



LAND DEVELOPMENT CODE ADVISORY COMMITTEE

**COMMUNITY DEVELOPMENT/PUBLIC WORKS BUILDING
1500 MONROE STREET, FORT MYERS, FL 33901
CONFERENCE ROOM 1B**

**FRIDAY, MAY 10, 2024
8:30 A.M.**

AGENDA

1. Call to Order/Review of Affidavit of Publication
2. Approval of Minutes – March 8, 2024
3. Land Development Code Amendments
 - A. Restaurant Classifications
 - B. EMS/Fire/Sheriff's Stations
 - C. Accessory Apartments and Accessory Dwelling Units (ADUs)
 - D. Dwelling Unit Types on Nonconforming Lots of Record
 - E. RVs as Temporary Living Facilities
 - F. Clean-up Items
 1. Definition of "Affordable Housing"
 2. Home Occupancy Regulation Modifications
 3. Lee Plan Cross-References
 4. Airport Compatibility Zone/Wellfield Protection Zone Map Updates
4. Adjournment
Next Meeting date: June 14, 2024

To view a copy of the agenda, go to www.leegov.com/dcd/calendar.

For more information, contact Janet Miller (239) 533-8583 or jmiller@leegov.com.

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MINUTES REPORT
LAND DEVELOPMENT CODE ADVISORY COMMITTEE
(LDCAC)
Friday, March 8, 2024
8:30 a.m.

Committee Members Present:

Jay Johnson	Christopher Scott
Veronica Martin	Linda Stewart
Jack Morris	Amy Thibaut, Vice Chair
Jarod Prentice	

Excused / Absent:

Jem Frantz	Bill Prysi
Randy Krise	Al Quattrone
Tom Lehnert	Jennifer Sapen
Paula McMichael, Chair	Patrick Vanasse

Lee County Government Staff Present:

Joe Adams, Asst, County Atty.	Adam Mendez, Zoning
Dirk Danley, Jr., Zoning	Janet Miller, DCD Admin.
Tad Delnay, Deputy Bldg. Official	Brianna Schroeder, Zoning

AGENDA ITEM 1 - CALL TO ORDER/REVIEW OF AFFIDAVIT OF PUBLICATION

Ms. Thibaut, Vice Chair, called the meeting to order at 8:30 a.m. in the Large First Floor CR 1B, Community Development/Public Works Building, 1500 Monroe Street, Fort Myers, Florida.

Mr. Joe Adams, Assistant County Attorney, reviewed the Affidavit of Publication and found it legally sufficient as to form and content.

AGENDA ITEM 2 – EXTENSION OF OFFICER TERMS

Mr. Danley explained that normally the Election of Officers for the Land Development Code Advisory Committee is handled in October of each year. However, since the Committee has not met since last May of 2023, the Election of Officers was not addressed. Staff's preference is to stay with the yearly schedule of October, so they asked for a motion to extend the current officer terms until October 2024.

Mr. Scott made motion to extend the term of the existing officers (Chair and Vice Chair) through October 2024 until such time that the Election of Officers can take place, seconded by Mr. Johnson. The motion was called and passed unanimously.

AGENDA ITEM 3 - APPROVAL OF MINUTES – May 12, 2023

Ms. Martin made a motion to approve the May 12, 2023 minutes, seconded by Mr. Morris. The motion was called and passed unanimously.

AGENDA ITEM 4 – LDC AMENDMENTS – A. MICRO-BREWERIES, WINERIES, AND DISTILLERIES

Mr. Dirk Danley, Principal Planner, gave an overview of the amendments.

Mr. Prentice asked who would be regulating the thresholds for the barrel counts locally.

Mr. Danley stated those are handled by having a license with the state. The 2COP rider limits the number of barrels that are produced. The ATF reviews those licenses every year as they do for a typical 2COP or a 4COP license to make sure they are remaining in compliance with that. The way the County regulates it is similar where someone can obtain a special exception or administrative approval. Staff reviews them for separation from certain uses as they would for a typical bar or cocktail lounge and then relying on the state's regulatory process to keep the businesses in compliance.

The Board had no questions on Page 1.

Page 2

Mr. Scott stated that microbrewery includes the incidental for the tasting room language, but it is not reflected in the brewpub definition. He was uncertain whether this was an issue or not, but it seemed odd to him that one clearly referenced that the tasting room is incidental.

Mr. Danley stated the definitions were a blend of defined uses in State Statute as well as applying some other uses that neighboring jurisdictions have applied to their code. He noted that the difference between a brewpub and a microbrewery is relatively small, so staff wanted to make sure that a brewpub could operate as a restaurant if it needed to. There is a scaling effect of the alcohol production. It is more flexible for the brewpub whereas with the microbrewery, it gets closer to an industrial use. It should mostly be the production of alcohol. It is more flexible with the brewpub and is more stringent for the microbrewery.

Mr. Scott referred to the taproom brewery definition, which says "*see bar and cocktail lounge.*"

Mr. Danley stated the way the statute is written, it is basically the same as a bar and cocktail lounge. The taproom itself is not necessarily operating any different than what a typical bar and cocktail lounge would be.

Mr. Scott asked for confirmation that if someone had a taproom, they would not be brewing beer.

Mr. Danley stated there is an option for them to expand so that they can brew beer, but it would be functioning as a bar at that point.

Mr. Scott asked for confirmation that a taproom brewery is considered as a cocktail lounge.

Mr. Danley stated that was correct.

The Board had no questions on Pages 3 through 8.

Page 9

Ms. Stewart referred to brewpubs and noted that many breweries brew their own brand, but they sell to each other as well. She wanted to make sure this was something that would be allowable in the guidelines. There are also instances where there is consumption off premises. For instance, some breweries sell 6 packs that people can purchase and leave the premises with. It is not just a situation where they consume on-premises. They can consume off premises as well. She felt this should be added as an incidental for the offsite.

Mr. Danley stated staff would take this under advisement and explore adding some verbiage to include that.

Page 10

Ms. Stewart referred to Sec. 34-1264. Sale or service for on-premises consumption. She asked if there would be an option to submit for an administrative approval or special exception.

Mr. Danley stated there was certain criteria the applicant would need to meet in order to have an administrative approval. There is a separation requirement from churches, schools, and homes. Although he could not recall the other standards, he noted there were approximately four or five other standards that are typical for most bars and cocktail lounges.

Mr. Prentice asked if the regulations include proximities to doorways, portals, and property lines.

Mr. Danley stated that was correct. It is measured from the doorway of the establishment to the property line of one of those uses.

The Board had no questions on Page 11.

Page 12

Mr. Scott referred to the parking requirements for brew pubs. He noted the tasting rooms have the same parking requirements as bars and cocktail lounges. He asked how the parking is currently handled and if it would create issues or non-conformities for existing microbreweries.

Mr. Danley noted there were only a few microbreweries in the county and he was uncertain how they calculate the parking. He thought that perhaps the brewpubs could have the same parking as bars and cocktail lounges, but the requirements could be changed for a heavier manufacturing component. For instance, staff completed a project that includes a rock wall, gym, and brewery off Six Mile Cypress. It is a large facility. He was uncertain how they calculated the parking requirement for the bar uses versus the manufacturing uses. He noted that staff would review this further to ensure that larger scale/industrial production uses do not have the same kind of parking requirement.

Mr. Scott asked that staff consider whether introducing new regulations will affect existing breweries to where they will become non-conforming as it relates to parking.

Mr. Danley stated staff would review this issue further.

Mr. Morris asked how the parking is calculated (21 spaces per 1,000 square feet) compared to restaurants and fast food that are 13 and 14 spaces. He asked for the reasoning behind increasing the number significantly.

Mr. Danley stated the parking requirement for bars and cocktail lounges have been in place for a long time and are based on ITE.

Mr. Morris asked if anyone specifically looked at brewpubs and microbreweries.

Mr. Danley stated he believed that when it was reviewed the categories were lumped together, but noted that staff would check into this further before it goes to the Local Planning Agency and the Board of County Commissioners.

Page 13

Ms. Thibaut referred to Note (18) on Page 13. She asked how staff was defining what is related to brewery functions. For instance, a brewpub can have food. Would the food portion of the brewpub be included in the maximum of 35 percent that is non-brewery related?

Mr. Mendez stated this threshold was initially in the definition. Staff tried to distinguish between the brewpub and the microdistillery and characterize it. What affects this is the parking requirement. It is determining whether you have parking at 14 spaces per 1,000 in a mixed-use or 21 spaces in a single-use establishment.

Mr. Danley stated the thought process for exceeding the 35% would be that the establishment is switching over to a different use.

Mr. Mendez stated the 35% is to characterize brewpub versus microdistillery.

Mr. Danley stated it could involve a restaurant as well depending on whether someone wants a restaurant or a taproom. It is a way to box into a certain type of characteristic for a brewpub, but staff is open to discussion on that number.

Ms. Stewart stated she thought the 35% figure was small because when you have small establishments, half of their building is manufacturing in the back area, yet they have small areas up front. They may manufacture more than the number that the county has allocated. If they do, the 35% limits them because they are being put into a higher category even though they may not fit into that number just because of their square footage.

Ms. Danley stated staff would review this further.

Mr. Scott believed the county was trying to keep the on-premises consumption at these facilities as an ancillary use. He was not certain that putting more parking or an emphasis on parking for that ancillary use was the better direction to go.

Mr. Morris referred to the term "*non-brewery related functions.*" He asked if the manufacturing and packaging of ale beers was non-brewery related. He referred to Note (17) on Page 13 which mentions "*Floor area dedicated to the manufacturing and packaging of ales, beers, meads, wines, liquor or similar beverages...*" He asked if those were non-brewery related functions that would be outside of the 35%.

Mr. Danley stated those functions would be considered part of the brewery related functions.

Ms. Thibaut felt it might be helpful if there was a definition added for brewery related functions.

Mr. Prentice stated he was confused over the terms "*manufacturing*" and "production," which is throughout the document. If the intent is to allow brewpubs, microbreweries, and non-industrial uses, staff might consider omitting the term "manufacturing," and use the word "*production*" instead. The term "*manufacturing*" could be used in instances where the county wants certain facilities in a heavier commercial/industrial district.

Mr. Danley stated staff would go through the document and try to clean that up by using the word “*production*.” He felt this was a valid point.

Mr. Scott referred to Note 18 as it relates to an earlier question regarding definitions. Brewpub did not specify incidental whereas the micro-breweries and micro-distilleries had incidental in here. The county is now introducing a parking restriction that says brewpubs are only allowed a smaller percentage for these essentially incidental uses whereas the definition makes it sound like brewpubs can have large restaurants and micro-breweries and micro-distilleries should only have incidental tasting rooms. Note 18 seems to flip this around a bit because microbreweries and micro-distilleries are not included in this. He asked what the rationale was for only having this apply to brewpubs.

Mr. Danley stated staff was not tied to what is written in Note 18. Staff was trying to cull together some State Statute and what staff sees taking place in other jurisdictions. Staff would be fine if the LDCAC makes a motion to remove that condition.

Ms. Thibaut suggested that staff might add some verbiage so that a person could get an administrative variance to up to 45% or some other percentage.

Mr. Danley stated staff could work with 45% to 50%.

Mr. Scott stated his preference is to remove the percentage because the county is allowing all these uses (bars, cocktail lounges, etc.) in any of the listed zoning districts. Since they can be in any of the zoning districts, why put a cap on what a microbrewery or brewpub can have or a bar area or restaurant area?

Ms. Stewart agreed and noted that the 2COP and 4COP also have rules regarding providing food depending on what license someone has. Several brewpubs do not have restaurants, but they bring in food trucks. It allows them to have the license they need and comply with state requirements. Some of the brewpubs are small and do not have the room for a restaurant area. She noted there are also brewpubs that will provide menus to customers from adjacent restaurants, and they have the food delivered. Even though they do not have the room for a restaurant, they are still able to provide food through another outlet. She felt that some of these regulations restrict brewpub owners who also must comply with the 2COP and 4COP regulations.

Mr. Prentice asked if a restaurant owner would be able to come in and operate a brewery or microbrewery out of their restaurant within the current standards.

Mr. Danley stated that if someone has a typical restaurant and wanted to incorporate a large bar as part of their restaurant, they could seek approvals to allow a bar within their restaurant if both of those uses are allowed within their zoning district. This is supposed to function the same way that a bar or cocktail lounge would in any other zoning district.

Mr. Prentice stated that the owners must also comply with the floor area ratio requirements. Is it a percentage of those dual uses? He referred to a restaurant that has a brewery on premises in Jacksonville called Seven Bridges Grille & Brewery, which is a big chain.

Mr. Scott stated that BJ’s Restaurant and Brewhouse in Fort Myers has this as well.

Mr. Prentice asked if these regulations would create a nonconformity or further hardship for someone that is not just a brewery.

Ms. Stewart agreed that these regulations might make things too tight to where businesses cannot fit in them.

Mr. Danley stated staff will review this further to see if there are ways to make the regulations more flexible.

Ms. Thibaut asked if the COP for a restaurant would be different than a COP for a brewpub or a microbrewery under the state regulations.

Mr. Danley stated that a 2COP is beer and wine. The microbrewery is a rider to that COP. It is an additional piece to the license, so it is slightly different.

Ms. Thibaut asked for clarification that there is no sub type of COP for a restaurant versus the others.

Mr. Danley confirmed there is no sub type of COP they can obtain. He could only think of one instance where there is a restaurant that is a 4COP. There is a 4COP special food service where someone would need to have 50% of their sales be from food and not from alcohol. When someone dips below the 50%, they are required to have a full 4COP license, which is a full alcohol license (same requirement as a bar). He noted there were only a limited number of those license types, which are expensive comparably.

Ms. Martin referred to the definitions on Page 2. As someone goes through the zoning process, they usually start with the definition of uses. She felt the definitions of uses being discussed today are already listed, which may help when determining the parking ratios for the use when staff is determining whether it is a freestanding brewpub, multiple brewpub, microbrewery or distillery. In trying to determine how she would calculate this if it were her project, it seemed to her that there is not a problem with how it is written once you go back to the definitions and compare it with the parking calculations because they are very distinctive. She also noted that it did not currently seem as if someone could sell food with the microbrewery, taproom, or tasting room. She asked for confirmation of that.

Mr. Mendez stated that was correct. The brewpub is a hybrid brewery/restaurant scenario.

Mr. Morris referred to Note (8) on Page 13 and asked if the definition issue would be resolved by adding brewery and other wineries to this note.

Mr. Danley felt there was validity in that. Staff will consider adding that verbiage.

Ms. Thibaut made a motion to accept the amendments as written with the following exceptions: 1) removing note (18); 2) replacing the word “*manufacturing*” with the word “*production*” in the definitions; and, (3) amend Note (8) by adding brewery and other wineries to the verbiage, seconded by Mr. Scott.

Mr. Danley referred to Ms. Thibaut’s earlier suggestion to include a definition of brewery related uses.

Ms. Thibaut did not feel it was necessary if staff removes Note (18).

The motion was called and passed unanimously.

Mr. Danley thanked the LDCAC for their comments and stated it was very helpful to staff.

AGENDA ITEM 4 – LDC AMENDMENTS – B. CLEAN-UP AMENDMENTS – FLORIDA BUILDING CODE (2023) COMPLIANCE AND EMERGENCY SHELTER MITIGATION (MOBILE HOME AND RV DEVELOPMENTS)

Mr. Dirk Danley, Principal Planner, gave an overview of the amendments.

The Board had no questions or comments on this portion of the amendments.

Ms. Thibaut made a motion to approve these amendments as written, seconded by Ms. Stewart. The motion was called and passed unanimously.

Staff stated that the next meeting is scheduled for May 10, 2024.

There was no further discussion. Ms. Thibaut adjourned the meeting at 9:10 a.m.

MEMORANDUM

FROM
THE DEPARTMENT OF
COMMUNITY DEVELOPMENT

TO: Land Development Code DATE: April 25, 2024
Advisory Committee (LDCAC)

FROM: Anthony R. Rodriguez, AICP, CPM
Zoning Manager

RE: **Land Development Code (LDC) Amendments, Group 2
Restaurant Classifications, EMS/Fire/Sheriff's stations, Accessory
Apartments/Accessory Dwelling Units, Dwelling Unit Types on Nonconforming
Lots of Record, RVs as Temporary Living Facilities, Clean-up Items**

The attached Land Development Code amendments, scheduled for consideration at the May 10, 2024 meeting, include changes that:

- Modify existing restaurant regulations;
- Allow EMS, fire, and sheriff's stations in more zoning districts;
- Clarify existing regulations pertaining to accessory apartments and accessory dwelling units;
- Ease development restrictions on nonconforming lots of record as defined in the LDC;
- Codify Department interpretations related to development of mobile home and RV lots of record and temporary use of RVs and mobile homes post-disaster;
- Update Lee Plan cross-references;
- Reconcile the LDC with state and federal legislation; and
- Update Airport Compatibility District and Wellfield Protection Zone maps.

Staff seeks input and a recommendation on whether the proposed amendments should be adopted by the Board of County Commissioners (BoCC).

Background and Summary

On February 6, 2024, the BoCC authorized staff to begin work on drafting substantive and non-substantive ("clean-up") amendments to the LDC as part of the County's biennial Land Development Code Amendment Cycle. Substantive amendments are focused on eliminating redundancies within the LDC, codifying existing Department interpretations, and lessening burdensome restrictions where appropriate. Non-substantive amendments will be focused on assuring consistency within the LDC, between the LDC and the Lee Plan, between the LDC and the Florida Building Code, and between the LDC and state and federal regulations.

The attached amendments to the LDC can be summarized as follows:

1. Restaurant Classifications

- *The Issue:* The LDC contains five restaurant categories with significant overlap, which complicates administration.
- *Proposed Solution and Intended Outcome:* Amend the LDC to consolidate restaurants into two groups (restaurants and restaurants with drive-throughs), to simplify administration and provide greater clarity.

2. EMS/Fire/Sheriff's Stations

- *The Issue:* The LDC limits permitted locations for public safety stations while the Lee Plan permits these facilities in all future land use categories.
- *Proposed Solution and Intended Outcome:* Amend the LDC to permit these facilities more permissively to better align the LDC with the Lee Plan, requiring special exceptions to assure compatibility where appropriate.

3. Accessory Apartments (AAs) and Accessory Dwelling Units (ADUs)

- *The Issue:* Current regulations governing AAs/ADUs are ambiguous, leading to difficulty in administration and uncertainty for property owners.
- *Proposed Solution and Intended Outcome:* Amend existing regulations to clarify ambiguous provisions and eliminate conflicts in regulations to make them easier to administer and provide greater certainty.

4. Dwelling Unit Types on Nonconforming Lots of Record

- *The Issue:* Current regulations limit development on nonconforming lots of record to one single-family residence without acknowledgment of existing underlying zoning or future land use.
- *Proposed Solution and Intended Outcome:* Amend the LDC to allow nonconforming lots in single- or two-family zoning districts to be developed with the dwelling unit types permitted in that district subject to compliance with the Lee Plan and the applicable provisions of the LDC. This will facilitate infill development of housing consistent with underlying use and property development regulations.

5. RVs as Temporary Living Facilities

- *The Issue:* Current regulations allow placement of a mobile home, travel trailer, or park trailer on properties where a single-family residence is undergoing rehabilitation following a natural disaster. Staff has historically allowed RVs in lieu of the unit types above despite RVs not being explicitly permitted.
- *Proposed Solution and Intended Outcome:* Amend the LDC to align regulations with DCD practice.

6. Clean-up Items

- Update of Lee Plan cross-references;
- Definition of affordable housing (align with HUD definition);
- Home occupancy regulation modifications (legislative pre-emption); and
- Update of Airport Compatibility and Wellfield Protection Zone Maps

Attachments

Draft LDC Amendments

GROUP 2, ITEM 1

RESTAURANT CLASSIFICATIONS

AMENDMENT SUMMARY

- Issue:** The LDC currently provides for five distinct classifications—Restaurants, Groups I, II, III, and IV, and Restaurants, Fast Food. There is significant overlap between restaurant groups, which complicates administration of the LDC with respect to restaurants. In addition, drive-through facilities are becoming more prevalent for restaurants that are not traditionally considered “fast food,” which complicates administration of the LDC with respect to design requirements for these types of establishments.
- Solution:** Amend the LDC to consolidate restaurants into two groups: restaurants, and restaurants with drive-through.
- Outcome:** Clarifies and streamlines the LDC to simplify classification of restaurants, which will simplify administration and clarify the applicable design regulations for restaurant uses depending on classification.

CHAPTER 10 – DEVELOPMENT STANDARDS

ARTICLE III. – DESIGN STANDARDS AND REQUIREMENTS

DIVISION 3. OPEN SPACE, BUFFERING AND LANDSCAPING

Sec. 10-424. Landscape requirements for specific uses.

Staff note: Staff note: This amendment revises the term ‘Restaurant, fast food’ to ‘Restaurant, with drive-through’ consistent with the new definition in LDC Section 34-2.

- (a) The following uses require landscaping or screening beyond the minimum standard requirements:
- (1) Recreational vehicle planned developments, section 34-939(a)(3).
 - (2) Private recreational facilities planned developments, section 34-941.
 - (3) Display, sale, rental or storage facilities for motor vehicles, boats, recreational vehicles, trailers, mobile homes or equipment, section 34-1352.
 - (4) Convenience food and beverage stores, automobile service stations, ~~fast food~~ restaurants, with drive-through, and car washes, section 34-1353.
 - (5) Wireless communications facilities, section 34-1447(c)(4)(c).
 - (6) Essential services and facilities, section 34-1616(b).
 - (7) Mining, chapter 12.
 - (8) Residential project walls, section 34-1743(b)(3).
 - (9) Open storage, section 34-3005(b)(1).

(10) San Carlos Island Redevelopment Overlay Districts, chapter 33.

CHAPTER 33 – PLANNING COMMUNITY REGULATIONS

ARTICLE IV. – PAGE PARK PLANNING COMMUNITY

DIVISION 2. BASIC ELEMENTS

SUBDIVISION I. - BASIC ELEMENTS

Sec. 33-1261. Permitted uses.

Staff note: Staff note: This amendment revises the term ‘Restaurant, groups I, II, III, and IV to ‘Restaurant’ consistent with the new definition in LDC Section 34-2.

The following uses may be approved through the administrative process set forth in section 33-1202(b) in the stand-alone commercial areas of the Page Park Community Overlay District (as depicted in Appendix I, Map 6). These uses are in addition to uses permitted in the underlying zoning district.

Restaurants. ~~Groups I, II, III, and IV~~

Remainder of section unchanged.

ARTICLE VIII. – NORTH FORT MYERS PLANNING COMMUNITY

DIVISION 3. COMMERCIAL CORRIDOR LAND DEVELOPMENT PROVISIONS

SUBDIVISION IV. – COMMERCIAL CORRIDOR USE REGULATIONS

Sec. 33-1596. Use regulations.

Staff note: Staff note: This amendment revises the terms ‘Restaurant, fast food’ to ‘Restaurant, with drive-through’, and ‘Restaurant, groups I, II, III, and IV to ‘Restaurant’ consistent with the new definition in LDC Section 34-2.

The following use regulations apply to property located within the commercial corridor as defined in 33-1537:***

USE DESCRIPTION	SPECIAL NOTES OR REGULATIONS	COMMERCIAL CORRIDOR
Restaurant, fast food with drive-through	34-1353	P
Restaurants (34-622(c)(43)):	- Note (33)	P
–Group I	Note (33)	P
–Group II	Note (33)	P
–Group III	Note (33)	P
–Group IV	-	P

All references to notes are to those notes found in section 34-844.

- * Uses allowed by special exception may also be requested through PD zoning.
- ** Use must not be located closer than 500 feet, measured in a straight line from any public school or charter school; child care center; park, playground, or public recreation facility; place of worship or religious facility; cultural center, or hospital.
- *** All planned developments approved prior to adoption of this provision will retain the uses approved.
- **** Bail bonding, escort services, fortune tellers palm readers or card readers, massage parlors are not permitted.

ARTICLE XII. – SAN CARLOS ISLAND REDEVELOPMENT OVERLAY DISTRICT

Sec. 33-1744. Modified land development regulations, the master plan.

Staff note: This amendment revises the term ‘Restaurant, group I and II’ to ‘Restaurant’ in Table 1 consistent with the new definition in LDC Section 34-2.

The District Master Site Plan (plan or MSP) contains graphic and textual aspects which modify the following specified land development regulations. All other Lee County land development regulations remain in full effect. A reduced copy of the San Carlos Island MSP is adopted by reference and included in reduced form in Appendix I. In general, the SCC and SCF sub-districts retain the uses allowed in the underlying zoning districts. The SCW and SCCE sub-districts alter the uses from those of the underlying zoning district to allow those uses set forth in table 1, below. In addition, the type of approval required for certain uses has been modified, as also set forth in table 1.

(a) and (b) unchanged.

- (c) *Use of table 1.* The following abbreviated terms have the meaning stated and apply to table 1 and its explanatory notes: the letter "SE" means a use only permitted by a special exception approved pursuant to section 34-145(c), approval under section 34-1082(d)(1)a. is required as well; "-" means that the use is not allowed, and the letter "P" means a use is permitted subject to approval by the Director pursuant to section 34-1082.

**TABLE 1
LAND USES IN THE SCCE AND SCW SUB-DISTRICTS**

Land Uses	Special Notes or Regulations	SCCE	SCW
Restaurants (34-622(c)(43)):		SE*	P
• Group(s) I, II		SE*	P
• With outdoor seating		*Note I	P

Notes:

- A. Limited to marine-oriented operations.
- B. Limited to establishments which are clearly accessory and subordinate to a marina or commercial fishing land support facility.
- C. Mainly the U.S. Coast Guard, Army Corps of Engineers, State Department of Environmental Protection, Marine Patrol and other marine-oriented County facilities.
- D. Limited to marine-oriented schools such as sailing schools.
- E. Limited to seafood markets.
- F. As modified by section 33-1743(e)(6) "Signs".
- G. In addition to the marina accessory uses listed in section 34-2, the following uses are included if clearly accessory and subordinate to a marina: food stores, laundry facilities, rental or leasing facilities, Group I, and specialty retail shop, Group I.
- H. Boat sales and boat part sales which are clearly accessory and subordinate to this use are allowed.

- I. This use is only allowed east of San Carlos Boulevard.
- J. This use is allowed only where the underlying zoning is CM or IM, and the land use category is Urban Community.

Remainder of section unchanged.

CHAPTER 34 – ZONING

ARTICLE I. – IN GENERAL

LDC Section 34-2. – Definitions.

Staff note: This amendment revises the definitions of ‘Restaurant, fast food’ to ‘Restaurant, with drive-through’, and ‘Restaurant, group I, II, III, and IV’ to ‘restaurant’. The change to restaurant ultimately combines the use groups I through IV for restaurants into a single category. LDC Section 34-622(c)(43) has been removed concurrently with the amendments to the definition of restaurant.

Drive-through facility means an establishment where a patron transacts, places orders, or is provided products or services without departing from his or her automotive vehicle or in which the patron may temporarily depart from his or her vehicle in a non-parking space while servicing it, ~~such as a do-it-yourself car wash or fuel pump.~~ The terms "drive-through," "drive-in" and "drive-up" are synonymous. See Pick-up window.

Pick-up window means an accessory use consisting of a window where customers may arrive and directly collect items that were ordered prior to arrival. A pickup window may not provide for ordering, call boxes, or payment, typically associated with a drive-through facility.

Restaurant, fast food with drive-through means an establishment ~~whose principal business is the sale of food or beverages in a ready-to-consume state primarily for off-site consumption, and that may contain drive-through facilities where customers order and are served food at a counter or in a motor vehicle in packages prepared to leave the premises or are able to be taken to a table or counter to be consumed.~~ See Restaurant.

Restaurant, ~~standard~~ means an establishment whose principal business is the sale of food or beverages to customers in a ready-to-consume state. ~~and principal method of operation includes one or both of the following characteristics:~~ This definition includes uses previously classified as Restaurants, Groups I, II, III, and IV. See Restaurant, with drive-through.

~~(1) Customers are served their foods and beverages by a restaurant employee at the same table or counter where food and beverages are consumed.~~

~~(2) A cafeteria-type operation is conducted where food and beverages generally are consumed within the restaurant building.~~

ARTICLE VI. – DISTRICT REGULATIONS

DIVISION 1. - GENERALLY

LDC Section 34-622 – Use activity groups

Staff note: LDC Section 34-622(c)(43) has been removed concurrently with the amendments to the definition of Restaurant as these use groups have now been combined into 'restaurant' as defined in LDC Section 34-2.

(c) Use activity groups are as follows:

- (43) ~~Restaurants. Establishments primarily engaged in the retail sale of prepared food and drinks for consumption on the premises. Reserved.~~

~~GROUP I. Refreshment stands. Establishments that do not normally provide indoor seating, such as:~~

	Box lunch stands
	Dairy bars
	Frozen custard stands
	Hot dog stands
	Ice cream stands
	Soft drink stands

~~GROUP II. Convenience restaurants. Establishments primarily pedestrian-oriented. These facilities are usually located in business or recreational areas for the convenience of walk-in customers.~~

	Automats (eating)
	Bakeries
	Beaneries
	Cafes
	Cafeterias
	Commissaries
	Diners
	Foodstands

	Grills
	Ice cream shops
	Lunch bars
	Lunchcounters
	Luncheonettes
	Lunchrooms
	Oyster bars
	Pizzerias
	Sandwich bars or shops
	Soda fountains
	Tearooms
	Yogurt shops

~~GROUP III. Standard restaurants. Establishments wherein customers usually arrive via automobile and are seated within the establishment. Service may be provided or may be by the customer himself.~~

	Buffets
	Restaurants, standard

~~GROUP IV. Dinner theaters. Establishments that provide paid entertainment, such as singers, dancers, comedians or theater plays, along with food service.~~

DIVISION 5. – COMMUNITY FACILITIES DISTRICTS

Sec. 34-813. Use regulations table.

Staff note: This amendment revises the definition for ‘Restaurant, group II’ to ‘Restaurant’. The change to restaurant definition ultimately combines the use groups I through IV for restaurants into a single category. Additionally, the reference to LDC Section 34-622(c)(43) has been removed as this use group category was replaced with the definition of ‘restaurant’ in LDC Section 34-2.

Use regulations for the community facilities districts are as follows:

TABLE 34-813. USE REGULATIONS FOR COMMUNITY FACILITIES DISTRICTS

		Special Notes or Regulations	CF
	Restaurants, group II	Note (3), 34-622(c)(43)	P

Notes:

- (1) New facilities of 50 or more beds, or the expansion of an existing facility that will bring the number of beds to 50 or more, or which changes the use, must request a special exception.
- (2) Except for government owned and operated parks (section 34-622(c)(32)), facilities proposed for ten or more acres or the expansion of an existing facility that will bring the number of acres to ten or more acres or that changes the use, must request a special exception.
- (3) Permitted only when clearly subordinate to the permitted use of the property and when conducted wholly within the principal building.
- (4) Family day care homes are exempt pursuant to F.S. § 125.0109.
- (5) Art galleries are permitted as noncommercial only. Animal or reptile exhibits, aquariums, planetaria, and zoos require approval by special exception.
- (6) A day care center, owned by the entity with title to the place of worship, that is operated within the building housing the place of worship is not required to obtain special exception approval.
- (7) Not permitted in Airport Noise Zone B.
- (8) Temporary use permits are not required when the temporary use is accessory to the principal use of the structure or premises. See Use, accessory definition (section 34-2).
- (9) Not permitted in Airport Noise Zones B unless required to support a noise compatible use and constructed in compliance with limitations for dwelling unit type set forth in section 34-1006(b)(2) as applicable.
- (10) Not permitted in Coastal High Hazard areas unless in compliance with section 2-485(b)(5)a.
- (11) Not permitted in Airport Noise Zone B unless pre-empted by state law.
- (12) Limited to indoor gun range owned or operated by a government agency.

DIVISION 6. – COMMERCIAL DISTRICTS

Sec. 34-844. Use regulations table.

Staff note: Staff note: This amendment revises the terms ‘Restaurant, fast food’ to ‘Restaurant, with drive-through’, and ‘Restaurant, groups I, II, III, and IV to ‘Restaurant’ consistent with the new definitions in LDC Section 34-2. Add clarification to ‘drive-through facility for any permitted use’ item to clarify that restaurants with drive-through are regulated separately.

Use regulations for conventional commercial districts are as follows:

TABLE 34-844. USE REGULATIONS FOR CONVENTIONAL COMMERCIAL DISTRICTS

	Special Notes or Regulations	C-1A	C-1	C-2	C-2A	CN-1	CN-2	CN-3 (21,23)	CC	CG	CS-1	CS-2	CH	CT	CR	CI	CP
Restaurant		P	P	P	P	P	P	P (24)	P	P	P	SE (5)	P	P	P	P	—
Drive-through for facility with any permitted use (except Restaurants with drive-through)		P	P	P	P	—	SE	—	P	P	SE	SE	P	P	P	P	—
Restaurant, fast food with drive-through	34-1353	—	P	P	P	—	—	—	P	P	—	—	P	P	SE	—	—
Restaurants (34-622(c)(43)):																	
Group I		P	P	P	P	—	P	P	P	P	—	SE (5)	P	P	P	—	—
Group II		P	P	P	P	—	P	P (24)	P	P	SE	SE (5)	P	P	—	—	—
Group III		P	P	P	P	—	P	P (24)	P	P	—	SE (5)	P	P	P	—	—
Group IV		—	P	P	P	—	—	—	P	P	—	SE (5)	P	P	—	—	—

Notes:

- (1) Permitted only when accessory to a lawfully permitted single-family dwelling unit.
- (2) No outdoor display of merchandise permitted.
- (3) Permitted only if completely enclosed within a building.
- (4) No installation service permitted.
- (5) Limited to 500 square feet when in conjunction with one dwelling unit on the same premises.
- (6) Use only permitted when clearly incidental to a hotel or motel.
- (7) The following uses may be permissible seaward of the water body setback line only by special exception: boat rentals (inflatables, sailboats, jet skis, windsurfers and the like), foodstands, rental of cabanas and beach furniture, outdoor amusements including boat balloonist, and seaplane rides, water ski tows, parasail tows and similar activities, fishing and sightseeing piers and towers.
- (8) Bail bonding, blood banks, blood donor stations and caterers permitted only by special exception.
- (9) Not permitted in Coastal High Hazard areas unless in compliance with section 2-485(b)(5)a.
- (10) The total square footage of the residential uses shall not exceed the total square footage of all existing and proposed commercial uses on the subject property, and the total number of residential units shall not exceed the number of units permitted by the Lee Plan, whichever is less.
- (11) Not permitted within 500 feet of the nearest residence.
- (12) Excluding supermarkets.
- (13) New facilities of 50 or more beds, or the expansion of an existing facility that will bring the number of beds to 50 or more, requires a special exception.
- (14) Use not permitted on Captiva Island or within the Gasparilla Island conservation district.

- (15) Limited to those commodities and products which are permitted to be sold at retail, provided that parking meets the requirements for retail sales.
- (16) ATM's that are to be available to the public 24 hours a day, must be approved by Special Exception and located so that their uses will not cause a disturbance to adjacent property owners. ATM's located within a building housing a permitted use and available to the public only during normal working hours do not require a Special Exception.
- (17) Limited to rental of passenger cars, vans, and pick-up trucks less than three-quarter ton capacity. Maintenance activities limited to washing, waxing, vacuuming and minor repairs but excluding activities classified as Automotive Repair and Service-Groups I and II. See section 34-622(c)(2).
- (18) Two pumps are permissible as an accessory use to businesses (other than a convenience food and beverage store which is listed separately) to provide fuel for their own fleet of vehicles and equipment. Additional pumps require approval of a special exception.
- (19) Limited to eight pumps unless a greater number is approved as part of a special exception or as specifically approved in the master concept plan. An existing business with more than eight lawfully permitted pumps as of January 31, 1998 will not be considered non-conforming. Existing pumps may be modernized, replaced, or relocated on the same premises but additional new pumps will not be permitted.
- (20) Facilities proposed for ten or more acres or the expansion of an existing facility that will bring the number of acres to ten or more acres must request and be approved as a special exception.
- (21) Regular business hours limited to 7:00 a.m. to 9:00 p.m. unless extended hours are approved by Special Exception for a specific use.
- (22) Use may only be approved when clearly incidental to a permitted restaurant.
- (23) Total floor area of a single use building may not exceed 5,000 square feet. A multi-use building may not exceed 7,500 square feet. If more than one building is in a development, there must be a minimum separation between buildings of fifteen feet.
- (24) No outdoor seating.
- (25) Not permitted in Airport Noise Zone B.
- (26) Not permitted in Airport Noise Zone B. See section 34-1004 for exceptions.
- (27) Not permitted in Airport Noise Zone B unless accessory to a lawful mobile home or single-family residence. See section 34-1004.
- (28) Limited to active recreation only (ball fields and tennis courts, for example) in Airport Noise Zone B.
- (29) Not permitted in Airport Noise Zone B unless pre-empted by state law.
- (30) Not permitted in Airport Noise Zones B unless required to support a noise compatible use and constructed in compliance with limitations for dwelling unit type set forth in section 34-1004 as applicable.
- (31) Sound attenuating insulation should be considered for hotels and motels in Airport Noise Zone B.
- (32) For purposes of this use only, grade is the average elevation of the street or streets abutting the property measured along the centerline of the streets, at the points of intersection of the streets with the side lot lines (as extended) and the midpoint of the lot frontage.
- (33) Limited to four pumps, unless a greater number is approved as part of a special exception.
- (34) Automobile auctions, on-site or internet, are permitted only when all vehicles are stored inside. Projects with outdoor storage will be considered vehicle and equipment dealers, group I, and must comply with section 34-1352.
- (35) New multiple-family buildings are permitted on properties zoned C-1A only within the mixed use overlay.
- (36) Family day care homes are exempt pursuant to F.S. § 125.0109.

DIVISION 7. – MARINE-ORIENTED DISTRICTS

Sec. 34-873. Use regulations table.

Staff note: This amendment revises the terms ‘Restaurant, fast food’ to ‘Restaurant, with drive-through’, and ‘Restaurant, groups I, II, and III’ to ‘Restaurant’ consistent with the new definition in LDC Section 34-2.

Use regulations for marine-oriented districts are as follows:

TABLE 34-873. USE REGULATIONS FOR MARINE-ORIENTED DISTRICTS

	Special Notes or Regulations	CM	IM	PORT
Restaurant (34-622(c)(43)):		<u>P</u>	<u>P</u>	<u>P</u>
Group I		<u>P</u>	<u>P</u>	<u>P</u>
Group II		<u>P</u>	<u>SE</u>	—
Group III		<u>P</u>	—	—

Notes:

- (1) Minor boat repair only.
- (2) Limited to yacht or sailing clubs, youth-oriented boating clubs, and U.S. Coast Guard power squadrons.
- (3) Mainly the U.S. Navy, Coast Guard, Army Corps of Engineers, State Department of Environmental Protection and Marine Patrol.
- (4) Limited to marine-oriented schools.
- (5) Not permitted on Captiva Island or within the Gasparilla Island conservation district.
- (6) Limited to caretaker's residence only. This limitation shall not apply to the Boca Bay Project as may be amended, which shall remain a permitted residential development in the PORT district located at Boca Grande.
- (7) In conjunction with approved caretaker's residence only (see note (6)).
- (8) Not permitted in Airport Noise Zone B.
- (9) Not permitted in Airport Noise Zone B. See section 34-1004 for exceptions.
- (10) Permitted in Airport Noise Zone B only when ancillary to lawful mobile home or single-family residence. See section 34-1004.
- (11) Sound attenuating insulation should be considered for hotels and motels in Airport Noise Zone B.
- (12) For purposes of this use only, grade is the average elevation of the street or streets abutting the property. Average elevation of the street is measured along the centerline of the streets, at the points of intersection of the streets with the lot lines (as extended) and the midpoint of the lot frontage.

DIVISION 8. – INDUSTRIAL DISTRICTS

Sec. 34-903. Use regulations table.

Staff note: This amendment revises the terms ‘Restaurant, group I and II’ to ‘Restaurant’ consistent with the new definition in LDC Section 34-2. Include restaurants with drive-through in list of permitted uses.

Use regulations for industrial districts are as follows:

TABLE 34-903. USE REGULATIONS FOR INDUSTRIAL DISTRICTS

			Special Notes or Regulations	IL Note (14)	IG Note (14)	IR Note (14)
			Restaurant (34-622(c)(43)):	P	P	P
			Group I	P	P	P
			Group II	P	P	—

Notes:

- (1) Excluding asphalt or concrete batch plants that were not lawfully existing as of February 4, 1978.
- (2) New facilities of ten or more acres or expansion of an existing facility to ten or more acres requires a special exception.
- (3) Limited to agricultural products, livestock and equipment.
- (4) Expansion of an existing facility to over 50 beds requires a special exception.
- (5) Limited to manufacturing of cosmetics, perfumes and other toilet preparations only.
- (6) Limited to assembly of the finished product from its component parts.
- (7) Limited to SIC code 265 (Paperboard Containers and Boxes) only.
- (8) Limited to small custom-designed concrete products produced in molds, such as decorative architecture or ornamental features commonly associated with residential uses.
- (9) The use is subject to the special setback regulations as set forth in section 34-2443, minimum required setbacks.
- (10) Family day care homes are exempt pursuant to F.S. § 125.0109.
- (11) Two pumps are permissible as an accessory use to businesses to provide fuel for their own fleet of vehicles and equipment. Additional pumps require approval of a special exception.
- (12) Including asphalt batch plants.
- (13) A day care center, owned by the entity with title to the place of worship, that is operated within the building housing the place of worship is not required to obtain special exception approval.
- (14) In the industrial development land use category, offices and office complexes are only permitted when specifically related to adjoining industrial use(s). Prior to issuance of any local development order, the developer must record covenants and restrictions for the property that limit any office uses to those that are specifically related to adjoining industrial uses consistent with Policy 1.1.7 of the Lee County Comprehensive Plan.
- (15) Limited to the parking of the following:
 1. A tractor-trailer or semi-trailer truck.
 2. A truck with two or more rear axles.
 3. A truck with a manufacturer's Gross Vehicle Weight Rating (GVWR) in excess of 12,000 pounds.
 4. Any truck and trailer combination resulting in a combined manufacturer's Gross Vehicle Weight Rating (GVWR) in excess of 12,000 pounds.
 5. Any trailer used in the conduct of a commercial or industrial business.
- (16) Not permitted in Airport Noise Zone B.
- (17) Not permitted in Airport Noise Zones B unless required to support a noise compatible use and constructed in compliance with limitations for dwelling unit type set forth in section 34-1004 as applicable.

DIVISION 9. – PLANNED DEVELOPMENT DISTRICTS

Sec. 34-934. Use regulations table.

Staff note: This amendment revises the terms 'Restaurant, fast food' to 'Restaurant, with drive-through', and 'Restaurant, all groups' to 'Restaurant' consistent with the new definition in LDC Section 34-2.

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 Note (37)	MPD	MEPD
	Restaurant		P(4)	P(4)	—	P(1)	P	P	P	—
	Restaurant, fast food with drive-through	34-1353	—	—	—	—	P	—	P	—
	Restaurants (34-622(e)(43)):									
	Groups I and III		P(4)	P(4)	—	—	P	P	P	—
	Group II		P(4)	P(4)	—	P(1)	P	P	P	—
	Group IV		—	—	—	—	P	P	P	—

Notes:

- (1) If use or structure is customarily accessory to an approved permitted use it does not need to be shown on the master concept plan.
- (2) Permitted only when accessory to a lawfully permitted single-family dwelling unit.
- (3) If not shown on the master concept plan, but included in the approved list of enumerated uses, this use may be approved administratively, at the Director's discretion, or as a planned development amendment after approval of the master concept plan.
- (4) Subject to limitations for commercial uses set forth in section 34-937.
- (5) If the use or activity does not conform to the criteria set-forth in section 34-938, then it is subject to the setback requirements set forth in sections 34-935(b)(4) and 34-2441 et seq.
- (6) Limited to nontransient parks only.
- (7) Uses anticipated include boat rentals (inflatables, sailboats, jet skis, windsurfers and the like) food stands, rental of cabanas and beach furniture, outdoor amusements including balloonist, seaplane rides, ski tows and similar activities, fishing and sightseeing piers and towers.
- (8) Permitted as an accessory use when designed and intended primarily for use by people staying at the recreational vehicle development.
- (9) Permitted only when accessory to an airport or other transportation facility, hotel or motel, or an office complex of 50,000 or more square feet.
- (10) Permitted only in conjunction with at least 50,000 square feet or more of commercial or industrial uses.
- (11) Not permitted within 500 feet of nearest residence.
- (12) Automobile auctions, on-site or internet, are permitted only when all vehicles are stored inside. Projects with outdoor storage will be considered vehicle and equipment dealers, group I, and must comply with section 34-1352.
- (13) Family day care homes are exempt pursuant to F.S. § 125.0109.
- (14) Park-trailers permitted in nontransient parks only.
- (15) Limited to recreational vehicles, trailers, boats, and other vehicles and goods belonging to park residents.
- (16) Reserved.
- (17) Limited to recreational vehicles only.
- (18) Reserved.
- (19) Only when clearly subordinate to a cemetery located on the same premises.
- (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 through 34-766 and 34-1179.
- (21) In RPDs and residential areas of MPDs, a special exception may be required.
- (22) Wireless communication facilities must be listed on the approved schedule of uses for the planned development; however, approval of a specific facility must be in accordance with section 34-1441 et seq.
- (23) Real estate sales offices in residential areas are limited to sales of lots, homes or units within the development, except as may be permitted in section 34-1951 et seq. The location of, and approval for, the real estate sales office will be valid for a period of time not exceeding five years from the date the certificate of occupancy for the sales office is issued. The Director may grant one two-year extension at the same location.

- (24) Two pumps are permissible as an accessory use to businesses to provide fuel for their own fleet of vehicles and equipment. Additional pumps require approval of a special exception.
- (25) Reserved.
- (26) Reserved.
- (27) Limited to eight self service fuel pumps (df) unless a greater number is specifically approved as part of the planned development and depicted on the master concept plan. An existing business with more than eight lawfully permitted pumps as of January 31, 1998 will not be considered non-conforming. Existing pumps may be modernized, replaced, or relocated on the same premises but additional new pumps will not be permitted.
- (28) Not permitted in Airport Noise Zone B.
- (29) Not permitted in Airport Noise Zone B. See section 34-1004 for exceptions.
- (30) Reserved.
- (31) Not permitted in Airport Noise Zone B unless accessory to a lawful mobile home or single-family residence. See section 34-1004.
- (32) Indoor theater only in Airport Noise Zone B.
- (33) Reserved.
- (34) Not permitted in Airport Noise Zones unless required to support a noise compatible use and constructed in compliance with limitations for dwelling unit type set forth in section 34-1006(b)(2) as applicable.
- (35) Not permitted in Airport Noise Zone B unless pre-empted by state law.
- (36) Sound attenuating insulation should be considered for hotels and motels in Airport Noise Zone B.
- (37) In the Industrial Development land use category, offices and office complexes are only permitted when specifically related to adjoining industrial use(s). Prior to issuance of any local development order, the developer must record covenants and restrictions for the property that limit any office uses to those that are specifically related to adjoining industrial uses consistent with Policy 1.1.7 of the Lee County Comprehensive Plan.
- (38) Reserved.
- (39) Reserved.
- (40) Reserved.
- (41) Limited to four pumps, unless a greater number is approved as part of a planned development.
- (42) In an existing planned development, the Director has the discretion to require removal of excess spoil to be reviewed through the public hearing process.
- (43) See sections 34-3107 and 34-3108.
- (44) The rights applicable to mining excavations approved prior to September 1, 2008, are set forth in section 12-121.
- (45) All new or expanded essential services group II uses must be approved as a planned development.
- (46) Reserved.
- (47) Not permitted in Coastal High Hazard areas unless in compliance with section 2-485(b)(5)a.
- (48) Planned development rezonings within the future urban areas may not establish new, or expand existing, agricultural uses. Bona fide agricultural uses that exist at the time of rezoning may continue until development commences. The approved existing agricultural uses must not expand beyond the boundaries that existed at the time of rezoning. Existing agricultural uses within any tract or phase must be discontinued upon local development order approval for that tract or phase.

Sec. 34-941. Private recreational facilities planned developments.

Staff note: This amendment revises the terms 'Restaurant, fast food' to 'Restaurant, with drive-through', and 'Restaurant, all groups' to 'Restaurant' consistent with the new definition in LDC Section 34-2.

(a) through (b) unchanged.

(c) *Uses.*

- (1) *Prohibited uses:* No residential uses are permitted within the PRFPD district, except as delineated in section 34-941(c)(3).
- (2) *Permissible uses:*

a. through b. unchanged.

- c. The following commercial uses may be permitted within a private recreation facility planned development only if specifically included in the adopted zoning resolution and the general location of commercial uses are shown on an adopted master concept plan. Commercial intensity is limited as described in Note 1 of this section:

Restaurant, ~~fast food~~with drive-through (section 34-1353).

Restaurants, ~~all groups~~ (section 34-622(c)).

Remainder of section unchanged.

ARTICLE VII. – SUPPLEMENTARY REGULATIONS

DIVISION 5. – ALCOHOLIC BEVERAGES

Sec. 34-1264. Sale or service for on-premises consumption.

Staff note: This amendment revises the terms 'Restaurant, fast food' to 'Restaurant, with drive-through', and 'Restaurant, all groups' to 'Restaurant' consistent with the new definition in LDC Section 34-2. Additionally, consumption on premises will allow for the sale of alcoholic beverages with restaurants with drive-through facilities.

- (a) *Approval required.* The sale or service of alcoholic beverages for consumption on-premises is not permitted until the location has been approved by the County as follows:

- (1) *Administrative approval.* An administrative approval for consumption on-premises is required in accordance with section 34-174 when in conjunction with the following uses:

a. through f. unchanged.

- g. Restaurants ~~and Restaurants, with drive-through groups II, III and IV,~~ and restaurants with brew pub license requirements, provided the standards set forth in subsections (b)(2)b. and (b)(3) of this section are met. Outdoor seating in conjunction with a group II, III or IV restaurant may be approved administratively provided:

1. The outdoor seating area is not within 500 feet of a religious facility, school (noncommercial), day care center (child), park or dwelling unit under separate ownership; or
2. The outdoor seating area is within 500 feet of a religious facility, school (noncommercial), day care center (child), park or dwelling unit under separate ownership but is a tenant of a multi-occupancy complex that is adjacent to an arterial or collector road.

h. through j. unchanged.

(2) through (3) unchanged.

- (b) *Location; parking.*

(1) is unchanged.

- (2) *Exceptions to location standards.* Exceptions to location standards are as follows:

- a. Bowling alleys, provided that:

1. There are no signs, or other indication visible from the outside of the structure concerned, that beer or wine or other malt and vinous beverages are served;

2. The bowling alley is in a fully air conditioned building with at least 10,000 square feet of floor space under one roof and where both uses are owned by the same entity;
 3. The building contains at least 12 alleys available for bowling. The facilities for the service of food and beverages must be in an area separate from the alleys. The facility for the service of food and beverages must contain at least 2,000 square feet of usable floor space and must accommodate at least 60 patrons at tables; and
 4. The building is at least 500 feet, measured as provided in this subsection, from the uses in described in subsections (b)(1)a.1 and 2 of this section.
- b. Restaurants, ~~and Restaurants, with drive-through groups II, III and IV,~~ provided:
1. The restaurant is in full compliance with state requirements;
 2. The restaurant serves cooked, full-course meals, prepared daily on the premises; and
 3. Only a service bar is used and the sale or service of alcoholic beverages is only to patrons ordering meals, or, if the restaurant contains a cocktail lounge for patrons waiting to be seated at dining tables, the lounge must be located so that there is no indication from the outside of the structure that the cocktail lounge is within the building.

Remainder of section unchanged.

DIVISION 5. – AUTOMOTIVE BUSINESSES; CONVENIENCE FOOD AND BEVERAGE STORES; ~~FAST FOOD RESTAURANTS~~ WITH DRIVE-THROUGHS

SUBDIVISION II. – CONVENIENCE FOOD AND BEVERAGE STORES, AUTOMOTIVE SERVICE STATIONS, ~~FAST FOOD~~ RESTAURANTS WITH DRIVE-THROUGHS, AND CAR WASHES

Sec. 34-1353. Convenience food and beverage stores, automobile service stations, ~~fast food~~ restaurants with drive-throughs, and car washes.

Staff note: This amendment revises the terms 'fast food restaurant' to 'restaurant, with drive-through' consistent with the new definition in LDC Section 34-2.

- (a) *Purpose and intent.* The purpose and intent of this section is to ensure that establishments such as convenience food and beverage stores with or without gas pumps, automobile service stations with or without gas pumps, ~~fast food~~ restaurants with drive-throughs, and car washes, accessory or stand alone, do not adversely impact adjacent land uses. The hours of operation, high levels of traffic, noise, glare and intensity associated with these uses may be incompatible with surrounding uses, specifically residential uses. In the interest of protecting the health, safety and welfare of the public, the following regulations apply to the location, design, operation, landscaping and related activities.
- (b) *Applicability.* This section applies to all stand alone or accessory convenience food and beverage stores, automobile service stations, ~~fast food~~ restaurants with drive-throughs and car washes. In the event of conflict

between the provisions of this section and the requirements of F.S. § 553.79, the requirements of F.S. § 553.79 shall prevail.

- (c) *Minimum lot area.* All buildings and structures must comply with the following minimum lot dimensions and area:
 - (1) *Minimum frontage:* 150 feet of frontage on a vehicular right-of-way
 - (2) *Minimum depth:* 150 feet
 - (3) *Minimum lot or parcel area:* 25,000 square feet
- (d) *Minimum setbacks.* All buildings and structures must comply with the following setbacks:
 - (1) *Street setback:* 50 feet for arterials and collectors
 - (2) *Side yard setback:* 15 feet
 - (3) *Rear yard setback:* 20 feet
- (e) *Street right-of-way buffer landscaping.* The following landscape requirements are in addition to the requirements set forth in section 10-416.
 - (1) Landscaping adjacent to rights-of-way external to the development project must be located within a landscape buffer that is a minimum of 25 feet in width; or, 15 feet in width if abutting an internal accessway to a commercial development.
 - (2) For projects with an open drainage system, an undulating berm with a maximum slope of 3:1 must be constructed along the entire length of the landscape buffer. The berm must be constructed and maintained at a minimum height of two feet as measured from the grade of the parking lot.

For projects with a closed drainage system a berm is not required.
 - (3) The required number of trees is five canopy trees per 100 linear feet. Three sabal palm trees may be clustered to meet one canopy tree requirement. Palms are limited to a maximum of 50 percent of the right-of-way tree requirement. Palms must be clustered and planted in staggered heights, a minimum of three palms per cluster, spaced at a maximum of four feet on center, with a minimum of a four foot difference in height between each tree.
 - (4) All of the trees must be a minimum of 14 feet in height at the time of installation. Trees must have a minimum of a three and one-half inch caliper at 12 inches above the ground and a six-foot spread. At installation, shrubs must be a minimum of three gallon, 24 inches in height at time of planting and maintained at a minimum of 36 inches in height within one year of planting. The shrubs must be planted three feet on center.
 - (5) Landscaping adjacent to the rear and side property lines must comply with the minimum requirements established in section 10-416 dependent on adjacent land uses.
- (f) *Separation.* Uses must be separated from adjacent residentially zoned or developed properties by:
 - (1) An architecturally designed eight-foot high masonry wall or fence a minimum of 25 feet from the property line and landscaped with a minimum of five trees and 18 shrubs per 100 lineal feet; or
 - (2) A 30-foot wide Type F buffer with the hedge planted a minimum of 20 feet from the abutting property.The wall or fence must be constructed of materials similar in color and texture to those utilized for the principal structure. Landscaping must be planted between the wall or fence and the abutting property.
- (g) *Canopies.*
 - (1) Flat-roof canopies are allowed unless prohibited by conditions in a Planned Development. Canopies must be consistent with the architectural design, predominant color and features of the principal structure.
 - (2) Canopy lighting must comply with section 34-625(d)(4)c.

- (3) Canopies must be consistent with the predominant color of the principal structure.
- (h) *Accent banding.* Color accent banding and raised architectural features are permitted unless prohibited by conditions in a Planned Development.
- (i) *Primary facades.* All sides of a building facing adjacent rights-of-way external to the development project must be designed with primary facade features in compliance with section 10-600.

DIVISION 26. – PARKING

Sec. 34-2020. Required parking spaces.

Staff note: This amendment revises the terms ‘fast food restaurant’ to ‘restaurant, with drive-through’ consistent with the new definition in LDC Section 34-2.

All uses are required to provide off-street parking based on the single-use development requirement unless the use is located in a development that qualifies as a multiple-use development, in which case, the minimum required spaces for multiple-use developments may be used. Use of the multiple-use development minimum parking regulations is optional.

Parking for uses not specifically mentioned in this section must meet the minimum parking requirement for the use most similar to that being requested.

(a) *remains unchanged*

(b) *Non-residential uses.* Non-residential uses permitted under this chapter are subject to the following minimum requirements:

TABLE 34-2020(b). REQUIRED PARKING SPACES FOR NON-RESIDENTIAL USES

Use	Special Notes or Regulations	Minimum Required Spaces for Single-Use Development	Minimum Required Spaces for Multiple-Use Development
Restaurants.	Notes (8), (9) & (10)	14 spaces per 1,000 square feet of total floor area; outdoor seating area is calculated at same rate	12.5 spaces per 1,000 square feet of total floor area; outdoor seating area is calculated at same rate
Restaurants, fast food <u>with drive-through.</u>	Note (9)	13 spaces per 1000 square feet of total floor area; outdoor seating area is calculated at same rate	—
Theaters, auditoriums, stadiums, arenas and	Notes (1) & (14)	1 space per 4 seats	1 space per 4 seats

other similar places of public assembly.			
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Notes:

- (1) Accessory or ancillary uses must be calculated separately and in compliance with this division.
- (2) In addition to the minimum parking requirement for day care centers, adequate and safe provisions for loading and unloading clients must be provided.
- (3) An additional one space for every six seats must be provided when public use of an auditorium or other place of assembly within a school is likely.
- (4) Parking for a clubhouse with a restaurant will be 6 spaces per hole or 12.5 spaces per 1,000 square feet of restaurant whichever is greater.
- (5) Parking space dimensions for boat ramps must be a minimum of 12 feet wide by 40 feet long to accommodate a vehicle and boat trailer.
- (6) Minimum parking requirement is based on the boat manufacturer's specifications related to the maximum passenger capacity and crew capacity of the boat or ship using the dock or loading facility.
- (7) For meeting facilities with fixed seats, refer to Recreational facilities, indoor.
- (8) If over 50 percent of the total floor area of a restaurant is used as a bar or cocktail lounge, then the minimum parking requirement will be: 14 spaces per 1,000 square feet for the floor area used as the restaurant and 21 spaces per 1,000 square feet for the floor area used as the bar or cocktail lounge.
- (9) The minimum required parking requirement for Restaurants classified in the ITE Parking Generation Manual as "Food Hall" (LUC928), "Fast Casual Restaurant" (LUC 930), "Fast Food Restaurant without Drive-Through Window" (LUC 933) and "Coffee/Donut Shop Without Drive-Through Window" (LUC 936) Groups I, II and fast food restaurants with no drive-up facilities located in a multiple-use development is 1 space per 350 square feet of total floor area.
- (10) No additional parking spaces are required when a restaurant is located within the same building as the principal use and is provided primarily for the employees and customers of the principal use.
- (11) Reserved.
- (12) Truck dock/loading bay spaces may be used to satisfy the truck and trailer parking requirement. Truck dock/loading spaces do not have to be striped.
- (13) Parking space dimensions of 15 feet wide by 60 feet long are required to accommodate truck and trailer parking. However, truck and trailer parking spaces located in truck dock/loading bays do not have to meet the parking space dimension requirements.
- (14) Where occupants utilize benches, pews or other similar seating arrangements, each 24 lineal inches of seating facilities will be counted as one seat for the purpose of computing off-street parking requirements.
- (15) If more than 20 percent of the total floor area or 600 square feet, whichever is less, is used for the preparation and/or sale of food or beverages in a ready-to-consume state, parking will be calculated the same as a ~~fast food~~ restaurant, with drive-through.
- (16) Limited to multiple-occupancy complexes that lawfully existed on September 17, 2012. If the complex is enlarged in terms of floor area or if the value of renovation exceeds 50% of the value of the property, additional parking spaces must be provided based on the requirements in 34-2020(b). Parking for the additional floor area will be calculated at the multiple-use development rate required for the specific use.

Remainder of section unchanged.

Sec. 34-2021. Drive-through stacking requirements.

Commercial establishments providing drive-up service windows or stalls must provide separate vehicle stacking for those uses. For the purpose of this section, a stacking unit is defined as 18 feet in length and nine feet in width. The total number of stacking units required will be based on the type of business, as follows:

- (a) *Banks and financial establishments.* Stacking lanes to accommodate five cars per window or point of service, including automatic teller machines, if located in a drive-through lane.
- (b) *Car wash.* Stacking lanes to accommodate one car per service stall or five cars, whichever is greater.
- (c) *Drive-in automotive oil change establishments.* Stacking lanes to accommodate two cars per service bay or five stacking spaces per site, whichever is greater. Each service bay may count as one stacking space.
- (d) *Restaurants with drive-throughs.* Stacking lanes to accommodate ten cars per service lane, with a minimum of five spaces preceding the menu board. Where more than one menu board is provided to accommodate a single service lane, a total of five spaces must precede the menu board locations.
- (e) *Other.* Stacking to accommodate five cars per service lane.

DIVISION 37. – SUBORDINATE AND TEMPORARY USES

SUBDIVISION I. – SUBORDINATE USES

Sec. 34-3023. Subordinate commercial uses for hotels/motels, multiple-family buildings, social services groups III and IV (section 34-622(c)(46)), health care facilities groups I, II and IV (section 34-622(c)(20)), cultural facilities (section 34-622(c)(10)), and office complexes containing 50,000 square feet or more of floor area on the same premises.

Staff note: This amendment revises the term 'restaurant, group II' to 'restaurant' consistent with the new definition in LDC Section 34-2.

- (1) The uses listed in subsection (2) of this section will be permitted when clearly subordinate to the principal use, subject to the following requirements:
 - a. The retail use must be totally within the building housing the principal use;
 - b. The retail use may not occupy more than ten percent of the total floor area of the principal use; and
 - c. Public access to the commercial uses must not be evident from any abutting street.
- (2) Uses permitted are:
 - a. Personal services groups I and II (section 34-622(c)(33)).
 - b. Pharmacy.
 - c. Specialty retail store groups I and II (section 34-622(c)(47)).
 - d. Restaurant ~~group II (section 34-622(c)(43)).~~
 - e. Rental or leasing establishment group I (section 34-622(c)(39)).

GROUP 2, ITEM 2

EMS, FIRE, AND SHERIFF’S STATIONS

AMENDMENT SUMMARY

- Issue: The LDC limits permitted locations for EMS, fire, and sheriff’s stations to certain zoning districts. However, the Lee Plan provides that public facilities are permitted in all future land use categories (Policy 2.1.3), creating an inconsistency between the Lee Plan and LDC.
- Solution: Amend the LDC to permit EMS, fire, and sheriff’s stations more permissively, requiring special exceptions where appropriate, to better align the Lee Plan with the LDC.
- Outcome: Better aligns the LDC with the Lee Plan while providing for the opportunity to evaluate compatibility through established zoning processes as needed.

DIVISION 3. – RESIDENTIAL DISTRICTS

Staff note: To provide additional opportunities for emergency services throughout the County, this amendment amends Table 34-844 to consider ‘EMS, fire or sheriff’s station’ in the single-family and multiple-family zoning districts by Special Exception.

Subdivision II. - One- and Two-Family Residential Districts

Sec. 34-694. Use regulations table.

Use regulations for one- and two-family residential districts are as follows:

Table 34-694. Use Regulations for One- and Two-Family Residential Districts

	<i>Special Notes or Regulations</i>	<i>RSC-1</i>	<i>RSC-2</i>	<i>RSA</i>	<i>RS-1</i>	<i>RS-2</i>	<i>RS-3</i>	<i>RS-4</i>	<i>RS-5</i>	<i>TFC-1</i>	<i>TFC-2</i>	<i>TF-1</i>
<u>EMS, fire or sheriff’s station</u>		<u>SE</u>	<u>SE</u>	<u>SE</u>	<u>SE</u>	<u>SE</u>	<u>SE</u>	<u>SE</u>	<u>SE</u>	<u>SE</u>	<u>SE</u>	<u>SE</u>

Remainder of section unchanged.

Subdivision III. - Multiple-Family Districts

Sec. 34-714. Use regulations table.

Use regulations for Multiple-Family Districts are as follows:

Table 34-714. Use Regulations for Multiple-Family Residential Districts

	<i>Special Notes or Regulations</i>	<i>RM-2 (Note 5)</i>	<i>RM-3, RM-6, RM-8, RM-10 (Note 5)</i>
<u>EMS, fire or sheriff's station</u>		<u>SE</u>	<u>SE</u>

Remainder of section unchanged.

DIVISION 6. – COMMERCIAL DISTRICTS

Sec. 34-844. Use regulations table.

Staff note: To provide additional opportunities for emergency services throughout the County, this amendment amends Table 34-844 to permit 'EMS, fire or sheriff's station' in all commercial zoning districts.

Use regulations for conventional commercial districts are as follows:

TABLE 34-844. USE REGULATIONS FOR CONVENTIONAL COMMERCIAL DISTRICTS

	Special Notes or Regulations	C-1A	C-1	C-2	C-2A	CN-1	CN-2	CN-3 (21,23)	CC	CG	CS-1	CS-2	CH	CT	CR	CI	CP
EMS, fire or sheriff's station		P	P	P	P	<u>—P</u>	<u>—P</u>	<u>—P</u>	P	P	<u>—P</u>	<u>—P</u>	<u>—P</u>	<u>—P</u>	P	P	<u>—P</u>

Notes:

(21) With the exception of EMS, fire or sheriff's stations, Regular business hours limited to 7:00 a.m. to 9:00 p.m. unless extended hours are approved by Special Exception for a specific use.

(23) Total floor area of a single use building may not exceed 5,000 square feet. A multi-use building may not exceed 7,500 square feet. If more than one building is in a development, there must be a minimum separation between buildings of fifteen feet.

Remainder of section unchanged.

DIVISION 7. – MARINE-ORIENTED DISTRICTS

Sec. 34-873. Use regulations table.

Staff note: To provide additional opportunities for emergency services throughout the County, this amendment amends Table 34-887 to permit 'EMS, fire or sheriff's station' in all marine-oriented zoning districts.

Use regulations for marine-oriented districts are as follows:

TABLE 34-873. USE REGULATIONS FOR MARINE-ORIENTED DISTRICTS

	Special Notes or Regulations	CM	IM	PORT
<u>EMS, fire or sheriff's station</u>		<u>P</u>	<u>P</u>	<u>P</u>

Remainder of section unchanged.

DIVISION 10. – SPECIAL PURPOSE DISTRICTS

Sec. 34-941. Private recreational facilities planned developments.

Staff note: To provide additional opportunities for emergency services throughout the County, this amendment amends Table 34-887 to permit 'EMS, fire or sheriff's station' in the Private Recreation Facilities Planned Development zoning district.

(a) through (b) unchanged.

(c) *Uses.*

(1) *Prohibited uses:* No residential uses are permitted within the PRFPD district, except as delineated in section 34-941(c)(3).

(2) *Permissible uses:*

a. through b. unchanged.

c. The following commercial uses may be permitted within a private recreation facility planned development only if specifically included in the adopted zoning resolution and the general location of commercial uses are shown on an adopted master concept plan. Commercial intensity is limited as described in Note 1 of this section:

EMS, fire, sheriff's substation

Remainder of section unchanged.

GROUP 2, ITEM 3

ACCESSORY APARTMENTS AND ACCESSORY DWELLING UNITS

AMENDMENT SUMMARY

- Issue: Current LDC regulations governing AAs/ADUs are ambiguous, leading to difficulty in administration and uncertainty for property owners.
- Solution: Amend regulations governing AA/ADUs to clarify ambiguous provisions and eliminate conflicts between regulations.
- Outcome: Clarifies and streamlines regulations to facilitate ease of administration and greater regulatory certainty.

Sec. 34-2. Definitions.

Staff Note: amend definition of “accessory apartment” to codify existing DCD staff practice requiring accessory apartments, which are not subject to density limitation, to have at least one doorway interconnection with primary residence. The definition for Accessory Dwelling Unit is included below for context and remains unchanged.

The following words, terms and phrases, when used in this chapter, have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Accessory apartment means a living unit, without cooking facilities, which is subordinate and attached to a single-family residence with at least one common adjoining interior door and could be made available for rent or lease.

Accessory dwelling unit means a living unit subordinate to a single-family home which is either attached with cooking facilities, or detached with or without cooking facilities, and could be made available for rent or lease.

Remainder of section remains unchanged.

Sec. 34-1177. Accessory apartments and accessory dwelling units.

Staff Note: Amend Section 34-1177 to (1) clarify the living area and nonliving area in multipurpose spaces, such as a ground level garage with upper story ADU/AA living area, capping the living area of the AA/ADU living unit and relying on general accessory use regulations to limit to overall size of the accessory building; (2) provide a 20 percent increase in the maximum ADU/AA living area while maintaining that the unit is subordinate to the principal single-family residence. This increase is due to design constraints observed by staff in the years following inception of these regulations, particularly borne on midrange to small single-family residences (1,600 square feet and less); and (3) strike subsection (3), lot coverage requirement, as the regulation is a restatement of an existing regulation. Any development that increases lot coverage above the maximum permissible in the zoning district is inconsistent with the districts established maximum lot coverage requirements.

(a) *Density.*

- (1) An accessory apartment is not subject to density provisions of the Lee Plan, except accessory apartments on Gasparilla Island are subject to the provisions of Section 34-2255.
- (2) An accessory dwelling unit is subject to density provisions of the Lee Plan. Density may be calculated using the maximum total (bonus) density of the property's future land use category designation. Accessory dwelling units are presumed to be site-built affordable housing units and must pay applicable impact fees pursuant to Chapter 2.

- (3) A maximum of one accessory apartment or one accessory dwelling unit is permitted per principal, single-family residence, except as excluded by section 34-1180(b).
- (b) *Development standards.*
 - (1) *Off-street parking.* In addition to the requirements of Section 34-2020(a), one additional space is required. All required parking must be provided on the site.
 - (2) *Maximum floor area.* The maximum ~~floor area~~ living area for the accessory apartment or accessory dwelling unit is ~~50~~ 60 percent of the living area of the principal, single-family residence.
 - ~~(3) *Maximum lot coverage.* The maximum lot coverage permitted for the zoning district in which the property is located may not be exceeded.~~
 - (3) *Nonliving areas.* Nonliving areas are excluded from accessory apartment or accessory dwelling unit computations (see "living area" Section 34-2) provided the overall accessory structure is compliant with this Division.
 - (4) ~~*Minimum lot size*~~ *Lot of record.* The property must be a lawfully existing lot of record as defined in section 34-3272. that conforms to the minimum lot area, width, and depth of the zoning district in which it is located.

Sec. 34-1180. Additional dwelling unit on a lot in Agricultural Districts.

Staff note: Revise section to clarify regulations. Add provisions permitting accessory apartments for each dwelling unit on a parent AG parcel with two conventional single-family residences.

- (a) *Applicability.* This section provides the minimum regulations to permit development of an additional conventional single-family residence on the same parcel if the parcel has been zoned in an AG District and the parcel is developed in accordance with the density requirements of the applicable land use classification.
- (b) *Standards.*
 - (1) Minimum lot area must be twice the required lot area for the zoning district, but in no event less than two acres including easements.
 - (2) Minimum lot width must be twice the required lot width for the zoning district.
 - (3) The dwelling units and all accessory buildings and structures must be separated by a minimum of twice the required side yard setback for the zoning district.
 - (4) No more than two ~~living dwelling~~ living dwelling units constructed as two freestanding conventional single-family residences are permitted on the same parcel. Accessory apartments constructed in accordance with section 34-1177 are permitted in conjunction with each single-family residence developed in accordance with this provision.
 - (5) Property owners who have already established or plan to establish a caretaker's residence or accessory dwelling unit may not avail themselves of this provision.
 - (6) Each dwelling unit and all accessory buildings and structures must be located on the parcel in such a manner that the ~~units~~ parcel could be separated into individual lots and still meet the property development regulations for the zoning district as well as the density requirements for the applicable land use category without first creating a new street easement or right-of-way.
 - (7) Approval of a Type ~~4~~ E Limited Review Development Order (LDO) under the provisions of Section 10-174(4) will be required in order to obtain a lot split only if the land is subdivided. The property owners will be required to participate in a joint application to obtain the lot split approval subject to the provisions of Section 10-174~~(5)~~(4)g. This requirement runs with the land regardless of ownership change.

GROUP 2, ITEM 4

DWELLING UNIT TYPES ON NONCONFORMING LOTS OF RECORD AND CONSTRUCTION OF SINGLE-FAMILY DWELLINGS ON MOBILE HOME LOTS OF RECORD

AMENDMENT SUMMARY

- Issue:** Current regulations limit the development of nonconforming lots of record to single-family residences without acknowledging underlying zoning and density entitlements. Additionally, Department practice allows mobile home lots of record to be redeveloped with conventionally-built single-family residences consistent with a property's underlying zoning district despite existing regulations not explicitly allowing this replacement.
- Solution:** Amend provisions relating to nonconforming lots of record to allow these lots to be developed with the dwelling unit types permitted in a property's underlying single- or two-family zoning district subject to compliance with the Lee Plan and the applicable provisions of the LDC. Amend Section 34-3274 to allow conventionally-built single-family residence where such use is permitted in the underlying zoning district.
- Outcome:** Facilitates infill development of housing consistent with underlying use and property development regulations. Codifies current department practice.

Chapter 34 - ZONING

ARTICLE I. - IN GENERAL

Sec. 34-2. Definitions.

Staff note: Strike definition of "guest house," which is not regulated in the LDC other than in section 34-3273, which is proposed to be removed.

~~*Guest house* means an accessory building located on the same premises as the principal building and used exclusively for housing members of the family occupying the principal building, or other nonpaying guests, is not occupied year-round, can have kitchen facilities, and is not rented or used as a separate dwelling. A guest house must not be occupied by more than one family at any time, and only one guest house is permitted for each main dwelling.~~

ARTICLE VIII. - NONCONFORMITIES

DIVISION 4. NONCONFORMING LOTS

Sec. 34-3271. Definitions.

Staff note: no changes proposed. Section provided for context.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Nonconforming or substandard lot means a lot of which the area, dimension or location was lawful prior to the adoption of the ordinance from which this chapter is derived, or the adoption of a revision or amendment of this chapter, and which fails by reason of such adoption, revision or amendment to conform to the requirements for the zoning district in which the lot is located.

Sec. 34-3272. Lot of record; general development standards.

Staff note: Relocate subsection (3)c to section 34-3274(c). Update subsection (3) to allow any dwelling unit type permitted in a property's designated zoning district to be developed on the property subject to certain criteria. Provide cross-reference to development regulations established for single-family residences on nonconforming lots of record.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Lot of record means a lot which conformed to the minimum lot size for the use permitted for that lot in its zoning district at such time that the lot was created, but which lot fails to conform to the minimum lot size requirements which are established by this chapter.

- (1) For the purpose of this division, a lot is created on such date that one of the following conditions occur:
 - a. The date that a deed for the lot is lawfully recorded in the public records of the County;
 - b. The date that a subdivision plat has been lawfully recorded in the public records of the County, if the lot is a part of the subdivision;
 - c. The date that a site plan for a development was approved by the Board of County Commissioners, pursuant to resolution, as long as the development subsequently recorded a subdivision plat that has been approved by the Board of County Commissioners in the public records of the County, if the lot is a part of the subdivision; or
 - d. In the case of mobile home or recreational vehicle parks, the date when the park was approved by resolution for rezoning or a special permit for such use; provided, however, that the park subsequently obtained, on or before June 3, 1987, approval by the Board of County Commissioners of a site plan which identifies individual sites within the park and the sites meet the minimum lot size and setbacks consistent with the zoning regulations set forth in Section 34-3274. Any park which was lawfully established prior to the effective date of the County's 1962 zoning regulations will be governed by the requirements of Section 34-3274(1), as long as the park satisfies the remaining minimum documentary requirements and Board of County Commissioners approval set forth in this provision. Any park approved by the Board of County Commissioners under Ordinance No. 86-36 may request administrative approval to amend the approved site plan in accordance with Section 34-174. For the purposes of this subsection, the term "site plan" means any one or more of the following, whichever is applicable:
 1. A sealed and signed survey showing individual lots by both course and distance;
 2. An unrecorded subdivision plat prepared and certified by a professional engineer or surveyor;
 3. A condominium plot plan prepared and recorded pursuant to F.S. Ch. 718;
 4. A park plan prepared and submitted with a prospectus pursuant to F.S. Ch. 723, provided that the prospectus has been approved by the State Department of Business Regulation and is of sufficient accuracy, size and legibility to enable the Director to Administer this chapter;
 5. A site plan approved in accordance with County Administrative Code Policy F-0015;
 6. A site plan approved pursuant to a preliminary or final development order;
 7. A rectified aerial with a minimum scale of one-inch equals 100 feet and which has each site delineated and identified by its number and shows individual lot measurements with a reasonable degree of accuracy; or

8. Any other document which shows lot lines with enough specificity to enable the Director to apply the provisions of this chapter with respect to minimum lot size, lot widths and setback requirements.

Any of the above documents that have not been formally approved by the Board of County Commissioners will not be sufficient to satisfy the provisions of this subsection. The burden of proof that a document has received Board of County Commissioners approval is that of the owner.

- (2) The remaining lot after condemnation shall be deemed a lot of record in accordance with Section 34-3206.
- (3) Lots of record may be developed subject to the following provisions:
 - a. Except as provided in section 34-3272(3)c., All other regulations of this chapter must be met.
 - b. No division of any parcel may be permitted which creates a lot with width, depth or area below the minimum requirements stated in this chapter, provided that abutting lots of record may be combined and redivided to create larger dimension lots as long as such recombination includes all parts of all lots, existing allowable density is not increased, and all setback requirements are met.
 - c. Nonconforming lots of record in one- and two-family residential districts may be developed with any dwelling unit type permitted within the property's designated zoning district provided:
 - i. The development complies with the Lee Plan; and
 - ii. Development of the property complies with the regulations established in sections 34-3273(a)(2) and 34-3273(b).
 - e. ~~For mobile home or recreational vehicle lots of record, the following will also apply:~~
 1. ~~All mobile homes, or recreational vehicles, including any attachments, must be placed at least five feet from any body of water or waterway.~~
 2. ~~All mobile homes, or recreational vehicles, must have a minimum separation of ten feet between units (body to body) and appurtenances thereto. Each unit will be permitted to have eaves which encroach not more than one foot into the ten-foot separation.~~
 3. ~~Sites or lots located within a park may not be reconfigured or reduced in dimension so as to increase the density for which the park was originally created.~~
- (4) The burden of proof that the lot is legally nonconforming, and lawfully existed at the specified date, shall be with the owner.

Sec. 34-3273. Construction of single-family residence.

Staff note: Strike subsections (b) and (c) to reflect change to section 34-3272(3). Strike language regulating "guest house" and "servants' quarters." Update "single-family residence determination" to "minimum use determination" consistent with Lee Plan terminology. Clarify language as needed and renumber accordingly.

- (a) A single-family residence may be constructed on a nonconforming lot of record that:
 - (1) Does not comply with the density requirements of the Lee Plan, provided the owner receives a favorable minimum use~~single-family residence~~ determination in accordance with the Lee Plan.

Such nonconforming lots are exempt from the minimum lot area and minimum lot dimension requirements of this chapter, and it will not be necessary to obtain a variance from those requirements.
 - (2) ~~Does comply~~ Complies with the density requirements of the Lee Plan, as long as the lot:
 - a. Was lawfully created prior to June 1962 and the following conditions are met:

- i. Lots existing in the AG-2 or AG-3 Zoning District require a minimum width of 75 feet, a minimum depth of 100 feet and a lot area not less than 7,500 square feet.
 - ii. Lots existing in any other zoning district which permits the construction of a single-family residence require a minimum of 40 feet in width and 75 feet in depth, and a lot area not less than 4,000 square feet.
 - b. Is part of a plat approved by the Board of County Commissioners and lawfully recorded in the public records of the County after June 1962.
- (b) ~~The use of a nonconforming lot of record for a residential use other than a single-family dwelling unit is prohibited except in compliance with the lot width, lot depth, lot area, and density requirements for the zoning district.~~
- (bc) ~~Neither a guest house nor servants' quarters is permitted on a single lot of record less than 7,500 square feet in area, or which is occupied by a dwelling unit or units other than one single family residence.~~
- (bd) Minimum setbacks for structures permitted under section 34-3272(3) and Ssubsection (a)(1) or (2) of this section, are as follows:
- (1) Street setbacks must be in accordance with Section 34-2192.
 - (2) Side setbacks must be ten percent of lot width, or five feet, whichever is greater.
 - (3) Rear setbacks must be one-fourth of the lot depth but do not need to be greater than 20 feet.

Sec. 34-3274. Development of mobile home and recreational vehicle lots of record.

Placement of mobile home or recreational vehicle on lot.

Staff note: Department practice permits the construction of single-family dwelling units on mobile home/RV lots of record where such use is permitted in the underlying zoning district. This section's title and language has been modified to codify this department practice. Additional amendments are proposed to reorganize this section and clarify conflicting regulations where appropriate.

A single-family dwelling unit, mobile home, or a recreational vehicle may be constructed or placed on a lot of record, ~~which lot is located within a mobile home or recreational vehicle park, as applicable;~~ provided, ~~however,~~ that:

- (a) ~~The park was properly zoned or approved by special permit for mobile home or recreational vehicle use, or, in the case of single-family dwelling units, the property's zoning district lists single-family dwelling units as a permitted use;~~ and
- (b) ~~provided further, that~~ The minimum requirements, as set forth in this section, were met at the time the lot was created. These requirements are as follows:
 - (1) For lots of record created prior to the effective date of the County's 1962 Zoning Regulations:
 - a. The minimum lot area per unit shall be not less than 1,200 square feet; and
 - b. There shall be a minimum of ten feet between units.
 - (2) For lots of record created after the effective date of the County's 1962 Zoning Regulations but prior to the effective date of the County's 1968 Zoning Regulations:
 - a. The minimum lot area per unit shall be not less than 2,800 square feet;
 - b. The minimum lot width shall be 40 feet; and
 - c. The minimum setbacks from all lot lines shall be five feet, ~~and between units or appurtenances thereto they shall be ten feet.~~

- (3) For lots of records created after the effective date of the County's 1968 Zoning Regulations but prior to the effective date of the County's 1973 Zoning Regulations:
- a. Minimum lot areas shall be:
 1. For mobile homes or single-family dwelling units on central sewer: 3,750 square feet;
 2. For mobile homes or single-family dwelling units on individual septic systems: 7,500 square feet; and
 3. For recreational vehicles: 1,200 square feet.
 - b. Minimum setbacks for both mobile homes and recreational vehicles shall be:
 1. From a street right-of-way: Ten feet;
 2. From a rear lot line: Ten feet;
 3. From side lot lines: Five feet or a minimum of ten feet between units; and
 4. From the park perimeter: 15 feet.
- (4) For lots of record created after the effective date of the County's 1973 Zoning Regulations but prior to the effective date of the County's 1978 Zoning Regulations:
- a. Minimum lot areas shall be:
 1. For mobile homes or single-family dwelling units on central sewer: 4,000 square feet; and
 2. For recreational vehicles on approved septic systems: 1,200 square feet.
 - b. Minimum setbacks for ~~both~~ mobile homes, single-family dwelling units, and recreational vehicles shall be:
 1. From a street right-of-way: Ten feet;
 2. From a rear lot line: Ten feet;
 3. From side lot lines: Five feet or a minimum of ten feet between units; and
 4. From the park perimeter: 15 feet.
- (5) For lots of record created after the effective date of the County's 1978 Zoning Regulations but prior to the effective date of the ordinance from which this chapter is derived:
- a. Minimum lot areas shall be:
 1. In the MH-1 District: 7,500 square feet;
 2. In the MH-2 District: 5,000 square feet;
 3. In the MH-3 District: 21,000 square feet;
 4. In the MH-4 District: 40,000 square feet; and
 5. In the RV-2 and RV-3 Districts: 2,000 square feet.
 - b. Minimum setbacks shall be as set forth in the 1978 Zoning Regulations.

(c) For mobile home or recreational vehicle lots of record, the following will also apply:

- (1) All mobile homes or recreational vehicles, including any attachments, must be placed at least five feet from any body of water or waterway;

- (2) All mobile homes or recreational vehicles must have a minimum separation of ten feet between units (body to body) and appurtenances thereto. Each unit will be permitted to have eaves which encroach not more than one foot into the ten-foot separation; and
- (3) Sites or lots located within a park may not be reconfigured or reduced in dimension so as to increase the density for which the park was originally created.

GROUP 2, ITEM 5

RVs FOR TEMPORARY LIVING FACILITIES

AMENDMENT SUMMARY

- Issue: The LDC permits placement of a mobile home, travel trailer, or park trailer on properties where a single-family residence is undergoing rehabilitation resulting from a natural disaster. Staff has historically allowed recreational vehicles in addition to the unit types specified above despite RVs not being explicitly permitted.
- Solution: Amend temporary use provisions to include RVs as an additional living unit type permitted in accordance with this section.
- Outcome: Codifies current department practice.

Chapter 34 – ZONING

ARTICLE VII. – SUPPLEMENTARY DISTRICT REGULATIONS

DIVISION 37. SUBORDINATE AND TEMPORARY USES

Sec. 34-3046. Temporary use of mobile homes or recreational vehicles (RVs).

Staff note: Current department practice allows recreational vehicles, as defined in section 34-2, to be placed on residential lots while a new residence is being constructed or rehabilitated post-disaster. This section is proposed to be amended to reflect department practice. Subsections (a)(1) and (a)(2) are proposed to be amended to be consistent with section 125.023, F.S., which was amended by Senate Bill 250 to allow a temporary shelter to be placed on a residential property for a maximum of 36 months after the date of that a declaration of a state of emergency is issued by the governor, or until a certificate of occupancy for a new or rehabilitated residence is issued.

- (a) *Rehabilitation or construction of residence following disaster.*
- (1) If fire or disaster renders a permanent residential structure ~~single-family residence~~ unfit for human habitation, the temporary use of a recreational vehicle or mobile home, ~~travel trailer or park trailer~~ located on the property ~~single-family lot~~ during rehabilitation of the original residence or construction of a new residence may be permitted subject to the regulations set out in this section.
 - (2) The maximum duration of the use is 18-36 months or 540 days after the date the Governor of the State of Florida ~~President of the United States~~ issues a disaster declaration of a state of a emergency. If no ~~disaster~~ disaster declaration of a state of emergency is issued, then the maximum duration of the use is six months. The Director may extend the permit once for a period not to exceed 60 days in the event of circumstances beyond the owner's control. Application for an extension must be made prior to expiration of the original permit.
- (b) *Rehabilitation or construction of a damaged business, commercial or industrial uses following disaster.*
- (1) Business, commercial or industrial uses, damaged by a major or catastrophic disaster necessary for the public health and safety or that will aid in restoring the community's economic base, may be permitted to use a mobile home or similar type structure to carry out their activities until the damaged structures are ~~is~~ rebuilt or replaced according to applicable development or redevelopment regulations.
 - (2) The maximum duration of the temporary use is nine months or 270 days after the date the Governor of the State of Florida ~~President of the United States~~ issues a disaster declaration of a state of emergency. If no ~~disaster~~ disaster declaration of a state of emergency is issued, then the maximum duration of the use is six months. The Director may extend the permit once for a period not to exceed 60 days in the event of

circumstances beyond the owner's control. Application for an extension must be made prior to expiration of the original permit.

(c) *Construction of residence in AG District.*

- (1) A recreational vehicle or temporary mobile home may be permitted to be emplaced on a lot during construction of a conventional single-family dwelling in an ~~the~~ agricultural district.
- (2) The recreational vehicle or mobile home must be removed from the property within ten days of the issuance of the Certificate of Occupancy, or expiration of the building permit for the conventional dwelling, whichever occurs first.

(d) *Conditions for use.*

- (1) Required water and sanitary facilities must be provided.
- (2) The mobile home or recreational vehicle, ~~travel trailer or park trailer~~ must be removed from the property within ten days after the Certificate of Occupancy is issued for the new or rehabilitated residence, business, commercial or industrial use or upon expiration of the temporary use permit, whichever occurs first.
- (3) Placement or setting of the mobile home or recreational vehicle, ~~travel trailer or park trailer~~ must comply with Chapter 6, Article IV, pertaining to floodplain management.

GROUP 2, ITEM 6

CLEAN-UP

(LEE PLAN CONSISTENCY, AFFORDABLE HOUSING DEFINITION, HOME OCCUPANCY REGULATIONS, AIRPORT COMPATIBILITY DISTRICT MAPS, WELLFIELD PROTECTION ZONES)

CHAPTER 2 – ADMINISTRATION

ARTICLE II. – CONCURRENCY MANAGEMENT SYSTEM

DIVISION 1. – GENERALLY

Sec. 2-43. – Intent.

Staff Note: Revises references to Lee Plan policies which have been renumbered.

This article is intended to implement the requirements imposed by objectives 37.2 and 37.3 and policies 95.2.1, 95.1.3 (regulatory standards) and ~~71.2~~ 68.2 (school concurrency) of the Lee Plan; and §§ 163.3177, 163.31777, 163.3202(1) and (2)(g), ~~163.3167~~(8), and 163.3180.

Remainder of article unchanged.

ARTICLE IV. – BONUS DENSITY

DIVISION 2. – BONUS DENSITY PROGRAM

Sec. 2-143. Definitions.

Staff note: County bonus density regulations related to affordable housing do not provide a definition of “affordable housing.” The Department of Community Development relies on standards set by the Department of Housing and Urban Development to determine what constitutes affordable housing. The proposed definition codifies this Department practice.

- (a) The following words, terms and phrases, when used in this article, have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Affordable Housing generally means housing on which the occupant is paying no more than a certain percent of gross income for housing costs; for purposes of this article, affordable housing is defined as that term is defined by the U.S. Department of Housing and Urban Development (HUD).

Remainder of section unchanged.

Sec. 2-146. – Minimum requirements.

Staff Note: Revises references to Lee Plan policies and wording which have been renumbered and updated.

(a) through (c) unchanged.

(d) The barrier and coastal islands, including, but not limited to, Gasparilla Island, Cayo Costa, North Captiva, Captiva Island, Buck Key, and Black Island are not eligible to receive bonus density, with the following exceptions:

(1) Only the portion of Greater Pine Island defined in the Lee Plan as Pine Island Center is eligible to receive Greater Pine Island TDUs subject to this article and the Lee Plan. Suburban designated lands within the Greater Pine Island ~~Planning~~ Community Plan Area are not eligible receiving lands for any TDUs.

(2) *unchanged.*

(e) TDUs may not be utilized on property located within the coastal high hazard area as defined in Section 2-483 or located within the Bayshore, Buckingham, Caloosahatchee Shores, or Northeast Lee County ~~Planning Communities~~ Community Plan Areas. Within the Southeast Lee County ~~Planning~~ Community Plan Area, TDUs may only be used as described in Section 2-154.

Remainer of Division unchanged.

DIVISION 3. – CREATION OF TRANSFERABLE DEVELOPMENT UNITS

Staff Note: Revises references to Lee Plan policies, wording, and maps which have been renumbered, updated, or deleted.

Sec. 2-148. Establishment of Transfer of Development Rights Program.

(a) The Transfer of Development Rights Program provides that a TDU may be established from property that:

(1) *and (2) unchanged.*

(3) Is located within the Greater Pine Island ~~Planning~~ Community Plan Area; or

(4) Is designated as density reduction/groundwater resource (DR/GR) by the Lee Plan and is within the Southeast Lee County ~~Planning~~ Community Plan Area.

(B) TDUs may not be established from:

(1) *through (6) unchanged.*

(7) Mines ~~designated on Lee Plan Map 14 as a future limerock mining area and zoned mining excavation planned development (MEPD) pursuant to Chapter 12; or~~

~~(8)(7)~~ Land that is designated on Lee Plan Map ~~17~~ 2-D as an existing acreage subdivision.

Remainder of section unchanged.

Sec. 2-149. – Computation of Wetland TDUs.

(a) *and (b) unchanged.*

(c) TDUs created pursuant to Subsection (a) or (b) of this section, may be doubled if the wetlands are within the Coastal High Hazard Area (CHHA) (Lee Plan Map 5-A).

(d) *unchanged.*

Sec. 2-150 *unchanged.*

Sec. 2-151. – Computation of Greater Pine Island TDUs.

(a) *and (b) unchanged.*

(c) Three TDUs are hereby established per one acre of uplands located in the Outlying Suburban future land use category.

Remainder of section unchanged.

Sec. 2-152. – Density and intensity equivalents of Greater Pine Island TDUs.

(a) The residential ratios for Greater Pine Island TDUs are as follows:

(1) One Greater Pine Island TDU will be equal to two dwelling units when transferred to receiving lands outside of the Greater Pine Island ~~Planning~~ Community Plan Area;

(2) *unchanged.*

(b) The nonresidential ratios for Greater Pine Island TDUs are as follows:

(1) *unchanged.*

(2) The use of Greater Pine Island TDUs to increase commercial intensity is permitted within the Intensive Development, Central Urban and Urban Community future land use categories that are not located within the Greater Pine Island ~~Planning~~ Community Plan Area.

Sec. 2-154. – Density and intensity equivalents of Southeast Lee County TDUs.

(a) In mixed-use communities in Southeast Lee County identified on Lee Plan Map ~~17-2-D~~, each TDU credit may be redeemed for a maximum of one dwelling unit, plus a maximum of 800 square feet of nonresidential floor area.

(b) In rural golf course communities in Southeast Lee County identified on Lee Plan Map ~~17-2-D~~, each TDU credit may be redeemed for a maximum of one dwelling unit or two bed and breakfast bedrooms.

Remainder of section unchanged.

ARTICLE XI. – HURRICANE PREPAREDNESS

Sec. 2-483. – Definitions.

Staff Note: Revises reference to Lee Plan map.

The following words, terms and phrases, when used in this article, will have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Coastal high hazard area means the area below the elevation of the Category 1 storm surge line as established by a Sea, Lake, and Overland Surges from Hurricanes (SLOSH) computerized storm surge model and delineated by Map 5-A of the Lee Plan as required by F.S. § 163.3177(6)(a)10.c.(VI).

Remainder of section unchanged.

CHAPTER 10 – DEVELOPMENT STANDARDS

ARTICLE III. – DESIGN STANDARDS AND REQUIREMENTS

DIVISION 1. – GENERALLY

Sec. 10-256. – Bikeways and pedestrian ways.

Staff Note: Revises references to Lee Plan map.

(a) *Required for development and redevelopment in urban and suburban areas.* All development and redevelopment proposed within future urban areas or future suburban areas, as defined by the Lee Plan, or along trails depicted on the Greenways Master Plan (Lee Plan Map ~~22-4-E~~), or along walkways and bikeways depicted on the County Walkways and Bikeways Map (Lee Plan Map 3-D) are required to provide for bikeways and pedestrian ways.

Remainder of division unchanged.

DIVISION 2. – TRANSPORTATION, ROADWAYS, STREETS AND BRIDGES

Sec. 10-296. – Street design and construction standards.

Staff Note: Revises references to Lee Plan map.

(a) *through (d) unchanged.*

(e) *Road design.* All roadways will be designed and constructed in accordance with this subsection. Cross sections within this subsection are for illustrative purposes only.

(1) *Urban roadways.* Roadway segments in or abutting future urban areas identified in the Lee Plan will be designed in accordance with this subsection. Design criteria will be determined by the existing functional classification of the adjacent roadway identified in AC 11-1 and the future land use designation of the property identified in the Lee Plan Future Land Use Map.

a. through e. unchanged.

f. Bicycle and pedestrian facilities. Include a shared use path when depicted on the Lee Plan Maps 3-D or ~~224-E~~. Where a shared use path or greenway is not depicted, pedestrian facility width dimensions will be governed by the design tables contained in this section.

g. through i. unchanged.

(2) *Suburban roadways.*

a. through d. unchanged.

e. *Bicycle and pedestrian facilities.* Include a shared use path when depicted on the bikeways/walkways facilities plan Map 3-D of the Lee Plan or Greenways Plan Maps ~~22~~ 4-E of the Lee Plan. Where a shared use path or greenway is not depicted, pedestrian facility width dimensions will be governed by design tables contained in this section.

f. through h. unchanged.

(3) *Non-urban roadways.*

a. through c. unchanged.

d. *Bicycle and pedestrian facility.* A separated bicycle and pedestrian facility is required where depicted on Lee Plan Maps 3-D or ~~224~~ 4-E.

Remainder of division unchanged.

DIVISION 4. – UTILITIES

Sec. 10-352. – Potable water systems.

Staff Note: Revises references to Lee Plan map.

(a) *Connection to central system required for certain developments.* The following types of developments, when located within the boundaries of the certificated or franchised service area of any investor- or subscriber-owned water utility, or within the County utilities' future water service areas as delineated on Map ~~64~~ 4-A in the Lee Plan, must connect to that respective water system:

Remainder of section unchanged.

Sec. 10-353. – Sanitary sewer systems generally.

Staff Note: Revises references to Lee Plan map.

(a) *Connection to central system required for certain developments.* The following types of developments, when located within the boundaries of the certificated or franchised service area of any investor- or subscriber-owned utility, or within the County utilities' future sewer service areas as delineated on Map ~~74~~ 4-B in the Lee Plan, must connect to that respective sewer system:

Remainder of section unchanged.

Sec. 10-354. – Reuse water systems.

Staff Note: Revises references to Lee Plan map.

(a) *unchanged.*

(b) For projects meeting the requirements of Subsection (a) of this section and delineated on Map ~~74~~ 4-B of the Lee Plan, the irrigation of grassed or landscaped areas must occur through the use of a second water distribution system supplying treated wastewater effluent or reuse water. This reuse water system

must be constructed and operated in accordance with Florida Administrative Code 62-610 and the County Reclaimed Water Ordinance.

(c) *unchanged.*

DIVISION 6. – OPEN SPACE, BUFFERING AND LANDSCAPING

Sec. 10-416. – Landscape standards.

Staff Note: Revises references to Lee Plan policy.

(a) *through* (c) *unchanged.*

(d) *Buffering adjacent property.* Buffering and screening applies to all new development. Existing landscapes that do not comply with the provisions of this section must be brought into conformity to the maximum extent possible when the vehicular use area is altered or expanded, except for restriping of lots/drives, the building square footage is increased, or there has been a discontinuance of use for a period of one year or more and a request for an occupational license to resume business is made.

(1) *through* (8) *unchanged.*

(9) Development abutting natural waterway. Except where Chapter 33 provides a stricter standard for Greater Pine Island (as defined in Goal 124 of the Lee Plan and in Section 33-1002), there must be a 50-foot-wide vegetative buffer landward of non-seawalled natural waterways as measured from the mean high water line or top of bank, whichever is further landward.

Remainder of section unchanged.

Sec. 10-425. – Open space and landscape requirements in the Mixed-Use Overlay.

Staff Note: Revises references to Lee Plan map.

Properties located within the Mixed-Use Overlay as delineated on Map 1-C, Page 6 of the Lee Plan and described in Objective 11.2 must provide the following minimum open space and landscape requirements. The landscape requirements for specific uses identified in Section 10-424 must be provided.

Remainder of chapter unchanged.

CHAPTER 12 – RESOURCE EXTRACTION

ARTICLE II. – MINING AND EXCAVATION

DIVISION 1. – GENERALLY

Sec. 12-107. – Lee Plan consistency.

Staff Note: Removes reference to deleted Lee Plan map and updates language for accuracy.

The following Lee Plan ~~policies~~provisions must be adhered to in applying for and conducting mining activities:

Remainder of section unchanged.

Sec. 12-119. – Reclamation requirements.

(a) *Reclamation plan.* The excavated lake must be designed to ensure appropriate native wetland areas will be created as a littoral shelf to provide long-term water quality benefits; a source of natural organics for the lake; and a wildlife habitat. Additionally, the final shoreline configuration outside of the littoral zone created wetland areas must be designed to prevent shoreline erosion. The overall reclamation plan must provide long-term plans to sustain or improve the baseline water quality as well as sustain healthy fish and wildlife populations.

Plans and other appropriate documents accurately depicting the plan of reclamation, consistent with the standards detailed in Subsection (b) of this section are required. The reclamation plan must be consistent with the mining plan and include:

(1) *through (6) unchanged.*

(7) Bank slope. After excavation is complete and upon reclamation of the site, the banks of the excavations outside of the required marsh creation area must be sloped at a ratio not greater than six horizontal to one vertical from the top of the finished grade to a water depth of four feet below the dry season depth. Deviation or variance from the slope requirement ~~is prohibited. This prohibition does not apply to a mine located within the Future Limerock Mining area as shown on Map 14 of the County Comprehensive Plan. A deviation or variance from this standard may be granted to a mine located on Map 14 through the public hearing process requested through the MEPD process.~~

Remainder of chapter unchanged.

CHAPTER 14 – ENVIRONMENT AND NATURAL RESOURCES

ARTICLE I. – IN GENERAL

Sec. 14-1. – Community Planning Area ~~community~~ regulations.

Staff Note: Revise out-of-date wording.

Remainder of article unchanged.

CHAPTER 14 – ENVIRONMENT AND NATURAL RESOURCES

ARTICLE V. – TREE PROTECTION

DIVISION 1. – GENERALLY

Sec. 14-374. – Definitions.

Staff Note: Revises references to Lee Plan map.

(a) The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

“Administrator” through “Dripline” unchanged.

Greater Pine Island means the area that is affected by Lee Plan Goal 24 as depicted on the ~~Future Land Use Map 2-A~~ and as described in Section 33-1002.

Remainder of chapter unchanged.

CHAPTER 30 – SIGNS

ARTICLE I. – IN GENERAL

Sec. 30-2. – Definitions and rules of construction.

Staff Note: Revises references to Lee Plan map.

(a) *unchanged.*

(b) The following words, terms and phrases, when used in this chapter, have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

“Abandoned sign” through “Government sign” unchanged.

Greater Pine Island means the area that is affected by Lee Plan Goal 24 as depicted on the ~~Future Land Use Map 2-A~~ and described in Chapter 33, Article III.

Remainder of article unchanged.

ARTICLE II. – ADMINISTRATION AND ENFORCEMENT

Sec. 30-56. – ~~Community Planning Area~~ ~~community~~ regulations.

Staff Note: Revise out-of-date wording.

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

Remainder of article unchanged.

ARTICLE IV. – RESTRICTIONS BASED ON LOCATION

DIVISION 2. – ON-SITE SIGNS

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

Staff Note: Revise out-of-date wording.

(1) *through* (4) *unchanged.*

(5) *Electronic changing message centers.* Electronic message centers are permitted along I-75 and arterial streets, subject to the following limitations:

a. *Location.*

1. *and* 2. *unchanged.*

3. In the North Fort Myers ~~Planning Community~~ Community Plan Area on property located at the intersection of S.R. 45 (U.S. 41) and S.R. 45A (Business 41) having a minimum of 600 feet, more or less, of road frontage along S.R. 45 and 820 feet of road frontage along S.R. 45A, provided that:

i. *through v. unchanged.*

4. *unchanged.*

5. In the North Fort Myers ~~Planning Community~~ Community Plan Area (Commercial Corridors), pursuant to Section 33-1602.

Remainder of chapter unchanged.

CHAPTER 33 – ~~PLANNING~~ COMMUNITY PLAN AREA REGULATIONS

ARTICLE I. – IN GENERAL

Sec. 33-1. – Purpose and intent.

Staff Note: Revise out-of-date wording.

The purpose of this chapter is to adopt the guidelines and provisions a ~~planning community plan area~~ believes is necessary to achieve the goals, objectives and policies set forth in the County Comprehensive Plan applicable to each recognized individual ~~planning community plan area~~ located within unincorporated areas of the County. These provisions are intended to enhance, not replace, the regulations contained in the balance of this Code, unless a particular ~~planning community plan area~~ specifically provides otherwise.

Sec. 33-2. – Applicability.

Staff Note: Revise out-of-date wording.

The articles of this chapter apply to the ~~planning communities~~ Community Plan Areas in unincorporated areas of the County that are specifically identified in the Lee Plan. Each article covers an individual ~~planning eCommunity Plan Area~~, or specifically identified portion of a ~~planning community Plan Area~~, that has chosen to pursue adoption of standards for the particular community. In the event of conflict between the provisions of this chapter and the requirements of F.S. § 553.79, the requirements of F.S. § 553.79 shall prevail.

Sec. 33-3. – Effect of LDC provisions.

Staff Note: Revise out-of-date wording.

Development within the ~~planning communities~~ Community Plan Area affected by this chapter must comply with all County regulations, including the provisions of this Code. The ~~planning eCommunity Plan Area~~ regulations are intended to supplement regulations in this Code unless a particular ~~planning eCommunity Plan Area~~ specifically provides otherwise.

Sec. 33-5. – Deviations/variances.

Staff Note: Revise out-of-date wording.

Deviations and variances from the provisions set forth in each article may be achieved under the standards specifically set forth by the particular ~~planning~~ Community Plan Area. If the article does not contain a specific provision related to variances and deviations, then the relevant provisions in Chapters 10 and 34 will apply.

ARTICLE III. – GREATER PINE ISLAND COMMUNITY PLAN AREA

DIVISION 1. – IN GENERAL

Sec. 33-1001. – Applicability and community boundary.

Staff Note: Revise out-of-date wording and Lee Plan maps.

The provisions of this article apply to all new development or redevelopment requiring zoning, local development order approval, or an agricultural notice of clearing permit, located within the Greater Pine Island ~~Planning~~ Community Plan Area as defined in Goal 24 of the County Comprehensive Plan. The boundaries of the Greater Pine Island ~~Planning~~ Community Plan Area are depicted in the County Comprehensive Plan on ~~future land use Map 2-A-1, Page 2 of 8.~~ A copy of the Greater Pine Island portion of the ~~planning communities~~ Community Plan Areas map is reproduced in Appendix I as Map 5. A legal description of the Greater Pine Island ~~Planning~~ Community Plan Area is set forth in Appendix I and includes Matlacha (the Chamber of Commerce building and all lands to the west), as well as Little Pine Island, Pine Island, and small adjacent islands.

Sec. 33-1002. – Definitions

Staff Note: Revises references to Lee Plan maps.

The following definitions are in addition to those set forth in other chapters of this Code and are applicable to the provisions set forth in this article only. If, when construing the specific provisions contained in this article, these definitions conflict with definitions found elsewhere in this Code, then the definition set forth in this section will control. Otherwise, the definition contained elsewhere in this Code will control. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Adjusted maximum density means a maximum density of one dwelling unit per acre (one du/acre) permitted in the Coastal Rural future land use category, where the standard maximum density is exceeded, and where a minimum of 70 percent of the development is maintained or restored as native habitat, or where 70 percent of the site is maintained in agricultural use on those parcels identified as existing farmland on Lee Plan Map 2-C 21.

Continued agricultural use on existing farmland means existing farmland identified on Lee Plan Map 2-C 21 that will be committed, through a binding Master Concept Plan and/or development order, to continued agricultural activity and use in exchange for County approval allowing the adjusted maximum density. The approved density is based on the acreage attributable to the entire property under consideration and requires that all residential units must be placed on other uplands not committed for agricultural use within the boundary of the subject property. Amendments to the binding Master Concept Plan and/or development order may not modify the land area committed to continued

agricultural use. Greater Pine Island TDUs may not be established or severed from existing farmland committed to continued agricultural activity in exchange for adjusted maximum density.

Remainder of section unchanged.

Sec. 33-1003. – Community review.

Staff Note: Revise out-of-date wording.

(a) *unchanged.*

(b) *Meeting requirements.* The applicant is responsible for providing the meeting space, notice of meeting, and security measures as needed. The meeting location will be determined by the applicant and must be held within the boundaries of the Greater Pine Island Community Plan Area. Meetings may, but are not required to, be conducted before non-County-formed boards, committees, associations, or planning panels. During the meeting, the agenda will provide a general overview of the project for any interested citizens. Subsequent to this meeting, the applicant must provide staff with a summary that contains the following information: the date, time, and location of the meeting; a list of attendees; a summary of the concerns or issues that were raised at the meeting; and a proposal for how the applicant will respond to any issues. The applicant is not required to receive an affirmative vote or approval of citizens present at the meeting.

Remainder of division unchanged.

DIVISION 2. – TRANSPORTATION

Sec. 33-1011. – Greater Pine Island Road level of service.

Staff Note: Corrects renumbered Lee Plan Policies and removes reference to policies which have been revised.

The roadway level of service standards set forth in Lee Plan Policy 24.2.1 and a maximum hurricane evacuation clearance time of 18 hours for Pine Island residents as set forth in Lee Plan Policy 24.2.2 must be maintained for Pine Island Road.

(a) The minimum acceptable peak hour, peak season, peak direction roadway level of service standard for Pine Island Road between Burnt Store Road and Stringfellow Boulevard is level of service "E" calculated in accordance with Policy ~~37.1.195.1.3~~ of the County Comprehensive Plan. This standard will be measured at the County's permanent count station #3 on Little Pine Island at the western edge of Matlacha and will apply to all of Greater Pine Island.

Remainder of division unchanged.

DIVISION 5. – COASTAL RURAL DEVELOPMENT REGULATIONS

Sec. 33-1051. – Applicability.

Staff Note: Revises reference to Lee Plan maps.

The following provisions and development standards apply to new development and redevelopment within the Coastal Rural future land use category, as depicted on the County future land use Map, Lee Plan Map 1-A.

Sec. 33-1052. – Residential density limitations.

Staff Note: Revises references to Lee Plan maps.

New residential development and redevelopment within Coastal Rural designated lands may be developed in accordance with the standard maximum density provisions or the adjusted maximum density provisions set forth in this article and Lee Plan Policy 1.4.7 as follows:

(a) *unchanged.*

(b) The adjusted maximum density established by Policy 1.4.7 of the Lee Plan is one dwelling unit per acre where a threshold of 70 percent of the development parcels is maintained or restored as native habitat, or where 70 percent of the site is maintained for agricultural use on those parcels identified as existing farmland on Lee Plan Map 2-C 21.

Sec. 33-1054. – Coastal rural development standards.

Staff Note: Revises references to Lee Plan maps.

The following development standards apply to development or redevelopment within the Coastal Rural land use category that meet the thresholds for large residential developments, as defined in this article:

(a) *unchanged.*

(b) *Property development regulations*

(1) *unchanged.*

(2) Developments must connect to public utilities, when located within the boundaries of the certificated or franchised service area of any investor- or subscriber-owned water utility, or within the County Utilities future service areas as delineated on Maps 4-A 6 and 4-B 7 in the Lee Plan, and where a connection point is within one-quarter mile of the parcel boundary.

Remainder of division unchanged.

DIVISION 6. – DESIGN STANDARDS

Sec. 33-1081. – Proposed street layout.

Staff Note: Revise out-of-date wording.

All new streets in the Greater Pine Island Planning Community Plan Area must be fully integrated into the County-maintained street system of the surrounding area. These requirements apply equally to new County-maintained and privately maintained streets.

Remainder of article unchanged.

ARTICLE IV. – PAGE PARK ~~PLANNING~~ COMMUNITY PLAN AREA

DIVISION 1. – IN GENERAL

Sec. 33-1202. – Applicability.

Staff Note: Revise out-of-date wording.

(a) *Scope.* The provisions of this article apply to all development located within the Page Park Community Plan Area, as defined in Goal 31 of the Lee Plan (see Map 6 in Appendix I). The standards in this article apply to nonresidential, religious, institutional, multifamily and mixed-use developments (which must contain a residential component), including live-work units, except where the authority of a separate political jurisdiction supersedes County authority.

(b) *unchanged.*

(c) *Development orders.* The provisions of this article apply to all development orders and limited review development orders described in Section 10-174(1), (2) and (4)a that are requested within the Page Park Community Plan Area. Compliance with these provisions will be required in order to obtain development order approval.

Remainder of section unchanged.

Sec. 33-1203. – Community review.

Staff Note: Revise out-of-date wording.

(a) *Applications requiring review.* The owner or agent applying for the following types of County approvals must conduct one publicly advertised informational session in accordance with Subsection (b) of this section within the Page Park Community Plan Area prior to obtaining an approval or finding of sufficiency of the following:

(1) Development order. This includes all applications for development orders requested within the Page Park Community Plan Area;

Remainder of section unchanged.

Sec. 33-1204. – Existing planned development.

Staff Note: Revise out-of-date wording.

Existing, approved Master Concept Plans may be voluntarily brought into compliance with the Page Park Community Plan Area regulations or any regulation contained in this article through the administrative amendment process. No public hearing or community meeting will be required if the sole intention is for existing planned developments to comply with these regulations.

Subdivision II. – Architectural

Sec. 33-1280. – Applicability.

Staff Note: Revise out-of-date wording.

Architectural design of all commercial, public, and mixed-use buildings within the Page Park Community Plan Area must comply with this subdivision.

Sec. 33-1281. – Architectural style.

Staff Note: Revise out-of-date wording.

The required architectural style in the Page Park Community Plan Area is that of a main street, as defined in Section 33-1205. (See Figures 1 through 6, 10, and 13 through 17.)

ARTICLE V. – LEHIGH ACRES ~~PLANNING~~ COMMUNITY PLAN AREA

DIVISION 1. – IN GENERAL

Sec. 33-1400. – Applicability

Staff Note: Revise out-of-date wording and corrects Lee Plan map references.

(a) *Scope.* The provisions of this article will apply to all development located in the Lehigh Acres Community Planning Community Area as depicted on Lee Plan Map ~~12-A~~, and as defined in Goal 25 of the County Comprehensive Plan.

(b) *Zoning.* The provisions of this article apply to all requests to rezone within the Lehigh Acres Community Planning Community Area. Compliance with these provisions will be required to obtain zoning approval unless approved by variance or deviation.

(c) *Development orders.* The provisions of this article apply to development orders and limited review development orders described in Section 10-174(1), (2) and (4)a that are requested within the Lehigh Acres Community Planning Community Area. Compliance with these provisions will be required in order to obtain development order approval.

Sec. 33-1401. – Community review.

Staff Note: Revise out-of-date wording.

(a) *Applications requiring review.* The owner or agent applying for the following types of County approvals must conduct one publicly advertised information session within the Lehigh Acres Community Planning Community Area prior to obtaining approval or finding of sufficiency of the following:

Remainder of section unchanged.

Sec. 33-1405. – Landscaping

Staff Note: Revise out-of-date wording.

(a) *and (b) unchanged.*

(c) *Buffers.* Buffers must comply Section 10-416(d) except as modified below:

(1) *through (3) unchanged.*

(4) Section 10-416(d)(6) does not apply within the Lehigh Acres Community Planning Community Area.

Remainder of division unchanged.

DIVISION 1. – IN GENERAL

Sec. 33-1411. – Applicability

Staff Note: Corrects reference to Lee Plan map.

This division applies to all commercial development, except areas located within the Downtown Lehigh Acres, Community Mixed-Use Activity Centers, Neighborhood Mixed-Use Activity Centers, or the Local Mixed-Use Activity Centers, as depicted on Lee Plan Map 12-B.

Subdivision II. – Architectural.

Sec. 33-1417. – Maximum height.

Staff Note: Corrects reference to Lee Plan map.

(a) Maximum building heights are determined based on location in the Specialized Mixed-Use Nodes of the Community Plan Overlay as depicted on Lee Plan Map 12-B. Buildings outside of the Specialized Mixed-Use Nodes are limited to a maximum of three stories or 45 feet, whichever is less, unless approved by variance or deviation in accordance with Chapter 34.

Remainder of article unchanged.

ARTICLE VII. – CALOOSAHATCHEE SHORES ~~PLANNING~~ COMMUNITY PLAN AREA

DIVISION 1. – IN GENERAL

Sec. 33-1480. – Applicability.

Staff Note: Revise out-of-date wording and corrects reference to Lee Plan map.

This article is applicable to Caloosahatchee Shores ~~Planning~~ Community Plan Area (see Map 14 in Appendix I), described in Goal 21 of the County Comprehensive Plan (Lee Plan).

(a) *Scope*. The provisions of this article apply to all development located in the Caloosahatchee Shores ~~Planning~~ Community Plan Area, as defined in Section 33-1481(a) and depicted in the County Comprehensive Plan on Lee Plan Map 12-A and apply to all commercial, religious, institutional, multiple-family, and mixed-use developments, including live-work units, except where the authority of a separate political jurisdiction supersedes County authority.

(b) *Zoning*. The provisions of this article apply to all requests to rezone property located within the Caloosahatchee Shores Community Plan Area. Compliance with these provisions will be required to obtain zoning approval unless approved by variance or deviation.

(c) *Development orders.* The provisions of this article apply to all development orders and limited review development orders described in Section 10-174(1), (2) and (4)a that are for property located within the Caloosahatchee Shores Community Plan Area. Compliance with these provisions will be required in order to obtain development order approval.

Sec. 33-1481. – ~~Planning~~ Community Plan Area boundaries.

Staff Note Revise out-of-date wording and corrects reference to Lee Plan maps.

(a) *Caloosahatchee Shores-~~Planning~~ Community Plan Area.* The boundaries of the Caloosahatchee Shores ~~Planning~~ Community Plan Area are as depicted in the County Comprehensive Plan on Lee Plan Map ~~12-A~~ and in Appendix I on Map 14. The following overlays are located within the Caloosahatchee Shores ~~Planning~~ Community Plan Area:

(1) *Olga-~~Planning~~ Community Plan Area Overlay.* The boundaries of the Olga Community Overlay District are as depicted in the County Comprehensive Plan on Lee Plan Map ~~1~~ and in Appendix I on Map 14.

(2) *unchanged.*

Sec. 33-1482. – Community review.

Staff Note: Revise out-of-date wording.

(a) *Applications requiring review.* The owner or agent applying for the following types of County approvals must conduct one publicly advertised information session within the Caloosahatchee Shores ~~Planning~~ Community Plan Area prior to obtaining approval or finding of sufficiency of the following:

Remainder of section unchanged.

Sec. 33-1483. – Existing planned development.

Staff Note: Revise out-of-date wording.

Existing approved Master Concept Plans may be voluntarily brought into compliance with the Caloosahatchee Shores Community Plan Area requirements or any regulation contained in this article through the administrative amendment process. No public hearing will be required if the sole intention is for existing planned developments to comply with these regulations. Notwithstanding, any request to change the zoning designation of a parcel must comply with the notice and hearing requirements under F.S. § 125.66.

Sec. 33-1485. – Definitions.

Staff Note: Revise out-of-date wording.

The following definitions are in addition to those set forth in other chapters of this Code and are applicable to the provisions set forth in this article only. If, when construing the specific provisions

contained in this article, these definitions conflict with definitions found elsewhere in this Code, then the definitions set forth below will control. Otherwise, the definitions contained elsewhere in this Code will control. If a term is not defined the term must be given its commonly understood meaning unless there is a clear indication of an intent to construe the term differently from its commonly understood meaning:

“Articulation” through “Façade” unchanged.

Florida vernacular means the architectural style in the Caloosahatchee Shores ~~Planning~~ Community Plan Area consistent with the historic design features of central and south Florida building tradition that incorporate elements from traditional Colonial Revival, and Folk architectural styles.

Remainder of division unchanged.

DIVISION 2. – DESIGN STANDARDS

Subdivision II. - Architectural

Sec. 33-1495. – Applicability.

Staff Note: Revise out-of-date wording.

Architectural design of all commercial, public and mixed-use buildings within the Caloosahatchee Shores ~~Planning~~ Community Plan Area must comply with this subdivision.

Sec. 33-1496. – Architectural style.

Staff Note: Revise out-of-date wording.

The architectural style in the Caloosahatchee Shores ~~Planning~~ Community Plan Area is Florida vernacular. Vernacular style must be displayed through the inclusion of building materials, roof overhangs, porches, columns, covered corridors, covered walkways and pitched roofs (where applicable).

Remainder of subdivision unchanged.

Subdivision III. - Signs

Sec. 33-1505. – Prohibited signs.

Staff Note: Revise out-of-date wording.

(a) Unless a deviation or variance is granted, the following signs are prohibited within the Caloosahatchee Shores ~~Planning~~ Community Plan Area:

Remainder of division unchanged.

DIVISION 3. – OVERLAY DISTRICTS

Subdivision I. - Olga ~~Planning~~ Community Plan Area

Sec. 33-1512. – Commercial development.

Staff Note: Revise out-of-date wording.

All new zoning allowing additional commercial development must be zoned a Commercial Planned Development District.

Subdivision II. – State Route 80 Corridor

Sec. 33-1517. – Commercial site location standards.

Staff Note: 6.1.2 has changed and does not reflect the purpose of this policy.

The parcels located in the State Route 80 Corridor Overlay District ~~are not subject to the commercial site location standards of Lee Plan Policy 6.1.2 and~~ have been determined to meet the requirements of the commercial infill requirements of the Lee Plan.

ARTICLE VII. – NORTH FORT MYERS ~~PLANNING~~ COMMUNITY PLAN AREA

DIVISION 1. – IN GENERAL

Sec. 33-1531. - Applicability and scope.

Staff Note: Revise out-of-date wording.

The provisions of this article will apply to all development located in the North Fort Myers Community Plan Area, as defined in Goal 30 of the County Comprehensive Plan.

Sec. 33-1532. - Community review.

Staff Note: Revise out-of-date wording.

(a) *Applications requiring review.* The owner or agent applying for the following types of County approvals must conduct one publicly advertised information session within the North Fort Myers ~~Planning Community~~ Plan Area prior to obtaining approval or finding of sufficiency of the following:

Remainder of section unchanged.

Sec. 33-1533. - Conflicting provisions.

Staff Note: Corrects reference to Lee Plan map.

If the provisions of this article are inconsistent with provisions found in other adopted codes, ordinances, or regulations of the County, this article will take precedence, except for provisions applicable to properties located within the Mixed-Use Overlay, as delineated on Map 1-C, ~~Page 6~~ of the Lee Plan and described in Objective 11.2.

Sec. 33-1534. - Existing planned development.

Staff Note

Existing approved Master Concept Plans may be voluntarily brought into compliance with the North Fort Myers Community Plan Area provisions (Lee Plan Goal 30) or any regulation contained in this article through the administrative amendment process. No public hearing will be required if the sole intention is for existing planned developments to comply with these regulations. Notwithstanding, any request to change the zoning designation of a parcel must comply with the notice and hearing requirements under F.S. § 125.66.

Sec. 33-1537. - Definitions.

Staff Note: Revise out-of-date wording.

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

“Alley” through “Civic lands” unchanged.

Commercial corridor means all commercially zoned properties with frontage on, or contiguous to and developed in conjunction with properties with frontage on, the following roadways within the North Fort Myers Planning-Community Plan Area:

Remainder of division unchanged.

DIVISION 2. – NORTH FORT MYERS COMMUNITYWIDE LAND DEVELOPMENT PROVISIONS

Sec. 33-1541. - Interface between existing large lot residential subdivisions and high density/intensity uses.

Staff Note: Revise out-of-date wording.

The following regulations apply to the location, operation, fencing, landscaping, and parking associated with high density or high intensity uses which abut existing large lot residential subdivisions within the North Fort Myers Planning-Community Plan Area.

33-1547. – Special exception uses.

Staff Note: Revise out-of-date wording.

The following uses, when listed as permitted or special exception uses in Chapter 34, will be allowed within the North Fort Myers Community Plan Area only as a special exception and will be subject to the following additional condition:

Remainder of division unchanged.

DIVISION 3. – COMMERCIAL CORRIDOR LAND DEVELOPMENT PROVISIONS

Subdivision I. - Generally

Sec. 33-1566. – Applicability and scope.

Staff Note: Revise out-of-date wording.

The provisions of this division apply to all commercially zoned properties with frontage on, or contiguous to and developed in conjunction with properties with frontage on, the following roadways within the North Fort Myers ~~Planning~~ Community Plan Area:

Remainder of subdivision unchanged.

Subdivision II. – Design Standards for Commercial Corridors

Sec. 33-1571. – Property development regulations.

Staff Note: Corrects Lee Plan map reference.

(a) *unchanged.*

(b) Mixed-Use Overlay. Properties located within the Mixed-Use Overlay, as delineated on Map 1-C, ~~Page 6~~ of the Lee Plan and described in Objective 11.2, may apply the alternative property development regulations under the MUO category in Table 34-845.

Remainder of subdivision unchanged.

Subdivision III. – Urban Design Guidelines

Sec. 33-1581. – Landscaping buffers.

Staff Note: Corrects Lee Plan map reference and revises out-of-date wording.

(a) Properties located within the Mixed-Use Overlay, as delineated on Map 1-C, ~~Page 6~~ of the Lee Plan and described in Objective 11.2, must provide the minimum landscape requirements established in Section 10-425. The landscape requirements identified in Section 10-424 must be provided for specific uses developed within the Mixed-Use Overlay.

(b) Properties located outside the Mixed-Use Overlay must use the following buffer tables instead of Section 10-416(d)(3) and (4):

Table 1. *Unchanged*

Table 2. Buffer Types

Notes:

1. All landscape buffer designs will complement adjacent project buffers to help aid in establishing a continuous landscape theme within the North Fort Myers Community Plan Area. The use of plant material indigenous to, and consistent with, existing vegetation within the North Fort Myers Community Plan Area is recommended.

Remainder of subdivision unchanged.

Subdivision V. – Signs

Sec. 33-1598. – Adopted to supplement signs provisions.

Staff Note: Revises out-of-date wording.

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

Sec. 33-1601.1. – Electronic changing message centers.

Staff Note: Revises out-of-date wording.

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

(1) *and (2) unchanged.*

(3) Predominantly commercial areas on Commercial Corridors within the North Fort Myers ~~Planning~~ Community Plan Area per Section 33-1537 only;

Remainder of article unchanged.

ARTICLE IX. – CAPTIVA COMMUNITY PLAN AREA

DIVISION 1. – IN GENERAL

Sec. 33-1613. – Existing development and planned developments.

Staff Note: Revises out-of-date wording.

Existing, approved Master Concept Plans may be voluntarily brought into compliance with the Captiva Community Plan Area provisions or any regulation contained in this article through the administrative amendment process. No public hearing will be required if the sole intention is for existing planned developments to comply with these regulations. All other requests to change the zoning designation of a parcel must comply with the notice and hearing requirements under F.S. § 125.66.

Remainder of article unchanged.

ARTICLE X. – NORTH OLGA COMMUNITY PLAN AREA

DIVISION 1. – IN GENERAL

Sec. 33-1661. – Applicability

Staff Note: Revises out-of-date wording.

The provisions of this article apply to all new development requiring zoning or local development order approval, excluding limited development orders entitled to limited review per Section 10-174, located in the North Olga Community Planning Area, as defined in Goal 29 of the County Comprehensive Plan.

Sec. 33-1662. - Community planning area boundaries.

Staff Note: Corrects Lee Plan map reference.

The boundaries of the North Olga Community Planning Area are as depicted in the County Comprehensive Plan Map 2-A1, Page 2 of 8.

Sec. 33-1663. – Community review.

Staff Note: Revises out-of-date wording and revises to be consistent with requirements of Lee Plan Goal 17.

(b) *Meeting requirements.* The applicant is responsible for providing the meeting space, providing notice of the meeting, and providing security measures as needed. The meeting location will be determined by the applicant and must be held within the boundaries of the North Olga Community Plan Area, ~~or within the boundaries of an immediately adjacent community planning area (Alva, Bayshore, or Caloosahatchee Shores)~~. Meetings may, but are not required to, be conducted before non-County-formed boards, committees, associations, or planning panels. During the meeting, the agent will provide a general overview of the project for any interested citizens. Subsequent to this meeting, the applicant must provide County staff with a meeting summary document that contains the following information: the date, time, and location of the meeting; a list of attendees; a summary of the concerns or issues that were raised at the meeting; and a proposal for how the applicant will respond to any issues that were raised. The applicant is not required to receive an affirmative vote or approval of citizens present at the meeting.

Remainder of section unchanged.

Sec. 33-1664. - Existing development.

Staff Note: Revises out-of-date wording.

Existing planned developments may voluntarily bring a Master Concept Plan into compliance with the North Olga Community Plan Area provisions, or any regulation contained in this division, administratively. No public hearing will be required if the sole intention is for existing planned developments to comply with these regulations.

Remainder of division unchanged.

DIVISION 2. – DESIGN STANDARDS

Subdivision II. - Architecture

Sec. 33-1669. - Applicability.

Staff Note: Revises out-of-date wording.

Architectural design of all buildings within the North Olga Community Plan Area must comply with this subdivision; places of worship, single-family and duplex dwellings are exempt from this subdivision.

Remainder of division unchanged.

DIVISION 3. – ADDITIONAL USE

Sec. 33-1678. – Applicability.

Staff Note: Revises out-of-date wording.

The following regulations apply to home occupation within the North Olga Community Plan Area. The ordinance from which this this division is derived is adopted as an addendum to the home occupation regulations set forth in Chapter 34, Article VII, Division 18.

Remainder of article unchanged.

ARTICLE XI. – UPPER CAPTIVA COMMUNITY PLAN AREA

DIVISION 1. – IN GENERAL

Sec. 33-1702. - Community review; meeting requirements.

Staff Note: Revises out-of-date wording.

The applicant is responsible for providing the meeting space, notice of the meeting, and security measures as needed. The meeting must be held within the Upper Captiva Community Plan Area ~~planning area~~. The specific meeting location will be determined by the applicant. Meetings may, but are not required to, be conducted before non-County-formed boards, committees, associations, or planning panels. During the meeting, the agent will provide a general overview of the project for any interested citizens. Subsequent to this meeting, the applicant must provide County staff with a meeting summary

document that contains the following information: the date, time, and location of the meeting; a list of attendees; a summary of the concerns or issues that were raised at the meeting; and a proposal for how the applicant will respond to any issues that were raised. The applicant is not required to receive an affirmative vote or approval of citizens present at the meeting. This meeting must be held after the application has been filed. The applicant will provide notice to the Upper Captiva Community no less than ten days before the meeting by placing signs or posters in public places, by circulating a notice to the broadest e-mail list available, and by submitting a notice for posting on the community website. The applicant must also provide the meeting summary to the Upper Captiva Community for the purpose of posting on the community website and on any appropriate Lee County government document clearinghouse.

Remainder of chapter unchanged.

CHAPTER 34 – ZONING

ARTICLE I. – IN GENERAL

Sec. 34-2. – Definitions.

Staff Note: Corrects Lee Plan map references.

The following words, terms and phrases, when used in this chapter, have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

“Abutting property” through “Government agency” unchanged.

Greater Pine Island means the area that is affected by Lee Plan Goal 24 as depicted on the Future Land Use Map 2-A and as described in Section 33-1002.

“Greenhouse” through “Skyglow” unchanged.

Southeast Lee County means the land designated as Planning Community District #18 on Lee Plan Map 161-B.

Remainder of section unchanged.

Sec. 34-6. - Compliance with specific ~~planning community~~ Community Plan Area requirements.

Staff Note: Revises out-of-date wording.

If the subject property is located in one of the following communities, the owner/applicant will be required to demonstrate compliance with the requirements applicable to the specific community as outlined in Chapter 33.

Remainder of article unchanged.

ARTICLE II. – ADMINISTRATION

DIVISION 4. – HEARING EXAMINER

Sec. 34-145. – Functions and authority.

Staff Note: Revises out-of-date wording.

The Hearing Examiner is limited to the authority that is conferred by the following:

(a) *through (c) unchanged.*

(d) *Zoning matters.*

(1) *through (3) unchanged.*

(4) *Findings/review criteria.*

a. *Approval.* Before approval or recommending approval for:

1. *Rezoning generally.* The Hearing Examiner must find the request:

a) *through f) unchanged.*

g) Will be served by urban public services, defined in the Lee Plan, if located in a Future Urban area category.

Remainder of article unchanged.

ARTICLE V. – COMPREHENSIVE PLANNING; THE LEE PLAN

Sec. 34-491. – The Lee Plan

Staff Note: Revises wording to match current future land use map.

(b) The Lee Plan contains a future land use map which divides the County into future urban, future suburban, and future non-urban nonurban, and environmentally sensitive areas. All development must be consistent with the future land use map, the definitions of the land use categories in the text of the plan, and the remainder of the text of the Lee Plan.

ARTICLE VI. – DISTRICT REGULATIONS

DIVISION 2. – AGRICULTURAL DISTRICTS

34-653. – Use regulation table.

Staff Note: Corrects Lee Plan map reference.

Table remains unchanged.

Notes:

(1) *unchanged.*

(2) Any lot created in the rural community preserve land use category (as delineated by Policy ~~17-1.320.1.3~~ 20.1.3 of the Lee Plan) after July 9, 1991, must have a minimum area of 43,560 square feet excluding all street rights-of-way or easement areas, water management areas, and natural water bodies. Public utility easement areas may be included in the lot size calculation.

Remainder of section unchanged.

34-654. – Property development regulations table.

Staff Note: Corrects Lee Plan map reference.

Table remains unchanged.

Notes:

(1) *unchanged.*

(2) Any lot created in the rural community preserve land use category (as delineated by Policy ~~17-1.320.1.3~~ 20.1.3 of the Lee Plan) after July 9, 1991, must have a minimum area of 43,560 square feet excluding all street rights-of-way.

Remainder of section unchanged.

DIVISION 3. – RESIDENTIAL DISTRICTS

34-671. – General purpose and intent.

Staff Note: Revises out-of-date wording.

The purpose and intent of the residential districts is to permit various types of dwelling units at various densities in the ~~urban~~ urban public service areas where infrastructure exists or can feasibly be extended, and to permit lower-density, single-family conventional and mobile home dwelling units in nonurban areas where the services and conveniences of the urban areas are not provided.

Subdivision III. – Multiple-Family Districts

Sec. 34-715. – Property development regulations table.

Staff Note: Corrects Lee Plan map reference.

No structure may hereafter be erected, constructed, moved, altered or maintained in the RM Districts in a manner that is not consistent with the property development regulations for Multiple-Family Districts, except as provided for in Article VIII of this chapter, or in Section 34-620 or Section 34-713.

Properties located within the Mixed-Use Overlay as delineated on Map 1-C, ~~page 6~~ of the Lee Plan and described in Objective 11.2 may apply the alternative property development regulations under the "MUO" category.

Remainder of division unchanged.

DIVISION 6. – COMMERCIAL DISTRICTS

Sec. 34-841. – Purpose and intent.

Staff Note: Corrects Lee Plan map reference.

(a) *unchanged.*

(b) C-1A, C-1 and C-2 Commercial Districts. The purpose and intent of the C-1A, C-1 and C-2 Districts is to regulate the continuance of commercial and select residential land uses and structures lawfully existing in the C-1A, C-1 and C-2 Districts as of August 1, 1986, and as originally permitted by the County Zoning Regulations of 1962, as amended, and 1978, as amended, respectively. Subsequent to February 4, 1978, no land or water shall be rezoned into the C-1A, C-1 or C-2 Districts, unless located within the Mixed-Use Overlay as identified on Lee Plan Map 1-C, ~~Page 6~~. In no case shall new development be permitted in any existing C-1A, C-1 or C-2 District which is not consistent with the Lee Plan.

Remainder of section unchanged.

Sec. 34-845. – Property development regulations table.

Staff Note: Corrects Lee Plan map reference.

No structure may hereafter be erected, constructed, moved, altered or maintained in any conventional commercial district in a manner inconsistent with the property development regulations for conventional commercial districts, except as provided for in Article VIII of this chapter, or in Section 34-620.

Properties located within the Mixed-Use Overlay, as delineated on Map 1-C, ~~page 6~~ of the Lee Plan and described in Objective 11.2, may apply the alternative property development regulations under the MUO category.

Remainder of division unchanged.

DIVISION 7. – MARINE-ORIENTED DISTRICTS

Sec. 34-871. – Purpose and intent.

Staff Note: Corrects Lee Plan policy references.

(a) CM Marine Commercial District. The purpose and intent of the CM District is to permit the designation of suitable locations for, and to ensure the proper development and use of, land and

adjacent waters for commercial marinas and other uses incidental to those facilities. The principal uses of land are limited to waterfront-dependent uses required for the support of recreational boating and fishing. The marina siting and design criteria are set forth under Objectives 128.4 and 128.5 and ~~128.6~~ of the Lee Plan and in the Manatee Protection Plan.

(b) IM Marine Industrial District. The purpose and intent of the IM District is to permit the designation of suitable locations for, and to ensure the proper development and use of, land and adjacent waters for commercial and industrial waterfront-dependent land uses. These uses are more intense than those normally encountered in a recreational marina yet fall short of the intensity of use represented by the storage and commodity handling facilities and equipment attendant to the waterborne commerce movement facilities that are the principal focus of the PORT District. The marine industrial district is intended to accommodate uses such as boatbuilding, major hull and engine maintenance and repair, landing, icing and shipping of fish and seafood (fish and seafood processing requires a special exception), and other uses of similar scope and scale. The marina siting and design criteria are set forth under Objectives 128.4 and 128.5 and ~~128.6~~ of the Lee Plan and in the Manatee Protection Plan.

Remainder of division unchanged.

DIVISION 9. – PLANNED DEVELOPMENT DISTRICTS

Sec. 34-941. – Private Recreational Facilities Planned Developments.

Staff Note: Corrects Lee Plan map references.

(a) *Applicability.* The PRFPD Private Recreational Facilities Planned Development District option may only be requested and approved in those areas depicted on the Lee Plan Private Recreation Facilities Overlay Map (Map-4 1-F).

(b) *through (d) unchanged.*

(e) *Additional design and performance standards for golf course use.* The following standards for golf courses are in addition to design standards set forth above:

(1) *through (4) unchanged.*

(5) Golf course site requirements.

a. *through f. unchanged.*

g. Management and maintenance of natural areas. The owners, or their assignees, must use accepted Best Management Practices to perpetually maintain all golf course areas as well as any on-site natural vegetation areas associated with other private recreational facilities.

i. Appropriate management techniques will be determined based upon the existing plant community. A land management plan for natural vegetation areas must be submitted to, and approved by, the Lee County ~~Division of Planning~~ Section prior to

issuance of a local development order. Management techniques addressed in the plan must include, but are not limited to, the following:

Remainder of article unchanged.

ARTICLE VII. – SUPPLEMENTARY DISTRICT REGULATIONS

DIVISION 12. – DENSITY

Sec. 34-1493. – Calculation of total permissible housing units.

Staff Note: Corrects Lee Plan table reference.

The Lee Plan establishes a standard and maximum residential density range permissible for each residential land use category. The procedure set forth in this section must be used to determine the standard residential density as well as the total number of housing units which may be permitted within a development.

(1) Proposed developments.

a. unchanged.

b. Estimation of total permissible housing units. The number of permissible housing units is calculated as follows:

1. Intensive development, central urban and urban community land use districts.

i. unchanged.

ii. Additional units may be transferred from abutting wetland areas at the same underlying density as is permitted for the uplands, so long as the uplands density does not exceed the maximum standard density plus one-half of the difference between the maximum total density and the maximum standard density as set forth in Table 1(a). Summary of Residential Densities in the Lee Plan.

Remainder of division unchanged.

DIVISION 18. HOME OCCUPATIONS; LIVE-WORK UNITS

Sec. 34-1772. Permitted uses; operation.

Staff note: Update section 34-1772 to be consistent with House Bill 403 (2021 Legislature) , which amended Chapter 559.955, F.S. to pre-empt local government regulation of home-based businesses.

(a) Any use of a residence for a home occupation must be clearly incidental and subordinate to its use for residential purposes by the occupants.

- (b) ~~All retail transactions~~ The use must be conducted entirely within the dwelling unit, though incidental business uses may be conducted elsewhere at the residential property or customary accessory building.
- (c) ~~No e-~~No more than two employees or independent contractors ~~employees must reside in the residential dwelling unit, except up to two employees or independent contractors who do not reside at the residential dwelling unit may other than members of the immediate family residing in the dwelling will~~ may be permitted to work at the residence, but may be employed to work elsewhere provided that the employees do not come to the residence for equipment, vehicles, or supplies. Under special conditions, such as a disabled person or retiree needing clerical assistance, the Director may allow one employee who is not a resident of the home to work at the residence.
- (d) ~~There may be no exterior indication that the dwelling is used for any purpose other than a residence, except that one~~ Signage is limited to one non-illuminated nameplate, not exceeding one square foot (144 square inches) in area, may be attached to the building on or next to the entrance.
- (e) No commodities, stores or display of products on the premises may be visible from the street or surrounding residential area. ~~No outdoor display or storage of materials, goods, supplies or equipment used in the home occupation may be permitted on the premises, unless approved by special exception. Vehicles and trailers for use in connection with a home occupation may not be parked or stored on the premises unless completely enclosed within a building.~~ Parking or storage of trucks and commercial vehicles used in the operation of the home occupation must be in compliance with the requirements of section 34-1181.
- (f) No equipment may be used which creates noise, vibration, glare, fumes, odors or electrical interference ~~objectionable to the normal senses~~ beyond that associated with a residential use. No equipment or process may be used which creates visual or audible interference in any radio or television receiver off the premises or causes fluctuations in line voltage off the premises beyond that associated with a residential use.
- ~~(g) No use permitted by this division may generate greater volumes of traffic than would otherwise be expected by normal residential uses.~~
- ~~(h) No use that attracts customers to the dwelling unit may be permitted under this section.~~

DIVISION 21. – MARINE FACILITIES, STRUCTURES AND EQUIPMENT

Sec. 34-1862. – Marinas, fish houses and docking facilities.

Staff Note: Corrects Lee Plan policy and map references.

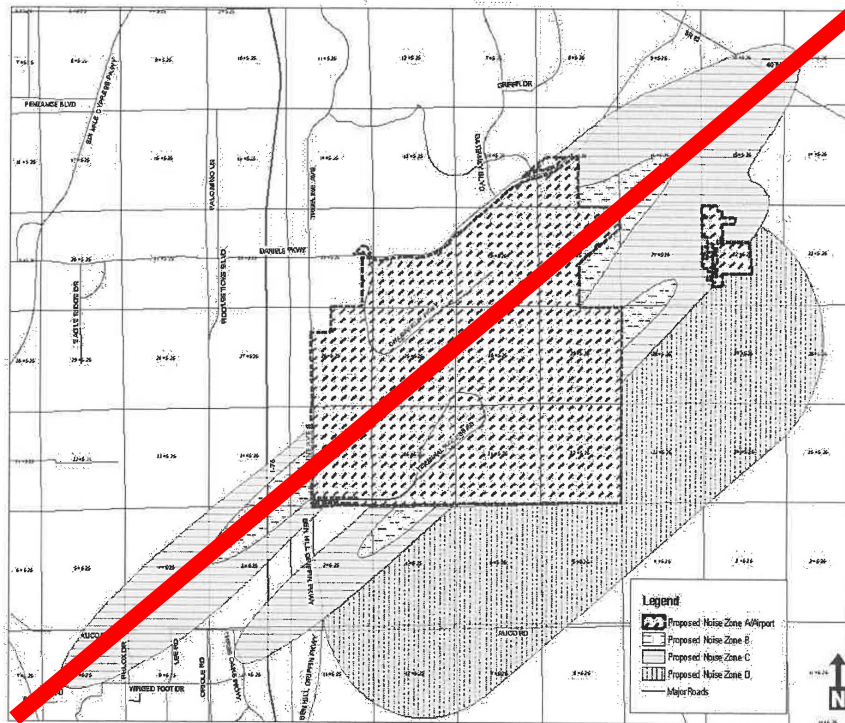
- (a) *Water-dependent overlay zones.* Water-dependent overlay zones have been designated for shoreline areas where priority will be granted to water-dependent land uses (Goal 8). Goal 12 of the Lee Plan details specific requirements for the water-dependent overlay zones on San Carlos Island (see Map ~~21-H~~ of the Lee Plan). Policies regulating water-dependent uses in other areas of the County are found under Objectives 128.1 and 128.2 and are mapped in the appendix of the Lee Plan, as Map ~~121-H~~.
- (b) *Marina siting criteria.* The marina siting criteria set forth in the Manatee Protection Plan and Objective 128.~~54~~ and Policies 128.~~54~~.1 through 128.~~54~~.12 of the Lee Plan must be considered in evaluating new or substantially expanded marinas, other wet slip facilities and boat ramps.
- (c) *Marina design criteria.* The marina design criteria set forth in the Manatee Protection Plan and Objective 128.~~65~~ and Policies 128.~~65~~.1 through 128.~~65~~.16 of the Lee Plan must be utilized in evaluating the design of new marinas, or expansion of wet slip facilities at existing marinas.

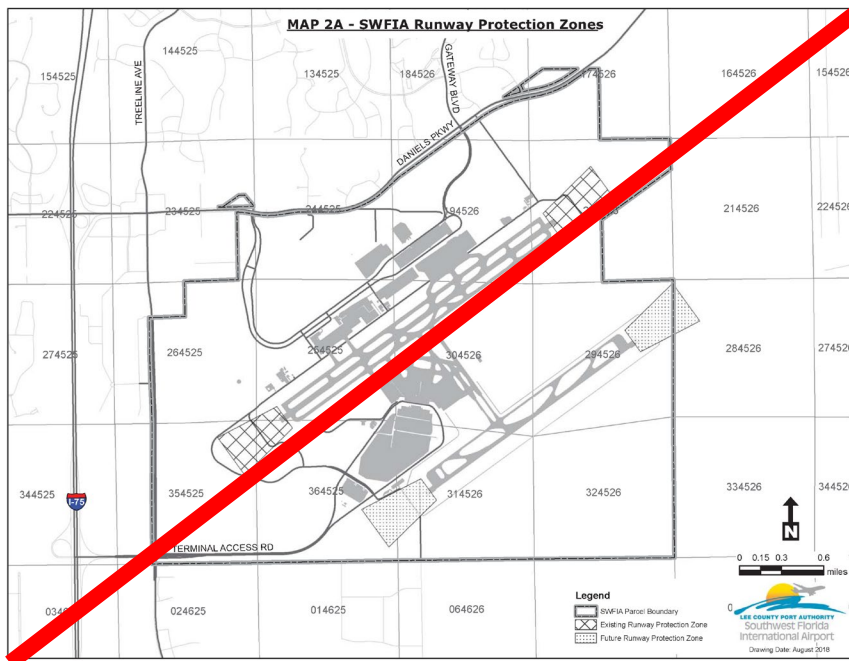
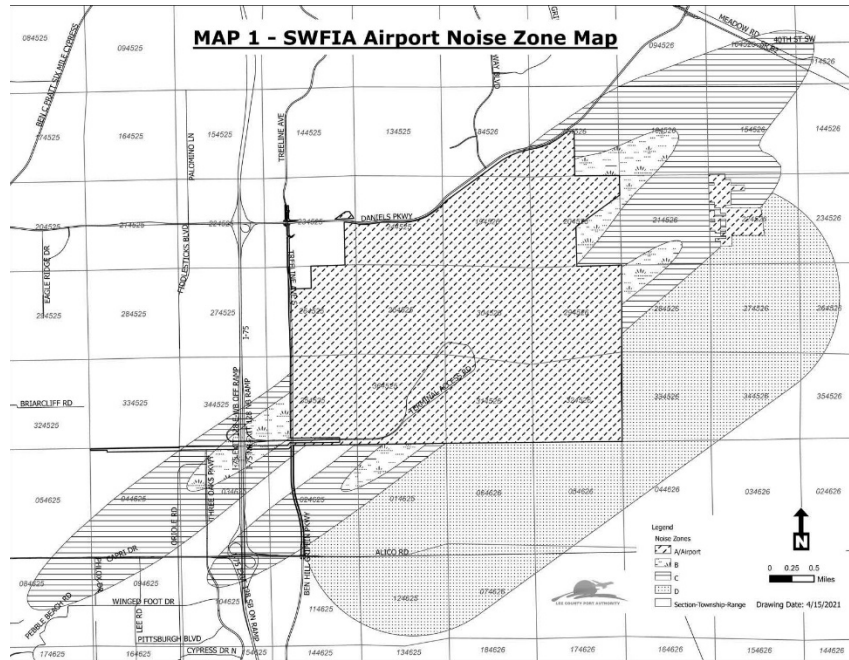
Remainder of chapter unchanged.

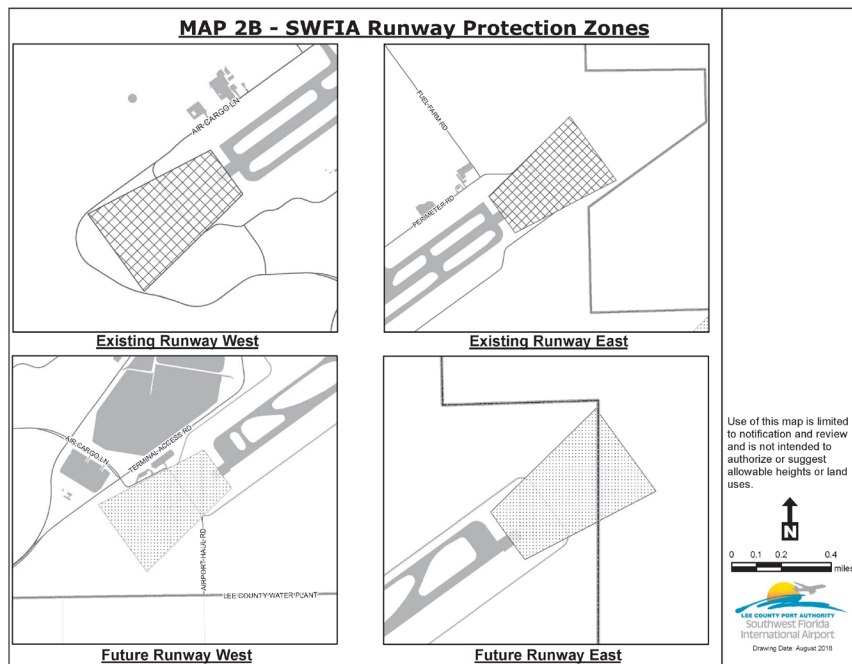
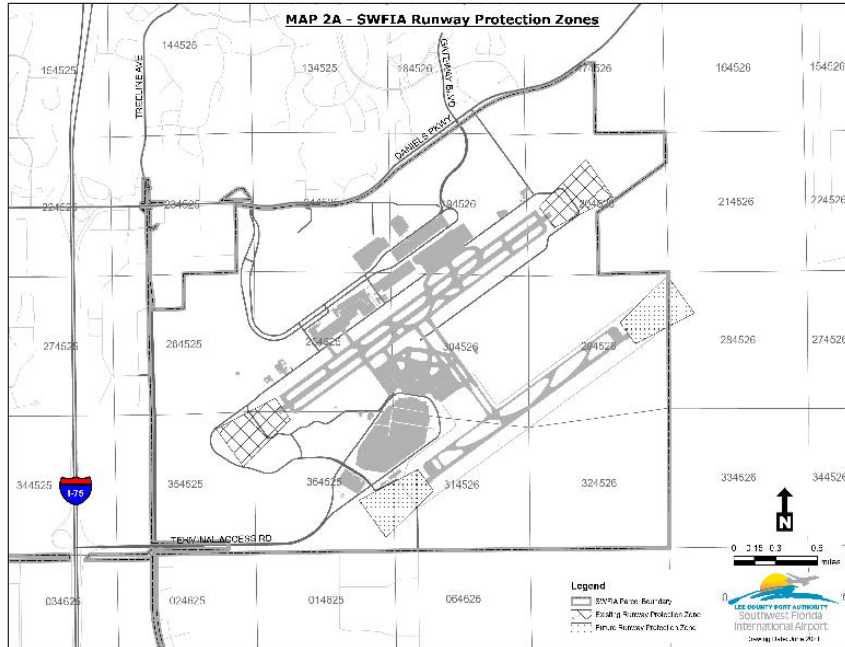
Appendix C AIRPORT COMPATIBILITY DISTRICT MAPS

Staff Note – Updated maps were provided by the Lee County Port Authority and were requested to be replaced in Appendix C to reflect updated airport boundaries and updated noise and notification zones.

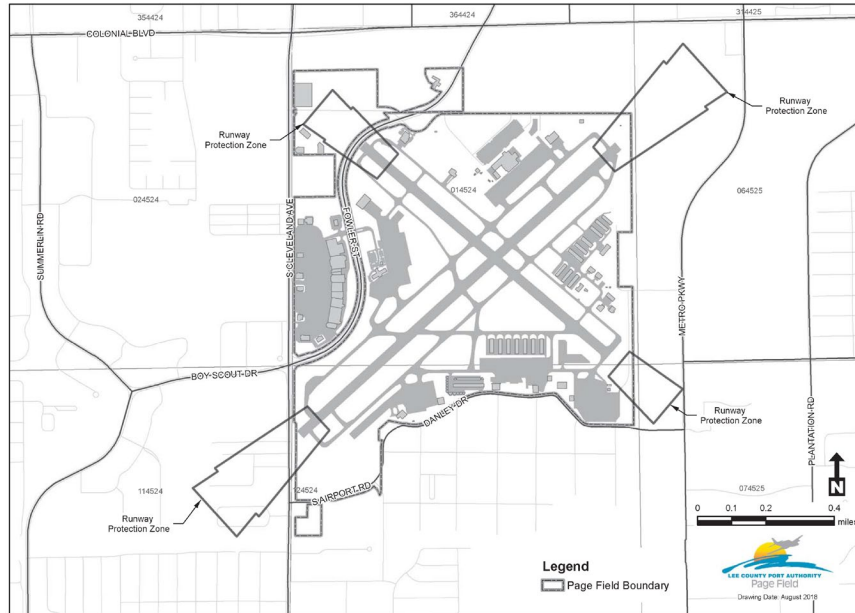
Map 1
SWFIA Airport Noise Zone Map





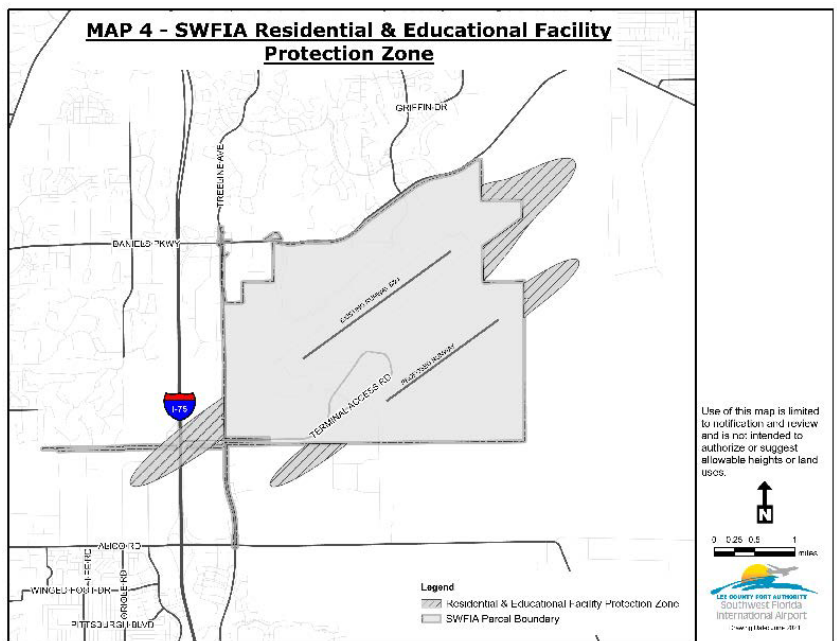
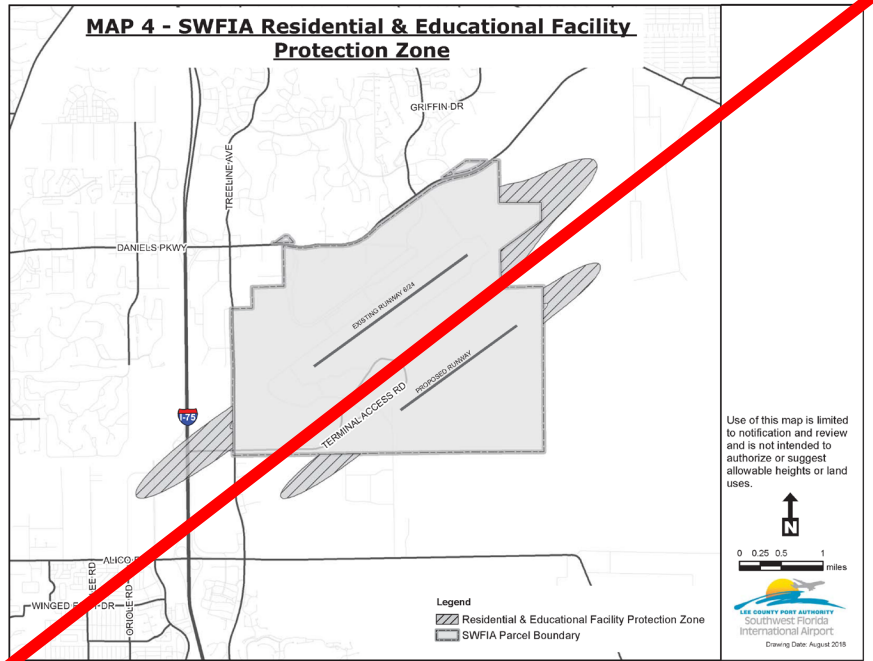


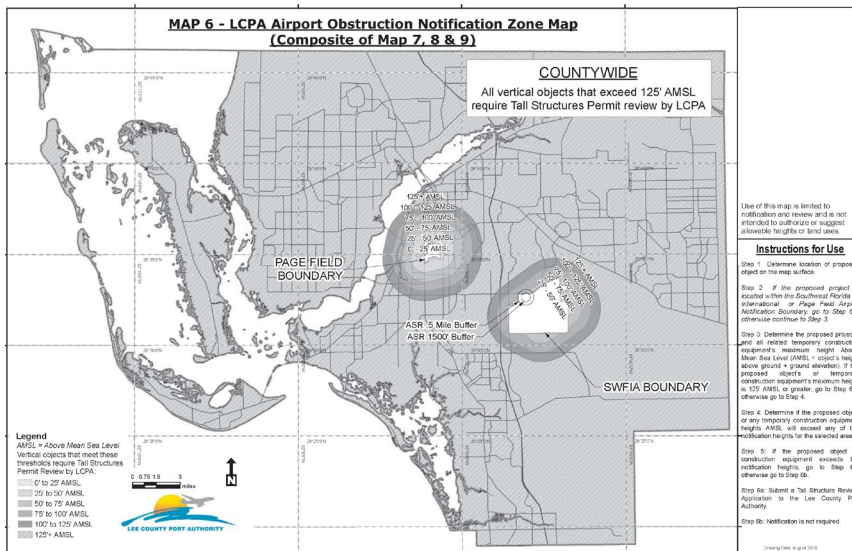
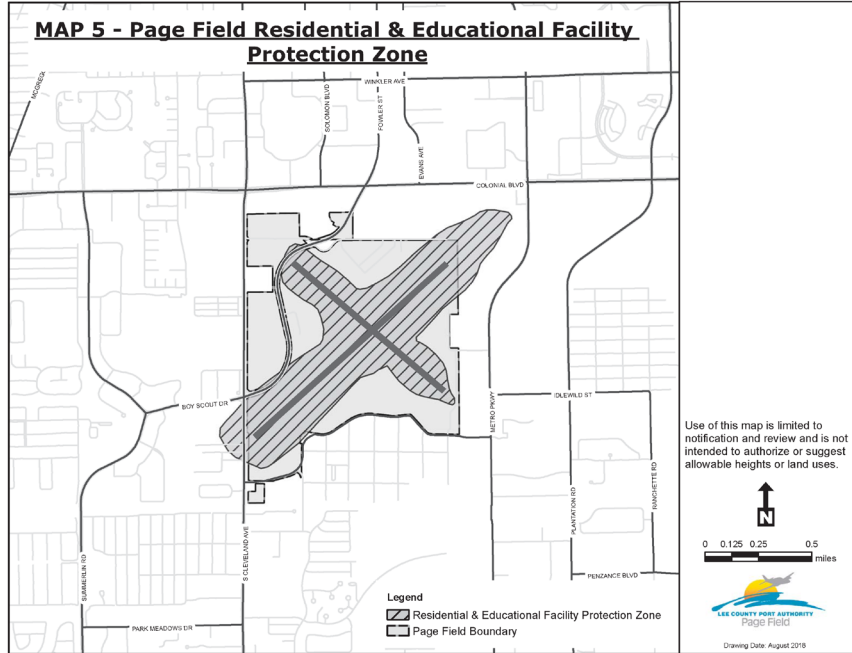
MAP 3A - Page Field Runway Protection Zones

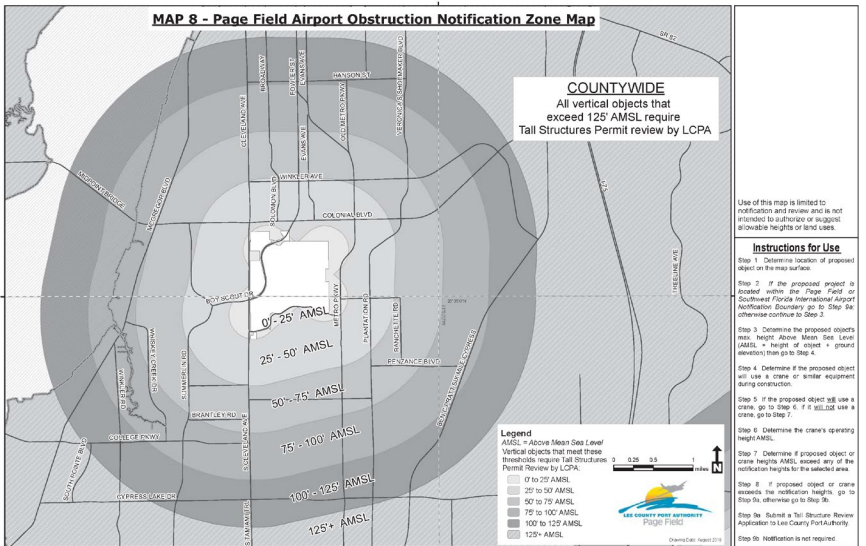
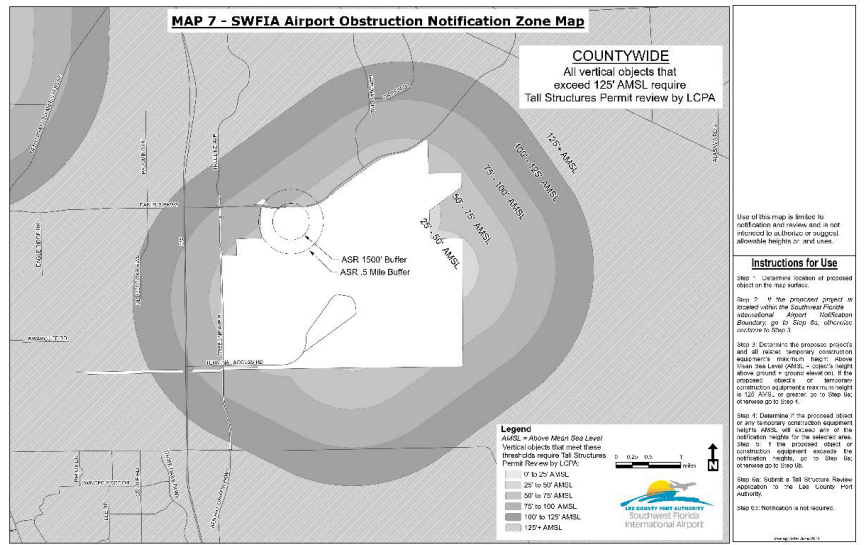
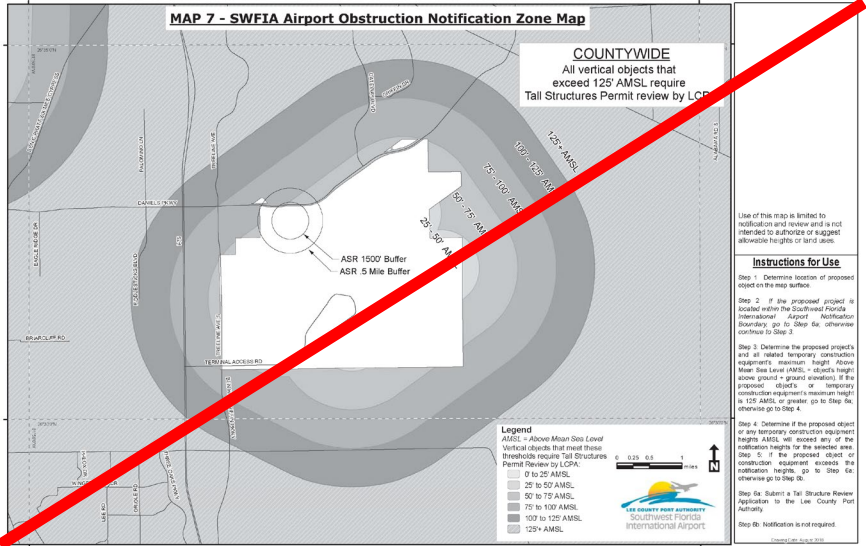


MAP 3B - Page Field Runway Protection Zones

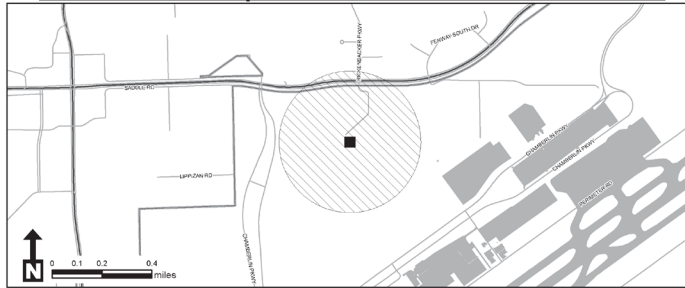




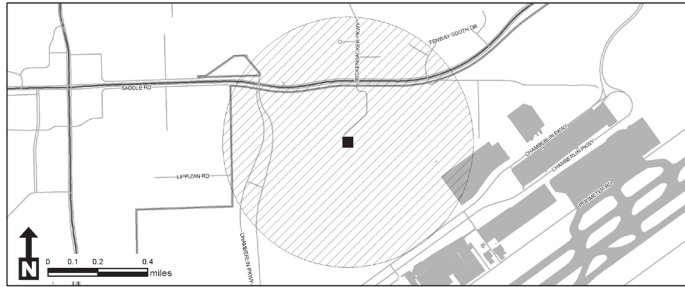




MAP 9 - SWFIA Airport Surveillance Radar Review Zones



ASR 1500' Buffer



ASR .5 Mile Buffer

Use of this map is limited to notification and review and is not intended to authorize or suggest allowable heights or land uses.

Instructions for Use

Step 1 Determine location of proposed object on the map surface.

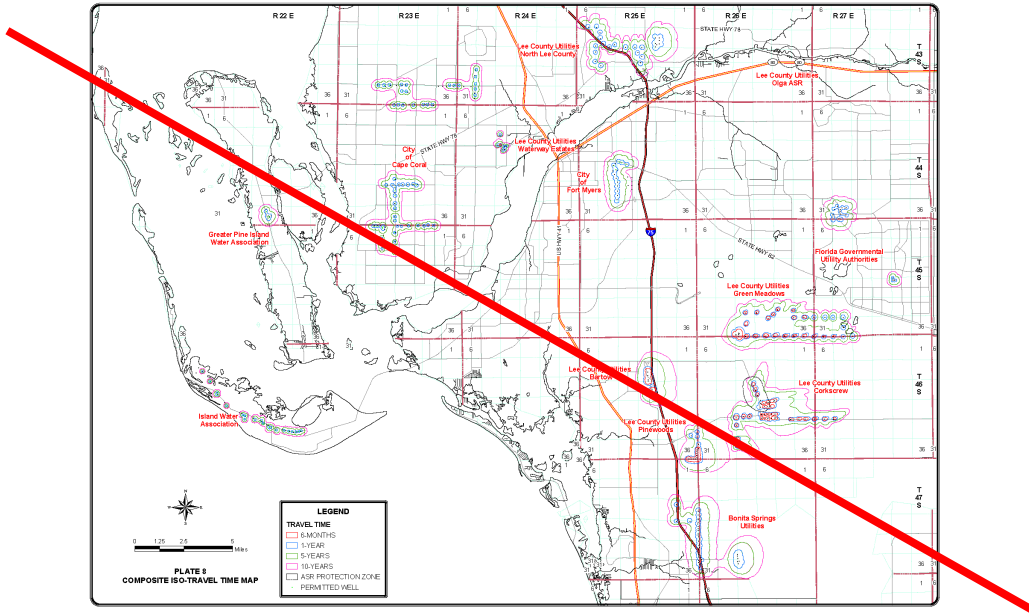
Step 2 If the proposed project is located within the Southwest Florida International Airport Surveillance Radar Notification Boundary, regardless of the proposed height, submit a Tall Structure Review Application to the Lee County Port Authority.

Step 3: If the proposed project is not located within the Southwest Florida International Airport Surveillance Radar Notification Boundary, no notification is required unless otherwise dictated by the Southwest Florida International Airport Obstruction Notification Zone Map.

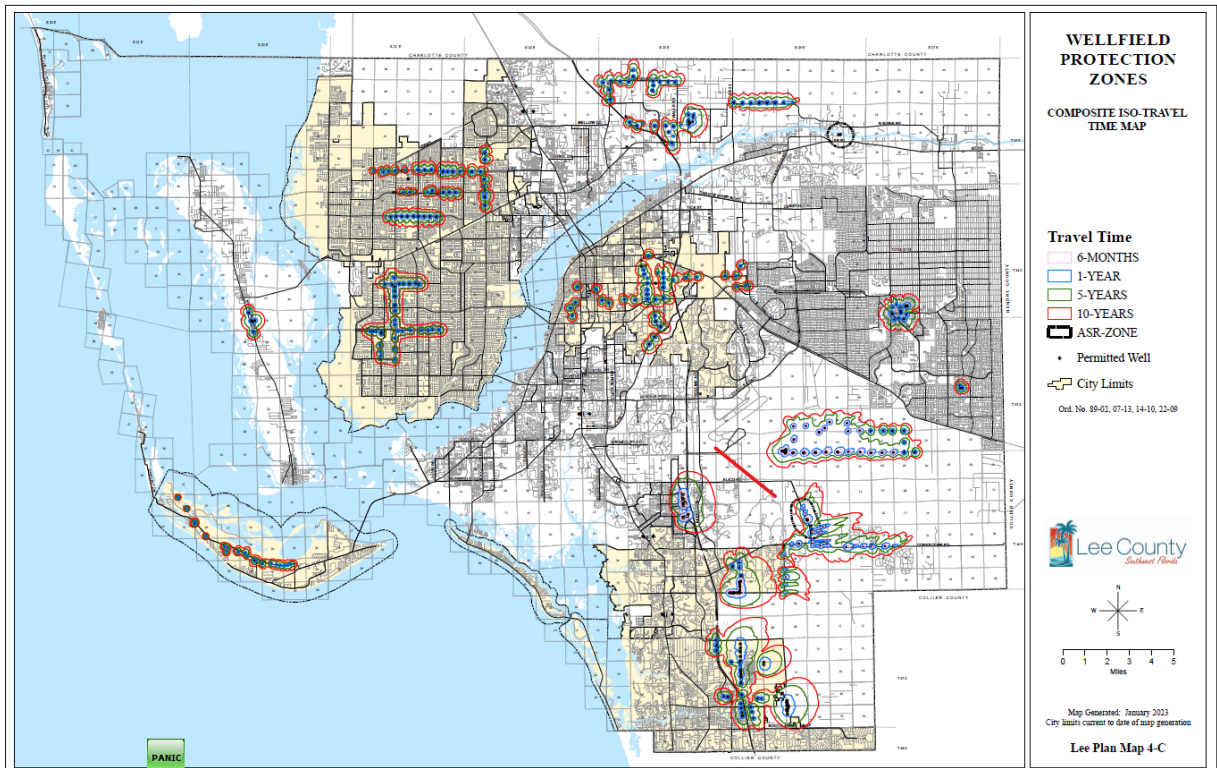


Appendix N WELLFIELD PROTECTION ZONES

Staff note: update wellfield protection zone map to reflect adoption of Ordinance 22-09.



(Ord. No. Ord. No. 14-07, § 3, 3-18-2014)



(Ordinance No. 22-0907-35, § 2, adopted December 4, 2007 April 20, 2022.