



SPIKOWSKI PLANNING ASSOCIATES

MEMORANDUM

TO: Fort Myers Beach Local Planning Agency
FROM: Bill Spikowski
DATE: May 7, 2008
SUBJECT: Public Hearings on May 20, 2008 to Amend Comprehensive Plan

During 2008, twelve separate amendments to the Fort Myers Beach Comprehensive Plan are being considered. After the LPA holds its public hearings on all amendments, they will be forwarded to the Town Council for formal action.

The first public hearing was held on March 18, at which time the following amendments were considered:

- Application 2008-01-TEXT:** Update the Capital Improvements Element to comply with new statutory requirements, including the annual update to the five-year schedule of capital improvements.
- Application 2008-02-TEXT:** Add a new Public Schools Element to the comprehensive plan.

The second public hearing will begin at 10:30 AM on May 20 to consider these amendments:

- Application 2008-03-TEXT:** Revise Policy 4-D-1 and revise or repeal Policy 5-C-7 regarding "repetitive loss" properties under the National Flood Insurance Program
- Application 2008-04-TEXT:** Clarify Policy 4-E-1 to maintain the original intention of pre-disaster buildback and to provide additional incentives
- Application 2008-05-TEXT:** Clarify Policy 4-C-6 so that it unquestionably applies to all guest units, not just to motel rooms
- Application 2008-07-TEXT:** Amend Policy 7-B-3 to make its second clause permissive rather than mandatory and to reference the potential for other reasons that might cause the town to negotiate turnover of maintenance responsibility for Estero Boulevard; amend Objective 7-E in a corresponding manner
- Application 2008-08-TEXT:** Delete Policy 7-H-3 regarding left-turns on Estero Boulevard as northbound traffic passes Times Square
- Application 2008-09-TEXT:** Modify Policy 7-J-2 to set a new date for modifying the land development code to require a useful traffic impact analysis for new developments

The third and final public hearing will be held this summer to consider these amendments:

- Application 2008-06-TEXT:** Amend the Future Land Use Element to establish as town policy the desirability of retaining a wide variety of short-term lodging establishments that support the town's economy and walkability, and to specifically allow condominium ownership of lodging establishments provided they will be operated as hotels or motels
- Application 2008-10-TEXT:** Revise Objective 9-F to set a realistic timetable for the completion of a stormwater master plan
- Application 2008-11-TEXT:** Revise Policy 8-C-6 to delete references to the Public Service Commission and Florida Cities Water Company; update the text of the Utilities Element to reflect the town's acquisition of the potable water distribution system from Florida Cities
- Application 2008-12-TEXT:** Meet new rules for ten-year water supply plans (from 2005 state legislation)

All of these amendments were initiated by the Town of Fort Myers Beach after completion of the Evaluation/Appraisal Report, which was adopted in January 2007.

A short report is attached for each amendment that will be considered on May 20.

TOWN OF FORT MYERS BEACH — 2008 PROPOSED COMPREHENSIVE PLAN AMENDMENTS

Application #: 2008-03-TEXT

Description: Revise Policy 4-D-1 and revise or repeal Policy 5-C-7 regarding “repetitive loss” properties under the National Flood Insurance Program

Pages to be changed: Comprehensive Plan Pages 4-12, 4-51, 5-14, and 5-28 (proposed changes are attached)

Discussion in E/A Report (adopted on Jan 16 '07): *From Pages 10-11:* “EVALUATION OF POLICY 5-C-7: This policy was an attempt to speed up the replacement of buildings that were particularly subject to flooding. A single flood loss of \$1,000 or more since 1978 would force a building to be replaced when the next flood damage occurred, regardless of how minor the damage. This is in contrast to the standard rule that a building need not be replaced unless flood damage exceeded 50% of the building’s value. (Language similar to Policy 5-C-7 is also contained in Policy 4-D-1-i.)

“This strict policy is encouraged by the Federal Emergency Management Agency and is rewarded by credits that can reduce flood insurance premiums for all other property owners in the same community. However, the cost to an affected building owner is extremely high, often requiring the demolition of their homes. Figure 6 of the Coastal Management Element mapped the structures that would be affected as of 1993; that map does not include later flood damage from Tropical Storm Gabrielle in 2001 or Hurricane Charley in 2004.

“The town council considered implementing this policy when adopting the new land development code but decided that the extreme costs to individuals outweighed the small potential benefits to all. The corresponding code language was repealed from the code in 2004. A somewhat less restrictive repetitive loss provision was put into the code in its place, requiring that structures damaged repeatedly by flooding during any ten-year period would have to be replaced if flood damage from two or more flood events averaged more than 25% of the building’s value.

“Policy 5-C-7 (and the similar language in Policy 4-D-1) no longer reflect the current policy of the town. This language should be eliminated from the comprehensive plan.”

From Page 71: “This element [coastal management] also noted a Lee County program begun in 1995 to identify individual buildings that have been repeatedly damaged by flooding based on flood insurance claims of at least \$1,000. County officials wanted to require that if these buildings were damaged again by more than 20% of their value, they would have to be brought into compliance with current standards for new construction (primarily by elevating the building). This “repetitive loss” program is conceptually

admirable but was extremely punitive as originally proposed. County officials have backed away from this approach altogether. Town officials placed this policy into the comprehensive plan effective in 1999:

POLICY 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. Require that such buildings be brought into compliance with current regulatory standards for new construction if they are damaged again by flooding.

“When implementing this “repetitive loss” policy through Chapter 6 of the land development code, town officials made it less punitive than the original concept. Policy 5-C-7 should be revised or repealed, as should similar language in Policy 4-D-1-i, as the current language no longer states the town’s official policy on this matter.”

Action by LPA:

Action by Town Council:

determine if they might jeopardize the community's continued participation in the NFIP.

Lee County began participating in the NFIP in 1984 immediately after all of its coastal areas were mapped. Fort Myers Beach was covered under the county's program until the end of 1996, at which time it began the process of joining the program on its own. The previous Lee County regulations are currently in effect in Section 6-401 through 475 of the Fort Myers Beach Land Development Code; the town now has the responsibility for modifying and updating them.

As to residential buildings, these rules have become a fact of life in all coastal communities. They cause a hardship to many elderly people who have difficulty climbing the required entrance stairs in homes; they often create a strange pattern in neighborhoods with old and new houses; and they reduce the desirable connection between indoor living space and Florida's pleasant outdoors. However, these factors are generally outweighed by the desirability of keeping new homes out of harm's way during recurring floods. There is little prospect or reason for changing this development pattern as it applies to new homes.

Properties Repeatedly Damaged By Flooding

A number of structures within the town have experienced damage as a result of past floods. Lee County **began a program in 1995 considered a program** to identify individual buildings that have been repeatedly damaged by flooding, as evidenced by claims under the National Flood Insurance Program (NFIP) of \$1,000 or more since 1978. If damaged again by more than 20% of their value, these buildings would have to be brought into compliance with current standards for new construction before other major improvements were made to the building. **However, those regulations weren't adopted because the extreme costs to a few homeowners did not justify the potential benefits.**

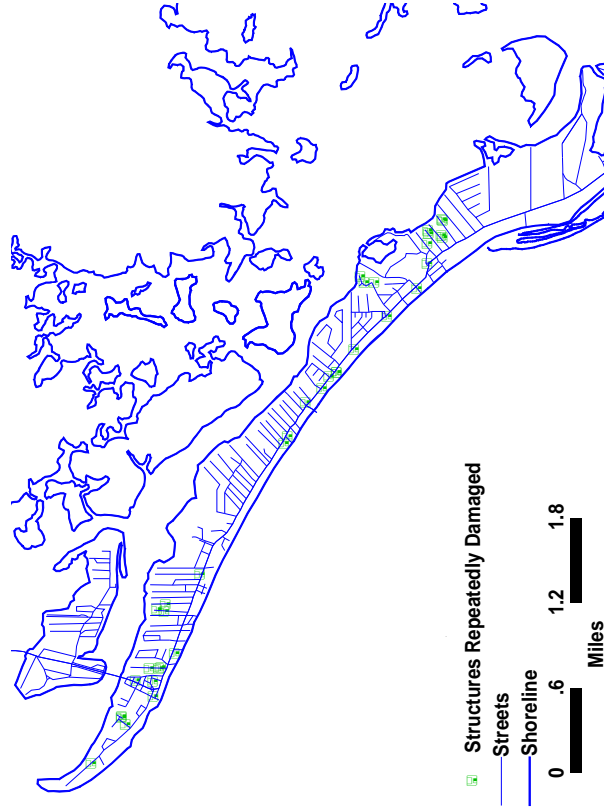


Figure 4, Repeated Flood Damage

That program identified the properties in Figure 4 (as described in more detail in the Coastal Management Element of this plan). No meaningful pattern appears on the map that would suggest neighborhood-wide flooding remedies. Of particular interest, however, is that none of the floods that caused considerable damage at Fort Myers Beach in the past 15 years were even minimal hurricanes; in fact two weren't even strong enough to be considered tropical storms.

Lee County is conducting a detailed assessment of the costs of improving the buildings in the unincorporated area that have been repeatedly damaged by flooding. The county hopes to obtain 75% federal funding for many of the actual improvements. If the county is successful, the town may be able to qualify for a similar grant.

on Palermo Circle. These options would be explored by a privately-funded but town-initiated planning process, with full involvement of affected and nearby landowners.

POLICY 4-D-0 WETLAND BUFFERS: Upland development shall maintain a 75-foot separation between wetlands and buildings or other impervious surfaces. This requirement shall not apply to platted lots, or to a previously approved development order to the extent it cannot reasonably be modified to comply with this requirement (see Chapter 15 of this plan for details).

OBJECTIVE 4-B POST-DISASTER REDEVELOPMENT — Provide for the organized and healthy reconstruction of Fort Myers Beach after a major storm by showcasing successful local examples of flood-proofing, by requiring redevelopment activities to meet stricter standards for flood- and wind-resistance, and by improving the current post-disaster buildback policy.

POLICY 4-D-0 POST-DISASTER BUILDBACK POLICY: Following a natural disaster, land may be redeveloped in accordance with the Future Land Use Map or, at the landowner's option, in accordance with the following "buildback policy" begun by Lee County in 1989. This policy applies only where development is damaged by fire, hurricane or other natural disaster, and allows the following options:

- i. Buildings/development damaged *less than 50%* of their replacement cost (measured at the time of damage) can be

rebuilt to their original condition, subject only to current building and life safety codes; **however, this threshold is reduced to 20% for buildings previously damaged by flooding of \$1,000 or more under the National Flood Insurance Program.**

- ii. Buildings/development damaged *more than 50%* of their replacement cost can be rebuilt to their legally documented actual use, density, intensity, size, and style provided the new construction complies with:
 - a. federal requirements for elevation above the 100-year flood level;
 - b. any building code requirements for floodproofing;
 - c. current building and life safety codes;
 - d. Coastal Construction Control Line requirements; and
 - e. any required zoning or other development regulations (other than density or intensity), except where compliance with such regulations would preclude reconstruction otherwise intended by this policy.
- iii. Redevelopment of damaged property is not allowed for a more intense use or at a density higher than the original lawful density except where such higher density is permitted under this plan and the town's land development regulations. To further implement this policy, the town may establish blanket reductions in non-vital development regulations (e.g. buff-

Structures with Repeated Damage Due to Storms

A number of structures within the town have experienced damage as a result of past floods. Lee County began a program in 1995 to identify individual buildings that have been repeatedly damaged by flooding, as evidenced by claims under the National Flood Insurance Program (NFIP) of \$1,000 or more since 1978. **If damaged again by more than 20% of their value, these buildings must be brought into compliance with current standards for new construction (primarily by elevating the building):**

That program identified the properties in Table 5-6, which are mapped in Figure 6. No meaningful pattern appears on the map that would suggest neighborhood-wide flooding remedies. Of particular interest on Table 5-6, however, is that *none* of the floods that caused considerable damage at Fort Myers Beach in the past 15 years were even minimal hurricanes; in fact two weren't even strong enough to be considered tropical storms.

Lee County is conducting a detailed assessment of the costs of improving the buildings in the unincorporated area that have been repeatedly damaged by flooding. The county hopes to obtain 75% federal funding for many of the actual improvements. If the county is successful, the town may be able to qualify for a similar grant.

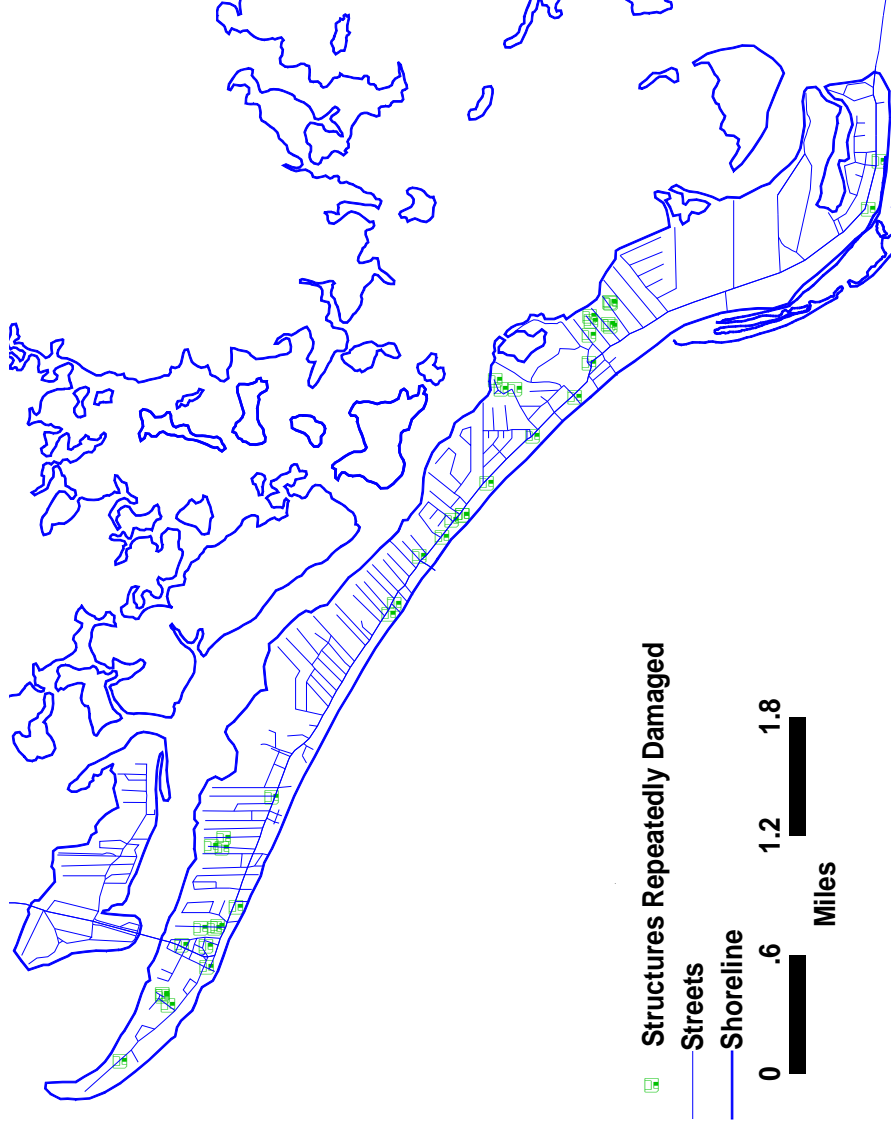


Figure 6, Repeated Flood Damage

- iii. Roads should be designed to manage minimum levels of flooding and be located where least susceptible to storm damage.

POLICY 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. ~~Require that such buildings be brought into compliance with current regulatory standards for new construction if they are damaged again by flooding.~~

OBJECTIVE 5-D BEACHES AND DUNES — Conserve and enhance the shoreline of Estero Island by 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 habitat rather than interfering with it. Public access to existing and renourished beaches is an important

- priority of the town of Fort Myers Beach. Sand dunes should be protected and re-created 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 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

Application #: 2008-04-TEXT

Description: Clarify Policy 4-E-1 to maintain the original intention of pre-disaster buildback and to provide additional incentives

[This amendment could either refer more explicitly to its intention to provide the same rights as for post-disaster buildback, or it could simply state that the physical size or interior square footage of a building may not be increased during the pre-disaster buildback process. It would also clarify that large condominium buildings cannot be substituted for existing hotels and motels in the guise of buildback; they could still replace older hotels or motels, but the new structures would have to meet today's more restrictive density cap. At the same time, the town could consider additional incentives for pre-disaster buildback beyond those already in the comprehensive plan]

Pages to be changed: Comprehensive Plan Pages 4-18-4-19 and 4-52 (proposed changes are attached)

Discussion in E/A Report *From Pages 11- 14:*

(adopted on Jan 16 '07):

“One of the important innovations of the comprehensive plan was the “pre-disaster buildback policy.” Before 1999, owners of over-density buildings were allowed to rebuild their existing square-footage only if their buildings were destroyed by a natural disaster. A goal of the new plan was to allow the upgrading or replacement of these “grandfathered” structures without awaiting their destruction by natural causes (see Objective 4-E). Policy 4-E-1 was also added to the plan in 1999 to begin carrying out this goal:

“POLICY 4-E-1: PRE-DISASTER BUILDBACK POLICY: Owners of existing developments that exceed the current density or height limits may also be permitted to replace it at up to the existing lawful density and intensity prior to a natural disaster. Landowners may request this option through the planned development rezoning process, which requires a public hearing and notification of adjacent property owners. The town will approve, modify, or deny such a request based on the conformance of the specific proposal with this comprehensive plan, including its land use and design policies, pedestrian orientation, and natural resource criteria.

“Policy 4-E-1 does not define the word “intensity” in this policy nor does it go into detail about intensity as did the older “post-disaster buildback policy,” which said that grandfathered buildings “...can be rebuilt to their legally documented actual use, density, intensity, size, and style...” During the past two years there has been extensive public discussion as to whether Policy 4-E-1 necessarily limits the reconstruction of over-density buildings to their current physical size.

“Perhaps the most authoritative reference in the planning field defines “intensity of use” as follows: “The number of dwelling units per acre for residential development and floor area ratio (FAR) for nonresidential

development, such as commercial, office, and industrial." This definition is followed by this comment: "FAR may also be used for residential development or for mixed-use development. In residential projects, FAR may be useful in relating the size of the building to the lot area." In the buildback context, the lot area doesn't change, so this definition would measure intensity by the physical size of the building for nonresidential development and sometimes would also measure intensity the same way same for residential or mixed-use development.

"The town can of course use definitions of its own choosing. The Land Development Code now interprets the pre-disaster buildback policy in a manner similar to this reference book and in the same manner as the post-disaster buildback policy by not allowing over-density buildings to be further enlarged during the pre-disaster buildback process. The actual land development code language for the square footage for pre-disaster buildback is identical as for post-disaster buildback.

"The current evaluation of the Fort Myers Beach Comprehensive Plan allows the town a chance to reconsider its pre-disaster buildback policy. The current interpretations of the policy have been challenged as being unduly restrictive because of the "no enlargement" rule. If over-density buildings were allowed to be enlarged during the buildback process, it would be a considerable incentive for property owners to demolish existing buildings to take advantage of this size increase. The new buildings would meet most current codes even if the existing buildings did not. In some cases, the new buildings would be designed for and marketed to seasonal residents instead of year-round residents or tourists, which might even decrease impacts on public services such as roads/water/sewer and private services such as restaurants.

"Most public discussion on this subject has centered around the vagueness of the term "intensity" in Policy 4-E-1. Property owners have argued that their over-density buildings should be allowed to be demolished and enlarged, sometimes several times over, provided there are some measures of intensity which would be held constant or reduced.

"However, the policy issues are much broader than what the drafters of Policy 4-E-1 meant by the term "intensity." For instance:

“ ■ **GEOGRAPHICAL EFFECTS:** Discussions of intensity have centered mostly on water and sewer impacts and on road impacts. Although water and sewer impacts would be the same regardless of where a building is located, road impacts could differ greatly. For instance, a hotel that is isolated from commercial and recreational services would generate many more vehicular trips than the identical hotel within walking distance of those same services. In addition, some types of commercial development primarily serve those who are already on the island, actually reducing travel demand by eliminating some off-island vehicular trips.

“ ■ **SEASONAL EFFECTS:** Traffic congestion is extreme throughout the winter (and also during holidays, weekends, and special events). Replacing motels with housing for seasonal residents may reduce total yearly vehicular trips, but seasonal residents tend to use their dwelling during the periods of greatest congestion; their absence during non-peak periods does not aid in reducing actual congestion.

“ ■ **ECONOMIC EFFECTS:** The economy of Fort Myers Beach is based on tourism. Although tourism is sometimes overwhelming to permanent residents, tourism also provides benefits to residents, including investment opportunities, employment, recreational opportunities, and choices for dining and entertainment that are far beyond what would be available if they were serving the resident population alone. Many residents have chosen to make Fort Myers Beach their home for these very reasons. Eliminating hotels, motels, and condominiums or timeshares that are available for short stays could have effects on the local economy far greater than reductions in intensity as measured by, say, water or sewer consumption.

“These policies issues don't suggest that the town needs to change course on pre-disaster buildback. In fact, the original reason for the present course was to give property owners for the first time the same rights to rebuild at leisure that they would have had only after a natural disaster. Granting greater rights to rebuild had never been considered for either pre-disaster or post-disaster buildback, for the simple reason that owners of over-density buildings already had greater rights than all other property owners at Fort Myers Beach. Past over-building caused today's current strong development restrictions, which fall most heavily on owners of vacant or lightly-developed properties such as single-family homes. If Fort Myers Beach were able to accommodate additional development, it would hardly be fair for property owners who are burdened by today's restrictions to continue under those restrictions while other owners who already have over-density buildings are granted additional rights.

“Members of the public who attended the April 7, 2005, workshop were requested to give their opinion on how the town should treat the rebuilding of "over-density" buildings. Five choices were set forth with a request to select one choice. This was not a scientific survey or poll but does give some idea of community sentiment on this and other difficult questions. The written responses that evening were as follows:

Density Limitations for Buildback of Older Buildings: Should the Town...

- 19 *Encourage rebuilding of over-density buildings (older buildings that exceed today's density limits) by allowing their replacements to be larger than the existing buildings?*
- 30 *Allow rebuilding of over-density buildings but do not allow them to become larger?*
- 12 *Discourage rebuilding of over-density buildings by requiring density and/or size to be reduced?*
- 11 *Forbid rebuilding of over-density buildings; all new buildings would have to meet the town's current density rules?*
- 1 *[no answer provided]*

“In order to maintain the original intention of pre-disaster buildback, Policy 4-E-1 should be amended for clarity. This amendment could either refer more explicitly to its intention to provide the same rights as for post-disaster buildback, or it could simply state that the physical size or interior square footage of a building may not be increased during the pre-disaster buildback process.

“If the town wishes to provide incentives for pre-disaster buildback beyond those already established in the comprehensive plan, the following concepts could be explored:

“Additional Incentive #1: In areas designated "Pedestrian Commercial" on the future land use map, dry-floodproofed commercial space below elevated buildings could be considered a bonus that would be permitted in addition to replacing the previous building's interior square footage.

“Additional Incentive #2: Instead of limiting pre-disaster buildback to the existing interior square footage, additional square footage could be permitted by the Town Council under certain conditions. For instance, up to a 5% increase over the existing square footage might be approved for each of the following:

- Rebuilding proposals that will operate as a hotel, motel, or resort.
- Replacement of hotel or motel rooms that are less than 400 square feet each.
- Rebuilding proposals that provide a fixed percentage of the project as public open space.
- Rebuilding proposals of exceptional architectural merit.
- Rebuilding proposals for commercial buildings that would dedicate the extra square footage to employee housing.
- Replacement of existing buildings of any type whose total size is less than one-half the floor-to-area ratio that would be allowed for a new building on that site.

Action by LPA:

Action by Town Council:

POST-DISASTER REDEVELOPMENT POLICIES

When a passing hurricane destroys part of a community, difficult rebuilding questions arise immediately. Landowners have spent thousands and sometimes millions of dollars in developing their property. Not allowing landowners to rebuild would place a great economic burden upon them. But allowing redevelopment in the same manner might expose it to destruction in the next big storm.

Current Build-Back Policy

The current comprehensive plan contains a “build-back” provision initiated by Lee County in 1989 that allows post-disaster reconstruction at existing density levels, but requires improved resistance to future storms. This provision has been popular among landowners at Fort Myers Beach because of the greatly reduced density levels that would otherwise apply after a major storm. However, it falls far short of a redevelopment plan that would ensure that the community would be improved in other ways during the inevitable rebuilding process.

If a disaster strikes, structures that comply with all current regulations could of course be rebuilt in exactly the same form. However, many buildings at Fort Myers Beach do not comply with current regulations, particularly the maximum density level of six dwelling units per acre. When one of these structures is damaged greater than 50% of its current value, the build-back policy allows it to be rebuilt, but instead of meeting *all* current regulations, the new building can include the original number of dwellings and square footage. But it must meet all current flood, structural, and coastal setback requirements. The lowest floor level must be elevated; land uses are severely limited on the ground level; and break-away walls may be required. (Height and setback requirements might even be waived if needed for the building to comply with the new flood and structural requirements.)

One problem with the build-back policy is its limitation to post-disaster situations (such as floods, wind damage, or fire). Federal and state policy has been shifting in recent years to pre-storm mitigation of known hazards, instead of waiting for disasters to occur (as discussed in the previous section). The current policy is as inflexible in this regard as the National Flood Insurance Program.

Other possibilities for improving the build-back program in the future include:

- Mandating improved building form during the rebuilding process (some examples might be maintaining view corridors to the Gulf of Mexico, or allowing some mixed uses in residential-only towers, or placing buildings nearer the street).
- Allowing density transfers during the rebuilding process if they meet some stated public purpose.
- Creating a registry of pertinent building details (such as exact heights and exact building footprint on the ground) so that permitting would be eased in a post-disaster situation;

Modified Build-Back Policy

This plan makes one immediate change in the build-back policy. Owners of existing buildings that exceed the current density or height limits would no longer be categorically forbidden from rebuilding; they will be offered an opportunity to replace the building for the same use at up to the existing density and intensity (up to the original square footage, as already provided for post-disaster build-back), without waiting for a natural disaster (see Policy 4-E-1). Owners would request this option through the planned development rezoning process, which requires a public hearing and notification of adjacent property owners. The Town of Fort Myers Beach would approve, modify, or deny this request based on the conformance of the specific proposal with this comprehensive plan, including its land-use and design policies, pedestrian orientation, and natural resource criteria.

The town could also provide incentives for “pre-disaster” build-back, for instance using concepts such as these:

Additional Incentive #1: In areas designated “Pedestrian Commercial” on the future land use map, dry-floodproofed commercial space below elevated buildings could be considered a bonus that would be permitted in addition to replacing the previous building’s interior square footage.

Additional Incentive #2: In addition to allowing pre-disaster buildback of the pre-existing interior square footage, additional square footage could be permitted by the Town Council under certain conditions. For instance, up to a 5% increase over the existing square footage might be approved for each of the following:

- Rebuilding proposals that will operate as a hotel, motel, or resort.
- Replacement of hotel or motel rooms that are less than 400 square feet each.
- Rebuilding proposals that provide a fixed percentage of the project as public open space.
- Rebuilding proposals of exceptional architectural merit.
- Rebuilding proposals for commercial buildings that would dedicate the extra square footage to employee housing.
- Replacement of existing buildings of any type whose total size is less than one-half the floor-to-area ratio that would be allowed for a new building on that site.

Policy 4-E-1 was modified in early 2008 to provide incentives for “pre-disaster” build-back by allowing additional square footage beyond what previously existed under specified conditions. The incentive details will be spelled out in the Land Development Code so that they can be adjusted over time by ordinance rather than requiring Comprehensive Plan amendments.

ering, open space, side setbacks, etc.) to minimize the need for individual variances or compliance determinations prior to reconstruction. The Land Development Code may also establish procedures to document actual uses, densities, and intensities, and compliance with regulations in effect at the time of construction, through such means as photographs, diagrams, plans, affidavits, permits, appraisals, tax records, etc.

OBJECTIVE 4 -E HAZARD MITIGATION — Mitigate the potential effects of hurricanes by easing regulations that impede the strengthening of existing buildings, by encouraging the relocation of vulnerable structures and facilities, and by allowing the upgrading or replacement of grandfathered structures without first awaiting their destruction in a storm.

POLICY 4-E-1 PRE-DISASTER BUILDBACK POLICY:

Owners of existing developments that exceed the current density or height limits may also be permitted to replace it for the same use at up to the existing lawful density and intensity (up to the original square footage) prior to a natural disaster. Landowners may request this option through the planned development rezoning process, which requires a public hearing and notification of adjacent property owners. The town will approve, modify, or deny such a request based on the conformance of the specific proposal with this comprehensive plan, including its land-use and design policies, pedestrian orientation, and natural resource criteria. In addition,

the Town Council may approve additional enclosed square-footage under either or both of the following circumstances:

- i. If an existing building is being elevated on property that allows commercial uses, dry-floodproofed commercial space at ground level may be permitted in addition to the replacement of the pre-existing enclosed square footage.
- ii. Additional enclosed square footage may be permitted in up to 5% increments as incentives for meritorious rebuilding proposals that meet incentive criteria that are defined in the Land Development Code.

POLICY 4-E-2

COASTAL SETBACKS: To protect against future storm damage and to maintain healthy beaches, the Town of Fort Myers Beach wishes to see all buildings relocated landward of the 1978 Coastal Construction Control Line. This line has been used on the Future Land Use Map to delineate the edge of land-use categories allowing urban development. Some existing buildings lie partially seaward of this line; when these buildings are reconstructed (either before or after a natural disaster), they shall be rebuilt landward of this line. Exceptions to this rule may be permitted by the town only where it can be scientifically demonstrated that the 1978 line is irrelevant because of more recent changes to the natural shoreline. The town shall seek the opinion of the Florida Department of Environmental Protection in evaluating any requests for exceptions. (Exceptions must also comply with all state laws and regulations regarding coastal construction.)

Application #: 2008-05-TEXT

Description: Clarify Policy 4-C-6 so that it unquestionably applies to all guest units, not just to motel rooms

Pages to be changed: Comprehensive Plan Pages 4-18?? and 4-49—4-50?? (proposed changes are attached)

Discussion in E/A Report From Page 15—16:
(adopted on Jan 16 '07):

“To set the town’s new policy, the 1999 comprehensive plan added Policy 4-C-6:

“POLICY 4-C-6: MOTEL DENSITIES: The Land Development Code shall specify equivalency factors between motel rooms and full dwelling units. These factors may vary based on size of motel room and on land-use categories on the Future Land Use Map. They may vary between a low of one motel room and a high of three motel rooms for each dwelling unit. (These factors would apply only where motels are already permitted.)

“The comprehensive plan discusses motel rooms and residential dwelling units but it never clearly defines motel rooms or determines where the regulatory line should occur in the continuum between motel rooms and dwelling units.

“To implement Policy 4-C-6, the new land development code defines "hotel/motel," "resort," "timeshare," and then defines a new term "guest unit" to distinguish these transient units from residential dwelling units, as follows:

“Hotel/motel means a building, or group of buildings on the same premises and under single control, which are kept, used, maintained or advertised as, or held out to the public to be, a place where sleeping accommodations are supplied for pay to transient guests for periods of one day or longer. See division 19 of article IV of this chapter.

“Resort means a mixed-use facility that accommodates transient guests or vacationers. Resorts contain at least 50 units, which may include a combination of dwelling units, guest units and timeshare units, and provide food service, outdoor recreational activities, and/or conference facilities for their guests.

“Timeshare unit means any dwelling unit, guest unit, or living unit for which a timesharing plan, as defined in F.S. ch. 721, has been established and documented. See § 34-632 for determining density of timeshare units that include "lock-off accommodations."

“Guest unit means a room or group of rooms in a hotel/motel or bed-and-breakfast inn that are designed to be used as temporary accommodations for one or more people traveling together. All guest units provide for sleeping and sanitation, although sanitation may be provided through shared bathrooms.

“The number of guest units that may be constructed was then established as a multiplier of the

number of permitted dwelling units (the table of multipliers from § 34-1803 of the land development code is reprinted on page 8).

“Policy 4-C-6 and its implementation through the land development code have been successful in clarifying the rules for new hotels and motels and ensuring that new transient units get the maximum multiplier only if they are smaller than 450 square feet, with the multiplier dropping when the units are between 450 and 750 square feet, dropping again between 750 and 1,000 square feet, then offering no multiplier at all when the units exceed 1,000 square feet.

“This method of implementation seemingly avoids the need to regulate whether a "guest unit" has no kitchen, a kitchenette, or even a full kitchen, since the multiplier is related mainly to physical size (and secondarily to location on the Future Land Use Map).

“However, the issue of what exactly is a "guest unit" versus a "dwelling unit" is still relevant. First, the multipliers are only applicable to guest units; small apartments, for instance, are not allowed to use these multipliers. Second, the land development code designates all types of short-term rental units as "lodging" uses, including bed-and-breakfast inns, hotels, motels, resorts, and even weekly or monthly rentals of residential dwelling units. (All lodging uses and all residential uses are allowed in the Downtown, Commercial Resort, and Santini zoning districts; some lodging uses are allowed in several other zoning districts.)

“Although the town restricts where lodging uses may be constructed, it gives them special consideration by allowing certain multipliers to the residential density cap. As long as this special consideration is being extended, the regulations need to be clearer about what type of units qualify for that consideration; this is a larger issue than the size of individual units.’

Action by LPA:

Action by Town Council:

HISTORICALLY HIGH DENSITIES

Constant concerns at Fort Myers Beach include the excessive crowding during the winter and fears over the ability to evacuate the island when a hurricane approaches. Existing development was approved without regard to the adequacy of the road system (although the impacts of tourism and day visitors are an equally important factor in winter crowding).

Multifamily Densities

The density of multifamily development at Fort Myers Beach averages 17.2 units per acre (in 1996, 5,269 units, including duplexes, on 305.5 acres). Table 4-1 provides the densities of several multifamily developments across the island.

Table 4-1 — Multi-Family Densities

<u>Name</u>	<u>Address</u>	<u># of dwelling units</u>	<u># of total acres</u>	<u>units per acre</u>	<u>stories tall</u>
Marina Towers	8401 Estero	63	2.77	23	9
Sun Caper	7930 Estero	69	2.75	25	10
Leonardo Arms	7400 Estero	180	6.28	29	7
Ocean Harbor	4741 Estero	150	9.70	15	16
Caper Beach Club	2810 Estero	103	1.27	81	12
Batiki West	1511 Estero	60	1.86	32	7
Pink Shell Beach Club I	327 Estero	15	0.83	18	7

At the older (northwest) end of the island, existing development has achieved a desirable level of “compactness” which allows people to move comfortably about without driving everywhere. Yet the south end of the island has not done so despite higher densities there.

Compactness is not the same as density. Compact development can occur with densities as low as four units per acre if homes aren’t stacked vertically and if driveways and garages do not dominate the street side of houses and businesses.

High-rise buildings surrounded by ground-level parking lots can almost never achieve compactness, because higher densities are translated into taller buildings requiring ever larger parking lots. “Compact” high-rise development would require extensive public transportation and parking garages to avoid separating buildings so widely that compactness is lost.

Without compactness, high densities require an advanced system of highways and parking facilities to accommodate most movement by car. Parking each car requires 275 square feet (counting aisles and driveways). That same car takes up as much road space as 40 bus passengers or 12 bicyclists. The wide highways and large parking lots needed for “automobility” create barriers to movement by all other modes of travel.

The following section examines specific density issues for hotels and motels.

Hotel and Motel Densities

Until a 1997 interim change, town regulations allowed up to three hotel/motel units in place of each regular dwelling unit. This ratio is substantially lower than the county’s rules in effect until 1994, which allowed convention hotels at 50 rooms per acre, but it is still a high ratio given the overcrowded conditions at Fort Myers Beach.

This section provides some history as to how this issue has been treated in the past, and outlines an alternate plan for future hotels and motels.

At Fort Myers Beach there is only a slight distinction between motels and some other types of accommodations for tourists. The Land Development Code must make a clear distinction, however, if it provides a density multiplier or bonus for motels. Current regulations define a motel (or hotel) as:

a building, or group of buildings on the same premises and under single control, consisting of ten or more sleeping rooms

which are kept, used, maintained or advertised as, or held out to the public to be, a place where sleeping accommodations are supplied for pay to transient guests or tenants.

In order to qualify for density multipliers, motels also must be registered with the state and must pay Lee County's tourist development tax. Hotels and motels are further divided into "efficiency motels" (primarily for tourists) and "business motels" (all others).

Limited kitchen facilities are allowed in efficiency motels, but they may not be as extensive as a separate room. A building that looks like a motel but does not meet all of these tests is treated by current regulations as multifamily housing, and is therefore subject to much stricter density regulations.

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

These density multipliers were established by Lee County in 1994, when it repealed the previous rule that categorized hotels and motels into three types: transient (25 units per acre); efficiency (2.5 units for each multifamily dwelling unit); and convention (50 units per acre).

Lee County has since added new restrictions on motel densities in the unincorporated area, eliminating the dubious distinction between efficiency and business motels in favor of density ratios based on the actual floor area of each rental unit, regardless of unit type. For each allowable dwelling unit, the following number of new hotels and motels will be allowed:

- Three rental units under 425 square feet; or
- Two rental units under 725 square feet; or
- One rental unit over 725 square feet.

However, if approved through a planned development rezoning, even higher ratios may be approved, "provided all other aspects of the development (height, traffic, intensity of use, etc.) are found to be compatible with the surrounding area."

To illustrate the numerical densities with actual examples, Table 4-2 provides official data on the density of a selection of existing motels at Fort Myers Beach.

Table 4-2 — Hotel/Motel Densities

<u>Name</u>	<u>Address</u>	<u># of rental units</u>	<u># of total acres</u>	<u>rental units per acre</u>
Lani Kai Island Resort	1400 Estero	100	0.98	102
Ramada Inn	1160 Estero	70	0.87	80
Lighthouse Island Resort	1051 5 th St.	40	0.72	56
Outrigger Beach Resort	6200 Estero	144	3.92	37
Days Inn	1130 Estero	33	0.98	34
Best Western	684 Estero	75	2.87	26
Buccaneer Resort Inn	4864 Estero	25	0.98	26
Holiday Inn	6890 Estero	103	3.91	26
Neptune Inn	2310 Estero	65	2.86	23
Sandbar Resort	5480 Estero	12	0.61	20
Carousel Motel	6230 Estero	26	1.52	17

In 1996 there were about 1227 motel rooms in the town of Fort Myers Beach using a total of 32.3 acres of land, yielding an average density of 38 rooms per acre. This is more than double the average multifamily density of 17.2 dwelling units per acre.

Since adoption of the 1984 Lee Plan, the density of new multifamily buildings has been limited to 6 dwelling units per acre, quite low compared to the average *existing* multifamily density. Much of the multifamily development that has taken place since 1984 has taken advantage of pre-1984 approvals or court orders (for example, at Bay Beach and Gullwing). Because of the substantial density multipliers that Lee County has allowed for motels and the continued demand for short-term rental units, landowners without vested approvals or court orders are being provided an incentive to build motels instead of condominiums.

An unanswered question is the economics of renting motel rooms versus renting full dwelling units (with kitchens and bedrooms). Conflicting testimony has been presented on this question during the preparation of this comprehensive plan. Some have asserted that the rental market for condominiums (or suite-type motel units) is poor relative to the supply; and others have stated that full-sized condominiums remain the best and most profitable rental market at Fort Myers Beach.

Two charts illustrate pertinent tourism data collected by the Lee County Visitor and Convention Bureau. Figure 6 shows occupancy rates by month for the past five years (for motels, hotels, and other short-term rentals). A slight “flattening” of the February-March peak season is evident, along with the strengthening of tourism during November, January, April, and May. Figure 7 compares the 1995 average daily rates with other parts of Lee County, with Fort Myers Beach remaining well below Sanibel and Captiva but above Fort Myers, Cape Coral, and Bonita Springs.

Lodging Throughout Lee County, By Area
Average Daily Unit Rate By Month in 1995

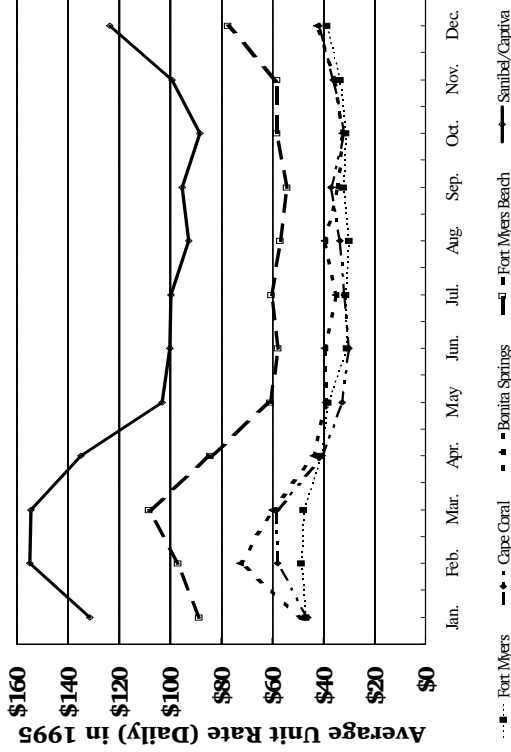


Figure 1, Comparative lodging rates

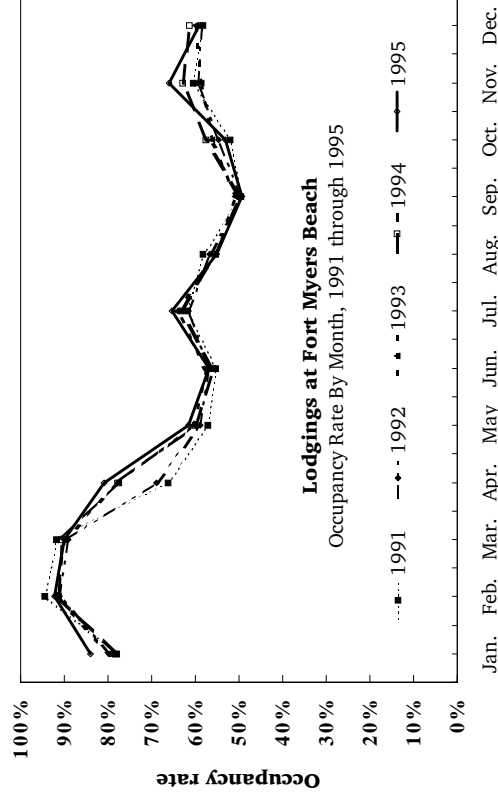


Figure 2, Occupancy rates at Fort Myers Beach

Several Florida coastal communities were surveyed to determine how they regulate motel densities.

The city of Sarasota allows unlimited hotel and motel units anywhere in their downtown; multifamily units are also allowed there at 50 dwelling units per acre. Sarasota also allows motels by special exception in several of their higher-intensity multifamily districts (those allowing up to 18 through 35 dwelling units per acre). Two hotel or motel units are allowed for each dwelling unit.

The city of Deerfield Beach allows hotels and motels by special exception in its highest-intensity multifamily district, which allows up to 25 dwelling units per acre. If approved, motels may have up to 38 units per acre.

The city of Sanibel has what might be called a *reverse multiplier* for all resort housing (which includes motels and any other units that can be rented for less than 4 consecutive weeks). In its highest density category, 5 regular dwelling units are allowed per acre, with an assumed capacity of 2.2 persons per unit. Where resort housing is allowed, its density is calculated to maintain the same *presumed number of persons*. This is an attempt to gauge the relative impact of varying housing types by projecting the number of residents, rather than by measuring the physical size or other measure of impact. Table 4-3 shows Sanibel's presumed average rates, and the resulting density multiplier.

As a consequence of Sanibel's low multifamily density cap and its "reverse" multiplier, only one new motel has been built in the 20+ years since incorporation, and it was not a financial success. A similar approach might cause the same result at Fort Myers Beach.

Table 4-3 — Sanibel Density Multipliers

<u>Type of Resort Housing Unit</u>	<u>Presumed Average Occupancy Rate</u>	<u>Calculated Multiplier</u>
Motel rooms and 1-bedroom units up to 600 sq. ft.	2.5 persons per unit	0.88
2-bedroom units	3.5 persons per unit	0.63
3-bedroom units	4.25 persons per unit	0.52
4-bedroom units	5.0 persons per unit	0.44

In summary, density multipliers for motels are not universally used. Where high densities are allowed for multifamily units, multipliers aren't necessary. Where density caps are relatively low (such as Sanibel and Fort Myers Beach), some positive density multiplier will be needed if new and refurbished motels are to play an important role in the community. However, it is clear from recent history that density multipliers that are too high will result in buildings that will overwhelm the small-town character of most of Fort Myers Beach.

The current single density cap across the entire island could lead to a situation where attempts to protect quiet residential neighborhoods could stifle the tourism economy in the main business district. Since most communities do not put density multipliers for motel rooms in their comprehensive plans, they could be contained in the Land Development Code, for instance by having lower density multipliers for motels in multifamily zones than for those in commercial zones. (Note that *new* motels are not allowed in multifamily zoning districts, but *existing* motels there may be completely rebuilt at up to whatever density is currently allowed.)

The selected solution for the Town of Fort Myers Beach is to adopt different density multipliers based on land-use categories on the new Future Land Use Map. These multipliers will only apply where guest units (which include motels) are permitted in a specific zoning category. The exact multipliers will be contained in the Land Development Code; an example might be:

- In the “Mixed Residential” category, the multiplier might be 1.5
- In the “Boulevard” category, the multiplier might be 2.0
- In the “Pedestrian Commercial” category, the multiplier might be 2.5, provided that some or all parking is provided in off-site shared lots.

Policy 4-C-6 describes this concept, which will be implemented through forthcoming revisions to the Land Development Code.

- a. the type of commercial activities (such as traffic to be generated, hours of operation, and noise);
 - b. its physical scale (such as the height, and bulk of proposed buildings); and
 - c. the orientation of buildings and parking).
- Commercial activities that will intrude into residential neighborhoods because of their type, scale, or orientation shall not be approved.

POLICY 4-C-4 BUILDING HEIGHTS: The Land Development Code shall limit the height of new buildings under most conditions to two stories above flood elevation (exceptions may include the buildback situations (see Policies 4-D-1 and 4-E-1), and different heights may be applied to officially designated redevelopment areas such as Times Square, Red Coconut/Gulf View Colony, and Villa Santini Plaza). In those few cases where individual parcels of land are so surrounded by tall buildings on lots that are contiguous (or directly across a street) that this two-story height limit would be unreasonable, landowners may seek relief through the planned development rezoning process, which requires a public hearing and notification of adjacent property owners. The town will approve, modify, or deny such requests after evaluating the level of unfairness that would result from the specific circumstances and the degree the specific proposal conforms with all aspects of this comprehensive plan, including its land-use and design policies, pedestrian orientation, and natural resource criteria. Particular attention would be paid to any permanent view corridors to Gulf or Bay waters that could be provided in exchange for allowing a building to be taller than two stories. In each case, the town shall balance the public benefits of the height limit

against other public benefits that would result from the specific proposal.

DENSITY: This plan establishes density levels as the maximum number of residential dwelling units allowed per acre of land (DU/acre). This acreage includes all residential land plus land within the development to be used for street and utility rights-of-way, recreation and open space, water management, and existing lakes that are entirely contained within the residential development. Commercial and other non-residential land shall not be included in this acreage; however, where mixed uses are permitted in a single building, residential densities will be computed without regard for commercial uses located on lower floors. When computing densities on existing subdivisions where lots are smaller than 15,000 square feet, one-half the width of adjoining streets and canals may be included in the acreage, and computed densities greater than 1.50 DU/acre may be rounded up to two dwelling units where multiple dwelling are permitted.

MOTEL DENSITIES: The Land Development Code shall specify equivalency factors between guest units (which include motel rooms) and full dwelling units. These factors may vary based on size of guest unit motel room and on land-use categories on the Future Land Use Map. They may vary between a low of one guest unit motel room and a high of three guest units motel rooms for each dwelling unit. (These factors would apply only where guest units motels are already permitted.) In order to implement the 1999 Old San Carlos Boulevard / Crescent Street Master Plan that encourages mixed-use buildings with second and third floors over shops on Old San Carlos, hotel rooms may be substituted for otherwise allowable office space in that situation and location only without using the equivalency

POLICY 4-C-5

POLICY 4-C-6

factors that apply everywhere else in the town. This alternate method for capping the number of hotel rooms applies only to properties between Fifth to First Streets that lie within 200 feet east and west of the centerline of Old San Carlos Boulevard. Hotel rooms built under this alternate method must have at least 250 square feet per rentable unit, and under no circumstances shall buildings they are located in exceed four stories (with the ground level counted as the first story).

POLICY 4-C-7 ACCESSORY APARTMENTS: Accessory apartments are common at Fort Myers Beach and may be legal under several circumstances:

- i. If the apartment is in a building that meets all requirements (including density limits in this plan); or
- ii. If the apartment was built prior to zoning in 1962 and has been in continuous use, it may qualify as a “legally non-conforming use” and can continue in use until taken out of service; or
- iii. If the apartment was built between 1962 and 1984 and complies with all requirements except the density cap of 6 dwelling units per acre and the floodplain elevation requirements (both of which took effect in 1984); or
- iv. If a single existing apartment is in an owner-occupied home, it is not considered an independent dwelling unit and may be allowed under certain conditions as specified in the Land Development Code.

POLICY 4-C-8 DENSITY TRANSFERS: The Town Council may, at its discretion, permit the transfer of residential and hotel/motel development rights from one parcel to another if the following conditions are met:

- v. the transfer is clearly in the public interest, as determined by the Town Council;
- vi. the parcels affected by the transfer are in close proximity to each other;
- vii. the density of residential or hotel/motel units being transferred is based upon allowable density levels in the category from which the density is being transferred;
- viii. the transfer is approved through the planned development rezoning process; and
- ix. binding permanent restrictions are placed on the property from which development rights have been transferred to guarantee the permanence of the transfer.

POLICY 4-C-9 UTILITY SERVICES: Utility services may be constructed in any category on the Future Land Use Map provided all development regulations are met including proper zoning.

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

POLICY 4-C-11 SANTOS ROAD: The town is interested in considering land-use alternatives for parcels bordering Palermo Circle, Santos Road, and Estero Boulevard. Alternatives may include: Santos Road being added into the pedestrian zone; limited retail on the ground floor along Santos, with shared off-site parking; better buffering of existing parking and refuse areas; and a clear separation between all commercial uses and the residential areas

TOWN OF FORT MYERS BEACH — 2008 PROPOSED COMPREHENSIVE PLAN AMENDMENTS

Application #: 2008-07-TEXT

Description: Amend Policy 7-B-3 to make its second clause permissive rather than mandatory and to reference the potential for other reasons that might cause the town to negotiate turnover of maintenance responsibility for Estero Boulevard; amend Objective 7-E in a corresponding manner

Pages to be changed: Comprehensive Plan Pages 7-A-44—7-A-45 (no changes required) and 7-28— 7-29 (proposed changes are attached)

Discussion in E/A Report From Page 46:

(adopted on Jan 16 '07): *EXISTING POLICY 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 the turnover of responsibility for its maintenance if necessary to carry out these improvements.*

“EVALUATION OF POLICY 7-B-3: ...Serious discussions of transferring maintenance responsibility for Estero Boulevard to the town have not taken place. However, the county and town are now jointly carrying out an important study of the feasibility of a transit-only lane on Estero Boulevard (see page 52). Detailed plans for improvements have been delayed until the feasibility can be determined.

“This policy would be improved if two changes were made to its second clause: the second clause should be permissive rather than mandatory, and it should also reference the potential for other reasons to cause the town to negotiate turnover of maintenance responsibility for Estero Boulevard.”

Action by LPA:

Action by Town Council:

along Estero Boulevard to emphasize heavy pedestrian use there. In addition, the new "zebra" pedestrian crossings alert motorists of pedestrian crossings, primarily at beach access points (13 out of the 36 beach access points have pedestrian crossings) and more intense commercial and residential nodes (Times Square, Villa Santini Plaza, and Red Coconut RV Park). Their effectiveness cannot be gauged yet but some reduction in injuries and property damage have already appeared. Lee County is now considering new signs that would encourage northbound traffic to use Crescent Street to reach the bridge or the north end of the island.

Hurricane evacuation signs are currently located only at Lovers Lane, Donora Boulevard, Washington Street, and Lenell Road, with the first two directing the traffic towards San Carlos Boulevard and the last two towards Bonita Beach. The point of division is about 2 miles south of Times Square, although no data has been located that would support this split of traffic. The signs at Donora and Washington face traffic from the local roads, while the signs at Lovers Lane face northbound traffic and signs at Lenell face southbound traffic along Estero Boulevard. The location and adequacy of these signs needs to be evaluated now that San Carlos Boulevard and Bonita Beach Road have been widened and any low points on the evacuation routes can be identified. The current division of evacuation traffic should be considered preliminary and subject to further evaluation.

During an evacuation, instructions from law enforcement and emergency management personnel will supersede the signs, but prior to those agencies taking control, opportunities for an early, orderly, and safe evacuation could be lost without proper attention to details such as roadway elevations and properly located signs. Also, the signs provide a constant reminder of the potential danger and general instructions on how best to proceed if evacuation is needed.

Tolls on Bridges

Currently, road maintenance at Fort Myers Beach is divided between the state, the county, and the town. The Florida Department of Transportation (FDOT) maintains San Carlos Boulevard from the signalized crosswalk at Times Square to McGregor Boulevard on the mainland. Lee County DOT maintains Estero Boulevard from the crosswalk south to Big Carlos Pass and beyond. The county has retained maintenance of this portion primarily because Estero Boulevard is part of the county's arterial network and an evacuation route.

The town is responsible for maintaining all other public roads, including Old San Carlos and Estero Boulevard from Times Square north to Bowditch Point. The town does not have its own maintenance crews; it contracts maintenance work to private firms or to Lee County DOT through an interlocal agreement. Under this agreement, the county agrees to provide maintenance as requested by the town at rates that are specified in the agreement. The town and the county have recently extended this agreement through September 1998.

With the recent widening of San Carlos Boulevard and improvements to Estero Boulevard, the routine maintenance costs in the short term will be relatively low. The town could absorb those costs if Lee County and FDOT are willing to relinquish their responsibilities for these facilities. Table 7-A-9 summarizes the maintenance costs for these facilities in 1996.

Table 7-A-9 — Reported Maintenance Costs

<i>Facility</i>	<i>1996 Maintenance Cost</i>
Big Carlos Pass Bridge*	\$70,000
Estero Boulevard	\$37,500
Matanzas Pass Sky Bridge**	\$1,000
San Carlos Boulevard***	\$45,000

* *Includes bridge tenders salaries*

** *Hurricane Pass Bridge not available individually*

*** *Includes up to US 41 via McGregor/Colonial*

The benefits and costs of such a roadway turnover, however, need to be carefully evaluated. The immediate benefit of maintaining all the roads and bridges within the town would be the ease in decision-making about operational improvements such as traffic signals, speed limits, and reversible lanes. The immediate costs might be similar to those found in Table 7-A-7-A-4, plus the cost of professional engineering assistance.

The longer-term benefit of assuming responsibility would be the ability to implement the town's policies from a focus on "vehicle moving" to "people moving," without having to persuade several other jurisdictions every time an operational change is desired. The long-term costs would include major highway renovation and bridge replacement, including unexpected costs from hurricane damage. Avoiding those costs would be the likely motivation for the state and county to give up their current responsibilities. An independent engineering evaluation of the condition of both bridges would be essential before seriously negotiating over their future.

The turnover of county facilities to the town might be relatively easy due to the county's recent efforts to turn over responsibility for a wide variety of county facilities, especially those in cities, including neighborhood and community park maintenance (such as Bay Oaks) and arterial road maintenance (such as Periwinkle Way and Sanibel-Captiva Road on Sanibel).

The transfer of maintenance responsibility from the state, however, may be more complex. FDOT's general policy disfavors a piecemeal approach to turning over their facilities. Since the sky bridge is part of San Carlos Boulevard, FDOT can be expected to suggest that turnover of the bridge be connected with assuming responsibility for an entire link of San Carlos Boulevard to a logical terminus as far away as Summerlin Road (which is about 3 miles outside the town's boundary).

FDOT proposed a similar approach in 1995 during negotiations with Collier County about placing a toll on the bridge to Marco

Island. FDOT cited its formal policy against imposing tolls where they are not needed to repay revenue bonds; this policy is designed to keep motorists from "paying a second time" for a facility that was built with traditional user fees such as gas taxes. However, FDOT will consider exceptions to this policy after examining the effect of tolls on the overall transportation system and how they relate to local transportation planning.

(Whenever tolls are in excess of costs to maintain a road or bridge, FDOT uses them for other roads in the same county.) In the Marco Island case, FDOT suggested that Collier County might take over the Marco Island Bridge, but only in a package with all of State Road 951 from Marco Island to U.S. 41 (a distance of 7 miles). Then FDOT policy would not affect any decisions on tolls.

The imposition of tolls has the potential to modify travel behavior as well as be a significant revenue source for transportation purposes. Properly used, tolls can help manage congestion, with toll levels varying by season or time of day. There are potentially suitable sites for a toll facility off the island, but none on the island. Maintaining former county and state roads and bridges could allow the use of tolls if they prove desirable. The impact of tolls on the tourism-based economy of Fort Myers Beach, however, must be carefully evaluated before this possibility forms the basis of assuming additional road maintenance responsibility.

The town may also wish to consider the potential for future annexations in the same discussion on road turnover. For instance, a terminus on San Carlos Boulevard might be negotiated with FDOT in conjunction with establishing a maximum future boundary of the town, or considering the use of the San Carlos Boulevard right-of-way as the required contiguity with the town for land that doesn't directly abut the town's current boundaries. The same issues might arise in taking over responsibility for the Big Carlos Pass Bridge and portions of Hickory Boulevard beyond the bridge. The town

will be required to address both concerns.
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 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 may staff negotiate with Lee County for the turnover of responsibility for its maintenance if necessary to carry out these improvements or to further other town policies.

OBJECTIVE 7-C

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

POLICY 7-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 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 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. 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 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.

POLICY 7-D-2

IMPROVE TROLLEY SERVICE: Trolley ridership increases when service is more frequent and when fares are low or free, yet no long-term funding or operational plan has been developed for providing higher service levels. 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 redevelopment 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 7-D-3

ALTERNATE TRAVEL MODES: The town shall support alternatives to car travel to free up road capacity for trips that do require a car. 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 7-D-4

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

POLICY 7-D-5

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.

OBJECTIVE 7-E UPGRADE ESTERO BOULEVARD — As part of its congestion avoidance strategy, the town shall methodically upgrade Estero Boulevard to reduce speeding and encourage walking, as higher traffic speeds and car-oriented businesses are antithetical to its pedestrian character. (If a suitable partnership to this end cannot be achieved with Lee County, the town may ~~shall~~ consider taking on maintenance responsibility for Estero Boulevard.)

POLICY 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 sidewalks 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 7-E-2

TRAFFIC CALMING: The town shall support two types of traffic calming to reduce speeding, which endangers lives and

TOWN OF FORT MYERS BEACH — 2008 PROPOSED COMPREHENSIVE PLAN AMENDMENTS

Application #: 2008-08-TEXT

Description: Delete Policy 7-H-3 regarding left-turns on Estero Boulevard as northbound traffic passes Times Square
Pages to be changed: Comprehensive Plan Pages 7-23 and 7-32 (proposed changes are attached)

From Page 23: “EVALUATION OF POLICY 7-H-3: Eliminating left turns for northbound traffic headed toward Lynn Hall Park would require those vehicles to instead travel north on Crescent Street, under the Sky Bridge, and south on Old San Carlos to reach their destinations. Unfamiliar drivers who miss the turn at Crescent Street would have no choice but to leave the island then circle back and return. These difficulties have to be balanced with any minor improvements in traffic flow that would occur by eliminating this left turn. As described beginning on page 30 [of E/A Report], new alternatives have been examined for this area that are more promising than the simple closure of the turn lane as described in Policy 7-H-3.”

Action by LPA:

Action by Town Council:

5. Experiment Widely

Although many resort communities have severe traffic problems, the exact nature of the problems can differ greatly. Although Lee County and Florida DOT have tried to address traffic problems at Fort Myers Beach, their attention is inevitably divided across their entire jurisdiction. The Town of Fort Myers Beach needs to constantly search for innovative solutions to long-standing problems and to new problems as they develop.

Many traffic engineering solutions can be tried as closely monitored experiments. The town can be a catalyst for those experiments, and may wish to retain a creative traffic engineer to provide advice on a continuing basis. This would be especially helpful if the town experiments with complex changes such as reversible lanes (see pages 7-A-35 to 7-A-39 of Appendix A).

An official spirit of experimentation will allow creative ideas to be tested without any stigma of failure if they prove unpopular or unproductive. The following list of experiments and data needs has been compiled from citizen comments during the preparation of this plan:

- Signalized pedestrian crossing at Times Square: This important pedestrian crossing was recently provided with a full traffic signal, actuated by pedestrian push-buttons. Since Estero Boulevard has only two lanes here, and traffic often moves slowly around the bend, pedestrians often tire of waiting for the light to change and cross when they see a gap in traffic. Motorists are then forced to stop for no apparent purpose. This signal might operate better as a continuously flashing yellow, especially if pedestrians had a more protected refuge between the lanes. If such an experiment failed to allow pedestrian crossings at an acceptable level of safety, a pedestrian overpass may be able to reduce the number of pedestrians in the crosswalk without discouraging foot traffic in this highly congested area.

- San Carlos Boulevard approach to the Matanzas Pass Sky Bridge: The widening of San Carlos Boulevard from the mainland has created severe problems on the approach to the sky bridge where its five lanes are reduced to two lanes. Initial experiments have already been tried to discourage drivers from using side streets on San Carlos Island to get ahead of the line of cars waiting to enter the bridge. Another problem is cars that pass the waiting line and then take advantage of polite tourists by slipping in at the front of the line, greatly lengthening the wait for all other drivers. Creative experimentation is certainly called for here.

- ~~Left-turns from Estero Boulevard onto Fifth Street~~: ~~Just to the north of the crosswalk, a left-turn lane is provided for drivers headed for Lynn Hall Park or the north end of the island. This is convenient for those drivers but could be harmful if these turns interfere with traffic flow off the bridge or if they interfere with northbound traffic on Estero Boulevard. A 1994 traffic study for Lee County strongly recommended closing off this turn lane and directing northbound drivers across Crescent Street and under the bridge at First or Second Streets to reach the north end of the island. This detour has never been tried but has the potential to improve traffic flow.~~

- Variable message signs: These signs were discussed earlier as an ideal way to advise motorists of congestion delays and available parking. The signs themselves and their data-collection devices will require creative planning and engineering to fulfill their promise.
- Origin/destination data: The December 1993 origin/destination survey was a good source of data but

traffic flow at Fort Myers Beach. Some potential improvements are described in the following policies.

POLICY 7-H- 1 **PEDESTRIAN OVERPASSES:** Although pedestrian overpasses are often ignored by pedestrians, an overpass providing a panoramic view of the Gulf might be attractive enough to reduce at-grade crossings at Times Square without discouraging foot traffic in this highly congested area. Even without an overpass, the pedestrian-actuated stop light might be replaceable with a flashing caution light to minimize effects of the crossing on traffic flow.

POLICY 7-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 7-H- 3 **RESERVED LEFT-TURNS AT-TIMES SQUARE:** ~~Northbound traffic headed for Lynn Hall Park now turns left just past Times Square. These turns could interfere with traffic flow on Estero Boulevard, if so, alternatives using Crescent Street should be considered.~~

POLICY 7-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 7-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 7-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 7-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.

POLICY 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 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 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.

TOWN OF FORT MYERS BEACH — 2008 PROPOSED COMPREHENSIVE PLAN AMENDMENTS

Application #: 2008-09-TEXT

Description: Modify Policy 7-J-2 to set a new date for modifying the land development code to require a useful traffic impact analysis for new developments

Pages to be changed: Comprehensive Plan Pages 7-15 and 7-33 (proposed changes are attached)

Discussion in E/A Report (adopted on Jan 16 '07): *From Page 50:* "EVALUATION OF POLICY 7-J-2: This is the only policy in the plan that specifies a change to the LDC that has not yet been carried out. This task is more complex than had been anticipated and the 1999 date should be changed. The town may need to hire a specialized transportation consultant to create the specifications that developers would be required to follow in preparing traffic impact analyses for their proposed developments."

Action by LPA:

Action by Town Council:

Improve sidewalks and bikeways

Fort Myers Beach has outstanding opportunities to increase pedestrian and bicycle activity. The physical layout of the community encourages walking and biking, with all homes within just a short distance from the beach and active commercial areas. Currently there are sidewalks on one side of most of Estero Boulevard, and Lee County has imminent plans to fill one gap from Buccaneer to Estrellita Drive using federal funds. The town should make every effort to have this project expanded to fill the other gap from the Villa Santini Plaza to Bay Beach Lane.

Future sidewalk projects would include sidewalks on the opposite side of Estero Boulevard, which would also improve safety and congestion by reducing the number of pedestrian crossings. In some areas, wide rights-of-way allow many design choices; in others, deep drainage ditches could be put underground and covered with new sidewalks.

Bicycles and pedestrians often share sidewalks, but that situation is not ideal, especially where the number of pedestrians is high and the sidewalks are narrow. Where the right-of-way is wide, separate bike paths and sidewalks can be built. In areas with limited right-of-way, bicyclists could be provided with extra-wide travel lanes (14 feet wide); bicyclists would then be able to ride with the flow of traffic, leaving the sidewalk to pedestrians. The ultimate result would be a resort environment that truly supports walking, bicycling, and public transportation.

There are several funding sources for sidewalks and bikeways, including federal “transportation enhancement” funds, gasoline tax proceeds, and (potentially) road impact fees. Another option would be the establishment of a special taxing or assessment districts (MST/BU), which could be used in conjunction with lighting or other special districts.

Require traffic impact analyses for new development

Under current regulations, the traffic impacts of new development play almost no role in the approval or denial of development orders. The Diamondhead convention center, for instance, is being built between two of the most important nodes of activity on Fort Myers Beach, and will have great impacts on both. Under current rules, however, no traffic circulation analysis was required except for a determination of whether to build a single turn lane. (Further analysis wasn’t required because no rezoning was needed and the number of trips generated in the peak hour fell below a fixed county-wide threshold.)

The town needs to ensure that its development regulations do not allow this situation to continue, and which consider the cumulative impacts of existing and potential development. The Land Development Code needs to be amended to lower the thresholds for requiring traffic impact analyses **and to establish the type of analysis that will aid the town’s decision-making process**. Proper technical analyses must be required, with the results used to determine whether impacts are acceptable and whether an improved design could offset some of the impacts (as in the previous example in Figure 13 where stores separated from the sidewalk will reduce usage by pedestrians and increase traffic impacts). Another example might be parking limitation criteria whereby new trips generated as a result of new or expanded land uses could not trigger a demand for additional parking. **The town will need to hire a specialized transportation consultant to create the specifications that developers would be required to follow in preparing traffic impact analyses for their proposed developments.**

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

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

POLICY 7-I-2 The peak capacity of Estero Boulevard's congested segments is 1,300 vehicles per hour. The minimum acceptable level-of-service standard for Estero Boulevard shall be that average monthly traffic flows from 10:00 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 7-I-3 Figure 18 of this element is hereby adopted as the future transportation map of the Town of Fort Myers Beach.

OBJECTIVE 7-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 not vacate or acquiesce in the vacation of existing rights-of-way except where no public purpose would be served by retaining the right-of-way.

POLICY 7-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 vacations of rights-of-way and easements to preserve future access for these purposes.

POLICY 7-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 ~~2009~~ **1999** 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.