

ORDINANCE 09-02

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH AMENDING CHAPTER 34 OF THE TOWN OF FORT MYERS BEACH LAND DEVELOPMENT CODE; PROVIDING AUTHORITY, AMENDMENTS TO CHAPTER 34, ZONING DISTRICTS, DESIGN STANDARDS, AND NONCONFORMITIES, ARTICLE II, ZONING PROCEDURES, DIVISION 4, APPLICATIONS AND PROCEDURES, SUBDIVISION II. ADDITIONAL PROCEDURES FOR PLANNED DEVELOPMENT ZONING DISTRICTS, SECTION 34.219(b) WHICH IS ENTITLED "ADMINISTRATIVE AMENDMENTS TO APPROVED MASTER CONCEPT PLAN;" PROVIDING FOR ELIMINATION OF NON-CONTROVERSIAL CRITERION FOR STAFF TO CONSIDER IN ADMINISTRATIVE AMENDMENTS TO APPROVED MASTER CONCEPT PLANS UNDER CERTAIN CIRCUMSTANCES; PROVIDING FOR FEE TO BE IN ACCORDANCE WITH LAND DEVELOPMENT CODE SECTION 34-53 RATHER THAN SET BY TOWN STAFF; SEVERABILITY; EFFECT OF ORDINANCE; AND EFFECTIVE DATE.

IT IS HEREBY ORDAINED BY THE TOWN OF FORT MYERS BEACH AS FOLLOWS:

SECTION 1. Authority. This Ordinance is enacted pursuant to Chapter 95-494, Laws of Florida, Chapters 163 and 166, Florida Statutes, and other applicable provisions of law.

SECTION 2. Revision to Criteria for Staff to Consider For Proposed Administrative Amendments to Approved Master Concept Plan. The criteria for staff to consider for a proposed administrative amendments to an approved master concept plan, as set forth in Section 34-219(b)(1), are amended to read as set forth below. Language being repealed from the existing code is indicated with ~~strikethroughs~~ and entirely new language being added is indicated with underlining, as follows:

SECTION 34-219 (b). Amendments that may be approved by the director include, in general, any change which does not increase height, density or intensity (i.e., number of dwelling units, hotel units, or floor area), decrease buffers or open space, or add additional land uses. The director shall not approve any change which results in a reduction of total open space, buffering, landscaping, and preservation areas or which adversely impacts on surrounding land uses.

- (1) This authority is granted to the director to eliminate unnecessary processing delays for proposed changes that are:
 - a. Substantially similar to the prior approval; and
 - ~~b. Likely to be noncontroversial; and~~
 - e. b. In conformance with all town regulations and plans.

SECTION 3. Revision to Determination of Fee for Appeal of Director's Decision Concerning Administrative Amendments to an Approved Master Concept Plan. The determination of the fee for an appeal of the decision by the director concerning administrative amendments to an approved master concept plan as set forth in Section 34-219(b)(2)b. is amended to read as set forth below. Language being repealed from the existing code is indicated with ~~strikethroughs~~ and entirely language being added is indicated with underlining, as follows:

SECTION 34-219(b)(2)b. The appeal must be filed and processed in accordance with Section 34-86. In addition, the appellant must provide a list and map of surrounding property owners and one set of mailing labels in accordance with Section 34-202(6) and (7), and shall pay a fee established ~~by the director~~ in accordance with the provisions of Section 34-53.

SECTION 4. Severability. If any one of the provisions of this ordinance should be held contrary to any express provision of law or contrary to the policy of express law, although not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such provision shall be null and void and shall be deemed separate from the remaining provisions of this ordinance, and in no way affect the validity of all other provisions of this ordinance.

SECTION 5. Effect of Ordinance. The provisions of this Ordinance shall be deemed cumulative and supplemental and shall have no legal effect upon the ordinances of the Town of Fort Myers Beach, except as expressly provided.

SECTION 6. Effective Date. This ordinance shall become effective immediately upon its adoption.

The foregoing ordinance was enacted by the Town Council upon a motion by Council Member Babcock and seconded by Council Member List and, upon being put to a vote, the result was as follows:

Larry Kiker, Mayor aye
Tom Babcock aye
Bob Raymond aye

Herb Acken, Vice Mayor aye
Jo List aye

DULY PASSED AND ENACTED this 6th day of April, 2009.

ATTEST:


Michelle Mayher, Town Clerk

TOWN OF FORT MYERS BEACH

BY: 
Larry Kiker, Mayor

Approved as to Legal Form by:


Anne Dalton, Esquire, Town Attorney