	$30	CYD + 30%
Preventive Services		Covered 100%	Not Covered	Covered 100%	Not Covered
Laboratory Services/X-Ray Services		Covered 100%	CYD + 30%	Covered 100%	CYD + 30%
Advanced Imaging		$100	CYD + 30%	$100	CYD + 30%
Urgent Care Center		$50	CYD + 30%	$50	CYD + 30%
Hospital Services					
Inpatient Hospital		CYD + 10%	CYD + 30%	CYD + 10%	CYD + 30%
Outpatient Hospital		$100	CYD + 30%	$100	CYD + 30%
Emergency Room		$125		$125	
Physician Services at Hospital		CYD + 10%	CYD + 30%	CYD + 10%	CYD + 30%
Mental Health/Sub. Abuse					
Inpatient Hospital		CYD + 10%	CYD + 30%	CYD + 10%	CYD + 30%
Outpatient Services (Other)		CYD + 10%	CYD + 30%	CYD + 10%	CYD + 30%
Outpatient Services (Office Visit)		$15	CYD + 30%	$15	CYD + 30%
Retail Pharmacy Plan					
Tier 1		$10	Tier 1-3 Copay + any amount over the allowed amount	$10	Tier 1-3 Copay + any amount over the allowed amount
Tier 2		$35		$35	
Tier 3		$60		$60	
Mail Order		2.5 × Retail	Not Covered	2.5 × Retail	Not Covered
Monthly Premium	**EE**				
Employee	45	$878.05		$939.51	
Employee + Spouse	6	$1,887.80		$2,019.95	
Employee + Child(ren)	7	$1,624.39		$1,738.10	
Employee + Family	7	$2,634.15		$2,818.54	
Monthly Premium	**65**	**$80,649**		**$86,294**	
Annual Premium		**$967,786**		**$1,035,530**	
$ Increase/(Decrease)				**$67,744**	
% Increase/(Decrease)				**7.0%**	

Town of Fort Myers Beach
Dental Insurance Evaluation
Effective Date: October 1, 2024

		Current		Renewal	
SCHEDULE OF BENEFITS		**Lincoln**		**Lincoln**	
Plan Basics		***In Network***	***Non Network***	***In Network***	***Non Network***
Calendar Year Maximum		$2,000		$2,000	
Deductibles					
Single		$50	$50	$50	$50
Family		$150	$150	$150	$150
Deductible Waived for Preventive Services?		Yes	Yes	Yes	Yes
Benefits					
Preventive		100%	100%	100%	100%
Basic		90%	90%	90%	90%
Major		60%	60%	60%	60%
Orthodontia		50%	50%	50%	50%
Orthodontia Lifetime Maximum		$1,000	$1,000	$1,000	$1,000
Ortho Coverage Applies to:		Child to age 19		Child to age 19	
Service Information					
Out of Network Payable Level		U&C		U&C	
Waiting Period (Timely Entrants)		None		None	
Frequency of Exams		2 per year		2 per year	
Frequency of Cleanings		2 per year		2 per year	
Frequency of Full Mouth X-Rays		5 years		5 years	
Implant Coverage		Crown, Abutment, and Implant		Crown, Abutment, and Implant	
Endodontics/Periodontics		Basic/Basic		Basic/Basic	
Rate Guarantee		**Expires 9/30/2024**		**Expires 9/30/2025**	
Employee	45	$48.67		$50.22	
Employee + Spouse	7	$97.99		$100.93	
Employee + Child(ren)	6	$99.32		$102.30	
Employee + Family	8	$154.86		$159.51	
Monthly Premium	**66**	**$4,710.88**		**$4,856**	
Annual Premium		**$56,531**		**$58,275**	
$ Increase/(Decrease)		**N/A**		**$1,745**	
% Increase/(Decrease)		**N/A**		**3.1%**	

Town of Fort Myers Beach
Vision Insurance Evaluation
Effective Date: October 1, 2024

		Current		Renewal	
SCHEDULE OF BENEFITS		**FMIT/UnitedHealthcare**		**FMIT/UnitedHealthcare**	
		In Network	***Non Network***	***In Network***	***Non Network***
Exam		$10	Up to $40	$10	Up to $40
Materials		$0	Varies	$0	Varies
Frequency					
Exam		12 Months		12 Months	
Lenses		12 Months		12 Months	
Frames		24 Months		24 Months	
Eyeglasses		***Copay/Allowance***	***Reimbursement***	***Copay/Allowance***	***Reimbursement***
Single Lenses		Covered 100%	Up to $40	Covered 100%	Up to $40
Bifocal Lenses		Covered 100%	Up to $60	Covered 100%	Up to $60
Trifocal Lenses		Covered 100%	Up to $80	Covered 100%	Up to $80
Lenticular		Covered 100%	Up to $80	Covered 100%	Up to $80
Frames		$130 Allowance	Up to $45	$130 Allowance	Up to $45
Contact Lenses		***in lieu of lens/frame***		***in lieu of lens/frame***	
Contact Lenses (Formulary)		Up to 6 boxes	Up to $150	Up to 6 boxes	Up to $150
Contact Lenses (Non-Formulary)		$150 Allowance	Up to $150	$150 Allowance	Up to $150
Contact Lenses (Medically Necessary)		Covered 100%	Up to $210	Covered 100%	Up to $210
Additional Benefits					
Lasik Discount		Up to 35% off national average	Not Covered	Up to 35% off national average	Not Covered
Rate Guarantee		**Expires 9/30/2024**		**Expires 9/30/2025**	
Employee Only	48	$5.71		$5.71	
Employee + Spouse	7	$10.21		$10.21	
Employee + Child(ren)	6	$10.36		$10.36	
Employee + Family	7	$18.20		$18.20	
Monthly Premium	**68**	**$535**		**$535**	
Annual Premium		**$6,421**		**$6,421**	
$ Increase/(Decrease)		**N/A**		**$0**	
% Increase/(Decrease)		**N/A**		**0.0%**	

Town of Fort Myers Beach
Basic Life Insurance Evaluation
Effective Date: October 1, 2024

	Current/Renewal Minnesota Life
Life and AD&D Benefit:	
All Active Full-Time Employees	1.5 × annual earnings, multiplied first, rounded to the next higher $1k, then add $10k. Max of $200k
AD&D	Equal to the amount of basic life insurance selected
Eligibility	All active full-time employees working a minimum of 30 hours per week
Waiting Period	**Hired before the 15th:** first day of the month following employee's date of hire **Hired on or after the 15th:** first day of the second month following the employee's date of employment
Features:	Reduced to
Age Reductions	**Age 65-69:** 65% **Age 70-74:** 40% **Age 75-79:** 25% **Age 80+:** 10%
Guarantee Issue Amount	All
Waiver of Premium	Yes
Accelerated Benefit	Yes; max of $1,000,000; percentage calculation varies based on age, gender, expected future premiums, and the insured's life expectancy
Rate Guarantee	**Expires 9/30/2025**
Volume	$6,441,400
Basic Term Life Rate / $1,000	$0.230
AD&D Rate / $1,000	$0.025
Total Rate / $1,000	**$0.255**
Monthly Premium (Actives & Retirees)	**$1,643**
Annual Premium (Actives & Retirees)	**$19,711**
$ Increase / Decrease	**N/A**
% Increase / Decrease	**N/A**

Town of Fort Myers Beach
Voluntary Life Evaluation
Effective Date: October 1, 2024

Current/Renewal

	Minnesota Life	
Benefit:		
All Active Full-Time Employees	Increments of $10k, subject to a maximum of $750k	
Spouse	Increments of $10k, subject to a maximum of $250k NTE 100% of Employee Amount (Basic & Supplemental Combined)	
Dependent Child(ren)	Birth-31 days: $10k 32 days to 26 years: $10k, $15k, or $20k NTE 100% of Employee Amount (Basic & Supplemental Combined)	
Guaranteed Issue	$300,000	
Spouse/Children	**Spouse:** $50,000 **Children:** All Amounts	
AD&D	All	
Age Reduction Schedule	None	
Rate Guarantee	**Expires 9/30/2025**	
	Age Bracket	***Rates / $1,000***
Employee and Spouse Life Rates	<20	$0.050
	20-24	$0.050
	25-29	$0.060
	30-34	$0.080
	35-39	$0.090
	40-44	$0.120
	45-49	$0.210
	50-54	$0.370
	55-59	$0.610
	60-64	$0.750
	65-69	$1.310
	70-74	$2.060
	75+*	$2.380
Employee/Spouse AD&D Rate	$0.020	
Child(ren) Rate	$0.200	

Town of Fort Myers Beach
Short Term Disability Insurance Evaluation
Effective Date: October 1, 2024

	Current/Renewal
Short Term Disability	**Lincoln**
Eligibilty	All full-time employees working 30 hours per week
Benefits	
Benefit Percent	60% weekly earnings
Maximum Benefit per Week	$1,000
Elimination Period:	
Accident Waiting Period	0 days
Illness Waiting Period	7 days
Benefit Duration	26 weeks
Rate Guarantee	**Expires 9/30/2025**
Estimated Benefits Volume	$44,897
STD Rate / $10	**$0.501**
Monthly Premium	**$2,249**
Annual Premium	**$26,992**
$ Increase	**N/A**
% Increase	**N/A**

Town of Fort Myers Beach
Long-Term Disability Insurance Evaluation
Effective Date: October 1, 2024

Current/Renewal

	Lincoln
Eligibility	All full-time employees working 30 hours per week
Elimination Period	180 days
Core Plan - Monthly Benefit	60% of monthly earnings
Core Plan - Maximum Benefit	$6,000
Minimum Benefit	$100
Own Occupation Period	24 months
Duration of Benefit	Later of age 65 or SSNRA
Pre-Existing Condition Limitation	3/12
Mental Illness & Substance Abuse Limitation	24 months
Survivor Benefit	3 months
Rate Guarantee	**Expires 9/30/2025**
Core Plan Monthly Covered Payroll	$206,936
Core Rate Per Employee Per Month	**$0.449**
Monthly Premium	**$929**
Annual Premium	**$11,150**
$ Increase / Decrease	**N/A**
% Increase / Decrease	**N/A**

Town of Fort Myers Beach
Executive Summary
Effective Date: October 1, 2024

		Current				Renewal			
		Employer	Employee	EE Per Pay	Total	Employer	Employee	EE Per Pay	Total
Medical		**FMIT/UnitedHealthcare**				**FMIT/UnitedHealthcare**			
Employee	46	$878.05	$0.00	$0.00	$878.05	$939.51	$0.00	$0.00	$939.51
Employee + Spouse	6	$1,382.92	$504.88	$233.02	$1,887.80	$1,479.73	$540.22	$249.33	$2,019.95
Employee + Child(ren)	7	$1,251.22	$373.17	$172.23	$1,624.39	$1,338.81	$399.29	$184.29	$1,738.10
Employee + Family	10	$1,756.10	$878.05	$405.25	$2,634.15	$1,879.03	$939.51	$433.62	$2,818.54
Monthly Total	**69**	**$75,007**	**$14,422**		**$89,429**	**$80,258**	**$15,431**		**$95,689**
Annual Total		**$900,088**	**$173,064**		**$1,073,152**	**$963,094**	**$185,177**		**$1,148,271**
$ Increase / Decrease		**N/A**	**N/A**	**-**	**N/A**	**$63,005**	**$12,114**	**-**	**$75,119**
% Increase / Decrease		**N/A**	**N/A**	**-**	**N/A**	**7.0%**	**7.0%**	**-**	**7.0%**
Dental		**Lincoln**				**Lincoln**			
Employee	46	$48.67	$0.00	$0.00	$48.67	$50.22	$0.00	$0.00	$50.22
Employee + Spouse	8	$73.33	$24.66	$11.38	$97.99	$75.54	$25.39	$11.72	$100.93
Employee + Child(ren)	6	$73.99	$25.33	$11.69	$99.32	$76.21	$26.09	$12.04	$102.30
Employee + Family	8	$101.76	$53.10	$24.51	$154.86	$104.82	$54.69	$25.24	$159.51
Annual Total	**68**	**$49,002**	**$9,289**		**$58,290**	**$50,523**	**$9,566**		**$60,089**
$ Increase / Decrease		**N/A**	**N/A**	**-**	**N/A**	**$1,521**	**$277**	**-**	**$1,799**
% Increase / Decrease		**N/A**	**N/A**	**-**	**N/A**	**3.1%**	**3.0%**	**-**	**3.1%**
Vision		**FMIT/UnitedHealthcare**				**FMIT/UnitedHealthcare**			
Employee	48	$5.71	$0.00	$0.00	$5.71	$5.71	$0.00	$0.00	$5.71
Employee + Spouse	7	$7.96	$2.25	$1.04	$10.21	$7.96	$2.25	$1.04	$10.21
Employee + Child(ren)	6	$8.03	$2.33	$1.07	$10.36	$8.03	$2.33	$1.07	$10.36
Employee + Family	8	$11.95	$6.25	$2.88	$18.20	$11.95	$6.25	$2.88	$18.20
Annual Total	**69**	**$5,683**	**$957**		**$6,640**	**$5,683**	**$957**		**$6,640**
$ Increase / Decrease		**N/A**	**N/A**	**-**	**N/A**	**$0**	**$0**	**-**	**$0**
% Increase / Decrease		**N/A**	**N/A**	**-**	**N/A**	**0.0%**	**0.0%**	**-**	**0.0%**
Basic Life and AD&D		**Minnesota Life**				**Minnesota Life**			
Assuming Volume of:		$6,441,400	-	-	$6,441,400	$6,441,400	-	-	$6,441,400
Basic Life Rate		$0.230	-	-	$0.230	$0.230	-	-	$0.230
Basic AD&D Rate		$0.025	-	-	$0.025	$0.025	-	-	$0.025
Total Rate/$1,000		$0.255	-	-	$0.255	$0.255	-	-	$0.255
Annual Total		**$19,711**	**-**	**-**	**$19,711**	**$19,711**	**-**	**-**	**$19,711**
$ Increase / Decrease		**N/A**	**-**	**-**	**N/A**	**$0**	**-**	**-**	**$0**
% Increase / Decrease		**N/A**	**-**	**-**	**N/A**	**0.0%**	**-**	**-**	**0.0%**
Long Term Disability		**Lincoln**				**Lincoln**			
Assuming Volume of:		$206,936	-	-	$206,936	$206,936	-	-	$206,936
LTD		$0.449	-	-	$0.449	$0.449	-	-	$0.449
Annual Total		**$11,150**	**-**	**-**	**$11,150**	**$11,150**	**-**	**-**	**$11,150**
$ Increase / Decrease		**N/A**	**-**	**-**	**N/A**	**$0**	**-**	**-**	**$0**
% Increase / Decrease		**N/A**	**-**	**-**	**N/A**	**0.0%**	**-**	**-**	**0.0%**
Short Term Disability		**Lincoln**				**Lincoln**			
Assuming Volume of:		$44,897	-	-	$44,897	$44,897	-	-	$44,897
STD		$0.501	-	-	$0.501	$0.501	-	-	$0.501
Annual Total		**$26,992**	**-**	**-**	**$26,992**	**$26,992**	**-**	**-**	**$26,992**
$ Increase / Decrease		**N/A**	**-**	**-**	**N/A**	**$0**	**-**	**-**	**$0**
% Increase / Decrease		**N/A**	**-**	**-**	**N/A**	**0.0%**	**-**	**-**	**0.0%**
Annual Total		**$1,011,162**	**$183,013**	**-**	**$1,194,175**	**$1,075,643**	**$195,396**	**-**	**$1,271,039**
$ Increase / Decrease		**N/A**	**N/A**	**-**	**N/A**	**$64,482**	**$12,382**	**-**	**$76,864**
% Increase / Decrease		**N/A**	**N/A**	**-**	**N/A**	**6.4%**	**6.8%**	**-**	**6.4%**

Town of Fort Myers Beach
Agenda Item Summary

Blue Sheet Number: **2024-220**

1. **Request:**

Meeting Date: September 9, 2024

Authorize the Town Manager to execute the Engagement Letters with Mauldin & Jenkins to provide independent external auditor services for Fiscal Year 2024.

Why the action is necessary:

The action is necessary to comply with State Statutes, Federal regulations, loan agreements and grant agreements regarding the requirement to undergo a financial statement audit and examination of compliance regarding investment of public funds.

What the action accomplishes:

This action enables the Town to comply with State Statutes, Federal regulations, loan agreements and grant agreements regarding the requirement to undergo a financial statement audit and examination of compliance regarding investment of public funds. By taking this action now, we may begin the audit as soon as possible after year end.

2. **Agenda:**	3. **Requirement/Purpose:**	4. **Submitter of Information:**
ADMINISTRATIVE AGENDA	Motion	Andy Hyatt, Town Manager

5. **Background:**

The Town is required by State statute, Federal regulations, grant agreements and loan agreements to undergo a financial statement audit as well as an examination of the Town's compliance with Florida Statutes regarding the investment of public funds. This motion authorizes the Town Manager to execute the required engagement letters with Mauldin Jenkins to perform the required audit and examination of Fiscal Year 2024 which ends September 30, 2024. This will be the third year of a three-year contract with Mauldin Jenkins. The Town is prepared to issue an RFP for next year's audit.

Attachments:

1. 2024 Audit Engagement Letter - Town of Fort Myers Beach
2. 2024 Audit Engagement Letter Town of Fort Myers Beach Addendum
3. 2024 Examination Engagement Letter - Town of Fort Myers Beach
4. 2024 Audit Examination Engagement Letter Town of Fort Myers Beach Addendum

Financial Impact:

According to the contract, the audit fee should be $51,000, plus $5,000 per each major grant program (expenditure of $750,000 or more). We will probably have at least two major federal grant programs (ARPA and FEMA) for Fiscal Year 2024. Therefore, the total cost is estimated to be $61,000.

6. **Alternative Action**

The Town Council may authorize the cancelation of the contract with Mauldin Jenkins and issuance of an RFP for a new auditor. However, such action would delay the audit.

7. **Management Recommendations:**

Management ,as well as the Audit Committee, recommend authorizing the engagement with Mauldin Jenkins to perform the audit and examination of public investments for Fiscal Year 2024.

8. **Recommended Approval:**

Joe Onzick, Finance Director	Created/Initiated - 8/28/2024
Joe Onzick, Finance Director	Approved - 8/28/2024
nancy stuparich, Town Attorney	Approved - 9/3/2024
Amy Baker, Town Clerk	Approved - 9/3/2024
Andy Hyatt, Town Manager	Final Approval - 9/4/2024

MAULDIN & JENKINS
CPAs & ADVISORS

August 21, 2024

Honorable Mayor and Town Council
Town of Fort Myers Beach, Florida
2523 Estero Boulevard
Fort Myers Beach, Florida 33931

Attention: Andy Hyatt, Town Manger and Joe Onzick, Finance Director

We are pleased to confirm our understanding of the services we are to provide the Town of Fort Myers Beach, Florida (the "Town") for the year ended September 30, 2024.

Audit Scope and Objectives

We will audit the financial statements of the governmental activities, the business-type activities, each major fund, and the aggregate remaining fund information, including the disclosures, which collectively comprise the basic financial statements, of the Town of Fort Myers Beach, Florida as of and for the year then ended. These statements will include the budgetary comparison information for the General Fund, the Gas Tax Fund, the Building Fund, and the Beach Access Fund. Accounting standards generally accepted in the United States of America (GAAP) provide for certain required supplementary information (RSI), such as management's discussion and analysis (MD&A), to supplement the Town's basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. As part of our engagement, we will apply certain limited procedures to the Town's RSI in accordance with auditing standards generally accepted in the United States of America (GAAS). These limited procedures will consist of inquiries of management regarding the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We will not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance. The following RSI is required by GAAP and will be subjected to certain limited procedures, but will not be audited:

1. Management's Discussion and Analysis (MD&A).
2. Schedule of Changes in the Total OPEB Liability and Related Ratios.

We have also been engaged to report on supplementary information other than RSI that accompanies the Town's financial statements. We will subject the following supplementary information to the auditing procedures applied in our audit of the financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the financial statements or to the financial statements themselves, and other additional procedures in accordance with GAAS and will provide an opinion on it in relation to the financial statements as a whole in a report combined with our auditor's report on the financial statements:

1. Schedule of expenditures of federal awards and state financial assistance (if necessary).
2. Combining and individual fund statements.

The objectives of our audit are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and issue an auditor's report that includes our opinions about whether your financial statements are fairly presented, in all material respects, in conformity with GAAP, and report on the fairness of the supplementary information referred to in the second paragraph when considered in relation to the financial statements as a whole. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with GAAS and *Government Auditing Standards* will always detect a material misstatement when it exists. Misstatements, including omissions, can arise from fraud or error and are considered material if there is a substantial likelihood that, individually or in the aggregate, they would influence the judgment of a reasonable user made based on the financial statements. The objectives also include reporting on:

- Internal control over financial reporting and compliance with the provisions of laws, regulations, contracts and award agreements, noncompliance with which could have a material effect on the financial statements in accordance with *Government Auditing Standards*.
- Internal control over compliance related to major programs and an opinion (or disclaimer of opinion) on compliance with federal statutes, regulations, and the terms and conditions of federal awards that could have a direct and material effect on each major program in accordance with the Single Audit Act Amendments of 1996 and Title 2 U.S. *Code of Federal Regulations* (CFR) Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) or on each major state project in accordance with the Florida State Single Audit Act and the *Department of Financial Services* State Projects Compliance Supplement, as applicable.

Auditor's Responsibilities for the Audit of the Financial Statements and Single Audit
We will conduct our audit in accordance with GAAS; the standards for financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; the Single Audit Act Amendments of 1996; and the provisions of the Uniform Guidance, and will include tests of accounting records, a determination of major program(s) in accordance with the Uniform Guidance, and other procedures we consider necessary to enable us to express such opinions. As part of an audit in accordance with GAAS and *Government Auditing Standards*, we will exercise professional judgment and maintain professional skepticism throughout the audit.

We will evaluate the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management. We will also evaluate the overall presentation of the financial statements, including the disclosures, and determine whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation. We will plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether from: (1) errors, (2) fraudulent financial reporting, (3) misappropriation of assets, or (4) violations of laws or governmental regulations that are attributable to the government or to acts by management or employees acting on behalf of the government. Because the determination of waste and abuse is subjective, *Government Auditing Standards* do not expect auditors to perform specific procedures to detect waste or abuse in financial audits nor do they expect auditors to provide reasonable assurance of detecting waste or abuse.

Because of the inherent limitations of an audit, combined with the inherent limitations of internal control, and because we will not perform a detailed examination of all transactions, there is an unavoidable risk that some material misstatements or noncompliance may not be detected by us, even though the audit is properly planned and performed in accordance with GAAS and *Government Auditing Standards*. In addition, an audit is not designed to detect immaterial misstatements or violations of laws or governmental regulations that do not have a direct and material effect on the financial statements or on major programs. However, we will inform the appropriate level of management of any material errors, any fraudulent financial reporting or misappropriation of assets that come to our attention. We will also inform the appropriate level of management of any violations of laws or governmental regulations that come to our attention, unless clearly inconsequential. We will include such matters in the reports required for a Single Audit. Our responsibility as auditors is limited to the period covered by our audit and does not extend to any later periods for which we are not engaged as auditors.

We will also conclude, based on the audit evidence obtained, whether there are conditions or events, considered in the aggregate, that raise substantial doubt about the government's ability to continue as a going concern for a reasonable period of time.

Our procedures will include tests of documentary evidence supporting the transactions recorded in the accounts, tests of the physical existence of inventories, and direct confirmation of receivables and certain other assets and liabilities by correspondence with selected individuals, funding sources, creditors, and financial institutions. We will request written representations from your attorneys as part of the engagement, and they may bill you for responding to this inquiry.

According to GAAS, significant risks include the risk of management's override of internal controls. Accordingly, we have considered this item as a significant risk.

We may, from time to time and depending on the circumstances, use third-party service providers in serving your account. We may share confidential information about you with these service providers but remain committed to maintaining the confidentiality and security of your information. Accordingly, we maintain internal policies, procedures, and safeguards to protect the confidentiality of your personal information. In addition, we will secure confidentiality agreements with all service providers to maintain the confidentiality of your information and we will take reasonable precautions to determine that they have appropriate procedures in place to prevent the unauthorized release of your confidential information to others. In the event that we are unable to secure an appropriate confidentiality agreement, you will be asked to provide your consent prior to the sharing of your confidential information with the third-party service provider. Furthermore, we will remain responsible for the work provided by any such third-party service providers.

Our audit of financial statements does not relieve you of your responsibilities.

Audit Procedures—Internal Control

We will obtain an understanding of the government and its environment, including the system of internal control, sufficient to identify and assess the risks of material misstatement of the financial statements, whether due to error or fraud, and to design and perform audit procedures responsive to those risks and obtain evidence that is sufficient and appropriate to provide a basis for our opinions. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentation, or the override of internal control. Tests of controls may be performed to test the effectiveness of certain controls that we consider relevant to preventing and detecting errors and fraud that are material to the financial statements and to preventing and detecting misstatements resulting from illegal acts and other noncompliance matters that have a direct and material effect on the financial statements. Our tests, if performed, will be less in scope than would be necessary to render an opinion on internal control and, accordingly, no opinion will be expressed in our report on internal control issued pursuant to *Government Auditing Standards*.

As required by the Uniform Guidance, we will perform tests of controls over compliance to evaluate the effectiveness of the design and operation of controls that we consider relevant to preventing or detecting material noncompliance with compliance requirements applicable to each major federal award program. However, our tests will be less in scope than would be necessary to render an opinion on those controls and, accordingly, no opinion will be expressed in our report on internal control issued pursuant to the Uniform Guidance.

An audit is not designed to provide assurance on internal control or to identify significant deficiencies or material weaknesses. Accordingly, we will express no such opinion. However, during the audit, we will communicate to management and those charged with governance internal control related matters that are required to be communicated under AICPA professional standards, *Government Auditing Standards*, and the Uniform Guidance.

Audit Procedures—Compliance

As part of obtaining reasonable assurance about whether the financial statements are free of material misstatement, we will perform tests of the Town's compliance with provisions of applicable laws, regulations, contracts and agreements, including grant agreements. However, the objective of those procedures will not be to provide an opinion on overall compliance and we will not express such an opinion in our report on compliance issued pursuant to *Government Auditing Standards*.

The Uniform Guidance requires that we also plan and perform the audit to obtain reasonable assurance about whether the auditee has complied with federal statutes, regulations, and the terms and conditions of federal awards applicable to major programs. Our procedures will consist of tests of transactions and other applicable procedures described in the *OMB Compliance Supplement* for the types of compliance requirements that could have a direct and material effect on each of the Town's major programs. For federal programs that are included in the Compliance Supplement, our compliance and internal control procedures will relate to the compliance requirements that the Compliance Supplement identifies as being subject to audit. The purpose of these procedures will be to express an opinion on the Town's compliance with requirements applicable to each of its major programs in our report on compliance issued pursuant to the Uniform Guidance.

Other Services

We will also assist in preparing the financial statements, schedule of expenditures of federal awards, and related notes of the City in conformity with U.S. generally accepted accounting principles and the Uniform Guidance based on information provided by you. These nonaudit services do not constitute an audit under *Government Auditing Standards* and such services will not be conducted in accordance with *Government Auditing Standards*. We will perform these services in accordance with applicable professional standards. The other services are limited to the financial statements, schedule of expenditures of federal awards, and related notes services previously defined. We, in our sole professional judgement, reserve the right to refuse to perform any procedure or take any action that could be construed as assuming management responsibilities.

You agree to assume all management responsibilities relating to the financial statements, schedule of expenditures of federal awards, related notes, and any other nonaudit services we provide. You will be required to acknowledge in the management representation letter our assistance with preparation of the financial statements, schedule of expenditures of federal awards, and related notes and that you have reviewed and approved the financial statements, schedule of expenditures of federal awards, and related notes prior to their issuance and have accepted responsibility for them. Further, you agree to oversee the nonaudit services by designating an individual, preferably from senior management, who possesses suitable skill, knowledge, or experience; evaluate the adequacy and results of those services; and accept responsibility for them.

Responsibilities of Management for the Financial Statements and Single Audit

Our audit will be conducted on the basis that you acknowledge and understand your responsibility for: (1) designing, implementing, establishing, and maintaining effective internal controls relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error, including internal controls over federal awards, and for evaluating and monitoring ongoing activities, to help ensure that appropriate goals and objectives are met; (2) following laws and regulations; (3) ensuring that there is reasonable assurance that government programs are administered in compliance with compliance requirements; and (4) ensuring that management and financial information is reliable and properly reported. Management is also responsible for implementing systems designed to achieve compliance with applicable laws, regulations, contracts, and grant agreements. You are also responsible for the selection and application of accounting principles; for the preparation and fair presentation of the financial statements, schedule of expenditures of federal awards, and all accompanying information in conformity with accounting principles generally accepted in the United States of America; and for compliance with applicable laws and regulations (including federal statutes) and the provisions of contracts and grant agreements (including award agreements). Your responsibilities also include identifying significant contractor relationships in which the contractor has responsibility for program compliance and for the accuracy and completeness of that information.

You are also responsible for making drafts of financial statements, schedule of expenditures of federal awards, all financial records and related information available to us and for the accuracy and completeness of that information (including information from outside of the general and subsidiary ledgers). You are also responsible for providing us with: (1) access to all information of which you are aware that is relevant to the preparation and fair presentation of the financial statements, such as records, documentation, identification of all related parties and all related-party relationships and transactions, and other matters, (2) access to personnel, accounts, books, records, supporting documentation, and other information as needed to perform an audit under the Uniform Guidance, (3) additional information that we may request for the purpose of the audit, and (4) unrestricted access to persons within the government from whom we determine it necessary to obtain audit evidence. At the conclusion of our audit, we will require certain written representations from you about the financial statements; schedule of expenditures of federal awards; federal award programs; compliance with laws, regulations, contracts, and grant agreements; and related matters.

Your responsibilities include adjusting the financial statements to correct material misstatements and confirming to us in the management representation letter that the effects of any uncorrected misstatements aggregated by us during the current engagement and pertaining to the latest period presented are immaterial, both individually and in the aggregate, to the financial statements of each opinion unit taken as a whole.

You are responsible for the design and implementation of programs and controls to prevent and detect fraud, and for informing us about all known or suspected fraud affecting the government involving: (1) management, (2) employees who have significant roles in internal control, and (3) others where the fraud could have a material effect on the financial statements. Your responsibilities include informing us of your knowledge of any allegations of fraud or suspected fraud affecting the government received in communications from employees, former employees, grantors, regulators, or others. In addition, you are responsible for identifying and ensuring that the government complies with applicable laws, regulations, contracts, agreements, and grants. You are also responsible for taking timely and appropriate steps to remedy fraud and noncompliance with provisions of laws, regulations, contracts, and grant agreements that we report. Additionally, as required by the Uniform Guidance, it is management's responsibility to evaluate and monitor noncompliance with federal statutes, regulations, and the terms and conditions of federal awards; take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings; promptly follow up and take corrective action on reported audit findings; and to prepare a summary schedule of prior audit findings and a separate corrective action plan. The summary schedule of prior audit findings should be available for our review subsequent to the start of fieldwork.

You are responsible for identifying all federal awards received and understanding and complying with the compliance requirements and for the preparation of the schedule of expenditures of federal awards (including notes and noncash assistance received, and COVID-19 related concepts, such as lost revenues, if applicable) in conformity with the Uniform Guidance. You agree to include our report on the schedule of expenditures of federal awards in any document that contains and indicates that we have reported on the schedule of expenditures of federal awards. You also agree to include the audited financial statements with any presentation of the schedule of expenditures of federal awards that includes our report thereon or make the audited financial statements readily available to intended users of the schedule of expenditures of federal awards no later than the date the schedule of expenditures of federal awards is issued with our report thereon. Your responsibilities include acknowledging to us in the written representation letter that: (1) you are responsible for presentation of the schedule of expenditures of federal awards in accordance with the Uniform Guidance; (2) you believe the schedule of expenditures of federal awards, including its form and content, is stated fairly in accordance with the Uniform Guidance; (3) the methods of measurement or presentation have not changed from those used in the prior period (or, if they have changed, the reasons for such changes); and (4) you have disclosed to us any significant assumptions or interpretations underlying the measurement or presentation of the schedule of expenditures of federal awards.

You are also responsible for the preparation of the other supplementary information, which we have been engaged to report on, in conformity with U.S. generally accepted accounting principles. You agree to include our report on the supplementary information in any document that contains and indicates that we have reported on the supplementary information. You also agree to include the audited financial statements with any presentation of the supplementary information that includes our report thereon or make the audited financial statements readily available to users of the supplementary information no later than the date the supplementary information is issued with our report thereon. Your responsibilities include acknowledging to us in the written representation letter that: (1) you are responsible for presentation of the supplementary information in accordance with GAAP; (2) you believe the supplementary information, including its form and content, is fairly presented in accordance with GAAP; (3) the methods of measurement or presentation have not changed from those used in the prior period (or, if they have changed, the reasons for such changes); and (4) you have disclosed to us any significant assumptions or interpretations underlying the measurement or presentation of the supplementary information.

Management is responsible for establishing and maintaining a process for tracking the status of audit findings and recommendations. Management is also responsible for identifying and providing report copies of previous financial audits, attestation engagements, performance audits or other studies related to the objectives discussed in the Audit Scope and Objectives section of this letter. This responsibility includes relaying to us corrective actions taken to address significant findings and recommendations resulting from those audits, attestation engagements, performance audits, or studies. You are also responsible for providing management's views on our current findings, conclusions, and recommendations, as well as your planned corrective actions, for the report, and for the timing and format for providing that information.

With regard to an exempt offering document with which Mauldin & Jenkins is not involved, you agree to clearly indicate in the exempt offering document that Mauldin & Jenkins is not involved with the contents of such offering document. In the event that Mauldin & Jenkins is requested to be involved with an exempt offering document, you agree that the aforementioned auditor's report or reference to Mauldin & Jenkins will not be included without our prior permission or consent. Furthermore, any agreement to perform work in connection with an exempt offering document, including an agreement to provide permission or consent, will be a separate engagement.

With regard to the electronic dissemination of audited financial statements, including financial statements published electronically on your website, you understand that electronic sites are a means to distribute information and, therefore, we are not required to read the information contained in these sites or to consider the consistency of other information in the electronic site with the original document.

As an attest client, Mauldin & Jenkins, LLC cannot retain or store documents, data, or records on behalf of the Town. This is in accordance with the ET section 1.295.143 of the *AICPA Code of Professional Conduct*. The Town is solely responsible for maintaining its own data and records.

In that regard, SuraLink is used solely as a method of transferring data to Mauldin & Jenkins, LLC and is not intended for the storage of the Town's information. All information you will provide through SuraLink is a copy and you will maintain original documents and data as part of your records.

Engagement Administration, Fees, and Other

We understand that your employees will prepare all cash or other confirmations we request and will locate any documents selected by us for testing. We will schedule the engagement based in part on deadlines, working conditions, and the availability of your key personnel. We will plan the engagement based on the assumption that your personnel will cooperate and provide assistance by performing tasks such as preparing requested schedules, retrieving supporting documents, and preparing confirmations. If, for whatever reason, your personnel are unavailable to provide the necessary assistance in a timely manner, it may substantially increase the work we have to do to complete our engagement, resulting in an increase in fees over our original estimate.

At the conclusion of the engagement, we will complete the appropriate sections of the Data Collection Form that summarizes our audit findings. It is management's responsibility to electronically submit the reporting package (including financial statements, schedule of expenditures of federal awards, summary schedule of prior audit findings, auditors' reports, and corrective action plan) along with the Data Collection Form to the federal audit clearinghouse. We will coordinate with you the electronic submission and certification. The Data Collection Form and the reporting package must be submitted within the earlier of 30 calendar days after receipt of the auditors' reports or nine months after the end of the audit period.

We will provide copies of our reports to the Town; however, management is responsible for distribution of the reports and financial statements. Unless restricted by law or regulation, or containing privileged and confidential information, copies of our reports are to be made available for public inspection.

The audit documentation for this engagement is the property of Mauldin & Jenkins and constitutes confidential information. However, subject to applicable laws and regulations, audit documentation and appropriate individuals will be made available upon request and in a timely manner to a federal agency providing direct or indirect funding, or the U.S. Government Accountability Office for purposes of a quality review of the audit, to resolve audit findings, or to carry out oversight responsibilities. We will notify you of any such request. If requested, access to such audit documentation will be provided under the supervision of Mauldin & Jenkins personnel. Furthermore, upon request, we may provide copies of selected audit documentation to the aforementioned parties. These parties may intend, or decide, to distribute the copies or information contained therein to others, including other governmental agencies.

The audit documentation for this engagement will be retained for a minimum of five years after the report release date or for any additional period requested by a regulatory body. If we are aware that a federal awarding agency, pass-through entity, or auditee is contesting an audit finding, we will contact the party(ies) contesting the audit finding for guidance prior to destroying the audit documentation.

We expect to begin our audit fieldwork in April 2025 and to issue our reports no later than May 31, 2025. Wade P. Sansbury, CPA, is the engagement partner and is responsible for supervising the engagement and signing the reports or authorizing another individual to sign them. Our fee for these services will be $51,000 for the year ended September 30, 2024. If a Single Audit is necessary (either federal or state) an additional $5,000 will be applied per major program. Our hourly rates vary according to the degree of responsibility involved and the experience level of the personnel assigned to your audit. Our invoices for these fees will be rendered as work progresses and are payable upon presentation. A service charge of 1.5% per month (18% annually) will be added onto any balances not paid within 30 days. The above fees are based on anticipated cooperation from your personnel (including complete and timely receipt by us of the information on the respective client participation listings) and the assumption that unexpected circumstances (including scope changes) will not be encountered during the audit. If significant additional time is necessary, we will discuss it with management and arrive at a new fee estimate before we incur the additional costs.

As a result of our prior or future services to you, we might be requested or required to provide information or documents to you or a third party in a legal, administrative, arbitration, or similar proceeding in which we are not a party. If this occurs, our efforts in complying with such requests will be deemed billable to you as a separate engagement. We shall be entitled to compensation for our time and reasonable reimbursement for our expenses (including legal fees) in complying with the request. For all requests we will observe the confidentiality requirements of our profession and will notify you promptly of the request.

Reporting

We will issue written reports upon completion of our Single Audit. Our reports will be addressed to the members of the Town of Fort Myers Beach Council. We cannot provide assurance that unmodified opinions will be expressed. Circumstances may arise in which our report may differ from its expected form and content based on the results of our audit. Depending on the nature of these circumstances, it may be necessary for us to modify our opinions or add emphasis-of-matter or other-matter paragraphs to our auditor’s report, or if necessary, withdraw from this engagement. If our opinions on the financial statements or the Single Audit compliance opinions are other than unmodified, we will discuss the reasons with you in advance. If, for any reason, we are unable to complete the audit or are unable to form or have not formed opinions, we may decline to express opinions or to issue reports or may withdraw from this engagement.

The *Government Auditing Standards* report on internal control over financial reporting and on compliance and other matters will state: (1) that the purpose of the report is solely to describe the scope of testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the entity's internal control or on compliance, and (2) that the report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the entity's internal control and compliance. The Uniform Guidance report on internal control over compliance will state that the purpose of the report on internal control over compliance is solely to describe the scope of testing of internal control over compliance and the results of that testing based on the requirements of the Uniform Guidance. Both reports will state that the report is not suitable for any other purpose.

We appreciate the opportunity to be of service to the Town of Fort Myers Beach, Florida and believe this letter accurately summarizes the significant terms of our engagement. If you have any questions, please let us know. If you agree with the terms of our engagement as described in this letter, please sign below and return it to us.

Sincerely,

MAULDIN & JENKINS, LLC

Wade P. Sansbury, CPA

RESPONSE:

This letter correctly sets forth the understanding of the Town of Fort Myers Beach, Florida.

Management signature: _____

Title: _____

Governance signature: _____

Title: _____

TOWN OF FORT MYERS BEACH, FLORIDA
STANDARD CONTRACT ADDENDUM

THIS STANDARD CONTRACT ADDENDUM is made and entered into this 9th day of September, 2024, by and between the TOWN OF FORT MYERS BEACH, a Florida municipality, hereinafter referred to as the "Town", and Mauldin & Jenkins, LLC, hereinafter referred to as "Contractor", concerning that certain agreement dated the 21st day of August, 2024 ("Agreement").

WITNESSETH:

WHEREAS, Section 119.0701, Fla. Stat., requires that certain public agency contracts must include certain statutorily required provisions concerning the contractor's compliance for Florida's Public Records Act; and

WHEREAS, Section 768.28, Fla. Stat., sets forth certain mandatory limitations on indemnification and liability for Florida public agencies; and

WHEREAS, Florida law requires that public agency contracts be subject to non-appropriation and thereby contingent upon appropriation during the public agency's statutorily mandated annual budget approval process; and

WHEREAS, Section 448.095, Fla. Stat., imposes certain obligations on public agencies with regard to the use of the E-Verify system by their contractors and subcontractors; and

WHEREAS, Section 287.133 and 287.135, Fla. Stat., provides restrictions on local governments contracting with companies that are on certain Scrutinized Companies lists or convicted vendor list; and

WHEREAS, additional terms consistent with Sections 282.3185(5) and (6) related to data management and Section 287.05701 related to social government and corporate activism are also added by virtue of this Addendum; and

WHEREAS, Section 286.101, Florida Statutes contains a list of "foreign countries of concern" including, the People's Republic of China, the Russian Federation, the Islamic Republic of Iran, the Democratic People's Republic of Korea, the Republic of Cuba, the Venezuelan regime of Nicolás Maduro, or the Syrian Arab Republic, including any agency of or any other entity under significant control of such "foreign country of concern". Any entity that does business with a state agency or political subdivision must disclose certain of their dealings with those "foreign countries of concern" to the Florida Department of Financial Services; and

WHEREAS, Section 787.06(13), Florida Statutes provides that when a contract is executed, renewed, or extended between a nongovernmental entity and a governmental entity, the nongovernmental entity must provide the governmental entity with an affidavit signed by an

officer or a representative of the nongovernmental entity under penalty of perjury attesting that the nongovernmental entity does not use coercion for labor or services as defined in such statute;

NOW, THEREFORE, in consideration of the covenants set forth herein, the parties agree to this addendum as follows:

1. Amendment. This Addendum hereby amends and supplements the terms of the Agreement. In the event of a conflict between the terms of the Agreement and terms of the Addendum, the terms of the Addendum shall prevail.

2. Public Records Compliance. Contractor agrees that, to the extent that it may "act on behalf" of the Town within the meaning of Section 119.0701(1)(a), Florida Statutes in providing its services under this Agreement, it shall:

(a) Keep and maintain public records required by the public agency to perform the service.

(b) Upon request from the public agency's custodian of public records, provide the public agency with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law.

(c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the contractor does not transfer the records to the public agency.

(d) Upon completion of the contract, transfer, at no cost, to the public agency all public records in possession of the contractor or keep and maintain public records required by the public agency to perform the service. If the contractor transfers all public records to the public agency upon completion of the contract, the contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the contractor keeps and maintains public records upon completion of the contract, the contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the public agency, upon request from the Town's custodian of public records, in a format that is compatible with the information technology systems of the Town.

(e) Pursuant to Section 119.0701(2)(a), Fla. Stat., **IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:**

TOWN HALL
2525 ESTERO BLVD.
FORT MYERS BEACH, FL. 33931

(239)765-0202
AMY@FMBGOV.COM

3. Public Records Compliance Indemnification. Contractor agrees to indemnify and hold the Town harmless against any and all claims, damage awards, and causes of action arising from the contractor's failure to comply with the public records disclosure requirements of Section 119.07(1), Florida Statutes, or by contractor's failure to maintain public records that are exempt or confidential and exempt from the public records disclosure requirements, including, but not limited to, any third party claims or awards for attorneys' fees and costs arising therefrom. Contractor authorizes the public agency to seek declaratory, injunctive, or other appropriate relief against Contractor in Lee County Circuit Court on an expedited basis to enforce the requirements of this section.

4. Compliance/Consistency with Section 768.28, Fla. Stat. Any indemnification or agreement to defend or hold harmless by Town specified in the Agreement shall not be construed as a waiver of Town's sovereign immunity, and shall be limited to such indemnification and liability limits consistent with the requirements of Section 768.28, Fla. Stat. and subject to the procedural requirements set forth therein. Any other purported indemnification by Town in the Agreement in derogation hereof shall be void and of no force or effect.

5. Non-appropriation. Town's performance and obligation to pay under this Agreement is contingent upon an appropriation during the Town's annual budget approval process. If funds are not appropriated for a fiscal year, then the Contractor shall be notified as soon as is practical by memorandum from the Town Manager or designee that funds have not been appropriated for continuation of the Agreement, and the Agreement shall expire at the end of the fiscal year for which funding has been appropriated. The termination of the Agreement at fiscal year end shall be without penalty or expense to the Town subject to the Town paying all invoices for services rendered during the period the Agreement was funded by appropriations.

6. E-Verify Compliance. By entering into this Agreement, the Contractor is obligated to comply with the provisions of Section 448.095, Florida Statutes "Employment Eligibility," as amended from time to time. This includes but is not limited to register with and use the E-Verify System to verify the work authorization status of all newly hired employees, and requiring all subcontractors to provide an affidavit to Contractor attesting that the subcontractor does not employ, contract with, or subcontract with, an unauthorized alien. Contractor agrees to maintain a copy of such affidavit for the duration of this Agreement. Failure to comply with this paragraph will result in the termination of this Agreement as provided in Section 448.095, Florida Statutes, as amended and Contractor will not be awarded a public contract for at least one (1) year after the date on which the Agreement was terminated. Contractor will also be liable for any additional costs to the Town as a result of the termination of this Agreement in accordance with this paragraph. Contractor affirmatively states, under penalty of perjury, that in accordance with Section 448.095, Florida Statutes, Contractor is registered with and uses the E-Verify system to verify the work authorization status of all newly hired employees, that in accordance with such statute, Contractor requires from each of its subcontractors an affidavit stating that the

subcontractor does not employ, contract with, or subcontract with an unauthorized alien, and that Contractor is otherwise in compliance with Sections 448.09 and 448.095, Florida Statutes.

7. Compliance/Consistency with Scrutinized Companies Provisions of Florida Statutes. Section 287.135(2)(a), Florida Statutes, prohibits a company from bidding on, submitting a proposal for, or entering into or renewing a contract for goods or services of any amount if, at the time of contracting or renewal, the company is on the Scrutinized Companies that Boycott Israel List, created pursuant to section 215.4725, Florida Statutes, or is engaged in a boycott of Israel. Section 287.135(2)(b), Florida Statutes, further prohibits a company from bidding on, submitting a proposal for, or entering into or renewing a contract for goods or services over one million dollars ($1,000,000) if, at the time of contracting or renewal, the company is on either the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, both created pursuant to section 215.473, Florida Statutes, or the company is engaged in business operations in Cuba or Syria. Contractor hereby certifies that Contractor is not listed on any of the following: (i) the Scrutinized Companies that Boycott Israel List, (ii) Scrutinized Companies with Activities in Sudan List, or (iii) the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List. Contractor further hereby certifies that Contractor is not engaged in a boycott of Israel or engaged in business operations in Cuba or Syria. Contractor understands that pursuant to section 287.135, Florida Statutes, the submission of a false certification may subject Contractor to civil penalties, attorney's fees, and/or costs. Contractor further understands that any contract with Town for goods or services of any amount may be terminated at the option of Town if Contractor (i) is found to have submitted a false certification, (ii) has been placed on the Scrutinized Companies that Boycott Israel List, or (iii) is engaged in a boycott of Israel. And, in addition to the foregoing, if the amount of the contract is one million dollars ($1,000,000) or more, the contract may be terminated at the option of Town if the company is found to have submitted a false certification, has been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or has been engaged in business operations in Cuba or Syria.

8. Disclosure Requirements for "Foreign Countries of Concern". CONTRACTOR shall comply with the disclosure requirements set forth is section 286.101 (3) (a), F.S., which requires "Any entity that applies to a state agency or political subdivision for a grant or proposes having a contract value of $100,000 or more shall disclose to the state agency or political subdivision any current or prior interest of, any contract with, or any grant or gift received from a "foreign country of concern" if such interest, contract, grant or gift received from a "foreign country of concern" if such interest, contract, grant or gift has a value of $50,000 or more and such interest existed at any time or such contract, grant or gift was received or in force at any time during the previous five (5) years. Such disclosure shall contain the name and mailing address of the disclosing entity, the amount of the gift or the value of the interest disclosed, the applicable "foreign country of concern" and, if applicable the date of termination of the contract or interest, the date of receipt of the grant or gift and the name of the agent or controlled entity that is the source or interest holder. Within one (1) year before applying for any grant or proposing any contract, such entity must provide a copy of such disclosure to the Department of Financial Services". Pursuant to section 268.101(7), F.S.: "In addition to any fine assessed under [section 286.101(7)(a), F.S.], a final order determining a third or subsequent violation by an entity other than a state agency or political subdivision shall automatically disqualify the entity from eligibility

for any grant or contract funded by a state agency or any political subdivision until such ineligibility is lifted by the Administration Commission for good cause."

9. Venue and Jurisdiction. Notwithstanding any of other provision to the contrary, this Agreement and the parties' actions under this Agreement shall be governed by and construed under the laws of the state of Florida, without reference to conflict of law principles. As a material condition of this Agreement, each Party hereby irrevocably and unconditionally: i) consents to submit and does submit to the jurisdiction of the Circuit Court in and for Lee County, Florida for any actions, suits or proceedings arising out of or relating to this Agreement.

10. Attorneys' Fees and Costs. Notwithstanding any of other provision to the contrary, if litigation ensues regarding this Agreement, each party hereto shall bear its own attorneys' fee and costs.

11. Public Entities Crime or Convicted Vendor List. Contractor agrees and assumes a continuous duty to disclose to the Town if the Contractor or any of its affiliates as defined by Section 287.133(1)(a), Florida Statutes are placed on the Convicted Vendor List or the Antitrust Violator Vendor List maintained by the Florida Department of Management Services.

12. Data Management; Notice of Breach. Contractor shall cooperate with the Town and provide timely incident reporting, response activities/fact gathering, public and agency notification, severity level assessment, after-action reports etc, which the Town must report in accordance with Sections 282.3185(5) & (6), Florida Statutes in the event of a data breach.

13. Environmental and Social Government and Corporate Activism. The Town has not given preference or requested documentation from the Contractor based on Contractor's social, political or ideological interest. Contractor agrees to similarly not request documentation or give preference to any subcontractor based on the subcontractor's social, political or ideological interests.

14. Taxes. The Town shall not be liable for any taxes and assessments imposed by a federal, state or local governmental agency as provided in Section 11.4 of the Agreement, to the extent that the Town is exempt from same by Florida law, including but not limited to any sales or use tax.

15. No coercion for labor or services. The Contractor swears under penalty of perjury that the Contractor does not use coercion for labor or services as defined as follows:

"Coercion" means:

1. Using or threatening to use physical force against any person;
2. Restraining, isolating, or confining or threatening to restrain, isolate, or confine any person without lawful authority and against her or his will;
3. Using lending or other credit methods to establish a debt by any person when labor or services are pledged as a security for the debt, if the value of the labor or services as reasonably assessed is not applied toward the liquidation of the debt, the length and nature of the labor or services are not respectively limited and defined;

4. Destroying, concealing, removing, confiscating, withholding, or possessing any actual or purported passport, visa, or other immigration document, or any other actual or purported government identification document, of any person;

5. Causing or threatening to cause financial harm to any person;

6. Enticing or luring any person by fraud or deceit; or

7. Providing a controlled substance as outlined in Schedule I or Schedule II of Sec. 893.03, Fla. Stat. to any person for the purpose of exploitation of that person.

16. Additional Terms. Notwithstanding any of other provision to the contrary, the parties agree as follows:

A. None.

IN WITNESS WHEREOF, the parties hereto have executed and delivered this instrument on the days and year indicated below and the signatories below to bind the parties set forth herein.

Under penalties of perjury, and pursuant to Sec. 92.525, Fla. Stat., Contractor declares that Contractor has read the foregoing Section 15 above and that the facts stated in it are true.

Contractor:

_____

Print Name: _____

Title: _____

Company: _____

ATTEST:

_____
Amy Baker, Town Clerk

Town of Fort Myers Beach

_____
Dan Allers, Mayor

APPROVED AS TO FORM

_____
Town Attorney

MAULDIN & JENKINS
CPAs & ADVISORS

August 21, 2024

Honorable Mayor and Town Council
Town of Fort Myers Beach, Florida
2523 Estero Boulevard
Fort Myers Beach, Florida 33931

Attention: Andy Hyatt, Town Manger and Joe Onzick, Finance Director

We are pleased to confirm our understanding of the services we are to provide for the Town of Fort Myers Beach, Florida (the "Town").

We will examine the Town's compliance with Section 218.415, Florida Statutes, regarding the investment of public funds as of and for the year ending September 30, 2024. The objectives of our examination are to: (1) obtain reasonable assurance about whether the Town complied with the specified requirements above; and (2) to express an opinion as to whether the Town complied with the specified requirements is fairly stated, in all material respects.

Our examination will be conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants. Accordingly, it will include examining, on a test basis, your records and other procedures to obtain evidence necessary to enable us to express our opinion. We will issue a written report upon completion of our examination. Our report will be addressed to the Honorable Mayor and Members of the Town Council. We cannot provide assurance that an unmodified opinion will be expressed. Circumstances may arise in which it is necessary for us to modify our opinion. If our opinion is other than unmodified, we will discuss the reasons with you in advance. If, for any reason, we are unable to complete the examination or are unable to form or have not formed an opinion, we may decline to express an opinion or may withdraw from this engagement.

Because of the inherent limitations of an examination engagement, together with the inherent limitations of internal control, an unavoidable risk exists that some material misstatements may not be detected, even though the examination is properly planned and performed in accordance with the attestation standards.

You understand that the report is intended solely for the information and use of the Town and the Auditor General of the State of Florida and is not intended to be and should not be used by anyone other than those specified parties.

We will plan and perform the examination to obtain reasonable assurance about whether the Town complied with Section 218.415, Florida Statutes, regarding the investment of public funds is free from material misstatement. Our engagement will not include a detailed inspection of every transaction and cannot be relied on to disclose all material errors or known and suspected fraud or noncompliance with laws or regulations, or internal control deficiencies that may exist.

However, we will inform you of any known and suspected fraud and noncompliance with laws or regulations, internal control deficiencies identified during the engagement, and uncorrected misstatements that come to our attention unless clearly trivial.

We understand that you will provide us with the information required for our examination and that you are responsible for the accuracy and completeness of that information. We may advise you about appropriate criteria, but the responsibility for the subject matter remains with you.

You are responsible for compliance with Section 218.415, Florida Statutes, regarding the investment of public funds; and for selecting the criteria and determining that such criteria are appropriate for your purposes. You are responsible for, and agree to provide us with, a written assertion about whether the Town is in compliance with the above noted criteria. Failure to provide such an assertion will result in our withdrawal from the engagement. You are also responsible for providing us with: (1) access to all information of which you are aware that is relevant to the measurement, evaluation, or disclosure of the subject matter; (2) additional information that we may request for the purpose of the examination; and (3) unrestricted access to persons within the entity from whom we determine it necessary to obtain evidence.

At the conclusion of the engagement, you agree to provide us with certain written representations in the form of a representation letter.

We may from time to time, and depending on the circumstances, use third-party service providers in serving your account. We may share confidential information about you with these service providers, but we remain committed to maintaining the confidentiality and security of your information. Accordingly, we maintain internal policies, procedures, and safeguards to protect the confidentiality of your personal information. In addition, we will secure confidentiality agreements with all service providers to maintain the confidentiality of your information, and we will take reasonable precautions to determine that they have appropriate procedures in place to prevent the unauthorized release of your confidential information to others. In the event that we are unable to secure an appropriate confidentiality agreement, you will be asked to provide your consent prior to the sharing of your confidential information with the third-party service provider. Furthermore, we will remain responsible for the work provided by any such third-party service providers.

Wade P. Sansbury, CPA, is the engagement partner and is responsible for supervising the engagement and signing the report or authorizing another individual to sign it.

We expect to begin our examination in April 2025. Our fees for these services are included in the Town’s annual audit engagement letter. If significant additional time is necessary, we will discuss it with you and arrive at a new fee estimate before we incur the additional costs. Our invoices for these fees will be rendered each month as work progresses and are payable on presentation. If we elect to terminate our services for nonpayment, our engagement will be deemed to have been completed upon written notification of termination, even if we have not completed our report. You will be obligated to compensate us for all time expended and to reimburse us for all out-of-pocket expenditures through the date of termination.

We appreciate the opportunity to be of service to you and believe this letter accurately summarizes the significant terms of our engagement. If you have any questions, please let us know. If you agree with the terms of our engagement as described in this letter, please sign below and return it to us.

Sincerely,

MAULDIN & JENKINS, LLC

Wade P. Sansbury, CPA

RESPONSE:
This letter correctly sets forth the understanding of the Town of Fort Myers Beach, Florida.

Management signature: _____

Title: _____

Governance signature: _____

Title: _____

TOWN OF FORT MYERS BEACH, FLORIDA
STANDARD CONTRACT ADDENDUM

THIS STANDARD CONTRACT ADDENDUM is made and entered into this 9th day of September, 2024, by and between the TOWN OF FORT MYERS BEACH, a Florida municipality, hereinafter referred to as the "Town", and Mauldin & Jenkins, LLC, hereinafter referred to as "Contractor", concerning that certain agreement dated the 21st day of August, 2024 ("Agreement").

WITNESSETH:

WHEREAS, Section 119.0701, Fla. Stat., requires that certain public agency contracts must include certain statutorily required provisions concerning the contractor's compliance for Florida's Public Records Act; and

WHEREAS, Section 768.28, Fla. Stat., sets forth certain mandatory limitations on indemnification and liability for Florida public agencies; and

WHEREAS, Florida law requires that public agency contracts be subject to non-appropriation and thereby contingent upon appropriation during the public agency's statutorily mandated annual budget approval process; and

WHEREAS, Section 448.095, Fla. Stat., imposes certain obligations on public agencies with regard to the use of the E-Verify system by their contractors and subcontractors; and

WHEREAS, Section 287.133 and 287.135, Fla. Stat., provides restrictions on local governments contracting with companies that are on certain Scrutinized Companies lists or convicted vendor list; and

WHEREAS, additional terms consistent with Sections 282.3185(5) and (6) related to data management and Section 287.05701 related to social government and corporate activism are also added by virtue of this Addendum; and

WHEREAS, Section 286.101, Florida Statutes contains a list of "foreign countries of concern" including, the People's Republic of China, the Russian Federation, the Islamic Republic of Iran, the Democratic People's Republic of Korea, the Republic of Cuba, the Venezuelan regime of Nicolás Maduro, or the Syrian Arab Republic, including any agency of or any other entity under significant control of such "foreign country of concern". Any entity that does business with a state agency or political subdivision must disclose certain of their dealings with those "foreign countries of concern" to the Florida Department of Financial Services; and

WHEREAS, Section 787.06(13), Florida Statutes provides that when a contract is executed, renewed, or extended between a nongovernmental entity and a governmental entity, the nongovernmental entity must provide the governmental entity with an affidavit signed by an

officer or a representative of the nongovernmental entity under penalty of perjury attesting that the nongovernmental entity does not use coercion for labor or services as defined in such statute;

NOW, THEREFORE, in consideration of the covenants set forth herein, the parties agree to this addendum as follows:

1. Amendment. This Addendum hereby amends and supplements the terms of the Agreement. In the event of a conflict between the terms of the Agreement and terms of the Addendum, the terms of the Addendum shall prevail.

2. Public Records Compliance. Contractor agrees that, to the extent that it may "act on behalf" of the Town within the meaning of Section 119.0701(1)(a), Florida Statutes in providing its services under this Agreement, it shall:

(a) Keep and maintain public records required by the public agency to perform the service.

(b) Upon request from the public agency's custodian of public records, provide the public agency with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law.

(c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the contractor does not transfer the records to the public agency.

(d) Upon completion of the contract, transfer, at no cost, to the public agency all public records in possession of the contractor or keep and maintain public records required by the public agency to perform the service. If the contractor transfers all public records to the public agency upon completion of the contract, the contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the contractor keeps and maintains public records upon completion of the contract, the contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the public agency, upon request from the Town's custodian of public records, in a format that is compatible with the information technology systems of the Town.

(e) Pursuant to Section 119.0701(2)(a), Fla. Stat., **IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:**

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(239)765-0202
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4. Compliance/Consistency with Section 768.28, Fla. Stat. Any indemnification or agreement to defend or hold harmless by Town specified in the Agreement shall not be construed as a waiver of Town's sovereign immunity, and shall be limited to such indemnification and liability limits consistent with the requirements of Section 768.28, Fla. Stat. and subject to the procedural requirements set forth therein. Any other purported indemnification by Town in the Agreement in derogation hereof shall be void and of no force or effect.

5. Non-appropriation. Town's performance and obligation to pay under this Agreement is contingent upon an appropriation during the Town's annual budget approval process. If funds are not appropriated for a fiscal year, then the Contractor shall be notified as soon as is practical by memorandum from the Town Manager or designee that funds have not been appropriated for continuation of the Agreement, and the Agreement shall expire at the end of the fiscal year for which funding has been appropriated. The termination of the Agreement at fiscal year end shall be without penalty or expense to the Town subject to the Town paying all invoices for services rendered during the period the Agreement was funded by appropriations.

6. E-Verify Compliance. By entering into this Agreement, the Contractor is obligated to comply with the provisions of Section 448.095, Florida Statutes "Employment Eligibility," as amended from time to time. This includes but is not limited to register with and use the E-Verify System to verify the work authorization status of all newly hired employees, and requiring all subcontractors to provide an affidavit to Contractor attesting that the subcontractor does not employ, contract with, or subcontract with, an unauthorized alien. Contractor agrees to maintain a copy of such affidavit for the duration of this Agreement. Failure to comply with this paragraph will result in the termination of this Agreement as provided in Section 448.095, Florida Statutes, as amended and Contractor will not be awarded a public contract for at least one (1) year after the date on which the Agreement was terminated. Contractor will also be liable for any additional costs to the Town as a result of the termination of this Agreement in accordance with this paragraph. Contractor affirmatively states, under penalty of perjury, that in accordance with Section 448.095, Florida Statutes, Contractor is registered with and uses the E-Verify system to verify the work authorization status of all newly hired employees, that in accordance with such statute, Contractor requires from each of its subcontractors an affidavit stating that the

subcontractor does not employ, contract with, or subcontract with an unauthorized alien, and that Contractor is otherwise in compliance with Sections 448.09 and 448.095, Florida Statutes.

7. Compliance/Consistency with Scrutinized Companies Provisions of Florida Statutes. Section 287.135(2)(a), Florida Statutes, prohibits a company from bidding on, submitting a proposal for, or entering into or renewing a contract for goods or services of any amount if, at the time of contracting or renewal, the company is on the Scrutinized Companies that Boycott Israel List, created pursuant to section 215.4725, Florida Statutes, or is engaged in a boycott of Israel. Section 287.135(2)(b), Florida Statutes, further prohibits a company from bidding on, submitting a proposal for, or entering into or renewing a contract for goods or services over one million dollars ($1,000,000) if, at the time of contracting or renewal, the company is on either the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, both created pursuant to section 215.473, Florida Statutes, or the company is engaged in business operations in Cuba or Syria. Contractor hereby certifies that Contractor is not listed on any of the following: (i) the Scrutinized Companies that Boycott Israel List, (ii) Scrutinized Companies with Activities in Sudan List, or (iii) the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List. Contractor further hereby certifies that Contractor is not engaged in a boycott of Israel or engaged in business operations in Cuba or Syria. Contractor understands that pursuant to section 287.135, Florida Statutes, the submission of a false certification may subject Contractor to civil penalties, attorney's fees, and/or costs. Contractor further understands that any contract with Town for goods or services of any amount may be terminated at the option of Town if Contractor (i) is found to have submitted a false certification, (ii) has been placed on the Scrutinized Companies that Boycott Israel List, or (iii) is engaged in a boycott of Israel. And, in addition to the foregoing, if the amount of the contract is one million dollars ($1,000,000) or more, the contract may be terminated at the option of Town if the company is found to have submitted a false certification, has been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or has been engaged in business operations in Cuba or Syria.

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9. Venue and Jurisdiction. Notwithstanding any of other provision to the contrary, this Agreement and the parties' actions under this Agreement shall be governed by and construed under the laws of the state of Florida, without reference to conflict of law principles. As a material condition of this Agreement, each Party hereby irrevocably and unconditionally: i) consents to submit and does submit to the jurisdiction of the Circuit Court in and for Lee County, Florida for any actions, suits or proceedings arising out of or relating to this Agreement.

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"Coercion" means:

1. Using or threatening to use physical force against any person;
2. Restraining, isolating, or confining or threatening to restrain, isolate, or confine any person without lawful authority and against her or his will;
3. Using lending or other credit methods to establish a debt by any person when labor or services are pledged as a security for the debt, if the value of the labor or services as reasonably assessed is not applied toward the liquidation of the debt, the length and nature of the labor or services are not respectively limited and defined;

4. Destroying, concealing, removing, confiscating, withholding, or possessing any actual or purported passport, visa, or other immigration document, or any other actual or purported government identification document, of any person;

5. Causing or threatening to cause financial harm to any person;

6. Enticing or luring any person by fraud or deceit; or

7. Providing a controlled substance as outlined in Schedule I or Schedule II of Sec. 893.03, Fla. Stat. to any person for the purpose of exploitation of that person.

16. Additional Terms. Notwithstanding any of other provision to the contrary, the parties agree as follows:

A. None.

IN WITNESS WHEREOF, the parties hereto have executed and delivered this instrument on the days and year indicated below and the signatories below to bind the parties set forth herein.

Under penalties of perjury, and pursuant to Sec. 92.525, Fla. Stat., Contractor declares that Contractor has read the foregoing Section 15 above and that the facts stated in it are true.

Contractor:

_____

Print Name: _____

Title: _____

Company: _____

ATTEST:

_____
Amy Baker, Town Clerk

Town of Fort Myers Beach

_____
Dan Allers, Mayor

APPROVED AS TO FORM

_____
Town Attorney

Town of Fort Myers Beach
Agenda Item Summary

Blue Sheet Number: **2024-209**

1. **Request:**

Meeting Date: September 9, 2024

Town Comprehensive Emergency Management Plan (CEMP) Administrative Updates and Input

Why the action is necessary:

Significant updates to the Town's CEMP are approved by Town Council through Resolution.

What the action accomplishes:

Provides for Town Council input and approval of the administrative updates to the Town's CEMP.

2. **Agenda:**

ADMINISTRATIVE AGENDA

3. **Requirement/Purpose:**

4. **Submitter of Information:**

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5. **Background:**

The Town Manager and staff have been reviewing and providing some administrative updates to the most recent 2023 version of the CEMP.

Although Town Council is not required to approve administrative updates to the CEMP, Town Administration is providing these updates and the current plan for Town Council review annually.

Administrative updates to the current plan include:

- Updates to Departments, Town organization, and Emergency Operations
- Reference to participation in the Florida Division of Emergency Management (FDEM)'s Florida Recovery Obligation Calculation (F-ROC) Program
- Clarity on emergency communication processes including the use of radios

Attachments:

1. Town of Fort Myers Beach CEMP 2024 Administrative Updates for TC

Financial Impact:

6. **Alternative Action**

7. **Management Recommendations:**

8. **Recommended Approval:**

Jason Freeman, Legislative Liaison / Deputy Town Clerk	Created/Initiated - 8/29/2024
nancy stuparich, Town Attorney	Approved - 9/3/2024
Amy Baker, Town Clerk	Approved - 9/3/2024
Andy Hyatt, Town Manager	Final Approval - 9/3/2024

Town of Fort Myers Beach

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Comprehensive Emergency Management Plan (CEMP)

2024 Administrative Update

Executive Summary

Disaster can strike at any time without a moment's notice. Hurricanes and other catastrophic events have the potential to cause significant widespread damage to our Town. Being prepared and having a regularly exercised plan of action can be the difference between life and death for the citizens of this community. This 2024 administrative update incorporates strategies and lessons learned from Hurricane Ian and other past experiences, as well as the participation in the Florida Recovery Obligation Calculation (F-ROC) program.

Local law enforcement, fire, emergency medical services, public health and medical providers, emergency management, public works, environmental response professionals, and others in the community are often the first to detect a threat, hazard, or respond to an incident. They also are often the last to leave an incident site or otherwise deal with the effects of an incident. The local senior elected or appointed official (the Mayor or Town Manager) is responsible for ensuring the public safety and welfare of residents. In today's world, senior officials and their emergency managers build the foundation for an effective response. They organize and integrate their capabilities and resources with neighboring jurisdictions, the state, non-governmental organizations (NGOs), and the private sector. Increasingly, businesses are vital partners within communities wherever retail locations, service sites, manufacturing facilities, or management offices are located. NGOs and not-for-profit organizations also play a key role in strengthening communities' response efforts through their knowledge of hard-to-reach populations, outreach, and services.

The Town has enjoyed a solid, cooperative and productive relationship with surrounding municipalities, the county, and the State of Florida. Details concerning working relationships between the Town, county and state have been outlined in this plan. By understanding each other's roles as well as the risks posed by natural and manmade disasters, we can better prepare, respond and recover from these events.

The Comprehensive Emergency Management Plan (CEMP) is the product of coordinated planning among the Town and county government, business community leaders and volunteer agencies. In addition, the plan follows Federal Emergency Management Agency (FEMA) Version 2.0 of Comprehensive Preparedness Guide 101: Developing and Maintaining Emergency Operations Plans. The CEMP is one of the core planning documents that explains how the Town plans to respond to disasters. Town staff use this plan as the basis for training in their roles during disasters. Exercises provide a chance to validate the plan and training.

In this document, incidents include actual or potential emergencies or all-hazards events that range from accidents and natural disasters to actual or potential terrorist attacks. They include events contained within a single jurisdiction and others that are catastrophic in nature and regional and/or national in their scope or consequences.

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I. INTRODUCTION

a. Purpose

The purpose of the plan is to reduce the vulnerability of people and property from large scale disasters, ensure an effective response to the impacts of critical incidents and disasters, and ensure long-term community recovery. The Comprehensive Emergency Management Plan (CEMP) describes the policies, strategies, operational goals and objectives through which the Town will mobilize resources and conduct response and recovery activities after a large-scale disaster.

This plan provides an all-hazards emergency management framework and addresses prevention, mitigation, preparedness, response, and recovery. The plan establishes municipal policies and protocols for conducting emergency operations.

The plan establishes the organizational system for comprehensive emergency management in compliance with the National Incident Management System (NIMS) as well as Federal, State, and County requirements. Roles and responsibilities for implementing emergency operations are assigned to individuals, agencies, and contract organizations.

This plan is designed to address all hazards. However, its policies, operational procedures, and responsibilities are flexible and should be modified to meet disaster or critical incident specific conditions.

b. Scope

This "Basic Plan" is designed to provide an "all hazards" response template for most emergencies. The Fort Myers Beach Comprehensive Emergency Management Plan (CEMP) provides specific guidance for unique emergencies such as aircraft crashes, major hazardous material incidents, and acts of terrorism. These will include direction and control measures and protocols for a variety of emergency responses which may require coordination between local, State and Federal agencies.

Generally, a Unified Command (UC) is established to manage an emergency response covering more than one jurisdiction. This plan details actions necessary for short and long-term recovery and mitigation efforts following a disaster. In all but purely local disasters, the Lee County Emergency Operations Center (EOC) will serve as the central venue to coordinate emergency warning, response and short-term recovery activities with the Fort Myers Beach EOC and Emergency Management Team serving a coordination and support function. Once these activities are focused on a specific function (i.e. debris management), long-term recovery will best be managed directly by Fort Myers Beach and the responsible Town or County department pursuant to established policies and interlocal

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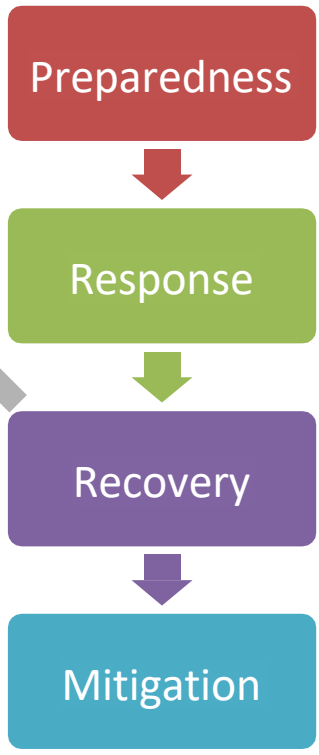
agreements.

Mitigation measures are addressed through Lee County's Local Mitigation Strategy meetings and through rebuilding initiatives associated with damaged facilities. The Town maintains an active role in the County's ongoing mitigation strategy effort and with the Local Mitigation Strategy (LMS).

c. Framework for Emergency Management



To facilitate rapid and efficient emergency disaster operations, the Town of Fort Myers Beach officials participate in the National Incident Management System (NIMS). In support of that system, the Fort Myers Beach CEMP provides the framework for different agencies, jurisdictions, government levels, volunteer organizations, and the private sector to deal with all-hazards and effectively utilize resources in a coordinated effort. The CEMP addresses the four phases of emergency management: Preparedness, Response, Recovery and Mitigation.

Some phases are continuous with a certain amount of overlap. NIMS establishes coordination, linkages, interoperability and partnerships among the participants and fully integrates facilities, equipment, communications, procedures and authorities into a common emergency management program. Managing emergencies necessarily involves many stakeholders including fire, sheriff, medical, community, business, volunteer, county, and other neighboring jurisdictions. NIMS and ICS provide a system in which all stakeholders work together to effectively and efficiently respond to any emergencies.

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Like NIMS, the Incident Command System (ICS) is an emergency management model for command, control and coordination. Fort Myers Beach officials will employ the basic features and principles of this system in managing emergencies. ICS provides a standardized structure that can pull the many parts of emergency operations together.

d. Authorities and References

This plan was developed to be in compliance with Florida Statutes 252.38 (Emergency management powers of political subdivisions), which encourages and authorizes political subdivisions to develop emergency plans which are consistent and coordinated with the emergency planning of the County government.
The Town has adopted and institutionalized the requirements set forth in the National Incident Management System, Homeland Security Presidential Directive Number 5, and Homeland Security Directive Number 8. The Town meets all

requirements set forth in Florida Statutes 252.38(2) and will update if and when legislation or policies change.

The CEMP establishes uniform policies and procedures consistent with NIMS for the effective coordination of resources to cope with a wide variety of natural, man-made, and technological emergencies. These emergencies may differ in size and severity and might affect the health, safety, or general welfare of the people of the Town of Fort Myers Beach. The plan is also in compliance with the Florida Comprehensive Emergency Management Plan and the Lee County Comprehensive Emergency Management Plan.

Fort Myers Beach Town Ordinance No. 06-12 and 10-08 describes the procedures for declaring a state of emergency and all related actions by Town officials. The ordinance provides the authorities for the development of this Comprehensive Emergency Management Plan and all measures necessary to protect public health, safety and welfare to preserve the lives and property of the residents of Fort Myers Beach, Florida. This plan includes procedures for the activation, operation and deactivation of the Town of Fort Myers Beach Emergency Operations Center. The Town Manager, or in his/her absence the Operations & Compliance Director, or in his/her absence, the Community Services Director may activate the plan in accordance with the activation procedures.

e. Plan Adoption Requirements

Pursuant to F.A.C. 27P-6.010, (8), this plan shall be adopted by resolution of the governing body of the jurisdiction before it becomes the Comprehensive Emergency Management Plan for such local government. Modifications to the plan made between formal approvals by the governing body that are not substantive shall be considered administrative updates to the previously approved plan and do not require approval of the governing body, but must be approved by the Town Manager.

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f. Plan Distribution

The Town of Fort Myers Beach CEMP will be comprehensively reviewed once every four years, or whenever significant revisions are necessary, or as directed by the Town Manager. The plan will be distributed electronically, and physical copies sent upon request to the following individuals for input:

a. Town Manager
b. All Town Department Directors
c. Lee County Emergency Management Division Chief
d. Lee County Sheriff's Office
e. Fire Chief, Fort Myers Beach Fire Control District

When adopted, the Plan shall be placed on the Town's website and distributed to those listed above and to the Town Clerk.

In addition, the Town Manager will periodically review emergency management assignments within the Emergency Operations Center with the goal of developing each position to a depth of two levels for each vital position. Individuals assigned to the roster will be notified of any updates to the Plan. This shall include:

f. Mayor and Town Council
g. Incident Command
h. Planning Section Chief
i. Logistics Section Chief
j. Operations Section Chief
k. Finance / Administration Section Chief
l. Public Information Officer
m. Fire Chief
n. Sheriff
o. Emergency Management Coordinator

It shall be their responsibility to read and review the plan and be fully aware of the role they play in an emergency, and to disseminate it to and review it with appropriate members of their staff.

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II. SITUATION & ASSUMPTIONS

a. Hazard Analysis

The entire incorporated area of the Town of Fort Myers Beach is located within an area of Coastal High Hazard as defined in Florida Statutes, Chapter 163.3178. All life and property on Estero Island are especially vulnerable to destruction by high winds and flooding caused by hurricanes, and their accompanying tornadoes and heavy rainfall. Large areas of the island are subject to damage from wave action of flood waters. Life and property may also be endangered by the insufficient precautions of others when wave action batters structures with unsecured debris and wreckage of destroyed structures. Evacuation is limited by the two exit points from the Town, necessitating advanced warning. Additionally, during a wind event, bridges may be closed thus limiting response on and off the island. Afterward, utility services may be disabled, and may continue to be nonfunctional for extended periods; public safety may be impaired through lack of police and fire protection and emergency medical response; downed power lines, gas leaks, and damage to structures can cause safety hazards; and necessities such as food, fresh water, and gasoline may be unavailable for extended periods of time.

Tropical weather is the most likely event to affect the Town of Fort Myers Beach, however, the Town is vulnerable to other emergency events. The Lee County LMS identifies the following additional hazards as potential threats to our community: coastal erosion, drought/extreme heat, terrorism, pandemic, civil unrest and collateral effects from disasters and emergencies from other parts of Florida.

The Town of Fort Myers Beach has adopted the Lee County Comprehensive Emergency Management Plan (CEMP), which includes flood/surge impact scenarios and the County flood warning plan for Estero Island. Additionally, the Town adopted the Lee County Local Mitigation Strategy (LMS) that contains a detailed risk analysis outlining potential damage to town residences, businesses and infrastructure. There is also a Hazard Identification and Risk Assessment in coordination through Lee County.

b. Geographic Information

The Town's jurisdiction includes approximately 2.77 square miles of land area, or all of Estero Island, plus the area of water within a perimeter extending one thousand feet from the shoreline of Estero Island. Estero Island is part of a system of barrier islands along Florida's west coast formed by erosion and movement of sand along the shoreline. A barrier island is a dynamic landform, subject to long-term landward movement, and sudden landward movement resulting from large storms, a process called "barrier island rollover."

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The topography of Estero Island is nearly flat, with the greatest relief of a gentle slope upward from the submerged near-shore area to the vegetated dunes beyond the backshore area of the beach. The usual topographic sequence in section proceeding from the gulf side to the bay side would be near-shore, beach, dune, wash-over fan, marsh, tidal flat, and finally the estuarine lagoon of Estero Bay. In the absence of human alterations, the dunes are the highest point on the profile of the island, and water drains either down the face of the beach into the ocean or back from the dunes into the mangrove marshes where it percolates into the bay.

Human alterations of Estero Island have replaced the dunes, wash-over fan, and portions of mangrove marsh with rows of buildings, pavement, and a system of canals. The remaining beach and dunes, mangrove marshes, and tidal flats are environmentally sensitive and indicated as such on the Town's Future Land Use Map. Much of the beach is also protected from development by the State's 1978 Coastal Construction Control Line. The entire island is subject to flooding from heavy rains and from storm surge that overtops the dunes and washes across the island.

c. Land Use

Land use in the Town is oriented toward the main tourist attractions of the beach and recreational boating and limited by the singular north-south transportation corridor of Estero Boulevard and absence of side street connectivity. Businesses cluster in the downtown area (Pedestrian Commercial future land use) and stretch down Estero Boulevard to the vicinity of Town Hall and the library (Boulevard future land use). A second center of commerce is at the south end of the island surrounding Santini Plaza (also Pedestrian Commercial future land use). Along Estero Boulevard at the north and south ends of the island are mostly high-rise and other multi-family residential buildings; single and two-family homes are more common to the bay side of Estero Boulevard and along Estero Boulevard in the central portion of the island.

d. Demographics

The Census Bureau's July, 1 2022 resident population estimate for the Town of Fort Myers Beach is approximately 5,664. This places the resident population density of the Town at approximately 2,037 persons per square mile; the 2010 Census reports the Town's land area as 2.78 square miles.

Population Estimates, July 1, 2022, (V2022)	**5,664**
Population estimates base, April 1, 2020, (V2022)	5,581
Population, percent change - April 1, 2020 (estimates base) to July 1, 2022, (V2022)	1.5%
Population, Census, April 1, 2020	5,582
Population, Census, April 1, 2010	6,277

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The Census Bureau's estimates were not available for 2022, the 2010 estimates show a total of 10,119 housing units, of these 27.3 percent are estimated to be single-family detached homes and 55 percent are units in structures with more than 20 units; a reflection of the large number of high-rise multi-family residences on the Island. The estimated Owner-occupied housing unit rate for 2017-2021 was 89.4 percent. The 2010 Census reported 50.5 percent of the Town's housing units being for seasonal, recreational, or occasional use. The Town's seasonal population is difficult to calculate; estimates range from five to thirty thousand additional persons. There are also transients with no fixed residence and visitors in recreational vehicles.

Post-Ian statistics will incorporate the loss of structures suffered by the Town, but at this time reliable data of the changing stock of buildings/ structures has not been made available.

Of the Town's estimated 5,664 permanent residents, 5.5 percent, are estimated to speak a language other than English at home. However, according to 2010 Census data only 1.1 percent are estimated to speak English less than "very well". Approximately 55 percent of residents speaking languages other than English are speaking other Indo- European languages and 29 percent are estimated as speaking Spanish.

e. Economic Profile

The Town of Fort Myers Beach's major industry is the service industry, supporting the Town's large tourist and seasonal communities. Household income information is shown in the table below:

Description	Numerical Data
Median Household Income	$ 76,888
Poverty Rate	6.0%

Per the 2020 Economic Census, Town businesses accounted for 564 jobs in food preparation and serving related fields; 509 jobs in Management; 263 jobs in sales and related occupations; 481 jobs in retail; 237 jobs in real estate and rental & leasing.

f. Structures & Infrastructure

Within the Town of Fort Myers Beach there are currently more than 2,762 single and multi-family residences, over 256 structures classified as commercial/business and 17 local government buildings/structures, and 0 health care facilities as of April 2018. The Town's infrastructure was severely impacted by Hurricane Ian, with over 90% of structures damaged to some level.

Property values in the Town are high, however, most valuable properties are in the areas most

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exposed to storm surge and high winds. Many buildings were built prior to adoption of flood regulations in 1984 and do not conform to elevation and other structural requirements that provide protection from losses. In the event of a catastrophic hurricane, extreme barrier island rollover is a possibility which may result in a total loss of all real property in Fort Myers Beach with little potential for rebuilding. The more likely scenario of a moderate hurricane could destroy or damage portions of the island and would affect the most valuable property along the beach and in the downtown area most severely. FEMA high velocity flood zone designations in the present commercial core areas limit businesses' redevelopment prospects because flood regulations require elevated first floors. Businesses could be destroyed, leading to short-term unemployment for their employees, and not be able viably to rebuild, leading to a permanent loss of jobs and commercial activity in the Town.

Critical Facilities in the Town are:

Town Hall
2731 Oak Street

Bay Oaks Recreation Center & Pool
2731 Oak Street

Mound House
451 Connecticut Street

Mound House Overflow Lot
216 Connecticut Street

Newton Park 4650 Estero Blvd.

Fort Myers Beach Elementary School
2751 Oak Street

Fort Myers Beach Library
2755 Estero Blvd.

US Post Office
200 Carlina Avenue

Mooring Field
Offices and Harborage

Fort Myers Beach Fire Control District (FMBFCD)
Administration
100 Voorhis Street

FMBFCD Fire Station #31
3043 Estero Blvd.

Fort Myers Beach Fire Department Station #33
121 Lenell Rd.

North Water Tower
851 Lagoon Street

South Water Tower
131 Lenell Road

Booster Pump at Moss Marina (Waterlines) 450 Harbor Court

Pump Stations
Electric Substations
Internet/Telecom facilities

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g. Emergency Operations Center (EOC)/Response Support Facilities

The Town of Fort Myers Beach does not have its own EOC. Should an EOC activation be required, Town staff will coordinate with Lee County to co-locate at the Lee County EOC at 2665 Ortiz Ave, Fort Myers as needed.

Lee County maintains a state-of-the-art Emergency Operations Center, 18 miles away on the mainland. In all but the most localized emergencies, the Lee County EOC will function as the "Command" entity and the Fort Myers Beach EOC will be activated as a "Support" entity. The Town staffs a liaison to the Lee County Emergency Operations Center during all major events.

There are three (3) public safety buildings in the Town. The Fort Myers Beach Fire Control District (FMBFCD) Administrative Building located at 100 Voorhis St.; and Fire Station #33 on the south end of the island at 121 Lenell Rd. Emergency Medical Services (EMS) are provided through the Fire Control District. The Lee County Sheriff's Office (LCSO) provides protective services, but does not maintain a facility in the Town.

h. Planning Assumptions

Disasters impacting the Town will endanger public safety, damage property, and disrupt community services. The level of impact will vary in location, type and magnitude. This variability necessitates a flexible approach to implementation of the Comprehensive Emergency Management Plan.

The concept of operations outlined in this plan assumes that a major or catastrophic emergency has occurred, or is likely to occur, creating a need for the immediate activation of this plan and mobilization of emergency response resources. Damage may be extensive, and areas could experience casualties, severe property loss, disruption of normal life support systems, and loss of economic, physical, and social infrastructures.

Local emergency response personnel will likely be impacted by the disaster and experience damage to their individual homes and personal property. Town contractors' equipment and offices may also be damaged by the disaster and their employees also affected, which may impede their availability to deliver contracted services. All public, private, and non-profit organizations that support this plan have developed emergency operations procedures to implement and allocate resources.

If the emergency is major or catastrophic in nature, it is assumed that the County will request State assistance and, if necessary, the Governor will request

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activation of the National Response Plan and Federal resources, coordinated through the Florida Department of Emergency Management and the Department of Homeland Security/Federal Emergency Management Agency. Assistance will be deployed to the affected areas to provide aid to local governments.

In addition to State and perhaps Federal assistance, the Town may request mutual aid from other jurisdictions and municipalities throughout the State. Disaster conditions may require the Town to fulfill emergency response and disaster recovery operations independently and without assistance for up to 72 hours following impact of the critical incident or disaster. The Town will also coordinate with the County and the Statewide Mutual Aid Agreement as needed.

Resources in a severe emergency are likely to be inadequate to meet the basic needs of citizens within the Town. Prioritization of resources is based upon life-sustaining needs in accordance with the policies established in the Lee County Comprehensive Emergency Management Plan.

Protective actions for the public could potentially involve thousands of individuals, and it is assumed the public will attempt to comply with all protective action instructions. Following the impact of a disaster, significant modifications in normal Town department operations will be necessary to assist disaster survivors, restore community services, protect public safety, coordinate debris removal, and similar operations. This may require Town departments to work overtime, employ temporary staff, use alternate facilities, and/or deliver services directly to damaged areas.

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III. EMERGENCY PREPAREDNESS

a. Summary of Municipal Capabilities

The Town of Fort Myers Beach has limited internal capabilities to respond to and recover from a major disaster. The Town has limited municipal staffing and relies upon interlocal agreements with Lee County for many government services. The Town contracts with the Lee County Sheriff's Office for law enforcement, with the Fort Myers Beach Fire Control District for fire-rescue and EMS services; as well as with other contractors for waste management, traffic engineering, as well as other services. The Town must coordinate closely with Lee County, the LCSO, Fort Myers Beach Fire Control District, and all contract service providers to ensure that the emergency preparedness, response, and recovery capabilities can be effectively implemented during times of disaster.

Because the Town of Fort Myers Beach does not directly manage or control the public safety entities, resources may be limited after an emergency. Depending on the severity and magnitude of the disaster, resources from public safety contractors may augment the daily manpower, and resources from adjacent municipalities may be activated through the Statewide Mutual Aid Agreement.

Additional community service/volunteer organizations and private vendors who contract with the Town may also be called upon to provide disaster-related services.

b. Emergency Manager/Emergency Management Team

The Town of Fort Myers Beach will conduct emergency planning activities on an ongoing basis to ensure that the Comprehensive Emergency Management Plan and all supporting procedures are maintained, and employees and contractors are trained. NIMS requires that the emergency response capabilities be evaluated on an ongoing basis, as well as after each exercise and/or actual emergency.

In compliance with NIMS, the Town of Fort Myers Beach has designated the Town Manager as the Emergency Manager who is responsible for the planning, training, exercise, and maintenance of the improvement program needed to ensure the Town is ready to respond to emergencies.

The Town EM is responsible for the oversight of all preparedness activities including the development of policies, plans, procedures, training, and exercises. The EM is responsible for guiding the emergency preparedness program which includes the following components: emergency facilities, planning, procedure development, training and exercises.

The Town of Fort Myers Beach has identified an ***Emergency Management Team*** (FMB EMT) that is responsible for coordinating disaster response and recovery activities. The Emergency Management Team of the Town of Fort Myers Beach includes but is not limited to the following personnel: Town Manager, Town Attorney, Operations & Compliance Director, Community Services Director, Community Development Director, Finance Director, Public Information Officer , Water Utility Manager, Cultural, Parks, and Recreation Director, and the Building Official.

Additionally, the EMC may invite a wide-range of subject matter experts from agencies and organizations to advise the Emergency Management Team. These persons shall be known as “Agency Representatives.” Agency representatives may include, but are not limited to, LCSO FMB unit Police Captain, FMBFCD Fire Chief, Fire Marshall, and Fire Administrator, Lee County School District, Lee Memorial Health System, Lee County Animal Services, Lee County Parks Dept., Lee County Public Works Dept., American Red Cross, U.S. Coast Guard, Florida Power and Light, CERT, and Lee County Emergency Management.

These individuals review emergency standard operations procedures (SOPs) and assure that all available resources, personnel and partner agencies are considered in the implementation of the Town's preparedness program to all hazards. The Emergency Management Team is responsible for the following:

- Establish emergency operations plans and protocols including public communications and awareness.

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- Establish the standards, guidelines and protocols necessary to promote interoperability among jurisdictions, agencies and organizations.
- Adopt standards, guidelines and protocols for providing resources to requesting organizations, including protocols of the emergency organization in supporting incident operations conducted by the municipality.
- Set priorities for resources and other requirements for supporting field operations.

Ensure participation in Lee County's multi-agency coordination mechanisms, including the County Emergency Operations Center, mutual- aid agreements, incident information system, non-governmental organization and private sector outreach, public awareness and information system and mechanisms to deal with information and operations security.

c. Coordination of Preparedness Activities

The preparedness program aims to ensure that individuals, departments, agencies and organizations with an assigned responsibility in the plan can perform their responsibilities under this plan. The Town of Fort Myers Beach is committed to achieving an integrated, unified approach to preparedness through the participation in meetings, programs, training, and exercises. The Town will also actively participate in numerous countywide and regional emergency preparedness organizations including the Local Mitigation Strategy Committee and the Disaster Advisory Council which ensures effective coordination for all hazards and uniformity of response protocols.

d. Training

The Town ensures that all individuals with assigned roles and responsibilities in the plan have received necessary and required training. The Federal Emergency Management Agency now mandates NIMS related training courses for each key emergency management position. Individuals assigned to one of these positions will be required to complete the FEMA-required training courses. The Town Manager is responsible for ensuring that all employees receive training in compliance with the National Incident Management System. Training will also be conducted to ensure that individuals assigned to key roles in the Town's EOC can perform their responsibilities. The EMC will work in concert with Lee County Emergency Management on available training opportunities. The Town will participate in exercises that are countywide, regional or statewide as resources are available. Upon invitation, the Town may also participate in exercises sponsored by other jurisdictions such as the Integrated Preparedness Plan.

The Town recognizes the importance of remaining up to date and current on best practices and trainings. The Town has also opted-in to FDEM's F-ROC program in which staff will continuously review, as well as participate in, trainings offered. A review of these training procedures and F-ROC associated documents will occur at least annually, and the Town will continue to work to integrate FROC forms within its documentation processes. The Town will also review and update our

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written standards of conduct at least every year as part of this process.

e. Storage and Management of Training and Certification Records

As emails noting successful completion of NIMS courses are sent from the Emergency Management Institute (EMI), they should be forwarded to the EMC. The original certificates are held in the Town Clerk's office. As training is completed, it is noted on an electronic spreadsheet maintained by the Town Clerk.

NIMS requires that response personnel and equipment be classified as to their emergency response capabilities, as well as certified or licensed appropriately when necessary. The EMC will ensure that all response personnel maintain appropriate credentials to perform their assigned duty and resources are classified accordingly.

The Town Clerk will store, archive and act as the records custodian for the training records, classifications, certifications and all other information relevant to emergency management/disaster related training for its staff and contractors.

f. Responsibility for Evaluations and Plan Revisions

The EMC is responsible for managing the Town's after-action evaluation program including scheduling evaluations, facilitating the involvement of all appropriate organizations, preparing the required written reports, and ensuring that identified corrective actions are incorporated into the Town's preparedness improvement plan.

The Town will participate in after-action reports prepared by County, State or Federal agencies, when requested. The Town EMC will be the point of contact for Lee County for participation in countywide after-action evaluations. The findings of this evaluation are used to prepare and implement an improvement plan that assigns responsibility for correcting problems or addressing shortcomings in the Town's response capabilities.

g. Yearly Test Warning Systems

Utilities and Public Works have access/knowledge on use of system along with the Town's Public Information Officer and are responsible for ensuring that the CodeRed system is tested once per year, on May 1st, prior to the start of Hurricane Season on June 1st, internal tests will be completed by April 15th to ensure a working program. The Town may also coordinate to utilize the County/State systems as needed.

h. Pre-emergency Public Information and Education

The Town of Fort Myers Beach maintains an emergency preparedness public information program. The Public Information Officer is responsible for updating the

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Town's website to ensure that emergency preparedness information is maintained.

Public information about emergencies is currently disseminated to residents via a variety of means including posting articles on the homepage of the Town website, sending texts and emails to website subscribers, social media, local media, brochures (i.e. the All Hazards Guide) developed by Lee County and available at Town Hall, the CodeRed emergency alert system, door to door handouts, information boards in public areas, and direct mailings as required or necessary. The established Town website at www.fmbgov.com provides ongoing preparedness and disaster and flood-related information. General Citizen Preparedness guidance and the Lee County EOC website provides guidance on preparing a family emergency plan at:
http://www.leegov.com/publicsafety/emergencymanagement/plan

IV. EMERGENCY OPERATIONS

a. Coordination of Town Emergency Response Operations

The magnitude of emergency management actions coordinated between the Town of Fort Myers Beach and Lee County will vary upon the size and nature of an emergency. As outlined in the Lee County Comprehensive Emergency Management Plan (CEMP), during a major disaster within Lee County, to include incidents on Fort Myers Beach, an Incident Commander directs all county response efforts from a Unified Command. The organizational chart below depicts the placement of the Town's emergency management organization within the Unified Command. Due to the Town's limited resources and staff, the Town's emergency management organization will integrate fully into the Lee County emergency management organization through the Beaches Geographical Division. **Note: Evacuation/Re-Entry will be coordinated with LCSO and subject to change based on the needs of the incident.**

The Town Emergency Manager will designate pre-determined liaisons to the Lee County EOC. During a major disaster, the Town's Emergency Management Team will represent island interests in the Unified Command, recommend policy and provide feedback to the Town Council and up the chain of command at the Lee County EOC. Specifically, the Town Manager participates in the Unified Command to represent Town interests in the decision-making process regarding goals and objectives and the allocation of scarce, critical resources. The Town's greater Emergency Management Team will execute operational actions as directed by the Unified Command. The following chart depicts the structure:

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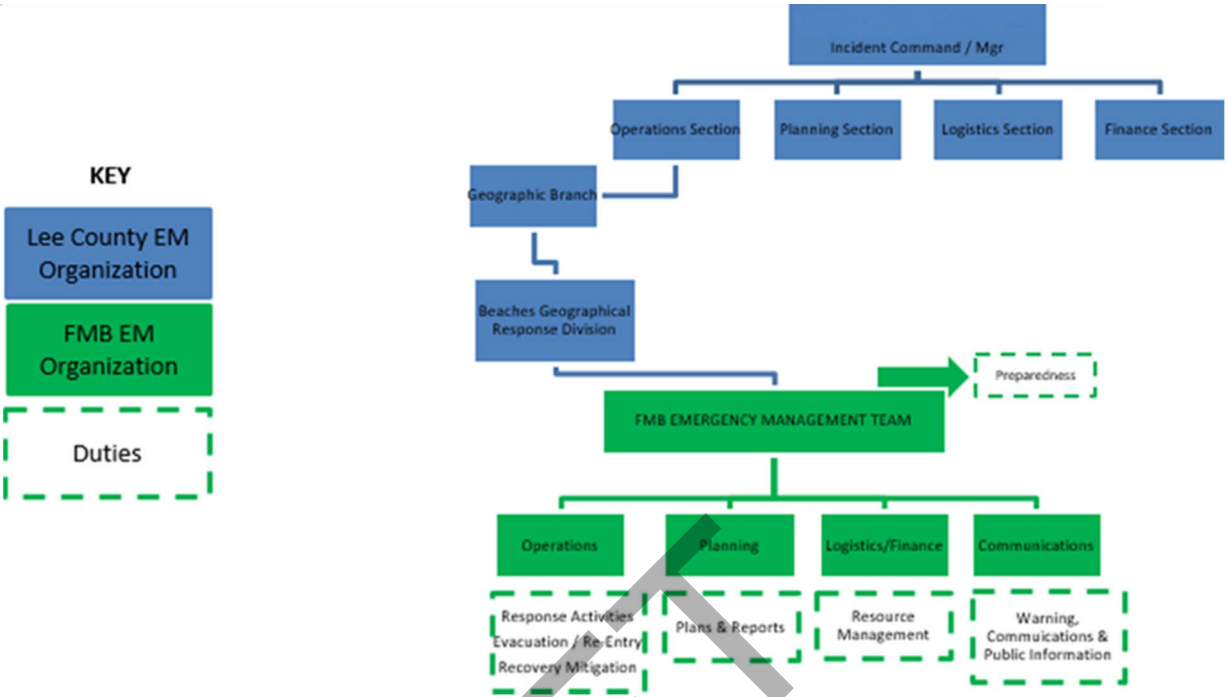

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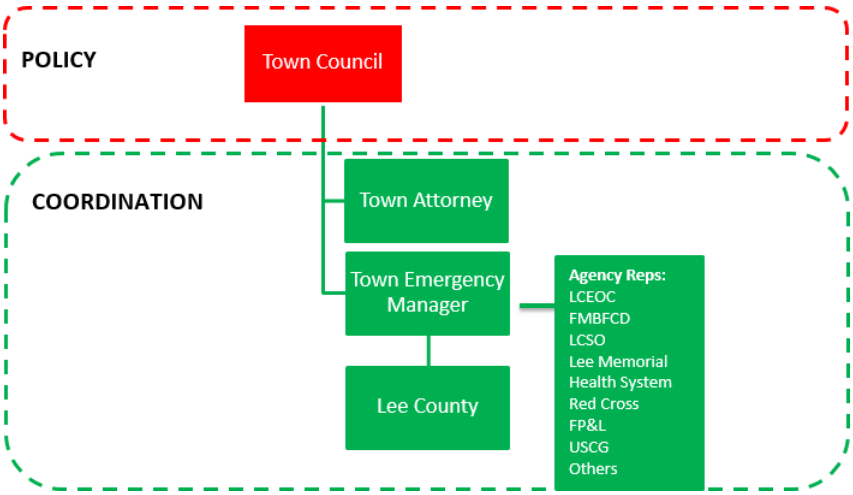
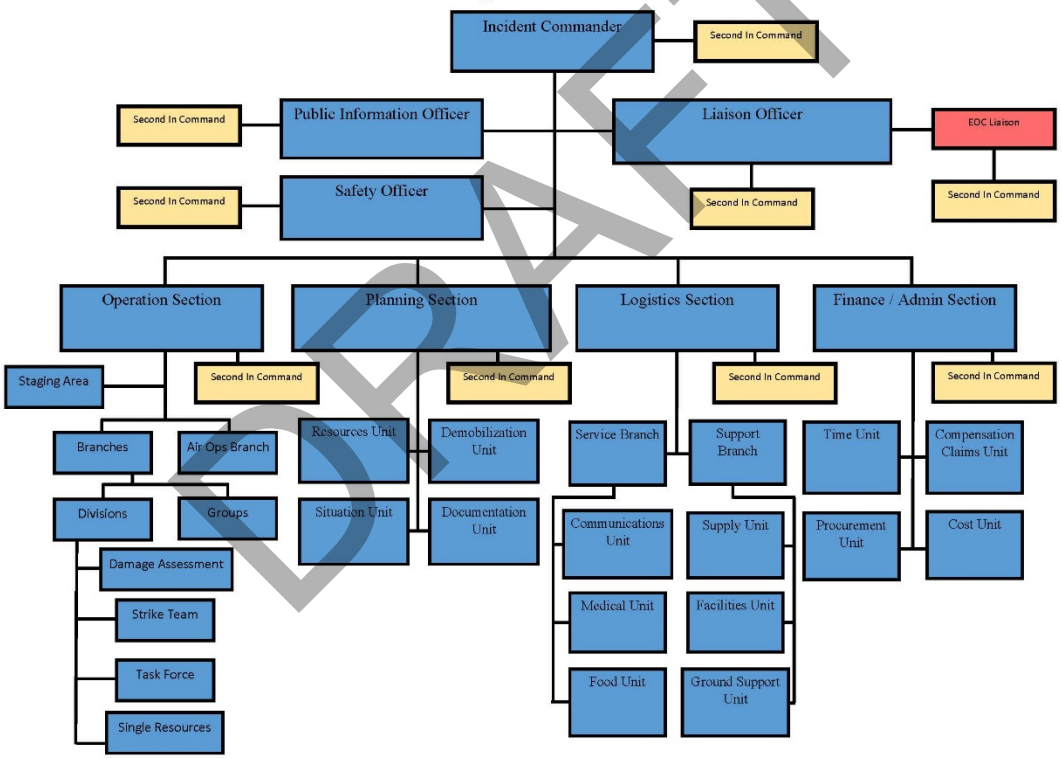
In the case of *purely local emergencies*, a local Incident Commander (typically LCSO, FMBFCD or other first responder) will direct activities. Management of activities will be at the field level as close to the incident as possible. In these incidences, the Town Emergency Manager and Emergency Management Team will be responsible for fulfilling any unmet needs and forwarding requests the Town is unable to fulfill to Lee County officials. A local incident command and the Town Emergency Management Team may use portions of the CEMP to support response to localized incidents. The CEMP may be partially or fully implemented in the context of any emergency or potential threat of emergency.

The following graphic depicts the organization and responsibilities of Town's Emergency Management Team. Generally, there are three levels of responsibility: Policy, Coordination, and Operations:



CEMP Organizational Structure



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Policy: The Town Council serves as the policy-making element for the Town's Emergency Management Team. The day-to-day duties of the Town Council pursuant to emergency management include: establishing policies for emergency operations, focusing on the economic, political, legal, and social implications of those programs and policies; approving Mutual Aid Agreements, standby contracts and all other resource management and preparedness activities; and reviewing the CEMP every four years, or more frequently as necessary, and approving revisions, and updates. During emergency situations, the Town Council is responsible for formulating policies as necessary to respond to the emergency and supporting the Town's Emergency Manager and staff with agreements and contracts as requested. During an emergency, the Town Council DOES NOT manage first responders. The *Incident Command* directs the activities of first responders.

Coordination: The Town Manager and maintain coordination among members of the Town's Emergency Management Team, the Town Council, the Director of Lee County Emergency Management and the agencies directly involved in emergency operations on Fort Myers Beach, i.e. Agency Representatives.

Operations: The day to day duty of the Town's Emergency Management Team is to provide guidance to the Town Council on emergency management and program activities. Upon implementation of the CEMP, the Town's Emergency Management Team is responsible for providing: broad guidance and direction regarding emergency management activities, situational assessment, coordination and liaison vertically and horizontally (i.e. within the Lee County emergency management organization and to agencies involved in emergency operations on Fort Myers Beach); emergency response objectives and priorities; and necessary resource acquisition and management.

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i. Coordination with Private Sector Emergency Operations

In accordance with NIMS, the State CEMP, and Lee County CEMP, the Town of Fort Myers Beach coordinates primarily through the Lee County Emergency Operations Center to determine the status of public and private utilities as well as other vital private sector service organizations including Emergency Support Functions (ESF) 2 Communications, ESF 8 Health and Medical Care, and ESF 12 Utilities. The Town will maintain a municipal liaison(s) at the Lee County Emergency Operations Center to monitor and coordinate emergency response and recovery activities affecting the Town.

b. Normal Organization and Staffing

The Town of Fort Myers Beach, by its Charter, has a Council-Manager form of government. The Town Manager is the Chief Executive and Administrative Officer responsible for the execution and administration of the affairs of the Town. The Town employs full-time, part-time, and seasonal staff. Key staff in the Town's organizational structure include: **Town Manager, Town Attorney, Town Clerk,**

Finance, Public Works, Community Development, Operations & Compliance, Utilities, and Cultural, Parks and Recreation.

Additionally, many services are contracted for with public and private providers, with the following being the primary service providers:

i. Fire Protection & Emergency Medical Services: Fort Myers Beach Fire Control District
ii. Law Enforcement: Lee County Sheriff s Office
iii. Solid Waste & Recycling: Through interlocal agreement with Lee County; Wastewater & Sewage Treatment: Lee County

c. Emergency Management Functions and Responsibilities

This plan is based upon the concept that the emergency functions for the various groups involved in emergency operations will generally parallel their normal day-to-day functions. To the extent possible, the same personnel and material resources will be employed in both cases. The day-to-day functions, which do not contribute directly to the emergency response, may be suspended for the duration of the emergency. The efforts that would normally be required for those functions will be redirected to the accomplishment of emergency tasks by the departments concerned.

Town departments performing essential functions will be required to remain on duty during the period of some emergencies. Personnel from other departments may be needed to supplement essential functions - Emergency Support Functions (ESFs). This decision will be made by the Town Manager.

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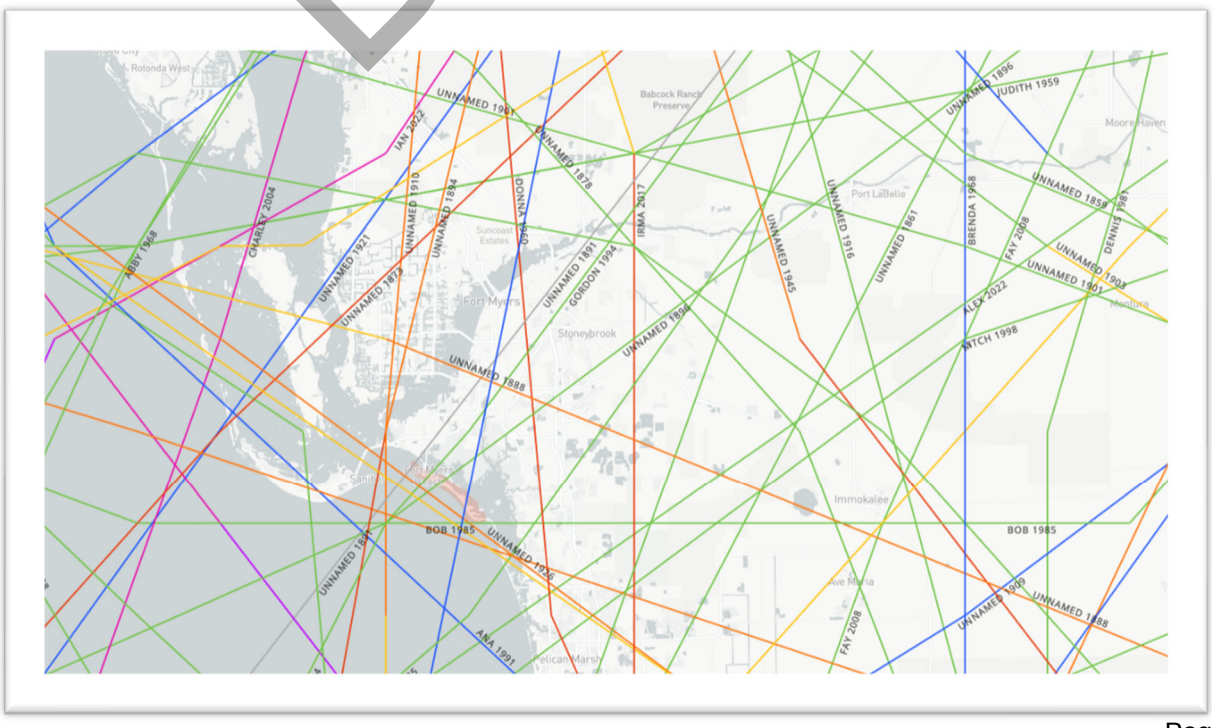
Historical Hurricane Tracks around Fort Myers Beach (Image from the Office for Coastal Management) (https://coast.noaa.gov/hurricanes)



Emergency Support Functions & Responsible Departments/Agencies/Organizations			
ESF #	**Function**	**Primary**	**Support**
ESF 1	Transportation	LCDOT *in coordination with Public Works*	FMBF CD LCSO
ESF 2	Communications	LCEOC	FMBF CD LCSO Town Clerk/PI O IT Public Works
ESF 3	Public Works	Public Works	LCEOC
ESF 4	Fire	FMBFCD	LCSO
ESF 5	Information & Planning	Community Development	
ESF 6	Mass Care	LCEOC	FMBFCD LCSO
ESF 7	Resources Support	Procurement	LCEOC
ESF 8	Health & Medical	FMBFCD	LCEOC
ESF 9	Search & Rescue	FMBFCD	LCSO
ESF 10	Hazardous Material	FMBFCD	LCSO
ESF 11	Food & Water	Procurement *in coordination with Lee EOC*	FMBFCD
ESF 12	Utilities	FPL, Lee Co Sewer, others *via Lee EOC*	Public Works Water Utility
ESF 13	Military	FL National Guard *via Lee EOC*	
ESF 14	Public Information	Public Information Officer	FMBF CD LCSO
ESF 15	Volunteers & Donations	Chamber of Commerce	FMBFCD LCSO
ESF 16	Law Enforcement	LCSO	
ESF 17	Veterinary Services	Lee County Animal Control *via Lee EOC*	
ESF 18	Business & Industry	Chamber of Commerce	ALL

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All departments, including those with functions declared nonessential to emergency operations, will secure their facilities, records, and equipment against possible loss or damage, and take such action as is necessary to ensure the safety of assigned personnel. Individual departments will maintain current procedures on preparation for potential events, including securing all information technology and equipment issued by the Town. All Town personnel shall provide contact information to their Department heads and receive direction for return to work prior to being released from duty.

The Town Manager/Emergency Manager will advise Department Directors when an emergency no longer exists. Essential and/or key staff members may need to meet at a designated offsite location if needed. The Town Manager will coordinate with Directors on a pre-determined meeting point if this is needed. All employees, who were sent home, will return to work immediately upon notification from their Department Director or his/her designee that the emergency is lifted, and that the Town is returning to normal operations. Employees are **required** to maintain contact with their supervisors during these times.

The Town Emergency Manager will direct efforts to develop and maintain SOPs related to each position on the emergency management team. The procedures will follow as closely as possible the duties and responsibilities identified in this plan.

d. Fort Myers Beach EOC

The Town of Fort Myers Beach does not have its own EOC. Should an EOC activation be required, emergency functions will be coordinated with and through the Lee County EOC.

e. Implementation of the CEMP

The Fort Myers Beach CEMP will be implemented when the Town Council passes a proclamation declaring a "state of local emergency" described in Chapter 12 of the Code of Ordinances of the Town of Fort Myers Beach, Florida. A state of local emergency also provides the authority for the use of supplies, equipment, materials and facilities identified in the CEMP. The Town Emergency Manager will notify all relevant persons, agencies, jurisdictions, and organizations when the CEMP is implemented. The Fort Myers Beach CEMP can be partially or fully implemented in the context of any emergency or potential threat of emergency, thus allowing the delivery of specific resources to meet whatever the need may be. In many serious but purely local emergency situations, the full implementation of this plan may not be necessary.

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f. Alert Levels & EOC Activation

The Lee County Emergency Operations Center (EOC) is the focal point for coordination of emergency response and recovery activities throughout Fort Myers Beach. When activated for an emergency, the EOC is staffed with key personnel from first responder agencies, emergency relief organizations, utility companies, media and other essential agencies. The EOC operates at one of three Activation Levels:

- Monitoring - Level Three (3)

Day-to-day operations with routine staffing and office hours. Off-hours emergency coverage is provided by "on call" teams.

- Partial Activation - Level Two (2)

Some, but not all, EOC elements are activated. This may include additional staff and extended work hours.

- Full Activation - Level One (1)

Provides round-the-clock staffing and services during an actual or pending emergency. A Full Activation is typically accompanied by a State of Local Emergency declared by the Board of County Commissioners.

In a sudden emergency event, such as a tornado, terrorist attack, or major aircraft incident, the Incident Commander may direct the EOC be activated immediately and coordinate the notification of senior officials as the situation dictates.

When the EOC is activated, the Town Manager, serving as the Emergency Manager, will direct the staffing of the EOC as required by the incident. Town Departments will be prepared to provide trained personnel to staff the EOC in accordance with the organizational chart provided at the beginning of this section.

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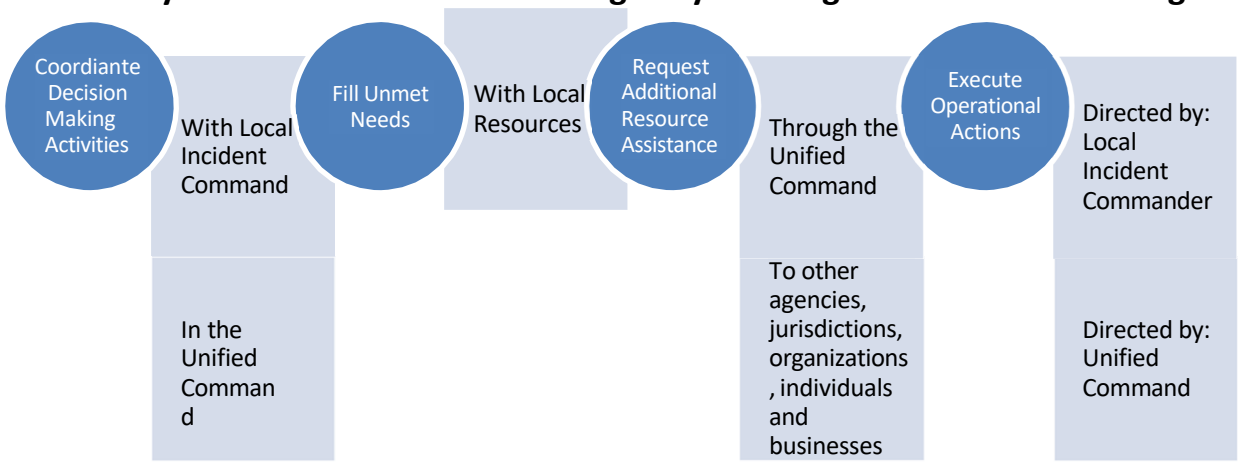
V. RESPONSE

The Town's CEMP provides a detailed implementation procedure to guide activation and operations. The primary duties of the Town's Emergency Management Team during Response operations are summarized by the following graphic:

Primary Duties of the FMB Emergency Management Team during



RESPONSE Operations

The activities of the Response Phase of an emergency will focus on aiding those affected as quickly and robustly as possible. Response begins when the emergency is imminent and continues immediately after an incident occurs, therefore, response activities may overlap with preparedness, recovery and mitigation activities addressed in this CEMP.

Response Phase of an emergency:

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a. Alert & Notification

1. Event Recognition and Alert/Warning System Activation

The National Weather Service, State of Florida and the Lee County Warning Point are the central locations for the collection and dissemination of early warnings and threats which are monitored at various levels of government. For any event in which advanced warning is available, there is an opportunity to prepare the response system and the community members to take protective actions in advance of the disaster.

The Lee County EOC is designated as the official Warning Point for the Town of Fort Myers Beach. Notifications of watches, warnings, or the occurrence of significant events will be received at the Warning Point through the Lee County EOC. Bulletins and advisories from the National Weather Service are received via the Emergency Satellite Communications (ESATCOM), Weather Service Satellite System, and the E911 System, radio, telephone, and municipal Public Safety Answering Points (PSAPs).

In serious, but purely local (FMB) emergencies, the Town Manager has the authority to order the activation of any warning system deemed appropriate at any time of day or night, as does local Incident Command, representing the LCSO or FMBFCD. During weather-related incidents, the Town Emergency Manager will coordinate with the Lee County EOC prior to activating the warning system. If needed, staff from the Lee County Beaches Geographical Response Division can be used to help disseminate warning information.

The following significant incidents warrant activation of the alert and warning system and notification to the Town Manager:

- Any incident that may require a substantial evacuation and/or relocation of a given area
- Any event posing a potential threat for a mass casualty incident
- Any weather-related watch or warning advisory which threatens life and/or property
- Formation of tropical weather systems that threaten SW Florida
- Any incident that closes or significantly blocks major roadways impacting the Town
- Any large or multiple structure fires
- Any prolonged shutdown of public utilities
- Any event posing a major environmental threat to Fort Myers Beach
- Any potential or actual act of terrorism affecting or potentially affecting Fort Myers Beach

All warnings for hurricanes or weather-related events will be coordinated by the Town's PIO with the Lee County PIO so as not to issue conflicting messages. The Town's CodeRed emergency notification system will be activated and the Town PIO will send a press release or statement to local media.

Additionally, first responders may go street-by-street and to the beaches and other outdoors areas as necessary with a message approved by the local IC or UC explaining the situation and actions to take related to the emergency. The Community Emergency Response Team (CERT) volunteer group or trained volunteers may also be used to notify the public. The Town PIO may also request the US Coast Guard to use the Marine Band channel to provide pertinent information on local marine conditions during all phases of an emergency affecting the Town.

When the alert and warning system is activated the Town Manager in consultation with the Emergency Management Team and Agency Representatives will determine the necessity of requesting the Town Council pass a proclamation declaring a local state of emergency thereby activating the CEMP.

2. Initial Field Response Actions

The Incident Command System will be used to manage and coordinate field response operations. The incident may be controlled by local emergency

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responders (LCSO / FMBFCD) or with other agencies through the mutual aid system. If the resources available at the field response level are not sufficient to mitigate the situation, the Incident Commander may request, through appropriate channels, that the Lee County EOC be activated to support the field operations.

Response to an incident by single discipline agencies (i.e. fire, law enforcement, EMS) will utilize a single Incident Commander (IC) within the ICS structure. As the incident progresses to include multiple jurisdictions and disciplines, the Town of Fort Myers Beach will assume its position within the Unified Command as depicted in Section IV of this plan.

During a single discipline response to an incident, the first on-scene emergency responder with management responsibilities will take the necessary steps to establish an Incident Command Post (ICP), report a scene size-up, activate the appropriate ICS organizational elements required for incident management, delegate authority within the ICS organizational structure, and develop incident objectives on which subsequent incident action planning will be based.

The Incident Commander or designee shall:

- Verify that the notification of all responding organizations was successfully implemented.
- Ensure full operational capability of the Town's equipment, communication systems, information tracking systems and supplies.
- Verify rosters, equipment and vendor inventory procedures are up to date.

- Establish communication with Lee County Emergency Operations Center, field command posts, emergency organizations, and other activated emergency facilities.
- Deploy liaison to the Lee County EOC and other vital response sites such as staging areas.
- Place additional public and private sector resources and personnel on stand-by.
- Obtain incident status information, potential impact on persons and property, deployed resources and personnel, damaged infrastructure, and other important information.
- Coordinate information with responding units and the Lee County EOC.
- Determine the need and implement procedures to declare a State of Emergency and notify the Lee County EOC.
- Verify all resources are on stand-by to conduct a "rapid impact assessment" to define the impact of the event, prioritize operations and coordinate the information with the Lee County Emergency Operations Center.
- Prepare and distribute an initial action plan (IAP) to prioritize and control the Town's response operations for the initial operational period. Managing response operations through an IAP is a NIMS requirement.

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3. Activation of the Lee County EOC

Numerous conditions may warrant activation of the EOC prior to an event, during an event or once an incident has already occurred. When an emergency or disaster event threatens the Lee County EOC has been activated, the Town Manager will consider the need to activate the Town's CEMP.

Depending on the magnitude and complexity of the event, for any level of activation, the Town Manager may direct personnel to activate and deploy one or more individuals to the EOC to initiate operations. When determining which elements of the plan to activate, the Town Manager will consider potential resource needs, community impact, and public safety. Depending on the scale of the event, the Town Manager could activate Early Alert IMT (EA-IMT) contractual entities to assist Town staff with management of the incident. The EA-IMT will work beside the Town EMT until it is determined by the Town Manager the incident can be managed by Town staff.

Various natural disasters and terrorism threats may allow for advanced warning either through monitoring systems or through verbal notification. The Town Manager, in coordination with the public safety organizations, will evaluate the advance threat conditions and determine if EOC activation is warranted.

If multiple scenes are developing throughout the jurisdiction, which cannot be adequately coordinated from a single field command post, the Town Manager may fully or partially activate the Emergency Management Team (FMB EMT).

4. Levels of Disasters

Per Florida Statutes 252.34, disasters are classified as follows:

- **Minor Disaster:** A disaster that is likely to be within the response capabilities of local government and results in only minimal need for State or Federal assistance.
- **Major Disaster:** A disaster that will likely exceed local capabilities and require a broad range of State and Federal assistance. The Federal Emergency Management Agency will be notified and potential Federal assistance will be predominantly recovery oriented.
- **Catastrophic Disaster:** A disaster that will require massive State and Federal assistance, including immediate military involvement. Federal assistance will involve response as well as recovery needs.

5. EOC Operational Duties

ACTIONS	RESPONSIBLE AGENT
1. Alert EOC staff and Agency Representatives	Incident Commander and/or Town Emergency Manager (EM)
2. Activate special communication equipment, support equipment and facilities	Community Services Director
3. Institute a message flow system	Town Emergency Manager
4. Brief EOC staff on the situation	Incident Commander and/or Town EM

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5. Prepare a staff work schedule	Town Emergency Manager
6. Provide staff necessities	Community Services Director / Finance Director
7. Control access to the EOC	Community Services Director
8. Initiate reporting procedures	Town Emergency Manager
9. Deal with the media	Incident Commander / Town EM & PIO
10. Control rumors	Incident Commander / Town EM & PIO
11. Disseminate public communications	PIO

b. Protect Citizens & Property

Disaster response is related to providing services as security, fire protection, protection from hazardous materials, emergency medical care, decontamination, fatality management, search and rescue, and evacuation from the disaster area. The primary concern is for the life-safety of the residents, immediate treatment of those who may be injured, and the proper disposition of fatalities. Closely associated with this are measures to secure property and prevent further damage. In a serious, but purely local emergency, the local IC will direct life-saving and life-sustaining activities and may request assistance from Town officials. In a major disaster, life-saving and life-sustaining activities throughout Lee County will be directed by the Unified Command. The UC will establish priorities and allocate resources. Within the UC, the FMB EMT, will execute operational actions, coordinate decision-making activities, fill unmet needs and request resources to save and sustain lives on Fort Myers Beach. The Town emergency management team will provide local resources as available.

c. Situational Awareness

Situational awareness, also known as a common operating picture (COP), is the provision of timely and accurate information during an emergency. It is the lifeblood of emergency management. Without it, good decision-making is much more difficult, and efficient and effective response and recovery activities can be impaired. Situational awareness requires continual monitoring, verification, and the integration of essential elements of information.

1. Gathering Situational Awareness

In a serious, but purely local emergency, the Town's EM will coordinate with the local IC to ensure that essential elements of information (EEI) are collected, analyzed and disseminated. This will create a COP that allows decision-makers to anticipate requirements, allocate resources, and engage in pro-active planning. The FMB EM will coordinate this process. Rapid collection of information should be linked to 1) saving and sustaining lives, and 2) identifying immediate safety and security hazards.

A rapid analysis of information prior to or following an emergency will enable Town officials to 1) prioritize actions, 2) allocate resources, and 3) request

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additional resources from Mutual Aid partners, adjacent jurisdictions, other entities and organizations, Lee County, the state and/or Federal agencies.

The collection of information should initially focus on data related to:

- Evacuation, if required.
- Search and rescue efforts, if required.
- Status of critical infrastructure: with emphasis on utilities, communications systems, fuel, food and water supplies.
- Status of critical facilities: fire station(s), water and sewer distribution facilities.
- Continued risks and/or potential cascading effects (those that might occur because of the initial emergency).
- Numbers of displaced residents (if applicable) and the extent of damage.

In major emergencies or those that require the evacuation of the Island, the UC will direct the collection of information to assess, monitor, and mitigate the incident. Personnel within the Beaches Geographical Response Division will be assigned specific information-collection tasks. Elements within the Division will be assigned to direct and/or coordinate search and rescue, debris clearance, damage assessment, food and medical service, and logistics support tasks. The Town EMT will participate in gathering information as directed by the Beaches Geographical Response Division.

2. Reporting Situational Awareness

Minor Emergencies. In a serious but purely local emergency, the local IC will continuously monitor the situation and provide situation updates to the PIO of his/her agency. Local updates to the media and residents will come from the PIO of the agency responsible for mitigating the emergency. The type of incident determines the responsible Agency.

Major Emergencies. Critical information regarding the status of residents, infrastructure and services on Fort Myers Beach following a major disaster will be passed through established reporting channels within the UC. The FMB EM will direct FMB EMT reporting activities through the Beaches Geographical Response Division in accordance with established protocols. Based on an analysis of the situation, the Town PIO will disseminate information.

3. Monitoring Situational Awareness

Minor Emergencies. The Local IC is responsible for the continued assessment of any emergency to protect residents and property. The *FMB EM* will assist in this effort as requested by the Local Incident Commander.

Major Disasters. An Information Collection Plan (ICP) may be established within the UC to provide the mechanism for continually gathering and monitoring situational awareness. The FMB EM will comply with the established ICP when initiated in accordance with procedures established by the UC. During a major disaster, the UC PIO will continuously assess, respond, and inform local authorities

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and the public of what actions have been taken, what needs to be done, and how this is to be accomplished. The Town PIO may be requested to help in this effort.

4. Acting on Situational Awareness

The key to directing response activities is situational awareness. Providing information upward and guidance downward is the key to situational awareness.

Once information has been gathered and analyzed, it should be reported and turned into 'actionable tasks.' Tasks are then assigned to an operations element to be completed. The Town EMT will act on situational awareness as directed by the UC in a major disaster or requested by the Local IC in a serious but purely local emergency.

d. Incident Action Planning

During major disaster response operations, the UC will use the Incident Action Planning (IAP) process to assess and direct activities.

1. The Incident Action Planning Cycle

For each emergency, whether purely local or a major disaster directed by a Unified Command, the incident action planning cycle may be used to develop an Incident Action Plan (IAP) to:

- Identify incident objectives for each operational period.
- Provide details of specific actionable tasks (tactical activities).
- Furnish supporting information.

An IAP identifies this information for each operational period. The operational period in an emergency is typically 24-hours and will be established by the local IC or the UC as applicable. The primary focus of incident action planning is on actionable tasks related to providing specific resources to mitigate an emergency. Assistance and support in emergency situations must be managed, coordinated and delivered in the most timely way. This is accomplished in a series of meetings and briefings throughout an operational period. The product of the planning cycle is an IAP.

In a major disaster, when the Town EMT is activated within the Beaches Geographical Response Division, the team will:

- Participate in the incident action planning cycle as directed by the Division. The schedule of meetings and briefings will be established by the UC.
- Coordinate decision-making activities and requests for resources through the Division.
- Be tasked with executing actions and supporting response and recovery operations as directed by the Division.

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The Town EM will direct the activities of the FMB EMT in compliance with the Lee County/UC IAP.

In a serious, but purely local emergency, the local IC will initiate the IAP cycle. Along with staff from their agency, the IC may request the Town EMT to participate in the process. The FMB EM is responsible for directing the FMB EMT in how the IAP process works and what is expected of them. **In localized emergencies, the need for written plans will be based on incident requirements and the decision of the local Incident Commander.*

Initial Response: The incident action planning process begins when a threat to Fort Myers Beach is identified or during the initial response to a "no-notice" event. Town officials will immediately monitor, collect and review essential elements of information related to the event. The Town Council may declare a state of emergency and activate the CEMP or portions of the CEMP.

The FMB EMT team will conduct an initial assessment of the situation to determine priorities and develop potential organization resource needs and facilities. The FMB EM will contact the Lee County Emergency Management Director, adjacent jurisdictions and develop preliminary response plans.

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If an event or situation warrants advance emergency planning such as July Fourth celebrations or the annual Island Shrimp Festival, the FMB EM will hold a meeting with the FMB EMT to set objectives related to preparations and possible response.

In a serious, but purely local emergency, incident objectives will be established by the local IC. Depending upon the nature and complexity of the incident, the FMB EM will coordinate with the local IC regarding the objectives and brief the FMB EMT.

In a major disaster, objectives will be set by the Unified Commander. As part of the UC, the FMB EMT will be briefed on the objectives.

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Immediately following any emergency, the local IC or UC will conduct an initial incident briefing. Following that briefing, the FMB EM will conduct a briefing with the Town EMT.

Facilitator: FMB EM

Participants: EMT Senior Leadership (Directors)

Agenda: The briefing should include

1. Identifying the local IC and lead agency in a purely local emergency
2. Identifying the organizational structure and staffing of the UC if the incident is a major disaster.
3. If support to the local IC is requested or if the UC is established in accordance with the Lee County CEMP, *the FMB EM will:*
    - Brief the FMB EMT on the objectives and strategies for accomplishing the objectives
    - Identify high priority activities
    - Set expectations for the team
    - Identify available resources and resources to order and ordering procedures
    - Describe significant actions already taken
    - Review roles and responsibilities
    - Establish meeting and planning schedule
    - Discuss public information strategies
    - Review financial agreements and procedures
    - Discuss safety and security concern

Local Incidents: When requested by the local IC, members of the FMB EMT will help to identify and develop actionable tasks and resource assignments to accomplish incident objectives.

In a Major Disaster: If requested, the FMB EM/EMT members will participate in the development of operations plans as part of the UC.

Facilitator: Public Works Director

Participants: Community Development Director, others as assigned

Operations plans will be developed that:

- Identify and develop tasks to accomplish incident objectives.
- Assign resources.
- Identify additional resource requirements.

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In this phase of the IAP cycle, activities related to accomplishing incident objectives are finalized.
Facilitator: Public Works Director
Participants: FMB EM and EMT Senior Leadership (Directors)
Agenda: The participants will

- Review the incident objectives.
- Review actionable tasks and assignments.
- Ensure the tasks are complete, clear, concise and accurate.
- Review the resources needed to carry out the tasks.
- Assign any additional available resources.
- Identify logistical capabilities and other support needs such as communications, traffic, and medical needs.
- Identify and discuss support agency and organization needs and limits.
- Identify all facility locations

In this phase of the cycle, actionable tasks for each operational element are finalized. Tasks are incorporated into specific operation plans as part of the IAP based on the results of the tactics meeting

In this phase of the cycle operation plans are reviewed, adjusted and approved.
Facilitator: FMB EM
Participants: FMB EM and EMT Senior Leadership (Directors)
Agenda: The participants will

- Update the current situation (FMB EM)
- Review the incident objectives (FMB EM)
- Review the draft operation plans (Public Works Director)
- Ensure draft operation plans meet incident objectives (FMB EM)
- Review any open actionable tasks (FMB EM)
- Solicit feedback (FMB EM)
- Obtain consensus to support operation plans (FMB EM)

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Immediately following the planning meeting, the FMB EM will publish the IAP for the next operational period. Supporting plans and documents that provide important information may be attached to the IAP such as a Communications Plan prepared by FMB PIO.

Following the approval of the IAP, all operational response elements directed by the local IC or the UC will be briefed to execute and support the Plan.
Facilitator: Public Works Director
Participants: FMB EM and Senior FMB EMT members (Directors)

Agenda: The participants will

- Review the incident objectives. (Public Works Director)
- Review the current situation. (FMB EM)
- Review the task and assignment lists. (Public Works Director)
- Review all additional plans in the IAP (others as appropriate)

In response to any emergency, operational elements are authorized to adjust the IAP and reallocate resources to adapt to changing conditions during an operational period. Adjustments must be coordinated with the local IC or UC.

An important aspect of beginning the next incident action planning cycle is assessing work progress to date. In any emergency, all operational elements need to regularly assess work progress against current operations identified in the IAP and address deficiencies for the next operational period.

An Incident Action Plan is generally composed of specific forms whose purpose is as follows:

- List incident objectives as established by the local IC or UC. Objectives are short-term aims that must be achieved within a very specific period of time to

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successfully accomplish the mission of mitigating the emergency. *ICS Form 202 (Incident Objectives) is a template for listing incident objectives.*

- List the organizational elements and personnel assigned to the operation with contact information. *ICS Form 203 (Organization Assignment List) is a template for creating this list.*
- List the assignments for each of the organizational elements within the command for the period covered by the Action Plan. This list includes personnel, locations, resources and work assignments for the elements. *ICS Form 204 (Assignments List) is a template for this list.*
- Describe communications used during the operation to include contact numbers for all facilities, key staff, type of communications equipment and frequencies specific to all elements of the organization. *ICS Form 205 (Communications Plan) is a template for this plan.*
- Identify the medical facilities available during the emergency to include aid stations, transportation arrangements, hospitals, and medical emergency procedures for handling victims. *ICS Form 206 (Medical Plan) is a template for this information.*
- Draw an organization chart of the elements engaged in the emergency. *ICS Form 207 (Organization Chart) is a template for this chart.*
- Other forms as needed, such as a meeting schedule, safety information, evacuation and traffic plans.

A local IC or the UC may choose to use the approved ICS form to develop an IAP. The FMB EM is responsible for ensuring the FMB EMT members are familiar with forms associated with an IAP.

e. Public Welfare

This stage of response focuses on caring for people during and immediately after an emergency. Lee County and service agencies such as the American Red Cross, Salvation Army, and other community agencies identified in this plan who are skilled in feeding, clothing, and sheltering the public will provide these services.

In the aftermath of a disaster, with or without a Presidential Declaration, Lee County may request the State of Florida to deploy specialized teams and establish facilities in the disaster area to assess and address public needs. The teams and facilities may include:

- Community Relations Team: a team to disseminate information and collect data to assist disaster victims and communities in receiving assistance. The primary function of these teams is to identify and report unmet victim needs and to inform victims of the disaster assistance programs and registration process.

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- Unmet Needs Committee: a committee comprised of volunteer agencies, private sector representatives and government agencies to help identify unmet needs and possible assistance. The FMB EM will respond to a request for staff participation if this committee is established following a disaster affecting residents of Fort Myers Beach.
- Human Needs Assessment Team: a team deployed immediately following a disaster to help Lee County assess and report the immediate needs of disaster victims.
- Advanced Recovery Liaison(s): pre-incident liaison(s) to conduct initial coordination with Lee County officials and the FMB EMT to assist in the deployment of all Florida teams to aid in recovery efforts.
- Disaster Recovery Center(s) (DRC): set up in a disaster area (can be mobile) to provide information on the complete range of disaster assistance to victims. Management of these facilities is the responsibility of the State, FEMA or Lee County. The FMB EMT may assist in the selection of sites for these Center(s). Bay Oaks is the Disaster Recovery Center for the Beaches Division.
- Reconstruction Information Center(s): set up as a one-stop information and permitting point for coordination, technical assistance, and reconstruction expertise assistance in recovery and mitigation activities. These Centers will be staffed by personnel with reconstruction and/or permitting responsibilities. The FMB EMT may be asked to assist in establishing these Centers.

f. Damage Assessment

In consultation with the local IC or the UC, the FMB EM will direct and/or coordinate damage assessment following an emergency to determine what is required and in what quantity, as well as priorities for restoration of essential services. Also, getting estimates of the associated costs may be necessary to request outside help if local resources are exhausted. In the aftermath of a major disaster, with or without a Presidential Declaration, Lee County may request the State of Florida to deploy Damage Assessment Teams to conduct, with the aid of local government, assessments of public and private non-profit entities and individual homes and businesses. These assessments quantify the extent of damage and are used to justify Federal assistance. When requested, the FMB EMT should be prepared to support this effort.

The Town has also developed policies and procedures for the damage assessment process in coordination with best practices through a Substantial Damage Administrative Plan.

1. Damage Assessment Process

i. The ability of the FMB EMT to perform a rapid assessment accurately and within the first few hours after an emergency is critical to providing an adequate response for life-threatening situations and imminent hazards. Coordinated and timely assessment permits the local IC, UC, and FMB

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EMT to prioritize response activities, allocate scarce resources, and request assistance quickly and accurately.

Phase 1: Initial Impact Assessment

Impact survey activities justify requests for State and Federal assistance and identify the need to implement the Town build-back policy.

The two major components of impact assessment are the Initial Impact Assessment performed by first responders and the Detailed Impact Assessment.

The Initial Impact Assessment, or "windshield" assessment, determines the geographic extent of damage, ingress and egress issues and the status of community infrastructure. The Initial Impact Assessment also identifies the immediate needs of disaster survivors. The Initial Impact Assessment is typically completed within the first 36-72 hours following the disaster. Initial impact assessment data is forwarded to the County Emergency Operations Center (EOC) to determine the need for a Joint State/FEMA Preliminary Damage Assessment (PDA). NOTE: Every effort should be made to use the most current damage assessment criteria as defined by the Florida Division of Emergency Management (FDEM) and FEMA.

The Detailed Impact Assessment is conducted after the Initial Impact Assessment and requires capable Impact Assessment Teams (IAT's). The composition of the IAT's will vary depending on the severity, type of damage, and the availability of personnel. The FMB Building Official will form detailed IAT's from the following groups of personnel:

- FMB Building Inspectors and Plans Examiners, both in-house and private providers, as available
- FMB Code Enforcement Officers
- FMB Community Development Department personnel
- Personnel provided by the State/FEMA support

The Building Official will select a Team Leader for each Team who ensures that Team has the proper forms, maps with identified areas marked, and transportation. These teams are to be identified and trained in advance of the disaster. During this assessment buildings will be photographed, and an ATC-45 Rapid Evaluation Safety Assessment Form, available at the ATCouncil website below, will be completed for each building:

https://www.atcouncil.org/pdfs/ATC45Rapid.pdf

The FMB Building Official will supervise this project until survey work is completed for all buildings in FMB:
The primary task of the local IAT's is to identify, catalogue, and report to the FMB Building Official those structures which have: (1) been destroyed; (2) received major damage; and

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(3) received minor damage. The Building Official will then inspect the data generated by the impact survey teams and place each structure into one of the damaged categories.

IAT's shall be properly equipped and trained with GIS and cell phone software. The training should take place prior to the start of hurricane season on June 1st of each year.

Assessing Status of Critical Infrastructure

This portion of an assessment looks at the impact on the community's critical infrastructure and its ability to provide essential services. These services include, but not limited to, water, sewer, electrical distribution, communications and the supportive road network. An assessment of critical infrastructure should be undertaken as soon after a disaster as possible as part of the initial impact assessment and/or the follow-up preliminary damage assessment. The assessment also examines the Town's ability to meet the needs of victims, the status of fire, law enforcement, medical systems, critical facilities, and major resource needs and shortfalls. While the initial assessment may be done during the preliminary damage assessment, it will most likely require subject matter experts to fully assess the amount of damage and needed repairs and or replacement.

g. Infrastructure Restoration

Post disaster restoration involves actions to repair infrastructure and essential services. Among many other tasks, this means restoring utility service, clearing or repairing roads, removing debris from the disaster scene, and possibly shoring up weakened structures. During this stage and to the extent possible:

- Town Hall will resume normal operations, although many staff members will continue post incident recovery and mitigations projects as a priority
- Businesses not severely damaged in the disaster will re-open
- Schools may re-open, as directed by Lee County School Board
- Public transportation may resume, as directed by LeeTran

During this stage, it is quite likely that the FMB EMT will use outside assistance provided by the county, the state or the Federal government. The Town's main goal is to safely and efficiently restore Fort Myers Beach to as near pre-storm conditions as soon as possible. To achieve this, the Town's primary focus is to restore infrastructure.

h. Repair and Reconstruction Activities

Repair and reconstruction activities begin when search and rescue activities are completed. Actions may include making temporary repairs to key facilities and

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damaged homes. Permanent repair and reconstruction activities could continue for months or years as residents and businesses receive insurance settlements or Federal disaster loans and grants to rebuild.

i. Debris Clearance Strategy

The Town may partner with other organizations upon mutual agreement to aid in debris removal response and coordination activities. The Town holds an interlocal agreement with Lee County upon mutual agreement to share pre-determined and additional approved debris management sites in which the Town will work with its partners to review locations annually. The Town also has the ability to issue a cooperative agreement for disaster recovery services and monitoring services from the County's contractors upon agreement.
Clearing debris from roads and streets will be guided by the following priority sequence:

- Emergency access to aid search and rescue operations;
- Roadways linking the Town to Lee County and inter-county traffic;
- Roadways providing access to designated staging areas and distribution centers supporting disaster relief efforts;
- Facilities designated as field command centers for emergency response operations, fire stations and law enforcement stations;
- Roadways under Town maintenance responsibility, and
- Private roadways, including gated communities, within the Town.

Once road clearing operations supporting search and rescue operations, and providing access to designated response/recovery centers are completed, debris clearance will be guided by the following priority sequence:

- Areas with minor damage,
- Areas with major damage,
- Areas with catastrophic damage, and
- Private roadways, including gated communities, within the Town.

Debris will be separated to avoid mixing hazardous materials and hazardous waste with other types of debris. Agencies or organizations contracted to clear, remove and dispose of debris from residential and commercial properties will observe the following collection sequence:

Priority 1 – Raw Garbage/Food Waste
Priority 2 – Household Goods/Furniture
Priority 3 – Yard Waste
Priority 4 – Construction/Demolition Debris

Debris will be separated into these four (4) general priority classes. Residents and business interests will be instructed to separate debris in this fashion and notified of the established schedule for picking up these four general debris classes.

The Town maintains street cleaning capabilities and maintains a contract for tree

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removal immediately following first responders on the scene of any emergency. Additional resources may be required. The FMB EM is responsible for the implementation of contract(s) to obtain this equipment. The Town maintains a contracted vendor for debris removal services as needed.

j. Electrical Power, Communications, Water & Waste-water Service Restoration.

The following priorities will generally govern customer power and communication service restoration once damaged electrical transmission systems, substations and distribution systems are restored. ***Note: specific utilities may change restoration efforts based on the incident.***

- Priority 1 - Emergency response and recovery facilities having no emergency power or telephone service (community emergency operations or command centers, response/recovery centers), repairing emergency communication centers and facilities, and designated facilities providing emergency food, water and ice.
- Priority 2 - Water treatment and pumping facilities having no emergency power, fire stations having no emergency power, Staging Areas and Points of Distribution (POD) requiring emergency power.
- Priority 3 - Waste water treatment plants and lift stations, general telephone service, solid waste facilities, fire stations having emergency power, public and private facilities necessary for resource management and distribution activities (government facilities handling emergency purchasing, designated grocery store/restaurant outlets).
- Priority 4 – Areas of FMB with minor damage, and other government facilities.
- Priority 5 – Areas of FMB with major damage.
- Priority 6 – Areas of FMB with catastrophic damage.

The following procedure shall govern water service restoration:
Issue a precautionary boil water notice prior to land fall of the storm, if necessary, establish emergency water sites as needed.
Revise the boil water notice from precautionary, to a mandatory Boil water notice, after damage has impacted the system.
Shut down the North and South pumping stations until all leaks are isolated.
Valve off major leak areas.
Identify high damaged areas.
Assess and provide services to meet critical customer needs such as emergency response and recovery facilities.
Establish priorities and repair-damaged facilities in the following order: Storage Tanks, Pumping stations, distribution mains, service connections.
Re-pressurize the water system in zones as necessary.
Establish water is potable by conducting bacteriological sampling.

The following procedure shall govern wastewater service restoration (Lee County

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responsibility):

- Assess damages to system: wastewater treatment plants, lift stations, electrical support systems, to include evaluating the need to take lift stations offline in flooded evacuated areas to avoid damage to property when power is re-established.
- Work with Lee County to determine extent of damaged facilities and re-establish service. Lee County Sewer 239-533-8700
- Re-establish wastewater service as power and water service are restored.

k. Demobilization

Demobilization is the orderly, safe and efficient return of resources used in response to an emergency to its original location and status. Demobilization should begin as soon as possible to facilitate the accountability of resources. The Finance and Public Works Director are responsible for the following actions to ensure efficient demobilization of resources:

- Developing procedures to ensure and validate the safe return of resources to their original locations.
- Developing resource-tracking and accountability processes and ensure applicable reimbursement, to include compliance with Mutual Aid agreements.
- Enforce steps to ensure the safety of responders during demobilization.

l. Emergency Supplies

The Lee County EOC is responsible for coordinating the response to unmet needs. The process to meet the identified needs is first to provide the basics of food, shelter, and clothing. The other needs are evaluated as to fairness, ability to provide service to all who need it, cost, alternative means to meet the need, and so forth. Life-safety issues always take precedence.

Lee County ESF 6 and ESF 15 are responsible for the delivery and provision of supplies and services (food, water, shelter, and clothing) to residents. The Town's EOC will support these efforts by identifying volunteers and donations from area businesses to meet the needs of the residents. The American Red Cross will conduct door-to-door assessments of the areas affected by the event to identify residents' unmet needs. Other unmet needs reported to the Town EOC should be tracked and forwarded to the Lee County ESF 6 and the American Red Cross.

m. Emergency Facilities

- **Points of Distribution – Cultural, Parks and Recreation**

The Town may operate Points of Distribution (PODs) at the locations determined by the Town Manager/Incident Commander or Unified Command based on the needs of the incident. The PODs will provide life-sustaining emergency relief supplies including food, water, ice, and tarps to the residents of Fort Myers Beach impacted by a major disaster and widespread utility outages. The PODs and all

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emergency response operations will be managed in compliance with Lee County. The Town will work with property owners on identifying and executing agreements in strategic areas around the Town and area.

- **Evacuation Shelters**

The Town of Fort Myers Beach is located within the hurricane evacuation zone and has many residential structures which would be vulnerable to high winds. The number of residents, therefore, seeking public shelter during a hurricane event is likely to be high. Shelters will be designated by Lee County once evacuation orders of the barrier islands have been issued.

- **Staging Area**

If a large amount of response resources requires temporary staging, a temporary staging area will be located within Fort Myers Beach at a location determined by the Manager in coordination with the Lee EOC. The Town may contact Lee County to coordinate staging of Town property at an approved location such as JetBlue Park or Hammond Stadium. Command and control over the Staging Area will be the responsibility of the assigned Staging Area Manager. Traffic responsibilities within the Staging Area shall be under the direction of the LCSO. The Town may also stage equipment at vehicles at other local locations prior to an event at pre-approved locations.

n. Deactivation of Emergency Operations Center

It is the responsibility of the FMB EM to manage downscaling and/or deactivating personnel deployed to the Lee County EOC. The decision to downscale or deactivate will be coordinated with the FMB EMT.

- Personnel will be notified of a reduced activation level or deactivation at the earliest convenient time, but preferably this decision will be incorporated during the Incident Action Planning process for the next operational period.
- The Operations Section is responsible for notifying all EOC personnel of the change in staffing requirements and operational hours.
- The Operations Section will also notify the field Incident Commanders, and the Lee County EOC staff.
- The Logistics/Finance Section will ensure that all documentation regarding operations, personnel time, and emergency expenditures is complete and obtained from all response personnel.
- The Logistics/Finance Section will ensure that all equipment and supplies are demobilized and tracked until they reach their destination.
- The Planning Section will ensure that all documentation has been stored, that all tracking documents and databases are properly duplicated and stored, and that an after-action critique is scheduled, conducted, and an after-action report is prepared.

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VI. RECOVERY

a. Operations Overview

The Town of Fort Myers Beach is dedicated to returning the community to pre-disaster conditions. The Town will coordinate and cooperate with County, State and Federal agencies to obtain the necessary support to implement mitigation measures to protect and preserve lives and property of the Town. This recovery phase occurs simultaneously with the response phase but can also extend beyond it.

As first responders are engaged in life-safety missions, the recovery staff will be planning for short-term and long-term recovery activities. Once the life-threatening response activities have been completed and the threat to the Town has diminished, recovery activities become the primary focus of emergency management.

The FMB EMT will coordinate recovery and disaster assistance efforts within the Town and is responsible for gathering the assessed needs of the community and coordinating with other agencies and organizations to meet those needs. The Town Manager/Emergency Manager is the point of contact for the beginning of the recovery process for County, State and Federal agencies.

Recovery operations consist of short-term and long-term recovery activities. Activities that may be implemented in the short-term recovery period, many of which are discussed in the preceding RESPONSE section include:

- Damage assessment
- Emergency debris removal to open at least one lane of traffic for all roads
- Restoration of utility services including power, water, and sewer services
- Restoration of critical infrastructure and critical facilities
- Re-supply of fuel
- Installation of emergency generators at critical facilities
- In coordination with the Lee County EOC, identify facilities within the Town which may be utilized for response and recovery operations such as Disaster Recovery Centers, storage sites, temporary housing sites, PODs, etc.
- Evaluate the need for long-term housing within the community and coordinate with County, State, and Federal officials to meet the survivor housing needs
- Evaluate critical infrastructure and structures which may be eligible for hazard mitigation funding
- Evaluate unmet needs among the survivors in the community
- Support outreach efforts to publicize the availability of Federal disaster funding including Individual Assistance and Small Business Administration

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The Town may choose to activate the CodeRed emergency notification system to transmit vital recovery information to residents. The Town may use the PIO&ECT for public outreach activities during recovery, if/when the Town's EOC operations can be re-established at Town Hall. The PIO&ECT may be staffed by Town employees, CERT volunteers or trained volunteers to provide a central point of information and assistance to residents. The PI&ECT may be made available to outside agencies to set-up an outreach post, such as FEMA, insurance companies, the American Red Cross, etc. allowing them to work close to the disaster site and within easy access of residents.

b. Long-term Recovery Operations

The goal of long-term recovery is to restore the Town to pre-disaster conditions, which may exist for months or years based upon the severity and magnitude of the disaster. Generally, during the immediate recovery period, management will be conducted from the Lee County EOC. Long-term recovery will be coordinated by the Town Manager with each department/agency in its normal environment and/or field command centers as conditions warrant.

In the aftermath of a large-scale disaster, the Town may consider several planning, engineering, and economic development solutions to address long-term recovery needs. This may include the imposition of building moratoria for substantially damaged structures, business and economic stimulation policies, and others.

The methods used to provide recovery information to the public are through the news section on the website, to website subscribers signed up to receive texts and emails, social media, media releases and media interviews, bulletin boards, community forums and town meetings. (The Mayor will function as the primary spokesperson, followed by the Town Manager and the Public Information Officer.

c. Public Assistance

Upon receiving a Public Assistance declaration, the departments and agencies responsible for pursuing reimbursement will provide detailed expenditure reports and manage the grant funding per the requirements established through FEMA. The Town may employ temporary staff to manage grants. The Emergency Manager or their designee will handle the coordination of the public assistance for the Town with the support of administrative assistants, general staff, and contractors.

d. Community Relations

The Town of Fort Myers Beach' s representative at the Lee County EOC for the purposes of planning, will function as the Emergency Management Coordinator (EMC), or a designee of the Town Manager, for the Town and attend and participate in the Lee County Disaster Advisory Committee (DAC) and serve as point of contact for the DAC and attend meetings quarterly.

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VII. COMMUNICATIONS

a. Coordination with Lee County

The Town understands the vital importance of maintaining clear communications with the County before, during, and after a disaster event. In accordance with NIMS and Florida Statutes Chapter 252, the Town of Fort Myers Beach will coordinate emergency operations with the Lee County Emergency Operations Center. It will be the responsibility of the first responder community through the dispatch center to notify the Town Manager of unusual events requiring additional mutual aid. The Town will notify the Lee EOC of emergencies in the Town and especially if the Town has an event that requires it to activate this CEMP.

When it is activated for an emergency involving the Town, the Town will maintain a liaison representative in the County EOC. The FMB staff will coordinate all information requests between the County EOC and the Town through that liaison. This communication may occur through telephone, cellular phone, satellite phone, email, fax and personal communication.

The Town liaison will also notify the Town EOC of scheduled conference calls and ensure that the Town Manager/Incident Commander are aware of all County sponsored conference calls so they may participate in them.

The Town PIO will route all media releases through the County JIC to ensure regional consistency. The Town will forward all municipal Incident Action Plans (IAPs) and Situation Reports to the County EOC for informational purposes.

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b. Coordination with Local, State of Florida and Federal Agencies

The Lee County Emergency Operations Center will coordinate with field response and recovery sites such as the points of distribution and the staging area through cellular phones and/or the Lee County radio system or Town Marine Band (VHF) radios. The FMBFCD and LCSO have multi-band repeaters and can key-in on whatever frequency the Town is using. If all communications are inoperable due to disaster impact, the Town is prepared to continue communications via message runners or satellite phone.

The Town's staff will coordinate all initial communications with higher levels of government through the County EOC until it is logical for direct communications to occur. Direct communications with FEMA may occur during the joint damage assessment process, with community outreach team members within the Town, and once the Town becomes engaged in the financial reimbursement process. At that time, the Town will coordinate directly with the State and Federal Recovery agencies.

The Town's Public Works Director, LCSO Captain and Fire Chief have access to their radio system. A Town Emergency Management Team representative will be in the Lee County EOC whenever it is activated to provide ongoing communications with the LCSO Dispatch.

Satellite phones or radios may be issued to key personnel to utilize in case of cellular failure. Designated staff and their cellular phones may also be enrolled in the GETS program. Radios will be tested at least once every six months to ensure radios are functioning and connected.

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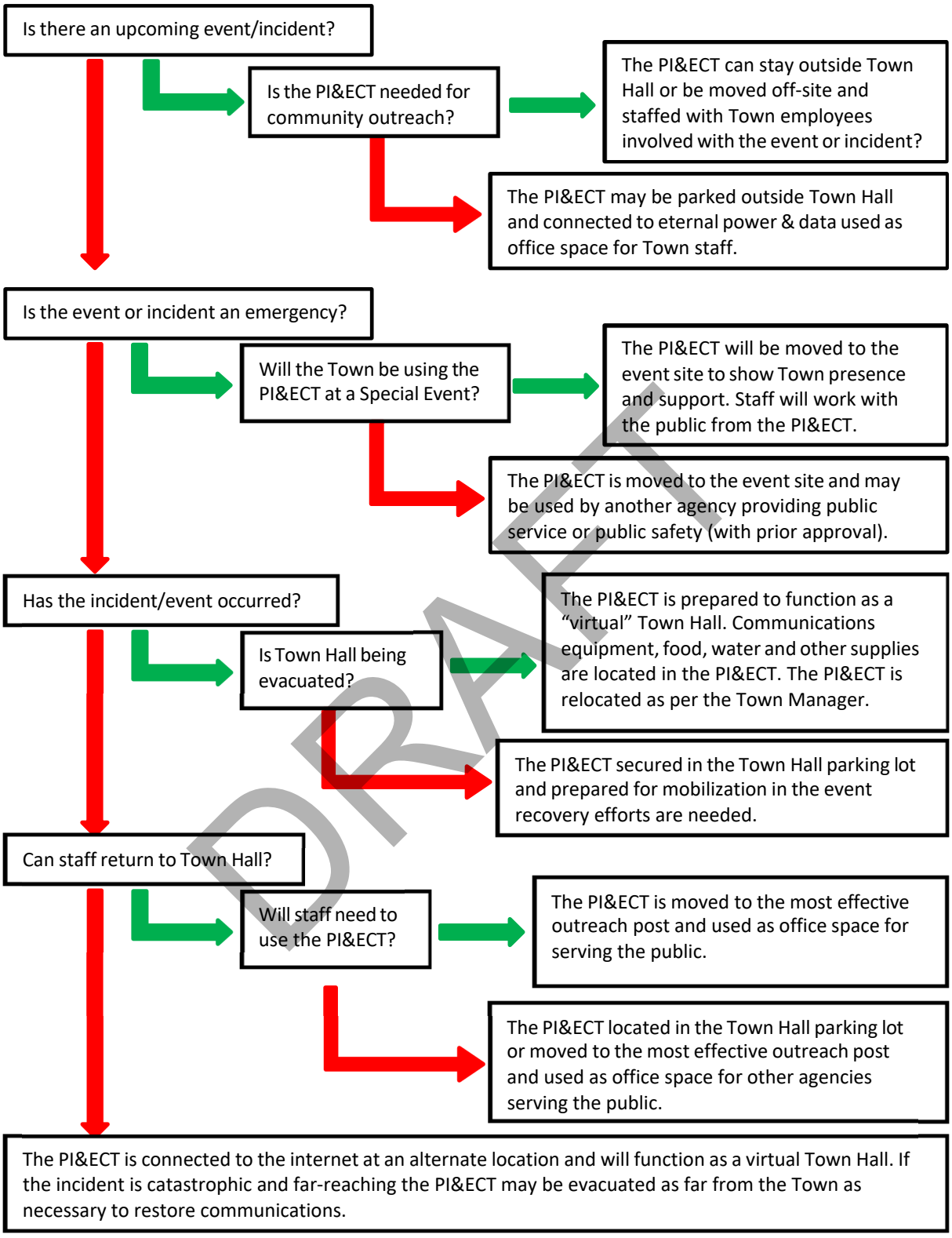
Is there an upcoming event/incident?
Is the PI&ECT needed for community outreach?
The PI&ECT can stay outside Town Hall or be moved off-site and staffed with Town employees involved with the event or incident?
The PI&ECT may be parked outside Town Hall and connected to eternal power & data used as office space for Town staff.
Is the event or incident an emergency?
Will the Town be using the PI&ECT at a Special Event?
The PI&ECT will be moved to the event site to show Town presence and support. Staff will work with the public from the PI&ECT.
The PI&ECT is moved to the event site and may be used by another agency providing public service or public safety (with prior approval).
Has the incident/event occurred?
Is Town Hall being evacuated?
The PI&ECT is prepared to function as a "virtual" Town Hall. Communications equipment, food, water and other supplies are located in the PI&ECT. The PI&ECT is relocated as per the Town Manager.
The PI&ECT secured in the Town Hall parking lot and prepared for mobilization in the event recovery efforts are needed.
Can staff return to Town Hall?
Will staff need to use the PI&ECT?
The PI&ECT is moved to the most effective outreach post and used as office space for serving the public.
The PI&ECT located in the Town Hall parking lot or moved to the most effective outreach post and used as office space for other agencies serving the public.
The PI&ECT is connected to the internet at an alternate location and will function as a virtual Town Hall. If the incident is catastrophic and far-reaching the PI&ECT may be evacuated as far from the Town as necessary to restore communications.

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c. Public Information

The Town of Fort Myers Beach will provide public information and education to enhance the level of preparedness of the residents of the Town. The goal of public education is to ensure that residents and their families can be self-reliant with necessary supplies and provisions for at least 7 days or more.

The primary spokespersons for the Town will be the Mayor and Town Manager, followed by the Public Information Officer (PIO), Emergency Management Team members, Town staff, and Town Council will refer all media inquiries to the PIO.

In consultation with the Town Emergency Manager, the PIO will grant final approval to release emergency information and instructions, designate the location for local media briefings and approve any special provisions for media coverage. During an emergency, the PIO manages all aspects of public information for the Town, including:

- Ensuring timely preparation of public information materials and dissemination.
- Ensuring that the public can obtain information and give feedback.
- Coordinating with Town emergency management team members to obtain necessary information for public information materials.
- Assisting Lee County officials in collecting necessary public information and preparing press releases in a timely manner.
- Assisting Lee County officials in briefing public affairs officers who visit emergency sites.
- Coordinating with local media regarding the dissemination of public information and getting their cooperation in education and preparedness efforts.
- Maintaining a chronology of emergency-related public information activities.

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d. Coordination of Public Information with Lee County Joint Information Center (JIC)

The Joint Information System (JIS) provides the mechanism for integrating public information activities among Joint Information Centers (JIC), across jurisdictions, and with private-sector and non-governmental organizations. The County has implemented and institutionalized processes, procedures, and plans for its JIS when the Emergency Operations Center is activated.

The Town's PIO will coordinate with the County JIC when it is activated.

VIII. Policies and Protocols

a. Municipal Resources

The Town of Fort Myers Beach has limited resources and facilities. During a disaster, the use of Town facilities, personnel, equipment, and supplies will be consistent with the policies, protocols and operational concepts defined in this plan. The Town shall exhaust all locally available resources prior to requesting emergency assistance from other jurisdictions or higher levels of government. This includes the use of resources available through existing mutual aid agreements and pre-emergency contracts with other outside organizations.

b. Direction and Control

The form of government in the Town of Fort Myers Beach is the "Council-Manager" form of government. The Town Manager is the executive and administrative head of the Town, appointed by and answerable to the elected Town Council. As such, the Town Manager has responsibility for the direction of all Town employees and departments and administers Town contracts. In an emergency, the Town Manager shall serve as the Emergency Manager and Incident Commander with the authority to undertake whatever actions are necessary to protect lives, property and to delegate executive authority for all or some emergency operations.

c. Continuity of Government

The line of succession for the Town Manager's emergency powers under this Comprehensive Emergency Management Plan shall be as follows: 1) Operations & Compliance Director, 2) Community Services Director, 3) Finance Director. The Town Manager may order special, temporary personnel assignments that require individuals to work outside their regular department or job classifications. The Town Manager may also call upon contractors to assist with preparations for and response and services during and/or after the emergency. In accordance with the Town Charter the line of succession for the position of Mayor shall be assumed by the Vice-Mayor and the Council vacancy thus created fulfilled by an interim appointment under the provisions of the Town charter. If the Vice-Mayor is incapacitated and circumstances are such (ex. widespread disaster) that the Town Council cannot meet and act, the Governor may appoint a temporary replacement for the Mayor. The lines of succession for each Town department shall be in accordance with the established SOPs of individual department as approved by the Town Manager.

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d. Leadership for Management of Municipal Emergency Operations

Due to the time-sensitive constraints of life-safety decisions during times of emergencies, it is essential that decision making authority be clearly defined. Pursuant to the authorities granted to incorporated municipalities under Chapter 252, Florida Statutes, a Declaration of Local State of Emergency may be issued due to known or anticipated conditions affecting the Town, including, but not limited to the following:

- An incident occurs within the municipal boundaries and resource requirements extend beyond normal response capability.
- Protection of the health and safety of large numbers of people will require protective actions including, but not limited to: voluntary or mandatory evacuation, sheltering-in- place procedures for large areas of the Town, quarantine or isolation of a significant number of contaminated or infected individuals, and/or distribution of pharmaceuticals for mandatory public use.
- It is determined that emergency ordinances or regulations need to be promulgated by the Town, including imposition of a curfew and/or temporary prohibition on public entry to damaged parts of the Town.
- Declaration of a State of Emergency or Disaster by higher levels of government for an area encompassing or adjacent to the Town.

Under Section 252.38(3)(a)5, Florida Statutes, "the duration of each state of emergency declared locally is limited to 7 days; it may be extended, as necessary, in 7-day increments. Further, the political subdivision has the power and authority to waive the procedures and formalities otherwise required of the political subdivision by law pertaining to:

- Performance of public work and taking whatever prudent action is necessary to ensure the health, safety, and welfare of the community.
- Entering contracts.
- Incurring obligations.
- Employment of permanent and temporary workers.
- Utilization of volunteer workers.
- Rental of equipment.
- Acquisition and distribution, with or without compensation, of supplies, materials, and facilities.
- Appropriation and expenditure of public funds.

When the circumstances warrant, the Mayor shall issue a Local State of Emergency. In his or her absence or incapacity, the Vice Mayor shall issue such a Declaration. In the event neither the Mayor nor the Vice Mayor is available, the Town Manager may issue such a declaration. Such a declaration is NOT necessary, however, for the Town Manager to activate the Emergency Operations Center.

In all cases, as soon as possible after the Declaration, the Town Manager will

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notify Lee County officials and the State of Florida of the executed Declaration.

The Lee County Board of County Commissioners, the Governor of the State of Florida, and the President of the United States may also declare a State of Emergency for areas which may include Fort Myers Beach and other geographic areas. These States of Emergency may impact the Town of Fort Myers Beach. When any of these levels of government declare a State of Emergency which includes Fort Myers Beach, the Town will also declare a State of Emergency to legally indicate that the Town is activating its Comprehensive Emergency Management Plan and employing all emergency powers necessary to protect the safety of its citizens and property.

The Town of Fort Myers Beach may order evacuations, sheltering-in- place, quarantines, curfews, and other protective actions when public safety is threatened by a natural, technological, or man-made disaster event within the boundaries of the Town. Lee County and the State of Florida may also order mandatory evacuations, quarantines, isolation orders, and establish curfews in compliance with laws and regulations. In consultation with the Lee County EOC, the LCSO, and the FMBFCD, the appropriate instructions will be disseminated to the public.

e. Passage of Emergency Ordinances and Regulations

As indicated by the conditions following the Declaration of a Local State of Disaster by the Town, it may be necessary to promulgate temporary emergency ordinances or regulations. Promulgation of emergency ordinances will be done in accordance with local and State statutes.

f. Chain of Command for Town Emergency Operations

In accordance with NIMS, and dependent on the local or multi-jurisdictional nature of the emergency, the Incident Commander of the Town of Fort Myers Beach at the Emergency Operations Center or the Unified Command at the Lee EOC is in command and control of all operational activities associated with the disaster.

g. Financial and Resource Management

The purpose of this section is to establish guidelines and assign responsibilities to support the emergency payroll and procurement of goods and services needed by various departments under this CEMP. During an emergency, pursuant to the authorities granted to incorporated municipalities under Chapter 252, Florida Statutes a Declaration of Local State of Emergency may be issued. The processes and procedures for financial management will be compliant with Lee County, the State of Florida and the Federal government requirements to facilitate maximum opportunity for Federal disaster reimbursement under the Stafford Act.

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h. Responsibility for Financial Management Operations

The Finance Director is responsible for the financial management operations. During a disaster, the Finance Director is responsible for complying with all fiscal policies and regulations, coordinating funding, and approving all incident expenses. It is the responsibility of the Finance Director to document and track all disaster-related expenditures for financial reimbursement. The Finance Director is responsible for ensuring that the Accounting Manager, Budget Manager and other department staff are trained to perform all responsibilities associated with the financial management of all municipal funds during a large-scale disaster. This fiscal responsibility includes compliance with accounting principles, emergency procurement policies, regulatory requirements related to public assistance and established authority levels.

i. Pre-disaster Preparations for Financial Management

The Town will finance the immediate emergency response and recovery operations required by an event from the available funds within the current budget. If the Town qualifies for a Federal disaster declaration which includes public assistance funds, the Town will request post-disaster reimbursement for eligible expenditures. These procedures will enable the Town to continue fiscal management before, during and after a critical incident or emergency.

The Town of Fort Myers Beach has established an emergency preparedness fund which is funded to a level as approved by the Town Council. Sub-accounts will be established to reflect the reimbursement categories established by the FEMA Public Assistance program for the following activities:

- Debris removal
- Protective measures
- Roads, signs and bridges
- Water control facilities
- Buildings and equipment
- Public utilities
- Parks, recreation and other
- Monitoring firm

This emergency preparedness fund will be utilized during critical incidents and disasters by the Town Manager as authorized by the Town Council. This fund shall be used to categorize expenditures that affect departmental operations Town wide.

The Emergency Manager (Town Manager) will ensure that, during non-disaster times, staff members with emergency management assignments receive

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information and/or training regarding State and Federal requirements for documentation of emergency expenditures and operations. As necessary, following activation of the CEMP, the Logistics/Finance Section will be responsible for providing any additional information or guidance regarding financial documentation requirements.

IX. FINANCIAL MANAGEMENT PROCEDURES

Immediate Actions Needed for Authorization of Emergency Declaration

By the authority of Florida Statute 252.31-94.6 when a critical incident or disaster strikes, the Town of Fort Myers Beach will declare a local State of Emergency and will suspend its usual purchasing policies and procedures. To the greatest extent possible during the critical incident or emergency, prudent and sound business practices will continue to be observed, with every reasonable effort made to foster competition in procurement. If at all possible, persons responsible for procurement should solicit proposals from more than one vendor.

When a Local State of Emergency is declared and normal purchasing and contracting rules are suspended, it is incumbent upon the Town Manager/Emergency Manager to advise Town employees that emergency purchasing and contracting rules are in effect. The Finance/ Logistics Section shall immediately begin implementation of the emergency financial management tracking procedures.

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a. Methods for Emergency Purchases

When a disaster strikes, the Operation and Planning Sections will determine what supplies or services are needed to immediately address the current and future incident objectives. The Logistics/Financial Section evaluates Town resource inventories to determine if goods are available in Town inventories and available to the Town before attempting to purchase the goods from an outside vendor or through existing contracts. Most purchases by the Logistics/Finance Section will be with vendors that the Town has an existing account and relationship with. If the cost of an item(s) exceeds $10,000 or the vendor requires it, a Purchase Order will be issued.

b. Vendor Invoice Information Requirements:

Regardless of the nature of the emergency, certain procurement requirements shall be observed. The supplier/contractor/vendor shall provide documentation of cost for goods and services as applicable to receive payment, including copies of time sheets of service providers indicating hours and location worked, description of services provided, listing of any billable materials and/or equipment utilized, and any available evidence that the service was actually performed such as photos or geo coordinate logs of equipment. The

supplier/contractor/vendor shall have appropriate insurance/exemptions etc. submitted with invoices or on file with the Town. Supplier/contractor/vendor shall indicate the assigned Purchase Order (PO) number on their invoice for payment. The mission number will be at a minimum; the mission/assignment number as designated by the Town of Fort Myers Beach but may also include an additional mission/assignment number for the County and the State.

c. Resource Documentation Requirements:

Individuals designated as the point of contact for purchasing and procurement in the Logistics/Finance Section are responsible for the emergency procurement of goods and services with existing vendors and for authorizing the issuance of emergency purchase orders, if necessary. Designees are responsible for maintaining a log of purchase orders issued and turning all documentation into the Finance Section Chief (Finance Director) at the shift change. The appropriate ICS form will be completed for resource orders. Finance Section Chief will enter the purchase orders into a spreadsheet either manually or electronically to document the purchases and procurement. All documentation shall coincide with the PO number for the Town of Fort Myers Beach, and the Lee County and/or State purchase order number if applicable.

Each invoice or purchase order shall have the following information included in its hardcopy back-up when it is turned over to the Logistics/Finance Section Chief: name of person requesting resources, date and time of request, PO number for Town of Fort Myers Beach, and if applicable, Lee County and the State, description of resources procured, anticipated length of assignment that resources are needed, date and time of requested delivery, person assigned to accept delivery, location of delivery, cost per unit, special demobilization instructions, name of vendor taking request, vendor tax id number, and contact information.

d. Documentation of Personnel in Emergency Operations

Personnel utilized in emergency operations will keep detailed time sheets with their dates, times, and duties performed during emergency operations. Each day's notation shall include the following information: Individual authorizing emergency operations work for employee, date requested, mission/assignment number for the Town of Fort Myers Beach, County or State, location employee worked, length of hours per day (including start and finish time), duties performed, and equipment used. As the Town of Fort Myers Beach utilizes employees and contractors, contractor timesheets are turned into the appropriate contractor directly. The timesheets will then be submitted by the contractor for invoicing and payment by the Town of Fort Myers Beach. Emergency pay measures that are implemented for an event will apply to all disasters, regardless of Federal Declaration. More information on emergency pay can be found in the Town's Employee Handbook. Final Disposition of Financial Documentation

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The Finance Director shall be the person responsible for the final disposition of the documentation gathered under conditions of both Presidential-declared disasters and non-declared critical incidents and disasters. The final format will be hard-copy documentation with electronic copy back-up and the archives will be stored for a minimum of 3 years from the date of final payment, in the records storage area for the town. The documentation will be provided to Lee County and/or the State of Florida as requested in the format requested within an acceptable and customary time.

X. RESOURCE MANAGEMENT

The purpose of this section is to provide guidance and outline procedures for efficiently obtaining, managing, allocating, and monitoring the use of resources during critical incidents or disasters. Pursuant to the authorities granted to incorporated municipalities under Chapter 252, Florida Statutes, a Declaration of Local State of Emergency may be issued to expedite resource management activities.

Used in support of NIMS, the combination of facilities, equipment, personnel, procedures, communication, resources from local government as well as external agencies and non-governmental agencies may work together to coordinate the Town's response. Through this coordination and cooperation, any shortfalls the Town has will be noted for corrective action to overcome the shortfall.

a. Physical Resources (expendable and non-expendable resources)

To meet the resource needs of emergency operations, the Town personnel and regular Town contract personnel should first exhaust local resource capabilities within existing inventories. Additional supplies and equipment required for emergency operations will generally be available from normal sources of supply. However, some established vendors may not be able to provide needed materials on an emergency basis or may become survivors of the emergency. Most, if not all resources, will come from contractors. Standby sources should be identified in advance and provisions should be made for arranging alternative sources of supply on an urgent need basis. While doing business, the Town routinely updates its inventory and available sources to include donations.

In accordance with the Statewide Mutual Aid Agreement, if all Town resources are exhausted, then the Logistics/Finance Section Chief (Finance Director) will make a request of the Lee County EOC for additional resources. If the County resources are exhausted, the County will make a request to the State for the resources. If the State's resources are exhausted, a request will be made to the Federal government. All resource requests to the County EOC shall be directed from the Logistics/Finance Section Chief to the Town of Fort Myers Beach Municipal Liaison. A single point of contact should be maintained to avoid duplication of resource requests.

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b. Resources by Municipal Agency or Municipal Contractor

The Town of Fort Myers Beach has limited available resources because most services are contracted to the private sector and County agencies. The agencies and organizations are requested to maintain inventories of personnel, equipment and supplies to provide this information routinely to the Town.

c. Classification of Physical Resources

The Town of Fort Myers Beach understands that the NIMS classification methodology is still under development. The Town is committed to continually monitoring the NIMS requirements and implementing them as appropriate within the Town. All Town resources, pursuant to the NIMS, are to be classified by kinds and types.

d. Inventories Accessed and Utilized

Town of Fort Myers Beach resources will be controlled by the Logistics/Finance Section Chief. The Chief shall monitor the inventories, locations, and assignments ofall resources and monitor the deployment of any resources.

e. Private Vendor, Mutual Aid or Volunteer Resources

The Town will work to exhaust all local resources before requesting any resources from the County EOC. The protocol to procure additional resources are as follows: activate and direct deployment of additional local resources to the incident site(s); request mutual aid assistance from existing jurisdictions who have entered a Mutual Aid Agreement; purchase, rent, or lease supplies and equipment; obtain donated resources from businesses, individuals, or volunteer groups; contract for necessary services to support emergency operations. The Town Manager/Emergency Manager shall consider the potential liabilities before accepting offers of donations of supplies, equipment or services or committing labor from individual or volunteer groups to emergency operations.

f. Tracking Procedures for all Resources

The Finance Director is responsible for the management of all resources in support of the current incident objectives, except for resources committed to debris management, debris monitoring, clearance, and removal.

Deployment and tracking of resources committed to debris management are the Operations Section Chief (Public Works Director)'s responsibility in accordance with the FEMA approved Debris Management Plan.

In compliance with the resource management procedures outlined above, the Planning

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Section Chief will track resource needs and assign a mission number. The mission number may be assigned by the Unified Command. The Planning Section Chief will complete the appropriate form(s) detailing the following information for resource/equipment check-in including:

- Requesting entity
- Brief statement of need
- Originating entity
- Method of delivery and location of delivery
- Associated expendable resources
- Anticipated duration
- Funding
- Any other required information

All resources that are the property of the Town of Fort Myers Beach will be inventoried and identified by their property control number as assigned by the Town. Resources will be logged onto a spreadsheet controlled by the Logistics Section, noting item, deployment, time out and expected return and any other pertinent information. The Town of Fort Myers Beach now has access to emergency management software, Web EOC, through Lee County.

g. Protocols for Resources

The deployment of resources and personnel shall be in accordance with established plans and procedures that provide assurance that Town resources, both owned and contracted, shall not be deployed without the specific approval of official resource coordination processes. When the EOC is activated, the Logistics/Finance Section Chief shall approve all personnel and equipment deployments as directed by the FMB EM. To ensure the appropriate management and demobilization of personnel, supplies and equipment, the Logistics/Finance Section Chief will work cooperatively with the Operations and Planning Sections Chiefs to develop a demobilization plan. The Statewide Mutual Aid Agreement addresses the issues pertaining to the appropriate management of resources up to and including return to the original agency. The Statewide Mutual Aid Agreement also details the requirements associated with general responsibility for payment and/or reimbursement of resources acquired through mutual aid.

h. Personnel Resources

All Town departments are required to have emergency personnel assigned in case of critical incidents or disasters. The FMB EM will identify and coordinate the placement of Town employees that may be reassigned to temporary emergency duties should a critical incident or disaster impact the Town. If the required skills and/or expertise are not available within the pool of existing Town employees, the FMB EM will approve the temporary workers.

Rosters of personnel working for the Town of Fort Myers Beach daily in emergency operations will be maintained by the immediate supervisor of the that temporary worker, and copies of that information will be relayed verbally or in writing to the

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Operations Section Chief at least twice a day on an appropriate ICS form. (A final hardcopy or electronic copy of the day's roster will be sent to the Operations Section Chief at the beginning of the shift change and at the end of the shift change. All workers shall sign-in or check in with the Planning Section and their immediate supervisor and receive a mission/assignment number, again noted on the ICS form. A log of each employee and/or contractor checking in and out shall be maintained to verify their presence. This log shall be submitted to the Finance Director. The log will become an important means of verifying that contractors were present and performing the work they will later invoicing us for.

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ANNEX A: ACRONYMS

ALT	Alternative
ARC	American Red Cross
ARES	Amateur Radio Emergency Services
CAP	Civil Air Patrol
CBRNE	Chemical, Biological, Radiological, Nuclear, Explosive
CEMP	Comprehensive Emergency Management Plan
CERT	Community Emergency Response Team
CIC	Citizen Information Center
COG	Continuity of Government Plan
COOP	Continuity of Operations Plan
CPA	Closest Point of Approach
CPG	Comprehensive Preparedness Guide
CRS	Community Rating System
DFO	Disaster Field Office, (FEMA)
DHS	Department of Homeland Security
DDIR	Detailed Damage Inspection Reports
DMAT	Disaster Medical Assistance Team
DMORT	Disaster Mortuary Operational Response Team
DPW	Department of Public Works
DRC	Disaster Recovery Center
DRFA	Disaster Relief Funding Agreement
DSR	Damage Survey Report
EAS	Emergency Alert System
EM	Emergency Management
EMS	Emergency Medical Services
EPG	Executive Policy Group
EOC	Emergency Operations Center
EPG	Executive Policy Group
EPZ	Emergency Planning Zone
ESATCOM	Emergency Satellite Communications
ESF	Emergency Support Function
FDEM	Florida Department of Emergency Management
FDLE	Florida Department of Law Enforcement
FDOT	Florida Department of Transportation
FEMA	Federal Emergency Management Agency
FMB	Fort Myers Beach
FMBFD	Fort Myers Beach Fire Department
FS	Florida Statutes
GAR	Governor's Authorized Representative
GIS	Geographical Information System
HAZMAT	Hazardous Materials
HM	Hazard Mitigation
HSPD	Homeland Security Presidential Directive
IA	Individual Assistance

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IAP	Incident Action Plan
IC	Incident Commander
ICS	Incident Command System
ICP	Incident Command Post
IMT	Incident Management Team
JIC	Joint Information Center
LCPS	Lee County Public Schools
LCSO	Lee County Sherriff's Office
LPG	Liquid Petroleum Gas
MACS	Multiagency Coordination System
MARS	Military Affiliate Radio System
MOA	Memorandum of Agreement
MOU	Memorandum of Understanding
NDMS	National Disaster Medical System
NDMS	National Disaster Medical System
NDRF	National Disaster Recovery Framework
NETC	National Emergency Training Center
NFIP	National Flood Insurance Program
NGO	Nongovernmental Organization
NIMS	National Incident Management System
NOAA	National Oceanographic and Atmospheric Administration
NRF	National Response Framework
NRP	National Response Plan
NWSFO	National Weather Service Forecast Office
PA	Public Assistance
PDA	Preliminary Damage Assessment
PIO	Public Information Officer
PL	Public Law
PRI	Primary
PSA	Public Safety Announcement
PW	Project Worksheet
RACES	Radio Amateur Civil Emergency Service
RDSTF	Regional Domestic Security Task Force
RIAT	Rapid Impact Assessment Team
RRT	Rapid Response Team
SAA	State Administrative Agency
SAR	Search and Rescue
SCO	State Coordinating Officer
SEOC	State Emergency Operations Center
SERT	State Emergency Response Team
SITREP	Situation Report
SLOSH	Sea, Lake, Overland Surge from Hurricanes
SOG	Standard Operating Guide
SOP	Standard Operating Procedure
TDS	Time Delineation Schedule
TH	Temporary Housing

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TTY	Teletype
UASI	Urban Area Security Initiative
VOAD	Voluntary Organizations Assisting in Disaster
WMD	Weapon of Mass Destruction

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ANNEX B: DEFINITIONS:

All-Hazards: An approach for prevention, mitigation, preparedness, response, continuity, and recovery that addresses a full range of threats and hazards, including natural, human-caused, and technology-caused.

Disaster/Emergency Management: An ongoing process to prevent, mitigate, prepare for, respond to, maintain continuity during, and to recover from, an incident that threatens life, property, operations, or the environment.

Emergency Manager: Appointed by the Town Manager and authorized to develop, implement, administer, evaluate, and maintain the CEMP program.

Emergency Management Department (EMD): The Town Office of Emergency Management (EM) will reside within Fort Myers Beach Fire Rescue Department and have primary responsibility for the Town Emergency Management Program, as directed by the Town Manager.

Essential Employee: Those employees designated by their department heads as such because their work directly supports efforts to maintain or restore public safety and/or essential Town services and include, but may not be limited to, Public Safety (law enforcement & fire rescue), Public Works, Town Clerk's Office, Planning and Development Services Department, Building Department, Finance and Administration Department, Information Technology, Cultural Parks and Recreation and the Town Incident Management Team as defined by the Town CEMP. Essential Employees shall be required to remain at work or be available to report to work to ensure that identified critical functions continue during an emergency or when the Town has closed or suspended operations (e.g. power outage, inclement weather, hurricane, etc).

Non-Essential Employee: An employee who is not necessary to the emergency service function of his or her department and is not required to report to work.

Executive Policy Group (EPG): The Executive Policy Group (EPG) is comprised of the following officials: Mayor, Town Manager, Town Attorney (optional), Fire Chief / Emergency Manager, MCSO / District Commander and/or other officials as deemed necessary.

Incident Action Plan: A verbal plan, written plan, or combination of both that is updated throughout the incident and reflects the overall incident strategy, tactics, risk management, and member safety requirements developed by the incident commander.

Incident Commander (IC): The person responsible for all field aspects of an emergency response; including quickly developing incident objectives, managing all incident operations, application of resources as well as responsibility for all persons involved. The incident commander sets priorities and defines the organization of the incident response teams and the overall incident action plan.

Incident Command System (ICS): ICS is normally structured to facilitate activities in five major functional areas: command, operations, planning, logistics, and finance/administration. In some circumstances, intelligence and investigations may be added as a sixth functional area.

Incident Manager (IM): The individual authorized to direct and control the Town emergency and disaster response and recovery, by way of the Town Emergency Operation Center and Town EOC IMT. The Town EOC Incident Manager is not to be confused with any on-scene or field IMT Incident Commanders, where necessary.

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Incident Management System (IMS): The combination of facilities, equipment, personnel, procedures, and communications operating within a common organizational structure and designed to aid in the management of resources during incidents.

Incident Management Team (IMT): The Town IMT is comprised of the following: Incident Manager/Commander, Operations Section Chief, Planning Section Chief, Logistics Section Chief, Finance/Admin. Section Chief, and applicable Command Staff of Safety, Liaison and Public information Officer. Additional units may be activated by the IMT as needed.

Incident Action Plan (IAP): The IAP ensures that everyone is working in concert toward the same goals set for that operational period by providing all incident supervisory personnel with direction for actions to be taken during the operational period identified in the plan. IAPs provide a coherent means of communicating the overall incident objectives for both operational and support activities. They include measurable strategic objectives to be achieved in a time frame called an Operational Period. They may be verbal or written except for hazardous material incidents, which must be written, and are prepared by the Planning Section.

Major Hurricane or Tropical Cyclone (Cat 3, 4 or 5 hurricane): Category 3 or higher marks the point at which the National Hurricane Center classifies strong cyclone storms as major hurricanes. These storms can cause large loss of life and devastating and catastrophic property damage.

Multiagency Coordination System (MACS): The primary function of MACS is to coordinate activities above the field level and to prioritize the incident demands for critical or competing resources, thereby assisting the coordination of the operations in the field. MACS consist of a combination of elements: personnel, procedures, protocols, business practices, and communications integrated into a common system. For the purpose of coordinating resources and support between multiple jurisdictions, MACS can be implemented from a fixed facility or by other arrangements outlined within the system. Examples of multiagency coordination include a state or county emergency operations centers.

National Incident Management System (NIMS): NIMS is a comprehensive, national approach to incident management that is applicable at all jurisdictional levels and across functional disciplines. NIMS enables us to work together to prevent, protect against, respond to, recover from, and mitigate the effects of incidents, regardless of cause, size, location, or complexity, in order to reduce the loss of life and property and harm to the environment. NIMS works hand in hand with the National Response Framework (NRF) - NIMS provides the template for the management of incidents, while the NRF provides the structure and mechanisms for national-level policy for incident management.

Preparedness: Ongoing activities, tasks, and systems to develop, implement, and maintain the program capabilities.

Prevention: Activities to avoid or stop an incident from occurring.

Recovery: Activities and programs designed to return conditions to a level that is acceptable to the entity.

Resource Management: A system for identifying available resources to enable timely access to resources needed to prevent, mitigate, prepare for, respond to, maintain continuity during, or recover from an incident.

Response: Immediate and ongoing activities, tasks, programs, and systems to manage the effects of an incident that threatens life, property, operations, or the environment.

Refuge of Last Resort: These are locations used as a last resort to provide refuge for evacuees that may have otherwise been stranded along evacuation routes within hazard impact areas. Refuges of Last Resort are not

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shelters and have no food, security, or guarantee of protection.

Standard Operating Procedures (SOPs): SOPs that are not contained in this plan, but are developed for each EOC/IMT position and are essential to the implementation of this document. Copies of all EOC/IMT position SOPs are kept for reference at the Town Emergency Operations Center.

Unified Command: Unified command is an important element in multijurisdictional or multiagency incident management. It provides guidelines to enable agencies with different legal, geographic, and functional responsibilities to coordinate, plan, and interact effectively. As a team effort, unified command allows all agencies with jurisdictional authority or functional responsibility for the incident to jointly provide management direction to an incident through a common set of incident objectives and strategies and a single Incident Action Plan. Each participating agency maintains its authority, responsibility, and accountability.

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ANNEX C: HURRICANE PREPARATION ACTION PLAN PUBLIC WORKS AND TOWN HALL

FIVE DAY ADVISORY- 120 HOURS

___ Mound House Shutters, Secure Exhibit Hurricane Supplies see
___ below
___ Inventory and Restock Food and Water Supplies at offsite storage
___ Top off fuel storage tanks Procure fuel tanker for post storm
delivery, Plan for Staff vehicle fueling
___ Purchase all materials and supplies needed for preparation
___ Mutual Aid Request with Sheriff (Personnel @ Bridge; County for Fuel)
___ Sand
___ Download FIDA App and Training
Print any documents needed for post-disaster Compile List of Documents Needed
Call and Reserve Hotel Rooms (Preferably as soon as forecast allows)
___

FOUR DAY ADVISORY- 96 HOURS

___ Remove mobi-mats from beach accesses
___ Clean up behind Public Works Shed/ All Town Properties
___ Town Hall Shutters
___ Schedule Waste Management to remove dumpsters
Move Tarps to Town Hall
___

THREE DAY ADVISORY- 72 HOURS

___ Remove trash containers, poles, lids etc. on beach; Lay down concrete cans/remove lids
___ Check benches and secure if needed
___ Secure picnic tables at Newton Park
___ Charge Emergency Radios and Phones
___ Remove Town Boats
Unhook Palm Avenue Restroom Trailer
and any other trailers and move to
designated locations
___ Utilities - contact Green Meadows
___ Water Plant
___ Letters to people in Mooring
Field (Declare Safe Harbor if
storm meets criteria)
___ Install all hurricane screens on main museum 2nd floor that staff cannot reach without a ladder.
MH staff will have all screens laid out ready for PW before installation.

TWO DAY ADVISORY- 48 HOURS

___ Remove chairs and awnings at Pool- store at Pool in classroom; throw chairs in Pool
___ Remove liners/lids- Times Square
___ Shut off water
___ Remove Trolley Stop trash bags Wrap Pay stations Bay Oaks and Pool secure facility, picnic tables etc.
___ Fill and place Sandbags at Bay Oaks, Mound House, Pool etc.
___
___
___

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Begin removing Town Equipment, Top off Fuel Tanks see attached
Beach Water- Check stations, have LCU fill both water storage tanks, and keep them completely full.
Remove bollards at Bay Oaks

Public Works to install metal door over entry door to underground museum –door is located in outside closet by museum entry door.
Public Works to assist Human Resources and other pre-determined offices move critical documents from office

ONE DAY ADVISORY- 24 HOURS

___ Gather Field Electronics (Radios, Cameras etc.)

Issue NTP (Notice to Proceed) to Debris Removal and Monitoring Vendors if needed.
Issue NTP to storm related vendors
Move Network Server and Emergency Trailer to EOC
Move Fuel Cans to Safe Location

___ Complete vehicle inspections
___ Secure all Town Gates (Mound House, 216 Connecticut, Towers etc.)
___ Lock Bay Oaks gate open
___ Beach Water- Check stations, tanks (levels), pumps and generators
___ Order Dumpsters for Immediate Delivery after Storm
___ Remove and Store Flags off of Flag Poles

Remove Town Vehicles and large equipment; Bring to designated off-site staging area

Top off Fuel in Vehicles ___

Hurricane Supplies

- Batteries
- Flashlights
- Tools
- Rain gear
- Radios
- Cameras
- Office Supplies
- First Aid Supplies
- Garbage Bags
- Gloves
- Commercial Saran wrap/tape
- Box cutters

- Class III A-frames- Barricades “Road Closed”, “Standing Water”
- Rain boots/wading boots
- Chainsaw chains and bars; chainsaws
- Chains (Martin/Tunes)
- Battery jump boxes (3)
- Bolt cutters
- Generator for ice machines at Bay Oaks
- Generator cables
- Chest freezer
- Floor fans for flooding

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POST STORM- DMS SITE

- Contact Lee County to implement the county interlocal for shared use of FDEP pre-approved DMS sites Lovers Key and DEP to utilize Lovers Key as DMS Site.
- Execute Temporary License Agreement with Lee County Solid Waste for Lovers Key Site.
- DEP- Pre-check and post-check of site (Renee Kwiat) floridadep.gov
- Town's Contractor order port-o-potties, scissor lift, silt fence, etc. Town provide signs/posts for Do Not Enter, No Dumping

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ANNEX D: HURRICANE PREPARATIONS FOR MOUND HOUSE AND NEWTON PARK

Annual Preparation to be done in May

- Check all Hurricane screens: make sure all Mound House screens and hardware are in working order. Vendor: Astro Guard, Delray Beach, FL, 561-742-3756, www.astro-guard.com.
- Prep generator and make sure all power tools are in working order.
- Inventory supplies and purchase supplies and equipment needed (see attached list of supplies)
- Arrange for a certified arborists to trim trees (storm scape) get all coconuts out of palms & review routinely throughout hurricane season.
- Update hurricane plan and distribute to staff with assigned duties to each staff.
- Photograph landscape, buildings, and structures at Mound House and Newton Park
- Update staff, volunteer, contractors and services information and distribute to all MH staff. Staff to keep this with them at all times.
- Make sure all key staff phone numbers are saved in your cell phone.
- Save everything on the server – do not leave any files on your computer desktop as they can be lost in the event your computer gets damaged.
- Make sure no items are located behind the kayak shed.
- All staff keep a change of clothes in their car to change into to prep for a hurricane. Closed toed shoes and comfortable clothing.
- Secure vendor - landscape cleanup crew to be a first responder to clear sites 72 hours after storm passes.
- Secure emergency vendors to use to make any repairs that are needed to get museum open 72 hours after storm passes.
- Check the weather every day for updates to possible storms forming.
- All - Restock hurricane supplies for your home and go over your personal hurricane plan.
- Prepare each member of staff an emergency grab bag with gloves, keys to all doors, flashlights and other tools and supplies.

Hurricane Preparation

Town staff will be in contact if this prep is necessary and/or to assign duties for everyone to help after the storm passes.

- Keep your cell phone handy and charged at all times.
- Take home with you all volunteer phone numbers and group contacts that have reservations.
- Take with you the Emergency Bag assigned to you with all the necessary tools and items to come back to the site and clean up.
- Make sure town staff cell phone numbers are programmed in your cell phone.
- Charge all the tools, batteries, radios, and power sticks.
- Double check that all gas cans are full.
- Take all the money from the safe to the Town Hall to the vault.
- Listen to weather radio and watch for updates from Lee County EOC. Relocate the radio to the museum store if needed.

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PREPARATIONS FOR MOUND HOUSE

- Deactivate all programing for unlocking the doors at Mound House.
- Call volunteers and scheduled groups to cancel until further notice.
- Put message on Facebook, Instagram and on MH website that MH will be closed until further notice.
- Change voicemail for the main line to say same as above. Dial 5000 enter ext. 1999 code is 0852
- Run reports on all museum store inventory we have on hand- print out and place on thumb drive.
- All Staff to take their Emergency Grab Bags with them with keys to all doors, flashlight and work gloves and other tools and supplies.
- Director and maintenance staff to take chain saw, gloves, tools, caution tape, cones and keys and any tools needed to get back to the site.

Main Museum

- MH staff to place out all screens in front of each window/ door before PW gets to the site to install- screens are located in 3 large grey bins in the kayak shed to the right of the roll down door.
- Public Works to install all hurricane screens on main museum 2nd floor.
- MH staff is to install screens on 1st floor and the ones reachable on the 2nd floor off porch area–
- Roll up all the rug in museum store and in living room, cover and relocate.
- Place rags, towels and absorbent socks under all doors and windows.
- Check all windows and doors in main museum to make sure they are secured.
- Cover sink with plastic in bathroom and place bucket and prep all windows.
- Put all the puzzle pieces in the bathtub.
- Move large puzzle boards away from windows.
- Cover kiosks with plastic in bathroom.
- Place bucket inside the fireplace in the living room.
- Place other buckets in living room with plastic sheeting underneath and towels in transition area of store and living room by threshold.
- Move chairs and net inside that are located on 2nd floor porch.
- Lock outside door that leads up to the 2nd floor porch.
- Adjust AC.

Museum Store

- Cover all items in the museum store that can be ruined by water- place bucket on front counter under light that leaks.
- Secure fragile items in museum store away from windows.
- Museum store- behind the counter- Pull back mat and place towel along wall under the museum admission sign.
- Place absorbent sock under museum store door.
- Adjust AC.

Office/ 1921 Garage Building

- Place plywood on back windows.
- Place all computers up off the floor- unplug from battery backup boxes- turn battery backup boxes off and cover computer with plastic.
- Take all files off desks and secure in a plastic bag or in a desk drawer.
- Move everything out from the windows.
- Take up rug in front office door and place 2 absorbent socks in front.
- Adjust AC

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- Lock the front office door and the 2 staff office doors.
- Close all garage doors in office building including the one that covers the front door and padlock shut.

Underground Museum

- Roll up any rugs and place on top of chairs.
- Make sure nothing is on the floor of the museum or the closet that can ruin if it gets wet.
- Place donation box up off the floor.
- Place fan up off the floor and unplug.
- Lock underground museum door.
- Take *Stories Beneath Our Feet* sign down above the outside door and place inside museum.
- Public Works to install metal door over entry door –door is located in outside closet.

Grounds

- Turn picnic tables upside down
- Move all potted plants inside the kayak shed.
- Secure monofilament tubes from dock
- Remove lattice from AC units in back of the main museum and place in kayak shed.
- Move all loose items from the back of the kayak shed to inside of shed.
- Walk the grounds and make sure nothing will fly away with heavy winds.
- Public Works to place cans on their sides. Trash cans– remove lids and secure them in the shed, also 216 parking lot. Remove the liner and place cans sideways on the ground.
- Close and secure all gates (vehicle gates, all parking lot gates and place padlocks on pedestrian gates.

NOTE: All department heads should be in contact with all their staff regarding the status of the hurricane and their role in the preparation of the site as well as other duties after the site has been prepped and how they can help out with other departments.

All Mound House staff should stay in touch with their supervisor for updates regarding when staff will return for post storm clean up.

POST STORM

- Contact your supervisor immediately after the storm has passed for updates on returning to work.
- ESTABLISH MEETING POINT FOR ESSENTIAL AND NON-ESSENTIAL STAFF
- Staff returning to the island- bring parking pass to get onto the Island- bring water, food, clean up tools and supplies (sunscreen, hats, mosquito spray, rubber gloves, work gloves, keys to site, hand sanitizer, sunglasses, flashlight, and recharging stick for cell phones) wear closed toes shoes and comfortable clothing for post hurricane clean up.
- Check with supervisor on where to be stationed.
- When Mound House and Newton Cottage get power- call volunteers to open areas for residents to charge cell phones, cool off, use the restroom and get cold water.

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ANNEX E: HURRICANE PREPARATIONS FOR BAY OAKS RECREATION CENTER AND FORT MYERS BEACH COMMUNITY POOL

Bay Oaks Recreation Center

Annual Preparation to be Completed in May

- Inventory supplies and purchase supplies and equipment needed (see attached list of supplies)
- Update hurricane plan and distribute to staff with assigned duties to each staff.
- Photograph landscape, buildings, structures, and amenities at Bay Oaks Recreation Center and the Campus.
- Update staff, volunteer, contractors and services information and distribute to all Bay Oaks staff. Staff to keep this with them at all times.
- Make sure all key staff phone numbers are saved in your cell phone.
- All staff to keep a change of clothes in their car to change into to prep for a hurricane. Closed toed shoes and comfortable clothing.
- Prepare each staff an emergency grab bag with gloves, keys to all doors, flashlights and other tools and supplies.
- Secure vendor - landscape cleanup crew to be a first responder to clear sites 72 hours after storm passes.
- Secure emergency vendors to use to make any repairs that are needed to get recreation center open 72 hours after storm passes.
- All - Restock hurricane supplies for your home and go over your personal hurricane plan.

Preparations for Bay Oaks Recreational Campus

- All programing for unlocking the doors at BORC and the field restrooms.
- Call volunteers, instructors, and scheduled groups to cancel until further notice.
- All coordinators communicate with members of on-going programs about closing – will provide updates!
- Put message on Facebook, Instagram and on Town website that BORC will be closed until further notice.
- Change voicemail for the main line to say same as above.
- All Staff to take their Emergency Grab Bags with them with keys to all doors, flashlight and work gloves and other tools and supplies.
- Director and maintenance staff to take chain saw, gloves, tools, caution tape, cones and keys and any tools needed to get back to the site.
- All staff to have the ability to be adequately prepared at home. ***

Grounds, Fields, and Athletic Courts

- Remove all trash can tops – stow in grounds shed
- Check gated storage area behind BORC – move all loose items into enclosed shed
- Place both wheeled cans (garbage and recycling) inside BORC
- Flip all picnic tables
- Ensure any potted plants in garden are secured in an enclosed area
- Conduct grounds walk around to check for any loose items

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- Manually lock restrooms
- Ensure all items under awning are secured
- Remove all bases from athletic fields; insert anchor plugs
- Remove backstop nets from fields – PW assistance
- Move trash cans from dugouts to grounds shed
- Ensure any field equipment (pitching screens, L-screens, soccer goals) are secured in an enclosed area or onto fencing
- Remove tennis nets from all courts – keep in grounds shed
- Remove scoring attachments from tennis courts – keep in grounds shed
- Place tennis court drag/broom in grounds shed

Bay Oaks Recreation Center

- Place sandbags along bottom of all doors (outside)
- Place sandbags along bottom of garage door

Multi-Purpose Room

- Unplug electronics – wrap cords in plastic
- Remove TV from wall mount, wrap in plastic, place in secure spot (craft closet counter)
- Turn thermostat off
- Shut door

Craft Room, Side Room, & Closets

- Unplug all electronics – wrap cords in plastic
- Ensure all items are securely stowed
- Roll any mats up and place on high ground
- Ensure there aren't any items on the ground that may be damaged by water
- Shut all doors

Office & Front Lobby

- Roll all mats and place in maintenance closet
- Save all files to the BORC drive prior to unplugging equipment
- Unplug all electronics – wrap cords, computers, and equipment in plastic
- Ensure all files are placed in a secure place – wrap in plastic if needed
- Turn thermostat off
- Make sure all exit doors are manually shut

Gymnasium & Fitness Center

- Roll all mats and place off ground
- Ensure all basketball goals are down
- Make sure all exit doors are shut
- Unplug all electronics – wrap cords in plastic
- Turn off all thermostats
- Shut all doors

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Side Lobby & Kitchen

- Roll up mats and place off ground
- Ensure there aren't any items on the ground that may be damaged by water
- Make sure all exit doors are manually shut

Emergency Supplies

- Flashlights
- Batteries
- Drills and rechargeable batteries
- Screws & Nails
- Screwdrivers – Philips and Flat Heads
- Work Gloves- 1 pair for each staff member plus 3 extra pairs- these are not to be used during the year but to be saved as part of hurricane supplies.
- Earplugs
- Safety Goggles/Glasses
- Cooler for Ice and emergency food/drink for staff
- 4 - Power sticks to charge staff phones
- 3 Rolls of Caution Tape
- Extension cords
- 4 Power Strips (minimum)
- Battery Operated Fans w/ Extra batteries
- 3 - 1st Aid Kits
- Rope
- Gas Cans
- Gas/Oil Mix for Equipment
- Plywood to secure any broken door/window after the storm
- Blue Tarps
- Roll of screening
- Hospital grade cleaners
- Bleach
- Clorox Clean Up wipes
- Paper towels
- Hand sanitizer
- Ziplock Bags (assorted sizes)
- Battery operated radio
- Portable key box
- Waterproof grab bags for staff
- Tool bags with tools
- Chain saws and blades
- Rakes & Landscape tools
- Ladders
- Green trash bags
- Buckets
- Orange cones

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- Stakes to tie up trees
- Mops with extra Mop heads
- Brooms
- Swiffer’s
- T-shirt rags
- Window cleaner
- Extra padlocks
- Bungie cords
- Zip ties
- Mosquito spray- bug repellant
- Sunscreen
- Smart water- electrolytes
- Plastic cups for water machine
- Zip-ties
- Scissors

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Fort Myers Beach Community Pool

Annual Preparation to be done in May

- Check all Hurricane shutters: make sure all Pool shutters and hardware are in working order. Vendor: Astro Guard, Delray Beach, FL, 561-742-3756, www.astro-guard.com.
- Make sure all shutters fit the pool office and classroom windows.
- Prep generator and make sure all power tools are in working order.
- Update hurricane plan and distribute to staff with assigned duties to each staff and keep contact with town employees
- Photograph landscape, buildings, classroom, office, pump room, and other structures at the Aquatic Facility.
- Update staff, volunteers, contractors and services information and distribute to all Recreation staff.
- Make sure all primary staff phone numbers are saved in your cell phone.
- Save everything on the BORC drive – do not leave any files on your computer desktop as they can be lost in the event your computer gets damaged.
- Make sure no items are located on the pool deck or parking lot.
- All staff to keep a change of clothes in their car to change into to prep for a hurricane. Closed toed shoes and comfortable clothing.
- Secure vendor - landscape cleanup crew to be a first responder to clear sites 72 hours after storm passes.
- Check weather and watch the news every day for updates to possible storms forming.
- All - Restock hurricane supplies for your home and go over your personal hurricane plan.
- Prepare each staff member an emergency grab bag with gloves, keys to all doors, flashlights and other tools and supplies.

Hurricane Preparation

Town staff will be in contact if this prep is necessary and/or to assign duties for everyone to help after the storm passes.

- Keep your cell phone handy and charged at all times.
- Take home with you all volunteer phone numbers and group contacts that have reservations.
- Take with you the Emergency Bag assigned to you with all the necessary tools and items to come back to the site and clean up.
- Make sure town staff cell phone numbers are programmed in your cell phone.
- Charge all the tools, batteries, radios, and power sticks.
- Double check that all gas cans are full.
- Take all monies from the safe to Town Hall to vault.
- Listen to weather radio and watch for updates from Lee County EOC. Relocate radios to museum store if needed.
- Make sure first aid equipment and emergency bag is stocked as in the event of medical emergency.

PREPARATIONS FOR AQUATIC FACILITY

- Call volunteers and scheduled groups to cancel until further notice.
- Put message on Facebook, Instagram and on Parks and Recreation website that the pool will be closed until further notice.
- Change voicemail for the main line to say same as above. The aquatic facility will be closed until further notice.
- All Staff to take their Emergency Grab Bags with them with keys to all doors, flashlight and work gloves

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and other tools and supplies.

Pool Office & Classroom

- Roll up office rugs and place them on desks in the back office.
- Move all first aide equipment and emergency bag on the top shelf in the middle office room.
- Install the hurricane shutters in the windows of the office. Hurricane shutters are located in the storage room.
- Move everything out of the windows.
- Place all electronic equipment to the back office- unplug from all outlets and then cover all electronics with plastic.
- Adjust the AC.
- Place plywood on the back of the windows.
- Take all files of the desks and secure them in a plastic bag, desk drawer, or the file cabinets.
- Lock the office door and classroom door.
- Place towels near the windows and the bottom of the doors.

Storage Room

- Move all electrical wires to a higher shelf in the storage closet.
- Place all power tools on a high shelf that employees will be able to access.
- Place gas cans on a high shelf.

Pool Deck

- Take down all unbrellas and place them neatly where they cannot get ripped into the storage closet.
- Have PW assist in taking down the unbrellas and placing them in the storage room.
- Move all pool furniture into the classroom.
- Move all trashcans into the classroom.
- Move lap lanes and starting blocks into the storage room.
- Place the pool covers in the storage room.
- Place the basketball hoop in the storage room
- Place smaller picnic table umbrellas in the classroom with the pool furniture.
- Place picnic tables under awning next to classroom. Make sure they are all tied up together so they do not blow away.
- Place all lifeguard stands in the storage room.

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Pump Room

Do Not Empty The Pool:

Keeping the water in the pool provides the important weight to hold the pool in the ground. An empty pool is subject to "popping" out of the ground due to "lift" pressure from excessive ground water caused by the heavy rains that may accompany the storm.

Set up and prepare the drain before the hurricane hits, using the quick drain for Lap Pool and Kid Pool. Leave all valves open and in place so that you can start the quick drain if the pool begins to excessively overflow.

Turn off Electric Power to Swimming Pool Equipment:

To prepare electrical equipment such as, circuit breakers at the main electrical panel should be turned off to prevent pump motors, lighting, chlorinators, and heaters from operating during the worst parts of the storm. Run the pumps and filters while it's calm, but when heavy rain, wind and lightning arrive, shut them off for the duration of the hurricane.

Protect the Electric Pool Equipment:
After the equipment is shut off, wrap the pump motor, time clock, light transformers and electric heater thermostat with a waterproof plastic membrane (trash bags) and tie it securely in place to prevent sand and driving water from entering.
If flooding is expected, disconnect transportable devices and store them in a dry place.

For larger transportable devices such as the pump, use sandbags to protect pumps from being submerged. Spend some time if necessary to clear the areas around the equipment pad of mulch, leaves, debris and soil, to ensure that water drains away rapidly from the equipment pad.

Remove all Loose Items from the Pump Room Area:
Loose objects such as maintenance equipment and pool cleaning tools should be stored inside of buildings. Inspect the pump room for any loose sections and secure any loose light posts or signs.

Add Extra Chlorine to the Pool:
To prevent contamination from the anticipated debris and excessive storm water, "shock" the pool with a high dose of chlorine. Lower the pH first to around 7.2 for best results and run the filter after shocking for several hours to circulate.

Facility

- Conduct a walk-through of the facility. Make sure anything that could blow away is tied down or placed in the classroom or storage room.
- Take pictures of the facility in case the storm causes damage.
- Make sure all hurricane shutters are up and ready to go.
- Place a lock and chain on the back gate and front gate.

NOTE: All department heads should be in contact with all their staff regarding the status of hurricane and their role in the preparation of the site as well as other duties after the site has been prepped and how they can help out with other departments.

All Parks and Recreation staff should stay in touch with their supervisor for updates regarding when staff will return for post storm clean up.

POST STORM

- Contact your supervisor immediately after the storm has passed for updates on returning to work.
- Staff returning to the island- bring parking pass to get onto the Island- bring water, food, clean up tools and supplies (sunscreen, hats, mosquito spray, rubber gloves, work gloves, keys to site, hand sanitizer, sunglasses, flashlight, and recharging stick for cell phones) wear closed toes shoes and comfortable clothing for post hurricane clean up.
- Check with supervisor on where to be stationed.
- When Bay Oaks and the Pool get power- call volunteers to open up areas for residents to charge cell phones, cool off, use the restroom and get cold water.

Emergency Supplies List:

- 6 Flashlights – One for each staff person
- Extra bulbs and batteries for flashlights, lanterns and battery-operated fans.
- 4 Drills – (impact- lightweight- Porter Cable)
- 2 rechargeable batteries for each of the drills
- Generator, Gas Cans

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- Screws/ Nails, Rope, Screw drivers – Philips and Flat head
- Work Gloves- 1 pair for each staff member plus 3 extra pairs - these are not to be used during the year but to be saved as part of hurricane supplies.
- Earplugs
- Safety Goggles
- Cooler for Ice and emergency food/drink for staff
- 4 - Power sticks to charge staff phones
- 2 rolls of Caution Tape
- Extension cords, 4 power strips
- Battery operated Fans w/extra batteries
- Extra first aid supplies
- Plywood to secure any broken door/window after the storm
- Blue Tarps, Roll of screening
- Hospital grade cleaners
- Bleach, Clorox Clean Up wipes, Paper towels, Hand sanitizer, window cleaner
- Ziplock bags assorted sizes
- Battery operated radio
- Portable key box
- Waterproof grab bags for staff
- Tool bags with tools
- Chain saws and blades
- Rakes & Landscape tools
- Ladders
- Green trash bags
- Buckets
- Orange cones
- Extra hardware for Fort Myers Beach Pool hurricane shutters
- Mops with extra Mop heads
- Collections emergency clean up kit
- Brooms, rags
- Extra padlocks
- Bungie cords, Zip ties
- Mosquito spray- bug repellant, sunscreen
- Smart water- electrolytes, request extra water jugs from Public Works

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ANNEX F: HURRICANE PREPARATIONS FOR BEACH WATER (WATER UTILITY)

Preface
Chapter 62-555.350 (15) FAC

Disaster-Specific Preparedness/Response Plans

(15) Suppliers of water who own or operate a community water system serving, or designed to serve, 350 or more persons or 150 or more service connections shall develop a written emergency preparedness/response plan in accordance with Emergency Planning for Water Utilities, AWWA Manual M19, as adopted in Rule 62-555.335, F.A.C., by no later than December 31, 2004, and shall update and implement the plan as necessary thereafter. Said suppliers of water shall coordinate with their Local Emergency Planning Committee and their Florida Department of Law Enforcement Regional Security Task Force when developing their emergency plan and shall include in their plan all of the information in paragraphs (a) through (e) below.

(a) A Communication Charts as described in Chapter 5 of AWWA Manual M19.
(b) Written agreements with other agencies, utilities, or response organizations.
(c) A disaster-specific preparedness/response plan as described in Chapter 5 of AWWA Manual M19 for each of the following disasters: vandalism or sabotage; a drought; a hurricane; a structure fire; and if applicable, a flood, a forest or brush fire, and a hazardous material release. Each disaster-specific preparedness/response plan shall incorporate the results of a vulnerability assessment; shall include actions and procedures, and identify equipment, that can obviate or lessen the impact of such a disaster; and shall include plans and procedures that can be implemented, and identify equipment that can be utilized, in the event of such a disaster.
(d) Details about how the water system meets the standby power requirements under subsection 62-555.320(14), F.A.C., and, if applicable, recommendations regarding the amount of fuel to maintain on site, and the amount of fuel to hold in reserve under contracts with fuel suppliers, for operation of auxiliary power sources.
(e) If applicable, recommendations regarding the amount of drinking water treatment chemicals, including chemicals used for regeneration of ion-exchange resins or for onsite generation of disinfectants, to maintain in inventory at treatment plants.

Specific Authority 403.861(9) FS. Law Implemented 403.852(12), 403.853(6), 403.861(17) FS. History-New 11-19-87, Formerly 17-22.650, Amended 1-18-89, 1-1-93, Formerly 17-555.350, Amended 8-28-03.

Time Extension for Submitting/Completing ERP – December 31, 2005

From: Hoofnagle, Van
Sent: Thursday, October 21, 2004 11:25 AM
Subject: Time Extension for Submitting/Completing ERP
Importance: High

I am sending this e-mail because of possible confusion in some FDEP District Offices or ACHDs regarding the deadline for compliance with the emergency preparedness/response plan requirements in FAC subsection 62-555.350(15).

As John Sowerby and other staff mentioned during Focus On Change presentations early this year on FAC Rule 62-555.350 and during training this summer on the recent amendments to FAC Chapter 62-555, the FDEP intends to amend FAC subsection 62-555.350(15) to give all affected community water systems (i.e., all community water systems serving 350 or more persons or 150 or more service connections) **until the end of 2005** instead of the end of this year to complete a comprehensive emergency preparedness / response plan as required by FAC subsection 62-555.350(15). At this point, it will likely be after the end of this year before we officially make this change to FAC subsection 62-555.350(15). In the meantime, please do not take any enforcement action against community water systems who fail to meet the 12/31/04 deadline in FAC subsection 62-555.350(15). Thanks.

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Section 1
Communication Charts

The first response step in any emergency is to inform the person at the top of this list, who is responsible for managing the emergency and making key decisions. List the water system chain of command in order of contact.

Water System Chain of Command – Lines of Authority

Order	Name & Title	Responsibilities During an Emergency	Contact Information
1	Utility Director/Manager	Water System Spokesman, reports system assessments to Town Mayor and council, System operations, water quality, sampling ,damage assessments, coordinating repairs, health advisories	Phone: 239-765-0202 Cell: 239-478-6163 Email:
2	Billing Manager	Phone call center and assisting in reporting health advisories, reports system assessments to Town Mayor and council	Phone:239-286-2115 Email:
3	Lead Field Service Technician	System Operations, water quality sampling, damage assessments, and coordinating repairs	Phone: 239-463-9914 Cell: 239-425-5614 Email:
4	Field Service Technician	System operations, water quality, sampling, damage assessments, coordinating repairs, health advisories	Phone: Cell: 239-218-1023 Email:
5	Field Service Technician	System operations, water quality, sampling, damage assessments, coordinating repairs	Phone: Cell: 239-313-1361 Email:
6	Administrative Specialist	Phone call center and assisting in reporting health advisories	Phone: 239-258-1637 Email:

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Emergency Notification

Notification call-up lists – Use these lists to notify important parties of an emergency.

Emergency Notification List

Organization or Department	Name & Position	Telephone	Cell Phone	e-mail
State Warning Point	**Duty Officer**	**800-320-0519**	800-320-0519	N/A
Local Law Enforcement	Desk	239-477-1830	N/A	N/A
Fire Department	Fire Chief	239-707-1154		N/A
Emergency Medical Services	Desk	239-533-3527	N/A	N/A
Water Operator (if contractor)	Green Meadows	239-267-1151	239-357-0187	N/A
County Health Department	Engineer Environmental Manager	239-274-2216	239-940-5197	v
DEP District Office		239-344-5707	239-633-5441	
County Emergency Management Dept.	Desk	239-477-3600	N/A	N/A
Local Leader (City Mgr., Mayor, Chair. Co. Comm., etc.)	Town Manager	239-765-0202 EXT. 1100		
Local Hazmat Team (if any)				
Hazmat Hotline		1-800-320-0519		
National Spill Response Center.	Duty Officer	800-424-8802	800-424-8802	N/A
Interconnected Water System(s)	Lee County Utilities	239-533-8700	N/A	N/A
Neighboring Water System	Bonita Springs Utilities	239-992-0711	N/A	N/A
FRWA Water Circuit Rider		850-668-2746		

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Priority Customers

Organization Or Department	Name & Position	Telephone	Cell Phone	email
Hospital Or Clinic(s)	N/A	N/A	N/A	N/A
Nursing Home(s)	N/A	N/A	N/A	N/A
Public Schools	Ft. Myers Beach Elementary	239-463-6356	N/A	N/A
Private Schools	N/A			
Wastewater Treatment Plant	N/A			
Food Processing Or Other Industry	N/A			

Service / Repair Notifications

Electric Utility Co.	F.P.L.	1-800-375-2434	N/A	N/A
Electrician	Semmer Electric	239-463-2588	N/A	N/A
Gas / Propane Supplier	Teco Gas	1-877-832-6747	904-710-8725	
Water Testing Lab.	Lee County Environmental Lab	239-533-8600	N/A	N/A
Sanders Laboratories, Inc	Testing Lab Katie Strothman	239-590-0337		
Sewer Utility Co.	Lee County Utilities	239-936-0247 or 239-533-8700	239-357-1096	N/A
Telephone Co.	Century Link	1-800-786-6272	239-984-7009	
Plumber	N/A			
Pump Repair	Mader Electric	239-731-5455	N/A	

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Service / Repair Notifications

Organization Or Department	Name & Position	Telephone	Cell Phone	email
"Dig Safe" or "One Call"	Sunshine	1-800-432-4770	N/A	N/A
Rental Equip. Supplier	Sunbelt Rentals	239-768-3636	N/A	N/A
Chlorine Supplier	N/A			
Other Chemical Suppliers	N/A			
Radio/SCADA Repair Co.	BCI, DcR, Lee Co.	239-731-6167 863-428-8080	239-707-0026 863-559-6162	N/A
Bottled Water Service	Crystal Water	800-201-6218	N/A	N/A
Bulk Water Supplier	Lee County Utilities	239-479-8700	N/A	N/A
Emergency Bulk Water Supplier	Bonita Springs Utilities	239-992-0711	N/A	N/A
Well Drilling Co.	N/A			
Pipe Supplier	HD Supply	239-334-1997	239-633-5051	
Pipe Supplier	Fortiline	239-332-0112	239-218-6650	N/A

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Designated Public Spokesperson and Alternates

Designate a spokesperson (alternates) for delivering messages to the news media & public

Public Spokesperson	Name & Position	Telephone	Cell Phone
Spokesperson	Communications Coordinator	239-463-9914	239-462-4935
Alternate 1	Town Manager	239-765-0202	
Alternate 2	Utilities Director/Manager		239-478-6163

Key Messages

Develop possible messages in advance, and update them as the emergency develops
▪ Precautionary Boil Water Notice – (Date) Therefore, as a precaution, we advise that all water used for drinking, cooking, making ice, brushing teeth, or washing dishes be boiled. A rolling boil of one minute is sufficient. As an alternative, bottled water may be used. This Precautionary Boil Water Notice will remain in effect until a bacteriological survey shows that the water is safe to drink. Please feel free to contact the office at the number listed should you have any further questions or concerns.
▪ Rescission of Precautionary Boil Water Notice- The (Date) Precautionary Boil Water Notice is hereby rescinded for Fort Myers Beach following the low pressure drop issue and the satisfactory completion of the Bacteriological survey showing the water is safe to drink. If you have any questions, please call Beach Water at (239) 463-9914
▪

Health Advisories – Boil Water Notices

Use the assistance of your County Health Department and/or District FDEP office, and FDEP's Mandatory Health Effects Language, located on FDEP's website at:

http://www.doh.state.fl.us/environment/water/manual/boil.htm

http://www.DEP.state.fl.us/water/drinkingwater/rules.htm,

and click on "Mandatory Health Effects Language"., PLUS EPA's templates at:

http://epa.gov/safewater/pn.html

Click on "Microsoft Word and Word Perfect files of PN templates" (PN means Public Notifications), then determine which "Tier" of notifications is needed and click on the desired software to receive them in.
Enter POST-Hurricane (event) information

http://stormtracker.dep.state.fl.us/default.asp

*****It is important to update the status and other additional important information regarding a particular facility whenever that information changes**

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Precautionary Boil Water Notice- What Should You Do?

Public Water System Name ***Telephone Contact Number: 239-478-6163***

If during a hurricane, tropical storm or unforeseen emergency, our water system loses power and water pressure, we will issue a precautionary boil water notice (PBWN) to our customers. ***For source PWSs selling to consecutive systems, add the following: Our water is bought and used by the following water suppliers and so a boil water notice would also apply to Purchase/Consecutive PWS names***

Water pressure keeps pollutants from entering the underground pipes that bring drinking water to your house or business. When the pressure is lost, contaminants can seep into the pipes. This might allow pathogens (disease-causing germs) into the water that can cause illness if one drinks it or prepares food or beverages with it. So, as a precaution, it is important to disinfect tap water to kill any bacteria or viruses that may have entered the water, or use an alternative source of water (bottled water).

Under a boil water notice, water used for consumption can be disinfected by any one of the following methods:

- Bringing the water to a rolling boil and holding it there for one (1) minute, OR
- Using a disinfecting chemical. If you cannot boil water, you should put eight (8) drops of common household bleach (unscented) which is about 1/8th teaspoon, into one (1) gallon of tap water, then shake it, and allow it to stand for 30 minutes before drinking. If the water is cloudy, use sixteen (16) drops, about 1/4 teaspoon of bleach instead of 8, shake it, and let it stand for 30 minutes. There should be a slight chlorine odor. Use common household bleach that has 5% to 8% active ingredients. Use food grade containers. OR
- Using water purification tablets or iodine that many sports and camping stores sell, and follow their directions.

You can also buy commercial bottled water for consumption and food preparation as an alternative.

Consumption includes brushing teeth, washing fruits and vegetables, and homemade ice. Tap water may be used for showering, baths, shaving and washing, so long as care is taken not to swallow or allow water in eyes or nose or mouth. Children and disabled individuals should have their bath supervised to ensure water is not ingested. The time spent bathing should be minimized. Though the risk of illness is minimal, individuals who have recent surgical wounds, are immunosuppressed, or have a chronic illness may want to consider using bottled or boiled water (that has cooled) for cleansing until the notice is lifted.

Businesses and non-residential sites should take steps such as posting notices at, or disabling water fountains and ice machines during the PBWN. If you provide water to visitors or employees, use commercially produced bottled water for drinking or beverage preparation (coffee). Food service operations have additional requirements from their regulatory agency.

After the water system is repaired, and the pressure is restored in the pipes to your home or business, the precautionary boil water notice will remain in effect for one to several days while bacteria tests are conducted to assure the safety of the water. The notice will be lifted (rescinded) only after tests prove the water is safe to drink. It may be lifted in sections of the city/county as those areas' pipes are cleared and the water deemed safe to drink. The media will be provided information updates and you should listen for this important information on the radio and/or from the television. Flush your taps and dispose of ice made during the PBWN.

The employees of ***Public Water System Name,*** your public water system, take great care in assuring that your water is safe to drink, and we appreciate your cooperation with the precautionary boil water notice to protect public health during this difficult time. Please call us at the phone number above if you have questions or concerns. The County Health Department can also assist you with answers to questions.
FDOH in Lee County - Telephone Contact Number: (239) 274-2200

DRAFT

October, 2018

Florida Department of
Environmental Protection
South District Office
2295 Victoria Avenue, Suite 364
Fort Myers, Florida 33901

To: Fort Myers Beach Water System
PWS ID 5364145

Subject: Issuance of Precautionary Boil Water Notices during Hurricanes, Tropical Storms, or Other Unforeseen Emergencies for Community Water Systems

Dear Water System Owner/Manager:

With the start of hurricane season, we would like to remind you of the requirements related to the issuance of precautionary boil water notices (PBWN) in the event of specific emergencies. The goal is to enhance communication and coordination between the impacted water system, your water customers, regulatory food agencies, the Florida Department of Health in each county (county health departments or CHDs), and the Department of Environmental Protection (DEP) District Office. Effective communication between entities and consistency in the application for these guidelines is critical for public health protection during emergencies.

When an emergency event occurs that warrants a precautionary boil water notice (PBWN), it is vital that the public water system first notifies its water regulatory agency (DEP District Office or Approved County Health Department (ACHD)) about the situation. This is required under Rules 62-555.350(10)(b) and 62-560.410(1)(a)1 and (9), Florida Administrative Code (FAC). When the water system is regulated by DEP, then we request that you also notify the county health department about an event requiring a PBWN. By rule, it is the water utility's responsibility to provide public notification to its affected consumers. However, the ACHD and DEP must be consulted and they will initiate customer notification (a PBWN) if the PWS cannot or will not do so. Following the issuance of a PBWN, communication and coordination must continue.

In the event that you have a power outage or system malfunction that results in zero pressure in portions of, or your whole distribution network, you need to:

- Call, and e-mail or FAX the PBWN to your DEP District Office, or ACHD Office
- Call, and e-mail or FAX the PBWN to the CHD and your county emergency operations center (if phones are down, hand deliver a message to the EOC)
- E-mail or FAX the PBWN to the media serving the affected area
- If it is a localized event, directly notify individual residences and establishments within affected area via door-hangers or other means as appropriate

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- Update “Storm Tracker” to include the date the PBWN was issued and specific area affected
- A public water system that exceeds maximum contaminant levels for E. coli, fecal coliform or turbidity, or has a situation or failure that may pose an acute human health risk, must also provide notification to the public as required in Chapter 62- 560.410(1), FAC
- The PBWN must state the name of the PWS, the area affected, the time and date of issuance, what happened, corrective measures you are taking, what the public should do, your contact number, and other information required and listed in Chapter 62-560.410(5), FAC
- Undertake needed corrective actions to the water system, restore pressure and maintain disinfectant residual, perform flushing as needed, and test for coliform bacteria as prescribed by the agency overseeing your system
- After lab results prove satisfactory, send a copy of the lab results to the applicable regulatory agency, obtain their approval, and rescind the PBWN if you issued it; and DEP or the CHD will rescind if they issued it

When corrective actions are completed, a predetermined number of representative water samples must be collected and tested to validate the microbiological safety of drinking water provided to consumers. The required number of water samples depends upon the population affected and the nature of the incident. For a system-wide outage resulting from power loss, multiple pipe ruptures, or major drop in water pressure in the distribution system, the utility is responsible to collect the same number of representative water samples according to its approved, written microbiological sampling plan. For a community system, this is your monthly compliance set of bacteriological samples.
However, if only an isolated smaller portion of your system is under the PBWN, the number of required clearance coliform samples shall be set at one (1) per 1,000 people affected similar to the Chapter 62-550.518, FAC, table, starting with a minimum of two samples. The DOH PBWN Guidance requires at least one day of satisfactory samples before rescinding (lifting) the notice. If you have main breaks, two consecutive days are usually required to be satisfactory per 62-555.340, FAC.

Note that a simple water main break or other localized event would require representative water samples within that defined area in accordance with Chapter 62-555.340, FAC. Analytical laboratory results for the samples must be provided to the regulatory agency or CHD prior to rescinding the boil water notice. We encourage you to request that your lab send those results directly to the regulatory office. Whichever entity (PWS, DEP, or CHD) issues the PBWN, must also properly rescind it.

We have attached a public fact sheet template and encourage you to use this to alert your customers in advance of what to do when a PBWN is issued. This also explains what your customer can expect for the several days if a PBWN has been issued and the requirements to rescind (lift) the PBWN. Feel free to modify it with local information that you deem important. We believe that sending this type of information as a bill stuffer or flyer before the next hurricane

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would help your customers stay aware and healthy should they not be able to receive media announcements or use the internet due to area damage.

If you have any questions regarding the information in this letter, please contact either your DEP District Office drinking water program staff or ACHD Office drinking water section. The rule referenced Precautionary Boil Water Notice Guidance with examples is online at: http://www.floridahealth.gov/healthy-environments/drinking-water/Flooded-wells.html

Sincerely,

Brian P. Bates, P.E. Professional Engineer II

Florida Department of Health in Lee County 60 South Danley Drive, Unit 1
Fort Myers, FL 33907

Email: brian.bates@flhealth.gov; phone: (239) 274-2200; fax: (239) 274-2201
After hours emergency phone: (239) 872-0349

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Section 2
Written Agreements With Other Agencies, Utilities, or Response Organizations

INSERT BELOW information regarding any written agreements with other agencies, utilities, or response organizations, such as emergency interconnects, mutual aid or FlaWARN.

Emergency Interconnect(s)

Information on the location of interconnection(s) (if any), type and size of interconnecting pipe, pumps and accessory equipment, meters at interconnection(s), normal pressures at both ends of interconnection, volume of water from interconnection(s), type of agreement and approvals needed for use, procedures necessary to use interconnection, etc.

Location (Street)	8400 Estero Blvd.
Location (GPS)	N/A
Description	Bonita Springs Utilities

Memoranda of Understanding

Organization	N/A
Summary of Understanding	N/A

Mutual Aid Agreements

Organization	N/A
Summary of Understanding	N/A

FlaWARN

WEBSITE FOR AGREEMENT: www.flawarn.org

Organization	N/A
Summary of Understanding	N/A

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Section 3
Disaster-Specific Preparedness/Response Plan

Your disaster-specific preparedness/response plan must include a Vulnerability Assessment and preparedness / response plans for: vandalism or sabotage; a drought; a hurricane; a structure fire; and if applicable, a flood, a forest or brush fire, and a hazardous material release.

In any event there are a series of general steps to take:

1. Confirm and analyze the type and severity of the emergency.
2. Take immediate actions to save lives.
3. Take action to reduce injuries and system damage.
4. Make repairs based on priority demand.
5. Return the system to normal operation.

Vulnerability Assessment

It is essential that water systems identify and assess the vulnerability of each system component for both natural and human-caused emergencies, before preparing their disaster-specific preparedness/response plans. Prepare your Vulnerability Assessment by completing the table below:

Facility Vulnerability Assessment

System component	Description and condition	Vulnerability	Security improvements (indicate existing or proposed)
Raw Water Sources	N/A		
Pump-house and pumping facilities	Moss Marina pump station: 2 HSP in chain link fence enclosure. North Booster Station: pump station and ground storage tank, 2 HSP in metal building enclosed by a chain link fence. South Booster Station: pump station and ground storage tank, 3 HSP in CBS building.	2 HSP and telemetry system 2 HSP and telemetry system 3 HSP and telemetry system	Moss Marina has a new chain link fence with barbed wire top, with locking electrical panels. North Booster Station has locking electrical panels inside the metal building. South Booster Station has locking electrical panels inside a CBS building with locked doors and security system.
Treatment Facilities	N/A		
Storage Facilities	South pump station storage tank is a 1,000,000 gallon	Water Tanks	Ladder and tank behind locked doors of CBS building.

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System component	Description and condition	Vulnerability	Security improvements (indicate existing or proposed)
	cement ground storage tank. North pump station storage tank is a 500,000 gallon metal tank.		Ladder has been removed, tank inside chain link fence.
Distribution System	Approximately 30 miles of water mains, 60% asbestos cement, 30% PVC, and 10% galvanized lines, 247 Fire Hydrants and approximately 600 valves	Fire Hydrants, valves	
Computer and telemetry systems	Telemetry at all 3 stations	Radio frequency interruptions, or shut down.	All telemetry systems locked inside panels

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A. Vandalism or Sabotage Response Procedures

1. Utility staff first aware of incident:
    a) Notify State Warning Point
    b) Notify Health Department
    c) Notify Local Law Authority
2. Isolate Area
    a) Shut down station
    b) Valve off distribution system area
3. Draw samples for testing
    a) Before affected area
    b) After affected area

B. Drought Response Procedures

Include water use restrictions per Consumptive Use Permit

1. Per Southwest Florida Water Management District Directives and Ft. Myers Beach Ordinance 96-09
    a)
    b)
2.
    a)
    b)
3.
    a)
    b)

C. Hurricane Preparedness & Response Procedures

Pre- Hurricane **(36 to 48 hrs prior to arrival)**	1. Secure stations, lock panels, check fuel levels of generators 2. Contact water plant
Hurricane Watch **(24 to 36 hrs prior to arrival)**	1. Check stations 2. Have water plant fill storage tanks 3. Secure office, raise things off the floors in case of storm surge
Hurricane Warning **(24 hrs or less prior to arrival)**	1. Check stations, tanks, and pumps for damage 2. Check tank levels 3. Check generators
Recovery Procedures	1. Check stations, tanks, and pumps for damage 2. Check distribution system for signs of leaks or damage 3. Take water quality samples, notify Health Department of damages

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D. Structure Fire Response Procedures

1. Utility staff discovering fire:
    a) Disconnect power supply to building
    b) Notify fire department
    c) Shut down booster station
    d) Notify water plant
    e) Notify Town

E. Flood Preparedness & Response Procedures

Is any critical part of your system in a flood prone area? If so, this procedure is required.

1. Billing office
    a) Pick up paper products off floors and lower shelves
    b) Unplug electrical components and raise off floor
2. Pump Stations
    a) Pick up paper products off floor and lower shelves
    b) Lock electrical panels and unplug electrical components
3.
    a)
    b)

F. Forest or Brush Fire Response Procedures

Is any critical part of your system subject to forest or brush fire? If so, this procedure is required.

1.
    a)
    b)
2.
    a)
    b)
3.
    a)
    b)

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G. Hazardous Material Release Response Procedures

Do you have any hazardous material (chlorine gas) at your water system? If so, this procedure is required.

1. Not applicable
   a)
   b)
2.
   a)
   b)
3.
   a)
   b)

H. Other Disaster Response Procedures

NONE OF THIS EXAMPLE IS REQUIRED by DEP in Chapter 62-555.350(15). Use it only if there are other disasters that you want to prepare for, such as a Contamination Event, SCADA Attack, or Structural Damage from an Intentional Act?

Cont**amination**

1.
   a)
   b)
2.
   a)
   b)

SCADA Attack

1. Follow Lee County Protocol
   a)
   b)
2.
   a)
   b)

Structural Damage from an Intentional Act

1.
   a)
   b)
2.
   a)
   b)

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Section 4
Standby Power Requirements

Include details about how the water system meets the standby power requirements as described in Ch. 62-555.320(14), and 62-555.350(15)(d) FAC for water source, treatment, and pumping facilities necessary to deliver drinking water at a rate at least equal to the Average Daily Water Demand.

Standby Power for Wells or Surface Water Intakes

Standby Power (or by alternate means) to OPERATE WELLS at Average Daily Demand

Average Daily Demand (ADD) in gpd or gpm	NOT APPLICABLE
Wells Needed to Supply Average Daily Demand	
Standby Generator (kW) Needed for ADD &	
Power Failure Transfer, Alarms & Notifications	
Generator Fuel Consumption	gallons per hour
Recommended On-Site Fuel Storage (gallons)	
Reserve Fuel by Supplier Contract	

Standby Power for Treatment Facilities

Standby Power (or by alternate means) to TREAT WATER at Average Daily Demand

Treatment Facilities Needed to Supply ADD	NOT APPLICABLE
Standby Generator (kW) Needed to Operate ADD Treatment Facilities	
Power Failure Transfer, Alarms & Notifications	
Generator Fuel Consumption	gallons per hour
Recommended On-Site Fuel Storage (gallons)	
Reserve Fuel by Supplier Contract	

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Standby Power for Pumps

Standby Power (or by alternate means) to PUMP WATER at Average Daily Demand

Pumps Needed to Supply ADD	1 HSP # 402
Standby Generator (kW) Needed to Pump ADD	Moss Marina (MASTRY GENERATOR) Diesel
Power Failure Transfer, Alarms & Notifications	Notified by water plant
Generator Fuel Consumption	1 gallons per hour
Recommended On-Site Fuel Storage (gallons)	500 gallons
Reserve Fuel by Supplier Contract	500 gallons

Standby Power for Pumps

Standby Power (or by alternate means) to PUMP WATER at Average Daily Demand

Pumps Needed to Supply ADD	1 HSP # 503
Standby Generator (kW) Needed to Pump ADD	North Booster (MASTRY GENERATOR) Diesel
Power Failure Transfer, Alarms & Notifications	Notified by water plant
Generator Fuel Consumption	1 gallons per hour
Recommended On-Site Fuel Storage (gallons)	500 gallons
Reserve Fuel by Supplier Contract	500 gallons

Standby Power for Pumps

Standby Power (or by alternate means) to PUMP WATER at Average Daily Demand

Pumps Needed to Supply ADD	1 HSP # 703
Standby Generator (kW) Needed to Pump ADD	South Booster (MASTRY GENERATOR) Diesel
Power Failure Transfer, Alarms & Notifications	Notified by water plant
Generator Fuel Consumption	1 gallons per hour
Recommended On-Site Fuel Storage (gallons)	500 gallons
Reserve Fuel by Supplier Contract	500 gallons

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Section 5
Drinking Water Treatment Chemicals & Disinfectants

Include recommendations regarding the amount of drinking water treatment chemicals, to maintain in inventory at treatment plants. Do not just list chemical storage capacity, but instead recommend the minimum amount of chemicals to maintain in inventory, which depends upon the location and reliability of chemical suppliers, the status of impending disasters, etc.

Disinfection Treatment Information

Disinfection Chemical(s)	Chemical / Location No. 1	Chemical / Location No. 2
Name of Chemical	NOT APPLICABLE	
Type of Chemical Feed		
Chemical Storage Location		
Recommended Minimum Amount to be Maintained in Storage (gal)		

Other Chemical Information (NOT APPLICABLE)

Chemical(s) Used	Chemical #1	Chemical #2	Chemical #3	Chemical #4
Name of Chemical				
Type of Chemical Feed				
System Location				
Chemical Storage Location				
Recommended Minimum Amount to be Maintained in Storage (gal)				

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Peak Hour Demand (gpm)	2580

Location of Pertinent Information

Item	Location
Distribution System Map	2525 Estero Blvd
O&M Manual(s)	2525 Estero Blvd Utility Manager's Office
Start-Up / Shut-Down Procedures	2525 Estero Blvd Utility Manager's Office

Well Information (NOT APPLICABLE)

GPS coordinates will help emergency crews find wells following a major catastrophe.

Well Information	Well No. 1	Well No. 2	Well No. 3	Well No. 4
GPS well tag #				
Location (street)				
GPS Coordinates	Lat: Long:	Lat: Long:	Lat: Long:	Lat: Long:
Well Depth (ft)				
Well Yield (gpd)				
Pump Type				
Manufacturer				
Capacity (gpm)				
Motor Manufacturer				
Horsepower				
Phase				

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Surface Water Sources (NOT APPLICABLE)

GPS coordinates will help emergency crews find surface water intakes following a major catastrophe.

Surface Water Information	Intake No. 1	Intake No. 2
Location (Street / Description)		
GPS Coordinates	Lat: Long:	Lat: Long:
Critical Water Level		

High Service Pumps HSP	HSP No. 1	HSP No. 2	HSP No. 3	HSP No.
Location (street)	131 Lenell	131 Lenell	131 Lenell	
Pump Type	Horizontal, HSP	Horizontal, HSP	Horizontal, HSP	
Manufacturer	Gould	Gould	Gould	
Capacity (gpm)	350	375	1200	
Motor Manufacturer	Baldor	Siemens	Baldor	
Horsepower	50	60	100	
Phase	3	3	3	
	460	460	460	

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High Service PumpsHsP	HSP No.1	HSP No. 2	HSP No. 3	HSP No.
Location (street)	815 Lagoon	815 Lagoon	815 Lagoon	
Pump Type	Removed	Horizontal, HSP	Vertical, HSP	
Manufacturer		Aurora	Gould	
Capacity (gpm)		300	500	
Motor Manufacturer		Marathon Electric	Crown Trition	
Horsepower		50	75	
Phase		3	3	
Volts/Amps		460	460	

High Service PumpsHsP	HSP No.1	HSP No. 2	HSP No. 3	HSP No.
Location (street)	Moss Marina	Moss Marina		
Pump Type	Vertical,HSP	Vertical,HSP		
Manufacturer	Layne	Layne		
Capacity (gpm)	860	860		
Motor Manufacturer	US Electric	US Electric		
Horsepower	30	30		
Phase	3	3		
Volts/Amps	460	460		

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Appendix B
Training and Rehearsals

This information is useful and recommended for inclusion in your ERP, it is not required by DEP in Chapter 62-555.350(15).

Event	Description	People & Organizations Involved	Date

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Appendix C
Plan Approval

This information is useful and recommended for inclusion in your ERP, it is not required by DEP in Chapter 62-555.350(15).

Plan Approval

This plan is officially in effect when reviewed, approved, and signed by the following people:

Name / Title	Signature	Date
Utility Director/Manager		

Additional Contact Information:

DEP District offices:
Northwest (850) 595-8300
Northeast (904) 256-1700
Central (407)894-7555
Southwest (813) 632-7600
Southeast (561) 681-6600
South (239) 344-5600
Phosphogypsum (813) 632-7600

Florida Rural Water Association – (850) 668-2746
Stormtracker Contact Center – (866) 742-0481

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Town of Fort Myers Beach
Agenda Item Summary

Blue Sheet Number: **2024-156**

1. **Request**:

Meeting Date: **September 9, 2024**

Town Council Strategic Planning Proposal Input

Why the action is necessary:

Input and approval is needed for the proposal by the Town Council for the Strategic Planning proces.

What the action accomplishes:

Provides direction of the Town Council to continue the strategic planning process with the USF Florida Institute of Government.

2. **Agenda**:	3. **Requirement/Purpose**:	4. **Submitter of Information**:
ADMINISTRATIVE AGENDA	Other	Andy Hyatt, Town Manager

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5. **Background**:

Town Council has discussed and requested an update to their strategic plan as the last plan was created in 2017.

On April 29, 2024, the Town Council held an initial strategic planning session with Angela Crist to discuss the Town Council's overall goals and planning requests and needs. The Town contacted the Florida Institute of Government about strategic planning needs town, who then referred staff to the USF Florida Institute of Government, which has completed numerous strategic planning processes for local governments including Dunedin, Cape Coral, and Tarpon Springs.

City of Tarpon Springs https://connecttarponsprings.com/strategic-plan
City of Cape Coral https://www.capecoral.gov/special_project_plans/strategic_plan.php
City of Dunedin https://dunedin-fl.civilspace.io/en/projects/strategic-planning

The attached proposals are provided by the USF Florida Institute of Government for Town Council's review and potential approval to continue with the strategic planning process.

Attachments:

1. FMB Proposal FINAL

Financial Impact:

6. **Alternative Action**

Do not approve the proposal and search for alternative processes.

7. **Management Recommendations**:

Approve

8. **Recommended Approval**:

Jason Freeman, Legislative Liaison / Deputy Town Clerk	Created/Initiated - 8/12/2024
nancy stuparich, Town Attorney	Approved - 8/13/2024

Amy Baker, Town Clerk
Andy Hyatt, Town Manager

Approved - 9/4/2024
Final Approval - 9/4/2024

the John Scott Dailey
FLORIDA INSTITUTE OF GOVERNMENT
at the University of South Florida

We specialize in realizing and implementing big ideas in the public sector.

PROPOSAL FOR A STRATEGIC PLANNING PROCESS

August 11, 2024

Prepared For:

Andy Hyatt, Town Manager
Jason Freeman, MPA, CMC
Legislative Liaison/Deputy Clerk
Town of Fort Myers Beach
2731 Oak Street
Fort Myers Beach, FL. 33931
JasonF@fmbgov.com

UNIVERSITY of SOUTH FLORIDA

In partnership with:

CollaborativeLABS at St. Petersburg College
Expert facilitators in strategic collaboration

Prepared By:

Angela Crist, Director
USF Florida Institute of Government
4202 E Fowler Ave, SOC107
Tampa, FL 33620
acrist@usf.edu

ANTICIPATED SCOPE OF WORK

OUR UNDERSTANDING OF YOUR NEED

It is our understanding that Fort Myers Beach is interested in engaging the residents and leadership in a long-term, comprehensive strategic planning process.

The USF Florida Institute of Government in partnership with the SPC Collaborative Labs will conduct a series of exercises as part of a strategic planning process. The overarching purpose of this project is to assist the Town in better understanding the various stakeholders and opinions in their community. Information gleaned from this project will be used to update/create a new comprehensive strategic plan for the Town.

This project will benefit the Town in the following ways:

- Develop a better understanding of the collective Vision and Priorities for the Town
- Data collected will be able to assist the Town with informed resource allocation and development of a comprehensive strategic plan in the future
- Collaborating with USF and SPC provides the Town unbiased data from an outside organization that has a credible reputation researching data as well as working with local government

Specifically, the methodology will include an:

1. Increased sense of unity among stakeholders and community members through building a shared community identity
2. Increased consensus-building and decision-making skills to address community issues
3. Increased leadership and collaboration skills to accomplish community goals
4. Increased ability to effectively plan future community change and development initiatives

The Project Team is recommending a Phased Approach that will engage the Town, Community, Commission, Leadership and Staff in an iterative process that will ensure maximum engagement opportunities resulting in a collaborative approach to creating a long-term strategic plan that will serve Fort Myers Beach for years to come.

Phase 1

1.1 Kick Off and Work Plan Refinement – Town Manager and Leadership Team
The USF team in partnership with SPC Collaborative Labs will meet with Town senior staff to formally initiate the process, review and refine the work plan and scope, identify key stakeholders for initial interviews, and identify key background information for the team to review. Aspects of the work plan that may be refined include the sequence of the activities described below, the relative emphasis on meetings/group discussions and communication mechanisms for input, and the overall timeline of the project.

1.2 Town Council: Kick-Off, Setting Expectations and Teambuilding
The USF team in partnership with SPC Collaborative Labs will facilitate a one-day workshop with Town leadership to share the action steps for the strategic planning process, discuss Council member expectations and participation as well as review the relevant requirements of the Sunshine Law. The specific agenda will be determined in consultation with the Town Manager.

1.3 Communications Outreach
The USF team will work with Town staff throughout the process to develop or prepare strategic planning process content for use within the Town's current social-media and/or web presence.

1.4 Individual/Group Stakeholder Interviews
The USF team will meet with 20-25 key individual, business and organization stakeholders identified by Town staff as having particular insight into issues facing the Town or into the views and opinions of segments of the Town community. Staff and elected officials will be asked to identify an initial set of interviewees, and others may be suggested by those interviewed or residents. Insights and information gained in these interviews will be used, without attribution (anonymously), to help develop starting points for discussions at the Community Forums and for potential social media outreach.

1.5 Resident Feedback Survey
The USF team will work with staff to develop a Town-wide, web-based citizen survey. Initial questions for the survey will be developed in collaboration with staff. Additional questions may be identified by participants in the stakeholder interviews.

The USF team will analyze, group and summarize the feedback survey into a report which will be presented to Fort Myers Beach leadership team. A version of the survey results will also be posted to the Town's website.

1.6 Community Focus Group Forum 1 (3 hours)

This Community Forum will invite stakeholders including residents, businesses, and other groups affiliated with the Fort Myers Beach community. The USF team in partnership with SPC Collaborative Labs will invite elected officials, but request elected officials to listen and observe, but not participate. This Forum will:

- ask participants to identify characteristics of Fort Myers Beach that they value most and do not want to change, and issues affecting Fort Myers Beach that the Town will need to address
- begin to discuss participants' desires for the future of the Town and Town government, including a potential vision statement, and possible goals, objectives or recommendations related to the vision and issues
- Discuss priorities

The USF team in partnership with SPC Collaborative Labs will develop workshop materials for the Forum. The USF team will also prepare a Forum Summary outlining activities and conclusions at the Forum, as well as suggestions for Town communication.

1.7 Community Focus Group Forum 2 (3 hours)

Community Forum II will allow participants to:

- Review draft vision, objectives and recommendations
- Review input received through resident survey and social media since Forum 1
- Discuss and refine the draft vision, goals, objectives, and recommendations
- Test the degree of support or consensus for the vision, goals, objectives, and recommendations
- Discuss priorities

The USF team in partnership with SPC Collaborative Labs will develop workshop materials for Forum II based on discussions at Forum I, including the draft vision, objectives, and recommendations. The team will also prepare a written and visual Forum Summary outlining activities and conclusions at the Forum, as well as suggestions for social media communication.

1.8 Employee Survey

To foster employee engagement, and assess employee readiness for change, the USF team will work with staff to develop a Town-wide, web-based employee survey. Employee feedback would be anonymous, with a goal of 100% employee participation/input. Survey questions would focus on:

- identifying internal and external strengths, weaknesses, opportunities and threats (SWOT) that are influencing Fort Myers Beach
- how the Town's current plans, policies and processes will shape future outcomes
- suggestions for improving organizational effectiveness
- overall employee engagement and readiness for change
- employee desires for the future of Atlantis government as an organization and as a workplace

Initial questions for the survey will be developed in collaboration with staff. This survey would include a mechanism for full employee participation, rather than a statistically representative sampling of employee opinion. The USF team will analyze, group and summarize the employee survey into two reports: one detailed report for leadership, and one abbreviated report which will be shared with all employees to foster engagement and buy-in.

1.9 Employee Focus Group Forum (3 hours)

This Employee Forum will invite a representative sampling of employees across all departments, and all levels, of the organization.

- debrief the employee survey results
- prioritize the SWOT analysis results from the employee survey

The USF team will develop workshop materials for the Employee Forum. The USF team in partnership with SPC Collaborative Labs will prepare an Employee Forum Summary outlining activities and conclusions at the Forum.

1.10 Report to Council

The USF team in partnership with SPC Collaborative Labs will prepare a presentation and report of Phase 1: Deliverables 1.1 – 1.9. This presentation will outline activities and conclusions, solicit comments on the overarching vision and goals resulting from the Community Forum, and solicit Council approval to proceed to Phase Two of the Strategic Planning Process.

Phase 2

2.1 Leadership Forum I (4 hours)
Leadership Forum I will include Leadership across each department and Town Council.

- debrief the citizen forum/survey results
- debrief the employee forum results
- debrief initial citizen and employee desires for the future of the Town, including potential goals, objectives and recommendations related to the vision
- develop mission, vision, values, and strategic SMART goals for the Town government as an organization

The USF team in partnership with SPC Collaborative Labs will develop workshop materials for Leadership Forum I. The team will prepare a Forum Summary Report outlining activities and conclusions at the Forum.

2.2 Town Manager & Executive Leadership Planning Meeting I (3 hours) virtual
The USF team will meet with the Town Manager and Leadership Team to review the information-to-date and begin to finalize the language for the goals, objectives, and action items. This information will then be used for the Draft Final Report.

2.3 Leadership Forum II (3 hours)
Leadership Forum II will include Leadership across each department and Town Council.

- Review/finalize mission, vision, values, and strategic SMART goals
- Develop champions, objectives, implementation plans and timelines for each goal
- Determine a schedule for monitoring (accountability checkpoints) for each goal

The USF team will develop workshop materials for Leadership Forum II. The team will prepare a Leadership Forum II Summary Report outlining activities and conclusions at the Forum, as well as recommendations for long-term success of the strategic plan.

2.4 Town Manager & Executive Leadership Planning Meeting II (3 hours) virtual
The USF team and in partnership with SPC Collaborative Labs will meet with the Town Manager and Leadership Team to review the information to-date and begin to finalize the language for the goals, objectives, and action items. This information will then be used for the Draft Final Report.

2.5 DRAFT Final Report: Town Manager and Executive Leadership Team
The USF team in partnership with SPC Collaborative Labs will prepare a Draft Strategic Plan which will include:

- An organizational overview
- A definition and purpose of the Strategic Plan
- A written summary of the process used in the completion and assembly of the plan
- An establishment of the Town's mission, vision and values statements
- A list of stakeholder priorities for Town goals and objectives, including those of elected officials, employees, residents, businesses, and of any other significant groups
- A description of SMART goals and objectives for the Town
- Recommendations for the long-term success of the strategic plan
- Raw data obtained from the assembly of the plan
- Other information as deemed necessary by the USF team

Following the Deliverable 2.4, the USF team in partnership with SPC Collaborative Labs will present the final draft report to the Town Manager and Executive Leadership for review and comment.

2.6 Presentation of Final Report to Council
The USF team in partnership with SPC Collaborative Labs will collaborate with Town staff to present the report to the Council. The USF team in partnership with SPC Collaborative Labs will answer questions and/or clarify the report and implementation strategies.

Phase 3

3.1 Implementation Planning

As part of this process, the USF team in partnership with SPC Collaborative Labs will work with the Council and Town Manager to design the “Roadmap” for how to accomplish the goals and objectives while considering accountability strategies, budget alignment and a cultural change management process.

3.2 Strategies for Supporting the Implementation Plan

As part of this process, the USF team in partnership with SPC Collaborative Labs will work with the Council and Town Manager to ensure the five key components needed to support the implementation plan are in place: people, resources, structure, systems, and culture. This will also include an agreed upon dashboard tool and process for the Implementation Plan Facilitation.

3.3 Implementation Plan Facilitation (Quarterly for 1 year)

The completed Strategic Plan is a living document and should function as the main thrust of Fort Myers Beach in goal achievement. The Collaborative Labs team at SPC in partnership with the USF team will facilitate Implementation Workshops on a quarterly basis for a year to assess progress made to date and recalibrate plan to align with goals as needed.

ANTICIPATED TIMELINE

The timeline may be adjusted at the discretion of Town Staff. The total project duration would be approximately 24 to 36 months to complete the scope of services from execution of a signed contract. Note: This outline is tentative and will be refined based on initial consultation with Town Leadership and Staff. It is intended to serve as a starting point for discussions to develop a final design.

Phase One

1.1 Kick Off and Work Plan Refinement	October 2024
1.2 Town Council: Kick-Off, Setting Expectations & Teambuilding	November 2024
1.3 Communications Outreach	October 2024 - Ongoing
1.4 Individual/Group Stakeholder Interviews	January 2025
1.5 Resident Feedback Survey	February 2025
1.6 Community Focus Group Forum I (3 hours)	March 2025
1.7 Community Focus Group Forum II (3 hours)	April 2025
1.8 Employee Survey	March 2025
1.9 Employee Focus Group Forum (3 hours)	May 2025
1.10 Report to Council	June 2025

Phase Two

2.1 Leadership Forum I (4 hours) off-site	August 2025
2.2 Town Manager & Executive Leadership Planning Meeting	September 2025
2.3 Leadership Forum II (3 hours) off-site	October 2025
2.4 Town Manager & Executive Leadership Planning Meeting	November 2025
2.5 Draft Final Report Review	December 2025
2.6 Final Report to Council	January 2026

Phase Three

3.1 Implementation Planning	January 2026
3.2 Strategies for supporting the implementation plan	March 2026
3.3 Implementation plan facilitation	March 2027

ESTIMATED INVESTMENT

The USF Florida Institute of Government and the SPC Collaborative Labs recommend a discussion on the proposed scope of work prior to submitting a formal cost for services. It is important the Town agrees to the anticipated deliverables, methodology and timeline preceding development of the final costs.

Based on the scope and expected deliverables, the estimated costs to complete the proposed Strategic Planning Process is $225,427.60 for the above-mentioned tasks. The final cost is inclusive of travel, printing, publishing, and ADA document remediation.

PHASE	TIMELINE	COST
Phases 1	October 2024-June 2025	$115,972.20
Phases 2	August 2025-January 2026	$62,821.20
Phases 3	March 2026- March 2027	$46,634.20

ANTICIPATED CHALLENGES AND SOLUTIONS

Coordinating between organizational and community-wide process components

While the strategic planning process methodology focuses primarily on a vision, goals, and objectives for the Town as an organization, it also highlights the importance of developing these within the context of a broader community-wide conversation about the character and future of the Town itself. Activities addressing each of these components will have to be carefully sequenced and coordinated to ensure that the community-wide context is established at a point in the process and in a way that allows the activities focused on Town government to be fully informed and supported by that context.

Effectively integrating employee input with leadership direction

Employee input is often critical to understanding how an organization works and the challenges it faces. At the same time, it is important for employees and senior staff to develop a shared understanding, and level of comfort with, how that input will be used in the process. Careful framing and facilitation of the employee and leadership conversations described above can help ensure a productive role for this input.

Integrating input received through different channels

The scope of work in this proposal contemplates soliciting input from all stakeholders through a variety of modes: interviews, focus groups, community meetings, surveys, and social media. To maximize participant satisfaction with the process, it will be important that the full range of this input is available to participants and understood by them when they need it.

Transparency and responsiveness

The process outlined in this proposal includes many activities and conversations and will ideally result in products that guide Town government operations for a significant time to come. Because of this, it will be critical that residents and other stakeholders understand the range of input received and conversations conducted in the process, and how the results are based on that input and those conversations.

ADDITIONAL INFORMATION

Our team of experts in Statistics and Data Analysis, Survey Development, Human Resource and Project Management, as well as strategic planning for local governments come from both the University of South Florida School of Public Affairs and St. Petersburg College Collaborative Labs may include:

Angela Crist, MPA, serves as the Director of the USF FIOG. Ms. Crist has a proven track record as a high energy, results driven leader recognized for innovative strategies and tactics. Her excellent problem solving and customer-oriented focus have created value and managed client expectations to obtain mutual benefit. With over 15 years of experience, Angela has built and led new departments or groups with related staff training and mentoring to attain long-term business goals. She has consistently achieved positive results by motivating and leading organizations to identify, develop and capitalize on business opportunities by forging alliances across organizational boundaries. Her professional affiliations include Florida Village and County Management Association, Florida League of Cities, Florida Association of Counties, USF Alumni Association, USF Area Community Civic Association, and Leadership Tampa Bay Alumni Association.

John L. Daly, PhD, is Associate Professor of Public Administration and past Founding Director of the School of Public Affairs at the University of South Florida. His research interests include human resource management and public policy issues facing local government. He also is a specialist of governance and public policy challenges facing southern African nations. John has received two Fulbright Scholar grants to the Kingdom of Swaziland. He first served as a consultant to the Kingdom of Swaziland's government (1998-99). His second Fulbright grant allowed him to join the University of Swaziland faculty (2005-06). Most recently, John was selected as the 2014 recipient of the International Village/County Management Association's Academic Award in Memory of Stephen B. Sweeney. This honor was presented to him at the 100th ICMA Conference in Charlotte, NC, in September 2014. John is the author of two books, Training in Developing Nations (2005, M.E. Sharpe/Routledge) and Human Resource Management in the Public Sector: Policies and Practices, (2012, M. E. Sharpe/Routledge). Dr. Daly has extensive experience providing consulting services to Florida municipal governments, primarily in the areas of human resource management and organizational development.

Tina Fischer serves as the Director and facilitator for the SPC Collaborative Labs. Tina has over 25 years leading process improvement, corporate training, strategic planning, and facilitation. In addition to facilitating, she manages the operations of Collaborative Labs to ensure successful outcomes for clients. Tina's previous experience as a computer consultant had her traveling across the United States helping Fortune 500 clients implement new computer systems. Through this experience, her propensity for efficiency developed. She specialized in workflow management, process improvement, effective team communication, policy and procedure documentation, training, and quality control. Tina received her Bachelor of Science in Electrical Engineering from Florida State University. She was also an adjunct math professor for St. Petersburg College. Her love of teaching and ability to simplify the complex is apparent during client engagements.

Andrea Henning, MEd, serves as the Executive Director and facilitator for the SPC Collaborative Labs. Andrea has over 30 years leading strategic planning, corporate training, and leadership development, including the launch of the Collaborative Labs over 17 years ago. She has facilitated over 3000 regional, national, and international engagements. Prior to the Labs, Andrea led corporate training and organizational development for companies including: Chrysler, GE, and Universal Studios. She managed projects at Paradigm Learning for Frito-Lay, Pepsi, Capital One, and Kimberly-Clark. Andrea is a certified Co-Active Coach. Her education includes a BA from Wheaton College, a M.Ed., and post-graduate work in Educational Psychology from the University of Toledo.

Jonathan Massie serves as the Visual Illustrator for the SPC Collaborative Labs. Jonathan is Collaborative Lab's extraordinary artist. He interprets our workshop discussions into compelling illustrations that depict their shared vision and strategy. Jonathan has completed over 3,000 illustrations to date. These illustrations capture participants' stories in a unique way that are used beyond the workshop into strategy implementation. Jonathan has a Bachelor of Fine Arts from Virginia Commonwealth University. He began his career creating graphic design and managing art departments for newspapers such as the Chicago Sun Times, Cincinnati Enquirer, Detroit Free Press, and Baltimore Sun. Over the past 20 years, 10 of which have been with the Labs, Jonathan has focused on designing business illustrations for nonprofit, government, and commercial clients. His talents span various media including pen, marker, computer graphics and video production.

Stephen Neely, PhD, is an assistant professor in Public Administration at the University of South Florida's School of Public Affairs. He has an earned PhD in Public Administration from North Carolina State University, as well as two master's degrees in social and public policy Analysis as well as Business Administration. His specialties include research methods, survey administration, and data analysis, and he has previously conducted survey research in partnership with agencies/organizations such as the Florida Village/County Management Association, the Florida Center for Cybersecurity, and the Village of Zephyrhills, Florida.

Robyn Odegard, MA, serves as the Learning and Development Facilitator with the Florida Institute of Government at USF. In this role, she serves as project manager, program manager, and research administrator. Robyn holds certifications as a Certified Associate in Project Management (CAPM) from the Project Management Institute and CRA USF-ADVANCED certification from USF Research and Innovation. She received her MA in Political Science from the University of South Florida.

PJ Petrick serves as the Project Technologist for the SPC Collaborative Labs. PJ manages and assists with facilitating all the technology needs of the collaborative engagements at Collaborative Labs. Specializing in guiding participants through using the Collaborative Labs cutting edge technology, PJ uses a hands-on approach to ensure that session goals are met in the most efficient manner. PJ has over 16 years' experience in the business and management information systems industry. He has managed technology in over 3000 collaborative events. He was the planner and leader of the St. Petersburg College's technology instillation team. He has also owned and managed small businesses over the last 10 years. PJ received a Bachelor of Science from the University of Central Florida and holds an A+ certification in technology.

BRIEF DESCRIPTION OF ORGANIZATIONS

PRIMARY LEAD AGENCY

The John Scott Dailey Florida Institute of Government (FIOG) was created by the Florida Legislature in 1980 and subsequently designated as a Type I Institute by the Florida Board of Regents. The institute fulfills its statewide mission through a consortium of six (6) affiliate program offices located at the Florida State University, the University of Florida, the University of South Florida, the University of Central Florida, Florida Atlantic University, and Florida Gulf Coast University.

The FIOG at USF works directly with all USF faculty, staff, and practitioner's university-wide to bring their expertise to our clients. All our USF faculty, staff and practitioners are highly qualified and provide top notch services in a variety of critical areas including developing and implementing training and research programs, services, and grant and contract administration activities involving federal, state, and local governments, non-profit organizations, and the private sector.

In January 2013, the School of Public Affairs (SPA) at the University of South Florida (USF) was created to merge the graduate programs in Urban and Regional Planning and Public Administration, as well as the John Scott Dailey Florida Institute of Government. The faculty consists of an interdisciplinary group of scholars and former practitioners who share a common commitment to student learning, top-notch scholarship and applied community engagement.

The School's John Scott Dailey Florida Institute of Government (FIOG) provides training and technical assistance to local and state government officials, volunteers, and the general public on a wide range of topics, such as team building, strategic planning, goal setting and effective communication. FIOG partners University professionals from a variety of disciplines with organizational leaders charged with solving specific local issues to identify, evaluate and implement effective solutions. For the purposes of this project.

CO-LEAD AGENCY

Collaborative Labs at St. Petersburg College, founded in 2004, specializes in the design, facilitation, and documentation of highly interactive and dynamic facilitated planning engagements whether in-person, mobile, virtual or hybrid.

Strategic planning services are designed to produce maximum benefits in minimal time for clients. At Collaborative Labs, strategic visioning is the specialty. With more than 17 years of redefining strategic planning services and collaborative problem solving the extensive roster of satisfied clients is a testament to the value-added partnerships and lasting results. Their unique approach to strategic planning services is unparalleled in the industry from understanding how to leverage team strengths, enhancing individual performance to aligning business solutions with corporate goals. Expert facilitators empower participants to resolve conflicts and competing priorities through collaboration, and pinpoint overlapping areas of responsibility to help employees avoid duplication of effort and prevent deliverables from slipping through the cracks.

Importantly, Collaborative Labs is known for ensuring that all your stakeholders have an equal voice in the strategic-planning process. This is critical to the success of your endeavor and produces significantly better results than top-down planning. When individual team members are actively involved in contributing to business solutions, they feel more invested in the outcomes and take greater pride in organizational achievements – further enhancing your potential for success.

OUR SERVICE CAPABILITIES

The John Scott Dailey Florida Institute of Government (FIOG at USF) works directly with all USF faculty, staff, and practitioner's university-wide to bring their expertise to our clients. As part of a regional structure for enhanced relationships, FIOG serves government and non-profit entities within a 9- county region including Hardee, Hernando, Highlands, Hillsborough, Manatee, Pasco, Pinellas, Polk, and Sarasota.

With over 25 years of experience in the local community, the Florida Institute of Government at the University of South Florida has a vast history of helping government and non-profit entities through visioning and strategic planning processes, offering, and coordinating trainings, technical assistance, and applied research projects for the local community. Since 1995, the institute has conducted approximately 24,793 workshops and conferences statewide in Florida—an average of 2,749 per year. Also, during this same time, approximately 580,685 participants, the large majority of whom represent officials and employees from local government in Florida, have attended programs resulting in over 2.6 million professional contact hours. The institute has also conducted an estimated 1,190 technical assistance and applied research projects, an average of 119 annually.

Collaborative Labs at St. Petersburg College, through an engaging, collaborative process and interactive technology (brainstorming and polling technology), are able to bring stakeholders together and help them achieve consensus on a shared strategic vision, priorities and accountability. The customized programs are designed to foster creative business solutions that create successful outcomes. The real value of the services provided lies not only within the expert facilitation and collaborative technology, but also in the ability to leverage those resources to provide a practical and actionable roadmap for success. A Real-Time Record™ is made available within two to three business days to allow the client to start right away on the outcomes of the engagement.
The Collaborative Labs at St. Petersburg College have facilitated over 3,000 engagements for business and organizations within government, municipality, profit, and non-profits. These engagements have taken place in person at their 10,000 square foot state-of-the-art technology labs, mobile throughout the United States and virtual.

Town of Fort Myers Beach
Agenda Item Summary

Blue Sheet Number: **2024-237**

1. **Request:**

Meeting Date: September 9, 2024

A RESOLUTION OF THE TOWN OF FORT MYERS BEACH, FLORIDA, DIRECTING THE TOWN MANAGER TO IMPLEMENT ALL REQUIREMENTS SET FORTH IN A LETTER DATED JULY 19, 2024, FROM THE FEDERAL EMERGENCY MANAGEMENT AGENCY ("FEMA"); AND PROVIDING FOR AN EFFECTIVE DATE.

Why the action is necessary:

Allows for compliance with all FEMA regulations within a Special Flood Zone area, and gives the Town the ability to enforce those regulations.

What the action accomplishes:

2. **Agenda:**	3. **Requirement/Purpose:**	4. **Submitter of Information:**
ADMINISTRATIVE AGENDA	Resolution	Frankie Kropacek, Operations & Compliance Director

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5. **Background:**

Attachments:

1. 24-182, Resolution to implement FEMA letter REV
2. Exhibit A - July 19th FEMA_Redacted
3. Title 44 Emergency Management and Assistance 60.3
4. 24-04, Emergency Temporary Uses Signed

Financial Impact:

6. **Alternative Action**

7. **Management Recommendations:**

8. **Recommended Approval:**

Jason Freeman, Legislative Liaison / Deputy Town Clerk	Created/Initiated - 9/6/2024
nancy stuparich, Town Attorney	Approved - 9/7/2024
Amy Baker, Town Clerk	Approved - 9/7/2024
Andy Hyatt, Town Manager	Final Approval - 9/7/2024

RESOLUTION NUMBER 24-182

A RESOLUTION OF THE TOWN OF FORT MYERS BEACH, FLORIDA, DIRECTING THE TOWN MANAGER TO IMPLEMENT ALL REQUIREMENTS SET FORTH IN A LETTER DATED JULY 19, 2024, FROM THE FEDERAL EMERGENCY MANAGEMENT AGENCY ("FEMA"); AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Article VIII, Section 2 of the State Constitution and Chapter 166 of the 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 services, and exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, Article X of the Town Charter empowers the Town Council to adopt, amend, or repeal such ordinances and resolutions as may be required for the proper governing of the Town; and

WHEREAS, on September 28, 2022, Hurricane Ian made landfall north of the Town causing historical property damage and loss of life; and

WHEREAS, FEMA has been working in conjunction with the Town for the last two (2) years on recovery efforts from Hurricane Ian, and has, on July 19, 2024, sent the Town a letter outlining requirements for the Town to maintain its class rating in the National Flood Insurance Program; and

WHEREAS, adoption of this Resolution is in the best interest of the residents of the Town and promotes its health, safety and welfare.

NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE TOWN OF FORT MYERS BEACH AS FOLLOWS:

Section 1. The foregoing Whereas clauses are ratified and confirmed as being true and correct, are the legislative and administrative findings of the Town Council and made a specific part of this Resolution.

Section 2. The Town Manager is directed and authorized to take any and all actions to implement the requirements contained in the letter from FEMA dated July 19, 2024, a copy of which is attached as Exhibit "A".

Section 3. This Resolution shall take effect immediately upon its adoption by the Town Council of the Town of Fort Myers Beach.

The foregoing Resolution was adopted by the Town Council upon 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	___
Karen Woodson, Council Member	___
Scott Safford, Council Member	___
John R. King, Council Member	___

APPROVED AND ADOPTED this 9th day of September 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, LLP, Town Attorney

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

FEMA

Town of Fort Myers Beach Post-Disaster Compliance Status Update Report

FEMA remains committed to helping communities take appropriate remediation actions to remain in good standing with the National Flood Insurance Program (NFIP) and participate in the Community Rating System (CRS).

The Town of Fort Myers Beach was granted 60 days (June 10, 2024), to submit to FEMA any new information related to the deficiencies and substantive violations detailed in FEMA's April 8, 2024 Findings Report. The April 8, 2024 Findings Report supported an initial decision by FEMA to retrograde the Town of Fort Myers Beach to a CRS class 10 community. In the Findings Report, FEMA also found program deficiencies and violations within the Town of Fort Myers Beach, which will serve as a basis for the current enforcement action and needed remediation.

During the 60-day review period, the Town of Fort Myers Beach provided FEMA permit documentation for 105 sites. FEMA reviewed the submitted documentation, for the 105 sites as well as the Town of Fort Myers Beach's Narrative and supporting documentation.

After careful review of Town of Fort Myers Beach's submittal, FEMA finds that program deficiencies and substantive violations remain. Unfortunately, due to the deficiencies, the Town of Fort Myers Beach is being notified that they have until November 18, 2024 to address these deficiencies, or the Town will be placed on probation from the NFIP:

LIST OF PROGRAM DEFICIENCIES

Program Deficiencies are a defect in a community's floodplain management regulations or administrative procedures that impairs effective implementation of floodplain management regulations of the standards in 44 CFR 60.3; 60.4; 60.6; and NFIP Community Compliance Program Guidance, P-1022 (July 2016) in section 3.2.

- Failure of the community's "commitment to recognize and duly evaluate flood, mudslide (i.e., mudflow) and/or flood-related erosion hazards in all official actions in the areas having special flood, mudslide (i.e., mudflow) and/or flood-related erosion hazards and to take such other official action reasonably necessary to carry out the objectives of the program;" 44 CFR 59.22(8) and LDC CH 6, Art IV, Div 1, Sec 6-403(8).
- Failure to require permits for all proposed construction and development in the SFHA. 44 CFR 60.3(b)(1); 44 CFR 60.3(c)(1); 44 CFR 60.3(e)(1); FBC R101.2.1; FBC EB701.3; FBC 105.1; LDC CH 6, Art IV, Div 3, Sec 6-427; and LDC CH 6, Art IV, Div 6, Sec 6-461.
- Failure to maintain permit records for development, new construction, or substantial improvements in the SFHA. 44 CFR 59.22(a)(9)(iii); 44 CFR 60.3(b)(5)(iii); and 44 CFR 60.3(e)(2)(ii).
- Failure to make substantial improvement (SI) and substantial damage (SD) ("SI/SD") determinations and calculations for all proposed construction and development in the SFHA. 44 CFR 60.3(b)(1); 44 CFR 60.3(c)(1); 44 CFR 60.3(e)(1); LDC CH 6, Art IV, Div 3, Sec 6.428(1); and FEMA Substantial Improvement / Substantial Damage Desk Reference, P-758 (May 2010) ("SI/SD Desk Reference") in section 5.2.

- Failure to maintain SI/SD determination records for all proposed construction and development in the SFHA. 44 CFR 59.22(a)(9)(iii); 44 CFR 60.3(b)(5)(iii); 44 CFR 60.3(e)(2)(ii); and SI/SD Desk Reference in sections 4.2 and 7.7.
- Failure to keep records of permits, certifications, and variance actions. 44 CFR 59.22(a)(9)(iii).
- Failure to establish SI/SD procedures for administering and documenting determinations of SI/SD. LDC CH6, Art IV, Div 3, Sec 6.428(1) and FEMA Substantial Improvement / Substantial Damage Desk Reference, P-758 (May 2010) ("SI/SD Desk Reference") in sections 4.1, 4.3, & 7.1.
- Failure in permitting system, which allowed the use of "temporary" non-compliant structures (Including shipping container and trailers/food trucks). LDC CH 6, Art IV, Div, 4, Sec 6.443 (3)&(4), LDC CH 6, Art IV, Div 6, and LDC CH 6, Art IV, Div 6, Sec 6-462, Sec 6.463, and LDC CH 6, Art IV Div 10, Sec 6-501,
- [redacted]
- [redacted]

1. Program deficiencies

Serious program deficiencies in a community's administrative and enforcement process and procedures are those that have resulted or could result in substantive violations that increase potential flood damages or stages in the community. The following deficiencies represent gaps in the Town's administrative process that restrict the ability to meet the minimum standards for participation.

Permitting of non-compliant structures/shipping containers/

Inconsistent Market Value	Missing Repair Permits (Known Damage (IA/Insurance)	Missing Detailed Cost Info	Low & Inadequate Labor Costs	Permits Issued Without Total Repair Costs	Failed To Capture Complete Scope of Work	After the Fact Permits	After the Fact Notice of Violation
1	51	76	8	62	65	16	25

2. List of properties determined to be substantially damaged:

The Town of Fort Myers Beach has submitted to FEMA a list of properties that Town of Fort Myers Beach deemed substantially damaged since the disaster; there were 356 structures listed. What actions has the Town taken or plan to take to follow-up on those structures? Please provide FEMA with a status of each structure to indicate how substantial damage is being addressed.

3. Non-compliant development

a. Non-compliant structures (containers) and temporary structures have been placed in the Coastal High Hazard Area (VE zone and coastal A zone). Please provide a plan to remove the structures or bring the non-compliant structures or non-compliant additions into compliance; and confirmation that the town has stopped issuing permits for this type of non-compliant development.

b. [redacted]

[redacted]

4. Data Dictionary (revised) – "Status" Column Meanings:

Additional Information Needed – Permit package needs additional information to be considered complete.

CAV Follow-Up – Not a Hurricane Ian issue but found a need for additional information during the next compliance follow-up with the community.

Code Enforcement Case – Community is currently processing as a code enforcement case and FEMA will accept and review case updates, follow-up permit information, and/or enforcement actions occurring prior to June 10, 2024. Actions occurring beyond that time will require future compliance engagement.

Complete – FEMA needs no further information regarding the specific address.

Future Compliance Engagement – Ian related activity. FEMA will follow-up on this site during the next compliance follow-up with the community.

5. Documentation on the Finding Report and Site list:

Attached to this document is a list of structures within the SFHA with violations, including the type of violation, status, and needed documentation.

Final Status (as of June 28, 2024)	Count
Additional Information Needed	21
CAV Follow-Up	2
Code Enforcement Case	16
Complete	32
Future Compliance Engagement	34
Grand Total	**105**

U.S. Department of Homeland Security
Washington, DC 20528

FEMA

National Flood Insurance Program

Privacy Act Notice

RE: Town of Fort Myers Beach, FL, National Flood Insurance Program Data from the Federal Emergency Management Agency (FEMA)

The Town of Fort Myers Beach, FL is receiving data from the Federal Emergency Management Agency's that is maintained in support of the National Flood Insurance Program (NFIP). Specifically, the Town of Fort Myers Beach, FL is receiving property addresses identified by FEMA as possible violations to the local floodplain management laws and regulations. The community shall use the data to verify, monitor, and resolve the possible violation. As an NFIP participating community, this information will assist the community to ensure compliance with the NFIP and maintain the availability of flood insurance. FEMA will send the information to you securely via email on a password-protected spreadsheet or pdf.

FEMA discloses this to you pursuant to the "routine use" provision of the Privacy Act of 1974, 5 U.S.C. § 552a(b)(3), specifically under Routine Uses G, I, M, N, O, R and T of the System of Records Notice (SORN), DHS/FEMA-003 - National Flood Insurance Program Files 79 FR 28747 (May 19, 2014). The SORN may be electronically viewed at *https://www.gpo.gov/fdsys/pkg/FR-2014-05-19/html/2014-11386.htm*.

The Town of Fort Myers Beach, FL does not have permission to release the provided information to third parties, including third party contractors and will only use the data for the stated purpose. Unauthorized disclosure of FEMA data will result in an immediate denial of access to the FEMA data. Pursuant to the Privacy Act, 5 U.S.C. § 552a(e)(10), please destroy or return said personally identifiable information (PII) to FEMA once you no longer have use for it. PII is information that can be used to identify, by itself, or in combination, individuals by direct or indirect means.

In the event of a privacy incident resulting from this sharing of FEMA PII, Town of Fort Myers Beach, FL shall immediately, but in no event later than twenty-four (24) hours from suspicion, discovery or notification of the suspected or confirmed privacy incident, notify the FEMA Privacy Officer at (202) 212-5100 or FEMA-Privacy@fema.dhs.gov. FEMA will investigate the incident pursuant to DHS standard procedures and will consult the Town of Fort Myers Beach, FL to diagnose, mitigate and manage the privacy incident. The Town of Fort Myers Beach, FL will be responsible for carrying out all necessary measures to remedy the effects of the privacy incident.

By accepting the FEMA data, the Town of Fort Myers Beach, FL agrees that it shall bear all costs, losses and damages to the extent resulting from the City's breach of FEMA data. The Town of Fort Myers Beach, FL further agrees to release, defend, indemnify, and hold FEMA harmless for claims, losses, penalties and damages, and reasonable attorneys' fees and costs to the extent arising out of the , Town of Fort Myers Beach, FL or its contractor's, negligence, unauthorized use or disclosure of FEMA PII and/or the Town of Fort Myers Beach, FL, or its contractor's, breach of its obligations under this sharing.

By accepting, receiving, downloading, or otherwise obtaining the routine use information or data discussed in this document, Town of Fort Myers Beach, FL understands, agrees, and accepts the terms of the use of the data as outlined in this document.

This content is from the eCFR and is authoritative but unofficial.

Displaying title 44, up to date as of 9/03/2024. Title 44 was last amended 8/15/2024.

Title 44 —Emergency Management and Assistance
Chapter I —Federal Emergency Management Agency, Department of Homeland Security
Subchapter B —Insurance and Hazard Mitigation
Part 60 —Criteria for Land Management and Use
Subpart A —Requirements for Flood Plain Management Regulations

§ 60.3 Flood plain management criteria for flood-prone areas.

The Federal Insurance Administrator will provide the data upon which flood plain management regulations shall be based. If the Federal Insurance Administrator has not provided sufficient data to furnish a basis for these regulations in a particular community, the community shall obtain, review and reasonably utilize data available from other Federal, State or other sources pending receipt of data from the Federal Insurance Administrator. However, when special flood hazard area designations and water surface elevations have been furnished by the Federal Insurance Administrator, they shall apply. The symbols defining such special flood hazard designations are set forth in § 64.3 of this subchapter. In all cases the minimum requirements governing the adequacy of the flood plain management regulations for flood-prone areas adopted by a particular community depend on the amount of technical data formally provided to the community by the Federal Insurance Administrator. Minimum standards for communities are as follows:

(a) When the Federal Insurance Administrator has not defined the special flood hazard areas within a community, has not provided water surface elevation data, and has not provided sufficient data to identify the floodway or coastal high hazard area, but the community has indicated the presence of such hazards by submitting an application to participate in the Program, the community shall:

(1) Require permits for all proposed construction or other development in the community, including the placement of manufactured homes, so that it may determine whether such construction or other development is proposed within flood-prone areas;

(2) Review proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal or State law, including section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334;

(3) Review all permit applications to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a flood-prone area, all new construction and substantial improvements shall

(i) be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy,

(ii) be constructed with materials resistant to flood damage,

(iii) be constructed by methods and practices that minimize flood damages, and

(iv) be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(4) Review subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, to determine whether such proposals will be reasonably safe from flooding. If a subdivision proposal or other proposed new development is in a flood-prone area, any such proposals shall be reviewed to assure that

(i) all such proposals are consistent with the need to minimize flood damage within the flood-prone area,

(ii) all public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage, and

(iii) adequate drainage is provided to reduce exposure to flood hazards;

(5) Require within flood-prone areas new and replacement water supply systems to be designed to minimize or eliminate infiltration of flood waters into the systems; and

(6) Require within flood-prone areas

(i) new and replacement sanitary sewage systems to be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters and

(ii) onsite waste disposal systems to be located to avoid impairment to them or contamination from them during flooding.

(b) When the Federal Insurance Administrator has designated areas of special flood hazards (A zones) by the publication of a community's FHBM or FIRM, but has neither produced water surface elevation data nor identified a floodway or coastal high hazard area, the community shall:

(1) Require permits for all proposed construction and other developments including the placement of manufactured homes, within Zone A on the community's FHBM or FIRM;

(2) Require the application of the standards in paragraphs (a) (2), (3), (4), (5) and (6) of this section to development within Zone A on the community's FHBM or FIRM;

(3) Require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than 50 lots or 5 acres, whichever is the lesser, include within such proposals base flood elevation data;

(4) Obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State, or other source, including data developed pursuant to paragraph (b)(3) of this section, as criteria for requiring that new construction, substantial improvements, or other development in Zone A on the community's FHBM or FIRM meet the standards in paragraphs (c)(2), (c)(3), (c)(5), (c)(6), (c)(12), (c)(14), (d)(2) and (d)(3) of this section;

(5) Where base flood elevation data are utilized, within Zone A on the community's FHBM or FIRM:

(i) Obtain the elevation (in relation to mean sea level) of the lowest floor (including basement) of all new and substantially improved structures, and

(ii) Obtain, if the structure has been floodproofed in accordance with paragraph (c)(3)(ii) of this section, the elevation (in relation to mean sea level) to which the structure was floodproofed, and

(iii) Maintain a record of all such information with the official designated by the community under § 59.22 (a)(9)(iii);

(6) Notify, in riverine situations, adjacent communities and the State Coordinating Office prior to any alteration or relocation of a watercourse, and submit copies of such notifications to the Federal Insurance Administrator;

(7) Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained;

(8) Require that all manufactured homes to be placed within Zone A on a community's FHBM or FIRM shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

(c) When the Federal Insurance Administrator has provided a notice of final flood elevations for one or more special flood hazard areas on the community's FIRM and, if appropriate, has designated other special flood hazard areas without base flood elevations on the community's FIRM, but has not identified a regulatory floodway or coastal high hazard area, the community shall:

(1) Require the standards of paragraph (b) of this section within all A1-30 zones, AE zones, A zones, AH zones, and AO zones, on the community's FIRM;

(2) Require that all new construction and substantial improvements of residential structures within Zones A1-30, AE and AH zones on the community's FIRM have the lowest floor (including basement) elevated to or above the base flood level, unless the community is granted an exception by the Federal Insurance Administrator for the allowance of basements in accordance with § 60.6 (b) or (c);

(3) Require that all new construction and substantial improvements of non-residential structures within Zones A1-30, AE and AH zones on the community's firm

(i) have the lowest floor (including basement) elevated to or above the base flood level or,

(ii) together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;

(4) Provide that where a non-residential structure is intended to be made watertight below the base flood level,

(i) a registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the applicable provisions of paragraph (c)(3)(ii) or (c)(8)(ii) of this section, and

(ii) a record of such certificates which includes the specific elevation (in relation to mean sea level) to which such structures are floodproofed shall be maintained with the official designated by the community under § 59.22(a)(9)(iii);

(5) Require, for all new construction and substantial improvements, that fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(6) Require that manufactured homes that are placed or substantially improved within Zones A1-30, AH, and AE on the community's FIRM on sites

(i) Outside of a manufactured home park or subdivision,

(ii) In a new manufactured home park or subdivision,

(iii) In an expansion to an existing manufactured home park or subdivision, or

(iv) In an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist floatation collapse and lateral movement.

(7) Require within any AO zone on the community's FIRM that all new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified);

(8) Require within any AO zone on the community's FIRM that all new construction and substantial improvements of nonresidential structures

(i) have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified), or

(ii) together with attendant utility and sanitary facilities be completely floodproofed to that level to meet the floodproofing standard specified in § 60.3(c)(3)(ii);

(9) Require within any A99 zones on a community's FIRM the standards of paragraphs (a)(1) through (a)(4)(i) and (b)(5) through (b)(9) of this section;

(10) Require until a regulatory floodway is designated, that no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

(11) Require within Zones AH and AO, adequate drainage paths around structures on slopes, to guide floodwaters around and away from proposed structures.

(12) Require that manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within Zones A-1-30, AH, and AE on the community's FIRM that are not subject to the provisions of paragraph (c)(6) of this section be elevated so that either

(i) The lowest floor of the manufactured home is at or above the base flood elevation, or

(ii) The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist floatation, collapse, and lateral movement.

(13) Notwithstanding any other provisions of § 60.3, a community may approve certain development in Zones A1-30, AE, and AH, on the community's FIRM which increase the water surface elevation of the base flood by more than one foot, provided that the community first applies for a conditional FIRM revision, fulfills the requirements for such a revision as established under the provisions of § 65.12, and receives the approval of the Federal Insurance Administrator.

(14) Require that recreational vehicles placed on sites within Zones A1-30, AH, and AE on the community's FIRM either

(i) Be on the site for fewer than 180 consecutive days,

(ii) Be fully licensed and ready for highway use, or

(iii) Meet the permit requirements of paragraph (b)(1) of this section and the elevation and anchoring requirements for "manufactured homes" in paragraph (c)(6) of this section.

A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

(d) When the Federal Insurance Administrator has provided a notice of final base flood elevations within Zones A1-30 and/or AE on the community's FIRM and, if appropriate, has designated AO zones, AH zones, A99 zones, and A zones on the community's FIRM, and has provided data from which the community shall designate its regulatory floodway, the community shall:

(1) Meet the requirements of paragraphs (c) (1) through (14) of this section;

(2) Select and adopt a regulatory floodway based on the principle that the area chosen for the regulatory floodway must be designed to carry the waters of the base flood, without increasing the water surface elevation of that flood more than one foot at any point;

(3) Prohibit encroachments, including fill, new construction, substantial improvements, and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge;

(4) Notwithstanding any other provisions of § 60.3, a community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the community first applies for a conditional FIRM and floodway revision, fulfills the requirements for such revisions as established under the provisions of § 65.12, and receives the approval of the Federal Insurance Administrator.

(e) When the Federal Insurance Administrator has provided a notice of final base flood elevations within Zones A1-30 and/or AE on the community's FIRM and, if appropriate, has designated AH zones, AO zones, A99 zones, and A zones on the community's FIRM, and has identified on the community's FIRM coastal high hazard areas by designating Zones V1-30, VE, and/or V, the community shall:

(1) Meet the requirements of paragraphs (c)(1) through (14) of this section;

(2) Within Zones V1-30, VE, and V on a community's FIRM,

(i) obtain the elevation (in relation to mean sea level) of the bottom of the lowest structural member of the lowest floor (excluding pilings and columns) of all new and substantially improved structures, and whether or not such structures contain a basement, and

(ii) maintain a record of all such information with the official designated by the community under § 59.22(a)(9)(iii);

(3) Provide that all new construction within Zones V1-30, VE, and V on the community's FIRM is located landward of the reach of mean high tide;

(4) Provide that all new construction and substantial improvements in Zones V1-30 and VE, and also Zone V if base flood elevation data is available, on the community's FIRM, are elevated on pilings and columns so that

(i) the bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to or above the base flood level; and

(ii) the pile or column foundation and structure attached thereto is anchored to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Water loading values used shall be those associated with the base flood. Wind loading values used shall be those required by applicable State or local building standards. A registered professional engineer or architect shall develop or review the structural design, specifications and plans for the construction, and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of paragraphs (e)(4) (i) and (ii) of this section.

(5) Provide that all new construction and substantial improvements within Zones V1-30, VE, and V on the community's FIRM have the space below the lowest floor either free of obstruction or constructed with non-supporting breakaway walls, open wood lattice-work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system. For the purposes of this section, a breakway wall shall have a design safe loading resistance of not less than 10 and no more than 20 pounds per square foot. Use of breakway walls which exceed a design safe loading resistance of 20 pounds per square foot (either by design or when so required by local or State codes) may be permitted only if a registered professional engineer or architect certifies that the designs proposed meet the following conditions:

(i) Breakaway wall collapse shall result from a water load less than that which would occur during the base flood; and,

(ii) The elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and non-structural). Water loading values used shall be those associated with the base flood. Wind loading values used shall be those required by applicable State or local building standards.

Such enclosed space shall be useable solely for parking of vehicles, building access, or storage.

(6) Prohibit the use of fill for structural support of buildings within Zones V1-30, VE, and V on the community's FIRM;

(7) Prohibit man-made alteration of sand dunes and mangrove stands within Zones V1-30, VE, and V on the community's FIRM which would increase potential flood damage.

(8) Require that manufactured homes placed or substantially improved within Zones V1-30, V, and VE on the community's FIRM on sites

(i) Outside of a manufactured home park or subdivision,

(ii) In a new manufactured home park or subdivision,

(iii) In an expansion to an existing manufactured home park or subdivision, or

(iv) In an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood, meet the standards of paragraphs (e)(2) through (7) of this section and that manufactured homes placed or substantially improved on other sites in an existing manufactured home park or subdivision within Zones VI-30, V, and VE on the community's FIRM meet the requirements of paragraph (c)(12) of this section.

(9) Require that recreational vehicles placed on sites within Zones V1-30, V, and VE on the community's FIRM either

(i) Be on the site for fewer than 180 consecutive days,

(ii) Be fully licensed and ready for highway use, or

(iii) Meet the requirements in paragraphs (b)(1) and (e) (2) through (7) of this section.

A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

(f) When the Federal Insurance Administrator has provided a notice of final base flood elevations within Zones A1-30 or AE on the community's FIRM, and, if appropriate, has designated AH zones, AO zones, A99 zones, and A zones on the community's FIRM, and has identified flood protection restoration areas by designating Zones AR, AR/A1-30, AR/AE, AR/AH, AR/AO, or AR/A, the community shall:

(1) Meet the requirements of paragraphs (c)(1) through (14) and (d)(1) through (4) of this section.

(2) Adopt the official map or legal description of those areas within Zones AR, AR/A1-30, AR/AE, AR/AH, AR/A, or AR/AO that are designated developed areas as defined in § 59.1 in accordance with the eligibility procedures under § 65.14.

(3) For all new construction of structures in areas within Zone AR that are designated as developed areas and in other areas within Zone AR where the AR flood depth is 5 feet or less:

(i) Determine the lower of either the AR base flood elevation or the elevation that is 3 feet above highest adjacent grade; and

(ii) Using this elevation, require the standards of paragraphs (c)(1) through (14) of this section.

(4) For all new construction of structures in those areas within Zone AR that are not designated as developed areas where the AR flood depth is greater than 5 feet:

(i) Determine the AR base flood elevation; and

(ii) Using that elevation require the standards of paragraphs (c)(1) through (14) of this section.

(5) For all new construction of structures in areas within Zone AR/A1-30, AR/AE, AR/AH, AR/AO, and AR/A:

(i) Determine the applicable elevation for Zone AR from paragraphs (a)(3) and (4) of this section;

(ii) Determine the base flood elevation or flood depth for the underlying A1-30, AE, AH, AO and A Zone; and

(iii) Using the higher elevation from paragraphs (a)(5)(i) and (ii) of this section require the standards of paragraphs (c)(1) through (14) of this section.

(6) For all substantial improvements to existing construction within Zones AR/A1-30, AR/AE, AR/AH, AR/AO, and AR/A:

(i) Determine the A1-30 or AE, AH, AO, or A Zone base flood elevation; and

(ii) Using this elevation apply the requirements of paragraphs (c)(1) through (14) of this section.

(7) Notify the permit applicant that the area has been designated as an AR, AR/A1-30, AR/AE, AR/AH, AR/AO, or AR/A Zone and whether the structure will be elevated or protected to or above the AR base flood elevation.

[41 FR 46975, Oct. 26, 1976]

EDITORIAL NOTE

Editorial Note: For FEDERAL REGISTER citations affecting § 60.3, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at *www.govinfo.gov.*

ORDINANCE 24-04

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING AND RESTATING ORDINANCE 23-05 TO PERMIT 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, 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 6 to 0, to recommend approval of this Ordinance; and

WHEREAS, on April 15, 2024, 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 and restate Ordinance 23-05 as provided herein; and

WHEREAS, a Business Impact Estimate was prepared and posted on the Town' website on the 18th day of April 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 News-Press on the 18th day of April 2024, which is 10 days prior to the second reading of the proposed Ordinance as required by Section 166.041; and

WHEREAS, on the 6th day of May 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 regulations is in the best interests of the health, safety, and welfare of the Town's business owners, residents, and visitors, which regulations shall be amended and restated as follows:

~~Temporary Placement of Emergency Uses, Manufactured Homes, Mobile Homes, Motor Homes, Recreational Vehicles Other Temporary Residential Dwelling or Temporary Moveable Commercial Units~~

~~(1) An emergency governmental use, manufactured home, mobile home, motor home, recreational vehicle, or other temporary unit, may be permitted on a limited basis by the issuance of a temporary placement permit (TPP) by the Town.~~

~~(2) Unless otherwise provided in this Ordinance, an emergency governmental use, manufactured home, mobile home, motor home, recreational vehicle, or other 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.~~

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[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.

~~A. A TPP may be granted as indicated below:~~

~~(i) 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 service adversely impacted due to adverse weather or other acts of God.~~

~~(ii) 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.~~

~~(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) 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.~~

~~(iv) 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 may result in revocation of the TPP.~~

~~(vi) 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.~~

~~3. Submission Requirements:~~

~~A. A completed TPP application; 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; 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 to an on-site or existing community wastewater treatment system.~~

~~4. An appeal of any decision made under this Ordinance may be made pursuant to the provisions found in Section 34-86 of the Town's Land Development Code.~~

Temporary Governmental, Residential (Manufactured Homes, Mobile Homes, Motor Homes, Recreational Vehicles Other Temporary Residential Dwelling) or Moveable Commercial Uses following Natural Disasters or Other Emergencies

(1) Governmental, residential (manufactured home, mobile home, motor home, recreational vehicle, or other temporary unit), or moveable commercial uses may be permitted on a limited basis upon adoption of a Resolution by the Town Council announcing the availability of

emergency temporary placement permits (ETPP's) following a natural disaster or other emergency and submission of an application.

(2) Unless otherwise provided in this Ordinance or in a Resolution that is adopted hereafter by the town council, any governmental, residential (manufactured home, mobile home, motor home, recreational vehicle, or other temporary residential dwelling) or moveable commercial use shall be removed from the site 1) no later than thirty (30) days after issuance of a certificate of occupancy or certificate of use associated with an approved permit; 2) at the time of the expiration of the ETPP as provided herein or as provided in a resolution; 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.

A. An ETPP may be granted as indicated below:

(vii) **Governmental Use.** Within any Commercial or Institutional Zoning District, an ETPP may be issued for the purpose of providing an emergency governmental use to provide an essential governmental services or aid to the public impacted due to a natural disaster, or emergency. or other acts of God.

(viii) **Residential Use**. Within any Commercial, Institutional or Residential Zoning District, an ETPP 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:

(e) 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.

(f) The ETPP 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.

(g) 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.

(h) Only verified residents of Fort Myers Beach may be granted an ETPP.

(ix) **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 an 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.

(x) **Review Period/Extension**. All approved ETPPs shall be issued in increments of six (6) months subject to review by 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.

(xi) **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 occupants of any 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

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.

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. This Ordinance shall become effective upon adoption by the Town Council.

The foregoing Ordinance was adopted by the Town Council upon a motion by Mayor Allers and seconded Council Member Woodson, 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 Safford, Council Member	Aye
Karen Woodson, Council Member	Aye

ADOPTED this 6th 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 Ordinance was filed in the Office of the Town Clerk on this 3 day of June, 2024.

Town of Fort Myers Beach
Agenda Item Summary

Blue Sheet Number: **2024-257**

1. **Request:**

Meeting Date: September 9, 2024

A RESOLUTION TO AUTHORIZE THE TOWN MANAGER OF THE TOWN OF FORT MYERS BEACH, TO REQUEST A LOAN UNDER THE COMMUNITY DISASTER LOAN PROGRAM OF THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) FOR A MAXIMUM AMOUNT OF $4,081,357, TO DRAW UPON IF NEEDED TO FUND ESSENTIAL GOVERNMENT SERVICES AS A RESULT OF LOST REVENUES, TO RECEIVE AND MANAGE THESE FUNDS, AND FOR OTHER PURPOSES; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

Why the action is necessary:

The action is necessary to authorize the Town Manager to sign the application for the Community Disaster Loan from FEMA for the amount that FEMA has determined the Town qualifies.

What the action accomplishes:

The action will enable the Town Manager to sign the application for the Community Disaster Loan from FEMA and to return the signed application to FEMA as soon as possible so that it can move through the remaining approval steps before the deadline of September 30th. If ultimately approved, the Town will have an additional $4,081,357 at its disposal in the event of an emergency.

2. **Agenda:**	3. **Requirement/Purpose:**	4. **Submitter of Information:**
ADMINISTRATIVE AGENDA	Resolution	Andy Hyatt, Town Manager

5. **Background:**

The Town of Fort Myers Beach completed its initial application for a Community Disaster Loan from FEMA June 29, 2023, which was just over a year ago. The town received a response from FEMA on 8/22/2024 seeking additional information, which we subsequently provided. We then worked with FEMA to reconcile our figures with theirs. The reconciliation was completed 9/6/2024, at which point the Finance Director felt comfortable concurring that the analysis prepared by FEMA was reasonably correct. The conclusion of the analysis is that the Town does qualify for a Community Disaster Loan for FEMA in the amount of $4,081,357.

The loan may only be used for essential government operations and is intended to be a source of assistance that is available to "keep the lights on" and to fund payroll for essential government services. It is only to be used as a last resort, and would function as a line of credit. Whenever such circumstances would arise, the Town is to submit a disbursement request for eligible uses. Interest will begin accruing on the total amount of disbursements from the loan at a rate of approximately 3.5%. If the Town does not use the loan, there is no interest charged to the Town. After 5 years, the Town must repay the loan, unless the Town continues to experience lost revenue as a result of Hurricane Ian. If that is the case, the loan may be forgiven.

Since we already have the $11.9 million Bridge Loan to cover our lost revenue, and since we will be receiving the State appropriation of $7.5 million for lost revenue, it's difficult to imagine a scenario in which we would ever need to use the Community Disaster Loan. I explained this to the FEMA representative, and they agreed that is probably the case. But they said it would still be good to have the CDL loan as for "insurance purposes", or in other words, to function as a safety net.

The deadline for approval of this Community Disaster Loan application is September 30th. Approval involves approval by the Town, by the State, by the regional office of FEMA, and by the national headquarters of FEMA. Therefore, time is of the essence to submit a signed CDL application to FEMA.

Attachments:

1. 24-183, Resolution Authorizing FEMA CDL Application

Financial Impact:

If the application for the FEMA Community Disaster Loan is ultimately approved, the Town will have an additional $4,081,357 at its disposal that it can draw upon to fund essential government services in the event of an emergency. We will be charged an annual interest rate of 3.5% on any amount drawn down. If we have no need of the loan, there is no cost to the Town. It will basically function as an additional safety net.

6. **Alternative Action**

The Town may choose not to approve this application.

7. **Management Recommendations:**

Staff recommends authorizing the Town Manager to sign the application for the Community Disaster Loan so that it can be submitted to FEMA as soon as possible.

8. **Recommended Approval:**

Joe Onzick, Finance Director	Created/Initiated - 9/6/2024
Joe Onzick, Finance Director	Approved - 9/6/2024
Amy Baker, Town Clerk	Approved - 9/6/2024
Andy Hyatt, Town Manager	Final Approval - 9/7/2024

RESOLUTION NO. 24-183

A RESOLUTION TO AUTHORIZE THE TOWN MANAGER OF THE TOWN OF FORT MYERS BEACH, TO REQUEST A LOAN UNDER THE COMMUNITY DISASTER LOAN PROGRAM OF THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) FOR A MAXIMUM AMOUNT OF $4,081,357, TO DRAW UPON IF NEEDED TO FUND ESSENTIAL GOVERNMENT SERVICES AS A RESULT OF LOST REVENUES, TO RECEIVE AND MANAGE THESE FUNDS, AND FOR OTHER PURPOSES; PROVIDING FOR 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 ("Town") 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, due to the effects of the Hurricane Ian DR-4673FL, the Town of Fort Myers Beach is projecting substantial losses of revenue necessary for the continued operations of essential government services; and

WHEREAS, the Federal Emergency Management Administration (FEMA), through its Community Disaster Loan Program (CDL Program), makes available low interest loans to help bridge substantial revenue losses until such time as recovery efforts lead to restored revenues sources; and

WHEREAS, the Town of Fort Myers Beach is interested in submitting to FEMA a consideration request for a Community Disaster Loan in the amount of $4,081,357, that must be repaid no later than 5 years after the execution of the note, and will be used as revenue in support of annual budgets as permitted by Law; and

WHEREAS, the described law permits local governments to accept such loan proceeds and anticipate same in support of their annual budgets; and

WHEREAS, (1) The interest rate of the loan will be equal to the 5-year maturities based on the United States Treasury obligations in effect on the date the Promissory Note is executed by FEMA; (2) The loan may be forgiven under certain circumstances; and (3) Whatever portion of the loan not forgiven will be repaid at a time when economic recovery has broadened the base of revenues in support of the budget; and

WHEREAS, refraining to accept such a loan would irresponsibly forgo relief available to the residents of the Town of Fort Myers Beach at a time when relief may be critically needed.

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

Section 1. The above recitals are true and correct, and incorporated herein by this reference and adopted as the legislative and administrative findings of the Town Council; all exhibits referenced and attached are incorporated herein and made a specific part of this Resolution.

Section 2. The Town Council of the Town of Fort Myers Beach authorizes the Town Manager or his authorized representative to begin all the necessary steps to present to FEMA the formal Request for a Loan of the CDL Program for an amount not to exceed $4,081,357;

Section 3. If FEMA approves the loan, the Town Council authorizes the Town Manager to receive and administer these funds, as provided by the Community Disaster Loan Program.

Section 4. That the Town Manager is hereby authorized and designated as representative of the Town of Fort Myers Beach and as such may and will provide any additional information, as required, including all the guarantees contained in the request.

Section 5. With respect to such request and receipt of funds, the Town of Fort Myers Beach in accordance with the requirements of the Community Disaster Loan Program of FEMA shall comply with the following:

A. A contract with FEMA, in a manner and manner acceptable to the Director of the Agency, for payment of the amount requested and compliance with any other obligation required or acquired, as a condition of receiving the loan proceeds.

B. Commit re-payment funds that the Town of Fort Myers Beach may be receiving in the future.

C. Request an amount of funds not to exceed $4,081,357.

D. Authorize the Finance Director to create a sinking fund account that will be used to amortize the CDL service debt.

E. Establish a payment period that does not exceed a term of five (5) years.

F. Provide, at the discretion of the Director of FEMA, any other type of guarantee that it deems appropriate.

Section 6. That the Town Manager is hereby authorized to sign any contract and / or agreement with the Director of FEMA in relation to said request and is also authorized to review and obligate such funds requested pursuant to said contract and / or agreement.

Section 7. To the extent that all or any or any of the actions authorized by this means have been carried out and / or executed by the Town Manager, all are ratified and confirmed.

Section 8. Any ordinance, resolution or any of its parts that may be in conflict with this, are hereby repealed.

Section 9. We pledge the following listed collateral security to the Federal Emergency Management Agency (FEMA) on the Promissory Note for a Community Disaster Loan for $4,081,357 executed on _____ pursuant to Section 417 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Public Law 93-288, as amended, and the FEMA Regulation, 44 CFR 206, Subpart K. We further understand that failure to repay any outstanding principal and related interest on those portions of the loan which do not qualify for loan cancellation as determined by FEMA or any successor agency will result in forfeiture of as much as the listed collateral security as is necessary to collect such outstanding principal and interest (Collateral security listed below).

The promissory note is payable from and secured by a pledge of the applicant's revenues for each fiscal year while any of the loan is outstanding, after a provision has been made for the payments required in connection with any outstanding indebtedness of the application. .

Section 10. Copy of this Resolution duly approved by the Town of Fort Myers Beach will be sent to the Director of Finance of Fort Myers Beach, to the Budget Director of Fort Myers Beach, to the Town Attorney, to the authorized officials of FEMA Community Disaster Loans Program and to any other agency involved in the process.

Section 12. This resolution will take effect immediately once signed by the Mayor.

The foregoing Resolution was _____ 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, Council Member	___
Scott Safford, Council Member	___
Karen Woodson, Council Member	___

ADOPTED this 9th day of September 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 SOLELY:

_____
Vose Law Firm, Town Attorneys

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