



**EXECUTIVE REGULATORY OVERSIGHT COMMITTEE
Community Development/Public Works Center
1500 Monroe Street, First Floor Conf. Rm. 1B**

**WEDNESDAY, JANUARY 13, 2016
2:00 P.M.**

AGENDA

1. Call to Order/Review of Affidavit of Publication
2. Approval of Minutes – December 9, 2015
3. LEHIGH ACRES LDC AMENDMENTS – CANCELLED
4. ALVA LDC AMENDMENTS – STAFF
5. PROPOSED LDC AMENDMENTS - STAFF
6. Adjournment – Next Meeting Date: March 9, 2016

Persons with disabilities who need an accommodation to participate in the Land Development Code Advisory Committee meeting should contact Pamela Hendry, 1500 Monroe Street, Fort Myers FL 33901 (239-533-8348 or PHendry@leegov.com). To ensure availability of services, please request accommodation as soon as possible but preferably five or more business days prior to the event. Persons using a TDD may contact Pamela Hendry through the Florida Relay Service, 711.

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Draft

MINUTES REPORT EXECUTIVE REGULATORY OVERSIGHT COMMITTEE WEDNESDAY, DECEMBER 9, 2015

Committee Members Present:

Randy Mercer, Chairman	Victor Dupont	Stephanie Kolenut
Hal Arkin	Bill Ennen	Michael Reitmann
Carl Barraco, Jr.	Tracy Hayden	Mike Roeder
Bill DeDeugd	Bob Knight	Buck Ward

Committee Members Absent:

Jim Ink	Darin Larson	Matthew Petra
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Lee County Government & Representatives Present:

Dave Loveland, Director, DCD	Nettie Richardson, Zoning Princ. Planner
Mikki Rozdolski, Planning Manager	Neysa Borkert, Asst. County Attorney
Brandon Dunn, Principal Planner, Planning	Michael Jacob, Asst. County Attorney
Becky Sweigert, Princ. Env. Planner, Planning	Pam Hendry, DCD Admin., Recording
Alexis Crespo, Consultant for Lee County	

Public Participants: None

Introduction

Mr. Randy Mercer called the meeting to order at 2:15 p.m. in the first floor conference room of the Lee Count Administrative Building, 2115 Second Street, Ft. Myers, Florida.

Ms. Neysa Borkert, Assistant County Attorney, reviewed the Affidavit of Posting of Meeting and found that it had the wrong address. The meeting notice that was posted contained the correct address, and the receptionist at the wrong address had been instructed to direct any attendees to the correct address. A note with the correct address was posted at the wrong address that was in the affidavit of posting, and the meeting was delayed for 15 minutes.

Mr. Mercer introduced Victor Dupont, a new member of EROC.

Approve Meeting Minutes – September 9, 2015

Ms. Stephanie Kolenut made a motion to approve the September 9, 2015 meeting minutes. Mr. Buck Ward seconded. The motion carried unanimously.

Pine Island Community Plan Update

Mr. Michael Jacob said he assisted staff and Alexis Crespo, the consultant on the project, with a significant number of changes to the plan. He said that based on amendments to the Pine Island community plan and the Land Development Code (LDC) in the early 2000s, the County faced a number of lawsuits based on the Bert Harris Act and other inverse condemnation theories, claiming loss of development rights on the island. He said in the

case called Cammilot Partners the County was found liable, and before the damages phase they entered into a settlement agreement. From the standpoint of the County, that case was just 10 acres, there are 7,400 acres of coastal rural property that potential claims could have come from, generating anywhere from \$100 million to \$200 million in potential lawsuit damages, resulting in a need to review the Comp Plan and regulations to ensure that the County's liability is not that high. He said outside legal counsel represented the Board of County Commissioners (BOCC) in a number of these cases and they explained the problems they had and that they wanted a pronged approach at both reducing liability and insuring that the character of Pine Island is maintained to the best extent possible. He said during this review they came across a number of regulations that were within the Lee Plan and the LDC that were based on antiquated data, or in some cases were no longer consistent with State law. They took a balanced approach at finding where the regulations needed to be amended to be consistent with State law, and also where they can increase the regulations to protect the rural character but keep the County out of trouble. He said he couldn't get into every reason why some things are changed because some cases are still pending and they don't want to provide too much information for potential lawsuits. He said they'd like to go through the LDC changes with EROC and will try to answer questions.

Regarding Sec. 2-143(a) Definitions, Ms. Tracy Hayden said there are two definitions for Transferable development unit (TDU), which one should it be? Ms. Mikki Rozdolski said that's an error and the second one is the one we will be using.

Regarding Sec. 2-147(c) Procedure to approve bonus density, Mr. Mercer asked staff for an explanation. Ms. Rozdolski said it's existing bonus density provisions language moved from Chapter 34 to Chapter 2 so that everything's together, and it's saying the BOCC has the right to not have to approve the maximum numbers in the density table in the Lee Plan. Mr. Mercer asked if the BOCC is the final stop. Ms. Rozdolski said yes, but it goes to the Hearing Examiner first.

Regarding Sec.2-149 Mr. Mike Roeder asked what the cash contribution is now. Ms. Rozdolski said it's been \$20,000.00 for some time now.

Mr. Mercer asked what the original lawsuit was about. Mr. Jacob said in 2003 the Lee Plan reduced density on Pine Island from 1 unit per acre to 1 unit per 10 acres and that in order to get back to 1 unit per acre, you had to give up some property rights. In 2006 it went from 1 unit per 10 acres to 1 unit per 17 acres and you couldn't get back to 1 unit per acre, you could only get back to 1 unit per 2.7 acres. And, in order to get to 1 unit per 2.7, you had to preserve or conserve 70% of your property. That was the basis of the lawsuits. There were other potential lawsuits that haven't been filed on other theories. There were 9 cases filed, only 1 went to trial and all 9 cases were recently settled for \$4.25 million.

Mr. Roeder asked about the process to create TDRs. He said the County's had their TDR program for over 30 years now and he's concerned that the more they create, the less value they're going to have and if they don't have the value, he doesn't know if this is really going to work. He said it's always been the problem for the TDR program, there really

hasn't been a demand for them. Mr. Jacob said to address those concerns we're making the use of TDUs by right in certain circumstances, providing administrative review process for other circumstances and increasing the density that you're allowed to use when you use these units. The Lee Plan allows you to go above the standard density range so that you create some value that doesn't exist under the current TDR program. And, in addition to that, there are some conversions, for example, 1 unit on the island is worth 2 off the island. There's also potential to use a TDU for reduction of open space and increased commercial square footage.

Mr. Roeder asked if the reduction of open space could be accomplished by right if they have the TDRs? Mr. Jacob said yes if they use the TCU in categories where it is allowed, or the administrative review process may be available. Ms. Rozdolski said she did an exercise with a consultant where he'd given how much someone paid for a property and broke that down and found the value of each unit was less than the \$20,000.00 you would be paying for the bonus density through the affordable housing program.

Mr. Roeder said the cash contribution for affordable housing is never going to happen when you can buy TDRs for \$3,000 or \$4,000. He said a lot of people are sitting on TDUs and it's a very uneven, irregular market, so he doesn't know if this is going to help or not. Mr. Jacob said as people begin to look at these and see the tools that they can use with them, we should see an uptick. Ms. Rozdolski said this is more unique program than before because we're not only applying it to residential, but you can use it for commercial square footage, so if you have an approved planned development for 100,000 square feet of commercial, they can administratively get another 5 or 10 thousand square feet using 1 Pine Island TDU, without going to the BOCC. We also have reductions for open space which can be huge for some projects in trying to accommodate their required parking or if they're trying to get additional square footage.

Ms. Hayden said there is a typo in Sec. 33-1055(a)(2), the word "is" should be removed.

Mr. Ward asked if these changes will have any impacts on other categories other than coastal rural. Mr. Jacob said some of the TDU things apply to other urban categories on Pine Island as far as being able to take the units off, but development regulations primarily deal with coastal rural.

There was discussion about the 810/910 rule.

Mr. Roeder asked if someone is going to keep track of the TDR program. Ms. Rozdolski said staff will facilitate the program. Mr. Jacob said we'll create a system for tracking and possibly case numbers will be created.

Mr. Roeder said the final observation is that Pine Island TDRs are going to be a lot more valuable than the old TDRs because you can do a lot more with them and that to have the effect of devaluing old TDRs, and he wonders how the people still sitting on them feel about that. Mr. Jacob said this is a first step in doing something to address TDR program issues. If it becomes a gangbuster, then you'd want to spread that to other parts of the County

where you're trying to use incentives to deal with development. Mr. Roeder asked if these units can be sold anywhere in unincorporated Lee County. Ms. Rozdolski said they can't be used anywhere, but there are certain future land use categories where they can be used and there are greater incentives in mixed use overlays. Mr. Jacob said we've added the provision that allows other municipalities through inter-local agreements to join in. Then, through the inter-local agreement, we can set up how or if you can use them, say in the City of Fort Myers or Cape Coral.

Mr. Roeder asked if Pine Island is ok with it and if they met with them. Michael Jacob said we did have a big meeting there and he provided the dates of the committee review meetings. He said not everyone's pleased.

Mr. Roeder said he just hopes if staff finds it's not working, they come back and fix it. Mr. Jacob said we have provisions to give the Commissioners the ability to do just.

Ms. Bill DeDeugd made a motion to approve with the correction of the scrivener's errors. Ms. Tracy Hayden seconded. The motion carried unanimously.

ADJOURNMENT

Mr. Michael Reitmann moved to adjourn. Ms. Stephanie Kolenut seconded. The meeting was adjourned at 3:00 p.m.

The next meeting was tentatively scheduled for January 13, 2016.

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**Lehigh Acres
LDC
Amendments**

Staff

EROC ORDINANCE EVALUATION GUIDELINES

Proposed Ordinance: LDC Amendments Lehigh Acres Community Plan

1. **What is the public interest that the Ordinance is designed to protect?**
The use and regulation of land.

2. **Can the identified public interest be protected by means other than legislation (e.g., better enforcement, education programs, administrative code in lieu of ordinance, etc.)? If so, would other means be more cost effective?**
No, this ordinance is the basis for the regulation.

3. **Is the regulation required by State or Federal law? If so, to what extent does the County have the authority to solve the problem in a different manner?**
N/A

4. **Does the regulation duplicate State or Federal programs? If so, why?**
No. This ordinance amends and supplements regulations at a different level.

5. **Does the regulation contain market-based incentives? If not, could that be used effectively?**
N/A

6. **Is the regulation narrowly drafted to avoid imposing a burden on persons or activities that are not affecting the public interest?**
Yes.

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

8. **Does the regulation impact vested rights?**
No.
9. **Does the regulation provide prompt and efficient relief mechanisms for exceptional cases?**
Yes.
10. **Even though there is an interest to be protected, is it really worth another regulation?**
Yes, this ordinance supplements and refines current regulations.
11. **Has this approach been tried in other jurisdictions? If so, what was the result? If not, what are the reasons?**
N/A
12. **If this regulation is enacted, how much will it cost on an annual basis, both public and private? If this regulation is not enacted, what will be the public and private cost?**
Any increased cost will be nominal.

MEMORANDUM
FROM
THE DEPARTMENT OF
COMMUNITY DEVELOPMENT

TO: The Executive Regulatory Oversight Committee (EROC) **DATE:** October 21, 2015

FROM: Sharon Jenkins-Owen, AICP
Nettie Richardson

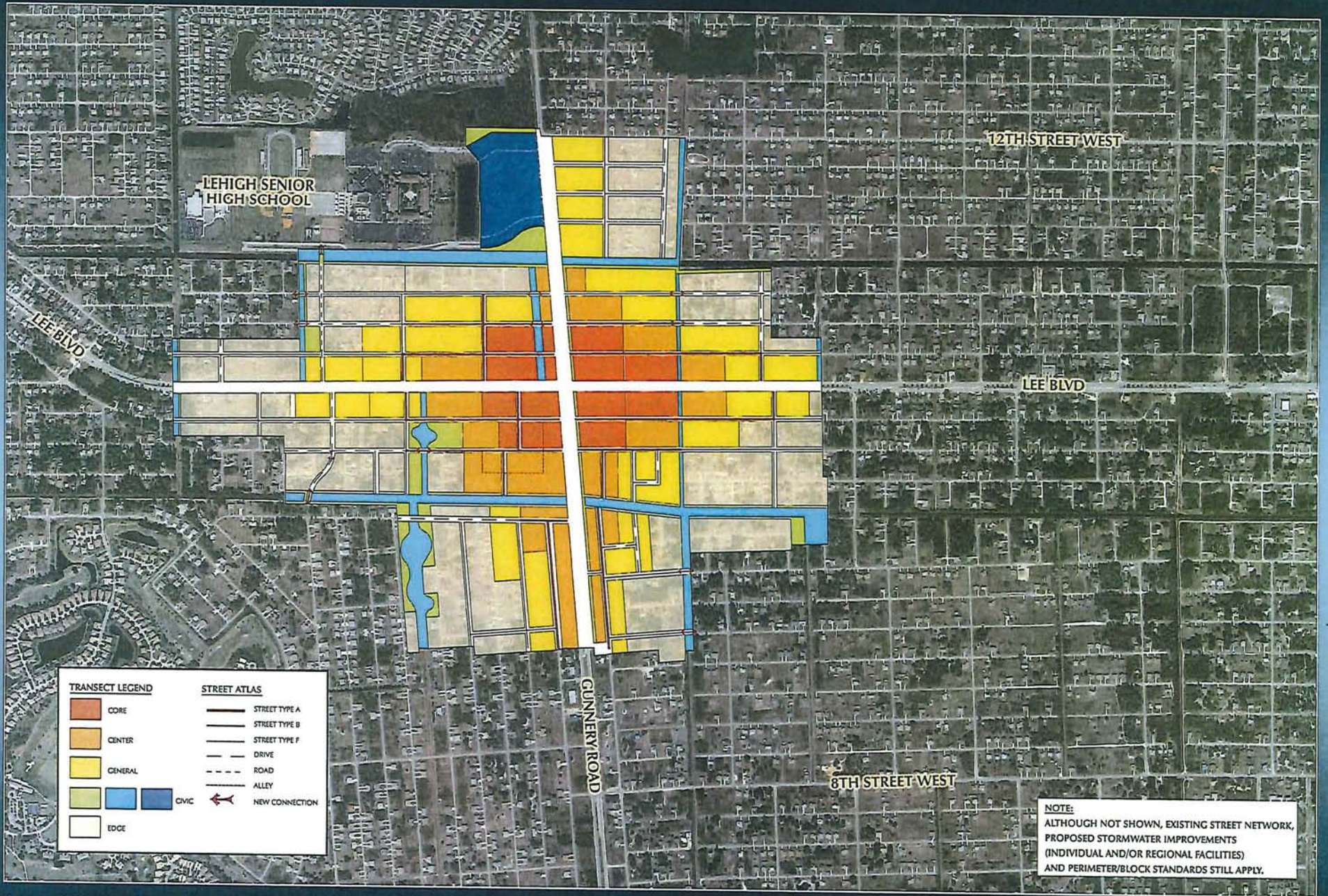
RE: Lehigh Acres Gunnery/82 and Lee/Gunnery Activity Centers

Please find the community's draft of proposed regulations implementing the conceptual Gunnery/82 and Lee/Gunnery Compact Community Activity Centers in Lehigh Acres. These plans have been developed through a community planning effort by the Lehigh Acres community and Kimley-Horn and Associates, the project's planning consultants, and have been vetted by Lee County staff, the County Attorney's office, and community stakeholder including property owners, members of the public, and other community groups. As shown in the Table below, the Lee County Board of County Commissioners has previously adopted three compact community regulating plans in Lehigh Acres. The adoption of these two regulating plans would bring the total number of adopted Lehigh Acres community regulating plans to five.

Adopted Regulating Plans

Activity Center Name	LDC	Adoption Date	Ordinance No.
Lehigh Acres Downtown Activity Center	32-603	Feb. 26, 2013	13-05
Lehigh Acres Admiral Lehigh Neighborhood Activity Center	32-603	Feb. 26, 2013	13-05
Lehigh Acres Homestead Road/Milwaukee	32-603	June 17, 2014	14-13

These regulations help implement two of nine "Activity Centers" in Lehigh Acres identified in Goal 32 of the Lee Plan for the Lehigh Acres Planning Community. The aim of these centers is to utilize Compact Communities, Chapter 32 of the LDC to incentivize the development of economic centers within the Lehigh Acres community.



TRANSECT LEGEND

	CORE		STREET TYPE A
	CENTER		STREET TYPE B
	GENERAL		STREET TYPE F
	CIVIC		DRIVE
	EDGE		ROAD
			ALLEY
			NEW CONNECTION

LEHIGH SENIOR HIGH SCHOOL

12TH STREET WEST

LEE BLVD

8TH STREET WEST

GUNNERY ROAD

NOTE:
 ALTHOUGH NOT SHOWN, EXISTING STREET NETWORK,
 PROPOSED STORMWATER IMPROVEMENTS
 (INDIVIDUAL AND/OR REGIONAL FACILITIES)
 AND PERIMETER/BLOCK STANDARDS STILL APPLY.

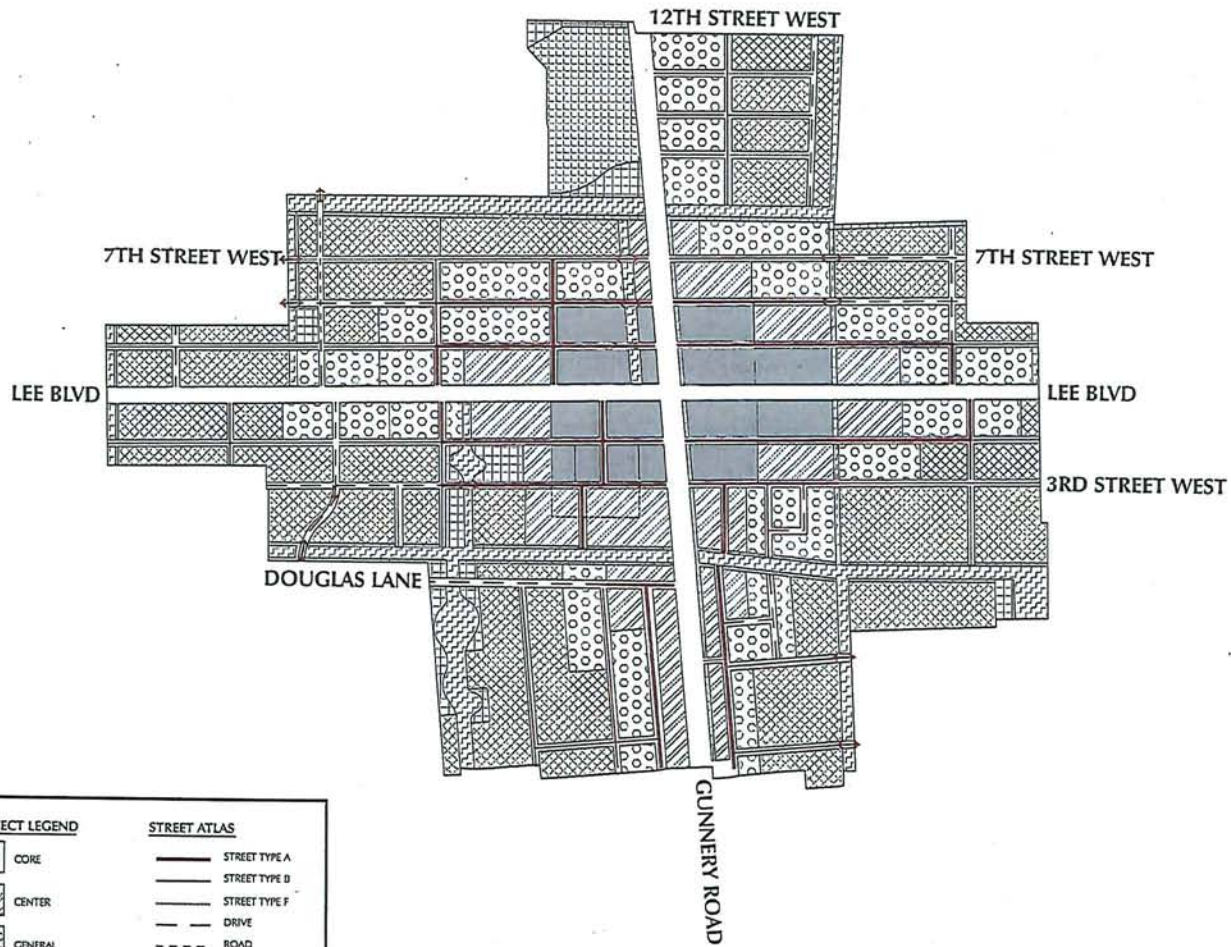
Lee/Gunnery Activity Center
 Conceptual Regulating Plan

LEHIGH ACRES
 LEE COUNTY, FLORIDA

SCALE: 1" = 100' (AS SHOWN)

 Kimley Horn

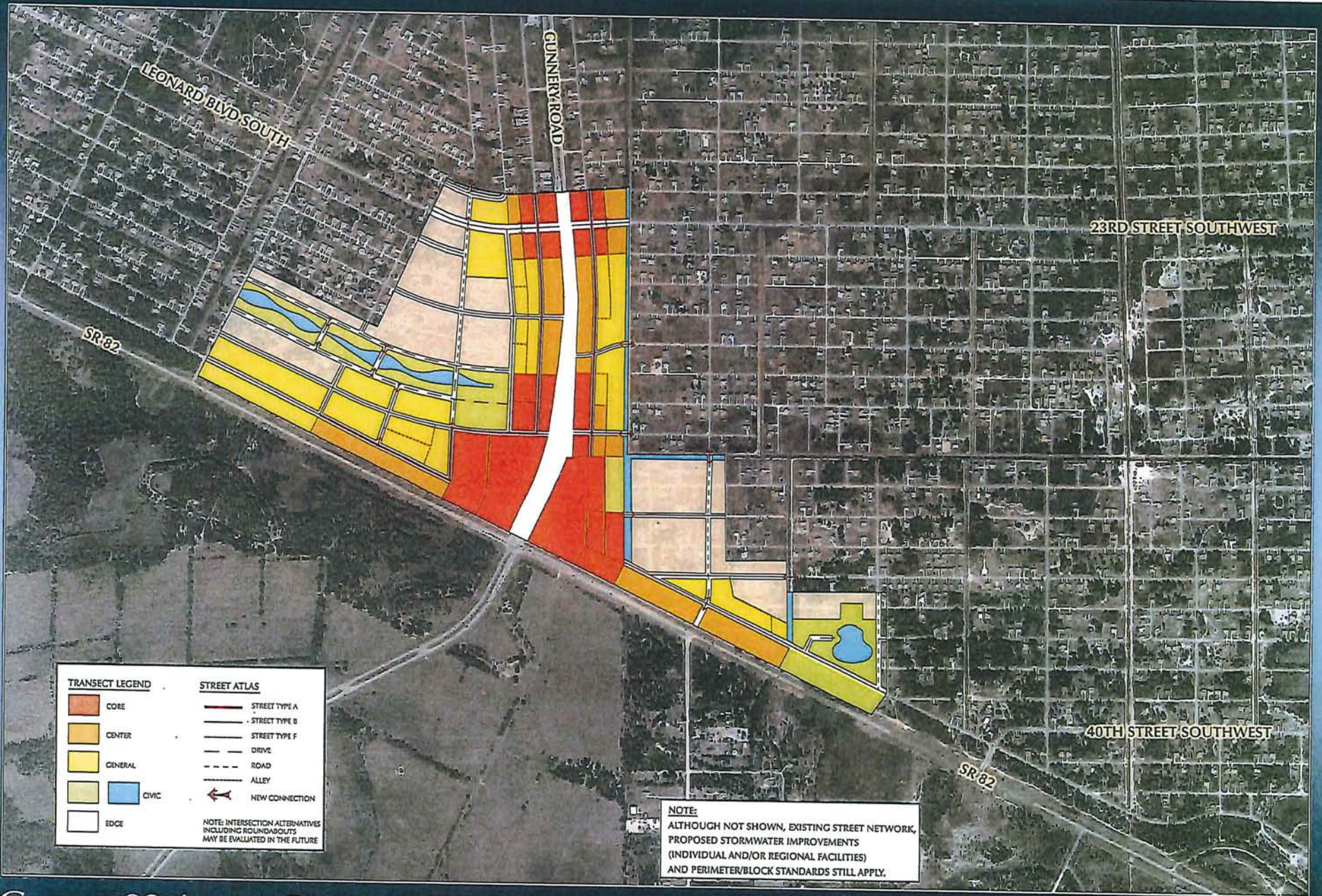
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TRANSECT LEGEND		STREET ATLAS	
	CORE		STREET TYPE A
	CENTER		STREET TYPE D
	GENERAL		DRIVE
	CIVIC		ROAD
	EDGE		ALLEY
			NEW CONNECTION

NOTE:
 ALTHOUGH NOT SHOWN, EXISTING STREET NETWORK,
 PROPOSED STORMWATER IMPROVEMENTS
 (INDIVIDUAL AND/OR REGIONAL FACILITIES)
 AND PERIMETER/BLOCK STANDARDS STILL APPLY.

Lee/Gunnery Activity Center
 Conceptual Regulating Plan



TRANSECT LEGEND		STREET ATLAS	
	CORE		STREET TYPE A
	CENTER		STREET TYPE B
	GENERAL		STREET TYPE F
	CIVIC		DRIVE
	EDGE		ROAD
			ALLEY
			NEW CONNECTION

NOTE: INTERSECTION ALTERNATIVES INCLUDING ROUNDABOUTS MAY BE EVALUATED IN THE FUTURE

NOTE:
 ALTHOUGH NOT SHOWN, EXISTING STREET NETWORK,
 PROPOSED STORMWATER IMPROVEMENTS
 (INDIVIDUAL AND/OR REGIONAL FACILITIES)
 AND PERIMETER/BLOCK STANDARDS STILL APPLY.

Gunnery/82 Activity Center Conceptual Regulating Plan

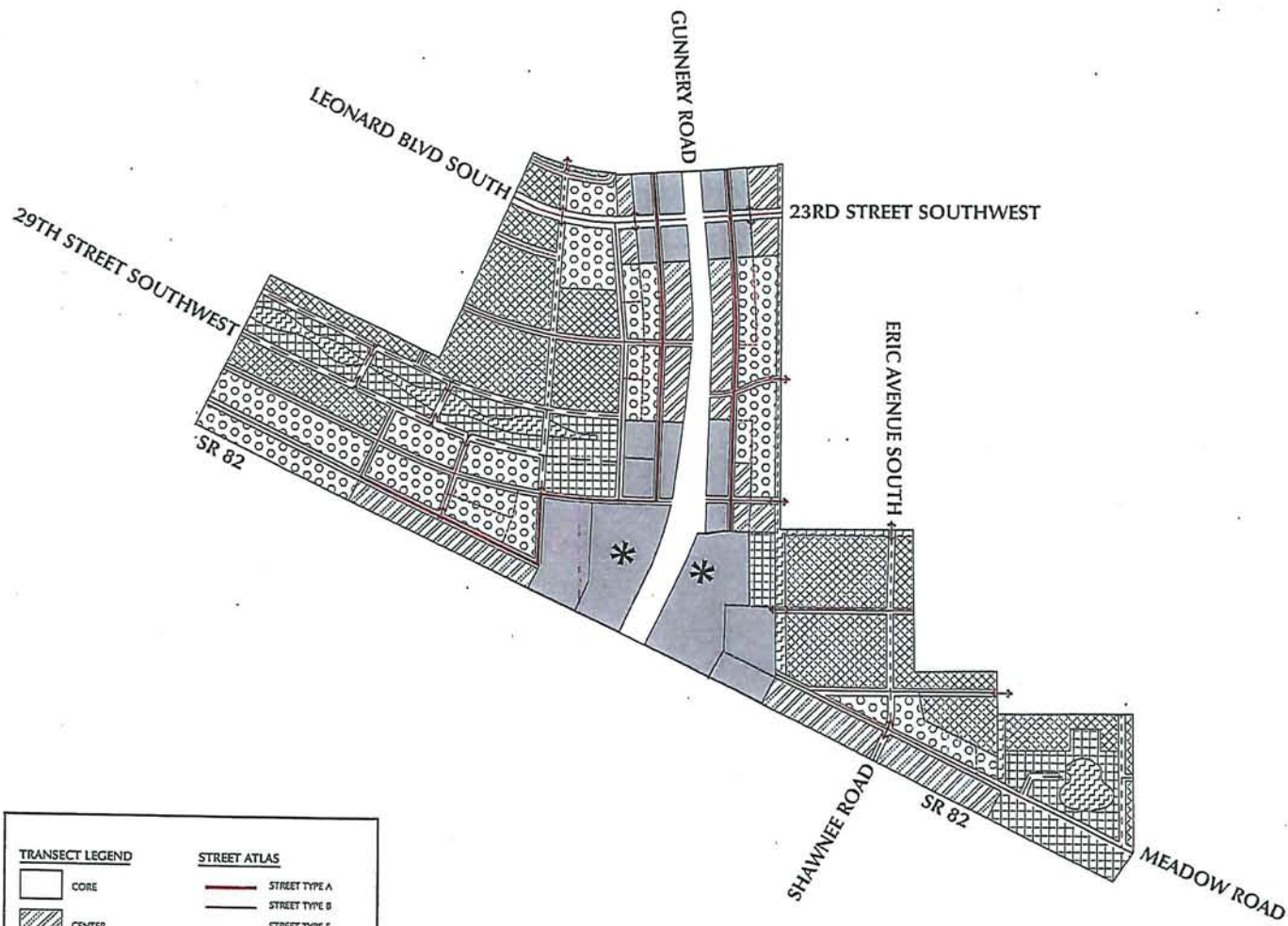
LEHIGH ACRES
 LEE COUNTY, FLORIDA

SCALE: 1" = 100 FEET
 DATE: 08/04/2015

Kimley»Horn

PROJECT LEAD: ERIC B. SCHWAB, P.E.
 LEHIGH ACRES, 10000 W. STATE ROAD 82, SUITE 100, LEHIGH ACRES, FL 33429

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TRANSECT LEGEND

- CORE
- CENTER
- GENERAL
- CIVIC
- EDGE

STREET ATLAS

- STREET TYPE A
- STREET TYPE B
- STREET TYPE F
- DRIVE
- ROAD
- ALLEY
- NEW CONNECTION

NOTE: INTERSECTION ALTERNATIVES INCLUDING ROUNDABOUTS MAY BE EVALUATED IN THE FUTURE.

COUNTY OWNED PARCELS ARE SUBJECT TO INTERSECTION IMPROVEMENTS.

NOTE:
ALTHOUGH NOT SHOWN, EXISTING STREET NETWORK, PROPOSED STORMWATER IMPROVEMENTS (INDIVIDUAL AND/OR REGIONAL FACILITIES) AND PERIMETER/BLOCK STANDARDS STILL APPLY.

Gunnery/82 Activity Center

Detailed Regulating Plan

LEHIGH ACRES
LEE COUNTY, FLORIDA



Kimley»Horn

DATE: 10/20/11
PROJECT: LEHIGH ACRES, LEICHTENBERG TRAIL
DRAWN: J. BISHOP, M. BISHOP, J. P. LEE, J. W. LEE

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Alva
LDC
Amendments

Staff

EROC ORDINANCE EVALUATION GUIDELINES

Proposed Ordinance: LDC Amendments Alva Community Plan

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The use and regulation of land.
2. **Can the identified public interest be protected by means other than legislation (e.g., better enforcement, education programs, administrative code in lieu of ordinance, etc.)? If so, would other means be more cost effective?**
No, this ordinance is the basis for the regulation.
3. **Is the regulation required by State or Federal law? If so, to what extent does the County have the authority to solve the problem in a different manner?**
N/A
4. **Does the regulation duplicate State or Federal programs? If so, why?**
No. This ordinance amends and supplements regulations at a different level.
5. **Does the regulation contain market-based incentives? If not, could that be used effectively?**
N/A
6. **Is the regulation narrowly drafted to avoid imposing a burden on persons or activities that are not affecting the public interest?**
Yes.
7. **Does the regulation impose a burden on a few property owners for the benefit of the public as a whole? If so, does it provide any form of compensation?**
No.

8. **Does the regulation impact vested rights?**
No.
9. **Does the regulation provide prompt and efficient relief mechanisms for exceptional cases?**
Yes.
10. **Even though there is an interest to be protected, is it really worth another regulation?**
Yes, this ordinance supplements and refines current regulations.
11. **Has this approach been tried in other jurisdictions? If so, what was the result? If not, what are the reasons?**
N/A
12. **If this regulation is enacted, how much will it cost on an annual basis, both public and private? If this regulation is not enacted, what will be the public and private cost?**
Any increased cost will be nominal.

MEMORANDUM

**FROM
THE DEPARTMENT OF
COMMUNITY DEVELOPMENT**

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

DATE: October 21,2015

**FROM: Sharon Jenkins-Owen,AICP
Nettie Richardson**

RE: Alva Land Development Code Amendments

Attached are amendments to the Land Development Code (LDC) to adopt regulations for the Alva Community. These development regulations help implement Goal 26 of the Lee Plan and associated Objectives and Policies. Goal 26 calls for Lee County "To support and enhance Alva's unique rural, historic, agricultural character and natural environment and resources, including the rural village and surrounding area..."

These proposed LDC regulations were drafted in concert with the Alva Community and Lee County Staff. Numerous public meetings were held over the past four years with the Alva Community Planning Panel. The draft has been reviewed by Lee County Staff, the County Attorneys and other interested parties. Specifically, the proposed regulations provide:

- Community review for zoning requests and development orders;
- Applies to new and redevelopment: commercial mixed use and civic developments undergoing zoning or local development order approvals;
- Does not apply to: agricultural, single-family , duplex residential;

These proposed regulations establish the following:

- Design Standards
 - Architectural standards
 - Exterior building materials and facade
- Landscape standards;
- Signage – type, size, height, location, illumination;
- Scenic corridors;
- Historic Core
 - Limit height to 25 feet/2 stories
 - Allow reduced landscaping, buffers, open space and encourages shared parking;
- Allows mixed use development along a portion of Palm Beach Boulevard.

ALVA RURAL COMMUNITY PLAN LDC AMENDMENTS

SECTION ONE: AMENDMENT TO LDC CHAPTER 14

Lee County Land Development Code Chapter 14 is amended as follows with strikethrough identifying deleted text and underline identifying new text.

CHAPTER 14 ENVIRONMENTAL AND NATURAL RESOURCES ARTICLE I-IN GENERAL

Sec. 14-1. Planning community regulations.

Activities in the following communities must also comply with the regulations set forth in LDC Chapter 33 pertaining to the specific community.

- (a) Estero Planning Community.
- (b) Greater Pine Island.
- (c) Page Park.
- (d) Caloosahatchee Shores.
- (e) Lehigh Acres.
- (f) North Fort Myers
- (g) Matlacha.
- (h) Upper Captiva.
- (i) North Olga.
- (j) Alva.

SECTION TWO: AMENDMENT TO LDC CHAPTER 30

Lee County Land Development Code Chapter 30 is amended as follows with strikethrough identifying deleted text and underline identifying new text.

CHAPTER 30 SIGNS ARTICLE II. ADMINISTRATION AND ENFORCEMENT

Sec. 30-56. Planning community regulations.

Application and permit approvals for signs and sign structures associated with projects located in the following planning communities must also comply with the regulations set forth in chapter 33 pertaining to the specific planning community.

- (a) Estero Planning Community.
- (b) Greater Pine Island.
- (c) Page Park.
- (d) Caloosahatchee Shores.
- (e) Lehigh Acres.
- (f) North Fort Myers.
- (g) Matlacha
- (h) Upper Captiva.
- (i) North Olga.
- (j) Alva.

SECTION FOUR: AMENDMENTS TO LDC CHAPTER 33

Lee County Land Development Code Chapter 33 is amended as follows with strikethrough identifying deleted text and underline identifying new text.

CHAPTER 33 PLANNING COMMUNITY REGULATIONS ARTICLE XX. ALVA RURAL COMMUNITY DIVISION 1. IN GENERAL

Sec. 33-XXXX. Applicability. The provisions of Article XX apply to all new and the redevelopment of commercial, mixed-use, multi-family and civic developments requiring zoning or local development order approval, located in the Alva Rural Community as depicted on Lee Plan Map 1, Page 6 of 8 – Special Treatment Areas, Mixed Use Overlay. Civic developments include government offices and service buildings, arts, culture, education, day care, community services, social services, recreational, athletic, convention, entertainment, transit and municipal parking structures. Agricultural, single-family and duplex residential uses are exempt unless otherwise noted. Renovations of historic structures may vary from the requirements of this Article as provided in LDC Chapter 22.

Sec. 33-XXXX. Community review.

(a) Applications requiring review. The owner or agent applying for the following types of county approvals must conduct one publically advertised information session within the Alva Rural Community prior to obtaining approval or finding of completeness or sufficiency, as applicable:

- (1) Development Orders, excluding Limited Development Orders.
- (2) Planned Development zoning requests. This includes administrative amendments to an approved master concept plan or other provisions of the zoning resolution.
- (3) Conventional zoning requests.
- (4) Special exception and variance requests.

(b) Meeting requirements. The applicant is responsible for providing the meeting space, providing notice of the meeting, and providing security measures as needed. The meeting will be held within the Alva community and the location will be determined by the applicant. Meetings may be, but are not required to be, conducted before non-County formed boards, committees, associations, or planning panels. The applicant will provide notice of the meeting no less than 30 days prior to the date of the meeting and must post a notification of the meeting in the Alva Community Center. Additional notification of the meeting may be posted on the Alva community website.

During the meeting, the applicant must provide a general overview of the project for any interested citizens. Subsequent to this meeting, the applicant must provide County staff with a meeting summary document that contains the following information: the date, time, and location of the meeting; a list of attendees; a summary of the concerns or issues that were raised at the meeting; and a proposal responding to any issues that were raised. The applicant is not required to receive an affirmative vote or approval of citizens present at the meeting.

Sec. 33-XXXX. Existing development. Existing planned developments may voluntarily bring a Master Concept Plan into compliance with the Alva Rural Community Plan or any regulations contained in this Article administratively. No public hearing will be required if the sole intention is for existing planned developments to comply with these regulations.

DIVISION 2.
COMMUNITY-WIDE LAND DEVELOPMENT PROVISIONS

Subdivision XX.
Design Standards

Sec. 33-XXXX. Design Standards.

- (a) **Architectural style.** The required architectural style is Southern Victorian and Florida “Cracker” Vernacular, characterized by pitched metal roofs, extended roof overhangs, frame construction, porches, awnings, canopies, covered walkways, and shutters. See Architectural Figure 1.

ARCHITECTURAL FIGURE 1
Alva Rural Community Architectural Style



- (b) **Exterior building materials.** Traditional building materials, such as wood, decoratively treated concrete composite siding, masonry, stone, or brick must be used as the predominant exterior building materials for all new construction as architecturally appropriate to the existing building. Foundation material may be plain concrete or plain concrete block when the foundation material does not extend more than one foot above base flood elevation (BFE).
- (c) **Building color.**
- (1) Colors for building and accessory structures are suggested to be neutral, warm earth tones, subdued pastels or whites.
 - (2) Optional contrasting colored columns, cornices, doors, roofs, trims, windows, and other architectural details must complement the principal building as well as existing surrounding structures.
 - (3) Contrasting accent colors of any wall, awning or other feature are limited to not more than 10 percent of the total area for any single façade.

(4) Neon and fluorescent colors are prohibited.

(5) The use of black color on buildings and structures is limited to trim.

(d) **Façade treatment.** Methods for providing architectural relief on blank façades must include three (3) or more of the following:

(1) Recessed or clearly defined entryways;

(2) Dormers, balconies, porches and staircases;

(3) Transparent window or door areas or display windows that provide visibility into the building interior;

(4) Overhangs, and awnings;

(5) Building ornamentation and varying building materials, colors, decorative tiles, edifice detail such as trellises, false windows or recessed panels reminiscent of window, door or colonnade openings and wall murals;

(6) Shrubs or vines trained to grow upright on wire or trellises next to blank walls;

(7) Architectural features such as cornices, articulated roof parapets or other details that alter the building height; or

(8) Application of a contrasting base that is a minimum one-foot high and extends along the entire front face of the building that is adjacent to the right-of-way, and at least ten feet along the sides façades of the building that are perpendicular to the right-of-way.

(e) **Doors, entrances, and porches.**

(1) The main entrance to the building must face the street. On corner lots, the main entrance may face either street or be diagonal to the corner. The main public entrance of a building must not open onto a parking space or spaces. Overhead doors facing Palm Beach Boulevard are prohibited.

(2) The enclosure of any open or screened porch must be constructed in a manner consistent with the style and materials of the existing structure.

(f) **Window treatments.** The following rules apply to all windows on all façades facing a driveway, public open space, or street. For purposes of this Article, public open space means people-oriented spaces along the street that are visually attractive, take into consideration the human scale and proportion, and provide for pedestrian connections and linkages. Exterior public and semi-public spaces, such as courtyards or plazas, must be designed for function, to enhance surrounding buildings and provide amenities for users, in the form of textured paving, landscaping, lighting, street trees, benches, trash receptacles and other items of street furniture.

(1) Window openings must be rectangular and oriented vertically, except for transom windows over doors.

- (2) The bottoms of all window openings must be no higher than 30 inches above the interior finished floor elevation of each floor.
- (3) Windows must contain sills and lintels on the exterior of the wall.
- (4) Display windows at the street level around the exterior of commercial and mixed-use buildings must include windowsills and ledges. Windows must not be false or applied. In addition, all windows and doors:
 - a) Must be consistent with the architectural style as stated in Sec. 33-XXXX.
 - b) Must employ divided, multi-paned windows;
 - c) Must utilize energy efficient clear or tinted glass;
 - d) Must be designed in a style that is simple, well-proportioned and appropriate to the overall architectural character of the building and the Alva Rural Community;
 - e) Must, when security gratings are necessary, use interior, concealed security gratings; and
 - f) Planter boxes are encouraged, but are not required.

(g) Awnings.

- (1) All awnings must complement the frame of the structure and must not cover the space between the second story windowsills and the structure cornice.
- (2) All non-structural awning coverings must utilize canvas fabric or similar water-proof material in their design and fabrication. Metal, aluminum, plastic, or rigid fiberglass awning coverings are prohibited.
- (3) If the design and materials are consistent with the overall design of the building, structural awnings that are a permanent part of the building architecture and add diversity and interest to the façade must be designed and constructed of metal, wood, or other traditional building materials.
- (4) Display window awnings must be attached above window and below the building cornice.
- (5) A flat canopy may be treated with a 12-inch to 24-inch awning valance. Round or dome-shaped awnings must be architecturally compatible with the building in proportion to the associated building entrance.
- (6) All awnings must be attached directly to the building, and cannot be supported by columns or poles.
- (7) Vehicle shelter awnings must meet architectural standards. Vehicle shelter awnings not visible from the street are excluded.

(h) Lattice.

- (1) On elevated structures, the space between the floor of the structure and the ground must be screened with lattice between supports of the structure, or the space must be enclosed with wood or concrete block.

(2) Only one (1) style and type of lattice may be used for each building. If wood, the lattice must be a minimum of one-quarter-inch thick and pressure-treated. Posts on which the lattice is to be mounted must be pressure-treated and be set not more than four (4) feet on center.

(i) Shutters.

Roll-down shutters may be installed on commercial buildings if designed to conceal the overhead casing. Panels must be secured and stored in a manner that is not visible to the public except in preparation for, during, and in the immediate aftermath of an appropriate emergency event. Tracks for removable panels must match the style of the building and color of the wall upon which they are mounted.

(j) Metal roofs. Roofs must be sloped and use metal for all finished surfaces.

(1) The roof may contain features such as dormers, widow's walks and chimneys.

(2) The size, color, and patterns of the roofing material must contribute to the building's overall character.

(3) A dormer addition must be in scale and harmony with the existing building and have a roof consistent with that of the existing structure and windows of the same design as the existing structure.

(4) Flat roofs are prohibited on all structures.

(k) Ramps. Ramps for the purpose of compliance with ADA must be clearly marked with proper signage to denote their presence.

(l) Lighting. Buildings, awnings, roofs, windows, doors and other elements may not be outlined with light. Exposed neon and backlit awnings are prohibited. Temporary seasonal lighting during the month of December is excluded from this requirement.

(m) Drive-through access on SR 80 (Palm Beach Boulevard). Access for a drive-through facility in conjunction with a permitted use is prohibited from direct access onto SR 80. The development must be designed with an internal access or reverse frontage road.

Subdivision XX.

Landscape

Sec. 33-XXXX. Tree Preservation.

(a) In addition to the requirements to LDC Section 10-415(b) all projects with native trees must preserve the existing native trees and understory vegetation regardless of project size as follows:

(1) Preservation of indigenous tree clusters is preferred over individual tree protection. Reasonable efforts to retain individual trees must be made. It is recognized that site design requirements (e.g. fill) may limit the ability to retain some individual trees, and in that case the Community Development Director will allow the removal of those trees.

- (2) Native trees (4- to 15-inch caliper as measured from 4.5 feet from the ground) may be relocated to onsite open space areas when proper horticultural methods (e.g. root pruning; use of anti-transpirants) are utilized to ensure the survivability of the trees, and a vegetation removal permit is obtained.
- (3) Effort must be made to preserve heritage trees that have at least a 20-inch caliper as measured from 4.5 feet from the ground, including but not limited to live oak, South Florida slash pine, or longleaf pine. If a heritage tree must be removed from a site then replacement trees with a minimum 20-foot height must be planted at a three to one (3:1) ratio within an appropriate open space area. The Community Development Director may grant deviations from the requirements of this code per LDC Section 34-268 to approve Development Orders that accommodate the preservation of larger native and indigenous trees and tree clusters on a development site.
- (4) Effort must be made to preserve Sabal Palms over 8 foot CT (Clear Trunk is measured from ground to the base of the fronds) to be salvaged or relocated. Sabal Palms may be relocated to open space areas when proper horticultural methods (e.g. root pruning; use of anti-transpirants) are utilized to insure the survivability of the trees, and a vegetation removal permit is obtained.
- (5) Native tree preservation must incorporate techniques established in LDC Section 10-420(j).
- (6) Surface water management systems may overlap with native tree preservation areas only where it can be clearly demonstrated that the effects of water management system construction and/or operation will not cause death or harm to the preserve tree and indigenous plant community of protected species.
- (7) Infrastructure design must integrate existing trees and the natural character of the land unless an alternative design is approved by an administrative variance or deviation per LDC Section 34-268.

Sec. 33-XXXX. Landscape and entry features for new commercial, mixed-use, residential and civic developments.

- (a) External buffer walls, entry marquees, fountains, decorative gates, porticos, pylons, entry structures, and berms not required by the South Florida Water Management District for water management are prohibited.
- (b) Residential project walls provided in LDC Sec. 34-1743 are prohibited.
- (c) In order to promote the rural character of the community:
 - (1) The existing native vegetation located within the required buffer and adjacent to roadways must be incorporated into the landscape and site plans.
 - (2) When the existing conditions do not meet the minimum LDC landscape standards, additional native vegetation must be planted to supplement the natural landscape.
 - (3) Vegetation must be planted in clusters and not in repeating, and/or linear patterns.

Subdivision X.
Signs

Sec. 33-XXXX. Prohibited signs.

- (a) The following types of signs are prohibited unless a deviation or variance is granted.
- (1) Exposed neon signs, including neon lining outlining the building features
 - (2) Pole signs.
 - (3) Pylon signs.
 - (4) Balloons including inflatable air signs or other temporary signs that are inflated with air, helium, or other gaseous elements, except as permitted by special occasion permit.
 - (5) Banners, pennants or other flying paraphernalia (such as feather signs), except:
 - a. As permitted by special occasion permit.
 - b. An official federal, state, or County flag.
 - c. One symbolic flag not to exceed 15 square feet in area for each institution or business.
- (b) All temporary signs, except for the following, are prohibited. The following temporary signs must comply with LDC Section 30-151.
- (1) Special occasion signs.
 - (2) Real estate signs.
 - (3) Construction signs.
 - (4) Political or campaign signs.
- (c) The following signs are prohibited as per LDC Chapter 30. No variance or deviation may be requested.
- (1) Emitting signs.
 - (2) Flashing signs.
 - (3) Roof Signs.
 - (4) Billboards.
 - (5) Electronic Changing Message Centers.

Sec. 33-XXXX. Permanent signs for commercial, mixed-use and civic uses

(a) Ground-mounted identification signs.

- (1) Ground mounted identification signs must be a monument sign. A monument sign is a ground sign, the structural base of which is on the ground.
 - a. The height of the base must be at least 24 inches and cannot exceed 36 inches above the adjacent ground.
 - b. The sign must display the street numbers of the property on the face of the sign. Street numbers must measure between a minimum of four inches and a maximum of six inches in height. The copy area of the street number will not be counted toward the allowable sign copy area.

c. Signs must complement the architectural style of the building or development.

(b) Wall-mounted identification signs.

(1) A wall-mounted identification sign may be placed on the front wall of a building providing it meets the requirements of LDC Section 30-153.

(2) The total sign area of the wall sign cannot exceed 10% of window area.

(c) Palm Beach Boulevard: nonresidential developments and multiple-occupancy complexes with more than five establishments:

(1) Will be permitted one ground mounted identification sign per road frontage.

a. No sign may exceed 150 square feet in area per complex with a maximum height of eight (8) feet.

b. When the primary use across the secondary street contains an existing single-family dwelling unit on an individual lot, the sign is limited to maximum of 24 square feet in area with a maximum height of six (6) feet and may not be illuminated.

c. Individual occupants within a multiple-occupancy complex may place a non illuminated signs on a wall facing a local street.

(d) Palm Beach Boulevard: individual office, civic, business establishments, and multiple occupancy complexes with five or less establishments:

(1) Will be permitted one ground mounted identification sign per road frontage.

a. Primary road frontage will be permitted a maximum height of eight (8) feet with a maximum area of 32 square feet.

b. Secondary road frontage will be permitted a maximum height of six feet with a maximum area of 24 square feet.

c. Provisions for a corner lot as listed in LDC Section 30-153(3)a.6 do not apply.

(2) When the primary use across the secondary street contains an existing single-family dwelling unit on an individual lot, a wall sign facing Palm Beach Boulevard is allowed. The sign may not be illuminated.

(e) Sign Lighting.

(1) Ground mounted identification signs:

a. Illumination must comply with LDC Section 34-625.

b. Exposed raceways are prohibited.

Sec. 33-XXXX. Permanent signs for live-work units. Live-work units, in accordance with LDC Section 33-1431(c)(2), are permitted one sign on the property: A ground mounted identification sign; or a window sign. A window sign may not exceed more than 10% of the window area. A ground mounted sign is limited to a maximum structure size of 24 square feet (and a maximum height of six (6) feet (as measured in accordance with LDC Sections 30-91 and 30-92.) Signs may not be illuminated.

Subdivision XX.
Roadways

Sec. 33-XXXX. Local and private roadways. To retain the rural character and aesthetic appeal, existing private and non-county maintained roads will not be widened. Roadways may be widened to accommodate public safety improvements such as turn lanes, sidewalks, and bike lanes.

Sec.33-XXXX. Setbacks from arterial and collector roadways. The minimum setback for buildings from arterial and collector roadways must be a minimum of 50 feet. Parking is not allowed within the front setback.

Sec. 33-XXXX. Scenic Corridors. North River Road, Broadway Street, Joel Boulevard, and Palm Beach Boulevard scenic corridor plantings.

- (a) New developments with frontage on North River Road, Broadway Street, Joel Boulevard, and Palm Beach Boulevard must provide a 25-foot wide right-of-way buffer, planted with non-invasive native canopy trees, such as Live Oaks or Red Maples. The required planting height of the native canopy tree shall be a minimum of fourteen (14) feet, with a minimum four (4) inch caliper as measured from 4.5 feet from the ground. Native shrubs, such as saw palmettos, at a 3-gallon minimum container size, calculated at eighteen (18) shrubs per 100 linear feet are required to be planted in clusters. Shrubs must be a minimum of 24 inches in height at the time of installation. In order to maintain a natural rural appearance, native shrubs may not be planted in repeating and/or linear patterns. Irrigation per LDC 10-414 (b) is required.

Subdivision XX
Transfer Development Rights

Sec.33-XXXX. Transfer Development Rights. Property owners may opt to transfer the density rights associated with their land to other receiving areas in the County as long as they are designated as being within an urban category on the Future Land Use Map. Lands within the Alva Rural Community may not receive transfer density from lands in or outside of the Alva Rural Community.

DIVISION 3.
HISTORIC CORE

Sec. 33-XXXX. Applicability and Historic Core boundaries. The Historic Core includes all lands north of the Caloosahatchee River identified on the Alva Plat as recorded in Plat Book 1 on Page 10 in the public records of Lee County. The following standards apply to new commercial, mixed-use and civic developments requiring zoning or local development order approval within the Historic Core in addition to the community-wide regulations provided in Divisions 1 and 2.

Sec. 33-XXXX. Shared parking is allowed. Reduced parking requirements may be approved in accordance with LDC Section 34-2020 (c).

Sec. 33-XXXX. Building Massing and Bulk. The overall form of proposed buildings, such as height, front, and side yard setbacks, roof pitch, and length of building frontage must be constructed in accordance with these regulations.

Sec. 33-XXXX. Roofs. Flat roofs are prohibited.

Sec. 33-XXXX. Height restrictions. Buildings and structures may not exceed two (2) stories.

Sec.33-XXXX. Landscape. Reduction of landscaping, buffer widths, and open space requirements may be approved in accordance with LDC Section 34-268.

Sec.33-XXXX. Design Standards.

- (a) Outdoor display of merchandise. Sidewalks located outside of the public rights-of-way may display merchandise sold within the building directly in front of an establishment, provided the property maintains at least five (5) feet of clearance, as measured from the street right-of-way.
- (b) Outdoor displays are permitted only during business hours, and must be removed at the end of the business day.
- (c) Displays are prohibited within rights-of-way.

DIVISION IV.
RURAL VILLAGE MIXED-USE COMMUNITIES

Sec.33-XXXX. Rural Village Mixed Use Communities, as provided in the Lee Plan, may be permitted if it is located within the Mixed Use Overlay and zoned as a Mixed Use Planned Development or developed consistent with Lee Plan Goal 26 (future Goal 13) and Land Development Code Chapter 32.

SECTION FIVE: AMENDMENT TO LDC CHAPTER 34

Lee County Land Development Code Chapter 34 is amended as follows with strikethrough identifying deleted text and underling identifying new text.

CHAPTER 34 ZONING

ARTICLE I. IN GENERAL

Sec. 34-6. Compliance with specific planning community requirements.

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

- (1) Estero.
- (2) Greater Pine Island.
- (3) Page Park.
- (4) Caloosahatchee Shores.
- (5) Lehigh Acres.
- (6) North Fort Myers.
- (7) Matlacha
- (8) Upper Captiva.
- (9) North Olga.
- (10) Alva.

DRAFT

**Proposed
LDC
Amendments**

Staff

EROC ORDINANCE EVALUATION GUIDELINES

Proposed Ordinance: Proposed LDC Amendments 1/13/16 EROC Meeting

1. What is the public interest that the Ordinance is designed to protect?

There are a number of public interests protected by this Ordinance. Amendments to Chapter 1 are designed to protect development potential when affected by eminent domain and to provide clarity on the affects of subsequent LDC amendments on previously approved deviations, variances, and special exceptions. Amendments to Chapter 32 are provided to alleviate issues stemming from implementation of the Compact Communities Code under Chapter 32. This Chapter has only been used twice.

Amendments to Chapter 34 have been created to address inconsistencies and provide clarification on matters raised in recent zoning and litigation cases. In addition, the Ordinance provides a streamlined process for approval of Board initiated rezoning of County property to Environmentally Critical zoning category and for approving non substantial change DRI amendments under § 380.06(19)(e)(2), Fla. Stat.

2. Can the identified public interest be protected by means other than legislation (e.g., better enforcement, education programs, administrative code in lieu of ordinance, etc.)? If so, would other means be more cost effective?

No. The Ordinance is affecting previously adopted ordinances.

3. Is the regulation required by State or Federal law? If so, to what extent does the County have the authority to solve the problem in a different manner?

No.

4. Does the regulation duplicate State or Federal programs? If so, why?

No.

5. Does the regulation contain market-based incentives? If not, could that be used effectively?

N/A

6. Is the regulation narrowly drafted to avoid imposing a burden on persons or activities that are not affecting the public interest?

Yes.

7. Does the regulation impose a burden on a few property owners for the benefit of the public as a whole? If so, does it provide any form of compensation?

No.

8. Does the regulation impact vested rights?

Yes in a positive manner, in that it provides some protections to property owners affected by eminent domain.

9. Does the regulation provide prompt and efficient relief mechanisms for exceptional cases?

Yes.

10. Even though there is an interest to be protected, is it really worth another regulation?

Yes. This Ordinance does not create additional regulations.

11. Has this approach been tried in other jurisdictions? If so, what was the result? If not, what are the reasons?

N/A

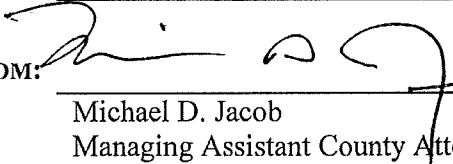
12. If this regulation is enacted, how much will it cost on an annual basis, both public and private? If this regulation is not enacted, what will be the public and private cost?

If enacted, the regulation will not increase public and private costs. In some circumstances, the Ordinance will reduce costs for public and private individuals.

**MEMORANDUM
FROM THE
OFFICE OF COUNTY ATTORNEY**

DATE: December 18, 2015

To: Dave Loveland
Director of Community Development

FROM: 
Michael D. Jacob
Managing Assistant County Attorney

RE: Summary of proposed Land Development Code Amendments

In August, our Office received a copy of correspondence between the Hearing Examiner and Board of County Commissioners. Within the correspondence, the Hearing Examiner provided a series of recommendations for Land Development Code revisions to address a number of potential legal issues. Our Office has reviewed the proposed revisions and analysis provided by the Hearing Examiner. Where appropriate and necessary, we have prepared revised LDC amendments to address the concerns raised by the Hearing Examiner.

In addition to the revisions in response to the Hearing Examiner's memorandum, our Office is proposing revisions to address a number of arguments raised in recent lawsuits and zoning cases. These changes are primarily to Chapter 1 and Chapter 32 and are designed to avoid potential future legal arguments. DCD Staff have provided me with suggested changes. Those changes have been incorporated into the attached draft.

I have attached a summary of the proposed changes. If you would like to discuss these, please do not hesitate to let me know.

Dave Loveland
December 18, 2015
Page 2

RE: Proposed Amendments to the Land Development Code

Summary of Proposed Amendments:

Chapter 1:

Section 1-15 was created to clarify the effect of LDC amendments on previously approved deviations, variances, and special exceptions. In certain cases, conditions or approval are imposed as conditions of approval of a variance, deviation, special exception. In some circumstances amendments to the LDC no longer necessitate the deviation, variance or special exception. When that occurs, the previously approved conditions of approval are no longer necessary and should be null and void.

Section 1-16 was created to provide greater flexibility for the County to issue deviations/variances for projects and property rights that are directly affected by the County's eminent domain powers. Similar provisions are currently in the Code. The proposed amendment will authorize (by right) the property owner to acquire deviations or variances to eliminate potential severance damages stemming from the eminent domain case.

Chapter 32:

Chapter 32 amendments are being proposed to address recent litigation as well as unforeseen circumstances in which Chapter 32 did not adequately address regarding street types, lots types, and property development regulations.

Chapter 33:

33-1596 is amended to permit Group II and III Social services within the NFM Commercial Corridor.

Chapter 34:

34-51; 34-52; and 34-53 are redundant with other LDC regulation or Administrative Codes and are being deleted.

34-83 was revised to consolidate two provisions into one and to remove language in (4)(b) that is covered by the Board's Administrative Code. Subsection (7) is being deleted because it is redundant.

34-84 is being deleted because it is not utilized and is not necessary.

Dave Loveland
December 18, 2015
Page 3

RE: Proposed Amendments to the Land Development Code

34-85 clarifies the calculation of appellate review is 30 days from date of the Board's decision for items approved by the Board that do not have an associated Resolution.

34-145- provides the Hearing Examiner with the authority to issue final decisions on EC rezoned property when initiated by the BoCC; includes a process for Hearing Examiner review of applications for amendments to development of regional impact development orders pursuant to § 380.06(19)(e)(2), Fla. Stat., (there will be no public hearing for Hearing Examiner review and 14 days to issue recommendation to the BoCC).

34-146-also provides the Hearing Examiner makes the final decisions on EC rezoned property initiated by the BoCC.

34-232; 34-233; and 34-236 were redundant and therefore are being deleted.

34-268 creates reference to Chapter 1 for relief allowed for property as a result of eminent domain proceedings.

34-935 removes height restrictions for MHPD, CFPD.

34-981; 34-982; 34-983, and 34-984 provide clarification and amendments to development regulations, uses, and application of EC District lands.

34-2443 removes the 100 ft setback requirement for Social services group II.

34-3152 was deleted due to inconsistency with Comp Plan provisions for Non water dependent uses. The Lee Plan provisions will control.

LEE COUNTY ORDINANCE NO. ___ - ___

AN ORDINANCE AMENDING LEE COUNTY LAND DEVELOPMENT CODE, CHAPTERS 1, 32, AND 34; THE SPECIFIC PROVISIONS THAT ARE AMENDED ARE: SEC. 1-15 (EFFECT OF AMENDMENTS ON PREVIOUSLY APPROVED DEVIATIONS, VARIANCES, AND SPECIAL EXCEPTIONS); SEC. 1-16 (EFFECT OF EMINENT DOMAIN ON PROPERTY DEVELOPMENT REGULATIONS); SEC. 32-202 (TRANSECT ZONES DESCRIBED); SEC. 32-225 (DESIGN OF BLOCKS); SEC. 32-226. CROSS-SECTIONS OF STREETS, ALLEYS, AND LANES); SEC. 32-241 (LOT TYPES ALLOWABLE IN EACH TRANSECT ZONE); SEC. 32-243 (PROPERTY DEVELOPMENT REGULATIONS); TABLE 32-243 (PROPERTY DEVELOPMENT REGULATIONS FOR EACH LOT TYPE); SEC. 32-244 (PERMITTED USES); SEC. 32-274 (REQUIREMENTS FOR DETAILED REGULATING PLANS); SEC. 32-502 (APPLICATION REQUIREMENTS); SEC. 32-505 (MODIFICATIONS AFTER REZONING PROCESS); SEC. 33-1596 (USE REGULATIONS); SEC. 34-2 (DEFINITIONS); SEC. 34-51 (NOTICE OF PUBLIC HEARINGS REQUIRED); SEC. 34-52 (UNAUTHORIZED COMMUNICATIONS); SEC. 34-53 (FEES AND CHARGES); SEC. 34-83 (FUNCTIONS AND AUTHORITY); SEC. 34-84 (REHEARING OF DECISIONS); SEC. 34-85 (FINAL DECISION; JUDICIAL REVIEW); SEC. 34-145 (FUNCTIONS AND AUTHORITY); SEC. 34-146 (FINAL DECISION; JUDICIAL REVIEW); SEC. 34-231 (DEFINITIONS); SEC. 34-232 (REQUIRED HEARINGS); SEC. 34-234 (PUBLIC PARTICIPATION); SEC. 34-235 (DEFERRAL OR CONTINUANCE OF PUBLIC HEARING); SEC. 34-935 (PROPERTY DEVELOPMENT REGULATIONS); SEC. 34-2443 (MINIMUM REQUIRED SETBACKS); AND PROVIDING FOR CONFLICTS OF LAW, SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS, AND AN EFFECTIVE DATE.

WHEREAS, Florida Statutes Section 125.01(1)(h) authorizes counties to establish, coordinate, and enforce zoning regulations necessary for the protection of the public; and,

WHEREAS, the Board of County Commissioners adopted the Lee County Land Development Code which contains regulations applicable to the development of land in Lee County; and,

WHEREAS, the Board of County Commissioners of Lee County, Florida, has adopted a comprehensive Land Development Code (LDC); and,

WHEREAS, Goal 39 of the Lee County Comprehensive Land Use Plan (Lee Plan) mandates that the County maintain clear, concise, and enforceable development regulations that fully address on-site and off-site development impacts, yet function in a streamlined manner; and,

WHEREAS, Lee Plan Policy 158.6.2 requires county staff and private citizen committees to review existing development regulations to determine whether the regulations can be further

fine tuned and streamlined in order meet the Goals, Objectives, and Policies of the Lee Plan and County purpose; and

WHEREAS, the Land Development Code Advisory Committee (LDCAC) was created by the Board of County Commissioners to explore amendments to the LDC; and,

WHEREAS, the LDCAC has reviewed the proposed amendments to the LDC on _____ and recommended approval of the proposed amendments as modified; and,

WHEREAS, the Executive Regulatory Oversight Committee reviewed the proposed amendments to the Code on _____ recommended their adoption; and,

WHEREAS, the Local Planning Agency reviewed the proposed amendments on _____, and found them consistent with the Lee Plan, as indicated.

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

SECTION ONE: AMENDMENT TO LDC CHAPTER 1

Lee County Land Development Code Chapter 1 is amended as follows with strike through identifying deleted text and underline identifying new text.

Chapter 1 - GENERAL PROVISIONS

Sec. 1-15. Effect of Amendments on Previously Approved Deviations, Variances, and Special Exceptions.

(a) If the Code is amended in a manner that makes a previously approved variance or deviation no longer necessary, then the approval requirements for the deviation or variance, including any conditions of approval of the variance or deviation are no longer necessary and null and void.

(b) If the Code is amended in a manner to allow a particular use that previously required an approved Special Exception, then the approval requirements for a previously approved Special Exception, including any conditions of approval for the Special Exception are no longer necessary and null and void.

Sec. 1-16. Effect of Eminent Domain on Property Development Regulations.

(a) The Director of Community Development is authorized to grant administrative relief in the form of a variance or deviation from property development regulations for development of property that is subject to a Lee County initiated Eminent Domain proceeding or threat of eminent domain proceeding. With the exception of relief from the minimum right of way or easement widths, an administrative deviation or variance under this provision will be granted by right subject to the following conditions:

1. The eminent domain process or threat of condemnation was commenced by Lee County after _____ [the effective date of this Ordinance];
2. The deviation or variance is directly proportional to the amount of property or interest taken. For example, if a 15,000 square foot parcel is taken in fee, the administrative relief for the minimum lot size is limited to a 15,000 square feet reduction in the minimum lot size requirement, which may be divided up amongst multiple abutting parcels under common ownership or applied to one specific parcel.
3. The administrative relief under this provision is limited to the following types of development regulations:
 - a. minimum lot area and dimensions;
 - b. minimum street, side yard, rear yard, water body setbacks;
 - c. minimum open space and buffer widths, including type and number of buffer plantings;
 - d. maximum lot coverage;
 - e. minimum right of way or easement widths for privately maintained streets (no greater than 5 foot reduction) if Lee County DOT determines that the proposed right of way is designed in a manner that protects the public health, safety, and welfare of the traveling public;
 - f. minimum parking spaces;
 - g. sign setbacks, sizes, and type; and,
 - f. platting requirements under Chapter 10 and AC13-19.
4. The maximum density on the remaining parcel will be determined based on the size of the property as though the eminent domain proceeding did not occur. Administrative deviations will be granted to avoid reduction in density as a result of an eminent domain taking. Administrative relief approved under this provision may not result in a density that exceeds the maximum density that was permitted prior to the eminent domain proceeding.

(b) Requests for an administrative relief must be made by application by either Party from the eminent domain proceeding within five (5) years from conclusion of the eminent domain process. Requests for an administrative deviation for property within a Planned Development must include any necessary revisions to the Master Concept Plan.

(c) Property that is developed in accordance with administrative relief granted pursuant to this provision will be deemed legally conforming and will not be considered as legally nonconforming.

SECTION TWO: AMENDMENT TO LDC CHAPTER 32

Lee County Land Development Code Chapter 32 is amended as follows with strike through identifying deleted text and underline identifying new text.

Chapter 32 COMPACT COMMUNITIES ARTICLE III. FORM-BASED CODE COMPONENTS AND GENERAL REQUIREMENTS

DIVISION 2. STREET TYPES AND PARKING

Sec. 32-225 Design of blocks.

The street pattern breaks compact communities into blocks. Alleys and lanes are contained within most blocks to provide access to service areas and to route utilities lines. Except as otherwise provided, block perimeters may not exceed ~~1,600~~ 2,000 linear feet as measured along the inner edges of each surrounding street right-of-way. Blocks may be broken by a Civic Space Lot provided that lot is at least 50 feet wide and will provide perpetual pedestrian access between the blocks and to lots that front the Civic Space Lot. Smaller blocks are encouraged to promote walkability.

- (1) Block perimeters may exceed ~~1,600~~ 2,000 linear feet, up to a maximum of ~~2,000~~ 2,500 linear feet, if one or more of the following conditions apply:
 - a. The block is assigned to the Core transect zone;
 - b. The long side of a rectangular block faces an arterial street, or is located adjacent to the Caloosahatchee River or any other natural water body; or
 - c. The block contains valuable wetlands or other indigenous native vegetation that should not be crossed by a street.
- (2) Single block faces wider than 500 feet must include a publicly dedicated sidewalk, passage, or trail at least eight feet in width that connects to another street.

Sec. 32-226. Cross-Sections of streets, alleys, and lanes.

The specific design of each street, alley, and lane ~~must~~ may follow the cross-sections illustrated in figures 32-226(a)–(d) for each type, as adjusted for the transect zone it passes through in accordance with section 32-227. The lane widths shown include the width of horizontal extensions of curbs such as gutter pans. Details not specified in these cross-sections should be designed in accordance with the Traditional Neighborhood Development chapter of the Florida Greenbook (Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways, published by Florida DOT). Modifications to the cross-sections, that may include, but are not limited to, bicycle lanes, planting strips, medians, sidewalks, pedestrian ways, multi-modal paths, on-street parking areas, and green areas, will not require deviations from this Code, so long as it is demonstrated that such modifications will be generally consistent with the Traditional Neighborhood Development design as articulated by this chapter, consistent with the proposed project design, and serving the general health, safety and welfare of the public.

DIVISION 3. LOT TYPES

Sec. 32-241 Lot types allowable in each transect zone

Subsections (a) through (c) remain unchanged.

TABLE 32-241

Lot Type	Transect Zones				
	Core	Center	General	Edge	Civic
Pedestal Building Lot (PB)	X	X			
Lined Building Lot (LB)	X	X	<u>X</u>		
Mixed-Use Building Lot (MU)	X	X	X		
Apartment Building Lot (AB)	X	X	X		
Courtyard Building Lot (CO)	X	X	X		
Live-Work Building Lot (LW)		X	X		
Rowhouse Lot (RH)		X	X		
Apartment House Lot (AH)			X		
Duplex Lot (DU)			X	X	
Cottage House Lot (CH)			X	X	
Sideyard House Lot (SH)			X	X	
House Lot (H)			X	X	
Civic Building Lot (CB)	X	X	X	X	X
Civic Space Lot (CS)	X	X	X	X	X
Stormwater Lot (SL)	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	X

(d) Lot types described. The 15 lot types are described here. Except as noted, parking spaces are provided on-street, to the rear of the lot, or as otherwise provided in division 2.

(1) *Remains unchanged*

(2) **LINED BUILDING LOT:** A lot located and designed to accommodate a large-footprint building such as a parking garage, cinema, supermarket, etc., which is surrounded by a liner building that conceals large expanses of blank walls and faces the street with ample windows and doors opening onto the sidewalk. At least two (2) facades of the large-footprint building may be used as the liner building provided that screening and architectural features are employed to promote the architectural design of the Compact Community Planned Development, consistent with a Traditional Neighborhood Development design.

(3) **MIXED-USE BUILDING LOT:** A lot located and designed to accommodate a multi-story building with multiple dwellings in upper stories and various commercial uses in any stories.

Subsections (4) through (14) remain unchanged

(15) STORMWATER LOT: A lot whose primary purpose is to accommodate stormwater detention areas. Stormwater lots may be permitted in any transect zone.

(e) *Remains unchanged*

(f) Additional lot types, unique to a particular Compact Community Planned Development may be requested and assigned to any transect under the following circumstances:

(1) The lots described in §32-241(d), above, do not adequately allow for the types of development proposed to be contained within the proposed Compact Community Planned Development.

(2) The lots proposed provide for multi-modal accessibility, and design parameters that reflect the design, location, and development regulations of the other lots proposed within the Compact Community Planned Development, consistent with a Traditional Neighborhood Development design.

(3) Infrastructure provision for the proposed lot types are consistent with the service design for the other lots proposed within the Compact Community Planned Development, consistent with a Traditional Neighborhood Development design.

(4) Open space, integration of the separate portions of the development, and architectural features are consistent in the proposed lot types with the other lot types throughout the proposed Compact Community Planned Development, consistent with a Traditional Neighborhood Development design if development is to be located within the proposed lot types.

(5) A schedule of uses specific to the proposed lot type will be established from either §32-244 and/or §34-934.

Sec. 32-243 Property development regulations

Subsections (a) through (o) remain unchanged

(p) Property Development Regulations unique to a particular Compact Community Planned Development may be requested and approved as part of the Compact Community Planned Development Application without the need for deviations.

TABLE 32-243 — PROPERTY DEVELOPMENT REGULATIONS FOR EACH LOT TYPE

Lot Type	Lot Area (min/max in sf)	Lot Width (min/max)	Frontage Percentage (min/max)		Lot Coverage by all bldgs (max)	Setbacks							Height ^{4,10} (min/max in stories; max in feet)					Accessory Apartments ⁵ (max bldg footprint in sf)
						Street (min/max)				Side Yard (min)	Rear Yard ^{1,2} (min)	Water Body ³ (min)	Core	Center ⁹	General	Civic	Edge	
						Core	Center	General	Edge									
Pedestal Building Lot	no min/ no max	no min/ 500	90%/ 100%	100%	0/ 10	0/ 10	NP*	NP	0	0	25	2/8 ⁶ 85' ⁶	2/56 85' ⁶	NP	NP	NP	NP	
Lined Building Lot	no min/ no max	no min/ 500	90%/ 100%	100%	0/ 10	0/ 10	NP	NP	0	0	25	2/6 65'	2/4 65'	NP	NP	NP	NP	
Mixed-Use Building Lot	no min/ no max	no min/ 300	90%/ 100%	100%	0/ 10	0/ 10	0/ 10	NP	0	3	25	2/5 65'	2/4 65'	2/3 45'	NP	NP	NP	
Apartment Building Lot	10,000/ no max	100/ 200	80%/ 100%	100%	0/ 10	0/ 10	5/ 10	NP	0	10	25	2/4 55'	2/4 55'	2/3 45'; 2/4 55'	NP	NP	NP	
Courtyard Building Lot ⁷	20,000/ no max	150/ 300	50%/ 90%	70%	0/ 10	0/ 10	5/ 10	NP	5	10	25	2/3 1/2 55'	2/3 1/2 55'	2/2 1/2 45'	NP	NP	NP	
Live-Work Building Lot	1,800/ 7,200	16/ 60	60%/ 100%	80%	NP	0/ 12	5/ 12	NP	0	20	25	NP	2/3 45'	2/2 1/2 45'	NP	NP	625	
Rowhouse Lot	1,800/ 3,840	16/ 32	90%/ 100%	80%	NP	0/ 12	5/ 12	NP	0	20	25	NP	2/3 45'	2/2 1/2 45'	NP	NP	625	
Apartment House Lot	4,800/ 18,000	48/ 120	70%/ 90%	80%	NP	NP	10/ 25	NP	5	15	25	NP	NP	1/3 45'	NP	NP	NP	
Duplex Lot	5,000/ 10,800	35/ 90	60%/ 90%	80%	NP	NP	10/ 20	15/ no	5	15	25	NP	NP	1/3 45'	NP	1/2 1/2 45'	NP	

								max										
Cottage House Lot	2,400/4,800	24/40	70%/90%	60%	NP	NP	5/20	10/ no max	3	15	25	NP	NP	1/2; 35'	NP	1/2; 35'	NP	
Sideyard House Lot	3,000/7,200	30/60	60%/90%	50%	NP	NP	5/10	10/ 15	0/ 10 ⁸	15	25	NP	NP	1/3; 45'	NP	1/2 1/2; 45'	800	
House Lot	4,000/8,400	40/70	60%/80%	50%	NP	NP	10/20	15/ no max	5	15	25	NP	NP	1/3; 45'	NP	1/2 1/2; 45'	800	
Civic Building Lot	no min/ no max	no min/ no max	no min/ no max	no min/ no max	no min/ no max	no min/ no max	no min/ no max	no min/ no max	0	0	15	1/4; 65'	1/4; 65'	1/4; 55'	1/4; 65'	1/4; 55'	1250	
Civic Space Lot	no min/ no max	no min/ no max	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	NP
Stormwater Lot	no min/ no max	no min/ no max	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	NP

*NP= Not Permitted.

Core	Center	General	Edge	Civic
				<p>¹ Minimum rear yards apply to lots with alleys or lanes and to lots with neither alleys nor lanes; rear yards do not apply to through lots or to double-frontage lots.</p> <p>² Minimum rear yards in this column apply to principal buildings and structures. When alleys or lanes are provided, garages and accessory dwelling units must be built with one wall placed 3' from the property line which is adjacent to the alley or lane.</p> <p>³ Gulf of Mexico — 50'; all other water bodies — as shown.</p> <p>⁴ Buildings must comply with both maximum heights, as measured in stories and feet. For heights measured in feet, see section 34-2171 et seq. for details and exceptions. Mezzanines that exceed the percentage of floor area for a mezzanine defined in the Florida Building Code are counted as a story for the purpose of measuring height. Space within a roofline that is entirely non-habitable is not counted as a story.</p> <p>⁵ See requirements for accessory apartments in sections 4-243 and 34-1777.</p> <p>⁶ On pedestal buildings, one or more step-backs of at least 14 feet must occur above the second floor level. Said step-backs shall consist of at least 70% of a pedestal building's primary facade being built at least 14 feet further from all streets than the story below. In addition to these heights, buildings on Pedestal Building Lots and Liner Building Lots are allowed up to four (4) additional stories provided the square footage of each additional story is less than 70% of the largest lower story..</p>

					<p>⁷ On Courtyard Building Lots, the longer dimension of the central garden or courtyard must be at least 30 feet long if oriented east-west or 40 feet if oriented north-south. If the longer dimension is less than 35 feet; architectural projections such as porches and balconies may only extend into the courtyard from one side. Maximum lot coverage is measured immediately above the courtyard level.</p> <p>⁸ One sideyard must be 10' min; the opposite side yard may be 0' if the adjacent lot is a Sideyard House Lot or if the adjacent lot provides a maintenance easement, otherwise the side yard must be 3' min.</p> <p>⁹ Maximum height exception: For properties located in the Center Transect and having direct frontage on the Caloosahatchee River, the maximum height on any allowable building lot is 12 stories and 120 feet.</p> <p>¹⁰ <u>For all building types on all lots, up to 30% of the total number of buildings may be constructed as single-story structures.</u></p>
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DIVISION 5. REGULATING PLANS

Sec. 32-274 Requirements for detailed regulating plans

Submittals to obtain approval of a detailed regulating plan must meet the following criteria:

Subsections (1) through (3) remain unchanged.

- (4) The plan must show proposed lot lines and lot types for all land to be subdivided into lots. Lot types must be allowed within the transect zones where the lots are located and must be able to meet the development standards for each lot type and other requirements in division 3, ~~in addition to the following standards:~~
 - a. ~~Minimum diversity of lot types within transect zones:~~
 1. ~~Edge: At least two different lot types are required within the Edge transect zone, with no one type representing more than 75 percent of the lots.~~
 2. ~~General and Center: At least four different lot types are required within each of these transect zones, with no one type representing more than 60 percent of the lots.~~
 3. ~~The minimum diversity requirements of section 32-274(4)a. are not applicable to regulating plans for the North Fort Myers Town Center.~~
 - b. ~~Minimum residential density within transect zones:~~
 1. ~~General: At least four dwelling units per acre within all General transect zones.~~
 2. ~~Center: At least eight dwelling units per acre within all Center transect zones.~~
 3. ~~Core: At least ten dwelling units per acre within all Core transect zones.~~
 4. ~~For these density calculations, the aggregate area of each type of transect zone includes the internal street network and also includes all lots even if planned for commercial uses.~~

Subsection (5) remains unchanged.

Sec. 32-502. - Application requirements.

Subsections (a) and (c) remain unchanged.

- (d) ~~Deviations From Chapter 32.~~ Deviations may be requested from the Land Development Code. An applicant must clearly identify deviations requested from the specific standards of ~~chapter 32~~the Land Development Code. The Board of County Commissioners will decide whether to accept, modify, or reject each proposed deviation during the planned development rezoning process based on a determination as to the consistency of each deviation with this chapter, good planning practice for compact communities, and the deviation criteria in chapters 10 and 34. Potential deviations specific to compact communities include the following:
 - (1) Modified block standards (section 32-225).
 - (2) For street types shown in article II, modified cross-sections (section 32-226) and/or modified streetscape standards (section 32-227).
 - (3) Additional street types, accompanied by proposed cross-sections (section 32-226) and streetscape standards (section 32-227).

(4) For lots types shown in article II, modified transect zone assignments (table 32-241), modified property development regulations (table 32-243), and/or modified use regulations (table 32-244). Additional uses within a Lot Type may be proposed for a Compact Community Planned Development under the following circumstances:

(a) The uses included in §32-244 do not adequately allow for the types of development proposed to be contained within the proposed Compact Community Planned Development;

(b) A schedule of uses specific to each lot type is proposed with uses being from §34-934; and,

(c) A justification of how the additional uses promote a mix of uses, enhance the planned development and are consistent with a Traditional Neighborhood Design.

(5) Additional lot types, accompanied by allowable transect zone assignments (table 32-241), proposed property development regulations (table 32-243), and proposed use regulations (table 32-244).

~~(e) Deviations From Other Chapters. Deviations from other chapters of this Code may be requested as provided in chapters 10 and 34.~~

Sec. 32-505. - Modifications after rezoning process.

(a) Modifications to an approved Compact PD regulating or illustrative plan and its attendant documentation may be requested at any time during the development of the Project, accepted by The Director of Community Development or designee may approve the request at the development order stage provided the proposed modifications conform with all of the following requirements:

(1) The requested modification must be located within the interior of the development and may not increase or decrease density or intensity, or decrease total open space, buffering plantings and preservation areas by more than 20%.

(2) The request may not adversely impact surrounding land uses and be no less consistent with the health, safety, and welfare of abutting landowners and the general public than the original standard.

~~(1) Modifications must comply with all special conditions of the planned development approval, including any conditions that may limit the Director's authority to modify specific portions of an approved regulating plan.~~

~~(23) Modifications must be consistent with the Lee Plan and with the intent and the specific regulations of this chapter.~~

~~(34) Modifications to the regulating or illustrative plans must be consistent with this provision; however, may not change transect zones, increase allowable building heights, increase overall density, exceed allowable block sizes, add an access point through the Edge transect zone, or reduce the diversity of lot types or street types that had been shown on the approved regulating plan. However, modifications may substitute similar~~

lot types or street types that are allowed in the designated transect zone and may make adjustments to comply with regulatory actions of the Florida Department of Transportation or the South Florida Water Management District. Modifications may not increase overall density.

~~(4) Modifications may not increase the intensity of any block in the Edge transect zone.~~

(5) The cumulative effect of multiple modifications to an approved regulating plan will be evaluated using the same standards in section 32-~~3505~~(1)-(4) that apply to individual modifications.

(b) If proposed modifications ~~exceed these thresholds or~~ are deemed by the Director to be material changes that may affect the original planned development approval, the Director may determine that the proposed modifications can only be approved by the Board of County Commissioners through the rezoning through the public hearing process.

(c) Approved modifications must be reflected on a new record copy of the regulating plan or regulating plan (see section 32-404).

(d) If the County determines that an approved administrative amendment was based on inaccurate or misleading information or if the approval did not comply with this Code when the decision was rendered, then, at any time, the Director may issue a modified approval that complies with the Code or revoke the approved administrative amendment. If the approval is revoked, the applicant must acquire the necessary approvals by filing an application for public hearing in accordance with section 32-502 of this chapter.

(e) Decisions by the Director pursuant to this section are discretionary and may not be appealed.

SECTION THREE: AMENDMENT TO LDC CHAPTER 33

Lee County Land Development Code Chapter 33 is amended as follows with strike through identifying deleted text and underline identifying new text.

Chapter 33 PLANNING COMMUNITY REGULATIONS
ARTICLE VIII. - NORTH FORT MYERS PLANNING COMMUNITY
DIVISION 3. - COMMERCIAL CORRIDOR LAND DEVELOPMENT PROVISIONS
Subdivision VI. - Commercial Corridor Use Regulations

Sec. 33-1596. - Use regulations.

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
Social services (34-622(c)(46)):	-	-
Group I	-	P
Group II	-	<u>P</u>

Group III	-	<u>P</u>
Group IV	-	-

SECTION FOUR: AMENDMENT TO LDC CHAPTER 34

Lee County Land Development Code Chapter 34 is amended as follows with strike through identifying deleted text and underline identifying new text.

Chapter 34. ZONING
ARTICLE I- IN GENERAL
DIVISION 1. - ~~GENERALLY~~ Reserved.

~~Sec. 34-51. – Notice of public hearings required.~~

~~No public hearing required by this chapter shall be held by the Hearing Examiner, Local Planning Agency or Board of County Commissioners until notice of the public hearing has been provided in accordance with the requirements set forth in this article.~~

~~Sec. 34-52. – Unauthorized communications.~~

~~Communication with individual County Commissioners, commissioner's assistants, a Hearing Examiner, or the Hearing Examiner's staff regarding the substance (non-procedural aspects) of pending zoning applications or pending zoning related appeals are subject to section 2-191.~~

~~Sec. 34-53. – Fees and charges.~~

~~(a) The schedule of fees and charges for matters pertaining to this chapter shall be posted in the office of the Department of Community Development. The charges listed may be changed by resolution of the Board of County Commissioners.~~

~~(b) No permit shall be issued and no inspection, public notice or other action relative to a zoning matter shall be instituted until after such fees and charges have been paid.~~

~~Secs. 34-54 – 34-80. – Reserved.~~

DIVISION 2. - BOARD OF COUNTY COMMISSIONERS

Sec. 34-83. - Functions and authority

~~(a) Land use ordinance amendments or adoption.~~

~~(1) Function. The Board of County Commissioners must hold public hearings on all proposed land use ordinance amendments or adoptions.~~

~~(2) Considerations. When deciding whether to adopt a proposed land use ordinance or amendment, the Board of County Commissioners must consider the same criteria, recommendations and issues as set forth in section 34-115(b)(1), as well as the recommendation of the Local Planning Agency, but are not required to accept these recommendations.~~

~~(3) Decisions and authority. The decision of the Board of County Commissioners on any proposed land use ordinance amendment or adoption is final.~~

~~(4) Appeals of any decision concerning land use ordinance amendments or adoption may be taken in accordance with applicable state law.~~

~~(a)(b)~~ Zoning actions.

(1) Function. Unless another approval process is authorized by County Ordinance, the Board of County Commissioners must hold public hearings to consider the following applications: rezoning, requests for variances, and special exceptions, which are part of an application for a rezoning, MEPD, extension and reinstatement of master concept plans, the special exceptions that meet the criteria for Developments of County Impact, appeals from decisions of the Hearing Examiner concerning wireless communications facilities, developments of regional impact, and any other action in conjunction with such applications.

~~a. The Board of County Commissioners must hold public hearings (see sections 34-231 through 34-236) on the following applications: rezoning, MEPD, extension and reinstatement of master concept plans, the special exceptions that meet the criteria for Developments of County Impact, appeals from decisions of the Hearing Examiner concerning wireless communications facilities, developments of regional impact, and any other action in conjunction with such applications.~~

~~b. All requests for variances, use of TDR or affordable housing bonus density units, and special exceptions which are part of an application for a rezoning must be considered by the Board of County Commissioners with the application for rezoning and heard together with and at the same time as the rezoning.~~

Subsections (2) and (3) remain unchanged.

(4) Decisions and authority.

Subsection a. remains unchanged.

b. The decision of the Board of County Commissioners on any matter listed in this subsection (b) is final. If there is a tie vote, the matter considered will be continued until the next regularly scheduled meeting for decisions on zoning matters by the Board of County Commissioners, ~~unless a majority of the members present and voting agree by motion, before the next agenda item is called, to take some other action. Such other action may be moved or seconded by any member, regardless of his vote on any earlier motion.~~

c. Any denial by the Board of County Commissioners is denial with prejudice unless otherwise specified by the Board of County Commissioners.

Subsections (5) and (6) remain unchanged.

~~(7) In matters that were first heard by the Hearing Examiner, only individuals who participated during the proceedings before the Hearing Examiner will be afforded the right to address the Board of County Commissioners. This prohibition does not apply to the Board's legal counsel, County staff whose sole purpose is to facilitate the zoning~~

~~hearing, individuals who were represented by legal counsel during the hearing before the Hearing Examiner, or legal counsel representing an individual that testified during the hearing. Notwithstanding, the testimony presented to the Board will be limited to the testimony presented to the Hearing Examiner, testimony concerning the correctness of the findings of fact or conclusions of law contained in the record, or to allege the discovery of new, relevant information which was not available at the time of the hearing before the Hearing Examiner.~~

Subsection (c) remains unchanged.

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

- ~~(a) Any person who may be aggrieved by a decision of the Board of County Commissioners made pursuant to an application for rezoning, development of regional impact, special exception that meets the criteria of a Development of County Impact, special exceptions or variances heard as part of a rezoning, or an appeal pursuant to section 34-1445(b)(2)b, may file a written request for a public rehearing by the Board of County Commissioners for a modification or rescission of the decision. The request must be filed with the Director of Community Development and the County Attorney's Office within 15 calendar days after the decision. For purposes of computing the 15-day period, the date of the decision is the date of the public hearing at which the Board of County Commissioners made its decision by oral motion.~~
- ~~(b) All requests for a public rehearing must state with particularity the new evidence or the points of law or fact that the aggrieved person argues the Board of County Commissioners has overlooked or misunderstood. The report must include all documentation offered to support the request for rehearing. The Board of County Commissioners will decide whether to grant or deny the request based exclusively upon the aggrieved person's written request and supporting documentation and the administrator's written analysis thereof. In addition, if the request is filed by one other than the original applicant, the County must notify the applicant of the filing of the request for rehearing and the applicant must be allowed 15 days to submit an independent written analysis.~~
- ~~(c) The deliberations of the Board of County Commissioners with respect to the question of whether to grant a rehearing do not constitute a public hearing, and no oral testimony will be allowed or considered by the Board of County Commissioners in the course of these deliberations.~~
- ~~(d) The pursuit of a request for rehearing is not required in order to exhaust administrative remedies as a condition precedent to seeking judicial review in the circuit court. The proper filing of a request for rehearing will not toll the 30-day time limit to file an action seeking judicial review of final decisions. No judicial review is available to review the Board of County Commissioners' decision to deny a rehearing request.~~
- ~~(e) A request for rehearing is not an administrative appeal as that term is used in F.S. § 70.51. Filing of a request for rehearing will not toll the time for filing a request for relief under F.S. § 70.51.~~
- ~~(f) Filing of a request for rehearing will not toll the time for seeking relief under F.S. § 163.3215.~~

~~(g) There is no right to apply to court for relief on account of a determination or recommendation of the Hearing Examiner in those actions listed in section 34-83(b)(1) which require public hearing before the Board of County Commissioners.~~

Sec. 34-84 Reserved.

Sec. 34-85. - Final decision; judicial review.

(a) Any final decision of the Board of County Commissioners may be reviewed by the circuit court unless otherwise provided in this article. This review may only be obtained through filing a petition for writ of certiorari pursuant to the Florida Rules of Appellate Procedure. The petition must be filed within 30 calendar days after the decision has been rendered. For the purposes of computing the 30-day period, the date that the decision has been rendered is the date the signed resolution is date stamped received by the Minutes Department of the Clerk of Courts or where a written Resolution is not adopted, 30 days from date the Board's decision.

Subsections (b) and (c) remain unchanged.

Sec. 34-145. - Functions and authority

Subsections (a) through (c) remain unchanged.

(d) Zoning matters.

(1) Authority.

- a. Unless otherwise specified below, the Hearing Examiner serves in an advisory capacity to the Board on zoning matters and does not make the final determination.
- b. The Hearing Examiner may not recommend approval of a rezoning that is more expansive than the request published in the newspaper. The Hearing Examiner may recommend approval of a zoning district that is more restrictive than the published request.
- c. The Hearing Examiner may recommend conditions of approval on requests for planned developments and requests for special exceptions or variances heard with a rezoning application.
- d. The Hearing Examiner has the final decision making authority on Board initiated applications to rezone County owned property to the Environmentally Critical district.

Subsections (2) and (3) remain unchanged.

(4) Findings/review criteria.

- a. Before recommending approval for:
 1. Rezonings. The Hearing Examiner must find the request:
 - a) Complies with the Lee Plan;

- b) Meets this Code and other applicable County regulations or qualifies for deviations;
- c) Is compatible with existing and planned uses in the surrounding area;
- d) Will provide access sufficient to support the proposed development intensity;
- f) ~~The expected impacts on existing or planned transportation facilities will be addressed mitigated through by existing County regulations or and conditions of approval;~~
- e)g) Will not adversely affect environmentally critical or sensitive areas and natural resources; and
- f)h) Will be served by urban services, defined in the Lee Plan, if located in a Future Urban area category.

Subsections 2 through 4 remain unchanged.

5. Applications for amendments to development of regional impact development orders pursuant to § 380.06(19)(e)(2), Fla. Stat., (as amended), do not require a public hearing before the Hearing Examiner. After staff review, Staff will prepare a Staff report with a recommendation, including a determination regarding the consistency of the request with § 380.06(19)(e)(2), Fla. Stat., (as amended). The Staff report, application materials, and additional documentation requested by the Hearing Examiner, will be sent to the Hearing Examiner for review and preparation of a written recommendation to the Board, including a determination regarding the consistency of the request with § 380.06(19)(e)(2), Fla. Stat., (as amended). Unless unavoidable delay occurs, the Hearing Examiner will issue a written recommendation to the Board within 14 days from receipt of the Staff report and required documents. The Hearing Examiner and Staff recommendations will be presented to the Board at a public hearing. If the Board determines that the Request does not meet the requirements of § 380.06(19)(e)(2), Fla. Stat., the Board must deny the request and remand the application to Staff for processing as an application of Notice of Proposed Change or other request under Chapter 380, Fla. Stat.

Remaining provisions are unchanged.

Sec. 34-146. - Final decision; judicial review.

Sec. 34-146. - Final decision; judicial review.

- (a) The decision of the Hearing Examiner is final for:
 - (1) Administrative appeals that are not appealed to, and decided by, the Board; and
 - (2) Variances, and special exceptions, except when those requests are:
 - a. Part of a rezoning or other request that requires final decision by the Board; or
 - b. A wireless communication facility appealed to the Board pursuant to sections 34-1445(b) or 34-1453.

c. Board initiated application to rezone County owned property to the Environmentally Critical district

Subsections (b) through (d) remain unchanged.

DIVISION 7. - PUBLIC HEARINGS AND REVIEW

Sec. 34-232. ~~Required hearings.~~

- ~~(a) Amendment or adoption of land use ordinances.
 - ~~(1) Any proposed amendment to this chapter or to any land use ordinance, or adoption of any new land use ordinance, must be enacted pursuant to the requirements set forth in F.S. § 125.66.~~
 - ~~(2) Prior to a final required hearing by the Board of County Commissioners, the Local Planning Agency must review the amendment at a public hearing.~~~~
- ~~(b) Board of County Commissioner initiated rezoning of private property including ancillary variances, special exceptions.
 - ~~(1) Applications for less than ten contiguous acres of land will require one public hearing before the Hearing Examiner and one public hearing before the Board of County Commissioners.~~
 - ~~(2) Applications for ten or more contiguous acres of privately owned property will require one public hearing before the Hearing Examiner and two public hearings before the Board of County Commissioners. The public hearings before the Board of County Commissioners must be in accordance with F.S. § 125.66(4)(b).~~~~
- ~~(c) Privately initiated requests for developments of regional impact, rezonings, and ancillary variances and special exceptions, require one public hearing before the Hearing Examiner and one public hearing before the Board of County Commissioners.~~
- ~~(d) Variances and special exceptions that are not ancillary to an application for rezoning or a development of regional impact and all administrative appeals of decisions of the Director pertaining to the interpretation of the Land Development Code require one public hearing before the Hearing Examiner.~~
- ~~(e) Applications for mining excavation planned development (MEPD) require one public hearing before the Hearing Examiner and one public hearing before the Board of County Commissioners.~~

Sec. 34-233. ~~Preliminary review and notice certification.~~

- ~~(a) Staff review.
 - ~~(1) No application for an action required by this chapter or chapter 12 to proceed through the public hearing process may be placed on a schedule to be heard by the Hearing Examiner until:
 - ~~a. If a planned development, after the Department has finalized a written staff report on the requested action OR 60 days after the Department finds the application sufficient, whichever comes first.~~
 - ~~b. For other than a planned development, after the Department has finalized a written staff report OR 60 days after submittal of the complete application, whichever comes first.~~~~~~

~~The Department will produce a written (staff) report summarizing the County staff's position regarding the subject application. In the case of a conventional or planned development zoning, the staff report must be available at least 14 days prior to the public hearing. In the case of a special exception or a variance the staff report must be available at least seven days prior to the public hearing. Once submitted, the staff report may not be modified or amended except by the Department staff.~~

- ~~(2) No application for an action required by this chapter or chapter 12 may be scheduled for a public hearing before the Board of County Commissioners until after the Hearing Examiner has rendered a recommendation.~~
- ~~(3) All staff comments will be forwarded to the Hearing Examiner or Board of County Commissioners prior to the scheduled public hearing.~~

Sec. 34-~~234~~231. - Public participation.

Sec. 34-234. - Public participation.

- (a) Participation before Local Planning Agency. At a public hearing before the Local Planning Agency, all persons will be heard. However, the Local Planning Agency has the right to refuse to hear testimony that is irrelevant, repetitive, defamatory or spurious, and to establish reasonable time limits on testimony.
- (b) Participation before Board; zoning matters. At public hearings on zoning matters, only the Parties and participants at the proceeding before the Hearing Examiner may address the Board. This prohibition does not apply to the Board's legal counsel, County staff whose sole purpose is to facilitate the zoning hearing, or legal counsel representing a Party or hearing participant. The testimony presented to the Board will be limited to:
 - (1) Testimony presented to the Hearing Examiner.
 - (2) Testimony concerning the correctness of the findings of fact or conclusions of law contained in the record, or
 - (3) Allegations that relevant new evidence has been discovered that was not known or could not have been reasonably discovered by the speaker at the time of the hearing before the Hearing Examiner.

The Board may question its staff, its attorneys, the Applicant/Appellant, and the participants present about matters in the written record and points of law or procedure.

- (c) Participation before the Hearing Examiner will be in accordance with the Administrative Codes.

Sec. 34-~~235~~232. - Deferral or continuance of public hearings before the Local Planning Agency and zoning hearings before the Board.

The following procedures and regulations for deferring or continuing a public hearing apply for the Local Planning Agency (LPA) and zoning hearings before the Board:

- (1) Deferral.

- a. County Staff or an Applicant may request to defer a scheduled public hearing to a later time or date if requested before delivery of the public hearing notice to the newspaper.
 - b. County Staff-initiated deferral. If County Staff defers a scheduled public hearing, they must notify the Applicant in writing of the reason for deferral and specify the information necessary to complete Staff review.
 - c. Applicant-initiated deferral. Requests for a deferral by an Applicant must be in writing and received by the Department prior to the Department submitting notice of the hearing to the newspaper for publication.
 - d. Fee. There will be no additional fee for deferrals. However, the Applicant must obtain corrected zoning notice posters from the Department and post the signs on-site, if required by the LDC or Administrative Codes.
 - e. The Director may defer a case without action by the LPA or Board.
- (2) Continuance. A scheduled, advertised public hearing may be continued by the County or by the Applicant as follows:
- a. A continued hearing must be set to a specific date and time. Any hearing not continued to a date and time certain must be re-advertised.
 - b. The LPA or Board may continue a public hearing, upon Staff request, or on its own initiative, when necessary to request additional information, public testimony, time to render their decision/recommendation, or to accommodate their schedules.
 - c. The Applicant may request a continuance at the beginning of the agenda.
 - d. County Staff and an Applicant are each entitled to the first continuance without showing cause. Each decision-making body has the authority to grant further continuances upon a showing of good cause. If the subsequent request for continuance is denied, the hearing will proceed in accordance with the published agenda.
 - e. The requesting party must bear re-notification costs.
 - f. The County Staff's and the Applicant's first continuance requests for a zoning case scheduled before the Board will be automatically granted if submitted in writing to the other Party no later than seven calendar days before the scheduled hearing. Otherwise, the Board will consider the continuance request on the date of hearing.
 1. The Department will set the date and time of the continued hearing and notify the Board, Office of the County Attorney, and participants of record.
 2. At the originally noticed hearing, the Board will announce the date and time of the continued hearing. No public comment or testimony will be taken on the case until the date of the continued hearing.

~~Sec. 34-236. – Notices.~~

- ~~(a) Minimum required information. A notice of public hearing under this chapter must contain the following minimum required information:~~
- ~~(1) Action proposed:~~
- ~~a. Land use ordinance amendments or adoption. The notice must describe the chapter or section of the land use ordinance to be amended, or the subject of a new ordinance, with sufficient clarity so as to advise the public of the subject to be amended or adopted, but need not describe the exact wording or change.~~

- ~~b. Rezoning and developments of regional impact. All required notices must indicate the existing zoning of the property, the proposed zoning and where applicable, the number of TDR and affordable housing bonus density units requested, and the general location of the property by reference to common street names and addresses, with sufficient clarity so as to advise the public, but need not describe the proposed plans or details thereof, or the specific legal description of the property.~~
- ~~e. Special exceptions and variances. All required notices must indicate the existing zoning of the property; the proposed use by special exception, or the requirement from which the variance is requested and the actual degree of variance requested; and the location of the property, by reference to common street names and addresses, with sufficient clarity so as to advise the public, but need not describe the proposed plans or details thereof or the specific legal description of the property.~~
- ~~d. Appeals. The notice must summarize the decision or action upon which the appeal is based with sufficient clarity so as to advise the public of the subject matter.~~
- ~~(2) Time and place of hearing. The notice must specify the date, time and place that the public hearing will be held by the Hearing Examiner, the Local Planning Agency or the Board of County Commissioners, as applicable.~~
- ~~(3) Public availability of information. The notice must indicate where copies of the proposed amendment may be obtained or reviewed, or where the application for public hearing may be reviewed.~~
- ~~(4) Location of record of notice.~~
 - ~~a. The copy of notices for the adoption or amendment of land use ordinances will be kept available for public inspection during regular business hours at the Minutes Department in the Office of the Clerk of the Board of County Commissioners.~~
 - ~~b. Copies of all other notices will be kept available for public inspection during regular business hours at the office of the Department of Community Development or Hearing Examiner, as appropriate.~~
- ~~(b) Method of providing notice.~~
 - ~~(1) Notices of hearings will be provided in accordance with applicable Florida Statutes and the Administrative Codes.~~
 - ~~(2) Mailed notice may be provided via electronic means unless prohibited by statute.~~
 - ~~(3) The "surrounding property owners list and map" required by section 34-202(a) is for the purpose of mailing notice to property owners within 500* feet of the property. The notice is a courtesy and is not jurisdictional. Accordingly, the County's failure to mail or to timely mail the notice or failure of an affected property owner to receive mailed notice will not constitute a defect in notice or bar the public hearing as scheduled.~~
 - ~~*NOTE: In those instances where fewer than ten owners of property would be notified, the distance must be expanded to include all owners of property within 750 feet, or 1,250 feet for wireless communication facilities.~~

Secs. 34-233—34-260. - Reserved.

DIVISION 8. – ENFORCEMENT

Sec. 34-268. - Administrative variances.

(a) The Director is authorized to administratively approve variances of the following:

Subsection (1) remains unchanged.

~~(2) Sign, landscaping, buffer widths, and open space requirements on property affected by eminent domain proceedings, as well as property affected by voluntary sale under threat of condemnation by the sovereign Relief authorized for development of property that is subject to a Lee County initiated Eminent Domain proceeding pursuant to Section 1-16.~~

All other provisions remain unchanged.

DIVISION 9. - PLANNED DEVELOPMENT DISTRICTS

Sec. 34-935. - Property development regulations.

Subsections (a) through (e) remain unchanged.

(f) Height of Buildings

- ~~(1) Mobile home planned developments. In the MHPD district, no building or structure shall exceed 35 feet in height, and no mobile home shall exceed one story in height.~~
- ~~(2) Community facility planned developments. The maximum permitted height of any building shall be 35 feet. Buildings above 35 feet may be approved by the Board of County Commissioners at the time of master concept plan approval, provided that setbacks from adjacent property not under the same ownership shall be equal to or greater than the height of the building.~~
- ~~(3) Other planned developments. Except as restricted by section 34-2175, height of buildings in all other planned developments will vary in accordance with the land use classification of the subject property according to the Lee Plan land use plan map as follows:~~

Subsections a. through e. remain unchanged.

Subsection (g) remains unchanged.

DIVISION 10. - SPECIAL PURPOSE DISTRICTS

Subdivision II. Environmentally Critical District

Sec. 34-981. Purpose and intent.

Subsection (a) remains unchanged.

(b) ~~The application of the EC district is intended to prevent a public harm by precluding the use of land for purposes for which it is unsuited~~ serve a public purpose by limiting land uses to those that are suited to property in its natural state, and which injures the rights of others or otherwise adversely affects a defined public interest. The EC district shall be applied to an area of land or water only upon a recommendation by the Hearing Examiner and a finding by the Board of County Commissioners in their respective public hearings that the use or conversion of the property may create a public harm or a public need.

(c) ~~Lands or waters to which this district may be applied include those areas that would fit the criteria of wetlands.~~

Sec. 34-982. ~~Standards for application of EC district.~~Applicability

~~Any land classified as wetland area or any other environmentally sensitive land category may be considered for inclusion in the EC district.~~ The EC district may be applied to County owned property with environmental benefits or to private property consisting of wetlands or rare and unique uplands.

Sec. 34-983. Use regulations.

No land, body of water or structure may be used ~~or permitted to be used~~ and no structure may be hereafter erected, constructed, moved, altered or maintained in the EC district for any purposes other than as ~~those provided in this section.~~ below:

(1) ~~Permitted uses. In the EC district, no land or water use is permitted by right except for those uses and developments permitted by the Lee Plan in wetlands, including:~~

a. ~~Boating and canoeing, with no motors permitted except~~ motors limited to electric trolling motors.

b. Entrance gates and gatehouses (see article VII, division 17, of this chapter).

c. Fishing, limited to sport or recreational fishing ~~only.~~

d. Forest management activities, limited to removal of ~~intrusive~~ invasive exotic species or diseased or dead trees, and pest control or pine thinning as part of the approved land management plan.

e. Hiking and nature study, clearing, including pedestrian boardwalks.

f. Outdoor education, in keeping with the intent of the district.

g. Recreation activities, outdoor ~~only, to include~~ including passive recreation such as tent camping and ~~that active recreation requiring little or no~~ limited facilities, capital investment or alteration of the natural landscape. Examples include:

bird watching

star gazing

eco tours

bridle paths

fishing piers

interpretative paths

nature photography

nature trails

wildlife blinds

zip lines

off road trails for non-motorized bicycles

- h. Single-family dwellings and their customary accessory uses, when in compliance with the requirements of an applicable Environmental Resource Permit pertaining to wetlands protection.
- i. Wildlife management, as wildlife or game preserves.
- j. Essential services and essential service facilities, group I, existing only.
- k. Roadways, as approved by the Board of County Commissioners ~~during the acquisition process.~~
- l. Accessory building or structures ~~provided it is~~ incidental and subordinate to the principal use of the premises, ~~and located on the same premises.~~
- m. Bona fide agricultural livestock grazing use on Conservation 20/20 lands ~~if approved by the Board of County Commissioners as a necessary part of the land amendment under a specific land stewardship management plan for the property.~~
- n. Temporary uses (see Article VII, Division 37, of this chapter).
- o. County parks (including Neighborhood and Regional parks).
- p. State parks with uses approved within the park's management plans in accordance with F.S. Chapters 253 and 259.
- q. Federal parks with uses approved within the park's management plans.
 - Boardwalks
 - Boat launch facilities
 - Canoe and kayak launch facilities
 - Educational kiosks
 - Equestrian facilities (for watering of horses)
 - Fishing piers
 - Lighting
 - Nature Photography
 - Observation decks
 - Off road bicycle trails
 - Parking to support approved uses
 - Picnic Tables, pavilions and shelters
 - Restoration activities
 - Restrooms
 - Signs, directional, informational, educational

(2) Conservation 20/20 property. A land stewardship management plan applicable to for the management of the property acquired under the 20/20 program must be approved by the Board of County Commissioners. The land Stewardship management plan will define the identify the permitted uses allowed and appropriate given the environmental characteristics of each parcel the property. ~~Uses identified in section 34-983(1) are potential uses of the 20/20 property, however, if a use is not specifically identified in the land stewardship plan approved by the Board, the use is not permitted on the Conservation 20/20 parcel. The uses set forth in sections 34-983(1) and (2) are among the uses that may be approved in the land management plan.~~

(3) Special exceptions. Upon a finding that the proposed use is consistent with the standards set forth in section 34-145(c)(3), ~~as well as all other applicable and County regulations, the Hearing Examiner may permit any specific use from the following list as a special exception, subject to conditions set forth in this chapter and in the resolution of approval: the following uses may be approved by special exception:~~

- a. Accessory structures, to include any building, structure (including sea walls) ~~or~~ and impervious surface areas ~~including bikeways which is accessory to a uses permitted by right or by special exception in the EC district.~~
- b. Boating, ~~without restriction, except that it shall be limited to natural or existing manmade channels.~~
- e. Nature study center, noncommercial, and its customary accessory uses.
Observatory.
Prescribed hunts for exotic animal control

Sec. 34-984. Property development regulations.

- (a) Residential density. Residential density in the EC district is subject to the future land use category ~~wherein located, as well as classification of the property and~~ chapter 14, article IV, pertaining to (wetland protection). ~~Wetlands have a maximum density of one dwelling unit per twenty acres (1 du/20 acres).~~
- (b) Setbacks. ~~See article VII, division 30, subdivision III, of this chapter. In order to maximize flexibility in siting any structures permitted in the EC district, ¶The minimum setbacks shall be as follows: for side, rear and parcel boundaries will be 15 feet. All other setbacks will comply with article VII, division 30, subdivision III of this chapter.~~
 - (1) ~~Street or accessway: Variable according to the functional classification of the street or road (see section 34-2192).~~
 - (2) ~~Side or rear lot lines or parcel boundaries: 15 feet.~~
 - (3) ~~Gulf of Mexico: 50 feet from mean high water or as required by chapter 6, article III, whichever is the most restrictive.~~
 - (4) ~~Other water body: 25 feet.~~
- (c) Additional regulations. ~~See Article VII, division 30, of this chapter for additional regulations pertaining to~~ will govern the property development of property in the EC district.

Secs. 34-985—34-1000. Reserved.

Sec. 34-2443. - Minimum required setbacks.

Subsections (a) through (c) remain unchanged.

- (d) The following uses must be set back a minimum of 100 feet from any residentially zoned property under separate ownership. The setback applies to all buildings and structures, and all areas used for parking of trucks or equipment, shipping, receiving, or storage.
 - (1) Blacksmith shop.
 - (2) Freight and cargo handling establishments (section 34-622(c)(17)).
 - (3) Impound yard.
 - (4) Manufacturing of:
 - a. Boats.
 - b. Chemicals and allied products, group II (section 34-622(c)(6))—Limited to cosmetics, perfumes, etc.
 - c. Fabricated metal products, group II (section 34-622(c)(14)).
 - d. Food and kindred products, group II (section 34-622(c)(15)).

- e. Furniture and fixtures (section 34-622(c)(18)).
 - f. Leather products, group II (section 34-622(c)(25)).
 - g. Lumber and wood products, group IV (section 34-622(c)(26)).
 - h. Machinery, groups I and II (section 34-622(c)(27)).
 - i. Paper and allied products, groups II and III (section 34-622(c)(31)).
 - j. Stone, clay, glass and concrete products, groups I and III (section 34-622(c)(48)).
 - k. Textile mill products, groups I and II (section 34-622(c)(50)).
 - l. Transportation equipment, group II (section 34-622(c)(52)).
- (5) Motion picture studio.
 - (6) Photofinishing laboratory (df).
 - (7) Rental or leasing establishment, group IV (section 34-622(c)(39)).
 - (8) Repair shops, group V (section 34-622(c)(40)).
 - ~~(9) Social services, group II (section 34-622(e)(46)).~~

Subsections (e) and (f) remain unchanged.

~~Sec. 34-3152. -- Non Water-Dependent Uses.~~

- ~~(a) Applicability. This section is to provide standards for properties depicted on the Water-Dependent Overlay Zones, Maps 12 in the Lee County Comprehensive Plan.~~
- ~~(b) Permitted districts. Non-water dependent uses may be permitted at existing commercial fishing, ports and docking sites and commercial marinas by special exception or through the planned development process.~~
- ~~(c) Permitted uses. A non-water dependent use is a use that can exist without water access. The following uses may be permitted by special exception or through the planned development process:~~
 - ~~Bait and tackle shops.~~
 - ~~Consumption on Premises in conjunction with a Restaurant — Group I, II or III.~~
 - ~~EMS, fire or sheriff's station.~~
 - ~~Fish Market, enclosed.~~
 - ~~Food store — Group I limited to 500-square feet.~~
 - ~~Gift and souvenir shop in conjunction with the existing commercial marina.~~
 - ~~Offices, marine-oriented government.~~
 - ~~Processing or packaging of agricultural or fish products.~~
 - ~~Rental establishment — Group I in conjunction with the existing commercial marina.~~
 - ~~Restaurants — Groups I, II and III that are ancillary and subordinate to the primary water dependent use.~~
- ~~(d) Procedures for approval. Applications for special exceptions or planned developments must be submitted on forms supplied by the County and must contain the required information outlined in section 34-201.~~

Secs. 34-3152—34-3170. - Reserved

SECTION FIVE: CONFLICTS OF LAW

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

requirements will apply.

SECTION SIX: SEVERABILITY

It is the Board of County Commissioner’s intent that if any section, subsection, clause or provision of this ordinance is deemed invalid or unconstitutional by a court of competent jurisdiction, such portion will become a separate provision and will not affect the remaining provisions of this ordinance. The Board of County Commissioners further declares its intent that this ordinance would have been adopted if such unconstitutional provision was not included.

SECTION SEVEN: CODIFICATION AND SCRIVENER’S ERRORS

The Board of County Commissioners intend that this ordinance will be made part of the Lee County Code. Sections of this ordinance can be renumbered or relettered and the word “ordinance” can be changed to “section”, “article,” or other appropriate word or phrase to accomplish codification, and regardless of whether this ordinance is ever codified, the ordinance can be renumbered or relettered and typographical errors that do not affect the intent can be corrected with the authorization of the County Administrator, County Manager or his designee, without the need for a public hearing.

SECTION EIGHT: MODIFICATION

It is the intent of the Board of County Commissioners that the provisions of this Ordinance may be modified as a result of consideration that may arise during Public Hearing(s). Such modifications shall be incorporated into the final version.

SECTION NINE: EFFECTIVE DATE

This ordinance will take effect upon its filing with the Office of the Secretary of the Florida Department of State. The provisions of this ordinance will apply to all projects or applications subject to the LDC unless the application for such project is complete and found sufficient before the effective date hereof.

Commissioner ___ made a motion to adopt the foregoing ordinance, seconded by Commissioner _____. The vote was as follows:

John Manning	_____
Cecil L Pendergrass	_____
Larry Kiker	_____
Brian Hamman	_____
Frank Mann	_____

DULY PASSED AND ADOPTED this ___th day of ___, 2015.

ATTEST:
LINDA DOGGETT, CLERK

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: _____
Deputy Clerk

BY: _____
Chair

APPROVED AS TO FORM FOR THE
RELIANCE OF LEE COUNTY ONLY

By: _____
Office of the County Attorney