



**EXECUTIVE REGULATORY OVERSIGHT COMMITTEE**  
**Community Development/Public Works Center**  
**1500 Monroe Street, First Floor Conf. Rm. 1B**

**WEDNESDAY, MAY 11, 2016**  
**2:00 P.M.**

**AGENDA**

1. Call to Order/Review of Affidavit of Publication
2. Approval of Minutes – January 13, 2016
3. LDC AMENDMENTS

Public:

Electronic Changing Message Centers/North Fort Myers ✓  
Temporary RVs/Habitat for Humanity ✓  
Lee County Mosquito Control Facilities & Operations ✓  
Buckingham Airfield/Community Facilities (CF) Zoning District  
Lee County Port Authority/Airport Noise Zones

Staff:

LDC Regular Two-Year Cycle of Amendments: Ch. 2, Ch. 6, Ch.  
10, Ch. 14, Ch. 22, Ch. 30, Ch. 32, Ch. 33 & Ch. 34

Draft Administrative Code AC-13-16 Transportation Proportionate  
Share Calculations for New Development Projects (to be discussed  
with Ch. 2 Amendments)

4. Adjournment – Next Meeting Date: July 13, 2016

Persons with disabilities who need an accommodation to participate in the Land Development Code Advisory Committee meeting should contact Pam Hendry, 1500 Monroe Street, Fort Myers FL 33901 (239-533-8348 or [Phendry@leegov.com](mailto:Phendry@leegov.com)). To ensure availability of services, please request accommodation as soon as possible but preferably five or more business days prior to the event. Persons using a TDD may contact Pam Hendry through the Florida Relay Service, 711.

# Draft

## MINUTES REPORT EXECUTIVE REGULATORY OVERSIGHT COMMITTEE WEDNESDAY, JANUARY 13, 2016

### Committee Members Present:

Randy Mercer, Chairman	Tracy Hayden	Michael Reitmann
Carl Barraco, Jr.	Jim Ink	Mike Roeder
Bill Ennen	Bob Knight	Buck Ward

### Committee Members Absent:

Hal Arkin	Victor Dupont	Darin Larson
Bill DeDeugd	Stephanie Kolenut	Matthew Petra

### Lee County Government & Representatives Present:

Dave Loveland, Director, DCD	Marissa Fewell, Planner, Planning
Pam Houck, Zoning Manager	Neysa Borkert, Asst. County Attorney
Nettie Richardson, Zoning Princ. Planner	Michael Jacob, Asst. County Attorney
Sharon Jenkins-Owen, Princ. Planner	Pam Hendry, DCD Admin., Recording
Tony Palermo, Zoning, Senior Planner	

### Public Participants:

Ruby Daniels, Alva, Inc.	Brenda Thomas, BIA	Nina Burt
Connie Dennis, Alva, Inc.	Amy Barnes	Leslie Feinck

### Introduction

Mr. Randy Mercer called the meeting to order at 2:02 p.m. in the first floor conference room of the Community Development/Public Works Center, 1500 Monroe Street, Ft. Myers, Florida.

Ms. Neysa Borkert, Assistant County Attorney, reviewed the Affidavit of Posting of Meeting and found it legally sufficient as to form and content.

### Approve Meeting Minutes – September 9, 2015

Ms. Tracy Hayden made a motion to approve the December 9, 2015 meeting minutes. Mr. Bob Knight seconded. The motion carried unanimously.

### Alva LDC Amendments

Ms. Nettie Richardson said the Alva Planning Community is very large in size, however, the regulations they're bringing to EROC today are mainly just for commercial, mixed use and civic developments, and only apply to new development and redevelopment. The areas they're focusing on are mainly along Palm Beach Blvd., Broadway and Joel Blvd. and do not apply to agricultural properties, single-family or duplexes. The community is not against commercial development, but they want these regulations to help to protect the rural character of Alva. Community review of rezoning, development orders, architectural design standards, landscape standards and signage are some of the regulations to review.

Some scenic corridors were created along Palm Beach Blvd., along Broadway, across the river and into the downtown historic area. In the historic area there are some limitations on heights and allowances for reduced landscaping and buffering. Any mixed use development along that portion of Palm Beach Blvd. will have to come in and be rezoned. She said they've met with Ruby Daniels and Connie Dennis of Alva, Inc. quite a bit over the years.

Regarding community review, Mr. Buck Ward said development orders are not discretionary. He asked why they are included and what effect the board could have on them. Ms. Sharon Jenkins-Owen said because it's an agricultural area, very rural in nature, the panel said they'd like to review them.

Mr. Jim Ink said if a community panel doesn't like your development order, they have no say, no vote and no legal standing. He said he's still against having development orders in a public hearing because it creates huge problems and very unhappy residents.

Mr. Ward said he would like that requirement deleted because, basically, it has no meaning, if you comply with the code then it's unreasonable to uphold.

Mr. Michael Reitmann said what happens is it becomes a political issue and a development order should not be politicized because it is covered by ordinances, therefore communities should be careful and be aware of that.

Mr. Mercer said to go to a community with a project that is sufficient with the land development code, the developer will have to spend, in some cases, a lot of money to put on a public hearing and have the right people there to answer the questions. A development order is no different than a code, and if you've made the intent of what's there, a public meeting means nothing.

Ms. Ruby Daniels said it's important to our community to feel like they have a voice in how we grow and develop over time. She asked for clarification. Mr. Ward said the development order is to the land what a building permit is to a building. It's a set of rules and regulations that a developer must comply with in order to get permission to develop the property and if he complies, the permit cannot reasonably be withheld. If somebody doesn't like what he's doing, that doesn't matter. It would be as if someone applied for a building permit, met all the codes, but you don't want him to build that building there, but it doesn't matter what you like as long as he complies with the code. If somebody goes before the Alva panel and they didn't like the development order, it wouldn't be grounds for denying it. The development order is not discretionary, it's not like zoning or variances or deviations where people would normally go to a public hearing where they're asking to do something differently than the code specifies. That's where community panels play a role. If someone has the proper zoning and applies for permit and you don't want that, you'd have to get the rules changed that would apply to everybody or have specific rules in your plan that would supersede the County wide rules for development orders. You've got specific architectural standards with which they'd have to comply. When applying for a development order for commercial developments, it includes an architectural design

portion where you show that you comply. To get a development order, you don't have to negotiate with a panel whether or not it should be approved. If you comply with the written rules, you get the permit.

Ms. Daniels asked what someone would do that wanted a change in part of those rules. Ms. Borkert said, depending on what type of rule it is, you may need a variance by either a public hearing or administratively. But, if you're following the land development code, you can be issued a development order. If at community presentation on the development order, the panel had recommendations beyond what is required, the County could not impose those on the developer because they're not already outlined in our rules. We can't make people do something extra. She said someone from the community panel could look through the development order to make sure that it complies with all the rules, but County staff does that. So, if you found something that didn't comply and pointed it out, that would really be the only input that the County could recognize. Mr. Ward said if someone didn't want to comply with the rules, there are methods they can use to get special dispensation, and in those cases the panel would come into play because that's a discretionary kind of thing.

Regarding the architectural style design pictures, Mr. Ink said he likes the pictures but it's a little misleading to show two houses when single-family houses are exempt. Ms. Daniels said the first picture is very similar to a hotel that existed in early Alva and the second picture is very similar and could be of a former hotel that also existed in Alva. She said we put in the first picture because it has big wide porches and it illustrates buildings that were used in early Alva.

Regarding landscape and entry features for new commercial developments, Ms. Hayden asked why porticos are prohibited. Ms. Jenkins-Owen said in trying to keep a rural feel, they felt that porticos and those types of signage are more suburban in nature. Ms. Daniels said they definitely want to keep everything with a rural look rather than a suburban look because one reason new comers go to Alva is because they like the rural environment. Ms. Hayden said at a community building in Florida it's nice to have a portico to not have to get soaking wet so she thought it was an odd thing to prohibit.

Mr. Roeder said he's curious about the scenic corridors on Broadway and Joel, when that's built out, will you be able to see the businesses? Ms. Daniels said we want a lush environment in our commercial spaces because that's part of the rural environment. She said as we're working with the developer, we want the landscape to be lush but we also want signage to be visible, as well as the architecture of the building, because we think it will present an overall pleasant view to the public and will be attractive to people who wish to stop and shop. Ms. Hayden asked if staff had done any sketches and looked into it. Ms. Jenkins-Owen said we do not have any sketches. Mr. Roeder said he'd like to have someone from environmental review look at that scenic corridor landscaping requirement to see if there's visibility once the landscaping is mature.

Ms. Daniels thanked Ms. Richardson and Ms. Jenkins-Owen and the County for the work they've done. She said she knows the amount of dedication and time that it requires and

really appreciates their comments and how very helpful they've been. She said it's very important to them in Alva to feel they have a voice as a community on how they grow and develop. They've given a great deal of time and thought to developing these standards and realize that they're probably different from any other set of standards and that's because Alva is unique from the rest of Lee County. She said they know and believe that diversity in Lee County is one of the things that make it a desirable place to live and work and bring up children. She said they certainly take EROC's input seriously and you've given her some things to think through and she appreciates that. Mr. Mercer said they've got a very dedicated commissioner in Frank Mann, so if there's any help you need, you may want to talk to him too, he'll be there for you. Ms. Daniels said he has been there for them and they value his service and dedication to the community.

Ms. Connie Dennis said Ms. Richardson and Ms. Jenkins-Owen showed caring for the Alva community and they appreciate that.

**Mr. Buck Ward made a motion to approve the amendments with the recommendation that the references to community review of Development Orders be removed, and that staff look at the landscape and entry features prohibitions; additional pictures depicting architectural style; and that an environmental planner look at the future visibility of signs once landscaping has matured. Mr. Mike Roeder seconded. The motion carried unanimously.**

#### **Proposed LDC Amendments**

Mr. Jacob said the proposed amendments are designed to do a few things. In recent zoning cases, they've come to a realization that some of the provisions that were previously drafted don't really do what they're intended or they create issues with how the rest of the code works, so there's some cleanup there. And, some in Chapter 32 are primarily to address some of the issues they've found from the Centerplace case. He said the Chapter 1 changes were designed to address a couple of issues primarily in a recent eminent domain case, and some discussions with staff on other cases in the past, how conditions of approval for variances, deviations and special exceptions go forward if the codes change, or the deviation or variance is not needed anymore for the type of development proposed. They want to make it clear that those conditions of approval actually go with the deviation variance or special exception, that you actually need or use. He said some of the proposed changes come from the Hearing Examiner's on issues they've experienced over the previous year in certain cases. There're also a number of clarifications and redundancies being removed.

Ms. Borkert said a voting conflict has been submitted by Carl Barraco, Jr. for the Chapter 32 amendments, so the committee may vote separately for the Chapter 32 amendments and for the Chapters 1, 33 and 34 amendments.

Regarding Sec. 32-502(d), Ms. Hayden said the word Deviations appears twice.

Regarding Sec. 34-935(f) Height of Buildings, Ms. Nina Burt asked for an explanation of the deletions of mobile home planned developments and community facility planned

development changes. Ms. Borkert said the height restrictions would depend on the Comp Plan designation of the areas.

Regarding Minimum required setbacks Sec. 34-2443(d), Ms. Burt asked for the reason for the deletion of (9) Social services, group II (Section 34-622(c)(46)). She said that will affect a lot of residential property. Mr. Jacob this is another scenario raised by the Hearing Examiner in trying not to treat that entity differently than other social services groups, so at this point they would not be required to have the 100 ft. setback but the same setback required by everything around it.

Ms. Burt said sometimes Social services, group II is not always a low intensity, low impact type of development, so setbacks are important to protect those with property near and around that. She said as landowners, they would be directly impacted by that. The County should consider the compatibility with what's around it and therefore it should stay with some setbacks and not necessarily be abolished. Mr. Jacob said there are a number of similar uses that fall within the social services groups. There is no rational distinction for treating this group differently and so we're striking it. Mr. Ink said, in the code if it lists uses where one may have a different setback, there's rational reason to except it that way? Mr. Jacob said it just depends.

Mr. Ward said somebody at one time thought that social services group II would have the same kinship in terms of disturbance to residentially owned property as all these other things, and then somebody decided that it doesn't really? Ms. Burt said we'd like the setback to stay for that reason.

Ms. Borkert read the list of social services groups. Social Services Group II includes job training, manpower training, offender rehabilitation agencies, offender self help organizations, self help organizations, alcoholics anonymous, gamblers anonymous, skill training centers, vocational rehabilitation agencies and counseling, and vocational training work experience centers.

Mr. Reitmann asked if Ms. Burt is concerned about a specific one of those individual services. Ms. Burt said as someone that would be potentially living next to that, she wants the County to recognize when eliminating some of those in group II, it's still a good idea to keep the setback in some.

Mr. Ward said it does seem kind of odd that group II would require 100 ft. setback, but not group I, III and IV. Mr. Palermo said that's a good point. Ms. Borkert said, for example, group II includes self help organizations like AA, NA and those types of things that can typically be held at a church, and churches are not going to require 100 ft. setbacks, even though they're providing certain uses potentially within, renting out their spaces. But, she doesn't know why the distinction was made and maybe the Hearing Examiner is thinking along the same lines, that groups I or III or IV don't have this requirement, only group II does. Ms. Jenkins-Owen said as the intensity increases, shouldn't the setback also increase? Mr. Ward said a lot of the group I uses are the types you'd expect in a professional office, but in group IV the people arriving for those services may be in

handcuffs. He said it seems odd to him that group II would've been singled out initially but not groups III and IV and maybe groups III and IV should be added rather than group II being eliminated.

Mr. Ink said he is wondering why this is being asked to be stricken because he agrees that there are uses in groups III and IV that he'd like to see with 100 ft. setbacks, and a couple in group II.

Mr. Knight said to him nothing should be stricken and groups III and IV should be added instead. He said group I is probably in a professional office building.

Mr. Mercer said we can make a recommendation or a motion that group II stays in. Mr. Ward suggested that instead of excluding group II, include group III and IV along with acceptance of everything else.

Mr. Ink said he'd like to make a recommendation that staff look at all social services and determine whether parts of it apply to a greater setback than or other parts and change it accordingly. He said there are things in group IV that may not require 100 ft. setback and some things in group II that should keep 100 ft. setback, in his opinion. He said he'd like staff to relook at social services in today's standard and decide what needs to be where, as far as protecting residential communities.

Ms. Borkert said there are certain residential uses that are included in social services group that cannot be on a Federal level under the ADA, we can't zone residential uses because someone has a type of disability or group homes. We're walking a fine line there.

**Regarding Chapter 32, Ms. Tracy Hayden made a motion to approve. Mr. Bill Ennen seconded. The motion carried 8-0 as Carl Barraco, Jr. abstained.**

**Regarding Chapters 1, 33 and 34, Mr. Jim Ink made a motion to approve but have staff look at all the social services' individual uses within those groups and see if they're in the appropriate place and should stay with standard setbacks, or if they need bigger setbacks. Mr. Bill Ennen seconded. The motioned carried unanimously.**

Mr. Dave Loveland said we're going through our regular land development code amendment cycle that we do every two years. We've got a package of changes that we'll be bringing forward for your review. We've already dealt with Pine Island related changes, the Hearing Examiner recommended changes to the Hearing Examiner process, and now these changes. There may be some additional things that are split out and presented to you as a single item, for example the revisions to Chapter 32, that may end up encompassing a number of changes to other parts of the land development code. It really gets down to where do we want to encourage a higher intensity development and how do we best go about doing that, because the Chapter 32 compact communities code isn't really working to achieve that at this point. There's likely to be a set of Comp Plan amendments that are required to go with that, as well as the land development code

changes. So, we may have all that as one package to bring forward and deal with it together with the other land development cleanup changes separately. Our goal is going to be, are there ways to streamline the land development code and make it more usable, easier to understand, more workable. There are a lot of instances where we've ended up putting procedural things in the code that perhaps need to be pulled out and put into administrative codes. We're going to look at opportunities to make those kind of changes also as we go forward. Mr. Ward asked if there are changes to Chapter 10. Mr. Loveland said there are changes to Chapter 10 that are part of the changes.

### **ADJOURNMENT**

**The meeting adjourned at 3:25 p.m.**

The next meeting was tentatively scheduled for March 9, 2016.

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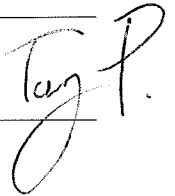


**MEMORANDUM**  
**FROM**  
**THE DEPARTMENT OF**  
**COMMUNITY DEVELOPMENT**

**TO:** Dave Loveland, AICP  
**Director of Community Development**

**DATE:** April 20, 2016

**FROM:** Tony Palermo, AICP  
**Senior Planner, Zoning**



**RE: Summary of Proposed Land Development Code (LDC) Amendments**

Attached please find proposed amendments to the Land Development Code (LDC) from both the public and staff for the regular two-year cycle of LDC amendments. All The proposed changes have been vetted by Planning, Zoning, Development Services, Department of Transportation and other staff including the County Attorney's office.

**Public-Proposed Amendments**

Included in this package of LDC amendments are five proposed amendments from the public as summarized below:

- A proposal from International Worship Center and Holy Trinity Presbyterian Church in North Fort Myers to permit electronic changing message centers limited to places of worship on commercial corridors in the North Fort Myers Planning Community;
- A proposal from Habitat of Humanity to permit temporary RV's for volunteers on commercial or industrial properties;
- A proposal from Lee County Mosquito Control to address review of development proposals near mosquito control facilities and operations;
- A proposal from Buckingham Airfield to permit "Aircraft Landing Facilities, Private" in the Community Facilities (CF) zoning district;
- A proposal from the Lee County Port Authority to update the airport noise zones consistent with a proposed Lee Plan amendment.

Staff recommends approval of the language proposed for all four proposed amendments from the public with one exception as it pertains to the proposed language from Habitat for Humanity. Staff recommends a maximum of 2 temporary RVs on a site, while Habitat seeks 6.

### **Staff-Proposed Amendments**

The proposed staff amendments include substantive changes, as well as minor clean-ups and corrections.

Among the changes include the removal of the Estero Community regulations (due to the incorporation of the Village of Estero), moving the San Carlos Island Overlay District from Chapter 34 (Zoning) to Chapter 33 (Community Planning), streamlining Chapter 10 language regarding open space and landscaping, and other changes to make the LDC consistent with State Statutes and local ordinances.

Also included is a draft of amendments to Administrative Code AC-13-16 "Transportation Proportionate Share Calculations for New Development Projects" to be reviewed in conjunction with staff's proposed amendments to Chapter 2 relating to concurrency.

A full list of the proposed staff LDC changes and a summary of each Section of the LDC proposed to be amended is attached.

The staff LDC changes also include the regulation of Social Services both county-wide and as it pertains to the North Fort Myers Planning Community. These proposed changes and further analysis of Social Services are addressed in a separate memo also attached.

Thank you for your attention to this matter.

cc. Pam Houck, Zoning Manager  
Ben Dickson, Development Services Manager  
Mikki Rozdolski, Planning Manager  
Neysa Borkert, County Attorney's Office

## EROC ORDINANCE EVALUATION GUIDELINES

**Proposed Ordinance:**

**LDC REGULAR TWO-YEAR CYCLE OF PUBLIC AND STAFF AMENDMENTS.**

**1. What is the public interest that the Ordinance is designed to protect?**

The use and regulation of land. To implement the Lee Plan and protect the public, health, safety and welfare. These amendments include corrections to existing language, changes needed to be consistent with State Statutes, other local ordinances, and current practices by staff. Some of the changes are to streamline existing practices and make language clearer or easier to interpret.

**2. Can the identified public interest be protected by means other than legislation (e.g., better enforcement, education programs, administrative code in lieu of ordinance, etc.)? If so, would other means be more cost effective?**

No. These amendments will be the basis for regulations.

**3. Is the regulation required by State or Federal law? If so, to what extent does the County have the authority to solve the problem in a different manner?**

Some of the proposed amendments are needed to be consistent with State Statutes.

**4. Does the regulation duplicate State or Federal programs? If so, why?**

No. These proposed amendments supplement regulations at the local level only.

**5. Does the regulation contain market-based incentives? If not, could that be used effectively?**

N/A.

**6. Is the regulation narrowly drafted to avoid imposing a burden on persons or activities that are not affecting the public interest?**

Yes. Some of these amendments have the effect of reducing regulatory burdens.

- 7. Does the regulation impose a burden on a few property owners for the benefit of the public as a whole? If so, does it provide any form of compensation?**

No. Some of these amendments have the effect of reducing regulatory burdens.

- 8. Does the regulation impact vested rights?**

No

- 9. Does the regulation provide prompt and efficient relief mechanisms for exceptional cases?**

Yes. Variances and deviations may be applied for consistent with the LDC requirements.

- 10. Even though there is an interest to be protected, is it really worth another regulation?**

Some of the amendments have the effect of reducing regulatory burdens, or streamlining existing processes.

- 11. Has this approach been tried in other jurisdictions? If so, what was the result? If not, what are the reasons?**

N/A

- 12. If this regulation is enacted, how much will it cost on an annual basis, both public and private? If this regulation is not enacted, what will be the public and private cost?**

Any increased costs, if any, will be nominal. Some of the amendments have the effect of reducing regulatory burdens, or streamlining existing processes.

**INTERNATIONAL  
WORSHIP  
CENTER  
& HOLY TRINITY  
PRESBYTERIAN CHURCH  
NORTH FORT MYERS**



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239.690.0711

To Whom It May Concern,

My name is Robert Murphy and I am Senior Pastor of the International Worship Center located at 940 Pondella Road in North Fort Myers. We currently have an old style sign with removal letters that is totally outdated. It is an eyesore and is badly in need of repair. We would like to upgrade to a new electronic sign but need some changes in the current laws in order to do so.

Signage to a church is every bit as important as any retail establishment and, in some cases, may be even more important. As those in retail reach out to the community in order to make a profit for their businesses, we reach out in order to provide a service. We would be using the sign to advertise the services that we provide as well as notifying the public to upcoming events. We need your help and consideration in order to do properly do the work of the Church. Your kind attention to this matter, as well as your positive deliberation, will be greatly appreciated.

Sincerely,

Robert D Murphy

Senior Pastor, International Worship Center

# HOLY TRINITY PRESBYTERIAN CHURCH



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March 10, 2016

To Whom It May Concern,

As the hymn goes "We've a story to tell to the nations..." but with our current sign at Holy Trinity Presbyterian Church, we are not doing a very effective job. We are missing the opportunity to inform the passing motorists and the community of all the activities and services that are being offered at our church. Through our research, we discovered that our visibility would be greatly enhanced with an upgrade to an electronic sign. We would be able to share with our local community an updated, 'easy to read' message of worship times, Bible Studies, support groups and mission events.

We would like to request your help and consideration for changing the code to have electronic signs on the commercial corridors in North Fort Myers for places of Worship. We support the proposed amendment wording change to the current code. We also feel that would enable Holy Trinity Presbyterian Church to do a better job of serving our surrounding community, because we would have signage that is appropriately matched to the speed and volume of the traffic that passes our church each day. We are grateful for your time and attention in reviewing this necessary change in the code so that soon we will be a better position to "tell our story to the nations."

Blessings,

*Rev. Dr. Valerie Bell*

Rev. Dr. Valerie Bell

### **Sec. 30-153. Permanent signs in commercial and industrial areas.**

In order to provide fair, equal and adequate exposure to the public, and to prevent a single property owner from visually dominating neighboring properties with signs, all nonresidential uses are limited to a total permissible sign area in accordance with the provisions of this section. Signs for buildings and developments subject to a unified sign plan must be designed and constructed in accordance with the approved unified sign plan.

#### **No changes (1) through (4)**

- (5) Electronic changing message centers. Electronic message centers are permitted along I-75 and arterial streets, subject to the following limitations:
  - a. Location.
    1. Electronic changing message centers are permitted in any zoning district, provided the area to be used is shown on the county comprehensive plan as intensive development, industrial development, interchange areas or tradeport, or
    2. In Lehigh Acres, in areas designated "Lehigh commercial" on the Lehigh Acres Lee Plan Overlay Zone Map adopted May 27, 1998 and that are also shown on the county comprehensive plan as central urban provided that:
      - i. only one electronic changing message center sign may be permitted;
      - ii. the sign is constructed on a parcel of land having a minimum of 100 feet of frontage on both Homestead Road and Alabama Road;
      - iii. the sign must be located within 30 feet of the intersection of the two road rights-of-way;
      - iv. the sign serves the tenants of a multiple-occupancy complex of ten or more businesses;
      - v. the sign provides public service messages at least 12 minutes of each hour;
      - vi. the sign is part of a ground-mounted monument style sign;
      - vii. the maximum sign area of the electronic changing message center portion of a sign does not exceed 40 percent of the total sign area allowed for ground-mounted signs, or 34 square feet, whichever is less;
      - viii. incandescent bulbs may not exceed ten watts and the sign must be equipped with an automatic day/night dimmer switch set so that night time brightness does not exceed 75 percent of the daytime brightness; and
      - ix. landscaping, in accordance with a county-approved landscape plan is installed prior to energizing the sign. The landscaping must contain, at a minimum, 700 square feet of landscaping area around the sign comprised of at least:
        - (1) 100 small shrubs or ground cover plants; and
        - (2) 10 large shrubs; and
        - (3) Six trees or large palms at least ten feet in height.
    3. In the North Fort Myers Planning Community on property located at the intersection of S.R. 45 (U.S. 41) and S.R. 45A (Business 41) having a minimum of 600± feet of road frontage along S.R. 45 and 820 feet of road frontage along S.R. 45A, provided that:
      - i. The property is zoned commercial planned development;
      - ii. Only one electronic changing message center is permitted on the property;



- iii. The message changing center sign face is integrated into the bottom of an existing sign located in the southern corner of the property and facing U.S. 41;
  - iv. The electronic changing message center face is not larger than 118.5 square feet (three feet wide by 39.5 feet long); and
  - v. Landscaping, as approved by the county, is placed around the base of the sign and continuously maintained.
- 4. Along U.S. 41 between the intersection of Gladiolus Drive/Ben C. Pratt Six Mile Cypress Parkway and the intersection of Alico Road.
  - 5. In the North Fort Myers Planning Community (Commercial Corridors) pursuant to Sec. 33-1602.
- b. Operation. Each consecutive copy change must remain fixed for a minimum of two seconds. Flash, twinkle and zoom modes, as defined in section 30-2, are prohibited.
  - c. Sign area and limitations. The sign area and its placement must be in accordance with the standards set forth in this section.
  - d. Street classifications. Arterial streets are shown on the existing functional classification map, adopted on March 20, 1991.
  - e. Variances and deviations. No variances or deviations from subsections a. through d. may be granted.

**Sec. 33-1598. Signs.**

This section is adopted as an addendum to the general sign regulations set forth in chapter 30 and is applicable all properties in the North Fort Myers Planning Community.

**Sec. 33-1599. Permitted signs—Banners and banner signs.**

Notwithstanding the prohibition of banners under chapter 30, banners, banner signs and "feather signs" are permitted providing the following conditions are met:

- (a) Not more than a total of three banners or banner signs are allowed on a single lot or parcel and only under the following conditions:
  - (1) The total area of such signs must not exceed 48 square feet.
  - (2) The maximum size of any banner will be 16 square feet in area and eight feet in height.

**Sec. 33-1600. Temporary signs.**

Temporary sign permits for prohibited signs will not be issued except for the following:

- (a) Special occasion signs. Temporary on-site sign permits may be issued for special occasions such as holidays (other than Christmas and Hanukkah, which are addressed in section 30-6), carnivals, parking lot sales, annual and semiannual promotions or other similar events, provided:
  - (1) A special occasion sign permit is issued by the building official;
  - (2) The special occasion sign permit is issued for a period of time not to exceed 15 days;
  - (3) No business may be permitted more than two special occasion permits in any calendar year; and

- (4) The business did not violate any applicable time limitations.
- (b) Inflatable wind signs, search lights, and spot lights.
  - (1) Not more than one inflatable wind sign or search light or spot light will be permitted on a single lot or parcel. Inflatable wind signs, search lights, and spot lights will be permitted only upon issuance of a special occasion sign permit and no such inflatable wind sign, search light, or spot light may be placed on the public right-of-way.
- (c) Other temporary signs such as pennants and balloons are allowed upon approval of a special occasion sign permit by the building official.
- (d) Signs must be located on-site and in a manner that does not create a traffic or pedestrian hazard.
- (e) Signs illuminated by electricity must comply with all electrical and safety codes.
- (f) Signs must be constructed and secured in accordance with all applicable standards.

**Sec. 33-1601. Miscellaneous signs.**

- (a) Under-canopy signs. Signs attached to the underside of a canopy may have a copy area no greater than four square feet, with a maximum letter height of six inches, subject to a minimum clearance height of eight feet from the sidewalk, and must be mounted as nearly as possible at a right angle to the building face, and rigidly attached.
- (b) Sandwich signs/sandwich boards. On-site sandwich signs/sandwich boards are permitted on commercially-zoned property during business hours, one per business limited to six square feet per side, provided they are not placed within buffers, on the sidewalks or over a fire hydrant, and do not interfere with the public right-of-way or within the visibility triangle. Sandwich signs/sandwich boards will not count against the permitted sign area.

**Sec. 33-1602. Electronic Changing Message Centers.**

Electronic changing message centers, as defined in Sec. 30-2, are permitted per Sec. 30-153(5) and are also permitted in the North Fort Myers Planning Community as follows:

- (1) Place of Worship and/or Religious Facilities only;
- (2) Maximum one electronic changing message center per property;
- (3) Predominantly commercial areas on Commercial Corridors within North Fort Myers Planning Community per LDC Sec.33-1537 only;
- (4) Electronic changing message centers must otherwise be in compliance with LDC Chapter 30 including landscaping requirements;
- (5) Electronic changing message centers are limited to a maximum of 72 square feet for properties with 100 to 300 linear feet of road frontage or 96 square feet for properties with over 300 linear feet of road frontage;
- (6) Electronic changing message centers are limited to 20 feet in height.

HABITAT  
FOR  
HUMANITY

# PAVESE LAW FIRM

NEALE MONTGOMERY

Direct dial: (239) 336-6235  
Email: [NealeMontgomery@paveselaw.com](mailto:NealeMontgomery@paveselaw.com)

1833 Hendry Street, Fort Myers, Florida 33901 | P.O. Drawer 1507, Fort Myers, Florida 33902-1507 | (239) 334-2195 | Fax (239) 332-2243

February 8, 2016

*Via U.S. Mail and Email Transmittal*

Mr. Tony Palermo, Senior Planner  
Lee County Community Development Department  
Zoning Section  
P.O. Box 398  
Fort Myers, FL 33902-0398

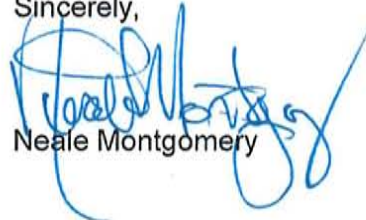
**RE: Proposed Amendment  
LDC2015-00016 Sec 34-00016  
Habitat for Humanity**

Dear Mr. Palermo:

The draft LDC language attached hereto is very helpful for not for profit entities seeking to partner with the County to address the need for affordable housing. Policy 135.1.5. indicates that the County is going to work with agencies that assist in the provision of affordable housing in a partnership manner. The proposed LDC language furthers the public private partnership. Objective 135.3. submits that the County will continue its efforts to reduce substandard housing. Habitat teams renovate existing homes and assist in the construction of new homes that allow low income families to live in homes that are not substandard. The proposed LDC amendment will allow teams from other parts of the state and country to assist in the provision of adequate housing. Objective 135.4 submits that the provision of housing for low, very low and moderate income families is a County priority. The LDC changes assist the County in meeting its priority. Policy 135.4.1. indicates that the County is going to work with not for profit agencies to assist in their efforts to develop sites and programs to provide homes for low, very low and moderate income families. Habitat, a not for profit that helps families find homes and stability, appreciates the County efforts on the LDC change and supports the LDC change in all respects except the number of permissible temporary RVs. Habitat wants to put more people to work in restoring and building homes and would request the number of RVs permitted to be set at 6.

Your consideration of this matter is greatly appreciated.

Sincerely,



Neale Montgomery

NM/kc  
cc: Ms. Kitty Green  
Enclosure

**LEE COUNTY  
MOSQUITO CONTROL  
DISTRICT**



## Memorandum

Date : February 3, 2016  
To : Tony Palermo, AICP  
From : Russell P. Schropp  
Re : Proposed LDC Amendments - Heliport Facilities

---

Pursuant to our recent discussions, attached please find draft Land Development Code (LDC) amendments that I would submit for the County's consideration relating to development adjacent to permitted heliport facilities within the County. These amendments are submitted on behalf of the Lee County Mosquito Control District (LCMCD).

As expressed in the draft amendments, the purpose of this proposal is to provide an opportunity for heliport operators to review and comment on development proposals in close proximity to licensed heliports. These heliport facilities are operated by governmental or quasi-governmental entities that provide important public services such as mosquito control and medical transport. A list of such licensed facilities is attached to the draft LDC amendments.

Under the proposed amendments, County staff would review applications for development to initially determine if the proposed development is within a designated Heliport Obstruction Notification Zone, which is defined in accordance with the Code of Federal Regulations. If the development lies within the notification zone, the County will refer the applicant to the licensed heliport entity for review and comment, which is limited to a 20-day review period. Comments or objections, if any, received from the licensed heliport entity would be considered by the County in the review and permitting of the proposed development. The County would retain full permitting authority for all development within its jurisdiction; the purpose of the proposed LDC amendments is to provide a specific review of development proposals in close proximity to heliports to maintain adequate consideration and protection of the public health, safety and welfare.

Thank you for your time and consideration in reviewing these proposed amendments. If you would like to discuss further, please let me know.

/rs

Enc

Tony Palermo. AICP  
February 3, 2016  
Page 2

CC: Pam Houck  
Ben Dickson  
John Noland, Esq.



Interoffice Memorandum

Date : January 27, 2016  
To : Russell P. Schropp  
From : Austin S. Turner  
Re : Lee County Helistops/Heliports, as permitted by FDOT through January 2016.

---

- **Boca Grande Helistop**
  - Mosquito Control
  - 5FD6 26-44.538N, 82-15.522W
  - 50x50, Paved
  - James L McKeever
  - 15191 Homestead Rd, Lehigh Acres, FL 33971
  - 239-694-2174, ext. 2194
- **Bokeelia Helistop**
  - Mosquito Control
  - 5FD8 26-40.238N, 82-08.156W
  - 50x50, Paved
  - James L. McKeever
  - 15191 Homestead Rd, Lehigh Acres, FL 33971
  - 239-694-2174, ext. 2194
- **Bowmans Beach Helistop**
  - Mosquito Control
  - 4FD9 26-27.755N, 82-09.406W
  - 25x25, 81x81, Unpaved
  - James L. McKeever
  - 15191 Homestead Rd, Lehigh Acres, FL 33971
  - 239-694-2174 ext. 2194
- **Cape Coral Hospital Heliport**
  - FD66 26-38.304N, 81-56.489W
  - 50x50, Paved
  - Rod Allen
  - 636 Del Prado Blvd, Cape Coral, FL 33990
  - 239-424-3676
- **Captiva Helistop**
  - Mosquito Control



- 4FD8 26-32.505N, 82-11.522W
- 100x100, Paved
- James L McKeever
- 15191 Homestead Rd, Lehigh Acres, FL 33971
- 239-694-2174 ext. 2194
- **Gulf Coast Medical Center-LMHS**
  - 3FA4 30-11.233N, 85-39.767W
  - 40x40, Paved
  - Rod Allen
  - 636 Del Prado Blvd, Cape Coral, FL 33990
  - 239-424-3676
- **Healthpark of Florida Helistop**
  - 26-30.400N, 81-54.633W
  - 40x40, Paved
  - Rod Allen
  - 636 Del Prado Blvd, Cape Coral, FL 33990
  - 239-424-3676
- **Lee Memorial Hospital Heliport**
  - FD67 26-38.504N, 81-52.039W
  - 50x50, Paved
  - Rod Allen
  - 636 Del Prado Blvd, Cape Coral, FL 33990
  - 239-424-3676
- **Pine Island Helistop**
  - Mosquito Control
  - 4FD6 26-36.383N, 82-06.667W
  - 100x100, Paved
  - James L. McKeever
  - 15191 Homestead Rd, Lehigh Acres, FL 33971
  - 239-694-2174 ext. 2194
- **Pine Ridge Helistop**
  - Mosquito Control
  - 7FD1 26-29.421N, 81-56.005W
  - 100x100, Paved
  - James L. McKeever
  - 15191 Homestead Rd, Lehigh Acres, FL 33971
  - 239-694-2174 ext. 2194
- **St James Helistop**
  - Mosquito Control
  - 5FD9 26-30.688N, 82-05.306W

- 54x54, Paved
- James L. McKeever
- 15191 Homestead Rd, Lehigh Acres, FL 33971
- 239-694-2174 ext. 2194
- **Williams Road Helistop**
  - Mosquito Control
  - 06FD 26-25.055N, 81-49.455W
  - 100x100, Unpaved
  - James L. McKeever
  - 15191 Homestead Rd, Lehigh Acres, FL 33971
  - 239-694-2174 ext. 2194
- **Winkler Helistop**
  - Mosquito Control
  - 26-28.867N, 81-53.683W
  - 50x50, Paved
  - James L. McKeever
  - 15191 Homestead Rd, Lehigh Acres, FL 33971
  - 239-694-2174 ext. 2194

**Section 1: Amend Section 34-1001 to read as follows:**

**Sec. 34-1001. Applicability.**

The provisions set forth in Sections 34-1002 through 34-1013 of this subdivision are applicable to lands encompassing and surrounding the Southwest Florida International Airport (SWFIA); and Page Field General Aviation Airport, comprising the related height and land use protections necessary to the viability of the airports. The provisions set forth in Sections 34-1014 through 34-1016 of this subdivision are applicable to lands encompassing and surrounding the facility known generally as the Buckingham Airport and those certain heliport facilities recognized by the Florida Department of Transportation ("FDOT"). Additional heliport facilities recognized in the future by the FDOT will also be covered by these subsections and will be added to Appendix C during regular LDC amendments. These provisions of Sections 34-1001 through 34-1016 are applicable only in the unincorporated portions of Lee County unless an interlocal agreement providing otherwise is in effect.

**Section 2: Add Sections 34-1014 through 34-1016 to read as follows:**

**Sec. 34-1014. Findings, Purpose and Intent.**

(a) *Findings.* The Lee County Board of County Commissioners finds as follows:

- (1) Heliports and the Buckingham Airport (hereinafter, "air facilities") that are operated by governmental, quasi-governmental and private entities provide important health, safety, and welfare functions within the County.
- (2) The location of buildings and other land uses in close proximity to such air facilities may produce hazards that may inhibit the safe operation of flights into and out of these facilities;
- (3) Hazards reduce the size of the area available for the landing, take off and maneuvering of aircraft, which impairs the viability of the air facility for its intended purposes;
- (4) These air facilities may produce noise levels and other impacts that are incompatible with residential uses and certain commercial and industrial uses; and
- (5) In the interest of the public health, safety, and welfare, it is appropriate to establish regulations to prevent or minimize the creation of hazards and the placement of inappropriate uses in the vicinity of air facilities.

(b) *Purpose and intent.* The purpose of Sections 34-1014 through 34-1016 is to establish protection around designated air facilities within unincorporated Lee County in accord with the provisions of 14 CFR Part 77, Subpart C (as may be amended) and with Section 333.025, F.S. (as may be amended). These provisions are intended to supplement state and federal regulations regarding heliport and airfield protection and specifically to:

- (1) Promote maximum safety of aircraft arriving at and departing from identified air facilities;
- (2) Promote the safety of residents and property within areas surrounding designated air facilities;
- (3) Provide administrative procedures for the review of development proposals within take-off and landing zones for designated air facilities; and
- (4) Prevent the creation of hazards and incompatible land uses proximate to designated air facilities.

#### **Sec. 34-1015. Definitions.**

The definitions provided in Section 34-1003 are incorporated herein by reference. In addition, the following words, terms and phrases when used below, have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Heliport* means a facility recognized by the FDOT, now or in the future, pursuant to Chapter 330, F.S., listed in Appendix C.

*Heliport approach surface* means that area established pursuant to 14 CFR Part 77, Section 77.29(b).

*Heliport primary surface* means that area established pursuant to 14 CFR Part 77, Section 77.29(a).

*Heliport transitional surface* means that area established pursuant to 14 CFR Part 77, Section 77.29(c).

#### **Sec. 34-1016. Heliport/Airport Obstruction Notification Zones.**

(a) *Purpose of zone.* As used in this section, the purpose of the Heliport Obstruction Notification Zone and Airport Obstruction Notification Zone is to require review and regulate the height of structures and equipment proposed for development or use in proximity to the air facilities identified in Appendix C.

(b) *Location and map of zone.* A Heliport Obstruction Notification Zone is established around each heliport identified in Appendix C that consists of property within or under the heliport primary surface, heliport approach surface, and heliport transitional surface for each heliport. An Airport Obstruction Notification Zone is established for the Buckingham Airport consistent with the definition contained in Section 34-1003. The locations of the Obstruction Notification Zones established by this section are depicted in Appendix C. The Obstruction Notification Zone map will be reviewed annually by the Director and updated/amended to ensure accuracy.

(c) *Development review.* All applications for development submitted to the Department will be reviewed to determine whether the property for which the application is submitted lies within an Obstruction Notification Zone established by this section.

1. If it is determined that the property lies within an Obstruction Notification Zone, the Department will refer the applicant to the operator for the affected air facility for review and comment.

2. The applicant will submit the application to the operating entity for the affected air facility for review and comment, and submit proof of such submission to the Department.

3. The operator for the affected air facility will review the application and submit any comments and recommendations to the Department that address:

- i. encroachment into air space that may pose a risk for safe take-offs, landings, and other operations at the air facility;

- ii. visibility issues associated with approaching or departing aircraft including, but not limited to, building height, lighting, and reflective surfaces associated with the development; and

- iii. noise mitigation measures that may be taken by the development for noise impacts that may be generated by the air facility and aircraft associated with it.

3. If no comments or objections are received from the operator for the air facility within twenty (20) days of submittal, the Department will proceed with review of the application.

4. If comments or objections are received from the operator, such comments and objections will be considered by the Department and appropriate conditions or restrictions may be attached to any development or building permit as necessary to accomplish the purposes and intent set forth above.

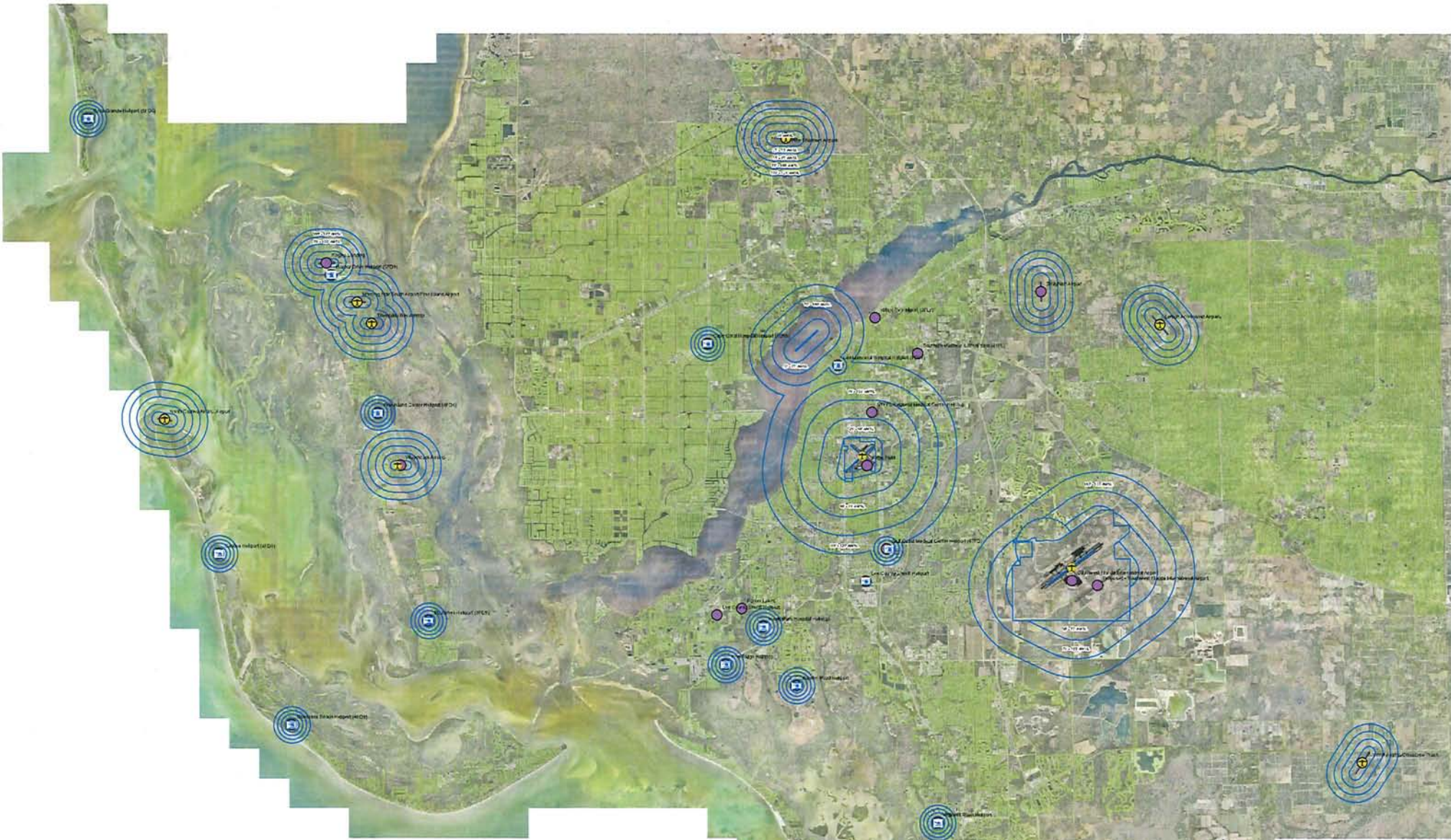
5. No object or structure will be allowed or permitted within an Obstruction Notification Zone established by this section that would intrude into a heliport

primary surface, heliport approach surface, heliport transitional surface, airport runway primary surface or airport runway approach surface, unless approved by variance, deviation, or administrative action.

**Lee County Mosquito Control District  
Heliport Locations  
2015**

Helistop	Location	GPS Location
Williams Road	Estero	N 26° 25 064 W 081° 49 465
Pine Island Center	Pine Island	N 26° 36 406 W 082° 06 641
Bowman's Beach	Sanibel	N 26° 27 761 W 082° 09 300
Boca Grande	Boca Grande	N 26° 44 548 W 082° 15 523
St James	St James	N 26° 30 649 W 082° 05 149
Winkler Road	Fort Myers	N 26° 28 859 W 081° 53 779
Bokeelia	Bokeelia	N 26° 40 236 W 082° 08 070
Buckingham Airport	Buckingham	N 26° 38 258 W 081° 32 370

Helistop	Location	Address	Strap Number	Folio ID
Williams Road	Estero	4261 Williams Road, Estero, FL	05-47-25-E2-0100B.0600	10277324
Pine Island Center	Pine Island	5341 Doug Taylor Circle, Saint James City, FL	28-44-22-09-0000A.0000	10015963
Bowman's Beach	Sanibel	1700 Bowmans Beach Road, Sanibel, FL	13-46-21-T3-00004.0000	10005938
Boca Grande	Boca Grande	100 East Railroad Avenue, Boca Grande, FL	23-43-20-00-00007.1000	10000910
St James	St James	3501 York Road, Saint James City, FL	35-45-22-00-00006.0010	10018221
Winkler Road	Fort Myers	17981 Winkler Road, Fort Myers, FL	10-46-24-01-00048.0000	10225258
Bokeelia	Bokeelia	14451 Harbor Drive, Bokeelia, FL	05-44-22-01-00018.001A	10011684
Buckingham Airport	Buckingham	19151 Homestead Road, Lehigh Acres, FL	15-44-26-01.00017.0110	10313446
			22-44-26-03-00005.0000	10317276
			21-44-26-03-00005.0000	10315902



# Airport Facilities - DRAFT

- Airspace Notification Areas
- ✈ Helipads (selection from Critical Facilities)
- ✈ Fixed Wing Facilities (from Critical Facilities)
- Airports (polygons)
- RO.LCGIS.Airports\_Points



# BUCKINGHAM AIRFIELD

## Memorandum

Date : March 29, 2016  
To : Pam Houck  
From : Russell P. Schropp  
Re : Community Facilities (CF) District

---

Following up on our meeting yesterday, attached please find a draft LDC amendment that would allow for "Aircraft landing facilities, private" to be permitted within the CF District to the same extent as allowed in other conventional zoning districts such as AG-2, RS-1, and RM.

As we discussed yesterday, the Buckingham Airfield owned by the Lee County Mosquito Control District (LCMCD) is presently a mix of RS-1, AG-2, RM, and CF zoning. The portion of the airfield that was rezoned CF in 1993 would appear to be inconsistent with the airfield's historical and present use, and this LDC change will provide for consistent zoning uses for all of the airfield property.

As we discussed, I would appreciate it if this could be "walked on" with the other LCMCD LDC amendments at the April 8 meeting of the LDC Advisory Committee. Please let me know if you have any questions or need anything further. Thank you.

/rs

Enc

Cc: David Loveland  
Nettie Richardson  
Tony Palermo  
Carmen McKinney  
John Noland  
Austin Turner  
Doug Meurer

## ZONING

### DIVISION 5. COMMUNITY FACILITIES DISTRICTS\*

#### Sec. 34-813. Use regulations table.

Use regulations for the community facilities districts are as follows:

**TABLE 34-813. USE REGULATIONS FOR COMMUNITY FACILITIES DISTRICTS**

	<i>Special Notes or Regulations</i>	<i>CF</i>
Administrative offices		P
Accessory uses, buildings and structures	34-1171 et seq., 34-2441 et seq., 34-2141 et seq.	P
<u>Aircraft landing facilities, private:</u>		
<u>Lawfully existing</u>		
<u>Expansion of aircraft landing strip, or helistop or heliport landing pad</u>	34-1231 et seq.	SE/EO
<u>New accessory buildings</u>	34-1231 et seq.	P
<u>New:</u>		
<u>Helistop</u>	34-1231 et seq.	SE
Assisted living facilities	Notes (1), (11), & (10) 34-1411	P/SE
Boat ramps, noncommercial		EO/SE
Bus station/depot	34-1381 et seq.	P
Caretaker's residence	Note (9)	P
Cemetery, columbarium, mausoleum		P
Clubs:		
Country		P
Fraternal		P
Private		P
Communication facility, wireless		Refer to 34-1441 et seq. for regulations
Consumption on premises	34-1261 et seq.	AA/SE
Cultural facilities	Note (5), 34-622(c)(10), 34-1297	P/SE
Day care center:		
Adult	Note (7)	P
Child	34-206, Notes (6) & (7)	SE
Emergency operations center	Note (2)	P
EMS, fire or sheriff's station		P
Entrance gates and gatehouse	34-1741 et seq.	P
Essential services		P
Essential service facilities:		
Group I	34-622(c)(13) 34-1611 et seq., 34-1741 et seq., 34-2142 et seq.	P
Group II	34-1611 et seq., 34-1741 et seq., 34-2141	EO

	<i>Special Notes or Regulations</i>	<i>CF</i>
Excavation:		
Oil or gas		SE
Water retention	34-1651 et seq.	P
Golf driving range		P
Government agencies, offices only		P
Gun range	Note (12)	SE/EO
Health care facilities (34-622(c)(20)):		
Group I (less than 50 beds)	34-1411 et seq., Notes (1), (7) & (10)	P/SE
Group II (less than 50 beds)	34-1411 et seq., Notes (1), (7) & (10)	P/SE
Helistop	34-1231 et seq.	SE
Library	Note (7)	P
Parking Lot:		
Accessory		P
Garage, public		P
Park-and-ride	34-1388	P
Temporary		P
Parks (34-622)(c)(32)):		
Group I	Note (2)	P
Group II	Note (2)	P
Place of worship	Note (7), 34-2051 et seq.	P
Post office	Note (2)	P
Recreation facilities:		
Personal		P
Private-On-site		EO/SE
Private-Off-site		EO/SE
Religious facility	Note (2) & (7), 34-2051 et seq.	P
Restaurants, group II	Note (3), 34-622(c)(43)	P
Sanitary landfill	IPD only, 34-1831 et seq.	EO
Schools, noncommercial:		
Lee County School District	Note (7), 34-2381	P
Other	Note (2) & (7), 34-2381	P
Signs in accordance with chapter 30		P
Social services (34-622(c)(46)):		
Group III	Note (1), (7) & (10)	P
Group IV	Note (1), (7) & (10)	P
Specialty retail shops, group I	Note (3), 34-622(c)(47)	P
Storage, indoor only		P
Tactical training (df)		SE/EO
Temporary uses	Note (8)	TP

# LEE COUNTY PORT AUTHORITY

TO: Tony Palermo, AICPDATE: February 17, 2016cc: Ellen Lindblad, Ian McKayBackground for Proposed Airport Noise  
Zone LDC AmendmentsFROM: Laura DeJohn, AICPRE: Section 34-1004 and Appendix C, Map 1

Attached are proposed LDC Amendments to Section 34-1004 "Airport Noise Zones," and a corresponding update to Map 1 of Appendix C of the LDC. The Lee County Port Authority (LCPA) proposes these changes to bring the LDC into consistency with the Lee Plan following the adoption of the Environmental Science Associates (ESA) document titled "Southwest Florida International Airport 14 CFR Part 150 – Noise Exposure Maps Report and Noise Compatibility Program Update" dated September 2013 (hereinafter the "September 2013 Part 150 Study").

### Regulatory Background

Requirements at the Federal, State and local level are applicable to the study of noise generated by airport activity and the maintenance of Noise Zones for compatibility of uses around airports. While the federal government sets maximum noise levels for the purposes of aircraft certification and defines significant noise exposure levels for noise sensitive uses, it defers to the state and local government to establish compatible land use and zoning appropriate for their communities.

- At the Federal level, parameters are established for Airport Noise Compatibility Planning in Title 14 Code of Federal Regulations (CFR) Part 150.
- At the State level, Chapter 333 of Florida Statutes sets forth that airport land use compatibility regulation is within the police powers of political subdivisions in the state, and sets forth the Florida Department of Transportation (FDOT) as the agency responsible for guidelines regarding land use near airports. Chapter 163 of Florida Statutes outlines the requirement for local government comprehensive plans to address compatibility of uses on lands adjacent to airports.
- At the local level, the Lee County Comprehensive Plan (Lee Plan) Policy 1.7.1 designates special treatment areas that contain special restrictions or allowances in areas subject to varying levels of airport-related noise. Policy 1.7.1 calls for updating of the noise contours for RSW and initiating amendments to the special treatment areas depicted on the Airport Noise Zone Overlay Map. A comprehensive plan amendment application is currently pending endorsement by the Board of Port Commissioners for submittal to Lee County Planning to incorporate the updates associated with the 2013 Part 150 Study in the Lee Plan.

Airport Compatibility regulations to address noise compatibility per FDOT guidance are also adopted in the Lee County Land Development Code Section 34-1004, Airport Noise Zones. The attached proposed amendments are intended to bring the LDC into consistency with the Lee Plan and the 2013 Part 150 Study.

MEMO To: Tony Palermo, AICP  
DATE: February 17, 2016  
PAGE: -2-

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### RSW Noise Compatibility Planning Background

To maintain compliance with applicable regulations, a series of Noise Exposure Maps (NEMs) have been developed and updated for Southwest Florida International Airport since the late 1980s. Coincident with each NEM update, a Noise Compatibility Program (NCP) has been updated and refined to address the noise concerns resulting from the evolving operational environment. The NEM and NCP process is federally regulated by 14 CFR Part 150.

Each effort to update NEMs and NCP is a multi-year effort. The recent effort to update the NEMs and NCP was through the study referred to as the 14 CFR Part 150 Study completed in 2006. Noise Exposure Maps associated with the 2006 Study reflected noise contours projected for the year 2020. These were the basis for the currently adopted Airport Noise Zones in the Land Development Code, approved by Ordinance 11-08 (referenced in Section 34-1004[b] as on file at the Lee County Port Authority; otherwise depicted in Appendix C, Map 1: SWFIA Airport Noise Notification Map).

Another series of NEMs and NCP was commissioned in 2011 by Lee County Port Authority, and completed upon adoption and FAA approval of the September 2013 Part 150 Study. Noise Exposure Maps associated with the September 2013 Part 150 Study reflect noise contours projected for the year 2030. This is the basis for updates that are proposed to the Noise Zones depicted in the Lee Plan and referenced in the Land Development Code. The update is mandated by current Lee Plan Policy 1.7.1, and recommended as an implementation measure in the September 2013 Part 150.

Sec. 34-1004. - Airport Noise Zones.

- (a) Purpose. The purpose of this section is to ~~identify areas subject to varying levels of aircraft-related noise establish standards for land use and for noise compatibility requirements with respect to noise and overflights~~ associated with the normal operation of SWFIA. This section establishes noise zones ~~of differing intensities and land uses applicable~~ in the vicinity of SWFIA. ~~This section establishes, and the corresponding~~ permitted land uses within the noise zones. ~~This section also and establishes requirements sets forth provisions for providing notification to current and prospective purchasers or developers of real estate within the noise zones that property within an Airport Noise Zone may be subject to aircraft-related noise.~~
- (b) Noise zones defined; permitted uses. There are hereby created and established four airport noise zones ~~pertaining to land uses surrounding the associated with~~ SWFIA. The noise zones are based upon the most recent composite DNL contours developed in accordance with the Federal Aviation Regulations, Part 150, Noise Compatibility Study for the Southwest Florida International Airport, in combination with an area subject to repetitive, low altitude aircraft over flights associated with flight training activity on the planned parallel runway, as approved by the Board of Port Commissioners and the FAA. ~~The four proposed zones were adopted by the Board of County Commissioners and are on file at the Lee County Port Authority. The purpose and intent of these noise zones is to define and set forth specific regulations for all properties within the described areas.~~ These noise zones are set forth as overlay zoning districts in that they provide regulations and restrictions in addition to those set forth in the planned development or conventional zoning districts in which the property is located, as defined in this chapter. Except as otherwise provided in this section, no land, body of water or structure may be used or permitted to be used and no structure may be hereafter erected, constructed, moved, reconstructed or structurally altered or maintained in any of these airport noise zones that is designed, arranged or intended to be used or occupied for any purpose ~~other than as defined in~~ unless consistent with the following:
- (1) Airport Noise Zone A/Airport Property.
- a. Location. Airport Noise Zone A/Airport Property is the land ~~within the SWFIA boundary~~ as identified in Appendix C.
- b. Restrictions. ~~The permitted uses for property located within Airport Noise Zone A/Airport Property are limited to those uses that are compatible with airports and air commerce and listed in the Airport Operations Planned Development (AOPD) Zoning District use regulation table. Airport Noise Zone A is restricted to uses that are compatible with airports and air commerce, including but not limited to those necessary to provide services and convenience goods principally to airline passengers, and those uses generally associated with the airport operations, including aircraft and aircraft parts manufacturers, air freight terminals, aviation and airline schools, aircraft repair shops, aerial survey offices, aircraft sales, equipment and parts storage, aviation research and testing laboratories, airline catering services, governmental facilities and, other compatible non-aviation uses such as light industrial/warehouses, offices, hotels, and gas stations.~~
- (2) Airport Noise Zone B.
- a. Location. Airport Noise Zone B consists of that area of land ~~within the located between Airport Noise Zone A and the 2020 Composite~~ 60 DNL contour line (as determined in the FAR Part 150 Study in effect), exclusive of Airport Noise Zone A/Airport Property, ~~adopted FAR Part 150 Study for SWFIA (2006) and identified in Appendix C.~~
- b. Restrictions. This zone allows any use permitted by this chapter, provided that no residential living units, places of worship, libraries, schools, hospitals, correctional institutions or nursing homes are permitted. However, residential units, including mobile homes that are lawfully existing as of June 27, 2000 will be treated as legally permitted uses and not as nonconforming uses. Lawfully existing mobile or manufactured homes may be replaced with new mobile or manufactured homes or conventional single-family construction and existing conventional single-family homes may be replaced with new



conventional homes so long as such replacement would be otherwise allowed by this Code. However, an existing conventional home may not be replaced with a new mobile or manufactured home. One conventional single-family home is permitted on each lot in a plat properly recorded before June 27, 2000 if such use would have been permitted on the lot prior to June 27, 2000. This zone requires ~~formal~~ notification in accord with section 34-1004(c).

(3) Airport Noise Zone C.

- a. Location. Airport Noise Zone C consists of that area of land located between the Airport Noise Zone B and the ~~2020 Composite-55 DNL contour line (as determined in the FAR Part 150 Study in effect, exclusive of Airport Noise Zone A/Airport Property, adopted FAR Part 150 Study for SWFIA (2006) and identified in Appendix C.~~
- b. Restrictions. This zone allows any use permitted by this chapter. This zone requires ~~formal~~ notification in accord with section 34-1004(c).

(4) Airport Noise Zone D.

- a. Location. Airport Noise Zone D ~~consists of that area of land is~~ located southeast of Airport Noise Zone C ~~and represented encompassing~~ the area designated for Flight Training associated with the planned south parallel runway per the FAR Part 150 Study in effect. This zone comprises the area within a half mile of the expected centerline of the training pattern depicted in the ~~FAR Part 150 Study in effect adopted FAR Part 150 Study for SWFIA (2006) and identified in Appendix C.~~
- b. Restrictions. This zone allows any use permitted by this chapter. This zone requires ~~formal~~ notification in accord with section 34-1004(c).

- (c) ~~Noise zone n~~Notification of potential noise impact. Noise Zones B, C and D require ~~formal~~ notification that the property ~~is within a particular Airport Noise Zone and may be subject to noises created by and incidental to the operation of the airport aircraft noise and overflights.~~ Formal nNotification is provided by public notice and by disclosure, as follow:

(1) Public notice. The Airport Noise Zones are identified as Zoning Overlay Districts on Lee County Zoning Map available online at leegis.leegov.com/LeeSplnS/ and shall be available for public inquiry at Lee County Port Authority offices. recording a Notice in the official County records that sets forth the legal description of the 2020 Composite-DNL noise contours and the flight training overflight area as defined in the Federal Regulations, Part 150 Noise Compatibility Study for the SWFIA (2006).

(2) Disclosure. For property within Noise Zones B, C and D, disclosure is accomplished by including as statement identifying the potential for airport related noise as a condition of approval through the public hearing process, and as a statement on plats and in association documents:

a. For approval of a rezoning to Planned Development, Special Exception, or Variance, the following must be included as a condition of approval:

"The developer, successor or assign acknowledges the property's proximity to Southwest Florida International Airport and the potential for noises created by and incidental to the operation of the airport as outlined in Land Development Code Section 34-1004. The developer, successor or assign acknowledges that a disclosure statement is required on plats, and in association documents for condominium, property owner and homeowner associations as outlined in Land Development Code Section 34-1004(c)."

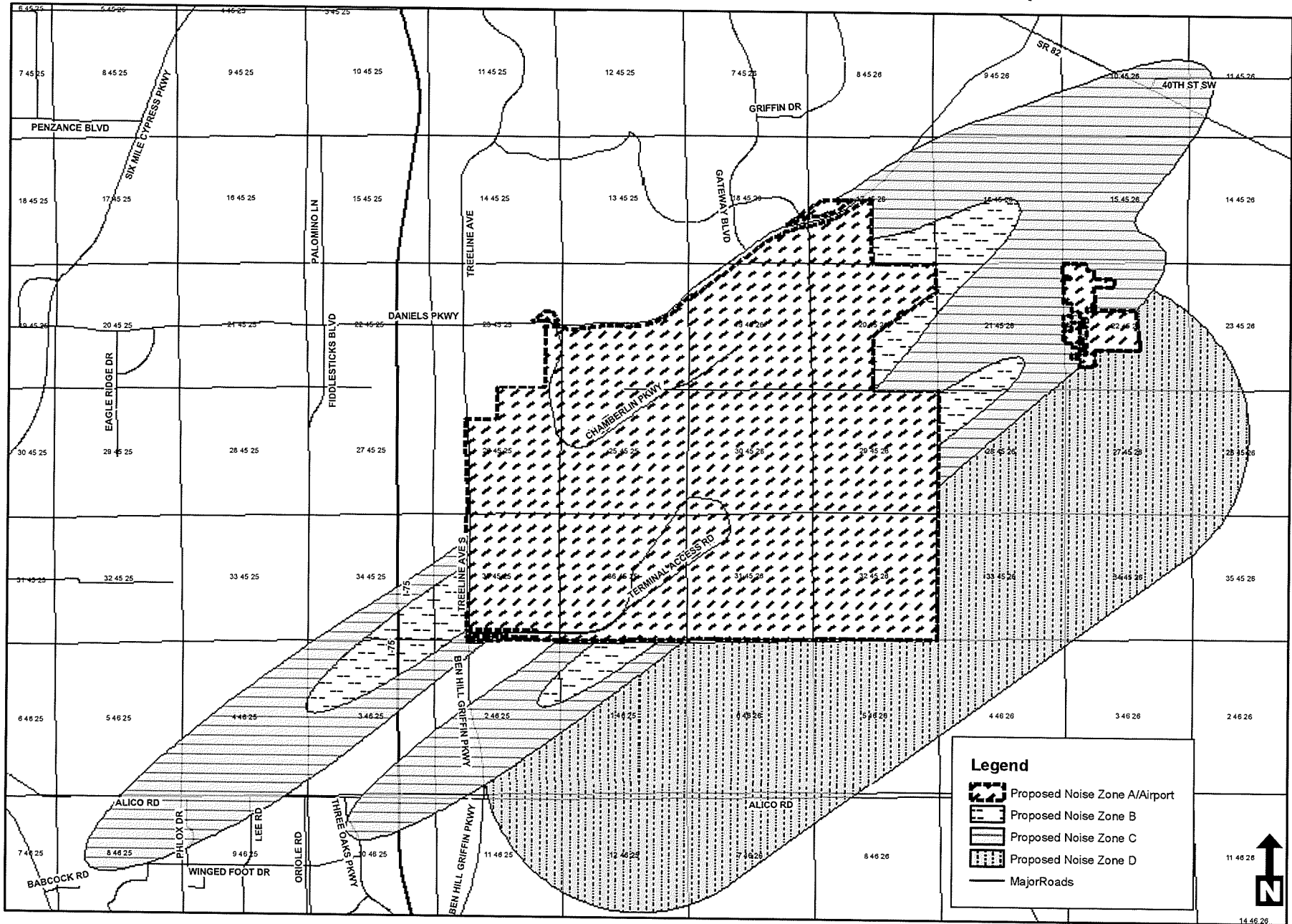
b. For approval of a plat, re-plat or lot split, the following disclosure statement must be included on the recorded plat, and in association documents for condominium, property owner and homeowner associations:

"The Southwest Florida International Airport is in proximity to this (insert plat/condominium/development, as appropriate). There is potential for noises created by and incidental to the operation of the airport as outlined in Land Development Code Section 34-1004."

(Ord. No. 93-24, § 7(492(E)), 9-15-93; Ord. No. 94-24, § 28, 8-31-94; Ord. No. 96-25, § 2, 12-18-96; Ord. No. 00-14, § 5, 6-27-00; Ord. No. 01-03, § 5, 2-27-01; Ord. No. 01-18, § 5, 11-13-01; Ord. No. [05-15](#), § 1, 8-23-05; Ord. No. [11-08](#), § 10, 8-9-11)

**Editor's note**— Ord. No. [11-08](#), § 10, adopted August 9, 2011, repealed former § 34-1004 and renumbered § 34-1006 as § 34-1004. See also the Code Comparative Table.

# Proposed Changes to: MAP 1 - SWFIA Airport Noise Zone Notification Map



# LEE COUNTY STAFF AMENDMENTS

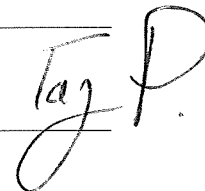
MEMORANDUM

FROM  
THE DEPARTMENT OF  
COMMUNITY DEVELOPMENT

TO: Dave Loveland, AICP  
Director of Community Development

DATE: April 18, 2016

FROM: Tony Palermo, AICP  
Senior Planner, Zoning



**RE: Social Services - Land Development Code (LDC) Amendments**

Per your direction, I'd like to provide you with additional analysis of the regulation of Social Services in Lee County both county-wide and as it pertains to the North Fort Myers Community.

**Social Services Defined**

Land Development Code (LDC) Sec. 34-622(46) defines Social Services as a commercial use as follows: *"Establishments providing social services and rehabilitation services to persons with social or personal problems requiring special services and to the disabled and the disadvantaged."*

There are four groups of Social Services, Groups I-IV (also see pages 7-10):

**Group I** are the least intensive defined as, *"Establishments primarily engaged in providing counseling and guidance services to individuals or families, but which do not provide resident facilities."* Examples include marriage counseling, disaster services, job counseling, and public welfare centers (offices).

**Group II** are similar to Group I but focus on "training" instead of "counseling" defined as *"primarily engaged in providing training or rehabilitation services."* Both Group I and Group II take place typically in an office environment and involve no temporary or permanent housing for clients.

**Group III** are more intensive uses which include more services and temporary housing, defined as *"Establishments primarily engaged in providing temporary living facilities for individuals with personal or social problems."* Examples of Group III are halfway homes for delinquents and offenders, homes for destitute men and women, and social service centers (such as the Salvation Army).

**Group IV** are long-term living with a health care component, *"Establishments primarily engaged in providing long-term living facilities for individuals and in which health care is incidental."* Examples include homes for children, the aged, the emotionally disturbed, and the physically disabled.

### **Conventional Zoning**

Social Services are not permitted in agricultural zoning, with the exception of already existing facilities. Social Services are not permitted in conventional single-family zoning such as RS-1. Social Services are not permitted in conventional multi-family zoning such as RM-2. Social Services are not permitted in either conventional mobile home or RV zoning districts. Social Services are not permitted in conventional marine-oriented districts such as the PORT district.

Social Services Groups III and IV (with living facilities) are permitted by right in the Community Facilities (CF) zoning district. A special exception is needed for 50 or more beds.

Social Services Group I (counseling) are permitted in some conventional commercial districts including Commercial C-1A, C-1, C-2, C-2A, CC, CG and CS-1. Group II (training) is permitted in the conventional industrial districts IL and IG.

### **Planned Developments**

Social Services Group I-IV may be requested as part of a planned development. Social Services may be permitted per LDC Sec. 34-934 in Community Facilities Planned Development (CFPD), Mixed Use Planned Development (MPD), and Commercial Planned Development (CPD) zoning districts. Residential Planned Developments (RPDs) may not include Social Service uses. And Industrial Planned Developments (IPDs) are limited to Social Services, Group II (training).

### **Enhanced Setbacks**

Per Division 34 "Specific Setback Regulations for Specific Uses" Social Services, Group II (training) are required to have a minimum 100-foot setback from residential zoning. LDC Sec. 34-2443(d) says, *"The following uses must be set back a minimum of 100 feet from any residentially zoned property under separate ownership. The setback applies to all buildings and structures, and all areas used for parking of trucks or equipment, shipping, receiving, or storage."* The uses are: *Blacksmith shop, Freight and cargo handling establishments, Impound yard, Manufacturing of Boats; Chemicals and allied products, group II Limited to cosmetics, perfumes, etc.; Fabricated metal products, group II; Food and kindred products, group II Furniture and fixtures; Leather products; Lumber and wood products; Machinery, groups I and II; Paper and allied products, groups II and III; Stone, clay, glass and concrete products, groups I and III; Textile mill products, groups I and II ; Transportation equipment, group II, Motion picture studio, Photofinishing laboratory, Rental or leasing establishment, group IV, Repair shops, group V and Social services, group II.*

Residentially zoned property means any property zoned RSC, RS, TFC, TF, RM, RV, RVPD, MH, RPD or MHPD, and those portions of property zoned CPD indicating residential use.

## **LDC History and Research**

Staff conducted research trying to find the reason why and when the LDC was amended requiring Social Services, Group II to have a 100-foot setback from properties zoned residential. In 1994, the LDC was amended by the Board of County Commissioners by Ordinance 94-24 adding the 100-foot setback requirement. Minutes from that Board of County Commissioners meeting made a reference that “the proposed language would take care of the problem on Pine Island” however, there was no mention of what the problem was.

Staff believes that the problem may be related to an alcohol and drug abuse center known as the Cloisters (a substance abuse facility) located on Pine Island.

In 1981, Medical Management Institute, Inc. filed to rezone property off Pineland Road on Pine Island from AG-2 (Agriculture) to CS (Specialized Commercial). The property was for a medical clinic for persons with stress-related problems. The rezone was needed because the AG-2 zoning district did not allow the use. There was no opposition to the request. The request was approved by the Board of County Commissioners with a stipulation there be no more than 30 patients.

In 1986, Zoning Ordinance 86-17 created the Community Facilities District to include CF-1, CF-2, CF-3 and CF-4. The primary purpose and intent of the CF districts were to provide for those community facilities existing prior to August 1, 1986 which were permitted by right or by special exception and were not part of an approved Planned Development. The CF districts were to accommodate and provide opportunities for the suitable location of community services and facilities developed subsequent to August 1, 1986 and were not part of an approved Planned Development. None of the CF districts included a 100-foot setback.

In 1988, The Cloisters of Pine Island filed to rezone the same property to CF-4 (Community Facilities) for the expansion of the existing social services facility from 30 to 50 beds. The Cloisters treated persons with stress related problems and substance abuse. The reason for the rezoning to CF-4 was the CS zoning did not allow this type of use. The Cloisters was categorized as Social Services, Group III. The Group III was for establishments that were primarily engaged in providing temporary living facilities for individuals with personal or social problems such as, Homes for destitute men and women, Juvenile correctional homes, Settlement houses, Social services center: e.g. Salvation Army, etc., Training schools for delinquents, Child/wife abuse centers, Halfway or self help group homes for persons with social or personal problems; and Halfway homes for delinquents and offenders. Because the Cloisters had been operating at this location for several years and wanted to expand, the rezoning was necessary because the zoning code was amended in 1986 and the CS zoning no longer allowed the use. During the public hearing, a surrounding property owner voiced a concern about the expansion with regard to the number of patients and wanted a stipulation that no buildings would be within 35 feet of his property. The request was approved by the Board of County Commissioners without a setback stipulation.

Sometime in the late 1990's, the Cloisters closed and the property was sold. In 2000, the property was rezoned to Commercial Planned Development (CPD) for a hotel/motel use with a dock and a restaurant known as Tarpon Lodge.

In 1994, Section 34-2443 of the LDC was amended to include Social Services, Group II to be required to have a 100-foot setback from properties zoned residential. This requirement has been in effect since then.

Staff researched the records and have not find a specific reason as to why the 100-foot setback was added to the LDC. Staff can only conclude that maybe the amendment for the 100- foot setback was intended to be for a Group III Social Services facility and not a Group II.

### **Setbacks for Intensive Uses**

Division 34 requires enhanced setbacks from residential zoning and uses for the most intensive industrial uses. For example, asphalt batch plants must be set back 660 feet from residential zoned property. Hatcheries (poultry) are required to be set back 330 feet.

The LDC also requires 100-foot setbacks from residential uses and zoning for a variety of intensive uses such as open storage in planned developments (LDC Sec. 34-935), Boarding Stables (LDC Sec. 34-1292), Goats, Sheep and Swine (LDC Sec. 34-1293), Keeping, Raising and Breeding of Chickens (LDC Sec. 34-1294), Vehicle Display Areas (LDC Sec. 34-1352), Electrically Charged Fences (LDC Sec. 34-1742), and Fertilizer and Compost (LDC Sec. 34-2081).

Farm Labor Housing must be set back 500 feet from residential uses and zoning, but may be setback 100 feet where a 40-foot landscape buffer is used (LDC Sec. 34-1894).

Commercial outdoor sports parks and amusement devices such as water slides and miniature golf must be setback 100 feet from residential uses per LDC Sec. 34-2474.

### **Other Supportive Housing Uses**

Social Services uses are different from other lower-intensity residential uses for people in need of supportive housing. For example LDC Sec. 34-2 defines community residential home and home care facility as follow:

***Community residential home*** means a dwelling unit licensed to serve residents who are clients of the Department of Elderly Affairs, the Agency for Persons with Disabilities, the Department of Juvenile Justice, or the Department of Children and Family Services or licensed by the Agency for Health Care Administration which provides a living environment for seven to 14 unrelated residents who operate as the functional equivalent of a family, including such supervision and care by supportive staff as may be necessary to meet the physical, emotional, and social needs of the residents.

***Home care facility*** means a conventional residence in which up to three unrelated individuals are cared for, but without provision for routine nursing or medical care.



Social services are also different from assisted living, which is also defined in LDC Sec. 34-2:

***Assisted living facilities (ALF)*** means a residential land use, licensed under chapter 58A-5, Florida Administrative Code, that may be any building or buildings, section or distinct part of a building, private home, boarding home, home for the aged, or other residential facility, whether operated for profit or not, that undertakes through its ownership or management to provide housing, meals, and one or more personal services for a period exceeding 24 hours to one or more adults who are not relatives of the owner or administrator. For purposes of this definition only, the term "personal services" means direct physical assistance with or supervision of the activities of daily living and the self-administration of medication and other similar services that the department may define by rule. "Personal services" will not be construed to mean the provision of medical, nursing, dental, or mental health services.

Community Residential Homes and Home Care Facilities are permitted by right in agricultural and conventional residential zoning districts such as AG-2 and RS-1. No additional setbacks are required from neighboring residential uses or zoning.

Assisted Living is permitted in conventional multi-family zoning such as RM-2 and may be permitted by Special Exception in AG-2 or approved as part of an RPD, CFPD, CPD, and MPD.

There is no LDC requirement for additional setbacks from residential uses or zoning for assisted living. A Place of Worship/Religious facilities may include a residential component such as a convent or monastery. There is no LDC requirement for additional setbacks from residential uses or zoning for these uses. Enhanced setbacks may be required for special exception or planned development approvals for these issues to address compatibility issues with surrounding uses.

### **North Fort Myers Commercial Corridors**

Ordinance 12-01 was approved by the Lee County Board of County Commissioner January 10, 2012. This ordinance created new LDC regulations for the North Fort Myers Planning Community including creation of the North Fort Myers Commercial Corridor Use Regulations. LDC Sec. 33-1537 defines the commercial corridors as commercially-zoned properties with frontage on US 41, Old 41, Pine Island Road, Bayshore Road, Hancock Bridge Parkway, and Pondella Road. These are all arterial roads in North Fort Myers. The intent of these and other regulations was to enhance the appearance and encourage the redevelopment of these major corridors in the community. LDC Sec. 33-1596 "Use Regulations" provides uses regulations applicable to the Commercial Corridors. LDC Sec. 33-1596 permits Social Services, Group I (Counseling) - where the zoning district permits on commercial corridors. It does not permit Social Services, Group II, III or IV.

### **Fair Housing Issue**

Communities commonly regulate the placement of non-traditional housing and social services by imposing zoning regulations such as a setback or spacing requirement. When a community imposes regulations such as this on a use that is protected by the federal Fair Housing Act

(FHA), the requirement will typically be struck down unless a community can provide strong support and evidence to overcome the FHA's "reasonable accommodation" requirement. The FHA prohibits making a dwelling unavailable to a person because of race, color, national origin, religion, sex, familial status, or disability. The FHA also protects individuals who are recovering from substance abuse. If a community wishes to impose additional requirements on social services and non-traditional housing, they should do so with caution.

### **LDC Amendments**

The attached LDC amendments include removal of the requirement for Social Services, Group II (training) to have 100-foot building setbacks from residential uses and zoning per LDC Sec. 34-2443. The regulation is inconsistent with other more intensive commercial uses (including Social Services, Group I, III and IV). Social Services, Group II (training) are less intensive uses than the commercial and industrial uses which must meet this requirement including blacksmiths and impound yards.

The attached LDC amendments also include the addition of Social Services, Group II (training) to permitted uses (P) in the North Fort Myers Commercial Corridor per LDC Sec. 33-1596. These uses are similar in impact to Social Services, Group I (counseling) currently permitted. The attached LDC amendments also adds Group III and Group IV Social Services to the list of uses within the Commercial Corridor per LDC Sec. 33-1596 as a Planned Development only. These are more intensive uses with residential components and can be evaluated and conditioned for consistency with the Lee Plan and compatibility with surrounding uses on a case by case basis.

Thank you for your attention to this matter.

cc. Pam Houck, Zoning Manager  
Ben Dickson, Development Services Manager  
Mikki Rozdolski, Planning Manager  
Neysa Borkert, County Attorney's Office

(46) Social services. Establishments providing social services and rehabilitation services to persons with social or personal problems requiring special services and to the disabled and the disadvantaged.

GROUP I. Establishments primarily engaged in providing counseling and guidance services to individuals or families, but which do not provide resident facilities.

Adoption services
Child guidance agencies
Disaster services
Family location services
Family (marriage) counseling services
Helping hand services, e.g., Big Brother, Big Sister, etc.
Job counseling
Public welfare centers (offices)
Referral services for personal and social problems
Traveler's aid centers
Other social services of a similar type, not specifically listed elsewhere

GROUP II. Establishments primarily engaged in providing training or rehabilitation services, such as:

Job training
Manpower training
Offender rehabilitation agencies
Offender self-help organizations
Self-help organizations, e.g., Alcoholics Anonymous and Gamblers Anonymous
Skill training centers
Vocational rehabilitation agencies and counseling
Vocational training agencies
Work experience centers, e.g., Goodwill, Job Corps, Lighthouse for the Blind, etc.

GROUP III. Establishments primarily engaged in providing temporary living facilities for individuals with personal or social problems.

Child or wife abuse centers
Halfway homes for delinquents and offenders
Halfway or self-help group homes for persons with social or personal problems
Homes for destitute men and women
Juvenile correctional homes
Settlement houses
Social service centers, e.g. Salvation Army, etc.
Training schools for delinquents

GROUP IV. Establishments primarily engaged in providing longterm living facilities for individuals and in which health care is incidental.

	Homes for children
	Homes for intellectually challenged persons
	Homes for the aged
	Homes for the deaf or blind
	Homes for the emotionally disturbed
	Homes for the physically disabled
	Orphanages
	Rehabilitation centers
	Rest homes

## SUMMARY

### STAFF-PROPOSED LDC AMENDMENTS (EROC)

#### Chapter 2

*LDC Sec. 2-45 & 2-46; LDC Sec. 66 - 76; Concurrency Definitions, Certification, Proportionate Share, General Requirements, Agreement Process, etc. (Pages 1-13)*

**Change:** Definitions edited; "Proportionate Fair-Share" renamed to "Proportionate Share"; Sections on concurrency edited and rewritten.

**Reason:** To make consistent with changes in Florida Statutes, Lee Plan amendments to transportation and parks concurrency, and internal practices.

*LDC Sec. 2-268 Benefit Districts. (Pages 14-18)*

**Change:** Replaced Road Impact Fee Benefit District Map with a new map and corrected language relating to the number of road impact fee benefit districts.

**Reason:** There was a reduction from 5 road impact fee districts to 4.

*LDC Sec. 2-351 Refund of Paid Fees (Page 18)*

**Change:** Corrected "community" parks impact fee to "regional" | parks impact fee.

**Reason:** Correction of a wording error in the code identified by Parks Planning staff.

#### Chapter 6

*LDC Sec. 6-117 Improvements or Repairs Not Requiring a Permit (Page 18)*

**Change:** Allows the installation of wireless alarm systems without a permit.

**Reason:** Florida Statutes allow the installation of wireless alarm systems without a permit. This adds new language consistent with state law.

## Chapter 10

### *LDC Sec. 10-1 Definitions (Page 19)*

**Change:** Changed definition of subdivision from division of a lot into two or more parcels to three or more parcels.

**Reason:** To make consistent with the current definition of subdivision under Florida Statutes.

### *LDC Sec. 10-104 Deviation and variances (Page 19)*

**Change:** Made reference to LDC Sec. 34-380 (Planned Development Deviations).

**Reason:** LDC Sec. 34-380 is the correct reference for deviations to a master concept plan.

### *LDC Sec. 10-154 Development Order Submittal Requirements. (Pages 19-20)*

**Change:** Ownership and encumbrance report requirement updated.

**Reason:** To make consistent with changes in Florida Statutes.

**Change:** No hazardous materials plan for development order applications.

**Reason:** Unnecessary for development orders.

### *LDC Sec. 10-383 Interpretation of Division; Conflicting Provisions (Page 20)*

**Change:** Clarify that Development Services Director has jurisdiction to grant deviations for water main installation.

**Reason:** To eliminate confusion as to the jurisdiction for these deviations.

### *LDC Sec. 10-384 Minimum Standards for All Developments (Page 20)*

**Change:** Reference to LDC Sec. 10-104(a)(13) changed to 10-104(a)(15).

**Reason:** Water Mains reference (13) was incorrect. Sec. 10-104(a)(15) is the correct reference.

### *LDC Sec. 10-414 – 420 Landscape Plan Requirements. (Pages 20-26)*

**Change:** Replace “project” with “development” overall.

**Reason:** “Development” is currently defined in the LDC.



*LDC Sec. 10-415 Open Space. (Pages 21-23)*

**Change:** Revise Salvaging Native Plants language;

**Reason:** To clarify temporary above ground irrigation or other means must be provided to ensure survivability;

**Change:** Revise language regarding indigenous preserve monitoring report submittals;

**Reason:** Clarifies timing of reports;

**Change:** Remove the Sabal palm relocation requirements;

**Reason:** Cost-prohibitive for developers to comply and for staff to enforce.

*LDC Sec. 10-416 Landscape Standards. (Pages 23-25)*

**Change:** Move the Heritage Tree and dry detention planting code under the general tree section;

**Reason:** Clarity;

**Change:** Consolidate the general tree requirements for residential developments;

**Reason:** Clarity;

**Change:** Revise tree installation specifications;

**Reason:** Clarity;

*LDC Sec. 10-418 Surface Water Management Systems. (Page 25)*

**Change:** Revise compensatory littoral area calculation.

**Reason:** To better clarify the requirement.

*LDC Sec. 10-419 Alternative landscape betterment plan (Page 25)*

**Change:** Rewrite the Alternate Landscape Betterment Plan section.

**Reason:** To better define when the section is appropriate to use.

*LDC Sec. 10-420 Plant Material Standards. (Page 26)*

**Change:** Modify standards for trees and palms;

**Reason:** Clarity;

**Change:** Add language regarding inappropriate mulch materials;

**Reason:** To make consistent with existing language per LDC Sec. 10-416(c)(2)(g);

*LDC Sec. 10-716 Piping Materials For Use in Right of Way. (Pages 27-28)*

**Change:** Changes to chart regulating utility piping materials in right of way.

**Change:** Technical corrections per Lee County Utilities and Transportation staff.

## **Chapter 14**

*LDC Sec. 14-1 Planning Community Regulations. (Page 28)*

**Change:** Remove Estero and include San Carlos Island in list of Planning Community regulations.

**Reason:** Incorporation of the Village of Estero; Moved San Carlos Island to Community Planning, Chapter 33.

*LDC Sec. 14-293 through 14-295 (Wetlands) Permits Required, Site Plan Review, Compliance Enforcement. (Pages 28-29)*

**Change:** Eliminated language stating the county may not issue permits prior to state authorization relating to wetlands.

**Reason:** State statutes prohibit withholding local development approvals pending issuance of state and federally-mandated permits. Reflects current practices by staff.

## **Chapter 22**

*LDC Sec. 22-102, 22-103, 22-106 and 22-203 Historic Preservation: Division 3 Certificate of Appropriateness. (Pages 29-30)*

**Change:** Make changes to required mailings, availability of staff reports for regular certificate of appropriateness, special certificate of appropriateness, certificate to dig, and notice of historic preservation board actions.

**Reason:** Clarified language, allows more utilization of electronic mail, and other changes recommended by Planning/Historic Preservation staff.

## Chapter 30

### *LDC Sec. 30-56 Planning Community Regulations. (Page 31)*

**Change:** Remove Estero and include San Carlos Island in list of Planning Community regulations.

**Reason:** Incorporation of the Village of Estero; Moved San Carlos Island to Community Planning, Chapter 33.

### *LDC Sec. 30-151 Temporary Signs. (Page 31)*

**Change:** Clarifies setbacks (15 feet) for real estate signs.

**Reason:** If the sign is at the sidewalk line it may block the view of oncoming traffic.

## Chapter 32

### *LDC Sec. 32-243 Property Development Regulations (Compact Communities) (Page 32)*

**Change:** Corrects street setbacks and height regulations.

**Reason:** Corrects errors identified by the County Attorney's Office.

## Chapter 33

### *LDC Chapter 33 Planning Community Regulations – Contents (Page 33)*

**Change:** Move San Carlos Island from Chapter 34 Redevelopment Overlay Districts to Chapter 33 Planning Communities.

**Reason:** Places Planning Community regulations in one location.

### *Sec. 33-51 through 33-477 Estero Planning Community. (Pages 33-75)*

**Change:** Delete Estero Community regulations.

**Reason:** Incorporation of the Village of Estero.

### *LDC Sec. 33-1431 Model Homes (Lehigh Acres) (Page 75)*

**Change:** Adds "former" to model homes.

**Reason:** Clarifies regulations apply to former model homes being redeveloped for another use.

*LDC Sec. 33-1596 North Fort Myers Commercial Corridor Use Regulations. (Pages 75-76)*

**Change:** Adds Social Services, Group II (Training and Rehabilitation Services – without living facilities) as a permitted use where zoning district permits in Commercial Corridors in the North Fort Myers Planning Community.

Adds Social Services, Group III (Temporary Living Facilities for Individuals with Personal or Social Problems) and Social Services, Group IV (Long Term Living Facilities including incidental Health Care Services) within a planned development only in Commercial Corridors in the North Fort Myers Planning Community.

**Reason:** Commercial Corridors in the North Fort Myers Planning Community currently permit Social Services, Group I (Counseling and Guidance Services – without living facilities) where zoning district permits. There is little difference between Group I (counseling) and Group II (training). Both are office uses.

Allows for consideration of social services with a housing component (Group III and IV) on Commercial Corridors in the North Fort Myers Planning Community in a planned development on a case by case basis consistent with the Lee Plan and compatible with the surrounding uses. See further discussion under Social Services memo.

*LDC Sec. 33-1742 – 33-1744. San Carlos Island Redevelopment Overlay District (Pages 76-88)*

**Change:** San Carlos Island Redevelopment Overlay District moved from Chapter 34 (Zoning) to Chapter 33 (Planning Communities).

**Reason:** Places Planning Community regulations in one location.

## **Chapter 34**

*LDC Sec. 34-2 Definitions. (Page 88)*

**Change:** Agritourism activity definition updated to include livestock operation, civic, ceremonial, training, and exhibition.

**Reason:** This definition mirrors the most recent definition of Agritourism in Florida Statutes as recently amended.

**Change:** Storage definition corrected.

**Reason:** Clarification and removal of grammatical errors.

*LDC Sec. 34-6 Planning Communities. (Pages 88-89)*

**Change:** Remove Estero and include San Carlos Island in list of Planning Community regulations.

**Reason:** Incorporation of the Village of Estero; Moved San Carlos Island to Community Planning, Chapter 33.

*LDC Sec. 34-145 Functions and Authority (Hearing Examiner) (Page 89)*

**Change:** Strike language on equitable jurisdiction.

**Reason:** Correction recommended by the County Attorney's Office to address a court decision relating to a code enforcement case.

*LDC Sec. 34-202 General Submittal Requirements (Public Hearing) (Pages 89-90)*

**Change:** Corrected language; Ownership and encumbrance report requirement updated; Hazardous material emergency plan requirement removed; bonus density application documents required updated.

**Reason:** Consistency with Florida Statutes; Hazardous material emergency plan requirement removed not necessary for zoning cases; Made consistent with new amendments related to Pine Island/TDR program.

*LDC Sec. 34-204 Submittal requirements for Administrative Action applications. (Pages 90-91)*

**Change:** Administrative changes only require a parcel number, rather than a metes and bounds legal description.

**Reason:** Reduces burden on applicants; staff can identify property with a valid parcel number.

*LDC Sec. 34-210 Temporary Use Permits. (Page 91)*

**Change:** Noise ordinance reference updated to Ord. 14-18.

**Reason:** Approval of Ord. 14-18 (Noise Ordinance).

*LDC Sec. 34-622(c) (38) Use Activity Group – Recreation Facilities, Commercial. (Page 91)*

**Change:** Coin-operated games do not include gambling; Adds indoor gun range to list of Group IV Recreational Facilities, Commercial uses (indoor facilities).

**Reason:** Clarity; Updates with appropriate commercial indoor uses which currently include bingo and bowling.

*LDC Sec. 34-625 Outdoor Lighting Standards. (Page 92)*

**Change:** Clarifies language to permit canopy backlighting (provided there is no off-site light spillage).

**Reason:** Canopy back-lighting commonly used by convenience stores - appropriate as long as there is not off-site light spillage.

*LDC Sec. 34-619 Purpose and Intent (RSC-1 Residential Zoning Districts). (Page 92)*

**Change:** Adds reference to Sec. 33-1626 (Captiva) where the RSC-2 (Residential Single-Family Estate) district is described.

**Reason:** Makes it easier to locate RSC-2 regulations (in Chapter 33).

*LDC Sec. 34-715 Multi-Family Property Development Regulations. (Pages 92-94)*

**Change:** "Per Unit" regulations for lot area and dimensions in multi-family zoning removed.

**Reason:** Regulating "per unit" is unnecessary.

*LDC Sec. 34-813 Use Regulations Table – Community Facilities District (Page 94)*

**Change:** Maintenance Facility (Government) added to permitted uses in Community Facility (CF) district.

**Reason:** Appropriate use in CF was left out of the list of permitted uses.

*LDC Sec. 34-844 Use Regulations Table - Commercial Districts. (Pages 94-95)*

**Change:** Commercial Recreation Facilities, Group IV (Indoor facilities such as bingo and bowling) – added use to Commercial (C-1A) district.

**Reason:** Appropriate use currently not permitted in C-1A.

*LDC Sec. 34-903 Use Regulations Table - Industrial Districts. (Page 95)*

**Change:** Adds Food and Kindred Products, Group II (manufacturing of prepared meat, dairy products, cereals, malt beverages, wine, liquor, etc.) to Light Industrial (IL) district.

**Reason:** Currently a special exception only. Permitted in General Industrial (IG). Appropriate in IL.

*LDC Sec. 34-934 Use Regulations Table - Planned Development Districts (Page 95-96)*

**Change:** Note 21 Accessory Apartments – Clarifies that planned developments may require a special exception. Currently says a special exception is required.

**Reason:** Accessory apartments may be approved administratively or by special exception.

*Division 11 Redevelopment Overlay Districts (Page 96)*

**Change:** Struck reference to San Carlos Redevelopment Overlay District

**Reason:** Moved from Chapter 34 to Chapter 33.

*LDC Sec. 34-1177 Accessory Apartments. (Page 96)*

**Change:** Accessory apartments may be administratively approved. Currently a special exception is required.

**Reason:** Reflects current practice; Staff can determine if accessory apartment meets LDC regulations and Lee Plan requirements for density.

*LDC Sec. 34-1261 Definitions/Consumption on Premises (Pages 96-97)*

**Change:** Noise ordinance reference updated to Ord. 14-18.

**Reason:** Approval of Ord. 14-18 (Noise Ordinance).

*LDC Sec. 34-1264 On Premises Consumption. (Page 97)*

**Change:** Adds "Movie Theater" to potential uses with on premises consumption of alcohol (including bowling alleys) provided other LDC standards met.

**Reason:** Movie theater is a similar indoor-oriented use to a bowling alley.

*LDC Sec. 34-1292 Horses and Other Equines. (Page 97)*

**Change:** Noise ordinance reference updated to Ord. 14-18.

**Reason:** Approval of Ord. 14-18 (Noise Ordinance).

*LDC Sec. 34-1352 Display, Sale, Rental or Storage for Motor Vehicles, Boats, Recreational Vehicles, Trailers, Mobile Homes or Equipment. (Page 98)*

**Change:** Amended language regarding commercial storage, enclosed buildings and buffer. Added reference to LDC Sec. 10-416(d) – buffering adjacent properties.

**Reason:** Clarity for staff and applicants.

*LDC Sec. 34-1353 Convenience Food and Beverages, Automobile Service Stations, Fast Food, Car Washes. (Page 98)*

**Change:** Allows for flat roof canopies and accent banding unless prohibited in a planned development.

**Reason:** Commonly-requested and approved deviation request for convenience store uses.

*LDC Sec. 34-1354 Variances or Deviations from 34-1352 (Vehicle Sales) and 34-1353 (Convenience Store/Fast Food, etc.) (Page 98)*

**Change:** Administrative relief may be permitted to allow for infill commercial redevelopment on properties less than 3 acres.

**Reason:** Adds flexibility to promote redevelopment on infill sites. Staff can condition appropriately.

*LDC Sec. 34-1414 Continuing Care Facilities & LDC Sec. 34-1494 Density Equivalents. (Pages 99-100)*

**Change:** Density equivalent section for assisted living relocated to LDC Sec. 34-1414.

**Reason:** Currently in two sections of the code.

*LDC Sec. 34-2019 Other Use of Parking Lot (Page 100)*

**Change:** Carnivals, Fairs and Amusement Attractions and Devices language deleted.

**Reason:** Relocated to 34-3042 "Carnivals, Fairs and Amusement Attractions and Devices."

*LDC Sec. 34-2020 Required Parking Spaces. (Pages 100-107)*

**Change:** Assisted Living, Corrected LDC references; Clubhouse (and ancillary uses) within a Residential Community Without Golf – Provided required parking space regulations; Corrected other references and notes for Non-Residential Uses.

**Reason:** Clarification and consistence with other code changes; It was unclear what the parking requirements were for residential clubhouses in communities without golf.

*LDC Sec. 34-2443 Minimum Required Setbacks. (Pages 108-109)*

**Change:** Removed Social Services Group II (Training and Rehabilitation Services – without living facilities) from list of intensive uses (blacksmiths, impound yards, manufacturing, repair shops, etc.) requiring minimum 100-foot building setbacks from residential zoning.

**Reason:** Social Services, Group II are office-type uses of similar intensity to Social Services, Group I (Counseling) which have no additional setback requirements from residential zoning. See further discussion under Social Services memo.

*LDC Sec. 34-2479 Sound Systems (Page 109)*

**Change:** Noise ordinance reference updated to Ord. 14-18.

**Reason:** Approval of Ord. 14-18 (Noise Ordinance).



*LDC Sec. 34-3042 Carnivals, Fairs, Circuses and Amusement Devices. (Page 109)*

**Change:** Off-street parking regulations for carnivals, fairs and amusement attractions and devices added.

**Reason:** Relocated from LDC Sec. 34-2019 "Other Use of Parking Lot."

*LDC Sec. 34-3050 Temporary Storage Facilities & Sec. 34-3105 Use of Vehicles, Truck Trailers, or Shipping Containers for Storage. (Pages 109-110)*

**Change:** Permits vehicles, truck trailers, or shipping containers for storage where open storage in commercial or industrial zoning is a permitted use.

**Reason:** Storage containers are an appropriate use in intensive zoning districts where open storage is permitted by right.

*Sec. 34-3272. Lot of record defined; general development standards. (Page 110)*

**Change:** Removes references to single-family residences for setback and separation regulations for mobile home and RV lots of record.

**Reason:** Single-family is addressed in Sec. 34-3273 and does not need to be included in Sec. 34-3272 also.

### **Appendixes (Pages 111-112)**

*Appendix "I" – Planning Community and Redevelopment Overlay District Boundaries and Legal Descriptions.*

**Change:** Remove Estero maps.

**Reason:** Incorporation of the Village of Estero.

## CHAPTER 2

### Sec. 2-45. - Definitions.

~~*De minimus transportation impact* means an impact created by a use that would not affect more than one percent of the maximum volume at the adopted level of service of the affected transportation facility as determined by the County. No impact will be considered de minimus if the impact would exceed the adopted level of service standard of an affected designated hurricane evacuation route.~~

~~*Long term transportation concurrency management system* means a financially feasible system to ensure that existing deficiencies are corrected within a specified time frame and to establish priorities for addressing backlogged facilities in special concurrency district or areas.~~

~~*Multimodal Transportation District* means areas designated under the Lee Plan where community design features reduce the use of private vehicles and support an integrated multimodal transportation system. Multimodal transportation districts are designated in accordance with F.S. § 163.3180(15).~~

~~*Permanent traffic* means the traffic that a development can reasonably be expected to generate on a continuing basis upon completion of the development. It does not mean the temporary construction traffic.~~

~~*Transportation concurrency* means transportation facilities needed to serve new development must be in place or under actual construction within three years after the local government approves a development permit, or its functional equivalent, that results in traffic generation.~~

~~*Transportation concurrency exception areas* means areas designated under the Lee Plan that allow exceptions to the transportation concurrency management requirement to promote urban infill development, urban redevelopment, or downtown revitalization.~~

~~*Transportation concurrency management areas* means compact geographic areas designated under the Lee Plan with existing or proposed multiple, viable alternative travel paths or modes for common trips, which employ the use of an area-wide level of service standard and an accommodation and management of traffic congestion for the purpose of promoting infill development or redevelopment in a manner that supports more efficient mobility alternatives.~~

Cost - All improvements and associated costs of capital improvement implementation, such as design, right-of-way acquisition, planning and design studies, engineering, inspection, and physical development costs directly associated with construction of motor vehicle, transit, pedestrian and bicycle facilities, as may be adjusted to the anticipated year it will be incurred.

Development Trips - Estimated vehicular traffic volume assigned to a roadway segment(s) from the stage or phase of development under review.

Phase - A discrete, five-year or lesser construction timeframe of development, including the local government issuance of certificates of occupancy for that construction or its functional occupancy.

Proportionate Share – A contribution calculated based upon the number of trips from the proposed project expected to reach roadways during the peak hour from the stage or phase being approved, divided by the change in the peak hour maximum service volume of roadways resulting from construction of an improvement necessary to maintain or achieve the adopted level of service, multiplied by the construction cost, at the time of development payment, of the improvement necessary to maintain or achieve the adopted level of service.

Roads Impact Fee District – The geographic area in which road impact fees may be collected and spent as depicted in the Lee County Land Development Code Appendix K, Map 1.

Service Volume – The highest number of vehicles for a given level of service.

Service Volume Increase - The additional number of vehicles for a given level of service resulting from an improvement to a roadway segment.

Significant Impact - The traffic projected to be generated at the end of any stage or phase of the proposed project, cumulatively with previous stages or phases, will utilize five percent or more of the adopted peak hour level of service maximum service volume of the roadway, and the roadway is projected to be operating below the adopted level of service standard at buildout of that stage or phase.

Stage - One in a series of approximately equal increments in the development of a proposed project upon which are placed quantified limits for construction that are reasonably calculated to ensure that the state and regional roadway network affected by the proposed project will not be overburdened by development traffic. A stage is to be a subset of a particular project phase of project planned for a project by a developer. A stage of development includes both a specific type and amount of development and the associated, approved buildout timeframe for that project.

State Highway System – All existing roads maintained by the Florida Department of Transportation.

Transportation Deficiency - A facility or facilities on which the adopted level-of-service standard is exceeded by the existing, committed, and vested trips, plus additional projected background trips from any source other than the development project under review, and trips that are forecast by established traffic standards, including traffic modeling, consistent with the University of Florida's Bureau of Economic and Business Research medium population projections. Additional projected background trips are to be coincident with the particular stage or phase of development under review.

#### **Sec. 2-46. - Concurrency certification.**

##### **No change (a) and (b).**

(c) *Consideration of impacts.* If the director determines that a development permit is not exempt from the minimum concurrency requirements of the Lee Plan, the director will consider the impact the development will have on potable water, sanitary sewer, surface water management, solid waste disposal, parks and recreation, roadway facilities and public schools. The director will consider the type and intensity of use of the proposed development in relation to the demands the use can reasonably be expected to make on those facilities and the times when the demand can reasonably be expected to occur during the course of the development. When measuring the expected impacts of a development, the director will include only the impacts of permanent traffic (see definitions) and other similar continuing infrastructure demands of the development. The director will disregard temporary impacts such as fire flow tests. The director may rely upon studies, measurements or calculations prepared by qualified professionals, or upon generally accepted guidelines, rules, formulas, studies or other theories developed by professional experts working or publishing in this field of inquiry, or upon relevant historical trends or experiences, or upon related rules and standards adopted by other governmental agencies, or upon any combination of these sources. The burden of disproving the accuracy of the director's determination lies with the person who disputes it.

To promote uniformity in the application of this subsection, the director may prepare administrative rules prescribing the methodology by which the impacts of a proposed development will be determined. Those rules will be set forth in an Administrative Code adopted by the Board of County Commissioners.

(d) *Determination of sufficient capacity.* Once the director has considered the impacts of a proposed development in accordance with subsection (c) of this section, he will then determine whether there will be sufficient capacity for these facilities to serve the development at the time the impacts of the development will occur without causing these facilities and services to function at a level of service below the minimum regulatory levels established for these facilities and services in the Lee Plan. Except for traffic impacts, which will be determined in accordance with the policies under objectives

~~37.3 and 37.4 of the Lee Plan, the~~ The director will add the expected impacts of the development to the levels of use of the facility at the time of the determination. Anticipated additional use will be derived from other reasonably foreseeable factors. If this sum is less than the capacity of the facility in question to operate during the effective period of a certificate of concurrency compliance at the minimum regulatory levels of services prescribed in the Lee Plan ~~and the development's projected traffic is in compliance with objectives 37.3 and 37.4 of the Lee Plan,~~ the director will certify the conclusion by a written statement. The written statement will identify the development in question and the development permit for which the certification has been made. The director's statement will be known as a certificate of concurrency compliance and is limited to the exact development permit application for which he has issued his certificate. Applications for an amendment to a development order granting a development permit for which a certificate of concurrency compliance has been issued will require another, separate concurrency review by the director.

(e) *Means of measuring level of service in relation to location of development.* When measuring the availability of a public facility to serve a development, the level of service at which the facility is operating or is expected to operate will be measured in relation to its location to the development as follows:

**No change 1-4.**

~~(5) Parks and recreation.~~ The quantity of regional parks will be measured in acres and applied to the total permanent and seasonal resident population in the County. The quantity of community parks will be measured in acres within the unincorporated area of the county and applied within each community park impact fee district to the permanent resident population within the unincorporated portion of that district.

~~(6) Roads.~~ Concurrency on all roads will be determined on a roadway segment by segment basis consistent with the level of service standards set forth in Lee Plan Policy 37.1.1, except where the Board has:

- ~~a. Designated constrained roads,~~
- ~~b. Created transportation concurrency management areas,~~
- ~~c. Created transportation concurrency exception areas,~~
- ~~d. Created long-term transportation management systems pursuant to Florida Administrative Code 9J-5.0055, or~~
- ~~e. Designated multimodal transportation districts pursuant to F.S. § 163.3180(15) or similar allowable modifications to standard road concurrency.~~

**No change 7.**

**No change (f) and (g).**

~~(h) For parks and recreation facilities, the development must meet one of the following two standards:~~

~~(1) At the time of development order or permit is issued, the necessary facilities and services must be in place or under actual construction; or~~

~~(2) A development order or permit is issued with a stipulation that, at the time of the issuance of a certificate of occupancy or its functional equivalent, the acreage for the necessary facilities and services to serve the new development is dedicated to or acquired by the local government; and~~

~~a. The necessary facilities and services needed to serve the new development are scheduled to be in place or under actual construction not more than one year after issuance of a certificate of occupancy or its functional equivalent as provided in the adopted Lee County five-year schedule of capital improvements; or~~

~~b. At the time the development order or permit is issued, the necessary facilities and services are the subject of a binding executed agreement that requires the necessary facilities and services to serve the new development to be in place or under actual construction not more than one year after issuance of a certificate of occupancy or its functional equivalent; or~~

~~c. At the time the development order or permit is issued, the necessary facilities and services are guaranteed in an enforceable development agreement, pursuant to F.S. § 163.3220, or an agreement or a development order issued pursuant to F.S. ch. 380, to be in place or under actual construction not more than one year after issuance of a certificate of occupancy or its functional equivalent.~~

~~(i) *Determination of road facility capacity.* In determining the capacity of a road facility, the director will include existing roadways and committed improvements, as provided in Policy 37.3.2 of the Lee Plan.~~

**No change (j) – (n).**

~~(o) *Requirements for activity affecting constrained roads.* Concurrency compliance for land development activity affecting constrained roads will be determined in accordance with Lee Plan objective 22.2 to the extent these policies provide additional restrictions that supplement other provisions of this article. The requirements of these policies are as follows:~~

~~(1) A maximum volume to capacity (v/c) ratio of 1.85 for all constrained roads.~~

~~(2) The director may not issue permits that cause the maximum volume to capacity ratio to be exceeded or that affect the maximum volume to capacity ratio once exceeded.~~

~~(3) Once the maximum volume to capacity ratio is achieved, permits may only be issued where capacity enhancements and operational improvements have been identified and commitments to implement those improvements are made that will maintain the volume to capacity ratio on the constrained segment at or below 1.85.~~

~~(p) *De minimus impact.* The Florida Legislature has found that a de minimus impact is consistent with Part II of Chapter 163. Therefore, the impact of a single-family home on an existing lot will constitute a de minimus impact on all roadways regardless of the level of deficiency of the roadway.~~

~~Other than single-family homes on existing lots, no impact will be de minimus if the sum of existing roadway volumes and the projected volumes from approved projects on a transportation facility would exceed 110 percent of the maximum volume at the adopted level of service of the affected transportation facility. Further, except for single-family homes on existing lots, no impact will be de minimus if it would exceed the adopted level of service standard of any affected designated hurricane evacuation route.~~

~~Lee County will maintain records to ensure that the 110 percent criteria is not exceeded. Annually, Lee County will submit to the State Land Planning Agency a summary of the de minimus records along with its updated Capital Improvements Element. In the event the State Land Planning Agency determines that~~

~~the 110 percent criteria has been exceeded, the County will be notified of the exceedence and no further de minimus exceptions for the applicable roadway will be granted until the volume is reduced below the 110 percent. The County will provide proof of the reduction to the State Land Planning Agency prior to issuing further de minimus exceptions.~~

## **DIVISION 2. - PROPORTIONATE FAIR-SHARE PROGRAM**

### **Sec. 2-66. - Purpose and intent.**

The purpose of this Division is to establish a method whereby the impacts of development on transportation facilities can be mitigated by the cooperative efforts of the public and private sectors, to be known as the Proportionate Fair-Share, ~~as required by and~~ in a manner consistent with §163.3180(16), F.S., as amended.

### **Sec. 2-67. - Findings.**

- (a) Transportation capacity is a commodity that has a value to both the public and private sectors.
- (b) ~~The Lee County Proportionate Fair-Share Program:~~
  - (1) Provides a method by which the impacts of development on transportation facilities can be mitigated by the cooperative efforts of the public and private sector;
  - (2) Provides a means by which developers may proceed ~~under certain conditions, notwithstanding the failure of transportation concurrency,~~ by contributing their proportionate fair-share of the cost to improve/construct a transportation facility;
  - (3) Maximizes the use of public funds for adequate transportation facilities to serve future growth, and may, in certain circumstances, allow the county to expedite transportation improvements by supplementing funds currently allocated or planned for transportation improvements in the Capital Improvement Element (CIE), Lee Plan Map 3A, or the Lee County MPO Long Range Transportation Plan (LRTP); and,
  - (4) Is consistent with §163.3180(16)(4)(i), F.S., as amended, and supports the policies ~~under Goals 37 and 38 in the Lee Plan; and,~~
  - (5) ~~Works within the county's existing concurrency management system.~~

## **Sec. 2-68. - Applicability.**

~~The Proportionate Fair Share applies to all developments in unincorporated Lee County that have been notified of a lack of capacity to satisfy transportation concurrency on a transportation facility, identified one or more significant impacts, and the total proportionate share calculation exceeds road impact fees, in the County Concurrency Management System, including transportation facilities maintained by FDOT or another jurisdiction that are relied upon for concurrency determination. This provides a funding mechanism to implement County transportation needs through the Capital Improvement Element (CIE.) The Proportionate Fair Share is not available to developments of regional impact (DRIs) using proportionate fair share under shall not be applied in a manner that imposes upon new development any responsibility for funding an existing transportation deficiency, § 163.3180(12), F.S., or to developments exempted from concurrency as provided in 2-46(p).~~

## **Sec. 2-69. - General requirements.**

~~(a) A developer may choose to satisfy the transportation concurrency requirements of the county by making make a proportionate fair-share contribution, pursuant to the following requirements:~~

~~(1) The proposed development project is consistent with the Lee Plan and applicable land development regulations; and~~

~~(2) The five-year schedule of capital improvements in the County Capital Improvement Element (CIE) or the long-term schedule of capital improvements for an adopted long-term concurrency management system, Map 3A, or the Lee County MPO Long Range Transportation Plan (LRTP), includes, or may be amended to include, a transportation improvement(s) that, upon completion, will mitigate additional traffic generated by the proposed development, and the improvement does not represent an existing or projected transportation deficiency. If the County transportation concurrency management system indicates that the capacity of the improvement has been consumed by the vested trips of previously approved development, then the provisions of 2-69(b) apply.~~

~~*Commentary:* Pursuant to §163.3180(16)(b)1, F.S., the transportation improvement in section (a)(2) above may be a programmed capital improvement that enhances the capacity of the transportation system to accommodate the impacts of development. For example, this may involve widening and/or reconstructing a roadway or where the primary roadway is constrained or widening is no longer desired, this could involve creating new reliever roadways, new network additions, new transit capital facilities (e.g., bus rapid transit corridor), or other major mobility improvements, such as expansion of bus fleets to increase service frequency. Local governments may, at their discretion, wish to make short-term operational improvements in advance of the capacity project. If the capacity of the planned improvement is fully committed, or there is no eligible project in an adopted work program, a developer could potentially still participate at the discretion of the local government pursuant to (b) below.~~

~~(b) The county may choose to allow a developer to satisfy transportation concurrency for a deficient road segment through the Proportionate Fair Share Program by contributing to an improvement that is not contained in the five-year schedule of capital improvements in the Capital Improvement Element or a long-term schedule of capital improvements for an adopted long-term concurrency management system but which, upon completion, will satisfy the requirements of the County Transportation Concurrency Management System, where the following apply:~~

~~(1) The county conducts an advertised public hearing to consider the proportionate fair share agreement and corresponding future changes to the five-year CIP; and,~~

~~(2) The county adopts, by resolution or ordinance, a commitment to add the improvement to the 5-year schedule of capital improvements in the Capital Improvement Element (CIE) no later than the next regularly scheduled update. To qualify for consideration under this section, the proposed improvement must be reviewed by the Board and determined to be financially feasible pursuant to §163.3180(16) (b) 1, F.S., consistent with the Lee Plan, and in compliance with the provisions of this Article. Financial feasibility means that additional contributions, payments or funding sources are reasonably anticipated during a period not to exceed 10 years to fully mitigate impacts on the transportation facilities.~~

~~(c) If the funds allocated for the 5-year schedule of capital improvements in the County CIE are insufficient to fully fund construction of a transportation improvement required by the concurrency management system, the County may still enter into a binding proportionate fair-share agreement with a developer authorizing construction of that amount of development on which the proportionate fair-share is calculated, if in the opinion of Lee County DOT, the proposed proportionate fair-share amount is sufficient to pay for one or more improvements that will, by itself or in combination with other committed contributions, significantly benefit the transportation system. To qualify for consideration under this section, the proposed improvement must be contained in an adopted short- or long-range county plan or program, MPO, FDOT or local or regional transit agency. Proposed improvements not reflected in an adopted plan or improvement program but that would significantly reduce access problems and congestion or trips on a major corridor, such as new roads, service roads, or improved network development and connectivity, may be considered at the discretion of the Board. The improvements funded by the proportionate fair-share component must be adopted into the 5-year capital improvements schedule for the Lee Plan CIE in the next annual capital improvement element update.~~

~~(d) Any improvement project proposed to meet the developer's fair-share obligation must meet the county design standards for locally maintained roadways and those of the FDOT for the state highway system.~~

#### **Sec. 2-70. - Intergovernmental coordination.**

~~Pursuant to policies in the Intergovernmental Coordination Element of the Lee Plan and applicable policies in the Southwest Florida Regional Planning Council's Strategic Regional Policy Plan, the county will coordinate with affected jurisdictions, including FDOT, regarding mitigation to impacted facilities not under the jurisdiction of the county receiving the application for proportionate fair-share mitigation. An interlocal agreement may be established with other affected jurisdictions for this purpose.~~

#### **Sec. 2-710. Application Agreement process.**

~~(a) Upon Notification of a lack of capacity to satisfy transportation concurrency, the county must also notify the applicant/developer in writing of the opportunity to satisfy transportation concurrency in accordance with the requirements for the proportionate share program set forth in Section 2-69. **Applicability.** This section applies if there are additional developer mitigation responsibilities resulting from one or more significant impacts.~~



The determination of significant impact(s) will be based on a Lee County approved traffic analysis contained in an Application for Public Hearing for a Development of Regional Impact (DRI), or an Application For Development Order for development outside of a DRI as outlined in AC-13-16.

This section outlines the agreement process for mitigation responsibilities and payments.

~~(b) **Meeting Required.** Prior to submitting an application for a proportionate fair share agreement the applicant must attend schedule a pre-application meeting with the County Attorney, Directors or designees of Lee County Department of Community Development Planning and Lee County Department of Transportation (DOT) to discuss eligibility, application submittal requirements additional transportation analysis at the option of the Directors or applicant, potential mitigation options, and related issues prior to initiating a proportionate share agreement with the County. If the an impacted facility is on the Strategic Intermodal System (SIS) state highway system, or a roadway maintained by or within another municipality, then the applicant must notify and invite the Florida Department of Transportation (FDOT) and/or the chief municipal transportation agency representative to participate in the pre-application meeting.~~

~~(c) Eligible applicants must submit an application to the county that includes an application fee set forth in the fee manual and the following:~~

- ~~(1) Name, address and phone number of owner(s), developer and agent;~~
- ~~(2) Property location, including parcel identification numbers;~~
- ~~(3) Legal description and survey of property;~~
- ~~(4) Project description, including type, intensity and amount of development;~~
- ~~(5) Proposed phasing schedule, if applicable;~~
- ~~(6) Description of requested proportionate fair share mitigation method;~~
- ~~(7) Copy of concurrency application;~~
- ~~(8) Copy of the project's Traffic Impact Statement (TIS); and,~~
- ~~(9) Location map depicting the site and affected road network.~~

(c) **Agreement.** Application procedures, requirements and review criteria for proportionate share agreements are contained in Lee County Administrative Code AC13-16. All AC13-16 requirements must be complied with in order for the County and applicant to enter into a proportionate share agreement. The agreement must be approved by the Lee County Board of County Commissioners.

~~(d) The director or the designee will review the application and certify that the application is sufficient and complete within 20 business days. If an application is determined to be insufficient, incomplete or inconsistent with the general requirements of the Proportionate Fair Share Program as indicated in Section 2-69, then the county will notify the applicant in writing of the reasons for such deficiencies~~

~~within 20 business days of submittal of the application. If the deficiencies are not remedied by the applicant within 20 business days of receipt of the written notification, then the application will be deemed abandoned. The director may, in his discretion, grant a one-time extension not to exceed 60 calendar days.~~

~~(e) Pursuant to §163.3180(16) (e), F.S., proposed proportionate fair-share mitigation for development impacts to facilities on the SIS requires the agreement of the Florida Department of Transportation (FDOT). If an SIS facility is proposed for proportionate share mitigation, the applicant must submit a copy of the executed agreement between the applicant and the FDOT for inclusion in the proportionate fair-share agreement.~~

(d) Shared Transportation Facilities. Proposed proportionate share mitigation for development impacts to facilities on the state highway system or facilities maintained by another municipality requires the agreement of the Florida Department of Transportation (FDOT) or the municipality. The applicant must submit a copy of the executed agreement(s) for inclusion in the proportionate share agreement. The county may enter into proportionate share agreements for selected corridor improvements to facilitate collaboration among multiple applicants on improvements to a shared transportation facility.

~~(f) When an application is deemed sufficient, complete, and eligible, the county will advise the applicant in writing. The county attorney will prepare a proportionate fair-share obligation and binding agreement. A draft agreement will be delivered to the appropriate parties for review, including a copy to the FDOT for proposed proportionate fair-share mitigation on SIS facilities, no later than 60 calendar days from the date the applicant received the notification of a sufficient application and no fewer than 14 calendar days prior to the meeting when the agreement will be considered.~~

~~(g) The county will notify the applicant regarding the date the agreement will be considered for final approval by the Board. No proportionate fair-share agreement will be effective until approved by the commission, or pursuant to staff approval for agreements below a certain dollar amount.~~

(e) Payment of Proportionate Share. Payment of the proportionate share mitigation is due in accordance with the terms of the finalized and executed proportionate share agreement. All payments are non-refundable.

(f) Dedications. Dedication of necessary right-of-way for facility improvements pursuant to a proportionate share agreement must be completed prior to, or as part of final plat approval or issuance of the development order for infrastructure improvements for the project.

## **Sec. 2-721. - Determining proportionate fair-share obligation.**

(a) Timing. Unless an application for Development Order is part of a Development of Regional Impact, significant impacts will be determined based on projected traffic at the end of an approved stage or phase. Proportionate fair-share mitigation for concurrency transportation impacts may include, without limitation, separately or collectively, private funds, contributions of land, and construction and contribution of facilities. The fair market value of the proportionate share mitigation for the impacted facilities will not differ regardless of the form of the mitigation.

~~(b) A development is not required to pay more than its proportionate fair share unless the road impact fee obligation under the adopted fee schedule exceeds the proportionate fair share mitigation of the project. The fair market value of the proportionate fair share mitigation for the impacted facilities will not differ regardless of the form of the mitigation.~~

(e b) **Calculation.** The methodology formula that will be used to calculate an applicant's proportionate fair share obligation on each significantly impacted roadway is stated in § 163.3180 (12), F.S., as follows:

~~"The cumulative number of trips from the proposed development expected to reach roadways during peak hours from the complete build out of a stage or phase divided by the change in the peak hour maximum service volume (MSV) of roadways resulting from construction of an improvement necessary to maintain the adopted LOS, multiplied by the construction cost, at the time of developer payment, of the improvement necessary to maintain the adopted LOS."~~

OR

$$\text{Proportionate Fair-Share} = \frac{\text{Development Trips}_{sub\ i}}{\text{ServiceVolume Increase}_{sub\ i}} \times \text{Cost}_{sub\ i}$$

~~(Note: In the context of the formula, the term "cumulative" does not include a previously approved stage or phase of a development.)~~

Where:

~~Development Trips<sub>sub i</sub> = Those trips from the stage or phase of development under review that are assigned to roadway segment "i" and have triggered a deficiency per the concurrency management system;~~

~~SV Increase<sub>sub i</sub> = Service volume increase provided by the eligible improvement to roadway segment "i" per section 2-69;~~

~~Cost<sub>sub i</sub> = Adjusted cost of the improvement to segment "i". Cost includes all improvements and associated costs, such as design, right-of-way acquisition, planning, engineering, inspection, and physical development costs directly associated with construction at the anticipated cost in the year it will be incurred.~~

~~Commentary: Under the definition of "development trips," only those trips that trigger a concurrency deficiency would be included in the proportionate fair share calculation.~~

(d c) **Cost Determination.** For the purposes of determining proportionate fair-share obligations, the county will determine improvement costs based upon the actual maximum estimated cost of the improvement as reflected in the Capital Improvement Element CIE, the MPO/Transportation Improvement program Long Range Transportation Plan LRTP, or the FDOT Work Program. Where this information is not available, improvement the cost of full capital improvement implementation identified in Section 2-71(b) will be determined at the discretion of by the Lee County Department of Transportation Director using one of the following methods:

(1) An analysis of by the county or appropriate entity of costs by cross section type that incorporates data from recent projects and is updated annually and approved by the commission. In order to accommodate increases in construction material costs, project costs which will be adjusted by an inflation factor, if warranted; or

(2) FDOT Cost Per Mile Models for construction, as adjusted to include all costs of capital improvement implementation; or

~~The most recent issue of FDOT Transportation Costs, as adjusted based upon the type of cross-section (urban or rural); locally available data from recent projects on acquisition, drainage and utility costs; and significant changes in the cost of materials due to unforeseeable events. Cost estimates for state road improvements not included in the adopted FDOT Work Program will be determined using this method in coordination with the FDOT District; or~~

(3) An engineer's certified cost estimate provided by the applicant and accepted by the Director of Lee County DOT.

(d) Impact fee obligation. A development is not required to pay more than its proportionate share unless the road impact fee obligation under the adopted fee schedule exceeds the proportionate share mitigation of the project.

### **Sec. 2-732. - Impact fee credit for proportionate fair-share mitigation.**

(a) Credit. Proportionate fair-share mitigation will be applied as a credit against road impact fees assessed to the project to the extent that all or a portion of the proportionate fair-share mitigation is used to address the same capital infrastructure improvements contemplated by the county's impact fee ordinance.

(b) Road Impact Fee Credits. Road impact fee credits for the proportionate fair-share contribution will be determined when the ~~transportation-road~~ impact fee obligation is calculated for the proposed development project. If the developer's proportionate fair-share obligation is less than the development's anticipated road impact fee for the specific stage or phase of development under review, then the developer or its successor must pay the remaining impact fee amount to the county in accordance with the governing fee schedule at the time of permitting. If the developer's proportionate share obligation is greater than the development's anticipated road impact fee, the developer will enter into an agreement as outlined in Section 2-70, as amended. Developer initiated roadway capital improvements or right-of-way dedication consistent with LDC Article VI, Division 2 (Roads Impact Fee), may be included in proportionate share mitigation.

~~(c) The proportionate fair-share obligation is intended to mitigate the transportation impacts of a proposed development at a specific location. Road impact fee credit based upon proportionate fair-share contributions for a proposed development cannot be transferred to another district unless the road improvement will provide relief in an adjacent district.~~

~~(d) Major projects, not included within the local government's impact fee ordinance that can demonstrate a significant benefit to the impacted transportation system, may be eligible for impact fee credit at the county's discretion consistent with the standards for Class 3 roadways set forth in section 2-275(a)(3).~~

### **Sec. 2-74. Proportionate fair-share agreements.**

~~(a) Upon execution of a proportionate fair-share agreement (agreement) the applicant will receive a county certificate of concurrency approval. If the applicant fails to apply for a development permit within three years of the execution of the agreement, then the agreement will be considered null and~~

~~void, and the applicant must reapply for a concurrency certificate. Once paid, proportionate share payments and impact fees are not refundable.~~

- ~~(b) Payment of the proportionate fair share contribution is non refundable and due in full within 60 days of execution of the Agreement, or prior to the issuance of the first development order, whichever occurs first. If the payment is not made in the time frame stated above, then the proportionate share cost will be recalculated and a new agreement must be executed.~~
- ~~(c) Dedication of necessary right-of-way for facility improvements pursuant to a proportionate fair share agreement must be completed prior to issuance of the development order.~~
- ~~(d) Requested changes to a development project subsequent to a development order may be subject to additional proportionate fair share contributions to the extent the change would generate additional traffic that would require mitigation.~~
- ~~(e) Applicants may submit a letter to withdraw from the proportionate fair share agreement prior to the execution of the agreement. The application fee and any associated advertising costs to the county will be non-refundable.~~
- ~~(f) The county may enter into proportionate fair share agreements for selected corridor improvements to facilitate collaboration among multiple applicants on improvements to a shared transportation facility.~~

### **Sec. 2-753. Appropriation of fair-share revenues.**

~~(a) The county has the authority to will deposit appropriate proportionate fair-share revenues for transportation improvements at its discretion in the appropriate project account for funding of scheduled improvements in the County Capital Improvement Element CIE, or as otherwise established agreed upon in the terms of the proportionate fair-share agreement. At the discretion of the county, proportionate fair-share revenues may be used for operational improvements prior to construction of the capacity project from which the proportionate fair-share revenues were derived. Proportionate fair-share revenues may also be used as the 50 percent local match for funding under the FDOT TRIP.~~

~~(b) If a scheduled facility improvement is removed from the Capital Improvement Element CIE, then the revenues collected for its construction may be applied toward the construction of another improvement within that same corridor or sector that would mitigate the impacts of development pursuant to the requirements of section 2-69.~~

~~(c) Where an impacted regional facility has been designated as a regionally significant transportation facility in an adopted regional transportation plan as provided in Section 339.155, F.S., the county may coordinate with other impacted jurisdictions and agencies to apply proportionate fair share contributions and public contributions to seek funding for improving the impacted regional facility under the FDOT TRIP. The coordination must be ratified by the county through an interlocal agreement establishing a procedure for earmarking the developer contributions for the purpose of improving the impacted regional facility.~~

### **Sec. 2-764. - Cross jurisdictional impacts.**

*Commentary:* ~~This section provides a concept to advance intergovernmental coordination objectives in local government comprehensive plans and applicable policies in adopted regional plans. It provides an opportunity for a local government to address the impacts of a proposed development in an adjacent local government that is at or near its border. It is intended as a means of managing development on a regional thoroughfare, and not for application to minor roadways. A regional transportation facility in this context would most likely be an arterial roadway, but could be a major collector roadway that is planned for expansion and reclassification as an arterial. To apply this method, each participating local government must first enter an interlocal agreement to incorporate the provision into their respective land~~

~~development regulations. The permitting local government would use the methodology in this section to determine whether a significant impact may occur across its border and offer its neighbor an opportunity to evaluate the proposed development to determine if it would exceed their adopted LOS standards for concurrency. Where the proposed development would trigger a concurrency failure on the neighboring local government's roadway, that local government would use the proportionate fair share methodology to determine the applicant's obligation. In this situation, the applicant would need to provide a proportionate fair share contribution to the adjacent local government that experiences a concurrency deficiency, as well as to the permitting local government.~~

~~(a) In the interest of intergovernmental coordination and to reflect the shared responsibilities for managing development and concurrency, the county may enter an agreement with one or more adjacent local governments to address cross jurisdictional impacts of development on regional transportation facilities. The agreement must provide for application of the methodology in this section to address the cross jurisdictional transportation impacts of development. Application procedures, requirements and review criteria agreements for intergovernmental coordination agreements to address cross jurisdictional impacts are contained in Lee County Administrative Code AC13-16, as amended. All AC13-16 requirements must be complied with in order for an intergovernmental coordination agreement to be approved and executed by the Board of County Commissioners.~~

~~(b) A development application submitted to the county subject to a transportation concurrency determination meeting all of the following criteria will be subject to this section:~~

- ~~(1) All or part of the proposed development is located within five mile(s) of the area which is under the jurisdiction, for transportation concurrency, of an adjacent local government; and~~
- ~~(2) Using its own concurrency analysis procedures, the county concludes that the additional traffic from the proposed development would use [five percent or more of the adopted peak hour LOS maximum service volume] of a regional transportation facility within the concurrency jurisdiction of the adjacent local government ("impacted regional facility"); and~~
- ~~(3) The impacted regional facility is projected to be operating below the level of service standard, adopted by the adjacent local government, when the traffic from the proposed development is included.~~

~~(c) Upon identification of an impacted regional facility pursuant to subsection (b)(1)–(3), the county will notify the applicant and the affected adjacent local government in writing of the opportunity to derive an additional proportionate fair share contribution, based on the projected impacts of the proposed development on the impacted adjacent facility.~~

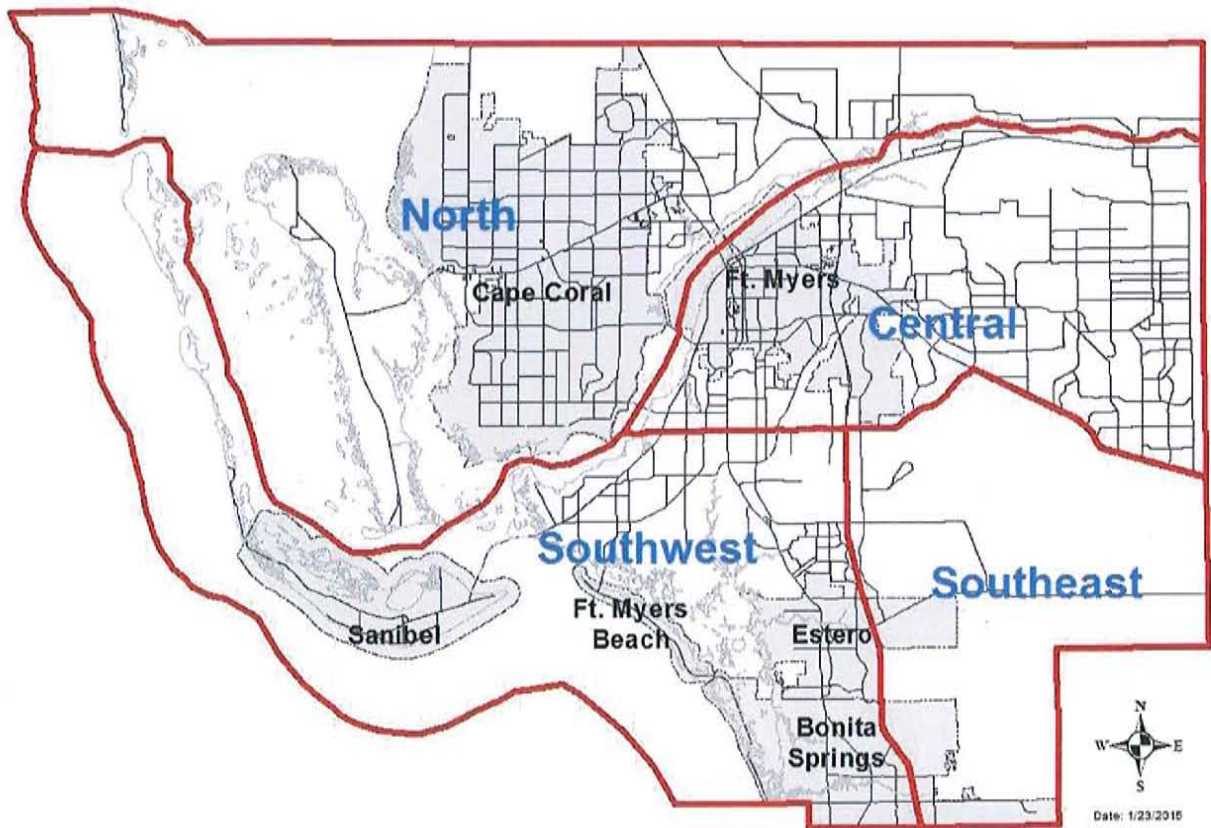
- ~~(1) The adjacent local government has up to 90 days in which to notify the county of a proposed specific proportionate fair share obligation, and the intended use of the funds when received. The adjacent local government must provide reasonable justification that both the amount of the payment and its intended use comply with the requirements of Section 163.3180(16), F.S. If the adjacent local government declines proportionate fair share mitigation under this section, then the provisions of this section would not apply and the applicant would be subject only to the proportionate fair share requirements of the county.~~
- ~~(2) If the subject Application is subsequently approved by the county, the approval will may include a condition that the applicant provides, prior to the issuance of building permits covered by that application, evidence that the proportionate fair share obligation to FDOT or the adjacent local government has been satisfied. The county may require the adjacent local government to declare, in a resolution, ordinance, or equivalent document, its intent for the use of the concurrency funds to be paid by the applicant.~~

**Sec. 2-268. Benefit districts established.**

- (a) Benefit districts. There are hereby established ~~five~~ four roads impact fee benefit districts as shown in Appendix K - Map 1. Impact fees collected and impact fee credits issued prior to November 3, 2003 will be retained in the accounts for the previous eight districts shown in Appendix K - Map 2 and spent within the benefit district from which they were originally collected or issued to benefit.
- (b) Subdistricts may be created by interlocal agreement. Incorporated municipalities constitute sub districts for the purpose of this division. All or a portion of a municipality may be within the established districts set forth in Appendix K-4. Municipal district boundaries will expand and contract as the municipality boundaries are amended in accordance with Florida law.

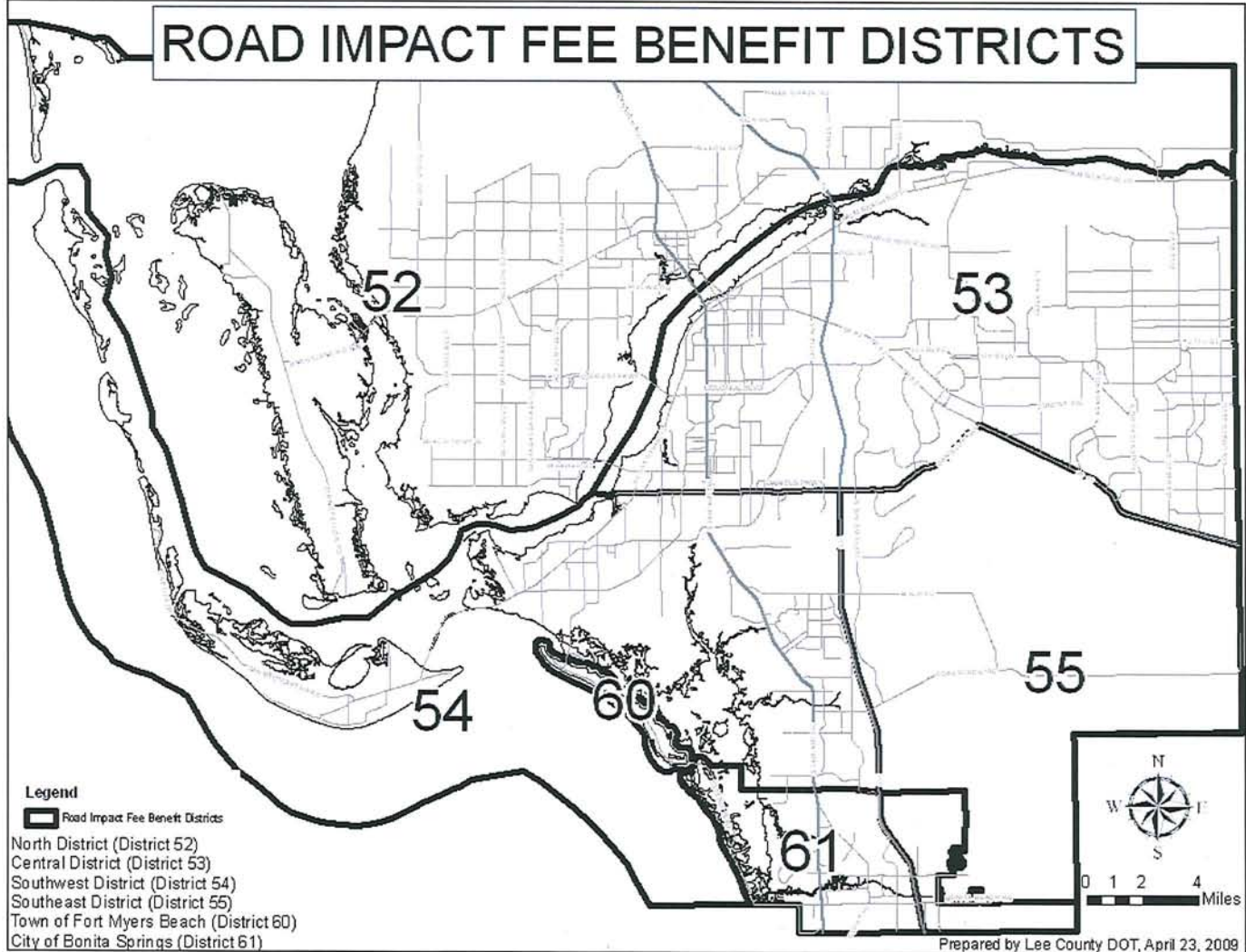
**APPENDIX K ROAD IMPACT FEE BENEFIT DISTRICT DESCRIPTIONS <sup>11</sup>**

Map 1



**ADD THIS MAP**

# ROAD IMPACT FEE BENEFIT DISTRICTS



**DELETE THIS MAP**



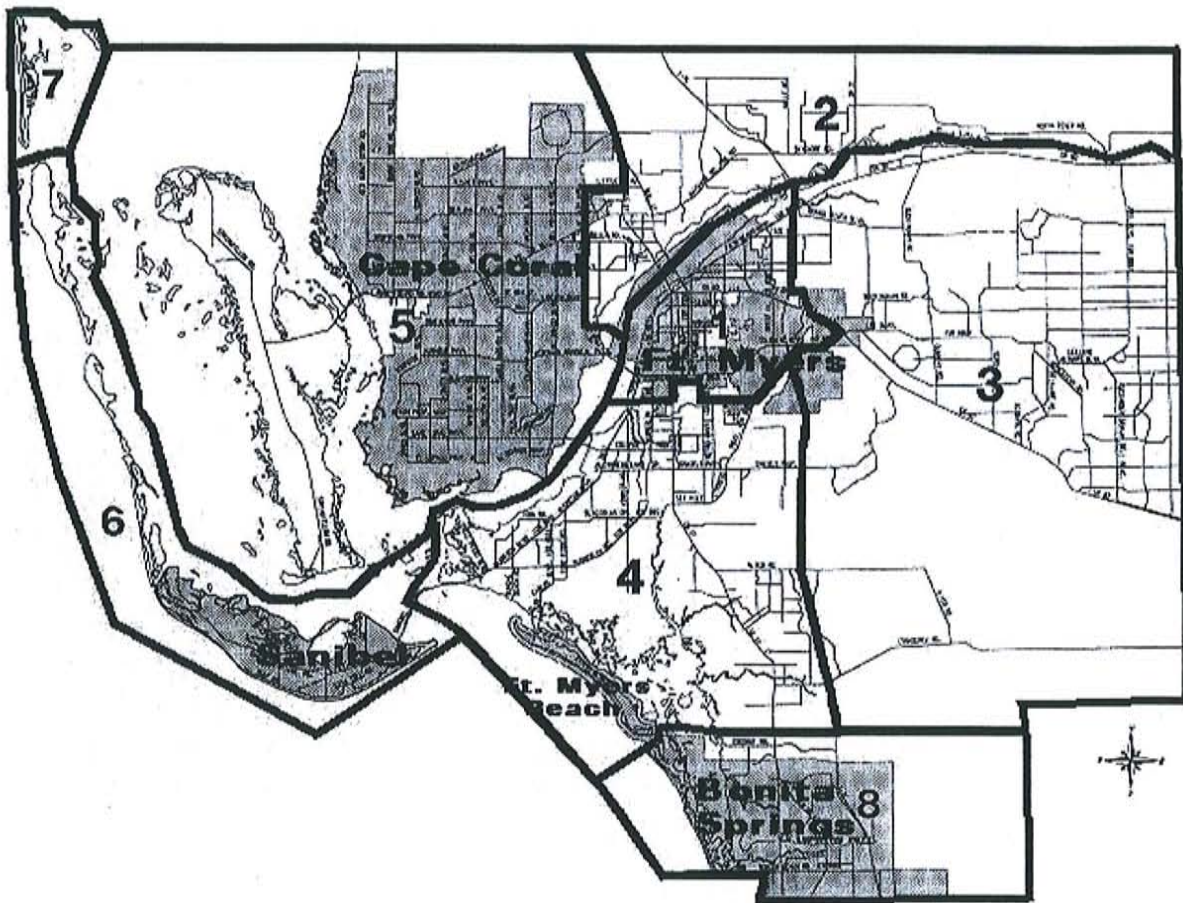
Central District. (District 53) Bounded on the north and west by the Okeechobee Waterway; on the south by Cypress Lake Drive, Daniels Parkway and SR 82; and on the east by the Hendry County line.

Southeast District. (District 55) Bounded on the west by Interstate 75 (I-75); on the north by the Central District; on the east by the Hendry County line and the Collier County line; and on the south by the Collier County line.

Southwest District. (District 54) Bounded on the east by I-75; on the south by Collier County line; on the west by the Gulf of Mexico; and on the north by the navigational channel into Boca Grande Pass, the Intracoastal Waterway within Pine Island Sound and San Carlos Bay, the Okeechobee Waterway, and the southern boundary of the Central District.

North District. Bounded on the north by the (District 52) Charlotte County line; on the east by the Hendry County line; on the south by the Intracoastal Waterway within San Carlos Bay, the Okeechobee Waterway and the main navigational channel into Boca Grande Pass; and on the west by the Gulf Mexico from the Boca Grande Pass to the Charlotte County line.

Map 2



District 1. Bounded on the north and west by the Okeechobee Waterway (located within the bounds of the Caloosahatchee River); including Lofton's Island. The eastern and southern borders follow I-75 from the Okeechobee Waterway south to the northern section line of Section 22, Township 44, Range 25, then east along said section line to the northeast corner of Section 23, Township 44, Range 25, then south along said section line to the Buckingham Road ROW (SR 82A), then west along said ROW to its intersection with the State Road 82 ROW, then southeast along said ROW to the intersection of the

proposed State Road 884 ROW extension, follow the SR 884 ROW extension to its intersection with the western boundary of the Six Mile Cypress Slough and the City of Fort Myers city limits, then following the city limits line southwesterly to its intersection with Six Mile Cypress Parkway, continue southwesterly along the Six Mile Cypress Parkway to the southern section lines of Section 4, Township 45, Range 25, then west along the southern sections 4, 5, and 6, Township 45, Range 25 to the southwest corner of Section 6, Township 45, Range 25, then north along the western section line of Section 6, Township 45, Range 25 to the City of Fort Myers city limits, then follow the Fort Myers city limits to the southern section line of Section 2, Township 45, Range 24, then west along the southern section lines of Sections 2 and 3, Township 45, Range 24 to the Okeechobee Waterway.

District 2. Bounded on the north by the Charlotte County line, and on the east by the Hendry County line. The southern boundary is the Okeechobee Waterway beginning in the west at the Cape Coral/North Fort Myers line, then following the waterway east to the Hendry County line. The western border of District 2 follows U.S. 41 south from the Charlotte county line to Littleton Road, runs west on Littleton Road to 24th Street and south along 24th Street to the Cape Coral/North Fort Myers city boundary to the Okeechobee Waterway.

District 3. Bounded on the north by the Okeechobee Water east of the Hendry County line, and on the east by the Hendry County Line, on the south by the northern boundary of District 8, and on the west by I-75 from the northern boundary of District 8 to the intersection of the District 1 border and I-75, then follow the eastern border of District 1 to the Okeechobee Waterway.

District 4. Bounded on the north, between the Okeechobee Waterway and I-75, by the southern boundary of District 1, on the east by I-75 from the intersection of the southern District 1 boundary and I-75 to the north boundary of District 8. Bounded on the south by the District 8 boundary, and on the west by the Gulf of Mexico from I-75, west to the main navigational channel entering San Carlos Bay, then following that channel to channel marker 101, then turning northeast following the Okeechobee Waterway to meet the southern boundary of District 1.

District 5. Represents the city of Cape Coral, Pine Island, Matlacha and is bounded on the north by Charlotte Harbor and the Charlotte County line, on the East by the western boundary of District 2 and the Okeechobee Waterway, on the south by the Intracoastal Waterway within San Carlos Bay, and on the west by the Intracoastal Waterway within Pine Island Sound and Charlotte Harbor.

District 6. Represents Sanibel, North Captiva and Cayo Costa and is bounded on the north by the navigational channel into Boca Grande Pass, on the east by the Intracoastal Waterway within Pine Sound and San Carlos Bay and western boundary of District 4, and on the south by the Gulf of Mexico, from the western boundary of District 4 to the main navigational channel into Boca Grande Pass.

District 7. Represents Gasparilla Island bounded by the Charlotte County line on the north, on the east by the Intracoastal Waterway within Charlotte Harbor from the Charlotte County Line to Boca Grande Pass including Cayo Pelau, on the south by the main navigational channel into Boca Grande Pass, and on the west by the Gulf of Mexico from Boca Grande Pass to the Charlotte County Line.

District 8. Bounded on the north by a line defined by the northern section lines of sections 7, 8, 9, 10, 11, and 12 of township 47 south, range 26 east, sections 7, 8, 9, 10, 11, and 12 of township 47 south, range 25 east, then proceeding westerly into Estero Bay, running north of Monkey Joe Key and then southwest through Big Carlos Pass. Bounded on the west by the Gulf of Mexico, and on the south and east by the Collier County Line.

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FOOTNOTE(S):

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**Editor's note**—Appendix K was added by Ord. No. 95-22, § 2, adopted Nov. 1, 1995. Subsequently, Ord. No. 03-22, § 2, adopted Oct. 28, 2003, amended App. K, in its entirety, to read as herein set out. See also the Code Comparative Table.[\(Back\)](#)

**Sec. 2-351. - Refund of fees paid.**

- (a) If a building permit, mobile home move-on permit or recreational vehicle development order expires, is revoked or voluntarily surrendered, and therefore voided, and no construction or improvement of land (including moving a mobile home onto land) has commenced, then the feepayer is entitled to a refund of the community parks impact fee paid in cash as a condition for its issuance, except up to three percent of the impact fee paid, which will be retained as an administrative fee to offset the costs of processing the refund. This administrative fee is in addition to the administrative charge collected at the time of fee payment. No interest will be paid to the feepayer on refunds due to noncommencement.
- (b) Funds not expended or encumbered by the end of the calendar quarter immediately following 20 years from the date the ~~community~~ regional parks impact fee was paid will, upon application of the feepayer within 180 days of that date, be returned to the feepayer with interest at the rate of three percent per annum.

## CHAPTER 6

**Sec. 6-117. Improvements or repairs not requiring a permit.**

FBC Section 105.2 pertaining to work exempt from permit is amended to include the following:

The following individual improvements or repairs performed within a 12-month period to a single individual dwelling unit do not require a permit. This exemption does not apply to any combination of items that exceed \$500.00 or improvements undertaken as part of a larger project or work being performed on multiple dwelling units:

**No change (a) through (g)**

- (h) A wireless alarm system as defined in Section 553.793, Florida Statutes, as in effect, including any ancillary components or equipment attached to the system.

# CHAPTER 10

## Sec. 10-1. Definitions.

(b) *Definitions.* Except where specific definitions are used within a specific section of this chapter for the purpose of such sections, the following terms, phrases, words and their derivations will have the meaning given in this subsection when not inconsistent with the context:

### *Subdivision.*

- (1) A subdivision is a type of development. The term "subdivision" means the following:
- a. The division of a lot into ~~two~~ three or more parcels; or
  - b. The division of a lot that results from the extension of an existing street or the establishment of a new street; or
  - c. Creation of a condominium as defined in F.S. chs. 718 and 721, except that condominium developments are exempt from the provisions of this Code that require platting under F.S. ch. 177.

## Sec. 10-104. Deviation and variances.

No change (a) through (h).

- (i) Variances or deviations in planned developments. For developments that have received zoning as a planned development, specific variances or deviations from the terms of these regulations are not required if the variances or deviations were approved as part of the schedule of deviations attendant to the master concept plan. Any requests for variances or deviations that were not included on the approved master concept plan must be processed in accordance with ~~this section~~ 34-380.

No change (j).

## Sec. 10-154. Additional required submittals.

The following must be submitted with an application for development order approval:

(2) *Title certification.* Certification of title for property subject to development order approval must meet the following criteria:

- a. *Form.* The certification of title must be in one of the following forms:
  - i. Title certificate or title opinion, no greater than 90 days old at the time of the initial development order submittal. The title certification submittal must be either an opinion of title meeting the Florida Bar Standards prepared by a licensed Florida attorney or a certification of title/title certification prepared by a title abstractor or company.
  - ~~ii. Ownership and encumbrance report, no greater than 30 days old at the time of the initial development order submittal.~~
  - ~~iii-ii.~~ Title insurance policy with appropriate schedules, no greater than five years old at the time of the initial development order submittal and an affidavit of no change covering the period of time between issuance of the Policy and the application date. If submission of a complete affidavit of

no change is not possible, a title certificate, or title opinion or ownership and encumbrance report must be submitted in the alternative.

The following must be submitted with an application for development order approval:

(12) Reserved.

~~Hazardous materials emergency plan. Any applicant for a private port facility which did not receive approval of a hazardous materials emergency plan at the time of rezoning shall be required to submit a hazardous materials emergency plan, which shall be subject to the approval of the County Divisions of Emergency Management, Water Resources and Planning, and of the appropriate fire district. The plan shall also provide for annual monitoring for capacity and effectiveness of implementation. At the minimum, the plan shall comply with the spill prevention control and countermeasure plan (SPCC) as called for in the federal oil pollution prevention regulations, 40 CFR 112, as amended.~~

**Sec. 10-383. Interpretation of division; conflicting provisions.**

- (a) This division shall be construed to be the minimum regulations necessary for the purpose of meeting the general and specific requirements named in this division.
- (b) Where any provision of this division imposes a restriction different from that imposed by any other provision of this chapter or any other ordinance, regulation or law, the provision which is more restrictive shall apply.
- (c) Formal interpretations on water supplies and fire department access shall be made by the County Fire Official.
- (d) The Board of Adjustments and Appeals holds the jurisdiction to grant variances from the provisions of this division, except as otherwise provided herein. The procedure and criteria applicable to the variance proceedings is set forth in section 6-71 et. seq. The Development Services Director holds the jurisdiction to grant administrative deviations from water main installation per LDC Sec. 10-104(15) and 10-384(c)(6).

**Sec. 10-384. Minimum standards for all developments.**

**No change (a) and (b).**

- (c) Water main installation. Water main installation will be provided in accordance with the following standards.

**No change 1-5.**

- (6) The applicant may submit a request for an administrative deviation in accordance with section 10-104(a)(~~13~~)(15) for alternatives to line sizing, dead-end and intersecting water main criteria if they embody sound engineering practices and are demonstrated by the applicant's professional engineer.

**Sec. 10-414. Submittal requirements.**

- (a) Landscape plan required. Prior to the approval of a development order, an applicant whose development is covered by the requirements of this section must submit a landscape plan. The landscape plan must be prepared by and bear the seal of a landscape architect registered in the

State of Florida. The plan must include the narrative and calculations to ensure that the proposed landscaping will be in compliance with requirements of this code. However, small projects developments may qualify for a hardship waiver if the cost of compliance with the landscape architect requirement is disproportionate to the cost of the entire project development. This waiver is subject to the sole discretion of the Director.

**Sec. 10-415. Open space.**

- (a) Open space calculations. All development must contain the minimum percentage of open space as outlined in the following table below:

OPEN SPACE REQUIREMENT		
Type of Development	Open Space as % of Development Area	
	<u>Small Projects Development</u>	<u>Large Projects Development</u>
Residential: Type of dwelling units as defined in chapter 34-2 located in conventional zoning districts with conventional zoning district lot coverage.		
Single-family residence or Mobile Home on a single lot with a minimum lot size of 6,500 sq. ft.	None	None
Duplex on a single lot with a minimum lot size of 7,500 sq. ft.	None	None
Two-family attached each on an individual lot with a minimum lot size of 3,750 sq. ft. per unit	None	None
All other residential	35%	40%
Industrial	10%	20%
Other: All other uses including, but not limited to commercial, places of worship, recreational vehicle parks, community facilities, schools (excluding Lee County School District), etc.	20%	30%
Note: multiple use sites with conventional zoning must comply with each corresponding use percentage in this table.		

Planned Development Zoning: Planned developments must provide open space as required in chapter 34 and per the approved master concept plan and resolution. Consistency with the master concept plan is in addition to the requirements of this provision, unless deviations have been granted.

Compact Communities: Development constructed in accordance with chapter 32 of this Code will provide open spaces in accordance with the provisions of that chapter.

(b) Indigenous native vegetation and trees.

(1) Preservation.

- a. Large developments, with existing indigenous native vegetation communities must provide 50 percent of their open space percentage requirement through the onsite preservation of existing native vegetation communities. Refer to section 10-701 for major indigenous plant communities of the County and section 10-1 for the definition of indigenous open space.
- b. If the development area does not contain existing indigenous native vegetation communities, but does contain existing indigenous native trees, then 50 percent of their open space percentage requirement must be met through the onsite preservation of existing native trees consistent with subsection 1 through 4 below. Refer to Appendix E and section 34-373(6)(g).

**No change 1-3.**

~~4. Effort must be made to preserve heritage trees with at least a 20-inch caliper dbh, including but not limited to live oak, South Florida slash pine, or longleaf pine. If a heritage tree must be removed from a site then a replacement tree with a minimum 20-foot height must be planted within an appropriate open space area.~~

§ 4. Projects Developments greater than five acres in size that abut an arterial or collector road and have existing native trees within 50-feet of the right-of-way must be designed to provide a 50-foot right-of-way buffer for tree preservation. Drainage or utility easements located within or adjacent to the 50-foot right-of-way buffer area must be established in the location with the least amount of trees as determined by onsite inspection by Lee County. The preservation of the existing trees will not require a double hedge row to be installed as part of the right-of-way buffer. The preserve area may not be utilized for drainage or other similar uses that may adversely affect the existing native trees. To increase long-term survival of the existing trees to be retained, appropriate arboricultural techniques to reduce impacts to the existing trees must be used. Those techniques must include ways to reduce impacts to the trees' root systems and crowns during construction and must be clearly provided on the landscape plans of the development order. The native tree preservation right-of-way buffer may be used toward meeting the indigenous preservation requirement.

Applications submitted pursuant to this section encompassing difficult sites, such as irregularly shaped parcels or indigenous areas, may demonstrate that the intent of this section can be more effectively accomplished through an alternative right-of-way buffer design. Approval of an alternative design is at the discretion of the Director or designee.

**No change c.**

- (2) Salvaging existing native plants. Open space areas must be designed to incorporate as many of the existing large native trees and sabal palms as possible. ~~Irrigation water must be available on~~

~~the development site and provisions for adequate irrigation provided. Salvaged native plants relocated to an indigenous preserve must be provided with a temporary above ground irrigation system or other means of irrigation to ensure survivability.~~

- ~~a. Sabal palms. For projects greater than ten acres, healthy sabal palms with a minimum eight-foot clear trunk and maximum of 25-foot clear trunk must be salvaged if conditions (e.g., no rock) and sequence of construction allows. If sequence of construction does not allow the on-site relocation of sabal palms, then the sabal palms must be salvaged for an off-site recipient site or sale. The salvage efforts must be coordinated with the division of environmental sciences staff whether used on-site or otherwise. The number of sabal palms to be relocated or salvaged must be shown on the landscape plan approved as part of the development order. Any sabal palms being relocated must be moved in a horticulturally correct manner per Lee County Extension Services brochure Lee 8/2000A. A 90 percent survival for relocated sabal palms is required. Death of over ten percent of the relocated sabal palms will require a 1:1 replanting.~~
- ~~b. Other trees. Healthy native trees with a minimum caliper of four inches at four and one-half feet above the ground (dbh) may be relocated onsite for five tree credits toward code required landscaping general tree requirements. The trees must be properly prepared for relocation through root pruning or other horticulturally correct methods, approved by the Environmental Sciences Director.~~

**No change (3)**

- (4) Maintenance. A plan must be submitted for the long term maintenance of vegetation in indigenous open space areas. This indigenous vegetation management plan must include the following criteria:

**No change a-e.**

- f. ~~Written m~~Monitoring reports, including photos, that ~~narratively~~ document preserve area conditions must be submitted prior to obtain development order approval; and, again after project following construction completion in order to obtain but prior to issuance of a certificate of compliance (CC). The ~~CC~~ monitoring report submitted following construction completion must describe and document ecological restoration activity that has occurred in the preserve areas. If review of the monitoring reports reveals death or significant decline to preserve vegetation, then revision of the management plan and restoration in accord with section 10-423 will be required.

**No change (5)**

(c) Minimum dimensions.

- (1) The minimum average width of open space areas must be ten feet.
- (2) The minimum area of open space must be 180 square feet.
- (3) For ~~projects~~ developments ~~under less than~~ ten acres in size, indigenous open space areas must have a minimum average width of 20 feet and minimum area of 400 square feet.

For ~~projects~~ developments ~~over greater than~~ ten acres in size, indigenous open space areas must have a minimum average width of 40 feet and minimum area of 1,500 square feet.

**No change 4-6.**

**No change (d).**

**Sec. 10-416. Landscape standards.**

- (a) General Trees. Landscaping for all new developments, except community and regional parks as defined in the Lee Plan, must include, at a minimum, the following number of trees, in addition to the



landscaping required for parking and vehicle use areas and buffers. General tree requirements may be reduced through the utilization of larger trees as specified in section 10-420(c)(2) ~~or through use~~ ~~\*\*of an alternative landscape betterment plan (see section 10-419)~~ or through the use of planted detention areas as specified in section 10-416(a)(5). Existing waterbodies within the development area will not be included in the calculation for general tree requirements.

- ~~(1) Single-family Residential developments including recreational vehicle developments that are constructed on individual (single) lots. One tree must be provided per 3,000 square feet of development area. The preferred location to install these trees is on common property (clubhouse, lakes, dry detention or other similar property) prior to the issuance of a certificate of completion. Tree credits should be utilized per section 10-420(j) for indigenous preserves, where applicable following the guidelines set forth in LDC Sec. 10-414(c).~~
- ~~(2) Single-family developments with a conventional zoning district lot and lot coverage with minimum lot sizes of 6,500 square feet or greater. Single-family developments with a conventional zoning district lot and lot coverage with minimum lot sizes of 6,500 square feet or greater will be required to provide a minimum of two trees per lot.~~
- ~~(3) All other residential developments. All other residential developments must provide one tree per 3,000 square feet of development area.~~
- ~~(4) Recreational vehicle developments. One tree must be provided per 3,000 square feet of development area.~~
- ~~(5) All other developments. One tree must be provided per each 3,500 square feet of development area.~~
- ~~(6) Compact communities. Development constructed in accordance with chapter 32 must provide street trees on both sides of all streets. Street trees located between a lot and a street may be counted towards the tree planting requirements of this section.~~
- (4) Heritage Trees. For large developments effort must be made to preserve native heritage trees with at least a 20 inch caliper dbh. Preserved Heritage Trees may be counted at a 5:1 credit ratio towards the general tree requirement. If a heritage tree must be removed from a site then a replacement native canopy tree with a minimum 20 foot height must be planted within an appropriate open space area. The replacement tree can only be counted at a 1:1 ratio towards meeting the general tree requirement.
- (5) For each 400 square feet of dry detention or drainage area planted with appropriate native herbaceous vegetation (minimum one-gallon container size planted three-foot on center) and mulched with pine straw, the general tree requirement may be reduced by one ten-foot tree.

**No change (b)**

- (c) Landscaping of parking and vehicle use areas. The provisions of this section apply to all new off-street parking or other vehicular use areas. Existing landscaping that does not comply with the provisions of this code must be brought into conformity, to the maximum extent possible, when: the vehicular use area is altered or expanded except for restriping of lots/drives, the building square footage is changed, or the structure has been vacant for a period of one year or more and a request for an occupational license to resume business is made. Consistent with the provisions of section 10-104, the Director may permit administrative deviations where a conflict exists between the application of this division and the requirements for the number of off-street parking spaces or area of off-street loading facilities.

**No change (1)**

- (2) Internal landscaping. All parking areas must be internally landscaped to provide visual relief and cooling effects and to channelize and define logical areas for pedestrian and vehicular circulation, as follows:

- a. Trees must be planted or retained in landscaped areas in parking areas, including landscaped areas reserved for future parking spaces, to provide for canopy coverage when the trees mature. At least one canopy tree or a cluster of three sabal palms must be planted or retained for every 250 square feet of required internal planting area, and no parking space may be more than 200 feet from a tree planted in a permeable island, peninsula or median of 18-foot minimum width. Canopy requirements may must be met with existing indigenous native trees whenever such trees are located within the parking area.

**No change b-g.**

### **Sec. 10-418. Surface water management systems.**

Design standards. Techniques to mimic the function of natural systems in surface water management systems are as follows:

**No change (1) and (2).**

- (3) Bulkheads, geo-textile tubes, riprap revetments or other similar hardened shoreline structures. Bulkheads, Geo-textile tubes, riprap revetments or other similar hardened shoreline structures may comprise up to 20 percent of an individual lake shoreline. These structures cannot be used adjacent to single-family residential uses. A compensatory littoral zone equal to the linear footage of the shoreline structure must be provided within the same lake meeting the following criteria:
  - a. A five-foot wide littoral shelf planted with herbaceous wetland plants ~~to provide 50 percent coverage at time of planting.~~ To calculate the littorals for this shelf design indicate the number of linear feet of shoreline structure multiplied by five feet for the littoral shelf width divided by 2 to obtain the required plant quantity multiplied by 50 percent for the plant coverage at time of planting; or
  - b. ~~An 8:1 slope littoral shelf with herbaceous wetland plants to provide 50 percent coverage at time of planting; or~~
  - e b. An equivalent littoral shelf design as approved by the Director.
- ~~(4) For each 400 square feet of dry detention area or drainage swale planted with appropriate native herbaceous vegetation (minimum one-gallon container size planted three-foot on center) the general tree requirement may be reduced by one ten-foot tree.~~
- (5 4) Restoration of existing bank slopes that have eroded over time and no longer meet the minimum littoral design criteria applicable at the time the lakes were excavated will be in accordance with section 10-329(f).

### **Sec. 10-419. Alternate landscape betterment plan.**

Projects that can not comply with the criteria of this division may demonstrate how the requirements can be more effectively accomplished through an alternate landscape betterment plan. Alternative, creative designs are encouraged for difficult sites for landscape design, including but not limited to "in-fill" developments, existing developments, and irregularly shaped parcels. The approval of the alternate landscape betterment plan is at the Development Services Director's discretion and may include conditions to ensure that the overall landscape design complies with the intent of this division.

The following conditions must be met:

- (1) ~~The plan may not deviate from~~ must provide the minimum open space requirements of section 10-415.

**No change (2) – (6).**

## **Sec. 10-420. Plant material standards.**

### **No change (a) and (b)**

#### **(c) Trees and palms.**

- (1) Code-required trees must be a minimum of ten feet in height, have a two-inch caliper (at 42 6 inches above the ground) and a four-foot spread at the time of installation. Palms must have a minimum of ten feet of clear trunk at planting. Trees having an average mature spread or crown less than 20 feet may be substituted by grouping the same so as to create the equivalent of a 20-foot crown spread. Trees adjacent to walkways, bike paths and rights-of-way must be maintained with eight feet of clear trunk.
- (2) Larger trees substituted to reduce the minimum number of general trees (palms excluded) must be no less than four inches in diameter at 426 inches above the ground and no less than 16 feet in height at the time of planting. The general tree requirement cannot be reduced in number by more than 50 percent.

### **No change (d) and (e)**

- (f) The height of all trees, palms, and shrubs located within the buffer areas must be measured from the final parking lot grade of the project site. All other plants are measured from the final grade in which they reside. Tree and shrub heights may not be less than the minimum requirements set forth in LDC10-420(c) and LDC10-420(d).
- (g) Mulch requirements. A two-inch minimum layer, after watering-in, of mulch or other recycled materials must be placed and maintained around all newly installed trees, shrubs, and groundcover plantings. Each tree must have a ring of mulch no less than 24 inches beyond its trunk in all directions. The use of cypress mulch is strongly discouraged. Sand, gravel, rock, or shell are not appropriate mulch materials.

### **No change (h) and (i)**

- (j) Credits.

### **No change (1)**

- (2) Each existing indigenous native tree preserved in place, which has a trunk diameter of four inches or greater measured at four and one-half feet above the ground (dbh) will receive a credit of five trees against the general landscape tree requirements. Native palms preserved in place that are eight feet or greater from ground level to base of fronds, will receive a credit of three trees. Existing sabal palms, identified on the development order plans that are relocated onsite will be given a two tree credit. Credits for existing trees may not be used to reduce the required parking canopy trees in parking or vehicle use areas. Existing native trees in buffers may be used for credit provided they occur within the required 100-foot buffer segment.

Credits will apply only when the trees are labeled as protected-credit trees. If the protected-credit trees die within three years from the development order certificate of compliance, they must be replaced by the number of credit trees taken.

### **No change (3) and (4)**

**Sec. 10-716. Piping materials for use in right-of-way.**

Approved utility piping materials for use in rights-of-way are as follows:

	Concrete	Plastic Type	DI	Steel	Aluminum	HDPE
Lines in traveled way:						
Water	No	Yes (2)	Yes(2)	No	No	Yes (2)
Sewer force main	No	Yes (2)(4)	<del>Yes(2)</del> No	No	No	Yes (2)
Sewer gravity main	No	Yes (2)	No	No	No	No
Reuse main	No	Yes (2)	Yes (2)	No	No	Yes (2)
Stormwater drain	Yes	Yes (3)(5)	No	No	No	Yes (3)(5)
Utility conduit	Yes	Yes (2 <u>1</u> )	Yes	Yes	Yes	Yes (1)
Lines in right-of-way:						
Water	No	Yes(3)(9) (2)	Yes (2)	No	No	Yes (2)
Sewer force main	No	Yes (2)(4)	<del>Yes (2)</del> No	No	No	Yes (2)
Sewer gravity main	No	Yes (2)	No	No	No	No
Reuse main	No	Yes (2)	Yes (2)	No	No	Yes (2)
Stormwater drain	Yes	Yes (3)	No	<del>Yes (1)(8)</del> (4)	Yes (4)	Yes (3)
Utility conduit	Yes	Yes (1)	Yes	Yes	Yes	Yes (1)
Stormwater lines in drainage easement	Yes	No	No	Yes (4)	Yes (4)	No

- (1) Encased in concrete, if in banks more than one layer; otherwise, SDR 26, ASTM 2241 or DR 25 AWWA C 900, DR17 HDPE, or thicker.
- (2) In accordance with the LCU Design Manual requirements or all requirements, specifications, and design manual of the utility service area provider (including all casing pipe requirements), whichever is more stringent.
- (3) In compliance with the latest edition of the FDOT Standards for Road and Bridge Construction and related indexes, including, but not limited to, supplemental specifications, Standard Modifications and approved materials list.
- (4) Not on County-maintained roads.
- (5) Not on County-maintained Arterial or Collector roads.

**No change 1-3.**

## **CHAPTER 14**

### **Sec. 14-1. Planning community regulations.**

Activities in the following communities must also comply with the regulations set forth in Chapter 33 pertaining to the specific community.

- ~~(a)~~ Estero Planning Community.
- ~~(a)~~ (b) Greater Pine Island.
- ~~(b)~~ (e) Page Park.
- ~~(c)~~ (d) Caloosahatchee Shores.
- ~~(d)~~ (e) Lehigh Acres.
- ~~(e)~~ (f) North Fort Myers.
- ~~(f)~~ (g) Matlacha.
- ~~(g)~~ (h) Upper Captiva.
- ~~(h)~~ (i) North Olga.
- (i) San Carlos Island Redevelopment Overlay District.

### **Sec. 14-293. Permits required.**

- (a) An Environmental Resource Permit (ERP) is required prior to any development that will impact wetlands. The ERP will be issued by either the Florida Department of Environmental Protection (FDEP) or South Florida Water Management District (SFWMD) in accordance with F.S. ch. 373 and F.A.C. Ch. 62.
- (b) The County will not independently review impacts to wetlands resulting from development.
- ~~(c) Prior to receipt of a copy of the appropriate state authorization relating to wetlands, the County may not issue building permits or development orders where development will cause impacts to existing wetlands on the subject property.~~

**Sec. 14-294. Site plan review.**

Lee County will incorporate the terms and conditions of all state authorizations relating to wetlands, including ERP's into any development order, building or other local development permit.

**Sec. 14-295. Compliance enforcement.**

- (a) Lee County will enforce the provisions of any state authorization relating to wetlands, including ERP's, issued and incorporated into a local development order or building permit.
- (b) The County will prosecute violations of state wetland regulations and ERP applicable conditions or requirements incorporated into local permits through the code enforcement process set forth in Chapter 2.

**Secs. 14-293 6—14-370. Reserved.**

## **CHAPTER 22**

### **Chapter 22 HISTORIC PRESERVATION**

#### **ARTICLE II. ADMINISTRATION AND ENFORCEMENT**

##### ***DIVISION 3. CERTIFICATE OF APPROPRIATENESS***

**Sec. 22-102. - Regular certificate of appropriateness.**

- (a) **Remains unchanged.**
- (b) The historic preservation board staff will, within five working days from the date a complete application has been filed, approve, deny or approve with conditions an application for a regular certificate of appropriateness presented by the owner of a designated historic resource or a property within a designated historic district. The findings of the staff will be mailed to the applicant by regular mail, or when available, via electronic means, within two working days of the staff decision, accompanied by a statement explaining the decision. The applicant will have an opportunity to appeal the staff decision by applying for a special certificate of appropriateness within 30 calendar days of the date the decision is issued.

**Sec. 22-103. Special certificate of appropriateness.**

**(a) Through (b) remain unchanged.**

- (c) Public hearing. The historic preservation board shall hold a public hearing upon an application for a special certificate of appropriateness affecting designated historic resources or districts. Notice of the public hearing shall be given to the property owner(s) by certified regular mail, or when available, via electronic means, return receipt requested, and to other interested parties by an advertisement in a newspaper of general circulation at least five calendar days but no sooner than 20 calendar days prior to the date of hearing. The written staff report will be available to the public and distributed to the applicant and the historic preservation board at least 7 days prior to the public hearing. The staff report is final once distributed to the historic preservation board. The applicant may request a meeting with staff to discuss the recommendation made in the staff report prior to the public hearing.

(d) through (e) remain unchanged.

**Sec. 22-106. Archaeological sites and districts.**

**(a) through (b) remain unchanged.**

(c) Certificate to dig. The survey entitled "An Archaeological Site Inventory and Zone Management Plan for Lee County, Florida" will be used to identify areas of archaeological sensitivity levels 1 and 2.

(1) through (2) remain unchanged.

(3) The staff of the historic preservation board must, within 15 calendar days of receipt of a complete application for a certificate to dig, approve the application for a certificate to dig, or approve the certificate to dig subject to specified conditions, including but not limited to a delay not to exceed 60 days to allow any necessary site excavation or additional archaeological assessment prior to commencement of the proposed construction activity. Staff's decision must be based on the application and any other guidelines the historic preservation board may establish. If the approved certificate to dig requires archaeological excavation, the certificate must specify a period of time during which excavation may occur, not to exceed 60 days unless the owner agrees to an extension. The owner must have an archaeologist conduct excavations as necessary during this period. The certificate to dig and any staff findings must be mailed by regular mail, or when available, via electronic means, to the applicant ~~by certified mail, return receipt requested~~, within seven calendar days of its review and approval.

**(4) through (5) remain unchanged.**

**Sec. 22-203. Required notices; action by historic preservation board.**

The historic preservation board will hold timely public hearings on every petition for designation made pursuant to this chapter. References in this chapter to calendar days will include Saturdays, Sundays and legal holidays. References in this chapter to working days exclude Saturdays, Sundays and legal holidays.

(1) Notice to owner. The historic preservation board shall notify the property owner(s) of its intent to consider a proposed designation at least 20 calendar days prior to the date of the public hearing. When designation is proposed by the owner pursuant to Section 22-201(1), notice will be sent to the applicant by regular mail, or when available, via electronic means. When designation is proposed by the preservation board or Board of County Commissioners pursuant to Section 22-201(2), ~~Notice shall~~ will be sent by certified mail, return receipt requested, to the record owners of the property as reflected by the current ad valorem tax roll. The designation report will be available to the public and distributed to the applicant and the historic preservation board at least 7 days prior to the public hearing. The designation report is final once distributed to the historic preservation board. The applicant may request a meeting with staff to discuss the designation report prior to the public hearing. Prior to the hearing, the county staff shall furnish the owners with copies of the designation report and this chapter. County staff shall make a reasonable effort to contact the owners after mailing the notice of intent to designate, answer the owner's questions and address areas of concern prior to the public hearing.

**(2) through (5) remain unchanged.**

# CHAPTER 30

## Sec. 30-56. Planning community regulations.

Applications and permit approvals for signs and sign structures associated with projects located in the following planning communities must also comply with the regulations set forth in Chapter 33 pertaining to the specific planning community.

- (a) Estero Planning Community.
- (a) (b) Greater Pine Island.
- (b) (c) Page Park.
- (c) (d) Caloosahatchee Shores.
- (d) (e) Lehigh Acres.
- (e) (f) North Fort Myers.
- (f) (g) Matlacha.
- (g) (h) Upper Captiva.
- (h) (i) North Olga.
- (i) San Carlos Island Redevelopment Overlay District.

## Sec. 30-151. Temporary signs.

- (6) Real estate signs.
  - a. Temporary "for sale," "for rent" or "for lease" signs.

### No change 1. (i, ii, iii).

- 2. Signs are to be located a minimum of 15 feet from the right-of-way line and a minimum of 15 feet from the side lines, ~~except where the building is in a commercial area the sign may extend to the sidewalk line.~~ No signs may be fastened to trees.

### No change 3.



# CHAPTER 32

## Sec. 32-243. - Property development regulations.

TABLE 32-243 — PROPERTY DEVELOPMENT REGULATIONS FOR EACH LOT TYPE

Setbacks						
Street (min/max)				Side Yard (min)	Rear Yard <sup>1,2</sup> (min)	Water Body <sup>3</sup> (min)
Core	Center	General	Edge			
0/10	0/10	<del>not permitted</del> 0/10	not permitted	0	0	25

Height <sup>4</sup> (min/max in stories; max in feet)					Accessory Apartments <sup>5</sup> (max bldg footprint in sf)
Core	Center <sup>9</sup>	General	Civic	Edge	
2/6; 65'	2/4; 65'	<del>not permitted</del> 55'	not permitted	not permitted	not permitted

All other portions of Table 32-243 remain unchanged.

# CHAPTER 33

## Chapter 33 PLANNING COMMUNITY REGULATIONS <sup>(1)</sup>

ARTICLE I. - IN GENERAL

ARTICLE II. - ~~ESTERO PLANNING COMMUNITY~~ RESERVED

ARTICLE III. - GREATER PINE ISLAND

ARTICLE IV. - PAGE PARK PLANNING COMMUNITY

ARTICLE V. - LEHIGH ACRES PLANNING COMMUNITY

ARTICLE VI. - MATLACHA RESIDENTIAL OVERLAY

ARTICLE VII. - CALOOSAHATCHEE SHORES PLANNING COMMUNITY

ARTICLE VIII. - NORTH FORT MYERS PLANNING COMMUNITY

ARTICLE IX. - CAPTIVA

ARTICLE X. - NORTH OLGA

ARTICLE XI. - UPPER CAPTIVA

ARTICLE XII. SAN CARLOS ISLAND REDEVELOPMENT OVERLAY DISTRICT

### ~~ARTICLE II. ESTERO PLANNING COMMUNITY~~

~~DIVISION 1. - IN GENERAL~~

~~DIVISION 2. - DESIGN STANDARDS~~

~~DIVISION 3. - CORRIDOR OVERLAY DISTRICTS~~

~~DIVISION 4. - SPECIFIC USES~~

#### ***DIVISION 1. IN GENERAL***

~~Sec. 33-51. Purpose and intent.~~

~~Sec. 33-52. Applicability.~~

~~Sec. 33-53. Planning community boundaries.~~

~~Sec. 33-54. Community review.~~

~~Sec. 33-55. Existing development.~~

~~Sec. 33-56. Definitions.~~

~~Sec. 33-57. Deviations and variances.~~

**~~Sec. 33-51. Purpose and intent.~~**

~~The purpose of this division is to create standards for growth in the Estero Planning Community (see map in Appendix I), described in Goal 19 of the Lee County Comprehensive Plan. Specific high-growth corridors may be designated as overlay districts subject to the provisions of this subdivision. The policies contained within this article are intended to encourage mixed-use developments, interconnectivity, pedestrian activity, and to achieve and maintain a unique, unified and pleasing aesthetic/visual quality in landscaping, architecture, signage. The standards in Article II apply to all commercial, religious, institutional, and mixed-use buildings within the Estero Community, except where the authority of a separate political jurisdiction supercedes county authority.~~

~~(Ord. No. [05-29](#), § 5, 12-13-05)~~

**~~Sec. 33-52. Applicability.~~**

- ~~(a) Scope. The provisions of article II apply to all development located in the Estero Planning Community, as defined in section 33-53(a) and Goal 19 of the Lee County Comprehensive Plan.~~
- ~~(b) Development orders. The provisions of article II apply to all development orders and limited-review development orders described in sections 10-174(1), 10-174(2) and 10-174(4)a. that are requested within the Estero Planning Community. Compliance with these provisions will be required in order to obtain development order approval.~~
- ~~(c) Demonstrating compliance. Compliance with the standards set forth in this article must be demonstrated on the drawings or site development plans submitted in conjunction with an application for development order approval or with a building permit application if a development order is not required. This will not prevent simultaneous applications for a development order and building permit on the same parcel, however, the development order approval must precede the building permit approval.~~

~~(Ord. No. [05-29](#), § 5, 12-13-05; Ord. No. [07-24](#), § 6, 8-14-07; Ord. No. [13-10](#), § 9, 5-28-13)~~

**~~Sec. 33-53. Planning community boundaries.~~**

- ~~(a) Estero Planning Community. The boundaries of the Estero Planning Community are as depicted in the Lee County Comprehensive Plan on Lee Plan Communities Map 16.~~
- ~~(b) Corkscrew Road Overlay. The boundaries of the Corkscrew Road overlay district are as depicted in Appendix I on Map 1.~~
- ~~(c) Sandy Lane Overlay. The boundaries of the Sandy Lane overlay district are as depicted in Appendix I on Map 1.~~
- ~~(d) US 41 Overlay. The boundaries of the US 41 overlay district are as depicted in Appendix I on Map 2.~~

~~(Ord. No. [05-29](#), § 5, 12-13-05)~~

**Sec. 33-54. Community review.**

- (a) ~~Applications requiring review. The owner or agent applying for the following types of county approvals must conduct one public informational session in accord with section 33-54(b) within the Estero Planning Community prior to obtaining a finding of sufficiency.~~
- ~~(1) Development orders. This includes all applications for development orders requested within the Estero Planning Community.~~
  - ~~(2) Planned development zoning actions. This includes administrative deviations amending the approved master concept plan or other provisions of the applicable zoning resolution.~~
  - ~~(3) Special exception and variance requests. This includes all requests that will be decided by the hearing examiner.~~
  - ~~(4) Conventional rezoning actions.~~
  - ~~(5) Permanent monument-style identification sign permits requested from the Building Department.~~
- (b) ~~Meeting requirements. The owner or agent submitting the application requiring review under this section must conduct one public informational session within the boundaries of the Estero Planning Community where the agent will provide a general overview of the project for any interested citizens. The applicant is fully responsible for providing the meeting space and providing security measures as needed. Subsequent to this meeting, the applicant must provide county staff with a meeting summary document that contains the following information: the date, time, and location of the meeting; a list of attendees; a summary of the concerns or issues that were raised at the meeting; and a proposal for how the applicant will respond to any issues that were raised.~~

~~(Ord. No. [05-29](#), § 5, 12-13-05; Ord. No. [07-24](#), § 6, 8-14-07; Ord. No. [12-21](#), § 2, 9-11-12; Ord. No. [13-10](#), § 9, 5-28-13)~~

**Sec. 33-55. Existing development.**

~~Existing planned developments may voluntarily bring a master concept plan into compliance with the Estero Plan or any regulation contained in this division administratively. No public hearing will be required if the sole intention is for existing planned developments to comply with these regulations.~~

~~(Ord. No. [05-29](#), § 5, 12-13-05)~~

**Sec. 33-56. Definitions.**

~~The following definitions are in addition to those set forth in other chapters of this Code and are applicable to the provisions set forth in this article only. If, when construing the specific provisions contained in this article, these definitions conflict with definitions found elsewhere in this Code, then the definitions set forth below will control. Otherwise the definitions contained elsewhere in this Code will control.~~

~~Articulation means shapes and surfaces having joints or segments that subdivide the area or elements; the joints or members add scale and rhythm to an otherwise plain surface.~~

~~Big box/large retail/large footprint means a single use retailer of more than 50,000 square feet of building footprint, or a multi-use development, with more than 100,000 square feet of building area, excluding out parcel development.~~

~~Building footprint means the total area of land covered or occupied by an individual building, including all roofed areas and outdoor sales area. Walkways and public spaces are excluded from the calculation.~~

~~Column/pillar means freestanding vertical supports that generate unique features through the composition of the base, shaft and capital arrangement of column parts.~~

~~Facade means the vertical exterior surfaces of a building.~~

~~Fully shielded light fixture means a light fixture constructed in such a manner that all light emitted by the fixture, either directly from the lamp or a diffusing element, or indirectly by reflection or refraction from any part of the luminaire, is projected below the horizontal.~~

~~Human scale and proportion means the adequate positioning of building details and attributes that take into consideration the approximate eye level and average human height, in order to create a sense of its presence, or simply for it to be perceived and appreciated when encountered.~~

~~Interior access drive/street means any vehicular roadway, excluding alleys or driveways, located within the confines of the property.~~

~~Internal block means a building pad that does not front on a major road.~~

~~Liner building/structures means additional buildings located along a big box type structure to mask blank and unadorned walls. Liner buildings may also be used to help mass up or mass down the big box. Liner buildings may either be attached to the big box or be within 15 feet of the big box. (See Figure 11 in section 33-458) Liner buildings may either be an enclosed, partially enclosed, or a covered structure, including covered walkways.~~

~~Mall means a structure with multiple tenants with an internal public circulation spine (roofed or not roofed) with more than 450,000 square feet of retail space.~~

~~Monument sign or monument-style sign is a ground sign, the structural base of which is on the ground. The height of the base must be at least 24 but no more than 36 inches above the adjacent ground. The average width of the sign structure must exceed the total height of the sign structure. The width of the top of the sign structure must not exceed 120 percent of the width of the base. The sign copy area will be measured from the outside edges of the sign or the sign frame, whichever is greater, excluding the area of the supporting structures provided that the supporting structures are not used for advertising purposes.~~

~~Reflective pool means a geometric pool like structure with a minimum of six inches of water and a maximum of two feet of water in the structure. Reflective pools may not be connected to the water management system.~~

~~Open space square means an outdoor common space. Open space squares must have a minimum average dimension of 30 feet and a maximum average dimension of 65 feet. Open space squares may be interconnected to form a larger square or a series of squares and must be integrated into the pedestrian circulation pattern for the project. Open space squares must also be located in the front or middle of the center.~~

~~Out parcel buffer means building parcels that are placed along more than 75 percent of the public right-of-way, having no more than two rows of parking in the front, and a landscaped buffer (type "D," minimum of six feet) provided at the front, back and the sides of the out parcel. Properties sharing common buffers may agree to install a joint buffer, at least eight feet in width, provided the buffer meets all type "D" buffer requirements, and includes three trees per 100 linear feet. When a building is located in the Corkscrew Road overlay area, a setback of no more than 20 feet from the Corkscrew Road right-of-way may satisfy the front landscaping requirements.~~

~~Parapet means a low protective wall at the edge of a terrace, balcony or roof.~~

~~Parking pods means a discrete parking lot with no more than four ingress/egress points, limited to a maximum of 120 parking spaces, and surrounded by a type "D" landscape buffer.~~

~~Pedestrian passageway means a pedestrian connection between buildings that allows safe access to other public spaces.~~

~~Pole sign is a freestanding sign composed of a single, double, or multiple pole or support structure, that is not a solid monument style.~~

~~Storefront means the wood or metal armature of a window or door system, located within a ground-floor opening in the facade of a building.~~

~~Street furniture means objects that are constructed or placed above ground such as outdoor seating, kiosks, bus shelters, sculptures, tree grids, trash receptacles, fountains, and telephone booths, which have the potential for enlivening and giving variety to streets, sidewalks, plazas, and other outdoor spaces open to, and used by, the public.~~

~~Usable open space means a passive or active area set aside for the visitor enjoyment while adding to the diversity of the activities at the center.~~

~~Vernacular means building structure whose design is determined by an informal local tradition. A vernacular building is one that possess attributes common to other buildings in the region in terms of appearance, use of materials, dimensions, exterior decoration and approximate age. While there may be differences in attributes, it should "belong" and not seem out of place.~~

(Ord. No. [05-29](#), § 5, 12-13-05; Ord. No. [12-21](#), § 2, 9-11-12)

### **~~Sec. 33-57. Deviations and variances.~~**

~~If an applicant desires to deviate from any architectural, site design, landscaping or signage guidelines in article II, including all sections from 33-111 through 33-385, an applicant may do so at the time of zoning or development order if permitted under section 10-104(b). A rendered drawing to scale, showing the design, and clearly demonstrating the nature of the requested deviation must be submitted as part of the development order application. Administrative deviations to a planned development may be allowed subject to a meeting within the Estero Planning Community in accord with section 33-54(b).~~

(Ord. No. [05-29](#), § 5, 12-13-05; Ord. No. [11-01](#), § 4, 3-8-11; Ord. No. [13-10](#), § 9, 5-28-13)

### **~~Secs. 33-58—33-99. Reserved.~~**

## **~~*DIVISION 2. DESIGN STANDARDS*~~**

### **~~*Sec. 33-100. Design standards.*~~**

### **~~*Secs. 33-101—33-110. Reserved.*~~**

### **~~Sec. 33-100. Design standards.~~**

~~The design standards included in this division are intended to help create a distinguished architectural style and appearance within the Estero Planning Community and the specific overlay districts identified in section 33-53. The standards provide design criteria intended to stimulate creative project designs, while fostering compatibility with surrounding developments.~~

~~These development provisions are intended to create an integral distinct community image, one that will enhance, unify, and harmonize properties throughout the Estero Planning Community.~~

(Ord. No. [05-29](#), § 5, 12-13-05)

**~~Secs. 33-101—33-110. Reserved.~~**

~~Subdivision I.—Basic Elements~~

~~Subdivision II.—Architectural~~

~~Subdivision III.—Landscaping~~

~~Subdivision IV.—Transportation~~

~~Subdivision V.—Signs~~

~~Subdivision I.—Basic Elements~~

~~[Sec. 33-111. Water management.](#)~~

~~[Sec. 33-112. Utilities.](#)~~

~~[Sec. 33-113. Places of public interest/open space.](#)~~

~~[Sec. 33-114. Parking.](#)~~

~~[Sec. 33-115. Services areas.](#)~~

~~[Sec. 33-116. Lighting.](#)~~

~~[Sec. 33-117. Natural and manmade bodies of water.](#)~~

~~[Sec. 33-118. Interconnections and shared access.](#)~~

~~[Secs. 33-119—33-225. Reserved.](#)~~

**~~Sec. 33-111. Water management.~~**

- ~~(a) Closed drainage is encouraged for storm water management systems along arterial and collector streets. If swales are utilized, sidewalks must be located on the development side of the swale, and pedestrian and bicycle connections must be provided at intersections and entryways into the development.~~
- ~~(b) The shape of stormwater ponds must be designed to appear natural by having a meandering shoreline. Stormwater pond configurations that are generally rectangular or triangular in shape are prohibited. (Refer to Figure 1).~~

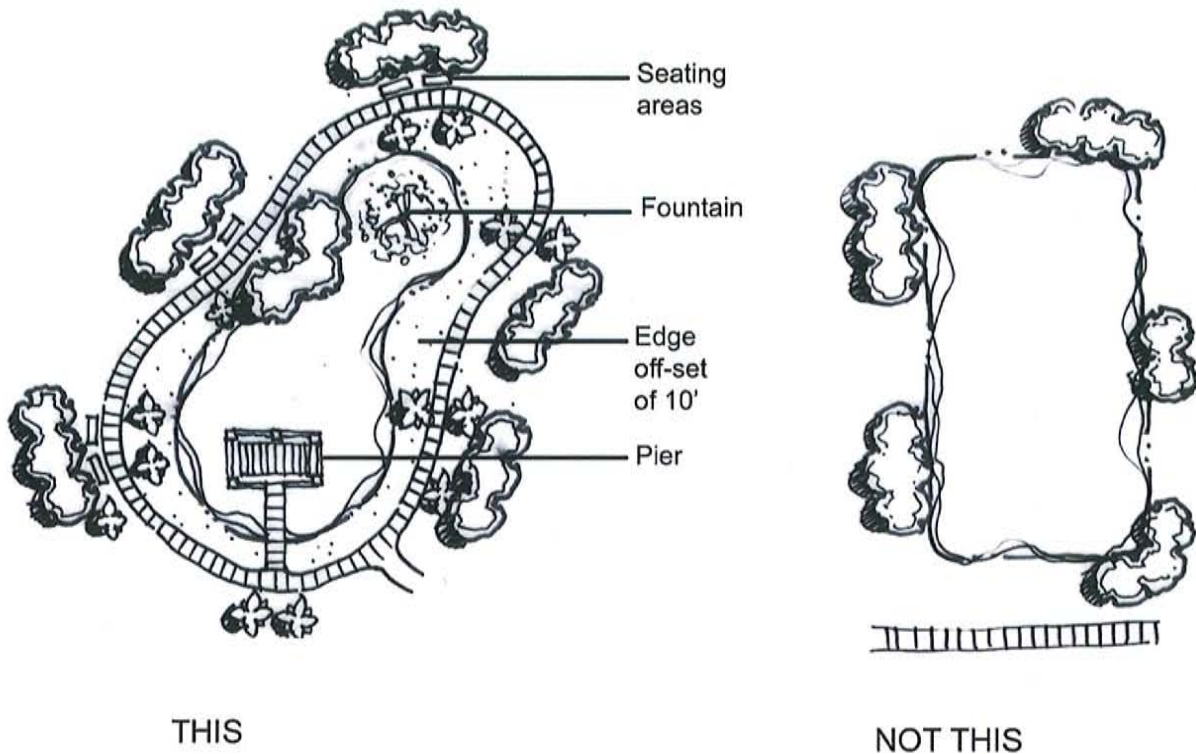


Figure 1. (s.33-111) Treatment of all bodies of water to appear natural and to incorporate landscaping features where possible.

~~(c) Wet and dry detention areas must comply with section 33-117.~~

~~(d) All dry detention basins must be planted with wetland type plant species (such as Spartina) in minimum one-gallon containers not more than 36 inches on center throughout the extent of the basin.~~

~~(Ord. No. [05-29](#), § 5, 12-13-05)~~

**Sec. 33-112. Utilities.**

~~All utility lines must be located underground except when located within a public street or road right-of-way.~~

~~(Ord. No. [05-29](#), § 5, 12-13-05)~~

**Sec. 33-113. Places of public interest/open space.**

~~(a) Places of public interest/open space are intended to provide for areas of public interest within commercial developments and must be provided where possible. These areas must be equipped with amenities such as seating areas, structures that provide shade, drinking fountains and other amenities.~~



- (b) ~~Umbrellas and open shopping carts are encouraged within these areas to stimulate informal activities. Open-air restaurants and cafes are encouraged.~~
- (c) ~~Landscaping elements such as plantings, fencing, and changes of paving material are encouraged to demarcate change in function of a public area and adjacent street. Where necessary, traffic calming devices must be applied to slow down traffic. (Refer to Figure 2)~~

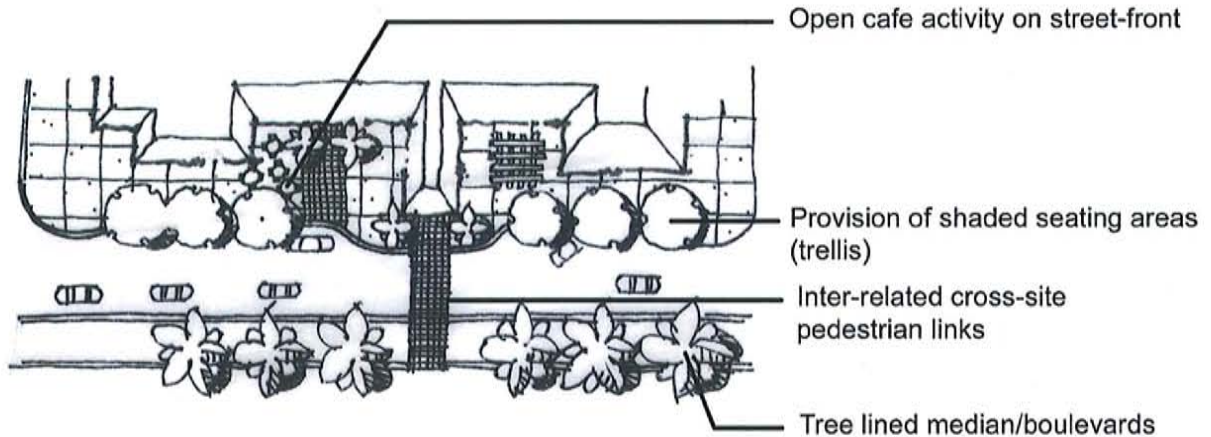


Figure 2. (s. 33-113)

(Ord. No. [05-29](#), § 5, 12-13-05)

**Sec. 33-114. Parking.**

- (a) ~~Developments must follow these general requirements:
 
  - (1) ~~Parking areas must be designed to minimize hard landscaped areas, visually and physically, with vegetation, fountains, seating areas or other features.~~
  - (2) ~~Parking areas must be well configured with pedestrian links, buffers and visually pleasing landscaped areas.~~~~
- (b) ~~Parking lots must be located in accordance with section 34-2192.~~
- (c) ~~Side parking areas must be adequately screened from pedestrian and vehicular travel along the frontage road.~~
- (d) ~~Parking area configurations must promote interconnections between adjacent project parcels. (This should be accomplished by providing an interconnected vehicular circulation route to the rear of properties fronting onto Corkscrew Road and Sandy Lane.)~~
- (e) ~~Sixty percent of the primary facade of a parking garage must incorporate the following:
 
  - (1) ~~Transparent windows, with clear or lightly tinted glass, where pedestrian oriented businesses are located along the facade of the parking structure; or~~
  - (2) ~~Display windows; or~~
  - (3) ~~Decorative metal grille-work or similar detailing, which provides texture and partially or fully covers the parking structure openings; and~~
  - (4) ~~Vertical trellis or other landscaping or pedestrian plaza area.~~~~

~~(f) A minimum ten-foot wide terminal island is required at the end of all parking rows.~~

~~(Ord. No. [05-29](#), § 5, 12-13-05; Ord. No. [12-20](#), § 3, 9-11-12)~~

### **~~Sec. 33-115. Services areas.~~**

~~Service areas, including loading docks, trash receptacles, mechanical equipment, outdoor storage areas and utility vaults must be located in areas where traffic impacts are minimized, and public visibility is diminished, and in areas that are accessible and functional. Smaller trash receptacles must be decorated or screened and placed in visible locations.~~

~~(Ord. No. [05-29](#), § 5, 12-13-05)~~

### **~~Sec. 33-116. Lighting.~~**

~~(These requirements are in addition to the requirements of section 10-610(b)).~~

~~(a) Provide pedestrian level lighting of building entryways.~~

~~(b) Lighting must be given a distinct architectural theme that complements the building's exterior. Light fixtures must complement the overall building development.~~

~~(c) Provide lighting throughout all parking areas utilizing decorative light poles/fixtures. Other than pedestrian light fixtures, all other outdoor light fixtures must be fully shielded. Lighting must be directed to avoid intrusion on adjacent properties and away from adjacent thoroughfares.~~

~~(d) Lighting plans must be coordinated with landscape plans to identify and eliminate potential conflicts.~~

~~(e) Buildings, awnings, roofs, windows, doors and other elements may not be designed to be outlined with light. Exposed neon and backlit awnings are prohibited. Temporary seasonal lighting during the month of December is excluded from this requirement.~~

~~(Ord. No. [05-29](#), § 5, 12-13-05; Ord. No. [07-24](#), § 6, 8-14-07)~~

### **~~Sec. 33-117. Natural and manmade bodies of water.~~**

~~Bodies of water, including wet and dry detention areas, exceeding 20,000 square feet in cumulative area and located adjacent to a public right-of-way are considered park area and an attractor for pedestrian activity. These areas must incorporate into the overall design of the project at least two of the following items:~~

~~(1) A five foot wide walkway with trees an average of 50 feet on center, shaded benches a minimum of six feet in length located on average every 150 feet; or~~

~~(2) A public access pier with covered structure and seating; or~~

~~(3) An intermittent shaded plaza/courtyard, a minimum of 200 square feet in area with benches and/or picnic tables adjacent to the water body; and/or~~

~~(4) A permanent fountain structure.~~

~~(Ord. No. [05-29](#), § 5, 12-13-05)~~

**Sec. 33-118. Interconnections and shared access.**

- (a) ~~Interconnects. Adjacent commercial uses must provide interconnections for automobile, bicycle and pedestrian traffic. All adjacent parking lots must connect. Interconnects between parking lots are not intended to satisfy the criteria for site location standards outlined in Policy 6.1.2(5) of the Lee Plan.~~
- (b) ~~Inter-parcel vehicle access points between contiguous commercial tracts must be provided. Properties that have frontage or other means of access to a side street parallel or perpendicular to US 41, Corkscrew Road, or Sandy Lane must connect to the side street.~~
- (c) ~~Use of shared accessways is encouraged.~~

(Ord. No. 05-29, § 5, 12-13-05)

**Secs. 33-119—33-225. Reserved.**

Subdivision II. Architectural

Sec. 33-226. Applicability.

Sec. 33-227. Architectural style.

Sec. 33-228. Compliment surrounding development.

Sec. 33-229. Maximum height.

Secs. 33-230—33-329. Reserved.

Sec. 33-330. Facade treatment.

Sec. 33-331. Window treatment.

Sec. 33-332. Awnings.

Sec. 33-333. Columns.

Sec. 33-334. Building color.

Sec. 33-335. Landscaping/window boxes.

Sec. 33-336. Multi-tenant buildings.

Sec. 33-337. Out-parcels.

Sec. 33-338. Infill development.

Secs. 33-339—33-350. Reserved.

**Sec. 33-226. Applicability.**

~~Architectural design of all commercial, industrial, public and mixed-use buildings within the Estero Planning Community must comply with this subdivision.~~

(Ord. No. 05-29, § 5, 12-13-05)

**Sec. 33-227. Architectural style.**

~~The preferred architectural style in the Estero Planning Community is Mediterranean, with Old Florida where appropriate, and other styles of architecture that are deemed compatible with these styles.~~

Distinct vernacular styles must be displayed through the inclusion of extended roof overhangs, porches, decorative columns, covered corridors, covered walkways, and pitch roofs (where applicable). Buildings of less than 5,000 square feet of gross floor area must be designed with roofs having a minimum pitch of 30 degrees. (Refer to Figure 3).



Figure 3. (s. 33-227)

(Ord. No. [05-29](#), § 5, 12-13-05)

**Sec. 33-228. Compliment surrounding development.**

In addition to the requirements of section 10-620, all proposed commercial, industrial, public and mixed use buildings must blend with and complement existing architectural features of adjacent structures constructed under these standards.

(Ord. No. [05-29](#), § 5, 12-13-05)

**Sec. 33-229. Maximum height.**

Buildings outside of the Interstate Highway Interchange Areas are limited to a maximum of three stories or 45 feet, whichever is less, in height. Elements that enhance visibility, create focal points or amenities, such as turrets, sculpture, clock tower and corner accentuating rooflines, may exceed the

maximum height limitations with an approved variance or deviation. (Refer to Figure 4.)



Figure 4. (s. 33-229)

(Ord. No. [05-29](#), § 5, 12-13-05)

**Secs. 33-230—33-329. Reserved.**

**Sec. 33-330. Facade treatment.**

In addition to the requirements of section 10-620(c), projects must use architectural relief, articulation or landscaping on building facades to reduce the bulk of buildings with facades longer than 75 feet that are visible from the street. Buildings must be designed to be visually appealing from all directions. Buildings that are visible from more than one right-of-way, or an exit ramp must use facade treatments on all viewable facades. Methods for providing architectural relief of blank facades must include one or more of the following:

- (1) Recessed or clearly defined entryways;
- (2) Varying rooflines, pitches and shapes;
- (3) Dormers, balconies, porches and staircases;
- (4) Transparent window or door areas or display windows that provide visibility into the building interior. No reflective or darkly tinted glass may be used on ground level;
- (5) Overhangs, awnings and marquees;
- (6) Building ornamentation and varying building materials, colors, decorative tiles, edifice detail such as trellises, false windows or recessed panels reminiscent of window, door or colonnade openings and wall murals;
- (7) Shrubs or vines trained to grow upright on wire or trellises next to blank walls;
- (8) Architectural features such as cornices, articulated roof parapets, porticos, towers or other details that alter the building height;
- (9) Application of a contrasting base that is a minimum one-foot high and extends along the entire front of the building and at least ten feet along the sides of the building.

(Ord. No. 05-29, § 5, 12-13-05; Ord. No. 07-24, § 6, 8-14-07)

**Sec. 33-331. Window treatment.**

Place display windows at the street level around the exterior of commercial buildings and provide windowsills and ledges. Windows must not appear to be false and applied.

(Ord. No. 05-29, § 5, 12-13-05)

**Sec. 33-332. Awnings.**

- (a) If an awning is over a public sidewalk, it must project from the surface of the building at a minimum height of eight feet. No awnings may be placed in or over any public right-of-way.
- (b) The design, materials and color of the awnings must complement the architecture of the building and not obscure its features.
- (c) Awnings must be consistent with the visual scale of the building.
- (d) Awnings must be placed at the top of openings. The awning shape must correspond with the shape at the top of the opening. Flat canopies are discouraged except in circumstances where it is accompanied by a valance. (Refer to Figure 5).

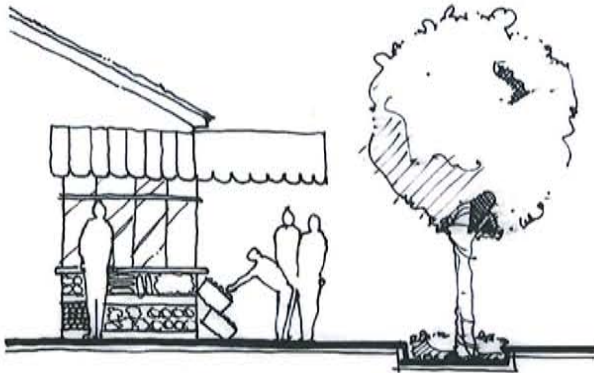


Figure 5. (s. 33-332)

- (e) Materials must be of high quality, durable and weather resistant. Plastic or shiny materials are prohibited.

(Ord. No. 05-29, § 5, 12-13-05)

**Sec. 33-333. Columns.**

Aesthetic details may be created using columns/pillars. (Refer to Figure 6).

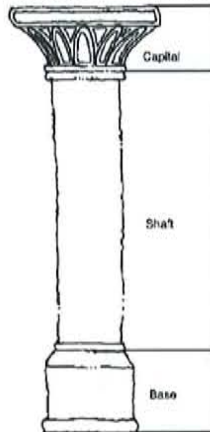


Figure 6 (s. 33-333) Column detailing through base, shaft and capital configuration

(Ord. No. [05-29](#), § 5, 12-13-05)

**Sec. 33-334. Building color.**

- (a) The colors for commercial structures must be neutral, warm earth tones or subdued pastels. Where applicable, commercial buildings may use brightly colored trims, cornices, or columns that may be reinforced to create a special effect or setting. However, these contrasts must create a harmonious impact, complementing the principal structure as well as existing surrounding building structures.
- (b) Brighter colors can be utilized to create focal points of interest in locations including on doors, windows and architectural details. Buildings should not exceed three colors on one architectural detail in composite. Contrasting accent colors of any wall, awning or other feature must be limited to no more than ten percent of the total area for any single facade.

(Ord. No. [05-29](#), § 5, 12-13-05)

**Sec. 33-335. Landscaping/window boxes.**

In addition to building perimeter plantings required by section 10-416(b), buildings may incorporate live plant material growing immediately on the building, by providing window boxes, planter boxes or hanging flowers.

(Ord. No. [05-29](#), § 5, 12-13-05)

**Sec. 33-336. Multi-tenant buildings.**

For multi-tenant buildings, roof parapets must be varied in depth and height. Roof parapets must be articulated to provide visual diversity. Parapets must include architectural relief or features at least every

75 feet. The minimum height of the architectural features must be one foot, and may be provided in height offset or facade projections such as porticoes or towers.

(Ord. No. [05-29](#), § 5, 12-13-05)

**Sec. 33-337. Out-parcels.**

Exterior facades of out-parcel buildings must be treated as primary facades and must employ architectural, site, and landscaping design elements that are common to the theme used in the main development on-site, including colors and materials associated with the main building. The purpose of this requirement is to assure a unified architectural theme and site planning between out-parcels and the main buildings on-site, enhance visual impact of the buildings and to provide for safe and convenient vehicular and pedestrian access and movement on site.

(Ord. No. [05-29](#), § 5, 12-13-05)

**Sec. 33-338. Infill development.**

Buildings planned for infill developments must be designed to relate to adjacent property structures so as to create an overall visually pleasing effect. In developing an infill development, consideration must be given to existing adjacent building heights, roof structures, colors, cornices and other architectural elements provided they are in compliance with these regulations. (Refer to Figure 7).



Figure 7. (s. 33-338) Application of the varied elements that present a composite Mediterranean streetscape and texture:

- (a) Varying roof heights;
- (b) Application of decorative building ornamentations;
- (c) Integration of landscaping features into building facades - hanging plants, shrubs, vines;
- (d) Street lighting with distinctive commercial characteristics; and
- (e) Awnings which complement building facade, placed at a height that appeals to the human scale.

(Ord. No. [05-29](#), § 5, 12-13-05; Ord. No. [07-24](#), § 6, 8-14-07)

**Secs. 33-339—33-350. Reserved.**

Subdivision III. Landscaping

[Sec. 33-351. Landscaping buffers.](#)



Sec. 33-352. Plant materials.

Sec. 33-353. Landscape design.

Sec. 33-354. Tree preservation.

Secs. 33-355—33-360. Reserved.

**Sec. 33-351. Landscaping buffers.**

BUFFER REQUIREMENTS											
PERMITTED OR EXISTING USE											
p r e p e s e d u s e		SF-R	MF-R	COM	ROW	IND	STP	AG	WOR	REC	PRE
	SF-R	A	A	A	D <sup>4</sup>	—	—	—	—	B	F <sup>5</sup>
	MF-R	B	A	B	D <sup>3</sup>	A	A	—	—	B	F <sup>5</sup>
	COM	C/F <sup>1</sup>	C/F <sup>1</sup>	A <sup>2</sup>	D <sup>3</sup>	A	—	A	A	A	F <sup>5</sup>
	WOR	B	B	A	D <sup>3</sup>	A	A	C/F	A	A	F <sup>5</sup>
	IND	E	E	B	D	A	A	A	B	—	F <sup>5</sup>
	STP	E	E	E	E	C/F	A	C/F	E	—	F <sup>5</sup>
	REC	C/F	A	A	D	—	—	—	A	F	F <sup>5</sup>
	PRE	F	F	—	—	—	—	—	—	F	—

Notes:

<sup>1</sup> Commercial projects that are part of mixed use developments, as defined in section 34-2, are not required to provide buffers between uses.

<sup>2</sup> Type "A" buffers required between commercial uses must be designed to allow for pedestrian, bicycle, and automobile connections through adequate spacing between required trees. Palms may be used where COM abuts COM on a 1:1 basis, if they are clustered as defined.

<sup>3</sup> The Type "D" buffers required between commercial uses and rights-of-way may be waived, or reduced if the proposed building setback is within 25 feet of the right-of-way. This is not intended to allow for a reduction in general tree requirements or building perimeter tree planting requirements.

<sup>4</sup> All Residential Planned Developments adjacent to I-75 are required to plant a buffer 40 feet in width and must contain 15 trees, 50 shrubs and 60 ground cover plants per 100 linear feet. If a berm is constructed, the 40-foot setback must include a minimum of eight feet from the toe of the berm to the right-of-way to allow for both state and private property maintenance of the edge of the right-of-way and for maintenance of the berm.

<sup>5</sup> The required buffer must be 100 percent native.

Buffer Types (per 100 linear Feet) <sup>1</sup>						
Buffer Types	A	B	C	D	E	F
Minimum Width in Feet	5	15	20	20	30	50
Minimum # of trees	4	5	10	5 <sup>4</sup>	10	15
Minimum # of shrubs	—	Hedge <sup>3</sup>	30	Hedge <sup>3</sup>	30	Hedge <sup>3</sup>
Wall Required <sup>2</sup>	—	—	8' ht. solid	—	8' ht. solid	—

Notes:

<sup>1</sup> All landscape buffer designs should complement adjacent project buffers to help aid in establishing a continuous landscape theme within the Estero Planning Community. The use of plant material indigenous to, and consistent with, existing vegetation within the Estero Planning Community is recommended.

<sup>2</sup> A solid wall, berm, or wall and berm combination, must be not less than eight feet in height. All trees and shrubs required in the buffer must be placed on the residential side of the wall. The height of the wall must be measured from the average elevation of the street or streets abutting the property, as measured along the centerline of the streets, at the points of intersection of the streets with the side lot lines (as extended) and the midpoint of the lot frontage. Walls must be constructed to ensure that historic flow patterns are accommodated and all stormwater from the site is directed to on-site detention/retention areas in accordance with the SFWMD requirements.

<sup>3</sup> Hedges must be planted in double staggered rows and be maintained so as to form a 36-inch high (F type buffers must be 48 inches at installation and be maintained at 60 inches high) continuous visual screen within one year after time of planting. In situations where the elevation of the ROW is higher than the elevation of the adjacent property, the effective plant screen must have an elevation of 36 inches as measured from the highest elevation within the buffer area

resulting from the combination of the berm and/or plants. Clustering of shrubs that would not create a continuous visual screen, but add interest to the landscape design, is allowed on a review basis by Development Review staff.

<sup>4</sup> Trees within the ROW buffer must be appropriately sized in mature form so that conflicts with overhead utilities, lighting and signs are avoided. The clustering of trees and use of palms within the ROW buffer will add design flexibility and reduce conflicts.

(Ord. No. [05-29](#), § 5, 12-13-05; Ord. No. [07-24](#), § 6, 8-14-07)

### **Sec. 33-352. Plant materials.**

- (a) ~~Palms used in buffers must be clustered in lengths of not less than four feet and more than eight feet apart. Not more than 50 percent of the required trees for a given buffer along its length may be in palms. A single tree may be used when an odd number of required trees along a frontage so warrant. Palms must be planted in staggered heights with a minimum of three palms per cluster. The use of single palms is permitted if the palms are the Royal Palm, Date Palm or Bismakia Palm variety; and, the use of palms does not constitute more than 50 percent of the total required tree count along a given buffer.~~
- (b) ~~Palms used to meet the required tree count for buffers may be used on a 2:1 basis. Cabbage palms may be used on a 3:1 basis for canopy trees when planted in clusters. Palms may be used to meet general tree requirements if they do not constitute more than 50 percent of the required tree count.~~
- (c) ~~Soldiering of cabbage palms in buffers is prohibited.~~

(Ord. No. [05-29](#), § 5, 12-13-05)

### **Sec. 33-353. Landscape design.**

- (a) ~~Developments must provide separation between pedestrian and vehicular movement by using plantings as space defining elements.~~
- (b) ~~Developments must utilize both hardscape and landscape features as space defining elements (Refer to Figure 8), including, where possible:~~
  - (1) ~~Distinctive paving or painting to define the appropriate location for pedestrian and vehicular traffic;~~
  - (2) ~~Plantings such as street trees, hedges and screening;~~
  - (3) ~~Replicating landscaping patterns and materials to visually unify a development and creating focal points through design diversification where possible;~~
  - (4) ~~Plant materials must be suited to the climate and, at their mature, natural size, be suitable for their planting location; and~~
  - (5) ~~Selecting trees for parking lots and sidewalk areas that do not interfere with the visibility and movement of vehicles or pedestrians, or cause pavement or other hard surfaces to heave. Material selection must be designed to survive the effects of building or large paved areas (in terms of heat, shade, wind, etc.)~~

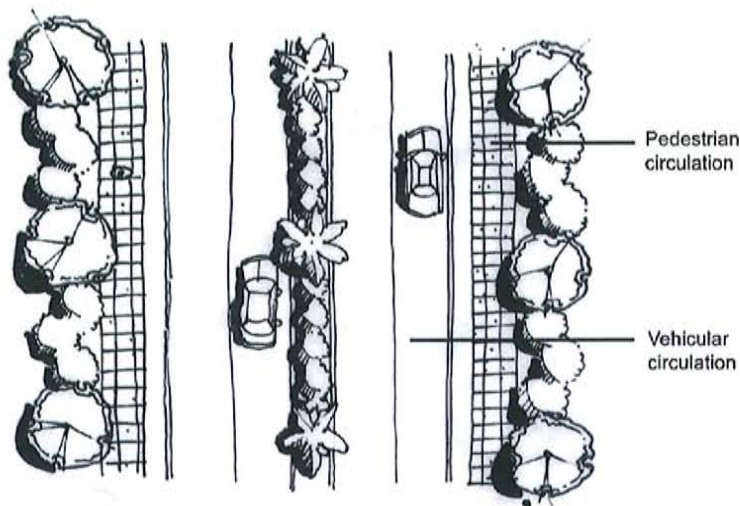


Figure 8. (s. 33-353)

- (c) All required trees must be a minimum 45-gallon container, 12-foot to 14-foot planted height, six-foot spread and 32-inch caliper, or field-grown equivalent, at the time of planting.
- (d) Not more than ten percent of the required internal landscape area, as related to the vehicular-use area identified in section 10-416, may be planted in sod.

(Ord. No. [05-29](#), § 5, 12-13-05)

**Sec. 33-354. Tree preservation.**

In an effort to preserve expansive open spaces and native vegetative communities:

- (1) Development must be clustered to reserve large areas of open space;
- (2) Existing native vegetation must be preserved whenever possible; and
- (3) Infrastructure design must integrate existing trees and the natural character of the land to the greatest extent possible.

(Ord. No. [05-29](#), § 5, 12-13-05)

**Secs. 33-355—33-360. Reserved.**

Subdivision IV. Transportation

[Sec. 33-361. Transit facilitation.](#)

[Sec. 33-362. Pedestrian walkways/linkages.](#)

[Sec. 33-363. Bicycle racks.](#)

[Sec. 33-364. Street furniture and public amenities.](#)

[Secs. 33-365—33-380. Reserved.](#)

**Sec. 33-361. Transit facilitation.**

Convenient access to public transportation, ride-share and passenger drop-off areas must be provided. The following examples are design techniques that may be used to meet this requirement:

- (1) Accommodate public transportation vehicles on the road network that services the development.
- (2) Provide passenger loading/unloading facilities.
- (3) For streets adjacent to a development, provide sidewalks and other pedestrian facilities such as bus shelters.
- (4) Provide a convenient and safe access between building entrances and a transit or bus area, such as walkways or painted pedestrian crosswalks.

(Ord. No. 05-29, § 5, 12-13-05)

**Sec. 33-362. Pedestrian walkways/linkages.**

The following requirements are in addition to the requirements of section 10-610(d):

- (1) Pedestrian walkways must be provided for each public vehicular entrance to a project, excluding ingress and egress points intended primarily for service, delivery or employee vehicles.
- (2) In order to accentuate and highlight pedestrian areas, wherever possible, materials must include specialty pavers, concrete, colored concrete or stamped concrete patterns.
- (3) Pedestrian walkways/links must be incorporated into, within and through a project in a way that addresses both site security concerns and pedestrian safety. The following are examples of design techniques that should be applied:
  - a. Incorporate cross-site pedestrian connections within projects.
  - b. Define walkways with vertical plantings, such as trees or shrubs. Pedestrian walkways may be incorporated within a required landscape perimeter buffer, in compliance with section 10-416(d)(4), Note 11.
- (4) Sidewalks or pedestrian ways must connect the on-site pedestrian systems to pedestrian systems on adjacent developments.
- (5) Traffic calming devices, at the discretion of the developer, must be provided at points where conflicting pedestrian and vehicular movements exist.
- (6) Sidewalks or bikeways must be installed along all project frontage roads, and whenever possible must be separated from the edge of pavement by a minimum four-foot wide planting strip. The property owner must provide for maintenance of the planting strips unless the County formally accepts responsibility for maintenance. Existing non-conforming sidewalks must be brought into compliance with this section.

(Ord. No. 05-29, § 5, 12-13-05)

**Sec. 33-363. Bicycle racks.**

Bicycle racks are required for all retail and office developments within overlay districts.

(Ord. No. 05-29, § 5, 12-13-05)

**Sec. 33-364. Street furniture and public amenities.**

Developments must provide street furniture and other pedestrian amenities in their design. All accessories such as railings, trash receptacles, street furniture and bicycle racks must complement the building design and style.

(Ord. No. 05-29, § 5, 12-13-05)

**Secs. 33-365—33-380. Reserved.**

Subdivision V. Signs

Sec. 33-381. Purpose.

Sec. 33-382. Applicability.

Sec. 33-383. Prohibited signs.

Sec. 33-384. Temporary signs.

Sec. 33-385. Permanent signs in commercial and industrial areas.

Secs. 33-386—33-399. Reserved.

**Sec. 33-381. Purpose.**

The purpose and intent of this subdivision is to modify and supplement Chapter 30 in order to protect and preserve the character and appearance of the Estero Planning Community.

(Ord. No. 05-29, § 5, 12-13-05)

**Sec. 33-382. Applicability.**

This subdivision is adopted as an addendum to the general sign regulations set forth in Chapter 30.

(Ord. No. 05-29, § 5, 12-13-05)

**Sec. 33-383. Prohibited signs.**

Unless a deviation or variance is granted, the following types of signs are prohibited within the Estero Planning Community:

- (1) Animated signs.

- ~~(2) Emitting signs.~~
- ~~(3) Balloons, including all inflatable air signs or other temporary signs that are inflated with air, helium or other gaseous elements.~~
- ~~(4) Banners, pennants or other flying paraphernalia, except an official federal, state or county flag, and one symbolic flag not to exceed 15 square feet in area for each institution or business.~~
- ~~(5) Changing sign (automatic), including electronic changing message centers, except as approved within a development of regional impact by planned development zoning resolution adopted prior to June 24, 2003 (the adoption date of Ordinance 03-16).~~
- ~~(6) Figure-structured signs.~~
- ~~(7) Pole signs/freestanding.~~
- ~~(8) Pylon signs, except as approved within a development of regional impact by planned development zoning resolution adopted prior to June 24, 2003 (the adoption date of Ordinance 03-16).~~
- ~~(9) Off-site directional signs, except as approved within a development of regional impact by planned development zoning resolution adopted prior to June 24, 2003 (the adoption date of Ordinance 03-16).~~

~~(Ord. No. [05-29](#), § 5, 12-13-05; Ord. No. [11-01](#), § 4, 3-8-11)~~

**~~Sec. 33-384. Temporary signs.~~**

- ~~(a) Temporary sign permits for prohibited signs will not be issued.~~
- ~~(b) Special occasion signs.~~
  - ~~(1) Temporary on-site sign permits may be issued for special occasions such as holidays (other than Christmas and Hanukkah, which are addressed in section 30-6), carnivals, parking lot sales, annual and semiannual promotions or other similar events, provided:
 
    - ~~a. A special occasion sign permit is issued by the building official;~~
    - ~~b. The special occasion sign permit is issued for a period of time not to exceed 15 days;~~
    - ~~c. No business may be permitted more than two special occasion permits in any calendar year; and~~
    - ~~d. The business did not violate the time limitation in subsection (b)1.b. above, within the calendar year preceding the request for the temporary sign permit.~~~~
- ~~(c) Signs must be located on-site and in a manner that does not create a traffic or pedestrian hazard;~~
- ~~(d) Signs illuminated by electricity must comply with all electrical and safety codes; and~~
- ~~(e) Signs must be constructed and secured in accordance with all applicable standards.~~

~~(Ord. No. [05-29](#), § 5, 12-13-05)~~

**~~Sec. 33-385. Permanent signs in commercial and industrial areas.~~**

- ~~(a) Identification sign. A nonresidential subdivision or parcel will be permitted one monument-style identification sign along any street that provides access to the property in accordance with section 30-153.~~

~~(1) Except as provided in subsection (3) below, the maximum height of any identification sign will be 17 feet.~~

~~(2) Lighting.~~

~~a. Permissible lighting. Except as provided in section 30-153(2)a.1.iv., the monument-style identification or wall sign may be illuminated by:~~

~~1. Individual internally illuminated letters and logo on an unlit background (i.e. channel lit lettering);~~

~~2. Lighting behind the letters and logo that illuminates the sign background (i.e. reverse channel lit lettering);~~

~~3. A combination of 1. and 2., above; or~~

~~4. Edge-lit letters using concealed neon or remotely lit fiber optics.~~

~~b. Prohibited lighting. Monument-style identification or wall signs will not be animated or illuminated by:~~

~~1. A visible source of external lighting;~~

~~2. Exposed neon;~~

~~3. Exposed raceways; or~~

~~4. Internally illuminated box signs (as defined by a sign comprised of translucent surfaces illuminated from within), unless face and side of sign are opaque except for letters and/or logo being translucent.~~

~~c. All electrical connections, wiring, etc., must be concealed.~~

~~(3) Except as provided herein, monument-style identification signs must be set back a minimum of 15 feet from any street right-of-way or easement, and ten feet from any other property line. In no case will a monument-style identification sign be permitted between a collector or arterial street and a frontage road.~~

~~Exception: Where the building is within 15 feet of the street right-of-way or road easement the sign may be placed closer than 15 feet to the right-of-way or easement provided it does not project over any right-of-way or easement, the height does not exceed seven feet, and the sign is not located within ten feet of any overhead electrical supply.~~

~~(4) All monument-style identification signs must display the street address of the property. Street numbers must measure between a minimum of four inches and a maximum of six inches, in height. The copy area of the street address will not be counted toward the allowable sign copy area.~~

~~(5) Copy area of a monument sign will not exceed 75 percent of the total sign structure area and a minimum 25 percent of the sign structure area must be devoted to architectural features.~~

~~(6) Signs identifying individual businesses must be easily read from the pedestrian level.~~

~~(7) Signs must match the architectural style of the building or development.~~

~~(8) Wall signs are permitted in accordance with section 30-153(2)c.1. and section 30-153(3)d., with a maximum area of 300 square feet per wall per tenant. This area is to be determined by the sum of any and all signs on the tenant's wall. Wall signs will not contain advertising messages or sales item names.~~

(Ord. No. [05-29](#), § 5, 12-13-05; Ord. No. [12-21](#), § 2, 9-11-12)



~~Secs. 33-386—33-399. Reserved.~~

~~***DIVISION 3. CORRIDOR OVERLAY DISTRICTS***~~

~~Sec. 33-400. Purpose and intent.~~

~~Sec. 33-401. Applicability.~~

~~**Sec. 33-400. Purpose and intent.**~~

~~Overlay districts are corridors within the Estero Planning Community that are of special concern and require special site design standards.~~

~~(Ord. No. 05-29, § 5, 12-13-05; Ord. No. 07-24, § 6, 8-14-07)~~

~~**Sec. 33-401. Applicability.**~~

~~Whenever the requirements of the overlay districts impose a different standard than the provisions of this Code, the requirements of the overlay district will govern. Except where specifically modified by the provisions of this subdivision, all other requirements of this Code apply.~~

~~(Ord. No. 05-29, § 5, 12-13-05)~~

~~Subdivision I. Corkscrew Road and Sandy Lane~~

~~Subdivision II. US 41~~

~~Subdivision I. Corkscrew Road and Sandy Lane~~

~~Sec. 33-402. Intent.~~

~~Sec. 33-403. Corner lots.~~

~~Sec. 33-404. Areas of public interest.~~

~~Sec. 33-405. Street front activity.~~

~~Sec. 33-406. Property development regulations.~~

~~Secs. 33-407—33-420. Reserved.~~

~~**Sec. 33-402. Intent.**~~

~~The Corkscrew Road and Sandy Lane districts will be developed as the Estero Planning Community's Main Street, a corridor of architecturally appealing and attractively landscaped retail, office, residential and institutional developments that cater to the needs of the community. These districts are depicted in Appendix I, Map 1.~~

~~(Ord. No. 05-29, § 5, 12-13-05; Ord. No. 09-23, § 9, 6-23-09)~~

**Sec. 33-403. Corner lots.**

In addition to the requirements of section 10-620(c)(3), the development must create visually attractive street corners using distinctive building entryways in combination with landscaping or artwork. Buildings on corner lots must be designed with a maximum setback of 25 feet from each adjacent right-of-way and must provide pedestrian access from the street intersection (Refer to Figure 9).

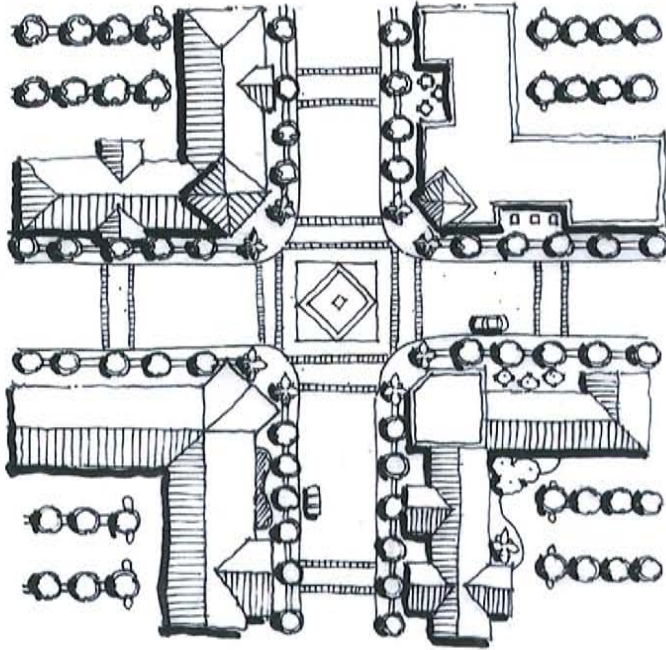


Figure 9. (s. 33-403)

(Ord. No. [05-29](#), § 5, 12-13-05; Ord. No. [07-24](#), § 6, 8-14-07)

**Sec. 33-404. Areas of public interest.**

The development must be designed to create people-oriented spaces along the street that are visually attractive, take into consideration the human scale and proportion, and provide for pedestrian connections.

(Ord. No. [05-29](#), § 5, 12-13-05)

**Sec. 33-405. Street front activity.**

The development must be designed to create public spaces to allow for activity to take place along the street front, such as sidewalks and open areas.

(Ord. No. [05-29](#), § 5, 12-13-05)

**Sec. 33-406. Property development regulations.**

Setbacks for the Corkscrew Road and Sandy Lane Overlay Districts are shown in the following Table 1. With the exception of setbacks set forth within Table 1, the property development regulations set forth in section 34-935 will apply. Table 1 specifically modifies and supercedes the provisions set forth in Section 34-935(b)(1).

To ensure conformity and development consistent with the goals and requirements of this section, developments that were approved prior to June 25, 2002, as part of a planned development, must also comply with the setback requirements contained in Table 1 to the extent the setback requirement was not specifically addressed as part of the planned development. Specific property development regulations that were approved as part of a planned development prior to June 25, 2002, are exempt from this section.

Table 1			
Dimensional Regulations	Special Notes	Corkscrew Road & Sandy Lane Overlay Districts	
		Minimum	Maximum
Setbacks <sup>1</sup>	34-2191 et seq.		
Street (feet) <sup>2</sup>		0'	25'
Side yard (feet) <sup>3</sup>		0'	N/A
Rear yard (feet)		25'	N/A
Water body (feet)		25'	N/A

Notes:

(1) Building setback requirements must follow these General Requirements (See Figure 2):

- a. Setbacks will be established to facilitate the creation of uniform streetscape.
- b. Maximum right-of-way setbacks will be zero feet to 25 feet. This must allow for buildings to front directly onto the adjacent sidewalks, while providing for slight undulation (variety) in the definition and character of the corridor. The flexibility in this setback will also allow for the creation of small use areas (i.e. limited outdoor seating for restaurants and coffee shops, display of goods being sold, and small landscaped entrances) and enhance opportunities for activity. Automobile service stations and convenience food and beverage uses with fuel pumps may deviate from the maximum setback requirement per landscape requirements in section 33-435. Interior lots are permitted for developments provided that there is a minimum 75-foot setback for all parking lots.
- c. Minimum of 40 percent of the building frontage will be required at the setback.
- d. These setback requirements do not apply to properties fronting Corkscrew Road east of I-75.

- (2) ~~The provisions of section 34-3131(a) "Vehicle Visibility at Intersections" is amended for the purposes of the Corkscrew Road and Sandy Lane Overlay Districts to read as follows:~~

~~Corner lots. On a corner lot, no obstruction may be planted or erected that materially obstructs traffic visibility within the triangular space bounded by the two intersecting right-of-way lines and a straight line connecting the two points on the street right-of-way lines 50 feet from their intersection. No structural and planting masses will be permitted between one and one-half feet and eight feet above the average grade of each street.~~

- (3) ~~Developments are encouraged to provide side setbacks of five feet or less to create a continuous "street wall" of building frontage where possible. Where side setbacks are less than five feet, evidence must be presented that the land owner will be able to maintain the exterior wall. The exterior walls of buildings must meet fire protection standards.~~

(Ord. No. [05-29](#), § 5, 12-13-05; Ord. No. [07-24](#), § 6, 8-14-07)

**Secs. 33-407—33-420. Reserved.**

Subdivision II. US 41

[Sec. 33-421. Intent and scope.](#)

[Sec. 33-422. Parking lots.](#)

[Secs. 33-423—33-430. Reserved.](#)

**Sec. 33-421. Intent and scope.**

The US 41 overlay district will continue to grow as a commercial and residential corridor over the next decade, providing for the regional and local shopping needs of Estero and South Lee residents. The purpose of the overlay district is to create a corridor that is well landscaped and aesthetically pleasing while providing for a free flow of traffic through South Lee County. The following regulations aim to create a roadway corridor that enhances the drive through experience of the Estero Planning Community. The US 41 Overlay is depicted on Appendix I, Map 2.

(Ord. No. [05-29](#), § 5, 12-13-05)

**Sec. 33-422. Parking lots.**

- (a) ~~Freestanding buildings or shopping center developments containing 7,500 gross square feet of space or less may provide no more than 20 percent of parking areas in the front of buildings and/or be limited to no more than one double row of parking. No more than 20 percent of the parking area may be located to the side of building, with the balance of parking located to the rear of the building.~~
- (b) ~~For buildings exceeding 7,500 square feet, and fronting US 41, parking is encouraged to the sides or rear of the building.~~
- (c) ~~Where parking is located adjacent to US 41, adequate screening, consisting of a minimum type "E" buffer, as specified in section 33-351, containing a two to three foot undulating landscaped berm, without a wall, is required. The intent is to screen parking areas but not buildings.~~

(Ord. No. [05-29](#), § 5, 12-13-05)

**~~Secs. 33-423—33-430. Reserved.~~**

**~~DIVISION 4. SPECIFIC USES~~**

~~Subdivision I. Automobile Service Stations and Convenience Food and Beverage Stores~~

~~Subdivision II. Big-Box Commercial~~

~~Subdivision I. Automobile Service Stations and Convenience Food and Beverage Stores~~

~~[Sec. 33-431. Applicability.](#)~~

~~[Sec. 33-432. Purpose and intent.](#)~~

~~[Sec. 33-433. Location and site standards.](#)~~

~~[Sec. 33-434. Setbacks.](#)~~

~~[Sec. 33-435. Landscaping.](#)~~

~~[Sec. 33-436. Curbing.](#)~~

~~[Sec. 33-437. Perimeter walls.](#)~~

~~[Sec. 33-438. Trash storage.](#)~~

~~[Sec. 33-439. Storage tanks.](#)~~

~~[Sec. 33-440. Outside display or storage products.](#)~~

~~[Sec. 33-441. Building colors and color banding on canopy structures.](#)~~

~~[Sec. 33-442. Infrastructure for generators.](#)~~

~~[Sec. 33-443. Entrances and exits.](#)~~

~~[Sec. 33-444. Waiver of distance requirements.](#)~~

~~[Secs. 33-445—33-454. Reserved.](#)~~

**~~Sec. 33-431. Applicability.~~**

~~The following regulations apply to the location, layout, drainage, operation, fencing, landscaping, parking, architectural features and permitted sales and service activities of automobile service stations and also convenience food and beverage stores selling motor fuels.~~

~~For purposes of this subdivision only, the term "automobile service station" will be interpreted to also include the use "convenience food and beverage stores" selling motor fuels.~~

~~(Ord. No. [05-29](#), § 5, 12-13-05)~~

**~~Sec. 33-432. Purpose and intent.~~**

~~Ensure that automobile service stations do not adversely impact adjacent land uses, especially residential land uses. The high levels of traffic, glare, and intensity of use associated with automobile service stations, particularly those open 24 hours, are incompatible with surrounding uses, especially residential uses. Therefore, in the interest of protecting the health, safety and general welfare of the public, the regulations in this subdivision apply.~~

~~(Ord. No. [05-29](#), § 5, 12-13-05)~~

**Sec. 33-433. Location and site standards.**

All automobile service stations must meet the following criteria:

- (1) ~~Minimum frontage: An automobile service station may not be located on a lot with less than 150 feet of frontage on a vehicular right-of-way.~~
- (2) ~~Minimum depth: 180 feet.~~
- (3) ~~Minimum lot or parcel area: 30,000 square feet.~~
- (4) ~~Separation requirements: There must be a minimum distance of 500\* feet, between the nearest points on any lot or parcel of land to be occupied by automobile service stations, and any lot or parcel for such use already occupied by an automobile service station, or for which a building permit has been issued.~~

~~\* unless waived by the director in compliance with section 33-444.~~

(Ord. No. [05-29](#), § 5, 12-13-05)

**Sec. 33-434. Setbacks.**

~~The following setbacks are the minimum setbacks for all structures.~~

- (1) ~~Front yard setback—50 feet.~~
- (2) ~~Side yard setback—40 feet.~~
- (3) ~~Rear yard setback—40 feet.~~

(Ord. No. [05-29](#), § 5, 12-13-05)

**Sec. 33-435. Landscaping.**

~~The following landscape requirements are in addition to the requirements set forth in Chapter 33, Article II, Division 2, Subdivision III.~~

- (1) ~~Right-of-way buffer landscaping:
  - a. ~~Landscaping adjacent to rights-of-way external to the development project must be located within a landscape buffer easement that is a minimum of 25 feet in width.~~
  - b. ~~A horizontal undulating berm with a maximum slope of 3:1 must be constructed along the entire length of the landscape buffer. The berm must be constructed and maintained at a minimum average height of three feet. The berm must be planted with ground cover (other than grass), shrubs, hedges, trees and palms.~~
  - c. ~~The required trees and palms must be clustered in double rows with a minimum of three trees per cluster. Canopy trees must be planted a maximum of 20 feet on center within a cluster. The use of palms within the right-of-way buffer must be limited to landscaped areas adjacent to vehicular access points. Palms must be planted in staggered heights to a minimum of three palms per cluster, spaced at a maximum of eight feet on center, with a minimum of a four foot difference in height between each tree. Exceptions will be made for Roystonea spp., Bismarka spp. and Phoenix spp. (not including roebelenii), which may be planted one palm per cluster. A maximum distance of 25 feet between all types of tree clusters must be maintained.~~~~

d. ~~All trees must meet the minimum standards stated in section 33-353(c). At installation, shrubs must be a minimum of ten gallon, five feet in height with a three-foot spread, planted four feet on center.~~

(2) ~~Landscaping adjacent to all other property lines: Rear and side property boundaries must be planted with a single row hedge. The hedge must be a minimum height of four feet at planting, planted at three feet on center and must be maintained at a height of five feet.~~

(Ord. No. [05-29](#), § 5, 12-13-05; Ord. No. [07-24](#), § 6, 8-14-07)

#### **~~Sec. 33-436. Curbing.~~**

~~Curbing must be installed and constructed consistent with minimum code requirements between all paved areas and landscape areas.~~

(Ord. No. [05-29](#), § 5, 12-13-05)

#### **~~Sec. 33-437. Perimeter walls.~~**

~~Automobile service station sites must be separated from adjacent residentially zoned or residentially developed properties by an architecturally designed eight-foot high masonry wall or fence utilizing materials similar in color, module and texture to those utilized for the building. Landscaping must be planted on the residential side of the fence or wall.~~

(Ord. No. [05-29](#), § 5, 12-13-05)

#### **~~Sec. 33-438. Trash storage.~~**

~~An eight-foot high enclosed trash area must be integrated within the design of the service station.~~

(Ord. No. [05-29](#), § 5, 12-13-05)

#### **~~Sec. 33-439. Storage tanks.~~**

~~Motor vehicle fuel storage tanks must be located below grade.~~

(Ord. No. [05-29](#), § 5, 12-13-05)

#### **~~Sec. 33-440. Outside display or storage products.~~**

~~Outside display or storage of products is prohibited.~~

(Ord. No. [05-29](#), § 5, 12-13-05)

**Sec. 33-441. Building colors and color banding on canopy structures.**

~~Color accent banding on fuel pump canopy structures and all other structures is prohibited. Canopies must be of one color, consistent with the predominant color of the principal structure, if applicable. The color of all structures on-site must be of soft earth tones or pastels.~~

~~(Ord. No. [05-29](#), § 5, 12-13-05)~~

**Sec. 33-442. Infrastructure for generators.**

~~Each automobile service station must provide the necessary infrastructure and pre-wiring to provide the capability for generator service in case of emergencies.~~

~~(Ord. No. [05-29](#), § 5, 12-13-05)~~

**Sec. 33-443. Entrances and exits.**

~~No automobile service station may have an entrance or exit for vehicles within 200 feet, along the same side of a street, as a school, public playground, child care center, church, hospital, or public library.~~

~~(Ord. No. [05-29](#), § 5, 12-13-05)~~

**Sec. 33-444. Waiver of distance requirements.**

~~The Director of Community Development may grant a waiver of part or all of the minimum separation requirements set forth in section 33-433(d), if it is demonstrated by the applicant that the site proposed for development of an automobile service station is separated from another automobile service station by natural or manmade boundaries, structures, or other features that offset or limit the necessity for such minimum distance requirements. The Director's decision to waive part or all of the distance requirements must be based, in part, upon whether or not:~~

- ~~(1) The nature and type of natural or manmade boundary, structure, or other feature lying between the proposed establishment and an existing automobile service station is determined by the Director to lessen the impact of the proposed automobile service station. Such boundary, structure or other feature may include, but is not limited to, lakes, marshes, nondevelopable wetlands, designated preserve areas, canals and a minimum of a four-lane arterial or collector right-of-way.~~
- ~~(2) The automobile service station is only engaged in the servicing of automobiles during regular, daytime business hours, or, if in addition to or in lieu of servicing, the station sells food, gasoline and other convenience items during daytime, nighttime, or on a 24-hour basis.~~
- ~~(3) The automobile service station is located within a shopping center and has access only from a shopping center parking lot aisle or is not within a shopping center and has access directly to a platted road right-of-way.~~
- ~~(4) The granting of the distance waiver will have an adverse impact on adjacent land uses, especially residential land uses.~~

~~(Ord. No. [05-29](#), § 5, 12-13-05)~~



**~~Secs. 33-445—33-454. Reserved.~~**

~~Subdivision II. Big-Box Commercial~~

~~[Sec. 33-455. Purpose.](#)~~

~~[Sec. 33-456. Applicability.](#)~~

~~[Sec. 33-457. Horizontal design elements.](#)~~

~~[Sec. 33-458. Building location.](#)~~

~~[Sec. 33-459. Out parcels.](#)~~

~~[Sec. 33-460. Access.](#)~~

~~[Sec. 33-461. Parking.](#)~~

~~[Sec. 33-462. Open space.](#)~~

~~[Sec. 33-463. Service and loading areas.](#)~~

~~[Sec. 33-464. Shopping cart storage.](#)~~

~~[Secs. 33-465—33-470. Reserved.](#)~~

~~[Sec. 33-471. Vertical design elements.](#)~~

~~[Sec. 33-472. Building design.](#)~~

~~[Sec. 33-473. Building facade.](#)~~

~~[Sec. 33-474. Windows, doors and other openings.](#)~~

~~[Sec. 33-475. Roofs.](#)~~

~~[Sec. 33-476. Walls and fences.](#)~~

~~[Sec. 33-477. Service areas.](#)~~

~~[Secs. 33-478—33-1000. Reserved.](#)~~

**Sec. 33-455. Purpose.**

Big box retail designs pose enormous challenges to the community, governmental agencies, and designers because they are large and difficult to coordinate within the existing context of the community without detracting from the existing scale, connectivity, traffic patterns, walk-ability and image for the area. It is understood that large retailers can produce a useful economic function, serving as anchors for a center, bringing in sales and property taxes, revenues, and regional draws that can benefit the community and other business in the area. It is not the intention of these provisions to eliminate big box retailers from the market place, but to assimilate them into the community for the mutual benefit of both. These provisions have been drafted to acknowledge that large retail stores can be a productive and aesthetically pleasing part of a community and can be designed so as to minimize any negative impacts on the community.

(Ord. No. [05-29](#), § 5, 12-13-05; Ord. No. [07-24](#), § 6, 8-14-07)

### **Sec. 33-456. Applicability.**

The big box commercial design standards, as set forth in this subdivision, are applicable throughout the Estero Planning Community, unless otherwise provided in this subdivision:

- (1) ~~Renovations or remodeling. In the case of renovations to a big box building's facade, the cost of which may not exceed 50 percent of the value of the existing structure or reconfiguration of vehicular use areas, the provisions of this subdivision will be applied only to the specific areas of renovation, remodeling or reconfiguration.~~
- (2) ~~Redevelopment. In the case of additions to, or redevelopment of, an existing big box building or project, where either the cost of such addition or redevelopment exceeds 50 percent of the value (based on the property appraiser's assessment) of the existing structure or structures or 20 percent of the square footage of the existing structures, the provisions of this subdivision will apply.~~
- (3) ~~Discontinuance. Where the use of a big box structure ceases for any reason for more than 180 consecutive days, compliance with this subdivision is required prior to re-occupancy of the structure.~~
- (4) ~~Developments of Regional Impact (DRI). Developments of Regional Impact are exempt from the standards of this subdivision provided that design standards for the DRI are approved by the county as part of the zoning process. An example of this would be a new or existing regional mall type structure or as a requirement of the DRI Development Order.~~

(Ord. No. [05-29](#), § 5, 12-13-05)

### **Sec. 33-457. Horizontal design elements.**

~~Purpose. The following horizontal design standards have been created to help manage the horizontal design elements of a big box project. Horizontal design elements are defined as those elements that lay horizontal on the site and include, but are not limited to items such as sidewalks, wet and dry retention, roads, parking lots, site design, utilities, and landscaping. The intent is to create flexible and functional standards for site development of large tracts of land that contain one or more large retailers. The provisions related to the horizontal design elements are set forth in section 33-458 through 33-464.~~

(Ord. No. [05-29](#), § 5, 12-13-05)

### **Sec. 33-458. Building location.**

~~(a) Big box buildings.~~

- ~~(1) To the extent possible big box retail buildings must be placed in a location that will satisfy functional needs while providing and being aesthetically pleasing for the community, the site, and the developer/retailer.~~
- ~~(2) Big box retail buildings must be placed away from residential areas. (see Figure 10)~~

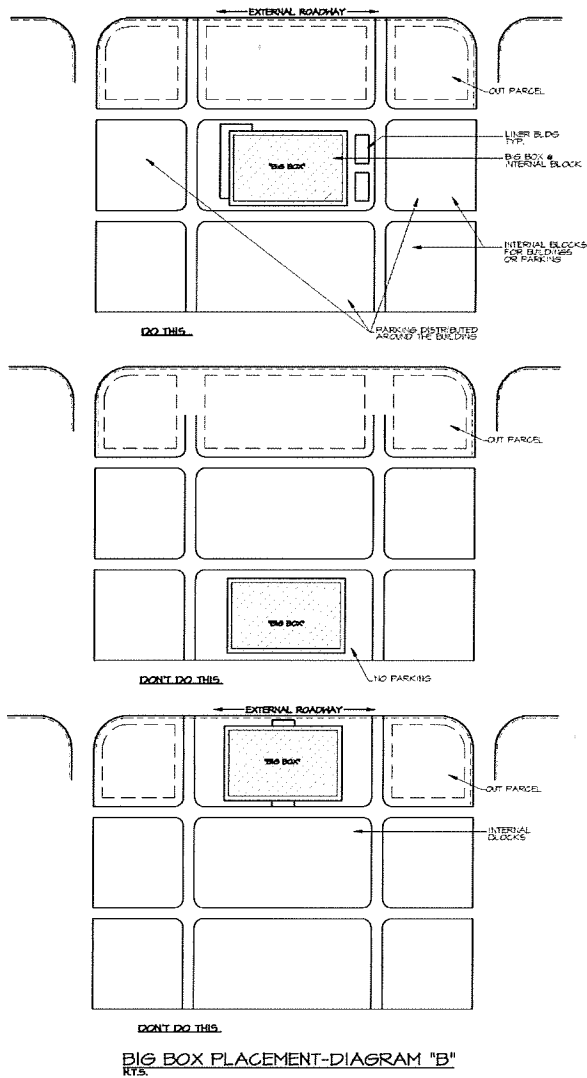
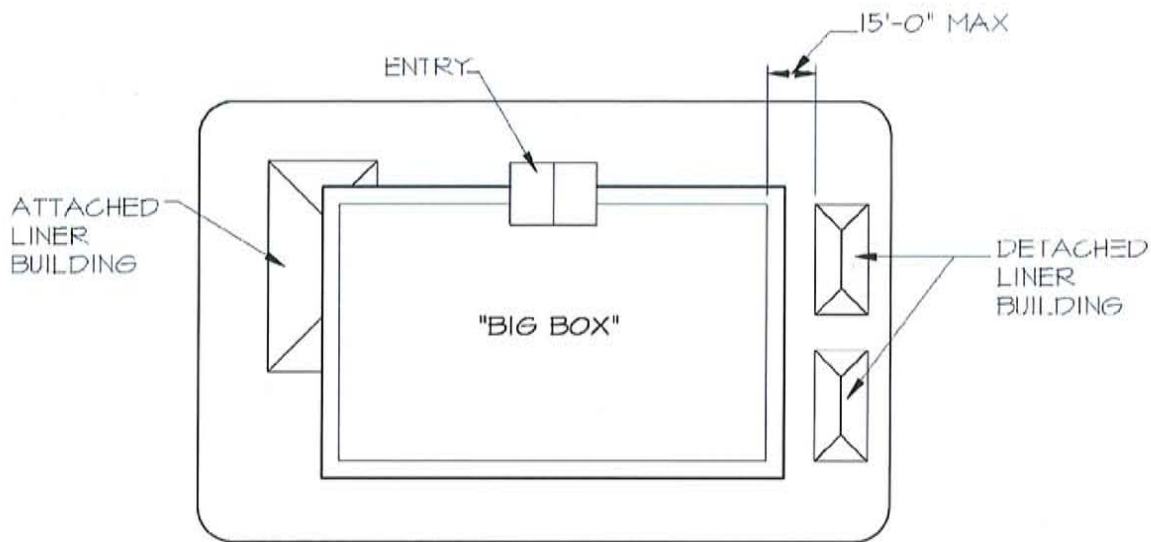


Figure 10 (s. 33-458(a)(2))

- (3) ~~Large format retail buildings must provide liner buildings along all primary facades and on a minimum of two sides of the building. (see Figure 11)~~



LINEAR BUILDING-DIAGRAM "F"  
NTS.

Figure 11(s. 33-458(a)(3) & (b)(2))

(b) ~~Liner buildings.~~

- (1) ~~The purpose of liner buildings is to break the big-box retail building down into smaller massing elements, and conceal any blank walls or facades of the large retail structure while creating scale and architectural character.~~
- (2) ~~Liner buildings may be placed on any side of the building, but must be placed along all walls of big-box buildings that face public right-of-ways (see Figure 11). Liner buildings must be utilized on a minimum of two sides of each building with over 50,000 square feet.~~
- (3) ~~Liner buildings must cover a minimum of 40 percent of the primary building facade.~~
- (4) ~~The roof height of a liner structure must be at least five feet lower or higher than the roof of the related big-box.~~
- (5) ~~Liner buildings must be designed to be complementary to the approved design standards for the project and must include along its facade a minimum of 15 percent and a maximum of 75 percent glazing.~~
- (6) ~~Liner buildings may be used by a separate tenant or may be integrated for use by the adjacent big-box user.~~

(Ord. No. [05-29](#), § 5, 12-13-05)

**Sec. 33-459. Out parcels.**

- (a) ~~To the extent possible out parcels should be placed to frame major commercial roadways, thus creating grand boulevards and gateways within the Estero Planning Community.~~
- (b) ~~Projects that exceed 50,000 square feet of retail floor area must provide a berm or an out parcel pad along collector and arterial roadways, with the majority of the parking located behind the building or berm. The berm must be an average of four feet high and 30 feet wide for 75 percent of the public~~

right-of-way that does not possess an out parcel pad. The berm must have a minimum of ten trees per 100 linear feet with a double hedge row. All plants must meet standard sizes as required in sections 33-351 through 33-354. (see Figure 12)

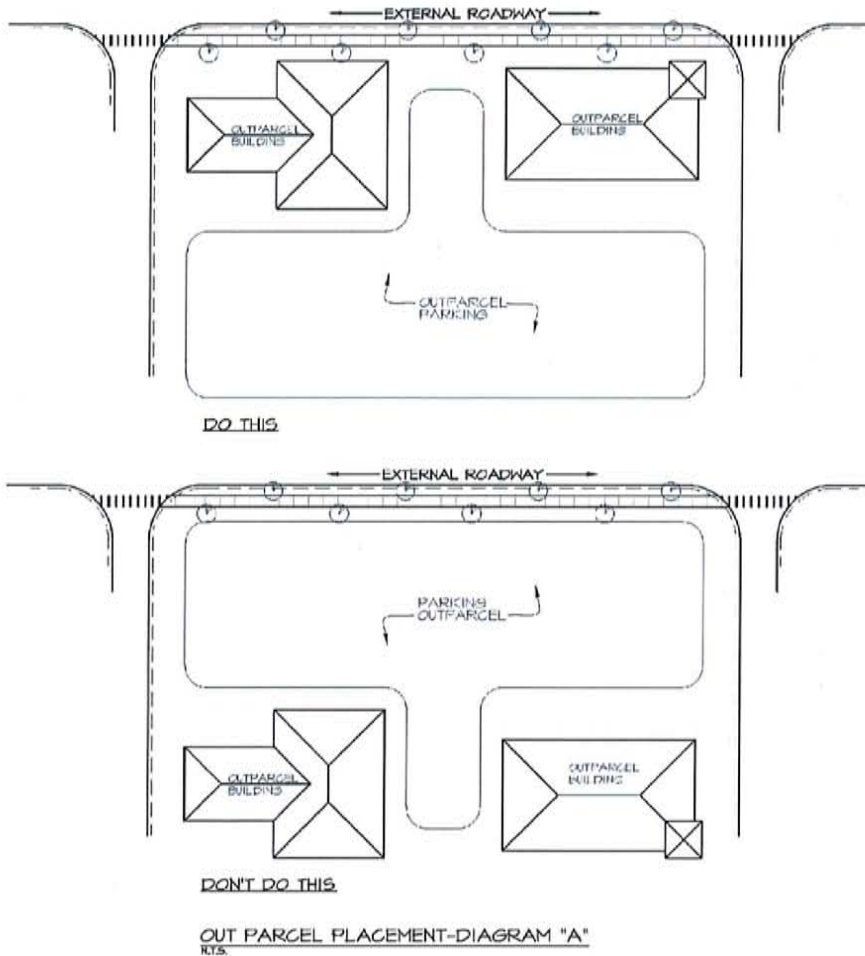


Figure 12 (s. 33-459)

(c) Out parcels may also be developed along internal access drive locations provided the majority of the parking is not placed along the major roads of the community.

(Ord. No. [05-29](#), § 5, 12-13-05)

**Sec. 33-460. Access.**

- (a) To the extent possible, access to, from and within the big box project must be designed to create:
- (1) A safe and memorable environment for vehicular and pedestrian access to and from the site;
  - (2) A minimal number of curb cuts on the major arteries by providing shared access to adjacent properties; and

- ~~(3) Convenient, safe, and attractive access around the project for vehicular and pedestrian movement.~~
- ~~(b) Internal access drives/streets to the property must be developed at minimum intervals of 250 feet and maximum intervals of 1,400 feet in length, creating internal blocks for parking and buildings.~~
  - ~~(c) Internal access must be developed to simulate streets with sidewalks and trees, with an average tree separation of 30 feet and a 15-foot planting strip with a combination of plants and grass along the street/parking/building edge. The planting may not contain more than 30 percent grass for these areas.~~
  - ~~(d) Internal lanes must be no less than ten feet in width for each lane.~~
  - ~~(e) Street and sidewalk accesses must be provided up to adjacent properties for future connectivity where not prohibited. The developer may provide an easement agreement in lieu of the physical interconnection when no development is planned on an adjacent parcel.~~
  - ~~(f) Landscaped pedestrian sidewalks must be provided along the sides of large buildings with adjacent parking lots.~~
  - ~~(g) All streets must terminate at other streets, future streets, or a parking lot. Cul-de-sacs or dead end streets are to be avoided if possible.~~
  - ~~(h) After 700 linear feet of roadway, five degrees (in plan) deflection or a landscaped median strip (minimum ten feet by 18 feet) must be designed into the road for traffic calming reasons.~~
  - ~~(i) On street parking is encouraged on internal access roads where a main street type of development is desired. "Main street development" is defined as development where sidewalks and buildings or public spaces (excluding parking lots) are planned for the majority of both sides of the street.~~
  - ~~(j) Internal street medians are encouraged. Median widths must be a minimum of six feet and maximum of 15 feet in width.~~
  - ~~(k) Sidewalks (minimum five feet wide) must be constructed on at least one side of all internal roadway or vehicular access areas (exclusive of parking lanes). In the alternative, walkways may be developed through the landscaped median areas, to facilitate access from the sidewalks along the rights-of-way, provided the medians are increased by five feet to accommodate the walkway.~~
  - ~~(l) Sidewalks along buildings must be a minimum of eight feet in width excluding landscaping.~~
  - ~~(m) Each building must be interconnected via a pedestrian pathway.~~
  - ~~(n) Development must be coordinated with Lee Tran where transit access is to be provided to the area.~~
- ~~(Ord. No. [05-29](#), § 5, 12-13-05)~~

### **Sec. 33-461. Parking.**

- ~~(a) To the extent possible the site must be developed to create attractive parking areas that provide convenient and safe multi-modal movement of vehicular, public transportation, bicycles and pedestrian traffic.~~
- ~~(b) Parking areas must be developed into parking pods that do not exceed 120 parking spaces, have a maximum of four entry/exit points, and be separated by a continuous double row hedge and large canopy trees at 30 feet on center.~~
- ~~(c) Parking lots must provide landscaped islands in accordance with Chapter 10.~~
- ~~(d) Parking must be distributed on three sides of the big box retail building and away from loading areas. Peak and employee parking areas must be located on the sides of the building.~~

- ~~(e) All parking lots must be interconnected.~~
- ~~(f) As an alternative to the parking pod set forth in section 33-461(b), parking areas must have a type "D" buffer separating every four rows of parking, provided the big box building is screened by an out parcel buffer.~~
- ~~(g) The number of parking spaces developed as part of the big box project may not exceed the number of spaces required by section 34-2020, or other code parking requirement unless the increase complies with one of the following subsections:
  - ~~(1) Up to a 20 percent increase in parking spaces may be granted administratively if:
    - ~~a. Parking pods are used for all parking on the project site; or~~
    - ~~b. All landscaping trees are increased to a minimum of 14 feet, 65-gallon, six-foot spread with a four-inch caliper at the time of planting.~~~~
  - ~~(2) A parking space increase over 20 percent may be granted administratively only if the number of required trees is increased by 25 percent.~~~~

~~(Ord. No. [05-29](#), § 5, 12-13-05; Ord. No. [07-24](#), § 6, 8-14-07; Ord. No. [12-20](#), § 3, 9-11-12)~~

**Sec. 33-462. Open space.**

- ~~(a) To the extent possible, big box retail development must be designed to manage open space for public benefit through combining a portion of the required open space into a usable component of the retail center.~~
- ~~(b) A minimum of ten percent of the required open space must be aggregated together into usable format called "open space squares." Retail is encouraged to develop around these squares when possible.~~
- ~~(c) Open space squares must be a minimum of 30 feet and a maximum of 65 feet wide.~~
- ~~(d) Open space squares must be integrated into the site plan as either a passive or active space.~~
- ~~(e) Open space squares may be interconnected to form a series of usable spaces for the project.~~
- ~~(f) Open space squares will be counted towards open space requirements.~~

~~(Ord. No. [05-29](#), § 5, 12-13-05)~~

**Sec. 33-463. Service and loading areas.**

- ~~(a) To the extent possible, loading areas must be designed to diminish both the visual and noise pollution that these facilities can create on a community.~~
- ~~(b) Loading areas must either be located out of view from all public roads, or adequately screened.~~
- ~~(c) When a loading area is facing a public right of way or a residentially zoned area, a ten-foot high architecturally screened wall must be provided on a four-foot berm located within a 25-foot landscaped buffer. Berm and wall breaks are required every 200 feet in order to diminish the height and length of the wall and berm. Loading areas that are more than 450 feet from the property line may utilize only the berm requirements provided they are not adjacent to and facing a residentially zoned parcel.~~

~~(Ord. No. [05-29](#), § 5, 12-13-05)~~

**Sec. 33-464. Shopping cart storage.**

- (a) ~~To the extent possible shopping cart storage must be concealed from public view.~~
- (b) ~~Storage of carts must be behind a wall or landscaped area with 80 percent opaqueness at planting.~~
- (c) ~~Temporary cart storage in the parking area must be between two landscaped islands with a double row hedge and two trees.~~

(Ord. No. [05-29](#), § 5, 12-13-05)

**Secs. 33-465—33-470. Reserved.**

**Sec. 33-471. Vertical design elements.**

~~The purpose of the vertical design standards is to help manage the above-ground design elements of a project. Vertical design elements are defined as those elements that protrude up and out of the ground and include, but are not limited to, such elements as signs, walls and buildings. The vertical design elements are set forth in section 33-471 through 33-477.~~

(Ord. No. [05-29](#), § 5, 12-13-05)

**Sec. 33-472. Building design.**

- (a) ~~To the extent possible, big box projects must be designed to create buildings that respect the area in which they are located and create a place that is attractive and flexible over time.~~
- (b) ~~Unified massing, details, and material: All buildings associated within the big box project must be developed with similar design treatment to create unity among the elements and buildings. This may include, but is not limited to, exterior materials, roof pitches and treatments, colors, proportions, ornamentation and trim in accord with the design standards for the development.~~
- (c) ~~If the primary entry does not face a public right-of-way, then additional design elements must be added to create the appearance of a public entry. (see Figure 13)~~



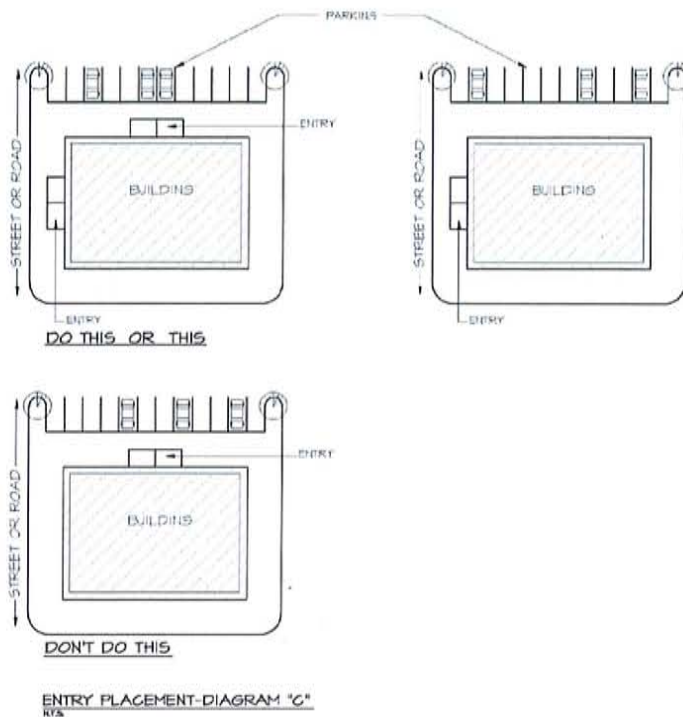
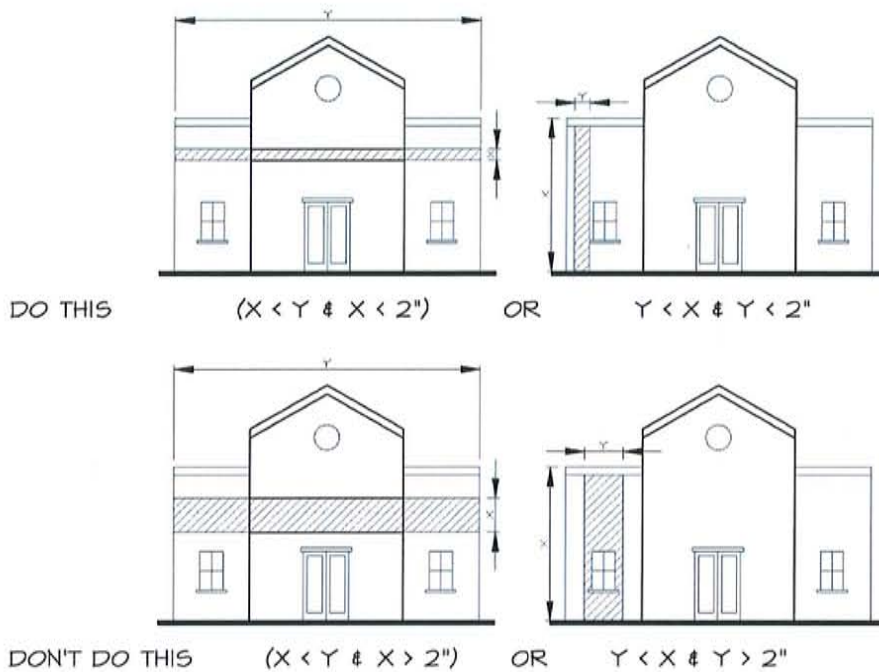


Figure 13 (s. 33-472)

(Ord. No. [05-29](#), § 5, 12-13-05; Ord. No. [07-24](#), § 6, 8-14-07)

**Sec. 33-473. Building facade.**

- (a) The treatment of the front facade must be continued, in its major features, around all sides of the building. Features must be carried for a minimum of 15 percent of the nonprimary facade and be attached to the primary facade.
- (b) Individual or individual looking exterior facades must be faced with no more than four cladding materials. These cladding materials may be combined on the facade in a horizontal manner only (i.e. base of building: one material; middle area: another material; and, the top portion: a third type of material).
- (c) Vinyl siding materials are prohibited.
- (d) Metal sided buildings are not permitted except as an accent material that does not exceed 25 percent of the building facade.
- (e) The ground floor of all building facades facing a public right-of-way must be detailed and glazed as storefronts.
- (f) Storefronts must have glazed areas equal to at least 15 percent and not more than 75 percent of the ground level portion of the facade when facing a public right-of-way.
- (g) Building color. Primary and secondary colors on the exterior of buildings are restricted to a minimum of two inches for their shortest dimension. (see Figure 14)



PRIMARY & SECONDARY ACCENT COLORS-DIAGRAM "E"  
RTA

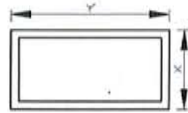
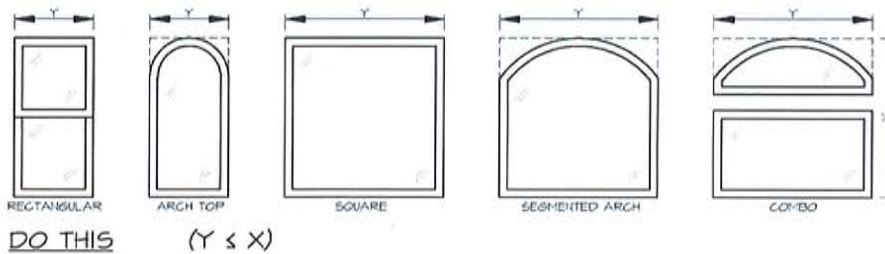
Figure 14 (s. 33-473)

(h) ~~Outdoor sales areas must be designed with similar details, colors and materials used in the primary facades of the building to which the outdoor sales area is attached.~~

(Ord. No. [95-29](#), § 5, 12-13-05; Ord. No. [07-24](#), § 6, 8-14-07)

**Sec. 33-474. Windows, doors and other openings.**

(a) ~~Openings. Windows, doors, arcades and other openings in the facade must be squared or vertical in proportion. Arched windows may be approved administratively as a window or door type provided they are square or vertical in their overall proportions. (see Figure 15)~~



DON'T DO THIS      ( $X < Y$ )

WINDOW PROPORTIONS-DIAGRAM "D"

Figure 15 (s. 33-474)

(b) ~~Windows and doors.~~

- ~~(1) "Non-motorized" sliding glass doors and or sliding windows are prohibited at ground level.~~
- ~~(2) Glass may only be clear or lightly tinted.~~
- ~~(3) Shutters. Shutters must be sized and shaped to match the opening to which they are attached.~~
- ~~(4) Awnings.~~
  - ~~a. Awnings may not have a bottom soffit panel or be backlit.~~
  - ~~b. Awnings must be sized to match the window or door openings to which they correspond, and may not extend more than two feet on either side of the opening.~~
  - ~~c. Awnings may not be used at the corner of buildings to transition from one facade to the next.~~

(Ord. No. [05-29](#), § 5, 12-13-05)

**Sec. 33-475. Roofs.**

- ~~(a) Pitched roof. All roofs must be pitched between 30 degrees and 8:12 (unless flat). Ancillary roof structures may be flat or pitched between 30 degrees and 12:12.~~
- ~~(b) Flat roof. Flat roofs must have a full parapet at the perimeter of the roof. The parapet must not be less than 24 inches or exceed 15 feet in height. The height will be measured from the deck of the flat roof to the highest point of the parapet with the exception of nonhabitable architectural elements.~~
- ~~(c) Roof changes must occur at a minimum of one per 15,000 square feet with a minimum of three for any building.~~

(Ord. No. [05-29](#), § 5, 12-13-05)

**Sec. 33-476. Walls and fences.**

- (a) ~~Walls and fences must be designed to be complementary to the main facade elements of the building.~~
- (b) ~~Fences, when not associated within a landscaped double row hedge, must be solid. Fences of chain link, barbed wire or razor wire are prohibited.~~
- (c) ~~Wall runs may not exceed 100 feet in length without a horizontal change of three feet.~~

(Ord. No. 05-29, § 5, 12-13-05; Ord. No. 07-24, § 6, 8-14-07)

**Sec. 33-477. Service areas.**

~~Service function areas, including rooftop or ground equipment and dumpster areas must be fully screened, and out of public view from ground level.~~

(Ord. No. 05-29, § 5, 12-13-05)

**Secs. 33-478—33-1000. Reserved.**

**NOTE – DELETE ALL ESTERO COMMUNITY GRAPHICS**

**Sec. 33-1431. Model homes.**

No change (a) and (b)

- (c) The following regulations will apply to redevelopment of former model homes:

**Sec. 33-1596. Use regulations.**

The following use regulations apply to property located within the commercial corridor as defined in 33-1537.\*\*\*

USE DESCRIPTION	SPECIAL NOTES OR REGULATIONS	COMMERCIAL CORRIDOR
Social services (34-622(c)(46)):	-	-
Group I	-	P
Group II	-	<u>P</u>
Group III	-	<u>Planned Development</u>
Group IV	-	<u>Planned Development</u>

\* Uses allowed by special exception may also be requested through PD zoning.

\*\*\* All planned developments approved prior to adoption of this provision will retain the uses approved.

## **MOVED FROM CHAPTER 34**

### **Article XII. The San Carlos Island Redevelopment Overlay District**

#### **Sec. 34-1141. 33-1742 Purpose and intent.**

#### **Sec. 34-1142. 33-1743 Elements of the redevelopment overlay district.**

#### **Sec. 34-1143. 33-1744 Modified land development regulations, the master plan.**

#### **Secs. 34-1144—34-1168. Reserved.**

#### **Sec. 34-1141. 33-1742. Purpose and intent.**

- (a) Purpose and affected area. The San Carlos Island Redevelopment Overlay District (District) is designed to stimulate the revitalization of San Carlos Island. A legal description of the District's boundary is set forth in Appendix I. The District is comprised of the following four sub-districts:
- (1) San Carlos Island Commercial Corridor (SCC) Sub-district,
  - (2) San Carlos Island Commercial Corridor Expansion (SCCE) Sub-district,
  - (3) San Carlos Island Fisherman's Wharf (SCF) Sub-district, and
  - (4) San Carlos Island Waterfront (SCW) Sub-district.
- (b) Optional nature of these regulations. Individual landowners may choose to follow all existing Lee County regulations when they build or rebuild, or at solely their option, they may elect to develop or redevelop under the applicable provisions of this district. However, once a landowner elects to use any of the modified development regulations of the district on a particular parcel, then the landowner must comply with all of the applicable requirements of the district for that property. A landowner's election to redevelop or develop under the applicable district provisions must follow the procedure set forth in section 34-1082(a) to become effective.
- (c) Planned development zoning.
- (1) Property previously zoned to a planned development district will not be eligible to participate in the district through the administrative approval process for redevelopment overlay districts. Instead, amendments to their existing approvals must follow the existing planned development amendment process specified in section 34-371.
  - (2) Notwithstanding the above, new planned developments electing to participate in the redevelopment overlay district may be approved as part of the district, so long as the uses requested as part of the planned development are included in Table 1, below, and requisite approvals are obtained.

- (d) Authority. This district is consistent with and helps to implement the adopted component redevelopment plan for San Carlos Island. This redevelopment overlay district complies with all requirements for such districts found in sections 34-1080 through 34-1090.

**Sec. ~~34-1142.~~ 33-1743. Elements of the redevelopment overlay district.**

This district includes two distinct elements. The first is the master site plan that modifies specified land development regulations, and authorizes changes in the uses or type of approval required for a use in the four sub-districts, as set forth in section ~~34-1143~~ 33-1744. The second element is a set of design guidelines adopted by administrative code that includes recommendations regarding landscape materials, commercial storefronts, signage and preferred colors. The design guidelines enable private landowners to construct new buildings, or to rehabilitate existing buildings and other facilities, consistent with the specified guidelines, and also encourage proper maintenance. Combined, the two elements help to facilitate the redevelopment of the district in a manner consistent with the San Carlos Island component plan.

**Sec. ~~34-1143.~~ 33-1744. Modified land development regulations, the master plan.**

The District Master Site Plan (Plan or MSP) contains graphic and textual aspects which modify the following specified land development regulations. All other Lee County Land Development Regulations remain in full effect. A reduced copy of the San Carlos Island MSP is adopted by reference and included in reduced form in Appendix I. In general, the SCC and SCF Sub-districts retain the uses allowed in the underlying zoning districts. The SCW and SCCE Sub-districts alter the uses from those of the underlying zoning district to allow those uses set forth in Table 1, below. In addition, the type of approval required for certain uses has been modified, as also set forth in Table 1.

- (a) Planning criteria and conditions for the SCCE Sub-district. No use set forth in Table 1 for the SCCE Sub-district can be approved unless the following planning criteria and conditions are found to exist by the Director or the Hearing Examiner, as applicable:
- (1) The property to be developed is under unified control, and is abutting land within either the SCC Sub-district or abutting lands previously approved for development in the SCCE Sub-district under these provisions;
  - (2) There must be a unified plan of development shown on a master development plan submitted with the development request;
  - (3) Vehicular access to the proposed development request area:
    - a. Is not allowed through a less intense or residential area; and
    - b. Must be either from San Carlos Boulevard or through joint access with adjacent properties;
  - (4) Landscaping and buffering is provided consistent with existing regulations in section 10-416, except that:
    - a. Any reduced landscaping or buffering provisions of the district may not be utilized; and
    - b. If the property to be developed abuts South Street, a buffer that conforms to section 10-416(d) must be provided along South Street; and
  - (5) The property to be developed or redeveloped must comply with all of the requirements of Chapter 10, without variances thereto.
- (b) Land development regulations - land uses. Development requests electing to apply the land development regulations of the district are processed as administrative approvals pursuant to section 34-1082(d), subject to the following:

- (1) The uses permitted within the SCC and SCF Sub-districts are those in effect for the underlying zoning district(s) at the time a legally sufficient development request is submitted.
- (2) Regardless of the uses allowed in an existing underlying zoning district(s), the only uses allowed in the SCW and SCCE Sub-districts are those set forth in Table 1 at the time a development request is deemed legally sufficient. Land uses that are not expressly included in Table 1 may be permitted by the Director only if they are no more intense than the most similar listed use, considering impacts such as noise, hours of operation, traffic generation, compatibility with the purposes of this overlay district and similar factors, and any required approvals are obtained.
- (c) Use of Table 1. The following abbreviated terms have the meaning stated and apply to Table 1 and its explanatory notes: the letter "SE" means a use only permitted by a special exception approved pursuant to section 34-145(c), approval under section 34-1082(d)(1)a is required as well; "-" means that the use is not allowed, and the letter "P" means a use is permitted subject to approval by the Director pursuant to section 34-1082.

TABLE 1  
LAND USES IN THE SCCE AND SCW SUB-DISTRICTS

Land Uses	Special Notes or Regulations	SCCE	SCW
Accessory Apartment	34-1177 Note A	P	P
Administrative Offices		P	P
ATM (automatic teller machine)		SE Note I	P Note B
Bait and tackle shop		SE Note I	P Note B
Banks and financial establishment, Group I (34-622(c)(3))		SE Note I	
Bar or cocktail lounge	34-1261 et seq.	SE Note I	SE Note B

Bed and breakfast establishments		SE Note I	-
Boats: Boat parts store Boat rental Boat repair and service Boat sales Boat storage (all heights)	34-1352	SE* SE* SE* SE* - *Note I	- P P - P
Boatyard	Note H	-	P
Clubs, Private	Note A	SE	P
Commercial fishery including land support		SE Note I	P
Commercial use of beachfront sea-ward of the water body setback line		-	P
Consumption on premises	34-1261 et seq.	SE Note I	SE Note B
Cultural facilities, excluding animal or reptile exhibits and zoos		SE Note I	-
Docking or mooring facilities		-	P
Drive-through facility for any permitted use		SE Note I	-
Dwelling unit, Multiple-family units	Note A	SE Note I	-
Entrance gates and gatehouses		SE Note I	P



Essential services	34-1611 et seq.	P	P
Essential service facilities (34- 622(c)(13)): • Group I • Group II	34-1611 et seq.	P SE	P SE
Excavation, Water Retention	34-1651(b)	P	P
Fish house, wholesale, retail		SE Note I	P
Food and beverage service, limited		SE	P Note B
Freight and cargo handling establishments (34-622(c)(17))	Note A	-	P
Gift and souvenir shop		SE Note I	-
Home Occupation		P	-
Hobby, toy, game shops (34-622(c)(21))		SE Note I	-
Hotel/motel		SE Note	-
Laundromat, Laundry or dry cleaning, Group I (34-622(c)(24))	Note B	SE Note I	
Marina	34-1862 Note G Note H	-	P
Offices, marine-oriented government	Note C	SE Note I	P
Package store	34-1261 et seq.	SE	-

		Note I	
Parks (34-622(c)(32)), public or private, Group I Groups II (limited to boat ramps & nature trails)		P SE	P P
Parking lot: Accessory Commercial Temporary		P SE SE	P - P
Personal services (34-622(c)(33)), Groups I and II		SE Note I	-
Recreation, personal (34-622(c)(38))		P	P
Rental or leasing establishments, Group I (34-622(c)(39))	34-1352, 34-3001 et seq.	SE Note I	-
Residential accessory uses (34-622(c)(42))		P	-
Restaurants (34-622(c)(43)): • Group(s) I, II • With Outdoor Seating		SE* SE* *Note I	P P
Schools, commercial (34-622(c)(45))	34-2381 Note D	SE Note I	P
Signs in accordance with chapter 30	Note F	P	P
Specialty retail shop, Group(s) I, II, III (34-622(c)(47))		SE Note J	-
Temporary uses	34-3041 et seq.	SE	P
Transportation Services, Group I (34-622(c)(53))		-	P

			Note J
Vehicle and equipment dealers, Group III (34-622(c)(55)):	34-1352	SE Note I	-

NOTES:
A. Limited to marine-oriented operations.
B. Limited to establishments which are clearly accessory and subordinate to a marina or commercial fishing land support facility.
C. Mainly the U.S. Coast Guard, Army Corps of Engineers, State Department of Environmental Protection, Marine Patrol and other marine-oriented County facilities.
D. Limited to marine-oriented schools such as sailing schools.
E. Limited to seafood markets.
F. As modified by section <del>34-1142(e)(7)</del> . <u>33-1743(e)(6) "Signs"</u>
G. In addition to the Marina Accessory uses listed in section 34-2, the following uses are included if clearly accessory and subordinate to a marina: food stores, laundry facilities, rental or leasing facilities Group I, and specialty retail shop, Group I.
H. Boat sales and boat part sales which are clearly accessory and subordinate to this use are allowed.
I. This use is only allowed east of San Carlos Boulevard.
J. This use is allowed only where the underlying zoning is CM or IM, and the Land Use Category is Urban Community.

(d) Property development regulations - all sub-districts.

- (1) Required off-street parking. Off-street parking is generally required in accordance with section 34-2011 et seq. Those requirements assume that patrons of each land use will arrive in a private automobile that will be parked in a private lot on the same premises. With the existing public parking lots in the district that may be used by the local merchants for customer parking, the number of off-street parking spaces required for any given land use must conform to section 34-2020, except that marinas and other water related uses will provide at least the following minimum number of parking spaces:

Boat slips: Two spaces per five slips.

Dry storage: One space per six slips.

Charter or party fishing boats, including passenger carrying vessels such as sunset trips, eco-trips etc., but excluding local or international cruise ships: One space per four passengers, based on the maximum capacity of the boats using the docks or loading facilities.

- (2) Alternative parking surfaces for parking lots may be permitted within the District, except for parking lots abutting San Carlos Boulevard, provided that

- a. The areas are adequately drained and continuously maintained in a dust free manner. Acceptable alternative surfaces include: gravel, crushed shell, or other similar materials. Parking on grass or other unimproved surfaces such as sand or dirt is prohibited; and
- b. Parking spaces for disabled persons must be paved with asphalt or concrete to provide a smooth surface without gaps or holes that would create a danger to the user.

- (e) Property development regulations - SCC and SCF sub-districts only. The Director may administratively approve modifications to the property development regulations, ground-mounted sign regulations, off-street parking requirements, open space and buffering requirements set forth for the underlying zoning district for those properties in the SCC and SCF Sub-districts that physically abut or front upon San Carlos Boulevard, so long as the requirements below are met. All other properties within the SCC and SCF Sub-districts are subject to the land development regulations applicable to the underlying zoning in effect at the time a legally sufficient development request is submitted.

(1) Property development regulations:

- a. Lot requirements. Minimum lot dimension or area requirements set forth for the zoning district(s) in which an eligible property is located may be administratively reduced by the Director as follows:
  1. For an existing lot where the need for the reduction resulted from a government road right-of-way acquisition program and was not otherwise self-created, or
  2. To create a new lot with a reduced lot depth, if the lot would comply with all lot width and area requirements and the lot is otherwise created in accordance with all other applicable regulations.
- b. Setbacks. The minimum street, side or rear setback requirements set forth in the property development regulations for the underlying zoning district(s) in which the property is located may be reduced by the Director as follows:

1. Existing buildings and structures. Buildings and structures within the overlay district that are not in compliance with the street setback requirements of section 34-2192 will be considered legally nonconforming, subject to the provisions of section 34-3203(a) and (b), so long as the non-compliance resulted from a governmental road right-of-way acquisition program.
  2. New buildings and structures. Any building or structure erected after January 1, 1999 must comply with all applicable setback development regulations for the underlying zoning district(s) then in effect, except that:
    - i. Where existing buildings on the abutting properties on both sides of the property in question are located closer to the street right-of-way than allowed by section 34-2192, the Director may approve a minimum street setback equal to the average setback of the existing buildings on the abutting property, or
    - ii. Where only one of the abutting lots has an existing building, the Director may approve a setback equal to one-half of the sum of the minimum setback for the existing building on the abutting lot and the required setback.
  3. Street setbacks for flag poles may be reduced by the Director so long as no part of the structure encroaches into the public right-of-way.
- c. Maximum lot coverage. If a portion of a site's parking or other development was reduced by a governmental road right-of-way acquisition program, then the site area lost thereby may be calculated as part of the overall lot area when determining maximum permitted lot coverage.
- (2) Open space, landscaping, and buffering. The minimum open space, landscaping, and buffering required for developments may be modified as follows:
- a. Lots that meet or exceed required standards. Lots that meet or exceed the minimum area requirements for the underlying zoning district(s) in which the property is located must comply with all open space, landscaping, and buffering requirements in effect at the time the development request is deemed legally sufficient.
  - b. Lots that cannot meet standards. The Director may administratively approve modifications to the buffering, open space, and landscaping requirements for lots that cannot meet the area or dimensional requirements of the underlying zoning district(s) in which the property is located where the non-compliance resulted from a governmental right-of-way acquisition program and was not otherwise self-created, as follows:
    1. Buffering. Buffer areas between parking lots and the street right-of-way line may be waived provided that a fence, wall or other acceptable method (e.g. bollards) is used to prevent vehicles from entering the parking lot or parking spaces at other than the site's designated access point. If waiving the buffering requirements would still not allow the property to be developed in compliance with all other applicable regulations, then the Director may administratively approve modifications to the open space requirements, as set forth below.
    2. Open space. The percentage of open space required by the underlying zoning district(s) may be reduced by up to 50 percent. If reducing the open space requirements by 50 percent would still not allow the property to be developed in compliance with all other applicable regulations, then the Director may administratively approve modifications to the landscaping requirements, as set forth below.
    3. Landscaping. Landscaping requirements may be reduced in proportion to approved modifications to the open space requirements.

- (3) Access. The Director, subject to approval of the Florida Department of Transportation, where required, may reduce the access point distance separation requirements to accommodate driveway or parking lot accesses, but only if they provide the sole vehicle access to two or more abutting properties.
- (4) Off-street parking. Alternative parking patterns such as off-site or shared parking lots are encouraged in the SCC and SCF subdistricts. To allow flexibility in meeting a site's parking requirements, the Director may make modifications as follows:
  - a. Properties meeting certain minimum lot requirements. No parking modifications may be administratively approved for any use located on a lot or parcel that meets the minimum lot depth, width, and area requirements for the underlying zoning district(s) in which located notwithstanding the effect of a governmental right-of-way acquisition program.
  - b. Properties reduced below minimum depth requirements.
    1. The Director may administratively reduce the number of required parking spaces otherwise required in proportion to any reduction in a parcel's area resulting from a governmental right-of-way acquisition program. For example, if a lot lost 1,000 square feet of area for road right-of-way (ROW) purposes (100 foot frontage by ten-foot depth for new ROW) and the resulting lot depth was reduced below the minimum for the underlying zoning district(s), then the parking requirements may be reduced by the Director up to six spaces (1,000 square feet divided by 162 square feet, the area of the standard parking space, i.e. nine feet by 18 feet, which equals 6.17, reduced to the next lower whole number, six) in order to meet the parking requirement. If the parking requirements still can not be met, the Director may administratively approve the minimum number of off-site parking spaces necessary to meet the site's parking requirements, so long as:
      - i. The site's property owner has entered into a written agreement with the property owner of the off-site parking lot that has been approved by the County Attorney's office and recorded in the County's public records;
      - ii. The furthest parking space in the off-site parking lot is located no more than 300 feet from the property in question; and
      - iii. No road or other restrictive barrier exists between the use and the parking lot that would prohibit safe pedestrian travel.
    2. To allow flexibility in meeting a site's parking requirements, the Director may administratively approve a request to allow up to 50 percent of the required number of parking spaces for land uses in the SCC and SCF Sub-districts to be located off-site, so long as the requirements of sections 34-1089 and 34-2020(e) are met.
- (5) Off-street loading. Businesses within these Sub-districts are exempt from providing designated off-street loading zones as required by division 25, section 34-1981, et seq.
- (6) Signs.
  - a. All signs within the SCC and SCF Sub-districts must comply with chapter 30 except that where an existing building on the property is closer to the right-of-way than the minimum setback required by section 34-2192 as a result of a governmental right-of-way acquisition program such that a ground-mounted sign could not be located between the existing building and the right-of-way and still comply with chapter 30, then the Director may administratively approve either of the following alternatives:
    1. Reduce the required sign setback to accommodate a permitted ground-mounted sign, provided that no part of the sign may encroach into or over the public right-

- of-way or otherwise create an unsafe condition for passing motorists (see section 30-1(b)); or
2. Approve a ground-mounted sign to be located in the side yard next to the building but at a higher height than normally permitted, provided that the sign is the minimum height necessary to sufficiently convey a message about the owner or occupants of the property, the commodities, products or services available on the property, or the business activities conducted on such property (see section 30-1(e)(4)); and does not exceed 30 feet in height.
- b. New billboards are not permitted within the SCC or SCF Sub-districts. Existing billboards destroyed by fire or other natural forces beyond 50 percent may be rebuilt in their current locations, at their current size.
- (f) Property development regulations - SCW and SCCE Sub-districts and certain properties in the SCC and SCF Sub-Districts. Modified land development regulations for the SCW and SCCE Sub-districts and those properties in the SCC and SCF Sub-districts which do not abut or front upon San Carlos Boulevard are set forth in Table 2, below. Off-street parking for these areas is addressed in sub-section (g) below. Except where specifically noted, the terminology and special regulations found in Table 2 have the same meaning and effect as they do throughout this chapter. All other land development regulations applicable to the underlying zoning district(s) and development request will continue to have their same force and effect.

**TABLE 2  
PROPERTY DEVELOPMENT REGULATIONS  
FOR SCW, SC CE, AND PORTIONS OF SCC AND SCCF SUB-DISTRICTS\***

	Special Notes or Regulations	*As limited in <del>34-1143</del> <u>33-1744</u> (f), above
Minimum Lot Area and Dimensions		
Minimum Lot Size:	34-2221,	10,000 sq. ft.
Lot Width	34-2222,	50 ft.
Lot Depth	34-2142	100 ft.
Minimum Building Setbacks:		
Street (from edge of Rt-of-way)	34-2191	25 ft.
Side Yard	34-2192	20 ft.
Rear Yard	34-1174	20 ft.

Water Body	Notes B & C	25 ft.
Minimum Building Separation		20 ft.
Minimum Accessory Use Setbacks		25 ft.
• Street		25 ft.
• Side and Rear Lot Lines	Note A	0 ft. or 20 ft.
• Water Body	Notes B & C	25 ft.
Maximum Height	34-2171 et seq. Note D	35 ft. or 3 habitable stories, whichever is less
Maximum Lot Coverage		60%

Notes: All notes referencing LDC sections must be complied with and met, plus the following as applicable:
A. The 0 feet setback applies only to attached commercial buildings
B. Limited to docks, non-roofed boardwalks, and decks with public access.
C. Boat service buildings or boat service structures, whether principal or accessory structures, may be built up to the mean high-water line, as applicable.
D. For boat storage facilities-dry located within an existing IM, IL and CM zoning district(s) located in the SCW Sub-district, the set back requirements of section 34-2174 are modified to only require the setbacks for heights greater than 55 feet above mean sea level.

- (g) Off-street parking for the SCW and SCCE Sub-districts and certain properties in the SCC and SCF Sub-Districts. It is an important element of this District is to allow alternative parking patterns such as shared parking lots for the SCW and SCCE Sub-districts and those properties in the SCC and SCF Sub-districts that do not abut or front upon San Carlos Boulevard. To allow flexibility in meeting a site's parking requirements in these areas, the Director may



administratively approve a development request to allow up to 50 percent of the required number of parking spaces for any land use in the SCW and SCCE Sub-districts and those properties in the SCC and SCF Sub-districts that do not abut or front upon San Carlos Boulevard to be located off-site, so long as:

- (1) The site's property owner has entered into a written agreement with the property owner of the off-site parking lot which has been approved by the County Attorney's Office and recorded in the County's public records;
- (2) No road or other restrictive barrier would exist between the site and the proposed off-site parking that would prohibit safe pedestrian travel; and
- (3) The furthest parking space in the off-site parking lot is located no more than 300 feet from the property in question, except that:
  - a. The Director may approve the use of parking spaces greater than 300 feet off-site up to 1,000 feet off-site, so long as the applicant demonstrates that no other spaces for parking are available closer than those being proposed; or
  - b. If there are still not a sufficient number of spaces available within 1,000 feet, then so long as a shuttle service acceptable to the Director is provided and maintained between the parking spaces and the use(s) they serve, such parking may be used to meet up to 50 percent of the overall parking requirement.

## CHAPTER 34

### Sec. 34-2. Definitions.

***Agritourism activity*** means any agricultural related activity on land classified as agricultural under F.S. § 193.461 that is consistent with and accessory to a bona fide farm, livestock operation, or ranch or in a working forest which allows members of the general public, for recreational, entertainment, or educational purposes, to view or enjoy activities, including farming, ranching, historical, cultural, civic, ceremonial, training and exhibition, or harvest-your-own activities and attractions. An agritourism activity does not include the construction of new or additional structures or facilities intended primarily to house, shelter, transport, or otherwise accommodate members of the general public. An activity is an agritourism activity whether or not the participant paid to participate in the activity.

***Storage*** means the safekeeping of goods, wares, products or other commodities in an area for more than 48 hours for later use or disposal. The term "storage" includes the keeping of boats, cars, recreational vehicles, etc., for others, whether or not compensation is made to the property owner. The term does not include animals, nor does it apply to the outdoor display of products for sale by such as boats, mobile homes, construction equipment or vehicles dealers, or landscaping materials, or customary and usual activities accessory to agricultural or residential uses dwellings.

### Sec. 34-6. Compliance with specific planning community requirements.

If the subject property is located in one of the following communities, the owner/applicant will be required to demonstrate compliance with the requirements applicable to the specific community as outlined in Chapter 33.

(4) ~~Estero Planning Community.~~

(1) (2) Greater Pine Island.

- (2) (3) Page Park.
- (3) (4) Caloosahatchee Shores.
- (4) (5) Lehigh Acres.
- (5) (6) North Fort Myers.
- (6) (7) Matlacha.
- (7) (8) Upper Captiva.
- (8) (9) North Olga.
- (9) San Carlos Island Overlay District

**Sec. 34-145 Functions and Authority (Hearing Examiner)**

**No change (a) through (e)**

- ~~(f) Equitable jurisdiction. The Hearing Examiner does not have the authority to render decisions based on the law of equity in proceedings under this section.~~
- (g) (f) The Hearing Examiner is limited to the authority granted within County regulations. The Hearing Examiner may consider state, federal, or common law in the application of the County regulations.

**Sec. 34-202. General submittal requirements for applications requiring public hearing.**

- (a) All applications. Every request for actions requiring a public hearing under this chapter must include the following. However, upon written request, on a form prepared by the County, the Director may modify the submittal requirements contained in this section where it can be clearly demonstrated that the submission will have no bearing on the review and processing of the application. The request for a waiver or modification must be submitted to the Director prior to submitting the application. A copy of the request and the Director's written response must accompany the application and will become a part of the permanent file.

**No change (1) and (2).**

- (3) Certification of title and encumbrances. Certification of title and encumbrances submitted for property subject to zoning approval must meet the following criteria:
  - a. Form. The certification of title must be in one of the following forms:
    - i. Title certificate or title opinion, no greater than 90 days old at the time of the initial development order submittal. The title certification submittal must be either an opinion of title meeting the Florida Bar Standards prepared by a licensed Florida attorney or a certification of title/title certification prepared by a title abstractor or company.
    - ~~ii. Ownership and encumbrance report, no greater than 30 days old at the time of the initial development order submittal.~~
    - ~~iii.~~ ii. Title Insurance Policy with appropriate schedules, no greater than five years old at the time of the initial ~~development order~~ zoning case submittal and an affidavit of no change covering the period of time between issuance of the policy and the application date. If submission of a complete affidavit of no change is not possible, a title certificate, or title opinion ~~or ownership and encumbrance report~~ must be submitted in the alternative.
  - b. Content. The certification of title must include, at a minimum, the following:

- i. The name of the owner or owners of the fee title;
- ii. All mortgages secured by the property;
- iii. All easements encumbering the property;
- iv. The legal description of the property; and
- v. The certification of title documentation must be unequivocal.

(b) Additional submittal requirements for owner-initiated applications. In addition to the submittal requirements set forth in (a), every application initiated by a property owner involving a change in the zoning district boundaries, or a request for special exception, deviation or variance, applicable to the property owner's land must include the following:

**No change (1), (2) and (3).**

(4) Reserved.

~~Hazardous materials emergency plan for port facilities. Any applicant seeking a rezoning for a private port facility must submit a hazardous materials emergency plan, which will be subject to the approval of the County Divisions of Emergency Management, Water Resources and Planning, and of the appropriate fire district. The plan must provide for annual monitoring for capacity and effectiveness of implementation. At the minimum, the plan must comply with the spill prevention control and countermeasure plan (SPCC) called for in the Federal Oil Pollution Prevention Regulations, 40 CFR 112, as amended.~~

(5) *Bonus density.* When applicable, the number of bonus density units requested, ~~the source of the bonus density units (TDR's, housing density bonus, etc.), and the resulting gross residential density of the proposal, and documentation substantiating compliance with each of the review criteria set forth in section 2-146.~~ A copy of the bonus density application must also be included as an attachment to the zoning application.

**No change (6), (7) and (8).**

**Sec. 34-204. Submittal requirements for Administrative Action applications.**

(a) All applications. Every request for Administrative actions not requiring a public hearing under this chapter must include the following. Upon written request, on a form prepared by the County, the Director may modify the submittal requirements as set forth in section 34-203(h).

(1) The STRAP (Section, Township, Range, Area, Parcel) number for the subject property. This number is used by the Property Appraiser to identify the subject property.

If the subject property includes a portion of property within one STRAP, then in addition to the STRAP number, a metes and bounds legal description must also be submitted as follows:

Legal description and sketch to accompany legal description. A metes and bounds legal description along with a sketch of the legal description, prepared by a Florida Licensed Surveyor and Mapper, must be submitted, unless the property consists of one or more undivided lots within a subdivision platted in accordance with F.S. Ch. 177. If the subject property is one contiguous parcel, the legal description must specifically describe the entire continuous perimeter boundary of the property subject to the zoning action with accurate bearings and distances for every line. If the application seeks to rezone undivided, platted lots, then a complete legal description (i.e. lot, block, subdivision name, public records recording

information) of the platted subject property is required. The Director has the right to reject any legal description that is not sufficiently detailed so as to locate the property on County maps.

- (2) ~~Reserved. The STRAP (Section, Township, Range, Area, Parcel) number for the subject property. This number is used by the Property Appraiser to identify the subject property.~~

**Sec. 34-210. Temporary use permits.**

**No change (a), (b) and (c).**

- (d) Additional required information. In addition to the application information, the applicant shall submit satisfactory evidence of the following:

**No change (1) – (5).**

- (6) Evidence shall be submitted that, where applicable, the applicant for a proposed use has complied with Ordinance No. 94-26- 14-18 of the County, pertaining to special events.

**Sec. 34-622. Use activity groups.**

**No change (a) and (b)**

**No change (1) through (37)**

- (c) Use activity groups are as follows:

- (38) Recreation facilities, commercial. Recreational facilities, not specifically regulated elsewhere in this Code, operated as a business and open to the public for a fee. This does not include facilities owned or operated by a government unit.

<b>GROUP I</b>
Coin-operated amusement establishments that primarily provide coin-operated amusement devices; coin-operated includes coins, tokens or other similar devices
<u>This neither authorizes nor permits any use or activity in violation of the provisions found in Florida Statutes Chapter 849, Gambling.</u>
<b>GROUP IV. Indoor facilities.</b>
<u>Indoor Gun Range</u>

**Sec. 34-625. Outdoor lighting standards.**

(d) Standards and criteria. In addition to the standards and criteria for outdoor lighting established in this subsection, there are standards for sea turtle lighting in chapter 14, article 1, division 2 of this Code and further technical standards are specified in a related County Administrative Code. When specific standards are not addressed in these sources, the standards contained in the Illuminating Engineering Society of North America (IESNA) Handbook, (latest edition) will apply.

(4) Luminaire mount standards. the following standards apply to luminaire mountings.

c. *Canopy lighting.* Light fixtures mounted on the underside of a canopy must be recessed or shielded full cutoff type so that the light is restrained to 85 degrees or less from the vertical. As an alternative (or supplement) to the canopy ceiling lights, indirect lighting may be used where the light is beamed upward and then reflected down from the underside of the canopy. When this method is used, light fixtures must be shielded so that direct illumination is focused exclusively on the underside of the canopy. ~~No part of the canopy may be back-lighted.~~ Exposed Lights may not be mounted on the top or sides (fascias) of the canopy. The sides (fascias) of the canopy may not be illuminated in any manner as long as the illumination is consistent with the county restrictions on off-site light spillage which must be analyzed in the photometry plan.

**Sec. 34-691. Purpose and intent.**

(a) RSC-1 residential single-family conservation district. The purpose and intent of the RSC-1 residential single-family conservation district is to recognize and protect existing single-family residential developments, lots, structures and uses, previously permitted but not conformable to the regulation for other single-family residential districts set forth in this chapter, and to accommodate residential use of lawfully existing lots nonconforming under previous zoning regulations. This district may be applied to any land use category allowing residential uses set forth under the Lee Plan. This district is not available for new developments, but may be used only by property owners in existing developments that comply with the property development regulations or by the Board of County Commissioners upon its own initiative to achieve the purpose mentioned in this section. For the RSC-2 zoning district see Sec. 33-1626.

**Sec. 34-715. Property development regulations table.**

Property development regulations for multiple-family districts are as follows:

TABLE 34-715. PROPERTY DEVELOPMENT REGULATIONS FOR MULTIPLE-FAMILY RESIDENTIAL DISTRICTS

	Special Notes or Regulations	RM-2	RM-3	RM-6	RM-8	RM-10
Minimum lot area and dimensions:	34-1493, 34-1494, 34-2221, 34-2222, 34-2142					
Single-family detached:	Note (7)					
Minimum lot size		6,500	14,500	7,500	6,500	6,500

	(square feet)		(1)				
	Lot area per unit (square feet)		6,500 (1)	14,500	7,500	6,500	6,500
	Lot width (feet)		65	75	75	65	65
	Lot depth (feet)		100	100	100	75	75
	Duplex, two-family, townhouse:	Note (7)					
	Minimum lot size (square feet)	34-713	7,500 (2)	29,000	14,000	10,000	10,000
	Lot area per unit (square feet)		3,750	14,500	7,000	5,000	5,000
	Lot width per unit (feet)		37.5	50	50	40	40
	Lot depth (feet)		100	100	100	100	100
	Multiple-family:	Note (7)					
	Minimum lot size (square feet)		10,000	43,500	20,500 (3)	15,000	12,000
	Lot area per unit (square feet)		3,000	14,500	6,500 (3)	5,000	4,000
	Lot width (feet)		100	100	100	100	100
	Lot depth (feet)		100	120	120	120	120
	Nonresidential uses:						
	Lot area (square feet)		10,000	20,000	10,000	10,000	10,000
	Lot width (feet)		75	100	75	100	100

Lot depth (feet)		100	100	100	100	100
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Notes:

**No change Note (1) and (2).**

~~(3) 14,000 square feet for the first two dwelling units plus 6,500 square feet for each additional dwelling unit in the same building. Reserved.~~

**No change Note (4) through (7).**

**Sec. 34-813. Use regulations table.**

Use regulations for the community facilities districts are as follows:

TABLE 34-813. USE REGULATIONS FOR COMMUNITY FACILITIES DISTRICTS

	Special Notes or Regulations	CF
<u>Maintenance facility (government)</u>		<u>P</u>

**Sec. 34-844. Use regulations table.**

Use regulations for conventional commercial districts are as follows:

TABLE 34-844. USE REGULATIONS FOR CONVENTIONAL COMMERCIAL DISTRICTS

	Special Notes or Regulations	C-1A	C-1	C-2	C-2A	CN-1	CN-2	CN-3 (21, 23)	CC	CG	CS-1	CS-2	CH	CT	CR	CI	CP
Recreation, facilities:																	
Commercial (34-																	

622(c)(38))																		
Group I		P	P	P	P	—	—	P	P	P	—	—	—	P	—	—	—	
Group III	Note(20)	—	P/SE	P/SE	P/SE	—	—	—	—	—	—	—	—	P/SE	—	—	—	
Group IV	Note(20)	<u>P</u>	—	—	—	—	—	—	P/SE	P/SE	—	—	—	P/SE	—	—	—	

**Sec. 34-903. Use regulations table.**

Use regulations for industrial districts are as follows:

TABLE 34-903. USE REGULATIONS FOR INDUSTRIAL DISTRICTS

	Special Notes or Regulations	IL Note (14)	IG Note (14)	IR Note (14)
Food and kindred products (34-622(c)(15)):				
Group I	Note (9)	—	P	P
Group II	Note (9)	SE <u>P</u>	P	P
Group III	Note (9)	P	P	—

**Sec. 34-934. Use regulations table.**

Use regulations for planned development districts are as follows:

TABLE 34-934. USE REGULATIONS FOR PLANNED DEVELOPMENT DISTRICTS

	Special Notes or Regulations	RPD	MHPD	RVPD	Compact PD	CFPD	CPD	IPD Note (37)	AOPD	MPD	MEPD
Accessory uses and structures	Note (1), 34-1171 et seq.,	P	P	P	—	P	P	P	P	P	—



	34-2441 et seq., 34-1863, 34-2141 et seq., 34-3106										
Accessory apartment	Note (2), (21), & (28), 34-1177	P	—	—	—	—	—	—	—	P	—

Notes:

**No change Note (1) through (20).**

(21) In RPDs, MHPDs, and residential areas of MPDs, a special exception is may be required.

**No change Note (22) through (49).**

***DIVISION 11. REDEVELOPMENT OVERLAY DISTRICTS***

Subdivision I. - General Requirements

Subdivisions II—V. - Reserved

~~Subdivision VI. — The San Carlos Island Redevelopment Overlay District~~

**Sec. 34-1177. Accessory apartments.**

**No change (a)**

(b) Applicability. This section sets forth the requirements for accessory apartments, when subordinate to a single-family detached dwelling unit. The requirements of this section apply to accessory apartments whether they are listed as a permitted use or a use by ~~special exception~~ administrative approval.

**Sec. 34-1261. Definitions.**

For purposes of this division and when referred to elsewhere in this chapter, certain terms or phrases shall have the following meaning:

Noise means sound or vibrations which are defined as either noise or noise disturbance in the Lee County Noise Control Ordinance, Ordinance No. 82-32, as amended by Ordinance No. 83-22-14-18 and as subsequently amended.

**Sec. 34-1264. Sale or service for on-premises consumption.**

- (a) Approval required. The sale or service of alcoholic beverages for consumption on the premises is not permitted until the location has been approved by the County as follows:
- (1) Administrative approval. The Director of the Department of Community Development may administratively approve the sale or service of alcoholic beverages for consumption on the premises when in conjunction with the following uses, if the proposed use satisfies the requirements set forth in this division. When circumstances so warrant the Director may determine administrative approval is not the appropriate action and that the applicant must instead apply for approval as a special exception. Such circumstances may include the previous denial by the Director or by a hearing board of a similar use at that location, the record of public opposition to a similar use at that location, and similar circumstances. When the Director has approved a request for consumption on the premises at a location where the actual building has not been constructed, the Director may not approve another request for consumption on the premises within one year's time, which could potentially violate the distance requirements. If the first building is completed within less than one year, and it can be shown the second use would not violate the prescribed distance requirements, the Director may approve the second location subject to all other requirements contained in this division.
- a. County-owned airports, arenas and stadiums, including liquor, beer, malt liquor and wine in restaurants, bars, lounges, concessions, concession stands and package stores at County-owned airports;
  - b. Bars, cocktail lounges, or night clubs located in commercial and industrial zoning districts that permit bars, cocktail lounges or night clubs, provided the standards set forth in subsections (b)(1) and (3) of this section are met;
  - c. Bowling alleys and movie theaters provided the standards set forth in subsections (b)(2)a and (b)(3) of this section are met;

**No change (d) through (j).**

**Sec. 34-1292. Horses and other equines.**

The keeping, raising or breeding of horses or other equines is a permitted use or special exception in the AG, RS-4, RS-5 and MH-4 districts and in the RPD, MHPD, and MPD districts when approved as part of the master concept plan, as follows:

**No change (1) and (2).**

- (3) Commercial stables. Commercial stables are permitted by special exception, as specified in zoning district regulations, provided that there is compliance with this division. Commercial stables may allow horse shows and exhibitions, which may include riding exhibitions, riding lessons, dressage, roping and cutting, as ancillary uses subject to the following:

**No change a. through d.**

- e. Music and noise audible at the property line must be measured and restricted as provided in the Lee County Noise Control Ordinance, Ordinance No. 82-32, 14-18 as subsequently amended.

**No change f. and g.**

**Sec. 34-1352. Display, sale, rental or storage facilities for motor vehicles, boats, recreational vehicles, trailers, mobile homes or equipment.**

No changes (a) though (d)

(e) ~~Storage areas facilities.~~ Areas used only for the commercial storage of motor vehicles, boats, trailers, recreational vehicles, mobile homes and construction or farm equipment which is not being displayed for sale or rent must be enclosed and buffered (see section 34-3005(b) and 10-416(d)).

**Sec. 34-1353. Convenience food and beverage stores, ~~automotive~~ automobile service stations, fast food restaurants, and car washes.**

(g) *Canopies.*

- (1) Flat-roof canopies are ~~prohibited~~ allowed unless prohibited by conditions in a Planned Development. Canopies must be consistent with the architectural design, predominant color and features of the principal structure.
- (2) Canopy lighting must comply with section 34-625(d)(4)c.
- (3) Canopies must be ~~of one color~~, consistent with the predominant color of the principal structure.

(h) *Accent banding:* ~~Color accent banding on all structures, including canopies, is prohibited and raised architectural features are permitted unless prohibited by conditions in a Planned Development.~~

**Sec. 34-1354. Variances or deviations.**

The provisions of this section apply to all new development, including redevelopment.

- (1) A deviation or variance from the requirements stated in sections 34-1352 and 34-1353 must be obtained through the public hearing process unless the project qualifies for administrative relief under section 34-1354(3).
- (2) The applicant must demonstrate that the granting of the deviation or variance will not have an adverse impact on adjacent land uses in addition to the requirements set forth in section 34-145.
- (3) ~~Project rendered nonconforming by the adoption of section 34-1352 and 34-1353~~ Commercial or Industrial-zoned properties less than 3 acres in size may obtain administrative relief from section 34-1352 and/or 34-1353 to facilitate new development or redevelopment of the site. Development of these nonconforming projects sites will be limited to development that will bring the site more into greater compliance with sections 34-1352 and 34-1353 given the existing site constraints such as location and configuration of existing buildings, parking areas, drainage, easements and/or other conditions. Commercial or industrial zoned properties 3 acres or greater in size may utilize the public hearing process for deviations or variances from section 34-1352 and/or 34-1353.

**Sec. 34-1414. Continuing care facilities.**

**No change (a) and (b).**

(c) Density. Density equivalents for a continuing care facility will be calculated for any assisted living facility units and nursing beds pursuant to division 12, subdivision II, of this article, and for independent living units on the basis of two independent living units equal to one residential dwelling unit.

(1) Where health care, social service, adult living facilities (ALF), continuing care facilities, or other "group quarters" (df) are provided in dwelling units, wherein each unit has its own cooking facilities, density equivalents will be calculated on a 1:1 ratio.

(2) Except as may be specifically set forth elsewhere in this chapter, where health care, social service, adult living facilities (ALF), continuing care facilities (CCF), or other "group quarters" (df) are provided in dwelling units or other facilities wherein each unit does not have individual cooking facilities and where meals are served at a central dining facility or are brought to the occupants from a central kitchen, density equivalents will be calculated at the ratio of four people equals one dwelling unit.

A planned development, for which the master concept plan states the number of persons that may occupy an approved adult living facility (ALF) or Continuing Care Facility (CCF), may request an amendment to the approved master concept plan to reflect the increased number of occupants based upon the equivalency factor set forth in this section (if applicable). Such amendment will be considered a minor administrative amendment that will be deemed to not increase density and may be approved pursuant to section 34-380(b) as long as existing floor space is not increased to accommodate the increased number of occupants. If increased floor space is required, then a public hearing will be required.

Also see Sec. 34-1394 Density equivalents.

**No change (d), (e) and (f).**

**Sec. 34-1494. Density equivalents.**

**No change (a).**

(b) Equivalency factors:

(See Sec. 34-1414(c) for assisted living facility units and nursing beds, independent living units, health care, social service, adult living facilities (ALF), continuing care facilities (CCF), or other "group quarters")

(1) Where health care, social service, adult living facilities (ALF), continuing care facilities, or other "group quarters" (df) are provided in dwelling units, wherein each unit has its own cooking facilities, density equivalents will be calculated on a 1:1 ratio.

(2) Except as may be specifically set forth elsewhere in this chapter, where health care, social service, adult living facilities (ALF), continuing care facilities (CCF), or other "group quarters" (df) are provided in dwelling units or other facilities wherein each unit does not have individual cooking facilities and where meals are served at a central dining facility or are brought to the occupants from a central kitchen, density equivalents will be calculated at the ratio of four people equals one dwelling unit.

A planned development, for which the master concept plan states the number of persons that may occupy an approved adult living facility (ALF) or Continuing Care Facility (CCF), may request an amendment to the approved master concept plan to reflect the increased number of

~~occupants based upon the equivalency factor set forth in this section (if applicable). Such amendment will be considered a minor administrative amendment that will be deemed to not increase density and may be approved pursuant to section 34-380(b) as long as existing floor space is not increased to accommodate the increased number of occupants. If increased floor space is required, then a public hearing will be required.~~

- ~~(3 1)~~ Notwithstanding subsection (b)(2) above Sec. 34-1414(c)(2), no density equivalency calculation is required for a bed and breakfast (df) in an owner-occupied conventional single-family residence (df) accommodating four or less lodgers. If the bed and breakfast will accommodate more than four lodgers, then the equivalency will be calculated as four lodgers equals one dwelling unit.
- ~~(4 2)~~ Notwithstanding subsection (b)(2) above Sec. 34-1414(c)(2), no density calculation is required for hospital, prison, jail, boot camp, detention center, or other similar type facility owned or operated by a County, state or federal agency.
- ~~(5 3)~~ Where dwelling or living units have "lock-off accommodations," density will be calculated as follows:
- a. Hotels/motels: "Lock-off units" will be counted as separate rental units regardless of size.
  - b. Timeshare units: Lockoff units will be counted as separate dwelling units whether or not they contain cooking facilities, as follows:
    - i. Studio units will be counted as 0.1 dwelling units;
    - ii. One bedroom units will be counted as 0.25 dwelling units;
    - iii. Two bedroom units will be counted as 0.5 dwelling units;
    - iv. Three or more bedrooms will be counted as a full dwelling unit.

**No change (c).**

### **Sec. 34-2019. Other use of parking lots.**

Except as provided in this section, required off-street parking areas may not be utilized for the sale, display or storage of merchandise, or for repair, dismantling or servicing of vehicles or equipment.

**No change (1) and (2).**

~~(3) Carnivals, fairs and amusement attractions and devices.~~

- ~~a. If the uses are located in an existing parking lot, the parking lot must have enough spaces to comply with the minimum requirements for the principal use and the carnival, fair or amusement attraction or device (see section 34-2020(b)). Prior to obtaining a temporary use permit (see division 37 of this article) for the temporary use of a parking lot, the applicant must submit a site plan showing there will be no net loss or reduction in the number of parking spaces required for any existing principal use that relies on the parking lot.~~
- ~~b. The temporary uses may not be located in a parking lot that is nonconforming as to the number of spaces needed for the existing uses.~~

### **Sec. 34-2020. Required parking spaces.**

All uses are required to provide off-street parking based on the single-use development requirement unless the use is located in a development that qualifies as a multiple-use development, in which case,

the minimum required spaces for multiple-use developments may be used. Use of the multiple-use development minimum parking regulations is optional.

Parking for uses not specifically mentioned in this section must meet the minimum parking requirement for the use most similar to that being requested.

- (a) Residential uses. Residential uses permitted under this chapter are subject to the following minimum requirements:

TABLE 34-2020(a). REQUIRED PARKING SPACES FOR RESIDENTIAL USES

	Use	Special Notes or Regulations	Special Notes or Regulations	Minimum Required Spaces for Multiple-Use Development
1.	Single-family, duplex, two-family attached and mobile home units.		2 spaces per unit	—
2.	Townhouses.	Note (1)	2 spaces per unit	—
3.	Multiple-family and timeshare units.	Note (1) & (3)	2 spaces per unit	—
4.	Assisted living facilities.	Note (2), <u>34-1414(c) et seq. &amp; 34-1494 et seq.</u>	0.54 spaces per unit	0.41 spaces per unit
5.	Continuing care facilities.	Note (2), <u>34-1414(c) et seq. &amp; 34-1494 et seq.</u>	1.12 spaces per unit	1 space per unit
6.	Independent (self-care) living facilities, including group quarters, health care (grps I & II), social services (grps III & IV) and other similar uses.	Note (2), <u>34-1414(c) et seq. &amp; 34-1494 et seq.</u>	1 space per unit	0.59 spaces per unit
7.	<u>Clubhouse and Ancillary Uses within a Residential Community without a Golf Course</u>	<u>Note 4.</u>	<u>4 spaces per 1000 square feet of total floor area</u>	<u>3.5 spaces per 1000 square feet of total floor area</u>

Notes:

**No change Note (1), (2) and (3).**

(4). May include administrative office or other ancillary uses to the clubhouse such as a gyms and/or meeting rooms.

(b) Non-residential uses. Non-residential uses permitted under this chapter are subject to the following minimum requirements:

TABLE 34-2020(b). REQUIRED PARKING SPACES FOR NON-RESIDENTIAL USES

Use	Special Notes or Regulations	Minimum Required Spaces for Single-Use Development	Minimum Required Spaces for Multiple-Use Development
Airports, landing strips and heliports.		Determined by the Director	—
Animal clinics.		5 spaces per veterinarian plus 1 space per employee	—
Animal kennels.		5 spaces	—
Automotive drive-in oil change establishments.	34-2021(c)	1.5 spaces per service bay	—
Automotive repair and service (excluding drive-in oil change establishments); automotive service stations.		4 spaces per service bay plus 1 space per employee	—
Banks and financial establishments.	34-2021(a)	3 spaces per 1,000 square feet of total floor area	2.5 spaces per 1000 square feet of total floor area
Bars and cocktail lounges, nightclubs.	Note (1)	21 spaces per 1,000 square feet of total floor area	14 spaces per 1,000 square feet of total floor area
Barbershops, beauty shops, massage parlors, etc. (personal services group II)		3 spaces per operator (chair) or 1 space per 100 square feet, whichever is greater, with a minimum of 5 spaces	—
Bed and breakfast.	34-1494(b)(3) 1)	1.2 spaces per rental unit	—
Bowling alleys.	Note (1)	4 spaces for each lane	—

Carnivals, fairs and amusement attractions and devices.	<del>34-2019(3)</del> <u>34-3042(b)</u>	10 spaces per amusement device	—
Car washes.	34-2021(b)	1.5 spaces per car stall	—
Convenience food and beverage stores.	Notes (1) & (15)	1 space per 200 square feet of total floor area (one parking space per four fuel pumps will be credited against the required parking), with a minimum of 5 spaces	—
Day care centers.	Note (2)	2 spaces per employee	—
Educational institutions:			
a. Public schools.		Parking must be provided In compliance with state law	—
b. Private or parochial schools:		—	—
1. Elementary or middle schools.		1 space per employee plus 1 space per 40 students	—
2. High schools.		1 space per employee plus 1 space per 10 students	—
3. Colleges, universities and trade and vocational institutions.	Note (3)	1 space per employee plus student parking as the Director deems necessary	—
Essential service facilities.		1 space per employee on the largest shift	—
Flea market, Indoor.		1 space per 100 square feet of total floor area	—
Flea market, Open.		5 spaces per rental space or booth	—
Funeral homes.	Note (14)	1 space per 4 seats or 4	—



		spaces per 250 square feet of chapel area, whichever is greater	
Golf courses.	Note (4)	6 spaces per hole	—
Health and Fitness Clubs.	<del>34-2020(b)</del>	7 spaces per 1,000 square feet of total floor area	5 spaces per 1,000 square feet of total floor area
Hospitals (health care facilities, group IV).		1 space per bed, excluding bassinets and gurneys, plus 1 space per employee on the largest shift	—
Hotels and motels.	Note (1), 34-1801 et seq.	1.2 spaces per rental unit	—
Marinas and other water-oriented uses.	Note (1)	—	—
a. Boat slips.		1 space for every 2 slips	—
b. Boat ramps.	Note (5)	10 spaces per boat ramp	—
c. Multi-slip docking facility.		Determined by Director	—
d. Dry storage.		1 space per 5 unit stalls	—
e. Charter or party fishing boat.	Note (6)	1 space per 3 people	—
f. Local cruise ships.	Note (6)	1 space per 2 people	—
g. International cruise ships.	Note (6)	1 space per 3 people	—
h. Live-aboards.		2 spaces per 3 live-aboards	—
Manufacturing and light industrial.	Note (1)	1.75 spaces per 1,500 square feet of total floor area	1.5 spaces per 1,500 square feet of total floor area
Meeting halls, clubs (fraternal and membership) and other places for group	Notes (7) &	1 space per 100 square feet	—

assembly not otherwise listed.	(14)	of total floor area	
Miniature golf.	Note (1)	1.5 spaces per hole	—
Multiple-occupancy complex with total floor area of 350,000 square feet or more.	Note (16)	—	4.5 spaces per 1,000 square feet of total floor area
Museums, art galleries, libraries, studios and other similar uses not covered elsewhere.		3 spaces per 1,000 square feet of total floor area	—
Offices, excluding medical. (Including but not limited to: business services group I, contractors and builders, insurance companies, nonstore retailers, personal services group IV, social services group I, and other similar offices.)		1 space per 300 square feet of total floor area	1 space per 350 square feet of total floor area
Offices, medical and health care facilities group III.		4.5 spaces per 1000 square feet of total floor area	4 spaces per 1000 square feet of total floor area
Places of worship.	Note (14); 34-2051 et seq.	1 space per 3 seats	1 space per 5 seats
Recreation facilities, indoor.	Note (1)	4 spaces per 1000 square feet of total floor area	3.5 spaces per 1000 square feet of total floor area
Recreation facilities, outdoor, commercial.		Determined by the Director.	—
Religious facility.	Notes (1) & (14); 34-2051 et seq.	1 space per 3 seats	—
Restaurants.	Notes (8), (9) & (10)	14 spaces per 1,000 square feet of total floor area; outdoor seating area is calculated at same rate	12.5 spaces per 1,000 square feet of total floor area; outdoor seating area is calculated at same rate

Restaurants, fast food.	Note (9)	13 spaces per 1000 square feet of total floor area; outdoor seating area is calculated at same rate	—
Retail or business establishments.			
a. Small products or commodities: Auto and boat parts; clothing stores; department stores; drugstores; food stores; hardware stores; hobby, toy and game shops; package stores; household/office furnishings, group, II; personal services group I (excluding barbershops, beauty shops & massage establishments); specialty retail shops groups I, II and III; used merchandise stores group I; variety stores; and other similar type establishments.	34-2021 et seq.	1 space per 250 square feet of total floor area, with a minimum of 5 spaces; dead storage is calculated at same rate	1 space per 350 square feet of total floor area; dead storage is calculated at same rate
b. Large products or commodities: Used merchandise stores groups II and III; vehicle and equipment dealers group II; and other similar type establishments.	Note (1); 34-2021 et seq.	2.5 spaces per 1,000 square feet of total floor area, with a minimum of 5 spaces; dead storage is calculated at 1 space per 1,000 square feet	2.5 spaces per 1,000 square feet of total floor area; no parking is required for areas of the building used only as dead storage and not available to the public
c. Very large products or commodities: Household/office furnishings groups I & III; mobile home dealers; specialty retail stores group IV; used merchandise stores group IV; vehicle and equipment dealers groups I, III, IV and V; and other similar type establishments.	<u>Note (1); 34-2021 et seq.</u>	1 space per 700 square feet, with a minimum of 5 spaces; dead storage is calculated at 1 space per 1,500 square feet	1 space per 700 square feet of total floor area; no parking is required for areas of the building used only as dead storage and not available to the public
Schools, commercial.		2 spaces per 100 square feet of total classroom floor area	1 space per 100 square feet of total classroom floor area
Tennis courts, commercial.	Note (14)	3 spaces per court plus one	—

		space per 3 spectator seats	
Theaters, auditoriums, stadiums, arenas and other similar places of public assembly.	Notes (1) & (14)	1 space per 4 seats	1 space per 4 seats
Warehouse, high-cube.	Note (1)		
a. Passenger car parking		1 space per 1,000 square feet of total floor area for the first 20,000 square feet, plus 1 space per 2,000 square feet for the second 20,000 square feet to 99,999 square feet, plus 1 space per 5,000 square feet for that portion over 100,000 square feet	—
b. Truck and trailer parking	Notes (12) & (13)	1 space for every 5,000 square feet of total floor area	—
Warehouse, mini-warehouse.		1 space per 25 storage units, with a minimum of 5 spaces	—
Wholesale, processing and warehousing establishments.	Note (1)	1.25 spaces per 1,500 square feet of total floor area	0.75 spaces per 1,500 square feet of total floor area

Notes:

- (1) Accessory or ancillary uses must be calculated separately and in compliance with this division.

**Sec. 34-2443. Minimum required setbacks.**

**No changes (a) through (c).**

(d) The following uses must be set back a minimum of 100 feet from any residentially zoned property under separate ownership. The setback applies to all buildings and structures, and all areas used for parking of trucks or equipment, shipping, receiving, or storage.

- (1) Blacksmith shop.
- (2) Freight and cargo handling establishments (section 34-622(c)(17)).
- (3) Impound yard.
- (4) Manufacturing of:
  - a. Boats.
  - b. Chemicals and allied products, group II (section 34-622(c)(6))—Limited to cosmetics, perfumes, etc.
  - c. Fabricated metal products, group II (section 34-622(c)(14)).
  - d. Food and kindred products, group II (section 34-622(c)(15)).
  - e. Furniture and fixtures (section 34-622(c)(18)).
  - f. Leather products, group II (section 34-622(c)(25)).
  - g. Lumber and wood products, group IV (section 34-622(c)(26)).
  - h. Machinery, groups I and II (section 34-622(c)(27)).
  - i. Paper and allied products, groups II and III (section 34-622(c)(31)).
  - j. Stone, clay, glass and concrete products, groups I and III (section 34-622(c)(48)).
  - k. Textile mill products, groups I and II (section 34-622(c)(50)).
  - l. Transportation equipment, group II (section 34-622(c)(52)).

- (5) Motion picture studio.
- (6) Photofinishing laboratory (df).
- (7) Rental or leasing establishment, group IV (section 34-622(c)(39)).
- (8) Repair shops, group V (section 34-622(c)(40)).
- ~~(9) Social services, group II (section 34-622(c)(46)).~~

**Sec. 34-2479. Sound systems.**

Sound systems for sports/amusement parks and recreational facilities shall meet the requirements of the Lee County Noise Control Ordinance, Ordinance Nos. 82-32 and 83-22, 14-18 as subsequently amended.

**Sec. 34-3042. Carnivals, fairs, circuses and amusement devices.**

**No changes (a)**

- (b) Off-street parking. If the uses are located in an existing parking lot, the parking lot must have enough spaces to comply with the minimum requirements for the principal use and the carnival, fair or amusement attraction or device (see section 34-2020(b)). Prior to obtaining a temporary use permit for the temporary use of a parking lot, the applicant must submit a site plan showing there will be no net loss or reduction in the number of parking spaces required for any existing principal use that relies on the parking lot.

The temporary uses may not be located in a parking lot that is nonconforming as to the number of spaces needed for the existing uses.

Refer to sections ~~34-2019(3)~~ and 34-2020(b).

**No changes (c) (d) and (e)**

**Sec. 34-3050. Temporary storage facilities.**

The following regulations do not apply in commercial, industrial or mixed-use zoning districts where open storage is a permitted use, on property with a bona fide agricultural use located in an AG zoning district, or to contractor's office and equipment storage sheds (see section 34-3044).

- (a) The use of vehicles, truck trailers, or shipping containers for storage of merchandise, produce, or commodities for periods of 48 hours or more is prohibited in all districts except as a temporary use.
- (b) The use of vehicles, truck trailers, or shipping containers for storage of merchandise, produce, or commodities for periods of 48 hours or more may be permitted as a temporary use in a non residential district upon application and issuance of a temporary use permit (see section 34-210) so long as:
  - (1) The vehicles, truck trailers, or shipping containers used for storage comply with all setback requirements for accessory structures.

- (2) No more than two vehicles, truck trailers, or shipping containers are permitted at one time, and they cannot be stacked on top of one another.
- (3) The maximum length of time for use of a vehicle, truck trailer or shipping container for storage of merchandise, produce, or commodities is 60 days. One extension, not to exceed 60 days, may be approved at the Director's discretion.

**Sec. 34-3105. Use of vehicles, truck trailers, or shipping containers for storage ~~for non-agricultural purposes.~~**

Except for a bonafide agricultural use located in an AG zoning district, or where open storage is a permitted use in a commercial, industrial or mixed use zoning district, vehicles, truck trailers, shipping containers, and other similar structures may not be stored or used to store goods, produce or other commodities in any zoning district unless approved on a temporary basis in accordance with sections 34-3044 and 34-3050.

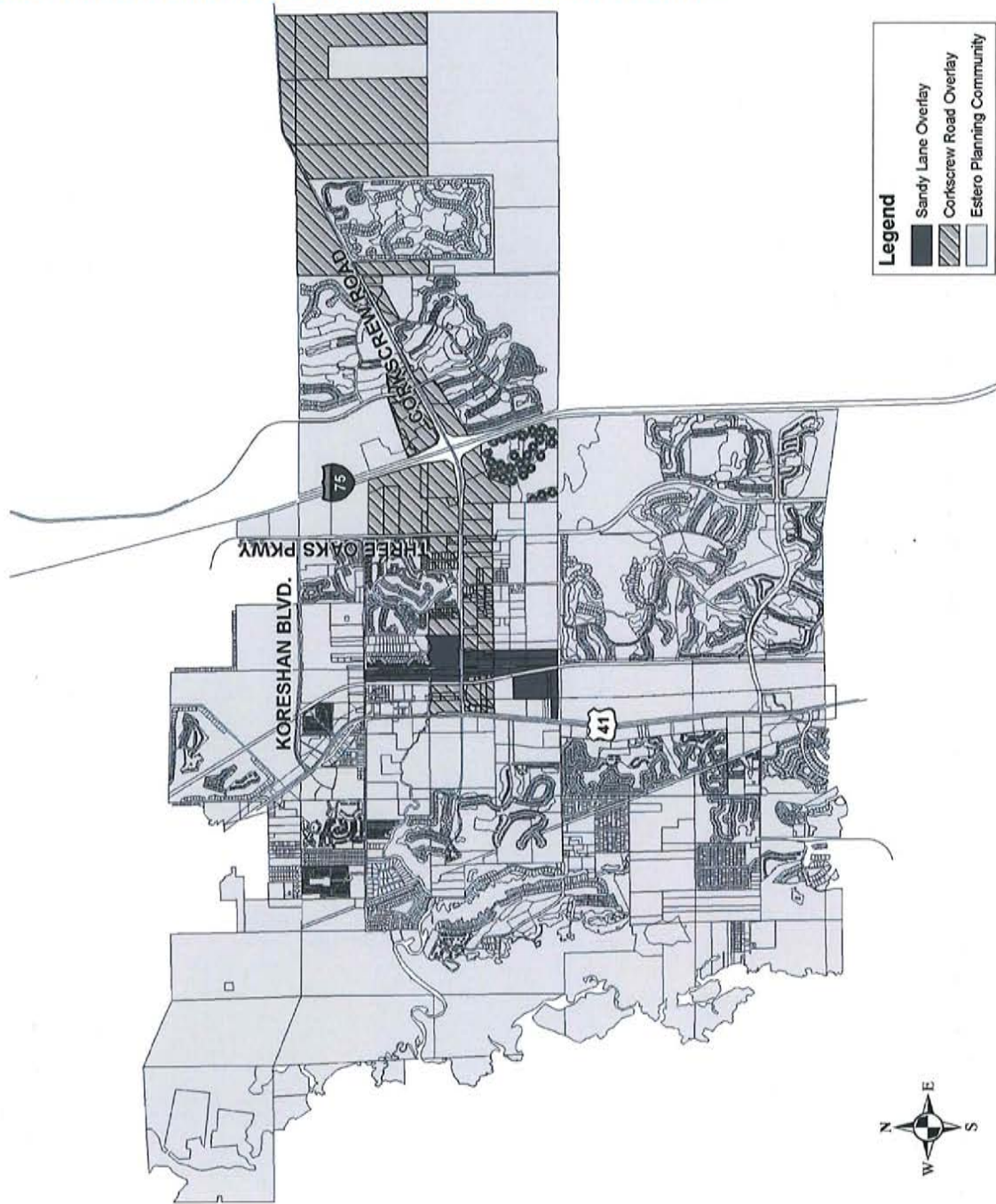
Where allowed as open storage per this Section, vehicles, truck trailers, shipping containers and other similar structures may not be stacked on top of one another and must be in compliance with Chapter 34, Division 36, including Sec. 34-3005 "Storage Facilities".

**Sec. 34-3272. Lot of record defined; general development standards.**

**No changes (1) through (3) b.**

- c. For mobile home or recreational vehicle lots of record, the following will also apply:
  1. All mobile homes, or recreational vehicles, ~~or conventional single family residences,~~ including any attachments, must be placed at least five feet from any body of water or waterway.
  2. All mobile homes, or recreational vehicles, ~~or conventional single family residences,~~ must have a minimum separation of ten feet between units (body to body) and appurtenances thereto. Each unit will be permitted to have eaves which encroach not more than one foot into the ten-foot separation.

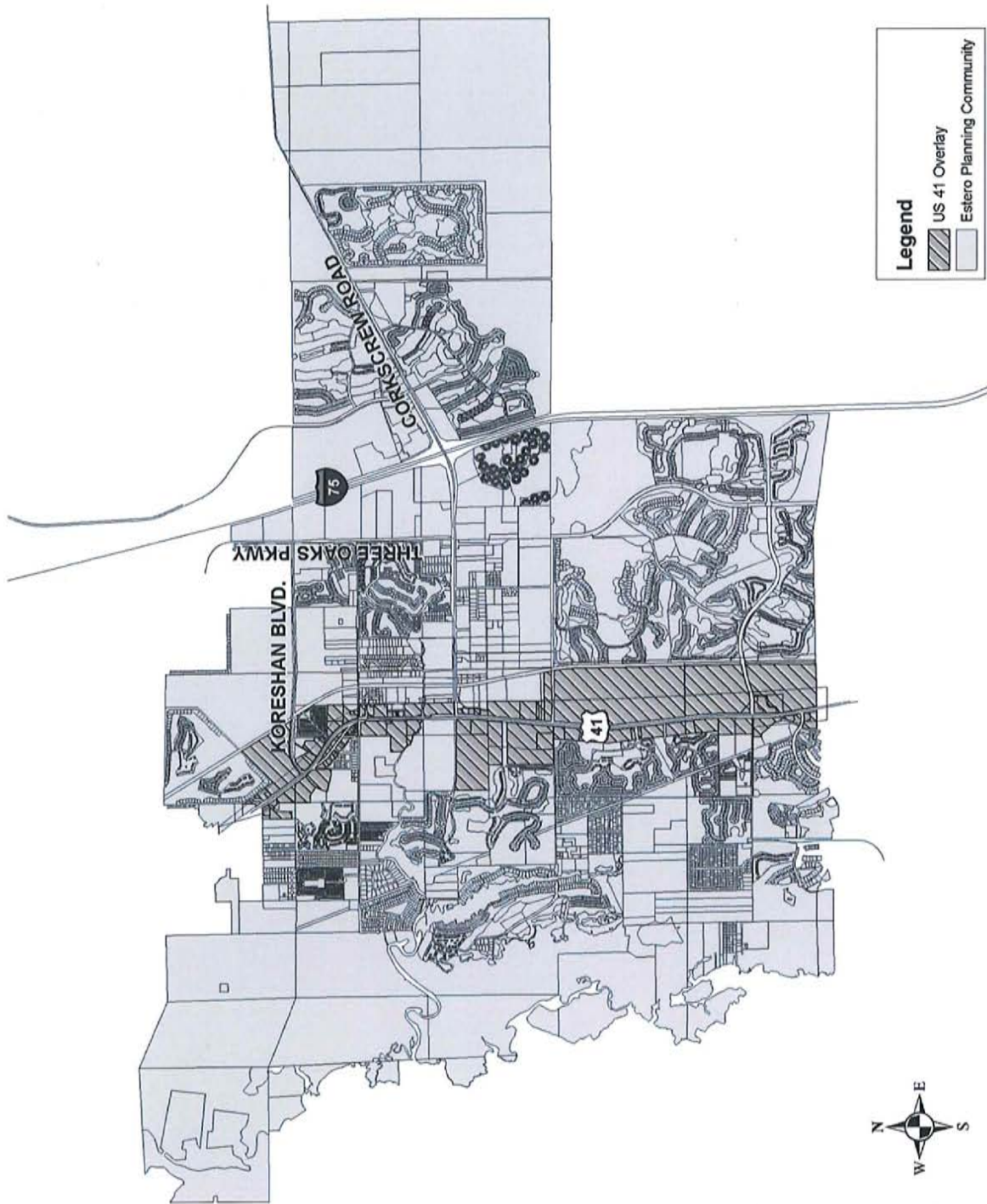
# APPENDIX I PLANNING COMMUNITY AND REDEVELOPMENT OVERLAY DISTRICT BOUNDARIES AND LEGAL DESCRIPTIONS <sup>11</sup>



Map 1—Estero Planning Community, Corkscrew/Sandy Lane Overlay

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Map 2—Estero Planning Community, US 41 Overlay

**DELETE MAP**

**DRAFT ADMINISTRATIVE  
CODE AC-13-16  
TRANSPORTATION  
PROPORTIONATE SHARE  
CALCULATIONS FOR NEW  
DEVELOPMENT  
PROJECTS**

**ADMINISTRATIVE CODE  
BOARD OF COUNTY COMMISSIONERS**

<b>CATEGORY:</b> DEVELOPMENT/PLANNING/ZONING	<b>CODE NUMBER:</b> AC-13-16
<b>TITLE:</b> TRANSPORTATION PROPORTIONATE SHARE CALCULATIONS FOR NEW DEVELOPMENT PROJECTS	<b>ADOPTED:</b> 8/21/91
	<b>AMENDED:</b> 1/4/95 7/7/98 __/__/1__
	<b>ORIGINATING DEPARTMENT:</b> COMMUNITY DEVELOPMENT AND TRANSPORTATION

**DRAFT**

**I. PURPOSE**

This document describes procedures to calculate proportionate share costs for projects that may be subject to development agreements, and proportionate share agreements. All new development is required to pay road impact fees under the terms of Lee County Ordinance 15-03, Lee County Land Development Code (LDC), Chapter 2, Article VI, Division 2, as amended. Some developments may be required to pay a proportionate share of roadway improvement costs in excess of road impact fees pursuant to Chapter 163.3180(5)(i), F.S., as amended and in the LDC, based on their larger size, use, character, or location. Mitigation of impacts on the County's road system is mandated by the Lee Plan Policy 38.1.1.

**II. SCOPE**

The policies and procedures contained in this code have been prepared to aid the development community, Lee County Board of County Commissioners (BOCC) and staff in assessing mitigation for significant impacts of developments on the surrounding road network. This code is supplemental in nature:

- A. As to a Developments of Regional Impact (DRI), this by supplementing the provisions of Chapter 380, Florida Statutes, and Rule-73C-40.045, Florida Administrative Code for determination of significant impacts.
- B. As to Development Agreements and proportionate share agreements, pursuant to Chapter 163, F.S.,
- C. As to the Lee County Land Development Code (LDC) Chapter 2 provisions for payment of road impact fees and determination of proportionate share.

### III. POLICY/PROCEDURE

#### A. Definitions

Cost - All improvements and associated costs of capital improvement implementation, such as design, right-of-way acquisition, planning and design studies, engineering, inspection, and physical development costs directly associated with construction of motor vehicle, transit, pedestrian and bicycle facilities, as may be adjusted to the anticipated year it will be incurred.

Development Trips - Estimated vehicular traffic volume assigned to a roadway segment(s) from the stage or phase of development under review;

Phase - a discrete, five year or lesser construction timeframe of development, including the local government issuance of certificates of occupancy for that construction or its functional occupancy.

Potential Significant Impact - When traffic projected to be generated at the end of any stage or phase of the proposed development, cumulatively with previous stages or phases, will utilize five percent or more of the adopted peak hour level of service maximum service volume of the roadway.

Proportionate Share – Calculated and based upon the number of trips from the proposed development expected to reach roadways during the peak hour from the stage or phase being approved, divided by the change in the peak hour maximum service volume of roadways resulting from construction of an improvement necessary to maintain or achieve the adopted level of service, multiplied by the construction cost, at the time of development payment, of the improvement necessary to maintain or achieve the adopted level of service.

Roads Impact Fee District – The geographic area in which road impact fees may be collected and spent, as depicted in the Lee County Land Development Code Appendix K, Map 1.

Service Volume – The highest number of vehicles for a given level of service.

Service Volume Increase - The additional number of vehicles for a given level of service resulting from an improvement to a roadway segment.

Significant Impact - When traffic projected to be generated at the end of any stage or phase of the proposed development, cumulatively with previous stages or phases, will utilize five percent or more of the adopted peak hour level of service maximum service volume of the roadway, and the roadway is projected to be operating below the adopted level of service standard at buildout of that stage or phase.

Stage - one in a series of approximately equal increments in the development of a proposed development upon which are placed quantified limits for construction that are reasonably calculated to ensure that the state and regional roadway network affected by the proposed development will not be overburdened by development traffic. A stage is to be a subset of a particular project phase of development planned for a project by a developer. A stage of development includes both a specific type and amount of development and the associated,

approved buildout timeframe for that development.

State Highway System – All streets, road, highways, and other public ways open to travel by the public generally and dedicated to the public use according to law or by prescription and designated by the Florida Department of Transportation (FDOT), consistent with Chapters 334 and 335, F.S.

Transportation Deficiency - a transportation facility or facilities on which the adopted level-of-service standard is exceeded by the existing, committed, and vested trips, plus additional projected background trips from any source other than the development project under review, and trips that are forecast by established traffic standards, including traffic modeling, consistent with the University of Florida's Bureau of Economic and Business Research medium population projections. Additional projected background trips are to be coincident with the particular stage or phase of development under review.

#### B. Applicability of Significant Impacts

1. For a stage or phase of DRI development, the determination of significant impacts and proportionate share is based on a multiagency review process outlined in Florida Statute 380.06 and Florida Administrative Code 73C-40.045. DRI traffic impact analysis will generally follow the preferred methodology procedures adopted by the Southwest Florida Regional Planning Council (SWFRPC) and typically be included in an Application for Development Approval (ADA) or Notice of Proposed Change (NOPC). Revisions to mitigation requirements in an approved DRI Development Order condition will require further traffic analysis and must be submitted in a NOPC. Specific assumptions for a DRI traffic analysis may be discussed at the transportation methodology meeting held prior to submittal of the DRI application. The methodology meeting for an unincorporated Lee County DRI will be conducted with Lee County DCD/DOT staff and review staff from SWFRPC, FDOT, and all other municipalities or agencies that maintain roadway segments in the study area.
2. A rezoning, unless coincident with a DRI ADA or NOPC, will not include the determination of significant impacts for calculation of proportionate share.
3. The approved Development Order (DO) traffic analysis will include a determination of potential significant impacts and significant impacts. If there are significant impacts, then the approved DO may include a stipulation requiring the applicant to enter into a proportionate share agreement. Analysis based on the methodology described in III.D. is required when the projected development traffic:
  - a. generated at the end of any DO stage or phase of a proposed non-DRI development, cumulatively with previous stages or phases, will exceed 300 trip ends during the peak hour, or
  - b. shows a potential significant impact.
4. Staff will calculate a preliminary proportionate share based on an approved Traffic Impact Statement (TIS), as outlined in III.F. and as demonstrated in the example scenarios in Exhibit 1, to determine whether a proportionate share agreement will be necessary.
  - a. No agreement is required with Lee County if the proportionate share is less than road impact fees for the stage or phase of the development. Proportionate share mitigation

will be satisfied by payment of road impact fees. The applicant may initiate an agreement at their option.

- b. An agreement with Lee County is required if the proportionate share for significant impacts on county maintained roadways is greater than road impact fees for the stage or phase of the development. Proportionate share mitigation will be satisfied through a schedule of payments, which may include road impact fees.
- c. Lee County may, at its option, participate in an agreement with other agencies when the proportionate share of significant impacts on county maintained roadways is less than road impact fees for the stage or phase of the development, and there are significant impacts to roadways under other jurisdictions. Proportionate share mitigation will be satisfied through payment of road impact fees or as outlined in the agreement.

### C. Methodology

The Lee County Concurrency Report and the DO TIS will identify preliminary transportation deficiencies. The applicant's TIS data will be used to develop a preliminary proportionate share analysis and will determine significant impacts based on this administrative code. When a significant impact is identified, the applicant has the option to perform a more detailed traffic study to further evaluate significant impacts and transportation deficiencies to determine the proportionate share. The applicant may request a methodology meeting for a more detailed study prior to, or coincident with, the pre-application meeting. All components of the methodology for the applicant to calculate a proportionate share are subject to review and approval by Lee County. The following may be discussed in the methodology meeting and must be documented in a more detailed study to determine the proportionate share:

1. Study area - Identify significant impacts and transportation deficiencies and include any roadway segment and parcels that are :
  - a. Adjacent to, within one mile of, or between, each potential significant impact roadway segment,
  - b. Within three miles of each potential significant impact roadway segment and approved for development with 300 or more PM peak hour trips,
2. Traffic analysis year of completion of the development phase or stage.
3. Approved development trips.
  - a. Potential traffic from all existing land uses within the study area, including DRI, Planned Development, DO, commercial and residential conventional zoning approvals.
  - b. Approximation of approved development trips outside the study area by use of a manual estimated increase in traffic or a Florida Standard Urban Transportation Modeling Structure (FSUTMS) analysis. Include assumptions, source data and adjustments.
4. Existing plus committed network - Include committed improvements programmed for full funding of construction within the first five years of an adopted local or state capital improvement program.

5. Service volumes - As adopted by the agency or jurisdiction responsible for maintenance of each significantly impacted roadway segment. Generalized service volumes must be used on county-maintained facilities for traffic analysis of a phase or stage more than five years from the date of the last update of the link-specific service volumes.

6. Road improvement cost - Calculations specific to the identified project for the significantly impacted roadway and based on the best available data.

- a. Capital improvement program costs determined by local or state agencies in an adopted study or as contained in an adopted capital improvement program.
- b. If the project is not included in any capital improvement program, then the cost may be obtained from the current Lee County Metropolitan Planning Organization's Long Range Transportation Plan.
- c. If project costs are unavailable in a local or state program or plan, then total average cost per mile figures, and estimated component costs may be utilized.
  1. Construction costs must be based on average FDOT cost per mile or square foot data.
  2. Right-of-way acquisition costs based on property appraisals and comparable sales with review and input from County Lands.
  3. Project planning, management, design, studies, permitting, and inspection cost varies by project, and may initially be estimated as 60 percent of the construction cost.

7. Trip generation – Use of the current edition of ITE Trip Generation, ITE Trip Generation Handbook, or alternative calculation methods and data sources as approved by DCD/DOT staff to determine project trip generation, internal capture, pass-by capture, and net new trips.

8. Trip distribution and assignment – Allocation of project traffic to the existing plus committed network.

9. Background traffic – Methods to estimate traffic volume based on the adopted LOS. Sources for traffic and permanent count station data such as truck factors, 100<sup>th</sup> highest volume hour of the year (K-100), peak season factor, and directional (D) factors.

10. Level-of service determinations – Method to calculate background traffic, project traffic from the stage or phase being considered, directional and total traffic in the 100<sup>th</sup> highest volume hour of the project stage or phase buildout year. Identify any transportation deficiency.

11. Determination of proportionate share – Input data for all calculations and comparison to roads impact fees. The proportionate share calculation will not include road segments with an identified transportation deficiency.

## D. Proportionate Share Application Process

If an agreement is needed based on the calculations described in III.B.4., then it will be based on the following process:

### 1. Agreement Meeting

- a. The applicant must schedule a meeting with the County Attorney, DOT and DCD directors, or designee(s), to discuss the legal and technical aspects of the proportionate share agreement,
- b. If preliminary significant impacts are identified on a roadway maintained by another jurisdictional agency, then a representative from that agency will be invited to the meeting.

2. Application - When a proportionate share agreement is submitted, the developer must submit a package containing the following to the County Attorney and DCD to initiate agreement preparation. The application must include:

- a. Name, address and phone number of owner(s), developer and agent;
- b. Property location, including parcel identification numbers;
- c. Legal description and survey of property;
- d. Project description, including type, intensity and amount of development;
- e. Proposed phasing or staging schedule, if applicable;
- f. Description of requested proportionate share mitigation method;
- g. Copy of DRI/Zoning condition(s) requiring a proportionate share agreement;
- h. Copy of the project's TIS; and,
- i. Location map depicting the site and affected road network.

### 3. Draft agreement

The County Attorney's Office prepares proportionate share agreements with Lee County. The County Attorney, or designee, may prepare a draft agreement or may permit an applicant to prepare a draft agreement for review. Other jurisdictional agencies whose road segments are impacted may be a party to an agreement with Lee County, or enter into a separate agreement with the applicant. A draft agreement for review under this administrative code will be delivered to all parties for review. DCD and DOT will provide technical support for traffic analysis review, proportionate share calculations and agreement content.

4. The county will notify the applicant regarding the date the agreement will be considered for final approval by the Board. The agreement will go into effect upon execution by the Board and must be executed prior to approval of the first DO for vertical construction.



#### E. Proportionate Share Calculations

1. Proportionate shares must be calculated using the formula in the Land Development Code Section 2-72:

$$\text{Proportionate Share} = \text{Development Trips}/(\text{Service Volume increase}) * \text{Cost}$$

2. This proportionate share formula is applied to each roadway segment on which the development has significant impacts. The sum of these computations is the development's proportionate share. The method and timing of payment of proportionate share amounts above roads impact fees will be established in a proportionate share agreement as required by the Lee County Land Development Code Section 2-74 and as further specified herein.
3. The applicant shall receive a credit against proportionate share on a dollar-for-dollar basis for impact fees and other transportation mitigation requirements paid or payable in the future for the project. The credit shall be reduced up to 20 percent by the percentage share that the project's traffic represents of the added capacity of the selected improvement.

#### F. Appropriation of revenues

The county will deposit proportionate share revenues in the appropriate roads impact fee district for funding of scheduled improvements in the Capital Improvement Element (CIE), or as otherwise established in the terms of the proportionate share agreement.

If a scheduled transportation facility improvement is removed from the CIE, then the revenues collected for its construction may be applied toward the construction of another improvement within that same corridor or sector that would mitigate the impacts of development pursuant to the requirements of [Lee County Land Development Code section 2-69](#).

#### G. Intergovernmental Coordination

- (1) Where an impacted regional transportation facility has been designated as regionally significant in an adopted regional transportation plan as provided in Section 339.155, F.S., the county may coordinate with other impacted jurisdictions and agencies to apply proportionate share contributions to seek funding for improving the impacted regional facility through an interlocal agreement. Coordination will begin with the agreement process described herein. After initial notification, the impacted jurisdiction has up to 90 days in which to notify the county of intent to participate in an agreement regarding the proportionate share obligation. If the impacted jurisdiction declines participation, then the applicant would be subject only to the proportionate share requirements of the county, and county approval may include a condition that the applicant provides evidence that the proportionate share obligation to the impacted jurisdiction has been satisfied.
- (2) Pursuant to policies in the Intergovernmental Coordination Element of the Lee Plan and applicable policies in the Southwest Florida Regional Planning Council's Strategic Regional Policy Plan, the county will coordinate with affected jurisdictions, including FDOT, regarding mitigation to impacted transportation facilities not under the jurisdiction

of the county. An interlocal agreement may be established with other affected jurisdictions to address the cross jurisdictional transportation impacts of development.

Exhibits:

Sample proportionate share calculation

Scenario One

Development "A" includes Congested Road, a four-lane arterial, in the study area. The traffic analysis indicates the project, including all approved phases and stages, will add 120 vehicle trips to Congested Road from 100<sup>th</sup> Avenue to 110<sup>th</sup> Avenue in the peak hour peak direction. The maximum service volume at LOS "E" is 2,000 vehicles in the peak hour in the peak direction.

Based on the calculation below, Development "A" utilizes six percent of the adopted service volume.

Significance determination

$$\text{percentage} = (\text{Cumulative project traffic})/(\text{maximum service volume at LOS standard}) = (120)/(2000) = 6 \text{ percent}$$

The approved traffic analysis indicates an unacceptable LOS "F", without the project stage on Congested Road from 100<sup>th</sup> Avenue to 110<sup>th</sup> Avenue. This meets the definition of an identified transportation deficiency. The development is not required to pay a proportionate share towards a future improvement to Congested Road,

Scenario Two

Development "B" includes Destination Parkway, a four-lane arterial, in the study area. The maximum service volume at LOS "E" is 2,000 vehicles in the peak hour in the peak direction. The approved traffic analysis indicates an acceptable LOS "D", and no identified transportation deficiencies without the project stage, and an unacceptable LOS "F" with the project stage. The traffic analysis indicates the project, including all approved phases and stages, will add 180 vehicle trips to Destination Parkway from 150<sup>th</sup> Street to 160<sup>th</sup> Street in the peak hour peak direction. Based on the calculation below, Development "B" utilizes nine percent of the adopted service volume.

Significance determination

$$\text{percentage} = (\text{Cumulative project traffic})/(\text{maximum service volume at LOS standard}) = (180)/(2000) = 9 \text{ percent}$$

This meets the definition of a significant impact on Destination Parkway with five percent or more of the adopted peak hour level of service maximum service volume of the roadway, and the roadway is projected to be operating below the adopted level of service standard at buildout of that stage or phase.

The traffic analysis indicates the project stage under review will add 40 vehicle trips to Destination Parkway from 150<sup>th</sup> Street to 160<sup>th</sup> Street in the peak hour, peak direction. An improvement is identified in the MPO LRTP with an estimate cost of \$5,000,000 for six-laning Destination Parkway from 150<sup>th</sup> Street to 160<sup>th</sup> Street. The service volume will increase from 2,000 to 3,000 vehicles in the peak hour in the peak direction.

Applying the data to the proportionate share formula

Development trips = 40 (vehicle trips in the peak hour, in the peak direction from the phase or stage under review)

Service Volume Increase = (SV at 6-lanes) – (SV at 4-lanes) = 3,000 – 2,000 = 1,000

Cost = \$5,000,000

Development “B” Proportionate Share for Destination Parkway from 150<sup>th</sup> Street to 160<sup>th</sup> Street

= Development Trips/(Service Volume Increase) \* Cost

= (40)/(1000) \* \$5,000,000

= 0.04 \* \$5,000,000

= \$200,000.