



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

**WEDNESDAY, JANUARY 9, 2019
2:00 P.M.**

AGENDA

1. Call to Order/Review of Affidavit of Publication
2. Approval of Minutes – September 12, 2018
3. Clean Up Amendments Part 2
4. Adjournment – Next Meeting Date: March 13, 2019

In accordance with the Americans with Disabilities Act, Lee County will not discriminate against qualified individuals with disabilities in its services, programs, or activities. To request an auxiliary aid or service for effective communication or a reasonable modification to participate, contact Joan LaGuardia, (239) 533-2314, ADArequests@leegov.com or Florida Relay Service 711. Accommodation will be provided at no cost to the requestor. Requests should be made at least five business days in advance.

Draft

MINUTES REPORT EXECUTIVE REGULATORY OVERSIGHT COMMITTEE WEDNESDAY, SEPTEMBER 12, 2018

Committee Members Present:

Tracy Hayden, Chair	Jim Ink	Michael Reitmann
Victor Dupont	Tim Keene	Michael Roeder
Bill Ennen	Anthony Pardal	Buck Ward

Committee Members Absent:

Carl Barraco, Jr.	Sam Hagan	Darin Larson
Bill DeDeugd	Bob Knight	Randy Mercer

Lee County Government & Representatives Present:

Audra Ennis, Zoning Manager	Mikki Rozdolski, Planning Manager
Anthony Rodriguez, Principal Planner	Brandon Dunn, Principal Planner
Amanda Swindle, Asst. County Attorney	Joe Adams, Asst. County Attorney
Pam Hendry, DCD Admin., Recording	

Public Participants:

Laura DeJohn, Johnson Engineering	Mari Giurastante, Johnson Engineering
Emily Underhill, Lee County Port Authority	Alicia Dixon, Lee County Port Authority
Phillip Ford, Building Industry Association	

Introduction

Ms. Tracy Hayden 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.

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 – February 26, 2018

Mr. Jim Ink made a motion to approve the February 26, 2018 meeting minutes. Mr. Michael Reitmann seconded. The motion carried unanimously.

Port Authority Amendments

Mr. Anthony Rodriguez said these amendments are proposed by the Lee County Port Authority. He said on page 16 of 28 the airport definitions for airport, private and airport, public were struck and will be relocated to Section 34-2.

Ms. Laura DeJohn of Johnson Engineering, Inc. said she appears on behalf of Lee County Port Authority (LCPA) and also present is Emily Underhill and Alicia Dixon of LCPA. She said there are two AOPDs in Lee County, Southwest Florida International Airport and Page Field. There are two pieces of this amendment; to streamline and simplify how airport

operation planned developments are defined in chapter 34, and the more lengthy series of edits are changes to the airport compatibility district. The Florida Statutes Chapter 333 relating to airport zoning changed in 2016 which mandated corresponding consistent updates within local zoning regulations so LCPA has worked with Lee County staff to bring the Lee County Land Development Code (LDC) into consistency with the statutes changes. Our airport compatibility district relates to how land uses are affected at the ends of runways, noise zones and obstructions which are tall structures permitting which hasn't changed, but the procedure has been updated. And, the procedure is now being put into the Administrative Code to clean up the LDC.

Mr. Tim Keene said regarding Sec. 34-1104(2) he had trouble figuring out on the first map as it relates to the contours. Maybe it would be helpful if on appendix C the zones could reference the DNL numbers that they pertain to on the map because later on you reference contour lines instead of zones. Could you somehow put the ranges associated with the zones?

Mr. Keene said regarding the Administrative Code could you clarify that there's no fee for a tall structure permit, and could it be clarified what a determination verses a permit is in D? Ms. DeJohn said we'll look at that.

Mr. Keene said paragraph C(5) of the Administrative Code says, "The character of existing and planned flight operations and developments at public-use airports." Why is the word "developments" in there? Ms. DeJohn said that's in the Statute.

Mr. Keene said in F(1) of the Administrative Code it says LCPA has 60 calendar days to issue a written response to complete a Tall Structures Permit application or a determination request. Can't it be 30 days since initial review is not that complicated? Ms. DeJohn said the window of 60 days allows the LCPA to communicate with FDOT aviation office and/or FAA. Mr. Buck Ward asked if they would either grant or deny the permit within 60 days? Ms. Hayden said it says they would issue a written response. Ms. Mikki Rozdolski said this language was picked up and moved from the LDC so is existing language that wasn't reviewed for updating, but we can work with the LCPA to figure out what time is realistic. We could probably even write in a caveat saying if it requires FAA review it would have a deadline of 60 days.

Mr. Ward made a motion to accept the amendments with the suggestion to staff to add the DNL contours numbers relating to the zones to the map in the Chapter 34 LDC, and in the Administrative Code to look at deleting the word 'development' in C(5), to look at clarifying 'determination' verses 'permit' in D, and look at the 60 days verses 30 days time in F(1). Mr. Ink seconded. The motion carried unanimously.

Water Dependent Overlay LDC Amendments

Mr. Rodriguez said the September 10, 2018 follow-up memo from him reflects the direction from the Board of County Commissioners (BOCC) to further explore the water dependent overlay amendments so two items from the original meeting packet were removed and will be resubmitted at a later date. One is the definitions to water-dependent uses and water-related uses in Section 34-2 and the second item is Section 34-1863 which is

intended to address development within the water-dependent overlay.

Ms. Hayden said Sec. 34-1862 was in the original meeting packet and it's in the revised packet but it's not mentioned as removed in the 9/10/18 memo. Ms. Rozdolski said it goes along with the overall amendment for the water dependent overly so we won't review that today.

Mr. Ink said he'd like to thank staff for listening and cleaning that language up.

Mr. Ward said regarding Sec. 34-871(a) the wording is saying the purpose of this is the proper development and use of land and adjacent waters for commercial marinas and other uses incidental to those facilities, then goes on to say the principal uses are limited to water dependent land uses. That seems to be a conflict. Mr. Keene said you should keep the strike out 'of land' and leave in the second 'land' because the context has to do with zoning land use, not the actual use of land, upland verses wetland. Mr. Ink said he thinks Mr. Keene is right, the intent is land use, not necessarily land verses water. Ms. Rozdolski said we will try to clarify that.

Mr. Ink made a motion to accept the amendments with the request that staff looks at Sec. 34-871(a) definition and be more clear on land use. Mr. Keene seconded the motion. The motioned carried unanimously.

General Clean-Up LDC Amendments

Mr. Rodriguez said this is the biennial LDC 2018 cleanup cycle to address the BOCC direction for staff to identify amendments to the Lee Plan and the LDC to streamline and reduce redundancies and conflicts between Lee Plan goals, objectives and policies, and to relocate regulatory provisions to the LDC where appropriate. We've accumulated a number of these miscellaneous amendments that are proposed to Chapters 2, 3, 10, 33 and 34. Staff does request that you recommend approval of the proposed amendments. An additional amendment was added related to Zoning Verification Letters that will add language to provide a procedure to allow for verification to facilitate licensure/approval to a State of Federal agency for certain uses.

Ms. Hayden said regarding Sec. 2-146 what's different with the Southeast Lee County Planning Community than the other ones, why treat that one differently? Mr. Dunn said you may use TDUs within Southeast Lee Planning Community but they are TDUs that come from the Southeast Lee Planning Community, so we needed to clarify that you may be able to use those in some cases. Ms. Rozdolski said this amendment's required to create consistent language, without it it's saying you can't use them.

Mr. Keene said in Sec. 10-8(5) can we add words 'in accordance with 10-256' which is the section that discusses that. In Sec. 10-256 there's a 25% threshold and this could be confused as to say there's no threshold, and you don't have to do it if you're below 25% increase in your building area. Ms. Rozdolski said that would be appropriate, we'll double check that section. That would be a cross reference as long as it's the right one.

Mr. Keene said regarding Sec. 10-104, it's not listed here but in (18) it talks about Lee

Tran's 10-441. Can we add paragraph 10-442 and 10-443 there as part of that administrative deviation? Ms. Rozdolski said can you list those out? Mr. Keene said (18) is 10-441 and it has to do with the sidewalk all the way to a bus stop and 10-442 is the thresholds and 10-443 is the fee in lieu of. It's appropriate to add those additional sections in there because 10-441 talks about the other sections so you need to deal with all three sections in total if you're doing an administrative deviation. Ms. Rozdolski said we'll discuss it and if it's appropriate we can add it in.

Ms. Hayden said regarding Sec. 10-416(4) it increased the F type buffers to 72 inches from 60 inches, is that a cleanup or a major change? Ms. Rozdolski said we're changing what you have to maintain them at so you can't trim them to be 5 feet, you have to maintain them no lower than 6 feet. Mr. Ink said that's not a cleanup, that's a change. Ms. Rozdolski said we will have to bring this one back.

Mr. Keene said regarding Sec. 34-653, Note (23) pertains to horticultural services, lawn and garden services, and now they're saying those have to meet commercial site locations standards. What is the change meant to accomplish, is that for someone who has a home business? Ms. Audra Ennis said this is for business services group 2 use of a larger scale than a home based business. This is a large scale lawn and garden supply service that would be located in the AG-2 zoning district. Mr. Keene said so it needs to be added. Mr. Ink said is this running a nursery in their backyard in an AG district? Ms. Ennis said not as a bonafide AG use, it's not a nursery operation it's if they're providing services for a lawn and garden service. Ms. Rozdolski said it's for people that are storing the lawn mowers, etc. on their property and going out and conducting a business.

Ms. Ennis said her 9/12/18 Memo regarding Sec. 34-626(a) is regarding Zoning Verification language. When an applicant applies for an assisted living facility or other type of care facility, and we're starting to see it with some medical marijuana treatment facilities, they need some verification from us directly to the governmental agency that licenses or approves them. This amendment establishes a process to make that available to them.

Mr. Ink made a motion to approve the amendments including Sec. 34-626 and omitting Sec. 416(d)(4) and all the other little notes. Mr. Bill Ennen seconded. The motion carried unanimously

ADJOURNMENT

The meeting adjourned at 3:15 PM.

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

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Clean Up Amendments Part 2

MEMORANDUM

FROM
THE DEPARTMENT OF
COMMUNITY DEVELOPMENT

TO: Executive Regulatory Oversight **DATE:** December 21, 2018
Committee Members

FROM: Audra M. Ennis  Zoning Manager

RE: Biennial Land Development Code (LDC) Cleanup – 2018 Cycle, Part 2

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

This set of Land Development Code amendments addresses changes to Chapters 6, 10, 14, and 34.

Chapter 2 – ADMINISTRATION

ARTICLE IV. – BONUS DENSITY

DIVISION 2. – BONUS DENSITY PROGRAM

Sec. 2-146. - Minimum requirements.

(a) *remains unchanged.*

(b) Minimum requirements:

(1) The additional traffic will not be required to travel through areas with significantly lower densities before reaching the nearest collector or arterial road ~~as required by Lee Plan Policy 39.1.4~~; and

(2) *thru (4) remain unchanged.*

Remainder of section unchanged.

Staff Note – Remove erroneous Lee Plan Policy reference.

CHAPTER 6 – BUILDINGS AND BUILDING REGULATIONS

ARTICLE II. CODES AND STANDARDS

DIVISION 1. GENERALLY

Sec. 6-47. - Building relocation permit.

(a) Compliance with applicable regulations; time limit for leaving buildings on street.

(1) When a building is moved to any location within the unincorporated area of the County, the building or part thereof must immediately be made to conform to all the provisions of the latest adopted zoning ordinance and other applicable County regulations.

(2) Any building being moved for which a permit was granted may not remain within a public right-of-way for more than 48 hours.

(b) Contents of application. Any person desiring to relocate or move a building must first file a written application on an official form provided by the Department. The application must include the following information furnished by the applicant and must be accompanied by the required application fee:

(1) The existing and proposed use of the building.

(2) The STRAP number and street address for both the existing and proposed location of the building.

(3) A certified survey of the proposed site with ground elevations, flood zone and required elevation, if in a V or A flood zone area.

(4) A plot plan showing lot dimensions, setbacks, existing structures, and the location of the proposed building drawn to scale. The plot plan must depict the roof overhangs and the foundations of all existing and proposed buildings and structures.

(5) Construction details, drawn to a scale of no larger than one-half inch equals one foot and no smaller than one-eighth inch equals one foot, including the following:

- a. Foundation layout with connection details.
 - b. Floor plan, existing and proposed.
 - c. Mechanical plans, including air conditioning, electric system and plumbing plans.
 - d. Elevations, front, side and rear.
 - e. Flood elevation, if applicable.
- (6) Current termite inspection by licensed pest controller.
- (7) Water and sewer approvals from appropriate agencies.
- (8) Photographs showing all sides of the building and the site where the building is proposed to be located.
- (9) Proof of notice to all owners of property abutting or across the street from the site where the building is proposed to be located.
- (c) Inspection of building. The building will be inspected by the County to determine:
- (1) If the building can be brought into compliance in all respects with this chapter and other County regulations pertaining to the area to which the building is to be moved.
 - (2) If the building is structurally sound and either complies with the Standard Building Code and other codes adopted by the County or can be brought into compliance with such codes.
- (d) Rejection of application. An application must be rejected if:
- (1) The building fails to meet the inspection criteria detailed in subsection (c) of this section;
 - (2) In the opinion of the Director, the moving of any building will cause serious injury to persons or property;
 - (3) The building to be moved has deteriorated due to fire or other element to more than 50 percent of its assessed value; or
 - (4) The moving of the building will violate any of the requirements of the Standard Building Code, this chapter or other applicable County regulations.
- (e) Approval of application. Upon approval of the application for building relocation, a licensed building relocation contractor representing the applicant must:
- (1) Apply for and receive all required permits from the Department of Transportation, County and/or state;
 - (2) Pay the required fees and obtain the building relocation permit and appropriate sub-permits.

Secs. 6-48-6-70. Reserved.

Staff Note - Relocated from 34-209.

CHAPTER 10 – DEVELOPMENT STANDARDS

ARTICLE I. IN GENERAL

Sec. 10-1. - Definitions.

- (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:

~~Lot coverage means that portion of a lot area, expressed as a percentage, occupied by all impervious surfaces.~~

Staff Note – Remove definition inconsistent with chapter 34.

ARTICLE II. – ADMINISTRATION

DIVISION 2. – DEVELOPMENT ORDERS

Sec. 10-102. - Employment of engineers and design consultants.

An engineer shall be employed by the developer to design all required improvements such as streets, drainage structures, drainage systems, bridges, bulkheads, water and sewage facilities, etc. All plans, drawings, reports and calculations shall be prepared, signed and sealed by the appropriate licensed professional, such as engineers, architects, landscape architects, land surveyors and attorneys, registered in the state. Other specialized consultants, such as environmental consultants, archaeologists, etc., may be required to assist in the preparation of the plans, drawings, reports and other documents required as development order submittals. Successor engineers must follow the procedures outlined in FAS 61G15-27.001 to continue use of sealed contract documents by any prior professional engineer.

DIVISION 2. – DEVELOPMENT ORDERS

Sec. 10-103. – Concurrent zoning and development order applications. ~~Prerequisite zoning approvals for development order submittals.~~

- ~~(a) Any applicant who intends to submit an application for development order approval on a project that was zoned RPD, MHPD, RVPD, CPD, CFPD, IPD or AOPD prior to December 2, 1991, must submit four complete sets of plans and documents to the zoning review staff, who will review the submittals for full compliance with the adopted master concept plan and any conditions of approval. Plans may be reviewed concurrently for compliance with this chapter and with the terms of the zoning approval. No development orders may be issued for the project in question until the plans have been determined to be in compliance with the terms of the zoning approval. Specific reference to the districts listed in this section and the required review does not obviate the need to have plans reviewed for zoning compliance for conditions placed on other types of zonings, PUDs, special exceptions, variances and special permits.~~
- ~~(b) All applications for development orders on property zoned RPD, MHPD, RVPD, CPD, CFPD, IPD, AOPD or MPD after December 2, 1991, must be reviewed for compliance with the approved master concept plan and all other conditions of approval as part of the development order review process.~~
- ~~(c) All applications for development orders must be consistent with zoning. For developments that require rezoning, the applicant may make application for a development order and the rezoning simultaneously. The development order will be reviewed for compliance with the requirements of this chapter and the requirements of chapter 12 and 34 for the proposed zoning of the property. No approval of the development order will be granted until the proposed rezoning is approved and a zoning resolution signed by the chairman of the Board of County Commissioners is issued.~~

Staff Note – Simplify language.

Sec. 10-108.1. - Payment of taxes.

No development orders or plats ~~will shall~~ be approved for the subject property if ad valorem taxes or assessments against the property are due and owing delinquent or if there are outstanding tax certificates issued for the property.

Staff Note –Revise to match administrative code.

Chapter 14 – Environment and Natural Resources

ARTICLE III. – WELLFIELD PROTECTION

Sec. 14-243. - Building permits and occupational licenses.

(a) *Review by division.*

(1) *thru (3) remain unchanged.*

(4) No request for a rezoning, special exception, ~~special permit~~, development order, certificate of occupancy, building permit, change of occupancy or occupational license for any activity regulated by this article will be issued that is contrary to the restrictions and provisions provided in this article. Permits or occupational licenses issued in violation of this section confer no right or privilege on the grantee, and such invalid permits or licenses will not vest rights.

Remainder of section unchanged.

CHAPTER 34 - ZONING

ARTICLE I. IN GENERAL

Sec. 34-2. - Definitions.

Accessory apartment means a living unit, without cooking facilities, which is subordinate and attached to a single-family residence and could be made available for rent or lease.

Accessory dwelling unit means a living unit subordinate to a single-family home which is either attached with cooking facilities, or detached with or without cooking facilities, and could be made available for rent or lease.

Agricultural uses includes but is not limited to farming, horticulture, pasturage, forestry, citrus and other fruit groves, greenhouses and nurseries, truck farms and dairy farms, commercial fish, frog or poultry hatcheries, and raising of hogs and other farm animals. ~~Lumbering or harvesting of cypress (Taxodium spp.) is not permitted except by special exception.~~

Lot measurement, width.

(1) *remains unchanged.*

(2) For lots lawfully created after January 28, 1983, width of a lot is considered to be the distance between the side lot lines (or a front and side lot line for corner lots) as measured along the minimum required street setback line. See section 34-2221(4) for exceptions.

Variance means a departure from the provisions of this chapter or from any County ordinance (excluding building codes) relating to building and other structural setbacks, lot dimensions such as width, depth or area, structure or building height, open space, buffers, parking or loading requirements, lot coverage, impervious areas, landscaping and similar type regulations. ~~Variiances must be approved by the Hearing Examiner based on the~~

~~findings established in section 34-145(b)(3). If authorized by section 34-268, the Director may administratively approve variances based on the criteria established in section 34-268(b).~~

Staff Note - Add definitions for accessory apartment and dwelling unit; removed procedural/permissibility language from definitions.

ARTICLE II. ADMINISTRATION

DIVISION 4. HEARING EXAMINER

Sec. 34-144. - Conduct of hearings; reports and records.

(a) *remains unchanged.*

(b) *Hearings.* Public hearings will be scheduled, noticed and conducted pursuant to applicable Administrative Codes and this Code. A hearing will not take place unless a staff report is delivered to the Applicant, the Hearing Examiner, and made available to the public at least 14 days prior to the public hearing for rezoning cases and at least 7 days prior to the public hearing for variance and special exception cases.

(c) *through (e) remain unchanged.*

Sec. 34-145. Functions and authority.

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

(c) Special exceptions.

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

(3) Findings/review criteria.

a. through b. remain unchanged.

c. In the case of private aircraft landing facilities, the Hearing Examiner must make a finding that the location of the proposed facility will not interfere with the operation of any existing aircraft landing facilities, airports or heliports.

Staff Note - Relocated from 34-203.

DIVISION 5. DEPARTMENT OF COMMUNITY DEVELOPMENT

Sec. 34-171. - Appointment of Director.

The County ~~Manager will Administrator shall~~ appoint the Director of the Department of Community Development. ~~He shall hold this position at the pleasure of the County Administrator.~~

Sec. 34-172. - Powers and duties.

(a) *Administration of zoning regulations.* ~~The administration of this chapter and chapter 12 is maintained in the Department of Community Development.~~ The Director is hereby authorized, empowered and directed to administer all the provisions of this chapter and any subsequent amendments thereto.

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

(f) Authority to issue cease and desist orders. The Director, after consultation with the County Attorney, has the authority to issue cease and desist orders on property being used in violation of the provisions of this Code. The cease and desist order may continue until the violation is resolved to the satisfaction of the County.

(g) Authority to issue temporary use permits. The Director is authorized to permit temporary uses upon receipt of a complete application.

Staff Note - Remove unnecessary language, relocate language from 34-266, and add authority to permit temporary uses not covered under (b) – (e).

Sec. 34-173. Authority to permit uses pending a zoning action.

(a) The Director is authorized to permit proposed uses that are not permitted on a subject parcel for a period of not more than 180 days under the following circumstances:

(1) An application for a rezoning or a special exception has been filed for the subject parcel that would, if approved, make the requested use a permitted use;

(2) The requested rezoning or special exception, in the opinion of the Director, is clearly compatible with the neighboring uses and zoning and is consistent with the Lee Plan;

(3) No new principal structures are to be constructed on the subject property; and

(4) The applicant agrees in writing that the proposed use will cease within 180 days unless the Board of County Commissioners or Hearing Examiner, whichever is applicable, has rendered a final decision approving the requested rezoning or special exception. At the discretion of the Director, the approval may be extended up to an additional 90 days.

(b) The Director's decision to allow the use does not guarantee the use will ultimately be approved through the applicable public hearing process.

(c) Upon expiration of the approval, the property may only be used in compliance with the underlying zoning regulations.

(d) Decisions by the Director pursuant to this section are discretionary and may not be appealed pursuant to subsection 34-145(a).

Staff Note - Relocated from 34-267

Sec. 34-174. Authority to approve administrative actions.

(a) Administrative Variances.

(1) Authority. The Director is authorized to administratively approve variances of the following:

a. Street, rear, side, or waterbody setbacks to allow:

1. Remodeling of, or additions to, existing structures that are nonconforming with regard to a specific setback so long as the remodeling or addition will not result in:

i. An increase in the height of the structure; or

ii. A further diminution of the setback. The Director may approve bay windows, chimneys and similar architectural features that may encroach further into the setback provided the encroachment does not protrude beyond the existing overhang of the building.

- 2. Construction of access appurtenant to an existing structure for disabled persons.
 - 3. Replacement of stairs or decking that provide access into an existing dwelling unit.
 - 4. Buildings or structures that:
 - i. Encroach into the required setbacks due to minor errors at time of construction.
 - ii. Are not in compliance with current setback regulations and can be proven to have been permitted.
 - 5. Construction of a single-family dwelling unit on lots with an approved Minimum Use Determination, provided the lot coverage does not exceed 45 percent.
- b. Requirements of chapters 10, 30, 33, and 34 necessary for development of property subject to a Lee County initiated eminent domain proceeding pursuant to section 1-16.
 - c. Setbacks in conventional zoning districts where the encroachment is 10% or less of the minimum required setback for proposed buildings.
 - d. Chapter 34 requirements that are necessary to facilitate development of existing nonconforming buildings or structures that have lost their nonconforming status pursuant to section 34-3242(2) and/or chapter 30 requirements for signs that have lost their nonconforming status pursuant to section 30-55(b)(2). Administrative variances granted pursuant to this section may only be granted to the extent that the variance is the minimum that will bring the site into compliance with this Code given the existing site constraints. Nonconforming open space, buffering and landscaping are subject to the regulations of section 10-416 and must be brought into conformance to the maximum extent possible.
 - e. Landscaping required by section 34-1743(b)(3) to allow existing, required or optional nonconforming residential project walls to be repaired or replaced.
 - f. Property development regulations for all religious facilities and places of worship provided in section 34-2051(a) for properties zoned residential and located in a platted subdivision.
 - g. Requirements of chapters 30, 33 and 34, at the discretion of the Director, where it can be proven the variance will allow the property to be developed in a manner which furthers the intent of the Lee Plan and will not diminish the public's health, safety, and welfare.
- (2) Findings/review criteria. Before approving any administrative variance, the Director must find the following review criteria are satisfied:
- a. There are exceptional or extraordinary conditions or circumstances that are inherent to the property in question;
 - b. The variance granted is the minimum variance that will relieve the applicant of an unreasonable burden caused by the application of the regulation in question to the property; and
 - c. The granting of the variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.
- (b) Administrative Approval of On-Premises Consumption of Alcoholic Beverages.
- (1) Authority. The Director is authorized to administratively approve the sale or service of alcoholic beverages for consumption on-premises when in conjunction with the uses provided in section 34-1264(a)(1).

(2) Findings/review criteria. Before approving the sale or service of alcoholic beverages for consumption on-premises, the Director must find there will be no apparent adverse impact on surrounding properties within 500 feet of the premises.

(c) Administrative Approval of New Antenna Supporting Structures.

(1) Authority. The Director is authorized to administratively approve new antenna supporting structures as provided by Article VII, Division 11 of this chapter.

(2) Findings/review criteria. Before approving new antenna supporting structures, the Director must make all of the following findings (or conclude that a finding is not applicable):

a. The applicant is not able to use existing wireless communications facility sites in the geographic search area; and

b. The applicant has agreed to rent or lease available space on the antenna-supporting structure, under the terms of a fair-market lease, without discrimination to other wireless communications service providers; and

c. The proposed antenna-supporting structure will not be injurious to historical resources, or reduce the quality and function of natural or man-made resources; and

d. The applicant has agreed to implement all reasonable measures to mitigate the potential adverse impacts of the structures and facilities.

(d) Administrative Approval of Community Gardens.

(1) Authority. The Director is authorized to administratively approve community gardens when in compliance with section 34-1716.

(2) Findings/review criteria. Before approving a community garden, the Director must find there will be no apparent adverse impact on adjacent properties.

(e) Administrative Approval of Model Homes, Model Units and Model Display Centers.

(1) Authority. The Director is authorized to administratively approve model homes, model units and model display centers when in compliance with 34-1954 or 34-1955, as applicable.

(2) Findings/review criteria. Before approving model homes, model units or model display centers, the Director must find the following review criteria are satisfied:

a. For model homes and model units, the property is located within a new development under unified control.

b. For model display centers, the property is zoned RPD, MHPD, RVPD or MPD.

(f) Administrative Approval of Reduced Parking for Non-Residential Uses.

(1) Authority. The Director is authorized to administratively approve a reduction to the minimum required number of parking spaces for non-residential uses by a maximum of ten percent.

(2) Findings/review criteria. Before approving any administrative reduction to the minimum required number of parking spaces for non-residential uses, the Director must find the following review criteria are satisfied:

a. One or more of the conditions provided in section 34-2020(c) exist; and

b. There will be no adverse impact on surrounding properties or on the public health, safety and welfare.

(g) Administrative Approval for Existing Commercial and Industrial Developments.

(1) Authority. The Director is authorized to administratively approve relief from minimum required setbacks and lot area, width and depth to allow subdivision of commercial and industrial lots.

(2) Findings/review criteria. Before approving a subdivision of existing commercial or industrial developments, the Director must find the following review criteria are satisfied:

a. The overall development complies with all applicable zoning requirements notwithstanding the noncompliance with property development regulations in chapter 34, and chapter 10 of the individual lots within the subdivision.

b. In the event that the individual lots will not have direct access to a public street, the applicant has demonstrated how access to such lots will be accomplished via common areas.

c. In the event individual lots will not comply with minimum open space requirements, the applicant has demonstrated how the required open space requirement for the overall development will be satisfied via common areas.

d. All common elements of the overall development are subject to unified control and will be perpetually maintained through a property owners association. The common elements include, but are not limited to, streets and accessways, off-street parking, water management facilities, buffering, fences or walls, and open space.

e. There will be no apparent deleterious effect upon surrounding properties or the immediate neighborhood.

(h) Administrative Approval of 86-36 Lot Combination.

(1) Authority. The Director is authorized to administratively approve amendments to site plans for mobile home or recreational vehicle parks approved by Lee County Ordinance 86-36.

(2) Findings/review criteria. Before approving an amendment to a site plan approved by Ordinance 86-36, the Director must find the following review criteria are satisfied:

a. The amended site plan does not increase the number of lots in the park.

b. There will be no adverse impact on surrounding properties.

(i) Administrative Approval of Deviation(s) from Chapters 10 and 33.

(1) Authority. The Director is authorized to administratively approve deviations from technical standards in chapter 10, limited to those listed section 10-104, and from certain provisions, as specified, in chapter 33.

(2) Findings/review criteria. Before approving a deviation, the Director must find the following review criteria are satisfied:

a. For chapter 10 deviations:

(1) The request is based on sound engineering practices (not applicable to sections 10-352, 10-353 and Division 7, Article III, chapter 10);

- (2) The request is no less consistent with the health, safety and welfare of abutting landowners and the general public than the standard from which the deviation is being requested;
- (3) The granting of the deviation is not inconsistent with any specific policy directive of the Board of County Commissioners, any other ordinance or any Lee Plan provision; and
- (4) For Division 7, Article III, chapter 10, the required facility would unnecessarily duplicate existing facilities;
- (5) For sections 10-352 and 10-353, the utility that would otherwise serve the development cannot provide the service at the adopted level of service standard due to an inadequate central facility.

b. For chapter 33 deviations, additional criteria, if specified within chapter 33, must be met.

(j) Administrative Amendment to a Planned Development.

- (1) Authority. The Director is authorized to administratively approve an amendment to a planned development pursuant to section 34-380.
- (2) Findings/review criteria. Before approving any administrative amendment to a planned development, the Director must find the request:
 - a. Does not increase height, density or intensity of the development, except as permitted in chapter 2.
 - b. Does not result in the substantial underutilization of public resources and public infrastructure committed to the support of the development;
 - c. Does not result in a reduction of total open space provided on the master concept plan by more than ten percent;
 - d. Does not decrease the amount of indigenous native vegetation preservation or open space areas below the amount required by the Code;
 - e. If changes to the buffer or landscaping areas are proposed, equivalent or better (by comparison with the approved Master Concept Plan) landscaping or buffering is provided;
 - f. Does not adversely impact surrounding land uses; and
 - g. Is consistent with all applicable provisions of the Lee Plan and land development regulations in effect at the time of the amendment request.

(k) Administrative Amendment to a Planned Development located in the Mixed Use Overlay.

- (1) Authority. The Director is authorized to administratively approve an amendment to a planned development on property located in the Mixed Use Overlay to facilitate redevelopment or infill development.
- (2) Findings/review criteria. Before approving any administrative amendment to a planned development, the Director must find the request:
 - a. Will have a positive impact on transportation facilities;
 - b. Will provide for connections to adjacent uses;
 - c. Will allow for urban forms of development and a variety of uses;

- d. Will not result in the substantial underutilization of public resources and public infrastructure committed to the support of the development;
- e. Will not decrease the amount of indigenous native vegetation or preservation area below the amount required by Code;
- f. Will not adversely impact surrounding land uses; and
- g. Is consistent with applicable provisions of the Lee Plan and land development regulations in effect at the time of the amendment request.

(l) Decisions of Director.

- (1) The Director may administratively approve a request in accordance with the provisions above with conditions as necessary for the protection of the health, safety, and welfare of the general public. Conditions must be reasonably necessary to effectuate the intent and purpose of this Code and other applicable regulations.
- (2) Decisions by the Director pursuant to this section are discretionary and may not be appealed in accordance with section 34-145(a).
- (3) If the County determines that an administrative action was approved based on inaccurate or misleading information or if the approval did not comply with this Code when the decision was rendered, then, at any time, the Director may issue a modified approval that complies with the Code or revoke the administrative approval.
- (4) If a request for an administrative action is denied, revoked, or an applicant disagrees with the conditions imposed, the applicant may seek approval by filing an application for public hearing in accordance with section 34-373.

Staff Note - Relocated from sections throughout LDC.

Secs. 34-1753—34-200. - Reserved.

DIVISION 6. APPLICATIONS AND PROCEDURES FOR CHANGES, PERMITS, INTERPRETATIONS AND APPROVALS

Sec. 34-201. General procedure for applications requiring public hearing Application requirements for public hearing and administrative actions.

- (a) *remains unchanged.*
- (b) Abutting properties. All properties within a single application must be abutting unless the Director determines, in his or her sole discretion, that there is a rational relationship between the properties in question.

~~Application submittal and official receipt procedure.~~ The application procedure and requirements in this section apply to all applications for rezoning, special exceptions, and variances, except mine excavation planned developments under chapter 12.

- (1) ~~All properties within a single application must be abutting. The Director may, at his discretion, allow a single application cover non-abutting properties where it is in the public interest, due to the size or scope and nature of the request, and there is a rational continuity to the properties in question.~~
- (2) ~~No application may be accepted unless it is presented on the official forms provided by the Department, or on County approved forms containing the same information.~~
- (3) ~~Before an application may be accepted, it must fully comply with all information requirements enumerated in section 34-202, unless specifically stated otherwise in this chapter.~~

- (4) ~~The applicant must ensure that an application is accurate and complete. Any additional expenses necessitated because of inaccurate or incomplete information will be borne by the applicant.~~
- (5) ~~Upon receipt of the completed application form, all required documents and the filing fee, the Department will begin reviewing the application for completeness or, in the case of planned development applications, begin reviewing the application for sufficiency pursuant to section 34-373(d).~~
- (c) Waivers. Upon written request, on a form prepared by the County, the Director may modify the submittal requirements where it can be demonstrated by the applicant that the submission will have no bearing on the review and processing of the application. The decision of the Director is discretionary and may not be appealed.
- (d) Filing fee. All fees, in accordance with the County's External Fees and Charges Manual, must be paid in full at the time the application is submitted. No review of the application will commence until payment is received.

Staff Note – Remove redundant/relocated language.

Sec. 34-202. - ~~General~~ Submittal requirements for applications requiring public hearing.

- (a) ~~All applications.~~ Every request for actions requiring a public hearing under this chapter must include the following. However, upon written request, on a form prepared by the County, the Director may modify the submittal requirements contained in this section where it can be clearly demonstrated that the submission will have no bearing on the review and processing of the application. The request for a waiver or modification must be submitted to the Director prior to submitting the application. A copy of the request and the Director's written response must accompany the application and will become a part of the permanent file.
- (a) Submittal requirements for all public hearing applications. All applications for public hearing requests must include the following. Any additional expenses due to inaccurate or incomplete information will be borne by the applicant.
- (1) Application form. Applications will only be accepted on official forms provided by the Department.
 - (2) Ownership interests. An affidavit, signed by the property owner or contract purchaser, must be submitted stating whether a Lee County Employee, County Commissioner, or Hearing Examiner has an ownership interest in the property or any legal entity (corporation, company, partnership, limited partnership, trust, etc.) that has an ownership interest in the property or that has contracted to purchase the property. Disclosure with respect to a beneficial ownership interest in any entity registered with the Federal Securities Exchange Commission or registered pursuant to Chapter 517, whose interest is for sale to the general public, is exempt from this provision.
 - (3) Applicant's statement. Notwithstanding the requirements of section 34-201(a)(1)a., the applicant must sign a statement, under oath, that he is the owner or the authorized representative of the owner of the property and that he has full authority to secure the approval requested and to impose covenants and restrictions on the referenced property as a result of the action approved by the County in accordance with this Code. This must also include a statement that the property owner will not transfer, convey, sell or subdivide the subject parcel unencumbered by the covenants and restrictions imposed by the approved action.
 - (4) Agent authorization. The applicant may authorize agents to assist in the preparation and presentation of the application. Any agent authorized by the applicant will be deemed to have the authority to bind the property with respect to conditions.
 - (5) ~~(4)~~ Legal description and sketch to accompany legal description. A metes and bounds legal description along with a sketch of the legal description, prepared by a Florida Licensed Surveyor and Mapper, must be submitted, unless the property consists of one or more undivided lots within a subdivision platted in accordance with Florida Statutes, Ch. 177. If the subject property is one contiguous parcel, the legal description must specifically describe the entire continuous perimeter boundary of the property subject to

the zoning action with accurate bearings and distances for every line. If the application seeks to rezone undivided, platted lots, then a complete legal description (i.e. lot, block, subdivision name, public records recording information) of the platted subject property is required. A sketch of the undivided, platted lots to be rezoned is not required. The Director has the right to reject any legal description that is not sufficiently detailed so as to locate the property on County maps.

~~(6) (2)~~ *Boundary survey.* A boundary survey of the subject property must be submitted, unless the property consists of one or more undivided lots within a subdivision platted in accordance with F.S. Ch. 177. The survey must be based upon the title certification submitted in accord with section 34-~~202201~~(~~ea~~)(~~3~~) and certified to the present owner as reflected in the title documentation submitted in accordance with section 34-~~202201~~(~~ea~~)(~~3~~). The boundary survey must identify and depict all easements affecting the subject property, whether recorded or unrecorded, and all other physical encumbrances readily identified by a field inspection.

All boundary surveys must meet the minimum technical standards for land surveying in the state, as set out in Chapter 5J-17, F.A.C. The survey must be tied to the state plane coordinate system for the Florida West Zone (the most current adjustment is required) with two coordinates, one coordinate being the point of beginning (POB) and the other an opposing corner. The perimeter boundary must be clearly marked with a heavy line and must include the entire area to be developed.

If the subject property consists of one or more undivided lots within a subdivision, then a copy of the subdivision plat may be submitted in lieu of the boundary survey. However, if the dimensions of the subject property differ from those in the original plat, then a boundary survey, including a metes and bounds legal description, will be required.

~~(7) (3)~~ *Certification of title and encumbrances.* Certification of title and encumbrances submitted for property subject to zoning approval must meet the following criteria:

a. through b. remain unchanged.

~~(4) Reserved.~~

~~(8) (5)~~ *Property owners list.* A complete list of all owners of the property ~~subject to this request~~, and their mailing addresses. If multiple parcels are involved, a map showing the owners interest must be provided. ~~The applicant is responsible for the accuracy of the list and map. For County initiated actions only, n~~ Names and addresses of property owners will be deemed to be must be those appearing on the latest-current Lee County tax rolls of the County.

~~(9) (6)~~ *Surrounding property owners list and map.* A complete list, map, and one set of mailing labels, of ~~all~~ property owners, and their mailing addresses, for all properties ~~within 500* feet~~ (1,000 feet for wireless communications facilities applications) of the perimeter of the ~~subject property, parcel~~ or the portion thereof, that is the subject of the request. In those instances where fewer than ten owners of property would be notified, the distance must be expanded to include all owners of property within 750 feet (1,250 feet for wireless communication facilities). Names and addresses of property owners must be those appearing on the current Lee County tax rolls. When the application is found sufficient, the applicant is required to submit a new list and mailing labels.

~~For the purpose of this subsection, names and addresses of property owners will be deemed to be those appearing on the latest tax rolls of the County at the time of application. The applicant is responsible for the accuracy of such list. When the application is found complete, or in the case of a planned development, sufficient, the applicant is required to submit a new list and mailing labels.~~

~~Applications for wireless communication facilities under section 34-1441, et seq. must include all property within 1,000 feet of the perimeter of the subject parcel.~~

~~*NOTE: In those instances where fewer than ten owners of property would be notified, the distance must be expanded to include all owners of property within 750 feet and 1,250 feet for wireless communication facilities.~~

~~(7) Surrounding property owners map. A map displaying all parcels of property within 500* feet of the perimeter of the subject parcel or the portion thereof that is the subject of the request. This map must reference by number or other symbol the names on the surrounding property owners list. The applicant is responsible for the accuracy of the map.~~

~~* NOTE: In those instances where fewer than ten owners of property would be notified, the distance must be expanded to include all owners of property within 750 feet.~~

(10) Proof of potable water and sanitary sewer availability. A letter from the appropriate utility provider verifying their ability to provide service to the proposed development. If service is not available, the applicant must indicate how the potable water and sanitary sewer needs for the project will be met.

(11) Bonus density. When applicable, the resulting gross residential density and number of bonus density units requested. The application must demonstrate compliance with the review criteria required by section 2-146.

(12) Existing agricultural use affidavit. If the property owner intends to continue an existing agricultural use subsequent to zoning approval, an affidavit signed by the property owner and sworn before a notary must be submitted. The affidavit must consist of (1) a statement as to the specific type and location of the agricultural use(s) existing on the property at the time of the application and (2) a sketch of the property, in metes and bounds, identifying the location and type of ongoing agricultural use(s).

(13) Wireless communication facilities. If a wireless communication facility is a proposed use, the applicant must provide the information required in section 34-1441 et seq.

~~(b) (8) Additional submittal material. Additional information, specific to the type of action(s) requested, is required as follows: Additional material, depending on the specific type of action requested, as set forth in section 34-202(b) and 34-203.~~

(1) Developments of regional impact. Developments of regional impact must comply with F.S. ch. 380.

(2) Planned developments. Planned developments must provide the additional information required by section 34-373.

(3) Rezoning, other than planned developments. A statement explaining the nature of the request, how the property qualifies for the rezoning, and how the request meets the applicable required findings/review criteria set forth in section 34-145(d)(4). This statement may be utilized by the Board of County Commissioners, Hearing Examiner and staff in establishing a factual basis for the approval or denial of the rezoning.

(4) Rezoning of mobile home parks. Rezoning of an existing mobile home park, as defined in F.S. § 723.003, which will result in the removal or relocation of mobile home owners, the applicant must demonstrate compliance with F.S. § 723.083.

(5) Special exceptions. Applications for special exceptions must include the following:

(a) A statement explaining the request, how the property qualifies for the special exception, and how the request meets the applicable required findings set forth in section 34-145(c)(3). This statement may be utilized by the Hearing Examiner and staff in establishing a factual basis for approval or denial of the special exception.

(b) A traffic impact analysis of projected trip generation.

(c) A site plan, drawn to scale, depicting:

1. Location and current use of existing structures.

2. Location of proposed structures and/or uses.
3. Location of existing and proposed road rights-of-way, streets, easements or land reservations.
4. Location of vehicular access to and from the site.
5. Other information required for analysis of the request as determined by the Director.

(d) Additional information is required for the following special exception requests:

1. Solar or wind energy modifications. Evidence 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.
2. On-premises consumption of alcoholic beverages. The type of license requested, a floor plan showing the proposed indoor and outdoor service areas, and if in conjunction with a restaurant, a copy of the menu must be provided.
3. Private aircraft landing facilities.
 - a. Type of facility as set forth in Florida Administrative Code.
 - b. Site plan depicting the proposed location and dimensions of the effective landing length, including the approach zone.
 - c. An affidavit that written notice of the public hearing will be sent by certified mail, return receipt requested, to all airports and municipalities within 15 miles of the proposed facility and to all property owners within 1,000 feet of the property or within the minimum required approach zone, whichever is greater. The applicant will be responsible for sending the written notice and will bear the cost of the notification.

(6) Variances. All applications for a variance must also submit the following:

- (a) A statement that includes the section number and particular regulation from which a variance is requested, how the property qualifies for the variance, and how the request meets the applicable required findings set forth in section 34-145(b)(3).
- (b) A site plan, drawn to scale, detailing:
 1. Existing public streets, easements or other reservations of land within the site;
 2. All existing and proposed structures on the site; and
 3. The location of the proposed variance.
- (c) Any other reasonable information which may be required by the Department which is commensurate with the intent and purpose of this Code.
- (d) Street setbacks on collector and arterial roads. In the case of a variance from required street setbacks on collector and arterial roads, in addition to the above, the following must be submitted:
 1. A modified property owners list and property owners map (see section 34-201(a)(9) and (10)) to show only the names and locations of property owners that abut the perimeter of the subject property.

2. A site plan, drawn to scale, showing:

- i. The location of all proposed structures, easements, rights-of-way and vehicular access onto the property, including entrance gates or gatehouses; and
- ii. The extent of modification from street setbacks requested.

(9) *Filing fee.* All fees, in accordance with the duly adopted fee schedule (see section 34-53), must be paid at the time the application is submitted.

(10) *Compliance with specific planning community requirements.* If the subject property is located in a planning community, the applicant will be required to demonstrate compliance with the requirements applicable to the specific community provided in chapter 33.

~~(b) *Additional submittal requirements for owner-initiated applications.* In addition to the submittal requirements set forth in (a), every application initiated by a property owner involving a change in the zoning district boundaries, or a request for special exception, deviation or variance, applicable to the property owner's land must include the following:~~

~~(1) *Authority:*~~

~~a. *Ownership interests.* An affidavit, signed by the property owner or specified contract purchaser, must be submitted stating whether a Lee County Employee, County Commissioner, or Hearing Examiner has an ownership interest in the property or any legal entity (corporation, company, partnership, limited partnership, trust, etc.) that has an ownership interest in the property or that has contracted to purchase the property. Disclosure with respect to a beneficial ownership interest in any entity registered with the Federal Securities Exchange Commission or registered pursuant to Chapter 517, whose interest is for sale to the general public, is exempt from the provision of this subsection.~~

~~b. *Applicant's statement.* Notwithstanding the requirements of section 34-201(a)(1)a., the applicant for any action requiring a public hearing must sign a statement, under oath, that he is the owner or the authorized representative of the owner of the property and that he has full authority to secure the approval requested and to impose covenants and restrictions on the referenced property as a result of the action approved by the County in accordance with this Code. This must also include a statement that the property owner will not transfer, convey, sell or subdivide the subject parcel unencumbered by the covenants and restrictions imposed by the approved action.~~

~~c. *Agent authorization.* The applicant may authorize agents to assist in the preparation and presentation of the application. The County will presume that any agent authorized by the applicant has the authority to bind the property with respect to conditions.~~

~~(2) *Reserved.*~~

~~(3) *Reserved.*~~

~~(4) *Reserved.*~~

~~(5) *Bonus density.* When applicable, the number of bonus density units requested, the resulting gross residential density of the proposal, and documentation substantiating compliance with each of the review criteria set forth in section 2-146.~~

~~(6) *Information regarding proposed blasting.* If blasting is proposed to excavate lakes or other site elements, the applicant must provide information and data with the application showing the location of the proposed blasting and demonstrating what measures will be implemented to ameliorate the potential negative impacts. This information must include soil borings that demonstrate the necessity for blasting, drawings showing the location of proposed blasting, and other information deemed necessary by the Director to allow full and complete analysis of compatibility issues associated with the proposed blasting activity.~~

~~(7) *Existing agricultural use affidavit.* If the property is located in an agricultural zoning district at the time the request is filed, the application must include an agricultural use affidavit. The affidavit must identify the subject property with specificity and indicate whether or not a bona fide agricultural use existed at the time the application was filed.~~

~~If the property owner intends to continue an existing agricultural use subsequent to the zoning approval, an affidavit signed by the property owner and sworn before a notary must be submitted. The property owner affidavit must consist of: (1) a statement as to the specific type and location of the agricultural uses existing on the property at the time of the application; and, (2) a map or sketch of the property, preferably~~

~~in metes and bounds, identifying with specificity the location and type of ongoing agricultural use as stated in the affidavit. The exhibit should be entitled "Agricultural Uses at time of Zoning Application."~~

- (8) ~~*Potable water and sanitary sewer connection.* A letter from the appropriate utility entity indicating the utility entity's name and ability to provide service to support the proposed development. If the project does not propose to connect to the potable water and central sewer system, a written explanation as to the reasons why connection will not be made must be submitted along with an explanation as to the means proposed to meet the water and sewer needs for the project.~~

Staff Note – Relocate and reformat existing language for public hearing applications.

Sec. 34-203. Submittal requirements for administrative action applications. ~~Additional requirements for applications requiring public hearing.~~

- (a) Submittal requirements for all administrative action applications. Every request for an administrative action under this chapter must include the following.

(1) Application form. Applications will only be accepted on official forms provided by the Department.

(2) Ownership interests. An affidavit, signed by the property owner or contract purchaser, must be submitted stating whether a Lee County Employee, County Commissioner, or Hearing Examiner has an ownership interest in the property or any legal entity (corporation, company, partnership, limited partnership, trust, etc.) that has an ownership interest in the property or that has contracted to purchase the property. Disclosure with respect to a beneficial ownership interest in any entity registered with the Federal Securities Exchange Commission or registered pursuant to Chapter 517, whose interest is for sale to the general public, is exempt from this provision.

(3) Applicant's statement. Notwithstanding the requirements of section 34-201(a)(1)a., the applicant must sign a statement, under oath, that he is the owner or the authorized representative of the owner of the property and that he has full authority to secure the approval requested and to impose covenants and restrictions on the referenced property as a result of the action approved by the County in accordance with this Code. This must also include a statement that the property owner will not transfer, convey, sell or subdivide the subject parcel unencumbered by the covenants and restrictions imposed by the approved action.

(4) Agent authorization. The applicant may authorize agents to assist in the preparation and presentation of the application. The County will presume that any agent authorized by the applicant has the authority to bind the property with respect to conditions.

(5) STRAP (Section, Township, Range, Area, Parcel) number for the subject property. This number is used by the Property Appraiser to identify the subject property. If the subject property includes a portion of property within one STRAP, than in addition to the STRAP number, a metes and bounds legal description must also be submitted as follows:

A metes and bounds legal description along with a sketch of the legal description, prepared by a Florida Licensed Surveyor and Mapper, must be submitted, unless the property consists of one or more undivided lots within a subdivision platted in accordance with F.S. ch. 177. If the subject property is one contiguous parcel, the legal description must specifically describe the entire continuous perimeter boundary of the property subject to the zoning action with accurate bearings and distances for every line. If the application seeks to rezone undivided, platted lots, then a complete legal description (i.e., lot, block, subdivision name, public records recording information) of the platted subject property is required. The Director has the right to reject any legal description that is not sufficiently detailed so as to locate the property on County maps.

(6) Approval criteria. A written justification, with support documentation as appropriate, to demonstrate the action requested meets the applicable criteria set forth in section 34-174 for granting administrative approval.

(7) Letters of no objection. Letters of no objection from adjacent property owners, including those separated from the subject property by any right-of-way or easement, as required by the Director.

(8) Site Plan. A detailed site plan, drawn to scale, showing:

- a. The subject property and development parameters (such as existing and proposed lot lines, buildings keyed to proposed uses, streets and accessways, off-street parking, water management facilities, buffering and open space);
- b. Public entrances to, and exits from, the building; and
- c. Any additional details deemed necessary by the Director or required as specified in subsection (c) below.

(b) Additional submittal requirements. In addition to the application requirements provided in subsection (b) above, the following submittal requirements apply, as specified.

(1) On-premises consumption of alcoholic beverages:

- a. Type of state liquor license being requested and anticipated hours for the sale and service of alcoholic beverages.
- b. The floor plan of the building or unit and proposed seating arrangement. If a restaurant is proposing a bar or lounge for patrons waiting to be seated in the restaurant, the floor area and seating area of the lounge must be shown in addition to the restaurant seating area.
- c. A sworn statement indicating whether any religious facilities, day care centers (child), noncommercial schools, dwelling units or parks are located within 500 feet of the building or unit.
- d. For restaurants, a copy of the proposed menu.

(2) Parking reduction:

- a. A list of all the uses the parking supports, the total floor area for each use, the number of parking spaces required, and the number of parking spaces proposed.
- b. The peak parking demands for each use demonstrating that no part of a parking lot intended to satisfy required parking for a use is used to offset the parking requirements for another use unless the peak parking demands occur at different times.
- c. When reduced parking is requested pursuant to 34-2020(c)(6) a parking demand study must be provided.

(3) Administrative Variance: A detailed list of the section number(s) and the specific regulation(s) from which relief is sought, keyed to the site plan.

(4) Community Gardens:

- a. Letter signed by the property owner giving permission for use of property.
- b. Source of water for irrigation purposes.

(5) Commercial Lot Split:

- a. A detailed list of the section number(s) and the specific regulation(s) from which relief is sought, keyed to the site plan.
- b. Pertinent calculations which demonstrate that the overall development complies with applicable zoning and development standards, except where relief is sought.
- c. Demonstrate means of access to each lot within the overall development.
- d. Documents, satisfactory to the County, assuring that all common elements of the overall development will be perpetually maintained through a property owners association. Common elements may include, but are not limited to, streets and accessways, off-street parking, water management facilities, buffering, fences or walls, and open space.

(6) *Wireless Communication Facilities:* Additional information pursuant to section 34-1446.

- ~~(a) *Developments of regional impact.* Developments of regional impact must comply with the information submittal and procedural requirements of F.S. ch. 380. If the development of regional impact requires specific zoning actions (i.e., rezoning), the procedures and requirements of this section and article IV of this chapter must be met. Additionally, even if the development of regional impact does not require specific zoning action, the applicant must submit a traffic impact statement, as described in section 34-373(a)(7), and detailed in section 10-286. Thresholds for developments of regional impact are stated in Florida Administrative Code chapter 28-24.~~
- ~~(b) *Planned developments.* All planned developments, except mine excavation planned developments, must comply with the additional information submittal and procedural requirements set forth in section 34-373.~~
- ~~(c) *Rezoning other than planned developments and developments of regional impact.* A statement explaining the nature of the request, how the property qualifies for the rezoning, and how the request meets the applicable required findings/review criteria set forth in section 34-145(d)(4). This statement may be utilized by the Board of County Commissioners, Hearing Examiner and staff in establishing a factual basis for the granting or denial of the rezoning.~~
- ~~(d) *Rezoning of mobile home parks.* If the proposed rezoning of an existing mobile home park as defined in F.S. § 723.003, would result in the removal or relocation of mobile home owners, then the application must include facts sufficient to allow staff to conclude that adequate mobile home parks or other suitable facilities exist for the relocation of displaced owners. The facts to be provided are intended to meet the requirements of F.S. § 723.083 (1995). Therefore, the statutory definitions will prevail to the extent there is conflict with terms of this Code.

 - ~~(1) Facts to be provided may typically include: STRAP number and street addresses of properties where mobile homes are to be removed from, and relocated to (i.e., the "relocation site"); and any building permit numbers issued for placement of the mobile home on the relocation site.~~
 - ~~(2) If the relocation site is not within the legal description of the subject rezoning, then the property owner of property proposed for relocation must submit an affidavit stating that suitable facilities exist at the relocation site to accommodate the mobile home proposed to be relocated there.~~~~
- ~~(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) A statement explaining the nature of the request, how the property qualifies for the special exception, and how the request meets the applicable required findings set forth in section 34-145(e)(3). This statement may be utilized by the Hearing Examiner and staff in establishing a factual basis for granting or denial of the special exception.~~
 - ~~(2) A traffic impact analysis of projected trip generation for the development and a site plan, drawn to scale, detailing the following:

 - ~~a. The location and current use of all existing structures on the site.~~
 - ~~b. All proposed structures and uses to be developed on the site.~~
 - ~~c. Any existing public streets, easements or land reservations within the site, and the proposed means of vehicular access to and from the site.~~
 - ~~d. Any other reasonable information which may be required by the Director which is commensurate with the intent and purpose of this chapter.~~~~~~

~~(3) — *Solar or wind energy modifications.* If the request is to modify property development regulations for the purposes of using solar or wind energy, evidence 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) — *Reserved.*~~

~~(5) — *On premises consumption of alcoholic beverages.* If the request is for a consumption on premises special exception, the application must include the following:~~

~~a. — The property owners list and map (see section 34 202(a)(6) and (7)) must be modified to include all property within 500 feet of the perimeter of the subject property.~~

~~b. — Additional material is required as set forth in section 34 1264(c)(1) and (2).~~

~~c. — A traffic impact analysis of projected trip generation for the development is not required for special exceptions for consumption on premises.~~

~~(6) — *Harvesting of cypress (Taxodium spp.).* An application for a special exception to harvest cypress must include:~~

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

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

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

~~(7) — *Private aircraft landing facilities.* Applications for private aircraft landing facilities must:~~

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

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

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

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

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

~~(8) — *Wireless communication facilities.* (Refer to section 34 1441 et seq.)~~

~~(f) — *Variances.* Every application for a variance from the terms of this chapter must, in addition to the requirements of section 34 202(a) and (b), include the following:~~

~~(1) — A statement that includes the section number and particular regulation from which a variance is requested, how the property qualifies for the variance, and how the request meets the applicable required findings set forth in section 34 145(b)(3).~~

~~(2) — A site plan, drawn to scale, detailing:~~

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

~~b. — All existing and proposed structures on the site; and~~

~~c. — The location of the proposed variance.~~

~~(3) — Any other reasonable information which may be required by the Department which is commensurate with the intent and purpose of this Code.~~

~~(4) — *Street setbacks on collector and arterial roads.* In the case of a variance from required street setbacks on collector and arterial roads, the applicant:~~

~~1. — May modify the property owners list and property owners map (see section 34 202(a)(6) and (7)) to show only the names and locations of property owners that abut the perimeter of the subject property.~~

~~2. — Must submit a site plan, drawn to scale, showing:~~

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

~~ii. — The extent of modification from street setbacks requested.~~

~~iii. — Any other reasonable information which may be required by the Department which is commensurate with the intent and purpose of this Code.~~

- (5) ~~Wireless communication facilities.~~ In the case of variances concerning wireless communication facilities, refer to section 34-1453.
- (g) ~~Use variance.~~ Use variances are not legally permissible, and no application for a use variance will be processed. Department staff will notify the applicant when a more appropriate procedure, e.g., rezoning or special exception, is required.
- (h) ~~Modifications to submittal requirements.~~ Upon written request, on a form prepared by the County, the Director may modify the submittal requirements contained in this section, and for those specifically eligible for waiver in section 34-373, where it can be clearly demonstrated by the applicant that the submission will have no bearing on the review and processing of the application. The request and the Director's written response must accompany the application submitted and will become a part of the permanent file. The decision of the Director is discretionary and may not be appealed.

Sec. 34-204. Submittal requirements for administrative action applications.

- (a) ~~All applications.~~ Every request for administrative actions not requiring a public hearing under this chapter must include the following. Upon written request, on a form prepared by the County, the Director may modify the submittal requirements as set forth in section 34-203(h).
 - (1) ~~The STRAP (Section, Township, Range, Area, Parcel) number for the subject property.~~ This number is used by the Property Appraiser to identify the subject property.
If the subject property includes a portion of property within one STRAP, than in addition to the STRAP number, a metes and bounds legal description must also be submitted as follows:
A metes and bounds legal description along with a sketch of the legal description, prepared by a Florida Licensed Surveyor and Mapper, must be submitted, unless the property consists of one or more undivided lots within a subdivision platted in accordance with F.S. ch. 177. If the subject property is one contiguous parcel, the legal description must specifically describe the entire continuous perimeter boundary of the property subject to the zoning action with accurate bearings and distances for every line. If the application seeks to rezone undivided, platted lots, then a complete legal description (i.e., lot, block, subdivision name, public records recording information) of the platted subject property is required. The Director has the right to reject any legal description that is not sufficiently detailed so as to locate the property on County maps.
 - (2) ~~Reserved.~~
 - (3) ~~Reserved.~~
 - (4) ~~Reserved.~~
 - (5) ~~Additional material.~~ Depending on the specific type of action requested, additional material may be required as set forth in section 34-203.
 - (6) ~~Compliance with specific planning community requirements.~~ If the subject property is located in a planning community, the owner/applicant will be required to demonstrate compliance with the requirements applicable to the specific community in chapter 33.
 - (7) ~~On premises consumption of alcoholic beverages.~~ If the request is for a consumption on premises permit, additional material is required as set forth in section 34-1264(c)(1).
 - (8) ~~Filing fee.~~ All fees, in accordance with the duly adopted fee schedule (see section 34-53), must be paid at the time the application is submitted.
 - (9) ~~Parking reduction.~~ If the request is for a parking reduction, additional material is required as set forth in section 34-2020(e).

Staff Note - Secs. 34-202, 34-203 and 34-204 combined and revised as needed for clarity.

Sec. 34-205. Development of regional impact essentially built-out determination.

- (a) A development of regional impact may be determined to be "essentially built out" if the applicant shows that the development of regional impact meets the criteria under subsections (a)(1) (Option I) or (a)(2) (Option II).
 - (1) ~~Essentially built out determination - Option I.~~ To be qualified as essentially built out under Option I, the project must meet the following
 - a. The project has been determined to be an essentially built-out DRI through an agreement executed by the developer, the state land planning agency, and the County, in accordance with F.S. § 380.032, establishing the terms and conditions under which the development may be continued; and
 - 1. The developers are in compliance with the terms and conditions of the development order except the buildout date; and

2. ~~The amount of development that remains to be built is less than the substantial deviation threshold specified in paragraph F.S. § 380.06(19)(b) for each individual land use category, or, for a multiuse development, the sum total of all unbuilt land uses as a percentage of the applicable substantial deviation threshold is equal to or less than 100 percent; or~~
 3. ~~The state land planning agency and the County have agreed in writing that the amount of development to be built does not create the likelihood of additional regional impacts not previously reviewed.~~
- b. ~~If the project is determined to be essentially built out under Option I, development may proceed pursuant to the agreement after the termination or expiration date in the development order without further DRI review subject to any modified DRI analysis created under the agreement, the Lee Plan, and LDC.~~
 - c. ~~The single family residential portions of a development may be considered "essentially built out" under Option I if:~~
 - i. ~~All of the workforce housing obligations and all of the infrastructure and horizontal development is complete;~~
 - ii. ~~At least 50 percent of the dwelling units have been completed; and~~
 - iii. ~~More than 80 percent of the lots have been conveyed to third party individual lot owners or to individual builders who own no more than 40 lots at the time of the determination.~~
 - d. ~~The mobile home park portions of a development may be considered "essentially built out" under Option I if:~~
 - i. ~~All the infrastructure and horizontal development is complete; and~~
 - ii. ~~At least 50 percent of the lots are leased to individual mobile home owners.~~
- (2) ~~Essentially built out determination—Option II. To qualify as "essentially built out" under Option II, the project must meet the following~~
- a. ~~The developers are in compliance with the terms and conditions of the development order except the build-out date;~~
 - b. ~~All the mitigation requirements in the development order have been satisfied; and~~
 - e. ~~The amount of proposed development that remains to be built is less than 40 percent of the applicable DRI threshold for the remaining portions to be built.~~
- (b) ~~An applicant seeking an essentially built out determination must submit three hard copies and one electronic copy of the following:~~
- (1) ~~A list of each development order condition and each developer commitment contained in the DO and a statement demonstrating how and when each condition/commitment was fulfilled.~~
 - (2) ~~A summary of the total development built and total development remaining for each land use category. Identify the geographic location of parcels with remaining unbuilt development entitlements and the nature of those entitlements.~~
 - (3) ~~Variance report and mailing labels for all property owners within the DRI.~~
 - (4) ~~The most recent Master Plan (Map H).~~
 - (5) ~~Legal description and sketch of the entire DRI.~~
 - (6) ~~A draft resolution to be executed by the Board which sets forth the following information:~~
 - a. ~~The history of development within the DRI, including amendments to the DRI DO, and the current status of development within the DRI;~~
 - b. ~~A statement confirming the public notice that was provided for consideration of the EBO determination;~~
 - c. ~~A statement regarding compliance with F.S. ch. 380 and other applicable Florida Statutes, local development regulations, and Lee Plan provisions, including findings that the requirements of subsections (a) and (b) above have been met; and~~
 - d. ~~A provision incorporating and adopting the proposed amendments to the DRI DO consistent with the EBO determination, including all DRI DO conditions to remain in effect (if any) after adoption of the EBO determination and agreement.~~
 - (7) ~~Draft amendment to the DRI DO in strike through and underline format incorporating the EBO determination and findings of compliance with applicable Florida Statutes, including F.S. § 380.06(15)(g), local development regulations, and Lee Plan provisions, as well as the conditions that remain applicable to future development within the DRI.~~
 - (8) ~~In addition, for Option I Determinations, a draft agreement to be executed by the developer, the state land planning agency, and the County, in accordance with F.S. § 380.032, establishing the terms and~~

~~conditions under which the development may be continued pursuant to the agreement after the termination or expiration date contained in the development order.~~

- ~~(c) Once the request is found sufficient, County staff will prepare a report evaluating the application. The report will be available to the public within 14 days before the scheduled hearing.~~
- ~~(d) Applications for determinations of essentially built out will not be considered by the Board of County Commissioners until the application is found sufficient by DCD Staff. Applications for determinations of essentially built out will not be considered by the Board of County Commissioners if any of the parcels located within the DRI DO contains unabated code enforcement violations. The application will be placed on hold until such time as the violation has been abated.~~
- ~~(e) Applications for determinations of essentially built out will proceed directly to the Board of County Commissioners and will be heard at a publicly advertised Board zoning hearing.~~

Staff Note - Relocated to section 34-261.

Sec. 34-206. – Family day care home exemption request.

The operation of a family day care home exempt under F.S. § 125.0109 does not require a special exception. Evidence of an exemption for a family day care home must include:

- ~~(a) A sworn statement establishing that the family day care home will operate:
 - ~~(1) In the applicant's residence; and~~
 - ~~(2) On property owned by the applicant; or~~
 - ~~(3) On property covered by a lease to the applicant for residential purposes, including the right to operate a family day care home.~~~~
- ~~(b) A copy of the applicant's state family day care home license or registration issued in accordance with F.S. § 402.313.~~
- ~~(c) A special processing fee in accordance with the External Fees and Charges Manual in lieu of the application fee for a special exception.~~
- ~~(d) A plan demonstrating required parking in compliance with section 34-2020(b).~~

Staff Note – Redundant with State Statute. Added note to use tables as needed.

Sec. 34-207. – Excavations.

- ~~(a) Grading or excavation activities intended primarily to provide for the retention or detention of stormwater runoff must obtain a development order in compliance with procedures set forth in chapter 10.~~
- ~~(b) *Regulations.* Commercial mining excavations must comply with the requirements and procedures set forth in chapter 12.~~

Staff Note - Redundant with chapters 10 and 12.

Sec. 34-208. – Reserved.

Sec. 34-209. – Building relocation permit.

- ~~(a) *Compliance with applicable regulations; time limit for leaving buildings on street.*
 - ~~(1) When a building is moved to any location within the unincorporated area of the County, the building or part thereof shall immediately be made to conform to all the provisions of the latest adopted zoning ordinance and other applicable County regulations.~~
 - ~~(2) Any building being moved for which a permit was granted may not remain in or on the streets for more than 48 hours.~~~~
- ~~(b) *Contents of application.* Any person desiring to relocate or move a building must first file with the Director of the Division of Codes and Building Services a written application on an official form provided by the Division. The application must include the following information furnished by the applicant and must be accompanied by the required application fee:
 - ~~(1) The present use of the building.~~
 - ~~(2) The proposed use of the building.~~
 - ~~(3) The building's present location and proposed new location by STRAP number, as well as by street numbers.~~
 - ~~(4) Certified survey of the proposed site with ground elevations, flood zone and required elevation, if in a V- or A flood zone area.~~~~

- ~~(5) Plot plan showing lot dimensions, setbacks, location of existing structures and location of building drawn to scale no more than 1/2 inch equals one inch and no less than one inch equals 50 feet. The plot plan should depict the roof overhang as well as the foundation.~~
- ~~(6) Construction details, drawn to a scale of no larger than one half inch equals one foot and no smaller than one eighth inch equals one foot, including the following:

 - ~~a. Foundation layout with connection details.~~
 - ~~b. Floor plan, existing and proposed.~~
 - ~~c. Mechanical plans, including air conditioning, electric system and plumbing plans.~~
 - ~~d. Elevations, front, side and rear.~~
 - ~~e. Flood elevation, if applicable.~~~~
- ~~(7) Current termite inspection by licensed pest controller.~~
- ~~(8) Water and sewer approvals from appropriate agencies.~~
- ~~(9) Photographs showing all sides of the building and the site where the building is proposed to be located.~~
- ~~(10) Proof of notice to all owners of property abutting or across the street from the site where the building is proposed to be located.~~
- ~~(c) Inspection of building. The Director of the Division of Codes and Building Services will have the building inspected to determine:

 - ~~(1) If the building can be brought into compliance in all respects with this chapter and other County regulations pertaining to the area to which the building is to be moved.~~
 - ~~(2) If the building is structurally sound and either complies with the Standard Building Code and other codes adopted by the County or can be brought into compliance with such codes.~~~~
- ~~(d) Rejection of application. The Director of the Division of Codes and Building Services must reject any application if:

 - ~~(1) The building fails to meet the inspection criteria detailed in subsection (c) of this section;~~
 - ~~(2) In the opinion of the Director, the moving of any building will cause serious injury to persons or property;~~
 - ~~(3) The building to be moved has deteriorated due to fire or other element to more than 50 percent of its assessed value; or~~
 - ~~(4) The moving of the building will violate any of the requirements of the Standard Building Code, this chapter or other applicable County regulations. Such decisions are administrative decisions which may be appealed in accordance with section 34-145(a).~~~~
- ~~(e) Approval of application.

 - ~~(1) Upon approval of the application for building relocation, a licensed building relocation contractor representing the applicant must:

 - ~~a. Apply for and receive all required permits from the Department of Transportation, County or state;~~
 - ~~b. Pay the required fees and obtain the building relocation permit and appropriate sub permits.~~~~~~

Staff Note - Relocated to chapter 6.

Sec. 34-210. – Temporary use permits.

- ~~(a) Applicability. The County, or any person desiring to conduct any of the uses described in article VII, division 37, subdivision II, of this chapter shall be required to submit an application for a temporary use permit.~~
- ~~(b) Initiation of application. An application for a temporary use permit may be initiated by the County or any individual authorized in accordance with section 34-201(a).~~
- ~~(c) Submission of application.

 - ~~(1) No application shall be accepted unless it is presented on the official forms provided by the Department.~~
 - ~~(2) Before an application may be accepted, it must fully comply with all information requirements enumerated in the application form as well as the requirements set forth in subsection (d) of this section.~~
 - ~~(3) The applicant shall ensure that an application is accurate and complete. Any additional expenses necessitated because of any inaccurate or incomplete information submitted shall be borne by the applicant.~~~~
- ~~(d) Additional required information. In addition to the application information, the applicant shall submit satisfactory evidence of the following:

 - ~~(1) Evidence shall be submitted that adequate sanitary facilities meeting the approval of the County Health Department are provided.~~~~

- ~~(2) Evidence shall be submitted that sounds emanating from the temporary use shall not adversely affect any surrounding property.~~
- ~~(3) Evidence shall be submitted that all requirements as to providing sufficient parking and loading space are assured.~~
- ~~(4) When deemed necessary, a bond shall be posted, in addition to an agreement with a responsible person sufficient to guarantee that the ground area used during the conduct of the activity is restored to a condition acceptable to the Department.~~
- ~~(5) All applications for temporary permits, excluding those for mobile homes during construction of a residence, shall provide public liability and property damage insurance. This requirement may be waived by the Board of County Commissioners at a regular meeting, after advertisement on the agenda.~~
- ~~(6) Evidence shall be submitted that, where applicable, the applicant for a proposed use has complied with Ordinance No. 14-15 of the County, pertaining to special events.~~
- ~~(7) Evidence shall be submitted that the law enforcement and fire agencies who will be coordinating traffic control or emergency services have been advised of the plans for a temporary use and that they are satisfied with all aspects under their jurisdiction.~~
- ~~(e) Inspection following expiration of permit; refund of bonds. Upon expiration of the temporary permit, the Department shall inspect the premises to ensure that the grounds have been cleared of all signs and debris resulting from the temporary use and shall inspect the public right of way for damages caused by the temporary use. Within 45 days after a satisfactory inspection report is filed, the Department shall process a refund of the bonds. An unsatisfactory inspection report shall be sufficient grounds for the County to retain all or part of the bonds posted to cover the costs which the County would incur for cleanup or repairs.~~

Staff Note - Relocated to section 34-3041.

Sec. 34-20411. - Denials and resubmission of applications.

(a) and (b) remain unchanged.

Secs. 34-205212—34-230. - Reserved.

DIVISION 8. DEVELOPMENT OF REGIONAL IMPACT ENFORCEMENT

Sec. 34-261. - Development of regional impact (DRI) essentially built-out determination.

~~(a) A development of regional impact may be determined to be essentially built-out if the applicant shows that the development of regional impact meets the criteria under subsections (a)(1) (Option I) or (a)(2) (Option II).~~

~~(1) Essentially built-out determination—Option I. To be qualified as essentially built-out under Option I, the project must meet the following~~

~~a. The project has been determined to be an essentially built-out DRI through an agreement executed by the developer, the state land planning agency, and the County, in accordance with F.S. § 380.032, establishing the terms and conditions under which the development may be continued; and~~

~~1. The developers are in compliance with the terms and conditions of the development order except the build-out date; and~~

~~2. The amount of development that remains to be built is less than the substantial deviation threshold specified in paragraph F.S. § 380.06(19)(b) for each individual land use category, or, for a multiuse development, the sum total of all un-built land uses as a percentage of the applicable substantial deviation threshold is equal to or less than 100 percent; or~~

~~3. The state land planning agency and the County have agreed in writing that the amount of development to be built does not create the likelihood of additional regional impacts not previously reviewed.~~

- b. If the project is determined to be essentially built-out under Option I, development may proceed pursuant to the agreement after the termination or expiration date in the development order without further DRI review subject to any modified DRI analysis created under the agreement, the Lee Plan, and LDC.
 - c. The single-family residential portions of a development may be considered essentially built-out under Option I if:
 - i. All of the workforce housing obligations and all of the infrastructure and horizontal development is complete;
 - ii. At least 50 percent of the dwelling units have been completed; and
 - iii. More than 80 percent of the lots have been conveyed to third-party individual lot owners or to individual builders who own no more than 40 lots at the time of the determination.
 - d. The mobile home park portions of a development may be considered essentially built-out under Option I if:
 - i. All the infrastructure and horizontal development is complete; and
 - ii. At least 50 percent of the lots are leased to individual mobile home owners.
- (2) Essentially built-out determination—Option II. To qualify as essentially built-out under Option II, the project must meet the following
- a. The developers are in compliance with the terms and conditions of the development order except the build-out date;
 - b. All the mitigation requirements in the development order have been satisfied; and
 - c. The amount of proposed development that remains to be built is less than 40 percent of the applicable DRI threshold for the remaining portions to be built.
- (b) An applicant seeking an essentially built-out determination must submit three hard copies and one electronic copy of the following:
- (1) A list of each development order condition and each developer commitment contained in the development order and a statement demonstrating how and when each condition/commitment was fulfilled.
 - (2) A summary of the total development built and total development remaining for each land use category. Identify the geographic location of parcels with remaining un-built development entitlements and the nature of those entitlements.
 - (3) Variance report and mailing labels for all property owners within the DRI.
 - (4) The most recent Master Plan (Map H).
 - (5) Legal description and sketch of the entire DRI.
 - (6) A draft resolution to be executed by the Board which sets forth the following information:
 - a. The history of development within the DRI, including amendments to the DRI development order, and the current status of development within the DRI;

- b. A statement confirming the public notice that was provided for consideration of the essentially built-out determination;
 - c. A statement regarding compliance with F.S. ch. 380 and other applicable Florida Statutes, local development regulations, and Lee Plan provisions, including findings that the requirements of subsections (a) and (b) above have been met; and
 - d. A provision incorporating and adopting the proposed amendments to the DRI development order consistent with the essentially built-out determination, including all DRI development order conditions to remain in effect (if any) after adoption of the essentially built-out determination and agreement.
- (7) Draft amendment to the DRI development order in strike-through and underline format incorporating the essentially built-out determination and findings of compliance with applicable Florida Statutes, including F.S. § 380.06(15)(g), local development regulations, and Lee Plan provisions, as well as the conditions that remain applicable to future development within the DRI.
- (8) In addition, for Option I Determinations, a draft agreement to be executed by the developer, the state land planning agency, and the County, in accordance with F.S. § 380.032, establishing the terms and conditions under which the development may be continued pursuant to the agreement after the termination or expiration date contained in the development order.
- (c) Once the request is found sufficient, staff will prepare a report evaluating the application. The report will be available to the public within 14 days before the scheduled hearing.
- (d) Applications for essentially built-out determinations will not be considered by the Board of County Commissioners until the application is found sufficient. Applications for essentially built-out determinations will not be considered by the Board of County Commissioners if any of the parcels located within the DRI development order contains unabated code enforcement violations. The application will be placed on hold until such time as the violation has been abated.
- (e) Applications for essentially built-out determinations will proceed directly to the Board of County Commissioners and will be heard at a publicly advertised Board zoning hearing.

Staff Note - Relocated from 34-205.

Secs. 34-262 – 34-300. Reserved.

Secs. 34-261 – 34-264. – Reserved.

Sec. 34-265. – Compliance.

~~Failure to comply, or remain in compliance, with the provisions of this Code and conditions of approval under this chapter constitutes a violation of this Code.~~

Sec. 34-266. – Cease and desist orders.

~~The Director has the authority to issue cease and desist orders in the form of written official notices.~~

Staff Note - Relocated to 34-172.

Sec. 34-267. – Authority to permit uses pending a zoning action.

- (a) ~~The Director is authorized to permit proposed uses that are not permitted on a subject parcel for a period of not more than 180 days under the following circumstances:~~
 - (1) ~~The property owner, contract purchaser or other authorized person has filed an application for a rezoning or a special exception for the subject parcel that would, if approved, make the requested use a permitted use;~~
 - (2) ~~The requested rezoning or special exception, in the opinion of the Director, is clearly compatible with the neighboring uses and zoning and is consistent with the Lee Plan;~~
 - (3) ~~The proposed use of the property is a business that is being relocated due to the County's economic development efforts or as the result of threatened or ongoing condemnation proceedings;~~

- ~~(4) No new principal structures are to be constructed on the subject property; and~~
- ~~(5) The applicant agrees in writing that the proposed use will cease within 180 days of the date of the administrative approval unless the Board of County Commissioners or Hearing Examiner, whichever is applicable, has rendered a final decision approving the requested rezoning or special exception. Upon execution, the agreement must be recorded in the public records of the County.~~
- ~~(b) Decisions by the Director pursuant to this section are discretionary and may not be appealed pursuant to subsection 34-145(a).~~
- ~~(c) The Director may extend the effective date of the approval up to an additional 90 days upon good cause shown.~~
- ~~(d) No approval issued pursuant to this section will excuse any property owner from compliance with any County regulation except the list of permitted uses in the zoning district in question.~~

Staff Note - Relocated to 34-173.

Sec. 34-268. Administrative variances.

- ~~(a) The Director is authorized to administratively approve variances of the following:~~
 - ~~(1) Street, rear, side, or waterbody setbacks to allow:

 - ~~a. Remodeling of or additions to existing structures that are nonconforming with regard to a specific setback so long as the remodeling or addition will not result in:

 - ~~i. An increase in the height of the structure; or~~
 - ~~ii. A further diminution of the setback. The Director may approve bay windows, chimneys and similar architectural features that may encroach further into the setback provided the encroachment does not protrude beyond the existing overhang of the building.~~~~
 - ~~b. Construction of access appurtenant to an existing structure for disabled persons.~~
 - ~~c. Replacement of stairs or decking that provides access into an existing dwelling unit.~~
 - ~~d. Minor errors that occurred at the time of construction to be legitimized.~~
 - ~~e. Construction of a single family dwelling unit so long as the proposed lot coverage does not exceed 45 percent for lots that qualify for a single family determination, pursuant to the Lee Plan.~~
 - ~~f. Buildings or structures that are not in compliance with current setback regulations and which can be proven to have been permitted.~~~~
 - ~~(2) Relief authorized for development of property that is subject to a Lee County initiated eminent domain proceeding pursuant to section 1-16.~~
 - ~~(3) Setbacks in conventional zoning districts, not covered by section 34-268(a)(1), where the encroachment is:

 - ~~a. 10% or less of the minimum required setback for proposed buildings; or~~
 - ~~b. 20% or less of the minimum required setback for existing buildings.~~~~
 - ~~(4) Chapter 34 requirements that are necessary to facilitate development of existing nonconforming buildings or structures that have lost their nonconforming status pursuant to section 34-3242(2). Chapter 30 requirements for signs that have lost their nonconforming status pursuant to section 30-55(b)(2). Administrative variances granted pursuant to this section may only be granted to the extent that the variance is the minimum that will bring the site more into compliance with this Code given the existing site constraints. Nonconforming open space, buffering and landscaping are subject to the regulations of section 10-416 and, as required, must be brought into conformance to the maximum extent possible.~~
 - ~~(5) Landscaping required by section 34-1743(b)(3) to allow existing, required or optional nonconforming residential project walls to be repaired or replaced.~~
 - ~~(6) Property development regulations for all religious facilities and places of worship provided in section 34-2051(a) for properties zoned residential and located in a platted subdivision.~~
 - ~~(7) Requirements not listed above that are found by the Director to be similar in nature.~~
- ~~(b) Before approving any administrative variance, the Director must find that all of the following exist:

 - ~~(1) There are exceptional or extraordinary conditions or circumstances that are inherent to the property in question;~~
 - ~~(2) The variance granted is the minimum variance that will relieve the applicant of an unreasonable burden caused by the application of the regulation in question to the property; and~~
 - ~~(3) The granting of the variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.~~~~
- ~~(c) Applicants seeking an administrative variance must submit the following:

 - ~~(1) A written request on a form prepared by the County which includes the submittal requirements set forth in section 34-204 and, as applicable, sections 34-202 and 34-203.~~~~

~~The applicant must demonstrate that the variance request meets the criteria for granting an administrative variance set forth in section 34-268(b).~~

- ~~(2) A detailed site plan 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.~~
- ~~(3) A detailed listing of the section number(s) and the specific regulation(s) of chapter 34, chapter 10 and/or chapter 30, if applicable, from which relief is sought. This information must also be shown on the site plan.~~
- ~~(4) Pertinent calculations which demonstrate that the overall development complies with zoning and development standards.~~
- ~~(5) Letters of no objection from all adjacent property owners, including those which may be separated from the subject property by any right of way or easement, or as required by the Director.~~
- ~~(d) Upon completion of the review of documents submitted, the Director may approve the request with or without conditions to ensure that the overall development complies with the development standards.~~
- ~~(e) Decisions by the Director pursuant to this section are discretionary and may not be appealed in accordance with section 34-145(a) of this chapter. If a request for an administrative deviation is denied, or the applicant disapproves of the conditions imposed, the applicant may seek a variance through the normal public hearing process provided under section 34-145.~~

~~Secs. 34-269 - 34-300. Reserved.~~

Staff Note - Relocated to 34-174.

ARTICLE IV. - PLANNED DEVELOPMENTS

DIVISION 2. - APPLICATION AND PROCEDURE FOR APPROVAL

Sec. 34-371. - Generally.

All applications for planned development zoning or master concept plan approval must follow the requirements detailed in Article II, Division 6 sections 34-201, 34-202 and 34-203 and the requirements set out in this division.

Sec. 34-380. - Amendments to approved master concept plan.

- (a) remains unchanged.*
- (b) The Director may administratively approve an amendment to a planned development in accordance with section 34-174. any change to the development that does not increase height, density or intensity (i.e., number of dwelling units or quantity of commercial or industrial floor area) except as permitted in chapter 2. The Director may not approve a change that will:*
 - ~~(1) Result in the substantial underutilization of public resources and public infrastructure committed to the support of the development;~~
 - ~~(2) Result in a reduction of total open space provided on the master concept plan by more than ten percent or that would decrease the amount of indigenous native vegetation or open space required by the Code;~~
 - ~~(3) Decrease preservation areas. Changes to buffer or landscaping areas are permitted but must provide equivalent or better (by comparison with the approved Master concept plan) landscaping or buffering; or~~
 - ~~(4) Adversely impact surrounding land uses.~~

~~If the County determines that an approved administrative amendment was based on inaccurate or misleading information or if the approval did not comply with this Code when the decision was rendered, then, at any time, the Director may issue a modified approval that complies with the Code or revoke the approved administrative amendment.~~

~~If the approval is revoked, the applicant may acquire the necessary approvals by filing an application for public hearing in accordance with section 34-373 of this chapter. Decisions by the Director pursuant to this section are discretionary and may not be appealed in accordance with section 34-145(a) of this chapter.~~

- (c) through (g) remain unchanged.*

Staff Note – Relocated to 34-174

DIVISION 3. – DESIGN STANDARDS

Sec. 34-411. - General standards.

(a) thru (c) remain unchanged.

(d) ~~The tract or parcel shall~~ All planned developments must have access to existing or proposed roads; Access must comply with the requirements of chapter 10 and be located so that site-related industrial traffic does not travel through predominantly residential areas.

~~(1) In accordance with chapter 10 and as specified in the Lee Plan transportation element;~~

~~(2) That have either sufficient existing capacity or the potential for expanded capacity to accommodate both the traffic generated by the proposed land use and that traffic expected from the background (through traffic plus that generated by surrounding land uses) at a level of service D or better on an annual average basis and level of service E or better during the peak season, except where higher levels of service on specific roads have been established in the Lee Plan; and~~

~~(3) That provide ingress and egress without requiring site-related industrial traffic to move through predominantly residential areas.~~

Remainder of section unchanged.

Staff Note – Remove outdated concurrency language.

ARTICLE VI. DISTRICT REGULATIONS

DIVISION 1. GENERALLY

Sec. 34-621. - Use and development regulations for conventional districts.

(a) *Applicability.* No land, body of water or structure ~~shall may~~ be used or permitted to be used and no structure ~~shall may~~ hereafter be erected, constructed, moved, altered or maintained ~~in any conventional zoning district~~ for any purpose other than as provided in the use regulation tables and in accordance with the property development regulations tables set forth in this article for the zoning district in which the property is located, except as may be specifically provided for elsewhere in this chapter. ~~for in article VIII of this chapter, pertaining to nonconforming uses, or in section 34-620.~~

(1) All uses of land, water and structures ~~in the conventional zoning districts~~ are subject to the ~~County Comprehensive Plan (the Lee Plan) and the County Future Land Use Plan Map,~~ and therefore may not be permitted in all land use categories.

(2) All uses of land, water and structures in the conventional zoning districts are subject to the specific use and property development regulations set forth for the district in which located, as well as all general provisions and all applicable supplemental regulations set forth in this chapter. ~~Except as may be specifically provided for elsewhere in this chapter, deviations from the property development regulations may only be granted in accordance with the procedures established in sections 34-203(e) and (f) and 34-145(b) for variances.~~

(b) remains unchanged.

(c) *Property development regulations.* Divisions 2 through 9 of this article contain property development regulations tables which set forth the minimum development lot size and dimensions, setbacks, lot coverage, maximum building height and similar regulations for development of land within the specified districts.

Sec. 34-625. - Outdoor lighting standards.

(a) thru (f) remain unchanged.

~~(g) Existing outdoor lighting. All applications for development orders or building permits, except for single-family and duplex building permits, for properties with existing outdoor light fixtures must demonstrate compliance with the outdoor lighting standards of this Code. Compliance with light pole height requirements is not required for light poles existing on June 24, 2003. Replacement of fixtures not in conjunction with a development order or building permit, as applicable, requires a Type A limited development order approval issued by Development Services that demonstrates compliance with the outdoor lighting standards for fixtures established herein.~~

Staff Note – Removed language duplicative of nonconforming 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
Accessory apartments and accessory dwelling unit	34-1177 4 and 34-1180	P	P	P
Day care center, adult or child	34-206, Notes (13), (15) & (16)	EO/SE	EO/SE	EO/SE
Forestry, cypress (Taxodium spp.), for sawtimber use only	34-651 et seq.	SE	SE	SE
Recreation facilities:				
Commercial - Group III	34-622(c)(38), Note (10)	SE	SE	SE
Personal	Note (28)	P	P	P
Private-Onsite		P	P	P
Private-Offsite		EO/SE	EO/SE	EO/SE

Notes:

- ~~note;~~ (1) Any expansion which will bring the number of beds to 50 or more requires a special exception.
- ~~note;~~ (2) Any lot created in the rural community preserve land use category (as delineated by policy 17.1.3 of the Lee Plan) after July 9, 1991, must have a minimum area of 43,560 square feet excluding all street rights-of-way or easement areas, water management areas, and natural water bodies. Public utility easement areas may be included in the lot size calculation.
- ~~note;~~ (3) Limited to uses and buildings customarily incidental to agricultural uses, including the processing and packaging of agricultural products primarily grown on the premises.
- ~~note;~~ (4) Mobile home permitted provided it is the only residential unit on the property, and provided further that the property meets the same lot area and dimensions, setbacks, height and maximum lot coverage as set forth in table 34-654 for the AG-1 district.
- ~~note;~~ (5) Only permitted in compliance with section 34-1180.
- ~~note;~~ (6) Expansion of facility to ten or more acres requires a special exception.

- ~~note~~; (7) Any new facility of ten or more acres or any expansion of an existing facility to ten or more acres requires a special exception.
- ~~note~~; (8) Any new facility of 50 or more beds, or any expansion of an existing facility which will bring the number of beds to 50 or more or which changes the use, requires a special exception.
- ~~note~~; (9) Recreational halls require a special exception approval.
- ~~note~~; (10) Limited to passive and active recreational and educational activities including, but not limited to, hiking and nature trails, paintball and gun ranges, zip lining, paragliding, and similar activities where little or no on site facilities or capital investment are required, and the natural environment, with little or no alteration of the nature landscape, is utilized.
- ~~note~~; (11) Not permitted in Coastal High Hazard areas unless in compliance with section 2-485(b)(5)a.
- ~~note~~; (12) The keeping of ostrich, cassowary, rhea, or emu for the production of meat, skins, or hides, feathers, or the progeny thereof, as part of a bonafide agricultural operation does not require a special exception.
- ~~note~~; (13) Family day care homes are exempt pursuant to F.S. § 125.0109. Reserved.
- ~~note~~; (14) Non-commercial only.
- ~~note~~; (15) A day care center, owned by the entity with title to the place of worship, that is operated within the building housing the place of worship is not required to obtain special exception approval.
- ~~note~~; (16) Not permitted in Airport Noise Zone B.
- ~~note~~; (17) Not permitted in Airport Noise Zone B. See section 34-1004 for exceptions.
- ~~note~~; (18) Only when accessory to an agritourism activity permitted in accordance with ~~LDC~~ § section 34-1711.
- ~~note~~; (19) Not permitted in Airport Noise Zone B unless accessory to a lawful mobile home or single-family residence. See section 34-1004.
- ~~note~~; (20) Not permitted in Airport Noise Zone B. Housing units consisting of mobile homes or park trailers are also not permitted in Airport Noise Zone B.
- ~~note~~; (21) Not permitted in Airport Noise Zone B unless pre-empted by state law.
- ~~note~~; (22) Not permitted in Airport Noise Zones B unless required to support a noise compatible use and constructed in compliance with limitations for dwelling unit type set forth in section 34-1004 as applicable.
- ~~note~~; (23) Minimum of five acres required.
- ~~note~~; (24) The rights applicable to mining excavations approved prior to September 1, 2008, are set forth in section 12-121.
- ~~note~~; (25) Only in conjunction with a bona fide agricultural use.
- ~~note~~; (26) Minimum property size for a picnic pavilion is 10 acres. Structure is limited to 1,000 square feet with less than 100 square feet for an enclosed bathroom.

Sec. 34-694. - Use regulations table.

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

TABLE 34-694. USE 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
<u>Accessory apartment and accessory dwelling unit</u>		Notes (1) & (10), 34-1177	—	—	<u>P</u> <u>AA</u>	<u>P</u> <u>AA</u>	<u>P</u> <u>AA</u>	<u>P</u> <u>AA</u>	<u>P</u> <u>AA</u>	<u>P</u> <u>AA</u>	P	P	—
Accessory uses, buildings and structures:		34-1171 et seq., 34-2441 et seq. 34-3106	P	P	P	P	P	P	P	P	P	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(4)	P	P	P	P	P	P	P	P	P
Day care center, adult or child		34-206, Notes (5), (9) & (10)	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE
Essential service facilities (34-622(c)(13)):													
	Group I	34-1611 et seq., 34-1741 et seq., 34-2142	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	—

Notes:

(1) through (4) remain unchanged.

(5) Family day care homes are exempt pursuant to F.S. § 125.0109. Reserved.

(6) through (15) remain unchanged.

Staff Note - Site plan for accessory apartments is reviewed at time of building permit. No review criteria specific for administrative approval.

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)	RM-3, RM-6, RM-8, RM-10
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			5)	(Note 5)
Accessory apartment <u>and accessory dwelling unit</u>		Notes (1) & (10), 34-1177	<u>P</u>	<u>P</u>
Day care center:				
	Adult	Note (10)	SE	SE
	Child	34-206 , Notes <u>(6)</u> , (9) & (10)	SE	SE

Notes:

(1) through (5) remain unchanged.

(6) Family day care homes are exempt pursuant to F.S. § 125.0109. ~~Reserved.~~

(7) through (16) remain unchanged.

Staff Note – Add note for family day care home.

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
Day care center, adult or child:							
	Adult	Note (7)	SE	SE	SE	SE	SE
	Child	34-206 , Notes <u>(4)</u> , (7) & (8)	SE	SE	SE	SE	SE

Notes:

(1) through (3) remain unchanged.

(4) Family day care homes are exempt pursuant to F.S. § 125.0109. ~~Reserved.~~

(5) through (13) remain unchanged.

Staff Note – Add note for family day care home.

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

Day care center, adult or child:				
	Adult	Note (5)	EO/SE	EO/SE
	Child	34-206, Notes (4), (5) & (6)	EO/SE	EO/SE

Notes:

(1) through (5) remain unchanged.

(6) Family day care homes are exempt pursuant to F.S. § 125.0109.

Staff Note – Add note for family day care home.

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
Day care center:			
	Adult	Note (7)	P
	Child	34-206, Notes (4), (6) & (7)	SE

Notes:

(1) through (3) remain unchanged.

(4) Family day care homes are exempt pursuant to F.S. § 125.0109. ~~Reserved.~~

(5) through (12) remain unchanged.

Staff Note – Add note for family day care home.

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
Accessory apartment <u>and</u> <u>accessory</u> <u>dwelling unit</u>	Notes (1) & (25), 34-1177	P	P	P	P	—	—	—	—	—	—	P	—	—	—	—	—
Day care center,	34-206, Notes	P	P	P	P	P	P	P	P	P	—	—	—	P	P	—	—

adult, child	(25) & (36)																		
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Notes:

(1) through (35) remain unchanged.

(36) Family day care homes are exempt pursuant to F.S. § 125.0109.

Staff Note – Add accessory apartment/dwelling unit as permitted in C-2A and CS-2 to allow in all districts where single-family residences are permitted use; add note for family day care home.

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)
Day care center, child	34-206 , Notes <u>(10)</u> , (13) & (16)	P	—	—
Day care center, adult	34-206 , Notes <u>(10)</u> , (13) & (16)	P	—	—

Notes:

(1) through (9) remain unchanged.

(10) Family day care homes are exempt pursuant to F.S. § 125.0109. ~~Reserved.~~

(11) through (17) remain unchanged.

Staff Note – Add note for family day care home.

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 apartment <u>and</u> <u>accessory dwelling unit</u>	Notes (2), (21), & (28), 34-1177	P	—	—	—	—	—	—	P	—
Day care center, child, adult	Notes <u>(13)</u> & (28)	P(4)	P(4)	P(8)	P	P	P	P	P	—

Notes:

(1) through (12) remain unchanged.

(13) Family day care homes are exempt pursuant to F.S. § 125.0109. Reserved.

(14) through (49) remain unchanged.

Staff Note – Add note for family day care home.

ARTICLE VII. - SUPPLEMENTARY DISTRICT REGULATIONS

DIVISION 2. - ACCESSORY USES, BUILDINGS AND STRUCTURES

Sec. 34-1177. – Accessory apartments and accessory dwelling units.

(a) Density.

(1) An accessory apartment is not subject to density provisions of the Lee Plan.

(2) An accessory dwelling unit is subject to density provisions of the Lee Plan. Density may be calculated using the maximum total (bonus) density of the property's future land use category designation. Accessory dwelling units must pay applicable impact fees pursuant to chapter 2.

(3) A maximum of one accessory apartment or one accessory dwelling unit is permitted per principal, single-family residence.

(b) Development standards.

(1) Off-street parking. In addition to the requirements of section 34-2020(a), one additional space is required. All required parking must be provided on the site.

(2) Maximum floor area. The maximum floor area for the accessory apartment or accessory dwelling unit is 50 percent of the living area of the principal, single-family residence.

(3) Maximum lot coverage. The maximum lot coverage permitted for the zoning district in which the property is located may not be exceeded.

(4) Minimum lot size. The property must be a lawfully existing lot of record that conforms to the minimum lot area, width, and depth of the zoning district in which it is located.

(5) Appearance. An attached accessory apartment or accessory dwelling unit must be designed to retain the appearance of a single-family residence.

~~(a) Occupancy. The principal structure must be owner occupied and is not limited to family members. Occupancy of the accessory apartment is not limited to family members of the principal structure. The purpose of this section is to facilitate the provision of affordable housing, strengthen the family unit or provide increased opportunities for housing the elderly and persons with special needs.~~

~~(b) Applicability. This section sets forth the requirements for accessory apartments, when subordinate to a single-family detached dwelling unit. The requirements of this section apply to accessory apartments whether they are listed as a permitted use or a use by administrative approval.~~

~~(c) Definition. For purposes of this section, the term "accessory apartment" means a living unit, with or without cooking facilities, constructed subordinate to a single family residence that could be made available for rent or lease.~~

~~(d) Off street parking. In addition to the requirements of section 34 2020(a), one additional space is required for the accessory apartment, and all required parking must be provided on the site.~~

~~(e) Maximum floor area.~~

- (1) ~~Attached apartments.~~ If the accessory apartment is constructed as part of the principal building, the maximum floor area of the accessory apartment may not exceed 50 percent of the floor area of the main dwelling unit.
- (2) ~~Detached apartments.~~ If the accessory apartment is not constructed as part of the main dwelling unit, the maximum floor area is 50 percent of the floor area of the main dwelling unit.
In no event may the maximum lot coverage permitted for the zoning district in which the property is located be exceeded. The accessory apartment is limited to one family, as defined in this chapter.
- (f) ~~Minimum lot size.~~ An accessory apartment may be permitted on a lawfully existing lot of record that conforms to the minimum lot size of the district in which it is located. However, in no case may the lot area be less than 6,000 square feet.
- (g) ~~Garage conversions.~~
 - (1) ~~Attached garages.~~ An attached garage may be converted to an accessory apartment.
 - (2) ~~Detached garages.~~ A detached garage may be converted to an accessory apartment provided that the garage is not closer to the street right of way or easement than the principal dwelling unit. In no instance may the conversion be permitted where the garage encroaches in the front setback.
The minimum number of parking spaces must be maintained after the conversion of an attached or detached garage.
- (h) ~~Appearance.~~ The entrance to the accessory apartment, when constructed as part of the principal residence, must be designed to retain the appearance of a single family residence.
- (i) ~~Density.~~
 - (1) An accessory apartment, for the purposes of density, is termed a dwelling unit in accordance with the Lee Plan.
 - (2) For the purposes of density, an accessory apartment is considered an affordable unit, allowing density calculations to be based on the future land use category bonus density range.

Staff Note – Update language to differentiate between accessory apartment and accessory dwelling unit. Remove regulations which are redundant or prohibitive. Remove requirement for administrative approval.

DIVISION 37. - SUBORDINATE AND TEMPORARY USES

Subdivision II. Temporary Uses

Sec. 34-3041. - Temporary use permits, Generally.

- (a) Permit required. No temporary use may be established until a temporary use permit has been obtained from the Department. Events that have a duration less than six hours, not occurring more than once a month, and not in conjunction with a alcoholic beverage permit, such as ribbon cuttings, company events or other similar uses, are not required to obtain a temporary use permit.
 - (1) Application. A complete temporary permit application must be submitted to the County.
 - (2) Filing fee. All fees, in accordance with the County’s External Fees and Charges Manual, must be paid at time of permit issuance.
- (b) Location. Temporary uses are subject to the following regulations:
 - (1) Temporary uses are allowed as permitted in the use regulations tables for conventional zoning districts or as a permitted use in the schedule of uses for planned development zoning districts.
 - (2) Temporary uses are permitted on vacant lots or in the parking lots or grassed areas of developed properties when the temporary use is ancillary to the principal use. Temporary uses are not permitted in open space or preserve areas as designated on an approved local development order.

- (3) The area of the lot where the temporary use will be located must be clearly defined and must not obstruct pedestrian and vehicular movements or interfere with any preserve or water management areas.
 - (4) Off-street parking with a surface type specified in section 34-2017(b) must be provided. If the temporary use will be on premises with existing parking facilities, no additional parking facilities will be required.
 - (5) No part of a parking lot used to satisfy required parking for any existing use on the same premises may be used for a temporary use unless it is demonstrated that the hours of operation of the temporary use and parking demands of any permitted existing use occur at different times or as otherwise approved by the Director.
- (c) Lighting. No electrical service for temporary or permanent lighting may be installed without additional permit approval.
- (d) Time limit.
- (1) The maximum duration of a temporary use permit is 30 continuous days, except as provided for in sections 34-3043 through 34-3049.
 - (2) No more than four (4) permits for similar temporary uses may be issued on the same premises per calendar year. The temporary uses may not run consecutively and must be separated by a minimum of 15 days. Exceptions are provided for in sections 34-1716 and 34-3048.
- (e) Hours of operation. Must be confined to those specified in the permit.
- (f) Cleanup. The site must be cleared of all debris at the end of the temporary use and all temporary structures must be removed within 48 hours after termination of the use. A cash bond of a minimum of \$25.00 and not to exceed \$5,000.00 or a signed contract with a disposal firm may be required as a part of the application for a temporary use permit to ensure that the premises will be cleared of all debris during and after the event.
- (g) Traffic control. Must be arranged and paid for by the applicant, as required by the Sheriff's Department or the Lee County Department of Transportation.
- (h) Damage to public right-of-way. A cash bond of a minimum of \$25.00 and not to exceed \$5,000.00 may be required by the County to ensure the repair of any damage resulting to any public right-of-way as a result of the event.

Sec. 34 3041. — Generally.

- (a) ~~Purpose.~~ The purpose of this subdivision is to specify regulations applicable to certain temporary uses which, because of their impact on surrounding land uses, require a temporary use permit.
- (b) ~~Permit required.~~ No temporary use may be established until a temporary use permit has been obtained from the Department (see section 34 210).
- (c) ~~Location.~~ Temporary uses are allowed as permitted in agricultural, commercial and industrial zoning districts subject to the following regulations:
 - (1) ~~Temporary uses are permitted on vacant lots or in the parking lots or grassed areas of developed properties when the temporary use is ancillary to the principal use. Temporary uses are not permitted in open space or preserve areas as designated on an approved local development order.~~
 - (2) ~~The area of the lot where the temporary use will be located must be clearly defined and must not obstruct pedestrian and vehicular movements or interfere with any preserve or water management areas.~~
 - (3) ~~Off street parking with a surface type specified in section 34 2017(b) shall be provided. If the temporary use will be on premises with existing parking facilities, no additional parking facilities shall be required.~~
 - (4) ~~No part of a parking lot used to satisfy required parking for any existing use on the same premises may be used for a temporary use unless it is demonstrated that the hours of operation of the temporary use and parking demands of any permitted existing use occur at different times or as otherwise approved by the Director.~~

- ~~(d) *Lighting.* No permanent or temporary lighting may be installed without approval from the building department.~~
- ~~(e) *Time limit.*~~
 - ~~(1) All uses must be confined to the dates specified on the temporary use permit; provided, however, that:

 - ~~a. Except as provided in sections 34 3043 through 34 3049, a temporary use will not be permitted for more than 30 contiguous days; and~~
 - ~~b. If no time period is specified on the temporary use permit, then the temporary use permit will expire and the use must be abated within 30 days from the date of issuance.~~~~
 - ~~(2) A temporary use permit may not be renewed or reissued to the same applicant or on the same premises for a similar use more than four times in a calendar year or within 45 days from the date of expiration of the previous temporary use permit, except for community gardens as described in section 34 1716 and seasonal farmer's market (section 34 3048).~~
 - ~~(3) Events that have a duration less than six hours, not occurring more than once a month, and not in conjunction with a alcoholic beverage permit, such as ribbon cuttings, company events or other similar uses, are not required to obtain a temporary use permit.~~
- ~~(f) *Hours of operation.* Hours of operation must be confined to those specified in the permit.~~
- ~~(g) *Cleanup.* The site must be cleared of all debris at the end of the temporary use and all temporary structures must be removed within 48 hours after termination of the use. A cash bond of a minimum of \$25.00 and not to exceed \$5,000.00 or a signed contract with a disposal firm may be required as a part of the application for a temporary use permit to ensure that the premises will be cleared of all debris during and after the event.~~
- ~~(h) *Traffic control.* Traffic control as may be required by the County Sheriff's Department and the County Department of transportation must be arranged and paid for by the applicant.~~
- ~~(i) *Damage to public right of way.* A cash bond of a minimum of \$25.00 and not to exceed \$5,000.00 may be required by the County to ensure the repair of any damage resulting to any public right of way as a result of the event.~~

Staff Note – Update language applicable to all temporary use permits for clarity and to remove redundant language.

DIVISION 5. - ALCOHOLIC BEVERAGES

Sec. 34-1264. - Sale or service for on-premises consumption.

- (a) *Approval required.* The sale or service of alcoholic beverages for consumption on-premises ~~on the premises~~ is not permitted until the location has been approved by the County as follows:
 - (1) *Administrative approval.* An administrative approval for consumption on-premises is required in accordance with 34-174 when in conjunction with the following uses: ~~The Director of the Department of Community Development may administratively approve the sale or service of alcoholic beverages for consumption on the premises when in conjunction with the following uses, if the proposed use satisfies the requirements set forth in this division. When circumstances so warrant the Director may determine administrative approval is not the appropriate action and that the applicant must instead apply for approval as a special exception. Such circumstances may include the previous denial by the Director or by a hearing board of a similar use at that location, the record of public opposition to a similar use at that location, and similar circumstances. When the Director has approved a request for consumption on the premises at a location where the actual building has not been constructed, the Director may not approve another request for consumption on the premises within one year's time, which could potentially violate the distance requirements. If the first building is completed within less than one year, and it can be shown the second use would not violate the prescribed distance requirements, the Director may approve the second location subject to all other requirements contained in this division.~~
 - a. through j. remain unchanged.*
 - (2) – (3) remain unchanged.*
 - (b) remains unchanged.*
 - ~~(c) *Procedure for approval.*~~

- ~~(1) Administrative approval.~~
- ~~a. Application. An applicant for a consumption on the premises permit must submit the following information on the form provided by the County:~~
- ~~1. The name, address and telephone number of the applicant.~~
 - ~~2. The name, address and telephone number of the owner of the premises, if not the applicant.~~
 - ~~3. An authorization from the property owner to apply for the permit.~~
 - ~~4. Location by STRAP and street address.~~
 - ~~5. Type of state liquor license being requested and anticipated hours for the sale and service of alcoholic beverages.~~
 - ~~6. A site plan, drawn to scale, showing:~~
 - ~~i. The property in question, including all buildings on the property and adjacent property;~~
 - ~~ii. Entrances to and exits from the building to be used by the public;~~
 - ~~iii. A parking plan, including entrances and exits;~~
 - ~~iv. The floor area of the building and proposed seating capacity. If a restaurant is proposing a bar or lounge for patrons waiting to be seated in the restaurant, the floor area and seating area of the lounge must be shown in addition to the restaurant seating area.~~
 - ~~7. A County map marked to indicate all property within 500 feet of the building to be used for consumption on the premises.~~
 - ~~8. A sworn statement indicating that no religious facilities, day care centers (child), noncommercial schools, dwelling units or parks are located within 500 feet of the building.~~
- ~~b. Findings by Director. Prior to permit approval, the Director must conclude all applicable standards have been met. In addition, the Director must make the following findings of fact:~~
- ~~1. There will be no apparent deleterious effect upon surrounding properties and the immediate neighborhood as represented by property owners within 500 feet of the premises.~~
 - ~~2. The premises are suitable in regard to their location, site characteristics and intended purpose. Lighting must be shuttered and shielded from surrounding properties.~~
- ~~(2) Special exception.~~
- ~~a. Applications for special exception must be submitted on forms supplied by the County and must contain the same information required for administrative approval.~~
 - ~~b. Advertisements and public hearings must be conducted in accordance with the requirements set forth in article II of this chapter.~~

(d) through (j) are changed to (c) through (i)

Staff Note - Relocated to 34-174 and deleted redundant provisions.

DIVISION 11. - WIRELESS COMMUNICATION FACILITIES

Sec. 34-1445. - Development review process.

- (a) *remains unchanged.*
- (b) *Zoning.*
 - (1) *Administrative review.* Where provided by this division, new antenna supporting structures may be administratively approved in accordance with section 34-174. ~~an application will be reviewed by the Director for compliance with this chapter. The Director may attach conditions to any facility approved administratively if such conditions are reasonably necessary to effectuate the intent and purpose of this Code and other applicable regulations.~~
 - (2) *remains unchanged.*
 - (3) *Final decision.*
 - a. *Approval.*

1. ~~For administrative approvals for new antenna supporting structures the County must make all of the following findings (or conclude that a finding is not applicable) before granting approval of an application:~~
 - a) ~~The Applicant is not able to use existing wireless communications facility sites in the geographic search area; and~~
 - b) ~~The Applicant has agreed to rent or lease available space on the antenna supporting structure, under the terms of a fair market lease, without discrimination to other wireless communications service providers; and~~
 - c) ~~The proposed antenna supporting structure will not be injurious to historical resources, obstruct scenic views, diminish residential property values, or reduce the quality and function of natural or man-made resources; and~~
 - d) ~~The Applicant has agreed to implement all reasonable measures to mitigate the potential adverse impacts of the structures and facilities.~~
 2. ~~For new antenna supporting structure special exceptions, the Hearing Examiner must make additional findings, as indicated in section 34-145(e)(3)b.~~
- b. ~~Denial. Decisions by the County to deny an application for a proposed wireless communications facilities must be in writing and supported by substantial competent evidence contained in a written record.~~
- (c) *remains unchanged.*
- (d) ~~Review time frames.~~
- (1) ~~Applications for all wireless facilities subject to this division must be granted or denied within the normal time frame for the applicable type of review, but in no case later than 90 business days after the date the application is determined to be sufficient for review. If the sufficient application is not approved or denied within 90 business days, the application will be deemed automatically approved.~~
 - (2) ~~Sufficiency review.~~
 - a. ~~Upon initial submission or resubmission of application information for a wireless facility, the County shall have up to 20 business days to review the application to determine if all the required materials, in the required form, have been included in the application.~~
 - b. ~~If all of the required materials have been properly submitted, the application shall be found sufficient for review.~~
 - c. ~~If all of the required materials have not been properly submitted or resubmitted, the County must provide the applicant a letter with a brief explanation as to why the application is not complete for review and request the necessary additional information.~~
 - d. ~~If the County does not provide the applicant written notice of the insufficiencies within 20 business days of the date of the application is initially submitted or additional information resubmitted, the application will be deemed sufficient and ready for review.~~
 - (3) ~~Time frame waiver. To be effective, a waiver of the time frames must be voluntarily agreed to by the applicant and the County. The County may request, but not require, a waiver of the time frames by an applicant, except that, with respect to a specific application, a one time waiver may be required in the case of a declared local, state or federal emergency that directly affects the administration of all permitting activities of the County.~~

Staff Note - Deleted timeframes; rely on review time frames established in Administrative Code for consistency with all application types.

Subdivision II. - Residential Development

Sec. 34-1493. - Calculation of total permissible housing units.

The Lee Plan establishes a standard and maximum residential density range permissible for each residential land use category. The procedure set forth in this section must be used to determine the standard residential density as well as the total number of housing units which may be permitted within a development.

(1) *Proposed developments.*

a. thru b. remain unchanged.

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

(2) *remains unchanged*

DIVISION 15. ENVIRONMENTALLY SENSITIVE AREAS

Sec. 34-1575. - Coastal zones.

(a) *remains unchanged.*

(b) Development is prohibited seaward of the coastal construction setback line, as defined in section 34-2, with the exception of the following:

- (1) Improvements that provide for public beach access and enjoyment, limited to the following: Pile supported elevated dune and beach walk-over structures, beach access ramps and walkways, stairways, fences along access ways, boardwalks, pile supported viewing platforms and lifeguard support stands;

Remainder of section remains unchanged.

Staff Note – Allow certain exceptions to apply to private beach access.

DIVISION 16. - AGRITOURISM ACTIVITIES, PRODUCE STANDS, U-PICK OPERATIONS, AND COMMUNITY GARDENS

Sec. 34-1716. - Standards for community gardens.

Community gardens may be permitted by right in zoning districts as specified in the district use regulations. Community gardens are not subject to review under chapter 10, but are subject to the following regulations:

(1) – (8) *remain unchanged.*

~~(9) Application. An application for administrative approval must be submitted to the Department of Community Development along with the following documentation:~~

- ~~a. Letter signed by the property owner giving permission for use of property.~~
- ~~b. Letters of no objection from adjoining property owners when the proposed community garden abuts property zoned or used for residential purposes.~~
- ~~c. A site plan, drawn to scale, showing the property size with dimensions.~~
- ~~d. The site plan must show the location of all existing structures on the property.~~
- ~~e. The site plan must reflect existing streets, easements or land reservations within the site.~~
- ~~f. The site plan must include proposed fencing and screening, if any.~~
- ~~g. The site plan must identify the source of water that will be used for irrigation purposes.~~

Staff Note - Relocated to 34-174 and deleted redundant provisions.

DIVISION 23. - MOBILE HOMES

Sec. 34-1923. - Skirting.

All mobile homes ~~shall~~ must have ~~removable~~ skirting around the entire perimeter.

- (1) Skirting ~~shall~~ must be of a durable material such as decorative block, concrete block, fiberglass, aluminum or vegetation. Junk doors or other scrap material is prohibited.
- (2) Skirting ~~shall~~ must be maintained at all times by the resident.

Staff Note – Clarification of language regarding skirting.

DIVISION 24. - MODEL HOMES, UNITS AND DISPLAY CENTERS

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

- (a) *Generally.* Model homes and model units may be permitted by right, by special exception, or by administrative approval as specified in zoning district use regulations and as follows:
 - (1) *Administrative approval:* The Director may administratively approve the location of individual model homes and model units in accordance with 34-174. ~~any new development provided the property remains under unified control and the provisions of this division are met.~~
 - (2) *remains unchanged.*
- (b) through (f) remain unchanged.

Staff Note - Relocated to 34-174.

Sec. 34-1955. - Model display centers.

- (a) Model display centers may be approved in commercially-zoned districts that permit model display centers, as indicated in the use regulations for commercial districts. Model display centers may be approved by administrative approval in accordance with 34-174. ~~new RPD, MHPD, RVPD or MPD developments provided the property is zoned for the type of model home, model unit or recreational vehicle displayed, but require a planned development amendment in existing RPD, MHPD, RVPD or MPD districts unless already approved as a permitted use in the schedule of approved uses on the master concept plan.~~
- (b) through (e) remain unchanged.

Staff Note - Relocated to 34-174.

DIVISION 26. - PARKING

Sec. 34-2020. - Required parking spaces.

- (a) *remains unchanged.*
- (b) *Non-residential uses.* Non-residential uses permitted under this chapter are subject to the following minimum requirements:

TABLE 34-2020(b). REQUIRED PARKING SPACES FOR NON-RESIDENTIAL USES

Use	Special Notes or Regulations	Minimum Required Spaces for Single-Use Development	Minimum Required Spaces for Multiple-Use Development
Retail or business establishments.			

<i>a. through b. remain unchanged.</i>			
c. <i>Very large products or commodities:</i> Household/office furnishings groups I & III; mobile home dealers; specialty retail stores group IV; used merchandise stores group IV; vehicle and equipment dealers groups I, III, IV and V; and other similar type establishments.	Note (1); 34-2021 et seq.	1 space per 700 square feet <u>of total floor area</u> , with a minimum of 5 spaces; dead storage is calculated at 1 space per 1,500 square feet	1 space per 700 square feet of total floor area; no parking is required for areas of the building used only as dead storage and not available to the public

(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 34-174.2020(d):

(1) – (7) remain unchanged.

~~(d) Procedure for administrative approval.~~

~~(1) Application.~~ In addition to the information required by section 34-201 et seq., an applicant must submit the following information on the form provided by the County:

~~a. A list of all the uses the parking supports, the total floor area for each use, the number of parking spaces required, and the number of parking spaces proposed.~~

~~b. A site plan, drawn to scale, showing:~~

~~i. The property in question, including all buildings on the property and adjacent property;~~

~~ii. Entrances to and exits from the building to be used by the public;~~

~~c. A parking plan consistent with section 34-2014.~~

~~d. The peak parking demands for each use demonstrating that no part of a parking lot intended to satisfy required parking for a use is used to offset the parking requirements for another use unless the peak parking demands occur at different times.~~

~~e. When reduced parking is requested pursuant to 34-2020(e)(6) a parking demand study must be provided.~~

~~(2) Findings by Director.~~ The Director must conclude all applicable standards have been met prior to approval. In addition, the Director must make the following findings of fact:

~~a. There will be no apparent deleterious effect upon surrounding properties or the immediate neighborhood;~~

~~b. The reduced parking will not have an adverse impact on the public health, safety and welfare;~~

~~c. The proposed use is not solely dependent on vehicular traffic; and~~

~~d. No part of a parking lot intended to satisfy required parking for a use is used to offset the parking requirements for another use unless the peak parking demands occur at different times.~~

~~(3) The Director's decision is not subject to review. If an applicant's request for an administrative deviation is denied, the Applicant may seek relief by filing a request for a variance or deviation in accordance with chapter 34.~~

~~(d)(e) Parking in excess of 120 percent of minimum requirements.~~

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

~~(e)(f) Parking reduction within the mixed use overlay.~~ The single-use development parking standard will be multiplied by the factors in Table 34-2020(c) to produce the minimum required off-street parking for properties within the mixed use overlay. Off-street parking may be provided on the lot it serves or with available spaces within a lot described in 34-2015(1) within 1,320 feet of the primary entrance of the building it serves.

Staff Note - Relocated to 34-174 and deleted redundant provisions.

DIVISION 30. - PROPERTY DEVELOPMENT REGULATIONS

Subdivision III. - Setbacks

Sec. 34-2192. - Street setbacks.

(a) through (b) remain unchanged.

~~(c) *Modifications.* Upon determination that the setbacks set forth in subsection (a) of this section are not needed, the setbacks may be modified by a variance approved pursuant to section 34-203(e), or by a deviation as part of a planned development. Right-of-way modifications may not be granted through this provision.~~

Subdivision IV. - Lots

Sec. 34-2221. Lot width measurement. Minimum dimensions generally.

~~Unless specifically approved otherwise as part of a planned development district approval or as set forth in article VII of this chapter:~~

~~(1) All specified lot area, width and depth dimensions are mandatory minimums.~~

~~a. *Exception.* The Director of Community Development may approve the subdivision of the following projects notwithstanding the noncompliance of the individual lots with property development regulations in chapter 34, and chapter 10, provided the overall development complies with all other applicable zoning requirements. The projects which may be approved in this matter are as follows:~~

~~1. The subdivision of existing commercial and industrial developments;~~

~~2. Commercial or industrial developments which have received a development order;~~

~~3. A final development order for a commercial or industrial development which is still effective;
or~~

~~4. A new final development order application for a commercial or industrial development.~~

~~b. Applicants seeking such relief must submit the following:~~

~~1. A detailed site plan 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.~~

~~2. A detailed listing of the section number(s) and the specific regulation(s) of chapter 34, chapter 10 and/or chapter 30, if applicable, from which relief is sought. This information shall also be shown on the site plan.~~

~~3. Pertinent calculations which demonstrate that the overall development complies with zoning and development standards ordinance standards, which shall include the following, if applicable:~~

~~i. In the event that the individual lots will not have direct access to a public street, the applicant shall demonstrate how access to such lots will be accomplished via common areas.~~

ii. ~~In the event individual lots will not comply with minimum open space requirements, the applicant shall demonstrate how the required open space requirement for the overall development will be satisfied via common areas.~~

4. ~~Documents, satisfactory to the County, assuring that all common elements of the overall development are subject to unified control and will be perpetually maintained through a property owners association. The common elements must include, but are not limited to, streets and accessways, off street parking, water management facilities, buffering, fences or walls, and open space.~~

Upon completion of the review of documents submitted, the Director may approve the request with or without conditions to ensure that the overall development complies with the development standards.

e. ~~Exemptions granted under the provisions of this section may not be construed as providing relief from any development regulations not specifically listed and approved. Compliance with chapter 10, and other land development ordinances must be based on the overall development as though the lots created under this exemption did not exist. For example developments subdivided under the provisions of this section, may be considered as multiple occupancy complexes or as developments created under unified control for the purpose of determining identification signs, directory signs, and total sign area; and the ground mounted identification sign and directory signs permitted for the overall development will not be construed as off site advertising for businesses located on the subdivided lots.~~

~~(2) Except as set forth in this section for the RM 2 district, no part of a required yard or other required open space, or required off street parking or off street loading space, provided in connection with a building, structure or use shall be used to meet the requirements for any other building, structure or use, except in compliance with specified provisions made in this chapter. In the RM 2 district, when a single parcel is developed as a condominium or cooperative, or is retained under single ownership (see section 34-3102), nothing in this section shall be construed to require that each individual dwelling unit type be constructed on a parcel which meets the minimum lot dimensions of the RM 2 district, but rather that only the total parcel so developed shall be required to meet the minimum lot areas, width, depth, setbacks and open space.~~

~~(3) No lot or yard existing on August 1, 1986, shall be reduced in size, dimension or area below the minimum requirements set out in this chapter for the zoning district in which the property is located. Lots or yards created after August 1, 1986, shall meet at least the minimum requirements established in this chapter for the zoning district in which located. Where a lot or yard is reduced below the minimum requirements as a result of dedication, condemnation, purchase or other acquisition for a public use, the resultant nonconforming lot or yard may be required to obtain a variance in accordance with article II of this chapter.~~

~~(4) The following shall apply to measurement of lot width (see also the definition of lot measurement in section 34-2):~~

~~a. through e. remain unchanged.~~

Staff Note - Relocated to 34-174.

DIVISION 39. USE, OCCUPANCY AND CONSTRUCTION REGULATIONS

Sec. 34-3103. **RESERVED.** ~~Permit for moving building.~~

~~No building or part of any building may be relocated or moved through or across any sidewalk, street, alley or highway within the unincorporated area of the County unless a permit has first been obtained from the division of development services in accordance with the procedures and application requirements for building relocation as set forth in section 34-209, as well as a structure moving permit from the Department of Transportation. Buildings or~~

~~structures that have been designated as historic resources pursuant to chapter 22 must also obtain a certificate of appropriateness as provided in section 22-105.~~

Staff Note - Redundant with requirements of chapters 6 and 22.

ARTICLE VIII. – NONCONFORMITIES

DIVISION 1. GENERALLY

Sec. 34-3206. - Nonconformities created by eminent domain proceedings or voluntary donation of land for public purpose.

- (1) *remains unchanged.*
- (2) An administrative variance procedure is available to address improved parcels or parcels with approved development orders that have been rendered nonconforming or have been rendered unable to comply with current regulations as to signs, required landscape buffers, and open space because of a taking through eminent domain proceedings, by the voluntary sale of a parcel of land under the threat of eminent domain proceedings by a governmental authority, or by the voluntary donation of land to a governmental authority. The procedures to address the nonconformities referenced in this subsection are set forth in section 34-~~174(a)268~~.

Staff Note – Update cross-reference.

DIVISION 4. 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. *through c. 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 Commissioners under Ordinance 86-36 may request to amend the approved site plan ~~in accordance with section 34-174. by the combination of lots 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:

Remainder of section remains unchanged.

Staff Note – Update cross-reference.