



SPIKOWSKI PLANNING ASSOCIATES

FROM: Bill Spikowski
DATE: January 14, 2006
SUBJECT: Fort Myers Beach Land Development Code

Attached are excerpts from the zoning chapter of the Land Development Code for the Town of Fort Myers Beach, a resort town in southwest Florida. This code was adopted by the Town Council in March 2003. Its format matches the code from Lee County, from which the town was formed in 1996.

This code is mandatory and contains several elements of interest to practitioners of form-based codes. Each element is fully integrated into the remainder of this code:

- This code uses a combination of form-based and conventional zoning districts. This code refers to the form-based districts as “redevelopment districts.” Two of these districts are excerpted in this document; each contains its own regulating plan.
- This code include mandatory design standards (not guidelines) for all commercial buildings. Similar standards for residential buildings are forthcoming. These standards apply to the form-based zoning districts as well as to all other zoning districts.
- All zoning districts use a streamlined method of assigning land uses as described in Tables 34-1 and 34-2.

This code was drafted by Spikowski Planning Associates with assistance from Dover, Kohl & Partners.

This code implements the Fort Myers Beach Comprehensive Plan and the Old San Carlos / Crescent Street Master Plan. Both of those plans, plus the complete land development code, can be downloaded from: www.spikowski.com/beach.htm

COLLIER COUNTY COMMUNITY CHARACTER PLAN

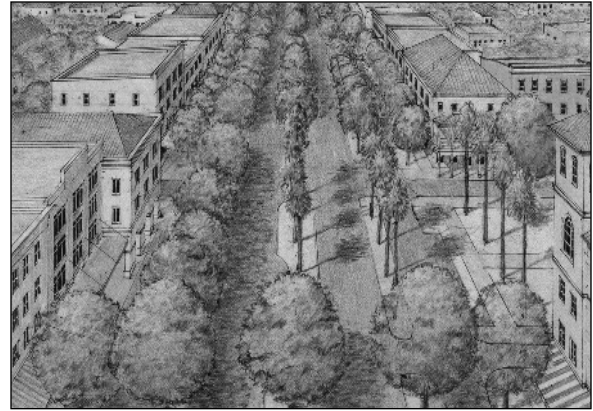
Location: Collier County
Status: In development

Summary: The Collier County Community Character Plan (CCP) respects the varied character of Collier County as exemplified by image, locale, livability, connectedness, and sense of place. For each main idea in the CCP there is a precise set of implementation steps for policy reforms and regulatory changes. The steps include budget items and timetables. The plan was developed through an on-site charrette that involved community members, developers, and county staff, multiple tours; a community image survey; and a session for interested citizens to draw their ideas on maps of the county. Putting the ideas together into one plan allows for the primary ingredients for generating community character to be assembled and applied at different times and in different places.

Background: The Community Character Plan for Collier County began in early 2000 at the urging of citizens' groups to improve the character of the county and examine issues related to urban design, transportation, and greenspace. Concerns were not so much about the pace of growth, but rather about the impacts of growth and development on the county's character because of the physical form of development. Other concerns related to mobility and the conversion of the county's natural land (both recreational and agricultural) to residential or commercial uses.

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FORT MYERS BEACH COMMUNITY DESIGN ELEMENT AND CODE

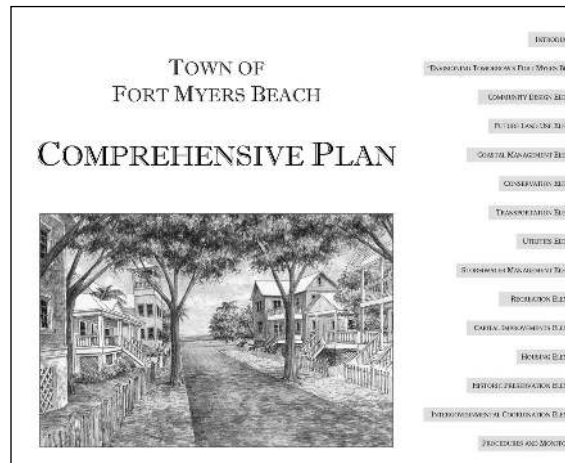
Location: Fort Myers Beach, Lee County
Status: Approved

Summary: The Fort Myers Beach comprehensive plan revolves around its community design element that describes how physical pieces of the town (open spaces, buildings, streets, and paths) will work together to achieve a coherent whole, creating a special character and enhanced livability for residents and guests. The plan balances neighborhood needs, economic vitality, and tourist development and reinforces the small-town character of Fort Myers Beach as a place where permanent residents coexist comfortably with tourists. The resulting land development code also contains three form-based zoning districts that carry out specific policies and vision described in the community design element.

Background: In 1995, residents created the Town of Fort Myers Beach to take control of land-use decisions from the Lee County Commission. Long-range goals for the town were developed through a two-year planning effort that involved a high level of public involvement. The resulting plan contained detailed strategies for turning those goals into reality through a new land development code. The plan also addresses the heavy traffic congestion caused by visitors who come to the beach, striking a balance between the need to move cars and all other types of movement (on foot or by bicycle or boat).

Contacts: Town Planner – Spikowski Planning Associates; Architect/Urban Designer – Dover Kohl & Partners; Public Entity – Town of Fort Myers Beach

Website: www.fmbeach.org/comp_plan/index.html



TOWN OF FORT MYERS BEACH, FLORIDA

LAND DEVELOPMENT CODE

CHAPTER 1	General Provisions	Adopted by Town Charter, 12/31/95 Replaced by Ord. No. 02-01, 2/4/02
CHAPTER 2	Administration	Adopted by Town Charter, 12/31/95 Replaced by Ord. No. 00-11, 6-29-00 Amended by Ord. No. 02-01, 2/4/02 (§§2-301– 459) Amended by Ord. No. 03-12, 12/15/03 (§§2-420–459)
CHAPTER 6	Maintenance Codes, Building Codes, and Coastal Regulations	Adopted by Town Charter, 12/31/95 Replaced by Ord. No. 00-12, 6/29/00 Amended by Ord. No. 02-01, 2/4/02 (§§6-401–474) Amended by Ord. No. 04-09, 6/30/04 (§§6-401–474)
CHAPTER 10	Development Orders and Engineering Standards	Adopted by Town Charter, 12/31/95 Replaced by Ord. No. 04-01, 1/5/04
CHAPTER 14	Environment and Natural Resources	Adopted by Town Charter, 12/31/95 Amended by Ord. No. 98-3, 4/6/98 Replaced by Ord. No. 02-01, 2/4/02 Amended by Ord. No. 02-29, 9/26/02 (§§14-6, 14-78)
CHAPTER 22	Historic Preservation	Adopted by Town Charter, 12/31/95 Replaced by Ord. No. 02-01, 2/4/02
CHAPTER 26	Marine Facilities	Adopted by Town Charter, 12/31/95 Replaced by Ord. No. 02-01, 2/4/02
CHAPTER 27	Personal Watercraft and Parasailing	Adopted by Ord. No. 96-27, 12/2/96 Replaced by Ord. No. 01-05, 9/24/01
CHAPTER 28	Parasailing	Adopted by Ord. No. 97-2, 1/21/97 Amended by Ord. No. 99-4, 4/19/99 Repealed and then integrated into Chapter 27 by Ord. No. 01-05, 9/24/01
CHAPTER 30	Signs	Adopted by Town Charter, 12/31/95 Amended by Ord. No. 99-1, 2/1/99 Amended by Ord. No. 99-11, 9/13/99 Amended by Ord. No. 99-14, 11/15/99 Amended by Ord. No. 03-06, 6/2/03
CHAPTER 34	Zoning Districts, Design Standards, and Nonconformities	Adopted by Town Charter, 12/31/95 Amended by Ord. No. 96-6, 7/1/96 Amended by Ord. No. 96-20, 9/3/96 Amended by Ord. No. 97-9, 8/11/97 Amended by Ord. No. 97-21, 12/15/97 Amended by Ord. No. 99-16, 12/20/99 Amended by Ord. No. 00-13, 6/29/00 Amended by Ord. No. 02-04, 6/24/02 Replaced by Ord. No. 03-03, 3/3/03 Amended by Ord. No. 03-11, 11/3/03 (§§34-3048, 51) Amended by Ord. No. 04-08, 6/30/04 (§§34-677, 678)

Mapping of Zoning Districts

ARTICLE III. ZONING DISTRICT REGULATIONS

DIVISION 1. MAPPING OF ZONING DISTRICTS

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, in compliance with the goals, objectives and policies set forth in the Fort Myers Beach Comprehensive Plan.

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

There are three 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 type of zoning district is to implement the goals, objectives, and policies of the Fort Myers Beach Comprehensive 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 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, and setback requirements. Use regulations for the conventional districts are provided in 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) **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 of the two planned development 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. 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. Use and property development regulations for planned development districts are provided in division 6 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 March 3, 2003, the date that ordinance was adopted. Previous approvals of variances, special exceptions, special permits, and other 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

Mapping of Zoning Districts

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 as shown on the interim zoning map, 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. Official zoning map.

(a) **Generally.** The official zoning map of the town consists of computer-generated section maps which shall be adopted by the town council by resolution.

- (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) **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.

(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 boundary line may be drawn to the centerline of a street or body of water.

(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.

(f) **Public availability.** The official zoning map shall be part of the public records of the town.

(g) **Records management.** The director shall retain a copy of the official zoning maps adopted under § 34-614 consistent with statutory record-keeping requirements.

Sec. 34-615. Current zoning map.

(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.

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(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.

(d) **Changes.**

- (1) 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 zoning map after official adoption of the amendment. All amendments and changes approved by the town council or other authorized bodies 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 zoning map.
- (2) 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 in the following manner:
 - a. The property affected by a zoning district change, special exception, variance, or other approval shall be noted with a symbol referencing additional zoning information.
 - b. The additional zoning information may include the resolution number, any change of zoning district, the nature of any other action, the hearing date, and any special conditions that were imposed.

Sec. 34-616. 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 or bodies of water shall be construed to follow such centerlines.
- (2) *Boundaries following lot or tract lines.* Boundaries indicated as approximately following lot lines or tract lines shall be construed as following such lines.
- (3) *Boundaries following shorelines.* Boundaries indicated as approximately following the centerlines of water bodies shall be construed to follow such centerlines. 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.
- (4) *Vacated lands.* here a public road, street, alley, or other form of right-of-way is officially vacated, the regulations applicable to the property to which the vacated lands attach shall also apply to such vacated lands.
- (5) *Accreted lands.* Where land accretes through natural or artificial processes, except for incidental fill behind a seawall authorized by ch. 26 of this code, the accreted land shall be classified as EC unless reclassified by public hearing in accordance with this chapter.
- (6) *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

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the uses permitted in the respective districts. See also § 34-1174.

Secs. 34-617–34-618. Reserved.

DIVISION 2. ALLOWABLE LAND USES IN EACH ZONING DISTRICT

Sec. 34-619. The Fort Myers Beach Comprehensive Plan.

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

(b) The Fort Myers Beach Comprehensive 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. 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 Plan.

(c) Some of the zoning districts in this article may describe 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 Plan.

Sec. 34-620. Allowable uses of land generally.

(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 are permitted in a particular zoning district based upon the expected impacts of the most similar uses described in this division and their assignment to 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* (except as a marina accessory use)
- (9) *Vehicle and equipment dealers*

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

- (1) For new or expanded commercial activities other than those permitted by the current zoning district for land in the Mixed

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Residential category on the future land use map (see Policies 4-B-4 and 4-C-3).

- (2) For new or expanded commercial activities other than those permitted by the current zoning district for land in the Boulevard category on the future land use map (see Policies 4-B-5 and 4-C-3 and §§ 34-701–34-930).
- (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.

(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 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 V 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 are subject to the Fort Myers Beach Comprehensive Plan and its future land use map, and therefore may not be permitted in all land use categories.
- (2) All uses of land, water, and structures 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 § 34-932(b) for deviations in planned development zoning districts and in § 34-87 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.

(b) **Use tables.** Table 34-1 of this article lists specific uses followed by a symbol indicating whether the use is permitted by right (P), special exception (SE), administrative approval (AA), existing only (EO), or temporary permit (TP). In all instances, unless specifically noted to the contrary, the symbols used in the use regulations tables shall have the following meaning:

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

EO *Existing only.* The use is permitted only if it that use lawfully existed on the same property on August 1, 1986. Such lawfully existing use shall have the same rights as a permitted use and may be expanded or reconstructed on the same parcel in accordance with all applicable regulations.

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

SE *Special exception required.* The town council may approve the use after public hearing upon a finding that the use is consistent with the standards set forth in § 34-88, as well as all other applicable regulations. The town council 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.

AA/ SE The use is permissible either through administrative approval or special exception, 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.

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

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:

- (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. 34-623–34-630. Reserved.

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

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

(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(g)(1) regarding the prohibition on restaurant drive-throughs.

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

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

Table 34-2 — Use Sub-Groups Permitted in Each Zoning District ¹						
	Residential	Lodging	Office	Retail	Marine	Civic
	Use Groups and Sub-Groups (Restricted, Limited, Open)					
RS Residential Single-family	(R)	(R)	(R)	—	(R)	(R)
RC Residential Conservation	(L)	(L)	(R)	—	(R)	(R)
RM Residential Multifamily	(O)	(L)	(L)	(R)	(R)	(L)
CR Commercial Resort	(O)	(O)	(O)	(L)	(L)	(L)
CM Commercial Marina	(R)	(R)	(L)	(L)	(O)	(L)
CO Commercial Office	(O)	(L)	(O)	(L)	(L)	(O)
SANTOS	(L)	(L)	(O)	(L)	(L)	(L)
IN Institutional	(L)	(L)	(L)	(R)	(L)	(O)
CF Community Facilities	(R)	(R)	(L)	(R)	(L)	(O)
BB Bay Beach	— see § 34-651(b) —					
EC Environmentally Critical	— 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 Commercial Boulevard	(O)	(L)	(L) ³	(L) ³	(L)	(O)
RPD Residential Planned Dev. ⁴	(R)(L)(O)	(R)(L)	(R)(L)	(R)(L)	(R)(L)	(R)(L)
CPD Commercial Planned Dev. ⁴	(R)(L)(O)	(R)(L)(O)	(R)(L)(O)	(R)(L)(O)	(R)(L)(O)	(R)(L)(O)
<p>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).</p> <p>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.</p> <p>Note 3: See § 34-702–703 for exceptions and limitations on new and expanded commercial uses.</p> <p>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.</p>						

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

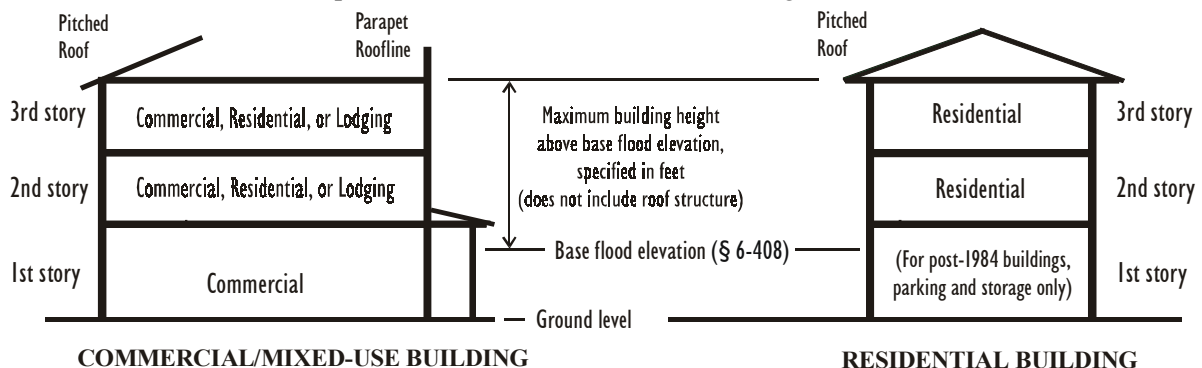


Figure 34-1

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. Intensity and building coverage.

Another measure of building intensity used in this code is building coverage, which means the horizontal area of all principal and accessory buildings on a site divided by the site's lot area.

- (1) For purposes of this section, horizontal area means the area within the surrounding exterior walls (whether the walls are solid or screened). The term "horizontal area" does not include any area occupied by unroofed structures such as driveways, sidewalks, patios, outside stairways, or open swimming pools, and does not include 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. 34-635. 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. 34-636. Reserved.

Sec. 34-637. 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.

Property Development Regulations For All Zoning Districts

- 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.
 - (2) Certain nonconforming *commercial* lots are subject to the smaller minimum lot areas, widths, and depths that are found in § 34-3277.
- (d) Essential services and essential service equipment shall not be required to meet the minimum required lot dimensions for the district wherein located (see § 34-1617).

Sec. 34-638. 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.** 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) **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.

Property Development Regulations For All Zoning Districts

- b. *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. *Shutters.* A shutter which is attached to a building may be permitted to encroach one foot into the setbacks.
 - d. *Awnings and canopies.*
 - 1. 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 interfere with traffic, ingress and egress, or life safety equipment.
 - 2. 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.***
 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. ***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. ***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 town manager. No advertising is permitted on bus stop benches.
 - e. ***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.
- (3) ***Water body setbacks.***
- a. ***Gulf of Mexico.*** Except as provided in this section or elsewhere in this code, no building or structure shall be placed closer to the Gulf of Mexico than set forth in ch. 6, articles III and IV, 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. ***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

Property Development Regulations For All Zoning Districts

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. *Exceptions for certain accessory structures.*

Certain accessory buildings and structures may be permitted closer to a body of water as follows:

1. *Fences and walls.* See division 17 of this article.
2. *Shoreline structures.* See § 34-1863 and ch. 26.
3. *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 ½ feet above grade to the top of the enclosure, shall be permitted up to but not closer than:
 - a- Five feet from a seawalled canal or seawalled natural body of water;
 - b- Ten feet from a nonseawalled artificial body of water; or
 - c- 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. of this section.

4. *Roofed structures.*

- a- 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- 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.

Secs. 34-639--34-640. Reserved.

Conventional Zoning Districts

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.

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

Conventional Zoning Districts

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.

- (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.

(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.

(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.

(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 Plan in wetlands, beaches, or critical wildlife habitats, as applicable, including:

- (1) Boating, with no motors permitted except electric trolling motors.
- (2) Fishing.

Conventional Zoning Districts

- (3) Removal of intrusive exotic species or diseased or dead trees, and pest control.
- (4) Hiking and nature study, including pedestrian boardwalks and dune crossovers.
- (5) Outdoor education, in keeping with the intent of the district.
- (6) Recreation activities, residential accessory uses, and resort accessory uses that are performed outdoors. These activities and uses include passive recreation and that active recreation requiring no permanent structures or alteration of the natural 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).
- (7) Wildlife management, as wildlife preserves.

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

- (1) Accessory structures, to include any building, structure, or impervious surface area which is accessory to a use permitted by right or by special exception in the EC district.
- (2) 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.

(f) *Additional regulations.* 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--34-660. Reserved.

Table 34-3 — Dimensional Regulations in Conventional Zoning Districts

ZONING DISTRICT	Setbacks (see § 34-638 for explanation and exceptions)						Lot size (see § 34-637 for explanations and exceptions)			F.A.R. §34-633	Building Coverage § 34-634	Density § 34-632	Height (see § 34-631)	
	street	side -waterfront lot	side -non-waterfront	rear	water body	Gulf of Mexico (1)	area	width	depth				feet	stories
RS Residential Single-family	20	10	7	20	25	50	7,500	75	100	—	40%	(3), (4)	25	3
RC Residential Conservation	10	7	5	20	25	50	4,000	45	80	—	40%	(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 Environmen- tally 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 § 34-638(c).

Note (2): See § 34-638(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.

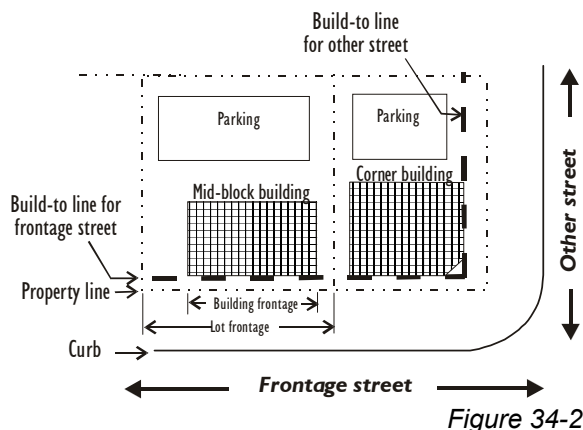
The purpose of the redevelopment zoning districts is to implement specific redevelopment concepts established in the Fort Myers Beach Comprehensive Plan and for other situations where conventional or planned development zoning districts are inappropriate. These districts require more detailed regulations 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.*

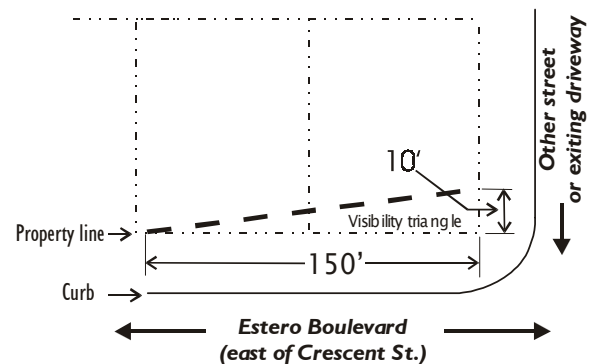
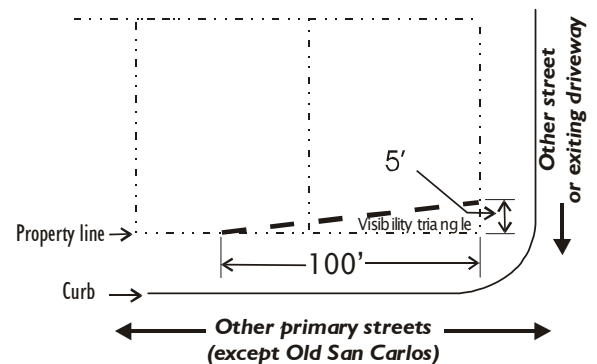
Most redevelopment districts specify build-to lines for street frontages and setback lines for side and rear property lines.

- (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.



(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.



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)).
 - (7) Build-to line requirements shall take precedence over any buffer or setback requirements imposed by other portions of this code.
- (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 § 34-638(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. Reserved.

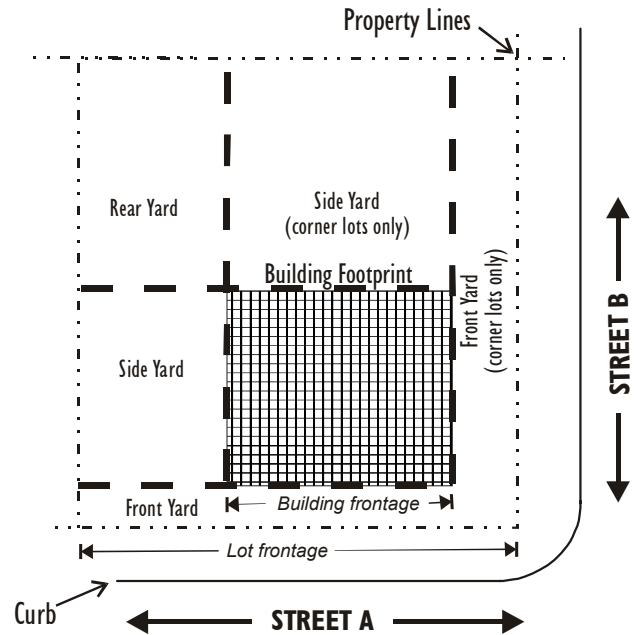


Figure 34-5

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.

DOWNTOWN

Subdivision II. DOWNTOWN Zoning District

Sec. 34-671. Purpose.

The purpose of the DOWNTOWN district is to 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.

Sec. 34-672. District map and applicability.

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

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. 34-673. Allowable uses.

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

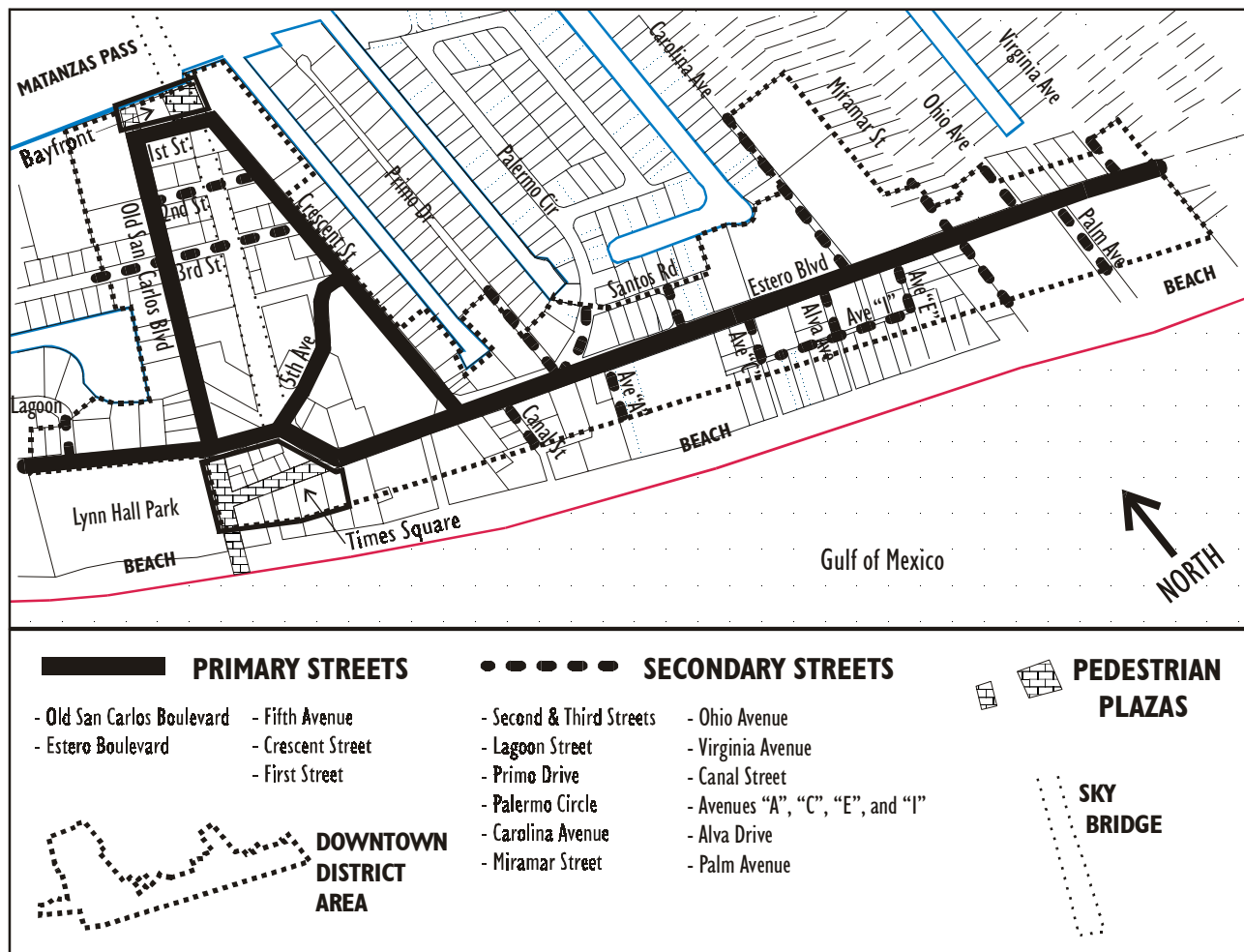


Figure 34-6

DOWNTOWN

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 § 34-638(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.

DOWNTOWN

(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

DOWNTOWN

Bayfront pedestrian plazas, but the required 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 usable commercial space at least 20 feet deep 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.** ear-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.

DOWNTOWN

(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.

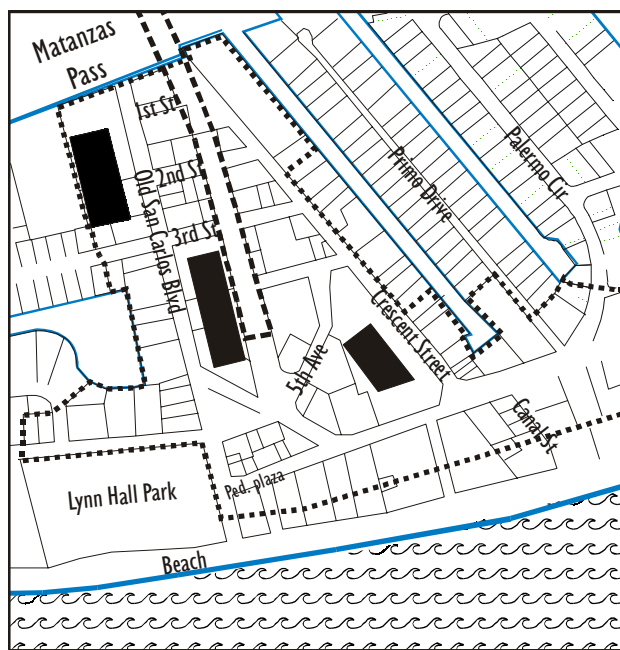


Figure 34-7

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

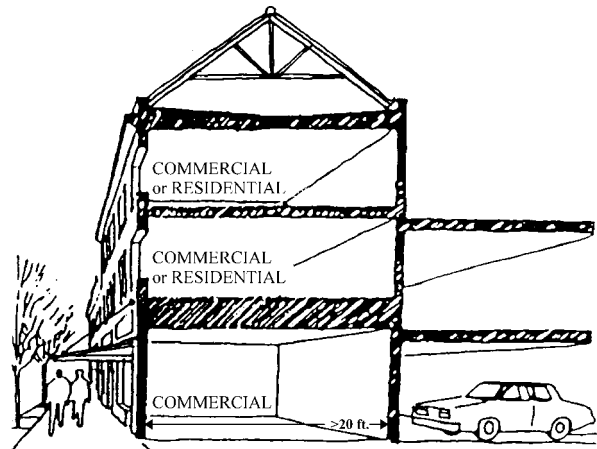


Figure 34-8

- (3) Access to a parking garage may be provided as follows:
 - a. Access to a secondary street or road easement is preferred.
 - 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.

DOWNTOWN

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.

- (1) Outdoor display of merchandise allows retailers an opportunity to inform and interest the public by offering a small sample of the products that are available inside. Outdoor display can also be appropriate for small retail products that are meant to be used outside, such as garden ornaments, windsocks, and beach toys.
- (2) Outdoor display of merchandise is not intended to expand retail space or to assist in liquidating clearance or discarded items. The principal purpose of outdoor display in the DOWNTOWN district is to enliven sidewalks and pedestrian plazas by promoting pedestrian-oriented businesses, not to expand businesses or provide locations for freestanding businesses or for mobile vendors (which are regulated in § 34-3002).
- (3) Restaurants are encouraged by this code to provide outdoor dining. Outdoor dining between a restaurant and a street is regulated by this section. The sale of alcoholic beverages outdoors is also regulated by state liquor laws and by § 34-1264 of this code.
- (4) See separate regulations for temporary outdoor displays during special events at § 34-2441 et seq.

Sec. 34-678. Outdoor display and sales of merchandise and food.

(a) **Generally.** Merchandise, food, and beverages may be displayed or sold outdoors in the DOWNTOWN zoning district only in accordance with this section.

(b) **Purpose.** The purpose of these regulations is to enhance the pedestrian environment of the town’s business district through the creative use of outdoor spaces by providing businesses the opportunity to display a sample of their products and to sell food and beverages in a manner that enhances the public realm, creates an interesting and comfortable shopping and dining district, and maintains and improves the town’s sense of place and property values.

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 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.

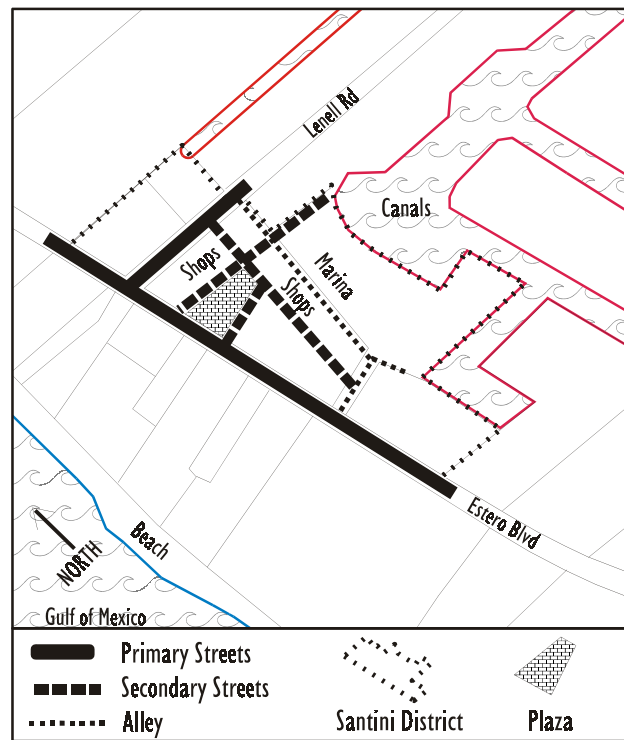


Figure 34-10

- (2) For properties 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.

SANTINI

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.
 3. The commercial design standards (§§ 34-991–1010) shall apply to all commercial and mixed-use buildings, or portions thereof, that are being newly built.
 4. Any specific deviations granted by prior CPD resolutions shall remain in effect for properties that are zoned into the SANTINI district.
- (3) ***Transformation of existing businesses into a neighborhood center.*** Physical enlargements of existing buildings 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).

- (1) 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 ½ 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) Compliance with build-to lines is not required for buildings that are used for the storage of boats or for marina accessory uses, or for any buildings extend closer than 40 feet to the waterfront.
- (5) Buildings used for the storage of boats or cars must be separated from Estero Boulevard by a liner building that provides usable building space at least 20 feet deep (see example in Figure 34-8).
 - a. This requirement applies to all buildings that extend closer than 75 feet to Estero Boulevard.
 - b. Liner buildings must be two stories or more in height.
 - c. Liner buildings may be detached from or attached to building space used for the storage of boats or cars.

SANTINI

- d. Liner buildings must be constructed simultaneously with those portions of buildings that are subject to this requirement.
- e. Liner buildings and any visible portions of the principal facade of buildings that are used for the storage of boats or cars must meet the commercial design standards (see §§ 34-991–1010).

- (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).
 - (4) Phased redevelopment is permitted provided that a site plan is provided showing how the building frontage percentages will be met upon completion of the redevelopment

- (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 usable commercial space at least 20 feet deep 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.

Commercial Design Standards

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).

(b) Commercial buildings on properties with a 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) 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 § 34-676(b)(2)). 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.
 - a. Compliance determinations of the town manager are administrative decisions which may be appealed in accordance with article II of this chapter.
 - b. The town manager shall provide written notice of each compliance determination to the town council within five calendar days. The town council, by majority vote at a public meeting within 30 days of the compliance determination, may file an appeal that will be heard by the town council in conformance with the procedures and standards in § 34-86.
 - c. Compliance determinations made by the town manager shall not become effective until the 30-day appeal period has passed without an appeal having been filed.

Commercial Design Standards

(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). The following are acceptable justifications for 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.

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.

Commercial Design Standards

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).

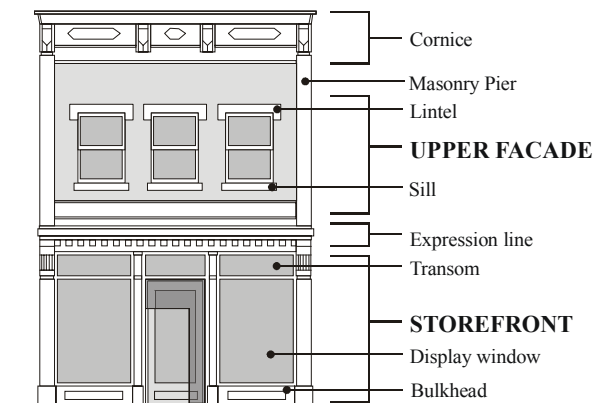


Figure 34-12

- (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.

Commercial Design Standards

(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.

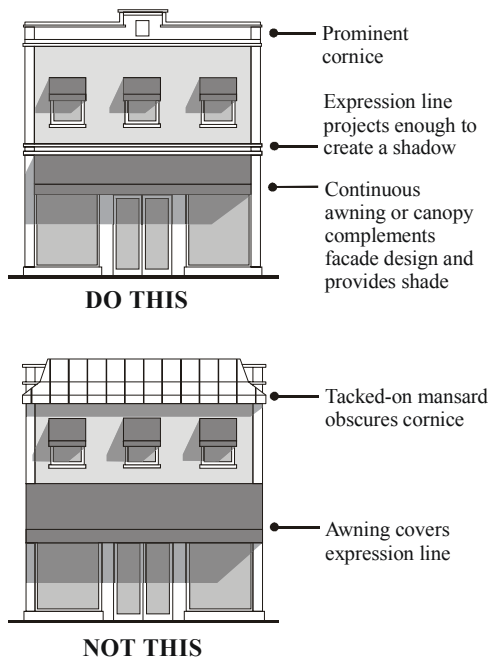


Figure 34-13

(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.

Commercial Design Standards

(1) Awnings and canopies:

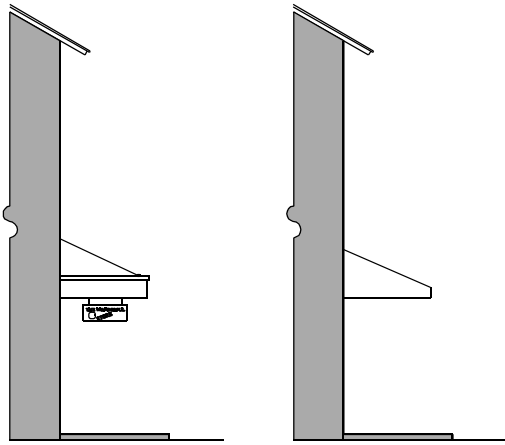


Figure 34-14

- 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:

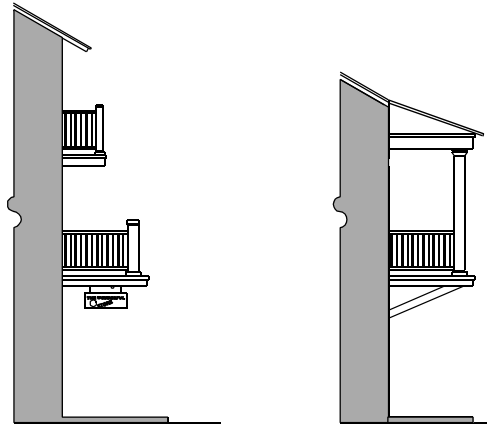


Figure 34-15

- 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.

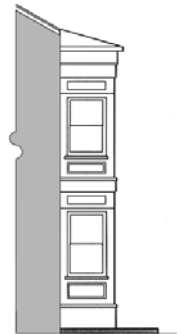


Figure 34-16

Commercial Design Standards

(4) Porches:

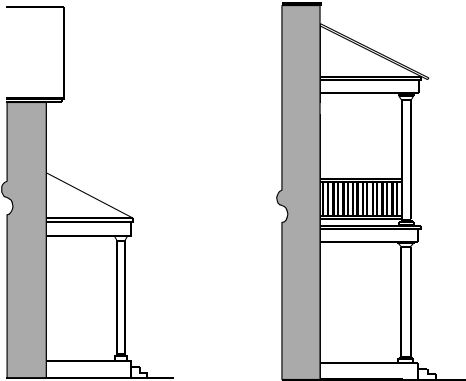


Figure 34-17

- 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 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. Stoops cannot exceed the following dimensions:
 1. Depth: 6 feet (minimum)
 2. Length: 5 feet (minimum)
- c. Stoops may be roofed or unroofed but may not be screened or otherwise enclosed.

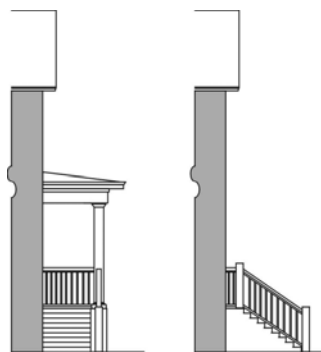


Figure 34-19

(6) Arcades and colonnades:

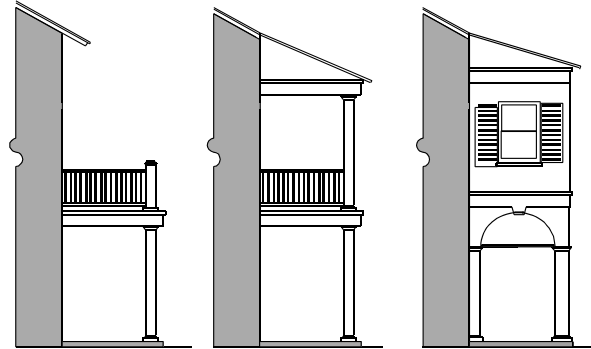


Figure 34-20

- 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

Commercial Design Standards

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.

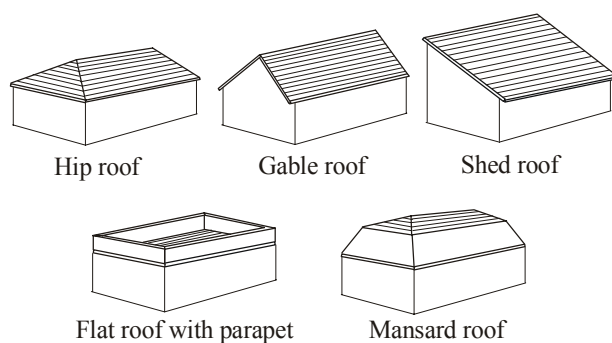


Figure 34-21

(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.

Commercial Design Standards

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.

Commercial Design Standards

Signs flat against a facade:

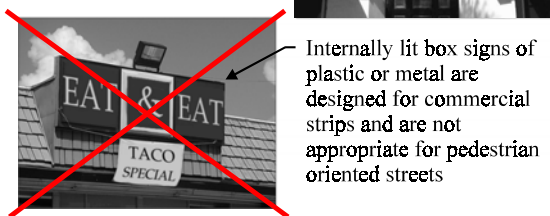
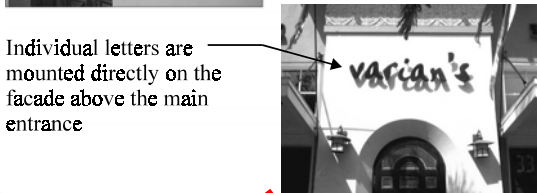
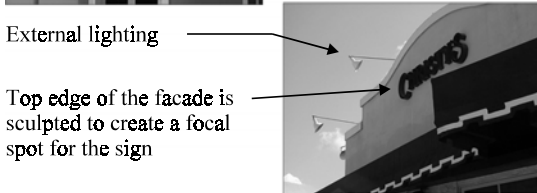
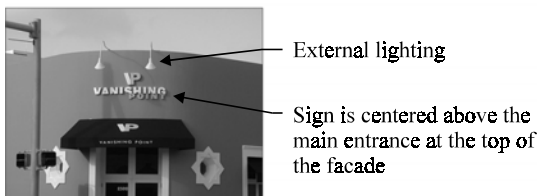
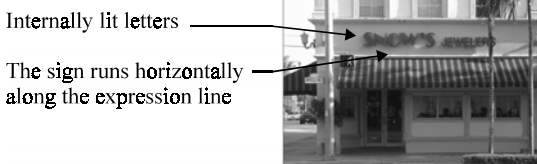
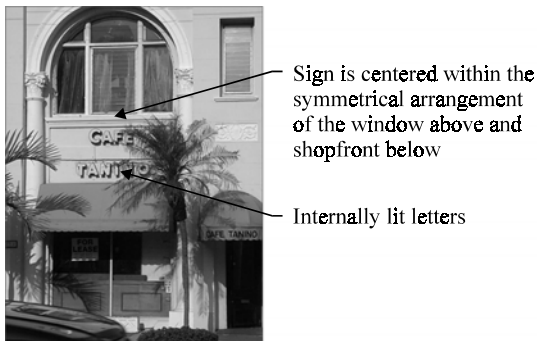


Figure 34-22

Signs that project out from a facade:

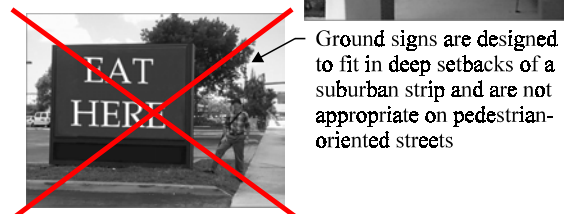
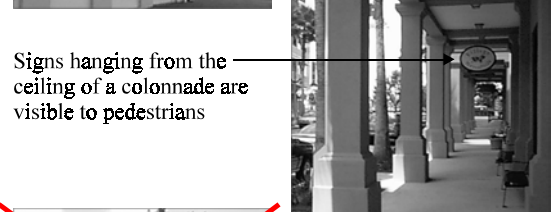
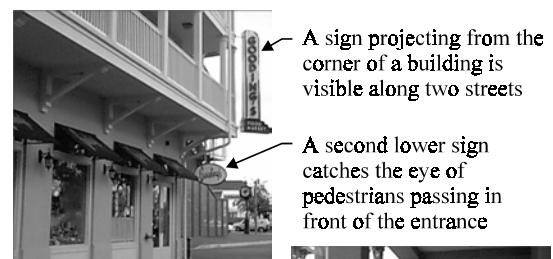
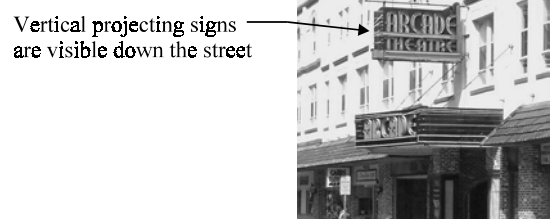
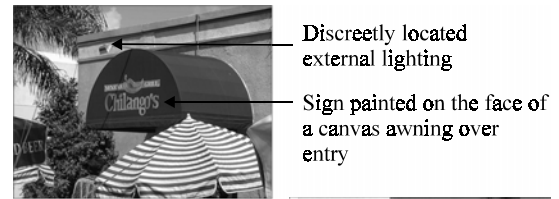


Figure 34-23

Commercial Design Standards

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 shop's 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

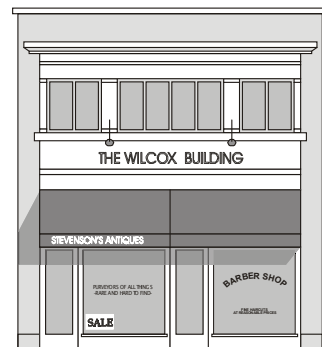


Figure 34-24

(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.* Figure 34-25 shows correct and incorrect placement of signs on principal facades.



DO THIS

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



NOT 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

Figure 34-25

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