



**LAND DEVELOPMENT CODE ADVISORY COMMITTEE
COMMUNITY DEVELOPMENT/PUBLIC WORKS BUILDING
1500 MONROE STREET, FORT MYERS**

First Floor Conference Room 1B

**FRIDAY, OCTOBER 12, 2012
8:00 A.M.**

AGENDA

1. Call to Order/Review of Affidavit of Publication
2. Approval of Minutes – JULY 13, 2012
3. AMENDMENT TO COMPACT COMMUNITIES FOR
LEHIGH ACRES AND NORTH FORT MYERS
PLANNING COMMUNITIES
4. Adjournment – Next Meeting Date: NOVEMBER 9, 2012

Tony Palermo



**MINUTES REPORT
LAND DEVELOPMENT CODE ADVISORY COMMITTEE
(LDCAC)
Friday, July 13, 2012
8:00 a.m.**

Committee Members Present:

Theresa Artuso
Christine Kneeland
Matt Smith
Liz Donley
Bill Prysi
Debi Pendlebury

Richard Ibach
Michael Ekblad
Peter Kemezys
Al Quattrone
Jerry Murphy

Excused Absences:

Patrick Vanasse
Jennifer Sopen

Lee County Government Staff Present:

Michael Jacob, Asst. County Attorney
Nettie Richardson, Principal Planner, Zoning
Pam Houck, Director, Zoning
Debbie Carpenter, DCD Admin Svcs., Recorder

Craig Brown, Senior Environmental Planner
Carol Lis, Principal Environmental Planner
Mikki Rozdolski, Senior Zoning Planner
Rob Price, Development Svcs Representative

Consultants and Public Present:

Amanda Brock, Henderson Franklin Law Firm
Charles Messina, Flamingo Bay Resident

Charles Newman, Flamingo Bay Consultant

Call to Order and Affidavit:

Ms. Theresa Artuso called the meeting to order at 8:03 a.m. in the first floor conference room (1B), 1500 Monroe Street, Fort Myers, Florida.

Mr. Michael Jacob, Assistant County Attorney, reviewed the Affidavit of Posting and found it legally sufficient as to form and content.

APPROVAL OF MINUTES – APRIL 13, 2012

After requesting a minor wording change to clarify the Community Review section on page 2 of the April minutes, **Mr. Bill Prysi made a motion to approve the April 13, 2012 minutes; seconded by Mr. Matt Smith. The motion was called and carried.**

BILLBOARDS

Nettie Richardson introduced the Billboard amendment. She said this was a minor change to the sign section of Chapter 30, was Board directed, and would allow the placement of billboards along the newly constructed section of Metro Parkway between Ben C. Pratt/Six Mile Cypress Parkway to U.S. 41/Alico Road area. There are only a few areas of the extension where billboards could be placed because billboards are only allowed within certain land use categories.

Page 4, (12) a. 1. Ms. Artuso suggested amending the wording “landscaping is required around the pole” to allow for more than one pole. Ms. Richardson said this was existing language but agreed to review and clarify this section.

Mr. Michael Ekblad said the reference to Koreshan Blvd. on page 2 (7) should be amended since the road was renamed Estero Parkway.

Mr. Prysi pointed out that billboards are protected by a state statute that has landscaping limitations associated with it, including a 500 ft. setback on either side of a sign. It was his opinion to not add billboards to a new expressway and he would prefer that language be stricken. He would rather that area of Metro Parkway be added to the areas in Lee County where billboards are not allowed. He was very concerned about the landscaping limitations and was against allowing billboards along an interior roadway such as this.

Mr. Ekblad asked how much linear footage was involved and whether Briarcliff would be affected. Ms. Richardson responded that residential areas, including Briarcliff, were not in the appropriate land use categories and thus would not be affected. The two main areas were immediately south of the Metro interchange and then further down, closer to U.S. 41 and the Alico area.

Ms. Amanda Brock of the Henderson Franklin Law Firm was recognized and spoke on behalf of Charles Basinait who supported the amendment. Billboards would only be allowed in intensive commercial and industrial areas. The change was very limited and would apply to just one small section of the roadway.

Mr. Jerry Murphy asked what initiated the amendment. Ms. Houck said a sign contractor requested it and the Board directed it.

Mr. Prysi made a motion to strike the language to allow billboards on the new portion of Metro Parkway, and to add Metro Parkway to the *No Billboard will be Permitted* section of the Code. Mr. Murphy seconded. The motion was called and carried unanimously.

PARKING REQUIREMENTS

Ms. Mikki Rozdolski introduced the amendment and gave a brief summary. Amendments include: reduced parking requirements for most uses; streamlined regulations to be more user friendly; reduced parking requirements for multiple use scenarios and mixed use development; and, text requirements have been put into table form. The Director has been given the flexibility and authority to reduce parking requirements even further especially when in proximity to transit stops and/or bike and pedestrian facilities and where golf cart and boat slips are used. A maximum parking provision has also been added to eliminate "a sea of parking".

Mr. Rob Price reviewed a brief PowerPoint presentation which had been made to the Board on May 7th. He pointed out several areas where parking requirements had been reduced. Examples were shown to illustrate how the proposed regulations compare to current requirements.

Mr. Prysi asked about the removal of the shared and joint parking language.

Ms. Rozdolski explained that current regulations never defined shared parking, and, although there was a provision for joint parking, it was difficult to use. Mr. Prysi had a concern because recent community plans have encouraged shared parking and thought striking the language was counterproductive. Mr. Price explained that the proposed language, as defined on page 39, was a remedy to the current difficulty of getting joint parking agreements approved. Mr. Murphy asked how ownership would be addressed for adjoining, but separately owned parcels, and Ms. Houck said through the development order process both owners would need to sign off, as they do now. Mr. Murphy asked if considerations had been given to allowing overflow (such as grass) parking to alleviate the need for more asphalt. Ms. Houck said the administrative procedure would provide some flexibility.

Mr. Murphy had a significant concern about the use groups. His opinion was that the section needed to be addressed as well, but understood it would be a monumental task. Ms. Houck said for this round, only those uses causing the most problems for staff had been addressed. Mr. Murphy said there should at least be a reference to the use groups (Sec 34-622). He also wanted to know if there was going to be some way to universally reference the multiple planned developments that have utilized all those groups. Ms. Houck said staff would take a look at that.

Ms. Artuso suggested reviewing each page of the parking amendment and asked for committee questions and comments when appropriate.

Ms. Artuso had a question about off street parking as referenced on page 3; Ms. Houck responded by explaining this pertained only to compact communities.

Mr. Prysi again stated his concern about deleting the shared parking language, page 4 (**Sec 33-461 (d)**). Ms. Rozdolski reported that staff was visiting each community, reviewing the changes, getting feedback and input, and addressing any concerns. Estero was fine with removing the language. Mr. Price reiterated that the multiple-use regulations will accomplish the goal of shared parking.

Sec 33-1361, 33-1431 & 33-1524 Ms. Artuso suggested additional language: “parking spaces may be reduced by up to 50% if a parking demand study is provided which supports the reduction “. Staff agreed to add the language.

Mr. Murphy asked about the cost of a parking study. Mr. Price said it might cost slightly more than a Traffic Impact Study (TIS) because it required more data collection, but the methodology was fairly standard and required only data collection and calculation of demand. Mr. Murphy preferred that if the staff had a concern, a parking study could be requested, rather than required. Mr. Price responded that in this case, as it relates to live work units, if a 50% reduction was being requested, a parking study would be warranted.

Sec 33-1520 (b) Ms. Artuso asked for a clarification of the language concerning the location of parking. Staff said this section applied only to the State Route 80 corridor and was for redevelopment or new construction only.

Sec. 34-2 Assisted Living Facilities (ALF). Mr. Peter Kemezys asked about the reference on page 10 to “one or more adults who are not relatives” as constituting an assisted living facility (*ALF*). Ms. Rozdolski stated the definition came directly from the state’s definitions but would double check the language.

Ms. Artuso had some questions about the language on page 13 as it concerned *Development and/or Redevelopment*. Mr. Murphy also had concerns about the definition of *Redevelopment* on page 18. Staff agreed to review.

On page 26, Ms. Artuso asked why so many types of stores had been deleted from the list. Ms. Rozdolski explained that some were redundant and some were outdated.

On page 44, Mr. Prysi had questions concerning parking lots and how special events could meet the minimum parking requirements. He and Ms. Houck had a brief discussion about temporary use permits. Ms. Rozdolski said that this was existing language relocated to this section.

Mr. Kemezys asked how minimum requirements were determined for the non-residential use table (pgs 47-51). Mr. Price said staff looked at neighboring jurisdictions especially those with

similar characteristics, national studies, including ITE and ULI, plus some were based on actual parking variances and deviations that have been requested.

On page 53, Mr. Prysi asked about (d) *backing out into rights-of-way in residential developments*. He was concerned that parallel parking could be presumed as not being permitted due to its omission. After a brief discussion, again noting that this was existing language, staff confirmed that the omission would not prohibit.

On page 54, Mr. Ibach had a concern about (f) *Parking in excess of 120 percent of minimum requirements* and that a user would be unable to put in the parking needed, such as for certain special events. Staff confirmed the intention was to “save the green” and to discourage people from over-parking their sites. However, excess parking would be allowed with the addition of more internal parking islands and landscaping. Mr. Murphy suggested this would be an ideal situation to consider grass overflow parking to avoid an additional asphalt requirement.

There was a question concerning fleet parking. Staff was unsure how fleet parking would be calculated and at Mr. Jacob’s suggestion, agreed to look into that.

For purposes of discussion, Mr. Murphy made a motion to forward the parking amendments on with comments. Seconded by Mr. Prysi.

Discussion: Mr. Murphy encouraged a reduction of more than 10%. He was concerned about all the empty parking spaces during the day when businesses were open and the “sea of parking” at night when businesses were closed. His other concern, also raised at the May 7th M & P meeting, was what to do about parking lots and acres of asphalt when no longer needed. There was no further discussion.

The motion was called and passed unanimously.

FLAMINGO BAY AMENDMENT

Mr. Chuck Newman, an architect and resident of Pine Island, stated he had volunteered to assist Mr. Charles Messina and others to help resolve the dock situation in the Flamingo Bay subdivision. This follows Mr. Messina’s presentation to the Committee back in March, 2012.

Mr. Newman reminded everyone that Flamingo Bay was an old development, originally developed in 1958 as large lots. At some point, the original large lots were divided (one with water frontage, the other with street frontage) and the deeds were written to contain a right-of-way for the street or “dry” lot owner to have direct access to the canal. He said it was ruled that the dry lot owner was the dominant tenant in order to prevent the “water” lot owner from blocking water access. Originally, both properties shared one dock facility. Currently, the water lot owners have either removed one dock or have prevented the dry lot owner from building a dock and they are trying to rectify that situation. Mr. Newman proposed language to staff that he said would rectify the situation (see Applicant’s Draft). He recommended that the dry lot owner be allowed to build a dock within the 10 foot wide right-of-way. That would allow use of the water and would not infringe on the water lot owner’s property. County staff proposed alternate language which Mr. Newman said was also acceptable, except for statements in (g)(3) f. and g. (see Staff Draft, pgs. 3-4). Mr. Newman said language in g. “...dock may not be placed within a drainage easement or canal controlled or owned by the County, a Municipality,” completely prohibits all docks because, in his opinion, canals are controlled by the government. He also did not agree with the requirement that a letter of no objection or a permission letter should be required for a dock built within the right-of-way since it would not limit use of the right-of-way or block any view. The request before the committee was to change the code to allow the dry lot owner to build a dock within the right-of-way.

Mr. Kemezys commented that the problem seemed to be a dispute between neighbors and was more a legal issue. Mr. Newman disagreed and there was some discussion.

Ms. Christine Kneeland asked how many lots this affected. Mr. Messina responded that “most” of the lots had been split into at least two lots and “most” had easements that were reciprocal in nature. Ms. Kneeland’s opinion was that having an easement to the water did not give permission to construct a dock.

Mr. Messina disagreed, stating access to the water was a vested legal right and that being in Flamingo Bay was “all about the water and having access to it”. He and the others with a similar situation were willing to compromise by staying within the 10 foot right-of-way with an allowance to build on an angle to accommodate larger boats. He felt that if he had to ask his neighbor (the water lot owner) for permission to build a dock, it would negate what he believed was his legal right. He suggested that a letter of *notification* be substituted for a letter of permission. Mr. Messina provided more history and there was more discussion.

Ms. Artuso asked staff if there was another community with a similar issue. Ms. Richardson replied that staff had looked at other mobile home parks and single family subdivisions and none had a similar situation. Although Mr. Messina made a reference to Cherry Estates, she said the situation was not the same as those lots are actually on the water.

Mr. Kemezys asked why staff was not in favor of the amendment and Mr. Jacob said there were legal issues as well as policy concerns. First, changing the code would not only give some land owners something they have never had, but, for others, it would impose a burden that was not previously there. He said there was no rational basis for allowing this community to do something not allowed elsewhere in the County. Mr. Jacob mentioned that an accessory use is not allowed on property without a primary use; Mr. Newman said the docks are not on anyone’s “property”, but are “in the water” so that situation did not apply. Mr. Newman said it was not evident from a review of the property appraiser’s site who has the water rights. Ms. Houck said a title search was needed to make that determination but her thought was that it was still in the hands of the original developer.

Mr. Jacob said the amendment pertained only to lots that were legally created. There followed a discussion about the definition of “legally created” and the process of subdividing lots. It was explained that the Property Appraiser’s office has the ability of assigning strap numbers, but lot splits can only be accomplished by going through the development order process. There was additional discussion about the separation between the Board of County Commissioners and the Constitutional offices of which the Property Appraiser’s office was a part.

Mr. Murphy asked how an owner could demonstrate whether the lot had been lawfully created and there was a brief discussion. Mr. Jacob said one could track the deed back with the legal description to see when the lot was created; a deed recorded in 1962 or prior to zoning was relatively easy to check. Someone could also check the plat.

Mr. Newman suggested applying the regulations only to the Flamingo Bay subdivision. Mr. Jacob responded saying there was the question of why this community should be allowed something not allowed elsewhere; therefore, the language was written to allow a dock or boat ramp to be built if certain criteria was met for any legally created lot, not only in Flamingo Bay, but within the whole county.

Ms. Liz Donley asked if there was a difference between right-of-way and easement, since the discussion talked about both. Mr. Jacob said, in this case, there was no difference.

Mr. Jacob said the proposed language sought to limit the possibility of selling off parcels that

would be used only as dock lots, spelled out who has the right to request an application for a dock, and seeks to address the concerns of adjacent property owners.

Mr. Jacob stated property owners have come to rely on the rules that a dock will not be built in their back yard. Mr. Messina said owners have the right to read the documentation and history of Flamingo Bay which, he said, supports his theory that the easement intended a dock to be constructed. Mr. Messina said previous aerial photos showed a dock in the easement before he bought his property. At some point, the dock was removed as evidenced by future aerals. He said the land development code has disrupted the continuity of what was there - which was two boat docks, one for the front lot and one for the back, neither of which was within the easement. Mr. Messina said he did not want to be adversarial, he just wanted the County to put the rules back in line with the original covenants. Mr. Jacob reiterated that if one was to go through these steps, meet the criteria and get the neighbor to sign off, a dock would be permitted.

Mr. Kemezys made a motion to accept the staff language.

Mr. Messina commended Ms. Richardson for her work on the staff's proposal but asked that it be amended to reflect an "angular opportunity for construction", so a dock could be built on an angle to allow for larger boats.

For purposes of discussion, Ms. Donley seconded the motion.

Ms. Donley asked if there had been any cases of adverse possession and Mr. Jacob said there was no history of that. There was a discussion about non-conforming rights. Once the code was changed, any owner that had a non-conforming dock that was removed and not replaced within six months, gave up the right to that dock. If there was a dock in the very beginning (before the rules were in place) and the dock was never removed, it could continue on indefinitely.

Mr. Richard Ibach asked how the lots were split and staff responded that it had been done piecemeal. Mr. Ibach had a concern with the staff's language in "f." on page 4. Based on how that language was worded, he agreed that "permission" from the adjacent owners should not be a requirement, but rather should be a notification. Mr. Jacob said the owner that was to be burdened should be involved in the process. There was further discussion.

Mr. Jacob said if an easement does not specify that construction of a dock is allowed, staff cannot say otherwise and are unable to make legal determinations. If an owner wants a determination as to their legal right, they should get a declaratory judgment from the court.

Mr. Smith recommended an amendment to the motion which would provide a compromise to language in (f). Instead of having a notarized letter of no objection, he suggested instead the following language: the dock may not extend outside the limits of the boundaries of the easement without the express written permission of the property owner upon whose property the dock encroaches. He said, if the dock was kept within the 10 foot easement, approval would not be needed. Building a bigger dock, building at an angle, needing more space – would require permission.

Mr. Murphy asked if it was possible that an amendment, focused strictly on Flamingo Bay, could be considered an illegal spot zoning. Mr. Jacob responded that it might but the question would be why this community was being singled out when the only justification was the loss of a nonconforming right, and that the community wanted to change the rules to allow something not done anywhere else in the County. Mr. Murphy also questioned whether a Court in Equity could determine that the rights of these property owners supersede or overrule the requirement in the code for the permitting. Mr. Murphy's opinion was that Mr. Messina and his consultant were

asking the County and, at this point, the Committee to act as a Court in Equity to try to find a solution for them, but perhaps what was needed was a class action suit with all the similarly situated properties in the neighborhood. Although Mr. Messina mentioned Judge McIver's decision several times, that decision was specific to a particular piece of property and not precedent.

Mr. Smith reviewed his amendment to the motion; provide a compromise to language in (f). Instead of having a notarized letter of no objection, instead have the following language: the dock may not extend outside the limits of the boundaries of the easement without the express written permission of the property owner upon whose property the dock encroaches.

Mr. Jacob stated that even if the language gets approved, if an easement does not specify that construction of a dock is allowed, the County is not going to permit it. The owner will have to provide a declaratory judgment of their rights.

Mr. Ibach seconded Mr. Smith's amendment to the motion.

Ms. Kneeland spoke against the motion and did not recommend any change of the ordinance. She remarked that no one was there on behalf of the residents that might be opposed to this, and should this go forward the possibility of lawsuits exists.

Ms. Artuso called the question concerning Mr. Smith's amendment to the motion. The vote was 6 against, 5 in support. The amendment failed.

Ms. Artuso reviewed Mr. Kemezys' motion which was to move the proposed amendment forward with the staff language as written. The vote was 6 in support and 5 against. The motion carried.

Ms. Kneeland asked it be noted that she was "vehemently against" the motion.

Motion to adjourn by Mr. Murphy. Seconded by Ms. Donley. The meeting was adjourned at 10:15 a.m.

The next meeting was tentatively scheduled for August 10, 2012.

**AMENDMENT TO
COMPACT
COMMUNITIES FOR LEHIGH ACRES
AND NORTH FORT MYERS
PLANNING COMMUNITIES**

MEMORANDUM
FROM
THE DEPARTMENT OF
COMMUNITY DEVELOPMENT

TO: The Land Development Code Advisory Committee **DATE: September 27, 2012**

FROM: Tony Palermo, AICP
Senior Planning, Zoning

RE: Lehigh Acres Activity Centers and North Fort Myers Town Center.

Please find staff's draft of proposed regulations implementing Compact Communities in Lehigh Acres and North Fort Myers Planning Communities. These include proposed Regulating plans to implement Compact Communities – two in Lehigh Acres and one in North Fort Myers. Both plans were the subject of intensive public involvement. The regulations themselves amend Chapter 32 Compact Communities and Chapter 33 Planning Communities Regulations and have been vetted by Lee County staff, the County Attorney's office and other stakeholders. These new regulations create pre-approved optional developments of Compact Communities, which can be approved – in whole and in part – administratively with flexibility to make minor changes to the approved regulating plans. The property owners still retain the right to develop under current zoning if they so choose. Some key highlights:

Lehigh Acres

- These regulations help implement two of nine identified "Activity Centers" in Lehigh Acres seeking to utilize Compact Communities per Chapter 32;
- These regulations implement Goal 32 of the Lee Plan for the Lehigh Acres Planning Community;
- These regulations and regulating plans were drafted in coordination with the Lehigh Acres community, county staff and Ensite, a local planning consultant.

North Fort Myers

- These regulations help implement the North Fort Myers Town Center utilizing Compact Communities per Chapter 32;
- These regulations implement Goal 28 of the Lee Plan for the North Fort Myers Planning Community;
- These regulations and regulating plans were drafted in coordination with the North Fort Myers community, county staff, and LaRue Planning and Management, a local planning consultant.

Thank you for your attention to this matter.

PROPOSED REGULATIONS IMPLEMENTING COMPACT COMMUNITIES IN LEHIGH ACRES ACTIVITY CENTERS AND NORTH FORT MYERS TOWN CENTER.

ARTICLE VI. COMPACT COMMUNITIES THROUGH OPTIONAL REGULATING PLANS.

Sec. 32-601 Purpose of article.

(a) This article will provide an optional administrative process to ~~create~~ develop compact communities on land designated as “Mixed Use Overlay” on Lee Plan Map 1, Page 6 and per Land Development Code (LDC) Sec. 32-602 “Applicable Areas” below. This optional process will eliminate the need to rezone land for compact communities and will provide clear standards for the development of compact walkable communities or fragments thereof. ~~This process may also create additional TDR receiving areas (See Article III).~~ This article will also provide means to utilize adopted regulating plans for compact communities, make minor changes to adopted regulating plans administratively, and create new adopted regulating plans in the future in other areas within Lee County. Use of the adopted regulating plans is voluntary. Lands with adopted regulating plans may utilize underlying zoning prior to adoption of an “Opt-In” Resolution (See LDC Sec. 32-604).

Additional geographic areas in Lee County may be added through amendment of this Article and adoption by the Lee County Board of County Commission of Compact Community Regulating Plans.

~~(b) Before this article can be used by landowners, Lee County must create conceptual regulating plans for eligible property and add those plans to this article. This article must also be amended to describe the optional nature of this review process.~~

Sec. 32-602 Applicable Areas.

The provisions of this article apply to the following geographic areas in addition to those properties identified on Lee Plan Map 1, page 6.

- (1) **Lehigh Acres** - Specialized Mixed Use Nodes, Downtown Lehigh Acres, Neighborhood Mixed Use Activity Center and Local Mixed Use Activity Centers within the Lehigh Acres Planning Community per the Lee Plan (See Objective 32.2, Policy 32.2.1, Objective 32.3, Objective 32.4, Objective 32.5, and Objective 32.6 of the Lee Plan).
- (2) **North Fort Myers** - The North Fort Myers Town Center within the North Fort Myers Planning Community Per the Lee Plan (See Policy 28.2.2 of the Lee Plan)

Sec. 32-603 Adopted Compact Community Plans.

The plans identified in Figures 1 through 7 have been adopted and may be utilized in accordance with this Article. Minor changes may be approved per LDC Sec. 32-604(b). Additional plans may be adopted by amendments to this Article and adoption of Compact Community Regulating Plans by the Lee County Board of County Commissioners.

Figure 1 – North Fort Myers Town Center Conceptual Regulating Plan

- Figure 2 – North Fort Myers Town Center Detailed Regulating Plan
- Figure 3 – North Fort Myers Town Center Illustrative Site Plan (non-binding).
- Figure 4 – Lehigh Acres Downtown Activity Center Conceptual Regulating Plan
- Figure 5 – Lehigh Acres Downtown Activity Center Detailed Regulating Plan
- Figure 6 – Lehigh Acres Neighborhood Activity Center Conceptual Regulating Plan.
- Figure 7 – Lehigh Acres Neighborhood Activity Center Detailed Regulating Plan.

Sec. 32-604 General approval procedures.

(a). **Rezoning not required.** Land identified in LDC Sec. 32-603 may be developed as a Compact Community without going through the rezoning process so long as the proposed development complies with the requirements of Chapter 32 of the Land Development Code including Articles I, II and VI.

(1) An application for an “Opt-in” Resolution is required to utilize the adopted regulating plans. Compliance will be confirmed by issuance of the following joint application for an “Opt-in” Resolution, development order and supporting documentation:

a. **Opt-In.** An “Opt-in” Resolution may be approved administratively consistent with this article. No public hearing will be required. An “Opt-in” Resolution application may be for a portion of or the entirety of an adopted Compact Community. The applicant must also demonstrate either substantial compliance with the adopted regulating plans per this article or utilization of “Minor Changes” to adopted regulating plans per LDC Sec. 32-604(b). below.

b. **Development Order.** A local development order using the procedures described in Chapter 10, with the modifications described in this article. The Development Services Director may authorize administrative deviations in accordance with LDC Sec. 10-104 during this process.

(2) A pre-application meeting to review the project with County reviewers is encouraged.

(3) In addition to application requirements for a development order under Chapter 10, an application for development of an adopted Compact Community per this Article must include plans and supporting documentation that demonstrate compliance with this chapter:

a. **Regulating plans.** A conceptual and a detailed regulating plan must be submitted for the developable portion of the property. The conceptual and detailed regulating plan must be in substantial compliance with those adopted regulating plans provided in this Article.

b. **Density and Intensity.** The proposed density and intensity on the developable portion of the property must be in compliance with the applicable Future Land Use category, the Lee Plan, Land Development

Code, and any relevant or applicable transfer of development rights, and/or bonus density received.

(b). Minor Changes.

(1) Minor changes may be approved as part of the “Opt In” Resolution application per LDC Sec. 32-604 (a.)(1) a. Criteria for administrative approval for minor changes to the adopted regulating plans will be per the following:

a. Modifications must be consistent with the Lee Plan and with the intent and the regulations of this chapter.

b. Modifications may not change transect zones, increase allowable building heights, increase overall density, exceed allowable block sizes, add an access point through the Edge transect zone, or reduce the diversity of lot types or street types per the approved regulating plan per this Article. However, modifications may substitute similar lot types or street types that are allowed in the designated transect zone and may make adjustments to comply with regulatory actions of the Florida Department of Transportation or the South Florida Water Management District.

c. Modifications may not increase the intensity of any block in the Edge transect zone.

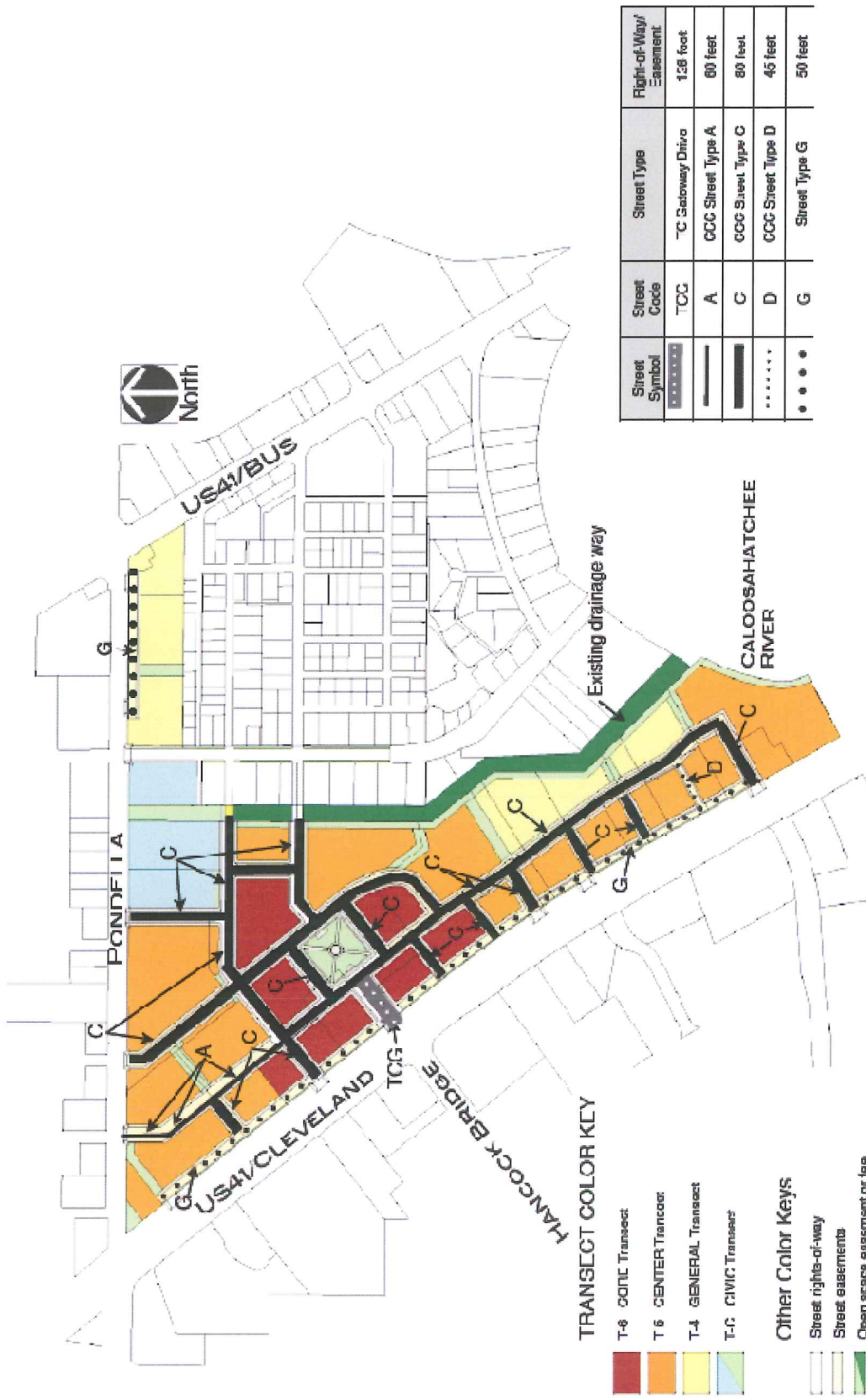
d. The cumulative effect of multiple modifications to an adopted regulating plan will be evaluated using the same standards per LDC Sec. 32-604(b)(1)a.–c. that apply to individual modifications.

(2) If proposed minor changes exceed the thresholds above or are deemed by the Zoning Director to be material changes that are not in substantial compliance with the adopted regulating plans per this Article, the proposed Minor Changes can only be approved by the Lee County Board of County Commissioners through the rezoning process.

(c.) Existing Zoning. Existing zoning may be utilized on property or a portion of property identified per this Article any time prior to approval of an application to “Opt In” Resolution on property within an adopted Compact Community Plan. Property identified per this article may also be rezoned per the requirements and procedures in the Land Development Code including Chapter 34.

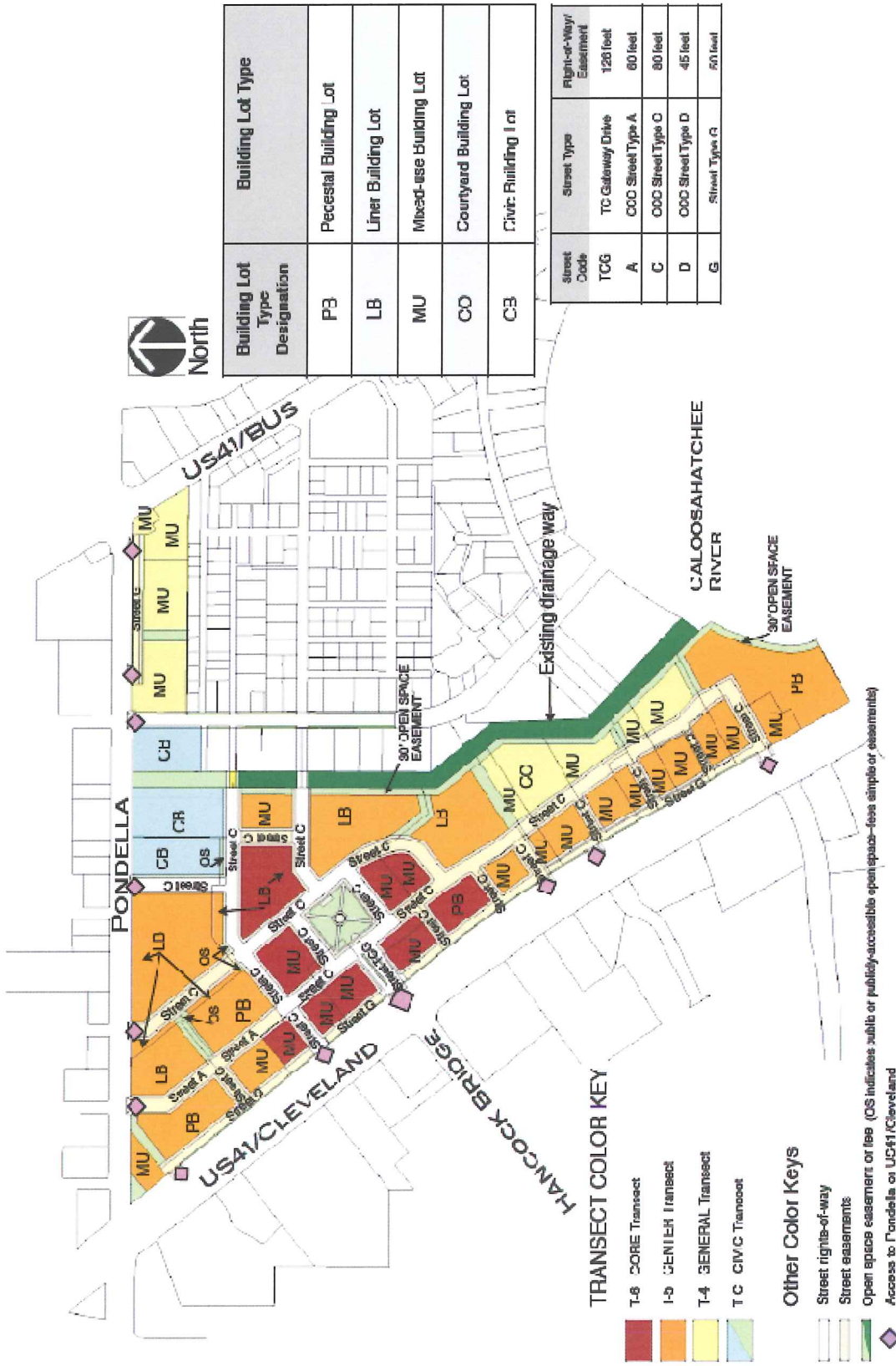
Sec. 32-605 Property Development Regulations. Property development regulations for Compact Communities per this article will conform with the regulations established in Chapter 32, Table 32-243.

Sec. 32-606 Permitted Uses. Permitted uses for Compact Communities per this article will conform with the use regulations established in Chapter 32, Table 32-244.



Sec. 32-603 Figure 1

North Fort Myers Town Center
Conceptual Regulating Plan



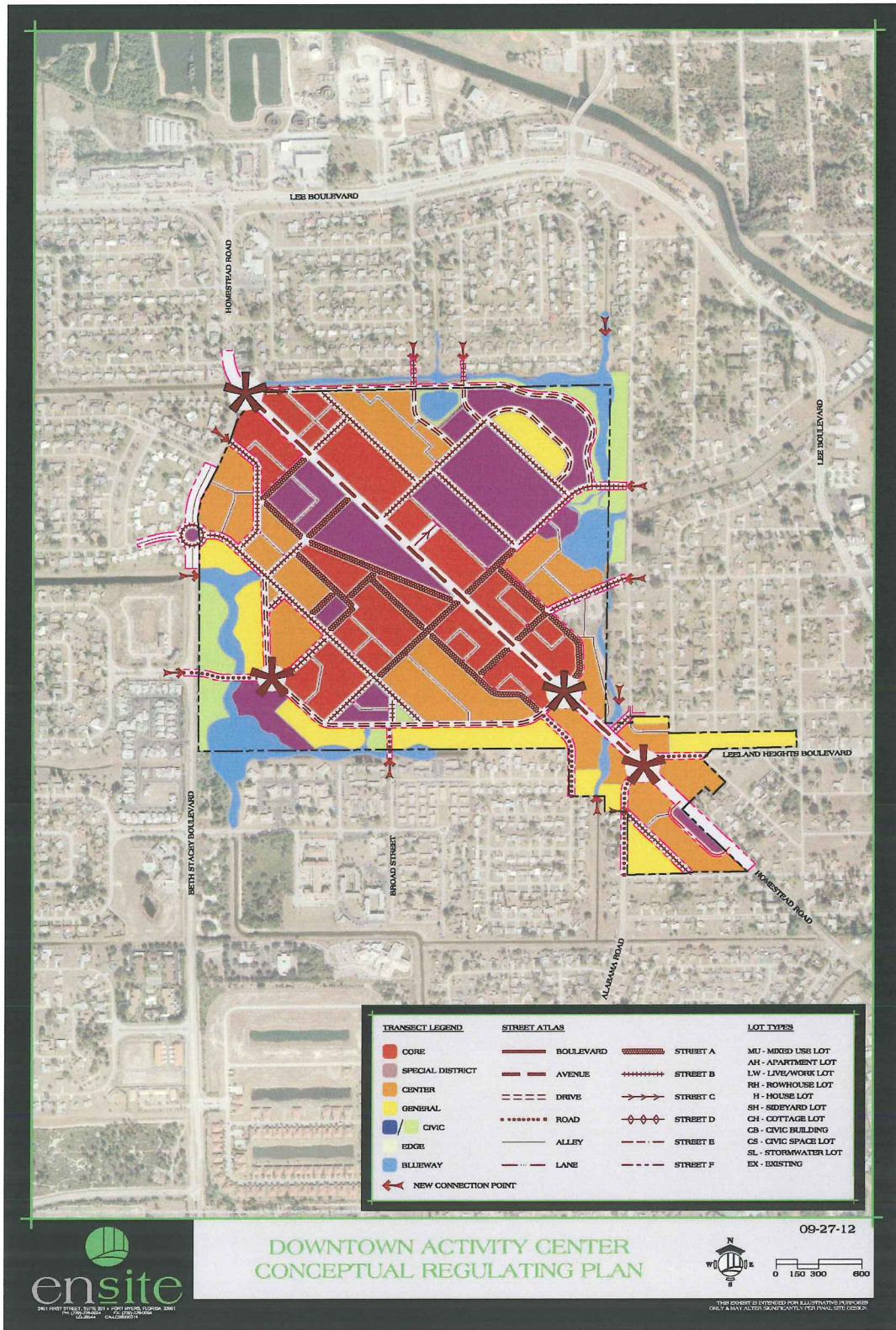
Sec. 32-603 Figure 2

North Fort Myers Town Center
Detailed Regulating Plan

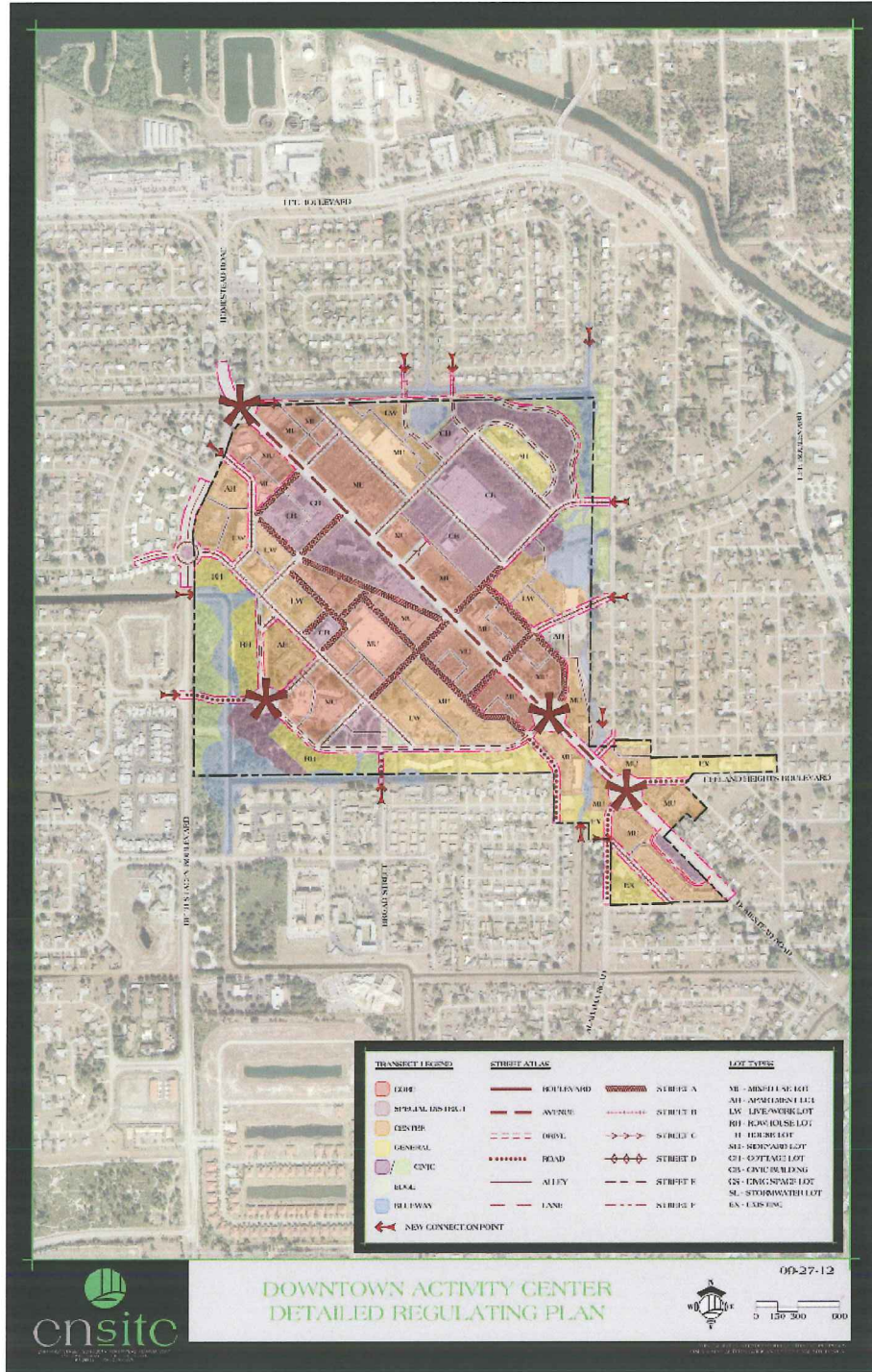


North Fort Myers Town Center
Illustrative Site Plan

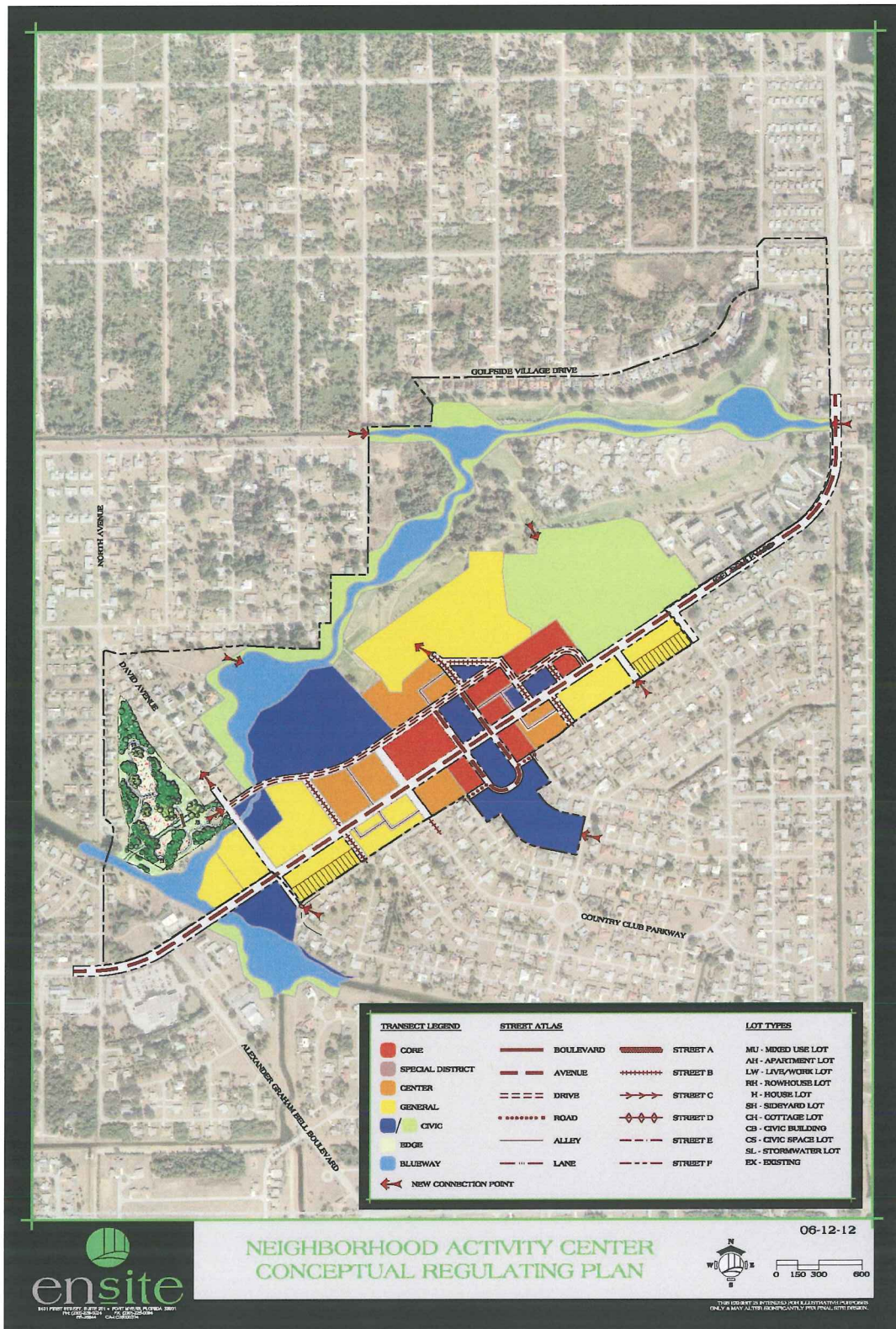
Sec. 32-603 Figure 3



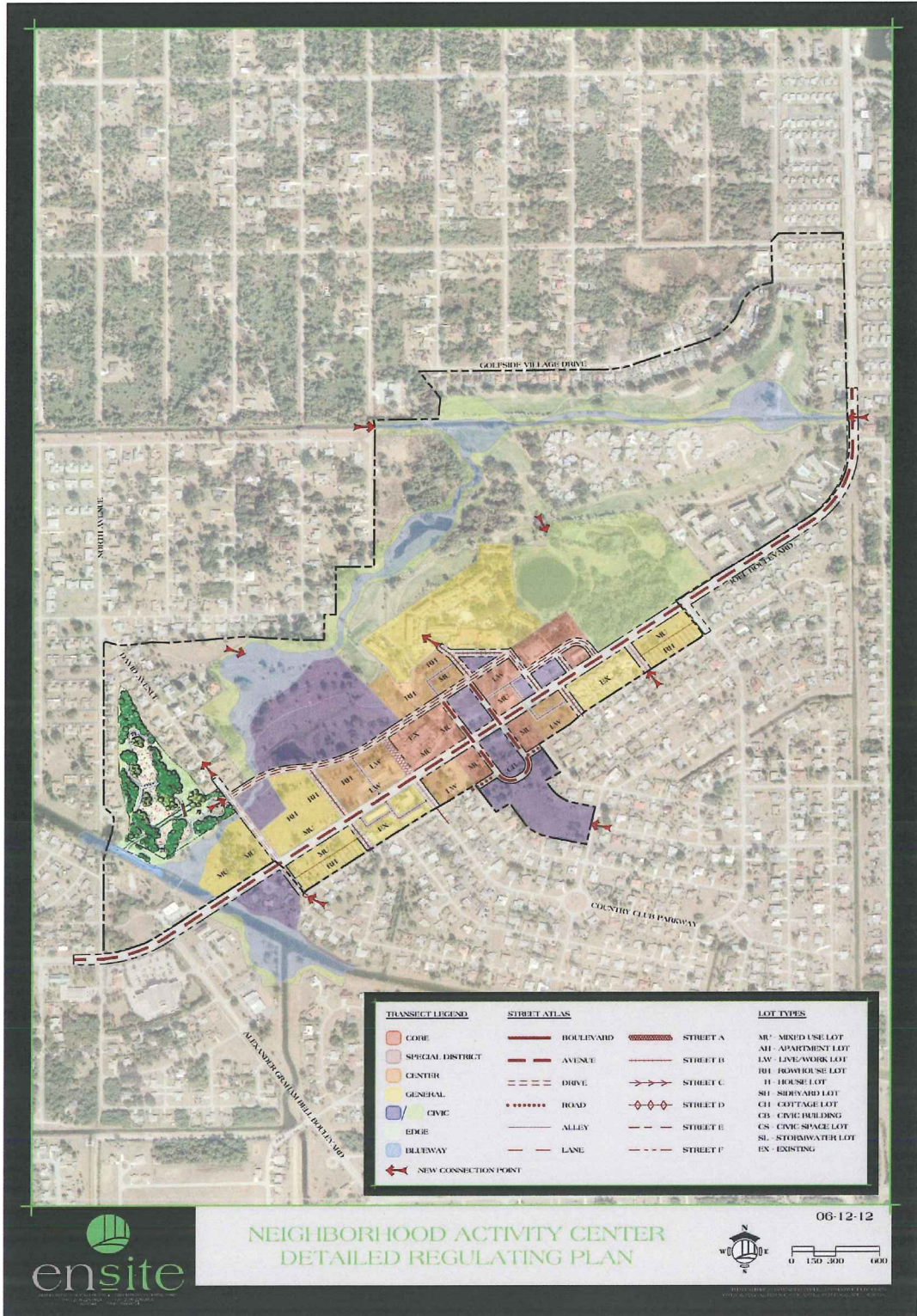
Sec. 32-603 Figure 4



Sec. 32-603 Figure 5



Sec. 33-603 Figure 6



Sec. 32-603 Figure 7

AMENDMENTS TO CHAPTER 32

Sec. 32-222. Design of street network.

~~(3) Streets, alleys and lanes must be publicly dedicated. All streets proposed for acceptance for County maintenance must comply with Section 10-292 and must meet Chapter 10 construction standards for wearing surface, base and subgrade. Entrance gates, private streets, and closed or gated streets are prohibited in compact communities.~~

3) Streets, alleys, and lanes must be dedicated or conveyed for public use on a plat or within a right-of-way easement. Nothing herein may be construed as creating an obligation upon any governing body to perform any act of construction or maintenance within such dedicated areas except when the obligation is voluntarily assumed by the County in accordance with Lee County regulations. Entrance gates that restrict public access and closed or gated streets are prohibited.

Sec. 32-225 Design of blocks.

- (1) Block perimeters may exceed 1,600 linear feet, up to a maximum of 2,000 linear feet, if one or more of the following conditions apply:
 1. The block is assigned to the Core transect zone;
 2. The long side of a rectangular block faces an arterial street, or is located adjacent to the Caloosahatchee River or any other natural water body; or
 3. The block contains valuable wetlands or other indigenous native vegetation that should not be crossed by a street.

Sec. 32-228(5) Parking structures.

- b. Parking structures may contain up to five levels of parking above grade. Parking structures may contain other uses above and below the parking levels, provided the entire building does not exceed the height allowed by Table 32-243.

Sec. 32-274(4)a. Minimum Diversity Requirements.

3. The minimum diversity requirements of LDC Sec. 32-274(4) a. are not applicable to regulating plans for the North Fort Myers Town Center.

THIS PAGE LEFT BLANK

TABLE 32-243
PROPERTY DEVELOPMENT REGULATIONS FOR EACH LOT TYPE

Lot Type	LOT CHARACTERISTICS				SETBACKS							HEIGHT ⁴ (min/max in stories; max in feet)					Accessory Apt. ⁵ (max building footprint in sf)
					Street (min/max)				Side Yard (min)	Rear Yard ^{1,2} [min]	Water Body ³ [min]	Core	Center ²	General	Civic	Edge	
	Lot Area (sq. ft.)	Lot Width (ft.)	Frontage Percentage	Lot Coverage by all bldgs.(max)	Core	Center	General	Edge									
Pedestal Building Lot ⁶	no min no max	no min max 500	min 90% max 100%	100%	min 0 max 10	min 0 max 10	not permitted	not permitted	0	0	25	2 / 8 85	2 / 5 85	not permitted	<u>not permitted</u>	not permitted	not permitted
Liner Building Lot ⁶	no min no max	no min max 500	min 90% max 100%	100%	min 0 max 10	min 0 max 10	not permitted	not permitted	0	0	25	2 / 6 65	2 / 4 65	not permitted	<u>not permitted</u>	not permitted	not permitted
Mixed-Use Building Lot	no min no max	no min max 300	min 90% max 100%	100%	min 0 max 10	min 0 max 10	min 0 max 10	not permitted	0	3	25	2 / 5 65	2 / 4 65	2 / 3 45	<u>not permitted</u>	not permitted	not permitted
Apartment Building Lot	min 10,000 no max	min 100 max 200	min 80% max 100%	100%	min 0 max 10	min 0 max 10	min 5 max 10	not permitted	0	10	25	2 / 4 55	2 / 4 55	2 / 3 45	<u>not permitted</u>	not permitted	not permitted
Courtyard Building Lot ⁷	min 20,000 no max	min 150 max 300	min 50% max 90%	70%	min 0 max 10	min 0 max 10	min 5 max 10	not permitted	5	10	25	2 / 3½ 55	2 / 3½ 55	2 / 2½ 45	<u>not permitted</u>	not permitted	not permitted
Live-Work Building Lot	min 1,800 max 7,200	min 16 max 60	min 60% max 100%	80%	not permitted	min 0 max 6 <u>12</u>	min 5 max 10 <u>12</u>	not permitted	0	20	25	2/3 45 <u>not permitted</u>	2 / 3 45	2 / 2½ 45	<u>not permitted</u>	not permitted	625
Rowhouse Lot	min 1,800 max 3,840	min 16 max 32	min 90% max 100%	80%	not permitted	min 0 max 6 <u>12</u>	min 5 max 10 <u>12</u>	not permitted	0	20	25	2/3 45 <u>not permitted</u>	2 / 3 45	2 / 2½ 45	<u>not permitted</u>	not permitted	625
Apartment House Lot	min 4,800 max 18,000	min 48 max 120	min 70% max 90%	80%	not permitted	not permitted	min 10 max 25	not permitted	5	15	25	not permitted	not permitted	1 / 3 45	<u>not permitted</u>	not permitted	not permitted
Duplex Lot	min 5,000 max 10,800	min 35 max 90	min 60% max 90%	80%	not permitted	not permitted	min 10 max 20	15 no max	5	15	25	not permitted	not permitted	1 / 3 45	<u>not permitted</u>	1 / 2½ 45	not permitted
Cottage House Lot	min 2,400 max 4,800	min 24 max 40	min 70% max 90%	60%	not permitted	not permitted	min 5 max 20	10 no max	3	15	25	not permitted	not permitted	1 / 2 35	<u>not permitted</u>	1 / 2 35	not permitted
Sidyard House Lot	min 3,000 max 7,200	min 30 max 60	min 60% max 90%	50%	not permitted	not permitted	min 5 max 10	min 10 max 15	min 0 max 10 ⁸	15	25	not permitted	not permitted	1 / 3 45	<u>not permitted</u>	1 / 2½ 45	800
House Lot	min 4,000 max 8,400	min 40 max 70	min 60% max 80%	50%	not permitted	not permitted	min 10 max 20	15 no max	5	15	25	not permitted	not permitted	1 / 3 45	<u>not permitted</u>	1 / 2½ 45	800
Civic Building Lot	no min no max	no min no max	no min no max	no min no max	no min no max	no min no max	no min no max	no min no max	0	0	15	1 / 4 <u>55 65</u>	1 / 4 <u>55 65</u>	1 / 4 55	<u>1 / 4 65</u>	1 / 4 55	1,250
Civic Space Lot	no min no max	no min no max	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	not permitted
Stormwater Lot	no min no max	no min no max	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	not permitted

(1) Minimum rear yards apply to lots with alleys or lanes and to lots with neither alleys nor lanes; rear yards do not apply to through lots or to double-frontage lots.

(2) Minimum rear yards in this column apply to principal buildings and structures. When alleys or lanes are provided, garages and accessory dwelling units must be built with one wall placed three (3) feet from the property line which is adjacent to the alley or lane.

(3) Fifty (50) feet for natural waterway buffers per LDC 10-416(d)(9)

(4) Buildings must comply with both maximum heights, as measured in stories and feet. For heights measured in feet, see section 34-2171 et seq. for details and exceptions. Mezzanines that exceed the percentage of floor area for a mezzanine defined in the Florida Building Code are counted as a story for the purpose of measuring height. Habitable space within a roofline that is entirely non-habitable is not counted as a story with a 12:12 pitch or less counts as ½ story.

(5) See requirements for accessory apartments in sections 4-243 and 34-1777.

(6) On pedestal buildings, one or more step-backs of at least 20 14 feet must occur between the second through the fifth floor levels; above the second floor level. Said step-backs is defined as at least shall consist of at least 70% of a pedestal building's primary facade being built at least 14 feet further from all streets than the story below. In addition to these heights, buildings on Pedestal Building Lots and Liner Building Lots are allowed up to four (4) additional stories provided the square footage of each additional story is less than 70% of the largest lower story.

(7) On Courtyard Building Lots, the longer dimension of the central garden or courtyard must be at least 30 feet long if oriented east-west or 40 feet if oriented north-south. If the longer dimension is less than 35 feet; architectural projections such as porches and balconies may only extend into the courtyard from one side. Elevator access is allowed only up to the courtyard level. Maximum lot coverage is measured immediately above the courtyard level.

(8) One sidyard must be 10' min; the opposite side yard may be 0' if the adjacent lot is a Sidyard House Lot or if the adjacent lot provides a maintenance easement, otherwise the side yard must be 3' min.

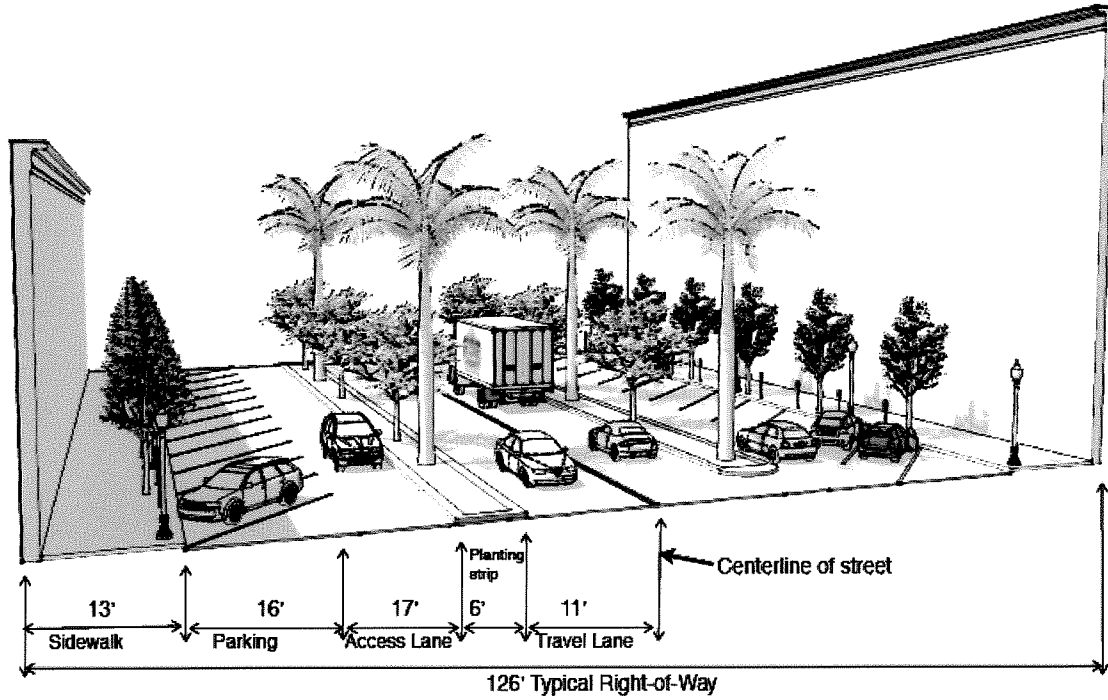
(9) Maximum height exception: For properties located in the Center Transect and having direct frontage on the Caloosahatchee River, the maximum height on any allowable building lot is 12 stories and 120 feet

Sec. 32-833. Street types. In addition to the regulations contained in LDC Sec. 32-221, the following street types are permissible in the North Fort Myers Town Center.

- (a) TC Gateway Drive is permissible in the Core transect zone.
- (b) Street G is permissible as an access roadway parallel to an arterial roadway in any transect in the Town Center.

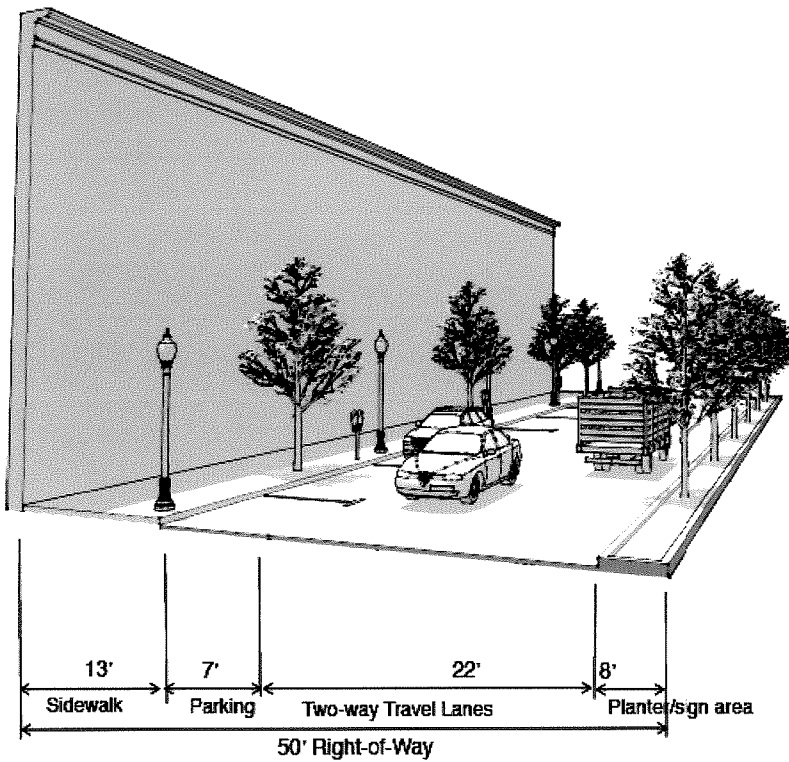
Sec. 32-834. Street Cross-sections. In addition to the regulations and illustrations contained in LDC Sec. 32-226, the following cross-sections apply to Streets TCG and G, respectively.

North Fort Myers Town Center Street Types - New



TC Gateway Drive

Two-lane, two-way travel lanes with medians and access drives and 45-degree angle parking on both sides of street



Street G Two-way parallel parking one side (with 50' ROW/Easement)

DIVISION 4. TOWN CENTER LAND DEVELOPMENT PROVISIONS

SUBDIVISION I. IN GENERAL

Sec. 33-1602. Applicability

The provisions of Division 4 apply to all properties located within the North Fort Myers Town Center as identified in Map 33-1602(a).

Map 33-1602(a)



Sec. 33-1603 Architectural standards

In addition to the requirements of LDC Sec. 10-620, all commercial, public and vertical or horizontal mixed-use buildings or development within the North Fort Myers Town Center must comply with “Urban Design Guidelines” applicable to Neighborhood Centers in North Fort Myers (LDC Sec. 32-805). These standards are applicable utilizing conventional zoning, planned development zoning, and/or Compact Communities per Chapter 32.

Sec. 33-1604 Use Regulations

In addition to uses permitted per LDC Table Sec. 32-244 for Compact Communities, the following uses per Table 32-1604 are permitted when utilizing Compact Communities per LDC Chapter 32 within the North Fort Myers Town Center. Live-Work units are also a permitted use in the North Fort Myers Town Center.

Development utilizing conventional zoning or planned development zoning may utilize uses per Subdivision IV “Commercial Corridor Use Regulations” LDC Sec. 33-1596.

TABLE 32-1604

LIST OF ADDITIONAL ALLOWABLE COMMERCIAL TYPE USES

DESCRIPTION OF USE	Special Notes or Regulations	Permissibility Status*
Boat sales		P
Building materials sales (34-622(c)(4))		P
Business services (34-622(c)(5)): Group II		SE
Cultural facilities (34-622(c)(10))		P
Insurance companies (34-622(c)(23))		P
Marina	34-1862	SE (Riverfront property only)
Marina, ancillary uses		SE (Riverfront property only)
Mass transit depot (government operated)		P
Multislip docking facility		SE (Riverfront property only)
Post Office		P
Recreation facilities: Commercial (34-622(c)(38)): Group III		P, Less than 10 acres SE, 10 or more acres
Transportation services, (34-622(c)(53)): Group I		SE (Riverfront property only)
Transportation services, (34-622(c)(53)): Group III		SE
Vehicle and equipment dealers, (34-622(c)(55)):Group	34-1352	P

I		
Vehicle and equipment dealers, (34-622(c)(55)):Group III	34-1352	P
Vehicle and equipment dealers, (34-622(c)(55)):Group IV	34-1352	SE
* Uses allowed by special exception may also be requested through PD zoning.		