
SPIKOWSKI PLANNING ASSOCIATES

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MEMORANDUM

TO: Fort Myers Beach Local Planning Agency
FROM: Bill Spikowski
DATE: February 12, 2005
SUBJECT: **LAND DEVELOPMENT CODE AMENDMENTS**

This memo supplements the backup material previously provided to you for the January 18, January 25, and February 8 public hearings on land development code amendments. The continuance of this public hearing as to Chapters 6, 30 and 34 will be held on February 22 at noon. Please bring your original LDC packets that were distributed for the beginning of this public hearing on January 18, 2005.

FILL PERMITS FOR SUBDIVIDED LOTS – Chapter 6

The property maintenance code in Chapter 6 contains new language in § 6-14 for subdivided lots whose ground level is later raised by placing fill material. Based on the discussion at the January 25 and February 8 public hearings, please consider the following supplement to the original proposal for § 6-14 (latest changes are shown in bold type):

Sec. 6-14. Neighborhood flooding.

(a) This code requires stormwater management systems for all new development and most redevelopment (see § 10-321). Development that is not subject to those requirements, such as single-family and two-family dwellings on existing lots, can also flood surrounding lots and streets, especially if the lot is raised higher than adjoining properties or if rainfall is concentrated by gutters and downspouts and discharged without an opportunity for percolation.

(b) To minimize neighborhood flooding from normal daily rainfall, a fill permit must be obtained from the town when fill material is to be placed **around** the following requirements apply to ~~single-family and two-family dwellings~~ on lots that have not previously complied with § 10-321:

- (1) When a lot has been filled more than an average of **1-foot 6 inches** above adjoining lots, the fill permit application must show how normal rainfall will ~~must~~ be contained within the lot by using one or more of the following methods or equivalent solution:
 - a. Gutters and downspouts that collect rainwater must discharge into exfiltration trenches (french drains), or into a subsurface drainfield that meets the construction standards of F.A.C. 64E-6.014(5) (the depth, location and setback standards for drainfields need not be met), or onto substantially flat and porous surfaces such as:
 1. Sodded lawns.
 2. Clean (washed) gravel or sand over a well-drained base.
 3. Porous (pervious) paving.
 - b. Roof areas not served by gutters and downspouts must not drain to impervious surfaces, and must not drain to pervious surfaces that are sloped in excess of 5%. Surfaces not meeting these requirements must be designed to detain or deflect rainfall, for instance through the use of earthen ridges, curbs, or retaining walls that prevent rainfall from running onto adjoining lots or streets.
- (2) Additions to, renovations of, and replacements for single-family and two-family dwellings that include the installation of gutters and downspouts must also obtain a fill permit showing discharge from the downspouts being directed to the same standards as for filled lots.

LDC INTERPRETATIONS – Chapter 34

Revisions were proposed to § 34-90 regarding land development code interpretations. Based on the discussion at the February 8 public hearing, please consider the following revision to § 34-90 in place of the original proposal (latest changes are shown in bold type):

Sec. 34-90. Land development code interpretations.

The town council may hear and decide applications for interpretations of this code as provided in § 34-265. Such applications shall not require a public hearing or recommendation from the local planning agency. Applications for such interpretations must be accompanied by the submittals described in § 34-202(a)(4)–(9); **the director may waive any submittals that are not applicable to the type of interpretation being requested.**

RESIDENTIAL DENSITY – Chapter 34

Chapter 34 contains new language for § 34-632 on density. Based on the discussion at the February 8 public hearing, please consider the following composite revision to § 34-632 in place of previous proposals:

Sec. 34-632. Density.

Residential density cannot exceed the maximum levels established in the Fort Myers Beach Comprehensive Plan. Residential uses Additional dwelling units are not allowed in the “Marina” or “Tidal Waters” categories on the Comprehensive Plan’s future land use map; live-aboards are permitted in accordance with § 34-1861.

- (1) *[this subsection unchanged]*
- (2) *Determining lot area.* For purposes of this section, a site's lot area includes the gross acreage within the site's private property line, minus wetlands, canals or other water bodies that extend beyond the site, minus all primarily commercial and other non-residential land, and minus any land designated "Recreation" on the Comprehensive Plan's future land use map. For any site with wetlands or land designated "Recreation," the maximum number of dwelling units shall be increased by one unit per 20 acres of such land.
- (3) *Existing subdivisions.* In existing subdivisions where lots are smaller than 15,000 square feet each:
 - a. Residential densities may be computed based on the actual lot size plus one-half the width of adjoining streets and ~~canals~~ water bodies, but in no case may more than 35 feet be counted as the allowance for one-half of an adjoining water body.
 - b. Computed densities greater than 1.5 DU/acre may be rounded up to two dwelling units where two-family and multifamily dwelling units are permitted.
 - c. This method for determining densities cannot be used for:
 1. Three or more lots that are being combined into a development project; or
 2. ~~Any lot that has never been in separate ownership from an adjoining lot;~~
or
 2. Any lot that was created after December 31, 1995, as described in § 34-3272.
- (4) *Mixed-use buildings.* Residential densities may be computed without deleting any acreage for commercial uses that are located on other floors of mixed-use buildings. However, any acreage used primarily for commercial purposes cannot be included in computations of residential density.
- (5) *Adjustments to density computations.* The following rules shall apply when measuring density for living units or guest units that may not also qualify as dwelling units:
 - a. When permitted on a property, certain other land uses such as assisted living facilities and hotels/motels are limited by using equivalency factors between those uses and dwelling units, such as provided in §§ 34-1415 and 34-1803.
 - b. For density purposes, each living unit shall count as one dwelling unit except where this code explicitly provides a different measure for measuring density (see, for example, § 34-1178(d) regarding accessory apartments in owner-occupied homes).
 - c. Lock-off accommodations in multiple-family buildings and timeshare units are living units and ~~thus~~ are calculated as separate dwelling units for density purposes.
 - d. Live-aboards are considered to be living units but not dwelling units as defined by the Fort Myers Beach Comprehensive Plan. Where live-aboards are permitted in accordance with § 34-1861, they are not subject to residential density computations.**
- (6) *[this subsection unchanged]*

HOTELS/MOTELS – Chapter 34

Revisions were proposed to §§ 34-1803 and 34-1807 regarding hotels. Based on the discussion at the February 8 public hearing, both revisions would be eliminated from this ordinance. Further discussion on this subject would take place at a later date.

STORAGE CONTAINERS – Chapter 34

Please consider the following additional revision to § 34-3005(c) regarding storage containers.

Sec. 34-3005. Storage facilities.

(a) ***Indoor storage.*** *[this subsection unchanged]*

(b) ***Open storage.*** *[this subsection unchanged]*

(c) ***Use of vehicles, truck trailers, or shipping containers for storage.*** Vehicles, truck trailers, shipping containers, and other similar structures may not be used to store goods, produce, or other commodities except in conjunction with an active building permit or development order (see § 34-3044) or unless approved on a temporary basis in accordance with § 34-3041~~4~~.

(d) ***Bulk storage of flammable liquids.*** *[this subsection unchanged]*

ATTACHMENTS:

- *Prior memorandum of January 31, 2005*
- *Prior memorandum of January 20, 2005*

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MEMORANDUM

TO: Fort Myers Beach Local Planning Agency
FROM: Bill Spikowski
DATE: January 31, 2005
SUBJECT: **LAND DEVELOPMENT CODE AMENDMENTS**

This memo supplements the backup material previously provided to you for the January 18th and January 25th public hearings on land development code amendments. The continuance of this public hearing will be held on February 8th at noon.

FILL PERMITS FOR SUBDIVIDED LOTS – Chapter 6

The property maintenance code in Chapter 6 contains new language in § 6-14 for subdivided lots whose ground level is later raised by placing fill material. Based on the discussion at the January 25 public hearing, please consider the following supplement to § 6-14 to add a permitting process:

Sec. 6-14. Neighborhood flooding.

(a) This code requires stormwater management systems for all new development and most redevelopment (see § 10-321). Development that is not subject to those requirements, such as single-family and two-family dwellings on existing lots, can also flood surrounding lots and streets, especially if the lot is raised higher than adjoining properties or if rainfall is concentrated by gutters and downspouts and discharged without an opportunity for percolation.

(b) To minimize neighborhood flooding from normal daily rainfall, a fill permit must be obtained from the town when fill material is to be placed around ~~the following requirements apply to~~ single-family and two-family dwellings on lots that have not previously complied with § 10-321:

- (1) When a lot has been filled more than an average of 1 foot *[or lesser depth?]* above adjoining lots, the fill permit application must show how normal rainfall will ~~must~~ be contained within the lot by using one or more of the following methods or equivalent solution:

- a. Gutters and downspouts that collect rainwater must discharge into exfiltration trenches (french drains), or into a subsurface drainfield that meets the construction standards of F.A.C. 64E-6.014(5) (the depth, location and setback standards for drainfields need not be met), or onto substantially flat and porous surfaces such as:
 1. Sodded lawns.
 2. Clean (washed) gravel or sand over a well-drained base.
 3. Porous (pervious) paving.
 - b. Roof areas not served by gutters and downspouts must not drain to impervious surfaces, and must not drain to pervious surfaces that are sloped in excess of 5%. Surfaces not meeting these requirements must be designed to detain or deflect rainfall, for instance through the use of earthen ridges, curbs, or retaining walls that prevent rainfall from running onto adjoining lots or streets.
- (2) Additions to, renovations of, and replacements for single-family and two-family dwellings that include the installation of gutters and downspouts must also obtain a fill permit showing discharge from the downspouts being directed to the same standards as for filled lots.

FLOODPLAIN STANDARDS – Chapter 6

Chapter 6 contains a minor revision to § 6-472(1)b.2. on standards for the expansion of buildings that were constructed before the current regulations were adopted in 1984. It became apparent during the January 25 public hearing that the revision was not clear; please consider the following revision in place of the original proposal:

Sec. 6-472. Specific standards.

The following specific standards must be followed within the Town of Fort Myers Beach:

- (1) ***Conventional residential construction.*** New construction or substantial improvement of any residential structure shall have the lowest floor elevated to or above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with standards of subsection (5) of this section. (See subsection (7) for additional restrictions in V zones.)
 - a. When an improvement to an existing residential structure involves reconstruction or includes an addition, and the improvement's cost exceeds the 50 percent threshold in this article's definition of "substantial improvement," then the reconstruction or addition shall be elevated the same as new construction, with its lowest floor elevated to or above the base flood elevation.
 - b. Some partial reconstructions or additions to existing residential structures may fall below the 50 percent threshold and are therefore not considered to be "substantial improvements." In this situation:
 1. If the structure was approved **after** 1984 and thus was elevated in accordance with this code, the reconstructed or additional floor space shall also be elevated the same as new construction, with its lowest floor at or above the base flood elevation. Any enclosed space below the base flood elevation shall be subject to the same restrictions that apply to post-1984 structures as found in subsection (5) of this section.
 2. If the structure was approved **before** 1984, ~~the reconstructed or~~ any additional enclosed floor space must be elevated to or above the elevation of the structure's existing lowest floor. Any enclosed space below the structure's

existing lowest floor shall be subject to the same restrictions that apply to post-1984 structures as found in subsection (5) of this section. For purposes of this subsection only, "existing lowest floor" does not include enclosed space of less than 500 square feet below a building with existing floor space that is elevated to base flood elevation or to within 2 feet of base flood elevation, an elevated structure and does not include any space that has been used to park vehicles.

[no further changes to this section]

RESIDENTIAL USES IN MARINAS – Chapter 34

Chapter 34 contains new language for § 34-632 on residential uses in marinas. Based on the discussion at the January 25 public hearing, please consider the following revision to § 34-632 in place of the original proposal:

Sec. 34-632. Density.

Residential density cannot exceed the maximum levels established in the Fort Myers Beach Comprehensive Plan. ~~Residential uses~~ Additional dwelling units are not allowed in the "Marina" or "Tidal Waters" categories on the Comprehensive Plan's future land use map; liveaboards are permitted in accordance with § 34-1861.

(1)–(7) [these subsections unchanged].

CORNER VISIBILITY – Chapter 34

Chapter 34 contains § 34-3131 on corner visibility. Based on the discussion at the January 25 public hearing, please consider the following revision to § 34-3131 to clarify its meaning:

Sec. 34-3131. Vehicle visibility at intersections.

(a) *Corner lots; driveways on Estero Boulevard.* On all corner lots as defined in this chapter, and on all driveways entering onto Estero Boulevard, no obstruction shall be planted or erected which materially obstructs traffic visibility within the visibility triangle as shown in Figure 34-30. This requirement also applies to all driveways entering onto Estero Boulevard. No structures (except along Old San Carlos Boulevard) or plantings shall be permitted between two feet and six feet above the average grade of each street within this triangular space.

(b) All other driveways and parking lot entrances. [this subsection unchanged].

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MEMORANDUM

TO: Fort Myers Beach Local Planning Agency
FROM: Bill Spikowski
DATE: January 20, 2005
SUBJECT: **LAND DEVELOPMENT CODE AMENDMENTS**

This memo supplements the backup material previously provided to you for the January 18th public hearing on land development code amendments, which has been continued to January 25th at noon.

BACK-LIT AWNINGS

On January 18, LPA members requested additional language that could be added to Chapter 30 regarding back-lit awnings. Please discuss this subject at your continued hearing on January 25 and decide whether to recommend its inclusion in this ordinance.

In summary, back-lit awnings (even those without lettering) were discouraged by the design guidelines for the Core Area Overlay District. These guidelines were adopted by the Town Council by Resolution 96-25; a copy is attached. Here are a few relevant excerpts:

- “Fabric awnings or historically inspired hanging metal roof overhangs are preferred.” (page 107)
- “Awnings designed for internal illumination of the entire awning surface are discouraged.” (page 108)
- “Internally illuminated box-type and fabric awning signs are generally discouraged. Reverse-channel letters with internal, concealed illumination, or externally illuminated signs with concealed light sources are preferred.” (page 115)

These design guidelines will be effectively superseded by the new land development code and can soon be repealed.

The proposed amendments to Chapter 30 attempt to centralize all sign regulations into this chapter of the code, eliminating sign regulations from the commercial design standards and

eliminating the core area design guidelines entirely. This causes a number of difficulties because the commercial design standards only applied to new buildings and “substantially improved” buildings, while Chapter 30 applies in those situations and also to the replacement of signs on existing buildings or buildings undergoing minor remodeling. The core area design guidelines apply only to land within what is now known as the DOWNTOWN zoning district.

At the January 18th public hearing, the LPA asked to have wording prepared that would generally forbid back-lit awnings and signs on back-lit awnings, but would allow existing businesses that have such awnings or signs to keep them at their existing business location.

Chapter 30 as previously proposed addresses this subject as follows:

- § 30-2 defines “awning signs” and “back-lit awnings.” Note that the definition of “awning signs” excludes the use of “back-lit awnings.”
- § 30-5(6) lists “back-lit awnings” as a type of prohibited sign.
- § 30-6(a)(2) lists “awning signs” as allowable, even without a permit, if the lettering does not exceed eight square feet.
- § 30-153(c) identifies “awning signs” as a type of “projecting sign” that does not require a permit if it meets all the requirements of § 30-6(a)(2). Awning signs that exceed eight square feet of lettering can also be approved for new and substantially approved buildings that are subject to a compliance determination relative to the commercial design standards; in such cases, the size of the sign is limited by the general size limitations for all other signs.

If the LPA decides to modify Chapter 30 as discussed on January 18th, the following changes would be required:

Sec. 30-5. ~~4~~ Prohibited signs.

No commercial advertising signs by whatever name designated, shall be erected in the town of Fort Myers Beach, except those expressly authorized by the provisions of this chapter. The following specific types of signs are expressly prohibited, but this enumeration shall not be construed to limit the general prohibition set forth in this subsection:

(1) – (5) *[no changes required]*

(6) ***Back-lit awnings.*** However, any business with an existing back-lit awning as of December 31, 2004, may continue to use that awning and may place or replace signage on that awning provided it otherwise conforms to this code. This right shall end if the business is discontinued or moved to a different location, or if the building is rebuilt or substantially improved (see § 34-992).

(7) – (27) *[no changes required]*

OUTDOOR LIGHTING

In a related matter, the recent trend toward buildings being heavily illuminated by external light fixtures was discussed on January 18. I said that the only restriction on the lighting intensity in the code was the sea turtle regulations, which generally forbid the direct or indirect illumination of sea turtle nesting habitat and which specifically disallow the use of floodlights, uplights, spotlights, and decorative lighting that are directly or indirectly visible from sea turtle nesting

habitat during the nesting season. Also, this proposed ordinance would add a new section on exterior lighting in § 34-1831–1834 (based on Lee County’s new exterior lighting regulations). § 34-1833(b)(3)d would limit floodlights or spotlights to 900 lumens and provide several limitations on how they are aimed.

In addition, there are four missing dimensions in § 34-1833(b)(4). The proposed wording should read as follows:

- (4) **Luminaire mount standards.** The following standards apply to luminaire mountings.
 - a. ***Freestanding luminaires.*** Light poles must be placed on the interior of the site. When light poles are proposed to be placed on the perimeter of the site, specific consideration should be addressed to compliance with the illumination standards at the property line and off the property onto adjacent residential property. The maximum height of light poles for parking lots and vehicular use areas may not exceed 15 feet measured from the ground level directly below the luminaire to the bottom of the lamp itself (see additional restrictions in ch. 14 for luminaires near sea turtle nesting habitat). Light poles located within 50 feet of a residentially zoned property or use may not exceed 12 feet. Poles used to illuminate pedestrian walkways may not exceed 12 feet. Lighting of outdoor recreational facilities (public or private) such as athletic fields and tennis courts is exempt from the mounting height standards provided that all other applicable provisions are met.
 - b. ***Building-mounted luminaires.*** These luminaires may only be attached to the building walls and the top of the fixture may not exceed the height of the parapet for flat roofed buildings or the lowest point on the nearest sloped roof; or — feet above ground; whichever is lower.
 - c. *[no further changes to this subsection]*

VARIANCES AND APPEALS

Chapter 1 contains a new § 1-15 on variances. Please consider expanding this section as follows:

Sec. 1-15. Variances and appeals.

Requests for variances and appeals from the terms of this code shall be administered and decided in conformance with the requirements for variances and appeals which are set forth in ch. 34, except where a provision in this code explicitly disallows variances or appeals or provides different procedures or standards for variances or appeals.