



**EXECUTIVE REGULATORY OVERSIGHT COMMITTEE  
Community Development/Public Works Center  
1500 Monroe Street, Fort Myers  
First Floor Conference Room**

**WEDNESDAY, SEPTEMBER 12, 2018  
2:00 P.M.**

**AGENDA**

1. Call to Order/Review of Affidavit of Publication
2. Approval of Minutes – February 26, 2018
3. Port Authority Amendments
  - Airport Compatibility LDC Amendments per Chapter 333, F.S. and AOPD Permitted Uses LDC Amendments
  - Tall Structures Permitting Administrative Code
4. Water-Dependent Overlay LDC Amendments
5. General Clean-Up LDC Amendments
6. Adjournment – Next Tentative Meeting Date: November 14, 2018

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**MINUTES REPORT  
EXECUTIVE REGULATORY OVERSIGHT COMMITTEE  
WEDNESDAY, FEBRUARY 26, 2018**

**Committee Members Present:**

Randy Mercer, Chair	Bill Ennen	Jim Ink	Michael Reitmann
Carl Barraco, Jr.	Sam Hagan	Tim Keene	Anthony Pardal
Bill DeDeugd	Tracy Hayden	Bob Knight	Michael Roeder
Victor Dupont			

**Committee Members Absent:**

Darin Larson	Buck Ward
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**Lee County Government & Representatives Present:**

Dave Loveland, Director, DCD	Andy Getch, Mgr., Infrastructure Planning
Audra Ennis, Zoning Manager	Amanda Swindle, Asst. County Attorney
Dirk Danley, Jr. Zoning Planner	Pam Hendry, DCD Admin., Recording

**Public Participants:**

Phillip Ford, Exec. V.P., Bldg. Ind. Assoc.	David Mintz, Pres., Captiva Comm. Assoc.
Bob Himschoot, Pres., Crews Env. Services	Steve Hartsell, Esq., Pavese Law Firm

**Introduction**

Mr. Mercer called the meeting to order at 2:00 PM in the first floor conference room of the Lee County Community Development/Public Works Center, 1500 Monroe Street, Ft. Myers, Florida.

Mr. Mercer welcomed the new member, William T. (Tim) Keene, P.E.

Ms. Amanda Swindle, Assistant County Attorney, reviewed the Affidavit of Posting of Meeting and found it legally sufficient as to form and content.

**Approve Meeting Minutes – January 10, 2018**

**Ms. Tracy Hayden made a motion to approve the January 10, 2018 meeting minutes. Mr. Michael Reitmann seconded. The motion carried unanimously.**

**LDC Amendments to Coastal Regulations 34-2 and 34-1375**

Mr. Dirk Danley, Jr. said the previous language was just to strike the language specifically stating septic tanks, but the Local Planning Agency (LPA) made them aware that the language in 34-1375 said the prohibition line is actually the 1991 coastal construction control line, which in that case prohibits a lot of construction that has nothing to do with the beach or the coastline. The 1991 line, being a prohibition line for all major structures, is actually not consistent with State Statute A and B, and not consistent with the way we have

done business. But, since then we have not been able to issue permits for single-family construction, remodels or expansions in between the 1991 and the 1978 lines. So, after hearing about this we want to re-establish that line that DEP no longer recognizes the 1978 line as a coastal construction control line but in our records the line was platted as the coastal construction setback line, which is not to be confused with the control line. But, we did find that that was a good basis for us to reinstate that line as a prohibition line for certain construction activities. To make sure the information is clarified in the code that any construction beyond the 1991 setback line will require a DEP permit, we have draft language for 34-2 and 34-1375. This morning the LPA recommended removal of parts (3), (4) and (5) of 34-2(b) but recommended approval of all the other changes. The new language was also recommended for approval by Land Development Code Advisory Committee (LDCAC). In the 1991 line there are 1,321 properties affected and in the 1978 line there are 650 properties affected. There are a number of permits we have not been able to issue since November because we were made aware of the fact that the line actually referenced in Division 13, Sec. 34-1575 is the 1991 line. Mr. Mercer said the 1991 line is more restrictive than the 1978 line? Mr. Danley said yes. Ms. Swindle said it's much further landward. Mr. Danley showed maps of properties affected by the prohibition of construction in the 1991 line and 1978 line. He said the septic language has been changed in 34-1575 to not freely permit septic tanks, but rather protect the ones that have received the DEP permit seaward of the 1978 line up until the adoption date of this.

Ms. Ennis said the language as proposed will prohibit construction seaward of the 1978 coastal construction setback line, with the exception of public beach access and enjoyment facilities, and absent the approval of a variance no further construction will be permitted. But, we have provided for specific provisions to allow individuals who have already received their DEP permitting to proceed through the permit process. Mr. Ink said of which there is one. Ms. Ennis said we've also provided for anyone who has received a local letter of no objection to proceed through the DEP process to continue, there are two. Further construction, unless it's for a beach facility accessible to the public, will require approval of a variance if they are seaward of the 1978 line.

Mr. Knight asked if there's mitigation for the current owners of lots who can no longer build on them. Mr. Loveland said the mitigation is fixing the problem to go back to the 1978 line. Ms. Swindle said subsections (3) and (4) are intended to protect what might be termed as vested rights for people who have already gone down the permitting process on the state level. Mr. Loveland said the LPA expressed concern about conditions 34-1575(B)(3) and (4), because they're site specific and there are a limited number of properties, but in this particular case these exceptions as noted are to preserve these vested rights and are really a legal protection issue for the county. Provision (B)(5) says you may try to obtain a variance which would be the only way you could get any construction seaward of the 1978 line. The LPA is concerned about treating that as an absolute line and didn't think a variance should be allowed. Mr. Mercer asked if the one property that we have that (3) and (4) is working around started permitting after 2005 when septic was prohibited. Mr. Loveland said they got their variance in 2003 that allowed them to move forward with building a house and then the regulation was changed to not allow the septic tank. Mr. Mercer asked if the house is past the 1978 line. Ms. Ennis said a portion of the home will be cantilevering over the line. Ms. Swindle said council for this property owner made it

clear that they feel they did receive a variance for the septic at the time they received a variance for the home.

Mr. Ink asked what will be allowed on the other side of the '78 line, is it conservation land or types of development through variances? The line is not really recognized by the state anymore, but we're allowed to have more restrictive rules. Mr. Reitmann said there are many properties that are not buildable anymore, it's like a moratorium on certain construction processes in certain areas. Mr. Loveland said prior to discovering this particular problem, we already had a restriction for any major construction beyond the 1978 line for a long time so the properties were already affected. The problem we discovered was what we thought those regulations applied to in terms of the 1978 line were actually referencing the 1991, which brought a whole lot more properties into the mix. We're putting it back to the 1978 line. There was a concern before that the language the County was proposing was going to allow a proliferation of septic tanks on the coastal barrier islands beyond this line, so we tried to craft the language more tightly to make clear that's not the intention.

Mr. Roeder said staff's done a good job with the 1978 line to refine that so it doesn't open the door. The bigger issue is the 1991 line which had been wrong for 25 years and it's really important to fix that because that has caused a lot of problems, and I would definitely support that change although I have a conflict now with that part. I have a client in Boca Grande, so I will abstain, but I fully support it.

Mr. Himschoot said he's president of Crews Environmental Services. He said some septic systems can be highly sophisticated in their treatment technology and are performance based treatment systems, which in the code can include aerobic treatment. Some equipment is suited for absentee ownership which doesn't require aeration, and on-site wastewater treatments are available to treat to a higher standard than a conventional septic tank. Those would be advisable obviously in and around coastlines to make sure we don't have any impaired waterways. Mr. Mercer asked if he's recommending on (b)(3) where it states "Installation of an advanced aerobic (or similar) septic system..." be changed to "a performance based treatment system" or something along that line. Mr. Himschoot said yes, because aerobic isn't necessarily the best treatment technology for a vacation type home where occupancy will be intermittent.

Mr. David Mintz said he's president of the Captiva Community Association. He said when this was first proposed back in November we were quite concerned because of the language permitting septic seaward of the 1978 line so we passed a resolution opposing it and we let the County Commissioners know that. In Captiva the '78 line virtually has nothing seaward of the line except coast, and there's a lot of construction between the 1991 line and the 1978 line that requires a DEP permit that the County is requiring. We're glad the language is put back in and we applaud staff. We're protecting the beaches and the coast as we always should have.

Mr. Hartsell said I too appreciate staff for addressing this issue. There are over 1,600 properties affected by it and there are scores if not hundreds of property owners on Boca Grande in particular who are significantly impacted by the new application of the

regulations. It's important to get this fixed. This morning I expressed my concerns to the LPA about sections (2), (3), (4) and (5), and I understand that they're put into this regulation for the purpose of allowing the one project that has been approved for the last 20 years, that got caught up in this, that already has a variance, a DEP permit and all the approvals, to move forward. I expressed my doubts this morning, but now, before this group, I want to withdraw those objections and not object to (2), (3), (4) and (5) for the purpose of allowing that project to move forward. I want to express concern about the way subsection (a) is written because it calls for receiving a permit from DEP. DEP can allow for a notice to be filed by the property owner that development is going to take place, and if DEP doesn't object in 30 days the development can take place without DEP taking any action. As a practical matter it may be that they actually issued a notice of approval or notice of acceptance, but the statute doesn't require them to take any action, so I would just urge between now and the actual hearings, that staff and the County Attorney's office work together to come up with language in subsection (a) and the same issue applies to (b)(3) which talks about receiving approval, language that acknowledges that there may be a notice that DEP doesn't even have to issue, that if DEP doesn't object to it, that you let that go. Mr. Mercer said your recommendation would be in (a) and (3) to eliminate the word "permit" and replace it with "notice of approval"? Mr. Hartsell said I wouldn't try to craft that language, I would just urge them to recognize that there's a statute that allows for the applicant to file notice that they're going to develop landward of what's called the general permit line and if DEP doesn't object, the property owner can move forward with that development.

Mr. Mercer asked Ms. Swindle if that's something that she agrees with. Ms. Swindle said mostly, yes, it's not our intention to deny a permit seaward of the 1991 line in a case of a general permit situation. It's my understanding that a developer sends in notice of a general permit that there is an actual notice to proceed that's issued. And, under DEP regulations a permit is simply defined as authorization from DEP, so there's an interpretation that that is in itself a permit. But, if we need to craft language to make that more clear, we definitely would be willing to do that. It could be something as simple as "received a permit" or "other authorization from DEP". Mr. Hartsell said my concern is that it specifically talks about requiring some other authorization and we're here today because we have for 15 years believed one interpretation and the way things were going, but 5 years from now if somebody looks this up again and forgets about these meetings and says the client filed notice for development landward of the general permit line and DEP hasn't issued a notice to proceed so the answer is no you're not allowed to build there until we get the notice to proceed or some other authorization. The statute says after 30 days, if they haven't acted, you can move forward. What triggered all of this is basically there were people on Boca Grande who had gotten their approvals, requested the standard letter from Lee County Zoning that says your zoning is ok, you can file for the DEP application, DEP won't take your application until they get this letter from Lee County that says you're allowed to apply. My client went through the historic board on Boca Grande, got the approval and thought everything was copacetic. He's now contracted to pay \$13 million for a piece of property and got an email from the county saying he has to apply for a variance because county staff got stuck in the middle. He can't get to DEP even to ask them for a permit until he gets that letter from the county. I don't want somebody else to get stuck or for all of us to be dealing with this in a couple of years. Mr. Mercer said the

goal of this committee is to have clarity in language so it can be deciphered no matter what the regulation. Staff's indicated they're willing to make some adjustments. He asked Mr. Hartsell if he'd be willing to help them work on that. Mr. Hartsell said I'd be happy to.

Mr. Mercer said the only other item which would represent a modification is the "performance based treatment system" that Mr. Himschoot has recommended in replacement of "advanced aerobic". Ms. Swindle said I thought he made a perfect point regarding subsection (3) as discussed is narrowly tailored to apply to situations where the DEP permit process is already complete. We're only aware of one such case so changing that language wouldn't broaden or narrow the focus of that. Mr. Mercer said I agree and I think it may allow the applicant to actually come up with a better solution than an older system, so it may be a plus. Ms. Swindle said other than properties that would've already received their DEP permit as of the adoption of these changes, any septic would be required to go through the variance process and it wouldn't matter what type of septic it is. Mr. Ink said I think using the performance based language out of the DEP statute is the proper language instead of saying aerobic because then there's a specific part of the chapter that says there it is. Ms. Swindle said we're happy to accommodate that change, I just wanted to make it clear that making that change wouldn't necessarily broaden the application.

Mr. Ink said in 34-1575(a), instead of all that language it could just say, "...in compliance with Florida Statute (whatever it is that covers the beaches)". Then it covers the general permit, whether it's a GP or whether you're going through a full permitting, so it refers you to the Florida Statute that handles that. Ms. Swindle said we can take a look at that. The general permit in the administrative code is sort of separate than the coastal so we'd have to figure out where to make the reference, but we will definitely consider that as a means to clarify that Mr. Hartsell is looking for.

Mr. Mercer asked Mr. Loveland if he's ok with the comments they're making today. Mr. Loveland said absolutely.

Mr. Ink said (3) and (4) I'm ok with from an economic standpoint, but (5) allowing a variance for things seaward of the 1978 line, I still have a lot of grief with because a lot of what we're doing today is because someone got a variance that wasn't what was intended for the 1978 line. So, by allowing a variance you're still potentially allowing for construction seaward of a line that shouldn't allow construction. Mr. Mercer asked if he has a solution. Mr. Ink said I still would like to see (5) omitted. Mr. Hartsell said would it make sense to just change the word "are" to "were" to address the variance granted? Mr. Ink said the part that's been approved is covered under (3) and (4), we're not taking that away, (5) is in the future. Ms. Ennis said staff's object here is to provide a mechanism for the owners of these 650 properties that are actually seaward of the 1978 line to have the potential to be developed. There are properties that had very minimal property that are landward and the only potential for them to develop would be through the approval of a variance. Mr. Ink asked what the criteria are for a variance. Ms. Ennis said to demonstrate a hardship and it's not detrimental to the community, there are 5 criteria they would have to satisfy to be approved. Mr. Ink said now that we've established this coastal construction setback line definition, it allows the county to go back and adjust that line should erosion/accretion

occur. It allows a mechanism to still protect the coast but still have a defined line for where development should occur or not occur. Mr. Loveland said that line could only move through an amendment to the LDC. Mr. Ink said it still allows for that opportunity to change and we start to use the 1978 line for a true coastal prevention line, just a thought for the future. Mr. Loveland said it's certainly up to the committee to decide what they're comfortable recommending. These opportunities for deviations and variances throughout the county's codes are because it's very difficult to craft language that covers every possible situation, and so it allows for a little bit of flexibility. But, you still have to go through that process of proving a hardship at a Hearing Examiner hearing to get a variance. And, from the standpoint of a staff recommendation relating to a variance, we would want to know that you had your DEP approvals and your Health Department approvals going in.

Mr. Mercer said the recommendations we've given you to consider today are probably as good as it can get right now and I believe staff can do what's right as long as they have the guidelines, so I'd like to go with their suggestions.

**Mr. Michael Reitmann made a motion to move forward the amendments with those exceptions. Ms. Tracy Hayden seconded. There were 11 votes yes, and Mr. Ink voted no. Mr. Roeder abstained. The motion carried.** (The Form 8B for Mr. Roeder's voting conflict is attached to these minutes.)

#### **Impact Fees Updates – Fire/EMS, Parks, Schools, Roads**

Mr. Loveland said the county charges 6 different impact fees for various services and facilities; roads, schools, community parks, regional parks, fire services and EMS services. The rates are based on studies that are done. Using road Impact fees as an example he said the fees are for adding capacity to the roadway. We utilize a consumptive base methodology. A single-family home, for example, consumes a certain amount of capacity on the roadway and the fee is based on the cost of replacing that capacity. It's an average number across the county, a single-family in the southeast part of the county pays the same as one in the northwest part of the county. The fees are collected by district and have to be spent in the district in which they're collected, so there's a geographic limitation. They're not used for operating costs, but strictly capital expenses for expanding capacity. The studies are required by state statute to be based on the most current localized data and it doesn't define how frequently that has to happen.

Mr. Loveland said the county currently utilizes 3 years to update the studies, which is actually written in our Land Development Code (LDC). The studies for roads and schools were updated in 2015 so we're coming up on that 3 year window. Parks, fire and EMS were last updated in 2012. As part of the process the studies determine the base impact fees and are reflected in our LDC. The rate of collection is a separate policy issue that is determined by the Board of Commissioners (BOCC) and adopted by a separate ordinance which is not part of the LDC. We've used Duncan Associates to do the updates since 1999 based on the 4 studies; community and regional parks, fire and EMS, schools, and roads. The BOCC discussed this at the February 6th work session and talked about exploring a different methodology for calculation other than consumption base methodology, they discussed a plan based methodology where you'd have a long range

plan where the fee calculations would be based on the costs of trying to achieve that plan. They also talked about the possibility of indexing the fees, having an annual index that applies so you could have interim adjustments to the fee cost year by year instead of waiting. Right now we only do the study every 3 years, and if there's a lot of change in the cost or some reduction in the credit side of the equations, you can see significant jumps over a 3 year period. Staff raised the issue of potentially changing the horizon of regular updates from 3 years to 5 years, which would still allow for regular updates. The 3 year schedule to continually update the studies leads us to be in a continual cycle of having studies ongoing, especially if we try to split up the studies so they're not all done at the same time. The fact that we're doing all 4 of them right now is unusual. There's a lot of work involved in pulling all the data together for the updates, there's a lot of detail.

Mr. Loveland said since the February 6<sup>th</sup> BOCC meeting our consultant identified an error in the calculations for the road impact fees study, so you were sent the updated study with his brief explanatory memo. So, it increased the numbers for the roads. Mr. Mercer asked how the error found in the road impact fees calculations came about. Mr. Loveland said the consultant was here for the February 6<sup>th</sup> work session and went back over his calculations prior to the meeting and reported the error. The area of the mistake was a last minute addition to the study. On the credit side of the equation calculations where funding services are listed, the consultant had not accounted for the new revenue source the BOCC was dedicating to the transportation fees, that growth increment funding category, which so far the BOCC has dedicated 100% of that revenue to transportation. For the last 5 years of our current 5 year CIP that GIF money's been plugged into the transportation CIP and on February 6<sup>th</sup> it was talked about how significant the total revenues available for the CIP and planned expenditures had grown. So, we asked the consultant to make sure that was accounted for on the credit side of the equation. He did some additional calculations and when he added that to the study he apparently transposed a couple of numbers or something.

Mr. Loveland said another change in the road impact fees is the consultant is recommending that we expand the list of land uses, partly because the ITE trip generation manual has studies for all of the land use types broken down more significantly. Not all of those match up with our land use side of things and the definition of uses, so we have a concern about one of the proposals suggested, the high-turnover (sit down) restaurant. It's difficult from the standpoint of our zoning categories to figure out what fits in that definition so we're suggesting that it not be included.

Mr. Loveland said the LDCAC met the Friday after the February 6<sup>th</sup> BOCC discussion and they chose not to weigh in on the change in the base rates, but they were okay with going from a 3 year to a 5 year update cycle if indexing was included. The concern seemed to be that if you went to a longer horizon period then having that annual indexing would help capture any changes and costs over that long of a time period. They also were supportive of the additional uses suggested for transportation by the consultant but agreed with staff to leave out the high-turnover (sit down) restaurant category. Since then the BOCC discussed it again at the regular meeting and a motion was made to come back on March 6<sup>th</sup> because we were talking about the alternative methodology and indexing. There was an expectation that it was going to take some time to get answers so the attorney's office

drafted basically an extension of our current situation for our impact fees.

Mr. Loveland said the BOCC in 2013 had adopted something less than 100% collection rate, they decided to go to 20%. Then in 2015 they changed it to 45% collection of the base rates for roads, schools and parks. Fire and EMS were left at 100%. At the February 20<sup>th</sup> BOCC meeting staff provided the information of what would be involved in doing a plan based study and whether indexing is possible. Indexing is possible, other jurisdictions do it. Highland and Collier counties have an annual adjustment either based on local data on changes in construction costs or using an index like the Engineering News Record for construction costs indexes. That would require the BOCC to reconvene every year and agree on what the index rate is going to be for the following year. From the February 6<sup>th</sup> discussion I'm not sure if all the BOCC members are enamored of the idea of discussing impact fees annually.

Mr. Loveland said we provided a list in table form of all of the fees, the current base rate and the new base rate, based on the new studies to show what will be reflected in the LDC. We also have the information from the consultant about going to a plan based methodology. They indicated that that probably would only work for the roads impact fees because we haven't established a long range transportation plan through the MPO process, the 20+ year plan. The recommendation is that you'd want to use a long range plan so you'd have some stability in terms of what you're shooting for. Our 5 year CIP is updated every year, so every time we'd change the plan we'd have to come back and recalculate the fees so that's why the consultant recommended a long range plan. The other services and facilities that we charge fees for don't have a long range plan process. They're not set up that way. So, it would only apply to roads. It would cost \$40,000 and take 4 months to do the new road study based on the plan based methodology to see if there are different numbers than the consumption based process.

Mr. Loveland said on February 20<sup>th</sup> the BOCC changed direction and said at the March 6<sup>th</sup> public hearing they'd consider updating the base rates based on the studies already done by Duncan Associates, which are the studies in front of you. And, they'd to consider going from 3 years to 5 years, consider the added uses and they would discuss more whether they want to consider this alternative methodology and indexing, and it's likely they'll adopt some changes based on the new study. They could authorize continued exploration of the alternative indexing and methodology, and they could come back and amend the impact fees later. What's in front of you are the proposed LDC changes for the base rate, changes based on the new studies, 3 year to 5 year change and the added uses for the road impact fees.

Mr. Mercer asked how the national data in the study is localized. Mr. Getch said for roads we have nationalized trip generation and average trip length that turns into vehicle miles traveled, and the consultant has taken uses from the property appraiser of what actual uses are on the ground now, and we apply this national data to the types of uses we have in Lee County. For schools there's more local data, some census based, how many school aged children per household for different types of units, the consultant compares that to the actual student counts and that takes care of the wrinkle that not every school aged student goes to a public school. For parks there is a factor with the populations

similar to schools and a similar adjustment. For fire and EMS is based on the population in the area the district is serving. Mr. Loveland said the districts have varying needs, so the rates vary by fire district as shown on the table.

Mr. Mercer said today EROC must either suggest to the BOCC that they accept this study as written or not, correct? Mr. Loveland said correct, and also make a recommendation on the study update periods and the added uses for roads. Mr. Mercer said and also make a recommendation on what the collection rate should be or is that something you're not looking for from us? Mr. Loveland said we are not asking you for that because it's not an actual LDC change, it's strictly a policy call by the BOCC and is adopted through a separate ordinance. Mr. Mercer said if we suggest that impact fees would never ever be raised again? Mr. Loveland said we'd pass your recommendation on to the BOCC.

Mr. Ford, Executive Vice President of the Lee Building Industry Association, said we're definitely against impact fees. Our policy is we'd like to see the fees stay where they are, and there is some concern about this huge jump in the base rates and how that will impact our industry, jobs and home buyers. We're still recovering from the 2006 collapse.

Mr. Himschoot said I'm opposed to increasing the impact fees primarily because we're trying to find affordable housing which will be greatly impacted.

Mr. Roeder said last year the BOCC had a workshop with staff about providing some kind of waiver for affordable housing, has that gone by the wayside? Mr. Loveland said no, staff presented to the BOCC an option. From a legal standpoint staff and the county attorney's office don't support waivers of impact fees because that affects the legal viability of it as a fee. The county can choose to subsidize that fee to cover the cost for affordable housing projects with some of the revenue source, so that's what we had given the BOCC as a possibility. You get into all the questions of what level, HUD has categories; very low income, low income and moderate income. And, are we only going to make this available to nonprofits or for profit entities, a lot of details that would come with that kind of discussion. The BOCC's direction to staff was that there was a concern that impact fees were a small piece of the puzzle for the total cost of the construction for a house and affordability, and even if we lowered impact fees, does that change the actual price of a house. They wanted to have a better definition of the problem and their direction to staff was go back and work with some affordable housing groups, better define what the problem is we're trying to solve and what the county's roll would be in trying to address that in a way that actually moves the needle. That was in November and it didn't allow time for consideration by this March deadline. Mr. Roeder said I always hear that a waiver is not legally defensible but from the very beginning of our impact fee ordinance they've waived it in the free enterprise zone so that's never been an issue. He said I don't like impact fees like a lot of people here but the county needs some money. If I had my way I'd see that gas tax and tolls paid for that and I hope the county would be more innovative. I'd support the fees but only with a carve out for affordable housing. It's really important because the less the houses cost, the more these fees are a burden on them. Housing for the workers is a real problem for the workers now and it's going to be bigger as we go forward.

Mr. Reitmann said Mr. Loveland made a very good point. The legality is very clear, you

have to have a rational nexus and that's where the affordable housing issue came in. That's why they had to subsidize it. The issue that concerns me is that I don't know why the county got in the business of actually collecting school impact fees because there was a lawsuit we were involved in with the schools. Was the data provided by the school board? Mr. Getch said they supplied costs of capital facilities, building costs. The land evaluation was done by Maxwell Henry for schools, parks, fire and EMS. Mr. Reitmann said I questions the validity of a lot of the data provided for the school impact fees. The school impact fees should be calculated on the student need, the same thing with the road impact fees. Affordable housing is a major issue because there's no rational nexus, they have to be what is the impact of that individual and not the entity. Mr. Loveland said we do rely on the data the school board provides but the formula is an attempt to get at the cost of providing a seat per student and there are a number of factors that go into that. We're not in a position to question the data they provide to our consultant.

Mr. Ennen said do you do the same with the fire department, because down south for instance, the fire chief claimed he needed a hook and ladder for a 4-story. We drove all around and met with them today and all the buildings were 2-story and we asked why they need a 4-story. They said one of these builders may build it someday. We're doing a shopping center which was a million bucks more on fire impact fees. Do you just accept what they say they're looking for as well? Mr. Getch said the data collected is their existing equipment as part of the capital cost plus the building and the land. Mr. Ennen said do you look at what they're needing? Mr. Getch said it's unique to the fire study because of 17 districts, a lot of them are smaller and what Duncan Associates did in a prior study was to use the average costs for larger fire districts as a cap so that Sanibel, which is going to have much higher land costs for instance, their fees aren't going to be way up in comparison, because it's a smaller district. And, the other half of that equation is the population they're serving, the average cost per population.

Mr. Reitmann asked if there is any way the schools could be separate to say the county is not going to be responsible for them. Mr. Mercer said as far as I know there are only 3 required components of impact fees, roads, fire and EMS, is that correct? Mr. Loveland said all of them are optional and different jurisdictions charge differently. The school fee was set up by county ordinance and is assessed countywide. All the jurisdictions collect it and remit it to the county who remits it all to the school board.

Mr. Mercer said if you break down into a 3 part bucket of roads, EMS and fire the current base is \$6,982.00, the proposed new base is \$10,817.00, that's a \$3,835.00 increase, a 55% increase, that's really, really, really high. Interesting enough, our friends at EMS have a current base fee of \$50 and they've asked for \$55, they seem to have their house in order.

Mr. Reitmann said we need to use a more pragmatic approach to calculating these fees. Maybe the county ought to just focus on the roads and fire and EMS. Mr. Loveland said because there's concern about the increase in the costs for the base rate, those have gone up, but the point of including the base rate in the LDC goes back to the legal defensibility of the fees. We're reflecting the base rate in our codes based on the studies that were done in a professionally accepted manor, and the BOCC's decision as to whether they want to

collect all of that or part of that is up to them. They're going to have their debate on the 6<sup>th</sup> and make the decisions as to what collection rate they're comfortable with.

Ms. Hayden said the county would like to change the years for the study from 3 to 5 years. Could suggest a time? Mr. Loveland said going out longer brings up the question, are you meeting the state statute. Ms. Swindle said the most recent and localized data is the sticking point. Recent isn't defined, so whether that's 3 years or 5 years is debatable, whether that's 20 years is less debatable.

Mr. Mercer said our current collected rate is 45%, which is \$6,131, and I added \$1,000 to it. Then I escalated that \$7,131 by 2.5% per year for the next 10 years. At the end of 10 years that has gone from \$7,131 to \$8,905, roughly a 25% increase over a 10 year period. That's a model that you could debate the number of years, you could debate the percentage but it seems to be as rational a way to do it as anything. CPI for the last 10 years has hovered between 2.1% to 2.2% to 1.8% so let's say CPI is going to stay the same. So let's pick a higher number, 2.5%, escalate that, compounded every year and you've got yourself a fixed set of increases that the county and the industry can budget from. Conceptually that makes a world of sense for me. That's not a decision we can make here today but we can certainly make some recommendations. Ms. Hayden said but that's the methodology. Mr. Mercer said you come up with a new collection rate and you increase it annually for X number of years at X percent. Mr. Ink said what if the economy tanks?

Mr. Ink said I'm having a hard time swallowing the big increase in roads because I don't think road contracts have increased that much. Mr. Loveland and Mr. Getch said yes they have. Mr. Loveland said land costs and road construction costs. Mr. Mercer said make the number lower. Mr. Hagan said prices could go through the roof then you wouldn't have the funds. Mr. Mercer said the alternative is studying this thing ad nauseam again and again and again.

Mr. Ennen said I would vote for 5 years. Mr. DeDeugd said how much is the study? Mr. Getch said the fee was \$167,000.00 for all four.

**Mr. Ennen made a motion to use 5 years as the number of years for the base rate study. Mr. DeDeugd 2<sup>nd</sup> the motion. The motioned passed unanimously.**

Ms. Hayden said they want our input on the updated uses for road impact fee. Mr. Loveland said we were lumping all multi-family types together and now it's split into low-rise, mid-rise, high-rise because there is trip generation information that's distinguished between those, and this is a cost per dwelling so you can see for the high-rises the fee goes down. Senior adult housing is split into 2 categories, detached and attached. Those, along with continuing care retirement community, were all lumped together in elderly disabled housing category. The convenience store with gas sales was split into 2 types based on under 10 fuel positions and 10+ fuel positions. And, we are splitting up restaurants where we had standard and fast-food and now we're adding the fast casual category. Also, the consultant recommended the high-turnover (sit-down) category addition. We were suggesting probably not to do that because it's difficult to

define based on our zoning categories. There's a correction for Mine or Quarry where it says \$26 and \$40, it should say \$.026 and \$.040 per cubic yard instead.

Mr. Keene said if all the change was attributable to cost, all the percentage increases would be similar for the cost of a road model it seems, with just construction differences. Mr. Loveland said that's not the only thing that goes into the calculations. Mr. Keene said the vehicles traveled part of the calculations, trip generations, what is the cost factor change and how can there be so much variance, on single-family for instance? Maybe 55% is the construction cost and the vehicle miles traveled hasn't changed much for single-family. Mr. Loveland said construction costs are up but on the credit side there're some changes that factor in. Less state and federal dollars counted but then we added in the credits from the growth increment fund that the BOCC has dedicated 100% toward the CIP. Those calculations all go into the mix to lead to that increase.

Mr. Roeder said we need money here for the infrastructure. That's going to be based on local effort, either local or state. We can't do anything about our gas tax, it's set by the state legislature and they haven't changed it in many years. I wrote a letter to our representatives and senators 10 years ago saying you really need to either raise the gas tax or let the county have a local option. Not one person even acknowledged it. I think if we dislike impact fees as much as we do we should suggest to the BOCC an alternative source of money, which is either a gas tax or toll. Maybe we should make it part of our recommendation that they need to lobby the state legislature for some creative revisions on that point. We could have an additional local option, let the people decide. Tourists pay a lot of gas tax. A gas tax makes much more sense, it's a user fee. Mr. Ink said everybody will buy a Tesla. Mr. Roeder said tolls are even better. Mr. Loveland said our 3 toll bridges generate surplus toll which is additional money beyond our operating costs and debt service. There is a lot of surplus toll money going into these calculations. Mr. Roeder said there are more toll opportunities if we were aggressive about it, but that's not popular either obviously.

Mr. Keene asked if there's been discussion about development near transit routes as a way to save on fees. Mr. Loveland said there's been discussion about trying to encourage development on transit routes. In all of the changes we made recently to our Comp Plan and our LDC to try to encourage development in the mixed use overlay areas, transit access is one of the components and defines where those mixed use areas are and those are areas where we do want to try to encourage redevelopment activity and redirect some of our growth that we expect in this county. It doesn't necessarily reflect in a different impact fee. You have to be careful about varying the fee unless you've got some basis tied to rational nexus. The BOCC had a fairly extensive discussion at a work session a few months ago with Lee Tran about ways to try to improve our transit system and expand ridership because other than US 41 routes, a lot of routes have an hour headway between busses. The only way to make it more attractive is to bring that down which means more busses more frequently which means more money and the BOCC wasn't real receptive to the concept because they already plug about \$10 or \$12 million a year in general fund revenues into the transit system for the current operation. Much discussion followed.

Mr. Mercer said our question to answer is do we want to accept these additional items into

the transportation calculations.

**Mr. Keene made a motion to say yes to the additional categories in the road impact fees section without the high-turnover (sit-down) category. Mr. Ennin seconded. Mr. DeDeugd said I abstain because I did not get the update. The motion carried unanimously.** (Mr. DeDeugd said he checked later and found the update in his email junk file.)

Ms. Hayden said do you agree with the study to go into the LDC? Mr. Mercer said his preference, because of all the irregularities and some of the errors that have come to light in the last week, would be that we recommend the study not be accepted and once again it's just a comment and the BOCC doesn't have to respond to that.

**Mr. DeDeugd moved to not accept the report because it's flawed. Mr. Reitmann seconded the motion for discussion:**

Mr. Mercer said the last minute error in the road calculation fees and some of the last minute information on the additional add-in items are unfair. Mr. Loveland said the error that was found was corrected, and I don't understand your second point. Mr. Mercer said the second point really isn't relevant. I was just thinking of the additional add-in items that we just voted on. I think it's wrong to add those items in to a study that's been consistent. Mr. Loveland said do you mean for the additional land uses? Mr. Mercer said yes. Mr. Loveland said that's not last minute, our consultant recommended that from the beginning with the drafts he provided us. Mr. Mercer said that's the first time we've had to look at it. We're not voting on the consultant at this point. He said the third item would be the speed in which this had to be produced in order to meet a deadline that was determined 3 years ago. Perhaps a better, more thoughtful study could've been generated had they given enough time, and I realize that's not staff's fault.

Mr. Roeder said I'd like to go on the record as supporting the motion but only because there's no provision for affordable housing. I understand the problem staff has with coming up with what the BOCC wanted but that's something that really needs to be part of this.

Ms. Hayden said I am not in support of the motion because I think that the study is outlined in a way they've had to do the study since 1999. Unless we can point out some obvious issues with how they've been doing the study, aside from the fact that we may think that there should be a better methodology, that's not what we're asked to approve or not approve. I don't see that there's an issue with this study. I don't like the numbers either but for the study that has been done, I don't see an issue with it.

Mr. Ink said I support Ms. Hayden's comments.

**The motion was called. There were 8 yes votes and 5 opposed. The motion carried.**

Mr. DeDeugd said we can't recommend but we can postpone 45% to 100% collection.

Mr. Mercer said we can recommend whatever we want to the BOCC. We've already suggested that they go from 3 to 5 years. Mr. Mercer asked for any suggestions.

Mr. Ink said we could make a recommendation that the BOCC keep the actual collection rate net neutral. If they adopt a baseline fee then drop the 45% to 32% or whatever it is. Mr. Mercer said and keep the collection rate the same as it is now.

**Mr. Ink made a motion to keep the collection the same as it is right now, \$6,131.00 for a single-family unit. Ms. Hayden seconded. There were 11 yes votes and Mr. Roeder opposed. Mr. Roeder said we need the money.**

### **ADJOURNMENT**

**The meeting adjourned at 4:12 PM.**

The next meeting was tentatively scheduled for March 14, 2018.

Attachment: Form 8B for Mr. Roeder's Voting Conflict

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# Port Authority Amendments

- Airport Compatibility Ch. 333, F.S.  
and AOPD Permitted Uses
- Tall Structures Admin. Code

**MEMORANDUM**  
**FROM**  
**THE DEPARTMENT OF**  
**COMMUNITY DEVELOPMENT**

**TO:** Executive Regulatory Oversight      **DATE:** August 28, 2018  
**Committee Members**

**FROM:** Audra Ennis, Zoning Manager

**RE: Lee County Port Authority**  
**Land Development Code (LDC) and Administrative Code Amendments**

On April 12, 2018, the Lee County Port Authority requested permission to submit amendments to certain sections of the Land Development Code and to establish Administrative Code AC-13-7 to conform with recent amendments to Chapter 333, Florida Statutes and to provide additional flexibility within the Airport Overlay Planned Development (AOPD) zoning district. The proposed amendments:

- Amend the Planned Development District regulations contained in Chapter 34, Article VI, Division 9 of the Land Development Code to eliminate the AOPD district from the use regulations table for planned development districts and to reference permitted uses in the AOPD district in new LDC Section 34-942.
- Amend the Airport Compatibility District regulations contained in Chapter 34, Article VI, Division 10, Subdivision III of the Land Development Code and reorganize Chapter 34 of the Land Development Code to relocate these regulations to Chapter 34, Article VI, Division 12 of the LDC.
- Update Maps 2A through 9 of in Chapter 34, Appendix C of the LDC and replace Maps 2A through 10 of Chapter 34, Appendix C with the updated maps.
- Establish Administrative Code AC-13-7 to establish procedures for tall structures permitting

**Staff requests that the EROC recommend approval of the proposed LDC and Administrative Code Amendments.**

**Chapter 34**

**ARTICLE VI. – DISTRICT REGULATIONS**

**DIVISION 9. – PLANNED DEVELOPMENT DISTRICTS**

**Sec. 34-931. - Purpose and intent.**

(a) through (f) remain unchanged

(g) *AOPD airport operations planned development district.* The purpose and intent of the AOPD district is to accommodate and regulate those lands where Lee County Port Authority operated public airports and ancillary facilities are conducted.

Remainder of section remains unchanged.

**Sec. 34-933. - Permitted uses.**

Except in the AOPD, MEPD and PRFPD districts, or where otherwise specifically indicated to the contrary, the uses listed in section 34-934, pertaining to use regulations for planned development districts, may be permitted in the indicated districts when consistent with the goals, objectives and policies of the Lee Plan for the land use category in which the property is located, and when approved on the enumerated documentation of the master concept plan. Uses that are not specifically listed in section 34-934 may also be permitted if, in the opinion of the Director, they are substantially similar to a listed permitted use.

In the MEPD and PRFPD districts, only those uses specifically listed in section 34-941 may be approved on the master concept plan. For uses allowed in the AOPD district, refer to section 34-942.

**Sec. 34-934. - Use regulations table.**

Use regulations for planned development districts are as follows:

**TABLE 34-934. USE REGULATIONS FOR PLANNED DEVELOPMENT DISTRICTS**

Use Category	Special Notes or Regulations	<del>AOPD</del>
Accessory uses and structures	Note (1), 34-1171 et seq., 34-2441 et seq., 34-1863, 34-2141 et seq., 34-3106	P
Accessory apartment	Note (2), (21), & (28), 34-1177	—
Administrative offices	Note (1)	P
Agricultural services: office/base operations		P
Agricultural uses and agricultural accessory uses	Note (48)	P

Aircraft food services and catering		P
Aircraft landing facilities, private	34-1231 et seq.	P
Airport operations facilities		P
Amateur radio antennas and satellite earth stations	Refer to 34-1175 for regulations.	
Amusement park		—
Animals:		
Clinic or kennel	34-1321 et seq.	P
Control center (including Humane Society)		P
Keeping and breeding of Class I or Class II animals (df)	34-1291 et seq.	—
Assisted living facility	Note (35) & (47) 34-1491 et seq., 34-1411	—
ATM (automatic teller machine)		P
Auto parts store	34-1353	P
Automobile repair and service (34-622(c)(2)), all groups	34-1351, 34-1353 Note (41)	P
Automobile service station	Note (41), 34-1351, 34-1353	P
Bait and tackle shop	Note (49)	P
Banks and financial establishments (34-622(c)(3)):		
Group I		P
Group II		P
Bar or cocktail lounge	34-1261 et seq.	P
Bed and Breakfast (df)	Note (28), 34-1494	—
Boarding house	Note (28)	—
Boats:		
Boat parts store		P
Boat ramps and dockage (not marinas)		—
Boat rental		P
Boat repair and service	34-1352, 34-3001 et seq.	P
Boat sales		P
Boat storage, dry		P

	Boatyard	Note (5)	—
	Broadcast studio, commercial radio and television	34-1441 et seq.	P
	Building material sales (34-622(c)(4))	34-3001 et seq.	P
	Business services (34-622(c)(5)):		
	Group I		P
	Group II	Note (12), 34-1352	P
	Bus station/depot	34-1381 et seq.	P
	Camping cabins	Note (28)	—
	Caretaker's residence	Note (34)	—
	Car wash	34-1353	P
	Cemetery, columbarium, mausoleum		—
	Cleaning and maintenance services (34-622(c)(7))		P
	Clothing stores, general (34-622(c)(8))		P
	Clubs:		
	Country		—
	Commercial		P
	Fraternal, membership organization	34-2111	P
	Private	34-2111	P
	Cold storage, pre-cooling, warehouse and processing plant		P
	Commercial fishery		—
	Commercial use of beachfront seaward of the coastal construction control line	Note (7), 34-3151	—
	Communication facility, wireless	34-1441 et seq. Note (22)	
	Community gardens	34-1716	—
	Community residential home	Note (35)	—
	Computer and data processing services		P
	Consumption on premises	34-1261 et seq., Note (49)	P
	Continuing care facilities	Note (28), 34-1414	—
	Contractors and builders (34-622(c)(9)), all groups	34-1352, 34-3001 et seq.	P
	Convenience food and beverage store	34-1353	P

Correctional facility	Note (28)	—
Cultural facilities (34-622(c)(10))		P
Day care center, child, adult	Note (28)	P
Department store		P
Dormitory	Note (28)	—
Drive-through facility for any permitted use		P
Drugstore, pharmacy		P
Dwelling unit:		
Live-work	34-1773	—
Single-family	Note (29)	—
Duplex	Note (29) & (43)	—
Two-family attached	Note (28) & (43)	—
Townhouse, multiple-family building	Note (28)	—
Mobile home	Note (29)	—
Zero lot line	Note (28)	—
Entrance gates and gatehouse	34-1741 et seq.	P
Emergency operations center		P
EMS, fire or sheriff's station		P
Essential services	Note (1), 34-1611 et seq., 34-1741 et seq.	P
Essential service facilities (34-622(c)(13)):		
Group I	Note (1), 34-1611 et seq., 34-1741 et seq., 34-2141 et seq.	P
Group II	Note (1) & (45), 34-1611 et seq., 34-1741 et seq., 34-2141 et seq.	P
Group III	34-1611 et seq., 34-1741 et seq., 34-2141 et seq.	—
Excavation:		

	Mining	Note (44); 12-101 et seq.	—
	Water retention	34-1651	P
	Oil or gas	34-1651	—
Excess spoil removal		Note (42), 10-329	P
Factory outlets (point of manufacture only)			P
Farm equipment, sales, storage, rental or service			P
Farm labor housing		Note <del>(33)</del> , (28), 34-1891 et seq.	—
Feed or fertilizer, mixing and sales			—
Fences, walls		Note (1), 34-1741 et seq.	P
Fish house, wholesale			—
Fishing piers			—
Flea market:			
	Open		—
	Indoor		—
Food and beverage service, limited		Note (1)	P
Food stores (34-622(c)(16)):			
	Group I	Note (49)	P
	Group II	Note (49)	P
Forestry tower			—
Fraternity house		Note (28)	—
Freight and cargo handling establishments (34-622(c)(17))			P
Funeral home and mortuary (with or without a crematory)			—
Gasoline dispensing system, special			P
Gift and souvenir shop		Note (49)	P
Golf course			—
Golf driving range			—
Hardware store			P
Hatcheries, poultry			—
Health care facilities (34-622(c)(20)):			

	Group I	Note (28) & (47)	P
	Group II	Note (28) & (47)	P
	Group III		P
	Group IV	Note (28) & (47)	—
Heliport or helistop			P
Hobby, toy and game shops (34-622(c)(21))			P
Home care facility		Note (1) & (28)	—
Home occupation		Note (1) & (31), 34-1771 et seq.	—
Hospice		Note (28)	—
Hotel/motel		34-1801 et seq., Note (36)	P
Household and office furnishings (34-622(c)(22)), all groups			P
Housing units for employees only		Note <del>(33)</del> (28)	—
Impound yard		34-1831 et seq., 34-2443	P
Insurance companies (34-622(c)(23))			P
Laundry or dry cleaning (34-622(c)(24)):			
	Group I		P
	Group II		P
Lawn and garden supply stores		34-2081	P
Library		Note (28)	P
Maintenance facility (Government)			P
Manufacturing of:			
	Apparel products (34-622(c)(1))	Note (5)	P
	Boats	Note (5)	P
	Chemical and allied products (34-622(c)(6))		
	Group I	Note (5)	P
	Group II	Note (5)	P
	Electrical machinery and equipment (34-622(c)(11))	Note (5)	P
	Fabricated metal products (34-622(c)(14)):		
	Group I	Note (5)	P

	Group II	Note (5)	P
	Group III	Note (5)	P
	Food and kindred products (34-622(c)(15)):		
	Group I	Note (5)	—
	Group II	Note (5)	—
	Group III	Note (5)	P
	Furniture and fixtures (34-622(c)(18))		P
	Leather products (34-622(c)(25)):		
	Group I	Note (5)	P
	Group II	Note (5)	P
	Lumber and wood products (34-622(c)(26)):		
	Groups I, III, IV, V and VI	Note (5)	P
	Group II	Note (5)	P
	Machinery (34-622(c)(27)), all groups		P
	Measuring, analyzing and controlling instruments (34-622(c)(28))		P
	Novelties, jewelry, toys and signs (34-622(c)(29)), all groups		P
	Paper and allied products (34-622(c)(31))		
	Group I	Note (5)	—
	Group II	Note (5)	P
	Group III	Note (5)	P
	Petroleum (34-622(c)(34))		—
	Primary metal industries (34-622(c)(35))		—
	Rubber and plastic products (34-622(c)(44)):		
	Group I	Note (5)	P
	Group II	Note (5)	P
	Stone, clay, glass and concrete products (34-622(c)(48)):		—

	Group I	Note (5)	P
	Group II	Note (5)	—
	Group III	Note (5)	P
	Group IV	Note (5)	P
	Textile mill products (34-622(c)(50)), all groups	Note (5)	P
	Tobacco products (34-622(c)(51))	Note (5)	—
	Transportation equipment (34-622(c)(52)):		
	Group I	Note (5)	P
	Groups II, III and IV	Note (5)	P
Marina		34-1862	—
Medical office			P
Mobile home dealers		34-1352	P
Models:			
	Display center	34-1951 et seq.	—
	Model home	34-1951 et seq.	—
	Model unit	34-1951 et seq.	—
Motion picture production studio			P
Multislip docking facility			—
Nightclubs		34-1261 et seq.	P
Nonstore retailers (34-622(c)(30)), all groups			P
Parcel and express services			P
Package store		34-1261 et seq.	P
Paint, glass and wallpaper			P
Parks (34-622(c)(32)):			
	Group I		P
	Group II		P
Park trailers		Note (28)	—
Parking lot:			
	Accessory		P
	Commercial		P
	Garage, public		P
	Park-and-ride	34-1388	P

	Temporary	34-2022	P
Personal services (34-622(c)(33)):			
	Group I	34-3021	P
	Group II		P
	Group III		P
	Group IV		P
Pet services			
Pet shop			
Pharmacy			
Photofinishing laboratory			
		Note (5)	P
Place of worship			
		Note (28), 34-2051 et seq.	P
Plant nursery			
		34-2081	—
Post office			
Printing and publishing (34-622(c)(36))			
		Note (5)	P
Prison			
		Note (28)	—
Processing or packaging of agricultural or fish products			
		Note (5)	P
Processing and warehousing			
Racetracks (34-622(c)(37)):			
	Group I		—
	Group II		—
Real estate sales office			
		Note (23), 34-1951 et seq., 34-3021	P
Recreation facilities:			
	Commercial (34-622(c)(38)) Groups I, III		P
	Commercial (34-622(c)(38)) Group IV		P
	Group V		P
	Personal	Note (1)	—
	Private—On-site	Note (1)	—
	Private—Off-site	Note (3)	—
Recreational vehicles			
		Note (28)	—
Recycling facility			
			P
Religious facilities			
		Note (28), 34-2051 et seq.	P

Rental or leasing establishment (34-622(c)(39)):			
	Group I	34-1352, 34-3001 et seq., Note (49)	P
	Group II	34-1201 et seq., 34-1352, 34-3001 et seq.	P
	Group III	34-1352, 34-3001 et seq.	P
	Group IV	34-1201 et seq., 34-1352, 34-3001 et seq.	P
Repair shops (34-622(c)(40)):			
	Group I		P
	Groups II, III, IV		P
	Group V		P
Research and development laboratories (34-622(c)(41)):			
	Group I		P
	Group II		P
	Group III		P
	Group IV		P
Residential accessory uses (34-622(c)(42))		Note (1) & (31),-34-1171 et seq.	—
Resource recovery facilities:			
	Recovery facilities to produce energy		—
	Recovery facilities, other	34-3001 et seq.	—
Restaurant, fast food		34-1353	P
Restaurants (34-622(c)(43)):		Note (49)	
	Groups I and III		P
	Group II		P
	Group IV		P
Retail and wholesale sales, when clearly incidental and subordinate to a permitted principal use on the same premises			P
Rooming house		Note (28)	—
Salvage and disposal of materials, including auto junkyards, refuse disposal			—

and processing plants, incinerators, landfills and similar uses			
Sanitary landfill		Note (5)	—
Schools:			
	Commercial (34-622(c)(45))	34-2381	P
	Noncommercial	Note (28), 34-2381	—
Self-service fuel pumps		Note (24)	P
Shredding and composting of vegetative matter		34-1831 et seq.	—
Signs in accordance with chapter 30		Note (1)	P
Social services (34-622(c)(46)):			
	Group I		P
	Group II		P
	Group III	Note (28) & (47)	<del>P(46)</del>
	Group IV	Note (28) & (47)	<del>P(46)</del>
Specialty retail shops (34-622(c)(47)):			
	Group I		P
	Group II		P
	Group III		P
	Group IV		P
Stable:			
	Boarding	34-1291 et seq.	—
	Commercial	34-1291 et seq.	—
	Private	34-1291 et seq.	—
Storage:			
	Indoor only	Note (1), 34-3001 et seq.	P
	Storage, open	Note (5), 34-3001 et seq. 34-1352	P
	Large-scale storage of noxious or hazardous materials (flammable, toxic, explosive, corrosive, etc.), including liquid petroleum, fractions and distillates thereof, and fuel gases	Note (5), 34-3001 et seq.	<del>P(16)</del>
Studios (34-622(c)(49))			P
Tactical training (df)		34-2471	P

Temporary uses	Note (1), 34-3041 et seq.	P
Tents, transient parks only	Note (28)	—
Theater, indoor or outdoor (drive-in)	Note (32), 34-2471 et seq.	P
Timeshare units	Note (28), 34-1494, 34-2020(a)	—
Transportation services (34-622(c)(53)):		
Group I		—
Group II		P
Group III		P
Group IV		P
Truck stop, trucking terminal		P
Used merchandise stores (34-622(c)(54)):		
Group I		P
Groups II, III and IV		P
Variety store		P
Vehicle and equipment dealers (34-622(c)(55)):		
Groups I, II, and III	34-1352	P
Group IV	34-1352	P
Group V	34-1352	P
Warehouse:		
High cube		P
Mini-warehouse		P
Private		P
Public		P
Cold storage only		P
Wholesale establishments (34-622(c)(56)):		
Groups I, III and IV		P
Group II		—
Wrecking yard:		
Auto		—

	Other		—
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Notes:

- (1) through (15) remain unchanged.
- (16) ~~Reserved. Limited to airplane fuels or other approved fuel storage terminals.~~
- (17) through (25) remain unchanged.
- (26) ~~Reserved. In the MPD district, use is limited to industrial areas only.~~
- (27) through (32) remain unchanged.
- (33) ~~Reserved. Not permitted in Airport Noise Zone B.~~
- (34) through (38) remain unchanged.
- (39) ~~Reserved. Wireless communication facilities required by the Federal Aviation Administration and Florida Department of Transportation may be administratively approved, if it is a necessary safety component related to the physical aviation activity.~~
- (40) through (45) remain unchanged.
- (46) ~~Reserved. Permitted only as part of an AOPD approval for Page Field General Aviation Airport. Use must be included in Lee Plan Table 5(b) and be located within the non-aviation development area as depicted on Lee Plan Map 3G.~~
- (47) through (49) remain unchanged.

**Sec. 34-942. – Airport operations planned developments.**

- (a) Permissible Uses. Uses that are consistent with and support continued operation of public airports are permitted, provided the use is approved as part of the adopted zoning resolution for the AOPD through the public hearing or administrative approval process. Development within AOPDs will be consistent with the most recently adopted Airport Master Plans and Airport Layout Plans maintained by Lee County Port Authority in accordance with Federal Aviation Administration regulations, and may include airport operations facilities and aviation related uses such as hangars, terminals, and runways, and non-aviation related uses such as hotels, motels, light industrial, manufacturing, service stations, retail, and office development.
- (b) For property development regulations, refer to section 34-935 and the airport compatibility district regulations in Division 12 of Article VI of Chapter 34.

**Secs. 34-943—34-960. – Reserved.**

DIVISION 10. – SPECIAL PURPOSE DISTRICTS

**Subdivision III. – ~~Airport Compatibility District~~ Private Airport and Heliport Review Zones**

Staff Note – For codification purposes, Division 10, Subdivision III will be renamed “Private Airport and Heliport Review Zones.” Sections 34-1001 through 34-1013 will be repealed and replaced in new Division 12. Reserved Sections 34-985 through 34-1000 will be updated to reflect through 34-1013.

DIVISION 12. – AIRPORT COMPATIBILITY DISTRICT

**Sec. 34-~~1001~~1101. - Applicability.**

The provisions set forth in ~~sections 34-1001 through 34-1013 of this subdivision~~ this division are ~~only~~ applicable to lands encompassing and surrounding facilities operated by the Lee County Port Authority (LCPA) including the Southwest Florida International Airport (SWFIA) and the Page Field General Aviation Airport, ~~comprising the related height and land use protections necessary to the viability of the airports.~~ These provisions are applicable only in the unincorporated portions of Lee County unless an interlocal agreement providing otherwise is in effect.

**Sec. 34-~~1002~~1102. - Findings, ~~p~~urpose, and intent.**

~~(a) Findings.~~ The Lee County Board of County Commissioners find as follows:

- ~~(1) The SWFIA and Page Field are an integral part of the County transportation network;~~
- ~~(2) The Airport Master Plans for both SWFIA and Page Field have been adopted into the traffic element of the Lee Plan in recognition of their importance as part of the County transportation system;~~
- ~~(3) The continued viable operation of the airports is critical to the continued health, safety and welfare of the citizens of Lee County as well as the many visitors that pass through these airports;~~
- ~~(4) Airport hazards endanger the lives and property of airport uses as well as the owners and occupants of property surrounding the airports;~~
- ~~(5) Airports may produce noise levels that are not compatible with residential uses and certain commercial and industrial uses;~~
- ~~(6) Hazards reduce the size of the area available for the landing, take off and maneuvering of aircraft, which impairs the viability of the airport;~~
- ~~(7) The creation of an airport hazard injures the community served by the airport and constitutes a nuisance; and~~
- ~~(8) In the interest of the public health, safety and welfare it is appropriate to establish regulations to prevent or minimize the creation of hazards and the placement of inappropriate uses in the vicinity of airports.~~

~~(b) Purpose and intent.~~ The purpose of this subdivision is to establish protections around SWFIA and Page Field in accord with the provisions of F.S. Chs. 330 and 333 (as amended), as well as Federal regulations (as amended) including 14 CFR Parts 77, 150 and 151 and FAA Advisory Circulars 150/5300-13A as amended, renumbered or replaced, and 150/5200-33B as amended, renumbered or replaced, which address height obstructions, airport hazards, wildlife attractants, noise, runway protection zones, light emissions, reflectivity and power interference, aircraft overflights, and the public investment in air transportation facilities. ~~These provisions are intended to supplement the state and federal regulations regarding airport protection and specifically to:~~

- ~~(1) Promote the maximum safety of aircraft arriving at and departing from public airports;~~
- ~~(2) Promote the maximum safety of residents and property within areas surrounding public airports;~~

- ~~(3) Promote the full utility of public airports, to ensure the maximum prosperity, welfare and convenience to the Lee, Charlotte, Collier, Hendry and Glades County areas and their residents;~~
- ~~(4) Provide building height standards for use within the approach, transitional, horizontal and conical surfaces to encourage and promote proper and sound development beneath these areas;~~
- ~~(5) Provide development standards for land uses within prescribed noise zones associated with the normal operation of public airports;~~
- ~~(6) Provide administrative procedures for the efficient and uniform regulation of all development proposals within designated airport noise zones, runway approach zones and airport height zones; and~~
- ~~(7) Prevent the creation of hazards and incompatible land uses.~~

**Sec. 34-~~1003~~1103. - Definitions.**

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

*Aeronautical Study* means a Federal Aviation Administration study, conducted in accordance with the standards of 14 C.F.R. part 77, subpart C, and Federal Aviation Administration policy and guidance, on the effect of proposed construction or alteration upon the operation of air navigation facilities and the safe and efficient use of navigable airspace.

*Aircraft* means any vehicle used or designed for navigation of or flight in the air.

*Airport* means an area of land or water designed and set aside for use for the taking-off, maneuvering and landing of aircraft.

*Airport Elevation* means the highest point of the airport's usable landing area, measured in feet above mean sea level (AMSL).

~~*Airport Hazard* means any structure or tree or use of land that would exceed the federal obstruction standards and obstructs the airspace required for flight of aircraft in taking off, maneuvering, or landing or is otherwise hazardous to such taking off, maneuvering, or landing of aircraft; and for which a permit or variance has not been issued.~~ an obstruction to air navigation which affects the safe and efficient use of navigable airspace or the operation of planned or existing air navigation and communication facilities.

*Airport Hazard Area* means any area of land or water upon which an airport hazard might be established.

*Airport Obstruction* means any existing or proposed object, terrain, or structure construction or alteration that exceeds the federal obstruction standards contained in 14 C.F.R. part 77, subpart C. The term corresponds with Tier 2 Tall Structures permitting procedures outlined in Administrative Code 13-7 as amended, renumbered or replaced, and includes the following:

- a. Any object of natural growth or terrain;
- b. Permanent or temporary construction or alteration, including equipment or materials used and any permanent or temporary apparatus; or

c. Alteration of any permanent or temporary existing structure including appurtenances, by a change in the structure's height, lateral dimensions, and equipment or materials used in the structure.

~~manmade structure object or, object of natural growth or terrain, or use of land that violates the standards set forth in 14 CFR § 77.13, 77.17, 77.19, 77.21 and 77.23.~~

*Airport Noise Zone* means the areas representative of specific airport DNL noise contours or designated over flight areas in which land use is limited. Notification to property owners is provided through notice recorded in the Lee County Public records, ~~and notification through recording of the areas occur.~~

~~*Airport Obstruction Notification Zone* means an imaginary surface extending outward and upward from any point of any SWFIA and Page Field runway at a slope of 125 to 1 (one foot vertically for every 125 feet horizontally) for a distance up to a height of 125 feet above mean sea level.~~

~~*Airport, Private* is defined in Section 34-2. means an airport that is registered with the state, but not State licensed. For purposes of this Article, Lee County Mosquito Control helistops and airport facilities (e.g. Buckingham Airport) are private airport facilities. Private airports are not open for use by the general public except by specific invitation of the airport owner.~~

~~*Airport, Public* is defined in Section 34-2. means any airport licensed by the state, including state-licensed seaplane bases, helistops and emergency landing areas. Public airports as used in this code specifically refer to SWFIA and Page Field. Public airports are open to the general public with or without a prior request to use the airport.~~

*Airport Reference Point* means the approximate geographic center of all usable airport runways as identified on the approved Airport Layout Plan (existing and ultimate).

*Airport Residential and Educational Facility Protection Zone* means an area identified in F.S. Ch. 333, that is contiguous to the airport and is defined by an outer noise contour that is considered incompatible with the types of construction identified in 14 CFR Part 150, Appendix A or an equivalent noise level as established by other types of noise studies. For Page Field, this Zone encompasses the area within the 65 DNL Noise Contour as approved in the 2002 Master Plan Update. For SWFIA, this Zone is the 60 DNL Noise Contour shown on the most recent Composite DNL Noise Contours map for SWFIA approved by the FAA.

*Airport Runway Approach Surface* is an imaginary surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the Airport Runway Primary Surface as defined by FAR Part 77. An Airport Runway Approach Surface is applied to each end of each runway based upon the type of approach available or planned for that runway end.

~~*Airport Runway Clear Zone* as defined in F.S. and 14 CFR Part 151.9(b) is an area at ground level which begins at the end of each Airport Runway Primary Surface and extends with the width of each Airport Runway Approach Surface to terminate directly below each Airport Runway Approach Surface slope at the point, or points, where the slope reaches a height of 50 feet above the elevation of the runway or 50 feet above the terrain at the outer extremity of the Airport Runway Clear Zone, whichever distance is shorter.~~

*Airport Runway Primary Surface* is an imaginary surface longitudinally centered on an existing or planned runway as defined by FAR Part 77.

*Airport Runway Protection Zone* means an area at ground level beyond the runway end established to enhance the safety and protection of people and property on the ground, as depicted in Appendix C.

~~*Airport School Protection Zone* means an area identified in F.S. Ch. 333, that extends five miles in a direct line along the centerline of a SWFIA or Page Field runway, and has a width measuring half the length of the runway which prohibits the placement of schools and educational facilities. This Zone also encompasses an area defined by an outer noise contour that is considered incompatible with that type of construction identified by 14 CFR Part 150, Appendix A or an equivalent noise level as established by others types of noise studies. For Page Field, this Zone also encompasses the area within the 65 DNL Noise Contour as approved in the 2002 Master Plan Update. For SWFIA, this Zone also encompasses the 60 DNL Noise Contour shown on the most recent Composite DNL Noise Contours map for SWFIA approved by the FAA.~~

*Airport Surveillance Radar (ASR)* means approach control radar used to detect and display an aircraft's position in the terminal area. ASR provides range and azimuth information, and coverage of the ASR can extend up to 60 miles.

*Airport Wildlife Hazard Protection Zone* means an area encompassing 10,000 feet from the nearest point of any SWFIA or Page Field runway shown on the most recent Airport Layout Plan approved by the FAA to be used or planned to be used by turbojet or turboprop aircraft.

*Balloon* means any type of dirigible, balloon or other type of hovering or floating object, tethered or untethered.

*Day-night average sound level DNL* means a 24-hour average noise level incorporating a ten-decibel penalty for noise during nighttime hours between 10:00 p.m. and 7:00 a.m.

*DNL noise contour* means a line linking together a series of points of equal cumulative noise exposure. Such contours are developed based upon aircraft flight patterns, number of daily aircraft operations by type of aircraft, and typical runway utilization patterns in terms of percentage of use.

*Educational facility* means any structure or land used for a public or private kindergarten through 12th grade school, charter school, magnet school, college campus, or university campus. The term does not include space used for educational purposes within a multi-tenant building.

*FAA* means the Federal Aviation Administration.

*Instrument approach procedure* means a landing approach utilizing electronic guidance aids and made without visual reference to the ground.

*Landfill* has the same meaning as provided in Florida Statutes section 403.703.

*LCPA* means and refers to Lee County Port Authority.

*LCPA Airport Obstruction Notification Zone* means an imaginary surface extending outward and upward from any point of any SWFIA and or Page Field runway at a slope of 125 to 1 (one foot vertically for every 125 feet horizontally) for a distance up to a height of 125 feet above mean sea level. *The LCPA Airport Obstruction Zone also includes the area within a one-half mile radius from the Airport Surface Radar or any vertical object above 125 feet above mean sea level. This term corresponds with the Tier 1 Tall Structures permitting procedures outlined in Administrative Code 13-7 as amended, renumbered or replaced.*

*Nautical Mile* means the equivalent of 6,076 feet.

*Owner* means a mortgage holder, a lienholder or any person having any right, title or interest of any nature and kind whatsoever in and to any real estate within the boundaries of the zones established by this subdivision.

*Page Field* means and refers to Page Field General Aviation Airport.

*Runway* means a defined area on an airport prepared, used or intended to be used for the taking off and landing of aircraft along its length.

*Structure* means any object, constructed, erected, altered, or installed, including, but not limited to, buildings, towers, smokestacks, utility poles, power generation equipment, and overhead transmission lines.

*SWFIA* means and refers to Southwest Florida International Airport, also referenced as RSW.

Staff Note – Definitions contained in LDC Section 34-2 where noted.

### **Sec. 34-~~1004~~1104. - Airport Noise Zones.**

~~(a) *Purpose.* The purpose of this section is to identify areas subject to varying levels of aircraft-related noise associated with the normal operation of SWFIA. This section establishes noise zones applicable in the vicinity of SWFIA, and the corresponding permitted land uses within the noise zones. This section also sets forth provisions for notification that property within an Airport Noise Zone may be subject to aircraft-related noise.~~

~~(b) *(a) Noise zones defined; permitted uses.* There are hereby created and established four Airport Noise Zones associated with SWFIA. The noise zones are based upon the most recent composite DNL contours developed in accordance with the Federal Aviation Regulations, Part 150, Noise Compatibility Study for the Southwest Florida International Airport, in combination with an area subject to repetitive, low altitude aircraft over flights associated with flight training activity on the planned parallel runway, as approved by the Board of Port Commissioners and the FAA. These noise zones are set forth as overlay zoning districts in that they provide regulations and restrictions in addition to those set forth in the planned development or conventional zoning districts in which the property is located, as defined in this chapter. Except as otherwise provided in this section, no land, body of water or structure may be used or permitted to be used and no structure may be hereafter erected, constructed, moved, reconstructed or structurally altered or maintained in any of these Airport Noise Zones that is designed, arranged or intended to be used or occupied for any purpose unless consistent with the following:~~

~~(1) *Airport Noise Zone A/Airport Property.*~~

- ~~a. *Location.* Airport Noise Zone A/Airport Property is the land as identified in Appendix C.~~
- ~~b. *Restrictions.* The permitted uses for property located within Airport Noise Zone A/Airport Property are limited to those uses that are compatible with airports and air commerce and listed as a permitted use in the zoning resolution for the AOPD listed in the Airport Operations Planned Development (AOPD) Zoning District use regulation table.~~

~~(2) *Airport Noise Zone B.*~~

- ~~a. *Location.* Airport Noise Zone B consists of that area of land within the 60 DNL contour line (as determined in the FAR Part 150 Study in effect), exclusive of Airport Noise Zone A/Airport Property.~~
- ~~b. *Restrictions.* This zone allows any use permitted by this chapter, provided that no residential living units, places of worship, libraries, schools educational facilities, hospitals, correctional ~~institutions~~ facilities or nursing homes are permitted. However, residential units, including mobile homes that are lawfully existing as of June 27, 2000 will be treated~~

as legally permitted uses and not as nonconforming uses. Lawfully existing mobile ~~or manufactured~~ homes may be replaced with new mobile ~~or manufactured~~ homes or conventional single-family ~~construction homes~~, and existing conventional single-family homes may only be replaced with new conventional single family homes so long as such replacement would be otherwise allowed by this Code. ~~However, an existing conventional home may not be replaced with a new mobile or manufactured home.~~ One conventional single-family home is permitted on each lot in a plat properly recorded before June 27, 2000 if such use would have been permitted on the lot prior to June 27, 2000. This zone requires notification in accord with section 34-~~1004(c)~~1104(b).

(3) *Airport Noise Zone C.*

- a. *Location.* Airport Noise Zone C consists of that area of land located between the Airport Noise Zone B and the 55 DNL contour line (as determined in the FAR Part 150 Study in effect), exclusive of Airport Noise Zone A/Airport Property.
- b. *Restrictions.* This zone allows any use permitted by this chapter. This zone requires notification in accord with section 34-~~1004(c)~~1104(b).

(4) *Airport Noise Zone D.*

- a. *Location.* Airport Noise Zone D is located southeast of Airport Noise Zone C encompassing the area designated for flight training associated with the planned south parallel runway per the FAR Part 150 Study in effect. This zone comprises the area within a half mile of the expected centerline of the training pattern depicted in the FAR Part 150 Study in effect.
- b. *Restrictions.* This zone allows any use permitted by this chapter. This zone requires notification in accord with 34-~~1004(c)~~1104(b).

(e) (b) Notification of potential noise impact. Noise Zones B, C and D require notification that the property may be subject to noises created by and incidental to the operation of the airport. Notification is provided by public notice and by disclosure, as follows:

- (1) *Public notice.* The Airport Noise Zones are identified as Zoning Overlay Districts on the Lee County Zoning Map available online at [legis.lee.gov.com/LeeSPHS/](http://legis.lee.gov.com/LeeSPHS/) and shall be available for public inquiry inspection at Lee County Port Authority LCPA offices.
- (2) *Disclosure.* For property within Noise Zones B, C and D, disclosure is accomplished by including a statement identifying the potential for airport related noise as a condition of approval of certain zoning actions through the public hearing process, and as a statement on certain development orders, plats and in association documents:
  - a. For approval of a rezoning to planned development, administrative amendment to a planned development, special exception, or variance, the following must be included as a condition of approval:

"The developer, successor or assign acknowledges the property's proximity to Southwest Florida International Airport and the potential for noises created by and incidental to the operation of the airport as outlined in Land Development Code Section 34-~~1004~~1104. The developer, successor or assign acknowledges that a disclosure statement is required on plats, and in association documents for condominium, property owner and homeowner associations as outlined in Land Development Code Section 34-~~1004(c)~~1104(b)."

- b. For approval of a development order for multifamily development, plat, re-plat or lot split, the following disclosure statement must be included on the recorded plat as applicable, and in association documents for condominium, property owner and homeowner associations:

"The Southwest Florida International Airport is in proximity to this (insert plat/condominium/development, as appropriate). There is potential for noises created by and incidental to the operation of the airport as outlined in Land Development Code 34-~~1004(c)~~1104(b)."

**~~Sec. 34-1005. — Airport Protection Zones.~~**

- ~~(a) Lee County hereby establishes Airport Protection Zones for Lee County Public Airports as follows:~~

- ~~(1) Airport Runway Clear Zones.~~
- ~~(2) Airport School Protection Zones.~~
- ~~(3) Airport Residential Protection Zones.~~
- ~~(4) Airport Obstruction Notification Zones.~~

- ~~(b) These zones are established to regulate land development in relation to the SWFIA and Page Field as licensed for public use. The zones are intended to protect air transportation and facilities serving Lee County and surrounding cities and counties as well as the investment in these facilities.~~

- ~~(c) The approximate location and boundary of each protection zone is depicted on the maps in Appendix C.~~

- ~~(d) Development within the areas encompassed by these zones must be in accord with the provisions set forth in this subdivision.~~

**~~Sec. 34-~~1006~~1105. - Airport Runway ~~Clear~~ Protection Zones.~~**

- ~~(a) *Purpose of zone.* Pursuant to F.S. ch. 333 and 14 CFR 151 the purpose of the Runway Clear Zone is to protect people and property on the ground, prevent the future erection or creation of hazards within the vicinity of a public airport that have the potential to diminish the runway capacity; and, to provide an opportunity to ameliorate obstructions created/existing prior to adoption of this section.~~

- ~~(b)(a) *Location and map of zone.* The Airport Runway ~~Clear~~ Protection Zones for SWFIA and Page Field are established in accord with the approved Airport Layout Plans, F.S. Ch. 333, FAR Part 77, 14 CFR Part 77 and 14 CFR 151 and depicted in Appendix C.~~

- ~~(c)(b) *Prohibited uses.* Uses that are incompatible with airport operations or that endangers the public health, safety and welfare by resulting in congregations of people, emission of light or smoke, or attraction of birds are prohibited within the established Airport Runway ~~Clear~~ Protection Zones for each airport.~~

- ~~(d)(c) *Development compliance.* Development within the Airport Runway ~~Clear~~ Protection Zone must comply with the provisions of this ~~article~~ division. All development within any Airport Runway ~~Clear~~ Protection Zone must be reviewed by the LCPA Lee County Port Authority prior to any development or permit approval. No development or permit approval may be issued unless it is specifically approved in writing by the LCPA Lee County Port Authority. No development within an Airport~~

Runway Clear Protection Zone will be approved that would degrade or have a negative impact on the use of any runway at SWFIA or Page Field. Review by the LCPA Port Authority must be consistent with the provisions of F.S. Ch. 333, 14 CFR 151, and FAR Part 77.

**Sec. 34-~~1007~~1106. - Airport Residential and Educational Facility ~~School~~ Protection Zones.**

- (a) ~~Purpose of zone.~~ Pursuant to F.S. Ch. 333, the purpose of the Airport School Protection Zones are to prohibit the construction of an educational facility or a public or private school at either end of a publicly owned, public use airport within an area which extends five miles in a direct line along the centerline of the runway, and which has a width measuring one-half the length of the runway. For Page Field Airport this zone also encompasses the Noise Contour as shown on the Noise Contour map adopted by the FAA as part of the 2002 Master Plan Update. For SWFIA, this Zone also encompasses the 65 DNL Noise Contour shown on the most recent Composite DNL Noise Contours map for SWFIA approved by the FAA. Aviation related educational facilities are exempt from this requirement. A Variance approving construction of an education facility within any Airport School Restriction Zone will only be granted based on specific findings detailing how the public policy reasons for allowing the construction outweigh health and safety concerns prohibiting such a location.
- (b)(a) ~~Location and map of zone.~~ The Airport Residential and Educational Facility ~~School~~ Protection Zones for SWFIA and Page Field ~~Airport~~ are established in accordance with F.S. Ch. 333, and is depicted in Appendix C.
- (c)(b) ~~Prohibited uses.~~ For SWFIA, residential construction or the construction of an educational facility is prohibited in the 60 DNL Noise Contour shown on the Composite DNL Noise Contours map in the most recent SWFIA Part 150 Study approved by the FAA. For Page Field Airport, residential construction or the construction of an educational facility is prohibited within the 65 DNL Noise Contour as shown on the noise contour map adopted by the FAA as part of the 2002 Master Plan Update. Aviation related educational facilities are exempt from this restriction. ~~Uses that are incompatible with airport operations or endangers the public health, safety and welfare by constructing public or private educational facilities are prohibited within the established Airport School Protection Zones for SWFIA and Page Field.~~
- (d) ~~Development compliance.~~ Development within the Airport School Protection Zones must comply with the provisions of this article.

**Sec. 34-1008. — Airport Residential Protection Zones.**

- (a) ~~Purpose of zone.~~ Pursuant to F.S. Ch. 333, the purpose of the Airport Residential Protection Zone is to prohibit the construction of any residential development within that area. For Page Field Airport this zone is the 65 DNL Noise Contour as shown on the Noise Contour Map adopted by the FAA as part of the 2002 Master Plan Update. For SWFIA, this Zone is the 60 DNL Noise Contour shown on the most recent Composite DNL Noise Contours map for SWFIA approved by the FAA.
- (b) ~~Location and map of zone.~~ The Airport Residential Protection Zones for SWFIA and Page Field are established in accord with F.S. Ch. 333, and depicted in Appendix C.

- ~~(c) *Prohibited uses.* Uses that are incompatible with airport operations or endangers the public health, safety and welfare by constructing residential or educational facilities are prohibited within the established Airport Residential Protection Zones for SWFIA and Page Field.~~
- ~~(d) *Development compliance.* Development within the Airport Residential Protection Zones must comply with the provisions of this article.~~

**Sec. 34-~~1009~~1107. – LCPA Airport Obstruction Notification Zone.**

- ~~(a) *Purpose of zone.* The purpose of the Airport Obstruction Notification Zone is to regulate the height of structures, equipment and objects of natural growth in proximity to SWFIA and Page Field.~~
- ~~(b)(a) *Location and map of zone.* An The LCPA Airport Obstruction Notification Zone is established around SWFIA and Page Field and consists of an imaginary surface extending outward and upward from any point of any SWFIA ~~and or~~ Page Field runway at a slope of 125 to 1 (one foot vertically for every 125 feet horizontally) for a distance up to a height of 125 feet above mean sea level. The LCPA Airport Obstruction Zone also includes the area within a one-half mile radius ~~from of~~ the Airport Surface Radar or any vertical object above 125 feet above mean sea level. The approximate locations of the LCPA Airport Obstruction Notification Zones applicable to SWFIA and Page Field are depicted in Appendix C. ~~The Airport Obstruction Notification Zone map will be reviewed annually by Port Authority staff and the Port Authority Attorney's Office and updated/amended by the Port Authority Executive Director as needed to ensure currency.~~~~
- ~~(c)(b) *Prohibited uses. Permit required.* Any object or structure that is located or is proposed to be located within, or exceeding the surface of, an the LCPA Airport Obstruction Notification Zone, or proposed at a height greater than an imaginary surface extending outward and upward from any point of any SWFIA and Page Field runway at a slope of 125 to 1 (one foot vertically for every 125 feet horizontally) for a distance up to a height of 125 feet above mean sea level and including anything any vertical object above 125 feet above mean sea level or any object or structure within one-half mile of the SWFIA Airport Surveillance Radar, will require a Tall Structures Permit approved by the LCPA. ~~In addition, any object or structure within one-half mile for the SWFIA Airport Surveillance Radar will require a Tall Structures Permit approved by the LCPA. Refer to Administrative Code 13-7 for Tall Structures Permitting procedures.~~~~
- ~~(d) *Development compliance.* No object or structure will be allowed within an Airport Obstruction Notification Zone or at a height greater than an imaginary surface extending outward and upward from any point of any SWFIA and Page Field runway at a slope of 125 to 1 (one foot vertically for every 125 feet horizontally) for a distance up to a height of 125 feet above mean sea level without a prior written approved Tall Structures Permit issued by the LCPA. In addition, any object or structure within one-half mile for the SWFIA Airport Surveillance Radar will require a written approved Tall Structures Permit by the LCPA.~~

**Sec. 34-~~1010~~1108. - LCPA Tall Structures Permit. Obstruction marking and lighting.**

The owner of any structure over 200 feet above ground level or any airport obstruction as defined in this division must install, operate, and maintain, at his or her own expense, marking and lighting on such structure or airport obstruction in accordance with FAA Advisory Circular 70/7460-1L and subsequent amendments. Upon obtaining a permit or written determination through the procedures outlined in Administrative Code 13-7, marking and lighting of obstructions, including machinery and construction equipment, must conform with the FAA's or LCPA's standards for marking and lighting obstructions,

whichever is more restrictive. Prior to issuance of any permit or written determination, the location, height, and time of operation for use of any machinery and equipment must be provided to LCPA.

- ~~(a) The Department of Community Development (DCD) will make the initial determination with respect to whether proposed development exceeds an Airport Obstruction Notification Zone surface based upon on the maps in Appendix C as an element of the zoning, development order and building permit application process. If DCD determines the proposed development, including associated use of temporary construction equipment, exceeds Airport Obstruction Notification Zone surface, the applicant will be required to obtain a written determination from the Lee County Port Authority regarding the potential airport obstruction or hazard created by the development proposed. This provision applies to all development or improvements to land, including new development, redevelopment, building or use modifications etc. proposed after August 9, 2011.~~
- ~~(b) If DCD determines, for any proposed construction, including adding height to any existing structures, and for all alterations, repairs or additions that will change the use of the structure, or for erecting, altering or repairing any object of natural growth, that the height of the proposed structure or object exceeds the height limitations outlined on the Airport Obstruction Notification Zone map, then the applicant is required to obtain a Tall Structures Permit from the Port Authority prior to the issuance of any further development orders or permits.~~
- ~~(c) Applications for a Tall Structures Permit must include the height and location of derricks, draglines, cranes and other boom equipped machinery, if such machinery is to be used during construction.~~
- ~~(d) Applicants intending to use derricks, draglines, cranes and other boom equipped machinery for such construction, reconstruction or alteration as is consistent with the provisions of this subdivision will, when the machine operating height exceeds the height limitations imposed by this subdivision, require a Tall Structures Permit. Upon obtaining this permit through the procedures outlined in this section, the applicant will mark, or mark and light, the machine to reflect conformity with the Federal Aviation Administration's or Port Authority's standards for marking and lighting obstructions, whichever is more restrictive, and will be required in such cases to inform the Port Authority, through this tall structures permit process, of the location, height and time of operation for such construction equipment use prior to the issuance of any permit to the applicant.~~
- ~~(e) The permitting procedures for a Tall Structures Permit are outlined as follows. If a tall structures permit application is deemed necessary by DCD, as determined through the use of the Airport Obstruction Notification Zone map, the following procedures will apply:
  - ~~(1) DCD will give a written notice to the applicant that a Tall Structures Permit is required and that no further permits or development orders can be issued until a Tall Structures Permit is obtained.~~
  - ~~(2) The applicant must then submit a completed Tall Structures Permit application to the Planning and Environmental Compliance Department, Lee County Port Authority, 11000 Terminal Access Road, Ft. Myers, Florida 33913. The Port Authority will review the application, and the following procedures will apply:
    - ~~a. If the Port Authority determines that the proposed construction or alteration represented in the application does not violate the provisions of Federal Aviation Regulations, Part 77, or the provisions of this subdivision or any other application of federal or state rules and regulations or does not adversely affect the airspace surrounding any County, the Port Authority will issue a Tall Structures Permit approval to the applicant with or without~~~~~~

stipulations and conditions. The signed Tall Structures Permit will then be returned to the applicant. The applicant must present the Tall Structures Permit to DCD.

- b. ~~If the Port Authority determines that the proposed construction or alteration violates the notification criteria of Federal Aviation Regulations, Part 77, or otherwise violates any provisions of this subdivision or any other applicable federal or state rules or regulations, the Port Authority will notify the applicant in writing that the proposed construction or alteration may adversely affect the airspace surrounding County airports and require that a notice of proposed construction or alteration be filed with the Federal Aviation Administration for review through the submittal of Federal Aviation Administration Form 7460-1 as required by Federal Aviation Regulations, Part 77. The Port Authority will suspend the tall structures permit application process until Federal Aviation Administration findings of aeronautical effect are received and reviewed.~~
- c. ~~It is the responsibility of the applicant to forward the Federal Aviation Administration's findings of aeronautical effect, along with a copy of the completed original Federal Aviation Administration Form 7460-1, to the Port Authority in order to continue the Tall Structures Permit process.~~
- d. ~~FAA determinations constitute a statement regarding a proposed development's compliance with federal regulations governing airspace obstructions. The FAA does not have authority to grant local development approval. Consequently, Lee County may deny development approvals for a structure even if the FAA has determined that the structure does not constitute a hazard and does not exceed the standards set forth in 14 CFR Part 77.~~
- e. ~~After reviewing the Federal Aviation Administration's comments pertaining to the Federal Aviation Administration Form 7460-1, if the Port Authority determines that the proposed construction or alteration does not adversely affect any requirements pertaining to County airports, the Port Authority will issue a Tall Structures Permit approval to the applicant with or without stipulations and conditions. The applicant will present a copy of the Tall Structures Permit, along with all Port Authority comments and stipulations, to DCD. If the signed Tall Structures Permit is accompanied with stipulations of compliance, it is the responsibility of DCD to ensure that these stipulations are adequately addressed prior to the issuance of any zoning, development order or building permit approvals.~~
- f. ~~After reviewing the Federal Aviation Administration's comments pertaining to the Federal Aviation Administration Form 7460-1, if the Port Authority determines that the proposed construction or alteration does adversely affect any requirements pertaining to County airports, the Port Authority will issue a written denial of the Tall Structures Permit. A denied Tall Structures Permit must state specifically the reasons for denial. A denial must also state whether it is possible to obtain a variance from the provisions of this subsection and the criteria under which a variance may be sought.~~
- g. ~~A Tall Structures Permit will not be issued by the Port Authority if:~~
  - a. ~~the FAA has determined that the proposed structure or object to be a hazard to air navigation.~~

- ~~b. the FAA has determined that the proposed structure or object is an obstruction to air navigation and penetrates one of the airport surfaces identified in F.S. Chs. 330 and 333.~~
- ~~c. the proposed structure or object will impact the available landing area, approach minimums, federal or state licensing or compliance requirements, or otherwise degrade the operation of a County airport and the public investment therein.~~
- ~~h. Temporary or conditional tall structures permits pending completion of the Federal Aviation Administration's or the Port Authority's review will not be issued.~~
- ~~(3) FDOT Determinations. If the proposed construction or alteration (1) exceeds the federal obstruction standards as contained in 14 CFR §§ 77.13, 77.17, 77.19, 77.21 or 77.23; and, (2) is within ten nautical miles of the geographic center of a County airport; and, (3) is located within an incorporated municipality that has not entered into an interlocal agreement with the County and Port Authority regarding compliance with the provisions of this subdivision, then the applicant must obtain an Airspace Obstruction Permit from the Florida Department of Transportation. This permit request must be submitted to the FDOT Aviation Office in Tallahassee in compliance with the provisions of F.S. Ch 333. Lee County does not have jurisdiction to issue a permit approval absent an interlocal agreement within the incorporated municipality.~~
- ~~(4) Review timing. Port Authority has 60 days to issue a written response to a complete Tall Structures Permit application or determination request unless an applicant agrees to an alternative review period or an FAA determination is required. If an FAA airspace determination is required, the Port Authority will notify the applicant of this fact in writing within 30 days after a complete application is submitted. Once the applicant obtains the necessary FAA determination, the Port Authority will have an additional 30 days to review the application in conjunction with the FAA determination and issue a written report.~~
- ~~(5) Permit validity. An airport obstruction permit is valid for a period of one year after issuance, unless a local development permit is issued based upon the Airport Obstruction permit approval or determination.~~
- ~~(6) Development approval. Lee County may not issue a development approval for a parcel subject to compliance with this subdivision until the required Tall Structures Permit or determination is issued by the Port Authority.~~

**Sec. 34-~~1011~~1109. - Variance.**

- (a) An applicant may seek a variance from the provisions of this ~~District~~ division in accordance with the provisions set forth in section 34-145 and this section. Relief from the provisions of this division may be approved only by variance and may not be approved by deviation as part of a planned development rezoning or planned development amendment.
- (b) The variance application must include the following items in addition to the submittal requirements of Article II, Division 6 of this chapter:
  - (1) A copy of the written request submitted in support of the development to the LCPA Port Authority.
  - (2) A copy of the application for a written determination submitted to the FAA in accord with 14 CFR Part 77 if the variance is related to a Tall Structures Permit.

- (3) A copy of any previous determinations from the LCPA Port Authority and FAA.
- (4) Documentation supporting the proposed development's position that:
  - a. The enforcement of these regulations will result in a practical difficulty or unnecessary hardship;
  - b. Granting the variance can be accommodated in the navigable airspace without an adverse impact to the aviation operation of SWFIA or Page Field; and
  - c. The relief requested is not contrary to the public interest, safety and welfare.
- (c) ~~Pursuant to F.S. § 333.07, any applicant may seek a variance to any determination under this section. Variance requests must be made in writing to Lee County in accordance with the provisions set forth in section 34-145 and this section. At the time of filing the variance application, the applicant must forward a copy of the application to the FDOT Aviation Office and the LCPA Lee County Port Authority Planning and Environmental Compliance Department by certified mail, return receipt requested. FDOT and The LCPA Lee County Port Authority will have 45 days from the receipt of the variance application to provide comments to the applicant and the County. Noncompliance with the variance procedures outlined in F.S. § 333.07 will be grounds for appeal pursuant to F.S. § 333.08 and to apply for judicial relief pursuant to F.S. § 333.11.~~

**Sec. ~~34-1012~~1110. - Land use restrictions.**

- (a) *Land use restrictions.* Notwithstanding other provisions of this subdivision, no use may be made of land or water within the County that will interfere with the safe operation of an airborne aircraft. The following special requirements apply:
  - (1) Lights or illumination used in conjunction with streets, parking, signs, or use of land and structures must be arranged and operated in a manner that it is not misleading or dangerous to aircraft operating from a public airport.
  - (2) Floodlights, spotlights and pulsating, flashing, rotating or oscillating lights intended as attention-gathering devices are prohibited if the LCPA Lee County Port Authority determines they will create a possible hazard to air navigation.
  - (3) Operations that produce smoke, dust, visible fumes or vapors, glare or other visual hazards within three statute miles of public airport runway are prohibited.
  - (4) Operations that may produce electronic interference with navigational signals or radio communication between aircraft, a public airport or other types of air traffic controlling facilities are prohibited.
  - (5) Sanitary landfills. All proposed and existing landfills shall be reviewed to determine whether they attract or sustain hazardous bird movements from feeding, water, or roosting areas into or across the runways or approach and departure patterns of aircraft. The existence of such hazards must be considered in deciding whether to permit a proposed landfill, and whether to require an existing or proposed landfill to use bird management techniques or other practices to minimize bird hazards to airborne aircraft. Sanitary landfills shall not be located: Sanitary landfills must be located in accordance with the following:
    - a. ~~Landfills may not be located w~~Within 10,000 feet of a runway used or planned to be used by turbojet or turboprop turbine aircraft.

- b. ~~Landfills may not be located w~~Within 5,000 feet of a runway used or planned to be used only by piston type non-turbine aircraft.
  - c. ~~Landfills may not be located in a manner that places the runways or approach and departure patterns of an airport between bird feeding, water or roosting areas. Outside the perimeters described in subsections a and b above, but within the lateral limits of the civil airport imaginary surfaces as defined by federal regulations, as amended from time to time, for approaching, departing, and circling aircraft.~~
- ~~(6) No use of land that will be a wildlife attractant hazard (pursuant to FAA AC 150/5200-33B), greater than the existing conditions, to the operation of aircraft in and out of a Lee County airport. If such attractant is determined to exist by the Port Authority and the FAA, the land owner will have the full and sole responsibility to eliminate the hazardous situation.~~
- ~~(7)(6)~~ Any type of dirigible, balloon or other type of tethered, hovering or floating object the height of which exceeds the airspace notification limitations ~~outlined in section 34-1008~~ is subject to review as outlined in under section 34-1011107 and Administrative Code 13-7.
- ~~(8)(7)~~ No structure of any height, type or material may be constructed or altered if it will cause interference to any airport surveillance radar system as determined by the Federal Aviation Administration or the LCPA Port Authority. Due to the fact that the operation of the airport surveillance radar (ASR) facility is electromagnetic in nature, objects may have an adverse affect on the safe and efficient operation of the ASR facility and the safe operation of aircraft overflying southwest Florida. Therefore, no facility will be permitted that the LCPA Port Authority determines will degrade, cause false shadows or targets, or in any way hinder or obstruct the existing or future planned use of an ASR facility in Lee County. The LCPA Port Authority, as part of their review of a proposed structure or land use may request, at its expense, an FAA study to be performed to determine the potential of electromagnetic interference.
- ~~(9)(8)~~ Pursuant to F.S. Ch. 333 and FAA AC 150/5200-33B as amended, renumbered or replaced, any use of land or developments that attract birds and other wildlife that are hazardous to aircraft or airport operations, greater than the existing conditions, are prohibited. Developments with uses including, but not limited to; sanitary landfills, waste disposal operations, underwater waste discharge, wastewater treatment facilities, agricultural activities, artificial marshes, wetland mitigation and creation, will be reviewed on a case by case basis to determine the likelihood of creating a wildlife attractant hazardous to air navigation. If such attractant is determined to exist by the LCPA and the FAA, the landowner will have the full and sole responsibility to eliminate the hazardous situation.
- ~~(10)(9)~~ Pursuant to FAA AC 150/5200-33B as amended, renumbered or replaced, all water management ponds, lakes, canals, conveyances, and other features within 10,000 feet of any public airport are encouraged to be designed and built in accordance with FAA recommendations.
- (10) LCPA may evaluate any object, including natural growth or terrain, to identify potential interference with the safe operation of aircraft. Upon finding an obstruction, LCPA will report the violation to Lee County for Code Enforcement, but also reserves the right to require removal of the obstruction through appropriate legal action if the obstruction remains in place.
- ~~(b) Obstruction marking and lighting.~~

~~(1) As a condition of approval, the Port Authority may require the owner to mark and light the structure to facilitate navigation safety. Marking and lighting must conform to the standards set forth in F.S. § 333.07 and Federal Aviation Administration Advisory Circular 70/7460-1K.~~

**Sec. ~~34-1013~~1111. - Nonconforming uses.**

- (a) Except as prescribed in section 34-1005(b)1108, pertaining to obstruction marking and lighting, the requirements of this subdivision will not be construed to necessitate the removal, lowering or alteration of a structure existing on September 1, 1991 that does not conforming to the requirements set forth in this subdivision; nor may it be construed to require sound conditioning or other changes or alterations of any existing structure not conforming to the requirements as of September 1, 1989, or otherwise interfere with the continuance of any existing nonconforming use. Nothing contained in this subdivision requires any change in construction or alteration begun prior to September 1, 1989, and completed by September 1, 1991.
- (b) Trees or objects of natural growth determined to be airport obstructions do not qualify for the nonconforming status provisions described in 34-1111(a). The cost of removing or lowering any tree or object of natural growth not conforming to the requirements of this section will be borne by the owner of the nonconforming tree or object.
- (c) Abandonment. If a nonconforming airport obstruction has been abandoned or is more than 80 percent torn down, destroyed, deteriorated, or decayed, a permit may not be granted if it would allow the airport obstruction to exceed the applicable height limit or otherwise deviate from the airport protection zoning regulations. Whether or not an application is made for a permit under this subsection, the owner of the nonconforming airport obstruction may be required, at his or her own expense, to lower, remove, reconstruct, alter, or equip such airport obstruction as may be necessary to conform to the current airport protection zoning regulations. If the owner of the nonconforming airport obstruction neglects or refuses to comply with such requirement for 30 days after notice, the County may proceed to have the airport obstruction lowered, removed, reconstructed, altered, or equipped, and assess the cost and expense thereof upon the owner of the airport obstruction or the land whereon it is, or was, located.

**Sec. 34-1112. – Appeals and Enforcement.**

- (a) A decision or determination made by the Director in accordance with this division may be appealed pursuant to F.S. § 333.09(3).
- (b) Failure to comply with the regulations of this division are subject to enforcement in accordance with F.S. § 333.09(3) and F.S. § 333.13.

**Secs. ~~34-1091~~1113—34-1168.** Reserved.

**APPENDIX C - AIRPORT-NOISE ZONES- COMPATIBILITY DISTRICT MAPS**

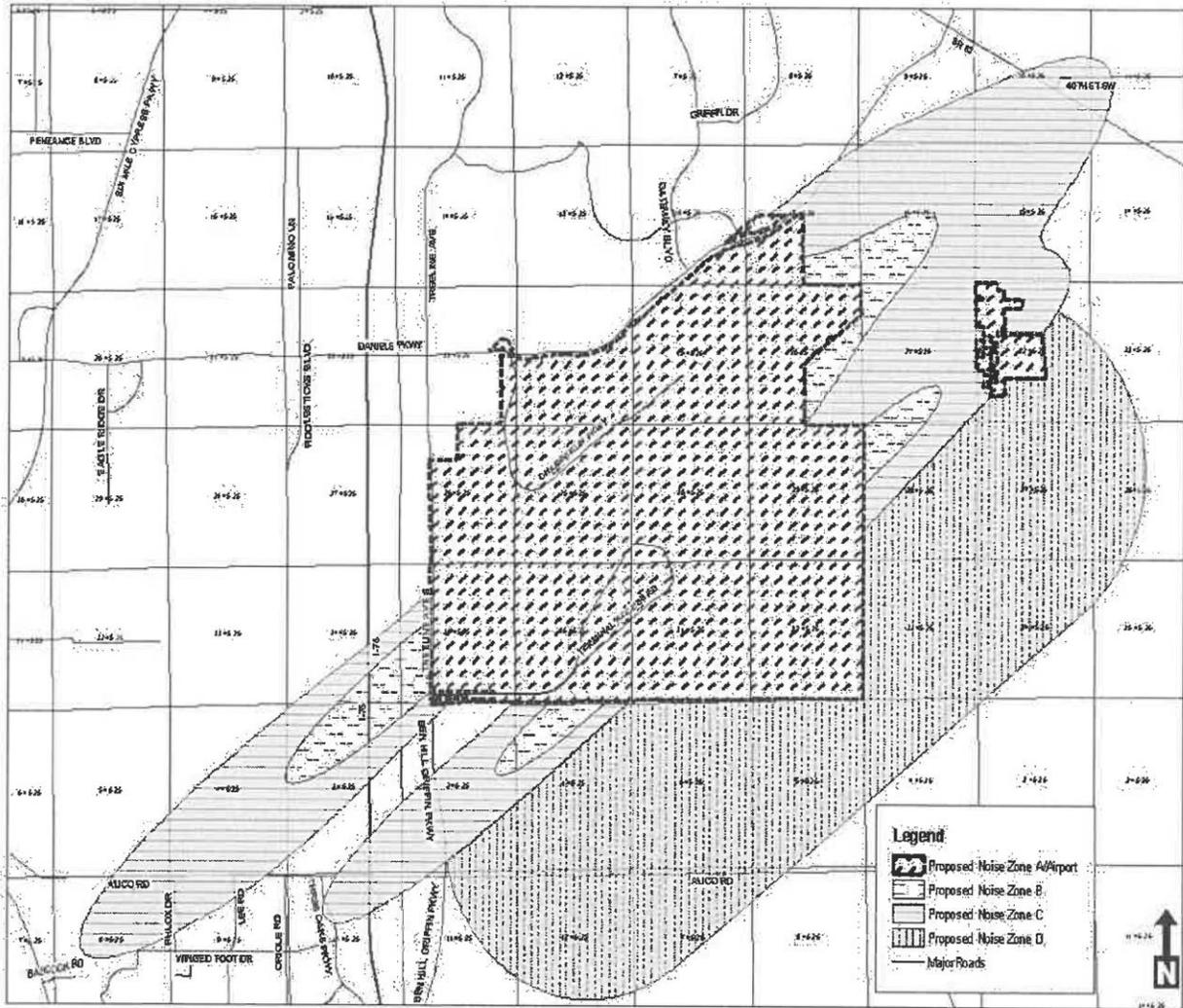
**APPENDIX C – AIRPORT ~~NOISE ZONES~~ COMPATIBILITY DISTRICT MAPS**

**Map 1 is unchanged.**

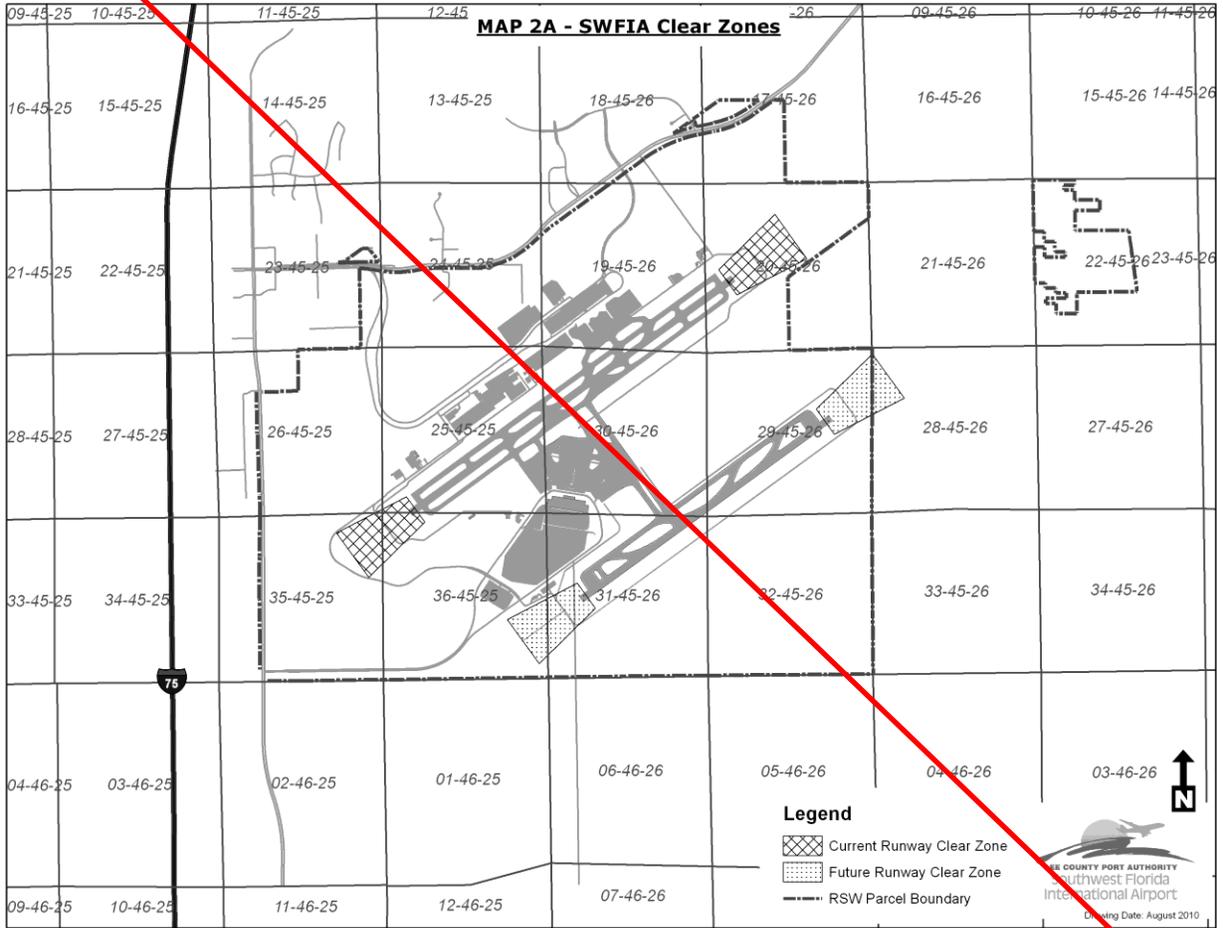
**Maps 2A through 10 are to be replaced with Maps 2A through 9 as provided on the following pages.**

APPENDIX C - AIRPORT NOISE ZONES COMPATIBILITY DISTRICT MAPS

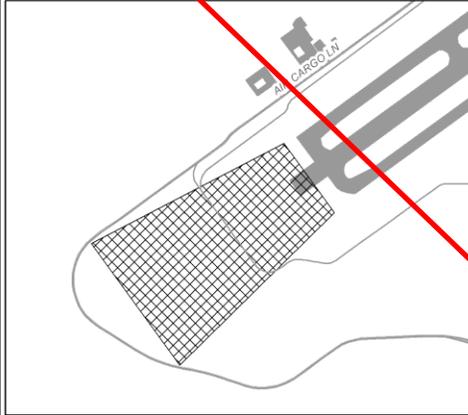
MAP 1 - SWFIA Airport Noise Zone Map



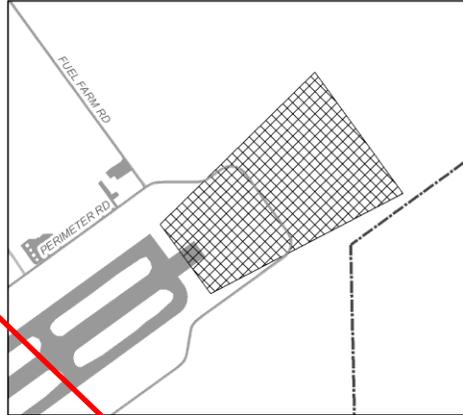
( [Ord. No. 16-19](#), § 11, 11-15-16)



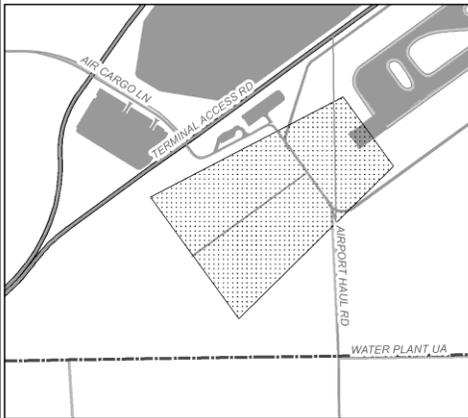
## MAP 2B - SWFIA Clear Zone



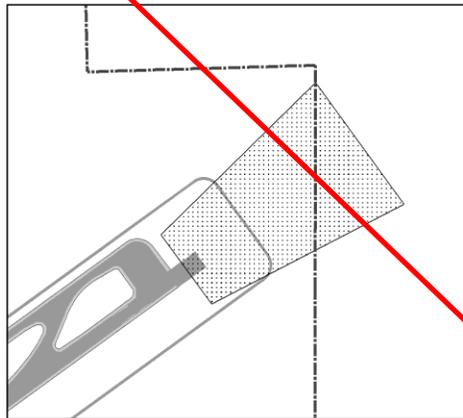
**Existing Runway West**



**Existing Runway East**



**Future Runway West**



**Future Runway East**

### SWFIA CLEAR ZONE

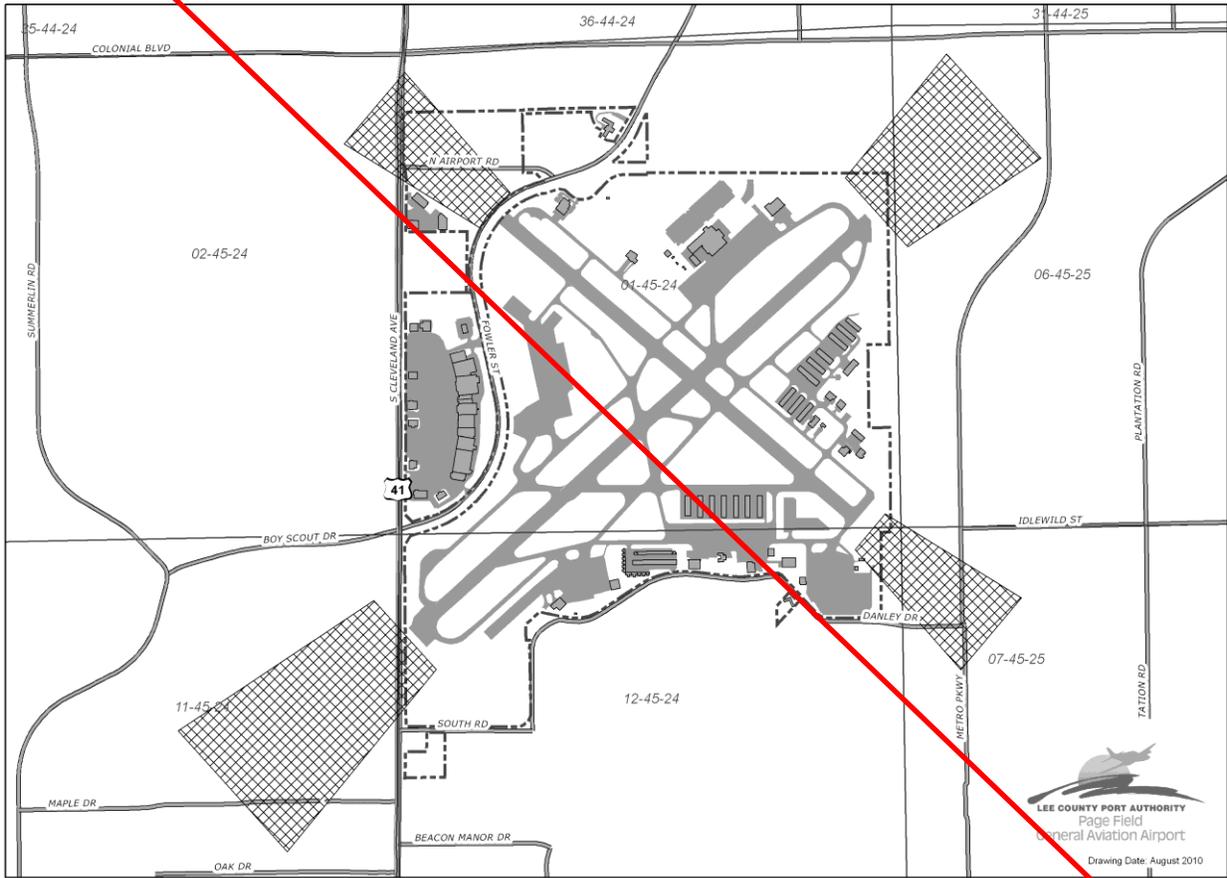
This map was developed by the Lee County Port Authority pursuant to Lee County Land Development Code Section 34-1006, to assist the Department of Community Development in determining land use compatibility surrounding Southwest Florida International Airport.

**Use of this map is limited to** notification and review procedures detailed in LDC Section 34-1006 and is in no way intended to authorize or suggest allowable heights or land uses. Any other use of this map is done without the knowledge, concurrence or approval of Lee County Port Authority.

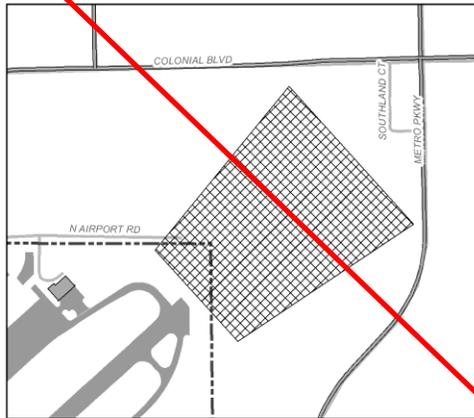
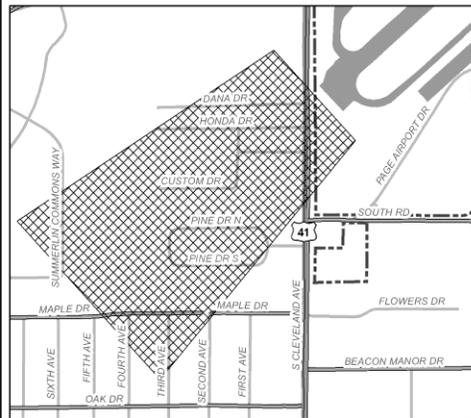
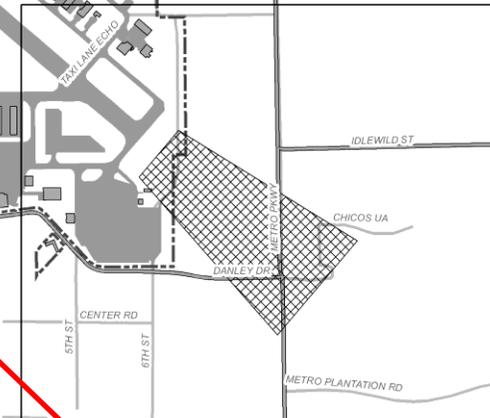
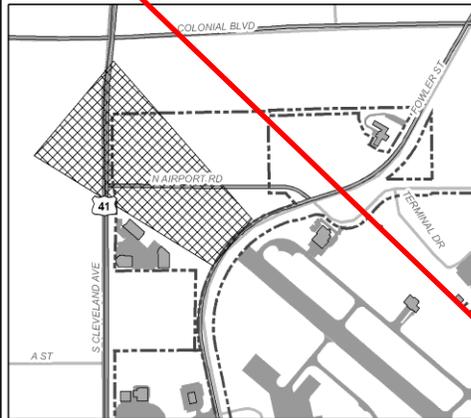


Creating Date: August 2010

# MAP 3A - Page Field Clear Zone



# MAP 3B - Page Field Clear Zone



## FMY CLEAR ZONE

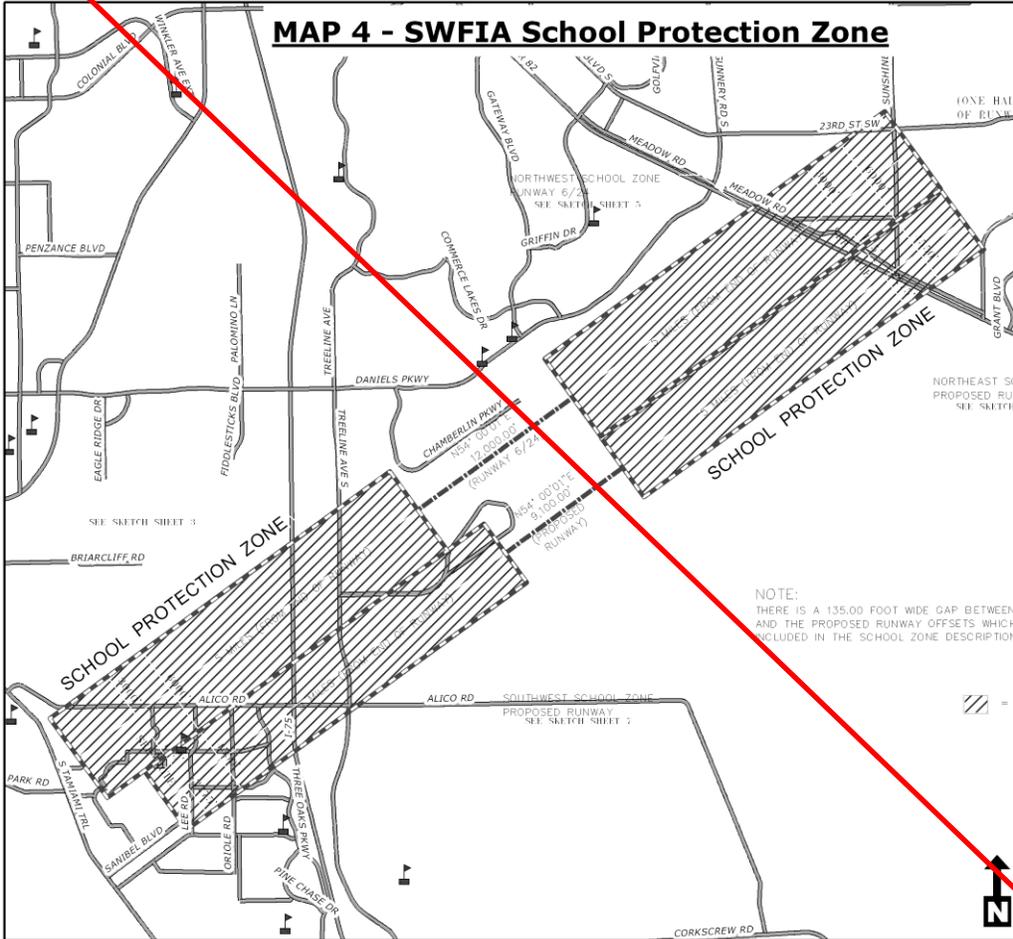
This map was developed by the Lee County Port Authority pursuant to Lee County Land Development Code Section 34-1006, to assist the Department of Community Development in determining land use compatibility surrounding Page Field General Aviation Airport.

**Use of this map is limited** to notification and review procedures detailed in LDC Section 34-1006 and is in no way intended to authorize or suggest allowable heights or land uses. Any other use of this map is done without the knowledge, concurrence or approval of Lee County Port Authority.



Drawing Date: August 2010

# MAP 4 - SWFIA School Protection Zone



NOTE:  
THERE IS A 135.00 FOOT WIDE GAP BETWEEN  
AND THE PROPOSED RUNWAY OFFSETS WHICH  
INCLUDED IN THE SCHOOL ZONE DESCRIPTIONS

## RSW SCHOOL PROTECTION ZONE

This map was developed by the Lee County Port Authority pursuant to Lee County Land Development Code Section 34-1007, to assist the Department of Community Development in determining land use compatibility surrounding Southwest Florida International Airport.

Use of this map is limited to notification and review procedures detailed in LDC, Section 34-1007 and is in no way intended to authorize or suggest allowable heights or land uses. Any other use of this map is done without the knowledge, concurrence or approval of Lee County Port Authority.



Drawing Date: August 2010

# MAP 5 - Page Field School Protection Zone



## FMY SCHOOL PROTECTION ZONE

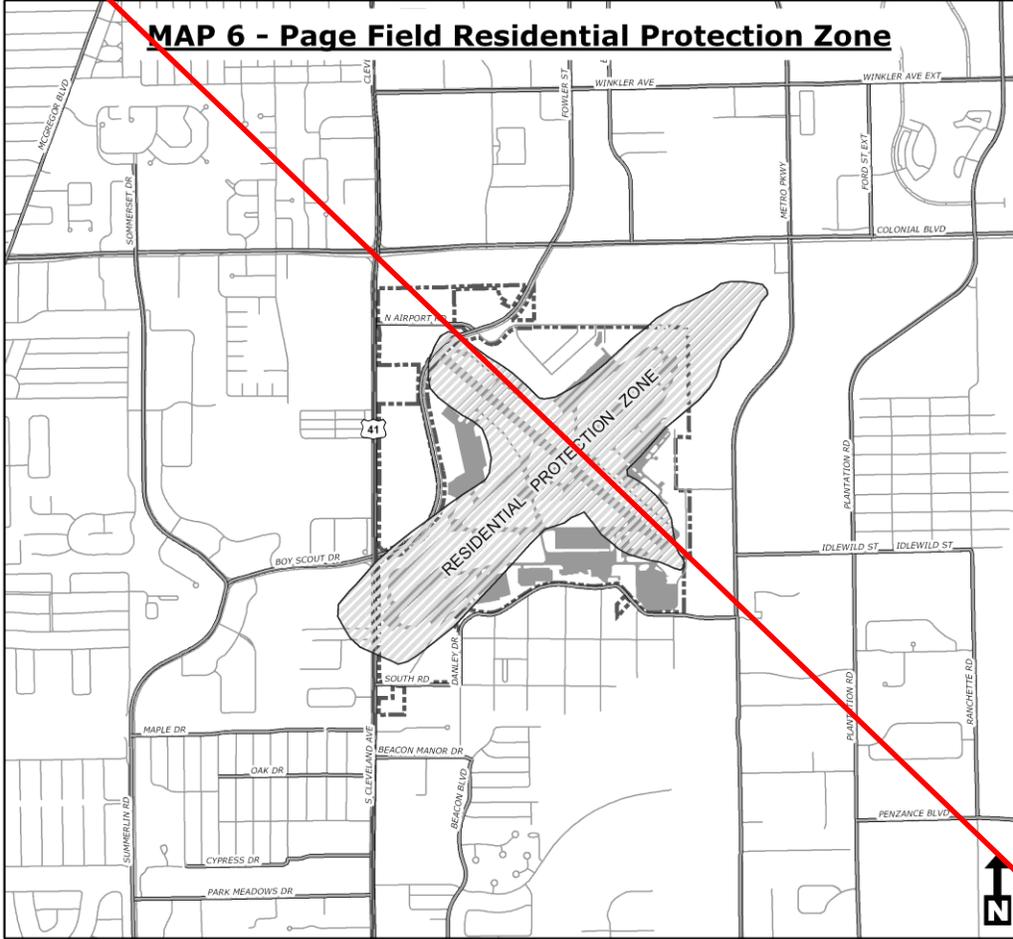
This map was developed by the Lee County Port Authority pursuant to Lee County Land Development Code, Section 34-1007, to assist the Department of Community Development in determining land use compatibility surrounding Page Field General Aviation Airport.

**Use of this map is limited to notification and review procedures detailed in LDC, Section 34-1007, and is in no way intended to authorize or suggest allowable heights or land uses. Any other use of this map is done without the knowledge, concurrence or approval of Lee County Port Authority.**



Drawing Date: August 2010

# MAP 6 - Page Field Residential Protection Zone



## FMY RESIDENTIAL PROTECTION ZONE

This map was developed by the Lee County Port Authority pursuant to Lee County Land Development Code, Section 34-1008, to assist the Department of Community Development in determining land use compatibility surrounding Page Field General Aviation Airport. Use of this map

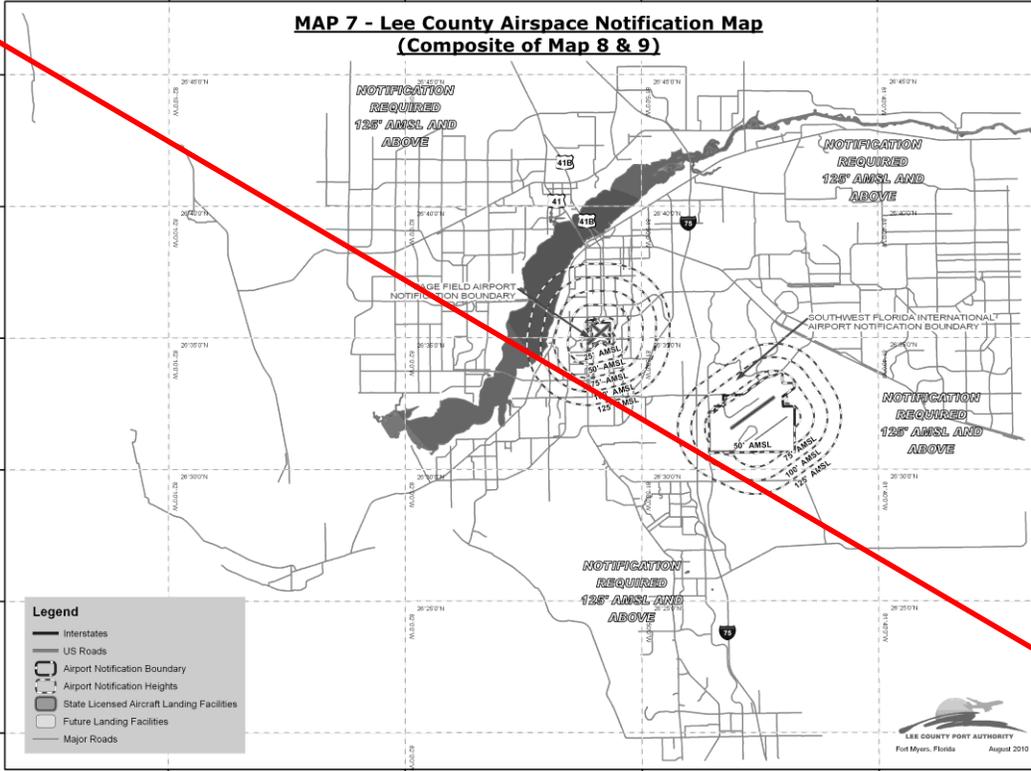
**Use of this map is limited to** notification and review procedures detailed in LDC, Section 34-1008, and is in no way intended to authorize or suggest allowable heights or land uses. Any other use of this map is done without the knowledge, concurrence or approval of Lee County Port Authority.



Drawing Date: August 2010



**MAP 7 - Lee County Airspace Notification Map  
(Composite of Map 8 & 9)**



**LEE CO. AIRSPACE NOTIFICATION MAP**

This map was developed by the Lee County Port Authority pursuant to Lee County Land Development Code Section 34-1009, to assist the Department of Community Development in determining land use compatibility surrounding Lee County Airports.

Use of this map is limited to notification and review procedures detailed in LDC Section 34-1009 and is in no way intended to authorize or suggest allowable heights or land uses. Any other use of this map is done without the knowledge, concurrence or approval of Lee County Port Authority.

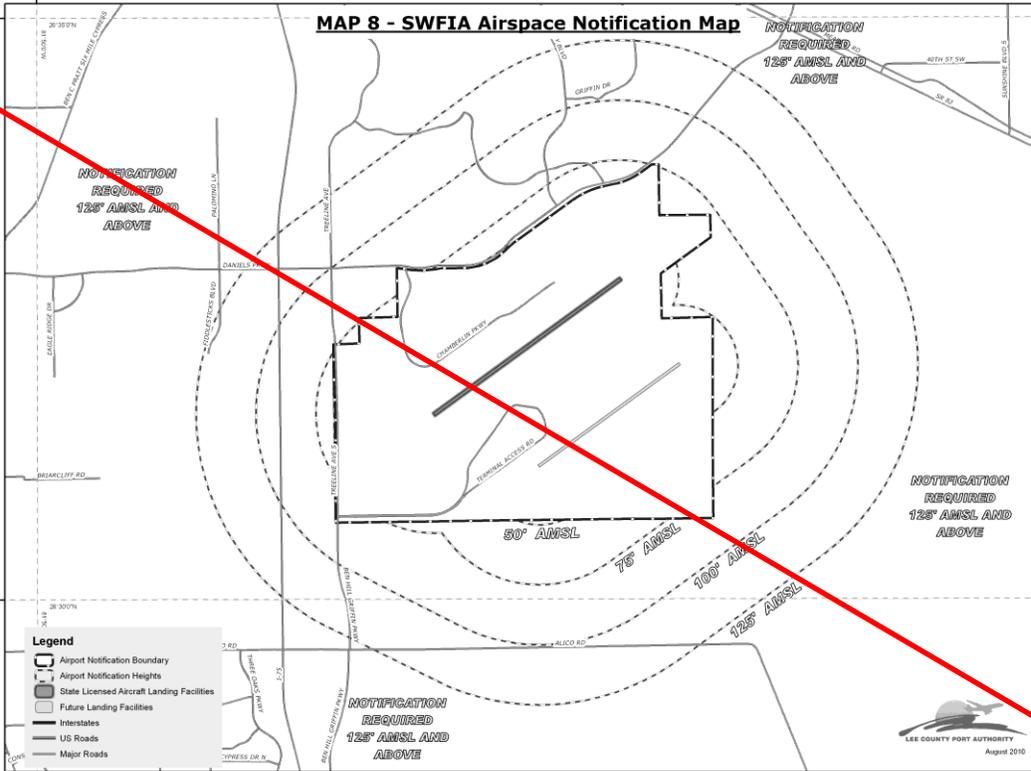
**Instructions for Use**

- Step 1: Determine location of proposed object on the map surface.
- Step 2: If the proposed project is located within the Southwest Florida International or Page Field Airport Notification Boundary, go to Step 6a; otherwise continue to Step 3.
- Step 3: Determine the proposed project and all related temporary construction equipment's maximum height. Above Mean Sea Level (AMSL = object's height above ground + ground elevation). If the proposed object's or temporary construction equipment's maximum height is 125' AMSL or greater, go to Step 6a; otherwise go to Step 4.
- Step 4: Determine if the proposed object or any temporary construction equipment heights AMSL will exceed any of the notification heights for the selected area.
- Step 5: If the proposed object or construction equipment exceeds the notification heights, go to Step 6a; otherwise go to Step 6b.
- Step 6a: Submit a Tall Structure Review Application to the Lee County Port Authority.
- Step 6b: Notification is not required.



LEE COUNTY PORT AUTHORITY  
Fort Myers, Florida August 2010

**MAP 8 - SWFIA Airspace Notification Map**



**SWFIA AIRSPACE NOTIFICATION MAP**

This map was developed by the Lee County Port Authority pursuant to Lee County Land Development Code, Section 34-1009, to assist the Department of Community Development in determining land use compatibility surrounding Page Field General Aviation Airport. Use of this map

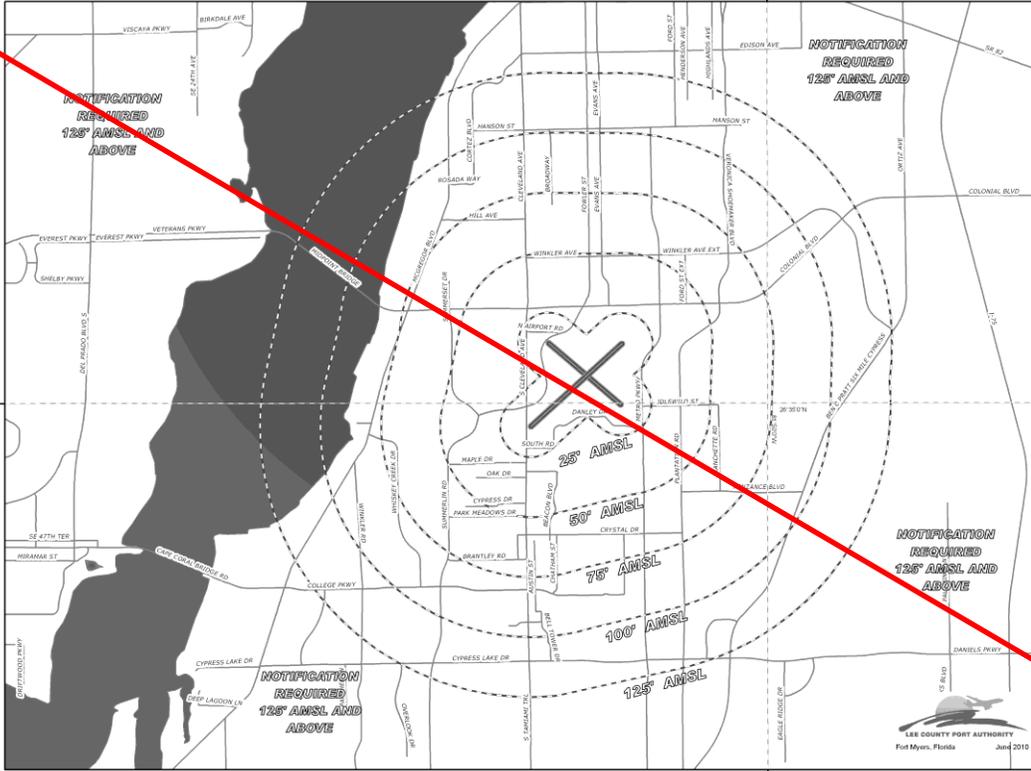
Use of this map is limited to notification and review procedures detailed in LDC Section 34-1009, and is in no way intended to authorize or suggest allowable heights or land uses. Any other use of this map is done without the knowledge, concurrence or approval of Lee County Port Authority.

**Instructions for Use**

- Step 1: Determine location of proposed object on the map surface.
- Step 2: If the proposed project is located within the Southwest Florida International Airport Notification Boundary, go to Step 6a; otherwise continue to Step 3.
- Step 3: Determine the proposed project and all related temporary construction equipment's maximum height. Above Mean Sea Level (AMSL = object's height above ground + ground elevation). If the proposed object's or temporary construction equipment's maximum height is 125' AMSL or greater, go to Step 6a; otherwise go to Step 4.
- Step 4: Determine if the proposed object or any temporary construction equipment heights AMSL will exceed any of the notification heights for the selected area.
- Step 5: If the proposed object or construction equipment exceeds the notification heights, go to Step 6a; otherwise go to Step 6b.
- Step 6a: Submit a Tall Structure Review Application to the Lee County Port Authority.
- Step 6b: Notification is not required.



LEE COUNTY PORT AUTHORITY  
August 2010



**FMY AIRSPACE NOTIFICATION MAP**

This map was developed by the Lee County Port Authority pursuant to Lee County Land Development Code, Section 24-1009, to assist the Department of Community Development in determining whether a proposed or existing object or piece of equipment to be used during the construction of an object would require an airspace review by Lee County Port Authority through submittal of a Tall Structures Review Application.

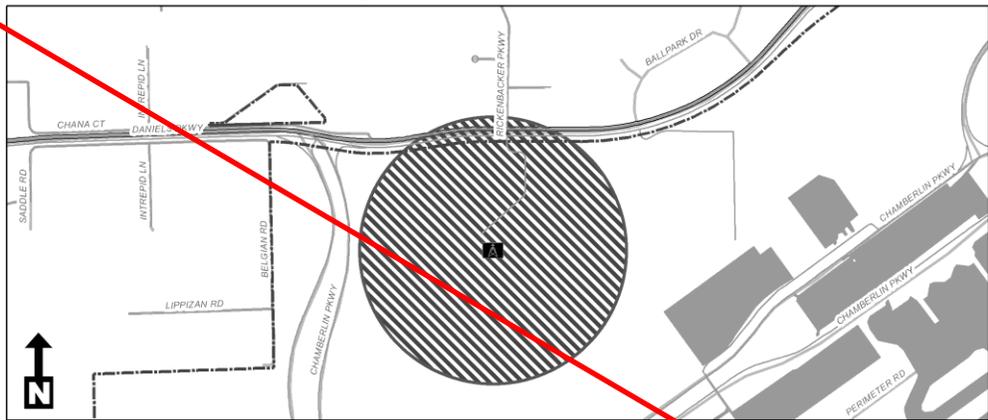
Use of this map is limited to notification procedures only and is in no way intended to authorize or suggest allowable object heights. Any other use of this map is done without the knowledge, concurrence or approval of Lee County Port Authority.

**Instructions for Use**

- Step 1 Determine location of proposed object on the map surface.
- Step 2 If the proposed project is located within the Page Field or Southwest Florida International Airport Notification Boundary go to Step 9a; otherwise continue to Step 3.
- Step 3 Determine the proposed object's max. height Above Mean Sea Level (AMSL = height of object + ground elevation) then go to Step 4.
- Step 4 Determine if the proposed object will use a crane or similar equipment during construction.
- Step 5 If the proposed object will use a crane, go to Step 6, if it will not use a crane, go to Step 7.
- Step 6 Determine the crane's operating height AMSL.
- Step 7 Determine if proposed object or crane heights AMSL exceed any of the notification heights for the selected area.
- Step 8 If proposed object or crane exceeds notification heights, go to Step 9a; otherwise go to Step 9b.
- Step 9a Submit a Tall Structure Review Application to Lee County Port Authority.
- Step 9b Notification is not required.



# MAP 10 - SWFIA Airport Surveillance Radar Review Zones



**ASR 1500' Buffer**



**ASR .5 Mile Buffer**

## SWFIA ASR REVIEW ZONE

This map was developed by the Lee County Port Authority pursuant to Lee County Land Development Code Section 34-1009, to assist the Department of Community Development in determining land use compatibility surrounding Southwest Florida International Airport.

**Use of this map is limited to notification and review procedures detailed in LDC Section 34-1009 and is in no way intended to authorize or suggest allowable heights or land uses. Any other use of this map is done without the knowledge, concurrence or approval of Lee County Port Authority.**

### Instructions for Use

- Step 1 Determine location of proposed object on the map surface.
- Step 2 If the proposed project is located within the Southwest Florida International Airport Surveillance Radar Notification Boundary, regardless of the proposed height, submit a Tall Structure Review Application to the Lee County Port Authority.
- Step 3 If the proposed project is not located within the Southwest Florida International Airport Surveillance Radar Notification Boundary, no notification is required unless otherwise dictated by the Southwest Florida International Airport Airspace Notification Map.



Drawing Date: August 2010

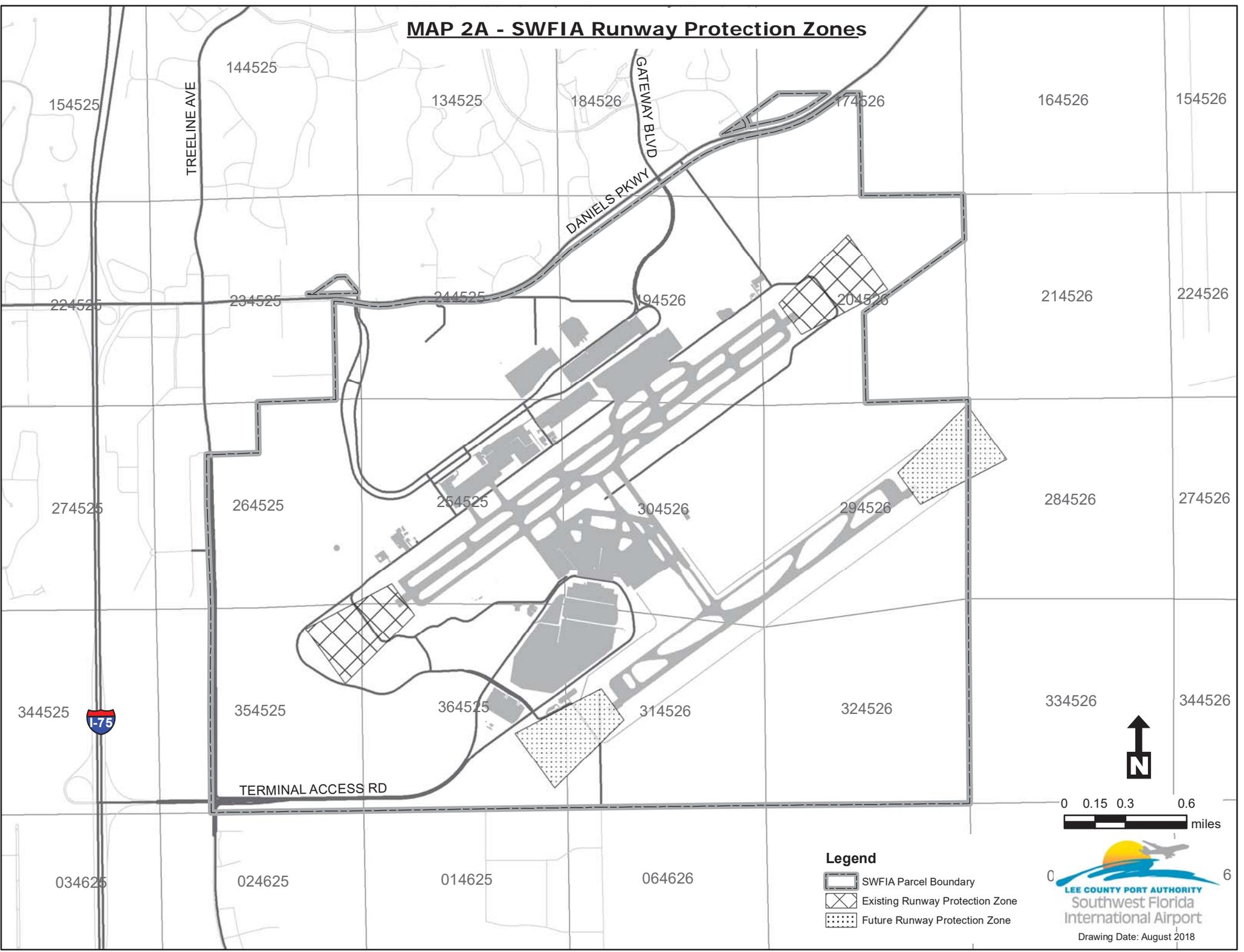
(Ord. No. [05-15](#), § 2, 8-23-05; Ord. No. [11-08](#), § 11, 8-9-11)

Footnotes:

--- (1) ---

**Editor's note**— Lee County Land Development Code Appendix C is hereby amended to repeal Ord. No. [05-15](#) and replace with Ord. 11-08.

# MAP 2A - SWFIA Runway Protection Zones



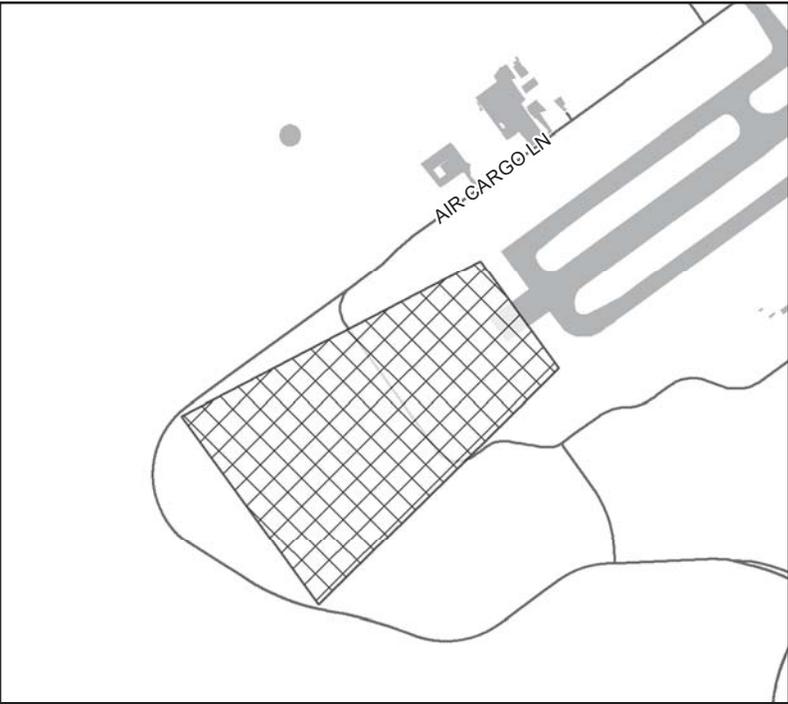
### Legend

- SWFIA Parcel Boundary
- Existing Runway Protection Zone
- Future Runway Protection Zone

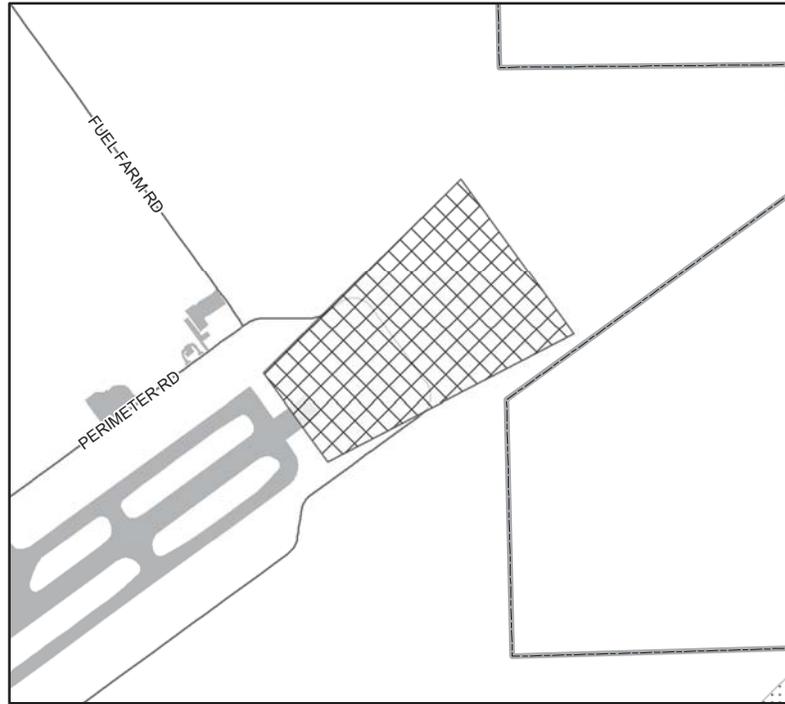


Drawing Date: August 2018

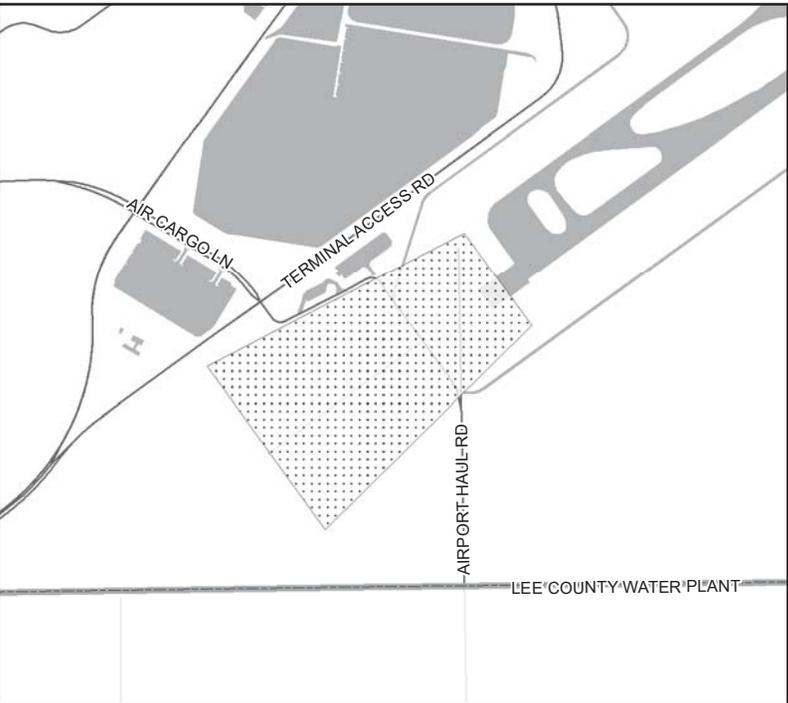
# MAP 2B - SWFIA Runway Protection Zones



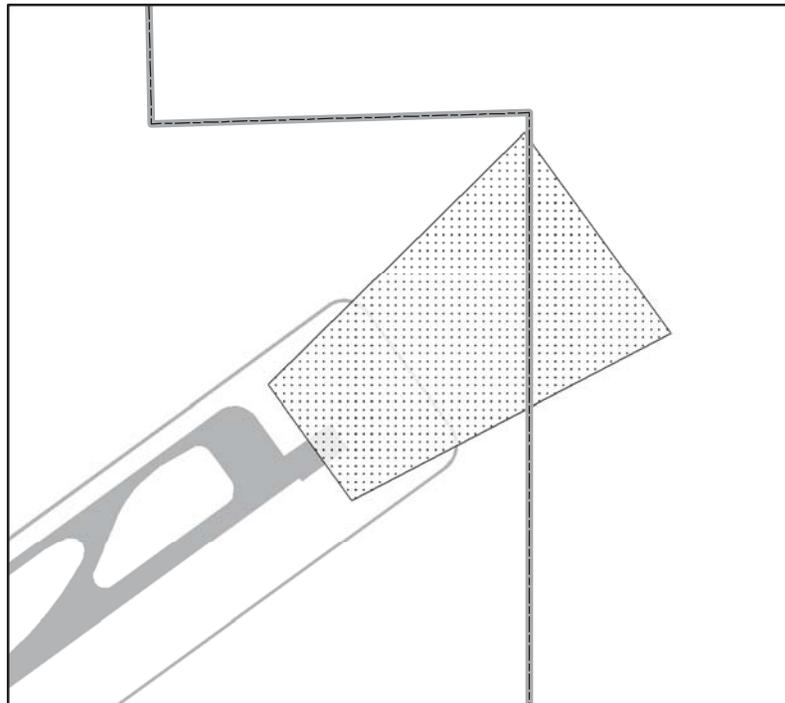
**Existing Runway West**



**Existing Runway East**



**Future Runway West**



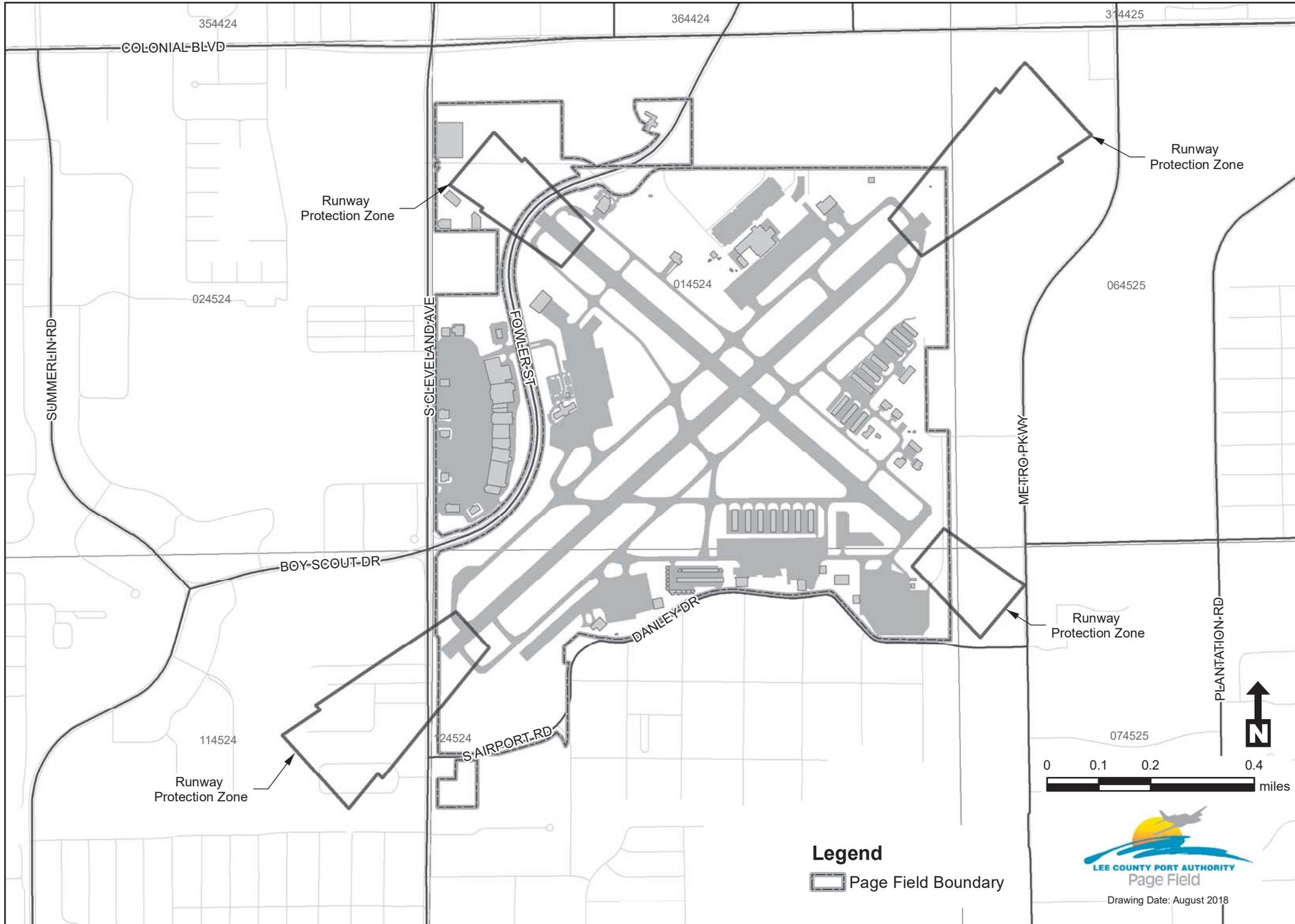
**Future Runway East**

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



Drawing Date: August 2018

# MAP 3A - Page Field Runway Protection Zones



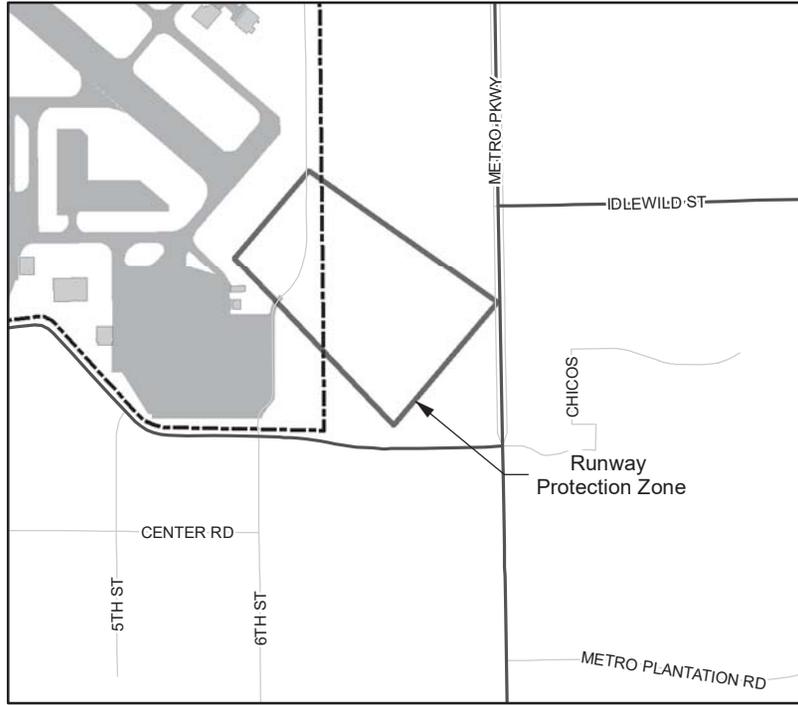
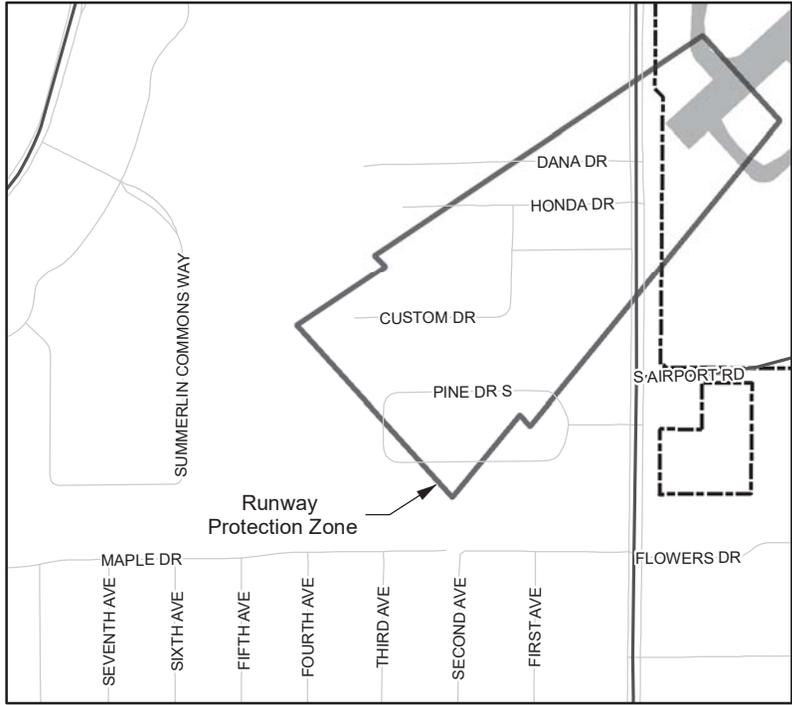
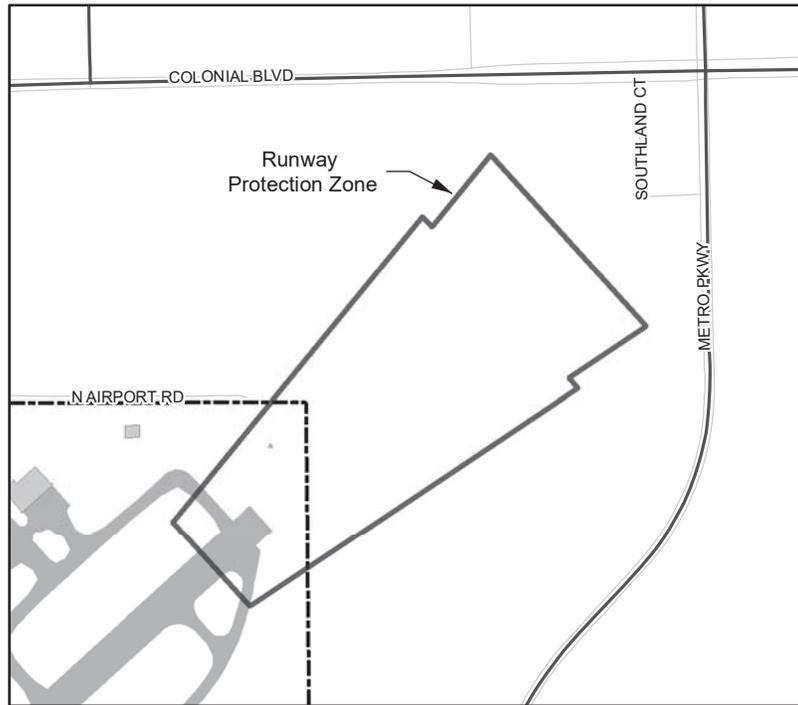
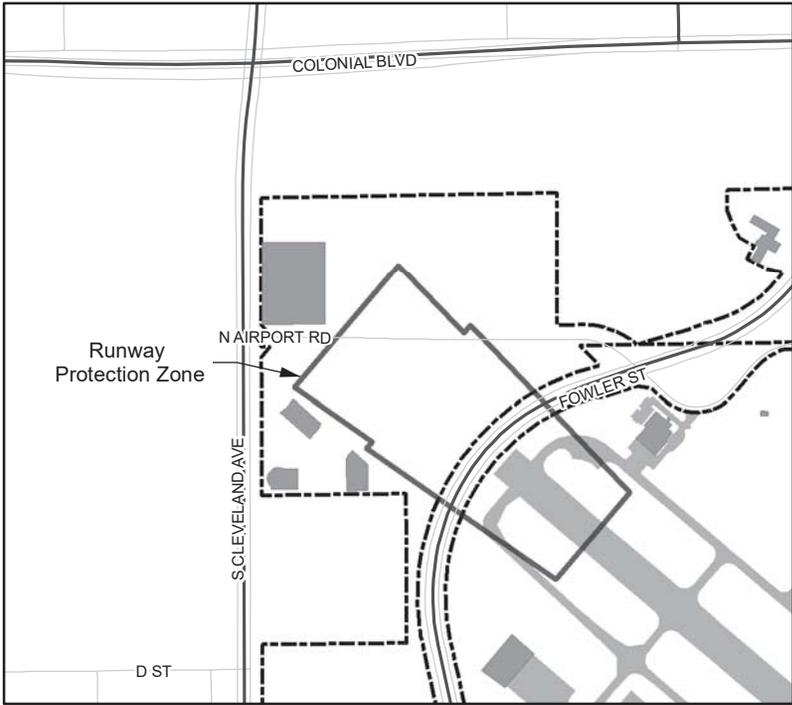
## Legend

 Page Field Boundary

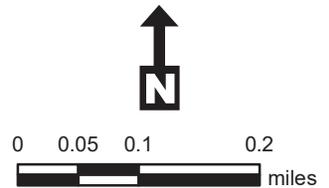


Drawing Date: August 2018

# MAP 3B - Page Field Runway Protection Zones

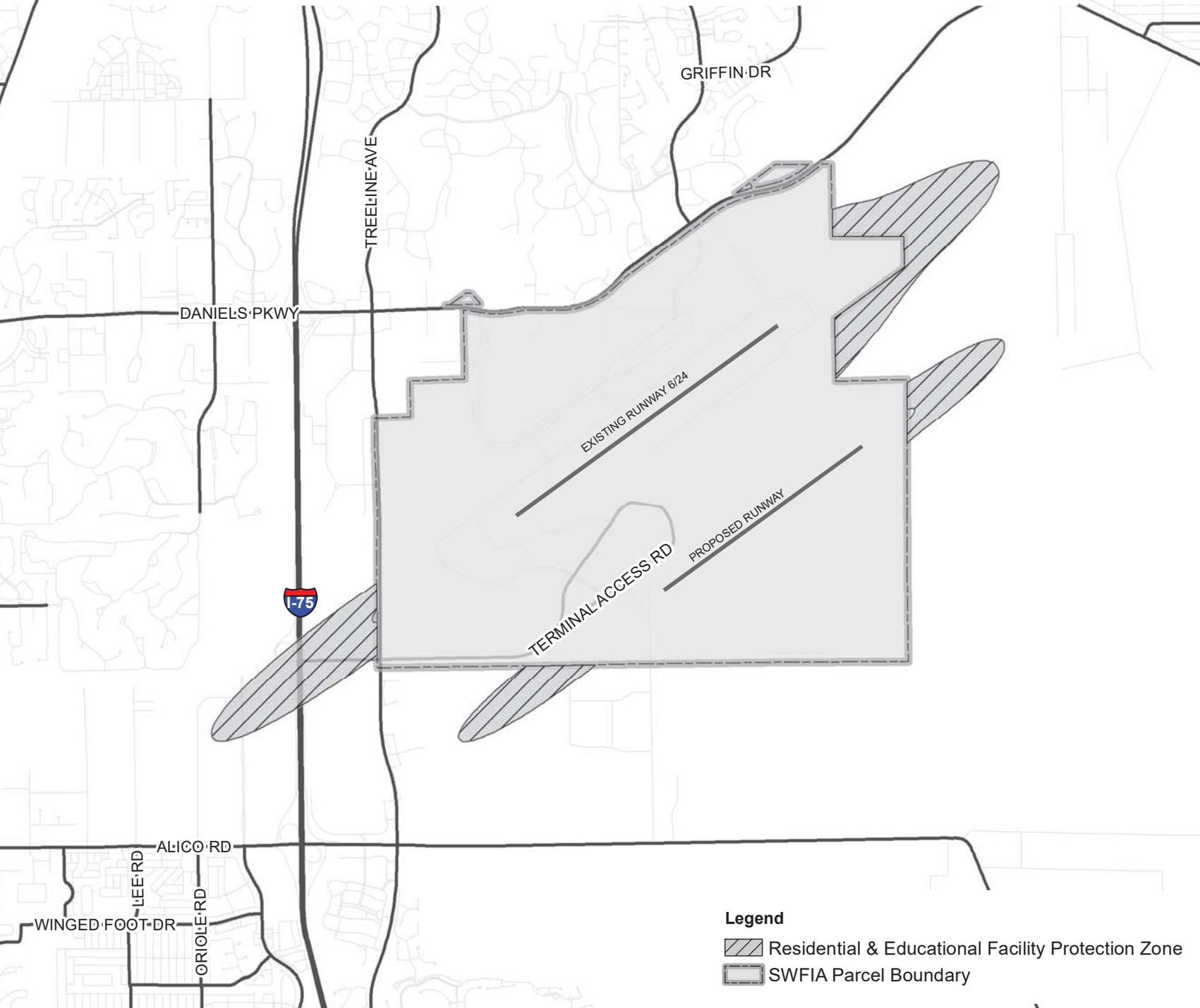


Use of this map is limited to notification and review and is not intended to authorize or suggest allowable heights or land uses.



Drawing Date: August 2018

# MAP 4 - SWFIA Residential & Educational Facility Protection Zone



### Legend

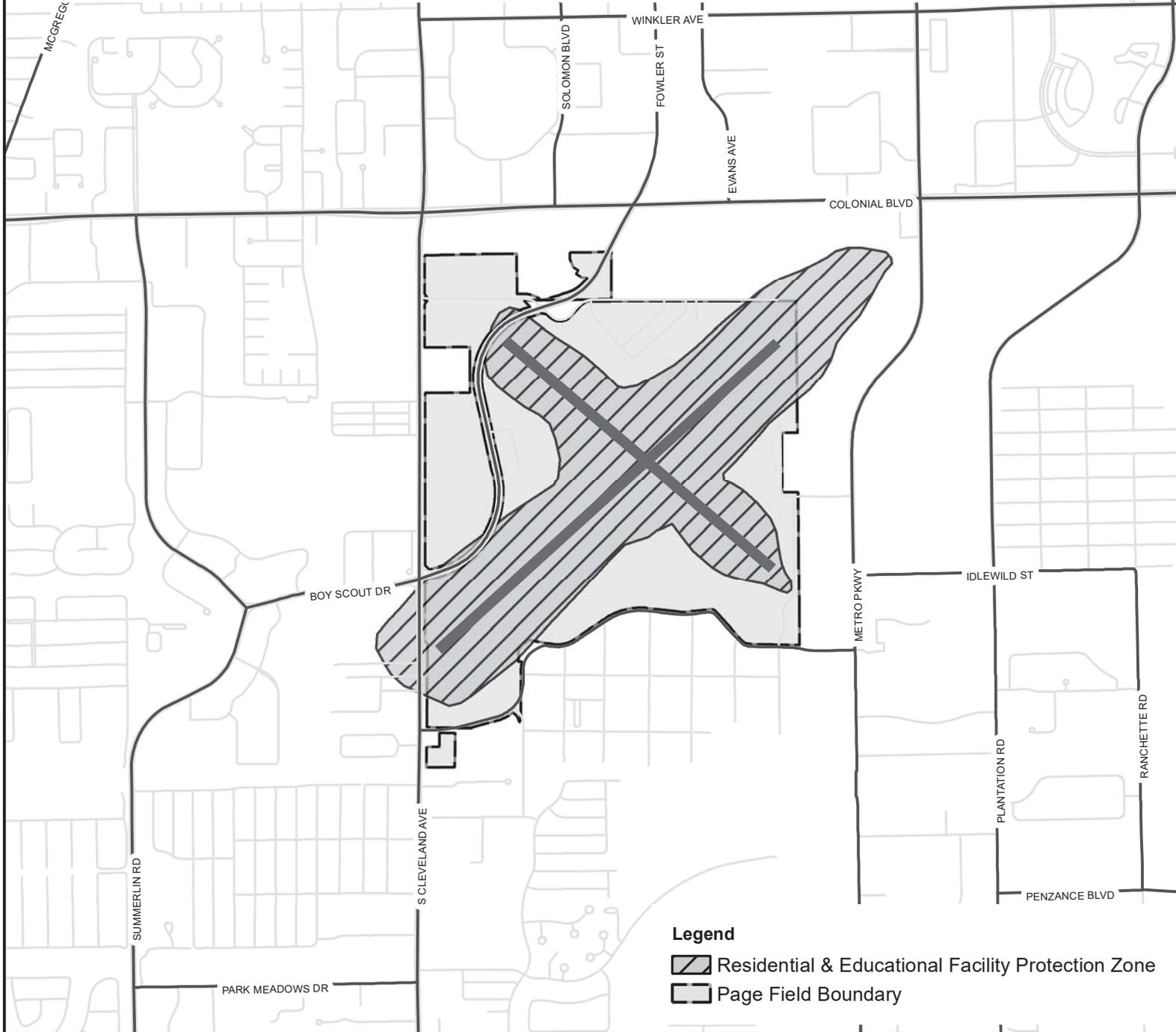
-  Residential & Educational Facility Protection Zone
-  SWFIA Parcel Boundary

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



Drawing Date: August 2018

# MAP 5 - Page Field Residential & Educational Facility Protection Zone



### Legend

-  Residential & Educational Facility Protection Zone
-  Page Field Boundary

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



## MAP 6 - LCPA Airport Obstruction Notification Zone Map (Composite of Map 7, 8 & 9)

### COUNTYWIDE

All vertical objects that exceed 125' AMSL require Tall Structures Permit review by LCPA

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

### Instructions for Use

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

Step 2 If the proposed project is located within the Southwest Florida International or Page Field Airport Notification Boundary, go to Step 6a; otherwise continue to Step 3.

Step 3: Determine the proposed project's and all related temporary construction equipment's maximum height Above Mean Sea Level (AMSL = object's height above ground + ground elevation). If the proposed object's or temporary construction equipment's maximum height is 125' AMSL or greater, go to Step 6a; otherwise go to Step 4.

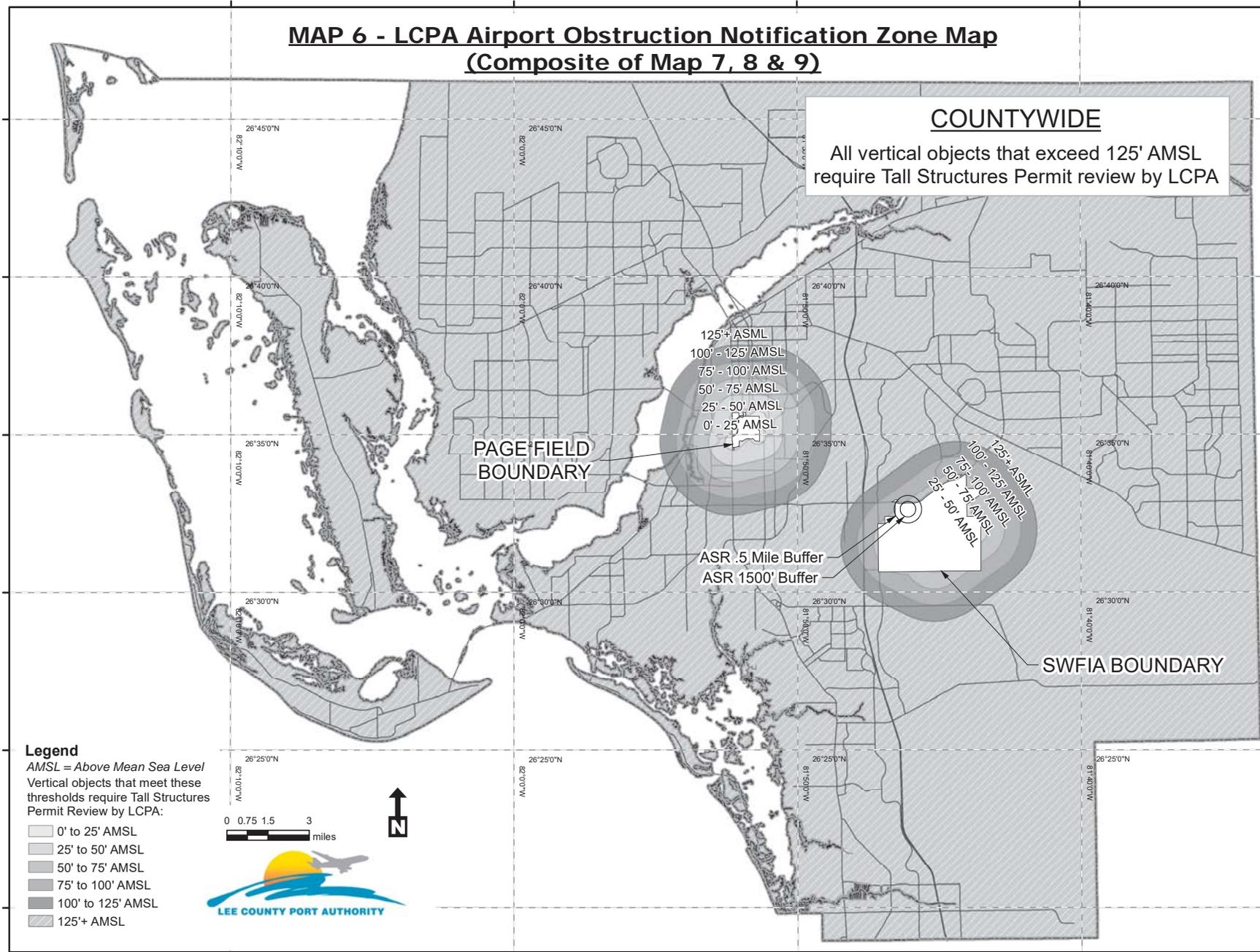
Step 4: Determine if the proposed object or any temporary construction equipment heights AMSL will exceed any of the notification heights for the selected area.

Step 5: If the proposed object or construction equipment exceeds the notification heights, go to Step 6a; otherwise go to Step 6b.

Step 6a: Submit a Tall Structure Review Application to the Lee County Port Authority.

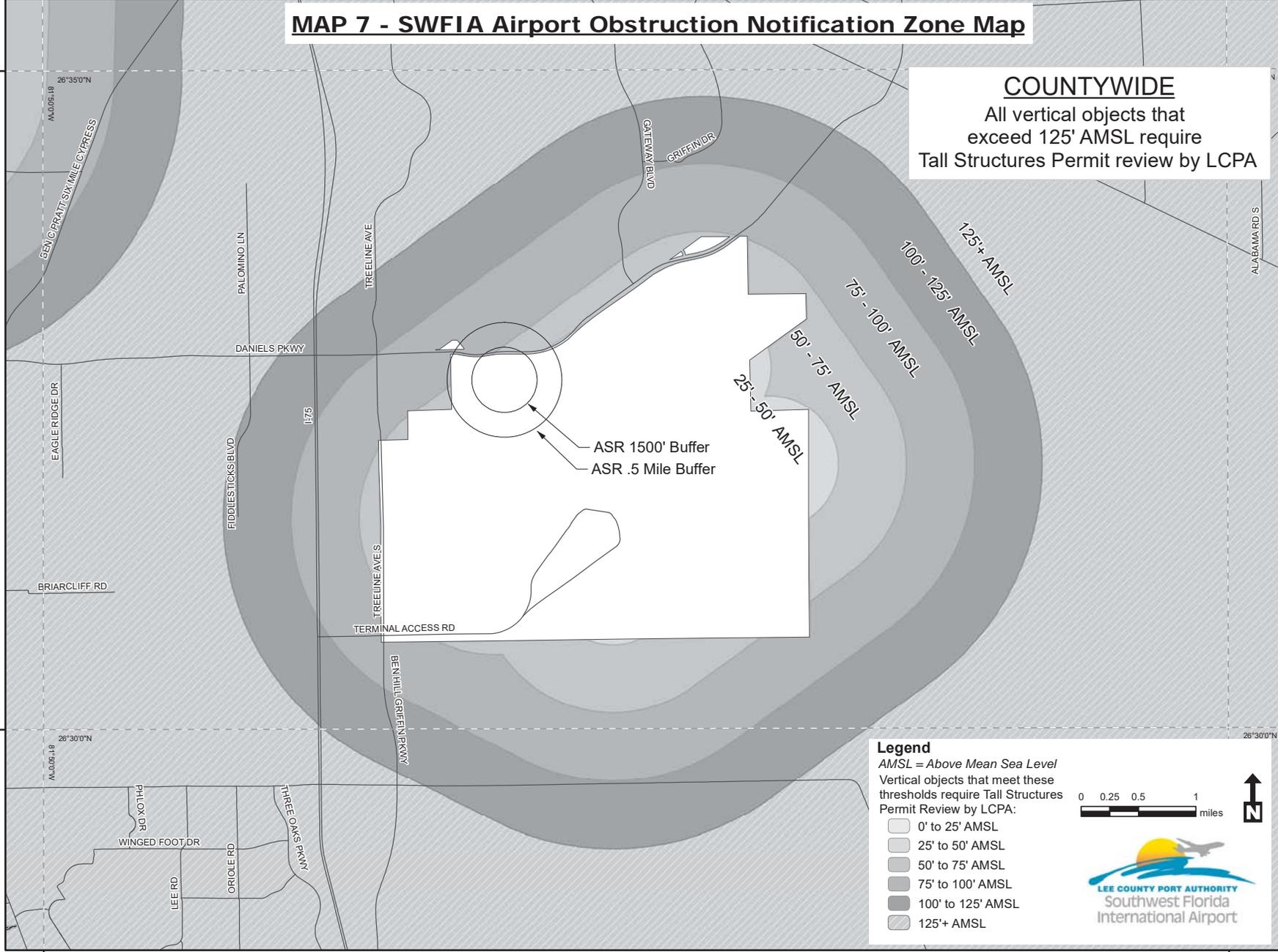
Step 6b: Notification is not required.

Drawing Date: August 2018



# MAP 7 - SWFIA Airport Obstruction Notification Zone Map

**COUNTYWIDE**  
 All vertical objects that  
 exceed 125' AMSL require  
 Tall Structures Permit review by LCPA



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

### Instructions for Use

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

Step 2 If the proposed project is located within the Southwest Florida International Airport Notification Boundary, go to Step 6a; otherwise continue to Step 3.

Step 3: Determine the proposed project's and all related temporary construction equipment's maximum height Above Mean Sea Level (AMSL = object's height above ground + ground elevation). If the proposed object's or temporary construction equipment's maximum height is 125' AMSL or greater, go to Step 6a; otherwise go to Step 4.

Step 4: Determine if the proposed object or any temporary construction equipment heights AMSL will exceed any of the notification heights for the selected area. Step 5: If the proposed object or construction equipment exceeds the notification heights, go to Step 6a; otherwise go to Step 6b.

Step 6a: Submit a Tall Structure Review Application to the Lee County Port Authority.

Step 6b: Notification is not required.

### Legend

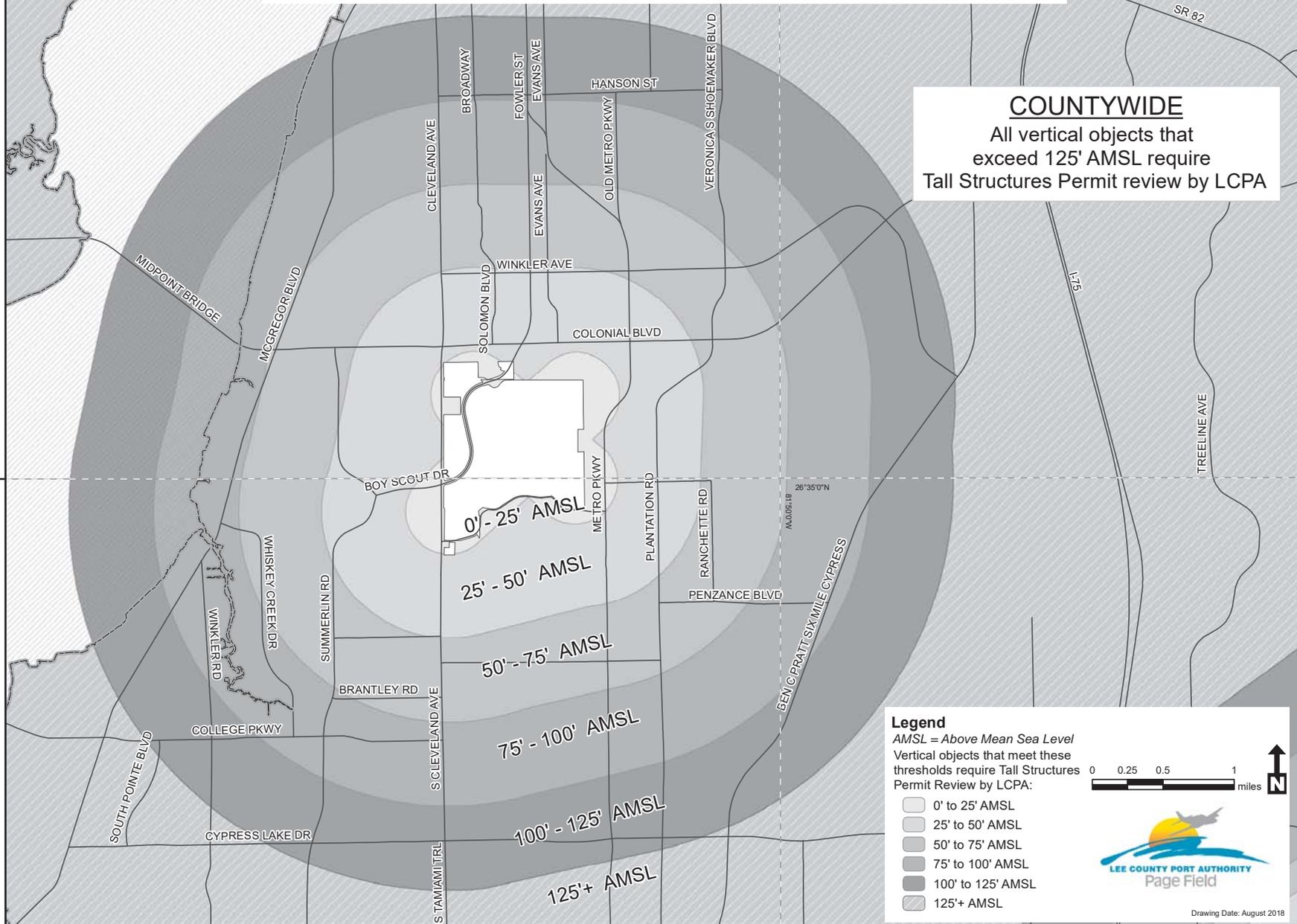
AMSL = Above Mean Sea Level  
 Vertical objects that meet these thresholds require Tall Structures Permit Review by LCPA:

- 0' to 25' AMSL
- 25' to 50' AMSL
- 50' to 75' AMSL
- 75' to 100' AMSL
- 100' to 125' AMSL
- 125'+ AMSL



# MAP 8 - Page Field Airport Obstruction Notification Zone Map

**COUNTYWIDE**  
 All vertical objects that  
 exceed 125' AMSL require  
 Tall Structures Permit review by LCPA



**Legend**  
 AMSL = Above Mean Sea Level  
 Vertical objects that meet these  
 thresholds require Tall Structures  
 Permit Review by LCPA:

- 0' to 25' AMSL
- 25' to 50' AMSL
- 50' to 75' AMSL
- 75' to 100' AMSL
- 100' to 125' AMSL
- 125'+ AMSL

0 0.25 0.5 1 miles

Lee County Port Authority  
Page Field

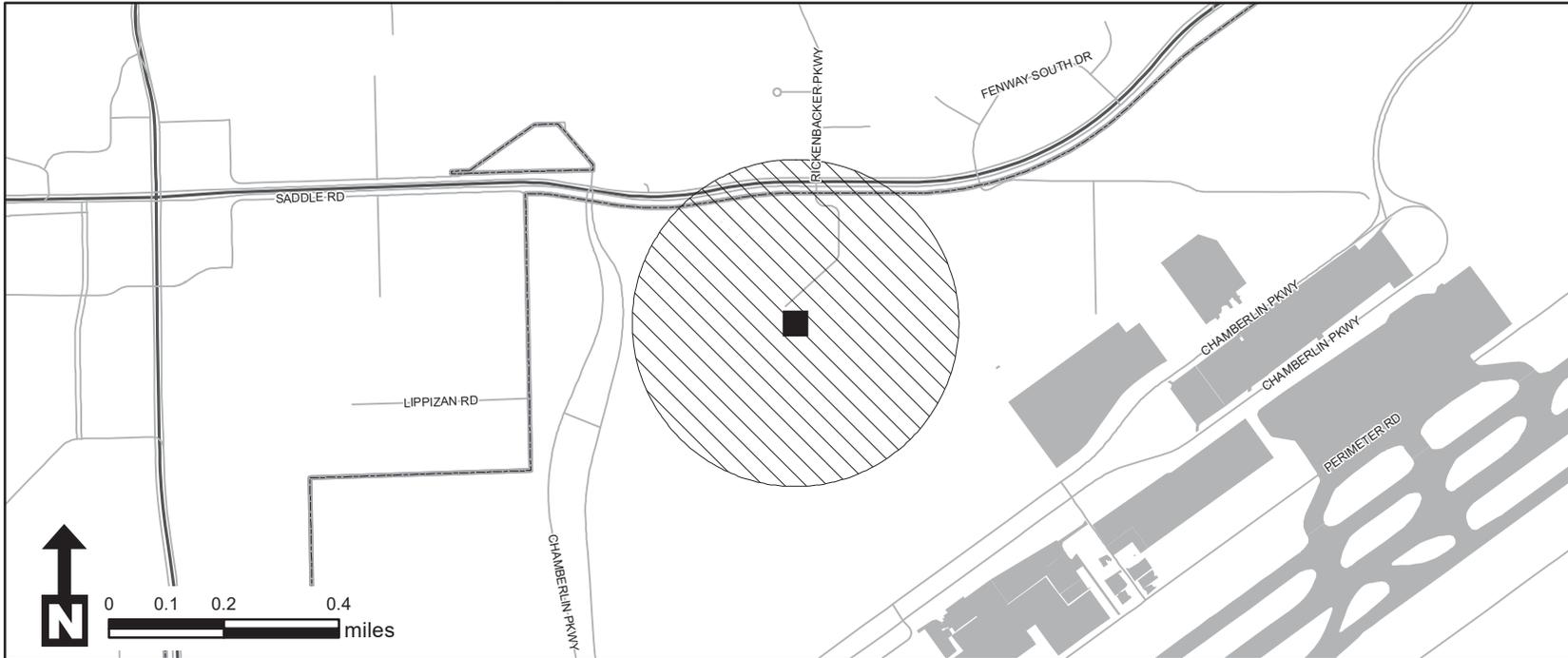
Drawing Date: August 2018

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

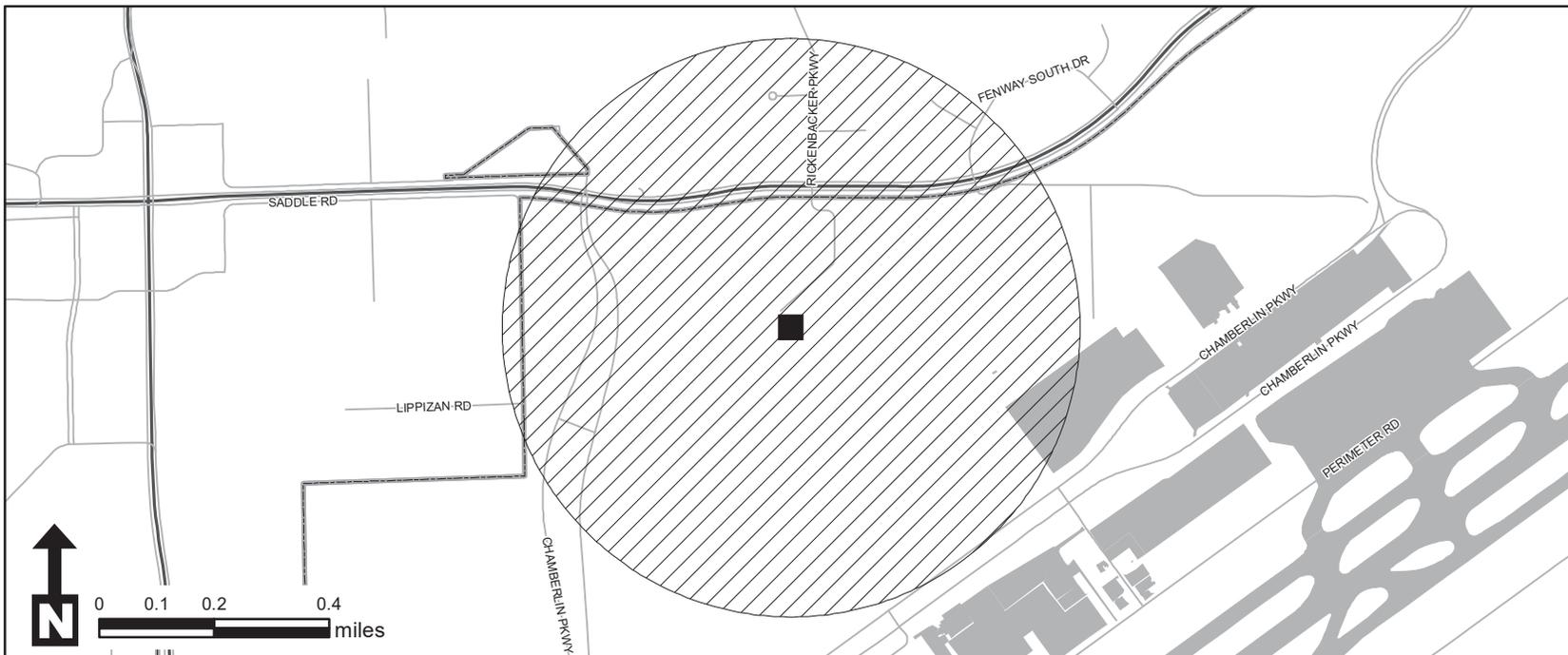
### Instructions for Use

- Step 1 Determine location of proposed object on the map surface.
- Step 2 If the proposed project is located within the Page Field or Southwest Florida International Airport Notification Boundary go to Step 9a; otherwise continue to Step 3.
- Step 3 Determine the proposed object's max. height Above Mean Sea Level (AMSL = height of object + ground elevation) then go to Step 4.
- Step 4 Determine if the proposed object will use a crane or similar equipment during construction.
- Step 5 If the proposed object will use a crane, go to Step 6, if it will not use a crane, go to Step 7.
- Step 6 Determine the crane's operating height AMSL.
- Step 7 Determine if proposed object or crane heights AMSL exceed any of the notification heights for the selected area.
- Step 8 If proposed object or crane exceeds the notification heights, go to Step 9a, otherwise go to Step 9b.
- Step 9a Submit a Tall Structure Review Application to Lee County Port Authority.
- Step 9b Notification is not required.

# MAP 9 - SWFIA Airport Surveillance Radar Review Zones



**ASR 1500' Buffer**



**ASR .5 Mile Buffer**

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

## **Instructions for Use**

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

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

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



Drawing Date: August 2018

**ADMINISTRATIVE CODE  
BOARD OF COUNTY COMMISSIONERS**

<b><u>CATEGORY:</u></b>  Development/Planning/Zoning	<b><u>CODE NUMBER:</u></b>  AC13-7
<b><u>TITLE:</u></b>  Procedures for Tall Structures Permitting	<b><u>ADOPTED:</u></b>  
	<b><u>AMENDED:</u></b>  
	<b><u>ORIGINATING DEPARTMENT:</u></b> Community Development

**PURPOSE/SCOPE:**

Chapter 333, Florida Statutes (F.S.), Airport Zoning (2016) requires that every political subdivision having an airport hazard area within its territorial limits adopt, administer, and enforce airport zoning regulations in accordance with Chapter 333, F.S. (2016). The Land Development Code establishes the Airport Compatibility District and defines the LCPA Airport Obstruction Notification Zone within Lee County.

This administrative code establishes procedures for permitting of vertical objects that exceed thresholds of the LCPA Airport Obstruction Notification Zone, requiring Tall Structures Permit review. The LCPA Tall Structures Permit review applies when the defined vertical threshold of the LCPA Airport Obstruction Notification Zone is exceeded by any proposed permanent or temporary construction or alteration of an object, terrain or structure, equipment or materials or alteration of any permanent or temporary existing structure by a change in the structure’s height, including appurtenances, lateral dimensions, and equipment or materials used in the structure.

These procedures supplement the Land Development Code. If there is a conflict between this code and the Land Development Code, the provisions of the Land Development Code will control.

**PROCEDURE FOR TALL STRUCTURES PERMITTING:**

- A. *Tall Structure determination.* The Department of Community Development (DCD) will make the initial determination during the zoning, development order, building permit, or other relevant application process as to whether proposed development, construction, alteration, equipment or materials exceed height limits of the Lee County Port Authority (LCPA) Airport Obstruction Notification Zone surface as defined in Division 12 of Article VI of Chapter 34 of the Land Development Code. Tall structures may be identified within a proposed new development, or they may be identified at the time of construction or installation of equipment including the following circumstances:
1. *Temporary construction equipment.* Temporary tall structures may be necessary during a construction project. If DCD determines that the proposed use of temporary construction equipment including derricks, draglines, cranes or other boom-equipped machinery will exceed the height limitations identified in the LCPA Airport Obstruction Notification Zone, the applicant must submit a completed Tall Structures Permit application and obtain a written determination from the LCPA before erecting the equipment. Failure to obtain a written determination is subject to enforcement in accordance with F.S. § 333.09(3) and F.S. § 333.13.

2. *Short term, temporary, emergency equipment.* Short term, temporary, emergency tall structures or equipment must be evaluated by the LCPA on a case-by-case basis to address airspace issues. The applicant must submit a completed Tall Structures Permit application and obtain a written determination from the LCPA before erecting equipment on a short term, temporary, emergency basis. Failure to obtain a written determination is subject to enforcement in accordance with F.S. § 333.09(3) and F.S. § 333.13.

B. *Permitting procedure.* Tall Structures Permits are administered by the LCPA as either Tier 1 or Tier 2 Permits according to the following procedures:

1. DCD will give a written notice to the applicant when a Tall Structures Permit is required and that no further permits or development orders can be issued and no activity associated with a tall structure can be conducted until a written determination of the Tall Structures Permit application is obtained from LCPA.

2. *Application and review.* The applicant must submit a completed Tall Structures Permit application to the Planning and Environmental Compliance Department, LCPA, 11000 Terminal Access Road, Ft. Myers, Florida 33913. The LCPA will review the application as either a Tier 1 or Tier 2 Tall Structures Permit as described below.

a. *Tier 1 Tall Structures Permit.* If the LCPA determines that the proposed structure does not exceed the federal notification criteria contained in Federal Aviation Regulations (FAR) Part 77, the LCPA will review the application using the criteria in subsection C. below before issuing approval or denial of the Tier 1 Tall Structures Permit.

b. *Tier 2 Tall Structures Permit.* If the LCPA determines that the proposed structure exceeds federal notification criteria contained in FAR Part 77, or otherwise violates any provisions of the Airport Compatibility District or any applicable federal or state rules or regulations, the LCPA will notify the applicant in writing that the proposed structure may adversely affect the airspace surrounding LCPA airports.

(1) *FAA Form 7460-1.* The applicant must file a Notice of Proposed Construction or Alteration with the Federal Aviation Administration (FAA) through the submittal of FAA Form 7460-1 per the requirements outlined in FAR Part 77. LCPA will suspend the Tall Structures Permit review process until FAA findings of aeronautical effect are received and reviewed.

(2) *FAA findings of aeronautical effect.* It is the responsibility of the applicant to forward the FAA findings of aeronautical effect, along with a copy of the completed original FAA Form 7460-1, to the LCPA in order to continue the Tall Structures Permit review process. The FAA determinations constitute a statement regarding compliance with federal regulations governing airspace obstructions. The FAA does not have authority to grant local development approval. Consequently, Lee County may deny development approvals for a structure even if the FAA has determined that the structure does not constitute a hazard and does not exceed the thresholds set forth in FAR Part 77.

(3) *Florida Department of Transportation (FDOT) review.* After receipt of a complete Tier 2 Tall Structures Permit application and a determination by the FAA of an obstruction, the LCPA will send a copy of such application to the FDOT Aviation Office by certified mail, return receipt requested, or by a delivery service that provides a receipt evidencing delivery. Pursuant to F.S. § 333.025(4), the FDOT will have 15 days to review the application and provide comments, if any, said time running concurrently with the review of the application by the LCPA.

- C. *Review criteria.* The LCPA will consider the following criteria in determining approval or denial of a Tall Structures Permit:
1. The safety of persons on the ground and in the air.
  2. The safe and efficient use of navigable airspace.
  3. The nature of the terrain and height of any existing structures.
  4. The effect of the construction or alteration on the state licensing standards for a public-use airport contained in F.S. Chapter 330 and rules adopted thereunder.
  5. The character of existing and planned flight operations and developments at public-use airports.
  6. Federal airways, visual flight rules, flyways and corridors, and instrument approaches as designed by the FAA.
  7. The effect of the construction or alteration of an obstruction on the minimum descent altitude or the decision height at the affected airport.
  8. The cumulative effects on navigable airspace of all existing structures and all other known proposed structures in the area.
  9. Comments provided by other affected municipal jurisdictions, if any.
- D. *LCPA determination.*
1. *Tier 1 Permit approval.* If the LCPA determines that the proposed construction or alteration does not adversely affect the LCPA airports after considering the review criteria above, the LCPA will issue a Tier 1 Tall Structures Permit approval with or without stipulations and conditions. The signed Tier 1 Tall Structures Permit will be returned to the applicant. The applicant must present the Tall Structures Permit to DCD.
  2. *Tier 1 Permit denial.* If the LCPA determines that the proposed construction or alteration adversely affects the LCPA airports, the LCPA will issue a written denial stating the reasons for denial. A denial will also state that the variance process is outlined in Land Development Code Section 34-1109.
  3. *Tier 2 Permit approval.* If the LCPA determines that the proposed construction or alteration does not adversely affect the LCPA airports after considering the FAA's comments and the review criteria above, the LCPA will issue a Tier 2 Tall Structures Permit approval to the applicant with or without stipulations and conditions. The applicant will present a copy of the Tall Structures Permit, along with all LCPA comments and stipulations, to DCD. If the signed Tall Structures Permit is accompanied by stipulations for compliance, it is the responsibility of DCD to ensure that these stipulations are adequately addressed prior to the issuance of any zoning, development order or building permit approvals. DCD will not issue approval if conditions and stipulations are not adequately addressed.
  4. *Tier 2 Permit denial.* After considering the FAA's comments and the review criteria above, if the LCPA determines that the proposed construction or alteration does adversely affect the LCPA airports, the LCPA will issue a written denial of the Tier 2 Tall Structures Permit. A denied Tall Structures Permit will specifically state the reasons for denial. A denial will also state that the variance process is outlined in Land Development Code Section 34-1109.
  5. *Temporary or conditional permits.* Temporary or conditional Tall Structures Permits pending completion of the FAA's or the LCPA's review will not be issued.
- E. *FDOT Permit required in municipalities absent an interlocal agreement.* Lee County does not have jurisdiction to issue a permit within an incorporated municipality absent an interlocal agreement between

Lee County and the municipality. If the proposed construction or alteration: (1) exceeds the federal obstruction standards; and, (2) is within ten nautical miles of the airport reference point, or the geographic center of an LCPA airport; and, (3) is located within an incorporated municipality that has not entered into an interlocal agreement with the County and LCPA regarding Tall Structures permitting, then the applicant must obtain an Airspace Obstruction Permit from the FDOT. This permit request must be submitted to the FDOT Aviation Office in Tallahassee in compliance with the provisions of F.S. Chapter 333.

F. *Review timing.*

1. *Tier 1.* Unless an applicant agrees to an alternative review period, LCPA has 60 calendar days to issue a written response to a complete Tall Structures Permit application or determination request.
2. *Tier 2.* When an FAA airspace determination is required, the LCPA will notify the applicant of this fact in writing within 30 calendar days of the submittal of a complete application. Once the applicant obtains the necessary FAA determination, the LCPA will have an additional 35 calendar days to consider the review criteria in subsection C. above in conjunction with the FAA determination, forward the application to FDOT for concurrent review as applicable, and issue a Tier 2 Permit approval or denial.

G. *Permit validity.* A Tall Structures Permit is valid for a period of one year after the date of issuance, unless noted otherwise on the permit.

H. *Development approval.* Lee County may not issue approval or permission for development or activity that is subject to these procedures until the required Tall Structures Permit or determination has been issued by the LCPA.

**Water-Dependent  
Overlay  
LDC Amendments**

**MEMORANDUM**  
**FROM**  
**THE DEPARTMENT OF**  
**COMMUNITY DEVELOPMENT**

**TO:** Executive Regulatory Oversight      **DATE:** August 28, 2018  
**Committee Members**

**FROM:** Mikki Rozdolski, Planning Manager

**RE: Conservation and Coastal Management and Water Dependent Overlay  
Land Development Code (LDC) Amendments**

On November 17, 2015, the Board of County Commissioners (BoCC) provided direction for staff to identify amendments to the Lee Plan to align with the BoCC's strategic planning initiatives, streamline, eliminate potential liabilities, reduce redundancy/conflict within and between Lee Plan goals, and relocate regulatory provisions to the Land Development Code. Based on this direction, staff identified and presented potential amendments to the Conservation and Coastal Management Element, including the treatment of water-dependent land uses, to the BoCC at the May 3, 2016 Board Work Session.

There are currently two companion Lee Plan Amendments that are working through the process under Case Number CPA2017-00006 (Conservation and Coastal Management) and CPA2017-00007 (Water Dependent Overlay).

The proposed LDC amendments are necessary to implement proposed revisions to the Lee Plan and to assure that LDC and the Lee Plan remain consistent. The proposed amendments are to LDC Chapters 10, 26, 33, and 34.

**Staff requests that the EROC recommend approval of the proposed LDC Amendments.**

**Chapter 10 – Development Standards**

**ARTICLE III. – DESIGN STANDARDS AND REQUIREMENTS**

**DIVISION 1. – GENERALLY**

**Sec. 10-257. - ~~Marina~~ Marine facility design.**

The design of new, redesigned or expanded marine facilities must be consistent with the applicable provisions of the Lee Plan, Manatee Protection Plan, Lee County Administrative Code 13-21, and Chapter 26 of the LDC.

~~The marina design criteria set forth in the County's Manatee Protection Plan and Administrative Code and Lee Plan objective 128.6 and policies 128.6.1 through 128.6.16 will be utilized in evaluating the design of new marinas or the expansion of wet slip facilities or boat ramps.~~

- Update references and clarify language for consistency throughout LDC.

\*\*\*\*\*

Chapter 26 – Marine Facilities, Structures and Equipment

ARTICLE II. - DOCK AND SHORELINE STRUCTURES

DIVISION 1. – GENERALLY

Sec. 26-41. - Definitions.

Fueling facility means fuel pumps, hoses, and storage associated with water-dependent land uses.

- Add definition for fueling facility which is used several times in this chapter.

**Sec. 26-49. –~~Reserved.~~ Marine facility location.**

The Lee Plan, Manatee Protection Plan, and Lee County Administrative Code 13-21 will be used to: identify desirable locations for new, redesigned, or expanded marine facilities; evaluate the redesign and expansion of existing marine facilities; and, determine the maximum number of slips that may be considered at a requested location.

- Moved language from LDC Sec. 26-79 since it applies to all marine facilities. It provides better organization within the chapter.

\*\*\*\*\*

## DIVISION 2. – LOCATION AND DESIGN

### **Sec. 26-75. - Seawalls, retaining walls and riprap revetment.**

(a) *remains unchanged.*

(b) *Seawalls on natural waterbodies.*

- ~~(1) The Lee Plan through Objective 105.1 and Policy 105.1.3 regulates hardened structures along the natural shoreline.~~
- (21) New or expanded seawalls are not ~~allowed~~ permitted along natural waterbodies, including the Gulf of Mexico.
- (32) Other hardened structures, including but not limited to geotextile tubes, groin, fencing and other similar structures, may be permitted along natural waterbodies, except along the Gulf of Mexico.
- (43) Lawfully existing seawalls along natural waterbodies may be maintained or repaired and may be replaced with the same type structure, built to the same dimensions and in the same location as the previously existing structure.

*Remainder of section unchanged.*

- **Removed unnecessary, non-regulatory language from the Land Development Code.**

### **Sec. 26-78. –Marina development design and location.**

(a) Applicability. The following regulations apply to new, redesigned, and expanded marinas including, but not limited to, marina support facilities and multi-slip docking facilities.

(b) Marina location. Marina locations must be consistent with the Lee Plan Objective 128.5 and all of its implementing policies, including, the Manatee Protection Plan, and Lee County Administrative Code 13-21. Marinas must be designed and constructed in a manner consistent with Lee Plan Objective 128.6 and all of its implementing policies.

(c) Marina design. The design of the marina must:

- (1) Protect existing natural wetland vegetative buffers adjacent to docking areas and ingress/egress areas.
- (2) Locate all parking, dry storage, fuel storage, other marina support facilities, and non-water-dependent facilities on existing uplands.

- **Moved regulatory language applicable to marina development design from the Lee Plan.**

**Sec. 26-79. - ~~Facility siting criteria.~~ Fueling facilities.**

(a) Fuel storage may not be located over water; this does not preclude the dispensing of fuel over water.

(b) A fuel containment and/or spill contingency plan must be approved prior to issuance of a development order for any new, redesigned, or expanded fueling facility. The plan must demonstrate the fueling facility is designed to preclude spills and contain any spills which may reach the water.

~~The general screening process in the Manatee Protection Plan will be used to identify desirable locations for new marine facilities, as well as to evaluate the redesign and expansion of existing sites. The results of the screening process will also result in a determination of the maximum number of slips that may be approved at a requested location. The screening criteria are set forth in the Manatee Protection Plan and Lee County Administrative Code Section 13-21.~~

- Deleted language is moved to LDC Sec. 26-49
- New language is regulatory language previously in the Lee Plan.

\*\*\*\*\*

**Chapter 33 – Planning Community Regulations**

**ARTICLE VIII. – NORTH FORT MYERS PLANNING COMMUNITY**

**Sec. 33-1537. – Definitions**

~~*Uses, water dependent* means marinas, yacht clubs, customer passenger boating, charter boats, boat ramps, and any related feature.~~

- Removed this definition and rely on definition in Chapter 34 to avoid conflicting language.

\*\*\*\*\*

**Chapter 34 – Zoning**

**ARTICLE I. – IN GENERAL**

**Sec. 34-2. - Definitions.**

~~*Water-dependent land uses* means ~~land~~-uses for which water access is essential, ~~and which could not exist without water access~~ consisting of boat access facilities and support facilities. A restaurant with a multi-slip docking facility is not considered a water-dependent land use if the~~

restaurant is the only support facility. Support facilities without a boat access facility are not considered water-dependent land uses.

- Boat access facilities include facilities such as boat ramps and other launches, docks, and piers.
- Support facilities include facilities such as parking (vehicle/trailer), dry boat storage, ship store, fuel tanks and storage, boat yard and repair areas or other marina accessory uses.

*Water-related land uses* means ~~land~~ uses that might be enhanced by proximity to the water but for which water access is not essential.

- *The proposed changes provide consistency with Lee Plan definitions.*

\*\*\*\*\*

## ARTICLE VI. - DISTRICT REGULATIONS

### DIVISION 7. – MARINE-ORIENTED DISTRICTS

#### Sec. 34-871. – Purpose and intent.

(a) *CM marine commercial district.* The purpose and intent of the CM district is to permit the designation of suitable locations for, and to ensure the proper development and use of, land and adjacent waters for commercial marinas and other uses incidental to those facilities. The principal uses ~~of land~~ are limited to waterfront-dependent land uses required for the support of recreational boating and fishing. ~~The marina siting and design criteria are set forth under objectives 128.5 and 128.6 of the Lee Plan and in the Manatee Protection Plan.~~

- *Removed redundant language with outdated reference.*

\*\*\*\*\*

## ARTICLE VII. - SUPPLEMENTARY DISTRICT REGULATIONS

### DIVISION 21. - MARINE FACILITIES, STRUCTURES AND EQUIPMENT; WATER-DEPENDENT OVERLAY

#### Sec. 34-1862. - ~~Marinas, fish houses and docking facilities~~ Marine Facilities.

The location and design of new, redesigned or expanded marine facilities must be consistent with the applicable provisions of the Lee Plan, Manatee Protection Plan, Lee County Administrative Code 13-21, and Chapter 26 of the LDC.

(a) ~~Water dependent overlay zones.~~ ~~Water dependent overlay zones have been designated for shoreline areas where priority will be granted to water dependent land uses (Goal 8). Goal 12 and Objective 124.6 of the Lee Plan detail specific requirements for the water dependent~~

overlay zones on San Carlos Island (see map 2 of the Lee Plan). Policies regulating water-dependent uses in other areas of the County are found in policies 128.1.1 and 128.2.1, and are mapped in the appendix of the Lee Plan, as map 12.

(b) ~~Marina siting criteria.~~ The marina siting criteria set forth in the Manatee Protection Plan and objective 128.5 and policies 128.5.1 through 128.5.12 of the Lee Plan must be considered in evaluating new, or substantially expanded marinas, other wet slip facilities and boatramps.

(c) ~~Marina design criteria.~~ The marina design criteria set forth in the Manatee Protection Plan and objective 128.6 and policies 128.6.1 through 128.6.16 of the Lee Plan must be utilized in evaluating the design of new marinas, or expansion of wet slip facilities at existing marinas.

- General cleanup, removing redundancies.

**~~Sec. 34-1863. Development within the Water-Dependent Overlay.—Construction and maintenance of docks, seawalls and other structures designed for use on or adjacent to waterways.~~**

(a) Uses. Properties located within the Water-Dependent Overlay as depicted on Map 12 of the Lee Plan may be considered for additional water-dependent land uses or support facilities by administrative approval if not permitted by right in the underlying zoning district. The uses and support facilities that may be considered administratively are provided in Table 34-1863.

**TABLE 34-1863. SUPPORT FACILITIES AND USES THAT MAY BE CONSIDERED FOR ADMINISTRATIVE APPROVAL IN THE WATER-DEPENDENT OVERLAY**

	<u>Special Notes or Regulations</u>
<u>Bait and tackle shop</u>	
<u>Boat parts store</u>	
<u>Boat ramps</u>	
<u>Boat rental</u>	
<u>Boat repair and service</u>	<u>34-1352,</u> <u>34-3001 et seq.</u>
<u>Boat storage, dry</u>	
<u>Boatyard</u>	
<u>Commercial fishery</u>	
<u>Docking or mooring facilities</u>	
<u>Entrance gates and gatehouse</u>	<u>34-1741 et seq.</u>
<u>Food Stores, Group I (limited to fish (seafood) markets, enclosed)</u>	
<u>Freight and cargo handling establishments</u>	

<u>(34-622(c)(17))</u>	
<u>Marina</u>	
<u>Restaurant, Groups I, II, and III (34-622(c)(43))</u>	
<u>Sale of fuel and lubricants</u>	
<u>Sanitary facilities (restrooms and showers for transient persons; pump-out facilities for onboard sanitation, wastewater holding pretreatment or treatment)</u>	
<u>Temporary uses</u>	<u>34-3041 et seq.</u>
<u>Transportation equipment, manufacturing, Group II (34-622(c)(52))</u>	
<u>Transportation services, Group I (34-622(c)(53))</u>	
<u>Vehicle and equipment dealers, Group III (34-622(c)(55))</u>	<u>34-1352</u>

(b) Development Standards. Properties less than three acres in size and located within the Water-Dependent Overlay may request administrative relief from setbacks, lot coverage, and open space. Development must otherwise meet all requirements of the LDC.

(c) Procedure for administrative approval.

(1) Application. Applicants seeking administrative approval for a use listed in Table 34-1863, or relief from property development regulations identified in section 34-1863(b), must submit an application with the supporting documentation required by section 34-201 et. seq. In addition, the applicant must submit the following:

- a. A list of the existing and proposed uses on the property.
- b. A site plan, drawn to scale, of the overall development which indicates existing and proposed lot lines, buildings and uses, streets and accessways, off-street parking, water management facilities, buffering and open space.
- c. If relief is requested per section 34-1863(b), a detailed listing of the section number(s) and the specific regulation(s) of the LDC from which relief is sought. This information must also be shown on the site plan.
- d. Pertinent calculations which demonstrate that the overall development complies with zoning and development standards, except for those from which relief is sought.
- e. A narrative of how the request meets the findings of fact provided in section 34-1863(c)(2).

(2) Findings by Director. The Director must make all of the following findings of fact prior to approval:

- a. There is an existing water-dependent land use on the property.
- b. The request is consistent with the goals, objectives, policies and intent of the Lee Plan.
- c. The request will minimize adverse impacts on adjacent land uses.
- d. The resulting project will qualify as a water-dependent land use.
- e. The request will not have an adverse impact on the public health, safety and welfare.

(3) Decision. The Director may deny, approve, or approve with conditions, the request. The Director's decision is not subject to review. If an administrative request is denied or if he applicant disagrees with the conditions imposed, the applicant may pursue approval through the public hearing process provided under section 34-145.

~~Construction, placement, erection and maintenance of docks, mooring piles, seawalls, watercraft landing facilities and other structures designed for use on, or adjacent to waterways, must be in compliance with the Manatee Protection Plan established building permit procedures and with chapter 26, article II. See section 34-1171, et seq.~~

- Establishes a process of converting one water-dependent use to another water-dependent use consistent with the implementation of Lee Plan Policy 8.3.4.
- Establishes an administrative relief process for properties in the Water Dependent Overlay.

**MEMORANDUM**  
**FROM**  
**THE DEPARTMENT OF**  
**COMMUNITY DEVELOPMENT**

**TO:** Executive Regulatory Oversight      **DATE:** September 10, 2018  
**Committee Members**

**FROM:** Anthony Rodriguez  
**Principal Planner, Zoning Section**

**RE: Conservation and Coastal Management and Water Dependent Overlay  
Land Development Code (LDC) Amendments**

Due to the direction given by the Board of County Commissioners at the September 5, 2018 Planning and Zoning Hearing relative to CPA2017-00007 (Water Dependent Overlay), certain Land Development Code amendments will not be presented at the upcoming committee meeting. The following sections of the LDC amendments included in the original packet have been removed and will be submitted to the committee at a later date:

- LDC Section 34-2 (updated definitions to water-dependent uses and water-related uses);  
and
- LDC Section 34-1863 (development within the Water-Dependent Overlay)

An updated set of LDC amendments is attached to this memorandum.

**Chapter 10 – Development Standards**

**ARTICLE III. – DESIGN STANDARDS AND REQUIREMENTS**

**DIVISION 1. – GENERALLY**

**Sec. 10-257. - ~~Marina~~ Marine facility design.**

The design of new, redesigned or expanded marine facilities must be consistent with the applicable provisions of the Lee Plan, Manatee Protection Plan, Lee County Administrative Code 13-21, and Chapter 26 of the LDC.

~~The marina design criteria set forth in the County's Manatee Protection Plan and Administrative Code and Lee Plan objective 128.6 and policies 128.6.1 through 128.6.16 will be utilized in evaluating the design of new marinas or the expansion of wet slip facilities or boat ramps.~~

- Update references and clarify language for consistency throughout LDC.

\*\*\*\*\*

Chapter 26 – Marine Facilities, Structures and Equipment

ARTICLE II. - DOCK AND SHORELINE STRUCTURES

DIVISION 1. – GENERALLY

Sec. 26-41. - Definitions.

Fueling facility means fuel pumps, hoses, and storage associated with water-dependent land uses.

- Add definition for fueling facility which is used several times in this chapter.

**Sec. 26-49. –~~Reserved.~~ Marine facility location.**

The Lee Plan, Manatee Protection Plan, and Lee County Administrative Code 13-21 will be used to: identify desirable locations for new, redesigned, or expanded marine facilities; evaluate the redesign and expansion of existing marine facilities; and, determine the maximum number of slips that may be considered at a requested location.

- Moved language from LDC Sec. 26-79 since it applies to all marine facilities. It provides better organization within the chapter.

\*\*\*\*\*

## DIVISION 2. – LOCATION AND DESIGN

### **Sec. 26-75. - Seawalls, retaining walls and riprap revetment.**

(a) *remains unchanged.*

(b) *Seawalls on natural waterbodies.*

- (1) ~~The Lee Plan through Objective 105.1 and Policy 105.1.3 regulates hardened structures along the natural shoreline.~~
- (21) New or expanded seawalls are not ~~allowed~~ permitted along natural waterbodies, including the Gulf of Mexico.
- (32) Other hardened structures, including but not limited to geotextile tubes, groin, fencing and other similar structures, may be permitted along natural waterbodies, except along the Gulf of Mexico.
- (43) Lawfully existing seawalls along natural waterbodies may be maintained or repaired and may be replaced with the same type structure, built to the same dimensions and in the same location as the previously existing structure.

*Remainder of section unchanged.*

- **Removed unnecessary, non-regulatory language from the Land Development Code.**

### **Sec. 26-78. –Marina development design and location.**

- (a) Applicability. The following regulations apply to new, redesigned, and expanded marinas including, but not limited to, marina support facilities and multi-slip docking facilities.
- (b) Marina location. Marina locations must be consistent with the Lee Plan Objective 128.5 and all of its implementing policies, including, the Manatee Protection Plan, and Lee County Administrative Code 13-21. Marinas must be designed and constructed in a manner consistent with Lee Plan Objective 128.6 and all of its implementing policies.
- (c) Marina design. The design of the marina must:
  - (1) Protect existing natural wetland vegetative buffers adjacent to docking areas and ingress/egress areas.
  - (2) Locate all parking, dry storage, fuel storage, other marina support facilities, and non-water-dependent facilities on existing uplands.

- **Moved regulatory language applicable to marina development design from the Lee Plan.**

**Sec. 26-79. - ~~Facility siting criteria.~~ Fueling facilities.**

- (a) Fuel storage may not be located over water; this does not preclude the dispensing of fuel over water.
- (b) A fuel containment and/or spill contingency plan must be approved prior to issuance of a development order for any new, redesigned, or expanded fueling facility. The plan must demonstrate the fueling facility is designed to preclude spills and contain any spills which may reach the water.

~~The general screening process in the Manatee Protection Plan will be used to identify desirable locations for new marine facilities, as well as to evaluate the redesign and expansion of existing sites. The results of the screening process will also result in a determination of the maximum number of slips that may be approved at a requested location. The screening criteria are set forth in the Manatee Protection Plan and Lee County Administrative Code Section 13-21.~~

- Deleted language is moved to LDC Sec. 26-49
- New language is regulatory language previously in the Lee Plan.

\*\*\*\*\*

**Chapter 33 – Planning Community Regulations**

**ARTICLE VIII. – NORTH FORT MYERS PLANNING COMMUNITY**

**Sec. 33-1537. – Definitions**

~~*Uses, water dependent* means marinas, yacht clubs, customer passenger boating, charter boats, boat ramps, and any related feature.~~

- Removed this definition and rely on definition in Chapter 34 to avoid conflicting language.

\*\*\*\*\*

**Chapter 34 – Zoning**

**ARTICLE VI. - DISTRICT REGULATIONS**

**DIVISION 7. – MARINE-ORIENTED DISTRICTS**

**Sec. 34-871. – Purpose and intent.**

(a) *CM marine commercial district.* The purpose and intent of the CM district is to permit the designation of suitable locations for, and to ensure the proper development and use of, land and adjacent waters for commercial marinas and other uses incidental to those facilities. The principal uses of land are limited to waterfront-dependent land uses required for the support of recreational boating and fishing. ~~The marina siting and design criteria are set forth under objectives 128.5 and 128.6 of the Lee Plan and in the Manatee Protection Plan.~~

- *Removed redundant language with outdated reference.*

\*\*\*\*\*

# General Clean-Up LDC Amendments

**MEMORANDUM**  
**FROM**  
**THE DEPARTMENT OF**  
**COMMUNITY DEVELOPMENT**

**TO:** Executive Regulatory Oversight      **DATE:** August 28, 2018  
**Committee Members**

**FROM:** Audra Ennis, Zoning Manager

**RE:    Biennial Land Development Code Cleanup – 2018 Cycle**

On November 17, 2015, the Board of County Commissioners (BoCC) provided direction for staff to identify amendments to the Lee Plan to align with the BoCC's strategic planning initiatives, streamline, eliminate potential liabilities, reduce redundancy/conflict within and between Lee Plan goals, and relocate regulatory provisions to the Land Development Code. Community Development Staff has accumulated a number of miscellaneous amendments that are proposed in this document for committee review.

This set of Land Development Code amendments addresses changes to Chapters 2, 3, 10, 33, and 34.

**Staff requests that the EROC recommend approval of the proposed LDC Amendments.**

**Chapter 2**

ARTICLE IV. - BONUS DENSITY

DIVISION 1. - GENERALLY

**Sec. 2-146.** - Minimum requirements.

(a) thru (d) remain unchanged.

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

Staff note – Add cross reference language to clarify TDUs may be used in Southeast Lee County per section 2-154.

\*\*\*\*\*

**Chapter 3. Explosives and Blasting Regulations**

(Entire Chapter to be removed)

Staff note - Much of this chapter is superseded by State Statute or has been relocated to Chapters 10 and 12.

\*\*\*\*\*

**Chapter 10. Development Standards**

ARTICLE 1. IN GENERAL

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

(a) *Remains unchanged*

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

*Development permit* has the same meaning as given for that term in F.S. § 163.3164(8).

*Remainder of section remains unchanged.*

Staff Note - Corrected Florida Statute reference in the “Development Permit” definition.

\*\*\*\*\*

**Sec. 10-8.** - Specific requirements.

A development order will be issued when the development is designed so as to reasonably achieve the following:

- (1) *remains unchanged*
- (2) ~~*Reserved. Vehicle Circulation.*~~

~~Additionally, the development must also achieve the following:~~

~~a. thru d. remain unchanged.~~

~~(3) thru (4) remain unchanged.~~

- (5) ~~*Bicycle and pedestrian ways plan.*~~ There is hereby adopted as part of this chapter the official bikeways/walkways facilities plan map. The map identifies a network of roads which, if improved with bikeways and pedestrian ways, will meet present and anticipated bikeway and pedestrian way needs of the County. The official bikeways/walkways facilities plan map will be signed by the chairman of the Board of County Commissioners and placed on file with the County Departments of Transportation and Community Development. Reproductions of the map will be available to the public. The purpose of the official bikeways/walkways facilities plan map is to target certain arterial and collector roadways for improvements necessary to ensure County-wide continuity of the bicycle and pedestrian transportation system. B ~~The development must provide bikeways and pedestrian ways are necessary along the roadways depicted on the Lee County Walkways & Bikeways Lee Plan Map. on the map for the benefit and protection of the health, safety, and welfare of the residents of Lee County because those facilities serve to:~~ (a) lessen traffic congestion, (b) reduce conflicts between vehicular and pedestrian/cyclist movement, (c) provide safe pedestrian/cyclist circulation to community facilities, and (d) provide safe access to active and passive recreational activity.
- (6) ~~*Access roads.*~~ Pursuant to the County Comprehensive Plan, there is hereby adopted as part of this chapter the access road location map for the County. The access road location map identifies the arterials and collectors where access roads may be desirable to protect the connection separation standards of this code and the health, safety and welfare of County residents. The access road location map will be maintained by the County Division of Transportation. Reproductions of the map will be available to the public for a nominal fee at County mapping.

~~Access roads may be desirable along major urban streets for the protection of the health, safety and welfare of County residents because:~~

- ~~a. Access roads reduce the need for individual driveways and thereby decrease conflicting traffic movements, which in turn reduces the potential for accidents; and~~
- ~~b. The use of access roads decreases traffic on the County's arterial and collector streets, thereby improving their levels of service.~~

If required by the County pursuant to section 10-283, the development must provide an access road. Roads, whose main function is to provide for internal traffic circulation and, roads that provide frontage for newly created lots that would not otherwise have road frontage, do not qualify as access roads unless such roads are required by the County pursuant to the criteria in section 10-283 of this Code.

~~Unless required by the County pursuant to section 10-283 of this Code, roads that serve to achieve site location standards for commercial development will not be eligible for roads impact fee credit under Chapter 2.~~

*Remainder of section remains unchanged.*

**Staff Note - Removed reference to commercial site location standards since site location standards are no longer required in the Lee Plan. Also removed non-regulatory language.**

\*\*\*\*\*

## ARTICLE II. – ADMINISTRATION

### DIVISION 2. – DEVELOPMENT ORDERS

#### **Sec. 10-104.** - Deviation and variances.

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

*(1) thru (6) remain unchanged*

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

*(8) thru (11) remain unchanged*

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

*(13) thru (16) remain unchanged*

(17) Section 10-418(3) (percent hardening and compensatory littorals surface water management systems; limited to the prohibition of hardened structures behind single family residences for lake bank slopes);

*(18) thru (22) remain unchanged*

(23) Sections 10-329(f) and 10-418(5 4) (restoration of existing bank slopes and littoral designs).

(b) *Criteria for administrative deviations.* Administrative deviations may be granted only where the ~~Development Services Director, with the assistance of directors of other affected County departments, or divisions, and affected jurisdictions, finds that~~ the following criteria have been met:

*(1) thru (5) remain unchanged*

(6) For sections 10-329(f) and 10-418(5 4), the proposed use of hardened structures for restoration of existing lake bank slopes will be evaluated on a case by case basis. The application for the hardened structure must demonstrate this is the most appropriate and minimum stabilization technique necessary as designed and sealed by a licensed professional engineer. The application must also demonstrate compliance with section 10-418(3) for compensatory littorals as well as previously approved littoral and deep lake management plan requirements. However, existing lakes within the DR/GR may not utilize hardened structures through the administrative process, ~~except those identified in section 10-418(3).~~

- (c) *remains unchanged*
- (d) *When submittals may be made.* Requests for deviations may be submitted contemporaneously with the applicant's original development order application, or at any time thereafter, so long as the application has not been withdrawn.

~~An applicant has six months to submit or resubmit a supplement consisting of drawings or plans setting forth the changes necessary to remedy any deficiencies identified in a written notice provided by the County regarding why the application will not be approved as submitted. If the supplement is not submitted within six months of the date of the written notice regarding deficiencies the application will be deemed withdrawn.~~

*Remainder of section remains unchanged.*

**Staff Note - Added percent hardening and compensatory littorals and pavement design, fixed section reference for allowed administrative deviations which is redundant with LDC Sec 10-110(b), and removed 6 month resubmittal deadline.**

**Sec. 10-121.** - Transfer.

A development order runs with the land and is transferable to the subsequent owner of the property covered by the development order. In order for a subsequent owner of property that is covered by a development order to ensure that the development order file is current, the new owner of the property must submit the following documents:

*(1) thru (2) remain unchanged.*

- (3) A notarized statement, signed by the applicant, under oath, that he or she is the authorized representative of the owner of the property and has full authority to secure the approval requested and to impose covenants and restrictions on the referenced property as a result of the issuance of a development order in accordance with this code. The signed statement also constitutes an acknowledgment that the property will not be transferred, conveyed, sold or subdivided unencumbered by the covenants and restrictions imposed as part of the development order.

**Staff Note – Added the word notarized.**

**Sec. 10-151.** - Generally.

*(a) remains unchanged.*

- (b) All drawings must be drawn on 24-inch by 36-inch sheets at an appropriate scale no greater than 1:50. If more than one sheet is required, appropriate match lines must be indicated. ~~The Division Director may allow electronic submittals of work in progress drawings. Final drawings must be submitted as 24 by 36 inch hard copy prints in order to be stamped "approved."~~

*Remainder of section remains unchanged.*

**Staff Note - Added language about no greater scale than 1:50 and removed old procedure.**

**Sec. 10-153.** - Application form and contents.

The application form for development order approval is available ~~may be obtained~~ from the Department of Community Development. The following information must be included in any application ~~form~~ for a development order:

- (1) A notarized statement signed by the applicant, under oath, that he or she is the authorized representative of the owner of the property and has full authority to secure the approval requested and to impose covenants and restrictions on the referenced property as a result of the issuance of a development order in accordance with this Code. The signed statement also constitutes an acknowledgment that the property will not be transferred, conveyed, sold or subdivided unencumbered by the covenants and restrictions imposed as part of the development order.

*Remainder of section remains unchanged.*

**Staff Note – Added the word notarized.**

**Sec. 10-154.** - Additional required submittals.

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

*(1) thru (6) remain unchanged.*

- (7) *Proposed development plan drawings.* Proposed development plan drawings showing at a minimum the following:

*a. thru i. remain unchanged.*

- j. Utilities. A statement indicating the proposed method intended to provide water, sewer, electricity, telephone, refuse collection and street lighting, including but not limited to:

1. The names and address of all utilities, governmental or private, intended to supply the service.
2. The names and addresses of the owners of all existing public water and sewage systems within one-quarter mile of the proposed development.
3. A plan showing the location and size of all water mains and services, fire hydrants, sewer mains and services, treatment plants and pumping stations, together with plan and profile drawings showing the depth of utility mains lines and points where utility mains ~~lines~~ cross one another or cross storm drain or water management facilities. The location of services shall be shown.

*k. thru r. remain unchanged*

*Remainder of section remains unchanged*

**Staff Note - Corrected the language from utility lines to utility mains.**

\*\*\*\*\*

ARTICLE III. – DESIGN STANDARDS AND REQUIREMENTS

DIVISION 1. - GENERALLY

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

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

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

(1) *Remains unchanged.*

(2) *Location.*

*a. and b. remain unchanged.*

c. The developer must construct bicycle and/or pedestrian ways, where applicable, in private subdivisions internal to the development as follows:

*1. and 2. remain unchanged.*

3. Sidewalks on both sides of all internal streets are required for all new non-residential developments and must extend from intersection ~~from~~to intersection.

*Remainder of section unchanged.*

**Staff note – Added reference to Map 3D of the Lee Plan.**

\*\*\*\*\*

DIVISION 2. – TRANSPORTATION, ROADWAYS, STREETS AND BRIDGES

**Sec. 10-285.** - Connection separation.

(a) *Generally.* Motor vehicle connection(s) to a ~~county-maintained~~ road from privately-maintained streets, access roads or accessways must be separated in accordance with the minimum standards of Table 1, and consistent with criteria contained in the administrative code.

**TABLE 1. CONNECTION SEPARATION**

Future Urban, Suburban or Non-Urban Areas as defined in the Lee Plan	Future Urban Areas (Posted Speed $\geq 45 / < 45$ )	Future Suburban Areas	Future Non-Urban Areas

*Remainder of table unchanged.*

**Staff Note – Removed the words County Maintained. Update table speed to include 45 MPH as posted speed.**

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

(a) *Thru (b) remain unchanged.*

(c) *Street and bridge design and construction standards.* All street and bridge improvements must comply with the standards and specifications listed herein, pertaining to minimum specifications

for street improvements, and section ~~10-300 10-706~~, pertaining to minimum specifications for bridge improvements, for the applicable development category.

**Staff Note – Fixed reference to the LDC for bridge improvements.**

(d) *remains unchanged.*

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

(1) *remains unchanged.*

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

a. *thru g. remain unchanged.*

h. Suburban context design criteria.

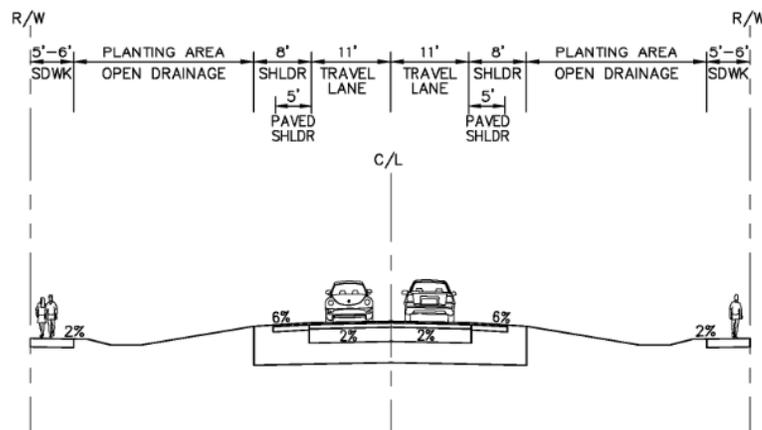
1. *thru 4. remain unchanged.*

5. *Suburban local streets.*

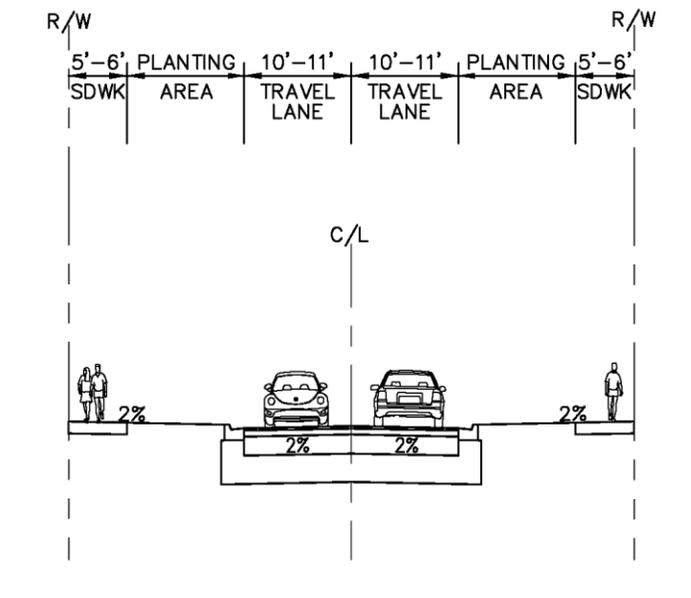
i. *thru ii. remain unchanged.*

iii. *Cross-sections.*

a. The following cross-section is illustrative of suburban local streets with closed drainage.



**\*\*The above cross section to be removed**



**Suburban Local Street  
Closed Drainage**

*b. remains unchanged.*

**Suburban Local Street  
Open Drainage**

Staff Note - Fixed diagram for suburban local streets with closed drainage design.

\*\*\*\*\*

**DIVISION 3. – SURFACE WATER MANAGEMENT**

**Sec. 10-321.** - Generally.

*(a) remains unchanged.*

*(b) Development outside future urban areas to comply with policies of [the] Lee Plan; surface water management plans within urban areas.*

*(1) remains unchanged.*

~~(2) Section 32-281 allows certain modifications to this chapter's surface water management standards for compact communities.~~

~~(32) Surface water management plans for developments within urban areas must mimic natural systems where feasible in accordance with Lee Plan policy 61.2.4. Techniques to mimic the function of natural systems are specified in section 10-418.~~

*Remainder of section remains unchanged.*

Staff Note – Removed reference to Chapter 32, as this chapter was previously deleted. Remove unnecessary Lee Plan cross-reference.

\*\*\*\*\*

DIVISION 6. – OPEN SPACE, BUFFERING AND LANDSCAPING

**Sec. 10-416.** - Landscape standards.

*(a) thru (b) remains unchanged.*

(c) *Landscaping of parking and vehicle use areas.* The provisions of this section apply to all new off-street parking or other vehicular use areas. Existing landscaping that does not comply with the provisions of this Code must be brought into conformity, to the maximum extent possible, when: the vehicular use area is altered or expanded except for restriping of lots/drives, the building square footage is changed, or the structure has been vacant for a period of one year or more and a request for an occupational license to resume business is made. Consistent with the provisions of section 10-104, the Director may permit administrative deviations where a conflict exists between the application of this division and the requirements for the number of off-street parking spaces or area of off-street loading facilities.

*(1) remains unchanged.*

(2) *Internal landscaping.* All parking areas must be internally landscaped to provide visual relief and cooling effects and to channelize and define logical areas for pedestrian and vehicular circulation, as follows:

- a. Trees must be planted or retained in landscaped areas in parking areas, including landscaped areas reserved for future parking spaces, to provide for canopy coverage when the trees mature. At least one canopy tree or a cluster of three sabal palms must be planted or retained for every 250 square feet of required internal planting area, and no parking space may be more than 200 feet from a tree planted in a permeable island, peninsula or median. Canopy tree requirements may be met with existing indigenous native trees on a 1:1 ratio whenever such trees are located within the parking area.

*b. thru g. remain unchanged.*

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

*(1) remains unchanged.*

(2) *Use categories.* In interpreting and applying the provisions of this section, development is classified into the following use categories:

<b>USES</b>
-------------

AG	Agricultural uses
SF-R	Single-family, duplex or two-family attached situated on individual lots
MF-R	Residential structures containing three or more dwelling units on a single parcel
COM	Commercial uses, public facilities, schools (other than Lee County School District), and recreational vehicle parks
WOR	Places of worship (df)
IND	Industrial use
STP	Sewer treatment plant or water treatment plant
ROW	Public Street right-of-way or roadway easement.
REC	Public active recreational park
PRE	Public preserve lands for conservation and/or passive recreation

(3) *Buffer requirements.* The following table provides the required buffer type when a proposed use is abutting an existing use or, in the absence of an existing use, the existing zoning.

<b>BUFFER REQUIREMENTS</b>											
<b>Permitted or Existing Uses</b>											
<b>Proposed Uses</b>		<b>AG</b>	<b>SF-R</b>	<b>MF-R</b>	<b>CO</b>	<b>WOR</b>	<b>IND</b>	<b>STP</b>	<b>ROW</b>	<b>REC</b>	<b>PRE</b>
	<b>AG</b>	---	---	---	---	---	---	---	---	---	---
	<b>SF</b>	---	---	---	---	---	---	---	---	B	F(2)
	<b>MF</b>	---	B	---	---	---	---	---	D	B	F(2)
	<b>CO</b>	---	C/F	C/F	A	A	---	---	D	A	F(2)

<b>WO</b>	--	C/F	C/F	A	A	--	--	D	A	F(2)
<b>IND</b>	--	(1)	(1)	--	(1)	--	--	D	<u>A</u>	F(2)
<b>STP</b>	C/F	E	E	E	E	C/F	--	D	<u>A</u>	F(2)
<b>REC</b>	--	C/F	C/F	A	A	--	--	D	F	F(2)
<b>PRE</b>	--	F	F	--	--	--	--	--	F	--

*Notes for Buffer Requirements Table remain unchanged.*

(4) *Buffer types.* The following table provides six different buffer types. Each type buffer, identified by a letter, provides the minimum number of trees and shrubs per 100 linear foot segment and indicates whether or not a wall or hedge is required.

*Table remains unchanged.*

<b>BUFFER TYPES (per 100 linear feet)</b>						
<b>Buffer types</b>	<b>A</b>	<b>B</b>	<b>C</b>	<b>D(3)</b>	<b>E</b>	<b>F</b>
Minimum width in feet	5	15	15	15	25	30
Minimum # of trees	4	5	5	5	5	10
Minimum # of shrubs	—	Hedge(2)	18(4)	Hedge(2)	30(4)	Hedge(2)
Wall required (1)	No	No	Yes	No	Yes	No

*Notes for Buffer Types Table:*

1. *remains unchanged.*

2. Hedges must be planted in double staggered rows and be maintained so as to form a 36-inch high (F type buffers must be 48 inches at installation and be maintained at ~~60~~ 72 inches high) continuous visual screen within one year after time of planting.

3. *thru 4. remain unchanged.*

4. Shrubs required by this section are intended to provide visual screening and may not be pruned to reduce height.

*Remainder of section remains unchanged.*

Staff Note - Revised the buffer table to call out a ROW as any street right of way or roadway easement. Added a Type A buffer as being required between industrial uses and sewer/water treatment plants and public active recreational parks. The code requires a buffer for commercial and residential uses adjacent to a park so a more intense use should also have a buffer required for adequate screening. Increased the minimum height to maintain the Type F buffer hedge from 60 inches to 72 inches. The options when abutting a residential use are a choice of a type C or F buffer. The C buffer requires a 8' wall with less plantings and the F buffer requires a wider buffer with more plantings. Currently the LDC requires the hedge of a C buffer to be maintained at 5' (60 inches) in height. Staff is asking for this to be maintained at 6' (72 inches) in height to enhance screening. Added a Type A buffer as being required between industrial uses and public active recreational parks.

\*\*\*\*\*

#### ARTICLE IV. – DESIGN STANDARDS AND GUIDELINES FOR COMMERCIAL BUILDINGS AND DEVELOPMENTS

**Sec. 10-610.** - Site design standards and guidelines for commercial developments.

*(a) thru (c) remain unchanged.*

*(d) Pedestrian walkways and bicycle parking.*

*(1) thru (2) remain unchanged.*

*(3) Bicycle parking requirements.*

*a. remains unchanged.*

*b. Design.*

1. A bicycle parking facility suited to a single bicycle ~~may~~ must be a standalone inverted - U design measuring a minimum of 36 inches high and 18 inches wide [of one and one-half (1½) inch Schedule 40 pipe, ASTM F 1083] bent in one piece ("bike rack") mounted securely to the ground [by a 3/8 -inch thick steel base plate, ASTM A 36] so it is capable of securing the bicycle frame and both wheels.

2. thru 3. remain unchanged.

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

*(e) Parking lot interconnections.* Adjacent commercial uses must provide parking lot interconnections for automobile, bicycle and pedestrian traffic. ~~Interconnections are not intended to satisfy the criteria for site location standards as outlined in Lee Plan Policy 6.1.2(5).~~

- (f) *Project entrance.*
  - (1) *remains unchanged.*
  - (2) The driveway length must provide adequate throat depth consistent with the FDOT ~~Driveway Handbook~~ Driveway Information Guide.
  - (3) *thru (4) remains unchanged.*

*Staff Note - Removed reference to site location standards. Made edits to the bicycle parking design. Added bicycle and pedestrian traffic to parking lot interconnects, and changed the verbiage for the driveway information guide.*

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## Chapter 33 – Planning Community Regulations

### ARTICLE V. - LEHIGH ACRES PLANNING COMMUNITY

#### DIVISION 3. - SPECIFIC USE STANDARDS

#### **Sec. 33-1434. - ~~Development~~ Architectural standards.**

- ~~(1)(a)~~ Primary facades must be designed with features consistent with the appearance of a single-family dwelling. A maximum of one door may directly face the adjacent street right-of-way and must have a distinct entry feature such as a porch or covered entryway.
- ~~(2)(b)~~ Mechanical equipment including, but not limited to, air conditioning units, pool pumps, generators and well tanks, must be screened from view of the public right-of-way and adjacent residential properties with landscaping, fencing, or both. Fencing must be consistent with section 34-1742.
- ~~(3)(c)~~ A minimum of one attached single car garage, accessible from the road by a paved driveway, is required for each dwelling unit. The garage and driveway must provide parking in compliance with LDC Sec. 34-2020(a).
- ~~(4)(d)~~ Garages must be designed for side-entry so as not to face a street right-of-way, or be recessed a minimum of four feet behind the front facades or porches of the dwelling unit.
- ~~(5)(e)~~ When located on a corner lot, each individual unit must face a separate street right-of-way.
- ~~(6)(f)~~ When located on a through lot, each individual unit must face a separate street right-of-way.
- ~~(b) — Driveways.~~
  - ~~(1) — A driveway must be provided for each unit that connects the building to the paved road. The driveways must be a minimum of 20 feet wide and provide a minimum of two parking spaces.~~
  - ~~(2) — The driveway must be constructed of concrete, asphalt or concrete pavers and comply with the provisions set forth in Lee County Administrative Code 11-2 pertaining to residential driveways~~
  - ~~(3) — Use of the driveway for commercial activities is prohibited unless the applicable permits are obtained.~~

Remainder of section unchanged.

Staff Note – Clarify language for driveways for duplexes in Lehigh Acres Planning Community.

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ARTICLE VI. – CALOOSAHATCHEE SHORES PLANNING COMMUNITY

DIVISION 3. OVERLAY DISTRICTS

Sec. 33-1519. - Property development regulations table.

Property development regulations are as follows:

TABLE 33-1519  
PROPERTY DEVELOPMENT REGULATIONS FOR  
THE STATE ROUTE 80 CORRIDOR OVERLAY DISTRICT

	Special Notes or Regulations	Minimum	Maximum
Lot area and dimensions:	34-2221 & <del>34-2142</del> <u>34-1611 et seq.</u>		

Remainder of section unchanged.

Staff Note – Update cross reference.

\*\*\*\*\*

Chapter 34 – Zoning.

ARTICLE I. – IN GENERAL

Sec. 34-2. –Definitions.

*Bed and breakfast establishment* means an owner-occupied conventional single-family residence that accommodates lodgers. ~~Bed and breakfast establishments are permitted in any district permitting boardinghouses.~~ See section 34-1494(b) for calculating density equivalents. Bed and breakfast establishments approved as part of a Private Recreational Facilities Planned Development (PRFPD) are not required to be owner occupied.

Staff Note: Boardinghouses are no longer a defined term in the LDC.

\*\*\*\*\*

ARTICLE II. – ADMINISTRATION

Sec. 34-145. - Functions and authority.

(a) thru (b) remains unchanged.

(c) Special exceptions.

(1) thru (2) remain unchanged.

(3) Findings/review criteria.

a. thru b. remain unchanged.

c. In the case of any use proposing to use solar or wind energy for water heating, climate control or electricity, the Hearing Examiner must also find, or conclude a finding is not applicable, that:

1. Modifications to the property development regulations:

i. Are necessary so as to maximize use of solar or wind energy; and

iii. Do not decrease total lot area on which the use is located;

2. The principal use, absent its solar or wind aspects, is a permitted use in the zoning district for which it is proposed; and

3. The location of the proposed solar or wind energy equipment and access, do not, or will not, require the restriction of development on adjoining properties with respect to their existing zoning classification.

(4) thru (6) remain unchanged.

Remainder of sections remains unchanged.

Staff Note: special exception findings for solar and wind energy from 34-2196 where it was located under an unrelated subdivision for setbacks.

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

(a) The decision of the Hearing Examiner is final for the following:

(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.~~

(3) Board initiated applications to rezone County-owned property to the Environmentally Critical (EC) zoning district.

Staff Note – Update language to show Hearing Examiner is the final decision for EC zoning cases.

**Sec. 34-203.** - Additional requirements for applications requiring public hearing.

(a) – (d) remain unchanged.

(e) Special exceptions. Except for special exceptions that are developments of County impact (see section 34-341), all applications for a special exception must, in addition to the requirements of sections 34-202(a) and (b), include the following:

(1) – (2) remain unchanged.

(3) Solar or wind energy modifications. If the request is to modify property development regulations for the purposes of using solar or wind energy, evidence must be submitted that the proposed modifications are the minimum necessary to provide for the solar or wind energy proposal and that the proposed modifications will not adversely affect adjacent properties. ~~(See section 34-2196)~~

(4) – (8) remain unchanged.

Staff Note: Remove outdated section reference. Cross reference to 34-145 applicable to solar and wind energy modifications is provided in subsection (e)(1).

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**ARTICLE IV. – PLANNED DEVELOPMENTS**

**DIVISION 2. – APPLICATION AND PROCEDURE FOR APPROVAL**

**Sec. 34-373. - Application.**

(a) *Minimum required information for planned development zoning applications.* Rezoning applications for all planned developments, with the sole exception of mine excavation planned developments (MEPD) under chapter 12, must include the following information, supplemented, where necessary, with written material, maps, plans, or diagrams. A MEPD application must be submitted in accord with section 12-110 and is subject to the sufficiency timing provisions outlined in section 34-372(d).

Wherever this section calls for the exact or specific location of anything on a map or plan, the location must be indicated by dimensions from an acceptable reference point, survey marker or monument.

(1) thru (9) remains unchanged.

(10) *Property development regulations.* A property development regulations table that establishes the minimum lot area and dimensions, minimum setbacks, maximum height, and maximum lot coverage within the planned development. ~~Separate regulations may be designated to different development areas of the Master Concept Plan.~~ Uses that have specific setback requirements within the LDC will be subject to the requirements set forth in the LDC, unless specifically stated within the proposed property development regulations table.

*Remainder of section remains unchanged.*

Staff Note – clarify that uses may need separate development regulations.

\*\*\*\*\*

**DIVISION 2. – AGRICULTURAL DISTRICTS**

**Sec. 34-653.** - Use regulation table.

Use regulations for agricultural districts are as follows:

**TABLE 34-653. USE REGULATIONS FOR AGRICULTURAL DISTRICTS**

	Special Notes or Regulations	AG-1	AG-2	AG-3
Animals, reptiles, marine life:				
Animals (excluding exotic species)	34-1291 et seq.	P	P	P
Animal clinic (df) or animal kennel (df)	34-1321 et seq.	EO/SE	EO/SE	EO/SE
Keeping, raising or breeding of domestic tropical birds (df) for commercial purposes	Note (12), 34-1291 et seq.	SE	SE	SE
Keeping, raising or breeding of American alligators, venomous reptiles or Class II animals (df)	34-1291 et seq.	SE	SE	SE
Keeping, raising or breeding of marine life which requires the storage of brackish or saline water in man-made ponds	34-1291 et seq.	SE	SE	SE
Consumption on premises	34-1261 et seq., <del>34-3152</del>	AA/SE	AA/SE	AA/SE
EMS, fire or sheriff's station	<del>34-3152</del>	SE	SE	SE
Essential service facilities (34-622(c)(13)):				
Group I	34-1611 et seq., 34-1741 et seq., 34-2141 et seq.	P	P	P
Group II	34-1611 et seq., 34-1741 et seq., 34-2141 et seq.	EO	EO	EO
Residential accessory uses	Note (19), 34-622(c)(42), 34-1171 et seq., 34-1863, 34-1741 et seq.,	P	P	P

	34-2141 et seq.			
--	-----------------	--	--	--

*Notes:*

(1) thru (22) remain unchanged.

(23) Minimum of five acres required. Commercial site location design standards apply.

*Remainder of section remains unchanged.*

Staff note –There are a growing number of instances where the keeping, raising, or breeding of marine life is done in enclosed tank systems instead of manmade ponds. Update code references. Clarify that Business Services, Group II is subject to commercial design and location standards.

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DIVISION 3. – RESIDENTIAL DISTRICTS

SUBDIVISION II. – ONE- AND TWO- FAMILY RESIDENTIAL DISTRICTS

**Sec. 34-695.** - Property development regulations table.

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

**TABLE 34-695. PROPERTY DEVELOPMENT REGULATIONS FOR ONE- AND TWO-FAMILY RESIDENTIAL DISTRICTS**

		Special Notes or Regulations	RSC-1	RSC-2	RSA	RS-1	RS-2	RS-3	RS-4	RS-5	TFC-1	TFC-2	TF-1
Minimum lot area and dimensions:		34-2221, 34-2222, <del>34-2142</del>											
Special regulations:													
	Essential service facilities (34-622(c)(13))	34-1611 et seq., <del>34-2141 et seq.</del>	Refer to the section specified for exceptions or additions to the minimum setback requirements listed in this table.										

*Remainder of section unchanged.*

Staff Note – Update cross reference.

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SUBDIVISION III. – MULTIPLE FAMILY DISTRICTS

**Sec. 34-714.** - Use regulations table.

Use regulations for multiple-family districts are as follows:

**TABLE 34-714. USE REGULATIONS FOR MULTIPLE-FAMILY RESIDENTIAL DISTRICTS**

		Special Notes or Regulations	RM-2 (Note 5)	RM-3, RM-6, RM-8, RM-10 (Note 5)
	Accessory uses, buildings, and structures:	34-1171 et seq., <del>34-2441 et seq.</del> , 34-3106	P	P
	Residential accessory uses	Note (13), 34-622(c)(42), 34-1171 et seq., 34-1863, 34-1741 et seq., 34-2141 et seq.	P	P
	Essential service facilities:	34-622(c)(13)		
	Group I	34-1611 et seq., 34-1741 et seq., <del>34-2142</del>	P	P
	Group II	34-1611 et seq., 34-1741 et seq., 34- 2141 et seq.	EO	—

*Remainder of section unchanged.*

**Staff Note – Update cross references.**

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

No structure may hereafter be erected, constructed, moved, altered or maintained in the RM districts in a manner that is not consistent with the property development regulations for multiple-family districts, except as provided for in article VIII (nonconformities) of this chapter, or in section 34-620 or section 34-713.

Properties located within the mixed use overlay as delineated on Map 1, page 6 of the Lee Plan and described in Objective 11.2 may apply the alternative property development regulations under the "MUO" category.

Property development regulations for multiple-family districts are as follows:

**TABLE 34-715. PROPERTY DEVELOPMENT REGULATIONS FOR MULTIPLE-FAMILY RESIDENTIAL DISTRICTS**

		Special Notes or Regulations	RM-2	RM-3	RM-6	RM-8	RM-10	MUO
Minimum lot area and dimensions:		34-1493, 34-1494, 34-2221, 34-2222, <del>34-2142</del>						
Special regulations:								
	Essential service facilities (34-622(c)(13))	34-1611 et seq., <del>34-2142</del>	Refer to the sections specified for exceptions or additions to the minimum setback requirements listed in this table.					
Maximum height (feet)		34-2171 et seq.	35	35	35	35	35	As req. by <del>34-2171 et seq.</del> <u>2175</u>

*Remainder of section unchanged.*

**Staff Note – Update cross reference.**

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SUBDIVISION IV. – MOBILE HOME RESIDENTIAL DISTRICTS

**Sec. 34-735.** - Use regulations table.

Use regulations for mobile home districts are as follows:

**TABLE 34-735. USE REGULATIONS FOR MOBILE HOME DISTRICTS**

		Special Notes or Regulations	MHC-1, MHC-2	MH- 1	MH- 2	MH- 3	MH- 4
Accessory uses, buildings, and structures:		34-1171 et seq., 34-2441 et seq., 34-3106	P	P	P	P	P
	Residential accessory uses	Note (12), 34-622(c)(42), 34-1171 et seq., 34-1863, 34-1741 et seq., <del>34-2141 et seq.</del>	P	P	P	P	P
Essential service facilities (34-622(c)(13)):							
	Group I	34-1611 et seq., 34-1741 et seq., <del>34-2141 et seq.</del>	P	P	P	P	P

Remainder of section unchanged.

Staff Note – Update cross reference.

Sec. 34-736. - Property development regulations table.

Property development regulations for mobile home districts are as follows:

TABLE 34-736. PROPERTY DEVELOPMENT REGULATIONS FOR  
MOBILE HOME RESIDENTIAL DISTRICTS

	Special Notes or Regulations	MHC- 1	MHC- 2	MH-1 (2)	MH-2 (1), (2)	MH-3 (2)	MH-4 (2)
Residential uses:							
Minimum lot area and dimensions:	34-2221, 34-2222, <del>34-2142</del> 34-1611 et <u>seq.</u>						
Special regulations:							

Essential service facilities (34-622(c)(13))	34-1611 et seq., <del>34-2142</del>	
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Remainder of section unchanged.

Staff Note – Update cross reference.

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DIVISION 4. RECREATIONAL VEHICLE PARK DISTRICTS

Sec. 34-767. - Use regulations table.

Use regulations for recreational vehicle districts are as follows:

**TABLE 34-767. USE REGULATIONS FOR RECREATIONAL VEHICLE DISTRICTS**

		Special Notes or Regulations	RV-2	RV-3
Essential service facilities (34-622(c)(13)):				
	Group I	34-1611 et seq., 34-1741 et seq., <del>34-2142</del>	P	P

Remainder of section unchanged.

Staff Note – Deletion of cross reference.

Sec. 34-768. - Property development regulations table.

Property development regulations for recreational vehicle districts are as follows:

**TABLE 34-768. PROPERTY DEVELOPMENT REGULATIONS FOR RECREATIONAL VEHICLE DISTRICTS**

		Special Notes or Regulations	RV-2	RV-3
Minimum lot area and dimensions:		34-2221, 34-2222 <del>34-2142</del> , <u>34-1611 et seq.</u>		

Notes:

(1) – (2) remain unchanged.

(3) Modifications to setbacks for solar or wind energy purposes are permitted only by special exception. See section 34-~~1452196~~.

(4) – (13) remain unchanged.

Staff Note - Update cross references.

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DIVISION 5. COMMUNITY FACILITIES DISTRICTS

Sec. 34-813. - Use regulations table.

Use regulations for the community facilities districts are as follows:

**TABLE 34-813. USE REGULATIONS FOR COMMUNITY FACILITIES DISTRICTS**

		Special Notes or Regulations	CF
	Accessory uses, buildings and structures	34-1171 et seq., 34-2441 et seq., 34-2141 et seq., <u>34-1611 et seq.</u>	P
	Essential service facilities:	34-622(c)(13)	
	Group I	34-1611 et seq., 34-1741 et seq., 34-2141 et seq.	P
	Group II	34-1611 et seq., 34-1741 et seq., 34-2141 et seq.	EO

Remainder of section unchanged.

Staff Note – Update cross reference.

Sec. 34-814. - Property development regulations table.

Table 34-814 remains unchanged.

Notes:

(1) Modifications to required setbacks for collector or arterial streets ~~is~~are permitted only by variance. Modifications for solar or wind energy purposes, are permitted only by special exception. See section 34-~~1452196~~.

(2) – (3) remain unchanged.

Staff Note - Update section reference.

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DIVISION 6. – COMMERCIAL DISTRICTS

**Sec. 34-841.** – Purpose and intent.

(f) *CN-3 neighborhood commercial district.* The purpose and intent of the CN-3 district is to permit the designation of suitable intersection locations for a broad range of small-scale retail, office and personal service facilities adjacent to and within future residential neighborhoods without the need to obtain CPD (Commercial Planned Development) zoning. This district is especially suited to those portions of Lehigh Acres that meet the criteria found in Lee Plan Policy ~~1.8.3(2)~~25.6.2. To protect the residential character of adjoining neighborhoods, certain potentially incompatible uses such as, but not limited to, convenience stores and fuel pumps are prohibited in the CN-3 district. Hours of operation for permitted uses are restricted to minimize night-time operations.

**Sec. 34-844.** - Use regulations table.

Use regulations for conventional commercial districts are as follows:

**TABLE 34-844. USE REGULATIONS FOR CONVENTIONAL COMMERCIAL DISTRICTS**

		Special Notes or Regulations	C-1A	C-1	C-2	C-2A	CN-1	CN-2	CN-3 (21, 23)	CC	CG	CS-1	CS-2	CH	CT	CR	CI	CP
	EMS, fire or sheriff's station	<del>34-3152</del>	P	P	P	P	—	—	—	P	P	P	—	—	—	P	P	—
	Essential service facilities:	34-622(c)(13)																
	Group I	34-1611 et seq., 34-1741 et seq., <del>34-2142</del>	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
	Group II	34-1611 et seq., 34-1741 et seq., 34-2141 et seq.	EO	—	—	—	—	—	—	EO	—	—	—	—	—	—	—	—
	Food stores (34-																	

622(c)(16)):																		
	Group I	<del>34-3152</del>	P	P	P	P	P (12)	P	P (12)	P	P	—	—	—	P	P	—	—
Impound yard		<del>34-3152</del>	—	EO	EO	—	—	—	—	EO	EO	—	—	—	—	—	—	—
Rental or leasing establishments (34-622(c)(39)):																		
	Group I	34-1352, 34-3001 et seq., <del>34-3152</del>	P	P	P	P	—	P	P	P	P	—	—	P	P	—	—	—
Restaurants (34-622(c)(43)):																		
	Group I	<del>34-3152</del>	P	P	P	P	—	P	P	P	P	—	SE (5)	P	P	P	—	—
	Group II	<del>34-3152</del>	P	P	P	P	—	P	P (24)	P	P	SE	SE (5)	P	P	—	—	—
	Group III	<del>34-3152</del>	P	P	P	P	—	P	P (24)	P	P	—	SE (5)	P	P	P	—	—

Remainder of section unchanged.

Staff Note – Update cross references.

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

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

Properties located within the mixed use overlay as delineated on Map 1, page 6 of the Lee Plan and described in Objective 11.2 may apply the alternative property development regulations under the "MUO" category.

Property development regulations for conventional commercial districts are as follows:

**TABLE 34-845. PROPERTY DEVELOPMENT REGULATIONS FOR COMMERCIAL DISTRICTS**

	Special Notes or Regulations	C-1A	C-1	C-2, C-2A	CN-1	CN-2	CN-3	CC, CG	CS-1	CS-2	CH	CT	CR	CI	CP	MUO	
Maximum density	Note (1)				(2)	(2)	(2)		(2)	(2)							
Minimum lot area and dimensions:	34-2221, 34-2222, <del>34-2142</del> , <u>34-1611 et seq.</u>															0	
Special regulations:		Refer to the sections specified for exceptions or additions to the minimum setback requirements listed in this table.															
Essential service facilities (34-622(c)(13))	34-1611 et seq., <del>34-2142</del> , <u>34-1611 et seq.</u>																
Maximum height (feet)		35	35	35	35	35	35	35	35	35	35	35	35	35	35	35	As reqd. by 34- <del>2171</del> <u>2175</u>

*Remainder of section unchanged.*

**Staff Note – Update cross references.**

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**DIVISION 7. – MARINE- ORIENTED DISTRICTS**

**Sec. 34-873.** - Use regulations table.

Use regulations for marine-oriented districts are as follows:

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

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

	Special Notes or Regulations	CM	IM	PORT
Bait and tackle shop	<del>Note (13)</del>	P	P	—
Consumption on premises	<del>34-1261 et seq.</del> <del>Note (13)</del>	AA/SE	AA/SE	AA/SE
Fire station	<del>Note (13)</del>	—	—	P
Fish market, enclosed	<del>Note (13)</del>	EO	SE	—
Gift and souvenir shop	<del>Note (13)</del>	P	—	—
Rental establishments, group I (34-622(c)(39))	<del>Note (13)</del>	P	—	—
Restaurant (34-622(c)(43)):				
Group I	<del>Note (13)</del>	P	P	P
Group II	<del>Note (13)</del>	P	SE	—
Group III	<del>Note (13)</del>	P	—	—

Notes:

*(1) through (12) remain unchanged.*

~~(13) — See section 34-3152~~

*Remainder of section unchanged.*

**Staff Note – removed outdated LDC reference, and delete old note reference.**

**Sec. 34-874.** - Property development regulations table.

Property development regulations for marine-oriented districts are as follows:

**TABLE 34-874. PROPERTY DEVELOPMENT REGULATIONS FOR MARINE-ORIENTED DISTRICTS**

	Special Notes	CM	IM	PORT
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			or Regulations			
Minimum lot area and dimensions:			34-2221, 34-2222, <del>34-2142</del> <u>34-1611</u> et seq.			
Special regulations:				Refer to the section specified for exceptions to the minimum setback requirements listed in this table.		
	Essential service facilities (34-622(c)(13))	34-1611 et seq., <del>34-2142</del>				

Remainder of section unchanged.

Staff Note – removed outdated LDC reference.

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DIVISION 8. – INDUSTRIAL DISTRICTS

Sec. 34-903. - Use regulations table.

Use regulations for industrial districts are as follows:

**TABLE 34-903. USE REGULATIONS FOR INDUSTRIAL DISTRICTS**

			Special Notes or Regulations	IL Note (14)	IG Note (14)	IR Note (14)
EMS, fire or sheriff's station			<del>34-3152</del>	P	P	P
Essential service facilities:			34-622(c)(13)			
	Group I		34-1611 et seq., 34-1741 et seq., <del>34-2142</del>	P	P	P
	Group II		34-1611 et seq., 34-1741 et seq., <del>34-2141 et seq.</del>	EO	—	—

Rental or leasing establishments (34-622(c)(39)):					
	Group II	34-1201 et seq., 34-1352, 34-3001 et seq., <del>34-3152</del>	P	P	—
Restaurant (34-622(c)(43)):					
	Group I	<del>34-3152</del>	P	P	P
	Group II	34-1261 et seq., <del>34-3152</del>	P	P	—

*Remainder of section unchanged.*

**Staff Note – Update cross-references.**

**Sec. 34-904.** - Property development regulations table.

Property development regulations for industrial districts are as follows:

TABLE 34-904. PROPERTY DEVELOPMENT REGULATIONS FOR INDUSTRIAL DISTRICTS

		Special Notes or Regulations	IL	IG	IR
Minimum lot area and dimensions:		34-2221, 34-2222, <del>34-2142</del> , <u>34-1611 et seq.</u>			
Special regulations:					
	Essential service facilities (34-622(c)(13))	34-1611 et seq., <del>34-2142</del> , <u>34-1611 et seq.</u>			

*Remainder of section unchanged.*

**Staff Note – Update cross-references.**

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**Sec. 34-934.** - Use regulations table.

Use regulations for planned development districts are as follows:

**TABLE 34-934. USE REGULATIONS FOR PLANNED DEVELOPMENT DISTRICTS**

		Special Notes or Regulations	RPD	MHPD	RVPD	CFPD	CPD	IPD Note (37)	AOPD	MPD	MEPD
	Accessory uses and structures	Note (1), 34-1171 et seq., 34-2441 et seq., 34-1863, 34-2141 et seq., <u>34-1611 et seq.</u> , 34-3106	P	P	P	P	P	P	P	P	—
	Bait and tackle shop	<del>Note (49)</del>	P(4)	P(4)	—	—	P	P	P	P	—
	Consumption on premises	34-1261 et seq., <del>Note (49)</del>	P(4)	P(4)	P(8)	—	P	P(9)	P	P	—
	Food Stores (34-622(c)(16)):										
	Group I	<del>Note (49)</del>	P(4)	P(4)	P	—	P	P(9)	P	P	—
	Group II	<del>Note (49)</del>	P(4)	P(4)	—	—	P	P(9)	P	P	—
	Essential service facilities (34-622(c)(13)):										
	Group I	Note (1), 34-1611 et seq., 34-1741 et seq., 34-2141 et seq., <u>34-1611 et seq.</u>	P	P	P	P	P	P	P	P	—
	Group II	Note (1) & (45),	P	P	P	P	P	P	P	P	—

		34-1611 et seq., 34-1741 et seq., 34-2141 et seq., <u>34-1611 et seq.</u>									
	Group III	Note (1), 34-1611 et seq., 34-1741 et seq., 34-2141 et seq., <u>34-1611 et seq.</u>	—	—	—	P	—	P	—	P	—
Gift and Souvenir Shop		<del>Note (49)</del>	—	—	—	—	P	—	P	P	—
Rental or leasing establishment (34-622(c)(39)):											
	Group I	34-1352,34-3001 et seq., <del>Note (49)</del>	P(4)	P(4)	P(8)	—	P	—	P	P	—
Restaurants (34-622(c)(43)):		<del>Note (49)</del>									

Notes:

(1) through (48) remain unchanged.

~~(49) See section 34-3152.~~

*Remainder of section unchanged.*

**Staff Note – Update cross references.**

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DIVISION 10. – SPECIAL PURPOSE DISTRICTS

**Sec. 34-981.** - Purpose and intent.

- (a) The purpose and intent of the EC environmentally critical district is to preserve and protect certain land and water areas in the unincorporated area of the County which have overriding ecological, hydrological or physiographic importance to the public at large.
- (b) ~~The application of the EC district is intended to prevent a public harm by: (1) precluding the use of land for purposes for which it is unsuited in its natural state; or (2) adversely affects a defined public~~

~~interest. The EC district will be applied to land or water only upon a recommendation by the Hearing Examiner and a finding by the Board that the use or conversion of the property may create a public harm or a public need, as described in section 34-145(d)(4)a.3. The application of the EC district is intended to prevent a public harm by precluding the use of land (1) for purposes for which it is unsuited in its natural state; or (2) which adversely affects a defined public interest.~~

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

Staff Note – Update language to show Hearing Examiner is the final decision for EC zoning cases (as noted in Section 34-145).

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ARTICLE VII. – SUPPLEMENTARY REGULATIONS

DIVISION 6. - ANIMALS

Sec. 34-1297. - Activities requiring special approval.

- (a) Due to possible adverse effects on the natural environment, or the potential hazard to surrounding property or the general public, the following activities are authorized only by special exception in certain zoning districts:

- (1) The keeping, raising or breeding of:

a. *remains unchanged.*

b. Marine life which requires the storage of brackish or saline water ~~in man-made ponds;~~

c. *thru d. remains unchanged.*

*Remainder of section remains unchanged.*

Staff note –There are a growing number of instances where the keeping, raising, or breeding of marine life is done in enclosed tank systems instead of manmade ponds. The proposed edit to remove ‘man-made ponds’ is to address a more complete set of circumstances where the raising of marine life takes place.

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DIVISION 10. – CARE FACILITIES AND CENTERS

Sec. 34-1411. - Assisted living facilities.

*(a) thru (d) remain unchanged.*

- (e) *Location.* No ALF may be ~~constructed~~ established within the Coastal High Hazard Area of the County unless the ALF facilities are constructed to meet the hurricane preparedness impact mitigation provisions set forth in Chapter 2 ~~section 2-485(b)(5)a~~ to serve as on-site shelters for its ~~occupants.~~

Staff Note – Clarify the application of Coastal High Hazard regulations. Replace ‘constructed’ with establish to preclude ALFs to occupy previously constructed buildings without compliance with hurricane preparedness requirements.

**Secs. 34-1412, 34-1413.** - Reserved.

**Sec. 34-1414.** - Continuing care facilities.

(a) thru (e) remain unchanged.

(f) *Location.* No CCF may be ~~constructed~~ established within the Coastal High Hazard ~~HH~~ Area of the County unless those facilities demonstrate compliance with ~~are constructed to meet~~ the hurricane preparedness impact mitigation provisions set forth in Chapter 2 ~~section 2-485(b)(5)a to serve as on-site shelters for its occupants.~~ CCFs to be located in category 2 or 3 land falling storm areas must provide hurricane shelter facilities on site in accordance with Chapter 2 ~~section 2-485(b)(5)b.~~

Staff Note – Clarify the application of Coastal High Hazard regulations. Replace ‘constructed’ with ‘established’ to preclude Continuing Care Facilities to occupy previously constructed buildings without compliance with hurricane preparedness requirements.

**Sec. 34-1415.** - Location of healthcare facilities.

No new Healthcare Facilities groups I, II, or IV may be established ~~constructed~~ within the Coastal High Hazard ~~CH~~ Areas of the County unless those facilities demonstrate compliance with ~~are constructed to meet~~ hurricane preparedness impact mitigation provisions set forth in Chapter 2 ~~for shelter on site as set forth in section 2-485(b)(5)a.~~

Healthcare Facilities groups I, II or IV located in category 2 or 3 land falling storm areas must provide shelter facilities on site in accordance with Chapter 2 ~~section 2-485(b)(5)b.~~

Healthcare Facilities groups I, II or IV located in areas of special flood hazard where base flood elevation data has been provided as set forth in Chapter 6, Article IV must also comply with the standards set forth in section 6-472(7).

Staff Note – Clarify the application of Coastal High Hazard regulations. Replace ‘constructed’ with establish to preclude Health Care Facilities to occupy previously constructed buildings without compliance with hurricane preparedness requirements.

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DIVISION 11. – WIRELESS COMMUNICATION FACILITIES

**Sec. 34-1442.** - Definitions.

*Letters of coordination* means documentation provided by the applicant that the following notice was mailed, via certified mail, to all providers or, where applicable, owners of existing antenna-supporting structures, and that the applicant was unable to secure a lease agreement to allow the placement of the proposed antenna on an existing structure or building within the geographic search area:

*Text of required notice:*

"Pursuant to the requirements of the Lee County Land Development Code, (name of applicant) is hereby providing you with notice of our intent to meet with the Lee County Department of Community Development in a pre-application conference to discuss the location of a freestanding wireless communications facility that would be located at (location). We plan to construct an antenna-supporting structure of (number of) feet in height for the purpose of providing (type of wireless service). Please inform the County and us if either of the following applies:

- a. You intend to place additional wireless communications facilities within two miles of our proposed facility; or
- b. You know of an existing building or structure that might accommodate the antennas associated with our proposed facility.

Please provide us with this information within ten days following the receipt of this letter.

Sincerely, (applicant, wireless provider)"

~~The Department will maintain a list of known service providers and owners.~~ Letters of coordination must be mailed at least 15 days prior to the pre-application conference required by this division and must request a response from the recipient within ten days of receipt.

**Staff Note – remove requirement for department maintenance of service providers and owners. Applicants may receive this information from the FCC.**

**Secs. 34-1454—34-1470**~~90~~. Reserved.

**Staff Note - Amend reserved section.**

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DIVISION 12. DENSITY

~~Subdivision I. In General~~

~~Secs. 34-1471—34-1490~~. Reserved.

~~Subdivision II. Residential Development~~

*Sections 34-1491 through 34-1494 remain unchanged.*

~~Sec. 34-1495~~. Reserved.

**Secs. 34-1495 - 34-1570**. Reserved.

**Staff Note - Remove unnecessary subdivision headings and amend reserved sections.**

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DIVISION 13. – ENVIRONMENTALLY SENSITIVE AREAS

**Sec. 34-1572.** - Applicability of division.

All areas proposed for development or rezoning ~~which are designated as resource protection or transition zone areas~~ designated as Conservation Lands, Uplands or Wetlands, on the future land use plan map, or which come under the criteria set forth in section 34-1571, ~~shall~~ will be subject to the general as well as the specific regulations set forth in this division.

**Staff Note – update designation references to align with the Lee Plan.**

**Sec. 34-1574.** - Compliance with applicable regulations; new roads or expansion of existing facilities.

(a) *remains unchanged.*

(b) Except in instances of overriding public interest, new roads or the expansion of existing facilities within ~~resource protection and transitional zones~~ Conservation Lands, Uplands or Wetlands, ~~will shall~~ be prohibited.

**Staff Note – update designation references to align with the Lee Plan.**

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DIVISION 15. - EXCAVATION ACTIVITIES

~~Subdivision I. – Generally~~

*Remainder of Division unchanged.*

**Staff Note - Remove unnecessary subdivision headings.**

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DIVISION 26. - PARKING

**Sec. 34-2020.** - Required parking spaces.

(a) *through (b) remain unchanged.*

(c) *Parking reduction for non-residential uses.* The Director may administratively approve a reduction to the minimum required number of parking spaces for non-residential uses by a maximum of ten percent if one or more of the following conditions are satisfied and approval is obtained in accordance with section 34-2020(d):

(1) *through (2) remain unchanged.*

(3) *Bicycle and pedestrian facilities and amenities.* The minimum required parking for a use may be reduced by five percent if bicycle and pedestrian facilities, identified on the Bikeways/Walkways Facility Plan - Planned Facilities and Existing Facilities, ~~Map 3D-1 or Map 3D-2~~ Map 3D of the Lee Plan, are located in the right-of-way adjacent to the property or on the property; a continuous bicycle path and pedestrian accommodations, consistent with section 10-610, are provided internal to the project from the bicycle/pedestrian facility to the primary entrance of the building; and, bicycle racks are provided on-site consistent with section 10-610(e)(3).

Remainder of section unchanged.

Staff Note – update reference in the Lee Plan.

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DIVISION 28. ~~PLANT NURSERIES~~ Reserved.

~~Sec. 34-2081. Nurseries in urban services area.~~

~~Where the zoning district use regulations permit plant nurseries in the urban services area:~~

- ~~(1) The area so used shall be set back at least 25 feet from all street rights-of-way or easements; and~~
- ~~(2) Fertilizer, compost, etc., shall be limited to quantities for immediate use, and kept at least 100 feet from any residential use.~~

Staff note – remove redundant regulatory language; these standards are not applicable.

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DIVISION 30. PROPERTY DEVELOPMENT REGULATIONS

Subdivision I. In General

~~Sec. 34-2142. Exception for essential service facilities group I.~~

~~Essential service facilities group I are not required to meet the minimum required lot area and dimensions for the district wherein located, provided that access, buffering, drainage, retention, parking and other provisions of chapters 10 and 34 are satisfied.~~

~~Secs. 34-2142~~3~~ - 34-2170. Reserved.~~

Staff Note – Delete section, is redundant with Section 34-1617.

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Subdivision II. Height

**Sec. 34-2175.** - Height limitations for special areas and Lee Plan land use categories.

The following areas have special maximum height limitations applicable to all conventional and planned development districts:

- (a) *Special areas.*
- (1) thru (4) remain unchanged.*
- (5) *Greater Pine Island.* See section 33-~~1088~~1087.

Remainder of section unchanged.

Staff Note – Update cross reference.

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Subdivision III. Setbacks

**Sec. 34-2191. - Measurement; permitted encroachments.**

Setbacks are measured from the property line to the nearest point of a building or structure. Encroachments into a required setback are permitted as provided below. Encroachments into easements are prohibited. All setbacks shall be measured to the nearest point of a building or structure. Encroachment into the setback shall be permitted as follows, -:

*(1) thru (4) remains unchanged.*

(5) Equipment Pads/Platforms.

- a. Equipment pads/platforms, such as those for air conditioning and swimming pool equipment, may encroach up to three feet into side, rear or waterbody setbacks. The equipment pad/platform may not interfere with ingress and egress, or through-access for life safety equipment.
- b. Equipment pads/platforms may be attached to a nonconforming building and will not be considered an extension or enlargement of a nonconformity as long as the building is properly zoned for its use and the requirements of Sec. 34-2191(5)a. are met.

**Staff Note – add regulatory language to clarify location of equipment pads and platforms.**

~~Sec. 34-2196. – Uses employing solar energy or wind-driven electrical generators. ———~~

~~Any use proposing to use solar or wind energy for water heating, climate control or electricity may request a special exception to modify the property development regulations so as to maximize use of solar or wind energy, provided that:~~

- ~~(1) The modifications from this chapter are the minimum required to provide such access;~~
- ~~(2) The modifications do not decrease either total lot area or total usable yard area;~~
- ~~(3) The principal use, absent its solar or wind aspects, is a permitted use in the zone for which it is proposed; and~~
- ~~(4) The proposed plans for solar or wind access best serve to protect the degree and location of that access and do not, or will not, require the restriction of development on adjoining properties with respect to their existing zoning classification.~~

~~Secs. 34-21967 - 34-2220. Reserved.~~

**Staff note - Delete and relocate to 34-145 regarding special exception findings for specific uses.**

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DIVISION 3. - NONCONFORMING LOTS

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

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

- (1) For the purpose of this division, a lot is created on such date that one of the following conditions occur:

*a. thru b. remain unchanged.*

- d. In the case of mobile home or recreational vehicle parks, the date when the park was approved by resolution for rezoning or a special permit for such use; provided, however, that the park subsequently obtained, on or before June 3, 1987, approval by the Board of County Commissioners of a site plan which identifies individual sites within the park and the sites meet the minimum lot size and setbacks consistent with the zoning regulations set forth in section 34-3274. Any park which was lawfully established prior to the effective date of the County's 1962 zoning regulations will be governed by the requirements of section 34-3274(1) as long as the park satisfies the remaining minimum documentary requirements and Board of County Commissioners approval set forth in this provision. Any park approved by the Board of County Commissioners under Ordinance 86-36 may request administrative approval to amend the approved site plan by ~~the combination of~~ combining lots ~~to create~~ creating larger lots provided the approved density is not increased. ~~The park must obtain an administrative approval by the requirements set forth in section 34-145.~~ For purposes of this subsection, the term "site plan" means any one or more of the following, whichever is applicable:

Staff Note – Removed out of date reference.