LAND DEVELOPMENT CODE ADVISORY COMMITTEE

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

FRIDAY, DECEMBER 13, 2024
8:30 A.M.

AGENDA

1. Call to Order/Review of Affidavit of Publication
2. Election of Officers
3. Approval of Minutes – July 12, 2024
4. Land Development Code Amendments

    A. Food Truck Parks
    B. Fences and Walls
    C. Pools, Pool Decks, and Screen Enclosures
    D. Entrance Gates and Gatehouses
    E. Density Calculations
    F. Planting Requirements in Airport Wildlife Hazard Protection Zones
    G. General Provisions for Surface Water Management
    H. Required Street Access
    I. Development Order Review of Capital Improvement Projects

5. Adjournment
   Next Meeting Date: February 14, 2025

To view a copy of the agenda, go to www.leegov.com/dcd/calendar.
For more information, contact Janet Miller (239) 533-8583 or jmiller@leegov.com.
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MINUTES REPORT
LAND DEVELOPMENT CODE ADVISORY COMMITTEE
(LDCAC)
Friday, July 12, 2024
8:30 a.m.

Committee Members Present:

Jem Frantz
Jay Johnson
Veronica Martin
Paula McMichael, Chair
Jack Morris
Jarod Prentice
Bill Prysi
Jennifer Sapen
Christopher Scott
Linda Stewart
Amy Thibaut, Vice Chair

Excused / Absent:

Randy Krise
Tom Lehnert
Al Quattrone
Patrick Vanasse

Lee County Government Staff Present:

Joe Adams, Asst, County Atty.
Aixa Cruz, Dev. Services
Dirk Danley, Jr., Zoning
William Diaz, Code Enf.
Ohdet Kleinman, Dev. Svcs. Manager
Carol Lis, Code Enf.
Adam Mendez, Zoning
Janet Miller, DCD Admin.
Rob Price, Director, Public Works
Paula Quezada, Code Enf.
Anthony Rodriguez, Zoning Manager

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

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

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

AGENDA ITEM 2 - APPROVAL OF MINUTES – May 10, 2024

Ms. Martin made a motion to approve the May 10, 2024 minutes, seconded by Mr. Johnson. The motion was called and passed unanimously.

AGENDA ITEM 3 – LAND DEVELOPMENT CODE AMENDMENTS

Mr. Rodriguez explained how the land development code amendments are organized on the agenda. He introduced staff and which amendments they will be addressing, and clarified that staff requests separate motions for each section.

A. Development Services Amendments

1) Platting Code Changes (SB812)

Mr. Joe Adams, Assistant County Attorney, provided an overview of this section.

Mr. Scott asked if a preliminary plat is now required or if an applicant can still go straight to a final plat. In other words, is the statute only related to getting permits prior to approval of a final plat where someone would need to include a preliminary plat or is a preliminary plat required regardless?

Mr. Adams stated a plat is considered final once it gets recorded into the public records. The preliminary plat is required as part of the initial application. Once it is reviewed and approved, then it can be moved to the final plat review and then recording.

Mr. Scott made a motion to accept the amendments to 3.A.1. Platting Code Changes (SB812). The motion was seconded by Mr. Morris. The Chair called the motion and it passed 11-0.

2) **Chapter 10 Deviations**
   a. **Dumpster Size Reduction**

Ms. Kleinmann, Development Services Manager, provided an overview of this section.

Mr. Morris noted that this change essentially adds 8 square feet per dwelling unit. It increases the requirement for multi-family. He suggested staff remove the square footage requirement all together. He explained that the design for the enclosures ends up being a square footage requirement instead of the actual containers that go within the enclosures. As a result, often, businesses end up with larger dumpster enclosures with wasted space inside. He also noted that you can change the frequency of pick-ups as well. Mr. Morris stated that in other municipalities they do not have the requirement stipulated by square footage. It is based on the need for waste generation. The reviewer can deem it inadequate once they review the plans. Mr. Scott stated he was in favor of these changes but would like to see staff move away from the square footage requirement.

Ms. Stewart stated that many times mini warehouse prefer trash cans instead of dumpsters because the general public tends to dump their items into a business's dumpster.

Ms. Kleinmann stated that it is usually in their contracts that they put up signs *"no public dumping."*

Ms. Stewart stated that was correct, but it does not work. People still place their items in the dumpster despite the signs and the business owner is responsible for constantly having to get the dumpsters emptied, which is why they tend to prefer trash cans instead. She asked if someone could get a deviation from this stipulation if they prefer garbage cans versus dumpsters for mini warehouses.

Ms. Kleinmann stated that was correct. Staff would review their request for a deviation.

Ms. Thibaut made a motion to accept the amendments to 3.A.2.a. Dumpster Size Reduction along with Mr. Morris's recommendation to change the additional square footage to 4 square feet for each additional dwelling unit for both garbage and recyclables. The motion was seconded by Mr. Prysi. The Chair called the motion and it passed 11-0.

3) **Minor Change Limitations**

Ms. Kleinmann, Development Services Manager, provided an overview of this section.

Mr. Prysi made a motion to accept the amendments to 3.A.3. Minor Change Limitations. The motion was seconded by Mr. Morris. The Chair called the motion and it passed 11-0.

4) Types of Development Entitled to Limited Review

Ms. Kleinmann, Development Services Manager, provided an overview of this section.

Ms. Sapen referred to where it says, *"Previously developed properties that are vacant for more than one year."* She asked if there was any availability for an argument of *"State of Emergency"* where this could be extended beyond a one-year time period. She noted this was an issue for many people because of Hurricane Ian.

Ms. Kleinmann stated that staff recognizes emergency situations. She noted that staff has reviewed a few projects that were closed for a long length of time because of Hurricane Ian and had to rebuild their businesses. Staff makes exceptions in those types of cases.

Ms. Martin made a motion to accept the amendments to 3.A.4. Types of Development Entitled to Limited Review. The motion was seconded by Mr. Scott. The Chair called the motion and it passed 11-0.

5) Sidewalk Fee-In-Lieu/Absence of Need Reexamination

Mr. Price, Public Works Director, provided an overview of this section.

Ms. Martin stated her company did not understand why a developer would have to pay a fee in lieu for a sidewalk improvement that FDOT is already going to pay for. If it is already in FDOT's budget, why would a developer have to pay Lee County for the fee in lieu for not building the sidewalk?

Mr. Price stated this happens on county roads as well. It is the standard that the Commissioners put in the Land Development Code. He explained that if it is on the maps that a sidewalk is required and a developer does not want to build it, they pay the fee in lieu to construct it. This is the process in place.

Ms. Martin stated she did not understand why FDOT is not getting the fee in lieu since they are the ones who are going to construct the sidewalk.

Mr. Price stated that FDOT does not approve development orders. The County reviews and approves them.

Ms. Stewart agreed with Ms. Martin's sentiments and stated she had the same question. If the intention is to have the sidewalk built and FDOT agrees to construct it, it did not seem right to still charge someone the fee in lieu.

Mr. Price stated this is how it has been handled for many years.

Ms. Thibaut stated there may be a legal perspective as far as whether an exaction is allowed. She recommended that the County Attorney's office look into this further in order to confirm whether the exaction of the fee in lieu is allowed.

Mr. Morris asked for clarification that this specifically refers to cases where the sidewalk would be along the FDOT right-of-way.

Mr. Price stated this is not necessarily the case. There are times that FDOT determines that a sidewalk should not be constructed. He noted there are instances where a county road is at the end of a dead-end street, so staff does not feel a sidewalk is necessary. The county still pays the fee in lieu. The only change in these regulations is adding in a waiver for when FDOT has ruled that they are not going to require a sidewalk.

Mr. Scott stated that the exaction referred to by committee members is in instances where FDOT is constructing the sidewalk, and the developer is still paying a fee in lieu. It seems like a *"double dip."* This is why the committee is asking for clarification from the Attorney's Office.

Ms. Thibaut stated it was not necessary to strike these amendments all together. She was in favor of clarifying the language to address this type of situation described in today's discussion.

Mr. Price stated it is almost always staff's preference for developers to construct the sidewalk. Staff does not prefer to have the fee in lieu. However, when an applicant makes a case that it does not make sense to incorporate a sidewalk, staff reviews the request and agrees to a fee in lieu to help the county be able to make the connection to the property somehow.

Ms. Stewart stated she could understand receiving the fee in lieu in instances where the developer is asking that they not be required to build the sidewalk because the county can use that money to build it someplace else where it is needed. However, if the developer is not asking for the deviation and they are being told they do not need to construct the sidewalk because someone else is constructing it, they should not have to pay a fee in lieu.

Ms. McMichael stated that everyone seems to be fine with this language, but they are asking the Attorney's Office for clarification on whether there is an unlawful exaction.

Mr. Scott made a motion to accept the amendments to 3.A.5. Sidewalk Fee-In-Lieu/Absence of Need Reexamination but ask that the County Attorney's office seek clarification on whether there is an unlawful exaction. The motion was seconded by Ms. Thibaut. The Chair called the motion and it passed 10-1. Ms. Stewart was opposed.

6) Street Design and Construction Standards

Mr. Price, Public Works Director, provided an overview of this section.

Mr. Scott asked if this section also included the future land use.

Mr. Price stated that was correct. It adds the general interchange. There have been questions as to whether it is intensive or central urban, so staff added the general interchange in as well on the cross section.

Mr. Rodriguez stated that the general interchange is classified as a future urban area in the Lee Plan, but it is not recognized in the table as a future urban area, so it is a clean-up item just to be sure of that consistency.

Ms. Sapen made a motion to accept the amendments to 3.A.6 Street Design and Construction Standards. The motion was seconded by Mr. Morris. The Chair called the motion and it passed 11-0.

7) Bicycle Parking Design

Ms. Kleinmann, Development Services Manager, provided an overview of this section.

Mr. Prysi referred to where it says, *"…areas must include a bicycle rack with appropriate access on all sides…"* He felt this could be problematic because many bike racks are single access and are not accessible from the front and back sides. He suggested staff clean-up this reference because it could be problematic for many designs.

Mr. Morris felt this was a good point. The bike racks do not necessarily need to be accessed from the backside.

Mr. Rodriguez suggested staff strike "on all sides."

Ms. McMichael noted a typo under Sec. 10-610(d)(3)a) where it says, *"A bicycle parking areas."* It should be *"A bicycle parking area"* or *"Bicycle parking areas."* She also noted that in the new Item 3, the reference to Director is struck out; however, it is still in Section 34-2013(b).

Staff made note of these corrections.

Mr. Prysi made a motion to accept the amendments to 3.A.7 Bicycle Parking Design with comments noted during today's discussion. The motion was seconded by Mr. Morris. The Chair called the motion and it passed 11-0.

8) Access Width Requirements for Fire Stations

Mr. Price, Public Works Director, provided an overview of this section.

Ms. Kleinmann stated staff added more clarification by adding the word *"throat width"* because there have been many instances with driveways where the flair is what is counted and the flair always ends up exceeding 35 feet; therefore, staff made it more defined as to *"throat width."*

Ms. Thibaut asked if *"throat width"* is defined in the code.

Ms. Kleinmann stated it was not.

Ms. Thibaut felt it may just be a common term that does not need to be defined.

Mr. Morris stated he has had debates with FDOT because they also do not define *"throat width"* well either. However, due to staff's intentions, he felt this was a good change.

Mr. Price stated that, to him, *"throat width"* is the width at the right-of-way line before you start to provide the radius to meet the roadway. It is your effective width of the driveway which would be set back from the roadway.

Mr. Morris stated that is how he interprets it as well.

Ms. Sapen stated she was fine with it not being clearly defined because it is only for EMS, police, sheriff, and fire, not any kind of commercial development.

Ms. Thibaut stated her only concern is that the term is mentioned in (b)(3) as well.

Mr. Prentice stated this is assuming those service vehicles would be accessing those driveways.

Mr. Price stated staff would not support it if they were not accessing those driveways. If it is just a driveway to the parking lot for employees, staff would generally not support a wider driveway. They would only support a wider driveway if there were ladder trucks and ambulances needing the extra width, so they do not go off track and damage vehicles.

Ms. Stewart made a motion to accept the amendments to 3.A.8 Access Width Requirements for Fire Stations. The motion was seconded by Mr. Scott. The Chair called the motion and it passed 11-0.

B. <u>Code Enforcement Amendments</u>

1) Unsafe Building Abatement Code

Mr. Diaz, Code Enforcement Manager, provided an overview of this section.

Mr. Prysi made a motion to accept the amendments to 3.B.1. Unsafe Building Abatement Code. The motion was seconded by Ms. Stewart. The Chair called the motion and it passed 11-0.

2) Penalties and Liens

Mr. Diaz, Code Enforcement Manager, provided an overview of this section.

Ms. Martin asked if the county still allows someone to reduce their violation.

Mr. Diaz stated that was correct. These changes will not affect the county's lien process.

Ms. Martin asked if the Hearing Examiner's fine is still $285.00.

Mr. Diaz stated that was correct; however, when a property owner or their representative/agent appear at the hearing, the fee is typically reduced.

Mr. Scott made a motion to accept the amendments to 3.B.2. Penalties and Liens. The motion was seconded by Ms. Martin. The Chair called the motion and it passed 11-0.

3) Sea Turtle Conservation

Ms. Quezada, Code Enforcement, provided an overview of this section.

Ms. McMichael referred to Senate Bill 250 which does not allow the county to enact new regulations that are more restrictive. She asked how staff determined that these amendments comply with that.

Mr. Adams stated that it was mentioned during the presentation of this item that the problem is the requirements in the code are outdated to where developers cannot comply with them due to changes in technology, so staff does not feel these amendments are more restrictive.

Mr. Diaz stated there are property owners that are having trouble complying with this code because the equipment is so outdated, which is why Ms. Quezada and Ms. Lis pioneered these amendments. The sole purpose is to help the public comply with this code to update the equipment. For instance, they cannot find old yellow bulbs on-line or in the hardware store. It will allow them to change it to the amber lighting and the other equipment that is referenced in there. These amendments are for the public's benefit.

Mr. Prysi stated everyone appreciates staff's measures for sea turtle protection and recognize the difficulty in codifying those measures. However, he referred to references of *"directly visible"* and *"Indirectly visible."* He asked how staff measures that because if someone is standing on the beach, which is typically pitch black at night, and they strike a lighter, that is visible from the beach.

Mr. Diaz stated he would not recommend that his staff present a case to the Hearing Examiner where someone used a lighter, tiki torch, or a downlight on a sign.

Mr. Prysi asked if he was referring to judgement.

Mr. Diaz stated that was correct. If someone makes a concerted effort and is using shielded lighting, it is acceptable even though it can be seen from the beach. However, there are instances where someone has a fluorescent neon light that causes disorientation. Therefore, some of this is left up to discretion.

Mr. Prysi asked how someone could make sure they were complaint with this when they are putting their documentation together because the definition of *"directly visible"* is vague.

Mr. Diaz stated when plans are submitted through permitting, they are reviewed by Development Services through a set of guidelines that are established. Once the project is permitted, issued, and finaled, Code Enforcement staff visits the site and reviews the final plans. If someone has shielded lighting, they are compliant even though it can be seen from the beach. Staff cannot enforce something that is compliant even if it is directly visible. If it was brought before the Hearing Examiner, they would abate the case because the property owner is within the confines of the code.

Mr. Prentice stated that FDEP also regulates and enforces lighting as well. He asked if these regulations are in compliance with what FDEP requires.

Ms. Quezada stated these amendments are in compliance with what FDEP requires.

Further discussion took place about lighting on beach and dune walkovers.

Mr. Rodriguez stated the code prohibits lighting on beach and dune walkovers.

Mr. Prysi asked if someone was allowed to light the entry point.

Mr. Rodriguez stated that was correct because that would not be considered part of the walkover structure.

Ms. McMichael referred to references in the document of *"special events."* From the standpoint of the City of Sanibel, she recommended no special events take place at night during turtle nesting season.

Ms. Quezada stated that although staff would be favorable to that, they are not allowed to add restrictions.

Ms. McMichael stated the City of Sanibel wanted to update their lighting standard, but were told they were not allowed, so she wondered how the county handled it.

Mr. Prysi made a motion to accept the amendments to 3.B.3. Sea Turtle Conservation. The motion was seconded by Ms. Thibaut. The Chair called the motion and it passed 11-0.

4) Beach and Dune Management

Ms. Quezada, Code Enforcement, provided an overview of this section.

Ms. Thibaut made a motion to accept the amendments to 3.B.4. Beach and Dune Management. The motion was seconded by Ms. Martin. The Chair called the motion and it passed 11-0.

5) Invasive Exotics Table

Ms. Lis, Code Enforcement, provided an overview of this section.

Mr. Prysi stated there are a lot of jurisdictions around the state that merely use the EPPC (Florida Exotic Pest Plant Council) Category 1 as the prohibited list. He asked why the county does not adopt that especially since it does not necessarily add more restriction. It is merely utilizing something that is already widely accepted. He also noted there are many more plants that should be on this list and the Category 1 categorizes all of those. He also did not believe there is a licensed professional or a nursery that grows that material anymore, so he asked why the county did not use this evolving restriction for exotic plants.

Ms. Lis stated there was a state statute that limits the county from doing that. She did not know the exact statute, but she would research it after today's meeting.

Mr. Prentice stated he felt this code should reference the state's noxious and invasive weed list.

Ms. Lis concurred with that and stated it was possible to add that.

Mr. Prysi made a motion to accept the amendments to 3.B.5. Invasive Exotics Table with the recommendation to include the state list. The motion was seconded by Mr. Prentice. The Chair called the motion and it passed 11-0.

C. <u>Clean-up</u>

1) HEX Powers and Duties

Mr. Mendez, Zoning Section, provided an overview of this section.

Ms. Thibaut stated the standard for an ADD is if someone is proposing changes that, in the opinion of the Zoning Manager, does not increase intensity. If it is determined by the Zoning Manager that the request is not increasing density, then they would be allowed to get an ADD. She asked if in instances where the Zoning Manager determines that a proposal does not

increase density, if an applicant will be able to go through the ADD process versus taking it to the Hearing Examiner. Although she was fine with these amendments, she wanted to clarify how the ADD process will work since it can be based on intensity.

Mr. Rodriguez stated that ultimately staff discusses these types of issues with the applicant upfront to determine which process will be utilized (ADD or Hearing Examiner process). He noted there are cases to be made in instances where an applicant can show an offset. Mr. Rodriguez noted this discretion will remain and will not be changed as a result of these amendments.

Ms. Sapen made a motion to accept the amendments to 3.C.1. HEX Powers and Duties. The motion was seconded by Ms. Martin. The Chair called the motion and it passed 11-0.

2) **Right to Farm Act (Fish Farm Reversion)**

Mr. Rodriguez, Zoning Manager, provided an overview of this section.

Mr. Johnson made a motion to accept the amendments to 3.C.2. Right to Farm Act (Fish Farm Reversion). The motion was seconded by Ms. Stewart. The Chair called the motion and it passed 11-0.

3) **Off-Street Parking Requirements for Residential Communities with a Golf Course**

Mr. Rodriguez, Zoning Manager, provided an overview of this section.

Mr. Prysi made a motion to accept the amendments to 3.C.3. Off-Street Parking Requirements for Residential Communities with a Golf Course. The motion was seconded by Ms. Stewart. The Chair called the motion and it passed 11-0.

4) **Post-Disaster Ordinance Cross-References**

Mr. Rodriguez, Zoning Manager, provided an overview of this section.

Mr. Scott made a motion to accept the amendments to 3.C.4. Post-Disaster Ordinance Cross References. The motion was seconded by Mr. Morris. The Chair called the motion and it passed 11-0.

5) **Separation of Building Official/Floodplain Administrator Duties**

Mr. Adams, Assistant County Attorney, provided an overview of this section.

Mr. Scott made a motion to accept the amendments to 3.C.5. Separation of Building Official/Floodplain Administrator Duties. The motion was seconded by Mr. Johnson. The Chair called the motion and it passed 11-0.

6) **Quorum Requirements for Board of Adjustments and Appeals**

Mr. Adams, Assistant County Attorney, provided an overview of this section.

Ms. Stewart made a motion to accept the amendments to 3.C.6. Quorum Requirements for Board of Adjustments and Appeals. The motion was seconded by Mr. Scott. The Chair called the motion and it passed 11-0.

7) Street Names

Mr. Rodriguez, Zoning Manager, provided an overview of this section.

Ms. Stewart made a motion to accept the amendments to 3.C.7. Street Names. The motion was seconded by Mr. Prysi. The Chair called the motion and it passed 11-0.

AGENDA ITEM 4 – ADJOURNMENT/NEXT MEETING DATE

Mr. Rodriguez stated the August meeting was cancelled. The next meeting will be September 13, 2024. He explained that it is staff's intent to bring forth packets every other month because the Executive Regulatory Oversight Committee (EROC) meets every other month. To keep things manageable, staff wants to present items every other month.

There was no further discussion. Ms. McMichael adjourned the meeting at 9:32 a.m.

MEMORANDUM

FROM
THE DEPARTMENT OF
COMMMUNITY DEVELOPMENT

TO: **Land Development Code Advisory Committee (LDCAC)**

DATE: **November 22, 2024**

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

RE: **Land Development Code (LDC) Amendments, Group 4**
Food Truck Parks, Fences and Walls, Pools/Pool Decks/Screen Enclosures, Density Requirements, Planting Requirements in Airport Wildlife Hazard Protection Zones, Surface Water Management, Required Street Access, Development Order Review of CIP Projects

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The attached Land Development Code amendments, scheduled for consideration at the December 13, 2024 meeting, include changes intended to establish regulations for food truck parks, modify existing regulations for fences, walls, pools, pool decks, and screen enclosures, amend density regulations for consistency with the Lee Plan, streamline land development regulations for development within the Airport Wildlife Hazard Protection Zone, clean up outdated language pertaining to surface water management requirements, provide for administrative review of deviations from street access requirements, and update outdated language regarding review of development orders for capital improvement projects.

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, addressing new uses, 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. Food Truck Parks

- *The Issue:* The Land Development Code does not currently have any standards for food truck parks, which have gained popularity in the last five to ten years.
- *Proposed Solution and Intended Outcome:* Define and add food truck parks to the use tables and establish standards required for food truck parks within Lee County's jurisdiction, which aim to allow functional and attractive food truck parks without requiring a planned development rezoning.

B. Fences and Walls

- *The Issue*: Existing land development regulations pertaining to residential fences and walls pose more restrictive height and setback regulations to property owners who live on corner lots or on lots abutting drainageways or other non-navigable bodies of water that wish to place privacy fences on their properties.
- *Proposed Solution and Intended Outcome:* Amend existing land development regulations to provide equitability in the placement and height of residential fences and walls and provide greater latitude in measuring fence height to streamline the LDC and provide for ease in administration.

C. Pools, Pool Decks, and Screen Enclosures

- *The Issue:* Swimming pools, decks, patios, and decks within special flood hazard areas are constrained by the 3½-foot above grade requirement established in section 34-1176(b)(1)b and the requirement for these types of accessory uses to meet principal structure setbacks. In many cases, relief from this requirement is sought through an administrative variance to allow for a reduced setback for these facilities, and this type of request is becoming increasingly prevalent.
- *Proposed Solution and Intended Outcome:* Amend the LDC to allow pools, decks, and patios on properties within flood prone areas to exceed 3½ feet above grade subject to a rear setback of 10 feet, which is intended to provide a middle ground between a prevailing accessory structure setback of 5 feet and the prevailing principal structure setback of 20 feet to allow for adequate grading and drainage. Modifications to codify Department interpretations for the placement of screen enclosures are also proposed. These modifications will eliminate the need for additional zoning actions to allow pools and pool decks elevated to the finished floor of associated residences in special flood hazard areas and codify existing Department interpretations regarding screen enclosures.

D. Entrance Gates and Gatehouses

- *The Issue:* Current regulations pertaining to entrance gates and gatehouses contain incorrect cross-references, duplicative language, and ambiguities, leading to difficulty in administration.
- *Proposed Solution and Intended Outcome:* Amend the LDC to renumber and reorganize this section, remove duplicative language, correct incorrect cross-references, and clarify applicability of section to streamline the LDC, codify existing Department interpretations, and clarify language.

E. Density

- *The Issue:* Existing density regulations in the LDC are not consistent with the Lee Plan.
- *Proposed Solution and Intended Outcome:* Amend the LDC to remedy the inconsistency with the Lee Plan, address inconsistency with state statute, and clean up language as necessary.

F. Planting Requirements in Airport Wildlife Hazard Protection Zones

- *The Issue: S*taff reviews and approves a significant number of deviations from lake bank slope and planted littoral shelf requirements for lakes associated with development within the 10,000-foot airport wildlife hazard protection zone in a manner consistent with FAA Advisory Circular (AC) 150/5200-33B and Lee Plan Policy 47.2.5. While these deviations typically occur through a planned development zoning action, the only process to deviate from these requirements in a conventional zoning district is through a public hearing

variance, which results in a longer permitting process for development on conventionally-zoned properties within the airport wildlife hazard protection zones.

- *Proposed Solution and Intended Outcome:* Amend the LDC to establish lake bank slope and planted littoral shelf requirements within airport wildlife hazard protection zones to codify relief that is customarily approved through zoning actions, which will streamline the permitting process for development within the airport wildlife hazard protection zone in a manner consistent with FAA guidance and the Lee Plan.

G. General Provisions for Surface Water Management

- *The Issue:* The LDC currently references "chapter" when it should state "section" as it relates to surface water management standards, creating confusion and uncertainty.
- *Proposed Solution and Intended Outcome:* Clean up language to correct references and complete minor revisions to provide for greater regulatory certainty.

H. Required Street Access

- *The Issue:* The LDC does not provide an avenue for administrative relief from the required number access points to residential development greater than 5 acres or commercial developments greater than 10 acres. Two means of access are required by current LDC regulations. A public hearing is required to deviate from the standards established in this section.
- *Proposed Solution and Intended Outcome:* Revise the LDC to provide administrative authority to consider administrative deviations from LDC Section 10-291(3), which will streamline the review process by providing an administrative mechanism for relief from LDC Section 10-291(3) where the applicant can demonstrate there is no reasonable method to provide two means of access and that the proposed alternative standard for the specified development type will not cause injury or detriment to public safety and welfare.

I. Public Projects Coordinator

- *The Issue:* Existing language regarding development order approval of capital improvement projects (Chapter 2, Article X) is dated and does not reflect the current permitting process for capital improvement projects.
- *Proposed Solution and Intended Outcome:* Revise the LDC to establish an alternative process (not requirements) for development order review and approval of publicly funded capital projects from the Lee County BoCC, Municipal Services Taxing Benefits Districts, Lee County Sheriff's Department, and other projects that have a Board-approved Development Agreement within unincorporated Lee County. The proposed amendments will allow for a streamlined and efficient permitting process of public projects.

Attachments
Draft LDC Amendments

GROUP 4, ITEM A

FOOD TRUCK PARKS

AMENDMENT SUMMARY

Issue: The Land Development Code does not currently have any standards for food truck parks, which have gained popularity in the last five to ten years.

Solution: This amendment will define and add food truck parks to the use tables and establish standards required for food truck parks within Lee County's jurisdiction.

Outcome: These regulations aim to allow functional and attractive food truck parks without requiring a planned development rezoning.

Chapter 33 – PLANNING COMMUNITY REGULATIONS

ARTICLE VIII. – NORTH FORT MYERS PLANNING COMMUNITY

DIVISION 3. – COMMERCIAL CORRIDOR LAND DEVELOPMENT PROVISIONS

Subdivision IV. – Commercial Corridor Use Regulations

Sec. 33-1596. - Use regulations schedule.

Staff note: Add food truck parks as a permitted use.

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

Use Description	Special Notes or Regulations	Commercial Corridor
Food Truck Park		P

DIVISION 4. – TOWN CENTER LAND DEVELOPMENT PROVISIONS

Sec. 33-1604. - Use regulations.

Staff note: Add food truck parks as a permitted use.

All development within the North Fort Myers Town Center may allow uses described in section 33-1596 and Table 33-1604.

Table 33-1604. List of Additional Allowable Commercial Type Uses

Use Description	Special Notes or Regulations	Permissibility Status*
Food Truck Park		P

CHAPTER 34- ZONING

ARTICLE VII. – SUPPLEMENTARY DISTRICT REGULATIONS

DIVISION 43. – FOOD TRUCK PARKS

Staff note: Amend section 34-2 to add definition of food truck park, which is currently not regulated by the LDC.

Sec. 34-2. – Definitions.

Food Truck Park means a development created with permanent on-site seating, sanitary facilities, and amenities wherein food and/or beverages are offered for sale to the public from a set number of mobile food vendors. Mobile Food Vendors associated with the Food Truck Park may be permanently or temporarily located on the property. See section 34-3052 for Mobile Food Vending as a temporary use, not associated with a Food Truck Park.

Section 34-844. – Use Regulations Table

Staff note: Amend use regulations table to add food truck parks by right or by special exception, depending on zoning district, in a manner consistent with restaurants.

	Special Notes or Regulations	*C-1A*	*C-1*	*C-2*	*C-2A*	*CN-1*	*CN-2*	*CN-3 (21), (23)*	*CC*	*CG*	*CS-1*	*CS-2*	*CH*	*CT*	*CR*	*CI*	*CP*
Food Truck Parks	*Sec. 34-3181*	P	P	P	P		SE	SE (24)	P	P	SE	SE		P	SE	P	

(24) No outdoor seating, unless approved by a Special Exception.

Section 34-903. – Use Regulations Table

Staff note: Amend use regulations table to add food truck parks by right in a manner consistent with restaurants.

	Special Notes or Regulations	*IL Note (14)*	*IG Note (14)*	*IR Note (14)*
Food Truck Parks	*Sec. 34-3181, Note (18)*	P	P	P

(18) Food truck parks within the Tradeport future land use category will be subject to limitations for stand-alone retail commercial uses identified In Lee Plan Policy 1.1.13. Food truck parks within the Industrial Development future land use category will be subject to limitations for recreational, service and retail uses identified In Lee Plan Policy 1.1.7.

Section 34-934. – Use Regulations Table.

Staff note: Amend use regulations table to add food truck parks by right in a manner consistent with restaurants. Add note to clarify applicability of use toward commercial allocation within Tradeport future land use category.

	Special Notes or Regulations	RPD	MHPD	RVPD	CFPD	CPD	IPD Note (37)	MPD	*MEPD*

Food Truck Park	Sec. 34-3181, Note (49)				P	P	P	P	

(49) Food truck parks within the Tradeport future land use category will be subject to limitations for stand-alone retail commercial uses identified In Lee Plan Policy 1.1.13. Food truck parks within the Industrial Development future land use category will be subject to limitations for recreational, service and retail uses identified In Lee Plan Policy 1.1.7.

Section 34-1264. – Sale or service for on-premises consumption.

Staff note: Amend section to allow consumption on premises in conjunction with food truck parks through administrative approval subject to compliance with locational requirements for administrative approval and design standards for food truck parks in section 34-3181.

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

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

a. County-owned airports, arenas and stadiums, including liquor, beer, malt liquor and wine in restaurants, bars, lounges, concessions, concession stands and package stores at County-owned airports;

b. Bars, cocktail lounges, or night clubs located in commercial and industrial zoning districts that permit bars, cocktail lounges or night clubs, provided the standards set forth in ~~S~~subsections (b)(1) and (3) of this section are met;

c. Bowling alleys and movie theaters provided the standards set forth in ~~S~~subsections (b)(2)a and (3) of this section are met;

d. Clubs and fraternal or membership organizations located in commercial and industrial zoning districts, where permitted, provided the standards set forth in ~~S~~subsections (b)(2)f and (3) of this section are met;

e. Cocktail lounges in golf course, tennis clubs or indoor racquetball clubs, provided the standards set forth in ~~S~~subsections (b)(2)d and e and (3) of this section are met;

f. Hotels/motels, provided the standards set forth in ~~S~~subsections (b)(2)c and (3) of this section are met;

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

1. The outdoor seating area is not within 500 feet of a religious facility, school (noncommercial), day care center (child), park or dwelling unit under separate ownership;

2. The outdoor seating area is within 500 feet of a religious facility, school (noncommercial), day care center (child), park or dwelling unit under separate

ownership but is a tenant of a multi-occupancy complex that is adjacent to an arterial or collector road;

h. Charter, party fishing boat or cruise ship, provided the standards of ~~S~~subsection (b)(3) of this section are met. The COP approval is specific to the charter, party fishing boat or cruise ship operating from a specific location and does not run with the land nor is it transferrable;

i. Beer and wine taste testing in conjunction with package sales (consumption off the premises);

j. Limited food and beverage services when accessory to an agritourism activity permitted in accordance with ~~S~~section 34-1711, provided that the activity is not within 500 feet of a religious facility, school (noncommercial), ~~day care~~daycare center (child), park, or dwelling unit under separate ownership.

k. Food Truck Parks provided the standards set forth in subsection (b)(1) of this section and section 34-3181 are met.

Section 34-2020. – Required Parking

Staff note: Amend section to establish parking requirements for food truck parks. Amend Note (16) to eliminate note associated with parking requirements for multiple-occupancy complexes exceeding 350,000 square feet of floor area and replace with reduced parking requirements for food truck parks that meet certain location and infrastructure requirements.

Table 34-2020(b). Required Parking for Nonresidential Uses

Use	Special Notes or Regulations	Minimum Required Spaces for Single-Use Development	Minimum Required Spaces for Multiple-Use Development
Food Truck Parks	Note (1)	10 spaces per conveyance parking space (16)	5 spaces per conveyance parking space (16)
Multiple-occupancy complex with total floor area of 350,000 square feet or more	~~Note (16)~~	--	4.5 spaces per 1,000 square feet of total floor area

(16) ~~Limited to multiple-occupancy complexes that lawfully existed on September 17, 2012. If the complex is enlarged in terms of floor area or if the value of renovation exceeds 50 percent of the value of the property, additional parking spaces must be provided based on the requirements in Subsection (b) of this section. Parking for the additional floor area will be calculated at the multiple-use development rate required for the specific use.~~ Food Truck Parks located in a Future Urban Area that are connected to central utilities (water and sewer) and located within one (1) quarter mile (0.25) of at least one hundred (100) residential units or the Mixed Use Overlay have a reduced parking requirement of four (4) parking spaces per conveyance.

Sec. 34-3181. Food Truck Parks

Staff note: This is a new section creating development standards for food truck parks. These standards include common sanitary facilities, coverage, ingress/egress requirements, additional setbacks, and other requirements to mitigate potential incompatibilities with adjacent properties.

(a) *Purpose***.** Food truck parks have gained popularity in the last ten years as food trucks have become more prevalent. Food truck parks operate fully or partially outdoors, necessitating site and design standards to mitigate potential incompatibilities with adjacent uses and hazards due to weather. The intent of these requirements is to mitigate these possibilities without constraining the creativity or innovation of development.

(b) *Zoning Application*. Food Truck Parks that do not follow the requirements in this section must apply for a Planned Development to ensure appropriate compatibility, circulation, and safety. In instances where Food Truck Parks are allowed via a Special Exception, the development standards in this section apply, and additional conditions may be required to ensure compatibility.

(c) *Consumption on Premises***.** Consumption of alcohol on-premises within a food truck park is subject to the requirements of section 34-1264. Alcoholic beverages may be dispensed from a permanent structure or a mobile food vendor properly licensed by the State of Florida. Food truck parks selling alcohol may not allow consumption outside the designated seating area for the park.

Sec. 34-3182. Requirements

(a) *Design*. In addition to the standard site design requirements for commercial development, Food Truck Parks must also include the design requirements in this section. Permanent structures must have a unified architectural theme and consistent finishes and colors on all facades visible to the public. Food truck parks must include all of the following:

1. A set number of designated, paved conveyance pads separate from the required vehicular parking area for mobile food vendors to serve customers. Parking pads for mobile food vendors must meet the principal structure setback requirements of the zoning district.
2. Permanent sanitary facilities meeting the water and sewer requirements of the Lee Plan and Florida Building Code.
3. Pedestrian connections from the mobile food vendor serving areas(s) to the seating and parking areas.
4. Common, roofed seating or dining facilities must account for a minimum of 30 percent of the total seats.
5. Internal circulation for conveyances providing direct access from the right-of-way to the places where conveyances will park. In no instance shall a conveyance traverse a required buffer or landscaped area to access the area it parks to serve the public.
6. Lighting, including decorative lighting generally exempt under section 34-625, must be included in the photometric plans. No lighting may spill onto adjacent properties, including temporary lighting, decorative lighting, or any lights associated with the conveyances.

(b) *Generators***.** Generators are prohibited. Power sources must be provided on-site through permanent electrical outlets at each conveyance parking pad.

(c) *Hurricane Preparedness.*

1. Food truck parks must include a permanent weatherproof structure capable of storing and securing any outdoor furniture and other accoutrements during a hurricane or extreme weather event.
2. Conveyances placed in flood hazard areas must be:
    a. Onsite for fewer than 180 consecutive days; or
    b. Fully licensed and ready for highway use, meaning the conveyances are on wheels or a jacking system, attached to the site only by quick-disconnect type utilities and security devices, and have no permanent attachments, such as additions, rooms, stairs, decks, and porches.

(d) *Noise*. Food truck parks must follow the county's established noise ordinance in Lee County's Code of Ordinances, Article VI, Noise Control unless a more restrictive condition of approval is issued with a zoning action associated with the property in which the establishment is located. Outdoor speakers shall be:

1. Affixed to a permanent structure;
2. Angled downwards; and
3. Faced away from any residential uses.

GROUP 4, ITEM B

FENCES AND WALLS

AMENDMENT SUMMARY

Issue: Existing land development regulations pertaining to residential fences and walls pose more restrictive height and setback regulations to property owners who live on corner lots or on lots abutting drainageways or other non-navigable bodies of water that wish to place privacy fences on their properties. Current regulations also require fence heights to be measured from the grade of an abutting property, which does not account for grade changes or drainage requirements for new construction, thereby diminishing the ability for a privacy fence to provide the requisite privacy expected by these fences.

Solution: Amend existing land development regulations pertaining to residential fences and walls to provide equitability in the placement and height of residential fences and walls.

Outcome: These modifications provide the ability for residential property owners on corner lots or on lots that abut non-navigable waterbodies to construct privacy fences that are commensurate with the privacy fences allowed on single-family residential lots that are not subject to these site constraints. They also provide greater latitude in measuring fence height and include other non-substantive changes to streamline the LDC and provide for ease in administration.

CHAPTER 34- ZONING

ARTICLE VII. – SUPPLEMENTARY DISTRICT REGULATIONS

DIVISION 17. – FENCES, WALLS, GATES, AND GATEHOUSES

Sec. 34-1744. Location and height of fences and walls other than residential project fences.

(a) *Setbacks.* Except as may be specifically permitted or required by other sections of this chapter or Chapter 10, no fence or wall, excluding seawalls, may be erected, placed or maintained:

(1) Within any street right-of-way or street easement.

(2) Closer to the Gulf of Mexico than permitted by Chapter 6, Article III.

(3) Closer than five feet to the mean high-water line along natural water bodies, including canals created from sovereign lands, except that, where the canal is seawalled, the fence may be built landward of the seawall.

(b) *Height.*

Staff note: The LDC currently provides four inches of discretionary relief in the case of fence height determination. This is intended to account for varying grade at time of final fence inspection. Where quarter-acre sites have steep drainage swales between lots due to modern septic tank elevation requirements, four inches proves insufficient. LDC section 34-3104 requires a drainage plan for all sites greater than 18 inches above the centerline of the adjacent street or any adjacent developed lot as measured at the common property line. Basing fence heights on existing grade results in a fence height measurement of more than six feet in height with no change the height of the fence material when accounting for post-construction grade changes. This subsection proposes an increase in discretion from four inches to 24 inches to compensate for grade variations and drainage needs provided that the height of the fence material complies with the maximum permitted fence height while prohibiting placement of a fence on a berm, retaining wall, or other similar improvement. This will streamline the fence inspection process and codify

staff's practice of assessing fence height without permitting an increase in the structural length of the fence or wall materials.

(1) *Determination of height.* Except as set forth in ~~S~~section 10-416 for required buffers, fence or wall height will be measured from the existing elevation of the abutting property.

In rear and side yards, the building official has the discretion to allow a deviation of up to ~~four~~ 24 inches in height where required to compensate for variations in grade, drainage, or weed maintenance, provided that the ~~length~~ height of the above-ground structural materials for the fence do not exceed the permitted height, and the fence or wall is not built on top of a berm, retaining wall or similar improvement.

(2) *Maximum height.* Except as provided for in ~~S~~section 34-1743(b)(1), the maximum permitted height for fences and walls is as follows:

a. *Residential areas.*

Staff note: Residential lots with multiple road frontages, including corner lots, are often subject to onerous privacy fence location limitations. The LDC requires application of principal structure street setbacks in these situations which often results in significant areas of private property limited to enclosure by way of 4-foot open-mesh fencing. Property owners unaware of this local requirement seek variances which generally do not meet the standard for variance approval. Staff proposes revisions to fence location requirements to permit multiple-frontage lots with the ability to locate privacy fencing closer to a secondary street right-of-way in a manner that does not interfere with vehicle visibility.

i. A fence or wall located between a street right-of-way or easement and the minimum required street setback line may not exceed three feet in height, ~~except fences~~ with the following exceptions:

1. Fences may be a maximum height of four feet so long as the fence is of open mesh screening and does not interfere with vehicle visibility requirements (see ~~S~~section 34-3131) at traffic access points.

2. A fence or wall located along any secondary street right-of-way or easement, as defined in section 34-1174(b)(2), may not exceed six feet in height, provided:

i. The fence or wall is set back 5 feet from the street right-of-way or street easement or outside the width of any other easement, whichever is greater.

ii. The fence or wall complies with vehicle visibility requirements (see section 34-3131).

For the purposes of this section only, the term "open mesh screening" may include vertical picket-type fencing, provided that the minimum space between vertical members must be a minimum of 1½ times the width and thickness of the vertical members or bars. i.e., if the vertical members are two and one-quarter inches wide and three-quarter inch thick (total three inches), then the minimum space between them must be 4½ inches (1.5 times 3.0 equals 4.5). In no case may the space between vertical members or bars be less than 3⅞ inches.

ii. A fence or wall located between a side or rear lot line and the minimum required setback line for accessory buildings is limited to a maximum height of six feet. For the purposes of this section, the side yard will be considered that portion of the lot extending from the minimum required street setback line to the rear lot line.

Staff note: The LDC requires opaque fencing greater than 42 inches in height (3.5 feet) to be set back 25 feet from all waterbodies regardless of if the waterbody is navigable or considered scenic. The LDC defines both natural and artificial waterbodies as "a depression or cavity…which water stands or flows for more than three months of the year." The broad nature of these definitions creates unnecessary privacy fencing constraints for property along

drainage canals, ditches and other non-navigable artificial waterbodies. Staff proposes a minor revision to allow residential privacy fencing for property abutting drainage canals and other non-navigable artificial waterbodies. The Land Development Code's existing 5-foot waterbody setback for fences along navigable waterbodies will remain (see LDC Section 34-1744(a)(3). No-Rise Certification requirements in regulatory floodways will also continue to influence the location of fencing adjacent to floodways.

iii. A fence located within 25 feet of a waterway, as defined in section 26-41, or a natural body of water must be open mesh screening above a height of 3½ feet.

~~b. *Commercial and industrial areas.* A commercial or industrial fence may be a maximum height of eight feet around the perimeter of the project upon a finding by the Development Services Director that the fence does not interfere with vehicle visibility requirements (see Section 34-3131) at traffic access points.~~

~~c. *Walls and fences along limited access or controlled access streets.* A wall or fence may be placed or maintained along any property line abutting a limited access or controlled access street provided it complies with the same regulations as are set forth for residential project fences in Section 34-1743.~~

Staff note: subsections (b) and (c) are proposed to be reordered for more intuitive sequencing. No change in language is proposed.

b. *Walls and fences along limited access or controlled access streets.* A wall or fence may be placed or maintained along any property line abutting a limited access or controlled access street provided it complies with the same regulations as are set forth for residential project fences in section 34-1743.

c. *Commercial and industrial areas.* A commercial or industrial fence may be a maximum height of eight feet around the perimeter of the project upon a finding by the Development Services Director that the fence does not interfere with vehicle visibility requirements (see section 34-3131) at traffic access points.

d. *Agricultural fences.* An open mesh or wire fence for bona fide agricultural uses may be a maximum height of eight feet along any property line in an agricultural district, provided that the fence does not interfere with vehicle visibility requirements (see ~~S~~section 34-3131) at traffic access points.

GROUP 4, ITEM C

POOLS, POOL DECKS, AND SCREEN ENCLOSURES

AMENDMENT SUMMARY

Issue: Swimming pools, decks, patios, and decks within special flood hazard areas are constrained by the 3½-foot above grade requirement established in section 34-1176(b)(1)b and the requirement for these types of accessory uses to meet principal structure setbacks. In many cases, relief from this requirement is sought through an administrative variance to allow for a reduced setback for these facilities, and this type of request is becoming increasingly prevalent.

Solution: Staff proposes revisions to this section to allow pools, decks, and patios on properties within flood prone areas to exceed 3½ feet above grade subject to a rear setback of 10 feet. The proposed 10-foot setback is intended to provide a middle ground between a prevailing accessory structure setback of 5 feet and the prevailing principal structure setback of 20 feet to allow for adequate grading and drainage. Staff also proposes modifications to regulations governing the placement of screen enclosures for clarity and to codify current Department interpretation regarding screen enclosures.

Outcome: These modifications will eliminate the need for additional zoning actions to allow pools and pool decks elevated to the finished floor of associated residences in special flood hazard areas and codify existing Department interpretations regarding screen enclosures.

CHAPTER 34- ZONING

ARTICLE I. – IN GENERAL

Sec. 34-2. Definitions

Staff Note: Add definition of screen enclosure. The LDC currently references "open mesh enclosure and open mesh screen." Open mesh enclosure is not defined in the LDC and "open mesh screen" is defined in Section 34-1172. Changing terminology and providing one definition is intended to provide for clarity and consistency in administration since the term "open mesh" is used elsewhere in the LDC as it relates to fences. Staff proposes to strike Section 34-1172 in its entirety and relocate the definition of "roofed" from Section 34-1172 to Section 34-2.

Roofed means any structure or building with a roof which is intended to be impervious to weather. See *building.*

Screen enclosure means a structure, in whole or in part self-supporting, with walls and a roof of insect screening intended to provide protection from insects not designed to be impervious to weather.

ARTICLE VII. – SUPPLEMENTARY DISTRICT REGULATIONS

DIVISION 2. – ACCESSORY USES, BUILDINGS, AND STRUCTURES

Sec. 34-1172. ~~Definitions~~ - Reserved.

Staff note: Strike Section 34-1172 in its entirety and relocate the definition of "roofed" from Section 34-1172 to Section 34-2.

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

~~*Open-mesh screen* means meshed wire or cloth fabric to prevent insects from entering the facility, including the structural members framing the screening material.~~

~~*Roofed* means any structure or building with a roof which is intended to be impervious to weather.~~

Sec. 34-1176. Swimming pools, tennis courts, porches, decks and similar recreational facilities.

Staff note: Swimming pools, decks, patios, and decks within special flood hazard areas are constrained by the 3½-foot above grade requirement established in section (b)(1)b and the requirement for these types of accessory uses to meet principal structure setbacks. In many cases, relief from this requirement is sought through an administrative variance to allow for a reduced setback for these facilities, and this type of request is becoming increasingly prevalent. Staff proposes revisions to this section to allow pools, decks, and patios on properties within flood prone areas to exceed 3½ feet above grade subject to a rear setback of 10 feet. The proposed 10-foot setback is intended to provide a middle ground between a prevailing accessory structure setback of 5 feet and the prevailing principal structure setback of 20 feet to allow for adequate grading and drainage. Staff also proposes modifications to regulations governing the placement of screen enclosures for clarity and to codify current Department interpretation regarding screen enclosures.

(a) *Applicability.* The regulations set out in this section apply to all swimming pools, tennis courts, shuffleboard courts, porches, decks and other similar recreational facilities which are accessory to a permitted use, and which are not specifically regulated elsewhere in this chapter.

(b) *Location and setbacks.*

(1) *Personal, private and limited facilities.*

a. ~~*Nonroofed facilities.*~~ All swimming pools, tennis courts, decks and other similar ~~nonroofed~~ accessory facilities ~~shall~~ must comply with the following setback requirements:

1. Street setbacks, as set forth in ~~S~~sections 34-1174 and 34-2192.

2. Water<u>body</u> setbacks, as set forth in ~~S~~section 34-2194.

3. Rear lot line setback, as set forth in ~~S~~section 34-1174(d).

4. Side lot line setbacks, as set forth in ~~S~~section 34-1174(d).

b. ~~*Open-mesh screen enclosures*~~ *Nonroofed facilities.* Swimming pools, patios, decks and other similar recreational facilities may not exceed 3½ feet above grade, as defined in section 34-2171, unless: ~~it complies with minimum required principal structure setbacks. Decks or patios that comply with accessory structure setbacks may be enclosed with open-mesh screen. Enclosures with an opaque material above 3½ feet from grade must meet principal structure setbacks.~~

1. The recreational facility complies with minimum required principal structure setbacks where the property is not located in a special flood hazard area; or

2. The recreational facility is located in a special flood hazard area and is designed and constructed at or below the lowest minimum habitable floor elevation for which a building permit may be issued, provided the facility complies with accessory structure setbacks and a minimum rear lot line setback of 10 feet.

~~It is the responsibility of the applicant to increase all required setbacks sufficient to provide maintenance access around the pool whenever the pool is proposed to be enclosed with open-mesh screening or fencing. A minimum increase in setbacks of three feet is recommended.~~

c. *Screen enclosures.* Swimming pools, decks or patios may be enclosed with a screen enclosure, subject to the following requirements:

1. Any screen enclosure with an opaque material above 3½ feet from grade must meet principal structure setbacks;

2. *Roofed ~~open-mesh~~ screen enclosures.* ~~Open-mesh~~ Roofed screen enclosures ~~may be covered by a solid roof (impervious to weather, provided that~~ must:

   i. Comply with all setback requirements for the principal building if structurally part of the principal building, except when constructed as a flat roof with a pitch no greater than the minimum required for rain runoff.

   ii. Comply with all setback requirements for accessory structures if not structurally part of the principal building.

~~1. If structurally part of the principal building, the enclosure shall comply with all setback requirements for the principal building.~~

~~2. Except when in compliance with the setback requirements for principal buildings, a solid roof over a screen enclosure shall be constructed as a flat roof with the pitch no greater than the minimum required for rain runoff.~~

(2) *Commercial and public facilities.* All pools, tennis courts and other similar recreational facilities owned or operated as a commercial or public establishment ~~shall~~must comply with the setback regulations for the zoning district in which located.

(c) *Fencing.*

Staff note: This section is proposed to be revised to eliminate fencing requirements for swimming pools established in the LDC. Barrier requirements for swimming pools, hot tubs, and spas are governed by the Florida Building Code.

~~(1) *In-ground swimming pools, hot tubs and spas.* Every swimming pool, hot tub, spa or similar facility shall be enclosed by a fence, wall, screen enclosure or other structure, not less than four feet in height, constructed or installed so as to prevent unauthorized access to the pool by persons not residing on the property. For the purposes of this subsection, the height of the structure shall be measured from the ground level outside of the area so enclosed. The enclosure may be permitted to contain gates, provided they are self-closing and self-latching.~~

~~(2) *Aboveground swimming pools, hot tubs and spas.* Aboveground pools, hot tubs, spas and similar facilities shall fulfill either the enclosure requirements for in-ground pools or shall be so constructed that the lowest entry point (other than a ladder or ramp) is a minimum of four feet above ground level. A ladder or ramp providing access shall be constructed or installed so as to prevent unauthorized use.~~

~~(3) *Exception.* A spa, hot tub or other similar facility which has a solid cover (not a floating blanket) which prevents access to the facility when not in use shall be permitted in lieu of fencing or enclosure requirements.~~

~~(4)~~(1) *Tennis courts.* Fences used to enclose tennis courts shall not exceed 12 feet in height above the playing surface.

(d) *Lighting.* Lighting used to illuminate a swimming pool, tennis court or other recreational facility shall be directed away from adjacent properties and streets and shall shine only on the subject site.

(e) *Commercial use.* No swimming pool, tennis court or other recreational facility permitted as a residential accessory use shall be operated as a business.

Sec. 34-2194. Setbacks from bodies of water.

Staff note: Revise subsection (c)(3) to add a waterbody setback for swimming pools, decks, and other similar nonroofed accessory structures to allow a reduced setback for these structures when located in a special flood hazard area. Current regulations require these structures to meet required principal building setbacks when such structures exceed 3½ feet above grade.

(a) *Gulf of Mexico.* Except as provided in this section or elsewhere in this chapter, buildings and structures may not be placed closer to the Gulf of Mexico than set forth in Chapter 6, Article III, pertaining to coastal zone protection, or 50 feet from mean high water, whichever is the most restrictive.

(b) *Other bodies of water.* Except as provided in this section or elsewhere in this chapter, buildings and structures may not be placed closer than 25 feet to a canal or to a bay or other water body or the distance required by the provisions of Chapter 6, Article IV, pertaining to flood hazard reduction, whichever is greater.

For the purposes of measuring setbacks from a canal, bay, or other body of water, the following will be used:

(1) If the body of water is subject to tidal changes, the mean high water line (MHWL) will be used.

(2) If the body of water is seawalled, setback will be measured from the seaward side of the seawall, not including the seawall cap.

(3) If the body of water is rip-rapped or has a natural or unimproved shoreline, the setback will be measured from the control elevation of the body of water. If the control elevation is unknown or not available, then the setback will be measured from the ordinary high water line (OHWL).

(c) *Exceptions.*

(1) *Planned developments.* In a Planned Development Zoning District, the Board of County Commissioners shall have the authority to grant less stringent setbacks than required in this section for the following situations:

a. Artificial bodies of water such as retention ponds or reflection ponds, when development surrounding the entire body of water is under unified control.

b. Natural bodies of water which are totally contained on a parcel of land proposed for development under unified control, provided all applicable State or local permits are obtained.

c. Those portions of natural or artificial bodies of water which may be defined as navigable and accessible to the public, but which do not provide for through navigation, including, but not limited to, lakes, ponds or pockets which have only one means of navigable ingress and egress, provided that:

1. All necessary State and local permits are obtained; and

2. The entire circumference of the body of water, except the navigable point of ingress and egress, is under unified control.

(2) *Docks, seawalls and other watercraft landing facilities.* See ~~S~~section 34-1863.

(3) *Other accessory structures.* Certain accessory buildings and structures may be permitted closer to a body of water as follows:

a. *Fences and walls.* See Division 17 of this article.

b. *Nonroofed structures and screen enclosures.* Swimming pools, tennis courts, patios, decks and other nonroofed accessory structures or facilities which do not exceed 3½ feet above grade as defined in section 34-2171, and are ~~not enclosed, except by~~ fenced~~,~~ or ~~which are~~ enclosed on at least three sides with ~~open mesh screening~~ a screen enclosure from a height of 3½ feet above grade to the top of the enclosure, ~~shall~~ may be permitted up to but not closer than the greater of:

1. Five feet from a seawalled canal or seawalled natural body of water;

2. Ten feet from a nonseawalled artificial body of water; or

3. 25 feet from a nonseawalled natural body of water;

~~whichever is greater.~~ Enclosures ~~with any two or more sides~~ enclosed by opaque material ~~shall be required to~~ must comply with the setbacks set forth in ~~S~~subsections (a) and (b) of this section.

c. Swimming pools, tennis courts, patios, decks and other nonroofed accessory structures or facilities which exceed 3½ feet above grade must comply with the setbacks set forth in subsections (a) and (b) of this section, with the following exception:

1. Facilities located in a special flood hazard area which are designed and constructed at or below the lowest minimum habitable floor elevation for which a building permit may be issued may located a minimum of 10 feet from an artificial body of water or seawalled natural body of water or 25 feet from a nonseawalled natural body of water.

~~c.~~d. *Roofed structures.*

1. Accessory structures with roofs intended to be impervious to weather and which are structurally built as part of the principal structure shall be required to comply with the setbacks set forth in ~~S~~subsections (a) and (b) of this section.

2. Accessory structures with roofs intended to be impervious to weather and which are not structurally built as part of the principal structure may be permitted up to but not closer than 25 feet to a natural body of water, and ten feet to an artificial body of water.

GROUP 4, ITEM D

ENTRANCE GATES AND GATEHOUSES

AMENDMENT SUMMARY

Issue:	Current regulations pertaining to entrance gates and gatehouses contain incorrect cross-references, duplicative language, and ambiguities, leading to difficulty in administration.
Solution:	Staff proposes modifications to renumber and reorganize this section, remove duplicative language, correct incorrect cross-references, and clarify applicability of section.
Outcome:	Reduces duplicative language to streamline LDC, codifies existing Department interpretations, and clarifies language where necessary.

CHAPTER 34- ZONING

ARTICLE VII. – SUPPLEMENTARY DISTRICT REGULATIONS

DIVISION 17. – FENCES, WALLS, GATES, AND GATEHOUSES

Sec. 34-1748. Entrance gates and gatehouses.

Staff note: Renumber section consistent with numbering system used elsewhere in the LDC. Revise section for clarity and to codify department interpretations. Delete duplicative language as needed.

The following regulations apply to entrance gates or gatehouses that control access to three or more dwelling units or recreational vehicles, or any commercial, industrial or recreational facility:

(a~~1~~) An entrance gate or gatehouse that will control ~~access~~entry to property 24 hours a day may be permitted, provided that:

(1)~~a.~~ It is not located on a publicly dedicated ~~street or~~ street right-of-way or street easement;

(2)~~b.~~ Appropriate evidence of consent is submitted from all property owners who have the right to use the subject road or from a property owner's association with sufficient authority;

(3)~~c.~~ If it is to be located within a planned development, it is an approved use in the schedule of uses;

(4)~~d.~~ The gate or gatehouse is ~~located~~:

a~~1~~. Located a~~A~~ minimum of 100 feet ~~back~~ from the existing or planned intersecting street right-of-way or easement.

b~~2~~. ~~The gate or gatehouse is d~~Designed in such a manner that a minimum of five vehicles or one vehicle per dwelling unit, whichever is less, can pull safely off the intersecting public or private street while waiting to enter.

c.~~3.~~ ~~The development provides~~ Designed with accompanying right turn and left turn auxiliary lanes on the intersecting street at the project entrance. The design of the auxiliary lanes must be approved by the Development Services Manager~~Director~~.

d.~~4.~~ Located where it~~In a manner that~~ does not impede or interfere with the normal operation and use of individual driveways or access points.

e.~~5.~~ ~~Turn-arounds.~~ Designed with a~~A~~ paved turn-around~~,~~ on the ingress side of the gate or gatehouse ~~having~~ with a turning radius sufficient to accommodate a U-turn for a single unit truck (SU) vehicle as specified in the AASHTO Green Book, current edition.~~, must be provided on the ingress side of the gate or gatehouse~~.

(5)~~5.~~ Where, in the opinion of the ~~Director of~~ Development Services Manager, traffic volumes on the intersecting street are so low that interference with through traffic will be practically nonexistent, the Manager~~Director~~ may waive or modify the ~~locational~~ requirements set forth in ~~this Subsection~~ section (a)(4)~~(1)d of this section~~. If the intersecting street is County-maintained, then the Director of the County Department of Transportation must concur. The decision to waive or to modify the locational requirements is discretionary and may not be appealed.

~~e. The development provides right turn and left turn auxiliary lanes on the intersecting street at the project entrance. The design of the auxiliary lanes must be approved by the Development Services Director.~~

(b~~2~~) *Access for emergency vehicles~~ must be provided~~*.

a. Any ~~security~~ entrance gate or similar device that is not manned 24 hours per day must be equipped with an override mechanism acceptable to the local emergency services agencies or an override switch installed in a glass-covered box for the use of emergency vehicles.

b. If an emergency necessitates the breaking of an entrance gate, the cost of repairing the gate and the emergency vehicle if applicable, will be the responsibility of the owner or operator of the gate.

(c~~3~~) *Extension of fences or walls~~ to an entrance gate or gatehouse~~*. A fence or wall may be extended into ~~the~~ a required setback where it abuts an entrance gate or gatehouse, provided vehicle visibility requirements (see ~~S~~section 34-3131) are met.

(d~~4~~) Entrance gates that are installed solely for security purposes for nonresidential uses, and that will remain open during normal working hours, are not subject to the location or emergency access requirements set forth in section (a)(4) and (b)~~Subsection (1)c of this section and are not required to be equipped with an override mechanism acceptable to the local emergency services agencies or an override switch installed in a glass-covered box for the use of emergency vehicles~~. However, if an emergency necessitates the breaking of an entrance gate, the cost of repairing the gate and the emergency vehicle if applicable, will be the responsibility of the owner or operator of the gate.

~~(5) Turn-arounds. A paved turn-around, having a turning radius sufficient to accommodate a U-turn for a single unit truck (SU) vehicle as specified in the AASHTO Green Book, current edition, must be provided on the ingress side of the gate or gatehouse.~~

GROUP 4, ITEM E

DENSITY

AMENDMENT SUMMARY

Issue:	The division in the LDC regarding density is not consistent with the Lee Plan.
Solution:	These amendments remedy the inconsistency with the Lee Plan and clean up some of the language within these sections of the LDC.
Outcome:	The revised language reflects the intent of the Lee Plan, revises some of the sections to be consistent with state statute and current Department practice, and generally cleans up some of the language.

Chapter 34 – Zoning

ARTICLE VII. – SUPPLEMENTARY DISTRICT REGULATIONS

DIVISION 12. – DENSITY

Sec. 34-1491. Applicability ~~of subdivision~~.

Staff note: Subsection #2 was relocated from 34-1494(2).

(1) The provisions set forth in this ~~sub~~division apply to any proposed or existing residential development. For the purposes of this ~~sub~~division, the term "residential" does not include hotel/motel density calculations (see Division 19 of this article).

(2) Notwithstanding other applicable regulations, no density calculation is required for hospitals, prisons, jails, boot camps, detention centers, or other similar-type facilities owned or operated by a County, State, or federal agency.

~~Sec. 34-1492. Definitions.~~

Staff note: This section is not needed as the definition and methodology for calculating density is more appropriately located in the Lee Plan. Removing this section eliminates potential for inconsistency with the Lee Plan.

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

~~*Gross residential acres* means the total land area of a residential development as follows:~~

~~(1) Land areas to be included are as follows:~~

~~a. The area of existing and proposed artificial water bodies within the parcel boundaries;~~

~~b. Parks, noncommercial recreational facilities and open space;~~

~~c. Schools (noncommercial);~~

~~d. Police, fire and emergency services;~~

~~e. Sewage, water and drainage facilities;~~

~~f. Land proposed to be used for street rights-of-way or street easements;~~

~~g. Land proposed to be used for utility rights-of-way or easements; and~~

~~h. Land used for residential buildings and normal residential accessory uses.~~

~~(2) Existing open natural bodies of water may not be included in calculating gross residential acres.~~

~~(3) In mixed-use developments, any existing or proposed street right-of-way or street easement, and any utility right-of-way or easement, must be prorated between the residential and the nonresidential uses.~~

~~*Gross residential density* means the ratio of housing units per gross residential acre.~~

~~*Total land area* means the total area of land, expressed in acres or fractions thereof, contained within the boundary lines of a development.~~

Sec. 34-149~~3~~2. Calculation of total permissible housing units.

Staff note: This section has been renumbered with the strikethrough of the previous section. The methodologies identified in this section are out of date with current practices based on Lee Plan requirements for calculating density. Staff recommends updating the list of required application materials based on current methodology to calculate density, deleting methodologies to make consistent with current Lee Plan and avoid potential inconsistencies in the future, and update terminology to be consistent with the Lee Plan.

The Lee Plan establishes a standard and maximum residential density range permissible for each residential land use category. Density for each residential development will be based on the Lee Plan's definition of Density and the Goals, Objectives, and Policies of the Lee Plan. ~~The procedure set forth in this section must be used to determine the standard residential density as well as the total number of housing units which may be permitted within a development.~~

(1) *Proposed developments.*

a. *Determination of land area.* The applicant must provide the calculations used in determining the following:

1. Total land area of the proposed development.

2. Land area of all future land use categories contained within the proposed development.

3. Land area non-residential uses, including infrastructure needed to support the non-residential uses.

~~2. Total gross residential acres.~~

~~3. Gross residential acres less any area classified as wetlands.~~

4. Acres of any area classified as freshwater wetlands, with clarification if they are to be preserved or impacted.

5. Acres of any area classified as saltwater wetlands.

~~5. Acres of any other classified as wetlands (if applicable for density calculations).~~

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

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

~~i. Multiply the total gross residential acres less wetland area by the standard density range permitted for the land use category in which the property is located.~~

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

~~2. *Suburban, land use districts.*~~

~~i. Multiply the total gross residential acres less wetland area by the standard density range permitted for the land use category in which the property is located.~~

~~ii. Additional units may be transferred from abutting freshwater wetland areas at the same underlying density as is permitted for the uplands, so long as the maximum uplands density does not exceed the maximum standard density of six units per acre plus two for a total of eight units per acre.~~

~~3. *Outlying suburban land use district.*~~

~~i. Multiply the total gross residential acres less wetland area by the standard density range permitted for the land use category in which the property is located.~~

~~ii. Additional units may be transferred from abutting freshwater wetland areas at the same underlying density as is permitted for the uplands, so long as the maximum uplands density does not exceed the maximum standard density of three units per acre, plus one for a total of four units per acre. Outlying suburban land located north of the Caloosahatchee River and east of Interstate 75, north of Pondella Road and south of Pine Island Road (SR 78), and in the Buckingham area (see Goal 20 of the Lee Plan), the maximum upland density shall be two units per acre plus one for a total of three units per acre.~~

~~c~~b. *Development within the Mixed-Use Overlay.* Prior to issuance of a development order for development, redevelopment, or infill development located within the Mixed-Use Overlay which includes the area of nonresidential uses in the density calculations as permitted by the Lee Plan must prepare and record a restrictive covenant or other instrument that severs the residential development rights from the nonresidential project area.

c. *Planned developments and PUDs.*

1. In planned developments other than Residential Planned Developments (RPDs), for any existing or proposed infrastructure, such as street rights-of-way or street easements, any utility rights-of-way or easements, or water management areas as well as common areas and amenity tracts (including but not limited to golf courses and similar outdoor recreational facilities) shared between residential and non-residential uses, density shall be prorated in a manner proportionate to the respective land areas of the residential and non-residential uses.

2. In Residential Planned Developments (RPDs) or planned developments within the Mixed Use Overlay, density will be based off of total land area.

(2) *Existing developments and lots.* Due to the problems of computing gross density in the same manner as set forth for new developments, the following procedures must be followed:

a. *Single-family structures.* Any lawfully existing lot of record zoned for residential use will be permitted one single-family residence so long as the lot complies with either the property development regulations for the zoning district in which it is located~~,~~ or the owner receives a favorable ~~single-family residence~~ minimum use determination in accordance with ~~S~~section 34-3273.

b. *Two-family attached or duplex structures.* If two or more abutting properties have each qualified for the right to construct a single-family residence, and if the lots or parcels are located in a zoning district ~~which~~ that permits duplex or two-family dwellings, the property owner may combine the lots to build a single duplex or two-family building in lieu of constructing two single-family residences.

c. *Townhouse or multiple-family structures.* Except as limited by the Lee Plan, any legally existing lot of record ~~which~~that is zoned for townhouse or multiple-family development will be permitted dwelling units as follows:

1. *Developments ~~which~~that are not planned developments or PUDs.* When reviewing a request for a building permit for a townhouse or multiple-family building which is not part of a PUD or planned development, the maximum number of permitted dwelling units will be determined by the applicable property development regulations ~~set forth for~~ of the zoning district, Future Land Use Category, or State Statutes, ~~in which located for the particular type of building proposed~~, provided that:

   i. The maximum number of dwelling units permitted will not exceed the standard density range for the land use category ~~in which located~~; and

   ii. The parcel area must be calculated as the gross area of the lot in question~~, plus one-half of any abutting right-of-way or easement~~. When a parcel is adjacent to a platted right-of-way that was platted as part of the same subdivision, one-half of the abutting rights-of-way will be added to the parcel area.

2. *Planned developments and PUDs.* The ~~M~~maximum density will be as set forth in the approving resolution minus the existing units.

Sec. 34-1494~~3~~. Density equivalents.

Staff note: This section has been renumbered with the strikethrough of the previous section. The Bed and Breakfast equivalency factors have been updated to ensure the LDC is consistent with state statutes regarding short-term rentals. Additionally, the ALF/Group Home equivalencies have been updated to reflect state statute allowance of 6 residents equals one dwelling unit.

(a) *Applicability.* The density equivalents set forth in this subsection will be used in situations where it is necessary to convert permissible uses to residential dwelling unit equivalents. When permitted by the use regulations in a zoning district that permits dwelling units, the permissible density equivalents may not exceed the density limitations set forth in the zoning district or land use category (whichever is less) in which the property is located. In situations where the Lee Plan does not specify a standard density range, such as the interchange areas, the permissible density equivalents may not exceed ten dwelling units per acre.

(b) *Equivalency factors.*

(1) Notwithstanding Section 34-1414(c), no density equivalency calculation is required for a bed and breakfast when the lodging includes less than four (4) rentable spaces without kitchens and exterior entrances that are rentable for a limited time and at least one meal included for each guest each day of the stay. Bed and Breakfasts exceeding four rentable spaces without kitchens will be calculated as four rentable spaces ~~(df) in an owner-occupied conventional single-family (df) accommodating four or less lodgers. If the bed and breakfast will accommodate more than four lodgers, then the equivalency will be calculated as four lodgers~~ equals one dwelling unit.

~~(2) Notwithstanding Section 34-1414(c), no density calculation is required for hospital, prison, jail, boot camp, detention center, or other similar type facility owned or operated by a County, State or federal agency.~~

(2)~~(3)~~ Where dwelling or living units have lock-off accommodations, density will be calculated as follows:

~~a. Hotels/motels. Lock-off units will be counted as separate rental units regardless of size.~~

a.~~ b.~~ Timeshare units. Lock-off units will be counted as separate dwelling units whether or not they contain cooking facilities, as follows:

i. Studio units will be counted as 0.1 dwelling units;

ii. One-bedroom units will be counted as 0.25 dwelling units;

iii. Two-bedroom units will be counted as 0.5 dwelling units;

iv. Three-bedroom (or more) units will be counted as a full dwelling unit.

(43) Density. Density equivalents for health care, social service, adult living facilities (ALF), continuing care facilities, or other group quarters not meeting the Community Residential Homes allowances in Florida Statutes Chapter 419 ~~(df)~~ are provided in dwelling unit equivalents:

a. Where each unit has its own cooking facilities, density equivalents will be calculated on a 1:1 ratio.

b. Where a continuing care facility (CCF) or assisted living facility (ALF) contains independent living units two independent living units equal to one residential dwelling unit.

c. Except as may be specifically set forth elsewhere in this chapter, where health care, social service, adult living facilities (ALF), continuing care facilities (CCF), or other group quarters ~~(df)~~ are provided in dwelling units or other facilities wherein each unit does not have individual cooking facilities and where meals are served at a central dining facility or are brought to the occupants from a central kitchen, density equivalents will be calculated at the ratio of ~~four~~six people equals one dwelling unit.

A planned development, for which the Master Concept Plan states the number of persons that may occupy an approved adult living facility (ALF) or continuing care facility (CCF), may request an amendment to the approved Master Concept Plan to reflect the increased number of occupants based upon the equivalency factor set forth in this section (if applicable). Such amendment will be considered an administrative amendment that will be deemed to not increase density and may be approved pursuant to Section 34-380(b) as long as existing floor space is not increased to accommodate the increased number of occupants. If increased floor space is required, then a public hearing will be required.

~~(c) *Determination of permitted density*. The maximum permitted density shall be determined by multiplying the number of dwelling units permitted (see Subsection (a) of this section) by the appropriate equivalency factor.~~

DIVISION 19. Hotels and Motels

Sec. 34-1802. Property development regulations.

Staff note: Section 34-1494(b)(3)a has been relocated to #4 in this section regarding rental units permitted.

Property development regulations for uses subject to this division are as follows:

(1) *Minimum lot dimensions.*

a. Area: 20,000 square feet.

b. Lot width: 100 feet.

c. Lot depth: 100 feet.

(2) *Setbacks.*

a. Street: In accordance with Section 34-2192.

b. Water body: In accordance with Section 34-2194.

c. Side and rear yards: 20 feet for buildings up to 35 feet in height, plus one-half foot for every one foot in excess of 35 feet.

(3) *Parking.*

a. Minimum parking requirements are set forth in Division 26 of this article.

b. Ancillary uses located in separate buildings and available to non-guests must meet the requirements of Division 26 of this article.

(4) *Rental units permitted.*

a. Minimum floor area per unit is 120 square feet.

b. For developments within conventional zoning districts located within Lee Plan future land use map categories that have maximum standard density limits, rental unit density equivalents are:

Three rental units with 425 square feet or less of total floor area per unit equal one dwelling unit.

Two rental units with a total floor area of 426 to 725 square feet per unit equal one dwelling unit.

Each rental unit with a total floor area exceeding 725 square feet equals one dwelling unit.

Where lock-off accommodations ~~(df)~~ are provided, each keyed room will be calculated as a separate rental unit.

Proposed hotel/motel with more than 200 rental units or that exceed the equivalency factors above when divided by the Lee Plan maximum standard density for the property in question will be permitted only as a planned development.

<u>Lock-off units will be counted as separate rental units regardless of size.</u>

c. In categories without density limits, the number of permitted hotel/motel rental units will be determined by design and compliance with all applicable property development regulations including open space, setbacks, and height restrictions except as provided below.

d. Hotels/motels approved as planned developments are not subject to rental unit size or density requirements set forth above provided all other aspects of the development (height, traffic, intensity of use, etc.) are found to be compatible with the surrounding area and otherwise consistent with the Lee Plan. However, any increase in the number or the floor size of the rental units approved in a planned development will require an amendment to the Master Concept Plan.

GROUP 4, ITEM F

AIRPORT WILDLIFE HAZARD PROTECTION ZONE REQUIREMENTS

AMENDMENT SUMMARY

Issue: DCD staff reviews and approves a significant number of deviations from lake bank slope and planted littoral shelf requirements for lakes associated with development within the 10,000-foot airport wildlife hazard protection zone in a manner consistent with FAA Advisory Circular (AC) 150/5200-33B and Lee Plan Policy 47.2.5. While these deviations typically occur through a planned development zoning action, the only process to deviate from these requirements in a conventional zoning district is through a public hearing variance, which results in a longer permitting process for development on conventionally-zoned properties within the airport wildlife hazard protection zones.

Solution: Staff proposes changes to the lake bank slope and planted littoral shelf requirements within airport wildlife hazard protection zones to codify relief that is customarily approved through zoning actions. The proposed changes:

1) Allow lake bank slopes within the airport wildlife hazard protection zone to be designed with a maximum slope of 4:1 consistent with FAA guidelines;
2) Prohibit planted littoral shelves within the airport wildlife hazard protection zone consistent with FAA guidelines; and
3) Require the number of littoral plants calculated for a planted littoral shelf in accordance with LDC requirements to be converted and substituted with wetland trees.

Outcome: Streamlines the permitting process for development within the airport wildlife hazard protection zone in a manner consistent with FAA guidance and the Lee Plan.

Sec. 10-104. Deviation and variances.

Staff note: LDC Section 10-104(a)(12) references the changes recommended in LDC Section 10-418(5).

(a) *Provisions where deviations are authorized.* The Director is hereby authorized to grant deviations from the technical standards in the following sections of this chapter:

(1) Section 10-261 (refuse and solid waste disposal facilities);

(2) Section 10-283 (access streets);

(3) Section 10-285 (intersection separations);

(4) Section 10-296(b), Table 2 (right-of-way width specifications for streets);

(5) Section 10-296(e) (wearing surface, base, subgrade, cross section widths);

(6) Section 10-296(d)(4) (drainage);

(7) Section 10-296(d)(11), Table 3 (pavement design);

(8) Section 10-296(j) (intersection designs);

(9) Section 10-296(k) (cul-de-sacs);

(10) Section 10-322 (swale sections);

(11) Section 10-329(d)(1)a. (setbacks for water retention/detention excavations);

(12) Section 10-329(d)(4) (excavation bank slopes and percent hardening), except that development in the Airport Wildlife Hazard Protection Zone is subject to compliance with section 10-418(5);

(13) Section 10-352 (public water);

(14) Section 10-353 (public sewer);

(15) Section 10-384(c) (water mains);

(16) Section 10-415(b) (indigenous native vegetation);

(17) Section 10-418(3) (percent hardening and compensatory littorals);

(18) Section 10-441 (mass transit facilities);

(19) Section 10-416(c) (landscaping of parking and vehicle use areas);

(20) Section 10-610 (site design standards and guidelines for commercial developments);

(21) Section 10-620(d)(4)a. (requiring full parapet coverage for roofs utilizing less than or equal to 2V:12H pitch);

(22) Section 10-716 (piping materials in right-of-way);

(23) Sections 10-329(f) and 10-418(4) (restoration of existing bank slopes and littoral designs).

Sec. 10-329. Excavations.

Staff note: LDC Section 10-329(d)(4) references the changes recommended in LDC Section 10-418(5).

Sections (a) through (c) remain unchanged.

Section (d)(1) through (3) remain unchanged.

(4) *Bank slopes.* Excavation bank slopes for new development~~projects~~. The design of shorelines for retention and detention areas must be sinuous rather than straight, as described in Division 6 of this article. The banks of excavations permitted under this section must be sloped at a ratio not greater than six horizontal to one vertical from the top of bank to a water depth of two feet below the dry season water table, except that development in the Airport Wildlife Hazard Protection Zone must comply with section 10-418(5). The slopes must be not greater than two horizontal to one vertical thereafter, except where the ~~Director of~~ Development Services Manager determines that geologic conditions would permit a stable slope at steeper than a two to one ratio. Excavation bank slopes must comply with the shoreline configuration, slope requirements and planting requirements for mimicking natural systems specified in Section 10-418, except that development in the Airport Wildlife Hazard Protection Zone must comply with section 10-418(5). Placement of backfill to create lake bank slopes is prohibited unless, prior to the issuance of a Certificate of Compliance, the applicant provides signed and sealed test reports from a geotechnical engineer certifying that the embankment was placed and compacted to its full thickness to obtain a minimum of 95 percent of the maximum dry density (modified Proctor) for embankments that will support structures, and 90 percent of maximum dry density (modified Proctor) for other embankments in accordance with ASTM D1557.

An administrative deviation may be requested from the required six to one slope requirement to allow a slope no steeper than four to one. The deviation may be granted if the Development Services Manager~~Director~~ is satisfied that the enhanced slope protection measures proposed by the applicant will prevent erosion and scouring. Acceptable enhanced slope protection measures include, but are not limited to, use of enhanced herbaceous plantings in combination with an appropriate geosynthetic turf reinforcement mat or similar shoreline stabilization technique that does not include hardened structures such as those identified in ~~S~~section 10-418(3). The design technique used will be determined by the project engineer based upon evaluation of site-specific conditions and the proposed development parameters. The deviation request may be processed under ~~S~~section 10-104 or in conjunction with a planned development zoning application. Planted littoral shelves for development in the Airport Wildlife Hazard Protection Zone must comply with section 10-418(5).

Sec. 10-418. Surface water management systems.

Staff note: Revise planted littoral shelf section to allow 100 percent of the littorals to be substituted for wetland trees and allow 4:1 lake bank slopes limited to projects located within the Airport Wildlife Hazard Protection Zone. The changes eliminate the need for deviations and protect the health and safety of the traveling public.

Subsection (1) remains unchanged.

(2) *Planted littoral shelf (PLS).* The following features are considered sufficient to mimic the function of natural systems, improve water quality and provide habitat for a variety of aquatic species, including wading birds and other waterfowl. Planted littoral shelves for development located within the Airport Wildlife Hazard Protection Zone must comply with section 10-418(5).

a. *Size requirements.* The PLS shoreline length must be calculated at 25 percent of the total linear feet of the lake at control elevation.

b. *Location criteria.*

1. The PLS should be concentrated at one location of the lake, preferably adjacent to a preserve area, to maximize its habitat value and minimize maintenance efforts. The required PLS may be divided and placed in multiple locations as long as no PLS area is smaller than 1,000 square feet. Whenever possible, the PLS must be located away from residential lots to avoid maintenance and aesthetic conflicts with residential users.

2. The PLS may be located adjacent to control structures and pipe outlets or inlets to maximize water quality benefits and not impede flow.

3. If contained within a lake the PLS must function as a typical freshwater marsh in ponds with slopes from 6(H) to 1(V) to not more than 4(H) to 1(V).

c. *Shelf configuration.*

1. The PLS must be designed to include a minimum of a 20-foot-wide littoral shelf extending waterward of the control elevation at a depth of no greater than two feet below the control elevation.

2. A detailed cross section of the PLS must be depicted on the approved development order plan.

d. *Plant selection.*

1. Herbaceous plants must be selected based upon the expected water level fluctuations and maximum water depths in which the selected plants will survive. The PLS areas must be planted with at least four different native herbaceous plant species.

2. Plant calculations. The required number of herbaceous plants is calculated based upon placement spaced two-foot on center for the total area encompassed by the PLS. The PLS must be planted with minimum two-inch liner container herbaceous plants.

   The total number of plants for the PLS may be calculated by taking the total linear feet of shoreline multiplied by 25 percent, then multiplied by the 20-foot-wide shelf and divided by four to obtain the two-foot on center spacing.

3. Native wetland trees may be substituted for up to 25 percent of the total number of herbaceous plants required. One tree (minimum ten-foot height; two-inch caliper, with a four-foot spread) may be substituted for 100 herbaceous plants. Trees must meet the minimum standards set forth in Section 10-420. Development located within Airport Wildlife Hazard Protection Zone must substitute 100 percent of the required number of herbaceous plants to wetland trees.

e. *Shelf elevation.* The design elevation of the PLS will be determined based upon the ability of the PLS to function as a marsh community and the ability of selected plants to tolerate the expected range of water level fluctuations.

f. *Survival of plant materials.* Trees and herbaceous plants must be maintained in perpetuity consistent with Section 10-421(b).

(3) *Bulkheads, geo-textile tubes, riprap revetments or other similar hardened shoreline structures.* Bulkheads, geo-textile tubes, riprap revetments or other similar hardened shoreline structures may comprise up to 20 percent of an individual lake shoreline. These structures cannot be used adjacent to single-family residential uses. Except for development located within Airport Wildlife Hazard Protection Zone (section 10-418(5)), ~~A~~a compensatory littoral zone equal to the linear footage of the shoreline structure must be provided within the same lake meeting the following criteria:

a. A five-foot-wide littoral shelf planted with herbaceous wetland plants. To calculate the littorals for this shelf design, indicate the number of linear feet of shoreline structure multiplied by five feet for the littoral shelf width divided by two to obtain the required plant quantity; or

b. An equivalent littoral shelf design as approved by the Development Services Manager~~Director~~.

(4) *Restoration.* Restoration of existing bank slopes that have eroded over time and no longer meet the minimum littoral design criteria applicable at the time the lakes were excavated will be in accordance with ~~S~~section 10-329(f).

(5) Development located within the Airport Wildlife Hazard Protection Zone is subject to the following:

a. All lake bank slopes must be sloped at a ratio not greater than four horizontal to one vertical (4:1) from the top of bank to a water depth of two feet below the dry season water table and provide enhanced slope protection measures to stabilize the lake bank slope in accordance with section 10-329(d)(4).

b. Planted littoral shelves must substitute 100 percent of the herbaceous plants to wetland trees in accordance with section 10-418(2)d.3.

b. Quantity of herbaceous plants must be calculated in accordance with section 10-418(2)d.2.

c. Compensatory littorals are not required for hardened shoreline.

GROUP 4, ITEM G
GENERAL PROVISIONS FOR SURFACE WATER MANAGEMENT

AMENDMENT SUMMARY

Issue:	The LDC currently references "chapter" when it should state "section" as it relates to surface water management standards, creating confusion and uncertainty.
Solution:	Change "Chapter" to "Section" to correct reference, complete minor revisions for clarity.
Outcome:	Clarification of language provides for greater regulatory certainty.

Chapter 10 - DEVELOPMENT STANDARDS

ARTICLE III. – DESIGN STANDARDS AND REQUIREMENTS

DIVISION 3. – SURFACE WATER MANAGEMENT

Sec. 10-321. General Provisions.

(a) *Stormwater system required; design to be in accordance with SFWMD requirements.* A stormwater management system must be provided for the adequate control of stormwater runoff that originates within a development or that flows onto or across the development from adjacent lands. All stormwater management systems must be designed in accordance with South Florida Water Management District (SFWMD) requirements and provide for the attenuation/retention of stormwater from the site. Issuance of a SFWMD permit addressing the requirements set forth in this section will be deemed to establish compliance with this ~~chapter~~ section and review of these projects may be limited to external impacts and wet season water table elevation. Projects granted SFWMD exemptions are subject to review by the County and will follow the criteria and requirements of the SFWMD. For the purposes of stormwater management calculations, the assumed water table must be established by the design engineer in accordance with sound engineering practice. ~~The Director of Development Review will review t~~The stormwater management system on all development order projects will be reviewed for compliance with this ~~chapter~~ section and may require substantiation of all calculations and assumptions involved in the design of stormwater management system.

GROUP 4, ITEM H

REQUIRED STREET ACCESS

AMENDMENT SUMMARY

Issue: The LDC does not provide an avenue for administrative relief from the required number access points to residential development greater than 5 acres or commercial developments greater than 10 acres. Two means of access are required by current LDC regulations. A public hearing is required to deviate from the standards established in this section.

Solution: Provide administrative authority to the Director of Public Safety and Director of Transportation (for county-maintained roadways) or the Development Services Manager (for non-county-maintained roadways), to jointly consider administrative deviations from LDC Section 10-291(3).

Outcome: Streamlines the review process for deviations from access requirements by providing an administrative mechanism for relief from LDC Section 10-291(3) where the applicant can demonstrate there is no reasonable method to provide two means of access and that the proposed alternative standard for the specified development type will not cause injury or detriment to public safety and welfare. Appropriate conditions may be attached to administrative deviation approvals to promote public safety.

Chapter 10 - DEVELOPMENT STANDARDS

ARTICLE II. – ADMINISTRATION

DIVISION 2. – DEVELOPMENT ORDERS

Subdivision II. - Procedures

Sec. 10-104. Deviations and variances.

(a) *Provisions where deviations are authorized.* The Director is hereby authorized to grant deviations from the technical standards in the following sections of this chapter:

(1) Section 10-261 (refuse and solid waste disposal facilities);

(2) Section 10-283 (access streets);

(3) Section 10-285 (intersection separations);

(4) Section 10-291(3) (additional means of ingress/egress);

(5)~~(4)~~ Section 10-296(b), Table 2 (right-of-way width specifications for streets);

(6)~~(5)~~ Section 10-296(e) (wearing surface, base, subgrade, cross section widths);

(7)~~(6)~~ Section 10-296(d)(4) (drainage);

(8)~~(7)~~ Section 10-296(d)(11), Table 3 (pavement design);

(9)~~(8)~~ Section 10-296(j) (intersection designs);

(10)~~(9)~~ Section 10-296(k) (cul-de-sacs);

(11)~~(10)~~ Section 10-322 (swale sections);

(12)~~(11)~~ Section 10-329(d)(1)a. (setbacks for water retention/detention excavations);

(13)~~(12)~~ Section 10-329(d)(4) (excavation bank slopes and percent hardening);

(14)~~(13)~~ Section 10-352 (public water);

(15)~~(14)~~ Section 10-353 (public sewer);

(16)~~(15)~~ Section 10-384(c) (water mains);

(17)~~(16)~~ Section 10-415(b) (indigenous native vegetation);

(18)~~(17)~~ Section 10-418(3) (percent hardening and compensatory littorals);

(19)~~(18)~~ Section 10-441 (mass transit facilities);

(20)~~(19)~~ Section 10-416(c) (landscaping of parking and vehicle use areas);

(21)~~(20)~~ Section 10-610 (site design standards and guidelines for commercial developments);

(22)~~(21)~~ Section 10-620(d)(4)a. (requiring full parapet coverage for roofs utilizing less than or equal to 2V:12H pitch);

(23)~~(22)~~ Section 10-716 (piping materials in right-of-way);

(24)~~(23)~~ Sections 10-329(f) and 10-418(4) (restoration of existing bank slopes and littoral designs).

ARTICLE III. – DESIGN STANDARDS AND REQUIREMENTS

DIVISION 2. – TRANSPORTATION, ROADWAYS, STREETS AND BRIDGES

Sec. 10-291. Required street access.

Staff note: Amend subsection to provide administrative means for relief from number of required access points, subject to review and approval by Director of Public Safety, Director of the Department of Transportation (County-maintained roads), and the Development Services Manager (non-County-maintained Roads.

General requirements for access are as follows:

(1) The development must be designed so as not to create remnants and landlocked areas unless those areas are established as common areas.

(2) All development must abut and have access to a public or private street designed, and constructed or improved, to meet the standards in ~~S~~section 10-296. Any development order will contain appropriate conditions requiring all streets to which the project proposes access to be constructed or improved to meet the standards in ~~S~~section 10-296. Improvements to off-site streets necessary to provide access to the project must extend, at minimum, from the project's access point to the point at which the street connects to a County or privately maintained street meeting the standards in ~~S~~section 10-296. Direct access for all types of development to arterial and collector streets must be in accordance with the intersection separation requirements specified in this chapter.

(3) Residential development of more than five acres and commercial or industrial development of more than ten acres must provide more than one means of ingress or egress for the development. Access points designated for emergency use only may not be used to meet this requirement.

(a) A deviation ~~or variance~~ from the access point (ingress/egress) requirements stated in this subsection ~~must~~ may be obtained in accordance with section 10-104, subject to the following:

1. For county-maintained roadways, the Director of Public Safety and Director of Transportation must render an opinion that the proposed alternative standard will not cause injury or detriment to public safety and welfare.

2. For non-county-maintained roadways, the Director of Public Safety and the Development Services Manager must render an opinion that the proposed alternative standard will not cause injury or detriment to public safety and welfare.

3. Decisions pursuant to this section are discretionary and may not be appealed pursuant to section 34-145(a), ~~the public hearing process.~~

4. If a ~~variance or~~ deviation from this section is approved, a notice to all future property owners must be recorded by the developer in the public records. ~~prior to the issuance of a local development order allowing construction of the access to the development.~~ The notice must articulate the emergency access plan and provide information as to where a copy of this plan may be obtained from the developer or developer's successor.

(4) Additional access points may be required for continuation of an existing street pattern, to provide access to adjoining properties, or where additional access is needed to provide alternate access for emergency services. Where feasible, alternate access points should not be on to the same roadway. For planned developments, the determination of the Director regarding additional access points should be requested concurrent with the application for sufficiency. A deviation or variance will be required in cases where a determination of the Director under this subsection is sought to be changed or overturned.

DIVISION 5. – FIRE SAFETY

Sec. 10-383. Interpretation; conflicting provisions.

Staff Note: Realign section 10-104 reference in section 10-383 more generally to avoid future inaccurate cross-references.

(a) through (c) remain unchanged.

(d) The Board of Adjustments and Appeals holds the jurisdiction to grant variances from the provisions of this division, except as otherwise provided herein. The procedure and criteria applicable to the variance proceedings is set forth in ~~S~~section 6-71 et seq. The Development Services ManagerDirector holds the jurisdiction to grant administrative deviations from water main installation per ~~S~~section ~~10-104(15)~~ 10-104(a) and ~~S~~subsection (c)(6) of this section.

Group 4, ITEM I

PUBLIC PROJECTS COORDINATOR

AMENDMENT SUMMARY

Issue: Existing language regarding development order approval of capital improvement projects (Chapter 2, Article X) is dated and does not reflect the current permitting process for capital improvement projects.

Solution: Establish an alternative process (not requirements) for development order review and approval of publicly funded capital projects from the Lee County BoCC, Municipal Services Taxing Benefits Districts, Lee County Sheriff's Department, and other projects that have a Board-approved Development Agreement within unincorporated Lee County. The proposed amendments delete Chapter 2, Article X in its entirety, and amend section 10-1 to define the role and responsibilities of the Public Projects Coordinator while maintaining compliance with the Land Development Code and applicable ordinances.

Outcome: Provides for a streamlined and efficient permitting process of public projects that will provide greater flexibility in the timing and manner of information submittals, maintain consistency with County regulations, and ensure compliance with the requirements of the Land Development Code while reducing permitting delays for public projects.

Chapter 2 – ADMINISTRATION

ARTICLE X. – Reserved. ~~DEVELOPMENT ORDER APPROVAL PROCESS FOR CAPITAL IMPROVEMENTS PROJECTS~~

Secs. 2-460 – 2-480. Reserved. ~~Applicability.~~

Staff note: Article in its entirety. The development order review process for capital improvement projects is governed by the applicable standards in chapter 10.

~~This article applies only to Board-approved Capital Improvement Projects (CIP) falling under the jurisdiction of the County Department of Public Works and located in unincorporated areas of the County.~~

~~Sec. 2-461. Purpose and intent.~~

~~(a) The purpose of this article is to provide an alternative development order approval process for permitting County-approved CIP projects. It is the Board's intent to establish a procedure that will:~~

~~(1) Provide greater flexibility in the timing and manner of information submittals.~~

~~(2) Ensure compliance with the requirements of this Code.~~

~~(3) Maintain consistency in the application of County regulations.~~

~~(4) Give the Director of Public Works sole authority and responsibility for issuing development order approval to County CIPs.~~

(5) Establish an inspection review system that will ensure County CIPs fully comply with all County regulations.

(6) Substitute the Director of Public Works as the reviewing authority for County CIPs falling under the purview of Chapter 10.

(b) Notwithstanding any other provision of this article, it is the Board's purpose and intent to grant the Director of Public Works the same level of authority with respect to County CIPs as the Director of Development Services exercises with respect to development submittals for all other projects. In both instances, the Directors are charged with the responsibility to ensure compliance with Chapter 10.

Sec. 2-462. Fee waiver.

The development order application fees customarily charged in accordance with the County Administrative Code are waived for County-approved CIPs constructed on County-owned land or within public rights-of-way. The County remains responsible for impact fees that may be applicable in accordance with this Code.

Sec. 2-463. Procedures.

The Director of Public Works is responsible for establishing procedures and policies within the Department of Public Works:

(a) To adopt CIP Development Order forms, covering submittal through development order issuance, that are substantially similar to those used by the Development Services Division;

(b) To ensure that all documents necessary for project design and Chapter 10 compliance are prepared and submitted prior to development order issuance. This includes documents necessary to substantiate an appropriate grant of an administrative variance or pursuit of a deviation or variance requiring Hearing Examiner approval;

(c) To address all issues, in accordance with applicable regulations, relating to the project and pertaining to traffic impacts, environmental impacts, zoning, fire safety, surface water management, utility connection and building code compliance in order to obtain the necessary permits from the appropriate authorizing entity;

(d) To conduct appropriate inspections to ensure compliance with the development order, as issued, and other applicable permits; and

(e) To amend approved CIP Development Orders in a manner that is substantially similar to the procedure set forth in Sections 10-118 and 10-120.

Sec. 2-464. CIP Development Order approval.

(a) The Director of Public Works has sole authority to grant development order approval for County-approved CIP projects submitted in accordance with this article.

(b) The Director of Public Works will issue a CIP Development Order approval after he reviews all submittals and determines the project complies with all applicable codes and regulations.

(c) Upon CIP Development Order approval, the Director of Public Works will issue a development order approval letter and stamp the approved development order drawings with an appropriate development order stamp.

(d) Copies of the development order approval letter, stamped drawings and backup submittals must then be sent to the Director of Development Services for safekeeping.

(e) The Director of Public Works will record the notice of development order required in accordance with Section 10-114.

(f) The duration of the CIP Development Order is controlled by the provisions set forth in Sections 10-115 and 10-123.

(g) Building permits may not be issued until after the CIP Development Order is issued by the Director of Public Works.

Sec. 2-465. Certificate of Concurrency.

County CIP projects must meet the concurrency standards set forth in Article II of this chapter. The Development Services Director will review the project for compliance with concurrency standards and issue a Certificate of Concurrency to CIP projects meeting County standards.

Sec. 2-466. Administrative deviations.

The Director of Public Works has sole authority and responsibility to grant or deny administrative deviations for County-approved CIP projects. Approval must be in accordance with the criteria set forth in Section 10-104. Documents supporting approval must be filed and archived in accordance with Section 2-468.

Sec. 2-467. CIP Certificate of Compliance.

The Director of Public Works, or his designee, will perform a final inspection. If the inspection reveals the development is in substantial compliance with the approved development order, the Director of Public Works will issue a Certificate of Compliance. If the inspection reveals the development is not in substantial compliance with the approved development order, the Director of Public Works will require appropriate approvals, corrections, or amendments before issuing the Certificate of Compliance.

Sec. 2-468. Filing and archiving.

A copy (or originals, when available) of all documents substantiating the issuance of a Development Order must be retained in accordance with State and Federal guidelines. The Development Services Division is the entity responsible for archiving these documents in the County.

Once a CIP Development Order is approved, a copy (or originals, if available) of all documents substantiating the development order issuance, including all documents submitted for review, must be forwarded to the Development Services Division for filing and archiving. Any subsequent documents prepared or submitted relating to the CIP must also be sent to Development Services Division for filing.

The division of public works may keep a duplicate file on the project. However, the official Lee County file will be the one retained by Development Services Division.

Sec. 2-469. Compliance with this Code.

All projects approved under this article must comply with the requirements set forth in this Code, except as otherwise specifically provided by this article. The Clerk of the Circuit Court will audit the CIP approval process and procedure annually to ensure CIPs comply with applicable County regulations.

Sec. 2-470. Liability insurance requirement.

As a condition applicable to the issuance of a development order or the County DOT right-of-way permit allowing construction of improvements within County-owned or controlled right-of-way property, the contractor performing the construction services must obtain liability insurance coverage for the benefit of the County. The amount and type of coverage must be in accordance with the County Risk Management standards in effect at the time the insurance is obtained. The insurance coverage must remain in effect until the approved project obtains a development order Certificate of Compliance or the County formally accepts the right-of-way improvements for

~~maintenance. Compliance with this provision may be waived by the Department of Transportation Director only if the insurance coverage is provided as a condition of a bid contract award.~~

~~Secs. 2-471—2-480. Reserved.~~

Chapter 10 – DEVELOPMENT STANDARDS

ARTICLE I. – IN GENERAL

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

Subsection (a) remains unchanged.

(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 Dead-end street remain unchanged.

Decision of the Development ~~Review~~Services Manager~~Director~~/Public Projects Coordinator means any act of the ~~Director~~Manager/Coordinator in interpreting or applying this chapter to a particular request for a requirement waiver, limited review processing, or a development order, or any other request or matter relating thereto. In cases where making a decision involves the practice of engineering, as defined in F.S. § 471.005(7), where such decision must be made only by a professional engineer or someone supervised by a professional engineer pursuant to F.A.C. 61g15-26.001, the ~~Director~~Manager/Coordinator must be a professional engineer, registered in the State, or, if the ~~Director~~Manager/Coordinator is not a registered professional engineer, the ~~Director~~Manager/Coordinator must adopt the decision of the County's professional engineer, or the person who is designated to act on behalf of the County's professional engineer and who is supervised by the professional engineer, as the basis for whatever final formal decision is made by the ~~Director~~Manager/Coordinator. In those cases where the ~~Director~~Manager/Coordinator is not a state-licensed, professional engineer, the term "decision of the Development ~~Review~~ ~~Director~~Services Manager/Public Projects Coordinator" means the decision made by the County's professional engineer, or a person supervised by the County's professional engineer, and adopted by the ~~Director~~Manager/Coordinator.

Density through Private water System remain unchanged.

Public Projects Coordinator means the County staff person designated to oversee the development review process for Capital Improvement, Municipal Services Taxing/Benefits, Lee County Sheriff's Department, and other projects that have a Board-approved Development Agreement located in unincorporated Lee County. Oversight includes, but is not limited to, the intake of applications, review of plans for compliance with this chapter, and issuance of notifications to applicants. The Public Projects Coordinator will have the same level of authority with respect to applicable public projects that the Development Services Manager exercises with respect to development submittals for all other projects.

Remainder of section unchanged.