



## Memorandum

To: Development Services Advisory Committee (DSAC)  
From: Jeremy Frantz, LDC Manager  
Date: November 29, 2017  
Re: DSAC recommendation for 2017/2018 LDC Amendments

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On November 13, 2017, the Development Services Advisory Committee – Land Development Review Subcommittee (DSAC-LDR) reviewed and provided recommendations of approval for twelve proposed LDC amendments in the 2017/2018 LDC Amendment Cycle.

Below is a summary of each amendment and any changes or information requested by the DSAC-LDR Subcommittee. Several of the LDC amendments include related Administrative Code amendments, which are described in, and attached to, the relevant amendments.

The following amendments are also available online at: [www.colliergov.net/currentldcas](http://www.colliergov.net/currentldcas).

### *Privately Initiated Amendment*

#### **Adding an exemption from the standards for development in airport zones: LDC section 4.02.06 (PL20160003642) (Pg. 5 of 70)**

This amendment is intended to expressly identify an exemption (applicable to the proposed Mini-Triangle project – PL20160003084 and PL20160003054) to the LDC Airport Zone height limitations, generally utilizing the same format as was previously used to identify an exemption for the Marco Shores Golf Course Community, and to renumber/reformat the related paragraphs.

### *Clarification Amendments*

#### **Re-codifying the definition for “nonconforming lot of record”: LDC sections 1.08.02 & 9.03.03 (Pg. 7 of 70)**

This amendment reinstates the definition for a “nonconforming lot of record” as previously codified by Ordinance 82-002 and amended by Ordinances 91-102 and 99-6.

#### ***DSAC-LDR Subcommittee follow-up***

The DSAC-LDR Subcommittee requested more information regarding the meaning of the phrase “The effective date of this Code.” Staff modified the amendment to incorporate the date used in Ordinance 82-002: October 14, 1974.



**Establishing martial arts, gymnastics, and dance as permitted uses in C-3 and Industrial Zoning Districts: LDC section 2.03.03 (Pg. 9 of 70)**

This amendment clarifies “martial arts” and “dance, gymnastics, judo, and karate instructions,” are permitted uses in the C-3 and Industrial Zoning Districts where physical fitness facilities are also permitted uses. It also clarifies that outdoor amusement and recreation services are conditional uses in the C-3 Zoning District and reinstates an omitted Standard Industrial Classification (SIC) Code in the C-4 Zoning District.

**Clarifying dimensional standards for accessory buildings and structures: LDC sections 2.03.07, 4.02.01, 4.02.03, 4.02.04 & 4.02.06 (Pg. 13 of 70)**

This amendment reorganizes the dimensional standards tables for accessory structures to clarify and correct several provisions and highlight swimming pool and screen enclosure setbacks.

**Clarifying procedures for Lot Line Adjustments and Lot Splits: LDC section 4.03.04 (Pg. 26 of 70)**

This amendment clarifies the procedure for the review and timely recording of both lot line adjustments and lot splits, and it clarifies that lot splits are applicable to all zoning districts.

***DSAC-LDR Subcommittee follow-up***

The DSAC-LDR Subcommittee inquired whether the current 12-month timeframe for recording lot splits and lot line adjustments should be shortened. Staff understands that recording a lot split or lot line adjustment may take four to six months and the 12-month timeframe allows for unexpected delays. As this amendment is intended only to clarify the procedures for lot splits and lot line adjustments, staff does not feel a change to this timeframe is required.

***Staff change after DSAC-LDR Subcommittee recommendation***

Additional changes were made to the amendment to improve the clarity of the approval process and effective date of lot splits. Changes to the text that was previously reviewed by the DSAC-LDR Subcommittee include the relocation of some provisions to the respective sections related to lot line adjustments and lot splits, and the clarification of some existing language.



**Clarifying the criteria for Early Work Authorizations: LDC section 10.01.02 (Pg. 29 of 70)**

This amendment proposes to remove the requirement for a determination of legal sufficiency for an Early Work Authorization permit (EWA) agreement.

**Clarifying the Planned Unit Development Insubstantial Change (PDI) approval process: LDC sections 10.02.13 & 10.03.06 (Pg. 31 of 70) & related Administrative Code change (Pg. 35 of 70)**

This amendment adds a requirement for PDIs and PUD minor changes (PMCs) to be heard by the Board to approve the ordinance amendment.

*Growth Management Plan (GMP) Consistency Amendments*

**Modifications to the Rural Fringe Mixed Use District and Rural Fringe Areas map: LDC section 2.03.08 (Pg. 41 of 70)**

This amendment modifies provisions related to the Rural Fringe Mixed Use District and the Rural Fringe Areas map for clarity and to ensure consistency with the GMP.

**Modifications to provisions related to the North Belle Meade Overlay specific only to Section 24, Township 49 South, and Range 26 East: LDC sections 2.03.08 & 3.05.07 (Pg. 47 of 70)**

This amendment modifies provisions related to the North Belle Meade Overlay specific only to Section 24, Township 49 South, Range 26 East, to ensure consistency with the GMP.

**Modifications to the Big Cypress Area of Critical State Concern (ACSC) and five zoning maps within Township 52, South, Range 30 East: LDC section 4.02.14 (Pg. 49 of 70) & Zoning Maps 522930, 2033N, 2033S, 2034N & 2034S (Pg. 51 of 70)**

This amendment modifies provisions related to the Big Cypress ACSC and five zoning maps within Township 52 South, Range 30 East, to ensure consistency with the GMP.

*New Standards*

**Requiring soil erosion and sediment control Best Management Practices for single family, two family, townhouses, and underground utility construction: LDC section 6.01.05 (Pg. 61 of 70)**

This amendment proposes to require Best Management Practices (BMPs) for soil erosion and sediment control for developments such as single-family, two-family, townhouse structures, as well as underground construction activities.



***Staff change after DSAC-LDR Subcommittee recommendation***

When reviewed by the DSAC-LDR Subcommittee this amendment identified that soil erosion and sediment control BMPs must be in place prior to the first building permit inspection. Staff has modified the amendment to require BMPs to be in place prior to commencement of construction.

**Establishing an exception from an Administrative Variance for Minor After-the-Fact Encroachments: LDC section 9.04.04 (Pg. 64 of 70)**

This amendment creates an exception from the requirement to pursue an Administrative Variance for residential structures with setback encroachments of three inches or less that result from the application of exterior wall treatments.

***Staff change after DSAC-LDR Subcommittee recommendation***

After additional input from the County Attorney's Office, proposed LDC section 9.04.04 B.1 has been modified. These changes are intended to clarify the provision and do not result in any substantive change to the amendment.

**Removing limits on text amendments to the Land Development Code: LDC section 10.02.09 (Pg. 66 of 70) & related Administrative Code change (Pg. 68 of 70)**

This amendment modifies the number of times amendments to the Land Development Code (LDC) may be made. A related Administrative Code amendment adds a requirement for pre-application meetings for privately initiated LDC amendments.

Recommendations from the DSAC-LDR Subcommittee and DSAC will be provided to the Collier County Planning Commission and Board of County Commissioners (Board) during public hearings anticipated in early 2018.

Please contact me if you have any questions,

Sincerely,

Jeremy Frantz

[JeremyFrantz@colliergov.net](mailto:JeremyFrantz@colliergov.net)

(239) 252-2305

1 **LDC AMENDMENT REQUEST**

2  
3 **LDC Section(s):** 4.02.06.L. Standards for Development in Airport Zones

4  
5 **Author:** Robert J. Mulhere, FAICP, VP Planning Services

6  
7 **Change:** To expressly indentify an exemption (applicable to the Mini Triangle project) to the  
8 LDC Airport Zone height limitations, generally utilizing the same format as was previously used  
9 to identify an exemption for the Marco Shores Golf Course Community, and to  
10 renumber/reformat the related paragraphs.

11  
12 **Reason:** Assuming the GMPA and MPUD are approved by the BCC, the proposed  
13 amendments are necessary to:

14  
15 Reflect the height exemption (from the applicable Airport Zone building height limitations),  
16 so that anyone utilizing the LDC to determine limitations for properties with the designated  
17 "Airport Zones" would see that the Mini Triangle has a limited exemption (from the height  
18 limitations) and would then understand the need to review the referenced ordinance number  
19 for the Mini Triangle MPUD to determine the exact nature of that exemption,  
20

21 These proposed LDC Amendment would receive final consideration and approval only after the  
22 proposed SSGMPA and MPUD are approved.

23  
24 **Fiscal & Operational Impacts:** There are no specific fiscal impacts or costs associated with  
25 the proposed LDC Amendments. However, if the property is developed as permitted under the  
26 Mini Triangle Subdistrict there will be a significant return on the taxpayers investment in the  
27 CRA via increased tax receipts to the CRA .This is exactly the outcome desired as the end  
28 result of creating a CRA and investing an increment of property tax revenues to promote  
29 redevelopment and improvement in the CRA. Additionally, as was intended, development within  
30 the Mini Triangle will act as a catalyst for further investment and redevelopment in the lager  
31 Bayshore Gateway Triangle Redevelopment Area.  
32

33 **Related Codes or Regulations:** This LDC is submitted with companion petitions SSGMPA  
34 (PL-20160003084/CPSS) and MPUD (PI-20160003054)  
35

36 **Growth Management Plan Impact:** The proposed LDC Amendment is necessitated in the  
37 event the Mini Triangle Subdistrict and companion MPUD are approved). The proposed change  
38 is consistent with that subdistrict and with the overall GMP.  
39

40 **Amend the LDC as follows:**

41  
42 **4.02.06 - Standards for Development in Airport Zones**

43 L. Exemptions.

- 44  
45 1. **Development** of the Marco Shores Golf Course Community that comports with the  
46 location and height requirements of Ordinance No. 81-6, as amended by Ordinance No.  
47 85-56 and Ordinance No. 94-41, is exempted from the provisions of section 4.02.06  
48 only to the following extent:

49            a. 1. The agreement between Johnson Bay **Development** Corporation Collier  
50            County **Airport** Authority and the BCC, dated August 8, 1995.

51            b. 2. Prior issuance of a Federal Aviation Administration "Determination Of No  
52            Hazard To Air Navigation."

53            **2. Development of the Mini-Triangle Subdistrict of the Urban Designation, Urban Mixed**  
54            **Use District of the Growth Management Plan that comports with height requirements of**  
55            **Ordinance 2017-\_\_\_\_\_ , is exempted from the provisions of section 4.02.06 only to the**  
56            **following extent:**

57            a. Prior issuance of a Federal Aviation Administration "Determination Of No Hazard To  
58            Air Navigation", including such letters dated January 1, 2017, or subsequent letters  
59            addressing structures within the Mini-Triangle Subdistrict of the Urban Designation,  
60            Urban Mixed Use District of the Growth Management Plan.

DRAFT

**Land Development Code Amendment Request**

**ORIGIN:** Growth Management Department

**AUTHOR:** Planning and Zoning Division Staff

**LDC SECTION:** 1.08.02 Definitions  
9.03.03 Types of Nonconformities

**SUMMARY:** This amendment reinstates the definition for a “nonconforming lot of record” as previously codified by Ordinance 82-002 and amended by Ordinances 91-102 and 99-46.

**DESCRIPTION:** During recodification of the LDC in 2004, the definition of a “nonconforming lot of record” as defined by Ordinance 82-002 and later by Ordinance 91-102 and 99-46, was replaced with regulatory actions that are duplicated in LDC section 9.03.03 A.4.

In review of LDC section 9.03.03 A.4, staff has determined it is not necessary for an additional requirement that a separate legally binding document be recorded prior to the combining of two or more adjacent non-conforming lots for development. The permit is a legally binding document and cannot be approved unless there is a legal description of a unified parcel, approved by the County, prior to the issuance of a building permit.

Lastly, the amendment shall clarify once the nonconforming lots are combined and approved by the County as a unified parcel, the property cannot be subsequently split or subdivided to create another nonconforming parcel.

**DSAC-LDR SUBCOMMITTEE RECOMMENDATION:** The DSAC-LDR Subcommittee recommended making specific reference to October 14, 1974, and retaining language identifying that the Code may allow an additional split or subdividing a parcel. These recommendations were incorporated in the amendment and the Subcommittee recommended approval on November 13, 2017.

**FISCAL & OPERATIONAL IMPACTS:** There are no anticipated fiscal or operational impacts associated with this amendment.

**GROWTH MANAGEMENT PLAN IMPACTS:** There are no anticipated Growth Management Plan impacts associated with this amendment.

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**Amend the LDC as follows:**

- 1 **1.08.02 Definitions**
- 2 \* \* \* \* \*
- 3 *Nonconforming lot of record: ~~When two or more adjacent legal nonconforming lots of record are~~*
- 4 *~~either combined under a single folio or parcel number for taxing purposes by the property~~*
- 5 *~~appraiser's office or combined as a single parcel by recording the previously separate non-~~*
- 6 *~~conforming lots into one legal description, neither or both of these actions will prohibit the owner~~*
- 7 *~~or future owners from subsequently splitting the parcel into two or more folio or parcel numbers~~*

1 for tax purposes, or severing the parcels into their former legal descriptions as legal non-  
2 conforming lots of record according to the original legal description(s) at the time the property  
3 was recognized as legal nonconforming. Prior to any two or more adjacent, legal non-  
4 conforming lots being combined for development a legally binding document must be recorded  
5 to reflect a single parcel with a unified legal description. Once such a document has been  
6 recorded to amend the legal description and a development permit has been approved by the  
7 County for development as that unified parcel, the property cannot be split or subdivided except  
8 as may then be allowed by this Code. Any lawful lot or parcel which was recorded, or for which  
9 an agreement for deed was executed prior to October 14, 1974, and which lot or parcel does  
10 not meet the minimum width or lot area requirements as a result of the passage of this Code  
11 shall be considered as a legal nonconforming lot and shall be eligible for the issuance of a  
12 building permit provided all the other requirements of this Code and the Florida Statutes are met.  
13 This definition also includes any lot or parcel made nonconforming by a rezoning initiated by  
14 Collier County to implement the Zoning Reevaluation Ordinance Number 90-23 (1990).

15 # # # # # # # # # # # # #

16  
17 **9.03.03 Types of Nonconformities**

18 A. *Nonconforming lots of record.* In any district, any permitted or permissible structure may  
19 be erected, expanded, or altered on any lot of record at the effective date of adoption or  
20 relevant amendment to the LDC.

21 \* \* \* \* \*

22 4. When two or more adjacent legal nonconforming lots of record are either  
23 combined under a single folio or parcel number for taxing purposes by the  
24 property appraiser's office, or combined as a single parcel by recording the  
25 previously separate non-conforming lots into one legal description, neither or  
26 both of these actions will prohibit the owner or future owners from subsequently  
27 splitting the parcel into two or more folio or parcel numbers for tax purposes, or  
28 severing the parcels into their former legal descriptions as legal nonconforming  
29 lots of record according to the original legal description(s) at the time the property  
30 was recognized as legal nonconforming . ~~Prior to any two or more adjacent legal~~  
31 ~~non-conforming lots being combined for development, a legally binding document~~  
32 ~~must be recorded to reflect a single parcel with a unified legal description.~~ Once  
33 such a document has been recorded to amend the legal description and a  
34 development permit has been approved by the County for development as ~~that a~~  
35 unified parcel that combined the nonconforming lots, the property cannot be split  
36 or subdivided except as may then be allowed by this Code.

37 5. Nonconforming Corner Lots. Corner lots of record which existed prior to the date  
38 of adoption of Collier County Ordinance No. 82-2 [January 5, 1982] and which do  
39 not meet minimum lot width or area requirements established in the LDC, shall  
40 be required to provide only one full depth front yard. The full depth front yard  
41 requirement shall apply to the front yard which has the shorter or shortest street  
42 frontage. The setback requirement for the remaining front yard(s) may be  
43 reduced to 50 percent of the full front yard setback requirement for that district,  
44 exclusive of any road right-of-way or road right-of-way easement. For setbacks  
45 for Estates (E) zoning district, see LDC Ssection 2.03.01.

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**Land Development Code Amendment Request**

**ORIGIN:** Growth Management Department

**AUTHOR:** Planning and Zoning Division Staff

**LDC SECTION:** 2.03.03 Commercial Zoning Districts  
2.03.04 Industrial Zoning Districts

**SUMMARY:** This amendment clarifies “martial arts” and “dance, gymnastics, judo, and karate instructions,” are permitted uses in the C-3 and Industrial Zoning Districts where physical fitness facilities are also permitted uses. It also clarifies that outdoor amusement and recreation services are conditional uses in the C-3 Zoning District and reinstates an omitted Standard Industrial Classification (SIC) Code in the C-4 Zoning District.

**DESCRIPTION:** Since 2006, staff has relied on an administrative memorandum that was issued to allow certain forms of physical fitness uses, including martial arts, dance, gymnastics, judo, and karate instruction in the C-3 zoning district (Exhibit A). However, they have not been officially codified as permitted uses in the LDC. The administrative memoranda are not well known to the public which results in frequent questions to staff regarding the availability of these uses in C-3 zoning districts. The amendment proposes to codify the staff policy of considering these physical fitness uses as permitted uses in the C-3 zoning district.

Additionally, this amendment clarifies in LDC section 2.03.03 C.1.c. that the conditional use “Amusement and Recreation Services,” in the C-3 zoning district is for outdoor uses only. Also, the amendment reinstates SIC Code number 7999 in the C-4 zoning district which was inadvertently omitted when Ordinance 08-11 was adopted. Lastly, in the Industrial district the amendment shall clarify indoor recreation uses involving physical fitness are permitted uses.

**DSAC-LDR SUBCOMMITTEE RECOMMENDATION:** The DSAC-LDR Subcommittee recommended approval on November 13, 2017, with no changes.

**FISCAL & OPERATIONAL IMPACTS:** There are no fiscal or operational impacts that are anticipated with this amendment.

**GROWTH MANAGEMENT PLAN IMPACTS:** There are no Growth Management Plan impacts associated with this amendment.

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**Amend the LDC as follows:**

- 1 **2.03.03 - Commercial Zoning Districts**
- 2 \* \* \* \* \*
- 3 C. Commercial Intermediate District (C-3). The purpose and intent of the commercial
- 4 intermediate district (C-3) is to provide for a wider variety of goods and services intended
- 5 for areas expected to receive a higher degree of automobile traffic. The type and variety
- 6 of goods and services are those that provide an opportunity for comparison shopping,
- 7 have a trade area consisting of several neighborhoods, and are preferably located at the

1 intersection of two-arterial level streets. Most activity centers meet this standard. This  
2 district is also intended to allow all of the uses permitted in the C-1 and C-2 zoning  
3 districts typically aggregated in planned shopping centers. This district is not intended to  
4 permit wholesaling type of uses, or land uses that have associated with them the need  
5 for outdoor storage of equipment and merchandise. A mixed-use project containing a  
6 residential component is permitted in this district subject to the criteria established  
7 herein. The C-3 district is permitted in accordance with the locational criteria for  
8 commercial and the goals, objectives, and policies as identified in the future land use  
9 element of the Collier County GMP. The maximum density permissible in the C-3 district  
10 and the urban mixed use land use designation shall be guided, in part, by the density  
11 rating system contained in the future land use element of the Collier County GMP. The  
12 maximum density permissible or permitted in the C-3 district shall not exceed the density  
13 permissible under the density rating system.

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

18 a. *Permitted uses.*

- 19 1. Accounting (8721).
- 20 2. Adjustment and collection services (7322).
- 21 3. Advertising agencies (7311).
- 22 4. Amusement and recreation services, indoor (7999- martial arts,  
23 yoga and gymnastics instruction, gymnastic schools, and  
24 recreation involving physical fitness exercise only).
- 25 ~~4. 5.~~ Animal specialty services, except veterinary (0752, excluding  
26 outside kenneling).
- 27 ~~5. 6.~~ Apparel and accessory stores (5611—5699) with 5,000 square  
28 feet or less of gross floor area in the principal structure.

29 **Note: ALL REMAINING SUBSECTIONS TO BE RENUMBERED ACCORDINGLY**

30 \* \* \* \* \*

31 c. *Conditional uses.* The following uses are permissible as conditional uses  
32 in the commercial intermediate district (C-3), subject to the standards and  
33 procedures established in sections 4.02.02 and 10.08.00.

- 34 1. Amusements and recreation services, outdoor (7999 - boat rental,  
35 miniature golf course, bicycle, and moped rental, rental of beach  
36 chairs and accessories only).

37 \* \* \* \* \*

38 D. General Commercial District (C-4). The general commercial district (C-4) is intended to  
39 provide for those types of land uses that attract large segments of the population at the  
40 same time by virtue of scale, coupled with the type of activity. The purpose and intent of  
41 the C-4 district is to provide the opportunity for the most diverse types of commercial  
42 activities delivering goods and services, including entertainment and recreational  
43 attractions, at a larger scale than the C-1 through C-3 districts. As such, all of the uses  
44 permitted in the C-1 through C-3 districts are also permitted in the C-4 district. The  
45 outside storage of merchandise and equipment is prohibited, except to the extent that it  
46 is associated with the commercial activity conducted on-site such as, but not limited to,  
47 automobile sales, marine vessels, and the renting and leasing of equipment. Activity  
48 centers are suitable locations for the uses permitted by the C-4 district because most  
49 activity centers are located at the intersection of arterial roads. Therefore the uses in the  
50 C-4 district can most be sustained by the transportation network of major roads. The C-4  
51 district is permitted in accordance with the locational criteria for uses and the goals,

objectives, and policies as identified in the future land use element of the Collier County GMP. The maximum density permissible or permitted in a district shall not exceed the density permissible under the density rating system.

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

a. Permitted uses.

- 1. Accounting (8721).
- 2. Adjustment and collection services (7322).
- 3. Advertising agencies (7311).
- 4. Advertising — miscellaneous (7319).
- 5. Agricultural services (0783).
- 6. Amusement and recreation services, indoor (7999).

# # # # # # # # # # # # # #

**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.

\* \* \* \* \* \* \* \* \* \* \* \* \*

- 39. Physical fitness facilities, indoor (7911 except Discotheques, 7991, 7999 - limited to baseball instruction, basketball instruction, gymnastics instruction, ~~judo instruction, karate instruction, and martial arts instruction~~, yoga instruction, gymnastic schools, and recreation involving physical fitness exercise only).

# # # # # # # # # # # # # #

**EXHIBIT A**

**MEMORANDUM**



*Community Development & Environmental Services Division  
Department of Zoning & Land Development Review*

**To:** Front Counter Planners

**From:** Ross Gochenaur, Senior Planner

**Date:** 9 May 2006

**Subject:** Zoning for physical fitness uses, including martial arts and dance instruction

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The question of what zoning districts permit these uses continually resurfaces. **The above uses are permitted in C-3, C-4, C-5 and Industrial zoning.** This is based on the reasoning expressed in Susan Murray's memo dated 24 December 2003, which groups these uses under the general heading of physical fitness, allowing them in the Industrial zoning district and by extension of this logic, in C-3, C-4 and C-5.

Although the SIC code for physical fitness is SIC 7991, two other SIC codes are involved, because these codes *include* certain activity classified as physical fitness: 7991 (physical fitness) includes aerobic dance and exercise classes, weight-reduction exercise classes, gymnasiums and health clubs, and all uses under this category are permitted in the above districts; 7911 (dance studios, schools and halls) of which only dance studio, dance instruction, and dance schools are permitted in the above districts; and 7999 (amusement and recreation services) of which only martial arts (such as karate and judo), yoga, gymnastic instructions, gymnastic schools and indoor recreation involving physical exercise (such as handball, tennis, swimming, racquetball, etc) are permitted in the above districts. With regard to uses under the last two categories *which do not constitute physical fitness*, these are permitted as indicated in the LDC Use Tables.

## **Land Development Code Amendment Request**

**ORIGIN:** Board of Zoning Appeals and Growth Management Department Staff

**AUTHOR:** Growth Management Department Staff

**LDC SECTIONS:**

|         |                                                                       |
|---------|-----------------------------------------------------------------------|
| 2.03.07 | Overlay Zoning Districts                                              |
| 4.02.01 | Dimensional Standards for Principal Uses in Base Zoning Districts     |
| 4.02.03 | Specific Standards for Location of Accessory Buildings and Structures |
| 4.02.04 | Standards for Cluster Residential Design                              |
| 4.02.06 | Standards for Development in Airport Zones                            |

**SUMMARY:** This amendment reorganizes the dimensional standards tables for accessory structures to clarify and correct several provisions and highlight swimming pool and screen enclosure setbacks.

### **DESCRIPTION:**

*Changes to LDC section 2.03.07*

This amendment removes references to tables that are removed by this amendment's changes to LDC section 4.02.04.

*Changes to LDC section 4.02.01*

This amendment expands the allowance for setback encroachments for permanent emergency generators from single-family residences only, to include multi-family and non-residential buildings. This change represents staff's current application of setbacks to permanent emergency generators for multi-family and non-residential buildings.

*Changes to LDC section 4.02.04*

Currently, setbacks for accessory buildings and structures are located within two tables that are difficult to use and contain inconsistencies and missing information. This amendment merges the tables into one for clarity and usability and includes the following changes:

1. **Carpports:** Currently the tables identify the same setbacks for carports and parking garages. However, LDC section 4.02.01 D.12 allows setback encroachments for carports which are open on all sides in commercial, industrial, and multi-family residential developments. This amendment separates carports from parking garages in the table, includes a cross-reference to LDC section 4.02.01 D in the notes, and identifies the same standards apply to two-family dwelling units for clarity. Additionally, the rear setback for commercial, industrial, and multi-family carports is changed from "35 feet" to "SPS" for consistency with the rear setback for one-story and multi-story parking structures, as described in the next section.
2. **One-story and multi-story parking structures:** The following two changes to the required setbacks for one-story and multi-story parking structures are included:

- a) One-story and multi-story parking structures are currently listed separately, but have the same required setbacks, except for the structure to structure setbacks which are as follows:

- One-story parking structures: 10 feet
- Multi-story parking structures: 1 foot of accessory height = 1 foot of building separation (1/1)

Since one-story parking structures are typically 10 feet in height or less, these two standards are effectively the same. Additionally, any one-story parking structure that is more than 10 feet in height should have the same structure-to-structure setback as any other parking structure that is more than 10 feet in height. Therefore, this amendment combines these two items in the table and modifies the structure to structure setback to “1/1 with a minimum of 10 feet.”

- b) Currently, the rear setback for one- or multi-story parking structures on non-waterfront and non-golf course lots is 35 feet. However, the rear setback on waterfront or golf course lots are the same as the principal structure (SPS). Additionally, a 35-foot rear setback is greater than the rear setback for the principal structure in several zoning districts. Therefore, the rear setbacks for one- and multi-family parking structures on non-waterfront and non-golf course lots are changed from “35 feet” to “SPS.”

3. **Parking garage (one- and two-family):** Currently, only setbacks for detached parking garages for single-family dwelling units are identified, while two-family dwelling units that include detached parking garages are not listed. This amendment codifies the same setback for detached parking garages whether the principal structure is a one-family or two-family use, consistent with staff’s current application of this section.
4. **Permanent emergency generators:** Currently, the side setback for permanent emergency generators includes a cross-reference to LDC section 4.02.01 D.13, which allows encroachments of up to 36 inches into the side setback. However, the setback itself is not identified. This amendment clarifies that the side setback for permanent emergency generators is the same as the principal structure (SPS) and includes a cross-reference to LDC section 4.02.01 D in the notes.
5. **Tennis courts (private) (one- and two-family):** The “(private)” designation is removed from tennis courts for one- and two-family. Public tennis courts are not an accessory use to one- and two-family structures so the distinction is unnecessary.
6. **Trellises, arbors, and similar structures:** Trellises, arbors, and similar structures are not currently listed in the tables. Instead, staff uses a 2007 administrative memorandum when applying setbacks to these structures (Exhibit A). Consistent with the 2007 memo, this amendment adds two setback requirements for trellises, arbors, and similar structures which vary depending on whether the structure exceeds the maximum fence height for the respective zoning district.

7. **Attached screen porches, swimming pools and screen enclosures:** Currently, setbacks for attached screen porches and swimming pools and screen enclosures on waterfront lots and golf course lots include a lengthy and confusing note. Additionally, setbacks for swimming pools and screen enclosures were the subject of a variance request heard by the Board of Zoning Appeals (BZA) on February 28, 2017 (See Agenda Item 8.A). At the meeting, it was noted that the pool and screen enclosure standards are currently contained in multiple tables and notes in the LDC, making them easy to overlook. In response, the BZA directed staff to proceed with an LDC amendment to clarify these tables. This amendment relocates the notes for attached screen porches and pools and screen enclosures into the new table for clarity.

The setbacks are also modified to remove a reference to Marco Island. Setbacks for swimming pools and screen enclosures were modified by Ordinance No. 97-2. Marco Island had not yet incorporated at the time the ordinance was adopted, so the provision in Table 4 - Note 3 included standards applicable to Marco Island. When Marco Island incorporated later in 1997, the standards no longer applied to the City of Marco Island, therefore, the reference to Marco Island is removed.

Additionally, the word “screen” is removed from attached screen porch because attached porches should have the same setback whether they have a screen or not.

8. **Chickee, barbecue areas:** Currently the structure-to-structure setback for “chickee, barbecue areas” is “10 feet” on non-waterfront and non-golf course lots and “None” for waterfront and golf course lots. The structure-to-structure setback for waterfront and golf course lots is changed to “10 feet” to be consistent with the same structures on non-waterfront and non-golf course lots and for fire safety.
9. **Davits, hoists, and lifts:** On waterfront lots and golf course lots, the structure-to-structure setback is changed from “SPS” to “None.” Davits, hoists, and lifts are often situated in close proximity to, or work in conjunction with, other boathouses, docks, or other shorefront facilities, therefore, it is not appropriate to apply a structure-to-structure setback to these accessory structures.
10. **Dock facilities and boathouses:** Currently, side setback requirements for dock facilities and boathouses are listed as “7.5 feet or 15” feet. However, setback requirements for dock facilities and boathouses are established in LDC sections 5.03.06 E and F. This amendment replaces setbacks of “7.5 feet or 15” feet with a cross-reference to LDC sections 5.03.06 E and F to clarify where the setbacks are established.

11. **Notes:**

- a. **Removed abbreviations:** The abbreviations “N” and “NP” have been written out within the table to reduce the number of notes.
- b. **Accessory structures in Rural Agricultural (A) and Estates (E) zoning districts:** Currently, both tables include a note regarding accessory structures in A and E zoning districts. This note has been relocated to the new LDC section 4.02.03

C and a new cross-reference has been added to LDC section 4.02.07 for standards for accessory structures related to keeping animals and livestock. This makes the standard easier to recognize and eliminates duplicative notes.

- c. **“NP” designation:** Currently, the front setback for permanent emergency generators and satellite dish antennas in both tables are listed as “NP.” The notes for each table indicate that “NP” means “Structure allowed in rear of building only.” However, these structures are also allowed on the sides of buildings. This amendment clarifies the structure or use is “not permitted in front of building” within the table, rather than as a note.
- d. **All asterisks are changed to numbers:** Currently, several footnotes are indicated using asterisks. This amendment replaces all asterisks with numbers for clarity.

*Changes to LDC sections 4.02.04 and 4.02.06*

Since this amendment removes Tables 2 and 3 from LDC Chapter 4, the remaining tables in LDC sections 4.02.04 and 4.02.06 must be renumbered. No other changes are made to these sections.

**DSAC-LDR SUBCOMMITTEE RECOMMENDATION:** The DSAC-LDR Subcommittee made recommendations for additional clarification to the notes and cross-references, which were incorporated into the amendment. The Subcommittee recommended approval on November 13, 2017.

**FISCAL & OPERATIONAL IMPACTS:** There are no anticipated fiscal and operational impacts associated with this amendment.

**GROWTH MANAGEMENT PLAN IMPACT:** There are no anticipated Growth Management Plan impacts associated with this amendment.

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**Amend the LDC as follows:**

**2.03.07 Overlay Zoning Districts**

- \* \* \* \* \*
- 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 below.  
\* \* \* \* \*
- 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.  
\* \* \* \* \*
- 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.



1 \* \* \* \* \*  
 2 vii. 4.02.03 A-Specific Standards for Location of Accessory Buildings  
 3 and Structures, Dimensional Standards (~~Tables 3 and 4~~), except  
 4 that in the case of new development on commercial parcels, no  
 5 deviation shall be granted from the required 50-foot building  
 6 setback when abutting residentially zoned properties, or from the  
 7 minimum 10-foot wide landscaped strip between the abutting road  
 8 right-of-way and the off-street parking area. Deviations from these  
 9 requirements may be considered in the case of redevelopment  
 10 where existing structures and/or encroachments are proposed to  
 11 remain.

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 14 **4.02.01 Dimensional Standards for Principal Uses in Base Zoning Districts**

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16 D. Exemptions and exclusions from design standards.

17 \* \* \* \* \*

18 13. Permanent emergency generators may be placed within the rear yard of any  
 19 ~~property supporting a permitted single family residence~~, subject to a 10-foot rear  
 20 yard setback, and within side yards subject to a maximum encroachment into the  
 21 setback of 36 inches. Generators are not permitted to encroach into required  
 22 front yards. Above-ground fuel tanks for the generators are subject to the same  
 23 setbacks; however, underground tanks are not subject to setback requirements.  
 24 In order to reduce noise during required routine exercising of the generators, this  
 25 exercising is restricted to operating the generator for no more than 30 minutes  
 26 weekly during the hours of 9:00 a.m. to 5:00 p.m. and shall not exceed sound  
 27 level limits for Manufacturing and Industrial uses as set forth in Ordinance 90-17,  
 28 the Noise Ordinance, as amended. All permanent emergency generators must  
 29 be equipped with sound attenuating housing to reduce noise.

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 32 **4.02.03 Specific Standards for Location of Accessory Buildings and Structures**

33 A. For the purposes of this section, in order to determine yard requirements, the term  
 34 "accessory structure" shall include detached and attached accessory use structures or  
 35 buildings notwithstanding the attachment of such structure or building containing the  
 36 accessory use to the principal use structure or building. Accessory buildings and  
 37 structures must be constructed simultaneously with or following the construction of the  
 38 principal structure and shall conform with the following setbacks and building  
 39 separations.

40 **Table 3. Dimensional Standards for Accessory Buildings and Structures on Non-**  
 41 **Waterfront Lots And Non-Golf Course Lots in Zoning Districts other than Rural**  
 42 **Agricultural (A) and Estates (E)\*\*.**

|    |                                                                        | Front | Rear    | Side | Structure to Structure (If Detached) |
|----|------------------------------------------------------------------------|-------|---------|------|--------------------------------------|
| 1. | <del>Parking garage or carport, single family</del>                    | SPS   | 10 feet | SPS  | 10 feet                              |
| 2. | <del>One-story parking structures and/or carports</del>                | SPS   | 35 feet | SPS  | 10 feet                              |
| 3. | <del>Multistory parking structures</del>                               | SPS   | 35 feet | SPS  | 1/1*                                 |
| 4. | <del>Swimming pool and/or screen enclosure (one- and two-family)</del> | SPS   | 10 feet | SPS  | N                                    |

|     |                                               |     |         |                       |         |
|-----|-----------------------------------------------|-----|---------|-----------------------|---------|
| 5.  | Swimming pool (multi-family and commercial)   | SPS | 20 feet | 15 feet               | N       |
| 6.  | Tennis courts (private) (one- and two-family) | SPS | 15 feet | SPS                   | 10 feet |
| 7.  | Tennis courts (multi-family, and commercial)  | SPS | 20 feet | 15 feet               | 20 feet |
| 8.  | Utility buildings                             | SPS | 10 feet | SPS                   | 10 feet |
| 9.  | Chickee, barbecue areas                       | SPS | 10 feet | SPS                   | 10 feet |
| 10. | Attached screen porch                         | SPS | 10 feet | SPS                   | N/A     |
| 11. | Unlisted accessory                            | SPS | SPS     | SPS                   | 10 feet |
| 12. | Satellite dish antenna                        | NP  | 15 feet | SPS                   | 10 feet |
| 13. | Permanent emergency generators                | NP  | 10 feet | See Sec. 4.02.01 D.13 | N/A     |

N = None.

N/A = Not applicable.

NP = Structure allowed in rear of building only.

SPS = Calculated same as principal structure.

\* = 1 foot of accessory height = 1 foot building separation.

\*\* = All accessory structures in Rural Agricultural and Estates zoning districts must meet principal structure setbacks.

Table 4. Dimensional Standards for Accessory Buildings and Structures on Waterfront Lots and Golf Course Lots in Zoning Districts other than Rural Agricultural (A) and Estates (E)\*\*-<sup>2</sup>

|     |                                                             | Setbacks |                      |                          | Structure to structure (If Detached) |
|-----|-------------------------------------------------------------|----------|----------------------|--------------------------|--------------------------------------|
|     |                                                             | Front    | Rear                 | Side                     |                                      |
| 1.  | Parking garage or carport, single-family                    | SPS      | SPS                  | SPS                      | 10 feet                              |
| 2.  | One-story parking structures                                | SPS      | SPS                  | SPS                      | 10 feet                              |
| 3.  | Multistory parking structures                               | SPS      | SPS                  | SPS                      | 1/1- <sup>1</sup>                    |
| 4.  | Swimming pool and/or screen enclosure (one- and two-family) | SPS      | 10 feet <sup>3</sup> | SPS                      | N                                    |
| 5.  | Swimming pool (multi-family and commercial)                 | SPS      | 20 feet              | 15 feet                  | N                                    |
| 6.  | Tennis courts (private) (one- and two-family)               | SPS      | 15 feet              | SPS                      | 10 feet                              |
| 7.  | Tennis courts (multi-family and commercial)                 | SPS      | 35 feet              | SPS                      | 20 feet                              |
| 8.  | Boathouses and boat shelters (private)                      | SPS      | N/A                  | 7.5 feet or 15 feet      | 10 feet                              |
|     |                                                             |          |                      | See subsection 5.03.06F. |                                      |
| 9.  | Utility buildings                                           | SPS      | SPS                  | 10 feet                  | 10 feet                              |
| 10. | Chickee, barbecue areas                                     | SPS      | 10 feet              | SPS                      | N                                    |
| 11. | Davits, hoists and lifts                                    | N/A      | N/A                  | 7.5 feet or 15 feet      | SPS                                  |
| 12. | Attached screen porch                                       | SPS      | 10 feet <sup>4</sup> | SPS                      | SPS                                  |
| 13. | Unlisted accessory                                          | SPS      | SPS                  | SPS                      | 10 feet                              |
| 14. | Docks, decks and mooring pilings                            | N/A      | N/A                  | 7.5 feet or 15 feet      | N/A                                  |
| 15. | Boat slips and ramps (private)                              | N/A      | N/A                  | 7.5 feet                 | N/A                                  |
| 16. | Satellite dish antennas                                     | NP       | 15 feet              | SPS                      | 10 feet                              |

|     |                                                                 |         |         |                              |     |
|-----|-----------------------------------------------------------------|---------|---------|------------------------------|-----|
| 17. | <del>Permanent emergency generators</del>                       | NP      | 40 feet | <u>See Sec. 4.02.01 D.13</u> | N/A |
| 18. | <del>Golf clubhouse and maintenance buildings<sup>5</sup></del> | 50 feet | 50 feet | 50 feet                      | N/A |

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N = None.

N/A = Not applicable.

NP = Structure allowed in rear of building only.

SPS = Calculated same as principal structure.

\*\* = All accessory structures in Rural Agricultural and Estates zoning districts must meet principal structure setbacks.

<sup>1</sup> 1 foot of accessory height = 1 foot of building separation.

<sup>2</sup> In those cases where the coastal construction control line is involved, the coastal construction control line will apply.

<sup>3</sup> 20 feet where swimming pool decks exceed 4 feet in height above top of seawall or top of bank, except Marco Island and Isles of Capri which may construct to a maximum of seven feet above the seawall with a maximum of four feet of stem wall exposure, with the rear setback of ten feet.

<sup>4</sup> 20 feet where floor or deck of porch exceeds 4 feet in height above top of seawall or top of bank, except Marco Island and Isles of Capri which may construct to a maximum of seven feet above the seawall with a maximum of four feet of stem wall exposure, with the rear setback of ten feet.

<sup>5</sup> The setback shall apply to external boundaries of the golf course district, and shall be inclusive of separately platted buffer tracts.

B. Accessory buildings shall not occupy an area greater than five (5) percent of the total lot area in all residential zoning districts, or occupy an area greater than forty (40) percent of any building envelope (i.e., area of lot remaining for building purposes after accounting for required setbacks), whichever is the lesser, provided the total maximum coverage provision of this ordinance for all principal and accessory buildings is not exceeded. Nothing herein contained shall serve to prevent the construction of an accessory building containing an area of less than 500 square feet provided all yard and building spacing requirements can be met.

C. All accessory structures in Rural Agricultural (A) and Estates (E) zoning districts must meet principal structure setbacks. For accessory structures related to the keeping of animals and livestock in these districts, see LDC section 4.02.07.

D. Table of dimensional standards for accessory buildings and structures in zoning districts other than Rural Agricultural (A) and Estates (E):

| <u>Location</u>                                     | <u>Accessory Building/Structure</u>                                    | <u>Setbacks</u> |                |             |                | <u>Structure to Structure (If Detached)</u> |
|-----------------------------------------------------|------------------------------------------------------------------------|-----------------|----------------|-------------|----------------|---------------------------------------------|
|                                                     |                                                                        | <u>Front</u>    | <u>Rear</u>    | <u>Side</u> |                |                                             |
| <u>Non-Waterfront Lots and Non-Golf Course Lots</u> | <u>Attached porch</u>                                                  | <u>SPS</u>      | <u>10 feet</u> | <u>SPS</u>  | <u>N/A</u>     |                                             |
|                                                     | <u>Carports (commercial, industrial, and multi-family)<sup>1</sup></u> | <u>SPS</u>      | <u>SPS</u>     | <u>SPS</u>  | <u>10 feet</u> |                                             |
|                                                     | <u>Carports (one- and two-family)</u>                                  | <u>SPS</u>      | <u>10 feet</u> | <u>SPS</u>  | <u>10 feet</u> |                                             |
|                                                     | <u>Chickee, barbecue areas</u>                                         | <u>SPS</u>      | <u>10 feet</u> | <u>SPS</u>  | <u>10 feet</u> |                                             |

|                                                         |                                                                                                                                                                                                                                                                                                                                                    |                                    |                |                |                                                  |
|---------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------|----------------|----------------|--------------------------------------------------|
|                                                         | <u>One-story and multi-story parking structures</u>                                                                                                                                                                                                                                                                                                | <u>SPS</u>                         | <u>SPS</u>     | <u>SPS</u>     | <u>1/1<sup>2</sup> with a minimum of 10 feet</u> |
|                                                         | <u>Parking garage (one- and two-family)</u>                                                                                                                                                                                                                                                                                                        | <u>SPS</u>                         | <u>10 feet</u> | <u>SPS</u>     | <u>10 feet</u>                                   |
|                                                         | <u>Permanent emergency generators<sup>1</sup></u>                                                                                                                                                                                                                                                                                                  | <u>Not permitted in front yard</u> | <u>10 feet</u> | <u>SPS</u>     | <u>N/A</u>                                       |
|                                                         | <u>Satellite dish antennas</u>                                                                                                                                                                                                                                                                                                                     | <u>Not permitted in front yard</u> | <u>15 feet</u> | <u>SPS</u>     | <u>10 feet</u>                                   |
|                                                         | <u>Swimming pool and/or screen enclosure (one- and two-family)</u>                                                                                                                                                                                                                                                                                 | <u>SPS</u>                         | <u>10 feet</u> | <u>SPS</u>     | <u>None</u>                                      |
|                                                         | <u>Swimming pool (multi-family and commercial)</u>                                                                                                                                                                                                                                                                                                 | <u>SPS</u>                         | <u>20 feet</u> | <u>15 feet</u> | <u>None</u>                                      |
|                                                         | <u>Tennis courts (one- and two-family)</u>                                                                                                                                                                                                                                                                                                         | <u>SPS</u>                         | <u>15 feet</u> | <u>SPS</u>     | <u>10 feet</u>                                   |
|                                                         | <u>Tennis courts (multi-family, and commercial)</u>                                                                                                                                                                                                                                                                                                | <u>SPS</u>                         | <u>20 feet</u> | <u>15 feet</u> | <u>20 feet</u>                                   |
|                                                         | <u>Trellises, arbors, and similar structures that do not exceed the maximum fence height in LDC section 5.03.02</u>                                                                                                                                                                                                                                | <u>None</u>                        | <u>None</u>    | <u>None</u>    | <u>None</u>                                      |
|                                                         | <u>Trellises, arbors, and similar structures that exceed the maximum fence height in LDC section 5.03.02</u>                                                                                                                                                                                                                                       | <u>SPS</u>                         | <u>10 feet</u> | <u>SPS</u>     | <u>None</u>                                      |
|                                                         | <u>Unlisted accessory</u>                                                                                                                                                                                                                                                                                                                          | <u>SPS</u>                         | <u>SPS</u>     | <u>SPS</u>     | <u>10 feet</u>                                   |
|                                                         | <u>Utility buildings</u>                                                                                                                                                                                                                                                                                                                           | <u>SPS</u>                         | <u>10 feet</u> | <u>SPS</u>     | <u>10 feet</u>                                   |
| <u>Waterfront Lots and Golf Course Lots<sup>3</sup></u> | <u>Attached porch where floor or deck of porch are:</u><br><ul style="list-style-type: none"> <li><u>In Isles of Capri: Seven feet in height or less above the top of seawall with a maximum of four feet of stem wall exposure</u></li> <li><u>In all other areas: Four feet in height or less above top of seawall or top of bank</u></li> </ul> | <u>SPS</u>                         | <u>10 feet</u> | <u>SPS</u>     | <u>SPS</u>                                       |
|                                                         | <u>Attached porch where floor or deck of porch are:</u><br><ul style="list-style-type: none"> <li><u>In Isles of Capri: More than seven feet in height above the top of seawall or</u></li> </ul>                                                                                                                                                  | <u>SPS</u>                         | <u>20 feet</u> | <u>SPS</u>     | <u>SPS</u>                                       |

|  |                                                                                                                                                                                                                                               |                                    |                |                                         |                                                  |
|--|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------|----------------|-----------------------------------------|--------------------------------------------------|
|  | <u>with more than four feet of stem wall exposure</u><br><ul style="list-style-type: none"> <li><u>In all other areas: More than four feet in height above top of seawall or top of bank</u></li> </ul>                                       |                                    |                |                                         |                                                  |
|  | <u>Boat slips and ramps (private)</u>                                                                                                                                                                                                         | <u>N/A</u>                         | <u>N/A</u>     | <u>7.5 feet</u>                         | <u>N/A</u>                                       |
|  | <u>Boathouses and boat shelters (private)</u>                                                                                                                                                                                                 | <u>SPS</u>                         | <u>N/A</u>     | <u>See LDC sections 5.03.06 E and F</u> | <u>10 feet</u>                                   |
|  | <u>Carports (commercial, industrial, and multi-family)<sup>1</sup></u>                                                                                                                                                                        | <u>SPS</u>                         | <u>SPS</u>     | <u>SPS</u>                              | <u>10 feet</u>                                   |
|  | <u>Carports (one- and two-family)</u>                                                                                                                                                                                                         | <u>SPS</u>                         | <u>SPS</u>     | <u>SPS</u>                              | <u>10 feet</u>                                   |
|  | <u>Chickee, barbecue areas</u>                                                                                                                                                                                                                | <u>SPS</u>                         | <u>10 feet</u> | <u>SPS</u>                              | <u>10 feet</u>                                   |
|  | <u>Davits, hoists, and lifts</u>                                                                                                                                                                                                              | <u>N/A</u>                         | <u>N/A</u>     | <u>See LDC sections 5.03.06 E and F</u> | <u>None</u>                                      |
|  | <u>Docks, decks, and mooring pilings</u>                                                                                                                                                                                                      | <u>N/A</u>                         | <u>N/A</u>     | <u>See LDC sections 5.03.06 E and F</u> | <u>N/A</u>                                       |
|  | <u>Golf clubhouse and maintenance buildings<sup>4</sup></u>                                                                                                                                                                                   | <u>50 feet</u>                     | <u>50 feet</u> | <u>50 feet</u>                          | <u>N/A</u>                                       |
|  | <u>One-story and multi-story parking structures</u>                                                                                                                                                                                           | <u>SPS</u>                         | <u>SPS</u>     | <u>SPS</u>                              | <u>1/1<sup>2</sup> with a minimum of 10 feet</u> |
|  | <u>Parking garage (one- and two-family)</u>                                                                                                                                                                                                   | <u>SPS</u>                         | <u>SPS</u>     | <u>SPS</u>                              | <u>10 feet</u>                                   |
|  | <u>Permanent emergency generators<sup>1</sup></u>                                                                                                                                                                                             | <u>Not permitted in front yard</u> | <u>10 feet</u> | <u>SPS</u>                              | <u>N/A</u>                                       |
|  | <u>Satellite dish antennas</u>                                                                                                                                                                                                                | <u>Not permitted in front yard</u> | <u>15 feet</u> | <u>SPS</u>                              | <u>10 feet</u>                                   |
|  | <u>Swimming pool and/or screen enclosure (one- and two-family) where swimming pool decks are:</u><br><ul style="list-style-type: none"> <li><u>In Isles of Capri: Seven feet in height or less above the top of seawall with a</u></li> </ul> | <u>SPS</u>                         | <u>10 feet</u> | <u>SPS</u>                              | <u>None</u>                                      |

|  |                                                                                                                                                                                                                                                                                                                                                                                                  |             |                |                |                |
|--|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------|----------------|----------------|----------------|
|  | <u>maximum of four feet of stem wall exposure</u><br><ul style="list-style-type: none"> <li><u>In all other areas: Four feet in height or less above top of seawall or top of bank</u></li> </ul>                                                                                                                                                                                                |             |                |                |                |
|  | <u>Swimming pool and/or screen enclosure (one- and two-family) where swimming pool decks are:</u><br><ul style="list-style-type: none"> <li><u>In Isles of Capri: More than seven feet in height above the top of seawall or with more than four feet of stem wall exposure</u></li> <li><u>In all other areas: More than four feet in height above top of seawall or top of bank</u></li> </ul> | <u>SPS</u>  | <u>20 feet</u> | <u>SPS</u>     | <u>None</u>    |
|  | <u>Swimming pool (multi-family and commercial)</u>                                                                                                                                                                                                                                                                                                                                               | <u>SPS</u>  | <u>20 feet</u> | <u>15 feet</u> | <u>None</u>    |
|  | <u>Tennis courts (private) (one- and two-family)</u>                                                                                                                                                                                                                                                                                                                                             | <u>SPS</u>  | <u>15 feet</u> | <u>SPS</u>     | <u>10 feet</u> |
|  | <u>Tennis courts (multi-family and commercial)</u>                                                                                                                                                                                                                                                                                                                                               | <u>SPS</u>  | <u>35 feet</u> | <u>SPS</u>     | <u>20 feet</u> |
|  | <u>Trellises, arbors, and similar structures that do not exceed the maximum fence height in LDC section 5.03.02</u>                                                                                                                                                                                                                                                                              | <u>None</u> | <u>None</u>    | <u>None</u>    | <u>None</u>    |
|  | <u>Trellises, arbors, and similar structures that exceed the maximum fence height in LDC section 5.03.02</u>                                                                                                                                                                                                                                                                                     | <u>SPS</u>  | <u>10 feet</u> | <u>SPS</u>     | <u>None</u>    |
|  | <u>Unlisted accessory</u>                                                                                                                                                                                                                                                                                                                                                                        | <u>SPS</u>  | <u>SPS</u>     | <u>SPS</u>     | <u>10 feet</u> |
|  | <u>Utility buildings</u>                                                                                                                                                                                                                                                                                                                                                                         | <u>SPS</u>  | <u>SPS</u>     | <u>10 feet</u> | <u>10 feet</u> |

Notes:

SPS = Calculated same as principal structure.

<sup>1</sup> See LDC section 4.02.01 D for exemptions and exclusions from required yards.

<sup>2</sup> 1 foot of accessory height = 1 foot of building separation.

<sup>3</sup> In those cases where the coastal construction control line is involved, the coastal construction control line will apply.

<sup>4</sup> The setback shall apply to external boundaries of the golf course district, and shall be inclusive of separately platted buffer tracts.

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1 **4.02.04 Standards for Cluster Residential Design**

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3 C. Conditional uses approved for cluster development may reduce the lot area, lot width,  
4 and yard requirements within a zoning district, subject to the criteria enumerated in this  
5 section. The lot area, lot width, coverage, and yard regulations of the residential zoning  
6 district in which the cluster development is located shall be used as the basis for all  
7 computations of allowed reductions. The following reductions in lot area, lot width,  
8 coverage and yard regulations of the underlying zoning district shall be permissible  
9 pursuant to the grant of a conditional use for cluster development.

10 \* \* \* \* \*

11 2. The following site design and dimensional standards shall apply to cluster  
12 development:

13 **Table 53. Table of Design Standards for Cluster Development.**

14 # # # # # # # # # # # # #

15  
16 **4.02.06 Standards for Development in Airport Zones**

17 \* \* \* \* \*

18 D. The width of each primary surface is as follows:

19 **Table 64. Primary Surface Width**

20 \* \* \* \* \*

21 E. Horizontal zone. A horizontal plane 150 feet above the established airport elevation,  
22 the perimeter of which is constructed by swinging arcs for specified radii from the  
23 center of each end of the primary surface of each runway of each airport and  
24 connecting the adjacent arcs by lines tangent to those arcs. The radius of each arc is  
25 as follows:

26 **Table 75. Horizontal Zone Radius**

27 \* \* \* \* \*

28 H. Approach zone. The approach zone is an area longitudinally centered on the extended  
29 runway centerline and extending outward and upward from each end of the primary  
30 surface. An approach zone is designated for the end of each runway based upon the  
31 type of approach available or planned for that runway end.

32 1. *Approach zone width.* The inner edge of the approach zone is the same width  
33 as the primary surface. The outer width of the approach zone is prescribed for  
34 the most precise approach existing or planned for that runway end expanding  
35 uniformly to the following widths:

36 **Table 86. Approach Zone Width (feet)**

37 \* \* \* \* \*

38 2. *Approach zone lengths.* The approach zone extends for the applicable  
39 horizontal distance as follows:

40 **Table 97. Approach Zone Length (feet).**

41 \* \* \* \* \*

42 3. *Approach zone height.* Permitted height limitation within the approach zone  
43 shall not exceed the runway end height at the inner edge and increases  
44 uniformly with horizontal distance outward from the inner edge as follows:

45 **Table 108. Approach Zone Height.**

46 # # # # # # # # # # # # #

MEMORANDUM

*Community Development & Environmental Services Division  
Department of Zoning & Land Development Review*

**To:** Zoning Staff, Building Dept. Staff.

**From:** Ross Gochenaur, Planning Manager

**Date:** 9 April 2007

**Subject:** Trellises, arbors and similar structures, setbacks

---

The LDC does not define “trellis,” but this word is increasingly used to describe certain structures in some subdivisions. Webster defines a trellis as “a frame of latticework used as a screen or as a support for climbing plants.” An arbor is defined as a shelter of vines or branches or of latticework covered with climbing shrubs or vines. A pergola is “an arbor or passageway with a roof of trelliswork on which climbing plants are trained to grow.” The structures we’re seeing described as trellises do not seem to meet any of these definitions precisely. They typically consist of uprights supporting crossbeams, open on top and without latticework, and not noticeably supporting plants.

This item would be identified as an “unlisted accessory” structure in the Code. If the Code were strictly applied, these structures would have to meet the same setbacks as the principal structures. Since this is a grey area, it would seem more reasonable to treat the structure as either a fence or a pool screen enclosure for the purposes of setbacks. The applicant will have two options –

1. If treated as a fence, the structure would have to comply with fence height restrictions but could encroach into any a required yard.
2. If treated as a screen enclosure, it would have to meet the same setback as a pool screen enclosure but could exceed the maximum fence height. Under the last scenario, a “trellis” could not be placed in the required front yard.



## **EXHIBIT A**

Unless specific mention is made of a “trellis” in a PUD document as a permitted structure or, as in one case, on a subdivision plat (where it doesn’t belong), a trellis will be treated as described above with regard to setbacks.

CC: Susan Istenes, AICP, Zoning Director  
Bill Hammond, Building Director  
Alamar Finnegan, Permitting Supervisor

## **Land Development Code Amendment Request**

**ORIGIN:** Growth Management Department

**AUTHOR:** Planning and Zoning Division Staff

**LDC SECTION:** 4.03.04 Lot Line Adjustment and Lot Split

**SUMMARY:** This amendment clarifies the procedure for the review and timely recording of both lot line adjustments and lot splits, and it clarifies that lot splits are applicable to all zoning districts.

**DESCRIPTION:** LDC section 4.03.04 sets forth the application process and conditions to obtain a lot line adjustment and lot split. There has been some confusion and prior interpretation that lot line adjustments and lot splits are limited to the Rural Agricultural (A) and Estates (E) zoning districts. This has resulted in some cases in which staff did not process an application for a lot split that would otherwise meet the minimum dimensional, area, and access requirements to the lot in other zoning districts. Because the division of property into two lots does not meet the definitional requirement of a “subdivision” that creates three or more lots, a property owner under any zoning district should be able to split the property one time, without incurring an added expense of platting the lot when all other code requirements have been satisfied.

Furthermore, this amendment resolves a problem related to the timely filing of the lot split change with the proper offices of the County. After staff has given an approval for a lot split change, some applicants have subsequently sold property without filing the approved lot split with the Property Appraiser’s Office, or Clerk of Courts, and then notifying the County that it had been recorded in the Official Records. The failure to file and record in the Official Records within a timely manner has caused incorrect property identification, addressing, and taxation notices. Moreover, owners who apply for a building permit on a newly-split lot have been rejected if they did not follow these procedures.

For both line adjustments and lot splits, this amendment requires the recording of the approval in the Official Records within 12 months of approval, submittal of the recorded documents to the Growth Management Department, and clarifies the effective date of the approval as the date it is recorded in the Official Public Records. These changes ensure the correct process is followed, and that the Growth Management Department and Property Appraiser can assign a new property address and/or parcel identification number for a lot split.

This amendment also includes a cross-reference to LDC section 4.03.06 access easement standards for Golden Gate Estates lot divisions.

Lastly, the amendment relocates procedures that were deemed to be duplicative to a new area of LDC section 4.03.04 A and D.

**DSAC-LDR SUBCOMMITTEE RECOMMENDATION:** The DSAC-LDR Subcommittee made recommendations for revisions to the narrative and to the LDC text for clarity, which were incorporated into the amendment. The Subcommittee recommended approval on November 13, 2017.

**FISCAL & OPERATIONAL IMPACTS:** There are no fiscal or operational impacts anticipated with this amendment.

**GROWTH MANAGEMENT PLAN IMPACT:** There are no anticipated Growth Management Plan impacts associated with this amendment.

---

**Amend the LDC as follows:**

1 **4.03.04 Lot Line Adjustment and Lot Split**

2 A. Generally. Only lot line adjustments or lot split requests meeting the applicable land  
3 development regulations, including the minimum lot area and lot dimensions for the  
4 existing zoning district, may be approved. The approval does not become effective until  
5 the lot line adjustment or lot split is recorded with the Clerk of Courts in the Official  
6 Records of Collier County, Florida.

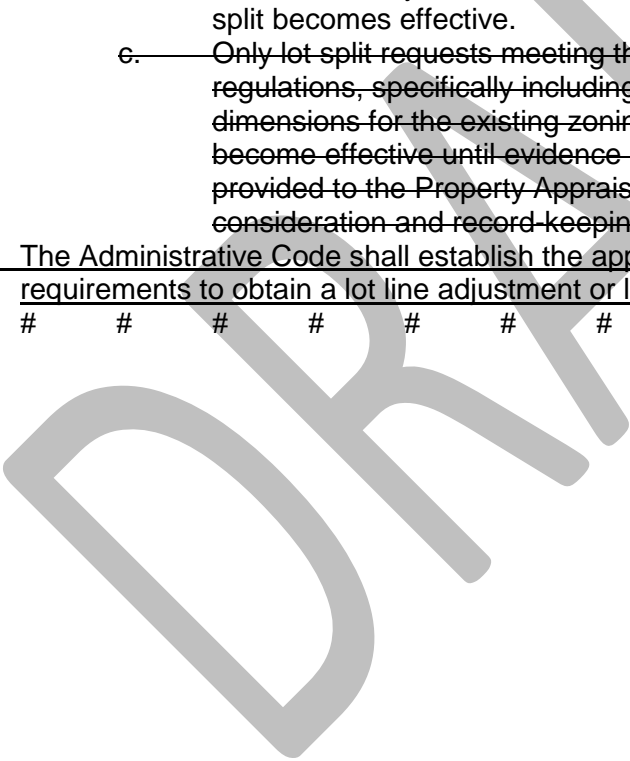
7 AB. Lot Line Adjustment. An adjustment of a lot line between contiguous lots or parcels  
8 which may be platted or unplatted and which are under separate ownership or the same  
9 ownership shall be exempt from this section if all of the following conditions are met. ~~The~~  
10 ~~Administrative Code shall establish the procedures and submittal requirements for~~  
11 ~~obtaining a lot line adjustment.~~ The lot line adjustment shall be recorded with the Clerk of  
12 Courts within 12 months of approval by the County Manager or designee, and a copy of  
13 the recorded document shall be provided to the Growth Management Department.

- 14 1. It is demonstrated that the request is to correct an engineering or surveying error  
15 in a recorded plat or is to permit an insubstantial boundary change between  
16 adjacent parcels; and
- 17 2. Both landowners whose lot lines are being adjusted provide written consent to  
18 the lot line adjustment; and
- 19 3. Instrument(s) evidencing the lot line adjustment shall be filed in the official  
20 records of Collier County, Florida, upon approval, and shall indicate that the  
21 result of the lot line adjustment will meet the standards of, and conforms to, the  
22 requirements of this LDC, including the dimensional requirements of the zoning  
23 district and the subdivision in which the lots are located. However, in cases of an  
24 existing nonconforming lot of record, the adjustment shall not increase the  
25 nonconformity of the lot; and
- 26 4. It is demonstrated that the lot line adjustment will not affect the development  
27 rights or permitted density or intensity of use of the affected lots by providing the  
28 opportunity to create a new lot(s) for resale or development.

29 BC. Lot Split. All lots must have frontage on a public or private right-of-way, with the  
30 exception of ~~4~~ one division of a single platted lot or otherwise established lot of record ~~in~~  
31 ~~the Rural Agricultural or Estates zoning district into 2~~ two lots. Any such lot split may  
32 utilize an access easement to satisfy access, and frontage requirements for the lot which  
33 would not otherwise have street frontage.

- 34 1. The width of such access easement may not be less than 12 feet and may be  
35 required to be wider at the discretion of Collier County staff, to accommodate  
36 safe access and turning movements, stormwater drainage pipes and the like.  
37 Access easement standards for Golden Gate Estates lot divisions shall be per  
38 LDC section 4.03.06.
- 39 2. The number of access points to a public right-of-way shall not be increased as a  
40 result of the lot split if, in the opinion of the county staff, safe and sufficient  
41 access may be accomplished with fewer access points than existed prior to the  
42 proposed lot split.

- 1           3.     The access easement will create a front yard for setback purposes for all lots  
2           abutting the access easement. In cases where access is presently provided by  
3           an access easement to existing lots of record in any zoning district which are not  
4           part of a recorded or unrecorded subdivision, this easement will serve to satisfy  
5           access and frontage requirements for those lots, and yards abutting the  
6           easement will be considered front yards for setback purposes.
- 7           4.     ~~Application.~~ The further split or division of a lot, parcel, or any lot of record into 2  
8           two proposed parcels must be reviewed and approved by the County prior to any  
9           subsequent development orders or development permits issued or approved.  
10          Evidence of the County approved lot split shall be provided to the Property  
11          Appraiser or Clerk of Courts for their consideration and record-keeping. The lot  
12          split shall be recorded with the Clerk of Courts within 12 months of approval by  
13          the County Manager or designee, and a copy of the recorded document shall be  
14          provided to the Growth Management Department.
- 15          a.     ~~The Administrative Code shall establish the procedures and submittal~~  
16          ~~requirements for obtaining a lot split.~~
- 17          b.     ~~Appropriate access to the resulting parcels from the public road network~~  
18          ~~shall be demonstrated, and where necessary, may require appropriate~~  
19          ~~easements for joint or cross access to be recorded before an approved lot~~  
20          ~~split becomes effective.~~
- 21          c.     ~~Only lot split requests meeting the applicable land development~~  
22          ~~regulations, specifically including the minimum lot area and lot~~  
23          ~~dimensions for the existing zoning district, may be approved, but do not~~  
24          ~~become effective until evidence of the County approved lot split is also~~  
25          ~~provided to the Property Appraiser or Clerk of Courts for their~~  
26          ~~consideration and record-keeping, as may be applicable.~~
- 27          D.     The Administrative Code shall establish the application process and submittal  
28          requirements to obtain a lot line adjustment or lot split.
- 29          #     #     #     #     #     #     #     #     #     #     #     #     #



**Land Development Code Amendment Request**

**ORIGIN:** Growth Management Department

**AUTHOR:** Development Review Division Staff

**LDC SECTION:** 10.01.02 Development Orders Required

**SUMMARY:** This amendment proposes to remove the requirement for a determination of legal sufficiency for an Early Work Authorization permit (EWA) agreement.

**DESCRIPTION:** Prior to 2005, in order to commence development prior to the final approval of a development order, a preliminary work authorization in the form established by the County Attorney as a binding agreement that was executed by the Board. Ordinance 2005-12 created an EWA permit that was required to be deemed legally sufficient by the County Attorney’s Office and approved administratively by the County Manager or designee.

Since 2005, EWA permits have been routinely administered by the County Manager or his designee without requiring the Board to execute an agreement. Because Board approval is no longer required, legal review of the permit is not necessary.

Instead, as set forth in the Administrative Code, Chapter 4.D, an applicant submits an application to obtain a EWA permit. If the petition is deemed complete and meets the criteria identified in LDC section 10.01.02 B, the County Manager or designee (Development Review Division) issues a letter of approval and holds a pre-construction meeting prior to commencement of work.

**DSAC-LDR SUBCOMMITTEE RECOMMENDATION:** The DSAC-LDR Subcommittee recommended approval on November 13, 2017 with no changes.

**FISCAL & OPERATIONAL IMPACTS:** There are no fiscal or operational impacts anticipated with this amendment.

**GROWTH MANAGEMENT PLAN IMPACTS:** There are no anticipated Growth Management Plan impacts associated with this amendment.

**Amend the LDC as follows:**

**10.01.02 - Development Orders Required**

\* \* \* \* \*

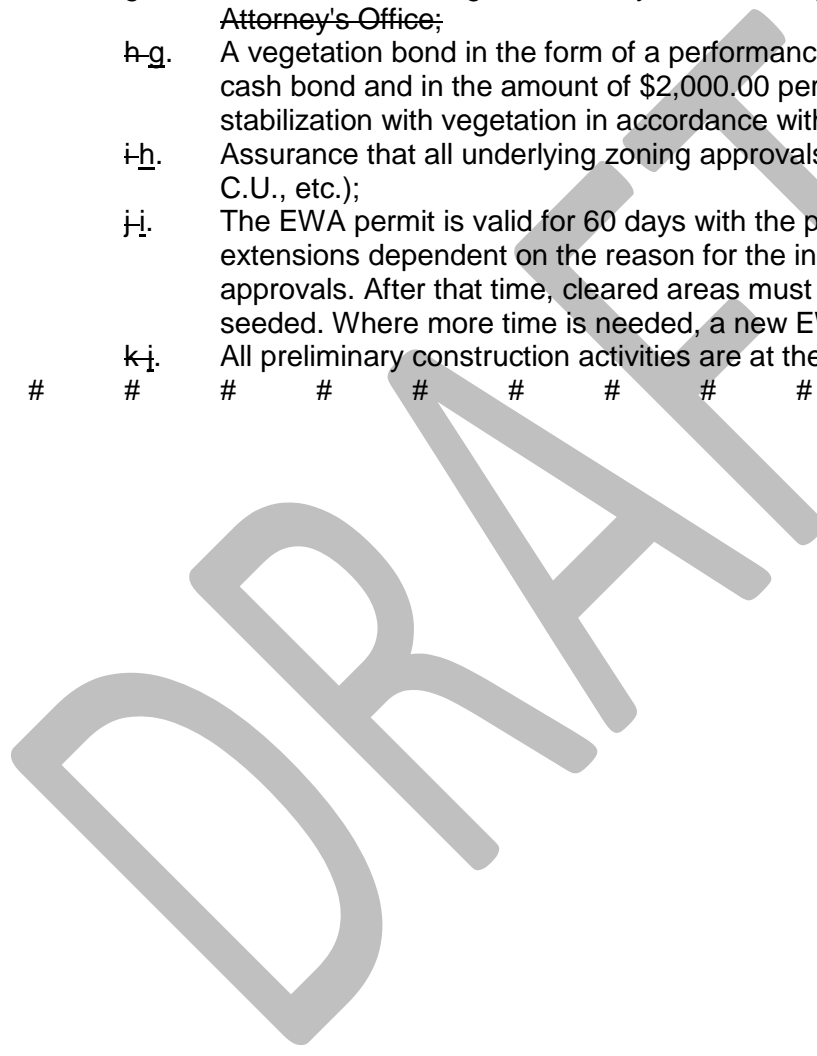
B. Early Work Authorization (EWA). An EWA permit allows for limited development activities before a development order is issued provided all underlying zoning approvals are in place. The Administrative Code shall establish the submittal requirements to obtain an EWA permit.

\* \* \* \* \*

2. The County may issue an EWA permit for the allowed activities, subject to demonstrated compliance with the following criteria, as applicable:

1  
2  
3  
4  
5  
6  
7  
8  
9

- 1 a. The proposed vegetation removal complies with LDC section 3.05.05 O;
- 2 b. County right-of-way permit has been approved;
- 3 c. A determination of native vegetation to be retained for landscaping which
- 4 would comply with LDC section 4.06.00;
- 5 d. An excavation permit has been approved;
- 6 e. A Soil Erosion and Sediment Control Plan demonstrating compliance with
- 7 the provisions of LDC section 6.01.05;
- 8 f. Copies of all approved Agency permits being submitted, including, but not
- 9 limited to: SFWMD, ACOE, USFWS, and FFWCC;
- 10 ~~g. Determination of legal sufficiency of the EWA permit by the County~~
- 11 ~~Attorney's Office;~~
- 12 ~~h.g.~~ A vegetation bond in the form of a performance bond, letter of credit, or
- 13 cash bond and in the amount of \$2,000.00 per acre is posted for
- 14 stabilization with vegetation in accordance with LDC section 4.06.04 A.3;
- 15 ~~h.~~ Assurance that all underlying zoning approvals are in place (e.g. PUD,
- 16 C.U., etc.);
- 17 ~~h.j.~~ The EWA permit is valid for 60 days with the possibility of two 60-day
- 18 extensions dependent on the reason for the inability to gain proper
- 19 approvals. After that time, cleared areas must be graded off and hydro-
- 20 seeded. Where more time is needed, a new EWA may be requested;
- 21 ~~k.i.~~ All preliminary construction activities are at the risk of the developer.
- 22 # # # # # # # # # # # # #



## **Land Development Code Amendment Request**

**ORIGIN:** Board of County Commissioners

**AUTHOR:** Growth Management Department Staff

**LDC SECTION(S):** 10.02.13 Planned Unit Development (PUD) Procedures  
10.03.06 Public Notice and Required Hearings for Land Use Petitions

**SUMMARY:** This amendment adds a requirement for PUD insubstantial changes (PDIs) and PUD minor changes (PMCs) to be heard by the Board of County Commissioners (Board) to approve the ordinance amendment.

**DESCRIPTION:** Currently, PMCs may be approved by the County Manager or designee or the Hearing Examiner (HEX), and PDIs require a hearing by the Collier County Planning Commission (CCPC). However, the Office of the Collier County Clerk of Courts recently questioned this process, suggesting the approval of an insubstantial change constitutes an amendment to an ordinance. It was noted that only the Board can modify an ordinance.

As a result, at the June 13, 2017, Board meeting (Agenda Item 16.A.14), staff was directed to develop amendments to the LDC and Administrative Code for Land Development to require PDIs be brought to the Board for approval and ordinance amendment. Staff was also directed to begin implementing this policy prior to the adoption of the LDC amendment.

This amendment modifies the procedures for PDIs and PMCs in LDC section 10.02.13 E to require PDIs and PMCs to be heard by the Board for ordinance amendment. This requires one hearing on the Board's summary agenda and required advertising. However, if there is an objector, these items will be placed on the Board's regular agenda as an advertised public hearing. LDC section 10.03.06 H requires the following advertising for a PDI: one Neighborhood Information Meeting, mailed notice, newspaper advertisement, and posting of a sign. Procedures for a Boat Dock Facility Extension, Boathouse Establishment, or Boat Dock Canopy Deviation, which are currently combined with procedures for PDIs, are relocated to a new LDC section 10.03.06 Z for clarity. For a PMC, LDC section 10.03.06 T requires a newspaper advertisement (or a mailed notice for PMCs to remove affordable housing commitments).

Additionally, after the adoption of the Administrative Code in 2013, public hearings for PDIs were assigned to the HEX. However, this assignment has not been codified in LDC section 10.02.13 E.2. This amendment clarifies that PDIs may be heard by the HEX, as an alternative to the CCPC, to reflect the current policy.

Finally, since the Board will review all PMCs, it is unnecessary to add an additional hearing before the HEX if an objection to the removal of an affordable housing commitment is received. However, the mailed notice requirement for PMCs removing affordable housing commitments is not changed.

**DSAC-LDR SUBCOMMITTEE RECOMMENDATION:** The DSAC-LDR Subcommittee recommended approval on November 13, 2017, with no changes.

**FISCAL & OPERATIONAL IMPACTS:** Fiscal impacts to applicants include increased time and costs associated with an additional Board hearing and required advertisements for PDIs and PMCs. Operational impacts to the County include increased staff time required to bring PDIs and PMCs to an additional hearing before the Board. As an illustration of the frequency of these requests, between 2015 and 2016, the County received 30 PDI and 7 PMC applications.

**GROWTH MANAGEMENT PLAN IMPACT:** There are no anticipated Growth Management Plan impacts associated with this amendment.

---

**Amend the LDC as follows:**

**10.02.13 Planned Unit Development (PUD) Procedures**

\* \* \* \* \*

E. Changes and amendments. There are three types of changes to a PUD Ordinance: Substantial, Insubstantial, and Minor.

\* \* \* \* \*

2. Insubstantial change determination. An insubstantial change includes any change that is not considered a substantial or minor change. An insubstantial change to an approved PUD Ordinance shall be based upon an evaluation of LDC subsection 10.02.13 E.1 and shall require the review and approval of the Hearing Examiner or Planning Commission, and ordinance amendment by the Board of County Commissioners. ~~The Hearing Examiner decision, Planning Commission approval, and ordinance amendment by the Board of County Commissioners, as applicable,~~ shall be based on the findings and criteria used for the original application and be an action taken at a regularly scheduled meeting.

a. ~~The applicant shall provide the Planning and Zoning Department Director documentation which adequately describes the proposed changes as described in the Administrative Code.~~

3. Minor changes. The following are considered minor changes, and may be approved by the County Manager or designee under the procedures established in the Administrative Code. Minor changes shall also require review and approval of the Board of County Commissioners by ordinance amendment.

a. Educational and ancillary plants exception. When a PUD is amended for the sole purpose of adding an Educational and/or ancillary plant, that PUD will not be subject to the review process outlined in LDC section 10.02.13 E.1. The review conducted will be limited to the impacts that the Educational or ancillary plant will have on the surrounding uses.

b. The County Manager or designee shall also be authorized to allow minor changes to the PUD master plan during its subdivision improvements plan or site development plan process to accommodate topography, vegetation and other site conditions not identified or accounted for during its original submittal and review and when said changes have been determined to be compatible with adjacent land uses, have no impacts external to the site, existing or proposed, and is otherwise consistent with



- 1 the provisions of this code and the growth management plan. Such
- 2 changes shall include:
- 3 i. Internal realignment of rights-of-way, including a relocation of
- 4 access points to the PUD itself, where no water management
- 5 facility, conservation/preservation areas, or required easements
- 6 are affected or otherwise provided for.
- 7 ii. Relocation of building envelopes when there is no encroachment
- 8 upon required conservation or preservation areas.
- 9 iii. Relocation of swimming pools, clubhouses, or other recreation
- 10 facilities when such relocation will not affect adjacent properties or
- 11 land uses.
- 12 iv. Relocation or reconfiguration of lakes, ponds, or other water
- 13 facilities subject to the submittal of revised water management
- 14 plans, or approval of the EAC where applicable.
- 15 c. Minor changes of the type described above shall nevertheless be
- 16 reviewed by appropriate staff to ensure that said changes are otherwise
- 17 in compliance with all county ordinances and regulations prior to the
- 18 Planning and Zoning Department Director's County Manager or
- 19 designee's consideration for approval.
- 20 ed. Affordable housing commitments. Beginning October 3, 2012, the County
- 21 Manager or designee shall be authorized to make minor text changes to
- 22 remove affordable housing commitments to pay an affordable housing
- 23 contribution in PUDs, Development Agreements, and Settlement
- 24 Agreements, if the following conditions are met:
- 25 i. ~~The applicant notices property owners in writing in accordance~~
- 26 ~~with LDC section 10.03.06 T.~~
- 27 ii. ~~If no written objection is received, the request to remove~~
- 28 ~~commitments is deemed approved.~~
- 29 iii. ~~If a property owner who receives notice submits a written~~
- 30 ~~objection within 30 days of mailing of the notice, the matter shall~~
- 31 ~~be scheduled for public hearing before the Board of County~~
- 32 ~~Commissioners. Public notice shall comply with LDC sections~~
- 33 ~~10.03.05 and 10.03.06.~~

# # # # # # # # # # # # #

**10.03.06 Public Notice and Required Hearings for Land Use Petitions**

\* \* \* \* \*

- 38 H. ~~PUD Insubstantial Change (PDI) or Boat Dock Facility Extension, Boathouse~~
- 39 ~~Establishment, or Boat Dock Canopy Deviation:~~
- 40 1. The following advertised public hearings are required:
- 41 a. One Planning Commission or Hearing Examiner hearing.
- 42 b. One BCC hearing for ordinance amendment.
- 43 2. The following notice procedures are required:
- 44 a. ~~For a PDI, a~~ NIM. See LDC section 10.03.05 A. However, upon written
- 45 request by the applicant, the Hearing Examiner has the discretion to
- 46 waive the NIM after the first set of staff review comments have been
- 47 issued.
- 48 b. Mailed Notice prior to the advertised public Planning Commission or
- 49 Hearing Examiner hearing.
- 50 c. Newspaper Advertisement prior to the advertised public hearing.

1 d. Posting of a sign prior to the advertised ~~public~~ Planning Commission or  
2 Hearing Examiner hearing.

3 \* \* \* \* \*

4 T. ~~Minor Change to a PUD, to remove affordable housing contributions, pursuant to LDC~~  
5 ~~section 10.02.13 E.3.c.~~

6 1. The following notice procedures are required:

7 a. ~~For minor changes to remove affordable housing contributions:~~

8 i. ~~Mailed Notice, sent by the applicant.~~

9 ii. Newspaper advertisement prior to the advertised public hearing.

10 b. ~~For other minor changes:~~

11 i. Newspaper advertisement prior to the advertised public hearing.

12 2. The following advertised public hearings ~~may be~~ is required:

13 a. ~~If a written objection is received, one~~ One BCC or Hearing Examiner

14 ~~hearing for ordinance amendment.~~

15 \* \* \* \* \*

16 Z. Boat Dock Facility Extension, Boathouse Establishment, or Boat Dock Canopy  
17 Deviation:

18 1. The following advertised public hearing is required:

19 a. One Hearing Examiner or Planning Commission hearing.

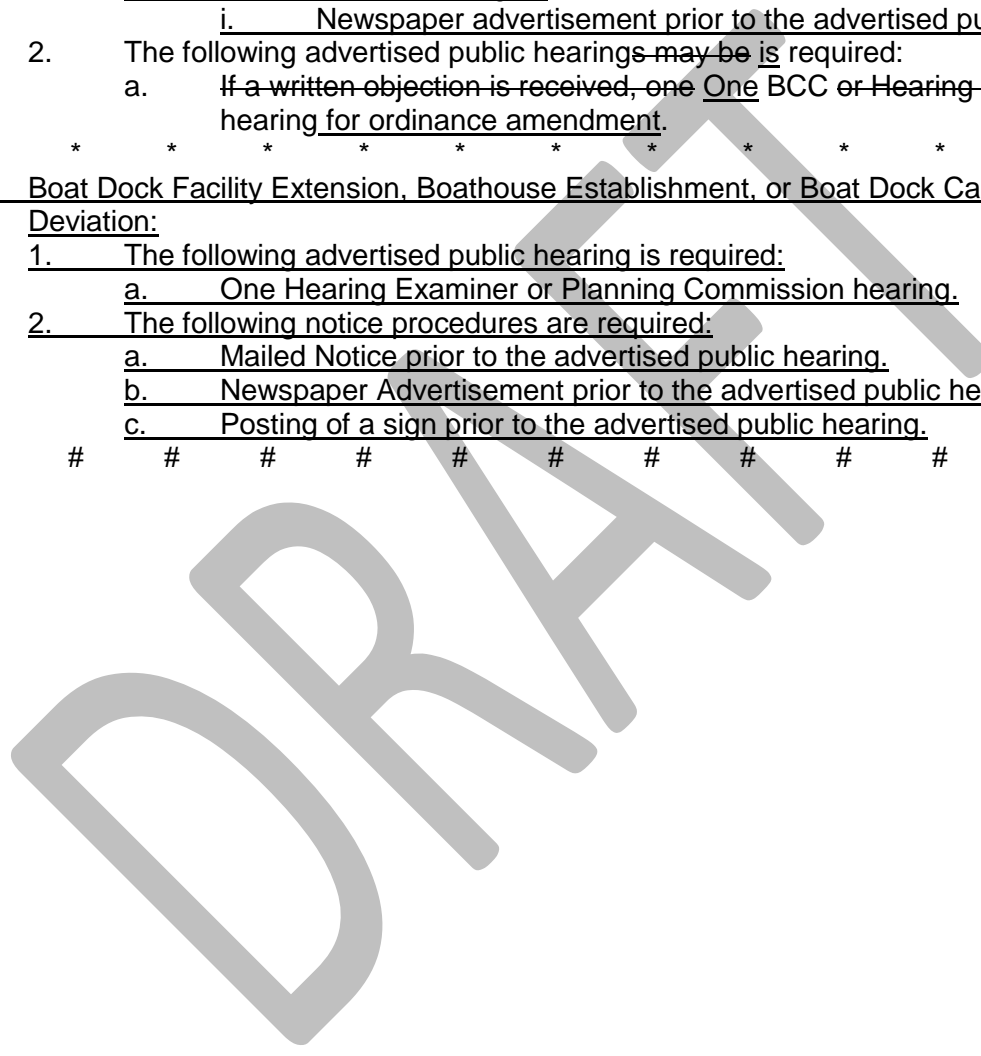
20 2. The following notice procedures are required:

21 a. Mailed Notice prior to the advertised public hearing.

22 b. Newspaper Advertisement prior to the advertised public hearing.

23 c. Posting of a sign prior to the advertised public hearing.

24 # # # # # # # # # # # # #



## Exhibit A

Text underlined is new text to be added  
Strikethrough text is current text to be deleted  
Bold text indicates a defined term

### Collier County Land Development Code | *Administrative Procedures Manual* Chapter 3 | *Quasi-Judicial Procedures with a Public Hearing*

#### G.3. PUD Insubstantial Change

|                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|-----------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Reference</b>            | LDC subsection <u>10.02.13 E</u> , LDC section <u>8.10.00</u> , and LDC Public Notice subsection <u>10.03.06 H</u> .                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <b>Applicability</b>        | This process applies to insubstantial changes to a PUD <del>Master Plan</del> which meets the thresholds in LDC section <u>10.02.13 E</u> .                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| <b>Pre-application</b>      | A pre-application meeting is required.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| <b>Initiation</b>           | The <b>applicant</b> files an application for an <i>“Insubstantial Change <del>To a PUD Master Plan (PDI)</del>”</i> with the Planning & Zoning Division.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| <b>Application Contents</b> | <p>The application must include the following:</p> <ol style="list-style-type: none"><li><b>1. Applicant contact information.</b></li><li>Disclosure of ownership.</li><li><b>3. PUD Ordinance and Development Commitment information.</b></li><li>A legal or graphic description of the area of amendment. This may be graphically illustrated on the Amended PUD Master Plan. If the amendment involves only part of the PUD, provide a legal description for the subject portion.</li><li>A narrative and detailed description of the amendment and why it is necessary, <u>with responses to the criteria listed under LDC section <u>10.02.13 E.1</u>.</u></li><li>An analysis of whether the amendment complies with the Growth Management Plan.</li><li>Whether a public hearing was held for the property within the year preceding the application. If this has occurred, include the <b>applicant’s</b> name.</li><li>Whether any part of the has been sold or developed, and whether the proposed changes involve those areas.</li><li>Current and revised Master Plans, along with a reduced copy of each, describing the proposed changes of the following:<ul style="list-style-type: none"><li>• Land use;</li><li>• Densities;</li><li>• Infrastructure;</li><li>• Open space, preservation or conservation areas;</li><li>• Area of building square footage proposed for nonresidential development;</li><li>• Change in potential intensity of land use and related automobile trip movements; and</li><li>• Relationships to abutting land uses.</li></ul></li><li><b>10. Addressing checklist.</b></li><li><b>11.</b> An 8½ in. x 11 in. graphic location map of the site.</li></ol> |

# Exhibit A

Text underlined is new text to be added  
Strikethrough text is current text to be deleted  
Bold text indicates a defined term

## Collier County Land Development Code | **Administrative Procedures Manual** Chapter 3 | Quasi-Judicial Procedures with a Public Hearing

- 12. Pre-application meeting notes.
- 13. ~~Owner/agent affidavit as to the correctness of the application.~~ Affidavit of Authorization.
- 14. **Electronic copies of all documents.**

### Completeness and Processing

The Planning & Zoning Division will review the application for completeness. After submission of the completed application packet accompanied with the required fee, the **applicant** will receive a mailed or electronic response notifying the **applicant** that the petition is being processed. Accompanying that response will be a receipt for the payment and the tracking number (i.e., XX201200000) assigned to the petition. This petition tracking number should be noted on all future correspondence regarding the petition.

### Notice

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

- 1. **NIM:** The **NIM** shall be completed at least 15 days before each advertised public hearing. The NIM shall be advertised and a mailed written notice shall be given to property owners in the notification area at least 15 days prior to the NIM meeting.
- 2. **Mailed Notice:** Written notice shall be sent to **property owners in the notification area** at least 15 days before the advertised Hearing Examiner hearing.
- 3. **Newspaper Advertisements:** The legal advertisement shall be published at least 15 days before the advertised ~~public hearing~~ ~~Hearing Examiner hearing~~ in a newspaper of general circulation. The advertisement shall include at a minimum:
  - Date, time, and location of the hearing;
  - Description of the proposed land uses; and
  - 2 in. x 3 in. map of the project location.
- 4. **Sign:** (see format below) Posted at least 15 days before the advertised Hearing Examiner hearing date.

PUBLIC HEARING REQUESTING \_\_\_\_\_

PETITION NUMBER: \_\_\_\_\_

TO PERMIT: \_\_\_\_\_  
(Request-Sufficiently clear to describe the project)

LOCATION: \_\_\_\_\_

DATE: \_\_\_\_\_ TIME: \_\_\_\_\_

CONTACT: \_\_\_\_\_

THE ABOVE TO BE HELD AT THE GROWTH  
MANAGEMENT DIVISION BUILDING, 2800 N.  
HORSESHOE DR., NAPLES, FL 34104 OR AS OTHERWISE  
DESIGNATED.

## **Exhibit A**

Text underlined is new text to be added  
Strikethrough text is current text to be deleted  
Bold text indicates a defined term

### **Collier County Land Development Code | Administrative Procedures Manual** *Chapter 3 | Quasi-Judicial Procedures with a Public Hearing*

- Public Hearing**
1. The Hearing Examiner or CCPC shall hold at least ~~1~~ one advertised public hearing. ↔  
See Chapter 9 of the Administrative Code for the Office of the Hearing Examiner procedures.
  2. The BCC shall hold at least one advertised public hearing for ordinance amendment.

**Decision maker** ~~The Hearing Examiner.~~ The BCC.

**Review Process** The Planning & Zoning Division will review the application and identify whether additional materials are needed. Pursuant to **LDC** subsection **10.02.13 B.3**, Staff will prepare a Staff Report utilizing the criteria identified in **LDC** subsection **10.02.13 E**, to present to the Office of the Hearing Examiner for a decision.

The Hearing Examiner or CCPC will approve, approve with conditions, or deny the application utilizing the criteria in **LDC** subsection **10.02.13 E**.

The BCC will approve, approve with conditions, or deny the application utilizing the criteria in **LDC** subsection **10.02.13 E**.

**Updated** [Resolution No. 2018-XX]

DRAFT

## Exhibit A

Text underlined is new text to be added  
Strikethrough text is current text to be deleted  
Bold text indicates a defined term

### Collier County Land Development Code | *Administrative Procedures Manual* Chapter 3 | *Quasi-Judicial Procedures with a Public Hearing*

#### G.4. PUD Minor Change

**Reference** LDC subsection 10.02.13 E, LDC section 8.10.00, and LDC Public Notice subsection 10.03.06 T.

**Applicability** The following are considered minor changes:

1. Educational and ancillary plants. These include PUD master plans that are amended for the sole purpose of adding an educational and/or ancillary plant.
2. Removal of Affordable Housing Contributions. The County Manager or designee may allow minor text changes to remove affordable housing commitments to pay an affordable housing contribution in PUDs, Development Agreements, and Settlement Agreements. Conditions are identified in LDC subsection 10.02.13 E.
3. Minor Changes during Construction. The County Manager or designee may allow minor changes to the PUD Master Plan during its subdivision improvements plan or site development plan process to accommodate topography, vegetation and other site conditions not identified or accounted for during its original submittal and review and when said changes have been determined to be compatible with **adjacent** land uses, have no impacts external to the site, existing or proposed, and is otherwise consistent with the provisions of this code and the growth management plan. These changes include the following:
  - Internal realignment of rights-of-way, including a relocation of access points to the PUD itself, where no water management facility, conservation/preservation areas, or required easements are affected or otherwise provided for;
  - Relocation of building envelopes when there is no encroachment upon required conservation or preservation areas;
  - Relocation of swimming pools, clubhouses, or other recreation facilities that do not affect adjacent properties or land uses; and
  - Relocation or reconfiguration of lakes, ponds, or other water facilities subject to the submittal of revised water management plans or approval of the EAC where applicable.

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

**Initiation** The **applicant** files a "*Minor Change to a PUD Master Plan or Text (PMC)*" application with the Planning & Zoning ~~Department~~ Division.

**Application Contents** The application must include the following:

1. **Applicant contact information.**
2. Disclosure of ownership.
3. **PUD Ordinance and Development Commitment information.**

## Exhibit A

Text underlined is new text to be added  
Strikethrough text is current text to be deleted  
Bold text indicates a defined term

### Collier County Land Development Code | **Administrative Procedures Manual** Chapter 3 | *Quasi-Judicial Procedures with a Public Hearing*

4. A legal or graphic description of the area of amendment. This may be graphically illustrated on the ~~A~~amended PUD Master Plan. If the amendment involves only part of the PUD, provide a legal description for the subject portion.
5. The current PUD Master Plan, ⇔ *See Chapter 3 G.1 of the Administrative Code for requirements and the changes in potential intensity of land use, changes in trips and relationships to abutting land uses.*
6. Include any previously revised Master Plans.
7. A narrative and detailed description of the map change and reason for request.
8. An analysis of whether the amendment complies with the Growth Management Plan.
9. Whether a public hearing was held for the property within the year preceding the application. If this has occurred, include the **applicant's** name and number.
10. Whether any part of the PUD has been sold or developed, and whether the proposed changes involve those areas.
11. For removal of affordable housing commitments, a completed Letter to **Property owners** as identified in the application.
12. **Addressing checklist.**
13. An 8½ in. x 11 in. graphic location map of the site.
14. ~~Owner/agent affidavit as to the correctness of the application.~~ Affidavit of Authorization.
15. **Electronic copies of all documents.**

#### Completeness and Processing of Application

The Planning & Zoning ~~Department~~ Division will review the application for completeness. After submission of the completed application packet accompanied with the required fee, the **applicant** will receive a mailed or electronic response notifying the **applicant** that the petition is being processed. Accompanying that response will be a receipt for the payment and the tracking number (i.e., XX201200000) assigned to the petition. This petition tracking number should be noted on all future correspondence regarding the petition.

#### Notice

~~Notification requirements are as follows for Removal of Affordable Housing Contributions:~~  
⇔ *See Chapter 8 of the Administrative Code for additional notice information.*

#### For removal of affordable housing contributions:

1. **Mailed Notice:** Written notice shall be sent to **property owners in the notification area** at least 15 days before the advertised ~~Hearing Examiner~~ public hearing.
2. **Newspaper Advertisements:** The legal advertisement shall be published at least 15 days before the advertised public hearing in a newspaper of general circulation. The advertisement shall include at a minimum:
  - Date, time, and location of the hearing;
  - Description of the proposed land uses; and
  - 2 in. x 3 in. map of the project location.

## Exhibit A

Text underlined is new text to be added  
Strikethrough text is current text to be deleted  
Bold text indicates a defined term

### Collier County Land Development Code | **Administrative Procedures Manual** Chapter 3 | Quasi-Judicial Procedures with a Public Hearing

For other minor changes:

1. **Newspaper Advertisements:** The legal advertisement shall be published at least 15 days before the advertised public hearing in a newspaper of general circulation. The advertisement shall include at a minimum:
  - Date, time, and location of the hearing;
  - Description of the proposed land uses; and
  - 2 in. x 3 in. map of the project location.

**Public Hearing** 1. ~~No public hearing is required for adding educational and ancillary plants to a PUD or minor changes to a PUD Master Plan during construction. A hearing before the BCC for ordinance amendment, pursuant to LDC subsection 10.02.13 E.~~

2. A hearing before the Hearing Examiner may be required to remove affordable housing contributions, pursuant to ~~LDC subsection 10.02.13 E.~~

**Decision maker** ~~The County Manager or designee or the Hearing Examiner. The BCC.~~

**Review Process** Minor changes are reviewed by the Planning & Zoning ~~Department~~ Division staff and may be approved by the County Manager or designee.

~~If a public hearing is required to remove Affordable Housing Contributions, Staff will prepare a Staff Report and Staff will schedule a hearing date before the Hearing Examiner to present the petition for review.~~

The BCC will approve, approve with conditions, or deny the application utilizing the criteria in **LDC** subsection 10.02.13 E.

**Appeals** Administrative appeals shall be in accordance with the **Code of Laws** section 250-58.

**Updated** [Resolution No. 2018-XX]



## **LDC Amendment Request**

**ORIGIN:** Growth Management Department

**AUTHOR:** David Weeks, AICP, Growth Management Manager, Zoning Division, Comprehensive Planning Section

**LDC SECTION(S):** 2.03.08 Rural Fringe Zoning Districts

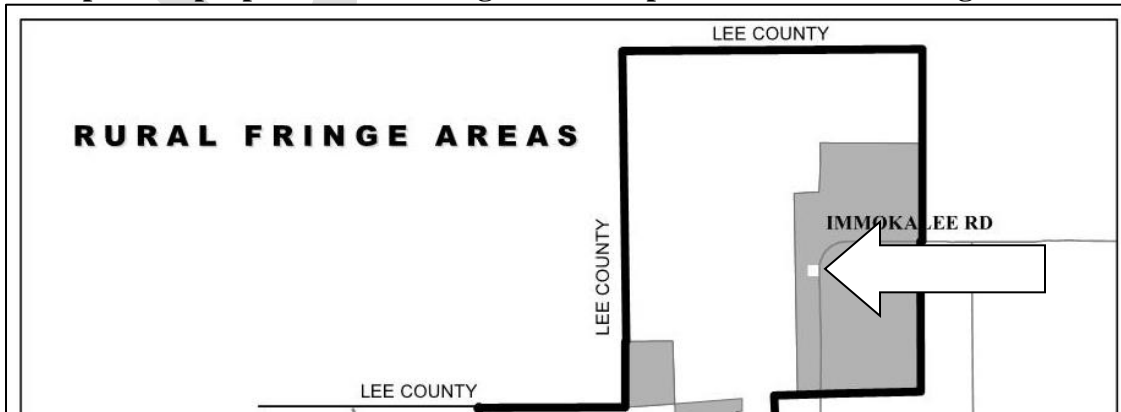
**SUMMARY:** This amendment modifies provisions related to the Rural Fringe Mixed Use District and the Rural Fringe Areas map for clarity and to ensure consistency with the Growth Management Plan (GMP).

**DESCRIPTION:**

*This amendment makes the following four changes to LDC section 2.03.08 A.1.a:*

- (1) The complete acronym is provided for the Rural Fringe Mixed Use District in the Future Land Use Element (FLUE) of the Collier County GMP, and notes that it is the designation in the FLUE. This change provides a distinction between the RFMUD acronym used in the FLUE and the RFMU District acronym used in the LDC; without such a distinction, the reader may not know which regulation (FLUE or LDC) is being referenced.
- (2) A statement is added that the RFMU District supersedes the underlying “A” zoning district – which reflects how the County has applied the RFMU District since its adoption in 2004.
- (3) An outdated building name is updated with the Growth Management Department in LDC section 2.03.08 A.1.a.
- (4) The Rural Fringe Areas map is modified in LDC section 2.03.08 A.1.a to remove the site of the Corkscrew Island Neighborhood Center Subdistrict (indicated by the arrow in the image below) which is the same as the Corkscrew Commercial Center PUD. This change makes the Rural Fringe Areas map consistent with a past amendment to the FLUE and Future Land Use Map (Ord. No. 07-78).

**Excerpt from proposed Rural Fringe Areas map with location of change indicated:**



*This amendment makes the following change to LDC section 2.03.08 A.1.b:*

LDC section 2.03.08 A.1.b. is modified to clearly state that the RFMU District is not applicable to lands not zoned A, Rural Agricultural, and that “expansions” of existing uses refers to on-site expansions of the use not property expansion to reflect and be consistent with Ordinance 2013-14, which amended the same language in the FLUE.

**DSAC-LDR SUBCOMMITTEE RECOMMENDATION:** The DSAC-LDR Subcommittee unanimously recommended approval on November 13, 2017, with no changes.

**FISCAL & OPERATIONAL IMPACTS:** There are no anticipated fiscal or operational impacts as a result of this amendment.

**GROWTH MANAGEMENT PLAN IMPACT:** This amendment will make the LDC section consistent with the FLUE.

**RELATED CODES OR REGULATIONS:** Collier County Growth Management Plan, Future Land Use Element, II. Agricultural/Rural Designation, B. Rural Fringe Mixed Use District, 4. Exemptions from the Rural Fringe Mixed Use District Development Standards; and, the countywide Future Land Use Map in the GMP.

---

**Amend the LDC as follows:**

**2.03.08 - Rural Fringe Zoning Districts**

A. Rural Fringe Mixed-Use District (RFMU District).

1. Purpose and scope. The purpose and intent of the RFMU ~~D~~istrict is to provide a transition between the Urban and Estates Designated lands and between the Urban and Agricultural/Rural and Conservation designated lands farther to the east. The RFMU ~~D~~istrict employs a balanced approach, including both regulations and incentives, to protect natural resources and private property rights, providing for large areas of open space, and allowing, in designated areas, appropriate types, density and intensity of development. The RFMU ~~D~~istrict allows for a mixture of urban and rural levels of service, including limited extension of central water and sewer, schools, recreational facilities, commercial uses, and essential services deemed necessary to serve the residents of the RFMU ~~D~~istrict. The innovative planning and development techniques which are required and/or encouraged within the RFMU ~~D~~istrict were developed to preserve existing natural resources, including habitat for listed species, to retain a rural, pastoral, or park-like appearance from the major public rights-of-way, and to protect private property rights.

a. Establishment of RFMU Zoning Overlay District. In order to implement the Rural Fringe Mixed Use District (RFMUD) designation in the Future Land Use Element (FLUE) of the GMP, the RFMU District shall be designated as "RFMUO" on the Official Zoning Atlas and is hereby established. The RFMU District supersedes the underlying zoning district where that underlying zoning district is A, Rural Agricultural. The County-wide Future Land Use Map is located in the Future Land Use Element of the GMP or can be obtained ~~at the Community Development Building from the Growth Management Department,~~ located at 2800 N. Horseshoe

1 Drive, Naples, FL 34104. The lands included in the RFMU District and to  
2 which ~~this~~ LDC section 2.03.08 apply are depicted by the following map:  
3

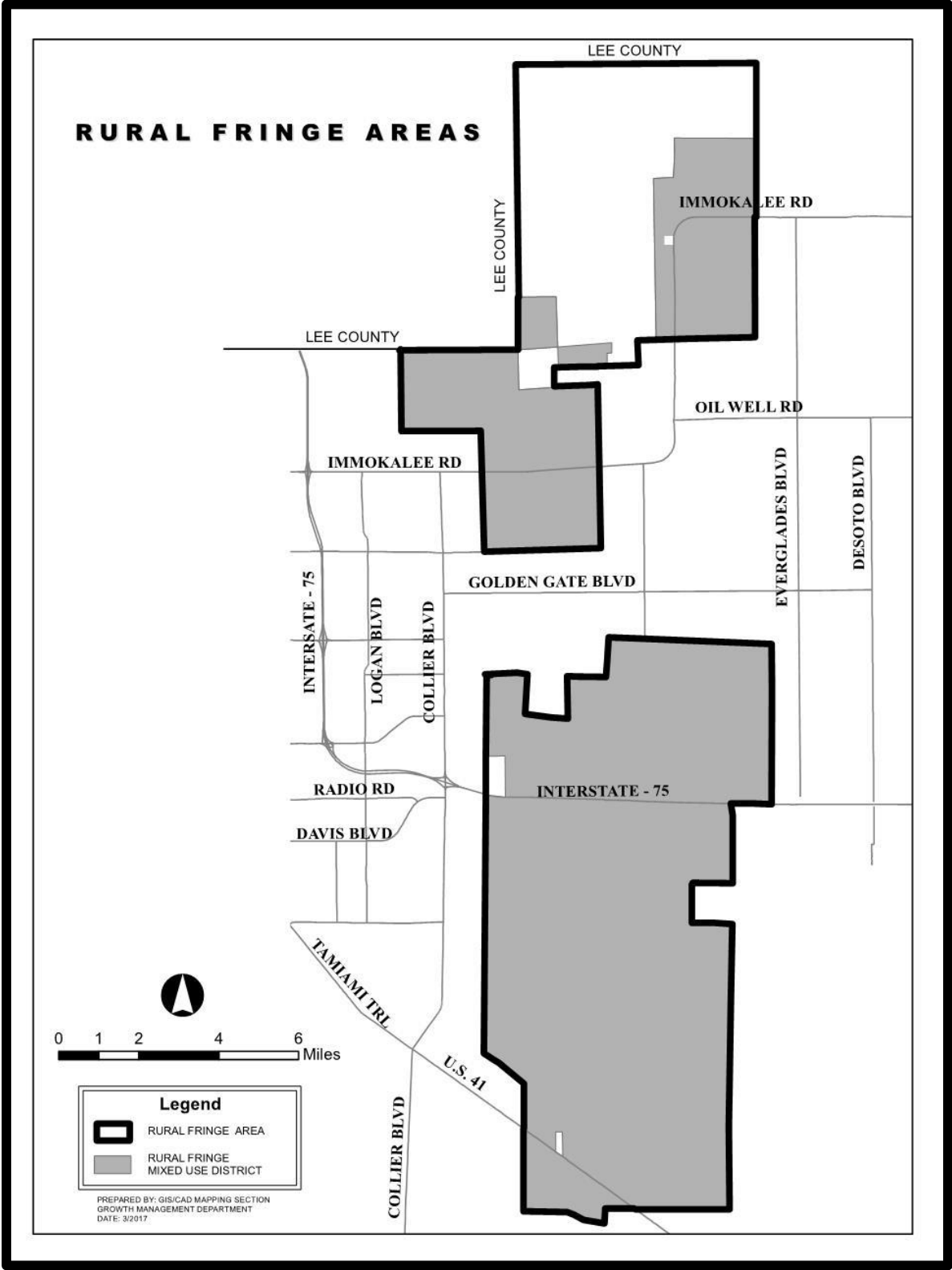
DRAFT

1 Map to be replaced:



2  
3

1 Map to be added:

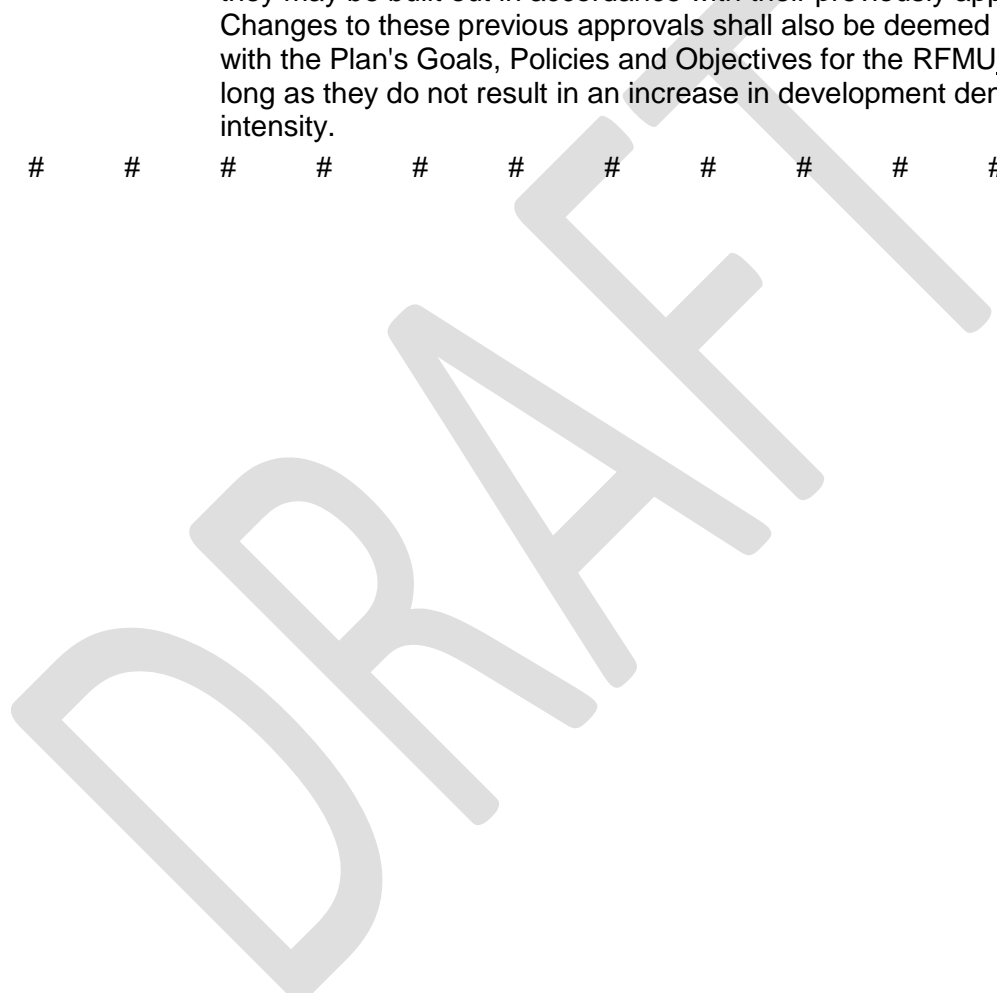


2  
3  
4

b. Exemptions. The requirements, limitations and allowances of this section shall not apply to, affect or limit the continuation of existing uses. Existing

1 uses shall include: those uses for which all required permits were issued  
2 prior to June 19, 2002; ~~and or~~ projects for which a Conditional use ~~or~~  
3 ~~Rezone petition~~ has been approved by the County prior to June 19, 2002;  
4 ~~or~~ projects for which a Rezone petition has been approved by the  
5 County prior to June 19, 2002 – inclusive of all lands not zoned A, Rural  
6 Agricultural; or land use petitions for which a completed application has  
7 been submitted prior to June 19, 2002. The continuation of existing uses  
8 shall include on-site expansions of those uses if such expansions are  
9 consistent with or clearly ancillary to the existing uses. Hereafter, such  
10 previously approved developments shall be deemed to be consistent with  
11 the Plan's Goals, Objectives and Policies ~~and for the RFMUD district~~, and  
12 they may be built out in accordance with their previously approved plans.  
13 Changes to these previous approvals shall also be deemed consistent  
14 with the Plan's Goals, Policies and Objectives for the RFMUD ~~district~~ as  
15 long as they do not result in an increase in development density or  
16 intensity.

17 # # # # # # # # # # # # #



## **LDC Amendment Request**

**ORIGIN:** Growth Management Department

**AUTHOR:** David Weeks, AICP, Growth Management Manager, Zoning Division, Comprehensive Planning Section

**LDC SECTIONS:** 2.03.08 Rural Fringe Zoning Districts  
3.05.07 Preservation Standards

**SUMMARY:** This amendment modifies provisions related to the North Belle Meade Overlay specific only to Section 24, Township 49 South, Range 26 East, to ensure consistency with the Collier County Growth Management Plan (GMP).

**DESCRIPTION:**

*This amendment makes the following two changes to LDC section 2.03.08 C.:*

- (1) Adds reference to a Future Land Use Element (FLUE) provision that resulted from a partial stipulated settlement agreement in 2010; recognizes that FLUE provision, which is specific to one Section within the North Belle Meade Overlay, as the controlling regulation for that Section; and, provides that the native vegetation preservation requirement for that Section is as contained in the FLUE, based upon the settlement agreement.
- (2) Corrects numbering and lettering format in LDC section citations.

*This amendment makes the following change to LDC section 3.05.07 C.2.:*

- (1) Corrects a cross-reference to LDC section 2.03.08.

All of these changes make the LDC consistent with a prior amendment to the FLUE and Future Land Use Map series (Ord. No. 10-49).

**DSAC-LDR SUBCOMMITTEE RECOMMENDATION:** The DSAC-LDR Subcommittee recommended approval on November 13, 2017, with no changes.

**FISCAL & OPERATIONAL IMPACTS:** There are no anticipated fiscal or operational impacts as a result of this amendment.

**GROWTH MANAGEMENT PLAN IMPACT:** This amendment will make the LDC sections consistent with the FLUE and Future Lands Use Map series.

**RELATED CODES OR REGULATIONS:** Collier County GMP, Future Land Use Element, V. Overlays and Special Features, B. North Belle Meade Overlay; North Belle Meade Overlay Section 24 Map, part of the Future Land Use Map series; and, Conservation and Coastal Management Element, Policy 6.1.2.

---

**Amend the LDC as follows:**

1  
2 **2.03.08 - Rural Fringe Zoning Districts**

3 \* \* \* \* \*  
4 C. North Belle Meade Overlay District (NBMO).

5 \* \* \* \* \*  
6 5. Additional specific area provisions.

7 a. Receiving lands.  
8 \* \* \* \* \*

9 (4) NBMO rural village. A NBMO rural village shall adhere to the  
10 provisions for rural village set forth in LDC section 2.03.08 A.2.b.  
11 ~~(A)(2)(b)~~, except as follows:

12 (a) Density. An NBMO rural village shall have a minimum  
13 gross density of 1.5 dwelling units per acre and a  
14 maximum gross density of three (3) dwelling units per acre.

15 i. The minimum required density shall be achieved  
16 through TDR credits, TDR Bonus Credits, and  
17 Rural Village Bonus credits, as provided in LDC  
18 section 2.03.08 A.2.b.(3)~~(c)~~ ~~(C)~~.  
19 \* \* \* \* \*

20 b. Neutral lands. Neutral lands shall be governed by the standards set forth  
21 in LDC section 2.03.08 A.3. ~~(A)(3)~~, with the exception that, in these In  
22 addition to standards in LDC section 2.03.08 A.3., neutral lands located in  
23 Section 24, Township 49 South, Range 26 East, shall be governed by the  
24 North Belle Meade Overlay in the Future Land Use Element of the GMP.  
25 Where there is a conflict between provisions, the GMP overlay provisions  
26 shall apply. ~~a minimum of 70% of the native vegetation present shall be~~  
27 ~~preserved.~~

28 # # # # # # # # # # # # # #  
29

30 **3.05.07 Preservation Standards**

31 \* \* \* \* \*  
32 C. Specific standards for the RFMU district. For Lands within the RFMU district, native  
33 vegetation shall be preserved through the application of the following preservation and  
34 vegetation retention standards and criteria, in addition to the generally applicable  
35 standards and criteria set forth in LDC section 3.05.07 A (above). Further, for the  
36 portion of the Lake Trafford/Camp Keais Strand System located within the Immokalee  
37 Urban Designated Area, native vegetation shall be preserved on site through the  
38 application of the Neutral Lands standards established in LDC section 3.05.07 C.2  
39 (below).

40 \* \* \* \* \*

41 2. Neutral lands.  
42 a. In neutral lands, a minimum of 60% of the native vegetation present, not  
43 to exceed 45% of the total site area shall be preserved.

44 b. Exceptions.  
45 i. In those neutral lands located in Section 24, Township 49 South,  
46 Range 26 East, in the NBMO, native vegetation shall be  
47 preserved as set forth in LDC section 2.03.08 ~~DC~~.5.b.

48 # # # # # # # # # # # # # #



## **LDC Amendment Request**

**ORIGIN:** Growth Management Department

**AUTHOR:** David Weeks, AICP, Growth Management Manager, Zoning Division, Comprehensive Planning Section

**LDC SECTION:** 4.02.14 Design Standards for Development in the ST and ACSC-ST Districts

**ZONING MAPS:** 522930, 2033N, 2033S, 2034N, 2034S

**SUMMARY:** This amendment modifies provisions related to the Big Cypress Area of Critical State Concern (ACSC) and five zoning maps within Township 52 South, Range 30 East, in order to ensure consistency with the Growth Management Plan (GMP).

**DESCRIPTION:**

*This amendment makes the following change to LDC section 4.02.14 A.:*

- (1) Adds an acknowledgement that an agreement may be entered regarding the ACSC regulations, pursuant to State law.

*This amendment makes the following two changes to LDC section 4.02.14 C.:*

- (1) Adds a list of exotic plant species prohibited specifically within the ACSC that are not listed in LDC section 3.05.08.
- (2) Adds a list of wetland plant species that cannot be destroyed and removes the reference to all wetland plants as listed by the Florida Department of Environmental Protection.

*This amendment makes the following change to zoning atlas maps 522930, 2033N, 2033S, 2034N, 2034S:*

- (1) Removes the ACSC overlay acronym (“ACSC/”) for all of Sections 27, 28, 33 and 34, Township 52 South, Range 30 East (See Exhibit A).

All of these changes make the LDC text and zoning maps consistent with a recent amendment to the FLUE and Future Land Use Map (Ord. No. 17-22).

**DSAC-LDR SUBCOMMITTEE RECOMMENDATION:** The DSAC-LDR Subcommittee recommended approval on November 13, 2017, with no changes.

**FISCAL & OPERATIONAL IMPACTS:** There are no anticipated fiscal or operational impacts as a result of this amendment.

**GROWTH MANAGEMENT PLAN IMPACT:** This amendment will make the LDC section and zoning maps consistent with the FLUE.

**RELATED CODES OR REGULATIONS:** Collier County Growth Management Plan, Future Land Use Element, V. Overlays and Special Features, A. Area of Critical State Concern Overlay; and, the countywide Future Land Use Map in the GMP.

**Amend the LDC as follows:**

**4.02.14 Design Standards for Development in the ST and ACSC-ST Districts**

A. All development orders issued within the Big Cypress Area of Critical State Concern Special Treatment Overlay (ACSC-ST) shall comply with the Florida Administrative Code, as amended, Boundary and Regulations for the Big Cypress Area of Critical State Concern, except as provided by Agreement pursuant to Chapter 380.032(3), F.S.

C. Site alteration within the ACSC-ST.

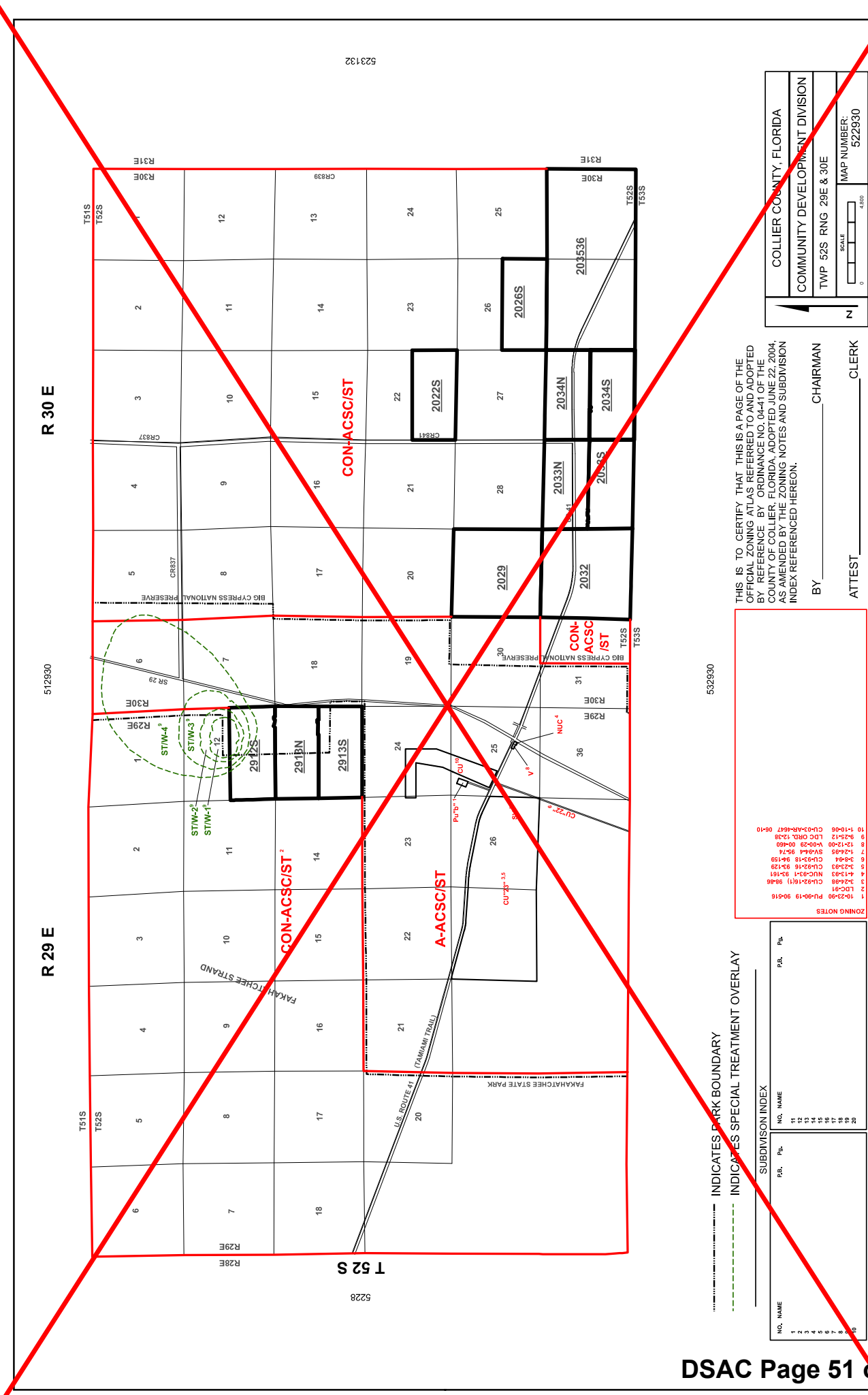
3. Soils exposed during site alteration shall be stabilized and retention ponds or performance equivalent structures or system maintained in order to retain runoff and siltation on the construction site. Restoration of vegetation to site alteration areas shall be substantially completed within 180 days following completion of a development. Revegetation shall be accomplished with preexisting species except that undesirable exotic species shall not be replanted or propagated. Undesirable Exotic species included are those enumerated in LDC section 3.05.08 of this code and the following:-

- a) Bishopwood (Bischofia javanica);
- b) Castor bean (Ricinus communis);
- c) Common papaya (Carica papaya)
- d) Common snakeplant (Sansevieria trifasciata);
- e) Day jessamine (Cestrum diurnum);
- f) Hunters robe (Raphidophora aurea);
- g) Queensland umbrella tree (Schefflera actinophylla);
- h) Trailing wedelia (Wedelia trilobata).

4. No mangrove trees or salt marsh grasses shall be destroyed or otherwise altered. Plants specifically protected by this regulation include: all wetland plants listed by the Florida DEP in the Florida Administrative Code.

- a) Red mangrove (Rhizophora mangle);
- b) Black mangrove (Avicennia nitida);
- c) White mangrove (Laguncularia racemosa);
- d) Needlerush (Juncus roemerianus);
- e) Salt cordgrasses (Spartina alterniflora, S. patens, S. cynosuroides, S. spartinae);
- f) Seashore saltgrass (Distichlis spicata).

# # # # # # # # # # # # #



R 30 E

R 29 E

512930

INDICATES PARK BOUNDARY  
 INDICATES SPECIAL TREATMENT OVERLAY

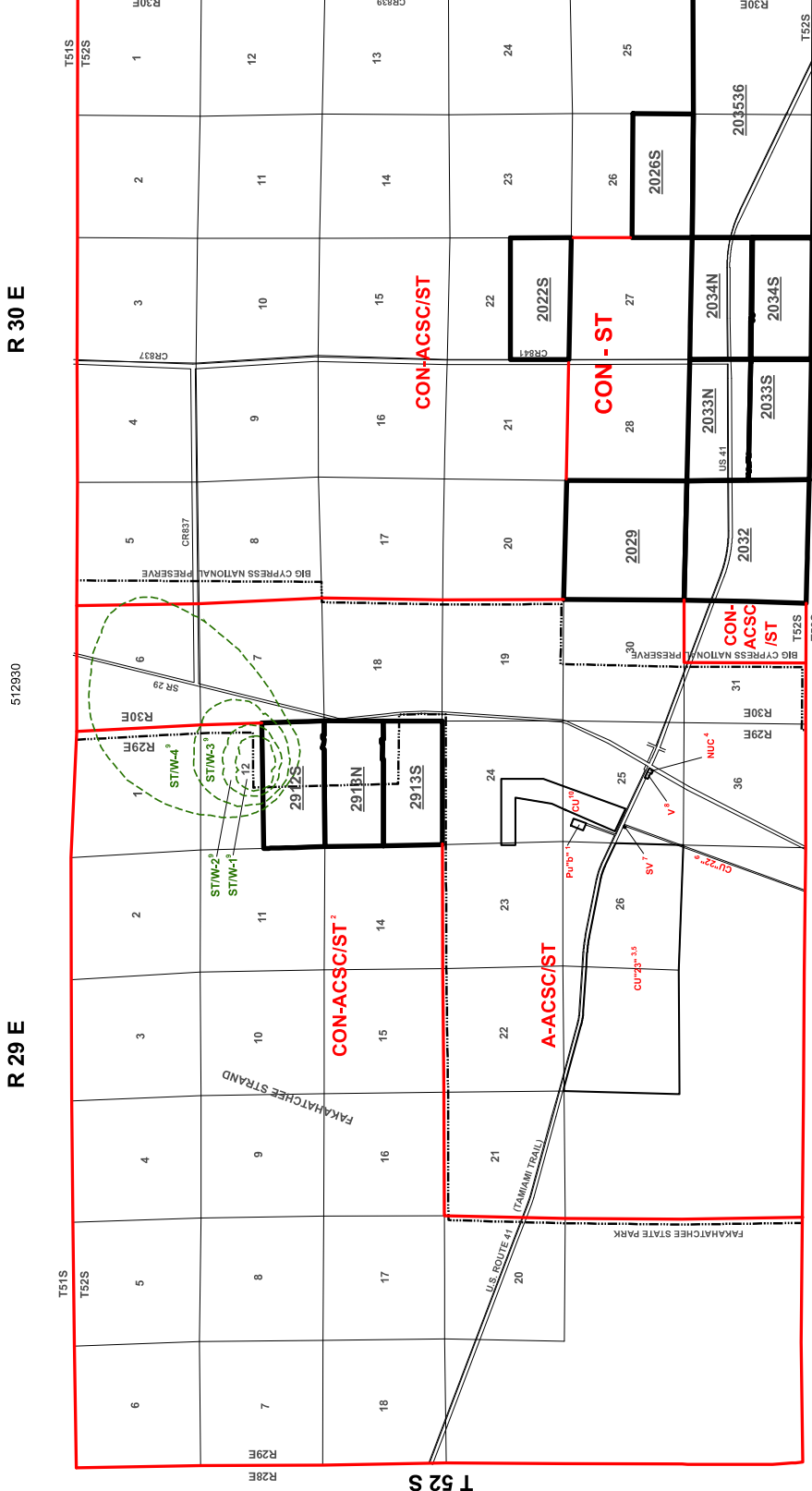
THIS IS TO CERTIFY THAT THIS IS A PAGE OF THE OFFICIAL ZONING ATLAS REFERRED TO AND ADOPTED BY REFERENCE BY ORDINANCE NO. 04-11 OF THE COUNTY OF COLLIER, FLORIDA, ADOPTED JUNE 22, 2004, AS AMENDED BY THE ZONING NOTES AND SUBDIVISION INDEX REFERENCED HEREON.

ZONING NOTES  
 1 10-23-90 PU-90-19 90-516  
 2 10-23-90 PU-90-19 90-516  
 3 10-23-90 PU-90-19 90-516  
 4 10-23-90 PU-90-19 90-516  
 5 10-23-90 PU-90-19 90-516  
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 34 10-23-90 PU-90-19 90-516  
 35 10-23-90 PU-90-19 90-516  
 36 10-23-90 PU-90-19 90-516

| SUBDIVISION INDEX |          | PUB. Pk. |          |
|-------------------|----------|----------|----------|
| NO. NAME          | PUB. Pk. | NO. NAME | PUB. Pk. |
| 1                 |          | 11       |          |
| 2                 |          | 12       |          |
| 3                 |          | 13       |          |
| 4                 |          | 14       |          |
| 5                 |          | 15       |          |
| 6                 |          | 16       |          |
| 7                 |          | 17       |          |
| 8                 |          | 18       |          |
| 9                 |          | 19       |          |
| 10                |          | 20       |          |

COLLIER COUNTY, FLORIDA  
 COMMUNITY DEVELOPMENT DIVISION  
 TWP 52S RNG 29E & 30E  
 SCALE 1" = 400'  
 MAP NUMBER: 522930

BY \_\_\_\_\_ CHAIRMAN  
 ATTEST \_\_\_\_\_ CLERK



THIS IS TO CERTIFY THAT THIS IS A PAGE OF THE OFFICIAL ZONING ATLAS REFERRED TO AND ADOPTED BY REFERENCE BY ORDINANCE NO. 04-41 OF THE COUNTY OF COLLIER, FLORIDA, ADOPTED JUNE 23, 2004 AS AMENDED BY THE ZONING NOTES AND SUBDIVISION INDEX REFERENCED HEREON.

BY \_\_\_\_\_ CHAIRMAN

ATTEST \_\_\_\_\_ CLERK

|                                |                    |
|--------------------------------|--------------------|
| COLLIER COUNTY, FLORIDA        |                    |
| COMMUNITY DEVELOPMENT DIVISION |                    |
| TWP 52S RNG 29E & 30E          |                    |
| SCALE                          | MAP NUMBER: 522930 |
| N                              |                    |

ZONING NOTES

- 1 10-23-90 PU-90-19 90-516
- 2 8-24-88 CU-92-16(1) 98-66
- 3 4-13-83 NUC-93-1 93-161
- 4 6-23-83 CU-93-18 93-159
- 5 3-29-84 CU-93-18 94-159
- 6 7-14-85 SV-84 95-74
- 7 1-25-80 V-0-19 84-88
- 8 2-25-12 LNC ORD. 12-8
- 9 10-10-08 CU-03-AR-647 08-10

INDICATES PARK BOUNDARY  
 INDICATES SPECIAL TREATMENT OVERLAY

| SUBDIVISION INDEX |            |
|-------------------|------------|
| NO. NAME          | P.B., P.N. |
| 1                 |            |
| 2                 |            |
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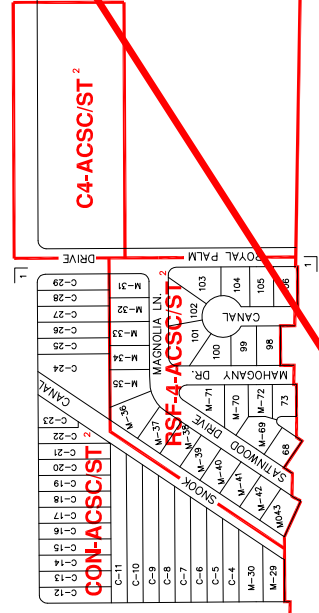
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CON-ACSC/ST<sup>2</sup>

TAMIAMI TRAIL (I.S. 41)

CON-ACSC/ST<sup>2</sup>

2033S



C4-ACSC/ST<sup>2</sup>

BSF-4-ACSC/ST<sup>2</sup>

| NO. | NAME                          | P.B. | Pg. | NO. | NAME | P.B. | Pg. |
|-----|-------------------------------|------|-----|-----|------|------|-----|
| 1   | EVERGLADES SUBDIVISION UNIT 1 | 6    | 98  | 11  |      |      |     |
| 2   | KENTUCKY ESTATES UNIT 1       | 9    | 98  | 12  |      |      |     |
| 3   |                               |      |     | 13  |      |      |     |
| 4   |                               |      |     | 14  |      |      |     |
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ZONING NOTES

1 2 3 4 5 6 7 8 9 10

THIS IS TO CERTIFY THAT THIS IS A PAGE OF THE OFFICIAL ZONING ATLAS REFERRED TO AND ADOPTED BY REFERENCE BY ORDINANCE NO. 04-41 OF THE COUNTY OF COLLIER, FLORIDA, ADOPTED JUNE 22, 2004.

BY \_\_\_\_\_ CHAIRMAN

ATTEST \_\_\_\_\_ CLERK

COLLIER COUNTY, FLORIDA  
 COMMUNITY DEVELOPMENT DIVISION  
 TWP 52S RING 30E SEC 33 NO. 1/2  
 SCALE 1" = 400'  
 MAP NUMBER: 2033N

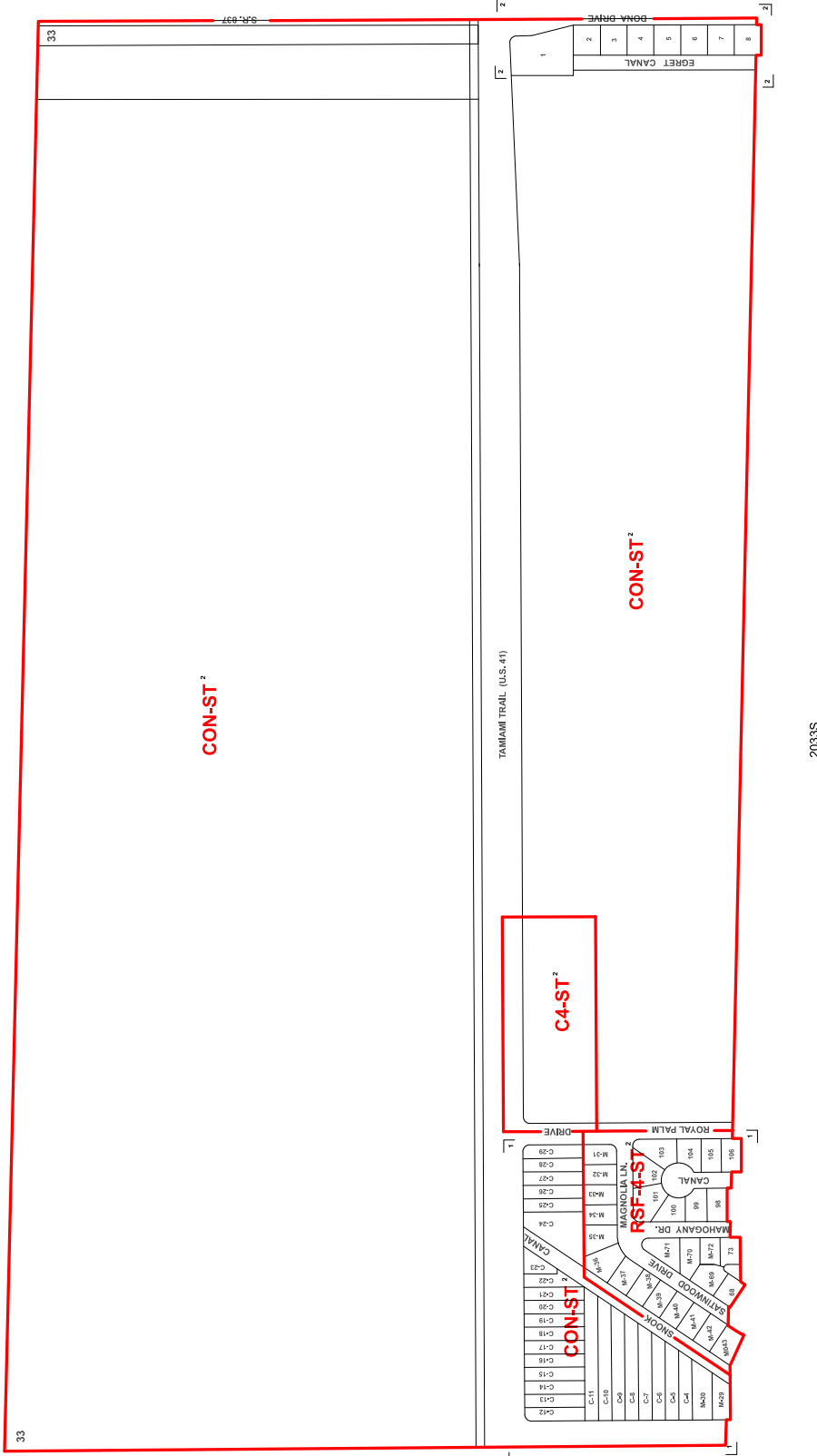
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**LDCA EXHIBIT "A"**

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BY \_\_\_\_\_ CHAIRMAN

ATTEST \_\_\_\_\_ CLERK

COLLIER COUNTY, FLORIDA  
 COMMUNITY DEVELOPMENT DIVISION  
 TWP 52S RNG 30E SEC(S) 33 NO 1/2  
 SCALE \_\_\_\_\_  
 MAP NUMBER: 2033N

ZONING NOTES  
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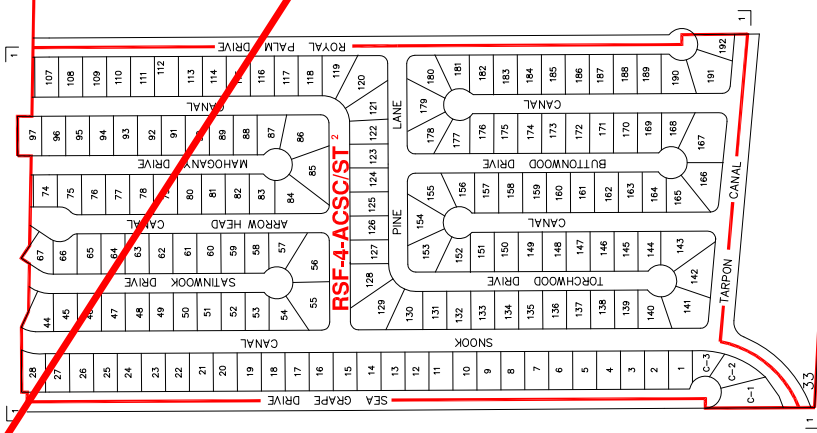
| SUBDIVISION INDEX             |      | P.A. No. |      |
|-------------------------------|------|----------|------|
| NO. NAME                      | P.A. | NO. NAME | P.A. |
| 1. EVERGLADE SHORES UNIT 1    | 6    | 11       |      |
| 2. KENTUCKYANA ESTATES UNIT 1 | 9    | 12       |      |
| 3                             |      | 13       |      |
| 4                             |      | 14       |      |
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LAST REVISION: ZONING

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RSF-4-ACSS/IST 2

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| DONA DRIVE  |    |    |    |
| V1          |    |    |    |

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COLLIER COUNTY, FLORIDA  
 COMMUNITY DEVELOPMENT DIVISION  
 TWP 52S RING 30E SEC 33  
 SCALE 1" = 400'  
 MAP NUMBER: 2033S

BY: \_\_\_\_\_ CHAIRMAN  
 ATTEST: \_\_\_\_\_ CLERK

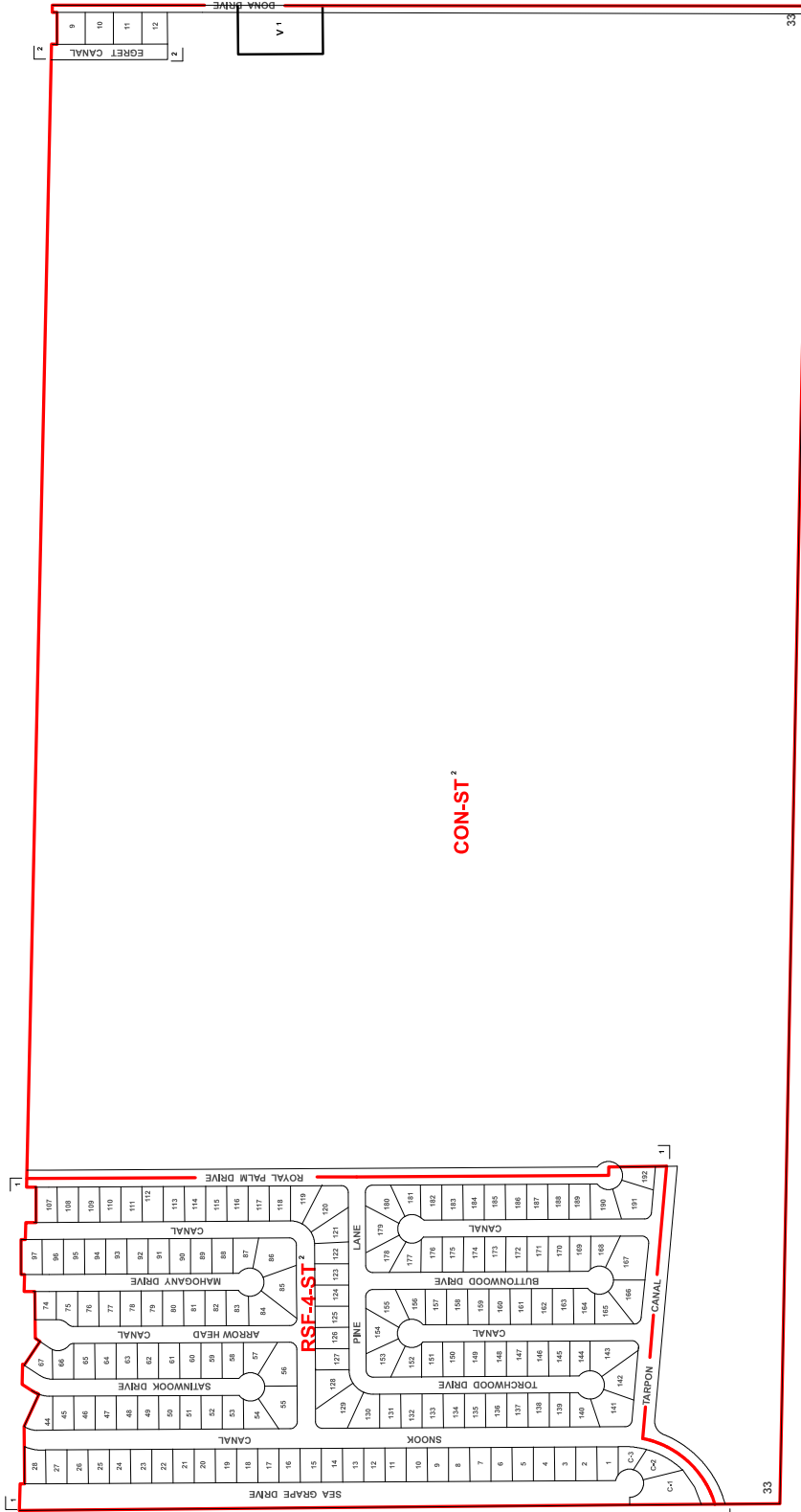
ZONING NOTES  
 2004-08-17 V-B4-280 85-167 (MAN LOT REG.)  
 2004-08-17 V-B4-280 85-167 (MAN LOT REG.)  
 2004-08-17 V-B4-280 85-167 (MAN LOT REG.)  
 2004-08-17 V-B4-280 85-167 (MAN LOT REG.)

| SUBDIVISION INDEX |                           | NO. NAME | P.B. | Pg. |
|-------------------|---------------------------|----------|------|-----|
| 1                 | EVERGLADES ESTATES UNIT 1 | 6        | 1    | 12  |
| 2                 | MENTORWOOD ESTATES UNIT 1 | 9        | 98   | 14  |
| 3                 |                           |          |      | 16  |
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**LDCA EXHIBIT "A"**

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BY \_\_\_\_\_ CHAIRMAN

ATTEST \_\_\_\_\_ CLERK

|                                    |                   |
|------------------------------------|-------------------|
| COLLIER COUNTY, FLORIDA            |                   |
| COMMUNITY DEVELOPMENT DIVISION     |                   |
| TWP. 52S RNG. 30E SEC(S) 33 SO 1/2 | MAP NUMBER: 2033S |
| SCALE                              | 400'              |

ZONING NOTES  
 1 R-605 V-4-28C 85-167 (MIN LOT REQ.)  
 2 LDC-41  
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| SUBDIVISION INDEX            |          | P.A. No. |          | P.A. No. |          |
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| NO. NAME                     | P.A. No. | NO. NAME | P.A. No. | NO. NAME | P.A. No. |
| 1 EVERGLADE SHORES UNIT 1    | 6        | 11       |          | 16       |          |
| 2 KENTUCKYANA ESTATES UNIT 1 | 9        | 12       |          | 17       |          |
| 3                            |          | 13       |          | 18       |          |
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BY \_\_\_\_\_ CHAIRMAN

ATTEST \_\_\_\_\_ CLERK

COLLIER COUNTY, FLORIDA  
 COMMUNITY DEVELOPMENT DIVISION  
 TWP 52S RING30E SEC 34 - 1/2  
 SCALE 0 400  
 MAP NUMBER: 20341N

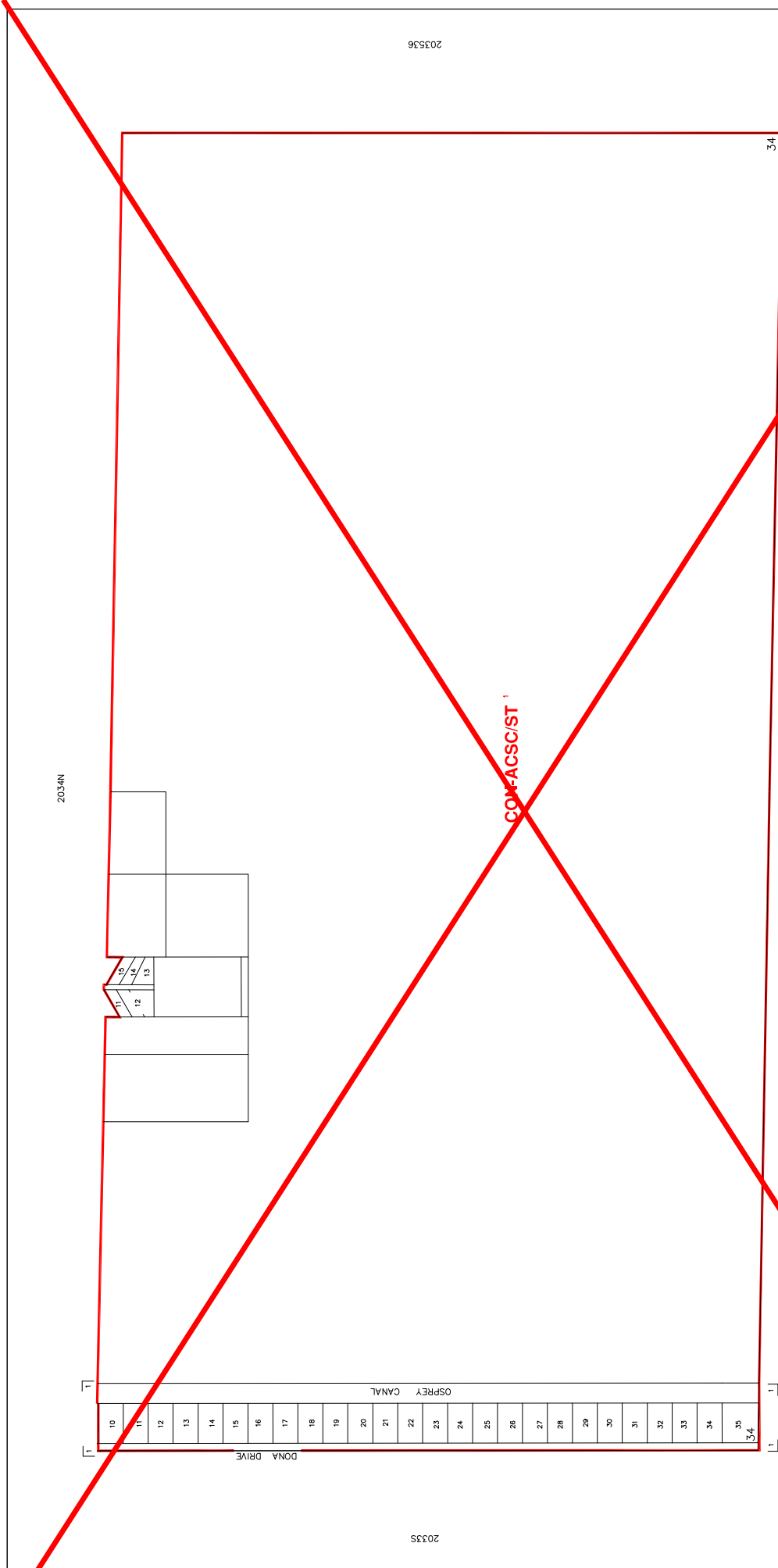
2034S

ZONING NOTES  
 94-706 → 94-706  
 94-706 → 94-706

| NO. | NAME                   | P.B. | Pg. | NO. | NAME | P.B. | Pg. |
|-----|------------------------|------|-----|-----|------|------|-----|
| 1   | KENTUCKY STATES UNIT 1 | 9    | 88  | 11  |      |      |     |
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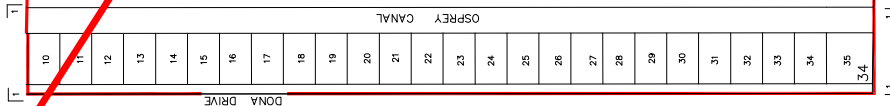
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DONA DRIVE

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BY \_\_\_\_\_ CHAIRMAN  
 ATTEST \_\_\_\_\_ CLERK

COLLIER COUNTY, FLORIDA  
 COMMUNITY DEVELOPMENT DIVISION  
 TWP 52S RNG 30E SEC 34 50. 1/2  
 SCALE 0 400  
 MAP NUMBER: 20345

ZONING NOTES  
 LDC-91  
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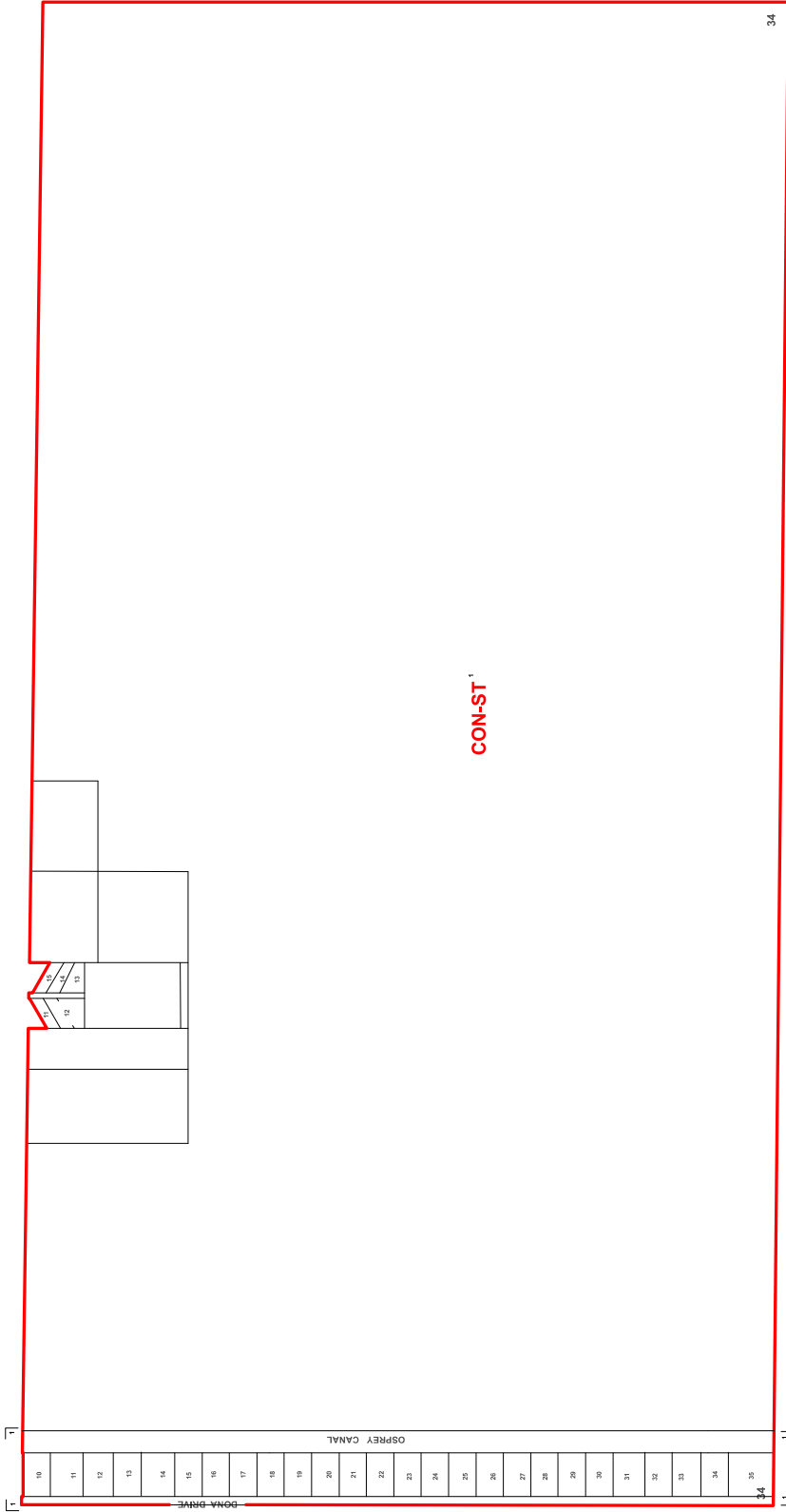
| SUBDIVISION INDEX |     |
|-------------------|-----|
| NO.               | Pg. |
| 11                | 98  |
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NO. NAME P.B. Pg.  
 1 KENTUCKY STATES UNIT 1 9 98

**LDCA EXHIBIT "A"**

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THIS IS TO CERTIFY THAT THIS IS A PAGE OF THE OFFICIAL ZONING ATLAS REFERRED TO AND ADOPTED BY REFERENCE BY ORDINANCE NO. 04-11 OF THE COUNTY OF COLLIER, FLORIDA, ADOPTED JUNE 22, 2004, AS AMENDED BY THE ZONING NOTES AND SUBDIVISION INDEX REFERENCED HEREON.

BY \_\_\_\_\_ CHAIRMAN

ATTEST \_\_\_\_\_ CLERK

|                                    |                   |
|------------------------------------|-------------------|
| COLLIER COUNTY, FLORIDA            |                   |
| COMMUNITY DEVELOPMENT DIVISION     |                   |
| TWP. 52S RNG. 30E SEC(S) 34 SO 1/2 | MAP NUMBER: 2034S |
| SCALE                              | 400'              |

ZONING NOTES

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| SUBDIVISION INDEX            |           |
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| NO. NAME                     | P.A. P.S. |
| 1 KENTUCKYANA ESTATES UNIT 1 | 9 08      |
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## **Land Development Code Amendment Request**

**ORIGIN:** Growth Management Department

**AUTHOR:** Planning and Zoning Division

**LDC SECTION:** 6.01.05 Soil Erosion and Sediment Control Plan

**SUMMARY:** This amendment proposes to require Best Management Practices (BMPs) for soil erosion and sediment control for developments such as single-family, two-family, townhouse structures, as well as underground construction activities.

**DESCRIPTION:** Both the State of Florida and County have established performance standards for soil erosion and sediment control during grading and land alternations to retain sediment on-site. Florida's stormwater regulatory program requires the use of BMPs during and after construction to minimize soil erosion, sedimentation, and manage runoff. The Florida Stormwater, Erosion and Sedimentation Control Inspector's Manual (July 2008) cites the following; "The goals of Florida's stormwater regulatory program and the Florida Department of Environmental Protection (FDEP) are to protect water quality and to minimize erosion and sedimentation by requiring the use of effective Best Management Practices (BMPs) during and after grading."

At the county level, Objective 5.4 in the Conservation and Coastal Management Element (CCME) of the GMP requires the County to "maintain...regulations identifying criteria to control and reduce soil erosion and sediment transport from construction and other nonagricultural land disturbing activities." Additionally, Collier County's National Pollutant Discharge Elimination System, Phase 2 Stormwater Permit requires the County to control pollution from construction sites, and it includes procedures for site inspection and enforcement.

Currently, these requirements are met through the submittal of a Soil Erosion and Sediment Control Plan, as required in LDC section 6.05.01, for developments to obtain construction approval by an Early Work Authorization (EWA) permit, Site Development Plan (SDP), or Site Improvement Plan (SIP). However, LDC section 10.02.03 A.3 inadvertently exempts a number of construction activities from using BMPs because they are not required to obtain an EWA permit, SDP, or SIP approval.

As a result, staff frequently receives complaints regarding soil erosion and sedimentation issues at construction sites for single family homes, duplexes, or townhomes such as the example shown in Figures 1 and 2. These issues not only disturb surrounding properties, stormwater systems, and other waterways, but also cause construction delays, fines, and additional expenses to reverse the damage caused by missing or inadequate soil erosion and sedimentation control measures.

This amendment requires those projects not required to submit a Soil Erosion and Sediment Control Plan to implement BMPs for sediment and erosion control. Typically, BMPs are described in Chapter 4 of the FDEP's "Florida Stormwater, Erosion and Sedimentation Control Inspector's Manual." These standards include: 1) perimeter controls such as silt-fence, floating turbidity barriers when adjacent to waterways, or straw bale to stabilize soil and 2) storm drain inlet

protection such as a fabric drop, sod drop, or gravel and wire mesh inlet sediment filter. However, the specific control measures required will depend on the characteristics of each construction site and adjoining property. Per LDC section 10.02.06 B.1.e., it is further noted that any of the following property improvements, lot clearing, grading, stockpiling of soil, demolition, building construction or reconstruction, building alteration or addition cannot commence without a building permit or vegetation removal permit. Therefore, the building department shall, at the time of the first building inspection, determine if the appropriate BMP for erosion and soil control is effective.

**Figure 1. Absence of silt fence and soil stabilization adjacent to waterway.**



**Figure 2. Off-site sedimentation.**



**DSAC-LDR SUBCOMMITTEE RECOMMENDATION:** The DSAC-LDR Subcommittee recommended removing the word “discarded” from the reference to building materials in subsection B.3. This change was incorporated into the amendment and the DSAC-LDR Subcommittee recommended approval on November 13, 2017.

**FISCAL & OPERATIONAL IMPACTS:** No operational impacts are anticipated as the building department will observe compliance at the time of the first building inspection. Depending on the site characteristics and BMP, additional costs can be incurred once development commences.

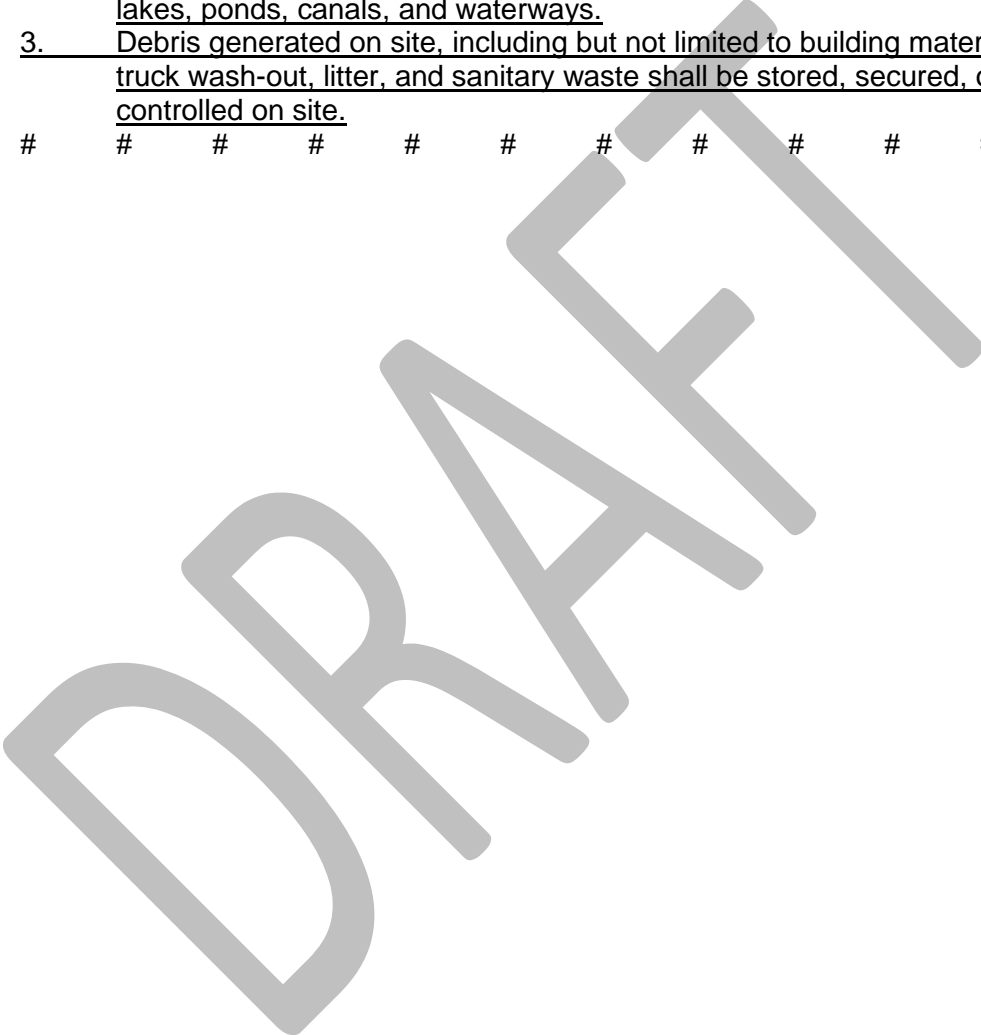
**GROWTH MANAGEMENT PLAN IMPACTS:** There are no Growth Management Plan impacts associated with this amendment.

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**Amend the LDC as follows:**

- 1 **6.01.05 - Soil Erosion and Sediment Control Plan**
- 2 A. *Soil Erosion and Sediment Control Plan.* For new and existing development and
- 3 construction approved pursuant to the provisions of LDC sections 10.02.03, 10.02.04
- 4 and 10.02.05, a soil erosion and sediment control plan shall be prepared and submitted
- 5 for approval with the required construction documents for each proposed project as
- 6 prescribed by objective 5.4 and policy 5.4.1 of the Conservation and Coastal
- 7 Management Element of the Collier County Growth Management Plan.
- 8 1. *Application.* The Administrative Code shall establish the procedure and submittal
- 9 requirements for a Soil Erosion and Sediment Control Plan.

- 1 B. Developments not requiring a Soil Erosion and Sediment Control Plan shall implement
- 2 and maintain best management practices in accordance with the Florida Stormwater
- 3 Erosion and Sedimentation Control Manual for sediment and soil erosion control, to
- 4 prevent the transport of sediment and pollutants off site.
- 5 1. All sediment and soil erosion control devices shall be installed prior to the
- 6 commencement of construction for demolition, renovation, alteration,
- 7 construction, stockpiling of fill, lot clearing or grading.
- 8 2. During construction activities, the applicant shall remove any pollutant, silt,
- 9 debris, or dirt resulting from the construction activities that accumulates off site or
- 10 within any stormwater management system, including but not limited to swales,
- 11 lakes, ponds, canals, and waterways.
- 12 3. Debris generated on site, including but not limited to building materials, concrete
- 13 truck wash-out, litter, and sanitary waste shall be stored, secured, or otherwise
- 14 controlled on site.
- 15 # # # # # # # # # # # # #



## **Land Development Code Amendment Request**

**ORIGIN:** Growth Management Department Staff

**AUTHOR:** Growth Management Department Staff

**LDC SECTION:** 9.04.04 Specific Requirements for Minor After-the-Fact Encroachment

**SUMMARY:** This amendment creates an exception from the requirement to pursue an Administrative Variance (AVA) for residential structures with setback encroachments of three inches or less that result from the application of exterior wall treatments.

**DESCRIPTION:** For many years, the Growth Management Department has received daily requests seeking to determine if a residential structure complies with zoning regulations. These inquiries often occur during the due-diligence stage of the sale of a property and include an as-built survey of the structure. If the as-built survey shows a structural encroachment into the required setbacks, the owner would need a variance to clear the encumbrance from the property title, placing an unexpected financial burden on those seeking to purchase or sell a property.

Although the as-built survey may show the structure with a setback encroachment, further research into the property often shows the building permit for the structure was approved and issued with the required setbacks in effect at that time, a Certificate of Occupancy (CO) was granted, and the structure satisfied the structure-to-structure separation requirements. During the building permit process, a spot survey is required after the slab inspection but will only demonstrate the location of the slab. Therefore, these encroachments may occur when the exterior frame walls are constructed flush with the outer most edge of the slab, and the added exterior wall treatments extend into the required yard. Examples of the exterior wall treatments may include stucco, siding, or stone finishes.

Currently, LDC section 9.04.04 B establishes that requests where building permits and CO's were granted qualify for administrative variance approval if the encroachment does not exceed ten percent of the required yard with a maximum of two feet. Since 2014, approximately 37 percent of AVAs approved in accordance with LDC Section 9.04.04 B were for encroachments of less than three inches.

The County would not require the homeowner to pursue a variance for these types of encroachments, as the amendment proposes to deem the residential structures compliant with the applicable development standards within the LDC, when the following has occurred:

- A building permit has been granted;
- The building permit was approved utilizing the required setbacks in effect at that time;
- A certificate of occupancy has been granted;
- The encroachment does not exceed three inches into the required yard;
- The only portion of the structure encroaching into the required yard is the exterior wall treatment; and
- The required structure to structure separation, as identified in LDC section 4.02.02, is satisfied.



However, the exception is not applicable to the foundation or other architectural design features that encroach into required yards.

**DSAC-LDR SUBCOMMITTEE RECOMMENDATIONS:** The DSAC-LDR Subcommittee recommended approval on November 13, 2017, with no changes.

**FISCAL & OPERATIONAL IMPACTS:** This amendment will result in fewer Administrative Variances. However, if homeowners still require verification the property meets setbacks, this may increase the number of requests for Zoning Verification Letters. This could decrease fees collected by the Growth Management Department. However, by eliminating the need for AVAs, homeowners with encroachments of three inches or less may save the cost of the application fee and any other consultant fees associated with obtaining the administrative variance.

**GROWTH MANAGEMENT PLAN IMPACTS:** There are no anticipated Growth Management Plan impacts associated with this amendment.

---

**Amend the LDC as follows:**

**9.04.04 – Specific Requirements for Minor After-the-Fact Encroachment**

Minor after-the-fact yard encroachments for structures, including principal and accessory structures, may be approved administratively by the County Manager or designee. Exceptions to required yards as provided for within LDC section 4.02.01-~~D~~ shall not be used in the calculations of existing yard encroachments.

B. For both residential and non-residential structures, the County Manager or designee may administratively approve minor after-the-fact yard encroachments of up to ten (10) percent of the required yard with a maximum of two (2) feet when a building permit and certificate of occupancy has been granted. The encroachment applies to the yard requirement in effect as of the date the building permit was issued.

1. Exception. Residential structures shall be deemed compliant with the applicable development standards and no variance shall be required when the following additional conditions apply:

- a. The building permit and certificate of occupancy were approved in compliance with the required setbacks in effect at that time;
- b. The encroachment does not exceed three inches into the required yard;
- c. The only portion of the structure encroaching into the required yard is the exterior wall treatment; and
- d. The required structure to structure separation, as identified in LDC section 4.02.02, is satisfied.

\* \* \* \* \*

# # # # #

## **Land Development Code Amendment Request**

**ORIGIN:** Growth Management Department Staff

**AUTHOR:** Growth Management Department Staff

**LDC SECTION:** 10.02.09 Requirements for Text Amendments to the LDC

**SUMMARY:** This amendment proposes to modify the number of times amendments to the Land Development Code (LDC) may be made.

**DESCRIPTION:** Currently, LDC section 10.02.09 states that amendments to the LDC may be made no more than twice a year, unless the Board of County Commissioners (Board) directs additional amendments by super-majority vote. LDC amendments are initiated in several ways:

- The Board directs amendments,
- State legislation mandates changes to local government regulations,
- Private entities request amendments,
- Growth Management Plan (GMP) amendments require LDC amendments, or
- Collier County staff propose LDC amendments.

Each of the above sources of LDC amendments may include different timeframes for completion of LDC amendments, for example:

- Local moratoria sometimes require LDC amendments at a faster pace than, or out of cycle with, other planned amendments;
- State legislation may become effective at various times of the year;
- Privately initiated amendments may be requested at any time; or
- GMP changes may require concurrent LDC amendments.

Due to the variety of sources and timeframes of LDC amendments, the current maximum of two LDC amendments per year places an unnecessary limitation on staff time and resources. Given the limitation is not statutorily required, this amendment proposes to remove the limitation in order to better reflect the origination, frequency, and time constraints historically associated with LDC amendments. This the procedures for privately initiated LDC amendments are also addressed through a companion Administrative Code amendment (Exhibit A). The Administrative Code amendment clarifies the application requirements, review process, and adds a requirement for a pre-application meeting for privately initiated LDC amendments.

Regardless of the source or timing, LDC amendments are reviewed at several public meetings, including, at a minimum:

- *Development Services Advisory Committee - Land Development Review Subcommittee (DSAC-LDR)* (1 meeting)
- *DSAC* (1 meeting)
- *Environmental Advisory Council (EAC)* (1 advertised hearing, if necessary)
- *Collier County Planning Commission (CCPC)* (1 or 2 advertised hearings)
- *Board of County Commissioners* (1 or 2 advertised hearings)

**DSAC-LDR SUBCOMMITTEE RECOMMENDATION:** The DSAC-LDR Subcommittee recommended approval on November 14, 2017, with no changes.

**FISCAL & OPERATIONAL IMPACTS:** There are no anticipated fiscal or operational impacts associated with this amendment.

**GROWTH MANAGEMENT PLAN IMPACTS:** There are no anticipated Growth Management Plan impacts associated with this amendment.

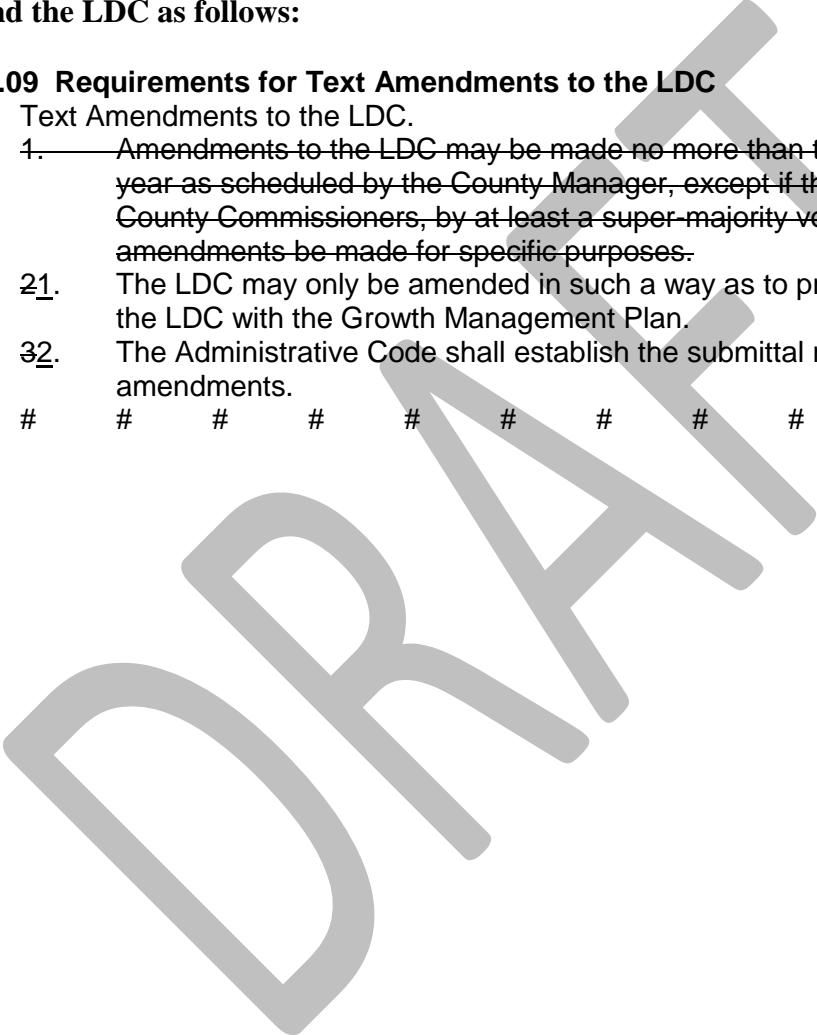
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**Amend the LDC as follows:**

**10.02.09 Requirements for Text Amendments to the LDC**

- A. Text Amendments to the LDC.
  - ~~1. Amendments to the LDC may be made no more than twice during the calendar year as scheduled by the County Manager, except if the Collier County Board of County Commissioners, by at least a super-majority vote, directs that additional amendments be made for specific purposes.~~
  - 21. The LDC may only be amended in such a way as to preserve the consistency of the LDC with the Growth Management Plan.
  - 32. The Administrative Code shall establish the submittal requirements for LDC amendments.

# # # # # # # # # # # # # #



# Exhibit A

Text underlined is new text to be added  
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**Bold text indicates a defined term**

## Collier County Land Development Code | *Administrative Procedures Manual* Chapter 2 | Legislative Procedures

### B. Privately Initiated Land Development Code Amendments—Privately Initiated Text Amendments

|                                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|--------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Reference                                  | LDC section <u>10.02.09</u> , LDC Public Notice subsection <u>10.03.06 A and K</u> , F.S. § 163.3202, and F.S. § 125.66.<br><br>⇔ See <u>LDC section 10.03.06</u> for County Initiated <del>Text</del> <u>LDC Amendments</u> .                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| Applicability                              | Privately initiated <u>A</u> amendments that supplement, change, or repeal <del>the text</del> of the LDC.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| Pre-Application                            | A pre-application meeting is <del>not</del> required.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| Initiation                                 | The <b>applicant</b> files an “ <i>Application for Amendment to the <u>Land Development Code-</u>” <u>with the Planning &amp; Zoning Division.</u></i> ”                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| Application Contents                       | The application must include the following <u>information</u> :<br><ol style="list-style-type: none"><li>1. <b>Applicant Contact Information.</b></li><li>2. <del>Completed LDC Amendment Request form.</del></li><li>3. <u>Pre-application meeting notes.</u></li><li>4. <u>LDC amendment request document, including the following.</u><ul style="list-style-type: none"><li>• <u>The <b>applicant’s</b> name;</u></li><li>• <u>The name of the author of the <b>LDC</b> text amendment;</u></li><li>• <u>All <b>LDC</b> sections to be modified by the amendment;</u></li><li>• <u>A written statement briefly describing the change requested;</u></li><li>• <u>A written statement describing the justification for the amendment and any other relevant information about the change requested;</u></li><li>• <u>A written statement describing any potential fiscal or operational impacts associated with the amendment;</u></li><li>• <u>A written statement addressing the amendment’s consistency with the Growth Management Plan;</u></li><li>• Changes to the <b>LDC</b> shall be identified in a strikethrough/underline format. Strikethrough language represents removal and underlined language represents new language; <u>and</u></li><li>• All cross references to the section in the <b>LDC</b> shall be checked and amended if necessary.</li></ul></li><li>5. <b>Electronic copies of all documents.</b></li></ol> |
| Completeness and Processing of Application | The Growth Management <del>Division</del> <u>Department</u> will review the application for completeness. After submission of the completed application packet accompanied with the required fee, the <b>applicant</b> will receive a mailed or electronic response notifying the <b>applicant</b> that the petition is being processed. Accompanying that response will be a receipt for the payment and the tracking number (i.e., XXX201200000) assigned to the                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |

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petition. This petition tracking number should be noted on all future correspondence regarding the petition.

**Notice Requirements for Amendments which affect 10 acres or less of land and do not change the list of permitted, conditional or prohibited uses within a zoning category**

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

**1. Newspaper Advertisements:** The legal advertisement shall be published at least 15 days before each advertised public hearing in a newspaper of general circulation. The advertisement shall include at a minimum:

- The title of the proposed ordinance or resolution;
- Date, time, and location of the hearing; ~~and~~
- Places(s) within the county where the proposed ordinance may be inspected by the public; and
- LDC amendments that change the zoning map designation of 10 acres or more of land or change the permitted, conditional, or prohibited uses within a zoning category shall include a 2 in. x 3 in. map of the project location.

**Notice for Amendments which affect 10 acres or more of land and do change the list of permitted, conditional or prohibited uses within a zoning category**

Notification requirements are as above, with the addition of:

- ~~2 in. x 3 in. map of the project location of which amends the Zoning Atlas and/or changes the permitted, conditional, and prohibited uses within a zoning category in the County.~~

**Public Hearings for Amendments which affect 10 acres or less of land and do not change the list of permitted, conditional or prohibited uses within a zoning category**

For LDC amendments that change the zoning map designation of less than 10 acres of land or do not change the list of permitted, conditional, or prohibited uses within a zoning district:

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

For LDC amendments that change the zoning map designation of 10 acres or more of land, or change the list of permitted, conditional, or prohibited uses within a zoning district:

1. The EAC shall hold at least one advertised public hearing, if required.
2. The Planning Commission shall hold at least one advertised public hearing.
  - The Planning Commission may elect by a majority decision to hear the ordinance or resolution at two advertised public hearings. If there is only one advertised public hearing, the hearing shall be held after 5:00 p.m. on a

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weekday, and if there are two advertised hearings, then at least one of the advertised public hearings shall be held after 5:00 p.m. on a weekday.

- 3. The BCC shall hold at least two advertised public hearings.
  - At least one advertised public hearing shall be held after 5:00 p.m. on a weekday, unless the BCC by a majority vote plus one vote elects to conduct that hearing at another time of day.

~~Notice for Amendments which affect 10 acres or more of land and do change the list of permitted, conditional or prohibited uses within a zoning category~~

- 1. ~~The EAC shall hold at least 1 advertised public hearing, if required.~~
- 2. ~~The Planning Commission shall have at least 1 advertised public hearing. The Planning Commission may elect by a majority decision to hear such ordinance or resolution at 2 advertised public hearings. If there is only 1 advertised public hearing, the hearing shall be held after 5:00 p.m. on a weekday, and if there are 2 advertised hearings, then at least 1 of the advertised public hearings shall be held after 5:00 p.m. on a weekday.~~
- 3. ~~The BBC shall have at least 2 advertised public hearings. At least 1 advertised public hearing shall be held after 5:00 p.m. on a weekday, unless the BCC by a majority vote plus 1 vote elects to conduct that hearing at another time of day.~~

**Decision maker** The BCC, following the recommendations from both the EAC, if required, and the Planning Commission.

**Review Process** ~~Staff reviews the amendment application and provides a recommendation. The Planning & Zoning Division will review the application and identify whether additional materials are needed. Staff will prepare a Staff Report and provide a recommendation to the following advisory boards and the BCC:~~

- The DSAC reviews the amendment application in a public meeting and makes a recommendation to the BCC.
- The EAC reviews the amendment application if the proposed change includes an environmental component in accordance with Collier County **Code of Laws** section 2-1193. The EAC makes a recommendation to the BCC.
- The Planning Commission reviews the application for consistency with the GMP and makes a recommendation to the BCC.

The BCC shall review the application and the recommendations by the advisory boards. The BCC may approve, approve with revisions, or deny the proposed ordinance or resolution.

**Effective Date** Per F.S. § 125.66, the ordinance must be filed with the Florida Department of State, Tallahassee, FL within 10 days of signing by the Chairman of the Board. The effective date is the date it is filed with the State, unless a date is specified in the ordinance.

**Updated** [Resolution 2018-XX]