

TOWN OF FORT MYERS BEACH — 2008 PROPOSED COMPREHENSIVE PLAN AMENDMENTS

Application #: 2008-14-MAP

Description: Modify the Future Land Use Map, [Policy 4-B-2, and Chapter 1](#) to depict the state’s new definition of “coastal high-hazard area”

Pages to be changed: ~~None~~ [Comprehensive Plan Pages 1–2, 4–41, 4–42, and 4–44 \(see changes on attached pages\)](#)

Discussion in E/A Report (adopted on Jan 16 ‘07): This amendment was not discussed in the E/A Report.

This and the previous amendment (2008-13-TEXT) are the result of recent state legislation which changed the definition of the term “coastal high-hazard area” in § 163.3178(2)(h), *Florida Statutes*.

Local governments are required to include a map of their “coastal high-hazard zone” on their Future Land Use Map. Since the old and new zones are identical, no changes are required to the Fort Myers Beach Future Land Use Map.

Since both zones encompass the entire town, it may not be obvious to review agencies that the town is already in compliance with this new requirement without a map amendment. To demonstrate compliance with § 163.3178(9)(c), a prior amendment (2008-13-TEXT) is adding a new sentence to Policy 4-B-2 of the Future Land Use Element stating that the entire town is located within the coastal high-hazard area.

Therefore, the map amendment previously proposed is not necessary. To respond to DCA’s objection as reprinted below, four changes are now proposed, as shown on the following pages:

- The first is to add narrative on Page 1-2 explaining that a new Figure 17 is part of the legally adopted comprehensive plan.
- The second to add narrative on Page 4-41 explaining that a new Figure17 is being added to the Future Land Use Map series to show that the entire town is in the “coastal high-hazard area” as defined in § 163.3178(2)(h), *Florida Statutes*.
- The third is to display the new Figure 17 on Page 4–42.
- The fourth is to add a reference to the new Figure 17 in Policy 4-B-2 on Page 4–44.

Action by LPA: During a public hearing on November 18, 2008, the LPA unanimously accepted ~~this~~ the original recommendation as written (to not adopt this amendment).

Action by Town Council: During a public hearing on December 15, 2008, the Town Council voted unanimously to transmit ~~this~~ amendment the LPA's recommendation for state review.

DCA Objection: "The Town's Comprehensive Plan Future Land Use Map (or map series) does not depict the Coastal High Hazard Area, and the proposed Amendment 09-1ER does not amend the Future Land Use Map (or map series) to depict the Coastal High Hazard Area, supported by data and analysis, consistent with the new definition of the Coastal High Hazard Area."

DCA Recommendation: "Revise the Future Land Use Map (or map series) to depict the Coastal High Hazard Area, supported by data and analysis, consistent with the definition of the Coastal High Hazard Area."

Response to DCA: This amendment has been modified to accept DCA's recommendation.

Proposed Final Action: The Town Council should adopt this revised amendment, as described above, as part of Ordinance 09-03.

Final Action: The Town Council adopted this amendment on August 17, 2009, as part of Ordinance 09-03.
(Text shown in red is new or has changed since the initial transmittal of this amendment in January 2009.)

HOW THIS DOCUMENT IS ORGANIZED

This document is organized into fifteen chapters. Following this introduction is “Envisioning Tomorrow’s Fort Myers Beach,” an optimistic look at the community that the town hopes will evolve. The next twelve chapters contain the twelve main “elements” of this plan, organized by subject area. The Community Design Element is placed first because its concepts have inspired many other parts of this plan. The final chapter contains procedures for interpreting and monitoring this plan.

Each element contains at least two parts:

- A narrative description of current conditions and possible courses of action for the town; and
- Formal goals, objectives, and policies selected by the town as its legally binding comprehensive plan.

The Town of Fort Myers Beach has decided to publish the full narrative portion of each element in this document. This provides its residents with a wealth of interesting information and an understanding of courses of action that were studied but perhaps not included in the formal plan.

The town legally “adopted” only certain portions of this document as its formal comprehensive plan. Formally adopted by Ordinance 98-14, effective January 1, 1999, are:

- All goals, objectives, and policies for each of the twelve elements;
- A “Future Land Use Map” (Figures 16 and 17 in the Future Land Use Element) and a “Future Transportation Map” (Figure 18 in the Transportation Element);
- A five-year schedule of capital improvements (Table 11-7); and
- All of Chapters 1, 2, and 15.

To help readers identify those portions of each element that are being formally adopted, the goals, objectives, and policies of each element are printed on gray paper. The “adopted” portions of this plan become a law of the Town of Fort Myers Beach. Once comprehensive plans are adopted, “...no public or private development shall be permitted except in conformity with comprehensive plans...” (Section 163.3161(5), *Florida Statutes*).

REVISED FUTURE LAND USE MAP

This plan adopts a new “Future Land Use Map” for the Town of Fort Myers Beach. It replaces the map in the current comprehensive plan, which was adopted by Lee County in 1991 at the urging of the Fort Myers Beach Land Use Plan Committee.

The 1991 map divides Estero Island into four categories:

- **Suburban:** applied to most single-family subdivisions and many multifamily developments (for a total of 541 acres).
- **Urban Community:** applied to areas of greater intensity of development, including most commercial areas and many high-rise residential areas (for a total of 174 acres).
- **Public Facilities:** applied to publicly owned land such as Little Estero Island, the Matanzas Pass Preserve and adjoining school and library, and to Bay Oaks, Lynn Hall, and Bowditch Point Parks.
- **Wetlands:** applied to remaining wetlands.

Several shortcomings with the previous maps and their application have become apparent. These include:

- The special policies that were supposed to apply to the “Urban Community” category to avoid over-commercialization have not accomplished their purpose.
- In conformance with past Lee County practice, land-use categories are often assumed to extend out to the mean high water line. Therefore, the dry sandy beach, including newly accreted sand, has often been counted in determining the allowable density of development. This factor inflates the allowable intensity of development along the beaches.
- No provisions were made to allow density to be transferred from one site to a non-contiguous parcel, even when this may be in the public interest.

- No distinction was made between residential areas of varying densities; single-family neighborhoods and high-rise towers often shared the same category.
- The Town of Fort Myers Beach has municipal jurisdiction over waters as far as 1,000 feet beyond Estero Island. The previous Future Land Use Map is silent as to how continuing activities over those waters (such as marina basins, docks, mooring pilings, and boathouses) should be regulated.

In response to these shortcomings, a new Future Land Use Map has been created for this comprehensive plan, as illustrated in Figure 16¹. This plan has eight distinct categories:

- **Low Density:** applied to existing subdivisions with an established low-density character (primarily single-family homes). The maximum density is 4 dwelling units per acre. The only commercial uses allowed are home occupations.
- **Mixed Residential:** applied to older subdivisions with mixed housing types on smaller lots, and to newer high-rise buildings. The maximum density is 6 dwelling units per acre, except where a Future Land Use Map overlay indicates a maximum density of 10 units per acre for legally existing dwelling units. Commercial activities are limited to lower-impact uses such as offices and motels.
- **Boulevard:** a mixed-use district along portions of Estero Boulevard, including less-intense commercial

¹In accordance with Rule 9J-5.006(4): lakes, beaches, canals, bays, and estuaries are also shown on Figure 16. There are no existing or planned public wells at Fort Myers Beach. No historic districts have been established to date. All of the Town of Fort Myers Beach is in the coastal high hazard area. Natural soil types have been obscured by land development activities, but an inventory of remaining soil types can be found in the Soil Survey of Lee County, Florida, U.S. Soil Conservation Service, 1984.

areas and mixed housing types. The maximum density of residential development here is 6 dwelling units per acre, except where a Future Land Use Map overlay indicates a maximum density of 10 units per acre for legally existing dwelling units.

- **Pedestrian Commercial:** a primarily commercial district applied to the intense activity centers of Times Square (including Old San Carlos and nearby portions of Estero Boulevard) and the area around the Villa Santini Plaza. The maximum density of residential development is 6 dwelling units per acre, except where a Future Land Use Map overlay indicates a density of 10 units per acre for affordable units consistent with the adopted redevelopment plan.
- **Marina:** water access services, primarily for pleasure boating, including related accessory uses provided they don't displace marina services. Cruise ships and similar uses that draw large amounts of vehicular traffic are not permitted in this category.
- **Recreation:** applied to public parks, public swimming pool, elementary school, undevelopable portions of the Bay Beach golf course, and Gulf beaches (those portions seaward of the 1978 coastal construction control line). Additional accretions of beach, whether by natural causes or through beach renourishment, will automatically be assigned to this category. No new residential development is permitted (although several existing buildings were legally constructed partially seaward of the control line). The maximum density of residential development here is 1 dwelling units per 20 acres, with all units to be constructed outside this category. The application of this category does not affect any party's ownership rights to the beachfront.

- **Wetlands:** a conservation district applied to all remaining wetlands. The maximum density of residential development here is 1 dwelling units per 20 acres.
- **Tidal Water:** applied to all saltwater canals and all waters surrounding Estero Island that lie within the municipal boundary (out 1,000 feet). No residential development is permitted.

Table 4-8 tabulates the total acreage in each category on the new Future Land Use Map. The "Tidal Water" category includes the tidal canals and all open water out to the municipal boundary, which is 1,000 feet beyond Estero Island.

| <i>Category</i> | <i>Acres</i> |
|-----------------------|----------------------|
| Low Density | 410.2 |
| Mixed Residential | 590.9 |
| Boulevard | 64.1 |
| Pedestrian Commercial | 77.8 |
| Marina | 6.9 |
| Recreation | 292.9 |
| Wetlands | 105.6 |
| Tidal Water | 2,164.6 |
| TOTAL: | 3,713.0 acres |

Four of these categories allow a mixture of land uses. In accordance with state regulations, this plan must include an objective measure for the distribution of land-use mixes in those categories. Table 4-9 identifies the current acreage of non-residential uses (or school and public uses in "Recreation") within each mixed-use category, and then proposes a percentage cap for

Table 4-9 — Mixed-Use Percentages, Existing and Proposed

| <u>Category</u> | <u>December 1998 Actual Totals</u> | | | | | <u>Proposed</u> | | <u>Additional</u> |
|-----------------------|------------------------------------|-------------------------|-------------------------|----------|--------------------------|-----------------|----------------|-------------------|
| | <u>Commercial</u> | <u>Other Non-</u> | <u>Total Non-</u> | | <u>Cap</u> | | <u>Allowed</u> | |
| | <u>Uses</u> | <u>Residential Uses</u> | <u>Residential Uses</u> | <u>%</u> | <u>School/Public Use</u> | | | |
| | <u>Acres</u> | <u>Acres</u> | <u>Acres</u> | | <u>Acres</u> | <u>%</u> | <u>%</u> | <u>Acres</u> |
| Mixed Residential | 28.1 | 18.4 | 46.5 | 7.9% | | | 12% | 24.2 |
| Boulevard | 24.5 | 5.6 | 30.1 | 46.9% | | | 70% | 14.8 |
| Pedestrian Commercial | 44.3 | 1.5 | 45.8 | 58.9% | | | 90% | 24.2 |
| Recreation | | | | | 7.8 | 2.7% | 6% | 9.7 |

each category. The final column shows the additional acreage of non-residential (or school/public) uses that would be allowed based on the percentage cap.

Policies 4-B-4, 4-B-5, 4-B-6, and 4-B-8 include the existing percentage plus the proposed cap (as shown in Table 4-9) for each of the four mixed-use categories. The cap defines the maximum percentages of non-residential (or school/public) land uses that can be built throughout each category without an amendment to this plan. For the purpose of these computations, non-residential land uses are defined as commercial and marina uses; according to the definitions in Policy 4-B-12, this also includes motels, churches, and civic buildings. Land used for government purposes and for utility installations are also included, but road rights-of-way are not counted.

Allowable uses for all of the eight new categories are described below under Objective 4-B. Upon adoption, these goals, objectives, and policies become law, and will be implemented where necessary through amendments to the Fort Myers Beach Land Development Code.

These categories will immediately replace the categories shown on the current Future Land Use Map. Where the adopted category descriptions contain absolute limits (such as the density

or percentage caps for various land use categories), those limits will have immediate legal effect that will supersede more lenient standards that apply to certain zoning districts. The adoption of these categories does not itself change or eliminate the current zoning district assigned to each parcel of land.

Many parts of this comprehensive plan will be implemented through changes to the Land Development Code, which by state law must conform with this plan within one year (*F.S.* 163.3202). These amendments may include rezoning of many or all properties for various reasons, such as:

- to conform the zoning district of specific properties to the requirements of this plan; or
- to combine several similar zoning districts into a single new district to simplify the Land Development Code.

Landowners whose property is proposed for rezoning will receive notice in accordance with state law.

[As described in the Coastal Management Element, the entire town is in the “coastal high-hazard area” as defined in § 163.3178\(2\)\(h\), Florida Statutes. Figure 17 on the next page shows the coastal high-hazard area on a map, which is being formally adopted into this plan as part of the Future Land Use Map series.](#)

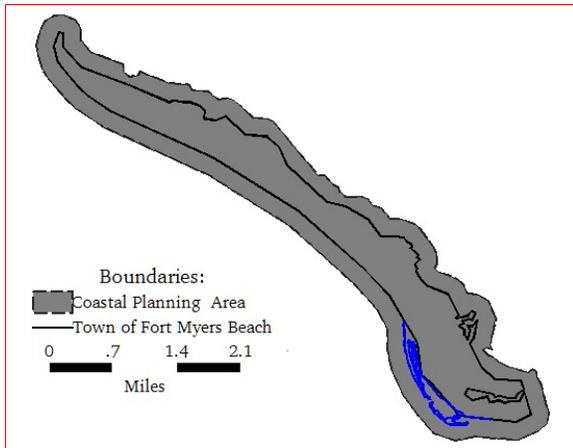


Figure 17,
Coastal High-
Hazard Area
(entire town) as
defined in
§163.3178(2)(h),
Florida Statutes

- out damaging the aesthetic qualities of the town;
- i. resolves inconsistencies between current zoning and land development regulations and this comprehensive plan using the guidelines found in Chapter 15;
- ii. encourages the conservation and re-use of historic buildings as described in the Historic Preservation Element;
- iii. in existing subdivisions, controls the scale of new homes to avoid the replacement of existing homes with excessively large structures; and
- iv. ensures the availability of public facilities at the levels of service specified in this plan concurrently with the impacts of development (see Capital Improvements Element for a summary of these levels of service plus guidelines for the town's Concurrency Management System).

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

POLICY 4-B- 1 **OVERBUILDING:** Judicious planning could have avoided the kind of overbuilding found at Fort Myers Beach by limiting construction to match road capacity and the physical environment. Since such planning came too late, the town must deal with today's congestion plus the impacts of future

development that has vested rights to proceed. These conditions have shaped the vision of this plan, as development rights once granted are not easily or lightly reversed; great care has been taken in this plan to balance important public and private rights.

POLICY 4-B- 2 **MAP ADOPTION:** The Town of Fort Myers Beach hereby adopts a Future Land Use Map (Figure 16) to govern further subdivision and development within its municipal boundary. The entire town is located within the coastal high-hazard area, as shown on Figure 17 which is part of the adopted Future Land Use Map series. This map advances the principles of this comprehensive plan by assigning one of eight categories to all land and water, based on its location, condition, and existing uses.

POLICY 4-B- 3 **“LOW DENSITY”:** designed for existing subdivisions with an established low-density character (primarily single-family homes). For new development, the maximum density is 4 dwelling units per acre, and commercial activities are limited to home occupations as described in the Land Development Code (limited to incidental uses by the dwelling unit's occupant that do not attract customers or generate additional traffic).

POLICY 4-B- 4 **“MIXED RESIDENTIAL”:** designed for older subdivisions with mixed housing types on smaller lots, newer high-rise buildings, and mobile home and RV parks. This category will ensure that Fort Myers Beach retains a variety of neighborhoods and housing types. For new development, the maximum density is 6 dwelling units per acre