



MEMORANDUM

TO: Fort Myers Beach Town Council
FROM: Bill Spikowski
DATE: January 4, 2007
SUBJECT: Evaluation & Appraisal Report – Adoption Hearing on January 16, 2007 at 4:00 PM

The Florida Department of Community Affairs has reviewed the proposed Evaluation and Appraisal Report on the Fort Myers Beach Comprehensive Plan (as it was amended by the Town Council at a special meeting on August 1). The review comments from DCA are attached.

A final draft of this report has been prepared for consideration at your January 16th public hearing. This draft has been modified in response to DCA's review comments as follows:

- 1. Population growth and changes in land use:** Section 10-A (page 77) has been expanded to address the DCA comments and to provide revised projections of permanent and peak-season population for the years 2010 and 2020.
- 2. Extent of vacant and developable land:** Sections 10-B and 10-C (pages 78 and 79) have been completely rewritten to revise the 1996 analysis of anticipated development on vacant property and to address other DCA comments on these sections.
- 3. Financial feasibility of providing infrastructure to meet anticipated growth:** Section 10-D (pages 79 through 82) has been greatly expanded to demonstrate that the adopted levels of service are being maintained without major capital expenditures even with the demands of additional development within the town.
- 4. Changes to [state] law since the last E/A Report:** Section 8-I (page 68) has been expanded to address 2005 legislation that encourages preservation of recreational and commercial working waterfronts.
- 5. Assessment of objectives within each element:** This subject was already addressed in Sections 2-A, 3-A, 4-A, and 5-A of this report. However, DCA specifically requested documentation of changes to congestion on Estero Boulevard. The requested data is now presented on pages 45 and 46.

The recommended action on January 16 is to take public input on this report, make any changes deemed necessary by the Town Council, and then formally adopt this report and resubmit it to DCA. A formal finding of sufficiency by DCA will trigger an eighteen-month period during which the town's Comprehensive Plan is to be amended in accordance with the recommendations summarized on page 85 of this report.

*Attachments: DCA review comments dated October 5, 2006
Draft Resolution
Evaluation/Appraisal Report, draft dated January 16, 2007*
cc: *Town Manager, Town Attorney, Community Development Director*



STATE OF FLORIDA
DEPARTMENT OF COMMUNITY AFFAIRS
"Dedicated to making Florida a better place to call home"

JEB BUSH
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THADDEUS L. COHEN, AIA
Secretary

October 5, 2006

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

Dear Mayor Boback:

The Department has completed the review of the proposed Evaluation and Appraisal Report (EAR) for the Town of Fort Myers Beach which was received on September 5, 2006. The EAR is an important stage in the comprehensive planning process. We congratulate the Town for taking the positive step to evaluate its comprehensive plan. For your assistance, we have provided comments on certain aspects of the Report that need further work in order to sufficiently evaluate the plan as required by the statute. The concerns raised in the attached comments pertain to the evaluation of population changes, vacant and undeveloped land, the financial feasibility of providing infrastructure to meet the anticipated growth, changes to the law since the plan was adopted and the evaluation of the major issues.

We advise the Town to address these issues prior to the adoption of the EAR since these issues could constitute the reason for an insufficiency finding on the Report. The Department's staff is committed to working closely with the Town as it further evaluates these issues. Please, feel free to call Bernard O. Piawah, Principal Planner, Division of Community Planning, at 850-922-1810, if you have any question.

Sincerely yours,

Mike McDaniel

Regional Planning Administrator

MM/bp

Enclosures: Proposed EAR Sufficiency Comments

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

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**PROPOSED EVALUATION AND APPRAISAL REPORT
FOR TOWN OF FORT MYERS BEACH COMPREHENSIVE PLAN**

**Review Comments
(October 5, 2006)**

Sub-section 163.3191(2)(a) through (p), Florida Statutes, identifies a number of issues that should be addressed by all EAR's; they include community-wide issues such as population growth and changes in land use, the location of existing development in relation to anticipated growth, and vacant and developable land; major issues; and special topics, such as schools, water supply, coastal high hazard areas, compatibility with military installations, assessing whether concurrency exception areas have achieved the purpose for which they were created, and assessing whether a common concurrency methodology for measuring impacts on roads is needed. The Report addresses most of these requirements; however, the following issues are not sufficiently evaluated:

1. Population Growth and Changes in Land Use [(163.3191(2)(a))]:

The Report does not sufficiently discuss the changes in population since the plan was adopted. The Report includes a table showing the permanent population between 1990 and 2005, with no attendant discussion of the population changes and its impact on land use planning in the Town. In addition, no information was provided regarding the changes in the seasonal population, a major component of the Town's population, and its impact on land use planning in the Town during the planning period under evaluation. Furthermore, no projection of the future population for the next planning timeframe is included.

Recommendation: Please, provide an assessment of the changes in population that took place on the island since the plan was adopted in terms of its impact on land use planning. For example, did the change in population occur in a manner that resulted in an unexpected demand on the availability of public facilities thereby causing the level of service standards to fail, or was the increase in population as expected, and it is consistent with the population that was projected to occur on the island upon which land use and the infrastructure planning was based? The evaluation of the population changes should also include the projected population for the next planning timeframe (short term of five years, and the next five-year increment for a long range timeframe of at least 10 years). It is upon this projected population that land use and infrastructure planning for the next five or 10 years should be based.

2. The extent of vacant and developable land [163.3191(2)(b)]:

The Report defers the reader to the comprehensive plan where information on the extent of vacant developable land could be found instead of evaluating the subject at the time of the EAR, as required. No table of existing land uses, and existing land use map were provided to show the location and the land use categories in which the vacant lots are located. No projections of land needs per land use category, as well as a discussion of the adequacy of the available vacant land to accommodate the future population that is anticipated to locate in the Town during the next planning timeframe is provided. Although the town is about 96 % builtout, it is important that the EAR document the amount, and location of vacant developable land in the Town, projects the amount of land needed to accommodate the population, and also include a discussion of the adequacy of the vacant developable land to meet the future land use needs of the Town.

Recommendation: Revise the Report to include an assessment of the vacant developable land consistent with the points raised above. Also provide a projection of the amount of land needed to meet the projections for growth and the adequacy of the vacant land to meet this demand.

3. The financial feasibility of providing infrastructure to meet anticipated growth [163.3191(2)(c)]:

The Report simply asserts that there is no level of service standard issues in the Town and referred the reader to the amendments to the comprehensive plan updating the Five-Year Schedule of Capital Improvements for information on the improvements that the Town undertook during the past planning timeframe. The Report also provides a chart showing the surplus budget balances that the Town has experienced since the plan was adopted to support the view that the Town has the money that could have been used for capital improvements, if needed. However, no information is provided to substantiate the assertion that during the evaluation period no level of service standard (LOS) deficiencies occurred in the Town. Also, no projection of major capital facilities needs for the next planning period is provided and no projection of the revenues that will enable the Town to address the demands of growth during the next planning timeframe is provided.

Recommendation: Revise the Report to include an analysis of the financial feasibility of providing infrastructure in the Town during the evaluation period. The analysis should document the LOS situation of public facilities during the evaluation period and discuss how through the Town's capital improvement programming LOS standards were able to be achieved and maintained. In addition, the assessment should include a projection of the condition of public facilities during the next planning timeframe and the capital improvement programming that will enable the Town to stay abreast of infrastructure demands during the next planning period.

4. Changes to the law since the last EAR [163.3191(2)(f)]:

The Town evaluated the changes to the law since the comprehensive plan was adopted that may have implications for the Town's comprehensive plan. However, the Report did not address the House Bill 955 which mandates local governments to include in their comprehensive plan regulatory incentives and criteria that encourage the preservation of recreational and commercial working waterfronts as defined in s. 342.07 F.S.

Recommendation: Revise the Report to address this requirement and provide recommendations for complying with this requirement.

5. An assessment of the objectives within each element of the plan that pertain to each identified major issue to determine if established targets have been achieved, and indicating the unforeseen or anticipated circumstances that either made the achievement of the targets possible or created an obstacle to achieving the stated objectives [163.3191(2)(g)]

Four major issues were identified: coastal high hazard, buildback and conversion of land on the island, Estero Boulevard-Time Square congestion, and congestion and beautification of Estero Boulevard-length of the island. The evaluation of these major issues did not compare, using available data and analysis, the condition in the Town when the plan was adopted with respect to each major issue to the condition in the Town at the time of this EAR so as to identify any observed trend. It is on the basis of this change in conditions that the effectiveness of the policies and the achievement of the objectives can be evaluated, which should then direct the recommendations for further actions that may be implemented through the comprehensive plan. Take congestion along Estero Boulevard, for example, no information is provided to document the traffic condition at the time the plan was adopted and the traffic condition today so as to show the changes in traffic condition that would necessitate further actions.

Recommendation: Please, revise the Report to evaluate the major issues based on the points raised above. The report should document the changes in the condition of the major issues since the plan's adoption using the best available relevant data and analysis and determine if additional measures that will warrant comprehensive plan amendments need to be undertaken in order to achieve the objectives.

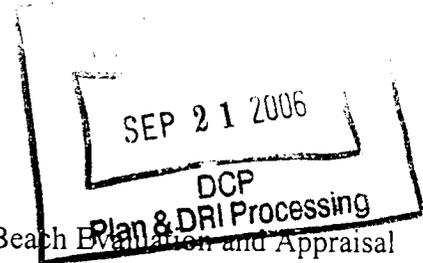


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FLORIDA DEPARTMENT OF STATE
Sue M. Cobb
Secretary of State
DIVISION OF HISTORICAL RESOURCES

September 19, 2006

Dennis C. Boback, Mayor
Town of Fort Myers Beach
2523 Estero Boulevard
Fort Myers Beach, Florida 33931



Re: Historic Preservation Review of the Town of Fort Myers Beach Evaluation and Appraisal Report

Dear Mayor Boback:

According to this agency's responsibilities under sections 163.3177 and 163.3178, *Florida Statutes*, and Chapter 9J-5, *Florida Administrative Code*, we reviewed the above document. Our cursory review indicates that historic resources are not specifically addressed in the EAR as one of the planning issues.

Nevertheless, in the evaluation of Objective 4-F, the EAR indicates that code relief for historic buildings has been added to the land development code. The overview of the Historic Preservation Element indicates that continued redevelopment has resulted in the loss of some of the historic structures. The overview continues, indicating that historic designation is voluntary and that a more aggressive program might result in enhanced protection of the town's historic resources. We concur with this assumption.

If you have any questions concerning our comments, please do not hesitate to contact Susan Harp at (850) 245-6333. Thank you for your interest in protecting Florida's historic resources.

Sincerely,

Frederick P. Gaske, Director

Xc: Mr. Eubanks, DCA

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- Archaeological Research (850) 245-6444 • FAX: 245-6452
- Historic Preservation (850) 245-6333 • FAX: 245-6437
- Historical Museums (850) 245-6400 • FAX: 245-6433
- Southeast Regional Office (954) 467-4990 • FAX: 467-4991
- Northeast Regional Office (904) 825-5045 • FAX: 825-5044
- Central Florida Regional Office (813) 272-3843 • FAX: 272-2340



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Department of Environmental Protection

Marjory Stoneman Douglas Building
3900 Commonwealth Boulevard
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10/2/06
Colleen M. Castille
Secretary

September 28, 2006

Mr. Ray Eubanks
Plan Review and DRI Processing Team
Florida Department of Community Affairs
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399-2100

**RE: Fort Myers Beach, Evaluation and Appraisal Report Review
Preliminary Comments**

Dear Mr. Eubanks:

The Office of Intergovernmental Programs offers its preliminary comments for the City of Fort Myers Beach Evaluation and Appraisal Report. We are in the process of reviewing the report under the procedures of Chapter 163, *Florida Statutes (F.S.)*, and Chapters 9J-5 and 9J-11, *Florida Administrative Code (F.A.C.)*. We will submit final comments no later than October 2, 2006.

Thank you for the opportunity to comment on the proposed amendment package. Should you have any questions or require further assistance, please call me at (850) 245-2182.

Yours sincerely,

JAL

Jacqueline A. Larson
Environmental Specialist
Office of Intergovernmental Programs

/jl



Jeb Bush
Governor

Department of Environmental Protection

Marjory Stoneman Douglas Building
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000

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10/2/06

Colleen M. Castille
Secretary

September 29, 2006

Mr. D. Ray Eubanks
Plan Review and DRI Processing Team
Florida Department of Community Affairs
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399-2100

RE: City of Fort Myers Beach Proposed EAR Comments and Recommendations

Dear Mr. Eubanks:

On behalf of the Department of Environmental Protection, the Office of Intergovernmental Programs has reviewed the City of Fort Myers Beach's proposed Evaluation and Appraisal Report in accordance with the provisions of Chapter 163, *Florida Statutes*. As required by law, the scope of our comments and recommendations is limited to the environmental suitability of the proposed changes in light of the Department's regulatory and proprietary responsibilities. Based on our review of the proposed EAR, the Department has found no provision that requires comment, recommendation or objection under the laws that form the basis of the Department's jurisdiction and authority. If the report pertains to changes in the future land use map or supporting text, please be advised that at such time as specific lands are proposed for development, the Department will review the proposal to ensure compliance with environmental rules and regulations in effect at the time such action is proposed. In addition, any development of the subject lands will have to comply with local ordinances, other comprehensive plan requirements and restrictions, and applicable rules and regulations of other state and regional agencies.

Thank you for the opportunity to comment on this proposal. If I may be of further assistance, please call me at (850) 245-2182.

Sincerely,

JAL

Jacqueline A. Larson
Environmental Specialist
Office of Intergovernmental Programs

/jl

RESOLUTION NUMBER 07-__

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, ADOPTING THE EVALUATION AND APPRAISAL REPORT ON THE FORT MYERS BEACH COMPREHENSIVE PLAN; DIRECTING PREPARATION OF AMENDMENT TO THE COMPREHENSIVE PLAN IN ACCORDANCE THEREWITH; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, Florida Statutes provide that municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal services, and exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, Article X of the Town Charter of the Town of Fort Myers Beach empowers the Town to adopt resolutions as required for the proper governing of the Town; and

WHEREAS, the Florida State Statute Section 163.3191 requires the periodic re-evaluation of all comprehensive plans adopted by municipalities, which re-evaluation is called the Evaluation/Appraisal process; and

WHEREAS, pursuant to the aforesaid Florida State Statute, the Evaluation/Appraisal process has two steps: first, preparation of a formal E/A Report to evaluate the existing plan and identify needed changes; and secondly, make subsequent amendments to the comprehensive plan using the normal plan amendment process;

WHEREAS, the Local Planning Agency of the Town of Fort Myers Beach prepared the E/A Report required by Florida Statutes Section 34.3191(4) and recommended approval and adoption of same by the Town Council via Resolution 2006-03, passed on March 14, 2006, a copy of which is attached hereto as Exhibit __ and hereby incorporated by reference; and

WHEREAS, the Town Council held a public hearing on January 16, 2007, following proper notice, at which time it considered the proposed Evaluation and Appraisal Report entitled "Public Hearing Draft for Adoption Hearing on January 16, 2007", (E/A Report), the review comments and recommended changes provided by the Florida Department of Community Affairs and others, the documents provided by staff, the Town's planning consultant, and others, and the testimony of all interested parties; and

WHEREAS, the Town Council hereby determines that the adoption of the E/A Report is in the best interests of the life, safety, welfare and well-being of its citizens, residents, business owners and property owners.

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

Section 1. Incorporation of Whereas Clauses. The above "Whereas" clauses are hereby incorporated by reference as though fully set forth herein.

Section 2. Adoption of the Evaluation and Appraisal Report. In accordance with the requirements of Florida State Statute Section 163.3191(6), the Town Council hereby adopts the Evaluation and Appraisal Report entitled "Public Hearing Draft for Adoption Hearing on January 16, 2007", in its entirety and directs staff to submit three copies of

the E/A Report to the Florida Department of Community Affairs, along with the statutorily-required transmittal letter indicating the dates of public hearings, and a copy of this resolution.

Section 3. Commencement of Amendments to the Town Comprehensive Plan

In accordance with the provisions of Florida State Statute Section 163.3191(10), the Town Council hereby directs the Local Planning Agency to commence review of proposed amendments to the Town Comprehensive Plan based upon the E/A Report, which review shall be completed in time for the Town to adopt such amendments during a single amendment cycle within eighteen (18) months after the Town's E/A Report is determined to be sufficient by the Florida Department of Community Affairs.

Section 4. Effective Date. This resolution shall take effect immediately upon its adoption by the Town Council of the Town of Fort Myers Beach.

The foregoing Resolution was adopted by the Town Council upon a motion by Councilmember _____ and seconded by Councilmember _____, and upon being put to a vote, the result was as follows:

Dennis C. Boback, Mayor _____
Don Massucco, Vice Mayor _____
Charles Meador, Jr. _____
Garr Reynolds _____
William Shenko, Jr. _____

TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH

By: _____
Dennis C. Boback, Mayor

Approved as to legal sufficiency:

ATTEST:

By: _____
Anne Dalton, Esquire
Town Attorney

By: _____
Michelle Mayher, Town Clerk