

LOCAL PLANNING AGENCY  
MAY 2, 1995  
9:30 a.m.  
BOARD OF COUNTY COMMISSIONER CHAMBERS

AGENDA

1. Call to Order; Certification of Affidavit of Publication
2. Public Forum
3. Approval of Minutes from March 7, 1995 meeting
4. Discussion on Approval to apply for Florida Enterprise Zone Program designation for the Dunbar Community and accompanying resolution, ordinance, and interlocal agreement with the City of Fort Myers to include the Dunbar Enterprise Zone. Consistency with the Lee Plan.
5. ORDINANCE REVIEW
  - a. AN ORDINANCE AMENDING CHAPTER 10, DEVELOPMENT STANDARDS AND CHAPTER 34, ZONING PROVISIONS OF THE LEE COUNTY LAND DEVELOPMENT CODE SO AS TO AMEND SECTION 10-1, DEFINITIONS AND RULES OF CONSTRUCTION; SECTION 10-103, PREREQUISITE ZONING APPROVALS FOR DEVELOPMENT ORDER SUBMITTALS; SECTION 10-154, ADDITIONAL REQUIRED SUBMITTALS; SECTION 10-174, TYPES OF DEVELOPMENT ENTITLED TO LIMITED REVIEW; SECTION 10-183, FINAL INSPECTION AND CERTIFICATE OF COMPLIANCE; SECTION 10-284, FUNCTIONAL CLASSIFICATION OF COUNTY MAINTAINED ROADS; SECTION 10-413, OPEN SPACE; SECTION 34-2, DEFINITIONS; SECTION 34-83, FUNCTIONS AND AUTHORITY; SECTION 34-84, REHEARING OF DECISIONS; JUDICIAL REVIEW; ADD A NEW SECTION 34-85, FINAL DECISION; JUDICIAL REVIEW; SECTION 34-145, FUNCTIONS AND AUTHORITY; SECTION 34-146, REHEARING OF DECISIONS; JUDICIAL REVIEW; SECTION 34-201, GENERAL PROCEDURE FOR APPLICATIONS REQUIRING PUBLIC HEARING; SECTION 34-268 ADMINISTRATIVE SETBACK VARIANCES; Add a new subsection 34-269, COMPLIANCE AGREEMENTS; SECTION 34-341, EMPLOYMENT OF PLANNED DEVELOPMENT DESIGNATION; SECTION 34-373 APPLICATION; SECTION 34-377, PUBLIC HEARING; SECTION 34-381, DURATION OF RIGHTS CONFERRED BY ADOPTED MASTER CONCEPT PLAN; SECTION 34-935, PROPERTY DEVELOPMENT REGULATIONS; SECTION 34-938, INDUSTRIAL USES IN CPD DISTRICT; SECTION 34-1575, COASTAL ZONES; ARTICLE VII, DIVISION 16, FARM PRODUCE STANDS, U-PICK OPERATIONS AND OTHER ROADSIDE STANDS; SECTION 34-1744, LOCATION AND HEIGHT OF FENCES AND WALLS; SECTION 34-1749, ENTRANCE GATES AND GATEHOUSES; SECTION 34-1750, WALLS AND FENCES ALONG LIMITED ACCESS OR CONTROLLED ACCESS STREETS; ARTICLE VII, DIVISION 22, MIGRANT AND TRANSIENT FARM LABOR FACILITIES; SECTION 34-2192, STREET SETBACKS; SECTION 34-2221, MINIMUM DIMENSIONS GENERALLY; SECTION 34-2478, PARKING; SECTION 34-3041(d), TIME LIMIT; SECTION 34-3206, NONCONFORMITIES CREATED BY EMINENT DOMAIN PROCEEDINGS; USE REGULATIONS TABLES 34-653, 34-843, 34-903, 34-934; PROPERTY DEVELOPMENT REGULATIONS 34-654; PROVIDING FOR SEVERABILITY, CONFLICT, INCLUSION IN CODE AND PROVIDING FOR AN EFFECTIVE DATE.

OVER

5. ORDINANCE REVIEW (cont'd)

- b. AN ORDINANCE AMENDING THE LEE COUNTY LAND DEVELOPMENT CODE SO AS TO AMEND CHAPTER 10 DEVELOPMENT STANDARDS AND CHAPTER 34 ZONING TO PROVIDE FOR BICYCLE PATHS AND PEDESTRIAN WAYS AS A CONDITION OF DEVELOPMENT APPROVAL; AMENDING CHAPTR 10, ARTICLE I, IN GENERAL, SECTION 10-1 DEFINITIONS AND RULES OF CONSTRUCTION; SECTION 10-7 GENERAL REQUIREMENTS; SECTION 10-8 SPECIFIC REQUIREMENTS; AMENDING ARTICLE II, ADMINISTRATION, DIVISION 2, DEVELOPMENT ORDERS, SECTION 10-154 ADDITIONAL REQUIRED SUBMITTALS; AMENDING ARTICLE III, DESIGN STANDARDS AND REQUIREMENTS BY ADDING A NEW SECTION, 10-256 TO DIVISION I, GENERALLY, ENTITLED BICYCLE PATHS AND PEDESTRIAN WAYS, ALSO AMENDING DIVISION 6, OPEN SPACE, BUFFERING AND LANDSCAPING, SECTION 10-412 DEFINITIONS; SECTION 10-413, OPEN SPACE; SECTION 10-415 LANDSCAPING; DIVISION 7, PUBLIC TRANSIT, SECTION 10-442 REQUIRED FACILITIES; SECTION 10-443 EXCEPTIONS; AMENDING ARTICLE IV, ILLUSTRATIONS, TABLES AND DIAGRAMS, SECTION 10-709 PUBLIC LOCAL STREETS; SECTION 10-710 PRIVATE LOCAL STREETS; SECTION 10-711 ACCESS STREETS; AMENDING CHAPTER 34, ZONING, ARTICLE IV, DISTRICT REGULATIONS, DIVISION 9 PLANNED DEVELOPMENT DISTRICTS, SECTION 34-936 GENERAL CONDITIONS FOR ALL LAND USES; PROVIDING FOR SEVERABILITY, CONFLICTS, SCRIVENER'S ERRORS, INCLUSION IN CODE, CODIFICATION AND PROVIDING FOR AN EFFECTIVE DATE.

6. OTHER BUSINESS

7. ADJOURNMENT

These meetings are open to the public and all interested persons are encouraged to attend. Further information may be obtained by contacting the Lee County Division of Planning at 339-6200.

P.O. Number 501050

**MINUTES REPORT  
LOCAL PLANNING AGENCY  
MARCH 7, 1995**

**MEMBERS PRESENT:**

Greg Stuart, Chairman  
Ronald Inge, Vice Chairman  
Matt Uhle  
Mitch Hutchcraft

Richard Durling  
Joe Mazurkiewicz  
Bill Spikowski

**STAFF PRESENT:**

Paul O'Connor, Planning Director  
Jack Peterson, Assist. County Attorney  
Liz Valver, Secretary II, Planning

Tim Jones, Assist. County Attorney  
Shaye Prather, Interim CRA Director

**1. Call to Order, Certification of Affidavit**

Greg Stuart called the meeting to order at 9:34 a.m. Tim Jones, Assistant County Attorney, certified the Affidavit of Publication and submitted same to the record.

**2. Public Forum**

Mr. Stuart then opened the public forum portion of the meeting. There being no one wishing to speak at this time, Mr. Stuart moved on to the next item.

**3. Approval of Minutes from the December, 1994 Meeting**

**Ronald Inge moved approval, seconded by Joe Mazurkiewicz with correction to typo on the second page (corrected page attached). There being no further discussion or corrections, motion carried 7-0.**

**4. Election of Officers**

Mr. Stuart opened nominations. **Richard Durling nominated Greg Stuart for Chairman, seconded by Ronald Inge. Joe Mazurkiewicz moved to close nominations, seconded by Richard Durling. Motions carried 7-0.**

The next nomination was for Vice Chairman. **Joe Mazurkiewicz nominated Ronald Inge, seconded by Richard Durling. Greg Stuart moved to close nominations, seconded by Richard Durling. Motions carried 7-0.**

## **5. Modifications to the CRA Plan**

Shaye Prather, Interim CRA Director, made a brief presentation on Exhibit A: Proposed Modifications to the Overall, County-Wide CRA Plan and Exhibit B: Proposed Modifications to the Lehigh Acres CRA

Mr. Uhle questioned on page 71 of the Overall Plan the fact that the CRA Board may use the TIF Trust Fund as a whole for those projects found to be of significant public benefit. Ms. Prather noted this was a general statement. Each individual area maintains its own money. She stated that in this case, if staff found a situation that had a project of significant public benefit, the entire funding could be used. Mr. Uhle noted he was concerned about moving money from one CRA to another. He stated that it should be tied down more specifically.

Mr. Stuart noted on page 31, direct county funding of commercial or industrial developments with tax increment funding is possible if the project will generate considerable private investment and considerable economic return. He asked about businesses that move in using this incentive and then 5-10 years down the road moves out. Ms. Prather noted they would be subject to stringent development agreements to keep them here or to recover money from the business if they decide to leave. Jack Peterson, Assistant County Attorney, noted that with the American Power Corp. situation, it was covered in the draft Development Agreement that was presented.

Mr. Mazurkiewicz agreed with the case by case scenario. He noted that language should be added to this section. Ms. Prather noted that there would be guidelines that all projects will have to meet in order to receive TIF funding.

Mr. Spikowski questioned the Lehigh Plan and was informed that all language for the Lehigh Plan was new. Mr. Spikowski then spoke briefly to what he thought might be a possible conflict and was informed by Mr. Peterson that there was no conflict.

Mr. Uhle noted that with regard to Exhibit B, he certainly agreed with the idea of providing more opportunities for industrial development in Lehigh.

There being no further discussion on these proposed changes, **Mr. Mazurkiewicz moved consistency with the Lee Plan for both Exhibit A and B, seconded by Richard Durling. There being no objections, motion carried 7-0.**

## **6. Other Business**

Greg Stuart brought up the possibility of having a workshop meeting in the spring with Tom Kucharski and possibly members of the Horizon Council to discuss Economic Development Issues. The LPA members all agreed and this will be an agenda item at a meeting during the spring.

## **7. Adjournment**

There being no further business, meeting adjourned at 10:05 a.m.

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GREG STUART, CHAIRMAN

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DATE

**LEE COUNTY BOARD OF COUNTY COMMISSIONERS  
AGENDA ITEM SUMMARY**

**BLUE SHEET NO: 950441**

**1. REQUESTED MOTION:**

**ACTION REQUESTED:** Approval to apply for Florida Enterprise Zone Program designation for the Dunbar Community and accompanying resolution, ordinance, and interlocal agreement with the City of Fort Myers to include the Dunbar Enterprise Zone Strategic Plan.

**WHY ACTION IS NECESSARY:** Board approval is needed to apply for Florida Enterprise Zone Program designation to include a resolution, ordinance, and interlocal agreement with the City expressing intent to cooperate in program.

**WHAT THE ACTION ACCOMPLISHES:** Enables the County and City to apply for Florida Enterprise Zone Program designation for Dunbar.

**2. DEPARTMENTAL CATEGORY:**

COMMISSION DISTRICT # 2

**3. MEETING DATE:**

Prior to critical date  
of April 26, 1995

**4. AGENDA:**

☒ **CONSENT**  
☐ **ADMINISTRATIVE**  
☐ **APPEALS**  
☐ **PUBLIC**  
**TIME REQUIRED:**

**5. REQUIREMENT/PURPOSE:**

(Specify)  
☒ **STATUTE** 290.0055  
☐ **ORDINANCE** and .0056  
☐ **ADMIN.CODE**  
☐ **OTHER**

**6. REQUESTOR OF INFORMATION:**

**A. COMMISSIONER** N/A  
**B. DEPARTMENT** Human Services  
**C. DIVISION** N/A  
**BY** Karen B. Hawes, Director

**7. BACKGROUND:** Lee County and the City of Fort Myers' Dunbar Community was previously designated for participation in the Florida Enterprise Zone Program. This status for all designated Florida enterprise zones expired on July 1, 1994. All former Enterprise Zones and new areas that want to be designated must apply by May 5, 1995 for enterprise zone designation. A nominated area must be an area of pervasive poverty, unemployment, and physical deterioration. Only 20 enterprise zones will be designated, of which 5 have already been selected. Enterprise zone designation will provide significant tax incentives to enable businesses to expand in or relocate to the Dunbar area. Staff recommends approval.

**Attachment:**

1. Interlocal agreement with the City of Fort Myers
2. Resolution
3. Ordinance
4. Enterprise Zone application

**8. STANDING COMMITTEE REVIEW:**

Date Reviewed by M&P Committee \_\_\_\_\_ OR Committee Review Not Required ☒

**9. RECOMMENDED APPROVAL**

DEPARTMENT DIRECTOR	Department of Administrative Services	Office of Budget Services	OTHER	COUNTY ATTORNEY	COUNTY MANAGER
	Purchasing	BA GC RISK DIR			
	Human Res.				

**10. COMMISSION ACTION:**

☐ **APPROVED**  
☐ **DENIED**  
☐ **DEFERRED**  
☐ **OTHER**

FLORIDA ENTERPRISE ZONE  
PROGRAM INTERLOCAL AGREEMENT

This Florida Enterprise Zone Program Interlocal agreement entered into this \_\_\_\_ day of \_\_\_\_ by and between the Board of County Commissioners of Lee County, Florida (here and after referred to as the County) and the City of Fort Myers, Florida (here and after referred to as the City).

WITNESSETH

- WHEREAS, Section 290.0055(4) Florida Statutes, concerning the eligibility criteria for Florida Enterprise Zone Program states that a county and a city may file jointly for enterprise zone designation; and
- WHEREAS, the above statute makes provision whereby counties may enter into cooperation agreements with certain units of local government to carry out Florida Enterprise Zone activities; and
- WHEREAS, the cooperation of the County and the City are essential for the successful planning and implementation of the Dunbar Florida Enterprise Zone Program; and
- WHEREAS, it is essential for the responsibilities of each governing body be established; and
- WHEREAS, the County and City's Counsel have determined that the terms and provisions of this agreement are fully authorized under State and local law and that the agreement provides full legal authority for the County, to undertake or assist in undertaking essential community and economic development activities; and
- WHEREAS, the Dunbar community is experiencing economic, social and community deprivation and decay due to excessive blight, poverty, crime and lack of career opportunities within Census tracts 5.01, 5.02, 6.0, 7.0, and 12; and
- WHEREAS, in response to the above, and the need to revitalize the Dunbar Community, the County and the City request that a Dunbar Enterprise Zone Board of Commissioners consisting primarily of residents from this area, be formed to implement the Florida Enterprise Zone Strategic Plan (EZSP); and
- WHEREAS, the County and the City have the authority to organize the Dunbar Enterprise Zone Board of Commissioners to be known as the Dunbar 2010 Enterprise Zone Development Agency (DEZDA); and

WHEREAS, the major goals of the Dunbar Enterprise Zone Board of Commissioners will be to carry out the aforementioned EZSP in response to the short and long term objectives identified in a recent needs assessment survey, which survey identified the following priorities to be addressed:

1. Prevention of criminal behavior by teenagers.
2. Job creation, training and placement.
3. Improved and accessible educational opportunities.
4. Treatment and prevention of all substance and other forms of abuse.

WHEREAS, the County and City request that residents of the Dunbar Community apply for seats on the Dunbar 2010 Enterprise Zone Development Agency; and

WHEREAS, the creation of the Dunbar Enterprise Zone Board of Commissioners is essential for the successful implementation of the EZSP; and

WHEREAS, the Dunbar Enterprise Zone Board of Commissioners will make recommendations regarding the allocation of funds and tax incentives for the Dunbar Florida Enterprise Zone and to oversee and monitor the status of the activities identified in the EZSP; and

WHEREAS, this resolution covers the Enterprise Zone designation period approved by the State of Florida for the County and City necessary to carry out specified activities funded in the state Enterprise Zone Strategic Plan.

NOW, THEREFORE, BE IT RESOLVED, by the Dunbar Enterprise Zone Board of County Commissioners of Lee County, Florida and the City of Fort Myers, Florida agree as follows:

1. This agreement shall cover the Florida Enterprise Zone program designation period established by the State of Florida.
2. This agreement remains in effect for the entire designation period. It shall become null and void if Dunbar is not designated by the State as a Florida Enterprise Zone.
3. Neither party may terminate or withdraw from this agreement while it remains in effect.
4. This agreement will be automatically renewed at the option of both the County and City if the Florida Enterprise Zone Program is renewed, unless the County or the City provides written notice it elects not to participate in a new qualification period.



5. The County and the City agree to cooperate to undertake, or assist in undertaking, community renewal and economic development activities.
6. The County and City have joint responsibility for selecting enterprise zone activities and incentives and filing reports to the State annually.
7. Any disputes between the City and County regarding managing and administering the Florida Enterprise Zone Program shall be resolved as follows:
  - a. First, the parties shall make a bona fide attempt to resolve the dispute.
  - b. In the event that the dispute cannot be resolved, the parties shall seek mediation through the mediation program of the Twentieth Judicial Circuit.
  - c. If mediation is not successful, the parties agree to arbitrate the dispute in accordance with Florida Arbitration Statute, using an arbitrator appointed by the Chief Judge of the Twentieth Judicial Circuit.
8. The County and City hereby approve the attached (Exhibit 1), the Dunbar Enterprise Zone Strategic Development Plan.
9. Pursuant to 290.0056, Florida Statutes, the County and City shall create an enterprise zone development agency to be known as the Dunbar 2010 Enterprise Zone Development Agency as follows:
  - a. This agency shall be constituted as a public instrumentality, and exercise as an enterprise zone development agency the powers conferred by this act. It shall be deemed and held to be the performance of an essential public function. This enterprise zone development agency has the power to function within the corporate limits of the City of Fort Myers since the governing body of the municipality has by resolution concurred in the enterprise zone development plan prepared pursuant to s. 290.0057.
  - b. The County and City shall appoint the Dunbar Enterprise Zone Board of Commissioners, which shall consist of nine (9) commissioners. The County shall appoint four (4) board members and the city shall appoint five (5) board members. Vacancies on the board shall be publicly advertised and all interested persons shall complete an application for membership. The Dunbar Enterprise Zone Board of Commissioners shall have at least one representative from each of the following; the Dunbar

chamber of commerce; local financial or insurance entities; businesses operating within the area; residents residing within the enterprise zone; nonprofit community-based organizations operating within the Dunbar area; the local private industry council; the County and City code enforcement agencies; and the City law enforcement agency. The terms of office of the commissioners shall be for 4 years, except that, in making the initial appointments, the governing body shall appoint two members for terms of 3 years, two members for terms of 2 years, and one member for a term of 1 year; the remaining initial members shall serve for terms of 4 years. A vacancy occurring during a term shall be filled for the unexpired term. The importance of minority representation on the agency shall be considered in making appointments so that the agency generally reflects the gender and ethnic composition of the Dunbar Community.

- c. A commissioner shall receive no compensation for his or her services, but is entitled to the necessary expenses, including travel expenses, incurred in the discharge of his or her duties. Each commissioner shall hold office until a successor has been appointed and has qualified. A certificate of the appointment or reappointment of any commissioner shall be filed with the clerk of the county and city, and the certificate is conclusive evidence of the due and proper appointment of the commissioner.
- d. The powers of the enterprise zone development agency shall be exercised by the commissioners. A majority of the commissioners constitutes a quorum for the purpose of conducting business and exercising the powers of the agency and for all other purposes. Action may be taken by the agency upon a vote of a majority of the commissioners present, unless in any case the bylaws require a larger number.
- e. The Dunbar Enterprise Zone Board as the Enterprise Zone Development Agency shall elect a chairperson and vice chairperson from among the commissioners. The agency may employ an executive director, technical experts, and such other agents and employees, permanent and temporary, as it requires, and determine their qualifications, duties, and compensation. For such legal service as it requires, the agency may employ or retain its own counsel and local staff. The agency is authorized to transact business and exercise powers under this act and shall file with the governing body and with the Auditor General, on or before March 31 of each year, a report of its activities for the preceding fiscal year, which report shall include a complete financial statement setting forth

its assets, liabilities, income, and operating expenses as of the end of such fiscal year. At the time of filing the report, the agency shall publish in a newspaper of general circulation in the community a notice to the effect that such report has been filed with the County and the City and that the report is available for inspection during business hours in the office of the clerks of the County and the City and in the office of the agency.

- f. At any time after the creation of the enterprise zone development agency, the governing bodies of the County and the City may appropriate to the agency such amounts as the governing bodies deems necessary for the administrative expenses and overhead of the agency
- g. The governing bodies may remove its own appointees for inefficiency, neglect of duty, or misconduct in office only after a hearing and only if the commissioner has been given a copy of the charges at least 10 days prior to the hearing and has had an opportunity to be heard in person or by counsel.
- h. The enterprise zone development agency shall have the following powers and responsibilities:
  - 1. To assist in the development and implementation of the strategic plan.
  - 2. To oversee and monitor the implementation of the strategic plan. The agency shall make quarterly reports to the governing body of the city and county, evaluating the progress in implementing the strategic plan.
  - 3. To identify and recommend to the County and the City, ways to remove regulatory barriers.
  - 4. To identify to the County and City the financial needs of and local resources or assistance available to eligible businesses in the zone.
- i. The following powers and responsibilities shall be performed by the enterprise zone development agency;
  - 1. To review, process, and certify applications for state enterprise zone tax incentives pursuant to ss. 212.08(5)(g), 212.08(15), 212.096, 220.181, and 220.182.
  - 2. To provide assistance to businesses and residents within the enterprise zone.

3. To promote the development of the enterprise zone, including preparing, purchasing, and distributing by mail or other means of advertising, literature and other material concerning the enterprise zone and enterprise zone incentives.
4. To borrow money and apply for and accept advances, loans, grants, contributions, and any other form of financial assistance from the Federal Government or the state, county, or other public body or from any sources, public or private, for the purposes of this act, and to give such security as may be required and to enter into and carry out contracts or agreements in connection therewith; and to include in any contract for financial assistance with the Federal Government for or with respect to the development of the enterprise zone and related activities with such conditions imposed pursuant to federal laws as the governing bodies of the City and County deem reasonable and appropriate which are not inconsistent with the purposes of this section.
5. To appropriate such funds and make such expenditures as are necessary to carry out the purposes of this act.
6. To make and execute contracts and other instruments necessary or convenient to the exercise of its powers under this section.
7. To procure insurance or require bond against any loss in connection with its property in such amounts and from such insurers as may be necessary or desirable.
8. To invest any funds held in reserves or sinking funds, or any funds not required for immediate disbursement, in such investments as may be authorized by this act.
9. To purchase, sell, or hold stock, evidences of indebtedness, and other capital participation instruments.
10. The agency may invest in community investment corporations which conduct, or agree to conduct, loan guarantee programs assisting minority business enterprises located in the enterprise zone. In making such investments, the agency shall first attempt to invest in existing community investment corporations providing services in the enterprise zone. Such investments shall be made under conditions required by law and as the agency may require, including, but not limited to:

- a. The funds invested by the agency shall be used to provide loan guarantees to individuals for minority business enterprises located in the enterprise zone.
  - b. The community investment corporation may not approve any application for a loan guarantee unless the person applying for the loan guarantee shows that he or she has applied for the loan or loan guarantee through normal banking channels and that the loan or loan guarantee has been refused by at least one bank or other financial institution.
11. The County and City may designate a private non-profit corporation which specializes in economic development activities in distressed neighborhoods to organize, manage, and implement the enterprise zone program, and to serve as the staff for the enterprise zone development agency. Interested applicants may be solicited by a public advertisement. The County and City may select the non-profit corporation which they believe will best organize, manage, and implement the program.
12. Prior to December 1, of each year, the agency shall submit to the State, the City, and the County a detailed written report setting forth:
- a. its operations and accomplishments during the fiscal year.
  - b. The accomplishments and progress concerning the of the strategic plan.
  - c. The number and type of businesses assisted by the agency during the fiscal year.
  - d. The number of jobs created within the enterprise zone during the fiscal year.
  - e. The usage and revenue impact of state and local incentives granted during the calendar year.
  - f. Any other information required by the department.

13. In the event that the Dunbar area selected by the governing bodies is not designated a state enterprise zone, the governing bodies shall dissolve the agency after receiving from the State notice that the Dunbar area was not designated as an enterprise zone.
14. The City authorizes the County to sign and submit this Florida Enterprise Zone designation application.

IN WITNESS WHEREOF, the County and the City have executed this agreement as of the date first written above.

ATTEST:  
CHARLIE GREEN, CLERK

BOARD OF COUNTY COMMISSIONERS  
OF LEE COUNTY, FLORIDA

\_\_\_\_\_  
Clerk of the Circuit Court

\_\_\_\_\_  
Chairman

ATTEST:

THE CITY OF FORT MYERS  
COUNTY OF LEE, FLORIDA

\_\_\_\_\_  
Mayor

APPROVAL AS TO FORM:

\_\_\_\_\_  
Fort Myers City Attorney

\_\_\_\_\_  
County Attorney's Office

RESOLUTION NO. 95

A Resolution of the Board of County Commissioners of Lee County, Florida. Pertaining to an application for designation of the Dunbar community as a Florida Enterprise and the establishment of an Enterprise Zone Development Agency.

WHEREAS, the Florida Enterprise Zone Act, Chapter 290, Sections 290.001-290.015, Florida Statutes, (1993) and the Florida Administrative Code, Rule 8E-12 of the Department of Commerce, Division of Economic Development provides that counties and cities may apply to the State for Florida Enterprise Zone designation in accordance with the ACT and the Code; and,

WHEREAS, the Dunbar community is experiencing chronic, extreme, and unacceptable levels of economic, social and community deprivation and decay due to excessive blight, pervasive poverty, crime, unemployment, lack of career opportunities, physical deterioration, and general distress within all or parts of Census tracts 5.01, 5.02 6.0, 7, and 12.0; and,

WHEREAS, the Board of County Commissioners of Lee County, Florida have determined that the rehabilitation, conservation, or redevelopment or a combination thereof, of such area is necessary in the interest of the public health, safety, and welfare of the residents of such county or municipality, or such county and one or more municipalities and,

WHEREAS, the Board of County Commissioners of Lee County, Florida have determined that the revitalization of such area can occur only if the private sector can be induced to invest its own resources in productive enterprises that build or rebuild the economic viability of the area.

WHEREAS, the Dunbar community needs meet the intent of the Enterprise Zone Act and share benefit from participation in the program; and,

WHEREAS, an application for Enterprise Zone designation is required to be submitted; and,

WHEREAS, adjacent Jurisdictions may submit a Joint application for Enterprise Zone designation which may enhance the chances of designation; and,

WHEREAS, the submission of a Joint application requires the execution of an interlocal agreement which establishes the responsibilities of each participating Jurisdiction; and,

WHEREAS, the Florida Administrative Code, Rule 8E-12 requires the creation of an enterprise zone's Enterprise Zone Development Agency (EZDA); and,

WHEREAS, Rule 8E-12 and Chapter 290, Section .0056 of the Florida Statutes requires the development of an Enterprise Zone Strategic Plan.

NOW,            THEREFORE, BE IT RESOLVED, by the Board of County Commissioners  
of Lee County

THAT:

Lee County and

1.    The City of Fort Myers shall submit a Joint Florida Enterprise Zone application.
2.    The County and the City shall sign an interlocal agreement which establishes the responsibilities of each participating Jurisdiction.
3.    The County and the City shall establish a Joint Enterprise Zone Development Agency and appoint the members.
4.    The County and the City shall approve an Enterprise Zone Strategic Plan in order to enhance the prospects for new investment in the enterprise zone.
5.    The objective of the strategic plan shall be:
  - A.    Prevention of criminal behavior by teenagers.
  - B.    Job creation, training and placement, and the reduction of unemployment and poverty.
  - C.    Improved and accessible educational opportunities.
  - D.    Treatment and prevention of all substance and other forms of abuse.
  - E.    Prevention and elimination of physical deterioration.
6.    The Chairperson of the Board of County Commissioners of Lee County, Florida is hereby authorized to sign this Resolution the attached Interlocal Agreement, to approve the Enterprise Zone Strategic Plan and the Clerk of the Circuit Court of Lee County to attest the same.

APPROVED AS TO FORM:

Office of the County Attorney

John E. Albion, Chairman  
Board of County Commissioners  
Lee County, Florida

ATTEST:  
CHARLIE GREEN, CLERK

Clerk of the Circuit Court



The foregoing Joint Resolution was offered by Commissioner \_\_\_\_\_  
who moved its adoption. The motion was seconded by Commissioner \_\_\_\_\_  
and, being put to a vote, the vote was as follows:

Ray Judah	_____
John E. Manning	_____
Douglas St. Cerny	_____
Andrew W. Coy	_____
John E. Albion	_____

Duly passed and adopted this \_\_\_\_\_ day of \_\_\_\_\_, 1995.

DS/bc019

LEE COUNTY ORDINANCE 95  
FLORIDA ENTERPRISE ZONE PROGRAM

An Ordinance required by Section 290.0056, Enterprise Zone Development Agency, of the Florida Statutes which requires that when a governing body creates an Enterprise Zone Development Agency, that body shall, by ordinance, appoint a Board of Commissioners of the agency; providing for severability, and providing an effective date.

WHEREAS, the Florida Enterprise Zone Act, Chapter 290, Sections 290.001-290.015, Florida Statutes, (1993) and the Florida Administrative Code, Rule 8E-12 of the Department of Commerce, Division of Economic Development provides that counties and cities may apply to the State for Florida Enterprise Zone designation in accordance with the Act and the Code; and,

WHEREAS, the Dunbar community is experiencing chronic, extreme, and unacceptable levels of economic, social and community deprivation and decay due to excessive blight, pervasive poverty, crime, unemployment, lack of career opportunities, physical deterioration and general distress within all or parts of Census tracts 5.01, 5.02, 6.0, 7 and 12.0; and,

WHEREAS, the Board of County Commissioners of Lee County, Florida have determined that the rehabilitation, conservation or redevelopment, or a combination thereof, of such area is necessary in the interest of the public health, safety, and welfare of the residents of such county or municipality, or such county and one or more municipalities and,

WHEREAS, the Board of County Commissioners of Lee County, Florida have determined that the revitalization of such area can occur only if the private sector can be induced to invest its own resources in productive enterprises that build or rebuild the economic viability of the area.

WHEREAS, the Dunbar community needs meet the intent of the Enterprise Zone Act and shall benefit from participation in the program; and,

WHEREAS, an application for Enterprise Zone designation is required to be submitted; and

WHEREAS, the Florida Administrative Code, Rule 8E-12 and Chapter 290, Section .0056 of the Florida statutes requires the creation of a enterprise zone's Enterprise Zone Development Agency (EZDA); and

NOW, THEREFORE, BE IT ORDAINED, by the Board of County Commissioners of Lee County,

THAT:

SECTION ONE:

The County and the City shall establish the Dunbar Enterprise Zone Development Agency (Board) and appoint its Board of Commissioners.

SECTION TWO SEVERABILITY:

If any section, phrase, sentence, or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

SECTION THREE: EFFECTIVE DATE

This ordinance shall become effective on \_\_\_\_\_, 1995.

THE FOREGOING ORDINANCE was offered by Commissioner \_\_\_\_\_ who moved its adoption. The motion was seconded by Commissioner \_\_\_\_\_ and, upon being put to a vote, the vote was as follows:

Ray Judah	_____	:
John E. Manning	_____	
Douglas St. Cerny	_____	
Andrew W. Coy	_____	
John E. Albion	_____	

Passed and duly adopted this \_\_\_\_\_ day of \_\_\_\_\_, 1995.

ATTEST:  
CHARLIE GREEN, CLERK

BOARD OF COUNTY COMMISSIONERS  
OF LEE COUNTY, FLORIDA

By: \_\_\_\_\_  
Deputy Clerk

By: \_\_\_\_\_  
Chairman

Approved as to form:

By: \_\_\_\_\_  
Lee County Attorney's Office

M E M O R A N D U M

FROM

THE OFFICE OF

COUNTY ATTORNEY

DATE: April 7, 1995

TO: Liz Valver  
Secretary II  
Division of Planning

FROM: Joseph M. Madden Jr.  
Joseph M. Madden, Jr. *cpb*  
Assistant County Attorney

RE: **ORDINANCE SCHEDULING FOR LPA**

**NAME OF ORDINANCE:** Zoning Task Force Amendments  
to Land Development Code (LDC)

Attached please find a copy of the above-referenced draft ordinance. Please schedule this ordinance to be heard before the Local Planning Agency at their May 2, 1995, meeting and advertise accordingly.

If you should have any questions, please do not hesitate to contact me.

JMM/cpb  
Attachment

cc: James G. Yaeger, County Attorney  
Timothy Jones, Assistant County Attorney  
Donna Marie Collins, Assistant County Attorney  
Susan M. Rainey, Legal Secretary II for Ordinance Report  
all above w/attachment

**LEE COUNTY BOARD OF COUNTY COMMISSIONERS  
AGENDA ITEM SUMMARY**

**BLUE SHEET No:** 950411

**1. REQUESTED MOTION:**

**Action Requested:** Schedule public hearings to review and approve Zoning amendments proposed by the Zoning Task Force. Recommended hearing dates are: First Public Hearing May 3, 1995 at 5:05 p.m.  
Second Public Hearing May 17, 1995 at 5:05 p.m.

**Why Action Is Necessary:** Continue the ongoing effort of the Zoning Task Force to streamline zoning procedures and clarify other provisions of the ordinance.

**What Action Accomplishes:** Sets public hearing dates for the County Commission to formally review and adopt the proposed amendments.

**2. DEPARTMENTAL CATEGORY: 11  
COMMISSION DISTRICT # CW**

**3. MEETING DATE:**  
April 19, 1995

**4. AGENDA**

☒ **CONSENT**  
ADMINISTRATIVE  
APPEALS  
PUBLIC

**TIME REQUIRED:**

**5. REQUIREMENT/PURPOSE  
(Specify)**

☒ **STATUTE**  
ORDINANCE  
ADMIN. CODE  
OTHER

**6. REQUESTOR OF INFORMATION:**

A. COMMISSIONER \_\_\_\_\_  
B. DEPARTMENT County Attorney  
C. DIVISION Land Use  
BY: Joseph M. Madden, Jr.

**7. BACKGROUND:**

The Zoning Task Force has prepared a package of proposed amendments to the Zoning component of the Land Development Code (LDC) to be presented to Oversight Regulatory Committee on April 17, 1995. Board Management & Planning is scheduled to review the proposed amendments on May 1, 1995. Review by the Local Planning Agency (LPA) is scheduled for May 2, 1995.

At their March 21, 1995 meeting, the Zoning Task Force requested direction of these amendments to public hearing.

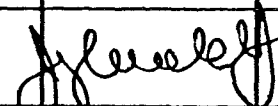
Along with the changes recommended by the Zoning Task Force, other LDC amendments are proposed. The amendments involve clarifications to Chapter 10, as well as proposal of a new section regarding Compliance Agreements.

Recommend approval.

**8. STANDING COMMITTEE REVIEW:**

Date Reviewed by M&P Committee \_\_\_\_\_ OR Committee Review Not Required \_\_\_\_\_

**9. RECOMMENDED APPROVAL**

DEPARTMENT DIRECTOR	Department of Administrative Services		Office of Budget Services				OTHER	COUNTY ATTORNEY	COUNTY MANAGER
	Purchasing	Hum Res.	BA	GC	Risk	Dir.			

**10. COMMISSION ACTION:**

☐ **APPROVED**  
☐ **DENIED**  
☐ **DEFERRED**  
☐ **OTHER**

CO. ATTY.  
FORWARDED TO: 1:31 pm  
COUNTY MANAGER  
4-2-95

THE LEE COUNTY LAND DEVELOPMENT CODE NUMBER 95-

AN ORDINANCE AMENDING CHAPTER 10, DEVELOPMENT STANDARDS AND CHAPTER 34, ZONING PROVISIONS OF THE LEE COUNTY LAND DEVELOPMENT CODE SO AS TO AMEND SECTION 10-1, DEFINITIONS AND RULES OF CONSTRUCTION; SECTION 10-103, PREREQUISITE ZONING APPROVALS FOR DEVELOPMENT ORDER SUBMITTALS; SECTION 10-154, ADDITIONAL REQUIRED SUBMITTALS; SECTION 10-174, TYPES OF DEVELOPMENT ENTITLED TO LIMITED REVIEW; SECTION 10-183, FINAL INSPECTION AND CERTIFICATE OF COMPLIANCE; SECTION 10-284, FUNCTIONAL CLASSIFICATION OF COUNTY MAINTAINED ROADS; SECTION 10-413, OPEN SPACE; SECTION 34-2, DEFINITIONS; SECTION 34-83, FUNCTIONS AND AUTHORITY; SECTION 34-84, REHEARING OF DECISIONS; JUDICIAL REVIEW; ADD A NEW SECTION 34-85, FINAL DECISION; JUDICIAL REVIEW; SECTION 34-145, FUNCTIONS AND AUTHORITY; SECTION 34-146, REHEARING OF DECISIONS; JUDICIAL REVIEW; SECTION 34-201, GENERAL PROCEDURE FOR APPLICATIONS REQUIRING PUBLIC HEARING; SECTION 34-268, ADMINISTRATIVE SETBACK VARIANCES; ADD A NEW SUBSECTION 34-269, COMPLIANCE AGREEMENTS; SECTION 34-341, EMPLOYMENT OF PLANNED DEVELOPMENT DESIGNATION; SECTION 34-373, APPLICATION; SECTION 34-377, PUBLIC HEARING; SECTION 34-381, DURATION OF RIGHTS CONFERRED BY ADOPTED MASTER CONCEPT PLAN; SECTION 34-935, PROPERTY DEVELOPMENT REGULATIONS; SECTION 34-938, INDUSTRIAL USES IN CPD DISTRICT; SECTION 34-1575, COASTAL ZONES; ARTICLE VII, DIVISION 16, FARM PRODUCE STANDS, U-PICK OPERATIONS AND OTHER ROADSIDE STANDS; SECTION 34-1744, LOCATION AND HEIGHT OF FENCES AND WALLS; SECTION 34-1749, ENTRANCE GATES AND GATEHOUSES; SECTION 34-1750, WALLS AND FENCES ALONG LIMITED ACCESS OR CONTROLLED ACCESS STREETS; ARTICLE VII, DIVISION 22, MIGRANT AND TRANSIENT FARM LABOR FACILITIES; SECTION 34-2192, STREET SETBACKS; SECTION 34-2221, MINIMUM DIMENSIONS GENERALLY; SECTION 34-2478, PARKING; SECTION 34-3041(d), TIME LIMIT; SECTION 34-3206, NONCONFORMITIES CREATED BY EMINENT DOMAIN PROCEEDINGS; USE REGULATIONS TABLES 34-653, 34-843, 34-903, 34-934; PROPERTY DEVELOPMENT REGULATIONS 34-654; PROVIDING FOR SEVERABILITY, CONFLICT, INCLUSION IN CODE AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Lee County Florida, has adopted the Lee County, Florida, Land Development Code, Ordinance Number 94-12; and

WHEREAS the Zoning Task Force subcommittee for the Lee County Local Planning Agency's Development Processes Steering Committee has proposed amendments to the Land Development Code; and

WHEREAS the Board of County Commissioners of Lee County, Florida desires to amend the Lee County Land development Code, as set forth herein, below:

DRAFT AMENDMENTS

ZONING TASK FORCE

MAR95ZT3.AMD (04/07/95)

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, THAT.

SECTION ONE:

Lee County Land Development Code, as amended, is hereby amended as follows, the underlined language being previously adopted text and deleted language being shown by strikeover. Where a section of the ordinance is only being relocated it is reprinted herein without underline or strikeover unless changes are proposed.

Sections TWO through EIGHT of this Ordinance amend specific sections and subsections of Chapter 10 of the Land Development Code. Sections NINE through THIRTY-FOUR of this Ordinance amend specific sections, subsections and add new sections to chapter 34, of the Land Development Code and sections THIRTY-FIVE and THIRTY-SIX address the Use regulations tables and the Property development regulations tables. Specific changes to the tables resulted from text amendments or additional uses being added to the tables. The sections addressing specific topics are formatted so as to provide a clearer understanding of the amendments.

SECTION TWO:

Section 10-1(b) definitions is hereby amended by adding alphabetically a new definition and adding language to existing words as follows:

Dwelling unit means a room or rooms connected together, constituting a separate, independent housekeeping establishment for a family, for owner occupancy, or for rental or lease on a weekly, monthly or longer basis, which is physically separated from any other rooms or dwelling units which may be in the same structure, and which contains sleeping and sanitary facilities and one kitchen. The term "dwelling unit" shall not include rooms in hotels, motels or institutional facilities. Types of dwelling units are further defined in chapter 34 of the land development code.

Two-family as used in this chapter, shall include the term duplex as defined in chapter 34 of the land development code.

### SECTION THREE:

Section 10-103, Prerequisite zoning approvals for development order submittals is hereby amended by adding and deleting language to subsection 34-103(b) as follows:

(b) All applications for development orders on property zoned RPD, MHPD, RVPD, CPD, CFPD, IPD, ~~or~~ AOPD or MPD after December 2, 1991, shall be reviewed for compliance with the approved master concept plan and all other conditions of approval as part of the development order review process.

### SECTION FOUR:

Section 10-154, Additional required submittals is hereby amended by amending subsection 10-154(5) as follows:

Sec. 10-154. Additional required submittals.

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

(5) Boundary survey. A boundary survey prepared by a surveyor, meeting the minimum technical standards for land surveying in the state, as set out in chapter ~~21-HH-6~~ 61 G 17-5, Florida Administrative Code, shall be submitted. Boundaries must be clearly marked with a heavy line. The boundary line shall include the entire area to be developed. The Federal Emergency Management Agency flood zone and required finished floor elevations shall be shown.

### SECTION FIVE:

Section 10-174, Types of development entitled to limited review is hereby amended by adding language to the first paragraph of subsection 10-174(4) and the first paragraph of subsection 10-174(5) as follows:

Sec. 10-174. Types of development entitled to limited review.

(4) Any one-time subdivision of land into four or less lots for single-family detached dwelling units or two-family ~~detached~~ attached dwelling units, where zoning district regulations permit such subdivision; provided, however, that:

(5) Any subdivision of land for a use other than single-family detached dwelling units, two-family ~~detached~~ attached dwelling units or agricultural; provided, however, that:



#### SECTION SIX:

Section 10-183, Final inspection and certificate of compliance is hereby amended by adding and deleting language to subsection 34-183(a) as follows:

(a) Upon completion of all development required under the approved development order, or phase thereof, an inspection shall be performed by the developer's engineer or his designated representative. Upon finding the development to be completed and in substantial compliance with the approved development order documents, the engineer shall submit a signed and sealed letter of substantial compliance to the development review director along with a final inspection request. No final inspection will be performed by the county until the letter of substantial compliance has been accepted. The letter of substantial compliance may include a list of submittal for a minor changes and with highlighted plans showing minor changes which do not substantially affect the technical requirements of this chapter as described in section 10-120. Letters of substantial compliance shall be in a form approved by the director or county attorney.

#### SECTION SEVEN:

Section 10-284 Functional classification of county maintained roads is hereby amended by adding language as follows:

Sec. 10-284. Functional classification of county maintained roads.

(a) County maintained roads will be classified by the director of transportation based upon the existing functions of the roads and the guidelines provided in the Lee Plan, and in accordance with the administrative code regulating county functional classification. These classifications will be used to determine compliance with all county regulations which are dependent on functional classification except ~~commercial site location standards~~ and those regulations that will rely on the future roadway classifications as noted below. For the purpose of determining compliance with the connection spacing and right-of-way width/ design speed requirements of this chapter, the official trafficways map will be used to classify arterial and collector streets. All development standards for new roadways will also be based on the future classifications in the official trafficways map. The director of transportation will update the functional classifications from time to time as needed, and will present the map and list to the board for adoption in accordance with the related administrative code.

(b) Existing and proposed privately maintained roads will be classified by the director of zoning and development services based upon the existing functions of the roads and the guidelines provided

in the Lee Plan, and in accordance with the administrative code regulating county functional classification. These classifications will be used to determine compliance with all county regulations pertaining to privately maintained roads. These regulations will include determining compliance with connection spacing and street design and construction standards. The director of zoning and development services will update these functional classifications from time to time as needed, and will provide these classifications to the director of transportation for incorporation into the related administrative code referenced in (a) above.

#### SECTION EIGHT:

Section 10-413, Open space is hereby amended by adding and deleting language to subsections 10-413(a) as follows:

Sec. 10-413. Open space.

(a) Planned development districts. For any development zoned RPD, MHPD, MPD, RVPD, CPD, CFPD, IPD, ~~or~~ AOPD or MPD, the open space required must be consistent with the adopted master concept plan for that development and the open space requirements for that zoning district, in addition to the requirements of this division, unless specific deviations from this division have been granted.

#### SECTION NINE:

Section 34-2, definitions, is hereby amended by adding new definitions, deleting or adding language to existing definitions as follows:

Definitions Section 34-2.

~~MIGRATORY AND TRANSIENT FARM LABOR HOUSING QUARTERS AND CAMPS:~~  
Residential building(s) located near actively farmed land and on a bona fide farm occupied exclusively by farm workers as defined in Subsection 420.503, Florida Statutes. who are employed by the owner of the farm. However, housing that meets the density and occupancy limitations that apply to all other housing may not be considered farm labor housing.

Portable Kiosk: See Section 34-1712.

## SECTION TEN:

Section 34-83. Functions and authority is hereby amended by amending subsection 34-83(b)(3)c. and subsection 34-83(b)(4) by adding and deleting language as follows:

Sec. 34-83. Functions and authority.

(b) Zoning actions.

(3) Decisions and authority.

c. The Board of County Commissioners ~~shall have~~ has the authority to attach ~~such~~ conditions and requirements to any approval of a request for a special permit, special exception, development of regional impact, planned development, or variance within their purview, ~~as~~ deemed necessary for the protection of the health, safety, comfort, convenience or welfare of the general public. Such conditions or requirements ~~shall~~ must be reasonably related to the action requested.

(4) Judicial review. Judicial review of final decisions under this section shall be in accordance with Section 34-85. Any decision of the Board of County Commissioners may be appealed in the circuit court. Except for review of verified complaints filed pursuant to F.S. §163.3215, jurisdiction for review of any final decision of the Board of County Commissioners lies exclusively in circuit court. This review may only be obtained through filing a petition for writ of certiorari pursuant to the Florida Rules of Appellate Procedure. Any such petition must be filed within 30 calendar days after the decision has been rendered (see section 34-84).

## SECTION ELEVEN:

Section 34-84. Rehearing of decisions; judicial review is hereby amended by deleting language to the heading of section 34-84; by adding and deleting language to subsection 34-84(c) as follows:

Sec. 34-84. Rehearing of decisions. ~~judicial review~~

(c) Judicial review. The proper filing of a petition for rehearing will toll the 30 day time limit set forth for judicial review of final decisions in Section 34-85. If a rehearing request is refused, or if the request is granted but modification or rescission of the original motion of the Board of County Commissioners is denied, any aggrieved person may, within 30 calendar days after such refusal or denial, apply for judicial

review of the original motion in accordance with Section 34-85.  
No judicial review is available to review the Board of County Commissioners' decision to refuse a rehearing request.

- ~~(c) If a rehearing request is refused, or if the request is granted but modification or rescission of the original motion of the Board of County Commissioners is denied, any aggrieved person may, within 30 calendar days after such refusal or denial, whichever is applicable, apply to the circuit court for relief, but not thereafter, except pursuant to rule 9.100(c) of the Florida Rules of Appellate Procedure. Except for review of verified complaints filed pursuant to F.S. §163.3215, jurisdiction for review of any final decision of the Board of County Commissioners lies exclusively in circuit court. This review may only be obtained through filing a petition for writ of certiorari pursuant to the Florida Rules of Appellate Procedure. For purposes of computation of the 30-day period, the date of the decision will be the date of the public hearing at which the Board of County Commissioners made such decision by oral motion.~~

#### SECTION TWELVE:

Add a new section 34-85. Final decision; judicial review as follows:

#### Sec. 34-85 Final Decision; Judicial Review

- (a) Any final decision of the Board of County Commissioners may be reviewed by the circuit court unless otherwise provided in this article. Except for review of verified complaints filed pursuant to F.S. §163.3215, jurisdiction for review of any final decision of the Board of County Commissioners lies exclusively in circuit court. This review may only be obtained through filing a petition for writ of certiorari pursuant to the Florida Rules of Appellate Procedure. Any such petition must be filed within 30 calendar days after the decision has been rendered. For the purposes of computing the 30-day period, the date that the decision has been rendered is the date of the public hearing at which the Board of County Commissioners made such decision by oral motion.
- (b) The person making application to the Board of County Commissioners for any final decision that is entitled to judicial review is a necessary and indispensable party to any action seeking judicial review.

Secs. 34-85 34-86--34-110. Reserved

### SECTION THIRTEEN:

Section 34-145. Functions and authority is hereby amended by adding and deleting language to subsections 34-145(a)(4), 34-145(b)(5), and 34-145(c)(5); by adding a new subsection 34-145(d)(1)c.; and by adding and deleting language to subsections 34-145(d)(4) and 34-145(e)(5) as follows:

#### Sec. 34-145. Functions and authority.

##### (a) Appeals from administrative action.

##### (4) Judicial Review Notice of decisions; appeal of decisions.

a. ~~All decisions of the hearing examiner concerning appeals of administrative action are final when the decision is rendered in writing by the hearing examiner. For purposes of this subsection, a decision is rendered as of the date when it is reduced to writing, signed and dated by the hearing examiner. Decisions shall be delivered or mailed by the hearing examiner to parties of record and each individual county commissioner on the day the decision is rendered or on the next regular working day thereafter.~~

b. Judicial review of final decisions of the hearing examiner with respect to administrative actions are to the circuit court, in accordance with section 34-146.

##### (b) Variances.

(5) Judicial Review. Notice of decisions; appeal of decisions. Judicial review of final decisions of the hearing examiner with respect to variances are to the circuit court, in accordance with section 34-146.

##### (c) Special exceptions.

(5) Judicial Review. Notice of decisions; appeal of decisions. Judicial review of final decisions of the hearing examiner with respect to special exceptions are to the circuit court, in accordance with section 34-146.

##### (d) Zoning matters.

(1) Functions. Regarding zoning matters, the hearing examiner ~~shall have~~ has the following prescribed duties and responsibilities:

c. Certain amendments to development of regional impact development orders do not require a public hearing. After staff review and recommendation, proposed amendments of this type will proceed directly to the Board of County Commissioners and will be scheduled on the administrative agenda of a regular weekly meeting. The Board will vote on the following types of amendments based upon the recommendation of staff without review by the hearing examiner:

(1) Amendments that incorporate the terms of a settlement agreement designed to resolve pending administrative litigation or judicial proceedings; or

(2) Any amendment contemplated under section 380.06(19)(e)2, Florida statutes.

(4) Appeal of Decisions. All decisions of the hearing examiner concerning zoning matters under this subsection (d) ~~shall~~ will be in the form of a recommendation to the Board of County Commissioners. Only a party of record or his representative ~~shall~~ will be afforded the right to address the Board of County Commissioners.

(e) Special permits.

(5) Judicial Review. ~~Notice of decisions, appeal of decisions,~~ Judicial review of final decisions of the hearing examiner with respect to special permits ~~are to the~~ will be in circuit court, in accordance with section 34-146.

#### SECTION FOURTEEN:

Section 34-146. Judicial review is hereby amended by adding and deleting language as follows:

Sec. 34-146. Final Decision, Judicial review.

(a) The decision of the hearing examiner will be final on applications for administrative appeals and variances, special exceptions and special permits, when such variances, special exceptions or special permits are not part of a rezoning or development of county impact request which requires final decision by the Board of County Commissioners. Judicial review of a final decision of the hearing examiner concerning such an administrative appeal, variance, special exception or special permit ~~must be made to the~~ will be in circuit court. Except for

review of verified complaints filed pursuant to F.S. § 163.3215, jurisdiction for review of any final decision of the hearing examiner lies exclusively in circuit court. This review may only be obtained through filing a petition for writ of certiorari pursuant to the Florida Rules of Appellate Procedure. Any such petition must be filed within 30 calendar days after the decision has been rendered.

- (b) For the purposes of this subsection, a decision is "rendered" as of the date when it is reduced to writing, signed and dated by the hearing examiner. Decisions will be delivered or mailed by the hearing examiner to parties of record and each individual County Commissioner on the date it is rendered or on the next regular working day thereafter. In some cases, notice of the decision may be provided pursuant to applicable administrative codes.
- (c) The person making application to the Hearing Examiner for any final decision that is entitled to judicial review, is a necessary and indispensable party to any action seeking judicial review.

#### SECTION FIFTEEN:

Sec. 34-201. General procedure for applications requiring public is hereby amended by deleting subsection 34-201(b)(6) and renumbering subsection 34-201(b)(7) as follows:

- ~~(6) The department shall mail a letter to the applicant requesting payment of the application fee within five working days of the date the application is found or deemed to be complete.~~
- (76) Upon receipt of the completed application form, all required documents and the filing fee, the department will place the request on the appropriate agenda and inform the applicant of the hearing dates, or, in the case of planned development applications, begin reviewing the application for sufficiency pursuant to section 34-373(a)(3).

#### SECTION SIXTEEN:

Section 34-268. Administrative setback variances is hereby amended by adding and deleting language to subsection 34-268(a) as follows:

- (a) The director is authorized to modify the setbacks in sections 34-651 through 34-1041 and 34-1744 (residential fences only) of this chapter under the following circumstances:

- (1) Street, rear, side, or waterbody setbacks may be modified to permit the remodeling of or additions to existing structures that are nonconforming with regard to a specific setbacks so long as:
  - a. The remodeling or addition will not result in an increase in the height of the structure; and
  - b. The remodeling or addition will not result in a further diminution of the setback. The director may approve bay windows, chimneys and similar architectural features that may encroach further into the setback provided the encroachment does not protrude beyond the existing overhang of the building.
- (2) Street, rear, side, or waterbody setbacks may be modified to permit the construction of a handicapped access appurtenant to any existing structure.
- (3) Street, rear, side, or waterbody setbacks may be modified to allow the replacement of stairs or decking that provides access into an existing dwelling unit.
- (4) Street, rear, side, or waterbody setbacks may be modified to legitimize minor errors in setbacks ~~resulting from an error in the location of a structure~~ at the time of construction.
- (5) Rear or side setbacks for lots that qualify for a single family determination, pursuant to the Lee Plan, may be modified to permit the construction of a single-family dwelling unit so long as the proposed lot coverage does not exceed 45 percent.
- (6) Buildings or structures that are not in compliance with current setback regulations and which can be proven to have been permitted may also be reviewed by the director for consideration under this section.

#### SECTION SEVENTEEN:

Article I, Division 8, Enforcement, is hereby amended by adding a new subsection 34-269. Compliance Agreements as follows:

#### Section 34-269. Compliance agreements.

- (a) Authority and applicability. The County Administrator or his designee is hereby delegated the authority, by the Board of County Commissioners, to enter into Compliance Agreements to insure compliance with the terms and conditions of the Lee



County Land Development Code. Chapter 14, Articles IV, Wetlands Protection, V, Tree Protection, and VI, Mangrove Protection, as may be amended from time to time.

(b) Purpose. The purpose of this provision is to authorize the County Administrator to enter into agreements whereby property owners may commit to certain actions that will remedy conditions that may be a source of violations of the terms of the Land Development Code. These agreements may be entered into prior to bringing a property owner before the Lee County Hearing Examiner in any Code Enforcement proceeding. Likewise, this Compliance Agreement may be entered into between the County and a property owner as a result of a Code Enforcement proceeding, finding violation of some Land Development Code provision to ensure abatement of the violation. Successful completion of all the terms of the Compliance Agreement is required before any code violation will be considered abated. This provision is an addition to any remedy currently available through the Code Enforcement procedure.

(c) Procedure. The County Administrator is hereby authorized to prepare a Compliance Agreement, to be reviewed and approved by the County Attorney's office to bring about the results intended by this section. Each Compliance Agreement must include the proper name of the land owner, a legal description of the property in question, and the purpose of the proposed agreement. The Agreement must set forth specifically each of the obligations required therein. The Agreement must be on a form capable of being recorded in the Public Records of Lee County. The Agreement must be signed by each party and may be recorded in the public records at the County's option.

Upon satisfactory compliance with the terms of the Agreement, the property owner will request the County Administrator to record a Satisfaction and Release of the Agreement for recording in the Public Records of Lee County.

(d) Judicial review. The terms and conditions of a Compliance Agreement may be enforced by either party in a Court of Competent Jurisdiction or it may be brought back to the Hearing Examiner for enforcement through the County Code Enforcement procedures.

## SECTION EIGHTEEN:

Section 34-341(e) is hereby amended by adding and deleting language as follows:

- (e) ~~In instances wherein a single planned development contemplates a broader mix of uses than is provided by any one planned development category, two or more planned development categories may be combined in one application.~~

Two or more planned development categories may be combined in one application under the following circumstances.

- (1) The subject property is divided into development areas, each of which corresponds to a different planned development category; and
- (2) Each development area is identified by a legal description.

## SECTION NINETEEN:

Section 34-373(a)(3)a. is hereby amended by adding a second paragraph as follows:

- (3) Sufficiency and completeness.

- a. No hearing ~~shall~~ will be scheduled for any application for a planned development until the application has been found sufficient. All applications for planned developments ~~shall~~ will be deemed sufficient unless a letter advising the applicant of any insufficiencies has been mailed within 15 working days ~~of the date~~ of the payment of the application fee. All amended applications ~~shall similarly~~ will be deemed sufficient unless a subsequent letter advising the applicant of any insufficiencies has been mailed within 15 working days of the ~~date of the~~ resubmittal. The contents of insufficiency letters ~~shall~~ will be limited to brief explanations of the manner in which insufficient applications do not comply with the formal requirements in this section.

Subsequent to notification that the application has been found to be insufficient, the applicant has 60 days to submit supplemental or corrected documents, unless a longer time is agreed to in writing by the Director and the applicant prior to the expiration of the 60 days. If the supplement or corrections are not submitted within the 60 days (or other time period agreed to) the application will be deemed withdrawn.

SECTION TWENTY:

Section 34-377(a) is hereby amended by adding and deleting language as follows:

Sec. 34-377. Public hearing.

(a) Hearing before hearing examiner. ~~Subsequent to~~ After the staff prehearing conference required by this division, the application will be scheduled for a public hearing before the hearing examiner.

- (1) ~~At the public hearing~~ the hearing examiner shall will consider the application ~~in public hearing, per in accordance with article II of this chapter, prior to rendering his recommendation to the Board of County Commissioners.~~
- (2) ~~Any~~ The recommendation made to the Board of County Commissioners ~~by the hearing examiner shall must~~ be supported by a formal findings ~~that, in addition to the appropriate guidelines set forth in article II of this chapter, the following criteria are not met, that address the guidelines set forth in section 34-145(c)(2) of this chapter. In addition, the findings must address whether the following criteria can be satisfied:~~
  - a. The proposed use or mix of uses is appropriate at the subject location;
  - b. Sufficient safeguards to the public interest are provided by the recommended conditions to the concept plan or by other applicable regulations; and
  - c. All recommended conditions are reasonably related to the impacts on the public's interest created by or expected from the proposed development.
- (3) ~~Should any special condition recommended for the regulation of the proposed development be found to be insufficient, the hearing examiner may recommend specific alternate language to the Board of County Commissioners for consideration.~~

If the hearing examiner determines that a recommended condition is insufficient, he may recommend an alternate condition for consideration by the Board of County Commissioners.

- (4) ~~Should a schedule of deviations from other provisions of this chapter (see section 34-412) be a part of the planned development application, the hearing examiner shall recommend approval, approval with modification, or rejection of each item based upon his finding that for each item:~~

If the application includes a schedule of deviations pursuant to section 34-412, the hearing examiner's recommendation must approve, approve with modification or reject each requested deviation based upon a finding that:

- a. Each item enhances the achievement of the objectives of the planned development; and
- b. The general intent of this chapter to protect the public health, safety and welfare will be preserved and promoted.

~~If, in the opinion of the hearing examiner, required deviations have been overlooked in the original application, he may add the necessary deviations in his recommendation to the Board of County Commissioners without requiring an additional hearing.~~

If the hearing examiner concludes that the application omits necessary deviations, he may include the necessary deviations in his recommendation without an additional hearing.

- (5) ~~The hearing examiner may recommend, as a condition of approval of the a deviation, the hearing examiner may recommend that the applicant receive administrative approval of a more detailed specific development plan for each affected development area or parcel. Applications for administrative approval will be processed as administrative amendments in accordance with section 34-380 of this chapter and may be granted by the director only upon a finding that public health, safety, and welfare will not be adversely affected thereby.~~

#### SECTION TWENTY-ONE:

Section 34-381(a)(4) is hereby amended by adding and deleting language to the first line as follows:

- (4) An approved master concept plan may be ~~reaffirmed~~ extended as follows:

SECTION TWENTY-TWO:

Section 34-935(g)(5) Mixed use planned developments is hereby amended by adding and deleting language as follows:

- (5) Mixed use planned developments. All applications for development orders for parcels within mixed use planned developments must contain the amount of applicable open space ~~required as~~ set forth in ~~chapter 10~~ sections 34-935(g)(1)(2)(3) and (4).

SECTION TWENTY-THREE:

Section 34-938 Industrial uses in CPD district is hereby amended by adding and deleting language as follows:

Sec. 34-938. Industrial uses in CPD district.

- (a) In the commercial planned development district, industrial uses ~~shall~~ may only be permitted in accordance with the following standards:
- (1) If producing a tangible product, the use or activity ~~shall~~ must stand at or near the end of the manufacturing process, accounting only for the last steps of preparation or assembly of components or preprocessed materials.
  - (2) All operations ~~shall~~ must be conducted within a fully enclosed building.
  - (3) The use ~~shall~~ may not emit ~~no~~ dust, smoke, odor or other air or water pollutant, glare, sound or other vibration that can be perceived outside the boundaries of the development tract or industrial use area.
  - (4) The use ~~shall~~ may not receive, process or create ~~no~~ hazardous materials in sufficient quantity ~~as~~ to constitute a danger to persons, property or activities outside the boundaries of the development parcel or industrial use area.
  - (5) ~~There shall be no~~ Open storage of raw materials, waste products or finished goods awaiting shipment is prohibited.
- (b) Industrial uses not listed in section 34-934 as permitted uses in the commercial planned development (CPD) zoning district may be permitted by the Board of County Commissioners as part of an approved CPD provided the floor area of the unlisted uses does not exceed 50,000 square feet of floor area or the aggregate floor area of the other uses on the approved schedule of uses.

SECTION TWENTY-FOUR:

Section 34-1575. Coastal zones is hereby amended by adding and deleting language as follows:

Sec. 34-1575. Coastal zones.

(a) Development, other than minor structures, ~~shall not be allowed~~ seaward of the coastal construction control line as established by the state department of environmental protection, as such line existed in 1988 is prohibited, except as follows:-

1. Procedure. When a permit application is consistent with all other County Land Development regulations, with the exception of Land Development Code, Section 35-1575(a), an application for administrative interpretation may be made to the Department of Community Development for waiver of the prohibition set out in section 35-1575(a)

2. Review Process. The Department of community Development, in conjunction with the County Attorney's Office will review all applications for administrative interpretations submitted under this section.

a. Community Development. The Department of Community Development will review the application to insure compliance with all other land development regulations. Additionally, the department of Community development review must result in an objective analysis of the permit application in terms of:

i. lot size;

ii. location on lot; and

iii. size of proposed structure

The Department of Community Development will provide a written recommendation to the County Attorney's Office regarding compliance and compatibility of the proposed application.

b. County Attorney. The County Attorney's Office will review the written recommendation of the Department of Community Development. The County Attorney's Office will then review the application to evaluate the case specific facts of the proposal when the prohibition contained in Section 35-1575(a) is applied. The County Attorney's Office will then advise the Department of Community Development regarding the County's exposure

to a claim of an unconstitutional taking of land. The County Attorney's Office will apply the current standards regarding takings claims in evaluating the merits of any proposed claim.

3. Decisions. The Department of Community Development Director will make a final decision regarding application of Section 35-1574(a) for a building or development permit. This decision will be final and will be not deemed appealable as an administrative appeal, pursuant to Section 34-145 of the Lee County Land Development Code. This administrative interpretation procedure substitutes for the variance and administrative appeal provisions found in Chapter 34 of the Land development Code when relief from this section is required.

- (b) Development within the coastal zone ~~shall~~ must be compatible with protection of natural systems and in accordance with applicable coastal construction codes.
- (c) No vehicular or foot traffic from developments or access strips to crossovers ~~shall~~ will be allowed to cross over directly on dune ridges or beach escarpments. Access to the beach ~~shall~~ must be via elevated dune walkovers.
- (d) No development ~~shall~~ will be permitted which:
  - (1) Could restrict, impede, impound or otherwise interfere with tidal flow or drainage in coastal zone waters; or
  - ~~(2) Involves the use of septic tanks or other mechanisms or devices that could result in the discharge of untreated sewage or other waste into coastal waters; or~~
  - (23) Alters the dune system, except for excavations for the installation of pilings necessary for the construction of elevated structures as permitted by the state department of environmental protection.

SECTION TWENTY-FIVE:

Article VII, Division 16. Farm Produce Stands, U-Pick Operations and Other roadside Stands is hereby amended by adding and deleting language to the division heading; by adding a new definition alphabetically to subsection 34-1712. Definitions; and by adding a new subsection 34-1716. Portable kiosks as follows:

Division 16. Farm Produce Stands, U-Pick Operations, ~~and other~~ Roadside Stands and Portable Kiosks.

Section 34-1712. Definitions

Portable kiosk means a cart or stand not exceeding four by eight feet in width and length, capable of being easily moved, which is used or intended to be used for the display of retail goods for sale.

Sec. 34-1716. Portable kiosks.

- (a) Portable kiosks maintained completely inside a commercial building and engaged in the sale or display of products permitted by the district use regulations are not subject to these regulations
- (b) Portable kiosks outside of commercial buildings within a Commercial Planned Development are permitted subject to the following regulations:
  - (1) Portable kiosks carts may not be located within 25 feet of any public right-of-way or required parking space.
  - (2) Portable kiosks may not be located within any required parking space, loading space, fire lane, or in such a manner as to impede the flow of pedestrian or vehicular traffic.
  - (3) Portable kiosks must be oriented so as to display their wares internal to the property and not to the public right-of-way.
  - (4) Portable kiosks must be operated under the auspices of, and with the permission of the owner of the retail center. Applicants for a permit for a retail stand outside of a commercial building must submit a letter from the property owner authorizing the use of the portable kiosk on the premises.



- (5) Portable kiosks may only be permitted in conjunction with developed projects and are prohibited prior to occupancy of the principal building(s).
- (6) The number of portable kiosks which may be permitted within a CPD will be based on 20,000 square feet of total floor area for the first portable kiosk and 10,000 square feet for each additional portable kiosk. No more than six portable kiosks may be permitted within any Commercial Planned Development.
- (7) Only goods and products consistent with permitted uses may be displayed or sold from the portable kiosks.
- (8) All items displayed or stored must be located on the portable kiosks and may not be placed in any manner off the kiosk.
- (9) Signs used in conjunction with the kiosk must be located on the kiosk and may not be higher than 2 feet above the kiosk.
- (10) Portable kiosks may not utilize speakers, radios, TV, or other similar electronic devices.
- (11) All vendors must have an Occupation License.

SECTION TWENTY-SIX:

Section 34-1744. Location and height of fences and walls is hereby amended by adding and deleting language to subsection 34-1744(b)(2) as follows:

- (2) A residential project fence or wall may be increased to a maximum height of eight ~~seven~~ feet around the perimeter of the project upon a finding by the county engineer that there is no interference with vehicle visibility requirements (see section 34-3131) at traffic access points.

SECTION TWENTY-SEVEN:

Section 34-1749. Entrance gates and gatehouses is hereby amended by adding and deleting language as follows:

Sec. 34-1749. Entrance gates and gatehouses.

The following regulations apply to any entrance gate or gatehouse which controls access to three or more dwelling units or recreational vehicles, or any commercial, industrial or recreational facility:

- (1) An entrance gate or gatehouse not approved as part of a planned development ~~may be permitted~~ is permitted by right provided it the gate or gatehouse is not located on a publicly dedicated street or right-of-way, and:
  - a. The gate or gatehouse is located a minimum of 100 feet back from any public street right-of-way or easement; or
  - b. The gate or gatehouse is designed in such a manner that a minimum of five vehicles or one vehicle per dwelling unit, whichever is less, can pull safely off the public street while waiting to enter; or
  - c. The development provides a deceleration-turning lane adjacent to the existing pavement for a distance of 300 feet leading into the access drive or road unless otherwise required by the department of transportation and engineering services.
- (2) Access for emergency vehicles ~~shall~~ must be provided.
  - a. Any security gate or similar device that is not manned 24 hours per day must be ~~provided~~ equipped with an override mechanism acceptable to the local emergency services agencies or an override switch installed in a glass-covered box for the use of emergency vehicles.
  - b. ~~Should~~ If an emergency necessitates the breaking of an entrance gate, the cost of repairing the gate, and the emergency vehicle if applicable, ~~shall~~ will be the responsibility of the owner or operator of the gate.

(3) Extension of fences or walls to an entrance gate or gatehouse.

- a. A fence or wall may be extended into the required setback where it abuts an entrance gate or gatehouse, provided vehicle visibility requirements (see section 34-3131) are met.

SECTION TWENTY-EIGHT:

Section 34-1750. Walls and fences along limited access or controlled access streets is hereby amended by adding and deleting language as follows:

Sec. 34-1750. Walls and fences along limited access or controlled access streets.

A wall or fence may be placed or maintained along any property line abutting a limited access or controlled access street provided:

- (1) The height of the fence or wall does not exceed eight ~~seven~~ feet; and
- (2) Vehicle visibility requirements (see section 34-3131) are met.

SECTION TWENTY-NINE:

Article VII, Division 22, MIGRANT AND TRANSIENT FARM LABOR FACILITIES is hereby amended by adding and deleting language as follows:

DIVISION 22. MIGRANT AND TRANSIENT FARM LABOR HOUSING FACILITIES

Sec. 34-1891. Purpose of Division

The purpose and intent of this division is to recognize and provide for housing permanent or transient farm laborers working at agricultural operations, as called for by Lee Plan Objective 100.2 and related policies located within Lee County. It is further the intent of this chapter that because housing established under the terms of this division is generally more intense than is otherwise permitted in agricultural areas, it shall will be used exclusively for agricultural housing purposes and no other. It is the intent of this chapter to encourage that housing for farm labor to be shall be in the nature of clustered rather than spread out; this housing must be designed to development but with mini-mum standards that meet the peculiar requirements of the farm labor market while protecting the health, safety, and general welfare of the farm laborers and the general public.

Sec. 34-1892 Special Permit required.

Farm labor housing developed under the regulations set forth in this division ~~shall be required to~~ must obtain a Special Permit if located in agricultural zoning districts (see Table 34-653). Densities in the rural, open lands, and groundwater resource/density reduction land use categories are limited as provided in Lee Plan Policy 100.2.3. Densities in other land use categories are limited to the regular residential densities in the Lee Plan and to all other requirements of the site's zoning district.

Sec. 34-1893 Site Plan

In addition to the requirements of Section 34-202(b), at a minimum, every special permit application for a farm labor housing special permit shall must include a site plan showing, ~~at a minimum,~~ the following information:

- (1) The area and dimensions of the land to be devoted to the housing development.
- (2) Street patterns and parking, with provisions for surfacing with a hard, dustless material.
- (3) The layout of building sites.
- (4) Actual yard dimensions for the preparing of each dwelling unit lot.
- (5) The size and type of dwelling units ~~to be used~~ proposed.
- (6) Location, size, and type of utilities.
- (7) Recreational area of 300 square feet per dwelling unit.

Sec. 34-1894. Design standards; required facilities.

- (a) Perimeter Setbacks. If no landscaped buffers are provided, farm labor housing shall must be set back a minimum of 500 ~~1,000~~ feet measured from the nearest dwelling unit, mobile home, recreational vehicle to any public street right-of-way, or from or any residentially zoned property under separate ownership. The setback may be reduced to 300 feet where a 20-foot wide landscaped buffer exists or is provided which contains at least 6 trees and 30 shrubs per 100 linear feet. The setback may be further reduced to 100 feet where a 40-foot wide landscaped buffer exists or is provided which contains at least 10 trees and 60 shrubs per 100 linear feet. Trees and shrubs planted in these buffers

must comply with the provisions of Section 10-416. The perimeter setbacks are not required if the adjacent residentially zoned property is also used for farm labor housing.

- (b) Utilities. Any utilities ~~shall~~ must be installed in accordance with chapter 10.
- (c) Recreational Vehicles. Recreational Vehicles, including Park Models, may not be used for year-round permanent habitation.
- (ed) ~~Concrete Block or Frame Standards for dwellings on platted lots. The construction or placement of concrete block or frame farm labor housing dwelling units (including mobile homes and recreational vehicles) for farm labor housing on separate platted lots shall must~~ comply with the following standards set forth below.+
  - (1) Minimum lot size per dwelling: ~~is 6,500~~ 4,000 square feet.
  - (2) Minimum lot width per dwelling: ~~is 65~~ 40 feet.
  - (3) The street setback: ~~from internal streets shall be 30 feet, variable according to the functional classification of the street or road (see section 34-2192).~~
  - (4) Side Setbacks: ~~shall be 6.5~~ ten feet each.
  - (5) Rear Setbacks: ~~shall be 20~~ feet.
  - (6) Water body setbacks: ~~shall be 25~~ feet.
  - (7) If the lot will have a mobile home, recreational vehicle, or other trailer, hook-ups for potable water, an approved sanitary sewage disposal system and electric power must be available.
- (d) Dwelling, M mobile home or recreational vehicle units. Standards for dwelling units, mobile homes or recreational vehicle units when they are not placed on separate platted lots. Mobile homes utilized for farm labor housing, and recreational vehicles or other types of units used for transient farm laborers, shall must comply with the following standards:

- (1) The street setback is variable according to the functional classification of the street or road (see section 34-2192).
- (12) There ~~shall~~ must be a minimum separation of ~~20~~ 13 feet between any dwelling units, mobile homes, recreational vehicles or other types of trailer units, or other buildings.
- (23) Hook-ups for potable water, an approved sanitary sewage ~~collection~~ disposal systems and electric power ~~shall~~ must be located on each mobile home, recreational vehicle or other trailer site.
- (34) If there is to be more than 10 units on the site, One building for service purposes only shall must be provided.
- (e) ~~Dormitory housing. The use of mobile homes or travel trailers to house transient farm laborers in dormitory style arrangement, shall comply with the following standards:~~
  - (1) ~~At least three house units are required, one for dining and recreation, one for sleeping, and one for utility purposes consisting of shower, toilet and laundry facilities.~~
  - (2) ~~All units shall have a minimum separation of 20 feet from another unit.~~

#### SECTION THIRTY:

Section 34-2192(a). Required setbacks and section 34-2192(b)(1)b. are hereby amended by adding and deleting language as follows:

#### **Sec. 34-2192. Street setbacks.**

(a) Required setback. Except as provided for in subsection (b) of this section, or unless a modification is granted as a special permit, variance or deviation, all buildings and structures ~~shall~~ must be set back from the adjacent street easement or right-of-way according to the functional classification of the adjoining street as set forth on the official trafficways map. Any street not shown on the trafficways map as a collector or arterial street ~~shall~~ will be presumed to be a local street or a private street for the purposes of this section.

## SETBACKS FROM STREETS

Street Classification	Setback from Edge of Right-of-Way or <u>Street Easement Line</u> (feet)
Arterial or collector street:	
With frontage street*	65
Without frontage street	25
Local	25
Private	20

\* Applies only where the frontage street is located within 40 feet of the right-of-way; does not apply where the frontage street is or will be located within the right-of-way.

(b) Exceptions.

(1) Exception for certain structures. Certain structures ~~shall be~~ are exempt from the street setback requirements as follows:

- a. Mail and newspaper delivery boxes. Mail and newspaper delivery boxes may be placed in accordance with U.S. Postal Service regulations.
- b. Bus shelters, bus stop benches and bicycle racks. Bus shelters and bicycle racks may be located in any district, provided ~~that~~ the location of ~~such~~ the structure is approved by the county department of transportation and ~~engineering services~~.

### SECTION THIRTY-ONE:

Section 34-2221(1)a. is hereby amended by adding language as follows:

Sec. 34-2221. Minimum dimensions generally.

Unless specifically approved otherwise as part of a planned development district approval or as set forth in article VII of this chapter:

(1) All specified lot area, width and depth dimensions are mandatory minimums.

a. Exception. The director of community development may approve the subdivision of the following projects notwithstanding the noncompliance of the individual lots with property development regulations in chapter 34, and/or chapter 10, provided that the overall development complies with all other applicable zoning requirements. The projects which may be approved in this matter are as follows:

1. The subdivision of existing commercial and industrial developments;
2. Commercial or industrial developments which have received a development order;
3. A final development order for a commercial or industrial development which is still effective; or
4. A new final development order application for a commercial or industrial development application.

#### SECTION THIRTY-TWO:

Section 34-2478. Parking is hereby amended by adding a new subsection 34-2478(c) as follows:

(c) Parking facilities for occasional use sports/amusement parks and recreational facilities that are lawfully existing and received a certificate of occupancy or certificate of completion prior to January 1, 1995 will be provided as follows:

(1) For occasional use facilities such as arenas and stadiums, the Director of the Department of Community Development may allow up to 80 percent of the parking requirement to be met off the site, provided:

- a. The developer owns or controls the off-site parking facility or has a binding letter from the owner of the property granting use of the property or parking facility during the life of the temporary use permit, see section 2, below;
- b. The developer provides adequate transportation from the parking facility to the stadium or arena; and



- c. The developer provides additional security and traffic control personnel satisfactory to the County Administrator or his designee for any event which requires the off-site parking facilities.
- (2) Parking facilities for occasional use sports/amusement parks and recreational facilities must be provided in accordance with Section 34-2022 of this article, except as modified herein.
  - a. Temporary parking lots may be allowed, in conjunction with an approved temporary use permit, year round. For the purposes of this subsection, temporary permits for temporary parking lots are not limited to 30 days as set forth in Section 34-3041(d).
  - b. A temporary parking lot may only be permitted on:
    - 1. vacant agricultural, commercial, community facilities, or industrial zoned property: or
    - 2. commercial or industrial zoned property with structures provided the structures are vacant and remain vacant for the duration of the temporary use permit.

### SECTION THIRTY-THREE:

Section 34-3206. Nonconformities created by eminent domain proceedings is hereby amended by adding and deleting language as follows:

Sec. 34-3206. Nonconformities created by eminent domain proceedings.

A structure, lot, tract or parcel of land that has been or will be rendered nonconforming as to area, width, depth, setbacks, lot coverage or parking because of a taking through eminent domain proceedings ~~initiated by a governmental authority,~~ or by the voluntary sale of a parcel of land under the threat of eminent domain proceedings by a governmental authority, after October 15, 1992, ~~shall~~ will be deemed conforming under the terms of this chapter.

SECTION THIRTY-FOUR:

Section 34-3041(d) Time limit is hereby amended by adding and deleting language as follows:

(d) Time limit.

- (1) All uses shall be confined to the dates specified by the Director, on in the temporary use permit; provided, however, that:
  - a. Except as provided in Sections 34-3043 through 34-3047, the Director may not authorize a temporary use for more than 30 days; and
  - b. If no time period is specified on the temporary use permit, then the temporary use permit will shall expire and the use be abated within 30 days from the date of issuance.
- (2) A temporary use permit may not be renewed or reissued to the same applicant or on the same premises for a similar use for a period of six months from the date of expiration of the previous temporary use permit.

SECTION THIRTY-FIVE:

Use regulation tables 34-653, 34-934, 34-903 and 34-843 are hereby amended by adding and deleting language to specific uses and adding new uses which will be inserted alphabetically into the appropriate tables and including the addition and deletion of specifically numbered notes relating to the tables as follows:

**Sec. 34-653. Use regulations table.**

Use regulations for agricultural districts are as follows:

**TABLE 34-653. USE REGULATIONS FOR AGRICULTURAL DISTRICTS**

	Special Notes or Regulations	AG-1	AG-2	AG-3
<u>Lawn and Garden Supply Stores</u>	<u>34-2081</u>	<u>SE</u>	<u>SE</u>	<u>SE</u>
<u>Lawn and garden equipment (small engine parts and repairs)</u>		<u>SE</u>	<u>SE</u>	<u>SE</u>

**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	IG	IR
Business services (34-622(c)(5))				
<u>Group I</u>		<u>P</u>	-	-

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	CFPD	CPD	IPD	AOPD	MPD
Aircraft food services and catering		-	-	-	-	-	-	P	P
Continuing care facilities	34-1414	P	-	-	P	-	-	-	P
Manufacturing of:									
Fabricated metal products (34-622(c)(14)):									
Groups I and II		-	-	-	-	-	P(5)	-	-
Group II		-	-	-	-	-	P(5)	-	P
Group III		-	-	-	-	P	P(5)	-	P
Food and kindred products (34-622(c)(15)):									
Groups I and II		-	-	-	-	-	P(5)	-	P
Group II		-	-	-	-	-	P(5)	-	P
Group III		-	-	-	-	P	P(5)	-	P
Leather products (34-622(c)(25)):									
Group I		-	-	-	-	-	P(5)	-	-
Group II		-	-	-	-	P	P(5)	-	P
Transportation equipment (34-622(c)(52)):									
Group I		-	-	-	-	-	P	P	P
Groups II, III and IV		-	-	-	-	-	P	-	-
Motor freight terminal		-	-	-	-	P	-	-	-
Processing or packaging of agricultural or fish products		-	-	-	-	-	P(5)	-	P
Recreational vehicles		-	P(20)	P(14)	-	-	-	-	P

	Special Notes or Regulations	RPD	MHPD	RVPD	CFPD	CPD	IPD	AOPD	MPD
<b>Rental or leasing establishment (34-622(c)(39)):</b>									
Group I	34-1201 et seq., 34-1352, 34-3001 et seq.	P (4)	P (4)	P (8)	-	P	-	-	P
Group II	34-1201 et seq., 34-1352, 34-3001 et seq.	P (4)	P (4)	-	-	P	P	-	P
Group III	34-1201 et seq., 34-1352, 34-3001 et seq.	-	-	-	-	P	P	P	P
Group IV	34-1201 et seq., 34-1352, 34-3001 et seq.	-	-	-	-	P	P	P	P
<b>Repair Shops (34-622(c)(40)):</b>									
Group I		P(4)	P(4)	-	-	P	P	-	P
Group II, III, IV		-	-	-	-	P	P	-	P
Group V		-	-	-	-	P	P	-	P
<b>Transportation services (34-622(c)(53)):</b>									
Group I		-	-	-	-	P	P	-	P
Group II		-	-	-	-	P	P	P	P
Group III		-	-	-	-	P	P	P	P
Group IV		-	-	-	-	P	P	-	P
<b>Truck stop, trucking terminal</b>									
		-	-	-	-	P	P	-	P
<b>Vehicle and equipment dealers (34-622(c)(55)):</b>									
Groups I, II, and III	34-1352	-	-	-	-	P	P	-	P
Group IV	34-1352	-	-	P (17)	-	P	P	-	P
Group V	34-1352	-	-	-	-	P	P	-	P

**Notes:**

- (20) Recreational vehicle sites in mobile home planned developments (MHPD) must be designated on the approved master concept plan. All recreational vehicles approved as part of a MHPD are subject to the regulations in sections 34-762(1), 34-762(2), 34-782, 34-784 and sections 34-786 through 34-790.

Sec. 34-843. Use regulations table.

Use regulations for conventional commercial districts are as follows:

TABLE 34-843. USE REGULATIONS FOR CONVENTIONAL COMMERCIAL DISTRICTS

	Special Notes or Regulations	C-1A	C-1	C-2	C-2A	CN-1	CN-2	CC	CG	CS-1	CS-2	CH	CT	CR	CI	CA	CP
Towers, communication, only when accessory to a permitted use:																	
100 feet or less in height	34-1441 et seq.	P	P	P	P	-	-	P	P	-	-	P	-	P	P	-	-
Over 100 feet in height	34-1441 et seq.	<u>SE</u>	<u>SE</u>	SE	SE	-	-	SE	SE	-	-	<u>SE</u>	-	<u>SE</u>	SE	-	-

**SECTION THIRTY-SIX:**

Property development regulations table 34-654 is hereby amended by adding language to the Maximum lot coverage section and specifically numbered notes of this table as follows:

**Sec. 34-654. Property development regulations table.**

Property development regulations for agricultural districts are as follows:

**TABLE 34-654. PROPERTY DEVELOPMENT REGULATIONS FOR AGRICULTURAL DISTRICTS**

	Special Notes or Regulations	AG-1	AG-2	AG-3
Minimum lot dimensions and area:	Note (1)			
Minimum lot area:	Note (2)			
Interior lot	34-2221, 34-2222	4.7 acres	39,500 sq. ft.	20,000 sq. ft.
Corner lot	34-2221, 34-2222	4.4 acres	33,600 sq. ft.	20,000 sq. ft.
Minimum lot width (feet)		300	100	100
Minimum lot depth (feet)		300	130	130
Minimum setbacks:				
Street (feet)	Notes (4) and (3), 34-2191 et seq., 34-1261 et seq.	Variable according to the functional classification of the street or road (see section 34-2192), but in no case less than 50 feet in the AG-1 district.		
Side yard (feet)	34-2191 et seq.	25	15	15
Rear yard (feet)		25	25	25
Water body (feet):				
Gulf of Mexico	34-2194(a), (c)	50	50	50
Other	34-2194(a), (c)	25	25	25

	Special Notes or Regulations	AG-1	AG-2	AG-3
Special regulations:  Animals, reptiles, marine life  Consumption on premises  Docks, seawalls, etc.  Essential services  Essential service facilities (34-622(c)(13))  Fences, walls, gatehouses, etc.  Nonroofed accessory structures  Railroad right-of-way	34-1291 et seq.  34-1261 et seq.  34-1863 et seq.  34-1611 et seq.  34-1611 et seq., 34-2142  34-1741 et seq.  34-2194(c)  34-2195	Refer to the sections specified for exceptions to the minimum setback requirements listed in this table.		
Maximum height (feet)	34-2171 et seq.	35	35	35
		Note: Bonita Beach, Captiva, Estero and San Carlos Islands, Gasparilla Island conservation district, Greater Pine Island and areas within the airport hazard zone have special limitations (see section 34-2175).		
Maximum lot coverage (percent of total lot area)		25%	25% (5)	25%

**Notes:**

(5) For nonconforming lots, as defined in section 34-3271, the maximum lot coverage will be 40%.

**SECTION THIRTY-SEVEN:**

The Table Of Contents will be amended so as to reflect section and subsection identification numbering or lettering and pagination resulting from adoption of the provisions of this Ordinance.

**SECTION THIRTY-EIGHT: SEVERABILITY:**

In the event that any portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion will be deemed a separate, distinct and independent provision, and such holding will not affect the validity of the remaining portions of this Ordinance.



SECTION THIRTY-NINE - CONFLICT:

Whenever the requirements or provisions of this conflict with the requirements or provisions of any other lawfully adopted Ordinances or Codes, the most restrictive will apply.

SECTION FORTY - INCLUSION IN CODE, CODIFICATION, AND SCRIVENERS ERRORS:

It is the intention of the Board of County Commissioners that the provisions of this Ordinance will become and be made a part of the Lee County Land Development Code; and that sections of this Ordinance may be renumbered or relettered and the word "ordinance" may be changed to "section, " "article, " or such other appropriate word or phrase in order to accomplish such intentions; and word or phrase, regardless of whether such inclusion in the Code is accomplished, Sections of this Ordinance may be renumbered or relettered, and typographical errors which do not affect the intent, may be authorized by the County Administrator, or his designee, without need of Public Hearing, by filing a corrected or recodified copy of same with the Clerk of the Circuit Court.

SECTION FORTY-ONE - EFFECTIVE DATE:

This Ordinance will become effective immediately upon receipt of official acknowledgment from the Secretary of the State of Florida that said Ordinance has been duly filed.

THE FOREGOING ORDINANCE offered by Commissioner \_\_\_\_\_, who moved its adoption. The motion was seconded by Commissioner \_\_\_\_\_ and, upon being put to a vote, the vote was as follows:

JOHN ALBION  
RAY JUDAH  
JOHN MANNING  
DOUGLAS ST. CERNY  
ANDREW W. COY

DONE AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 1995.

ATTEST:  
CHARLIE GREEN, CLERK

BOARD OF COUNTY COMMISSIONERS  
OF LEE COUNTY, FLORIDA

BY: \_\_\_\_\_  
Deputy Clerk

BY: \_\_\_\_\_  
Chairman

DRAFT AMENDMENTS  
ZONING TASK FORCE  
MAR95ZT2.AMD(04/06/95)

APPROVED AS TO FORM:

BY: \_\_\_\_\_

Office Of The County Attorney

**MEMORANDUM  
FROM THE  
OFFICE OF COUNTY ATTORNEY**

**DATE:** April 24, 1995

**To:** LPA Members

**FROM:**



Donna Marie Collins  
Assistant County Attorney

**RE: May 2, 1995 Agenda Item 5b.  
Amendment To The Land Development Code  
Bicycle Paths and Pedestrian Ways**

---

Attached please find a copy of the backup material for the Item referenced above.

DMC/bas  
Attachment

**MEMORANDUM**  
**FROM THE**  
**OFFICE OF COUNTY ATTORNEY**

**DATE:** April 24, 1995

**To:** DISTRIBUTION BELOW

**FROM:** 

Donna Marie Collins  
Assistant County Attorney

**RE: AGENDA SHEET**  
**PROPOSED AMENDMENT TO CHAPTERS 10 AND 34 OF THE LDC**  
**PEDESTRIAN WAYS AND BIKEPATHS**

---

The attached agenda packet is self-explanatory. The original and all backup material has been forwarded to the County Administrator's Office for the appropriate signature. The Administrator's Office will then forward the packet to the Division of Public Resources so that the matter may be scheduled for the April 26, 1995 Board meeting for direction to public hearing.

If you have any questions please contact me at 335-2236.

DMC/bas  
Attachment

cc: James G. Yaeger, County Attorney w/memo only  
Robert W. Gray, Deputy County Attorney w/memo only  
Timothy Jones, Assistant County Attorney  
Sue Rainey, Legal Secretary II, County Attorney's Office  
Donald D. Stilwell, County Manager w/original memo  
William Hammond, Deputy County Manager  
Roger Desjarlais, Assistant County Manager  
J.W. French, Director, Public Works  
Mary Gibbs, Director, Dept. of Community Development  
Val Ervin, Secretary to County Commissioners  
Anita Flaitz, Director, Lee Cares  
C.J. Walker, Cares  
Thomas Kucharski, Director, Economic Development  
Walter J. McCarthy, Director, Zoning & Development Services  
George Crawford, Director, Dept. of Transportation

DISTRIBUTION BELOW

April 24, 1995

Page 2

Re: AGENDA SHEET PROPOSED ORDINANCE  
AMENDMENT TO CHAPTER 10 OF THE LDC  
SIDEWALKS AND PEDESTRIAN WALKWAYS

Paul O'Connor, Director, Planning

Robert Stewart, Director, Codes & Building Services

Walter Stephens, Director, Natural Resources

Booch Demarchi, Public Information Officer

Elaine McLaughlin, Exec. Dir., Visitor & Convention Bureau

Liz Valver, Division of Planning for LPA purposes

Charlie Green, Clerk of Courts

**LEE COUNTY BOARD OF COUNTY COMMISSIONERS  
AGENDA ITEM SUMMARY**

**BLUE SHEET No: 950449**

**1. REQUESTED MOTION:**

**Action Requested:** Direct to public hearing an amendment to the Land Development Code which adopts requirements for pedestrian ways and bikepaths into the design standards and requirements for new development.

**Why Action Is Necessary:** To accommodate Board request to improve and promote pedestrian safety, reduce hazards to traveling public and to encourage alternatives to vehicular travel.

**What Action Accomplishes:** Incorporates pedestrian ways and bikepath requirements into the land development regulations.

**2. DEPARTMENTAL CATEGORY:**  
COMMISSION DISTRICT # CW

**3. MEETING DATE:** April 26, 1995

**4. AGENDA**

CONSENT  
☒ ADMINISTRATIVE  
APPEALS  
PUBLIC

TIME REQUIRED: 10 min.

**5. REQUIREMENT/PURPOSE  
(Specify)**

STATUTE  
☒ ORDINANCE  
ADMIN. CODE  
OTHER  
Chapters 10 & 34 of the LDC

**6. REQUESTOR OF INFORMATION:**

A. COMMISSIONER \_\_\_\_\_  
B. DEPARTMENT DCD/County Attorney/Land Use  
C. DIVISION Zoning & Development Services  
BY: Donna Marie Collins/Walter McCarthy

**7. BACKGROUND:**

At the April 3, 1995 Board Management and Planning Meeting the Board directed staff to develop regulations which would require the installation of pedestrian ways and bikepaths as a condition of development approval.

Staff has produced a draft amendment to the Land Development Code which endeavors to accomplish the Board's goals of improving and promoting pedestrian safety, providing alternatives to vehicular travel and reducing hazards to the traveling public by encouraging pedestrians and bicyclists to use pedestrian ways and bikepaths rather than the road.

Suggested hearing dates are as follows:

LPA meeting on May 2, 1995

First Public Hearing on May 17, 1995

Second Public Hearing on May 31, 1995

**8. STANDING COMMITTEE REVIEW:**

Date Reviewed by M&P Committee April 3, 1995 OR Committee Review Not Required \_\_\_\_\_

**9. RECOMMENDED APPROVAL**

DEPARTMENT DIRECTOR	Department of Administrative Services		Office of Budget Services				OTHER	COUNTY ATTORNEY	COUNTY MANAGER
	Purchasing	Hum Res.	BA	GC	Risk	Dir.			
			<i>[Signature]</i>	<i>[Signature]</i>	<i>[Signature]</i>	<i>[Signature]</i>		<i>[Signature]</i>	<i>[Signature]</i>

**10. COMMISSION ACTION:**

☐ APPROVED  
☐ DENIED  
☐ DEFERRED  
☐ OTHER

RECVD  
BY DBS  
4-14-95  
3:00

CO. ATTY. 4/14/95  
FORWARDED  
TO CO. ADMIN.  
3:00

LEE COUNTY ORDINANCE NO. 95-\_\_

AN ORDINANCE AMENDING THE LEE COUNTY LAND DEVELOPMENT CODE SO AS TO AMEND CHAPTER 10 DEVELOPMENT STANDARDS AND CHAPTER 34 ZONING TO PROVIDE FOR BICYCLE PATHS AND PEDESTRIAN WAYS AS A CONDITION OF DEVELOPMENT APPROVAL; AMENDING CHAPTER 10 ARTICLE I, IN GENERAL, SECTION 10-1 DEFINITIONS AND RULES OF CONSTRUCTION; SECTION 10-8 SPECIFIC REQUIREMENTS; AMENDING ARTICLE II, ADMINISTRATION, DIVISION 2, DEVELOPMENT ORDERS, SECTION 10-154 ADDITIONAL REQUIRED SUBMITTALS; AMENDING ARTICLE III, DESIGN STANDARDS AND REQUIREMENTS BY ADDING A NEW SECTION, 10-256 TO DIVISION I, GENERALLY, ENTITLED BICYCLE PATHS AND PEDESTRIAN WAYS, ALSO AMENDING DIVISION 6, OPEN SPACE, BUFFERING AND LANDSCAPING, SECTION 10-415 LANDSCAPING; DIVISION 7, PUBLIC TRANSIT, SECTION 10-443 EXCEPTIONS; AMENDING ARTICLE IV, ILLUSTRATIONS, TABLES AND DIAGRAMS, SECTION 10-709 PUBLIC LOCAL STREETS; SECTION 10-710 PRIVATE LOCAL STREETS; SECTION 10-711 ACCESS STREETS; AMENDING CHAPTER 34, ZONING, ARTICLE IV, DISTRICT REGULATIONS, DIVISION 9, PLANNED DEVELOPMENT DISTRICTS, SECTION 34-936 GENERAL CONDITIONS FOR ALL LAND USES; PROVIDING FOR SEVERABILITY, CONFLICTS, SCRIVENER'S ERRORS, INCLUSION IN CODE, CODIFICATION AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners of Lee County finds that the rapid growth in the population and the development and occupation of vacant lands in the county requires the Board to consider the anticipated needs and welfare of the individuals living on that land; and

WHEREAS, the influx of new residents has increased the need for improved and expanded access to bicycle paths and pedestrian ways throughout the County; and

WHEREAS, the Board desires to offset the anticipated needs of the community by providing pedestrian ways and bicycle paths for the substantial benefit of its residents; and

Pedamnd Revised 4/21/95  
Draft For Discussion Purposes Only  
Lee County Attorney's Office

WHEREAS, Objective 26.4 of the Lee Plan requires the County to consider the needs and opportunities for allowing and encouraging the use of other modes of transportation when conducting all transportation planning and engineering studies; and

WHEREAS, bicycle paths and pedestrian ways promote the public health, safety and general welfare of the citizens of Lee County by lessening traffic congestion on roads and minimizing conflicts between vehicular and pedestrian/cyclist movement; and

WHEREAS, the Board of County Commissioners desires to exercise its police power by amending the land development regulations to achieve and further the County goal of an integrated bicycle path and pedestrian way network designed to protect the health, safety and welfare of its citizens; and

WHEREAS, the Board of County Commissioners desires to amend the Land Development Code to require as a condition of development approval, the construction of pedestrian ways and bicycle paths to accommodate the needs of and benefit the residents of Lee County; and

NOW, THEREFORE BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA that:

#### SECTION ONE:

The Lee County Land Development Code is hereby amended as follows, additions to previously adopted text will be indicated with underlined language and deleted text will be signified with strike-through. The Chapters of the Land Development Code amended in this ordinance include Chapter 10, Development Standards and Chapter 34, Zoning.

#### SECTION TWO:

Chapter 10, Article I, Section 10-1, Definitions and Rules of Construction and Section 10-8 are amended as set forth below:

#### SECTION 10-1 DEFINITIONS AND RULES OF CONSTRUCTION

*Bicycle path* and *bike path* mean a bikeway physically separated from motorized vehicular traffic by an open space ~~recovery area~~ or barrier and either lying within the highway right-of-way or within an independent right-of-way.

*On-road bikeway or bike lane* means a portion of a roadway which has been specifically designated for the use of bicyclists.

*Pedestrian way* means a paved, surfaced path or way which is specifically designated or intended to be open to pedestrian travel, whether such facilities are intended for the exclusive use of



pedestrians or not.

Sidewalk means a ~~pedestrian way paved, surfaced area~~, paralleling and usually separated from the street, ~~used as a pedestrian walkway.~~

Sidewalk, off-site means a ~~pedestrian way sidewalk~~ which is exterior to a parcel being improved and located in the right-of-way of the arterial or collector road adjacent to that parcel ~~or within an easement dedicated to the public.~~

Sidewalk, on-site means a ~~pedestrian way sidewalk~~ which is located within the boundaries of the parcel being improved.

## **SEC. 10-8. SPECIFIC REQUIREMENTS.**

### **(5) Bicycle Path and Pedestrian ways Plan**

There is hereby adopted as part of this chapter the official Bicycle Path and Pedestrian Ways Plan map for the county dated \_\_\_\_\_ The map identifies a network of arterial and collector roads which, if improved with bicycle paths and pedestrian ways, will meet present and anticipated bicycle path and pedestrian way needs of the county. The official Bicycle Path and Pedestrian Ways Plan map will be signed by the chairman of the Board of County Commissioners and placed on file with the county departments of transportation and community development. Reproductions of the map will be available to the public. The purpose of the official Bicycle Path and Pedestrian Ways Plan map is to target certain arterial and collector roadways for the improvements necessary to ensure county-wide continuity of the bicycle and pedestrian transportation system. Bicycle paths and pedestrian ways are necessary along the roadways depicted on the map for the benefit and protection of the health, safety, and welfare of the residents of Lee County because those facilities serve to : a) lessen traffic congestion, b) reduce conflicts between vehicular and pedestrian/cyclist movement, and c) provide safe pedestrian/cyclist circulation to community facilities.

- ~~(5)~~ (6) Required access streets. Pursuant to the county comprehensive plan, there is hereby adopted as part of this chapter the required access road map for the county, which map is dated February 1, 1991, as it may be amended, which identifies the arterials and collectors where access streets are needed to protect the health, safety and welfare of county residents. The required access road map ~~shall~~ will be signed by the chairman of the Board of County Commissioners and placed on file with the county department of transportation and engineering. Reproductions of the map ~~shall~~ will be made available to the public. Access streets are necessary along major urban streets for the protection of the health, safety and welfare of county residents because:

- a. Access streets reduce the need for individual driveways and thereby decrease conflicting traffic movements, which in turn reduces the potential for accidents; and

- b. The use of access streets decreases traffic on the county's arterial and collector streets, thereby improving their levels of service.
- (6) (7) *Water and sewage systems.* The development ~~shall~~ must be proposed in such a way as to prevent any potential hazards to the health, safety and welfare of the public, especially with regard to the provision of potable water or sanitary sewage services. Unless otherwise excepted in this chapter, all new residential, commercial or industrial development proposed within the certificated or franchised service areas of regulated private (investor- or subscriber-owned) water or sewer utilities, or within the designated future water or sanitary sewer service areas of county utilities, as shown and specified in the Lee Plan, must connect to that water or sewer system. Where a development is permitted to stand free of established potable water or sanitary sewage systems, the water and sewage systems proposed to serve that development ~~shall~~ must be of sufficient capacity for the intended initial uses, and provisions ~~shall~~ must be made for expansion, increased capacity and extensions for any future uses through appropriate and binding legal commitments, including the commitment to connect to a central system at such time as it is created or extended to the development.
- (7) (8) *Drainage and stormwater management.* The development ~~shall~~ must be designed in accordance with applicable county and water management districts' runoff, retention and attenuation requirements and any other state and local drainage laws. The development ~~shall~~ must also be designed to avoid flooding or erosion damage to adjacent property and the county drainage system and to avoid the creation of stagnant pools that would encourage mosquito breeding. The development ~~shall~~ must provide a method of continual maintenance and operation through legal documentation and ~~shall~~ must ensure proper stormwater management so as to reduce the potential impacts of flooding.
- (8) (9) *Open space, parks and recreation.* Sufficient open space ~~shall~~ must be provided for the use of the occupants of the development. Recreation facilities and parks ~~shall~~ must be located so as to avoid nuisance conditions affecting adjacent and nearby properties, and ~~shall~~ must be of a sufficient size and variety for all occupants of the development. Every effort ~~shall~~ must be made to locate required open space so as to protect archaeological sites.
- (9) (10) *Landscaping and buffering.* Adequate landscaping, including screens and buffers, to preserve compatibility with uses outside the proposed development ~~shall~~ must be provided, and, as a furtherance of the ecological preservation goal, vegetation, trees and signs ~~shall~~ must be in accordance with this chapter and ~~shall~~ must be aesthetically pleasing.
- (10) (11) *Fire protection.* The development ~~shall~~ must include an adequate fire protection system.
- (11) (12) *Density.* The development ~~shall~~ must have a density no higher than that which can be adequately supported by the facilities existing or agreed upon by the developer at the time the development order is issued, and in no case may the density exceed the allowable density as set forth in the comprehensive plan or chapter 34.

(12) (13) *Intensity of use.* Nonresidential development ~~shall~~ **must** have an intensity of use no higher than that which can be adequately supported by the facilities existing, or agreed upon by the developer, at the time the development order is issued.

(13) (14) *Historic resources.* The development ~~shall~~ **must** provide for the identification, recognition, protection or mitigation of the historical and archaeological resources of the county, as provided by the historic preservation element of the Lee Plan.

### SECTION THREE:

Article II, Administration, Division 2 Development Orders, Section 10-154 Additional Submittal Requirements is amended by amending subsections (8), (9), (24), (25), (26) and (27) as set forth below:

### SECTION 10-154 ADDITIONAL REQUIRED SUBMITTALS

- (8) *Existing conditions and improvements drawing.* An existing conditions and improvements drawing ~~shall be submitted~~; showing at a minimum the following:
- h. The location and size of all public water and sewage systems, private wells, irrigation and flowing wells, ~~sidewalks, bicycle paths, pedestrian ways~~, curbs, gutters, storm drains and manholes on or abutting the property.
  - i. The location of existing and proposed public transit service areas, and bus routes and stops, including passenger amenities, e.g., shelters, lighting, benches, ~~bicycle paths and pedestrian ways, walkways~~, passenger parking, bicycle racks, etc.
- (9) *Proposed development plan drawings.* Proposed development plan drawings ~~shall be submitted~~ showing ~~as at~~ a minimum the following:
- b. Phasing plan. Where a large development is being proposed, the applicant ~~shall~~ **must** submit a master phasing plan with the stages numbered in sequence. It is understood that, for long-term projects, the details of a given phase may change as the economic, environmental, social and legal elements of the proposed development change. For such phased developments, each phase ~~shall will~~ be issued a separate development order, but each phase ~~shall will~~ be considered in relation to the rest of the overall project. The phasing plan ~~shall must~~ show how each phase fits into the master plan for the continuance of streets, ~~bicycle paths and pedestrian ways~~, drainage, storm water management, potable water, fire protection, sewage collection, landscaping and buffers. Specific requirements for phased projects are specified in section 10-117.
  - g. Proposed location of on-site ~~and off-site bicycle paths and pedestrian ways, sidewalks and bicycle paths~~ with ingress to and egress from the development, as well as to or from common

open space areas.

- (24) *Operation and maintenance covenants.* Where applicable, a copy of the covenants used for the maintenance and operation of the improvements ~~as required by this chapter shall be provided and shall include~~ including but not be limited to private streets and adjacent drainage, drainage and storm water management systems, utilities, public water and sewage systems, on-site bicycle paths and pedestrian ways, open space, parks, recreation areas and buffers.
- (25) *Articles of incorporation or other legal documents for assignment of maintenance.* The developer ~~shall~~ must submit a copy of the legal documents creating the legal mechanism to ensure that the drainage system, on-site bicycle paths and pedestrian ways, roadways and rights-of-way are continuously maintained.
- (26) *Opinion of probable construction costs.* The ~~developer's consultant must prepare and submit the estimated cost of installing all streets, drainage systems, water management systems, potable water treatment and distribution systems, sewage collection and treatment systems, bicycle paths and pedestrian ways, park and recreation improvements, landscaping and buffers shall be prepared by the developer's consultant, as follows:~~
- a. ~~For s Subdivisions, both~~ on-site and off-site systems: improvements.
  - b. ~~For a All other developments; ;~~ off-site improvements.

The opinion of probable cost ~~shall~~ must include an estimated date of completion for the work.

- (27) *Assurance of completion of improvements.* Assurance of completion of the development improvements as specified in subsections (27)a. and b. ~~of this section will be~~ is required for all off-site improvements prior to commencing any off-site or on-site development. Assurance of completion of the development improvements for on-site subdivision improvements will be required prior to the acceptance of the subdivision plat. Those on-site subdivision improvements which have been constructed, inspected and approved by the director of zoning and development review services may be excluded from the requirements of subsections (27)a. and b. ~~of this section.~~ In addition to the assurance of completion for off-site improvements, and with the exception of pedestrian ways on individual buildable lots, all subdivisions for single- and two-family residential structures ~~shall~~ must provide the assurance of completion of on-site improvements, or the construction of on-site improvements, within one year of the date of issuance of the final development order for that subdivision.
- a. *Surety or cash performance bond.* Security in the form of a surety or cash performance bond ~~shall~~ must be posted with the board and made payable to the county in an amount equal to 110 percent of the full cost of installing the required improvements ~~as approved~~ by the county. If the proposed improvement will not be constructed within one year of issuance of the final development order, the amount of the surety or cash performance bond ~~shall~~ must be increased by ten percent compounded for each year of the life of the surety or bond. Alternatively, the surety or cash performance bond may be renewed

annually at 110 percent of the cost of completing the remaining required improvements ~~as if approved by the director of zoning and development review services. Prior to acceptance, B bonds shall must~~ be reviewed and approved ~~as to form~~ by the county attorney's office prior to acceptance.

- b. *Other types of security.* The board may accept letters of credit or escrow account agreements or other forms of security provided that the reasons for not obtaining the bond are stated and the county attorney approves the document.

#### **SECTION FOUR:**

Article III, Design Standards and Requirements is amended by adding a new Section 10-256 entitled Bicycle Paths and Pedestrian Ways set forth below:

#### **SECTION 10-256 ~~RESERVED:~~ BICYCLE PATHS & PEDESTRIAN WAYS**

##### **(1) Official Bicycle Paths/Pedestrian Ways Facility Plan.**

The official Bicycle Paths and Pedestrian Ways plan (hereinafter "the plan") shows locations of existing and proposed bicycle paths and pedestrian ways in the unincorporated areas of Lee County. All development proposed along the arterial and collector roadways depicted on the plan must provide for bicycle paths and pedestrian ways in accordance with this section.

##### **(2) Provision of Bicycle Paths and Pedestrian Ways.**

###### **(a) General**

Bicycle paths and pedestrian ways are required for all new developments and for expansion of any existing development that results in a 25 percent or greater increase in either:

- 1) Building size or floor area; or
- 2) Residential density.

###### **(b) Types**

- 1) Off-site Facilities shown on the Bicycle Paths and Pedestrian Ways Plan.

The developer must construct a bicycle path or pedestrian way in the road right-of-way if the subject property abuts a street shown on the plan. Upon county acceptance of the required facility, the applicant may be entitled to road impact fee credits in accordance with chapter 2, art. VI, division 2.

The developer may choose to construct the facility outside the road right-of-way on his own property. If the developer opts to construct the facility across the property in this manner, the easement must be at least 10 feet in width and perpetually open to the public.

2) Off-site Facilities - Other

a) When any portion of the property to be developed is located within one-quarter mile of a collector or arterial road shown on the plan as requiring either a bicycle path or pedestrian way, or within a quarter mile of an existing facility, the developer must construct a similar facility within the road right-of-way from the subject property to the existing or proposed facility. This section will not require the purchase of right-of-way or easements where none exist. Upon County acceptance of the facility, the developer may be entitled to road impact fee credits in accordance with chapter 2, art. VI, division 2.

b) When any portion of a proposed residential subdivision is located within one-quarter mile of an existing or proposed clearly defined pedestrian generator such as schools, parks, playgrounds, shopping centers or employment centers, or transit facilities, the developer must construct a bicycle path or pedestrian way not less than 8 feet in width within the road right-of-way connecting the subdivision to the site. This section will not require the purchase of right-of-way or easements where none exist. Upon acceptance of the required facility by the county, the applicant may be entitled to road impact fee credits in accordance with chapter 2, art. VI, div. 2.

3) On-site Facilities

a) Pedestrian ways must be constructed along both sides of all streets internal to the development extending from intersection to intersection and on all dead-end streets.

b) Waiver of Requirement

Developments that provide an alternate plan for an internal bicycle path/pedestrian circulation system which connects with existing facilities may be exempted from this section by the Director if the alternate system is functionally equivalent to the standards set forth herein and meets all off-site requirements.

The alternate plan must be submitted simultaneously with the request for a development order for a subdivision plat. The master plan must be drawn to scale sufficient to indicate all lots and include the following:

- 1) the location of all lots and the number and type of dwelling units on each lot.
- 2) the location, width, and type of each bicycle path and pedestrian way including those to be connected to the bicycle path/pedestrian ways off-site.

**(3) Location**

**a) General**

The Bicycle path or pedestrian way may be located within the road right-of-way or within an easement for that purpose. Bicycle paths and pedestrian ways may not be located in water or sewer utility easements. However, they may be located in power easements or drainage easements if approved by the utility company and the Director of Zoning and Development Services.

**b) Subdivisions**

**1) On-site Streets**

Pedestrian ways must be constructed on both sides of all streets within the development from intersection to intersection and along all dead-end streets except as follows:

- a) Where such construction would encroach upon the required setback from a conservation or preservation area;
- b) Where the proposed street forms an exterior boundary to the subdivision; or
- c) In affordable housing developments where pedestrian ways are required on only one side of internal subdivision streets.

**2) Off-site Streets**

Where streets are located at the perimeter of the development site, bicycle paths and pedestrian ways are required on the side of the street adjacent to the development. The facility may be constructed within the road right-of-way or within an easement dedicated for that purpose. The facility must be continuous from boundary to boundary of the development, except where:

- a) The site configuration is such that County drainage ditches would have to be relocated or piped;
- b) The location of such bicycle path or pedestrian way would constitute a potential hazard to the user;

- c) Construction of the bicycle path or pedestrian way would be within wetland or other resource protection area; or
- d) The Director of Zoning and Development Services concludes that a right-of-way is too small for construction of a safe pedestrian way or bicycle path. However, the director may first require the developer to seek the necessary approvals to construct the facility within an adjacent power or drainage easement, or alternatively, to dedicate an easement for that purpose.

#### **(4) Time of Construction**

##### **a) Off-site Facilities**

All bicycle paths and pedestrian ways must be constructed prior to issuance of a Certificate of Compliance for the infrastructure unless the developer posts a bond or other surety acceptable to the county as assurance of completion of the improvements.

The County will not require construction of the bicycle path or pedestrian way where the right-of-way is scheduled for improvement within 2 years pursuant to the current CIP and the right-of-way improvement would result in the destruction of the facility. However, the developer will be required to provide a bond or other surety acceptable to the county assuring construction of the facility when the right-of-way improvements are completed.

##### **b) On-site Facilities**

The proposed facility layout must be coordinated with the bicycle path/pedestrian way system of the surrounding area. Bicycle paths/pedestrian ways in a proposed development must connect to existing facilities on adjacent property where easements or stub-outs exist.

Pedestrian ways along non-buildable lots, common areas, storm water ponds and other similar areas must be constructed by the developer prior to issuance of a Certificate of Compliance for the infrastructure unless the developer posts a bond or other surety acceptable to the county as assurance of completion of the improvements.

Pedestrian ways along buildable lots will be the responsibility of the lot owner and must be constructed prior to issuance of a Certificate of Occupancy for any building on the lot. To ensure compliance, the covenants for the development must reflect that the lot owner must construct the required pedestrian way prior to requesting a Certificate of Occupancy.

#### **(5) Construction Standards**

##### **a) General**



- 1) Curb cut ramps(wheelchair ramps) are required at all intersections where pedestrian ways intersect roadway curb and gutter. Curb ramps may not exceed 12 foot horizontal to 1 foot vertical (12:1) and must have a slip-resistant surface texture.
- 2) Permanent obstacles such as utility pole signs, mailboxes, drainage structures, etc. may not be located within a bicycle path or pedestrian way unless a minimum of 3 feet clearance can be obtained within the bicycle path or pedestrian way.
- 3) Bicycle paths and pedestrian ways must be located in the right-of-way or within adjacent easements of interior or perimeter streets. However, the facility may not be closer than one foot to an abutting property line. Sufficient distance from obstacles such as fire hydrants, drainage inlets, manholes, utility structures and streets must be maintained for the safety of the bicycle path or pedestrian way user. No pedestrian way may be located within the recovery area of the traveled way of the street.
- 4) There must be no unsafe curves or sudden elevation changes in the bicycle path or pedestrian way that would present a hazard to the user.
- 5) The Director of Zoning and Development Services may require fences, hedges, berms, landscaping, or other barriers to discourage pedestrians and bicycle riders from crossing hazardous streets at unsafe or at numerous locations. When possible, developments must be designed to promote bicycle and pedestrian street crossings at traffic-control signals, crosswalks or intersections.

b) Off-site Facilities

1) On-road

Where the Bicycle Paths & Pedestrian Ways Plan shows the use of bike lanes adjacent to the roadway, those lanes must be constructed within the right-of-way to county specifications as set forth in Administrative Code AC-11-9.

2) Off-road

All bicycle paths and pedestrian ways constructed off-site of the development or along a street perimeter to the development must be 8 feet in width and constructed of 4 inch thick concrete reinforced with 6" x 6" #10 welded wire fabric placed on a compacted stabilized subgrade (LBR 40 min.). Where the bicycle path or pedestrian way will be traversed by a driveway or parking lot entrance, the concrete thickness must be increased to a minimum of 6 inches.

c) On-site Facilities

All bicycle paths and pedestrian ways constructed within the development must be a minimum of 4 feet in width and constructed of 4 inch thick concrete reinforced with 6" x 6" #10 welded wire fabric placed on a compacted stabilized subgrade (LBR 40 min.). Where the bicycle path or pedestrian way will be traversed by a driveway or parking lot entrance, the concrete thickness must be a minimum of 6 inches.

**(6) Maintenance**

On-site bicycle paths and pedestrian ways must be maintained by the property owner's association through the operation and maintenance covenants. The county department of transportation will maintain off-site facilities located within county right-of-way.

**(7) Exemptions**

Notwithstanding the provisions of paragraphs (1)-(5), bicycle paths and pedestrian ways will not be required where the director determines that:

- a) Their establishment would be contrary to public safety;
- b) The cost would be excessively disproportionate to the need or probable use;
- c) Other available means or factors suggest an absence of need.

**SECTION FIVE:**

Article III, Design Standards and Requirements, Division 6 Open Space, Buffering and Landscaping is amended by amending Section 10-415, Landscaping, as follows:

**Sec. 10-415. Landscaping.**

**(b) *Landscaping adjoining street.***

- (1) All industrial and commercial developments and developments described in section 10-414(c) above must include landscaped strips that are no less than ten feet in width adjacent to all street rights-of-way. Where bicycle paths or pedestrian ways are located in a dedicated easement adjacent to the right-of-way, the planting strip may be reduced by the width of the facility provided there remains a minimum of four feet for the planting strip. No less than 12 shrubs per 100 linear feet must may be planted in each landscape strip. The clustering of shrubs is encouraged to improve survivability, ease of maintenance, and the aesthetic effect of the landscaped areas.
- (2) All multiple-family residential developments must include landscaped strips that are no less than 15 feet in width adjacent to all street rights-of-way. Where bicycle paths or pedestrian ways are located in a dedicated easement adjacent to the right-of-way, the

planting strip may be reduced by the width of the facility provided there remains a minimum of seven feet for the planting strip. No less than five trees and 18 shrubs per 100 linear feet must may be planted in each landscaped strip. If the planting of trees, in the opinion of the director, could create a potential conflict with existing overhead power lines, the plantings required by this subsection may be replaced by a vegetative hedge that is no less than three feet in height at the time of planting.

- (3) Landscaped strips adjoining street rights-of-way are not required for single-family development.

#### **SECTION SIX:**

Article III, Design Standards and Requirements, Division 7 Public Transit is amended by amending Section 10-443. Exceptions as follows:

#### **DIVISION 7. PUBLIC TRANSIT\***

##### **Sec. 10-443. Exceptions.**

- (c) The Director of Zoning and Development Services may waive the requirements of Section 10-442 where a developer has provided bicycle paths or pedestrian ways and those facilities function so as to provide equivalent access to the nearest bus stop.

## **SECTION SEVEN:**

Article IV, Illustrations, Tables and Diagrams is hereby amended by amending Sections 10-709, 10-710 and 10-711 as follows:

### **Sec. 10-709. Public local streets.**

(a) The following illustration applies to publicly maintained local streets with closed drainage and on-road bikeways, with a volume of less than 800 vehicles per day:

**PUBLICLY MAINTAINED LOCAL STREET WITH CLOSED DRAINAGE AND  
ON-ROAD BIKEWAYS - VOLUME LESS THAN 800 VEHICLES PER DAY**

**ADD FIGURE**

Notes:

- (1) A ten-foot-wide public utility easement shall be provided on each side of the right-of-way.

**Sec. 10-709. Public local streets.**

(b) The following illustration applies to publicly maintained local streets with closed drainage and on-road bikeways, with a volume of more than 800 vehicles per day:

**PUBLICLY MAINTAINED LOCAL STREET WITH CLOSED DRAINAGE AND  
ON-ROAD BIKEWAYS - VOLUME MORE THAN 800 VEHICLES PER DAY**

ADD FIGURE

Notes:

- (1) A ten-foot-wide public utility easement shall be provided on each side of the right-of-way.

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**Sec. 10-709. Public local streets.**

(c) The following illustration applies to local public streets with closed drainage and off-road bikeways:

**LOCAL PUBLIC STREET WITH CLOSED DRAINAGE AND OFF-ROAD BIKEWAYS**

ADD FIGURE

**Notes:**

- (1) A ten-foot-wide public utility easement shall be provided on each side of the right-of-way.

**Sec. 10-709. Public local streets.**

(d) The following illustration applies to publicly maintained local streets with open drainage and on-road bikeways, with a volume of less than 800 vehicles per day:

**PUBLICLY MAINTAINED LOCAL STREET WITH OPEN DRAINAGE AND  
ON-ROAD BIKEWAYS - VOLUME LESS THAN 800 VEHICLES PER DAY**

**ADD FIGURE**

**Notes:**

- (1) A ten-foot-wide public utility easement shall be provided on each side of the right-of-way.

**Sec. 10-709. Public local streets.**

(e) The following illustration applies to publicly maintained local streets with open drainage and on-road bikeways, with a volume of more than 800 vehicles per day:

**PUBLICLY MAINTAINED LOCAL STREET WITH OPEN DRAINAGE AND  
ON-ROAD BIKEWAYS - VOLUME MORE THAN 800 VEHICLES PER DAY**

ADD FIGURE

Notes:

- (1) A ten-foot-wide public utility easement shall be provided on each side of the right-of-way.



**Sec. 10-709. Public local streets.**

(f) The following illustration applies to publicly maintained local streets with open drainage and off-road bikeways:

**PUBLICLY MAINTAINED LOCAL STREET WITH OPEN DRAINAGE AND  
OFF-ROAD BIKEWAYS**

ADD FIGURE

Notes:

- (1) A ten-foot-wide public utility easement shall be provided on each side of the right-of-way.

**Sec. 10-710. Private local streets.**

(a) The following illustration applies to private local streets with closed drainage:

**PRIVATE LOCAL STREET WITH CLOSED DRAINAGE**

**ADD FIGURE**

Notes:

- (1) A ten-foot-wide public utility easement shall be provided on each side of the right-of-way.

**Sec. 10-710. Private local streets.**

(b) The following illustration applies to private local streets with open drainage:

**PRIVATE LOCAL STREET WITH OPEN DRAINAGE**

**ADD FIGURE**

**Notes:**

- (1) A ten-foot-wide public utility easement shall be provided on each side of the right-of-way.

**Sec. 10-711. Access streets.**

The following illustrations apply to access streets:

ACCESS STREET WITH SWALE OR DITCH  
(50-FOOT RIGHT-OF-WAY)

ADD FIGURE

ACCESS STREET WITH UNDERGROUND DRAINAGE (40-FOOT RIGHT-OF-WAY)

ADD FIGURE

## ACCESS STREETS

Development Category	Minimum Pavement Width	Surface Course	Base	Stabilized Subgrade LBR 40
A	22'	1 ½" Type S-1	8"	12"
B	22'	1" Type S-1	6"	6"
C and D	20'	1" Type S-1	6"	6"
D*	20'	1" Type S-1	6"	N/A

Note:

\*The county shall not accept maintenance of these streets in this type development.

### SECTION EIGHT:

Chapter 34, Zoning, Article IV, District Regulations, Division 9 Planned Development Districts is amended by amending Section 34-936, General Conditions For All Land Uses, as set forth below:

#### Section 34-936. General Conditions for all land uses.

- (h) Bicycle Paths and Pedestrian Ways. Unless governed by alternative standards established by special conditions, bicycle paths and pedestrian ways must be located and constructed in accordance with the requirements set forth in Chapter 10.

### SECTION NINE: SEVERABILITY

It is the legislative intent that if any section, subsection, sentence, clause or provision of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, such portion will be deemed a separate provision and the remaining provisions of this ordinance will not be affected. It is the legislative intent of the Board of County Commissioners that this ordinance

would have been adopted had such unconstitutional provision not be included therein.

### SECTION TEN: CONFLICTS OF LAW

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Whenever the requirements or provisions of this Ordinance are in conflict with the requirements or provisions of any other lawfully adopted ordinance or statute, the most restrictive requirements will apply.

## **SECTION ELEVEN: CODIFICATION, INCLUSION IN CODE AND SCRIVENER'S ERRORS**

The Board of County Commissioners intend for the provisions of this ordinance will become and be made a part of the Lee County Code; and that sections of this ordinance may be renumbered or relettered and that the word "ordinance" may be changed to "section," "article," or such other appropriate word or phrase in order to accomplish such intention; and regardless of whether such inclusion in the code is accomplished, sections of this ordinance may be renumbered or relettered and typographical errors which do not affect the intent may be authorized by the County Administrator, or his designee, without need of public hearing.

## **SECTION TWELVE: EFFECTIVE DATE**

This ordinance will take effect immediately upon receipt by the Board of County Commissioners of Lee County, Florida, of the official acknowledgment from the Secretary of State of Florida that it has been filed with that office.

THE FOREGOING ORDINANCE was offered by Commissioner \_\_\_\_\_ who moved its adoption. The motion was seconded by Commissioner \_\_\_\_\_ and, being put to a vote, the vote was as follows:

JOHN E. ALBION	_____
RAY JUDAH	_____
DOUGLAS R. ST. CERNY	_____
JOHN E. MANNING	_____
ANDREW W. COY	_____

DULY PASSED AND DATED THIS \_TH DAY OF \_\_\_\_\_, 1995.

ATTEST:  
CHARLIE GREEN, CLERK

BOARD OF COUNTY COMMISSIONERS  
OF LEE COUNTY, FLORIDA

By: \_\_\_\_\_  
Deputy Clerk

By: \_\_\_\_\_  
Chairman

APPROVED AS TO FORM BY:

\_\_\_\_\_  
Office of the County Attorney