

Mapping of Zoning Districts

ARTICLE III. VI. ZONING DISTRICT REGULATIONS

DIVISION 1. MAPPING OF ZONING DISTRICTS GENERALLY

Sec. 34-611. Zoning districts established.

Land and water within Town of Fort Myers Beach is divided into zoning districts as set forth in this article in order to classify, regulate, and restrict the location of buildings erected or structurally altered for specific uses, to regulate the use of land, to regulate and limit the height and bulk of buildings hereafter erected or structurally altered, to regulate and determine the area of yards and other open space about buildings, to regulate the intensity of land use, and to promote the orderly growth of the town county, in compliance with the goals, objectives and policies set forth in the Fort Myers Beach Comprehensive Lee Plan; ~~the unincorporated area is divided into zoning districts as set forth in this article.~~

Sec. 34-612. Types and general purpose of districts.

There are ~~three two~~ basic types of zoning districts provided for in this article: conventional zoning districts, redevelopment districts, and planned development (PD) districts. The general purpose of ~~each both~~ types of zoning districts is to implement the goals, objectives, and policies of the Fort Myers Beach Comprehensive Lee Plan, as well as to provide protection to the public health, safety, and welfare through the regulation of land use.

- (1) *Conventional districts.* Conventional zoning districts are districts ~~within the unincorporated areas of the county~~ within which land use is controlled primarily through the regulation of the height and bulk of buildings and structures, the minimum area and dimensions of lots, ~~the percentage of lot coverage, minimum open space and yard areas, through the use of and~~ setback requirements, ~~the density of population, and the type and intensity of use of the land and buildings.~~ Use and development regulations for the conventional districts are provided in

divisions 2 through 8 Table 34-2 and other regulations are provided in Table 34-3 and division 4 of this article.

- (2) *Redevelopment districts.* Redevelopment districts differ from conventional zoning districts in that they implement specific redevelopment concepts established in the Fort Myers Beach Comprehensive Plan. For each of the five redevelopment districts, use regulations are provided in Table 34-2 and the more specific property development regulations are provided in division 5 of this article.

- (3) ~~2~~ *PD, planned development districts.* In certain circumstances, landowners may choose or be required to rezone their land to a planned development (PD) district. The purpose and intent of the two various planned development districts is to further implement the goals, objectives and policies of the Lee Plan while providing provide a some degree of flexibility for a landowner to propose the development of land in a manner that differs from the specific provisions of this code. A planned development, once approved through the rezoning process, can only be developed in accordance with the master concept plan and special conditions that are contained in the resolution approving the planned development. in planning and designing developments by: [remainder of existing subsection (2) deleted in its entirety] Use and property development regulations for planned development districts are provided in division ~~6~~ 9 of this article.

Sec. 34-613. Designation of district boundaries.

(a) Major revisions to this chapter were approved by the Town of Fort Myers Beach in 2003, including the establishment of new zoning districts and the assignment of all land in the town to one of these zoning districts.

- (1) The new zoning district assignments are shown on the interim zoning map contained in Exhibit A of the amending ordinance. The new zoning district assignments took effect on [insert date], the date that ordinance was adopted. Previous approvals of variances, special exceptions, special permits, and other

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zoning actions that did not change zoning district boundaries were not shown on the interim zoning map due to its scale but were not affected by the adoption of the interim zoning map. These approvals are indicated on the current zoning maps maintained for the town by Lee County.

- (2) Within one year after approval of the amending ordinance, the town shall approve by resolution a new official zoning map of the town as described in § 34-614 that reflects these new zoning districts and other zoning approvals that remain in effect, such as variances, special exceptions, and special permits.

(b) The boundaries of each zoning district are designated and established as shown on the interim zoning map, the official zoning map of the county. The official zoning map as described in § 34-614, and the current zoning map as described in § 34-615 shall be as much a part of this chapter as if fully described in this chapter.

(c) There is no right to rely solely on the interim, official, or current zoning maps to vest development or private rights. In addition to the zoning districts shown on these maps, development rights may be limited by other factors such as the Fort Myers Beach Comprehensive Plan; conditions on zoning resolutions for planned development districts, special exceptions, special permits, or variances; and the precise terms of prior administrative approvals.

Sec. 34-614. Existing Official zoning map.

(a) Generally. (1) Description. The existing official zoning map of the town county consists of computer-generated section maps a series of aerial photographs depicting zoning information which shall be were adopted by the town council by resolution. board of county commissioners in 1978, as further amended by various zoning resolutions and ordinances:

- (1) The official zoning map shall reflect the new zoning district boundaries adopted in 2003 through the interim zoning map (see § 34-613).

- (2) The official zoning map shall also reflect past approvals of variances, special exceptions, special permits, and similar approvals from the previous zoning map, which had been approved by Lee County Resolution 94-03-27 on March 16, 1994 and subsequently amended by incremental decisions by officials of Lee County and the Town of Fort Myers Beach.
- (3) When adopting its new official zoning map, the town council may delete from the previous maps references to past approvals that are believed to have expired or which have become obsolete due to changed regulations or conditions. However, the deletion of such approvals shall not affect any rights that landowners may have under explicit terms of this code.

(b) Amendments. [deleted in its entirety]

(c) Replacement. [deleted in its entirety]

(b) District boundaries. The boundaries of each district shall be shown on the official zoning map, and the district symbols shall be used to designate each district. [moved from § 34-615(a)(1)e.]

(c) Other boundaries. The perimeter of legal descriptions affected by variances, special exceptions, and similar approvals shall be noted with a symbol referencing additional zoning information, which may include the nature of the action, the hearing date, and any special conditions that were imposed.

(d) Mapping conventions. For mapping purposes only, a zoning district boundary line may be drawn to the centerline of a street, stream or river, or to the shoreline of a stream, river or other body of water; and all existing streets or bodies of water within such district may be included within such district without delineation of the streets or bodies of water. [moved from § 34-615(a)(1)f.]

(e) Errors. If it is determined that an error exists in the official zoning map, the town council may adopt a correction to the error by resolution at an advertised public hearing.

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~~(f) (2) Public availability. The existing official zoning map shall be part of the public records of the town, county, and copies of the zoning map shall be made available for public inspection at reasonable hours.~~

~~(3) Vested rights. There shall be no right to rely on the existing zoning maps to vest rights. It shall be the responsibility of all staff members and members of the public to consult the resolution or ordinance which amended the zoning of the subject property in order to determine the parameters and conditions on the subject zoning.~~

~~(b) Amendments. [moved to § 34-615(d)(1)]~~

~~(c) Replacement. [deleted in its entirety]~~

~~(g) Sec. 34-616. Records management for zoning maps. The director department of community development shall retain a copy of the official zoning original maps adopted under the provisions of § 34-614 consistent with statutory record-keeping requirements. 34-615, as well as a copy of any map reflecting the latest revisions to the zoning maps. The county administrator or his designee shall retain, for historical purposes, all zoning maps, or microfilmed copies, utilized prior to the adoption of new maps under § 34-615.~~

~~Sec. 34-617. Unauthorized changes to zoning maps. [deleted in its entirety]~~

Sec. 34-615. New official Current zoning maps.

~~(a) Description. The current zoning map of the town consists of scaled computer-generated section maps depicting the same information on the official zoning map as it has been subsequently modified by rezonings, zoning amendments, special exceptions, variances, administrative decisions, mapping corrections, etc. that have been entered into the computer data base since the most recent adoption of the official zoning maps. For purposes of this section, the term “mapping corrections” means corrections applied to the current zoning map to provide an accurate reflection of the legal description affected by a duly adopted zoning resolution.~~

~~(b) Printed copies. Printed copies of the current zoning map should contain the following statement: “This current zoning map represents the official zoning map plus all rezonings, special exceptions, variances, and administrative amendments approved as of (date).”~~

~~(c) Public availability. The current zoning map shall be part of the public records of the town and may be inspected at town hall or purchased from the Lee County Property Appraiser in downtown Fort Myers.~~

~~(a) Preparation and adoption. [existing text of this subsection deleted in its entirety, except as indicated below]~~

~~(1) ~~(c)~~ e. [moved to § 34-614(b)]~~

~~(1) ~~(c)~~ f. [moved to § 34-614(d)]~~

~~(d) Changes.~~

~~(1) ~~(b)~~ Amendments. [moved from § 34-614(b)]~~

~~No changes or amendments to the existing official zoning map shall be made except in compliance and conformity with all the procedures of this chapter, including the correction of errors resulting from clerical or drafting mistakes. Changes in district boundaries or other subject matter portrayed on the official zoning map shall be made promptly on copies of the current official zoning map after official adoption of the amendment. All amendments and changes approved by the town council or other authorized bodies Board of County Commissioners or the board of zoning adjustments shall become effective at the end of the appeal period specified in article II of this chapter. The filing of an appeal stays the effectiveness of the change. If no appeal is filed the director shall forthwith authorize the approved changes to be made on copies of the current official zoning map.~~

~~(2) ~~(1)~~ Changes to the current zoning map authorized by the town will be entered into the computer data base and then reflected on the current zoning map. If a rezoning occurs on a parcel of property after public notice and hearings in accordance with the current county zoning ordinance and the enabling legislation, the changes shall be noted on~~

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copies of the official zoning map in the following manner:

- a. The property affected by a zoning district boundary change, special exception, variance, or other approval shall be drawn on the map indicating the new district designation or noted with a symbol, as well as a referencing additional zoning information, notation which will reference the reader to a margin notation.
 - b. The additional zoning information may include margin notation shall indicate, at a minimum, the resolution number, the hearing number, what the any change of zoning district, the nature of any other action, the hearing date, was and whether or not there were any special conditions that were imposed.
- (2) All special permits, special exceptions or variances approved by the Board of County Commissioners or board of zoning adjustments, as applicable, after public hearings and notice in accordance with article H of this chapter, shall be noted in the margin as follows:
- a. The property in question shall be marked with a reference number directing the reader to the margin notes, and
 - b. The margin note shall indicate, at a minimum, the resolution number, hearing number, type of action taken (i.e., special exception, permit or variance) and whether or not there were conditions.
- (3) If a page becomes difficult to interpret due to numerous revisions or for any other reason, the Board of County Commissioners may adopt a new page reflecting all changes approved in accordance with this chapter, which will supersede the original page.

Sec. 34-6168. Rules for interpretation of district boundaries.

(a) When uncertainty exists as to the boundaries of districts of the official or current zoning map, the following rules shall apply:

- (1) Boundaries following centerlines. Boundaries indicated as approximately following the centerlines of streets, highways, or alleys or

bodies of water shall be construed to follow such centerlines.

- (2) Boundaries following lot, section, or tract lines. Boundaries indicated as approximately following lot lines, section lines, or tract lines shall be construed as following such lot lines.
- (3) Boundaries following municipal boundaries. Boundaries indicated as approximately following municipal boundaries shall be construed as following such municipal boundaries.
- (4) Boundaries following railroad lines. Boundaries indicated as approximately following railroad lines shall be construed to be the centerline of the railroad right-of-way.
- (3) (5) Boundaries following shorelines. Boundaries indicated as approximately following the centerlines of water bodies streams, rivers or canals shall be construed to follow such centerlines. Boundaries indicated as following shorelines shall be construed to follow such shorelines as indicated on the aerial photography flown for the county in 1984. In the event of change in the shoreline due to natural causes, land created through accretion shall automatically be classified as EC until and unless a zoning district change is applied for and approved in accordance with procedures set forth in this chapter; provided, however, that the burden of proving the extent of any accreted property shall rest with the county, not the landowner.
- (6) Parallel lines. *[deleted in its entirety]*
- (4) (7) Vacated lands. Street abandonments. Where a public road, street, or alley, or other form of right-of-way is officially vacated or abandoned, the regulations applicable to the property to which the vacated lands attach it is reverted shall also apply to such vacated lands or abandoned road, street or alley.
- (8) Excluded areas.
 - a. Where parcels of land and water areas have been excluded or deannexed from incorporated areas or revert to the county in any manner, such parcels shall be classified as AG-2 until changed by public hearing.
 - (5) b. Accreted lands. Where land accretes through natural or artificial processes, except for incidental fill behind a seawall authorized

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by ch. 26 of this code, the accreted land shall be classified as EC unless reclassified until changed by public hearing in accordance with this chapter.

- (6) ~~(9)~~ *Uncertainties*. Where physical or cultural features existing on the ground are at variance with those shown on the official or current zoning map, or in case any other uncertainty exists as to the proper location of district boundaries, the director shall interpret the intent of the official or current zoning map as to the proper location of the district boundaries.

(b) When a parcel is split by two or more zoning districts, the property development regulations for the largest proportional district prevail. However, permitted uses and accessory uses are restricted to the uses permitted in the respective districts. See also § 34-1174.

~~Sec. 34-619. District conversions. [existing section deleted in its entirety]~~

Secs. 34-617–34-618. Reserved.

Allowable Land Uses In Each Zoning District

DIVISION 2. ALLOWABLE LAND USES IN EACH ZONING DISTRICT

Sec. 34-619. ~~491.~~ The Fort Myers Beach Comprehensive Lee Plan.

(a) The Fort Myers Beach Comprehensive Lee Plan is the document adopted by the town council Lee County Board of County Commissioners in accordance with F.S. ch. 163 to guide and regulate all land development activities within the town (see § 1-11) Lee County. All development orders (including rezonings), as defined in F.S. § 163.3164(7) shall be consistent with the goals, objectives, polices, and standards in this plan the Lee Plan. Where there are apparent conflicts between this plan the Lee Plan and any regulations in this code, this plan the chapter, the Lee Plan will prevail.

(b) The Fort Myers Beach Comprehensive Lee Plan contains a future land use map which divides the town into eight distinct categories:

- (1) Low Density
- (2) Mixed Residential
- (3) Boulevard
- (4) Pedestrian Commercial
- (5) Marina
- (6) Recreation
- (7) Wetlands
- (8) Tidal Water

The future land use map also contains a Platted Overlay which is applied in certain locations in addition to one of these eight categories. county into future urban, nonurban, and environmentally sensitive areas. All development must be consistent with the future land use map, the definitions of the land use categories in the text of the plan, and the remainder of the text of the Fort Myers Beach Comprehensive Lee Plan.

(c) This chapter includes a list of zoning districts. Some of these zoning districts in this article may describe permit uses, densities, or intensities that are not permitted in particular future land use map categories. Property may not be rezoned to a district that is inconsistent with the applicable future land use map category or with the remainder of the text of the Fort Myers Beach Comprehensive Lee Plan.

Sec. 34-620. Allowable uses of land generally. Uses not specifically listed.

(a) This division describes allowable land uses in the Town of Fort Myers Beach, most of which are defined in § 34-2, and then groups these uses with compatible uses having similar impacts. These “use groups and sub-groups” (see Table 34-1) are the basis for defining the allowable uses in the various zoning districts (see Table 34-2). Other regulations for individual zoning districts are contained in divisions 4, 5, and 6 of this article.

(b) The director is authorized to determine that some land uses that are not specifically described in this division listed in the use activity groups or in any of the use regulation tables are permitted by right, by special exception or by special permit in a particular zoning district based upon the expected impacts placement of the most similar listed uses described in this division and their assignment to in the various districts.

(c) The director may determine that the expected impacts of a land use that is not specifically described in this division cannot safely be assumed to match another use described in this division. In such a case, the director shall require that a property be rezoned into a planned development zoning district (see division 6 of this article) before that land use may be permitted.

(d) In every case, the following land uses can only be permitted through approval of a suitable planned development zoning district:

- (1) Boat dealers (except as a marina accessory use)
- (2) Building material sales
- (3) Continuing care facility (see § 34-1414)
- (4) Contractor’s shop
- (5) Contractor’s storage yard
- (6) Hospital
- (7) Parking garage (see § 34-2015(2)c.)
- (8) Storage, open
- (9) Vehicle and equipment dealers

(e) Planning development zoning districts are also required by the Fort Myers Beach Comprehensive Plan in the following situations:

Allowable Land Uses In Each Zoning District

- (1) For new or expanded commercial activities in the Mixed Residential category on the future land use map (see Policies 4-B-4 and 4-C-3).
- (2) For new or expanded commercial activities in the Boulevard category on the future land use map (see Policies 4-B-5 and 4-C-3).
- (3) For consideration of extra building height in certain circumstances (see Policy 4-C-4 and § 34-631(b)(5)).
- (4) For the transfer of residential and hotel/motel development rights from one parcel to another (see Policy 4-C-8 and § 34-632(6)).
- (5) For guest units that exceed the thresholds established in § 34-1803(a).
- (6) For pre-disaster buildback of buildings that exceed the current density or height limits (see Policy 4-E-1 and § 34-3237).

(f) In no case may a land use that is not permitted by the Fort Myers Beach Comprehensive Plan be approved within the town, even if requested through the planned development process. Examples of prohibited uses are:

- (1) New or expanded cruise ships and similar uses that draw large amounts of vehicular traffic (see Policy 4-B-7).
- (2) New or expanded industrial uses (see Policy 4-B-12.iv.), which includes boatyards, manufacturing, and processing and warehousing.
- (3) Development seaward of the 1978 coastal construction control line (see Policy 5-D-1.v.), except for minor structures as provided in § 34-1575.

(g) Other uses prohibited within the town are as follows:

- (1) New or expanded drive-through lanes for restaurants (as a result of town ordinance 00-13).
- (2) New or expanded mobile home subdivisions and parks (see §§ 34-1921–34-1922).
- (3) New or expanded recreational vehicle subdivisions and parks (see §§ 34-2351–34-2352).

Sec. 34-621. Allowable uses of land described.
Use and development regulations for conventional districts:

(a) *Applicability.* No land, body of water, or structure shall be used or permitted to be used and no structure shall hereafter be erected, constructed, moved, altered, or maintained in any conventional or redevelopment zoning district for any purpose other than as provided in the use regulation Tables 34-1 and 34-2 and in accordance with the property development regulations tables set forth in this article for the zoning district in which the property is located, except as may be specifically provided for in article VIII of this chapter pertaining to nonconforming uses, or in § 34-620 pertaining to uses not specifically listed in Table 34-1.

- (1) All uses of land, water, and structures ~~in the conventional zoning districts~~ are subject to the county comprehensive plan ~~(the Fort Myers Beach Comprehensive Plan)~~ and its ~~the county~~ future land use plan map, and therefore may not be permitted in all land use categories.
- (2) All uses of land, water, and structures ~~in the conventional zoning districts~~ are subject to the specific use and property development regulations set forth for the district in which located, as well as all general provisions and all applicable supplemental regulations set forth in this chapter. Except as may be specifically provided for elsewhere in this chapter, deviations from the property development regulations may only be granted in accordance with the procedures established in ~~§§ 34-203(e) and (f)~~ § 34-932(b) for deviations in planned development zoning districts and in § 34-87 ~~34-145(b)~~ for variances in conventional and redevelopment zoning districts.
- (3) Allowable uses in planned development zoning districts shall be determined at the time of each rezoning in accordance with § 34-933.

Allowable Land Uses In Each Zoning District

(b) *Use regulations tables.* Divisions 2 through 9 Table 34-1 of this article contain use regulations tables which lists specific uses or use activity groups followed by a symbol indicating whether the use is permitted by right (P), special exception (SE), or special permit (SP), or by administrative approval (AA), existing only (EO), or temporary permit (TP), or not permitted at all. In all instances, unless specifically noted to the contrary, the symbols used in the use regulations tables shall have the following meaning:

AA *Administrative approval required.* The director has the authority to approve the use when in compliance with the referenced sections of this code chapter.

EO *Existing only.* The use is permitted only if it lawfully existed on September 27, 1993, or was granted a special exception within the two years prior to that such date, and commenced the approved construction within two years after that such date. A use which qualifies as existing only shall not be classified as a nonconforming use and shall be afforded the same privileges as a permitted use and may be expanded or reconstructed, in accordance with applicable current regulations, but only on the parcel on which located, as that parcel was legally described on September 27, 1993.

P *Permitted.* The use is permitted by right when in compliance with all applicable regulations.

SE *Special exception required.* The town council hearing examiner may approve the use after public hearing upon a finding that the use is consistent with the standards set forth in § 34-88 ~~145(c)~~, as well as all other applicable regulations. The town council hearing examiner may place restrictions on the use as a condition of approval.

SP *Special permit required.* The hearing examiner may approve the use after public hearing upon a finding that the use is consistent with the standards set forth in §§ 34-203(g) and 34-145(c), as well as all other applicable regulations. The hearing examiner may place restrictions on the use as a condition of approval.

TP *Temporary permit.* The use may be granted a temporary permit in accordance with §§ 34-3041 and 34-3050.

= *Not permitted.* The use is not permitted or permissible in the zoning district.

AA/ SP SE *The use is permissible either through administrative approval or special exception permit, subject to the regulations set forth in the specified section (for example, in § 34-1264(a)).*

EO/ SE *Lawfully existing uses are permitted, but new uses are permissible only by special exception.*

(1) *Parenthesized number.* The use is limited as set forth in the referenced footnote.

Note (1) The use is limited as set forth in the referenced footnote.

~~(c) *Property development regulations.* Divisions 2 through 9 of this article contain property development regulations tables which set forth the minimum lot size and dimensions, setbacks, lot coverage, maximum building height and similar regulations for development of land within the specified districts.~~

~~Sec. 34-622. Use activity groups: [deleted in its entirety]~~

Sec. 34-622. Uses groups and sub-groups.

(a) Allowable land uses are assigned by Table 34-1 to one of six use groups:

- (1) Residential
- (2) Lodging
- (3) Office
- (4) Retail
- (5) Marine
- (6) Civic

(b) Within each use group, Table 34-1 also assigns each allowable land use to one of three sub-groups:

- (1) R - Restricted
- (2) L - Limited (which includes all R uses)
- (3) O - Open (which includes all R and L uses)

(c) Within each use sub-group, uses are divided into two categories:

Allowable Land Uses In Each Zoning District

- (1) Principal uses are the primary purposes for which land is being used. Allowable principal uses are listed first.
- (2) Accessory uses are allowable only in conjunction with an allowable principal use, and only when the accessory use is incidental and subordinate to the principal use.

(d) Table 34-2 assigns these use sub-groups to the zoning districts provided by this code. However, uses in planned development zoning districts are further restricted in accordance with § 34-933.

(e) To determine the allowable land uses on a particular lot:

- (1) First, consult the zoning map to determine the lot's current zoning district (see division 1 of this article).
- (2) Consult Table 34-2 to determine which use sub-groups are allowable in that zoning district.
- (3) Consult Table 34-1 to determine which individual land uses can be placed in each allowable sub-group. Note that the sub-groups are cumulative, with all Restricted uses incorporated into Limited, and all Restricted and Limited uses incorporated into Open.
- (4) See § 34-2 for definitions of the individual land uses.

(f) To determine which zoning districts will permit a specific land use:

- (1) First, consult the definitions in § 34-2 to determine the appropriate terminology to describe the specific land use.
- (2) Consult Table 34-1 to determine which use sub-group (or sub-groups) include the desired land use.
- (3) Consult Table 34-2 to determine which zoning districts allow that use sub-group.
- (4) Consult the zoning map to determine which land has been assigned to those zoning districts.

~~Sec. 34-623. Performance standards:
[moved to § 34-2031]~~

Sec. 34-623-34-650. Reserved.

Table 34-1, Land Uses Assigned to Use Groups and Sub-Groups (pg.1 of 2)

	<i><u>Residential</u></i>	<i><u>Lodging</u></i>	<i><u>Office</u></i>	
Restricted Ⓜ	<u>Community residential home</u> P <u>Dwelling unit, single-family</u> P <u>Home care facility</u> P AS ACCESSORY USES: <u>Accessory apartment (1)</u> SE (see § 34-1177) <u>Accessory apartment</u> EO (see § 34-1178) <u>Residential accessory uses</u> P <u>Temporary mobile home</u> TP (§ 34-3046)	<u>Rental of any permitted dwelling unit to one family during any 28-day period</u> P (see § 34-2391-2410 for exceptions) AS ACCESSORY USES:	AS ACCESSORY USES: <u>Home occupation (no outside help)</u> P <u>Home occupation (with outside help)</u> AA	Restricted Ⓜ
Limited <i>(plus R uses)</i> Ⓟ	<u>Dwelling unit: two-family (1) live/work</u> P SE (see § 34-1773) <u>Mobile home or RV park (VILLAGE district only, as restricted in § 34-694)</u> EO AS ACCESSORY USES: <u>Accessory apartment (1)</u> P (see § 34-1177)	<u>Rental of any permitted dwelling unit to one family for periods of 7 days or longer</u> P <u>Bed & breakfast inn</u> SE (see § 34-1801) AS ACCESSORY USES: <u>On-premises consumption of alcoholic beverages</u> AA/ SE (see division 5 of article IV)	AS ACCESSORY USES: <u>Administrative office</u> P	Limited <i>(plus R uses)</i> Ⓟ
Open <i>(plus R & L uses)</i> Ⓞ	<u>Assisted living facility</u> P (see § 34-1411) <u>Dwelling unit: multiple-family live/work</u> P P (see § 34-1773) <u>Rooming house</u> P <u>Timeshare units</u> P AS ACCESSORY USES: <u>Golf course</u> EO <u>Recreation facility: private on-site</u> P private off-site SE <u>Subordinate commercial uses</u> P (see § 34-3021)	<u>Bed & breakfast inn</u> P (see § 34-1801) <u>Hotel/motel</u> P (see § 34-1801) <u>Rental of any permitted dwelling unit or guest unit for periods of 1 day or longer</u> P <u>Resorts</u> P AS ACCESSORY USES: <u>Resort accessory uses</u> P <u>Personal services</u> P <u>Subordinate commercial uses</u> P (see § 34-3021)	<u>Automobile rental</u> SE <u>Health care facility</u> P <u>Offices, general or medical</u> P <u>Personal services</u> P <u>Wholesale establishment</u> SE AS ACCESSORY USES: <u>Commercial accessory uses</u> P <u>Drive-through, Type 1 (2)</u> P <u>Subordinate commercial uses</u> P (see § 34-3021)	Open <i>(plus R & L uses)</i> Ⓞ

- (1) Provided density complies with the Fort Myers Beach Comprehensive Plan (see § 34-632).
 (2) Automobile fuel pumps and all drive-throughs (whether Type 1 or Type 2) cannot be constructed within the outer perimeter of the Downtown zoning district except as provided in § 34-676(f), whether the subject property is classified in the Downtown zone or in a Commercial Planned Development zone. See also § 34-620(f)(4) regarding the prohibition on restaurant drive-throughs.

Table 34-1, Land Uses Assigned to Use Groups and Sub-Groups (pg. 2 of 2)

	<u>Retail</u>	<u>Marine</u>	<u>Civic</u>	
Restricted Ⓜ			<u>Beach or bay access</u> P <u>Essential services</u> (see § 34-1612(a)) P <u>Hidden path</u> P <u>Park, neighborhood</u> P AS ACCESSORY USES: <u>ATM</u> P	Restricted Ⓜ
Limited (plus R uses) Ⓟ	<u>Dwelling unit:</u> <u>work/live (see § 34-1774)</u> SE <u>Membership organization</u> SE <u>Recreation facilities,</u> <u>commercial</u> SE <u>Parking lot, seasonal</u> (see § 34-2022) TP <u>Temporary uses</u> (see §§ 34-3041–3050) SE AS ACCESSORY USES: <u>On-premises consumption of</u> <u>alcoholic beverages (see</u> <u>§§ 34-1261–1290)</u> AA/SE	<u>Dock (for use by water taxi or</u> <u>water shuttle)</u> P <u>Marina</u> EO/SE <u>Parasailing operations office</u> SE <u>Personal watercraft operations</u> <u>office</u> SE <u>Rental of beach furniture</u> P AS ACCESSORY USES: <u>Dwelling unit, caretaker</u> P <u>Dock (may be leased to non-</u> <u>occupants of principal use)</u> P	<u>Communication tower</u> (see § 34-1441–1550) SE <u>Day care center, adult or child</u> SE <u>Essential service building</u> (see § 34-1612(b)) SE <u>Essential service equipment</u> P <u>Recreation facility:</u> <u>private off-site</u> SE <u>public</u> P <u>Transit terminal</u> SE AS ACCESSORY USES: <u>Dwelling unit, caretaker</u> P <u>Restaurant, accessory to</u> <u>private rec. facilities only</u> SE	Limited (plus R uses) Ⓟ
Open (plus R & L uses) Ⓞ	<u>Automobile repair</u> SE <u>Bar or cocktail lounge</u> AA/SE <u>Car wash</u> SE <u>Dwelling unit:</u> <u>work/live (see § 34-1774)</u> P <u>Laundromat</u> P <u>Mini-warehouse</u> SE <u>Parking lot, shared</u> <u>permanent (34-2015(2)b.)</u> SE <u>Personal services</u> P <u>Restaurant (2)</u> P <u>Retail store, small</u> P <u>Retail store, large</u> SE AS ACCESSORY USES: <u>Commercial accessory uses</u> P <u>Drive-through: (2)</u> <u>Type 1</u> P <u>Type 2</u> SE <u>Automobile fuel pumps (2)</u> SE	<u>Boat dealer</u> P <u>Marina</u> P AS ACCESSORY USES: <u>Marina accessory uses</u> P	<u>Cultural facility</u> SE <u>Day care center, adult or child</u> P <u>Park, community or regional</u> P <u>Parking lot, shared permanent</u> SE <u>Place of worship</u> P <u>Religious facility</u> SE <u>School (see § 34-2381–2383)</u> P <u>Theater</u> SE AS ACCESSORY USES: <u>Helistop</u> SE <u>Restaurant, accessory only to</u> <u>public recreation facilities</u> P <u>Subordinate commercial uses</u> (see § 34-3021) P	Open (plus R & L uses) Ⓞ

(2) Automobile fuel pumps and all drive-throughs (whether Type 1 or Type 2) cannot be constructed within the outer perimeter of the Downtown zoning district except as provided in § 34-676(f), whether the subject property is classified in the Downtown zone or in a Commercial Planned Development zone. See also § 34-620(f)(4) regarding the prohibition on restaurant drive-throughs.

Table 34-2 — Use Sub-Groups Permitted in Each Zoning District ¹

	<i>Residential</i>	<i>Lodging</i>	<i>Office</i>	<i>Retail</i>	<i>Marine</i>	<i>Civic</i>
	Use Groups and Sub-Groups (Restricted, Limited, Open)					
RS <i>Residential Single-family</i>	(R)	(R)	(R)	=	(R)	(R)
RC <i>Residential Conservation</i>	(L)	(L)	(R)	=	(R)	(R)
RM <i>Residential Multifamily</i>	(O)	(L)	(L)	(R)	(R)	(L)
CR <i>Commercial Resort</i>	(O)	(O)	(O)	(L)	(L)	(L)
CM <i>Commercial Marina</i>	(R)	(R)	(L)	(L)	(O)	(L)
CO <i>Commercial Office</i>	(O)	(L)	(O)	(L)	(L)	(O)
SANTOS	(L)	(L)	(O)	(L)	(L)	(L)
IN <i>Institutional</i>	(L)	(L)	(L)	(R)	(L)	(O)
CF <i>Community Facilities</i>	(R)	(R)	(L)	(R)	(L)	(O)
BB <i>Bay Beach</i>	— see § 34-651(b) —					
EC <i>Environmentally Critical</i>	— see § 34-652(d) & (e) —					
DOWNTOWN	(O)	(O)	(O)	(O)	(L)	(O)
SANTINI	(O)	(O)	(O)	(O)	(O)	(O)
VILLAGE	(L) ²	(L) ²	(L) ²	(L) ²	=	(L)
CB <i>Commercial Boulevard</i>	(O)	(L)	(L) ³	(L) ³	(L)	(O)
RPD <i>Residential Planned Dev.</i> ⁴	(R)(L)(O)	(R)(L)	(R)(L)	(R)(L)	(R)(L)	(R)(L)
CPD <i>Commercial Planned Dev.</i> ⁴	(R)(L)(O)	(R)(L)(O)	(R)(L)(O)	(R)(L)(O)	(R)(L)(O)	(R)(L)(O)

Note 1: See Table 34-1 for a specific list of Use Groups (Residential, Lodging Office, Retail, Marine, and Civic) and Sub-Groups of each (Restricted, Limited, and Open).

Note 2: See § 34-692(3) which provides a pre-approved redevelopment option for the VILLAGE district that can also permit residential, lodging, office and retail uses in the Open Sub-Group under specified conditions.

Note 3: See § 34-702–703 for exceptions and limitations on new and expanded commercial uses.

Note 4: See § 34-933. The resolution approving a planned development zoning district (RPD or CPD) will specify which of the use groups or sub-groups enumerated in Table 34-1 will be permitted on that parcel. Note that some potential use sub-groups are not listed above for the RPD zoning district because they may not be approved in any RPD zoning resolution.

Property Development Regulations For All Zoning Districts

DIVISION 3. EXPLANATION OF PROPERTY DEVELOPMENT REGULATIONS FOR ALL ZONING DISTRICTS

Sec. 34-631. Building heights.

(a) *Methods of measurement.* Maximum building heights specified in this code are measured in two ways, as shown in Figure 34-1.

- (1) *Measured in stories,* the height includes space at ground level as the first story, provided it is six feet or more in height.

 - a. *Space within a roofline that is entirely non-habitable shall not be considered to be a story.*
 - b. *Any single story cannot exceed 16 feet in height, including structural members.*
- (2) *Measured in feet,* the height is the vertical distance between the base flood elevation (BFE), as established by the maps described in § 6-408, and the top of the structural members that serve as the ceiling for the highest habitable story of the building. For parking garages, height is measured to the top of the structural members of the highest ceiling, or if parking is allowed on the roof level, to the highest point on the rooftop parking level.
- (3) Specific height regulations are provided for each zoning district.

 - a. *For conventional zoning districts, see Table 34-3 in division 4 of this chapter.*
 - b. *For redevelopment zoning districts, see individual districts in division 5 of this chapter.*
 - c. *For planned development zoning districts, see division 6 of this chapter.*

(b) *Exceptions to height regulations.*

- (1) *Roof structures and parapet walls may exceed the height limit defined in any zoning district provided there is no habitable space inside the roof structure.*
- (2) *Architectural appurtenances such as cupolas, clerestories, towers, flagpoles, and steeples may also extend above the height limit if they do not exceed an area of 250 square feet. Any proposed appurtenance taller than an additional 15 feet or larger than 250 square feet would require a variance from this code.*
- (3) *Mechanical or structural appurtenances such as elevator and stairwell enclosures, air-conditioning equipment, and antennas may also extend above the height limit provided these appurtenances:

 - a. *do not exceed 250 square feet per type; and*
 - b. *screening is provided as required by this code (see, for example, § 6-2(f) for rooftop mechanical equipment).**
- (4) *When properties are being rebuilt pursuant to the buildback regulations in § 34-3237 and 34-3238, specific height regulations in those sections may supersede the height regulations established for that property’s zoning district.*
- (5) *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 the height regulations in this chapter 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*

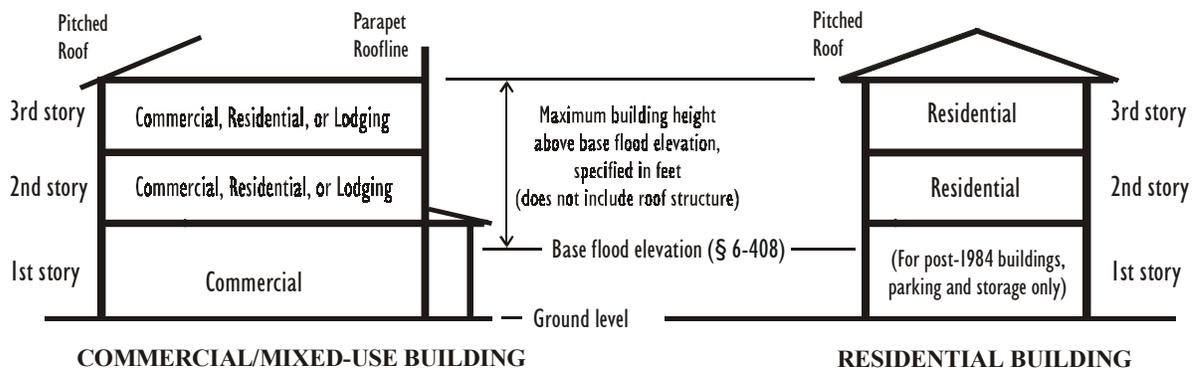


Figure 34-1

Property Development Regulations For All Zoning Districts

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 the height limits in this chapter. In each case, the town shall balance the public benefits of the standard height limit against other public benefits that would result from the specific proposal.

- (6) For amateur radio antennas/towers, see § 34-1175. For communication towers and commercial antennas, see § 34-1441–1550).
- (c) ***Space at ground level.***
 - (1) Commercial space below the base flood elevation (at ground level) requires dry-floodproofing of the building (see §§ 6-401–474).
 - (2) Space below the base flood elevation in new residential buildings may be used only for parking and limited storage (see §§ 6-401–474).

Sec. 34-632. Density.

Residential density cannot exceed the maximum levels established in the Fort Myers Beach Comprehensive Plan.

- (1) ***Formula for computing density.*** The maximum number of dwelling units allowed on a parcel of land is computed by taking the maximum number of dwelling units per acre the comprehensive plan allows on that parcel and multiplying it by the site's lot area in acres, with the result rounded down to the nearest whole number (except as provided in subsection (3) below).
- (2) ***Determining lot area.*** For purposes of this section, a site's lot area includes the gross acreage within the site's private property line, minus wetlands, canals or other water bodies that extend beyond the site, commercial and other non-residential land, and any land designated "Recreation" on the Comprehensive Plan's future land use map.

For any site with wetlands or land designated "Recreation," the maximum number of dwelling units shall be increased by one unit per 20 acres of such land.

- (3) ***Existing subdivisions.*** In existing subdivisions where lots are smaller than 15,000 square feet each:
 - a. Residential densities may be computed based on the actual lot size plus one-half the width of adjoining streets and canals.
 - b. Computed densities greater than 1.5 DU/acre may be rounded up to two dwelling units where two-family and multifamily dwelling units are permitted.
 - c. This method for determining densities cannot be used for three or more lots that are being combined into a development project.
- (4) ***Mixed-use buildings.*** Residential densities may be computed without deleting any acreage for commercial uses that are located on other floors of mixed-use buildings. However, any acreage used primarily for commercial purposes cannot be included in computations of residential density.
- (5) ***Adjustments to density computations.*** The following rules shall apply when measuring density for living units or guest units that may not also qualify as dwelling units:
 - a. When permitted on a property, certain other land uses such as assisted living facilities and hotels/motels are limited by using equivalency factors between those uses and dwelling units, such as provided in §§ 34-1415 and 34-1803.
 - b. For density purposes, each living unit shall count as one dwelling unit except where this code explicitly provides a different measure for measuring density (see, for example, § 34-1178(d) regarding accessory apartments in owner-occupied homes).
 - c. Lock-off accommodations in multiple-family buildings and timeshare units are living units and thus are calculated as separate dwelling units for density purposes.
- (6) ***Density transfers.*** The Town Council may, at its discretion, permit the transfer of residential and hotel/motel development

Property Development Regulations For All Zoning Districts

rights from one parcel to another if the following conditions established by Policy 4-C-8 of the comprehensive plan are met:

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

Sec. 34-633. Intensity and floor area ratios.

Another measure of building intensity used in this code is the floor area ratio (FAR), which means the gross floor area of all buildings on a site divided by the site's lot area.

- (1) For purposes of this section, gross floor area includes the total floor area of all stories of a building within the surrounding exterior walls (whether the walls are solid or screened), plus all area below an elevated building that is 6 feet or more in height, plus all stories of covered parking, but not including any area whose roof is screened rather than solid (such as swimming pool enclosures).
- (2) For purposes of this section, a site's lot area includes the gross square footage within the site's private property line, minus wetlands, canals or other water bodies, and minus any land designated "Recreation" on the Comprehensive Plan's future land use map.

Sec. 34-634. Commercial design standards.

Except where this code specifically provides otherwise, the commercial design standards (see § 34-991–1010) apply to all commercial and mixed-use buildings or portions thereof that are being newly built, and to "substantial improvements" to

such buildings as defined in § 6-405, on properties that are zoned in any of the following zoning districts:

- (1) SANTOS (§ 34-648);
- (2) DOWNTOWN (§ 34-671–680);
- (3) SANTINI (§ 34-681–690);
- (4) VILLAGE (§ 34-691–700);
- (5) CB (§ 34-701–710); and
- (6) CPD (commercial planned development) (§ 34-951–960).

Sec. 34-635. Residential design standards.

New and substantially rebuilt residential buildings in all zoning districts must comply with the residential design standards found in division 8 of this article (see § 34-1011– 1168).

Sec. 34-636. Minimum lot sizes.

(a) All lot area, width, and depth dimensions in this code are mandatory minimums for newly created lots.

- (1) Minimum lot areas, width, and depths are specified for various zoning districts.
 - a. For all conventional zoning districts, see Table 34-3.
 - b. For redevelopment zoning districts, as described for the individual districts in division 5 of this chapter.
 - c. For PD districts, see §§ 34-943 and 34-953.
- (2) Definitions and methods of measuring lot widths and depths are provided in § 34-2.

(b) Where two or more dwelling units or guest units are proposed for a single lot or combination of lots, the lot(s) must also be large enough to comply with the density limitations of the Fort Myers Beach Comprehensive Plan, as computed in accordance with § 34-632.

(c) Division 4 of article V of this chapter defines nonconforming lots, which may be smaller than the minimum lot areas, widths, and/or depths specified in this code.

- (1) Certain nonconforming residential lots are subject to the smaller minimum lot areas, widths, and depths that are found in § 34-3274.

Property Development Regulations For All Zoning Districts

- (2) Certain nonconforming commercial lots are subject to the smaller minimum lot areas, widths, and depths that are found in § 34-3277.

~~(d) Sec. 34-2142. Exception for essential service facilities group I. Essential services and essential service equipment facilities group I shall not be required to meet the minimum required lot area and dimensions for the district wherein located (see § 34-1617), provided that access, buffering, drainage, retention, parking, and other provisions of this chapter and chapter 10 are satisfied.~~

Sec. 34-637. Minimum setbacks.

(a) Generally. Most zoning districts require minimum setbacks between all buildings and structures and the street, the side lot line, the rear lot line, and any water body.

- (1) Setbacks are minimum horizontal distances between a property line and the nearest point of all structures that ensure a minimum area without buildings. Detailed definitions are provided under “setback” in § 34-2.
- (2) There are two types of side setbacks:
 - a. Side setbacks – waterfront lots. Larger side setbacks are required for waterfront lots, defined as lots that immediately adjoin a tidally influenced body of water, whether artificial or natural (see definitions in § 34-2).
 - b. Side setbacks – non-waterfront lots. Smaller side setbacks are required for all other lots.
- (3) The distinction between street setback lines and build-to lines is explained in § 34-662.
- (4) Certain exceptions to minimum setbacks are provided in subsection (d) below.

(b) Where to find minimum setback dimensions. Minimum setback dimensions are specified as follows:

- (1) For principal buildings:
 - a. For all conventional zoning districts, see Table 34-3.
 - b. For redevelopment zoning districts, as described for the individual districts in division 5 of this chapter.
 - c. For RPD districts, see § 34-943.

d. For CPD districts, see § 34-953.

- (2) For accessory buildings, see §§ 34-1174–1176.

(c) Additional wetlands buffers. New development must maintain a 75-foot separation between wetlands and buildings or other impervious surfaces, in accordance with Policy 4-C-12 of the Fort Myers Beach Comprehensive Plan.

- (1) This requirement does not apply to previously platted lots
- (2) This requirement also does not apply to a previously approved development order to the extent it cannot reasonably be modified to comply with this requirement (see ch. 15 of the Fort Myers Beach Comprehensive Plan for details).

(d) Exceptions to setback dimensions. Sec. 34-2191. Measurement; permitted encroachments. All setbacks shall be measured to the nearest point of a building or structure. Encroachment into the setback shall be permitted as follows: In addition to the following general exceptions to minimum setbacks, commercial buildings that are subject to the commercial design standards may encroach into certain setbacks as provided in § 34-991–1010.

(1) Wing walls. [deleted in its entirety]

(1) Exceptions to all setbacks.

- a. Administrative setback variances. Under certain limited circumstances, administrative variances can be granted to minimum setbacks as provided in § 34-268.
- b. (2) Overhangs. An overhang which is part of a building may be permitted to encroach into any setback as long as the overhang does not extend more than three feet into the setback and does not permit any balcony, porch, or living space located above the overhang to extend into the setback.
- c. (3) Shutters. A shutter which is attached to a building may be permitted to encroach one foot into the setbacks.
- d. (4) Awnings and canopies.
 1. a. Awnings and canopies which are attached to a building may be permitted to encroach three feet into the setbacks, as long as their location does not

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interfere with traffic, ingress and egress, or life safety equipment.

2. b. For purposes of this section, awnings and canopies may be attached to a nonconforming building and shall not be considered an extension or enlargement of a nonconformity, as long as the building is properly zoned for its use and the conditions as set forth in this section are met.

e. Essential services. Essential services and essential service equipment shall not be required to meet the minimum setbacks for the district wherein located (see § 34-1617).

(2) Exceptions to street setbacks. ~~Sec. 34-2192. Street setbacks. (a) Required setback.~~ Except as provided for in subsection (b) of this section, or unless a modification is granted as a special permit, variance or deviation, all buildings and structures must be set back from the adjacent street easement or right-of-way according to the functional classification of the adjoining street as set forth on the official trafficways map. Any street not shown on the trafficways map as a collector or arterial street will be presumed to be a local street or a private street for the purposes of this section:

SETBACKS FROM STREETS

Street Classification	Setback from Edge of Right-of-Way or Street Easement Line (feet)
Arterial or collector street:	
With frontage street*	65
Without frontage street	25
Local	25
Private	20

* Applies only where the frontage street is located within 40 feet of the right-of-way; does not apply where the frontage street is or will be located within the right-of-way.

(b) Exceptions. (1) Exception for certain structures. Certain structures are exempt from the street setback requirements as follows:

a. Build-to lines. Some zoning districts do not have any street setback requirements but instead have build-to lines, as described in § 34-662. Awnings, canopies, balconies, bay windows, porches, stoops, arcades, and colonnades may extend

forward of the build-to line provided that they comply with the commercial design standards (see § 34-995(e)).

b. Porches, balconies, and stoops. Porches, balconies, and stoops may extend up to 10 feet into the street setback zone of residential buildings, provided that:

1. Any walls, screened areas, or railings in the setback zone extend no higher than 42 inches above the floor of the porch, balcony, or stoop; and

2. No portion of a porch or balcony and no walls or screened areas may be closer than 10 feet to the edge of any street right-of-way or street easement.

c. a. Mail and newspaper delivery boxes. Mail and newspaper delivery boxes may be placed in accordance with U.S. Postal Service regulations; however, the support for a mail or newspaper delivery box must be of a suitable breakaway or yielding design, and any mail or newspaper delivery box placed in an unsafe or hazardous location can be removed by the government agency with jurisdiction over the right-of-way at the property owner's expense.

d. b. Bus shelters, bus stop benches, and bicycle racks. Bus shelters, bus stop benches, and bicycle racks may be located in any district without regard for minimum setbacks, provided the location of the structure is approved by the county department of transportation. town manager. No advertising is permitted on bus stop benches.

e. c. Telephone booths. Telephone booths and pay telephone stations may be located in any zoning district that permits multifamily or commercial uses without regard for minimum setbacks, provided that the location shall be approved by the director, county department of transportation and engineering services.

d. Utility equipment. Accessory utility equipment such as pad-mounted transformers, service pedestals, and telephone terminal or switching devices are exempt from certain setback requirements, provided that they comply

Property Development Regulations For All Zoning Districts

with the provisions set forth in division 14 of this article.

~~(2) *Exception for certain existing lots and structures:*~~

~~a. The setbacks set forth in subsection (a) of this section shall not apply to residential structures or public schools erected prior to August 1, 1986, or which received a development order or building permit which is still valid on August 1, 1986.~~

~~b. Street setbacks for corner lots recorded prior to January 28, 1983, which have a lot width of less than 100 feet shall be modified as follows:~~

~~1. If the corner lot abuts two local streets, the setback for the street opposite the interior side yard may be reduced to 15 feet.~~

~~2. If the corner lot abuts a local street and a street of higher classification, the street setback for the local street may be reduced to 15 feet.~~

~~(3) *Structures along Colonial Boulevard:*~~

~~*[deleted in its entirety]*~~

~~(4) *Structures along Daniels Road:* *[deleted in its entirety]*~~

~~(c) *Modifications:* *[deleted in its entirety]*~~
Sec. 34-2193. Reserved.

~~(3) **Water body setbacks.** Sec. 34-2194. Setbacks from bodies of water:~~

~~a. ~~(a)~~ *Gulf of Mexico.* Except as provided in this section or elsewhere in this ~~code chapter~~, no building or structure shall be placed closer to the Gulf of Mexico than set forth in ch. 6, articles ~~III and IV~~, ~~pertaining to coastal zone protection~~, or 50 feet from mean high water, whichever is the most restrictive. See also special regulations for the EC zoning district in § 34-652 and the coastal zone restrictions in § 34-1575.~~

~~b. ~~(b)~~ *Other bodies of water.* Except as provided in this section or elsewhere in this chapter, no building or structure shall be placed closer than 25 feet to a canal or to a bay or other water body. For purposes of measuring setbacks from a canal, bay, or other body of water, the following will be used:~~

~~1. If the body of water is subject to tidal changes and the property does not have~~

a seawall, the setback will be measured from the mean high water line.

~~2. If the body of water is not subject to tidal changes and the property does not have a seawall, the setback will be measured from the control elevation of the body of water if known, or from the ordinary high water line if unknown.~~

~~3. If the property has a seawall, the setback will be measured from the seaward side of the seawall, not including the seawall cap.~~

~~c. ~~(c)~~ *Exceptions for certain accessory structures:*~~

~~(1) *Planned developments:* *[deleted in its entirety]*~~

~~(2) *Docks, seawalls and other watercraft landing facilities.* See § 34-1863.~~

~~(3) *Other accessory structures:* Certain accessory buildings and structures may be permitted closer to a body of water as follows:~~

~~1. ~~a:~~ *Fences and walls.* See division 17 of this article.~~

~~2. *Shoreline structures.* See § 34-1863 and ch. 26.~~

~~3. ~~b:~~ *Nonroofed structures.* Swimming pools, tennis courts, patios, decks, and other nonroofed accessory structures or facilities which are not enclosed, except by fence, or which are enclosed on at least three sides with open-mesh screening from a height of 3 1/2 feet above grade to the top of the enclosure, shall be permitted up to but not closer than:~~

~~-a-~~1:~~ Five feet from a seawalled canal or seawalled natural body of water;~~

~~-b-~~2:~~ Ten feet from a nonseawalled artificial body of water; or~~

~~-c-~~3:~~ Twenty-five feet from a nonseawalled natural body of water; whichever is greater. Enclosures with any two or more sides enclosed by opaque material shall be required to comply with the setbacks set forth in subsections ~~(d)(3)a. and (d)(3)b. (a) and (b)~~ of this section.~~

~~4. ~~c:~~ *Roofed structures.*~~

Conventional Zoning Districts

- a. ~~1.~~ Accessory structures with roofs intended to be impervious to weather and which are structurally built as part of the principal structure shall be required to comply with the setbacks set forth in subsections (a) and (b) of this section.
- b. ~~2.~~ Accessory structures with roofs intended to be impervious to weather and which are not structurally built as part of the principal structure may be permitted up to but not closer than 25 feet to a natural body of water, and ten feet to an artificial body of water.

(4) Exceptions for certain nonconforming lots.

- a. Certain nonconforming residential lots are subject to the modified side and rear setback requirements that are found in § 34-3273.
- b. Certain nonconforming mobile home lots in the VILLAGE zoning district are subject to the modified side and rear setback requirements that are found in § 34-694.
- c. Certain nonconforming commercial lots are subject to the modified side and rear setback requirements that are found in § 34-3277.

~~Sec. 34-2195. Setbacks from lot lines abutting railroad right-of-way. [deleted in its entirety]~~

~~Sec. 34-2196. Uses employing solar energy or wind-driven electrical generators. [deleted in its entirety]~~

Secs. 34-638--34-640. Reserved.

DIVISION 4. CONVENTIONAL ZONING DISTRICTS

Sec. 34-641. General purpose.

The purpose of conventional zoning districts is to control land use in a uniform way throughout each zoning district, with similar use and dimensional regulations applying to all parcels within that district. Article IV of this chapter also contains supplemental regulations that apply to multiple zoning districts.

Sec. 34-642. RS (Residential Single-family) zoning district.

(a) The purpose of the RS zoning district is to provide stable neighborhoods where single-family detached homes are the predominant land use.

(b) In the RS zoning district, allowable uses are defined in Table 34-2 and property development regulations are contained in Table 34-3.

Sec. 34-643. RC (Residential Conservation) zoning district.

(a) The purpose of the RC zoning district is to recognize certain older neighborhoods that had been zoned for duplex, multifamily, or mobile homes purposes prior to incorporation of the town. Some lots in this district are large enough to accommodate a second dwelling unit (see Table 34-3 and §§ 34-632, 34-1177, and 34-1178).

(b) In the RC zoning district, allowable uses are defined in Table 34-2 and property development regulations are contained in Table 34-3.

Sec. 34-644. RM (Residential Multifamily) zoning district.

(a) The purpose of the RM zoning district is to designate suitable locations for a wide variety of multifamily residences.

(b) In the RM zoning district, allowable uses are defined in Table 34-2 and property development regulations are contained in Table 34-3.

Conventional Zoning Districts

Sec. 34-645. CR (Commercial Resort) zoning district.

(a) The purpose of the CR zoning district is to designate suitable locations for motels, resorts, and related services.

(b) In the CR zoning district, allowable uses are defined in Table 34-2 and property development regulations are contained in Table 34-3.

Sec. 34-646. CM (Commercial Marina) zoning district.

(a) The purpose of the CM zoning district is to allow commercial marinas in suitable waterfront locations to provide boaters with access to the water and related services.

(b) In the CM zoning district, allowable uses are defined in Table 34-2 and property development regulations are contained in Table 34-3.

Sec. 34-647. CO (Commercial Office) zoning district.

(a) The purpose of the CO zoning district is to allow office uses on land that is visible to the traveling public or on land that can serve as a transition between commercial and residential uses.

(b) In the CO zoning district, allowable uses are defined in Table 34-2 and property development regulations are contained in Table 34-3.

Sec. 34-648. SANTOS zoning district.

(a) The purpose of the SANTOS zoning district is to allow a mixture of residential and low-intensity commercial uses that will separate the intense commercial uses along Estero Boulevard from the residential portions of the Venetian Gardens subdivision. This zoning district implements the recommendations of the Santos/Palermo Circle Planning Study (February, 1999) and Policy 4-C-11 of the Fort Myers Beach Comprehensive Plan.

(b) In the SANTOS zoning district, allowable uses are defined in Table 34-2 and property

development regulations are contained in Table 34-3.

(c) In addition to these restrictions on allowable uses and dimensional requirements, the commercial design standards found in § 34-991–1010 apply to all commercial and mixed-use buildings or portions thereof that are being newly built and to “substantial improvements” to such buildings as defined in § 6-405.

Sec. 34-649. IN (Institutional) zoning district.

(a) The purpose of the IN zoning district is to provide suitable regulations for churches, civic buildings, schools, and government buildings.

(b) In the IN zoning district, allowable uses are defined in Table 34-2 and property development regulations are contained in Table 34-3.

Sec. 34-650. CF (Community Facilities) zoning district.

(a) The purpose of the CF zoning district is to provide suitable regulations for parks and nature preserves.

(b) In the CF zoning district, allowable uses are defined in Table 34-2 and property development regulations are contained in Table 34-3.

Sec. 34-651. BB (Bay Beach) zoning district.

(a) The purpose of the BB zoning district is to implement the binding agreement that settled litigation over development rights in Bay Beach.

(b) Land uses in the BB zoning district shall conform to all requirements of the stipulated settlement agreement between Stardial Investments Company and the Town of Fort Myers Beach dated February 23, 2001, a copy of which is recorded in O.R. Book 3414, Pages 4775–4786, as amended in O.R. Book 3414, Pages 4787–4789, and including any future amendments to this agreement.

(1) Allowable land uses include those uses in lawful existence as of February 23, 2001, and those additional uses as defined in the settlement agreement.

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- (2) Building size and placement shall be governed by the regulations in this code, including the property development regulations in the RM district, except where specifically superseded by terms of the settlement agreement.
- (3) Replacement buildings cannot exceed the height, square footage of floor and parking areas, and all other measurable parameters of the original buildings. See buildback regulations in § 34-3237–3238.

Sec. 34-652. EC (Environmentally Critical) zoning district.

(a) *Purpose.* The purpose of the EC zoning district is to designate beaches and significant wetlands whose preservation is deemed critical to the Town of Fort Myers Beach through its comprehensive plan, including:

- (1) Beaches that have been designated in the “Recreation” category on the future land use map, and.
- (2) Wetlands that have been correctly designated in the “Wetlands” category on the future land use map.

Subdivision H: Environmentally Critical District *[moved from § 34-980–34-1000]*

Sec. 34-981. Purpose and intent. (a) The purpose and intent of the EC environmentally critical district is to preserve and protect certain land and water areas in the unincorporated area of the county which have overriding ecological, hydrological or physiographic importance to the public at large.

(b) *Intent.* The application of the EC district is intended to prevent a public harm by precluding the use of land for purposes for which it is unsuited in its natural state and which injures the rights of others or otherwise adversely affects a defined public interest. The EC district shall be applied to an area of land or water only upon a recommendation by the hearing examiner and a finding by the Board of County Commissioners in their respective public hearings that the use or conversion of the property may create a public harm or a public need.

(c) Lands or waters to which this district shall be applied include those areas that would fit the criteria

of or that have been designated on the Lee Plan land use map as a resource protection area or transition zone.

(c) *Accretion.* Accretions of beaches or wetlands, whether by natural causes or through beach renourishment or artificial filling, will automatically be assigned to the EC zoning district.

Sec. 34-982. Standards for application of EC district.

[deleted in its entirety]

Sec. 34-983. Use regulations.

No land, body of water or structure shall be used or permitted to be used and no structure shall be hereafter erected, constructed, moved, altered or maintained in the EC district for any purpose other than as provided in this section.

(d) ~~(+)~~ *Permitted uses.* In the EC district, no land or water use shall be permitted by right except for those uses and developments permitted by the Fort Myers Beach Comprehensive Lee Plan in wetlands, beaches, or critical wildlife habitats, as applicable RPA and TZ zones and as may be set forth in § 14-298, including:

- (1) a. ~~Boating and canoeing, with no motors permitted except electric trolling motors~~
- b. ~~Entrance gates and gatehouses (see article VII, division 17, of this chapter).~~
- (2) c. ~~Fishing, limited to sport or recreational fishing only.~~
- (3) d. ~~Forest management activities, limited to Removal of intrusive exotic species or diseased or dead trees, and pest control.~~
- (4) e. ~~Hiking and nature study, including pedestrian boardwalks and dune crossovers where the activity does not require new access or clearing.~~
- (5) f. ~~Outdoor education, in keeping with the intent of the district.~~
- (6) g. ~~Recreation activities, residential accessory uses, and resort accessory uses that are performed outdoors. These activities and uses only, to include passive recreation and that active recreation requiring no permanent structures little or no facilities, capital investment or alteration of the natural~~

Conventional Zoning Districts

landscape. Any temporary structure used in conjunction with such uses must comply with all provisions of this code (for instance, see chapters 14 and 27).

~~h. Single-family dwellings and their customary accessory uses, when in compliance with the requirements of chapter 14, article IV, pertaining to wetlands protection.~~

- ~~(7) i. Wildlife management, as wildlife or game preserves.~~

~~(e)(2) *Special exceptions uses.* Upon a finding that the proposed use is consistent with the standards set forth in § 34-88 145(e)(2), as well as all other applicable town county regulations, the town council hearing examiner may permit any specific use from the following list as a special exception, subject to conditions set forth in this chapter and in 0.the resolution of approval:~~

- ~~(1) a. Accessory structures, to include any building, structure, (including sea walls) or impervious surface area including bikeways which is accessory to a use permitted by right or by special exception in the EC district.~~
- ~~b. Boating, without restriction, except that it shall be limited to natural or existing manmade channels.~~
- ~~(2) c. Nature study center, noncommercial, and its customary accessory uses.~~
- ~~(3) Single-family residence and its customary accessory uses at a maximum density of one dwelling unit per twenty acres.~~

~~Sec. 34-984. Property development regulations.~~

~~(a) *Residential density.* Residential density in the EC district shall be subject to the land use category wherein located, as well as chapter 14, article IV, pertaining to wetlands protection.~~

~~(b) *Setbacks.* See article VII, division 30, subdivision III, of this chapter. In order to maximize flexibility in siting any structure permitted in the EC district, the minimum setbacks shall be as follows:~~

- ~~(1) Street or accessway: Variable according to the functional classification of the street or road (see § 34-2192).~~
- ~~(2) Side or rear lot lines or parcel boundaries: 15 feet.~~

- ~~(3) Gulf of Mexico: 50 feet from mean high water or as required by chapter 6, article III, whichever is the most restrictive.~~

- ~~(4) Other water body: 25 feet.~~

~~(f) (e) *Additional regulations.* See article VII, division 30, of this chapter for additional regulations pertaining to property development. See additional requirements in:~~

- ~~(1) Article I of ch. 14 pertaining to beach and dune management;~~
- ~~(2) Article IV of ch. 14 pertaining to wetlands protection); and~~
- ~~(3) Coastal zone regulations in § 34-1575.~~

Secs. 34-653 985--34-660 1000. Reserved.

Table 34-3 — Dimensional Regulations in Conventional Zoning Districts

ZONING DISTRICT	Setbacks <i>(see § 34-637 for explanation and exceptions)</i>						Lot size <i>(see § 34-636 for explanations and exceptions)</i>			F.A.R. <i>§ 34-633</i>	Density <i>§ 34-632</i>	Height <i>(see § 34-631)</i>	
	<i>street</i>	<i>side - waterfront lot</i>	<i>side - non-waterfront</i>	<i>rear</i>	<i>water body</i>	<i>Gulf of Mexico (1)</i>	<i>area</i>	<i>width</i>	<i>depth</i>			<i>feet</i>	<i>stories</i>
RS Residential Single-family	20	10	7	20	25	50	7,500	75	100	0.8	(3), (4)	25	3
RC Residential Conservation	10	7	5	20	25	50	4,000	45	80	0.8	(3), (4), (5)	25	3
RM Residential Multifamily	20	20 (6)	7	20	25	50	7,500	75	100	1.2	(3), (4), (5)	30	3
CR Commercial Resort	10	20	15	20	25	50	20,000	100	100	1.2	(3)	30	3
CM Commercial Marina	20	20	20	20	0	50	20,000	100	100	1.0	(3)	35	3
CO Commercial Office	10	10	7	20	25	50	7,500	75	100	1.2	(3)	30	3
SANTOS	10	7	5	20	25	50	5,000	50	100	0.5	(1), (2), (3)	25	3
IN Institutional	20	10	7	20	25	50	7,500	75	100	0.8	(3)	35	3
CF Community Facilities	20	15	10	20	25	50	N/A	N/A	N/A	0.1	(3)	35	3
BB Bay Beach	— see § 34-651(b) —												
EC Environmentally Critical	20	25		25	20	50	(7)	N/A	N/A	.01	(7)	25	2

Note 1: An additional wetland buffer is required for new development; see § 34-637(c).
Note 2: See § 34-637(d)(3)a.
Note 3: Maximum densities are established by the Fort Myers Beach Comprehensive Plan; see § 34-632.
Note 4: Accessory apartments are allowed in owner-occupied homes under certain conditions; see §34-1178.
Note 5: A second dwelling unit or accessory apartment may be allowed on larger lots; for details, see §§ 34-632, 34-1177, and 34-1178.
Note 6: Single-family and two-family homes on waterfront lots in the RM zoning district must maintain only a 10-foot side setback.
Note 7: See § 34-652(e)(3).

Redevelopment Zoning Districts

DIVISION 5. REDEVELOPMENT ZONING DISTRICTS

Subdivision I. Generally

Sec. 34-661. General purpose.

The purpose of the redevelopment zoning districts is to implement specific redevelopment concepts established in the Fort Myers Beach Comprehensive Plan and for other situations where conventional or planned development zoning districts are inappropriate. These districts require more detailed regulations than provided by conventional zoning districts, and use special terms as described in the following sections. Article IV of this chapter also contains supplemental regulations that apply to multiple zoning districts.

Sec. 34-662. Build-to lines and setback lines.

(a) ***Build-to and setback lines distinguished.*** Most redevelopment districts specify build-to lines for street frontages and setback lines for side and rear property lines.

- (1) A build-to line identifies the *precise* horizontal distance (or range of distances) from a street that the front of all primary structures must be built to, in order to create a fairly uniform line of buildings along streets.
- (2) A setback line identifies the *minimum* horizontal distance between a property line and the nearest point of all structures, in order to ensure a minimum area *without* buildings.

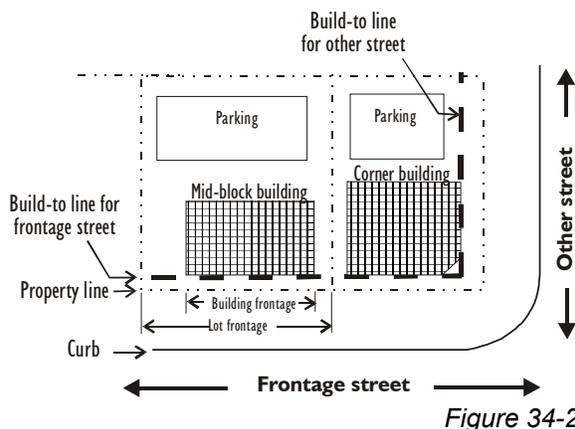


Figure 34-2

(b) ***General requirements for build-to lines.***

- (1) Build-to lines are illustrated conceptually on Figure 34-2.
- (2) Where a build-to line is specified as a range (for instance, 5 to 10 feet), this means that building fronts must fall within that range of distances from the front property line. Where there is a range, the front facade does not have to be parallel to the street or in a single plane, as long as the front facade remains within the range.
- (3) At least 75% of the building frontage is required to align with the build-to line. The remaining 25% may be recessed up to 10 feet behind the build-to line, for instance to provide recessed pedestrian entrances or simply for architectural diversity. (See also § 34-997 regarding plazas.)
- (4) Build-to lines are subject to adjustment to maintain visibility for vehicles exiting onto primary streets.
 - a. Visibility triangles must be maintained on both sides of intersecting streets and exiting driveways as shown in Figures 34-3 and 34-4, or to provide equivalent visibility.

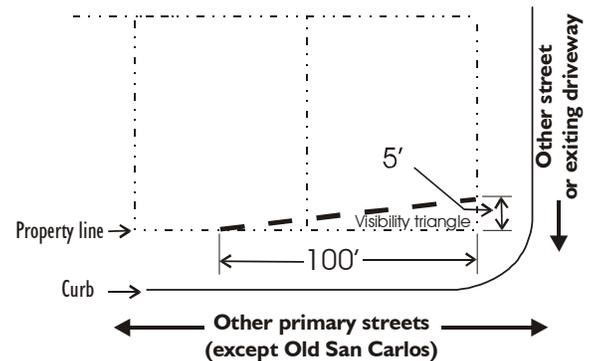


Figure 34-3

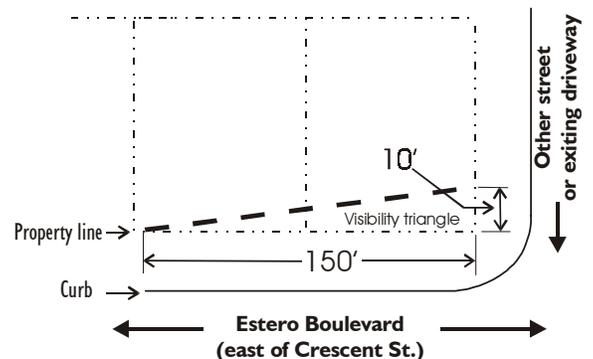


Figure 34-4

Redevelopment Zoning Districts

- b. Within these triangles, no buildings, shrubs, or low-hanging tree limbs may obstruct visibility between the height of 2 feet and 6 feet above ground. However, visibility triangles are not required at intersections with roundabouts or all-way stop signs.
- (5) Build-to line requirements may be adjusted by the director to avoid trees larger than 8 inches in diameter (measured 54 inches above grade).
- (6) Upper stories are encouraged to remain in the same vertical plane as the first floor. Awnings, canopies, balconies, bay windows, porches, stoops, arcades, and colonnades are allowed on building exteriors provided that they comply with the commercial design standards (see § 34-995(e)).

(c) General requirements for setback lines.

- (1) Setbacks from property lines. Minimum setbacks from property lines are defined for each zoning district.
- (2) Setbacks from water bodies. Minimum setbacks from water bodies including the Gulf of Mexico are provided in § 34-637(d)(3).

Sec. 34-663. Building frontages and lot frontages.

Building frontage is the length of a building facade that faces a street. Building frontages and lot frontages are illustrated on Figure 34-5.

Sec. 34-664. Commercial design standards.

Except where this code specifically provides otherwise, the commercial design standards (see § 34-991–1010) apply in all redevelopment zoning districts to all commercial and mixed-use buildings or portions thereof that are being newly built, and to “substantial improvements” to such buildings as defined in § 6-405.

Sec. 34-665. Residential design standards.

New and substantially rebuilt residential buildings in all zoning districts must comply with the residential design standards of this article (see § 34-1011–1168).

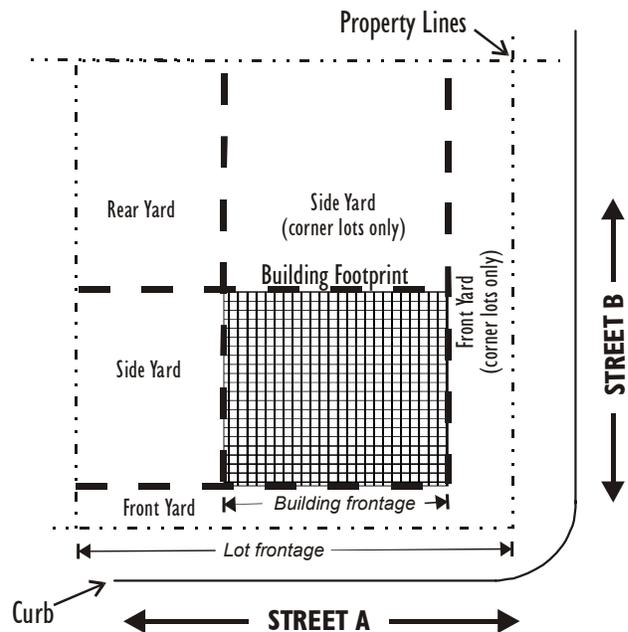


Figure 34-5

Sec. 34-666. Property development regulations.

In all redevelopment zoning districts, land use is controlled through the more specific property development regulations that are provided in the remainder of this division.

Secs. 34-667--34-670. Reserved.

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Subdivision II. DOWNTOWN Zoning District

Sec. 34-671. Purpose.

The purpose of the DOWNTOWN district is create the desired quality and character for the center of pedestrian-oriented commercial activities within the town. New commercial buildings are expected to accommodate pedestrians by providing storefronts near sidewalks and by offering shade and shelter along major streets. Old San Carlos Boulevard will serve as the town's "Main Street" and will be anchored by pedestrian plazas at each end.

Properties that have been zoned into a planned development (PD) district are governed by the terms of the PD zoning resolution rather than the requirements of the DOWNTOWN district, even if the property is shown on Figure 34-6.

(b) Streets have been categorized into primary streets, secondary streets, and pedestrian plazas to guide the regulations for properties fronting each type of street.

Sec. 34-672. District map and applicability.

(a) The area indicated on Figure 34-6 is the outer perimeter of the DOWNTOWN district.

Sec. 34-673. Allowable uses.

In the DOWNTOWN district, allowable uses are defined in Table 34-2.

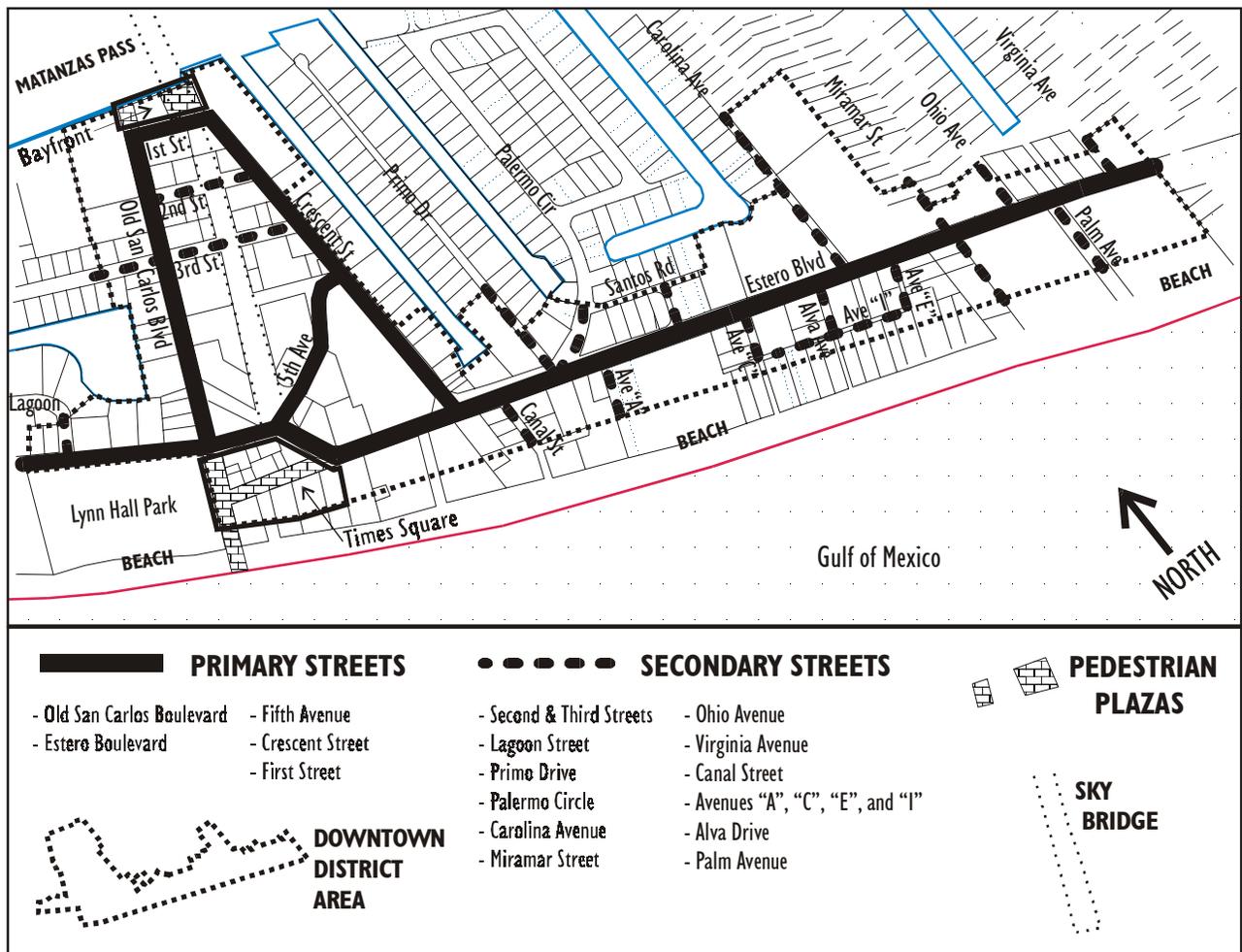


Figure 34-6

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Sec. 34-674. Building placement.

(a) **Build-to lines established.** Build-to lines (see § 34-662) vary according to the streets and street types designated on Figure 34-6.

- (1) Build-to lines for all streets are 5 feet to 10 feet from front property lines, except:
 - a. Build-to lines are 0 feet for Old San Carlos Boulevard, all properties facing the Times Square and Bayfront pedestrian plazas, and Estero Boulevard west of the Sky Bridge.
 - b. Built-to lines are 0 to 5 feet for all of First, Second, Third, and Fifth, and the south side of Estero Boulevard from the Sky Bridge to Miramar Street.
- (2) The adjustments to build-to lines to maintain visibility that are required by § 34-662(b)(4) do not apply:
 - a. to building fronts facing the Times Square or Bayfront pedestrian plazas, or
 - b. to building fronts along Old San Carlos Boulevard, where wide sidewalks and on-street parking lanes will allow the necessary visibility.
- (3) Awnings, canopies, and marquees over sidewalks and pedestrian walkways are encouraged by the commercial design standards (§§ 34-991–1010) and are required along Old San Carlos Boulevard.
- (4) Enclosed habitable space may also be allowed over a public right-of-way if located over an arcade or colonnade that shades a public sidewalk (see § 34-995(e)(6)), provided that specific permission is granted by the Town of Fort Myers Beach.

(b) **Setback lines established.** Setback lines (see § 34-662) are established as follows:

- (1) For principal buildings:
 - a. Minimum rear setbacks are 25 feet from rear property lines, except as follows:
 1. In Times Square, as defined on Figure 34-6, the minimum rear setback is 10 feet.
 2. In areas where parking garages could be built, as defined on Figure 34-7, buildings shall be placed so as not to preclude future parking garages from being built on the interiors of these blocks. Along Old San Carlos Boulevard blocks with potential parking

garages, this requirement means that principal buildings shall not extend further to the rear of lots than 50 feet back from the right-of-way for Old San Carlos Boulevard.

3. Minimum (rear) setbacks of 25 feet shall also be observed along those portions of properties abutting the town-owned parking lot between Old Carlos Boulevard and the Sky Bridge that had been platted as “Center Street” in Plat Book 9, Page 9.
 - b. Minimum side setbacks are 5 feet from side property lines, except they may be 0 feet for properties fronting on Old San Carlos, Estero Boulevard, and in Times Square (see also § 34-674(b)(1)c).
 - c. Minimum setbacks from water bodies are set forth in § 34-637(d)(3).
- (2) For accessory structures, minimum setbacks are set forth in § 34-1171–1176.

Sec. 34-675. Building size.

(a) **Building frontage.** Building frontage limits (see § 34-663) vary according to the street types designated on Figure 34-6:

- (1) For pedestrian plazas and primary streets except for Crescent Street and for Fifth Avenue east of the Sky Bridge, building frontages shall be at least 70% of the lot frontage.
- (2) For all other streets, building frontages shall be at least 35% of the lot frontage.
- (3) For multiple adjoining lots under single control, or for a single lot with multiple buildings, the percentages above apply to the combination of lot(s) and building(s).
- (4) Exception for properties between Estero Boulevard and the Gulf: The required building frontage percentage may be reduced to 35% for properties between Estero Boulevard and the Gulf of Mexico provided that the open space thus created allows open views to the Gulf of Mexico.

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(b) **Building height.** Building heights (see § 34-631) shall be limited to:

- (1) For properties that front on the following streets, a maximum of 30 feet above base flood elevation and no taller than two stories:
 - a. Times Square and Bayfront pedestrian plazas (see Figure 34-6)
 - b. North side of First Street
 - c. South side of Estero Boulevard between Old San Carlos Boulevard and the main pedestrian crossing
 - d. Carolina Avenue
- (2) For properties that front on the following streets, a maximum of 30 feet above base flood elevation and no taller than two stories, except that an elevated building without enclosed space on the first story may be three stories tall (but still limited to 30 feet above base flood elevation):
 - a. Lagoon Street
 - b. Crescent Street
 - c. First, Second, Third, and Fifth (east of the Sky Bridge only)
 - d. North side of Estero Boulevard west of Old San Carlos Boulevard and east of Crescent Street
 - e. Primo Drive
 - f. Palermo Circle
 - g. Miramar Street, north of Estero
 - h. Ohio Avenue
 - i. Virginia Avenue
- (3) For properties that front on the following streets, a maximum of 40 feet above base flood elevation and no taller than three stories:
 - a. Old San Carlos Boulevard between Fifth and First Streets
 - b. South side of First and both sides of Second and Third (west of the Sky Bridge only)
 - c. South side of Estero Boulevard east of the main pedestrian crossing
 - d. Canal Street
 - e. Avenues A, C, E, and I
 - f. Alva Drive
 - g. Miramar Street, south of Estero
 - h. Palm Avenue

(c) **Floor area ratio (FAR).** Floor area ratios (see § 34-633) shall not exceed:

- (1) 1.8 for properties fronting on Old San Carlos between Fifth and First Streets and fronting on the Times Square pedestrian plaza (see Figure 34-6).
- (2) 1.4 for properties fronting on Estero Boulevard and fronting on the Bayfront pedestrian plazas.
- (3) 1.0 for all other properties in the DOWNTOWN district.

(d) **Hotel rooms.**

- (1) Along both sides of Old San Carlos Boulevard (properties between Fifth and First Streets that lie within 200 feet east and west of the centerline of Old San Carlos only), a property owner may substitute hotel rooms for allowable office space on upper floors without the limitations otherwise provided by the hotel-room equivalency factor found in § 34-1802. However, these hotel rooms must have at least 250 square feet per rentable unit.
- (2) In all other properties in the DOWNTOWN district, the number of hotel rooms are limited by the hotel-room equivalency factor found in § 34-1802.

Sec. 34-676. Circulation and parking.

(a) **Off-street parking reductions.** The DOWNTOWN district is planned as a “park-once” district, with preference given to pedestrian movement within the district. On-street parking will be provided by the town along Old San Carlos Boulevard and other public parking is available under the Sky Bridge. For these reasons, substantial reductions are allowed to the normal off-street parking requirements found in § 34-2020. The follow percentages shall be multiplied by the number of off-street parking spaces normally required by § 34-2020 to determine the adjusted off-street parking requirements along various streets in the DOWNTOWN district:

- (1) Old San Carlos Boulevard, multiply by 50%.
- (2) Times Square and Bayfront pedestrian plazas (see Figure 34-6), multiply by 0% for existing building space and multiply by 50% for new building space. No parking spaces may be provided in the Times Square or Bayfront pedestrian plazas, but the required

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spaces must be located within 750 feet in single-purpose, shared, or joint-use parking lots (see division 26 of this chapter).

- (3) All other streets in the DOWNTOWN district, and all land on Crescent Street regardless of zoning district, multiply by 67%.

(b) Parking lot locations. Off-street parking lots shall be placed in rear yards (see Figure 34-5).

- (1) Off-street parking lots are not permitted in front yards or side yards, except they may be placed in the side yards of buildings on properties that front the beach side of Estero Boulevard if the unbuilt area thus created allows open views to the Gulf of Mexico.
- (2) Off-street parking may be provided under commercial or mixed-use buildings along Old San Carlos Boulevard provided that all under-building parking spaces are separated from sidewalks by at least 20 feet of usable commercial space that meets all commercial building design guidelines in §§ 34-991–1010. Off-street parking may be provided under commercial or mixed-use buildings at other locations in accordance with § 34-992(c).

(c) Parking lot interconnections. Rear-yard parking lots on properties fronting along Old San Carlos Boulevard shall be interconnected to eliminate or minimize driveways to Old San Carlos Boulevard.

- (1) To ensure the effective use of these connections, the first to develop shall be required to make an irrevocable offer of cross-access to the adjacent parcel (prior to issuance of a development order), and must design and build the parking lot to accommodate cross-access.
- (2) When adjacent owners seek development orders, they will also be required to reciprocate with a similar cross-access agreements and then must complete the physical connection.
- (3) Individual property owners shall control all rights to the use of their own parking spaces, but may choose to allow wider use of these spaces for a fee of their choosing or through reciprocal arrangements with other parties.

(d) Driveway connections.

- (1) Properties fronting on Estero Boulevard. Existing driveways and parking spaces shall be relocated from Estero Boulevard to secondary streets, and new driveways shall connect only to secondary streets, except where these requirements would prohibit all reasonable access to a property.
- (2) Properties fronting on other primary streets.
 - a. For properties fronting primary streets other than Estero Boulevard, driveways should be connected to secondary streets whenever possible.
 - b. When a driveway onto a primary street is unavoidable, the driveway shall be shared with an adjoining property if that property also has access only to that primary street. Otherwise, the driveway shall be spaced as far as practical from other driveways or intersections.
- (3) Properties fronting only on secondary streets. Driveways may be connected to secondary streets, existing easements, or alleys.
- (4) Properties adjoining pedestrian plazas. Driveways and other vehicular access shall not be provided from pedestrian plazas.

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(e) **Parking garages.** The town has identified three potential locations for mid-block parking garages through its Old San Carlos Boulevard / Crescent Street Master Plan.

(1) Each potential location is indicated in black on Figure 34-7. Construction of these parking garages is not required by this code, but the regulations for the DOWNTOWN district are designed to place new buildings on these sites so that they will not block a parking garage from being built there in the future.

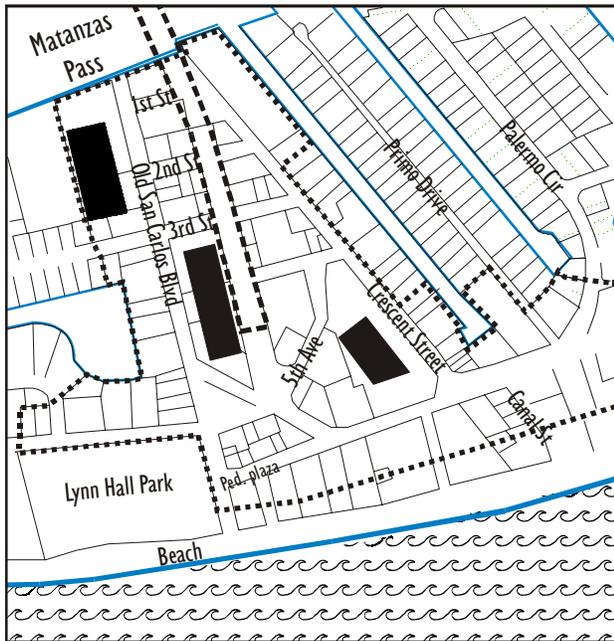


Figure 34-7

(2) All levels of parking garages must be separated from primary streets and pedestrian plazas by a liner building that provides at least 20 feet of usable building space (see Figure 34-8).

- a. Liner buildings must be two stories or more in height and must be at least as tall as the parking garage.
- b. Liner buildings may be detached from or attached to the parking garage.
- c. Parking garages and their liner buildings are required to meet the commercial design standards (see §§ 34-991–1010).

(3) Access to a parking garage may be provided as follows:

- a. Access to a secondary street or road easement is preferred.

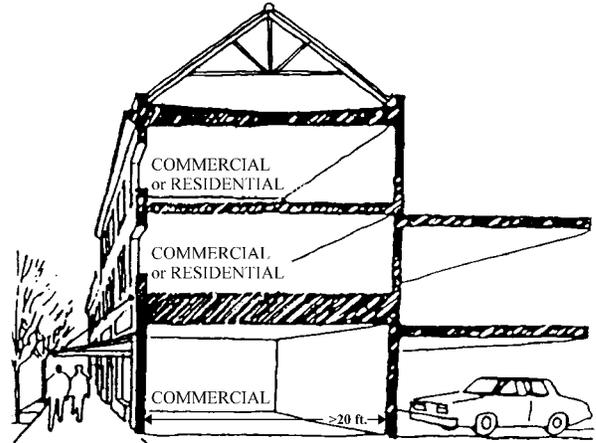


Figure 34-8

- b. Access to a primary street is not permitted except in unusual circumstances where no other access is feasible and when approved as a variance or deviation to this code.
- c. Access may not be provided across a pedestrian plaza.

(4) Parking garages can be approved only by rezoning to the Commercial Planned Development zoning district.

(f) **Drive-through lanes.** Drive-through lanes are generally not allowed in the DOWNTOWN district because traffic generated by drive-through lanes harms a pedestrian environment. The only exception to this rule is that Type 1 drive-throughs (see definition in § 34-2) may be approved by special exception on the north side of Estero Boulevard east of Palermo Circle. In this situation, the number of drive-thru lanes is limited to two lanes, and they shall not be accessed directly, for either entrance or exit, from a separate driveway on Estero Boulevard; they may be accessed from any of the secondary streets or from a shared driveway on Estero Boulevard.

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Sec. 34-677. Additional requirements.

(a) Commercial design standards. The commercial design standards (§§ 34-991–1010) shall apply to all commercial and mixed-use buildings, or portions thereof, that are being newly built, and to “substantial improvements” to such buildings as defined in § 6-405.

(b) Open space and buffers. There are no minimum open space and buffer requirements in the DOWNTOWN district comparable to the standards found in ch. 10, except in three instances:

- (1) Portions of properties that lie east of Palermo Circle and more than 300 feet beyond the north edge of the Estero Boulevard right-of-way shall retain 50% of that portion as open space. This open space may be a stabilized sodded area useable for overflow parking.
- (2) Residential buffers are required between commercial or mixed-use buildings and single-family residential lots for properties on the north side of Estero Boulevard east of Palermo Circle. These buffers shall be constructed in accordance with the buffer requirements of ch. 10 of this code.
- (3) Buffers are required between any off-street parking lot and a public street in accordance with the buffer requirements of ch. 10 of this code.

(c) Outdoor sales. Merchandise may be sold outdoors in the Downtown zoning district only in accordance with this subsection:

- (1) On private property. Retail businesses may sell their regular merchandise outdoors on private property between their stores and a street right-of-way on raised porches or on wheeled vending carts that meet the following criteria:
 - a. Carts may contain no signage whatever;
 - b. Carts must be non-motorized, moveable by hand, and no taller than 10 feet;
 - c. Carts must be moved indoors during any hours that the business is not open; and
 - d. Carts shall have integral roofs or umbrellas and use traditional or creative designs. Figure 34-9 shows two suggested cart designs.



Figure 34-9

- (2) On public property. Retail businesses may sell and serve food on public sidewalks and plazas only as follows:
 - a. These provisions are limited to the Times Square pedestrian plaza (see Figure 34-6), along both sides of Old San Carlos Boulevard, and other locations if explicitly approved by the town council.
 - b. Vending rights are available only to the owner of the private property that immediately abuts the sidewalk or pedestrian plaza.
 - c. Vending rights can be used only in the area directly in front of the private property and lying between 90-degree extensions of the side property lines.
 - d. No fixed or moveable equipment may be used except as follows:
 1. Tables, umbrellas, and chairs may be placed by restaurants for the use of their customers; no signage is permitted except lettering on umbrellas up to 8 inches in height.
 2. Wheeled food carts are permitted if they meet the following criteria:
 - a- Carts must meet the criteria found in § 34-677(c)(1)b-d;
 - b- Not more than one chair or stool may be provided for the employee; and
 - c- One sign per side of cart may be displayed, with each sign limited to 3 square feet in area.
 3. Along Old San Carlos Boulevard, all tables and carts shall be placed only on the 5-foot bricked furnishing zone adjoining the curb and shall not

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- otherwise block pedestrian movement along the sidewalk.
- e. Vending rights may be exercised only upon issuance of a permit by the town that sets forth the conditions of private use of public land, including:
1. Additional restrictions on the degree which tables, umbrellas, chairs, and carts may interfere with pedestrian movement;
 2. Restrictions on the extent to which food not available in the abutting business may be sold;
 3. Requirements for keeping the area surrounding the tables or carts from debris and refuse at all times;
 4. Insurance requirements;
 5. Payment of fees established by the town for vending rights;
 6. Limitations on leasing of vending rights, if any; and
 7. Other reasonable conditions as determined by the town, including full approval rights over the design of umbrellas and carts.

(d) Sandwich signs. [moved from § 34-1145(g)]
The Town's sign regulations are found in ch. 30 of the land development code, and additional guidance is provided through the design guidelines discussed in § 34-1143(c) 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, Sandwich signs may be placed in the Downtown zoning district abutting or extending over public property such as sidewalks despite the general prohibition in § 30-45 of sandwich-board signs, "A" signs, or other types of portable signs which are portable and readily movable from place to place. A business may place a single- or double-faced sandwich signs may be placed on the same premises as the business or on a 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 and a total of 6 square feet per side.

Secs. 34-678--34-680. Reserved.

SANTINI

Subdivision III. SANTINI Zoning District

Sec. 34-681. Purpose.

The purpose of the SANTINI district is to provide alternative futures for the Santini Marina Plaza, either a continuation of the current marina and shopping center or their transformation into a pedestrian-oriented neighborhood center.

- (1) The existing stores and marina in the SANTINI district may continue in full operation and may be renovated or redeveloped in accordance with § 34-682.
- (2) As an alternative, the SANTINI district provides a second set of regulations (in § 34-683) that would allow the transformation of the shopping center and marina into a pedestrian-oriented neighborhood center:
 - a. The SANTINI district can become a neighborhood center to serve visitors and the populous south end of the island in accordance with the design concepts in the Fort Myers Beach Comprehensive Plan (see Policies 3-C-1, 3-C-2, and 4-F-2-ii).
 - b. The site could support additional mixed-use buildings if provided with shared parking, a pattern of smaller blocks, and an urban plaza.
 - c. Full realization of this concept will require a partnership between the property owners and the town that will transform the adjoining portion of Estero Boulevard from a rural highway with deep swales into a street with shaded sidewalks and some on-street parking.

Sec. 34-682. District map and applicability.

The area indicated on Figure 34-10 is the outer boundary of the SANTINI district.

- (1) Properties that are currently zoned in a planned development (PD) district are governed by the terms of the PD zoning resolution rather than the requirements of the SANTINI district, even if the property is shown on Figure 34-10.

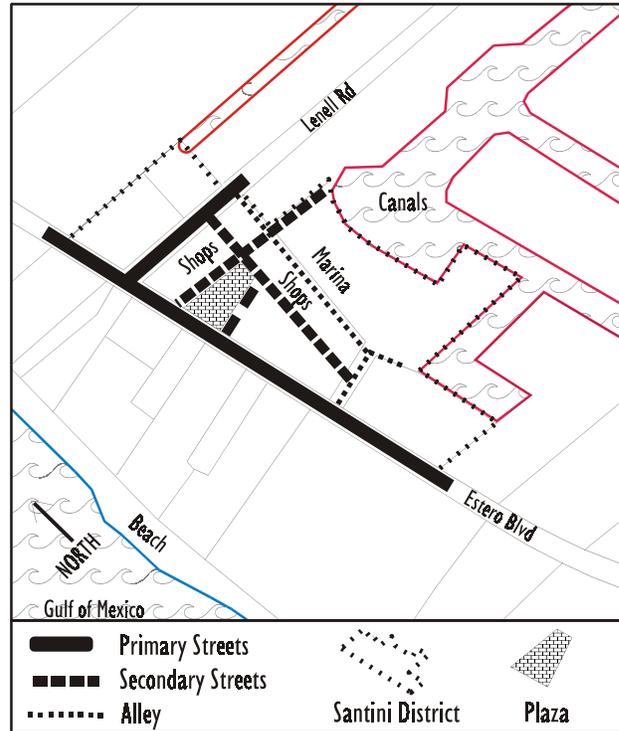


Figure 34-10

- (2) For properties currently zoned into the SANTINI district rather than in a PD district, the applicable regulations are as follows:
 - a. **Continued use of existing buildings.** The regulations in this subdivision apply to the continued use of existing buildings and structures for allowable uses as defined in Tables 34-1 and 34-2 for the SANTINI zoning district.
 - b. **Renovating, enlarging or replacing individual buildings.**
 1. Existing buildings may be renovated, enlarged, or replaced as follows:
 - a- Physical enlargement of existing buildings is permitted provided that the improvements do not constitute a “substantial improvement” as that term is defined in § 6-405 of this code, and
 - b- Replacements for existing buildings are permitted provided that they will not increase the existing floor area ratio, as that term is defined in § 34-633.

2. Renovations, enlargements, and replacements to existing buildings are governed by the regulations for the CM zoning district as provided in Table 34-3 and by the other limitations in this section. In addition:

-a- The commercial design standards (§§ 34-991–1010) shall apply to all commercial and mixed-use buildings, or portions thereof, that are being newly built, and to “substantial improvements” to such buildings as defined in § 6-405.

-b- Any specific deviations granted by prior CPD resolutions shall remain in effect in the SANTINI district until April 1, 2004.

(3) ***Transformation of existing businesses into a neighborhood center.*** Physical enlargements of existing stores that constitute a “substantial improvement” as that term is defined in § 6-405 must be in the form of a neighborhood center as described in § 34-683.

Sec. 34-683. Creation of neighborhood center.

(a) ***Purpose.*** This section provides detailed regulations for the transformation of existing businesses into a neighborhood center.

(1) This transformation may be required by § 34-682(3) or may be chosen by any landowner in the SANTINI district.

(2) Once this option is chosen or required, all subsections of § 34-683 become mandatory requirements, except where they are clearly inapplicable to a given portion of the property.

(b) ***Agreement for streetscape improvements.*** Landowners who choose to partially or fully develop their land in the SANTINI district into a neighborhood center may simultaneously request public streetscape improvements by entering into a development agreement with the town (see § 2-91–102).

(a) This agreement would establish a public/private partnership for the necessary improvements, identifying responsibilities, timing, approximate costs, and funding.

(2) This agreement would also contain a detailed plan for the redevelopment of the property consistent with the regulations in the remainder of this section.

(c) ***Allowable uses.*** Allowable uses for the SANTINI zoning district are defined in Tables 34-1 and 34-2.

(d) ***Streets.*** Secondary streets and alleys shall be laid out and dedicated to the public generally in accordance with Figure 34-10 to improve circulation for vehicles and pedestrians.

(e) ***Plazas.*** An urban plaza at least 1/2 acre in size shall be provided along Estero Boulevard as a focal point for mixed-use buildings and as a public gathering place. This plaza may also be used for overflow parking.

(f) ***Build-to lines established.*** Build-to lines (see § 34-662) vary according to the streets and street types designated on Figure 34-10.

(1) Build-to lines for all primary streets and streets surrounding the plaza are 0 feet to 5 feet.

(2) Build-to lines for all secondary streets are 0 feet to 10 feet.

(3) Awnings, canopies, and marquees over sidewalks and pedestrian walkways are encouraged by the commercial design standards (§ 34-991–1010), especially along Estero Boulevard.

(4) Waterfront boat storage buildings do not need to comply with build-to lines.

(g) ***Setback lines.*** No minimum setbacks are required (see § 34-662).

(h) ***Building frontage.*** Building frontage limits (see § 34-663) vary according to the street types designated on Figure 34-10:

(1) For primary streets and streets surrounding the plaza, building frontages shall be at least 70% of the lot frontage.

(2) For secondary streets, building frontages shall be at least 35% of the lot frontage.

(3) For multiple adjoining lots under single control, or for a single lot with multiple buildings, the percentages above apply to the combination of lot(s) and building(s).

(i) **Building height.** Building heights (see § 34-631) shall be limited to:

- (1) For parcels immediately abutting a plaza of at least ½ acre in size and for parcels immediately abutting canals, a maximum of 40 feet above base flood elevation and no taller than three stories.
- (2) For all other parcels, a maximum of 30 feet above base flood elevation and no taller than two stories.

(j) **Floor area ratio (FAR).** Floor area ratios shall not exceed 1.0 (see § 34-633).

(k) **Residential density.** Residential units can be constructed in the SANTINI district up to the maximum density allowed by the Fort Myers Beach Comprehensive Plan.

(l) **Guest units.** Guest units may be substituted for dwelling units in accordance with the equivalency factors found in § 34-1802.

(m) **Reductions to minimum parking requirements.** Neighborhood centers are “park-once” districts with preference given to pedestrian movement. The number of parking spaces normally required by § 34-2020 shall be multiplied by 67% to determine the adjusted parking requirement for the SANTINI district. Adjoining on-street parking spaces may be counted toward this parking requirement.

(n) **Parking location.** Off-street parking may be provided under commercial or mixed-use buildings provided that:

- (1) All under-building parking spaces must be separated from primary streets and the plaza by at least 20 feet of usable commercial space that meets all commercial design guidelines; and
- (2) Driveways leading to under-building parking spaces must connect to a driveway, secondary street, or alley, and may not be accessed from a primary street or pedestrian plaza.

(o) **Commercial design standards.** The commercial design standards (§§ 34-991–1010) shall apply to all commercial and mixed-use buildings, or portions thereof, that are being newly built, and to “substantial improvements” to such buildings as defined in § 6-405.

Secs. 34-684--34-690. Reserved.

VILLAGE

Subdivision IV. VILLAGE Zoning District

Sec. 34-691. Purpose.

The purpose of the VILLAGE district is to provide alternative futures for the Red Coconut and/or Gulf View Colony, either a continuation of the current land uses or their transformation into a traditional neighborhood pattern.

- (1) The existing residences and businesses in the VILLAGE district may continue in full operation and may be renovated in accordance with §§ 34-692 and 34-694.
- (2) As an alternative, the VILLAGE district provides a second set of regulations that would allow the transformation of either of the existing mobile home and recreational vehicle parks into more permanent and durable housing types in a traditional neighborhood pattern, in accordance with the design concepts in the Fort Myers Beach Comprehensive Plan.

Sec. 34-692. District map and applicability.

The area indicated on Figure 34-11 is the outer boundary of the VILLAGE district.

- (1) Properties that have been zoned into a planned development (PD) district are governed by the terms of the PD zoning resolution rather than the requirements of the VILLAGE district, even if the property is shown on Figure 34-11.
- (2) For properties currently zoned into the VILLAGE district rather than in a PD district, existing residences and businesses may continue in full operation and may be modified in accordance with the following regulations:
 - a. **Continued use of existing mobile homes and recreational vehicles.** The continued use of existing mobile homes and recreational vehicles is permitted in accordance with § 34-694 below.
 - b. **Continued use of and renovations, enlargements, or replacement of existing permanent buildings.**
 1. Existing permanent buildings may be renovated, enlarged, or replaced as follows:

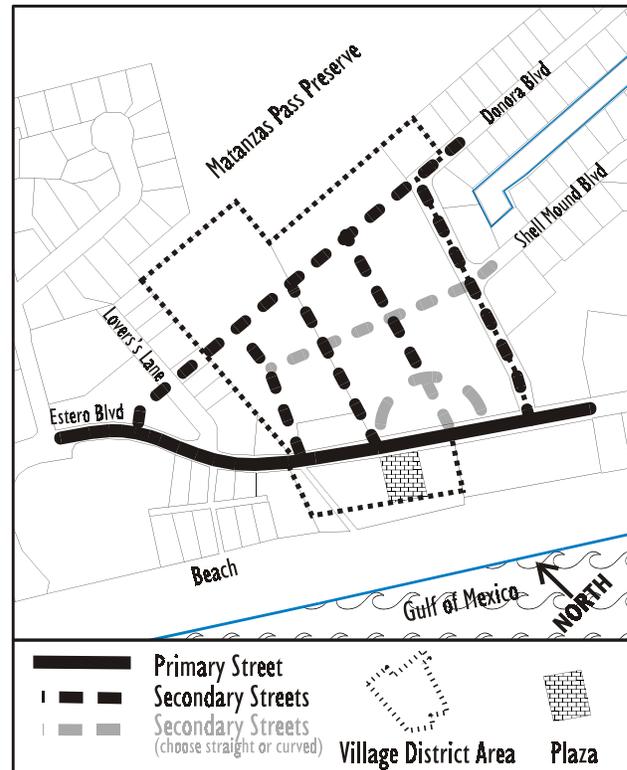


Figure 34-11

- a- Renovations and/or physical enlargement are permitted provided the improvements do not constitute a “substantial improvement” as that term is defined in § 6-405 of this code; or
 - b- Replacement buildings are permitted provided that they do not increase the existing floor area ratio, as that term is defined in § 34-633; or
 - c- Other renovations, enlargements, and/or replacements are permitted provided they comply with those regulations for the CB zoning district that are found in §§ 34-704–34-706.
2. Allowable uses in these buildings are the same as provided in § 34-703(a) for the CB zoning district.
 3. The commercial design standards (§§ 34-991–1010) shall apply to all commercial and mixed-use buildings that are visible from Estero Boulevard, or portions thereof, that are being newly built, and to “substantial improvements” to such buildings as defined in § 6-405.

VILLAGE

(3) **Transformation of existing mobile home and recreational vehicle parks.** Policies 3-A-5, 3-A-6, and 4-F-2-iii of the Fort Myers Beach Comprehensive Plan have authorized a pre-approved redevelopment option for land in the VILLAGE district.

- a. The following concepts are expected in this redevelopment process:
1. traditional neighborhood design emphasizing streets that are interconnected and dwellings with porches or balconies on the front, primary entrances visible from the street, and cars to the rear (except for on-street parking);
 2. detached houses or cottages (with optional accessory apartments) abutting existing single-family homes;
 3. low-rise townhouses or apartments allowed elsewhere on the site;
 4. walkable narrow streets with shade trees that double as view corridors to the Preserve and Gulf;
 5. open space that allows views to be maintained from Estero Boulevard to the Gulf;
 6. mixed commercial and residential uses along the Bay side of Estero Boulevard;
 7. quiet internal street connections to the north and south;
 8. significantly reduced density from the existing level of 27 RV/mobile homes per acre at the Red Coconut to a maximum level of 15 dwelling units per acre; and
 9. a site design that accommodates a publicly acquired access point to the Matanzas Pass Preserve.
- b. At the option of landowners in the VILLAGE district, a development order may be obtained to redevelop all or part of this property in accordance with the option described in more detail in § 34-693 and generally in accordance with either of the conceptual site plans found in the Community Design Element of the Fort Myers Beach Comprehensive Plan. Until such time as this development order is obtained, the regulations in § 34-693 shall have no effect.

Sec. 34-693. Regulations to obtain development order for pre-approved redevelopment option.

(a) **Purpose.** This section provides detailed regulations for the pre-approved redevelopment option if that option is chosen by landowners, as described in § 34-692(3).

(b) **Allowable uses.** Allowable uses in the VILLAGE district are defined in Tables 34-1 and 34-2. If a development order is issued pursuant to § 34-692(3), the additional uses in the “Open” subgroup of Table 34-1 for the residential, lodging, office, and retail groups will be permitted on property that is subject to the development order.

(c) **Streets.** Secondary streets shall be laid out and dedicated to the public generally in accordance with Figure 34-11 to improve circulation for vehicles and pedestrians.

- (1) Figure 34-11 provides two acceptable options for the new network of secondary streets.
- (2) Under either option, the street design must incorporate the extension of a through street from Donora Boulevard to Lovers Lane that will be permanently accessible by the public.

(d) **Plazas.** A plaza at least 100 feet wide shall be provided between Estero Boulevard and the Gulf as a focal point for abutting buildings and as part of a prominent visual corridor to the water.

(e) **Build-to lines established.** Build-to lines (see § 34-662) for all streets shall be 0 feet to 10 feet.

(f) **Setback lines established.** Setback lines (see § 34-662) are established as follows:

- (1) For principal buildings, minimum setbacks are as follows:
 - a. Rear setbacks: 20 feet
 - b. Water body setbacks: see § 34-637(d)(3).
- (2) For accessory structures, minimum setbacks are set forth in § 34-1171-1176.

(g) **Building frontage.** Building frontage limits (see § 34-663) vary according to the street types designated on Figure 34-11:

- (1) For primary streets, building frontages shall be at least 50% of the lot frontage. This percentage may be reduced to 35% for properties between Estero Boulevard and the

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Gulf of Mexico provided that the open space thus created allows open views to the Gulf.

- (2) For multiple adjoining lots under single control, or for a single lot with multiple buildings, the percentages above apply to the combination of lot(s) and building(s).

(h) ***Building height.*** Building heights (see § 34-631) shall be limited to:

- (1) For properties that front on the bay side of Estero Boulevard and all streets other than Estero Boulevard, a maximum of 30 feet above base flood elevation and no taller than two stories. However, for mixed-use buildings and for elevated buildings without enclosed space on the first story, the maximum height is three stories (but still limited to 30 feet above base flood elevation).
- (2) For properties that front on the beach side of Estero Boulevard, a maximum of 40 feet above base flood elevation and no taller than three stories.

(i) ***Floor area ratio (FAR).*** Floor area ratios shall not exceed 1.2.

(j) ***Residential density.*** Policy 4-F-2-iii of the Fort Myers Beach Comprehensive Plan allows up to 15 dwelling units per acre for redevelopment in accordance with this section. Any land used for roadway or access purposes may be included in this density computation.

(k) ***Guest units.*** Guest units may be substituted for dwelling units in accordance with the equivalency factors found in § 34-1802.

(l) ***Circulation and parking.*** Off-street parking may be provided under commercial or mixed-use buildings provided that:

- (1) All under-building parking spaces must be separated from primary streets and the plaza by at least 20 feet of usable commercial space that meets all commercial building design guidelines; and
- (2) Driveways leading to under-building parking spaces must connect to a secondary street or an alley and may not be accessed from a primary street or pedestrian plaza.

(m) ***Commercial design standards.*** The commercial design standards (§§ 34-991–1010) shall apply to all commercial and mixed-use buildings that are visible from Estero Boulevard, or portions thereof, that are being newly built, and to “substantial improvements” to such buildings as defined in § 6-405.

Sec. 34-694. Regulations for existing mobile homes and recreational vehicles.

(a) ***Definitions.*** These phrases, when used in this subdivision, shall have the following meanings:

Park trailer means a transportable recreational vehicle which has a body width not exceeding 14 feet and which is built on a single chassis and is designed to provide seasonal or temporary living quarters when connected to utilities necessary for operation of installed fixtures and appliances. “Park trailers” have a statutory definition in F.S. § 320.01(b) which may change; the use of the term “park trailer” in this subdivision is intended to change with any such statutory changes so as to be consistent with state law.

Transient RV park means a recreational vehicle development designed, intended for, or used by relatively short-stay visitors (transient guests) who bring their transient recreational vehicle with them and remove it at the end of their visit. The individual recreational vehicle site is then ready for another visitor. [definition moved from § 34-2]

Transient recreational vehicle unit means a camping trailer, truck camper, motor home, or travel trailer, motor home, or van conversion (as those terms are defined by F.S. § 320.01(b)) which is brought to the transient recreational vehicle park by the user and is removed from the park at the end of the user’s visit. Park trailers are not considered to be transient recreational vehicles. [definition moved from § 34-2]

VILLAGE

(b) 1987 site plan approvals. Lee County approved site plans for Gulf View Colony and Red Coconut in 1987 to formally acknowledge the right to replace mobile homes and non-transient recreational vehicles in portions of each park in accordance with previous regulations. These site plans were approved in accordance with Lee County Ordinance 86-36. The Town of Fort Myers Beach will continue to recognize those rights, which are incorporated into the regulations set forth in this section.

- (1) Sites in Gulf View Colony and Red Coconut or lots located within a park shall not be reconfigured or reduced in dimension so as to increase the density for which the park was originally created. *[relocated from § 34-3272(3)c.3]*
- (2) No division of any parcel may be permitted which creates a lot with width, depth or area below the minimum requirements stated in this chapter, provided that Contiguous sites lots of record may be combined and redivided to create larger dimension sites lots as long as such recombination includes all parts of all sites lots, and existing allowable density is not increased, and all setback requirements are met. *[previous sentence moved from § 34-3272(3)b]*
- (3) Sec. 34-2351. Use as permanent residence. The use of a recreational vehicle or park trailer type unit by a permanent resident as a permanent residence, as the terms are defined in F.S. ch. 196, is has been expressly prohibited as of since September 16, 1985. Persons who have established permanent residency within a recreational vehicle park as of September 16, 1985, are exempt from the residency provisions of this section, provided that the proof of residency was established by an affidavit filed with the Lee County prior to October 31, 1985. *[subsection moved from § 34-2351]*
- (4) Permits shall also be issued for reroofing and roof repairs for any existing mobile home, park model, or recreational vehicle located within a mobile home or recreational vehicle park, regardless of lot size. *[moved from § 34-3204]*

(c) Gulf View Colony: A site plan for Gulf View Colony was approved by Lee County on February 11, 1987, which showed 59 mobile homes sites plus common recreational features. This plan was drawn by G. H. Taylor and was dated January 10, 1987.

- (1) Lee County approved the replacement of a mobile home or park trailer on all 59 sites. These sites were determined to have been in compliance with regulations that were in effect at the time of their creation.
- (2) Replacement of mobile homes or park trailers on these sites must meet the following regulations:
 - a. All units mobile homes or recreational vehicles shall have a minimum separation of ten feet between units (body to body) and appurtenances thereto. Each unit shall be permitted to have eaves which encroach not more than one foot into the ten-foot separation. *[subsection moved from § 34-3272(3)c.2]*
 - b. Replacement mobile homes, park trailers, and additions must meet the floodplain elevation requirements of § 6-472(2), including the limitations on replacements where past flooding has caused “substantial damage” on specific sites.
 - c. A move-on permit must be obtained in accordance with § 34-1923 and the mobile home or park trailer must comply with the tie-down and skirting requirements of that section.
 - d. One freestanding storage shed or utility room, not exceeding 120 feet in floor area and ten feet in height, may be permitted in any type B (nontransient) park provided that:
 1. No storage shed or utility room shall be located closer than five feet to any side or rear lot line or closer than ten feet to any mobile home or park trailer recreational vehicle under separate ownership; and
 2. The shed or room is properly tied down and complies with all building code requirements. *[moved from § 34-786(b)]*
 - e. Additions to mobile homes or park trailers recreational vehicles may be permitted in nontransient parks on permanent recreational vehicles provided that:

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1. The addition shall not be located closer than five feet to any side or rear lot line or closer than ten feet to any mobile home, park trailer, or addition thereto under separate ownership. The individual recreational vehicle site meets or exceeds the minimum required lot size set forth in this division;
 2. The total floor area of any additions, excluding open decks and stair landings, shall not exceed the total floor area of the mobile home or park trailer, recreational vehicle, and
 3. The maximum height of additions shall not exceed ~~one story~~ or the height of the mobile home or park trailer, recreational vehicle, whichever is less.
 4. Open decks, up to 120 square feet in area, may be permitted provided all setback requirements are met. Stair landings that are incorporated into a deck shall be calculated in the square footage of the deck.
 5. Stairs or stair landings, which are attached to an addition, and which are not incorporated into an open deck, may be permitted to encroach three feet into the side and rear setbacks. No stair landing shall exceed 12 square feet in area. *[moved from § 34-788]*
- (d) **Red Coconut:** Parts of a site plan for the Red Coconut were approved by Lee County on June 2, 1987. This plan was drawn by David Depew and was dated May 20, 1987.
- (1) **Sites approved in 1987.** Lee County approved the replacement and potential enlargement of a mobile home or park trailer on each of the following sites: A7-A9, A12-A15, B12, B14-B16, C1, C7, D1, D2, D6, D8-D17, E1-E16, E18-E20, F1-F9, and G2-G12.
 - a. These sites were determined to have been in compliance with regulations that were in effect at the time of their creation.
 - b. Replacement mobile homes or park trailers on these sites must follow the same regulations as provided in § 34-694(c)(2).
 - (2) **Sites not approved in 1987.** Some smaller sites that also contained a mobile home or non-transient recreational vehicle were not approved for larger units in 1987: AA, A1-A6, A10-A11, A16-A17, B1-B11, B13, C2-C6a, C8-C10, CE1-CE7, CWOO-CW6, CRD, D3-D5, D7-D7A, E17, and 1-6 on the bay side of Estero Boulevard. Units on these sites may be replaced only by a unit of equal or smaller size, in accordance with the following regulations:
 - a. Any mobile home or non-transient recreational vehicle unit which has been lawfully placed on these sites on any rental lot within any rental park, regardless whether the park has been converted to either cooperative or condominium ownership prior to June 25, 1986, may be replaced by a unit mobile home or park trailer of equal or smaller size upon proof that the placement of the unit was lawful. Such proof may consist of copies of official tax records, tag registrations or county or town permits, or may be by affidavit or any other competent evidence. No additions which would cause the total size to exceed the size of the previous lawful unit will be permitted. *[moved from § 34-3204]*
 - b. Replacement mobile homes and park trailers must meet the floodplain elevation requirements of § 6-472(2), including the limitations on replacements where past

flooding has caused “substantial damage” on specific sites.

Secs. 34-695--34-700. Reserved.

- c. A move-on permit must be obtained in accordance with § 34-1923 and the mobile home or park trailer must comply with the tie-down and skirting requirements of that section.
- d. One storage shed or utility room may be permitted if in compliance with § 34-694(c)(2)d.
- e. Additions may not be constructed.
- (3) ***Transient RV park.*** The remainder of the sites shown on this plan may continue in operation as a transient RV park. These sites can be identified on the 1987 site plan as follows: on the Gulf of Mexico, sites 1-53; on the bay side of Estero Boulevard, sites H1-H10, J1-J10, K1-K18, L1-L4, M1-M4, N1-N14, P1-P3, R1-R3, Y-Y-Y-Y, and Z1-Z3. The following regulations apply to these 135 sites:
 - a. Transient recreational vehicles must comply with the floodplain regulations found in § 6-472(3).
 - b. Additions may not be constructed onto transient recreational vehicles.
 - c. Storage sheds and other accessory structures may not be placed on individual sites.
 - d. All travel trailers, motor homes or camping trailers left unattended for more than two weeks during the months of June through December. For purposes of this section only, the term “unattended” shall be interpreted to mean that the owner of the unit has not provided for a person to be responsible for the unit in the event of a hurricane watch alert as set forth in the following subsection (2)b of this section. [moved from § 34-762(2)i.2.a]
 - e. All travel trailers, motor homes or camping trailers shall be tied down within 48 hours of the issuance of a hurricane watch for the county by the National Hurricane Center. Travel trailers, motor homes or camping trailers not tied down shall be removed from the county within 48 hours of such a hurricane watch, or placed within an approved off-lot storage area. [moved from § 34-762(2)i.2.b]

CB (Commercial Boulevard)

Subdivision V. CB Zoning District

Sec. 34-701. Purpose.

The purpose of the CB (Commercial Boulevard) district is provide standards for existing commercial uses and certain other uses along those portions of Estero Boulevard where the “Boulevard” classification of the Fort Myers Beach Comprehensive Plan promotes a mixed-use development pattern.

Sec. 34-702. Applicability.

(a) **Continued use.** The regulations in this subdivision apply to the continued use of existing buildings and structures for allowable uses as defined in § 34-703 on all properties zoned CB.

(b) **Enlarging or replacing buildings for existing commercial uses.** The regulations in this subdivision also apply to the following activities:

- (1) Physical enlargement of buildings or structures housing existing commercial uses, provided that the improvements do not constitute a “substantial improvement” as that term is defined in § 6-405 of this code, and
- (2) Replacement buildings for existing commercial uses that will not increase the existing floor area ratio, as that term is defined in § 34-633.

(c) **Enlarging or replacing buildings for all other allowable uses.** The regulations in this subdivision also apply to the physical enlargement of and replacement buildings for all allowable uses other than existing commercial uses.

(d) **New or expanded commercial uses.** In accordance with Policies 4-B-5 and 4-C-3-iv of the Fort Myers Beach Comprehensive Plan:

- (1) New or expanded commercial uses in the “Boulevard” category of the Fort Myers Beach Comprehensive Plan require rezoning as a Commercial Planned Development (see § 34-951).
- (2) Physical enlargements of existing commercial buildings that constitute a “substantial improvement” as that term is defined in § 6-405 also require rezoning as a Commercial Planned Development.

- (3) For purposes of this section only, the following types of re-use of existing floor area shall be deemed a continuation of an existing commercial use rather than a new or expanded commercial use:
 - a. an existing office use converted to another office use;
 - b. an existing retail use converted to another retail use or to an office use;
 - c. an existing restaurant converted to another restaurant or to a retail or office use;
 - d. an existing bar or cocktail lounge converted to another bar or cocktail lounge or to a restaurant, retail, or office use.

Sec. 34-703. Allowable uses.

(a) In the CB district, allowable uses are defined as any of the following:

- (1) Those uses defined in Table 34-2 for the CB district;
- (2) Continuation of commercial uses that were lawfully existing on [insert effective date of this amendment]; and
- (3) Those additional commercial uses of existing floor space as provided by § 34-702(d)(3).

(b) Any landowner wishing to place other new or expanded commercial uses on property that is zoned CB must rezone the property to Commercial Planned Development.

Sec. 34-704. Building placement.

(a) **Build-to lines established.** Build-to lines (see § 34-662) for Estero Boulevard are established at 5 to 10 feet from front property lines. Awnings, canopies, and marquees over sidewalks and pedestrian walkways are encouraged by the commercial design standards (§§ 34-991–1010).

(b) **Setback lines established.** Setback lines (see § 34-662) are established as follows:

- (1) For principal buildings:
 - a. Minimum street setbacks for all streets other than Estero Boulevard are 10 feet.
 - b. Minimum rear setbacks are 20 feet from rear property lines.
 - c. Minimum side setbacks are 5 feet from side property lines.

CB (Commercial Boulevard)

- d. Minimum setbacks from water bodies are set forth in § 34-637(d)(3).
- (2) For accessory structures, minimum setbacks are set forth in § 34-1171–1176.

Sec. 34-705. Building size.

- (a) ***Building frontage.*** Building frontage limits (see § 34-663) are established as follows:
- (1) For Estero Boulevard, building frontages shall be at least 50% of the lot frontage. This percentage may be reduced to 35% for properties between Estero Boulevard and the Gulf of Mexico provided that the open space thus created allows open views to the Gulf of Mexico.
- (2) For multiple adjoining lots under single control, or for a single lot with multiple buildings, the percentages above apply to the combination of lot(s) and building(s).

- (b) ***Building height.*** Building heights (see § 34-631) shall be limited to:
- (1) For properties that front on the bay side of Estero Boulevard and all streets other than Estero Boulevard, a maximum of 30 feet above base flood elevation and no taller than two stories, except that an elevated building without enclosed space on the first story may be three stories tall (but still limited to 30 feet above base flood elevation).
- (2) For properties that front on the beach side of Estero Boulevard, a maximum of 40 feet above base flood elevation and no taller than three stories.

- (c) ***Floor area ratio (FAR).*** Floor area ratios (see § 34-633) shall not exceed 1.0.

Sec. 34-706. Circulation and parking.

(a) ***Parking lot locations.*** Off-street parking lots shall be placed in side or rear yards (see Figure 34-5). Off-street parking lots are not permitted in front yards.

(b) ***Under-building parking.*** Off-street parking may be provided *under* commercial or mixed-use buildings provided that all under-building parking spaces are screened in accordance with § 34-992(a)(2).

(c) ***Parking lot interconnections.*** Wherever physically possible, parking lots for abutting properties fronting along Estero Boulevard shall be interconnected to eliminate or minimize driveways to Estero Boulevard.

- (1) To ensure the effective use of these connections, the first to develop shall be required to make an irrevocable offer of cross-access to the adjacent parcel (prior to issuance of a development order), and must design and build the parking lot to accommodate cross-access.
- (2) When adjacent owners seek development orders, they will also be required to reciprocate with a similar cross-access agreements and then must complete the physical connection.
- (3) Individual property owners shall control all rights to the use of their own parking spaces, but may choose to allow wider use of these spaces for a fee of their choosing or through reciprocal arrangements with other parties.

(d) ***Driveway connections for properties fronting on Estero Boulevard.*** Existing driveways and parking spaces shall be relocated from Estero Boulevard to other streets and new driveways shall connect only to other streets, except where these requirements would prohibit all reasonable access to a property. When a driveway onto Estero Boulevard is unavoidable, the driveway shall be shared with an adjoining property if that property also has access only to Estero Boulevard. Otherwise, the driveway shall be spaced as far as practical from other driveways or intersections.

Sec. 34-707. Commercial design standards.

The commercial design standards (§§ 34-991–1010) shall apply to all commercial and mixed-use buildings, or portions thereof, that are being newly built, and to “substantial improvements” to such buildings as defined in § 6-405.

Secs. 34-708--34-930. Reserved.

Planned Development Zoning Districts

~~DIVISION 2. AGRICULTURAL DISTRICTS
[deleted in its entirety]~~

~~DIVISION 3. RESIDENTIAL DISTRICTS
[deleted in its entirety]~~

~~DIVISION 4. RECREATIONAL
VEHICLE PARK DISTRICTS
[deleted in its entirety]~~

~~DIVISION 5. COMMUNITY
FACILITIES DISTRICTS
[deleted in its entirety]~~

~~DIVISION 6. COMMERCIAL DISTRICTS
[deleted in its entirety]~~

~~DIVISION 7. MARINE-
ORIENTED DISTRICTS
[deleted in its entirety]~~

~~DIVISION 8. INDUSTRIAL DISTRICTS
[deleted in its entirety]~~

DIVISION 6 9. PLANNED DEVELOPMENT ZONING DISTRICTS

Subdivision I. Generally

Sec. 34-931. Purpose and effect intent.

(a) **Purpose. Generally.** The general purpose and intent of the various planned development zoning districts is to provide a degree of flexibility for a landowner to propose the development of land in a manner that differs from the specific provisions of this code, and to allow the town council the ability to evaluate such a proposal relative to specific conditions on and around the site and as to its compliance with the Fort Myers Beach Comprehensive Plan, set forth in § 34-612(2). The purpose and intent of specific planned development districts is set forth in subsections (b) through (g) of this section. *[existing subsections (b)-(g) deleted]*

(b) **Effect.** A planned development, once approved through the rezoning process, can only be developed in accordance with the specific master concept plan and special conditions that are contained in the zoning resolution approving the

planned development. See §§ 34-217–220 for details on the effect of planned development zoning.

Sec. 34-932. Regulation of land use in planned developments.

(a) **General requirements and special conditions.** All uses of land, water, and structures permitted in a planned development shall be subject to:

- (1) the general requirements for planned developments,
- (2) all applicable regulations in this code, except where approval is granted to deviate from one or more of those regulations,

- (3) an adopted master concept plan, and
- (4) various special conditions ~~as required.~~ (b) Special conditions which may be formulated and applied to address unique aspects of the parcel in the protection of a bona fide public interest:

a. The source of such conditions restrictions may include good planning practice as well as those specifications set forth in the application documents, plus policies and standards set forth in the Fort Myers Beach Comprehensive Lee Plan.

b. ~~(c)~~ All special conditions shall be reasonably related to the proposed development and to any reasonably expected impacts on public services and facilities and the public safety, health, and general welfare. ~~Such special conditions should be pertinent to the mitigation of these impacts.~~

c. ~~All~~ Special conditions shall be adopted as part of the zoning resolution approving and as an appendix to the approved master concept plan which governs the planned development.

(d) ~~The standards for use and development of a planned development shall be set forth in the documentation attached to the master concept plan, and, unless modified through the schedule of deviations, where applicable (see § 34-412), such standards shall not be less restrictive than the minimum standards set forth elsewhere in this chapter or other applicable development regulations.~~

~~Sec. 34-412. Deviations from general zoning regulations.~~ (a) Except where specifically

Planned Development Zoning Districts

suspended or preempted by alternative regulations in this article, or by special conditions adopted to the master concept plan, all general provisions of this chapter shall apply to any planned development. However, to provide

(b) **Deviations.** To allow design flexibility in developing land through this article, deviations from specific the general provisions of this code chapter, as well as from any separate land development regulation or code, may be permitted where it can be demonstrated in the process of reviewing the concept plan that the planned development will be enhanced and that the intent of such regulations to protect health, safety, and welfare will be served. Other portions of this code may provide additional criteria for certain deviations (for example, see § 34-992(e) regarding deviations from commercial design standards). No deviation may be granted that is inconsistent with the comprehensive plan.

(1) Such Requested deviations shall be set forth in a separate schedule on the master concept plan or in the application and shall be accompanied by documentation including sample detail drawings, illustrating how each deviation would operate to the benefit, or at least not to the detriment, of the public interest.

(2) Approved deviations shall be adopted as part of the zoning resolution approving the planned development, set forth as part of the documentation attached to the master concept plan. (b) Deviations may be permitted by this procedure to general or specific standards set forth in this chapter, chapter 10 when specifically requested and approved on the master concept plan, and other development ordinances.

(c) Sec. 34-413: *Density or intensity of use.* Density or intensity of use permitted in any planned development shall be determined by the town council in the zoning resolution on a case-by-case basis in accordance with the following:

- (1) The range of density or intensity of or the uses permitted or encouraged under the Fort Myers Beach Comprehensive Lee Plan at that location, and
- (2) The availability of adequate capacity of all public facilities and services (in order of precedence, roads, water, sewer, surface

water management, public safety, schools and other public services);

- (3) The level of public services to be provided by the development; and
- (2) (4) The nature of and the density and intensity of existing or proposed development surrounding the project.

In no case, however, shall the density of a planned development be permitted to exceed six units per acre in areas designated as rural or open lands by the Lee Plan.

(d) **Phasing.** The town council may specify a phasing plan in the resolution in accordance with § 34-220.

(e) **Other requirements for planned developments.**

- (1) Specific application requirements for planned development zoning districts are set forth in § 34-212-215.
- (2) Procedures to amend a planned development zoning district are set forth in § 34-214 and 34-219.
- (3) Other requirements for planned developments are found in §§ 34-211-410.

Sec. 34-933. Allowable uses of land.

(a) (c) Areas devoted to various uses shall be designated on the concept plan. The application for a planned development shall include a schedule detailing the uses desired; Proposed principal and accessory land uses must be listed on the proposed master concept plan, identifying such uses by citing the same uses allowed by a specific zoning district, or by citing the enumerated uses of one or more use groups or sub-groups as found in Tables 34-1 and 34-2 of this article, conventional zoning districts, use activity groups (§ 34-622), and defined uses (§ 34-2). Approved planned developments that used a different method for enumerating uses shall be interpreted in accordance with the use regulations in effect at the time of that approval.

Sec. 34-933. Permitted uses. Except as specifically indicated to the contrary, the uses listed in § 34-934, pertaining to use regulations for planned development districts, may be permitted in the indicated districts when consistent with the goals, objectives, and policies of the Lee Plan for the land

Planned Development Zoning Districts

use category in which the property is located, and when approved on the enumerated documentation of the master concept plan.

(b) Approved uses shall be adopted as part of the zoning resolution approving the planned development. Uses that are not specifically listed in § 34-934 may also be permitted if, in the opinion of the director, they the uses and their expected impacts are substantially similar to an approved listed permitted use.

Secs. 34-934--34-940. Reserved.

Sec. 34-934. Use regulations table:

Use regulations for planned development districts are as follows:

TABLE 34-934. USE REGULATIONS FOR
PLANNED DEVELOPMENT DISTRICTS
[table deleted in its entirety]

Sec. 34-935. Property development regulations:

(a) *Minimum area for planned developments.*
[deleted in its entirety]

(b) *Minimum setbacks of structures, buildings and pavement from development perimeter boundaries.* *[deleted in its entirety]*

(c) *Uses permitted within required perimeter setback.* *[deleted in its entirety]*

(d) *Developments on Pine Island.* *[deleted in its entirety]*

(e) *Minimum lot size, dimensions and setbacks.*
[deleted in its entirety]

(f) *Height of buildings.* *[deleted in its entirety]*

(g) *Open space.* *[deleted in its entirety]*

Sec. 34-936. General conditions for all land uses.
[deleted in its entirety]

Sec. 34-937. Commercial uses in RPD and MHPD districts. *[deleted in its entirety]*

Sec. 34-938. Industrial uses in CPD district.
[deleted in its entirety]

Sec. 34-939. Recreational vehicle planned developments. *[deleted in its entirety]*

Sec. 34-940. Mixed use planned developments.
[deleted in its entirety]

Subdivision II. RPD (Residential Planned Development) Zoning District

Sec. 34-941. Intent of RPD (Residential Planned Development) zoning district.

The intent of the RPD district is to allow a landowner the ability to submit a specific proposal for a land development that is primarily residential in character and that complies with the Fort Myers Beach comprehensive plan, but which does not meet the specific requirements of a conventional or redevelopment zoning district.

Sec. 34-942. Allowable uses of land.

Allowable principal and accessory land uses in an RPD zoning district shall be established in each zoning resolution in accordance with § 34-933. Certain of the use sub-groups enumerated in Table 34-1 are not available in RPD zoning districts; see footnotes under Table 34-2.

Sec. 34-943. Building placement, size, design, and other property development regulations.

Building placement, size, design, and all other property development regulations in an RPD zoning district shall be the same as for the RM zoning district, unless the zoning resolution specifies otherwise. Exceptions are as follows:

- (1) Compliance with the master concept plan and any special conditions may provide additional restrictions.
- (2) Approved deviations may modify or eliminate restrictions that would otherwise apply.

Sec. 34-944--34-950. Reserved.

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Subdivision III. CPD (Commercial Planned Development) Zoning District

Sec. 34-951. Intent of CPD (Commercial Planned Development) zoning district.

The intent of the CPD district is to allow a landowner the ability to submit a specific proposal for a land development that is primarily non-residential or mixed-use in character and that complies with the Fort Myers Beach comprehensive plan, but which does not meet all of the specific requirements of a conventional or redevelopment zoning district.

Sec. 34-952. Allowable uses of land.

Allowable principal and accessory land uses in a CPD zoning district shall be established in each zoning resolution in accordance with § 34-933.

Sec. 34-953. Building placement, size, design, and other property development regulations.

Building placement, size, design, and all other property development regulations in a CPD zoning district shall be the same as for the CR zoning district for CPDs that are primarily lodging, or for the CB zoning district for all other CPDs, unless the zoning resolution specifies otherwise. Exceptions are as follows:

- (1) Compliance with the master concept plan and any special conditions may provide additional restrictions.
- (2) Approved deviations may modify or eliminate restrictions that would otherwise apply.

Sec. 34-954. Commercial design standards.

The commercial design standards (§§ 34-991–1010) shall apply to all commercial and mixed-use buildings or portions thereof that are being newly built, and to “substantial improvements” to such buildings as defined in § 6-405, on properties that are zoned CPD (commercial planned development).

Sec. 34-955–34-960. Reserved.

Subdivision IV. Former Planned Development Zoning Districts

Sec. 34-961. Former MPD zoning district.

The MPD (mixed-use planned development) zoning district had been assigned to certain developments which had received zoning approval prior to major amendments to this code. MPD zoning was automatically converted to CPD zoning through revisions to this chapter which became effective on [insert effective date]. All rights and restrictions previously authorized by MPD zoning resolutions remain in full force and effect after the conversion to CPD zoning.

~~DIVISION 10. SPECIAL PURPOSE DISTRICTS~~

~~Subdivision I. In-General [deleted in its entirety]~~

~~Subdivision II. Environmentally Critical District [moved to § 34-652]~~

~~Subdivision III. Airport Hazard District [deleted in its entirety]~~

~~Subdivision IV. Planned Unit Development District~~

~~Sec. 34-1031. Applicability.~~

Sec. 34-962. Former PUD zoning district.

(a) The PUD (planned unit development) zoning district had been assigned to certain is intended to recognize and provide for those developments which had received preliminary or final approval as a planned unit development or which had been scheduled for a PUD hearing before the local planning agency prior to September 30, 1985. PUD zoning was automatically converted to CPD zoning through revisions to this chapter which became effective on [insert effective date]. All rights and restrictions previously authorized by PUD zoning resolutions remain in full force and effect after the conversion to CPD zoning. Subsequent to September 30, 1985, no application for preliminary approval of a development of a planned unit development shall be accepted. (b) Certain sections

Planned Development Zoning Districts

of the PUD district regulations are hereby retained so as to allow completion of these developments which have received preliminary approval prior to August 1, 1986. All other sections concerned with preapplication and preliminary approval procedures are stricken:

Sec. 34-963-34-990. Reserved.

~~Sec. 34-1032. Purpose and intent: [deleted in its entirety]~~

~~Sec. 34-1033. Definitions: [deleted in its entirety]~~

~~Sec. 34-1034. Conflicting provisions: [deleted in its entirety]~~

~~Sec. 34-1035. Compliance with other regulations: [deleted in its entirety]~~

~~Sec. 34-1036. Procedure for approval; effect of PUD zoning: [deleted in its entirety]~~

~~Sec. 34-1037. Contents of final development plan: [deleted in its entirety]~~

~~Sec. 34-1038. Changes to final development plan: [deleted in its entirety]~~

~~Sec. 34-1039. Amendments to built planned unit developments: [deleted in its entirety]~~

~~Sec. 34-1040. Area, density and setback requirements; permitted uses: [deleted in its entirety]~~

~~Sec. 34-1041. General development standards; required improvements: [deleted in its entirety]~~

~~Secs. 34-1042--34-1070. Reserved.~~

DIVISION 7.
COMMERCIAL DESIGN STANDARDS

Sec. 34-991. Purpose and intent.

The purposes of design regulations for commercial buildings include:

- (1) Encouraging traditional building forms that reinforce the pedestrian orientation and desired visual quality of the Town of Fort Myers Beach.
- (2) Creating usable outdoor space through the arrangement of compatible commercial buildings along street frontages.
- (3) Encouraging buildings of compatible type and scale to have creative ornamentation using varied architectural styles.
- (4) Enhancing the town's business districts as attractive destinations for recreation, entertainment, and shopping.
- (5) Maintaining and enhancing the town's sense of place and its property values.
- (6) Implementing the design concepts in the Fort Myers Beach Comprehensive Plan.

Sec. 34-992. Applicability and compliance.

(a) ***Applicability.*** Except where this code specifically provides otherwise, these commercial design standards apply to all commercial and mixed-use buildings or portions thereof that are being newly built, and to "substantial improvements" to such buildings as defined in § 6-405, on properties that are zoned in any of the following zoning districts:

- (1) SANTOS (§ 34-648);
- (2) DOWNTOWN (§ 34-671-680);
- (3) SANTINI (§ 34-681-690);
- (4) VILLAGE (§ 34-691-700);
- (5) CB (§ 34-701-710); and
- (6) CPD (commercial planned development) (§ 34-951-960). ~~or that lie within the redevelopment overlay districts described in §§ 34-1141-1146.~~

(b) ~~(+)~~ Commercial buildings on properties with a CPD zoning resolution that incorporated specific architectural elevations shall be required to comply with these standards to the extent that the standards are not inconsistent with the approved elevations.

(c) ~~(2)~~ Commercial buildings such as hotels that will not contain commercial uses below base flood

elevation shall not be required to comply with the ground-floor window and retail standards except along Old San Carlos Boulevard (see § 34-676b). However, the principal facades of these buildings must screen underbuilding parking areas in a manner acceptable to the town manager or designee.

(d) ***Compliance determinations.*** Compliance with these standards shall be determined as follows:

- (1) An applicant may seek conceptual or final approval of a specific building and site design during the commercial planned development rezoning process (see § 34-931). The resolution approving a commercial planned development may include specific site plans and building elevations and shall specify the extent to which these plans and elevations have or have not been determined to meet these commercial design standards and whether any deviations to these standards have been granted.
- (2) Unless final approval has been granted pursuant to subsection (1), the town manager shall make a determination of substantial compliance with these standards before a development order can be issued pursuant to ch. 10 of this code, or before a building permit can be issued if a development order is not applicable. Compliance determinations of the town manager are administrative decisions which may be appealed in accordance with article II of this chapter.

(e) ***Variances and deviations.*** Requests to vary from a substantive provision of these standards may be filed using the variance procedures and evaluated using the findings in § 34-87, or may be requested during planned development rezonings as a deviation as described in § 34-932(b)(c). The following are acceptable justifications for ~~variances~~ or deviations from these commercial design standards (in addition to the general requirements of § 34-932(b)):

- (1) The proposed substitution of materials or function accomplishes substantially the same goals as the required provisions in these standards and would make an equal or greater contribution to the public realm of the Town of Fort Myers Beach; or
- (2) The proposed building is a civic building, which is expected to be more visually

prominent than a typical commercial building, or

- (3) ~~There are exceptional or extraordinary conditions that are inherent to the property in question, that do not apply generally to other nearby properties, and that are not the result of actions of the applicant.~~

Sec. 34-993. Definitions.

Arcade means a series of columns topped by arches that support a permanent roof over a sidewalk.

Awning means a flexible roof-like cover that extends out from an exterior wall and shields a window, doorway, sidewalk, or other space below from the elements.

Balcony means an open portion of an upper floor extending beyond (or indented into) a building's exterior wall.

Bay window means a series of windows which project beyond the wall of a building to form an alcove within.

Canopy means an awning-like projection from a wall that is made of rigid materials and is permanently attached to the principal facade of a building.

Civic building means a building that is allowed greater design flexibility due the prominence of its function and often its location. For purposes of these standards, civic buildings include buildings operated by governmental entities and certain privately owned buildings that serve religious, charitable, cultural, educational, or other public purposes.

Colonnade is similar to an arcade except that it is supported by vertical columns without arches.

Commercial building means, for purposes of these standards, any building used in whole or in part for any of the following uses: retail, office, hotel or motel rooms, institutional uses, commercial storage, restaurants, bars, and similar uses.

Cornice means a decorative horizontal feature that projects outward near the top of an exterior wall.

Courtyard means an unroofed area surrounded by buildings.

Expression line means a decorative horizontal feature that projects outward from an exterior wall to delineate the top of the first story of a building.

Facade, principal means the exterior wall of a building that is roughly parallel to a right-of-way or which faces a plaza or public park, and also that portion of a building's side wall that faces a pedestrian way or parking lot. Along the east side of Old San Carlos Boulevard only, the rear wall of buildings shall also be considered a principal facade whenever it is visible from the Matanzas Pass sky bridge.

Lintel means a structural or merely decorative horizontal member spanning a window opening.

Plaza means an unroofed public open space designed for pedestrians that is open to public sidewalks on at least one side.

Porch means a covered entrance to a building.

Sill means is a piece of wood, stone, concrete, or similar material protruding from the bottom of a window frame.

Stoop means a small elevated entrance platform or staircase leading to the entrance of a building.

Sec. 34-994. Exterior walls.

(a) **Generally.** These standards require commercial buildings to have traditional pedestrian-oriented exteriors and to be clad with typical Florida building materials that are durable and appropriate to the visual environment and climate. Design flexibility and creativity is encouraged using ornamentation from a wide variety of architectural styles.

(b) **Finish materials for walls.** Exterior walls are the most visible part of most buildings. Their exterior finishes shall be as follows:

- (1) Any of the following materials may be used for exterior walls and for columns, arches, and piers:
 - a. Concrete block with stucco (CBS)
 - b. Reinforced concrete (with smooth finish or with stucco)

- c. Natural stone or brick
 - d. Wood, pressure-treated or naturally decay-resistant species
- (2) Exterior walls may also be covered with fiber-reinforced cement panels or boards, or with cast (simulated) stone or brick.
 - (3) Synthetic stucco (an exterior cladding system with a stucco-like outer finish applied over insulating boards) may be used as an exterior wall covering except on principal facades.
 - (4) Other materials for exterior walls may be used only if approved as a deviation from this section through the planned development rezoning process or when explicit approval has been granted to vary from these regulations (see § 34-992).
 - (5) Fastenings that are required to dry-floodproof the first story of commercial buildings shall be integrated into the design of principal facades or be visually unobtrusive.

(c) **Types of exterior walls.** Principal facades are defined in § 34-993 and their requirements are described in § 34-995. Exterior walls that are *not* defined as principal facades require a lesser degree of finish and transparency, but must meet the following requirements:

- (1) Transparent windows must cover at least 30% of the wall area below the expression line and at least 10% of the wall area between the expression line and the cornice.
- (2) All windows must have their glazing set back at least 3 inches from the surface plane of the wall, or set back at least 2 inches when wood frame construction is used.
- (3) Rectangular window openings shall be oriented vertically (except for transom windows).

Sec. 34-995. Principal facade walls.

(a) **Facade elements.** Principal facades are the primary faces of buildings. Being in full public view, they shall be given special architectural treatment.

- (1) All principal facades shall have a prominent cornice and expression line, a working entrance, and windows (except for side-wall facades where entrances are not required).

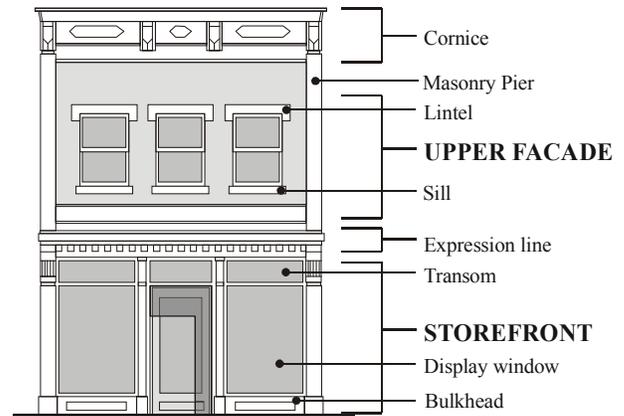


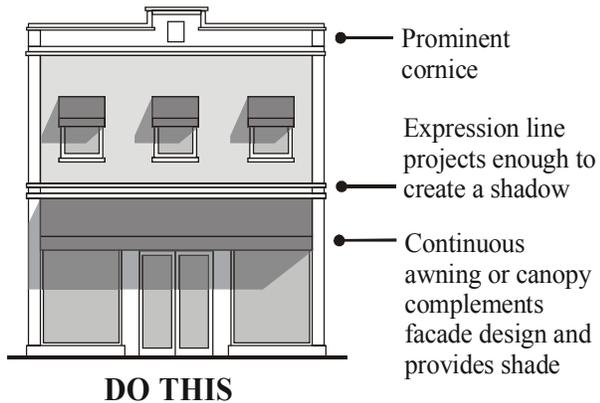
Figure 34-12

- (2) Buildings wider than 75 feet shall incorporate vertical elements in the principal facade to mimic smaller-scale development.
- (3) Principal facades facing a primary street, plaza, or public park may not have blank walls (without doors or windows) greater than 10 feet in length.
- (4) Expression lines and cornices shall be a decorative molding or jog in the surface plane of the building that extend at least 3 inches out from the principal facade, or a permanent canopy may serve as an expression line.
- (5) Awnings may not hide or substitute for required features such as expression lines and cornices.
- (6) Entrances and windows are addressed in subsections (b) and (c) below.

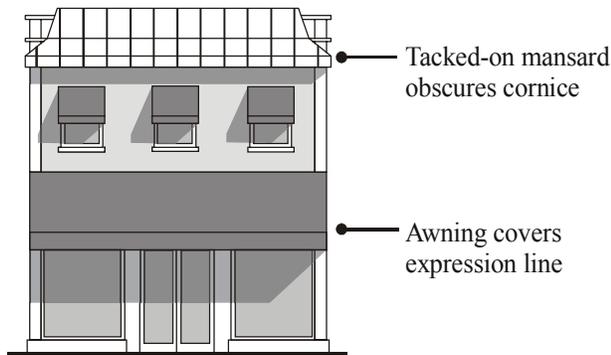
(b) **Entrances.** A primary entrance and views into the first floor of commercial buildings are fundamental to creating an interesting and safe pedestrian environment.

- (1) The primary entrance to all buildings shall face the street.
- (2) Corner buildings shall have their primary entrance face either the intersection or the street of greater importance.
- (3) Additional ground floor retail spaces within the same building shall all have their respective primary entrances face streets unless the retail spaces do not adjoin an exterior wall along a street.
- (4) Where building frontages exceed 50 feet, operable doors or entrances with public

access shall be provided along streets at intervals averaging no greater than 50 feet.



DO THIS



NOT THIS

Figure 34-13

(c) **Windows.** Every principal facade must contain transparent windows on each story.

(1) **All windows.**

- a. Rectangular window openings on principal facades shall be oriented vertically (except for transom windows).
- b. All windows must:
 1. contain visible sills and lintels on the exterior of the wall, and
 2. have their glazing set back at least 3 inches from the surface plane of the wall, or set back at least 2 inches when wood frame construction is used.
- c. Glass in windows and doors, whether integrally tinted or with applied film, must transmit at least 50% of visible daylight.
- d. See § 34-995(e)(1) regarding awnings.

(2) **First-story windows.** In order to provide clear views inward and to provide natural

surveillance of exterior spaces, the first story of every commercial building's principal facade shall have transparent windows meeting the following requirements:

- a. Window openings shall cover at least 60% of the wall area below the expression line;
- b. The bottoms of the window opening can be no higher than 30 inches from sidewalk level; and
- c. These windows shall be maintained so that they provide continuous view of interior spaces lit from within. Private interior spaces such as offices may use operable interior blinds for privacy.

(3) **Upper-story windows.**

- a. All stories above the first story of every commercial building's principal facade shall contain between 15% and 75% of the wall area with transparent windows.
- b. No single pane of glass may exceed 36 square feet in area.

(d) **Corner buildings.** For buildings located at the intersection of two streets, the corner of the building at the intersection may be angled, curved, or chamfered. The distance from the corner shall not exceed 20 feet measured from the intersection of the right-of-way lines to the end of the angled or curved wall segment, unless a greater amount is required by the visibility triangles in § 34-662(b)(4).

(e) **Facade projections.** Facade projections add visual interest to buildings. Some projections also provide protection from sun and rain for those passing by, others provide additional floor space for the building. The following types of facade projections are permitted as indicated below. At least one of these facade projections is required on each principal facade of all commercial buildings. Along both sides of Old San Carlos Boulevard, a continuous awning or canopy is required over the sidewalk except where the sidewalk is being shaded by an arcade or colonnade.

(1) Awnings and canopies:

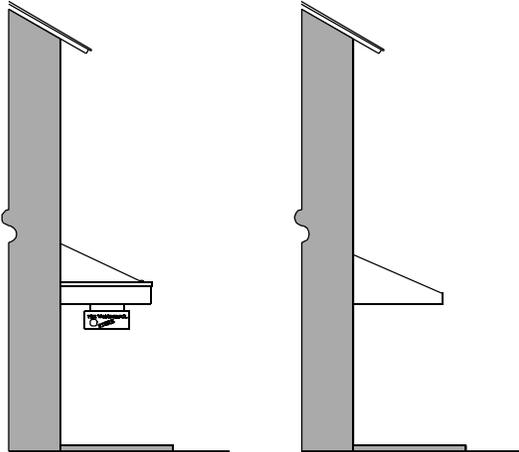


Figure 34-14

- a. Awnings and canopies may extend forward of the build-to line (see § 34-662) and may encroach into a street right-of-way.
- b. Awning or canopies extending from the first story cannot exceed the following dimensions:
 1. Depth: 5 feet (minimum) and strongly overlapping the sidewalk, but no closer than 2 feet to an existing or planned curb (see § 34-995(e) regarding Old San Carlos Boulevard)
 2. Height: the lowest point on an awning or canopy shall be between 9 feet and 12 feet above sidewalk level
 3. Length: 25% to 100% of the front of the building
- c. There are no minimum or maximum dimensions for awnings or canopies extending from a second story or higher.
- d. Awnings shall be covered with fabric. High-gloss or plasticized fabrics are prohibited. Backlighting of awnings is prohibited.

(2) Balconies:

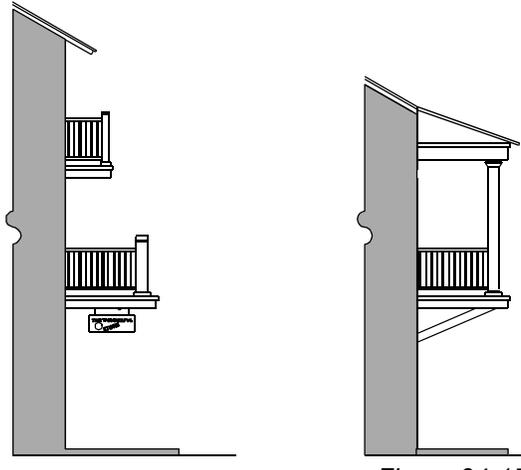


Figure 34-15

- a. Balconies may extend forward of the build-to line (see § 34-662) and may encroach into a street right-of-way.
- b. Balconies cannot exceed the following dimensions:
 1. Depth: 6 feet minimum for second story balconies; and no closer than 2 feet to the existing or planned curb
 2. Height: 10 feet minimum if overhanging a sidewalk
 3. Length: 25% to 100% of the front of the building
 4. Top of railing: 2-3/4" minimum
- c. Balconies may have roofs, but are required to be open, un-airconditioned parts of the buildings.
- d. On corners, balconies may wrap around to the side of the building.

(3) Bay windows:

- a. Bay windows may extend forward of the build-to line (see § 34-662) but may not encroach into a street right-of-way.
- b. Awning or canopies extending from the first story cannot exceed the following dimensions:
 1. Depth: 3 feet (minimum)
 2. Height: 10 feet minimum above sidewalk
 3. Length: 6 feet minimum
- c. Bay windows shall have the same details required for principal facades: sills, lintels, cornices, and expression lines.

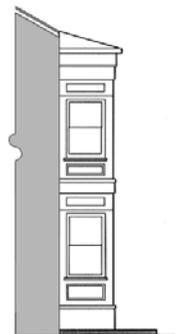


Figure 34-16

(4) Porches:

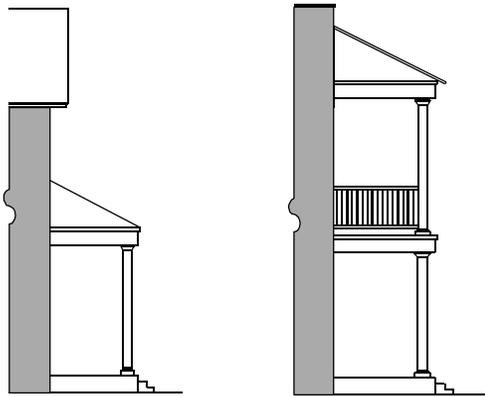


Figure 34-17

- a. Front porches may extend forward of the build-to line (see § 34-662) but may not encroach into a street right-of-way.
- b. Front porches cannot exceed the following dimensions:
 - 1. Depth: 8 feet (minimum)
 - 2. Length: 25% to 90% of the front of the building; however, no more than 25% of the floor area of a porch shall not be screened if the porch extends forward of the build-to line.
 - 3. Top of railing: 2-3/4" minimum
- c. Front porches may have multi-story verandas and/or balconies above.
- d. Front porches are required to be open, un-airconditioned parts of a building.

(5) Stoops:

- a. Stoops may extend forward of the build-to line (see § 34-662) but may not encroach into a street right-of-way or sidewalk without specific approval by the town.
- b. ~~Front porches~~ Stoops cannot exceed the following dimensions:
 - 1. Depth: 6 feet (minimum)
 - 2. Length: 5 feet (minimum)
 - 3. Top of railing: 2-3/4" minimum
- c. Stoops may be roofed or unroofed but may not be screened or otherwise enclosed.

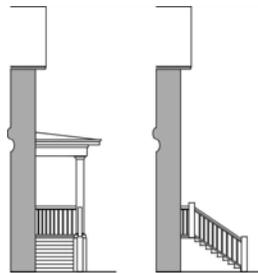


Figure 34-125

(6) Arcades and colonnades:

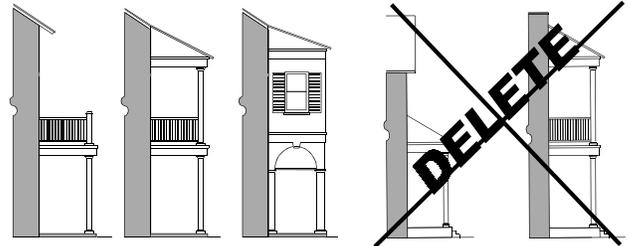


Figure 34-20

- a. Arcades and colonnades may extend forward of the build-to line (see § 34-662) and may encroach into a street right-of-way if explicit permission is granted by the town.
- b. Arcades and colonnades cannot exceed the following dimensions:
 - 1. Depth: 7 feet minimum from the building front to the inside face of the column
 - 2. No part of the column shall be closer than 2 feet to the existing or planned curb
 - 3. Height: 10 feet minimum above sidewalk
 - 4. Length: 75% to 100% of the front of the building
 - 5. Top of porch railing: 2-3/4" minimum
- c. Open multi-story verandas, awnings, balconies, and enclosed useable space can be constructed above the colonnade.
- d. Arcades and colonnades shall only be constructed where the minimum depth can be obtained.
- e. On corners, arcades and colonnades may wrap around to the side of the building.
- f. Columns shall be spaced no farther apart than they are tall.
- g. Minimum column dimensions with enclosed space above shall be 8 inches.
- h. Minimum column dimension without enclosed space above:
 - 1. Rectangular columns: 6 inches
 - 2. Round columns: 6 inches in diameter

Sec. 34-996. Roofs.

(a) Definitions.

Dormer means a projection from a sloping roof that contains a window and its own roof.

Gable roof means a ridged roof forming a gable at both ends.

Hip roof means a roof with pitched ends and sides.

Mansard roof means a roof having two slopes with the lower slope steeper than the upper, or a single steep slope topped with a flat roof, enclosing the building's top floor. A modern variant is a partial sloped roof that is attached near the top of an exterior wall in place of a traditional cornice or parapet, creating the visual effect of a sloped roof on a flat-roofed building but without enclosing any floor space.

Parapet means a short vertical extension of a wall that rises above roof level, hiding the roof's edge and any roof-mounted mechanical equipment.

Shed roof means a pitched roof that has only one slope.

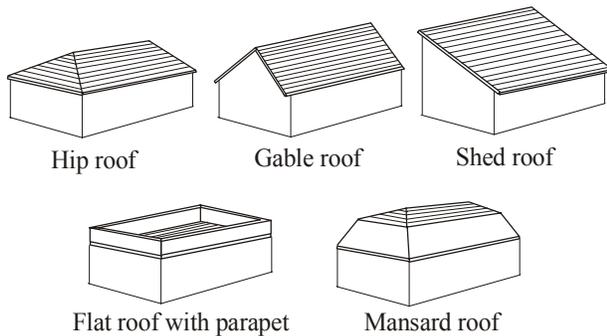


Figure 34-21

(b) Roof types permitted. Commercial buildings may have any of the following roof types: hip roofs, gable roofs, shed roofs, flat roofs with parapets, or mansard roofs.

- (1) All flat roofs, and any shed roof with a slope of less than 2 inches vertical per 12 inches horizontal, must have their edges along all streets concealed with parapets.
- (2) All hip roofs and gable roofs, and any shed roof with a slope of more than 2 inches

vertical per 12 inches horizontal, must have overhangs of at least 18 inches.

- a. Exposed rafter ends (or tabs) are encouraged.
 - b. Wide overhangs are encouraged and can be supported with decorative brackets.
- (3) Mansard roofs are permitted only when the lowest sloped surface begins above a cornice line and then slopes upward and inward.
 - (4) Small towers, cupolas, and widow's walks are encouraged (see § 34-631 for maximum dimensions).
 - (5) Dormers are permitted and encouraged on sloped roofs.
 - (6) Skylight glazing must be flat to the pitch of the roof if the skylight is visible from a primary street, plaza, or public park.

(c) Roofing materials permitted. Commercial building roofs may be constructed with one or more of the following roofing materials:

- (1) METAL:
 - a. Steel (galvanized, enameled, or terne-coated)
 - b. Stainless steel
 - c. Copper
 - d. Aluminum
- (2) SHINGLES:
 - a. Asphalt (laminated dimensional shingles only)
 - b. Fiber-reinforced cement
 - c. Metal (same as (a)(1))
- (3) TILES:
 - a. Clay or terra cotta
 - b. Concrete
- (4) FLAT ROOFS:
 - a. Any materials allowed by applicable building codes
- (5) GUTTERS AND DOWNSPOUTS:
 - a. Metal (same as (c)(1))

(d) Other roof types and materials. Other types of roofs and roofing materials are prohibited unless explicitly approved in accordance with § 34-992.

Sec. 34-997. Plazas and courtyards.

(a) **Generally.** New commercial buildings are generally oriented to public sidewalks. This section addresses other public open spaces that also can affect the orientation of commercial buildings.

(b) **Plazas.** This code contains “build-to lines” (see § 34-662) that require new commercial buildings to be placed near public sidewalks. These build-to regulations allow up to 25% of a building’s frontage to be recessed 10 feet. Plazas meeting the following requirements are permitted to be recessed further than the standard 10 feet:

- (1) The plaza cannot exceed 25% of a building’s frontage.
- (2) The plaza is strictly for pedestrian usage and cannot be used to park vehicles.
- (3) All building walls that surround the plaza must meet the design criteria for principal facades.

(c) **Courtyards.** New commercial buildings that are on larger lots may include interior courtyards designed for public or private usage.

- (1) If vehicular circulation is allowed through a courtyard, the only parking permitted will be in parallel spaces.
- (2) Courtyards intended for public use are encouraged to have clear visual linkages between the courtyard and public sidewalks.

(d) **Pedestrian passages.** Pedestrian passages, with or without a lane for vehicles, can be provided on private property to connect a courtyard to the sidewalk system, to provide walkways to parking lots behind buildings, or to provide additional retail frontages.

Sec. 34-998. Signage.

(a) **Signs generally.** Chapter 30 of this code regulates signs within the town. The following types of signs are not permitted: billboards; signs elevated on poles; and signs extending perpendicular from a building’s facade. New business signs are allowed generally as follows:

- (1) Signs can be painted or attached directly onto buildings walls.
- (2) Low freestanding signs can be built near the ground (except for business located in a multi-occupancy complex having five or more businesses).
- (3) Signs can be mounted onto a marquee that extends out from the front of a building.

(b) **Purpose of this section.** Conventional ground signs are inappropriate for pedestrian-oriented commercial buildings, as are large plastic signs designed to be viewed from a distance. The purpose of this section is to restrict inappropriate wall signs and to replace the ground-sign option with a greater selection of signs that either project out from a building’s principal facade or extend above the top of the facade.

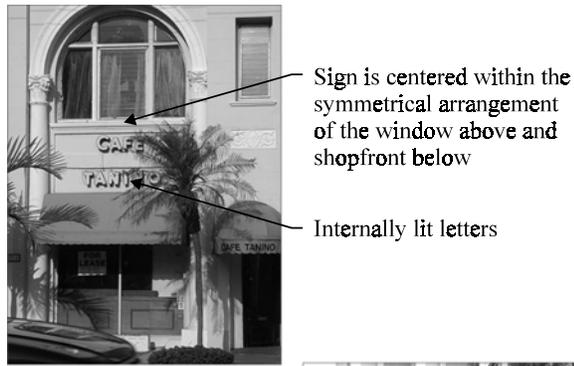
(c) **Ground signs.** Ground signs, as defined in ch. 30, are not permitted for buildings designed in accordance with these standards.

(d) **Wall signs.** Figure 34-22 shows examples of acceptable wall signs that are placed flat against a principal facade. Internally lit box signs of plastic and/or metal are not permitted.

(e) **Projecting signs.** Figure 34-23 shows examples of acceptable signs that project out from a principal facade, and Figure 34-24 shows examples of acceptable signs that extend above the top of a facade. Projecting signs of these types are permitted notwithstanding any prohibitions in ch. 30, provided they are approved in accordance with § 34-992.

(f) **Location of projecting signs.** Signs designed in accordance with this section may extend over public sidewalks, but must maintain a minimum clear height above sidewalks of 9 feet. Signs shall not extend closer than 2 feet to an existing or planned curb.

Signs flat against a facade:



Sign is centered within the symmetrical arrangement of the window above and shopfront below

Internally lit letters

Internally lit letters

The sign runs horizontally along the expression line



External lighting

Sign is centered above the main entrance at the top of the facade

External lighting

Top edge of the facade is sculpted to create a focal spot for the sign



Elegant and reserved cast bronze address plate located at pedestrian eye level

Individual letters are mounted directly on the facade above the main entrance



Internally lit box signs of plastic or metal are designed for commercial strips and are not appropriate for pedestrian oriented streets

Signs that project out from a facade:



Discreetly located external lighting

Sign painted on the face of a canvas awning over entry

Small projecting signs can be combined with flat wall signs



Signs on the sides of awnings are directly in the line of sight of pedestrians

Vertical projecting signs are visible down the street



A sign projecting from the corner of a building is visible along two streets

A second lower sign catches the eye of pedestrians passing in front of the entrance

Signs hanging from the ceiling of a colonnade are visible to pedestrians



Ground signs are designed to fit in deep setbacks of a suburban strip and are not appropriate on pedestrian-oriented streets

Figure 34-22

Figure 34-23

Signs that extend above the top of a facade:



Signs extending above the tops of buildings are visible from a great distance

This distinctive sign, made of individual letters projecting from the front of the facade and extending above the cornice line, is memorable to shoppers and is visible from many directions



A second lower sign marks the entrance to the store



Projecting signs which break the skyline are visible from a variety of distances and serve as beacons when lit at night

A lower marquee sign caters to people on foot and in cars passing directly in front

Signs extending above the roof stand out against the sky, adding an architectural flair to a shops identity



Pole signs are designed to fit in deep setbacks of a suburban strip and are not appropriate on pedestrian-oriented streets

Billboards cater entirely to motorists traveling at high speeds



Figure 34-24

(g) *Size of signs.* Maximum gross area of all signs on a given facade shall not exceed 32 square feet.

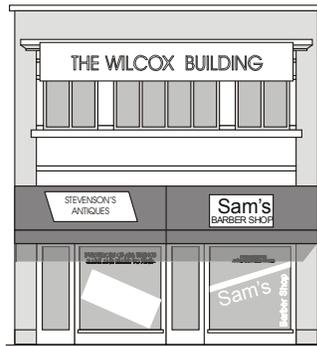
(h) *Illumination of signs.* Signs shall be illuminated externally only, except that individual letters and symbols may be internally lit.

(i) *Placement of signs on principal facades.* The following illustration Figure 34-25 shows correct and incorrect placement of signs on principal facades.



- Signs are coordinated in size and placement with the building and storefront

DO THIS



- Building sign conceals the cornice
- Over-varied shapes create visual confusion
- Awning sign covers the masonry piers
- Sale sign too large for storefront and poorly placed in display window

NOT THIS

Figure 34-25

Secs. 34-999-1010. Reserved.

DIVISION 8.
RESIDENTIAL DESIGN STANDARDS

Sec. 34-1011. Purpose and intent.

The purposes of design regulations for residential buildings include:

- (1) Enhancing the character of residential streets and neighborhoods, which are some of the most important public spaces in the Town of Fort Myers Beach.
- (2) Encouraging traditional building forms that reinforce the pedestrian orientation and neighborly quality of the town.
- (3) Keeping neighborhood streets from being overwhelmed by parked cars and dominant garage doors.
- (4) Requiring the fronts of buildings to contain architectural features that transition from private space indoors to public spaces outdoors.
- (5) Maintaining and enhancing the town's sense of place and its property values.
- (6) Implementing the design concepts in the Fort Myers Beach Comprehensive Plan.

Sec. 34-1012. Applicability and compliance.

(a) *Applicability.* These residential design standards apply to all residential buildings or portions thereof that are being newly built, and to “substantial improvements” to such buildings as defined in § 6-405.

(b) *Compliance determinations.* Compliance with these standards shall be determined as follows:

- (1) An applicant may seek approval of specific building plans during the RPD rezoning process (see § 34-941).
- (2) Unless final approval has been granted pursuant to subsection (1), the director shall make a determination of substantial compliance with these standards before a development order can be issued pursuant to ch. 10 of this code, or before a building permit can be issued if a development order is not applicable. Compliance determinations of the director are administrative decisions which may be appealed in accordance with article II of this chapter.

(c) *Variances and deviations.* Requests to vary from a substantive provision of these standards may

be filed using the variance procedures in § 34-87, or may be requested during planned development rezonings as a deviation as described in § 34-932(b).

Sec. 34-1013. Residential garages and driveways.

(a) New residential garage doors must be placed so as not to dominate the fronts of buildings. See examples in Figure 34-26.

- (1) Garage doors shall be no closer to streets or other public spaces than 10 feet behind the principal plane of the building frontage.
- (2) Individual garage doors facing streets or other public spaces shall not exceed 10 feet in width.
- (3) The total width of all garage doors facing the street cannot exceed 50 percent of the total width of the building. This limitation does not apply to garage doors that are more than 30 feet behind the principal plane of the building frontage.

(b) Driveways shall be a maximum of 10 feet wide in front of the principal plane of the building. If direct access for two or more vehicles is desired, all driveways shall be constructed either with:

- (1) porous (pervious) asphalt or concrete, or
- (2) one of the alternative surfaces described in 34-2017(b)(1), or
- (3) shall consist of two parallel strips of pavement for each vehicle path, with each strip up to two feet wide with planting areas between paved strips.

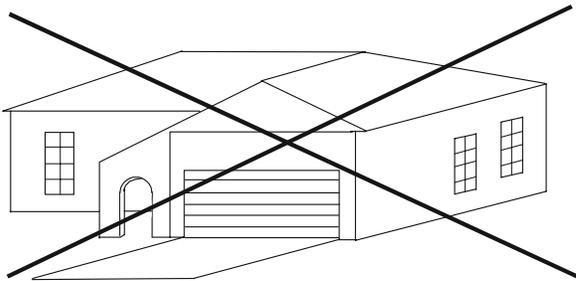
Sec. 34-1014. Residential porches, balconies, or stoops.

All residential buildings shall have at least one porch, balcony, or stoop facing the street. These porches, balconies, and stoops may extend into the street setback zone as provided in § 34-637(d)(2)b.

Sec. 34-1015. Maximum bulk of residential buildings.

The maximum bulk of residential buildings is regulated by the maximum floor area ratio established for each zoning district (see § 34-633 and Table 34-3).

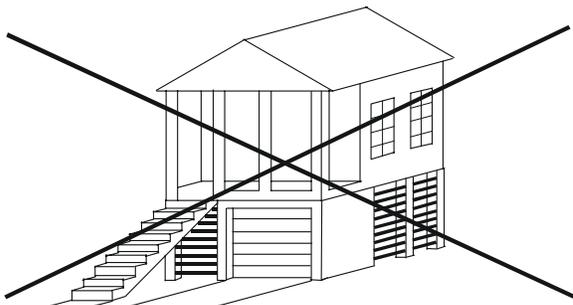
Sec. 34-1016–34-1168. Reserved.



Dominant triple garage door (ground-level house) -- **DON'T DO THIS**



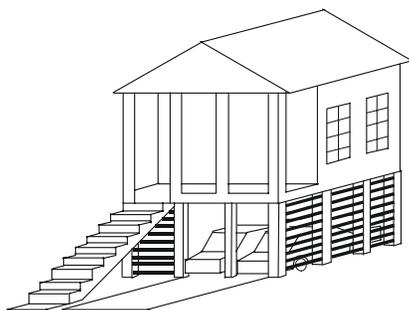
Porte cochere (ground-level house) -- **DO THIS**



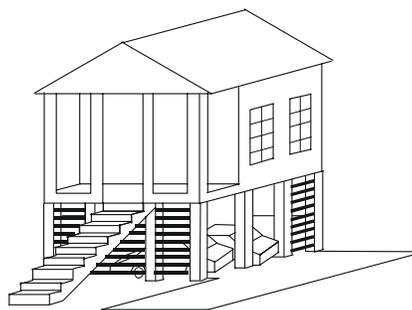
Dominant double garage door (elevated house) -- **DON'T DO THIS**



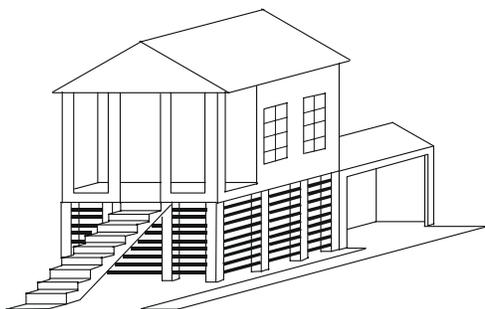
Recessed garage door (elevated house) -- **DO THIS**



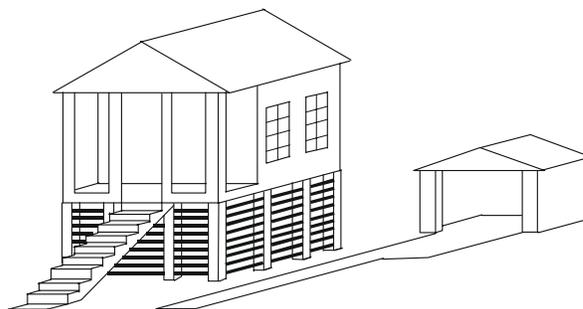
No garage door, front entry (elevated house) -- **DO THIS**



No garage door, side entry (elevated house) -- **DO THIS**



Garage attached, side entry (elevated house) -- **DO THIS**



Garage detached (elevated house) -- **DO THIS**

Figure 34-26

DIVISION 11. OVERLAY DISTRICTS

Subdivision I. In General [deleted in its entirety]

Subdivision II. State Road 80 Overlay District [deleted in its entirety]

Subdivision III. Pondella Road Overlay District [deleted in its entirety]

Subdivision IV. Redevelopment Overlay District [deleted in its entirety]

Subdivision V. The Bonita Town Center Overlay District [deleted in its entirety]

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. One of these maps, entitled Proposed Land Use by District, shows four distinct districts: (1) Old San Carlos; (2) Times Square; (3) Crescent Street; and (4) Estero/Beachfront. Some regulations herein apply only to one or more of these districts, which are referred to by these names (for example, permitted uses in Table 1). In other cases the context indicates that special regulations only apply to parcels directly fronting on one of these streets (for example street setbacks in Table 2).

(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 streetscape 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 § 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 §§ 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 (§ 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 (§ 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 § 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 § 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 ch. 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 § 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). [remainder of subsection (c) and all of Table 1 deleted]

(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	G-1 ZONING DISTRICT	FORT MYERS BEACH DOWNTOWN DISTRICT (ALL PORTIONS)
Maximum density	34-2142, 2221, 2222	Note (1)	Note (1)
Minimum lot area and dimensions:			
— Minimum lot size:			
— Residential uses (square feet):			
— First two units in same building		7,500	7,500 (a)
— Each additional unit in same building		3,000	3,000
— Nonresidential uses (square feet):			
— Corner lot		7,500	5,000
— Interior lot		7,500	2,500
— Minimum lot width (feet)		75	25
— Minimum lot depth (feet)		100	100
Minimum setbacks:			
— Street (feet)	34-2191 et seq. Note (3)	Variable according to the functional classification of the street or road	(b), (c)
— Side yard (feet)	Note (5)	15	0 (e)
— Rear yard (feet)		25	25 (d)
— Water body (feet):			
— Gulf of Mexico		N/A	N/A
— Other (feet)	34-2194(a), (c)	(see § 34-2192)	25
Maximum height (feet)	34-2171 et seq.	40	40 (f)
Maximum lot coverage (percent of total lot area)		40%	60% (g), (h), (i)

[Original notes from Table 34-844, reprinted here only when referenced above]

- (1) Residential development shall not exceed that density permitted by the Lee Plan for the land use category in which the property is located.
- (3) Modifications to required setbacks for arterial or collector streets, or for solar or wind energy purposes, are permitted only by special permit. See § 34-2191 et seq.
- (5) No side yard setback is required from common lot line for two-family attached or townhouse.

Notes applying to the Fort Myers Beach Downtown District only:

- (a) Along Crescent Street only. Maximum bonus density allowed for multifamily residential use with the additional density for affordable housing only; multifamily lot sizes may be as small as 5,000 square feet.
- (b) No setback to right-of-way allowed along Old San Carlos, Crescent Street, and Estero Boulevard south to Miramar Avenue; standard front setbacks apply at all other locations; ground-level sidewalks or patios along Old San Carlos and Estero may be recessed as an arcade with building above.
- (c) Existing structures in Times Square may be expanded at grade to the street right-of-ways without providing additional parking. Expansion above the ground level requires parking to code.
- (d) Along Old San Carlos, 30 feet from front setback at grade, 50 feet from front setback above grade.
- (e) Along Crescent Street, minimum 5 feet one side with 50% lot width total setback required.
- (f) Above Base Flood Elevation.
- (g) Parking garage exempt along Old San Carlos
- (h) Governed by setback requirements along Crescent Street
- (i) 100% lot coverage requirements along Crescent Street

(e) *Off-street parking.* Off-street parking is generally required in accordance with § 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 § 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 § 34-2020 shall be reduced by one-third.

(4) *Joint use of off-street parking lots.*

Notwithstanding any conflicting provisions of § 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 § 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 § 34-1145(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 § 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 § 34-1981 et seq. of the land development code:

(1) *Off-street loading area.* [moved to § 34-1986(c)(4)]

(2) *Interference with parking areas.* [moved to § 34-1981(b)]

(g) *Sandwich signs.* [moved to § 34-677(d)]

(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 ch. 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:	10-413(b)		
—small developments		20%	Note (a)
—large developments		30%	Note (a)
Minimum required buffering:			
—commercial adjoining existing residential development	10-414(a)	15-foot buffer and 8-foot-high fence, wall or berm	None except at parking lots
—commercial adjoining street rights-of-way	10-415(b)	10-foot-wide landscaped strip	Note (b)

Storm water detention	10-321 et seq.	Required for each individual parcel	Sec § 34-1143(b)
Intersection separation	10-285	Arterials: 660 ft. Collectors: 330 ft. Local streets: 125 ft. Access roads or access ways: 60 ft.	Estero Blvd.: note (c) Other streets: note (d)

Notes applying to the Fort Myers Beach business district only:

- (a) ~~There is no minimum open space requirement comparable to that required by § 10-413.~~
- (b) ~~There is no minimum buffer requirement adjoining rights-of-way comparable to that required by § 10-414(f).~~
- (c) ~~Vehicular access to private parking spaces shall be via the side streets.~~
- (d) ~~Vehicular access to parking spaces shall be via the side streets wherever possible. New access points shall be allowed to streets only where side street access is not shown in the master plan (see § 34-1143), 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).~~

(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 ch. 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 § 34-1143(c) above). Awnings and canopies that extend over public property are regulated by ch. 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 § 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.~~