

ORDINANCE NO. 04- 01 \_\_\_\_\_

RECEIVED

JAN 27 2004



AN ORDINANCE AMENDING ORDINANCE NUMBER 91-102, AS AMENDED, THE COLLIER COUNTY LAND DEVELOPMENT CODE, WHICH INCLUDES THE COMPREHENSIVE REGULATIONS FOR THE UNINCORPORATED AREA OF COLLIER COUNTY, FLORIDA, BY PROVIDING FOR: SECTION ONE, RECITALS; SECTION TWO, FINDINGS OF FACT; SECTION THREE, ADOPTION OF AMENDMENTS TO THE LAND DEVELOPMENT CODE, MORE SPECIFICALLY AMENDING THE FOLLOWING: ARTICLE 2. DIVISION 2.2, ZONING DISTRICTS, PERMITTED USES, CONDITIONAL USES, DIMENSIONAL STANDARDS, ADDING THE VANDERBILT BEACH RESIDENTIAL TOURIST OVERLAY DISTRICT; SECTION FOUR, CONFLICT AND SEVERABILITY; SECTION FIVE, INCLUSION IN THE COLLIER COUNTY LAND DEVELOPMENT CODE; AND SECTION SIX, EFFECTIVE DATE.

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WHEREAS, on October 30, 1991, the Collier County Board of County Commissioners adopted Ordinance No. 91-102, the Collier County Land Development Code (hereinafter LDC), which has been subsequently amended; and

WHEREAS, the LDC may not be amended more than two times in each calendar year unless additional amendment cycles are approved by the Collier County Board of County Commissioners pursuant to Section 1.19.1., LDC; and

WHEREAS, this is the third amendment to the LDC, Ordinance 91-102, for the calendar year 2003; and

WHEREAS, on March 18, 1997, the Board of County Commissioners adopted Resolution 97-177 establishing local requirements and procedures for amending the LDC; and

WHEREAS, all requirements of Resolution 97-177 have been met; and

WHEREAS, the Board of County Commissioners, in a manner prescribed by law, did hold advertised public hearings on December 10, 2003 and January 7, 2004, and did take action concerning this amendment to the LDC; and

WHEREAS, the subject amendments to the LDC are hereby determined by this Board to be consistent with and to implement the Collier County Growth Management Plan as required by Subsections 163.3194 (1) and 163.3202 (1), Florida Statutes; and

WHEREAS, all applicable substantive and procedural requirements of the law have been met.

## SECTION ONE: RECITALS

The foregoing recitals are true and correct and incorporated by reference herein as if fully set forth.

## SECTION TWO: FINDINGS OF FACT

The Board of County Commissioners of Collier County, Florida, hereby makes the following findings of fact:

1. Collier County, pursuant to Sec. 163.3161, et seq., Fla. Stat., the Florida Local Government Comprehensive Planning and Land Development Regulations Act (hereinafter the "Act"), is required to prepare and adopt a Comprehensive Plan.
2. After adoption of the Comprehensive Plan, the Act and in particular Sec. 163-3202(1). Fla. Stat., mandates that Collier County adopt land development regulations that are consistent with and implement the adopted comprehensive plan.
3. Sec. 163.3201, Fla. Stat., provides that it is the intent of the Act that the adoption and enforcement by Collier County of land development regulations for the total unincorporated area shall be based on; be related to, and be a means of implementation for, the adopted Comprehensive Plan as required by the Act.
4. Sec. 163.3194(1)(b), Fla. Stat., requires that all land development regulations enacted or amended by Collier County be consistent with the adopted Comprehensive Plan, or element or portion thereof, and any land development regulations existing at the time of adoption which are not consistent with the adopted Comprehensive Plan, or element or portion thereof, shall be amended so as to be consistent.
5. Sec. 163.3202(3), Fla. Stat., states that the Act shall be construed to encourage the use of innovative land development regulations.
6. On January 10, 1989, Collier County adopted the Collier County Growth Management Plan (hereinafter the "Growth Management Plan" or "GMP") as its Comprehensive Plan pursuant to the requirements of Sec. 1634.3161 et seq. Fla. Stat., and Rule 9J-5, F.A.C.
7. Sec. 163.3194(1)(a), Fla. Stat., mandates that after a Comprehensive Plan, or element or portion thereof, has been adopted in conformity with the Act, all development undertaken by, and all actions taken in regard to development orders by, governmental agencies in regard to land covered by such Comprehensive Plan or element or portion thereof shall be consistent with such Comprehensive Plan or element or portion thereof.
8. Pursuant to Sec. 163.3194(3)(a), Fla. Stat., a development order or land development regulation shall be consistent with the Comprehensive Plan if the land uses, densities or intensities, in the Comprehensive Plan and if it meets all other criteria enumerated by the local government.
9. Section 163.3194(3)(b). Fla. Stat., requires that a development approved or undertaken by a local government shall be consistent with the Comprehensive Plan if the land uses, densities or intensities, capacity or size, timing, and other aspects of development are compatible with, and further the objectives, policies, land uses, densities or intensities in the Comprehensive Plan and if it meets all other criteria enumerated by the local government.

10. On October 30, 1991, Collier County adopted the Collier County Land Development Code, which became effective on November 13, 1991 and may be amended twice annually.

11. Collier County finds that the Land Development Code is intended and necessary to preserve and enhance the present advantages that exist in Collier County; encourage the most appropriate use of land, water and resources, consistent with the public interest; overcome present handicaps; and deal effectively with future problems that may result from the use and development of land within the total unincorporated are of Collier County and it is intended that this Land Development Code preserve, promote, protect, and improve the public health, safety, comfort, good order, appearance, convenience, and general welfare of Collier County; prevent the overcrowding of land and avoid the undue concentration of population; facilitate the adequate and efficient provision of transportation, water, sewerage schools, parks, recreational facilities, housing, and other requirements and services, conserve, develop, utilize, and protect natural resources within the jurisdiction of Collier County; and protect human, environmental, social, and economic resources; and maintain through orderly growth and development, the character and stability of present and future land uses and development in Collier County.

12. It is the intent of the Board of County Commissioners of Collier County to implement the Land Development Code in accordance with the provisions of the Collier County Comprehensive Plan, Chapter 125, Fla. Stat., and Chapter 163, Fla. Stat., and through these amendments to the Code.

### **SECTION THREE: ADOPTION OF AMENDMENTS TO THE LAND DEVELOPMENT CODE**

#### **SUBSECTION 3.A. AMENDMENTS TO DIVISION 2.2. ZONING DISTRICTS, PERMITTED USES, CONDITIONAL USES, DIMENSIONAL STANDARDS,**

Division 2.2. Zoning Districts, Permitted Uses, Conditional Uses, Dimensional Standards, of Ordinance 91-102, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

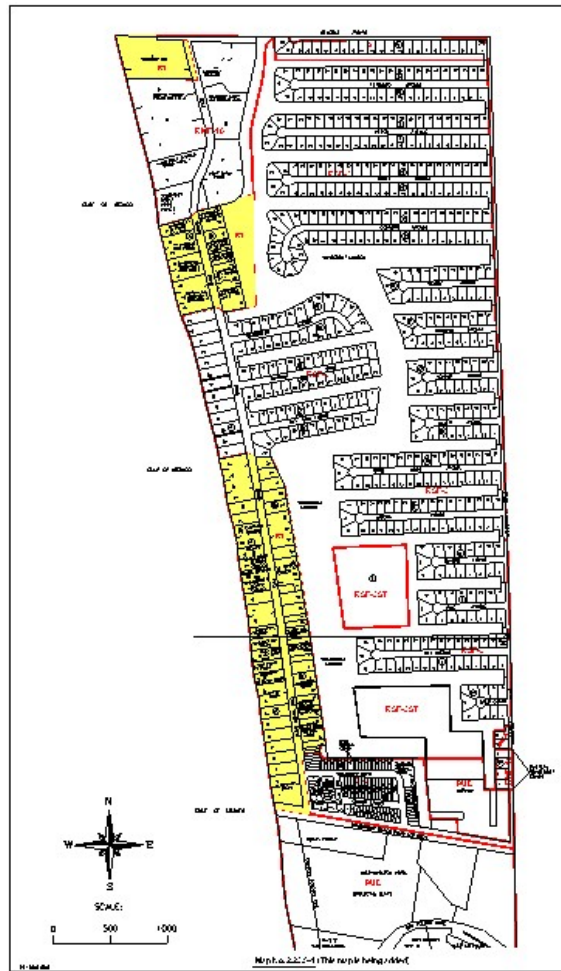
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#### **Sec. 2.2.38. Vanderbilt Beach Residential Tourist Overlay Zoning District (VBRTO)**

2.2.38.1. Purpose and intent. The purpose and intent of this district is to encourage development and redevelopment of the Vanderbilt Beach area to be sensitive to the scale, compatibility and sense of place that exists in the Vanderbilt Beach area. This district is intended to: establish development standards which will protect view corridors, light and air movements between the Gulf of Mexico and the Vanderbilt Lagoon and prevent the creation of a canyon-like effect on each side of the narrow Gulfshore Drive.

2.2.38.2. Applicability. These regulations shall apply to the Vanderbilt Beach Residential Tourist Overlay District as identified on VBRTO Map 2.2.38-1 and further identified by the designation "VBRTO" on the applicable official Collier County zoning atlas maps. Except as provided in this section of the code, all other uses, dimensional and development requirements shall be as required or allowed in the applicable underlying zoning district.

2.2.38.3. Geographic boundaries: The boundaries of the Vanderbilt Beach Residential Tourist Overlay District are delineated on Map 2.2.38-1 below.



**Map 2.2.38-1**

2.2.38.4. Figures. The figures (1-4) used in this section are solely intended to provide a graphic example of conditions that will protect view corridors, light and air movements between the Gulf of Mexico and the Vanderbilt Lagoon and not as requirements for the style of specific projects. Variations from these figures, which nonetheless adhere to the provisions of this section, are permitted. The *Community Character Plan For Collier County, Florida* (April 2001) should be referenced as a guide for future development and redevelopment in the overlay district.

2.2.38.5. Development criteria. The following standards shall apply to all uses in this overlay district.

2.2.38.5.1. Permitted uses.

1. Hotels and motels.
2. Multiple-family dwellings.
3. Family care facilities, subject to section 2.6.26.
4. Timeshare facilities.

2.2.38.5.2. Uses accessory to permitted uses.

1. Uses and structures that are accessory and incidental to the uses permitted as of right in the Vanderbilt Beach Residential Tourist Overlay District (VBRTO).
2. Shops, personal service establishments, eating or drinking establishments, dancing and staged entertainment facilities, and meeting rooms and auditoriums where such uses are an integral part of a hotel or a motel and to be used by the patrons of the hotel/motel.
3. Private docks and boathouses, subject to sections 2.6.21. and 2.6.22.
4. Recreational facilities that serve as an integral part of the permitted use designated on a site development plan or preliminary subdivision plat that has been previously reviewed and approved which may include, but are not limited to: golf course clubhouse, community center building and tennis facilities, parks, playgrounds and playfields.

2.2.38.5.3. Conditional uses. The following uses are permitted as conditional uses in the Vanderbilt Beach Residential Tourist Overlay District (VBRTO), subject to the standards and procedures established in section 2.7.4:

1. Churches and other places of worship.
2. Marinas, subject to section 2.6.22.
3. Noncommercial boat launching facilities, subject to the applicable review criteria set forth in section 2.6.21.
4. Group care facilities (category I and II); care units; nursing homes; assisted living facilities pursuant to § 400.402 F.S. and ch. 58A-5 F.A.C.; and continuing care retirement communities pursuant to § 651 F.S. and ch. 4-193 F.A.C.; all subject to section 2.6.26.
5. Private clubs.
6. Yacht clubs.

2.2.38.6. Dimensional standards. The following dimensional standards shall apply to all permitted, accessory, and conditional uses in the Vanderbilt Beach Residential Tourist Overlay District (VBRTO).

2.2.38.6.1. Minimum lot area. One contiguous acre, not bisected by a public right-of-way.

2.2.38.6.2. Minimum lot width. 150 feet.

2.2.38.6.3. Minimum yard requirements.

1. Front yard: one-half the building height with a minimum of 30 feet.
2. Side yards: one-half the building height with a minimum of 15 feet.
3. Rear yard: one-half the building height with a minimum of 30 feet.

2.2.38.6.4. Maximum height: 75 feet. The height of the building will be measured according to the standards in LDC Division 6.3 Definitions: Building, actual height of and Building, Zoned height of.

2.2.38.6.5. Maximum density permitted. A maximum of 26 units per acre for hotels and motels, and 16 units per acre for timeshares, multifamily, family care facilities.

2.2.38.6.6. Distance between structures. The minimum horizontal distance separation between any two principal buildings on the same parcel of land may not be less than a distance equal to 15 feet or one-half of the sum of their heights, whichever is greater. For accessory buildings and structures dimensional criteria, see section 2.6.2.

2.2.38.6.7. Floor area requirements.

2.2.38.6.7.1. Three hundred (300) square foot minimum with a five hundred (500) square foot maximum for hotels and motels, except that twenty percent (20%) of the total units may exceed the maximum.

2.2.38.6.7.2. Timeshare/multifamily minimum area: efficiency (450 square feet), one bedroom (600 square feet), and two or more bedrooms (750 square feet).

2.2.38.6.8. Maximum lot area coverage. (Reserved.)

2.2.38.7. Preservation of view corridors, light and air movements between the Gulf of Mexico and the Vanderbilt Lagoon.

2.2.38.7.1. Figures 1 – 4, while not requirements, depict desired building relationships and view plane/angle of vision examples. Figures used in this section are solely intended to provide a graphic example of conditions that will protect view corridors, light and air movements between the Gulf of Mexico and the Vanderbilt Lagoon and not as requirements for the style of specific projects. Variations from these figures, which nonetheless adhere to the provisions of this section, are permitted.

2.2.38.8. Off-street parking and off-street loading. As required in Division 2.3 of this code.

2.2.38.9. Landscaping requirements. As required in Division 2.4 of this code.

2.2.38.10. Signs. As required in Division 2.5 of this code.

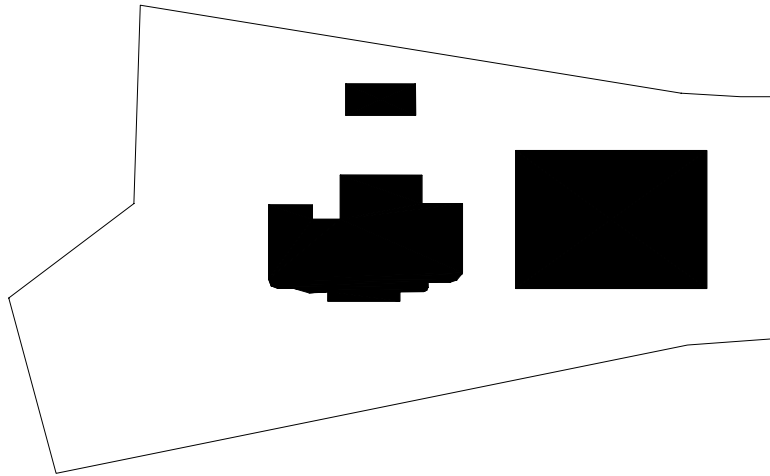
2.2.38.11. Coastal Construction Setback Lines (CCSL). As required in Division 3.13 of this code.

2.2.38.12. Post-Disaster Recovery And Reconstruction Management. As required in Division 3.17 of this code.

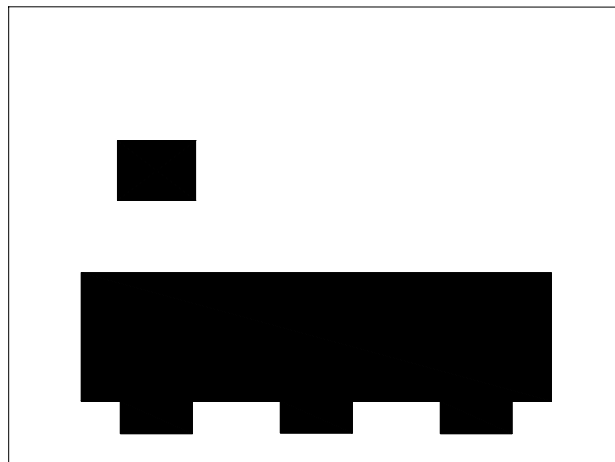
2.2.38.13. Vested Rights. All projects within the Overlay District for which completed applications for rezoning, conditional use, variance, subdivision, site development plan or plat approval were filed with or approved by Collier County Prior to the adoption date of the moratorium January 9, 2002, and subsequent amendments to LDC Section 2.2.36, shall be subject to the zoning regulations for this Residential Tourist Zoning District in effect at the time the application was deemed to be complete or at the time the application was approved and or not subject to the Vanderbilt Beach Residential Tourist Zoning Overlay regulations. For purposes of this provision, the term “completed application” shall mean any application which has been deemed sufficient by planning services staff and has been assigned an application request number.

LOT AREA COVERAGE &  
OPEN SPACE RELATIONSHIPS

**LDC Section 2.2.38.7.1**



DESIRABLE

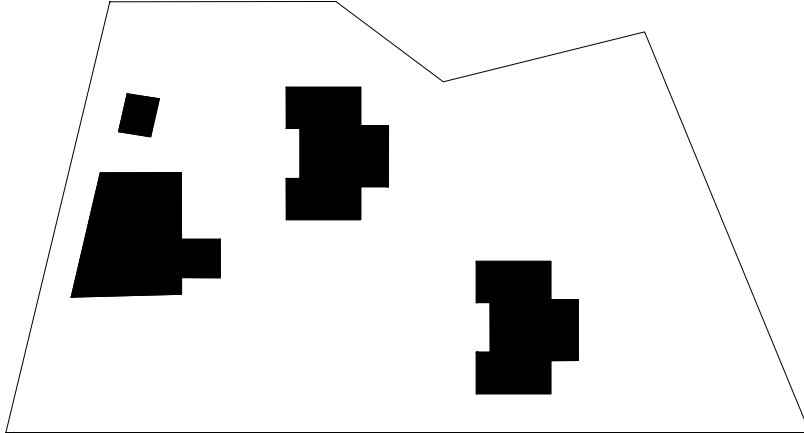


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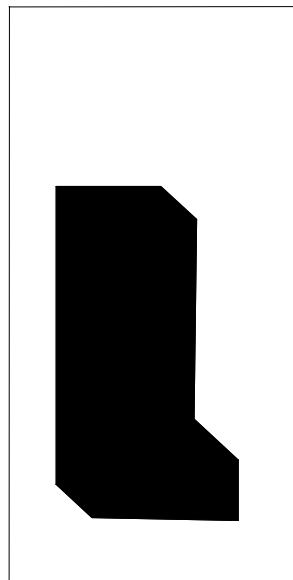
**FIGURE - 1**

LOT AREA COVERAGE &  
OPEN SPACE RELATIONSHIPS

LDC Section 2.2.38.7.1



DESIRABLE

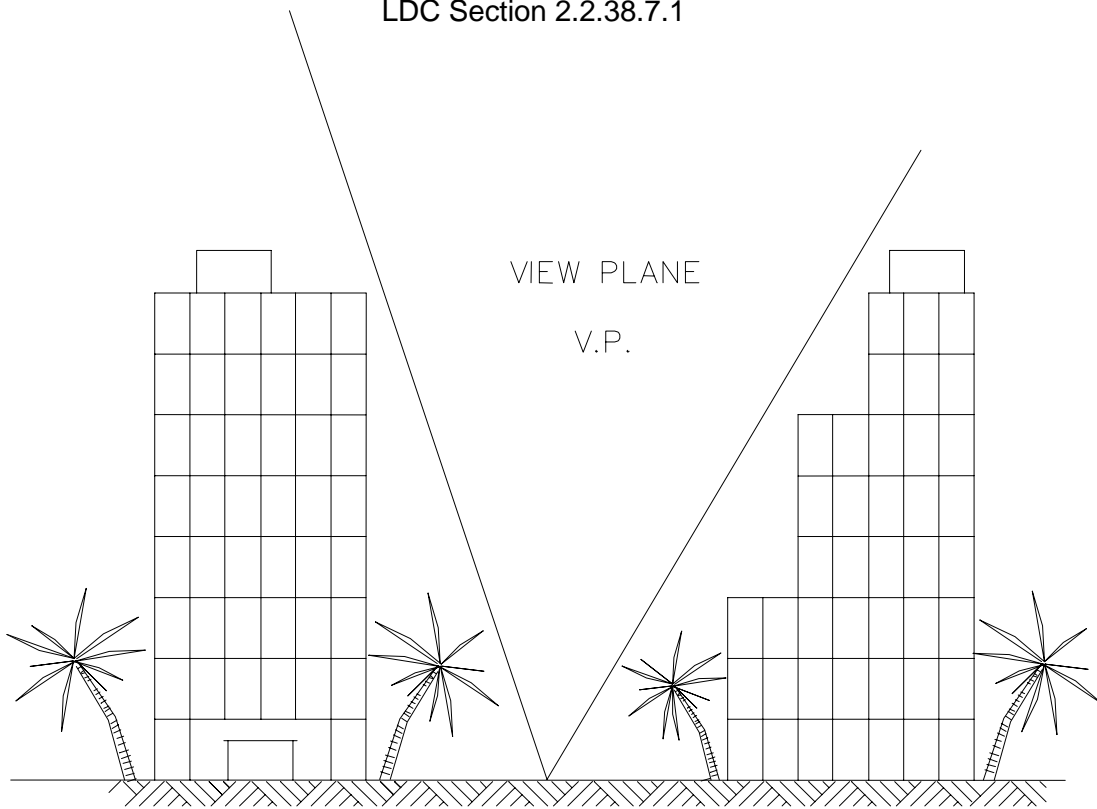


UNDESIRABLE

FIGURE - 2



LDC Section 2.2.38.7.1

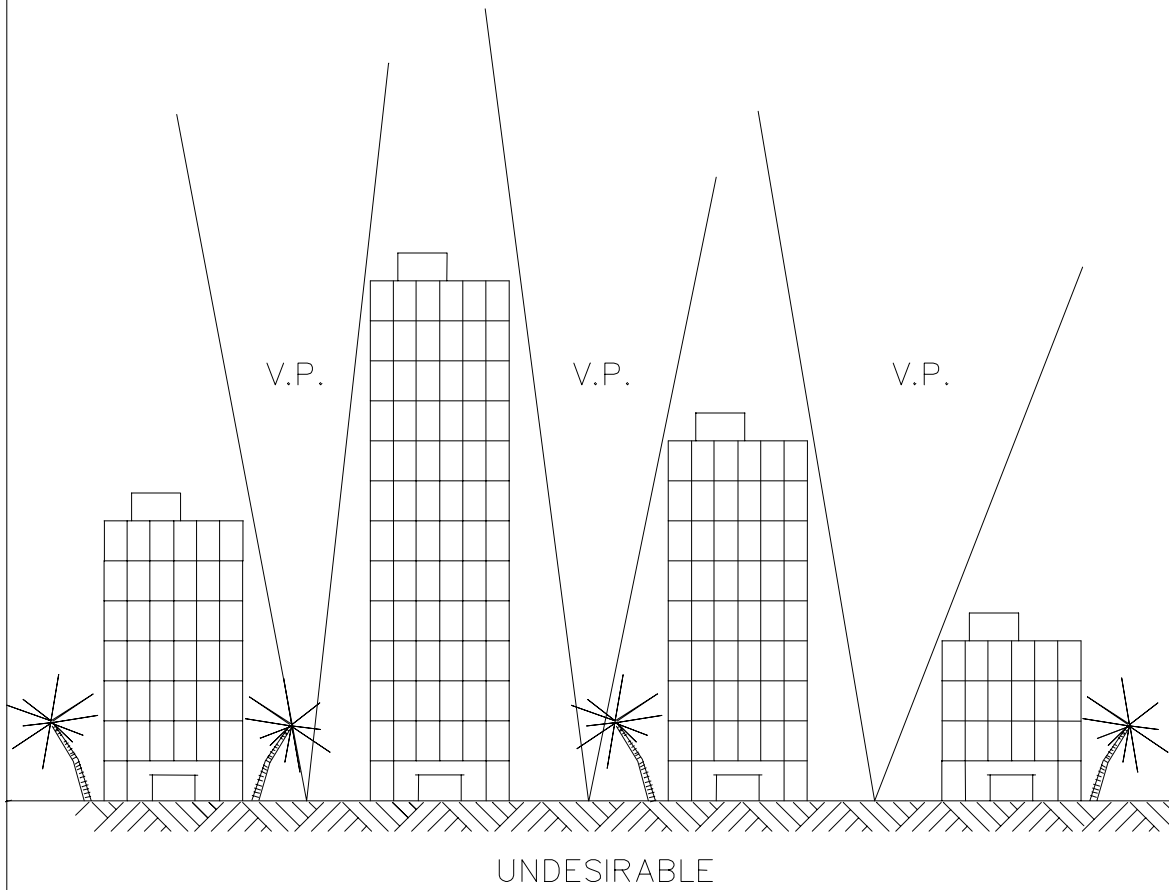


DESIRABLE

V.P. = VIEW PLANE OR ANGLE OF VISION

FIGURE - 3

VIEW PLANE  
LDC Section 2.2.38.7.1



V.P. = VIEW PLANE OR ANGLE OF VISION

FIGURE - 4

**SECTION FOUR: CONFLICT AND SEVERABILITY**

In the event this Ordinance conflicts with any other Ordinance of Collier County or other applicable law, the more restrictive shall apply. If any phrase or portion of this Ordinance is held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion.

**SECTION FIVE: INCLUSION IN THE COLLIER COUNTY LAND DEVELOPMENT CODE**

The provisions of this Ordinance shall become and be made a part of the Land Development Code of Collier County, Florida. The sections of the Ordinance may be renumbered or relettered to accomplish such, and the word "ordinance" may be changed to "section", "article", or any other appropriate word.

**SECTION SIX: EFFECTIVE DATES**

This Ordinance shall become effective upon filing with the Secretary of State.

PASSED AND DULY ADOPTED by the Board of County Commissioners of Collier County, Florida, this 7 day of January, 2004.

ATTEST:  
DWIGHT E. BROCK, CLERK  
COMMISSIONERS

BOARD OF COUNTY  
OF COLLIER COUNTY, FLORIDA

By: Linda A. Hontela, D.C.  
Deputy Clerk  
Chairman

By: [Signature]  
TOM HENNING, CHAIRMAN

Approved as to form and legal sufficiency  
[Signature]  
Patrick G. White  
Assistant County Attorney

This ordinance filed with the Secretary of State's Office the 15<sup>th</sup> day of January, 2004 and acknowledgement of that filing received this 20<sup>th</sup> day of January, 2004  
By: Linda A. Hontela, D.C.  
Deputy Clerk