LEE COUNTY
SOUTHWEST FLORIDA

Writer's Direct Dial Number: (941) 479-8309

November 5, 2003

Ray Eubank, Administrator
Florida Department of Community Affairs
Division of Community Planning
Bureau of Local Planning
2555 Shumard Oak Boulevard
Tallahassee, FL. 32399-2100

Re: Amendments to the Lee Plan
Adoption Submission Package (DCA No. 03-2) for the 2002/2003 Regular Comprehensive Plan Amendment Cycle

Dear Mr. Eubank:

In accordance with the provisions of F.S. Chapter 163.3184 and of 9J-11.011, this submission package constitutes the adopted 2002/2003 Regular Comprehensive Plan Amendment Cycle to the Lee Plan (DCA No. 03-2), known locally as CPA 2002-02, CPA 2002-04, CPA 2002-06, CPA 2002-08, CPA 2002-11, CPA 2002-13, CPA 2002-15, CPA 2002-19, and CPA 2002-22. The adoption hearing for these plan amendments was held at 9:30 am on October 23, 2003.

Included with this package, per 9J-11.011(5), are three copies of the adopted amendments, supporting data and analysis, and the following three adopting ordinances: Ordinance No. 03-19, Ordinance No. 03-20, and Ordinance No. 03-21. Also included, per F.S. 163.3184(7) and (15), is the required sign in form allowing a courtesy informational statement to interested citizens. By copy of this letter and its attachments I certify that this amendment has been sent to the Regional Planning Council, the Florida Department of Transportation (FDOT), the Department of Environmental Protection, the Florida Department of State, the Florida Fish and Wildlife Conservation Commission, the Department of Agriculture and Consumer Services, Division of Forestry, and the South Florida Water Management District.

The initial staff reports for the proposed amendments were sent to the DCA with a transmittal cover letter dated July 3, 2003. All amendments previously reviewed by the Department in this current cycle of amendments were adopted by the Board of County Commissioners. Changes have occurred in CPA 2002-02, CPA 2002-13, and CPA 2002-19. CPA 2002-02 has been revised to address the objections raised by the DCA. Staff and the applicant have negotiated a compromise that has resulted in additional text changes. Revisions to CPA 2002-13 were also made. At the time that the transmittal staff report was prepared, it was noted that additional amendments to the MPO's highway map were being considered. The MPO has in fact adopted a revised plan in a public hearing process on June 20, 2003 and staff is reflecting the most recent version of the MPO's plan in Maps 3A, 3B and 3H, and in Policy 21.1.1. CPA 2002-19 has replaced a new table reflecting the new 2004/2008 fiscal year to the CIP. The Board of County Commissioners adopted 2002-02, CPA 2002-13, and CPA 2002-19 with the noted changes.

If you have any questions, or if I can be of any assistance in this matter, please feel free to call me at the above telephone number.

Sincerely,
DEPT. OF COMMUNITY DEVELOPMENT
Division of Planning

Paul O'Connor, AICP
Director

All documents and reports attendant to this adoption are also being sent, by copy of this cover, to:

David Burr
Interim Director
Southwest Florida Regional Planning Council

Mike Rippe, District Director
FDOT District One

Executive Director
South Florida Water Management District

Plan Review Section
Department of Environmental Protection

Florida Department of State

Florida Fish and Wildlife Conservation Commission

The Department of Agriculture and Consumer Services, Division of Forestry

LEE COUNTY ORDINANCE NO. 03-19
(Consent Ordinance)

AN ORDINANCE AMENDING THE LEE COUNTY COMPREHENSIVE LAND USE PLAN, COMMONLY KNOWN AS THE "LEE PLAN" ADOPTED BY ORDINANCE NO. 89-02, AS AMENDED, SO AS TO ADOPT AMENDMENTS APPROVED ON THE CONSENT AGENDA DURING THE COUNTY'S 2002/2003 REGULAR COMPREHENSIVE PLAN AMENDMENT CYCLE; PROVIDING FOR AMENDMENTS TO ADOPTED TEXT, MAPS AND TABLES; PURPOSE AND SHORT TITLE; LEGAL EFFECT; GEOGRAPHICAL APPLICABILITY; SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS, AND AN EFFECTIVE DATE.

WHEREAS, the Lee County Comprehensive Plan (hereinafter referred to as the "Lee Plan") Policy 2.4.1 and Chapter XIII, provides for adoption of amendments to the Plan in compliance with State statutes and in accordance with administrative procedures adopted by the Board of County Commissioners; and,

WHEREAS, the Lee County Board of County Commissioners, in accordance with Section 163.3181, Florida Statutes, and Lee County Administrative Code AC-13-6 provide an opportunity for the public to participate in the plan amendment public hearing process; and,

WHEREAS, the Lee County Local Planning Agency ("LPA") held public hearings pursuant to Chapter 163, Part II, Florida Statutes, and the Lee County Administrative Code on January 27, March 24, April 28, and May 28, 2003; and,

WHEREAS, the Board of County Commissioners, pursuant to Florida Statutes and the Lee County Administrative Code held a public hearing for the transmittal of the proposed amendments on June 25, 2003. At that hearing, the Board approved a motion to send, and did later send, the proposed amendment to the Florida Department of Community Affairs ("DCA") for review and comment; and,

WHEREAS, at the transmittal hearing on June 25, 2003, the Board announced its intention to hold a public hearing after the receipt of DCA's written comments commonly referred to as the "ORC Report." DCA issued their ORC report on September 5, 2003; and,

WHEREAS, the Board moved to adopt the proposed amendments to the Lee Plan set forth herein during its statutorily prescribed public hearing for the plan amendments on October 23, 2003.

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

SECTION ONE: PURPOSE, INTENT AND SHORT TITLE

The Board of County Commissioners of Lee County, Florida, in compliance with Chapter 163, Part II, Florida Statutes, and with Lee County Administrative Code AC-13-6, conducted a series of public hearings to consider proposed amendments to the Lee Plan. The purpose of this ordinance is to adopt the certain amendments to the Lee Plan discussed at those meetings and approved by a majority of the Board. The short title and proper reference for the Lee County Comprehensive Land Use Plan, as amended, will continued to be the "Lee Plan." **This ordinance may be referred to as the "2002/2003 Regular Comprehensive Plan Amendment Cycle Consent Ordinance."**

SECTION TWO: ADOPTION OF LEE COUNTY'S 2002/2003 REGULAR COMPREHENSIVE PLAN AMENDMENT CYCLE (Consent Agenda Items)

The Lee County Board of County Commissioners amends the existing Lee Plan, adopted by Ordinance Number 89-02, as amended, by adopting amendments, as revised by the Board of County Commissioners on October 23, 2003, known as: CPA2002-06, CPA2002-08, CPA2002-11, CPA2002-13, CPA2002-15, CPA2002-19, and CPA2002-22.

The aforementioned amendments amend the text of the Lee Plan including the Future Land Use Map series, the Transportation Map Series, and the tables of the Lee Plan. A brief summary of the content of those amendments is set forth below:

CPA2002-06 (Outlying Suburban Residential Allocations)

Amend Table 1(b), Planning Community Year 2020 Allocations, by correcting the Outlying Suburban Allocation for the Alva Community.

CPA2002-08 (Conservation Lands)

Amend the Future Land Use Map Series, Map 1, by updating the Conservation Lands Future Land Use Categories.

CPA2002-11 (Buckingham Potable Water)

Amend Goal 17, Buckingham, of the Future Land Use Element by adding language that allows the extension of water lines to serve the Buckingham Rural Community Preserve on a voluntary basis, with cost of extension to be paid by the petitioner. Amend Map 6, Future Water Service Areas, to show the Buckingham Rural Community Preserve to be within the Future Water Service Areas of the County. Amendment Map 7, Future Sewer Service Areas, to add certain public facility sites (Gulf Coast Center and Tice Fire Station) to the Future Sanitary Sewer Service Area Map.

CPA2002-13 (Financially Feasible Transportation Map)

Amend the Transportation Maps of the Future Land Use Map Series and related policy references to reflect the most recent Lee County MPO 2020 Financially Feasible Transportation Plan Map.

CPA2002-15 (Constrained Roads)

Update Table 2(a), Constrained Roads/State and County Roads, to eliminate Old U.S. 41, which is now a City of Bonita Springs road.

CPA2002-19 (Capital Improvements Program)

Amend the Capital Improvements Element (Tables 3 and 4) to reflect the most recently adopted Capital Improvement Program.

CPA2002-22 (Policy 100.2.3. Text Update)

Amend Policy 100.2.3. of the Housing Element by replacing the outdated reference to the "special permit" approval process with the current process of "special exception."

The corresponding Staff Reports and Analysis, along with all attachments for these amendments are adopted as "Support Documentation" for the Lee Plan.

SECTION THREE: LEGAL EFFECT OF THE "LEE PLAN"

No public or private development will be permitted except in conformity with the Lee Plan. All land development regulations and land development orders must be consistent with the Lee Plan as amended.

SECTION FOUR: GEOGRAPHIC APPLICABILITY

The Lee Plan is applicable throughout the unincorporated area of Lee County, Florida, except in those unincorporated areas included in joint or interlocal agreements with other local governments that specifically provide otherwise.

SECTION FIVE: SEVERABILITY

The provisions of this ordinance are severable and it is the intention of the Board of County Commissioners of Lee County, Florida, to confer the whole or any part of the

powers herein provided. If any of the provisions of this ordinance are held unconstitutional by a court of competent jurisdiction, the decision of that court will not affect or impair the remaining provisions of this ordinance. It is hereby declared to be the legislative intent of the Board of County Commissioners that this ordinance would have been adopted had the unconstitutional provisions not been included therein.

SECTION SIX: INCLUSION IN CODE, CODIFICATION, SCRIVENERS' ERROR

It is the intention of the Board of County Commissioners that the provisions of this ordinance will become and be made a part of the Lee County Code. Sections of this ordinance may be renumbered or relettered and the word "ordinance" may be changed to "section," "article," or other appropriate word or phrase in order to accomplish this intention; and regardless of whether inclusion in the code is accomplished, sections of this ordinance may be renumbered or relettered. The correction of typographical errors that do not affect the intent, may be authorized by the County Manager, or his or her designee, without need of public hearing, by filing a corrected or recodified copy with the Clerk of the Circuit Court.

SECTION SEVEN: EFFECTIVE DATE

The plan amendments adopted herein are not effective until a final order is issued by the DCA or Administrative Commission finding the amendment in compliance with Section 163.3184, Florida Statutes, whichever occurs earlier. No development orders, development permits, or land uses dependent on this amendment may be issued or commence before the amendment has become effective. If a final order of noncompliance is issued by the Administration Commission, this amendment may nevertheless be made effective by adoption of a resolution affirming its effective status. A copy of such resolution will be sent to the DCA, Bureau of Local Planning, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100.

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

Robert P. Janes	Aye
Douglas St. Cerny	Aye
Ray Judah	Aye
Andrew Coy	Absent
John Albion	Aye

DONE AND ADOPTED this 23rd day of October 2003.

ATTEST:
CHARLIE GREEN, CLERK

BY: _____
Deputy Clerk

LEE COUNTY
BOARD OF COUNTY COMMISSIONERS

BY: _____
Chairman

DATE: 10/23/03

Approved as to form by:

_____
Donna Marie Collins
County Attorney's Office

Charlie Green
Clerk of Circuit Court
Lee County, Florida

STATE OF FLORIDA

COUNTY OF LEE

I Charlie Green, Clerk of Circuit Court, Lee County, Florida, and ex-Officio Clerk of the Board of County Commissioners, Lee County, Florida, do hereby Certify that the above and foregoing, is a true and correct copy of Ordinance No. 03-19, adopted by the Board of Lee County Commissioners, at their meeting held on the 23rd day of October 2003 and same filed in the Clerk's Office.

Given under my hand and seal, at Fort Myers, Florida, this 27th day of October 2003.

CHARLIE GREEN,
Clerk of Circuit Court
Lee County, Florida

By: Ina L Pierce
Deputy Clerk

CIRCUIT COURT ★ LEE COUNTY, FLORIDA ★

CPA2002-22
POLICY 100.2.3 TEXT UPDATE
BoCC SPONSORED AMENDMENT TO THE

LEE COUNTY COMPREHENSIVE PLAN

THE LEE PLAN

BoCC Adoption Document

Lee County Planning Division
1500 Monroe Street
P.O. Box 398
Fort Myers, FL 33902-0398
(941) 479-8585

October 23, 2003

LEE COUNTY
DIVISION OF PLANNING
STAFF REPORT FOR
COMPREHENSIVE PLAN AMENDMENT
CPA2002-22

✓	Text Amendment		Map Amendment

	This Document Contains the Following Reviews:
✓	Staff Review
✓	Local Planning Agency Review and Recommendation
✓	Board of County Commissioners Hearing for Transmittal
✓	Staff Response to the DCA Objections, Recommendations, and Comments (ORC) Report
✓	Board of County Commissioners Hearing for Adoption

STAFF REPORT PREPARATION DATE: December 2, 2002

PART I - BACKGROUND AND STAFF RECOMMENDATION

A. SUMMARY OF APPLICATION

1. APPLICANT:
LEE COUNTY BOARD OF COUNTY COMMISSIONERS
REPRESENTED BY LEE COUNTY DIVISION OF PLANNING

2. REQUEST:
Amend Policy 100.2.3 of the Housing Element by replacing the outdated reference to the approval process of "Special Permit" with the current process of "Special Exception."

B. STAFF RECOMMENDATION AND FINDINGS OF FACT SUMMARY:

1. RECOMMENDATION: Planning staff recommends that the Board of County Commissioners transmit the proposed amendment as follows:

POLICY 100.2.3: Housing for farm workers, as defined by ss 420.503 Florida Statutes, may be permitted in the Rural, Open Lands, and Density Reduction/ Groundwater Resource land use categories without respect to the density limitations that apply to conventional residential districts. The density of such housing is limited to 50 occupants per acre of actual housing area and will be reviewed on a case-by-case basis during the planned development or ~~Special Permit~~ Special

Exception zoning process. The applicant must demonstrate that impacts of the farm worker housing will be mitigated. (Amended by Ordinance No. 94-30)

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

- "Special permits" are no longer issued by Lee County. The function and term "special permit" are now met by the function and term "special exception."

- Policy 100.2.3 should be updated to correctly describe the zoning processes that are available to permit housing for farm workers in the Rural, Open Lands, and Density Reduction/Groundwater Resource land use categories, without respect to the density limitations that apply to conventional residential districts.

C. BACKGROUND INFORMATION

Policy 100.2.3 of the Comprehensive Plan remains unchanged from the initial language adopted by Ordinance 94-30. LDC amending Ordinance 96-06 provided that the zoning function of a "special permit" would be incorporated into the definition and procedure of the zoning function "special exception." The proposed amendment to Policy 100.2.3 was initiated by the Board of County Commissioners on September 24, 2002 to update the Comprehensive Plan to reflect this change in zoning terminology.

PART II - STAFF ANALYSIS

A. STAFF DISCUSSION

Existing language in the Comprehensive Plan reads:

POLICY 100.2.3: *Housing for farm workers, as defined by ss 420.503 Florida Statutes, may be permitted in the Rural, Open Lands, and Density Reduction/ Groundwater Resource land use categories without respect to the density limitations that apply to conventional residential districts. The density of such housing is limited to 50 occupants per acre of actual housing area and will be reviewed on a case-by-case basis during the planned development or Special Permit zoning process. The applicant must demonstrate that impacts of the farm worker housing will be mitigated. (Amended by Ordinance No. 94-30)*

Special permits were originally created as a zoning function of the Land Development Code that provided a format for evaluation of certain proposed uses, potentially appropriate, but not permitted by right within certain zoning districts. Originally, the special permit process required final approval by the Board of County Commissioners. Over time the BoCC changed the review process, granting the Hearing Examiner authority to make final determinations on special permits.

The function "special permit" was later incorporated into the LDC zoning function "special exception" with Ordinance 96-06 because the processes had become too similar to justify the continued use of both. The required submittal documents, staff review, and Hearing Examiner directive for evaluation of a

"special exception" application are of equal stringency as were previously required of a "special permit" application [see attached Exhibit A: LDC Sections 34-145(c, e) and 34-203(d, g) as amended by Ordinance 96-06].

Existing definitions of "special exception" and "special permit" in the LDC, as last amended by Ordinance 96-06, are shown below in strike through/underline format:

> *Use, special exception* means a use or certain specified departures from the regulations of this chapter that may not be appropriate generally or without restriction throughout a zoning district, but which, when controlled as to number, area, location or relation to the neighborhood, would promote the public health, safety, welfare, order, comfort, convenience, appearance or prosperity, and may be permitted, in accordance with all applicable regulations.
>
> *Use, special permit:* see Use, special exception. ~~means a use or activity which is not permitted by right or by special exception and can only be permitted as provided in this chapter. The term "special permit" also applies to certain specified departures from the regulations of this chapter which are not considered variances in that the applicant is not required to prove hardship.~~

B. CONCLUSIONS

Changes to the LDC subsequent to the adoption of Policy 100.2.3 of the Lee Plan have caused certain language in the policy to be inconsistent with applicable zoning terminology of the Land Development Code. To correct this inconsistency, the term "special permit" should be replaced by the term "special exception" in Policy 100.2.3.

The proposed change in zoning terminology would not alter the functional requirements for review, nor the process for approval, of farm worker housing in the Rural, Open Lands, and Density Reduction/ Groundwater Resource land use categories as currently proved for in Policy 100.2.3.

C. STAFF RECOMMENDATION

After due consideration, planning staff recommends that the Board of County Commissioners transmit the proposed comprehensive plan amendment. Planning staff recommends the following language modification be transmitted:

POLICY 100.2.3: Housing for farm workers, as defined by ss 420.503 Florida Statutes, may be permitted in the Rural, Open Lands, and Density Reduction/ Groundwater Resource land use categories without respect to the density limitations that apply to conventional residential districts. The density of such housing is limited to 50 occupants per acre of actual housing area and will be reviewed on a case-by-case basis during the planned development or ~~Special Permit~~ Special Exception zoning process. The applicant must demonstrate that impacts of the farm worker housing will be mitigated. (Amended by Ordinance No. 94-30)

PART III - LOCAL PLANNING AGENCY REVIEW AND RECOMMENDATION

DATE OF PUBLIC HEARING: January 27, 2003

A. LOCAL PLANNING AGENCY REVIEW

Planning staff gave a brief presentation of the case. One member of the LPA voiced some concern that the method currently employed by Policy 100.2.3 to limit density may promote overcrowded, substandard conditions for farm worker housing. A short discussion followed regarding the original rationale used to determine density limitations of Policy 100.2.3. The panel agreed that since the current request does not attempt to change the existing density limitation, and because such a change was not advertised, that the issue should be brought forward for specific discussion at some later date if the LPA member believes changes are needed.

B. LOCAL PLANNING AGENCY RECOMMENDATION AND FINDINGS OF FACT SUMMARY

1. **RECOMMENDATION:** The LPA recommends that the BoCC transmit CPA2002-22.

2. **BASIS AND RECOMMENDED FINDINGS OF FACT:** The LPA accepted the findings of fact as advanced by staff.

C. VOTE:

NOEL ANDRESS	AYE
SUSAN BROOKMAN	AYE
MATT BIXLER	AYE
RONALD INGE	AYE
GORDON REIGELMAN	AYE
DAN DELISI	AYE

PART IV - BOARD OF COUNTY COMMISSIONERS
HEARING FOR TRANSMITTAL OF PROPOSED AMENDMENT

DATE OF TRANSMITTAL HEARING: June 25, 2003

A. **BOARD REVIEW:** The proposed comprehensive plan amendment was reviewed as part of the June 25, 2003 consent agenda. There were no comments or questions specific to this case.

B. **BOARD ACTION AND FINDINGS OF FACT SUMMARY:**

1. **BOARD ACTION:** The BoCC voted to transmit the proposed comprehensive plan amendment to the Department of Community Affairs.

2. **BASIS AND RECOMMENDED FINDINGS OF FACT:** The BoCC accepted the findings of fact as advanced by staff and the LPA.

C. **VOTE:**

JOHN ALBION	AYE
ANDREW COY	AYE
BOB JANES	AYE
RAY JUDAH	AYE
DOUG ST. CERNY	AYE

PART V - DEPARTMENT OF COMMUNITY AFFAIRS OBJECTIONS, RECOMMENDATIONS, AND COMMENTS (ORC) REPORT

DATE OF ORC REPORT: September 5, 2003

A. DCA OBJECTIONS, RECOMMENDATIONS AND COMMENTS: The DCA had no objections, recommendations, or comments concerning this amendment.

B. STAFF RECOMMENDATION: Adopt the amendment as transmitted.

PART VI - BOARD OF COUNTY COMMISSIONERS
HEARING FOR ADOPTION OF PROPOSED AMENDMENT

DATE OF ADOPTION HEARING: October 23, 2003

A. BOARD REVIEW: The proposed comprehensive plan amendment was reviewed as part of the October 23, 2003 consent agenda. There were no comments or questions specific to this case.

B. BOARD ACTION AND FINDINGS OF FACT SUMMARY:

1. **BOARD ACTION:** The Board voted unanimously to adopt the amendment on a motion by Commissioner Albion and a second by Commissioner Janes.

2. **BASIS AND RECOMMENDED FINDINGS OF FACT:** The Board accepted the findings of fact as advanced by staff.

C. VOTE:

JOHN ALBION	**AYE**
ANDREW COY	**ABSENT**
BOB JANES	**AYE**
RAY JUDAH	**AYE**
DOUG ST. CERNY	**AYE**

conducted pursuant to applicable administrative codes and the provisions contained in this chapter.

(c) *Reports of decisions.* After a public hearing is held, the hearing examiner shall make a written report of his decision in accordance with the rules and procedures set forth in the applicable administrative code, and provide a copy of the report of decision to all parties of record, appropriate county staff and the Board of County Commissioners.

(d) *Records.*

(1) The hearing examiner shall provide for a court reporter at all proceedings. At a minimum, a summary of testimonies shall be provided in the report of decision itself or as a separate document in addition thereto. Transcripts shall be provided only at an appellant's request, and the appellant shall bear the costs thereof.

(2) The hearing examiner shall keep indexed records of all meetings, agendas, findings, determinations and reports of decision. Such records shall be public records.

(e) *Attendance at hearings.* The hearing examiner may request staff members with personal knowledge of relevant facts to attend hearings and produce relevant documents, and shall advise the county administrator of any failure to comply with his requests.

(Zoning Ord. 1993, § 900(B)3)

Sec. 34-145. Functions and authority.

(a) *Appeals from administrative action.*

(1) *Function.* The hearing examiner will hear and decide appeals where it is alleged there is an error in any order, requirement, decision, interpretation, determination or action of any administrative official charged with the administration and enforcement of the provisions of this ~~chapter~~ land development code or any other ordinance which provides for similar review; provided, however, that:

a. No appeal to the hearing examiner ~~shall~~ may lie from any act by ~~such~~ an administrative official pursuant to:

1. An order, resolution or directive of the Board of County Commissioners directing him to perform such act; or

2. Any ordinance or other regulation or provision in this code which provides a different appellate procedure.

b. The appeal to the hearing examiner ~~shall~~ must be in writing on forms provided by the hearing examiner, and ~~shall~~ must be duly filed with the hearing examiner within 30 calendar days, but not thereafter, after such act or decision by the administrative official. The appeal ~~shall~~ must specify the grounds for the appeal.

c. No appeal ~~shall~~ may be considered by the hearing examiner where it appears to be a circumvention of an established or required procedure. Specifically, in no case may an appeal be heard when the hearing examiner determines that the case should more appropriately be heard on a request for a variance.

EXHIBIT A
[LDC Section 34-145 (c, e) Ordinance 96-06]

d. Notices of hearings on appeals ~~shall~~ will be provided in accordance with the provisions of an applicable administrative code ~~which shall be~~ adopted by the Board of County Commissioners.

e. No appeal will be considered by the hearing examiner for any challenge to a development order which is controlled by F.S. § 163.3215. In cases of challenges to development orders controlled by F.S. § 163.3215, no suit may be brought and no verified complaint, as explained in F.S. § 163.3215(4), may be filed or accepted for filing until the development order giving rise to the complaint has become final by virtue of its having been issued by the director, or by virtue of its having been ordered by the county hearing examiner on an appeal reversing the director's denial of the development permit, or by the Board of County Commissioners in cases where the Board of County Commissioners has granted planned development zoning or an extension of a development order. Once a development order has been granted, the provisions of F.S. § 163.3215 will be the sole means of challenging the approval ~~or denial~~ of a development order, as that term is defined in F.S. § 163.3164(6), when the approval of the development order is alleged to be inconsistent with the Lee Plan, in which case an action brought pursuant to F.S. § 163.3215 will be limited exclusively to the issue of comprehensive plan consistency.

f. Except as may be required by F.S. 163.3215, and then only pursuant to that statute, a third party ~~shall~~ will not have standing to appeal an administrative decision ~~granting or denying any development permit~~. Only the applicant or his agent ~~shall~~ will be permitted to appeal such administrative action as set forth in this ~~subsection (a)~~.

(2) *Considerations.*

a. In reaching his decision, the hearing examiner ~~shall~~ must consider the following criteria, as well as any other issues which are pertinent and reasonable:

1. Whether ~~or not the~~ appeal is of a nature properly brought to him for decision, or whether ~~or not~~ there is an established procedure for handling the request other than through the appeal process (i.e., a variance or special exception, etc.).

2. The intent of the ordinance ~~which is being~~ applied or interpreted.

3. The effect the ruling will have when applied generally to ~~the ordinance which will be affected by the hearing examiner's decision~~ this code.

b. Staff recommendations, the testimony of the appellant and testimony of the general public ~~shall~~ must also be considered.

(3) *Findings.* Before granting any appeal, the hearing examiner must find that an error was made in the order, requirement, decision, interpretation, determination or action of the administrative official charged with the administration and enforcement of the provisions of this code or other ordinance which provides for similar review.

(~~3~~4) *Authority.*

a. In exercising his authority, the hearing examiner may reverse, affirm or modify any decision or action of any administrative official charged with the administration or enforcement of this chapter.

b. Subject to the limitations set forth in subsection (a)(~~3~~4)a of this section, the hearing examiner may make a decision to take the appropriate action which the hearing examiner finds the administrative official should have taken. To that end, he ~~shall have~~ has the powers of the administrative official from whom the appeal is taken.

(~~4~~5) *Judicial review.* Judicial review of final decisions of the hearing examiner with respect to administrative actions are to the circuit court in accordance with section 34-146.

(b) *Variances.*

(1) *Function.* The hearing examiner ~~shall~~ will hear and decide all requests for variances from the terms of the regulations or restrictions of ~~this chapter~~ the land development code and such other ordinances as may be assigned to him by the Board of County Commissioners, except that no use variance ~~shall~~ may be heard or considered.

(2) *Considerations.* In reaching his decision, the hearing examiner ~~shall~~ must consider the following criteria, recommendations and testimony:

a. ~~That~~ Whether exceptional or extraordinary conditions or circumstances exist which are inherent in the land, structure or building involved and ~~such~~ whether those exceptional or extraordinary conditions or circumstances create a hardship on the property owner, ~~and are not generally applicable to other lands, structures or buildings~~;

b. ~~That~~ Whether the exceptional or extraordinary conditions or circumstances do not result from the actions of the applicant;

~~c. That literal interpretation of the provisions of the section of this chapter would deprive the applicant of rights commonly enjoyed by properties in the same district under terms of this chapter;~~

~~d~~c. ~~That g~~ Granting the variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare;

~~e~~d. Staff recommendations;

~~f~~e. Testimony from the applicant; and

~~g~~f. Testimony from the public.

(3) *Findings.* Before granting any variance, the hearing examiner ~~shall~~ must find that all of the following exist:

a. ~~That~~ There are exceptional or extraordinary conditions or circumstances that are inherent to the property in question. ~~and that do not apply generally to the other~~

~~nearby properties in the same zoning district;~~

b. ~~That t~~ The exceptional or extraordinary conditions or circumstances are not the result of actions of the applicant taken subsequent to the adoption of the ordinance (any action taken by an applicant pursuant to lawfully adopted regulations preceding the adoption of the ordinance from which this chapter is derived will not be considered self-created);

c. ~~That t~~ The variance granted is the minimum variance that will relieve the applicant of an unreasonable burden caused by the application of the regulation in question to his property;

d. ~~That t~~ The granting of the variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare; and

e. ~~That t~~ The condition or situation of the specific piece of property, or the intended use of the property, for which the variance is sought is not of ~~so~~ a general or recurrent nature so as to make it more reasonable and practical to amend the ordinance.

(4) *Authority.*

a. The hearing examiner ~~shall have~~ has the authority to grant, ~~or~~ deny, or modify~~,~~ any request for a variance from the regulations or restrictions of this ~~chapter~~ code ; provided, however, that no use variance as defined in this chapter, or any variance from definitions or procedures set forth in any ordinance, ~~shall~~ may be granted.

b. In reaching his decision, the hearing examiner ~~shall have~~ has the authority to attach ~~such~~ conditions and requirements ~~as~~ are necessary for the protection of the health, safety, comfort, convenience and welfare of the general public. ~~Such~~ The conditions or requirements ~~shall~~ must be reasonably related to the variance requested.

c. Variances may be reviewed by themselves or as part of a rezoning.

d. All decisions of the hearing examiner concerning variances filed as part of a rezoning ~~shall~~ must be in the form of a recommendation to the Board of County Commissioners. Only a ~~party of record~~ participant or his representative ~~shall~~ will be afforded the right to address the Board of County Commissioners.

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

→ (c) *Special exceptions.*

(1) *Function.* The hearing examiner ~~shall~~ will hear and decide all applications for special exceptions permitted by the district use regulations.

(2) *Considerations.* In reaching his decision, the hearing examiner ~~shall~~ must consider the following, whenever applicable:

~~a. Whether there exists an error or ambiguity which must be corrected.~~

ab. Whether there exist changed or changing conditions ~~which~~ that make approval of the request appropriate.

~~c. The impact of a proposed change on the intent of this chapter.~~

bd. The testimony of any applicant.

ce. The recommendation of staff.

df. The testimony of the public.

eg. Whether the request is consistent with the goals, objectives, policies and intent of the Lee Plan.

fh. Whether the request meets or exceeds all performance and locational standards set forth for the proposed use.

~~i. Whether urban services, as defined in the Lee Plan, are, or will be, available and adequate to serve a proposed land use change, when proposing a change to a future urban area category.~~

~~j. Whether the request is consistent with the densities, intensities and general uses set forth in the Lee Plan.~~

gk. Whether the request will protect, conserve or preserve environmentally critical areas and natural resources.

hl. Whether the request will be compatible with existing or planned uses, ~~and not~~

l. Whether the request will cause damage, hazard, nuisance or other detriment to persons or property.

~~m. Whether the location of the request places an undue burden upon existing transportation or other services and facilities and will be served by streets with the capacity to carry traffic generated by the development.~~

jn. Whether a requested use will be in compliance with all ~~applicable~~ general zoning provisions and supplemental regulations pertaining to the use~~, as~~ set forth in this chapter.

~~o. Whether a proposed change is to rectify errors on the official zoning map.~~

(3) *Findings.* Before granting any special exceptions, the hearing examiner ~~shall~~ must find that the applicant has proved entitlement to the special exception by demonstrating compliance with:

a. The Lee Plan;

b. This chapter; and

c. Any other applicable county ordinances or codes.

(4) *Authority.*

a. The hearing examiner ~~shall~~ must grant the special exception unless he finds ~~that granting~~ the ~~special exception~~ request is contrary to the public interest and the ~~public~~ health, safety, comfort, convenience and welfare of the citizens of the county, or that the request is in conflict with subsection (c)(3) of this section.

b. In reaching his decision, the hearing examiner ~~shall have~~ has the authority to attach ~~such~~ conditions and requirements ~~as are~~ necessary for the protection of the health, safety, comfort, convenience or welfare of the general public. ~~Such~~ The conditions ~~or~~ and requirements ~~shall~~ must be reasonably related to the special exception requested.

c. Special exceptions may be reviewed by themselves or as a part of a rezoning.

d. All decisions of the hearing examiner concerning special exceptions filed as part of a rezoning or that meet the criteria for a development of county impact ~~shall~~ must be in the form of a recommendation to the Board of County Commissioners. Only a ~~party of record~~ participant or his representative ~~shall~~ will be afforded the right to address the board of County Commissioners.

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

(d) *Zoning matters.*

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

a. Prepare recommendations to the Board of County Commissioners for changes or amendments relating to the boundaries of the various zoning districts~~;~~ or to the regulations applicable to those districts. ~~thereto, to the Board of County Commissioners.~~

b. Make recommendations ~~on the following~~ to the Board of County Commissioners on applications relating to the following:

1. ~~Applications for r~~ Rezonings, including developments of county impact, planned unit developments and planned developments.

2. ~~Applications for d~~ Developments of regional impact and Florida Quality Developments approval, which may or may not include a request for rezoning.

3. Special exceptions that meet the criteria for a development of county impact, as set forth in section 34-203(b).

4. Other special exceptions and variances which are submitted

simultaneously with and are heard in conjunction with a rezoning.

5. Variances from any county ordinance which specifies that variances from ~~such~~ the ordinance ~~can~~ may only be granted by the Board of County Commissioners.

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

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

2. Any amendment contemplated under F.S. § 380.06(19)(e)2.

(2) *Considerations.* In preparing his recommendation on any matter, the hearing examiner ~~shall~~ must consider the criteria set forth in subsection (c)(2) of this section as well as the following, if applicable:

a. Whether there exists an error or ambiguity which must be corrected;

b. Whether urban services, as defined in the Lee Plan, are, or will be, available and adequate to serve a proposed land use change, when reviewing a proposed change to a future urban area category; and

c. Whether a proposed change is intended to rectify errors on the official zoning map.

(3) Findings: Before preparing his recommendation to the Board of County Commissioners on a rezoning, the Hearing Examiner must find that:

a. The applicant has proved entitlement to the rezoning or special exception by demonstrating compliance with the Lee Plan, this land development code, and any other applicable code or regulation; and

b. The request will meet or exceed all performance and locational standards set forth for the potential uses allowed by the request; and,

c. The request is consistent with the densities, intensities and general uses set forth in the Lee Plan; and

d. The request is compatible with existing or planned uses in the surrounding area; and

e. Approval of the request will not place an undue burden upon existing transportation or planned infrastructure facilities and will be served by streets with the capacity to carry traffic generated by the development; and

EXHIBIT A
[LDC Section 34-145 (c, e) Ordinance 96-06]

f. Where applicable, the request will not adversely affect environmentally critical areas and natural resources.

g. In the case of a planned development rezoning, the decision of the Hearing Examiner must also be supported by the formal findings required by Sections 34-377(a)(2) and (4).

h. Where the change proposed is within a future urban area category, the Hearing Examiner must also find that urban services, as defined in the Lee Plan, are, or will be, available and adequate to serve the proposed land use.

(~~3~~4) *Authority.*

a. The hearing examiner ~~shall~~ serves in an advisory capacity to the Board of County Commissioners with respect to zoning matters as set forth in subsection (d)(1) of this section, and in such capacity may not make final determinations.

b. The hearing examiner ~~shall~~ may not recommend the approval of a rezoning, and the Board of County Commissioners ~~shall~~ may not approve a rezoning, other than the ~~change~~ request published in the newspaper pursuant to section 34-236(b), unless ~~such change~~ the zoning district proposed by the Hearing Examiner is more restrictive and permitted within the land use classification ~~as~~ set forth in the Lee Plan.

c. In reaching his recommendations, the hearing examiner ~~shall have~~ has the authority to recommend conditions and requirements to be attached to any request for a special exception or variance included under subsection (d)(1)b.3, 4 or 5 of this section.

(~~4~~5) *Decisions.* All decisions of the hearing examiner concerning zoning matters under this subsection (d) will be in the form of a recommendation to the Board of County Commissioners. Only a participant ~~party of record~~ or his representative will be afforded the right to address the Board of County Commissioners.

→ ~~(e) *Special permits.*~~

~~(1) *Function.* The hearing examiner shall hear and decide all applications for special permits permitted by the district use regulations.~~

~~(2) *Considerations.* In reaching his decision, the hearing examiner shall consider the criteria set forth in subsection (c)(2) of this section.~~

~~(3) *Findings.* Before granting any special permit, the hearing examiner shall find that the applicant has proved entitlement to the special permit by demonstrating compliance with:~~

~~a. The Lee Plan;~~

~~b. This chapter; and~~

~~c. Any other applicable county ordinances or codes.~~

~~(4) *Authority.*~~

EXHIBIT A
[LDC Section 34-145 (c, e) Ordinance 96-06]

~~a. The hearing examiner shall grant the special permit unless he finds that granting the special permit is contrary to the public interest and the public health, safety, comfort, convenience and welfare of the citizens of the county, or that the request is in conflict with subsection (e)(3) of this section.~~

~~b. The hearing examiner shall have the authority to attach such conditions and requirements to any approval of a request for a special permit as deemed necessary for the protection of the health, safety, comfort, convenience or welfare of the general public. Such conditions or requirements shall be reasonably related to the action requested.~~

~~c. Special permits may be reviewed by themselves or as a part of a rezoning.~~

~~d. All decisions of the hearing examiner concerning special permits filed as part of a rezoning shall be in the form of a recommendation to the Board of County Commissioners. Only a party of record or his representative shall be afforded the right to address the Board of County Commissioners.~~

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

(ef) *Notice of intent to deny based on insufficient information.*

(1) If the hearing examiner intends to deny or recommend denial of an application described in subsections (a) through (d e) of this section based on the applicant's failure to provide information adequate in scope and detail to address particular issues, he may, in his discretion, send a notice of intent to deny based on insufficient information to all participants ~~parties of record~~ in lieu of a denial or a recommendation to deny the application. The notice ~~shall~~ must state the issues on which additional information is necessary and ~~shall~~ must direct the applicant to indicate within ten working days whether he intends to provide the information and the date upon which the information will be provided (not to exceed 30 working days).

(2) If the applicant does not respond affirmatively within ten working days of the date of the notice, the hearing examiner ~~shall~~ must prepare and submit a recommendation or decision, whichever is applicable, denying the application to the Board of County Commissioners and all participants ~~parties of record~~. If the applicant does respond affirmatively, the hearing examiner ~~shall~~ must send a copy of the response to all parties of record along with a notice of a new hearing date, at which time the new evidence ~~shall~~ will be considered.

(3) The applicant ~~shall~~ must submit all of the new evidence provided in accordance with this section to the zoning staff, ~~which shall~~ who will review it and prepare a supplementary staff report addressing only those issues to which the new evidence is relevant.

(4) The hearing following the receipt of the new evidence ~~shall~~ will be limited to those issues to which the new evidence is relevant.

(5) No applicant ~~shall~~ will be entitled to more than one notice of intent to deny based on insufficient information.

(Zoning Ord. 1993, § 900.02; Ord. No. 93-14, § 6, 4-21-93; Ord. No. 94-24, §§ 7--11, 8-31-94; Ord. No. 95-07, § 13, 5-17-95)

EXHIBIT A
[LDC Section 34-145 (c, e) Ordinance 96-06]

Amended by:
Ord. 96-06
Eff. Date: 03/27/96

annual monitoring for capacity and effectiveness of implementation. At the minimum, the plan ~~shall~~ must comply with the spill prevention control and countermeasure plan (SPCC) ~~as~~ called for in the federal oil pollution prevention regulations, 40 CFR 112, as amended.

~~(9) *Additional material.* Additional material, depending on the specific type of action requested, shall be required as set forth in section 34-203(a) through (g).~~

~~(c) *Modifications to submittal requirements.* Upon written request, the director may modify the submittal requirements contained in this section where it can be clearly demonstrated that the submission will have no bearing on the review and processing of the application. The request and the director's written response must accompany the application submitted and will become a part of the permanent file.~~

(Zoning Ord. 1993, § 800.01)

Sec. 34-203. Additional requirements for ~~owner-initiated~~ applications requiring public hearing.

(a) *Developments of regional impact.* All developments of regional impact ~~shall~~ must comply with the information submittal and procedural requirements of F.S. ch. 380. ~~, as administered through the Southwest Florida Regional Planning Council.~~ If the development of regional impact requires specific zoning actions (i.e., rezoning), ~~the intent of~~ the procedures and requirements of ~~section 34-202,~~ this section and article IV of this chapter ~~shall~~ must be met. Additionally, even if the development of regional impact does not require any specific zoning action, the applicant must submit a traffic impact statement, as described in section 34-373(a)(2)c and detailed in section 10-286. ~~, shall be submitted.~~ Thresholds for developments of regional impact can be found in Florida Administrative Code chapter 27F2.

(b) *Planned Developments.* All Planned Developments must comply with the additional information submittal and procedural requirements set forth in section 34-373.

~~(b) *Determination of development of county impact status.*~~

~~(1) Any owner or agent wishing a determination of the development of county impact status of his property shall apply to the director and pay a fee to cover administrative costs.~~

~~(2) Any development which is less than 80 percent of the thresholds listed in section 34-341(b) is conclusively presumed not to be a development of county impact. Any development which is more than 80 percent but less than 100 percent of the appropriate threshold is rebuttably presumed not to be a development of county impact. Any development which is more than 100 percent but less than 120 percent of any threshold is rebuttably presumed to be a development of county impact. Any development which exceeds 120 percent of any threshold is conclusively presumed to be a development of county impact.~~

~~(3) The director shall consider the following items in determining the development of county impact status of a proposed rezoning or special exception:~~

~~a. The compatibility of the proposed zoning district with neighboring zoning districts and uses;~~

~~b. The impact of the proposed zoning change on existing and proposed transportation facilities;~~

~~c. The impact of the proposed zoning change on other urban services, as defined in the Lee Plan; and~~

EXHIBIT A
[LDC Section 34-203 (d, g) Ordinance 96-06]

~~d. The impact of the proposed zoning change on environmentally critical areas.~~

~~(4) For the purpose of determining whether a parcel is a development of county impact, all contiguous parcels which are in common ownership or control may be identified and taken into account in both determining development of county impact status and estimating the impacts of any proposed development.~~

~~(5) The director's decision is an administrative decision which may be appealed in accordance with the procedure in this article.~~

(c) *Rezonings other than developments of regional impact* ~~or developments of county impact.~~

~~(1)~~ All requests for rezonings, other than those determined to be a development of regional impact ~~or a development of county impact, shall~~ must include a statement of the basis or reason for the rezoning. Such statement is to be directed, at a minimum, to the guidelines for decision - making embodied in section 34-145(d)(2). This statement may be utilized by the Board of County Commissioners, hearing examiner and staff in establishing a factual basis for the granting or denial of the rezoning.

~~(2) Applications for rezonings are required to comply with section 34-202(b).~~

→ (d) *Special exceptions.* Except for special exceptions which are developments of county impact (see sections 341 and 342) ~~,as preempted under subsection (b)(3) of this section, every owner- initiated~~ all applications for a special exception ~~shall~~ must, in addition to the requirements of section 34-202(a) & (b), include the following:

(1) A statement as to how the property qualifies for the special exception requested, and what impact granting the request would have on surrounding properties. Such statement ~~shall~~ must be directed, at a minimum, to the guidelines for decision-making embodied in section 34-145(d)(2). This statement may be utilized by the hearing examiner and staff in establishing a factual basis for granting or denial of the special exception.

(2) A site development plan detailing the proposed use, including, where applicable, the following:

a. The location and current use of all existing structures on the site, as well as those on adjacent properties within 100 feet of the perimeter boundaries of the site.

b. All proposed structures and uses to be developed on the site.

c. Any existing public streets, easements or land reservations within the site, and the proposed means of vehicular access to and from the site.

d. A traffic impact analysis of projected trip generation for the development.

e. Proposed fencing and screening, if any.

f. Any other reasonable information which may be required by the director which is commensurate with the intent and purpose of this chapter.

(3) *Solar or wind energy modifications.* If the request is to modify property development regulations for the purposes of using solar or wind energy, evidence shall be submitted that

EXHIBIT A
[LDC Section 34-203 (d, g) Ordinance 96-06]

the proposed modifications are the minimum necessary to provide for the solar or wind energy proposal and that the proposed modifications will not adversely affect adjacent properties. (See section 34-2196)

(4) *Temporary Parking Lot.* If the request is for a temporary parking lot:

a. The site plan must show all existing and proposed parking spaces and drives, both paved and unpaved, vehicle access points, and lighting, if any.

b. An analysis indicating the need for the temporary parking lot, as well as the anticipated frequency of use must be submitted.

c. If the temporary parking lot is off the premises of the principal use, plans for providing for traffic control and pedestrian safety must be submitted.

(5) *On-premises consumption of alcoholic beverages.* If the request is for a consumption on premises permit:

a. The property owners list and map [see section 34-202 (a)(4) & (5)] must be modified to include all property within 500 feet of the perimeter of the subject property.

b. The site plan must include a detailed parking plan.

c. A written statement describing the type of state liquor license to be acquired, e.g., 2 COP, SRX, 11C, etc., and the anticipated hours of operation for the business, must be submitted.

(6) *Harvesting of cypress (Taxodium spp.).* An application for a Special Exception to harvest cypress must include:

a. An aerial photograph with vegetation associations mapped as listed in the Florida Land Use, Cover, and Forms Classification System (FLUCCS).

b. A forest management plan for the proposed harvesting site.

c. Steps which will be taken to ensure that the proposed activity will not have an adverse affect on the environmental sensitivity of the area.

(7) *Joint parking.* Applications for joint parking lots must include:

a. A notarized statement from all property owners involved indicating the use of each property and that the activities of each separate building or use which create a demand for parking will occur at different times.

b. Written agreements, covenants, contracts and the like, acceptable to the county, which ensure that the parking area is to be used jointly and establish the responsibility for maintenance.

c. A backup plan to provide sufficient parking if the joint agreement is violated by either party.

EXHIBIT A
[LDC Section 34-203 (d, g) Ordinance 96-06]

Violation of the agreement for joint use of off-street parking is sufficient grounds for revocation of the special exception.

(8) Private aircraft landing facilities. Applications for private aircraft landing facilities must:

a. Indicate the type of facility, as set forth in Florida Administrative Code chapter 14-60.

b. Indicate on the site plan the proposed location and length of the effective landing length, as well as the area included in the approach zone.

c. Submit a certified list of all airports and municipalities within 15 miles of the proposed site and all property owners within 1,000 feet of the property or within the minimum required approach zone, whichever is greater.

The department of community development will forward a copy of the application to the department of airports for comment prior to any public hearings. No proposed airport will be granted a special exception if the department of airports finds that the proposed site would interfere with any other lawfully existing aircraft landing facility, airport or heliport.

All property owners listed in subsection (d)(7)c. of this section will be sent written notice by certified mail, return receipt requested, of the date, time and place of any public hearing. The applicant will bear the cost of the notification.

(e) *Variances.* Every ~~owner-initiated~~ application for a variance from the terms of this chapter ~~shall~~ must, in addition to the requirements of section 34-202(a) & (b), include the following:

(1) A document describing:

a. The section number and the particular regulation of ~~this chapter~~ the Land Development Code from which relief (variance) is requested;

b. The reason why the variance is needed;

c. What effect, if any, granting of the variance would have on adjacent properties; and

d. The nature of the hardship which is used to justify the request for relief.

(2) A site plan describing:

a. Existing public streets, easements or other reservations of land within the site;

b. All existing and proposed structures on the site;

c. All existing structures within 100 feet of the perimeter boundary of the site; and

d. The proposed ~~deviation~~ variance from the adopted standards.

(3) ~~All other information required by the official forms provided by the department, and~~ Any other reasonable information which may be required by the department which is commensurate with the intent and purpose of this ~~chapter~~ code.

EXHIBIT A

[LDC Section 34-203 (d, g) Ordinance 96-06]

(4) *Variance from required street setbacks on collector and arterial roads.* For a variance from a collector or arterial street setback, the applicant:

a. May modify the property owners list and property owners map [see section 34-202 (a) (4) & (5)] to show only the names and locations of property owners which abut the perimeter of the subject property.

b. Must submit a site plan, drawn to scale, showing:

1. All structures, easements, and rights-of-way, etc., within 100 feet of the peripheral boundary of the subject property;

2. The location of all proposed structures, easements, rights-of-way and vehicular access onto the property, including entrance gates or gatehouses; and

3. The extent of modification from street setbacks requested.

(f) Use variance. ~~It is hereby noted that~~ Use variances are not legally permissible, and no application for a use variance will be processed. Department staff will notify the applicant when a more appropriate procedure, e.g., rezoning ; or special exception ~~or special permit~~, is required.

~~(g) *Special permits.* Except as specifically stated otherwise in this chapter, all owner-initiated applications for special permits must contain the information required by section 34-202(b), as well as the following information:~~

~~(1) *Modification of street setbacks:*~~

~~a. *Property owners list.* The property owners list and property owners map (see section 34-202(b)(3) and (4)) may be modified to show only the names and locations of property owners which abut the perimeter of the subject property.~~

~~b. *Site development plan:*~~

~~1. The site plan must include all structures, easements, rights-of-way, etc., within 100 feet of the peripheral boundary of the subject property.~~

~~2. A site plan showing the location of all proposed structures, easements, rights-of-way and vehicular access onto the property, including entrance gates or gatehouses, must be included.~~

~~3. The extent of modification from street setbacks being requested must be shown.~~

~~(2) *Temporary parking lots:*~~

~~a. In addition to the requirements of section 34-202(b), the applicant shall submit a site plan showing all existing and proposed parking spaces and drives, both paved and unpaved, vehicle access points, and lighting, if any.~~

~~b. An analysis indicating the need for the temporary parking lot, as well as the anticipated frequency of use, shall be included.~~

EXHIBIT A
[LDC Section 34-203 (d, g) Ordinance 96-06]

c. If the temporary parking lot is off the premises of the principal use, provisions for traffic control and pedestrian safety shall be provided.

(3) *On-premises consumption of alcoholic beverages.*

a. The property owners list and map (see section 34-202(b)(3) and (4) shall be modified to include all property within 500 feet of the perimeter of the subject property.

b. A site plan of the property, including a detailed parking plan, shall be submitted.

c. A written statement shall be submitted which describes the type of state liquor license to be acquired, e.g., 2 COP, SRX, 11C, etc., and the anticipated hours of operation for the business.

(4) *Harvesting of cypress (Taxodium spp.):*

a. In addition to the requirements of section 34-202(b)(3) and (4), the applicant shall submit an aerial photograph with vegetation associations mapped as listed in the Florida Land Use, Cover, and Forms Classification System (FLUCCS).

b. A forest management plan shall be submitted for the proposed harvesting site.

c. Steps which will be taken to ensure that the proposed activity will not have an adverse affect on the environmental sensitivity of the area shall be included.

(5) *Joint parking:*

a. The following shall be submitted with the application:

1. A notarized statement from all property owners involved indicating the use of each property and that the activities of each separate building or use which create a demand for parking shall occur at different times.

2. Written agreements, covenants, contracts and the like, acceptable to the county, which ensure that the parking area is to be used jointly and establish the responsibility for maintenance.

3. A backup plan to provide sufficient parking if the joint agreement is violated by either party.

b. Violation of the agreement for joint use of off-street parking shall be sufficient grounds for revocation by the county of the special permit.

(6) *Solar or wind energy modifications.* Evidence shall be submitted that the proposed modifications are the minimum necessary to provide for the solar or wind energy proposal and that the proposed modifications will not adversely affect adjacent properties.

(7) *Private aircraft landing facilities.*

a. The applicant shall indicate in the application the type of facility, as set forth in Florida Administrative Code chapter 14-60, being proposed.

EXHIBIT A
[LDC Section 34-203 (d, g) Ordinance 96-06]

~~b. A site plan, drawn to scale, shall be submitted, showing the proposed location and length of the effective landing length, as well as the area included in the approach zone.~~

~~c. The application shall include a certified list of all airports and municipalities within 15 miles of the proposed site and all property owners within 1,000 feet of the property or within the minimum required approach zone, whichever is greater.~~

~~d. The department of community development will forward a copy of the application to the department of airports for comment prior to any public hearings. No proposed airport shall be granted a special permit if the department of airports finds that the proposed site would interfere with any other lawfully existing aircraft landing facility, airport or heliport.~~

~~e. All property owners listed in subsection (g)(7)c of this section shall be sent written notice by certified mail, return receipt requested, of the date, time and place of any public hearing. The applicant shall bear the cost of the notification.~~

(g) Modifications to submittal requirements. Upon written request, the director may modify the submittal requirements contained in this section where it can be clearly demonstrated that the submission will have no bearing on the review and processing of the application. The request and the director's written response must accompany the application submitted and will become a part of the permanent file.

(Zoning Ord. 1993, § 800.02; Ord. No. 93-14, § 4, 4-21-93; Ord. No. 93-24, § 18, 9-15-93; Ord. No. 94-24, § 13, 8-31-94)

Sec. 34-204. ~~Applications for development approval.~~ Reserved

~~All applications for development shall be in accordance with the procedures and regulations set forth in chapter 10.~~

(Zoning Ord. 1993, § 802(A))

Sec. 34-205. ~~Applications for building permits.~~ Reserved

~~(a) All applications for building permits shall be in compliance with this chapter as well as:~~

~~(1) Chapter 10;~~

~~(2) The county building code; and~~

~~(3) All other applicable county or state regulations.~~

~~(b) An application for a building permit for property subject to a deed of restrictions recorded in the office of the clerk of the county court shall contain a statement signed by the applicant that such application complies with the applicable deed of restrictions.~~

(Zoning Ord. 1993, § 802(B))

Sec. 34-206. ~~Grading permits.~~ Reserved

EXHIBIT A
[LDC Section 34-203 (d, g) Ordinance 96-06]