

RESOLUTION OF THE LOCAL PLANNING AGENCY OF THE  
TOWN OF FORT MYERS BEACH, FLORIDA  
RESOLUTION NUMBER 2008-45

WHEREAS, the existence of the Local Planning Agency (LPA) is mandated by Florida Statutes Section 163.3174; and

WHEREAS, the Local Planning Agency is statutorily responsible under Chapter 163, Florida Statutes, and the Town of Fort Myers Land Development Code (LDC) Section 34-120 for the review of proposed land development regulations, land development codes, or amendments thereto, and for making recommendations to the Town Council with regard thereto and performing such other reviews as are requested by the Town Council; and

WHEREAS, following proper notice and as required under Florida Statute and the LDC, the LPA conducted a public hearing on **December 9, 2008** to consider a proposed Town Ordinance amending LDC Section 34-219 regarding administrative amendments to approved master concept plans within the Town of Fort Myers Beach, Florida, with a copy of said Ordinance (which is currently unnumbered) attached hereto as Exhibit A and hereby incorporated by reference.

NOW THEREFORE BE IT RESOLVED, that the LPA **recommends** approval and adoption of the Town Ordinance on amendment of Section 34.219 of the Town LDC by the Town Council on behalf of the Town of Fort Myers Beach, Florida.

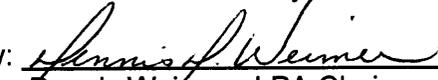
The foregoing Resolution was adopted by the LPA upon a motion by LPA Member Van Duzer and seconded by LPA Member Barnes and upon being put to a vote, the result was as follows:

Dennis Weimer, Chair aye  
Evie Barnes aye  
Joanne Shamp aye  
Joe Yerkes absent

Alan Mandel, Vice Chair aye  
Rochelle Kay aye  
Bill Van Duzer aye

DULY PASSED AND ADOPTED THIS 9<sup>th</sup> day of December, 2008.

LPA of the Town of Fort Myers Beach

By:   
Dennis Weimer, LPA Chair

Approved as to legal sufficiency:

By:   
Anne Dalton, Esquire  
LPA Attorney

ATTEST:

By:   
Michelle Mayher, Town Clerk

ORDINANCE 08-xx

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH AMENDING CHAPTER 34 OF THE TOWN OF FORT MYERS BEACH LAND DEVELOPMENT CODE; PROVIDING AUTHORITY, AMENDMENTS TO CHAPTER 34, ZONING DISTRICTS, DESIGN STANDARDS, AND NONCONFORMITIES, ARTICLE II, ZONING PROCEDURES, DIVISION 4, APPLICATIONS AND PROCEDURES, SUBDIVISION II. ADDITIONAL PROCEDURES FOR PLANNED DEVELOPMENT ZONING DISTRICTS, SECTION 34.219(b) WHICH IS ENTITLED "ADMINISTRATIVE AMENDMENTS TO APPROVED MASTER CONCEPT PLAN;" PROVIDING FOR ELIMINATION OF NON-CONTROVERSIAL CRITERION FOR STAFF TO CONSIDER IN ADMINISTRATIVE AMENDMENTS TO APPROVED MASTER CONCEPT PLANS UNDER CERTAIN CIRCUMSTANCES; PROVIDING FOR FEE TO BE IN ACCORDANCE WITH LAND DEVELOPMENT CODE SECTION 34-53 RATHER THAN SET BY TOWN STAFF; SEVERABILITY; EFFECT OF ORDINANCE; AND EFFECTIVE DATE.

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

SECTION 1. Authority. This Ordinance is enacted pursuant to Chapter 95-494, Laws of Florida, Chapters 163 and 166, Florida Statutes, and other applicable provisions of law.

SECTION 2. Revision to Criteria for Staff to Consider For Proposed Administrative Amendments to Approved Master Concept Plan. The criteria for staff to consider for a proposed administrative amendments to an approved master concept plan, as set forth in Section 34-219(b)(1), are amended to read as set forth below. Language being repealed from the existing code is indicated with ~~strikethroughs~~ and entirely new language being added is indicated with underlining, as follows:

SECTION 34-219 (b). Amendments that may be approved by the director include, in general, any change which does not increase height, density or intensity (i.e., number of dwelling units, hotel units, or floor area), decrease buffers or open space, or add additional land uses. The director shall not approve any change which results in a reduction of total open space, buffering, landscaping, and preservation areas or which adversely impacts on surrounding land uses.

- (1) This authority is granted to the director to eliminate unnecessary processing delays for proposed changes that are:
  - a. Substantially similar to the prior approval; and
  - b. ~~Likely to be noncontroversial;~~ and
  - c. b. In conformance with all town regulations and plans.

SECTION 3. Revision to Determination of Fee for Appeal of Director's Decision Concerning Administrative Amendments to an Approved Master Concept Plan. The determination of the fee for an appeal of the decision by the director concerning administrative amendments to an approved master concept plan as set forth in Section 34-219(b)(2)b. is amended to read as set forth below. Language being repealed from the existing code is indicated with ~~strikethroughs~~ and entirely language being added is indicated with underlining, as follows:

SECTION 34-219(b)(2)b. The appeal must be filed and processed in accordance with Section 34-86. In addition, the appellant must provide a list and map of surrounding property owners and one set of mailing labels in accordance with Section

34-202(6) and (7), and shall pay a fee established by the director in accordance with the provisions of Section 34-53.

SECTION 4. 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.

SECTION 5. Effect of Ordinance. The provisions of this Ordinance shall be deemed cumulative and supplemental and shall have no legal effect upon the ordinances of the Town of Fort Myers Beach, except as expressly provided.

SECTION 6. 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 \_\_\_\_\_ and seconded by Council Member \_\_\_\_\_ and, upon being put to a vote, the result was as follows:

Larry Kiker, Mayor  
Tom Babcock  
Bob Raymond

Herb Acken, Vice Mayor  
Jo List

DULY PASSED AND ENACTED this \_\_\_\_ day of \_\_\_\_\_, 2009.

ATTEST:

TOWN OF FORT MYERS BEACH

\_\_\_\_\_  
Michelle Mayher, Town Clerk

BY: \_\_\_\_\_  
Larry Kiker, Mayor

Approved as to Legal Sufficiency by:

\_\_\_\_\_  
Anne Dalton, Esquire, Town Attorney