

Concurrency Management System (CMS)

- 1** *The Town’s plan does not include objectives, policies and standards for a CMS as required. Policy 11-B-6, regarding the CMS is inadequate because it only identifies what the components of the Town’s CMS will be without addressing the policies in the plan as required. Rule 9J-5.0055(1) et seq, (2) et seq, and (3) et seq, F.A.C.*
Include, in the plan, goals, objectives and policies for implementing the Town’s CMS. The CMS must ensure that issuance of a development order or development permit is conditioned upon the availability of public facilities and services necessary to serve new development. The CMS should contain the level of service standards, and minimum requirements for concurrency, and the policies that set out the standards for what constitutes concurrency.

Future Land Use Element — Data and Analysis

- 2** *1. The existing map series does not include a map or map series depicting the location of floodplains, minerals and soils in the town. Rule 9J-5.006(1)(b), F.A.C.*
Include the map of the Town showing floodplains, minerals and soils
- 3** *2. According to the analysis, the methodology of the projection took the 1990 population, and added to it factors involving the occupancy of vacant housing units, occupants of hotel and guest of homes. The methodology does not appear to be professionally acceptable. Furthermore, the population projection does not include separate projections for resident and seasonal populations. Rule 9J-5.005(2)(e), and 9J-5.006(1)(g), F.A.C.*

Most communities put the details of their CMS in the land development code. In recent years, DCA has begun to insist that CMS details be moved to the comprehensive plan. Rule 9J-5.0055(1) contains five specific requirements, all of which have already been met by Objective 11-B and its policies and by Policies 9-D-2 and 8-B-2 (misnumbered as 6-B-2). However, the town is willing to put more policies into its comprehensive plan to set out additional standards for what constitutes concurrency. **See new Policies 11-B-7, 11-B-8, 11-B-9, and 11-B-10, and changes to Policy 11-B-5.**

The entire town is in the floodplain, as explained by two maps on page 5-2, by a map referenced on page 4-9, by text on pages 4-9 to 4-12, and by text on pages 5-6 to 5-15. **The caption of Figure 2 and adjoining text on page 5-2 of the Coastal Management Element have been modified to more clearly indicate that the entire town is in the floodplain.**

As to minerals and soils, text on page 4-30 specifically references the latest (1984) Lee County Soil Survey. Pages 6-32 and 6-33 of the Conservation Element tabulates the percentages of the various soil types on Estero Island, and Appendix B on pages 6-48 and 6-49 describes each soil type in detail. Rule 9J-5.005(1)(c) allows a local government to decide whether to physically include supporting documentation such as the detailed soils maps in its comprehensive plan; the town wishes to avoid the unnecessary bulk that such inclusion would cause. A copy of the soils maps is on file for inspection at town hall, along with all other maps generated for this planning process; copies can be supplied to DCA upon request.

- DCA normally recommends any of three methods for forecasting the future population:
- (1) mathematically extrapolating past growth trends into the future;
 - (2) assuming that the town’s future growth will be a specific ratio of the county’s future growth;
 - (3) determining the number of births and deaths of the current population, then adding in expected in-migration.

A modified version of the first method was used, with the future population capped using the assessment of build-out conditions contained in the Future Land Use Element. This cap was

Revise the population projections to be based on a professionally acceptable methodology, and include separate projections for residents and seasonal population.

appropriate because of how little vacant land remains (only 6%), and the vested development rights on nearly all of that 6%. A slowing of the growth rate until build-out was assumed, which reflects actual growth patterns in the 1990s and the typical effects of an approaching build-out (rising prices and slowing rate of growth).

The second method was discarded because the county’s future growth pattern is far more uncertain than the town’s. The third method is inappropriate for communities dominated by in-migration of retirees; in Fort Myers Beach, in-migration quickly eclipses the minor effects of births and deaths.

An explanation and chart have been added to page 4-34 to illustrate past growth rates and the forecasted rate of growth until the town reaches its “build-out” capacity (which will occur well before the year 2020).

The second objection (the lack of seasonal population forecasts) has been corrected. The discussion of peak-season population on pages 4-31 and 4-32 has been expanded to include an estimate for 1990; and Table 4-7 on page 4-35 now includes specific peak-season figures for 1996 and both planning horizons.

Future Land Use Element — Goals, Objectives and Policies

- 4** 1. *Objectives 4D (Post disaster redevelopment), 4E (Hazard mitigation), and 4F (Redevelopment), are inadequate because they do not specify the specific and intermediate end to be accomplished within the planning timeframe. Rule 9J-5.003(86), 9J-5.005(6), and 9J-5.006(3)(b)2., and 6., F.A.C.*

Revise these objectives to specify the intermediate ends that will be accomplish within the planning timeframe with regards to post disaster redevelopment, hazard mitigation, and redevelopment.

See revisions to Objectives 4-D, 4-E, and 4-F, all of which now include specific intermediate ends to be accomplished by the town.

- 5** 2. *Although the Town has no plans for the future location of schools, a policy addressing the statutory requirements for the siting of schools must be included. Section 163.3177(6), Florida Statutes*

Revise the plan, based on relevant and appropriate data and analysis, to include a policy or policies addressing the location of schools in the Town. If the Town does not intend to locate more schools or expand the existing the school, the plan shall still include a policy or policies to indicate the land use categories in which future schools (if needed) shall located. The land use category for schools shall have sufficient land

This objection seems irrelevant given the statements on Page 14-4 that “enrollment is well within the capacity” of the existing school and no expansion is needed. However, a 1998 state law mandates school siting policies in each plan by October 1, 1999, and by complying with that law now, this objection will become moot and the town can avoid a later amendment to this plan. **See new Policy 4-B-14, which is based on the data and analysis on page 4-36 that meets the new requirements of Chapter 98-176.**

Full Text of DCA Objection

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Full Text of DCA Recommendation

RESPONSE FROM THE TOWN OF FORT MYERS BEACH:

to accommodate schools and be proximate to residential areas. Furthermore, schools shall be excluded from wetlands.

- 6 3. Policies 4A1, 4A2, 4A4, 4A5, 4A6, and 4A7, associated with the objective regarding the maintenance of the small town character of the Town, are vague and do not specify the actions to be implemented in order to achieve the associated objective. Rule 9J-5.003(95), 9J-5.005(6) and Rule 9J-5.006(3)(c)1., F.A.C.

Revise these policies to include the implementation guidelines and criteria to be carried out in order to implement the policy and achieve the stated objective.

- 7 4. Policy 4B1 regarding overbuilding is vague and does not include the implementation guidelines that will be followed in order to reduce overbuilding. Rule 9J-5.003(95), 9J-5.005(6) and Rule 9J-5.006(3)(c)1., F.A.C.

Revise the policy to include the implementation guidelines and criteria to be followed by the Town in order to reduce overbuilding.

- 8 5. Policies 4B3, allows home occupation in the Low Density residential category. However, the type of uses that will constitute "home occupation" and the intensity to be applied to them is not specified in the plan. Rule 9J-5.003(63), and 9J-5.006(3)(c)7, F.A.C.

Revise the policy to define what is meant by "home occupation", and if it will require physical construction, include the intensity standards that will be applicable to this type of commercial.

- 9 6. Policies 4B4, 4B5 and 4B6 regarding Mixed Use, Boulevard, and Pedestrian Commercial categories allow mixed use developments. However, the proportion of mix (i.e., percentage distribution between the uses, or some other objective measures) is not specified. In addition, the intensity of use for the non-residential component is not stated. Rule 9J-5.003(33), and (63), 9J-5.005(6) and 9J-5.006(3)(b)10., and (3)(c)1., 5, & 7., and (4)(c), F.A.C.

Revise the plan to include the proportion of mix for all land use categories that allow more than one land use type. The distribution of mix shall be presented in the

These six policies admittedly do not include implementation guidelines, as they are the introductory policies that state the general principles upon which the remainder of the element is based. They act as a supplement to Chapter 2, "Envisioning Tomorrow's Fort Myers Beach." Later policies here and in the Community Design Element provide the necessary specificity. The town is not willing to delete these policies, which are such an important formulation of the town's general philosophy of governance that they were intentionally placed at the very beginning of this element.

This policy is comparable to the introductory policies in the previous objection. Accepting the simple fact that Fort Myers Beach has been over-built is a necessary precursor to the remainder of the Future Land Use Element. The town is not willing to delete this policy or to reword it in a manner that suggests there is any single action that can reverse past overbuilding. The remaining policies under Objective 4-B describe many of the implementing actions that flow from the conclusion in Policy 4-B-1.

An acceptable definition of "home occupation" is found in the current land development code. It is too detailed for inclusion in the comprehensive plan, but a simplified version can be included. **See revision to Policy 4-B-3, which is now more specific as to the meaning of a "home occupation."**

Providing a percentage distribution of land uses will make the plan more confusing while providing little useful guidance for parcel-by-parcel development decisions. However, the wording of Rule 9J-5.006(4)(c) supports this objection.

Likewise, providing a maximum intensity on commercial uses will probably be counterproductive to the town's planning efforts. Because there can be no variances to a comprehensive plan, the maximum intensity must be set to accommodate the most intense commercial activity that might be desirable anywhere within the town (for instance, in the pedestrian zone near Times Square). Such a high level then can become a goal of landowners elsewhere in the town where it is not at all appropriate. See further discussion and proposed resolution under Objection 13 below.

form of a percentage of the land area or other objective measure. The density and intensity of use shall also be specified. In the case of non-residential uses, the intensity of use shall expressed in the form of floor area ratio or other objective measurement.

- 10** 7. Policies 4B4 and 4B6 allow a density of up to 10 units per acre where a FLUM overlay indicates such density, in order to implement a redevelopment plan or recognize existing subdivisions lots currently occupied at higher densities. The legend to the FLUM indicates platted overlay on the map, but no policy is included to address the overlay category.

Furthermore, the plan increases density in these areas, which are in the coastal high hazard area (CHHA), over what the current adopted Lee Plan allows. In the Gulf View/Red Coconut area (see policy 4F2), for example, the plan will allow a minimum of 10 and a maximum of 15 units per acre in an area currently designated for 6 units per acre under the Lee County Plan. Such an increase in density is a problem and inconsistent with the need to direct population concentration away from the CHHA which, in this case, includes the whole Town. So Policies 4B4, 4B6 and 4F2 are inadequate because they will drastically increase population concentration on the island and diminish the ability of the Town to reduce or maintain clearance time. Rule 9J-5.005(6) and Rule 9J-5.006(3)(b)10., (3)(c)1., 5, & 7., and (4)(c), (e), and 9J-5.012(3)(b)6., & (3)(c)7., F.A.C.

Revise the plan: 1) to include a policy addressing the overlay land use category, 2) to provide data analysis showing that the plan does not increase density over what the Lee Plan currently allows, and 3) based on the data and analysis, to assign to all parts of the Town land use designations that will be compatible with the need to direct population concentration away from the coastal high hazard area in order to maintain evacuation clearance time.

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See revisions to Policies 4-B-4, 4-B-5, and 4-B-6 which now include percentage ranges for commercial uses for the aggregate acreage in each of the 3 land use categories, based on new data and analysis on pages 4-40 and 4-41. Also see revisions to Policies 4-B-14 and 4-C-2 which now specify commercial intensities.

The “platted overlay” designation is now explained in its own policy (**see new Policy 4-B-11**) and again in the policies for each land-use category where it has been applied (**see revisions to Policies 4-B-4, 4-B-5, and 4-B-6**). These policies have also been revised to limit the “platted overlay” density increase from the existing 6 units per acre to the proposed 10 units per acre to only two conditions:

- (1) in the “Mixed Residential” and “Boulevard” categories, to recognize existing dwelling units that were built legally but which would be non-conforming under a density cap of 6 units per acre; and
- (2) along Crescent Street in the “Pedestrian Commercial” category, to allow affordable housing that is consistent with the Core Area Redevelopment Plan.

The “platted overlay” is applied to platted subdivisions with zoning that allowed duplexes or larger structures. In its previous formulation, it would have allowed at least the possibility of duplex zoning to remain. These revisions will limit new construction in most cases to single-family homes only, but would allow existing structures that had been built legally to be demolished and rebuilt, provided they do not exceed 10 units per acre.

Densities above 6 units per acre would also be allowed for redevelopment within the Gulfview Colony / Red Coconut area. In Gulfview Colony, there are currently 59 mobile home spaces on 4.53 acres, for a density of about 13 spaces per acre. In Red Coconut, there are about 250 RV and mobile home spaces on 9.34 acres, for a density of almost 27 spaces per acre. The redevelopment plan for these areas reflects the existing development pattern which is at a much *higher density* than proposed here; it will not cause any drastic increase in density (as characterized here by DCA). The town would be allowing a higher density (15 permanent dwelling units per acre) than the current Lee Plan (which is limited to 6 units per acre), but a lower density than what is currently in existence. The new density would only apply to a pre-approved development plan that meets the performance criteria in the plan, which would require a low-rise, pedestrian-oriented street plan which would knit this land back into the broader community and could ultimately allow convenient pedestrian, bicycle, and slow vehicular flows between the Bay Oaks/school/library complex and the residential neighborhoods to the south (see Policies 3-A-5, 3-A-6, and 4-F-2(iii)).

This comprehensive plan, overall, significantly *lowers* allowable development levels in this coastal high hazard area. One major decrease is the 410 acres of the “Low Density” category, which is being reduced from the existing 6 to the proposed 4 units per acre. Most of this land is already developed in single-family subdivisions, but this change eliminates the possibility of

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rezoning any of this land to allow duplexes, which are in heavy demand for rental purposes in this beachfront community. The actual effect of this change will be less than the theoretical reduction of up to 820 dwelling units [410 acres times (6 minus 4 units per acre)].

Another decrease is the new "Recreation" category which is being applied seaward of the 1978 Coastal Construction Control Line. In general terms, this lowers the density of the sandy beach from the present 6 units per acre down to 1 unit per 20 acres. The town has been unable to quantify the acreage of the privately owned sandy beach between the CCCL and mean high water (where this density reduction applies), but it is quite substantial, especially at the northern and southern ends of Estero Island, and probably exceeds 100 acres in total. On the Diamondhead site alone, this change would have affected one-fourth of the site, lowering the permitted 154 hotel rooms proportionately.

- 11** 8. Policies 4B4, 4B5, and 4C3 state that commercial developments shall be "sensitive" to residential development but does not define what will be considered "sensitive." In the absence of a clear definition of what the Town means by a "sensitive" commercial development and the land use requirements to be met in order to be considered "sensitive," compatibility between the land uses cannot be assured. Rule 9J-5.003(95), 9J-5.005(6) and Rule 9J-5.006(3)(c)1., and 2., F.A.C.

Revise the policies to define the term "sensitive" with regards to the compatibility of adjacent developments. Revise these policies, based on data and analysis, to include provisions which will ensure the compatibility of adjacent land uses.

- 12** 9. Several policies in this element defer the establishment of guidelines to the land development regulations (LDR). For example 1) Policy 4A8 defers the establishment guidelines for regulating developments to the LDR instead of establishing those guidelines in the plan as required; 2) Policy 4C2 defers the establishment of standards guiding the location of commercial uses to the LDR instead of establishing standards in the plan as required; 3) Policies 4C3 allows expanded commercial developments, but defers the guidelines to the LDR; 4) Policy 4C3 prohibits commercial activities that will intrude into residential neighborhoods but does not specify such activities; and Policy 4C6 defers guidelines for hotel densities to the LDR. Rule 9J-5.003(95), Rule 9J-5.005(6) and Rule 9J-5.006(3)(c)1., F.A.C.

Unfortunately, there is no way to ensure the compatibility of commercial uses through a comprehensive plan. The policies cited here are the results of extensive efforts by the town over the past three years to improve on the commercial siting standards in the current Lee Plan. The current standards have not proven at all adequate at Fort Myers Beach. According to DCA, Policy 4-C-3 also does not adequately define commercial uses or specify guidelines for commercial expansion (see Objection 12).

See revision to subsection vi. of Policy 4-C-3, which now provides clearer guidelines as to what is meant by a commercial development being "sensitive to nearby residential areas." Also see new Policy 4-B-12 which defines the terms "residential uses" and "commercial uses" for the purposes of this plan.

Florida planning law only requires a comprehensive plan to "provide meaningful guidelines for the content of more detailed land development and use regulations" (Rule 9J-5.005(5)(b)). It does not require that all or even most regulations appear in the plan (although a few specific regulations are required, such as maximum density levels).

1) Policy 4-A-8 is an introductory policy that defines the scope of the Land Development Code in general terms. Its purpose is mainly educational to the citizenry, similar to the other introductory policies discussed in the response to Objections 6 and 7 above. Many other policies provide the specific guidelines and standards to be implemented in the Land Development Code.

2) According to DCA, Policy 4-C-2 provides insufficient standards for commercial locations; this is apparently in error, as Policy 4-C-2 only addresses commercial intensity.

3) & 4) According to DCA, Policy 4-C-3 is not clear enough on expanded commercial activities (this policy was also discussed above under Objection 11).

5) Policy 4-C-6 describes a system of multipliers to convert dwelling units to motel rooms, varying by categories on the Future Land Use Map. DCA objects to the multipliers being

Full Text of DCA Objection

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Full Text of DCA Recommendation

Revise these policies to remove the deference to the LDR and include the guidelines and criteria to be utilized in order to implement them and achieve the intended objective.

- 13** *10* Although Policy 4C4 will limit building height to two stories, the intensity of commercial development is not stated. Rules 9J-5.003(33), & (63), 9J-5.005(6) and 9J-5.006(3)(c)1., & 7., F.A.C.

Revise the plan to include the intensity standards that shall be applicable to commercial developments in the Town.

- 14** *11* Policy 4C8 allows the transfer of development rights (TDR), but the policy does not provide the guidelines and criteria to be applied, specify the type of land from which developments rights can be transferred, the type of area that will receive the transferred development rights, the public interests that will necessitate the acceptance of TDR, and the type of restriction that can be placed on the property to ensure the permanence of the transfer. Rules 9J-5.005(6), 9J-5.006(3)(b)10., and (3)(c)1., F.A.C.

Revise the policy to include the guidelines and criteria to be applied, specify the type of land from which developments rights can be transferred, the type of area that will receive the transferred development rights, the public interests that will necessitate the acceptance of TDR, and the type of restriction that can be place on the property to ensure the permanence of the transfer.

Future Land Use Element — Future Land Use Map

- 15** *1.* The Land Use Map does not depict public facilities land use category and it is not clear, from the map, the land use categories in which these facilities are allowed as well as the development controls and guidelines that will apply to them. Rule 9J-5.006(3)(c), & (4)(a)7., 8., & 9., F.A.C.

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contained in the Land Development Code, even though this is common practice statewide and has been part of Lee County’s planning system for the past 15 years. Multipliers in the plan have to be high enough to accommodate the most intense use that may desirable anywhere in the town (since by law no variances can be granted); such high multipliers then can become a goal for land owners throughout the island. The town has tried to identify the least-damaging motel intensity standard that would satisfy DCA.

See revisions to Policies 4-A-8, 4-C-3, and 4-C-6 that address the DCA objections (despite the reservations stated above).

DCA is requesting a maximum cap on commercial intensity. Like motel multipliers, these caps will probably be counterproductive to the town’s planning efforts, as “maximums” have a tendency to become “standards” through time. Given DCA’s strong insistence on this matter, and the language in 9J-5.006(3)(c)7, the town has tried to identify the least-damaging commercial intensity standard that would satisfy DCA. **See revisions to Policy 4-C-2 for the new standards.**

The density transfers anticipated by this policy will be infrequent and highly individual. An example was the recent transfer of units at the Pink Porpoise. Through the rezoning process, eight units were transferred to property under common ownership directly across the street; the “sending” parcel is now limited to governmental uses only.

This objection seems to anticipate a by-right TDR program, like Lee County uses for wetlands, which is not the town’s intention.

Detailed criteria simply cannot be provided for every possible density transfer opportunity the town might face. However, some additional standards and clarifications have been added. **See revisions to Policy 4-C-8.**

Rule 9J-5.006(4)(d) allows public facilities to be included in the same land-use category as educational uses and public buildings and grounds. The Fort Myers Beach plan calls this category “recreation,” as nearly all public facilities here are recreational in nature (the only exception at present is the elementary school). Policy 4-B-8 explains this combination, and new Policies 4-B-12 and 4-B-13 provide more detail on allowable locations of public buildings.

Full Text of DCA Objection

Full Text of DCA Recommendation

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Revise the plan to depict public facilities land use category or indicate on the map the suitable land use categories to which they are assigned. In addition, indicate in the plan, the development controls and guidelines that shall apply to them.

Traditional development controls such as density or intensity levels are simply not applicable to parks and schools. **Policies 4-B-8, 4-B-13, and 4-B-14 now clearly prohibit public buildings and schools from being located seaward of the 1978 Coastal Construction Control Line, and Policy 4-B-8 also provides a maximum percentage of non-recreational uses in the “Recreation” category.**

- 16** 2. *Policy 4B8 allows parks, schools, libraries, bathing beaches, beach access point and related public facilities in the recreational land use category. This policy is inadequate because it simply lumps all public uses into the recreation category despite the fact that all those uses are not related to recreation. Rule 9J-5.006(3)(c), & (4)(a)5., 7., 8., & 9., F.A.C.*

See comments on previous objection.

Revise Policy 4B8 to assign to the recreation category only those land uses that are directly related to recreation and place put the other uses in public category

Transportation Element — Goals, Objectives and Policies

- 17** 1. *Objectives 7A, 7B, 7C, 7D, and 7E, relating to congestion, solution to traffic congestion, evacuation route, travel modes, and improvement to Estero Boulevard, are not specific and measurable and do not provide the intermediate result that will be achieved during the planning timeframe. Rules 9J-5.003(86), 9J-5.005(6), and 9J-5.019(4)(b) et seq., F.A.C.*

See revisions to Objectives 7-A and 7-D, new Policies 7-B-3 and 7-C-2, and revisions to Policies 7-E-1, 7-E-3, and 7-E-4, all of which make the topics covered by these objectives more specific and measurable.

Revise these objectives to specify the intermediate end results to be accomplished within the planning timeframe regarding the stated issues.

- 18** 2. *There is no objective included which addresses the coordination of transportation systems with the plan of the metropolitan planning organization. Rule 9J-5-019(4)(b)3., F.A.C.*

See revision to Objective 7-H which addresses coordination with the MPO.

Include in the plan an objective to address the coordination of transportation improvements with the MPO.

- 19** 3. *There is no policy in the plan addressing the control of connections and access points of driveways and roadways in the Town. Rule 9J-5.003(95), 9J-5.005(6), and 9J-5.019(4)(c)2., F.A.C.*

See new Policy 7-H-10 regarding connections onto Estero Boulevard.

Revise the plan to include a policy or policies

indicating the measures be taken to regulate connections and access points to driveways.

- 20** 4. Policies 7A1, 7A2, 7A3, 7B1, 7D1, 7G1, 7G3, 7H1, 7H2, 7H4, and 7H6, regarding the Town’s transportation system, are inadequate and do not meet the minimum requirements because they are vague and do not include the implementation activities to be carried by the town in order to promote safe and efficient transportation system. Rule 9J.003(95), 9J-5.005(6) and 9J-5.019(4)(c), et seq., F.A.C.
 Revise the policies to include the actions to be taken by the Town in order to implement these policies and achieve the associated objective.

Several of these policies (for example, 7-A-1, 7-A-2, 7-B-1, and 7-G-1) admittedly do not include implementation activities, as they simply set forth the general principles upon which later policies are based. As discussed under Objections 6 and 7, general statements of principle were intentionally placed before their implementing policies. Without other more specific policies, these statements would be inadequate. However, other policies in this element provide the necessary specificity.

As to the remaining policies cited by DCA:

- Policy 7-A-3 specifically commits the town to *not* widening travel lanes and to *not* discourage pedestrian movement across Estero Boulevard;
- Policy 7-D-1 commits the town to encouraging a central drop-off point for guests arriving from the airport;
- Policy 7-G-3 identifies the circumstances under which the town might be willing to take over maintenance on the Sky Bridge;
- Policy 7-H-1 sets the parameters for considering a pedestrian overpass at Times Square, and provides an inexpensive alternative to building an overpass;
- Policy 7-H-2 suggests improvements to San Carlos Boulevard, a state road lying outside any jurisdiction of the town;
- Policy 7-H-4 promotes the use of variable message signs outside any jurisdiction of the town, and urges the study of such signs by the entities listed in the policy, all of whom have the authority to move this concept forward; and
- Policy 7-H-6 suggests transportation demand management strategies that could be undertaken by area businesses.

In each of these cases, the policies are specific as to purpose and do not purport to commit to actions that are outside the town’s authority. Each of these policies meets the legal definition of a policy (see Rule 9J-5.003(95)).

- 21** 5. Policy 7C1 states that the Town shall evaluate all efforts to reduce speeding on Estero Boulevard to ensure they will not hinder an effective evacuation. However, these measures are expected to identified in the plan, followed by measures to enhance effective evacuation. Rule 9J.003(95), 9J-5.005(6) and 9J-5.019(3)(c), and 9J-5.019(4)(c)7., F.A.C.
 Revise the plan to include the actions to be undertaken in order to evaluate the traffic situation on Estero Boulevard to ensure that it does not hinder an effective evacuation in the event of a hurricane.

The evaluation discussed in Policy 7-C-1 would be conducted while designing potential improvements to Estero Boulevard. It is neither required nor appropriate to identify every possible measure to reduce speeding in the plan (although this plan does identify many of them in the data and analysis sections). **See revision to Policy 7-C-1 which clarifies that this evaluation will take place during the design phase of potential improvements.**

- 22** 6. The plan does not include an objective for the protection of

See new Objective 7-J regarding protection of right-of-way, and revisions to

Full Text of DCA Objection

Full Text of DCA Recommendation

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existing and future right-of-way. Furthermore, Policy 7E6 which states that the Town shall “limit vacations of right-of-way and easements to preserve future access and to provide future areas for water retention and storm water filtration necessary for public improvements.” is inadequate because it is unclear how this measure will ensure the protection of existing and future right-of-way. Rule 9J-5.019(4)(b)5., & (4)(c)4., F.A.C.

Include an objective that will ensure the protection of existing and future right-of-ways, and include associated policies to implement it. The objective shall clearly specify the measure to be accomplished.

- 23** *7. Policy 7I2, regarding level of service standards (LOS) is inadequate because it does not establish level of service standards at peak hour for roads and public facilities within the town. Rule 9J-5-5.019(4)(c)1., F.A.C.*

Revise the policy to establish the LOS standard based on peak hour conditions for all the roadways within the Town.

- 24** *8. The plan does not include the numerical indicators against which the achievement of mobility goals shall be measured. Rule 9J-5.019(4)(c)10., F.A.C.*

Revise the plan to indicate the numerical indicators against which the achievement of mobility goals shall be measured.

Housing Element — Data and Analysis:

- 25** *1. The Housing Element does not include a projection of the anticipated households by size and income derived from the projected population. Rule 9J-5.010(2)(a), F.A.C.*

Include in the plan a projection of the anticipated households by size and income derived from the projected population.

- 26** *2. An analysis of the housing needs of the anticipated population including the affordable housing needs assessment by number, type, cost or rent, and tenure estimates of replacement needs is not included. Rule 9J-*

RESPONSE FROM THE TOWN OF FORT MYERS BEACH:

Policy 7-E-6 (now relocated to Policy 7-J-1) to clarify its intent and application.

This objection appears to be a misunderstanding of the town’s proposed level of service for roads. State law requires the town to establish its standard for traffic at the “peak hour.” For most communities, this occurs during the morning or late-afternoon rush hour. Because of its resort nature, Fort Myers Beach doesn’t have its peak traffic hour during normal commuting times, but has a sustained peak period every winter day from 10:00 A.M. to 5:00 P.M., as demonstrated by the chart on page 7-B-19 of the transportation element. Based on this data and the accompanying analysis, the town has in fact established its level of service during its peak traffic period, as required by state law.

See revision to Policy 7-D-3 which adds a specific numerical indicator for mobility.

The Fort Myers Beach comprehensive plan uses the housing analysis prepared by Lee County to meet this and the following two requirements. DCA’s desired methodology cannot be used by the town since it is based on 1990 census data, which is not available for just the land that later became the Town of Fort Myers Beach. This will be corrected in the year 2000 census.

The town has located useful 1990 housing data for its 11 separate “block groups” that has confirmed its thesis that neighborhood revitalization and affordable housing are compatible in several older neighborhoods. **This data is presented on pages 12-14 and 12-15. Policy 12-A-6 has been added committing to updating the analysis after 2000.**

(See previous item.)

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5.010(2)(b), F.A.C.

Include in the plan an analysis of the housing needs of the anticipated population including the affordable housing needs assessment by number, type, cost or rent, tenure estimates of replacement needs.

- 27** 3. *Although the information on page 12-13 to 12-16 discusses some strategies for providing affordable housing in the town, an estimate of the affordable housing needs of the Town, as well as substandard housing conditions are not provided. Rule 9J-5.010(2)(f)2, F.A.C.*

Revise the plan to include an estimate of the affordable housing needs of the Town, as well as substandard housing conditions.

(See previous item.)

Housing Element — Goals, Objectives and Policies

- 28** 1. *The plan does not include objectives to provide adequate sites for very low, low and moderate income households, and group homes and the conservation, rehabilitation and demolition of housing. Rule 9J-5.010(3)(b)3., 4., & 5., F.A.C.*

Include in the plan, specific and measurable objectives, based on adequate data and analysis to address these issues.

This objection refers to three separate sections of Rule 9J-5, each of which requires an objective that provides for:

— “Adequate sites and distribution of housing for very-low-income, low-income and moderate income households, and adequate sites for mobile and manufactured homes” (9J-5.010(3)(b)3.)

a) Objective 12-B meets most of this requirement, and will be implemented by Policy 12-B-1, which targets Crescent Street for new construction and rehabilitation of moderate-priced housing, and by Policy 12-B-4, which targets the near-town neighborhoods (as illustrated on Page 4-34) for revitalization of their deteriorating stock of rental housing.

b) New mobile homes have been banned from Fort Myers Beach since 1989 due to the hazard that would be caused to their residents and surrounding areas from hurricane-force winds (see Lee Plan Policy 80.1.2: “The county shall not permit new or expanded mobile home or recreational vehicle development on barrier islands or in V-Zones as defined by the Federal Emergency Management Agency.”) This policy will be carried forward by the Town of Fort Myers Beach in its land development code.

— “Adequate sites in residential areas or areas of residential character for group homes and foster care facilities licensed or funded by the Florida Department of Health and Rehabilitative Services” (9J-5.010(3)(b)4.)

This requirement is met by Policy 12-C-4, which commits the town to implement Chapter 419 F.S. This will provide that a group home of 6 or fewer residents is a permitted use in all single-family zoning categories, and that a group home of 7 to 14 residents is permitted in multifamily categories (with very limited restrictions).

— “The conservation, rehabilitation or demolition of housing, including the identification of historically significant housing.” (9J-5.010(3)(b)5.)

This requirement is met by Objective 12-D.

Full Text of DCA Objection

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RESPONSE FROM THE TOWN OF FORT MYERS BEACH:

29 2. *The plan does not include a policy establishing standards for addressing the quality of housing. Rule 9J-5.003(95), 9J-5.005(6) and 9J-5.010(3)(c)3, F.A.C.*

Revise the plan to include a policy establishing standards for addressing quality of housing.

See revision to Policy 10-A-4 that is more specific as to the town’s standards for housing quality.

30 3. *The plan does not include a policy establishing principles and criteria guiding the location of housing for the very low, low, and moderate income households. Rule 9J-5.003(95), 9J-5.005(6), and 9J-5.010(3)(c)5, F.A.C.*

Revise the plan does not include a policy establishing principles and criteria guiding the location of housing for the very low, low, and moderate income households.

As discussed above under Objection 28, the town has selected two target areas for maintaining a stock of moderate-cost housing: Crescent Street, and the near-town neighborhoods (as illustrated on Page 4-34). Policies 12-B-1 and 12-B-4 summarize the town’s commitment in this regard.

31 4. *Policies 12A1, 12A3, and 12A4, regarding housing in the Town, are inadequate to meet the minimum requirement because they use vague terms like encourage, promote, and strive without stating the actions to be implemented. Rule 9J.003(95), 9J-5.005(6) and 9J-5.010(3)(c), F.A.C.*

Revise the plan to delete vague terms from these policies and include in them, the actions to be undertaken by the Town in order to be implemented.

Some portions of each of the policies cited by DCA use the terms “encourage,” “promote,” and “strive,” but these policies also identify a number of very specific programs that the town will implement. There is no prohibition on the use of vague terms, provided that other parts of the plan meet all minimum legal requirements.

See revisions to Policies 12-A-1 and 12-A-4 that are more specific as to programs the town will carry out.

Utilities and Stormwater Management Elements

32 1. *Policies 6C1, 6C2, 6D4, 6D6, and 6D7, regarding water conservation and waste management in the Town, use vague and conditional terms such as “cooperate”, and “consider” without indicating the actions to be undertaken. Rule 9J.003(95), 9J-5.005(6) and 9J-5.011(3)(c), F.A.C.*

Revise the plan to delete vague terms from these policies and include in them, the actions to be undertaken by the Town and include the actions to be undertaken to implement these policies so as to achieve the stated objective.

These policies were inadvertently mis-numbered as “6” but should begin with “8” (these policies are found beginning on page 8-15).

Many policies in this element include very specific action items, where specific actions are known and are needed. In other cases, the ability of the town to take any meaningful action is very limited. In some circumstances, the best the town can do is to “cooperate” and “consider,” however inadequate that response may seem in the abstract.

See revisions to Policies 8-C-1, 8-C-2, 8-D-4, 8-D-6, and 8-D-7 that describe implementing activities more clearly.

33 2. *Policy 6B1 establishes LOS standards for potable water and sewer based on equivalent residential connection; however, this term is not defined in the plan. Rules 9J.003(65), (95), 9J-5.005(6) and 9J-5.011(2)(c)2., F.A.C.*

Revise the plan to define the term “equivalent residential connections.”

See revision to Policy 8-B-1, which now includes a definition of the term “equivalent residential connection.”

34 3. *Policy 9D1 regarding level of service standard for storm*

Contrary to this objection, the law does not require water quality *level-of-service* standards for

water is inadequate because it does not establish LOS standards for water quality that will be utilized in evaluating development proposals. Rule 9J.003(95), 9J-5.005(6) and 9J-5.011(2)(c)5, F.A.C.

Include in the plan the level of service standards for water quality that shall be applied to both new and existing developments in the Town.

Coastal Management Element — Data and Analysis

- 35 1. The analysis does not include maps of vegetative cover, wildlife habitat, areas subject to coastal flooding, and other areas of special concern and the potential effect of future developments on these areas within the Town. Rule 9J-5.012(2)(b), F.A.C.

Include in the plan maps of vegetative cover, wildlife habitat, areas subject to coastal flooding, and other areas of special concern.

- 36 2. The analysis does not include an inventory and analysis of estuarine areas, and conditions. Rule 9J-5.012(2)(d), F.A.C.

Revise the analysis to include an inventory and analysis of estuarine areas, and conditions.

RESPONSE FROM THE TOWN OF FORT MYERS BEACH:

concurrency, which would have to be enforced through the denial of all future development permits. This would be indefensible, since the fault would be due to existing development. However, Rule 9J-5.011(2)(c)(5) does require the plan to contain water quality standards for discharges from new stormwater management systems. Such standards are currently in the Land Development Code and the Lee Plan, and can easily be repeated in this comprehensive plan instead of merely being referenced as in Policy 9-D-5. The Rule also requires the plan to contain a water quality standard for existing stormwater management systems, but forbids the use of this standard as a level-of-service standard, or, apparently, for any other purpose.

See revision to Policy 9-D-5 to incorporate the water quality standards from the Lee Plan.

This objection request maps on four subjects:

- 1. Vegetative cover: The only available mapping of vegetative cover at Fort Myers Beach was undertaken by Lee County in 1987. Due to Estero Island’s urban character, this mapping was abandoned shortly after it was begun; it provides no value for this comprehensive plan and was therefore not included. DCA is not permitted to require the collection of original data (Rule 9J-5.005(2)(b)).
- 2. Wildlife habitat: Habitat for various species of wildlife is extensively described in the Conservation Element. The first portion of this discussion, on pages 6-7 through 6-10, discusses the remaining natural habitats on Estero Island, including their wildlife. The second portion, on pages 6-7 through 6-19, discusses individual protected species:
 - bald eagles (which fly over Estero Island but do not nest there);
 - West Indian manatees, with a map showing the reported locations of all manatee deaths;
 - sea turtles, with a map showing turtle nests and “false crawls” across Estero Island;
 - dolphins, including a discussion of various types and their preferred habitats (gulf vs. bay);
 - gopher tortoises, indicating that the only known tortoise burrows are at Bowditch Point.At the scale of Estero Island, mapping of most habitats would not provide any more detail than is already included in these narratives.
- 3. Areas subject to flooding: See floodplain response to Objection 2.
- 4. Other areas of concern: All such maps are already included in the comprehensive plan.

Estuarine conditions are summarized and analyzed in conformance with this requirement as follows:

- 1. Coastal Management Element, see pages 5-18 through 5-23.
- 2. Conservation Element, see pages 6-1 through 6-7 and pages 6-20 through 6-26.
- 3. Stormwater Management Element, see pages 9-1 through 9-9.

RESPONSE FROM THE TOWN OF FORT MYERS BEACH:

In addition, the following documents provide additional data and analysis on estuarine conditions and pollution; **they are being incorporated as supporting documentation to this comprehensive plan and have been added to Appendix A of the Conservation Element** (full copies will be provided to DCA upon request):

4. Synthesis of Existing Information, especially Chapter 8 on Estero Bay, Charlotte Harbor National Estuary Program, draft report of November 14, 1997.
5. Proceedings of the Charlotte Harbor Public Conference and Technical Symposium, March 1997, especially “Hourly Dissolved Oxygen Measurements in Central Estero Bay” by Hugh J. Mitchell-Tapping, Thomas J. Lee, and Cathy R. Williams, Technical Report No. 98-02, SFWMD and Charlotte Harbor National Estuary Program, 1998.
6. The State of Estero Bay – 1998, Estero Bay Agency on Bay Management, draft report of June 22, 1998.
7. 1995-96 and 1996-97 Hydrological, Biological and Geological Studies of Estero Bay, Estero Bay Marine Laboratory Research Studies, 1997 and 1998.
8. Lee County Coastal Study, especially the chapters “Ecological Inventory and Analysis of the Lee County Coastal Zone” by Kevin L. Erwin and “Estuarine Pollution Conditions” by Richard B. Morgan. Lee County, February 1988.

- 37** 3. *No map is included showing the coastal high hazard area in the Town.*
Rule 9J-5.012(2)(e)3., F.A.C.
Include a map showing the coastal high hazard area in the Town.

For comprehensive planning purposes, the state has already defined all of Fort Myers Beach as a coastal high hazard area, as discussed on pages 5-2 and 5-3 of the Coastal Management Element. **The caption on Figure 2 and adjoining text on page 5-2 have been re-labeled to indicate that the entire town is in the coastal high hazard area.**

Coastal Management Element — Goals, Objectives and Policies

- 38** 1. *An objective establishing criteria or standards for prioritizing shoreline uses is not included. Rule 9J-5.003(86), 9J-5.005(6), and 9J-5.012(3)(b)3., F.A.C.*
Include an objective establishing criteria or standards for prioritizing shoreline uses. The objective shall be specific and measurable by including the intermediate ends to be achieved.

Policy 5-E-7 provide this plan’s criteria for prioritizing shoreline uses, in conjunction with Objective 5-E (which is clearly “measurable” by calling for an *increase* in the number of water accesses within the town).

- 39** 2. *An Objective limiting public expenditures that subsidize development in coastal high-hazard areas, except for restoration/enhancement of natural resources is not included. Rule 9J-5.003(86), 9J-5.005(6), and 9J-5.012(3)(b)5., F.A.C.*
Include, in the plan, a specific and measurable objective to limit public expenditures that subsidize development in coastal high-hazard areas, except for

See revision to Objective 5-A which now more clearly tracks the required language regarding public expenditures in the coastal high hazard area (Rule 9J-5.0012(3)(b)(5)). See also Policy 5-A-3.

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restoration/enhancement of natural resources is not included and the maintenance of level of service standards.

- 40** 3. *The plan does not include an objective to direct population concentration away from coastal high-hazard areas. Rule 9J-5.003(86), 9J-5.005(6), and 9J-5.012(3)(b)6., F.A.C. Revise the plan to include an objective to direct population concentration away from coastal high-hazard areas (CHHA).The objective shall be specific measurable and provides the intermediate end to be achieved during the planning timeframe. As indicated in the data and analysis, the entire Town is within the CHHA; nevertheless, an objective needs to be included in the plan which emphasizes that based on the Town's location entirely within the CHHA, it will not increase density of development on the island beyond the level assigned by the Lee Plan and already adopted by the Town.*
- 41** 4. *The plan does not include an objective requiring the Town to maintain or reduce hurricane evacuation time and specifying the intermediate ends to be achieved during the planning timeframe. Rule 9J-5.003(86), 9J-5.005(6), and 9J-5.012(3)(b)7., F.A.C. Revise the plan to include an objective stating that the Town will maintain or reduce hurricane evacuation time during planning timeframe and include, in the objective, the measurable, intermediate ends to be achieved.*
- 42** 5. *Objective 5A regarding the enhancement of coastal resources in not specific and measurable since it does not the intermediate end to be achieved through the plan during the planning timeframe. Rule 9J-5.003(86), 9J-5.005(6), and 9J-5.012(3)(b)4., F.A.C. Revise the objective to specify the intermediate ends to be accomplished with regards to the enhancement of coastal resources in the Town, and if necessary, revise the associated policies to implement the objective.*
- 43** 6. *The plan does not include a policy designating coastal high hazard areas as the evacuation zone for a category one hurricane as established in the regional hurricane evacuation study, and limiting development in these areas.*

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Although the town supports this sentiment wholeheartedly, it would be misleading for this plan to purport to direct population concentrations away from coastal high-hazard areas. The Town of Fort Myers Beach can only plan for land uses within its own jurisdiction.

This plan already substantially reduces the levels of development in the town previously permitted by Lee County (see discussion above under Objection 10). The strongest future commitment that this plan could make would be a policy of “no net increase” in net development capacity. **See new Policy 5-A-5 for this commitment.**

See revision to Objective 5-B which now more clearly specifies the town's objective to reduce evacuation times (Rule 9J-5.0012(3)(b)(7)).

See revision to Objective 5-A which now more clearly tracks the required language regarding the enhancement of coastal resources (Rule 9J-5.0012(3)(b)(4)). See also Objective 5-D.

See revision to Policy 5-A-4 that designates the entire town as a coastal high-hazard area. For limitations on development, see especially Policies 4-B-1, 4-C-4, and 5-A-2.

Rule 9J-5.003(19), & (95) and 9J-5.012(3)(c)7., F.A.C.
Revise the plan to include a policy designating coastal high hazard areas as the evacuation zone for a category one hurricane as established in the regional hurricane evacuation study, and limiting development in these areas.

Conservation Element — Data and Analysis

- 44 The data and analysis on the natural resources in the Town is too general and does not provide any detail information about the natural resources in the Town such as floodplains, wetlands and others. For example, wetlands are discussed without any indication of whether or not the Town has fresh water wetlands, and the condition of wetlands in the Town. The only information that can be received about wetlands is in the FLUM and existing land use table. Rule 9J-5.013(1)(a), (b), & (c), F.A.C.
Revise the plan to include specific data and analysis regarding wetlands and other natural resources located within the Town, and their conditions, so as to establish the basis for the protection policies included in the plan.

Conservation Element — Goals, Objectives and Policies

- 45 1. Policies 6D1 and 6D3 defer to other agencies regarding the protection of wetlands instead of including, in the plan, the standards and guidelines that will ensure the protection of wetlands in the Town by directing incompatible land uses away from wetlands. Rule 9J.003(95), 9J-5.005(6) 9J-5.006(3)(c)6., 9J-5.012(3)(c)1., and 9J-5.013(2)(c)6., and (3)(a), & (b), F.A.C.
Revise these policies to establish the guidelines and criteria that will be used, by the Town, to evaluate developments with respect to wetland impacts so as to direct incompatible land uses away from wetlands and ensure that adjacent developments do not negatively impact wetlands.

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The data and analysis on conservation includes 35 very detailed pages of information, hardly qualifying as “too general.” Discussions with DCA have elicited the comment that certain issues, particularly the type and condition of the remaining wetlands and the abundance of the fish population, should have been addressed more thoroughly. The variety and abundance of the fish population is discussed on pages 6-7, 6-21, 6-24, and 6-25, and tabulated in Table 6-8 (which provides a reference to the town’s data source, DEP’s Marine Fisheries Information System). **Additional information on wetlands types and conditions has been provided on page 6-20.**

Policies 6-D-1 and 6-D-3 do indeed rely on other agencies. 1996 legislation has taken away DCA’s authority to require local governments to duplicate the wetland permitting programs of other agencies (F.S. § 163.3184(6)(c)), although DCA may still regulate densities in wetlands. Rule 9J-5.005(10) also states: “When a federal, state, or regional agency has implemented a regulatory program, the department shall not require a local government to duplicate that regulatory program in its local comprehensive plan.”

In this comprehensive plan, Fort Myers Beach has assigned an extremely low density to all remaining wetlands (1 DU/20 acres) and has forbidden all incompatible uses. Virtually all activities are forbidden except for passive recreation, walking access to tidal waters (boardwalks and docks), and restoration of degraded habitats (see Policy 4-B-9). Damage to wetlands is not allowed even with full mitigation. It is hard to imagine a more restrictive wetland policy that could still meet constitutional requirements. Policy 6-D-4 lists a few acceptable uses in wetlands.

Discussions with DCA staffers have elicited only the critique that this plan does not protect wetlands from development on adjacent uplands (for instance by ensuring a sufficient buffer or separation between upland development and wetlands).

There are seven wetlands areas remaining on Fort Myers Beach:

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— *At Bowditch Point.* All adjoining uplands are in public ownership; the only potential development is a public parking lot for park-goers.

— *At the end of Chapel Street.* These wetlands adjoin platted lots on Chapel and Mango Streets and the “Seagrape Bay” condominiums, which have already received a development order from Lee County for their final 19 dwelling units.

— *Behind the Matanzas Pass Preserve.* All adjoining uplands are in public ownership and will never be developed.

— *Behind the Catholic Church.* These wetlands adjoin the “Bay Village” development.

— *Between Fairview Boulevard and Lenell Road.* These wetlands adjoin the “Captains Bay” and “Admirals Bay” developments.

— *Inside Little Estero Island.* The adjoining uplands (Little Estero Island) are in public ownership and will never be developed.

— *Mangrove fringe along Buccaneer Lagoon.* The adjoining uplands are in Bay Beach (the southerly edge of the golf course, and a portion of “Parcel 16” which is proposed for future phases of Waterside condominiums).

Based on these conditions, there would be little if any effect of this comprehensive plan on separating upland development from wetlands. It is possible that this plan could be apply to additional land that could be annexed into the town, but in such a special case, more specific development restrictions could be tailored as part of a pre-annexation agreement.

Despite its very limited effect, the town is willing to put a new policy into its comprehensive plan regarding separation between uplands development and wetlands. The best available research on appropriate buffer widths between uplands and wetlands suggests a 75-foot separation over sandy soils to control sedimentation before runoff reaches wetlands (*Buffer Zones for Water, Wetlands and Wildlife in East Central Florida*, 1990). **See new policy 4-C-12.**

This policy (actually Policy 6-B-5) is identical to Lee Plan Policy 77.2.10. As discussed previously, every policy in this comprehensive plan does not need to include development controls. This policy is a general policy statement that the town council might use in evaluating a complex redevelopment policy.

46 2. *Policy 6B6 requires developments adjacent to aquatic and other nature preserves, wildlife refuges, and recreation areas to protect the natural character and public benefit of these areas, such as scenic values. However, this policy is inadequate because it is vague regarding the development controls to be imposed in order to ensure the protection of these areas. Rule 9J.003(95), 9J-5.005(6) and 9J-5.013(2)(c)3., F.A.C.*

Revise the policy to include the guideline and criteria to be relied upon by the Town in the review of developments so as to ensure that adjacent developments do not cause negative impacts on natural resources.

Recreation Element — Data and Analysis

Full Text of DCA Objection

Full Text of DCA Recommendation

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RESPONSE FROM THE TOWN OF FORT MYERS BEACH:

47 1. *The plan does not discuss the adequacy of the existing public facilities to serve the current and projected population. Also, the plan does not provide a projection of the future recreational needs of the Town.*

Section 163.3177(e), F.S.

Include, in the plan, a discussion of the adequacy of the Town’s recreational facilities to serve the existing population. In addition, include a projection of the adequacy of the Town’s recreational facilities to serve the future need.

Fort Myers Beach has reached 85% of its buildout population (see pages 4-31 to 4-33), with only 1,028 more dwelling units and 805 more permanent residents expected. Based on these totals and the strong array of recreational facilities in place, the town has determined that it has adequate recreational facilities now in place to serve the projected population of 6,844 permanent residents. (A number of additional facilities would still be desirable, as described on pages 10-15 to 10-17.)

This discussion of the adequacy of existing recreational facilities has been added to pages 10-17 and 10-18 of the Recreation Element.

Recreation Element — Goals, Objectives and Policies

48 1. *Objective 10A regarding the viability of natural area is not specific with respect to the target to be achieved since it does not include an intermediate end result.*

Section 163.3177(e), F.S., Rule 9J-5.003(86), 9J-5.005(6), F.A.C.

Revise the objective, based on data and analysis, to indicate the specific intermediate end result that will be accomplished with regards to the enhancement of the viability of natural resources.

See revisions to Objective 11-A that make its success measurable.

49 2. *Policies 10B1, 10B2 and 10B4, regarding Bowditch Point use the vague terms “encourage” and “promote” without specifying the actions to be undertaken. Section 163.3177(e), F.S., and Rule 9J.003(95), 9J-5.005(6), F.A.C.*

Revise Policies 10B1, 10B2 and 10B4, regarding Bowditch Point to delete the vague terms “encourage” and “promote” without specifying the actions to be undertaken.

Since Lee County owns and operates Bowditch Point, and also operates the Lee Tran trolley service to the park, the town can do little more than “encourage” and “promote” activities there. **See revisions to Policies 10-B-1, 10-B-2, and 10-B-4 that more clearly identify how desirable activities can be encouraged and promoted.**

50 3. *Policy 10D3, regarding LOS standard for recreational facilities is inadequate because the proposed LOS standard are not related to the number of people it is intended to serve and the future needs of the Town. Section 163.3177(e), F.S., Rule 9J-5.005(3), 9J-5.055(2), F.A.C.*

Revise the policy to establish LOS standards based on the population of people to be served by a particular type of recreational facility.

Since the town has concluded that the existing level of recreational facilities is adequate through buildout, there is no reason to tie the LOS standard to population. Despite this fact, DCA officials still insist that the recreation level-of-service standards be based on a numerical ratio of facilities to residents. This change can be easily accomplished, but it adds a meaningless level of complexity to the comprehensive plan. To avoid litigation over a matter of so little importance, the town can simply agree to make this change.

See revisions to Policies 11-B-3 (and identical change in Policy 10-D-3) that create a numerical ratio of facilities to residents.

Intergovernmental Coordination Element

51 1. *Policies 14A4 and 14C2 require the Town to “cooperate”*

Policies 14-A-4 and 14-C-2 are already very specific as to how the town will cooperate in each

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with Lee County and other agencies such as the School Board, etc. However, the policy does not indicate the actions to be undertaken in order to achieve the cooperation. Rule 9J.003(95), 9J-5.005(6) and 9J-5.015(3)(c)1, F.A.C.

of the matters discussed. Both policies commit to adopting interlocal agreements that will spell out the specifics (once they have been negotiated among the various entities).

Revise these policies to delete the vague term “cooperate” and indicate the actions to be undertaken in order to achieve the cooperation with other agencies that provide service in the Town.

Capital Improvements Element

- 52** 1. *The plan does not include a policy defining what will constitute a capital improvement. Rule 9J-5.003(14), and 9J-5.016(4)(a)1., F.A.C.*

See new Policy 11-A-6 for a definition of “capital improvement.”

Include in the plan a policy defining the term “capital improvement” in terms of either project type or cost or both

- 53** 2. *There is no policy included calling for the replacement and renewal of facilities. Rule 9J.003(95), 9J-5.005(6) and 9J-5.016(3)(c)3, F.A.C.*

Policy 11-A-4 already identifies “maintaining existing facilities” is the third highest priority in the CIP.

Include a policy that establishes the Town’s commitment to renew and replace facilities in order to maintain the adopted LOS standards.

Historic Preservation Element

- 54** *Objective 13A regarding historic resources does not include the intermediate end result to be achieved within the planning timeframe in order to further the historic preservation goals of the Town. Rule 9J-5.006(3)(c)4., and 9J-5.012(3)(b)10., F.A.C.*

See revisions to Objective 13-A that now include intermediate results.

Revise the objective to include the intermediate end result to be achieved within the planning timeframe in order to further the historic preservation goals of the Town.