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MEMORANDUM

TO: Fort Myers Beach Local Planning Agency
FROM: Bill Spikowski
DATE: June 17, 2002
SUBJECT: **LAND DEVELOPMENT CODE, Revisions to Chapter 34**

On June 25 we will conduct another workshop session on Chapter 34, the zoning chapter of the land development code. The backup material for this workshop is attached, which includes the latest draft of Articles I and III, as revised through June 17. Please insert these articles into your LDC binder and bring any questions or comments you may have on this material to the June 25 workshop.

Chapter 34 is divided into five articles:

- **Article I** contains the definitions of terms and phrases that are used throughout Chapter 34. Attached is a revised draft of Article I that now contains complete definitions of all the allowable land uses that are described for each zoning district in Article III.
- **Article II** contains all zoning procedures, and was also reviewed by the LPA in March.
- **Article III** combines the various allowable land uses into groups of compatible uses with similar impacts, then assigns these groups to the new zoning districts. Article III also includes a new zoning map and specific property development regulations for each zoning district; the latest drafts of the text and map are attached.
- **Article IV** contains supplemental zoning regulations (mainly those that apply regardless of which zoning district a parcel has been assigned). The LPA reviewed this article, formerly listed as Article V, back in February.
- **Article V** regulates nonconformities. The LPA reviewed this article, formerly listed as Article VI, most recently in February.

At previous LDC workshops you have reviewed various parts of Article III, for instance a draft of a new zoning map for the town, the new Downtown zoning district that will replace the core area overlay district, and an early draft of the charts that assign allowable uses to the various zoning districts.

This article is still not complete, but many important parts are now ready for your careful review. In particular, this latest draft contains:

- a refined method for assigning land uses to the proper zoning districts;
- a new draft of the proposed zoning map;
- refinements to the Downtown zoning district; and
- proposed residential design standards.

DIVISION 1 – MAPPING OF ZONING DISTRICTS

This division adopts a new zoning map and describes in detail how this map will be prepared and updated.

Today's "official zoning map" for the town consists of 18 large sheets, each two feet by three feet. In addition to identifying the current zoning district for each parcel, these sheets contain thousands of marginal notes with the complete history of all zoning actions since 1962.

The new LDC will consolidate many former zoning districts into new districts, and will create a number of entirely new districts. Since it would be too cumbersome to print and circulate the complete official zoning map with the new zoning districts also indicated to all the people who are interested in the new LDC, section 34-613 proposes the transition to take place in two steps. Along with adopting the major revisions to Chapter 34, the adopting ordinance would contain as an exhibit a new zoning map showing the entire town on a single sheet. This map will only show the new zoning districts (plus some non-regulatory information such as building outlines, 3-D depictions of tall buildings, and the "Platted Overlay" from the Future Land Use Map).

This new map will be called the "interim zoning map" and will override the existing "official zoning map" only as to zoning districts. Previous approvals of variances, special exceptions, special permits, and other zoning actions that did not change zoning district boundaries will remain in effect, even though they cannot be shown on the interim zoning map due to its scale. Within a year after approval of the amending ordinance, the town will approve, by resolution, a *new* official zoning map of the town that reflects the new zoning districts. Many errors on the existing maps can be corrected at that time, and obsolete zoning approvals can be deleted.

Attached to this memo is a new draft of this "interim zoning map" which shows the preliminary assignment of new zoning districts.

DIVISION 2 – ALLOWABLE LAND USES IN EACH ZONING DISTRICT

Zoning ordinances typically use one of the following approaches to assign allowable land uses to individual zoning districts:

- Each zoning district is described on a separate page, and contains either a complete list of

all the land uses that are permitted in that district, or a list of uses that are permitted in addition to the uses described on previous pages for a less-intense zoning district; or

- A matrix or table is provided that lists the zoning districts across one side and potential land uses across another, with symbols showing which uses are allowed in which districts.

For many years Lee County used the first method, which is easier to understand from the perspective of a person who simply wants to know what they (or their neighbor) can do in a single zoning district. A major drawback to this method is that it makes the code quite lengthy; another drawback is that when there are more than just a few zoning districts, it is difficult to understand the entire regulatory program for the town without studying each and every district. For instance, someone wishing to open a restaurant must study the entire code to learn where one may be built.

About 15 years ago Lee County switched to a matrix system, with separate matrices for residential districts, commercial districts, industrial districts, etc. This shortened the code substantially, although it became more intimidating to inexperienced users who must first understand a series of concepts and abbreviations before being able to answer even the simplest questions about “what’s allowed where.” These matrices still take up about 35 pages in the current code, even with extremely small type and many abbreviations.

Regardless of which system a community uses to show which uses are allowed in which zoning districts, an LDC must also define or describe the individual uses in some manner. In the current code, Lee County has melded three distinct ways of defining the terms used to describe allowable uses. The existing code contains about 135 individual land uses that are defined in Article I of Chapter 34. Some other land uses are self-explanatory (for instance, barber shops). However, there is also a third group of land uses that are included by reference to about 140 specific “use activity groups” which are described in detail in the existing code using the old SIC (Standard Industrial Classification) system for defining businesses. These use groups alone take up about 20 more pages in the current code.

The use activity groups in the current code were originally intended to replace the individually defined uses that have been in the code since the early 1960s. However, the current code instead combines the systems, and they often overlap each other, with results that are impossible to anticipate but likely to surprise. For instance, a defined use that is explicitly *not* allowed in a zoning district may be found buried in one of the use activity groups that *is* allowed. In short, although the current code’s combination of systems for defining land uses have the advantage of familiarity to staff members and local consultants, they have few other virtues. (In fact, Lee County planners have reached the same conclusion and intend to eliminate their use activity groups in the coming year.)

Our new LDC will eliminate all of the existing use activity groups, and instead define about 85 land uses in the revised definitions section (§ 34-2) of Article I. It proposes a new system for defining and assigning land uses to districts. This system begins with Table 34-1 (see page 76 and 77), which combines the 85 land uses defined in Article I into six major groups:

- Residential
- Lodging
- Office
- Retail
- Marine
- Civic

Table 34-1 also breaks each major category into three sub-groups of varying intensities, called “restricted,” “limited,” and “open.”

Table 34-2 then assigns various combinations of these 18 sub-groups to each zoning district (see page 78).

There is one further complication to any system of assigning land uses to zoning districts: the same land use might be allowed in a zoning district only under certain circumstances. The existing and new code use a nearly identical system for making these distinctions:

- Permitted “by right” (**P**) – a use that can be added at any time, without discretionary approvals and without any special conditions applying only to that specific parcel of land.
- Permitted “by special exception” (**SE**) -- a use that requires specific approval by the Town Council, depending on whether or not it meets criteria listed in the code.
- Permitted if the use is “existing only” (**EO**) -- a use whose buildings can be completely replaced if the use exists today, but is otherwise prohibited. (This differs from a non-conforming use, which may continue but cannot begin again once it is abandoned for nine months.)
- Permitted only through a “temporary permit” (**TP**) -- for short-term uses such as carnivals and some other uses including seasonal parking lots.
- Permitted through “administrative approval” (**AA**) -- a use that can be approved by the zoning director if the use is determined to comply with specified criteria.
- Permitted only as an “**accessory use**” -- a use that is allowed when it is incidental to a principal use of property (such as a private garage or dock on a single-family lot, or a parking lot for a store on the same property).

This new system would be a clean break from the existing code. It would create a learning curve for those who administer the code and those who apply for permits under it, and there would probably be some glitches that we would discover in the first few years of its use. On the plus side: past interpretations that Lee County has made about its code would no longer apply to the town; the code would be dramatically shortened; and, once learned, the new system would make the town’s regulatory system more understandable by grouping uses with similar impacts together, rather than treating each district as an amalgam of hopefully compatible individual uses.

DIVISION 3 – EXPLANATION OF PROPERTY DEVELOPMENT REGULATIONS

This division describes the most important property development regulations that will apply to all three types of various zoning districts:

- Building heights
- Density
- Intensity and floor area ratios
- Minimum lot sizes
- Minimum setbacks

These descriptions are scattered throughout the entire existing code, making it difficult to understand the basic parameters that regulate land use.

DIVISION 4 – CONVENTIONAL ZONING DISTRICTS

This article contains three types of zoning districts. “Conventional” zoning districts are the simplest type and are described first, in division 4. Common examples from the current LDC are the RS-1 (single-family) zone and the C-1 (commercial & mixed-use zone). Conventional zoning districts contain a pre-defined list of permitted uses and specific dimensional regulations such as setbacks and lot sizes that apply to every parcel in that zoning district. In conventional districts, site plans cannot be required as part of the zoning process, and special conditions cannot be imposed by the Town Council (except on variances and special exceptions).

This division describes ten different conventional zoning districts. These districts will be applied to most land in the town, mainly to mature neighborhoods where major land uses changes are not expected or desired. Where the comprehensive plan calls for a specific type of redevelopment, “redevelopment” zoning districts will be used instead of conventional zoning district (see division 5 below). The property development regulations for the conventional zoning districts are found in Table 34-3 (see page 87).

The new zoning districts have been assigned generally as follows:

- **RS – Residential Single-family**, similar to the existing RS-1 district. This district would be used throughout the “Low-Density” category in the comprehensive plan and in some parts of “Mixed Residential”; it would replace the existing RS-1, RS-2, and RSA zoning districts. The major difference among the old districts was minimum lot sizes, which affect new development greatly but are of little effect once initial platting has taken place.
- **RC – Residential Conservation**, similar to the existing TFC-2 and TF-1 districts. This district would be used primarily in “Mixed Residential” for land that has already been subdivided into small lots (often smaller than 7,500 square feet) but which isn’t restricted as severely to single-family homes.
- **RM – Residential Multifamily**, similar to the existing RM-2 district. This district would be used primarily in “Mixed Residential” and also in “Boulevard” for existing condominiums and apartments.
- **CR – Commercial Resort**, similar to the existing CT district. This district would be used in “Mixed Residential” and also in “Boulevard” for existing motels and timeshare resorts (including those currently zoned RM-2).
- **CM – Commercial Marina**, similar to the existing CM district, for Moss and Mid-Island Marinas.
- **CO – Commercial Office**, similar to the existing CS district – used occasionally for transitions between commercial and strictly residential districts.
- **IN – Institutional** (for the elementary school, churches, civic buildings, and government buildings, but not parks).
- **CF – Community Facilities**, incorporating the existing CF-2 and CF-3 districts, for use on public parks and the Matanzas Pass Preserve.
- **BB - Bay Beach** (to implement the terms of the final settlement between Stardial and the town for the Bay Beach community).
- **EC – Environmentally Critical** has been applied to Gulf beaches seaward of the 1978 coastal construction control line, to mirror the Future Land Use Map which designates the beaches in the “Recreation” category. The EC district is also applied to wetlands.

DIVISION 5 – REDEVELOPMENT ZONING DISTRICTS

The redevelopment zoning districts are the second major type of zoning district and will contain the most significant changes from today's zoning. Each redevelopment district will implement a specific part of the comprehensive plan.

The most important redevelopment district is "Downtown," which will replace the core area overlay district. This draft contains a number of revisions to the Downtown zoning district, plus an important new section on outdoor sales (see § 34-677(c)).

This division will also include redevelopment zoning districts for the Santini Plaza, Red Coconut/Gulfview Trailer Park, CB, and Santos; these districts have not been completed yet.

- **SANTINI** – Villa Santini/Fishtale Marina area, as defined by the "Pedestrian Commercial" boundary. This will be a mixed-used district to implement the redevelopment concepts in the comprehensive plan.
- **VILLAGE** – Red Coconut/Gulf View Trailer Park, to implement the "pre-approved redevelopment option" as described in the comprehensive plan.
- **CB – Commercial Boulevard.** Most of today's retail, restaurant, and entertainment uses are on land zoned C-1. Within the "Pedestrian Commercial" boundaries, entirely new commercial districts are being created (Downtown, Santini); but outside those boundaries, existing commercial stores and restaurants will be assigned the new CB zoning district. New or expanded commercial activities would require rezoning to CPD, in accordance with Comprehensive Plan Policy 4-B-5.
- **SANTOS** – This new district will implement the recommendations of Santos/Palermo study.

DIVISION 6 – PLANNED DEVELOPMENT ZONING DISTRICTS

Planned development zoning districts are the last major type of zoning district. They require specific approval by the Town Council of a "master concept plan" for each site.

"Planned development" districts are customized to the particular constraints and opportunities on a specific site. An adopted PD zoning resolution includes the binding site plan, special conditions, and a specific list of permitted uses that apply only to that property.

The new code would retain the CPD and RPD zoning districts with only minor changes. (Existing MPD and PUD zoning would be converted to CPD and would no longer be available for new approvals.)

- **RPD – Residential Planned Development**, incorporating the existing RPD zoning districts.
- **CPD – Commercial Planned Development**, incorporating many existing CPD zoning districts and also available for future use in specialized situations, including all new commercial uses in the "Boulevard" land use category. CPD zoning would now be available for mixed-use development as well as strictly commercial development (as in the current code).

An important issue to be decided is the treatment of existing CPD zones. In most cases, it probably makes sense for the existing CPD zonings to remain in effect. In other cases, either the CPD zoning has been made obsolete by the new Comprehensive Plan or would be less desirable to a landowner and the town than one of the new zoning districts; in such cases, the “interim zoning map” can simply indicate the elimination of the CPD. Examples might include the various CPDs within the land that will become the new Santini zoning district; and some of the CPDs that otherwise would now be going into the new Downtown zoning district.

The June 17 draft of the interim zoning map indicates all *existing* CPDs with a blue border. When the underlying zone on the new map is something other than CPD, this simply means that the best course of action is unclear, and may remain so until all the details for the new code are completed.

DIVISION 7 – COMMERCIAL DESIGN STANDARDS

The commercial design standards had previously been planned to go into Chapter 10 of the LDC, where Lee County’s commercial standards are placed. They have been moved into division 7 of Chapter 34 to keep them together with other regulations that control the design and siting of commercial buildings (for instance, the regulations for build-to lines and the zoning district regulations themselves). These standards may be adopted by ordinance as early as June 24.

DIVISION 8 – RESIDENTIAL DESIGN STANDARDS

I do not intend to propose residential design standards that are as comprehensive as the commercial design standards in division 7. However, the yards and fronts of private homes, combined with the streets themselves, create some of the most important public spaces in the town — its quiet residential neighborhoods.

There are several key design factors that can make an enormous difference in the character of these neighborhoods, which, although they are nearly “built-out,” will continue to evolve as homes are improved (or demolished and completely rebuilt):

- **Put a porch, balcony, or stoop on the front of each house** – A traditional feature of homes has always been to have a porch, balcony, or stoop on the street side of the house. A majority of new homes being built today no longer contain any of these features. Especially in a community where many houses are oriented toward canals, bays, or the Gulf of Mexico, the original “front” of the house that faces the street is often neglected. The new LDC can mandate the use of one or more on the street side of each new or substantially rebuilt house.
- **Oversized houses can dwarf neighborhoods** – New homes should be expected to be larger than most existing homes, but there is a point beyond which houses can become completely out of scale with existing neighborhoods. The new LDC should contain some basic limitations on house size to minimize the impacts that most other beachfront communities have begun to experience in recent years.

- **Don't let garage doors dominate the fronts of houses** – Probably the most unfriendly feature of many new house designs is the dominance of garage doors on the front (public) side. These designs make the street feel like an alley. The typical family now owns more cars than ever, and this will only worsen the problem as homes are rebuilt.

Because new homes must be elevated due to floodplain regulations, the most common solution at Fort Myers Beach is to put parking on the ground level below the living area. If access to this parking is from the side, or if a side driveway leads to a rear garage (attached or detached), all parking is hidden from the street and it has virtually no impact on the surrounding neighborhood. More commonly, however, access to the parking is directly from the front, an arrangement that can be perfectly suitable or that can result in garage-dominated building fronts, based on a few basic design decisions that are usually given little thought.

The illustrations on the attached page show how some subtle design changes on the front wall of houses can change the character of the public space of neighborhoods.

ATTACHMENTS: Photographs illustrating garage door design alternatives
Article I of Chapter 34, dated June 17, 2002
Article III of Chapter 34, dated June 17, 2002
Draft "Interim Zoning Map," dated June 17, 2002

Photographs Illustrating Garage Door Design Alternatives

Figure 1 shows a typical stilt house with garage doors facing the street. Even with an attractive entry stairway, a porch, and a balcony, this house presents a stark face to the street.



Figure 1

Figure 2 shows a house with no garage doors at all. This arrangement is attractive (unless the garage area is not kept clean, when it can become quite unattractive!). This is the traditional building frontage in this area.



Figure 2

Figure 3 shows a standard garage door facing the street, but it is recessed slightly from the front of the house. The visual effect is to make the garage door much less dominant than the house in Figure 1.



Figure 3

Figure 4 shows a combination of a recessed single garage door and a second single garage door on a wall that is itself recessed from the front of the house. Again, garage doors are much less visually dominant when they are recessed slightly from the front wall of the house.



Figure 4