EXECUTIVE REGULATORY OVERSIGHT COMMITTEE
COMMUNITY DEVELOPMENT/PUBLIC WORKS BUILDING
FIRST FLOOR CONF. RM. 1B
1500 MONROE STREET, FORT MYERS

WEDNESDAY, JULY 10, 2024
2:00 P.M.

AGENDA

1. Call to Order/Review of Affidavit of Publication
2. Approval of Minutes – May 8, 2024
3. Land Development Code Amendments

   A. Development Services Amendments
      1) Platting Code Changes (SB812)
      2) Chapter 10 Deviations
         a. Dumpster Size Reduction
      3) Minor Change Limitations
      4) Types of Development Entitled to Limited Review
      5) Sidewalk Fee-In-Lieu/Absence of Need Reexamination
      6) Street Design and Construction Standards
      7) Bicycle Parking Design
      8) Access Width Requirements for Fire Stations

   B. Code Enforcement Amendments
      1) Unsafe Building Abatement Code
      2) Penalties and Liens
      3) Sea Turtle Conservation
      4) Beach and Dune Management
      5) Invasive Exotics Table

   C. Clean-up
      1) HEX Powers and Duties
      2) Right to Farm Act (Fish Farm Reversion)

3) Off-Street Parking Requirements for Residential Communities with a Golf Course
4) Post-Disaster Ordinance Cross-References
5) Separation of Building Official/Floodplain Administrator Duties
6) Quorum Requirements for Board of Adjustments and Appeals
7) Street Names

4. Adjournment – Next Meeting Date: September 11, 2024

To view a copy of the agenda, go to www.leegov.com/dcd/calendar
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MINUTES REPORT
EXECUTIVE REGULATORY OVERSIGHT COMMITTEE
(EROC)
Wednesday, May 8, 2024
2:00 p.m.

Committee Members Present:

Carl Barraco, Jr.
Victor DuPont
David Gallaher
Sam Hagan
Tracy Hayden, Vice-Chair
Tim Keene
Bob Knight
Randal Mercer, Chairman
Ian Moore
Mike Roeder

Excused / Absent:

Bill De Deugd
Michael Reitmann

Lee County Staff Present:

Joe Adams, Assistant County Attorney
Dirk Danley, Jr., Principal Planner
Brandon Dunn, Planning Manager
Adam Mendez (Zoning)
Janet Miller, DCD Administration
Anthony Rodriguez, Zoning Manager
Joe Sarracino, Planning

CALL TO ORDER AND AFFIDAVIT:

Mr. Randal Mercer, Chairman, called the meeting to order at 9:00 a.m. The meeting was held in the Community Development/Public Works Building, 1500 Monroe Street, Fort Myers, Florida, Conference Room 1B. Mr. Mercer stated we have a quorum and asked Mr. Joe Adams, Assistant County Attorney, if we had a legal meeting.

Mr. Joe Adams, County Attorney's Office, confirmed the Affidavit of Posting was legally sufficient as to form and content and the meeting could proceed.

Mr. Mercer introduced our newest member, David Gallaher. The committee members welcomed him aboard.

APPROVAL OF MINUTES – April 9, 2024

Mr. Mercer asked if anyone had any comments or changes to the Minutes from the April 9, 2024 meeting. There were none. He asked if there was a motion to approve.

Mr. Moore made a motion to approve the April 9, 2024 minutes as written, Ms. Hayden seconded. The Chair called the motion and it passed 10-0.

AGENDA ITEM 3 – LAND DEVELOPMENT CODE AMENDMENTS

A. Restaurant Classifications

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

Mr. Keene noted that a bakery is one of the Group 2 restaurants. He asked what a bakery would be today with this change.

Mr. Danley stated that if the bakery had a full drive-through window with a menu board and a pick-up window, it would be considered a fast-food restaurant. If it is only a bakery where customers go in to purchase a donut, coffee, etc., it would be considered a restaurant.

Mr. Keene asked if it would be considered a restaurant if someone only sells baked goods in a retail sense with no eating on-site.

Mr. Danley stated that something like Mr. Keene described is differentiated as a Group 1 because there is no seating. Group 2 would have some seating. It would still be considered a restaurant. They would need to have licenses by the State to be able to prepare and produce food and sell it. There may be instances where they may be considered a specialty retail outside of a restaurant but typically it would be considered a restaurant.

Mr. Keene felt staff may want to review it further to make sure there are no unintended consequences. There are businesses who manufacture food for delivery. He gave an example of Iguana Mia who has an industrial location where they prepare food for their various restaurants. They are property licensed from the Health Department standpoint, but they have no customers. There are instances where food is prepared but it is not necessarily in a restaurant setting. There are also retail locations where they sell packaged goods. He gave an example of places that sell day old bread. He did not consider something like that to be a restaurant.

Mr. Danley stated that the places who sell day old bread are considered to be a grocery store.

Mr. Keene felt there are other permutations that might currently fall under some of the restaurant categories. He felt staff should review it further to make sure those uses are picked up somewhere else. To him, they are almost a manufacturing kind of use.

Mr. Danley felt this was a valid point. He stated staff would look into the idea of a ghost kitchen or some type of light manufacturing or light production of food.

Mr. Keene stated it should be able to be in a commercial or industrial setting, but it does not necessarily have the parking demand that an ordinary restaurant might have. To him, a ghost kitchen is different than what he is referring to because that is similar to Door Dash, which is more like a fast-food restaurant because there is a lot of pick-ups. He referred to Footnote 15 on Page 18 of 19 that says, *"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."* He felt the 20 percent of the total floor area, or 600 square feet, is a significant portion of the space. He stated it was almost impossible to directly measure the 600 square feet or the 20% in some instances. For instance, if it is Outback Steakhouse, they have a 10 x 10 area where all the Door Dash staff come in. They have

a separate entrance for Door Dash as well as some dedicated parking spaces for them. They are doing a significant amount of their business out the side door yet not necessarily getting hit with the increased parking requirement.

Mr. Danley stated there might be an applicability issue with Note 15 that it does not apply to any of the restaurant uses. He believed it applied to gas stations. Mr. Danley stated he did not have it pulled up because staff did not have all of the parking standards with them at this meeting. That footnote applies to a business such as a WAWA station.

Mr. Mercer asked that Mr. Keene clarify his directive to staff.

Mr. Keene felt staff should look at all items that are currently included in the four types of restaurants to make sure they have not inadvertently excluded some use such as people who have commissary kitchens for their businesses or bakeries where someone prepares items to be sold in a retail setting.

Mr. Danley stated he believed there was a business services standard for Group 2 which would include catering companies. Staff could evaluate that specific use and make sure that something Mr. Keene wants is being captured in that business services standard as well.

Mr. Moore stated there may be State precedent too with the Department of Health whether it is going to be consumed onsite or not which might make it simpler. Staff could defer to the State because they tend to look at it in a simplified manner (is food being consumed onsite or not).

Mr. Danley stated staff would review this further.

Ms. Hayden referred to the Table on Page 12 of 19 where it lists restaurants with drive-through. Staff removed it from the Industrial Planned Development category (IPD). She asked why staff removed it.

Mr. Rodriguez stated that fast-food restaurants are not currently allowed in an IPD.

Ms. Hayden referred to (1) g. under Sec. 34-1264. Sale or service for on-premises consumption. This section lists group II, III or IV. She felt this was an error and that staff most likely needs to strike that and replace it with “and restaurants with drive-through.”

Mr. Danley stated staff would make that correction.

Ms. Hayden made a motion to approve the restaurant classification amendments as written along with Mr. Keene’s suggestion that staff go back to the individual items that are being deleted from the four groups to make sure there are not unintended consequences and that they are covered somewhere else and her correction under Sec. 34-1264. The motion was seconded by Mr. Hagen. The Chair called the motion and it passed 10-0.

B. EMS/Fire/Sheriff's Stations

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

Mr. Moore asked if there had been any discussion about critical infrastructure, for instance, sites like FP&L substations.

Mr. Danley stated that FP&L substations have a new statute that basically exempts them from most of the county's processes. The way the statute reads is that if you are complying with the code requirements then you are exempt from zoning. Staff has been having representatives from FP&L come in anyway because they cannot meet the development requirements. They have been coming in with deviations lately. Staff will review this further to determine whether or not changes are needed to the county's Central Service Facilities definitions. He noted it does tend to get tricky because the county's Essential Services Facilities (Group 2) includes electric substations, wastewater treatment plants, and solid waste transfer facilities. Mr. Danley stated that substations are protected by Statute today.

Mr. Moore felt this would be a hot topic that staff will see come before them much more over the next five years.

Mr. Roeder made a motion to accept the amendments to Agenda Item 3.B. EMS/Fire/Sheriff's Stations. The motion was seconded by Mr. Moore. The Chair called the motion and it passed 10-0.

C. Accessory Apartments and Accessory Dwelling Units (ADUs)

Mr. Adam Mendez, Senior Planner, gave an overview of the amendments.

Mr. Mercer referred to Sec. 34-1180. Additional dwelling unit on a lot in Agricultural Districts (Page 2 of 3). He gave an example where someone owns a couple of acres in a recorded subdivision that is still zoned AG. They have a current home on the property and the property owner wants to build an accessory unit. In an instance such as this, would the property owner have to demonstrate that the additional accessory unit would be located on the lot that could be split even if it is not split at this time?

Mr. Mendez stated this was an existing regulation in the AG district. He directed the Board to the AG Use Regulations Table and explained it had a unique classification called "second principle single family residence" and it is permitted by right across all AG districts. It leads you to these regulations that are existing in the Land Development Code in the accessory section. It is basically saying that the property owner must have a lot that is large enough to where you could have two separate lots, but without dividing them into two separate lawful lots. You are allowed to put two single family residences on the property without dividing them. He noted there is nowhere else in the residential districts, except for multi-family districts, where you can have more than one principle single family residence on one lawful lot whether it is a lot of record or a conforming lot. Mr. Mendez stated this is a unique single family development standard that is unique to agricultural lots where someone can have two single family residences on one property.

Mr. Moore asked what prompted this amendment. He asked if staff came up with it on their own or if there were some instances that came up to where staff felt it needed to be clarified.

Mr. Mendez stated there have been several property owners seeking an accessory apartment and they all have had different situations. He provided examples. This amendment will allow a legitimate lot of record that meets density to have an accessory apartment.

Mr. Mercer asked what would happen in an instance where someone has an existing building in the middle of the agricultural lot to where there is no logical way they could divide the land. Is this amendment saying they could not have a mother-in-law house?

Mr. Keene referred to (b) (6) on Page 2 of 3 that says, *"Each dwelling unit and all accessory buildings and structures must be located on the parcel in such a manner that the 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."*

Mr. Dunn stated that staff is referring to each principle dwelling unit, not necessarily the mother-in-law suite or the accessory dwelling unit.

Mr. Rodriguez stated that Sec. 34-1180 applies to scenarios where you have an agricultural lot in an agricultural district. You are allowed to build two principle single family residences if you have the density.

Mr. Keene asked if a sentence could be added to paragraph (a) to clarify that. Something to the effect of *"This section does not preclude accessory dwelling units to a principle single-family residence."*

Mr. Mendez gave further clarification that a property owner cannot have accessory dwelling units, but they can have accessory apartments that are attached to the principal single-family residence.

Mr. Keene felt additional verbiage was needed to this section to clarify what is being discussed today.

Staff agreed to review this further to see how they can clarify it.

Mr. Mercer asked if accessory dwelling units can include a kitchen.

Mr. Mendez stated this is a separate discussion. An *"accessory apartment"* is defined as an attached living unit without a kitchen. An *"accessory dwelling unit"* is defined as a living unit that is either attached or detached and may or may not have a kitchen. If it is detached, it is an accessory dwelling unit whether it has a kitchen or not. If it is attached and it has no kitchen, it is an accessory apartment meaning it would not be reviewed in terms of density. The kitchen element does signify it being a dwelling unit in any situation attached

or detached. The only variable is if you detach it, whether it has a kitchen or not, it counts as an accessory dwelling unit. Even if you decide not to put a kitchen in it, it will still count as a unit in terms of density.

Mr. Keene asked if an additional dwelling unit is a separate line item in the Use Table for AG-2.

Mr. Rodriguez stated that was correct.

Mr. Mercer stated he has always been concerned with unintended consequences. He felt that at some point down the road when there are different board members and different staff they might interpret these regulations somewhat differently.

Mr. Roeder asked how many accessory dwelling units staff has seen within the last 3-4 years.

Mr. Mendez stated it was a significant amount and noted there are many garage conversions.

Mr. Keene suggested that staff group the dwelling types together on the AG use table. He felt it would be helpful in the future.

Mr. Gallaher stated there are instances where someone's parents are having difficulty living on their own due to inflation and the prices of housing and rent. He asked why this section only relates to agricultural land and not residential. There will be those who want to convert their garage to a dwelling unit for their parents because it would be the most economical option. He asked why this would not be allowed in a residential area if they have a large enough lot.

Mr. Mendez stated this particular section relates to agricultural lands only. The section prior to this one where it outlined the actual development standards for accessory dwelling units and accessory apartments apply generally to all districts that permit them in their respective categories. He noted that the modification of Sec. 34-1177 (b) (4) on Page 2 of 3 will make it significantly easier for single family residences in Lee County to have a mother-in-law suite in their garage even if they are undersized provided they are a legitimate lot of record.

Mr. Gallaher asked how the county regulates a situation where someone wants an Air B&B.

Mr. Mendez stated that currently the county does not regulate Air B&Bs. A living unit is to be occupied by family. The county does not restrict how long someone leases or rents to someone. The only control would be on a private basis such as an HOA or something like that.

Mr. Keene noted that the City of Fort Myers has a definition between transient and non-transient housing, and they consider Air B&Bs to be transient and not allowed in single family districts. He asked if staff had looked into that.

Mr. Rodriguez stated staff has not evaluated that.

Mr. Adams stated there is state law regarding short term rentals and they may be grandfathered in if they had it in their code before that law became effective.

Mr. Keene referred to Sec. 34-1180 on Page 2 of 3. He requested that in the applicability section staff clarify that this applies to an additional dwelling unit and not to accessory apartments and dwelling units. It would provide a cross reference for the lay user. He also requested that in the Use Table for the AG-2 districts, for the residential districts, that staff consider moving accessory dwelling units under dwelling units and not in alphabetical (a) in the use table.

Mr. Moore made a motion to accept the amendments to Agenda Item 3.C. Accessory Apartments and Accessory Dwelling Units (ADUs) along with the recommendations made by Mr. Keene. The motion was seconded by Mr. Barraco. The Chair called the motion and it passed 10-0.

D. <u>Dwelling Unit Types on Nonconforming Lots of Record</u>

Mr. Rodriguez, Zoning Manager, gave an overview of the amendments.

During his presentation, Mr. Rodriguez provided an example by stating that current regulations do not allow non-conforming lots of record to be developed with anything other than a single-family residence even if an underlying zoning district allows another type of residence such as a duplex or a townhouse. These regulations are intended to loosen that restriction to allow a non-conforming lot of record to be developed with whatever dwelling unit type is permitted in its underlying zoning district if has the density and complies with the Lee Plan in any other respect.

Mr. Keene asked if it would be considered a duplex in the context that it would be a single-family home with an attached accessory dwelling unit.

Mr. Rodriguez clarified that it would be a duplex in the sense that it is one building containing two units that is either split down the middle, so it is a side by side attached, or top to bottom attached two-story with one unit on either floor.

Ms. Hayden made a motion to accept the amendments to Agenda Item 3.D. Dwelling Unit Types on Nonconforming Lots of Record. The motion was seconded by Mr. Roeder. The Chair called the motion and it passed 10-0.

E. <u>RVs as Temporary Living Facilities</u>

Mr. Anthony Rodriguez, Zoning Manager, gave an overview of the amendments.

Mr. Mercer asked if the weather event of 2022 was what prompted these amendments.

Mr. Rodriguez stated that was correct.

Mr. Keene asked if there were rules that allow these types of RVs, since they are temporary, to not have to comply with setbacks and other typical requirements/permits.

Mr. Rodriguez stated the county requires a temporary use permit. When they submit for this permit, they must demonstrate electrical service, water, and waste disposal.

Mr. Keene asked for clarification that they would not need to meet setbacks or minimum finished floor, etc.

Mr. Rodriguez stated that was correct.

Mr. Gallaher asked if there was an expiration date for the permit such as 90 days. If there is an expiration date of 90 days (example) and the owners stay for 90 days and then leave for a month, are they allowed to come back? Does the permit reset?

Mr. Rodriguez stated that because a permit is required, the county would apply the permit duration. This means they would not be able to obtain a second permit on the back of that first permit.

Mr. Roeder had no issues with these amendments and felt they made sense.

Mr. Moore referred to (b)(2) which says that the maximum duration of the temporary use is nine months or 270 days for a commercial business. Due to what is involved with insurance companies and litigation, he felt it should be extended to 24 months.

Mr. Moore made a motion to accept the amendments to 3.E. RVs as Temporary Living Facilities with the recommendation to extend 270 days to 24 months for businesses after the date of issuance or declaration of state of emergency (Sec. 34-3046 (b)(2). The motion was seconded by Mr. Keene. The Chair called the motion and it passed 10-0.

Mr. Knight asked about office trailers which are not recreational.

Mr. Rodriguez stated these amendments only address mobile homes and RVs. Businesses that have a mobile home or temporary construction trailer are already captured in the code.

Mr. Moore and Mr. Keene noted there were several businesses that are operating out of an office trailer or RV because there has been no other way to conduct their businesses. They cannot rebuild their structure because they do not meet FEMA, setbacks, the lots are small, they don't have enough parking, etc.

Mr. Danley acknowledged that particularly in coastal areas he has seen many restaurants operating out of something similar.

F. Clean-up Items

Mr. Rodriguez, Zoning Manager, gave an overview of the amendments. He also noted that this section establishes the definition of affordable housing that is consistent with federal regulations but is not identified with our code.

Mr. Roeder referred to Sec. 2-143. Definitions and stated that he understood the definition for affordable housing, but he noted that affordable housing depends on how many people are in the household and that can change over time. He asked who in the county manages or administers the program or if there is a system in place that monitors and administers the program.

Mr. Dunn stated that affordable housing is reviewed by the Department of Community Development. They handle the SHIP programs, for bonus density. There are also other departments that review it as well (Human Veteran Services, other grant programs). Staff is aware that based on the family and household size there are different income requirements. He noted that HUD normally puts out a matrix of affordability.

Mr. Roeder gave an example of a two-bedroom apartment. Anywhere from 1 to 6 people might be living there, which would make the affordable rent amount change. To him, it seemed that this could be a challenge.

Mr. Dunn stated that the way HUD defines it is not based on the size of the home, but the number of people in the family.

Mr. Roeder pointed out that the number of people in the family can change.

Mr. Dunn acknowledged this to be true and noted it was part of the reason this definition is needed. There has been concern that our requirement says you must provide affordable housing, but it did not necessarily say the housing had to be affordable for the people living within that unit. This definition is more of a clarification that if you provide affordable housing for bonus density or through the SHIP program, you must provide housing at an affordable rate but based on household size and that housing needs to be affordable for the household that is in there.

Mr. Roeder asked if someone keeps track of how many people are living in these apartments.

Mr. Dunn confirmed there is staff that keeps track of that.

Mr. Keene referred to Accessory Apartments and Accessory Dwelling Units. Language was added that says, *"Accessory dwelling units are presumed to be site-built affordable housing units and must pay applicable impact fees pursuant to Chapter 2."* He asked if this definition is going to apply to the other section or change how an accessory dwelling unit is handled.

Mr. Dunn clarified that typically when there is an affordable housing project staff keeps track of the households. They must income certify each dwelling unit/each household that is within those units. The additional language in the Accessory Apartments and Accessory Dwelling units tells staff to assume that it is serving the need of providing affordable housing, so that staff does not have to monitor it and so that someone does not have to go out and buy a transferrable development unit to get that bonus density.

Mr. Sarracino noted a scrivener's error on Page 2 (B)(7). Although (7) is deleted, it remains on the page, so it will be removed.

Mr. Moore made a motion to accept the amendments to Agenda Item 3.F. Clean-up Items including the scrivener's error noted by Mr. Sarracino. The motion was seconded by Mr. Barraco. The Chair called the motion and it passed 10-0.

Mr. Mercer asked if any other Boards/Committees had reviewed this.

Mr. Rodriguez stated the Executive Regulatory Oversight Committee was the first to review it. It goes before the Land Development Code Advisory Committee on May 10th and the Local Planning Agency on May 20th. The meeting packets for those other two committees were sent out and posted already, so the recommendations from today's meeting are not incorporated into their packets. However, staff compiles all committee comments into the back-up for the Board of County Commissioners' consideration.

Agenda Item 4 – Adjournment – Next Meeting Date: May 08, 2024

The next meeting is scheduled for Wednesday, July 10, 2024.

There was no further business.

Mr. Moore made a motion to adjourn. The motion was seconded by Mr. Hagen. The Chair called the motion and it passed 10-0. The meeting adjourned at 3:10 p.m.

MEMORANDUM

FROM
THE DEPARTMENT OF
COMMMUNITY DEVELOPMENT

TO: **Executive Regulatory Oversight Committee (EROC)**

DATE: **June 26, 2024**

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

RE: **Land Development Code (LDC) Amendments, Group 3**
Development Services, Code Enforcement, Clean-up

The attached Land Development Code amendments, scheduled for consideration at the July 10, 2024 meeting, include changes intended to bring the County's development standards and code enforcement regulations into compliance with state statutes and guidelines, streamline approval processes for certain actions related to development orders, update existing development standards to be consistent with current Department practice and reflect current market trends, codify existing department practices, and provide additional flexibility for certain improvements where appropriate.

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:

A. Development Services Amendments

1. Platting

- *The Issue:* The 2024 legislative session resulted in the passage of Senate Bill 812, which outlined a statewide process that local governments must follow for review/approval of subdivision plats.
- *Proposed Solution and Intended Outcome:* Amend platting requirements in the LDC to be consistent with state statute.

2. Solid Waste/Recyclable Storage Requirements

- *The Issue*: The LDC does not differentiate between commercial buildings of varying activity, nor does it provide consideration of the use of compactors for solid waste/recyclable materials storage.
- *Proposed Solution and Intended Outcome:* Amend the LDC to relax solid waste/recyclable

storage requirements for self-storage uses and clarify requirements as appropriate.

3. **Minor Change Requirements**
- *The Issue:* The LDC currently puts a limit on the number of minor changes allowed based on type of development (Small vs. Large). Staff has historically allowed 4 minor changes then an amendment to be submitted to reset the number of minor changes permitted for the project.
- *Proposed Solution and Intended Outcome:* Amend the LDC to remove limit on minor changes, relying on department practice to classify minor changes versus amendments.

4. **Types of Development Orders Entitled to Limited Review (LDOs)**
- *The Issue:* Current LDO requirements are outdated and required reexamination to align with current market trends.
- *Proposed Solution and Intended Outcome:* Amend LDO classifications to allow more projects to be reviewed through the LDO process.

5. **Sidewalk Fee-In-Lieu/Absence of Need Reexamination**
- *The Issue:* The LDC does not establish a waiver process for pedestrian facilities along state roads.
- *Proposed Solution and Intended Outcome:* Amend the LDC to establish a waiver process for instances where pedestrian facilities cannot be accommodated or are already planned to account for this scenario.

6. **Street Design and Construction Standards**
- *The Issue:* The LDC does not reflect current market trends regarding available pavement types, nor does the LDC contemplate the General Interchange Future Land Use Category in its street design and construction standards
- *Proposed Solution and Intended Outcome:* Revise the LDC to update pavement specifications and add reference to General Interchange Future Land Use Category.

7. **Bicycle Design Requirements**
- *The Issue:* The LDC provides for limited bike rack design requirements, which limits flexibility in designing well-functioning bicycle storage facilities.
- *Proposed Solution and Intended Outcome:* Revise bike rack design requirements to provide more flexibility without requiring an administrative deviation.

8. **Access Width Requirements**
- *The Issue:* The LDC limits maximum driveway width to 35 feet. Certain public safety facilities require a larger width, necessitating a deviation from this standard.
- *Proposed Solution and Intended Outcome:* Revise the LDC to exempt fire and EMS stations from the 35-foot maximum width standard to streamline the development process.

B. Code Enforcement Amendments

1. **Unsafe Building Abatement**
   - *The Issue:* The Unsafe Building Abatement Code was established in 1985 and does not allow for legal notice to include posting the notice to the property.
   - *Proposed Solution and Intended Outcome:* Revise the LDC to allow unsafe building violation notifications to mirror code enforcement noticing requirements to provide a consistent legal notice process.

2. **Penalties and Liens**
   - *The Issue:* Current maximums for code enforcement penalties and liens are capped at amounts much less than the maximum permitted by Florida Statutes.
   - *Proposed Solution and Intended Outcome:* Revise the LDC to align maximum penalties with Florida Statutes to better incentivize code compliance.

3. **Sea Turtle Conservation**
   - *The Issue:* Sea turtle research and lighting technologies have advanced significantly since 1992 when the county's sea turtle lighting regulations were last updated.
   - *Proposed Solution and Intended Outcome:* Revise the LDC to incorporate up-to-date sea turtle research and lighting technology and applicable portions of the State of Florida Model Lighting Ordinance for Marine Turtle Protection, Rule 62B-55.004, F.A.C. to align LDC with industry standards and commercial product availability.

4. **Beach and Dune Management**
   - *The Issue:* Proposed changes to sea turtle conservation standards make certain portions of this section outdated. Certain dune vegetation common names reference multiple species.
   - *Proposed Solution and Intended Outcome:* Revise the LDC to resolve conflicts and to provide scientific names for dune vegetation species to assure internal consistency and clarity.

5. **Beach and Dune Management**
   - *The Issue:* There are several typographical errors in scientific plant names of invasive exotic species and mowing of required plantings in detention areas is a common code violation.
   - *Proposed Solution and Intended Outcome:* Revise the LDC to correct typographical errors and clarify prohibition of mowing of required plantings to provide clarity.

C. Clean-up Items
- Clarification of HEX powers and duties;
- Consistency with Florida Right-to-Farm Act;
- Clarification of parking requirements for residential amenities;
- Removal of reference to post-disaster ordinance;
- Separation of floodplain administrator and building official roles;
- Board of Adjustment and Appeals quorum requirements; and
- Street Name clean-up

Attachments
EROC Ordinance Evaluation Guidelines
Draft LDC Amendments

EROC ORDINANCE EVALUATION GUIDELINES

Proposed Ordinance: Land Development Code (LDC) Amendments (Development Services Amendments, Code Enforcement Amendments, Clean-up items)

1. **What is the public interest that the Ordinance is designed to protect?**
   The proposed regulations are intended to streamline the LDC, make the LDC more consistent with the Lee Plan and state and federal regulations, clarify ambiguous language, streamline the development permitting process, and codify Department interpretations.

2. **Can the identified public interest be protected by means other than legislation (e.g., better enforcement, education programs, administrative code in lieu of ordinance, etc.)? If so, would other means be more cost effective?**
   No. The LDC already regulates the items proposed to be modified by these amendments.

3. **Is the regulation required by State or Federal law? If so, to what extent does the County have the authority to solve the problem in a different manner?**
   To an extent, yes. The modifications to platting requirements, sea turtle conservation, and beach and dune management are required to assure compliance with state legislation and guidelines.

4. **Does the regulation duplicate State or Federal programs? If so, why?**
   No.

5. **Does the regulation contain market-based incentives? If not, could that be used effectively?**
   No.

6. **Is the regulation narrowly drafted to avoid imposing a burden on persons or activities that are not affecting the public interest?**
   Yes. The proposed amendments to existing regulations are intended to streamline the LDC, clarify ambiguous regulations, and streamline the permitting process and loosen regulations where appropriate.

7. **Does the regulation impose a burden on a few property owners for the benefit of the public as a whole? If so, does it provide any form of compensation?**
   No.

8. **Does the regulation impact vested rights?**
No.

9. **Does the regulation provide prompt and efficient relief mechanisms for exceptional cases?**
Yes. These processes are established in the LDC and are not proposed to be modified.

10. **Even though there is an interest to be protected, is it really worth another regulation?**
Yes. The regulations proposed to be modified herein are intended to clarify existing regulations, relax existing regulations where appropriate, codify current Department practices, and assure consistency between the County's regulations and its policy documents, as well as state and federal regulations.

11. **Has this approach been tried in other jurisdictions? If so, what was the result? If not, what are the reasons?**
Yes. The development regulations that are proposed to be modified are prevalent in all jurisdictions as a general exercise of zoning powers and regulation of development. Generally, the amendments proposed by this package are intended to streamline the LDC by clarifying regulations, making the LDC consistent with the Lee Plan, state, and federal legislation, codifying Department practices, and relaxing regulations where appropriate.

12. **If this regulation is enacted, how much will it cost on an annual basis, both public and private? If this regulation is not enacted, what will be the public and private cost?**
There are no costs associated with enacting these regulations.

GROUP 3, ITEM A.1
PLATTING AMENDMENTS

AMENDMENT SUMMARY

Issue: In the 2024 Legislative Session, Senate Bill 812 was passed which outlined a statewide process that local governments must follow for review and approval of subdivision plats. The main premise of the legislation was to create a two-step review process for a "Preliminary Plat" and then a "Final Plat." The law allows building permits to be pulled following approval of the Preliminary Plat. Certificates of Occupancy cannot be issued until after Final Plat approval and the recording of the Plat in the Public Records.

Solution: The County's existing platting requirements are already fairly in line with the new legislation. It appears that the law was adopted due to processes other jurisdictions utilized that included more extensive review, such as approval of Plats by the governing bodies at public meetings. Notwithstanding, certain changes are necessary to the LDC in order to comply with the new state platting requirements.

Chapter 10 – DEVELOPMENT STANDARDS

ARTICLE I. – IN GENERAL

Staff note: SB 812 provides specific definitions for "Preliminary Plat" and "Final Plat." The definitions are codified into Chapter 177, Florida Statutes. The LDC does not currently define these terms. These definitions are necessary in order to comply with the new law. Incorporation of the definitions in the statute provides for the flexibility to not need to amend the LDC again if the Legislature amends the definitions in the future.

Sec. 10-1. Definitions and rules of construction.

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

AC through Expressway remain unchanged.

Final plat is defined as that term is defined by F.S. Ch. 177.

Florida Department of Environmental Protection (DEP) through Person remain unchanged.

~~*Plat* means a plat as defined by F.S. Ch. 177, as amended.~~

Plat or replat means a map or delineated representation of the subdivision of lands, being a complete exact representation of the subdivision and other information in compliance with the requirements of F.S. Ch. 177, and this Land Development Code.

Preliminary plat is defined as that term is defined by F.S. Ch. 177.

ARTICLE II. – ADMINISTRATION

DIVISION 2. DEVELOPMENT ORDERS

Staff note: The statute requires that infrastructure surety be provided before building permits can be issued. Building permits can be issued upon Preliminary Plat approval. Language clean-ups were necessary for statutory consistency.

Sec. 10-154. Additional required submittals.

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

(26) *Assurance of completion of improvements.* Assurance of completion of the development improvements as specified in this section will be required for all off-site improvements prior to commencing any off-site or on-site development. Assurance of completion of the development improvements for on-site subdivision improvements will be required prior to the approval~~acceptance~~ of the preliminary ~~subdivision~~ plat. Those on-site subdivision improvements that have been constructed, inspected and approved by the Director of Development Services through the issuance of a Certificate of Compliance may be excluded from the requirements of this section.

a. *Surety or cash performance bond.* Security in the form of a surety or cash performance bond must be posted with the Board and made payable to the County in an amount equal to 110 percent of the full cost of installing the required improvements approved by the County. If the proposed improvement will not be constructed within one year of issuance of the final development order, the amount of the surety or cash performance bond must be increased by ten percent compounded for each year of the life of the surety or bond. Alternatively, the surety or cash performance bond may be renewed annually at 110 percent of the cost of completing the remaining required improvements if approved by the Director. Prior to acceptance, bonds must be reviewed and approved by the County Attorney's Office. Surety instruments will be reviewed and approved in accordance with the provisions set forth in Administrative Code 13-19.

b. *Other types of security.* The Board may accept letters of credit or escrow account agreements or other forms of security, provided that the reasons for not obtaining the bond are stated and the County Attorney approves the document. Review and approval of surety instruments will be in accordance with the guidelines set forth in Administrative Code 13-19.

DIVISION 5. Plats

Staff note: As the LDC is currently written, a plat must be recorded in the public records prior to issuance of a building permit. This is now inconsistent with state law. Now a Preliminary plat as that term is defined in statute must receive approval by the County prior to building permit issuance. The Final Plat must be recorded prior to issuance of a CO or CC.

Sec. 10-211. Plat required.

(1) Subdivisions of land, as defined in this chapter, must be platted in accordance with the requirements of F.S. Ch. 177, Pt. I (F.S. § 177.011 et seq.), this chapter, and County Administrative Code 13-19, as amended.

(2) A preliminary plat must receive approval in accordance with Administrative Code 13-19 prior to the issuance of building permits for buildings on property within the plat boundaries.

(~~2~~3) ~~Except as provided under Subsection (5) of this section, a~~ A final plat must be recorded in the public records of the County prior to the issuance of Certificates of Occupancy or Compliance for building permits on ~~for~~ property within the plat boundaries.

(~~3~~4) Lots, parcels, tracts, tiers, blocks, sites, units, or any other division of land created by a plat must:

a. Meet the density requirements of the Lee Plan and any other applicable requirements;

b. Comply with the minimum property development regulations for the zoning district in which it is located or be approved by the Director pursuant to Section 34-2221(1); and

c. Abut and have access to a road that meets the minimum construction standards set forth in Section 10-296.

(~~4~~5) Residual parcels not meeting the minimum requirements under this subsection may be created for the limited purposes of construction of surface water management systems, right-of-way, drainage, utilities, and other similar uses as determined by the Development Review Director.

(~~5~~6) Building permits may be issued for model buildings and sales centers prior to preliminary plat approval~~recording of the plat~~, subject to evidence of unified control and, provided that any Certificate of Compliance ~~Occupancy~~ issued is for model or sales use only, until the final plat has been recorded.

(~~6~~7) The establishment or extension of a road resulting in the creation of three or more lots, parcels, tracts, tiers, blocks, sites, or units, requires a plat.

Sec. 10-212. Preparation and submission.

Plats must be prepared in compliance with F.S. Ch. 177 and must contain all of the elements specified in F.S. Ch. 177, Pt. I (F.S. § 177.011 et seq.) and AC 13-19. ~~Review copies of~~ T~~t~~he preliminary plat must be submitted ~~with the application for~~ prior to development order approval. The preliminary~~initial~~ plat submittal must include a boundary survey of the lands to be platted, in accordance with F.S. § 177.041.

Chapter 34 – ZONING

ARTICLE VII. – SUPPLEMENTARY DISTRICT REGULATIONS

DIVISION 24. MODEL HOMES, UNITS AND DISPLAY CENTERS

Staff note: This is clean-up language to correct the fact that Certificates of Compliance are issued for Model Homes, not Certificates of Occupancy.

Sec. 34-1954. Model homes and model units.

(a) *Generally.* Model homes and model units may be permitted by right, by special exception, or by administrative approval as specified in zoning district use regulations and as follows:

(1) *Administrative approval.* The Director may administratively approve the location of individual model homes and model units in accordance with Section 34-174.

(2) *Special exception.* The Hearing Examiner, after public hearing, may approve the location of individual model homes and model units in existing developments provided the provisions of this division are met.

(b) *Location; connection of utilities and Certificate of Compliance~~Occupancy~~.*

(1) Each model home must be located on a single lot. Model units are permitted in any townhouse or multiple-family building.

(2) Model homes must be connected to water, sewer and electricity and must receive a Certificate of Compliance ~~Occupancy~~ as a model home only, prior to use as a model.

(3) Model homes may be approved only in areas where they will not adversely affect existing residents. Except for the CC and CG Zoning Districts, only models for the type of dwelling unit allowed in the district where the model is located may be permitted.

(4) Multiple model homes utilizing the same basic floor plan will not be permitted within the same development prior to the final recording of the subdivision plat. Each model must have a floor plan that is distinctly different, as determined by the Director, from other model homes within the development.

(c) *Prohibited uses.*

(1) No model home or model unit may be used for living purposes either temporarily or permanently while used as a model home or model unit.

(2) No real estate sales, except those incidental to the sale of model homes, model units or lots within the development may be conducted in a model home or model unit.

(d) *Time limitations.*

(1) *Model homes.* Approval for a model home will be valid for a period of time not exceeding three years from the date of issuance of a Certificate of *Compliance*~~*Occupancy*~~ for a model home, unless the Director or Hearing Examiner (as applicable) grants an additional specified time limit. Upon expiration of the approval, the owner may:

1) Apply for an administrative extension of the model home use;

2) Apply for a change of use permit to convert the model to a living unit; or

3) Remove the model from the property.

(2) *Model units.* The use of a model unit within a townhouse or multiple-family building may not extend beyond the initial sale period for that phase.

(e) *Change of use.* No model home or model unit may be converted to a living unit prior to application and approval of a change of use permit.

(f) *Parking.* Except when located in a model display center or within a model display group, parking for the model home or model unit must be on the same premises and must be in compliance with parking requirements of this chapter for the type of dwelling unit or recreational vehicle being displayed.

GROUP 3, ITEM A.2
CHAPTER 10 DEVIATIONS

AMENDMENT SUMMARY

Issue: The LDC does not currently differentiate between commercial buildings and mini-warehouse/ storage units for solid waste enclosure requirements as well as separate garbage from recycling to accommodate the calculations to be defined for recycling if a compactor is used for garbage.

Solution: Revise 10-261 to add a note/section to allow for storage units to only need to calculate the square footage of the office rather than the overall building. Split the table to show separate garbage and recycling.

Outcome: Makes the county more streamlined with respect to allowing common reductions of Solid Waste Enclosure to be processed under one means of review versus multiple permit applications.

Chapter 10 – Development Standards

ARTICLE III. – Design Standards and Requirements

DIVISION 1. - GENERALLY

Sec. 10-261. - Refuse and solid waste disposal facilities.

Staff Note: The solid waste enclosure table is updated to reflect the Special Notes or Regulations and note section has been added beneath the table.

(a) Provision of container spaces. All new construction of multifamily residential developments, commercial businesses, and industrial uses must provide sufficient on-site space for the placement of garbage containers or receptacles, and sufficient space for recyclable materials collection containers. At a minimum, the following area requirements must be provided:

Commercial Business Building sq. ft.	*Special Notes Or Regulations*	*Multifamily Development Units*	*Minimum sq. ft. for Garbage Collection*	*Minimum sq. ft. for Recyclable Collection*
	Note (1)	5—25	120	96
		25+	~~216 sq. ft. (~~120 sq. ft ~~+ 96)~~ for first 25 units, plus 8 sq. ft. for each additional dwelling unit	96 sq. ft for first 25 units, plus 8 sq. ft. for each additional dwelling unit
0—5,000			60	24
5,001—10,000			80	48

Commercial Business Building sq. ft.	*Special Notes Or Regulations*	*Multifamily Development Units*	*Minimum sq. ft. for Garbage Collection*	*Minimum sq. ft. for Recyclable Collection*
10,001—25,000			120	96
25,000+			~~216 sq. ft. (~~120 sq. ft ~~+ 96)~~ for first 25,000 sq. ft., plus 8 sq. ft. for each additional 1,000 sq. ft.	96 sq. ft for first 25,000 sq. ft., plus 8 sq. ft. for each additional 1,000 sq. ft.

Notes:

1) Mini warehouse* developments must calculate the minimum enclosure size in relation to the square footage of the office and caretaker's residence. *See Warehouse, public; Storage, dead, and Warehouse, hybrid.

(b) A minimum overhead clearance of 22 feet is required and a 12-foot-wide, unobstructed access opening must be provided to accommodate all storage areas/containers.

(c) All storage areas/containers must be adequately shielded by a landscaped screen or solid fencing along at least three sides. Use of chain link fencing to meet this requirement is prohibited. Refer to Section 10-610(c)(2) for guidelines.

(d) Commercial, industrial and multifamily developments using a compactor for garbage collection must provide sufficient space for the compactor (including receiver) in addition to the space required for recyclable collection.

(e) Container space enclosures may not be located within or encroach into the required perimeter landscape buffer width for the proposed or constructed uses as provided in accordance with Section 10-416(d)(3) and (4). Concrete wall enclosures may not be located within a public utility or drainage easement.

GROUP 3, ITEM A.3
MINOR CHANGE LIMITATIONS

AMENDMENT SUMMARY

Issue: The LDC currently puts a limit on the number of minor changes allowed based on type of development (Small vs. Large). Staff has historically allowed 4 minor changes then an amendment to be submitted to reset the number of minor changes permitted for the project.

Solution: Remove the limit of minor changes allowed as long as it does not require a review by three or more of the following review disciplines: zoning, transportation, drainage, fire, utilities and landscaping. Changes that exceed the criteria for the scope of a minor change as specified in this subsection shall be processed as a development order amendment in accordance with Section 10-118.

Outcome: Codifies current department practice.

Chapter 10 – DEVELOPMENT STANDARDS

ARTICLE II. – ADMINISTRATION

DIVISION 2. DEVELOPMENT ORDERS

Sec. 10-120(f). Minor Changes.

(f) *Any number of minor changes will be allowed; ~~however, only two separate submittals or applications will be allowed for either single or multiple minor changes on small projects and only four separate submittals will be allowed for either single or multiple minor changes on large projects. Minor changes required due to conflicts in the requirements of other governmental agencies or utility companies will not be counted towards the maximum of two separate minor change submittals.~~*

GROUP 3, ITEM A.4

TYPES OF DEVELOPMENT ORDERS ENTITLED TO LIMITED REVIEW

AMENDMENT SUMMARY

Issue:	Update sizes and requirements for LDOs.
Solution:	Alter size thresholds to allow for more projects to be reviewed within specific LDOs and codify additional lists of type of developments.
Outcome:	Provides clearer direction regarding under which submittal type projects should come be filed.

Chapter 10 – Development Standards

ARTICLE II. – Design Standards and Requirements

Division 3: Limited Review Process

Sec. 10-174. - Types of development entitled to Limited Review

The following types of development may be processed in accordance with this division:

(1) *Type A.* Any improvements to the land determined by the Director to have no impacts on public facilities in accordance with applicable standards of measurement in this chapter (vehicular trips, amount of impervious surface, gallons per day, etc.), including up to ~~100~~ 200 square feet of additional impervious surface and any Notice of Intent to Commence Water Retention Excavation for AG use or as an amenity to a single-family residence where blasting activities will not be conducted and where no more than 1,000 cubic yards of spoil will be removed off-site. (See Section 10-329(c)(1).)

(2) *Type B.* A cumulative addition or enlargement of an existing impervious area, provided that the addition or enlargement does not increase the total impervious cover area by more than 2,500 square feet and there is no increase in the rate of runoff from the project site.

(3) *Type C.* Any out-of-door type recreational facilities, such as swimming pools, tennis courts, tot lots and other similar facilities, provided the total cumulative additional impervious area does not exceed 5,000 square feet, including any County-initiated improvements for public water access purposes in County-owned or County-maintained rights-of-way.

(4) *Type D.*

a. Any other improvement to land determined by the Director to have insignificant impacts on public facilities in accordance with applicable standards of measurement in this chapter (vehicular trips, amount of impervious surface, gallons per day, etc.).

b. The installation of new utility lines in existing right-of-way or easement.

c. Improvements to a County-maintained road right-of-way within an incorporated area as defined in Section 10-297.

d. Previously developed properties that are vacant for more than one year.

(5) *Type E.* Any lot split, that does not qualify as a subdivision, must comply with the following:

a. Each lot created must:

i. Meet the density requirements of the Lee Plan and any other applicable requirements;

ii. Comply with the minimum property development regulations for the zoning district in which it is located or be approved by the Director pursuant to Section 34-2221(1); and

iii. Abut and have access to a road that meets the minimum construction standards set forth in Section 10-296.

b. Reasonable conditions may be attached to the approval so that any development on the lots will comply with all County land development regulations.

GROUP 3, ITEM A.5

SIDEWALK FEE-IN-LIEU/ABSENCE OF NEED REEXAMINATION

AMENDMENT SUMMARY

Issue:	The LDC states developer must construct bicycle and/or pedestrian facilities on State roads within the boundaries of the State Road right-of-way, subject to FDOT approval. However, the LDC does not specify a waiver process in the event FDOT cannot approve the facility or a facility is already planned. Additionally, Lee Plan Map References in section 10-1 and section 10-256, subsection (a) require updates.
Solution:	Amend language to reference waiver mechanism established in subsection (5) and accurately reference Lee Plan Maps.
Outcome:	Ability to seek waiver for pedestrian facilities within FDOT jurisdiction when an absence of need and/or duplicate facility is planned by FDOT and the applicable Lee Plan Maps are accurately referenced.

Chapter 10 - DEVELOPMENT STANDARDS

ARTICLE I. – IN GENERAL

Sec. 10-1. Definitions and rules of construction.

Absence of need means where it can be reasonably determined that:

(1) The facility is not likely to connect to an existing or planned facility, scheduled for construction in a five-year transportation work program;

(2) Is not identified on the Lee Plan Map 3-A (~~Financially Feasible Highway Plan~~ Cost Feasible Roadway Projects), 3-C (~~Financially Feasible Transit Network~~ 2045 Financially Feasible Transit Network) or 3-D (~~Unincorporated Bikeways/Walkways Facilities Plan~~ Lee County Walkways & Bikeways); and

(3) The roadway frontage is more than 60 percent developed, without facilities and the remainder of the undeveloped land will not provide a continuous facility at the time of build out.

ARTICLE III. –DESIGN STANDARDS AND REQUIREMENTS

DIVISION 1. – GENERALLY

Sec. 10-256. Bikeways and pedestrian ways.

(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 4-E~~22~~), or along walkways and bikeways depicted on the County Walkways and Bikeways Map (Lee Plan Map 3-D ~~3D~~) are required to provide for bikeways and pedestrian ways.

(b) *Requirements for bikeways and pedestrian ways.*

No changes to subsection (1)

(2) *Location.*

a. All new development and redevelopment must construct the required bikeway and pedestrian facilities in the abutting road right-of-way, or alternate on-site location may be approved in accordance with Subsection (b)(2)d of this section.

b. The developer must coordinate with the FDOT for ~~construct~~ construction of bicycle and/or pedestrian facilities required in subsections 10-256(a) and (b) on State roads within the boundaries of the State road right-of-way that is subject to approval and issuance of a general use permit by FDOT. Facilities may not be constructed in easements abutting the State roadway unless approved by FDOT prior to local development order approval. A copy of the written FDOT approval must be submitted to the County. A waiver from required facilities in the State road right-of-way may be requested in accordance with subsection (5) with a copy of written confirmation from the FDOT.

Remainder of subsection remains unchanged. Subsections (3) and (4) remain unchanged.

No changes proposed to subsection (5). Subsection included for context.

(5) *Waiver (fee-in-lieu).*

a. Notwithstanding the provisions of Subsections (a) and (b) of this section, a bikeway and pedestrian way will not be required where the Development Services Director, along with a recommendation from the Director of the Department of Transportation, determines that:

1. Construction of the bikeway or pedestrian way would be contrary to public safety; or

2. There is an absence of need as defined in Section 10-1~~.~~; or

3. A waiver from the required facilities in a state road right-of-way is provided in writing from FDOT.

b. As a condition of granting the waiver, the applicant is required to make a fee-in-lieu contribution equal to the estimated cost of constructing the improvement. The cost estimate must include: design; mobilization, clearing, and grubbing; embankment; drainage, including inlets, grates, headwalls, pipes and mitered ends; sidewalk and grading; bridge, gravity wall and handrail; and finish items, including sod, and miscellaneous driveway work where applicable. The amount of the fee must be paid prior to the issuance of a development order.

c. For projects adjacent to a County facility with an active construction bid, the actual bid price will be accepted. The fee is to be calculated using the line items from the bid tabulation submitted by the contractor building the project.

d. The fee-in-lieu will be deposited in a CIP subfund, County-wide bicycle and pedestrian facilities, created for expenditure on a bicycle or pedestrian facility within the same road impact fee district as the proposed development.

GROUP 3, ITEM A.6

STREET DESIGN AND CONSTRUCTION STANDARDS

AMENDMENT SUMMARY

Issue: Type "S-I" and "S-III" product referenced in Pavement Design Table 3 is no longer market available. Subsection 10-296(1)i does not address the General Interchange future land use category, which is a future urban area.

Solution: Remove reference from LDC to be consistent with the FDOT Flexible Pavement Design Manual (FPDM). Add reference to General Interchange future land use category.

Outcome: Updates LDC design standard references consistent with FPDM and market conditions. Updates LDC to be consistent with Lee Plan.

Chapter 10 - DEVELOPMENT STANDARDS

ARTICLE III. – DESIGN STANDARDS AND REQUIREMENTS

DIVISION 2. – TRANSPORTATION, ROADWAYS, STREETS AND BRIDGES

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

Subsections (a) through (d)10 remain unchanged.

(d) (11) *Pavement design.* New construction or reconstruction of streets and roadways must be in accordance with Table 3 unless an alternative pavement design based on traffic type and volume performed by a registered professional engineer demonstrates the same or better structural integrity or, in the case of capital improvement projects, an acceptable alternative is approved by the Director of the Lee County Department of Transportation. Roadway pavement design criteria will also apply to travel lanes, turn lanes, median openings, bicycle lanes, on-street parking, and bus-pullout bays. The applicant may submit a request for an administrative deviation in accordance with Section 10-104(a)(5) for an alternative design.

TABLE 3. MINIMUM PAVEMENT DESIGN SPECIFICATIONS

	Friction Course	*Structural Course*	*Base*	*Subgrade*
Principal Arterial	One-inch ~~Type S-III (section 331, FDOT specifications) OR~~ SUPERPAVE 9.5 (FDOT Standard Specifications)	2½-inch asphaltic concrete FDOT ~~Type S-1 or~~ SUPERPAVE 12.5 (Section 334, FDOT)	FDOT Optional Base Group 9 (ten inches of compacted limerock)	Twelve-inch-thick stabilized subgrade LBR40
Minor Arterial	One-inch ~~Type S-III (section 331, FDOT specifications) OR~~ SUPERPAVE 9.5 (FDOT Standard Specifications)	2½-inch asphaltic concrete FDOT ~~Type S-1 or~~ SUPERPAVE 12.5 (Section 334, FDOT)	FDOT Optional Base Group 9 (ten inches of compacted limerock)	Twelve-inch-thick stabilized subgrade LBR40
Major Collector	One-inch ~~Type S-III (section 331, FDOT~~	1½-inch asphaltic concrete FDOT ~~Type S-1 or~~	FDOT Optional Base Group 6 (eight inches of	Twelve-inch-thick stabilized subgrade LBR40

	~~specifications) OR~~ SUPERPAVE 9.5 (FDOT Standard Specifications)	SUPERPAVE 12.5 (Section 334, FDOT)	compacted limerock)	
Minor Collector	None	1½-inch asphaltic concrete FDOT ~~Type S-1 or~~ SUPERPAVE 12.5 (Section 334, FDOT)	FDOT Optional Base Group 6 (eight inches of compacted limerock)	Twelve-inch-thick stabilized subgrade LBR40
Local and Access Street (including Privately-Maintained Nonresidential Streets)	None	1½-inch asphaltic concrete FDOT ~~Type S-1 or~~ SUPERPAVE 12.5 (Section 334, FDOT)	FDOT Optional Base Group 6 (eight inches of compacted limerock)	Twelve-inch-thick stabilized subgrade LBR40
Privately-Maintained Residential Local Streets	None	One-inch asphaltic concrete FDOT ~~Type S-III, or~~ SUPERPAVE 9.5 (Section 334, FDOT)	FDOT Optional Base Group 4 (six inches of compacted limerock)	Six-inch-thick stabilized subgrade LBR40
Shared Streets/ Bicycle Boulevard	None	Six-inch Portland Cement concrete, or one-inch asphaltic concrete FDOT ~~Type S-III, or~~ SUPERPAVE 9.5 (Section 334, FDOT)	FDOT Optional Base Group 4 (six inches of compacted limerock)	Six-inch-thick stabilized subgrade LBR40
Shared Use Path/Sidewalk/Cycle Track	None	Six-inch Portland Cement concrete, or one-inch asphaltic concrete FDOT ~~Type S-III, or~~ SUPERPAVE 9.5 (Section 334, FDOT)	FDOT Optional Base Group 1 (four inches of compacted limerock) only for asphaltic concrete option	Six-inch-thick stabilized subgrade LBR40

(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.

Staff note: Subsection (1)a through subsection through subsection (1)h remain unchanged. Subsection i has been revised to incorporate the General Interchange future land use category, which is a Future Urban Area that is not currently classified in the LDC.

(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. *Lane width.* The required lane width for roadways with two-way traffic and no existing or planned transit or freight routes, must be as specified in Tables 4 through 10. The required lane width for one-way streets is 14 feet. For roadways with an existing or planned transit route, the required lane width for lanes utilized by the transit vehicle is 12 feet. Where freight or large truck traffic is frequent (shown as a primary or secondary truck route on the MPO freight plan or greater than one percent of the daily volume), the lane width will be 11 feet.

b. *Transit facilities.* Bus pull-offs, shelters, and benches will be provided consistent with this chapter. All bus stops will have:

1. A sign with route numbers.

2. An eight-foot by 30-foot minimum concrete landing pad. The landing pad will have a maximum two percent cross-slope and connected to, or be a part of, an existing pedestrian way.

3. Bicycle parking.

c. *Tree wells/planting strips.* Dimensions, plant materials specifications and irrigation must comply with the Lee Scape Master Plan and AC 11-12. The planting area may utilize islands or areas between on-street parking spaces to provide adequate area for tree growth with dimensions shown in Table 4 as minimums. The planting strip area depicted in cross sections include two feet for curb and gutter.

d. *Tree and palm spacing.* Small trees (under 30 feet at mature height) must be provided at a rate of five trees for every 100 linear feet. Medium sized trees (30 feet to 40 feet at mature height) must be provided at a rate of four trees for every 100 linear feet. Large trees (over 40 feet at mature height) must be provided at a rate of three trees for every 100 linear feet. Trees should be spaced evenly along the frontage and not clustered. Adjustments to the placement of trees up to ten feet is permitted to avoid conflicts with utilities and building visibility. Palm trees may only be substituted for a maximum of 50 percent of the required small trees.

e. *Street furniture.* May be installed in the streetside planting area where approved by the Development Services Director.

f. *Bicycle and pedestrian facilities.* Include a shared use path when depicted on the Lee Plan Maps 3D or 22. 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. *Street lighting.* Must be provided in accordance with AC 11-2. When street lighting is required in or abutting coastal areas or environmental preserves, the lighting must be constructed utilizing environmentally friendly techniques.

h. *Mixed use development.* Streets must be designed in accordance with nonresidential roadway design criteria.

i. *Urban context design criteria.*

1. *Urban principal arterials.*

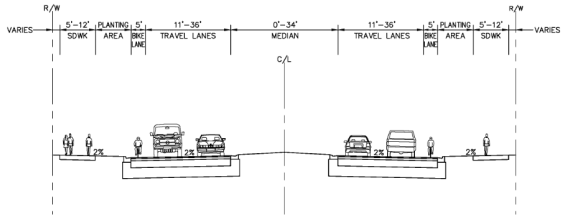
i. *Pavement design.* Must be in accordance with Table 3.

ii. *Context design.* Urban principal arterial roadway lane width, bicycle and pedestrian facilities, and planting strips must be designed in accordance with the criteria set forth in Table 4.

TABLE 4. URBAN PRINCIPAL ARTERIAL

Lee Plan Future Land Use Designation		*Intensive*	*Central Urban and General Interchange*		*Urban Community*	
Existing/Proposed Land Use		*All*	*Commercial*	*Residential*	*Commercial*	*Residential*
Lane Width		11 feet	12 feet	11 feet	12 feet	12 feet
On-Road Bicycle Facility		5-foot bike lane	5-foot bike lane	5-foot bike lane	5-foot bike lane	5-foot bike lane
Streetside	Planting Strip	8-foot strip	8-foot strip	8-foot strip	6-foot strip	5-foot strip
	Pedestrian Facility Width	12 feet	10 feet	8 feet	6 feet	5 feet

iii. *Cross section drawings.* The following cross section is illustrative of an urban principal arterial. All urban arterial cross section drawings reflect closed drainage facilities.



Urban Principal Arterial

2. *Urban minor arterials.*

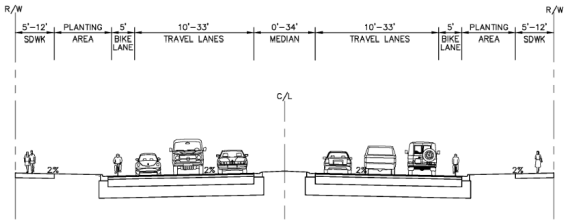
i. *Pavement design.* Must be in accordance with Table 3.

ii. *Context design.* Urban minor arterial roadway lane width, bicycle and pedestrian facilities, and planting strips must be designed in accordance with the criteria set forth in Table 5.

TABLE 5. URBAN MINOR ARTERIAL

Lee Plan Future Land Use Designation		*Intensive*	*Central Urban and General Interchange*		*Urban Community*	
Existing/Proposed Land Use		*All*	*Commercial*	*Residential*	*Commercial*	*Residential*
Lane Width		10 feet	11 feet	11 feet	11 feet	11 feet
On-Road Bicycle Facility		Shared lane	5-foot bike lane	Shared lane	5-foot bike lane	5-foot bike lane
Streetside	Planting Strip	8-foot strip	8-foot strip	8-foot strip	6-foot strip	5-foot strip
	Pedestrian Facility Width	12 feet	10 feet	8 feet	6 feet	5 feet

iii. *Cross section drawings.* The following cross section is illustrative of an urban minor arterial. All urban arterial cross section drawings reflect closed drainage facilities.



Urban Minor Arterial

3. *Urban major collectors.*

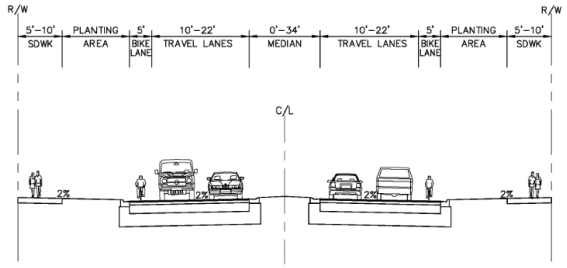
   i. *Pavement design.* Must be in accordance with Table 3.

   ii. *Context design.* Urban major collector roadway lane width, bicycle and pedestrian facilities, and planting strips must be designed in accordance with the criteria set forth in Table 6.

TABLE 6. URBAN MAJOR COLLECTOR

Lee Plan Future Land Use Designation		*Intensive*	*Central Urban and General Interchange*		*Urban Community*	
Existing/Proposed Land Use		*All*	*Commercial*	*Residential*	*Commercial*	*Residential*
Lane Width		10 feet	10 feet	10 feet	11 feet	11 feet
On-Road Bicycle Facility		Shared lane	5-foot bike lane	Shared lane	5-foot bike lane	Shared lane
Streetside	Planting Strip	8-foot strip	8-foot strip	8-foot strip	6-foot strip	5-foot strip
	Pedestrian Facility Width	10 feet	8 feet	8 feet	6 feet	5 feet

   iii. *Cross section.* The following cross section is illustrative of an urban major collector. All urban major collector cross section drawings reflect closed drainage facilities.



Urban Major Collector

4. *Urban minor collectors.*

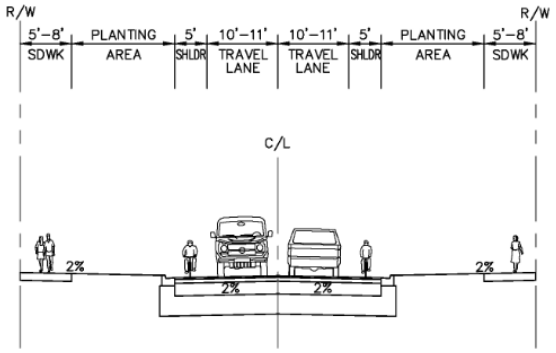
   i. *Pavement design.* Must be in accordance with Table 3.

   ii. *Context design.* Urban minor collector roadway lane width, bicycle and pedestrian facilities, and planting strips must be designed in accordance with the criteria set forth in Table 7.

TABLE 7. URBAN MINOR COLLECTOR

Lee Plan Future Land Use Designation		*Intensive*	*Central Urban and General Interchange*		*Urban Community*	
Existing/Proposed Land Use		*All*	*Commercial*	*Residential*	*Commercial*	*Residential*
Lane Width		10 feet	10 feet	10 feet	11 feet	11 feet
On-Road Bicycle Facility		Shared lane	Shared lane	Shared lane	Shared lane	Shared lane
Streetside	Planting Strip	8-foot strip	8-foot strip	8-foot strip	6-foot strip	5-foot strip
	Pedestrian Facility Width	8 feet	8 feet	8 feet	6 feet	5 feet

iii. *Cross section drawings.* The following cross section is illustrative of an urban minor collector. All urban minor collector cross section drawings reflect closed drainage facilities.



Urban Minor Collector

5. *Urban local and access streets.*

i. *Pavement design.* Must be in accordance with Table 3.

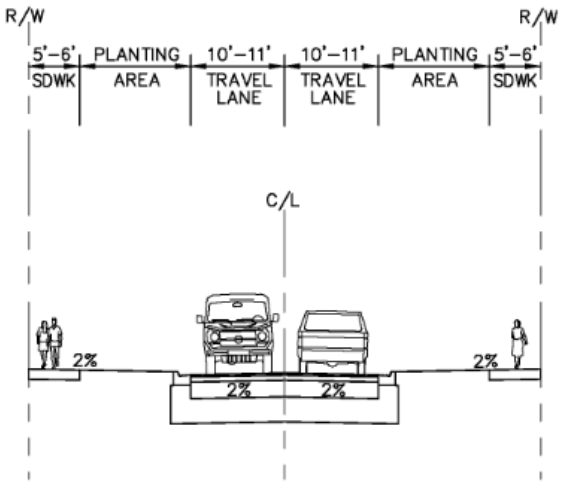
ii. *Context design.* Urban local and access street roadway lane width, bicycle and pedestrian facilities, and planting strips must be designed in accordance with the criteria set forth in Table 8.

TABLE 8. URBAN LOCAL AND ACCESS STREETS

Lee Plan Future Land Use Designation		*Intensive*	*Central Urban and General Interchange*		*Urban Community*	
Existing/Proposed Land Use		*All*	*Commercial*	*Residential*	*Commercial*	*Residential*
Lane Width		10 feet	10 feet	10 feet	11 feet	11 feet
On-Road Bicycle Facility		Shared lane	Shared lane	Shared lane	Shared lane	Shared lane
Streetside	Planting Strip	8-foot strip	8-foot strip	6-foot strip	6-foot strip	5-foot strip
	Pedestrian Facility Width	6 feet	6 feet	5 feet	6 feet	5 feet

iii. *Cross section drawings.* The following cross section is illustrative of an urban local roadway. All urban local street cross section drawings reflect closed drainage facilities.

a. Urban local/access street cross section:



Urban Local/Access Street

6. *Urban shared streets.*

   i. *Pavement design.* Must be in accordance with Table 3.

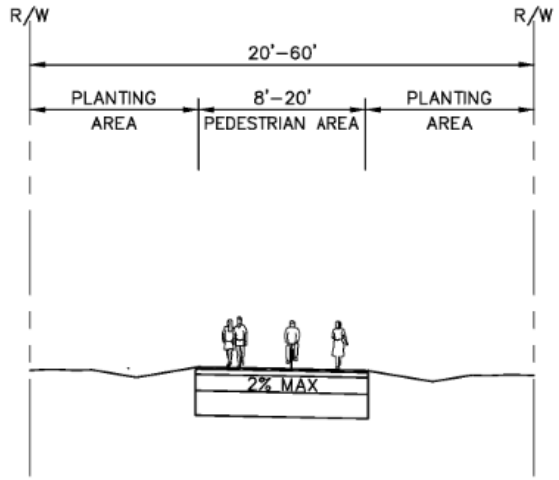
   ii. *Context design.* Urban shared street roadway bicycle and pedestrian facilities, and planting strips must be designed in accordance with the criteria set forth in Table 9.

TABLE 9. URBAN SHARED STREET

Lee Plan Future Land Use Designation		*Intensive*	*Central Urban and General Interchange*		*Urban Community*	
Existing/Proposed Land Use		*All*	*Commercial*	*Residential*	*Commercial*	*Residential*
On-Road Bicycle Facility		Shared lane	Shared lane	Shared lane	Shared lane	Shared lane
Streetside	Planting Strip	8 ft.—20 ft. strip	8 ft.—20 ft. strip	6 ft.—10 ft. strip	8 ft.—20 ft. strip	6 ft.—10 ft. strip
	Pedestrian Facility Width	12 ft.—20 ft.	10 ft.—16 ft.	8 ft.—12 ft.	10 ft.—16 ft.	8 ft.—12 ft.

   iii. *Cross section.* The following cross section is illustrative of an urban shared street. All urban shared streets are designed with open drainage graded to drain to planting areas and a design speed of five miles per hour. Motor vehicle use on shared streets is limited to emergency vehicles, local traffic or deliveries. Restriction of vehicular traffic to be determined by LCDOT.

      a. Urban shared street cross section:



Urban Shared Street Open Drainage

7. *Urban bicycle boulevards.*

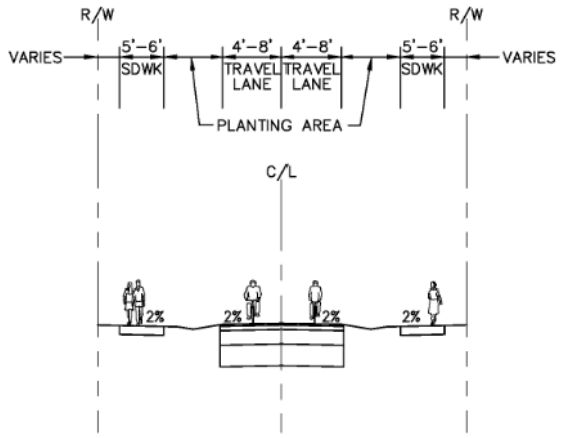
   i. *Pavement design.* Must be in accordance with Table 3.

   ii. *Context design.* Urban bicycle boulevard roadway bicycle and pedestrian facilities, and planting strips must be designed in accordance with the criteria set forth in Table 10.

TABLE 10. URBAN BICYCLE BOULEVARDS

Lee Plan Future Land Use Designation		*Intensive*	*Central Urban and General Interchange*	*Urban Community*
Existing/Proposed Land Use		*All*	*All*	*All*
On-Road Bicycle Facility		8 ft. bike lane	6 ft.—8 ft. bike lane	4 ft.—6 ft. bike lane
Streetside	Planting Strip	8-foot strip	8-foot strip	8-foot strip
	Pedestrian Facility Width	6 feet	6 feet	5 feet

   iii. *Cross section.* The following cross section is illustrative of an urban bicycle boulevard. All urban bicycle boulevards are designed with open drainage graded to drain to planting areas with a design speed of 20 mph with speed restrictions.



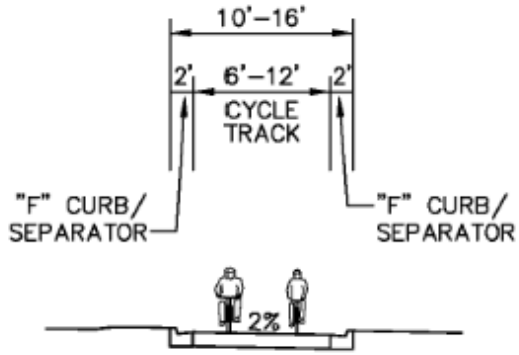
Urban Bicycle Boulevard
Open Drainage, 20 mph

8. *Urban cycle tracks.*

   i. *Pavement design.* Must be in accordance with Table 3.

      a. Bicycle facility width. The width of a one-way urban cycle track will be a minimum of six feet to eight feet for bicycle traffic. The width of a two-way urban cycle track will be 12 feet.

   ii. *Cross section.* The following cross section is illustrative of an urban cycle track. All urban cycle tracks are designed with closed drainage systems.



Urban Cycle Track Closed Drainage

GROUP 3, ITEM A.7
BICYCLE DESIGN REQUIREMENTS

AMENDMENT SUMMARY

Issue: The current LDC references specific bicycle rack design requirements that are not always best suited to serve the development and often do not match the aesthetics of the development.

Solution: Revise Bicycle parking design requirements to offer more flexibility without requiring Section 10-104 deviations.

Outcome: Bicycle designs that provide better options which are more conducive to the site design and aesthetic.

CHAPTER 10 – DEVELOPMENT STANDARDS

ARTICLE IV. – DESIGN STANDARDS AND GUIDELINES FOR COMMERCIAL DEVELOPMENTS

Sec. 10-610(d)(3). Site design standards and guidelines for commercial developments.

(3) Bicycle parking requirements.

a) Number of spaces. Safe and secure bicycle parking spaces must be provided as follows: spaces totaling five percent of required motor vehicle spaces in accordance with Section 34-2020 up to 1,000 vehicle spaces. For each 500 spaces above 1,000 vehicle spaces, four additional bicycle parking spaces are required. A minimum of two bicycle parking spaces must be provided.

b) Design.

1. A bicycle parking areas must include a bicycle rack with appropriate access on all sides to accommodate adequate space for the required number of bicycles. ~~facility suited to a single bicycle~~ must be ~~a standalone inverted - U design~~ measuring a minimum of 36 inches high and ~~18 inches wide of 1½ inch Schedule 40 pipe, ASTM F 1083 bent in one piece ("bike rack")~~ mounted securely to the ground ~~by a three-eighth-inch thick steel base plate, ASTM A 36 so it is capable of securing the bicycle frame and both wheels.~~

~~2. Each bicycle parking space must have a minimum of three feet of clearance on all sides of the bike rack.~~

~~3~~ 2. Bicycle parking spaces must be surfaced with stabilized, all-weather materials ~~consistent with those approved for the motor vehicle parking lots, lighted~~ and located no greater than 100 feet from the building entrances ~~providing access to the public.~~

~~4~~ 3. Extraordinary bicycle parking designs and surfaces that depart from the bike rack standard but are consistent with the development's design theme may be considered by the ~~Director~~ Manager of Development Services in accordance with Section 10-104(b). ~~Bike racks that are freely oriented, function without securing the bicycle frame, or require the use of a bicycle kick stand are prohibited.~~

GROUP 3, ITEM A.8
ACCESS WIDTH REQUIREMENTS

AMENDMENT SUMMARY

Issue:	The LDC currently allows a maximum width at the property line at 35 feet. Fire stations and other public safety facilities typically require more than a 35-foot width and consistently require a deviation or variance from this standard.
Solution:	Include language to allow for an exemption for fire and emergency services to exceed the 35-foot maximum width.
Outcome:	Streamlines permitting process by eliminating the need for the zoning action currently required for these types of deviations.

Chapter 34 – Zoning

ARTICLE VII. – SUPPLEMENTARY DISTRICT REGULATIONS

DIVISION 26. PARKING

Sec. 34-2013(b) Access

(b) Each parking lot must have a distinct parking lot entrance. The entrance must meet the requirements of Chapter 10, as well as the following:

(1) Minimum width at property line for one-way entrances is 15 feet.

(2) Minimum width at property line for two-way entrances is 24 feet.

(3) Maximum throat width at property line is 35 feet.

The Director may determine that high traffic volumes or other special circumstances warrant other requirements. Emergency Services facilities, including fire, EMS, and sheriff's stations, are exempt from the maximum width requirements but provided that the maximum throat width at the property line does not exceed 80 feet.

GROUP 3, ITEM B.1

CODE ENFORCEMENT INSPECTIONS AND NOTICE OF NONCOMPLIANCE

AMENDMENT SUMMARY

Issue:	The Unsafe Building Abatement Code was established in 1985 and does not allow for legal notice to include posting the notice to the property.
Solution:	Revise the LDC to allow unsafe building violations to mirror Code Enforcement Noticing LDC Section 2-429 to allow for posting notice to the property.
Outcome:	Provides Code Enforcement staff with a consistent legal notice process. The notice posting affords an opportunity to the public to be aware of and resolve the violation.

Chapter 6 – BUILDINGS AND BUILDING REGULATIONS

ARTICLE II. – CODES AND STANDARDS

DIVISION 4. – UNSAFE BUILDING ABATEMENT CODE

Sec. 6-211. - Adoption; amendments.

The following Sections of the 1985 Standard Unsafe Building Abatement Code, as published by Southern Building Code Congress International, Inc., 900 Montclair Road, Birmingham, Alabama 35213-1206, are hereby adopted and made part of this article as follows:

Chapter I, Administration.

Section 105, relating to the Board of Adjustment and Appeals, is deleted, and the latest adopted County ordinance relating to the Board of Adjustment and Appeals is substituted therefor.

Chapter II, Definitions.

Chapter III, Inspection and Notice of Noncompliance.

Sections 302.1.2; 302.1.3; and 302.1.4, relating to service of notice and proof of service, are deleted and replaced in their entirety with the following: *The notice and all attachments thereto shall be provided to the owner of record in accordance with the notice procedures set forth in Lee County Land Development Code Section 2-429, as may be amended from time to time.*

Chapter IV, Appeals.

Chapter V, Rules of Procedure for Hearing Appeals.

Chapter VI, Implementation.

Chapter VII, Recovery of Cost of Repair or Demolition.

Exception: If the Building Official proceeds to demolish the building or structure as set forth herein, the Chairman of the Board of County Commissioners, on behalf of the

entire Board, will execute a resolution, assessing the entire cost of demolition and removal against the real property upon which the cost was incurred. Assessments will constitute a lien upon the property superior to all others except taxes. The lien will be filed in the public land records of the County. The resolution of assessment and lien must indicate the nature of the assessment and lien, the lien amount, and an accurate description of the property affected. The lien becomes effective on the date the notice of lien is filed and bears interest from the date of filing at a rate of ten percent per annum. If the resulting lien is not satisfied within two years after the date it is filed, then the County may:

1. File suit to foreclose on the liened property as provided by law in suits to foreclose mortgages; or

2. Follow any other lawful process or procedure available for enforcement of the lien in accordance with any general law of the State relating to the enforcement of municipal liens.

GROUP 3, ITEM B.2
CODE ENFORCEMENT PENALTIES AND LIENS

AMENDMENT SUMMARY

Issue:	Current maximums for code enforcement penalties and liens are capped at amounts much less than the maximum permitted by Florida Statutes.
Solution:	Revise the LDC to align maximum penalties with those permitted by Florida Statutes.
Outcome:	Provides greater incentive for compliance by providing for penalties and liens that align with those permitted by Florida Statutes.

Chapter 2 - ADMINISTRATION

ARTICLE VII. – HEARING EXAMINER

Sec. 2-427. Penalties and liens.

Staff note: Revise maximum penalties to align with Florida Statutes.

(a) *Penalties.*

(1) Fines imposed under this section for the first violation will be no less than $25.00 per day and no greater than $1,000.00 ~~$250.00~~ per day. Fines imposed under this section for a repeat violation will be no less than $50.00 per day and no greater than $5,000.00 ~~$500.00~~ per day. Unless agreed upon by the County Manager or designee, fines imposed pursuant to a Code Enforcement agreement must be imposed in accordance with the provisions of the Code Enforcement agreement. If the Hearing Examiner finds a violation is irreparable or irreversible in nature, a fine of up to $15,000.00 ~~$5,000.00~~ per violation may be imposed. Further, the fine may include the cost of all repairs incurred by the County as well as the costs of prosecuting the case before the Hearing Examiner.

Remainder of section remains unchanged.

GROUP 3, ITEM B.3
SEA TURTLE CONSERVATION

AMENDMENT SUMMARY

Issue:	Sea turtle research and lighting technologies have advanced significantly since 1992 when the county's sea turtle lighting regulations were last updated. Developers, contractors, and property owners get confused when the solutions given in the code do not match industry standards or what is commercially available.
Solution:	Amend the code to incorporate up-to-date sea turtle research and lighting technology and applicable portions of the State of Florida Model Lighting Ordinance for Marine Turtle Protection, Rule 62B-55.004, F.A.C.
Outcome:	There are clear lighting standards for new construction and methods that can be used to fix existing non-compliant lights. The code reflects modern practices and State recommendations.

Chapter 14 - ENVIRONMENT AND NATURAL RESOURCES

ARTICLE II. - WILDLIFE AND HABITAT PROTECTION

DIVISION 2. - SEA TURTLE CONSERVATION

Sec. 14-71. Purpose and applicability.

(a) The purpose ~~and intent~~ of this division is to protect ~~endangered and threatened sea turtles along the Gulf of Mexico beaches in the unincorporated areas of the County. This division protects nesting sea turtles and sea turtle hatchlings from the adverse effects of artificial lighting, provides overall improvement in nesting habitat degraded by light, and increases successful nesting activity and production of hatchlings on the beaches, as defined in this division.~~ nesting and hatchling sea turtles on the beaches in unincorporated Lee County by ensuring that their nesting habitat is not degraded by artificial light. The objective of the division is for the appropriate design and implementation of coastal lighting systems to ensure that light pollution does not interfere with sea turtle nesting and hatching events while at the same time protecting public safety.

(b) The provisions of this division apply during the nesting season. If this division conflicts with any other requirement of the Lee County Land Development Code, then this division will control during sea turtle nesting season.

Sec. 14-72. Definitions.

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

Administrator means the County manager, or his designee, who is responsible for administering the provisions of this division.

Artificial light means the light emanating from any human-made device.

~~*Artificial lighting or illumination* means light emanating from a manmade point source. See *Point source of light.*~~

Beach has the same meaning given it in Section 14-170.

~~*Bug type light* means any yellow-colored incandescent light bulb that is specifically treated in such a way so as to reduce the attraction of bugs to the light but does not include bug killing devices.~~

Construction means the carrying out of any building, clearing, filling, excavating or substantial improvement in the size or use of any structure or the appearance of any land. When appropriate to the context, the term "construction" refers to the act of constructing or the result of construction and includes reconstruction or remodeling of existing buildings or structures.

DEP means State Department of Environmental Protection or successor agency.

Decorative lighting means lighting used for aesthetic reasons, ~~primarily landscaping~~ including but not limited to landscape lights, uplights, spotlights, strobe lights, string lights, etc.

Development has the same meaning stated in Section 34-2.

~~*Directly illuminated* means illuminated by one or more point sources of light directly visible to an observer on the beach, dune, or other sea turtle nesting habitat.~~

Directly visible means when glowing elements, lamps, globes, or reflectors of an artificial light source can be seen by an observer standing anywhere on the beach, dune, or other sea turtle nesting habitat.

Dune has the same meaning given it in Section 14-170.

Existing development means completed development having received official approval in the form of a Certificate of Compliance, final building permit inspection, or other final governmental approval ~~as of January 31, 1998~~.

FWC means the Florida Fish and Wildlife Conservation Commission or its successor.

Full cutoff means a lighting fixture constructed in such a manner that no light emitted by the fixture, either directly from the lamp or a diffusing element or indirectly by reflection or refraction from any part of the luminaire, is projected at or above 90° as determined by photometric test or certified by the fixture manufacturer.

Fully shielded means a lighting fixture constructed in such a manner that the glowing elements, lamps, globes, or reflectors of the fixture are completely covered by an opaque material to prevent them from being directly visible from the beach, dune, or other sea turtle nesting habitat. Any structural part of the light fixture providing this shielding must be permanently affixed.

Ground-level barrier means any vegetation, structure, or natural feature ~~or artificial structure~~ rising from the ground intended to prevent beachfront lighting from ~~shining~~ being directly or indirectly ~~onto~~ visible from the beach, dune, or other sea turtle nesting habitat.

Hatchling means any individual of a species of sea turtle, within or outside of a nest, that has recently hatched from an egg.

~~*Indirectly illuminated* means illuminated by one or more point sources of light not directly visible to an observer on the beach, dune, or other sea turtle nesting habitat.~~

Indirectly visible means light reflected from glowing elements, lamps, globes, or reflectors of an artificial light source that can be seen by an observer standing anywhere on the beach, dune, or other sea turtle nesting habitat without the light source being directly visible.

Long wavelength means a lamp or light source emitting light wavelengths of 560 nanometers or greater and absent wavelengths below 560 nanometers.

Low-profile lighting means a light fixture which places the low wattage source of light no higher than 48 inches above grade and is designed so that a point source of light ~~does not directly or indirectly illuminate sea turtle nesting habitat.~~ is not directly or indirectly visible from the beach, dune, or other sea turtle nesting habitat.

Mechanical beach cleaning has the same meaning given it in Section 14-170.

Nest means an area where sea turtle eggs have been naturally deposited or subsequently relocated by an FWC-authorized marine turtle permit holder.

Nesting season means from 9:00 p.m. until 7:00 a.m. during the period of May 1 through October 31 of each year.

New development means construction of new buildings or structures as well as renovation or remodeling of existing development, and includes the alteration of exterior lighting, including lighted signs~~, occurring after January 31, 1998~~.

Point source of light means a manmade source emanating light, including, but not limited to, LED, incandescent, tungsten-iodine (quartz), mercury vapor, fluorescent, metal halide, neon, halogen, high-pressure sodium and low-pressure sodium light sources, as well as torches, camp and bonfires.

Sea turtle means any marine-dwelling reptile, including all life stages from egg to adult, of the families Cheloniidae or Dermochelyidae found in Florida waters or using the beach as nesting habitat, including *Caretta caretta* (loggerhead), *Chelonia mydas* (green) and *Dermochelys coriacea* (leatherback), *Eretmochelys imbricata* (hawksbill), *Lepidochelys kempi* (Kemp's ridley). For the purposes of this division, sea turtle is synonymous with marine turtle.

Sea turtle nesting habitat means ~~the beach, any adjacent dunes or areas landward of the beach used by sea turtles to deposit sea turtle eggs.~~ all sandy beach and dunes immediately adjacent to the sandy beach and accessible to nesting female turtles.

Temporary lighting means any non-permanent light source that may be hand-held or portable including but not limited to tiki torches, lanterns, flashlights (including cell phone flashlights), candles, flash photography, fire-pits, bonfires, etc.

Tinted glass means any glass ~~treated to achieve an industry-approved, inside-to-outside light transmittance value of~~ modified via tinting, film or other material to reduce the inside to outside light transmittance value to 45 percent or less.

Sec. 14-73. Violations, enforcement and penalty.

(a) *Violations.*

(1) Failing in any respect to comply with the provisions of this division.

(2) A rebuttable presumption that there is a violation of this division exists when:

a. A shadow is created or cast by artificial lighting directly or indirectly illuminating an opaque object in sea turtle nesting habitat during the nesting season; or

b. The disorientation or mortality of a nesting sea turtle or sea turtle hatchling is caused by artificial lighting ~~directly or indirectly illuminating~~ that is directly or indirectly visible from the beach, dune, or other sea turtle nesting habitat during the nesting season.

(b) *Enforcement and penalty.* Violations of this division will be prosecuted in accordance with Chapter 2, Article VII. The County may take action against the property owner, occupant or person otherwise responsible for causing the violation. In addition to Code enforcement action, the County may pursue other legal means of obtaining compliance, including civil and criminal remedies, that are available by law.

Sec. 14-74. ~~Exemptions.~~Reserved.

~~*Administrative exemptions.* The administrator may authorize, in writing, any activity or use of lighting otherwise prohibited by this division for a specified location and period of time. The authorization must be for the minimum duration and amount of lighting from a point source of light.~~

Sec. 14-75. Lighting for existing development.

Existing development must ensure that ~~sea turtle nesting habitat is not directly or indirectly illuminated by artificial lighting originating from the existing development~~ artificial lighting originating from the existing development is not directly or indirectly visible from the beach, dune, or other sea turtle nesting habitat during the nesting season. Existing development must incorporate and follow the measures outlined in Section 14-79. ~~to reduce or eliminate interior light emanating from doors and windows visible from the beach, a dune, or other sea turtle nesting habitat.~~

Sec. 14-76. Lighting for new development.

New development must comply with the following requirements:

(a) Artificial lighting must conform to the general requirements of Section 14-75;

(b) A lighting plan must be submitted to the County for review prior to the earlier of building permit or development order issuance for all new development on the barrier islands identified in Appendix B, as follows:

(1) Seaward of the coastal construction control line, as defined in Section 6-333 (CCCL), a lighting plan is required for all new development.

(2) Landward of the CCCL, a lighting plan is required for all commercial and industrial development, and for all multi-story developments in multifamily zoning districts.

(3) The location, number, wattage, elevation, orientation, fixture cut sheets, and types of all proposed exterior artificial light sources, including landscape lighting, must be included on the lighting plan. A County approved lighting plan is required before a building permit will be issued and final inspections for a Certificate of Occupancy or Certificate of Compliance will be performed by the County.

~~(4) Tinted glass, or any window film applied to window glass that meets the definition for tinted glass in Section 14-72, must be installed on all windows and glass doors visible from the beach. The alternative selected to comply with this subsection must be identified on the building permit plans.~~

~~(5) Exterior light fixtures visible from the beach must meet all of the following criteria to be considered appropriately designed:~~

~~a. Completely shielded downlight-only fixtures or recessed fixtures having 25-watt yellow bug type bulbs and nonreflective interior surfaces are used. Other fixtures that have appropriate shields, louvers, or cutoff features may also be used, if they comply with Section 14-75. Mercury vapor and metal halide lighting is prohibited.~~

~~b. All fixtures must be mounted as low as possible through the use of low-mounted wall fixtures, low bollards, and ground level fixtures.~~

~~c. All exterior lighting must be installed so that the cone of light will fall substantially within the perimeter of the property. Through the use of shielding and limitations on intensity, artificial light traveling outward and upward producing a sky glow must be reduced to the greatest extent possible without unduly interfering with the purpose of the exterior lighting.~~

~~d. Lighting on ceiling fans placed on balconies or porches visible from the beach is prohibited.~~

~~e. Artificial lighting, including, but not limited to, uplighting, is not permitted seaward of the 1978 CCCL.~~

~~f. A colored or partially opaque lens must be installed over pool and spa lights.~~

~~(6) Parking lot lighting must use:~~

~~a. Poles no higher than 12 feet in height;~~

~~b. Shoebox-style fixtures containing high-pressure sodium or low-pressure sodium bulbs 150 watts or less; and~~

~~c. Opaque shields with a nonreflective black finish on the inside that completely surrounds each fixture and extends below each fixture at least 12 inches.~~

~~(7) Low profile artificial lighting is encouraged, such as step lighting or bollards with louvers and shields that are no taller than 48 inches with bulbs of 35 watts or less. Opaque shields must surround 180 degrees of each fixture to keep direct light off the beach.~~

(c) *Interior lighting*. All glass windows, walls, railings, and doors on the seaward and shore-perpendicular sides of any new construction must use tinted glass, or tinted film applied to glass, with an inside to outside light transmittance value of 45 percent or less.

(1) The method selected to comply with this subsection must be identified on the building permit plans.

(2) Prior to the issuance of a certificate of occupancy or certificate of compliance, manufacturer specification stickers will remain affixed to all glass windows, walls, railings, and doors on the seaward and shore-perpendicular sides of any new construction.

(3) The measures outlined in Sec. 14-79(b) to reduce the impacts of interior light should be used in addition to turtle glass.

(d) *Exterior lighting*. Exterior light fixtures must be long wavelength, downward directed, full cutoff, fully shielded and mounted as close to the ground or finished floor surface as possible. All lighting must not produce light that is directly or indirectly visible from the beach, dune, or other sea turtle nesting habitat.

(1) Lighting at egress points must be limited to the minimum number of fixtures necessary.

(2) Lighting of paths, walks and routes of building access must use low level fixtures such as step, paver, path, recessed wall or bollard lights. Bollard lights are not to exceed 42 inches in height and other low level fixtures must be mounted as close to the ground or finished floor surface as possible.

(3) Decorative exterior lighting may only be installed landward of buildings or other opaque structures.

(4) *Pool and spa lighting*. Lighting of pool facilities, swimming pools, splash pads, spas, ponds, and fountains must be long wavelength.

a. Underwater lighting must:

1. Be downward or horizontally directed only,

2. Emit only long wavelength light during the nesting season.

(5) *Parking area lighting*. All lighting of parking areas must be long wavelength, downward directed, full cutoff, and fully shielded.

a. Parking area lighting fixtures may consist of only the following:

1. Downward-directed fixtures, equipped with interior dark-colored, non-reflective baffles or louvers, mounted either with a wall mount, on walls or piles, facing away from the beach.

2. Bollard-type fixtures, which do not extend more than 42 inches above the adjacent floor or deck, measured from the bottom of fixture, equipped with downward-directed louvers that completely hide the light source, and externally shielded on the side facing the beach.

3. Pole-mounted lights, located only on the landward sides of buildings, mounted no higher than 12 feet above grade, and downward-directed.

b. Parking area lighting must be shielded from the beach via ground-level barriers. The shielding material must be provided parallel to the nesting beach for a distance no less than the length of the parking lot.

1. If shielded by vegetation, a minimum double staggered hedge row must be provided. Shrubs must be a minimum height of 36" tall at the time of installation and must be measured from the parking lot grade of the project site.

2. If shielded by structures or natural features, the vertical height must be no less than 36" above the finished grade of the parking lot.

3. These shielding methods must prevent artificial light sources, including but not limited to vehicular headlights, from producing light that is directly or indirectly visible from the beach, dune, or other sea turtle nesting habitat.

4. Detailed specifications for the method selected must be included in the permit.

~~(8)~~(7) *Signs*. Illuminated signs must conform to the requirements of this section. Reverse lighting signs are recommended, where the background is opaque, and the letters/logo are illuminated from within the sign. If exterior lighting is used to illuminate the sign, the lights must be downlights with shields and louvers to pinpoint the light. The use of neon, decorative LED strips, and other architectural lighting is not permitted.

~~(c)~~(8) Prior to the issuance of a Certificate of Occupancy (CO), the exterior lighting of new development must be inspected after dark by the County, with all exterior lighting turned on, to determine compliance with an approved lighting plan and this division.

(e) *Emergency lighting*. Emergency lights are not subject to the above standards if on a separate circuit and activated only during power outages or other situations in which emergency lighting is necessary for public safety.

(1) Self illuminated exit signs that are continuously on and are visible from the beach, dune, or other sea turtle nesting habitat must have red lettering.

Sec. 14-77. Publicly owned lighting.

Streetlights and lighting at parks and other publicly owned beach access areas are subject to the following requirements:

(a) ~~The beach must not be directly or indirectly illuminated by n~~Newly installed or replaced point sources of light must not be directly or indirectly visible from the beach, dune, or other sea turtle nesting habitat.

(b) Artificial lighting at parks or other public beach access points must conform to the provisions of Section 14-75 and 14-76.

Sec. 14-78. Additional regulations affecting sea turtle nesting habitat.

(a) *Fires.* Fires are prohibited on the beach ~~during the sea turtle nesting season~~.

(1) Fire pits, fire bowls, tiki torches, bonfires, lanterns and other decorative fires may not be directly or indirectly visible from the beach, dune, or other sea turtle nesting habitat during the sea turtle nesting season.

(b) *Temporary construction lighting*. Within sea turtle nesting season, temporary work zone lighting must be:

(1) Inclusive of all the standards of this Section, including using fixtures that are long wavelength, downward directed, full cutoff, and fully shielded so light is not directly or indirectly visible from the beach, dune, or other sea turtle nesting habitat, and

(2) Mounted less than eight feet above the adjacent floor or deck, measured from the bottom of fixture.

(c) *Other temporary lighting*. Handheld and other portable temporary lighting must not be directed toward or used in a manner that disturbs sea turtles or other coastal wildlife.

~~(b)~~(d) *Driving on the beach.* Driving on sea turtle nesting habitat, specifically including the beach, is prohibited during the nesting season, except as follows:

(1) *Research or patrol vehicles.* Only authorized permittees of the FWC, DEP officials, and law or Code enforcement officers conducting bona fide research or investigative patrols, may operate a motor vehicle on the beach or in sea turtle nesting habitat during the nesting season. No lights may be used on the vehicles during the nesting season unless they are covered by appropriate, red-colored filters. The vehicles must travel below the previous night's mean high tide line to avoid dunes, dune vegetation, sea turtle nests and bird nesting areas.

(2) *Mechanical beach raking.* The mechanical raking of the beach or wrack line is prohibited, except in accordance with Section 14-174. ~~During the nesting season, mechanical beach raking:~~

~~a. Must not occur before 9:00 a.m. or before completion of daily monitoring for turtle nesting activity by a FWC-authorized marine turtle permit holder, whichever occurs first;~~

~~b. Must not disturb any sea turtle or sea turtle nest; and~~

~~c. Must avoid all staked sea turtle nests by a minimum of ten feet.~~

(3) *Beach furniture and equipment transport.* During the nesting season, the transport of beach furniture and equipment~~:~~ can only be done in accordance with Section 14-173.

~~a. May not be set out in the morning until after a sea turtle monitor has inspected the beach in the area of the authorized activity to ensure any new sea turtle nests are identified and marked.~~

~~b. May not travel within ten feet of a sea turtle nest or dune vegetation.~~

(4) See Section 14-175 for other restrictions on vehicular traffic on the beach that apply before and after the nesting season.

~~(c)~~(e) *Parking.* Vehicle headlights in parking lots or areas on or adjacent to the beach must be screened utilizing ground-level barriers ~~to eliminate~~ so that artificial lighting ~~directly or indirectly illuminating sea turtle nesting habitat~~ is not directly or indirectly visible from the beach, dune, or other sea turtle nesting habitat.

(f) *Special events*. Special events proposed on or near the beach or dune, or where lighting from the special events will be directly or indirectly visible from the beach, dune, or other sea turtle nesting habitat, will require a permit from DEP and the County pursuant to LDC Section 14-176.

Sec. 14-79. Guidelines for mitigation and abatement of prohibited artificial lighting.

~~(a) Appropriate techniques to achieve lighting compliance include, but are not limited to:~~

~~(1) Fitting lights with hoods or shields.~~

~~(2) Utilizing recessed or down fixtures with low wattage bulbs.~~

~~(3) Screening light with vegetation or other ground-level barriers.~~

~~(4) Directing light away from sea turtle nesting habitat.~~

~~(5) Utilizing low-profile lighting.~~

~~(6) Turning off artificial light during the nesting season.~~

~~(7) Motion detectors set on the minimum duration.~~

~~(8) Lowering the light intensity of the lamps to 25-watt yellow bug lights.~~

~~(9) Spraying reflective surfaces within fixtures or globes on fixtures with a flat black grill or oven paint.~~

~~Although plastic sleeves for fluorescent bulbs may help to reduce the amount of artificial light to an acceptable level if the bulbs are of sufficiently low wattage, additional shielding is still needed as sea turtles are more sensitive to the wavelengths of fluorescent light.~~

~~(b) Opaque shields for lights covering an arc of at least 180 degrees and extending an appropriate distance below the bottom edge of the fixture on its seaward side may be installed so that the light source or any reflective surface of the light fixture is not visible from sea turtle nesting habitat.~~

(a) Reduce or eliminate the negative effects of existing exterior artificial lighting through the following measures:

(1) Reposition, modify or remove existing lighting fixtures so that the point source of light or any reflective surface of the light fixture is no longer directly or indirectly visible from the beach, dune, or other sea turtle nesting habitat.

(2) Replace fixtures having an exposed light source with fully shielded fixtures.

(3) Replace any light source, light bulb or lamp that is not long wavelength (e.g. incandescent, fluorescent, or high intensity lighting) with the lowest wattage long wavelength (e.g. amber, orange, or red LED under 560 nm) light source or lamp available for the specific application.

(4) Replace non-directional fixtures with directional fixtures that point down and away from the beach.

(5) Provide non-reflective shields for fixtures visible from the beach, dune, or other sea turtle nesting habitat and not practical to immediately be replaced. Beachside shields are to cover 270 degrees and extend below the bottom edge of the fixture on the seaward side so that the light source or any reflective surface of the light fixture is not visible from the beach, dune, or other sea turtle nesting habitat.

(6) Replace pole lamps with low-profile, low-level luminaries so that the light source or any reflective surface of the light fixture is not visible from the beach, dune, or other sea turtle nesting habitat.

(7) Plant or improve vegetation buffers between the light source and the beach to screen light from the beach.

(8) Construct a ground level barrier landward of the beach and frontal dune to shield light sources from the beach. Ground-level barriers are to be considered a last resort when no other remediation of the light source is feasible. Ground level barriers may be subject to state coastal construction control line regulations under section 161.053, Florida Statutes, and must not interfere with sea turtle nesting or hatchling emergence, or cause short- or long- term damage to the beach and dune system.

~~(c)~~(9) ~~Floodlights,~~ Landscape lights, up-lights, spotlights, and other decorative lighting (e.g. strobe lights, string lights, etc.) directly or indirectly visible from the beach, dune, or other sea turtle nesting habitat ~~should~~ must not be used during the nesting season. ~~The ideal alternatives within direct line-of-sight of the beach are completely shielded downlight-only fixtures or recessed fixtures, with any visible interior surfaces or baffles covered with a matt black nonreflective finish.~~

(10) Permanently remove or permanently disable any fixture which cannot be brought into compliance with the provisions of these standards.

~~(d) Appropriate techniques to eliminate interior lighting directly or indirectly illuminating the beach, include, but are not limited to, applying window tint film to windows, using tinted glass, moving light fixtures away from windows, closing blinds or curtains, and turning off unnecessary lights.~~

(b) Take the following measures to minimize interior light emanating from doors and windows within line-of-sight of the beach:

(1) Apply window tint or film that meets the light transmittance standards for tinted glass.

(2) Rearrange lamps and other moveable fixtures away from windows.

(3) Use opaque shades or room darkening window treatments (e.g., blinds, curtains, screens) to shield interior lights from the beach.

(4) Turn off unnecessary lights.

Secs. 14-80—14-110. Reserved.

APPENDIX B

AMENDMENT SUMMARY

Issue:	Appendix B includes beaches that are no longer in unincorporated Lee County.
Solution:	Remove those beaches that are no longer in unincorporated Lee County jurisdiction.
Outcome:	Update locations where code is applicable.

Appendix B GULF OF MEXICO BEACH DESCRIPTION[1]

GULF OF MEXICO BEACH DESCRIPTION

GASPARILLA ISLAND.

Those beaches westerly from the Lee County Line on the north to a point being the southernmost point of the island bearing due south provided, however, that said northernmost and southernmost points are subject to change as a result of natural erosion and accretion occurring to the beaches over time.

CAYO COSTA ISLAND (LA COSTA)

Those beaches westerly from that point being the northernmost point of the island bearing due north to that point being the southernmost point of the island bearing due south; provided, however, that said northernmost and southernmost points are subject to change as a result of natural erosion and accretion occurring to the beaches over time.

THOSE UNNAMED ISLANDS IN THE GULF OF MEXICO OFF THE WESTERN COAST OF CAYO COSTA ISLAND.

All beaches of each island.

[1]Editor's note(s)—Printed herein is Appendix B to the Land Development Code. Amendments are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original. Obvious misspellings and punctuation errors have been corrected without notation. For stylistic purposes, a uniform system of headings, catchlines and expression of numbers in text has been used. Additions made for clarity are indicated by brackets.

NORTH CAPTIVA ISLAND.

Those beaches westerly from that point being the northernmost point of the island bearing due north to that point being the southernmost point of the island bearing due south; provided, however, that said northernmost and southernmost points are subject to change as a result of natural erosion and accretion occurring to the beaches over time.

CAPTIVA ISLAND.

Those beaches westerly from that point being the northernmost point of the island bearing due north to that point being the southernmost point of the island bearing due south; provided, however, that said northernmost and southernmost points are subject to change as a result of natural erosion and accretion occurring to the beaches over time.

~~ESTERO ISLAND.~~

~~Those beaches westerly from that point being the northernmost point of the island bearing due north to that point being the southernmost point of the island bearing due south; provided, however, that said northernmost and southernmost points are subject to change as a result of natural erosion and accretion occurring to the beaches over time.~~

~~LOVER'S KEY GROUP OF ISLANDS INCLUDING BLACK ISLAND.~~

~~Those beaches westerly from that point beginning at the northernmost point bearing due north of the western most lands of the island group fronting on the Gulf of Mexico to a point being the southernmost point of the island group bearing due south; provided, however, that said northernmost and southernmost points are subject to change as a result of natural erosion and accretion occurring to the beaches over time.~~

~~BIG HICKORY ISLAND.~~

~~Those beaches westerly from that point being the northernmost point of the island bearing due north to that point of the island in Big Hickory Pass being the southernmost point bearing due south; provided, however, that said northernmost and southernmost points are subject to change as a result of natural erosion and accretion occurring to the beaches over time.~~

~~LITTLE HICKORY ISLAND (BONITA BEACH).~~

~~Those beaches westerly from that point being the northernmost point of the island bearing due north to that point being the Lee County Line on the south; provided, however, that the said northernmost and southernmost points are subject to change as a result of natural erosion and accretion occurring to the beaches over time.~~

GROUP 3, ITEM B.4
BEACH AND DUNE MANAGEMENT

AMENDMENT SUMMARY

Issue:	Some language in this division conflicted with the language used in the Sea Turtle Conservation division. Dune vegetation was installed based on common names, which can reference multiple species.
Solution:	Clean up this division to maintain consistency with the Sea Turtle Conservation division. Reformat the list of native dune vegetation species to include scientific names.
Outcome:	The dune protection measure are clear and easy to understand.

Chapter 14 - ENVIRONMENT AND NATURAL RESOURCES

ARTICLE II. - WILDLIFE AND HABITAT PROTECTION

DIVISION 5. BEACH AND DUNE MANAGEMENT

Sec. 14-170. Definitions.

When used in this division, the following words, terms and phrases have the meanings set forth in this section, except where their context clearly indicates a different meaning:

Beach means the area of sand along the Gulf of Mexico that extends landward from the mean low water line to the place where there is a marked change in material or physiographic form, usually the effective limit of storm waves. Beaches include dunes and dune vegetation.

Beach furniture or equipment means any manmade apparatus or paraphernalia designed or manufactured for use or actually used on the beach or in the adjacent tidal waters. Examples include chairs, tables, cabanas, lounges, hammocks, umbrellas, sailing vessels, personal watercraft, concession storage units, canoes, kayaks, paddle vessels, sailboards, surfboards, fishing gear, sporting equipment, floatables, tents, and bicycles.

Coastal Construction Control Line (CCCL) has the same meaning given it in Section 6-333.

Dune means a mound, bluff, ridge, or emergent zone of loose sediment, usually sand-sized sediment, lying upland of the beach and deposited by any natural or artificial mechanism, which may be bare or covered with vegetation, and is subject to fluctuations in configuration and location (see F.S. § 161.54; F.A.C. 62B-33.002). It encompasses those ecological zones that, when left undisturbed, will support dune vegetation. As to areas restored or renourished pursuant to a permit issued by the County or State, it encompasses the area specified in the permit as a dune or any area specified as suitable for establishment of dune vegetation.

Dune vegetation means pioneer species of native vegetation which, if left undisturbed by manmade forces, will begin to grow on a dune, including species such as: ~~bitter panicum, coastal panic grass, crowfoot grass, saltmeadow cordgrass, sandbur, seacoast bluestem, sea oats, seashore dropseed, seashore paspalum, seashore saltgrass, stiffleaf eustachys, beach bean, blanket flower, dune sunflower, fiddle-leaf morning glory, partridge pea, railroad vine, sea purslane, beach creeper, nicker bean, coin vine, inkberry, lantana, saw palmetto, seashore elder, baycedar, and seagrape.~~

Dune Vegetation

Common Name	*Scientific Name*	*Common Name*	*Scientific Name*
Beach bean	Canavalia maritima	Bitter panicum	Panicum amarum

Florida rosemary	Ceratiola ericoides	Coastal panic grass	Panicum amarum var. amarulum
Partridge pea	Chamaecrista fasciculata	Inkberry	Scaevola plumieri
Seagrape	Coccoloba uvifera	Seacoast bluestem	Schizachyrium littorale
Seashore saltgrass	Distichlis spicata	Saw palmetto	Serenoa repens
Beach creeper	Ernodea littoralis	Shoreline sea purslane	Sesuvium portulacastrum
Blanket flower	Gaillardia pulchella	Saltmeadow cordgrass	Sporobolus pumilus
Dune sunflower	Helianthus debilis	Seashore dropseed	Sporobolus virginicus
Railroad vine	Ipomoea pes-caprae	Bay cedar	Suriana maritima
Seashore elder	Iva imbricata	Sea oats	Uniola paniculata
Gulfhairawn muhly	Muhlenbergia filipes		

Mechanical beach raking means the cleaning of the beach seaward of the dune and vegetation line of trash and other debris on or near the surface by use of a rake or other similar porous device that penetrates no more than two inches below existing ambient grade and results in no removal of in situ sand.

Wrack means the natural organic marine material cast on the shore, including seaweed and other vegetative and animal debris, but excluding manmade material.

Sec. 14-171. Purpose and intent.

The purpose of this division is to encourage a steward-like attitude toward one of the County's most valuable assets, the beach. It is the intent of this division to preserve and improve the condition of the beach asset as a place for recreation, solitude, and preservation of beach vegetation and marine wildlife. This division establishes minimum standards to safeguard the beach.

Sec. 14-172. Destruction or diminishment of dune or beach system.

Staff note: The installation of irrigation in the dune systems is already prohibited under 14-172(a)(3) and 14-178(a)(4). Listing it specifically in this section will clarify this for property owners.

(a) No person may conduct or allow any of the following activities on the beach, upon a dune, or in the water adjacent to the beach, unless otherwise specifically permitted in accordance with Subsection (b) of this section.

(1) Harass, molest, or disturb wildlife;

(2) Plant vegetation other than native dune vegetation;

(3) Install irrigation, except for temporary irrigation for restoration planting as required in Section 14-178;

~~(3)~~(4) Destroy or harm a dune or mow or remove native dune vegetation;

~~(4)~~(5) Maintain a dump of, or discard or leave litter, garbage, trash or refuse, vegetative clippings, or debris;

~~(5)~~(6) Deposit and leave human or animal waste;

~~(6)~~(7) Destroy or grossly interfere with the natural wrack line by grooming or nonselective raking except as authorized in Section 14-174;

~~(7)~~(8) Operate any air-powered or any engine-powered nonwatercraft vehicle, machine, or implement, including any battery- or electrically-powered vehicle, machine, or implement, except for a wheelchair or approved conveyance for a person with a disability which is actually being used by the person with a disability or as authorized in Section 14-175;

~~(8)~~(9) Excavate, mine, and remove, or haul sand or soil from the beach or dune except in emergency situations as permitted by DEP;

~~(9)~~(10) Detonate any explosive devices, including fireworks;

~~(10)~~(11) Light or maintain any open fire on the beach;

~~(11)~~(12) Temporarily reside, camp, or sleep overnight;

~~(12)~~(13) Deposit/install rocks, concrete, or other shoreline stabilization materials without a permit from DEP and the County;

~~(13)~~(14) Deposit/add sand to the beach and dune system without a permit from DEP. All fill material will be sand that is similar to the existing beach sand in both coloration and grain size and be free of debris, rocks, clay, or other foreign matter;~~ or~~

(15) Deposit/apply water from adjacent or upland irrigation systems; or

~~(14)~~(16) Conduct any commercial activities not explicitly authorized by this Code or by other County ordinances.

(b) Permits may be issued by the County for activities prohibited under Subsection (a) of this section, which the Director finds are:

(1) Necessary for reasonable accommodation of persons with disabilities;

(2) Adjunct to a lawfully existing activity;

(3) For the conduct of a civic or educational activity; for the conduct of scientific research; or

(4) For any purpose otherwise necessary to protect or to promote the public welfare.

To the extent that a permit is issued for any of the above activities, the standards and procedures for issuance will be governed by this Code.

Sec. 14-173. Beach furniture and equipment.

(a) All beach furniture and equipment must be set landward of the mean high water line and at least ten feet from a sea turtle nest or dune vegetation.

(b) Trash containers may only be located adjacent to beach access points and may be left in place at all times. Trash containers must be kept secured from wildlife and emptied nightly.

~~(a)~~(c) From May 1 through October 31, all beach furniture and equipment must be removed from the beach as follows:

(1) All beach furniture and equipment must be removed daily from the beach to behind the 1978 CCCL between the hours of 9:00 p.m. until 8:00 a.m.

(2) Beach furniture and equipment that is removed from the beach must be safely stacked in areas no larger than ten feet by ten feet and each stack must be at least 50 feet removed or apart from the next stack.

~~(b) Trash containers are not included in the definition of beach furniture and equipment and may be left in place on the beach at all times.~~

~~(c) All beach furniture and equipment (such as chairs, umbrellas, cabanas, and rental podiums) must be set landward of the mean high water line and at least ten feet from a sea turtle nest or dune vegetation.~~

(d) Vendors or property owners using a vehicle to transport furniture and equipment to and from the beach are required to follow these additional restrictions:

(1) Equipment may not be set out in the morning ~~before 8:00 a.m. or~~ until after completion of daily monitoring by a FWC-authorized marine turtle permit holder examining the beach in the area of the authorized activity to ensure any new sea turtle nests are identified and marked~~, whichever occurs first~~.

(2) Transporting vehicles may not travel within ten feet of a sea turtle nest or dune vegetation.

(3) The vehicle, trailer, and equipment may not exceed a maximum ground-to-tire pressure of ten PSI (pounds per square inch) using the formula in Section 14-174(a~~)(3)d.1~~(4)a. Beach furniture and equipment may be placed on a vehicle or on a wheeled trailer but may not be dragged or pushed by a vehicle. After setup, the vehicle and trailer must be removed from the beach.

Sec. 14-174. Beach raking and wrack line policy.

(a) Under normal circumstances, the raking of the beach or wrack line is prohibited. The only exceptions require an appropriate DEP permit based on a determination that existing health or safety issues require action in accordance with the following:

(1) A larger than normal wrack line resulting from extraordinary circumstances may be raked if the wrack line is at least ten feet landward of the normal high tide line.

(2) If health or safety issues are present, such as a large fish kill or a red tide event, the wrack line may be raked up to ten feet landward of the normal high tide line.

(3) If this occurs during sea turtle season (May 1 through October 31), the raking must be in compliance with the following conditions:

a. Mechanical beach raking activities must ~~be confined to daylight hours and may~~ not begin before ~~9:00 a.m. or~~ completion of daily monitoring for turtle nesting activity by a FWC-authorized marine turtle permit holder~~, whichever occurs first~~.

b. The permittee is responsible for ensuring that a daily sea turtle nest survey, protection, and monitoring program is conducted throughout the permitted beach raking area. Surveys and associated conservation measures must be completed after sunrise and prior to the commencement of any mechanical beach raking. The sea turtle survey, protection, and monitoring program may be conducted only by individuals possessing appropriate expertise in the protocol being followed and a valid F.A.C. Rule 68-E Permit issued by the FWC. To identify those individuals available to conduct marine turtle nesting surveys within the permitted area, please contact the FWC, Bureau of Protected Species Management.

c. All turtle nests will be marked with wooden stakes, flagging tape, and an FWC sea turtle nest sign. No mechanical raking equipment is allowed inside of the staked area. All equipment operators must be briefed on the types of marking utilized and must be able to easily contact the individual responsible for the nest survey to verify any questionable areas.

~~d.~~(4) Mechanical beach raking equipment must meet the following standards:

~~1.~~a. The vehicle and equipment may not exceed a maximum ground-to-tire pressure of ten PSI (pounds per square inch) using the following formula:

PSI = vehicle weight in pounds (includes person and equipment) divided by the footprint in square inches.

Example: 404 lbs. (ATV weight), plus 200 (person plus equipment), divided by 198 square inches (ATV with a six-inch by 8.25-inch footprint times four tires) equals 3.1 PSI.

~~2.~~b. Raking must be accomplished with a pronged rake that limits penetration into the surface of the beach to a maximum of two inches. Box blades, front- or rear-mounted blades, or other sand sifting/filtering vehicles are not allowed.

~~3.~~c. Operators of mechanical beach raking equipment must avoid all native salt-tolerant dune vegetation and staked sea turtle nests by a minimum of ten feet.

~~4.~~d. Burial or storage of any debris (biotic or abiotic) collected is prohibited seaward of any frontal dune, vegetation line, or armoring structure. Removal of all accumulated material from the beach

must occur immediately after raking has been performed in an area. Prior to removing the debris, and to the greatest extent possible, beach compatible sand must be separated from the debris and kept on site.

~~5.~~e. Mechanical beach raking equipment must travel seaward of the mean high water line with the rake disengaged when driving on the beach from one raking area to another, and may not disturb any dune or dune vegetation.

(b) The use of box blades on the beach or dune is prohibited. In an emergency or storm event the use of a box blade may be allowed with the approval of DEP.

Sec. 14-175. Prohibition of vehicular traffic on the beach.

The operation of any engine-powered vehicle, machine, or implement, including any electrically-powered vehicle, machine, or implement, on the beach, dune, or sea turtle nesting habitat, as defined in Section 14-72, is prohibited except for the following:

(a) *Research or patrol vehicles.* Only authorized permittees of the FWC, DEP officials, and law or Code enforcement officers, EMS and firefighters, scientific monitoring conducting bona fide research, or investigative patrols, may operate a motor vehicle on the beach or in sea turtle nesting habitat during the nesting season. No lights may be used on these vehicles during the nesting season unless they are covered by appropriate, red-colored filters. These vehicles must travel below the previous night's mean high tide line to avoid dunes, dune vegetation, sea turtle nests and bird nesting areas.

(b) *Mechanical beach raking.* Vehicles operating under permits issued pursuant to Section 14-174.

(c) *Beach furniture and equipment transport.* Vehicles operating ~~under permits issued~~ pursuant to Section 14-173.

(d) *Wheelchairs.* A wheelchair, or other conveyance with prior approval from the County, for a person with a disability, which is actually being used by the person with a disability. Disabled access to the beach is encouraged through use of wheelchairs equipped with special beach friendly tires that are available for rent or purchase.

(e) *Maximum tire pressure.* Any vehicle authorized to drive on the beach may not exceed a ground-to-tire pressure of ten PSI as computed in accordance with Section 14-174(a)(4)a, except for wheelchairs permitted in accordance with Subsection (d) of this section.

(f) *Sea turtle nesting season.* See Section 14-78 for additional restrictions during the sea turtle nesting season.

State law reference(s)—Vehicular traffic on coastal beaches, F.S. § 161.58.

Sec. 14-176. Special events on the beach.

(a) Special events on the beach are temporary, short-term activities, which may include the construction of temporary structures; temporary excavation, operation, transportation, or storage of equipment or materials; or nighttime lighting that is visible seaward of the CCCL. Generally, activities within this category include but are not limited to, sporting events (e.g., volleyball, personal watercraft races), festivals, competitions, organized parties (e.g., weddings), promotional activities, concerts, film events, ~~balloon releases,~~ and gatherings under tents.

(b) Due to the potential for adverse impacts, certain special event activities may not be compatible with sea turtle nesting areas. In some cases, this is due to the type of activity, where permit conditions alone cannot provide adequate protection. In other cases, the density of sea turtle nesting prevents certain activities from being conducted safely.

(c) Special events proposed on or near the beach or dune, or where lighting from the special events will ~~directly or indirectly illuminate~~ be directly or indirectly visible from the beach, dune, or other sea turtle nesting habitat, will require a permit from DEP and the County. The permit may contain special conditions for the protection of the beach, dune, and sea turtles.

(1) Site-specific conditions related to identifying, designating, and protecting existing vegetation and sea turtle nests in accordance with this Code may be imposed. These conditions are in addition to the following standard permit conditions for all special events on the beach:

a. During the sea turtle nesting season (May 1 through October 31), special event activities including construction must be confined to daylight hours and may not begin before ~~8:00 a.m. However,~~ the daily monitoring for turtle nesting activity by a FWC-authorized marine turtle permit holder ~~must be~~ is completed ~~before the special event activity may commence~~.

b. All turtle nests will be marked with wooden stakes, flagging tape, and an FWC sea turtle nest sign. No activities (including the placement of equipment or the storage of materials) are allowed within 30 feet of a marked nest and ten feet from dune vegetation. The permittee must ensure that all personnel are briefed on the types of marking utilized and be able to easily contact the individual responsible for the nest survey to verify any questionable areas.

(2) A violation of these conditions will automatically invalidate the permit. Periodic compliance inspections will be conducted to ensure compliance with the permit conditions and this Code.

(3) Release of balloons and sky lanterns is prohibited, except as permitted by F.S. § ~~372.995~~379.233.

Sec. 14-177. Enforcement.

(a) The Director is authorized to pursue any one, or a combination of the enforcement mechanisms provided in this Code (for example, Section 1-5, or Chapter 2, Article V) for any violation of this article.

(b) The successful replacement of the illegally removed dune vegetation and restoration of the subject area may be considered when determining whether the violator has eliminated or significantly decreased the ability of the dune system to recover or perform those functions for which it is being protected.

Sec. 14-178. Restoration standards for dune vegetation alteration violations.

(a) Upon written agreement between the Director and the violator in accordance with Section 2-2, or if they cannot agree, then, upon action by the court or Hearing Examiner, a restoration plan may be ordered using the standards in this section. The restoration plan must require replacement of the same species, or any species approved under the written agreement or order.

(b) The restoration plan must include the following minimum standards:

(1) Restoration plantings for vegetation other than trees must be nursery grown, containerized, and planted at a minimum density of no less than 1½ feet on center. The number of replacement plantings will be computed by the square footage of the area destroyed. The replacement stock must be a minimum of a two-inch size container. Higher density plantings may be required at the discretion of the Director based upon density and size of the vegetation on the site prior to the violation. If it is not reasonably possible to determine the density or species of the vegetation in the area where the violation occurred, then the density and the species will be deemed to be the same as those located on similar properties. The Director has the discretion to allow a deviation from the above-specified ratio. When a deviation is requested, the total size must equal or exceed that specified in the above standards.

(2) Dune vegetation alteration violations caused by raking, excavation, or clearing must be restored to natural ground elevation and soil conditions prior to commencement of replanting.

(3) Replacement plantings must have a guaranteed minimum of 80 percent survivability for a period of no less than five years; however, success will be evaluated on an annual basis.

(4) Only temporary aboveground irrigation may be installed and must be removed no later than one year from the date of planting. Temporary irrigation must be turned off within 50 feet of a sea turtle nest.

(5) The plan must specify that, within 90 days of restoration completion, a written report, prepared by or on behalf of the violator, must be submitted to the County. This report must include the date of completion, copies of the nursery receipts, a drawing showing the locations of the plantings, and color photographs of the planting areas from fixed reference points.

(6) The restoration plan must include a maintenance provision of no less than five years for the control of invasive exotic vegetation, with annual monitoring and maintenance of the restored area to include the following:

a. Removal of all exotic and nuisance vegetation in the area without disturbing the existing dune vegetation.

b. Replacement of dead vegetation in order to ensure at least 90 percent coverage at the end of the five-year period. Replacement vegetation must be nursery grown and of the same species and at least the same size as those originally planted.

c. Submittal of an annual monitoring report to the Director for five years following the completion of the restoration describing the conditions of the restored site. The monitoring report must include mortality estimates, causes for mortality (if known), growth, invasive exotic vegetation control measures taken, and any other factors that indicate the functional health of the restored area.

d. The monitoring report must be submitted on or before each anniversary date of the effective date of the restoration plan. Failure to submit the report in a timely manner constitutes a violation of this Code.

e. To verify the success of the mitigation efforts and the accuracy of the monitoring reports, the Director may periodically inspect the restoration.

Secs. 14-179—14-200. Reserved.

GROUP 3, ITEM B.5
PLANT MATERIAL STANDARDS

AMENDMENT SUMMARY

Issue: Several typos in the scientific names of the plants and outdated list of plants. Repeated code violations of properties mowing the required plantings in detention areas.
Solution: Corrects typographical errors and updates the species list of invasive exotics.
Outcome: Clarifies and updates the list of invasive plants and detention area maintenance requirements.

Chapter 10 DEVELOPMENT STANDARDS

ARTICLE III.DESIGN STANDARDS AND REQUIREMENTS

DIVISION 6. OPEN SPACE, BUFFERING AND LANDSCAPING

Sec. 10-420. Plant material standards.

10-420(a) through (g) remain unchanged

(h) *Invasive exotics.* The following highly invasive exotic plants may not be planted, (i.e., are prohibited) and must be removed from the development area. Methods to remove and control invasive exotic plants must be included on the development order plans. A statement must also be included on the development order that the development area will be maintained free from invasive exotic plants in perpetuity. For the purposes of this subsection, invasive exotic plants include:

Prohibited Invasive Exotics

Common Name	*Scientific Name*	*Common Name*	*Scientific Name*
Rosary pea	Abrus precatorius	Lead tree	Leucaena leucocephala
Earleaf acacia	Acacia auriculiformis	Japanese Climbing fern	Lygodium japonicum
Woman's tongue	Albizia lebbeck	Old World climbing fern	Lygodium microphyllum
Bishopwood	Bischofia javanica	Melaleuca, paper tree	Melaleuca quinquenervia
Australian pines	All Casuarina species	Downy rose myrtle	Rhodomyrtus ~~tomentosus~~ tomentosa
Carrotwood	~~Cupianopsis~~ Cupaniopsis anacardioides	Chinese tallow	Sapium sebiferum
Dodder	Cuscuta spp.	Beach naupaka	Scaevola taccada
Rosewood	Dalbergia sissoo	Brazilian pepper, Florida holly	Schinus terebinthifolius
Winged yam	Dioscorea alata	Tropical soda apple	Solanum viarum
Air potato	Dioscorea ~~alata~~ bulbifera	Java plum	Syzygium cumini
Murray red gum	Eucalyptus camaldulensis	Rose apple	Syzygium jambos
Weeping fig	Ficus benjamina	Cork tree	Thespesia populnea
Cuban laurel fig	Ficus microcarpa	Wedelia	Wedelia trilobite
Cogongrass	Imperata cylindrica	Beach vitex	Vitex rotundifolia

(i) *Grasses in lieu of sod or seeding.* If dry detention areas are planted with native clump grasses in lieu of sod or seeding, then the plants must be a minimum one-gallon container size planted three-foot on center. Maintenance of the planted dry detention areas includes removal of exotic vegetation, but mowing of native clump grasses is not permitted.

(j) remains unchanged

GROUP 3, ITEM C.1
HEARING EXAMINER POWERS AND DUTIES

AMENDMENT SUMMARY

Issue: The LDC provides the Hearing Examiner final-decision-making authority on certain amendments to planned developments, as adopted by County Ordinance 22-11 on May 17, 2022. Per the codified language, the Hearing Examiner does not have final-decision-making authority for matters that affect intensity, with limited use-specific exceptions. Intensity is defined by Land Development Code Section 34-2 as "a measurement of the degree of customarily nonresidential uses based on use, size, impact, bulk, shape, height, coverage, sewage generation, water demand, traffic generation or floor area ratios."

The Director of Community Development has similar authority to grant administrative amendments to planned developments, in that the administrative amendments do not increase height, density or intensity of the development. In the interest of time, the Hearing Examiner's final decision-making authority through the public hearing process is proposed to be expanded with respect to intensity to consider additional elements of intensity that do not increase non-residential floor areas or traffic generation originally permitted by the planned development approval. For example, a deviation from the maximum sign height to enhance visibility along a project corridor in an existing planned development is, by definition, an increase in intensity and requires Board approval due to the broad definition of intensity in the LDC.

Solution: Expand the Hearing Examiner's decision-making authority to capture additional elements of intensity.

Outcome: Reduces decision rendering timeframe for certain public hearing amendment requests as intended by Ordinance 22-11.

Chapter 34 – ZONING

ARTICLE II. – ADMINISTRATION

DIVISION 4. – HEARING EXAMINER

Sec. 34-145. Functions and authority.

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

Subsections (a) through (c) remain unchanged.

(d) *Zoning matters.*

(1) *Authority.*

a. The Hearing Examiner will hear and decide applications for conventional rezoning, amendments to approved planned developments pursuant to Subsection (d)(1)e of this section, and, notwithstanding Section 34-1038(b), amendments to planned unit developments that are not subject to separate ordinance.

b. The Hearing Examiner serves in an advisory capacity to the Board on new planned development zoning requests, amendments to planned developments exceeding the scope of amendments permitted by Subsection (d)(1)e.3 of this section, amendments to approved MEPDs, and amendments to planned unit developments approved by separate ordinance.

c. The Hearing Examiner may not recommend approval of a rezoning that is more expansive than the request published in the newspaper. The Hearing Examiner may recommend approval of a zoning district that is more restrictive than the published request.

d. The Hearing Examiner may impose conditions of approval on requests to amend planned developments where the Hearing Examiner retains final decision-making authority. The Hearing Examiner may recommend conditions of approval on requests for new planned developments or amendments to existing planned developments subject to Board approval.

e. The Hearing Examiner has the final decision-making authority on the following matters:

1. Board-initiated applications to rezone County-owned property to the Environmentally Critical (EC) District.

2. Applications for conventional rezoning.

3. Applications for amendments to planned developments when the request is limited to:

i. Amendments to the master concept plan, schedule of uses, or property development regulations that do not ~~affect~~increase the maximum density or non-residential floor area ~~or intensity permitted~~ in the planned development, except as provided in subsection vi below;

ii. Requests for consumption on premises;

iii. Requests for wireless telecommunication facilities;

iv. Requests for an increase in the maximum number of fuel pumps in conjunction with a convenience food and beverage store or automobile service station provided that the use is already approved in the planned development;

v. Changes to conditions and deviations; or

vi. Requests to establish or increase density within the Mixed Use Overlay.~~; and~~

4. Notwithstanding Section 34-1038(b), amendments to planned unit developments that are not subject to separate ordinance.

5. An applicant or agent applying for a conventional rezoning or an amendment to a planned development in which the Hearing Examiner has the final decision-making authority may request a public hearing before the Board of County Commissioners in accordance with Section 34-83(a)(1). Such a request must be made prior to the ~~conclusion of the public hearing before~~ issuance of a final decision by the Hearing Examiner.

Remainder of section remains unchanged.

GROUP 3, ITEM C.2
RIGHT TO FARM ACT (FISH FARM REVERSION)

Chapter 34 – ZONING

ARTICLE VI. – DISTRICT REGULATIONS

DIVISION 2. – AGRICULTURAL DISTRICTS

Sec. 34-653. Use regulation table.

Staff note: Ordinance 19-03 amended the Use Regulations Table in section 34-653 to require a special exception for the keeping, raising or breeding of marine life which requires the storage of brackish or saline water. Prior to this amendment, the LDC only required a special exception for this use if such use took place in "man-made ponds." The Right to Farm Act, as amended, preempts any regulation affecting a bona fide agricultural use enacted after June 16, 2000, making the amendments adopted by Ordinance 19-03 null and void. This section has been amended to reflect this preemption.

Use regulations for agricultural districts are as follows:

TABLE 34-653. USE REGULATIONS FOR AGRICULTURAL DISTRICTS

		Special Notes or Regulations	AG-1	AG-2	AG-3
Animals, reptiles, marine life:					
	Animals (excluding exotic species)	Section 34-1291 et seq.	P	P	P
	Animal clinic (df) or animal kennel (df)	Section 34-1321 et seq.	EO/SE	EO/SE	EO/SE
	Keeping, raising or breeding of domestic tropical birds (df) for commercial purposes	Note (12), Section 34-1291 et seq.	SE	SE	SE
	Keeping, raising or breeding of American alligators, venomous reptiles or Class II animals (df)	Section 34-1291 et seq.	SE	SE	SE
	Keeping, raising or breeding of marine life which requires the storage of brackish or saline water	Section 34-1291 et seq.	~~SE~~ P	~~SE~~ P	~~SE~~ P

GROUP 3, ITEM C.3

OFF-STREET PARKING REQUIREMENTS FOR RESIDENTIAL COMMUNITIES WITH A GOLF COURSE

Chapter 34 – ZONING

ARTICLE VII. – SUPPLEMENTARY DISTRICT REGULATIONS

DIVISION 26. – PARKING

Sec. 34-2020. Required parking spaces.

Staff note: The required parking spaces for residential uses do not currently contemplate a parking standard for golf courses that function as amenities to residential communities. Staff has typically relied upon the parking requirements for non-residential golf courses to establish parking requirements for golf courses within amenity areas of residential communities. Relying on non-residential parking standards requires parking for each individual use within an amenity to be calculated individually, which may require parking beyond what operational needs dictate due to a residential golf course's function as part of a larger amenity area that is typically not open to the public. Staff proposes a revision to the LDC to clarify the parking requirements for clubhouses and ancillary uses within a residential community to better reflect how these amenities function.

All uses are required to provide off-street parking based on the single-use development requirement unless the use is located in a development that qualifies as a multiple-use development, in which case, the minimum required spaces for multiple-use developments may be used. Use of the multiple-use development minimum parking regulations is optional. Parking for uses not specifically mentioned in this section must meet the minimum parking requirement for the use most similar to that being requested.

(a) *Residential uses.* Residential uses permitted under this chapter are subject to the following minimum requirements:

Table 34-2020(a). Required Parking Spaces for Residential Uses

Use		*Special Notes or Regulations*	*Minimum Required Spaces for Single-Use Development*	*Minimum Required Spaces for Multiple-Use Development*
1.	Single-family, duplex, two-family attached and mobile home units		2 spaces per unit	—
2.	Townhouses	Note (1)	2 spaces per unit	—
3.	Multiple-family and timeshare units	Notes (1) & (3)	2 spaces per unit	—
4.	Assisted living facilities	Note (2), Sections 34-1414(c) et seq. & 34-1494 et seq.	0.54 spaces per unit	0.41 spaces per unit
5.	Continuing care facilities	Note (2), Sections 34-1414(c) et seq. & 34-1494 et seq.	1.12 spaces per unit	1 space per unit
6.	Independent (self-care) living facilities, including group	Note (2), Sections 34-1414(c) et seq. & 34-1494 et seq.	1 space per unit	0.59 spaces per unit

	quarters, health care (Groups I & II), social services (Groups III & IV) and other similar uses			
7.	Clubhouse and ancillary uses within a residential community ~~without a golf course~~	Notes (4) & (5)	4 spaces per 1,000 square feet of total floor area	3.5 spaces per 1,000 square feet of total floor area

Notes:

(1) In addition to the spaces required, additional parking spaces equal to ten percent of the total required must be provided to accommodate guest parking in a common parking lot.

(2) Where the living units are maintained under single management and the residents are not capable or permitted to own or operate private vehicles on the same premises, the Director may authorize up to a 75 percent reduction in required parking spaces if sufficient parking is provided for employees and visitors.

(3) If vehicles back directly onto an internal roadway or accessway, the driveway must be designed so that:

1. The driveway connects to a private internal local road or accessway with a design and posted speed limit of 25 miles per hour, or less;
2. The visual clear zone sight distance (considering vehicles that may be parked nearby) is a minimum of 200 feet and in conformance with the visibility triangle criteria of Section 34-3131;
3. Traffic calming devices are provided per Lee County AC-11-14; and
4. The length of the driveway, as measured from the garage structure or the end of the stacked parking space farthest from the street or accessway must be a minimum of 22 feet to the edge of a private street right-of-way or easement line or 27 feet to the edge of pavement of an accessway. However, this section is not to be interpreted to allow buildings or structures closer to a street right-of-way or easement than permitted by Section 34-2192.

(4) May include administrative offices or other ancillary uses to the clubhouse such as a gym and/or meeting room.

(5) Where a residential community includes a golf course, parking for a clubhouse with food and beverage service, limited or a restaurant will be six spaces per hole or 12.5 spaces per 1,000 square feet of restaurant whichever is greater.

GROUP 3, ITEM C.4
POST-DISASTER ORDINANCE CROSS-REFERENCE

Chapter 34 – ZONING

ARTICLE II. – ADMINISTRATION

DIVISION 4. – HEARING EXAMINER

Sec. 34-141. Office established.

Staff note: Remove reference to the Post-Disaster Recovery Ordinance (Ordinance 07-20), which was repealed by the Board of County Commissioners via Ordinance 24-08.

The Office of Hearing Examiner is hereby created and established, in accordance with the provisions of this Code. The Hearing Examiner has the powers set forth in:

- The Land Development Code;
- Code Enforcement Board/Special Masters Ordinance (Lee County Code, Chapter 1, Article II, Division 2 and Section 18-95);
- Historic Preservation Ordinance (Lee County Code, Chapter 22);
- The Nuisance Accumulation Ordinance (Lee County Code, Chapter 18, Article IV);
- ~~Post Disaster Recovery Ordinance (Lee County Code, Chapter 10, Article IV);~~
- Mandatory Recycling of Commercial and Multifamily Residential Solid Waste, Construction and Demolition Debris (Lee County Code, Chapter 23, Article III);
- Mandatory Solid Waste Collection and Disposal Benefit Unit Ordinance (Lee County Code, Chapter 25, Article VII, Division 2);
- The Lot Mowing Ordinance (Lee County Code, Chapter 18, Article V);
- The Abandoned Property Registration Program (Lee County Code, Chapter 18, Article III); and
- The Noise Control Ordinance (Lee County Code, Chapter 19, Article VI).

GROUP 3, ITEM C.5

DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR

AMENDMENT SUMMARY

Issue:	The Code as written requires that the Building Official serve as the Floodplain Administrator. Following Hurricane Ian there was a need to designate a Floodplain Administrator as its own position rather than being under the duties of the Building Official.
Solution:	Board action was taken to designate the new Floodplain Administrator because of the inconsistency with the LDC as written. This amendment allows the County Manager to designate the Floodplain Administrator.
Outcome:	Allows for separation of roles where appropriate and eliminates the need for Board action to designate the floodplain administrator.

CHAPTER 6 - BUILDINGS AND BUILDING REGULATIONS

ARTICLE IV. – FLOOD HAZARD REDUCTION

DIVISION 1. ADMINISTRATION

Subdivision III. Duties and Powers of the Floodplain Administrator

Sec. 6-421. Designation.

Staff note: The Code as written requires that the Building Official serve as the Floodplain Administrator. This amendment allows the County Manager to designate the Floodplain Administrator.

The ~~Building Official is designated as the~~ Floodplain Administrator is designated by the County Manager. The Floodplain Administrator may delegate performance of certain duties to other employees.

GROUP 3, ITEM C.6
QUORUM REQUIREMENTS: BOARD OF ADJUSTMENTS AND APPEALS

Chapter 6 – BUILDINGS AND BUILDING REGULATIONS

ARTICLE II. – CODES AND STANDARDS

DIVISION 2. – BOARD OF ADJUSTMENT AND APPEALS

Sec. 6-76. Quorum.

Staff note: Reaching a Quorum for BOAA meetings has been difficult due to the high seven-member requirement. Reduction to a five-member quorum requirement is in line with other county boards. Once this is implemented, the Administrative Code governing BOAA will also need to be amended to reduce the quorum requirement.

Five~~Seven~~ members of the Board of Adjustment and Appeals shall constitute a quorum. Variation with respect to the application of any provision of the standard code or modification of any order of the Building Official, Fire Official, coordinator or their designees, requires an affirmative of the majority vote among the Board members present. ~~An affirmative majority vote must consist of at least four affirmative votes.~~ Any member of the Board of Adjustment and Appeals shall not act in any case in which he has a personal interest.

GROUP 3, ITEM C.7
STREET NAMES

Chapter 10 - DEVELOPMENT STANDARDS

ARTICLE III. - DESIGN STANDARDS AND REQUIREMENTS

DIVISION 1. - GENERALLY

Sec. 10-255. - Street names.

Staff note: The LDC does not currently reference approval or knowledge of E911 addressing services for street naming purposes. The LDC is proposed to be revised to require all proposed street names to be approved in writing by E911 rather than by DCD to assure public safety agencies have approved and are aware of proposed street names.

Street names shall not be used which will duplicate or be confused with the names of existing streets. New streets that are an extension of or in alignment with existing streets shall bear the same name as that borne by such existing streets. All courts and circles should have one name only. All proposed street names shall be approved in writing by the Department of ~~Community Development~~ Public Safety (Emergency Management) (EMS), E911/Addressing, and be indicated on the plat, if any, and on the site plan.