

**Lee County Board Of County Commissioners
Agenda Item Summary**

**DATE CRITICAL
Blue Sheet No. 20070701**

1. ACTION REQUESTED/PURPOSE:

Direct the 2007 round of amendments to the Land Development Code to public hearing as follows:
 Local Planning Agency: May 21, 2007 at 8:30 a.m.
 First Public Hearing: June 12, 2007 after 5:05 p.m.
 Second Public Hearing: June 26, 2007 after 5:05 p.m.

2. FUNDING SOURCE:

3. WHAT ACTION ACCOMPLISHES:

Satisfies the Board policy to hold two public hearings to amend the LDC.

4. MANAGEMENT RECOMMENDATION: Approve

5. Departmental Category:

C12A

6. Meeting Date: May 15, 2007

7. Agenda:

- Consent
- Administrative
- Appeals
- Public
- Walk-On

8. Requirement/Purpose: (specify)

- Statute
- Ordinance LDC
- Admin. Code
- Other

9. Request Initiated:

Commissioner _____
 Department County Attorney
 Division Land Use
 By: Dawn E. Perry-Lehnert
 Dawn E. Perry-Lehnert
 Assistant County Attorney

10. Background:

County staff and the Land Development Code Advisory Committee have proposed amendments to the Land Development Code Chapters 2, 6, 10, 26, 30, 33, and 34. The attached ordinance overview outlines the proposed amendments.

The Executive Regulatory Oversight Committee reviewed the Ordinance on May 9, 2007.

The Land Development Code Advisory Committee reviewed the Ordinance on May 11, 2007.

County staff recommends adoption of the proposed ordinance.

Attachment:

1. Ordinance Overview
2. Draft Ordinance (back up to follow)

11. Review for Scheduling:

Department Director	Purchasing or Contracts	Human Resources	Other	County Attorney	Budget Services				County Manager/P. W. Director
					Analyst	Risk	Grants	Mgr	
				<i>[Signature]</i>	RK62	MR 5/3/07	5/2/07	12/23/07	<i>[Signature]</i>

12. Commission Action:

- Approved
- Deferred
- Denied
- Other

COUNTY ADMIN
5-2-07 4:00pm

RECEIVED BY
COUNTY ADMIN:
5/2/07 @ 4:00 PM
COUNTY ADMIN
FORWARDED TO:
P/L
5/3/07
1:30 PM

Blue Sheet #: 20070701
Page #: 2
Subject: 2007 LDC Amendments

cc: Timothy Jones, Chief Assistant County Attorney
Donna Marie Collins, Assistant County Attorney
John J. Fredyma, Assistant County Attorney
Robert D. Spickerman, Assistant County Attorney
Michael D. Jacob, Assistant County Attorney
Mary Gibbs, Director, Department of Community Development
Pam Houck, Director, Zoning Division
Pete Eckenrode, Director, Development Services
Robert Stewart, Building Official, Department of Community Development
Nettie Richardson, Principal Planner, DCD/Zoning

2007 LDC Amendment Highlights/Overview

- 2-3** Revise to recent case law (Putnam County case). Provides all approvals must be consistent with Lee Plan at the time they are granted.
- 2-43** Updates Lee Plan citations.
- 2-46** Updates Lee Plan citations.
- 2-72** Housekeeping to include reference to 2-73(d) regarding major projects.
- 2-73** Clarifies when proportionate fair share mitigation may be eligible for impact fee credit.
- 2-264** Includes revisions to definitions.
- 2-275** Housekeeping to clarify that an affidavit of interest in real property is required when land is transferred to the County for impact fee credit.
- 2-312** Housekeeping to clarify that an affidavit of interest in real property is required when land is transferred to the County for impact fee credit.
- 2-352** Housekeeping to clarify that an affidavit of interest in real property is required when land is transferred to the County for impact fee credit.
- 2-395** Housekeeping to clarify that an affidavit of interest in real property is required when land is transferred to the County for impact fee credit.
- 2-413** Housekeeping to clarify that an affidavit of interest in real property is required when land is transferred to the County for impact fee credit.
- 2-470** Establishes minimum insurance requirements for construction on County property by non-County personnel (i.e. contract winner) under a County CIP development order.
- 6-472** Updates Lee Plan citations.
- 10-1** Updates reference to Department of Environmental Protection; add definition of slope easement; amends definition of subdivision.
- 10-81** Requires all uses on a parcel to be brought into compliance as a condition of requesting and obtaining a development order approval. This section does not intended to prevent a property owner from obtaining a building permit to repair an existing building.

- 10-104 Housekeeping amendment to correct citation.
- 10-110 Housekeeping to change 180 days to 6 months.
- 10-154 Revises Development Order submittal requirements pertaining to title certification, boundary surveys, documentation of applicable zoning actions, existing structures; surety requirements and Lee Plan consistency.
- 10-174 Clarifies unit type (two-family attached); and lot split provisions.
- 10-215 Establishes criteria applicable to a waiver from the platting requirements.
- 10-251 Updates Lee Plan citations.
- 10-256 Amends Bikeway and Pedestrian way provisions regarding permitting, impact fee credits, construction materials and fee in lieu provisions.
- 10-257 Updates Lee Plan citations.
- 10-291 Eliminates the ability to obtain a variance or deviation from the street interconnection requirements
- 10-281 Updates references to the traffic ways map.
- 10-282 Establishes a requirement to obtain liability insurance as a condition of development order approval allowing construction within County owned or controlled right-of-way property.
- 10-284 Housekeeping amendment to reflect correct Map reference.
- 10-291 Amend street access interconnection requirements to eliminate the ability to obtain a deviation or variance.
- 10-292 Requires developer to indicate whether proposed road is intended to be county maintained at the time of development order submittal.
- 10-296 Substantially reorganizations the street design standards.
- 10-297 Requires LDO to establish access unto a county right-of-way.
- 10-298 Adds Treeline to the list of controlled access roadways.
- 10-321 Updates Lee Plan citations.

- 10-322** Establishes swale standard for county maintained right-of-way.
- 10-326** Establishes maximum spacing for inlets and manholes.
- 10-329** Deletes percentage limitation applicable to total materials excavated for off-site destinations; adds an administrative approval procedure for excess spoil removal plans and excavations near street rights-of-way.
- 10-330** Establishes standards for outfall into county right-of-way.
- 10-351** Housekeeping to update reference to HRS and DEP.
- 10-352** Board directed amendment to provide that all projects located within a certificated utility area must connect to the public potable water system or central sewer.
- 10-353** Board directed amendment to provide that all projects located within a certificated utility area must connect to the public potable water system or central sewer.
- 10-415** Establishes requirement for a 50 foot right-of-way buffer for native tree preservation where a project (50 acres or more) abuts an arterial/collector and native trees exist within 50 feet adjacent to right-of-way.
- 10-416** Clarifies the perimeter landscape requirements applicable to commercial construction; provides an increased parking space incentive for preservation of existing native trees in parking landscape isles
- 10-610** Establishes design guidelines for project entrances.
- 10-706** Housekeeping amendments to revise references to appropriate publications.
- 10-707** Updates roadway design cross sections for arterials.
- 10-708** Updates roadway design cross sections for collectors.
- 10-709** Updates roadway design cross sections for public streets.
- 10-710** Adds Category "D" road requirements to table for local streets with closed and open drainage.
- 26-78** Updates Lee Plan citations.
- 30-4** Allows banners on light poles when approved by DOT.

- 33-1 Clarifies the purpose and intent.
- 33-2 Housekeeping to reflect Chapter 33 regulations and standards.
- 33-3 Clarifies that the planning community regulations will control unless otherwise specifically provided.
- 33-4 Clarifies which regulations will control in the event of a conflict.
- 33-5 Housekeeping to reflect that the Chapter 33 provisions are standards.
- 33-52 Clarifies applicability of the regulations and when they will be applied.
- 33-54 Clarifies provisions applicable to review of various applications to include special exception, variance and conventional rezoning applications.
- 33-116 Housekeeping amendment; relocation of provision to appropriate section.
- 33-330 References to "wall" changed to "facade" to provide consistency; relocate a lighting provision to 33-116. Eliminate language appearing to create a "loophole" in the application of the regulations.
- 33-338 Housekeeping amendment for consistency.
- 33-351 Adds buffer requirements for public preserve and recreational areas.
- 33-400 Housekeeping amendment for consistency.
- 33-403 Housekeeping.
- 33-406 Clarifies which setback requirements are applicable.
- 33-435 Eliminates the requirement for landscaping to unknown standard and establishes the standard.
- 33-455 Housekeeping.
- 33-461 Clarifies the circumstances under which an administrative deviation may be granted with respect to required parking spaces for big box projects.
- 33-472 Housekeeping amendment for consistency.
- 33-473 Housekeeping amendment for consistency.

- 33-476** Clarifies the change in wall appearance required by the section.
- 34-2** Adds definition of “mining” consistent with chapter 10; clarifies that an accessory structure or use must be located on the same parcel as the principal structure or use.
- 34-202** Revises general zoning application submittal requirements to clarify the provisions applicable to legal descriptions and sketches; boundary surveys; proof of ownership; existing structure affidavits; providing a copy of the bonus density application; agricultural use affidavits; and verification of potable water and sanitary sewer connections.
- 34-341** Establishes a rezoning of land abutting parks or 2020 lands as a development of County impact.
- 34-373** Amends provisions applicable to planned development applications with respect legal descriptions and sketches; depiction of easements on MCP; and sufficiency findings.
- 34-380** Makes it clear that when an amendment to an approved master concept plan is submitted the revised/proposed MCP must include the entire planned development boundary.
- 34-622** Adds Auto detailing use to Automotive repair and services Group I. Revises the provisions applicable to the Research and Development use.
- 34-653** Allows horticultural services and lawn/garden services by special exception in AG-2 on property 5 acres or more.
- 34-735** Includes conventional single family dwellings as a permitted use in the Mobile Home zoning districts.
- 34-813** Eliminates the 500 square foot constraint on governmental offices in the Community facilities districts.
- 34-843** Establishes Pet Services as a permitted use in the Community Commercial zoning district; housekeeping to reflect proper LDC section.
- 34-871** Updates Lee Plan citations.
- 34-934** Establishes a new note regarding polling places that is applicable to recreation facilities, clubs and golf course clubhouses.
- 34-941** Updates Lee Plan citation; makes the Master Concept Plan submittal

requirements for Private Recreational Facilities Planned Developments consistent with other planned development submittal requirements.

- 34-1352** Clarifies that the provision is applicable to commercially zoned property; amends the site lighting requirements in accord with 34-625; clarifies the landscape buffer requirements.
- 34-1447** Establishes a reflective tapping requirement for wireless communication facilities to provide greater visibility during air flight.
- 34-1512** Modifies definitions applicable to the bonus density provisions; establishes a definition for "moderate income".
- 34-1513** Establishes that bonus density provisions in Article VI, Division 12 apply in the event of a conflict with other county regulations.
- 34-1514** Housekeeping to reflect current terminology; modifies the income verification requirements.
- 34-1515** Modifies notice of violation procedure to require service by registered certified mail and allows 90 days to abate the violation.
- 34-1516** Updates terminology; corrects Lee Plan citation; allows waiver of the bond requirement under certain circumstances.
- 34-1517** Establishes requirement that Board action with respect to a bonus density request submitted in conjunction with zoning approval will be set forth in the zoning resolution.
- 34-1518** Reduces the time that site specific bonus density units must remain available exclusively to eligible households from 10 to 7 years; modifies bond requirements; establishes a recorded covenant requirement regarding the 7 year eligibility requirement.
- 34-1519** Terminology updated.
- 34-1520** Terminology updated.
- 34-1748** Requires entrance gates and gatehouse to be located so they do not impede or interfere with the use driveways and accessway internal to the development; requires that turnarounds associated with gates and gatehouse be placed on the ingress side of the gate or gatehouse in accord with AASHTO standards.

- 34-1862** Updates Lee Plan citations.
- 34-1891** Updates Lee Plan citations.
- 34-1892** Updates Lee Plan citations.
- 34-2013** Changes minimum width for a 2-way entrance to 24 feet.
- 34-2015** Clarifies lighting standards for commercial and industrial parking areas; and requires parking lot interconnections.
- 34-2020** Adds ATM parking requirements to banks and financial establishments; Establishes parking requirements for research and development uses.
- 34-2174** Includes waterbody setbacks as part of the consideration for increased height.
- 34-3070** Establishes purpose and intent of Polling Place regulations.
- 34-3071** Establishes applicability of Polling Place provisions.
- 34-3072** Makes Supervisor of Elections responsible for arranging use of the recreation facility or amenity as a Polling Place.
- 34-3073** Provides for access to the Polling Place.
- 34-3074** Requires planned development rezonings with 100 or more dwelling units and a recreation facility/amenity to allow use of the facility as a Polling Place upon written request from the Supervisor of Elections.
- 34-3075** Requires developments obtaining a special exception for a recreation facility for serve 100 or more dwelling units to allow use of the facility as a Polling place upon written request from the Supervisor fo Elections.
- 34-3076** Requires the recording of a covenant to ensure that the residents of the project are aware of the obligation to allow use of the recreation facility/amenity as a Polling Place.
- 34-3107** Applies the duplex driveway requirements to two-family attached units.
- 34-3108** Applies to the duplex landscaping requirements to two-family attached units.
- 34-3222** Clarifies when a nonconforming use of land may be expanded or replaced.

- 34-3223** Clarifies that approval of a rezoning request will cause an existing nonconforming use on the property subject to rezoning to lose its nonconforming status, rendering the use illegal and subject to immediate discontinuance.
- 34-3224** Housekeeping; Update language.
- 34-3241** Clarifies that nonconforming structures on property subject to rezoning request must be brought into compliance with the zoning approval.

ORDINANCE NO.

AN ORDINANCE AMENDING LEE COUNTY LAND DEVELOPMENT CODE (LDC) CHAPTERS 2, 6, 10, 26, 30, 33, AND 34.

AMENDING CHAPTER 2 (ADMINISTRATION); CREATING SECTION 2-3 REGARDING COMPLIANCE WITH REGULATIONS (§2-3); AMENDING INTENT OF ARTICLE APPLICABLE TO THE CONCURRENCY MANAGEMENT SYSTEM (§2-43); AMENDING CONCURRENCY CERTIFICATION (§2-46); DETERMINING PROPORTIONATE FAIR-SHARE OBLIGATION (§2-72); IMPACT FEE CREDIT FOR PROPORTIONATE FAIR-SHARE MITIGATION (§2-73); AMENDING DEFINITIONS AND RULES OF CONSTRUCTION FOR ROADS IMPACT FEES (§2-264); CREDITS (§2-275); EXEMPTIONS AND CREDITS FOR REGIONAL PARKS IMPACT FEE (§2-312); EXEMPTIONS AND CREDITS FOR COMMUNITY PARKS IMPACT FEE (§2-352); CREDITS FOR FIRE PROTECTION AND EMERGENCY MEDICAL SERVICES IMPACT FEE (§2-395); CREDITS FOR SCHOOL IMPACT FEES (§2-413); ESTABLISHING LIABILITY INSURANCE REQUIREMENTS FOR CIP PROJECTS (§2-470); AND

AMENDING CHAPTER 6 (BUILDINGS AND BUILDING REGULATIONS); AMENDING SPECIFIC STANDARDS FOR FLOOD HAZARD REDUCTION (§6-472);

AMENDING CHAPTER 10 (DEVELOPMENT STANDARDS); AMENDING DEFINITIONS AND RULES OF CONSTRUCTION (§10-1); ESTABLISHING CONSISTENCY WITH REGULATIONS AND APPROVALS (§10-81); AMENDING DEVIATION AND VARIANCES (§10-104); RESUBMITTAL OF APPLICATION FOLLOWING DENIAL (§10-110); ADDITIONAL REQUIRED SUBMITTALS (§10-154); TYPES OF DEVELOPMENT ENTITLED TO LIMITED REVIEW (§10-174); WAIVER OF REQUIREMENTS FOR PLATS (§10-215); APPLICABILITY OF DESIGN STANDARDS AND REQUIREMENTS (§10-251); BIKEWAYS AND PEDESTRIAN WAYS (§10-256); MARINA DESIGN (§10-257); AMENDING OFFICIAL TRAFFICWAYS MAP (§10-281); ESTABLISHING LIABILITY INSURANCE REQUIREMENTS FOR WORK IN COUNTY RIGHT-OF-WAY (§10-282); FUNCTIONAL CLASSIFICATION OF COUNTY ROADS (§10-284); AMENDING REQUIRED STREET ACCESS (§10-291); PROVIDING FOR PUBLIC STREETS TO CONNECT TO EXISTING PUBLIC STREET (§10-292); AMENDING STREET DESIGN AND CONSTRUCTION STANDARDS (§10-296); ACCESS AND REVIEW STANDARDS FOR COUNTY ROADS LYING WITHIN INCORPORATED AREAS (§10-297); CONTROLLED ACCESS ROADS (§10-298); AMENDING PROVISIONS GENERALLY APPLICABLE TO SURFACE WATER MANAGEMENT (§10-321); ROADSIDE SWALES

(§10-322); INLET SPACING (§10-326); EXCAVATIONS (§10-329); ESTABLISHING PROVISIONS APPLICABLE TO OUTFALL INTO COUNTY RIGHT-OF-WAY (§10-330); AMENDING PROVISIONS GENERALLY APPLICABLE TO UTILITIES (§10-351); POTABLE WATER SYSTEMS (§10-352); SANITARY SEWER SYSTEMS GENERALLY (§10-353); AMENDING OPEN SPACE PROVISIONS (§10-415); LANDSCAPE STANDARDS (§10-416); SITE DESIGN STANDARDS AND GUIDELINES FOR COMMERCIAL DEVELOPMENTS (§10-610); MINIMUM SPECIFICATIONS FOR BRIDGE IMPROVEMENTS (§10-706); FOUR- AND SIX-LANE ARTERIAL ROADWAYS (§10-707); COLLECTOR STREETS (§10-708); PUBLIC LOCAL STREETS (§10-709); PRIVATE LOCAL STREETS (§10-710); AND

AMENDING LDC CHAPTER 26 (MARINE FACILITIES, STRUCTURES AND EQUIPMENT); AMENDING MARINA DESIGN AND LOCATION (§26-78); AND

AMENDING LDC CHAPTER 30 (SIGNS); AMENDING APPLICABILITY OF CHAPTER (§30-4); AND

AMENDING CHAPTER 33 (PLANNING COMMUNITY REGULATIONS); AMENDING PURPOSE AND INTENT (§33-1); APPLICABILITY (§33-2); AFFECT OF LDC PROVISIONS (§33-3); CONFLICT (§33-4); DEVIATIONS/VARIANCES (§33-5); AMENDING ESTERO PLANNING COMMUNITY PROVISIONS PROVIDING FOR APPLICABILITY (§33-52); COMMUNITY REVIEW (§33-54); AMENDING DESIGN STANDARDS FOR LIGHTING (§33-116); FACADE TREATMENT (§33-330); INFILL DEVELOPMENT (§33-338); LANDSCAPING BUFFERS (§33-351); AMENDING CORRIDOR OVERLAY PROVISIONS AND PROVIDING FOR PURPOSE AND INTENT (§33-400); CORNER LOTS (§33-403); PROPERTY DEVELOPMENT REGULATIONS (§33-406); AMENDING LANDSCAPING PROVISIONS FOR SPECIFIC USES (§33-435); AMENDING OF BIG BOX COMMERCIAL PURPOSE (§33-455); PARKING (§33-461); BUILDING DESIGN (§33-472); BUILDING FACADE (§33-473); WALLS AND FENCES (§33-476); AND

AMENDING LDC CHAPTER 34 (ZONING); AMENDING DEFINITIONS OF "MINING" AND "ACCESSORY USE" (§34-2); AMENDING GENERAL SUBMITTAL REQUIREMENTS FOR APPLICATIONS REQUIRING PUBLIC HEARING (§34-202); EMPLOYMENT OF PLANNED DEVELOPMENT DESIGNATION (§34-341); APPLICATION REQUIREMENTS (§34-373); PROVIDING FOR AMENDMENTS TO APPROVED MASTER CONCEPT PLAN (§34-380); AMENDING USE ACTIVITY GROUPS (§34-622); AMENDING USE REGULATIONS TABLE FOR AGRICULTURAL DISTRICTS (§34-653); USE REGULATIONS TABLE FOR ONE- AND TWO-

FAMILY RESIDENTIAL DISTRICTS (§34-694); USE REGULATIONS TABLE FOR MULTIPLE-FAMILY RESIDENTIAL DISTRICTS (§34-714); USE REGULATIONS TABLE FOR MOBILE HOME RESIDENTIAL DISTRICTS (§34-735); USE REGULATIONS TABLE FOR COMMUNITY FACILITIES DISTRICT (§34-813); USE REGULATIONS TABLE FOR COMMERCIAL DISTRICTS (§34-843); AMENDING PURPOSE AND INTENT OF MARINE-ORIENTED DISTRICTS (§34-871); AMENDING USE REGULATIONS TABLE FOR PLANNED DEVELOPMENT DISTRICTS (§34-934); PRIVATE RECREATIONAL FACILITIES PLANNED DEVELOPMENT (§34-941); AMENDING DISPLAY, SALE, RENTAL OR STORAGE FACILITIES FOR MOTOR VEHICLES, BOATS, RECREATIONAL VEHICLES, TRAILERS, MOBILE HOMES OR EQUIPMENT (§34-1352); PROVIDING DEVELOPMENT REGULATIONS APPLICABLE TO WIRELESS COMMUNICATION FACILITIES (§34-1447); AMENDING DEFINITIONS APPLICABLE TO BONUS DENSITY PROVISIONS (§34-1512); AMENDING CONFLICTING PROVISIONS (§34-1513); ADMINISTRATION AND ENFORCEMENT OF SUBDIVISION; VERIFICATION OF INCOME (§34-1514); PROHIBITED ACTS; NOTICE OF VIOLATION (§34-1515); AMENDING THE BONUS DENSITY PROGRAM (§34-1516); PROCEDURE TO APPROVE BONUS DENSITY INCREASES (§34-1517); AMENDING SITE-SPECIFIC DENSITY BONUS (OPTION 1) (§34-1518); CASH-CONTRIBUTION DENSITY BONUS (OPTION 2) (§34-1519); AFFORDABLE HOUSING TRUST FUND (§34-1520); AMENDING ENTRANCE GATES AND GATEHOUSES (§34-1748); MARINAS, FISH HOUSES AND DOCKING FACILITIES (§34-1862); PURPOSE OF DIVISION OF FARM LABOR HOUSING DIVISION (§34-1891); PROVIDING SPECIAL EXCEPTION REQUIRED (§34-1892); AMENDING PARKING ACCESS (§34-2013); LOCATION AND DESIGN GENERALLY (§34-2015); REQUIRED SPACES (§34-2020); ADDITIONAL PERMITTED HEIGHT WHEN INCREASED SETBACKS PROVIDED (§34-2174); CREATING DIVISION 38 RELATED TO POLLING PLACES, PROVIDING FOR PURPOSE AND INTENT (§34-3070); APPLICABILITY (§34-3071); USE OF FACILITY (§34-3072); ACCESS (§34-3073); POLLING PLACES IN PLANNED DEVELOPMENTS (§34-3074); SPECIAL EXCEPTION FOR PRIVATE ON-SITE RECREATIONAL FACILITY (§34-3075); RECORDED COVENANT OR AGREEMENT (§34-3076); PROVIDING FOR DUPLEX AND TWO-FAMILY ATTACHED DRIVEWAYS (§34-3107); LANDSCAPE FOR DUPLEXES AND TWO-FAMILY ATTACHED UNITS (§34-3108); AMENDING ENLARGEMENT OR REPLACEMENT OF NONCONFORMING USE (§34-3222); DISCONTINUANCE (§34-3223); ERECTION OF ADDITIONAL STRUCTURES (§34-3224); AMENDING NONCONFORMING BUILDINGS AND STRUCTURES (§34-3241); AND PROVIDING FOR CONFLICTS OF LAW, SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS AND AN EFFECTIVE DATE.

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

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

WHEREAS, Goal 24 of the Lee County Comprehensive Land Use Plan (Lee Plan) mandates that the county maintain clear, concise, and enforceable development regulations that fully address on-site and off-site development impacts, yet function in a streamlined manner; and

WHEREAS, Lee Plan Policies 14.5.3, 24.1.9, 52.1.1 and 110.6.2 require county staff and private citizen committees to review existing development regulations to determine whether the regulations can be further fine tuned and streamlined in order meet the goals, objectives and policies of the Lee Plan; and

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

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

WHEREAS, the Land Development Code Advisory Committee has reviewed the proposed amendments to the Code and recommended modifications as indicated; and

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

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

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

SECTION ONE: AMENDMENT TO LDC CHAPTER 2

Lee County Land Development Code Chapter 2 is amended to read as follows, with strike through text identifying deleted language and underlined text identifying new language.

CHAPTER 2

ADMINISTRATION

ARTICLE I. IN GENERAL

Sec. 2-3. Compliance with regulations.

All development approvals issued by Lee County, including but not limited to building permits, right-of-way permits, development orders, administrative deviations, special exceptions, variance and zoning resolution approvals, must be consistent with the Lee Plan provisions in effect at the time the approval is issued. The application submittal date or timing of review does not affect compliance with this requirement.

ARTICLE II. CONCURRENCY MANAGEMENT SYSTEM

DIVISION 1. CONCURRENCY MANAGEMENT PROVISIONS

Sec. 2-43. Intent of article.

This article is intended to implement the requirements imposed by rule 9.J-5.0055, Florida Administrative Code; objectives ~~22-3~~ 37.2 and ~~22-4~~ 37.3 and policies ~~70-2-1~~ 95.2.1 and ~~70-1-3(1) through 70-1-3(6)~~ 95.1.3 (regulatory standards) of the Lee Plan; and F.S. §§ 163.3177(10)(h), 163.3202(1) and (2)(g), 163.3167(8), and 163.3180.

Sec. 2-46. Concurrency certification.

(a) through (c) *No change.*

(d) *Determination of sufficient capacity.* Once the director has considered the impacts of a proposed development in accordance with subsection (c) of this section, he will then determine whether there will be sufficient capacity for these facilities to serve the development at the time the impacts of the development will occur without causing these facilities and services to function at a level of service below the minimum regulatory levels established for these facilities and services in the Lee Plan. Except for traffic impacts, which will be determined in accordance with the policies under objectives ~~22-3~~ 37.2 and ~~22-4~~ 37.3 of the Lee Plan, the director will add the expected impacts of the development to the levels of use of the facility at the time of the determination. Anticipated additional use will be derived from other reasonably foreseeable factors. If this sum is less than the capacity of the facility in question to operate during the effective period of a certificate of concurrency compliance at the minimum regulatory levels of services prescribed in the Lee Plan and the development's projected traffic is in compliance with objectives ~~22-3~~ 37.2 and ~~22-4~~ 37.3 of the Lee Plan, the director will certify the conclusion by a written statement. The written statement will identify the development in question and the development permit for which the certification has been made. The director's statement will be known as a certificate of concurrency compliance and is limited to the exact development permit

application for which he has issued his certificate. Applications for an amendment to a development order granting a development permit for which a certificate of concurrency compliance has been issued will require another, separate concurrency review by the director.

(e) through (n) *No change.*

DIVISION 2. PROPORTIONATE FAIR-SHARE PROGRAM

Sec. 2-72. Determining proportionate fair-share obligation.

(a) through (d) *No change.*

(e) If the County accepts a road improvement project proposed by the applicant, then the value of the improvement will be determined consistent with the method provided for in Article VI, Division 2 (Roads Impact Fee), Section 2-275(3)(a). If the value of the road improvement proposed by the applicant is more than the County's estimate total proportionate fair share obligation for the development, then the County will issue road impact fee credits for the difference when the improvement is complete and accepted by the County, subject to the provisions of section 2-73(d).

(f) If the County accepts right-of-way dedication as the proportionate fair-share payment, credit for the dedication of the non-site related right-of-way will be valued consistent with the method provided for in Article VI, Division 2 (Roads Impact Fee), Section 2-275(3)(b). If the estimated value of the right-of-way dedication proposed by the applicant (based on a County approved appraisal) is more than the County's estimated total proportionate fair share obligation for the development, then the County will issue road impact fee credits for the difference, subject to the provisions of section 2-73(d).

Sec. 2-73. Impact fee credit for proportionate fair-share mitigation.

(a) Proportionate fair-share mitigation will be applied as a credit against road impact fees assessed to the project to the extent that all or a portion of the proportionate fair-share mitigation is used to address the same capital infrastructure improvements contemplated by the county's impact fee ordinance.

(b) and (c) *No change.*

(d) Major projects, not included within the local government's impact fee ordinance that can demonstrate a significant benefit to the impacted transportation system, may be eligible for impact fee credit at the county's discretion consistent with the standards for Class 3 roadways set forth in section 2-275(a)(3).

ARTICLE VI. IMPACT FEES

DIVISION 2. ROADS IMPACT FEE

Sec. 2-264. Definitions and rules of construction.

(a) No change.

(b) The following words, terms and phrases, when used in this division, will have the meanings ascribed to them in this subsection and the latest edition of the Institute of Transportation Engineers (ITE) ~~manual~~ Trip Generation, except where the context clearly indicates a different meaning.

Class 3 road means an approved road shown on Map 3A of the Lee Plan transportation element that is not included for construction or improvement within the capital improvements element of the Lee Plan or any ten-year capital improvement plan of the county. Class 3 roads include all arterial and collector roads on Gasparilla Island, Pine Island, and Captiva, Sanibel and Estero Island. Class 3 roads also include roadway expansions identified on the Official Trafficways Map. Class 3 road also means an approved road not on the five-year schedule of improvements within the Lee Plan's capital improvement element, not in any ten-year capital improvement plan of the county, and not on Map 3A of the Lee Plan transportation element, but which provides a reasonable alternative route for traffic that otherwise would travel a specific road shown on Map 3A of the Lee Plan transportation element.

Level of service means a qualitative measure that represents the collective factors of speed, travel time, traffic interruption, freedom to maneuver, ~~safety~~, driving comfort and convenience ~~and operating costs~~ provided by a highway facility under a particular volume condition. Levels of service vary from A to F. (Level of service D, for example, represents high-density, but stable, flow. Speed and freedom to maneuver are severely restricted, and the driver or pedestrian experiences a generally poor level of comfort and convenience. Small increases in traffic flow or disruptions will generally cause ~~operational problems at this level.~~ substantial increases in delay and decreases in travel speed, the influence of congestion becomes more noticeable, longer delays result at traffic signals and stop signs, and crossing movements face a high probability of conflict.)

Balance remains unchanged.

Sec. 2-275. Credits.

(a) Credits are subject to the following:

(1)and (2) *No change.*

- (3) *Conditions of credit approval.* Credit for road construction or land dedication is subject to the following:
- a. *No change.*
 - b. *Land dedication.* The following documents must be submitted to support an application for road impact fee credits applicable to land dedication for approved roads:
 1. through 5. *No change.*
 6. An affidavit of interest in real property in accord with F.S. §286.23. The affidavit must certify to Lee County the name and address of every person having a beneficial interest in the real property, however small or minimal. The disclosure affidavit must specifically identify the property to be conveyed and be sworn before a notary.

No change to the balance of this section

DIVISION 3. REGIONAL PARKS IMPACT FEE

Sec. 2-312. Exemptions and credits.

- (a) *No change.*
- (b) Credits are subject to the following:
 - (1) through (3) *No change.*
 - (4) A request submitted for a land dedication credit must include the following;
 1. through 5. *No change.*
 6. An affidavit of interest in real property in accord with F.S. §286.23. The affidavit must certify to Lee County the name and address of every person having a beneficial interest in the real property, however small or minimal. The disclosure affidavit must specifically identify the property to be conveyed and be sworn before a notary.

No change to the balance of this section

DIVISION 4. COMMUNITY PARKS IMPACT FEE

Sec. 2-352. Exemptions and credits.

- (a) *No change.*
- (b) Credits are subject to the following:
 - (1) through (3) *No change.*
 - (4) A request submitted for a land dedication credit must include the following:
 - 1. through 5.
 - 6. An affidavit of interest in real property in accord with F.S. §286.23. The affidavit must certify to Lee County the name and address of every person having a beneficial interest in the real property, however small or minimal. The disclosure affidavit must specifically identify the property to be conveyed and be sworn before a notary.

No change to the balance of this section

DIVISION 5. FIRE PROTECTION AND EMERGENCY
MEDICAL SERVICES IMPACT FEE

Sec. 2-395. Credits.

- (a) Credits are subject to the following:
 - (1) *No change.*
 - (2) *Conditions of credit approval.* Credit for fire protection or EMS equipment or facility construction or land dedication is subject to the following:
 - a. *No change.*
 - b. *Land dedication.* A request submitted for land dedication must include the following:
 - 1. through 5. *No change.*
 - 6. An affidavit of interest in real property in accord with F.S. §286.23. The affidavit must certify to Lee County the name and address of every person having a beneficial interest in the real property, however small or minimal. The disclosure affidavit must specifically identify the property to be conveyed

and be sworn before a notary.

No change to the balance of this section

DIVISION 6. SCHOOL IMPACT FEES

Sec. 2-413. Credits.

Capital improvements for educational facilities may generate school impact fee credits in amounts to be established pursuant to subsection (a)(2) of this section. The right to determine whether a capital improvement will be approved for credit purposes lies exclusively with the county.

(a) *Conditions of credit approval.* Credit for educational facility construction or land dedication is subject to the following:

(1) and (2) *No change.*

(3) *Land dedication.* Any person seeking credits for dedication of land must meet with the county attorney, the school board attorney and county lands staff to seek agreement on appraisal methodology and assumptions before preparing any appraisal for valuation of land to be dedicated. The following documents must be submitted to support an application for school impact fee credits applicable to land dedication for approved school sites:

a. through g. *No change.*

h. An affidavit of interest in real property in accord with F.S. §286.23. The affidavit must certify to Lee County the name and address of every person having a beneficial interest in the real property, however small or minimal. The disclosure affidavit must specifically identify the property to be conveyed and be sworn before a notary.

No change to the balance of this section

ARTICLE X. DEVELOPMENT ORDER APPROVAL PROCESS FOR CAPITAL IMPROVEMENT PROJECTS

Sec. 2-470. ~~Reserved.~~ Liability insurance requirement.

As a condition applicable to the issuance of a development order or Lee County DOT right-of-way permit allowing construction of improvements within county owned or

controlled right-of-way property, the contractor performing the construction services must obtain liability insurance coverage for the benefit of Lee County. The amount and type of coverage must be in accord with Lee County Risk Management standards in effect at the time the insurance is obtained. The insurance coverage must remain in affect until the approved project obtains a development order certificate of compliance or the County formally accepts the right-of-way improvements for maintenance. Compliance with this provision may be waived by the Department of Transportation Director only if the insurance coverage is provided as a condition of a bid contract award.

SECTION TWO: AMENDMENT TO LDC CHAPTER 6

Lee County Land Development Code Chapter 6 is amended to read as follows, with strike through text identifying deleted language and underlined text identifying new language.

CHAPTER 6

BUILDINGS AND BUILDING REGULATIONS

ARTICLE. FLOOD HAZARD REDUCTION

DIVISION 3. STANDARDS

Sec. 6-472. Specific standards.

In areas of special flood hazard where base flood elevation data has been provided as set forth in this article, the following provisions are required:

(1) through (3) *No change.*

(4) *Floodways.* Located within areas of special flood hazard established in section 6-408 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwater, which carries debris and potential projectiles and has erosion potential, the following provisions will apply:

a. and b. *No change.*

c. The placement of manufactured homes and recreational vehicles is prohibited, except in an existing manufactured home or recreational vehicle park or subdivision. A replacement manufactured home or recreational vehicle may be placed on a lot in an existing manufactured home or recreational vehicle park or subdivision, provided the anchoring standards of section 6-471(2) and the elevation standards of subsection (1)a or b of this section, as

applicable, are met. New or expanded manufactured home or recreational vehicle parks or subdivisions are prohibited until such time, if ever, that Lee Plan policy ~~80.4.2~~ 108.1.2 is amended or repealed so as to allow such new or expanded manufactured home or recreational vehicle development.

(5) through (7) *No change.*

SECTION THREE: AMENDMENT TO LDC CHAPTER 10

Lee County Land Development Code Chapter 10 is amended to read as follows, with strike through text identifying deleted language and underlined text identifying new language.

CHAPTER 10

DEVELOPMENT STANDARDS

ARTICLE I. IN GENERAL

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

(a) *No change.*

(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, word and their derivations will have the meaning given in this subsection when not inconsistent with the context:

~~DER DEP~~ means the Florida Department of Environmental Regulation Protection.

Slope easement means an easement that allows the grantee (Lee County) to place fill on the grantor's property in order to stabilize the adjacent facility (road, sidewalk, box culvert, utilities, etc.). The fill serving to stabilize the adjacent facility may not be removed as long as the need for the easement continues.

Subdivision.

(1) A subdivision is a type of development. The term "subdivision" means the following:

a. The division of a lot ~~wherein the new lot, or any remaining portion of the original lot, is less than ten acres in size~~ into two or more parcels; or

- b. The division of a lot, ~~the result of which is that results from the extension of an existing street or the establishment of a new street;~~ or
- c. Creation of a condominium as defined in F.S. chs. 718 and 721, except that condominium developments are exempt from the provisions of this Code that require platting under F.S. ch. 177.

~~(2) The following divisions are exempt:~~

~~a. A division of land pursuant to a development platted or approved by the county prior to January 28, 1983, provided that all required improvements have been made or that a security for the performance of the improvements has been posted and is current;~~

~~b. The division of land for the conveyance of land to a federal, state, county or municipal government entity, or a public utility;~~

~~c. The division of land by judicial decree.~~

~~(2) A division of land into tracts 10 acres or larger, if the tracts are used for bonafide agricultural purposes, as that term is defined in this code, is not a subdivision of land.~~

(3) and (4) *No change.*

Balance of section remains unchanged.

ARTICLE II. ADMINISTRATION

DIVISION 2. DEVELOPMENT ORDERS

Subdivision 1. In General

Sec. 10-81. Consistency with regulations and approvals.

Development order approvals, including amendments to existing or approved development orders, must be consistent with the Lee Plan provisions and approved zoning actions applicable to the subject property at the time the approvals are issued. Existing nonconforming uses on the property subject to the development order application must be brought into compliance with current county regulations and approved zoning actions as a condition of the development order approval. The development order condition must provide that the nonconforming use or building will either be removed or brought into compliance prior to the issuance of a certificate of compliance.

Subdivision II. Procedures

Sec. 10-104. Deviation and variances.

(a) *Provisions where deviations are authorized.* The development services director is hereby authorized to grant deviations from the technical standards in the following sections of this chapter.

- (1) Section 10-283 (access streets);
- (2) Section 10-285 (intersection separations);
- (3) Section 10-296, Table 2 (right-of-way widths for county-maintained streets);
- (4) Section 10-296, Table 3 (right-of-ways widths for privately maintained streets);
- (5) Section 10-296, ~~Table 4, items (2)–(7) and (13)~~ (d)(3) (drainage and 10-296(e) through (i))(road specifications);
- (6) Section 10-296(~~g~~ l) (horizontal curves);
- (7) Section 10-296(~~j~~ o) (intersection designs);
- (8) Section 10-296(~~k~~ p) (culs-de-sac);
- (9) Section 10-322 (swale sections);
- (10) Section 10-329(~~e)(1)a.3~~ (d)(1)a. (Setbacks for water retention/detention excavations ~~from private property~~); subject to Section 10-329(e)(5).
- (11) Section 10-352 (public water);
- (12) Section 10-353 (public sewer);
- (13) Section 10-385(c) (water mains);
- (14) Section 10- 415(b) (indigenous native vegetation);
- (15) Section 10-441 (mass transit facilities);
- (16) Section 10-416(c) (landscaping of parking and vehicle use areas);
- (17) Section 10-610 (Site design standards and guidelines for commercial developments).

(b) *Criteria for administrative deviations.* Administrative deviations ~~shall~~ may be granted only where the development review director, with the assistance of directors of other affected county departments ~~and/or~~ and/or divisions, and/or ~~affected~~ jurisdictions, finds that the following criteria have been met:

- (1) ~~That the~~ The alternative proposed to the standards contained herein is based on sound engineering practices (not applicable to sections 10-352, 10-353 and division 7 of article III of this chapter);
- (2) ~~That the~~ The alternative 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) through (5) *No change.*

(c) *Submittal requirements.* The submittal requirements for a deviation shall include the following:

(1) through (3) *No change.*

(d) and (e) *No change.*

(f) *Appeal of director's decision.* The director's final decision may be appealed in accordance with the procedures in section 34-145(a). The hearing examiner shall may grant the appeal only upon a finding that the criteria in subsection (b) above have been met.

(g) *Variations.* Requests to deviate from the terms of those sections of this chapter that are not listed in subsection (a) above must be filed in accordance with the procedures set out for variances in chapter 34, ~~the Lee County Zoning Ordinance.~~ Applicants for administrative deviations that have been denied by the director or the hearing examiner may also apply for variances in accordance with this section. The hearing examiner shall may grant variances from ~~the DSO~~ this chapter only upon a finding that the following criteria have been satisfied:

(1) through (4) *No change.*

(h) *Pursuant of variances or deviation concurrently with development order.* The applicant may pursue approval of variances and deviations concurrently with an application for a development order. The development order will be reviewed but cannot be approved until all of the necessary variances and deviations have also been approved. After a variance or deviation request has been heard and has been approved or denied, the applicant shall may proceed with the preparation of all the documents necessary for the approval of the development order.

(i) *Variations or deviations in planned developments.* For developments that have received zoning as a planned development, specific variances or deviations from the terms of these regulations shall are not be required if ~~such the~~ variances or deviations were approved as part of the schedule of deviations attendant to the master concept plan. Any requests for variances or deviations that were not included on the approved master concept plan shall must be processed in accordance with this section.

Sec. 10-110. Resubmittal of application following denial.

(a) *No change.*

(b) Subsequent to notification that the plans have not been approved due to deficiencies, the applicant shall ~~have 180 days~~ has 6 months to submit a supplement or corrected drawings or plans setting forth those corrections and changes necessary to

remedy the deficiency. If the supplement is not submitted ~~within 180 days~~ 6 months, the application ~~shall~~ will be deemed withdrawn.

(c) *No change.*

Subdivision III. Submittals.

Sec. 10-154. Additional required submittals.

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

(1) *Legal description.* A legal description for the property ~~shall~~ must be submitted.

(2) *Title assurance certification.* ~~Title assurance in the form of either a title certification by an attorney or a title insurance policy shall be required~~ A document, no greater than 90 days old at the time of initial development order submittal, must be submitted to establish the following information concerning title to the subject property: a) the owner or owners of the fee title; (b) all mortgages secured by the property; (c) all easements encumbering the property; and, (d) the legal description of the property. The title certification submittal must be either an opinion of title meeting the Florida Bar Standards prepared by a licenced Florida attorney or a certification of title/title certification prepared by a title abstractor or company. The certification must be unequivocal. A title binder/commitment or title insurance policy is not acceptable to meet this requirement.

(3) *Boundary survey.* A boundary survey meeting the minimum technical standards for land surveying in the state, as set out in chapter 61G 17-6, Florida Administrative Code, must be submitted. For projects of 10 acres or more, the survey must be tied to the state plane coordinate system for the Florida West Zone (North American Datum of 1983/1990 Adjustment). Boundaries must be clearly marked with a heavy line and must include the entire area to be developed. The Federal Emergency Management Agency flood zone and required finished floor elevations must be shown. The survey must also depict all easements and encumbrances identified in the title documents as well as apparent easements identified during the field survey. The survey must locate and depict all existing structures and improvements on the subject parcel.

(4) *Plat.* If the development is a subdivision, a plat meeting the requirements of F.S. ch. 177 and Lee County Administrative Code 13-19 shall must be submitted prior to approval of the development order for the subdivision. The preliminary plat submittal is not required until after the first round of development order sufficiency comments, though it may be submitted earlier.

(5) *Zoning resolution approvals.* A complete copy of the most recent zoning approval (i.e. zoning resolution for the subject property, and any other pertinent zoning

resolutions or administrative amendments, special exceptions or variance documents, shall be submitted approvals) applicable to the subject property must be submitted.

(6) *Existing conditions and improvements drawing.* An existing conditions and improvements drawing showing at a minimum the following:

a. through f. *No change.*

g. The location of all existing buildings and structures on the property. If buildings or structures are to be moved or razed, this should be noted. The current and proposed use of existing structures that will remain (temporarily or permanently) must be identified.

h. through m. *No change.*

(7) and (9) *No change.*

(10) *Traffic impact statement.* A traffic impact statement (TIS) ~~shall~~ must be submitted, ~~which shall~~ that surveys current and anticipated traffic conditions and public transportation in order to identify potential traffic problems posed by the proposed development. Adverse traffic impacts created by the development, both on-site and off-site, ~~shall~~ must be mitigated by the applicant as specified in the traffic impact mitigation plan and development order. Criteria for traffic impact statements are specified in article III, division 2, of this chapter.

(11) *Traffic impact mitigation plan.* A traffic impact mitigation plan ~~shall~~ must be submitted, ~~which shall be.~~ The plan must be based on the approved traffic impact statement and ~~shall~~ identify in detail those on- and off-site road and intersection improvements necessary to mitigate the proposed development's adverse impacts by maintaining or restoring adopted levels of service on the public roads providing immediate access to the site, including any collector or arterial to which the adjacent street is tributary. Criteria for traffic impact mitigation plans are specified in article III, division 2, of this chapter.

(12) through (22) *No Change.*

(23) *Operation and maintenance covenants.* Where applicable, a copy of the covenants used for the maintenance and operation of the infrastructure improvements required by this chapter including but not limited to private streets and adjacent drainage, drainage and storm water management systems, utilities, public water and sewage systems, on-site bikeways, on-site pedestrian ways, open space, parks, recreation areas and buffers. These documents must meet the criteria set forth in administrative code 13-19.

(24) *Articles of incorporation or other legal documents for assignment of maintenance.* The developer must submit a copy of the legal documents creating the legal mechanism to ensure that the drainage system, on-site bikeways, on-site pedestrian ways, roadways and rights-of-way are continuously maintained. These documents must meet the requirements set forth in administrative code 13-19.

(25) *No change.*

(26) *Assurance of completion of improvements.* Assurance of completion of the development improvements as specified in subsections (26)a. and b. of this section will be required for all off-site improvements prior to commencing any off-site or on-site development. Assurance of completion of the development improvements for on-site subdivision improvements will be required prior to the acceptance of the subdivision plat. Those on-site subdivision improvements ~~which~~ that have been constructed, inspected and approved by the director of development review through the issuance of a certificate of compliance may be excluded from the requirements of subsections (26)a. and b. of this section.

- a. *Surety or cash performance bond.* Security in the form of a surety or cash performance bond must be posted with the board and made payable to the county in an amount equal to 110 percent of the full cost of installing the required improvements approved by the county. If the proposed improvement will not be constructed within one year of issuance of the final development order, the amount of the surety or cash performance bond must be increased by ten percent compounded for each year of the life of the surety or bond. Alternatively, the surety or cash performance bond may be renewed annually at 110 percent of the cost of completing the remaining required improvements if approved by the director of zoning and development services. Prior to acceptance, bonds must be reviewed and approved by the county attorney's office. Surety instruments will be reviewed and approved in accord with the provisions set forth in administrative code 13-19.
- b. *Other types of security.* The board may accept letters of credit or escrow account agreements or other forms of security provided that the reasons for not obtaining the bond are stated and the county attorney approves the document. Review and approval of surety instruments will be in accord with the guidelines set forth in administrative code 13-19.

(27) *Lee Plan consistency.* Statement regarding consistency with applicable Lee Plan standards and provisions, including the acreage allocation tables.

DIVISION 3. LIMITED REVIEW

Sec. 10-174. Types of development entitled to limited review.

The following types of development may be processed in accordance with this division:

- (1) through (3) *No change.*

- (4) Any ~~one-time~~ subdivision of land into four or less lots for single-family detached dwelling units or two-family ~~detached~~ attached dwelling units, where zoning district regulations permit such subdivision; provided, however, that:
 - a. *No change.*

 - b. No more than four lots may be created from an original parent parcel as the parent parcel existed on January 28, 1983;

 - b c. Each lot abuts and has access to an existing improved road right-of-way or easement meeting at least the minimum construction standards required by this chapter. Each lot abuts and has access to a road complying with the requirements of section 10-296. The maximum allowable density for a proposed lot that will abut and have access to an unpaved rock/shell road (a category D road) is 0.4 or less dwelling units per acre in accordance with sections 10-296(d) and (e). Compliance with maximum density requirements of the Lee Plan is also required.

 - e d. No alteration of existing utility installations is involved;

 - d.e No change in drainage will occur which adversely affects the surrounding properties; and

 - ef. Creation of new road rights-of-way or road easements, and the construction of new roadways or upgrading of existing roadways to meet the minimum standards contained in this chapter will require development order approval.

- (5) Any ~~one time~~-subdivision of land into four lots or less for a use other than single-family detached dwelling units, two-family detached dwelling units or agricultural; provided, however, that:
 - a. Each lot must meet or exceed all requirements of the zoning district in which it is located, or the subdivision is approved by the director of zoning and development services under the provisions of section

34-2221(1), and the overall development complies with all other requirements of this chapter;

- b. No more than four lots may be created from an original parent parcel as it existed on January 28, 1983;
- ~~b~~c. No development may occur on any of the lots without first obtaining a development order;
- ~~d~~e. If the parent parcel is ten acres or greater, a protected species survey may be required as specified in article III, division 8, of this chapter;
- ~~d~~ e. Each lot must abut and have access to a road ~~which that is maintained pursuant to Ordinance No. 87-19, as amended or replaced, or to an existing improved road right-of-way or easement meeting at least the minimum construction standards required by this chapter~~ set forth in section 10-196;
- ~~e~~ f. No significant alteration of existing utility installations is involved;
- ~~f~~ g. No change in drainage will occur ~~which that~~ adversely impacts the surrounding properties;
- ~~g~~ h. Creation of new road rights-of-way or road easements, and the construction of new roadways or upgrading of existing roadways to meet the minimum standards contained in this chapter will require development order approval; and
- ~~h~~ i. Reasonable conditions may be attached to the approval so that any development on ~~all of the~~ lots will comply with all county land development regulations.

(6) through (12) *No change.*

(13) Improvements to a County maintained road right-of-way within an incorporated area as defined in section 10-297.

DIVISION 5. PLATS

Sec. 10-215. Waiver of requirements.

The following divisions are not subject to the requirements of this division:

(a) A division of land pursuant to a development platted or approved by the

county prior to January 28, 1983, provided that all required improvements have been made or that a security for the performance of the improvements has been posted and is current;

- (b) The division of land for the conveyance of land to a federal, state, county or municipal government entity, or a public utility;
- (c) The division of land by judicial decree.
- (d) ~~Subdivisions~~ A division of land approved in accordance with sections 10-174 through 10-176 are not subject to the requirements of this division 10-174.

ARTICLE III. DESIGN STANDARDS AND REQUIREMENTS

DIVISION 1. GENERALLY

Sec. 10-251. Applicability.

All lands proposed for development ~~shall~~ must be suitable for the various purposes proposed in the request for approval. In addition to the standards contained in this chapter, the developer ~~shall~~ must demonstrate to the satisfaction of the development ~~review services~~ director that the proposed development is specifically adapted and designed for the uses anticipated, including lot configuration, access and internal circulation, and that the development will be consistent with the criteria prescribed in the standards set forth in goals ~~12, 13~~ 6, 7 and ~~14~~ 11 of the comprehensive plan. The developer ~~shall~~ must also demonstrate that the proposed development complies with all other provisions of the comprehensive plan, chapter 34, this chapter, and other laws, ordinances and regulations, as applicable.

Sec. 10-256. Bikeways and pedestrian ways.

(a) *Unincorporated bikeways/walkways facilities plan.* The unincorporated bikeways/walkways facilities plan (hereinafter "the plan") ~~shows locations of existing and a proposed network of~~ bikeways and pedestrian ways in the unincorporated areas of Lee County. All development proposed along the arterial and collector roadways depicted on the plan must provide for bikeways and pedestrian ways in accordance with this section. Construction of bicycle and pedestrian facilities shown on the plan along the frontage of subject property are deemed to be site-related improvements.

- (b) *Provision of off-site bikeways and pedestrian ways.*
 - (1) *General.* Off-site bikeways and pedestrian ways are required for all new developments and for expansion of any existing development that results in a ~~50~~ 25 percent or greater increase in either:

- a. Building size or floor area; or
- b. Residential dwelling units.

(2) *Off-site facilities.*

- a. *Off-site facilities shown on the bikeways/walkways facilities plan.* The developer must construct a bikeway or pedestrian way in the public road right-of-way if the subject property abuts a street shown on the plan.

Note: The developer may choose to construct the facility outside the public road right-of-way on his own property. If the developer opts to construct the facility across the property in this manner, the easement must be at least two feet wider in width than the bikeway or pedestrian way and perpetually open to the public.

- b. *Off-site facilities; other.*

- 1. When any portion of the property to be developed is located within one-quarter mile (as measured along the principal perimeter street) of a collector or arterial road shown on the plan as requiring either a bikeway or pedestrian way, or within a quarter mile (as measured along the principal perimeter street) of an existing facility, the developer must construct a similar facility within the existing road right-of-way from the subject property to the existing or proposed facility. This section will not require the purchase of right-of-way or easements by Lee County where none exist and will only apply where the required new facility can be constructed along a collector or arterial road.
- 2. When any portion of a proposed residential subdivision is located within one-quarter mile (as measured along the principal perimeter street) of an existing or proposed bicycle or pedestrian generator such as schools, parks, playgrounds, shopping centers or employment centers, or transit facilities, the developer must construct a bikeway or pedestrian way not less than 8 feet in width within the existing road right-of-way connecting the subdivision to the pedestrian generator. This section will not require the purchase of right-of-way or easements by Lee County where none exist and will only apply where the required new facility can be constructed along a collector or arterial road.

3. In instances where a proposed development is within one-quarter mile of a collector or arterial road shown on the plan as requiring a bikeway or pedestrian way and is also within one-quarter mile of an existing facility in the opposite direction on the same principal perimeter street, only one connecting link will be required. The director of zoning and development services will determine which link would be most beneficial to the intent and purpose of this ordinance.
 4. When any portion of the parcel located along an arterial or major collector is developed, sidewalks, bike paths or multi-use facilities ~~if depicted on the plan,~~ are required. Material, width and type of facility will be determined by the plan criteria and existing conditions within a quarter mile of the surrounding area of the proposed development. When any portion of a parcel along a minor collector or local street is developed with office or commercial uses, sidewalk is required.
- c. *Impact fee credit.* Upon county acceptance of the required off-site facility or a bond or other security assuring construction of the facility, the applicant will be entitled to road and/or park impact fee credits for off-site facilities beyond the abutting subject property boundaries as noted in subsections 10-256(b)(2)b.1., 2., and 3. only. If the proposed development includes facilities extending beyond the requirements as outlined and described in administrative code 11-9, the applicant will be entitled to impact fee credits in accordance with the above conditions. This option is subject to approval through the development order process and must comply with all current standards set forth within this section.

(3) *Location.*

- a. County roads. Off-site bikeways or pedestrian ways may be located within the county road right-of-way or within any easement if approved by the affected utility companies and the director of zoning and development services.
- b. *No change.*

(4) *Time of construction.* All off-site bikeways and pedestrian ways must be constructed prior to issuance of a certificate of compliance for the infrastructure of the development unless the developer posts a bond or other surety acceptable to the county as assurance of completion of the improvements. As an alternative to posting surety, the director has the

discretion to accept a phasing plan that will provide for the continuous extension of the sidewalk facility and establish a bona fide construction schedule for the off-site facility prior to issuance of any building permit for vertical construction on property adjacent to the proposed facility. The county will not require construction of the bikeways or pedestrian way where the right-of-way is scheduled for improvement within two years pursuant to the current CIP and the scheduled right-of-way improvement would result in the destruction of the facility. A fee-in-lieu contribution will be required unless the scheduled improvement is under construction. The amount of the funds will be determined by the established criteria in administrative code 13-9.

(c) *Provision of on-site bikeways and pedestrian ways.*

(1) *General.*

- a. Developments with private, noncounty maintained streets. Interior bikeways and pedestrian ways are encouraged but are not required in any residential subdivision for lots abutting private, noncounty maintained roads.
- b. Residential subdivisions with county-maintained streets. Residential subdivisions with county-maintained streets, must construct pedestrian ways as follows:
 1. Along one side of all county-maintained streets internal to a residential development where the proposed density exceeds one dwelling unit per acre. The pedestrian way must extend from intersection to intersection; and
 2. Along one side of all county-maintained cul-de-sac streets ~~which~~ that serve ten dwelling units or more. The pedestrian way must extend from the intersection to the end of the cul-de-sac. Exceptions to these requirements are:
 - i. Where ~~such~~ the construction would encroach upon the required setback from a conservation or preservation area; and
 - ii *No change.*
 3. *Waiver of requirement.* The director of zoning ~~and~~ development services may exempt from this section developments that provide an alternate plan for an internal bikeway/pedestrian way circulation system if the alternate

system is functionally equivalent to the standards set forth herein, connects with existing facilities and meets all off-site requirements. The alternate plan must be submitted simultaneously with the request for a development order for a subdivision plat. The master plan must be drawn to scale sufficient to indicate all lots and include the following:

i. and ii. *No change.*

(2) *Location.* The bikeway or pedestrian way may be located within the road right-of-way or within any easement if approved by the affected utility and the division director.

(3) *No change.*

(d) *Construction standards.*

(1) *General.*

a. All construction proposed within Lee County right-of-way requires a Lee County DOT Right-of-Way (ROW) Permit. The application must include a detailed plan of the existing and proposed conditions and is subject to comment and revisions prior to issuance.

a b. Curb cut ramps (wheelchair ramps) are required at all intersections where pedestrian ways intersect roadway curb and gutter. Curb ramps may not exceed 12 foot horizontal to one foot vertical and must have a slip-resistant surface texture.

b-c. Bikeways and Pedestrian ways. A minimum ~~36~~ 48-inch wide pathway, clear of obstacles, must be maintained within a bikeway or pedestrian way (sidewalk five feet or less). Bikeways and pedestrian ways narrowed for some distance to the ~~36~~ 48 inch minimum by the installation of a permanent obstacle must provide a passing space of at least 60 inches long by 60 inches wide every 200 feet. Permanent obstacles such as utility poles, signs, mailboxes and similar items located within the pedestrian way on county-maintained streets must maintain a minimum eight-foot height clearance above the pedestrian way. facility. ~~c. — Bikeways.~~ If permanent obstacles such as utility poles, signs, mailboxes and similar items are located within a bikeway facility that is wide enough to accommodate two-way bike traffic (8' or greater) on a county maintained street, then a minimum six-foot wide pathway must be maintained within the bikeway.

- d. There may be no unsafe curves or sudden elevation changes in the bikeway or pedestrian way that would present a hazard to the user. When possible, developments must be designed to promote bicycle and pedestrian street crossings at traffic-control signals, crosswalks or intersections.

(2) *Off-site facilities.*

- a. On-road. Where the bikeways/walkways facilities plan shows the use of bike lanes adjacent to the roadway, those lanes must be constructed to county specifications as set forth in Administrative Code ~~AC~~-11-9.
- b. Off-road. All bikeways and pedestrian ways constructed off-site or along a street perimeter to the development must be eight feet in width and constructed of ~~either (1) four-inch thick Portland cement concrete, or (2) A Bikeway may be~~ a minimum 1 1/2-inch asphaltic concrete of FDOT type S-III on a four-inch limerock base and six-inch type B sub-grade. The material used for construction must be the same as the existing facilities within one-quarter mile of the proposed development. For facilities constructed of Portland cement concrete, all driveway crossings must be a minimum of six inches thick. The applicant may submit an alternate design, subject to the approval of the director, provided it is structurally equal to or better than, the options set forth above.

(3) *No change.*

(e) *No change.*

(f) *Waiver of requirement.* Notwithstanding the provisions of paragraphs (a) through (e), bikeways and pedestrian ways will not be required where the director of zoning and development services determines that:

- (1) Their establishment would be contrary to public safety;
 - ~~(2) The cost would be excessively disproportionate to the need or probable use;~~
 - ~~(3) Other available means or factors suggest an absence of need.~~
- (2) A funds-in-lieu contribution of the equivalent cost of construction of the site-related improvement ~~must be paid as is~~ a condition of approval of the waiver of requirement. The amount of the funds ~~shall~~ will be determined based on ~~an~~ provisions set forth in administrative code 11-9 for construction

of bicycle and pedestrian facilities. The funds-in-lieu contribution must be paid prior to the issuance of a development order.

Sec. 10-257. Marina design.

The marina design criteria set forth in objective ~~98-6~~ 128.6 and policies ~~98-6-1~~ 128.6.1 through ~~98-6-16~~ 128.6.15 of the Lee Plan will be utilized in evaluating the design of new marinas or the expansion of wet slip facilities or boat ramps.

ARTICLE III. DESIGN STANDARDS AND REQUIREMENTS

DIVISION 2. TRANSPORTATION, ROADWAYS, STREETS AND BRIDGES

Sec. 10-281. Official trafficways map.

The official trafficways map is a planning tool that shows the anticipated ~~right-of-way widths~~ number of lanes and the approximate locations for existing and future arterial and collector streets in addition to the roads identified on Lee Plan Map 3A. The official trafficways map is a supplement to Map 3A representing transportation needs beyond the planning horizon. Development is encouraged to be set back from the rights-of-way shown on the trafficways map to accommodate future road construction plans. Developers are encouraged to voluntarily dedicate rights-of-way shown on the trafficways map. Credits for such dedications may be authorized by in accordance with chapter 2, article VI, division 2.

Sec. 10-282. ~~Reserved-~~ Liability insurance requirement.

As a condition applicable to the issuance of a development order requiring a Lee County DOT right-of-way permit to construct improvements within county owned or controlled right-of-way property, the applicant must obtain liability insurance coverage for the benefit of Lee County. The condition must require the insurance to be effective coincident with the start of construction. Proof of insurance must be submitted to the County upon compliance with this condition. The amount and type of coverage must be in accord with Lee County Risk Management standards in affect at the time the insurance is obtained. The insurance coverage must remain in affect until the approved project obtains a certificate of compliance or the County formally accepts the right-of-way improvements for maintenance.

Sec. 10-284. Functional classification of county roads.

(a) County maintained roads will be classified by the director of transportation based upon the existing functions of the roads and the guidelines provided in the Lee Plan, and in accordance with the administrative code regulating county functional classification. These classifications will be used to determine compliance with all county regulations

which are dependent on functional classification except those regulations that will rely on the future roadway classifications as noted below. For the purpose of determining compliance with the connection spacing and right-of-way width/design speed requirements of this chapter, the Lee Plan future functional classification of Map 3B ~~the official trafficways map~~ will be used to classify new arterial and collector streets. All development standards for new roadways will also be based on the future classifications in Map 3B ~~the official trafficways map~~. The director of transportation will update the existing functional classifications from time to time as needed, and will present the map and list to the board for adoption in accordance with the related administrative code.

(b) *No change.*

Sec. 10-291. Required street access.
Staff DOES NOT support this amendment.

General requirements for access are as follows:

- (1) The development must be designed so as not to create remnants and landlocked areas, unless those areas are established as common areas.
- (2) All development must abut and have access to a public or private street designed, and constructed or improved, to meet the standards in section 10-296. Any development order will contain appropriate conditions requiring the street to be constructed or improved as may be appropriate in order to meet the standards in section 10-296. Direct access for all types of development to arterial and collector streets must be in accordance with the intersection separation requirements specified in this chapter.
- (3) ~~The director will determine whether any residential development of more than five acres or any commercial or industrial development of more than ten acres must provide more than one means of ingress or egress for the development. Additional access points may be needed for continuation of an existing street pattern, to provide access to adjoining properties, or where additional access is needed to provide alternate access for emergency services. Where feasible, these alternate access points should not be on to the same roadway. For planned developments, the determination of the director should be requested concurrent with the application for sufficiency. A deviation or variance will only be required in cases where a determination of the director is sought to be changed or overturned. No deviation or variance may be granted.~~

Sec. 10-292. Public streets to connect to existing public street.

~~All streets that are dedicated to the use of~~ proposed for dedication to the public shall

must be indicated on the site plan and must connect to or be an extension of an existing public street. All streets proposed for acceptance for maintenance by the county in accordance with administrative code 11-7 must submit a right-of-way permit application in accordance with administrative code 11-12 prior to construction.

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

(a) *Generally.* All streets must be designed, constructed and improved in accordance with the specifications set out in this section, as well as the other requirements of this division. In addition, the following standards will be applicable: American Association of State and Highway Transportation Officials (AASHTO), Green Book, A Policy on Geometric Design of Highways and Streets, as modified by Florida Department of Transportation (FDOT) Manual of Uniform Minimum Standards for Design Construction and Maintenance for Streets and Highways (commonly referred to as the Florida Greenbook) FDOT Design Standards, FDOT Drainage Manual MUMS and FDOT Standard Specifications, current editions, with supplements, and such other applicable publications, editions and amendments as may be adopted by the state department of transportation, and sound engineering judgment. Access roads shown on the access road location map that do not comply with the construction standards set forth for county maintained streets will not be eligible for road impact fee credits.

(b) *Right-of-way width.* All roads and streets established and constructed in accordance with this chapter must have minimum right-of-way widths or roadway easements complying with the requirements of table 2 for streets proposed for county maintenance or table 3 for proposed private streets.

TABLE 2. SPECIFICATIONS FOR COUNTY-MAINTAINED STREETS

Minimum Standard right-of-way widths: ²	Arterial	Collector Street	Local Street	Access Street
Closed drainage	150'	100'	50'	45'3
Open drainage	150'	100'	60'	50'3
Design speed (mph):				
Rural section:				
With speed restrictions	60	40--45	N/A	N/A
Without speed restrictions	70	45--50	N/A	N/A
Urban section:				
With speed restrictions	35--40	30--35	N/A	N/A
Without speed restrictions	35--50	40--45	N/A	N/A

Notes:

1. The minimum radius for horizontal curves is to be determined by the ultimate number of lanes, design speed and superelevation rate.[†] The minimum distance between reverse curves is to be determined by the ultimate number of lanes, design speed and horizontal curvature.[†]

[†]Refer to AASHTO ~~Green Book~~ and FDOT MUMS for specific design criteria.

² 2. Minimum ~~This table identifies standard~~ right-of-way widths for new roads in developing areas and desirable right-of-way widths for improvements in developed area. ~~Wherever the official trafficways map specifies right-of-way width, those widths apply. The standard right-of-way width for county maintained streets may be reduced by the Director of Transportation upon demonstration of considerations such as provision of sufficient width for the future number of lanes identified in Lee Plan Map 3D, required median, turn lanes, signs, streetlights, adequate clear zone for the design speed, bicycle and pedestrian facilities, drainage facilities, backslope or slope easements and other roadway appurtenances.~~

³ 3. ~~This~~ The access street standard applies to frontage streets. The local street standard applies to all other access streets, including reverse frontage streets.

TABLE 3. SPECIFICATIONS FOR PRIVATELY MAINTAINED STREETS

No changes to Table 3.

(c) Street and bridge design and construction standards. All street and bridge improvements shall must comply with the standards and specifications listed ~~herein table~~ 4, pertaining to minimum specifications for street improvements, and section 10-706, pertaining to minimum specifications for bridge improvements, for the applicable development category.

(d) All roads.

(1) Grading and centerline gradients. Per plans and profiles approved by the director of development services.

Typical street cross sections are shown in section 10-707 through 10-711.

(2) A deviation from these standards must meet the specifications established by FDOT standards.

(3) Drainage.

a. Curb and gutter type B, F and drop or shoulder (valley). See FDOT

Design Standards, current edition.

- b. Roadside swales. Roadside swales may be used in excessively drained and somewhat excessively drained to moderately well-drained soils, except where closed drainage is required by the director of development services. (Refer to section 10-720)
- c. Roadside swales within privately maintained street rights-of-way must have slopes not steeper than three horizontal to one vertical. Roadside swales within county maintained street right-of-way must have side slopes no steeper than four horizontal to one vertical. Normal swale sections must be a minimum of 12 inches deep. An administrative deviation may be granted from this subsection with consultation from the Director of Transportation subject to the criteria set forth in section 10-104.
- d. Where run-off is accumulated or carried in roadway swales and flow velocities in excess of two feet per second are anticipated, closed drainage or other erosion control measures must be provided.
- e. The director of development services may grant deviations from these requirements under the provisions of section 10-104. On county maintained roads, the deviation must be reviewed in consultation with the Director of Transportation.
- f. Underdrains. Underdrains may be required on both sides of streets if, in the opinion of the director of development review, soils data indicates that underdrains would be necessary. In cases where there is a prevalence of soils that exhibit adverse water table characteristics, underdrains or fill or some other acceptable alternative that will provide necessary measures to maintain the structural integrity of the road will be required. The determination of need will be made by reference to the applicable portions of the most recent edition of the Soil Survey for Lee County, Florida, as prepared by the U.S. Department of Agriculture, Soil Conservation Service, or according to information generated by the developer's engineer. See section 10-712 for suggested underdrain details.
 - 1. Wherever road construction or lot development is planned in areas having soil types with unacceptable water table characteristics, underdrains or fill must be provided and shown on the engineering plans. Underdrains must be designed with outlets at carefully selected discharge points. Erosion control measures must be provided as needed at all discharge points.

2. Wherever road cuts in otherwise suitable soils indicate that the finish grade will result in a road surface to water table relationship that adversely exceeds the degree of limitation stated above, underdrains or other acceptable alternative that will provide necessary measures to maintain the structural integrity of the road will be required.

(4) Landscaping.

- a. Grassing and mulching. Prior to the acceptance of the streets or the release of the security, the developer will be responsible for ensuring that all swales, parkways, medians, percolation areas and planting strips are sodded, seeded or planted and mulched in accordance with section 570 of the FDOT standard specifications.
- b. Installation and maintenance of landscaping and irrigation systems in county maintained road right-of-way may be performed at the developer's option and expense.

(5) Signs and pavement markings, street lighting and traffic control devices.

- a. Street name and regulatory signs. Street name and regulatory signs will be installed by the developer at all intersections and on the streets in the development prior to the acceptance of the streets or the release of the security. Regulatory signs will not be required at parking lot entrances for parking lots containing less than 25 parking spaces.
- b. Street lighting. Street lighting may be installed at the developer's option and expense in compliance with section 34-625. Where street lighting is to be provided, the streetlight improvements must be maintained and operated through a covenant that runs with the land in the form of deed restrictions, a property owners' or condominium association, or another legal mechanism, acceptable to the County, which will assure the beneficiaries of the service that the street lighting will be continually operated and maintained. Regardless of the method chosen to provide for the continual maintenance and operation of the streetlights, the beneficiaries of the service must be provided with a legal right to enforce the assurance that the lighting will be continually operated and maintained. The legal documents that provide for the continual maintenance and operation of the lighting may only be accepted and recorded after they are reviewed and approved by the county attorney's office for compliance with this section. In the alternative, the board may satisfy this requirement by

establishing a street lighting municipal service taxing or benefit unit that includes operation and maintenance of the streetlights.

c. Street and intersection improvements; traffic control devices.

1. All streets and intersections within a development must operate at service level C or higher. The developer must design and construct those traffic control devices and acceleration, deceleration, turning or additional lanes, referred to in this subsection as traffic improvements, deemed necessary to bring the level of service up to service level C or higher.
2. Traffic control devices and acceleration, deceleration, turning and additional lanes must be specifically indicated on the development order plan. These traffic control devices must be designed and shown on the development order plans as per MUTCD standards. Additional lane and turn lanes must be as indicated by the Manual of Uniform Traffic Standards for Design, Construction, and Maintenance of Streets and Highways adopted under F.S. § 336.045, and sound engineering practice, for state facilities. For streets in the county, turn lanes must be as indicated in the county administrative code, the turn lane policy and sound engineering practice.
3. Traffic control devices installed in accord with Table 9-4-11b may be mounted on a nonstandard type of support system as described in the Traffic Control Devices Handbook (FHWA publication), provided that mounting height, location standards and all other standards as described in sections 2A-24 through 2A-27 of the MUTCD are not compromised, and all such supports must be of break away design. The sign support system may not provide borders around the sign that have the effect of changing the required shape, message, or border area of the sign. An enforceable agreement providing for maintenance and upkeep of the signs by the installer must be provided to the county department of transportation. This agreement must include the name, address and phone number of a contact person who will represent the installing party.

(e) Arterial Roads. The following provisions are in addition to those set forth in section 10-296(d).

- (1) Pavement width. Required pavement widths must provide for on-road or off-road bikeways and will depend on the type of street drainage planned. Typical median width and representative cross sections are shown in section 10-707.
- (2) Subgrade. Twelve inch thick (minimum) stabilized subgrade LBR 40. If the LBR value of the natural soil is less than 40, the subgrade must be stabilized in accordance with section 160 of the FDOT standard specifications.
- (3) Base. Minimum of eight-inches compacted limerock.
- (4) Wearing surface. Two and one half inch asphaltic concrete of FDOT type S-1. A skid-resistant surface typically one inch of S-III in conformance with the provisions of section 331, FDOT specifications is required for the surface course. The wearing surface for turn lanes that are added to existing roadways must match the materials and surface of the existing roadway.

(f) Major collector roads. The following provisions are in addition to those set forth in section 10-296(d).

- (1) Pavement width. Required pavement widths must provide for on-road or off-road bikeways and will depend on the type of street drainage planned. See sections 10-707 and 10-708.
- (2) Subgrade. 12- inch thick (minimum) stabilized subgrade LBR 40. If the LBR value of the natural soil is less than 40, the subgrade must be stabilized in accordance with section 160 of the FDOT standard specifications.
- (3) Base. Minimum of eight-inches compacted limerock.
- (4) Wearing surface. One and one half inch asphaltic concrete of FDOT type S-1 plus one inch of S-III. The wearing surface for turn lanes that are added to existing roadways must match the materials and surface of the existing roadway.

(g) Minor collector roads. The following provisions are in addition to those set forth in section 10-296(d.)

- (1) Pavement width. Required pavement widths must provide for on-road or off-road bikeways and will depend on the type of street drainage planned. See sections 10-707 and 10-708.
- (2) Subgrade. 12-inch thick (minimum) stabilized subgrade LBR 40. If the LBR value of the natural soil is less than 40, the subgrade must be stabilized in

accordance with section 160 of the FDOT standard specifications.

- (3) Base. Minimum of eight-inches compacted limerock.
- (4) Wearing surface. One and one half inch asphaltic concrete of FDOT type S-1. The wearing surface for turn lanes that are added to existing roadways must match the materials and surface of the existing roadway.

(eh) Local and access streets. The following provisions are in addition to those set forth in section 10-296(d.)

- (1) Pavement width. Required pavement widths must provide for on-road or off-road bikeways and will depend on the type of street drainage planned. Pavement widths will be as indicated in the county administrative code relating to bikeways and associated roadway widths. See section 10-709.

- (2) Subgrade. Six inch stabilized subgrade LBR 40.

- (3) Base. Six inch limerock base or equivalent.

- (4) Wearing surface.

- a. For roads to be publicly maintained. One-and-one-half-inch asphaltic concrete of FDOT type S-1. However, the applicant may submit a request for an administrative deviation in accord with section 10-104(a)(5) for an alternative design, including but not limited to Portland cement concrete. The design will be subject to structural analysis for comparison with asphaltic concrete. The applicant may install two three-quarter-inch-thick courses of asphalt concrete with the second course to be placed after substantial buildout of the development. Assurance of completion is required for the second course of asphalt. This provision is subject to the approval of the director of development services in consultation with the director of the department of transportation.

- b. For roads to be privately maintained. One-inch asphaltic concrete of FDOT type S-1 is acceptable. The use of paver block is permitted subject to the approval of the director at the time of development order approval. If the paver block is approved as part of the original development order, no administrative deviation under 10-104 is required.

(ei) Street and bridge development categories. For purposes of interpreting the specifications contained herein table 4 and section 10-706, development categories are

defined as follows:

- (1) Category A shall include commercial and industrial developments and all developments not described in categories B, C and D.
 - a. Pavement width one-way traffic. 14-foot pavement for one-way traffic with swale drainage or valley gutter drainage, or 16-foot pavements for one-way traffic with curb and gutter drainage.
 - b. Pavement width two-way traffic. 24-foot pavements for two-way traffic with swale drainage, valley gutter drainage or curb and gutter drainage (27 feet minimum from face of curb to face of curb on nonmountable curbs.)
 - c. Access streets. 22-foot pavements. See section 10-711.
 - d. Subgrade. 12-inch thick (minimum) stabilized subgrade LBR 40. If the LBR value of the natural soil is less than 40, the subgrade must be stabilized in accordance with section 160 of the FDOT standard specifications.
 - e. Base. Minimum of eight-inches compacted limerock.
 - f. Wearing surface. One-and-one-half-inch asphaltic concrete of FDOT type S-1. However, the applicant may submit a request for an administrative deviation in accord with section 10-104(a)(5) for an alternative design, including but not limited to Portland cement concrete, for public or private streets. The design will be subject to structural analysis for comparison with asphaltic concrete.

- (2) Category B shall include residential developments of five or more dwelling units per acre, except for such developments on islands where direct vehicular access to the mainland by a bridge, causeway or street system is not attainable.
 - a. Pavement width two-way traffic. 20-foot pavements for two-way traffic with swale drainage or valley gutter drainage or 24-foot pavement with curb and gutter drainage (27 feet minimum from face of curb to face of curb on nonmountable curbs.) See section 10-710.
 - b. Subgrade. Six-inch thick (minimum) stabilized subgrade LBR 40. If the LBR value of the natural soil is less than 40, the subgrade must be stabilized in accordance with section 160 of the FDOT standard specifications.

- c. Base. Minimum of six-inches compacted limerock.
 - d. Wearing surface.
 - 1. For roads to be publicly maintained. One-and-one-half-inch asphaltic concrete of FDOT type S-1. The applicant may install two three-quarter-inch-thick courses of asphalt concrete with the second course to be placed after substantial buildout of the development. Assurance of completion is required for the second course of asphalt. This provision is subject to the approval of the director of development services in consultation with the director of the department of transportation.
 - 2. For roads to be privately maintained. One-inch asphaltic concrete of FDOT type S-1 is acceptable.
- (3) Category C shall include residential developments of more than 0.40 but less than five dwelling units per acre, except for such developments on islands where direct vehicular access to the mainland by a bridge, causeway or street system is not attainable.
- a. Access street. 20-foot pavement. See section 10-711.
 - b. Subgrade. Six-inch thick (minimum) stabilized subgrade LBR 40. If the LBR value of the natural soil is less than 40, the subgrade must be stabilized in accordance with section 160 of the FDOT standard specifications.
 - c. Base. Six-inches compacted limerock.
 - d. Wearing surface.
 - 1. For roads to be publicly maintained. One-and-one-half-inch asphaltic concrete of FDOT type S-1. The applicant may install two three-quarter-inch-thick courses of asphalt concrete with the second course to be placed after substantial buildout of the development. Assurance of completion is required for the second course of asphalt. This provision is subject to the approval of the director of development services in consultation with the director of the department of transportation.
 - 2. For roads to be privately maintained. One-inch asphaltic

concrete of FDOT type S-1 is acceptable.

- (4) Category D ~~shall~~ includes residential development of 0.4 or less dwelling units per acre, and all residential developments, regardless of size, located on islands where direct vehicular access to the mainland by bridge, causeway or street system is not attainable.
- a. Access street. 20-foot pavement. See section 10-711.
 - b. Subgrade. Six-inch thick (minimum) stabilized subgrade LBR 40. If the LBR value of the natural soil is less than 40, the subgrade must be stabilized in accordance with section 160 of the FDOT standard specifications.
 - c. Base. Six-inches compacted limerock, shell rock, or soil cement.
 - d. Wearing surface.
 - 1. For roads to be publicly maintained. One-and-one-half-inch asphaltic concrete of FDOT type S-1. The applicant may install two three-quarter-inch-thick courses of asphalt concrete with the second course to be placed after substantial buildout of the development. Assurance of completion is required for the second course of asphalt. This provision is subject to the approval of the director of development services in consultation with the director of the department of transportation.
 - 2. For roads to be privately maintained. One-inch asphaltic concrete of FDOT type S-1 is acceptable.

TABLE 4. MINIMUM SPECIFICATIONS FOR STREET IMPROVEMENTS

Table 4 is repealed in its entirety.

(eJ) *Conformance with state standards.* All construction materials, methods and equipment ~~shall~~ must conform to the requirements of the FDOT Standard Specifications for Road and Bridge Construction, current edition, and such other editions, amendments or supplements as may be adopted by the FDOT.

(fk) *Dedication of right-of-way and completion of improvements.* Prior to acceptance of the streets or the release of security, the developer ~~shall~~ must dedicate ~~such~~ the rights-of-way and complete ~~such~~ the improvements, or provide funds for the completion or installation of ~~such~~ the improvements in conformance with the standards and specifications of this chapter.

(il) *Horizontal curve for changes in direction.* Horizontal curves shall must be used for all changes in direction ~~greater than ten degrees~~ consistent with AASHTO and FDOT standards.

(hm) *Existing nonconforming access routes.* Existing nonconforming access routes to new proposed subdivisions shall may be permitted upon approval of a variance or a planned development deviation.

(in) *State roads.* Streets which are designated as state roads shall will be required to meet all additional state department of transportation requirements.

(jo) *Intersection design.* Streets shall must be designed to intersect as nearly as possible at right angles. Multiple intersections involving the juncture of more than two streets shall ~~be~~ is prohibited. A minimum sight distance of 200 feet from every intersection shall on private roadways and consistent with the Florida Greenbook on public roadways must be maintained on all intersecting streets. This requirement shall may not be construed to increase the minimum allowable intersection separation of 125 feet.

(1) The angle of intersection of intersecting streets shall must be in accordance with the requirements of table ~~5-4~~.

TABLE 54. ANGLE OF INTERSECTION

Street Type	Intersecting Street Type	Angle	
		Minimum	Maximum
Local or access	Local or access	75	105
	Collector	80	100
	Arterial	85	95
Collector	Collector	85	95
	Arterial	85	95
Arterial	Arterial	85	95

(2) The inside edge of the pavement at street intersections must be rounded with a minimum radius as shown in table 6 ~~5~~.

TABLE 6 5. MINIMUM EDGE OF PAVEMENT RADIUS AT INTERSECTING STREETS

Street Type	Intersecting Street Type	Minimum Radius (feet)	
		Residential	Commercial/ Industrial
Local	Local	25	30
	Collector	30	35
	Arterial	40	45
Collector	Collector	40	50
	Arterial	50	60
Arterial	Arterial	50	60

These values apply to a street type having two lanes without a median. Whenever the street type is divided by a median, the minimum pavement width is 14 feet on each side of the median and the edge of pavement radius will be determined by a special study using a WB-40 vehicle that negotiates the turn without encroaching on the median. Greater radii may be required where school buses will be routed or if an engineering study determines that traffic conditions warrant a larger radius.

(3) The property line radius shall must follow the curvature of the inside edge of pavement and be offset a minimum distance equivalent to the pavement/property line offset used on the roadway design section.

(kp) *Culs-de-sac.*

(1) Dead-end streets, designed to be so permanently, must be closed at one end by a circular turnaround for vehicles and constructed according to the following standards:

- a. Diameter of pavement to inside edge of curb or edge of pavement must be a minimum of 90 feet outside diameter, and a maximum of 45 feet inside diameter.
- b. Diameter of right-of-way for curb and gutter section: 110 feet.
- c. The diameter of right-of-way for ditch and swale drainage must be a minimum of 130 feet.

(2) The island in the center of the circular turnaround may be paved solid, kept unpaved to preserve existing vegetation, or enhanced with additional

vegetation, provided that vegetation does not cause a visual obstruction between 2 ½ feet and seven feet in height above grade, and provided further that proper maintenance agreements have been filed with the board Lee County.

- (3) The transition from the cul-de-sac pavement to the regular approaching pavement width must be as shown in section 10-714.
- (4) On all roads to be maintained by and dedicated to the county, the length of a cul-de-sac must be 500 feet or less. This length may be extended to a maximum length of 1,000 feet for single-family residential development only. The length of the dead-end street with cul-de-sac will be measured along the centerline of the pavement from the centerline of the nearest lane of the intersecting street to the center point of the cul-de-sac. This subsection does not apply to privately maintained roads.
- (5) All streets ending in culs-de-sac that are over 250 feet long must have a standard "No Outlet" traffic sign installed at the street entrance and paid for by the developer.

(tg) *On-road and off-road bikeways.* All county-maintained arterial, collector and local streets must be designed and constructed in accordance with the county administrative code policy relating to on-road and off-road bikeways and associated roadway width.

(mr) *Privately maintained accessways.* The following privately maintained accessways are not required to meet the minimum roadway right-of-way widths specified in subsection (b) of this section:

- (1) Parking lot aisles (as defined in chapter 34);
- (2) Parking lot accesses (as defined in chapter 34);
- (3) Driveways (as defined in this chapter); and
- (4) Accessways which that meet the following three requirements:
 - a. Provide vehicle access to 100 or fewer multi-family residential units;
 - b. Pavement width meets the dimensional requirements for parking lot aisles at areas of back-out parking; and
 - c. Provide for utility easements in accordance with section 10-355(a)(1) if utilities are to be located in or adjacent to the accessway.

(ns) *Streets and driveways in wetland areas.* Notwithstanding other provisions of this chapter, new roads or driveways permitted in wetland areas in accordance with Lee Plan policy ~~25.1.6~~ 41.2.2 must be culverted or bridged to maintain the pre-development volume, direction, distribution and surface water hydroperiod.

(ot) *Work in county right-of-way.*

- (1) Except for emergency repair work, no individual, firm or corporation may commence any work within county-maintained rights-of-way or easements without first having obtained a permit from the county department of transportation. For the purposes of this section only, "work" means:
 - a. excavation, grading or filling activity of any kind, except the placement of sod on existing grade; or
 - b. construction activity of any kind except the placement of a mail or newspaper delivery box in accordance with section 34-2192.
- (2) The county department of transportation will not issue a permit for any private road to connect to any county-maintained road other than a residential driveway without approval of drainage plans prepared by a registered engineer. (See section 10-716 for approved utility piping materials for use in county right-of-way.)
- (3) For single residential buildings of two dwelling units or less on county-maintained streets, the county department of transportation will do all necessary field survey work to establish the proper grade, pipe diameter and length for driveway culverts.
- (4) The inside edge of the pavement at the driveway connection to the street must be rounded with a minimum radius as shown in table 6. A deviation from these standards may be issued administratively.

TABLE 6. MINIMUM EDGE OF PAVEMENT RADIUS AT DRIVEWAYS

		<i>Minimum Radius (feet)</i>	
<i>Street Drainage</i>	<i>Intersecting Street type</i>	<i>Residential</i>	<i>Commercial/Industrial</i>
<u>Closed (curb and gutter</u>	<u>Local</u>	<u>N/A</u>	<u>N/A</u>
	<u>Collector</u>	<u>30</u>	<u>35</u>
	<u>Arterial</u>	<u>40</u>	<u>45</u>

Open (no curb and gutter)	Local	25	30
	Collector	30	35
	Arterial	40	45

(r) *Roundabouts.* Roundabouts must be designed consistent with the U.S. Department of Transportation publication, Roundabouts: An Informational Guide, current edition as modified by AASHTO and FDOT.

Sec. 10-297. Access and review standards for county roads lying within incorporated areas.

(a) Access points from private property to county roads lying within the incorporated areas of the county ~~shall~~ must be established, based upon the functional classification of such roads as determined by the county and based upon such other factors as this chapter makes relevant to the determination of the location of and number of such access points. A limited review development order must be submitted to the County for review. The submittal must comply with the design standards outlined in this chapter, applied solely within the road right-of-way. ~~It being is~~ it is the intention of the Board of County Commissioners to treat county roads lying within the incorporated areas of the county as though they were located in the unincorporated areas of the county; provided, however, that these general regulations may be superseded by any interlocal agreement ~~which may be made in the future~~ between the county and any of the municipalities within the county ~~and which interlocal agreement~~ provides for different access regulations with respect to one or more specific county roads lying within the municipality in question. ~~Should such~~ If an interlocal agreement ~~is not be~~ is in effect, ~~and as a result thereof should it develop that~~ reasonable access from adjacent private property to the county road in question ~~be is~~ is unobtainable, then a variance granting minimum reasonable access may be obtained using the variance procedures ~~which~~ that are set forth in this chapter.

(b) *No change.*

Sec. 10-298. Controlled access roads.

(a) through (d) *No change.*

(e) *Applicability of section.* This section applies to all existing and future controlled access road facilities. These facilities include, but are not limited to:

- (1) Daniels Parkway (Resolution 89-10-11, as amended)
- (2) Ben C. Pratt/Six Mile Cypress Parkway (Resolution 77-2-13, as amended)

- (3) Summerlin Road (from Boy Scout to McGregor) (Resolution 93-11-112, as amended)
- (4) Ben Hill Griffin Parkway/Treeline Avenue (Resolution 06-11-30, as amended).

DIVISION 3. SURFACE WATER MANAGEMENT

Sec. 10-321. Generally.

(a) *Stormwater system required; design to be in accordance with SFWMD requirements.* A stormwater management system ~~shall~~ must be provided for the adequate control of stormwater runoff that originates within a development or that flows onto or across the development from adjacent lands. All stormwater management systems ~~shall~~ must be designed in accordance with South Florida Water Management District (SFWMD) requirements and ~~shall~~ provide for the attenuation/retention of stormwater from the site. Issuance of a SFWMD permit ~~shall be~~ addressing the requirements set forth in this section will be deemed to be in ~~establish~~ compliance with this chapter and review of these projects shall may be limited to external impacts and wet season water table elevation. Projects granted SFWMD exemptions ~~shall be~~ are subject to review by the county and will follow the criteria and requirements of the SFWMD. For purposes of stormwater management calculations, the assumed water table must be established by the design engineer in accordance with sound engineering practice. The director of development review will review the stormwater management system on all development order projects for compliance with this chapter and may require substantiation of all calculations and assumptions involved in the design of stormwater management system.

(b) *Development outside future urban areas to comply with policies of Lee Plan; surface water management plans within urban areas.* All development outside of future urban areas ~~shall~~ must be designed to comply with the Lee Plan policies ~~39-2-4 61.2.1, 39-2-2 61.2.2 and 39-2-3 61.2.3.~~ Surface water management plans for developments within urban areas ~~shall~~ must mimic natural systems where feasible in accordance with Lee Plan policy ~~39-2-4 61.2.4.~~ Techniques to mimic the function of natural systems are specified in section 10-418.

(c) *Crown elevation of local subdivision streets.* Except as provided in subsection (d) of this section, minimum elevation of the crown of local subdivision streets ~~shall~~ must be 5.5 feet above mean sea level (USC & GS) datum. This standard ~~shall apply~~ applies only to streets interior to a project. In order to accommodate differences in elevation between interior streets and exterior streets, when such exterior streets exist below the minimum elevation, elevation variations along the interior streets necessary to provide a sloped lowering of the interior streets to meet the existing exterior street elevations ~~shall~~ may be permitted in accordance with applicable generally accepted engineering standards if approved by the director of development review.

(d) *Street crown elevation for subdivisions abutting Caloosahatchee River.* In subdivisions ~~which are to~~ that abut the Caloosahatchee River upstream of the W.P. Franklin Dam, the minimum local street crown elevation ~~shall~~ must be 6.0 feet above mean sea level at the dam and increased at a uniform gradient to an elevation of 7.0 feet at the east county line.

(e) *Caution to plan adequate elevation and drainage facilities.* Many areas of the county will require street crown elevations far exceeding the minimums stated in this section, and subdivision designers are cautioned to plan both adequate elevation and drainage facilities to prevent any flooding ~~which~~ that could endanger health or property.

(f) and (g) *No change.*

Sec. 10-322. Roadside swales.

Roadside swales within street rights-of-way ~~shall~~ must have side and back slopes no steeper than 3 to 1. Roadside swales within street rights-of-way maintained by the county must have side and back slopes no steeper than 4 to 1. A deviation may be granted administratively by the Director of Development Services in consultation with the Department of Transportation Director. Normal swale sections ~~shall~~ must be a minimum of 12 inches deep and a maximum of 36 inches below the outside edge of the street pavement. Runoff may be accumulated and carried in the swales in the right-of-way. Where flow velocities in excess of two feet per second are anticipated, curb and gutter or other erosion control measures ~~shall~~ must be provided.

Sec. 10-326. Inlet spacing.

Drainage inlets for roadways with closed drainage systems ~~shall~~ must be designed in accordance with state department of transportation guidelines. Inlets shall must have the capacity to handle the design flow. When an existing swale is enclosed, inlets or manholes must be provided at a maximum 400 foot spacing.

Sec. 10-329. Excavations.

(a) *No change.*

(b) *Excavation types and required approvals.* Excavation are generally constructed either for mining operations, for stormwater retention or as a development site amenity. Table 1 summarizes the various types of excavations and the permits and approvals required for each excavation type.

TABLE 1
TYPES OF EXCAVATIONS, REGARDLESS OF SIZE, AND THE PERMITS AND APPROVALS REQUIRED FOR EACH EXCAVATION TYPE

<i>Excavation Type</i>	<i>Excavated Materials Destination</i>	<i>Permits/Approvals Required'</i>
Excavations for an agricultural use or as an amenity to a single-family residence.	ON-SITE OR less than 1,000 cubic yards of material to be moved off-site.	Notice of Intent to Commence Water Retention Excavation Application.
	OFF-SITE - Between 1,000, but less than 10,000 cubic yards to be moved off-site	1. Type 12 Limited Review Development Order; 2. SFWMD permit (if applicable); and 3. An approved Excess Spoil Removal Plan
	OFF-SITE - 10,000 or more cubic yards to be moved off-site, OR 10% or more of the total material to be excavated, whichever is less	1. Type 12 Limited Review Development Order; 2. SFWMD permit (if applicable); and 3. either a) an approved "Excess Spoil Removal Plan"; OR b) Planned Development Zoning with "mining" or "excess spoil removal" as an approved use. The decision as to whether a) or b) above will be required will be determined by the director, based on conditions specified in subsection (c)(3).
Development project - stormwater retention, i.e. lakes and ponds, etc. where the material to be moved off-site qualifies as "Surplus material"	ON-SITE	1. Development Order; and 2. SFWMD permit (if applicable)
	OFF-SITE -Material to be moved off-site is less than 20,000 cubic yards in volume, AND is less than 10% of the total material to be excavated	1. Development Order; and 2. SFWMD permit (if applicable); 3. An approved "Excess Spoil Removal Plan";
	OFF-SITE -material to be moved off-site is 20,000 or more cubic yards in volume, OR 10% or more of the total material to be excavated, whichever is less	1. Development Order; and 2. SFWMD permit; and 3. Either a) an approved "Excess Spoil Removal Plan"; OR b) Planned Development Zoning with "mining" or "excess spoil removal" as an approved use. The decision as to whether a) or b) above will be required will be determined by the director, based on conditions specified in sub-section (c)(3).

Development project - stormwater retention, i.e. lakes and ponds, where the material to be moved off-site does not qualify as "surplus material". OR General mining	OFF-SITE	1. Planned Development Zoning with "mining" listed as an approved use; and 2. Development Order; and 3. SFWMD permit; and 4. An Approved Excess Spoil Removal Plan
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¹ The requirements for planned developments within zoning approval for mining area specified in Chapter 34, Article VII, Division 15, Subdivision II.

(c) *Procedures:*

(1) *No change.*

(2) *Projects where 1,000 or more cubic yards, but less than 10,000 cubic yards, of excess spoil will be moved off-site. A property owner must receive an approved limited review development order and administrative approval of an excess spoil removal plan prior to commencing excavation activities when proposing any excavation that:*

a. through c. *No change.*

(3) *Projects where 10,000 or more cubic yards of excess spoil or surplus material will be moved off-site. A property owner must receive an approved development order AND administrative approval of an Excess Spoil Removal Plan, OR planned development zoning with excess spoil removal or mining as an approved use, prior to commencing excavation activities when proposing an excavation that:*

a. *No change.*

b. Is for a development that has 20,000 or more cubic yards of surplus material to be moved off-site; OR_

c. ~~Will be moving more than ten percent of the total excavated material off-site.~~

In addition to submitting the information required for a development order, the applicant must provide the information required in subsection 10-329(c)(1)

(d) *Standards.* All new excavations for water retention and detention are subject to the following standards:

- (1) *Setbacks for water retention or detention excavations.*
 - a. No excavations will be allowed within:
 - 1. 25 feet of an existing or proposed street right-of-way line or easement for a local street unless granted an administrative deviation in accordance with Section 10-104.
 - 2. and 3. *No change.*
 - b and c. *No Change.*
- (2) through (9) *No change.*
- (e) *No change.*

Sec. 10-330. Outfall into county right-of-way.

Approval for discharge into a county maintained road right-of-way, watercourse, drainage way canal, IDD (Iona Drainage District) easement, lake pond, or stream must be part of a development order or limited development order as outlined in this chapter. Information to be provided includes:

- (a) Demonstration of all the existing and historic drainage from the site;
- (b) The existing and proposed quantity of stormwater runoff; and
- (c) A site evaluation that includes the existing road drainage sufficient to determine if there are any impacts to existing county drainage facilities all the way to the outfall.

DIVISION 4. UTILITIES

Sec. 10-351. Generally.

(a) and (b) *No change.*

(c) No development order ~~shall~~ may be issued for any development for which ~~if~~ adequate provisions for sanitary sewage disposal and potable water service have not been made. For purposes of this section, the term "adequate" ~~shall be~~ is defined as satisfying the regulations of the ~~s~~State ~~d~~Department of ~~h~~Health and ~~r~~Rehabilitative ~~s~~Services and the ~~s~~State ~~d~~Department of ~~e~~Environmental ~~regulation~~ Protection, as they may apply, and this chapter.

(d) *No change.*

Sec. 10-352. Potable water systems.

The Board directed staff to draft a regulation for their consideration that would remove the exemptions applicable to connections to the public water and sewer systems in certain areas. Specifically, the Board indicated a desire to prevent the use of private water and sewer systems within certificated utility franchise areas.

The proposed amendments to sections 10-352 and 10-353 will accomplish what the Board has directed. These amendments will not affect existing single family lots of record as long as those lots meet the HRS requirements. However, **County staff does not recommend adoption** of these regulations for the following reasons:

1. The regulations will require lengthy extensions of utility lines at considerable financial burden to the developer.
2. Loss of the exemption has the potential to create premature extensions of the utility facilities, which will in turn generate additional operation and maintenance costs for the utility franchise that can not be recouped because development is not yet in place to warrant the availability created by the required extension.

(a) *Connection to central system required for certain all developments.* The following ~~All~~ types of developments, when located within the boundaries of the certificated or franchised service area of any investor- or subscriber-owned water utility, or within the county utilities' future water service areas as defined in the Lee Plan, must connect to that respective water system: ₂

~~(1) Any residential development that exceeds 2.5 dwelling units per gross acre, except for a development which contains less than ten dwelling units in any phase or combination of phases and also is located more than one-quarter mile from a point of connection;~~

~~(2) Any commercial or industrial development that exceeds 30,000 square feet of gross floor area and any smaller such development that will use more than 5,000 gallons per day of water; and~~

~~(3) Any residential, commercial or industrial development of any size where central water lines are or will be in place within 90 days of the issuance of the development order. For purposes of this subsection, the term "in place" shall mean located in a public right-of-way or easement adjacent to any portion of the property.~~

~~The provisions of this subsection will become effective for each investor-owned utility upon the execution of an agreement with the county which demonstrates the availability of an equitable program of rebatable agreements.~~

(b) ~~Administrative exceptions~~ Private systems.

~~(1) If the proposed development receives an administrative exception does not meet the criteria established pursuant to subsection section 10-352(a) of this section, a development order may be issued upon satisfactory documentation that the development will itself provide water service in accordance with the regulations of the sState dDepartment of hHealth and rRehabilitative sServices, the sState d Department of eEnvironmental regulation Protection and the South Florida Water Management District. If the proposed development receives an administrative exception as described in subsection (a) of this section, tThe development order shall must clearly stipulate that the water system so established shall must be abated and connection to that utility shall will be made not more than 90 days from the date that the utility certifies that potable water service is available at the boundary of the development. An appropriate bond or equivalent security shall must be tendered to the affected utility to ensure compliance.~~

~~(2) Private systems. Developments that do not exceed the thresholds specified in subsection (a) of this section may install a private water system provided that the private water system complies with chapter 10-D-4 of the Florida Administrative Code, as such provisions now exist or may be amended.~~

Sec. 10-353. Sanitary sewer systems generally.

(a) Connection to central system required for certain all developments. The following All types of developments, when located within the boundaries of the certificated or franchised service area of any investor- or subscriber-owned utility, or within the county utilities' future sewer service areas as defined in the Lee Plan, must connect to that respective sewer system: .

~~(1) Any residential development that exceeds 2.5 dwelling units per gross acre; except for a development which contains less than ten dwelling units in any phase or combination of phases and also is located more than one-quarter mile from a point of connection;~~

~~(2) Any commercial or industrial development that exceeds 30,000 square feet of gross floor area and any smaller such development that will generate more than 5,000 gallons per day of sewage; and~~

~~(3) Any residential, commercial or industrial development of any size where central sewer lines are or will be in place within 90 days of the issuance of the development order. For purposes of this subsection, the term "in place" shall mean located in a public right-of-way or easement adjacent to any portion of the property.~~

The provisions of this subsection will become effective for each investor-owned utility upon the execution of an agreement with the county which demonstrates the availability of an

~~equitable program of rebatable agreements.~~

(b) ~~Administrative exceptions~~ Private systems.

(1) If the proposed development ~~receives an administrative exception pursuant to subsection (a) of this~~ does not meet the criteria set forth in section 10-353(a), a development order may be issued upon satisfactory documentation that the development will itself provide sanitary sewer service in accordance with the regulations of the ~~s~~State ~~d~~Department of eEnvironmental protection , or on-site sewage disposal in accordance with the regulations of the ~~s~~State ~~d~~Department of hHealth and rehabilitative services.

~~(2) If the proposed development receives an administrative exception as described in subsection (a) of this section, the~~ The development order shall must clearly stipulate that the system so established ~~shall~~ will be abated and connection to that utility ~~shall~~ must be made not more than 90 days from the date that the utility certifies that sanitary sewer service is available at the boundary of the development. An appropriate bond or equivalent security ~~shall~~ must be tendered to the affected utility to ensure compliance.

~~(c) Individual sewage disposal systems. Developments that do not exceed the thresholds specified in subsection (a) of this section may install individual sewage disposal systems provided that the systems comply with chapter 10D-6 of the Florida Administrative Code as the same now exists or as it may be amended from time to time.~~

DIVISION 6. OPEN SPACE, BUFFERING AND LANDSCAPING

Sec. 10-415. Open space.

(a) *No change.*

(b) *Indigenous native vegetation and trees.*

(1) *Preservation.*

a. *No change.*

b. If the development area does not contain existing indigenous native vegetation communities, but does contain existing indigenous native trees, then 50 percent of their open space percentage must be met through the onsite preservation of existing native trees consistent with subsections 1 through 4 ~~5~~ below. Refer to Appendix E and section 34-373(6)(g).

1 through 4. *No change.*

5. Projects greater than 50 acres in size that abut an arterial or collector road and have existing native trees within 50-feet of the right-of-way must be designed to provide a 50-foot right-of-way buffer for tree preservation. Drainage or utility easements located within or adjacent to the 50 right-of-way buffer area must be established in the location with the least amount of trees as determined by onsite inspection by Lee County. The preservation of the existing trees will not require a double hedge row to be installed as part of the right-of-way buffer. The preserve area may not be utilized for drainage or other similar uses that may adversely affect the existing native trees. To increase long-term survival of the existing trees to be retained, appropriate arboricultural techniques to reduce impacts to the existing trees must be used. Those techniques must include ways to reduce impacts to the trees' root systems and crowns during construction and must be clearly provided on the landscape plans of the development order. The native tree preservation right-of-way buffer may be used toward meeting the indigenous preservation requirement.

c. *No change.*

(2) through (5) *No change.*

(c) *Minimum dimensions.*

(1) and (2) *No change.*

(3) For projects under ten acres in size, indigenous open space areas must have a minimum average width of 20 feet and minimum area of 400 square feet.

For projects over ten acres in size, indigenous open space areas must have a minimum average width of 40 feet and minimum area of 1,500 square feet. ~~The average minimum width may be reduced to 30 feet when the preserve is adjacent to a public road.~~

(4) through (6) *No change.*

(d) *No change.*

Sec. 10-416. Landscape standards.

(a) *No change.*

(b) *Building perimeter plantings.* All new development in commercial zoning districts and commercial components of planned development districts and DRIs must provide building perimeter plantings equal to ten percent of the proposed building gross ground level floor area. These planting areas must be located abutting three sides of the building with emphasis on the sides most visible to the public, not including the loading area. The perimeter planting areas must consist of landscape areas, raised planters or planter boxes that are a minimum of five feet wide. These landscape areas must include shrubs and ground cover plants with a minimum of 50 percent coverage of the landscape area at the time of planting. Trees and shrubs must meet the size requirements of section 10-420(d). Groundcover plants must be a minimum 1-gallon container size. General trees may be planted within the building perimeter planting areas, especially effective are clusters (three or more) of sabal palms. Turfgrass is discouraged and is limited to ten percent of the landscape area. Water management areas may not be a part of this five-foot planting area. Pedestrian access ways may cross and loading areas may be placed in the perimeter planting area, but may not be used to meet minimum planting area or open space requirements.

An enlarged perimeter landscape area is required in the front of shopping centers and freestanding retail uses that constitute a large development. An area that is at least five percent of the size of the vehicular use area must be developed as green space within the front of shopping centers and retail establishments and be an enlargement to the front building perimeter planting area. However, it is not a requirement that this area directly abut the front of the building. The enlarged perimeter planting areas must consist of landscape areas, raised planters or planter boxes that are a minimum of five feet wide. These enlarged perimeter planting areas must include trees, shrubs and ground cover plants with a minimum of four trees per 100 linear foot of building and 50 percent coverage of the landscape area at the time of planting. Trees may be installed in clusters and do not need to be located within a 100 linear foot segment. Clusters of trees at the corners of buildings or framing entrances are especially effective. Trees and shrubs must meet the size requirements of section 10-420(d). Groundcover plants must be a minimum 4-inch container size with 1-gallon container size preferred. Taller palms (16-20 foot clear trunk) must be used when building height is greater than 35 feet. Turfgrass is discouraged and is limited to ten percent of the landscape area. Water management areas may not be a part of this enlarged planting area.

This five percent green space area may be used to meet open space requirements if they are in compliance with section 10-415(c), but may not be used to reduce the perimeter planting areas on the sides and rear of the building. These areas must be designed for scenic, noncommercial recreation purposes and be pedestrian-friendly and aesthetically appealing. They may include the following: limited turfgrass, mulch, decorative plantings, landscape, walkways within the interior of the green space area not used for shopping, fountains, manmade watercourses (but not water retention areas), park benches, site lighting, sculptures, gazebos, and any other similar items.

(c) *No change.*

- (1) *No change.*
- (2) *Internal landscaping.* All parking areas must be internally landscaped to provide visual relief and cooling effects and to channelize and define logical areas for pedestrian and vehicular circulation, as follows:
 - a. through c. *No change*
 - d. No more than an average of 10 parking spaces must occur in an uninterrupted row when 10 foot wide landscape islands are used unless optional divider medians, as specified in section 10-416(c)(2)f., are used. Where existing native trees are retained in a landscape island the amount of parking spaces in that row may be increased to 15.

No more than an average of 20 parking spaces must occur in an uninterrupted row when 18 foot wide landscape islands are used unless optional divider medians, as specified in subsection (c)(2)f. of this section, are used. Where existing trees are retained in a landscape island the amount of parking spaces in that row may be increased to 25.
 - e. and f. *No change*
- (d) *No change.*

**ARTICLE IV. DESIGN STANDARDS AND GUIDELINES
FOR COMMERCIAL BUILDINGS AND DEVELOPMENTS**

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

(a) *Purpose and intent:* The purpose and intent of these provisions is to supplement and enhance existing regulations and to encourage the design of developments which that will provide safe, convenient, and efficient access for vehicles while also providing safe, convenient, and efficient passage for pedestrians from the public right-of-way to the commercial building or development, and between buildings within the commercial development. It is further the purpose and intent of these provisions to require parking, lighting, and lighting fixtures to be designed, installed, and maintained in a consistent and coordinated manner for the entire site (including their out parcels) and integrated and designed so as to enhance the visual appearance and impact on the community. The development services director is hereby authorized to grant deviations from the technical standards in this sub-section, subject to the criteria set forth in section 10-104.

(ab) *Parking angle.* Parking must be developed throughout the site utilizing the same degree of angle. The mixture of one-way and two-way parking aisles, or different degrees of angled parking within any parking area is prohibited except:

(1) and (2) *No change.*

Illustrations 1 and 2 *No change.*

(bc) *Lighting standards.* All outdoor lighting must comply with section 34-625 of the Land Development Code.

(c) *Buffering and shielding* (df).

(1) through (4) *No change.*

(de) *Pedestrian walkways.*

(1) and (2) *No change.*

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

(g) *Project entrance.*

(1) The entrance to a commercial development generating more than 300 trip ends total, or at an entrance with more than 100 entering vehicles during the peak hour of the generator, must include two entrance lanes.

(2) The driveway length must provide adequate throat depth consistent with the FDOT Driveway Handbook.

(3) Sidewalks must be provided along the entrance to a commercial development generating more than 300 trip ends during the peak hour of the generator.

(4) An administrative deviation may be granted from this section by the Director of Development Services in consultation with the Department of Transportation Director.

ARTICLE V. ILLUSTRATIONS, TABLES AND DIAGRAMS

Sec. 10-706. Minimum specifications for bridge improvements.

Minimum specifications for bridge improvements are as follows:

Category

Minimum Specifications

All plans, specifications and submittals for bridge improvements shall must be submitted to the director of development review, who will review the submittals in conjunction with the county engineer.

A B C D

(1) *Structural design criteria.* The criteria for the design of waterway crossings shall ~~be~~ are as follows:

(a) *Vehicular bridge and culvert crossings.* The structural design of all members of vehicular bridges and culverts shall must be in accordance with the requirements of the American Association of State Highway and Transportation Officials, referred to in this section as AASHTO standard specifications for highway bridges and the state department of transportation standard specifications for road and bridge construction.

(b) *Pedestrian and utility crossings.* These crossings shall must be designed according to a recognized rational analysis.

(2) *Design loading.* The loading for the design of waterway crossings shall ~~be~~ are as follows:

(a) *Vehicular bridge and culvert crossings.* The loading of a vehicular bridge shall must be one of the following as designated by the AASHTO specifications:

~~Arterial streets: H20-S16-44.~~

~~All other streets: H20-44 L-93.~~

Wind load: AASHTO adjusted to 120 miles per hour for structures over 30 feet in height.

(b) *Pedestrian crossings.*

Live load: At the option of the design engineer subject to approval of the county engineer.

Dead load: As designed.

~~Wind load: Southern Standard Building Code, Coastal Region
The Florida Building Code~~

(c) *Utility crossings.*

Live load: At the option of the design engineer subject to approval of the county engineer.

Dead load: As designed.

~~Wind load: Southern Standard Building Code, Coastal Region
The Florida Building Code~~

(3) ~~Size dimensions of waterway structures.~~ The dimensions of all waterway structures ~~shall~~ must be no less than the following:

(a) *Width.*

1. *Vehicular bridges.* Requirements as described in the AASHTO standard specifications for highway bridges.
2. *Pedestrian crossing.* A minimum clear width between handrails of five feet is required.
3. *Utility crossing.* A utility crossing ~~shall~~ must be designed wide enough to suit the facility it is supporting.
4. *Culverts.* Box culvert crossings ~~shall~~ must be designed to conform to the roadway requirements of vehicular bridges over the entire cross section, including roadway width, curb height, sidewalk, handrail and drainage.

(b) *Length.*

1. *Bridges or utility crossings.* The length of structure ~~shall~~ must be a function of the waterway to be crossed. In no case ~~shall~~ may the clear length between abutments be less than the sum of the following measured along the centerline of the roadway or structure:
 - a. Waterway bottom width.
 - b. Horizontal projection of approved bank slope.

- c. Berms: width as required by the preliminary approval.
- d. Plus additional width as may be required for future widening of channel.
- e. Or as required for drainage.

2. *Culverts.* The culvert section should be selected to suit the special conditions of the proposed location, such as canal capacity, pipe cover, design water elevation, drainage area, etc. Culverts under roads shall must be long enough to accommodate the roadway, shoulders, rails or barriers, and side slopes.

(c) *Height elevation.*

- 1. *Bridges or utility crossings.* The county engineer and any other controlling agency, such as the U.S. Coast Guard, will establish the minimum design water elevation of the waterway to be crossed and the minimum clear vertical distance between the design water elevation and the lowest point of the superstructure. A survey of all upstream boat heights may be required.
- 2. *Culverts.* The county engineer must approve the design water elevation. The cover over a culvert shall must be as required by the design loading on the particular type of culvert to be used.

(d) *Utilities.* Provisions shall must be made in or on all bridges for all applicable present and future utilities as specified by the county engineer. However, utilities shall may be hung from the bridge only as a last resort.

(4) *Geometrics.*

(a) *Location and alignment.* All bridges shall must be designed with abutments and intermediate bents parallel with the waterway flow, and all culverts shall must be located parallel with the waterway flow.

(b) *Horizontal curves.* When a bridge is located on a horizontal

curve, the bridge shall must be designed and constructed concentric to the centerline curve. When a box culvert is located on a horizontal curve and the roadway is directly on the culvert and there are no headwalls, the culvert shall must be long enough to accommodate the roadway plus shoulders and rail or barrier. If the headwalls are used and act as curbs, they shall must be cast concentric to the centerline curve. If the roadway is placed on fill, the culvert shall must be long enough to accommodate the roadway, shoulders, rail or barrier, and side slopes.

- (c) *Approach grades and vertical curves.* If the design elevation of a bridge or culvert structure differs from the connecting roadway elevation, the connection shall must be made with approach grades not to exceed four percent with an appropriate vertical summit curve over the bridge and vertical sag curves at each approaching roadway connection. ~~It shall be further required that all~~ All AASHTO nonpassing sight distance requirements must be met.

(5) *Materials and tests.*

- (a) *Bridge structures.* All permanent bridge structures shall must be designed for and constructed of reinforced concrete, prestressed concrete or approved structural metal. This shall include both substructure and superstructure. An exception may be made for footbridge piling, in which case timber may be used, provided it meets the requirements of the county building code.
- (b) *Culverts in county-maintained roadways.* All culverts under county-maintained roadways must be reinforced concrete pipe or other approved material. All pipes must conform to all requirements of the state department of transportation standard specifications. The distance from the finished pavement centerline to the top of the culvert must be at least 36 inches, unless a higher strength pipe acceptable to the director of transportation is used. If a higher strength pipe is approved, the minimum distance may not be less than 18 inches.
- (c) *Backfill at bridge approaches.* All bridge approach embankments shall must be compacted to a density of no less than 96 percent of the maximum dry density as determined by

AASHTO T-180 designation for an approved backfill material.

- (d) *Material test.* All material used in a bridge or culvert structure may be subjected to tests. Tests, if required by the county engineer, shall must be paid for by the developer. Minimum tests shall must be for concrete slump and compression strength in accordance with state department of transportation standard specifications.
 - (e) *Unusual design.* The county engineer may require tests of structural members of an unusual design. Tests, if required by the county engineer, shall must be paid for by the developer.
- (6) *Design criteria.*
- (a) *Vehicular and pedestrian bridges.* All components and loading requirements of the bridge construction shall must conform to the current AASHTO standard specifications for highway bridges.
 - (b) *Pedestrian bridge railings.* Each rail of the handrail for pedestrian bridges must be so designed that it will withstand a load of 100 pounds per linear foot simultaneously applied horizontally and vertically. Handposts shall must be designed to withstand a load of 100 pounds per linear foot applied to the top rail in the directions producing the maximum movement.
 - (c) *Special protection in addition to handrails.* For certain locations the county engineer may require additional protection for the safety of pedestrians.
 - (d) *Approach slabs.* All vehicular bridges having a surface elevation equal to the roadway elevation shall must be provided with reinforced concrete approach slabs equal to the bridge roadway width and extending a minimum of 15 feet from the abutment as measured parallel with the centerline of the roadway.
 - (e) *Drainage.*
 - 1. *On bridges.* The bridge roadway shall must slope a minimum of 3/16 inch per foot from crown to curb. All two-lane bridges shall must have a drainage structure equivalent to a four-inch pipe located no greater than 20

feet center to center each side. These drains shall must be located to prevent the discharge of water against any portion of the structure.

2. *On approaches and embankments.* Drainage facilities shall must be provided for the bridge approaches that are adequate to prevent erosion of the embankment. This may require curbs, gutters and spillways along roadway edges from the bridge to the bottom of the approach embankment.

(f) *Guardrail.* State department of transportation approved guardrails shall must be provided in accordance with state department of transportation standards. Greater lengths may be required if deemed necessary by the county engineer.

(g) *Concrete reinforcement cover.* All cover requirements of the American Concrete Institute (ACI) 318 Code shall must be followed. In extreme sea exposure conditions, the county engineer may require special additional cover.

(h) *Penetration and cover for piles.*

1. *Penetration into soil.*

a. Freestanding piles (intermediate bents). All freestanding piles shall must have a minimum penetration of one-third of their length but not less than ten feet in firm material; provided, however, that penetration is sufficient to develop the required capacity of the pile.

b. *Fully supported piles (abutments).* Where stable bank slopes are provided, the minimum tip elevation of the piles shall must be equal to the elevation of the channel bottom. Where vertical bank slopes may occur, the minimum tip elevation of the piles shall must be ten feet below the channel bottom.

2. *Penetration into pile cap.* The minimum penetration of a pile into a cap shall ~~be~~ is 12 inches, provided adequate anchorage is obtained.

3. *Concrete cover.* The minimum cover between the exterior face of piling and the nearest exterior face of pile cap ~~shall~~ must be six inches.
 - (i) *Bridge abutments.* The abutments of vehicular bridges ~~shall~~ must be constructed upon pile foundations or any other engineered system that is proved to be adequate and accepted by the county engineer.
 - (j) *Concrete retaining slabs.* All retaining walls or retaining slabs designed to support the embankment adjacent to a bridge structure ~~shall~~ must be provided with a positive means of anchorage to the abutments or pile caps. The retaining walls and slabs ~~shall~~ must be designed to resist all loads ~~which that~~ are expected to come upon them, including all live loads required by AASHTO standard specifications for highway bridges.
 - (k) *Test borings for bridges.*
 1. *Vehicular bridges.* A minimum of two test borings ~~shall~~ be ~~are~~ required for each bridge location. These borings ~~shall~~ must be made as close as possible to the location of two of the pile bents of the proposed structure. The borings ~~shall~~ must be performed under the control of a registered engineer and two copies of the results ~~shall~~ must be attached to the plans submitted to development review for approval. In addition to the two test borings, the county engineer may require other test borings in order that complete subsurface conditions can be determined.
 2. *Pedestrian bridges.* The procedure for pedestrian bridges ~~shall be~~ is the same as required above for vehicular bridges except that a minimum of one test boring is required for each bridge location. This requirement may be waived in the case of small crossings at the discretion of the county engineer.
- (7) *Utilities on bridges.* Provisions ~~shall~~ must be made on all bridges for utility crossings such as water mains, sewer mains, telephone, cablevision or power conduits, and gas mains. Any or all of these requirements for utility support may be waived by the county engineer.

Sec. 10-707. Four- and six-lane arterial roadways.

(a) The following illustration applies to four-lane arterial roadways in 200 foot right-of-way depressed median, open drainage and on-site retention (rural section)(Rural = clear zones and open ditches):

GRAPHIC LINK: ~~Four-Lane Arterial Roadways~~ [This illustration is repealed in its entirety and replaced with Figure 10-707(a), attached as Exhibit A.]

Notes:

- (1) ~~Rural = clear zones and open ditches.~~
- (2) ~~Design speed 60 mph as approved by the director.~~

(b) The following illustration applies to six-lane arterial roadways in 200 feet of right-of-way with open drainage, and on-site retention (rural section)(Rural = clear zones and open ditches):

GRAPHIC LINK: ~~Six-Lane Arterial Roadways~~ [This illustration is repealed in its entirety and replaced with Figure 10-707(b), attached as Exhibit B.]

Notes:

- (1) ~~Rural = clear zones and open ditches.~~
- (2) ~~Design speed 50 mph as approved by the director~~

(c) The following illustration applies to four-lane arterial roadways in 150 feet of right-of-way with raised median, open drainage and on-site retention (suburban section)(Suburban = curb and gutter and open ditches):

GRAPHIC LINK: ~~Four-Lane Arterial Roadways~~. [This illustration is repealed in its entirety and replaced with Figure 10-707(c), attached as Exhibit C.]

Notes:

- (1) ~~Suburban = curb and gutter and open ditches.~~
- (2) ~~Design speed 45 mph as approved by the director.~~

(d) The following illustration applies to four-lane arterial roadways in 150 feet of right-of-way with depressed median, closed drainage and on-site retention (urban section)(Rural = clear zones and open ditches):

GRAPHIC LINK: ~~Four-Lane Arterial Roadways~~ [This illustration is repealed in its entirety and replaced with Figure 10-707(d), attached as Exhibit D.]

Notes:

- (1) ~~Rural = clear zones and open ditches.~~

~~(2) Design speed 45 mph as approved by the director.~~

(e) The following illustration applies to four-lane arterial roadways in 150 feet of right-of-way with raised median, open drainage and on-site retention (rural section) (Rural = clear zones and open ditches):

~~GRAPHIC LINK: Four-Lane Arterial Roadways [This illustration is repealed in its entirety and replaced with Figure 10-707(e), attached as Exhibit E.]~~

Notes:

~~(1) Rural = clear zones and open ditches.~~

~~(2) Design speed 50 mph as approved by the director.~~

(f) The following illustration applies to six-lane arterial roadways in 150 feet of right-of-way with raised median, closed drainage and off-site retention (urban section):

~~GRAPHIC LINK: Six-Lane Arterial Roadways [This illustration is repealed in its entirety and replaced with Figure 10-707(f), attached as Exhibit F.]~~

Notes:

~~(1) Rural = clear zones and open ditches.~~

~~(2) Design speed 45 mph as approved by the director.~~

Sec. 10-708. Collector streets.

(a) The following illustration applies to four-lane major collector roadways in 125 feet of right-of-way with raised median, open drainage and off-site retention (rural section) (Rural = clear zones and open ditches):

~~GRAPHIC LINK: Four-Lane Major Collector Roadways [This illustration is repealed in its entirety and replaced with Figure 10-708(a), attached as Exhibit G.]~~

Notes:

~~(1) Rural = clear zones and open ditches.~~

~~(2) Design speed 50 mph as approved by the director.~~

~~(3) This size open drainage ditches are insufficient in size to "retain" stormwater. They may be used for conveyance only and off-site retentional ponds or additional width in drainage easements would be required.~~

(b) The following illustration applies to four-lane major collector roadways in 125 feet of right-of-way with raised median, open drainage and off-site retention (suburban section) (Suburban = curb and gutter and open ditches):

~~GRAPHIC LINK: Four-Lane Major Collector Roadways [This illustration is repealed in its~~

entirety and replaced with Figure 10-708(b), attached as Exhibit H.]

Notes:

- ~~(1) Suburban = curb and gutter open ditches.~~
- ~~(2) Design speed 45 mph as approved by the director.~~
- ~~(3) This size open drainage ditches are insufficient in size to "retain" stormwater. They may be used for conveyance only and off-site retention ponds or additional width in drainage easements would be required.~~
- ~~(4) Off-road pedestrian facility may be substituted for additional three-foot outside land width.~~

(c) The following illustration applies to four-lane major collector roadways in 125 feet of right-of-way with raised median, closed drainage and off-site retention (urban section) (Urban = curb and gutter and closed drainage):

GRAPHIC LINK: Four-Lane Major Collector Roadways [*This illustration is repealed in its entirety and replaced with Figure 10-708(c), attached as Exhibit I.*]

Notes:

- ~~(1) Urban = curb and gutter and closed drainage.~~
- ~~(2) Design speed 45 mph as approved by the director.~~

(d) [Reserved.]

(e) The following illustration applies to three-lane collector roadways in 100 feet of right-of-way with a TWLTL (two-way left-turn lane) median with open drainage and off-site retention (rural section) (Rural = clear zones and open ditches):

GRAPHIC LINK: ~~Three-Lane Collector Roadways~~ [*This illustration is repealed in its entirety and replaced with Figure 10-708(e), attached as Exhibit J.*]

Notes:

- ~~(1) Rural = clear zones and open ditches.~~
- ~~(2) Design speed 45 mph as approved by the director.~~
- ~~(3) This size open drainage ditches are insufficient in size to "retain" stormwater. They must be used for conveyance only and off-site retention ponds or additional width in drainage easements would be required.~~

(f) The following illustration applies to two-lane collector roadways in 100 feet of right-of-way, with no median, open drainage and on-site retention (rural section) (Rural = clear zones and open ditches):

GRAPHIC LINK: ~~Two-Lane Collector Roadways~~ [*This illustration is repealed in its entirety and replaced with Figure 10-708(f), attached as Exhibit K.*]

Notes:

- ~~(1) Rural = clear zones and open ditches.~~
- ~~(2) Design speed 55 mph as approved by the director.~~

(g) The following illustration applies to three-lane collector roadways in 100 feet of right-of-way with a two-way left turn (TWLTL) median, closed drainage and off-site retention (urban section) (Urban = curb and gutter and closed drainage):

GRAPHIC LINK: Three-Lane Collector Roadways *[This illustration is repealed in its entirety and replaced with Figure 10-708(g), attached as Exhibit L.]*

Notes:

- ~~(1) Urban = curb and gutter and closed drainage.~~
- ~~(2) Design speed 45 mph as approved by the director.~~
- ~~(3) If side access points exceed 20/mile or they are offset too close for separate left turn lanes, a 14-foot two-way left turn-lane (TWLTL) may be installed.~~

(h) The following illustration applies to two-lane collector roads in 100 feet of right-of-way with no median, open drainage and off-site retention (suburban section) (Suburban = curb and gutter and open ditches) :

GRAPHIC LINK: Two-Lane Collector Roads *[This illustration is repealed in its entirety and replaced with Figure 10-708(h), attached as Exhibit M.]*

Notes:

- ~~(1) Suburban = curb and gutter and open ditches.~~
- ~~(2) Design speed 45 mph as approved by the director.~~
- ~~(3) This size open drainage ditches are insufficient in size to "retain" stormwater. They may be used for conveyance only and off-site retentional ponds or additional width in drainage easements would be required.~~

(i) The following illustration applies to four-lane collector roadways in 100 feet of right-of-way with raised median, closed drainage and off-site retention (urban section) (Urban = curb and gutter and closed drainage):

GRAPHIC LINK: Four-Lane Collector Roadways *[This illustration is repealed in its entirety and replaced with Figure 10-708(i), attached as Exhibit N.]*

Notes:

- ~~(1) Urban = curb and gutter and closed drainage.~~
- ~~(2) Design speed 45 mph as approved by the director.~~

Sec. 10-709. Public local streets.

(a) The following illustration applies to publicly maintained local streets with closed drainage and on-road bikeways, with a volume of less than 800 vehicles per day:

GRAPHIC LINK: ~~Publicly Maintained Local Street with Closed Drainage and On-Road Bikeways~~ [This illustration is repealed in its entirety and replaced with Figure 10-709(a), attached as Exhibit O.]

	CATEGORY B & C	CATEGORY A
1.	1" Type S-III 1 asphalt concrete	1 1/2" Type S-III 1 asphalt concrete
2.	6" Base	8" Base
3.	6" Stabilized subgrade	12" Stabilized subgrade
4.	Sidewalk - one side only	Sidewalk - one side only

Notes:

(1) ~~A ten-foot-wide public utility easement must be provided on each side of the right-of-way.~~

(b) The following illustration applies to publicly maintained local streets with closed drainage and on-road bikeways, with a volume of more than 800 vehicles per day:

GRAPHIC LINK: ~~Publicly Maintained Local Street with Closed Drainage and On-Road Bikeways~~ [This illustration is repealed in its entirety and replaced with Figure 10-709(b), attached as Exhibit P.]

	CATEGORY B & C	CATEGORY A
1.	1" Type S-III asphalt concrete	1 1/2" Type S-III asphalt concrete
2.	6" Base	8" Base
3.	6" Stabilized subgrade	12" Stabilized subgrade
4.	Sidewalk - one side only	Sidewalk - one side only

Notes:

(1) ~~A ten-foot-wide public utility easement must be provided on each side of the right-of-way.~~

(c) The following illustration applies to local public streets with closed drainage and off-road bikeways:

GRAPHIC LINK: ~~Local Public Street with Closed Drainage and Off-Road Bikeways~~ [This

illustration is repealed in its entirety and replaced with Figure 10-709(c), attached as Exhibit Q.]

	CATEGORY B & C	CATEGORY A
1.	1 1/2" Type S-III asphalt concrete	1 1/2" Type S-III asphalt concrete
2.	6" Base	8" Base
3.	6" Stabilized subgrade	12" Stabilized subgrade
4.	Sidewalk - one side only	Sidewalk - one side only

Notes:

- (1) A ten-foot-wide public utility easement shall be provided on each side of the right-of-way.

(d) The following illustration applies to publicly maintained local streets with open drainage and on-road bikeways, with a volume of less than 800 vehicles per day:

GRAPHIC LINK: ~~Publicly Maintained Local Street with Open Drainage and On-Road Bikeways~~ [This illustration is repealed in its entirety and replaced with Figure 10-709(d), attached as Exhibit R.]

	CATEGORY B & C	CATEGORY A
1.	1 1/2" Type S-III asphalt concrete	1 1/2" Type S-III asphalt concrete
2.	6" Base	8" Base
3.	6" Stabilized subgrade	12" Stabilized subgrade
4.	Sidewalk - one side only	Sidewalk - one side only

Notes:

- (1) A ten-foot-wide public utility easement must be provided on each side of the right-of-way.

(e) The following illustration applies to publicly maintained local streets with open drainage and on-road bikeways, with a volume of more than 800 vehicles per day:

GRAPHIC LINK: ~~Publicly Maintained Local Street with Open Drainage and On-Road Bikeways~~ [This illustration is repealed in its entirety and replaced with Figure 10-709(e), attached as Exhibit S.]

	CATEGORY B & C	CATEGORY A
--	----------------	------------

1.	1 1/2" Type S-III asphalt concrete	1 1/2" Type S-III asphalt concrete
2.	6" Base	8" Base
3.	6" Stabilized subgrade	12" Stabilized subgrade
4.	Sidewalk - one side only	Sidewalk - one side only

Notes:

(1) A ten-foot-wide public utility easement must be provided on each side of the right-of-way.

(f) The following illustration applies to publicly maintained local streets with open drainage and off-road bikeways:

GRAPHIC LINK: ~~Publicly Maintained Local Street with Open Drainage and Off-Road Bikeways~~ [This illustration is repealed in its entirety and replaced with Figure 10-709(f), attached as Exhibit T.]

	CATEGORY B & C	CATEGORY A
1.	1 1/2" Type S-III asphalt concrete	1 1/2" Type S-III asphalt concrete
2.	6" Base	8" Base
3.	6" Stabilized subgrade	12" Stabilized subgrade
4.	Stabilized shoulder	Stabilized shoulder
5.	Bikeway	Bikeway

Note:

(1) A ten-foot-wide public utility easement must be provided on each side of the right-of-way.

Sec. 10-710. Private local streets.

(a) The following illustration applies to private local streets with closed drainage:

PRIVATE LOCAL STREET WITH CLOSED DRAINAGE
Illustration - *No change.*

Private Local Street with Closed Drainage

	CATEGORY B, C and D	CATEGORY A
1.	1" Type S-III asphalt concrete*	1 1/2" Type S-III asphalt concrete

- | | | |
|----|------------------------|-------------------------|
| 2. | 6" Base | 8" Base |
| 3. | 6" Stabilized subgrade | 12" Stabilized subgrade |
| 4. | Optional sidewalk | Optional sidewalk |

Note:

(1) A ten-foot-wide public utility easement must be provided on each side of the right-of-way.

* For Category D streets, an asphaltic concrete wearing course is not required.

(b) The following illustration applies to private local streets with open drainage:

PRIVATE LOCAL STREET WITH OPEN DRAINAGE
Illustration - *No change*

Private Local Street with Open Drainage

- | | CATEGORY B, C and D | CATEGORY A |
|----|---------------------------------|------------------------------------|
| 1. | 1" Type S-III asphalt concrete* | 1 1/2" Type S-III asphalt concrete |
| 2. | 6" Base | 8" Base |
| 3. | 6" Stabilized subgrade | 12" Stabilized subgrade |
| 4. | Optional sidewalk | Optional sidewalk |

Note:

(1) A ten-foot-wide public utility easement must be provided on each side of the right-of-way.

* For Category D streets, an asphaltic concrete wearing course is not required.

SECTION FOUR: AMENDMENT TO LDC CHAPTER 26

Lee County Land Development Code Chapter 26 is hereby amendment to read as follows with strike through text identifying deleted language and underlined text identifying new language.

CHAPTER 26

MARINE FACILITIES, STRUCTURES AND EQUIPMENT

ARTICLE II. DOCK AND SHORELINE STRUCTURES

DIVISION 2. LOCATION AND DESIGN

Sec. 26-78. Marina design and location.

Marina locations must be consistent with Lee Plan Objective ~~98-5~~ 128.5 and all of

its implementing policies. Marinas must be designed and constructed in a manner consistent with Lee Plan Objective 98-6 128.6 and all of its implementing policies.

SECTION FIVE: AMENDMENT TO LDC CHAPTER 30

Lee County Land Development Code Chapter 30 is hereby amendment to read as follows with strike through text identifying deleted language and underlined text identifying new language.

CHAPTER 30

SIGNS

ARTICLE I. IN GENERAL

Sec. 30-4. Applicability of chapter.

- (a) *No change.*
- (b) *Exceptions.*
 - (1) This chapter does not apply to signs erected by the federal, state or county government or to the placement of temporary signs within a right-of-way for purposes of business identification or access location, when necessitated by road construction and when authorized by the department of transportation. The temporary sign may not exceed eight square feet in area.
 - (2) *No change.*
 - (3) This chapter does not apply to holiday and community banners located on light poles or to community identifications signs located within the right of way when approved by the Lee County Department of Transportation.

SECTION SIX: AMENDMENT TO LDC CHAPTER 33

Lee County Land Development Code Chapter 33 is amended to read as follows, with strike through text identifying deleted language and underlined text identifying new language.

CHAPTER 33

PLANNING COMMUNITY REGULATIONS

ARTICLE I. IN GENERAL

Sec. 33-1. Purpose and Intent.

The purpose of this Chapter is to adopt the guidelines and provisions a Planning Community believes is necessary to achieve the Goals, Objectives and Policies set forth in the Lee County Comprehensive Plan applicable to each recognized individual planning community located within unincorporated Lee County. These provisions are intended to enhance, not replace, the regulations contained in the balance of this Code, unless a particular Planning Community specifically provides otherwise.

Sec. 33-2. Applicability.

The following articles apply to the planning communities in unincorporated Lee County that are specifically identified in the Lee Plan. Each article covers an individual planning community, or specifically identified portion of a planning community, that has chosen to pursue adoption of guidelines standards for the particular community.

Sec. 33-3. Affect of LDC provisions.

Development within the planning communities ~~effected~~ affected by this chapter must comply with all Lee County regulations, including the provisions of this Code. The planning community guidelines regulations are intended to supplement regulations in this Code, unless a particular Planning Community specifically provides otherwise.

Sec. 33-4. Conflict.

A conflict between the provisions of this chapter and the balance of this Code will be resolved in accordance with the following. The provisions of the Lee Plan in effect at the time of the conflict is discovered will control. If the Lee Plan is silent with respect to the issue, then the ~~most restrictive provision~~ standards articulated in this chapter will control. If the Lee Plan and this chapter are silent with respect to an issue, then the provisions within the balance of this Code will control.

Sec. 33-5. Deviations/variances.

Deviations and variances from the provisions set forth in each article may be achieved under the guidelines standards specifically set forth by the particular planning community. If the article does not contain a specific provision related to variances and deviations, then the relevant provisions in chapters 10 and 34 will apply.

ARTICLE II. ESTERO PLANNING COMMUNITY

DIVISION 1. IN GENERAL.

Sec. 33-52. Applicability.

(a) *Scope.* The following provisions of article II apply to all developments located in the Estero Planning Community, as defined in section 33-53 (a) and Goal 19 of the Lee County Comprehensive Plan.

(b) *Development orders.* These provisions of article II apply to all Development Orders and type 1, 2, 8, 10, and 12 Limited Review Development Orders requested within the Estero Planning Community. Compliance with these provisions will be required in order to obtain development order approval.

(c) *Demonstrating compliance.* Compliance with the standards set forth in this article must be demonstrated on the drawings or site development plans submitted in conjunction with an application for development order approval or with a building permit application if a development order is not required. This will not prevent simultaneous applications for a development order and building permit on the same parcel, however, the development order approval must precede the building permit approval.

Sec. 33-54. Committee Community review.

(a) *Applications requiring review.* The owner or agent applying for the following types of county approvals must conduct one public informational session in accord with section 33-54(b) within the Estero Planning Community prior to obtaining a finding of sufficiency.

- (1) *Development orders.* All This includes all applications for Development Orders and Type 1, 2, 8, 10 and 12 Limited Review Development Orders requested within the Estero Planning Community, must submit evidence of compliance with the following requirement.

~~The owner or agent seeking a local development order must conduct one public informational session within the Estero Planning Community where the agent will provide an overview of the project for interested citizens. This meeting must be conducted before the application is submitted. The applicant is fully responsible for providing the meeting space and providing security measures as needed. Subsequent to this meeting, the applicant must provide county staff with a meeting summary document that contains the following information: the date, time and location of the meeting; a list of attendees; a summary of the concerns or issues that were raised at the meeting; and, a proposal for how the applicant will respond to any issues that were raised.~~

(b)

- (2) *Planned development zoning actions.* This includes administrative deviations amending the approved master concept plan or other provisions of the applicable zoning resolution.

(3) Special exception and variance requests. This includes all requests that will be decided by the Hearing Examiner.

(4) Conventional rezoning actions.

(b) Meeting requirements. Pursuant to policy 19.5.3 of the Lee Plan, the owner or agent for any planned development request submitting the application requiring review under this section within the Estero Planning Community must conduct one public informational session within the boundaries of the Estero Planning Community where the agent will provide a general overview of the project for any interested citizens. This meeting must be conducted before the zoning application can be found sufficient. The applicant is fully responsible for providing the meeting space and providing security measures as needed. Subsequent to this meeting, the applicant must provide county staff with a meeting summary document that contains the following information: the date, time, and location of the meeting; a list of attendees; a summary of the concerns or issues that were raised at the meeting; and a proposal for how the applicant will respond to any issues that were raised.

DIVISION 2. DESIGN STANDARDS

Subdivision I. Basic Elements

Sec. 33-116. Lighting.

(These requirements are in addition to the requirements of Section 10-610(b)).

(a) through (d) *No change.*

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

Subdivision II. Architectural

Sec. 33-330. Facade treatment.

In addition to the requirements of section 10-620(c), projects must use architectural relief, articulation or landscaping on building facades to reduce the bulk of buildings with walls facades longer than 75 feet that are either parallel to the street or perpendicular to and readily visible from the street. Buildings must be designed to be visually appealing from all directions. Buildings that are visible from more than one right-of-way, or an exit ramp must use facade treatments on all viewable walls facades. Methods for providing architectural relief of blank walls facades must include one or more of the following:

(a) through (i) *No change.*

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

Sec. 33-338. Infill development.

Buildings planned for infill developments must be designed to relate to adjacent property structures so as to create an overall visually pleasing effect. In developing an infill development, consideration must be given to existing adjacent building heights, roof structures, colors, cornices and other architectural elements provided they are in compliance with these guidelines regulations. (Refer to Figure 7).

Subdivision III. Landscaping

Sec. 33-351. Landscaping buffers.

The following landscape buffer requirements substitute for sections 10-416(d)(3) and (4) within the Estero Planning Community. The purpose of this section is to create buffers that are more functional to the creation of pedestrian environments, mixed-use developments and buffering of incompatible uses.

BUFFER REQUIREMENTS											
<i>Permitted or existing use</i>											
<i>P r o p o s e d U s e</i>	Proposed Uses	SF-R	MF-R	COM	ROW	IND	STP	AG	WOR	REC	PRE
	SF-R	A	A	A	D ⁴	--	--	--	--	<u>B</u>	<u>F</u> ⁵
	MF-R	B	A	B	D ³	A	A	--	--	B	<u>F</u> ⁵
	COM	C/F	C/F ¹	A ²	D ³	A	--	A	A	<u>A</u>	<u>F</u> ⁵
	WOR	B	B	A	D ³	A	A	C/F	A	<u>A</u>	<u>F</u> ⁵
	IND	E	E	B	D	A	A	A	B	--	<u>F</u> ⁵
	STP	E	E	E	C	C/F	A	C/F	C	--	<u>F</u> ⁵
	REC	<u>C/F</u>	<u>A</u>	<u>A</u>	<u>D</u>	--	--	--	<u>A</u>	<u>F</u>	<u>F</u> ⁵
	PRE	<u>F</u>	<u>F</u>	--	--	--	--	--	--	<u>F</u>	--

Notes:

1 through 4 *No Change*

5 The required buffer must be 100 percent native.

[Balance of section remains unchanged.]

DIVISION 3. CORRIDOR OVERLAY DISTRICTS

Sec. 33-400. Purpose and intent.

Overlay districts are corridors within the Estero Planning Community that are of special concern and require special site design ~~guidelines~~ standards.

Sec. 33-403. Corner Lots.

In addition to the requirements of section 10-620(c)(3), the development must create visually ~~and~~ attractive street corners using distinctive building entryways in combination with landscaping or artwork. Buildings on corner lots must be designed with a maximum setback of 25 feet from each adjacent right-of-way and must provide pedestrian access from the street intersection (Refer to Figure 9).

Sec. 33-406. Property development regulations.

Setbacks for the Corkscrew Road and Sandy Lane Overlay Districts are shown in the following Table 1. With the exception of setbacks set forth within Table 1, the property development regulations set forth in section 34-935 will apply. Table 1 specifically modifies and supercedes the provisions set forth in Section 34-935(b)(1).

To ensure conformity and development consistent with the goals and requirements of this section, developments that were approved prior to June 25, 2002, as part of a Planned Development, must also comply with the setback requirements contained in Table 1 ~~that were to the extent the setback requirement was~~ not specifically addressed as part of the Planned Development. Specific property development regulations that were approved as part of a Planned Development prior to June 25, 2002, are exempt from this section.

[Table 1 and notes remain unchanged.]

DIVISION 4. SPECIFIC USES

*Subdivision I. Automobile Service Stations and
Convenience Food and Beverage Stores*

Sec. 33-435. Landscaping.

The following landscape requirements are in addition to the requirements set forth in Chapter 33, Article II, Division 2, Subdivision III.

- (1) *Right-of-way buffer landscaping:*
 - a. through d. *No change.*

- (2) *Landscaping adjacent to all other property lines:*
 - a. ~~Side property boundaries must be planted with single row hedges consistent with the minimum landscaping and buffering requirements of this subdivision.~~

 - b. Rear and side property boundaries must be planted with a single row hedge. The hedge must be a minimum height of four feet at planting, planted at three feet on center and must be maintained at a height of five feet.

Subdivision. II. Big Box Commercial

Sec. 33-455. Purpose.

Big Box retail designs pose enormous challenges to the community, governmental agencies, and designers because they are large and difficult to coordinate within the existing context of the community without detracting from the existing scale, connectivity, traffic patterns, walk-ability and image for the area. It is understood that large retailers can produce a useful economic function, serving as anchors for a center, bringing in sales and property taxes, revenues, and regional draws that can benefit the community and other business in the area. It is not the intention of these guidelines provisions to eliminate Big Box retailers from the market place, but to assimilate them into the community for the mutual benefit of both. These guidelines provisions have been drafted to acknowledge that large retail stores can be a productive and aesthetically pleasing part of a community and can be designed so as to minimize any negative impacts on the community.

Sec. 33-461. Parking.

- (a) - (f) *No change.*

(g) As an alternative to the parking pod as set forth in section 33-461(b), parking areas must have a type "D" buffer separating every four rows of parking, provided the big box building is screened by an out parcel buffer.

(h) The number of parking spaces developed as part of the big box project may not exceed the number of spaces required by section 34-2020, or other code parking requirement, ~~by more than 20 percent, unless the increase complies with this~~ one of the following subsections.

(1) and (2) *No change.*

Sec. 33-472. Building design.

(a) *No change.*

(b) *Unified massing, details, and material:* All buildings associated within the big box project must be developed with similar design treatment to create unity among the elements and buildings. This may include, but is not limited to, exterior materials, roof pitches and treatments, colors, proportions, ornamentation and trim in accord with the design guidelines standards for the development.

(c) *No change.*

Sec. 33-473. Building facade.

(a) through (d) *No change.*

(d) Metal sided buildings are not permitted except as an accent material that does not ~~to~~ exceed 25 percent of the building ~~elevation~~ facade.

(e) and (f) *No Change.*

(g) *Building color.* Primary and secondary colors on the exterior of buildings are restricted to a minimum of two inches for their shortest dimension. (see Figure 14)

Also amend Figure 14 to eliminate the mathematical sentences identified above the figure.

(h) *No change.*

Sec. 33-476. Walls and fences.

(a) and (b) *No change.*

(c) Wall runs may not exceed 100 feet in length without a horizontal change of three feet.

SECTION SEVEN: AMENDMENT TO LDC CHAPTER 34

Lee County Land Development Code Chapter 34 is amended to read as follows, with strike through text identifying deleted language and underlined text identifying new language.

CHAPTER 34

ZONING

ARTICLE I. IN GENERAL

Sec. 34-2. Definitions.

Mining means an excavation for the primary purpose of removing the extracted material for use off site. This does not include the removal of surplus materials defined in Chapter 10.

Use, accessory means a use of a structure or premises ~~which~~ that isolated on the same premises as the principal use and is customarily incidental and subordinate to the principal use of the structure or premises. See *Use, principal*.

ARTICLE II. ADMINISTRATION

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

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.

- (1) *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, Chapter 177. ~~The 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, but need not describe each individual parcel. 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. ~~In accordance with Rule 61G-17, F.A.C., the~~

The legal description must be accompanied by a sealed sketch of the legal description. The sketch must be in recordable form and printed on a sheet no greater than 8 ½ x 14 inches in size.

A list of all STRAP numbers subject to the zoning request must accompany the legal description.

- (2) ~~Boundary survey or certified sketch of description.~~ 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 Florida Statutes, Chapter 177. 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 61G 17-6, F.A.C. The survey must be tied to the state plane coordinate system for the Florida West Zone (North America Datum of 1983/1990 Adjustment) 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.

- (3) *Confirmation of ownership.* If at any time during the review process the director concludes there is a question regarding ownership of the property, the director may require submittal of ~~a title insurance policy, attorney's opinion of title, or ownership and encumbrance report~~ certification. The title certification must be either an opinion of title meeting the Florida Bar Standards or certification of title prepared by a title abstractor or company.

- (4) through (9). *No change.*

- (10) *Compliance with specific planning community requirements.* If the subject property is located in one of the following planning communities, the owner/applicant will be required to demonstrate compliance with the requirements applicable to the specific community as outlined in Chapter 33.
- a. Estero Planning Community.
 - b. Greater Pine Island Planning Community.

(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) and (2). *No change.*

(3) *Structure affidavit regarding proposed use.* If buildings or structures exist on the property, ~~the applicant must submit an affidavit, signed by the property owner, must be submitted stating that whether the buildings and structures will be removed, or that~~ If the property owner intends to retain the existing structures, then the affidavit must state the proposed use of the buildings; and structures and land is, or will be, in compliance with all applicable requirements of chapter 10 and this Code. The existing structures must be depicted on the boundary survey; and, if the request is for a planned development the structures must be depicted on the Master Concept plan along with detail indicating whether the structure will be removed or how it will be used. If the request is an amendment of an existing planned development, this affidavit is not required, unless specifically requested by the Director or designee.

(4) *No change.*

(5) *Bonus density.* When applicable, the number of bonus density units requested, the source of the bonus density units (TDR's, housing density bonus, etc.), and the resulting gross residential density of the proposal. A copy of the bonus density application must also be included as an attachment to the zoning application.

(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(s) 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."

~~*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.~~

- (8) Potable water and sanitary sewer connection. A letter from the appropriate utility entity indicating the utility entity's ability to provide service to support the proposed development.

ARTICLE IV. PLANNED DEVELOPMENTS

DIVISION 1. GENERALLY

Sec. 34-341. Employment of planned development designation.

- (a) *No change.*
- (b) The Lee Plan provides that certain owner-initiated rezonings and special exceptions meeting specified thresholds will be reviewed as developments of county impact. The development of county impact thresholds are further categorized as major or minor planned development as follows:
- (1) *No change.*
- (2) *Minor planned developments.*

- a. A residential development of 299 or less dwelling units abutting a County park or 2020 County owned lands;
- a b. Botanical or zoological gardens, community parks, libraries, nature centers, religious facilities (excluding place of worship), state or federal parks, on ten or more acres of land
- b c. A health care facility - Group I or II, social service - Group III or IV, continuing care facility (CCF) of 50 or more beds, that is not a part of a residential, commercial, or community facility planned development;
- c:d Any other development required to apply for planned development zoning set forth in sections 34-651 through 34-903;
- d e. Except as listed below, any other application for planned development rezoning that does not meet or exceed the thresholds in section 34-341(b)(1) will be reviewed as minor planned development.

1. and 2. *No change*

DIVISION 2. APPLICATION AND PROCEDURE FOR APPROVAL

Sec. 34-373. Application.

(a) *Minimum required information for all planned development zoning applications.* Rezoning applications for planned developments must include the following information, supplemented, where necessary, with written material, maps, plans, or diagrams. Wherever this section calls for the exact or specific location of anything on a map or plan, the location must be indicated by dimensions from an acceptable reference point, survey marker or monument.

(1) and (2) *No change.*

(3) ~~Covenants. A covenant and documentation of unified control. (See section 34-374.)~~ Legal description and accompanying sketch. A legal description and sketch meeting the requirements of section 34-202(a) is required. If the proposed planned development will encompass more than one zoning district (i.e. RPD/CPD), then a legal description and sketch for each separate zoning district will be required in addition to the legal description and accompanying sketch of the overall planned development boundary. The

boundary survey may not be used to satisfy this requirement.

(4) and (5) *No change.*

(6) *Master concept plan.* ~~Except for PRFPDs, all~~ All applications must be accompanied by a graphic illustration (master concept plan) of the proposed development. PRFPDs must comply with section 34-941.

If blasting is proposed to be conducted on the property in order to excavate lakes or other site elements, the location of all proposed blasting must be shown. See section 34-202(b)(6) for other required information.

Copies of the master concept plan must be provided in two sizes, 24 inches by 36 inches, and 11 inches by 17 inches in size. Both sizes of the master concept plan must be clearly legible, depict the correct scale for the size drawing and be drawn at a scale sufficient to adequately show and identify the following information:

a. The exact location and explanation of all existing easements, whether or not those easements are recorded. If an easement is based upon a recorded document, the official records book reference must be stated.

b. through j. *No change.*

k. *The general location of excavations for on-site fill and wet retention.* If the applicant proposes to remove excavated material from the property a planned development for mining and a general mining permit may be required. ~~See section 10-329(f)(7).~~

If the development is located within a floodplain or flow way, it is the applicant's responsibility at the time of local development order or district permitting to compensate for impacts to flood storage capacity or flow ways due to filling of the site.

l. *No change.*

(7) through (9) *No change.*

(b) *No change.*

(c) *Amendments to built planned developments (PD).* Any part or all of a planned development which that is built may be the subject of an application for a variance or other approval covered by this chapter wherein the subject property is the only part of the original

planned development for which that will be affected by the requested approval is sought. The application may include a legal description and sketch of the portion of the overall planned development that will be directly affected by the rezoning request. The application must include a legal description and sketch of the entire planned development boundary.

If the subject property meets the threshold for a development of county impact, it will be reviewed in accordance with the provisions in this chapter which that apply to developments of county impact. If the subject property is not a development of county impact, it will be reviewed in accordance with the provisions in this chapter which that apply to conventional zoning districts. In either case, the applicant will be the owner of the subject property and the consent of the owners of the remainder of the original planned development will be unnecessary. However, these owners must be given notice of the application and other proceedings as if they were owners of property abutting the subject property regardless of their actual proximity to the subject property.

For purposes of this subsection, the term "built" means that all of the roads, utilities, buffering, open space, surface water management features and structures, common space, common amenities, common landscaping, gatehouses, entrance signs, entrance ways and other similar items identified as part of the final approved master concept plan have been constructed and acknowledged by the county as complete. In the case of residential planned developments or mixed developments which that include residential structures, the term "built" does not mean that all residential structures must have been constructed on individual platted lots.

(d) *Sufficiency.*

- (1) All applications for planned developments will be deemed sufficient unless a letter advising the applicant of insufficiencies has been provided within 15 working days of submittal of the application. All amended applications will be deemed sufficient unless a subsequent letter advising the applicant of any insufficiencies has been mailed within 15 working days of the resubmittal. The contents of insufficiency letters will be limited to brief explanations of the manner in which insufficient applications do not comply with the formal requirements in this section.

After notice of insufficiency, the applicant has 60 days to submit supplemental or corrected documents, unless a longer time is agreed to in writing by the director and the applicant prior to the expiration of the 60 days. If the supplement or corrections are not submitted within the 60 days (or other time period agreed to) the application will be deemed withdrawn.

Once an application has been found sufficient any new information submitted by the applicant, or any changes made to information submitted by the applicant may, at the discretion of the director, be grounds for a deferral or

continuance of the public hearing, depending on the advertised status of the hearing and may result in revocation of the finding of sufficiency.

- (2) Where a proposed planned development is identified by staff as a possible development of regional impact, the applicant will be notified that the application will be deemed sufficient only when accompanied by either a binding letter of interpretation from DCA or a complete and sufficient ADA. Failure by the county to notify the applicant in a timely manner (within 30 days of the application) will nullify any finding of insufficiency based on this requirement. Assuming the application is sufficient in all other respects, staff will commence its review of the planned development. However, there will be no hearing held before the hearing examiner until the applicant submits a binding letter of interpretation from DCA or a complete and sufficient ADA.

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

(a) through (e) *No change.*

(e) An updated master concept plan of the entire planned development boundary must be submitted for attachment to the resolution adopting the amendment. This is required whether or not the amendment will affect the entire planned development project or just one parcel.

ARTICLE VI. DISTRICT REGULATIONS

Sec. 34-622. Use activity groups.

(a) and (b) *No change.*

(c) Use activity groups are as follows:

(1) *No change.*

(2) *Automotive repair and service (article VIII, division 8)*

GROUP I

Automobile detailing

(3) through (40) *No change.*

STAFF DOES NOT support the proposed amendment with respect to research and development laboratories.

- (41) ~~Research and development laboratories~~. This group includes establishments or other facilities primarily engaged in laboratory or field research and development in the natural, physical or social sciences, or engineering and development as an extension of investigation. primarily engaged in conducting research and development in the physical, engineering, and life sciences, such as agriculture, electronics, environmental, biology, botany, biotechnology, computers, chemistry, food, fisheries, forests, geology, health, mathematics, medicine, oceanography, pharmacy, physics, veterinary, and other allied subjects. The group consists of laboratories, offices, educational facilities and related facilities intended for basic and applied research, development or testing of technology-based products and services.

GROUP I. Agricultural research and development. Establishments primarily concerned with improving research and development of soils, crops, livestock or other agricultural products and services.

GROUP II. ~~Medical and dental laboratories research and development~~. Establishments primarily engaged in research and development in medical and allied disciplines, providing professional analytic or diagnostic services to the medical profession, or to the patient on prescription of a physician, or in making dentures and artificial teeth to order for the dental profession.

~~Bacteriological laboratories (not manufacturing)
Biological laboratories (not manufacturing)
Chemists, biological laboratories of (not manufacturing)
Dental laboratories
Dentures, made in dental laboratories to order for the dental profession
Medical laboratories (clinical)
Pathological laboratories
Teeth, artificial, made in dental laboratories to order for the profession

X-ray laboratories (not manufacturing)~~

GROUP III. Chemical research and development. Establishments primarily concerned with research and development of chemicals or other hazardous materials or related services.

GROUP IV. General research and development. Establishments primarily concerned with research and development of computer, engineering, food, general industry and other ~~type projects~~ disciplines, excluding those listed in group III.

Agriculture research and development laboratories (not manufacturing) or services
Bacteriological laboratories (not manufacturing) or services
Biological laboratories (not manufacturing) or services
Biotechnology research and development laboratories (not manufacturing) or services
Botany research and development laboratories (not manufacturing) or services
Cancer research laboratories or services
Cerebral palsy research laboratories or services
Chemical research and development laboratories (not manufacturing) or services
Chemists, biological laboratories of (not manufacturing)
Computer and related hardware research and development laboratories (not manufacturing) or services
Dental research and development laboratories (not manufacturing) or services
Dentures, made in dental laboratories to order for the dental profession
Electronic research and development laboratories (not manufacturing) or services
Engineering research and development laboratories (not manufacturing) or services
Entomological research and development laboratories (not manufacturing) or services
Environmental research and development laboratories (not manufacturing) or services
Experimental farms
Fisheries research and development laboratories (not manufacturing) or services
Food research and development laboratories (not manufacturing) or services
Forestry research and development laboratories (not manufacturing) or services
Genetics research and development laboratories (not manufacturing) or services
Geological research and development laboratories (not manufacturing) or services
Guided missile and space vehicle engine research and development
Guided missile and space vehicle parts (except engines) research and development
Health research and development laboratories (not manufacturing) or services

Industrial research and development laboratories (not manufacturing) or services
Life sciences research and development laboratories (not manufacturing) or services
Mathematics research and development laboratories (not manufacturing) or services
Medical research and development laboratories (not manufacturing) (clinical) or services
Observatories, research institutions
Oceanographic research and development laboratories (not manufacturing) or services
Pathological laboratories
Physical science research and development laboratories (not manufacturing) or services
Physics research and development laboratories (not manufacturing) or services
Teeth, artificial, made in dental laboratories to order for the profession
Veterinary research and development laboratories (not manufacturing) or services
X-ray laboratories (not manufacturing)

No change to balance of section.

ARTICLE VI. DISTRICT REGULATIONS

DIVISION 2. AGRICULTURAL DISTRICTS

Sec. 34-653. Use regulations table.

Use regulations for agricultural districts are as follows:

TABLE 34-653. USE REGULATIONS FOR AGRICULTURAL DISTRICTS

	<i>Special Notes or Regulations</i>	<i>AG-1</i>	<i>AG-2</i>	<i>AG-3</i>
<u>Business Services - Group II (limited to Horticultural Services and Lawn and Garden Services</u>	<u>Note (23)</u>	:	<u>SE</u>	:
Recreation facilities: Commercial ((34-622(c)(38)- Group III Personal Private-Onsite Private-Offsite	<u>Note (10)</u> <u>Note (24)</u>	SE P EO/SE EO/SE	SE P EO/SE EO/SE	SE P EO/SE EO/SE

Notes:

(1) through (22) *No change.*

(23) Minimum of 5 acres required.

(24) See Article, VII, Division 38 regarding polling places.

No changes to balance of table.

DIVISION 3. RESIDENTIAL DISTRICTS

Subdivision II. One- and Two-family Residential Districts

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
Recreation facilities: Personal Private- Onsite Private-Offsite	<u>Note (16)</u>	P EO/SE EO	P EO/SE EO	P EO/SE EO	P EO/SE EO	P EO/SE EO	P EO/SE EO	P EO/SE EO	P EO/SE EO	P EO/SE EO	P EO/SE EO	P EO/SE EO

Notes:

(1) through (15) *No change.*

(16) See Article VII, Division 38 regarding polling places.

No changes to balance of table.

Subdivision III. Multiple-family Districts

Sec. 34-714. Use regulations table.

Use regulations for multiple-family districts are as follows:

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

	Special Notes or Regulations	RM-2 (<u>Note 5</u>)	RM-3, RM-6, RM-8, RM-10 <u>Note (5)</u>
Recreation facilities: Personal Private-Onsite Private -Offsite	<u>Note (17)</u>	P EO/SE EO/SE	P EO/SE EO/SE

Notes:

(1) through (16) No change.

(17) See Article VII, Division 38 regarding polling places.

No changes to balance of table.

Subdivision IV. Mobile Home Residential Districts

Sec. 34-735. Use regulations table.

Use regulations for mobile home districts are as follows:

TABLE 34-735. USE REGULATIONS FOR MOBILE HOME DISTRICTS

	Special Notes or regulations	MHC-1, MHC-2	MH-1	MH-2	MH-3	MH-4
Dwelling Unit: Mobile Home Single-family residence, conventional	Note(11), 34-1921 et seq. Note (10)	P EO P	P EO P	P EO P	P EO P	P EO P

Balance of the table remains unchanged.

DIVISION 5. COMMUNITY FACILITIES DISTRICTS

Sec. 34-813. Use regulations table.

Use regulations for the community facilities districts are as follows:

TABLE 34-813. USE REGULATIONS FOR COMMUNITY FACILITIES DISTRICTS

	Special Notes or Regulations	CF-1	CF-2	CF-3	CF-4
Government agencies, offices only, restricted to maximum of 500 square feet of floor area		--	P	P	--

Balance of the table remains unchanged.

ARTICLE VI. DISTRICT REGULATIONS

DIVISION 6. COMMERCIAL DISTRICTS

Sec. 34-843. Use regulations table.

Use regulations table for conventional commercial districts are as follows:

TABLE 34-843. 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
Dwelling Unit																	
Duplex	Note (25 & (35)	P	P	P	P	-EO	-EO	-EO	-EO	-EO	-EO	P	--	--	--	--	--
Single-family	Note (26)	P	P	P	P	-EO	-EO	-EO	-EO	-EO	-EO	P	--	--	--	--	--
Two-family	Note (25) & (35)	P	--	--	P	--	--	--	--	--	--	--	--	--	--	--	--
Attached Townhouse		EO	--	--	EO	--	--	--	--	--	--	--	--	--	--	--	--
Mobile Home	Note(25)	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--
Multi-family building	Note(25)	EO	P	P	EO	SE (10)	SE (10)	SE(10)	--	--	SE (10)	SE (10)	--	P	--	--	--
Entrance Gates and Gatehouses	34-1749 34-1748	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Pet Services		P	P	P	P	--	--	--	-P	P	--	--	--	--	--	--	--
Recreation facilities:																	
Commercial (34-622(c)(38)																	
Group I	Note (20)	P	P	P	P	--	--	P	P	P	--	--	--	P	--	--	--
Group III	Note (20)	--	P/SE	P/SE	P/SE	--	--	--	--	--	--	--	--	P/SE	--	--	--
Group IV		--	--	--	--	--	--	--	P/SE	P/SE	--	--	--	P/SE	--	--	--
Personal	Note (36)	P	P	P	P	P	P	P	P	--	--	--	--	--	--	--	--
Private-Onsite		P	P	P	P	--	--	--	P	--	--	--	--	P	--	--	--
Private-Offsite		SE	P	P	P	--	--	--	--	--	--	--	--	P	--	--	--

Notes:

(1) through (35) No change.

(36) See Article VII, Division 38 regarding polling places.

No changes to balance of table.

STAFF does not support adoption of the proposed table 34-843 provisions relating to dwelling unit types.

DIVISION 7. MARINE-ORIENTED DISTRICTS

Sec. 34-871. Purpose and intent.

(a) CM marine commercial district. The purpose and intent of the CM district is to permit the designation of suitable locations for and to ensure the proper development and use of land and adjacent waters for commercial marinas and other uses incidental to such facilities. The principal uses of land at these locations shall be limited to waterfront-dependent uses required for the support of recreational boating and fishing. The marina siting and design criteria to be used are those set forth under objectives 98-5 128.5 and 98-6 128.6 of the Lee Plan.

(b) and (c) *No change.*

DIVISION 9. PLANNED DEVELOPMENT DISTRICTS

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
Clubs:									
Country	<u>Note (44)</u>	P	P	P	--	P	--	--	P
Commercial		--	--	--	--	P	--	--	P
Fraternal, membership, organization	<u>Note (44)</u>	--	--	--	--	P	--	--	P
Private	<u>Note (44)</u>	P	P	P	--	P	--	--	P

(3) *Water quality, quantity and surface water resources.*

a. Prior to development order approval, all private recreational facility developments must design and obtain county approval of an overall surface water management plan as outlined in Lee Plan Objectives ~~38.2~~ 60.2, 61.3 and ~~87.4~~ 115.1, in cooperation with Lee County and the SFWMD.

b. through d. *No change.*

(4) *No change.*

(e) and (f) *No change.*

(g) *Submittal requirements.* In addition to the submittal requirements for planned developments set forth elsewhere in this code, PRFPD applications must include:

(1) *Master Concept Plan:* A clearly legible and properly scaled drawing must be provided in two sizes, no less than 24 inches by 36 inches, and 11 inches by 17 in size. Both sizes of the master concept pan must be clearly legible, depict the correct scale for the size drawing and be drawn at a scale sufficient to adequately show and identify the following information (notes and legends may be used to provide the required information):

(2) through(4) *No change.*

ARTICLE VII. SUPPLEMENTARY DISTRICT REGULATIONS

DIVISION 8. AUTOMOTIVE BUSINESSES; DISPLAY, RENTAL, REPAIR OR STORAGE OF VEHICLES OR EQUIPMENT

Sec. 34-1352. Display, sale, rental or storage facilities for motor vehicles, boats, recreational vehicles, trailers, mobile homes or equipment.

Purpose and intent. The purpose of this section is to ensure that all establishments engaged in the outdoor display, sale, rental or storage of motor vehicles, boats, recreational vehicles, trailers, mobile homes, construction or farm equipment, or other similar items do not adversely impact adjacent land uses, especially residential land uses. The high levels of traffic, glare, and intensity of use associated with these uses may be incompatible with surrounding uses, especially residential uses. Therefore, in the interest of protecting the health, safety and general welfare of the public, the following regulations will apply to the location, layout, drainage, operation, landscaping, and permitted sales and service activities:

- (a) *Applicability.* This section applies to all commercially zoned establishments engaged in the outdoor display, sale, rental or storage of motor vehicles, boats, recreational vehicles, trailers, mobile homes, construction or farm equipment, or other similar items; except "water-oriented rental establishments: outdoors," that are regulated by section 34-3151.
- (b) through (e) *No change.*
- (f) *Lighting.* ~~The following lighting requirements must be met~~ Site lighting must be designed in accordance with section 34-625.
- ~~(1) Artificial lighting used to illuminate the premises shall be directed away from adjacent properties and streets, shining only on the subject site.~~
- ~~(2) Parking lot lamps must be hooded or globed, and must not exceed 18 feet in height. Mercury vapor lamps/lights are prohibited.~~
- ~~(3) Individual building lighting must be of a low intensity and appropriately scaled fixtures, either directly fixed to the building or on a post lamp standard, not to exceed 18 feet in height. Mercury vapor lamps/lights are prohibited.~~
- (g) *Landscaping.* The following landscape requirements are in addition to the requirements of section 10-416 ~~landscape standards.~~

Required landscaping adjacent to property boundaries:

- (1) *Right-of-way buffer landscaping.*
- a. Landscaping adjacent to rights-of-way external to the development project must be located within a landscape buffer easement that is a minimum of 25 feet in width. ~~Water management retention areas may not be located within these buffer areas, however, water management facilities, such as underground piping, may be permitted.~~
- b. An undulating berm with a maximum slope of 3:1 must be constructed along the entire length of the landscape buffer. The berm must be constructed and maintained at a minimum average height of ~~three~~ two feet. The berm must be planted with ground cover (other than grass), shrubs, hedges, trees and palms.
- c. ~~The required trees and palms must be clustered in double rows with a minimum of three trees per cluster. Canopy trees~~

~~must be planted a maximum of 20 feet on center within a cluster. The use of palms within the right-of-way buffer must be limited to landscaped areas adjacent to vehicular access points. The required number of trees is five canopy trees per 100 linear feet. Three sabal palm trees may be clustered at the vehicular access points to meet one canopy tree requirement.~~ Palms must be planted in staggered heights, a minimum of three palms per cluster, spaced at a maximum of ~~eight~~ four feet on center, with a minimum of a four foot difference in height between each tree. ~~A maximum distance of 25 feet between all types of tree clusters must be maintained.~~

- d. All of the trees must be a minimum of 14 feet in height at the time of installation. Trees must have a minimum of a three and one-half inch caliper at 12 inches above the ground and a six-foot spread. At installation, shrubs must be a minimum of ~~ten gallon, five feet in height, with a three-foot spread, planted four feet on center~~ three gallon, 24" in height at time of planting and maintained at a minimum of 36" in height within one year of planting. The shrubs must be planted three feet on center.

(2) *Landscaping adjacent to all other property lines.*

- a. Side property boundaries (other than those adjacent to rights-of-way) must be planted with ~~double~~ a single row hedges row consistent with the minimum requirements of section 10-416, ~~Landscape standards.~~ The hedge must be a minimum of 24 inches in height at planting, planted at three feet on center and must be maintained at a height of 36 inches within 12 months of planting.
 - b. Rear property boundaries (other than those adjacent to road rights-of-way) must be planted with a ~~double~~ single row hedge row. The hedge must be a minimum of 24" in height of four feet at planting, planted at three feet on center and must be maintained at a height of ~~five feet~~ 36" within 12 months of planting.
- (h) *Perimeter walls.* These sites must be separated from adjacent residentially zoned or residentially developed properties by an architecturally designed eight-foot high masonry solid wall or fence utilizing materials similar in color, module and texture to those utilized for the building. Landscaping must be planted on the residential side of the fence or wall. The wall must be setback

25 feet from the property line and include five trees per 100 linear feet and a double hedge row. The trees and shrubs must meet the minimum planting standards per sections 10-420(c) and (d).

- (i) *No change.*

DIVISION 11. WIRELESS COMMUNICATION FACILITIES

Sec. 34-1447. Development regulations.

The development regulations set forth herein apply to all wireless communications facilities as indicated.

- (a) and (b) *No change.*

- (c) *Visual impacts minimized.*

- (1) through (3) *No change.*

- (4) *Camouflage, screening, taping, and placement.*

a. through d. *No change.*

e. *Taping.* The developer of a wireless communication facility must install taping around the antenna-supporting structure in conformance with the following:

1. The tape must be 6 inch 3m Diamond Grade tm VIP Reflective Sheeting, series 3990.
2. The taping must start at 20 feet above surface.
3. The taping must be at 10 foot intervals.
4. The tape must be wrapped around the support pole and overlap by 1 inch for a good seal.

- (d) through (f) *No change.*

DIVISION 12. DENSITY

Subdivision III. Housing Density for Provision of Very Low,

and Low, and Moderate Income Housing

Sec. 34-1512. Definitions.

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

Bonus density owner-occupied unit means a dwelling unit built in excess of the standard density and sold or reserved for sale to eligible ~~families~~ households under the provisions of the density bonus program.

Bonus density bonus program means the program created by this subdivision to stimulate the construction of very low - ~~and low-~~ and moderate - income housing in the county, by permitting qualifying developers, by their participation in the program, to exceed the standard density limits otherwise imposed by law.

Bonus density rental unit means a dwelling unit built in excess of the standard density and occupied or reserved for occupancy by eligible ~~families~~ households in exchange for the payment of rent to the owner of the unit under the provisions of the density bonus program.

Family: For purposes of this subdivision only, family means:

- ~~(1) A disabled person as defined in 24 CFR 812.2(f);~~
- ~~(2) A handicapped person as defined in 24 CFR 812.2(e);~~
- ~~(3) An elderly person who lives alone or is the head of a family and is at least 62 years of age or who lives in an adult age restricted community;~~
- ~~(4) A single person living alone;~~
- ~~(5) Two or more persons sharing residency whose combined income and resources are available to meet the combined needs of such persons.~~
- ~~(6) Two unrelated persons who have a biological child of record and who can establish that they have maintained a family unit for at least three years. Evidence of this must be represented, which can be two or more of the following:~~
 - ~~a. A birth certificate of the child;~~
 - ~~b. A joint tax return;~~
 - ~~c. Prior lease (held jointly);~~
 - ~~d. Joint bank accounts;~~
 - ~~e. Insurance policies or equivalent documentation.~~

~~In addition, a person deemed to be essential to the care or well-being of an elderly, disabled or handicapped person may reside in a dwelling unit with an eligible person who otherwise would meet the definition of a family without disqualifying that person from meeting the definition. However, the need must be documented by a letter from a medical doctor or the state department of health and rehabilitative services~~

~~or an equivalent federal or state agency. In these cases, the caretaker's income will be counted towards the income tests for eligible families only if the caretaker's income is available to meet the needs of the eligible persons.~~

~~*Eligible family* means a family that qualifies as low income or very low income as defined herein.~~

Eligible Household means a household that is comprised of one or more natural persons determined by the county to be of very low, low, or moderate income according to HUD's households income limits adjusted for household size. The HUD Handbook is used to determine whether an individual will qualify as a household member. Whenever the handbook indicates that an individual is a household member, the individual's full income must be included in annual income calculations.

Moderate income means a person or household whose annual (gross) income does not exceed 120 percent of the area median income, as determined by HUD.

No change to the balance of this section.

Sec. 34-1513. Conflicting provisions.

Whenever the requirements or provisions of this subdivision are in conflict with the requirements or provisions of another lawfully adopted ordinance, or other division of this land development code, the most restrictive requirements will apply the provisions of this division will take precedence.

Sec. 34-1514. Administration and enforcement of subdivision; verification of income.

(a) The director will be responsible for maintaining public records of:

(1) *No change.*

(2) All such dwelling units that are occupied by eligible ~~families~~ households;

(3) *No change.*

(4) A list of all eligible ~~families~~ households who have participated in the bonus density program; and

(5) *No change.*

(b) The developer or the subsequent owner of a dwelling unit(s) obtained via the density bonus program using the site-specific density bonus option set forth in section 34-

1518 must submit the following eligible family household income verification reports to the division of planning so that they may monitor the program for compliance.

~~(1) Verification of the incomes of the families occupying the units must be: 1) on a form provided by the county; 2) notarized; and 3) submitted annually for ten years from the date that the certificate of occupancy is issued for the unit in question.~~

(1)a. For owner-occupied units, the income verification forms must be submitted once prior to the issuance of a certificate of occupancy and each time thereafter that the unit is sold during the following seven-year period.

(2)b. For a renter-occupied units the income verification forms must be submitted once prior to the issuance of the certificate of occupancy for the unit in question and annually thereafter for the next seven-years period. This provision also applies each time thereafter that the unit is leased during the following seven year period.

(c) *No change.*

(d) The division of planning will maintain a list, open to the public, of units available to eligible ~~families~~ by households under the bonus density program. Developers must inform the division when units are occupied by eligible ~~families~~ households so that these units may be removed from the list.

Sec. 34-1515. Prohibited acts; notice of violation.

(a) *No change.*

(b) If the director determines there is a violation of this subdivision, a notice of violation will be issued and sent, by both regular and certified mail ~~whatever reasonable method seems most likely to ensure that the notice is received~~, to the person committing the violation. The notice of violation issued must:

(1) through (3) *No change.*

(4) State that the violation must be corrected within ~~ten~~ 90 days of the date of the notice of violation.

(5) *No change.*

Sec. 34-1516. The bonus density program.

The bonus density program allows the board of county commissioners the discretion to grant bonus density to developments in accordance with the Lee Plan and the following criteria. Although approval of the use of bonus density credits is solely within the discretion of the board, applicants must comply with the minimum requirements set forth herein to be eligible for consideration for the program.

- (a) *Alternative methods:* A developer may be eligible to exceed the standard density range for a particular land use category if:
 - (1) The additional dwelling units achieved through the bonus density program will be available only to eligible ~~families~~ households in accordance with the site-specific provisions set forth in section 34-1518; or
 - (2) *No change.*
- (b) *No change.*
- (c) *Minimum requirements:*
 - (1) *No change.*
 - (2) All proposed developments must be designed so that:
 - a. *No change.*
 - b. 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;
 - c. through f. *No change.*
- (d) Parcels of land of one-half acre or less. Where the total actual bonus density will consist of only one dwelling unit and the developer agrees to participate in the program, ~~a copy of the agreement required by section 34-1518(b)(2) and the bond required by section 34-1518(b)(3)~~ may be waived upon written request to the Lee County Division of Planning for approval ~~must be provided to the division.~~
- (e) Assisted living facilities whose annual rental rates, including all services, do not exceed the levels established for eligible ~~families~~ households will be eligible for bonus density consistent with the applicable land use category. Where the cash-contribution density

bonus option is used, the cash contribution must be applied for each dwelling unit or its equivalent unit, as provided in section 34-1494, built above the standard density.

(f) through (h) *No change.*

Sec. 34-1517. Procedure to approve density increases.

(a) and (b) *No change.*

(c) *Review criteria.* Based upon the application and information available to the county concerning the subject property, a recommendation will be prepared by county staff for presentation to the hearing examiner.

(1) and (2) *No change.*

(3) A draft copy of the bonus density contract, as negotiated by the parties, must be attached to the staff recommendation. If deemed appropriate by county staff, the recommendation can provide an explanation of the contract terms and provisions.

(d) *Processing the application.*

(1) *No change.*

(2) *Board action.* The hearing examiner's recommendation will be considered by the board in accordance with the procedure set forth in section 34-83(b). During the hearing, the board will consider the evidence and testimony submitted with respect to the bonus density application along with the proposed bonus density contract and may approve or deny the application and contract based upon the criteria set forth in section 34-1517(c).

If the bonus density application is presented to the board in conjunction with a rezoning application, the board may take action on the zoning application and the bonus density application separately, such that one may be approved and the other denied. If the bonus density application is presented to the board in conjunction with a rezoning application the board's action taken on the bonus density request will be noted in the final zoning resolution.

Sec. 34-1518. Site-specific density bonus (option 1).

(a) A developer may apply for bonus density based upon an agreement to build and make the bonus density units available for eligible ~~families~~ households as follows:

(b) Prior to receiving a final development order or building permit using bonus density units, the developer must:

- (1) *No change.*
- (2) Execute a contract with the board of county commissioners, in a form approved by the county attorney's office, that will bind the developer and his successor:
 - a. In the case of rental units, to rent the unit exclusively to eligible ~~families~~ households for a period of ~~ten~~ seven years or more from the date when the certificate of occupancy is issued. ~~If the dwelling unit is rented initially to an eligible family whose income increases above the levels established for eligible families, then the developer must designate another unit for eligible family use in order to maintain the required level of eligible family units.~~
 - b. In the case of owner-occupied units, to sell the unit to an eligible family household, by conveyance that must include a recorded deed restriction prohibiting the transfer, either through rental or sale of the unit, for a period of ~~ten~~ seven years, to any other person except another eligible family household ~~who has never owned a bonus density rental unit or owner-occupied unit;~~
 - c. and d. *No change.*
 - e. To agree to rent or sell only to eligible ~~families~~ households, as defined in section 34-1512 for a period of seven years; and
 - f. To agree to comply with all federal, state and local ~~fair~~ fair housing laws, rules, regulations or orders applicable to the development for seven years from the date of the initial certificate of occupancy.
- (3) Deliver a bond or equivalent performance guarantee acceptable to the county attorney, in an amount equal to 100 percent of the contribution required by section 34-1519 (option 2)

The bond or equivalent performance guarantee must guarantee the developer's performance under this option, notwithstanding any subsequent events, including but not limited to bankruptcy, change of ownership or death. Such bond or equivalent performance guarantee must provide that the surety will pay to the county an amount equal to ~~40~~ 100 percent of the contribution rate set forth in section 34-1519(b)(2) for each bonus density rental unit or owner-occupied unit rented or sold by the principal of the bond

in violation of the requirements of subsection (b)(2)a or b or subsection (e) or (f) of this section, plus costs of litigation, including attorney's fees and interest incurred by the county, directly or indirectly, to enforce the requirements of this subdivision.

The developer of a project who has posted a equivalent performance guarantee may apply for a reduction in the surety amount by submitting documentation verifying that a dwelling unit has been occupied by a qualifying household in accordance with section 34-1514(b). The reduction in the face amount of the surety will correspond to the bonus density unit contribution rate established in the governing County administrative code. The developer may apply to reduce the surety amount each time a unit has been occupied by a qualifying household by providing the evidence described herein.

- (4) Record a covenant in the public records stating that there is an obligation to rent or sell only to eligible households, as defined in section 34-1512, for a period of seven years after the certificate of occupancy is issued. The covenant must be set to expire no earlier than seven years after the certificate of occupancy is issued.

(c) and (d) *No change.*

(e) The rental rate of bonus density rental units and the selling price of bonus density owner-occupied units may be determined by the developer; provided, however, that the monthly rent (exclusive of utility charges) or mortgage payments may not exceed 35 percent of the gross monthly income of the lessees or buyers. In the case of assisted living facilities, the rental payment, including all services, may not exceed 80 percent of the family's household's income.

(f) Lessors and sellers may rent or sell bonus density rental units and owner-occupied units only to eligible ~~families~~ households for seven years from the date of the initial certificate of occupancy.

Sec. 34-1519. Cash-contribution density bonus (option 2).

(a) A developer may elect to pay the cash contribution set forth in subsection (b)(3) of this section and satisfy the other requirements of this section. The degree to which density may be increased pursuant to this option above the standard density limitations otherwise imposed by law represents a bonus to the developer of the land and is offered as a means of encouraging the developer to contribute to the county's Affordable Housing Trust Fund, thereby assisting the county in its efforts to provide adequate housing for eligible ~~families~~ households.

Prior to receiving a final development order or building permit using bonus density units, the developer must obtain board approval in accordance with section 34-1517.

(b) through (d) *No change.*

Sec. 34-1520. Affordable Housing Trust Fund.

(a) *No change.*

(b) The fund will be used to assist the county in its efforts to provide needed housing for eligible ~~families~~ households. The assistance may include rental assistance, mortgage assistance for eligible ~~families~~ households to become potential homeowners, housing rehabilitation, demolition of dilapidated housing, and relocation of residents to safe, sanitary and decent housing, and other purposes the Board of County Commissioners may approve by resolution. The major purpose, however, will be to obtain home ownership for eligible ~~families~~ households. In any given fiscal year, at least 75 percent of the fund must be used to assist eligible ~~families~~ households.

DIVISION 17. FENCES, WALLS, GATES AND GATEHOUSES

Sec. 34-1748. Entrance gates and gatehouses.

The following regulations apply to entrance gates or gatehouses that control access to three or more dwelling units or recreational vehicles, or any commercial, industrial or recreational facility:

(1) An entrance gate or gatehouse that will control access to property 24 hours a day may be permitted provided that:

(a) and (b) *No change.*

(c) The gate or gatehouse is located*:

1 through 3. *No change.*

4. in a manner that does not impede or interfere with the normal operation and use of individual driveways or access points.

(2) through (4) *No change.*

(5) Turn-arounds. A paved turn-around, having a turning radius sufficient to accommodate a u-turn for a single unit truck (SU) vehicle as specified in the AASHTO Green Book current addition, must be provided on the ingress side of the gate or gatehouse.

DIVISION 21. MARINE FACILITIES, STRUCTURES AND EQUIPMENT

Sec. 34-1862. Marinas, fish houses and docking facilities.

(a) *Water-dependent overlay zones.* Water-dependent overlay zones have been designated for shoreline areas where priority will be granted to water-dependent land uses (Goal 8). Goal 12 and Objective ~~94.6~~ 124.6 of the Lee Plan detail specific requirements for the water-dependent overlay zones on San Carlos Island (see map 2 of the Lee Plan). Policies regulating water-dependent uses in other areas of the county are found in policies ~~98.1.1~~ 128.1.1 and ~~98.2.1~~ 128.2.1, and are mapped in the appendix of the Lee Plan, as map 12.

(b) *Marina siting criteria.* The marina siting criteria set forth in objective ~~98.5~~ 128.5 and policies ~~98.5.1~~ 128.5.1 through ~~98.5.12~~ 128.5.12 of the Lee Plan must be considered in evaluating new or substantially expanded marinas, other wet slip facilities and boatramps.

(c) *Marina design criteria.* The marina design criteria set forth in objective ~~98.6~~ 128.6 and policies ~~98.6.1~~ 128.6.1 through ~~98.6.16~~ 128.6.15 of the Lee Plan must be utilized in evaluating the design of new marinas, or expansion of wet slip facilities at existing marinas.

DIVISION 22. FARM LABOR HOUSING

Sec. 34-1891. Purpose of division.

The purpose and intent of this division is to recognize and provide for housing permanent or transient farm laborers working at agricultural operations, as called for by Lee Plan Objective ~~400.2~~ 135.2 and related policies. It is further the intent of this division that because housing established under the terms of this division is generally more intense than is otherwise permitted in agricultural areas, it will be used exclusively for agricultural housing purposes and no other. It is the intent of this division to encourage housing for farm labor to be clustered rather than spread out; this housing must be designed to standards that meet the peculiar requirements of the farm labor market while protecting the health, safety and general welfare of the farm laborers and the general public.

Sec. 34-1892. Special exception required.

Farm labor housing developed under the regulations set forth in this division must obtain a special exception if located in agricultural zoning districts (see Table 34-653). Densities in the rural, open lands, and groundwater resource/density reduction land use categories are limited as provided in Lee Plan Policy ~~400.2.3~~ 135.2.3. Densities in other land use categories are limited to the regular residential densities in the Lee Plan and to all other requirements of the site's zoning district.

DIVISION 26. PARKING

Sec. 34-2013. Access.

- (a) *No change.*
- (b) Each parking lot must have a distinct parking lot entrance. The entrance must meet the requirements of chapter 10, as well as the following :
 - (1) *No change.*
 - (2) Minimum width at property line for two-way entrances is ~~25~~ 24 feet.
 - (3) *No change.*
- (c) *No change.*

Sec. 34-2015. Location and design generally.

The location and design of all parking lots embody the following provisions:

- (1) *No change.*
- (2) *Design.*
 - a. *No change.*
 - b. If the parking lot will be used at night, adequate lighting must be provided for the driveways, ingress and egress points, and parking areas of all commercial and industrial uses. ~~Such lighting~~ Lighting must be ~~so arranged and directed to eliminate glare on any other use designed in accordance section 34-625.~~
 - c. through e. *No change.*
 - f. Adjacent commercial uses must provide parking lot interconnections for automobile traffic. Interconnects between parking lots are not intended to satisfy the criteria for site location standards as outlined in Lee Plan Policy 6.1.2.(5).

Sec. 34-2020. Required spaces.

All uses permitted under this chapter are subject to the following minimum requirements:

(1) *No change.*

(2) *Commercial uses.*

a. through g. *No change.*

h. *Drive-up facilities.* Any commercial establishment providing drive-up service windows or stalls must provide separate vehicle stacking for those uses. For the purpose of this section, a stacking unit is defined as 18 feet in length and nine feet in width. The total number of stacking units required will be based on the type of business, as follows:

1. *Banks and financial establishments:* Stacking lanes to accommodate five cars per window or point of service, including automatic teller machines, if located in a drive thru lane.

2. through 4. *No change.*

i through n. *No change.*

(3) *Commercial/industrial uses.*

a. and b. *No change.*

STAFF does NOT support the proposed amendment related to Research and Development.

c. *Research and development.* The minimum requirement is one space for each 800 square feet of total floor area. This parking requirement applies to all activity groups identified under Section 34-622(c)(41).

ed. *Services not listed elsewhere.* This category is intended for those service-oriented businesses which do not normally generate customer traffic but often maintain a fleet of company vehicles. Uses include business services group II; cleaning and maintenance services; contractors and builders; essential service facilities service centers; and repair shops groups II, III and IV. The minimum parking requirement is three spaces, plus parking for company vehicles and employee parking.

de. *Terminal, freight.* The minimum requirement is one space for each 2,000 square feet of total floor area, with a minimum of five spaces.

- ef. *Warehousing, private.* The minimum requirement is one space for each 2,000 square feet of total floor area, with a minimum of five spaces.
- fg. *Warehousing, public.* The minimum requirement is one space per 3,000 square feet of total floor area or 30 storage units, whichever is greater, with a minimum of five spaces.
- gh. *Warehousing, mini-warehouses.* The minimum requirement is one space per 25 storage units, with a minimum of five spaces.
- hi. *Wholesale establishments.* The minimum requirement is one space per company vehicle plus one space per 1,000 square feet of total floor area.

(4) through (7) *No change.*

DIVISION 30. PROPERTY DEVELOPMENT REGULATIONS

Subdivision II. Height

Sec. 34-2174. Additional permitted height when increased setbacks provided.

LDCAC recommends that this request NOT go forward.

(a) Subject to conditions set forth in section 34-2175, any building or structure may be permitted to exceed the height limitations specified by the zoning district regulations in which the property is located provided every required street, side, waterbody, and rear setback is increased by one-half foot for every one foot by which the building or structure exceeds the specified height limitation.

DIVISION 38. POLLING PLACES

STAFF does not support adoption of this Division

Sec. 34-3070. Purpose and intent.

The purpose of this division is to ensure that the Supervisor of Elections will have adequate locations for polling places throughout the County.

Sec. 34-3071. Applicability.

This division applies to private on-site recreational facilities or amenities, which include a club house, recreation hall, or other similar common facility, intended to support or serve a residential development of 100 dwelling units or more.

Sec. 34-3072. Use of facility.

The Supervisor of Elections is responsible for arranging use of the club house, recreation hall, or other similar common facility as a polling place with the entity that controls the facility prior to the election. Use of the facility includes the time necessary to establish the polling place, tabulate and post the voting results.

Sec. 34-3073. Access.

Access to the polling place must be provided to all individuals arriving to vote or work at the polling place during official voting hours, including the time required to establish the polling place, tabulate and post the voting results.

Sec. 34-3074. Polling places in planned developments

(a) A request to rezone to a planned development district, or to amend an existing planned development, involving a project of 100 dwelling units or more that includes a private on-site recreational facility or amenity (e.g. recreation hall, club house, public room, etc) must include a condition requiring the entity controlling the recreational facility or amenity to accommodate use of the facility as a polling place upon the written request of the Supervisor of Elections. Use of the facility by the Supervisor of Elections may be subject to a written agreement between the parties.

(b) If a residential project is a private development with a restricted or monitored entrance limiting access to the project residents, their guests and necessary maintenance workers, the controlling entity of the private development may limit use of the polling place to the project residents.

Sec. 34-3075. Special exception for private on-site recreation facility

(a) A special exception request to establish a private on-site recreation facility or amenity within a development of 100 or more dwelling units that includes a recreation hall, club house, or other similar common must include a condition that requires the entity controlling the recreational facility or amenity to accommodate use of the facility as a polling place upon the written request of the Supervisor of Elections. Use of the facility as a polling place may be the subject of a written agreement between the parties.

(b) If a residential project is a private development with a restricted or monitored entrance limiting access to the project residents, their guests and necessary maintenance workers, the controlling entity of the private development may limit use of the polling place to the project residents.

Sec. 34-3076. Recorded covenant or agreement.

Prior to the issuance of a certificate of compliance for an on-site recreational facility or amenity subject to section 34-3074 or 34-3075, the property owner must record a covenant in the public records establishing the obligation of the entity controlling the recreational facility to accommodate a request from the Supervisor of Elections to use the facility as a polling place. The covenant must be reviewed and approved by the County prior to recording.

DIVISION 39. USE, OCCUPANCY AND CONSTRUCTION REGULATIONS

Sec. 34-3107. Duplex and two-family attached driveways.

(a) Duplex and two-family attached units must be constructed with driveways (i.e. one for each unit) at least 20 feet wide and 20 feet long.

(b) *No change.*

(c) The driveway must be maintained for the life of the duplex or two-family attached dwelling in a safe and pothole free condition. Long term or permanent use of the driveway for activities other than vehicle parking and driving is prohibited.

Sec. 34-3108. Landscape for duplex and two-family attached units.

(a) Prior to issuance of a certificate of occupancy for ~~the~~ duplex or two-family attached units, the following minimum landscaping must be installed:

(1) *Plants.*

a. *Trees.* Four native canopy trees per lot must be installed in landscape mulch beds. Two of these trees must be planted in front of the duplex or two-family attached structure. The trees must be a minimum of ten feet in height at time of planting with a two-inch caliper (measured at 12 inches above the ground) and a four-foot spread. Two cabbage palms (*Sabal palmetto*) grouped together with a minimum of ten feet of clear trunk may be used to replace one canopy tree. Adequate space must be provided between the building structure and the plantings to allow for future growth of the trees or palms. The trees must be installed to avoid impacts to the septic drainfields and any utilities (overhead or underground).

b. through d. *No change.*

(2) through (4) *No change.*

- (5) *Maintenance.* The owner is responsible for maintaining the required landscaping in a healthy and vigorous condition at all times during the existence of the duplex or two-family attached structure. Tree and palm staking must be removed within 12 months after installation. All landscapes must be kept free of refuse, debris, disease, pests, weeds, and exotic pest plants (listed in LDC Section 10-420(h)).

ARTICLE VIII. NONCONFORMITIES

DIVISION 2. NONCONFORMING USE OF LAND

Sec. 34-3222. Enlargement or replacement.

No ~~A~~ nonconforming use of land ~~shall~~ may not be extended or enlarged, or replaced by another use that is not specifically permitted in the applicable zoning district ~~concerned~~.

Sec. 34-3223. Discontinuance.

~~No land~~ Land used in whole or in part for a nonconforming use, which use is subsequently discontinued for a continuous period of six calendar months, ~~shall~~ may not again be used except in conformity with the regulations then in effect. The intent of the owner, lessee or other user ~~shall is not be~~ relevant in determining whether the use has been discontinued.

A nonconforming use, that exists on property voluntarily made the subject of a zoning action, which is not specifically permitted under the zoning approval requested and ultimately granted becomes illegal as a result of the zoning approval. A use deemed illegal under this section must be ceased and discontinued immediately upon approval of the zoning request.

Sec. 34-3224. Erection of additional structures.

No additional structure ~~which~~ that does not conform to the requirements of this chapter ~~shall~~ may be erected in connection with a nonconforming use of land.

DIVISION 3. NONCONFORMING BUILDINGS AND USE OF BUILDINGS

Sec. 34-3241. Nonconforming buildings and structures.

(a) *No change.*

(b) A nonconforming building or structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

- (1) *No change.*
- (2) Except as provided in this section:
 - a. *No change.*
 - b. Structures ~~which have been~~ damaged by fire or other natural forces to the extent that the cost of their reconstruction or repair exceeds 50 percent of the replacement cost of the structure may be reconstructed at, but not to exceed, the legally documented actual use, density and intensity existing at the time of destruction, thereby allowing such structures to be rebuilt or replaced to the size, style and type of their original construction, including their original square footage; provided, however, that the affected structure, as rebuilt or replaced, complies with all applicable federal and state regulations, local building and life safety regulations, and other local regulations ~~which that~~ do not preclude reconstruction otherwise intended by the Lee Plan and Lee County Ordinance No. 90-61 of the county 95-14, as amended from time to time.
- (3) through (6) *No change.*
- (7) Zoning applications that include property upon which a nonconforming structure exists at the time of the zoning application, must include a sworn statement from the property owner regarding the owner's intent with respect to bringing the nonconforming structure into compliance in the event the zoning request is granted. A finding regarding the nonconforming structure must be included in the zoning resolution or decision.

SECTION EIGHT: CONFLICTS OF LAW

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

SECTION NINE: SEVERABILITY

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

SECTION TEN: CODIFICATION AND SCRIVENER'S ERRORS

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

SECTION ELEVEN: EFFECTIVE DATE

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

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

Robert P. Janes _____
Brian Bigelow _____
Ray Judah _____
Tammara Hall _____
Frank Mann _____

DULY PASSED AND ADOPTED this ___ day of _____, 2007.

ATTEST:
Charlie Green, Clerk

BOARD OF COUNTY COMMISSIONERS
LEE COUNTY, FLORIDA

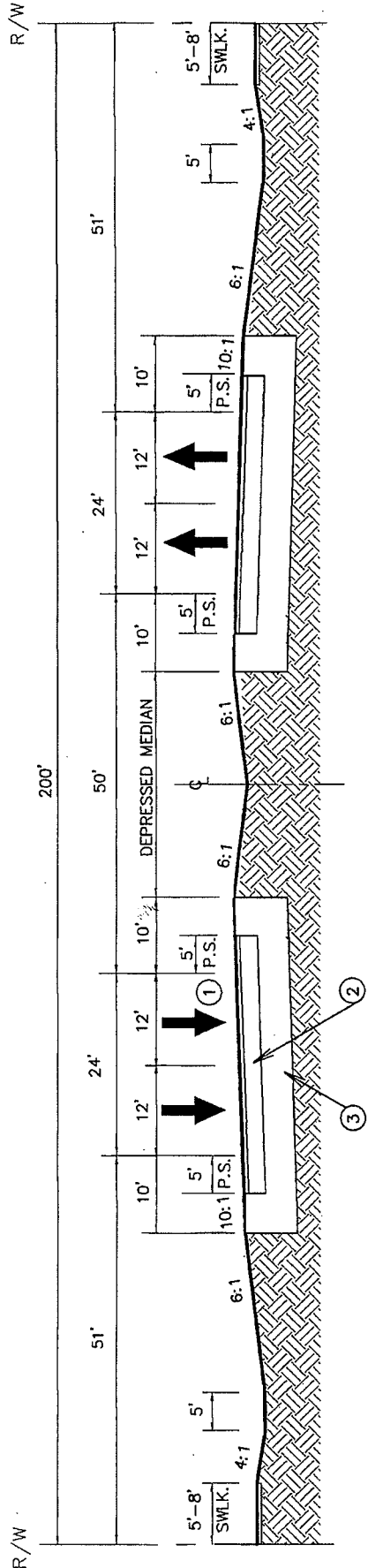
Deputy Clerk

By: _____
Robert P. Janes, Chair

APPROVED AS TO FORM

By: _____
Dawn E. Perry-Lehnert
County Attorney's Office

Attachments:
Transportation Illustrations



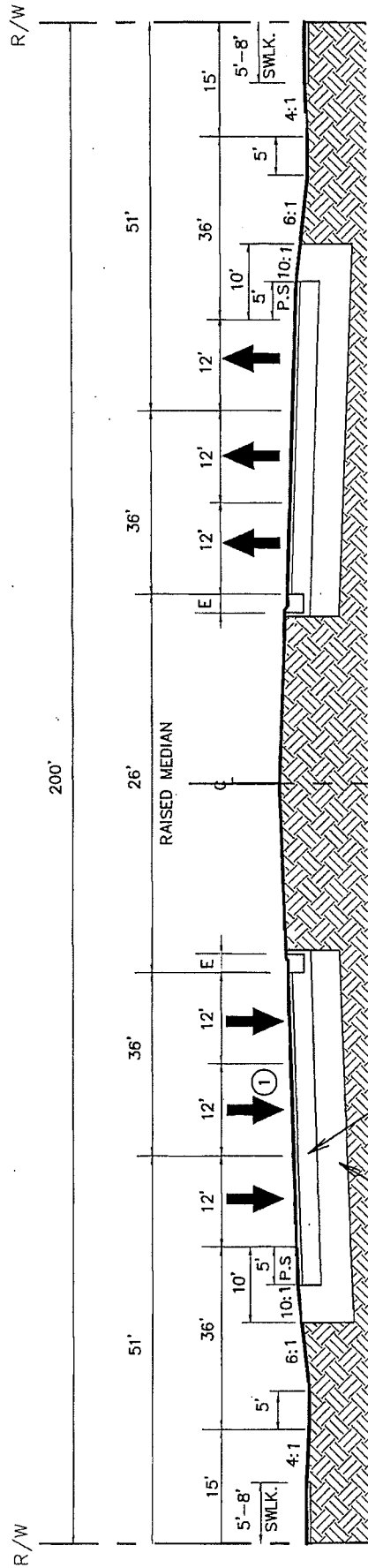
LDC SECTION 10-707(a)
4-LANE RURAL ARTERIAL
DESIGN SPEED = 60 MPH
(AS APPROVED BY THE DIRECTOR)

N.T.S.

Notes:

- (1) One inch S-III wearing surface plus two and one half inch type S-1 asphaltic concrete.
- (2) FDOT Optional BaseGroup 9 - 8" compacted limerock.
- (3) 12 inch thick stabilized subgrade LBR 40.

Exhibit A -



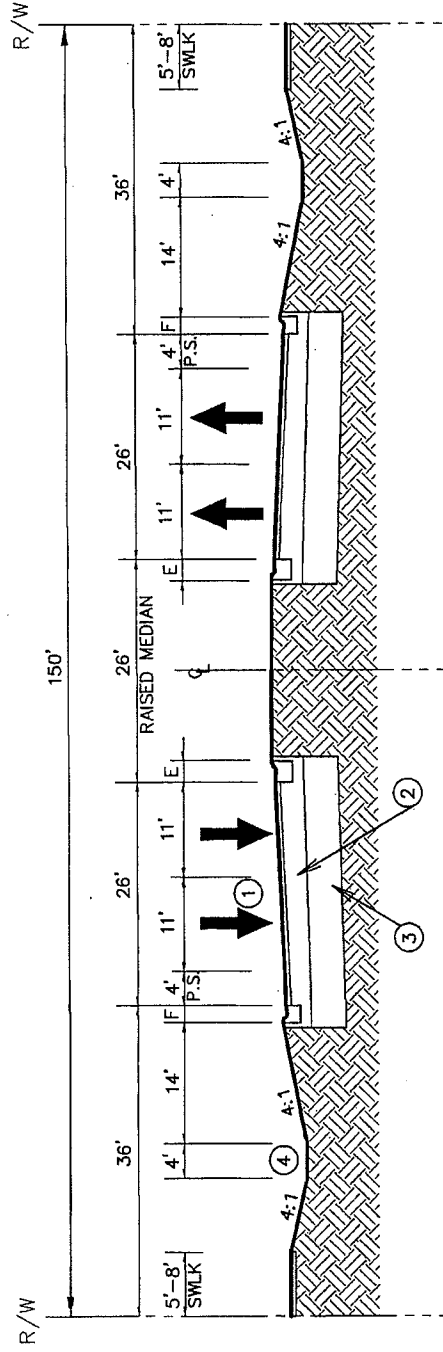
LDC SECTION 10-707(b)
6-LANE RURAL ARTERIAL
 DESIGN SPEED = 50 MPH
 (AS APPROVED BY THE DIRECTOR)

N.T.S.

Notes:

- (1) One inch S-III wearing surface plus two and one half inch type S-1 asphaltic concrete.
- (2) FDOT Optional BaseGroup 9 - 8" compacted limerock.
- (3) 12 inch thick stabilized subgrade LBR 40.

Exhibit B

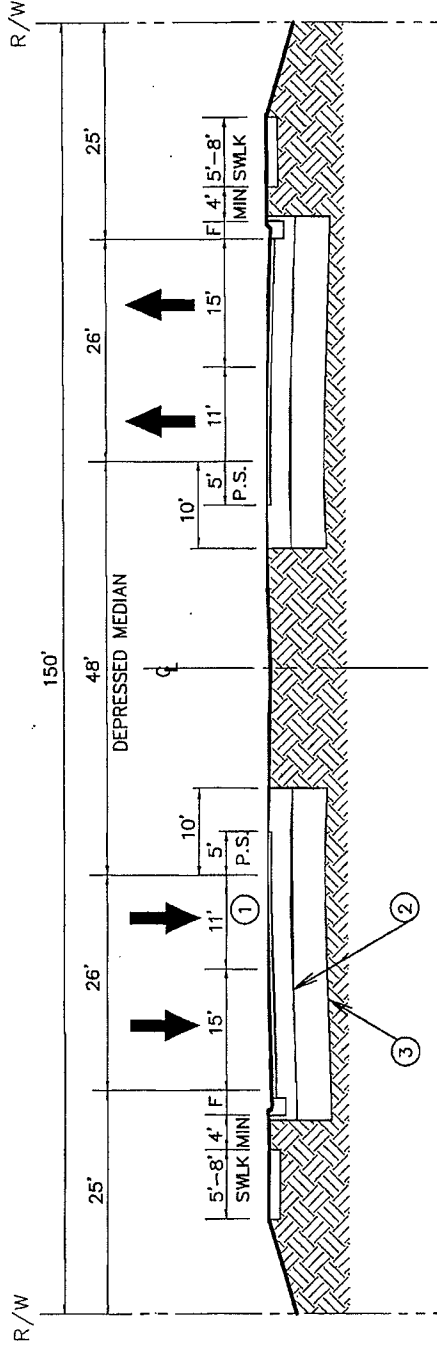


LDC SECTION 10-707(c)
4-LANE SUBURBAN ARTERIAL
DESIGN SPEED = 45 MPH
(AS APPROVED BY THE DIRECTOR)
 N.T.S.

Notes:

- (1) One inch S-III wearing surface plus two and one half inch type S-1 asphaltic concrete.
- (2) FDOT Optional BaseGroup 9 - 8" compacted limerock.
- (3) 12 inch thick stabilized subgrade LBR 40.
- (4) This size open drainage ditches are insufficient in size to retain all stormwater. Off-site retention ponds or additional drainage easements may be required.

Exhibit C

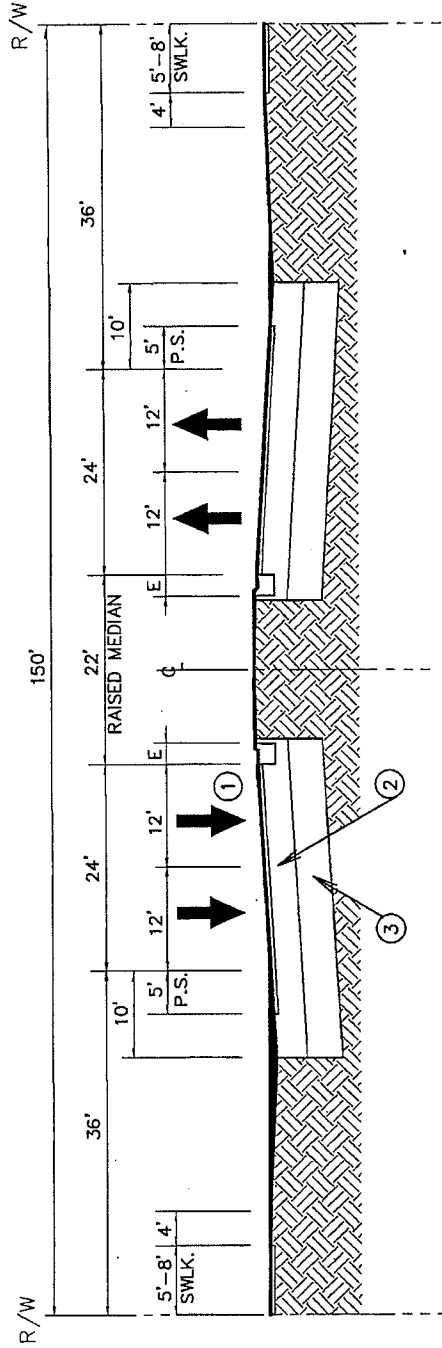


LDC SECTION 10-707(d)
4-LANE URBAN ARTERIAL
DESIGN SPEED = 45 MPH
(AS APPROVED BY THE DIRECTOR)
 N.T.S.

Notes:

- (1) One inch S-III wearing surface plus two and one half inch type S-1 asphaltic concrete.
- (2) FDOT Optional BaseGroup 9 - 8" compacted limerock.
- (3) 12 inch thick stabilized subgrade LBR 40.

Exhibit D



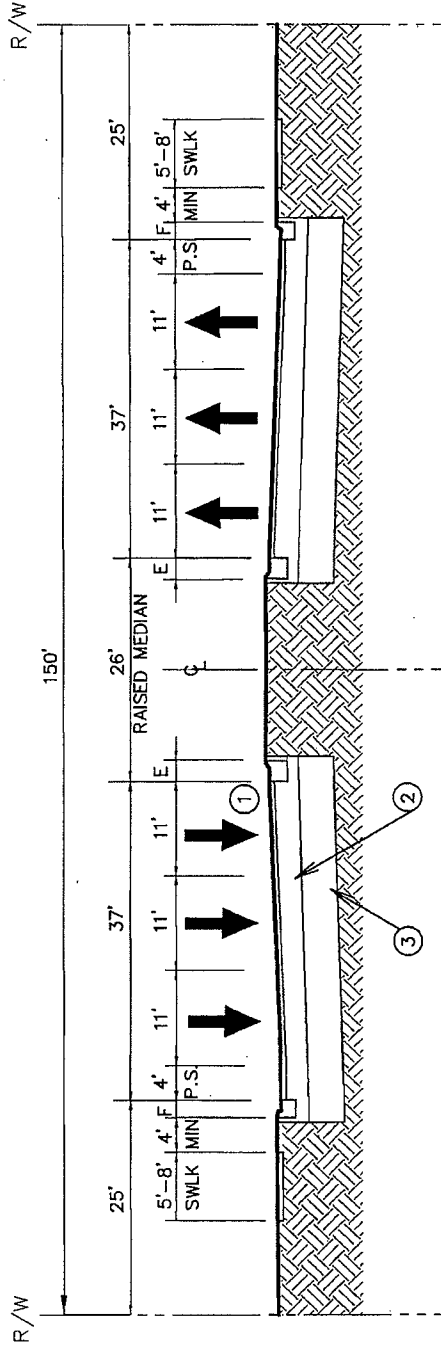
LDC SECTION 10-707(e)
4-LANE RURAL ARTERIAL
DESIGN SPEED = 50 MPH
(AS APPROVED BY THE DIRECTOR)

N.T.S.

Notes:

- (1) One inch S-III wearing surface plus two and one half inch type S-1 asphaltic concrete.
- (2) FDOT Optional BaseGroup 9 - 8" compacted limerock.
- (3) 12 inch thick stabilized subgrade LBR 40.

Exhibit E



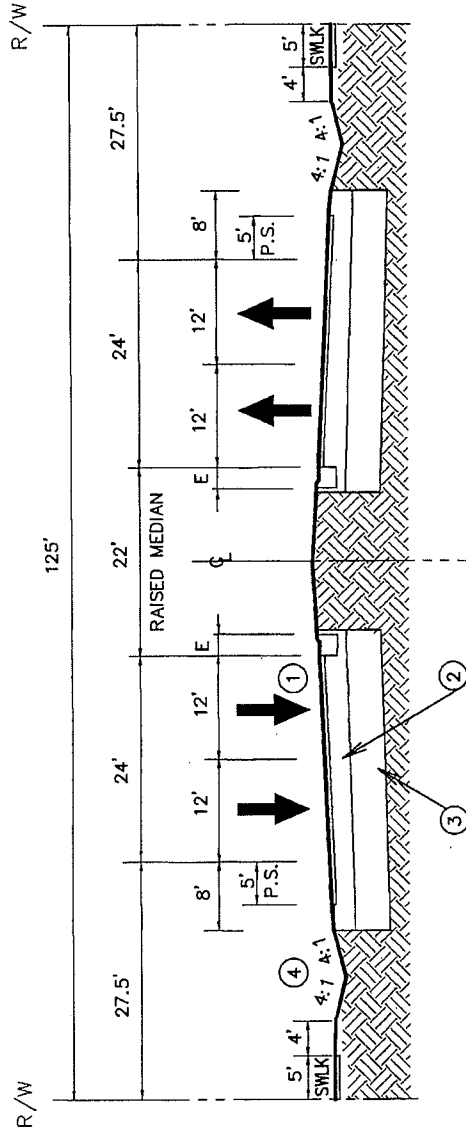
LDC SECTION 10-707(f)
6-LANE URBAN ARTERIAL
 DESIGN SPEED = 45 MPH
 (AS APPROVED BY THE DIRECTOR)

N.T.S.

Notes:

- (1) One inch S-III wearing surface plus two and one half inch type S-1 asphaltic concrete.
- (2) FDOT Optional BaseGroup 9 - 8" compacted limerock.
- (3) 12 inch thick stabilized subgrade LBR 40.

Exhibit F



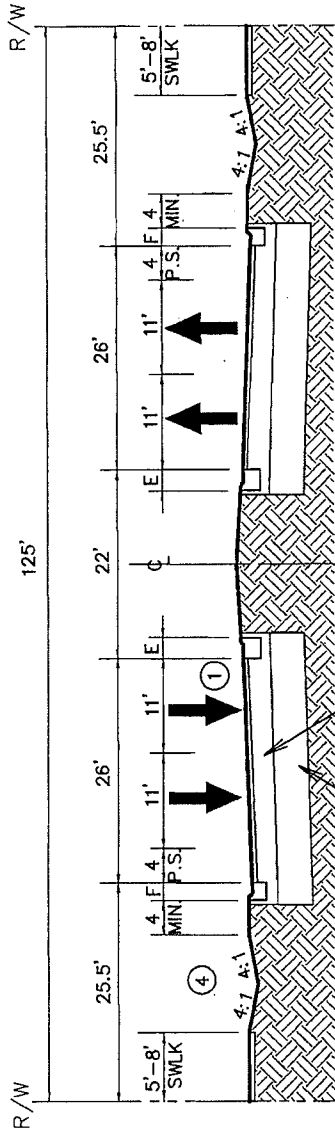
LDC SECTION 10-708 (a)
4-LANE RURAL MAJOR COLLECTOR
DESIGN SPEED = 50 MPH
(AS APPROVED BY THE DIRECTOR)
SWALES FOR CONVEYANCE

N.T.S.

Notes:

- (1) One and one half inch S-I plus one inch type S-III asphaltic concrete.
- (2) Eight inch compacted limerock (optional basegroup 9).
- (3) 12 inch thick stabilized subgrade LBR 40.
- (4) This size open drainage ditches are insufficient in size to "retain" stormwater. They may be used for conveyance only and off-site retention ponds or additional width in drainage easements would be required.

Exhibit G



LDC SECTION 10-708 (b)
4-LANE SUBURBAN MAJOR COLLECTOR

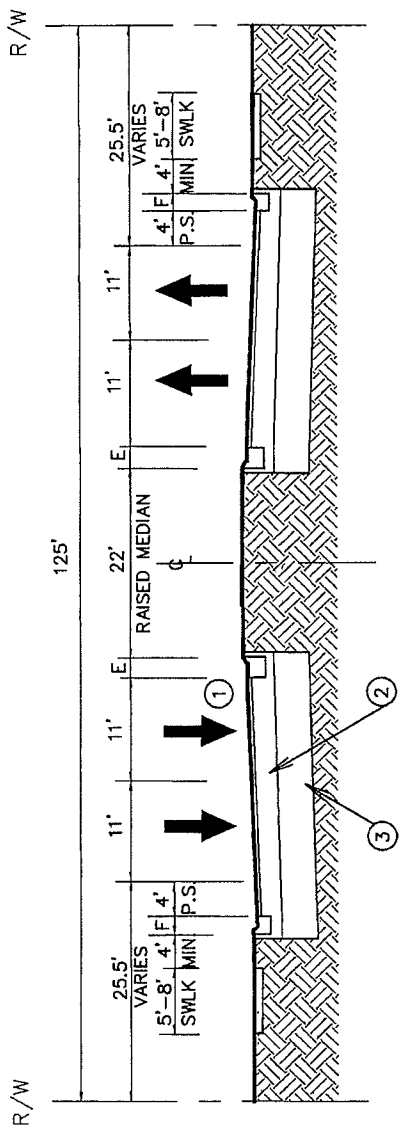
DESIGN SPEED = 45 MPH
 (AS APPROVED BY THE DIRECTOR)
 SWALES FOR CONVEYANCE
 OFF ROAD PEDESTRIAN FACILITY
 SUBSTITUTED FOR 3 FEET OUTSIDE
 LANE WIDTH

N.T.S.

Notes:

- (1) One and one half inch S-1 plus one inch type S-III asphaltic concrete.
- (2) FDOT Optional BaseGroup 9 - 8" compacted limerock.
- (3) 12 inch thick stabilized subgrade LBR 40.
- (4) This size open drainage ditches are insufficient in size to "retain" stormwater. They may be used for conveyance only and off-site retention ponds or additional width in drainage easements would be required.

Exhibit H

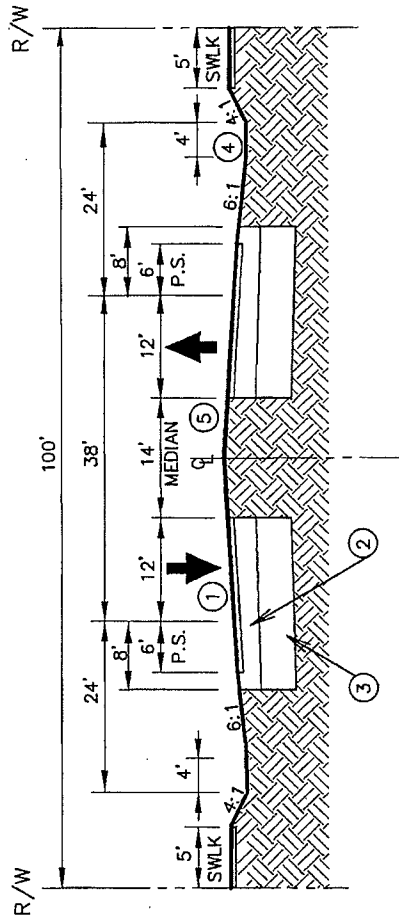


LDC SECTION 10-708(c)
4-LANE URBAN MAJOR COLLECTOR
DESIGN SPEED = 45 MPH
(AS APPROVED BY THE DIRECTOR)
 N.T.S.

Notes:

- (1) One and one half inch S-I plus one inch type S-III asphaltic concrete.
- (2) FDOT Optional BaseGroup 9 - 8" compacted limerock.
- (3) 12 inch thick stabilized subgrade LBR 40.

Exhibit I

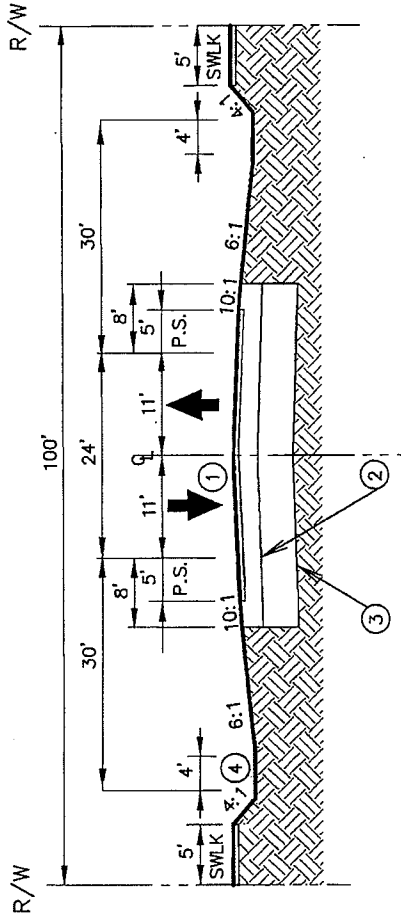


LDC SECTION 10-708 (e)
3-LANE RURAL MAJOR COLLECTOR
DESIGN SPEED = 45 MPH
(AS APPROVED BY THE DIRECTOR)
SWALES FOR CONVEYANCE
 N.T.S.

Notes:

- (1) One and one half inch S-1 plus one inch type S-III asphaltic concrete.
- (2) FDOT Optional BaseGroup 9 - 8" compacted limerock.
- (3) 12 inch thick stabilized subgrade LBR 40.
- (4) This size open ditches are insufficient in size to "retain" stormwater. They must be used for conveyance only and off-site retention ponds or additional width in drainage easements would be required.
- (5) A 14 foot two-way left turn lane may be considered subject to approval by the Director of Transportation and consistent with AC-II-3.

Exhibit J

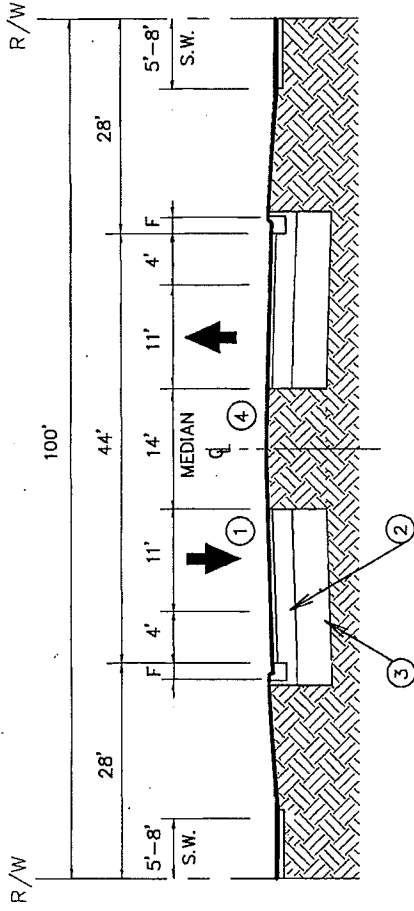


LDC SECTION 10-708(f)
2-LANE RURAL COLLECTOR
DESIGN SPEED = 55 MPH
(AS APPROVED BY THE DIRECTOR)
ON SITE RETENTION
 N.T.S.

Notes:

- (1) One and one half inch S-I plus one inch type S-III asphaltic concrete.
- (2) FDOT Optional BaseGroup 9 - 8" compacted limerock.
- (3) 12 inch thick stabilized subgrade LBR 40.
- (4) This size open drainage ditches are insufficient in size to "retain" stormwater. They may be used for conveyance only and off-site retention ponds or additional width in drainage easements would be required.

Exhibit K



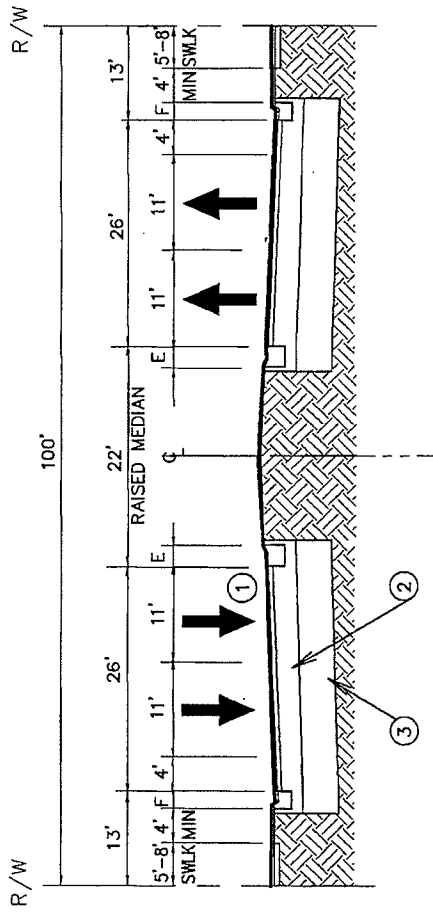
LDC SECTION 10-708 (g)
3-LANE URBAN COLLECTOR
DESIGN SPEED = 45 MPH
(AS APPROVED BY THE DIRECTOR)

N.T.S.

Notes:

- (1) One and one half inch S-1 plus one inch type S-III asphaltic concrete.
- (2) FDOT Optional BaseGroup 9 - 8" compacted limerock.
- (3) 12 inch thick stabilized subgrade LBR 40.
- (4) A 14 foot two-way left turn lane may be considered subject to approval by the Director of Transportation and consistent with AC-11-3.

Exhibit L



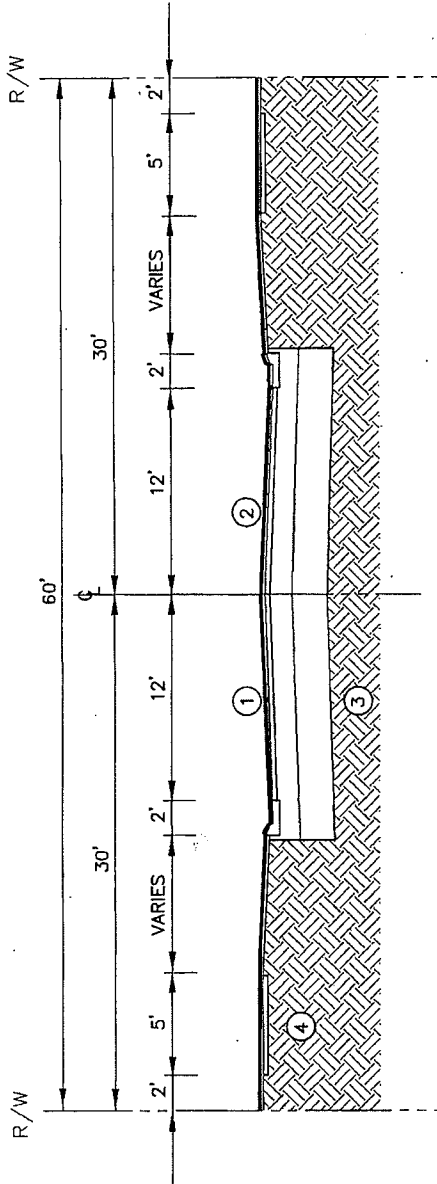
LDC SECTION 10-708(I)
4-LANE URBAN COLLECTOR
 DESIGN SPEED = 45 MPH
 (AS APPROVED BY THE DIRECTOR)

N.T.S.

Notes:

- (1) One and one half inch S-I plus one inch type S-III. asphaltic concrete.
- (2) Eight inch compacted limerock (optional basegroup 9).
- (3) 12 inch thick stabilized subgrade LBR 40.

Exhibit N



LDC SECTION 10-709 (a)
PUBLICLY MAINTAINED LOCAL STREET
WITH CLOSED DRAINAGE, ON-ROAD BIKEWAYS
WITH A VOLUME OF LESS THAN 800
VEHICLES PER DAY

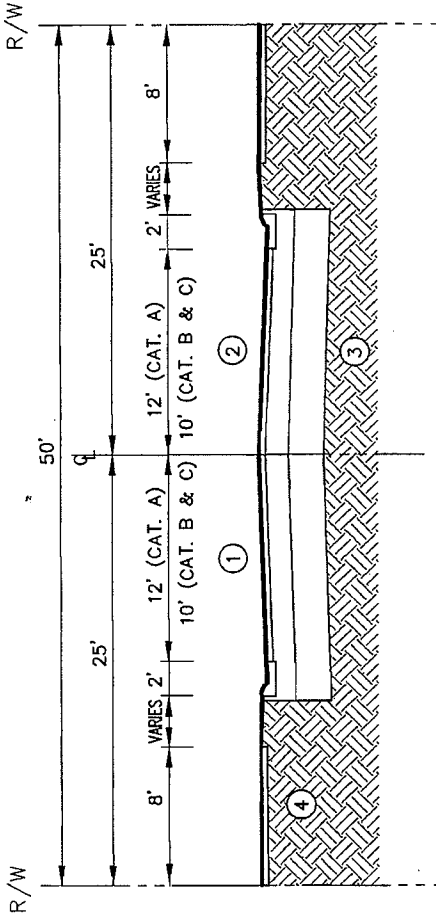
N.T.S.

CATEGORY B & C	CATEGORY A
1. 1" Type S-I asphalt concrete	1 1/2" Type S-I asphalt concrete
2. 6" Base	8" Base
3. 6" Stabilized subgrade	12" Stabilized subgrade
4. Sidewalk - one side only	Sidewalk - one side only

Notes:

- (1) A ten-foot-wide public utility easement must be provided on each side of the right-of-way.

Exhibit 0



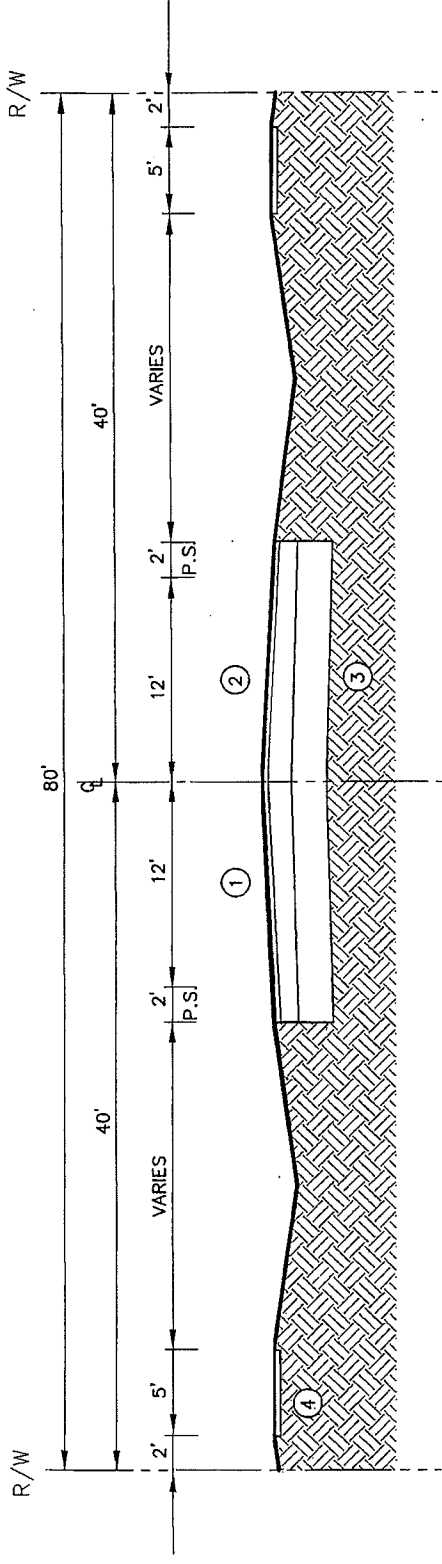
LDC SECTION 10-709(c)
PUBLICLY MAINTAINED LOCAL STREET
WITH CLOSED DRAINAGE AND OFF-ROAD
BIKEWAYS
 N.T.S.

	CATEGORY B & C	CATEGORY A
1.	1 1/2" Type S-I asphalt concrete	1 1/2" Type S-I asphalt concrete
2.	6" Base	8" Base
3.	6" Stabilized subgrade	12" Stabilized subgrade
4.	Sidewalk - one side only	Sidewalk - one side only

Notes:

- (1) A ten-foot-wide public utility easement must be provided on each side of the right-of-way.

Exhibit Q



LDC SECTION 10-709 (d)
PUBLICLY MAINTAINED LOCAL STREET
WITH OPEN DRAINAGE, ON-ROAD BIKEWAYS
WITH A VOLUME OF LESS THAN 800
VEHICLES PER DAY

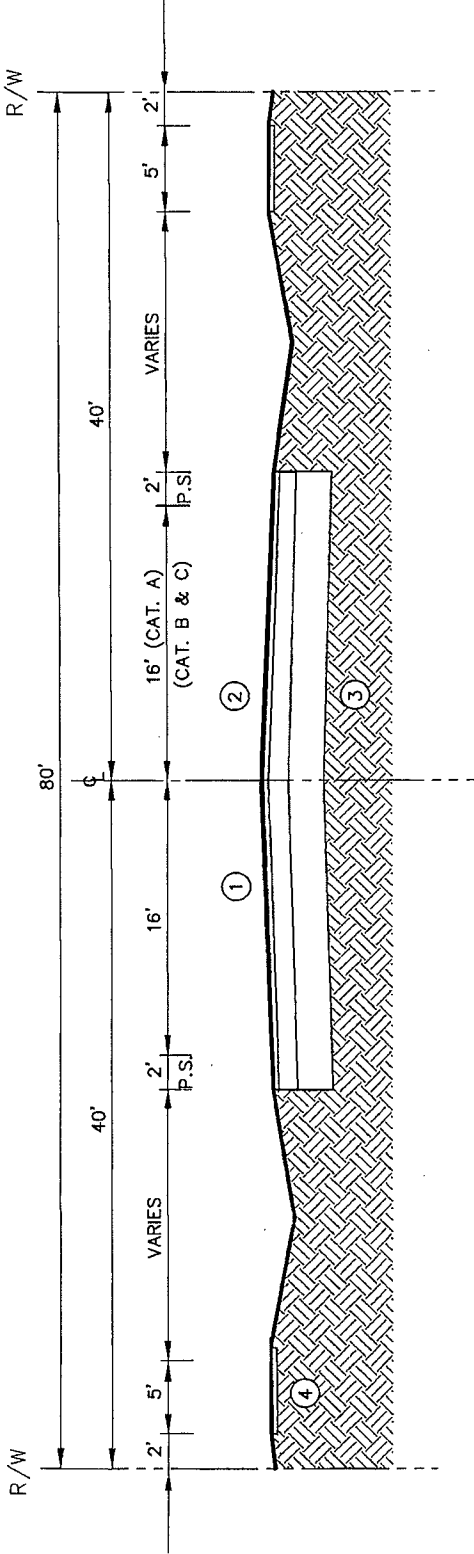
N.T.S.

	CATEGORY B & C	CATEGORY A
1.	1 1/2" Type S-I asphalt concrete	1 1/2" Type S-I asphalt concrete
2.	6" Base	8" Base
3.	6" Stabilized subgrade	12" Stabilized subgrade
4.	Sidewalk - one side only	Sidewalk - one side only

Notes:

- (1) A ten-foot-wide public utility easement must be provided on each side of the right-of-way.

Exhibit R



LDC SECTION 10-709 (e)
PUBLICLY MAINTAINED LOCAL STREET
WITH OPEN DRAINAGE, ON-ROAD BIKEWAYS
WITH A VOLUME OF MORE THAN 800
VEHICLES PER DAY

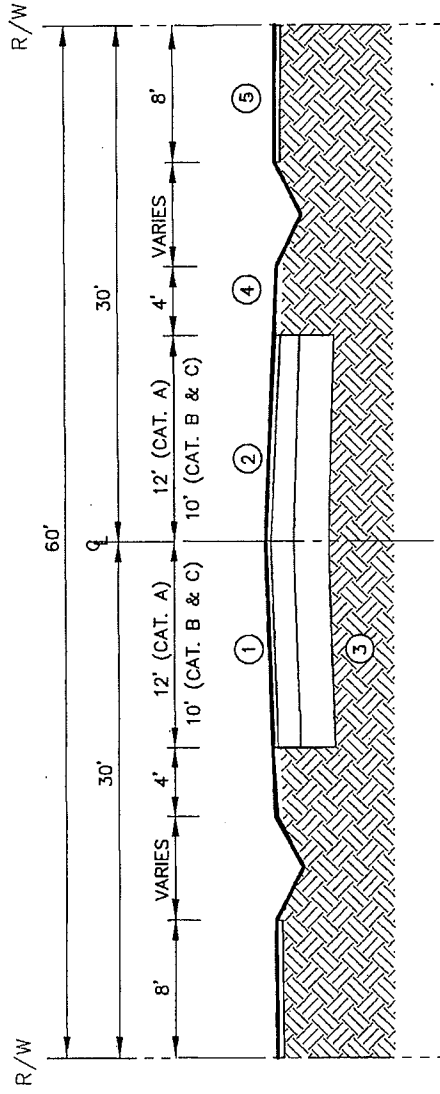
N.T.S.

	CATEGORY B & C	CATEGORY A
1.	1" Type S-I asphalt concrete	1 1/2" Type S-I asphalt concrete
2.	6" Base	8" Base
3.	6" Stabilized subgrade	12" Stabilized subgrade
4.	Sidewalk - one side only	Sidewalk - one side only

Notes:

(1) A ten-foot-wide public utility easement must be provided on each side of the right-of-way.

Exhibit S



LDC SECTION 10-709 (f)
PUBLICLY MAINTAINED LOCAL STREET
WITH OPEN DRAINAGE AND OFF-ROAD
BIKEWAYS

N.T.S.

	CATEGORY B & C	CATEGORY A
1.	1" Type S-I asphalt concrete	1 1/2" Type S-I asphalt concrete
2.	6" Base	8" Base
3.	6" Stabilized subgrade	12" Stabilized subgrade
4.	Sidewalk - one side only	Sidewalk - one side only

Notes:

- (1) A ten-foot-wide public utility easement must be provided on each side of the right-of-way.

Exhibit T