

RESOLUTION OF THE LOCAL PLANNING AGENCY OF THE  
TOWN OF FORT MYERS BEACH, FLORIDA  
RESOLUTION NUMBER 2008-38

WHEREAS, the existence of the Local Planning Agency (LPA) is mandated by Florida Statutes Section 163.3174 and the specific functions, powers and duties of the LPA are set forth in Chapter 163, Florida Statutes, the Town of Fort Myers Land Development Code (LDC) Section 34-120 and Town Comprehensive Plan (Plan); and

WHEREAS, the Town Council directed the LPA to review the matter of usage of Town rights-of-way for commercial and non-commercial usage; and

WHEREAS, the LPA reviewed the report dated July 4, 2008, by LPA Member Bill Van Duzer regarding such right-of-way issues at its meeting of September 9, 2008.

NOW THEREFORE BE IT RESOLVED, AS FOLLOWS:

1. The LPA approves and adopts the report by LPA Member Bill Van Duzer which is attached to this Resolution as Exhibit A and hereby incorporated by reference.
2. Having reviewed this matter in detail, the LPA believes that there are numerous facets to these right-of-way matters and requests further direction from the Town Council.
3. The LPA requests that the Town Council authorize the LPA to address the following issues: (1) development of a comprehensive right of way ordinance tailored to the needs of the Town; (2) development of a more comprehensive commercial right-of-way ordinance and usage agreement; and (3) development of Land Development Code standards to regulate the creation and extent of impervious surfaces within the Town.

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

Dennis Weimer, Chair	<u>aye</u>	Alan Mandel, Vice Chair	<u>aye</u>	
Evie Barnes	<u>aye</u>	Rochelle Kay	<u>aye</u>	
Joanne Shamp	<u>aye</u>	Bill Van Duzer	<u>aye</u>	Joe Yerkes <u>aye</u>

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

LPA of the Town of Fort Myers Beach

By:   
Dennis Weimer, Chair

Approved as to legal sufficiency:

By:   
Anne Dalton, Esquire  
LPA Attorney

ATTEST:

By:   
Michelle Mayher, Town Clerk

July 4, 2008

To: Local Planning Agency (LPA)

From: Bill Van Duzer

Re: Right of Way issues

Town Council directed the L.P.A. to review management issues regarding our public rights of way (ROW), and recommend guidelines to improve the situation.

I agreed to review this issue and make a general report to the LPA as a starting point for discussion. I obtained and used as a guide the following items.

1. Memo from Director Gerald Murphy, dated April 24, 2008.
2. Aerial parcel maps detailing properties and right-of-way boundaries.
3. Lee County Ordinance # 08-07 – Commercial Use of Right-of-Way.
4. Fort Myers Beach Comprehensive Plan.
5. Fort Myers Beach Land Development Code
6. I have also done extensive visual examination of main and secondary road system's that serve the Town.

The problems I observed can be divided into 2 primary categories.

**The first is structure related** - and deals with hardened structure built in and trough the ROW. Included are driveway and parking areas which connect directly to the road surface, hardened landscape structure, signage, foundations for same, major structures, both commercial and residential and their foundations.

**The second is usage** of the ROW for primary parking, secondary parking, refuse containers, construction staging, signage and other minor obstructions.

Certainly there are additional items that need to be addressed, but I believe these items are the most prominent. For example, standing water is a problem that affects our roadway system and the cause usually starts in the ROW.

I have reviewed the recently adopted Lee County Ordinance regarding Commercial Use Of Rights-of-Way and certainly it does not address the problem or solutions we have been directed to study. Adoption of their ordinance would only answer a minor portion of our known problems.

Continued, next page

EXHIBIT A - p 1 of 3

Page two, continued

Following are the primary problems and guidelines for correction I have developed for your consideration.

**Problems:**

Driveways - Parking

1. Hardened driveway structure extending from private property line, thru town owned ROW to street pavement line without adequate drainage provided.
2. Hardened driveway-parking areas installed across extensive property area, whether used for parking or not.
3. Parking areas primarily located in town owned ROW and traffic backing into moving traffic.

Landscape -

1. Hardened landscape structure, concrete and wood, installed in ROW area.
2. Heavy plantings and required support structure for same.
3. Fences, signage and other decorative items located in the ROW area.

Location of Right Of Way –

1. We do not have accurate mapping or survey points to show where the actual ROW is located.

**Solutions :**

1. Develop and publish an accurate survey document of the true ROW lines within the town boundary .

Continued, next page

EXHIBIT A - p. 2 of 3

Page three, continued

2. Establish and publish new requirements – Land Development Code- for new residential and commercial development and re-development involving driveway sizes, locations crossing ROW, requirements for drainage, maximum parking lot area sizes, and develop requirements for existing non-conforming parking and driveway uses
3. Notify property owners who are in violation of code requirements, giving adequate time to correct violations.
4. Consider future requirements for underground utility placement, replacement or relocation.

EXHIBIT A p. 3 of 3