

LDC Amendment Request

ORIGIN: Community Development & Environmental Services Division

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DEPARTMENT: Engineering and Environmental Services Department

AMENDMENT CYCLE: 2008 Cycle 1

LDC PAGE: LDC3:28.1 – LDC3:28.2

LDC SECTION(S): 3.05.07 Preservation Standards

CHANGE: Revise the “native vegetation definition” in accordance with the new definition adopted with the EAR-based GMP amendments to Conservation and Coastal Management Element (CCME) and clarify how the definition is interpreted.

Relocate the “Exceptions” sub-section criteria to the “General Standards and Criteria” sub-section.

Clarify single-family preserve setback requirements.

Include criteria for off-site native vegetation retention alternatives as required by the EAR-based GMP amendments to Conservation and Coastal Management Element (CCME).

REASON: The “native vegetation definition” is required as part of the EAR-based GMP amendment to CCME Policy 6.1.1 (1).

Change made to clarify the native vegetation definition. Currently no criteria are written on how the native vegetation definition is applied, requiring staff to apply the definition on a project by project basis. Clarification of the native vegetation definition will help applicants during the permitting process with the County.

Change made to clarify single-family preserve setback requirements. Unless otherwise required in the RFMU District, single-family residences are exempt from the native vegetation retention requirements and from having on site preserves, but not from preserve setback requirements.

“Off-site native vegetation retention alternatives” are required as part of the EAR-based GMP amendment to CCME Policy 6.1.1 (10).

FISCAL & OPERATIONAL IMPACTS: How the native vegetation definition is applied has a direct bearing on the amount of native vegetation found on a piece of property and subsequently the amount required to be preserved. This in turn had a direct affect on the acreage of land that can be developed. On the other hand, preserved native vegetation within a development is esthetically pleasing and often enhances property values.

Off-site alternatives to the native vegetation retention requirement will allow applicants (both government and private) to develop more of their property.

RELATED CODES OR REGULATIONS: None affected.

GROWTH MANAGEMENT PLAN IMPACT: The “native vegetation definition” is required as part of the EAR-based GMP amendment to CCME Policy 6.1.1 (1).

“Off-site native vegetation retention alternatives” are required as part of the EAR-based GMP amendment to CCME Policy 6.1.1 (10).

OTHER NOTES/VERSION DATE: Created April 16, 2008.

Amend the LDC as follows:

3.05.07 Preservation Standards

All development not specifically exempted by this ordinance shall incorporate, at a minimum, the preservation standards contained within this section.

- A. General standards and criteria. The following criteria shall be used to administer the preservation standards in all areas of the County.
 1. The preservation of native vegetation shall include all naturally occurring strata including canopy, under-story and ground cover emphasizing the largest contiguous area possible, except as otherwise provided in sub-section 3.05.07 H.1.e. For the purpose of this section, “native vegetation” means a vegetative community having 25 percent or more canopy coverage or highest existing vegetative strata of native plant species. Except for xeric scrub and hardwood hammocks, native vegetation shall not include areas with clumps of individual trees less than one quarter acre in size, with or without exotic and other non-native vegetation present, and with no native under-story and no native ground cover vegetation present. Herbaceous weedy ruderal type vegetation characteristic of roadsides and highly disturbed pastures shall not be counted as native plant species for the purpose of this definition.

2. Areas that fulfill the native vegetation retention standards and criteria of this Section shall be set aside as preserve areas, subject to the requirements of sub-section 3.05.07 H. ~~Single family residences are exempt from the requirements of section 3.05.07 H.~~
3. Native vegetation to be retained as preserve areas shall be selected in such manner as to preserve the following, in descending order of priority, except to the extent that preservation is made mandatory in sub-sections 3.05.07 F.3. and 3.05.07 G.3.c.:
 - a. Wetland or upland areas known to be utilized by listed species or that serve as corridors for the movement of wildlife;
 - b. Xeric Scrub, Dune and Strand, Hardwood Hammocks;
 - c. Onsite wetlands having an accepted functionality WRAP score of at least 0.65 or a Uniform Wetland Mitigation Assessment Score of at least 0.7;
 - d. Any upland habitat that serves as a buffer to a wetland area as defined in section 3.05.07 A.3.c above;
 - e. Dry Prairie, Pine Flatwoods; and
 - f. All other native habitats.
4. Preservation areas shall be interconnected within the site and to adjoining off-site preservation areas or wildlife corridors.
5. To the greatest extent possible, native vegetation, in quantities and types set forth in section 4.06.00, shall be incorporated into landscape designs in order to promote the preservation of native plant communities and to encourage water conservation.
6. Where a site has been totally or partially cleared, the amount of native vegetation used to calculate the preservation requirement will be that amount present at the time of application, if the site was legally cleared. Where vegetation has been illegally cleared, the amount of native vegetation used to calculate the preservation requirement will be that amount present at the time prior to the illegal clearing. Criteria to determine the legality and criteria for the clearing are found in Sections 10.02.06 and 3.05.05.
7. For re-development where preserves have already been established pursuant to prior development order approvals, preservation of native vegetation shall be calculated based on the acreage of native vegetation present at the time of prior

development order approval(s).

8. Right-of-way acquisitions for all purposes necessary for roadway construction, including ancillary drainage facilities, and including utilities within the Right-of-way acquisition area are exempt from preservation requirements.
9. Unless otherwise required in the **RFMU District**, single-family residences shall be exempt from the native vegetation retention requirements and from having on site preserves. Setbacks to preserves shall be in accordance with section 3.05.07.
10. Development standards pursuant to section 4.02.14 shall apply to all development, including single-family, within the ACSC.
11. Created preserves are allowed subject to the criteria in subsection 3.05.07 H.1.e.

B. Specific standards applicable outside the RFMU and RLSA districts. Outside the RFMU and RLSA Districts, native vegetation shall be preserved on-site through the application of the following preservation and vegetation retention standards and criteria, ~~unless the development occurs within the ACSC where the ACSC standards referenced in the Future Land Use Element shall apply. This Section shall not apply to **single-family dwelling units** situated on individual lots or parcels.~~

1. Required preservation.

Development Type	Coastal High Hazard Area		Non-Coastal High Hazard Area	
	Less than 2.5 acres	10%	Less than 5 acres	10%
Residential and Mixed Use development	Equal to or greater than 2.5 acres	25%	Equal to or greater than 5 acres and less than 20 acres	15%
			Equal to or greater than 20 acres	25%
Golf Course		35%		35%
Commercial and Industrial development and all other non-specified development	Less than 5 acres	10%	Less than 5 acres	10%
	Equal to or greater	15%	Equal to or greater than 5	15%

types	than 5 acres		acres	
Industrial development (Rural-Industrial District only)	50%, not to exceed 25% of the project site		50%, not to exceed 25% of the project site.	

- ~~2. Exceptions. An exception from the vegetation retention standards above shall be granted in the following circumstances:~~
- ~~a. where the **parcel** was legally cleared of native vegetation prior to January 1989;~~
 - ~~b. where the **parcel** cannot reasonably accommodate both the application of the native vegetation retention standards and the proposed uses allowed under this Code, subject to the criteria set forth in section 3.05.07(H)(1)(e).~~

2. Offsite vegetation retention.

- a. Applicability. A property owner may request that all or a portion of the Collier County native vegetation preservation retention requirement be satisfied offsite for only the following situations and subject to restrictions listed below.
 - i. Properties zoned commercial or industrial with preserves less than 2 acres in size.
 - ii. Park sites with individual preserves less than one acre in size.
 - iii. Essential services other than parks, any size preserves.
 - iii. Preserves less than one acre in size.
 - iv. Affordable housing projects with a BCC approved Affordable Housing Density Bonus Agreement. The maximum percent of native vegetation retention allowed offsite shall be no more than the percent of affordable housing units allowed under the Affordable Housing Density Bonus Agreement up to any size preserve.
 - v. Preserves requiring mechanical clearing of exotic vegetation in order to restore the habitat, as determined by the County Manager or designee.
 - vi. Preserves overrun by Category 1 invasive exotics, as defined by the Florida Exotic Pest Plant Council, and other aggressive non-native vegetation and where restoration is not possible, as determined by the County Manager or designee. Preserves that arrive at this state due to lack of management shall mitigate off site at a ratio of 2 to 1.

vii. Created preserves where previous restoration requirements have not been successful, as determined by the County Manager or designee, or where preserves have not been planted in a manner which mimics a natural plant community.

b. Restrictions

i. Xeric scrub and hardwood hammocks which are one acre or more in size, mangrove, coastal dune and strand environments, and native habitats known to be utilized by listed species or that serve as corridors for the movement of wildlife shall not be allowed to have the native vegetation preservation retention requirement provided offsite.

ii. Preserves shall remain on site if located adjacent to major flowways, natural water bodies, estuaries, preserves (not meeting the offsite preservation criteria herein), conservation acquisition areas, wildlife corridors, and protected or listed species nests, buffers and foraging habitat.

iii. Remaining portions of preserves left onsite must be a minimum of one acre in size and must not meet the offsite criteria of v, vi and vii above, unless preserved with higher quality habitat not qualifying for offsite vegetation retention. Remaining preserves less than one acre in size may also be satisfied offsite.

c. Alternatives.

i. Off-site native vegetation retention requirements may be by monetary payment or by land donation.

ii. Applicants shall make monetary payment to Conservation Collier for the purchase and management of off-site conservation lands within the county. The monetary payment shall be equivalent to the average per-acre value found in an appraisal of the entire site, multiplied by the number of acres to be preserved off-site, plus up to 25 percent of that amount as an endowment for management of off-site land. The appraisal shall be based on the fair market value of the land as if the desired zoning is in place. The appraisal shall be provided by the applicant and must be reviewed and approved by the Review Appraiser of the Real Estate Services Division. Monetary payments exceeding \$500,000 shall require two appraisals with the monetary value to be established at the average of the two appraisals. Appraisal(s) are

valid for only 6 months. One hundred percent of the monetary payment must be made prior to final site plan/construction plan approval. The County will develop the appropriate fee schedule to review the appraisal(s).

- iii. In lieu of monetary payment, applicants may choose to donate land to Conservation Collier or to another government agency. In the event of donation to Conservation Collier, the applicant may acquire and subsequently donate land within the project boundaries of Winchester Head, North Golden Gate Estates Unit 53, another multi-parcel project or any other land designated by Conservation Collier, or contiguous to existing preserved lands.

Applicants choosing to donate land shall be required to demonstrate that the land to be donated contains native vegetation communities equal to or of higher priority as described in 3.05.07(A) than the land required to be preserved on site. In no case shall the acreage of land donated be less than the acreage of land required to be preserved on site. Land donated to satisfy the offsite vegetation preservation retention requirement must be located entirely within Collier County and must not be used as mitigation for any other Federal, State or County permit or approval.

Donations of land for preservation shall be made to a federal, state or local government agency established or authorized to accept lands for the conservation and management of land in perpetuity, subject to the policies and procedures of the receiving entity. Evidence shall be provided from the receiving entity that they will accept and manage the land in perpetuity for conservation purposes.

Evidence that donations of land for preservation have been accepted by and donated to the entity stated above shall be made prior to final site plan/construction plan approval. Exotics shall be removed in accordance with the time frames provided in 3.05.07 H (2).

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