



Town of Fort Myers Beach

LOCAL PLANNING AGENCY

Newton Park
4650 Estero Boulevard
Fort Myers Beach, Florida
33931

June 13, 2017

AGENDA

9:00 AM

- I. Call to Order
- II. Pledge of Allegiance
- III. Invocation
- IV. Minutes
 - A. Minutes of May 9, 2017
- V. LDC Amendment 50% Floodplain Regulations in Chapter 6
- VI. LDC Amendment Neighborhood Flooding Chapter 6, Add Sec. 6-14
- VII. Review LPA Enabling Ordinance 96-02
- VIII. LPA Budget Discussion – Project Budget Requests
- IX. Historic Preservation Board meeting:
Adjourn as LPA and reconvene as Historic Preservation Board

Adjourn as Historic Preservation Board and reconvene as LPA

- X. LPA Member Items and Reports
- XI. LPA Attorney Items
- XII. Community Development Items
- XIII. Items for next month's Agenda
- XIV. Public Comment
- XV. Adjournment

Next Meeting: July 11, 2017



For special accommodations, please notify the Town Clerk's Office at least 72 hours in advance. (239) 765-0202



Help for the hearing impaired is available through the Assistive Listening System. Receivers can be obtained from the Town Clerk's Office.

In accordance with the Americans with Disabilities Act (ADA), persons needing a special accommodation to participate in the Board's proceedings should contact the Town Clerk's Office not later than three days prior to the proceedings.



**FORT MYERS BEACH
LOCAL PLANNING AGENCY (LPA)
MINUTES
Town Hall
2525 Estero Boulevard
Fort Myers Beach, Florida 33931
Tuesday, May 9, 2017**

I. CALL TO ORDER

Meeting was called to order at 9:00 a.m. by Vice Chair Katt. Members present: Megan Heil, Dan Hendrickson, Suzanne Katt, Jane Plummer, Scott Safford and Lorrie Wolf.

Excused: Hank Zuba

Town Attorney: Town Attorney Peterson

Staff: Matt Noble

II. PLEDGE OF ALLEGIANCE

III. INVOCATION

IV. MINUTES - April 18, 2017

MOTION: Ms. Plummer moved to approve the minutes, second by Ms. Wolf.

VOTE: Motion approved; 6-0 with Chair Zuba excused.

MOTION: Ms. Plummer moved to approve the resolution for James Steele for his contributions to the Town; second by Ms. Heil.

VOTE: Motion approved; 6-0 with Chair Zuba excused.

V. HISTORIC PRESERVATION BOARD MEETING - Moving Historical Homes to Matanzas Pass

MOTION: Mr. Safford moved to adjourn as LPA and reconvene as Historic Preservation Board; second by Ms. Plummer

VOTE: Motion approved; 6-0 with Chair Zuba excused.

Jesse Lavender, Director of Lee County Parks and Recreation, distributed photos of the Boca Grande cottage donated to the Town. Chair Katt explained that during the Historic Advisory Committee (HAC) meeting, Mr. Noble indicated that Boca Grande was interested in moving a cottage to Fort Myers Beach. After the meeting, moving the cottages at 3360 and 3370 Estero Blvd. were also discussed.

Russell Carter, past President of the Historic Society, was tasked with overseeing cottage acquisition. He explained that the Friends of Matanzas Pass wanted to put a visitor's welcome center/classroom at the entrance of Matanzas Pass. Mr. Noble brought up the possible donation of two cottages on Estero. Mr. Carter provided possible site locations and the lease with Lee County.

Mr. Noble approached Joe Orlandini with the idea of moving the Estero cottages. Mr. Orlandini stated that the little white house with the red brick chimney was the only one worth saving out of the three. He noted he would have to salvage pieces from two of the structures to make one house. He indicated that extra material from the structures would be repurposed. Mr. Orlandini stated that they had the ability to put two structures on the property. He noted that he would have to move the house to a temporary location at 1510 Estero Blvd. He discussed keeping the house at its original elevation due to cost issues. Mr. Noble indicated that he had not fully explored the height issue regarding historic structures.

Mr. Lavender proposed keeping the Boca Grande cottage at its original elevation for the same reasons. Mr. Orlandini asked that Mike Huffman be recognized for his willingness to save and move the cottage. He indicated that Mr. Huffman had a buyer for one interior wall but Mr. Orlandini mitigated the issue. He recognized that there will probably be a dollar issue factored into the project. Mr. Orlandini notified the press of the upcoming move.

Mr. Lavender distributed copies of the concept plan and he indicated they could entertain amending the current lease to include more property if needed. He questioned whether the Town would designate the Boca Grande cottage as historic. Vice Chair Katt questioned acquiring additional land for cottages in the future. Mr. Lavender replied that there would be a cap due to space limitations. Ms. Plummer questioned whether they could create a village with no setbacks to fit in as many cottages as possible. Mr. Noble replied that there would be minimum setbacks. Mr. Orlandini thought five structures could fit in the proposed location.

Mr. Hendrickson questioned space for parking and where the closest residential area was located. Mr. Noble replied that residents were on the other side of the parking lot and they would have to discuss parking. Vice Chair Katt questioned whether they could designate the cottages as an historic district to protect them. Mr. Noble responded in the affirmative. Mr. Lavender revealed that the Boca Grande cottage was Audrey Hepburn's winter residence. He cautioned that an amendment to the current lease would go before the County Commissioners for final approval. Mr. Noble noted that moving the cottages in the Town required Council approval. Mr. Lavender revealed that the Boca Grande cottage would be moved to a temporary location as well.

Ms. Wolf clarified that the Boca Grande cottage was donated to Lee County and the lease would not have to be rewritten for that cottage.

Mr. Carter stated that the Friends of Matanzas Pass were dedicated to saving historic structures on Fort Myers Beach, but they were not against acquiring historic assets from other areas. He supported keeping the current deck elevation due to ADA access.

Ms. Plummer requested the square footage of the Boca Grande cottage. Mr. Lavender distributed a drawing of the L-shaped cottage. He stated it was just over 25 feet at the longest part of the L and 35 feet long.

Chair Katt thanked Mr. Lavender for his presentation.

MOTION: Ms. Plummer moved that they support moving one or two of the houses located at 3360 and 3370 Estero Blvd. to be temporarily moved to 1510 Estero Blvd. until such time that the permits and the property were prepared for the delivery of the historical homes to the historic area at the Matanzas Pass behind the school; second by Ms. Heil.

Mr. Hendrickson questioned who would finance the project. Mr. Noble stated that they would have to have several discussions with various entities. Mr. Hendrickson questioned what would happen in the event that the project fell through and Mr. Orlandini was stuck with the cottage on his property. Chair Katt indicated that their motion was only a recommendation to make the move, not a commitment from the Town. Ms. Heil questioned whether they could provide the necessary variances for Mr. Orlandini. Chair Katt replied that they could not approve variances in advance.

VOTE: Motion approved; 6-0 with Mr. Zuba excused.

Ms. Heil thanked Mr. Orlandini for bringing the opportunity to their attention. Chair Katt included Mr. Noble and Mr. Carter.

Ms. Plummer questioned whether they should make a motion supporting moving the Boca Grande cottage. Chair Katt replied that Mr. Noble suggested waiting until they had more information. Mr. Lavender explained his timeline.

Discussion was held regarding framing a motion for Mr. Lavender. Mr. Safford suggested creating a fast-track process to move historic cottages. Ms. Wolf supported the contingent approval.

MOTION: Mr. Hendrickson moved that they let the County know that they were open to accept the Boca Grande property contingent upon purchase of the land by Matanzas Pass; second by Mr. Safford.

VOTE: Motion approved; 6-0 with Mr. Zuba excused.

Chair Katt reported that the Women's Club completed the application process for the historic designation of their building, but some members were afraid to proceed. Mr. Noble will attend the next board meeting to allay their fears. Mr. Noble will work on creating a letter to owners of historic properties. Chair Katt invited Mr. Orlandini and Mr. Lavender to attend the next HAC meeting on May 30, 2017. She requested that anyone interested in joining the HAC submit a letter of interest to Mr. Noble. Ms. Plummer questioned whether they should amend the motion regarding the Boca Grande cottage. Chair Katt determined the original motion was sufficient.

MOTION: Mr. Hendrickson moved to adjourn as Historic Preservation Board and reconvene as the LPA; second by Mr. Safford.

VOTE: Motion approved; 6-0 with Mr. Zuba excused.

VI. LPA MEMBER ITEMS AND REPORTS

Ms. Heil reported that the Bike/Ped Master plan was moving along.

Mr. Hendrickson stated that he did not know that residential rentals had to be registered. He described the registration process. He described a recent case in Widgeon Terrace that went before the LPA. After the LPA made recommendations, changes were made to the project, but it did not go back to the LPA.

Mr. Hendrickson felt that the changes should have gone back to the LPA for their review. He would like to revisit development on the island if Town Council planned to give advisory committees leeway to be proactive.

Ms. Plummer questioned the status of the 50% rule. Mr. Noble replied that resolutions were signed and the blue sheets were being worked on. He thought it should be ready by the next Council meeting.

Mr. Safford supported Mr. Hendrickson regarding changes made after LPA recommendations. He would like to see a process to save historic homes in the future.

Ms. Wolf agreed with Mr. Hendrickson and Mr. Safford regarding changes and she thought the 50% rule would help prevent cottages from being demolished.

Vice Chair Katt questioned when TPI would be submitting an application. Mr. Noble responded that it was reviewed and found to be insufficient. The applicant had 60 days to address the insufficiency letter and a meeting was scheduled with their development team. He thought it would be a couple of months before it came to the LPA. Vice Chair Katt questioned whether they could establish a historic district on the Island. Mr. Noble replied that there were concentrations of historic cottages on Pearl St. but there has not been a movement to move forward. She asked whether he could provide a tutorial on requirements of a historic district. Mr. Noble agreed. Vice Chair Katt questioned when the financial declarations were due. Town Attorney Peterson responded before the end of July.

Town Manager Hernstadt introduced himself to the LPA. He summarized Town Council's conversation regarding allowing advisory committees more leeway. He agreed that changes after LPA recommendations should come back to the LPA.

VII. LPA ATTORNEY ITEMS

Town Attorney Peterson stated that the financial declarations should be filed as close to July 1, 2017 as possible.

VIII. COMMUNITY DEVELOPMENT ITEMS

Mr. Noble will include the ordinance laying out duties and responsibilities of the LPA in the next packet. Council asked that all committees review their ordinance and make recommendations for changes or modifications. Mr. Noble will include a schedule in the next packet.

IX. ITEMS FOR NEXT MONTH'S AGENDA

X. PUBLIC COMMENT - no public comment

XI. ADJOURNMENT

MOTION: Mr. Hendrickson moved to adjourn the meeting; second by Mr. Safford.

VOTE: Motion approved; 6-0 with Chair Zuba excused.

Meeting adjourned at 10:38 a.m.

Adopted _____ With/Without changes. Motion by _____

Vote: _____

- End of document

ORDINANCE NO. 17-09

AN ORDINANCE BY THE FORT MYERS BEACH TOWN COUNCIL AMENDING THE TOWN OF FORT MYERS BEACH CODE OF ORDINANCES TO AMEND FORT MYERS BEACH LAND DEVELOPMENT CODE CHAPTER 6; TO ADOPT TECHNICAL AMENDMENTS TO THE FLORIDA BUILDING CODE; PROVIDING FOR APPLICABILITY; REPEALER; SEVERABILITY; AND AN EFFECTIVE DATE.

WHEREAS, the Legislature of the State of Florida has, in Chapter 166, Florida Statutes, conferred upon local governments the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry; and

WHEREAS, the Federal Emergency Management Agency has identified special flood hazard areas within the boundaries of the Town of Fort Myers Beach and such areas may be subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare, and

WHEREAS, the Town of Fort Myers Beach desires to continue to meet the requirements of Title 44 Code of Federal Regulations, Sections 59 and 60, necessary for participation in the National Flood Insurance Program; and

WHEREAS, Chapter 553, Florida Statutes, was adopted by the Florida Legislature to provide a mechanism for the uniform adoption, updating, amendment, interpretation and enforcement of a state building code, called the *Florida Building Code*; and

WHEREAS, Chapter 553, Florida Statutes, allows for local technical amendments to the *Florida Building Code* that provide for more stringent requirements than those specified in the Code and allows adoption of local administrative and local technical amendments to the Florida Building Code to implement the National Flood Insurance Program and incentives;

WHEREAS, the Town Council previously adopted a requirement to require accumulation of costs of improvements and repairs to buildings, based on issued building permits, over a 5-year period, for buildings and structures in flood hazard areas as part of Ordinance 16-02 and,

WHEREAS, the Town Council has determined that it is in the public interest to rescind a local technical amendment to the *Florida Building Code* and the proposed amendments are not more stringent than necessary to address the need identified, do not discriminate against materials, products or construction techniques of demonstrated capabilities, are in compliance with section 553.73(4), Florida Statutes, and

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Fort Myers Beach that the following amendments to the Florida Building Code and floodplain management regulations are hereby adopted.

SECTION 1. RECITALS.

The foregoing whereas clauses are incorporated herein by reference and made a part hereof.

SECTION 2. AMENDMENT OF TOWN OF FORT MYERS BEACH LAND DEVELOPMENT CODE CHAPTER 6.

The Town of Fort Myers Beach Land Development Code Chapter 6, Article IV, pertaining to Floodplain Regulations, is hereby amended with underlining representing new text and strikethrough identifying deleted text.

ARTICLE II. BUILDING CODES

DIVISION 3. BUILDING CODE

Sec. 6-111. - Adoption: amendments.

Florida Building Code, Building, Section 1612.2.

~~*SUBSTANTIAL IMPROVEMENT.* Any combination of repair, reconstruction, rehabilitation, addition or improvement of a building or structure taking place during a 5 year period, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the improvement or repair is started. For each building or structure, the 5 year period begins on the date of the first improvement or repair of that building or structure subsequent to February 4, 2002. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the actual repair work performed. The term does not, however, include either:~~

1. Any project for improvement of a building required to correct existing health, sanitary or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions.
2. Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

Florida Building Code, Existing Building, Chapter 2.

~~*SUBSTANTIAL IMPROVEMENT.* Any combination of repair, reconstruction, rehabilitation, addition or improvement of a building or structure taking place during a 5 year period, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the improvement or repair is started. For each building or structure, the 5 year period begins on the date of the first improvement or repair of that building or structure subsequent to February 4, 2002. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the actual repair work performed. The term does not, however, include either:~~

1. Any project for improvement of a building required to correct existing health, sanitary or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions.
2. Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

ARTICLE IV. FLOODPLAIN REGULATIONS

DIVISION 3. DUTIES AND POWERS OF THE FLOODPLAIN ADMINISTRATOR

Sec. 6-424. Substantial improvement and substantial damage determinations.

For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the Floodplain Administrator, in coordination with the Building Official, will:

- (1) Estimate the market value or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure will be the market value before the damage occurred and before any repairs are made; any appraisal used for the purposes of substantial improvement/substantial damage determinations must be current within one year of work commencing;
- (2) Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure;
- (3) Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; ~~the determination requires evaluation of previous permits issued for improvements and repairs as specified in the definition of "substantial improvement;"~~ and for proposed work to repair damage caused by flooding, the determination requires evaluation of previous permits issued to repair flood-related damage as specified in the definition of "substantial damage;" and
- (4) Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood-resistant construction requirements of the *Florida Building Code* and this article is required.

DIVISION 9. DEFINITIONS

Sec. 6-494. Definitions.

Market value. The price at which a property will change hands between a willing buyer and a willing seller, neither party being under compulsion to buy or sell and both having reasonable knowledge of relevant facts. As used in this article, the term refers to the market value of buildings and structures, excluding the land and other improvements on the parcel. Market value may be established by a qualified independent appraiser, Actual Cash Value (replacement cost depreciated for age and quality of construction), or tax assessment value adjusted upward by 20%.

Any proposed value submitted via a private appraisal that exceeds the property appraiser's valuation by more than 35 percent may be subject to peer review by a qualified local appraiser or submittal of a new independent appraisal, with the full cost of the review or new appraisal paid by the applicant.

Substantial improvement. Any ~~combination~~ of repair, reconstruction, rehabilitation, addition, or other improvement of a building or structure ~~taking place during a five-year period~~, the cumulative cost of which equals or exceeds 50 percent of the market value of the building or structure before the improvement or repair is started. ~~For each building or structure, the five-year period begins on the date of the first permit issued for improvement or repair of that building or structure subsequent to February 4, 2002.~~ If the structure has incurred substantial damage, any repairs are considered substantial improvement regardless of the actual repair work performed. The term does not, however, include either: [Also defined in FBC, 8, Section 202.]

- (1) Any project for improvement of a building required to correct existing health, sanitary, or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions.
- (2) Any alteration of a historic structure provided the alteration will not preclude the structure's continued designation as a historic structure.
- (3) ~~Costs of alterations or improvements whose express purpose is the mitigation of future storm damage, provided the costs of such measures, plus the costs of any other improvements, do not exceed 50 percent of the market value of the structure over any one-year period; examples of such mitigation include the installation of storm shutters or impact-resistant glass, strengthening of roof attachments, floors, or walls, and minor measures to reduce flood damage.~~
 - ~~a. Storm mitigation improvements may be made during the same year as other improvements, but the total cost of improvements of both types that are made over any one-year period may not exceed 50 percent of the market value of the structure.~~
 - ~~b. The annual allowance for storm mitigation improvements is not applicable towards any costs associated with a lateral or vertical addition to an existing structure or to the complete replacement of an existing structure.~~

DIVISION 10. FLOOD RESISTANT DEVELOPMENT

Subdivision VII. Other Development

Sec. 6-526. Concrete slabs used as parking pads, enclosure floors, landings, decks, walkways, patios and similar nonstructural uses in coastal high hazard areas (Zone V).

In coastal high hazard areas, concrete slabs used as parking pads, enclosure floors, landings, decks, walkways, patios and similar nonstructural uses are permitted beneath or adjacent to buildings and structures provided the concrete slabs are designed and constructed to be:

- (1) Structurally independent of the foundation system of the building or structure;
- (2) Frangible and not reinforced, so as to minimize debris during flooding that is

capable of causing significant damage to any structure; and

- (3) Have a maximum slab thickness of not more than four inches without turned-down edges, have isolation joints at pilings and columns, and have control or construction joints in both directions spaced no more than 4 feet apart.

SECTION 3. FISCAL IMPACT STATEMENT.

In terms of design, plan application review, construction and inspection of buildings and structures, the cost impact as an overall average is negligible in regard to the local technical amendments because all development has been subject to the requirements of the local floodplain management ordinance adopted for participation in the National Flood Insurance Program. In terms of lower potential for flood damage, there will be continued savings and benefits to consumers.

SECTION 4. APPLICABILITY.

This ordinance applies within the jurisdiction of the Town of Fort Myers Beach. This ordinance applies to all applications for development, including building permit applications and subdivision proposals, submitted on or after the effective date of this ordinance.

SECTION 5. INCLUSION INTO THE CODE OF ORDINANCES.

The Town Council intends that the provisions of this ordinance will be made a part of the Fort Myers Beach Code of Ordinances, and that sections of this ordinance may be renumbered or relettered and the word "ordinance" may be changed to "section," "article," "regulation," or such other appropriate word or phrase in order to accomplish codification; and, regardless of whether this ordinance is ever codified, the ordinance can be renumbered or relettered and typographical errors that do not affect the intent can be corrected with the authorization of the Town manager or designee without the need for a public hearing.

SECTION 6. SEVERABILITY.

If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, declared by the courts to be unconstitutional or invalid, such decision will not affect the validity of the ordinance as a whole, or any part thereof, other than the part so declared.

SECTION 7. CONFLICTS.

Whenever the requirements or provisions of this ordinance are in conflict with the requirements or provisions of any other lawfully adopted ordinance or statute, the most restrictive requirements will apply.

SECTION 8. EFFECTIVE DATE.

This ordinance becomes effective immediately upon adoption.

The foregoing ordinance was enacted by the Town Council upon a motion by

Councilmember _____ and seconded by Councilmember _____, and upon being put to a vote, the results was as follows:

Dennis C. Boback
Tracey Gore
Joanne Shamp
Bruce Butcher
Anita Cereceda

ATTEST:

TOWN OF FORT MYERS BEACH

By: _____
Michelle Mayher, Town Clerk

By: _____
Dennis C. Boback, Mayor

APPROVED AS TO FORM:

Town Attorney

ORDINANCE NO. 17-XX

AN ORDINANCE AMENDING TOWN OF FORT MYERS BEACH LAND DEVELOPMENT CODE CHAPTER 6, ARTICLE I, PERTAINING TO NEIGHBORHOOD FLOODING; PROVIDING FOR APPLICABILITY; CODIFICATION; CONFLICTS; SEVERABILITY; AND AN EFFECTIVE DATE.

WHEREAS, the Legislature of the State of Florida has, in Chapter 166 – Municipalities, Florida Statutes, conferred upon local governments the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry; and

WHEREAS, Chapter 10 of the Land Development Code require stormwater management systems for new development subject to Chapter 10; and

WHEREAS, development that is not subject to the requirements of Chapter 10, such as single-family and two-family dwellings, and other associated improvements, can potentially flood surrounding lots and streets; and

WHEREAS, the placement of fill on vacant properties has the potential to cause flooding on surrounding lots and streets; and

WHEREAS, this ordinance was considered by the Local Planning Agency on ##, 2017 and found to be consistent with the Town of Fort Myers Beach Comprehensive Plan; and

WHEREAS, the Town Council held two public hearings and received public comments regarding the provisions of this ordinance on June 6, 2017 and ##, 2017; and

WHEREAS, the Town of Fort Myers Beach Town Council has determined it is in the public interest to adopt the proposed neighborhood flooding ordinance that is consistent with the Town's floodplain management regulations.

NOW, THEREFORE, BE IT ORDAINED by the Town Council of Fort Myers Beach that the following neighborhood flooding regulations are hereby adopted.

SECTION 1. RECITALS.

The foregoing whereas clauses are incorporated herein by reference and made a part hereof.

SECTION 2. AMENDMENT OF TOWN OF FORT MYERS BEACH LAND DEVELOPMENT CODE CHAPTER 6.

The Town of Fort Myers Beach Land Development Code Chapter 6, Article I, pertaining to Neighborhood Flooding, is hereby amended with underlining representing new text and strikethrough identifying deleted text.

ARTICLE I. PROPERTY MAINTENANCE CODES

DIVISION 1. INTERNATIONAL PROPERTY MAINTENANCE CODE

Sec. 6-14 Neighborhood flooding.

- (a) Chapter 10 of this code requires stormwater management systems for new development (see 10-321). Development that is not subject to those requirements, such as single-family and two-family dwellings, detached structures, pools, pool decks, additions, pavers, driveways, patios, etc. 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 infiltration. The placement of fill on vacant properties have the potential to also cause surrounding lots and streets to flood and therefore when no other development permit is being obtained at the time fill is being brought to the site, a site fill permit must be obtained. The fill permit application must show how normal rainfall 1" (interior lot)-1.6" (waterfront lot) will have an opportunity to infiltrate into the ground within the lot.

To minimize neighborhood flooding from normal daily rainfall, no more than 67% of the total lot area within a residential zoning district shall be covered with impervious surfaces. The plans must indicate the method used to maintain a 1" (interior lot) or 1.6" (waterfront lot) rainfall on site.

(1) 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 average rainfall from running onto adjoining lots or streets.

SECTION 3. APPLICABILITY.

This ordinance applies within the jurisdiction of the Town of Fort Myers Beach. This ordinance applies to all applications for development, including building permit applications and subdivision proposals, submitted on or after the effective date of this ordinance.

SECTION 4. INCLUSION INTO THE CODE OF ORDINANCES.

The Town Council intends that the provisions of this ordinance will be made a part of the Fort Myers Beach Code of Ordinances, and that sections of this ordinance may be renumbered or relettered and the word "ordinance" may be changed to "section," "article," "regulation," or such other appropriate word or phrase in order to accomplish codification; and, regardless of whether this ordinance is ever codified, the ordinance can be renumbered or relettered and typographical errors that do not affect the intent can be corrected with the authorization of the Town manager or designee without the need for a public hearing.

SECTION 5. SEVERABILITY.

If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, declared by the courts to be unconstitutional or invalid, such decision will not affect the validity of the ordinance as a whole, or any part thereof, other than the part so declared.

SECTION 6. CONFLICTS.

Whenever the requirements or provisions of this ordinance are in conflict with the requirements or provisions of any other lawfully adopted ordinance or statute, the most restrictive requirements will apply.

SECTION 7. EFFECTIVE DATE.

This ordinance becomes effective immediately upon adoption.

PASSED on first reading on ##, 2017.

The foregoing ordinance was enacted by the Town Council upon a motion by Councilmember Hosafros and seconded by Councilmember Cereceda, and upon being put to a vote, the results was as follows:

Dennis Boback
Tracey Gore
Bruce Butcher
Joanne Shamp
Anita Cereceda

ATTEST:

TOWN OF FORT MYERS BEACH

By: _____
Michelle Mayher, Town Clerk

By: _____
Dennis Boback, Mayor

APPROVED AS TO FORM:

Town Attorney

Ordinance 96-02

AN ORDINANCE ESTABLISHING THE TOWN LOCAL PLANNING AGENCY, PROVIDING AUTHORITY; AGENCY ESTABLISHED; COMPOSITION AND APPOINTMENT; QUALIFICATIONS OF MEMBERS; PURPOSE AND SCOPE; MEMBER'S TERM AND VACANCIES; FORFEITURE OF OFFICE; COMPENSATION OF MEMBERS; ELECTION OF OFFICERS; DUTIES OF OFFICERS; CLERK; RULES AND PROCEDURES; EMPLOYMENT OF STAFF AND EXPERTS; REIMBURSED EXPENSES; SUPERVISION OF STAFF; FUNCTIONS, POWERS AND DUTIES; COOPERATION WITH LPA; SEVERABILITY AND EFFECTIVE DATE.

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

15. SECTION 2. Agency Established. A local planning agency to be known as the Town of Fort Myers Beach Local Planning Agency "LPA" is hereby established.

15. SECTION 3. Composition and appointment. The LPA shall consist of not less than seven nor more than nine members appointed by the Town Council. (69-25)

15. SECTION 4. Qualifications of members. No members of the LPA shall be salaried officials of the town.

15. SECTION 5. Purpose and scope. The broad objectives of the town planning and the creation of the LPA are to further the welfare of the citizens of the town by helping to promote a better, more helpful, convenient, efficient, healthful, safe and attractive community environment and to insure that the unique and natural characteristics of the island are preserved.

15. SECTION 6. Member's term and vacancies. The term of office of a member of the LPA shall be staggered three (3) years or until a successor has been appointed and has qualified, except that the respective terms of the members first appointed shall be two (2) for one (1) year, three (3) for two (2) years and two (2) for three (3) years.

Appointments shall be made annually at the first meeting of the council in January. Vacancies in the LPA shall, within thirty days, be filled by the council for the remainder of the term created by such vacancy.

15. SECTION 7. Forfeiture of office. A LPA member shall forfeit office if the member:

a. Lacks at any time during the term of office any qualification for the office prescribed by town ordinance or state law;

b. Violates any standard of conduct or code of ethics established by law for public officials; or

c. Is absent from three (3) consecutive regular LPA meetings without being excused by the LPA.

15. SECTION 8. Compensation of members. The members of the LPA shall serve without compensation.

15. SECTION 9. Election of officers. The LPA shall each year at the first meeting of the newly appointed members elect one of its members as Presiding Officer and elect an alternate.

15. SECTION 10. Duties of officers. It shall be the duty of the

Presiding Officer to preside over all meetings of the LPA. In the absence of the Presiding Officer, the alternate may preside.

15. SECTION 11. Clerk. The town manager or a designee shall be the clerk of the LPA. It shall be the duty of the clerk to keep a record of all proceedings of the LPA, transmit its recommendations when directed by the Presiding Officer, maintain an updated complete file of all its proceedings in the town hall, and perform such other duties as are usually performed by the clerk of a deliberative body.

15. SECTION 12. Rule and procedures. The LPA shall meet at least once each month or more frequently at regular intervals to be determined by it, and at such other times as the Presiding Officer or it may determine. It shall adopt rules for the transaction of its business. The rules may be amended from time to time, but only upon notice to all members that said proposed amendments shall be acted upon at a specified meeting. A majority vote of the LPA shall be required for the approval of the proposed amendment. It shall keep a properly indexed record of its resolutions, transactions, findings and determinations, which record shall be a public record. All meetings of the LPA shall be public meetings.

15. SECTION 13. Employment of staff and experts. The LPA may, subject to the approval of the town council and within the financial limitations set by appropriations made or other funds available, recommend the town manager employ such experts,

consultants, technicians and staff as may be deemed necessary to carry out the functions of the LPA.

15. SECTION 14. Reimbursed expenses. LPA members may be reimbursed for expenses as are necessary to conduct the work of the agency from funds appropriated by the town council.

15. SECTION 15. Supervision of staff. Staff personnel of the LPA shall be under the day-to-day supervision of the town manager.

15. SECTION 16. Functions, powers and duties. The functions, powers and duties of the LPA shall be, in general and in addition to any functions powers and duties provided by law, to:

a. Acquire and maintain such information and materials as are necessary to an understanding of past trends, present conditions and forces at work to cause changes in these conditions, and provide data for estimates of future conditions. Such information and material may include maps and photographs of man-made and natural physical features of the area concerned, statistics on trends and present and future estimate conditions with respect to population, property values, economic base, land uses, municipal services, various parameters of environmental quality, and such other information as is important or likely to be important in determining the amount, direction and kind of development to be expected in the area and its various parts and the necessary regulation thereof to insure that the unique and natural characteristics of the island be preserved.

b. Prepare principles and policies for guiding land uses and development of the area in order to preserve the unique and natural characteristics of the island, to overcome the island's present handicaps and to prevent or minimize future problems.

c. Prepare or cause to be prepared a comprehensive land use plan for meeting present requirements and such future requirements as may be foreseen, with a view toward insuring that orderly growth and development proceeds as may be consistent with the preservation of the natural and unique characteristics of the island.

d. Conduct such public hearings as may be required to gather information necessary for the drafting and maintenance of the comprehensive land use plan and such additional public hearings as are specified by law.

e. Make or cause to be made any necessary special studies on the location, condition and adequacy of specific facilities in the area. These may include, but are not limited to, studies on housing, commercial and industrial conditions and facilities, public and private utilities, traffic, transportation, parking and

emergency evacuation.

f. Refer and recommend the comprehensive land use plan to the town council or its review and possible adoption. Such a plan, after its adoption by the town council, will be known as the official comprehensive land use plan.

g. Prepare and recommend to the town council from time to

time, such changes in the plan or any part thereof as may be deemed necessary by the town council.

h. Prepare and recommend to the town council from time to time plans and/or recommendations for specific capital improvements in pursuance of such official comprehensive land use plan.

i. Give aid to the town officials charged with the direction of projects of improvements embraced within the official comprehensive land use plan, and generally to promote the realization of the official comprehensive land use plan.

j. Monitor and oversee the effectiveness and status of the comprehensive plan and recommend to the town council such changes in the comprehensive plan as may from time to time be required, including preparation of the periodic reports required by F.S. 163.3191.

k. Review proposed land development regulations, land development codes, or amendments thereto, and make recommendations to the town council as to the consistency of the proposal with the adopted comprehensive plan, or element or portion thereof, when the local planning agency is serving as the land development regulation commission or the local government requires review by both the local planning agency and the land development regulation commission.

l. Cooperate with municipal, county and regional planning commissions and the agencies or groups to further the local planning program and to assure harmonious and integrated planning for the area.

m. Perform any other duties which lawfully may be assigned to it by resolution of the town council, such as, but not limited to, the review, holding of public hearings and making recommendations to the town, on regulations, codes and other documents, as may be necessary to implement the official comprehensive land use plan such as a zoning code, zoning map, subdivision regulations and codes for building construction and equipment.

15. SECTION 17. Cooperation with LPA. Each officer and employee of the town is hereby directed to give all reasonable aid, cooperation and information to the LPA or to the authorized assistants of such agency when so requested.

15. SECTION 18. Severability. If any one of the provisions of this ordinance should be held contrary to any express provision of law or contrary to the policy of express law, although not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such provision shall be null and void and shall be deemed separate from the remaining provisions of this ordinance, and in no way affect the validity of all other provisions of this ordinance.

15. SECTION 19. Effective Date. This ordinance shall become effective immediately upon its adoption.

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

Anita T. Cereceda	aye
Ted FitzSimons	aye
William (Rusty) Isler	aye
Garr Reynolds	absent

Ray Murphy

aye

DULY PASSED AND ENACTED this 11th day of March, 1996.

ATTEST:

TOWN OF FORT MYERS BEACH

By: Marsha Segal George

By: Anita T. Cereceda, Mayor

Approved as to form by:

Richard V. S. Roosa, Town Attorney

Select Year:

The 2016 Florida Statutes

Title XI
COUNTY ORGANIZATION AND
INTERGOVERNMENTAL RELATIONS

Chapter 163
INTERGOVERNMENTAL
PROGRAMS

View Entire
Chapter

163.3174 Local planning agency.—

(1) The governing body of each local government, individually or in combination as provided in s. [163.3171](#), shall designate and by ordinance establish a “local planning agency,” unless the agency is otherwise established by law. Notwithstanding any special act to the contrary, all local planning agencies or equivalent agencies that first review rezoning and comprehensive plan amendments in each municipality and county shall include a representative of the school district appointed by the school board as a nonvoting member of the local planning agency or equivalent agency to attend those meetings at which the agency considers comprehensive plan amendments and rezonings that would, if approved, increase residential density on the property that is the subject of the application. However, this subsection does not prevent the governing body of the local government from granting voting status to the school board member. The governing body may designate itself as the local planning agency pursuant to this subsection with the addition of a nonvoting school board representative. All local planning agencies shall provide opportunities for involvement by applicable community college boards, which may be accomplished by formal representation, membership on technical advisory committees, or other appropriate means. The local planning agency shall prepare the comprehensive plan or plan amendment after hearings to be held after public notice and shall make recommendations to the governing body regarding the adoption or amendment of the plan. The agency may be a local planning commission, the planning department of the local government, or other instrumentality, including a countywide planning entity established by special act or a council of local government officials created pursuant to s. [163.02](#), provided the composition of the council is fairly representative of all the governing bodies in the county or planning area; however:

(a) If a joint planning entity is in existence on the effective date of this act which authorizes the governing bodies to adopt and enforce a land use plan effective throughout the joint planning area, that entity shall be the agency for those local governments until such time as the authority of the joint planning entity is modified by law.

(b) In the case of chartered counties, the planning responsibility between the county and the several municipalities therein shall be as stipulated in the charter.

(2) Nothing in this act shall prevent the governing body of a local government that participates in creating a local planning agency serving two or more jurisdictions from continuing or creating its own local planning agency. Any such governing body which continues or creates its own local planning agency may designate which local planning agency functions, powers, and duties will be performed by each such local planning agency.

(3) The governing body or bodies shall appropriate funds for salaries, fees, and expenses necessary in the conduct of the work of the local planning agency and shall also establish a schedule of fees to be

charged by the agency. To accomplish the purposes and activities authorized by this act, the local planning agency, with the approval of the governing body or bodies and in accord with the fiscal practices thereof, may expend all sums so appropriated and other sums made available for use from fees, gifts, state or federal grants, state or federal loans, and other sources; however, acceptance of loans must be approved by the governing bodies involved.

(4) The local planning agency shall have the general responsibility for the conduct of the comprehensive planning program. Specifically, the local planning agency shall:

(a) Be the agency responsible for the preparation of the comprehensive plan or plan amendment and shall make recommendations to the governing body regarding the adoption or amendment of such plan. During the preparation of the plan or plan amendment and prior to any recommendation to the governing body, the local planning agency shall hold at least one public hearing, with public notice, on the proposed plan or plan amendment. The governing body in cooperation with the local planning agency may designate any agency, committee, department, or person to prepare the comprehensive plan or plan amendment, but final recommendation of the adoption of such plan or plan amendment to the governing body shall be the responsibility of the local planning agency.

(b) Monitor and oversee the effectiveness and status of the comprehensive plan and recommend to the governing body such changes in the comprehensive plan as may from time to time be required, including the periodic evaluation and appraisal of the comprehensive plan required by s. [163.3191](#).

(c) Review proposed land development regulations, land development codes, or amendments thereto, and make recommendations to the governing body as to the consistency of the proposal with the adopted comprehensive plan, or element or portion thereof, when the local planning agency is serving as the land development regulation commission or the local government requires review by both the local planning agency and the land development regulation commission.

(d) Perform any other functions, duties, and responsibilities assigned to it by the governing body or by general or special law.

(5) All meetings of the local planning agency shall be public meetings, and agency records shall be public records.

History.—s. 6, ch. 75-257; s. 1, ch. 77-223; s. 5, ch. 85-55; s. 2, ch. 92-129; s. 9, ch. 95-310; s. 9, ch. 95-341; s. 1, ch. 2002-296; s. 10, ch. 2011-139; s. 2, ch. 2012-99.

Sec. 34-95. Proceedings under the Bert J. Harris, Jr., Private Property Rights Protection Act (F.S. § 70.001).

(a) *Offers of settlement.* Within 180 days of the filing of a notice of intent to file a claim under this Act, the town may offer to resolve the claim by way of a settlement offer that includes an adjustment of the initial government action. Settlement offers may entail:

- (1) An increase or modification to density, intensity, or use of the owner's property, so long as the density, intensity, and use remain consistent with Fort Myers Beach Comprehensive Plan.
- (2) The transfer of development rights;
- (3) Land swaps or exchanges;
- (4) Compensation and purchase of the property or property interest; or
- (5) Issuance of a development permit or order.

(b) The parties to a dispute arising under the Bert J. Harris, Jr., Private Property Rights Protection Act may craft settlements that exceed the town's statutory or ordinance authority provided the parties jointly file a judicial action for court approval of the settlement.

(c) In order to implement a settlement offer, the town council has the authority to waive any or all procedural requirements contained in town ordinances or administrative codes and to directly exercise all authority otherwise delegated to the local planning agency, the town manager or designees, or any other part of town government.

Sec. 34-96. Final decision; judicial review.

(a) Any final zoning decision of the town council on a specific application may be reviewed by the circuit court unless otherwise provided in this article. This review may only be obtained through filing a petition for writ of *certiorari* pursuant to the Florida Rules of Appellate Procedure. Any such petition must be filed within 30 calendar days after the decision has been rendered. For the purposes of computing the 30-day period, the date that the decision has been rendered is the date of the public hearing at which the town council made such decision by oral motion.

(b) The person making application to the town council for a final decision entitled to judicial review is a necessary and indispensable party to any action seeking judicial review of that final decision.

(c) This section is not intended to preclude actions pursuant to F.S. § 70.51 (see § 34-94 of this chapter), or actions pursuant to F.S. § 163.3215 that challenge consistency of any final zoning decision on a specific application with the Fort Myers Beach Comprehensive Plan.

Secs. 34-97—34-110. Reserved.

DIVISION 3. LOCAL PLANNING AGENCY

Sec. 34-111. Agency established.

The Town of Fort Myers Beach Local Planning Agency (LPA) is hereby established.

Sec. 34-112. Purpose and scope.

The broad objectives of town planning and the creation of the local planning agency are to further the welfare of the citizens of the town by helping to promote a better, more helpful, convenient, efficient, healthful, safe, and attractive community environment and to insure that the unique and natural characteristics of the island are preserved.

Sec. 34-113. Composition, appointment and compensation of members.

(a) The local planning agency shall consist of up to seven members appointed by the town council. No members of the local planning agency shall be salaried officials of the town. Membership on the local planning agency shall not affect a person's eligibility for membership on any other advisory committee for the Town of Fort Myers Beach during his/her term of office. One spouse per household will be eligible for membership on the local planning agency during any given term of office. No current member of town council shall be eligible to serve on the local planning agency. Except for inclusion of members required under Florida law, all members must be residents of, or owners of real property located within, the territorial limits of the Town of Fort Myers Beach at the time of application for membership on the local planning agency and during the period of service on the local planning agency. All applicants must apply on or before October 1 of the appointment year. Each application must include a short biography and short explanation as to why the applicant wishes to serve on the local planning agency.

(b) The members of the local planning agency shall serve without compensation but may be reimbursed for expenses as are necessary to conduct the work of the agency from funds appropriated by the town council.

(c) In addition to the up to seven voting members, the local planning agency shall also include as a nonvoting member a representative of the Lee County School District, as designated by the Lee County School Board, to attend and participate in those meetings at which the local planning agency considers comprehensive plan amendments and rezonings that would, if approved, increase residential density on the property that is the subject of the application (see F.S. 163.3174(1), 2002).

Sec. 34-114. Members' terms and vacancies.

(a) The term of office of a member of the local planning agency shall be staggered in increments of two years or until a successor has been appointed and has qualified, except that the respective terms of the members first appointed under Ordinance No. 08-11 shall be up to

four members for a one-year term and three members for a two-year term. If otherwise qualified, a member may be repeatedly appointed for an additional term by Town Council without a limitation in number of terms served.

(b) Appointments shall be made annually at the first available meeting of the council in November. The term of any member which would otherwise expire in April, 2008, will be extended to the first available town council meeting in November, 2008, or until such member's successor has been appointed, whichever is sooner. The term of any member which would otherwise expire in April, 2009, will be extended to the first available town council meeting in November, 2009, or until their successor has been appointed, whichever is sooner. Vacancies in the local planning agency shall, within 60 days, be filled by the council for the remainder of the term created by such vacancy.

Sec. 34-115. Forfeiture of office.

A local planning agency member shall forfeit office if the member:

- (1) Lacks at any time during the term of office any qualification for the office prescribed by town ordinance or state law; or
- (2) Violates any standard of conduct or code of ethics established by law for public officials; or
- (3) Is absent from three regular local planning agency meetings per year without being excused by the local planning agency.

Sec. 34-116. Election and duties of officers.

(a) The local planning agency shall elect a chairperson and a vice-chairperson each year at the first meeting of the newly appointed members.

(b) It shall be the duty of the chairperson to preside over all meetings of the local planning agency. In the absence of the chairperson, the vice-chairperson may preside.

Sec. 34-117. Clerk.

The town manager or designee shall be the clerk of the local planning agency. It shall be the duty of the clerk to keep a record of all proceedings of the local planning agency, transmit its recommendations when directed by the chairperson, maintain an updated complete file of all its proceedings at town hall, and perform such other duties as are usually performed by the clerk of a deliberative body.

Sec. 34-118. Rules and procedures.

The local planning agency shall meet at least eight times per year and shall meet no less often than bi-monthly or more frequently at regular intervals to be determined by it, and at such other times as the chairperson or as it may determine. It may adopt rules for the transaction of its business. The rules may be amended from time to time, but only upon notice to all members that said proposed amendments shall be acted upon at a specified meeting. A

majority vote of the local planning agency shall be required for the approval of the proposed amendment. It shall keep a properly indexed record of its resolutions, transactions, findings, and determinations, which record shall be a public record. All meetings of the local planning agency shall be public meetings.

Sec. 34-119. Employment of staff and experts.

The local planning agency may, subject to the approval of the town council and within the financial limitations set by appropriations made or other funds available, recommend the town manager employ such experts, consultants, technicians and staff as may be deemed necessary to carry out the functions of the local planning agency. Such technical assistance to the local planning agency shall be under the day-to-day supervision of the town manager.

Sec. 34-120. Specific functions, powers and duties as to comprehensive planning and land development regulations.

The functions, powers and duties of the local planning agency as to comprehensive planning and adoption of land development regulations shall be to:

- (1) Acquire and maintain such information and materials as are necessary to an understanding of past trends, present conditions, and forces at work to cause changes in these conditions, and provide data for estimates of future conditions. Such information and material may include maps and photographs of manmade and natural physical features, statistics on trends and present and future estimated conditions with respect to population, property values, economic base, land uses, municipal services, various parameters of environmental quality, and such other information as is important or likely to be important in determining the amount, direction and kind of development to be expected in the town and its various parts and the necessary regulation thereof to insure that the unique and natural characteristics of the island be preserved.
- (2) Prepare principles and policies for guiding land uses and development in the town in order to preserve the unique and natural characteristics of the island, to overcome the island's present handicaps, and to prevent or minimize future problems.
- (3) Make or cause to be made any necessary special studies on the location, condition, and adequacy of specific facilities in the town or portion thereof. These may include, but are not limited to, studies on housing, commercial facilities, utilities, traffic, transportation, parking, and emergency evacuation.
- (4) Review proposed land development codes and amendments thereto, and make recommendations to the town council as to their consistency with the comprehensive plan.
- (5) Recommend to the town council annually whether the proposed capital improvements program is consistent with the comprehensive plan.

- (6) Make administrative interpretations of the comprehensive plan when such interpretations are referred to the local planning agency by its legal counsel, in accordance with the ch. 15 of the comprehensive plan and § 34-124(3) of this chapter.
- (7) Request legislative interpretations of the comprehensive plan in accordance with ch. 15 of that plan, when deemed appropriate by the local planning agency.
- (8) Make recommendations to the town council on legislative interpretations that have been requested in accordance with ch. 15 of the comprehensive plan.
- (9) Recommend action to the town council on any amendments that are proposed to the comprehensive plan.
- (10) Monitor and oversee the effectiveness and status of the comprehensive plan and recommend to the town council such changes in the comprehensive plan as may from time to time be required, including preparation of the periodic evaluation and appraisal reports required by F.S. § 163.3191.
- (11) Conduct such public hearings as may be needed for updating the comprehensive plan and such additional public hearings as are specified by law.
- (12) Aid town officials charged with the direction of projects or improvements embraced within the comprehensive plan and generally promote the realization of the comprehensive plan.
- (13) Cooperate with municipal, county and regional planning commissions and other agencies or groups to further the local planning program and to assure harmonious and integrated planning for the area.
- (14) Perform any other duties which lawfully may be assigned to it by the town council.

Sec. 34-121. Functions, powers and duties as to zoning matters.

The functions, powers and duties of the local planning agency as to zoning matters shall be to:

- (1) Prepare recommendations for changes to the boundaries of the various zoning districts, or to the regulations applicable thereto, to the town council.
- (2) Make recommendations on the following to the town council:
 - a. Applications for rezonings including planned developments.
 - b. Applications for developments of regional impact and Florida Quality Developments approval, which may or may not include a request for rezoning.
 - c. Special exceptions.
 - d. Variances from this code and any town ordinance which specifies that variances from such ordinance can only be granted by the town council.
 - e. Extensions of master concept plans for planned developments (see § 34-220(4) of this chapter).

- f. Any other applications that require action by the local planning agency pursuant to this code.

(3) *Authority.*

- a. The local planning agency shall serve in an advisory capacity to the town council with respect to zoning matters as set forth in subsections (1) and (2) of this section, and in such capacity may not make final determinations.
- b. The local planning agency shall not recommend the approval of a rezoning, and the town council shall not approve a rezoning, other than the change published in the newspaper pursuant to § 34-236(b) of this chapter, unless such change is more restrictive and permitted within the land use classification as set forth in the Fort Myers Beach Comprehensive Plan.
- c. In reaching its recommendations, the local planning agency shall have the authority to recommend special conditions to be attached to any request for a planned development, special exception or variance.

Sec. 34-122. Functions, powers and duties as to historic preservation.

The powers and duties of the local planning agency regarding historic preservation shall include performing all functions assigned to the historic preservation board as set forth in ch. 22, article II, division 2 of this LDC.

Sec. 34-123. Cooperation with the local planning agency.

Each officer and employee of the town is hereby directed to give all reasonable aid, cooperation, and information to the local planning agency or to the authorized assistants of such agency when so requested.

Sec. 34-124. Legal counsel to the local planning agency.

The local planning agency have its own legal counsel, whose duties shall include:

- (1) Advising the local planning agency as to its legal responsibilities and options during the conduct of its business.
- (2) Preparing resolutions reflecting actions of the local planning agency.
- (3) Issuing administrative interpretations of the Fort Myers Beach Comprehensive Plan or referring requests for such interpretations to the local planning agency (see § 34-120(6) of this chapter) when applications are submitted to the town clerk in accordance with chapter 15 of the comprehensive plan.

Secs. 34-125—34-200. Reserved.

RESOLUTIONS AND RECOMMENDATIONS TO TOWN COUNCIL			
Floodplain 50% Ordinance 17-09			
Neighborhood Flooding Ordinance 17-11			
CONTINUED LPA HEARINGS			
FUTURE WORK ACTIVITIES			
DCI17-0001	TPI	1160 Estero Blvd	
DCI17-0002	Dullard Residence	764 Estero Blvd	
SEZ17-0001	Walton parking lot	2440 Estero Blvd	
SEZ17-0002 & VAR17-0002	Veg Buffer/ Shared parking lot Fred Paine	821 Estero Blvd	
VAR17-0001	Fishtale Marina Wall	7225 Estero Blvd	
SEZ17-0003	Fishtale COP	7225 Estero Blvd	