

TOWN OF FORT MYERS BEACH, FLORIDA

ORDINANCE NO. 00-15

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH ENTITLED "FIRST AMENDMENT TO THE FORT MYERS BEACH COMPREHENSIVE PLAN"; ESTABLISHING PURPOSE AND INTENT; AMENDING CHAPTER 11, THE CAPITAL IMPROVEMENTS ELEMENT; AMENDING CHAPTER 15, PROCEDURES AND MONITORING; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, Chapter 166, *Florida Statutes*, empowers the Town Council of the Town of Fort Myers Beach to prepare and enforce a comprehensive plan for the future development of the town; and

WHEREAS, in the exercise of this authority the Town Council had adopted an entirely new Fort Myers Beach Comprehensive Plan through Ordinance No. 98-14; and

WHEREAS, the Town Council has determined that certain amendments to that plan may be needed and has directed the necessary research and analysis in support thereof; and

WHEREAS, in consideration of these amendments, the Fort Myers Beach Local Planning Agency held a public hearing on May 9, 2000, and the Town Council held its first public hearing on June 5, 2000, at which time it transmitted two of the three proposed amendments for review by state, regional, and local agencies; and

WHEREAS, the Florida Department of Community Affairs, by letter dated July 18, 2000, waived the formal review process due to the minor nature of these two amendments; and

WHEREAS, pursuant to Section 163.3184, the Town Council scheduled its first public hearing on September 11, 2000 and its second and final public hearing on these amendments on September 25, 2000.

IT IS HEREBY ORDAINED BY THE TOWN OF FORT MYERS BEACH, FLORIDA, AS FOLLOWS:

SECTION ONE: PURPOSE AND INTENT

This ordinance is enacted to carry out the purpose and intent of, and exercise the authority set out in, the Local Government Comprehensive Planning and Land Development Regulation Act, Sections 163.3161 through 163.3217 and Chapter 166, *Florida Statutes*, as amended.

SECTION TWO: AMENDMENT TO CHAPTER 11, CAPITAL IMPROVEMENTS ELEMENT

The Fort Myers Beach Comprehensive Plan, as adopted through Ordinance 98-14, is hereby amended by deleting the original five-year schedule of capital improvements (Table 11-7, found on Page 11-22) and by replacing it with a new Table 11-7 as contained in Exhibit A of this ordinance. This amendment is in response to Application 2000-1-TEXT.

SECTION THREE: AMENDMENT TO CHAPTER 15, PROCEDURES AND MONITORING

The Fort Myers Beach Comprehensive Plan, as adopted through Ordinance 98-14, is hereby amended by modifying Subsection E on Page 15-4 as contained in Exhibit B of this ordinance, with new language underlined and deleted text ~~struck through~~. This amendment is in response to Application 2000-2-TEXT.

SECTION FOUR: CONFLICTS OF LAW

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 FIVE: SEVERABILITY

It is the legislative intent that if any section, subsection, sentence, clause, map, goal, objective, or policy of this ordinance is held to be invalid, unenforceable, or unconstitutional by any court of competent jurisdiction, such portion will be deemed a separate provision, and the remaining provisions of this ordinance will not be affected. It is the legislative intent of the Town Council that this ordinance would have been adopted had such unconstitutional provision not be included therein.

SECTION SIX: EFFECTIVE DATE

This ordinance shall become effective immediately upon adoption. However, the comprehensive plan amendments contained herein shall not take effect until the date a final order is issued by the Florida Department of Community Affairs or the Administration Commission finding the amendments to be in compliance in accordance with Chapter 163.3184, *Florida Statutes*.

THE FOREGOING ORDINANCE was offered by Councilmember Cain who moved its adoption. The motion was seconded by Councilmember Cereceda and, being put to a vote, the vote was as follows:

Anita Cereceda	aye
Daniel Hughes	aye
Terry Cain	aye
Garr Reynolds	aye
Ray Murphy	aye

DULY PASSED AND ADOPTED THIS 25th DAY OF SEPTEMBER, 2000

ATTEST:

By: 
Town Clerk

Town Council of Fort Myers Beach, Florida

By: 
Mayor

APPROVED AS TO FORM BY:

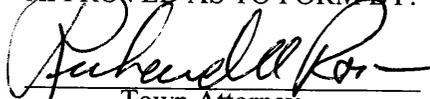

Town Attorney

Table 11-7 – Revised Five-Year Schedule of Capital Improvements, FY 99/00 to 03/04¹

	FY 99/00 (Budgeted)	FY 00/01 (Projected)	FY 01/02 (Projected)	FY 02/03 (Projected)	FY 03/04 (Projected)
TRANSPORTATION CAPITAL IMPROVEMENTS:					
Transportation/drainage maintenance, etc. ²	\$300,000	\$200,000	\$250,000	\$2,100,000	\$100,000
Traffic calming (Connecticut Street)	\$0	\$0	\$0	\$100,000	\$100,000
Estero Boulevard streetscaping	\$400,000	\$400,000	\$250,000	\$250,000	\$250,000
“Hidden Paths” walking and biking system	\$0	\$0	\$50,000	\$50,000	\$50,000
Total of proposed annual expenditures:	\$700,000	\$600,000	\$550,000	\$2,500,000	\$500,000
Anticipated annual transportation revenue:	\$630,000	\$600,000	\$600,000	\$600,000	\$600,000
Anticipated year-end transportation reserves: ³	\$2,136,032	\$2,136,032	\$2,186,032	\$286,032	\$386,032
NON-TRANSPORTATION CAPITAL IMPROVEMENTS:					
Office equipment	\$50,000	\$0	\$0	\$0	\$0
Mound House, initial acquisition ⁴	\$1,100,000	\$0	\$0	\$0	\$0
Mound House capital improvements	\$200,000	\$100,000	\$0	\$0	\$0
Times Square improvements ⁵	\$150,000	\$0	\$0	\$0	\$0
Public docks	\$30,000	\$30,000	\$30,000	\$0	\$0
EXHIBIT A					
Matanzas Harbor plan	\$20,000	\$0	\$0	\$0	\$0
Beach renourishment	\$325,000	\$500,000	\$500,000	\$200,000	\$200,000
Land acquisition, second preserve entrance	\$100,000	\$0	\$0	\$0	\$0
Community swimming pool improvements	\$25,000	\$0	\$50,000	\$0	\$0
Neighborhood landscaping, matching funds	\$10,000	\$10,000	\$10,000	\$10,000	\$10,000
Total of proposed annual expenditures:	\$2,010,000	\$640,000	\$590,000	\$210,000	\$210,000
Anticipated annual non-transportation revenue:	\$1,378,000	\$125,000	\$125,000	\$75,000	\$75,000
Anticipated year-end non-transportation reserves: ⁶	(\$189,700) ⁷	(\$325,300)	(\$790,300)	(\$925,300)	(\$1,060,300)
DOWNTOWN REDEVELOPMENT AGENCY (DRA) BUDGET:					
Phase II Times Square streetscaping	\$95,000	unknown	unknown	unknown	unknown
Old San Carlos/Crescent improvements	\$70,000	unknown	unknown	unknown	unknown
Transit improvements (tram service)	\$0	unknown	unknown	unknown	unknown
Outside legal/planning services	\$25,000	unknown	unknown	unknown	unknown
Total of proposed annual expenditures:	\$190,000	unknown	unknown	unknown	unknown

¹ This schedule is a summary from the adopted budget for Fiscal Year 1999/2000; further details on revenues and expenditures are available in that document.
² These items are routine recurring maintenance, including periodic road resurfacing (tentatively scheduled for FY 02/03).
³ Initial transportation reserves were \$2,206,032.
⁴ This item is funded with a \$1,031,000 grant from the Florida Communities Trust, included here as one-time revenue in FY 99/00.
⁵ This item is funded with the remainder of a \$200,000 state tourism grant.
⁶ Initial non-transportation reserves were \$442,300.
⁷ Shortfalls are shown in parentheses; potential funding sources to offset shortfalls include transfers from surplus general revenues, assessments on private property, or a 5% utility tax (\$375,000 annually).

EXHIBIT B

E. **Single-Family Residence Provision.** Notwithstanding any other provision of this plan, any entity owning property or entering or participating in a contract for purchase agreement of property, which property is not in compliance with the density requirements of this plan, shall be allowed to construct one single-family residence on said property, provided that:

1. **Date Created:**
 - a. the lot shall have been created and recorded in the official Plat Books of Lee County prior to the effective date of the Lee County Comprehensive Plan (December 21, 1984), and the configuration of said lot has not been altered; OR
 - b. a legal description of the lot was lawfully recorded in the Official Record books of the Clerk of Circuit Court prior to December 21, 1984; OR
 - c. the lot was lawfully created after December 21, 1984, and the lot area was created in compliance with the Lee County or Fort Myers Beach Comprehensive Plan, whichever controlled at the time, as either plan it existed at that the time the lot was created.
2. **Minimum Lot Requirements:** In addition to meeting the requirements set forth above, the lot shall have:
 - a. a minimum of 4,000 square feet in area if it was created prior to June 27, 1962; OR
 - b. a width of not less than 50 feet and an area of not less than 5,000 square feet if part of a subdivision recorded in the official Plat Books of Lee County after June 27, 1962, and prior to December 21, 1984; OR
 - c. a minimum of 7,500 square feet in area if it was created on or after June 27, 1962, and prior to December 21, 1984, if not part of a subdivision recorded in the official Plat Books of Lee County; OR
 - d. been in conformance with the zoning regulations in effect at the time the lot or parcel was recorded if it was created after December 21, 1984; OR
 - e. been approved as part of a Planned Unit Development or Planned Development.
3. **Ownership.** In addition to meeting the requirements set forth above, prior to [effective date of this amendment] the lot shall have been vacant or shall have been improved with one structure located wholly on this lot. If a structure had been placed on two or more adjoining lots at any time prior to [effective date of this amendment], the individual lots shall not qualify for this single-family residence provision.
4. **3. Construction Regulations.** Once a property owner establishes the right to build a single-family residence through these procedures, the following policies shall prevail:
 - a. The residence shall comply with all applicable health, safety, and welfare regulations, as those regulations exist at the time a building permit is requested.
 - b. Lots containing wetlands shall be subject to special provisions of the Land Development Code.
 - c. If two or more contiguous lots qualify, property owners are encouraged to reapportion lots if the result would be lots that come closer to meeting the standards for the lots' zoning district, as long as no property becomes non-conforming or increases in its non-conformity and as long as the density will not increase.
 - d. Nothing herein shall be interpreted as prohibiting the combining of qualifying lots with other contiguous property providing the density will not increase.
 - e. Two or more contiguous qualifying lots that are located in a zoning district which permits duplexes may be combined to support a single duplex in lieu of two single-family residences.
5. **4. Transferability.** These rights shall run with the land and be available to any subsequent owner if the property which qualifies for the single-family provision is transferred in its entirety.