

TOWN OF FORT MYERS BEACH FLORIDA
ORDINANCE NO. 96- 20

AN ORDINANCE ADOPTING THE FORT MYERS BEACH CORE AREA OVERLAY ZONING DISTRICT TO PROVIDE FOR OPTIONAL DEVELOPMENT STANDARDS WITHIN THE DISTRICT; PROVIDING FOR PURPOSE AND INTENT, ELEMENTS OF THE REDEVELOPMENT OVERLAY DISTRICT, MASTER PLAN, LIMITATIONS ON APPROVALS, MODIFIED DEVELOPMENT REGULATIONS, PROCEDURES FOR APPROVAL, APPEALS OF ADMINISTRATIVE DECISIONS, MAP DESCRIPTION OF OVERLAY DISTRICT, MASTER SITE PLAN, STORM WATER MANAGEMENT PLAN, PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION, INCLUSION IN THE LAND DEVELOPMENT CODE, SCRIVENER'S ERRORS, AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, prior to the incorporation of the Town of Fort Myers Beach, Lee Plan Policy 2.7.1 provided that community redevelopment activities would be conducted by the Lee County Community Redevelopment Agency within approved redevelopment areas according to adopted redevelopment plans; and

WHEREAS, Lee Plan Policy 110.4.10. provided that the Lee County Community Redevelopment Agency would continue local revitalization efforts in the County's redevelopment areas to leverage private investment activities through public investment and community development and infrastructure improvements; and

WHEREAS, prior to the incorporation of the Town of Fort Myers Beach, Lee County's Community Redevelopment Agency authorized the Fort Myers Beach Core Area Overlay Zoning Master Plan to be prepared hereinafter called the Master Plan; and

WHEREAS, Chapter 34 of the Fort Myers Beach Land Development Code provides for the establishment of a redevelopment overlay district also referred to as the Downtown District encompassing Districts One through Four as shown on 3 maps attached hereto, incorporated herein and labeled as follows; Map 1- Proposed Land Use by District-Fort Myers Beach Core Area Overlay Zoning Master Plan; Map 2- Storm Water Management Plan-Fort Myers Beach Core Area Overlay Zoning Master Plan; Map 3- Illustrative Master Plan; to recognize and provide for the unique requirements of redevelopment which cannot be adequately addressed through existing regulations; and

WHEREAS, the purpose of a redevelopment overlay district is to create favorable conditions for the revitalization of redevelopment areas by establishing a procedure through which such areas *may* be master planned; and

WHEREAS, master plans may include development guidelines and standards which, to the extent covered, are intended to provide an incentive driven alternative to the standard zoning and other land development regulations; and

WHEREAS, it is the express policy of the Town Council that development consistent with an approved master plan be *voluntary*; and

WHEREAS, the Master Plan was unanimously approved by the Estero Island Local Redevelopment Planning Committee and the Lee County Community Development Advisory Committee on September 14 and November 2, 1995 respectively; and

WHEREAS, Lee County Department of Community Development staff, and the Fort Myers Beach staff have reviewed the proposed Master Plan and have recommended adoption of same; and

WHEREAS, the Fort Myers Beach Local Planning Agency held a Public Hearing on July 30, 1996 on the Master Plan and found the master plan consistent with the Lee Plan; and

WHEREAS, the Fort Myers Beach Local Planning Agency recommends to the Town Council that this ordinance be adopted; and

WHEREAS, the Fort Myers Beach Town Council has reviewed and accepts the recommendation of the Local Planning Agency to adopt the Master Plan as set forth below.

NOW THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF FORT MYERS BEACH, FLORIDA THAT:

SECTION ONE: AMENDMENT TO THE LAND DEVELOPMENT CODE

The Fort Myers Beach Land Development Code is hereby amended to add Subdivision VI to Chapter 34, Division 11, to read as follows:

Subdivision VI. The Fort Myers Beach Overlay District

Sec. 34-1141 Purpose and intent.

(a) *Purpose and affected area.* This redevelopment overlay district is designed to stimulate the revitalization of the original commercial district on Estero Island. This district is known as the Downtown of Fort Myers Beach and is described in a set of maps attached hereto and incorporated herein by reference.

(b) *Scope.* The revitalization of the Fort Myers Beach Downtown District will include the renovation and re-use of existing buildings and the construction of new buildings. It will also include the installation of public works, including plazas, sidewalks, changes in vehicular circulation, public and shared parking, and other street- scape improvements.

(c) *Optional nature of these regulations.* Individual landowners may choose to build or rebuild in full compliance with the provisions of this redevelopment overlay district, or may choose to follow all existing Fort Myers Beach regulations. However, should a landowner elect to use any of the modified development regulations in Section 34-1145 below, he or she must comply with all of the requirements of this redevelopment overlay district on that property.

(d) *Authority.* The Fort Myers Beach Downtown District lies at the heart of the pre-incorporation Estero Island community redevelopment area. This redevelopment overlay district is consistent with and helps to implement the adopted component redevelopment plan for Estero Island. This redevelopment overlay district also complies with all requirements for such districts found in Section 34-1122 through 34-1132 of the Fort Myers Beach Land Development Code.

Sec. 34-1142 Elements of the redevelopment overlay district.

This redevelopment overlay district includes two distinct elements. The first is the Master Plan itself (Section 34-1143), which depicts the desired redevelopment plan for the Fort Myers Beach

Downtown District including public and private improvements. The second is a set of modified development regulations (Section 34-1145) which enable and encourage private landowners to rehabilitate existing buildings or construct new buildings. Both elements of the redevelopment overlay district are needed to ensure the redevelopment of the business district in the old Florida/Caribbean style as shown in the Master Plan.

Sec. 34-1143 The master plan.

The master plan for the Fort Myers Beach Downtown District contains three separate components as described in the following subsections.

(a) **Master site plan.** A reduced copy of the master site plan for the Fort Myers Beach Downtown District is included in Appendix L. Full-sized copies of this drawing are available at the Town Hall.

(b) **Storm Water management master plan.** A reduced copy of the storm water management plan for the Fort Myers Beach Downtown District is included in Appendix L. Surface water flows will continue to be directed away from Old San Carlos Drive and Estero Boulevard and towards Matanzas Pass under this plan, but water quality treatment and minimal storm attenuation will be added. Necessary facilities, to retrofit the existing storm sewer system for a regional exfiltration system are included in the future phases of the Master Plan implementation. Full-sized copies of this drawing and the remainder of the plan are available from the Town Hall.

(c) **Design guidelines.** Design guidelines for the Fort Myers Beach Downtown District are being adopted by administrative code. These guidelines provide technical and design assistance for exterior commercial building renovations and new construction. They are designed to encourage owners and tenants to preserve and improve the unique character of the business district, and to stimulate creative design solutions while promoting a sense of relatedness among properties. These guidelines are not regulations that control land-use decisions, and they contain no mandatory review process. They are designed simply to encourage the proper maintenance and improvement of the visual character of the Fort Myers Beach Downtown District as a pedestrian-oriented retail and community center.

Sec. 34-1144 Limitations on approvals.

(a) **Record-keeping.** The staff of the Town of Fort Myers Beach shall maintain detailed records of development and redevelopment that is approved using the modified development regulations in Section 34-1145 below. These records shall include cumulative totals of square footage of new commercial space and the resulting number of parking spaces (both the number required by general Town regulations and the number actually being provided by those developing and redeveloping land in the Fort Myers Beach Downtown District).

(b) **New development prior to public improvements.** Lee County's Community Redevelopment Agency is constructing major public improvements in the Fort Myers Beach Downtown District that were planned and funded prior to incorporation and will include substantial pedestrian and automobile infrastructure improvements. If actual development activity recorded pursuant to Section 34-1144 (a) exceeds a cumulative total of 25,000 square feet of commercial space or a reduction of 100 parking spaces below general Town regulations prior to the letting of contracts to construct on-street parking and the core surface water management system, then the Town shall immediately undertake an analysis of actual demand for these public facilities in the Fort Myers Beach Downtown District. The results of this

analysis shall be presented to the Town Council which shall decide whether to initiate the public improvements or to repeal or modify these redevelopment overlay regulations so that adequate public facilities will be available when needed by new development. However, this provision shall not be interpreted to supersede the general concurrency requirements of Chapter 2 of the Land Development Code.

Sec. 34-1145 Modified development regulations.

(a) *Optional nature of this section.* All landowners in the Fort Myers Beach Downtown District are encouraged to develop or redevelop their property in conformance with the overall Master Plan and the detailed design guidelines referred to in Section 34-1143 (c). Should a landowner choose to avail himself of the modified development regulations contained in this Section , then compliance with all applicable portions of the redevelopment overlay district will be mandatory for that property and for any abutting lot(s) or adjacent building(s) under the same ownership or control, for a period of 10 years. Nothing in this ordinance shall require any landowner to participate in any of its provisions unless that landowner elects to do so. A landowner's decision to use these regulations shall be made in writing on a form supplied by the Town. This form shall acknowledge that this decision runs with the land for the stated period. Fort Myers Beach shall record this form in the Official Record books of Lee County.

(b) *Modified development regulations.* The remainder of the provisions of this ordinance assume that a landowner in the Fort Myers Beach Downtown District has elected in writing to comply in full with this redevelopment overlay district. All Fort Myers Beach regulations shall remain in effect except as explicitly modified through this ordinance.

(c) *Permitted uses.* The permitted uses of land are normally determined by its zoning classification. At present, the district is zoned C-1, CPD and RM-2. Regardless of these underlying zoning classifications, the permitted uses of land in this redevelopment overlay district shall be in accordance with Table 1. The table then shows those specific uses that are permitted in the Fort Myers Beach Downtown District on the ground floor and/or outdoors facing the primary walking zone (facing the right-of-way of Old San Carlos Boulevard).

- (1) The terminology and the numbered notes used in this table are the same as contained in Table 34-843 of the Land Development Code, including the letter "P" to indicate a permitted use, "SE" for a use only by special exception, "SP" for a use only by special permit, "-" for a use that is not permitted in this district, "EO" for existing uses only, "TP" for temporary permit, "AA" for administrative approval, etc. (see Section 34-621(b) for details). Terms that are defined in Section 34-2 of the Land Development Code are specifically noted in this table.
- (2) Land uses that are not specifically included nor excluded by Table 1 or the Land Development Code may be permitted only by application and review pursuant to the special permit process as provided by Section 34-232 (c) of the Fort Myers Beach Land Development Code..
- (3) All land uses are subject to the supplementary district regulations that are found in Article VII of Chapter 34 of the Land Development Code, except as explicitly modified herein.

- (4) Drive-in or drive-through lanes may be permitted only by application and review pursuant to the special permit process as provided by Section 34-232 (c) of the Fort Myers Beach Land Development Code.
- (5) Outdoor restaurant seating is specifically encouraged in the Fort Myers Beach Downtown District. Music or other entertainment for any patrons seated outdoors must not be audible at a distance of 200 feet from the outdoor seating.***** (potential conflict with noise ordinance which needs to be worked out after noise ordinance adopted)
- (6) In addition to the land uses shown in Table 1, certain temporary uses such as farmers' markets and portable carts selling food or crafts may be permitted in Times Square or on public rights-of-way. Such uses of public property are regulated by Town Ordinance and Lee County Ordinance on county property.

TABLE 1

LAND USES	SPECIAL NOTES OR REGULATIONS	OLD SAN CARLOS DRIVE	TIMES SQUARE	CRESCENT STREET	ESTER BLVD BEAC FRON
Accessory apartment		P	P	P	P
Administrative offices (defined term)		P	P	P	P
Adult congregate living facility (defined term)		P	-	P	-
Amusement park, less than ten acres (defined term)		-	-	-	-
Animals: Clinic (defined term) Kennel (defined term) Control center (including Humane Society)	34-1321 et seq.	P - P	- - -	- - -	P - P
ATM (automatic teller machine) (defined term)		P	P	-	P
Auto parts store: (defined term) No installation service With installation service		P -	- -	- -	P P
Automobile service station (defined term)		-	-	-	P
Auto Repair and service (34-622(c)(2)): Group I Group II		- -	- -	- -	P -
Bait and tackle shop		P	-	-	P
Banks and financial establishments (34-622(c)(3)): Group I Group II		P P	- -	- -	P P
Bar or cocktail lounge (defined term)	34-1261 et seq.	P	P	-	P
Bed-and-breakfast establishments		P	P	P	P
Boarding house (defined term)		P	P	P	P
Boats: (defined term) Boat parts store (defined term)		-	-	-	P

Boat rental		-	-	-	<i>P</i>
Boat repair and service (defined term)	34-1352, 34-3001 et seq.	-	-	-	-
Boat sales		-	-	-	<i>P</i>
Boat storage, dry, not exceeding two tiers or 18 feet above natural grade		-	-	-	<i>P</i>
Boat storage, dry, exceeding two tiers or 18 feet above natural grade		-	-	-	<i>SE</i>
Broadcast studio, commercial radio and television	34-1441 et seq.	<i>P</i>	-	-	-
Building materials sales (34-622(c)(4))		-	-	-	-
Business services (34-622(c)(5)):					
Group I		<i>P</i>	<i>P</i>	-	<i>P</i>
Group II		-	-	-	<i>P</i>
Bus station/depot (defined term)	34-1381 et seq.	-	-	-	
Caretaker's residence		<i>SE</i>	<i>SE</i>	-	<i>SE</i>
Car wash (defined term)		-	-	-	-
Cleaning and maintenance services (34-622(c)(7))		-	-	-	<i>P</i>
Clothing stores, general (34-622(c)(8))		<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>
Clubs:	34-2111				
Country (defined term)		-	-	-	-
Commercial (defined term)		-	-	-	-
Fraternal (defined term)		<i>P</i>	<i>P</i>	-	<i>P</i>
Membership organization (defined term)		<i>P</i>	<i>P</i>	-	<i>P</i>
Private (defined term)		<i>P</i>	<i>P</i>	-	<i>P</i>
Community residential home (defined term)		<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>
Consumption on premises	34-1261 et seq.	<i>AA/SP</i>	<i>AA/SP</i>	<i>AA/SP</i>	<i>AA/SP</i>
Contractors and builders (34-622(c)(9)):					
Group I		<i>P</i>	-	<i>P</i>	
Group II		<i>P</i>	-	-	
Group III		-	-	-	
Convenience food and beverage store (defined term)		<i>P1</i>	<i>P1</i>	<i>P</i>	<i>P</i>
Cultural facilities (34-622(c)(10))		<i>P</i>	<i>P</i>	-	<i>P</i>
Day care center, adult, child (defined term)		<i>P</i>	<i>P</i>	<i>SE</i>	<i>P</i>
Department store (defined term)		<i>P2</i>	<i>P2</i>	-	<i>P</i>
Dormitory (defined term)		-	-	-	-
Drive-through facility for any permitted use (defined term)	Note (9)	-	-	-	-
Drive-in theater (defined term)		-	-	-	-
Drugstore, pharmacy (defined term)		<i>P</i>	<i>P</i>	-	<i>P</i>
Dwelling unit: (defined term)					<i>P</i>
Duplex (defined term)		<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>
Single-family (defined term)		<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>
Two-family attached (defined term)		<i>P</i>	<i>P</i>	<i>P</i>	-
Townhouse (defined term)		<i>P</i>	<i>P</i>	<i>P</i>	-
Mobile home (defined term)		-	-	-	<i>P</i>
Multiple-family building (defined term)		<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>
Entrance gates and gatehouse (defined term)	34-1749	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>
Emergency medical service (ambulance station)		<i>EO</i>	<i>EO</i>	<i>EO</i>	<i>EO</i>
Emergency operations center		-	-	-	<i>P</i>
Essential services (defined term)	34-1611 et seq.				
Essential service facilities (34-622(c)(13)):					
Group I	34-1611 et	<i>SE</i>	<i>SE</i>	<i>SE</i>	<i>SE</i>

Group II	seq. 34-1611 et seq.	SE	SE	SE	SE
Excavation: Mining Water retention Oil or gas	34-1651 et seq.	- P -	- P -	- P -	- P SP
Fire station		P	P	-	SP
Flea market: Open (defined term) Indoor (defined term)		SE3 P	SE3 P	- -	SE3 P
Food and beverage service, limited (defined term)		SE	SE	-	SE
Food stores (34-622(c)(16)): Group I Group II		P P	P P	- -	P P
Forestry tower		-	-	-	P
Fraternity house (defined term)		-	-	-	-
Funeral home or mortuary: No cremation With cremation		SE -	SE -	- -	P -
Gasoline dispensing system, special (defined term)		-	-	-	-
Government maintenance facility		-	-	-	P
Hardware store (defined term)		P2	P2	-	P
Health care facility (34-622(c)(20)): Group I Group II Group III Group IV		P P P -	- - - -	- - - -	- - P -
Heliport or helistop (defined terms)	34-1231 et seq.	SP	SP	-	SP
Hobby, toy, game shops (34-622(c)(21))		P2	P2	-	P
Home care facility (defined term)		P	-	P	P
Home occupation: (defined term) No outside help With outside help	34-1771 et seq. 34-1771 et seq.	P P	P P	P AA	P AA
Hotel/motel: Efficiency (defined term) Business (defined term)	34-1801 et seq.	P P	P P	P4 P4	P P
Household and office furnishings (34-622(c)(22)): Group I Group II Group III		P P -	P P -	- - -	P P -
Insurance companies (34-622(c)(23))		P	P	-	P
Laundromat (defined term)		P	P	-	P
Laundry or dry cleaning (34-622(c)(24)): Group I Group II		P -	P -	- -	P P
Lawn and garden supply store (defined term)	34-2081	P	-	-	P
Library		P	P	-	P
Marina (defined term)	34-1862	P	P	P	P
Marina, ancillary uses (defined term)		P	-	-	EO

Mass transit depot or maintenance facility (government-operated)		-	-	-	P
Medical office (defined term)		P	P	-	P
Mini-warehouse (defined term)		-	-	-	-
Model: (defined term) Home Unit Display center	34-1951 et seq. 34-1951 et seq. 34-1951 et seq.	P P P	- - -	- - -	P P P
Multislip docking facility (defined term)		P	-	-	P
Nonstore retailers (34-622(c)(30)), all groups		P	P	-	P
Package store (defined term)	34-1261 et seq.	P	P	-	P
Paint, glass and wallpaper (defined term)		P	P	-	P
Parks (34-622(c)(32)), public or private, groups I and II (defined term)		P	P	P	P
Parking lot: Accessory (defined term) Commercial (defined term) Garage, public parking (defined term), Temporary (defined term)	34-3049 34-2022	P P P P	P SE SE P	P - - P	P SE SE P
Personal services (34-622(c)(33)): Group I Group II Group III Group IV		P P P P	P P - -	P 5 P 5 P -	
Pet services (defined term)		P	P	P	P
Pet shop (defined term)		P	P	-	P
Pharmacy (defined term)		P	P	-	P
Place of worship (defined term)	34-2051	P	P	-	P
Plant nursery (defined term)	34-2081	P	P	-	P
Police or sheriff's station		P	P	-	P
Pool or billiard halls		P	P	-	P
Post office		P	P	-	P
Printing and Publishing	34-622 (c) (36)	-	-	-	-
Real Estate Sales Office		P	P	P	P
Recreation, commercial (34-622(c)(38)): Group I Group II Group III Group IV		P P P P	P P P P	- - - -	P P P P
Recreational facilities: (defined term) Commercial (defined term) Private or public: (defined terms) Indoor only Indoor or outdoor	(34-622(c)(38))	P P P P	P P P P	- - - -	- - - -
Religious facilities (defined term)	34-2051 et seq.	-	-	-	-
Rental or leasing establishments (34-622(c)(39)): Group I Group II Group III	34-1201 et seq. 34-1352 34-3001 et	P P P	P P P	- - -	P P P

Group IV	seq.	P	P	-	P
Repair shops (34-622(c)(40)):					
Group I		P	P	-	P
Group II		P	P	-	P
Group III		P	P	-	-
Group IV		-	-	-	-
Group V		-	-	-	-
Research and development laboratories (34-622(c)(41)):					
Group II		-	-	-	-
Group IV		-	-	-	-
Residential accessory uses (34-622(c)(42))		P	P	-	P
Resort, see Hotel/motel (defined term)		-	-	-	
Restaurant, fast food (defined term)		P	P	-	P
Restaurants (34-622(c)(43)): (defined term)					
Group I		P	P	-	P
Group II		P	P	-	P
Group III		P	P	-	P
Group IV		P	P	-	P
Roadside stand (defined term)	34-1714	TP	TP	TP	TP
Rooming house (defined term)		P	P	P	P
Schools, commercial (34-622(c)(45))	34-2381	P	P	-	P
Self-service fuel pumps (defined term)		-	-	-	SE
Self-service fuel pump station (defined term)		-	-	-	SE
Signs in accordance with chapter 30		P6	P6	-	P
Social services (34-622(c)(46)):					
Group I		P	P	-	P
Group II		-	-	-	-
Group III		-	-	-	-
Group IV		-	-	-	-
Specialty retail shop (34-622(c)(47)):					
Group I		P	P	P7	P
Group II		P	P	P7	P
Group III		P	P	P7	P
Group IV		P	P	P7	P
Storage: (defined terms)					
Indoor only	34-3001 et seq.	P	P	-	P
Storage, open	34-3001 et seq.	-	-	-	P
Studios (34-622(c)(49))		P	P	P	P
Supermarket (defined term)		P	P2	P 2	P
Temporary uses	34-3041 et seq.	P	P	P	P
Theater:					
Indoor	34-2471 et seq.	P	P	-	P
Drive-in	34-2471 et seq.	-	-	-	-
Towers, communication, (defined term) only when accessory to a permitted use:					
100 feet or less in height	34-1441 et seq.	-	-	-	-
Over 100 feet in height	34-1441 et seq.	-	-	-	-
Transportation services (34-622(c)(53)):					
Group I		-	-	-	

Group II Group III Group IV		P8 - -	P8 - -	- - -	
Unit of high impact, includes time-share units (defined term)	34-3071 et seq.	P	P	P	SE
Used merchandise stores (34-622(c)(54)): Group I Group II Group III Group IV		P - - -	P - - -	- - - -	P P P P
Variety store (defined term)		P	P	P	P
Vehicle and equipment dealers (34-622(c)(55)): Group I Group II Group III Group IV Group V	34-1352 34-1352 34-1352 34-1352 34-1352	- P P - -	- P P - -	- - - - -	P P P P P
Warehouse: Mini-warehouse (defined term) Private (defined term) Public (defined term)		- - -	- - -	- - -	- - -
Wholesale establishment (34-622(c)(56)): Group I Group II Group III Group IV		- - - -	- - - -	- - - -	- - P9 P9
Original notes from Table 34-843: [reprinted here only when referenced above]					
(1) Permitted only when accessory to a lawfully permitted single-family dwelling unit. (2) Only permitted where clearly subordinate and incidental to a specified principal use. (3) Permitted only if completely enclosed within a building. (4) Subject to limitations for commercial uses set forth in section 34-937. (5) Limited to 500 square feet when in conjunction with one dwelling unit on the same premises. (6) Use only permitted when clearly incidental to a hotel or motel. (7) Uses anticipated include boat rentals (inflatables, sailboats, jet skis, windsurfers and the like) food stands, rental of cabanas and beach furniture, outdoor amusements including balloonist, seaplane rides, ski tows and similar activities, fishing and sight-seeing piers and towers. (8) Bail bonding, blood banks, blood donor stations and caterers permitted only by a special exception. (9) Drive-through, drive-in lanes require approval through a special permit process provided in Section 34-232 (c) of the Fort Myers Beach Land Development Code. (10) The total square footage of the residential uses shall not exceed the total square footage of all existing and proposed commercial uses on the subject property, and the total number of residential units shall not exceed the number of units permitted by the Fort Myers Beach Land Use Plan, which ever is less. (11) Not permitted within 500 feet of the nearest residence.					

(d) **Property development regulations.** In the same manner as for Table 1, new property development regulations for the Fort Myers Beach Downtown District are shown in Table 2. The terminology and notes used in this table are the same as contained in Table 34-844 of the Land Development Code, except as specifically noted.

TABLE 2

DIMENSIONAL REGULATIONS	SPECIAL NOTES OR REGULATIONS	C-1 ZONING DISTRICT	FORT MYERS BEACH Downtown DISTRICT (ALL PORTIONS)
Maximum density	34-2142, 2221 & 22	Note (1)	Note (1)
Minimum lot area and dimensions: Minimum lot size: Residential uses (square feet): First two units in same building Each add'l unit in same building Nonresidential uses (square feet): Corner lot Interior lot Minimum lot width (feet) Minimum lot depth (feet)		7,500 3,000 7,500 7,500 75 100	7,500 3,000 5,000 2,500 25 100
Minimum setbacks: Street (feet)	34-2191 et seq. Note (3)	Variable according to the functional classification of the street or road (see Section 34-2192)	All buildings shall abut the "build-to" line as defined in Appendix I (a), (b), (c)
Side yard (feet) Rear yard (feet) Water body (feet): Gulf of Mexico Other (feet)	Note (5) 34-2194(a), (c)	15 25 N/A 25	0 (d), (e) 25 N/A 25
Maximum height (feet)	34-2171 et seq.	40	40 (f)
Maximum lot coverage (percent of total lot area)		40%	60% (g)
<p>Original notes from Table 34-844: [reprinted here only when referenced above]</p> <p>(1) Residential development shall not exceed that density permitted by the Lee Plan for the land use category in which the property is located.</p> <p>(3) Modifications to required setbacks for arterial or collector streets, or for solar or wind energy purposes, are permitted only by special permit. See section 34-2191 et seq.</p> <p>(5) No side yard setback is required from common lot line for two-family attached or townhouse.</p> <p>Notes applying to the Fort Myers Beach Downtown District only:</p> <p>(a) Maximum bonus density allowed for multifamily residential use with the additional density for affordable housing only.</p> <p>(b) Setback may be covered by a roof or built as an arcade with building above.</p> <p>(c) Existing structures may be expanded at grade to the street right-of-ways without providing additional parking. Expansion above the ground level requires parking to code.</p> <p>(d) 30 feet from front setback at grade, 50 feet from front setback above grade.</p> <p>(e) Minimum 5 feet one side with 50% lot width total setback required.</p> <p>(f) Above Base Flood Elevation.</p> <p>(g) Additional height allowance for greater setbacks (sec. 34-2174 (a))</p> <p>(h) Refer to special provision for towers</p> <p>(i) Parking garage exempt</p> <p>(j) Governed by setback requirements</p>			

(e) **Off-street parking.** Off-street parking is generally required in accordance with Section 34-2011 et seq. of the Land Development Code. Those requirements assume that patrons of each land use will arrive in a private automobile that will be parked in a private lot on the same premises. The Fort Myers Beach Downtown District differs in several ways from most conventional development: its location on Estero Island allows some arrivals on foot or by bicycle, trolley, or boat; the proposed intensity of related uses will increase the number of destinations for each automobile trip; shared parking lots are encouraged by this overlay district; and some on-street parking will be provided. In response to

these conditions, the following modifications to the Land Development Code shall apply:

- (1) *Location of off-street parking spaces.* Off-street parking spaces shall not be placed between the principal building and the street. This parking shall be provided in parking lots located generally behind the principal building, in order to de-emphasize the visual effect of large parking lots and to allow the front walls of buildings to become an integral part of the pedestrian-oriented streetscape being created through the master plan.
- (2) *Access, location, and design of parking spaces.* Notwithstanding any conflicting provisions of Section 34-2013 and 34-2015 of the Land Development Code:
 - a. Parking lots may be accessed by alleys, and parking spaces may be directly accessed from alleys, provided such alleys are improved in accordance with this section.
 - b. Distinct parking lot entrances to streets or alleys shall be at least 12 feet wide for one-way entrances and 20 feet wide for two-way entrances.
- (3) *Required number of parking spaces.* The number of off-street parking spaces required for any given land use by Section 34-2020 shall be reduced by one-third. Area used for outdoor restaurant seating shall not be counted in the total floor area when calculating parking requirements.
- (4) *Joint use of off-street parking lots.* Notwithstanding any conflicting provisions of Section 34-2018 of the Land Development Code:
 - a. Joint or shared use of off-street parking is specifically encouraged in the Fort Myers Beach Downtown District. To this end, joint-use parking may be approved administratively by the Town Manager as an alternative to the special permit process found in Section 34-203(g)(5), in accordance with the following provisions of this subsection (4).
 - b. Joint or shared parking lots must be located on the same block as the land uses they serve. Signs shall be placed to inform motorists of the allowable use of shared lots. Applicants are also encouraged to include joint space for off-street loading in these lots.
 - c. In joint or shared lots, the same parking space may fully satisfy the off-street parking requirement for two different land uses provided their peak parking demands clearly occur at different times. When the peak demands do not clearly occur at different times, each two parking spaces can replace three parking spaces that would otherwise be required by the combined uses (after the reduction found in subsection (3) above).
 - d. Town administrative approval for joint or shared use of off-street parking can be granted only when all users of the shared lot have chosen to be governed by this redevelopment overlay district in accordance with Sections 34-1137 (a), and (b) above. Requests for administrative approval shall include the following:

1. A notarized statement from all property owners involved indicating the use of each property and to what extent the activities of each separate building or use which create a demand for parking shall occur at different times.
 2. Written agreements, covenants, contracts and the like, acceptable to the Town, which ensure that the parking area is to be used jointly and establish the responsibility for maintenance.
- e. Administrative approvals granted by the Town shall be recorded in the same manner as other administrative approvals granted under the Land Development Code.

(f) ***Off-street loading.*** Space for off-street loading is generally required in accordance with Section 34-1981 et seq. of the Land Development Code. Conventional development is designed so that the unloading of products or materials from large trucks occurs entirely off-street, often in space earmarked for that purpose. The Fort Myers Beach Downtown District differs from conventional development by eliminating large retailers and industrial uses, both of which usually require a separate area for off-street loading to or from large trucks. In addition, the more intense clustering of commercial uses along street frontages precludes a separate loading space for each use. Accordingly, and notwithstanding any conflicting provisions of Section 34-1981 et seq. of the Land Development Code:

- (1) ***Off-street loading area.*** Off-street loading areas shall not be placed between the principal building and the street right-of-way line. A separate loading area is not required, but when provided, the surfaced portions of loading areas are not required to be set back from side or rear lot lines.
- (2) ***Interference with parking areas.*** Establishments are encouraged to schedule deliveries before or after their normal business hours. Deliveries that are made during normal hours may not obstruct parking aisles or parking entrances.

(g) ***Sandwich signs.*** The Town's sign regulations are found in Chapter 30 of the Land Development Code, and additional guidance is provided through the design guidelines discussed in Section 34-1143(e) above. With certain exceptions, signs in Fort Myers Beach must be placed on private property. In light of the urban character of the Fort Myers Beach Downtown District, signs may be placed in the Downtown District abutting or extending over public property such as sidewalks despite the general prohibition in Section 30-5 of sandwich-board signs, "A" signs, or other types of portable signs which are portable and readily movable from place to place. Single- or double-faced sandwich signs may be placed on the same premises or on sidewalks directly in front of the premises provided that the sign is placed indoors after business hours, is not illuminated, and, if placed on a public sidewalk, does not exceed 24 inches in width.

(h) ***Development standards.*** In a similar manner as for Tables 1 and 2, new development standards for the Fort Myers Beach Downtown District are shown in Table 3. The terminology in this table follows that in Chapter 10 of the Land Development Code, except as specifically noted.

TABLE 3

TYPE OF DEVELOPMENT STANDARD	FOUND WHERE IN LAND DEVELOPMENT CODE	SUBSTANCE OF CURRENT REGULATIONS	FORT MYERS BEACH Downtown DISTRICT (ALL PORTIONS)
Open space: small developments large developments	10-413(b)	20% 30%	Note (a) Note (a)
Minimum required buffering: commercial adjoining existing residential development commercial adjoining street rights-of-way	10-414(a)	15-foot buffer and 8-foot-high fence, wall or berm	None
	10-415(b)	10-foot-wide landscaped strip	Note (b)
Storm water detention Intersection separation	10-321 et seq. 10-285	Required for each individual parcel Arterials: 660 ft. Collectors: 330 ft. Local streets: 125 ft. Access roads or access ways: 60 ft.	See Section 5(I) below Estero Blvd.: note (c) Other streets: note (d) Note (e)
<p>Notes applying to the Fort Myers Beach business district only:</p> <p>(a) There is no minimum open space requirement comparable to that required by Section 10-413.</p> <p>(b) There is no minimum buffer requirement adjoining rights-of-way comparable to that required by Section 10-414(f).</p> <p>(c) Vehicular access to private parking spaces shall be via the side streets (see Section 34-1137(j) below). No new access points shall be allowed directly to Old San Carlos Drive, and existing access points (other than existing alleys) shall be removed when parking areas are reconfigured to conform to these regulations.</p> <p>(d) Vehicular access to parking spaces shall be via the side streets wherever possible (see Section 34-1137(j) below). New access points shall be allowed to streets other than Old San Carlos Drive only where side street access is not shown in the master plan (see Section 34-1135), or where side street access is not feasible or inferior to the circulation pattern shown in the master plan (as determined by the Town Manager).</p>			

(i) **Building Height Limitations.** Building Heights are limited to 40' above Base Flood Elevation allowing a maximum of a three story building. Additional building heights in return for greater setbacks is not an available option under the Master Plan.

(j) **Building regulations.** The purpose of this subsection is to encourage the continued use or reuse of existing buildings in the Fort Myers Beach Downtown District and to encourage the creation of awnings and canopies over sidewalks and pedestrian walkways. Accordingly, and notwithstanding any conflicting provisions of Chapter 6 of the Land Development Code:

(1) *Existing uses.* Existing buildings may continue their existing use, provided such buildings are maintained in a safe and sanitary condition and such use was legal at the time of adoption of this ordinance. Buildings left vacant for a time period exceeding 2 years shall be analyzed prior to reoccupancy for structural strength, stability, sanitation, adequate light and indoor air quality, adequate plumbing, mechanical, gas, and electrical systems, and safety to life and property from fire and other hazards affecting the safe use and occupancy of the building. The Building Official may waive one or more of the above requirements based upon the type occupancy being requested. Findings of the analysis shall be submitted to the Building Official as a part of the application for a permit to reoccupy the building.

(2) *Alterations, Repairs, and Rehabilitation.* Alterations, repairs, or rehabilitation work may be made to any existing building without requiring the building to comply with all the requirements of the building codes provided that the alteration, repair, or rehabilitation work conforms to the requirements of the Building, Plumbing, Mechanical, Gas, and Electrical Codes for new construction. The Building Official shall determine the extent to which the remainder of the building shall be made to conform to the requirements of these codes for existing construction, consistent with the purposes of this subsection.

(3) *Change of a building's use or occupant.* When a new use is proposed for an existing building, or a new occupant wishes to occupy an existing building, the following shall apply:

a. If the occupancy classification of an existing building or structure is changed to a more hazardous occupancy (based on the life safety and fire hazard involved), the building, electrical, gas, mechanical, and plumbing systems shall be made to conform to the intent of the technical codes as required by the Building Official.

b. If a new use falls within the same occupancy classification as the previous use, the requirement in subsection a. shall not apply.

c. The mere change of occupant within the same occupancy classification, or the upgrading of a certificate of compliance to a certificate of occupancy, shall not cause the requirement in subsection a. to apply.

(4) *Awnings and canopies.* The installation of awnings and canopies over sidewalks and pedestrian walkways is specifically encouraged, (see design guidelines referred to in Section 34-1135 (e) above). Awnings and canopies that extend over public property are regulated by Chapter 22 of the Standard Building Code. In order to allow and encourage the implementation of the master plan, landowners may construct fixed awnings and canopies that extend over public property to the same extent as allowed by the Standard Building Code for movable awnings, notwithstanding the limitations found in Section 34-2191 of the Land Development Code..

Sec. 34-1146 Procedures for approval and for appeals of administrative decisions.

(a) *Approval process.* In order to minimize the time required for review of permit requests in the Fort Myers Beach Downtown District, all staff review shall occur simultaneously.

(b) *Appeals of administrative decisions.* Administrative decisions may be appealed in accordance with existing procedures for such appeals.

SECTION TWO: AMENDMENTS TO LAND DEVELOPMENT CODE APPENDIX

There is hereby created Appendix L to the Land Development Code. This Appendix will include a reduced copy of three maps that pictorially describe the boundaries of the Downtown District identified as Map 1-Proposed Land Use by District-Fort Myers Beach Core Area Overlay Zoning Master Plan; Map 2-Storm Water Management Plan-Fort Myers Beach Core Area Overlay Zoning Master Plan; Map 3-Illustrative Master Plan-Fort Myers Beach Core Area Overlay Zoning Master Plan.

SECTION THREE: SEVERABILITY

It is the legislative intent that if any section , subsection, sentence, clause or provision of this Ordinance is held to be invalid 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 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: CODIFICATION, INCLUSION IN CODE AND SCRIVENER'S ERRORS

The Town Council intends for the provisions of this ordinance to become and be made a part of the Fort Myers Beach Land Development Code; and that sections of this ordinance may be renumbered or relettered and that the word "ordinance" may be changed to "section," "article," or such other appropriate word or phrase in order to accomplish such intention; and regardless of whether such inclusion in the code is accomplished, sections of this ordinance may be renumbered or relettered and typographical errors which do not affect the intent may be authorized by the Town Manager, or his designee, without need of public hearing.

SECTION SIX: EFFECTIVE DATE

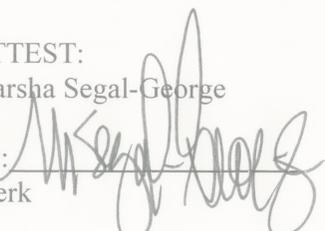
This ordinance will take effect immediately upon adoption.

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

Anita Cereceda	<u>aye</u>
Ted Fitzsimons	<u>aye</u>
Rusty Isler	<u>aye</u>
Garr Reynolds	<u>aye</u>
Ray Murphy	<u>aye</u>

DULY PASSED AND DATED THIS 3rd DAY OF SEPTEMBER, 1996.

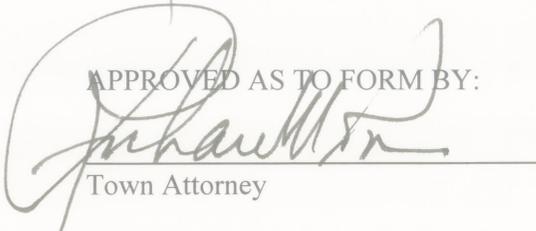
ATTEST:
Marsha Segal-George

By: 
Clerk

Town Council of Fort Myers Beach, Florida

By: 
Mayor

APPROVED AS TO FORM BY:


Town Attorney

WALLACE ROBERTS & TODD
 Environmental Planning
 Urban Design
 Landscape Architecture
 Architecture



HMA
 HOLE, MONTES & ASSOCIATES
 Environmental Planning
 Urban Design
 Landscape Architecture
 Architecture

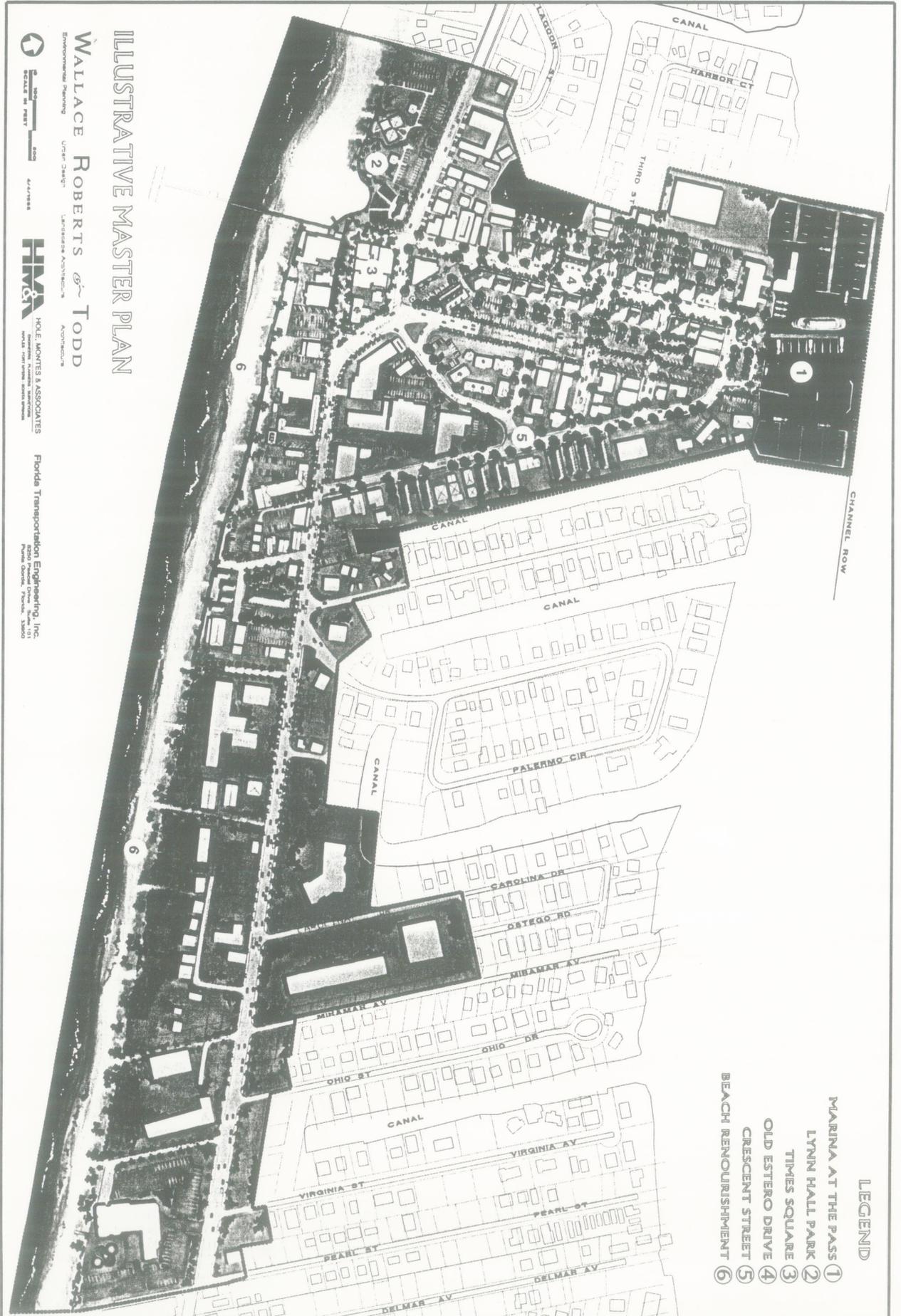
Florida Transportation Engineering, Inc.
 8200 Paradise Blvd., Suite 100
 Fort Myers, Florida 33907



- LEGEND**
- EXISTING DRAINAGE AREA ———
 - PROPOSED DRAINAGE AREA - - - - -
 - PROPOSED EXFILTRATION TRENCH - - - - -
 - EXISTING EXFILTRATION TRENCH - - - - -
 - INLET/STORM SEWER PIPE SIZE 12" - - - - -
 - INLET/STORM SEWER PIPE SIZE 18" - - - - -

STORM WATER MANAGEMENT PLAN





- LEGEND**
- MARINA AT THE PASS ①
 - LYNN HALL PARK ②
 - TIMES SQUARE ③
 - OLD ESTERO DRIVE ④
 - CRESCENT STREET ⑤
 - BEACH RENOURISHMENT ⑥

ILLUSTRATIVE MASTER PLAN

WALLACE ROBERTS & TODD

ENVIRONMENTAL PLANNING URBAN DESIGN LANDSCAPE ARCHITECTURE ARCHITECTURE



SCALE IN FEET

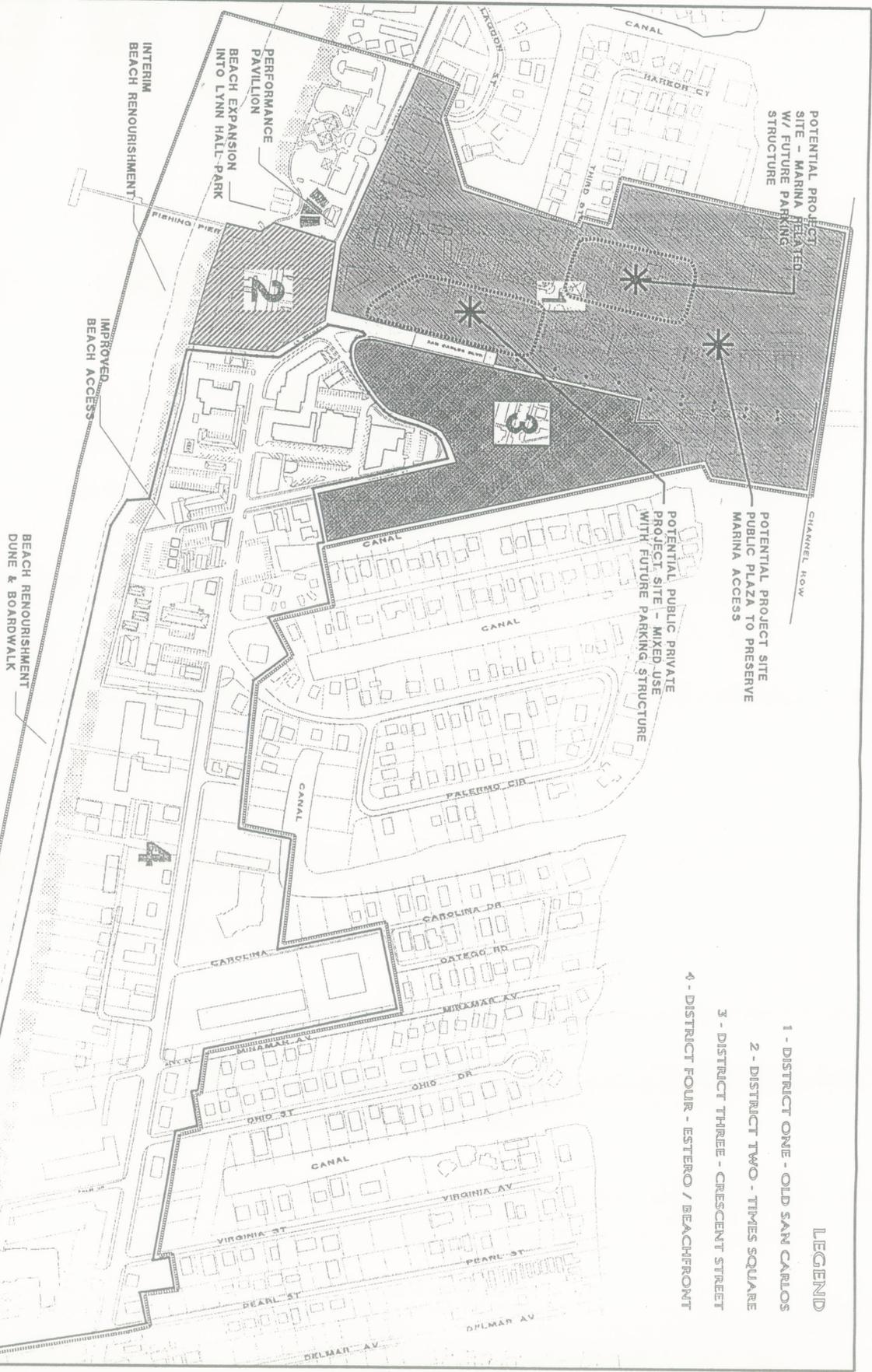
0 200 400

4/2/1988



HOLE MONTE & ASSOCIATES
ARCHITECTS PLANNERS ENGINEERS

Florida Transportation Engineering, Inc.
PLANNERS ENGINEERS ARCHITECTS
P.O. BOX 10000
FORT MYERS, FLORIDA 33902



LEGEND

- 1 - DISTRICT ONE - OLD SAN CARLOS
- 2 - DISTRICT TWO - TIMES SQUARE
- 3 - DISTRICT THREE - CRESCENT STREET
- 4 - DISTRICT FOUR - ESTERO / BEACHFRONT

PROPOSED LAND USE BY DISTRICT

WALLACE ROBERTS & TODD
 Environmental Planning
 Urban Design
 Landscape Architecture
 Architecture

HMA HOLE, MONTES & ASSOCIATES
 ARCHITECTURE
 Florida Transportation Engineering, Inc.
 4040 Grand Oaks, Suite 101
 Fort Myers, Florida 33909

