

ORDINANCE 25-05

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING THE TOWN OF FORT MYERS BEACH ADOPTED FUTURE LAND USE MAP DATED JANUARY 1, 1999, FOR PROPERTIES LOCATED AT 450, 445, 441 & 436 HARBOR COURT, 435 & 438 BONITA STREET ALSO RESPECTIVELY IDENTIFIED AS STRAP NUMBERS 24-46-23-W3-00027.0000 & 24-46-23-W3-00026.0020, 24-46-23-W3-0030B.0200, 24-46-23-W3-0030B.0190, 24-46-23-W3-0030C.0060, 24-46-23-W3-0030C.0040 & 24-46-23-W3-0030A.0110, FORT MYERS BEACH; PROVIDING FOR CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Florida Statutes provide that municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal service, and exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, Article X of the Town Charter of the Town of Fort Myers Beach empowers the Town to adopt, amend, or repeal such ordinances and resolutions as may be required for the proper governing of the Town; and

WHEREAS, the Neighborhood Company ("Applicant"), on behalf of Freeland FL Holdings, LLC, owners of the property generally located at 450, 445, 441 & 436 Harbor Court, 435 & 438 Bonita Street also respectively identified as strap numbers 24-46-23-W3-00027.0000 & 24-46-23-W3-00026.0020, 24-46-23-W3-0030B.0200, 24-46-23-W3-0030B.0190, 24-46-23-W3-0030C.0060, 24-46-23-W3-0030C.0040 & 24-46-23-W3-0030A.0110, Fort Myers Beach ("Property"), filed an application for a small-scale future land use map amendment to change the future land use of the Property from Marina and Mixed Residential to Pedestrian Commercial; and

WHEREAS, the Property is in the Marina and Mixed Residential Future Land Use Categories of the Comprehensive Plan of the Town of Fort Myers Beach, and is under common control of the owners as listed in the public records of Lee County Property Appraiser; and

WHEREAS, a public hearing was held before the Local Planning Agency (LPA) on April 8th, 2025, at which the LPA gave full and complete consideration of the request, recommendations by staff, the documents in the record, and the testimony of all interested persons, and the LPA voted 6 to 0, with one member absent, to recommend approval to the small scale map amendment request, and

WHEREAS, on May 5th, 2025, the Town Council held a first reading of the proposed Ordinance and gave full and complete consideration to the request of the Applicant, the recommendation of the LPA, the recommendation of staff, the documents in the record, and the testimony of all interested persons, as required by Section 34-85 of the Fort Myers Beach Land Development Code ("LDC"); and

WHEREAS, the Town Council voted to have a second reading of the proposed Ordinance on June 2nd, 2025 and a public hearing on this matter was noticed in the Fort Myers News-Press more than 10 days prior to the Town Council on June 2, 2025; and

WHEREAS, at the June 02, 2025 public hearing, at which time the Town Council gave full and complete consideration to the request of the Applicant, the recommendation of the LPA, the recommendation of staff, including the consideration and findings in the staff report, the documents in the record, and the testimony of all interested persons, as required by Section 34-92 of the LDC and Policy 4-C-10 of the 1999 Comprehensive Plan (1999); and

WHEREAS, the Town Council finds the proposed small-scale map amendment request is **consistent** with the Town of Fort Myers Beach Comprehensive Plan and LDC and voted to **approve** the Application.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AS FOLLOWS:

Section 1. The above recitals are true, correct, incorporated herein by this reference, and adopted as the legislative and administrative findings of the Town Council.

Section 2. The Town Council determines the Applicant **did** meet its burden of proof that the requested small scale map amendment request **does** meet the requirements of the Town Comprehensive Plan and LDC and approving the request for a small-scale Future Land Use Map Amendment from Marina and Mixed Residential to Pedestrian Commercial **is** in the best interest of the Town. Therefore, based upon the recommendations, testimony, and evidence presented by the Applicant, Town staff, and interested parties and Section 34-92 of the Land Development Code, the Town Council **APPROVES** the requested small scale future land use map amendment of the Property.

Section 3. Whenever the requirements or provisions of this Ordinance conflict with the requirements or provisions of any other lawfully adopted LDC or Town Code provision, ordinance, or statute, the most restrictive shall apply.

Section 4. Any typographical errors that do not affect the intent of this Ordinance may be corrected with notice to and authorization of the Town Manager without further process.

Section 5. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason, declared by a court of competent jurisdiction to be unconstitutional or invalid, such decision will not affect the validity of the Ordinance as a whole, or any part thereof, other than the part so declared.

Section 6. The proposed action does not result in a more restrictive or burdensome amendment to the Town's Comprehensive Plan or Land Development Code.

Section 7. Issuance of a development permit by the Town does not create any right to obtain a permit from a State or Federal agency and does not create any liability on the part of the Town for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a State or Federal agency or undertakes actions that result in a violation of State or Federal law.

Section 8. The effective date of this plan amendment shall be the earliest date permitted under Section 163. 3187, Florida Statutes.

The foregoing Ordinance 25-05 was adopted by the Town Council upon a motion by Councilmember Woodson and seconded by Councilmember Safford and upon being put to a roll call vote, the result was as follows:

Dan Allers, Mayor	Nay
Jim Atterholt, Vice Mayor	A y e
John R. King, Council Member	Aye
Scott Safford, Council Member	Aye
Karen Woodson, Council Member	Aye

ADOPTED this 2nd day of June 2025, by the Town Council of the Town of Fort Myers Beach, Florida.

TOWN OF FORT MYERS BEACH


Dan Allers (Jun 6, 2025 15:25 EDT)

Dan Allers, Mayor

ATTEST:


Amy Baker (Jun 16, 2025 09:58 EDT)

Amy Baker, Town Clerk

**APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE USE
AND RELIANCE OF THE TOWN OF FORT MYERS BEACH ONLY:**


(Jun 8, 2025 21:11 EDT)

Vose Law Firm, Town Attorney

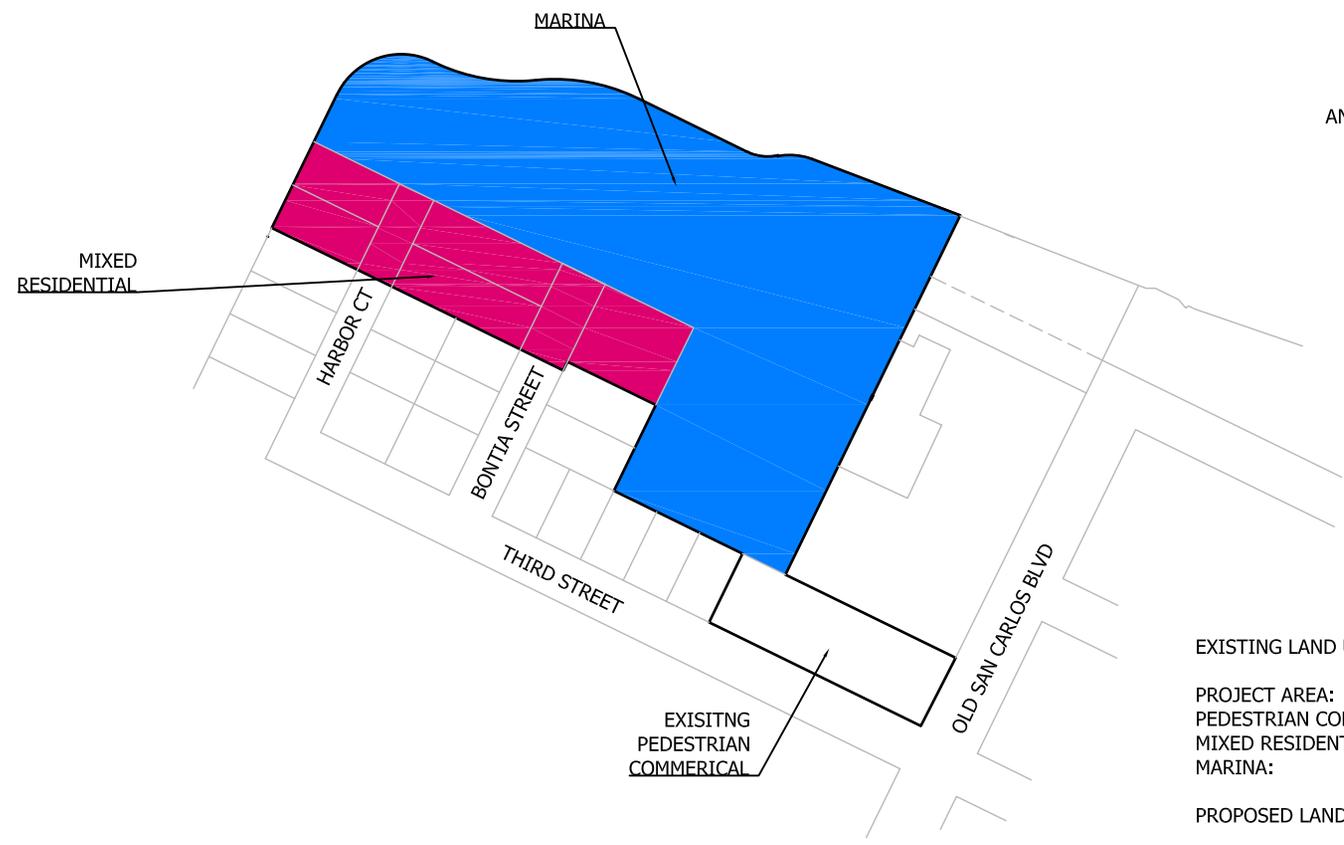
This Resolution was filed in the Office of the Town Clerk on the 9th day of June 2025.

Exhibits

Exhibit A Existing Future Land Use Map
Exhibit B Proposed Future Land Use Map



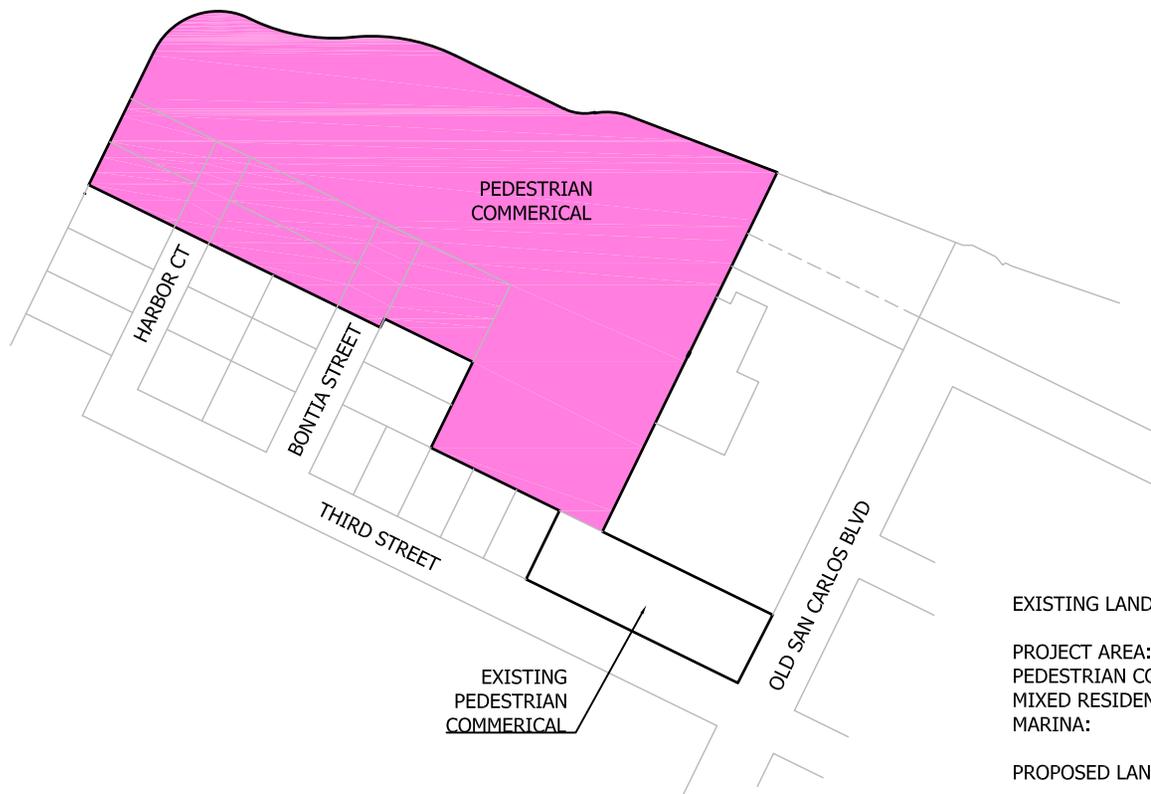
CPA MAP CHANGE AMENDMENT
 IS TO CHANGE EXISTING MARINA
 AND MIXED USE FLU TO PEDESTRIAN
 COMMERCIAL.



EXISTING LAND USE TABLE		
PROJECT AREA:	4.98 AC	100%
PEDESTRIAN COMMERCIAL:	0.45 AC	9.0%
MIXED RESIDENTIAL:	1.00 AC	20.1%
MARINA:	3.53 AC	70.90%
PROPOSED LAND USE TABLE		
PEDESTRIAN COMMERCIAL:	4.98 AC	100%

INK ENGINEERING, INC
 2055 West First Street
 Fort Myers, Florida 33901
 E-mail: ink@inkengineeringinc.net

EXISTING COMPREHENSIVE PLAN MAP	JOB #: 22037
ARCHES BAYSIDE CPA MAP AMENDMENT	DATE: 03.2024
450 HARBOR COURT, FT MYERS BEACH, FL	SHEET: 1 OF 2



EXISTING LAND USE TABLE

PROJECT AREA:	4.98 AC	100%
PEDESTRIAN COMMERCIAL:	0.45 AC	9.0%
MIXED RESIDENTIAL:	1.00 AC	20.1%
MARINA:	3.53 AC	70.90%

PROPOSED LAND USE TABLE

PEDESTRIAN COMMERCIAL:	4.98 AC	100%
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PROPOSED COMPREHENSIVE PLAN MAP

JOB #: 22037

ARCHES BAYSIDE CPA MAP AMENDMENT

DATE: 03.2024

450 HARBOR COURT, FT MYERS BEACH, FL

SHEET: 2 OF 2