

TOWN OF FORT MYERS BEACH, FLORIDA

ORDINANCE NO. 04-10

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH ENTITLED "FIRST SMALL SCALE AMENDMENT TO THE FUTURE LAND USE MAP OF THE FORT MYERS BEACH COMPREHENSIVE PLAN"; ESTABLISHING PURPOSE AND INTENT; AMENDING THE FUTURE LAND USE MAP; 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, Chapter 163, *Florida Statutes*, empowers the Town Council of the Town of Fort Myers Beach to consider small scale amendments which do not involve a text change to the goals, policies, and objectives of the local government's comprehensive plan, but which only propose a land use change to the future land use map; and

WHEREAS, the Town Council has determined that certain additional amendments to the future land use map may be needed and has directed the necessary research and analysis in support thereof; and

WHEREAS, requests were also received from private property owners for further amendments to the future land use map, but following due consideration at full public hearings, those requests were ultimately denied; and

WHEREAS, pursuant to Section 163.3174(3)(a) in consideration of these small scale amendments, the Fort Myers Beach Local Planning Agency held public hearings on March 16, 2004, and April 20, 2004; and

WHEREAS, pursuant to Section 163.3184, the Town Council held its first public hearing to consider this ordinance on June 7, 2004 and its second and final public hearing on this ordinance on June 21, 2004; and

WHEREAS, pursuant to Rule 9J-11.015 Florida Administrative Code, the adopted small scale amendments shall be submitted to the state Department of Community Affairs and the Southwest Florida Regional Planning Council.

IT IS HEREBY ORDAINED BY THE TOWN OF FORT MYERS BEACH 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: AMENDMENTS TO THE FUTURE LAND USE MAP

The Fort Myers Beach Future Land Use Map is hereby amended as follows:

- **REQUEST FMB-SSA-04-03** from "Mixed Residential" to "Recreation" for 0.80 acres at 4600, 4610, and 4650 Estero Boulevard in S29-T46S-R24E, as described in Exhibit A.

A MOTION TO APPROVE THE FOREGOING REQUEST was offered by Councilmember Reynolds and seconded by Councilmember Rynearson; upon being put to a vote, the vote was as follows:

Howard Rynearson	AYE
Don Massucco	AYE
Bill Thomas	AYE
W. H. "Bill" Van Duzer	AYE
Garr Reynolds	AYE

- **REQUEST FMB-SSA-04-04** from "Mixed Residential" to "Recreation" for 0.42 acres at 216 Connecticut Street in S29-T46S-R24E, as described in Exhibit B.

A MOTION TO APPROVE THE FOREGOING REQUEST was offered by Councilmember Van Duzer and seconded by Councilmember Rynearson; upon being put to a vote, the vote was as follows:

Howard Rynearson	AYE
Don Massucco	AYE
Bill Thomas	AYE
W. H. "Bill" Van Duzer	AYE
Garr Reynolds	AYE

SECTION THREE: 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 FOUR: 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 FIVE: EFFECTIVE DATE

This ordinance for the small scale comprehensive plan amendment contained herein shall not become effective until 31 days after adoption, in accordance with Chapter 163.3187, *Florida Statutes*.

DULY PASSED AND ADOPTED THIS 21st DAY OF JUNE, 2004

ATTEST:

By: 
Town Clerk Marsha Segal George

Town Council of Fort Myers Beach,
Florida

By: 
Mayor Bill Thomas

APPROVED AS TO FORM BY:

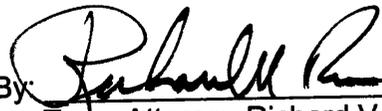
By: 
Town Attorney Richard V.S. Roosa

Exhibit A

Legal Description 4600, 4610 & 4650 Estero Boulevard, known as Newton Beach Park:

LOTS 1, 2, 3, 4, 5, AND 6, BLOCK "H", HYDE PARK, A SUBDIVISION AS PER
MAP OR PLAT THEREOF RECORDED IN PLAT BOOK 7, PAGE 26 OF THE
PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

Exhibit B

Legal Description 216 Connecticut Street

All of that part of Lot 51 of Cases' Subdivision according to the map or plat thereof on file and recorded in the office of the Clerk of the Circuit Court of Lee County, Florida in Plat Book 1, Page 58, described as follows:
Beginning at the Point of Intersection of the Northwestern line of Estero Boulevard with the Southeast line of Connecticut Street, thence run Northeasterly along the said Southeast line of Connecticut Street for 772 feet to the point of beginning of the land herein described, said point being the Southwest corner of Lot 5 unrecorded Plat of "Coco's Park", thence continue on said mentioned course for 75 feet; thence deflect right 74°47' and run Southeast for 253 feet to a point on the Southeast line of said lot 51 thence run Southwesterly along said Southeast line of Lot 51 for 75 feet; thence run Northwesterly 253 feet, more or less to the point of beginning.

Parcel contains .42 acres, more or less.