



LAND DEVELOPMENT CODE AMENDMENT

<p>PETITION PL20220000207</p> <hr/> <p>ORIGIN Board of County Commissioners (Board)</p> <hr/> <p>HEARING DATES</p> <table border="0"> <tr> <td>BCC</td> <td>TBD</td> </tr> <tr> <td>CCPC</td> <td>TBD</td> </tr> <tr> <td>DSAC</td> <td>5/4/2022</td> </tr> <tr> <td>DSAC-LDR</td> <td>3/9/2022</td> </tr> </table>	BCC	TBD	CCPC	TBD	DSAC	5/4/2022	DSAC-LDR	3/9/2022	<p>SUMMARY OF AMENDMENT This Land Development Code (LDC) amendment is intended to further revise and clarify the procedures and approval process for Comparable Use Determinations within zoning districts and planned unit of developments after the Board approved a similar amendment in 2020.</p> <hr/> <p>LDC SECTIONS TO BE AMENDED</p> <table border="0"> <tr> <td>2.03.00</td> <td>Zoning Districts; Permitted Uses, Accessory Uses, and Conditional Uses</td> </tr> <tr> <td>2.03.03</td> <td>Commercial Zoning Districts</td> </tr> <tr> <td>2.03.04</td> <td>Industrial Zoning Districts</td> </tr> <tr> <td>2.03.05</td> <td>Civic and Institutional Zoning Districts</td> </tr> <tr> <td>2.03.07</td> <td>Overlay Zoning Districts</td> </tr> <tr> <td>2.03.09</td> <td>Open Space Districts</td> </tr> <tr> <td>10.02.06</td> <td>Requirements for Permits</td> </tr> </table>	2.03.00	Zoning Districts; Permitted Uses, Accessory Uses, and Conditional Uses	2.03.03	Commercial Zoning Districts	2.03.04	Industrial Zoning Districts	2.03.05	Civic and Institutional Zoning Districts	2.03.07	Overlay Zoning Districts	2.03.09	Open Space Districts	10.02.06	Requirements for Permits
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ADVISORY BOARD RECOMMENDATIONS

DSAC-LDR	DSAC	CCPC
Approval with recommendations	TBD	TBD

BACKGROUND:

Prior to the adoption of Ordinance 2020-44, an applicant requesting a Comparable Use Determination (CUD) would file an application for a Zoning Verification Letter (ZVL) and then have the ZVL (including backup material) affirmed by either the Hearing Examiner (HEX) or Board of Zoning Appeals (BZA). This process was criticized by customers for being confusing and by staff for having no formal evaluation criteria. When the Board adopted Ordinance 2020-44, the CUD process was changed to eliminate the ZVL. Staff now evaluates each application based on the new standards and provides a written Staff Report with a recommendation to either the HEX or BZA.

The CUD process is currently connected to the list of permitted uses in the Commercial Zoning Districts (C-1 through C-5), Business Park (BP), Public Use (P), Golden Gate Parkway Overlay District (GGPOD), and the Planned Unit Development district (PUD), when such PUD contains specific provisions within its respective ordinance. The Bayshore Zoning Overlay District (BZO) and the Gateway Triangle Zoning Overlay District (GTZO), formerly known as the Bayshore Mixed Use District (BMUD) and the Gateway Triangle Mixed Use District (GTMUD), also contain provisions allowing the County Manager to make a final determination as to whether a particular use, which is unlisted in the Table of Uses, is within the same class of uses as a listed use. This provision was established by Ordinance 2012-39 and overlooked in the formation of the recent updates to the CUD process. This proposed LDC amendment shall delete these provisions. The C-1 through C-5 zoning districts also contain a provision allowing for other permitted commercial uses and professional services to be considered comparable. This provision shall be revised, so that only uses which exclusively serve the administrative functions of a business shall be permitted. This change is appropriate, because those commercial uses and professional services that are purely associated with activities conducted in an office are permitted throughout all these commercial zoning classifications.



On October 12, 2021, the Board directed staff to bring back an LDC amendment emphasizing the need for having the conditional use process be applied to CUDs. It was the Board’s concern that comparable uses should be examined for comparability, compatibility, and consistency on a site-specific basis only and not applied uniformly to all areas within the County sharing the same zoning district or to other zoning classifications having higher intensities. As such, this LDC amendment shall clear any confusion or the misapplication of the scope of a CUD, so that each request is restricted to a site-specific location (e.g., lot, parcel, tract of land, etc.) and correct any unintended consequence of expanding the CUD process beyond for which the Board intends. It shall also authorize a CUD for whenever there is a list of permissible by right, accessory, or conditional uses.

As proposed, the CUD process shall be combined with the conditional use provisions of LDC section 10.08.00 for all zoning classifications, except for when a PUD explicitly contains the provision, “any other use which is comparable in nature with foregoing uses and is consistent with the permitted uses and purpose and intent statement of the district” or any similar phrase that provides for a comparable use which is not clearly defined or described in the list of permitted uses and requires the discretion of the County Manager or their designee. In this instance, only the procedures and standards of LDC section 10.02.06 K. shall apply. Unlike other zoning classifications, PUDs are different because they are planned developments under unified ownership or control, limited to their legal boundaries at a specific location in the County, and contain a tailored list of allowable uses and development standards.

The CUD would ultimately be decided by either the HEX or BZA, depending on the scope of the application. The conditional use provisions of LDC section 10.08.00 allow for the hearing bodies to place special conditions on each request, as deemed appropriate, to ensure the application will not adversely affect the public and the surrounding properties. A companion amendment to the Administrative Code will establish in Chapter 3, a new subsection C.4, “Conditional Use-Comparable Use Determination (CU-CUD)” and modify Chapter 3. L to read “Comparable Use Determination in PUDs (PUD-CUD).”

DSAC-LDR Subcommittee Recommendations

The subcommittee unanimously recommended approval on March 9, 2022, with two caveats: that staff will look at all the overlay districts and see if any others need to be changed in accordance with these measures and to clarify the narrative’s background section in terms of how the system of allowed comparable uses in zoning districts is described. The narrative has been revised and all overlay zoning districts are included in the amendment.

FISCAL & OPERATIONAL IMPACTS

The CU-CUD application fee shall be charged the same fee as for a Conditional Use Permit at \$4,000. For a PUD-CUD application, the fee remains the same at \$1,000 and \$100 per hour as needed upon completion of staff’s review and research and provided a Conditional Use Permit is not required.

GMP CONSISTENCY

The proposed LDC amendment has been reviewed by Comprehensive Planning staff and may be deemed consistent with the GMP.

EXHIBITS: A) Administrative Code Chapters 3 C.4. and 3 L.

Amend the LDC as follows:

2.03.00 – ZONING DISTRICTS; PERMITTED USES, ACCESSORY USES, AND CONDITIONAL USES

In order to carry out and implement the Collier County GMP and the purposes of this LDC, the following zoning districts, district purposes, and applicable symbols are hereby established:

- A. Rules for Interpretation of Uses. In any zoning district, ~~where the list of permitted uses contains the phrase "any other use which is comparable in nature with the foregoing uses and is consistent with the permitted uses and purpose and intent statement of the district" or any similar phrase which provides for a use which is not clearly defined or described in the list of permitted uses, which requires the discretion of the County Manager or designee as to whether or not it is permitted in the district, then the determination of whether or not that use is permitted in the district shall be made through the process outlined in LDC section 10.02.06 K~~ it may be determined through the process outlined in LDC section 10.02.06 K. that an unlisted use is comparable in nature to a use that is permissible by right, or as an accessory or conditional use in that respective zoning district.

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2.03.03 – Commercial Zoning Districts

A. Commercial Professional and General Office District (C-1). The purpose and intent of the commercial professional and general office district C-1 is to allow a concentration of office type buildings and land uses that are most compatible with, and located near, residential areas. Most C-1 commercial, professional, and general office districts are contiguous to, or when within a PUD, will be placed in close proximity to residential areas, and, therefore, serve as a transitional zoning district between residential areas and higher intensity commercial zoning districts. The types of office uses permitted are those that do not have high traffic volumes throughout the day, which extend into the evening hours. They will have morning and evening short-term peak conditions. The market support for these office uses should be those with a localized basis of market support as opposed to office functions requiring inter-jurisdictional and regional market support. Because office functions have significant employment characteristics, which are compounded when aggregations occur, certain personal service uses shall be permitted, to provide a convenience to office-based employment. Such convenience commercial uses shall be made an integral part of an office building as opposed to the singular use of a building. Housing may also be a component of this district as provided for through conditional use approval.

- 1. The following uses, as identified with a number from the Standard Industrial Classification Manual (1987), or as otherwise provided for within this section are permissible by right, or as accessory or conditional uses within the C-1 commercial professional and general office district.

- a. **Permitted uses.**

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41. Any other commercial use or professional service ~~which is comparable in nature with the foregoing uses including those~~ that exclusively serves the administrative as opposed to the operational functions of a business and ~~are~~ is associated purely with activities conducted in an office, ~~as determined by the Hearing Examiner or CGPC, pursuant to LDC section 10.02.06 K.~~

* * * * *

B. Commercial Convenience District (C-2). The purpose and intent of the commercial convenience district (C-2) is to provide lands where commercial establishments may be located to provide the small-scale shopping and personal needs of the surrounding residential land uses within convenient travel distance except to the extent that office uses carried forward from the C-1 district will expand the traditional neighborhood size. However, the intent of this district is that retail and service uses be of a nature that can be economically supported by the immediate residential environs. Therefore, the uses should allow for goods and services that households require on a daily basis, as opposed to those goods and services that households seek for the most favorable economic price and, therefore, require much larger trade areas. It is intended that the C-2 district implements the Collier County GMP within those areas designated agricultural/rural; estates neighborhood center district of the Golden Gate Master Plan; the neighborhood center district of the Immokalee Master Plan; and the urban mixed use district of the future land use element permitted in accordance with the locational criteria for commercial and the goals, objectives, and policies as identified in the future land use element of the Collier County GMP. The maximum density permissible in the C-2 district and the urban mixed use land use designation shall be guided, in part, by the density rating system contained in the future land use element of the Collier County GMP. The maximum density permissible or permitted in a district shall not exceed the density permissible under the density rating system.

1. The following uses, as identified with a number from the Standard Industrial Classification Manual (1987), or as otherwise provided for within this section are permissible by right, or as accessory or conditional uses within the C-2 commercial convenience district.

a. *Permitted uses.*

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73. Any other commercial use or professional services ~~which is comparable in nature with the foregoing uses including those~~ that exclusively serves the administrative as opposed to the operational functions of a business and ~~are~~ is associated purely with activities conducted in an office.

~~74. Any other commercial convenience use which is comparable in nature with the list of permitted uses and consistent with the purpose and intent statement of the district, as determined by the Hearing Examiner or CGPC, pursuant to LDC section 10.02.06 K.~~

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~~75-74.~~ An existing lawful structure over 1,800 sq. ft. as of July 14, 2014 may be occupied by any C-2 permitted use with a 1,800 sq. ft. or greater limitation.

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C. Commercial Intermediate District (C-3). The purpose and intent of the commercial intermediate district (C-3) is to provide for a wider variety of goods and services intended for areas expected to receive a higher degree of automobile traffic. The type and variety of goods and services are those that provide an opportunity for comparison shopping, have a trade area consisting of several neighborhoods, and are preferably located at the intersection of two-arterial level streets. Most activity centers meet this standard. This district is also intended to allow all of the uses permitted in the C-1 and C-2 zoning districts typically aggregated in planned shopping centers. This district is not intended to permit wholesaling type of uses, or land uses that have associated with them the need for outdoor storage of equipment and merchandise. A mixed-use project containing a residential component is permitted in this district subject to the criteria established herein. The C-3 district is permitted in accordance with the locational criteria for commercial and the goals, objectives, and policies as identified in the future land use element of the Collier County GMP. The maximum density permissible in the C-3 district and the urban mixed use land use designation shall be guided, in part, by the density rating system contained in the future land use element of the Collier County GMP. The maximum density permissible or permitted in the C-3 district shall not exceed the density permissible under the density rating system.

1. The following uses, as identified with a number from the Standard Industrial Classification Manual (1987), or as otherwise provided for within this section are permissible by right, or as accessory or conditional uses within the commercial intermediate district (C-3).

a. *Permitted uses.*

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93. Any use which was permissible under the prior General Retail Commercial (GRC) zoning district, as identified by Zoning Ordinance adopted October 8, 1974, and which was lawfully existing prior to the adoption of this Code.

* * * * *

95. Any other commercial use or professional services ~~which is comparable in nature with the foregoing uses including those~~ that exclusively serves the administrative as opposed to the operational functions of a business and ~~are~~ is associated purely with activities conducted in an office.

~~96. Any other intermediate commercial use which is comparable in nature with the list of permitted uses and consistent with the~~

~~purpose and intent statement of the district, as determined by the Hearing Examiner or CCPC, pursuant to LDC section 10.02.06 K.~~

~~97.96.~~ An existing lawful structure over 5,000 sq. ft. as of July 14, 2014 may be occupied by any C-3 permitted use with a 5,000 sq. ft. or greater limitation.

* * * * *

D. General Commercial District (C-4). The general commercial district (C-4) is intended to provide for those types of land uses that attract large segments of the population at the same time by virtue of scale, coupled with the type of activity. The purpose and intent of the C-4 district is to provide the opportunity for the most diverse types of commercial activities delivering goods and services, including entertainment and recreational attractions, at a larger scale than the C-1 through C-3 districts. As such, all of the uses permitted in the C-1 through C-3 districts are also permitted in the C-4 district. The outside storage of merchandise and equipment is prohibited, except to the extent that it is associated with the commercial activity conducted on-site such as, but not limited to, automobile sales, marine vessels, and the renting and leasing of equipment. Activity centers are suitable locations for the uses permitted by the C-4 district because most activity centers are located at the intersection of arterial roads. Therefore the uses in the C-4 district can most be sustained by the transportation network of major roads. The C-4 district is permitted in accordance with the locational criteria for uses and the goals, objectives, and policies as identified in the future land use element of the Collier County GMP. The maximum density permissible or permitted in a district shall not exceed the density permissible under the density rating system.

1. The following uses, as defined with a number from the Standard Industrial Classification Manual (1987), or as otherwise provided for within this section are permissible by right, or as accessory or conditional uses within the general commercial district (C-4).

a. *Permitted uses.*

* * * * *

141. Any other commercial use or professional services ~~which is comparable in nature with the foregoing uses including those~~ that exclusively serves the administrative as opposed to the operational functions of a business and ~~are~~ is purely associated with activities conducted in an office.

~~142.—Any other general commercial use which is comparable in nature with the list of permitted uses and consistent with the purpose and intent statement of the district, as determined by the Hearing Examiner or CCPC, pursuant to LDC section 10.02.06 K.~~

* * * * *

E. Heavy Commercial District (C-5). In addition to the uses provided in the C-4 zoning district, the heavy commercial district (C-5) allows a range of more intensive commercial uses and

1 services which are generally those uses that tend to utilize outdoor space in the conduct
 2 of the business. The C-5 district permits heavy commercial services such as full-service
 3 automotive repair, and establishments primarily engaged in construction and specialized
 4 trade activities such as contractor offices, plumbing, heating and air conditioning services,
 5 and similar uses that typically have a need to store construction associated equipment
 6 and supplies within an enclosed structure or have showrooms displaying the building
 7 material for which they specialize. Outdoor storage yards are permitted with the
 8 requirement that such yards are completely enclosed or opaquely screened. The C-5
 9 district is permitted in accordance with the locational criteria for uses and the goals,
 10 objectives, and policies as identified in the future land use element of the Collier County
 11 GMP.

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 13 1. The following uses, as identified with a number from the Standard Industrial
 14 Classification Manual (1987), or as otherwise provided for within this section are
 15 permissible by right, or as accessory or conditional uses within the heavy
 16 commercial district (C-5).

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 18 a. *Permitted uses.*

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 22 182. Any other commercial use or professional services ~~which is~~
 23 ~~comparable in nature with the foregoing uses including those~~ that
 24 exclusively serves the administrative as opposed to the operational
 25 functions of a business and ~~are~~ is purely associated with activities
 26 conducted in an office.

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 28 ~~183.—Any other heavy commercial use which is comparable in nature with~~
 29 ~~the list of permitted uses and consistent with the purpose and intent~~
 30 ~~statement of the district, as determined by the Hearing Examiner or~~
 31 ~~CCPC, pursuant to LDC section 10.02.06 K.~~

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 36 **2.03.04 – Industrial Zoning Districts**

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 40 B. Business Park District (BP). The purpose and intent of the business park district (BP) is to
 41 provide a mix of industrial uses, corporate headquarters offices and business/professional
 42 offices which complement each other and provide convenience services for the employees
 43 within the district; and to attract businesses that create high value added jobs. It is intended
 44 that the BP district be designed in an attractive park-like environment, with low structural
 45 density and large landscaped areas for both the functional use of buffering and enjoyment
 46 by the employees of the BP district. The BP district is permitted by the urban mixed use,
 47 urban commercial, and urban-industrial districts of the future land use element of the
 48 Collier County GMP.

49
 50 1. The following uses, as identified within the latest edition of the Standard Industrial
 51 Classification Manual, or as otherwise provided for within this section, are

permitted as of right, or as uses accessory to permitted primary or secondary uses or are conditional uses within the business park district.

a. Permitted primary uses. One hundred percent of the total business park district acreage is allowed to be developed with the following uses:

* * * * *

~~34. Any other use which is comparable in nature with the list of permitted uses and consistent with the purpose and intent statement of the district, as determined by the Hearing Examiner or CCPC, pursuant to LDC section 10.02.06 K.~~

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2.03.05 - Civic and Institutional Zoning Districts

A. Public Use District (P). The purpose and intent of public use district (P) is to accommodate only local, state and federally owned or leased and operated government facilities that provide essential public services. The P district is intended to facilitate the coordination of urban services and land uses while minimizing the potential disruption of the uses of nearby properties.

* * * * *

4. The following uses are permitted as of right, or as accessory or conditional uses, in the public use district (P).

a. Permitted uses.

* * * * *

~~14. Any other public structures and uses which are comparable in nature with the list of permitted uses, and consistent with the purpose and intent statement of the district, as determined by the Hearing Examiner or CCPC, pursuant to LDC section 10.02.06 K.~~

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2.03.07 – Overlay Zoning Districts

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F. Golden Gate Parkway Overlay District (GGPOD).

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5. Table of Uses.

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b. Table 1.

Use Category	Mixed Use Activity Center Subdistrict (GGPOD-AC) ¹	Downtown Center Commercial Subdistrict (GGPOD-DT) ¹
Residential Uses		
1) Artist village.	P	P
2) Dwelling, Multi-Family, including townhouses.	P	P
3) Live-work units.	P	P
4) Any use listed as permitted in the underlying zoning.	P	P
5) Any use listed as a conditional use in the underlying zoning district.	CU	CU
Commercial Uses²		
1) Any use listed as permitted in the underlying zoning district.	P	P
2) Any use listed as a conditional use in the underlying zoning district.	<u>CU</u>	<u>CU</u>
3) Any use listed as a permitted use in any of the C-1, C-2, or C-3 zoning districts, without size limitations.	P	P
4) Any use listed as a conditional use in any of the C-1, C-2, or C-3 zoning districts, without size limitations.	P	CU ⁴
5) Any use listed as a permitted use in the C-4 or C-5 zoning districts.	P	
6) Any use listed as a conditional use in the C-4 or C-5 zoning districts.	CU ⁴	
7) Hotels and motels (7011, 7021, and 7041).	P	P
Economic Development Uses^{2, 3}		
1) Aircraft and parts (3721—3728).	P	
2) Beverages (2082—2087).	P	
3) Communications equipment (3661—3669).	P	
4) Computer and office equipment (3571—3579).	P	
5) Construction, mining, and materials handling (3531, 3534-3537).	P	

DRAFT

Text underlined is new text to be added

~~Text strikethrough is current text to be deleted~~

6) Dental laboratories (8072).	P	
7) Drugs (2833—2836).	P	
8) Electrical industrial apparatus (3621—3629).	P	
9) Electric lighting and wiring equipment (3641—3646, 3648).	P	
10) Electric transmission and distribution equipment (3612-3613).	P	
11) Electronic components and accessories (3671—3679).	P	
12) Engines and turbines (3511—3519).	P	
13) Farm machinery and equipment (3523—3524).	P	
14) Furniture and fixtures, not elsewhere classified (2599).	P	
15) General industrial machinery and equipment (3561, 3563, 3565—3569).	P	
16) Household appliances, not elsewhere classified (3639).	P	
17) Household audio and video equipment, and audio (3651—3652).	P	
18) Jewelers' findings and materials, and lapidary work (3915).	P	
19) Laboratory apparatus and analytical, optical, measuring, and controlling instruments (3821—3829).	P	
20) Manufacturing industries, not elsewhere classified (3999).	P	
21) Metalworking machinery and equipment (3546 and 3548).	P	
22) Miscellaneous electrical machinery, equipment, and supplies (3691—3692, 3695—3699).	P	
23) Miscellaneous industrial and commercial (3593—3599).	P	
24) Ophthalmic goods (3851).	P	
25) Photographic equipment and supplies (3861).	P	
26) Refrigeration and service industry machinery (3581—3582, 3586-3589).	P	
27) Search, detection, navigation, guidance, aeronautical, and nautical systems and instruments (3812).	P	
28) Special industry machinery, except metalworking (3552-3559).	P	
29) Surgical, medical, and dental instruments and supplies (3841-3845).	P	

30) Transportation equipment, not elsewhere classified (3799).	P	
31) Watches, clocks, clockwork operated devices, and parts (3873).	P	
32) Any other Economic Development use which is comparable in nature with the list of permitted uses contained herein and consistent with the purpose and intent statement of the GGPOD as determined by the Hearing Examiner or Board of Zoning Appeals, pursuant to LDC section 10.02.06.	P	

Notes:

- ¹ See LDC section 2.03.07 F.6. for specific prohibitions in the GGPOD.
- ² See LDC section 4.02.26 B.14. for pollution control standards.
- ³ See LDC section 4.02.26 C. for design standards specific to Economic Development uses.
- ⁴ Vertical mixed use developments shall be permitted uses.

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I. Bayshore Zoning Overlay District (BZO). This section provides special conditions for the properties adjacent to Bayshore Drive as identified by the designation "BZO" on the applicable official Collier County Zoning Atlas Map or map series.

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4. Bayshore Zoning Overlay District (BMUD) Subdistricts.

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b. Use Categories and Table of Uses.

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ii. Interpretation of the Table of Uses.

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~~b) Any use not listed in the Table of Uses is prohibited unless the County Manager or designee may determine that it falls within the same class as a listed use through the process outlined in LDC section 1.06.00, Rules of Interpretation.~~

e)b) Mixed Use Projects shall be limited to the permitted, accessory and conditional uses allowed in the BZO-NC and BZO-W subdistricts, and subject to the MUP approval process as outlined in LDC section 10.02.15. All other projects may elect to establish uses, densities and intensities in accordance with their underlying zoning, except as restricted in LDC section 2.03.07 I.4.b.iv., or in accordance with the Overlay Subdistrict. However, all

projects must comply with site development standards as provided in LDC section 4.02.16.

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6 N. Gateway Triangle Zoning Overlay District (GTZO). This section contains special
7 conditions for the properties in and adjacent to the Gateway Triangle as identified by the
8 designation "GTZO" on the applicable official Collier County Zoning Atlas Map or map
9 series.

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13 4. Gateway Triangle Zoning Overlay District (GTZO) Subdistricts.

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17 b. Use Categories and Table of Uses.

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21 ii. Interpretation of the Table of Uses.

22 ~~a) Any uses not listed in the Table of Uses are prohibited. In
23 the event that a particular use is not listed in the Table of
24 Uses, the County Manager or designee may determine that
25 it falls within the same class as a listed use through the
26 process outlined in LDC section 1.06.00, Rules of
27 Interpretation.~~

28
29 ~~b)~~a) The Table of Uses identifies uses as permitted uses (P);
30 accessory uses (A); conditional uses (CU), or a combination
31 of the three. Blank cells indicate that a use is not allowed in
32 the corresponding subdistrict; however, such use may be
33 permitted by the underlying zoning designation.

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35 ~~e)~~b) Mixed Use Projects shall be limited to the permitted,
36 accessory and conditional uses allowed in the GTZO-MXD
37 subdistrict, and subject to the MUP approval process as
38 outlined in LDC section 10.02.15. All other projects may
39 elect to establish uses, densities and intensities in
40 accordance with their underlying zoning or in accordance
41 with the Overlay Subdistrict. However, all projects must
42 comply with site development standards as provided in LDC
43 section 4.02.16.

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49 **2.03.09 – Open Space Zoning Districts**
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1 A. Golf Course and Recreational Use District "GC". The purpose and intent of "GC" district
2 is to provide lands for golf courses, recreational uses, and normal accessory uses,
3 including certain uses of a commercial nature. Recreational uses should be compatible in
4 scale and manner with residential land uses. The GC district shall be in accordance with
5 the urban mixed use district and the agricultural/rural mixed use district of the future land
6 use element of the Collier County GMP. All uses shall be subject to design standards
7 established in LDC section 5.05.15 H, and other applicable LDC standards.
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9 1. The following subsections identify the uses that are permissible by right and the
10 uses that are allowable as accessory or conditional uses in the GC district.
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14 c. Conditional uses. The following uses are permissible as conditional uses
15 in the GC district, subject to the standards and provisions established in
16 LDC section 10.08.00.
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20 ~~11. Any other recreational use which is compatible in nature with the~~
21 ~~foregoing uses as determined by the Hearing Examiner or Board of~~
22 ~~Zoning Appeals, as applicable.~~
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27 **10.02.06 – Requirements for Permits**
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29 K. Comparable Use Determination.
30

31 1. The following Comparable Use Determination (CUD) shall be used to determine
32 whether a use is comparable in nature with the list of permitted uses that are
33 permissible by right, the uses that are allowable as accessory or conditional uses,
34 and the purpose and intent statement of ~~each~~ the zoning district, overlay, or PUD.
35

36 2. To be effective, the Comparable Use Determination shall be approved by the
37 Hearing Examiner by decision or Board of Zoning Appeals by resolution, at an
38 advertised public hearing based on the following standards, as applicable:
39

40 a. The proposed use possesses similar characteristics to other permitted
41 uses in the zoning district, overlay, or PUD, including but not limited to the
42 following:

- 43 i. Operating hours;
- 44 ii. Traffic volume generated/attracted;
- 45 iii. Type of vehicles associated with the use;
- 46 iv. Number and type of required parking spaces; and
- 47 v. Business practices and activities.

48
49 b. The effect of the proposed use would have on neighboring properties in
50 relation to the noise, glare, or odor effects shall be no greater than that of
51 other permitted uses in the zoning district, overlay, or PUD.

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- c. The proposed use is consistent with the GMP, meaning the applicable future land use designation does not specifically prohibit the proposed use, and, where the future land use designation contains a specific list of allowable uses, the proposed use is not omitted.
- d. The proposed use shall be compatible and consistent with the other permitted uses in the zoning district, overlay, or PUD.
- e. Any additional relevant information as may be required by County Manager or Designee.
- f. Except for properties located in a PUD, each petition for CUD shall require minor conditional use approval or conditional use approval in accordance with the procedures set forth in LDC section 10.08.00. If a PUD does not contain the phrase, "any other use which is comparable in nature with the foregoing uses and is consistent with the permitted uses and purpose and intent statement of the district" or any similar phrase that provides for a use that is not clearly defined or described in the list of permitted uses, which requires the discretion of the County Manager or designee as to whether or not it is permitted in the district, then the determination of whether or not that use is permitted in the district shall be made in accordance with this section and with the procedures set forth in LDC section 10.08.00.

3. The Administrative Code shall establish the process and application submittal requirements to obtain a Comparable Use Determination.

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C.4. Conditional Use - Comparable Use Determination (CU-CUD)

Reference LDC sections 2.03.00 A, 10.02.06 K, 10.08.00, LDC Public Notice section 10.03.06 B., C, or O, LDC section 8.10.00 and F.S. §125.66.

Applicability A Conditional Use - Comparable Use Determination shall be used to determine if a new use is comparable, compatible, and consistent with the list of identified uses that are permissible by right, or the uses that are allowable as accessory or conditional uses in a standard zoning district, overlay, or a PUD ordinance, if such PUD does not contain the phrase, "any other use which is comparable in nature with the foregoing uses and is consistent with the permitted uses and purpose and intent statement of the district" or any similar phrase is not within the list of permitted uses to provide for an unlisted use. See Chapter 3.L. for additional information regarding Comparable Use Determination in PUDs.

Pre-Application A pre-application meeting is required.

Initiation The applicant files a "Conditional Use - Comparable Use Determination Application or an Application for Public Hearing for Conditional Use" with the Zoning Division.

↔ See Chapter 1 D. for additional information regarding the procedural steps for initiating an application.

Application Contents The petition should include material necessary to demonstrate that the approval of the conditional use will be in harmony with the general intent and purpose of the LDC, will be consistent with the Growth Management Plan, will not be injurious to the neighborhood or to adjoining properties, or otherwise detrimental to the public welfare.

The application must include the following:

1. Applicant contact information.
2. Addressing checklist.
3. A cover letter briefly explaining the proposed project.
4. Property Ownership Disclosure Form.
5. The date the subject property was acquired or leased (including the term of the lease). If the applicant has an option to buy, indicate the date of the option, the date the option terminates, and anticipated closing date.
6. The name and mailing address of all registered Home Owners Associations and civic associations whose members are impacted by the application.
7. Pre-application meeting notes.
8. A copy of the last recorded deed, contract for sale or agreement for sale, or a notarized statement of ownership clearly.
9. PUD Ordinance and Development Commitment Information, if applicable.

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10. A written petition that shows how the proposed use satisfies the findings outlined in LDC section 10.08.00.

11. Property information, including:

- a. Legal description; or if the conditional use involves only part of a PUD, only a legal description for the subject portion is required;
- b. **Property identification number;**
- c. Section, township and range;
- d. Subdivision, unit, lot and block, or metes and bounds description;
- e. Address of subject site and general location;
- f. Size of property in feet and acres;
- g. **Property owner's name;** and
- h. Verification being requested.

12. If the **property owner** owns additional property contiguous to the subject property, then the following information, regarding the contiguous property, must be included:

- a. Legal description;
- b. **Property identification number;**
- c. Section, township, and range; and
- d. Subdivision, unit, lot and block, or metes and bounds description.

13. Zoning information, including:

Adjacent zoning and land use.

14. Conditional Use request detail, identifying current zoning district, type of use and present use of property.

15. A description of previous land use applications on the subject property, including whether a public hearing was held on the property or any abutting properties within the year preceding the application, and the nature of that hearing.

16. Conceptual site development plans at an appropriate scale showing the proposed placement of structures on the property, provisions for ingress and egress, off-street parking and off-street loading areas, refuse and service areas, and required yards, and other open spaces. The conceptual site development plan does not replace the site development plan (SDP) required by Chapter 4 of the Administrative Code.

17. Completed Statement of Utility Provisions.

18. Plans showing proposed locations for utilities.

19. Plans for screening and buffering the use with reference as to type, dimensions, and character.

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20. Plans showing the proposed landscaping and provisions for trees protected by County regulations.
21. Plans showing the proposed signs and lighting, including type, dimensions, and character.
22. Environmental Data Requirements. ⇔ See **LDC section 3.08.00 A.**
23. Environmental Data Requirements for PUD Zoning and Conditional Uses ⇔ See Chapter 7 A. of the Administrative Code.
24. Recent aerial photographs must be legible at the scale provided. The aerial shall identify plant and/or wildlife habitats and their boundaries. The identification shall be consistent with the Florida Department of Transportation Land Use Cover and Forms Classification System. Developments shall identify, protect, conserve, and appropriately use native vegetative communities and wildlife habitat.
25. An Architectural Rendering of proposed structures, if applicable, ⇔ See Chapter 4 A. of the Administrative Code.
26. Traffic Impact Study ⇔ See Chapter 7 B. of the Administrative Code.
27. If the property is located within an area of historical or archaeological probability, as identified at the pre-app meeting, a historical and archaeological survey or waiver application.
28. If the zoning district places additional requirements on the requested use, include documentary evidence that those requirements are met.
29. Permits: All Federal, State, and local permits shall be submitted prior to construction and before the pre-construction meeting. If approved by the County Manager or designee, an **applicant** may submit Federal, State, and local agency permits at the pre-construction meeting.
30. Owner/agent affidavit as to the correctness of the application.
- 31. Electronic copies of all documents.**
32. Affidavit of Authorization.
33. A narrative statement that describes the determination request, the justification for the use by a certified land use **planner** or a land use attorney and addresses the standards within LDC section **10.02.06 K.2.**
34. Additional materials may be requested by staff depending on the use and justification provided.

Notice for Minor Conditional Use petitions

Notification requirements are as follows. ⇔ See Chapter 8 of the Administrative Code for additional notice information.

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1. **NIM:** The **NIM** shall be completed at least 15 days prior to the Hearing Examiner's receipt of the staff report and application materials in accordance with the applicable sections of the Administrative Code. The **NIM** shall be advertised, and a mailed written notice shall be given to **property owners in the notification area** at least 15 days prior to the **NIM** meeting.
2. **Mailed Notice:** Written notice shall be sent to **property owners in the notification area** at least 15 days before the advertised Hearing Examiner hearing.
3. **Newspaper Advertisements:** The legal advertisement shall be published at least 15 days before the advertised Hearing Examiner hearing in a newspaper of general circulation. The advertisement shall include at a minimum:
 - a. Date, time, and location of the hearing;
 - b. Description of the proposed land uses;
 - c. Application number and project name;
 - d. PUD name and ordinance number;
 - e. Proposed permitted use;
 - f. Description of location; and
 - g. 2 in. x 3 in. map of the project location.
4. **Sign:** Posted at least 15 days before the advertised Hearing Examiner hearing date. ⇔ *See Chapter 8 E. of the Administrative Code for sign template. [Please note: If the Minor Conditional Use petition is to be heard before the BZA, the notice procedures shall be the same as the procedures for all other Conditional Use petitions listed below.]*

Notice for all other Conditional Use petitions Notification requirements are as follows. ⇔ *See Chapter 8 of the Administrative Code for additional notice information.*

1. **NIM:** The **NIM** shall be completed at least 15 days before the advertised public hearing. The **NIM** shall be advertised and a mailed written notice shall be given to **property owners in the notification area** at least 15 days prior to the **NIM** meeting.
2. **Mailed Notice:** Written notice shall be sent to **property owners in the notification area** at least 15 days before the advertised public hearing.
3. **Newspaper Advertisements:** The legal advertisement shall be published at least 15 days before each advertised public hearing in a newspaper of general circulation. The advertisement shall include at a minimum:
 - a. Date, time, and location of the hearing;
 - b. Description of the proposed land uses;
 - c. Application number and project name;
 - d. PUD name and ordinance number;
 - e. Proposed permitted use;

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f. Description of location; and

g. 2 in. x 3 in. map of the project location.

4. **Sign:** Posted at least 15 days before the advertised public hearing date. ⇔ See Chapter 8 E. of the Administrative Code for sign template.

Public Hearing for Minor Conditional Use petitions The Hearing Examiner or BZA shall hold at least 1 advertised public hearing. If the BZA is the final Decision Maker, the Minor Conditional Use petition shall follow the same public hearing process as all other Conditional Use petitions. ⇔ See Chapter 9 of the Administrative Code for the Office of the Hearing Examiner procedures.

Public Hearing for all other Conditional Use petitions

1. The EAC shall hold at least 1 advertised public hearing, if required.
2. The Planning Commission shall hold at least 1 advertised public hearing.
3. The BZA shall hold at least 1 advertised public hearing.

Decision maker for Minor Conditional Use petitions The Hearing Examiner or BZA.
If the PUD ordinance language identifies the CCPC or the Planning Director (or other similar County staff) as the authority to determine a use is comparable, compatible, and consistent, a Staff Report will be presented to the Decision Maker for approval of the Comparable Use Determination.

Decision Maker for all other Conditional Use petitions The BZA, following a recommendation from both the EAC, if required, and the Planning Commission.
If the PUD ordinance language identifies the CCPC or the Planning Director (or other similar County staff) as the authority to determine a use is comparable, compatible, and consistent, a Staff Report will be presented to the Decision Maker for approval of the Comparable Use Determination.

Review Process The Zoning Division will review the application, identify whether additional materials are needed, and prepare a Staff Report to the Hearing Examiner or BZA.

Recording of Developer Commitments Within 30 days of approval of the conditional use, the owner or developer at its expense shall record in the Public Records of Collier County a Memorandum of Understanding of Developer Commitments or Notice of Developer Commitments that contains the legal description of the property that is the subject of the land use petition and contains each and every commitment of the owner or developer specified in the conditional use. The Memorandum or Notice shall be in form acceptable to the County and shall comply with the recording requirements of Chapter 695, F.S. A recorded copy of the Memorandum or Notice shall be provided to the assigned Principal Planner, Zoning Division, within 15 days of recording of said Memorandum or Notice.

Updated Resolution 2022-##

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L. Comparable Use Determination in PUDs (PUD-CUD)

Reference LDC sections 2.03.00 A, 10.02.06 K, LDC Public Notice section 10.03.06 O, LDC section 8.10.00 and F.S. §125.66.

Applicability A Comparable Use Determination ~~may~~ shall be used to ~~make a determination that determine if~~ a new use is comparable, compatible, and consistent with the list of identified ~~permitted uses in a standard zoning district, overlay, or PUD ordinance. that are permissible by right, or the uses that are allowable as accessory or conditional uses in a PUD ordinance if such PUD contains the phrase, "any other use which is comparable in nature with the foregoing uses and is consistent with the permitted uses and purpose and intent statement of the district" or any similar phrase in its list of permitted uses to provide for an unlisted use.~~ See Chapter 3. C.4. for addition information regarding the Conditional Use - Comparable Use Determination.

Pre-Application A pre-application meeting is not required.

Initiation The **applicant** files a "Comparable Use Determination Application" with the Zoning Division.

↔ See Chapter 1 D. for additional information regarding the procedural steps for initiating an application.

Application Contents The application must include the following:

1. **Applicant contact information.**
2. Property information, including:
 - a. Site folio number;
 - b. Site Address;
 - c. **Property owner's** name; and
 - d. Verification being requested.
3. A narrative statement that describes the determination request, the justification for the use by a certified land use **planner** or a land use attorney and addresses the standards within LDC section 10.02.06 K.2.
4. Additional materials may be requested by staff depending on the use and justification provided.
5. **PUD Ordinance and Development Commitment ~~I~~Information**, if applicable.
6. **Electronic copies of all documents.**
7. **Addressing checklist.**
8. Affidavit of Authorization.
9. Property Ownership Disclosure Form.

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Completeness and Processing of Application ~~The Zoning Division will review the application for completeness. After submission of the completed application packet accompanied with the required fee, the applicant will receive a mailed or electronic response notifying the applicant that the petition is being processed. Accompanying that response will be a receipt for the payment and the tracking number (i.e., XXPL201200000) assigned to the petition. This petition tracking number should be noted on all future correspondence regarding the petition.~~

Notice Notification requirements are as follows. ⇔ *See Chapter 8 of the Administrative Code for additional notice information.*

1. Newspaper Advertisement: At least 15 days before the hearing in a newspaper of general circulation. The legal advertisement shall include:

- **a.** Date, time, and location of the hearing;
- **b.** Application number and project name;
- **c.** PUD name and ordinance number;
- **d.** Proposed permitted use; and
- **e.** Description of location.

Public Hearing ~~1.~~ The Hearing Examiner or the **CCPC BZA** shall hold at least 1 advertised public hearing. ⇔ *See Chapter 9 of the Administrative Code for the Office of the Hearing Examiner procedures.*

Decision Maker The Hearing Examiner or the **CCPC BZA**.

If the PUD ordinance language identifies the CCPC or the Planning Director (or other similar County staff) as the authority to determine a use is comparable, compatible, and consistent, a Staff Report will be presented to the ~~Hearing Examiner or the CCPC~~ **Decision Maker** for approval of the Comparable Use Determination.

Review Process The Zoning Division will review the application and identify whether additional materials are needed. Staff will prepare a Staff Report to present to the Hearing Examiner or BZA ~~Office of the Hearing Examiner or the CCPC for a decision.~~

Appeal ~~Appeal of a Comparable Use Determination shall be pursuant to Code of Laws and Ordinances section 250-58~~

Updated Resolution ~~2020-203~~ **2022-##**