

Application #: 2008-05-TEXT

Description: Clarify Policy 4-C-6 so that it unquestionably applies to all guest units, not just to motel rooms

Pages to be changed: Comprehensive Plan Pages 4-19—4-23 and 4-49—4-50 (proposed changes are attached)

Discussion in E/A Report From Page 15—16:

(adopted on Jan 16 '07):

“To set the town's new policy, the 1999 comprehensive plan added Policy 4-C-6:

“POLICY 4-C-6: MOTEL DENSITIES: The Land Development Code shall specify equivalency factors between motel rooms and full dwelling units. These factors may vary based on size of motel room and on land-use categories on the Future Land Use Map. They may vary between a low of one motel room and a high of three motel rooms for each dwelling unit. (These factors would apply only where motels are already permitted.)

“The comprehensive plan discusses motel rooms and residential dwelling units but it never clearly defines motel rooms or determines where the regulatory line should occur in the continuum between motel rooms and dwelling units.

“To implement Policy 4-C-6, the new land development code defines "hotel/motel," "resort," "timeshare," and then defines a new term "guest unit" to distinguish these transient units from residential dwelling units, as follows:

“Hotel/motel means a building, or group of buildings on the same premises and under single control, which are kept, used, maintained or advertised as, or held out to the public to be, a place where sleeping accommodations are supplied for pay to transient guests for periods of one day or longer. See division 19 of article IV of this chapter.

“Resort means a mixed-use facility that accommodates transient guests or vacationers. Resorts contain at least 50 units, which may include a combination of dwelling units, guest units and timeshare units, and provide food service, outdoor recreational activities, and/or conference facilities for their guests.

“Timeshare unit means any dwelling unit, guest unit, or living unit for which a timesharing plan, as defined in F.S. ch. 721, has been established and documented. See § 34-632 for determining density of timeshare units that include "lock-off accommodations."

“Guest unit means a room or group of rooms in a hotel/motel or bed-and-breakfast inn that are designed to be used as temporary accommodations for one or more people traveling together. All guest units provide for sleeping and sanitation, although sanitation may be provided through shared bathrooms.

“The number of guest units that may be constructed was then established as a multiplier of the number of permitted dwelling units (the table of multipliers from § 34-1803 of the land development code is reprinted on page 8).

“Policy 4-C-6 and its implementation through the land development code have been successful in

clarifying the rules for new hotels and motels and ensuring that new transient units get the maximum multiplier only if they are smaller than 450 square feet, with the multiplier dropping when the units are between 450 and 750 square feet, dropping again between 750 and 1,000 square feet, then offering no multiplier at all when the units exceed 1,000 square feet.

“This method of implementation seemingly avoids the need to regulate whether a "guest unit" has no kitchen, a kitchenette, or even a full kitchen, since the multiplier is related mainly to physical size (and secondarily to location on the Future Land Use Map).

“However, the issue of what exactly is a "guest unit" versus a "dwelling unit" is still relevant. First, the multipliers are only applicable to guest units; small apartments, for instance, are not allowed to use these multipliers. Second, the land development code designates all types of short-term rental units as "lodging" uses, including bed-and-breakfast inns, hotels, motels, resorts, and even weekly or monthly rentals of residential dwelling units. (All lodging uses and all residential uses are allowed in the Downtown, Commercial Resort, and Santini zoning districts; some lodging uses are allowed in several other zoning districts.)

“Although the town restricts where lodging uses may be constructed, it gives them special consideration by allowing certain multipliers to the residential density cap. As long as this special consideration is being extended, the regulations need to be clearer about what type of units qualify for that consideration; this is a larger issue than the size of individual units.’

Action by LPA: During a public hearing on May 20, 2008, the LPA recommended that the Town Council approve these changes as proposed in this report:

- Changes to Page 4-23 of the narrative in the Future Land Use Element
- Changes to Policies 4-C-6 of the Future Land Use Element

The minutes of the public hearing are attached.

Action by Town Council: During a public hearing on November 17, 2008, the Town Council voted unanimously to transmit this amendment for state review.

DCA Objection: None

DCA Recommendation: None

Response to DCA: N/A

Proposed Final Action: The Town Council should adopt the transmitted amendment, as described above, as part of Ordinance 09-03.

Final Action: The Town Council adopted this amendment on August 17, 2009, as part of Ordinance 09-03.
(Text shown in red is new or has changed since the initial transmittal of this amendment in January 2009.)

HISTORICALLY HIGH DENSITIES

Constant concerns at Fort Myers Beach include the excessive crowding during the winter and fears over the ability to evacuate the island when a hurricane approaches. Existing development was approved without regard to the adequacy of the road system (although the impacts of tourism and day visitors are an equally important factor in winter crowding).

Multifamily Densities

The density of multifamily development at Fort Myers Beach averages 17.2 units per acre (in 1996, 5,269 units, including duplexes, on 305.5 acres). Table 4-1 provides the densities of several multifamily developments across the island.

Table 4-1 — Multi-Family Densities

<u>Name</u>	<u>Address</u>	<u># of dwelling units</u>	<u># of total acres</u>	<u>units per acre</u>	<u>stories tall</u>
Marina Towers	8401 Estero	63	2.77	23	9
Sun Caper	7930 Estero	69	2.75	25	10
Leonardo Arms	7400 Estero	180	6.28	29	7
Ocean Harbor	4741 Estero	150	9.70	15	16
Caper Beach Club	2810 Estero	103	1.27	81	12
Batiki West	1511 Estero	60	1.86	32	7
Pink Shell Beach Club I	327 Estero	15	0.83	18	7

At the older (northwest) end of the island, existing development has achieved a desirable level of “compactness” which allows people to move comfortably about without driving everywhere. Yet the south end of the island has not done so despite higher densities there.

Compactness is not the same as density. Compact development can occur with densities as low as four units per acre if homes aren’t stacked vertically and if driveways and garages do not dominate the street side of houses and businesses.

High-rise buildings surrounded by ground-level parking lots can almost never achieve compactness, because higher densities are translated into taller buildings requiring ever larger parking lots. “Compact” high-rise development would require extensive public transportation and parking garages to avoid separating buildings so widely that compactness is lost.

Without compactness, high densities require an advanced system of highways and parking facilities to accommodate most movement by car. Parking each car requires 275 square feet (counting aisles and driveways). That same car takes up as much road space as 40 bus passengers or 12 bicyclists. The wide highways and large parking lots needed for “automobility” create barriers to movement by all other modes of travel.

The following section examines specific density issues for hotels and motels.

Hotel and Motel Densities

Until a 1997 interim change, town regulations allowed up to three hotel/motel units in place of each regular dwelling unit. This ratio is substantially lower than the county’s rules in effect until 1994, which allowed convention hotels at 50 rooms per acre, but it is still a high ratio given the overcrowded conditions at Fort Myers Beach.

This section provides some history as to how this issue has been treated in the past, and outlines an alternate plan for future hotels and motels.

At Fort Myers Beach there is only a slight distinction between motels and some other types of accommodations for tourists. The Land Development Code must make a clear distinction, however, if it provides a density multiplier or bonus for motels. Current regulations define a motel (or hotel) as:

a building, or group of buildings on the same premises and under single control, consisting of ten or more sleeping rooms

which are kept, used, maintained or advertised as, or held out to the public to be, a place where sleeping accommodations are supplied for pay to transient guests or tenants.

In order to qualify for density multipliers, motels also must be registered with the state and must pay Lee County’s tourist development tax. Hotels and motels are further divided into “efficiency motels” (primarily for tourists) and “business motels” (all others).

Limited kitchen facilities are allowed in efficiency motels, but they may not be as extensive as a separate room. A building that looks like a motel but does not meet all of these tests is treated by current regulations as multifamily housing, and is therefore subject to much stricter density regulations.

A new motel (or hotel) that qualifies under the current zoning regulations can have substantially more rental units than would be allowed for multifamily housing. Under the current rules, a minimum of three “business” hotel/motel units are guaranteed for each *one* regular dwelling that would otherwise be allowed (in zoning districts where motels are permitted); this ratio is two for one for “efficiency” motels. With a maximum number of new dwelling allowed under the comprehensive plan of 6 units per acre, 18 hotel or motel units can be built. In addition, a landowner can request higher densities yet during a planned development rezoning (with no maximum cap), provided that the Town Council finds that the higher density would be “compatible with the surrounding area.” (Due to concerns over these density multipliers, they were suspended by ordinance in late 1997 pending the completion of this comprehensive plan.)

These density multipliers were established by Lee County in 1994, when it repealed the previous rule that categorized hotels and motels into three types: transient (25 units per acre); efficiency (2.5 units for each multifamily dwelling unit); and convention (50 units per acre).

Lee County has since added new restrictions on motel densities in the unincorporated area, eliminating the dubious distinction between efficiency and business motels in favor of density ratios based on the actual floor area of each rental unit, regardless of unit type. For *each* allowable dwelling unit, the following number of new hotels and motels will be allowed:

- Three rental units under 425 square feet; or
- Two rental units under 725 square feet; or
- One rental unit over 725 square feet.

However, if approved through a planned development rezoning, even higher ratios may be approved, “provided all other aspects of the development (height, traffic, intensity of use, etc.) are found to be compatible with the surrounding area.”

To illustrate the numerical densities with actual examples, Table 4-2 provides official data on the density of a selection of existing motels at Fort Myers Beach.

Table 4-2 — Hotel/Motel Densities

<u>Name</u>	<u>Address</u>	<u># of rental units</u>	<u># of total acres</u>	<u>rental units per acre</u>
Lani Kai Island Resort	1400 Estero	100	0.98	102
Ramada Inn	1160 Estero	70	0.87	80
Lighthouse Island Resort	1051 5 th St.	40	0.72	56
Outrigger Beach Resort	6200 Estero	144	3.92	37
Days Inn	1130 Estero	33	0.98	34
Best Western	684 Estero	75	2.87	26
Buccaneer Resort Inn	4864 Estero	25	0.98	26
Holiday Inn	6890 Estero	103	3.91	26
Neptune Inn	2310 Estero	65	2.86	23
Sandbar Resort	5480 Estero	12	0.61	20
Carousel Motel	6230 Estero	26	1.52	17

In 1996 there were about 1227 motel rooms in the town of Fort Myers Beach using a total of 32.3 acres of land, yielding an average density of 38 rooms per acre. This is more than double the average multifamily density of 17.2 dwelling units per acre.

Since adoption of the 1984 Lee Plan, the density of new multifamily buildings has been limited to 6 dwelling units per acre, quite low compared to the average *existing* multifamily density. Much of the multifamily development that has taken place since 1984 has taken advantage of pre-1984 approvals or court orders (for example, at Bay Beach and Gullwing). Because of the substantial density multipliers that Lee County has allowed for motels and the continued demand for short-term rental units, landowners without vested approvals or court orders are being provided an incentive to build motels instead of condominiums.

An unanswered question is the economics of renting motel rooms versus renting full dwelling units (with kitchens and bedrooms). Conflicting testimony has been presented on this question during the preparation of this comprehensive plan. Some have asserted that the rental market for condominiums (or suite-type motel units) is poor relative to the supply; and others have stated that full-sized condominiums remain the best and most profitable rental market at Fort Myers Beach.

Two charts illustrate pertinent tourism data collected by the Lee County Visitor and Convention Bureau. Figure 6 shows occupancy rates by month for the past five years (for motels, hotels, and other short-term rentals). A slight “flattening” of the February-March peak season is evident, along with the strengthening of tourism during November, January, April, and May. Figure 7 compares the 1995 average daily rates with other parts of Lee County, with Fort Myers Beach remaining well below Sanibel and Captiva but above Fort Myers, Cape Coral, and Bonita Springs.

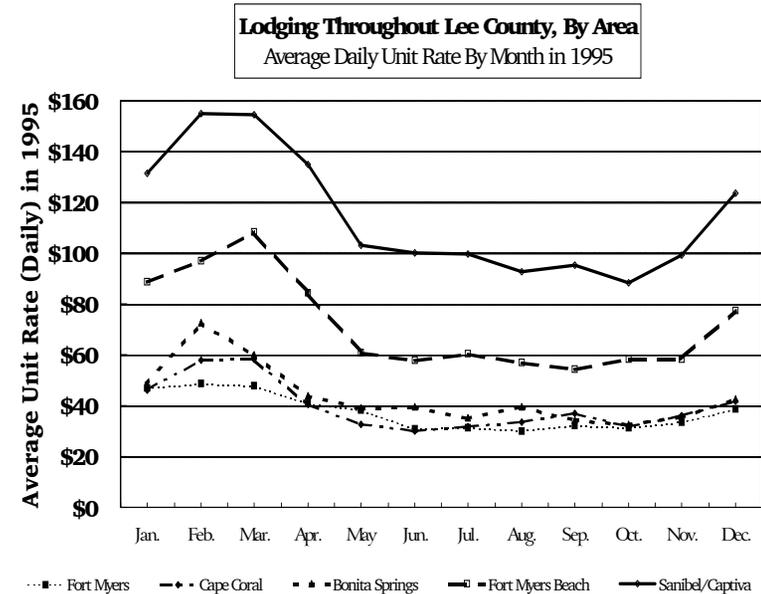


Figure 1, Comparative lodging rates

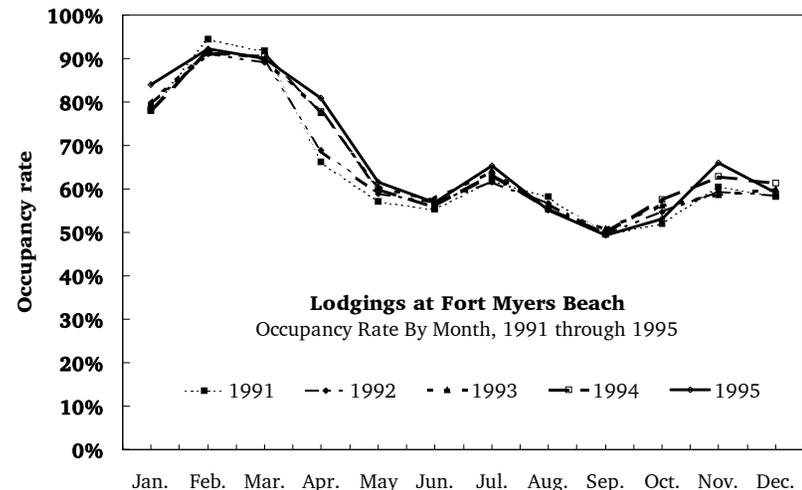


Figure 2, Occupancy rates at Fort Myers Beach

Several Florida coastal communities were surveyed to determine how they regulate motel densities.

The city of Sarasota allows unlimited hotel and motel units anywhere in their downtown; multifamily units are also allowed there at 50 dwelling units per acre. Sarasota also allows motels by special exception in several of their higher-intensity multifamily districts (those allowing up to 18 through 35 dwelling units per acre). Two hotel or motel units are allowed for each dwelling unit.

The city of Deerfield Beach allows hotels and motels by special exception in its highest-intensity multifamily district, which allows up to 25 dwelling units per acre. If approved, motels may have up to 38 units per acre.

The city of Sanibel has what might be called a *reverse multiplier* for all resort housing (which includes motels and any other units that can be rented for less than 4 consecutive weeks). In its highest density category, 5 regular dwelling units are allowed per acre, with an assumed capacity of 2.2 persons per unit. Where resort housing is allowed, its density is calculated to maintain the same *presumed number of persons*. This is an attempt to gauge the relative impact of varying housing types by projecting the number of residents, rather than by measuring the physical size or other measure of impact. Table 4-3 shows Sanibel’s presumed average rates, and the resulting density multiplier.

As a consequence of Sanibel’s low multifamily density cap and its “reverse” multiplier, only one new motel has been built in the 20+ years since incorporation, and it was not a financial success. A similar approach might cause the same result at Fort Myers Beach.

Table 4-3 — Sanibel Density Multipliers

<i>Type of Resort Housing Unit</i>	<i>Presumed Average Occupancy Rate</i>	<i>Calculated Multiplier</i>
Motel rooms and 1-bedroom units up to 600 sq. ft.	2.5 persons per unit	0.88
2-bedroom units	3.5 persons per unit	0.63
3-bedroom units	4.25 persons per unit	0.52
4-bedroom units	5.0 persons per unit	0.44

In summary, density multipliers for motels are not universally used. Where high densities are allowed for multifamily units, multipliers aren’t necessary. Where density caps are relatively low (such as Sanibel and Fort Myers Beach), some positive density multiplier will be needed if new and refurbished motels are to play an important role in the community. However, it is clear from recent history that density multipliers that are too high will result in buildings that will overwhelm the small-town character of most of Fort Myers Beach.

The current single density cap across the entire island could lead to a situation where attempts to protect quiet residential neighborhoods could stifle the tourism economy in the main business district. Since most communities do not put density multipliers for motel rooms in their comprehensive plans, they could be contained in the Land Development Code, for instance by having lower density multipliers for motels in multifamily zones than for those in commercial zones. (Note that *new* motels are not allowed in multifamily zoning districts, but *existing* motels there may be completely rebuilt at up to whatever density is currently allowed.)

The selected solution for the Town of Fort Myers Beach is to adopt different density multipliers based on land-use categories on the new Future Land Use Map. These multipliers will only apply where guest units (which include motels) are permitted in a specific zoning category. The exact multipliers will be contained in the Land Development Code; an example might be:

- In the “Mixed Residential” category, the multiplier might be 1.5
- In the “Boulevard” category, the multiplier might be 2.0
- In the “Pedestrian Commercial” category, the multiplier might be 2.5, provided that some or all parking is provided in off-site shared lots.

Policy 4-C-6 describes this concept, which will be implemented through forthcoming revisions to the Land Development Code.

- a. the type of commercial activities (such as traffic to be generated, hours of operation, and noise);
 - b. its physical scale (such as the height, and bulk of proposed buildings); and
 - c. the orientation of buildings and parking).
- Commercial activities that will intrude into residential neighborhoods because of their type, scale, or orientation shall not be approved.

POLICY 4-C-4 **BUILDING HEIGHTS:** The Land Development Code shall limit the height of new buildings under most conditions to two stories above flood elevation (exceptions may include the buildback situations (see Policies 4-D-1 and 4-E-1), and different heights may be applied to officially designated redevelopment areas such as Times Square, Red Coconut/Gulf View Colony, and Villa Santini Plaza). In those few cases where individual parcels of land are so surrounded by tall buildings on lots that are contiguous (or directly across a street) that this two-story height limit would be unreasonable, landowners may seek relief through the planned development rezoning process, which requires a public hearing and notification of adjacent property owners. The town will approve, modify, or deny such requests after evaluating the level of unfairness that would result from the specific circumstances and the degree the specific proposal conforms with all aspects of this comprehensive plan, including its land-use and design policies, pedestrian orientation, and natural resource criteria. Particular attention would be paid to any permanent view corridors to Gulf or Bay waters that could be provided in exchange for allowing a building to be taller than two stories. In each case, the town shall balance the public benefits of the height limit

against other public benefits that would result from the specific proposal.

POLICY 4-C-5 **DENSITY:** This plan establishes density levels as the maximum number of residential dwelling units allowed per acre of land (DU/acre). This acreage includes all residential land plus land within the development to be used for street and utility rights-of-way, recreation and open space, water management, and existing lakes that are entirely contained within the residential development. Commercial and other non-residential land shall not be included in this acreage; however, where mixed uses are permitted in a single building, residential densities will be computed without regard for commercial uses located on lower floors. When computing densities on existing subdivisions where lots are smaller than 15,000 square feet, one-half the width of adjoining streets and canals may be included in the acreage, and computed densities greater than 1.50 DU/acre may be rounded up to two dwelling units where multiple dwelling are permitted.

POLICY 4-C-6 **MOTEL DENSITIES:** The Land Development Code shall specify equivalency factors between guest units (which include motel rooms) and full dwelling units. These factors may vary based on size of guest unit ~~motel room~~ and on land-use categories on the Future Land Use Map. They may vary between a low of one guest unit ~~motel room~~ and a high of three guest units ~~motel rooms~~ for each dwelling unit. (These factors would apply only where guest units ~~motels~~ are already permitted.) In order to implement the 1999 Old San Carlos Boulevard / Crescent Street Master Plan that encourages mixed-use buildings with second and third floors over shops on Old San Carlos, hotel rooms may be substituted for otherwise allowable office space in that situation and location only without using the equivalency

factors that apply everywhere else in the town. This alternate method for capping the number of hotel rooms applies only to properties between Fifth to First Streets that lie within 200 feet east and west of the centerline of Old San Carlos Boulevard. Hotel rooms built under this alternate method must have at least 250 square feet per rentable unit, and under no circumstances shall buildings they are located in exceed four stories (with the ground level counted as the first story).

- POLICY 4-C-7 **ACCESSORY APARTMENTS:** Accessory apartments are common at Fort Myers Beach and may be legal under several circumstances:
- i. If the apartment is in a building that meets all requirements (including density limits in this plan); or
 - ii. If the apartment was built prior to zoning in 1962 and has been in continuous use, it may qualify as a “legally non-conforming use” and can continue in use until taken out of service; or
 - iii. If the apartment was built between 1962 and 1984 and complies with all requirements except the density cap of 6 dwelling units per acre and the floodplain elevation requirements (both of which took effect in 1984); or
 - iv. If a single existing apartment is in an owner-occupied home, it is not considered an independent dwelling unit and may be allowed under certain conditions as specified in the Land Development Code.

POLICY 4-C-8 **DENSITY TRANSFERS:** The Town Council may, at its discretion, permit the transfer of residential and hotel/motel development rights from one parcel to another if the following conditions are met:

- v. the transfer is clearly in the public interest, as determined by the Town Council;
- vi. the parcels affected by the transfer are in close proximity to each other;
- vii. the density of residential or hotel/motel units being transferred is based upon allowable density levels in the category from which the density is being transferred;
- viii. the transfer is approved through the planned development rezoning process; and
- ix. binding permanent restrictions are placed on the property from which development rights have been transferred to guarantee the permanence of the transfer.

POLICY 4-C-9 **UTILITY SERVICES:** Utility services may be constructed in any category on the Future Land Use Map provided all development regulations are met including proper zoning.

POLICY 4-C-10 **MAP AMENDMENTS:** The intensity and density levels allowed by the Future Land Use Map may be increased through formal amendments to this plan if such increases are clearly in the public interest, not just in the private interest of a petitioning landowner. Petitions from landowners will be accepted annually. The Town Council may accept applications more frequently at its sole discretion.

POLICY 4-C-11 **SANTOS ROAD:** The town is interested in considering land-use alternatives for parcels bordering Palermo Circle, Santos Road, and Estero Boulevard. Alternatives may include: Santos Road being added into the pedestrian zone; limited retail on the ground floor along Santos, with shared off-site parking; better buffering of existing parking and refuse areas; and a clear separation between all commercial uses and the residential areas