

GROUP 4, ITEM E

DENSITY

AMENDMENT SUMMARY

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

Chapter 34 – Zoning

ARTICLE VII. – SUPPLEMENTARY DISTRICT REGULATIONS

DIVISION 12. – DENSITY

Sec. 34-1491. Applicability of subdivision.

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

- (1) The provisions set forth in this subdivision apply to any proposed or existing residential development. For the purposes of this subdivision, the term "residential" does not include hotel/motel density calculations (see Division 19 of this article).
- (2) Notwithstanding other applicable regulations, no density calculation is required for hospitals, prisons, jails, boot camps, detention centers, or other similar-type facilities owned or operated by a County, State, or federal agency.

Sec. 34-1492. Definitions.

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

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

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

- ~~(1) Land areas to be included are as follows:~~
 - ~~a. The area of existing and proposed artificial water bodies within the parcel boundaries;~~
 - ~~b. Parks, noncommercial recreational facilities and open space;~~
 - ~~c. Schools (noncommercial);~~
 - ~~d. Police, fire and emergency services;~~
 - ~~e. Sewage, water and drainage facilities;~~
 - ~~f. Land proposed to be used for street rights of way or street easements;~~
 - ~~g. Land proposed to be used for utility rights of way or easements; and~~
 - ~~h. Land used for residential buildings and normal residential accessory uses.~~

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

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

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

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

Sec. 34-14932. Calculation of total permissible housing units.

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

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

(1) *Proposed developments.*

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

1. Total land area of the proposed development.

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

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

~~2. Total gross residential acres.~~

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

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

5. Acres of any area classified as saltwater wetlands.

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

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

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

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

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

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

- ~~i. Multiply the total gross residential acres less wetland area by the standard density range permitted for the land use category in which the property is located.~~
- ~~ii. Additional units may be transferred from abutting freshwater wetland areas at the same underlying density as is permitted for the uplands, so long as the maximum uplands density does not exceed the maximum standard density of six units per acre plus two for a total of eight units per acre.~~

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

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

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

c. *Planned developments and PUDs.*

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

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

- a. *Single-family structures.* Any lawfully existing lot of record zoned for residential use will be permitted one single-family residence so long as the lot complies with either the property development regulations for the zoning district in which it is located, or the owner receives a favorable single-family residence minimum use determination in accordance with §section 34-3273.
- b. *Two-family attached or duplex structures.* If two or more abutting properties have each qualified for the right to construct a single-family residence, and if the lots or parcels are located in a zoning district ~~which~~ that permits duplex or two-family dwellings, the property owner may combine the lots to build a single duplex or two-family building in lieu of constructing two single-family residences.

- c. *Townhouse or multiple-family structures.* Except as limited by the Lee Plan, any legally existing lot of record ~~which that~~ is zoned for townhouse or multiple-family development will be permitted dwelling units as follows:
1. *Developments ~~which that~~ are not planned developments or PUDs.* When reviewing a request for a building permit for a townhouse or multiple-family building which is not part of a PUD or planned development, the maximum number of permitted dwelling units will be determined by the applicable property development regulations set forth for of the zoning district, Future Land Use Category, or State Statutes, in which located for the particular type of building proposed, provided that:
 - i. The maximum number of dwelling units permitted will not exceed the standard density range for the land use category ~~in which located;~~ and
 - ii. The parcel area must be calculated as the gross area of the lot in question, plus one-half of any abutting right-of-way or easement. When a parcel is adjacent to a platted right-of-way that was platted as part of the same subdivision, one-half of the abutting rights-of-way will be added to the parcel area.
 2. *Planned developments and PUDs.* ~~The M~~maximum density will be as set forth in the approving resolution minus the existing units.

Sec. 34-14943. Density equivalents.

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

- (a) *Applicability.* The density equivalents set forth in this subsection will be used in situations where it is necessary to convert permissible uses to residential dwelling unit equivalents. When permitted by the use regulations in a zoning district that permits dwelling units, the permissible density equivalents may not exceed the density limitations set forth in the zoning district or land use category (whichever is less) in which the property is located. In situations where the Lee Plan does not specify a standard density range, such as the interchange areas, the permissible density equivalents may not exceed ten dwelling units per acre.
- (b) *Equivalency factors.*
- (1) Notwithstanding Section 34-1414(c), no density equivalency calculation is required for a bed and breakfast when the lodging includes less than four (4) rentable spaces without kitchens and exterior entrances that are rentable for a limited time and at least one meal included for each guest each day of the stay. Bed and Breakfasts exceeding four rentable spaces without kitchens will be calculated as four rentable spaces (df) in an owner-occupied conventional single family (df) accommodating four or less lodgers. If the bed and breakfast will accommodate more than four lodgers, then the equivalency will be calculated as four lodgers equals one dwelling unit.
 - ~~(2) Notwithstanding Section 34-1414(c), no density calculation is required for hospital, prison, jail, boot camp, detention center, or other similar type facility owned or operated by a County, State or federal agency.~~
 - ~~(2)(3)~~ Where dwelling or living units have lock-off accommodations, density will be calculated as follows:
 - a. ~~Hotels/motels. Lock-off units will be counted as separate rental units regardless of size.~~
 - a. ~~b.~~ Timeshare units. Lock-off units will be counted as separate dwelling units whether or not they contain cooking facilities, as follows:
 - i. Studio units will be counted as 0.1 dwelling units;

- ii. One-bedroom units will be counted as 0.25 dwelling units;
 - iii. Two-bedroom units will be counted as 0.5 dwelling units;
 - iv. Three-bedroom (or more) units will be counted as a full dwelling unit.
- (43) Density. Density equivalents for health care, social service, adult living facilities (ALF), continuing care facilities, or other group quarters not meeting the Community Residential Homes allowances in Florida Statutes Chapter 419 ~~(df)~~ are provided in dwelling unit equivalents:
- a. Where each unit has its own cooking facilities, density equivalents will be calculated on a 1:1 ratio.
 - b. Where a continuing care facility (CCF) or assisted living facility (ALF) contains independent living units two independent living units equal to one residential dwelling unit.
 - c. Except as may be specifically set forth elsewhere in this chapter, where health care, social service, adult living facilities (ALF), continuing care facilities (CCF), or other group quarters ~~(df)~~ are provided in dwelling units or other facilities wherein each unit does not have individual cooking facilities and where meals are served at a central dining facility or are brought to the occupants from a central kitchen, density equivalents will be calculated at the ratio of ~~four~~^{six} people equals one dwelling unit.

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

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

DIVISION 19. Hotels and Motels

Sec. 34-1802. Property development regulations.

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

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

- (1) *Minimum lot dimensions.*
 - a. Area: 20,000 square feet.
 - b. Lot width: 100 feet.
 - c. Lot depth: 100 feet.
- (2) *Setbacks.*
 - a. Street: In accordance with Section 34-2192.
 - b. Water body: In accordance with Section 34-2194.
 - c. Side and rear yards: 20 feet for buildings up to 35 feet in height, plus one-half foot for every one foot in excess of 35 feet.
- (3) *Parking.*
 - a. Minimum parking requirements are set forth in Division 26 of this article.

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

(4) *Rental units permitted.*

- a. Minimum floor area per unit is 120 square feet.
- b. For developments within conventional zoning districts located within Lee Plan future land use map categories that have maximum standard density limits, rental unit density equivalents are:

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

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

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

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

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

Lock-off units will be counted as separate rental units regardless of size.

- c. In categories without density limits, the number of permitted hotel/motel rental units will be determined by design and compliance with all applicable property development regulations including open space, setbacks, and height restrictions except as provided below.
- d. Hotels/motels approved as planned developments are not subject to rental unit size or density requirements set forth above provided all other aspects of the development (height, traffic, intensity of use, etc.) are found to be compatible with the surrounding area and otherwise consistent with the Lee Plan. However, any increase in the number or the floor size of the rental units approved in a planned development will require an amendment to the Master Concept Plan.