



SPIKOWSKI PLANNING ASSOCIATES

MEMORANDUM

TO: Gary Parker, Town Manager
FROM: Bill Spikowski
DATE: May 1, 2007
SUBJECT: Upcoming Comprehensive Plan Amendments

The Florida Department of Community Affairs has notified the town that it has formally accepted the Evaluation and Appraisal Report on the Fort Myers Beach Comprehensive Plan, as adopted by the Town Council on January 16. The DCA letter is attached.

This acceptance begins an 18-month period during which the town formally considers the comprehensive plan amendments proposed in the E/A Report. A summary of these amendments is attached (reprinted from page 85 of the report), along with a tentative timeline for public hearings.

As a result of state legislation in 2005, certain other plan amendments must be considered during this same period:

- ❑ **School concurrency**, previously an option for local governments, is now becoming mandatory. Residential development orders cannot be approved without capacity to accommodate additional students. The legislation requires that this be a countywide program, beginning with a replacement for the 2002 interlocal planning agreement, followed by each city adopting a new public school facilities element. The legislation contains a deadline of December 1, 2008, but DCA is requiring that Lee County and its municipalities complete these requirements by April 1, 2008.
- ❑ **New “financial feasibility” requirements** have been imposed on local government capital improvement programs. Every comprehensive plan must be modified to comply with these requirements by December 1, 2007. (However, due to statewide confusion over the meaning of these requirements, the legislature is now considering minor revisions and a possible 12-month extension to the deadline.)

If the Town Council wishes to consider any other plan amendments during this same period, such amendments should be initiated at this time. Can you put this question on the agenda for an upcoming Town Council meeting? One potential amendment that has been mentioned several times is a reconsideration of Policy 4-E-2 which requires that buildings that are partially seaward of the 1978 coastal construction setback line be rebuilt landward of this line if they are reconstructed for any reason (with certain exceptions based on advice from the Department of Environmental Protection).

*Attachments: DCA letter dated April 4, 2007
Summary of Recommended Plan Amendments (page 85 of E/A Report)
Tentative timeline for plan amendments*

cc: Community Development Director, Town Attorney



STATE OF FLORIDA
DEPARTMENT OF COMMUNITY AFFAIRS
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April 4, 2007

The Honorable Dennis Boback
Mayor, Town of Fort Myers Beach
2523 Estero Boulevard
Fort Myers Beach, Florida 33931

Re: City of Fort Myers Beach Adopted Evaluation and Appraisal Report
Resolution Number 07-05

Dear Mayor Boback:

I am pleased to inform you that the Department of Community Affairs (Department) has completed its preliminary review of the Evaluation and Appraisal Report (EAR) for the City of Fort Myers Beach that was adopted on January 16, 2007, and determined that the EAR is sufficient, pursuant to Subsection 163.3191(9), Florida Statutes (F.S.). This finding of sufficiency should be taken as the Final Determination on the Report.

Please note that a sufficiency determination does not constitute a compliance review of the proposed amendments identified in the Report. The amendments referenced in the Report, as well as any other amendments shall be reviewed for consistency with Chapter 163, Part II, F.S., and Rule 9J-5, Florida Administrative Code, when submitted as proposed amendments. Also, pursuant to the intent of Subsection 163.3191(10), F.S., amendments to update a comprehensive plan based on the evaluation and appraisal report shall be proposed and adopted within 18 months after the report is determined to be sufficient.

The Department's staff is available to provide any needed assistance to the City of Fort Myers Beach as it prepares the EAR-based amendments. If you have any questions, please do not hesitate to call Bernard O. Piawah, Principal Planner, at 850-922-1810.

Sincerely,

Mike McDaniel
Chief, Comprehensive Planning

MM/bp

cc: Mr. William M. Spikowski, AICP, Spikowski Planning Associates
Mr. David Burr, Executive Director, Southwest Florida Regional Planning Council

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SECTION 11. SUMMARY OF RECOMMENDATIONS

This report contains the following recommendations for amendments to the Fort Myers Beach Comprehensive Plan:

- **Revise Policy 4-D-1 and revise or repeal Policy 5-C-7** regarding “repetitive loss” properties under the National Flood Insurance Program (see pages 11, 14, and 71).
- **Clarify Policy 4-E-1** to maintain the original intention of *pre*-disaster buildback. 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 (see page 14).
- **Clarify Policy 4-C-6** so that it unquestionably applies to all guest units, not just to motel rooms (see page 18).
- **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 (see page 18).
- **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.
- **Delete Policy 7-H-3** regarding left-turns on Estero Boulevard as northbound traffic passes Times Square (see page 23)
- **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 (see page 57).
- **Revise Objective 9-F** to set a realistic timetable for the completion of a stormwater master plan (see page 61).
- **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 (see page 62).
- **Update the Capital Improvements Element** to comply with new statutory requirements, including the annual update to the five-year schedule of capital improvements (see page 65).

These amendments will be considered during a single plan amendment cycle during the eighteen-month period allowed for this purpose.²¹

²¹ F.S. 163.3191(10)

Timeline to Amend Fort Myers Beach Comprehensive Plan

