



ORDINANCE NO. 10 23

OFFICE OF THE COUNTY ATTORNEY
2010 JUN 22 AM 8:26

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF COLLIER COUNTY, FLORIDA, AMENDING ORDINANCE NUMBER 04-41, AS AMENDED, THE COLLIER COUNTY LAND DEVELOPMENT CODE, WHICH INCLUDES THE COMPREHENSIVE LAND 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: CHAPTER 1 - GENERAL PROVISIONS, INCLUDING SECTION 1.08.01 ABBREVIATIONS, SECTION 1.08.02 DEFINITIONS; CHAPTER TWO - ZONING DISTRICTS AND USES, INCLUDING TABLE OF CONTENTS, SECTION 2.01.00 GENERALLY, SECTION 2.03.01 AGRICULTURAL ZONING DISTRICTS, SECTION 2.03.03 COMMERCIAL ZONING DISTRICTS, SECTION 2.03.04 INDUSTRIAL ZONING DISTRICTS, SECTION 2.03.07 OVERLAY ZONING DISTRICTS, SECTION 2.04.00 PERMISSIBLE, CONDITIONAL AND ACCESSORY USES IN ZONING DISTRICTS, 2.04.01 RULES FOR INTERPRETATION OF USES, SECTION 2.04.02 EFFECT OF APPROVALS UNDER THE ZONING REEVALUATION ORDINANCE, SECTION 2.04.03 RESERVED, SECTION 2.05.01 DENSITY STANDARDS AND HOUSING TYPES; CHAPTER THREE - RESOURCE PROTECTION, INCLUDING SECTION 3.04.00 PROTECTION OF ENDANGERED, THREATENED, OR LISTED SPECIES, SECTION 3.04.01 GENERALLY, SECTION 3.04.02 SPECIES SPECIFIC REQUIREMENTS, ADDING SECTION 3.04.03 REQUIREMENTS FOR PROTECTED PLANTS, SECTION 3.04.04 PENALTIES FOR VIOLATION: RESORT TO OTHER REMEDIES, SECTION 3.05.07 PRESERVATION STANDARDS, SECTION 3.06.06 REGULATED WELLFIELDS; CHAPTER FOUR - SITE DESIGN AND DEVELOPMENT STANDARDS, INCLUDING SECTION 4.02.01 DIMENSIONAL STANDARDS FOR PRINCIPAL USES IN BASE ZONING DISTRICTS, SECTION 4.02.02 DIMENSIONAL STANDARDS FOR CONDITIONAL USES AND ACCESSORY USES IN BASE ZONING DISTRICTS, SECTION 4.02.12 SAME - OUTDOOR STORAGE, SECTION 4.02.29 SAME-FARM MARKET OVERLAY SUBDISTRICT, SECTION 4.02.32 SAME—MAIN STREET OVERLAY SUBDISTRICT, SECTION 4.02.35 DESIGN STANDARDS FOR DEVELOPMENT IN THE GTMUD-MIXED USE SUBDISTRICT (MXD), SECTION 4.05.02 DESIGN STANDARDS, SECTION 4.05.04 PARKING SPACE REQUIREMENTS, SECTION 4.06.01 GENERALLY, SECTION 4.06.05 GENERAL LANDSCAPING REQUIREMENTS, SECTION 4.08.07 SRA DESIGNATION; CHAPTER FIVE - SUPPLEMENTAL STANDARDS INCLUDING TABLE OF

Words struck through are deleted, words underlined are added

CONTENTS, SECTION 5.03.02 FENCES AND WALLS, SECTION 5.04.01 GENERALLY (TO BE PROVIDED) [RENAMED TO TEMPORARY USE PERMITS], SECTION 5.04.04 MODEL HOMES AND MODEL SALES CENTERS, SECTION 5.04.05 TEMPORARY EVENTS, SECTION 5.04.06 TEMPORARY SIGNS, SECTION 5.04.07 - ANNUAL BEACH EVENTS PERMITS, ADDING SECTION 5.04.08 [RESERVED], 5.05.05 AUTOMOBILE SERVICE STATIONS, SECTION 5.05.10 TRAVEL TRAILER AND RECREATIONAL VEHICLE PARK DESIGN STANDARDS, CHAPTER SIX - INFRASTRUCTURE IMPROVEMENTS AND ADEQUATE PUBLIC FACILITIES REQUIREMENTS, INCLUDING ADDING SECTION 6.02.09 PUBLIC SCHOOL FACILITIES LEVEL OF SERVICE REQUIREMENTS, SECTION 6.06.05 CLEAR SIGHT DISTANCE; CHAPTER EIGHT - DECISION-MAKING AND ADMINISTRATIVE BODIES, INCLUDING SECTION 8.03.01 [PLANNING COMMISSION] ESTABLISHMENT; POWERS AND DUTIES, SECTION 8.03.02 MEMBERSHIP, SECTION 8.03.03 QUORUM AND VOTING, SECTION 8.03.04 RULES OF PROCEDURE, SECTION 8.03.05 COMPENSATION, SECTION 8.03.06 MEETINGS, SECTION 8.03.07 STAFF, SECTION 8.03.08 APPEALS, SECTION 8.04.01 [BOARD OF ZONING APPEALS] ESTABLISHMENT; POWERS AND DUTIES, 8.04.02 MEMBERSHIP, 8.04.03 QUORUM AND VOTING, SECTION 8.04.04 RULES OF PROCEDURE, SECTION 8.04.05 COMPENSATION, SECTION 8.04.06 MEETINGS, SECTION 8.05.01 [BUILDING BOARD OF ADJUSTMENTS AND APPEALS] ESTABLISHMENT AND PURPOSE, SECTION 8.05.02 POWERS AND DUTIES, SECTION 8.05.03 MEMBERSHIP, SECTION 8.05.04 QUORUM, SECTION 8.05.05 RULES OF PROCEDURE, SECTION 8.06.01 [ENVIRONMENTAL ADVISORY COUNCIL] ESTABLISHMENT, SECTION 8.06.02 PURPOSE, SECTION 8.06.03 POWERS AND DUTIES, SECTION 8.06.04 MEMBERSHIP, SECTION 8.06.05 QUORUM AND VOTING, SECTION 8.06.06 RULES OF PROCEDURE, SECTION 8.06.07 COMPENSATION, SECTION 8.06.08 MEETINGS, SECTION 8.06.09 EVALUATION OF THE EAC; SECTION 8.06.10 APPEAL, SECTION 8.07.01 [HISTORIC/ARCHAEOLOGIC PRESERVATION BOARD] ESTABLISHMENT, SECTION 8.07.02 POWERS AND DUTIES, SECTION 8.07.03 MEMBERSHIP, SECTION 8.07.04 COMPENSATION, SECTION 8.07.05 MEETINGS; CHAPTER TEN - APPLICATION, REVIEW, AND DECISION-MAKING PROCEDURES, INCLUDING SECTION 10.02.02 SUBMITTAL REQUIREMENTS FOR ALL APPLICATIONS, SECTION 10.02.03 SUBMITTAL REQUIREMENTS FOR SITE DEVELOPMENT PLANS, SECTION 10.02.04 SUBMITTAL REQUIREMENTS FOR PLATS, SECTION 10.02.06 SUBMITTAL REQUIREMENTS FOR PERMITS, SECTION 10.02.07 SUBMITTAL REQUIREMENTS FOR CERTIFICATES OF PUBLIC FACILITY ADEQUACY, SECTION 10.02.12 RESERVED

[RENAMED TO SUBMITTAL REQUIREMENTS FOR NON-PUD RESIDENTIAL REZONES], SECTION 10.02.13 PLANNED UNIT DEVELOPMENT (PUD) PROCEDURES, SECTION 10.03.05 NOTICE REQUIREMENTS FOR PUBLIC HEARINGS BEFORE THE BCC, THE PLANNING COMMISSION, THE BOARD OF ZONING APPEALS, THE EAC, AND THE HISTORIC PRESERVATION BOARD, SECTION 10.04.00 REVIEW AND ACTION ON APPLICATIONS FOR DEVELOPMENT ORDERS AND PETITIONS FOR AMENDMENTS TO THE OFFICIAL ZONING MAP, THE LDC OR THE GMP, SECTION 10.04.09 REQUEST FOR CONTINUANCE OF PUBLIC HEARING (RESERVED) [RENAMED TO SCHOOL CONCURRENCY PROCEDURES FOR REVIEW AND APPROVAL OF RESIDENTIAL SUBDIVISION PLAT AMENDMENTS]; APPENDIX G ANNUAL BEACH EVENT STANDARD PERMIT CONDITIONS; SECTION FOUR, CONFLICT AND SEVERABILITY; SECTION FIVE, INCLUSION IN THE COLLIER COUNTY LAND DEVELOPMENT CODE; AND SECTION SIX, EFFECTIVE DATES.

Recitals

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 was subsequently amended; and

WHEREAS, the Collier County Board of County Commissioners (Board) on June 22, 2004, adopted Ordinance No. 04-41, which repealed and superseded Ordinance No. 91-102, as amended, the Collier County Land Development Code, which had an effective date of October 18, 2004; 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 Commissioners pursuant to Section 10.02.09 A. of the LDC; and

WHEREAS, this is the first amendment to the LDC for the calendar year 2010; and

WHEREAS, on March 18, 1997, the Board 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 May 17, 2010 and June 2, 2010 and June 8, 2010 and did take action concerning these amendments 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, this ordinance is adopted in compliance with and pursuant to the local government comprehensive planning and land development regulation act (F.S. § 163.3161 *et seq.*), and F.S. § 125.01(1)(t) and (1)(w); and

WHEREAS, this ordinance is adopted pursuant to the constitutional and home rule powers of Fla. Const. Art. VIII, § 1(f); and

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

NOW, THEREFORE BE IT ORDAINED by the Board of County Commissioners of Collier County, Florida, that:

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 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 (herein after the "Act"), is required to prepare and adopt a comprehensive plan.

2. After adoption of the Comprehensive Plan, the Act and in particular Section 163.3202(1). Fla. Stat., mandates that Collier County adopt land development regulations that are consistent with and implement the adopted comprehensive plan.

3. Section 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.

4. Section 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 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. Section 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. 163.3161 *et seq.*, Fla. Stat., and Rule 9J-5 F.A.C.

7. Section 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 permitted by such regulation are compatible with and further the objectives, policies, land use densities and 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. The Land Development Code adopted in Ordinance 91-102 was recodified and superseded by Ordinance 04-41.

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; to encourage the most appropriate use of land, water and resources consistent with the public interest; to overcome present handicaps; and to deal effectively with future problems that may result from the use and development of land within the total unincorporated area 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; to prevent the overcrowding of land and avoid the undue concentration of population; to facilitate the adequate and efficient provision of transportation, water, sewerage, schools, parks, recreational facilities, housing and other requirements and services; to conserve, develop, utilize and protect natural resources within the jurisdiction of Collier County; to protect human, environmental, social and economic resources; and to 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 SECTION 1.08.01 ABBREVIATIONS

Section 1.08.01 Abbreviations, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

1.08.01 Abbreviations

* * * * *

CSA Concurrency Service Areas

* * * * *

FISH Florida Inventory of School Houses

* * * * *

SCADL School Capacity Availability Determination Letter

* * * * *

SIA School Impact Analysis

* * * * *

SUBSECTION 3.B. AMENDMENTS TO SECTION 1.08.02 DEFINITIONS

Section 1.08.02 Definitions, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

1.08.02 Definitions

* * * * *

Ancillary Facility: A building or other facility necessary to provide district-wide support services, such as an energy plant, bus garage, warehouse, maintenance building, and/or administrative building.

* * * * *

Concurrency Service Area (CSA): A geographic area in which the level of service standard for each type of school is measured when an application for residential development is reviewed for school concurrency purposes.

* * * * *

Dwelling, multi-family: A group of 3 or more dwelling units within a single building.

For purposes of determining whether a lot is for multi-family dwelling use, the following characteristics shall be considered:

- a. Multiple-family dwelling uses may involve dwelling units intended to be rented and maintained under central ownership and management, or cooperative apartments, or condominiums, and the like and may include the fee ownership of land beneath each dwelling unit following development from a common base of ownership.

For purposes of differentiating between multi-family residential dwelling units and other similar or related uses, and for density calculations purposes, the following shall apply:

- a. Any multiple-family dwelling in which dwelling units are available for rental for periods of less than one week shall be considered a tourist home, a motel, motor hotel, or hotel, as the case may be, and shall only be permitted in districts where specifically designated.
- b. Timeshare estate facilities shall be considered as intended primarily for transient occupancy and shall only be permitted in districts where specifically designated.
- c. Guesthouses and employee quarters shall not be considered as dwelling units in the computation of density.

* * * * *

Words struck through are deleted, words underlined are added

Florida Inventory of School Houses (FISH) – Permanent Capacity: The report of the permanent capacity of existing public school facilities. The FISH capacity is the number of students that may be housed in a facility (school) at any given time based on a percentage of the total number of existing student stations and a designated size for each program.

* * * * *

Lot, corner: A lot located at the intersection of two or more streets. A lot abutting a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet at an interior angle of less than 135 degrees.

* * * * *

Lot, interior: A lot other than a corner lot, with only one frontage on a street. See Figure 8.

* * * * *

Lot, through: A lot other than a corner lot, with frontage on more than one street. Through lots abutting two streets are considered double-frontage lots. See Figure 8.

* * * * *

School Capacity Availability Determination Letter (SCADL): Based upon a School Impact Analysis (SIA), a letter prepared by the School District, identifying if school capacity is available to serve a residential project, if capacity exists for each school type, and whether the proposed development is conceptually approved or vested.

* * * * *

School Impact Analysis (SIA): A detailed report which evaluates a development plan for a proposed residential development and identifies the anticipated student impact from the development on the level of service standard within the Concurrency Service Area for each school type.

* * * * *

Subdivision, minor: The division of land, whether improved or unimproved, into three or more, but less than ten, contiguous lots or parcels of land, for the purpose, whether immediate or future, of transfer of ownership or development, which does not involve the extension of an existing street or the establishment of a new street and does not involve the extension, creation or establishment of any improvement otherwise required in section 10.02.05.

* * * * *

Timeshare estate: Any interest in a dwelling unit under which the exclusive right of use, ownership, possession, or occupancy of the unit circulates among the various

owners of timeshare estates in such unit in accordance with a fixed time schedule on a periodically recurring basis for a period of time established by such schedule.

Timeshare estate facility: Any dwelling in which timeshare estates have been created.

Timeshare unit: A dwelling unit in which timeshare estates have been created.

* * * * *

Vegetation, native: Native vegetation means native southern Floridian species as determined by accepted valid scientific references such as those listed identified in section 4.06.05G. Where this Code refers to, or requires retention of, existing native vegetation, the term native vegetation is further defined as a vegetative community having 75% or less canopy coverage of melaleuca or other invasive exotic plant species.

* * * * *

2008 Interlocal Agreement: the Interlocal Agreement between the Collier County School Board and Collier County as recorded in Official Record Book 4492, Page 1107, et seq., which bears an effective date of October 14, 2008, establishing processes for public school facility planning and public school concurrency.

* * * * *

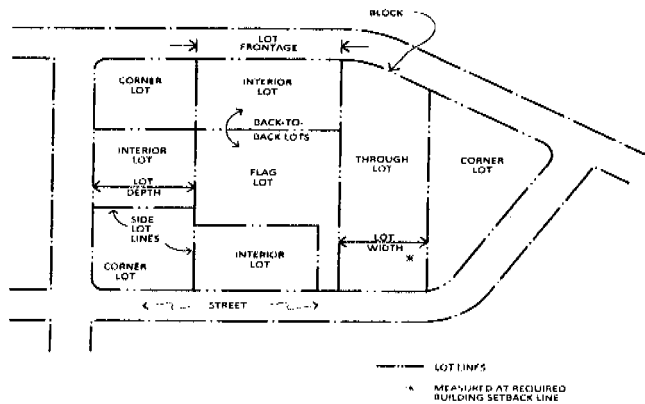


Figure 8

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**SUBSECTION 3.C. AMENDMENTS TO CHAPTER 2 ZONING DISTRICTS AND USES –
TABLE OF CONTENTS**

Chapter 2 Zoning Districts and Uses Table of Contents, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

CHAPTER 2 ZONING DISTRICTS AND USES

2.01.00 Generally

- 2.01.01 Purpose
- 2.01.02 Miscellaneous Structures
- 2.01.03 Essential Services
- 2.01.04 Polling Places

2.02.00 Establishment of Zoning Districts

- 2.02.01 Establishment of Official Zoning Atlas
- 2.02.02 District Nomenclature
- 2.02.03 Prohibited Uses
- 2.02.04 Continuation of Provisional Uses

2.03.00 Zoning Districts; Permitted Uses, Accessory Uses, and Conditional Uses

- 2.03.01 Agricultural Zoning Districts
- 2.03.02 Residential Zoning Districts
- 2.03.03 Commercial Zoning Districts
- 2.03.04 Industrial Zoning Districts
- 2.03.05 Civic and Institutional Zoning Districts
- 2.03.06 Planned Unit Development Districts
- 2.03.07 Overlay Zoning Districts
- 2.03.08 Rural Fringe Zoning Districts
- 2.03.09 Open Space Zoning Districts
- 2.03.10 Districts Under Moratorium [Reserved]

2.04.00 Permissible, Conditional, and Accessory Uses in Zoning Districts Reserved

- ~~2.04.01 Rules for Interpretation of Uses~~
- ~~2.04.02 Effect of Approvals Under the Zoning Reevaluation Ordinance~~
- ~~2.04.03 Reserved~~

2.05.00 Density Standards

- 2.05.01 Density Standards and Housing Types
- 2.05.02 Density Blending

2.06.00 Affordable Housing Density Bonus

- 2.06.01 Generally
- 2.06.02 Purpose and Intent
- 2.06.03 AHDB Rating System
- 2.06.04 Limitations on Affordable Housing Density Bonus
- 2.06.05 Affordable Housing Density Bonus Monitoring Program
- 2.06.06 Violations and Enforcement

2.07.00 Reserved

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SUBSECTION 3.D. AMENDMENTS TO SECTION 2.01.00 GENERALLY

Section 2.01.00 Generally, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

2.01.00 GENERALLY

~~A. Parking and storage of vehicles without current license plates. Vehicles or trailers of any type that are not immediately operable, or used for the purpose for which they were manufactured without mechanical or electrical repairs or the replacement of parts; or do not meet the Florida Safety Code; or do not have current valid license plates; or do not meet the definition of recreational equipment as defined within this Code, shall not be parked or stored on any residentially zoned or designated property, including the E estates district, other than in a completely enclosed building. For the purpose of this section a license plate shall not be considered valid unless it is both affixed to a vehicle or trailer in a fashion authorized by Florida law and is registered to the vehicle or trailer upon which it is displayed.~~

~~B. Parking, storage or use of major recreational equipment. No recreational equipment shall be used for living, sleeping, or housekeeping purposes when parked or stored on a residentially zoned lot, residential districts, or any location not approved for such use. In districts permitting single family homes or **mobile homes**, major recreational equipment may be parked or stored only in a rear yard, or in a completely enclosed building, or in a carport, or on davits or cradles adjacent to waterways on residentially zoned property; provided, however, that such equipment may be parked anywhere on residential premises, other than on county rights-of-way or right-of-way easements for a period not to exceed six hours within a time period of seven days for loading and unloading, and/or cleaning prior to or after a trip. For the purpose of this section the rear yard for a corner lot shall be considered to be that portion of the lot opposite the street with the least frontage. For through lots the rear yard shall be considered to be that portion of the lot lying between the rear elevation (by design) of the residence and the street.~~

The following exceptions may be granted by the County Manager or designee:

~~1. Such recreational equipment may be parked upon the premises of the resident for a period not exceeding seven days for the purpose of repairing and/or cleaning prior to or after a trip. A temporary use permit must be obtained to authorize this activity. The permit for such period shall be affixed to the vehicle in a conspicuous place on the street side thereof. No more than two consecutive permits may be issued and the maximum number of permits issued during one calendar year shall be restricted to four.~~

~~2. Nonresident: Such car, trailer, bus or motor home, when used for transportation of visitors to this county to visit friends or member of the visitor's family residing in this county may be parked upon the premises of the visited family for a period not exceeding seven days. A temporary use~~

~~permit must be obtained to authorize this activity. The permit for such period shall be affixed to the vehicle in a conspicuous place or on the street side thereof. This does not allow for living, sleeping, or housekeeping purposes. No more than two consecutive permits may be issued and the maximum number of permits issued during one calendar year shall be restricted to four.~~

3. ~~Parking of commercial vehicles or commercial equipment in residential areas. It shall be unlawful to park a commercial vehicle or commercial equipment on any lot in a residential zoning district unless one of the following conditions exists:~~
 - a. ~~The vehicle and/or equipment is engaged in a construction or service operation on the site where it is parked. The vehicle or equipment must be removed as soon as the construction or service activity has been completed.~~
 - b. ~~The vehicle and/or equipment is parked in a garage or fully enclosed structure or carport which is structurally or vegetatively screened and cannot be seen from adjacent properties or the street serving the lot.~~
 - c. ~~The vehicle is parked in the rear of the main structure and is enclosed within a vegetative screening which conceals the vehicle from the view of neighbors.~~
 - d. ~~Automobiles, passenger type vans, and pickup trucks having a rated load capacity of one ton or less all of which do not exceed 7.5 feet in height, nor 7.0 feet in width, nor 25 feet in length shall be exempted from this section unless otherwise prohibited by a special parking overlay district created pursuant to Section 2.03.07 M.~~
 - e. ~~Exempted from this section are small commercial equipment such as ladders and pipes that cannot be contained in the vehicle. Said equipment shall be limited to one ladder or one unit of pipe which does not exceed 12 inches in diameter per commercial vehicle. Said equipment shall be secured atop the vehicle and shall not extend beyond the length, height or width of the vehicle.~~
4. ~~Boats or other floating equipment used as dwelling units. Boats or other floating equipment being used as dwelling units or as commercial establishments may not anchor or tie up in waters under the jurisdiction of the county for longer than 48 hours, except at facilities located in zoning districts permitting such use and at facilities within such districts designated for such use and meeting county and state health standards for such use.~~
5. ~~Condominiums. This Code shall be construed and applied with reference to the nature of the use of such property without regard to the form of ownership. Condominium forms of ownership shall be subject to this Code as is any other form of ownership. Condominiums of any kind, type or use shall comply with the provisions of F.S. Ch. 718, as amended, known as the "Condominium Act."~~

~~6. Deed restrictions. This Code shall not be affected by any deed restrictions or restrictive covenants recorded with any deed, plat or other legal documents. No person or agency, in the capacity of enforcing and administering this Code, shall be responsible for enforcing any deed restrictions.~~

2.01.01 - PURPOSE

It is the intent and purpose of this Chapter to establish and adopt zoning districts to govern the use of land and water in the unincorporated areas of Collier County, Florida.

* * * * *

SUBSECTION 3.E. AMENDMENTS TO SECTION 2.03.01 AGRICULTURAL ZONING DISTRICTS

Section 2.03.01 Agricultural Zoning Districts, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

2.03.01 Agricultural Zoning Districts.

* * * * *

B. **Estate District (E).** The purpose and intent of the estates district (E) is to provide lands for low **density residential development** in a semi-rural to rural environment, with limited agricultural activities. In addition to low **density residential development** with limited agricultural activities, the E district is also designed to accommodate as **conditional uses, development** that provides services for and is compatible with the low **density residential, semi-rural and rural** character of the E district. The E district corresponds to and implements the estates land use designation on the future land use map of the Collier County GMP, although, in limited instances, it may occur outside of the estates land use designation. The maximum **density** permissible in the E district shall be consistent with and not exceed the **density** permissible or permitted under the estates district of the future land use element of the Collier County GMP as provided under the Golden Gate Master Plan.

1. The following subsections identify the uses that are permissible by right and the uses that are allowable as **accessory or conditional uses** in the estates district (E).

* * * * *

b. **Accessory Uses.**

1. Uses and **structures** that are accessory and incidental to uses permitted as of right in the (E) district.
2. Field crops raised for the consumption by persons residing on the premises.

3. Keeping of fowl or poultry, not to exceed 25 in total number, provided such fowl or poultry are kept in an enclosure located a minimum of 30 feet from any lot line, and a minimum of 100 feet from any residence on an adjacent parcel of land.
4. Keeping of horses and livestock (except for hogs), not to exceed two such animals for each acre, and with no open feedlots. Any roofed structure for the shelter and feeding of such animals shall be a minimum of 30 feet from any lot line and a minimum of 100 feet from any residence on an adjacent parcel of land.

i. On lots/parcels of 1.25 acres and greater, section 5.04.05 D.1. provides for the issuance of a 16-week temporary use permit (TUP) to keep a maximum of 2 hogs while engaged in a bona fide 4-H youth development program.

* * * * *

SUBSECTION 3.F. AMENDMENTS TO SECTION 2.03.03 COMMERCIAL ZONING DISTRICTS

Section 2.03.03 Commercial Zoning Districts, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

2.03.03 Commercial Zoning Districts

* * * * *

F. ~~Travel Trailer-Recreational Vehicle Campground District (TTRVC). The provisions of this district are intended to apply to trailer lots for travel trailers, park model travel trailers and recreational vehicles, not exceeding 480 square feet in gross floor area. Such trailer lots are intended to accommodate travel trailers, model travel trailers, pickup coaches, motor homes, and other vehicular accommodations which are suitable for temporary habitation, used for travel, vacation, and recreational purposes. Campsites are intended to accommodate temporary residency while camping, vacationing or recreating. TTRVC vehicles may be permanently located on a lot; however, no person or persons may occupy said vehicles as permanent places of residence.~~

1. Purpose and intent. The provisions of this district are intended to apply to trailer **lots** for travel trailers, park model travel trailers and **recreational vehicles**, not exceeding 480 500 square feet in gross **floor area**. Such trailer **lots** are intended to accommodate travel trailers, model travel trailers, pickup coaches, motor homes, and other vehicular accommodations which are suitable for temporary habitation, used for travel, vacation, and recreational purposes. Campsites are intended to accommodate temporary residency while camping, vacationing or recreating, TTRVC vehicles may be permanently located on a **lot**; however, no person or persons may occupy said vehicles as permanent places of residence.

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SUBSECTION 3.G. AMENDMENTS TO SECTION 2.03.04 INDUSTRIAL ZONING DISTRICTS

Section 2.03.04 Industrial Zoning Districts, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

2.03.04 Industrial Zoning Districts

A. Industrial District (I). The purpose and intent of the Industrial district (I) is to provide lands for manufacturing, processing, storage and warehousing, wholesaling, and distribution. Service and commercial activities that are related to manufacturing, processing, storage and warehousing, wholesaling, and distribution activities, as well as commercial uses relating to automotive repair and heavy equipment sales and repair are also permissible in the I district. The I district corresponds to and implements the industrial land use designation on the future land use map of the Collier County GMP.

1. The following uses, as identified within the Standard Industrial Classification Manual (1987), or as otherwise provided for within this section, are permitted as a right, or as **accessory or conditional uses** within the industrial district (I).

a. *Permitted uses.*

* * * * *

54. Existing retail uses that were in operation on January 1, 2009, in the Industrial zoning district and which have been continuously and conspicuously operating in the Industrial zoning district as of [the date of adoption of this amendment], without limitation as to square footage of the retail use. These existing retail businesses shall be treated as legal non-conforming uses in accordance with the LDC, provided however that in the event of destruction or damage due to natural disaster, the structures housing such uses may be rebuilt to their pre-disaster condition.

* * * * *

SUBSECTION 3.H. AMENDMENTS TO SECTION 2.03.07 OVERLAY ZONING DISTRICTS

Section 2.03.07 Overlay Zoning Districts, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

2.03.07 Overlay Zoning Districts

* * * * *
D. Special Treatment Overlay (ST).

* * * * *
4. Transfer of Development Rights (TDR).

* * * * *
c. TDR credits from RFMU sending lands: General Provisions

* * * * *
ii. Creation of TDR Bonus credits. TDR Bonus credits shall only be generated from RFMU sending land property from which TDR credits have been severed. The three types TDR Bonus credits are as follows:

* * * * *
c) Early Entry Bonus credits. Early Entry Bonus credits shall be generated at a rate of 1 additional credit for each TDR credit that is severed from RFMU sending land for the period from March 5, 2004 ~~2005~~, until March 27, 2012 ~~three years after the adoption of this regulation~~. Early Entry Bonus credits shall cease to be generated after the termination of this early entry bonus period. However, Early Entry Bonus credits may continue to be used to increase density in RFMU and non-RFMU Receiving Lands after the termination of the Early Entry Bonus period.

* * * * *
f. Procedures applicable to the severance and redemption of TDR credits and the generation of TDR Bonus credits from RFMU sending lands.

* * * * *
ii. In order to facilitate the County's monitoring and regulation of the TDR Program, the County shall serve as the central registry for all TDR severances, transfers (sales) and redemptions, as well as maintain a public listing of TDR credits available for sale along with a listing of purchasers seeking TDR credits. No TDR credit generated from RFMU sending lands may be utilized to increase density in any area unless the following procedures are complied with in full.

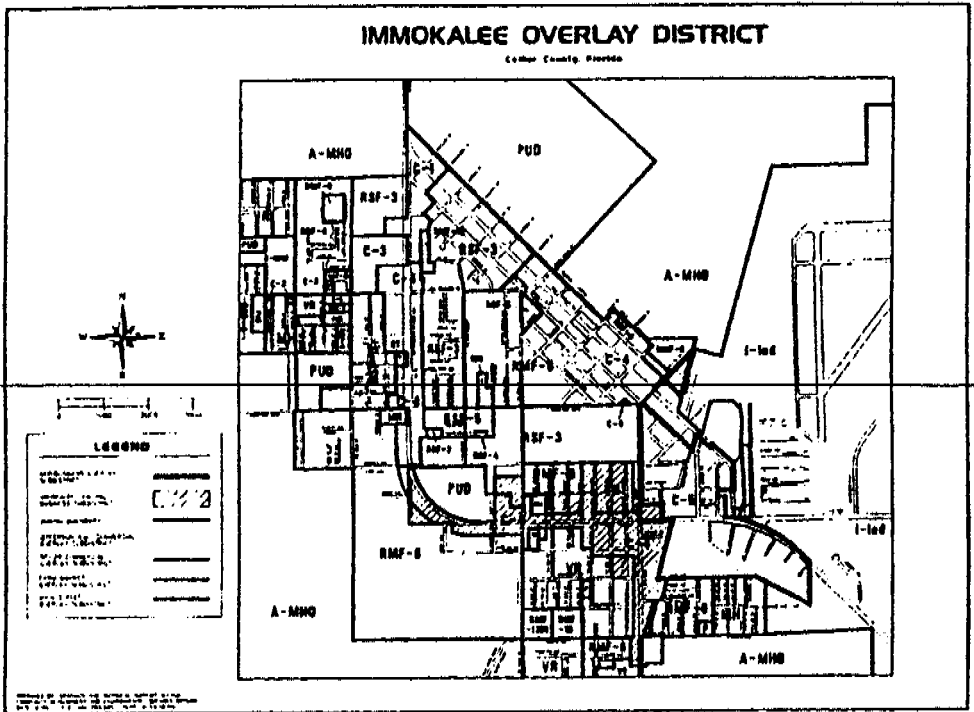
* * * * *
b) TDR Bonus credits shall not be used to increase density in either non-RFMU receiving areas or

RFMU receiving lands until a TDR credit certificate reflecting the TDR Bonus credits is obtained from the County.

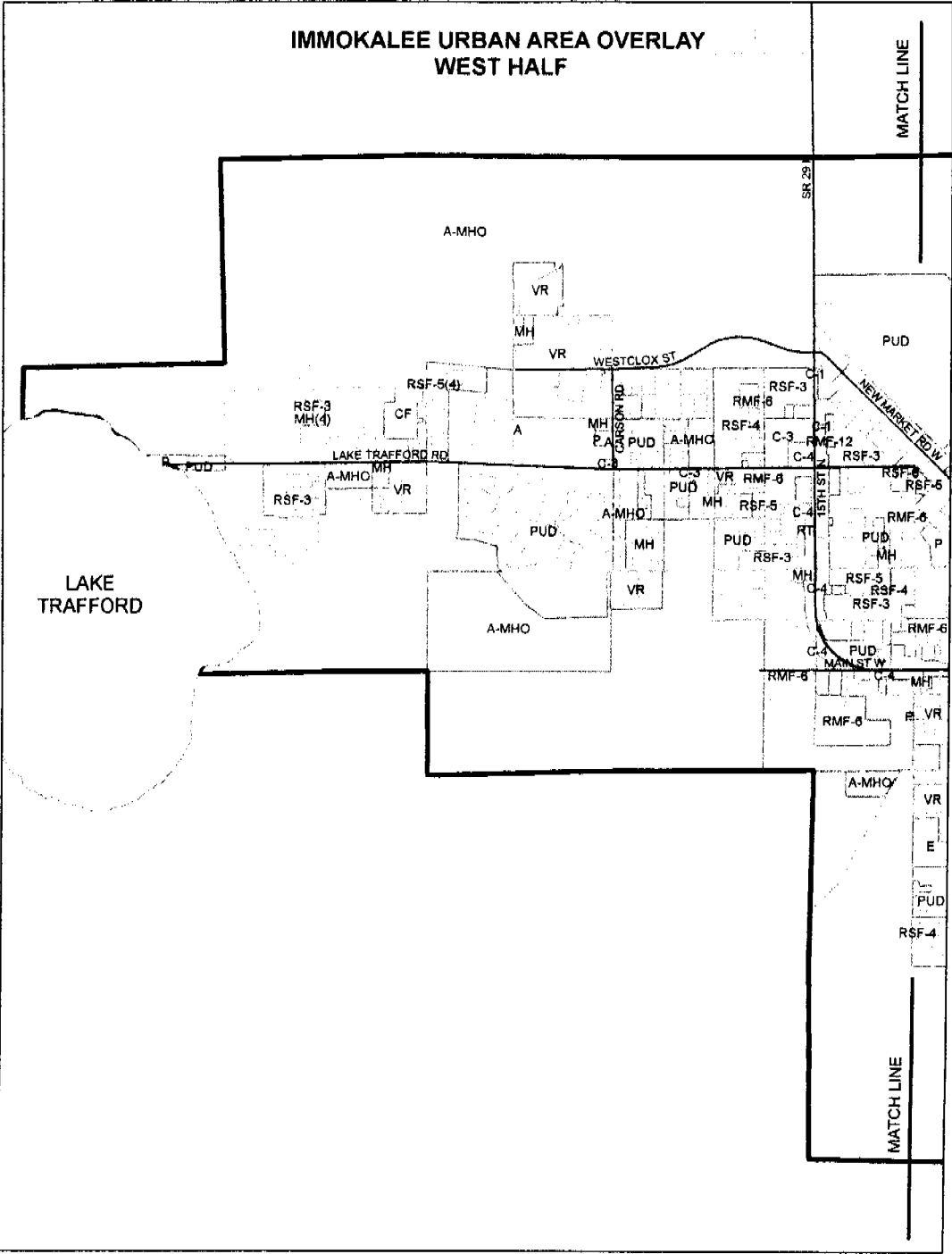
- 1) Early Entry Bonus credits. All TDR credit certificates issued by the County for the period from the effective date of this provision until March 27, 2012 ~~three years after such effective date~~ shall include one Early Entry Bonus credit or fractional Early Entry Bonus credit for each TDR credit or fractional TDR credit reflected on the TDR credit certificate. Where TDR credits were severed from March 5, 2004, until the effective date of this provision, the County shall, upon receipt of a copy of the TDR credit certificate reflecting those previously severed TDR credits, issue a TDR credit certificate entitling Early Entry Bonus credits equal in number to the previously severed TDR credits.

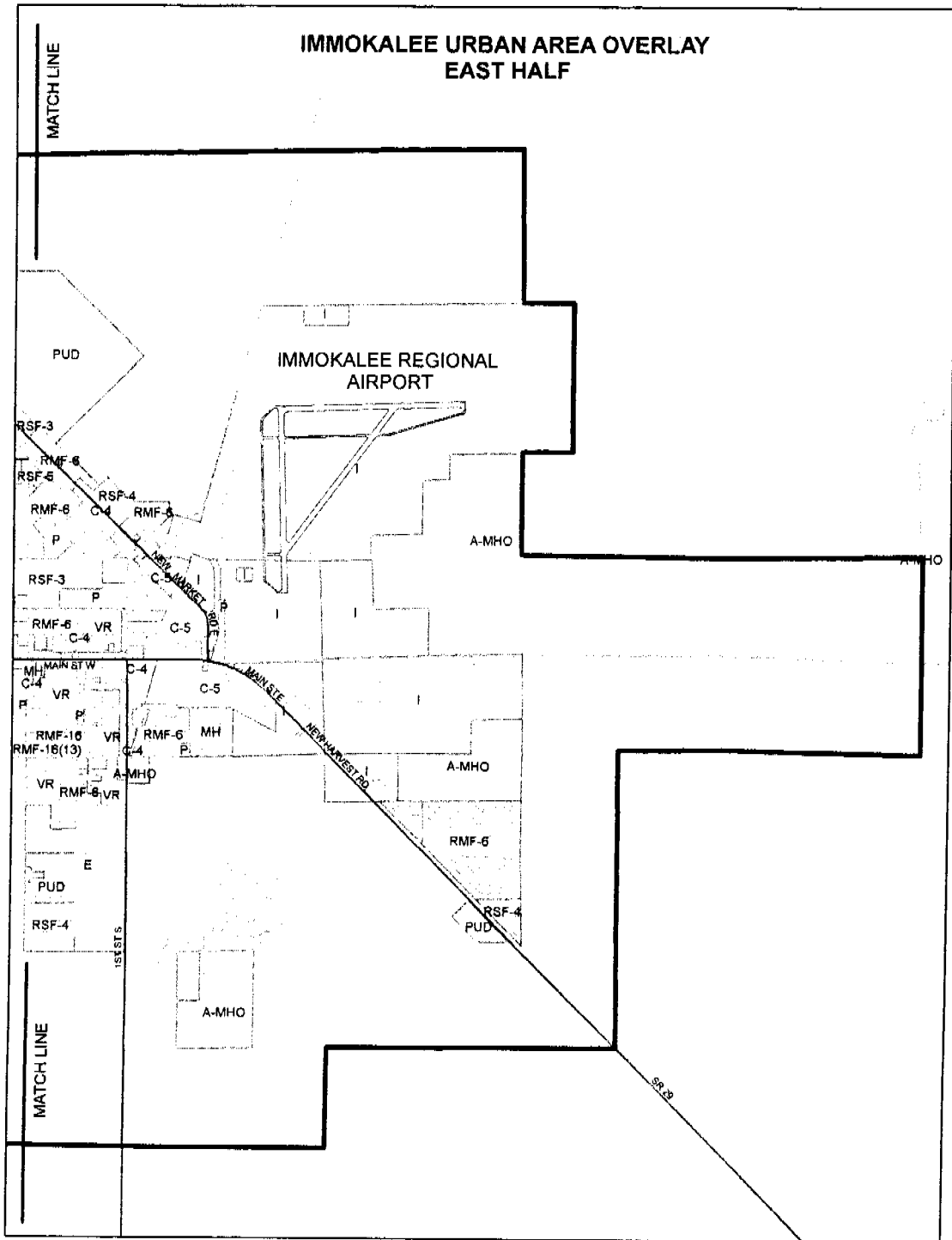
* * * * *

- G. Immokalee Urban Overlay District. To create the Immokalee Urban Overlay District with distinct subdistricts for the purpose of establishing **development** criteria suitable for the unique land use needs of the Immokalee Community. The boundaries of the Immokalee Urban Overlay District are delineated on the maps Map-4 below.



[Replace existing Immokalee Overlay Map with the following two maps:]





* * * * *

7. *Interim Deviations:* Property owners within the Immokalee Urban Overlay District may request deviations from specific dimensional requirements as described in this section. A deviation request may be reviewed administratively or by the Planning Commission depending upon its scope. This section addresses the permissible deviations, limitations thereon, and the review process.

a. *Review Process.* Insubstantial deviations will be reviewed administratively by the County Manager or designee. Substantial deviations will be reviewed by the Planning Commission. This section is not intended to replace the current established process of requesting deviations through the PUD rezoning process. Any deviations from the LDC which are not expressly provided for in this section shall be processed as variances in accordance with Section 9.04.00 of the LDC.

b. *Concurrent Deviation Application required.* All deviation requests shall be made concurrently with an application for an SDP or amendment, SIP or amendment or Final Subdivision Plat, or in the case of sign deviations, with a **building** permit. The **applicant** shall list all requested deviations on the required site plan(s), and shall depict the deviation(s) graphically on the plan(s). Additional graphic information may also be required by staff, on a case-by case basis.

c. *Insubstantial Deviations.* Requested deviations that do not exceed 10 percent of the required dimension, amount, size, or other applicable dimensional standard, with the exception of the required number of parking spaces, which may not exceed 20 percent of the LDC requirement (not more than 10 spaces), are insubstantial. To be approved, the following criteria must be considered:

i. The proposed deviation is compatible with **adjacent** land uses and **structures**, achieves the requirements of the regulations as closely as is practicable, and meets the intent of the related Land Development Code regulations; and

ii. The **applicant** proposes equitable tradeoffs for the proposed diminution in **development** standards, such as increased **open space**, landscaping, pedestrian spaces, **buffering** or architectural features, in order to meet the intent of the regulation being diminished.

d. *Substantial Deviations.* Requested deviations that do not qualify as insubstantial deviations are substantial deviations:

i. *Considerations for Review and Approval.* The CCPC shall consider the following:

- a) Whether or not the proposed deviation is compatible with **adjacent** land uses and achieves the requirements and/or intent of the regulations as closely as is practicable; and
 - b) Whether the proposed deviation is the minimum amount necessary to allow for reasonable use of the property and/or address the issue necessitating the deviation request; and
 - c) Whether the reduced or increased standard requested by the deviation is mitigated for, either on the subject site or by providing a public benefit on the subject site. Examples of such on-site mitigation include but are not limited to: increasing **setbacks** from the **adjacent** road **right-of-way** when proposing to deviate from sign size limitations; increasing plantings or planting sizes or installing a fence or wall where a reduced **buffer** width is proposed; providing public pedestrian and/or bicycle **pathway easements** or other similar mobility improvements including transit enhancements; providing public parking; providing beautification in the public realm, including **street** trees, **street** furniture, lighting and other similar public benefits.
- e. *Applicability – List of Development Standards Eligible for Deviation Requests.* Property owners shall be eligible to seek a deviation from the dimensional requirements of the following Code provisions, unless otherwise noted.
- i. 2.03.01 Agricultural Zoning Districts, limited to subsection A.1.b.4.ii.
 - ii. 2.03.03 Commercial Zoning Districts, limited to the following subsections:
 - a) A.1.c.11.vii. limited to a maximum of three **stories**, **viii.**, and **ix.**; and
 - b) E.1.c.4.iv.
 - iii. 2.03.04 Industrial Zoning Districts, limited to subsection A.1.c.2.iv., minimum **lot** area only.
 - iv. 3.05.07 B.1 Preservation Standards, Specific Standards Applicable Outside the RMFU and RLSA districts, Required Preservation Percentages (Table 1 inset).
 - v. 4.02.01 A Dimensional Standards for **Principal Uses** in Base Zoning Districts:

- a) Table 1. Lot Design Requirements for **Principal Uses** in Base Zoning Districts;
 - b) Table 2. **Building** Dimension Standards for **Principal Uses** in Base Zoning Districts, excluding **building** height and in the case of commercial **parcels**, no deviation shall be granted, for new **development**, from the required 50-foot **building setback** when **abutting** residentially zoned properties, or from the minimum 10-foot wide landscaped strip between the **abutting road right-of-way** and the off-street parking area for new **development**, but deviations from these requirements may be considered in the case of redevelopment where existing **structures** and/or encroachments are proposed to remain;
 - c) Table 2.1 - Table Of Minimum Yard Requirements (**Setbacks**) for Base Zoning Districts.
- vi. 4.02.02 Dimensional Standards for **Conditional Uses** and **Accessory Uses** in Base Zoning Districts, limited to subsection E (Table Inset), except **building** height.
 - vii. 4.02.03 A Specific Standards for Location of **Accessory Buildings** and **Structures**, Dimensional Standards (Tables 3 and 4), except that in the case of new development on commercial parcels, no deviation shall be granted from the required 50-foot **building setback** when **abutting** residentially zoned properties, or from the minimum 10-foot wide landscaped strip between the **abutting road right-of-way** and the off-street parking area. Deviations from these requirements may be considered in the case of redevelopment where existing **structures** and/or encroachments are proposed to remain.
 - viii. 4.02.03 B **Accessory Building Lot Coverage**.
 - ix. 4.02.27 C Specific Design Standards for the Immokalee--State Road 29A Commercial Overlay Subdistrict, **Building Design Standards**.
 - x. 4.02.28 A Same--Jefferson Avenue Commercial Overlay Subdistrict, **Building Design Standards**.
 - xi. 4.02.29 A Same--Farm Market Overlay Subdistrict, **Dimensional Standards**.
 - xii. 4.02.32 Same--Main Street Overlay Subdistrict, limited to the following subsections: A.; C.1; D.3 and D.4; and E.1, E.2, and E.3.

- xiii. 4.05.04 H (Spaces Required) Table 17 and 4.05.06 B Loading Space Requirements, utilizing the existing administrative deviation process set forth in LDC Section 4.05.04 G.2., recognizing that the reduced need for off-street parking in Immokalee may be offered as a viable basis for such administrative deviation.
- xiv. 4.06.02 C **Buffer** Requirements (limited to required width) except that in the case of new **development** on commercial **parcels**, no deviation shall be granted from the required 50-foot **building setback** when **abutting** residentially zoned properties, or from the minimum 10-foot wide landscaped strip between the **abutting road right-of-way** and the off-street parking area. Deviations from these requirements may be considered in the case of redevelopment where existing **structures** and/or encroachments are proposed to remain.
- xv. 4.06.03 B Landscaping Requirements for Vehicular Use Areas and **Rights-of-Way**, Standards for Landscaping in Vehicular Use Areas.
- xvi. 4.06.05 B General Landscaping Requirements, Landscaping requirements for industrial and commercial **development**, limited to subsection B.3.
- xvii. 4.06.05 C General Landscaping Requirements, **Building** Foundation Planting Requirements (including Table Inset).
- xviii. 5.05.08 C Architectural and Site Design Standards, **Building** Design Standards. Deviations from non-dimensional provisions of this section are also allowed as substantial deviations.
- xix. 5.05.08 D Design Standards for Specific Uses. Deviations from non-dimensional provisions of this section are also allowed as substantial deviations.
- xx. 5.05.08 E Architectural and Site Design Standards, Site Design Standards, limited to subsections 1.b; 2; 3; 4; 5 and 7. Deviations from non-dimensional provisions of this section are also allowed as substantial deviations. Note: Nothing in LDC Section 5.05.08, Architectural and Site Design Standards, shall be deemed to prohibit the use of murals on exterior walls of commercial **buildings** in the Immokalee Urban Overlay District, provided that: 1) such murals are reviewed and accepted by the Collier County Redevelopment Agency staff; and 2) such murals do not contain text for the purpose of advertising any business or commercial activity.

xxi. 5.06.04 Development Standards for Signs in Nonresidential Districts, limited to subsection F.

- f. Duration of these provisions. These provisions are interim in nature and will be in effect until the earlier of either the effective date of the Comprehensive Immokalee Overlay LDC amendments or 24 months from [the effective date of this ordinance]. An extension of these provisions may be granted by the BCC by Resolution if the BCC deems an extension is warranted.
- g. Public Notice. Public notice, including signage, notice to property owners and an advertised public hearing, is required for substantial deviation requests and shall be provided in accordance with the applicable provisions of Section 10.03.05 B, for Variances.
- h. Appeals. Within 30 days of the issuance of the decision of staff or of the CCPC, the owner or any aggrieved person may appeal the decision to the Board of Zoning Appeals pursuant to Section No. 250-58 of the Codes of Laws and Ordinances.

* * * * *

I. **Bayshore Mixed Use Overlay District.**

Special conditions for the properties adjacent to Bayshore Drive as referenced on BMUD Map 1; and further identified by the designation "BMUD" on the applicable official Collier County Zoning Atlas Map or map series.

* * * * *

6. Bayshore Mixed Use District (BMUD) Subdistricts

- a. *Neighborhood Commercial Subdistrict (NC).* The purpose and intent of this subdistrict is to encourage a mix of low intensity commercial uses and residential uses (see 2.03.07 I.6. Tables 1 and 2). **Developments** will be human-scale and pedestrian-oriented. For mixed use projects only, subject to the **MUP approval process** in section 2.03.07 I.3., refer to Tables 1 and 2 for permitted uses. Otherwise, permitted uses are in accordance with the underlying zoning district.
- b. *Waterfront Subdistrict (W).* The purpose of this subdistrict is to allow maximum use of the waterfront for entertainment while enhancing the area for use by the general public. **Development** standards for the district are the same as those set forth for the Neighborhood Commercial Subdistrict, except for the standards

set forth in section 4.02.17. For mixed use projects only, subject to the **MUP approval process** in section 2.03.07 I.3., refer to subsection 2.03.07 I.6. Tables 1 and 2 for permitted uses. Otherwise, permitted uses are in accordance with the underlying zoning district.

* * * * *

Table 1. Permissible Land Uses in BMUD Mixed Use Subdistricts

P = permitted			
E = permitted with certain exceptions			
Blank cell = prohibited (also see table of conditional and accessory uses)			
	SIC Code	BMUD Neighborhood Commercial Subdistrict (NC)	BMUD Waterfront Subdistrict (W)
Land Use Type or Category			
* * * * *	* * * * *	*	*
Performing Arts Theater	7922	PE ⁸	
* * * * *	* * * * *	*	*

NOTES FOR TABLE 1

* * * * *

⁸ Performance seating limited to 200 500 seats.

* * * * *

J. Goodland Zoning Overlay (GZO). To create design guidelines and development standards that will assure the orderly and appropriate development in the unincorporated area generally known as Goodland. The Goodland Zoning Overlay district (GZO) is intended to provide regulation and direction under which the growth and development of Goodland can occur with assurance that the tropical fishing village and small town environment of Goodland is protected and preserved, and that development and/or redevelopment reflect the unique residential and commercial characteristics of the community. The boundaries of the Goodland Zoning Overlay district are delineated on Map 1 below.

* * * * *

4. Storage sheds. **Parcels** located off of Bayshore Way are allowed to retain any sheds that were constructed prior to October 17, 2003. Storage

sheds for fishing and boat equipment on the boat **dock parcels** off of Bayshore Way constructed after October 17, 2003 are permissible if they comply with the following requirements:

- a. The appropriate **building** permit must be obtained.
- b. Bayshore drive Way setback: ten feet.
- c. Waterfront **setback**: ten feet.
- d. Side **yard setback**: 0 feet.
- e. Maximum size of shed: 144 square feet.

* * * * *

SUBSECTION 3.I. AMENDMENTS TO SECTION 2.04.00 PERMISSIBLE, CONDITIONAL AND ACCESSORY USES IN ZONING DISTRICTS / RESERVED

Section 2.04.00 Permissible, Conditional and Accessory Uses in Zoning Districts / Reserved, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

2.04.00 Reserved

~~2.04.01 Rules for Interpretation of Uses~~

~~In any zoning district, where the list of permitted and **conditional 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 and **conditional 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 section 1.06.00, interpretations, of this LDC.~~

~~2.04.02 Effect of Approvals Under the Zoning Reevaluation Ordinance~~

~~Any use or **structure** that has been granted a **compatibility** exception, an exemption, or vested rights pursuant to the Collier County Zoning Reevaluation Ordinance, Ordinance No. 90-23 (1990), shall be a permitted use in the zoning district in which it is located to the extent of its approved maximum **density** or intensity of use and to the extent that it remains effective. Such use or **structure** shall nevertheless comply with all other requirements and regulations of the LDC.~~

2.04.03 Reserved

* * * * *

SUBSECTION 3.J. AMENDMENTS TO SECTION 2.05.01 DENSITY STANDARDS AND HOUSING TYPES

Section 2.05.01 Density Standards and Housing Types, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

2.05.01 Density Standards and Housing Types

A. Where residential uses are allowable, the following **density** standards and housing type criteria shall apply.

Housing Type: Zoning District:	Single-family	Duplex	Townhouse	Multifamily	Mobile Home	Cluster	Guest House	Caretaker Units (number allowed)	Timeshare	Recreational vehicles ²⁰⁻¹	Maximum Density ^{2, 17} (units per gross acre)
GC								Two			
A	✓				S		✓				0.2 (1 unit per 5 acres)
E	✓						✓				0.44 (1 unit per 2.25 acres)
RSF-1	✓					✓	✓				1
RSF-2	✓					✓	✓				2
RSF-3	✓					✓	✓				3
RSF-4	✓					✓	✓				4
RSF-5	✓					✓	✓				5
RSF-6	✓					✓	✓				6
RMF-6	✓	✓	✓	✓		✓	✓				6
RMF-12	S	✓	✓	✓							12
RMF-16			✓	✓							16
RT ^{3,17}									✓		26

RT ^{4,17}			✓	✓					✓		16
RT ^{5,17}			✓	✓					✓		16
VR ⁶	✓				✓	✓					7.26
VR ⁷		✓				✓					8.71
VR ⁸				✓		✓					14.52
MH ⁹					✓			One			7.26
TTRVC								One		✓	12
C-1 ¹⁰								One			16
C-2 ¹⁰								One			16
C-3 ¹⁰								On			16
C-4								One			
C-5								One			
I								One			
BP								One			
CON ¹¹	✓										0.2 (1 unit per 5 acres) 0.33 (1 unit per 3 acres) Big Cypress
BMUD ¹²	S	S	S	S							12
GTMUD ¹²	S	S	S	S							12
R-1	✓	✓	✓	✓							
R-2	✓	✓	✓	✓							
GZO	Per underlying zoning district										
VB-RTO ¹⁷			✓	✓					✓		16 for <u>timeshare, mf & twnhses</u> ; 26 for <u>hotels and motels</u>
GGDCCO				✓							Per underlying zoning district

RFMU ¹³	✓				✓ ¹⁶						0.025 (1 unit per 40 acres)
RFMU ¹⁴	✓	✓	✓	✓	✓ ¹⁶	✓	✓	✓			0.2 (1 unit per 5 acres)
RFMU ¹⁵	✓	✓	✓	✓	✓ ¹⁶	✓	✓	✓		✓	0.2 (1 unit per 5 acres)
MHO					✓						0.2 (1 unit per 5 acres)

Legend:

S = permitted subject to supplemental standards

¹ **Recreational vehicles** include travel trailers, park models, pickup coaches, and motor homes.

² **Density** is calculated as the number of residential **dwelling units** per gross acre (see definition of **density, residential**). Generally, in all zoning districts except for **A, E** and **CON**, this indicates the maximum allowable **density**, including any applicable **density bonuses** per the **density** rating system in the growth management plan. **Density** may be restricted by the board of county commissioners at the time of rezoning to something less than the maximum, as indicated parenthetically on the official zoning atlas maps. For example, "RMF-6(4)" allows all uses and **development** standards of the RMF-6 zoning district but **density** is limited to 4 **dwelling units** per acre.

³ A maximum of ~~twenty-six (26)~~ **dwelling units** per acre are allowed for **hotels** and **motels**. A hotel or motel in Port of the Islands may offer timeshare units and retain the density of 26 units per acre. Outside of Port of the Islands, a hotel or motel or multi-family structure including a condominium which offers timeshare units is permitted a density of up to 16 units per acre.

⁴ For RT zoning located inside Activity Centers as designated on the Growth Management Plan's Future Land Use Map, residential units (including those for **timeshares** and **multifamily** uses) are allowed at a maximum of ~~sixteen (16)~~ **dwelling units** per acre. Similarly for RT zoning not located within Activity Centers but in existence at the time of adoption of the LDC (October 30, 1991), residential units are allowed at a maximum of ~~sixteen (16)~~ units per acre.

⁵ For RT zoning not located within Activity Centers and not in existence at the time of adoption of this LDC (October 30, 1991), allowed **density** is per the **density** rating system up to ~~sixteen (16)~~ **dwelling units** per acre. The calculation of **density** shall be based on the land area defined by a **lot(s)** of record.

⁶ **Density** for **single-family** and mobile home, with or without clustering.

⁷ **Density** for **duplex**, with or without clustering.

⁸ **Density** for **multi-family**, with or without clustering.

⁹ In the MH district, modular homes are allowable.

¹⁰ Properties zoned C-1 through C-3 may have associated residential **densities** in instances of mixed-use **development** pursuant to the Future Land Use Element of the Growth Management Plan.

¹¹ The **density** of 1 **dwelling unit** per 3 gross acres only applies to private in-holdings within the Big Cypress National Preserve that were in existence prior to October 14, 1974.

¹² Maximum allowable **density** in the BMUD and GTMUD overlays is attained through the Mixed Use Project (MUP). Approval Process pursuant to the regulations in the Overlays.

¹³ One **dwelling unit** per 40 acres is the maximum **density** permitted in **RFMU Sending Lands** (see section 2.03.08).

¹⁴ One **dwelling unit** per 5 acres is the maximum **density** permitted in **RFMU Neutral Lands** (see section 2.03.08).

¹⁵ One **dwelling unit** per acre is the maximum **density** permitted in **RFMU Receiving Lands** located outside of a Rural Village with redemption of Transfer of Development Rights (TDR) credits; 0.2 units per acre is the maximum **density** permitted in **RFMU Receiving Lands** without redemption of TDR credits; 3 **dwelling units** per acre is the maximum **density** per acre in **RFMU Receiving Lands** located within a Rural Village with the redemption of TDR credits (see section 2.03.08).

¹⁶ Only if Mobile Home Overlay exists.

¹⁷ Lock-off unit: Where the floor area of a timeshare unit or hotel room contains lock-off accommodations which can be occupied separately from the main living unit, each lock-off accommodation shall be counted as a full timeshare unit when computing the allowable density.

B. Acreage associated with historical/archaeological resources preserved within the boundaries of a project shall be included in calculating the project's permitted **density**.

* * * * *

SUBSECTION 3.K. AMENDMENTS TO SECTION 3.04.00 PROTECTION OF ENDANGERED, THREATENED, OR LISTED SPECIES, SECTION 3.04.01 GENERALLY

Section 3.04.00 Protection of Endangered, Threatened, or Listed Species, Section 3.04.01 Generally, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

3.04.00 PROTECTION OF ENDANGERED, THREATENED, OR LISTED SPECIES

3.04.01 Generally

- A. The purpose of this section is to protect species in the County, by including measures for protection and/or relocation of endangered, threatened, or species of special concern listed by:
1. Florida Fish and Wildlife Conservation Commission (FFWCC) as endangered, threatened, or species of special concern, and as provided for the bald eagle in F.A.C. 68A-16.002.
 2. United States Fish and Wildlife Service (USFWS) as endangered or threatened, and as provided for by the Bald and Golden Eagle Protection

Act.

- ~~3. Convention of International Trade in Endangered Species of Wild Fauna and Flora (CITES).~~

B. Applicability and Exemptions.

1. General Applicability: Except as provided in 2 below, all new **development** shall be directed away from listed species and their habitats by complying with the guidelines and standards set forth in this section.
2. Exemptions: The following are exempt from the provisions of this Section:
 - a. Agricultural operations that fall within the scope of sections 163.3162(4) or 823.14(6), Florida Statutes;
 - b. All **development** within the RLSA District, except as specifically provided in section 4.08.00; and
 - c. All **development** within the NBMO, except as specifically provided in section 2.03.08.

C. ~~EIS and m~~Management plans.

1. Exemption. Single-family **platted lots** or construction of a single-family home, including **accessory uses and structures**, on a lot of record that are not part of a previously approved **subdivision** or SDP shall not be required to prepare an EIS or a management plan, but shall comply with approved management plans for the **subdivision** in which they are located.
- ~~2. EIS. An EIS is required as set forth in section 10.02.02. The County shall notify the FFWCC and USFWS of the existence of any listed species that may be discovered.~~
32. Management Plans.

- a. General Requirements. A wildlife management plan shall be required for all projects where the wildlife survey indicates listed species are utilizing the site, or where bald eagle nests occur on the site or within distances to the site identified in the Bald Eagle Management Plan utilized by the FFWCC. These plans shall describe how the project directs incompatible land uses away from ~~listed~~ these species and their habitats and shall incorporate proper techniques to protect listed these species and their habitat, and the nests of bald eagles from the negative impacts of proposed **development**. Incompatible land uses and proper techniques to protect listed species and their habitat, and the nests of bald eagles, shall be in accordance with the guidelines, management plans and recommendations of the FFWCC or USFWS.

Management plans for listed plant and animal species, and for the nests of bald eagles, shall be included as part of the preserve management plan, if a preserve management plan is required. The County shall notify the FFWCC and USFWS of the existence of any listed species that may be discovered.

b. References. Management guidelines contained in publications utilized by the FFWCC and USFWS as their technical assistance, shall be used for developing required management plans. The following references shall be used, as appropriate, to prepare the required management plans;

i. ~~South Florida Multi-Species Recovery Plan, USFWS, 1999.~~

ii. ~~Habitat Management Guidelines for the Bald Eagle in the Southeast Region, USFWS, 1987.~~

iii. ~~Ecology and Habitat Protection Needs of Gopher Tortoise (*Gopherus polyphemus*) Populations found on Lands Slated for Large Scale **development** in Florida, Technical Report No. 4, Florida Game and Fresh Water Fish Commission, 1987.~~

iv. ~~Ecology and **development** Related Habitat Requirements of the Florida Scrub Jay (*Aphelocoma coerulescens*), Technical Report No. 8, Florida Game and Fresh Water Fish Commission, 1991.~~

D. Protective measures. All **developments** subject to this section shall adhere to the following:

1. General.

a. In those areas where **clustering** is permitted, all **developments** shall be **clustered** to discourage impacts to listed species habitats.

b. **Open space** and vegetation preservation requirements shall be used to establish **buffer** areas between wildlife habitat areas and areas dominated by human activities.

c. Provisions such as fencing, walls, or other obstructions shall be provided to minimize **development** impacts to the wildlife and to facilitate and encourage wildlife to use wildlife corridors.

d. Appropriate roadway crossings, underpasses, and signage shall be used where roads must cross wildlife corridors.

e. When listed species are directly observed on site or indicated by evidence, such as denning, foraging or other indications, priority

shall be given to preserving the habitat of that listed species, as provided in section 4.06.04.

- f. Management Plans shall contain a monitoring program for **developments** greater than 10 acres.
- g. Letters of technical assistance from the FFWCC and/or recommendations from the USFWS shall be deemed to be consistent with the GMP. Other forms of technical assistance from the FFWCC and/or USFWS shall be acceptable based on the nature of the evaluation.

E. Single-family platted lots or construction of a single-family home, including accessory uses and structures, on a lot of record, seven and one-half (7 1/2) acres or less in size, shall be exempt from the requirements set forth in sections 3.04.02 A, C, E, F, G B- and 3.04.03, but shall comply when required as part of the subdivision in which they are located, when these lots are not a part of a previous development which has been required to comply with section 3.04.02 B. However, gopher tortoises shall be protected pursuant to this section. Other agency approvals may be required in accordance with 10.02.06 C.

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SUBSECTION 3.L. AMENDMENTS TO SECTION 3.04.02 SPECIES SPECIFIC REQUIREMENTS

Section 3.04.02 Species Specific Requirements, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

3.04.02 Species Specific Requirements

~~On property where the wildlife survey establishes that listed species are utilizing the site or where the site is capable of supporting listed species and such listed species can be anticipated to potentially occupy the site, the County shall, consistent with the GMP, consider and utilize recommendations and letters of technical assistance from the Florida Fish and Wildlife Conservation Commission and recommendations from the U.S. Fish and Wildlife Service in issuing development orders. It is recognized that these agency recommendations, on a case by case basis, may change the requirements contained herein and any such change shall be deemed to be consistent with this Code.~~
Wildlife habitat management plans for listed species shall be submitted for County approval. A plan shall be required for all projects where the wildlife survey indicated listed species are utilizing the site (other than for occasional use by non-resident species such as wading birds) or if required by state and federal permit requirements. These plans shall describe how the project directs incompatible land uses away from listed species and their habitats. The County shall, consistent with applicable GMP policies, consider and utilize recommendations and letters of technical assistance from the Florida Fish and Wildlife Conservation Commission and recommendations from the US Fish and Wildlife Service in issuing development orders on property containing listed species. It is recognized that these agency recommendations, on a case by case basis, may change the requirements contained within these wildlife protection policies and any such change shall be deemed consistent with the Growth Management Plan. The

following specific species management and protection plans shall be applicable, in addition to those required by other provision in this section 3.04.00:

A. Gopher Tortoise (~~Gopherus polyphemus~~ Gopherus polyphemus).

1. All native habitats occupied by gopher tortoises, their habitats, and the associated listed commensals are hereby protected.
2. It is expressly prohibited to take, which means to harass, harm, hunt, shoot, wound, kill, trap, capture, collect, molest, pursue, or attempt to engage in any such conduct, any gopher tortoise, and to alter, destroy, or degrade the functions and values of their burrows or natural habitat, unless otherwise provided for in this section.
3. All gopher tortoise burrows are protected, and it is prohibited to intentionally destroy or take any such burrow by any means, unless otherwise provided for in this section.
4. ~~Personnel authorized by the FFWCC or the County may house and relocate tortoises, as necessary and provided for in this section.~~ Relocation shall be permitted and executed according to FFWCC Gopher Tortoise Permitting Guidelines.
5. When gopher tortoises are identified on-site, a habitat protection and/or management plan or off-site relocation plan, as prepared by a FFWCC permitted Authorized Gopher Tortoise Relocation Agent, shall be submitted to the County Manager or designee for review and approval.
6. The on-site habitat protection and/or management plan shall include, but not be limited to, the following items:
 - a. A current gopher tortoise survey no more than 6 months old or within the time frame recommended by the FFWCC, which shall may be field-verified by planning services staff the County Manager or designee.
 - b. A proposal for either maintaining the habitat for the population in-place on site or relocating ~~it~~ the existing population to a gopher tortoise recipient site permitted by the FFWCC.
 - c. A if preserved on site, a site plan identifying the boundaries of the gopher tortoise preserve.
 - d. The method of relocation, if necessary.
 - e. The proposed supplemental plantings, if needed.
 - f. Details of the construction and maintenance of gopher

tortoise preserve fencing to protect tortoises during construction.

- g. An annual maintenance plan describing exotic removal and vegetation management.
 - h. Identification of persons responsible for the initial and annual protection and/or management of the tortoises and the preserve area. Suitable gopher tortoise habitat shall and maximum allowable density of gopher tortoises shall be in accordance with the parameters identified in Gopher Tortoise Management Plan and Gopher Tortoise Permitting Guidelines utilized by the FFWCC be designated on the site plan at the time of the first development order submittal. Suitable gopher tortoise habitat preserved on site shall be designated on the site plan at the time preserves are established and shall be credited to the preservation requirement as specified in section 3.05.00 of this LDC.
 - ~~i.~~ Habitat management and monitoring to ensure habitat within the preserve is maintained in accordance with the parameters identified in Gopher Tortoise Management Plan and Gopher Tortoise Permitting Guidelines utilized by the FFWCC.
 - ~~i.~~ Methods identified to protect tortoises from roadways, domestic animals, or other possible dangers, if needed.
- ~~7.~~ Suitable habitat shall be defined as having the following characteristics:
- ~~a.~~ The presence of well-drained, sandy soils, which allow easy burrowing for gopher tortoises.
 - ~~b.~~ Appropriate herbaceous ground cover (if not present, supplemental food sources shall be planted).
 - ~~c.~~ Generally open canopy and sparse shrub cover, which allow sufficient sunlight to reach the ground.
 - ~~d.~~ Typically, includes the presence of an existing gopher tortoise population.
- ~~8.~~ Off-site relocation plans shall be permitted to meet all or part of the on-site gopher tortoise habitat preservation requirements under the following circumstances:
- ~~a.~~ Where suitable habitat does not exist on-site;
 - ~~b.~~ Where a property owner meets the minimum on-site native

~~vegetation preservation requirements of this LDC with jurisdictional wetlands, and cannot provide appropriate habitat for gopher tortoises as described above; or~~

- ~~c. Where scientific data has been presented to the County Manager or designee, and an environmental professional opinion is rendered that the requirement to provide the required on-site gopher tortoise habitat preservation area will not be conducive to the long-term health of the on-site population of tortoises.~~
- ~~9. If an off-site relocation plan is authorized under one (1) or more of the above conditions, approval of such a plan and associated State permit, shall be obtained from the FFWCC. Where appropriate, a combination of on-site preservation and off-site relocation may be considered.~~
- ~~10. When relocating tortoises on-site, the density shall be reviewed on a case-by-case basis, and no more than five (5) tortoises per acre will be considered a suitable density.~~
744. When identifying the **native vegetation** preservation requirement of section 3.05.07 of this LDC for **parcels** containing gopher tortoises, priority shall be given to protecting the largest, most contiguous gopher tortoise habitat with the greatest number of active burrows, and for providing a connection to off-site **adjacent** gopher tortoises' preserves. All gopher tortoise preserves shall be ~~platted with protective covenants, as required by this section and section 3.05.07 H of this LDC or, if the project is not platted, shall provide such language on the approved site development plan.~~ It shall be a priority to preserve scrub habitat, when it exists on-site, for its rare unique qualities and for being one of the most endangered habitats in the County, regardless of whether gopher tortoises are relocated off-site.
812. All gopher tortoises shall be removed captured and relocated from within the development footprint all active and inactive burrows located within the area of construction prior to any site improvement, in accordance with FFWCC guidelines and the protection/management plan approved by County Manager or designee. High densities of hatchlings and juvenile tortoises are often found in dense thickets of low growing vegetation in habitat where existing gopher tortoises and their burrows are located. In areas where relocation of gopher tortoises is required, the location of these thickets shall be identified in the protection/management plan and any gopher tortoises within these areas shall also be relocated.
- ~~13. Exemptions. Single family platted lots seven and one-half acres or less in size, shall be exempt from the requirements set forth in subsections 5 through 11 above, when these lots are not a part of~~

~~a previous development which has been required to comply with subsections 5 through 11. However, gopher tortoises shall be protected pursuant to 1. 3. above.~~

B. Sea Turtle Protection.

1. The purpose of this section is to protect the threatened and endangered sea turtles that nest along the **beaches** of the County, by safeguarding sea turtle hatchlings from sources of artificial light, and adult and hatchling sea turtles from injury or harassment. The County shall adhere to state and federal guidelines for the protection of sea turtles.
2. The requirements of this section apply when **development** or lighting associated with **development** is located within ~~three hundred (300)~~ feet of coastal mean high water; when parking **lots, dune** walkovers, or other outdoor lighting is proposed; and when reflective surfaces that will be illuminated by outdoor lighting will be visible from the **beach**.
 - a. Outdoor lighting shall be held to the minimum necessary for security and safety. Floodlights and landscape or **accent lighting** shall be prohibited.
 - b. All lighting, including wall-mounted fixtures, pole lighting, lights on balconies, and any other type of lighting not specifically referenced by this section, shall be of low intensity, and shall be fitted with hoods or positioned so that the light sources, or any reflective surfaces illuminated by such sources, shall not be visible from the **beach**.
 - c. Low profile luminaries shall be used in parking **lots**, and such lighting shall be fitted with hoods or positioned so that the light sources, or any reflective surfaces illuminated by such sources, shall not be visible from the **beach**.
 - d. **Dune** crosswalks shall utilize low profile shielded luminaries directed and positioned so that light sources, or any reflective surfaces illuminated by such sources shall not be visible from the **beach**. ~~d~~Dune crossover lighting shall be limited to the area landward of the primary **dune**.
 - e. If high intensity lighting is necessary, low pressure sodium vapor luminaries shall be used and fitted with a hood or positioned so that the light sources, or any reflective surfaces illuminated by such sources, shall not be visible from the **beach**.
 - f. Plates of tinted glass are required for windows that are visible from the **beach**. The tinted glass shall be any window or glazing that has an industry-approved light

transmittance value of ~~forty-five (45)~~ percent or less. Such transmittance shall be limited to the visible spectrum (400 to 700 nanometers), and shall be measured as the percentage of light that is transmitted through the glass, inside to outside.

- g. Temporary security lights at construction sites shall not be mounted more than ~~fifteen (15)~~ feet above the ground. Light sources, or any reflective surfaces illuminated by such sources, shall not be visible from the **beach**.

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- 5. It shall be unlawful, during the nesting season, to construct any **structure**, add any fill, mechanically clean any **beach**, or **grade** any dirt within 100 feet of the nesting zone of a **beach** where sea turtles nest or may nest, without obtaining a construction in sea turtle nesting area permit from the County Manager or designee.

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- d. Construction or repair of any **structure**, including, but not limited to, **dune** walkovers, seawalls, or other revetments, sandbags, groins, or jetties, shall not be permitted during sea turtle nesting season on any County **beaches**, except if permitted **structures** are damaged by a named storm or other declared natural disaster and the following conditions are met:

- i. 4. Minor Repair Work. Minor repair work (boards need to be nailed back to the existing intact **structure**, or a few less than 10 percent of the boards need to be replaced) that can be performed completely from atop the **structure** is authorized after obtaining the necessary approval of the FDEP and notifying ~~Collier County Environmental Services~~ the County Manager or designee of that work. Work must be completed within 12 months of the named storm or declared natural disaster.

- ii. 2. Major Repair Work. Prior to any repair work (greater than that described in i. 4 above) or reconstruction of any part of the **structure**, the following information shall be provided so that staff can determine if the major repair or reconstruction can occur prior to the end of sea turtle nesting season:

- a)- The appropriate permit or authorization from FDEP, if required.

- b)- The location of all known sea turtle nests.

~~Community Development and Environmental Services (CDES) staff~~ The County Manager or designee will provide assistance in locating nests. Construction activities shall not occur within 10 feet of these boundaries ~~for~~ of viable nests.

- c)- A survey by a ~~qualified consultant~~ FFWCC permitted Authorized Gopher Tortoise Relocation Agent locating any gopher tortoise burrows on site within 50 feet of the ~~structure~~ proposed construction. Relocation of gopher tortoises will be required when the burrows are in harm's way of the construction activity.
- d)- Photographs of the site as it existed after the storm to document the conditions of the property.
- e)- An aerial of the property showing the CCSL line.
- f)- A copy of a CCSL variance or CCSL permit, if required, and building permit approving the original construction of the **structure**.
- g)3- Sea turtle nest locations will be reestablished using their previously recorded GPS locations and accuracy data to identify a 95% confidence boundary. Construction activities shall not occur within 10 feet of these boundaries for viable nests. Nests will be considered viable for 80 days from the time the nest was recorded unless it can be proven that a particular nest has been damaged by the storm and there is no chance of any hatchlings.

e -4. Minor **structures**, as defined by Florida Statutes Subsection 161.055, of the Coastal Zone Protection Act of 1985, shall be approved provided that they also comply with:

- i a. Federal requirements for elevations above the 100-year flood level,
- ii b. Collier County Building Code requirements for flood proofing,
- iii e. Current building and life safety codes,

- iv d. Collier County and State of Florida Department of Environmental Protection CCSL/CCCL regulations,
- v e. Applicable disability access regulations of the American Disability Act (ADA), and
- vi f. Any required Collier County zoning and other **development** regulations with the exception of existing **density** or intensity requirements established, unless compliance with such zoning or other **development** regulations would preclude reconstruction otherwise intended by the Build back Policy as determined by the Emergency Review Board established herein.

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- C. ~~Florida Scrub Jay. Habitat preservation for the Florida scrub jay (*Aphelocoma coerulescens*) shall conform to the guidelines contained in Technical Report No. 8, Florida Game and Fresh Water Fish Commission, 1994. The required management plan shall also provide for a maintenance program and specify an appropriate fire or mechanical protocols to maintain the natural scrub community. The plan shall also outline a public awareness program to educate residents about the on-site preserve and the need to maintain the scrub vegetation. These requirements shall be consistent with the UFWS South Florida Multi-Species Recovery Plan, May 1999.~~
- D. Bald Eagle. For the bald eagle (*Haliaeetus leucocephalus*), the required habitat management plans shall establish protective zones around the eagle nest restricting certain activities. The plans shall also address restricting certain types of activities during the nesting season. ~~These requirements shall be consistent with the UFWS South Florida Multi-Species Recovery Plan, May 1999.~~
- E. ~~Red-cockaded woodpecker~~ Red-Cockaded Woodpecker. For the red-cockaded woodpecker (*Picoides borealis*), the required habitat protection plan shall outline measures to avoid **adverse impacts** to active clusters and to minimize impacts to foraging habitat. Where adverse effects can not be avoided, measures shall be taken to minimize on-site disturbance and compensate or mitigate for impacts that remain. ~~These requirements shall be consistent with the UFWS South Florida Multi-Species Recovery Plan, May 1999.~~
- F. ~~Florida black bear~~ Florida Black Bear. In areas where the Florida black bear (*Ursus americanus floridanus*) may be present, the management plans shall require that garbage be placed in bear-resistant proof containers, at one or more central locations. The management plan shall also identify methods to inform local residents of the concerns related to interaction between black bears and humans. Mitigation for impacting habitat suitable for black bear shall be considered in the management

plan.

G. Panther. For projects located in ~~Priority I and Priority II Panther Habitat areas~~ Primary and Secondary zones, the management plan shall discourage the destruction of undisturbed, native habitats that are preferred by the Florida panther (*Felis concolor coryi*) by directing intensive land uses to currently disturbed areas. Preferred habitats include pine flatwoods and hardwood hammocks. In turn, these areas shall be **buffered** from the most intense land uses of the project by using low intensity land uses (e.g., parks, passive recreational areas, golf courses). Golf courses within the **RFMU district** shall be designed and managed using standards found in that district. The management plans shall identify appropriate lighting controls for these permitted uses and shall address the opportunity to utilize prescribed burning to maintain fire-adapted preserved vegetative communities and provide browse for white-tailed deer. ~~These requirements shall be consistent with the UFW's South Florida Multi-Species Recovery Plan, May 1999, and with the provisions set forth in this section.~~

H. West Indian Manatee. The management and protection ~~plans~~ requirements based upon the Manatee Protection Plan for the West Indian Manatee manatee (*Trichechus manatus*) are set forth in section 5.05.02.

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SUBSECTION 3.M. ADDITION OF NEW SECTION 3.04.03 REQUIREMENTS FOR PROTECTED PLANTS

Section 3.04.03 Requirements for Protected Plants, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby added to the Land Development Code to read as follows:

3.04.03 Requirements for Protected Plants

When habitat containing the following listed plants is proposed to be impacted, plants listed as Rare and Less Rare (below) shall be relocated to on-site preserves if the on-site preserves are able to support the species of plants. Relocation of epiphytic species of plants listed as Rare and Less Rare (below) shall only be required for plants located within eight feet of the ground. Plants listed as Less Rare shall be relocated to the on-site preserves only if the preserves do not already contain these species. When available, only two plants per species per acre of plants listed as Less Rare are required to be relocated, up to a maximum of ten plants per species per preserve. When available, seed from *Tillandsia* may be transferred to trees in lieu of relocation of plants. Other than for *Tillandsia*, the species of plants listed below may be planted within preserves from nursery grown stock in lieu of relocation. Sites infested with exotic species of *Metamasius* weevil which feed on *Tillandsia*, shall not be allowed to relocate *Tillandsia* species. Plants listed in this section shall not require the land in which they are located to be placed in a preserve.

Rare Plants:

<u>Cowhorn orchid</u>	<u><i>Cyrtopodium punctatum</i></u>
<u>Curtiss's milkweed</u>	<u><i>Asclepias curtissii</i></u>
<u>Florida clamshell orchid</u>	<u><i>Encyclia cochleata</i></u>
<u>Ghost orchid</u>	<u><i>Polyrrhiza lindenii</i></u>
<u>West coast prickly apple</u>	<u><i>Harrisia gracilis</i></u>

Less Rare Plants:

<u>Butterfly orchid</u>	<u><i>Encyclia tampensis</i></u>
<u>Giant wild-pine</u>	<u><i>Tillandsia utriculata</i></u>
<u>Inflated wild-pine</u>	<u><i>Tillandsia balbisiana</i></u>
<u>Stiff-leaved wild-pine</u>	<u><i>Tillandsia fasciculata</i></u>
<u>Twisted air plant</u>	<u><i>Tillandsia flexuosa</i></u>

Where clearing of vegetation is needed for habitats requiring fire or for activities needed to simulate fire, epiphytic plants listed above should not be relocated into these habitats. Epiphytic plants may be removed from preserves if located on vegetation required to be removed as part of an approved preserve management plan.

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**SUBSECTION 3.N. AMENDMENT AND RENUMBERING OF FORMER SECTION 3.04.03
PENALTIES FOR VIOLATION: RESORT TO OTHER REMEDIES**

Former Section 3.04.03 Penalties for Violation: Resort to Other Remedies, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby renumbered and amended to read as follows:

3.04.03 3.04.04 Penalties for Violation: Resort to Other Remedies

Violation of the provisions of this section or failure to comply with any of its requirements shall constitute a misdemeanor. Any person or firm who violates this section or fails to comply with any of its requirements shall upon conviction thereof be fined, or imprisoned, or both, as provided by law. Each day such violation continues shall be considered a separate offense. Each taking of a gopher tortoise shall constitute a separate violation. It is not the intent to include tortoises that may be accidentally injured or killed during an approved relocation procedure that is done by a qualified consultant FFWCC permitted Authorized Gopher Tortoise Relocation Agent, in accordance with their protection/management plan. Any other person, who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided. The county, in addition to the criminal sanctions contained herein, may take any other appropriate legal action, including but not limited to injunctive action, to enforce the provisions of this section.

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SUBSECTION 3.O. AMENDMENTS TO SECTION 3.05.07 PRESERVATION STANDARDS

Section 3.05.07 Preservation Standards, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read 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 unincorporated areas of the County:

1. Native vegetative communities. The preservation of native vegetation shall include all naturally occurring strata including canopy, understory and ground cover emphasizing the largest contiguous area possible, except as otherwise provided in section 3.05.07 H.1.e. The term native vegetation is further defined as a vegetative community having 25 percent or more canopy coverage or highest existing vegetative strata of native plant species. In the absence of other native strata, herbaceous vegetation not typically associated with the re-growth of native vegetative communities, commonly known as weeds, shall not be considered native vegetation for the purpose of preservation.

2. Native trees. Where a property has been legally cleared and only native trees remain and the native ground cover replaced with lawn or pasture, then only the native trees shall be retained. The percent requirement of native trees required to be retained shall be by tree count based on the percent requirement for native vegetation pursuant to 3.05.07 B. Only slash pine trees with an 8 inch DBH or greater, hardwood trees with a 18 inch DBH or greater, or palms with a minimum of 8 foot of clear trunk, shall be used for calculating this requirement. For hardwood trees, every 6 inches of fraction thereof over 18 inch DBH shall count as an additional tree (18 inch DBH = 1 tree, 24 inch DBH = 2 trees, 26 inch DBH = 3 trees, etc.). Slash pine trees and cabbage palms shall only be retained on portions of the property with a density of 8 or more trees per acre. Trees which are unhealthy or dying, as determined by a certified arborist or any individual meeting the qualifications in 3.05.07 H.1.g.iii, shall not be retained or used for calculation. Native slash pine trees shall be retained in clusters, if the trees occur in clusters, with no encroachment (soil disturbance) within the drip line or within 30 feet of the trunk, whichever is greater, of any slash pine or hardwood tree. Encroachment may occur within these distances where evaluation by a certified arborist determines that it will not affect the health of the trees. Trees which die shall be replaced with 10 foot high native canopy trees on a one for one basis. Native trees with a DBH of two feet or more shall be replaced with three 10-foot high native canopy trees. Areas of retained trees shall not be subject to the requirements of 3.05.07 H.

Where trees cannot be retained, the percent requirement of trees

shall be made up elsewhere on-site with trees planted in clusters utilizing 10 foot high native canopy trees planted on a one for one basis. Where native trees with a DBH of two feet or more cannot be retained, a minimum of three 10-foot high native canopy trees shall be planted per tree removed of this size. Trees planted to satisfy this requirement shall be planted in open space areas equivalent in size to the area of canopy of the trees removed. This planted open space shall be in addition to the area used to satisfy the minimum landscape requirements pursuant to 4.06.00. In lieu of using actual canopy coverage, the following average diameter for tree canopies may be used to calculate canopy coverage of existing trees: slash pine 40 feet, cypress 25 feet, live oak 60 feet and cabbage palm 10 feet. Open space areas not normally planted with trees, such as stormwater retention areas or lake banks not planted to meet the LSPA requirement, may be used to satisfy this requirement. Trees planted to satisfy this requirement shall be set back a minimum of 30 feet from principal structures and impervious parking areas.

23. Areas that fulfill the **native vegetation** retention standards and criteria for native vegetative communities of this Section shall be set aside as preserve areas, subject to the requirements of section 3.05.07 H. ~~Single family residences are exempt from the requirements of section 3.05.07 H.~~
34. **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 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.
45. 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 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 process and criteria for the clearing are found in sections 10.02.06 and 3.05.05.
 - a. Re-creation of **native vegetation** shall not be required when any one of the following criteria is met:
 - i. The parcel was issued a County permit to clear vegetation and remains cleared of **native vegetation**.
 - ii. The parcel was issued a County permit to clear vegetation for agricultural purposes prior to July 1993 (the date at which the 10 year agricultural clearing rezone limitation previously identified in the GMP is achieved) and which remains cleared of **native vegetation**.
 - iii. If no clearing permit can be found, demonstrations of continuous bona fide agricultural operation along with issuance of an after-the-fact agricultural clearing permit from the County will be evidence of legal clearing. Demonstrations of continuous bona fide agricultural activities may include, but are not limited to, agricultural classification records from the property appraiser's office; dated aerial photographs; occupational license for agricultural operation; SFWMD consumptive use permits for the ongoing agricultural use or other information such as sworn testimony from previous owners which establishes the commencement date and the location of the agricultural operation. The rezone limitation pursuant to 10.02.06 shall apply.
7. 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 3.05.07 H.
8. **Development** standards pursuant to section 4.02.14 shall apply to all **development**, including **single-family**, within the ACSC.
9. Created preserves are allowed subject to the criteria in 3.05.07 H.
10. Fire and fuel breaks within preserves, kept to the minimum

necessary in accordance with standard forestry practice, shall count toward the minimum native vegetation retention requirement.

- 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.~~

Outside the RFMU and RLSA Districts, native vegetation shall be preserved on site, except for single family residences, through the application of the following preservation and vegetation retention standards and criteria. The single family exception is not to be used as an exception from any calculations regarding total preserve area for a development containing single family lots.

1. Required preservation.

Development Type	Coastal High Hazard Area		Non-Coastal High Hazard Area	
	Residential and Mixed Use development	Less than 2.5 acres	10%	Less than 5 acres
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 types	Less than 5 acres	10%	Less than 5 acres	10%
	Equal to or greater than 5 acres	15%	Equal to or greater than 5 acres	15%
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 and remains cleared of **native vegetation**;
- 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). H.1.e.
- c. **Right-of-way** acquisitions by any governmental entity for all purposes necessary for roadway construction, including ancillary drainage facilities, and including utilities within the **right-of-way** acquisition area.
- d. Existing utility **easements** and **easements** for ingress or egress required for neighboring properties.
- e. Previously cleared **parcels** for support of public infrastructure, and which remain cleared of **native vegetation**.
- f. Trees and other vegetation planted for landscaping and which have not been used to satisfy the **native vegetation** preservation requirement.
- g. Previously cleared fallow farm fields and pastures, with no canopy trees (other than slash pine trees with less than an 8 inch **DBH** or palms with less than 8 foot of clear trunk) and less than 75 percent aerial coverage of native vegetation. Marshes and similar type environments (640 FLUCFCS Codes) shall not be included in this exception.

* * * * *
H. Preserve standards.
1. Design standards.
* * * * *

- b. Minimum dimensions. The minimum width of the preserve shall be: Thin linear and perimeter "picture frame-shaped" preserves are discouraged, unless such preserve shapes are dictated by environmental or environmental regulatory considerations. Connections to other preserves, conservation areas, natural flowways, natural water bodies, water management lakes, estuaries, government owned or targeted lands for preservation purposes or existing listed wildlife habitat, when present, are

encouraged to establish the largest contiguous natural area possible.

The following minimum widths shall apply:

- i. twenty feet, for property less than ten acres.
- ii. an average of thirty feet in width but not less than twenty feet in width, for property equal to ten acres and less than twenty acres.
- iii. an average of fifty feet in width but not less than twenty feet for property of twenty acres and greater.
- iv. If the existing native vegetation does not meet the minimum dimensions specified above and is required to be preserved pursuant to the preserve selection criteria in section 3.05.07, then the existing native vegetation may be used to satisfy the preservation requirement.

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~~d. Protective covenants. Preserve areas shall be identified as separate tracts or easements, with access to them from a platted right-of-way. No individual residential or commercial lot, parcel lines, or other easements such as utility or access easements, may project into a Preserve. All required easements or tracts for preserves shall be dedicated to the County without placing on the County the responsibility for maintenance or to a property owners' association or similar entity with maintenance responsibilities. The protective covenants for the tract or easement shall establish the permitted uses for said easement(s) and/or tracts on the final subdivision plat. A nonexclusive easement or tract in favor of the County, without any maintenance obligation, shall be provided for all preserves on the preliminary and final subdivision plats and all final development order site plans. The boundaries of all preserve easements shall be dimensioned on the final subdivision plat.~~

d. Preserve mechanisms. All preserve areas shall be designated as preserves on all site plans.

On-site County required preserves shall be dedicated to the County as non-exclusive conservation easements without placing on the County the responsibility for maintenance of the preserve area, and the easement conveyance to the County shall include the right of access

from existing road right-of-way. The easement shall dedicate the responsibility of maintenance to a property owners association or similar entity, and it shall contain allowable uses and limitations to protect the preserve. All preserve areas shall be shown on the preliminary and final plats in accordance with section 10.02.04, with language similar to Section 704.06 F.S.

No individual residential or commercial lot, parcel lines, or other easements including, but not limited to, utility or access easements that are not compatible with allowable uses in preserve areas, may project into a preserve area.

State and federal parks and preserves shall not be required to place their preserves in a conservation easement.

Any conservation easement or other document restricting uses in a preserve area shall contain the following statement (consistent with CCME GMP Policy 1.1.6):

“Oil extraction and related processing operations are uses which are exempt from the restrictions herein and shall remain allowed uses on the lands described herein.”

- e. Created preserves. Although the primary intent of GMP CCME Policy 6.1.1 is to retain and protect existing native vegetation, there are situations where the application of the retention requirements of this Policy is not possible. In these cases, creation or restoration of vegetation to satisfy all or a portion of the native vegetation retention requirements may be allowed. In keeping with the intent of this policy, the preservation of native vegetation off site is preferable over creation of preserves. Created Preserves shall be allowed for parcels that cannot reasonably accommodate both the required on-site preserve area and the proposed activity.
 - i. Applicability. Criteria for determining when a parcel cannot reasonably accommodate both the required on-site preserve area and the proposed activity allowing created preserves include:
 - (a) Where site elevations or conditions requires placement or removal of fill thereby harming or reducing the survivability of the **native vegetation** in its existing locations;
 - (b) Where the existing vegetation required by

this policy is located where proposed site improvements are to be located and such improvements cannot be relocated as to protect the existing **native vegetation**;

- (c) ~~Where native preservation requirements cannot be accommodated, the landscape plan shall re-create a native plant community in all three strata (ground covers, shrubs and trees), utilizing larger plant materials so as to more quickly re-create the lost mature vegetation. These areas shall be identified as created preserves. To provide for flood plain compensation as required by the LDC.~~
- (d) When a State or Federal permit requires creation of native habitat on site. The created preserve acreage may fulfill all or part of the **native vegetation** requirement when preserves are planted with all three the appropriate strata; using the criteria set forth in Created Preserves. This exception may be granted, regardless of the size of the project.
- (e) When small isolated areas (of less than 1/2 acre in size) of **native vegetation** exist on site. In cases where retention of **native vegetation** results in small isolated areas of 1/2 acre or less, preserves may be planted with all three strata; using the criteria set forth in Created Preserves and shall be created **adjacent** existing **native vegetation** areas on site or contiguous to preserves on **adjacent** properties. This exception may be granted, regardless of the size of the project.
- (f) When an **access** point to a project cannot be relocated. To comply with obligatory health and safety mandates such as road alignments required by the State, preserves may be impacted and created elsewhere on site.
- (g) To provide for connections to on or off site preserves.
- (h) In the RFMU District where upland buffers required by the LDC, lack native vegetative

communities.

ii. ~~Required Planting Criteria:~~

- (a) ~~Where created preserves are approved, the landscape plan shall re-create a native plant community in all three strata (ground cover, shrubs and trees), utilizing larger plant materials so as to more quickly re-create the lost mature vegetation. Such re-vegetation shall apply the standards of section 4.06.05 C. of this Code, and include the following minimum sizes: one gallon ground cover; seven (7) gallon shrubs; fourteen (14) foot high trees with a seven foot crown spread and a dbh (diameter at breast height) of three inches. The spacing of the plants shall be as follows: twenty to thirty feet on center for trees with a small canopy (less than 30 ft. mature spread) and forty feet on center for trees with a large canopy (greater than 30 ft. mature spread); five foot on center for shrubs and three feet on center for ground covers. Plant material shall be planted in a manner that mimics a natural plant community and shall not be maintained as landscaping. Minimum sizes for plant material may be reduced for scrub and other xeric habitats where smaller size plant material are better suited for re-establishment of the native plant community.~~

ii.(b) Approved created preserves may be used to recreate:

a)(1) not more than one acre of the required preserves if the property has less than twenty acres of existing **native vegetation**.

b)(2) not more than two acres of the required preserves if the property has equal to or greater than twenty acres and less than eighty acres of existing **native vegetation**.

c)(3) not more than 10% of the required preserves if the property has equal to or greater than eighty acres of existing **native vegetation**.

iii.(c) The minimum dimensions shall apply as set forth in

3.05.07 H.1.b.

iv.(d) All perimeter landscaping areas that are requested to be approved to fulfill the **native vegetation** preserve requirements shall be labeled as preserves and shall comply with all preserve **setbacks**.

~~f. Allowable supplemental plantings. Supplemental native plantings in all three strata may be added to preserve areas where the removal of non-native and/or nuisance vegetation creates open areas with little or no native vegetation coverage. Plant material in these restoration areas shall meet the following minimum size criteria: one gallon ground covers, three gallon shrubs and six foot high trees. Plant material shall be planted in a manner that mimics a natural plant community and shall not be maintained as landscaping. Minimum sizes for plant material may be reduced for scrub and other xeric habitats where smaller size plants material are better suited for re-establishment of the native plant community.~~

v. Preparation of required planting plans for preserves.

Preserve planting plans shall be designed by an individual with academic credentials and experience in the area of environmental sciences or natural resource management. Academic credentials and experience shall be a bachelor's or higher degree in one of the biological sciences with at least two years of ecological or biological professional experience in the State of Florida.

vi. Planting requirements for created preserves.

Soils compatible with the habitat to be created shall be used to create the preserve. Where compatible soils are not present, a minimum of 6 to 8 inches of compatible soil shall be used.

Where created preserves are approved, the planting plan shall re-create a native plant community in all three strata (ground cover, shrubs and trees), utilizing larger plant materials to more quickly re-create the lost mature vegetation. Environments which do not normally contain all three strata shall only be required to plant the strata found in the habitat to be created. Plant material shall be planted in a manner that mimics a natural plant community and shall not be maintained as

landscaping. Such re-vegetation shall include the following minimum sizes: one gallon ground cover; 7 gallon shrubs; canopy trees in the following sizes: 25 percent at 10 feet, 50 percent at 8 feet and 25 percent at 6 feet. Spacing requirements for calculating the number of plants shall be as follows: 20 to 30 foot on center for trees with a small canopy (less than 30 feet mature spread) and 40 to 50 foot on center for trees with a large canopy (greater than 30 feet mature spread), 10 foot on center for shrubs, 3 foot on center for ground covers which spread by rhizomes or creeping stems or which have a mature height of 2 feet or more, excluding the bloom, and 2 foot on center for ground covers with a mature height of less than 2 feet, excluding the bloom, and which reproduce primarily by seed.

Minimum sizes for plant material may be reduced for scrub and other xeric habitats in order to promote diversity or where smaller size plant material is better suited for re-establishment of the native plant community. Coverage of pine and hardwoods in scrub habitats shall occupy no more than 70% of the area of a scrub preserve, in order to create natural open areas for wildlife and native ground covers. In south Florida slash pine dominated environments, where fire is a concern, the amount of mid-story vegetation planted may be reduced to promote the growth of native ground covers, reduce the threat of wildfire and to promote use of the preserve by listed species.

Three gallon container saw palmetto (*Serenoa repens*) may be used in lieu of seven gallon containers. South Florida slash pine (*Pinus elliotii* var. *densa*) trees may be planted in the following sizes: 25 percent at 6 feet and 75 percent at 4 feet, with a spacing requirement of 40 feet on center for calculating the number of slash pines to be planted.

Mangrove trees may be planted as three gallon size containers but must be planted a minimum of five to seven foot on center for calculating the number of mangroves to be planted, if planted at this size. Ground covers in estuarine and other aquatic environments may be planted as liners or bare root plants.

Upland or seasonally wet preserves with extended dry periods shall detail a method of providing water

until the plants are established.

vii. Supplemental planting requirements within preserves.

Supplemental plantings in the strata required to restore the habitat to its natural condition shall be added to preserves where prior clearing or disturbance, or the removal of non-native and/or nuisance vegetation has created open areas with little or no native vegetation. Plant material shall be planted in a manner that mimics a natural plant community and shall not be maintained as landscaping. Supplemental plantings must be of the species typical of the native habitats being restored and take into consideration the requirements of any listed species using the preserve.

Areas defined as "native vegetation" pursuant to this section and required to be retained as preserves, shall only be required to plant material in the sizes specified in this subsection and not in the sizes required for created preserves. Supplemental plantings within preserves shall be in accordance with requirements specified in approved state and federal permits for a project. Where not specified in the State and Federal permits for a project, supplemental plantings within County required preserves shall adhere to the following minimum standards: one gallon or liner ground covers, three gallon shrubs and four foot high trees. Ground covers in aquatic environments may be planted as bare root plants.

Natural recruitment of native groundcovers may be used in areas where native groundcovers would be expected to regenerate on their own. If within a two-year period the coverage of ground covers is less than that typically found in environments containing these species, then supplemental planting with native ground covers or distribution of native seed shall be required. A planting plan with schedule for planting or distributing native seed shall be included as part of the preserve management plan, in case sufficient natural recruitment of groundcovers has not occurred.

Natural recruitment of south Florida slash pine (*Pinus elliottii* var. *densa*) may be used where south Florida slash pine would be expected to regenerate on their own. If within a two-year period the number

of pine seedlings is less than that needed to regenerate the habitat type, then supplemental planting with south Florida slash pine or distribution of south Florida slash pine seed shall be required. A backup planting plan with schedule for planting or distributing seed shall be included as part of the preserve management plan, in case sufficient natural recruitment has not occurred. South Florida slash pine trees may be planted as seedlings in lieu of planting four foot high trees, for individual preserves 100 or more acres in size.

Restoration of mangroves shall be with one to three gallon container mangroves, unless otherwise permitted by State and Federal permitting agencies.

Minimum sizes for plant material may be reduced for scrub and other xeric habitats in order to promote diversity or where smaller size plant material is better suited for re-establishment of the native plant community. Coverage of pine and hardwoods in scrub habitats shall occupy no more than the 70% of the area of a scrub preserve, in order to create natural open areas for wildlife and indigenous ground covers.

viii. Success criteria.

Success shall be demonstrated for created preserves and supplemental planting within preserves, 5 years after installation of plant material and shall be included with the monitoring report. Before and after photos taken from specific or permanent field markers to identify the locations within the preserve shall be included in the above mentioned monitoring report. Demonstration of success shall include the following:

- a) 80% vegetative coverage has been attained within the preserve.
- b) **Native vegetation** is within the range of species diversity, density and distribution documented within either reference sites or from literature references for the specific habitat types.
- c) **Native vegetation** characteristic of the habitat are reproducing in the vegetative or seeding manner typical of the species.

d) When permitted through the Water Management District using UMAM, overall UMAM scores must indicate that the preserves have attained or are clearly trending toward the "with-mitigation" scores used to determine success.

f. Off-site vegetation retention.

i. Applicability. A property owner may request that all or a portion of the Collier County on-site **native vegetation** preservation retention requirement be satisfied offsite for only the following situations and subject to restrictions listed below.

a) Properties zoned commercial or industrial where the on-site preserve requirement is less than 2 acres in size.

b) Park sites where the on-site preserve requirement is less than one acre in size.

c) **Essential service** facilities other than parks, for any size preserves.

d) Preserves less than one acre in size.

e) **Affordable housing** projects. The maximum percent of **native vegetation** retention allowed offsite shall be equal to the percent of **affordable housing** units, without limitation as to size of the preserve.

f) Existing or proposed preserves with 75 percent or more coverage with **exotic vegetation**. Existing preserves not previously overrun with this type vegetation and which arrive at this state due to lack of management of the preserve shall mitigate off site at a ratio of 2 to 1.

g) Created preserves which do not meet the success criteria in 3.05.07 H.1.e.viii or where preserves have not been planted in a manner which mimics a natural plant community.

h) Preserves which do not meet the minimum dimensional requirements of this section.

- i) Portions of preserves located within platted **single-family lots.**
 - j) **Right of Way** acquisitions to be conveyed or in the process of being conveyed to the County by non-governmental entities for all purposes necessary for roadway construction, including ancillary drainage facilities, and including utilities within the **right of way** acquisition area.
 - k) All criteria listed for created preserves.
- ii. Restrictions, when one or more of the following situations occur.
- a) Xeric scrub and hardwood hammocks which are one acre or more in size, mangrove (excluding mangrove fringes less than 40 feet in width on artificially created **shorelines**), coastal **dune** and strand environments, and listed species habitat or corridors per the requirements or recommendations of the FFWCC or USFWS, shall not be allowed to have the on-site **native vegetation** preservation retention requirement provided offsite.
 - b) Preserves shall remain onsite if located contiguous to natural **flowways** required to be retained per the requirements of the SFWMD, natural water bodies, estuaries, government required preserves (not meeting the offsite preservation criteria herein), NRPA's, or contiguous to property designated for purchase by Conservation Collier or purchased by Conservation Collier, or contiguous to properties containing listed species nests, **buffers**, corridors and foraging habitat per the requirements or recommendations of the FFWCC or USFWS. For the purpose of this section, natural **flowways** shall also include those identified during **wetland** permitting with applicable state and federal agencies, regional drainage studies, or surface water management permits.
 - c) Remaining portions of on-site preserves must be a minimum of one acre in size and shall not meet the offsite criteria of sub-

section 3.05.07 H.1.f.i(f) and (g) above, unless preserved with higher quality habitat not qualifying for the off-site native vegetation retention alternative.

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

a) Applicants shall make monetary payment to Collier County. Such funds will be used by the County for the purchase and management of off-site conservation lands within the county. The monetary payment shall be based on the location of the land to be impacted and be equal to 125 percent of the average cost of land in the Urban Designation or 125 percent of the average cost for all other Designations, as applicable, as defined by the FLUE, purchased by Collier County, through the Conservation Collier program. This monetary payment shall be made prior to the preconstruction meeting for the SDP or final plat construction plans.

b) In lieu of monetary payment, applicants may choose to donate land for conservation purposes to Collier County or to another government agency. In the event of donation to Collier County, 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 donation acceptance procedures.

Applicants who choose 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 subsection 3.05.07 A.) than the land required to be preserved onsite. In no case shall the acreage of land donated be less than the acreage of land required to be preserved onsite. Land donated to satisfy the off-site vegetation retention requirement must be located entirely within Collier County. 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. Lands donated to Collier County must include a cash payment for management of the land. The amount of this payment shall be equal to 25 percent of the average cost of land in the Urban Designation or 25 percent of the average cost in all other Designations, as applicable, as defined by the FLUE, purchased by Collier County, through the Conservation Collier program.

Applicants shall provide evidence that donations of land for preservation and endowments for management have been accepted by and donated to the entity stated above, at the time of the preconstruction meeting for the SDP or final plat construction plans. Exotics shall be removed in accordance with the time frames provided in 3.05.07 H.2. State and Federal agency requirements for mitigation, remediation and monitoring for the donated land shall be the responsibility of the applicant.

iv. PUD zoning. Where the off-site **native vegetation** retention alternative is used for portions of preserves not identified on a PUD master plan, a PUD amendment is not required. Preserves or portions of preserves identified on a PUD master plan shall require an amendment to the PUD master plan to use the **native vegetation** retention alternative, subject to 10.02.13 E, unless the option to use the off-site **native vegetation** retention alternative is included in the PUD.

g. Preserve management plans. Criteria i, ii, vii and viii below are required for all preserves whether a management plan for the preserve is required or not. Preserve Management Plans shall be required for all properties with 5 acres or more of preserve or where listed species are utilizing the preserve or where the preserve contains habitat which requires management for fire (such as pine flatwoods, palmetto prairie or scrub). The Preserve Management Plan shall identify actions that must be taken to ensure that the preserved areas will maintain natural diversity and function as proposed. A Preserve Management Plan shall include

the following elements:

- i. General Maintenance. Preserves shall be maintained in their natural state and must be kept free of refuse and debris.
- ii. **Exotic ~~v~~Vegetation** Removal, **Non-native ~~v~~Vegetation**, and Nuisance or Invasive Plant Control. **Exotic vegetation** removal and maintenance plans shall require that Category I Exotics be removed eradicated from all preserves. All exotics within the first 75 feet of the outer edge of every preserve shall be physically removed, or the ~~tree~~ vegetation cut down to **grade**, cut debris removed and the stump treated. Exotics within the interior of the preserve may be approved to be treated in place if it is determined that physical removal might cause more damage to the **native vegetation** in the preserve. When ~~prohibited exotic vegetation~~ is removed, but the base of the vegetation remains, the base shall be treated with an U.S. Environmental Protection Agency approved herbicide and a visual tracer dye shall be applied. Any person who supervises up to eight people in the application of pesticides and herbicides in the chemical maintenance of ~~exotic vegetation~~ **exotic vegetation** in preserves, required retained ~~native vegetation~~ native vegetation areas, **wetlands**, or LSPA shall maintain the Florida Dept. of Agriculture and Consumer Services certifications for Natural Areas Pesticide Applicators or Aquatic Herbicide Applicators dependent upon the specific area to be treated. Control of exotics shall be implemented on a yearly basis or more frequently when required, and shall describe specific techniques to prevent reinvasion by **prohibited exotic vegetation** of the site in perpetuity. ~~Non-native vegetation~~ and ~~n~~Nuisance or invasive plants and non-native ornamental vegetation shall be removed eradicated from all ~~P~~preserves.
- iii. ~~Designation of a Preserve Manager. A Preserve Manager shall be identified as the responsible party to ensure that the Preserve Management Plan is being complied with. The individual's name, address and phone number shall be listed on the Preserve Management Plan. The same information shall be provided regarding the developer. Both parties will be responsible until such time that the homeowners association takes over the management of the preserve. At that time, the~~

~~homeowners association shall amend the plan to provide the homeowner association information and information regarding the person hired by the association to manage the preserve. The homeowner's association and the preserve manager shall be responsible for annual maintenance of the preserve, in perpetuity. At a minimum, the Preserve Manager shall have the same qualifications as are required for the author of an EIS, as set forth in section 10.02.02 A.3.~~

iii. Designation of a Preserve Manager. A Preserve Manager shall be responsible for providing the developer/property owner with technical assistance regarding management needs for the preserve and compliance with the Preserve Management Plan. At a minimum the Preserve Manager shall have academic credentials and experience in the area of environmental sciences or natural resource management. Academic credentials and experience shall be a bachelor's or higher degree in one of the biological sciences with at least two years of ecological or biological professional experience in the State of Florida. The individual's name, address and phone number shall be listed on the Preserve Management Plan. The same contact information shall be provided regarding the developer/property owner. Changes in the Preserve Manager hired to manage the preserve shall be documented in the monitoring report for the preserve.

iv. Wildlife Habitat Management. Where habitats must be managed with regards to the species utilizing them, Wildlife Habitat Management strategies may be required to provide for specialized treatment of the preserve. Where protected species are identified, management strategies shall be developed and implemented in accordance with section 3.04.00. Where site conditions require prescribed burns, a fire management plan will be developed and implemented. The County will accept state and federal management plans that are consistent with the requirements of the LDC. Hunting is permissible in preserves where expressly approved by the Board of County Commissioners.

v. Fire Management. Special land management practices to control fire or to maintain species diversity in the absence of fire must be included as

part of the Preserve Management Plan, for those habitats requiring these practices. Fire Management plans may include removal of dead vegetation or periodic thinning of living vegetation, to improve forest health and mimic the natural effects of fire, as appropriate for the habitat type and surrounding land uses. Fuel and fire breaks shall be kept to a minimum necessary to control fire and should be coordinated with the State of Florida, Division of Forestry, as part of a fire suppression plan. The annual inspection monitoring report required pursuant to ix (below) shall document, with photographs, the coverage and types of vegetation to be cleared for fuel management, prior to clearing. Where listed species have been documented within the preserve, the annual inspection monitoring report shall require surveys for the nests, burrows or cavities of listed species that may be affected by the land management practices, no more than six months prior to clearing, if gopher tortoises occur in the area, or within the time frames recommended by the FFWCC and USFWS. Fire Management plans shall be consistent with wildlife habitat management plans approved by Collier County.

- vi. Vegetation Removal Permits. Vegetation Removal Permits shall not be required to implement Preserve Management Plans and firewise safety plans that specify land management practices for clearing for fuel management or fire lines in accordance with normal forestry practices and which have been approved pursuant to this section. State and Federal agency permits or approvals shall be required, where applicable, prior to clearing.

Vegetation Removal Permits shall not be required to remove dead, dying or leaning trees which pose a safety concern, unless they contain a nest or cavity of a listed animal species or bald eagle. The annual inspection monitoring report required pursuant to ix (below) shall document, with photographs, trees to be removed for safety concerns.

- vii. Protection During Construction and Signage After Construction. The Preserve Management Plan shall address protective measures during construction and signage during and after construction that are consistent with section 3.05.04.

- viii. Monitoring for Preserves Receiving Treated Stormwater. A monitoring program must be implemented for preserves that will receive stormwater pursuant to the requirements of section 3.05.07. The monitoring program must include protocols to conduct vegetation surveys and monitoring for ground and surface water levels. The Preserve Management Plan shall include a schedule requiring a baseline monitoring report followed by 5 annual monitoring reports. Monitoring reports for stormwater within preserves shall be included as part of the annual inspection monitoring reports pursuant to ix (below). The County will accept **wetland** monitoring reports submitted to the South Florida Water Management District as long as the reports conform to the minimum requirements provided herein and includes all of the Preserves receiving stormwater. Compatible vegetation must be planted to replace upland vegetation that may be lost as a direct result of the introduction of stormwater into the preserve.

- ix. Inspections and Monitoring. The property owner shall provide for inspections of all on-site preserves by the Preserve Manager on an annual basis, at a minimum, or more frequently when required to ensure the preserve functions as intended. The results of the inspections, and recommendations of the Preserve Manager, must be included in a monitoring report on an annual basis, at a minimum. The property owner shall retain copies of the five most recent years of monitoring reports and make them available to Collier County upon request.

- x. Preserve Site Plan. A Preserve Site Plan with FLUCFCS Codes for each of the habitat types within the preserve must be included as part of the Preserve Management Plan. The location of pathways and other approved uses within the preserve must be included on the Preserve Site Plan.

- xi. The requirements of criteria v, vi, viii, ix, and x shall not apply to projects with County permits or approvals including approved Preserve Management Plans issued prior to [effective date of this Ordinance].

~~h. Allowable uses within preserve areas. Passive recreational~~

~~uses such as pervious nature trails or boardwalks are allowed within the preserve areas, as long as any clearing required to facilitate these uses does not impact the minimum required vegetation. For the purpose of this section, passive recreational uses are those uses that would allow limited access to the preserve in a manner that will not cause any negative impacts to the preserve, such as pervious pathways, benches and educational signs. Fences may be utilized outside of the preserves to provide protection in the preserves in accordance with the protected species section 3.04.01-D.1.c. Fences and walls are not permitted within the preserve area.~~

h. Allowable uses within County required preserves. Passive uses are allowed within preserves to provide for access to the preserve, as long as any clearing required to facilitate these uses does not impact the minimum required native vegetation or cause loss of function to the preserve. Loss of function to the preserve includes unacceptable changes in vegetation within the preserve or harming any listed species present in the preserve. Unacceptable changes in vegetation within preserves include replacement of indigenous vegetation with non-native species, changes in vegetative composition which are inconsistent with target plant communities or die-offs of vegetation which are inconsistent with target plant communities. Determinations of harm to listed species shall be made by FFWCC or USFWS, and pathways, structures or improvements within preserves containing listed species shall be in accordance with permits or authorizations from these agencies.

i. The following passive uses are allowed within preserves.

a) Pervious and impervious pathways and boardwalks, subject to the following criteria:

i) Recommended widths for pedestrian pathways is 5 feet. Widths greater than 8 feet may be allowed where pathways serve as fire breaks in accordance with a fire suppression plan approved by the State of Florida, Division of Forestry.

ii) Minimum widths for shared use paths for use by golf carts, trams, bicycles, joggers, etc. is 10 feet. Widths greater than 12 feet may be allowed where pathways serve as

fire breaks in accordance with a fire suppression plan approved by the State of Florida, Division of Forestry. Golf cart paths for golf course use shall be designed for golf course access only.

iii) Impervious pathways shall be limited to no more than one percent of the area of the preserve. Pathways over this amount shall be either pervious pathways or boardwalks.

iv) Where feasible, pathways shall be designed to maintain existing vegetation and larger trees. Pathways in scrub habitat lacking canopy should be avoided.

v) Where a minimum preserve width of 20 feet cannot be maintained on either side of pathways, the pathway shall be located along the side of the preserve.

vi) Pathways shall not interfere with the nests, dens, burrows or roosts of listed species or the nests of bald eagle, unless permitted or authorized by the FFWCC or USFWS.

vii) Pathways, other than boardwalks, shall be at or on natural grade unless constructed on berms for the stormwater management system. Slopes for stormwater management berms in or adjacent to preserves shall be stabilized and planted with 100% south Florida native species compatible with the habitat present in the preserve.

b) Shelters without walls.

c) Educational signage and bulletin boards located on or immediately adjacent to the pathway.

d) Benches for seating

- e) Viewing platforms
- f) Wildlife sanctuaries for indigenous free roaming wildlife. Wildlife parks, wildlife rehabilitation centers and similar type uses, with non- indigenous wildlife, or caged or enclosed wildlife, shall not be allowed within preserves.
- g) Conservation-related and recreational activities comparable in nature with the aforementioned uses, as determined by the County Manager or designee.
- h) The requirements of this subsection (3.05.07 H.1.h.i) shall not apply to preserve **pathways, structures** or improvements that had permits prior to [effective date of this Ordinance]. Existing **pathways, structures** or improvements that had permits may be repaired, maintained and replaced within the existing footprint of the **pathway, structure** or improvement.

ii Stormwater subject to the following criteria.

- a) Nothing in this section shall exempt any system from complying with the stormwater management design standards as set forth by the South Florida Water Management District.
- b) Preserve areas shall not be used to meet water quality requirements as set forth in Section 5.2.1(a) of the Basis of Review for Environmental Resource Permit Applications for the South Florida Water Management District or the Watershed Management regulations of Section 3.07.00.
- c) Discharge of stormwater into a preserve shall be in a controlled manner to prevent erosion, scour, and to promote even distribution.
- d) Stormwater may be discharged into preserves comprised of:
 - i) jurisdictional **wetlands** and the minimum required upland **buffer**

around these wetlands in accordance with an approved SFWMD Environmental Resource Permit (ERP);

- ii) uplands comprised primarily (greater than 50 percent by area) of hydric soils as mapped by the Natural Resources Conservation Service (NRCS) or as determined by in situ hydric indicators;
 - iii) non-jurisdictional areas dominated by hydrophytic (Obligate (OBL) & Facultative Wet (FACW)) vegetation;
 - iv) or a combination thereof.
- e) Where preserves include uplands comprised of greater than 50% by area of non-hydric soils and not addressed in subsection 3.05.07 H.1.h.ii.d (above), stormwater may be discharged into said preserves provided the following criteria are met:
- i) If gopher tortoise, red-cockaded woodpecker, Big Cypress fox squirrel, scrub jay or the nests of bald eagle are present, technical assistance from the FFWCC or USFWS shall be provided indicating that no harm to these species or their habitat will occur due to discharge of stormwater into the preserve. Technical assistance must be site specific;
 - ii) Demonstration that the upland portion of the preserve is not inundated for more than 30 consecutive days during a reference wet season, as demonstrated through stormwater modeling. For the purpose of this subsection, the reference wet season is May 1996 through October 1996. In this context, inundation means water levels averaging greater than 2" above the average ground surface of the preserve;

or, if on-site groundwater data exists during a normal wet season, the applicant must demonstrate that the addition of stormwater to the preserve will not cause the groundwater elevation in the preserve to exceed the existing recorded peak groundwater elevation. A wet season typically spans June through November, and rainfall is considered normal if the monthly totals during a given wet-season fall within 25 percent of the average rainfall volume per month, as computed using nearby long-term regional rainfall data;

iii) Stormwater shall not be directly discharged into land designated as 322, 413, or 421 FLUCFCS Codes.

f) When stormwater discharges are allowed in preserves, the associated stormwater facilities such as berms, swales, or outfall structures, may be located within the preserve, but the area of such facilities cannot count towards the native vegetation preservation requirement pursuant to section 3.05.07. These facilities are not subject to setback requirements as found in subsection 3.05.07 H.3. These facilities may be placed in a drainage easement.

g) Where stormwater discharges are allowed in preserves, the Preserve Management Plan as required in 3.05.07 must include a monitoring program. In the event stormwater introduced into a preserve results in unacceptable changes in vegetation within the preserve, then a remediation plan must be provided and the Preserve Management Plan revised accordingly. Unacceptable changes in vegetation within preserves include replacement of indigenous vegetation with non-native species, changes in vegetative composition which are inconsistent with target plant communities or die-offs of vegetation which are inconsistent with target plant communities.

- h) Stormwater shall be allowed in preserves in the RLSA - WRA areas in accordance with section 4.08.00 Rural Lands Stewardship Area Overlay District standards and procedures.
- i) A property owner may request deviations from the above regulations, 3.05.07 H.1.h.ii. Staff shall review the plans and proposed deviations to ensure that uplands in the preserve will suffer no adverse impact resulting from the proposed deviations. The process for obtaining deviations shall follow the procedure as set forth in Chapter 2, Article VIII, Division 23 of the Code of Laws and Ordinances; appeal before the EAC, and shall be heard at a public hearing of the EAC. No deviations shall be granted for 322, 413, or 421 FLUCFCS Codes.
- i) The requirements of this subsection (3.05.07 H.1.h.ii) shall not apply to discharge of stormwater into preserves pursuant to South Florida Water Management District or County permits or approvals issued prior to [effective date of this Ordinance].
- iii. No setback from preserves is required for fences, or retaining walls permitted as part of the stormwater management system. Decorative walls must be set back a minimum of five feet from the boundary of preserves. Permanent fences and walls are prohibited within preserves unless approved by the FFWCC or USFWS as part of an approved wildlife management plan in accordance with 3.04.00. Where construction of such structures impacts native vegetation in the preserve, a restoration plan shall be provided and included as part of the preserve management plan. No trenching for wall/fence installation is allowed within 10 feet from preserve boundary, unless adjacent to a fire break in the preserve. Trenching is allowed for installation of gopher tortoise fencing pursuant to FFWCC Gopher Tortoise Permitting Guidelines and for retaining walls designed to minimize impacts to native habitat and wetlands, such as those permitted as part of the stormwater management system.

- iv. No setback from preserves is required for impervious or pervious pathways, or other structures allowed within preserves pursuant to this section.
- v. In those areas of Collier County where oil extraction and related processing is an allowable use, such use is subject to applicable state and federal oil and gas permits and Collier County non-environmental site development plan review procedures. Directional-drilling and/or previously cleared or disturbed areas shall be utilized in order to minimize impacts to native habitats, where determined to be practicable. This requirement shall be deemed satisfied upon issuance of a state permit in compliance with the criteria established in Chapter 62C-25 through 62C-30, F.A.C., as those rules existed on January 13, 2005, regardless of whether the activity occurs within the Big Cypress Watershed, as defined in Rule 62C-30.001(2), F.A.C. All applicable Collier County environmental permitting requirements shall be considered satisfied by evidence of the issuance of all applicable federal and/or state oil and gas permits for proposed oil and gas activities in Collier County, so long as the state permits comply with the requirements of Chapter 62C-25 through 62C-30, F.A.C. For those areas of Collier County outside the boundary of the Big Cypress Watershed, the applicant shall be responsible for convening the Big Cypress Swamp Advisory Committee as set forth in Section 377.42, F.S., to assure compliance with Chapter 62C-25 through 62C-30, F.A.C. even if outside the defined Big Cypress Watershed. All access roads to oil and gas uses shall be constructed and protected from unauthorized uses according to the standards established in Rule 62C-30.005(2)(a)(1) through (12), F.A.C.

* * * * *

SUBSECTION 3.P. AMENDMENTS TO SECTION 3.06.06 REGULATED WELLFIELDS

Section 3.06.06 Regulated Wellfields, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

Words ~~struck through~~ are deleted, words underlined are added

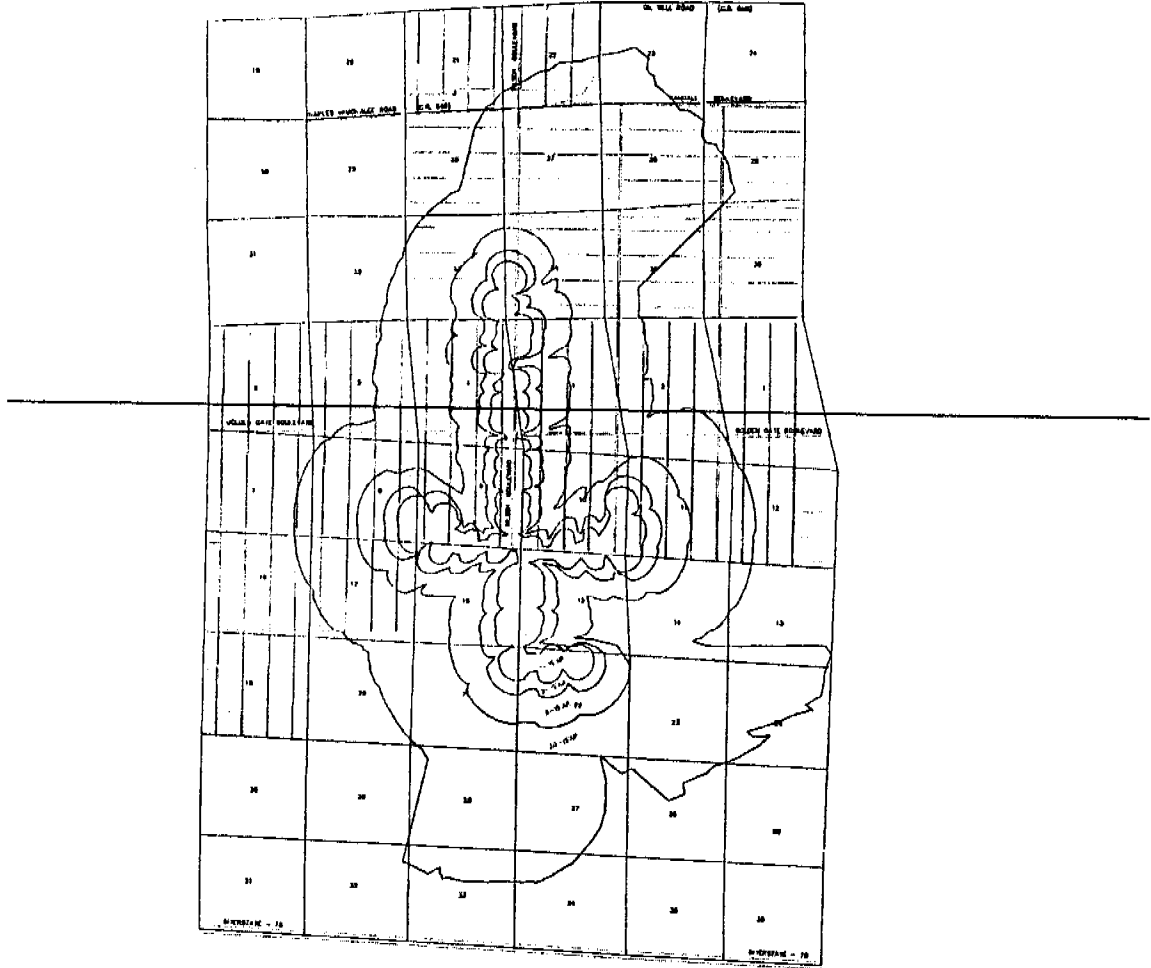
3.06.06 Regulated Wellfields

The following wellfield risk management special treatment overlay zones, as defined in section 3.06.03, and criteria specified herein shall be applied to the following wellfields:

- A. City of Naples East Golden Gate Well Field.
- B. City of Naples Coastal Ridge Well Field.
- C. Collier County Utilities Golden Gate Well Field.
- D. Everglades City Well Field.
- E. Florida Governmental Utility Authority Golden Gate City Well Field.
- F. Orange Tree Well Field.
- G. Immokalee Well Field.
- H. Ave Maria Utility Company Well Field.

* * * * *

**COLLIER COUNTY UTILITIES
GOLDEN GATE WELL FIELD**



**COLLIER COUNTY UTILITIES
GOLDEN GATE WELL FIELD**

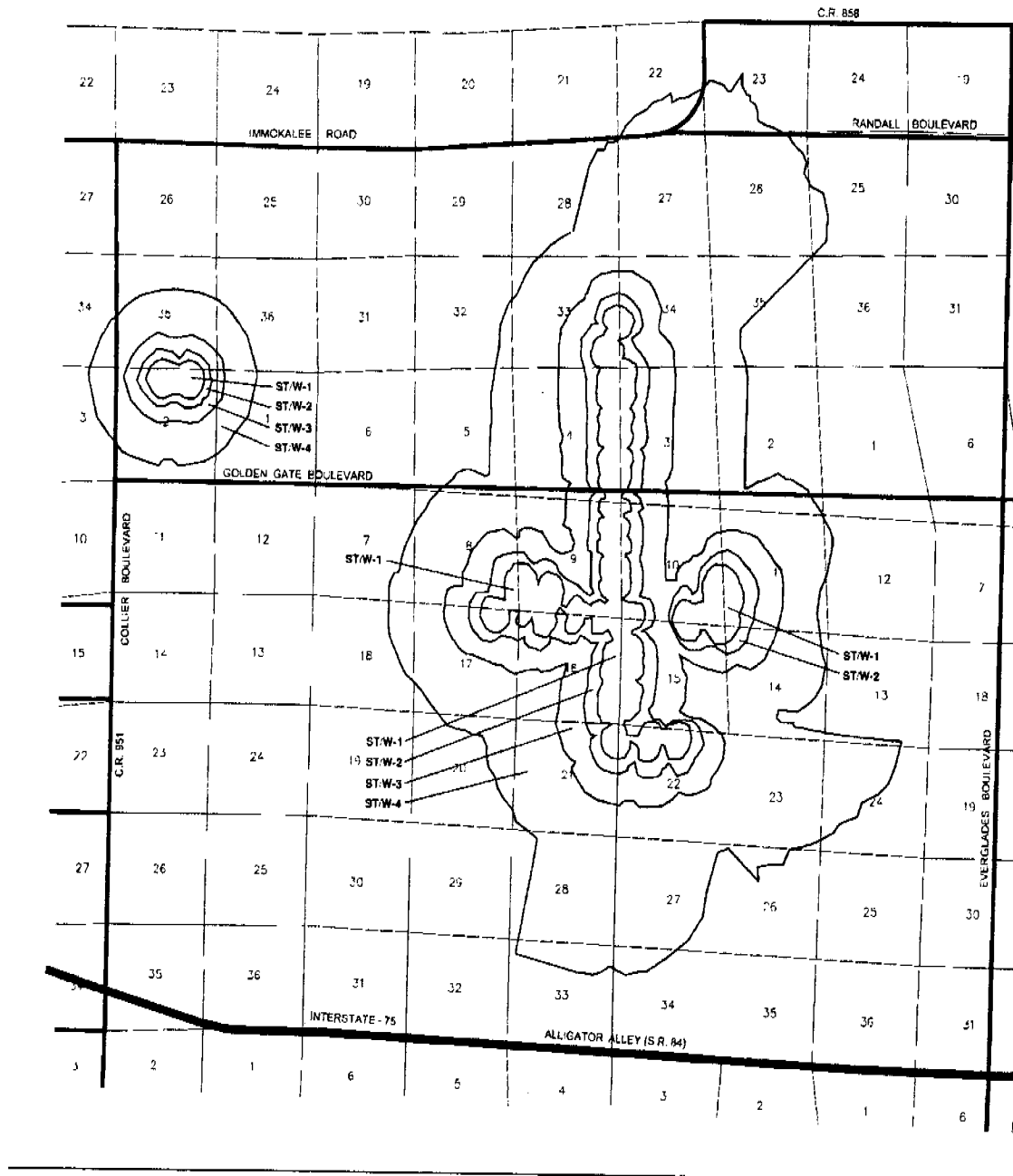
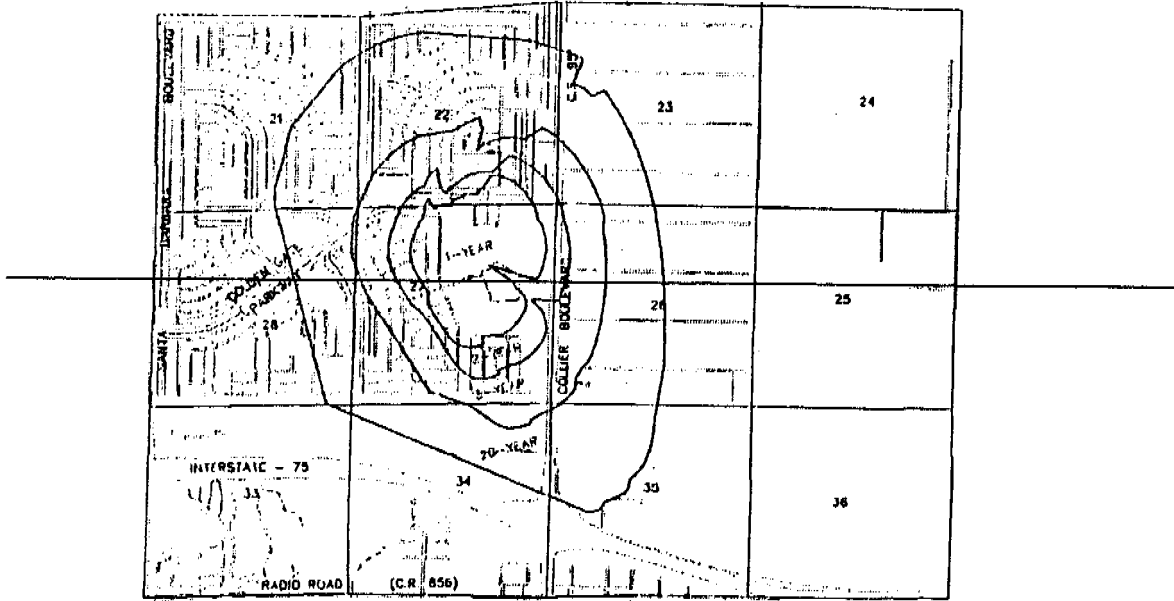


Illustration 3.06.06 C.

For more detailed information, refer to the Collier County Zoning Map at www.colliergov.net/Index.aspx?page=992

* * * * *

**FLORIDA GOVERNMENTAL
UTILITY AUTHORITY
GOLDEN GATE CITY
WELL FIELD**



FLORIDA GOVERNMENTAL UTILITY AUTHORITY
GOLDEN GATE CITY WELL FIELD

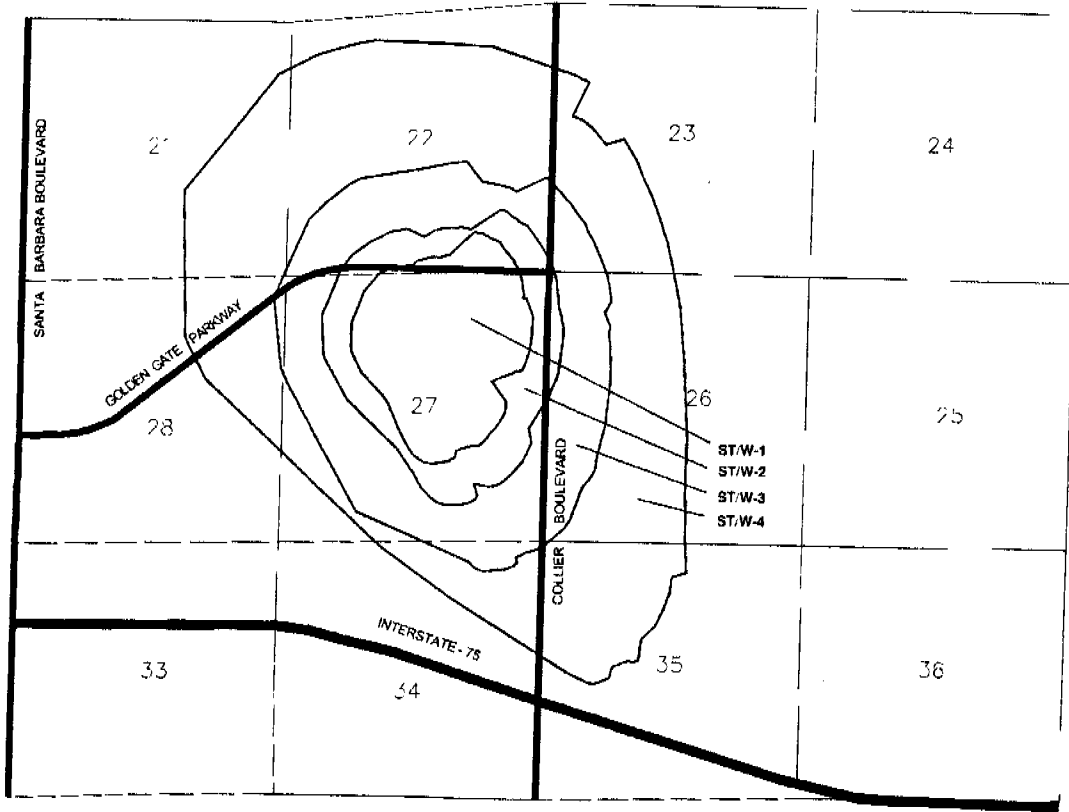
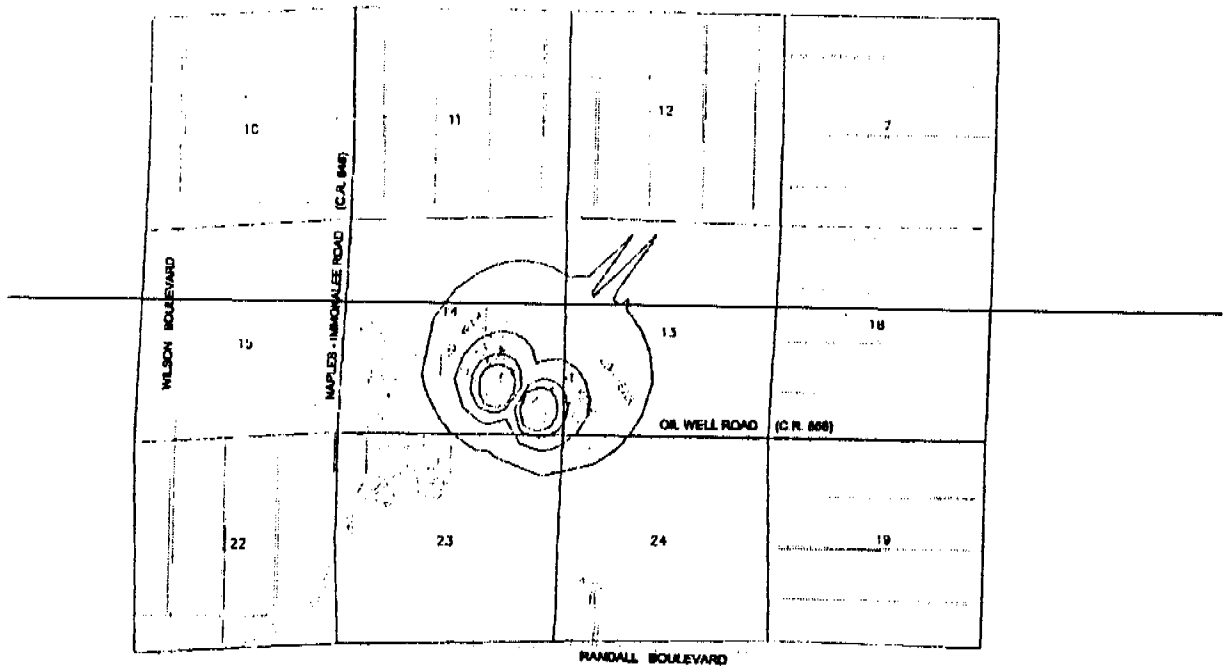


Illustration 3.06.06 E.

For more detailed information, refer to the Collier County Zoning Map at
www.colliergov.net/Index.aspx?page=992

* * * * *

ORANGE TREE WELL FIELD



ORANGE TREE
WELL FIELD

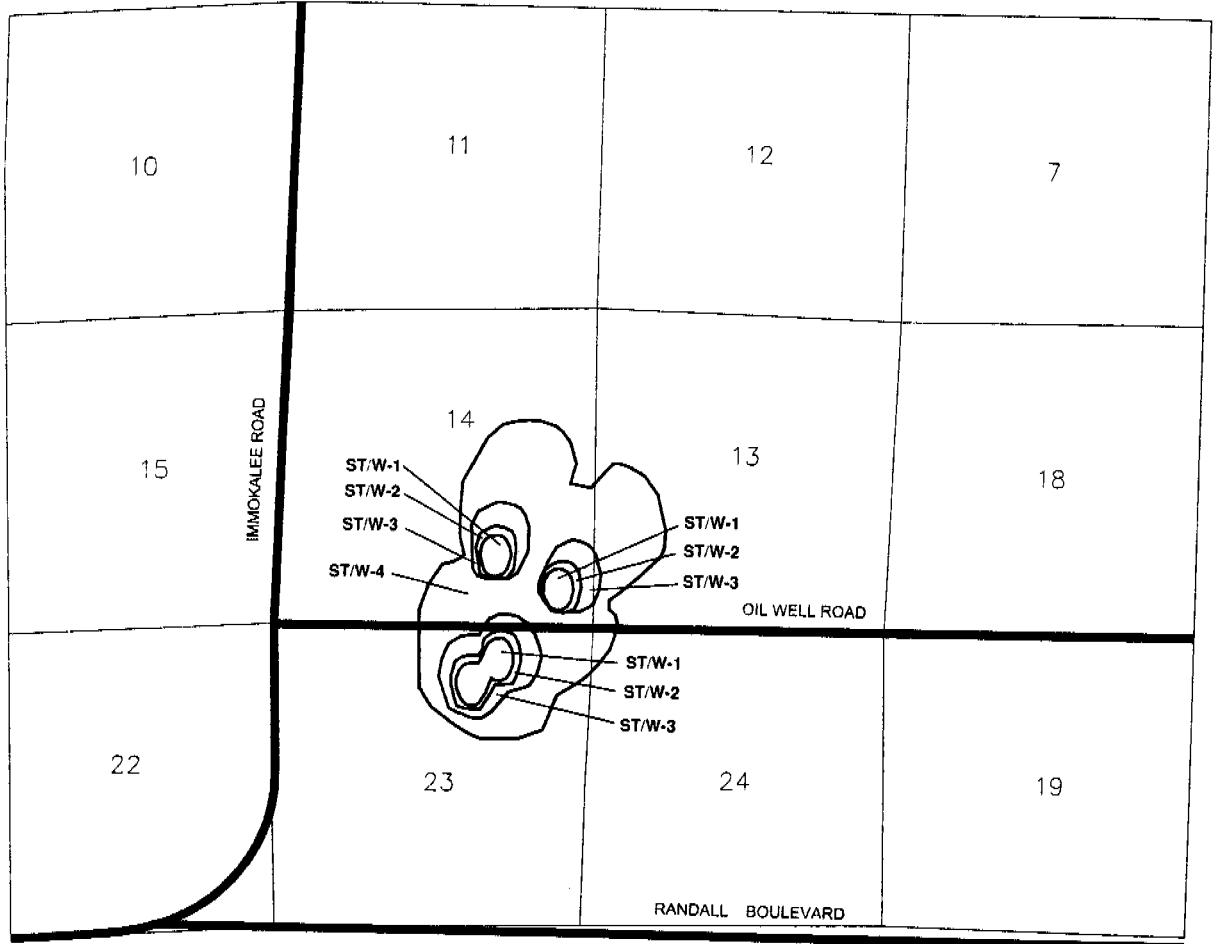


Illustration 3.06.06 F.
For more detailed information, refer to the Collier County Zoning Map at
www.colliergov.net/Index.aspx?page=992

* * * * *

AVE MARIA UTILITY COMPANY WELL FIELD

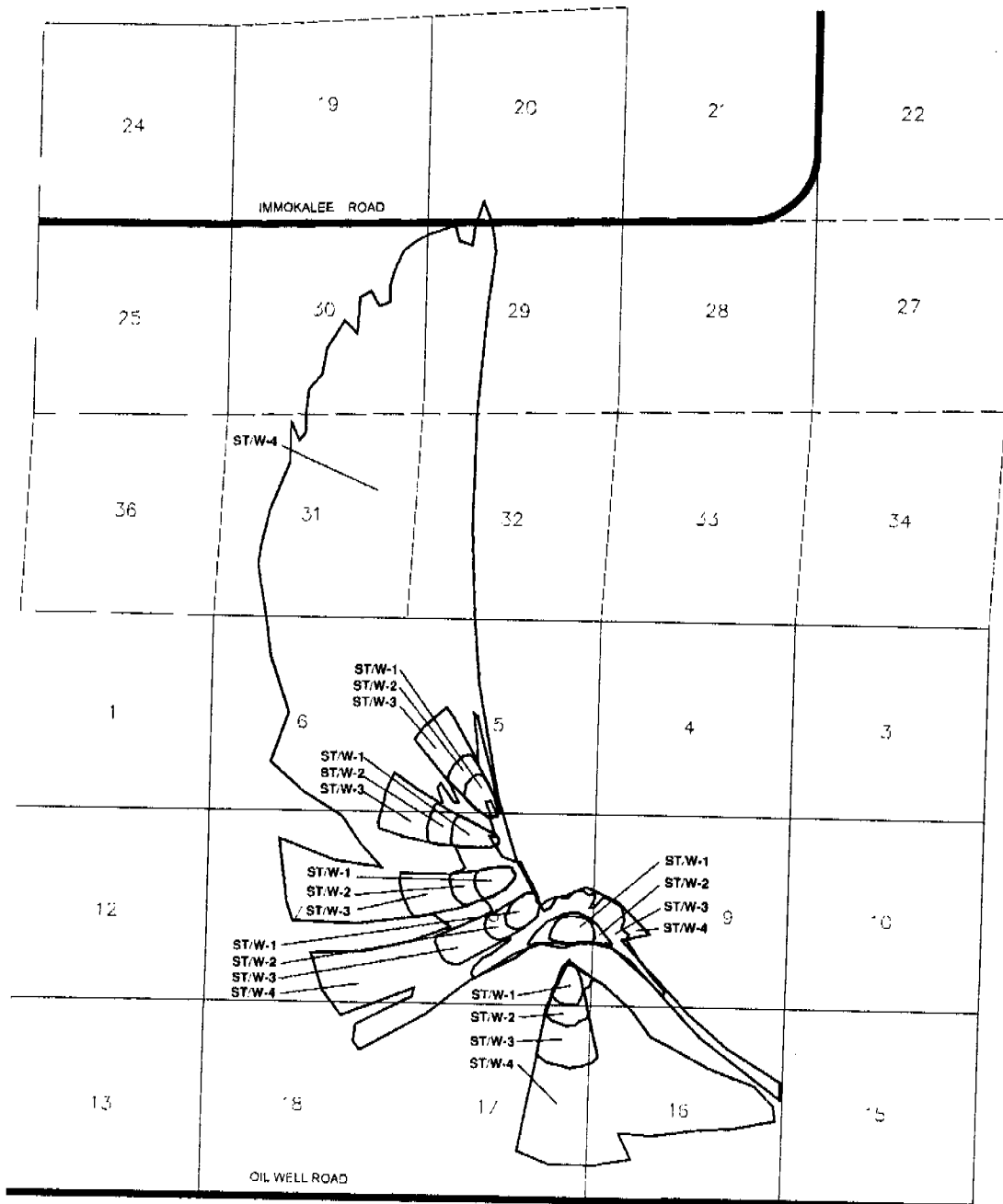


Illustration 3.06.06 H.
 For more detailed information, refer to the Collier County Zoning Map at
www.colliergov.net/Index.aspx?page=992

* * * * *

SUBSECTION 3.Q. AMENDMENTS TO SECTION 4.02.01 DIMENSIONAL STANDARDS FOR PRINCIPAL USES IN BASE ZONING DISTRICTS

Section 4.02.01 Dimensional Standards for Principal Uses in Base Zoning Districts, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

4.02.01 Dimensional Standards for Principal Uses in Base Zoning Districts

* * * * *

D. Exemptions and exclusions from design standards.

* * * * *

- 9. Fences, walls and hedges, subject to section 5.03.02, and pad-ground (slab on grade) mounted air conditioners, unenclosed pool equipment and well pumps, are permitted in required **yards**, subject to the provisions of section 4.06.00. (For permanent emergency generator setbacks see Article IV, section 54-87 of the Collier County Code of Laws and Ordinances.)

* * * * *

SUBSECTION 3.R. AMENDMENTS TO SECTION 4.02.02 DIMENSIONAL STANDARDS FOR CONDITIONAL USES AND ACCESSORY USES IN BASE ZONING DISTRICTS

Section 4.02.02 Dimensional Standards for Conditional Uses and Accessory Uses in Base Zoning Districts, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

4.02.02 Dimensional Standards for Conditional Uses and Accessory Uses in Base Zoning Districts

A. GC District. [RESERVED]

- 1. ~~Accessory uses. Pro shops with equipment sales are allowable, provided that the shops are no more than 1,000 square feet in size; restaurants with a seating capacity of 150 seats or less are allowable, provided that the hours of operation are no later than 10:00 p.m.~~
- 2. ~~Conditional uses. Commercial establishments oriented to the permitted uses of the district including gift shops; pro shops with equipment sales in excess of 1,000 square feet; restaurants with seating capacity greater~~

Words struck through are deleted, words underlined are added

than 150 seats; cocktail lounges, and similar uses, primarily intended to serve patrons of the golf course.

B. A District. [RESERVED]

1. Accessory uses:

a. ~~Packinghouse or similar agricultural processing of farm products produced on the property subject to the following restrictions:~~

(i) ~~Agricultural packing, processing or similar facilities shall be located on a major or minor **arterial street**, or shall have **access to an arterial street** by a public **street** that does not **abut** properties zoned RSF-1, RSF-6, RME-6, RME-12, RME-16, RT, VR, MH, TTRVC and PUD or residentially used.~~

(ii) ~~A **buffer yard** of not less than 150 feet in width shall be provided along each boundary of the site which **abuts** any residentially zoned or used property, and shall contain an alternative B type **buffer** as defined within section 4.06.00 of this LDC. Such **buffer** and **buffer yard** shall be in lieu of front, side, or rear **yards** on that portion of the **lot** which **abuts** those districts and uses identified in section 2.03.01(A).~~

(iii) ~~The facility shall emit no obnoxious, toxic, or corrosive dust, dirt, fumes, vapors, or gases which can cause damage to human health, to animals or vegetation, or to other forms of property beyond the **lot line** of the use creating the emission.~~

b. ~~Excavation and related processing and production subject to the following criteria:~~

(i) ~~The activity is clearly incidental to the agricultural **development** of the property.~~

(ii) ~~The affected area is within a surface water management system for **agricultural use** as permitted by the SFWMD.~~

(iii) ~~The amount of excavated material removed from the site cannot exceed 4,000 cubic yards. Amounts in excess of 4,000 cubic yards shall require **conditional use** approval for earthmining, pursuant to the procedures and conditions set forth in Chapter 10.~~

2. Conditional uses — Lot area requirements:

~~Animal breeding, raising, training, stabling, or kenneling — 20 acres~~

Asphalt plants	10 acres
Commercial production, raising or breeding of exotic animals, other than animals typically used for agricultural purposes or production ¹	20 acres
Dairy	20 acres
Livestock raising	20 acres
Poultry and egg production	20 acres
Reptile breeding and raising (non-venomous) ¹	20 acres

¹ ~~Roofed structures shall be a minimum of 100 feet from any property line.~~

3. ~~Conditional uses—Design requirements:~~

a. ~~Asphaltic and concrete batch making plants:~~

- (i) ~~Principal access shall be from a street designated collector or higher classification.~~
- (ii) ~~Raw materials storage, plant location and general operations around the plant shall not be located or conducted within 100 feet of any exterior boundary.~~
- (iii) ~~The height of raw material storage facilities shall not exceed a height of fifty (50) feet.~~
- (iv) ~~Hours of operation shall be limited to two (2) hours before sunrise to sunset.~~
- (v) ~~The minimum setback from the principal road frontage shall be 150 feet for operational facilities and seventy-five (75) feet for supporting administrative offices and associated parking.~~
- (vi) ~~An earthen berm achieving a vertical height of eight feet or equivalent vegetative screen with eighty (80) percent opacity one (1) year after issuance of certificate of occupancy shall be constructed or created around the entire perimeter of the property.~~
- (vii) ~~The plant shall not be located within the Greenline Area of Concern for the Florida State Park System as established by the Department of Environmental Protection (DEP); within the Area of Critical State Concern as depicted on the Future Land Use Map GMP; within 1,000 feet of a natural~~

~~reservation; or within any County, State or federal jurisdictional wetlands.~~

6. ~~Four operations, such as, but not limited to airboats, swamp buggies, horses, and similar modes of transportation, shall be subject to the following criteria:~~

- ~~(i) Permits or letters of exemption from the U.S. Army Corps of Engineers, the Florida DEP, and the SFWMD shall be presented to the County Manager or designee prior to site **development plan** approval.~~
- ~~(ii) The petitioner shall post the property along the entire property line with no trespassing signs approximately every 300 yards.~~
- ~~(iii) The petitioner shall utilize only trails identified and approved on the site **development plan**. Any existing trails shall be utilized before the establishment of new trails.~~
- ~~(iv) Motor vehicles shall be equipped with engines which include spark arrestors and mufflers designed to reduce noise.~~
- ~~(v) The maximum size of any vehicle, the number of vehicles, and the passenger capacity of any vehicle shall be determined by the board of zoning appeals during the **conditional use** process.~~
- ~~(vi) Motor vehicles shall be permitted to operate during daylight hours which means, one (1) hour after sunrise to one (1) hour before sunset.~~
- ~~(vii) Molestation of wildlife, including feeding, shall be prohibited.~~
- ~~(viii) Vehicles shall comply with state and United States Coast Guard regulations, if applicable.~~

C. E District. [RESERVED] ~~Extraction or earthmining, and related processing and production not incidental to the **development** of the property, may be permissible as a **conditional use** where the site area does not exceed twenty (20) acres.~~

* * * * *

G. C-1 District. [RESERVED]

1. ~~**Conditional use** Mixed use residential and commercial use, subject to the following:~~

- a. ~~The commercial uses in the development may be limited in hours of operation, size of delivery trucks, and type of equipment;~~
- b. ~~The residential uses are designed so that they are compatible with the commercial uses;~~
- c. ~~Residential dwelling units are located above principal uses;~~
- d. ~~Residential and commercial uses do not occupy the same floor of a building.~~
- e. ~~The number of residential dwelling units shall be controlled by the dimensional standards of the underlying district, together with the specific requirement that in no instance shall the residential uses exceed fifty (51%) percent of the gross floor area of the building.~~
- f. **Building height may not exceed two (2) stories.**
- g. ~~Each residential dwelling unit shall contain the following minimum floor areas; efficiency and one bedroom, 450 square feet; two bedroom, 650 square feet; three bedroom, 900 square feet.~~
- h. ~~A minimum of thirty (30) percent of the mixed use development shall be maintained as open space. The following may be used to satisfy the open space requirements: areas used to satisfy water management requirements, landscaped areas, recreation areas, or setback areas not covered with impervious surface or used for parking (parking lot islands may not be used unless existing native vegetation is maintained).~~
- i. ~~The mixed commercial/residential structure shall be designed to enhance compatibility of the commercial and residential uses through such measures as, but not limited to, minimizing noise associated with commercial uses; directing commercial lighting away from residential units; and separating pedestrian and vehicular accessways and parking areas from residential units, to the greatest extent possible.~~

H. C-2 District. [RESERVED]

- 1. ~~Accessory uses. Where play areas are constructed as an accessory use to a permitted use, the following conditions shall apply:~~
 - a. ~~A minimum five and one half (5 ½) foot high reinforced fence shall be installed on all sides of the play area which are not open to the principal structure;~~
 - b. ~~Ingress to and egress from the play area shall be made only from the principal structure, however an emergency exit from the play~~

~~area shall be provided which does not empty into the principal structure.~~

- ~~g. The play equipment shall be set back a minimum distance of five (5) feet from the required fence and from the principal structure.~~

~~2. Conditional use. Mixed residential and commercial use, subject to the following:~~

- ~~a. All standards for the mixed residential and commercial use in the C-1 District.~~

- ~~b. The residential dwelling units shall be restricted to occupancy by the owners or lessees of the commercial units below.~~

~~I. C-3 District. [RESERVED] Mixed residential and commercial use may be allowable as a conditional use, subject to the same standards as the mixed residential and commercial use in the C-2 District.~~

~~J. C-5 District. [RESERVED] Child day care may be allowable as a conditional use, subject to the following standards:~~

~~1. All areas and surfaces readily accessible to children shall be free of toxic substances and hazardous materials. This shall include all adjacent and abutting properties lying within 500 feet of the child care center's nearest property line.~~

~~2. It shall not be located within 500 feet of the nearest property line of land uses encompassing wholesale storage of gasoline, liquefied petroleum, gas, oil, or other flammable liquids or gases.~~

~~3. It shall not be located on the same street customarily utilized by construction truck traffic from asphalt plants and excavation quarries.~~

~~4. It shall have a minimum lot area of 20,000 square feet and a minimum lot width of 100 feet.~~

~~5. It shall provide a minimum usable open space of not less than thirty (30) percent of the total square footage of the lot area.~~

~~6. It shall provide that all open spaces to be used by children will be bounded by a fence of not less than five (5) feet in height, to be constructed of wood, masonry, or other approved material.~~

~~7. It shall provide a landscape buffer in accordance with section 4.06.00.~~

~~8. It shall comply with the State of Florida Department of Health and Rehabilitative Services Day Care Standards of the Florida Administrative Code.~~

9. ~~Where a child care center is proposed in conjunction with, and on the same parcel as, a facility which is a permitted use, the requirements set forth in subparagraphs a through h above, with the exceptions of subparagraphs d and e, shall be used to provide the protections to children using the child care center intended by this section consistent with the development of the proposed permitted use.~~

K. I District. [RESERVED]

1. ~~Conditional uses.~~

a. ~~Adult day care, subject to the following requirements:~~

(i) ~~Shall not be located within 500 feet of the nearest property line of land uses encompassing wholesale storage of gasoline, liquefied petroleum, gas, oil, or other flammable liquids or gases.~~

(ii) ~~Shall not be located on the same street customarily utilized by construction truck traffic from asphalt plants and excavation quarries.~~

(iii) ~~Shall have a minimum lot area of 20,000 square feet and a minimum lot width of 100 feet.~~

(iv) ~~Shall provide a minimum usable open space of not less than thirty (30) percent of the total square footage of the lot area.~~

b. ~~Child day care, subject to the same standards as for the C-5 district.~~

* * * * *
SUBSECTION 3.S. ~~AMENDMENTS TO SECTION 4.02.12 SAME—OUTDOOR STORAGE~~

Section 4.02.12 Same—Outdoor Storage, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

4.02.12 Same—Outdoor Storage

A. ~~Outdoor storage yards may be permissible in the C-4 district, provided that the yard is located no closer than twenty five (25) feet to any public street and that such yard shall be completely enclosed, except for necessary ingress and egress, pursuant to the requirements of this LDC. This provision shall not be construed to allow, as permitted or accessory use, wrecking yards, junkyards, or yards used in whole or part for scrap or salvage operations or for processing, storage, display, or sales of any scrap, salvage, or secondhand building materials, junk automotive vehicles, or secondhand automotive vehicle parts.~~

- B. ~~Within the C-5 district, outside storage or display of merchandise is prohibited within any front yard. Temporary display of merchandise during business hours is permissible, provided it does not adversely affect pedestrian or vehicular traffic or public health or safety. Merchandise storage and display shall be allowed within the side and rear yards of lots.~~
- C. A. All permitted or **conditional uses** allowing for outdoor storage, including but not limited to storage of manufactured products, raw or finished materials, or vehicles other than vehicle intended for sale or resale, shall be required to screen such storage areas with a fence, or equivalent landscaping or combination thereof, not less than seven (7) feet in height above ground level. Said fence or wall shall be opaque in design and made of masonry, wood, or other materials approved by the County Manager or designee.

* * * * *

SUBSECTION 3.T. AMENDMENTS TO SECTION 4.02.29 SAME—FARM MARKET OVERLAY SUBDISTRICT

Section 4.02.29 Same—Farm Market Overlay Subdistrict, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

4.02.29 Same—Farm Market Overlay Subdistrict

* * * * *

C. ~~Outdoor sales of agricultural products are permitted on improved or unimproved properties provided the applicant submits a site development plan which demonstrates that provisions will be made to adequately address the following:~~

1. ~~Vehicular and pedestrian traffic safety measures.~~
2. ~~Parking for undeveloped properties will be calculated at a rate of 1/250 square feet of merchandise area. A maximum of ten (10) percent of the parking required by section 4.05.00 of this LDC may be occupied or otherwise rendered unusable by the placement of temporary structures, equipment, signs, and merchandise. The minimum number of disabled parking spaces pursuant to section 4.05.07 shall be required.~~
3. ~~Limited hours of operation.~~
4. ~~Fencing, lighting.~~
5. ~~Fire protection measures.~~
6. ~~Sanitary facilities.~~

- 7. ~~The applicant shall provide a notarized letter from the property owner granting permission to utilize the subject property for agricultural outdoor sales.~~
- 8. ~~The placement of one (1) sign, a maximum of thirty two (32) square feet, or two (2) such signs for properties containing more than one (1) street frontage shall be permitted.~~
- 9. ~~Agricultural products may be sold from a vehicle provided that the vehicle is not located in the road right-of-way.~~
- 10. ~~Agricultural products may be displayed within any front yard provided it does not adversely affect pedestrian or vehicular traffic or public health or safety and is not located within the road rights-of-way.~~
- 11. ~~A minimum 5-foot landscape buffer shall be required adjacent to any road rights-of-way.~~

* * * * *

SUBSECTION 3.U. AMENDMENTS TO SECTION 4.02.32 SAME—MAIN STREET OVERLAY SUBDISTRICT

Section 4.02.32 Same—Main Street Overlay Subdistrict, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

4.02.32 Same—Main Street Overlay Subdistrict

* * * * *

F. ~~Special requirements for outdoor display and sale of merchandise.~~

- 1. ~~Outdoor display and sale of merchandise, within the front and side yards on improved properties, are permitted subject to the following provisions:~~
 - a. ~~The outdoor display/sale of merchandise is limited to the sale of comparable merchandise sold on the premises and is indicated on the proprietors' occupational license.~~
 - b. ~~The outdoor display/sale of merchandise is permitted on improved commercially zoned properties and is subject to the submission of a site development plan that demonstrates that provisions will be made to adequately address the following:~~
 - i. ~~Vehicular and pedestrian traffic safety measures.~~
 - ii. ~~Location of sale/display of merchandise in relation to parking areas.~~
 - iii. ~~Fire protection measures.~~

- iv. ~~Limited hours of operation from dawn until dusk.~~
- 2. ~~Outdoor display and sale of merchandise within the sidewalk area only shall be permitted in conjunction with "Main Street" approved vendor carts, provided the applicant submits a site development plan which demonstrates that provisions will be made to adequately address the following:~~
 - a. ~~Location of sale/display of merchandise in relation to road rights-of-way;~~
 - b. ~~Vendor carts are located on sidewalks that afford the applicant a five (5) foot clearance for non-obstructed pedestrian traffic; and~~
 - c. ~~Limited hours of operation from dawn until dusk.~~

* * * * *

SUBSECTION 3.V. AMENDMENTS TO SECTION 4.02.35 DESIGN STANDARDS FOR DEVELOPMENT IN THE GTMUD-MIXED USE SUBDISTRICT (MXD)

Section 4.02.35 Design Standards for Development in the GTMUD-Mixed Use Subdistrict (MXD), of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

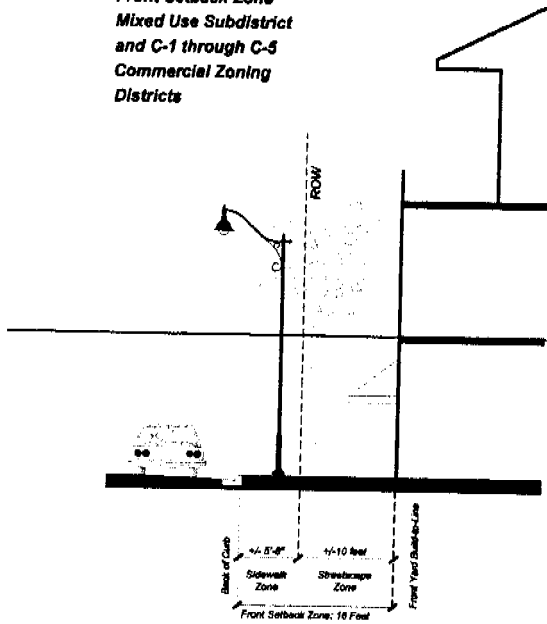
4.02.35 Design Standards for Development in the GTMUD-Mixed Use Subdistrict (MXD)

- B. ~~Regulations For Outdoor Display and Sale of Merchandise.~~

**GTMUD Figure 1. Front Setback Zone Davis Boulevard, US 41, Airport-Pulling Road and Commercial Drive
(For illustrative purposes only)**

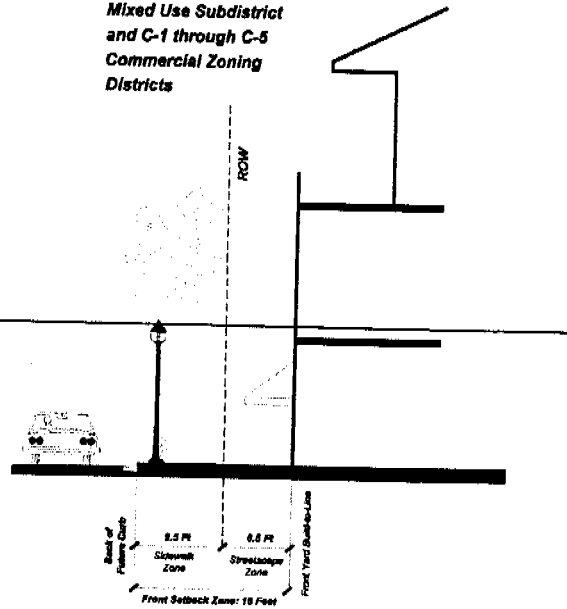
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**Front Setback Zone
Mixed Use Subdistrict
and C-1 through C-5
Commercial Zoning
Districts**



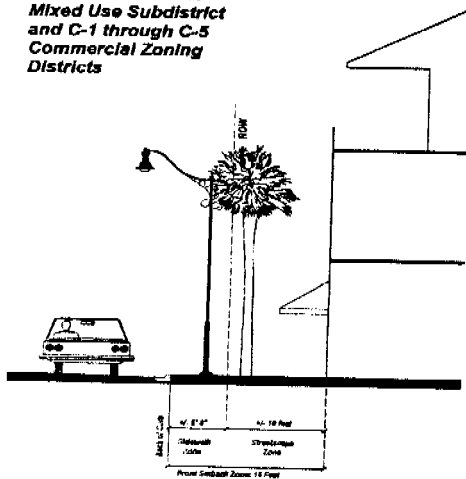
**Davis Boulevard, US 41
and Airport-Pulling Road**

**Front Setback Zone
Mixed Use Subdistrict
and C-1 through C-5
Commercial Zoning
Districts**



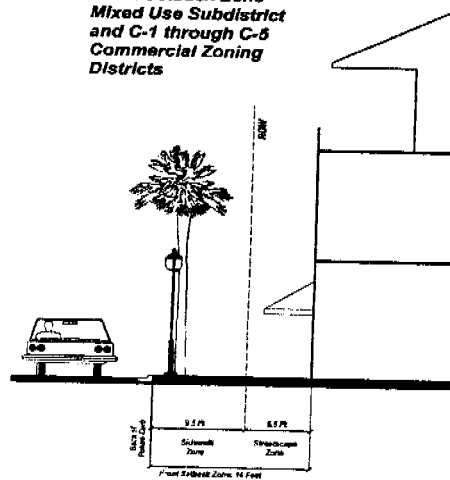
Commercial Drive

**Front Setback Zone
Mixed Use Subdistrict
and C-1 through C-5
Commercial Zoning
Districts**



**Davis Boulevard, US 41
and Airport-Pulling Road**

**Front Setback Zone
Mixed Use Subdistrict
and C-1 through C-5
Commercial Zoning
Districts**



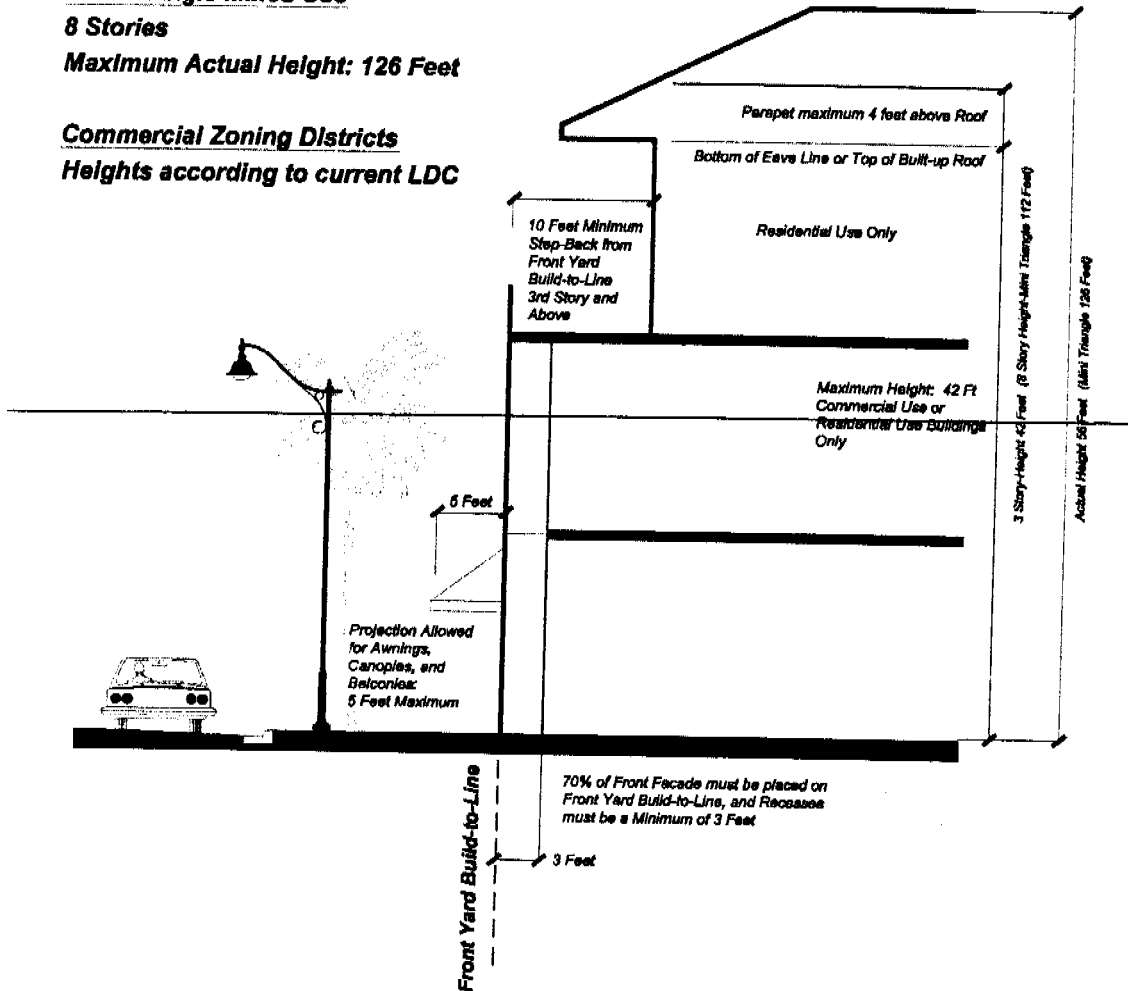
Commercial Drive

GTMUD Figure 3. 3-Story Building Height, Step Back, Projections, and Recesses
 (For illustrative purposes only)

Mixed Use Subdistrict/ Residential
above Commercial or Residential
Only Fronting on US 41:
3 Stories
Maximum Actual Height: 56 Feet

Mini Triangle Mixed Use
8 Stories
Maximum Actual Height: 126 Feet

Commercial Zoning Districts
Heights according to current LDC

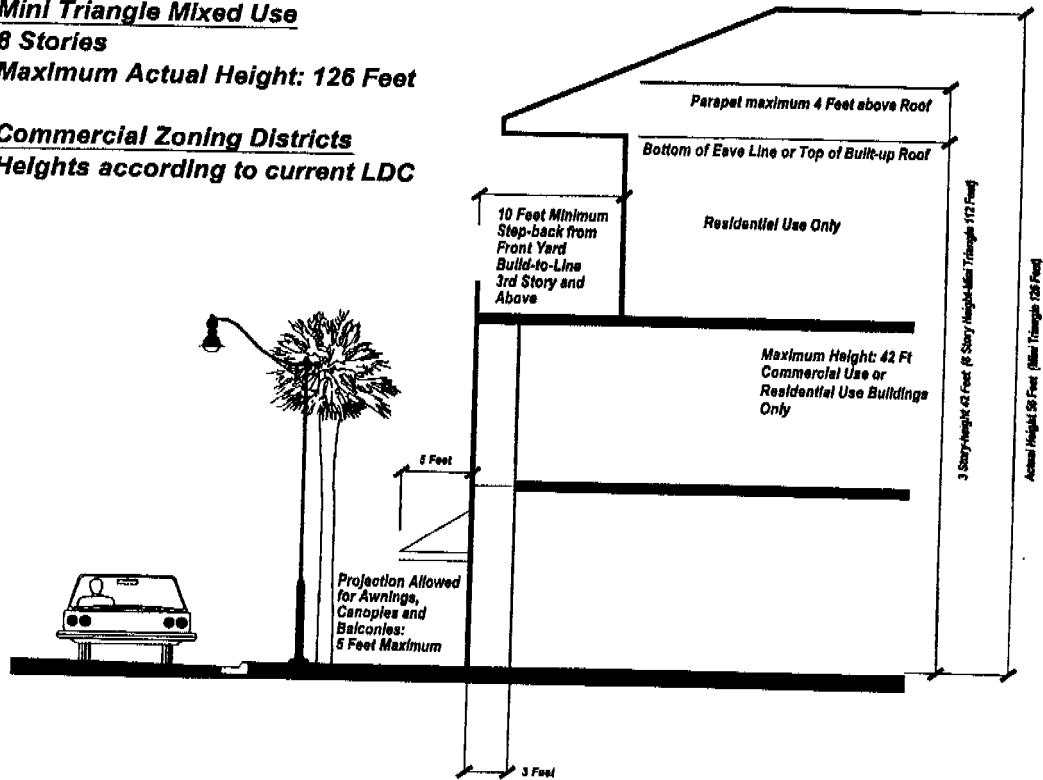


GTMUD
Mixed Use Subdistrict and C-1 through C-5 Districts:
Building Height, Step-Back, Projections and Recesses

**Mixed Use Subdistrict/Residential
above Commercial or Residential
Only Fronting on US 41:**
3 Stories
Maximum Actual Height: 56 Feet

Mini Triangle Mixed Use
8 Stories
Maximum Actual Height: 126 Feet

Commercial Zoning Districts
Heights according to current LDC



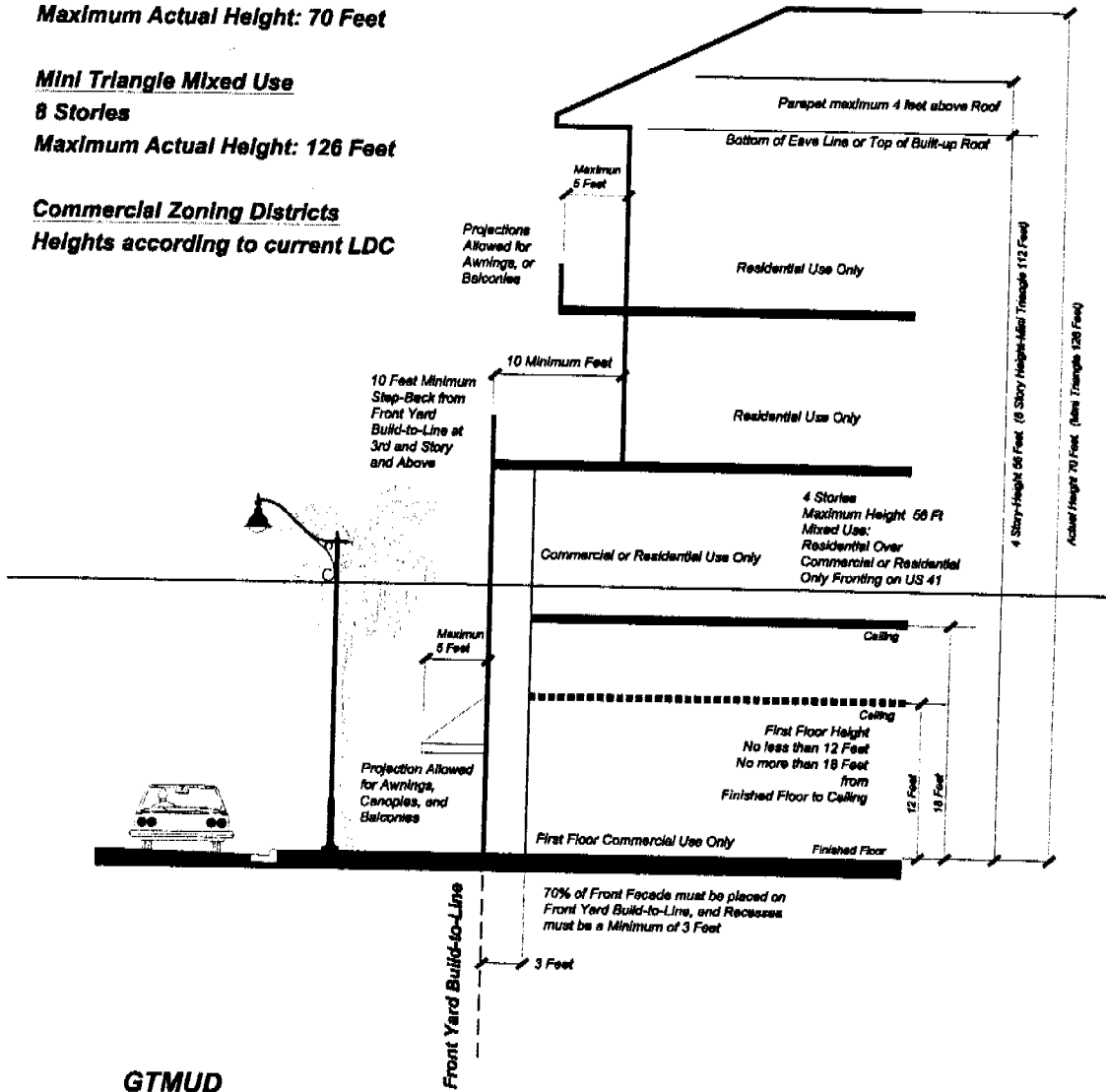
GTMUD
Mixed Use Subdistrict and C-1 through C-5 Districts:
Building Height, Step-Back, Projections and Recesses

GTMUD Figure 4. 4-Story Building Height, Step Back, Projections, and Recesses
 (For illustrative purposes only)

Mixed Use Subdistrict/ Residential
above Commercial or Residential
Only Fronting on US 41:
4 Stories
Maximum Actual Height: 70 Feet

Mini Triangle Mixed Use
8 Stories
Maximum Actual Height: 126 Feet

Commercial Zoning Districts
Heights according to current LDC

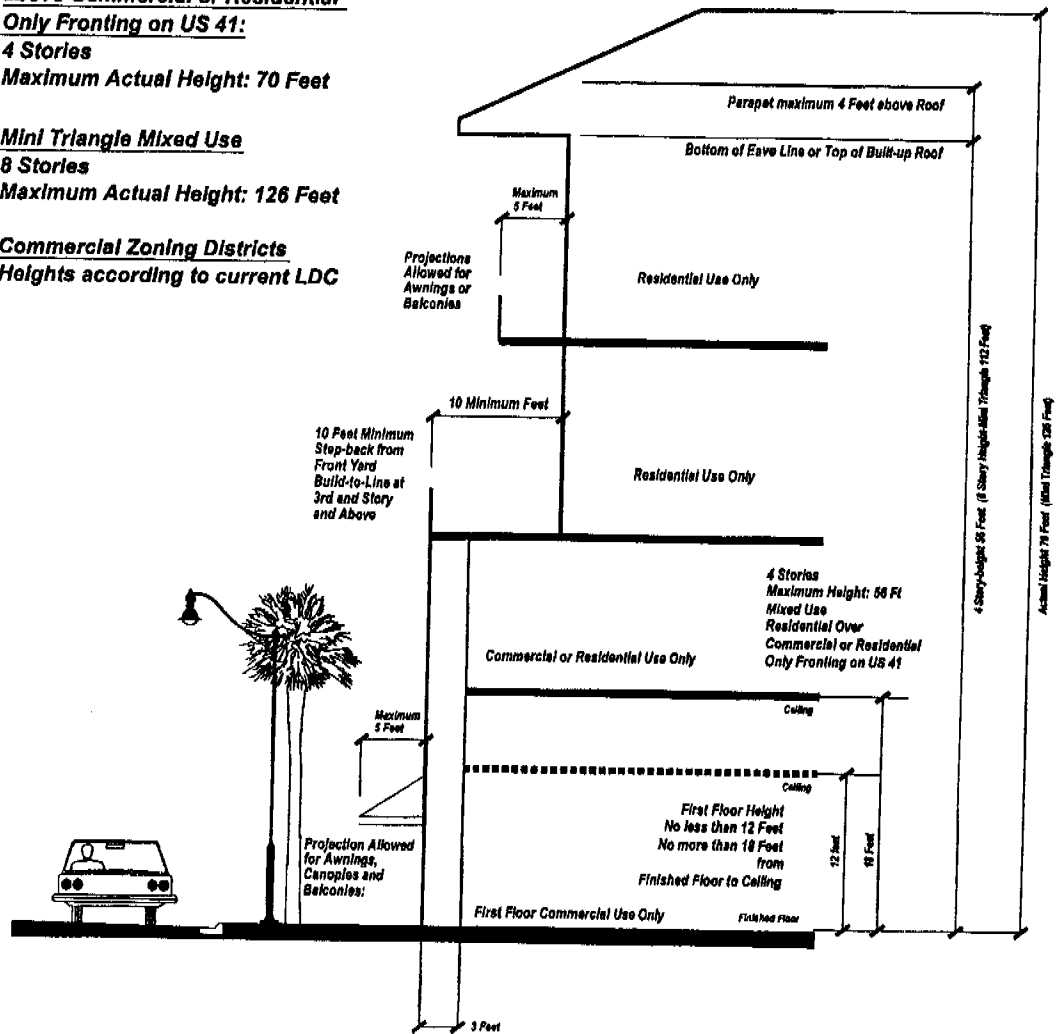


GTMUD
Mixed Use Subdistrict and C-1 through C-5 Districts:
Building Height, Step-Back, Projections and Recesses

**Mixed Use Subdistrict/Residential
above Commercial or Residential
Only Fronting on US 41:**
4 Stories
Maximum Actual Height: 70 Feet

Mini Triangle Mixed Use
8 Stories
Maximum Actual Height: 126 Feet

Commercial Zoning Districts
Heights according to current LDC



GTMUD
Mixed Use Subdistrict and C-1 through C-5 Districts:
Building Height, Step-Back, Projections and Recesses

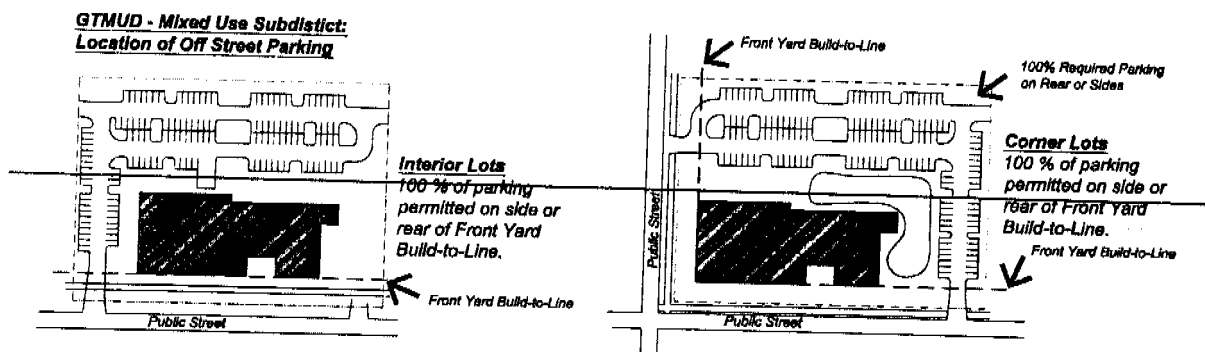
C. Parking Standards

*	*	*	*	*	*	*	*	*	*	*
	1.	Mixed Use Projects								
*	*	*	*	*	*	*	*	*	*	*

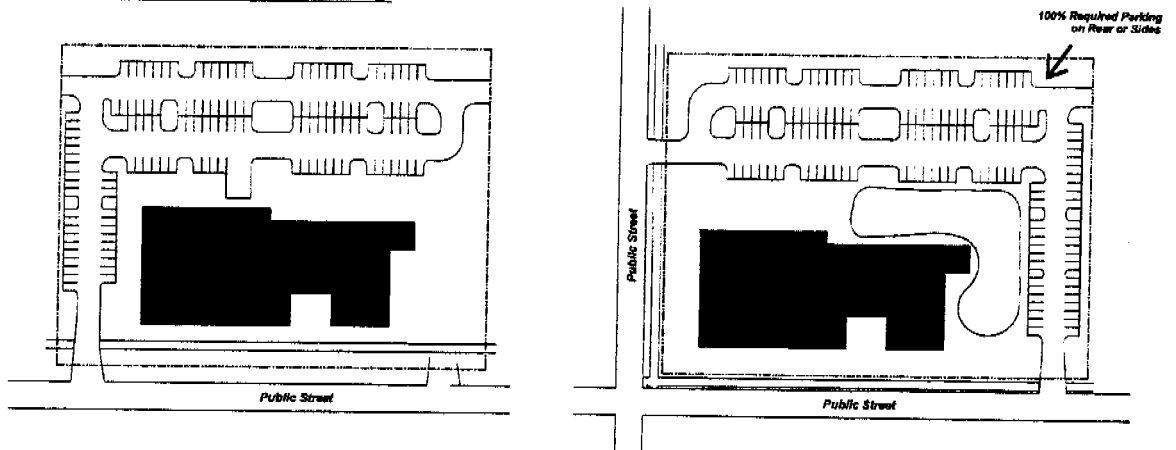
d. Parking Location

- i. Off-street parking in front of buildings abutting US 41, Davis Boulevard or Airport-Pulling Road shall not exceed 50% of that building's parking requirement.
 - a) The design shall be a single-aisle double-loaded parking lot.
 - b) The remaining parking required shall be located on the side or rear of the building.

Parking Location
(For illustrative purposes only)



GTMUD - Mixed Use Subdistrict:
Location of Off Street Parking



GTMUD Figure 5

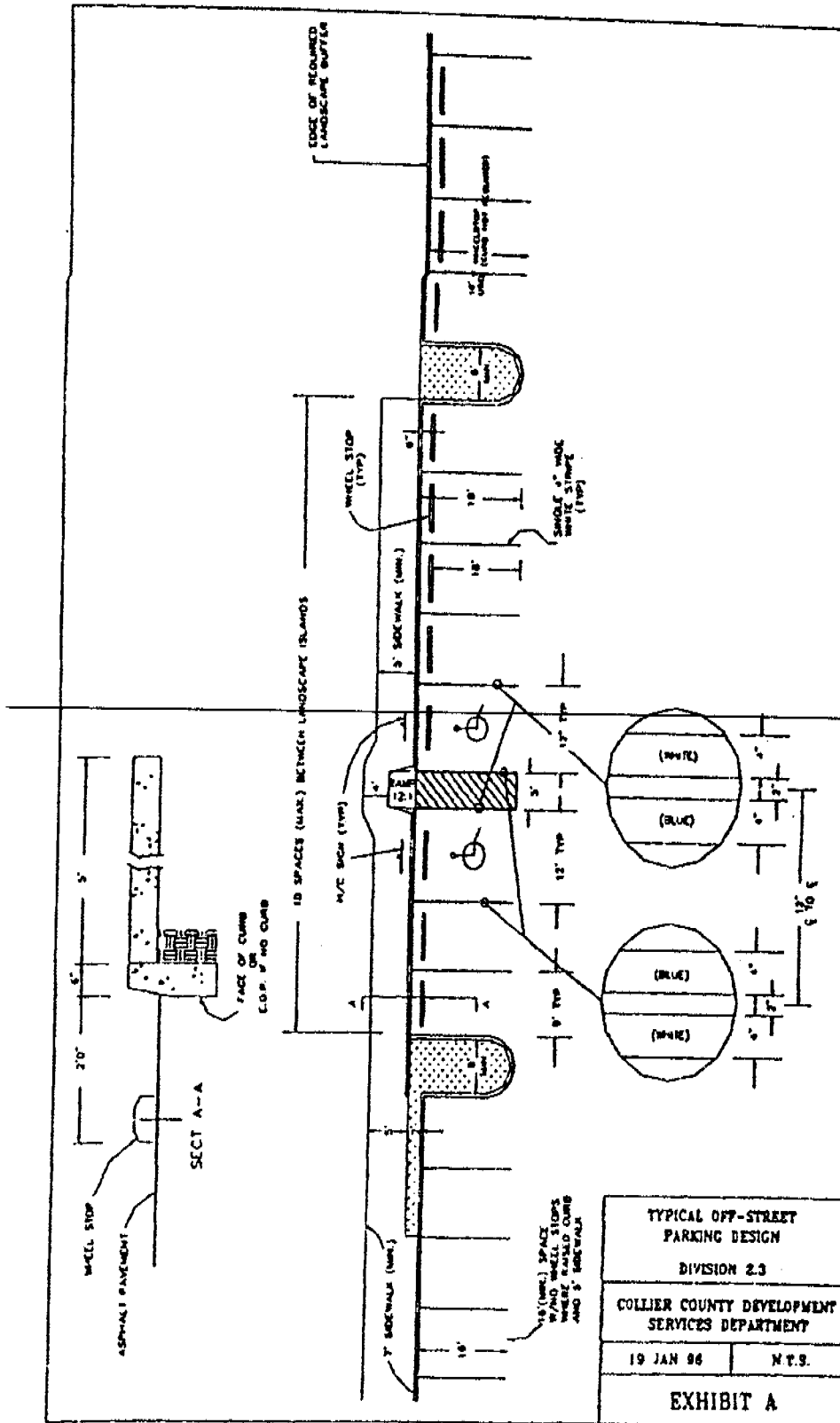
* * * * *
SUBSECTION 3.W. AMENDMENTS TO SECTION 4.05.02 DESIGN STANDARDS

Section 4.05.02 Design Standards, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

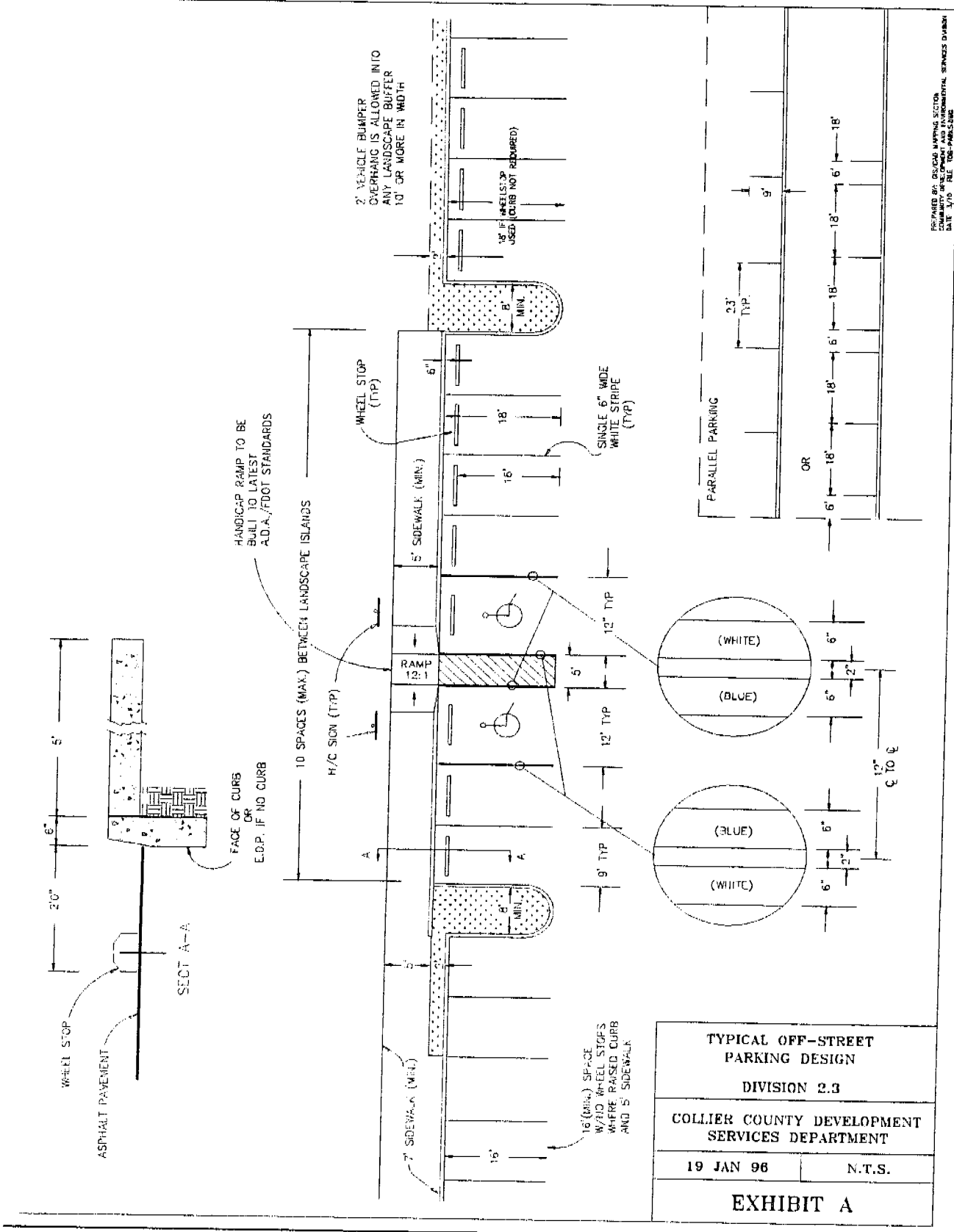
4.05.02 Design Standards

* * * * *
M. Each parking space shall be a minimum of nine (9) feet by eighteen (18) feet in size or sixteen (16) feet in depth measured from the aisle width to the face of the wheel

stop except in the case of parallel parking where the dimension of the space shall be nine (9) feet by twenty-three (23) feet for spaces running parallel to the **driveway** which affords **access** to said spaces. As an alternative, nine (9) feet by eighteen (18) feet spaces may be used in which case there must be a six (6) foot marked clear zone space in front of or in back of every space. See Exhibit "A" for typical off-**street** parking design. All parking spaces for the exclusive use of compact vehicles indicated on an approved **site development plan**, and any subsequent amendments thereto, shall be counted as standard parking spaces.



TYPICAL OFF-STREET
 PARKING DESIGN
 DIVISION 2.3
 COLLIER COUNTY DEVELOPMENT
 SERVICES DEPARTMENT
 19 JAN 86 N.T.S.
 EXHIBIT A



PREPARED BY: DESIGN MARKING SECTION
 COUNTY OF COLLEGER AND ENVIRONMENTAL SERVICES DIVISION
 DATE: 3/76 P.E. 108-PAR-0108

TYPICAL OFF-STREET
 PARKING DESIGN
 DIVISION 2.3

COLLIER COUNTY DEVELOPMENT
 SERVICES DEPARTMENT

19 JAN 96

N.T.S.

EXHIBIT A

* * * * *

SUBSECTION 3.X. AMENDMENTS TO SECTION 4.05.04 PARKING SPACE REQUIREMENTS

Section 4.05.04 Parking Space Requirements, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

4.05.04 Parking Space Requirements

* * * * *

E. Required off-street parking shall be located so that no automotive vehicle when parked shall have any portion of such vehicle overhanging or encroaching on public right-of-way or the property of another. If necessary, wheel stops or barriers may be required in order to enforce this provision.

F. Required off-street parking according to the requirements of this Code shall not be reduced in area or changed to any other use unless the permitted or permissible use that it serves is discontinued or modified, or equivalent required off-street parking is provided meeting the requirements of this Code.

F- G. Minimum requirement.

1. Irrespective of any other requirement of this LDC, each and every separate individual store, office, or other business shall be provided with at least one (1) off-street parking space, unless specific provision is made to the contrary.

2. The County ~~M~~anager or designee may determine the minimum parking requirements for a use which is not specifically referenced below or for which an applicant has provided evidence that a specific use is of such a unique nature that the applicable minimum parking ratio listed in this LDC should not be applied. In making such a determination the County Manager or designee may require submission of parking generation studies; evidence of parking ratios applied by other counties and municipalities for the specific use; reserved parking pursuant to section 4.05.05; and other conditions and safeguards deemed to be appropriate to protect the public health, safety and welfare.

G- H. Spaces required.

Table 17. Parking space requirements.

* * * * *

SUBSECTION 3.Y. AMENDMENTS TO SECTION 4.06.01 GENERALLY

Section 4.06.01 Generally, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

4.06.00 LANDSCAPING, BUFFERING, AND VEGETATION RETENTION

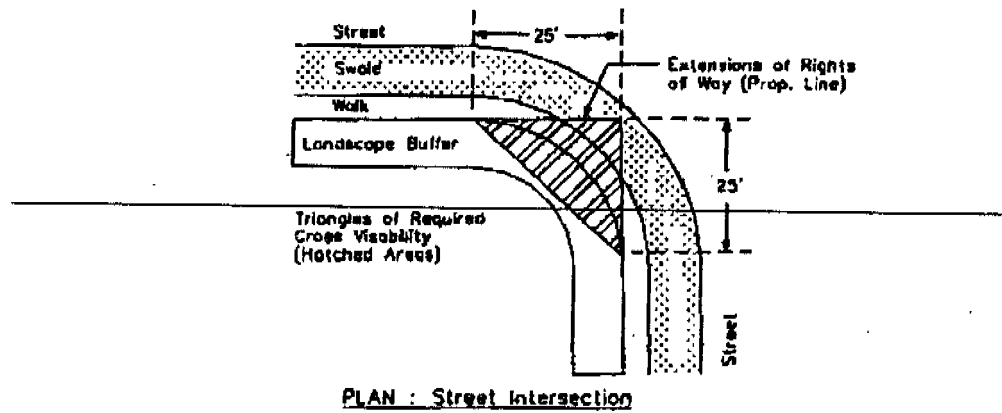
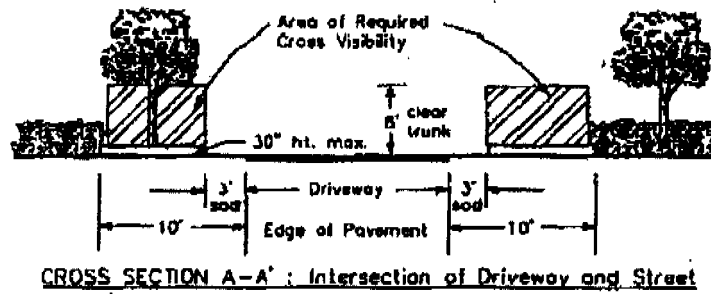
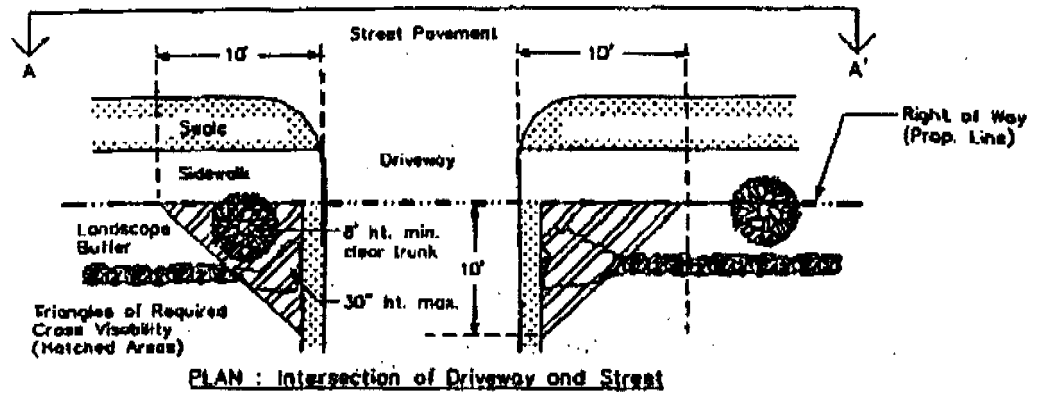
4.06.01 Generally

* * * * *

D. Landscaping with Sight Design Triangles.

1. Safe sight distance triangles at intersection and access points. (Refer to Figure 4.06.01 D., Sight Distance Triangles). Where a **driveway/access** way intersects a **right-of-way** or when a property **abuts** the intersection of two or more **rights-of-way**, a minimum safe sight distance triangular area shall be established. Within this area, vegetation shall be planted and maintained in a way that provides unobstructed visibility at a level between 30 inches and 8 feet above the crown of the **adjacent** roadway. Landscaping shall be located in accordance with the roadside recovery area provisions of the State of Florida Department of Transportation's Manual of Uniform Minimum Standards for Design, Construction, and Maintenance of **streets** and Highways (DOT Green Book) where appropriate. Posts for illuminating fixtures, traffic control, and **street** name **signs** shall also be permitted, so long as the **sign** or equipment is not within the prescribed clear space.

Where an accessway enters a **right-of-way**, two safe distance triangles shall be created diagonally across from each other on both sides of the accessway. Two sides of the triangle shall extend 10 feet each way from the point of intersection from the edge of pavement and the **right-of-way** line. The third side of the triangle shall be a line connecting the ends of the other 2 sides.



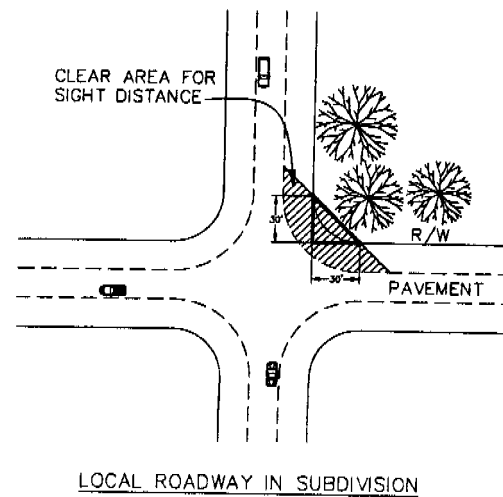
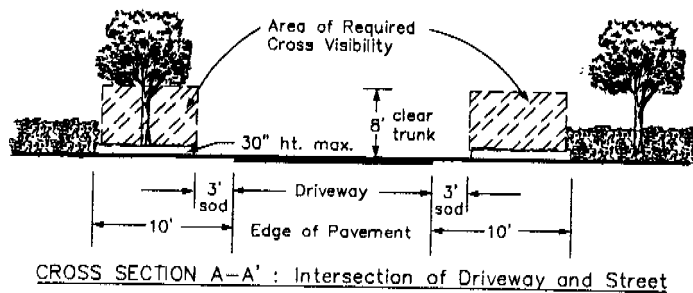
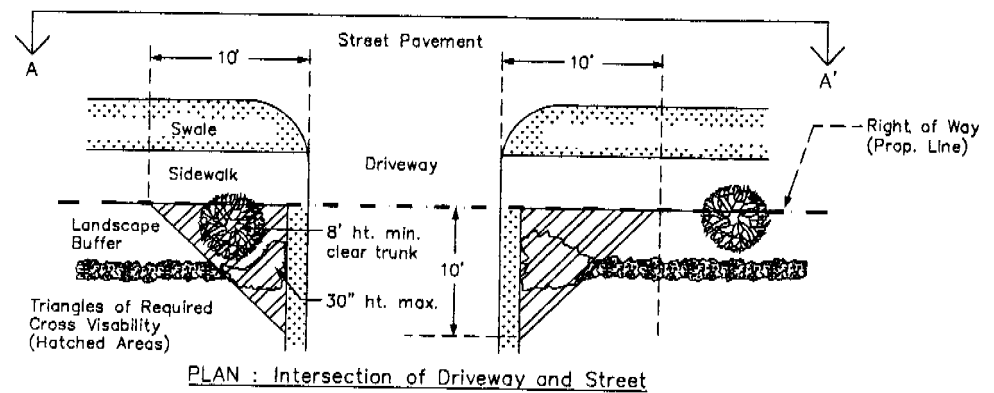


Figure 4.06.01 D – Sight Distance Triangles

Where a property **abuts** the intersection of two **rights-of-way**, a safe distance triangle shall be created. Two sides of the triangle shall extend 30 feet along the **abutting right-of-way** lines, measured from the point of intersection. The third side of the triangle shall be a line connecting the

ends of the other 2 sides.

The developer shall comply with all of the provisions of the applicable landscape requirements and this section 4.06.00 at the time of **subdivision or development** approval or when applicable.

* * * * *

SUBSECTION 3.Z. AMENDMENTS TO SECTION 4.06.05 GENERAL LANDSCAPING REQUIREMENTS

Section 4.06.05 General Landscaping Requirements, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

4.06.05 General Landscaping Requirements

* * * * *

D. Plant Material Standards.

* * * * *

- 4. *Shrubs and hedges.* Shrubs and hedges shall be installed and maintained at a minimum height as specified in Section 4.06.02.C.4- except where ~~street-visibility~~ at street and driveway intersections is required and where pedestrian **access** is provided. Shrubs and hedges shall screen the **adjacent** pavement surface or developed property required to be **buffered** and/or screened. Hedges, where required, shall be maintained so as to form a continuous, unbroken, solid visual screen within a minimum of one year after time of planting.

* * * * *

SUBSECTION 3.AA. AMENDMENTS TO SECTION 4.08.07 SRA DESIGNATION

Section 4.08.07 SRA Designation, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

4.08.07 SRA Designation

* * * * *

- K. **SRA Public Facilities Impact Assessments.** Impact assessments are intended to identify methods to be utilized to meet the SRA generated impacts on public facilities and to evaluate the self-sufficiency of the proposed SRA with respect to these public facilities. Information provided within these assessments may also indicate the degree to which the SRA is consistent with the fiscal neutrality requirements of Section 4.08.07 L. Impact assessments shall be prepared in the following infrastructure areas:

* * * * *

- 7. **Public Schools.** The **applicant** shall coordinate with the Collier County School Board to provide information and coordinate planning to accommodate any impacts that the SRA has on public schools. As part of the SRA application, the following information shall be provided:

- a. ~~Number of residential units by type~~ **School Impact Analysis (SIA)** for a determination of school capacity only (refer to section 10.04.09 for SIA requirements); and
- b. ~~An estimate of the number of school-aged children for each type of school impacted (elementary, middle, high school); and~~
- e b. The potential for locating a public educational facility or facilities within the SRA, and the sites location(s) of any site(s) that may be dedicated or otherwise made available for a public educational facility.

* * * * *

SUBSECTION 3.BB. AMENDMENTS TO CHAPTER 5 SUPPLEMENTAL STANDARDS TABLE OF CONTENTS

Chapter 5 Supplemental Standards Table of Contents, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

* * * * *

5.03.00 Accessory Uses and Structures

- 5.03.01 Canopy Tents and Shades
- 5.03.02 Fences and Walls, Excluding Sound Walls
- 5.03.03 Guesthouses
- 5.03.04 Dumpsters and Recycling
- 5.03.05 Caretaker Residences
- 5.03.06 Dock Facilities

5.04.00 Temporary Uses and Structures

- 5.04.01 ~~Generally (To Be Provided)~~ Temporary Use Permits
- 5.04.02 Interim Agricultural Uses
- 5.04.03 Temporary Uses During Construction
- 5.04.04 Model Homes and Model Sales Centers
- 5.04.05 Temporary Events
- 5.04.06 Temporary Signs
- 5.04.07 Annual Beach Event Permits
- 5.04.08 [Reserved]

* * * * *

SUBSECTION 3.CC. AMENDMENTS TO SECTION 5.03.02 FENCES AND WALLS

Section 5.03.02 Fences and Walls, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

5.03.02 Fences and Walls, Excluding Sound Walls

A. ~~All districts.~~

- ~~1. Whenever a property owner elects to construct a chain link fence, pursuant to the provisions herein, adjacent to an **arterial or collector road** in the urban coastal area, shall not be located closer than three (3) feet to the **right of way** or property line, and said fence shall be screened from view by planting a hedge of living plant material at a minimum of thirty (30) inches in height and spaced a distance apart that will achieve an opacity of 80 percent sight obscuring screen within one (1) year of planting. An irrigation system shall be installed to ensure the continued viability of the hedge as a visual screen of the chain link fence. This regulation shall not apply to single family homes.~~
 - ~~a. Structures subject to section 5.05.08 Architectural & Site Design Standards must comply with the following additional fencing standards:
 - ~~i. Chain link and wood fences are prohibited forward of the primary facade and must be a minimum of 100 feet from a public right of way. Chain link and wood fencing facing a public or private street must be screened with an irrigated hedge planted directly in front of the fence on the street side. Plant material must be a minimum of 3 gallon in size and planted no more than 3 feet on center at time of installation. This plant material must be maintained at no less than three quarters of the height of the adjacent fence (See Illustration 5.03.02 A.1.a. 1).~~
 - ~~ii. Fences forward of the primary facade, excluding chain link and wood are permitted under the following conditions:
 - ~~(a) Fences must not exceed four feet in height.~~
 - ~~(b) The fence provides either an open view at a minimum of 25 percent of its length or provides variation in its height for a minimum of 15 percent of its length with a deviation of at least 12 inches.~~
 - ~~(c) The fence style must complement building style through material, color and design.~~~~~~
- ~~2. All fences and walls shall be of sound construction and shall not detract from the public health, safety, and welfare of the general public.~~
- ~~3. All fences and walls shall be maintained in a manner that will not detract from the neighborhood or community.~~

- ~~4. Barbed wire is authorized within agricultural, commercial, industrial districts and on fences surrounding public utility ancillary systems in all districts. Razor or concertina wire is not permitted except in the case of an institution whose purpose is to incarcerate individuals, i.e., a jail or penitentiary, or by appeal to the BZA.~~
 - ~~5. No fence or wall within any district shall block the view of passing motorists or pedestrians so as to constitute a hazard.~~
 - ~~6. Fences and walls shall be constructed of conventional building materials such as, but not limited to, concrete block, brick, wood, decorative iron or steel, and chain link.~~
 - ~~7. Fences and walls shall be constructed to present the finished side of the fence or wall to the adjoining lot or any abutting right-of-way. If a fence, wall, or continuous landscape hedge exists on the adjoining parcel, this provision may be administratively waived where said request has been requested in writing.~~
 - ~~8. When determined to be beneficial to the health, safety, and welfare of the public, the County Manager or designee may approve an administrative variance from height limitations of fences and walls in all districts provided that at least one (1) health, safety, or welfare standard peculiar to the property is identified, and that such approval does not set an unwanted precedent by addressing a generic problem more properly corrected by an amendment to this Code.~~
 - ~~9. Existing ground levels shall not be altered for the purpose of increasing the height of a proposed wall or fence except as provided for within section 5.03.02 A.8. and 4.06.00.~~
- ~~B. Fence height measurement for all districts. The height of a fence or wall located outside of the building line shall be measured from the ground level at the fence location. However, if the County Manager or designee determines that ground levels have been altered so as to provide for a higher fence, the County Manager or designee shall determine the ground level for the purposes of measuring the fence height. In determining whether the ground level has been altered for the purposes of increasing the height of the fence, the County Manager or designee may consider, but is not limited to, the following facts:~~
- ~~1. General ground elevation of the entire lot.~~
 - ~~2. In the case of a lot with varying ground elevations, the average elevation over the length of the fence, and at points in the vicinity of the fence.~~
 - ~~3. The ground elevation on both sides of the fence. In measuring the fence height, the ground elevation on the side of the fence location that is at the lowest elevation shall be used as a point from which the fence height is to be measured.~~

4. ~~Fences or walls shall be permitted principal uses; however, a fence or wall shall not, in any way, constitute a use or structure, which permits, requires, and/or provides for any accessory uses and/or structures.~~
- C. ~~Residential zoning districts. For the purposes of this section, residential districts shall include: RSF, RMF-6, RMF-12, RMF-16, RT, VR, MH, and TTRVC zoning districts, and the residential increments of PUD zoning districts. Fences and walls placed within required yards shall be subject to the following:~~
1. ~~Fences or walls on lots greater than one (1) acre in area may reach a maximum height of six (6) feet; except for public utility ancillary systems, for which the allowable height is eight (8) feet.~~
 2. ~~For non-waterfront interior lots one (1) acre or less in area, fences or walls may reach a maximum height of six (6) feet for side and rear yards, but are limited to four (4) feet within the required front yard, except for public utility ancillary systems for which the allowable height is eight (8) feet in all yards.~~
 3. ~~For waterfront lots one (1) acre or less in area, height limits are as for non-waterfront lots, but with the additional restriction that fences or walls within the required rear yard are limited to four (4) feet.~~
 4. ~~For corner lots one (1) acre or less in area, which by definition have only front yards and side yards, fences within required front yards are limited to four (4) feet in height, with the exception that any portion of a front yard fence within the safe sight triangle described in section 6.06.05 of this Code is restricted to three (3) feet in height. (Two (2) sides of this triangle extend thirty (30) feet along the property lines from the point where the right-of-way lines meet, and the third side is a line connecting the other two (2).) Fences within required side yards may reach six (6) feet in height.~~
 5. ~~Barbed wire, razor wire, spire tips, sharp objects, or electrically charged fences shall be prohibited, except that the Board of Zoning Appeals may allow the use of barbed wire in conjunction with chain link fencing for facilities where a security hazard may exist, such as a utility substation, sewage treatment plant, or similar use.~~
- D. ~~Agricultural districts. For the purposes of this section, agricultural districts shall include: A, E, and CON zoning districts. Fences and walls within agricultural districts shall be exempt from height and type of construction requirements.~~
- E. ~~Commercial and industrial districts.~~
1. ~~Industrial Districts [Non-residential development]. Fences or walls in industrial districts not subject to section 5.05.08 shall be limited to eight (8) feet in height.~~
 2. ~~Whenever a nonresidential development lies contiguous to or opposite a residentially-zoned district, said nonresidential development shall provide~~

~~a masonry wall or prefabricated concrete wall and/or fence.~~

- ~~3. If located on a contiguous property, the wall and/or fence shall be a minimum of six (6) feet and a maximum of eight (8) feet in height and shall be located a minimum of six (6) feet from the residentially zoned district.~~
- ~~4. If located on a property opposite a residentially zoned district but fronting on a local street, or the properties are separated by a platted alley, the wall and/or fence shall be located a minimum of three (3) feet from the rear of the right-of-way landscape buffer line and shall be four (4) feet in height.~~
- ~~5. On properties which front on more than one (1) street, a six (6) foot high wall and/or fence shall be required along the street which is opposite the primary ingress and egress point of the project along the street frontage which is adjacent to the rear of the project.~~

~~F. At the applicant's request, the County Manager or designee may determine that a masonry wall and/or fence is not warranted, particularly where the local street lies contiguous to the rear of a residence or some other physical separation exists between the residential development and the nonresidential development, or for other good cause including the existence of a wall on an adjacent residential development. The applicant shall demonstrate that the intent of this section can be effectively accomplished, without constructing a wall, by submitting for approval an alternative design and a descriptive narrative through the administrative variance process set forth in subsection 5.03.02(A)(8) of this Code. The County Manager or designee shall review the submitted documents for consistency with the intent of this section and, if the administrative variance is approved, the approval and its basis shall be stated in the site development plan approval letter.~~

~~G. Vegetative plantings shall be located external to the wall and/or fence such that fifty (50) percent of the wall and/or fence is screened within one (1) year of the installation of said vegetative material. An irrigation system shall be installed to ensure the continued viability of the vegetative screen.~~

~~H. These regulations shall not be construed to require a masonry wall and/or fence for commercial development fronting on an arterial or collector roadway where the opposite side of such roadway is zoned residential or to be otherwise inconsistent with the provisions of section 5.05.08(B) of this Code.~~

~~I. A wall and/or fence shall be constructed following site plan approval but prior to any vertical construction or any other type of improvement resulting from the issuance of a building permit. Special circumstances may warrant constructing the wall and/or fence in phases depending upon the location of affected residential areas and after vertical construction commences.~~

A. Fences or walls shall be permitted principal uses in all districts, subject to the restrictions set forth in this section, unless specifically exempted; however, a

fence or wall shall not, in any way, constitute a use or structure, which permits, requires, and/or provides for any accessory uses and/or structures.

B. A fence or wall may be located on a lot line, but no fence or wall (including foundation) shall protrude in full or part on adjacent property or right-of-way.

C. Residential (RSF, RMF, RT, VR, MH) and TTRVC zoning districts and designated residential components of PUDs shall be subject to the following maximum fence and wall heights:

a. Required front yard

i. lots greater than 1 acre: 6 feet

ii. non-waterfront interior lots 1 acre or less: 4 feet

iii. waterfront lots 1 acre or less: 4 feet

iv. corner lots 1 acre or less: fences closer than 10 feet to the longest lot line frontage of a corner lot, 4 feet; when placed at 10 feet or greater from the longest lot line frontage, than 6 feet.

b. Required side and/or rear yard(s)

i. lots greater than 1 acre: 6 feet

ii. non-waterfront interior lots 1 acre or less: 6 feet

iii. waterfront lots 1 acre or less: 6 feet side yard(s); 4 feet in rear yards

iv. Public Utility Ancillary Systems: 8 feet

v. corner lots 1 acre or less: 4 feet (there is no rear yard on a corner lot)

D. Commercial and Industrial zoning districts, excluding the TTRVC zoning district; Business Park zoning districts; and designated commercial, industrial and business park components of PUDs shall be subject to the following maximum fence and wall heights:

1. Fences or walls shall be limited to a maximum height of 8 feet.

2. The County Manager or designee may approve an administrative variance from the height limitations of fences and walls in commercial and industrial zoning districts provided that at least one (1) health, safety, or welfare hazard peculiar to the property is identified, and that such approval does not address a generic problem more properly corrected by an amendment to this Code.

E. Agricultural and Conservation zoning districts

1. Fences and walls within agricultural districts shall be exempt from height and type of construction.

F. Fence and wall design standards in all districts

1. Measurement of fence or wall height

- a. Existing ground levels shall not be altered for the purpose of increasing the height of a proposed fence or wall except as provided for in this section and section 4.06.00.

- b. Determination of ground level. The height of a fence or wall shall be measured from the ground level at the fence or wall location. The County Manager or designee shall determine the ground level for the purposes of measuring the height when it has been determined that the ground level has been altered for the purposes of increasing the height. In such determinations, the County Manager or designee may consider, but is not limited to, the following facts:

- i. General ground elevation of the entire lot.

- ii. In the case of a lot with varying ground elevations, the average elevation over the length of the fence or wall and at points in the vicinity of the fence or wall.

- c. The ground elevation on both sides of the fence or wall. In measuring the height, the ground elevation on the side of the fence or wall location that is at the lowest elevation shall be used as a point from which the height is to be measured.

2. Fences and walls shall be constructed of conventional **building** materials such as, but not limited to, precast concrete, composite fencing materials, concrete masonry, brick, wood, decorative iron or steel, wire or chain link, as specified herein.

3. Fences and walls shall be constructed and maintained in a manner as to not create a safety hazard or a public nuisance.

4. Safe Distance Sight Triangle

- a. A safe distance sight triangle shall be maintained where any property abuts the intersection of 2 **rights-of-way** (see subsection 6.06.05 C.). The triangle is created from the point of intersection and extends parallel to the **abutting rights of way** for a distance of 30 feet, connected by a line to create the 3rd side. Any portion of a front **yard** fence or wall within this triangle is restricted to a height of 3 feet. (See Figure 5.03.02 F.4).

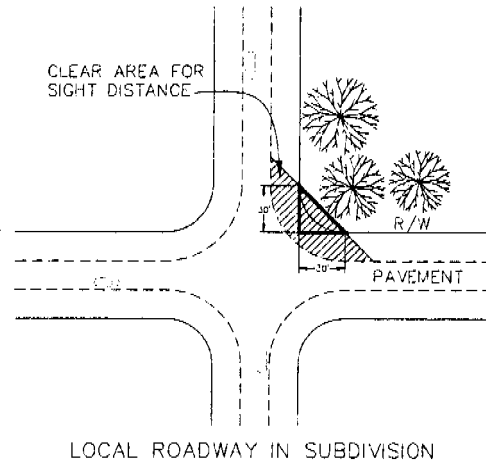


Figure 5.03.02 F.4

5. Fences and walls shall be constructed to present a finished side of the fence or wall to the adjoining lot or any abutting right-of-way.
 - a. If a fence, wall, or continuous landscape hedge exists on the adjoining parcel, this provision may be administratively waived by filing the appropriate application for consideration by the County Manager or designee.
 - b. Barbed wire, razor wire, spire tips, sharp objects, or electronically charged fences are prohibited, except that the County Manager or designee may allow the use of barbed wire in conjunction with a fence for facilities where a security hazard may exist, such as a utility substation, sewage treatment plant, or similar use.

G. Supplemental Standards

1. Fences on sites with structures which are subject to section 5.05.08 Architectural & Site Design Standards must comply with the following additional standards:
 - a. Chain link (including wire mesh) and wood fences are prohibited forward of the primary facade and shall be a minimum of 100 feet from a public right-of-way. If these types of fences face a public or private street then they shall be screened with an irrigated

hedge planted directly in front of the fence on the **street** side. Plant material shall be a minimum of 3 gallons in size and planted no more than 3 feet on center at time of installation. This plant material must be maintained at no less than three-quarters of the height of the **adjacent fence** (See Illustration 5.03.02 A.1.a. - 1).

b. Fences forward of the primary facade, excluding chain link, wire mesh and wood are permitted under the following conditions:

i. Fences shall not exceed 4 feet in height.

ii. The fence provides either an open view at a minimum of 25 percent of its length or provides variation in its height for a minimum of 15 percent of its length with a deviation of at least 12 inches.

iii. The fence style must complement **building** style through material, color and design.

2. Use of chain link or wire mesh fencing (the requirements of this section are not applicable to single family dwellings):

a. If located **adjacent** to an **arterial** or **collector road** in the urban coastal area, the fence shall be placed no closer than three feet to the edge of the **right-of-way** or property line.

b. The fence shall be screened by an irrigated, living plant hedge at least thirty (30) inches in height at planting and spaced a distance apart that will achieve opacity of 80 percent sight-obscuring screen within one year of planting.

3. Barbed wire is only authorized within agricultural, commercial, industrial districts and on fences surrounding **public utility ancillary systems** in all districts. Razor or concertina wire is not permitted except in the case of an institution whose purpose is to incarcerate individuals, i.e., a jail or penitentiary, or by application and decision by the County Manager or designee.

H. Wall requirement between residential and nonresidential development

Whenever a nonresidential development lies contiguous to or opposite a residentially zoned district, a masonry wall, concrete or pre-fabricated concrete wall and/or fence shall be constructed on the nonresidential property consistent with the following standards.

1. Height and Location.

a. If located on a contiguous property, then height shall be 6 feet to 8 feet and placement shall be no less than 6 feet from the residentially zoned district.

- b. If located on a property opposite a residentially zoned district but fronting on a local **street** or roadway, or the properties are separated by a platted **alley**, then height shall be 4 feet and placement shall be a minimum of 3 feet from the rear of the **right-of-way landscape buffer line**.
- c. If a property fronts on more than 1 **street**, then height shall be 6 feet and placement shall be required along the **street** which is opposite the primary ingress and egress point of the project along the **street frontage** which is adjacent to the rear of the project.
- d. These regulations shall not be construed to require a masonry wall and/or fence for properties used as golf courses or preserve areas and non-residential development fronting on an **arterial** or **collector roadway** where the opposite side of such **roadway** is zoned residential or to be otherwise inconsistent with the provisions of section 5.05.08(B) of this Code.

2. Landscaping requirements.

- a. When the placement is within the required **landscape buffers**, then the required **vegetative plantings** and irrigation for the buffer shall be located on the external side such that 50 percent of the wall and/or fence is screened within 1 year of the installation of the vegetative material.
- b. When the placement is outside of a required **landscape buffer**, then the wall and/or fence shall be screened with an **abutting, continuous irrigated hedge** on the external side such that 50 percent of the wall and/or fence is screened within 1 year of the installation of the vegetative material.

3. Timing of installation.

- a. The wall and/or fence shall be constructed following site plan approval but prior to the occurrence of any vertical construction or other site improvements. At the County Manager or designee's discretion, if site conditions warrant, the wall may be constructed in phases and/or after vertical construction or site improvements commence, depending upon the location of affected residential areas.

4. Deviation from wall requirement.

- a. At the **applicant's** request, the County Manager or designee may determine that a masonry wall and/or fence is not warranted, particularly where the local **street** lies contiguous to the rear of a residence or some other physical separation exists between the residential development and the nonresidential development, or for other good cause including the existence of a wall on an **adjacent** residential development. The **applicant** shall

demonstrate that the intent of this section can be effectively accomplished, without constructing a wall, by submitting for approval of an alternative design and a descriptive narrative through the administrative variance process set forth in subsection 5.03.02 B.2.b. of this Code. The County Manager or designee shall review the submitted documents for consistency with the intent of this section and, if the administrative variance is approved, the approval and its basis shall be noted on the site development plan and the administrative variance approval letter.

I. Special fences and walls

1. Sound Walls

a. Sound walls erected by, or at the direction of, any government entity for purposes of attenuating sound from an interstate, collector or arterial roadway shall be exempt from height restrictions.

2. Public utility ancillary facilities.

a. See subsection 5.05.12.

* * * * *

SUBSECTION 3.DD. AMENDMENTS TO SECTION 5.04.01 GENERALLY (TO BE PROVIDED)

Section 5.04.01 Generally (To Be Provided), of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

5.04.01 Generally (To Be Provided) Temporary Use Permits.

A. Purpose and intent. Based upon the nature of some uses, their impact on adjacent uses, their compatibility with surrounding properties, and the length of time a use is intended to function, there is an identified need to allow certain temporary uses within a development site, and to provide for other types of temporary uses such as special events, sales and promotions. It is the intent of this section to classify temporary uses and to provide for their permitting.

B. General. The County Manager or designee may grant a temporary use permit for requests that demonstrate compliance with the intent of this section and Chapter 5 of the Code. Approvals for such requests shall be based upon, but not limited to, the applicant's description of the temporary use, the intended duration of the use, hours of operation and the impacts of the proposed temporary use on adjacent properties.

* * * * *

SUBSECTION 3.EE. AMENDMENTS TO SECTION 5.04.04 MODEL HOMES AND MODEL SALES CENTERS

Section 5.04.04 Model Homes and Model Sales Centers, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

5.04.04 Model Homes and Model Sales Centers

- A. Model homes and model sales centers are intended to facilitate the sale of the model design or of products similar in design to the model. Model homes and model sales centers shall be of a temporary nature and may be allowed in the following zoning districts:
1. Any residential zoning district or residential component of a PUD, in the estates zoning district, and in the agricultural zoning district as part of a ~~rural~~ **subdivision**, by the issuance of a temporary use permit.
 2. However, a model center as a permitted use within a PUD, and not located within a **dwelling unit** or a temporary **structure**, such as a trailer, shall not require a temporary use permit.
- B. Model homes and model sales centers located within residential zoning districts, ~~or within a residential component of a PUD, the estates (E) zoning district, or the agricultural (A) zoning district,~~ shall be restricted to the promotion of a product or products permitted within the residential zoning district ~~or PUD~~ in which the model home or model sales center is located and further subject to the following:

* * * * *

SUBSECTION 3.FF. AMENDMENTS TO SECTION 5.04.05 TEMPORARY EVENTS

Section 5.04.05 Temporary Events, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

5.04.05 Temporary Events

- A. ~~Temporary Sales.~~ Special Events.
1. Sales and Promotional Events.
 - ~~1. a.~~ In the case of A temporary use permit is required for temporary sales and/or promotional events on non-residential property, such as grand openings, going out of business sales, special promotional sales, sidewalk sales, overstock sales, tent sales, or other similar uses (exclusive of garage sales, lawn sales, and

~~similar private home sales), the County Manager or designee may grant nonrenewable permits for sales and promotional events related to the principal activities in operation at the subject property, unless otherwise provided for in this section, of up to fourteen (14) days duration, such that during any calendar year the sum total of all permits for such events for that location does not exceed twenty eight (28) days. A multi-tenant building of ten (10) or more businesses with annual leases may utilize a maximum of forty two (42) days per calendar year for temporary sales. Temporary use permits may be permitted for up to an additional four (4) weeks when approved by the BCG. Such special approval shall be subject to stipulations or additional constraints deemed necessary and appropriate to the request. Such stipulations or constraints deemed necessary by the BCG shall be noted as conditions to the issuance of said permits, and the permittee shall be required to sign a notarized agreement to said stipulations or constraints.~~

b. A temporary use permit for sales or promotional events shall meet the procedural requirements of Section 10.02.06 G.

~~2. c. Temporary sales permits may, in support of the use being permitted, include the placement of one (1) sign, a maximum of thirty two (32) square feet, or two (2) such signs for properties containing more than one (1) street frontage. In addition to the allowable signs, merchandise, temporary structures, and equipment may be placed on the site. All temporary structures and equipment, merchandise, or placement and parking of vehicles in conjunction with the temporary sale, shall conform to the minimum yard requirements of the district in which it is located. If the temporary use is not discontinued upon expiration of the permit, it shall be deemed a violation of this LDC and shall be subject to the penalties herein.~~

In support of the proposed temporary sale or event, temporary signs, merchandise, structures, and equipment may be placed subject to approval of a site plan depicting same.

i. Temporary signage shall be subject to the restrictions set forth in section 5.04.06.

ii. All temporary structures and equipment, merchandise, or placement and parking of vehicles in conjunction with the temporary sale, shall conform to the minimum yard requirements of the zoning district in which it is located.

iii. A building permit may be required for the erection of temporary structures.

~~3. d. Temporary sales use permits for sales may be issued to the owner(s) of a commercial establishment, or to the tenant(s) operating within a commercial establishment with the approval of~~

the property owner or property manager, provided said tenant provides documentation of a current annual lease with the property owner. Uses permitted by an approved temporary sales permit shall be operated by the property owner or tenant(s), except as provided for in sections ~~5.04.05(A)(5)~~ 5.04.05 A.1.g. and ~~5.04.05(A)(6)~~ 5.04.05 A.1.h. below.

4. ~~e.~~ Temporary sales use permits for sales shall be restricted to those zoning districts in which the sale of the items would normally be permitted. Further, the sales activity permitted by the temporary use permit shall be related to the principal commercial activities in operation on the subject property, except as provided for in subsections 5.04.05(A)(5) 5.04.05 A.1.g. and 5.04.05(A)(5) 5.04.05 A.1.h. below. ~~The issuance of a temporary use permit shall not be issued for undeveloped properties.~~

f. Special event temporary use permits shall not be issued for undeveloped properties, with exception to pre-construction ground breaking events with a valid development order.

5. ~~g.~~ The County Manager or designee may issue temporary use permits for satellite locations subject to the applicable restrictions set forth in this section, provided the applicant currently operates a business from a permanent, approved commercial location within the County. Additionally, the purpose of the temporary sale shall be the same as the principal purpose of the existing commercial business of the applicant.

6. ~~h.~~ The County Manger ~~Manager~~ or designee may, in determining a specific benefit to the public, grant a temporary use permit to facilitate the sale of an item or items not generally available within a specific planning community, subject to the applicable restrictions set forth in this section.

7. ~~A temporary sales permit shall meet the procedural requirements of Chapter 10. The applicant shall demonstrate that provision will be made to adequately address each of the following:~~

a. ~~Vehicular and pedestrian traffic measures.~~

b. ~~Additional parking requirements. A maximum of ten (10) percent of the parking required by section 4.04.00 of this Code may be occupied or otherwise rendered unusable by the placement of temporary structures, equipment, signs, and merchandise. The minimum required number of handicapped spaces pursuant to section 4.04.00 shall remain available for usage.~~

c. ~~Limited activity hours.~~

d. ~~Watchmen, fencing, and lighting.~~

e. ~~Fire protection measures.~~

f. ~~Sanitary facilities.~~

g. ~~If required, a faithful performance bond to guarantee compliance with the conditions of this permit.~~

8. ~~Garage sales: In the case of garage sales, lawn sales, and other similar temporary sales to be held at private homes, churches and other places of worship, community centers, or other nonprofit residentially zoned institutions, the County Manager or designee may issue one (1) two (2) 2 day permit for such events during each six (6) 6 month period. Such permit may include the use of temporary signs located on the property where the sale is being held, limited to a maximum of two (2) 2 signs, no greater than four (4) 4 square feet each. No signs shall be placed in any public rights-of-way. If the temporary use is not discontinued upon expiration of the permit, it shall be considered a violation of this LDC and shall be subject to the penalties herein.~~

2. Sports, religious, and community events.

a. A temporary use permit is required for sports, religious, community, or other similar events sponsored by profit, nonprofit, charitable, civil, or membership organizations, on lands not specifically developed and approved for such activities on a regular basis. The County Manager or designee may grant a nonrenewable temporary use permit of up to 14 days duration for such events.

b. Temporary use permits of this type may, in support of the use being permitted, include the placement of temporary signs, merchandise, structures and equipment, and a mobile home as an office, but not for residency.

i. Temporary signage shall be subject to the restrictions set forth in section 5.04.06.

ii. A building permit may be required for the placement and/or erection of temporary structures.

c. Temporary use permits in this category shall be restricted to those zoning districts in which the use would normally be permitted, unless otherwise approved by the Board of County Commissioners via a public petition request.

d. The County Manager or designee shall accept, without fee, temporary use permit applications for sports, religious, community, or other similar events, upon presentation of documentation that the sponsor of the event is a bona fide nonprofit organization and the event is intended to benefit the community at large or a specific group of individuals. Two such events per calendar year

per organization are eligible for this permit.

3. Special Event time limits.

- a. The County Manager or designee may grant nonrenewable temporary use permits of up to 14 days duration, such that during any calendar year the sum total duration of all permits for such events for that location does not exceed 28 days.
- b. For multiple occupancy parcels with 10 or more tenants the total duration of all such permits shall not exceed 42 days per calendar year.
- c. Temporary use permits for special events may be extended up to an additional 4 weeks when approved by the Board of County Commissioners. Such approval may be subject to stipulations and additional constraints which shall be noted as conditions of the permit and the permittee will be required to sign a notarized agreement to abide by such conditions.

B. *Temporary seasonal sales.* A nonrenewable ~~five (5)~~ week temporary use permit may be issued for seasonal and holiday related temporary sales subject to the following restrictions.

1. Temporary use permits for seasonal sales may be issued only for the following seasonal/holiday related items:
 - a. Christmas trees.
 - b. Fireworks (subject to the issuance of an approved permit by the jurisdictional fire district).
 - c. Pumpkins.
2. Temporary use permits for seasonal sales may be issued on improved or unimproved properties, ~~provided the applicant submits a CSP which demonstrates that provisions will be made to adequately address each of the following:~~
 - a. ~~Vehicular and pedestrian traffic safety measures.~~
 - b. ~~Adequate on site, or additional off site parking areas for unimproved properties. A maximum of ten (10) percent of the parking required by section 4.04.00 of this Code may be occupied or otherwise rendered unusable by the placement of temporary structures, equipment, signs, and merchandise. The minimum required number of handicapped parking spaces pursuant to section 4.04.00 shall remain available for usage.~~
 - c. ~~Limited activity hours.~~

d. ~~Watchmen, fencing, and lighting.~~

e. ~~Fire protection measures.~~

f. ~~Sanitary facilities.~~

3. The **applicant** shall provide a notarized letter from the property owner or property manager granting permission to utilize the subject property for the temporary seasonal sales.

4. Temporary use permits for seasonal and/or holiday sales may, in support of the use being permitted, include the placement of ~~one (1) sign, a maximum of thirty (32) square feet, or two (2) such signs for properties containing more than one (1) street frontage~~. In addition to the placement of signs, merchandise, temporary structures, and equipment may be placed on the site. If the temporary use is not discontinued upon expiration of the permit, it shall be deemed a violation of this Code and shall be subject to the penalties herein.

i. Temporary signage is subject to the restrictions set forth in subsection 5.04.06 A & B.

ii. A building permit may be required for the erection of temporary structures.

C. Garage sales: In the case of garage sales, lawn sales, and other similar temporary sales to be held at private homes, churches and other places of worship, community centers, or other nonprofit residentially zoned institutions, the County Manager or designee may issue one 2-day permit for such events during each 6 month period.

D. Temporary Uses, not elsewhere classified. At the direction of the BCC, the County may, from time to time, be called upon to allow certain uses for specific periods of time. After public hearing, the County Manager or designee may issue a Temporary Use Permit upon receipt of satisfactory evidence that all stipulations and/or requirements have been satisfied.

1. Bona fide 4-H Youth Development Programs. A non-renewable 16 week permit may be issued to allow for the keeping of up to 2 hogs, on Estates zoned property of 1.25 acres or greater, in preparation for showing and sale at the annual Collier County Fair.

a. Pastures shall be fenced and maintained. Any roofed structure used for the sheltering, feeding, or confinement of such animals shall be setback a minimum of 30 feet from lot lines and a minimum of 100 feet from any residence on an adjacent parcel of land.

b. Structures, as described above, shall be maintained in a clean,

healthful, and sanitary condition.

c. Once removed for showing and/or sale, the hog(s) shall not be returned to the property.

d. This permit may be revoked with cause.

* * * * *

SUBSECTION 3.GG. AMENDMENTS TO SECTION 5.04.06 TEMPORARY SIGNS

Section 5.04.06 Temporary Signs, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

5.04.06 Temporary Signs

A. Reserved

A. A temporary use permit is required for the placement of any temporary ground sign, snipe sign, or banner that is not otherwise lawfully permitted. Temporary signs shall be allowed subject to the restrictions imposed by this section.

1. The County Manager or designee may issue temporary sign permits, classified by use, as necessary to adequately address each of the temporary signs described within this section. For each permit type the nonrefundable fee shall be as established in the fee schedule for the services performed by the Growth Management Division.

2. Temporary signs and banners shall not be erected prior to obtaining the appropriate temporary use permit, and shall be removed on or before the expiration date of the temporary use permit authorizing said sign.

3. Standards applicable to all temporary signs.

a. Temporary signs and banners permitted by authority of this section shall not be placed within any public right-of-way.

i. Sign placement shall not obstruct or impair the safe visibility, ingress, or egress of pedestrians and motorists.

b. The occupant of a lot, parcel, multi-tenant parcel or mixed use building, may display 1 on-site temporary sign; a second such sign may be displayed on a property having a second street frontage.

c. Absent specific standards to the contrary, temporary signs shall be located onsite and no closer than 10 feet to any property line.

d. Temporary signs and banners used on nonresidential or mixed use properties shall not exceed 32 square feet in sign area or 8 feet in height.

e. Temporary signs used on residentially zoned properties shall not exceed 4 square feet in area or 3 feet in height.

B. Temporary Sign Permit Types and Standards.

1. Temporary Events. A temporary use permit for a temporary event, issued per section 5.04.05., shall allow for the placement of temporary signage as classified and regulated herein.

* * * * *

c. Seasonal sales signs.

d. Garage sales signs. Two temporary signs may be placed on the property where the sale is being conducted.

* * * * *

4. Reserved Temporary business identification signs. A temporary use permit allowing for the temporary placement of a sign solely for the purpose of displaying a business name for an existing business undergoing a permitted renovation, remodel, or repair that would require the temporary removal of an existing legally conforming sign.

a. As applied in this section, the sign must be constructed of wood, plastic, or other similar material, may not be a banner sign, and is limited to 16 square feet.

b. If placed in a shopping center or multiple occupancy building, the temporary sign for each business must be of similar color, lettering, and style.

c. The sign may be affixed to the building or free-standing in front of the building so long as the sign does not obstruct or interfere with pedestrian or vehicular traffic, parking or fire lanes, or access to adjacent units.

d. The sign may remain in place for no longer than 120 days, until construction has been completed, or a permanent sign is installed, whichever occurs first.

5. Reserved Temporary sign covers. A non-renewable temporary use permit is required to erect a temporary sign cover over an existing sign unless otherwise provided herein. Temporary signs shall be allowed subject to the restrictions imposed by this section.

a. A sign cover made from white vinyl or canvas may be authorized for an existing ground or pole sign for 120 days, or when the permanent sign is installed, whichever occurs first, after which time the cover shall be removed, regardless of whether or not the sign face has been replaced.

6. *Election and Referendum signs.* **Signs** for elections and referendums shall be permitted subject to the following requirements:

* * * * *

e. In all other zoning districts, such signs shall not exceed a maximum sign area of 32 square feet per sign and 8 feet in height, except when affixed to the surface of a building wall, and shall be located no closer than 10 feet to any property line. The quantity of such signs shall be limited to 1 sign for each lot or parcel per bulk permit issued.

~~i. In addition to a bulk temporary use permit, a building permit shall be required for each installed sign.~~

~~ii. All supports shall be securely built, constructed and erected to conform to the requirements of the Florida Building Code~~

~~iii. The maximum height of any sign or poster shall be limited to 8 feet, except for signs affixed to the surface of a building wall.~~

* * * * *

SUBSECTION 3.HH. AMENDMENTS TO SECTION 5.04.07 ANNUAL BEACH EVENTS PERMITS

Section 5.04.07 Annual Beach Events Permits, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

5.04.07 Annual Beach Events Permits

A. The owner of **beach**-front commercial **hotel**-resort property shall apply for an annual **beach** events permit. The County Manager or his designee, ~~or his designee,~~ may grant the permit following review of an application for such permit. The application shall be submitted on the form prescribed by Collier County together with the applicable fee for the number of planned annual **beach** events as indicated on the permit form and exhibits thereto. Permits issued pursuant to this section are not intended to authorize any violation of F.S. § 370.12, or any of the provisions of the Endangered Species Act of 1973, as it may be amended.

* * * * *

E. Sea turtle nesting season. Annual **beach** events which occur during sea turtle nesting season (May 1st through October 31st of each year) are also subject to the following regulations:

- 1. All required Florida Department of Environmental Protection (FDEP) field permits, shall be obtained and a copy furnished to Collier County prior to the time of the scheduled event as set forth in section ~~5.04.06(C)~~ 5.04.07 C.

* * * * *

- 7. Identification of sea turtle nests on the **beach** may cause the **beach** event to be relocated from its planned location or to have additional reasonable limitations placed on the event pursuant to the recommendation of Collier County staff in order to protect the identified sea turtle nests in this permit; except that county staff may relocate a staging area as provided for in section ~~5.04.06~~ 5.04.07, as part of its daily sea turtle monitoring.

* * * * *

SUBSECTION 3.II. ADDING SECTION 5.04.08 RESERVED

Section 5.04.08 Reserved, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby added to read as follows:

5.04.08 [Reserved]

* * * * *

SUBSECTION 3.JJ. AMENDMENTS TO SECTION 5.05.05 AUTOMOBILE SERVICE STATIONS

Section 5.05.05 Automobile Service Stations, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

5.05.05 Automobile Service Stations

* * * * *

B. Table of site design requirements:

	Site
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	Standards
Minimum lot area (sq. ft.)	30,000
Minimum lot width (ft.)	150
Minimum lot depth (ft.)	180
Separation from adjacent automobile service stations (ft.) (based on distance between nearest points)	500
Minimum setbacks, <u>all structures</u> :	
Front yard	50
Side yard	40
Rear yard	40

* * * * *

P. Exceptions

1. The site design standards set forth in 5.05.05 B. (table) shall not apply to, nor render non-conforming, any existing **automobile service station** or any **automobile service station** within a PUD in which a specific architectural rendering and site plan was approved as part of a rezoning action prior to July 5, 1998.
2. The site design standards set forth in 5.05.05 F. - M. or any other applicable **development** standard shall apply to existing **automobile service stations** pursuant to the provisions of 9.03.00 Nonconformities, and all other applicable sections of the Land Development Code.

* * * * *

SUBSECTION 3.KK. AMENDMENTS TO SECTION 5.05.10 TRAVEL TRAILER AND RECREATIONAL VEHICLE PARK DESIGN STANDARDS

Section 5.05.10 Travel Trailer and Recreational Vehicle Park Design Standards, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

5.05.10 Travel Trailer and Recreational Vehicle Park Design Standards

* * * * *

C. Required facilities for campsites and TTRV lots.

* * * * *

10. ~~Accessory uses.~~

- a. ~~Enclosed utility/storage area of the same siding material and architectural style as that of the associated recreational vehicles, not to exceed an area of sixty (60) square feet.~~
- b. ~~Any utility/storage area shall be located adjacent to its associated recreational vehicle and made a continuous part of a screened-in porch where such a porch is attached to the vehicle as herein provided. Where utility/storage areas are made a continuous part of a screened-in porch, the area of the utility/storage area may not exceed 25 percent of the area of the screened-in porch or 120 square feet, whichever lesser. The County Manager or his designee may administratively approve an exception to accessory structure size limitation where such exception is necessary to allow for accessibility, in accordance with the specifications set forth in Section 4 of the Americans with Disabilities Act (ADA), to accommodate a physically handicapped individual.~~
- c. ~~For recreational vehicles fixed by a permanent anchoring system, a screened-in porch elevated or at ground level with a solid roof structure, architecturally compatible with its associated recreational vehicle, not to exceed an area equal to the area of the recreational vehicle to which it is attached. Said screened-in porch shall provide for any site utility/storage space requirements as herein provided and shall not contain any other interior walls. All such screened enclosures must be permitted and constructed according to this Code and applicable building codes. Exterior walls may be enclosed with screen, glass or vinyl windows, except that the storage area shall be enclosed with the same material as the principal unit.~~
- d. ~~Campgrounds containing 100 spaces or more shall be permitted a convenience commercial facility no greater than 15,000 square feet in total land area. This facility shall provide for the exclusive sale of convenience items to park patrons only, and shall present no visible evidence of their commercial character, including signage and lighting, from any public or private street or right-of-way external to the park.~~

11. ~~Conditional uses~~ **Camping cabins** subject to the following standards:

- a. ~~One camping cabin per approved TTRVC lot.~~
- b. ~~The maximum number of camping cabin lots in any one TTRVC park shall be ten percent of the total number of approved TTRVC lots, not to exceed a total number of twenty (20) camping cabin lots.~~
- c. ~~Maximum floor area of 220 square feet.~~

- d. ~~No internal water or cooking facilities.~~
- e. ~~Camping cabins may not be designed as a permanent residence, however, tiedowns or other safety devices may be used in order to provide security against high winds.~~
- f. ~~Camping cabins must be constructed of natural wood materials such as logs, redwood, cedar, or cypress in order that it may blend harmoniously into the natural landscape character normally found in a TTRVC or campground setting.~~
- g. ~~The general development standards required for the TTRVC park shall be applicable to the camping cabin lots.~~
- h. ~~All materials and construction must be in accordance with the Collier County building code and the requirements of the Standard Building Code (SBC).~~
- i. ~~At least one room of the camping cabin must have a minimum of 150 square feet of floor area.~~
- j. ~~If camping cabins are to be located in a flood hazard zone as delineated on the most recent flood insurance rate maps, all requirements of Section 3.02.00 of this LDC must be met.~~
- k. ~~A party shall be allowed a maximum length of stay of two (2) weeks in a camping cabin.~~

* * * * *

SUBSECTION 3.LL. ADDITION OF SECTION 6.02.09 PUBLIC SCHOOL FACILITIES LEVEL OF SERVICE (LOS) REQUIREMENTS

Section 6.02.09 Public School Facilities Level of Service (LOS) Requirements, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby added to read as follows:

6.02.09 Public School Facilities Level of Service (LOS) Requirements

- A. The LOS for public school facilities varies by type of school. The LOS for elementary and middle schools is 95 percent of the **Concurrency Service Area (CSA) Enrollment/Florida Inventory of School Houses (FISH) Capacity** and the LOS for high schools is 100 percent of the **CSA Enrollment/FISH Capacity**.
- B. The LOS standard for public school facilities will be achieved and maintained if any one of the following is met:

1. The necessary facilities and services are in place at the time a final site development plan or final subdivision plat is approved; or
2. The necessary facilities and services are under construction or the contract for such facilities and services has been awarded, accepted, and duly executed by all parties, at the time a final site development plan or final subdivision plat is approved; or
3. The necessary facilities and services are found in the first, second or third year of the School District of Collier County's financially feasible Five-Year Capital Improvement Plan, as identified in CIE Policy 4.2, and as formally adopted by the School Board between July 1 and October 1 each year, and as adopted by reference each year by December 1st, at the time a final site development plan or final subdivision plat is approved; or
4. The necessary facilities and services are the subject of a binding commitment with the developer to contribute proportionate share funding as provided for in Policy 2.4 of the Public School Facilities Element, if applicable, or to construct the needed facilities.

C. The determination of public facility adequacy for school facilities shall occur only after the School District has issued a **School Capacity Availability Determination Letter (SCADL)** verifying available capacity to serve the development.

* * * * *

SUBSECTION 3.MM. AMENDMENTS TO SECTION 6.06.05 CLEAR SIGHT DISTANCE

Section 6.06.05 Clear Sight Distance, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

6.06.05 Clear Sight Distance

* * * * *

E. On a corner lot in all zoning districts, no fence, wall, hedge, planting, or **structure** shall be erected, planted, or allowed to grow in such a manner as to obstruct vision between a height of 30 inches and 8 feet above the centerline **grades** of the intersecting **streets** in the area bounded by the **right-of-way** lines of such corner **lots** and a line joining points along said **right-of-way** lines ~~25-30~~ feet from the point of intersection. Parking is prohibited in this area. Trees are permitted, so long as the foliage is cut away and maintained within the 30 inch and 8 foot clearance requirement. Posts for illuminating fixtures, traffic control, fences and **street** name **signs** are permitted, so long as the **sign** or equipment is not within the prescribed clear space and the fence does not visually impede the

clear sight of the intersection.

* * * * *
SUBSECTION 3.NN. AMENDMENTS TO CHAPTER 8 DECISION-MAKING AND ADMINISTRATIVE BODIES

Chapter 8 Decision-Making and Administrative Bodies, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

* * * * *

8.03.00 Planning Commission Reserved

8.03.01 Establishment; Powers and Duties

~~There is hereby established a Planning Commission, which shall have the following powers and duties:~~

- ~~A. To serve as the local planning agency (LPA), and the land development regulation commission as required by § 163.3174 and 163.3194, F.S.;~~
- ~~B. To prepare, or cause to be prepared, the Collier County GMP, or element or portion thereof, and to submit to the BCC an annual report recommending amendments to such plan, element, or portion thereof;~~
- ~~C. To prepare, or cause to be prepared, the LDC to implement the Collier County GMP, and to submit to the BCC an annual report recommending amendments to the LDC;~~
- ~~D. To initiate, hear, consider, and make recommendations to the BCC on applications for amendment to the text of the Collier County GMP and the LDC;~~
- ~~E. To initiate, review, hear, and make recommendations to the BCC on applications for amendment to the future land use map of the Collier County GMP or the official zoning atlas of the LDC;~~
- ~~F. To hear, consider, and make recommendations to the BCC on applications for conditional use permits;~~
- ~~G. To make its special knowledge and expertise available upon reasonable written request and authorization of the BCC to any official, department, board, commission, or agency of the County, state, or federal governments;~~
- ~~H. To recommend to the BCC additional or amended rules of procedure not inconsistent with this section to govern the Planning Commissions proceedings;~~
- ~~I. To perform those functions, powers and duties of the Planning Commission as set forth in chapter 67-1246, Laws of Florida,~~

incorporated herein and by reference made a part hereof, as said chapter has been or may be amended; and

- J. ~~To consider and take final action regarding preliminary subdivision plats processed pursuant to the provisions of section 4.03.00.~~

8.03.02 Membership

A. ~~Qualifications.~~

1. ~~Members of the Planning Commission shall be permanent residents and qualified electors of Collier County.~~
2. ~~Although no specific experience requirements shall be necessary as a prerequisite to appointment, consideration shall be given to applicants who have experience or who have shown interest in the area of planning, zoning, and related fields. Further consideration in the appointment of Planning Commission members shall be made so as to provide the Planning Commission with the needed technical, professional, business, and/or administrative expertise to accomplish the duties and functions of the Planning Commission as set forth in this LDC.~~
3. ~~The appointment of all members to the Planning Commission shall be by resolution of the BCC. In the event that any member is no longer a qualified elector or is convicted of a felony or an offense involving moral turpitude while in office, the BCC shall terminate the appointment of such person as a member of the Planning Commission.~~
4. ~~A representative of the school district, appointed by the school board, shall serve as a non-voting member of the Planning Commission unless the BCC grants voting status to the school district representative. The school district member of the Planning Commission shall attend those Planning Commission meetings at which GMP amendments and rezoning that would, if approved, increase residential density of the property that is the subject of the application being considered.~~

B. ~~Appointment. The Planning Commission shall be composed of 9 members to be appointed by the BCC. All reappointments to the Planning Commission shall be made so as to achieve the following geographical distribution of membership:~~

1. ~~One member: County Commission District No. 4.~~
2. ~~Two members: County Commission District No. 1.~~
3. ~~Two members: County Commission District No. 2.~~
4. ~~Two members: County Commission District No. 3.~~
5. ~~Two members: County Commission District No. 5 (one from Immokalee).~~
6. ~~One member: Appointed by the school district.~~

C. ~~Term. Each appointment or reappointment shall be for a term of 4 years. Each appointment and reappointment shall be made so that the terms of any 2 members from a single commission district shall not expire in the same year.~~

D. ~~Reappointment. A member may be reappointed by the BCC for only 1~~

~~successive term, unless there are no other qualified applicants for the member's position. Appointments to fill any vacancy on the Planning Commission shall be for the remainder of the unexpired term of office.~~

~~E. Removal from office.~~

~~1. Any member of the Planning Commission may be removed from office by a four-fifths vote of the BCC, but such member shall be entitled to a public hearing and reconsideration of the vote if he so requests in writing within 30 days of the date on which the vote is taken.~~

~~2. If any member of the Planning Commission fails to attend 2 consecutive Planning Commission meetings without cause, the Planning Commission shall declare the member's office vacant and the vacancy shall be filled by the BCC.~~

~~F. Officers. The membership of the Planning Commission shall elect a chairman and vice chairman from among the members. Officers' terms shall be for 1 year, with eligibility for reelection.~~

~~8.03.03 Quorum and Voting~~

~~The presence of 5 or more members shall constitute a quorum of the Planning Commission necessary to take action and transact business. In addition, a simple majority vote of at least 5 members present and voting shall be necessary in order to forward a formal recommendation of approval, approval with conditions, denial, or other recommendation to the BCC.~~

~~8.03.04 Rules of Procedure~~

~~A. The Planning Commission shall, by a majority vote of the entire membership, adopt rules of procedure for the transaction of business, and shall keep a record of meetings, resolutions, findings, and determinations. The Planning Commission may provide for transcription of such hearings and proceedings, or portions of hearings and proceedings, as may be deemed necessary.~~

~~B. The Planning Commission may, from time to time, adopt and amend bylaws and rules of procedure not inconsistent with the provisions of these regulations. Such proposed rules of procedure shall be considered as if they were amendments to this LDC.~~

~~8.03.05 Compensation~~

~~The members of the Planning Commission shall serve without compensation, but may be reimbursed for such travel, mileage, and/or per diem expenses as may be authorized by the BCC.~~

~~8.03.06 Meetings~~

~~A. In order to provide convenience and promote public participation, meetings of the Planning Commission shall be held in the Immokalee area when matters pending before the Planning Commission are of sufficient concern to the Immokalee area to warrant such a meeting. The Planning Commission shall, by majority vote, make such determination at 1 of its regularly scheduled meetings well enough in~~

~~advance to allow sufficient time to advertise such Immokalee meeting. All other meetings shall be held at the Collier County Government Center, Naples, Florida, unless otherwise specified by the Planning Commission or the BCC.~~

~~B. All meetings and hearings of the Planning Commission shall be open to the public.~~

~~8.03.07 Staff~~

~~The community development services division shall be the professional staff of the Planning Commission.~~

~~8.03.08 Appeals~~

~~As to any land development petition or application upon which the Planning Commission takes final action, an aggrieved petitioner, applicant, or aggrieved party may appeal such final action to the Board of County Commissioners. An aggrieved or adversely affected party is defined as any person or group of persons which will suffer an adverse affect to an interest protected or furthered by the Collier County Growth Management Plan, Land Development Code, or Building Code(s). The alleged adverse interest may be shared in common with other members of the community at large, but shall exceed in degree the general interest in community good shared by all persons. The Board of County Commissioners may affirm, affirm with conditions, reverse or reverse with conditions the action of the Planning Commission. Such appeal shall be filed with the development services director within 30 days of the date of final action by the Planning Commission and shall be noticed for hearing with the Board of County Commissioners, as applicable, in the same manner as the petition or application was noticed for hearing with the Planning Commission. The cost of notice shall be borne by the petitioner, applicant or aggrieved party.~~

~~8.04.00 BOARD OF ZONING APPEALS Reserved~~

~~8.04.01 Establishment; Powers and Duties~~

~~There is hereby established a Board of Zoning Appeals "BZA", which shall have the following powers and duties:~~

- ~~A. To hear, review, and approve, approve with conditions, or deny zoning variances, conditional uses, nonconforming use amendments, flood variances, and off-street parking and shared parking agreements in accordance with the terms of these regulations;~~
- ~~B. To hear, review, and approve, approve with conditions, or deny appeals from interpretations made by the County Manager or designee pertaining to the Collier County GMP, the future land use map, the LDC, or the official zoning atlas by the County Manager or designee;~~
- ~~C. To make its special knowledge and expertise available upon written request and authorization of the BCC to any official, department, board, or commission of the County.~~
- ~~D. To recommend to the BCC additional or amended rules of procedure not inconsistent with the LDC to govern the BZA's proceedings; and~~

- E. ~~To perform those functions, powers and duties of the BZA as set forth in chapter 67-1246, Laws of Florida, incorporated herein and by reference made a part hereof, as said chapter has been or may be amended.~~

~~8.04.02 Membership~~

- A. ~~Qualifications. Members of the BZA shall be qualified electors in Collier County and residents of the County for 2 years prior to appointment. In the event that any member is no longer a qualified elector or is convicted of a felony or an offense involving moral turpitude while in office, the BCC shall terminate the appointment of such person as a member of the BZA.~~
- B. ~~Appointment. The BCC may appoint a Board or Boards of Zoning Appeals for its planning area or areas, or may act as such Board or Boards of Zoning Appeals itself. Boards of Zoning Appeals shall have not less than 5 nor more than ten (10) members. Not more than 2 members of a BZA may be members of the Planning Commission.~~
- C. ~~Terms. Terms of office of members of the BZA shall be for not less than 2 nor more than 4 years, and not more than a minority of such members' terms shall expire in any 1 year.~~
- D. ~~Removal. Any member of a BZA may be removed from office for just cause by four fifths vote of the full membership of the BCC, but such member shall be entitled to a public hearing if he so requests in writing within 30 days of the date upon which the vote is taken.~~
- E. ~~Vacancy. Wherever a vacancy occurs on a BZA which reduces the membership of the BZA below 5 members, the BCC shall fill such vacancy for the remainder of the term, within 30 days after the vacancy occurs. No meetings of a BZA shall be held when the membership is less than 5 members.~~
- F. ~~Officers. Boards of Zoning Appeals shall elect a chairman and vice-chairman from among the members, and may create and fill such other offices as are determined to be necessary. Terms of all offices shall be for 1 year, with eligibility for reelection.~~

~~8.04.03 Quorum and Voting~~

~~No meeting of the BZA shall be called to order, nor may any business be transacted by the BZA, without a quorum consisting of at least 3 members of the BZA being present. All actions shall require a simple majority of the members of the BZA then present and voting, except for conditional uses, which require 4 affirmative votes.~~

~~8.04.04 Rules of Procedure~~

- A. ~~Boards of Zoning Appeals shall adopt rules for the transaction of business, and shall keep a record of resolutions, transactions, findings, and determinations. Boards of Zoning Appeals may provide for transcription of such hearings and proceedings, or portion of hearings and proceedings, as may be deemed necessary. All such records shall be public records.~~
- B. ~~Boards of Zoning Appeals may, subject to the approval of the BCC and within the financial limitations set by appropriations made or other funds available, employ such experts, technicians, and staff as may be deemed proper, pay their salaries,~~

~~and make such other expenditures as are necessary to conduct the work of the BZA and effectuate its purposes.~~

- ~~C. The BCC is hereby authorized and empowered to make such appropriations as it may see fit for the conduct of the work of the BZA. The BCC is authorized and empowered to establish a schedule of fees, charges, and expenses, and a collection procedure therefor.~~
- ~~D. The BZA may, from time to time, adopt and amend bylaws and rules of procedure not inconsistent with the provisions of these regulations. Such proposed rules of procedure shall be considered as if they were amendments to this LDC.~~

8.04.05 Compensation

~~Members of the BZA may receive such travel and other expenses while on official business for the BZA as are made available by the BCC for these purposes.~~

8.04.06 Meetings

- ~~A. Meetings of the BZA shall be held as needed to dispose of matters properly before the BZA and may be called by the chairman or in writing by 3 members of the BZA.~~
- ~~B. The location of meetings shall be in County offices in Naples, Florida. If a matter is postponed due to lack of a quorum, the chairman shall continue the meeting as a special meeting to be held within 7 days thereafter. In case of delays caused by other reasons, the hearing shall be rescheduled to the next BZA meeting. The secretary shall notify all members of the date of the continued hearing and also shall notify all parties.~~
- ~~C. All meetings and hearings of the BZA shall be open to the public.~~

8.05.00 BUILDING BOARD OF ADJUSTMENTS AND APPEALS Reserved

8.05.01 Establishment and Purpose

- ~~A. There is hereby established a Building Board of Adjustments and Appeals ("Building Board").~~
- ~~B. The purpose of the Building Board is to provide a decision-making body through which an owner of a building or structure, or his duly authorized agency, may appeal the rejections or refusal of the building official to approve the mode or manner of construction proposed to be followed, or materials to be used, in the erection or alteration of that building or structure, or when it is claimed that the provisions of the Florida Building Code and Florida Fire Prevention Code, as listed in Chapter One, do not apply, or that an equally good or more desirable form of construction can be employed in a specific case, or when it is claimed that the true intent and meaning of such codes, or any of the regulations thereunder, have been misconstrued or wrongly interpreted by the building official.~~

8.05.02 Powers and Duties

The Building Board shall have the following powers and duties:

- A. ~~To review and approve, with or without modifications or conditions, or deny an appeal from a decision of the building official with regard to a variance from the mode or manner of construction proposed to be followed, or materials to be used, in the erection or alteration of a building or structure, or when it is claimed that the provisions of the Florida Building Code and Florida Fire Prevention Code, as listed in Chapter One, do not apply, or that an equally good or more desirable form of construction can be employed in any specific case, or when it is claimed that the true intent and meaning of such building codes and technical codes or any of the regulations thereunder, have been misconstrued or wrongly interpreted by the building official;~~
- B. ~~To accept appeals and render decisions pursuant to interlocal agreements between the County and independent fire districts which have entered into such agreements;~~
- C. ~~To recommend to the BCC additional or amended rules of procedure not inconsistent with this LDC to govern the Building Board's proceedings; and~~
- D. ~~To make its special knowledge and expertise available upon reasonable written request and authorization of the BCC to any official, department, board, commission, or agency of the County, state, or federal governments.~~

8.05.03 Membership

- A. ~~Qualifications. The Building Board shall be composed of 5 regular members appointed by the BCC. The Collier County Fire Marshall's Association may recommend for consideration by the BCC these 2 members, 1 of whom would be an architect or engineer, and 1 of whom must be a fire protection specialist. The Building Board shall consist of members engaged in the following occupations who, by reason of education, experience, and knowledge, are deemed to be competent to sit in judgment on matters concerning the Florida Building Code and Florida Fire Prevention Code, as listed in Chapter One:~~
 - 1. ~~One (1) state licensed architect or one structural engineer;~~
 - 2. ~~One (1) class A general contractor;~~
 - 3. ~~One (1) state certified fire protective equipment contractor or state certified firefighter with the rank of lieutenant or higher, or state certified fire safety inspector with the rank of lieutenant or higher;~~
 - 4. ~~One (1) licensed electrical contractor; and~~
 - 5. ~~One (1) licensed plumbing or mechanical contractor.~~

- ~~B. Term. The members shall serve for a term of 4 (4) years, except for initial appointees who shall serve as follows: 2 (2) for a term of 1 (1) year; two (2) for a term of two (2) years; one (1) for a term of three (3) years.~~

~~8.05.04 Quorum~~

~~Three members of the Building Board shall constitute a quorum. In varying the application of any provision of the Florida Building Code and Florida Fire Prevention Code, or in modifying an order of the building official or the public safety administrator, an affirmative vote of not less than 3 Building Board members shall be required.~~

~~8.05.05 Rules of Procedure~~

- ~~A. The Building Board shall establish rules and regulations for its own procedure not inconsistent with the provisions of the Collier County Building Code.~~
- ~~B. The building official shall act as secretary of the Building Board and shall make a detailed record of all its proceedings, which shall include, but shall not be limited to, all appeal decisions, the reasons for its decisions, the vote of each member participating therein, the absence of a member, and any failure of a member to vote.~~

~~8.06.00 ENVIRONMENTAL ADVISORY COUNCIL~~ Reserved

~~8.06.01 Establishment~~

~~There is hereby established an Environmental Advisory Council ("EAC"). The EAC obtains its jurisdiction, powers, and limits of authority from the BCC, and pursuant to this LDC, shall act in an advisory capacity to the BCC in matters dealing with the regulation, control, management, use, or exploitation of any or all natural resources of or within the County, and the review and evaluation of specific zoning and development petitions and their impact on those resources.~~

~~8.06.02 Purpose~~

~~The EAC will function to:~~

- ~~A. Advise on the preservation, conservation, protection, management, and beneficial use of the physical and biological natural resources (atmospheric, terrestrial, aquatic, and hydrologic) of the County in regard to the safety, health, and general well-being of the public;~~
- ~~B. Advise and assist the County staff and the BCC toward developing the purpose, intent, and criteria of all County ordinances, policies, programs, and other initiatives dealing with natural resources;~~
- ~~C. Provide written and oral reports directly to the BCC regarding recommendations on matters dealing with the protection of natural resources; and~~

- ~~D. Review and recommend stipulations addressing the preservation, conservation, protection, management, and beneficial use of the County's physical and biological natural resources (atmospheric, terrestrial, aquatic, and hydrologic) for petitions and/or plans for selected development orders, including, but not limited to, rezones, developments of regional impact, provisional uses, subdivision master plans, and planned unit development amendments that are directed to the EAC by County staff, the BCC, or the provisions of this the LDC.~~

8.06.03 Powers and Duties

The powers and duties of the EAC are as follows:

- ~~A. Identify, study, evaluate, and provide technical recommendations to the BCC on programs necessary for the conservation, management, and protection of air, land, and water resources and environmental quality in the County;~~
- ~~B. Advise the BCC in establishing goals and objectives for the County's environmental conservation and management programs;~~
- ~~C. Advise the BCC in developing and revising, as appropriate, local rules, ordinances, regulations, programs, and other initiatives addressing the use, conservation, and preservation of the County's natural resources;~~
- ~~D. Advise the BCC in the implementation and development of the GMP regarding environmental and natural resource issues;~~
- ~~E. Advise the BCC in identifying and recommending solutions to existing and future environmental issues;~~
- ~~F. Serve as the technical advisory committee to advise and assist the County in the activities involved in the development and implementation of the County environmental resources management program as stated in the Collier County GMP;~~
- ~~G. Implement the water policy pursuant to this LDC;~~
- ~~H. Provide an opportunity for public comment on environmental issues, ordinances, and programs;~~
- ~~I. Implement the provisions of the Conservation and Coastal Management Element of the Collier County GMP during the review process for development petitions and/or plans;~~
- ~~J. Participate in the review and recommendation process for excavations over 500,000 cubic yards;~~
- ~~K. Assist in the implementation of any new programs, ordinances, and/or policies adopted by the BCC which deal with the conservation,~~

management, and protection of air, land, water, and natural resources and environmental quality in the County;

~~L. Provide an appellate forum and process to hear disputes between County staff and applicants concerning land development projects and recommend proposed stipulations for project approval or grounds for project denial for BCC consideration;~~

~~M. Function as an environmental impact statement (EIS) review board pursuant to Chapter 10; and~~

~~N. All preliminary subdivision plat and/or site development plan submissions for development or site alteration on a shoreline and/or undeveloped coastal barrier shall be reviewed and a recommendation shall be made for approval, approval with conditions or denial by the EAC. If the applicant chooses not to utilize the optional preliminary subdivision plat process, the review and approval will occur at the time of either the final plat and construction plans or the final plat.~~

~~O. Scope of land development project reviews. The EAC shall review all land development petitions which require the following: an environmental impact statement (EIS) per section 10.02.02 of the LDC; all developments of regional impact (DRI); lands with special treatment (ST) or area of critical state concern/special treatment (ACSC/ST) zoning overlays; or any petition for which environmental issues cannot be resolved between the applicant and staff and which is requested by either party to be heard by the EAC. The EAC shall also review any petition which requires approval of the Collier County Planning Commission (CCPC) or the board of county commissioners (BCC) where staff receives a request from the chairman of the EAC, CCPC or the BCC for that petition to be reviewed by the EAC.~~

~~1. Any petitioner may request a waiver to the EAC hearing requirement, when the following considerations are met: 1) no protected species or wetland impacts are identified on the site; 2) an EIS waiver has been administratively granted; 3) ST zoning is present and an administrative approval has been granted; or 4) an EIS was previously completed and reviewed by staff and heard by a predecessor environmental board, and that EIS is less than 5 years old (or if older than 5 years, has been updated within 6 months of submittal) and the master plan for the site does not show greater impacts to the previously designated preservation areas.~~

~~2. The surface water management aspects of any petition, that is or will be reviewed and permitted by South Florida Water Management District (SFWMD), are exempt from review by the EAC except to evaluate the criteria for allowing treated stormwater to be discharged in Preserves as allowed in section 3.05.07.~~

8.06.04 Membership

- A. ~~Appointment.~~ Nine regular members and 2 alternate members of the EAC shall be appointed by, and serve at the pleasure of, the BCC. Alternate members will be requested to attend meetings when regular members have notified staff that they will be absent. Alternate members will participate in discussions and vote when replacing a regular member. Appointment to the EAC shall be by resolution of the BCC and shall set forth the date of appointment and the term of office. Each appointment shall be for a term of 4 years. Terms shall be staggered so that no more than a minority of such members' appointments will expire in any one year.
- B. ~~Vacancies.~~ Vacancies on the EAC shall be publicized in a publication of general circulation within the County, and vacancy notices shall be posted in the County libraries and County courthouse.
- C. ~~Qualifications.~~ Members shall be permanent residents and electors of the County and should be reputable and active in community service. The primary consideration in appointing EAC members shall be to provide the BCC with technical expertise and other viewpoints that are necessary to effectively accomplish the EAC's purpose. In appointing members, the BCC should consider a membership guideline of 6 technical regular members and 3 non-technical regular members, and 2 technical alternate members. Technical members shall demonstrate evidence of expertise in 1 or more of the following areas related to environmental protection and natural resources management: air quality, biology (including any of the subdisciplines such as botany, ecology, zoology, etc.), coastal processes, estuarine processes, hazardous waste, hydrogeology, hydrology, hydraulics, land use law, land use planning, pollution control, solid waste, stormwater management, water resources, wildlife management, or other representative area deemed appropriate by the BCC.
- D. ~~Removal.~~ Any member of the EAC may be removed from office by a majority vote of the BCC.
- E. ~~Officers.~~ The officers of the EAC shall be a chairman and a vice chairman. Officers' terms shall be for 1 year, with eligibility for reelection. The chairman and vice chairman shall be elected by a majority vote at the organizational meeting and thereafter at the first regular meeting of the EAC in October of each year. The chairman shall preside at all meetings of the EAC. The vice chairman shall perform the duties of the chairman in the absence or incapacity of the chairman. In case of removal, resignation, or death of the chairman, the vice chairman shall perform such duties as are imposed on the chairman until such time as the EAC shall elect a new chairman. Should the offices of chairman and or vice chairman become vacant, the EAC shall elect a successor from its membership at the next regular meeting. Such election shall be for the unexpired term of said office.

~~8.06.05 Quorum and Voting~~

A simple majority of the appointed members of the EAC shall constitute a quorum for the purpose of conducting business. An affirmative vote of 5 or more members shall be necessary in order to take official action, regardless of whether 5 or more members of the EAC are present at a meeting.

8.06.00 Rules of Procedure

- A. ~~The EAC shall, by majority vote of the entire membership, adopt rules of procedure for the transaction of business and shall keep a record of meetings, resolutions, findings, and determinations.~~
- B. ~~The following standing subcommittees comprised solely of the EAC's membership shall exist to advance the duties and responsibilities of the EAC:~~
- ~~1. Growth management. The EAC may establish other subcommittees comprised solely of its membership to facilitate its functions. Meetings of the subcommittees shall conform to the same public notice requirements as that of the EAC.~~

8.06.07 Compensation

~~Members of the EAC shall serve without compensation, but shall be entitled to receive reimbursement for expenses reasonably incurred in the performance of their duties upon prior approval of the BCC.~~

8.06.08 Meetings

~~Regular meetings of the EAC shall be held on the first Wednesday of each month at 9:00 a.m. or otherwise as determined by the County Manager or designee, in the BCC's meeting room, third floor, building "F," Collier County Government Complex, Naples, Florida. Special meetings of the EAC may be called by the chairman or by a majority of the membership.~~

8.06.09 Evaluation of the EAC

~~The EAC shall be reviewed for major accomplishments and whether it is serving the purpose for which it was created once every 4 years commencing with 2003 in accordance with the procedures contained in Collier County Ordinance No. 86-41, as amended.~~

8.06.10 Appeal

- A. ~~Any person aggrieved by the decision of the County Manager or his designee regarding any petition for which environmental issues cannot be resolved between the applicant and staff in which there is no other avenue of appeal may file a written request for appeal, not later than 10 days after said decision, with the EAC. The EAC will notify the aggrieved person and the County Manager or his designee of the date, time and place that such appeal shall be heard; such notification will be given 21 days prior to the hearing unless all parties waive this requirement. The appeal will be heard by the EAC within 60 days of the submission of the appeal. No less than 10 days prior to the hearing the~~

~~aggrieved person and staff shall submit to the EAC and to the County Manager or his designee copies of the data and information they intend to use in the appeal, and will also simultaneously exchange such data and information with each other. Upon conclusion of the hearing the EAC will submit to the Board of County Commissioners its facts, findings and recommendations. The Board of County Commissioners, in regular session, will make the final decision to affirm, overrule or modify the decision of the County Manager or his designee in light of the recommendations of the EAC.~~

~~8.07.00~~ **Historic/Archaeologic Preservation Board Reserved**

~~8.07.01~~ **Establishment**

~~There is hereby created a Historic/Archaeological Preservation Board ("Preservation Board,") which shall serve as an advisory board to the BCC for Collier County, Florida. The Preservation Board is vested with the power, authority, and jurisdiction to designate, regulate, and administer historical and archaeological resources in the County, as set forth by this LDC, under the direct jurisdiction and control of the BCC.~~

~~8.07.02~~ **Powers and Duties**

~~The Preservation Board shall have the following powers and duties:~~

- ~~A. To propose rules and procedures to implement the provisions of this section to the BCC;~~
- ~~B. To create a map delineating the areas of archaeological and historical significance which shall be subject to approval, by resolution, of the BCC. This map shall be known as "The map of Areas of Historical Archaeological Probability" and shall be completed within 1 year from the date of the first meeting of the Preservation Board;~~
- ~~C. Maintain and update the map of Areas of Historical Archaeological Probability at intervals not to exceed 5 years. All subsequent changes to the map shall be subject to approval by the BCC;~~
- ~~D. To designate specific sites, structures, districts, **buildings**, and properties as historically and or archaeologically significant in accordance with section 2.03.07 E.;~~
- ~~E. To seek assistance and advice on technical related matters requiring professional expertise;~~
- ~~F. To maintain a master file of sites, districts, structures, **buildings**, and properties designated as historically significant; and maintain a separate master file of sites designated as archaeologically significant;~~
- ~~G. To prepare and recommend to the BCC financial and technical incentive programs to further historic and archaeological preservation;~~
- ~~H. To increase the awareness of historic and archaeological preservation~~

and its community benefits by promoting public education programs;

- I. ~~To apply for, in the name of the County only, grant assistance from state, federal, or private sources for the purpose of furthering historic and archaeological preservation subject to approval of the BCC;~~
- J. ~~To review the appropriateness of applying for the designation as a certified local government (36 C.F.R. § 61 (2001)) on behalf of the County;~~
- K. ~~Upon the County's designation as a certified local government, to review and make recommendations concerning National Register of Historic Places nomination proposals to the Florida review board;~~
- L. ~~To identify criteria for determining the potential location of historical archaeological sites which shall be used by project review services during site inspection;~~
- M. ~~To design an application for the certificate of appropriateness;~~
- N. ~~To issue certificates of appropriateness based on criteria outlined in the U.S. Secretary of the Interior's "Standards for Rehabilitation" 36 C.F.R. § 67 (2001), as amended, and incorporated by reference herein;~~
- O. ~~To design an application for an historical archaeological survey and assessment waiver request;~~
- P. ~~Review appeals for historical archaeological survey and assessment waiver requests denied by the County Manger or designee;~~
- Q. ~~To design an application for designation of specific sites, districts, structures, buildings, and properties as historically archaeologically significant; and~~
- R. ~~To perform any other function or duty assigned by the BCC.~~

8.07.03 Membership

- A. ~~Appointments. The Preservation Board shall consist of 7 members appointed by the BCC. Each member of the Preservation Board shall hold office only so long as he or she is a resident of Collier County, Florida. Appointments shall be made by resolution of the BCC on the basis of a potential member's involvement in community issues, integrity, experience, and interest in the field of historical and archaeological preservation.~~
- B. ~~Qualifications. The BCC shall appoint 1 member from each of the following categories:~~
 - 1. ~~History;~~
 - 2. ~~Archaeology;~~

~~3. Real estate, land development, or finance;~~

~~4. Architecture, engineering, building construction, and landscape architecture; and~~

~~5. Law or urban planning.~~

~~The 2 remaining positions shall be filled by citizens at large.~~

~~C. Term. All appointments shall be made for 3 years. A Preservation Board member shall be eligible for reappointment, but shall be limited to 2 consecutive terms.~~

~~D. Officers. The members of the Preservation Board shall elect a chairman and a vice chairman for a 1 year term each. The chairman shall preside at all meetings and shall have the right to vote. The vice chairman shall preside in the absence of the chairman. The chairman and vice chairman may be reelected for an additional 1 year term each, but may not serve for more than 2 consecutive years.~~

~~E. Removal. Prior to the expiration of his or her term, a member of the Preservation Board may be removed from office by a majority vote of the BCC. A member of the Preservation Board shall be automatically removed if he is absent from 2 consecutive meetings without a satisfactory excuse or, in the alternative, if he is absent from more than 1/4 of the meetings in a given fiscal year, provided that the Preservation Board has met at least 8 times in the given fiscal year. Members shall be deemed absent from a meeting when they are not present during at least 75 percent of the meeting.~~

~~F. Vacancy. The BCC shall fill the vacancy by appointment.~~

~~8.07.04 Compensation~~

~~Members of the Preservation Board shall serve without compensation.~~

~~8.07.05 Meetings~~

~~A. The Preservation Board shall meet at least once per month, at a date and time to be decided by the Preservation Board, unless there is no business pending before the Preservation Board. Regardless of the lack of pending business, the Preservation Board shall meet at least 4 times during any calendar year.~~

~~B. All meetings of the Preservation Board shall be open to the public.~~

~~C. A public record of the Preservation Board's minutes and resolutions shall be maintained and made available for inspection by the public.~~

~~D. The Preservation Board's meeting agenda shall be published the Sunday prior to the scheduled meeting in a newspaper of general paid circulation in the County and of general interest and readership in the community. The ad may be placed where other legal notices appear.~~

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SUBSECTION 3.00. AMENDMENTS TO SECTION 10.02.02 SUBMITTAL REQUIREMENTS FOR ALL APPLICATIONS

Section 10.02.02 Submittal Requirements for All Applications, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

10.02.02 Submittal Requirements for All Applications

A. Environmental ~~impact statements~~ Data Submittal Requirements

1. ~~Purpose.~~

a. ~~The purpose of this section is to provide a method to objectively evaluate the impact of a proposed development, site alteration, or project upon the resources and environmental quality of the project area and the community and to insure that planning and zoning decisions are made with a complete understanding of the impact of such decisions upon the environment, to encourage projects and developments that will:~~

i. ~~Protect, conserve and enhance, but not degrade, the environmental quality and resources of the particular project or development site, the general area and the greater community.~~

ii. ~~Minimize the future reduction in property values likely to result, or be caused by improperly designed and executed projects and developments.~~

iii. ~~Reduce the necessity for expenditure of public funds in the future for rehabilitating the environmental quality of areas of environmental sensitivity.~~

b. ~~Further, it is the purpose of this section to attain the widest range of beneficial uses of the environment without degradation of environmental advantages and risk to public health, safety, welfare and other undesirable consequences.~~

c. ~~It is also the purpose of this section to optimize a balance between population and resource use to permit high standards of living and a wide sharing of resources and amenities among all citizens and residents of and visitors to Collier County during the present and future generations.~~

2. ~~Applicability; environmental impact statement (EIS) required. Without first obtaining approval of an EIS, or qualifying for an exemption pursuant to~~

Words struck through are deleted, words underlined are added

~~section 10.02.02 A.7., as required by this Code it shall be unlawful and no building permit, conditional use, zoning change, subdivision or condominium plat or unplatted subdivision approval or other county permit or approval of or for development or site alteration shall be issued to cause the development of or site alteration of:~~

- ~~a. Any site with a ST or ACSC-ST overlay.~~
 - ~~b. All sites seaward of the coastal management boundary that are 2.5 or more acres.~~
 - ~~c. All sites landward of the coastal management boundary that are ten or more acres.~~
 - ~~d. Sites where a prior EIS was prepared and approved for the same area of land and where the following exist:
 - ~~i. Greater impacts to preserve areas are proposed;~~
 - ~~ii. Greater impacts to jurisdictional wetlands or listed species habitats are proposed;~~
 - ~~iii. New listed species have been identified on site; or~~
 - ~~iv. A prior EIS is more than 5 years old; or~~
 - ~~v. Preserve areas were not previously approved.~~~~
 - ~~e. Any other development or site alteration which in the opinion of the County Manager or his designee, would have substantial impact upon environmental quality and which is not specifically exempted in this Code. In determining whether such a project would have substantial environmental impact the County Manager or his designee shall base his decision on the terms and conditions described in this Code and on the project's consistency with the growth management plan.~~
 - ~~f. When required by section 3.04.01 of this Code, plant and animal species surveys shall be conducted regardless of whether an EIS or resubmitted EIS is required by this section.~~
- ~~3. Submission and review of EIS. A completed EIS, in written and digital format, shall be submitted to County Manager or his designee for approval, denial or approval with modifications. No development or site alteration will be started without this approval and permits required by law. Failure to provide full and complete information shall be grounds for denial of the application. The author(s) of the EIS shall provide evidence, by academic credentials or experience, of his/her expertise in the area of environmental sciences or natural resource management. Academic credentials shall be a bachelor's or higher degree in 1 of the biological sciences. Experience shall reflect at least 3 years, 2 years of which shall~~

~~be in the State of Florida, of ecological or biological professional experience if substituting for academic credentials.~~

~~4. Information required for application.~~

~~a. Applicant information.~~

~~i. Responsible person who wrote the EIS and his/her education and job-related environmental experience.~~

~~ii. Owner(s)/agent(s) name, address, phone number & e-mail address.~~

~~b. Mapping and support graphics.~~

~~i. General location map.~~

~~ii. Native habitats and their boundaries identified on an aerial photograph of the site extending at least 200 feet outside the parcel boundary. This does not mean the applicant is required to go on to adjoining properties. Habitat identification consistent with the Florida Department of Transportation Florida Land Use Cover and Forms Classification System (FLUCFCS) shall be depicted on an aerial photograph having a scale of 1 inch equal to at least 200 feet when available from the County. Other scale aerials may be used where appropriate for the size of the project, provided the photograph and overlays are legible at the scale provided. A legend for each of the FLUCFCS categories found on site shall be included on the aerial.~~

~~iii. Topographic map, and existing drainage patterns if applicable. Where possible, elevations within each of FLUCFCS categories shall be provided.~~

~~iv. Soils map at scale consistent with that used for the Florida Department of Transportation Florida Land Use Cover and Forms Classification System determinations.~~

~~v. Proposed drainage plan indicating basic flow patterns, outfall and off-site drainage.~~

~~vi. Development plan including phasing program, service area of existing and proposed public facilities, and existing and proposed transportation network in the impact area.~~

~~vii. Site plan showing preserves on site, and how they align with preserves on adjoining and neighboring properties. Include on the plan locations of proposed and existing development, roads, and areas for stormwater retention, as shown on approved master plans for these sites, as well~~

~~as public owned conservation lands, conservation acquisition areas, major flowways and potential wildlife corridors.~~

~~viii. For properties in the RLSA or RFMU districts, a site plan showing the location of the site, and land use designations and overlays as identified in the Growth Management Plan.~~

~~c. Project description and GMP consistency determination.~~

~~i. Provide an overall description of the project with respect to environmental and water management issues.~~

~~ii. Explain how the project is consistent with each of the Objectives and Policies in the Conservation and Coastal Management Element of the Growth Management Plan, where applicable.~~

~~d. Native vegetation preservation.~~

~~i. Identify the acreage and community type of all upland and wetland habitats found on the project site, according to the Florida Land Use Cover and Forms Classification System (FLUCFCS). Provide a description of each of the FLUCFCS categories identified on site by vegetation type (species), vegetation composition (canopy, midstory and ground cover) and vegetation dominance (dominant, common and occasional).~~

~~ii. Explain how the project meets or exceeds the native vegetation preservation requirement in Goal 6 of the Conservation and Coastal Management Element of the Growth Management Plan, and Chapters 3 and 10 of the Land Development Code. **Provide an exhibit illustrating such. Include calculations identifying the acreage for preservation and impact, per FLUCFCS category.**~~

~~iii. For sites already cleared and in agricultural use, provide documentation that the parcel(s) are in compliance with the 25 year rezone limitation in Policy 6.1.5 of the Conservation and Coastal Management Element of the Growth Management Plan and Chapters 3 and 10 of the Land Development Code. For sites cleared prior to January 2003, provide documentation that the parcel(s) are in compliance with the 10 year rezone limitation previously identified in the Growth Management Plan and Land Development Code.~~

~~iv. Have preserves or acreage requirements for preservation previously been identified for the site during previous development order approvals? If so, identify the location~~

~~and acreage of these preserves, and provide an explanation if they are different from what is proposed.~~

v. ~~For properties with Special Treatment "ST" overlays, show the ST overlay on the development plan and provided an explanation as to why these areas are being impacted or preserved.~~

e. ~~Wetlands:~~

i. ~~Define the number of acres of Collier County jurisdictional wetlands (pursuant to Policy 6.2.1 and 6.2.2 of the Conservation and Coastal Management Element of the Growth Management Plan) according to the Florida Land Use Cover and Forms Classification System (FLUCFCS). Include a description of each of the FLUCFCS categories identified on-site by vegetation type (species), vegetation composition (canopy, midstory and ground cover) and vegetation dominance (dominant, common and occasional). Wetland determinations are required to be verified by the South Florida Water Management District or Florida Department of Environmental Protection, prior to submission to the County.~~

ii. ~~Determine seasonal and historic high water levels utilizing lichen lines or other biological indicators. Indicate how the project design improves/affects predevelopment hydroperiods. Provide a narrative addressing the anticipated control elevation(s) for the site.~~

iii. ~~Indicate the proposed percent of defined wetlands to be impacted and the effects of proposed impacts on the functions of these wetlands. Provide an exhibit showing the location of wetlands to be impacted and those to be preserved on-site. Describe how impacts to wetlands have been minimized.~~

iv. ~~Indicate how the project design compensates for wetland impacts pursuant to the Policies and Objectives in Goal 6 of the Conservation and Coastal Management Element of the Growth Management Plan. For sites in the RFMU district, provide an assessment, based on the South Florida Water Management District's Uniform Mitigation Assessment Method, that has been accepted by either the South Florida Water Management District or the Florida Department of Environmental Protection. For sites outside the RFMU district, and where higher quality wetlands are being retained on-site, provide justification based on the Uniform Mitigation Assessment Method.~~

f. ~~Surface and ground water management.~~

- ~~i. Provide an overall description of the proposed water management system explaining how it works, the basis of design, historical drainage flows, off-site flows coming in to the system and how they will be incorporated in the system or passed around the system, positive outfall availability, Wet Season Water Table and Dry Season Water Table, and how they were determined, and any other pertinent information pertaining to the control of storm and ground water.~~
 - ~~ii. Provide an analysis of potential water quality impacts of the project by evaluating water quality loadings expected from the project (post development conditions considering the proposed land uses and stormwater management controls) compared with water quality loadings of the project area as it exists in its pre-development conditions. This analysis is required for projects impacting 5 or more acres of wetlands. The analysis shall be performed using methodologies approved by Federal and State water quality agencies.~~
 - ~~iii. Identify any Wellfield Risk Management Special Treatment Overlay Zones (WRM-ST) within the project area and provide an analysis for how the project design avoids the most intensive land uses within the most sensitive WRM-STs.~~
 - ~~iv. The design of the proposed stormwater management system and analysis of water quality and quantity impacts shall fully incorporate the requirements of the Interim Watershed Management regulations of LDC section 3.07.00.~~
- ~~g. Listed species:~~
- ~~i. Provide a plant and animal species survey to include at a minimum, listed species known to inhabit biological communities similar to those existing on site, and conducted in accordance with the guidelines of the Florida Fish and Wildlife Conservation Commission and the U.S. Fish and Wildlife Service. State actual survey times and dates, and provide a map showing the location(s) of species of special status identified on site.~~
 - ~~ii. Identify all listed species that are known to inhabit biological communities similar to those existing on the site or that have been directly observed on the site.~~
 - ~~iii. Indicate how the project design minimizes impacts to species of special status. Describe the measures that are~~

~~proposed as mitigation for impacts to listed species.~~

~~iv. Provide habitat management plans for each of the listed species known to occur on the property. For sites with bald eagle nests and/or nest protection zones, bald eagle management plans are required, copies of which shall be included as exhibits attached to the PUD documents, where applicable.~~

~~v. Where applicable, include correspondence received from the Florida Fish and Wildlife Conservation Commission (FFWCC) and the U.S. Fish and Wildlife Service (USFWS), with regards to the project. Explain how the concerns of these agencies have been met.~~

~~h. Other.~~

~~i. For multi-slip docking facilities with ten slips or more, and for all marina facilities, show how the project is consistent with the marina **Siting and other criteria in the Manatee Protection Plan.**~~

~~ii. Include the results of any environmental assessments and/or audits of the property. If applicable, provide a narrative of the cost and measures needed to clean up the site.~~

~~iii. For sites located in the Big Cypress Area of Critical State Concern Special Treatment (ACSC-ST) overlay district, show how the project is consistent with the development standards and regulations established for the ACSC-ST.~~

~~iv. Soil sampling or ground water monitoring reports and programs shall be required for sites that occupy old farm fields, old golf courses or for which there is a reasonable basis for believing that there has been previous contamination on site. The amount of sampling and testing shall be determined by the Environmental Services staff along with the Pollution Control Department and the Florida Department of Environmental Protection.~~

~~v. Provide documentation from the Florida Master Site File, Florida Department of State and any printed historic archaeological surveys that have been conducted on the project area. Locate any known historic or archaeological sites and their relationships to the proposed project design. Demonstrate how the project design preserves the historic/archaeological integrity of the site.~~

~~vi. Provide an analysis demonstrating that the project will remain fully functional for its intended use after a 6-inch~~

~~rise in sea level as required by the Growth Management Plan.~~

- ~~5. Additional data. The County Manager or his designee may require additional data or information necessary in order to make a thorough and complete evaluation of the EIS and project.~~
- ~~6. Relation between EIS and development of regional impact (DRI). In any instance where the proposed project requires both an EIS and a DRI, their data may be embodied in 1 report provided such report includes all the required information on both the EIS and DRI.~~

1. Purpose. The purpose of this section is to identify the types and format of data that is required to review a proposed project to ensure it meets the land development standards contained within the Land Development Code.
2. Preparation of Environmental Data. Environmental Data Submittal Requirements shall be prepared by an individual with academic credentials and experience in the area of environmental sciences or natural resource management. Academic credentials and experience shall be a bachelor's or higher degree in one of the biological sciences with at least two years of ecological or biological professional experience in the State of Florida.
3. Environmental Data. The following information shall be submitted, where applicable, to evaluate projects.

a. Wetlands

- i. Identify on a current aerial, the location and acreage of all Collier County/SFWMD jurisdictional wetlands according to the Florida Land Use Cover and Forms Classification System (FLUCFCS) and include this information on the SDP or final plat construction plans. Wetlands must be verified by the South Florida Water Management District (SFWMD) or Florida Department of Environmental Protection (DEP) prior to SDP or final plat construction plans approval. For sites in the RFMU district, provide an assessment in accordance with 3.05.07 F and identify on the FLUCFCS map the location of all high quality wetlands (wetlands having functionality scores of at least 0.65 WRAP or 0.7 UMAM) and their location within the proposed development plan. Sites with high quality wetlands must have their functionality scores verified by the SFWMD or DEP prior to first development order approval. Where functionality scores have not been verified by either the SFWMD or DEP, scores must be reviewed and accepted by County staff, consistent with

State regulation.

- ii. SDP or final plat construction plans with impacts to 5 or more acres of wetlands shall provide an analysis of potential water quality impacts of the project by evaluating water quality loadings expected from the project (post development conditions considering the proposed land uses and stormwater management controls) compared with water quality loadings of the project area as it exists in its pre-development conditions. The analysis shall be performed using methodologies approved by Federal and State water quality agencies, and must demonstrate no increase in nutrients (nitrogen and phosphorous) loadings in the post development scenario.
 - iii. Where treated stormwater is allowed to be directed into preserves, show how the criteria in 3.05.07 H have been met.
 - iv. Where native vegetation is retained on site, provide a topographic map to a half foot and, where possible, provide elevations within each of the FLUCFCS Codes identified on site. For SDP or final plat construction plans, include this information on the site plans.
- b. Listed Species and Bald Eagle Nests and Nest Protection Zones
- i. Provide a wildlife survey for the nests of bald eagle and for listed species known to inhabit biological communities similar to those existing on site. The survey shall be conducted in accordance with the guidelines or recommendations of the Florida Fish and Wildlife Conservation Commission (FFWCC) and the U.S. Fish and Wildlife Service (USFWS). Survey times may be reduced or waived where an initial habitat assessment by the environmental consultant indicates that the likelihood of listed species occurrence is low, as determined by the FFWCC and USFWS. Where an initial habitat assessment by the environmental consultant indicates that the likelihood of listed species occurrence is low, the survey time may be reduced or waived by the County Manager or designee, when the project is not reviewed or technical assistance not provided by the FFWCC and USFWS. Additional survey time may be required if listed species are discovered.
 - ii. Provide a survey for listed plants identified in 3.04.03.
 - iii. Wildlife habitat management and monitoring plans in accordance with 3.04.00 shall be required where listed species are utilizing the site or where wildlife habitat

management and monitoring plans are required by the FFWCC or USFWS. These plans shall describe how the project directs incompatible land uses away from listed species and their habitats. Identify the location of listed species nests, burrows, dens, foraging areas, and the location of any bald eagle nests or nest protection zones on the native vegetation aerial with FLUCFCS overlay for the site. Wildlife habitat management plans shall be included on the SDP or final plat construction plans. Bald eagle management plans are required for sites containing bald eagle nests or nest protection zones, copies of which shall be included on the SDP or final plat construction plans.

c. Native vegetation preservation

- i. For sites or portions of sites cleared of native vegetation or in agricultural operation, provide documentation that the parcel(s) were issued a permit to be cleared and are in compliance with the 25 year rezone limitation pursuant to section 10.02.06. For sites permitted to be cleared prior to July 2003, provide documentation that the parcel(s) are in compliance with the 10 year rezone limitation previously identified in the GMP. Criteria defining native vegetation and determining the legality, process and criteria for clearing are found in 3.05.05, 3.05.07 and 10.02.06.
- ii. Identify on a current aerial the acreage, location and community types of all upland and wetland habitats on the project site, according to the Florida Land Use Cover and Forms Classification System (FLUCFCS), and provide a legend for each of the FLUCFCS Codes identified. Aerials and overlay information must be legible at the scale provided. Provide calculations for the acreage of native vegetation required to be retained on-site. Include the above referenced calculations and aerials on the SDP or final plat construction plans. In a separate report, demonstrate how the preserve selection criteria pursuant to 3.05.07 have been met. Where applicable, include in this report an aerial showing the project boundaries along with any undeveloped land, preserves, natural flowways or other natural land features, located on abutting properties.
- iii. Include on a separate site plan, the project boundary and the land use designations and overlays for the RLSA, RFMU, ST and ACSC-ST districts. Include this information on the SDP or final plat construction plans.
- iv. Where off-site preservation of native vegetation is proposed in lieu of on-site, demonstrate that the criteria in

section 3.05.07 have been met and provide a note on the SDP or final plat construction plans indicating the type of donation (monetary payment or land donation) identified to satisfy the requirement. Include on the SDP or final plat construction plans, a location map(s) and property identification number(s) of the off-site parcel(s) if off-site donation of land is to occur.

d. General environmental requirements

i. Provide the results of any Environmental Assessments and/or Audits of the property, along with a narrative of the measures needed to remediate if required by FDEP.

ii. Soil and/or ground water sampling shall be required at the time of first development order submittal for sites that occupy farm fields (crop fields, cattle dipping ponds, chemical mixing areas), golf courses, landfill or junkyards or for sites where hazardous products exceeding 250 gallons of liquid or 1,000 pounds of solids were stored or processed or where hazardous wastes in excess of 220 pounds per month or 110 gallons at any point in time were generated or stored. The amount of sampling and testing shall be determined by a registered professional with experience in the field of Environmental Site Assessment and shall at a minimum test for organochlorine pesticides (U.S. Environmental Protection Agency (EPA) 8081) and Resource Conservation and Recovery Act (RCRA) 8 metals using Florida Department of Environmental Protection (FDEP) soil sampling Standard Operating Procedure (SOP) FS 3000, in areas suspected of being used for mixing and at discharge point of water management system. Sampling should occur randomly if no points of contamination are obvious. Include a background soil analysis from an undeveloped location hydraulically upgradient of the potentially contaminated site. Soil sampling should occur just below the root zone, about 6 to 12 inches below ground surface or as otherwise agreed upon with the registered professional with experience in the field of Environmental Site Assessment. Include in or with the Environmental Site Assessment, the acceptable State and Federal pollutant levels for the types of contamination found on site and indicate in the Assessment, when the contaminants are over these levels. If this analysis has been done as part of an Environmental Audit then the report shall be submitted. The County shall coordinate with the FDEP where contamination exceeding applicable FDEP standards is identified on site or where an Environmental Audit or Environmental Assessment has been submitted.

- iii. Shoreline development must provide an analysis demonstrating that the project will remain fully functional for its intended use after a six-inch rise in sea level.
 - iv. Provide justification for deviations from environmental LDC provisions pursuant to GMP CCME Policy 6.1.1 (13), if requested.
 - v. Where applicable, provide evidence of the issuance of all applicable federal and/or state oil and gas permits for proposed oil and gas activities in Collier County. Include all state permits that comply with the requirements of Chapter 62C-25 through 62C-30, F.A.C., as those rules existed on January 13, 2005.
- e. Other code requirements
- i. Identify any Wellfield Risk Management Special Treatment Overlay Zones (WRM-ST) within the project area and provide an analysis for how the project design avoids the most intensive land uses within the most sensitive WRM-STs and will comply with the WRM-ST pursuant to 3.06.00. Include the location of the Wellfield Risk Management Special Treatment Overlay Zones on the SDP or final plat construction plans. For land use applications such as standard and PUD rezones and CUs, provide a separate site plan or zoning map with the project boundary and Wellfield Risk Management Special Treatment Overlay Zones identified.
 - ii. Demonstrate that the design of the proposed stormwater management system and analysis of water quality and quantity impacts fully incorporate the requirements of the Watershed Management regulations of 3.07.00.
 - iii. For sites located in the Big Cypress Area of Critical State Concern-Special Treatment overlay district (ACSC-ST), show how the project is consistent with the development standards and regulations in 4.02.14.
 - iv. For multi-slip dock facilities with ten slips or more, and for all marina facilities, show how the project is consistent with 5.05.02. Refer to the Manatee Protection Plan for site specific requirements of the Manatee Protection Plan not included in 5.05.02.
 - v. For development orders within RFMU sending lands, show how the project is consistent with each of the applicable Objectives and Policies of the Conservation and Coastal Management Element of the GMP.

f. Additional data

The County Manager or designee may require additional data or information necessary to evaluate the project's compliance with LDC and GMP requirements.

4. PUD zoning and CU petitions. For PUD rezones and CU petitions, applicants shall collate and package applicable Environmental Data Submittal Requirements into a single Environmental Impact Statement (EIS) document, prior to public hearings and after all applicable staff reviews are complete. Copies of the EIS shall be provided to the County Manager or designee prior to public hearings.

7.5. Exemptions.

- a. The EIS Environmental Data Submittal Requirements exemption shall not apply to any **parcel** with a ST or ACSC-ST overlay, unless otherwise exempted by section 4.02.14 H. ~~(exceptions)~~ or 4.02.14. I. ~~(exemptions)~~, of this Code.
- b. ~~Single-family or duplex uses on a single lot or parcel. Single-family detached and two-family housing structure(s) on a lot(s) of record except as otherwise provided at section 4.02.04 (cluster development), and townhouses developed on fee simple lots under individual ownership, provided that a fee simple townhouse plat is approved in accordance with the provisions of section 10.02.04.B.4. These exemptions shall not apply to the following.~~
- i. Wetland delineations and permitting.
 - ii. Retention of native vegetation in accordance with 3.05.07 C.
 - iii. Listed species protection in accordance with 3.04.01.
- c. Agricultural uses. Agricultural uses that fall within the scope of sections 163.3214(4) or 823.14(6), Florida Statutes, provided that the subject property will not be converted to a nonagricultural **use** or considered for any type of rezoning petition for a period of 25 years after the ~~agricultural uses~~ agricultural uses commence and provided that the subject property does not fall within an ACSC or ST zoning overlay.
- d. ~~Non-sensitive areas. Any area or parcel of land which is not, in the opinion of the County Manager or his designee, an area of environmental sensitivity, subject to the criteria set forth below, provided that the subject property does not fall within an ACSC or ST zoning overlay:~~
- i. ~~The subject property has already been altered through past usage, prior to the adoption of this Code, in such a~~

manner that the proposed use will not further degrade the **environmental quality** of the site or the surrounding areas which might be affected by the proposed use.

- ii. ~~The major flora and fauna features have been altered or removed to such an extent as to preclude their reasonable regeneration or useful ecological purpose. An example would be in the case of an industrial park or a commercial development where most of the flora and fauna were removed prior to the passage of this Code.~~
- iii. ~~The surface and/or natural drainage or recharge capacity of the project site has been paved or channeled, or otherwise altered or improved prior to the adoption of this Code, and will not be further degraded as a result of the proposed use or development.~~
- iv. ~~The use and/or development of the subject property will definitely improve and correct ecological deficiencies which resulted from use and/or development which took place prior to the passage of this Code. An example would be where the developer proposes to reforest the area, provide additional **open space**, replace natural drainage for channeled drainage, and/or reduce **density**.~~
- v. ~~The use or development will utilize existing **buildings and structures** and will not require any major alteration or modification of the existing land forms, drainage, or flora and fauna elements of the property.~~
- e. ~~All lands lying within all incorporated municipalities in Collier County.~~
- f. d. All NBMO Receiving Lands in accordance with 2.03.08 A.2.a(1).
- g. ~~Single family lots in accordance with section 3.04.01 C.1.~~
- h. e. A conventional rezone with no site plan or proposed **development plan**. This exemption does not apply to lands that include any of the following zoning, overlays or critical habitats: Conservation (CON), Special Treatment (ST), Area of Critical State Concern (ACSC), Natural Resource Protection Areas (NRPA's), Rural Fringe Mixed Use (RFMU) Sending Lands, Xeric Scrub, Dune and Strand, Hardwood Hammocks, or any land occupied by listed species or defined by an appropriate State or Federal agency to be critical foraging habitat for listed species.
- f. In those areas of Collier County where **oil extraction and related processing** is an allowable use, such use is subject to applicable state and federal oil and gas permits and Collier County non-environmental site development plan review procedures.

Directional-drilling and/or previously cleared or disturbed areas shall be utilized in order to minimize impacts to native habitats, where determined to be practicable. This requirement shall be deemed satisfied upon issuance of a state permit in compliance with the criteria established in Chapter 62C-25 through 62C-30, F.A.C., as those rules existed on January 13, 2005, regardless of whether the activity occurs within the Big Cypress Watershed, as defined in Rule 62C-30.001(2), F.A.C. All applicable Collier County environmental permitting requirements shall be considered satisfied by evidence of the issuance of all applicable federal and/or state oil and gas permits for proposed oil and gas activities in Collier County, so long as the state permits comply with the requirements of Chapter 62C-25 through 62C-30, F.A.C. For those areas of Collier County outside the boundary of the Big Cypress Watershed, the applicant shall be responsible for convening the Big Cypress Swamp Advisory Committee as set forth in Section 377.42, F.S., to assure compliance with Chapter 62C-25 through 62C-30, F.A.C. even if outside the defined Big Cypress Watershed. All access roads to oil and gas uses shall be constructed and protected from unauthorized uses according to the standards established in Rule 62C-30.005(2)(a)(1) through (12), F.A.C.

~~8. Fees. In order to implement, maintain and enforce this Code, the cost upon submission of the environmental impact statement shall be as established by resolution. Until this fee has been paid in full no action of any type shall be taken.~~

~~9. Appeals.~~

~~a. Any person aggrieved by the decision of the County Manager or his designee regarding EIS procedures or submittals (i.e. this section of the Code) may file a written request for appeal, not later than ten days after said decision, with the EAC or their successor organization.~~

~~b. The EAC will notify the aggrieved person and the County Manager or his designee of the date, time and place that such appeal shall be heard; such notification will be given 21 days prior to the hearing unless all parties waive this requirement.~~

~~c. The appeal will be heard by the EAC within 60 days of the submission of the appeal.~~

~~d. Ten days prior to the hearing the aggrieved person shall submit to the EAC and to the County Manager or his designee copies of the data and information he intends to use in his appeal.~~

~~e. Upon conclusion of the hearing the EAC will submit to the BGC their facts, findings and recommendations.~~

~~f. The BCC, in regular session, will make the final decision to affirm, overrule or modify the decision of the County Manager or his designee in light of the recommendations of the EAC.~~

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SUBSECTION 3.PP. AMENDMENTS TO SECTION 10.02.03 SUBMITTAL REQUIREMENTS FOR SITE DEVELOPMENT PLANS

Section 10.02.03 Submittal Requirements for Site Development Plans, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

10.02.03 Submittal Requirements for Site Development Plans

* * * * *

B. Final Site **development plan** procedure and requirements. A pre-application meeting shall be conducted by the County Manager or his ~~designee~~, or his/her designee, prior to the submission of any site **development** or site improvement plan for review. This meeting may be waived by the County Manager or his designee upon the request of the **applicant**.

1. Site **development plan** submittal packet: The site **development** submittal packet shall include the following, if applicable:

a. *Ownership*: A copy of the recorded deed, contract for sale or agreement for sale, or a notarized statement of ownership clearly demonstrating ownership and control of the subject **lot** or **parcel** of land. The **applicant** shall also present a notarized letter of authorization from the property owner(s) designating the **applicant** as the agent acting on behalf of the owner(s).

b. *Site development plan*. A site **development plan** and a coversheet prepared on a maximum size sheet measuring 24 inches by 36 inches drawn to scale.

* * * * *

ii. The following information shall be set forth on the site **development plan** and/or on a separate data sheet used exclusively for that purpose.

* * * * *

(g) For residential projects subject to the provisions of Section 10.04.09, a completed **School Impact Analysis (SIA)** application, location map and review fee.

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SUBSECTION 3.QQ. AMENDMENTS TO SECTION 10.02.04 SUBMITTAL REQUIREMENTS FOR PLATS

Section 10.02.04 Submittal Requirements for Plats, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

10.02.04 Submittal Requirements for Plats

A. Preliminary subdivision plat requirements.

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 2. Preliminary **subdivision** plat submission requirements. The preliminary **subdivision** plat process is optional. The optional nature of this process will in no way affect the submission requirements enumerated below. In other words, if an **applicant** chooses this option, the **applicant** must follow all of the submission requirements. The mandatory nature of the final **subdivision** plat process is likewise not affected by the optional nature of the preliminary **subdivision** plat submission process.

A preliminary **subdivision** plat application shall be submitted for the entire property to be subdivided in the form established by the County Manager or his designee and shall, at a minimum, include ten copies of the preliminary **subdivision** plat unless otherwise specified by the County Manager or his designee. The preliminary **subdivision** plat shall be prepared by the **applicant's** engineer and surveyor. Land planners, landscape architects, architects, and other technical and professional persons may assist in the preparation of the preliminary **subdivision** plat. The preliminary **subdivision** plat shall be coordinated with the major utility suppliers and public facility providers applicable to the **development**. Provisions shall be made for placement of all utilities underground, where possible. Exceptions for overhead installations may be considered upon submission of sound justification documenting the need for such installation. The preliminary **subdivision** plat shall include or provide, at a minimum, the following information and materials:

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 z. All plans and platting documents shall be prepared fully in compliance with the Interim Watershed Management regulations of LDC section 3.07.00.
 aa. For residential projects subject to the provisions of Section 10.04.09, a completed **School Impact Analysis (SIA)** application, location map and review fee.

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 B. Final plat requirements.

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4. *Final **subdivision** plat submission requirements.* The submittal of final plats for which no preliminary subdivision plat is contemplated must include, apart from the final plat and/or improvement plans, that information required for review of preliminary **subdivision** plats in accordance with Section 10.02.04 A.2. For only those final plats incorporating townhouse **development** on fee simple lots, the following additional information, prepared by a registered engineer (and landscape architect for landscape plan), must be provided either separately or in conjunction with the information required by section 10.02.04 A.2. of this Code:

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- c. For residential projects subject to the provisions of Section 10.04.09, a completed **School Impact Analysis (SIA)** application, location map and review fee.

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SUBSECTION 3.RR. AMENDMENTS TO SECTION 10.02.06 SUBMITTAL REQUIREMENTS FOR PERMITS

Section 10.02.06 Submittal Requirements for Permits, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

10.02.06 Submittal Requirements for Permits

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- G. *Temporary Use Permit Requirements and Issuance.* See section 5.04.050 of the LDC: for temporary use permit classifications and restrictions.

1. Applications for temporary use permits shall be submitted to the County Manager or designee in writing on a form provided by the Community Development and Environmental Services Division.
2. Submittal Requirements. The temporary use permit application and required plan shall be submitted together with the applicable nonrefundable fee, as indicated in the CDES fee schedule, and approved prior to or simultaneously with the submission of a **building** permit application, if required.
3. Each temporary use permit application shall be accompanied by authorization of the property owner or leasing agent and a current valid Business Tax Receipt in the case of temporary sale, when required.
4. A conceptual site plan (CSP) or a site **development** plan (SDP) is required for special events and seasonal sales. For improved and

unimproved properties the site plan must demonstrate that provisions will be made to adequately address each of the following:

- a. Vehicular and pedestrian traffic safety measures.
- b. Adequate on-site or additional off-site parking areas shall be provided as follows.
 - i. A maximum of 10 percent of the parking required by section 4.05.04 of this Code may be occupied or otherwise rendered unusable by the placement of temporary structures, equipment, and merchandise.
 - ii. The minimum required number of handicapped parking spaces pursuant to section 4.05.07 shall remain available for use.
- c. Limited activity hours.
- d. Watchmen, fencing and lighting.
- e. Fire protection and emergency access measures.
- f. Sanitary facilities.
- g. If required, a faithful performance bond to guarantee compliance with the conditions of the permit.

5. Review procedures.

- a. Based upon the information contained in the application, the County Manager or designee may approve, approve with conditions relative to the health, safety and welfare of the public, or deny an application, and may attach conditions to the permit.
- b. In the event an application is denied by the County Manager or designee, the reason(s) shall be noted on the application and returned promptly.

6. Indemnification. The applicant shall be required to indemnify and hold harmless Collier County, its officers, agents and employees from and against all claims, suits, actions, damages, liabilities, expenditures or causes of action arising out of or occurring during the activities of applicant under a permit issued hereupon in the form and manner provided by the County Manager or designee.

7. Cancellations and postponements.

- a. If a permitted event is canceled or postponed, the applicant shall furnish Collier County with written notification of such cancellation or postponement and the reason(s) for same. It is understood that

weather conditions may cause last minute cancellations; however, the applicant shall make every effort to notify the county staff prior to the scheduled commencement of said event. If the event is to be re-scheduled, notice of the date and time of the rescheduled event shall be provided.

b. If a permitted event is postponed, the permit will be amended to reflect the rescheduled event dates and a copy will be provided to the applicant prior to the event.

c. If an event is cancelled and the County is notified prior to the initially proposed commencement date the number of days used will not count towards the maximum number of authorized days afforded for events by the Code.

8. Suspension or revocation. Failure to comply with the terms and conditions of the temporary use permit, once issued, shall be grounds for immediate suspension of the permitted activity until such time as the noncompliance is remedied. A permit may be revoked, without refund, for established public safety and welfare issues. The suspension or revocation shall be initially communicated verbally, followed by a written suspension or revocation order. The continued failure to comply with the terms and conditions of a previously suspended permit may result in the revocation of said permit.

9. Violations. The failure to obtain a required Temporary Use Permit, and/or the failure to cease activities authorized by such a temporary use permit, including the removal of any displays, structures, merchandise, equipment, signs or banners authorized by said permit, upon expiration, suspension, or revocation shall establish a violation of this Code and shall be subject to the penalties established within this Code.

10. 3. Film Permit.

a. *Permit required.* A permit shall be required for the following activities taking place, in conjunction with commercial motion picture, film, television, video or still photography production: the use of set scenery, temporary **structures** or other apparatus, special effects, or closure of public **streets** or accessways. This Code shall not apply to bona fide newspaper, press association, newsreel or television news media personnel, nor to properties that have been zoned to allow motion picture/television filming as a permitted use.

b. *Application for permit; contents.* Any person, firm, corporation, association or governmental entity desiring to obtain a permit shall apply to the County Manager or his designee; and said application shall include but not be limited to the following:-

i. Name, address (including local address) and telephone number of **applicant**.

- ii. Proof of comprehensive general liability insurance coverage in the amount of at least \$1,000,000.00 combined single limit, with Collier County named as an additional insured. The applicant shall provide to the County Manager or his designee a certificate of insurance evidencing that said insurance is in effect and certifying that Collier County be given 30 days' notice prior to the expiration or cancellation of the policy.
- iii. Special effects to be utilized, especially incendiary or explosive devices, with proof of not less than \$5,000,000.00 comprehensive general liability insurance combined single limit with Collier County listed as additional insured. In addition, the application shall list the person in charge (pyrotechnician) of such special effects, together with his qualifications and license from the applicable federal and/or state agencies, and authorization from the local fire district permitting the event.
- iv. Locations, dates and hours of filming.
- v. The following information is required by the County Manager or his designee, unless waived:

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- c. *Insurance requirements.* The **applicant** shall maintain in force at all times during the permit period, a comprehensive general liability policy with limits other than those described in sections 10.02.06 G.3.b.ii. and b.iii. above of this Code as determined by the risk management director upon a review of the particular circumstances involved. Said applicant shall provide to the County Manager or his designee a certificate of insurance as evidenced that said insurance is in existence and certifying that Collier County is a named insured, and that Collier County be given 30 days' notice prior to the expiration or cancellation of the policy. Any additional insurance requirements for filming on private property will be at the discretion of the affected property owner.
- d. *Indemnification.* The **applicant** shall be required to indemnify and hold harmless Collier County, its officers, agents and employees from and against all claims, suits, actions, damages, liabilities, expenditures or causes of action arising out of or occurring during the activities of **applicant** under a permit issued hereupon in the form and manner provided by the County Manager or his designee.
- e. *Permit fee.* No permit fee shall be required. Any additional license or user fees which have been established for county-owned land

or facilities shall be in effect.

- f. *Issuance of permit.* Upon presentation of the completed application, proof of insurance, payment of permit fee, surety bond or cash payment in lieu of the bond and review by the County Manager or his designee, the permit may be issued. If the County Manager or his designee determines that the use of public or private property could affect the public's use of the property, or have potential **adverse impacts** on surrounding properties, then he/she may require that the permit application be scheduled for a public hearing before the Board of County Commissioners. The special circumstances could include, but are not limited to, closure of a public **street** or accessway; use of special effects, including incendiary or explosive devices; a large production crew or crowd control; and increased liability insurance required. The notice for the public hearing shall be advertised in a newspaper of general circulation in the county at least 1 time 15 days prior to the hearing.
- g. *Suspension of permit.* Failure to comply with the terms and conditions of the temporary use permit once issued shall be grounds for immediate suspension of the permitted activity until such time as the noncompliance is remedied. The suspension shall be initially communicated verbally, followed by a written suspension order; and continued failure to comply with the terms and conditions of the permit may result in revocation of the permit.
- h. *Costs for extraordinary services.* The county shall recover direct costs for extraordinary services rendered in connection with a production. Such costs shall include, but not be limited to, charges for personnel and/or equipment committed in support of the production which are outside the normal scope of government services. Based on the information contained in the permit application, an estimate of these costs will be provided to the **applicant** prior to issuance of this permit. The county may require prepayment of all or a portion of these estimated costs prior to issuance of the permit. At the conclusion of the production, actual costs below or in excess of the estimates will be refunded by the county or paid by the **applicant**, respectively.
- i. *Surety bond.* A surety bond in an amount to be determined by Collier County and issued by a company authorized to issue bonds in Florida or cash payment in lieu of the bond may be required by the County Manager or his designee to provide for cleanup and/or restoration of the subject site(s).

4. ~~Temporary sports events, religious events, and community events~~

- ~~a. In the case of sports events, religious events, community events, or other similar events sponsored by profit, nonprofit, charitable, civil, or membership organizations the County Manager or his~~

~~designee may grant nonrenewable permits of up to two weeks' duration, such that during any calendar year the sum total of all permits for such events does not exceed 28 days. Temporary permits may be allowed for an additional period of up to four weeks when approved by the board of county commissioners. Such special approval shall be subject to stipulations or additional constraints deemed necessary and appropriate to the request. Such stipulations or constraints deemed necessary by the board of county commissioners shall be noted as conditions to the issuance of said permits; and the permittee shall be required to sign a notarized agreement to said stipulations or constraints.~~

- ~~b. Temporary permits may, in support of the use being permitted, include the placement of signs, merchandise, structures and equipment, and a mobile home as an office, but not for residency. If the temporary use is not discontinued upon expiration of the permit, it shall be deemed a violation of the Land development Code and shall be subject to the penalties therein.~~
- ~~c. Temporary permits in this category shall be restricted to those zoning districts in which the use would normally be permitted, unless otherwise approved by the board of county commissioners via a public petition request.~~
- ~~d. The County Manager or his designee shall accept without fee, temporary use permit applications for sports events, religious events, community events, or other similar events, upon presentation of documentation that the sponsor of the event is a bona fide nonprofit organization and the event is intended to benefit the community at large, a specific group of individuals, or the bona fide nonprofit organization. Two such events per calendar year per organization are eligible for this exemption.~~

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I. *Vehicle on the beach regulations.*

- 1. Unlawful to drive on sand **dunes** or **beach** or to disturb sand **dune**. It shall be unlawful:
 - a. To operate or cause to be operated a hand-, animal-, or engine-driven wheel, track or other vehicle or implement on, over or across any part of the sand **dunes**, hill or ridge nearest the gulf, or the vegetation growing thereon or seaward thereof, or to operate or drive such a vehicle on the area seaward thereof, commonly referred to as "the **beach**" within Collier County, Florida.
 - b. To **alter** or cause to be altered any sand **dune** or the vegetation growing thereon or seaward thereof; make any excavation, remove any material, trees, grass or other vegetation or otherwise

alter existing ground elevations or condition of such dune without first securing a permit as provided for in this Code.

2. Exceptions; permit. All permits to allow operation of vehicles on county **beaches** shall ~~expire on April 30, of each year, to coincide with the beginning of sea turtle nesting season~~ be subject to the following. During sea turtle nesting season, May 1 through October 31, of each year, all permits shall be subject to section 10.02.06 I.3 below. Permits issued in accordance with this section shall be valid for the time the vehicle is used for its permitted function and shall be prominently displayed on the windshield of such vehicle and kept with the vehicle and be available for inspection. Permits issued for construction vehicles engaged in beach nourishment, inlet maintenance, and general construction activities shall expire on April 30 of each year, to coincide with the beginning of sea turtle nesting season. Vehicle on the beach permits are not transferable.
 - a. Sheriff, city, state and federal police, emergency services, and the Florida Fish and Wildlife Conservation Commission vehicles operated or authorized by officers of these departments operating under orders in the normal course of their duties, and government entities responding to emergency situations, shall be exempt from the provisions of this section.
 - b. Vehicles which must travel on the **beaches** in connection with environmental maintenance, conservation, environmental work, and/or for purposes allowed by Collier County Ordinance No. 89-16, providing that the vehicle(s) associated with the permitted uses of Collier County Ordinance No. 89-16 remain stationary, except to **access** and egress the **beach**, shall be exempt from the provisions of this section if a permit has been obtained from the ~~environmental services department director or his~~ County Manager or designee, and ~~said [permit] is prominently displayed on the windshield of such vehicle and kept with the vehicle and available for inspection.~~ The procedure for obtaining such a permit shall be by application on the form prescribed by Collier County to the environmental services department director in writing stating the reason or reasons why it is necessary for such vehicle or vehicles to be operated on the **beaches** in connection with an environmental maintenance, conservation, environmental purpose and/or for purposes allowed by Collier County Ordinance No. 89-16, taking into consideration the vehicular use restriction previously stated as a criterion for an exception, and ~~permit for such vehicle or vehicles shall be issued by the environmental services department director if the environmental services department director~~ if the County Manager or designee is satisfied that a lawful and proper environmental maintenance, conservation, environmental purpose and/or purpose as described above and allowed by Collier County Ordinance No. 89-16 will be served thereby. All permits issued are subject to the following conditions and limitations:

- i. All vehicles shall be equipped with tires having a maximum ground-to-tire pressure of ten PSI (pounds per square inch), as established by the Standard PSI Formula provided below. Calculations for tire pressure using the standard formula shall be included with each permit application.

$$\text{PSI} = \frac{\text{vehicle weight (lbs)} + \text{equipment (including maximum debris load for beach raking equipment and rider weight (lbs))}}{\text{total tire footprint (square inches)}}$$

- c. Baby buggies (perambulators), toy vehicles, toy wagons, wheelchairs or similar devices to aid disabled or non-ambulatory persons and hand pulled or pushed carts/dollies/hand trucks or similar type equipment for personal use shall be exempt from the provisions of this section.
- d. Vehicle-on-the-beach permits issued in conjunction with special or annual **beach** events, in conjunction with permanent concession facilities, or for other routine functions associated with permitted uses of commercial **hotel** property. Vehicles which are used in conjunction with functions on the **beach**, are exempt from the provisions of this section if a vehicle-on the-beach permit has been granted by the County Manager or designee. All permits issued are subject to the following conditions and limitations:
- i. The use of vehicles shall be limited to set-up and removal of equipment for the permitted function.
- ii. Said permits shall be prominently displayed on the vehicle and kept with the vehicle and available for inspection.
- iii. The types of vehicles permitted for this use may include ATVs, non-motorized handcarts or dollies, and small utility wagons, which may be pulled behind the ATVs.
- iv. All vehicles shall be equipped with ~~large pneumatic~~ tires having a maximum ground-to-tire pressure of ten PSI (pounds per square inch), as established by the Standard PSI Formula. Calculations for tire pressure using the standard formula shall be included with each permit application.
- v. Permits shall only be issued for ATVs when ~~environmental services department staff~~ the County Manager or designee has determined that: 1) evidence has been provided that there is a need to move equipment, which, due to the excessive weigh and distance of equal to or greater than 200 feet, would be prohibitive in nature to move with, push carts or dollies; or 2) a limited designated work area has been established at the foot of the **dune** walkover for

loading and unloading and the ATV use is restricted to that limited identified area.

- vi. When not in use all vehicles shall be stored off the **beach**.
- vii. During sea turtle nesting season, the following shall apply:
 - 1) no vehicle may be used on the **beach** until after completion of daily sea turtle monitoring conducted by personnel with prior experience and training in nest surveys procedures and possessing a valid Fish and Wildlife Conservation Commission Marine Turtle Permit; 2) there shall be no use of vehicles for set up of chairs or **hotel** or commercial **beach** equipment, etc. until after the **beach** has been monitored; 3) one ingress/egress corridor onto and over the **beach**, perpendicular to the **shoreline** from the owner's property, shall be designated by the ~~Collier County Environmental Services Department (ESD)~~ County Manager or designee; additional corridors may be approved when appropriate and necessary as determined by the ~~ESD~~ County Manager or designee; a staging area may be approved for large events as determined by the ~~ESD~~ County Manager or designee and 4) except for designated corridors, all motorized vehicles shall be operated below the mean high water line (MHW), as generally evidenced by the previous high tide mark. If at anytime ~~ESD~~ the County Manager or designee determines that the designated corridor may cause **adverse impacts** to the **beach**, nesting sea turtles, or the ability of hatchlings to traverse the beach to the water, an alternative corridor shall be designated. If no alternative is available, as determined by the ~~ESD~~ County Manager or designee, the vehicle-on-the-**beach** permit may be suspended for the remaining period of the sea turtle season.
- ~~vii.~~ viii. These vehicles may not be used for transportation of people or equipment throughout the day. The permit shall designate a limited time for equipment set up and for the removal of the equipment at the end of the day.
- e. *Permit for construction (excluding **beach** re-nourishment and maintenance activities).* Prior to beginning construction in proximity to a sand **dune** for any purpose whatsoever, including conservation, a temporary protective fence shall be installed a minimum of ten feet landward of the **dune**. It shall be unlawful to cause or allow construction and related activity seaward of such fence. Each permit for work shall clearly indicate the provisions of this Code and the protective measures to be taken and shall be subject to the provisions of section 10.02.06 I.3.
- f. **Beach raking and mechanical *beach* cleaning.**

- i. **Beach** raking and mechanical **beach** cleaning shall be prohibited on undeveloped coastal barriers unless a state permit is obtained.
 - ii. **Beach** raking and mechanical **beach** cleaning must comply with the provisions of section 10.02.06 I. of this Chapter.
 - iii. **Beach** raking and mechanical **beach** cleaning shall not interfere with sea turtle nesting, shall preserve or replace any **native vegetation** on the site, and shall maintain the natural existing **beach** profile and minimize interference with the natural **beach** dynamics and function.
 - iv. **Beach** raking and mechanical cleaning shall not occur below MHW on the wet sand area of **beach** which is covered by high tide and which remains wet during low tide. **Beach** raking and mechanical **beach** cleaning shall not operate or drive within 15 feet of **dune** vegetation and endangered plant and animal communities, including sea turtle nests. Surface grooming equipment that does not penetrate the sand may operate or drive to within ten feet of **dune** vegetation and endangered plant and animal communities, including sea turtle nests.
 - v. **Beach** raking and mechanical **beach** cleaning devices shall not disturb or penetrate **beach** sediments by more than the minimum depth necessary, not to exceed two inches, in order to avoid a potential increase in the rate of erosion.
 - vi. Vehicles with greater than ten psi ground to tire pressure, shall not be used to conduct **beach** raking. Vehicles with less than ten psi ground to tire pressures, in conjunction with the attachment of a screen, harrow drag or other similar device used for smoothing may be used to conduct **beach** raking upon approval of the ~~ESD~~ County Manager or designee.
 - vii. Mechanical **beach** cleaning involving sand screening or a combination of raking and screening shall only be conducted on an "as needed" basis as determined by the ~~public utilities engineering department and the environmental services department~~ County Manager or designee. Necessity will include when large accumulations of dead and dying sea-life or other debris remains concentrated on the wrack-line for a minimum of two tidal cycles following a storm event, red tide or other materials which represent a hazard to public health.
- g. *Vehicles associated with **beach** nourishment and inlet*

maintenance.

- i. Heavy equipment used in conjunction with **beach** nourishment, inlet maintenance, to accomplish FDEP permit requirements, or other unusual circumstance as determined by the ~~CDES administrator~~ County Manager or designee, which cannot meet the standard PSI, will require compaction mitigation. Mitigation shall be accomplished by tilling to a depth of 36 inches or other FDEP approved methods of decreasing compaction. **Beach** tilling shall be accomplished prior to April 15 following construction and for the next two years should compaction evaluations exceed state requirements.
- ii. Utilization of equipment for the removal of scarps, as required by FDEP, shall be limited to an ingress/egress corridor and a zone parallel to the MHW. Scarp removal during sea turtle season shall have prior FDEP approval and coordinated through the FDEP, FWCC, ~~CGESD~~ the County Manager or designee, and the person possessing a valid Fish and Wildlife Conservation Commission Marine Turtle Permit for the area.
- iii. No tilling of the **beaches** shall occur during sea turtle nesting season.

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SUBSECTION 3.SS. AMENDMENTS TO SECTION 10.02.07 SUBMITTAL REQUIREMENTS FOR CERTIFICATES OF PUBLIC FACILITY ADEQUACY

Section 10.02.07 Submittal Requirements for Certificates of Public Facility Adequacy, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

10.02.07 Submittal Requirements for Certificates of Public Facility Adequacy

No **building** or land **alteration** permit or certificate of occupancy shall be issued except in accordance with the Collier County Adequate Public Facilities Ordinance, Ord. No. 90-24 (Chapters 3, 6 and 10 of this Code) and Rule 9J-5.0055, F.A.C. Regulatory program: Review of **development** to ensure adequate public facilities are available, including the Transportation **Concurrency** Management System and the Public School Facilities Concurrency.

- A. *General.* In order to ensure that adequate potable water, sanitary sewer, **solid waste**, drainage, park, school and road public facilities are available concurrent with when the impacts of **development** occur on each public facility, Collier County shall establish the following development review procedures to ensure that no **development orders** subject to **concurrency** regulation are issued unless adequate public facilities are available to serve the proposed

development.

- B. *Exemptions.* The following **development orders** and **development** shall be exempt from the terms of this section:

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6. For public school facilities, the following shall be exempt from the terms of this section.

- a. Single family and mobile home lots of record, existing as of October 14, 2008, the effective date of the public school **concurrency** agreement under the **2008 Interlocal Agreement** between Collier County and the District School Board of Collier County.
- b. Any new residential **development** that had a final **subdivision** plat or site **development** plan approval as of the effective date of school **concurrency**, October 14, 2008.
- c. Any amendment to any previously approved residential **development order** that does not increase the number of **dwelling units** or change the **dwelling unit** type (e.g., **single family to multi-family**).
- d. Age-restricted communities with no permanent residents under the age of 18 years. Exemption of an age-restricted community will be subject to a restrictive covenant limiting the age of permanent residents to 18 years and older.
- e. All new residential **subdivision** plats and site **development** plans or amendments to previously approved residential **development orders**, which are calculated to generate less than 1 student.
- f. **Development** that has been authorized as a **Development of Regional Impact (DRI)** pursuant to Ch. 380, F.S. as of July 1, 2005.

6.7. **Developments** that claim vested status from the Growth Management Plan adopted January 10, 1989 and its implementing regulations, and properly obtains, a determination of vested rights for a certificate of public facility adequacy in accordance with the provisions of this section, as follows:

- a. *Application.* An application for determination of vested rights for a certificate of public facility adequacy shall be submitted in the form established by the Community Development and Environmental Services Division Administrator. An application fee in an amount to be determined by the Board of County Commissioners shall accompany and be part of the application. The application shall, at a minimum, include:
 - i. Name, address, and telephone number of the owner and authorized applicant if other than the owner;

- ii. Street address, legal description, and acreage of the property; and
- iii. All factual information and knowledge reasonably available to the owner and applicant to address the criteria established in subsection 10.02.07 B. 67.g. of this Code.

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c. *Review and determination or recommendation by Community Development and Environmental Services Division Administrator and the County Attorney.* After receipt of a completed application for determination of vested rights for a certificate of public facility adequacy, the Community Development and Environmental Services Division Administrator and the County Attorney shall review and evaluate the application in light of all of the criteria in subsection 10.02.07 B. § 7. g. Based on the review and evaluation, the Community Development and Environmental Services Division Administrator and the County Attorney shall prepare a written recommendation to the hearing officer that the application should be denied, granted or granted with conditions by the hearing officer. Such recommendation shall include findings of fact for each of the criteria established in subsection 10.02.07 B.67.g. to the extent that information is represented or obtained or inclusion feasible or applicable. If the Community Development and Environmental Services Division Administrator and the County Attorney agree based on the review and evaluation that the application for determination of vested rights for a certificate of public facility adequacy so clearly should be granted or granted with conditions, then they may enter into a written stipulated determination of vested rights for a certificate of public facility adequacy with the owner, in lieu of the written recommendation to the hearing officer and the provisions in subsections 10.02.07 B.67.d., 10.02.07 B.67.e. and 10.02.07 B.67.f. however, any such stipulated determination shall be in writing, signed by the Community Development and Environmental Services Division Administrator, the County Attorney and the owner, and shall include findings of fact based on the criteria established in subsection 10.02.07 B.67.g., conclusions of law for such criteria, and the determination granting or granting with conditions, in whole or in part, the vested rights for adequate public facilities.

d. *Review and determination of vested rights determination for a certificate of public facility adequacy by hearing officer.* Upon receipt by the hearing officer of the application for determination of vested rights for a certificate of public facility adequacy and the written recommendation of the Community Development and Environmental Services Division Administrator and the County Attorney, the hearing officer shall hold a public hearing on the application. At the hearing, the hearing officer shall take evidence and sworn testimony in regard to the criteria set forth in subsection 10.02.07 B.67.g. of this Code, and shall follow the rules of procedure set forth in F.S. § 120.57(1)(b), 4, 6, 7, and 8;

F.S. § 120.58(1)(a),(d) and (f); and F.S. § 120.58(1)(b), only to the extent that the hearing officer is empowered to swear witnesses and take testimony under oath. The hearing officer shall follow the procedures established for administrative hearings in Rules 60Q-2.009, 2.017, 2.020, 2.022, 2.023, 2.024, 2.025, 2.027, and 2.031, F.A.C. except as expressly set forth herein. The parties before the hearing officer shall include the county, the owner or **applicant**, and the public. Testimony shall be limited to the matters directly relating to the standards set forth in subsection 10.02.07 B.6-7.g. of this Code. The County Attorney shall represent the county, shall attend the public hearing, and shall offer such evidence as is relevant to the proceedings. The owner of the property and its **authorized agents**, may offer such evidence at the public hearing as is relevant to the proceedings and criteria. The order of presentation before the hearing officer at the public hearing shall be as follows: 1) the county's summary of the application, written recommendation, witnesses and other evidence; 2) owner or **applicant** witnesses and evidence; 3) public witnesses and evidence; 4) county rebuttal, if any; and 5) **applicant** rebuttal, if any.

- e. *Issuance of vested rights determination for a certificate of public facility adequacy by hearing officer.* Within 15 working days after the completion of the public hearing under subsection 10.02.07 B.6-7.g. of this Code the hearing officer shall consider the application for determination of vested rights for a certificate of public facility adequacy, the recommendation of the Community Development and Environmental Services Division Administrator and the County Attorney, and the evidence and testimony presented at the public hearing, in light of all of the criteria set forth in subsection 10.02.07 B.67.g. of this Code, and shall deny, grant, or grant with conditions the application for determination of vested rights for a certificate of public facility adequacy for the property or properties at issue. The determination shall be in writing and shall include findings of fact for each of the applicable criteria established in subsection 10.02.07 B.67.g. of this Code, conclusions of law for each of such criteria, and a determination denying, granting, or granting with conditions, in whole or in part, the vested rights for adequate public facilities.
- f. *Appeal to the Board of County Commissioners.* Within 30 days after issuance of the hearing officer's written determination of vested rights for a certificate of public facility adequacy, the County Attorney, the Community Development and Environmental Services Division Administrator, or the owner or its authorized attorney or agent, may appeal the determination of vested rights for a certificate of public facility adequacy of the hearing officer to the Board of County Commissioners. A fee for the application and processing of an owner-initiated appeal shall be established at a rate set by the Board of County Commissioners from time to time and shall be charged to and paid by the owner or its **authorized agent**. The Board of County Commissioners shall adopt the

hearing officer's determination of vested rights for a certificate of public facility adequacy, with or without modifications or conditions, or reject the hearing officer's determination of vested rights for a certificate of public facility adequacy. The Board of County Commissioners shall not be authorized to modify or reject the hearing officer's determination of vested rights for a certificate of public facility adequacy unless the Board of County Commissioners finds that the hearing officer's determination is not supported by substantial competent evidence in the record of the hearing officer's public hearing or that the hearing officer's determination of vested rights for a certificate of public facility adequacy is contrary to the criteria established in subsection 10.02.07 B.67.g. of this Code.

* * * * *

h. *Limitation on determination of vested rights for a certificate of public facility adequacy.* A determination of vested rights for a certificate of public facility adequacy which grants an application for determination of vested rights for a certificate of public facility adequacy shall expire and be null and void unless construction is commenced pursuant to a final **development order**, final **subdivision** plat, or final site **development** plan, within 2 years after the issuance of the determination of vested rights for a certificate of public facility adequacy under subsection 10.02.07 B.67.g. or unless substantial permanent **buildings** have been, or are being constructed or installed pursuant to a valid, unexpired, final **development order** of Collier County within 2 years after issuance of the determination of vested rights for a certificate of public facility adequacy under subsection 10.02.07 B.67.g., and such **development** pursuant to a final **development order**, final **subdivision** plat, final site **development** plan, final **subdivision** master plan, or planned unit **development** master plan is continuing in good faith. The aforementioned 2-year time limitation on the determination of vested rights for a certificate of public facility adequacy shall be stayed during any time periods within which commencement of construction pursuant to a final **development order**, final **subdivision** plat, or final site **development** plan is prohibited or deferred by the county solely as a result of lack of adequate public facilities to serve the property, pursuant to this section.

C. *Certificate of public facility adequacy.*

1. General.

a. ~~A certificate of public facility adequacy (COA) shall be issued concurrently with the approval of the next to occur final local development order. At the time a certificate of public facility adequacy is issued, fifty percent of the estimated transportation impact fees must be paid into the applicable trust fund pursuant to~~

~~10.02.07 C.1.e., and such funds will be immediately available for appropriation to implement capital road facility improvements,~~

a. Payment of road impact fees to obtain a certificate of adequate public facilities.

i. A five-year temporary certificate of public facility adequacy (COA) shall be issued concurrent with the approval of the next to occur final local development order. At the time a temporary certificate of public facility adequacy is issued, 20% of the estimated payment based on the impact fee rate in effect at the time of the pre-approval letter will be due and deposited into the applicable impact fee trust fund. The funds will then be immediately available for appropriation by the Board of County Commissioners for transportation capital improvements, except that for those non-residential (i.e., typically commercial or industrial) developments otherwise required to obtain approval of an SDP prior to the issuance of a building permit, applicants for a final subdivision plat may elect to:

- i. a) comply with the applicable regulations of this section as to one or more of the lot(s) of the FSP and obtain a COA specifically for just that lot or lots at a specified intensity of development; or
- ii. b) delay submitting a TIS and obtaining a COA for all of the proposed lots, or just those remaining lots not then already complying with this section, until a required SDP is applied for and the terms of this section are then complied with including payment of estimated transportation impact fees.

The subject **development** is not allocated any available road system capacity or considered eligible to be vested for transportation **concurrency** purposes, however, until approval of a TIS, payment of 50% estimated Transportation Impact Fees in accordance with this subsection, and issuance of a COA in accordance with Chapters 3, 6, and 10 of this Code and Rule 9J-5.0055, F.A.C.

Final calculation of impact fees due will be based on the intensity of development actually permitted for construction and the impact fee schedule in effect at the time of the building permit(s) application, such that additional impact fees may be due prior to issuance of the building permit(s). The balance of transportation impact fees shall be paid in four additional annual installments of 20%, beginning one year after the initial 20% payment.

- ii. Impact fees for all other Category "A" capital improvements will be paid at the time of issuance of building permits at the rate then currently applicable.
- iii. At the time a temporary COA is issued, and the first 20% of the estimated payment is paid, the applicant will deposit with the County sufficient security, the form of which has been approved by the Board of County Commissioners, for a term of four years, in an amount equal to the 20% payment.
- iv. Upon payment of 100% of the estimated impact fees, the certificate will be issued in perpetuity and the dedicated security will be released. No further advance payments will be due once actual road impact fees are paid equal to the initial estimated impact fees.
- v. Once the initial 20% of the estimated payment has been paid, the security has been deposited with the County, and a temporary COA has been issued, failure to submit the remaining additional installments in accordance with the provisions of this subsection shall result in the following:
 - a) Upon failure to cure following 10 days written demand, the County will exercise its payment rights to the dedicated security; and
 - b) The matter will be referred to the Board of County Commissioners for review. Absent the Board finding exceptional circumstances, the temporary certificate of public facility adequacy shall be revoked.
- vi. For those developments that have secured a three-year COA, in order to extend the vesting period for an additional five years, the balance of the estimated transportation impact fees, based on the impact fee rate in effect at the time of the pre-approval letter, must be paid in five additional annual installments of 20% with the first payment being made prior to the expiration date of the three-year certificate. For those developments that have secured a three-year certificate that has expired, in order to extend the vesting period for an additional five years, the balance of estimated transportation impact fees based on the impact fee rate in effect at the time of the pre-approval letter must be paid in five additional annual installments of 20%, with the first payment being made within 30 days of the effective date of this Ordinance. At the time the first 20% of the estimated payment is paid, the

applicant will deposit with the County sufficient security, the form of which has been approved by the Board of County Commissioners, for a term of four years, in an amount equal to the 20% payment. Upon payment of 100% of the balance of the estimated impact fees, the certificate will be issued in perpetuity and the dedicated security will be released. No further advance payments will be due once actual road impact fees are paid equal to the balance of the estimated transportation impact fees. Once the first additional annual installment has been paid, the security has been deposited with the County, and a temporary COA has been issued, failure to submit payment in accordance with the provisions of this subsection shall result in the following:

a) Upon failure to cure following 10 days written demand, the County will exercise its payment rights to the dedicated security; and

b) The matter will be referred to the Board of County Commissioners for review. Absent the Board finding exceptional circumstances, the temporary certificate of public facility adequacy shall be revoked.

vii. Offsets for road impact fees assessed to building permits for impact fees paid in accordance with this subsection, as well as any remaining balance of payments related to the original three-year certificate, will be applied equally to the new or remaining units or square footage and will run with the subject land.

viii. This provision is to be read in conjunction with section 74-302(h) of the Collier County Code of Laws and Ordinances.

* * * * *

c. Where the proposed **development** has been issued final **subdivision** plat approval or final site **development plan** approval ~~prior to the effective date of this section, i.e., on or about November 3, 1993,~~ a certificate of public facility adequacy shall be obtained prior to approval of the next **development order** required for the proposed **development**.

d. ~~Estimated transportation impact fees for a development shall be paid into the applicable impact fee trust fund in the amount estimated to be due upon issuance of the final local development order(s) for the development upon or prior to issuance of a certificate of public facility adequacy for the development.~~

~~Developments that have paid estimated impact fees for all Category "A" facilities prior to February 6, 2003, and which elect to come under the provisions of this section may make payment of estimated impact fees into the applicable transportation impact fee trust fund such that previously paid estimates may be applied as a credit towards the impact fees calculated and due as a prerequisite to the issuance of the final local development order(s) for the development. If the developer does not elect to come under the provisions of this division, impact fees paid into the impact fee escrow trust fund prior to February 6, 2003, shall be refundable upon written request to the County Manager or designee accompanied by the surrender of the original certificate of public facility adequacy obtained prior to issuance of final local development order(s) for the development. Fees paid into applicable impact fee trust accounts as a prerequisite to the issuance of final local development order(s) prior to February 6, 2003, in accordance with the applicable consolidated impact fee regulations in Chapter 74 of the Code of Laws and Ordinances shall be refundable pursuant to the provisions of such regulations upon written request to the Finance Director, Clerk of Courts.~~

- e. d. ~~Assessment and application of transportation impact fees and~~ Assessment and application of transportation impact fees and ~~surrender of certificate of public facility adequacy. Within 90 days of written notification~~ Upon notice ~~by facsimile or other approved electronic format that an application for a final local development order and a certificate has have been approved and a certificate issued, or prior to expiration of the temporary, 1-year capacity reservation previously secured by the applicant upon the County's acceptance of the TIS pursuant to section 10.02.07 C.4.f., provided said capacity reservation has more than 90 days remaining, whichever of the 2 occurs later, an applicant may pick up the certificate upon payment of 1/2 (50 percent) of the estimated transportation impact fees due in accordance with section 10.02.07 C.1.a. Such estimates shall be based on the currently approved transportation impact fee rate schedule. If the certificate is not picked up within the timeline set forth above and the applicable estimated transportation impact fees paid, the application will be deemed denied and the applicant must reenter the application process from the beginning. certificate will be voided. In such a case, the applicant shall then be required to apply for an extension of the capacity reservation in accordance with section 10.02.07 C.4.f. If the size of the residential units is not known at the time of payment, the t-Transportation impact fees for residential development will be estimated using the fee based on the mid-range housing size, unless the residential use qualifies as affordable housing. Affordable housing estimated transportation impact fees shall be based on the income limitations for affordable housing in force at the time of a certificate of public facility adequacy application. Additionally, previously vested developments may, pursuant to section~~

~~10.02.07 C.1. elect to have escrowed fees applied against the 1/2 (50 percent) of estimated transportation impact fees. Payment of these fees vests the development entitlements for which the certificate of public facility adequacy certificate applies on a continuous basis unless relinquished pursuant to the requirements of this section prior to the end of the third year after the initial impact fee payment. The initial 50 percent impact fee payment is~~
Road impact fees paid to obtain a certificate of adequate public facilities are non-refundable after payment and receipt of the certificate of public facility adequacy certificate.

Not later than 45 days prior to the due date of the next to occur annual installment for certificates issued subsequent to the effective date of this amendment, or nNot later than 90 days prior to the expiration of the 3 year period for such certificates issued prior to the effective date of this amendment, the county shall notify the ~~certificate holder via registered~~ then current owner via certified mail of the amount due calculated in accordance with section 10.02.07 C.1.a. remaining balance due for the estimated transportation impact fees up to 50 percent, based on the level of building permits already issued. The balance of the impact fees due will be calculated at the rate schedule then currently applicable. The developer may elect to pay the balance of the estimated transportation impact fees for the entitlements for which the certificate applies or modify the certificate to a lesser entitlement and calculate the balance of the transportation impact fees on the revised entitlements. The certificate of public facility adequacy shall be modified to include only the entitlements for which the estimated transportation impact fees are paid. The expiration date for the remaining, up to 50 percent, balance of the estimated transportation impact fees due from a previously vested ~~development~~ that opts into the revised ~~concurrency~~ certificate process as provided in section 10.02.07 C.1. of this Code, will relate back to the date of issuance of the original certificates. Once the balance of the estimated transportation impact fees are paid, those estimated fees are non-refundable. However, the certificate of public facility adequacy runs continuously with the land in perpetuity after all estimated transportation impact fees have been paid. As ~~building~~ permits are drawn down on the entitlements, the estimated transportation impact fees already paid shall be debited at the rate of the impact fees in effect at the time of utilization. If the estimated transportation impact fee account becomes depleted, the developer shall pay the currently applicable transportation impact fee for each ~~building~~ permit in full prior to its issuance. In the event that upon build-out of the ~~development~~ estimated transportation impact fees are still unspent, the remaining balance of such estimated fees may be transferred to another approved project within the same, or ~~adjacent~~, transportation impact fee district, provided any vested entitlements associated with the unspent and transferred transportation impact fees are relinquished and the certificate of

public facility adequacy is modified to delete those entitlements.

2. Rules of general applicability for certificate of public facility adequacy. Certificates of public adequacy issued for roads under section 10.02.07 C.1. of this Code will remain in effect until the expiration date of the certificate subsequent to the [effective date of this section's amendment] ~~will run in perpetuity~~ provided provisions of subsection 10.02.07 C.1.e- d. of this Code are met and that annual mid-year monitoring reports are filed which comply with section 10.02.07 C.1. of this Code and all developer requirements established during zoning or as part of a developer contribution agreement are completed or are being constructed consistent with the current **development** infrastructure improvement construction commitment schedule.
 - a. *Timing.* An application for a certificate of public facility adequacy may only be submitted as part of an application for a **final local development order** subject to section 10.02.07 C.1. of this Code.
 - b. *Impact Fees.* A complete application for a certificate of public facility adequacy will include the calculation of the total amount of transportation impact fees estimated to be due by the **applicant** on the **development** for which a **final local development order** application has been submitted. Impact fee calculations will be reviewed and the amount estimated to be paid pursuant to section 10.02.07 C.1.e- d. of this Code finally determined by the impact fee coordinator. One-half (50 percent) of the estimated payment Payment in accordance with Section C.1.a. will be due at the time of notification of approval of the final local development order and will be deposited into the applicable impact fee trust fund and will be immediately available for appropriation by the Board of County Commissioners for transportation capital improvements. Final calculation of impact fees due will be based on the intensity of development actually permitted for construction and the impact fee schedule in effect at the time of the issuance of building permit(s) rate then currently applicable; such that additional impact fees may be due prior to issuance of the **building permit(s)**. The balance of transportation impact fees shall be due as provided for in section 10.02.07 C.1 of this Code.
 - c. *Consolidated application.* A **final local development order** shall receive final approval only to the extent to which the proposed **development** receives a certificate of public facility adequacy. The application for a certificate of public facility adequacy may only be submitted with an application for **final local development order** approval, where appropriate under this section. An application for a certificate of public facility adequacy will receive final approval and a certificate will be issued concurrently with approval of a **final local development order** as set forth in section 10.02.07 C.1.e- d. of this Code.
 - d. *Assignability and transferability.* An approved certificate of public

facility adequacy shall run with the land associated with the corresponding **development** approval, and shall be assignable within the corresponding land of the approved **development**, and shall not be assignable or transferable to other **development**, except as may otherwise be provided for under an approved **development agreement**. This provision does not preclude the re-allocation of capacity between **lots** or **parcels** comprising the land that is the subject of the same consolidated application for **development** approval so long as the original certificate is surrendered along with a written request by the then current owner to re-allocate no more than that certificate's previously approved capacity in a re-issued certificate.

* * * * *

4. Procedure for review of application.

a. *Submission of applications and fees.* The application for a certificate of public facility adequacy for road facilities only shall be submitted in duplicate to the Community Development and Environmental Services Division Administrator. Such applications shall be submitted at the filing for the next **final local development order** as specifically provided for under section 10.02.07 C.1. All other applications for a certificate (i.e., except for road facilities) shall be submitted at **building permit application** ~~along with and~~ final payment for any impact fees owed, including any road impact fees, will be due prior to building permit issuance. Application fees in an amount to be determined by the Board of County Commissioners shall accompany and be part of the applications.

* * * * *

e. *Approval of certificate; payment for, and cancellation of certificates.* Upon notification by facsimile by the Community Development and Environmental Services Division Administrator or his designee and the Transportation Services Division Administrator or his designee, that an application for a certificate of public facility adequacy for road facilities has been approved, ~~1/2 (50 percent) of the estimated transportation impact fees shall be paid in accordance with section C.1 a.~~ If the **applicant** does not pick up the certificate and pay all applicable transportation impact fees ~~within 90 days of notification by facsimile, prior to expiration of the temporary 1-year capacity reservation previously secured by the applicant upon the County's acceptance of the TIS pursuant to section 10.02.07 C.4.f.,~~ the certificate will be voided. In such a case, the **applicant** shall then be required to apply for issuance of a new certificate an extension of the capacity reservation in accordance with section 10.02.07 C.4.f. All Collier County impact fees are due and payable at building permit

issuance based on the applicable rate structure in effect at the time the **building** permit application is submitted at that time.

- f. *Traffic Capacity Reservation* for all or part of the proposed **development** may be approved and secured at application pending approval of the final sub-division plat, site **development plan** or **building** permit upon acceptance of the TIS by the Transportation Administrator as part of a complete Application Request (AR) deemed sufficient for review for the proposed **development** by the CDES Division. The Transportation Administrator will notify the **applicant** of any traffic capacity reservation via facsimile per section 10.02.07 C.4.c. Traffic capacity reservations will be awarded to the **development** upon: approval of the COA and final **development order** per section 10.02.07 C.4.e.; payment of road impact fees in accordance with section 10.02.07 C.1.a. and 10.02.07 C.4.e.; and Proportionate Share Payment, if applicable, in accordance with section 6.02.01. Traffic capacity reservations approved under this section will expire in 1 year, from TIS approval and determination of available capacity, unless the **final local development order** for the **development** is approved, or the Board approves an extension to the 1 year time period.

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5. *Standards for review of application.* The following standards shall be used in the determination of whether to grant or deny a certificate of public facility adequacy. Before issuance of a certificate of public facility adequacy, the application shall fulfill the standards for each public facility component (potable water, sanitary sewer, **solid waste**, drainage, parks, schools and roads).

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g. *Public school facilities.* The determination of public facility adequacy for school facilities shall occur only after the School District has issued a **school capacity availability determination letter (SCADL)** verifying that capacity is available to serve the **development**. Public facility adequacy for school facilities shall be granted if any of the following conditions are met.

i. The necessary facilities and services are in place at the time a final site **development plan** or final **subdivision plat** is approved;

ii. The necessary facilities and services are under construction or the contract for such facilities and services has been awarded, accepted, and duly executed by all parties, at the time a final site **development plan** or final **subdivision plat** is approved;

iii. The necessary facilities and services are found in the first, second or third year of the School District of Collier County's Five-Year Capital Improvement Plan; or

iv. The necessary facilities and services are subject of a **development** agreement to contribute proportionate share funding as provided for in Policy 2.4 in the Public School Facilities Element of the Growth Management Plan or to construct the needed facilities.

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SUBSECTION 3.TT. AMENDMENTS TO SECTION 10.02.12 RESERVED

Section 10.02.12 Reserved, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

10.02.12 ~~Reserved.~~ Submittal Requirements for Non-PUD Residential Rezones

A. Submittal of **School Impact Analysis (SIA)** application for residential projects. The **applicant** shall submit a completed **SIA** application for the School District's review for a determination of school capacity. Refer to section 10.04.09 for SIA requirements.

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SUBSECTION 3.UU. AMENDMENTS TO SECTION 10.02.13 PLANNED UNIT DEVELOPMENT (PUD) PROCEDURES

Section 10.02.13 Planned Unit Development (PUD) Procedures, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

10.02.13 Planned Unit Development (PUD) Procedures

A. *Application and PUD master plan submission requirements.* Applications for amendments to, or rezoning to, PUD shall be in the form of a PUD master plan of **development** along with a list of permitted and **accessory uses** and a **development** standards table. The PUD application shall also include a list of developer commitments and any proposed deviations from the Land Development Code. The PUD master plan shall have been designed by an urban planner who possesses the education and experience to qualify for full membership in the American Institute of Certified Planners; and/or a landscape architect who possesses the education and experience to qualify for full membership in the American Society of Landscape Architects, together with either a practicing civil engineer licensed by the State of Florida, or a practicing architect licensed by the State of Florida, and shall be comprised, at a minimum,

of the following elements:

* * * * *

4. Submittal of School Impact Analysis (SIA) application for residential projects. The applicant shall submit a completed SIA application for the School District's review for a determination of school capacity. Refer to section 10.04.09 for SIA requirements.

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D. Time limits for approved PUDs. For purposes of this section, the word "sunset" or "sunsetting" shall be the term used to describe a PUD which has, through a determination made by the planning services department director, not met the time frames and **development** criteria outlined in this section of the Code as applicable. For all PUDs, the owner entity shall submit to the planning services department director a status report on the progress of **development** annually from the date of the PUD approval by the board of county commissioners. The purpose of the report will be to evaluate whether or not the project has commenced in earnest in accordance with the following criteria:

* * * * *

8. PUD time limit extensions. Extensions of the time limits for a PUD may be approved by the board of county commissioners. An approved PUD may be extended as follows:

a. Maximum extension: There may be one PUD extension granted for a maximum of two years from the date of original approval sunset.

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SUBSECTION 3.VV. AMENDMENTS TO SECTION 10.03.05 NOTICE REQUIREMENTS FOR PUBLIC HEARINGS BEFORE THE BCC, THE PLANNING COMMISSION, THE BOARD OF ZONING APPEALS, THE EAC, AND THE HISTORIC PRESERVATION BOARD

Section 10.03.05 Notice Requirements for Public Hearings Before the BCC, the Planning Commission, the Board of Zoning Appeals, The EAC, and the Historic Preservation Board, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

10.03.05 Notice Requirements for Public Hearings Before the BCC, the Planning Commission, the Board of Zoning Appeals, The EAC, and the Historic Preservation Board

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B. *Notice and public hearing where proposed amendment would change zoning classification of land and for **conditional uses** and variances, for planned unit development (PUD) rezoning extensions, conditional use extensions and for small-scale or other site-specific comprehensive plan amendments. In the case of a small-scale or other site-specific comprehensive plan amendment, an*

Words struck through are deleted, words underlined are added

application for extension of PUD zoning status or the rezoning of land, to include re-zonings, **conditional uses** and variances initiated by other than the Board of County Commissioners or amendments to planned unit **developments**, such provisions shall be enacted or amended pursuant to the following public notice and hearing requirements by the planning commission and the Board of County Commissioners as applicable. Small-scale or other site-specific comprehensive plan amendments, PUD extensions, rezoning, **conditional uses**, **conditional use extensions** and variance petitions initiated by the Board of County Commissioners or its agencies for county owned land shall be subject to these provisions.

1. Applications for a PUD extension and a conditional use extension, whether initiated by the **applicant** or the BCC, shall only be heard by the BCC pursuant to the notice and advertising requirements set forth in sections 10.03.05 B.10. and 11. of this Code.
2. In the case of PUD extensions pursuant to sections 10.02.13 D.4., 10.02.13 D.5.a. and 10.02.13 D.6. of this Code, and conditional use extensions, a **sign** shall be posted at least 15 days prior to the date of the hearing before the BCC and shall conform to the applicable **sign** requirements listed below.
 - a. The **sign** advising of the PUD extension or conditional use extension hearing shall be in substantially the following format:
 PUBLIC HEARING FOR A PLANNED UNIT DEVELOPMENT (PUD) and/or CONDITIONAL USE EXTENSION
 TO PERMIT: _____ (set forth alternatives going to the BCC)
 DATE: _____
 TIME: _____
 - b. THE ABOVE TO BE HELD IN COMMISSIONERS MEETING ROOM, COLLIER COUNTY GOVERNMENT CENTER, HARMON TURNER BUILDING, 3301 E. TAMiami TRAIL, NAPLES, FLORIDA, 34112.

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F. *Public participation requirements for small-scale or other site-specific comprehensive plan amendments, rezonings, PUD amendments, conditional uses, Mixed Use Projects (MUPs), variances and parking exemptions.*

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2. Written notice of the meeting shall be sent to all property owners who are required to receive legal notification from the county pursuant to subsection 10.03.05 B.10. or 11. Written notice of the meeting shall be sent to all property owners within 500 feet of the property lines of the land for which the amendment to zoning is sought. The 500-foot distance shall be measured from the boundaries of the entire ownership or PUD. For

properties located within areas of the future land use element of the growth management plan that are not designated urban, the foregoing notice requirements apply, except that written notification must be sent to all property owners within 1,000 linear feet of the subject property. For the purposes of this requirement, the names and addresses of property owners shall be deemed those appearing on the latest tax rolls of Collier ~~county~~ County. The applicant shall provide written notice of the Neighborhood Information meeting (NIM) to property owners, **condominium** and civic associations whose members may be impacted by the proposed land use changes and who have formally requested the county to be notified.

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SUBSECTION 3.WW. AMENDMENTS TO SECTION 10.04.00 REVIEW AND ACTION ON APPLICATIONS FOR DEVELOPMENT ORDERS AND PETITIONS FOR AMENDMENTS TO THE OFFICIAL ZONING MAP, THE LDC, OR THE GMP

Section 10.04.00 Review and Action on Applications For Development Orders and Petitions for Amendments to the Official Zoning Map, the LDC, or the GMP, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

10.04.00 REVIEW AND ACTION ON APPLICATIONS FOR DEVELOPMENT ORDERS AND PETITIONS FOR AMENDMENTS TO THE OFFICIAL ZONING MAP, THE LDC, OR THE GMP, AND FOR SCHOOL CONCURRENCY DETERMINATIONS

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SUBSECTION 3.XX. AMENDMENTS TO SECTION 10.04.09 REQUEST FOR CONTINUANCE OF PUBLIC HEARING [RESERVED]

Section 10.04.09 Request for Continuance of Public Hearing [Reserved], of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

10.04.09 ~~Request for Continuance of Public Hearing [Reserved]~~ School Concurrency Procedures for the Review and Approval of Residential Subdivision Plats and Residential Subdivision Plat amendments; Residential Site Development Plans and Residential Site Development Plan amendments.

A. Definitions Applicable to School Concurrency Reviews.

Adjacent Concurrency Service Areas: Concurrency Service Areas which are contiguous and touch along one side of their outside geographic boundary.

Available Capacity: Existing school capacity which is available within a **Concurrency Service Area** including any new school capacity that will be in place or under actual construction, as identified in the first three years of the School District's Five Year Capital Improvement Plan.

Proportionate Share Mitigation (Schools): An **Applicant** improvement or contribution identified in a binding and enforceable agreement between the **Applicant**, the School District and the Local Government with jurisdiction over the approval of the plat, site plan or functional equivalent to provide compensation for the additional demand on public school facilities caused by the residential **development** of the property, as set forth in Section 163.3180(13)(e), F.S.

School Board: The governing body of the School District, a political subdivision of the State of Florida and a corporate body pursuant to Section 1001.40, F.S.

School District of Collier County: The School District created and existing pursuant to Section 4, Article IX of the State of Florida Constitution.

Type of School: Schools providing the same level of education, i.e. elementary, middle, high school, or other combination of grade levels.

B. School Concurrency Established

1. Purpose. The County and the School District shall ensure that the **LOS** standard established for each Type of School is achieved and maintained.
2. Applicability. No residential **subdivision** plat or residential site **development** plan for new residential **development** may be approved by the County, unless the application is exempt from these requirements as provided for in this Section, or until a **School Capacity Availability Determination Letter (SCADL)** has been issued by the School District to the County indicating that adequate school capacity exists within a **Concurrency Service Area (CSA)** for each Type of School.
 - a. The County may condition the approval of the application to ensure that necessary schools are in place, in order to validate or render effective the approval. This shall not limit the authority of the County to deny a residential plat, residential site plan or its functional equivalent, pursuant to its home rule regulatory powers.
3. Exemptions. The following shall be exempt from the terms of this subsection:
 - a. Single family and mobile home lots of record, existing as of the effective date of school concurrency, October 14, 2008.

- b. Any new residential **development** that had a final **subdivision plat** or **site development plan** approval as of the effective date of school **concurrency**, October 14, 2008.
- c. Any amendment to any previously approved residential **development order** that does not increase the number of **dwelling units** or change the **dwelling unit type** (e.g., **single-family to multi-family**).
- d. Age-restricted communities with no permanent residents under the age of 18. Exemption of an age-restricted community will be subject to a restrictive covenant limiting the age of permanent residents to 18 years and older.
- e. All new residential **subdivision plats** and **site development plans**, or amendments to previously approved residential **development orders**, which are calculated to generate less than one student.
- f. Development that has been authorized as a **Development of Regional Impact** pursuant to Chapter 380, F.S., as of July 1, 2005.

C. **School Concurrency Application Review.** Any **Applicant** submitting an application for a residential **subdivision plat** or residential **site development plan** must prepare and submit a **School Impact Analysis (SIA)** to the County for review by the School District. An application that is determined to be exempt under Section 10.02.07 is not subject to school **concurrency**. Refer to Section 10.04.09 for **SIA** requirements.

- 1. The **SIA** must indicate the location of the **development**, number of **dwelling units** and unit types (**single-family, multi-family, etc.**), a phasing schedule (if applicable), and age-restrictions for occupancy (if any). The County shall initiate the review by determining that the application is sufficient for processing. Once deemed sufficient, the County shall transmit the **SIA** to the School District representative for review. The process is as follows:
 - a. An application for residential **development** is submitted to the County for a sufficiency review. Once deemed sufficient, the County transmits the **SIA** to the School District for review. The School District may charge the **applicant** a non-refundable application fee payable to the School District to meet the cost of review.
 - b. Within 20 working days of receipt of a sufficient **SIA** application, the School District representative shall review the application and provide written comments to the County. Each **SIA** shall be reviewed in the order in which it is received.

- c In the event that there is not adequate capacity available within the adopted LOS standard in the **Concurrency Service Area (CSA)** in which the proposed **development** is located or in an adjacent **CSA** to support the **development** impacts, the School District representative will issue a **School Capacity Availability Determination Letter (SCADL)** within 20 working days of receipt of the **SIA** detailing how the **development** is inconsistent with the adopted **LOS** standard, and offer the **applicant** the opportunity to enter into a negotiation period to allow time for the mitigation process. If the proposed mitigation is accepted by the School District, County and the **applicant**, then those parties shall enter into an enforceable and binding agreement with the County and the **applicant**.
- d When capacity has been determined to be available, the School District representative shall issue a **SCADL** verifying available capacity to the **applicant** and the County within 20 working days of receipt of the **SIA** application.
- e The County shall be responsible for notifying the School District representative when a residential **development** has received a Certificate of Public Facility Adequacy (COA), when the **development order** for the residential **development** expires or is revoked, and when its school impact fees have been paid.

D. **School Concurrency Approval.** Issuance of a **SCADL** by the School District identifying that capacity exists within the adopted **LOS** standard indicates only that school facilities are currently available, and capacity will not be reserved for the **applicant's** proposed residential **development** until the County issues a Certificate of Public Facility Adequacy (COA).

- 1. The County shall not issue a COA for a residential **development** until receiving confirmation of available school capacity within the adopted **LOS** standard for each Type of School, in the form of a **SCADL** from the School District. Once the County has issued a COA, school **concurrency** for the residential **development** shall be valid for the life of the COA. Expiration, extension or modification of a COA for a residential **development** shall require a new review for adequate school capacity to be performed by the School District.
- 2. The County shall notify the School District within 10 working days of any official change in the status of a COA for a residential **development**.
- 3. The County shall not issue a **building** permit for a non-exempt residential **development** without confirming that the **development** received a COA at plat or site plan approval, and that the COA is still valid. Once the County has issued a COA, school **concurrency** for the residential **development** shall be valid for the life of the COA.

E. **Proportionate Share Mitigation.** In the event there is not sufficient school

capacity available within the adopted LOS standard to support an applicant's development, the School District in coordination with the County may consider proportionate share mitigation options and, if accepted, shall enter into an enforceable and binding agreement with the Applicant and the County to mitigate the impact from the development through the creation of additional school capacity.

F. Mitigation. If mitigation is agreed to, the School District shall issue a new SCADL approving the applicant's development subject to those mitigation measures agreed to by the County, applicant and the School District. Prior to residential subdivision plat or site plan approval, the mitigation measures shall be memorialized in an enforceable and binding agreement with the County, the School District and the applicant that specifically details mitigation provisions to be paid for by the applicant and the relevant terms and conditions. If mitigation is not agreed to, the SCADL shall detail why any mitigation proposals were rejected and why the development is not in compliance with school concurrency requirements. A SCADL indicating that either adequate capacity is available or that there is no available capacity following a 90 day negotiation period constitutes final agency action by the School District.

* * * * *

SUBSECTION 3.YY. AMENDMENTS TO APPENDIX G ANNUAL BEACH EVENT STANDARD PERMIT CONDITIONS

Appendix G, Annual Beach Event Standard Permit Conditions, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

APPENDIX G ANNUAL BEACH EVENT STANDARD PERMIT CONDITIONS

* * * * *

10. Annual **beach** events which occur during Sea Turtle Nesting Season (May 1st through October 31st of each year) are also subject to the following regulations:
 - A. All required Florida Department of Environmental Protection (FDEP) Field Permits, shall be obtained and a copy furnished to Collier County prior to the time of the scheduled event as set forth in section ~~5-04-06~~, 5.04.07.
 - B. Consistent with section ~~5-04-06~~, 5.04.07, no **structure** set up, or **beach** raking, or mechanical cleaning activity for any particular **Beach** Event shall not commence until after monitoring conducted by personnel with prior experience and training in nest surveys procedures and possessing a valid Fish and Wildlife Conservation Commission Marine Turtle Permit has been completed.
 - C. Prior to all scheduled **beach** events, every **beach** event permit holder is required to rope off (or otherwise identify with a physical barrier) an area

with no less than a 15-foot radius around each sea turtle nest that has been identified and marked on a **beach**, unless a greater distance is required by an applicable State permit.

- D. Use of vehicles on the **beach** is prohibited, except as may be permitted under section ~~5.04.06~~ 5.04.07.
- E. Consistent with section ~~5.04.06~~ 5.04.07 all materials placed on the **beach** for the purpose of conducting permitted **Beach** Events must be: 1) removed from the **beach** by no later than 9:30 p.m. the date of the event; and 2) no **structures** may be set, placed, or stored on, or within ten feet of any **beach dune**, except that materials may remain in an identified staging area until 10:00 p.m. The location and size of all staging areas will be as identified in the annual **beach** events permit.

* * * * *

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 re-lettered to accomplish such, and the word "ordinance" may be changed to "section," "article," or any other appropriate word.

SECTION SIX: EFFECTIVE DATE

This Ordinance shall become effective upon filing with the Florida Department of State, Tallahassee, Florida; with the exception that the amendments to Section 2.05.01, as proposed in subsection 3.J of this Ordinance, shall become effective 45 days after rendition of this Ordinance to the Department of Community Affairs, the Southwest Florida Regional Planning Council and owner in accordance with Sections 9J-I-002 and 9J-I-003 F.A.C.; and with the exception that the amendments to Section 2.01.00, as proposed in subsection 3.D of this Ordinance, shall become effective upon repeal of Ordinance No. 08-64.

PASSED AND DULY ADOPTED by the Board of County Commissioners of Collier County, Florida, this 8th day of June, 2010.

ATTEST:
DWIGHT E. BROCK, CLERK

BOARD OF COUNTY COMMISSIONERS
OF COLLIER COUNTY, FLORIDA

By: *[Signature]*
Attest as to Chairman's Deputy Clerk signature only

By: *Fred W. Coyle*
FRED W. COYLE, CHAIRMAN

Approved as to form and legal sufficiency:

Heidi Ashton-Cicko
Heidi Ashton-Cicko, Esq.
Section Chief, Land Use/Transportation

04-CMD-01077/1024 - FINAL 6/8/10

This ordinance filed with the Secretary of State's Office the 11th day of June, 2010 and acknowledgement of that filing received this 21st day of June, 2010
By: *[Signature]*
Deputy Clerk

STATE OF FLORIDA)

COUNTY OF COLLIER)

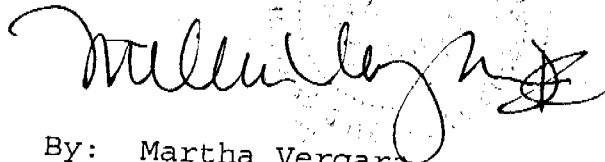
I, DWIGHT E. BROCK, Clerk of Courts in and for the Twentieth Judicial Circuit, Collier County, Florida, do hereby certify that the foregoing is a true and correct copy of:

ORDINANCE 2010-23

Which was adopted by the Board of County Commissioners on the 8th day of June, 2010, during Special Session.

WITNESS my hand and the official seal of the Board of County Commissioners of Collier County, Florida, this 10th day of June, 2010.

DWIGHT E. BROCK
Clerk of Courts and Clerk
Ex-officio to Board of
County Commissioners



By: Martha Vergara,
Deputy Clerk