

ORDINANCE NO. 19-03

AN ORDINANCE AMENDING THE LEE COUNTY LAND DEVELOPMENT CODE, CHAPTERS 2, 3, 6, 10, 14, 33, AND 34 AND APPENDIX C. THE PROPOSED AMENDMENTS WILL PROVIDE FOR THE BIENNIAL REVISION OF THE LAND DEVELOPMENT CODE (LDC) BY REDUCING REDUNDANCIES WITH THE LEE PLAN AND ADMINISTRATIVE CODE, CLARIFYING PROVISIONS, UPDATING CROSS-REFERENCES, AMENDING THE AIRPORT DISTRICT REGULATIONS TO PROVIDE FLEXIBILITY WITHIN THE AIRPORT OVERLAY PLANNED DEVELOPMENT (AOPD), AND TO COMPLY WITH RECENT AMENDMENTS TO THE FLORIDA STATUTES; PERTAINING TO MODIFICATIONS THAT MAY ARISE FROM CONSIDERATION AT PUBLIC HEARING; PROVIDING FOR CONFLICTS OF LAW, SEVERABILITY, CODIFICATION, INCLUSION IN CODE AND SCRIVENER'S ERRORS, AND EFFECTIVE DATE.

THE SPECIFIC LDC PROVISIONS THAT WILL BE AMENDED ARE: SEC. 2-146 (MINIMUM REQUIREMENTS); CHAPTER 3 (EXPLOSIVES AND BLASTING REGULATIONS) REMOVED ENTIRELY; SEC. 6-47 (BUILDING RELOCATION PERMIT); SEC. 10-1 (DEFINITIONS); SEC. 10-8 (SPECIFIC REQUIREMENTS); SEC. 10-102 (EMPLOYMENT OF ENGINEERS AND DESIGN CONSULTANTS); SEC. 10-103 (PREREQUISITE ZONING APPROVALS FOR DEVELOPMENT ORDER SUBMITTALS); SEC. 10-104 (DEVIATION AND VARIANCES); SEC. 10-108.1 (PAYMENT OF TAXES); SEC. 10-121 (TRANSFER); SEC. 10-151 (GENERALLY); SEC. 10-153 (APPLICATION FORM AND CONTENTS); SEC. 10-154 (ADDITIONAL REQUIRED SUBMITTALS); SEC. 10-256 (BIKEWAYS AND PEDESTRIAN WAYS); SEC. 10-285 (CONNECTION SEPARATION); SEC. 10-296 (STREET DESIGN AND CONSTRUCTION STANDARDS); SEC. 10-321 (GENERALLY); SEC. 10-416 (LANDSCAPE STANDARDS); SEC. 10-610 (SITE DESIGN STANDARDS AND GUIDELINES FOR COMMERCIAL BUILDINGS AND DEVELOPMENTS); SEC. 14-243 (BUILDING PERMITS AND OCCUPATIONAL LICENSES); SEC. 33-1434 (DEVELOPMENT STANDARDS); SEC. 33-1519 (STATE ROUTE 80 CORRIDOR OVERLAY DISTRICT PROPERTY DEVELOPMENT REGULATIONS TABLE); SEC. 34-2 (DEFINITIONS); SEC. 34-144 (CONDUCT OF HEARINGS; REPORTS AND RECORDS); SEC. 34-145 (FUNCTIONS AND AUTHORITY); SEC. 34-146 (FINAL DECISION; JUDICIAL REVIEW); SEC. 34-171 (APPOINTMENT OF DIRECTOR); SEC. 34-172 (POWERS AND DUTIES); SEC. 34-173 (AUTHORITY TO PERMIT USES PENDING A ZONING ACTION); SEC. 34-174 (AUTHORITY TO APPROVE ADMINISTRATIVE ACTIONS); SEC. 34-201 (GENERAL PROCEDURE FOR APPLICATIONS REQUIRING PUBLIC HEARING); SEC. 34-202 (GENERAL SUBMITTAL REQUIREMENTS FOR APPLICATIONS REQUIRING PUBLIC HEARING); SEC. 34-203 (ADDITIONAL REQUIREMENTS FOR APPLICATIONS

REQUIRING PUBLIC HEARING); SEC. 34-204 (SUBMITTAL REQUIREMENTS FOR ADMINISTRATIVE ACTION APPLICATIONS) REMOVED; SEC. 34-206 (FAMILY DAY CARE HOME EXEMPTION REQUEST) REMOVED; SEC. 34-207 (EXCAVATIONS) REMOVED; SEC. 34-208 (RESERVED) REMOVED; SEC. 34-209 (BUILDING RELOCATION PERMIT) REMOVED; SEC. 34-210 (TEMPORARY USE PERMITS) REMOVED; SEC. 34-211 (DENIALS AND RESUBMISSION OF APPLICATIONS); SEC. 34-265 (COMPLIANCE) REMOVED; SEC. 34-266 (CEASE AND DESIST ORDERS) REMOVED; SEC. 34-267 (AUTHORITY TO PERMIT USES PENDING A ZONING ACTION) REMOVED; SEC. 34-268 (ADMINISTRATIVE VARIANCES) REMOVED; SEC. 34-371 (GENERALLY); SEC. 34-373 (APPLICATION); SEC. 34-380 (AMENDMENTS TO APPROVED MASTER CONCEPT PLAN); SEC. 34-411 (GENERAL STANDARDS); SEC. 34-621 (USE AND DEVELOPMENT REGULATIONS FOR CONVENTIONAL DISTRICTS); SEC. 34-625 (OUTDOOR LIGHTING STANDARDS); SEC. 34-626 (REQUESTS FOR ZONING VERIFICATION); SEC. 34-653 (USE REGULATIONS TABLE FOR AGRICULTURAL DISTRICTS); SEC. 34-694 (USE REGULATIONS TABLE FOR ONE AND TWO-FAMILY RESIDENTIAL DISTRICTS); SEC. 34-695 (PROPERTY DEVELOPMENT REGULATIONS TABLE FOR ONE AND TWO-FAMILY DISTRICTS); SEC. 34-714 (USE REGULATIONS TABLE FOR MULTIPLE-FAMILY RESIDENTIAL DISTRICTS); SEC. 34-715 (PROPERTY DEVELOPMENT REGULATIONS TABLE FOR MULTIPLE-FAMILY DISTRICTS); SEC. 34-735 (USE REGULATIONS TABLE FOR MOBILE HOME DISTRICTS); SEC. 34-736 (PROPERTY DEVELOPMENT REGULATIONS TABLE FOR MOBILE HOME RESIDENTIAL DISTRICTS); SEC. 34-767 (USE REGULATIONS TABLE FOR RECREATIONAL VEHICLE DISTRICTS); SEC. 34-768 (PROPERTY DEVELOPMENT REGULATIONS TABLE FOR RECREATIONAL VEHICLE DISTRICTS); SEC. 34-813 (USE REGULATIONS TABLE FOR COMMUNITY FACILITIES DISTRICTS); SEC. 34-814 (PROPERTY DEVELOPMENT REGULATIONS TABLE FOR COMMUNITY FACILITIES DISTRICTS); SEC. 34-841 (PURPOSE AND INTENT); SEC. 34-844 (USE REGULATIONS TABLE FOR CONVENTIONAL COMMERCIAL DISTRICTS); SEC. 34-845 (PROPERTY DEVELOPMENT REGULATIONS TABLE FOR COMMERCIAL DISTRICTS); SEC. 34-873 (USE REGULATIONS TABLE FOR MARINE-ORIENTED DISTRICTS); SEC. 34-874 (PROPERTY DEVELOPMENT REGULATIONS TABLE FOR MARINE-ORIENTED DISTRICTS); SEC. 34-903 (USE REGULATIONS TABLE FOR INDUSTRIAL DISTRICTS); SEC. 34-904 (PROPERTY DEVELOPMENT REGULATIONS TABLE FOR INDUSTRIAL DISTRICTS); SEC. 34-931 (PURPOSE AND INTENT); SEC. 34-933 (PERMITTED USES); SEC. 34-934 (USE REGULATIONS TABLE FOR PLANNED DEVELOPMENT DISTRICTS); SEC. 34-942 (AIRPORT OPERATIONS PLANNED DEVELOPMENTS); SEC. 34-981 (PURPOSE AND INTENT); CHAPTER 34, ARTICLE VI, DIVISION 10, SUBDIVISION III (AIRPORT COMPATIBILITY DISTRICT); SECTIONS 34-1001 THRU 34-1013 ARE

RENUMBERED UNDER DIVISION 12; SEC. 34-1005 (AIRPORT PROTECTION ZONES) REMOVED; SEC. 34-1008 (AIRPORT RESIDENTIAL PROTECTION ZONES) REMOVED; SEC. 34-1101 (APPLICABILITY); SEC. 34-1102 (PURPOSE, AND INTENT); SEC. 34-1103 (DEFINITIONS); SEC. 34-1104 (AIRPORT NOISE ZONES); SEC. 34-1105 (AIRPORT RUNWAY PROTECTION ZONES); SEC. 34-1106 (AIRPORT RESIDENTIAL AND EDUCATIONAL FACILITY PROTECTION ZONES); SEC. 34-1107 (LCPA AIRPORT OBSTRUCTION NOTIFICATION ZONE); SEC. 34-1108 (OBSTRUCTION MARKING AND LIGHTING); SEC. 34-1109 (VARIANCE OR DEVIATION); SEC. 34-1110 (LAND USE RESTRICTIONS); SEC. 34-1111 (NON-CONFORMING USES); SEC. 34-1112 (APPEALS AND ENFORCEMENT); SEC. 34-1113 (RESERVED); SEC. 34-1177 (ACCESSORY APARTMENTS); SEC. 34-1264 (SALE OR SERVICE FOR ON-PREMISES CONSUMPTION); SEC. 34-1297 (ACTIVITIES REQUIRING SPECIAL APPROVAL); SEC. 34-1411 (ASSISTED LIVING FACILITIES); SEC. 34-1414 (CONTINUING CARE FACILITIES); SEC. 34-1415 (LOCATION OF HEALTHCARE FACILITIES); SEC. 34-1442 (DEFINITIONS); SEC. 34-1445 (DEVELOPMENT REVIEW PROCESS); SEC. 34-1493 (CALCULATION OF TOTAL PERMISSIBLE HOUSING UNITS); SEC. 34-1572 (APPLICABILITY OF DIVISION); SEC. 34-1574 (COMPLIANCE WITH APPLICABLE REGULATIONS; NEW ROADS OR EXPANSION OF EXISTING FACILITIES); SEC. 34-1575 (COASTAL ZONES); CHAPTER 34, DIVISION 15 (EXCAVATION ACTIVITIES); SEC. 34-1716 (STANDARDS FOR COMMUNITY GARDENS); SEC. 34-1923 (SKIRTING); SEC. 34-1954 (MODEL HOMES AND MODEL UNITS); SEC. 34-1955 (MODEL DISPLAY CENTERS); SEC. 34-2020 (REQUIRED PARKING SPACES); CHAPTER 34, DIVISION 28 (PLANT NURSERIES); SEC. 34-2142 (EXCEPTION FOR ESSENTIAL SERVICE FACILITIES GROUP I) REMOVED; SEC. 34-2175 (HEIGHT LIMITATIONS FOR SPECIAL AREAS AND LEE PLAN LAND USE CATEGORIES); SEC. 34-2191 (MEASUREMENT; PERMITTED ENCROACHMENTS); SEC. 34-2192 (STREET SETBACKS); SEC. 34-2196 (USES EMPLOYING SOLAR ENERGY OR WIND DRIVEN ELECTRICAL GENERATORS) REMOVED; SEC. 34-2221 (MINIMUM DIMENSIONS GENERALLY); SEC. 34-3041 (TEMPORARY USE PERMITS, GENERALLY); SEC. 34-3103 (PERMIT FOR MOVING BUILDING) REMOVED; SEC. 34-3206 (NONCONFORMITIES CREATED BY EMINENT DOMAIN PROCEEDINGS OR VOLUNTARY DONATION OF LAND FOR PUBLIC PURPOSE); SEC. 34-3272 (LOT OF RECORD DEFINED; GENERAL DEVELOPMENT STANDARDS); APPENDIX C (AIRPORT NOISE ZONES) MAP 1 UNCHANGED, MAPS 2A THROUGH 10 ARE TO BE REPLACED.

WHEREAS, Florida Statutes Section 125.01(1)(h) authorizes counties to establish, coordinate, and enforce zoning regulations necessary for the protection of the public; and,

WHEREAS, the Board of County Commissioners adopted the Lee County Land Development Code which contains regulations applicable to the development of land in Lee County; and,

WHEREAS, the Board of County Commissioners of Lee County, Florida, has adopted a comprehensive Land Development Code (LDC); and,

WHEREAS, Goal 24 of the Lee County Comprehensive Land Use Plan (Lee Plan) mandates that the County maintain clear, concise, and enforceable development regulations that fully address on-site and off-site development impacts, yet function in a streamlined manner; and,

WHEREAS, on November 17, 2015, the Board of County Commissioners provided direction for Staff to identify amendments to the Lee Plan to align with the BOCC's strategic planning initiatives, streamline, and eliminate potential liabilities, reduce redundancy/conflict within and between Lee Plan goals, and relocate regulatory provisions to the Land Development Code.

WHEREAS, the Land Development Code Advisory Committee (LDCAC) was created by the Board of County Commissioners to explore amendments to the LDC; and,

WHEREAS, the LDCAC has reviewed the proposed amendments to the LDC on September 14, 2018 and January 10, 2019 and recommended approval of the proposed amendments as modified; and,

WHEREAS, the Executive Regulatory Oversight Committee reviewed the proposed amendments to the Code on September 12, 2018 and January 9, 2019 recommended their adoption; and,

WHEREAS, the Local Planning Agency reviewed the proposed amendments on November 5, 2018 and January 28, 2019, and found them consistent with the Lee Plan, as indicated.

WHEREAS, on February 19, 2019, Staff received direction from the Board of County Commissioners to bring these specific rounds of LDC amendments forward before the Board for approval.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA:

SECTION ONE: AMENDMENT TO LDC CHAPTER 2

Lee County Land Development Code Chapter 2 is amended as follows with strike through identifying deleted text and underline identifying new text.

Chapter 2

ARTICLE IV. - BONUS DENSITY

DIVISION 2. – BONUS DENSITY PROGRAM

Sec. 2-146. - Minimum requirements.

[(a) remains unchanged.]

(b) Minimum requirements:

- (1) The additional traffic will not be required to travel through areas with significantly lower densities before reaching the nearest collector or arterial road ~~as required by Lee Plan Policy 39.1.4~~; and

[(2) thru (4) remain unchanged.]

[(c) thru (d) remain unchanged.]

(e) TDUs may not be utilized on property located within the coastal high hazard area as defined in section 2-483 or located within the Bayshore, Buckingham, Caloosahatchee Shores, or Northeast Lee County or Southeast Lee County Planning Communities. Within the Southeast Lee County Planning Community, TDUs may only be used as described in section 2-154.

SECTION TWO: AMENDMENT TO LDC CHAPTER 3

Lee County Land Development Code Chapter 3, Explosives and Blasting Regulations, is removed in its entirety.

SECTION THREE: AMENDMENT TO LDC CHAPTER 6

Lee County Land Development Code Chapter 6 is amended as follows with strike through identifying deleted text and underline identifying new text.

CHAPTER 6 – BUILDINGS AND BUILDING REGULATIONS

ARTICLE II. CODES AND STANDARDS

DIVISION 1. GENERALLY

Sec. 6-47. - Building relocation permit.

(a) Compliance with applicable regulations; time limit for leaving buildings on street.

- (1) When a building is moved to any location within the unincorporated area of the County, the building or part thereof must immediately be made to conform to all the provisions of the latest adopted zoning ordinance and other applicable County regulations.
- (2) Any building being moved for which a permit was granted may not remain within a public right-of-way for more than 48 hours.

(b) Contents of application. Any person desiring to relocate or move a building must first file a written application on an official form provided by the Department. The application must include the following information furnished by the applicant and must be accompanied by the required application fee:

- (1) The existing and proposed use of the building.
- (2) The STRAP number and street address for both the existing and proposed location of the building.
- (3) A certified survey of the proposed site with ground elevations, flood zone and required elevation, if in a V or A flood zone area.
- (4) A plot plan showing lot dimensions, setbacks, existing structures, and the location of the proposed building drawn to scale. The plot plan must depict the roof overhangs and the foundations of all existing and proposed buildings and structures.
- (5) Construction details, drawn to a scale of no larger than one-half inch equals one foot and no smaller than one-eighth inch equals one foot, including the following:
 - a. Foundation layout with connection details.
 - b. Floor plan, existing and proposed.
 - c. Mechanical plans, including air conditioning, electric system and plumbing plans.
 - d. Elevations, front, side and rear.
 - e. Flood elevation, if applicable.
- (6) Current termite inspection by licensed pest controller.
- (7) Water and sewer approvals from appropriate agencies.

- (8) Photographs showing all sides of the building and the site where the building is proposed to be located.
- (9) Proof of notice to all owners of property abutting or across the street from the site where the building is proposed to be located.
- (c) *Inspection of building.* The building will be inspected by the County to determine:
 - (1) If the building can be brought into compliance in all respects with this chapter and other County regulations pertaining to the area to which the building is to be moved.
 - (2) If the building is structurally sound and either complies with the Standard Building Code and other codes adopted by the County or can be brought into compliance with such codes.
- (d) *Rejection of application.* An application must be rejected if:
 - (1) The building fails to meet the inspection criteria detailed in subsection (c) of this section;
 - (2) In the opinion of the Director, the moving of any building will cause serious injury to persons or property;
 - (3) The building to be moved has deteriorated due to fire or other element to more than 50 percent of its assessed value; or
 - (4) The moving of the building will violate any of the requirements of the Standard Building Code, this chapter or other applicable County regulations.
- (e) *Approval of application.* Upon approval of the application for building relocation, a licensed building relocation contractor representing the applicant must:
 - (1) Apply for and receive all required permits from the Department of Transportation, County and/or state;
 - (2) Pay the required fees and obtain the building relocation permit and appropriate sub-permits.

Secs. 6-4847—6-70. Reserved.

SECTION FOUR: AMENDMENT TO LDC CHAPTER 10

Lee County Land Development Code Chapter 10 is amended as follows with strike through identifying deleted text and underline identifying new text.

Chapter 10. Development Standards

ARTICLE 1. IN GENERAL

Sec. 10-1. - Definitions.

[(a) remains unchanged.]

- (b) Definitions. Except where specific definitions are used within a specific section of this chapter for the purpose of such sections, the following terms, phrases, words and their derivations will have the meaning given in this subsection when not inconsistent with the context:

Development permit has the same meaning as given for that term in F.S. § 163.3164(8).

~~*Lot coverage* means that portion of a lot area, expressed as a percentage, occupied by all impervious surfaces.~~

[Remainder of section remains unchanged.]

Sec. 10-8. - Specific requirements.

A development order will be issued when the development is designed so as to reasonably achieve the following:

[(1) remains unchanged.]

- (2) ~~*Reserved.*~~ *Vehicle Circulation.*

~~Additionally, the development must also achieve the following:~~

~~*[a. thru d. remain unchanged.]*~~

~~*[(3) thru (4) remain unchanged.]*~~

- (5) ~~*Bicycle and pedestrian ways plan.*~~ There is hereby adopted as part of this chapter the official bikeways/walkways facilities plan map. The map identifies a network of roads which, if improved with bikeways and pedestrian ways, will meet present and anticipated bikeway and pedestrian way needs of the County. The official bikeways/walkways facilities plan map will be signed by the chairman of the Board of County Commissioners and placed on file with the County Departments of Transportation and Community Development. Reproductions of the map will be available to the public. The purpose of the official bikeways/walkways facilities plan map is to target certain arterial and collector roadways for improvements necessary to ensure County-wide continuity of the bicycle and pedestrian transportation system. ~~*B*~~ The development must provide bikeways and pedestrian ways are necessary along the roadways depicted on the Lee County Walkways & Bikeways Lee Plan Map in accordance with section 10-256. ~~on the map for the benefit and protection of the health, safety, and welfare of the residents of Lee County because those facilities serve to: (a) lessen traffic congestion, (b) reduce conflicts between vehicular and pedestrian/cyclist movement, (c) provide safe pedestrian/cyclist circulation to community facilities, and (d) provide safe access to active and passive recreational activity.~~

- (6) ~~Access roads. Pursuant to the County Comprehensive Plan, there is hereby adopted as part of this chapter the access road location map for the County. The access road location map identifies the arterials and collectors where access roads may be desirable to protect the connection separation standards of this code and the health, safety and welfare of County residents. The access road location map will be maintained by the County Division of Transportation. Reproductions of the map will be available to the public for a nominal fee at County mapping.~~

~~Access roads may be desirable along major urban streets for the protection of the health, safety and welfare of County residents because:~~

- ~~a. Access roads reduce the need for individual driveways and thereby decrease conflicting traffic movements, which in turn reduces the potential for accidents; and~~
- ~~b. The use of access roads decreases traffic on the County's arterial and collector streets, thereby improving their levels of service.~~

~~If required by the County pursuant to section 10-283, the development must provide an access road. Roads, whose main function is to provide for internal traffic circulation and, roads that provide frontage for newly created lots that would not otherwise have road frontage, do not qualify as access roads unless such roads are required by the County pursuant to the criteria in section 10-283 of this Code.~~

~~Unless required by the County pursuant to section 10-283 of this Code, roads that serve to achieve site location standards for commercial development will not be eligible for roads impact fee credit under Chapter 2.~~

[Remainder of section remains unchanged.]

ARTICLE II. – ADMINISTRATION

DIVISION 2. – DEVELOPMENT ORDERS

SUBDIVISION II. – PROCEDURES

Sec. 10-102. - Employment of engineers and design consultants.

An engineer shall be employed by the developer to design all required improvements such as streets, drainage structures, drainage systems, bridges, bulkheads, water and sewage facilities, etc. All plans, drawings, reports and calculations shall be prepared, signed and sealed by the appropriate licensed professional, such as engineers, architects, landscape architects, land surveyors and attorneys, registered in the state. Other specialized consultants, such as environmental consultants, archaeologists, etc., may be required to assist in the preparation of the plans, drawings, reports and other documents required as development order submittals. Successor engineers must follow the procedures outlined in FAC 61G15-27.001 to continue use of sealed contract documents by any prior professional engineer.

Sec. 10-103. – Concurrent zoning and development order applications. Prerequisite zoning approvals for development order submittals.

- (a) ~~Any applicant who intends to submit an application for development order approval on a project that was zoned RPD, MHPD, RVPD, CPD, CFPD, IPD or AOPD prior to December 2, 1991, must submit four complete sets of plans and documents to the zoning review staff,~~

who will review the submittals for full compliance with the adopted master concept plan and any conditions of approval. Plans may be reviewed concurrently for compliance with this chapter and with the terms of the zoning approval. No development orders may be issued for the project in question until the plans have been determined to be in compliance with the terms of the zoning approval. Specific reference to the districts listed in this section and the required review does not obviate the need to have plans reviewed for zoning compliance for conditions placed on other types of zonings, PUDs, special exceptions, variances and special permits.

- (b) ~~All applications for development orders on property zoned RPD, MHPD, RVPD, CPD, CFPD, IPD, AOPD or MPD after December 2, 1991, must be reviewed for compliance with the approved master concept plan and all other conditions of approval as part of the development order review process.~~
- (c) All applications for development orders must be consistent with zoning. For developments that require rezoning, the applicant may make application for a development order and the rezoning simultaneously. The development order will be reviewed for compliance with the requirements of this chapter and the requirements of chapter 12 and 34 for the proposed zoning of the property. No approval of the development order will be granted until the proposed rezoning is approved and a zoning resolution signed by the chairman of the Board of County Commissioners is issued.

Sec. 10-104. - Deviation and variances.

- (a) *Provisions where deviations are authorized.* The Development Services Director is hereby authorized to grant deviations from the technical standards in the following sections of this chapter:

[(1) thru (6) remain unchanged.]

(7) Reserved; Section 10-296(d)(11), Table 3 (pavement design);

[(8) thru (11) remain unchanged.]

(12) Section 10-329(d)(4) (excavation bank slopes and percent hardening);

[(13) thru (16) remain unchanged.]

(17) Section 10-418(3) (percent hardening and compensatory littorals surface water management systems; limited to the prohibition of hardened structures behind single family residences for lake bank slopes);

[(18) thru (22) remain unchanged.]

(23) Sections 10-329(f) and 10-418(54) (restoration of existing bank slopes and littoral designs).

- (b) *Criteria for administrative deviations.* Administrative deviations may be granted only where the Development Services Director, with the assistance of directors of other affected County departments, or divisions, and affected jurisdictions, finds that the following criteria have been met:

[(1) thru (5) remain unchanged.]

- (6) For sections 10-329(f) and 10-418(54), the proposed use of hardened structures for restoration of existing lake bank slopes will be evaluated on a case by case basis. The application for the hardened structure must demonstrate this is the most appropriate

and minimum stabilization technique necessary as designed and sealed by a licensed professional engineer. The application must also demonstrate compliance with section 10-418(3) for compensatory littorals as well as previously approved littoral and deep lake management plan requirements. However, existing lakes within the DR/GR may not utilize hardened structures through the administrative process, ~~except those identified in section 10-418(3).~~

[(c) remains unchanged.]

- (d) *When submittals may be made.* Requests for deviations may be submitted contemporaneously with the applicant's original development order application, or at any time thereafter, so long as the application has not been withdrawn.

~~An applicant has six months to submit or resubmit a supplement consisting of drawings or plans setting forth the changes necessary to remedy any deficiencies identified in a written notice provided by the County regarding why the application will not be approved as submitted. If the supplement is not submitted within six months of the date of the written notice regarding deficiencies the application will be deemed withdrawn.~~

[Remainder of section remains unchanged.]

Sec. 10-108.1. - Payment of taxes.

No development orders or plats ~~will~~ shall be approved for the subject property if ad valorem taxes or assessments against the property are due and owing delinquent or if there are outstanding tax certificates issued for the property.

Sec. 10-121. - Transfer.

A development order runs with the land and is transferable to the subsequent owner of the property covered by the development order. In order for a subsequent owner of property that is covered by a development order to ensure that the development order file is current, the new owner of the property must submit the following documents:

[(1) thru (2) remain unchanged.]

- (3) A notarized statement, signed by the applicant, under oath, that he or she is the authorized representative of the owner of the property and has full authority to secure the approval requested and to impose covenants and restrictions on the referenced property as a result of the issuance of a development order in accordance with this code. The signed statement also constitutes an acknowledgment that the property will not be transferred, conveyed, sold or subdivided unencumbered by the covenants and restrictions imposed as part of the development order.

SUBDIVISION III. – SUBMITTALS

Sec. 10-151. - Generally.

[(a) remains unchanged.]

- (b) All drawings must be drawn on 24-inch by 36-inch sheets at an appropriate scale no greater than 1:50. If more than one sheet is required, appropriate match lines must be indicated. Drawings intended to provide context for the overall development may be provided at a scale greater than 1:50. ~~The Division Director may allow electronic submittals of work in-~~

~~progress drawings. Final drawings must be submitted as 24 by 36 inch hard copy prints in order to be stamped "approved."~~

[Remainder of section remains unchanged.]

Sec. 10-153. - Application form and contents.

The application form for development order approval ~~is available~~ may be obtained from the Department of Community Development. The following information must be included in any application ~~form~~ for a development order:

- (1) A notarized statement signed by the applicant, under oath, that he or she is the authorized representative of the owner of the property and has full authority to secure the approval requested and to impose covenants and restrictions on the referenced property as a result of the issuance of a development order in accordance with this Code. The signed statement also constitutes an acknowledgment that the property will not be transferred, conveyed, sold or subdivided unencumbered by the covenants and restrictions imposed as part of the development order.

[Remainder of section remains unchanged.]

Sec. 10-154. - Additional required submittals.

The following must be submitted with an application for development order approval:

[(1) thru (6) remain unchanged.]

- (7) *Proposed development plan drawings.* Proposed development plan drawings showing at a minimum the following:

[a. thru i. remain unchanged.]

- j. Utilities. A statement indicating the proposed method intended to provide water, sewer, electricity, telephone, refuse collection and street lighting, including but not limited to:
 1. The names and address of all utilities, governmental or private, intended to supply the service.
 2. The names and addresses of the owners of all existing public water and sewage systems within one-quarter mile of the proposed development.
 3. A plan showing the location and size of all water mains and services, fire hydrants, sewer mains and services, treatment plants and pumping stations, together with plan and profile drawings showing the depth of utility mains ~~lines~~ and points where utility mains ~~lines~~ cross one another or cross storm drain or water management facilities. The location of services shall be shown.

[k. thru r. remain unchanged.]

[Remainder of section remains unchanged.]

ARTICLE III. – DESIGN STANDARDS AND REQUIREMENTS

DIVISION 1. – GENERALLY

Sec. 10-256. - Bikeways and pedestrian ways.

(a) All development and redevelopment proposed within future urban areas or future suburban areas, as defined by the Lee Plan, or along trails depicted on the Greenways Master Plan (Lee Plan Map 22), or along walkways and bikeways depicted on the Lee County Walkways and Bikeways Map (Lee Plan Map 3D) are required to provide for bikeways and pedestrian ways.

(b) *Requirements for bikeways and pedestrian ways.*

[(1) remains unchanged.]

(2) Location.

[a. thru b. remain unchanged.]

c. The developer must construct bicycle and/or pedestrian ways, where applicable, in private subdivisions internal to the development as follows:

[1. thru 2. remain unchanged.]

3. Sidewalks on both sides of all internal streets are required for all new non-residential developments and must extend from intersection ~~from~~to intersection.

[Remainder of section remains unchanged.]

DIVISION 2. – TRANSPORTATION, ROADWAYS, STREETS AND BRIDGES

Sec. 10-285. - Connection separation.

(a) *Generally.* Motor vehicle connection(s) to a ~~county-maintained~~ road from privately-maintained streets, access roads or accessways must be separated in accordance with the minimum standards of Table 1, and consistent with criteria contained in the administrative code.

TABLE 1. CONNECTION SEPARATION

Future Urban, Suburban or Non-Urban Areas as defined in the Lee Plan	Future Urban Areas (Posted Speed ≥ 45 / < 45)	Future Suburban Areas	Future Non-Urban Areas
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[Remainder of table remains unchanged.]

Sec. 10-296. – Street design and construction standards.

[(a) thru (b) remain unchanged.]

(c) *Street and bridge design and construction standards.* All street and bridge improvements must comply with the standards and specifications listed herein, pertaining to minimum specifications for street improvements, and section 10-300 ~~10-706~~, pertaining to minimum specifications for bridge improvements, for the applicable development category.

[(d) remains unchanged.]

- (e) *Road design.* All roadways will be designed and constructed in accordance with this subsection. Cross-sections within this subsection are for illustrative purposes only.

[(1) remains unchanged.]

- (2) *Suburban roadways.* Roadway segments in or abutting future suburban areas identified in the Lee Plan will be designed in accordance with this section. Design criteria will be determined by the existing functional classification of the roadway identified in AC-11-1 and the future land use identified in the Lee Plan Future Land Use Map.

[a. thru g. remain unchanged.]

h. Suburban context design criteria.

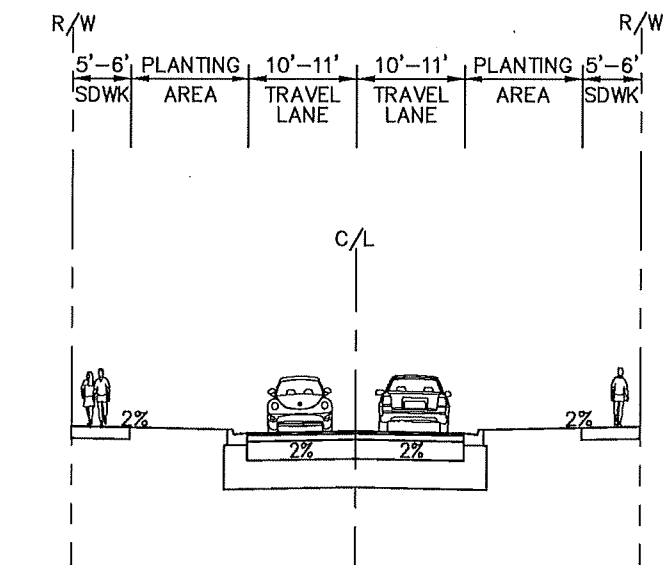
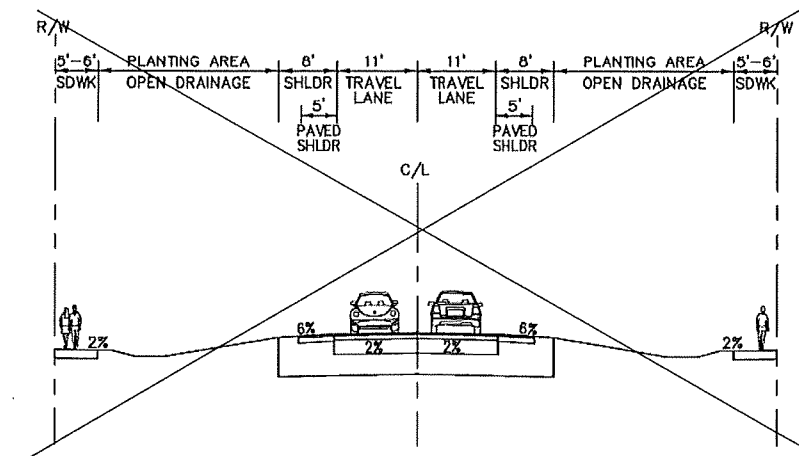
[1. thru 4. remain unchanged.]

5. Suburban local streets.

[i. thru ii. remain unchanged.]

iii. Cross-sections.

- a. The following cross-section is illustrative of suburban local streets with closed drainage.



**Suburban Local Street
Closed Drainage**

[b. remains unchanged.]

[Remainder of section remains unchanged.]

DIVISION 3. – SURFACE WATER MANAGEMENT

Sec. 10-321. - Generally.

[(a) remains unchanged.]

- (b) *Development outside future urban areas to comply with policies of {the} Lee Plan; surface water management plans within urban areas.*

[(1) remains unchanged.]

~~(2) Section 32-281 allows certain modifications to this chapter's surface water management standards for compact communities.~~

- ~~(32) Surface water management plans for developments within urban areas must mimic natural systems where feasible in accordance with Lee Plan policy 61.2.4. Techniques to mimic the function of natural systems are specified in section 10-418.~~

[Remainder of section remains unchanged.]

DIVISION 6. – OPEN SPACE, BUFFERING AND LANDSCAPING

Sec. 10-416. - Landscape standards.

[(a) thru (b) remains unchanged.]

- (c) *Landscaping of parking and vehicle use areas.* The provisions of this section apply to all new off-street parking or other vehicular use areas. Existing landscaping that does not comply with the provisions of this Code must be brought into conformity, to the maximum extent possible, when: the vehicular use area is altered or expanded except for restriping of lots/drives, the building square footage is changed, or the structure has been vacant for a period of one year or more and a request for an occupational license to resume business is made. Consistent with the provisions of section 10-104, the Director may permit administrative deviations where a conflict exists between the application of this division and the requirements for the number of off-street parking spaces or area of off-street loading facilities.

[(1) remains unchanged.]

- (2) *Internal landscaping.* All parking areas must be internally landscaped to provide visual relief and cooling effects and to channelize and define logical areas for pedestrian and vehicular circulation, as follows:

- a. Trees must be planted or retained in landscaped areas in parking areas, including landscaped areas reserved for future parking spaces, to provide for canopy coverage when the trees mature. At least one canopy tree or a cluster of three sabal palms must be planted or retained for every 250 square feet of required internal planting area, and no parking space may be more than 200 feet from a tree planted in a permeable island, peninsula or median. Canopy tree requirements may be met with existing indigenous native trees on a 1:1 ratio whenever such trees are located within the parking area.

[b. thru g. remain unchanged.]

- (d) *Buffering adjacent property.* Buffering and screening applies to all new development. Existing landscapes that do not comply with the provisions of this section must be brought into conformity to the maximum extent possible when: the vehicular use area is altered or

expanded, except for restriping of lots/drives, the building square footage is increased, or there has been a discontinuance of use for a period of one year or more and a request for an occupational license to resume business is made.

[(1) *remains unchanged.*]

(2) *Use categories.* In interpreting and applying the provisions of this section, development is classified into the following use categories:

USES	
AG	Agricultural uses
SF-R	Single-family, duplex or two-family attached situated on individual lots
MF-R	Residential structures containing three or more dwelling units on a single parcel
COM	Commercial uses, public facilities, schools (other than Lee County School District), and recreational vehicle parks
WOR	Places of worship (df)
IND	Industrial use
STP	Sewer treatment plant or water treatment plant
ROW	Public-Street right-of-way or roadway easement.
REC	Public active recreational park
PRE	Public preserve lands for conservation and/or passive recreation

(3) *Buffer requirements.* The following table provides the required buffer type when a proposed use is abutting an existing use or, in the absence of an existing use, the existing zoning.

BUFFER REQUIREMENTS											
Permitted or Existing Uses											
Proposed Uses		AG	SF-R	MF-R	CO	WOR	IND	STP	ROW	REC	PRE
	AG	---	---	---	---	---	---	---	---	---	---

SF	---	---	---	---	---	---	---	---	B	F(2)
MF	---	B	---	---	---	---	---	D	B	F(2)
CO	---	C/F	C/F	A	A	---	---	D	A	F(2)
WO	---	C/F	C/F	A	A	---	---	D	A	F(2)
IND	---	(1)	(1)	---	(1)	---	---	D	<u>A</u>	F(2)
STP	C/F	E	E	E	E	C/F	---	D	<u>A</u>	F(2)
REC	---	C/F	C/F	A	A	---	---	D	F	F(2)
PRE	---	F	F	---	---	---	---	---	F	---

[Notes for Buffer Requirements Table remain unchanged.]

[Remainder of section remains unchanged.]

ARTICLE IV. – DESIGN STANDARDS AND GUIDELINES FOR COMMERCIAL BUILDINGS AND DEVELOPMENTS

Sec. 10-610. - Site design standards and guidelines for commercial developments.

[(a) thru (c) remain unchanged.]

(d) *Pedestrian walkways and bicycle parking.*

[(1) thru (2) remain unchanged.]

(3) *Bicycle parking requirements.*

[a. remains unchanged.]

b. *Design.*

1. A bicycle parking facility suited to a single bicycle ~~may~~ must be a standalone inverted - U design measuring a minimum of 36 inches high and 18 inches wide [of one and one-half (1½) inch Schedule 40 pipe, ASTM F 1083] bent in one piece ("bike rack") mounted securely to the ground [by a 3/8 -inch thick steel base plate, ASTM A 36] so it is capable of securing the bicycle frame and both wheels.

[2. thru 3. remain unchanged.]

4. Extraordinary bicycle parking designs and surfaces that depart from the bike rack standard, but are consistent with the development's design theme may be considered by the ~~Development Services~~ Director in accordance with LDC Sec. 10-104. Bike racks that are freely oriented, function without securing the bicycle frame, or require the use of a bicycle kick stand are prohibited.

- (e) *Parking lot interconnections.* Adjacent commercial uses must provide parking lot interconnections for automobile, bicycle and pedestrian traffic. ~~Interconnections are not intended to satisfy the criteria for site location standards as outlined in Lee Plan Policy 6.1.2(5).~~
- (f) *Project entrance.*
 - [(1) remains unchanged.]*
 - (2) The driveway length must provide adequate throat depth consistent with the FDOT Driveway Handbook Driveway Information Guide.
 - [(3) remains unchanged.]*

SECTION FIVE: AMENDMENT TO LDC CHAPTER 14

Lee County Land Development Code Chapter 14 is amended as follows with strike through identifying deleted text and underline identifying new text.

Chapter 14 – Environment and Natural Resources

ARTICLE III. – WELLFIELD PROTECTION

DIVISION 2. – ADMINISTRATION AND ENFORCEMENT

Sec. 14-243. - Building permits and occupational licenses.

- (a) *Review by division.*
 - [(1) thru (3) remain unchanged.]*
 - (4) No request for a rezoning, special exception, ~~special permit~~, development order, certificate of occupancy, building permit, change of occupancy or occupational license for any activity regulated by this article will be issued that is contrary to the restrictions and provisions provided in this article. Permits or occupational licenses issued in violation of this section confer no right or privilege on the grantee, and such invalid permits or licenses will not vest rights.

[Remainder of section remains unchanged.]

SECTION SIX: AMENDMENT TO LDC CHAPTER 33

Lee County Land Development Code Chapter 33 is amended as follows with strike through identifying deleted text and underline identifying new text.

Chapter 33 – Planning Community Regulations

ARTICLE V. - LEHIGH ACRES PLANNING COMMUNITY

DIVISION 3. - SPECIFIC USE STANDARDS

SUBDIVISION III. – DUPLEX AND TWO- FAMILY ATTACHED DWELLING UNITS

Sec. 33-1434. - Development Architectural standards.

- (1)(a) Primary facades must be designed with features consistent with the appearance of a single-family dwelling. A maximum of one door may directly face the adjacent street right-of-way and must have a distinct entry feature such as a porch or covered entryway.
- (2)(b) Mechanical equipment including, but not limited to, air conditioning units, pool pumps, generators and well tanks, must be screened from view of the public right-of-way and adjacent residential properties with landscaping, fencing, or both. Fencing must be consistent with section 34-1742.
- (3)(c) A minimum of one attached single car garage, accessible from the road by a paved driveway, is required for each dwelling unit. The garage and driveway must provide parking in compliance with LDC Sec. 34-2020(a).
- (4)(d) Garages must be designed for side-entry so as not to face a street right-of-way, or be recessed a minimum of four feet behind the front facades or porches of the dwelling unit.
- (5)(e) When located on a corner lot, each individual unit must face a separate street right-of-way.
- (6)(f) When located on a through lot, each individual unit must face a separate street right-of-way.

~~(b) Driveways.~~

- ~~(1) A driveway must be provided for each unit that connects the building to the paved road. The driveways must be a minimum of 20 feet wide and provide a minimum of two parking spaces.~~
- ~~(2) The driveway must be constructed of concrete, asphalt or concrete pavers and comply with the provisions set forth in Lee County Administrative Code 11-2 pertaining to residential driveways~~
- ~~(3) Use of the driveway for commercial activities is prohibited unless the applicable permits are obtained.~~

ARTICLE VII. – CALOOSAHATCHEE SHORES PLANNING COMMUNITY

DIVISION 3. OVERLAY DISTRICTS

SUBDIVISION II. – STATE ROUTE 80 CORRIDOR

Sec. 33-1519. - Property development regulations table.

Property development regulations are as follows:

**TABLE 33-1519
PROPERTY DEVELOPMENT REGULATIONS FOR
THE STATE ROUTE 80 CORRIDOR OVERLAY DISTRICT**

	Special Notes or Regulations	Minimum	Maximum
Lot area and dimensions:	34-2221 & 34-2142 <u>34-1611 et seq.</u>		

[Remainder of section unchanged.]

SECTION SEVEN: AMENDMENT TO LDC CHAPTER 34

Lee County Land Development Code Chapter 34 is amended as follows with strike through identifying deleted text and underline identifying new text.

Chapter 34 – Zoning.

ARTICLE I. – IN GENERAL

Sec. 34-2. –Definitions.

Accessory apartment means a living unit, without cooking facilities, which is subordinate and attached to a single-family residence and could be made available for rent or lease.

Accessory dwelling unit means a living unit subordinate to a single-family home which is either attached with cooking facilities, or detached with or without cooking facilities, and could be made available for rent or lease.

Agricultural uses includes but is not limited to farming, horticulture, pasturage, forestry, citrus and other fruit groves, greenhouses and nurseries, truck farms and dairy farms, commercial fish, frog or poultry hatcheries, and raising of hogs and other farm animals. ~~Lumbering or harvesting of cypress (Taxodium spp.) is not permitted except by special exception.~~

Airport, Private means an airport that is registered with the state, but not State licensed. For purposes of this Article, Lee County Mosquito Control helistops and airport facilities (e.g. Buckingham Airport) are private airport facilities. Private airports are not open for use by the general public except by specific invitation of the airport owner.

Airport, Public means any airport licensed by the state, including state-licensed seaplane bases, helistops and emergency landing areas. Public airports as used in this code specifically refer to SWFIA and Page Field. Public airports are open to the general public with or without a prior request to use the airport.

Bed and breakfast establishment means an owner-occupied conventional single-family residence that accommodates lodgers. ~~Bed and breakfast establishments are permitted in any district permitting boardinghouses. See section 34-1494(b) for calculating density equivalents. Bed and breakfast establishments approved as part of a Private Recreational Facilities Planned Development (PRFPD) are not required to be owner occupied.~~

Lot measurement, width.

[(1) remains unchanged.]

- (2) For lots lawfully created after January 28, 1983, width of a lot is considered to be the distance between the side lot lines (or a front and side lot line for corner lots) as measured along the minimum required street setback line. See section 34-2221~~(4)~~ for exceptions.

Variance means a departure from the provisions of this chapter or from any County ordinance (excluding building codes) relating to building and other structural setbacks, lot dimensions such as width, depth or area, structure or building height, open space, buffers, parking or loading requirements, lot coverage, impervious areas, landscaping and similar type regulations. ~~Variances must be approved by the Hearing Examiner based on the findings established in section 34-145(b)(3). If authorized by section 34-268, the Director may administratively approve variances based on the criteria established in section 34-268(b).~~

[Remainder of section remains unchanged.]

ARTICLE II. – ADMINISTRATION

DIVISION 4. HEARING EXAMINER

Sec. 34-144. - Conduct of hearings; reports and records.

[(a) remains unchanged.]

- (b) *Hearings.* Public hearings will be scheduled, noticed and conducted pursuant to applicable Administrative Codes and this Code. A hearing will not take place unless a staff report is delivered to the Applicant and the Hearing Examiner, and made available to the public, at least 14 calendar days prior to the public hearing for rezoning cases and at least 7 days prior to the public hearing for variance and special exception cases.

[(c) thru (e) remain unchanged.]

Sec. 34-145. Functions and authority.

[(a) thru (b) remain unchanged.]

- (c) Special exceptions.

[(1) thru (2) remain unchanged.]

(3) Findings/review criteria.

[a. thru b. remain unchanged.]

c. In the case of private aircraft landing facilities, the Hearing Examiner must make a finding that the location of the proposed facility will not interfere with the operation of any existing aircraft landing facilities, airports or heliports.

d. In the case of any use proposing to use solar or wind energy for water heating, climate control or electricity, the Hearing Examiner must find:

1. Modifications to the property development regulations, if requested:

i. Are necessary so as to maximize use of solar or wind energy; and

iii. Do not decrease total lot area on which the use is located;

2. The principal use, absent its solar or wind aspects, is a permitted use in the zoning district for which it is proposed; and

3. The location of the proposed solar or wind energy equipment and access, do not, or will not, require the restriction of development on adjoining properties with respect to their existing zoning classification.

[(4) thru (6) remain unchanged.]

[Remainder of section remains unchanged.]

Sec. 34-146. - Final decision; judicial review.

(a) The decision of the Hearing Examiner is final for the following:

(1) Administrative appeals that are not appealed to, and decided by, the Board; and

(2) Variances, and special exceptions, except when those requests are:

a. Part of a rezoning or other request that requires final decision by the Board; or

b. A wireless communication facility appealed to the Board pursuant to sections 34-1445(b) or 34-1453.

c. ~~Board-initiated application to rezone County-owned property to the Environmentally Critical district.~~

(3) Board initiated applications to rezone County-owned property to the Environmentally Critical (EC) zoning district.

DIVISION 5. DEPARTMENT OF COMMUNITY DEVELOPMENT

Sec. 34-171. - Appointment of Director.

The County Manager will ~~Administrator shall~~ appoint the Director of the Department of Community Development. ~~He shall hold this position at the pleasure of the County Administrator.~~

Sec. 34-172. - Powers and duties.

- (a) *Administration of zoning regulations.* ~~The administration of this chapter and chapter 12 is maintained in the Department of Community Development. The Director is hereby authorized, empowered and directed to administer all the provisions of this chapter and any subsequent amendments thereto.~~

[(b) thru (e) remain unchanged.]

- (f) *Authority to issue cease and desist orders.* The Director, after consultation with the County Attorney, has the authority to issue cease and desist orders on property being used in violation of the provisions of this Code. The cease and desist order may continue until the violation is resolved to the satisfaction of the County.

- (g) *Authority to issue temporary use permits.* The Director is authorized to permit temporary uses upon receipt of a complete application.

Sec. 34-173. Authority to permit uses pending a zoning action.

- (a) The Director is authorized to permit proposed uses that are not permitted on a subject parcel for a period of not more than 180 days under the following circumstances:

- (1) An application for a rezoning or a special exception has been filed for the subject parcel that would, if approved, make the requested use a permitted use;
- (2) The requested rezoning or special exception, in the opinion of the Director, is clearly compatible with the neighboring uses and zoning and is consistent with the Lee Plan;
- (3) No new principal structures are to be constructed on the subject property; and
- (4) The applicant agrees in writing that the proposed use will cease within 180 days unless the Board of County Commissioners or Hearing Examiner, whichever is applicable, has rendered a final decision approving the requested rezoning or special exception. At the discretion of the Director, the approval may be extended up to an additional 90 days.

- (b) The Director's decision to allow the use does not guarantee the use will ultimately be approved through the applicable public hearing process.

- (c) Upon expiration of the approval, the property may only be used in compliance with the underlying zoning regulations.

- (d) Decisions by the Director pursuant to this section are discretionary and may not be appealed pursuant to subsection 34-145(a).

Sec. 34-174. Authority to approve administrative actions.

- (a) Administrative Variances.

- (1) Authority. The Director is authorized to administratively approve variances of the following:

- a. Street, rear, side, or waterbody setbacks to allow:
1. Remodeling of, or additions to, existing structures that are nonconforming with regard to a specific setback so long as the remodeling or addition will not result in:
 - i. An increase in the height of the structure; or
 - ii. A further diminution of the setback. The Director may approve bay windows, chimneys and similar architectural features that may encroach further into the setback provided the encroachment does not protrude beyond the existing overhang of the building.
 2. Construction of access appurtenant to an existing structure for disabled persons.
 3. Replacement of stairs or decking that provide access into an existing dwelling unit.
 4. Buildings or structures that:
 - i. Encroach into the required setbacks due to minor errors at time of construction.
 - ii. Are not in compliance with current setback regulations and can be proven to have been permitted.
 5. Construction of a single-family dwelling unit on lots with an approved Minimum Use Determination, provided the lot coverage does not exceed 45 percent.
- b. Requirements of chapters 10, 30, 33, and 34 necessary for development of property subject to a Lee County initiated eminent domain proceeding pursuant to section 1-16.
- c. Setbacks in conventional zoning districts where the encroachment is 10% or less of the minimum required setback for proposed buildings.
- d. Chapter 34 requirements that are necessary to facilitate development of existing nonconforming buildings or structures that have lost their nonconforming status pursuant to section 34-3242(2) and/or chapter 30 requirements for signs that have lost their nonconforming status pursuant to section 30-55(b)(2). Administrative variances granted pursuant to this section may only be granted to the extent that the variance is the minimum that will bring the site into compliance with this Code given the existing site constraints. Nonconforming open space, buffering and landscaping are subject to the regulations of section 10-416 and must be brought into conformance to the maximum extent possible.
- e. Landscaping required by section 34-1743(b)(3) to allow existing, required or optional nonconforming residential project walls to be repaired or replaced.
- f. Property development regulations for all religious facilities and places of worship provided in section 34-2051(a) for properties zoned residential and located in a platted subdivision.

g. Requirements of chapters 30, 33 and 34 found by the Director to be similar in nature, which are not contrary to the Lee Plan and do not diminish public health, safety, and welfare.

(2) Findings/review criteria. Before approving any administrative variance, the Director must find the following review criteria are satisfied:

a. There are exceptional or extraordinary conditions or circumstances that are inherent to the property in question;

b. The variance granted is the minimum variance that will relieve the applicant of an unreasonable burden caused by the application of the regulation in question to the property; and

c. The granting of the variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

(b) Administrative Approval of On-Premises Consumption of Alcoholic Beverages.

(1) Authority. The Director is authorized to administratively approve the sale or service of alcoholic beverages for consumption on-premises when in conjunction with the uses provided in section 34-1264(a)(1).

(2) Findings/review criteria. Before approving the sale or service of alcoholic beverages for consumption on-premises, the Director must find there will be no apparent adverse impact on surrounding properties within 500 feet of the premises.

(c) Administrative Approval of New Antenna Supporting Structures.

(1) Authority. The Director is authorized to administratively approve new antenna supporting structures as provided by Article VII, Division 11 of this chapter.

(2) Findings/review criteria. Before approving new antenna supporting structures, the Director must make all of the following findings (or conclude that a finding is not applicable):

a. The applicant is not able to use existing wireless communications facility sites in the geographic search area; and

b. The applicant has agreed to rent or lease available space on the antenna-supporting structure, under the terms of a fair-market lease, without discrimination to other wireless communications service providers; and

c. The proposed antenna-supporting structure will not be injurious to historical resources, or reduce the quality and function of natural or man-made resources; and

d. The applicant has agreed to implement all reasonable measures to mitigate the potential adverse impacts of the structures and facilities.

(d) Administrative Approval of Community Gardens.

(1) Authority. The Director is authorized to administratively approve community gardens when in compliance with section 34-1716.

(2) Findings/review criteria. Before approving a community garden, the Director must find there will be no adverse impact on adjacent properties.

(e) Administrative Approval of Model Homes, Model Units and Model Display Centers.

(1) Authority. The Director is authorized to administratively approve model homes, model units and model display centers when in compliance with 34-1954 or 34-1955, as applicable.

(2) Findings/review criteria. Before approving model homes, model units or model display centers, the Director must find the following review criteria are satisfied:

a. For model homes and model units, the property is located within a new development under unified control.

b. For model display centers, the property is zoned RPD, MHPD, RVPD or MPD.

(f) Administrative Approval of Reduced Parking for Non-Residential Uses.

(1) Authority. The Director is authorized to administratively approve a reduction to the minimum required number of parking spaces for non-residential uses by a maximum of ten percent.

(2) Findings/review criteria. Before approving any administrative reduction to the minimum required number of parking spaces for non-residential uses, the Director must find the following review criteria are satisfied:

a. One or more of the conditions provided in section 34-2020(c) exist; and

b. There will be no adverse impact on surrounding properties or on the public health, safety and welfare.

(g) Administrative Approval for Existing Commercial and Industrial Developments.

(1) Authority. The Director is authorized to administratively approve relief from minimum required setbacks and lot area, width and depth to allow subdivision of commercial and industrial lots.

(2) Findings/review criteria. Before approving a subdivision of existing commercial or industrial developments, the Director must find the following review criteria are satisfied:

a. The overall development complies with all applicable zoning requirements notwithstanding the noncompliance with property development regulations in chapter 34, and chapter 10 of the individual lots within the subdivision.

b. In the event that the individual lots will not have direct access to a publicly accessible street, the applicant has demonstrated how access to such lots will be accomplished via common areas.

- c. In the event individual lots will not comply with minimum open space requirements, the applicant has demonstrated how the required open space requirement for the overall development will be satisfied via common areas.
- d. All common elements of the overall development are subject to unified control and will be perpetually maintained through a property owners association. The common elements include, but are not limited to, streets and accessways, off-street parking, water management facilities, buffering, fences or walls, and open space.
- e. There will be no apparent deleterious effect upon surrounding properties or the immediate neighborhood.

(h) Administrative Approval of 86-36 Lot Combination.

- (1) Authority. The Director is authorized to administratively approve amendments to site plans for mobile home or recreational vehicle parks approved by Lee County Ordinance 86-36.
- (2) Findings/review criteria. Before approving an amendment to a site plan approved by Ordinance 86-36, the Director must find the following review criteria are satisfied:
 - a. The amended site plan does not increase the number of lots in the park.
 - b. There will be no adverse impact on surrounding properties.

(i) Administrative Approval of Deviation(s) from Chapters 10 and 33.

- (1) Authority. The Director is authorized to administratively approve deviations from technical standards in chapter 10, limited to those listed section 10-104, and from certain provisions, as specified, in chapter 33.
- (2) Findings/review criteria. Before approving a deviation, the Director must find the following review criteria are satisfied:
 - a. For chapter 10 deviations:
 - (1) The request is based on sound engineering practices (not applicable to sections 10-352, 10-353 and Division 7, Article III, chapter 10);
 - (2) The request is no less consistent with the health, safety and welfare of abutting landowners and the general public than the standard from which the deviation is being requested;
 - (3) The granting of the deviation is not inconsistent with any specific policy directive of the Board of County Commissioners, any other ordinance or any Lee Plan provision; and
 - (4) For Division 7, Article III, chapter 10, the required facility would unnecessarily duplicate existing facilities;

(5) For sections 10-352 and 10-353, the utility that would otherwise serve the development cannot provide the service at the adopted level of service standard due to an inadequate central facility.

b. For chapter 33 deviations, additional criteria, if specified within chapter 33, must be met.

(j) Administrative Amendment to a Planned Development.

(1) Authority. The Director is authorized to administratively approve an amendment to a planned development pursuant to section 34-380.

(2) Findings/review criteria. Before approving any administrative amendment to a planned development, the Director must find the request:

a. Does not increase height, density or intensity of the development, except as permitted in chapter 2.

b. Does not result in the substantial underutilization of public resources and public infrastructure committed to the support of the development;

c. Does not result in a reduction of total open space provided on the master concept plan by more than ten percent;

d. Does not decrease the amount of indigenous native vegetation preservation or open space areas below the amount required by the Code;

e. If changes to the buffer or landscaping areas are proposed, equivalent or better (by comparison with the approved Master Concept Plan) landscaping or buffering is provided;

f. Does not adversely impact surrounding land uses; and

g. Is consistent with all applicable provisions of the Lee Plan and land development regulations in effect at the time of the amendment request.

(k) Administrative Amendment to a Planned Development located in the Mixed Use Overlay.

(1) Authority. The Director is authorized to administratively approve an amendment to a planned development on property located in the Mixed Use Overlay to facilitate redevelopment or infill development.

(2) Findings/review criteria. Before approving any administrative amendment to a planned development, the Director must find the request:

a. Will allow for internal capture of vehicular trips;

b. Will provide for connections to adjacent uses;

c. Will allow for urban forms of development and a variety of uses;

- d. Will not result in the substantial underutilization of public resources and public infrastructure committed to the support of the development;
- e. Will not decrease the amount of indigenous native vegetation or preservation area below the amount required by Code;
- f. Will not adversely impact surrounding land uses; and
- g. Is consistent with applicable provisions of the Lee Plan and land development regulations in effect at the time of the amendment request.

(l) Decisions of Director.

- (1) The Director may administratively approve a request in accordance with the provisions above with conditions as necessary for the protection of the health, safety, and welfare of the general public. Conditions must be reasonably necessary to effectuate the intent and purpose of this Code and other applicable regulations.
- (2) Decisions by the Director pursuant to this section are discretionary and may not be appealed in accordance with section 34-145(a).
- (3) If the County determines that an administrative action was approved based on inaccurate or misleading information or if the approval did not comply with this Code when the decision was rendered, then, at any time, the Director may issue a modified approval that complies with the Code or revoke the administrative approval.
- (4) If a request for an administrative action is denied, revoked, or an applicant disagrees with the conditions imposed, the applicant must seek approval by filing an application for public hearing in accordance with section 34-373.

Secs. 34-1753—34-200. - Reserved.

**DIVISION 6. APPLICATIONS AND PROCEDURES FOR CHANGES, PERMITS,
INTERPRETATIONS AND APPROVALS**

Sec. 34-201. General procedure for applications requiring public hearing Application requirements for public hearing and administrative actions.

[(a) remains unchanged.]

- (b) Abutting properties. All properties within a single application must be abutting unless the Director determines, in his or her sole discretion, that there is a rational relationship between the properties in question.

~~Application submittal and official receipt procedure.~~ The application procedure and requirements in this section apply to all applications for rezoning, special exceptions, and variances, except mine excavation planned developments under chapter 12.

- (1) ~~All properties within a single application must be abutting. The Director may, at his discretion, allow a single application cover non-abutting properties where it is in the public interest, due to the size or scope and nature of the request, and there is a rational continuity to the properties in question.~~

- ~~(2) No application may be accepted unless it is presented on the official forms provided by the Department, or on County approved forms containing the same information.~~
- ~~(3) Before an application may be accepted, it must fully comply with all information requirements enumerated in section 34-202, unless specifically stated otherwise in this chapter.~~
- ~~(4) The applicant must ensure that an application is accurate and complete. Any additional expenses necessitated because of inaccurate or incomplete information will be borne by the applicant.~~
- ~~(5) Upon receipt of the completed application form, all required documents and the filing fee, the Department will begin reviewing the application for completeness or, in the case of planned development applications, begin reviewing the application for sufficiency pursuant to section 34-373(d).~~

(c) *Waivers.* Upon written request, on a form prepared by the County, the Director may modify the submittal requirements where it can be demonstrated by the applicant that the submission will have no bearing on the review and processing of the application. The decision of the Director is discretionary and may not be appealed.

(d) *Filing fee.* All fees, in accordance with the County's External Fees and Charges Manual, must be paid in full at the time the application is submitted. No review of the application will commence until payment is received.

Sec. 34-202. - General sSubmittal requirements for applications requiring public hearing.

~~(a) *All applications.* Every request for actions requiring a public hearing under this chapter must include the following. However, upon written request, on a form prepared by the County, the Director may modify the submittal requirements contained in this section where it can be clearly demonstrated that the submission will have no bearing on the review and processing of the application. The request for a waiver or modification must be submitted to the Director prior to submitting the application. A copy of the request and the Director's written response must accompany the application and will become a part of the permanent file.~~

(a) *Submittal requirements for all public hearing applications.* All applications for public hearing requests must include the following. Any additional expenses due to inaccurate or incomplete information will be borne by the applicant.

(1) *Application form.* Applications will only be accepted on official forms provided by the Department.

(2) *Ownership interests.* An affidavit, signed by the property owner or contract purchaser, must be submitted stating whether a Lee County Employee, County Commissioner, or Hearing Examiner has an ownership interest in the property or any legal entity (corporation, company, partnership, limited partnership, trust, etc.) that has an ownership interest in the property or that has contracted to purchase the property. Disclosure with respect to a beneficial ownership interest in any entity registered with the Federal Securities Exchange Commission or registered pursuant to Chapter 517, whose interest is for sale to the general public, is exempt from this provision.

(3) *Applicant's statement.* Notwithstanding the requirements of section 34-201(a)(1)a., the applicant must sign a statement, under oath, that he is the owner or the authorized

representative of the owner of the property and that he has full authority to secure the approval requested and to impose covenants and restrictions on the referenced property as a result of the action approved by the County in accordance with this Code. This must also include a statement that the property owner will not transfer, convey, sell or subdivide the subject parcel unencumbered by the covenants and restrictions imposed by the approved action.

(4) Agent authorization. The applicant may authorize agents to assist in the preparation and presentation of the application. Any agent authorized by the applicant will be deemed to have the authority to bind the property with respect to conditions.

(5) (4) Legal description and sketch to accompany legal description. A metes and bounds legal description along with a sketch of the legal description, prepared by a Florida Licensed Surveyor and Mapper, must be submitted, unless the property consists of one or more undivided lots within a subdivision platted in accordance with Florida Statutes, Ch. 177. If the subject property is one contiguous parcel, the legal description must specifically describe the entire continuous perimeter boundary of the property subject to the zoning action with accurate bearings and distances for every line. If the application seeks to rezone undivided, platted lots, then a complete legal description (i.e. lot, block, subdivision name, public records recording information) of the platted subject property is required. A sketch of the undivided, platted lots to be rezoned is not required. The Director has the right to reject any legal description that is not sufficiently detailed so as to locate the property on County maps.

(6) (2) Boundary survey. A boundary survey of the subject property must be submitted, unless the property consists of one or more undivided lots within a subdivision platted in accordance with F.S. Ch. 177. The survey must be based upon the title certification submitted in accord with section 34-202(a)(3)(7) and certified to the present owner as reflected in the title documentation submitted in accordance with section 34-202(a)(3)(7). The boundary survey must identify and depict all easements affecting the subject property, whether recorded or unrecorded, and all other physical encumbrances readily identified by a field inspection.

All boundary surveys must meet the minimum technical standards for land surveying in the state, as set out in Chapter 5J-17, F.A.C. The survey must be tied to the state plane coordinate system for the Florida West Zone (the most current adjustment is required) with two coordinates, one coordinate being the point of beginning (POB) and the other an opposing corner. The perimeter boundary must be clearly marked with a heavy line and must include the entire area to be developed.

If the subject property consists of one or more undivided lots within a subdivision, then a copy of the subdivision plat may be submitted in lieu of the boundary survey. However, if the dimensions of the subject property differ from those in the original plat, then a boundary survey, including a metes and bounds legal description, will be required.

(7) (3) Certification of title and encumbrances. Certification of title and encumbrances submitted for property subject to zoning approval must meet the following criteria:

[a. thru b. remain unchanged.]

(4) Reserved.

~~(8) (5) Property owners list.~~ A complete list of all owners of the property subject to this request, and their mailing addresses. If multiple parcels are involved, a map showing the owners interest must be provided. The applicant is responsible for the accuracy of the list and map. For County initiated actions only, ~~n~~ Names and addresses of property owners will be deemed to be must be those appearing on the latest current Lee County tax rolls of the County.

~~(9) (6) Surrounding property owners list and map.~~ A complete list, map, and one set of mailing labels, of all property owners, and their mailing addresses, for all properties within 500* feet (1,000 feet for wireless communications facilities applications) of the perimeter of the ~~subject property, parcel~~ or the portion thereof, that is the subject of the request. In those instances where fewer than ten owners of property would be notified, the distance must be expanded to include all owners of property within 750 feet (1,250 feet for wireless communication facilities). Names and addresses of property owners must be those appearing on the current Lee County tax rolls. When the application is found sufficient, the applicant is required to submit a new list and mailing labels. ~~For the purpose of this subsection, names and addresses of property owners will be deemed to be those appearing on the latest tax rolls of the County at the time of application. The applicant is responsible for the accuracy of such list. When the application is found complete, or in the case of a planned development, sufficient, the applicant is required to submit a new list and mailing labels.~~

~~Applications for wireless communication facilities under section 34-1441, et seq. must include all property within 1,000 feet of the perimeter of the subject parcel.~~

~~*NOTE: In those instances where fewer than ten owners of property would be notified, the distance must be expanded to include all owners of property within 750 feet and 1,250 feet for wireless communication facilities.~~

~~(7) Surrounding property owners map.~~ A map displaying all parcels of property within 500* feet of the perimeter of the subject parcel or the portion thereof that is the subject of the request. This map must reference by number or other symbol the names on the surrounding property owners list. The applicant is responsible for the accuracy of the map.

~~* NOTE: In those instances where fewer than ten owners of property would be notified, the distance must be expanded to include all owners of property within 750 feet.~~

(10) Proof of potable water and sanitary sewer availability. A letter from the appropriate utility provider verifying their ability to provide service to the proposed development. If service is not available, the applicant must indicate how the potable water and sanitary sewer needs for the project will be met.

(11) Bonus density. When applicable, the resulting gross residential density and number of bonus density units requested. The application must demonstrate compliance with the review criteria required by section 2-146.

(12) Existing agricultural use affidavit. If the property owner intends to continue an existing agricultural use subsequent to zoning approval, an affidavit signed by the property owner and sworn before a notary must be submitted. The affidavit must consist of (1) a statement as to the specific type and location of the agricultural use(s) existing on the property at the time of the application and (2) a sketch of the property, in metes and bounds, identifying the location and type of ongoing agricultural use(s).

(13) Wireless communication facilities. If a wireless communication facility is a proposed use, the applicant must provide the information required in section 34-1441 et seq.

(b) (8) Additional submittal material. Additional information, specific to the type of action(s) requested, is required as follows: Additional material, depending on the specific type of action requested, as set forth in section 34-202(b) and 34-203.

(1) Developments of regional impact. Developments of regional impact must comply with F.S. ch. 380.

(2) Planned developments. Planned developments must provide the additional information required by section 34-373.

(3) Rezoning, other than planned developments. A statement explaining the nature of the request, how the property qualifies for the rezoning, and how the request meets the applicable required findings/review criteria set forth in section 34-145(d)(4). This statement may be utilized by the Board of County Commissioners, Hearing Examiner and staff in establishing a factual basis for the approval or denial of the rezoning.

(4) Rezoning of mobile home parks. Rezoning of an existing mobile home park, as defined in F.S. § 723.003, which will result in the removal or relocation of mobile home owners, the applicant must demonstrate compliance with F.S. § 723.083.

(5) Special exceptions. Applications for special exceptions must include the following:

(a) A statement explaining the request, how the property qualifies for the special exception, and how the request meets the applicable required findings set forth in section 34-145(c)(3). This statement may be utilized by the Hearing Examiner and staff in establishing a factual basis for approval or denial of the special exception.

(b) A traffic impact analysis of projected trip generation.

(c) A site plan, drawn to scale, depicting:

1. Location and current use of existing structures.

2. Location of proposed structures and/or uses.

3. Location of existing and proposed road rights-of-way, streets, easements or land reservations.

4. Location of vehicular access to and from the site.

5. Other information required for analysis of the request as determined by the Director.

(d) Additional information is required for the following special exception requests:

1. Solar or wind energy modifications. Evidence that the proposed modifications are the minimum necessary to provide for the solar or wind energy proposal and that the proposed modifications will not adversely affect adjacent properties.

2. On-premises consumption of alcoholic beverages. The type of license requested, a floor plan showing the proposed indoor and outdoor service areas, and if in conjunction with a restaurant, a copy of the menu must be provided.

3. Private aircraft landing facilities.

a. Type of facility as set forth in Florida Administrative Code.

b. Site plan depicting the proposed location and dimensions of the effective landing length, including the approach zone.

c. An affidavit that written notice of the public hearing will be sent by certified mail, return receipt requested, to all airports and municipalities within 15 miles of the proposed facility and to all property owners within 1,000 feet of the property or within the minimum required approach zone, whichever is greater. The applicant will be responsible for sending the written notice and will bear the cost of the notification.

(6) Variances. All applications for a variance must also submit the following:

(a) A statement that includes the section number and particular regulation from which a variance is requested, how the property qualifies for the variance, and how the request meets the applicable required findings set forth in section 34-145(b)(3).

(b) A site plan, drawn to scale, detailing:

1. Existing public streets, easements or other reservations of land within the site;

2. All existing and proposed structures on the site; and

3. The location of the proposed variance.

(c) Any other reasonable information which may be required by the Department which is commensurate with the intent and purpose of this Code.

(d) Street setbacks on collector and arterial roads. In the case of a variance from required street setbacks on collector and arterial roads, in addition to the above, the following must be submitted:

1. A modified property owners list and property owners map (see section 34-201(a)(9) and (10)) to show only the names and locations of property owners that abut the perimeter of the subject property.

2. A site plan, drawn to scale, showing:

i. The location of all proposed structures, easements, rights-of-way and vehicular access onto the property, including entrance gates or gatehouses; and

ii. The extent of modification from street setbacks requested.

- ~~(9) *Filing fee.* All fees, in accordance with the duly adopted fee schedule (see section 34-53), must be paid at the time the application is submitted.~~
- ~~(10) *Compliance with specific planning community requirements.* If the subject property is located in a planning community, the applicant will be required to demonstrate compliance with the requirements applicable to the specific community provided in chapter 33.~~
- ~~(b) *Additional submittal requirements for owner-initiated applications.* In addition to the submittal requirements set forth in (a), every application initiated by a property owner involving a change in the zoning district boundaries, or a request for special exception, deviation or variance, applicable to the property owner's land must include the following:~~
- ~~(1) *Authority.*~~
- ~~a. *Ownership interests.* An affidavit, signed by the property owner or specified contract purchaser, must be submitted stating whether a Lee County Employee, County Commissioner, or Hearing Examiner has an ownership interest in the property or any legal entity (corporation, company, partnership, limited partnership, trust, etc.) that has an ownership interest in the property or that has contracted to purchase the property. Disclosure with respect to a beneficial ownership interest in any entity registered with the Federal Securities Exchange Commission or registered pursuant to Chapter 517, whose interest is for sale to the general public, is exempt from the provision of this subsection.~~
- ~~b. *Applicant's statement.* Notwithstanding the requirements of section 34-201(a)(1)a., the applicant for any action requiring a public hearing must sign a statement, under oath, that he is the owner or the authorized representative of the owner of the property and that he has full authority to secure the approval requested and to impose covenants and restrictions on the referenced property as a result of the action approved by the County in accordance with this Code. This must also include a statement that the property owner will not transfer, convey, sell or subdivide the subject parcel unencumbered by the covenants and restrictions imposed by the approved action.~~
- ~~c. *Agent authorization.* The applicant may authorize agents to assist in the preparation and presentation of the application. The County will presume that any agent authorized by the applicant has the authority to bind the property with respect to conditions.~~
- ~~(2) *Reserved.*~~
- ~~(3) *Reserved.*~~
- ~~(4) *Reserved.*~~
- ~~(5) *Bonus density.* When applicable, the number of bonus density units requested, the resulting gross residential density of the proposal, and documentation substantiating compliance with each of the review criteria set forth in section 2-146.~~
- ~~(6) *Information regarding proposed blasting.* If blasting is proposed to excavate lakes or other site elements, the applicant must provide information and data with the application showing the location of the proposed blasting and demonstrating what measures will be implemented to ameliorate the potential negative impacts. This~~

information must include soil borings that demonstrate the necessity for blasting, drawings showing the location of proposed blasting, and other information deemed necessary by the Director to allow full and complete analysis of compatibility issues associated with the proposed blasting activity.

(7) ~~Existing agricultural use affidavit.~~ If the property is located in an agricultural zoning district at the time the request is filed, the application must include an agricultural use affidavit. The affidavit must identify the subject property with specificity and indicate whether or not a bona fide agricultural use existed at the time the application was filed. If the property owner intends to continue an existing agricultural use subsequent to the zoning approval, an affidavit signed by the property owner and sworn before a notary must be submitted. The property owner affidavit must consist of: (1) a statement as to the specific type and location of the agricultural uses existing on the property at the time of the application; and, (2) a map or sketch of the property, preferably in metes and bounds, identifying with specificity the location and type of ongoing agricultural use as stated in the affidavit. The exhibit should be entitled "Agricultural Uses at time of Zoning Application."

(8) ~~Potable water and sanitary sewer connection.~~ A letter from the appropriate utility entity indicating the utility entity's name and ability to provide service to support the proposed development. If the project does not propose to connect to the potable water and central sewer system, a written explanation as to the reasons why connection will not be made must be submitted along with an explanation as to the means proposed to meet the water and sewer needs for the project.

Sec. 34-203. - SubmittalAdditional requirements for administrative action applications requiring public hearing.

(a) ~~Developments of regional impact.~~ Developments of regional impact must comply with the information submittal and procedural requirements of F.S. ch. 380. If the development of regional impact requires specific zoning actions (i.e., rezoning), the procedures and requirements of this section and article IV of this chapter must be met. Additionally, even if the development of regional impact does not require specific zoning action, the applicant must submit a traffic impact statement, as described in section 34-373(a)(7), and detailed in section 10-286. Thresholds for developments of regional impact are stated in Florida Administrative Code chapter 28-24.

(b) ~~Planned developments.~~ All planned developments, except mine excavation planned developments, must comply with the additional information submittal and procedural requirements set forth in section 34-373.

(c) ~~Rezoning other than planned developments and developments of regional impact.~~ A statement explaining the nature of the request, how the property qualifies for the rezoning, and how the request meets the applicable required findings/review criteria set forth in section 34-145(d)(4). This statement may be utilized by the Board of County Commissioners, Hearing Examiner and staff in establishing a factual basis for the granting or denial of the rezoning.

(d) ~~Rezoning of mobile home parks.~~ If the proposed rezoning of an existing mobile home park as defined in F.S. § 723.003, would result in the removal or relocation of mobile home owners, then the application must include facts sufficient to allow staff to conclude that adequate mobile home parks or other suitable facilities exist for the relocation of displaced

owners. The facts to be provided are intended to meet the requirements of F.S. § 723.083 (1995). Therefore, the statutory definitions will prevail to the extent there is conflict with terms of this Code.

- (1) ~~Facts to be provided may typically include: STRAP number and street addresses of properties where mobile homes are to be removed from, and relocated to (i.e., the "relocation site"); and any building permit numbers issued for placement of the mobile home on the relocation site.~~
- (2) ~~If the relocation site is not within the legal description of the subject rezoning, then the property owner of property proposed for relocation must submit an affidavit stating that suitable facilities exist at the relocation site to accommodate the mobile home proposed to be relocated there.~~
- (e) ~~Special exceptions.~~ Except for special exceptions that are developments of County impact (see section 34-341), all applications for a special exception must, in addition to the requirements of sections 34-202(a) and (b), include the following:
 - (1) ~~A statement explaining the nature of the request, how the property qualifies for the special exception, and how the request meets the applicable required findings set forth in section 34-145(c)(3). This statement may be utilized by the Hearing Examiner and staff in establishing a factual basis for granting or denial of the special exception.~~
 - (2) ~~A traffic impact analysis of projected trip generation for the development and a site plan, drawn to scale, detailing the following:~~
 - a. ~~The location and current use of all existing structures on the site.~~
 - b. ~~All proposed structures and uses to be developed on the site.~~
 - c. ~~Any existing public streets, easements or land reservations within the site, and the proposed means of vehicular access to and from the site.~~
 - d. ~~Any other reasonable information which may be required by the Director which is commensurate with the intent and purpose of this chapter.~~
 - (3) ~~Solar or wind energy modifications.~~ If the request is to modify property development regulations for the purposes of using solar or wind energy, evidence must be submitted that the proposed modifications are the minimum necessary to provide for the solar or wind energy proposal and that the proposed modifications will not adversely affect adjacent properties. (See section 34-2196)
 - (4) ~~Reserved.~~
 - (5) ~~On-premises consumption of alcoholic beverages.~~ If the request is for a consumption on premises special exception, the application must include the following:
 - a. ~~The property owners list and map (see section 34-202(a)(6) and (7)) must be modified to include all property within 500 feet of the perimeter of the subject property.~~
 - b. ~~Additional material is required as set forth in section 34-1264(c)(1) and (2).~~
 - c. ~~A traffic impact analysis of projected trip generation for the development is not required for special exceptions for consumption on premises.~~

~~(6) Harvesting of cypress (*Taxodium spp.*). An application for a special exception to harvest cypress must include:~~

- ~~a. An aerial photograph with vegetation associations mapped as listed in the Florida Land Use, Cover, and Forms Classification System (FLUCCS).~~
- ~~b. A forest management plan for the proposed harvesting site.~~
- ~~c. Steps which will be taken to ensure that the proposed activity will not have an adverse affect on the environmental sensitivity of the area.~~

~~(7) Private aircraft landing facilities. Applications for private aircraft landing facilities must:~~

- ~~a. Indicate the type of facility, as set forth in Florida Administrative Code chapter 14-60.~~
- ~~b. Indicate on the site plan the proposed location and length of the effective landing length, as well as the area included in the approach zone.~~
- ~~c. Submit a certified list of all airports and municipalities within 15 miles of the proposed site and all property owners within 1,000 feet of the property or within the minimum required approach zone, whichever is greater.~~

~~The Department of Community Development will forward a copy of the application to the Department of Airports for comment prior to any public hearings. No proposed airport will be granted a special exception if the Department of Airports finds that the proposed site would interfere with any other lawfully existing aircraft landing facility, airport or heliport.~~

~~All property owners listed in subsection (e)(7)c. of this section will be sent written notice by certified mail, return receipt requested, of the date, time and place of any public hearing. The applicant will bear the cost of the notification.~~

~~(8) Wireless communication facilities. (Refer to section 34-1441 et seq.)~~

~~(f) Variances. Every application for a variance from the terms of this chapter must, in addition to the requirements of section 34-202(a) and (b), include the following:~~

~~(1) A statement that includes the section number and particular regulation from which a variance is requested, how the property qualifies for the variance, and how the request meets the applicable required findings set forth in section 34-145(b)(3).~~

~~(2) A site plan, drawn to scale, detailing:~~

- ~~a. Existing public streets, easements or other reservations of land within the site;~~
- ~~b. All existing and proposed structures on the site; and~~
- ~~c. The location of the proposed variance.~~

~~(3) Any other reasonable information which may be required by the Department which is commensurate with the intent and purpose of this Code.~~

~~(4) Street setbacks on collector and arterial roads. In the case of a variance from required street setbacks on collector and arterial roads, the applicant:~~

- ~~1. May modify the property owners list and property owners map (see section 34-202(a)(6) and (7)) to show only the names and locations of property owners that abut the perimeter of the subject property.~~

2. ~~Must submit a site plan, drawn to scale, showing:~~

- ~~i. The location of all proposed structures, easements, rights-of-way and vehicular access onto the property, including entrance gates or gatehouses; and~~
- ~~ii. The extent of modification from street setbacks requested.~~
- ~~iii. Any other reasonable information which may be required by the Department which is commensurate with the intent and purpose of this Code.~~

~~(5) Wireless communication facilities. In the case of variances concerning wireless communication facilities, refer to section 34-1453.~~

~~(g) Use variance. Use variances are not legally permissible, and no application for a use variance will be processed. Department staff will notify the applicant when a more appropriate procedure, e.g., rezoning or special exception, is required.~~

~~(h) Modifications to submittal requirements. Upon written request, on a form prepared by the County, the Director may modify the submittal requirements contained in this section, and for those specifically eligible for waiver in section 34-373, where it can be clearly demonstrated by the applicant that the submission will have no bearing on the review and processing of the application. The request and the Director's written response must accompany the application submitted and will become a part of the permanent file. The decision of the Director is discretionary and may not be appealed.~~

~~(a) Submittal requirements for all administrative action applications. Every request for an administrative action under this chapter must include the following.~~

~~(1) Application form. Applications will only be accepted on official forms provided by the Department.~~

~~(2) Ownership interests. An affidavit, signed by the property owner or contract purchaser, must be submitted stating whether a Lee County Employee, County Commissioner, or Hearing Examiner has an ownership interest in the property or any legal entity (corporation, company, partnership, limited partnership, trust, etc.) that has an ownership interest in the property or that has contracted to purchase the property. Disclosure with respect to a beneficial ownership interest in any entity registered with the Federal Securities Exchange Commission or registered pursuant to Chapter 517, whose interest is for sale to the general public, is exempt from this provision.~~

~~(3) Applicant's statement. Notwithstanding the requirements of section 34-201(a)(1)a., the applicant must sign a statement, under oath, that he is the owner or the authorized representative of the owner of the property and that he has full authority to secure the approval requested and to impose covenants and restrictions on the referenced property as a result of the action approved by the County in accordance with this Code. This must also include a statement that the property owner will not transfer, convey, sell or subdivide the subject parcel unencumbered by the covenants and restrictions imposed by the approved action.~~

~~(4) Agent authorization. The applicant may authorize agents to assist in the preparation and presentation of the application. The County will presume that any agent authorized by the applicant has the authority to bind the property with respect to conditions.~~

- (5) STRAP (Section, Township, Range, Area, Parcel) number for the subject property. This number is used by the Property Appraiser to identify the subject property. If the subject property includes a portion of property within one STRAP, than in addition to the STRAP number, a metes and bounds legal description must also be submitted as follows:

A metes and bounds legal description along with a sketch of the legal description, prepared by a Florida Licensed Surveyor and Mapper, must be submitted, unless the property consists of one or more undivided lots within a subdivision platted in accordance with F.S. ch. 177. If the subject property is one contiguous parcel, the legal description must specifically describe the entire continuous perimeter boundary of the property subject to the zoning action with accurate bearings and distances for every line. If the application seeks to rezone undivided, platted lots, then a complete legal description (i.e., lot, block, subdivision name, public records recording information) of the platted subject property is required. The Director has the right to reject any legal description that is not sufficiently detailed so as to locate the property on County maps.

- (6) Approval criteria. A written justification, with support documentation as appropriate, to demonstrate the action requested meets the applicable criteria set forth in section 34-174 for granting administrative approval.

- (7) Letters of no objection. Letters of no objection from adjacent property owners, including those separated from the subject property by any right-of-way or easement, as required by the Director.

- (8) Site Plan. A detailed site plan, drawn to scale, showing:

- a. The subject property and development parameters (such as existing and proposed lot lines, buildings keyed to proposed uses, streets and accessways, off-street parking, water management facilities, buffering and open space);
- b. Public entrances to, and exits from, the building; and
- c. Any additional details deemed necessary by the Director.

- (b) Additional submittal requirements. In addition to the application requirements provided in subsection (b) above, the following submittal requirements apply, as specified.

- (1) On-premises consumption of alcoholic beverages:

- a. Type of state liquor license being requested and anticipated hours for the sale and service of alcoholic beverages.
- b. The floor plan of the building or unit and proposed seating arrangement. If a restaurant is proposing a bar or lounge for patrons waiting to be seated in the restaurant, the floor area and seating area of the lounge must be shown in addition to the restaurant seating area.
- c. A sworn statement indicating whether any religious facilities, day care centers (child), noncommercial schools, dwelling units or parks are located within 500 feet of the building or unit.
- d. For restaurants, a copy of the proposed menu.

(2) Parking reduction:

- a. A list of all the uses the parking supports, the total floor area for each use, the number of parking spaces required, and the number of parking spaces proposed.
- b. The peak parking demands for each use demonstrating that no part of a parking lot intended to satisfy required parking for a use is used to offset the parking requirements for another use unless the peak parking demands occur at different times.
- c. When reduced parking is requested pursuant to 34-2020(c)(6) a parking demand study must be provided.

(3) Administrative Variance: A detailed list of the section number(s) and the specific regulation(s) from which relief is sought, keyed to the site plan.

(4) Community Gardens:

- a. Letter signed by the property owner giving permission for use of property.
- b. Source of water for irrigation purposes.

(5) Commercial Lot Split:

- a. A detailed list of the section number(s) and the specific regulation(s) from which relief is sought, keyed to the site plan.
- b. Pertinent calculations which demonstrate that the overall development complies with applicable zoning and development standards, except where relief is sought.
- c. Demonstrate means of access to each lot within the overall development.
- d. Documents, satisfactory to the County, assuring that all common elements of the overall development will be perpetually maintained through a property owners association. Common elements may include, but are not limited to, streets and accessways, off-street parking, water management facilities, buffering, fences or walls, and open space.

(6) Wireless Communication Facilities: Additional information pursuant to section 34-1446.

~~Sec. 34-204. — Submittal requirements for administrative applications.~~

[Section is deleted in its entirety.]

~~Sec. 34-2045. - Development of regional impact essentially built-out determination.~~

[Section remains unchanged.]

~~Sec. 34-206. -- Family day care home exemption request.~~

[Section is deleted in its entirety.]

~~Sec. 34-207. -- Excavations.~~

[Section is deleted in its entirety.]

~~Sec. 34-208. -- Reserved.~~

[Section is deleted in its entirety.]

~~Sec. 34-209. -- Building relocation permit.~~

[Section is deleted in its entirety.]

~~Sec. 34-210. -- Temporary use permits.~~

[Section is deleted in its entirety.]

~~Sec. 34-20511. - Denials and resubmission of applications.~~

[Section remains unchanged.]

~~Secs. 34-206212 — 34-300230. - Reserved.~~

DIVISION 8. ENFORCEMENT

~~Secs. 34-261 — 34-264. -- Reserved.~~

~~Sec. 34-265. -- Compliance.~~

~~Failure to comply, or remain in compliance, with the provisions of this Code and conditions of approval under this chapter constitutes a violation of this Code.~~

~~Sec. 34-266. -- Cease and desist orders.~~

~~The Director has the authority to issue cease and desist orders in the form of written official notices.~~

~~Sec. 34-267. -- Authority to permit uses pending a zoning action.~~

- ~~(a) The Director is authorized to permit proposed uses that are not permitted on a subject parcel for a period of not more than 180 days under the following circumstances:~~
- ~~(1) The property owner, contract purchaser or other authorized person has filed an application for a rezoning or a special exception for the subject parcel that would, if approved, make the requested use a permitted use;~~
 - ~~(2) The requested rezoning or special exception, in the opinion of the Director, is clearly compatible with the neighboring uses and zoning and is consistent with the Lee Plan;~~
 - ~~(3) The proposed use of the property is a business that is being relocated due to the County's economic development efforts or as the result of threatened or ongoing condemnation proceedings;~~
 - ~~(4) No new principal structures are to be constructed on the subject property; and~~

- ~~(5) The applicant agrees in writing that the proposed use will cease within 180 days of the date of the administrative approval unless the Board of County Commissioners or Hearing Examiner, whichever is applicable, has rendered a final decision approving the requested rezoning or special exception. Upon execution, the agreement must be recorded in the public records of the County.~~
- ~~(b) Decisions by the Director pursuant to this section are discretionary and may not be appealed pursuant to subsection 34-145(a).~~
- ~~(c) The Director may extend the effective date of the approval up to an additional 90 days upon good cause shown.~~
- ~~(d) No approval issued pursuant to this section will excuse any property owner from compliance with any County regulation except the list of permitted uses in the zoning district in question.~~

Sec. 34-268. -- Administrative variances.

- ~~(a) The Director is authorized to administratively approve variances of the following:

 - ~~(1) Street, rear, side, or waterbody setbacks to allow:

 - ~~a. Remodeling of or additions to existing structures that are nonconforming with regard to a specific setback so long as the remodeling or addition will not result in:

 - ~~i. An increase in the height of the structure; or~~
 - ~~ii. A further diminution of the setback. The Director may approve bay windows, chimneys and similar architectural features that may encroach further into the setback provided the encroachment does not protrude beyond the existing overhang of the building.~~~~
 - ~~b. Construction of access appurtenant to an existing structure for disabled persons.~~
 - ~~c. Replacement of stairs or decking that provides access into an existing dwelling unit.~~
 - ~~d. Minor errors that occurred at the time of construction to be legitimized.~~
 - ~~e. Construction of a single family dwelling unit so long as the proposed lot coverage does not exceed 45 percent for lots that qualify for a single family determination, pursuant to the Lee Plan.~~
 - ~~f. Buildings or structures that are not in compliance with current setback regulations and which can be proven to have been permitted.~~~~
 - ~~(2) Relief authorized for development of property that is subject to a Lee County initiated eminent domain proceeding pursuant to section 1-16.~~
 - ~~(3) Setbacks in conventional zoning districts, not covered by section 34-268(a)(1), where the encroachment is:

 - ~~a. 10% or less of the minimum required setback for proposed buildings; or~~
 - ~~b. 20% or less of the minimum required setback for existing buildings.~~~~
 - ~~(4) Chapter 34 requirements that are necessary to facilitate development of existing nonconforming buildings or structures that have lost their nonconforming status pursuant to section 34-3242(2). Chapter 30 requirements for signs that have lost their nonconforming status pursuant to section 30-55(b)(2). Administrative variances~~~~

~~granted pursuant to this section may only be granted to the extent that the variance is the minimum that will bring the site more into compliance with this Code given the existing site constraints. Nonconforming open space, buffering and landscaping are subject to the regulations of section 10-416 and, as required, must be brought into conformance to the maximum extent possible.~~

- ~~(5) Landscaping required by section 34-1743(b)(3) to allow existing, required or optional nonconforming residential project walls to be repaired or replaced.~~
- ~~(6) Property development regulations for all religious facilities and places of worship provided in section 34-2051(a) for properties zoned residential and located in a platted subdivision.~~
- ~~(7) Requirements not listed above that are found by the Director to be similar in nature.~~
- ~~(b) Before approving any administrative variance, the Director must find that all of the following exist:~~
 - ~~(1) There are exceptional or extraordinary conditions or circumstances that are inherent to the property in question;~~
 - ~~(2) The variance granted is the minimum variance that will relieve the applicant of an unreasonable burden caused by the application of the regulation in question to the property; and~~
 - ~~(3) The granting of the variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.~~
- ~~(c) Applicants seeking an administrative variance must submit the following:~~
 - ~~(1) A written request on a form prepared by the County which includes the submittal requirements set forth in section 34-204 and, as applicable, sections 34-202 and 34-203.~~

~~The applicant must demonstrate that the variance request meets the criteria for granting an administrative variance set forth in section 34-268(b).~~
 - ~~(2) A detailed site plan of the overall development which indicates existing and proposed lot lines, buildings and uses, streets and accessways, off-street parking, water management facilities, buffering and open space.~~
 - ~~(3) A detailed listing of the section number(s) and the specific regulation(s) of chapter 34, chapter 10 and/or chapter 30, if applicable, from which relief is sought. This information must also be shown on the site plan.~~
 - ~~(4) Pertinent calculations which demonstrate that the overall development complies with zoning and development standards.~~
 - ~~(5) Letters of no objection from all adjacent property owners, including those which may be separated from the subject property by any right-of-way or easement, or as required by the Director.~~
- ~~(d) Upon completion of the review of documents submitted, the Director may approve the request with or without conditions to ensure that the overall development complies with the development standards.~~
- ~~(e) Decisions by the Director pursuant to this section are discretionary and may not be appealed in accordance with section 34-145(a) of this chapter. If a request for an administrative deviation is denied, or the applicant disapproves of the conditions imposed,~~

~~the applicant may seek a variance through the normal public hearing process provided under section 34-145.~~

~~Secs. 34-269—34-300. —Reserved.~~

ARTICLE IV. - PLANNED DEVELOPMENTS

DIVISION 2. - APPLICATION AND PROCEDURE FOR APPROVAL

Sec. 34-371. - Generally.

All applications for planned development zoning or master concept plan approval must follow the requirements detailed in Article II, Division 6 sections ~~34-201, 34-202 and 34-203~~ and the requirements set out in this division.

Sec. 34-373. - Application.

- (a) *Minimum required information for planned development zoning applications.* Rezoning applications for all planned developments, with the sole exception of mine excavation planned developments (MEPD) under chapter 12, must include the following information, supplemented, where necessary, with written material, maps, plans, or diagrams. A MEPD application must be submitted in accord with section 12-110 and is subject to the sufficiency timing provisions outlined in section 34-372(d).

Wherever this section calls for the exact or specific location of anything on a map or plan, the location must be indicated by dimensions from an acceptable reference point, survey marker or monument.

[(1) thru (9) remains unchanged.]

- (10) *Property development regulations.* A property development regulations table that establishes the minimum lot area and dimensions, minimum setbacks, maximum height, and maximum lot coverage within the planned development. ~~Separate regulations may be designated to different development areas of the Master Concept Plan.~~ Uses that have specific setback requirements within the LDC will be subject to the requirements set forth in the LDC, unless specifically stated within the proposed property development regulations table.

[Remainder of section remains unchanged.]

Sec. 34-380. - Amendments to approved master concept plan.

[(a) remains unchanged.]

- (b) The Director may administratively approve an amendment to a planned development in accordance with section 34-174. ~~any change to the development that does not increase height, density or intensity (i.e., number of dwelling units or quantity of commercial or industrial floor area) except as permitted in chapter 2. The Director may not approve a change that will:~~

- ~~(1) Result in the substantial underutilization of public resources and public infrastructure committed to the support of the development;~~

- (2) ~~Result in a reduction of total open space provided on the master concept plan by more than ten percent or that would decrease the amount of indigenous native vegetation or open space required by the Code;~~
- (3) ~~Decrease preservation areas. Changes to buffer or landscaping areas are permitted but must provide equivalent or better (by comparison with the approved Master concept plan) landscaping or buffering; or~~
- (4) ~~Adversely impact surrounding land uses.~~

~~If the County determines that an approved administrative amendment was based on inaccurate or misleading information or if the approval did not comply with this Code when the decision was rendered, then, at any time, the Director may issue a modified approval that complies with the Code or revoke the approved administrative amendment.~~

~~If the approval is revoked, the applicant may acquire the necessary approvals by filing an application for public hearing in accordance with section 34-373 of this chapter. Decisions by the Director pursuant to this section are discretionary and may not be appealed in accordance with section 34-145(a) of this chapter.~~

[(c) thru (g) remain unchanged.]

DIVISION 3. – DESIGN STANDARDS

Sec. 34-411. - General standards.

[(a) thru (c) remain unchanged.]

- (d) ~~The tract or parcel shall~~ All planned developments must have access to existing or proposed roads. Access must comply with the requirements of chapter 10 and be located so that site-related industrial traffic does not travel through predominantly residential areas.

- (1) ~~In accordance with chapter 10 and as specified in the Lee Plan transportation element;~~
- (2) ~~That have either sufficient existing capacity or the potential for expanded capacity to accommodate both the traffic generated by the proposed land use and that traffic expected from the background (through traffic plus that generated by surrounding land uses) at a level of service D or better on an annual average basis and level of service E or better during the peak season, except where higher levels of service on specific roads have been established in the Lee Plan; and~~
- (3) ~~That provide ingress and egress without requiring site-related industrial traffic to move through predominantly residential areas.~~

[Remainder of section remains unchanged.]

ARTICLE VI. DISTRICT REGULATIONS

DIVISION 1. GENERALLY

Sec. 34-621. - Use and development regulations for conventional districts.

(a) *Applicability.* No land, body of water or structure shall may be used or permitted to be used and no structure shall may hereafter be erected, constructed, moved, altered or maintained in ~~any conventional zoning district~~ for any purpose other than as provided in the use regulation tables and in accordance with the property development regulations tables set forth in this article for the zoning district in which the property is located, except as may be specifically provided for elsewhere in this chapter. ~~for in article VIII of this chapter, pertaining to nonconforming uses, or in section 34-620.~~

(1) All uses of land, water and structures in the ~~conventional zoning districts~~ are subject to the County Comprehensive Plan (the Lee Plan) and the County Future Land Use Plan Map, and therefore may not be permitted in all land use categories.

(2) All uses of land, water and structures in the conventional zoning districts are subject to the specific use and property development regulations set forth for the district in which located, as well as all general provisions and all applicable supplemental regulations set forth in this chapter. ~~Except as may be specifically provided for elsewhere in this chapter, deviations from the property development regulations may only be granted in accordance with the procedures established in sections 34-203(e) and (f) and 34-145(b) for variances.~~

[(b) remains unchanged.]

(c) *Property development regulations.* Divisions 2 through 9 of this article contain property development regulations tables which set forth the minimum development lot size and dimensions, setbacks, lot coverage, maximum building height and similar regulations for development of land within the specified districts.

Sec. 34-625. - Outdoor lighting standards.

[(a) thru (f) remain unchanged.]

(g) ~~*Existing outdoor lighting.* All applications for development orders or building permits, except for single family and duplex building permits, for properties with existing outdoor light fixtures must demonstrate compliance with the outdoor lighting standards of this Code. Compliance with light pole height requirements is not required for light poles existing on June 24, 2003. Replacement of fixtures not in conjunction with a development order or building permit, as applicable, requires a Type A limited development order approval issued by Development Services that demonstrates compliance with the outdoor lighting standards for fixtures established herein.~~

Sec. 34-626. - Requests for zoning verification.

(a) Request. Zoning verification letters ("ZVL") may be requested from the Director by an individual who is seeking verification of the zoning status of a specific parcel of land. The request must provide sufficient information to identify the property and the information

the requestor seeks to verify. The request must be submitted in writing and be accompanied by the required administrative fee. If the request covers multiple parcels, the Director may treat each parcel as a separate request and may result in additional fees. The requestor is solely responsible for the accuracy of the information provided to the County within the request. The procedures established under this section will also apply to any request for zoning review or verification provided to facilitate licensure or approval through a Federal or State Agency.

[(b) thru (g) remain unchanged.]

DIVISION 2. - AGRICULTURAL DISTRICTS

Sec. 34-653. - Use regulation table.

Use regulations for agricultural districts are as follows:

TABLE 34-653. USE REGULATIONS FOR AGRICULTURAL DISTRICTS

		Special Notes or Regulations	AG-1	AG-2	AG-3
Accessory uses, buildings, and structures:		34-1171 et seq. and 34-2441 et seq.	P	P	P
Accessory apartments and accessory dwelling unit		34-1177 and 34-1180	P	P	P
Amateur radio antennas and satellite earth stations		34-1175	Refer to 34-1175 for regulations		
Entrance gates, gatehouses		34-1741 et seq.	P	P	P
Residential accessory uses		Note (19), 34-622(c)(42), 34-1171 et seq., 34-1863, 34-1741 et seq., 34-2141 et seq.	P	P	P
Signs in compliance with chapter 30			P	P	P
Animals, reptiles, marine life:					
	Animals (excluding exotic species)	34-1291 et seq.	P	P	P
	Animal clinic (df) or animal kennel (df)	34-1321 et seq.	EO/SE	EO/SE	EO/SE
	Keeping, raising or breeding of domestic tropical birds (df) for commercial purposes	Note (12), 34-1291 et seq.	SE	SE	SE
	Keeping, raising or breeding of American alligators, venomous reptiles or Class II animals (df)	34-1291 et seq.	SE	SE	SE
	Keeping, raising or breeding of marine life which requires the storage of brackish or saline water in man-made ponds	34-1291 et seq.	SE	SE	SE
Consumption on premises		34-1261 et seq., 34-3152	AA/SE	AA/SE	AA/SE
Day care center, adult or child		34-206, Notes 13, (15) & (16)	EO/SE	EO/SE	EO/SE

EMS, fire or sheriff's station	34-3152	SE	SE	SE
Forestry, cypress (<i>Taxodium</i> spp.), for sawtimber use only	34-651 et seq.	SE	SE	SE
Recreation facilities:				
Commercial - Group III	34-622(c)(38), Note (10)	SE	SE	SE
Personal	Note (28)	P	P	P
Private-Onsite		P	P	P
Private-Offsite		EO/SE	EO/SE	EO/SE

Notes:

(1) Any expansion which will bring the number of beds to 50 or more requires a special exception.

(2) Any lot created in the rural community preserve land use category (as delineated by policy 17.1.3 of the Lee Plan) after July 9, 1991, must have a minimum area of 43,560 square feet excluding all street rights-of-way or easement areas, water management areas, and natural water bodies. Public utility easement areas may be included in the lot size calculation.

(3) Limited to uses and buildings customarily incidental to agricultural uses, including the processing and packaging of agricultural products primarily grown on the premises.

(4) Mobile home permitted provided it is the only residential unit on the property, and provided further that the property meets the same lot area and dimensions, setbacks, height and maximum lot coverage as set forth in table 34-654 for the AG-1 district.

(5) Only permitted in compliance with section 34-1180.

(6) Expansion of facility to ten or more acres requires a special exception.

(7) Any new facility of ten or more acres or any expansion of an existing facility to ten or more acres requires a special exception.

(8) Any new facility of 50 or more beds, or any expansion of an existing facility which will bring the number of beds to 50 or more or which changes the use, requires a special exception.

(9) Recreational halls require a special exception approval.

(10) Limited to passive and active recreational and educational activities including, but not limited to, hiking and nature trails, paintball and gun ranges, zip lining, paragliding, and similar activities where little or no on site facilities or capital investment are required, and the natural environment, with little or no alteration of the nature landscape, is utilized.

(11) Not permitted in Coastal High Hazard areas unless in compliance with section 2-485(b)(5)a.

(12) The keeping of ostrich, cassowary, rhea, or emu for the production of meat, skins, or hides, feathers, or the progeny thereof, as part of a bonafide agricultural operation does not require a special exception.

- ;(note; (13) Family day care homes are exempt pursuant to F.S. § 125.0109. Reserved.
- ;(note; (14) Non-commercial only.
- ;(note; (15) A day care center, owned by the entity with title to the place of worship, that is operated within the building housing the place of worship is not required to obtain special exception approval.
- ;(note; (16) Not permitted in Airport Noise Zone B.
- ;(note; (17) Not permitted in Airport Noise Zone B. See section 34-1004 for exceptions.
- ;(note; (18) Only when accessory to an agritourism activity permitted in accordance with LDC-§ section 34-1711.
- ;(note; (19) Not permitted in Airport Noise Zone B unless accessory to a lawful mobile home or single-family residence. See section 34-1004.
- ;(note; (20) Not permitted in Airport Noise Zone B. Housing units consisting of mobile homes or park trailers are also not permitted in Airport Noise Zone B.
- ;(note; (21) Not permitted in Airport Noise Zone B unless pre-empted by state law.
- ;(note; (22) Not permitted in Airport Noise Zones B unless required to support a noise compatible use and constructed in compliance with limitations for dwelling unit type set forth in section 34-1004 as applicable.
- ;(note; (23) Minimum of five acres required. Commercial site location and design standards apply.
- ;(note; (24) The rights applicable to mining excavations approved prior to September 1, 2008, are set forth in section 12-121.
- ;(note; (25) Only in conjunction with a bona fide agricultural use.
- ;(note; (26) Minimum property size for a picnic pavilion is 10 acres. Structure is limited to 1,000 square feet with less than 100 square feet for an enclosed bathroom.

DIVISION 3. – RESIDENTIAL DISTRICTS

SUBDIVISION II. – ONE- AND TWO- FAMILY RESIDENTIAL DISTRICTS

Sec. 34-694. - Use regulations table.

Use regulations for one- and two-family residential districts are as follows:

TABLE 34-694. USE REGULATIONS FOR ONE- AND TWO-FAMILY RESIDENTIAL DISTRICTS

		Special Notes or Regulations	RSC- 1	RSC- 2	RSA	RS- 1	RS- 2	RS- 3	RS- 4	RS- 5	TFC-1	TFC- 2	TF- 1
Accessory apartment <u>and</u>		Notes (1) & (10), 34-1177	—	—	P AA	P AA	P AA	P AA	P AA	P AA	P	P	—

<u>accessory dwelling unit</u>													
Accessory uses, buildings and structures:		34-1171 et seq., 34-2441 et seq. 34-3106	P	P	P	P	P	P	P	P	P	P	P
	Residential accessory uses	Note (13), 34-622(c)(42), 34-1171 et. seq., 34-1863, 34-1741 et seq., 34-2141 et seq.	P	P(4)	P	P	P	P	P	P	P	P	P
Day care center, adult or child		34-206, Notes (5), (9) & (10)	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE
Essential service facilities (34-622(c)(13)):													
	Group I	34-1611 et seq., 34-1741 et seq., 34-2142	P	P	P	P	P	P	P	P	P	P	P
	Group II	34-1611 et seq., 34-1741 et seq., 34-2141 et seq.	—	—	—	EO	—	—	—	—	—	EO	—

Notes:

[(1) thru (4) remain unchanged.]

(5) Family day care homes are exempt pursuant to F.S. § 125.0109. Reserved.

[(6) thru (15) remain unchanged.]

Sec. 34-695. - Property development regulations table.

Property development regulations for one- and two-family residential districts are as follows:

TABLE 34-695. PROPERTY DEVELOPMENT REGULATIONS FOR ONE- AND TWO-FAMILY RESIDENTIAL DISTRICTS

		Special Notes or Regulations	RSC- 1	RSC- 2	RSA	RS- 1	RS- 2	RS- 3	RS- 4	RS- 5	TFC- 1	TFC- 2	TF- 1
Minimum lot area and dimensions:		34-2221, 34-2222, 34-2142											
Special regulations:													
	Essential service facilities (34- 622(c)(13))	34-1611 et seq., 34-2141 et seq.	Refer to the section specified for exceptions or additions to the minimum setback requirements listed in this table.										

[Remainder of section unchanged.]

SUBDIVISION III. – MULTIPLE FAMILY DISTRICTS

Sec. 34-714. - Use regulations table.

Use regulations for multiple-family districts are as follows:

TABLE 34-714. USE REGULATIONS FOR MULTIPLE-FAMILY RESIDENTIAL DISTRICTS

		Special Notes or Regulations	RM-2 (Note 5)	RM-3, RM-6, RM-8, RM-10 (Note 5)
Accessory apartment and accessory dwelling unit		Notes (1) & (10), 34-1177	P	P
Accessory uses, buildings, and structures:		34-1171 et seq., 34-2441 et seq., 34-3106	P	P
Amateur radio antennas and satellite earth stations		34-1175	Refer to 34-1175 for regulations.	
Entrance gate, gatehouses		34-1741 et seq.	P	P
Residential accessory uses		Note (13), 34-622(c)(42), 34- 1171 et seq., 34-1863, 34-1741 et seq., 34- 2141 et seq.	P	P
Signs in compliance with chapter 30			P	P
Day care center:				
Adult		Note (10)	SE	SE

Child	34-206, Notes (6), (9) & (10)	SE	SE
Essential service facilities:	34-622(c)(13)		
Group I	34-1611 et seq., 34-1741 et seq., 34-2142	P	P
Group II	34-1611 et seq., 34-1741 et seq., 34-2141 et seq.	EO	—

Notes:

[(1) thru (5) remain unchanged.]

(6) Family day care homes are exempt pursuant to F.S. § 125.0109. Reserved.

[(7) thru (16) remain unchanged.]

Sec. 34-715. - Property development regulations table.

No structure may hereafter be erected, constructed, moved, altered or maintained in the RM districts in a manner that is not consistent with the property development regulations for multiple-family districts, except as provided for in article VIII (nonconformities) of this chapter, or in section 34-620 or section 34-713.

Properties located within the mixed use overlay as delineated on Map 1, page 6 of the Lee Plan and described in Objective 11.2 may apply the alternative property development regulations under the "MUO" category.

Property development regulations for multiple-family districts are as follows:

**TABLE 34-715. PROPERTY DEVELOPMENT REGULATIONS FOR
MULTIPLE-FAMILY RESIDENTIAL DISTRICTS**

		Special Notes or Regulations	RM-2	RM-3	RM-6	RM-8	RM-10	MUO
Minimum lot area and dimensions:		34-1493, 34-1494, 34-2221, 34-2222, 34-2142						
Special regulations:								
	Essential service facilities (34-622(c)(13))	34-1611 et seq., 34-2142	Refer to the sections specified for exceptions or additions to the minimum setback requirements listed in this table.					

Maximum height (feet)	34-2171 et seq.	35	35	35	35	35	As req. by 34-2174 et seq. <u>2175</u>
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[Remainder of section unchanged.]

SUBDIVISION IV. – MOBILE HOME RESIDENTIAL DISTRICTS

Sec. 34-735. - Use regulations table.

Use regulations for mobile home districts are as follows:

TABLE 34-735. USE REGULATIONS FOR MOBILE HOME DISTRICTS

		Special Notes or Regulations	MHC-1, MHC-2	MH- 1	MH- 2	MH- 3	MH- 4
Accessory uses, buildings, and structures:		34-1171 et seq., 34-2441 et seq., 34-3106	P	P	P	P	P
	Residential accessory uses	Note (12), 34-622(c)(42), 34-1171 et seq., 34-1863, 34-1741 et seq., 34- 2141 et seq.	P	P	P	P	P
Day care center, adult or child:							
	Adult	Note (7)	SE	SE	SE	SE	SE
	Child	34-206, Notes (4), (7) & (8)	SE	SE	SE	SE	SE
Essential service facilities (34-622(c)(13)):							
	Group I	34-1611 et seq., 34-1741 et seq., 34-2141 et seq.	P	P	P	P	P

Notes:

[(1) thru (3) remain unchanged.]

(4) Family day care homes are exempt pursuant to F.S. § 125.0109. Reserved.

[(5) thru (13) remain unchanged.]

Sec. 34-736. - Property development regulations table.

Property development regulations for mobile home districts are as follows:

**TABLE 34-736. PROPERTY DEVELOPMENT REGULATIONS FOR
MOBILE HOME RESIDENTIAL DISTRICTS**

		Special Notes or Regulations	MHC- 1	MHC- 2	MH-1 (2)	MH-2 (1), (2)	MH-3 (2)	MH-4 (2)
	Residential uses:							
	Minimum lot area and dimensions:	34-2221, 34-2222, 34-2142 34-1611 et seq.						
	Special regulations:							
	Essential service facilities (34-622(c)(13))	34-1611 et seq., 34- 2142						

[Remainder of section unchanged.]

DIVISION 4. RECREATIONAL VEHICLE PARK DISTRICTS

Sec. 34-767. - Use regulations table.

Use regulations for recreational vehicle districts are as follows:

TABLE 34-767. USE REGULATIONS FOR RECREATIONAL VEHICLE DISTRICTS

		Special Notes or Regulations	RV-2	RV-3
	Day care center, adult or child:			
	Adult	Note (5)	EO/SE	EO/SE
	Child	34-206, Notes (4), & (5) & (6)	EO/SE	EO/SE
	Essential service facilities (34-622(c)(13)):			
	Group I	34-1611 et seq., 34-1741 et seq., 34-2142	P	P

Notes:

[(1) thru (5) remain unchanged.]

(6) Family day care homes are exempt pursuant to F.S. § 125.0109.

Sec. 34-768. - Property development regulations table.

Property development regulations for recreational vehicle districts are as follows:

TABLE 34-768. PROPERTY DEVELOPMENT REGULATIONS FOR RECREATIONAL VEHICLE DISTRICTS

		Special Notes or Regulations	RV-2	RV-3
Minimum lot area and dimensions:		34-2221, 34-2222 34-2142, 34-1611 et seq.		

Notes:

[(1) thru (2) remain unchanged.]

(3) Modifications to setbacks for solar or wind energy purposes are permitted only by special exception. See section 34-~~1452~~196.

[(4) thru (13) remain unchanged.]

DIVISION 5. COMMUNITY FACILITIES DISTRICTS

Sec. 34-813. - Use regulations table.

Use regulations for the community facilities districts are as follows:

TABLE 34-813. USE REGULATIONS FOR COMMUNITY FACILITIES DISTRICTS

		Special Notes or Regulations	CF
Accessory uses, buildings and structures		34-1171 et seq., 34-2441 et seq., 34-2141 et seq., <u>34-1611 et seq.</u>	P
Day care center:			
	Adult	Note (7)	P
	Child	34-206, Notes <u>(4)</u> , (6) & (7)	SE
Essential service facilities:		34-622(c)(13)	
	Group I	34-1611 et seq., 34-1741 et seq., 34-2141 et seq.	P
	Group II	34-1611 et seq., 34-1741 et seq., 34-2141 et seq.	EO

Notes:

[(1) thru (3) remain unchanged.]

(4) Family day care homes are exempt pursuant to F.S. § 125.0109. Reserved.

[(5) thru (12) remain unchanged.]

Sec. 34-814. - Property development regulations table.

[Table 34-814 remains unchanged.]

Notes:

(1) Modifications to required setbacks for collector or arterial streets ~~is~~are permitted only by variance. Modifications for solar or wind energy purposes, are permitted only by special exception. See section 34-~~1452~~196.

[(2) thru (3) remain unchanged.]

DIVISION 6. – COMMERCIAL DISTRICTS

Sec. 34-841. – Purpose and intent.

[(a) thru (e) remain unchanged.]

(f) *CN-3 neighborhood commercial district.* The purpose and intent of the CN-3 district is to permit the designation of suitable intersection locations for a broad range of small-scale retail, office and personal service facilities adjacent to and within future residential neighborhoods without the need to obtain CPD (Commercial Planned Development) zoning. This district is especially suited to those portions of Lehigh Acres that meet the criteria found in Lee Plan Policy ~~4-8.3(2)~~25.6.2. To protect the residential character of adjoining neighborhoods, certain potentially incompatible uses such as, but not limited to, convenience stores and fuel pumps are prohibited in the CN-3 district. Hours of operation for permitted uses are restricted to minimize night-time operations.

[Remainder of section remains unchanged.]

Sec. 34-844. - Use regulations table.

Use regulations for conventional commercial districts are as follows:

TABLE 34-844. USE REGULATIONS FOR CONVENTIONAL COMMERCIAL DISTRICTS

		Special Notes or Regulations	C- 1A	C- 1	C- 2	C- 2A	CN- 1	CN- 2	CN- 3 (21, 23)	CC	CG	CS- 1	CS- 2	CH	CT	CR	CI	CP
Accessory apartment <u>and</u> <u>accessory</u> <u>dwelling unit</u>		Notes (1) & (25), 34-1177	P	P	P	<u>P</u>	—	—	—	—	—	—	<u>P</u>	—	—	—	—	—
Day care center, adult, child		34-206, Notes (25) & (36)	P	P	P	P	P	P	P	P	P	—	—	—	P	P	—	—
EMS, fire or sheriff's station		34-3152	P	P	P	P	—	—	—	P	P	P	—	—	—	P	P	—
Essential service facilities:		34- 622(c)(13)																

	Group I	34-1611 et seq., 34-1741 et seq., 34-2142	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
	Group II	34-1611 et seq., 34-1741 et seq., 34-2141 et seq.	EO	—	—	—	—	—	—	EO	—	—	—	—	—	—	—	—
Food stores (34-622(c)(16)):																		
	Group I	34-3152	P	P	P	P	P (12)	P	P (12)	P	P	—	—	—	P	P	—	—
Impound yard		34-3152	—	EO	EO	—	—	—	—	EO	EO	—	—	—	—	—	—	—
Rental or leasing establishments (34-622(c)(39)):																		
	Group I	34-1352, 34-3001 et seq., 34-3152	P	P	P	P	—	P	P	P	P	—	—	P	P	—	—	—
Restaurants (34-622(c)(43)):																		
	Group I	34-3152	P	P	P	P	—	P	P	P	P	—	SE (5)	P	P	P	—	—
	Group II	34-3152	P	P	P	P	—	P	P (24)	P	P	SE	SE (5)	P	P	—	—	—
	Group III	34-3152	P	P	P	P	—	P	P (24)	P	P	—	SE (5)	P	P	P	—	—

Notes:

[(1) thru (35) remain unchanged.]

(36) Family day care homes are exempt pursuant to F.S. § 125.0109.

Sec. 34-845. - Property development regulations table.

No structure may hereafter be erected, constructed, moved, altered or maintained in any conventional commercial district in a manner inconsistent with the property development regulations for conventional commercial districts, except as provided for in article VIII (nonconformities) of this chapter, or in section 34-620.

Properties located within the mixed use overlay as delineated on Map 1, page 6 of the Lee Plan and described in Objective 11.2 may apply the alternative property development regulations under the "MUO" category.

Property development regulations for conventional commercial districts are as follows:

TABLE 34-845. PROPERTY DEVELOPMENT REGULATIONS FOR COMMERCIAL DISTRICTS

		Special Notes or Regulations	C- 1A	C- 1	C- 2, C- 2A	CN- 1	CN- 2	CN- 3	CC, CG	CS- 1	CS- 2	CH	CT	CR	CI	CP	MUO
Maximum density		Note (1)				(2)	(2)	(2)		(2)	(2)						
Minimum lot area and dimensions:		34-2221, 34- 2222, 34- 2142, 34- 1611 et seq.															0
Special regulations:			Refer to the sections specified for exceptions or additions to the minimum setback requirements listed in this table.														
Essential service facilities (34- 622(c)(13))		34-1611 et seq., 34- 2142, 34- 1611 et seq.															
Maximum height (feet)			35	35	35	35	35	35	35	35	35	35	35	35	35	35	As reqd. by 34- 2174 2175

[Remainder of section remains unchanged.]

DIVISION 7. – MARINE- ORIENTED DISTRICTS

Sec. 34-873. - Use regulations table.

Use regulations for marine-oriented districts are as follows:

TABLE 34-873. USE REGULATIONS FOR MARINE-ORIENTED DISTRICTS

	Special Notes or Regulations	CM	IM	PORT
Bait and tackle shop	Note (13)	P	P	—
Consumption on premises	34-1261 et seq. Note (13)	AA/SE	AA/SE	AA/SE
Fire station	Note (13)	—	—	P
Fish market, enclosed	Note (13)	EO	SE	—
Gift and souvenir shop	Note (13)	P	—	—
Rental establishments, group I (34-622(c)(39))	Note (13)	P	—	—
Restaurant (34-622(c)(43)):				
Group I	Note (13)	P	P	P
Group II	Note (13)	P	SE	—
Group III	Note (13)	P	—	—

Notes:

[(1) thru (12) remain unchanged.]

(13) See section 34-3152

[Remainder of section remains unchanged.]

Sec. 34-874. - Property development regulations table.

Property development regulations for marine-oriented districts are as follows:

TABLE 34-874. PROPERTY DEVELOPMENT REGULATIONS FOR MARINE-ORIENTED DISTRICTS

		Special Notes or Regulations	CM	IM	PORT
Minimum lot area and dimensions:		34-2221, 34-2222, 34-2142 34-1611 et seq.			
Special regulations:			Refer to the section specified for exceptions to the minimum setback requirements listed in this table.		
	Essential service facilities (34-622(c)(13))	34-1611 et seq., 34-2142			

[Remainder of section unchanged.]

DIVISION 8. – INDUSTRIAL DISTRICTS

Sec. 34-903. - Use regulations table.

Use regulations for industrial districts are as follows:

TABLE 34-903. USE REGULATIONS FOR INDUSTRIAL DISTRICTS

		Special Notes or Regulations	IL Note (14)	IG Note (14)	IR Note (14)
Day care center, child		34-206, Notes <u>(10)</u> , (13) & (16)	P	—	—
Day care center, adult		34-206, Notes <u>(10)</u> , (13) & (16)	P	—	—
EMS, fire or sheriff's station		34-3152	P	P	P
Essential service facilities:		34-622(c)(13)			
	Group I	34-1611 et seq., 34-1741 et seq., 34-2142	P	P	P
	Group II	34-1611 et seq., 34-1741 et seq., 34-2141 et seq.	EO	—	—
Rental or leasing establishments (34-622(c)(39)):					
	Group II	34-1201 et seq., 34-1352, 34-3001 et seq., 34-3152	P	P	—

Restaurant (34-622(c)(43)):					
	Group I	34-3152	P	P	P
	Group II	34-1261 et seq., 34-3152	P	P	—

Notes:

[(1) thru (9) remain unchanged.]

(10) Family day care homes are exempt pursuant to F.S. § 125.0109. Reserved.

[(11) thru (17) remain unchanged.]

Sec. 34-904. - Property development regulations table.

Property development regulations for industrial districts are as follows:

TABLE 34-904. PROPERTY DEVELOPMENT REGULATIONS FOR INDUSTRIAL DISTRICTS

		Special Notes or Regulations	IL	IG	IR
Minimum lot area and dimensions:		34-2221, 34-2222, 34-2142, <u>34-1611 et seq.</u>			
Special regulations:					
	Essential service facilities (34-622(c)(13))	34-1611 et seq., 34-2142, <u>34-1611 et seq.</u>			

[Remainder of section unchanged.]

DIVISION 9. – PLANNED DEVELOPMENT DISTRICTS

Sec. 34-931. - Purpose and intent.

[(a) thru (f) remain unchanged.]

(g) *AOPD airport operations planned development district.* The purpose and intent of the AOPD district is to accommodate and regulate those lands where Lee County Port Authority operated public airports and ancillary facilities are conducted.

[Remainder of section remains unchanged.]

Sec. 34-933. - Permitted uses.

Except in the AOPD, MEPD and PRFPD districts, or where otherwise specifically indicated to the contrary, the uses listed in section 34-934, pertaining to use regulations for planned development districts, may be permitted in the indicated districts when consistent with the goals, objectives and policies of the Lee Plan for the land use category in which the property is located, and when approved on the enumerated documentation of the master concept plan.

Uses that are not specifically listed in section 34-934 may also be permitted if, in the opinion of the Director, they are substantially similar to a listed permitted use.

In the MEPD and PRFPD districts, only those uses specifically listed in section 34-941 may be approved on the master concept plan. For uses allowed in the AOPD district, refer to section 34-942.

Sec. 34-934. - Use regulations table.

Use regulations for planned development districts are as follows:

TABLE 34-934. USE REGULATIONS FOR PLANNED DEVELOPMENT DISTRICTS

		Special Notes or Regulations	RPD	MHPD	RVPD	CFPD	CPD	IPD Note (37)	AOPD	MPD	MEPD
	Accessory uses and structures	Note (1), 34-1171 et seq., 34-2441 et seq., 34-1863, 34-2141 et seq., <u>34-1611 et seq.</u> , 34-3106	P	P	P	P	P	P	P	P	—
	Accessory apartment and accessory dwelling unit	Note (2), (21), & (28), 34-1177	P	—	—	—	—	—	—	P	—
	Administrative offices	Note (1)	P	P	P—	P	P	P	P	P	—
	Agricultural services: office/base operations		—	—	—	—	—	P	P	P	—
	Agricultural uses and agricultural accessory uses	Note (48)	—	—	—	—	—	P	P	P	—
	Aircraft food services and catering		—	—	—	—	—	—	P	P	—
	Aircraft landing facilities, private	34-1231 et seq.	P	P	P	P	P	P	P	P	—
	Airport operations facilities		—	—	—	—	—	—	P	—	—
	Amateur radio antennas and satellite earth stations	34-1175	Refer to 34-1175 for regulations.								
	Amusement park		—	—	—	—	P	—	—	P	—
	Animals:										
	Clinic or kennel	34-1321 et	—	—	—	—	P	P	P	P	—

		seq.									
	Control center (including Humane Society)		—	—	—	P	P	—	P	P	—
	Keeping and breeding of Class I or Class II animals (df)	34-1291 et seq.	—	—	—	SE	SE	—	—	SE	—
	Assisted living facility	Note (35) & (47) 34-1491 et seq., 34-1411	P(3)	—	—	P	P	—	—	P	—
	ATM (automatic teller machine)						P	P	P	P	—
	Auto parts store	34-1353	P(4)	P(4)	—	—	P	—	P	P	—
	Automobile repair and service (34-622(c)(2)), all groups	34-1351, 34- 1353 Note (41)	—	—	—	—	P	P	P	P	—
	Automobile service station	Note (41), 34-1351, 34- 1353	P(4)	P(4)	—	—	P	P	P	P	—
	Bait and tackle shop	Note (49)	P(4)	P(4)	—	—	P	P	P	P	—
	Banks and financial establishments (34-622(c)(3)):										
	Group I		P(4)	P(4)	—	—	P	—	P	P	—
	Group II		—	—	—	—	P	—	P	P	—
	Bar or cocktail lounge	34-1261 et seq.	—	—	—	—	P	P	P	P	—
	Bed and Breakfast (df)	Note (28), 34-1494	P	—	—	—	P	—	—	P	—
	Boarding house	Note (28)	P	—	—	—	P	—	—	P	—
	Boats:										
	Boat parts store		P(4)	P(4)	—	—	P	P	P	P	—
	Boat ramps and dockage (not marinas)		P	P	P	P	P	P	—	P	—
	Boat rental		P(4)	P(4)	—	—	P	P	P	P	—
	Boat repair and service	34-1352, 34- 3001 et seq.	—	—	—	—	P	P	P	P	—
	Boat sales		—	—	—	—	P	—	P	P	—
	Boat storage, dry		—	—	—	—	P	—	P	P	—
	Boatyard	Note (5)	—	—	—	—	—	P	—	P	—
	Broadcast studio, commercial radio and	34-1441 et seq.	—	—	—	—	P	P	P	P	—

television										
Building material sales (34-622(c)(4))	34-3001 et seq.	—	—	—	—	P	P	P	P	—
Business services (34-622(c)(5)):										
Group I		P(4)	P(4)	—	—	P	P	P	P	—
Group II	Note (12), 34-1352	—	—	—	—	P	P	P	P	—
Bus station/depot	34-1381 et seq.	—	—	—	P	P	P	P	P	—
Camping cabins	Note (28)	—	—	P(6)	—	—	—	—	P	—
Caretaker's residence	Note (34)	—	P	P	P	P	P	—	P	—
Car wash	34-1353	—	—	—	—	P	—	P	P	—
Cemetery, columbarium, mausoleum		—	—	—	P	—	—	—	P	—
Cleaning and maintenance services (34-622(c)(7))		—	—	—	—	P	P	P	P	—
Clothing stores, general (34-622(c)(8))		—	—	—	—	P	—	P	P	—
Clubs:										
Country		P	P	P	—	P	—	—	P	—
Commercial		—	—	—	—	P	—	P	P	—
Fraternal, membership organization	34-2111	—	—	—	—	P	—	P	P	—
Private	34-2111	P	P	P	—	P	—	P	P	—
Cold storage, pre-cooling, warehouse and processing plant		—	—	—	—	—	P	P	P	—
Commercial fishery		—	—	—	—	P	P	—	P	—
Commercial use of beachfront seaward of the coastal construction control line	Note (7), 34-3151	P	P	—	—	P	—	—	P	—
Communication facility, wireless	34-1441 et seq. Note (22)	Refer to 34-1441 et seq. for regulations.								
Community gardens	34-1716	AA	AA	—	AA	AA	—	—	AA	
Community residential home	Note (35)	P	P	—	—	P	—	—	P	—
Computer and data processing services		—	—	—	—	—	P	P	P	—
Consumption on	34-1261 et	P(4)	P(4)	P(8)	—	P	P(9)	P	P	—

premises	seq., Note (49)									
Continuing care facilities	Note (28), 34-1414	P	—	—	P	—	—	—	P	—
Contractors and builders (34-622(c)(9)), all groups	34-1352, 34-3001 et seq.	—	—	—	—	P	P	P	P	—
Convenience food and beverage store	34-1353	P(4), (27)	P(4), (27)	—	—	P	P	P	P(27)	—
Correctional facility	Note (28)	—	—	—	P	—	—	—	P	—
Cultural facilities (34- 622(c)(10))		—	—	—	P	P	—	P	P	—
Day care center, child, adult	Notes (13) & (28)	P(4)	P(4)	P(8)	P	P	P	P	P	—
Department store		—	—	—	—	P	—	P	P	—
Dormitory	Note (28)	P	—	—	—	P	—	—	P	—
Drive-through facility for any permitted use		P(4)	P(4)	—	—	P	P	P	P	—
Drugstore, pharmacy		P(4)	P(4)	—	—	P	—	P	P	—
Dwelling unit:										
Live-work	34-1773	—	—	—	—	P	—	—	P	—
Single-family	Note (29)	P	P	—	—	EO	—	—	P	—
Duplex	Note (29) & (43)	P	—	—	—	EO	—	—	P	—
Two-family attached	Note (28) & (43)	P	—	—	—	—	—	—	P	—
Townhouse, multiple- family building	Note (28)	P	—	—	—	P(10)	—	—	P	—
Mobile home	Note (29)	—	P	—	—	—	—	—	P	—
Zero lot line	Note (28)	P	—	—	—	—	—	—	P	—
Entrance gates and gatehouse	34-1741 et seq.	P(3)	P(3)	P	P	P	P	P	P	—
Emergency operations center		—	—	—	P	P	P	P	P	—
EMS, fire or sheriff's station		P(3), (4)	P(3), (4)	—	P	P	P	P	P	—
Essential services	Note (1), 34-1611 et seq., 34-1741 et seq.	P	P	P	P	P	P	P	P	—
Essential service facilities (34-622(c)(13)):										

Group I	Note (1), 34-1611 et seq., 34-1741 et seq., 34-2141 et seq., 34- 1611 et seq.	P	P	P	P	P	P	P	P	—
Group II	Note (1) & (45), 34-1611 et seq., 34-1741 et seq., 34-2141 et seq., 34- 1611 et seq.	P	P	P	P	P	P	P	P	—
Group III	Note (1), 34-1611 et seq., 34-1741 et seq., 34-2141 et seq., 34- 1611 et seq.	—	—	—	P	—	P	—	P	—
Excavation:										
Mining	Note (44); 12-101 et seq.	—	—	—	—	—	—	—	—	P
Water retention	34-1651	P	P	P	P	P	P	P	P	P
Oil or gas	34-1651	P(4)	P(4)	P	P	P	P	—	P	P
Excess spoil removal	Note (42), 10-329	P	P	P	—	P	P	P	P	—
Factory outlets (point of manufacture only)		—	—	—	—	P	P	P	P	—
Farm equipment, sales, storage, rental or service		—	—	—	—	P	P	P	P	—
Farm labor housing	Note (33), 34-1891 et seq.	P	P	—	—	—	—	—	P	—
Feed or fertilizer, mixing and sales		—	—	—	—	P	—	—	P	—
Fences, walls	Note (1), 34-1741 et seq.	P	P	P	P	P	P	P	P	—
Fish house, wholesale		—	—	—	—	P(11)	—	—	P	—
Fishing piers		P(3)	P(3)	—	—	—	—	—	P	—
Flea market:										

Open		—	—	—	—	P	P	—	P	—
Indoor		—	—	—	—	P	—	—	P	—
Food and beverage service, limited	Note (1)	P(4)	P(4)	—	—	P	—	P	P	—
Food stores (34-622(c)(16)):										
Group I	Note (49)	P(4)	P(4)	P	—	P	P(9)	P	P	—
Group II	Note (49)	P(4)	P(4)	—	—	P	P(9)	P	P	—
Forestry tower		—	—	—	P	P	—	—	P	—
Fraternity house	Note (28)	P	—	—	—	P	—	—	P	—
Freight and cargo handling establishments (34-622(c)(17))		—	—	—	—	P	P	P	P	—
Funeral home and mortuary (with or without a crematory)		—	—	—	P(19)	P	—	—	P	—
Gasoline dispensing system, special		—	—	—	—	P	P	P	P	—
Gift and souvenir shop	Note (49)	—	—	—	—	P	—	P	P	—
Golf course		P	P	P	—	P	—	—	P	—
Golf driving range		P	P	—	P	P	P	—	P	—
Hardware store		P(4)	P(4)	—	—	P	—	P	P	—
Hatcheries, poultry		—	—	—	—	—	P	—	P	—
Health care facilities (34-622(c)(20)):										
Group I	Note (28) & (47)	P	—	—	P	P	—	P	P	—
Group II	Note (28) & (47)	P	—	—	P	P	—	P	P	—
Group III		P(4)	P(4)	—	P	P	P	P	P	—
Group IV	Note (28) & (47)	—	—	—	P	P	—	—	P	—
Heliport or helistop		P	P	—	P	P	P	P	P	—
Hobby, toy and game shops (34-622(c)(21))		P(4)	P(4)	—	—	P	—	P	P	—
Home care facility	Note (1) & (28)	P	P	—	—	P	—	—	P	—
Home occupation	Note (1) & (31), 34-1771 et seq.	P	P	—	—	P	—	—	P	—
Hospice	Note (28)	—	—	—	P	P	—	—	P	—

Hotel/motel	34-1801 et seq., Note (36)	—	—	—	—	P	P(13)	P	P	—
Household and office furnishings (34-622(c)(22)), all groups		—	—	—	—	P	—	P	P	—
Housing units for employees only	Note (33)	—	—	—	P	—	—	—	P	—
Impound yard	34-1831 et seq., 34-2443	—	—	—	—	—	P	P	—	—
Insurance companies (34-622(c)(23))		—	—	—	—	P	—	P	P	—
Laundry or dry cleaning (34-622(c)(24)):										
Group I		P(4)	P(4)	P	—	P	—	P	P	—
Group II		—	—	—	—	—	P	P	P	—
Lawn and garden supply stores	34-2081	—	—	—	—	P	—	P	P	—
Library	Note (28)	—	—	—	P	P	—	P	P	—
Maintenance facility (Government)		—	—	—	P	P	P	P	P	—
Manufacturing of:										
Apparel products (34-622(c)(1))	Note (5)	—	—	—	—	P	P	P	P	—
Boats	Note (5)	—	—	—	—	—	P	P	P	—
Chemical and allied products (34-622(c)(6))										
Group I	Note (5)	—	—	—	—	—	P	P	—	—
Group II	Note (5)	—	—	—	—	—	P	P	P	—
Electrical machinery and equipment (34-622(c)(11))	Note (5)	—	—	—	—	P	P	P	P	—
Fabricated metal products (34-622(c)(14)):										
Group I	Note (5)	—	—	—	—	—	P	P	—	—
Group II	Note (5)	—	—	—	—	—	P	P	P	—
Group III	Note (5)	—	—	—	—	P	P	P	P	—
Food and kindred products (34-622(c)(15)):										
Group I	Note (5)	—	—	—	—	—	P	—	P	—

	Group II	Note (5)	—	—	—	—	—	P	—	P	—
	Group III	Note (5)	—	—	—	—	P	P	P	P	—
	Furniture and fixtures (34-622(c)(18))	Note (5)	—	—	—	—	—	P	P	P	—
	Leather products (34-622(c)(25)):										
	Group I	Note (5)	—	—	—	—	—	P	P	—	—
	Group II	Note (5)	—	—	—	—	P	P	P	P	—
	Lumber and wood products (34-622(c)(26)):										
	Groups I, III, IV, V and VI	Note (5)	—	—	—	—	—	P	P	—	—
	Group II	Note (5)	—	—	—	—	P	P	P	P	—
	Machinery (34-622(c)(27)), all groups	Note (5)	—	—	—	—	—	P	P	—	—
	Measuring, analyzing and controlling instruments (34-622(c)(28))	Note (5)	—	—	—	—	P	P	P	P	—
	Novelties, jewelry, toys and signs (34-622(c)(29)), all groups	Note (5)	—	—	—	—	P	P	P	P	—
	Paper and allied products (34-622(c)(31))										
	Group I	Note (5)	—	—	—	—	—	P	—	—	—
	Group II	Note (5)	—	—	—	—	—	P	P	P	—
	Group III	Note (5)	—	—	—	—	—	P	P	P	—
	Petroleum (34-622(c)(34))	Note (5)	—	—	—	—	—	P	—	—	—
	Primary metal industries (34-622(c)(35))	Note (5)	—	—	—	—	—	P	—	—	—
	Rubber and plastic products (34-622(c)(44)):										
	Group I	Note (5)	—	—	—	—	—	P	P	—	—
	Group II	Note (5)	—	—	—	—	P	P	P	P	—
	Stone, clay, glass and concrete products (34-622(c)(48)):		—	—	—	—	—	—	—	—	—
	Group I	Note (5)	—	—	—	—	—	P	P	P	—

	Group II	Note (5)	—	—	—	—	—	P	—	—	—
	Group III	Note (5)	—	—	—	—	—	P	P	—	—
	Group IV	Note (5)	—	—	—	—	—	P	P	—	—
	Textile mill products (34-622(c)(50)), all groups	Note (5)	—	—	—	—	—	P	P	—	—
	Tobacco products (34-622(c)(51))	Note (5)	—	—	—	—	—	P	—	P	—
	Transportation equipment (34-622(c)(52)):										
	Group I	Note (5)	—	—	—	—	—	P	P	P	—
	Groups II, III and IV	Note (5)	—	—	—	—	—	P	P	—	—
	Marina	34-1862	P	P	—	—	P	P	—	P	—
	Medical office		P(4)	P(4)	—	—	P	P	P	P	—
	Mobile home dealers	34-1352	—	—	—	—	P	P	P	P	—
	Models:										
	Display center	34-1951 et seq.	P	P	P	—	P	—	—	P	—
	Model home	34-1951 et seq.	AA	AA	AA	—	AA	—	—	AA	—
	Model unit	34-1951 et seq.	AA	AA	AA	—	AA	—	—	AA	—
	Motion picture production studio		—	—	—	—	P	P	P	P	—
	Multislip docking facility		—	—	—	—	P	—	—	P	—
	Nightclubs	34-1261 et seq.	—	—	—	—	P	P	P	P	—
	Nonstore retailers (34-622(c)(30)), all groups		—	—	—	—	P	P	P	P	—
	Parcel and express services		—	—	—	—	—	P	P	P	—
	Package store	34-1261 et seq.	P(4)	P(4)	—	—	P	—	P	P	—
	Paint, glass and wallpaper		—	—	—	—	P	—	P	P	—
	Parks (34-622(c)(32)):										
	Group I		P	P	P	P	P	P	P	P	
	Group II		—	—	—	P	—	—	P	P	—
	Park trailers	Note (28)	—	—	P(6)	—	—	—	—	P	
	Parking lot:										
	Accessory		P	P	P	P	P	P	P	P	—

Commercial		—	—	—	—	P	—	P	P	—
Garage, public		—	—	—	P	P	P	P	P	—
Park-and-ride	34-1388	P	—	—	P	P	P	P	P	—
Temporary	34-2022	—	—	—	P	P	P	P	P	—
Personal services (34-622(c)(33)):										
Group I	34-3021	P(4)	P(4)	P(8)	—	P	P	P	P	—
Group II		—	—	—	—	P	—	P	P	—
Group III		—	—	—	—	P	P	P	P	—
Group IV		P(4)	P(4)	—	—	P	—	P	P	—
Pet services		—	—	—	—	P	—	P	P	—
Pet shop		P(4)	P(4)	—	—	P	—	P	P	—
Pharmacy		P(4)	P(4)	—	—	P	—	P	P	—
Photofinishing laboratory	Note (5)	—	—	—	—	—	P	P	P	—
Place of worship	Note (28), 34-2051 et seq.	P	P	P	P	P	P	P	P	—
Plant nursery	34-2081	—	—	—	—	P	—	—	P	—
Post office		—	—	—	P	P	P	P	P	—
Printing and publishing (34-622(c)(36))	Note (5)	—	—	—	—	P	P	P	P	—
Prison	Note (28)	—	—	—	P	—	—	—	—	—
Processing or packaging of agricultural or fish products	Note (5)	—	—	—	—	—	P	P	P	—
Processing and warehousing		—	—	—	—	P	P	P	P	—
Racetracks (34-622(c)(37)):										
Group I		—	—	—	—	P	—	—	—	—
Group II		—	—	—	—	P	—	—	—	—
Real estate sales office	Note (23), 34-1951 et seq., 34- 3021	P	P	P	—	P	—	P	P	—
Recreation facilities:										
Commercial (34-622(c)(38)) Groups I, III		—	—	—	—	P	—	P	P	—
Commercial (34-622(c)(38)) Group IV		—	—	—	—	P	—	P	P	—
Group V		—	—	—	P	P	—	P	P	—

	Personal	Note (1)	P	P	P	P	P	P	—	P	—
	Private—On-site	Note (1)	P	P	P	P	P	P	—	P	—
	Private—Off-site	Note (3)	P	P	P	P	P	P	—	P	—
	Recreational vehicles	Note (28)	—	P(20)	P(14)	—	—	—	—	P	—
	Recycling facility		—	—	—	P	P	P	P	P	—
	Religious facilities	Note (28), 34-2051 et seq.	P(3)	P(3)	—	P	P	P	P	P	—
	Rental or leasing establishment (34-622(c)(39)):										
	Group I	34-1352, 34- 3001 et seq., Note (49)	P(4)	P(4)	P(8)	—	P	—	P	P	—
	Group II	34-1201 et seq., 34-1352, 34-3001 et seq.	P(4)	P(4)	—	—	P	P	P	P	—
	Group III	34-1352, 34- 3001 et seq.	—	—	—	—	P	P	P	P	—
	Group IV	34-1201 et seq., 34-1352, 34-3001 et seq.	—	—	—	—	P	P	P	P	—
	Repair shops (34- 622(c)(40)):										
	Group I		P(4)	P(4)	—	—	P	P	P	P	—
	Groups II, III, IV		—	—	—	—	P	P	P	P	—
	Group V		—	—	—	—	P	P	P	P	—
	Research and development laboratories (34-622(c)(41)):										
	Group I		—	—	—	—	—	—	P	P	—
	Group II		—	—	—	—	P	P	P	P	—
	Group III		—	—	—	—	—	P	P	P	—
	Group IV		—	—	—	—	P	P	P	P	—
	Residential accessory uses (34-622(c)(42))	Note (1) & (31), 34-1171 et seq.	P	P	—	—	P	—	—	P	—
	Resource recovery										

facilities:											
Recovery facilities to produce energy		—	—	—	—	—	P	—	—	—	—
Recovery facilities, other	34-3001 et seq.	—	—	—	—	—	P	—	—	—	—
Restaurant, fast food	34-1353	—	—	—	—	P	—	P	P	P	—
Restaurants (34-622(c)(43)):	Note (49)										
Groups I and III		P(4)	P(4)	—	—	P	P	P	P	P	—
Group II		P(4)	P(4)	—	P(1)	P	P	P	P	P	—
Group IV		—	—	—	—	P	P	P	P	P	—
Retail and wholesale sales, when clearly incidental and subordinate to a permitted principal use on the same premises		—	—	—	—	P	P	P	P	P	—
Rooming house	Note (28)	P	—	—	—	P	—	—	—	P	—
Salvage and disposal of materials, including auto junkyards, refuse disposal and processing plants, incinerators, landfills and similar uses		—	—	—	—	—	P(5)	—	—	—	—
Sanitary landfill	Note (5)	—	—	—	P	—	P	—	—	—	—
Schools:											
Commercial (34-622(c)(45))	34-2381	—	—	—	—	P	P	P	P	P	—
Noncommercial	Note (28), 34-2381	P	P	P	P	P	—	—	—	P	—
Self-service fuel pumps	Note (24)	P(4)	P(4)	—	—	P	P	P	P	P	—
Shredding and composting of vegetative matter	34-1831 et seq.	—	—	—	—	—	P	—	—	—	—
Signs in accordance with chapter 30	Note (1)	P	P	P	P	P	P	P	P	P	—
Social services (34-622(c)(46)):											
Group I		—	—	—	—	P	—	P	P	P	—
Group II		—	—	—	P	P	P	P	P	P	—
Group III	Note (28) & (47)	—	—	—	P	P	—	P(46)	P	P	—
Group IV	Note (28) & (47)	—	—	—	P	—	—	P(46)	P	P	—

Specialty retail shops (34-622(c)(47)):											
	Group I		P(4)	P(4)	—	P(1)	P	—	P	P	—
	Group II		P(4)	P(4)	—	—	P	—	P	P	—
	Group III		—	—	—	—	P	—	P	P	—
	Group IV		P(4)	P(4)	—	—	P	—	P	P	—
Stable:											
	Boarding	34-1291 et seq.	P	P	P	—	—	—	—	P	—
	Commercial	34-1291 et seq.	—	—	—	—	P	—	—	P	—
	Private	34-1291 et seq.	P	P	P	—	—	—	—	P	—
Storage:											
	Indoor only	Note (1), 34-3001 et seq.	P(4)	P(4)	P	P	P	P	P	P	—
	Storage, open	Note (5), 34-3001 et seq. 34-1352	—	—	P(15)	—	P	P	P	P	—
	Large-scale storage of noxious or hazardous materials (flammable, toxic, explosive, corrosive, etc.), including liquid petroleum, fractions and distillates thereof, and fuel gases	Note (5), 34-3001 et seq.	—	—	—	—	—	P	P(16)	—	—
Studios (34-622(c)(49))			—	—	—	—	P	—	P	P	—
Tactical training (df)		34-2471	—	—	—	P	—	—	P	—	—
Temporary uses		Note (1), 34-3041 et seq.	P	P	—	P	P	—	P	P	—
Tents, transient parks only		Note (28)	—	—	P	—	—	—	—	P	—
Theater, indoor or outdoor (drive-in)		Note (32), 34-2471 et seq.	—	—	—	—	P	—	P	P	—
Timeshare units		Note (28), 34-1494, 34-2020(a)	P	—	—	—	P	—	—	P	—
Transportation services (34-622(c)(53)):											
	Group I		—	—	—	—	P	P	—	P	—

Group II		—	—	—	—	P	P	P	P	—
Group III		—	—	—	P	P	P	P	P	—
Group IV		—	—	—	—	P	P	P	P	—
Truck stop, trucking terminal		—	—	—	—	P	P	P	P	—
Used merchandise stores (34-622(c)(54)):										
Group I		P(4)	P(4)	—	P(46)	P	—	P	P	—
Groups II, III and IV		—	—	—	—	P	—	P	P	—
Variety store		P(4)	P(4)	—	—	P	—	P	P	—
Vehicle and equipment dealers (34-622(c)(55)):										
Groups I, II, and III	34-1352	—	—	—	—	P	P	P	P	—
Group IV	34-1352	—	—	P(17)	—	P	P	P	P	—
Group V	34-1352	—	—	—	—	P	P	P	P	—
Warehouse:										
High cube		—	—	—	—	—	P	P	P	—
Mini-warehouse		—	—	—	—	P	P	P	P	—
Private		—	—	—	—	P	P	P	P	—
Public		—	—	—	—	P	P	P	P	—
Cold storage only		—	—	—	—	—	—	P	P	—
Wholesale establishments (34-622(c)(56)):										
Groups I, III and IV		—	—	—	—	P	P	P	P	—
Group II		—	—	—	—	P	P	—	—	—
Wrecking yard:										
Auto		—	—	—	—	—	P	—	—	—
Other		—	—	—	—	—	P	—	—	—

Notes:

[(1) thru (12) remain unchanged.]

(13) Family day care homes are exempt pursuant to F.S. § 125.0109. Reserved.

[(14) thru (15) remain unchanged.]

(16) Reserved. Limited to airplane fuels or other approved fuel storage terminals.

[(17) thru (25) remain unchanged.]

(26) Reserved. In the MPD district, use is limited to industrial areas only.

[(27) thru (32) remain unchanged.]

(33) Reserved. Not permitted in Airport Noise Zone B.

[(34) thru (38) remain unchanged.]

(39) Reserved. Wireless communication facilities required by the Federal Aviation Administration and Florida Department of Transportation may be administratively approved, if it is a necessary safety component related to the physical aviation activity.

[(40) thru (45) remain unchanged.]

(46) Reserved. Permitted only as part of an AOPD approval for Page Field General Aviation Airport. Use must be included in Lee Plan Table 5(b) and be located within the non-aviation development area as depicted on Lee Plan Map 3G.

[(47) thru (48) remain unchanged.]

(49) See section 34-3152.

Sec. 34-942. – Airport operations planned developments.

- (a) Permissible Uses. Uses that are consistent with and support continued operation of public airports are permitted, provided the use is approved as part of the adopted zoning resolution for the AOPD through the public hearing or administrative approval process. Development within AOPDs will be consistent with the most recently adopted Airport Master Plans and Airport Layout Plans maintained by Lee County Port Authority in accordance with Federal Aviation Administration regulations, and may include airport operations facilities and aviation related uses such as hangars, terminals, and runways, and non-aviation related uses such as hotels, motels, light industrial, manufacturing, service stations, retail, and office development.
- (b) For property development regulations, refer to section 34-935 and the airport compatibility district regulations in Division 12 of Article VI of Chapter 34.

Secs. 34-9423—34-960. – Reserved.

DIVISION 10. – SPECIAL PURPOSE DISTRICTS

SUBDIVISION II. – Environmentally Critical District

Sec. 34-981. - Purpose and intent.

- (a) The purpose and intent of the EC environmentally critical district is to preserve and protect certain land and water areas in the unincorporated area of the County which have overriding ecological, hydrological or physiographic importance to the public at large.
- (b) ~~The application of the EC district is intended to prevent a public harm by: (1) precluding the use of land for purposes for which it is unsuited in its natural state; or (2) adversely affects a defined public interest. The EC district will be applied to land or water only upon a recommendation by the Hearing Examiner and a finding by the Board that the use or conversion of the property may create a public harm or a public need, as described in section 34-145(d)(4)a.3.~~ The application of the EC district is intended to prevent a public harm by precluding the use of land (1) for purposes for which it is unsuited in its natural state; or (2) which adversely affects a defined public interest.

- (c) Lands or waters to which this district may be applied include those areas that would fit the criteria of wetlands.

SUBDIVISION III. – Airport Compatibility District Private Airport and Heliport Review Zones

[Sections 34-1001 thru 34-1013 are renumbered under DIVISION 12 below.]

Sec. 34-101401. - Applicability.

[Section remains unchanged.]

Sec. 34-101502. - Definitions.

[Section remains unchanged.]

Sec. 34-101603. – Heliport/airport review zones.

[Section remains unchanged.]

Secs. 34-100417—34-1030. – Reserved.

DIVISION 12. – AIRPORT COMPATIBILITY DISTRICT

Sec. 34-10011101. - Applicability.

The provisions set forth in ~~sections 34-1001 through 34-1013 of this subdivision~~ this division are only applicable to lands encompassing and surrounding facilities operated by the Lee County Port Authority (LCPA) including the Southwest Florida International Airport (SWFIA) and the Page Field General Aviation Airport, ~~comprising the related height and land use protections necessary to the viability of the airports.~~ These provisions are applicable only in the unincorporated portions of Lee County unless an interlocal agreement providing otherwise is in effect.

Sec. 34-10021102. - Findings, pPurpose, and intent.

(a) ~~Findings.~~ The Lee County Board of County Commissioners find as follows:

- ~~(1) The SWFIA and Page Field are an integral part of the County transportation network;~~
- ~~(2) The Airport Master Plans for both SWFIA and Page Field have been adopted into the traffic element of the Lee Plan in recognition of their importance as part of the County transportation system;~~
- ~~(3) The continued viable operation of the airports is critical to the continued health, safety and welfare of the citizens of Lee County as well as the many visitors that pass through these airports;~~
- ~~(4) Airport hazards endanger the lives and property of airport uses as well as the owners and occupants of property surrounding the airports;~~
- ~~(5) Airports may produce noise levels that are not compatible with residential uses and certain commercial and industrial uses;~~

- (6) ~~Hazards reduce the size of the area available for the landing, take off and maneuvering of aircraft, which impairs the viability of the airport;~~
 - (7) ~~The creation of an airport hazard injures the community served by the airport and constitutes a nuisance; and~~
 - (8) ~~In the interest of the public health, safety and welfare it is appropriate to establish regulations to prevent or minimize the creation of hazards and the placement of inappropriate uses in the vicinity of airports.~~
- (b) ~~Purpose and intent.~~ The purpose of this subdivision is to establish protections around SWFIA and Page Field in accord with the provisions of F.S. Chs. 330 and 333 (as amended), as well as Federal regulations (as amended) including 14 CFR Parts 77, 150 and 151 and FAA Advisory Circulars 150/5300-13A as amended, renumbered or replaced, and 150/5200-33B as amended, renumbered or replaced, which address height obstructions, airport hazards, wildlife attractants, noise, runway protection zones, light emissions, reflectivity and power interference, aircraft overflights, and the public investment in air transportation facilities. ~~These provisions are intended to supplement the state and federal regulations regarding airport protection and specifically to:~~
- (1) ~~Promote the maximum safety of aircraft arriving at and departing from public airports;~~
 - (2) ~~Promote the maximum safety of residents and property within areas surrounding public airports;~~
 - (3) ~~Promote the full utility of public airports, to ensure the maximum prosperity, welfare and convenience to the Lee, Charlotte, Collier, Hendry and Glades County areas and their residents;~~
 - (4) ~~Provide building height standards for use within the approach, transitional, horizontal and conical surfaces to encourage and promote proper and sound development beneath these areas;~~
 - (5) ~~Provide development standards for land uses within prescribed noise zones associated with the normal operation of public airports;~~
 - (6) ~~Provide administrative procedures for the efficient and uniform regulation of all development proposals within designated airport noise zones, runway approach zones and airport height zones; and~~
 - (7) ~~Prevent the creation of hazards and incompatible land uses.~~

Sec. 34-10031103. - Definitions.

The following words, terms and phrases, when used in this subdivision, will have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Aeronautical Study means a Federal Aviation Administration study, conducted in accordance with the standards of 14 C.F.R. part 77, subpart C, and Federal Aviation Administration policy and guidance, on the effect of proposed construction or alteration upon the operation of air navigation facilities and the safe and efficient use of navigable airspace.

Aircraft means any vehicle used or designed for navigation of or flight in the air.

Airport means an area of land or water designed and set aside for use for the taking-off, maneuvering and landing of aircraft.

Airport Elevation means the highest point of the airport's usable landing area, measured in feet above mean sea level (AMSL).

Airport Hazard means ~~any structure or tree or use of land that would exceed the federal obstruction standards and obstructs the airspace required for flight of aircraft in taking off, maneuvering, or landing or is otherwise hazardous to such taking off, maneuvering, or landing of aircraft; and for which a permit or variance has not been issued.~~ an obstruction to air navigation which affects the safe and efficient use of navigable airspace or the operation of planned or existing air navigation and communication facilities.

Airport Hazard Area means any area of land or water upon which an airport hazard might be established.

Airport Obstruction means any existing or proposed object, terrain, or structure construction or alteration that exceeds the federal obstruction standards contained in 14 C.F.R. part 77, subpart C. The term corresponds with Tier 2 Tall Structures permitting procedures outlined in Administrative Code 13-7 as amended, renumbered or replaced, and includes the following:

- a. Any object of natural growth or terrain;
- b. Permanent or temporary construction or alteration, including equipment or materials used and any permanent or temporary apparatus; or
- c. Alteration of any permanent or temporary existing structure including appurtenances, by a change in the structure's height, lateral dimensions, and equipment or materials used in the structure.

~~manmade structure object or, object of natural growth or terrain, or use of land that violates the standards set forth in 14 CFR § 77.13, 77.17, 77.19, 77.21 and 77.23.~~

Airport Noise Zone means the areas representative of specific airport DNL noise contours or designated over flight areas in which land use is limited. Notification to property owners is provided through notice recorded in the Lee County Public records, ~~and notification through recording of the areas occur.~~

Airport Obstruction Notification Zone ~~means an imaginary surface extending outward and upward from any point of any SWFIA and Page Field runway at a slope of 125 to 1 (one foot vertically for every 125 feet horizontally) for a distance up to a height of 125 feet above mean sea level.~~

Airport, Private ~~is defined in Section 34-2. means an airport that is registered with the state, but not State licensed. For purposes of this Article, Lee County Mosquito Control helistops and airport facilities (e.g. Buckingham Airport) are private airport facilities. Private airports are not open for use by the general public except by specific invitation of the airport owner.~~

Airport, Public ~~is defined in Section 34-2. means any airport licensed by the state, including state licensed seaplane bases, helistops and emergency landing areas. Public airports as used in this code specifically refer to SWFIA and Page Field. Public airports are open to the general public with or without a prior request to use the airport.~~

Airport Reference Point means the approximate geographic center of all usable airport runways as identified on the approved Airport Layout Plan (existing and ultimate).

Airport Residential and Educational Facility Protection Zone means an area identified in F.S. Ch. 333, that is contiguous to the airport and is defined by an outer noise contour that is considered incompatible with the types of construction identified in 14 CFR Part 150, Appendix A or an equivalent noise level as established by other types of noise studies. For Page Field, this Zone encompasses the area within the 65 DNL Noise Contour as approved in the 2002

Master Plan Update. For SWFIA, this Zone is the 60 DNL Noise Contour shown on the most recent Composite DNL Noise Contours map for SWFIA approved by the FAA.

Airport Runway Approach Surface is an imaginary surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the Airport Runway Primary Surface as defined by FAR Part 77. An Airport Runway Approach Surface is applied to each end of each runway based upon the type of approach available or planned for that runway end.

~~*Airport Runway Clear Zone* as defined in F.S. and 14 CFR Part 151.9(b) is an area at ground level which begins at the end of each Airport Runway Primary Surface and extends with the width of each Airport Runway Approach Surface to terminate directly below each Airport Runway Approach Surface slope at the point, or points, where the slope reaches a height of 50 feet above the elevation of the runway or 50 feet above the terrain at the outer extremity of the Airport Runway Clear Zone, whichever distance is shorter.~~

Airport Runway Primary Surface is an imaginary surface longitudinally centered on an existing or planned runway as defined by FAR Part 77.

Airport Runway Protection Zone means an area at ground level beyond the runway end established to enhance the safety and protection of people and property on the ground, as depicted in Appendix C.

~~*Airport School Protection Zone* means an area identified in F.S. Ch. 333, that extends five miles in a direct line along the centerline of a SWFIA or Page Field runway, and has a width measuring half the length of the runway which prohibits the placement of schools and educational facilities. This Zone also encompasses an area defined by an outer noise contour that is considered incompatible with that type of construction identified by 14 CFR Part 150, Appendix A or an equivalent noise level as established by others types of noise studies. For Page Field, this Zone also encompasses the area within the 65 DNL Noise Contour as approved in the 2002 Master Plan Update. For SWFIA, this Zone also encompasses the 60 DNL Noise Contour shown on the most recent Composite DNL Noise Contours map for SWFIA approved by the FAA.~~

Airport Surveillance Radar (ASR) means approach control radar used to detect and display an aircraft's position in the terminal area. ASR provides range and azimuth information, and coverage of the ASR can extend up to 60 miles.

Airport Wildlife Hazard Protection Zone means an area encompassing 10,000 feet from the nearest point of any SWFIA or Page Field runway shown on the most recent Airport Layout Plan approved by the FAA to be used or planned to be used by turbojet or turboprop aircraft.

Balloon means any type of dirigible, balloon or other type of hovering or floating object, tethered or untethered.

Day-night average sound level DNL means a 24-hour average noise level incorporating a ten-decibel penalty for noise during nighttime hours between 10:00 p.m. and 7:00 a.m.

DNL noise contour means a line linking together a series of points of equal cumulative noise exposure. Such contours are developed based upon aircraft flight patterns, number of daily aircraft operations by type of aircraft, and typical runway utilization patterns in terms of percentage of use.

Educational facility means any structure or land used for a public or private kindergarten through 12th grade school, charter school, magnet school, college campus, or university campus. The term does not include space used for educational purposes within a multi-tenant building.

FAA means the Federal Aviation Administration.

Instrument approach procedure means a landing approach utilizing electronic guidance aids and made without visual reference to the ground.

Landfill has the same meaning as provided in Florida Statutes section 403.703.

LCPA means and refers to Lee County Port Authority.

LCPA Airport Obstruction Notification Zone means an imaginary surface extending outward and upward from any point of any SWFIA and or Page Field runway at a slope of 125 to 1 (one foot vertically for every 125 feet horizontally) for a distance up to a height of 125 feet above mean sea level. The LCPA Airport Obstruction Zone also includes the area within a one-half mile radius from the Airport Surface Radar or any vertical object above 125 feet above mean sea level. This term corresponds with the Tier 1 Tall Structures permitting procedures outlined in Administrative Code 13-7 as amended, renumbered or replaced.

Nautical Mile means the equivalent of 6,076 feet.

Owner means a mortgage holder, a lienholder or any person having any right, title or interest of any nature and kind whatsoever in and to any real estate within the boundaries of the zones established by this subdivision.

Page Field means and refers to Page Field General Aviation Airport.

Runway means a defined area on an airport prepared, used or intended to be used for the taking off and landing of aircraft along its length.

Structure means any object, constructed, erected, altered, or installed, including, but not limited to, buildings, towers, smokestacks, utility poles, power generation equipment, and overhead transmission lines.

SWFIA means and refers to Southwest Florida International Airport, also referenced as RSW.

Sec. 34-10041104. - Airport Noise Zones.

~~(a) *Purpose.* The purpose of this section is to identify areas subject to varying levels of aircraft-related noise associated with the normal operation of SWFIA. This section establishes noise zones applicable in the vicinity of SWFIA, and the corresponding permitted land uses within the noise zones. This section also sets forth provisions for notification that property within an Airport Noise Zone may be subject to aircraft-related noise.~~

~~(b) (a) Noise zones defined; permitted uses. There are hereby created and established four Airport Noise Zones associated with SWFIA. The noise zones are based upon the most recent composite DNL contours developed in accordance with the Federal Aviation Regulations, Part 150, Noise Compatibility Study for the Southwest Florida International Airport, in combination with an area subject to repetitive, low altitude aircraft over flights associated with flight training activity on the planned parallel runway, as approved by the Board of Port Commissioners and the FAA. These noise zones are set forth as overlay zoning districts in that they provide regulations and restrictions in addition to those set forth in the planned development or conventional zoning districts in which the property is located, as defined in this chapter. Except as otherwise provided in this section, no land, body of water or structure may be used or permitted to be used and no structure may be hereafter erected, constructed, moved, reconstructed or structurally altered or maintained in any of~~

these Airport Noise Zones that is designed, arranged or intended to be used or occupied for any purpose unless consistent with the following:

(1) *Airport Noise Zone A/Airport Property.*

- a. *Location.* Airport Noise Zone A/Airport Property is the land as identified in Appendix C.
- b. *Restrictions.* The permitted uses for property located within Airport Noise Zone A/Airport Property are limited to those uses that are compatible with airports and air commerce and listed as a permitted use in the zoning resolution for the AOPD listed in the Airport Operations Planned Development (AOPD) Zoning District use regulation table.

(2) *Airport Noise Zone B.*

- a. *Location.* Airport Noise Zone B consists of that area of land within the 60 DNL contour line (as determined in the FAR Part 150 Study in effect), exclusive of Airport Noise Zone A/Airport Property.
- b. *Restrictions.* This zone allows any use permitted by this chapter, provided that no residential living units, places of worship, libraries, schools educational facilities, hospitals, correctional institutions facilities or nursing homes are permitted. However, residential units, including mobile homes that are lawfully existing as of June 27, 2000 will be treated as legally permitted uses and not as nonconforming uses. Lawfully existing mobile or manufactured homes may be replaced with new mobile or manufactured homes or conventional single-family construction homes, and existing conventional single-family homes may only be replaced with new conventional single family homes so long as such replacement would be otherwise allowed by this Code. ~~However, an existing conventional home may not be replaced with a new mobile or manufactured home.~~ One conventional single-family home is permitted on each lot in a plat properly recorded before June 27, 2000 if such use would have been permitted on the lot prior to June 27, 2000. This zone requires notification in accord with section 34-1004(e)1104(b).

(3) *Airport Noise Zone C.*

- a. *Location.* Airport Noise Zone C consists of that area of land located between the Airport Noise Zone B and the 55 DNL contour line (as determined in the FAR Part 150 Study in effect), exclusive of Airport Noise Zone A/Airport Property.
- b. *Restrictions.* This zone allows any use permitted by this chapter. This zone requires notification in accord with section 34-1004(e)1104(b).

(4) *Airport Noise Zone D.*

- a. *Location.* Airport Noise Zone D is located southeast of Airport Noise Zone C encompassing the area designated for flight training associated with the planned, south parallel runway per the FAR Part 150 Study in effect. This zone comprises the area within a half mile of the expected centerline of the training pattern depicted in the FAR Part 150 Study in effect.
- b. *Restrictions.* This zone allows any use permitted by this chapter. This zone requires notification in accord with 34-1004(e)1104(b).

- (e) (b) Notification of potential noise impact. Noise Zones B, C and D require notification that the property may be subject to noises created by and incidental to the operation of the airport. Notification is provided by public notice and by disclosure, as follows:

- (1) *Public notice.* The Airport Noise Zones are identified as Zoning Overlay Districts on the Lee County Zoning Map available online at leegis.leegov.com/LeeSplnS/ and shall be available for public inquiry inspection at Lee County Port Authority LCPA offices.
- (2) *Disclosure.* For property within Noise Zones B, C and D, disclosure is accomplished by including a statement identifying the potential for airport related noise as a condition of approval of certain zoning actions ~~through the public hearing process~~, and as a statement on certain development orders, plats and in association documents:
 - a. For approval of a rezoning to planned development, amendment to a planned development, special exception, or variance, the following must be included as a condition of approval:

"The developer, successor or assign acknowledges the property's proximity to Southwest Florida International Airport and the potential for noises created by and incidental to the operation of the airport as outlined in Land Development Code Section 34-1004~~1104~~. The developer, successor or assign acknowledges that a disclosure statement is required on plats, and in association documents for condominium, property owner and homeowner associations as outlined in Land Development Code Section 34-1004(e)~~1104(b)~~."
 - b. For approval of a development order for multifamily development, plat, re-plat or lot split, the following disclosure statement must be included on the recorded plat as applicable, and in association documents for condominium, property owner and homeowner associations:

"The Southwest Florida International Airport is in proximity to this (insert plat/condominium/development, as appropriate). There is potential for noises created by and incidental to the operation of the airport as outlined in Land Development Code 34-1004(e)~~1104(b)~~."

~~Sec. 34-1005. — Airport Protection Zones.~~

- (a) ~~Lee County hereby establishes Airport Protection Zones for Lee County Public Airports as follows:~~
 - (1) ~~Airport Runway Clear Zones.~~
 - (2) ~~Airport School Protection Zones.~~
 - (3) ~~Airport Residential Protection Zones.~~
 - (4) ~~Airport Obstruction Notification Zones.~~
- (b) ~~These zones are established to regulate land development in relation to the SWFIA and Page Field as licensed for public use. The zones are intended to protect air transportation and facilities serving Lee County and surrounding cities and counties as well as the investment in these facilities.~~
- (c) ~~The approximate location and boundary of each protection zone is depicted on the maps in Appendix C.~~
- (d) ~~Development within the areas encompassed by these zones must be in accord with the provisions set forth in this subdivision.~~

Sec. 34-40061105. - Airport Runway Clear Protection Zones.

- (a) ~~Purpose of zone.~~ Pursuant to F.S. ch. 333 and 14 CFR 151 the purpose of the Runway Clear Zone is to protect people and property on the ground, prevent the future erection or creation of hazards within the vicinity of a public airport that have the potential to diminish the runway capacity; and, to provide an opportunity to ameliorate obstructions created/existing prior to adoption of this section.
- (b)(a) Location and map of zone. The Airport Runway Clear Protection Zones for SWFIA and Page Field are established in accord with the approved Airport Layout Plans, F.S. Ch. 333, FAR Part 77, 14 CFR Part 77 and 14 CFR 151 and depicted in Appendix C.
- (c)(b) Prohibited uses. Uses that are incompatible with airport operations or that endangers the public health, safety and welfare by resulting in congregations of people, emission of light or smoke, or attraction of birds are prohibited within the established Airport Runway Clear Protection Zones for each airport.
- (d)(c) Development compliance. Development within the Airport Runway Clear Protection Zone must comply with the provisions of this article ~~division~~. All development within any Airport Runway Clear Protection Zone must be reviewed by the LCPA ~~Lee County Port Authority~~ prior to any development or permit approval. No development or permit approval may be issued unless it is specifically approved in writing by the LCPA ~~Lee County Port Authority~~. No development within an Airport Runway Clear Protection Zone will be approved that would degrade or have a negative impact on the use of any runway at SWFIA or Page Field. Review by the LCPA ~~Port Authority~~ must be consistent with the provisions of F.S. Ch. 333, 14 CFR 151, and FAR Part 77.

Sec. 34-40071106. - Airport Residential and Educational Facility School Protection Zones.

- (a) ~~Purpose of zone.~~ Pursuant to F.S. Ch. 333, the purpose of the Airport School Protection Zones ~~are to prohibit the construction of an educational facility or a public or private school at either end of a publicly owned, public-use airport within an area which extends five miles in a direct line along the centerline of the runway, and which has a width measuring one-half the length of the runway. For Page Field Airport this zone also encompasses the Noise Contour as shown on the Noise Contour map adopted by the FAA as part of the 2002 Master Plan Update. For SWFIA, this Zone also encompasses the 65 DNL Noise Contour shown on the most recent Composite DNL Noise Contours map for SWFIA approved by the FAA. Aviation related educational facilities are exempt from this requirement. A Variance approving construction of an education facility within any Airport School Restriction Zone will only be granted based on specific findings detailing how the public policy reasons for allowing the construction outweigh health and safety concerns prohibiting such a location.~~
- (b)(a) Location and map of zone. The Airport Residential and Educational Facility School Protection Zones for SWFIA and Page Field Airport ~~are~~ established in accordance with F.S. Ch. 333, and is depicted in Appendix C.
- (c)(b) Prohibited uses. For SWFIA, residential construction or the construction of an educational facility is prohibited in the 60 DNL Noise Contour shown on the Composite DNL Noise Contours map in the most recent SWFIA Part 150 Study approved by the FAA. For Page Field Airport, residential construction or the construction of an educational facility is prohibited within the 65 DNL Noise Contour as shown on the noise contour map adopted by the FAA as part of the 2002 Master Plan Update. Aviation related educational facilities are exempt from this restriction. ~~Uses that are incompatible with airport operations or~~

~~endangers the public health, safety and welfare by constructing public or private educational facilities are prohibited within the established Airport School Protection Zones for SWFIA and Page Field.~~

- ~~(d) *Development compliance.* Development within the Airport School Protection Zones must comply with the provisions of this article.~~

Sec. 34-1008. -- Airport Residential Protection Zones.

- ~~(a) *Purpose of zone.* Pursuant to F.S. Ch. 333, the purpose of the Airport Residential Protection Zone is to prohibit the construction of any residential development within that area. For Page Field Airport this zone is the 65 DNL Noise Contour as shown on the Noise Contour Map adopted by the FAA as part of the 2002 Master Plan Update. For SWFIA, this Zone is the 60 DNL Noise Contour shown on the most recent Composite DNL Noise Contours map for SWFIA approved by the FAA.~~
- ~~(b) *Location and map of zone.* The Airport Residential Protection Zones for SWFIA and Page Field are established in accord with F.S. Ch. 333, and depicted in Appendix C.~~
- ~~(c) *Prohibited uses.* Uses that are incompatible with airport operations or endangers the public health, safety and welfare by constructing residential or educational facilities are prohibited within the established Airport Residential Protection Zones for SWFIA and Page Field.~~
- ~~(d) *Development compliance.* Development within the Airport Residential Protection Zones must comply with the provisions of this article.~~

Sec. 34-10091107. – LCPA Airport Obstruction Notification Zone.

- ~~(a) *Purpose of zone.* The purpose of the Airport Obstruction Notification Zone is to regulate the height of structures, equipment and objects of natural growth in proximity to SWFIA and Page Field.~~
- ~~(b)(a) *Location and map of zone.* An The LCPA Airport Obstruction Notification Zone is established around SWFIA and Page Field and consists of an imaginary surface extending outward and upward from any point of any SWFIA and or Page Field runway at a slope of 125 to 1 (one foot vertically for every 125 feet horizontally) for a distance up to a height of 125 feet above mean sea level. The LCPA Airport Obstruction Zone also includes the area within a one-half mile radius from of the Airport Surface Radar or any vertical object above 125 feet above mean sea level. The approximate locations of the LCPA Airport Obstruction Notification Zones applicable to SWFIA and Page Field are depicted in Appendix C. The Airport Obstruction Notification Zone map will be reviewed annually by Port Authority staff and the Port Authority Attorney's Office and updated/amended by the Port Authority Executive Director as needed to ensure currency.~~
- ~~(c)(b) *Prohibited uses. Permit required.* Any object or structure that is located or is proposed to be located within, or exceeding the surface of, an the LCPA Airport Obstruction Notification Zone, or proposed at a height greater than an imaginary surface extending outward and upward from any point of any SWFIA and Page Field runway at a slope of 125 to 1 (one foot vertically for every 125 feet horizontally) for a distance up to a height of 125 feet above mean sea level and including anything any vertical object above 125 feet above mean sea level or any object or structure within one-half mile of the SWFIA Airport Surveillance Radar. will require a Tall Structures Permit approved by the LCPA. In addition, any object or structure within one-half mile for the SWFIA Airport Surveillance Radar will require a Tall~~

Structures Permit approved by the LCPA. Refer to Administrative Code 13-7 for Tall Structures Permitting procedures.

- ~~(d) *Development compliance.* No object or structure will be allowed within an Airport Obstruction Notification Zone or at a height greater than an imaginary surface extending outward and upward from any point of any SWFIA and Page Field runway at a slope of 125 to 1 (one foot vertically for every 125 feet horizontally) for a distance up to a height of 125 feet above mean sea level without a prior written approved Tall Structures Permit issued by the LCPA. In addition, any object or structure within one-half mile for the SWFIA Airport Surveillance Radar will require a written approved Tall Structures Permit by the LCPA.~~

Sec. 34-10101108. - LCPA Tall Structures Permit. Obstruction marking and lighting.

The owner of any structure over 200 feet above ground level or any airport obstruction as defined in this division must install, operate, and maintain, at his or her own expense, marking and lighting on such structure or airport obstruction in accordance with FAA Advisory Circular 70/7460-1L and subsequent amendments. Upon obtaining a permit or written determination through the procedures outlined in Administrative Code 13-7, marking and lighting of obstructions, including machinery and construction equipment, must conform with the FAA's or LCPA's standards for marking and lighting obstructions, whichever is more restrictive. Prior to issuance of any permit or written determination, the location, height, and time of operation for use of any machinery and equipment must be provided to LCPA.

- ~~(a) The Department of Community Development (DCD) will make the initial determination with respect to whether proposed development exceeds an Airport Obstruction Notification Zone surface based upon on the maps in Appendix C as an element of the zoning, development order and building permit application process. If DCD determines the proposed development, including associated use of temporary construction equipment, exceeds Airport Obstruction Notification Zone surface, the applicant will be required to obtain a written determination from the Lee County Port Authority regarding the potential airport obstruction or hazard created by the development proposed. This provision applies to all development or improvements to land, including new development, redevelopment, building or use modifications etc. proposed after August 9, 2011.~~
- ~~(b) If DCD determines, for any proposed construction, including adding height to any existing structures, and for all alterations, repairs or additions that will change the use of the structure, or for erecting, altering or repairing any object of natural growth, that the height of the proposed structure or object exceeds the height limitations outlined on the Airport Obstruction Notification Zone map, then the applicant is required to obtain a Tall Structures Permit from the Port Authority prior to the issuance of any further development orders or permits.~~
- ~~(c) Applications for a Tall Structures Permit must include the height and location of derricks, draglines, cranes and other boom-equipped machinery, if such machinery is to be used during construction.~~
- ~~(d) Applicants intending to use derricks, draglines, cranes and other boom-equipped machinery for such construction, reconstruction or alteration as is consistent with the provisions of this subdivision will, when the machine operating height exceeds the height limitations imposed by this subdivision, require a Tall Structures Permit. Upon obtaining this permit through the procedures outlined in this section, the applicant will mark, or mark and light, the machine to reflect conformity with the Federal Aviation Administration's or Port Authority's standards for marking and lighting obstructions, whichever is more restrictive, and will be required in such cases to inform the Port Authority, through this tall structures permit process, of the~~

~~location, height and time of operation for such construction equipment use prior to the issuance of any permit to the applicant.~~

~~(e) The permitting procedures for a Tall Structures Permit are outlined as follows. If a tall structures permit application is deemed necessary by DCD, as determined through the use of the Airport Obstruction Notification Zone map, the following procedures will apply:~~

~~(1) DCD will give a written notice to the applicant that a Tall Structures Permit is required and that no further permits or development orders can be issued until a Tall Structures Permit is obtained.~~

~~(2) The applicant must then submit a completed Tall Structures Permit application to the Planning and Environmental Compliance Department, Lee County Port Authority, 11000 Terminal Access Road, Ft. Myers, Florida 33913. The Port Authority will review the application, and the following procedures will apply:~~

~~a. If the Port Authority determines that the proposed construction or alteration represented in the application does not violate the provisions of Federal Aviation Regulations, Part 77, or the provisions of this subdivision or any other application of federal or state rules and regulations or does not adversely affect the airspace surrounding any County, the Port Authority will issue a Tall Structures Permit approval to the applicant with or without stipulations and conditions. The signed Tall Structures Permit will then be returned to the applicant. The applicant must present the Tall Structures Permit to DCD.~~

~~b. If the Port Authority determines that the proposed construction or alteration violates the notification criteria of Federal Aviation Regulations, Part 77, or otherwise violates any provisions of this subdivision or any other applicable federal or state rules or regulations, the Port Authority will notify the applicant in writing that the proposed construction or alteration may adversely affect the airspace surrounding County airports and require that a notice of proposed construction or alteration be filed with the Federal Aviation Administration for review through the submittal of Federal Aviation Administration Form 7460-1 as required by Federal Aviation Regulations, Part 77. The Port Authority will suspend the tall structures permit application process until Federal Aviation Administration findings of aeronautical effect are received and reviewed.~~

~~c. It is the responsibility of the applicant to forward the Federal Aviation Administration's findings of aeronautical effect, along with a copy of the completed original Federal Aviation Administration Form 7460-1, to the Port Authority in order to continue the Tall Structures Permit process.~~

~~d. FAA determinations constitute a statement regarding a proposed development's compliance with federal regulations governing airspace obstructions. The FAA does not have authority to grant local development approval. Consequently, Lee County may deny development approvals for a structure even if the FAA has determined that the structure does not constitute a hazard and does not exceed the standards set forth in 14 CFR Part 77.~~

~~e. After reviewing the Federal Aviation Administration's comments pertaining to the Federal Aviation Administration Form 7460-1, if the Port Authority determines that the proposed construction or alteration does not adversely affect any requirements pertaining to County airports, the Port Authority will issue a Tall Structures Permit approval to the applicant with or without stipulations and conditions. The applicant will present a copy of the Tall Structures Permit, along~~

~~with all Port Authority comments and stipulations, to DCD. If the signed Tall Structures Permit is accompanied with stipulations of compliance, it is the responsibility of DCD to ensure that these stipulations are adequately addressed prior to the issuance of any zoning, development order or building permit approvals.~~

- ~~f. After reviewing the Federal Aviation Administration's comments pertaining to the Federal Aviation Administration Form 7460-1, if the Port Authority determines that the proposed construction or alteration does adversely affect any requirements pertaining to County airports, the Port Authority will issue a written denial of the Tall Structures Permit. A denied Tall Structures Permit must state specifically the reasons for denial. A denial must also state whether it is possible to obtain a variance from the provisions of this subsection and the criteria under which a variance may be sought.~~
- ~~g. A Tall Structures Permit will not be issued by the Port Authority if:
 - ~~a. the FAA has determined that the proposed structure or object to be a hazard to air navigation.~~
 - ~~b. the FAA has determined that the proposed structure or object is an obstruction to air navigation and penetrates one of the airport surfaces identified in F.S. Chs. 330 and 333.~~
 - ~~c. the proposed structure or object will impact the available landing area, approach minimums, federal or state licensing or compliance requirements, or otherwise degrade the operation of a County airport and the public investment therein.~~~~
- ~~h. Temporary or conditional tall structures permits pending completion of the Federal Aviation Administration's or the Port Authority's review will not be issued.~~
- ~~(3) FDOT Determinations. If the proposed construction or alteration (1) exceeds the federal obstruction standards as contained in 14 CFR §§ 77.13, 77.17, 77.19, 77.21 or 77.23; and, (2) is within ten nautical miles of the geographic center of a County airport; and, (3) is located within an incorporated municipality that has not entered into an interlocal agreement with the County and Port Authority regarding compliance with the provisions of this subdivision, then the applicant must obtain an Airspace Obstruction Permit from the Florida Department of Transportation. This permit request must be submitted to the FDOT Aviation Office in Tallahassee in compliance with the provisions of F.S. Ch 333. Lee County does not have jurisdiction to issue a permit approval absent an interlocal agreement within the incorporated municipality.~~
- ~~(4) Review timing. Port Authority has 60 days to issue a written response to a complete Tall Structures Permit application or determination request unless an applicant agrees to an alternative review period or an FAA determination is required. If an FAA airspace determination is required, the Port Authority will notify the applicant of this fact in writing within 30 days after a complete application is submitted. Once the applicant obtains the necessary FAA determination, the Port Authority will have an additional 30 days to review the application in conjunction with the FAA determination and issue a written report.~~
- ~~(5) Permit validity. An airport obstruction permit is valid for a period of one year after issuance, unless a local development permit is issued based upon the Airport Obstruction permit approval or determination.~~

- (6) ~~Development approval.~~ Lee County may not issue a development approval for a parcel subject to compliance with this subdivision until the required Tall Structures Permit or determination is issued by the Port Authority.

Sec. 34-40111109. – Variance or deviation.

- (a) ~~An applicant may seek a variance~~ Relief ~~from the provisions of this District division may be sought through the variance process set forth in section 34-145, or through the deviation process for planned developments set forth in section 34-373. Variance or deviation requests must be reviewed and found to satisfy the variance criteria set forth in section 34-145(b)(3) and 34-145(b)(4)b, unless a review timeframe of fewer days is deemed agreeable by all parties.~~
- (b) ~~The variance application must include~~ In addition to the submittal requirements applicable to variances and deviations set forth in Article II, Division 6 of this chapter, the following items must be submitted:
- (1) A copy of the written request submitted in support of the development to the LCPA Port Authority.
 - (2) A copy of the application for a written determination submitted to the FAA in accord with 14 CFR Part 77 if the variance or deviation is related to a Tall Structures Permit.
 - (3) A copy of any previous determinations from the LCPA Port Authority and FAA.
 - (4) Documentation supporting the ~~proposed development's~~ applicant's position that:
 - a. The enforcement of these regulations will result in a practical difficulty or unnecessary hardship;
 - b. Granting the variance or deviation can be accommodated in the navigable airspace without an adverse impact to the aviation operation of SWFIA or Page Field; and
 - c. The relief requested is not contrary to the public interest, safety and welfare.
- (c) ~~Pursuant to F.S. § 333.07, any applicant may seek a variance to any determination under this section. Variance requests must be made in writing to Lee County in accordance with the provisions set forth in section 34-145 and this section. At the time of filing the for the variance or deviation application, the applicant must forward a copy of the application to the FDOT Aviation Office and the LCPA Lee County Port Authority Planning and Environmental Compliance Department by certified mail, return receipt requested. FDOT and The LCPA Lee County Port Authority will have 45 days from the receipt of the variance or deviation request application to provide comments to the applicant and the County. Noncompliance with the variance procedures outlined in F.S. § 333.07 will be grounds for appeal pursuant to F.S. § 333.08 and to apply for judicial relief pursuant to F.S. § 333.11.~~

Sec. 34-40121110. - Land use restrictions.

- (a) *Land use restrictions.* Notwithstanding other provisions of this subdivision, no use may be made of land or water within the County that will interfere with the safe operation of an airborne aircraft. The following special requirements apply:
- (1) Lights or illumination used in conjunction with streets, parking, signs, or use of land and structures must be arranged and operated in a manner that it is not misleading or dangerous to aircraft operating from a public airport.

- (2) Floodlights, spotlights and pulsating, flashing, rotating or oscillating lights intended as attention-gathering devices are prohibited if the LCPA Lee County Port Authority determines they will create a possible hazard to air navigation.
- (3) Operations that produce smoke, dust, visible fumes or vapors, glare or other visual hazards within three statute miles of public airport runway are prohibited.
- (4) Operations that may produce electronic interference with navigational signals or radio communication between aircraft, a public airport or other types of air traffic controlling facilities are prohibited.
- (5) Sanitary landfills. All proposed and existing landfills shall be reviewed to determine whether they attract or sustain hazardous bird movements from feeding, water, or roosting areas into or across the runways or approach and departure patterns of aircraft. The existence of such hazards must be considered in deciding whether to permit a proposed landfill, and whether to require an existing or proposed landfill to use bird management techniques or other practices to minimize bird hazards to airborne aircraft. Sanitary landfills shall not be located: Sanitary landfills must be located in accordance with the following:
 - a. ~~Landfills may not be located w~~Within 10,000 feet of a runway used or planned to be used by turbojet or turboprop turbine aircraft.
 - b. ~~Landfills may not be located w~~Within 5,000 feet of a runway used or planned to be used only by piston-type non-turbine aircraft.
 - c. ~~Landfills may not be located in a manner that places the runways or approach and departure patterns of an airport between bird feeding, water or roosting areas. Outside the perimeters described in subsections a and b above, but within the lateral limits of the civil airport imaginary surfaces as defined by federal regulations, as amended from time to time, for approaching, departing, and circling aircraft.~~
- ~~(6) No use of land that will be a wildlife attractant hazard (pursuant to FAA AC 150/5200-33B), greater than the existing conditions, to the operation of aircraft in and out of a Lee County airport. If such attractant is determined to exist by the Port Authority and the FAA, the land owner will have the full and sole responsibility to eliminate the hazardous situation.~~
- ~~(7)~~(6) Any type of dirigible, balloon or other type of tethered, hovering or floating object the height of which exceeds the airspace notification limitations outlined in section 34-4008 is subject to review as outlined in ~~under~~ section 34-1011-1107 and Administrative Code 13-7.
- ~~(8)~~(7) No structure of any height, type or material may be constructed or altered if it will cause interference to any airport surveillance radar system as determined by the Federal Aviation Administration or the LCPA Port Authority. Due to the fact that the operation of the airport surveillance radar (ASR) facility is electromagnetic in nature, objects may have an adverse affect on the safe and efficient operation of the ASR facility and the safe operation of aircraft overflying southwest Florida. Therefore, no facility will be permitted that the LCPA Port Authority determines will degrade, cause false shadows or targets, or in any way hinder or obstruct the existing or future planned use of an ASR facility in Lee County. The LCPA Port Authority, as part of their review of a proposed structure or land use may request, at its expense, an FAA study to be performed to determine the potential of electromagnetic interference.

~~(9)(8)~~ Pursuant to F.S. Ch. 333 and FAA AC 150/5200-33B as amended, renumbered or replaced, any use of land or developments that attract birds and other wildlife that are hazardous to aircraft or airport operations, greater than the existing conditions, are prohibited. Developments with uses including, but not limited to; sanitary landfills, waste disposal operations, underwater waste discharge, wastewater treatment facilities, agricultural activities, artificial marshes, wetland mitigation and creation, will be reviewed on a case by case basis to determine the likelihood of creating a wildlife attractant hazardous to air navigation. If such attractant is determined to exist by the LCPA and the FAA, the landowner will have the full and sole responsibility to eliminate the hazardous situation.

~~(10)(9)~~ Pursuant to FAA AC 150/5200-33B as amended, renumbered or replaced, all water management ponds, lakes, canals, conveyances, and other features within 10,000 feet of any public airport are encouraged to be designed and built in accordance with FAA recommendations.

~~(10)~~ LCPA may evaluate any object, including natural growth or terrain, to identify potential interference with the safe operation of aircraft. Upon finding an obstruction, LCPA will report the violation to Lee County for Code Enforcement, but also reserves the right to require removal of the obstruction through appropriate legal action if the obstruction remains in place.

~~(11)~~ See Chapter 12 for additional land use restrictions.

~~(b) Obstruction marking and lighting.~~

~~(1)~~ As a condition of approval, the Port Authority may require the owner to mark and light the structure to facilitate navigation safety. Marking and lighting must conform to the standards set forth in F.S. § 333.07 and Federal Aviation Administration Advisory Circular 70/7460-1K.

Sec. 34-40131111. - Nonconforming uses.

~~(a)~~ Except as prescribed in section 34-4005(b)1108, pertaining to obstruction marking and lighting, the requirements of this subdivision will not be construed to necessitate the removal, lowering or alteration of a structure existing on September 1, 1991 that does not conforming to the requirements set forth in this subdivision; nor may it be construed to require sound conditioning or other changes or alterations of any existing structure not conforming to the requirements as of September 1, 1989, or otherwise interfere with the continuance of any existing nonconforming use. Nothing contained in this subdivision requires any change in construction or alteration begun prior to September 1, 1989, and completed by September 1, 1991.

~~(b)~~ Trees or objects of natural growth determined to be airport obstructions do not qualify for the nonconforming status provisions described in 34-1111(a). The cost of removing or lowering any tree or object of natural growth not conforming to the requirements of this section will be borne by the owner of the nonconforming tree or object.

~~(c)~~ Abandonment. If a nonconforming airport obstruction has been abandoned or is more than 80 percent torn down, destroyed, deteriorated, or decayed, a permit may not be granted if it would allow the airport obstruction to exceed the applicable height limit or otherwise deviate from the airport protection zoning regulations. Whether or not an application is made for a permit under this subsection, the owner of the nonconforming airport obstruction may be required, at his or her own expense, to lower, remove, reconstruct, alter, or equip such airport obstruction as may be necessary to conform to the current airport protection zoning

regulations. If the owner of the nonconforming airport obstruction neglects or refuses to comply with such requirement for 30 days after notice, the County may proceed to have the airport obstruction lowered, removed, reconstructed, altered, or equipped, and assess the cost and expense thereof upon the owner of the airport obstruction or the land whereon it is, or was, located.

Sec. 34-1112. – Appeals and Enforcement.

- (a) A decision or determination made by the Director in accordance with this division may be appealed pursuant to F.S. § 333.09(3).
- (b) Failure to comply with the regulations of this division are subject to enforcement in accordance with F.S. § 333.09(3) and F.S. § 333.13.

Secs. 34-10911113—34-1168. Reserved.

ARTICLE VII. - SUPPLEMENTARY DISTRICT REGULATIONS

DIVISION 2. - ACCESSORY USES, BUILDINGS AND STRUCTURES

Sec. 34-1177. – Accessory apartments and accessory dwelling units.

(a) Density.

- (1) An accessory apartment is not subject to density provisions of the Lee Plan, except that accessory apartments on Gasparilla Island are subject to the provisions of section 34-2255.
- (2) An accessory dwelling unit is subject to density provisions of the Lee Plan. Density may be calculated using the maximum total (bonus) density of the property's future land use category designation. Accessory dwelling units must pay applicable impact fees pursuant to chapter 2.
- (3) A maximum of one accessory apartment or one accessory dwelling unit is permitted per principal, single-family residence.

(b) Development standards.

- (1) Off-street parking. In addition to the requirements of section 34-2020(a), one additional space is required. All required parking must be provided on the site.
- (2) Maximum floor area. The maximum floor area for the accessory apartment or accessory dwelling unit is 50 percent of the living area of the principal, single-family residence.
- (3) Maximum lot coverage. The maximum lot coverage permitted for the zoning district in which the property is located may not be exceeded.
- (4) Minimum lot size. The property must be a lawfully existing lot of record that conforms to the minimum lot area, width, and depth of the zoning district in which it is located.
- (5) Appearance. An attached accessory apartment or accessory dwelling unit must be designed to retain the appearance of a single-family residence.

- ~~(a) *Occupancy.* The principal structure must be owner occupied and is not limited to family members. Occupancy of the accessory apartment is not limited to family members of the principal structure. The purpose of this section is to facilitate the provision of affordable housing, strengthen the family unit or provide increased opportunities for housing the elderly and persons with special needs.~~
- ~~(b) *Applicability.* This section sets forth the requirements for accessory apartments, when subordinate to a single family detached dwelling unit. The requirements of this section apply to accessory apartments whether they are listed as a permitted use or a use by administrative approval.~~
- ~~(c) *Definition.* For purposes of this section, the term "accessory apartment" means a living unit, with or without cooking facilities, constructed subordinate to a single-family residence that could be made available for rent or lease.~~
- ~~(d) *Off-street parking.* In addition to the requirements of section 34-2020(a), one additional space is required for the accessory apartment, and all required parking must be provided on the site.~~
- ~~(e) *Maximum floor area.*~~
 - ~~(1) *Attached apartments.* If the accessory apartment is constructed as part of the principal building, the maximum floor area of the accessory apartment may not exceed 50 percent of the floor area of the main dwelling unit.~~
 - ~~(2) *Detached apartments.* If the accessory apartment is not constructed as part of the main dwelling unit, the maximum floor area is 50 percent of the floor area of the main dwelling unit.~~

~~In no event may the maximum lot coverage permitted for the zoning district in which the property is located be exceeded. The accessory apartment is limited to one family, as defined in this chapter.~~
- ~~(f) *Minimum lot size.* An accessory apartment may be permitted on a lawfully existing lot of record that conforms to the minimum lot size of the district in which it is located. However, in no case may the lot area be less than 6,000 square feet.~~
- ~~(g) *Garage conversions.*~~
 - ~~(1) *Attached garages.* An attached garage may be converted to an accessory apartment.~~
 - ~~(2) *Detached garages.* A detached garage may be converted to an accessory apartment provided that the garage is not closer to the street right-of-way or easement than the principal dwelling unit. In no instance may the conversion be permitted where the garage encroaches in the front setback.~~

~~The minimum number of parking spaces must be maintained after the conversion of an attached or detached garage.~~
- ~~(h) *Appearance.* The entrance to the accessory apartment, when constructed as part of the principal residence, must be designed to retain the appearance of a single-family residence.~~
- ~~(i) *Density.*~~
 - ~~(1) An accessory apartment, for the purposes of density, is termed a dwelling unit in accordance with the Lee Plan.~~
 - ~~(2) For the purposes of density, an accessory apartment is considered an affordable unit, allowing density calculations to be based on the future land use category bonus density range.~~

DIVISION 5. - ALCOHOLIC BEVERAGES

Sec. 34-1264. - Sale or service for on-premises consumption.

- (a) *Approval required.* The sale or service of alcoholic beverages for consumption on-premises ~~on the premises~~ is not permitted until the location has been approved by the County as follows:

- (1) *Administrative approval.* An administrative approval for consumption on-premises is required in accordance with 34-174 when in conjunction with the following uses: ~~The Director of the Department of Community Development may administratively approve the sale or service of alcoholic beverages for consumption on the premises when in conjunction with the following uses, if the proposed use satisfies the requirements set forth in this division. When circumstances so warrant the Director may determine administrative approval is not the appropriate action and that the applicant must instead apply for approval as a special exception. Such circumstances may include the previous denial by the Director or by a hearing board of a similar use at that location; the record of public opposition to a similar use at that location, and similar circumstances. When the Director has approved a request for consumption on the premises at a location where the actual building has not been constructed, the Director may not approve another request for consumption on the premises within one year's time, which could potentially violate the distance requirements. If the first building is completed within less than one year, and it can be shown the second use would not violate the prescribed distance requirements, the Director may approve the second location subject to all other requirements contained in this division.~~

[a. thru j. remain unchanged.]

[(2) thru (3) remain unchanged.]

[(b) remains unchanged.]

- (c) ~~Procedure for approval.~~

- (1) ~~Administrative approval.~~

- a. ~~Application.~~ An applicant for a consumption on the premises permit must submit the following information on the form provided by the County:

1. ~~The name, address and telephone number of the applicant.~~
2. ~~The name, address and telephone number of the owner of the premises, if not the applicant.~~
3. ~~An authorization from the property owner to apply for the permit.~~
4. ~~Location by STRAP and street address.~~
5. ~~Type of state liquor license being requested and anticipated hours for the sale and service of alcoholic beverages.~~
6. ~~A site plan, drawn to scale, showing:~~
 - i. ~~The property in question, including all buildings on the property and adjacent property;~~
 - ii. ~~Entrances to and exits from the building to be used by the public;~~
 - iii. ~~A parking plan, including entrances and exits;~~
 - iv. ~~The floor area of the building and proposed seating capacity. If a restaurant is proposing a bar or lounge for patrons waiting to be seated in the restaurant, the~~

~~floor area and seating area of the lounge must be shown in addition to the restaurant seating area.~~

~~7. A County map marked to indicate all property within 500 feet of the building to be used for consumption on the premises.~~

~~8. A sworn statement indicating that no religious facilities, day care centers (child), noncommercial schools, dwelling units or parks are located within 500 feet of the building.~~

~~b. Findings by Director. Prior to permit approval, the Director must conclude all applicable standards have been met. In addition, the Director must make the following findings of fact:~~

~~1. There will be no apparent deleterious effect upon surrounding properties and the immediate neighborhood as represented by property owners within 500 feet of the premises.~~

~~2. The premises are suitable in regard to their location, site characteristics and intended purpose. Lighting must be shuttered and shielded from surrounding properties.~~

~~(2) Special exception.~~

~~a. Applications for special exception must be submitted on forms supplied by the County and must contain the same information required for administrative approval.~~

~~b. Advertisements and public hearings must be conducted in accordance with the requirements set forth in article II of this chapter.~~

[(d) thru (j) are renumbered to (c) thru (i).]

DIVISION 6. – ANIMALS

Sec. 34-1297. - Activities requiring special approval.

(a) Due to possible adverse effects on the natural environment, or the potential hazard to surrounding property or the general public, the following activities are authorized only by special exception in certain zoning districts:

(1) The keeping, raising or breeding of:

[a. remains unchanged.]

b. Marine life which requires the storage of brackish or saline water in man-made ponds;

[c. thru d. remain unchanged.]

[Remainder of section remains unchanged.]

DIVISION 10. – CARE FACILITIES AND CENTERS

Sec. 34-1411. - Assisted living facilities.

[(a) thru (d) remain unchanged.]

(e) *Location.* No ALF may be constructed established within the Coastal High Hazard Area of the County unless the ALF facilities demonstrate compliance with ~~are constructed to meet~~

the hurricane preparedness impact mitigation provisions set forth in Chapter 2 section 2-485(b)(5)a to serve as on-site shelters for its occupants.

Sec. 34-1414. - Continuing care facilities.

[(a) thru (e) remain unchanged.]

(f) *Location.* No CCF may be ~~constructed~~ established within the Coastal High Hazard HH Area of the County unless those facilities demonstrate compliance with ~~are constructed to meet~~ the hurricane preparedness impact mitigation provisions set forth in Chapter 2 section 2-485(b)(5)a to serve as on-site shelters for its occupants. CCFs to be located in category 2 or 3 land falling storm areas must provide hurricane shelter facilities on site in accordance with Chapter 2 section 2-485(b)(5)b.

Sec. 34-1415. - Location of healthcare facilities.

No new Healthcare Facilities groups I, II, or IV may be established ~~constructed~~ within the Coastal High Hazard CHH ~~a~~Areas of the County unless those facilities demonstrate compliance with ~~are constructed to meet~~ hurricane preparedness impact mitigation provisions set forth in Chapter 2 ~~for shelter on site as set forth in section 2-485(b)(5)a~~.

Healthcare Facilities groups I, II or IV located in category 2 or 3 land falling storm areas must provide shelter facilities on site in accordance with Chapter 2 section 2-485(b)(5)b.

Healthcare Facilities groups I, II or IV located in areas of special flood hazard where base flood elevation data has been provided as set forth in Chapter 6, Article IV must also comply with the standards set forth in section 6-472(7).

DIVISION 11. – WIRELESS COMMUNICATION FACILITIES

Sec. 34-1442. - Definitions.

Letters of coordination means documentation provided by the applicant that the following notice was mailed, via certified mail, to all providers or, where applicable, owners of existing antenna-supporting structures, and that the applicant was unable to secure a lease agreement to allow the placement of the proposed antenna on an existing structure or building within the geographic search area:

Text of required notice:

"Pursuant to the requirements of the Lee County Land Development Code, (name of applicant) is hereby providing you with notice of our intent to meet with the Lee County Department of Community Development in a pre-application conference to discuss the location of a freestanding wireless communications facility that would be located at (location). We plan to construct an antenna-supporting structure of (number of) feet in height for the purpose of providing (type of wireless service). Please inform the County and us if either of the following applies:

- a. You intend to place additional wireless communications facilities within two miles of our proposed facility; or
- b. You know of an existing building or structure that might accommodate the antennas associated with our proposed facility.

Please provide us with this information within ten days following the receipt of this letter.

Sincerely, (applicant, wireless provider)"

The Department will maintain a list of known service providers and owners. Letters of coordination must be mailed at least 15 days prior to the pre-application conference required by this division and must request a response from the recipient within ten days of receipt.

Sec. 34-1445. - Development review process.

[(a) remains unchanged.]

(b) *Zoning.*

- (1) *Administrative review.* Where provided by this division, new antenna supporting structures may be administratively approved in accordance with section 34-174. an application will be reviewed by the Director for compliance with this chapter. The Director may attach conditions to any facility approved administratively if such conditions are reasonably necessary to effectuate the intent and purpose of this Code and other applicable regulations.

[(2) remains unchanged.]

(3) *Final decision.*

a. *Approval.*

1. ~~For administrative approvals for new antenna supporting structures the County must make all of the following findings (or conclude that a finding is not applicable) before granting approval of an application:~~

- a) ~~The Applicant is not able to use existing wireless communications facility sites in the geographic search area; and~~
- b) ~~The Applicant has agreed to rent or lease available space on the antenna supporting structure, under the terms of a fair market lease, without discrimination to other wireless communications service providers; and~~
- c) ~~The proposed antenna supporting structure will not be injurious to historical resources, obstruct scenic views, diminish residential property values, or reduce the quality and function of natural or man-made resources; and~~
- d) ~~The Applicant has agreed to implement all reasonable measures to mitigate the potential adverse impacts of the structures and facilities.~~

2. ~~For new antenna supporting structure special exceptions, the Hearing Examiner must make additional findings, as indicated in section 34-145(c)(3)b.~~

b. *Denial.* ~~Decisions by the County to deny an application for a proposed wireless communications facilities must be in writing and supported by substantial competent evidence contained in a written record.~~

[(c) remains unchanged.]

(d) *Review time frames.*

- (1) ~~Applications for all wireless facilities subject to this division must be granted or denied within the normal time frame for the applicable type of review, but in no case later than 90 business days after the date the application is determined to be sufficient for review. If the sufficient application is not approved or denied within 90 business days, the application will be deemed automatically approved.~~

~~(2) Sufficiency review.~~

- ~~a. Upon initial submission or resubmission of application information for a wireless facility, the County shall have up to 20 business days to review the application to determine if all the required materials, in the required form, have been included in the application.~~
- ~~b. If all of the required materials have been properly submitted, the application shall be found sufficient for review.~~
- ~~c. If all of the required materials have not been properly submitted or resubmitted, the County must provide the applicant a letter with a brief explanation as to why the application is not complete for review and request the necessary additional information.~~
- ~~d. If the County does not provide the applicant written notice of the insufficiencies within 20 business days of the date of the application is initially submitted or additional information resubmitted, the application will be deemed sufficient and ready for review.~~

~~(3) Time frame waiver. To be effective, a waiver of the time frames must be voluntarily agreed to by the applicant and the County. The County may request, but not require, a waiver of the time frames by an applicant, except that, with respect to a specific application, a one-time waiver may be required in the case of a declared local, state or federal emergency that directly affects the administration of all permitting activities of the County.~~

Secs. 34-1454—34-147090. Reserved.

DIVISION 12. DENSITY
Subdivision I. In General

Secs. 34-1471—34-1490. Reserved.

Subdivision II. Residential Development

[Sections 34-1491 thru 34-1492 remain unchanged.]

Sec. 34-1493. - Calculation of total permissible housing units.

The Lee Plan establishes a standard and maximum residential density range permissible for each residential land use category. The procedure set forth in this section must be used to determine the standard residential density as well as the total number of housing units which may be permitted within a development.

(1) Proposed developments.

[a. thru b. remain unchanged.]

- c. Development within the Mixed Use Overlay. Prior to issuance of a development order for development, redevelopment, or infill development located within the Mixed Use Overlay which includes the area of non-residential uses in the density calculations as permitted by the Lee Plan must prepare and record a restrictive covenant or other instrument that severs the residential development rights from the non-residential project area.*

[(2) remains unchanged.]

~~Sec. 34-1495. -- Reserved.~~

Secs. 34-14956 - 34-1570. Reserved.

DIVISION 13. – ENVIRONMENTALLY SENSITIVE AREAS

Sec. 34-1572. - Applicability of division.

All areas proposed for development or rezoning ~~which are designated as resource protection or transition zone areas~~ designated as Conservation Lands (upland or wetland) on the future land use plan map, or which come under the criteria set forth in section 34-1571, ~~shall~~ will be subject to the general as well as the specific regulations set forth in this division.

Sec. 34-1574. - Compliance with applicable regulations; new roads or expansion of existing facilities.

[(a) remains unchanged.]

- (b) Except in instances of overriding public interest, new roads or the expansion of existing facilities ~~within resource protection and transitional zones~~ Conservation Lands (upland or wetland) ~~will~~ shall be prohibited.

Sec. 34-1575. - Coastal zones.

[(a) remains unchanged.]

- (b) Development is prohibited seaward of the coastal construction setback line, as defined in section 34-2, with the exception of the following:
- (1) Improvements that provide for ~~public~~ beach access and enjoyment, limited to the following: ~~P~~pile supported elevated dune and beach walk-over structures, beach access ramps and walkways, stairways, fences along ~~access ways~~, ~~boardwalks~~, ~~pile-supported viewing platforms~~ and lifeguard support stands;

[Remainder of section remains unchanged.]

DIVISION 15. - EXCAVATION ACTIVITIES

Subdivision I. -- Generally

[Remainder of division remains unchanged.]

DIVISION 16. - AGRITOURISM ACTIVITIES, PRODUCE STANDS, U-PICK OPERATIONS, AND COMMUNITY GARDENS

Sec. 34-1716. - Standards for community gardens.

Community gardens may be permitted by right in zoning districts as specified in the district use regulations. Community gardens are not subject to review under chapter 10, but are subject to the following regulations:

[(1) thru (8) remain unchanged.]

- (9) ~~Application. An application for administrative approval must be submitted to the Department of Community Development along with the following documentation:~~
- ~~a. Letter signed by the property owner giving permission for use of property.~~
 - ~~b. Letters of no objection from adjoining property owners when the proposed community garden abuts property zoned or used for residential purposes.~~
 - ~~c. A site plan, drawn to scale, showing the property size with dimensions.~~
 - ~~d. The site plan must show the location of all existing structures on the property.~~
 - ~~e. The site plan must reflect existing streets, easements or land reservations within the site.~~
 - ~~f. The site plan must include proposed fencing and screening, if any.~~
 - ~~g. The site plan must identify the source of water that will be used for irrigation purposes.~~

DIVISION 23. - MOBILE HOMES

Sec. 34-1923. - Skirting.

All mobile homes shall must have removable skirting around the entire perimeter.

- (1) Skirting shall must be of a durable material such as decorative block, concrete block, fiberglass, aluminum or vegetation. Junk doors or other scrap material is prohibited.
- (2) Skirting shall must be maintained at all times by the resident.

DIVISION 24. - MODEL HOMES, UNITS AND DISPLAY CENTERS

Sec. 34-1954. - Model homes and model units.

- (a) *Generally.* Model homes and model units may be permitted by right, by special exception, or by administrative approval as specified in zoning district use regulations and as follows:
 - (1) *Administrative approval:* The Director may administratively approve the location of individual model homes and model units in accordance with 34-174. ~~any new development provided the property remains under unified control and the provisions of this division are met.~~

[(2) remains unchanged.]

[(b) thru (f) remain unchanged.]

Sec. 34-1955. - Model display centers.

- (a) Model display centers may be approved in commercially-zoned districts that permit model display centers, as indicated in the use regulations for commercial districts. Model display centers may be approved by administrative approval in accordance with 34-174. ~~new RPD, MHPD, RVPD or MPD developments provided the property is zoned for the type of model home, model unit or recreational vehicle displayed, but require a planned development amendment in existing RPD, MHPD, RVPD or MPD districts unless already approved as a permitted use in the schedule of approved uses on the master concept plan.~~

[(b) thru (e) remain unchanged.]

DIVISION 26. - PARKING

Sec. 34-2020. - Required parking spaces.

[(a) remains unchanged.]

- (b) *Non-residential uses.* Non-residential uses permitted under this chapter are subject to the following minimum requirements:

TABLE 34-2020(b). REQUIRED PARKING SPACES FOR NON-RESIDENTIAL USES

Use	Special Notes or Regulations	Minimum Required Spaces for Single-Use Development	Minimum Required Spaces for Multiple-Use Development
Retail or business establishments.			
<i>a. thru b. remain unchanged.</i>			
<i>c. Very large products or commodities:</i> Household/office furnishings groups I & III; mobile home dealers; specialty retail stores group IV; used merchandise stores group IV; vehicle and equipment dealers groups I, III, IV and V; and other similar type establishments.	Note (1); 34-2021 et seq.	1 space per 700 square feet of total floor area, with a minimum of 5 spaces; dead storage is calculated at 1 space per 1,500 square feet	1 space per 700 square feet of total floor area; no parking is required for areas of the building used only as dead storage and not available to the public

- (c) *Parking reduction for non-residential uses.* The Director may administratively approve a reduction to the minimum required number of parking spaces for non-residential uses by a maximum of ten percent if one or more of the following conditions are satisfied and approval is obtained in accordance with section 34-174.2020(d):

[(1) thru (2) remain unchanged.]

- (3) *Bicycle and pedestrian facilities and amenities.* The minimum required parking for a use may be reduced by five percent if bicycle and pedestrian facilities, identified on the Bikeways/Walkways Facility Plan - Planned Facilities and Existing Facilities, Map 3D-1 or Map 3D-2 Map 3D of the Lee Plan, are located in the right-of-way adjacent to the property or on the property; a continuous bicycle path and pedestrian accommodations, consistent with section 10-610, are provided internal to the project from the bicycle/pedestrian facility to the primary entrance of the building; and, bicycle racks are provided on-site consistent with section 10-610(e)(3).

[(4) thru (7) remain unchanged.]

~~(d) Procedure for administrative approval.~~

- ~~(1) — Application.~~ In addition to the information required by section 34-201 et seq., an applicant must submit the following information on the form provided by the County:
- ~~a. — A list of all the uses the parking supports, the total floor area for each use, the number of parking spaces required, and the number of parking spaces proposed.~~
- ~~b. — A site plan, drawn to scale, showing:~~
- ~~i. — The property in question, including all buildings on the property and adjacent~~

- property;
- ii. Entrances to and exits from the building to be used by the public;
- c. A parking plan consistent with section 34-2014.
- d. The peak parking demands for each use demonstrating that no part of a parking lot intended to satisfy required parking for a use is used to offset the parking requirements for another use unless the peak parking demands occur at different times.
- e. When reduced parking is requested pursuant to 34-2020(c)(6) a parking demand study must be provided.
- (2) *Findings by Director.* The Director must conclude all applicable standards have been met prior to approval. In addition, the Director must make the following findings of fact:
 - a. There will be no apparent deleterious effect upon surrounding properties or the immediate neighborhood;
 - b. The reduced parking will not have an adverse impact on the public health, safety and welfare;
 - c. The proposed use is not solely dependent on vehicular traffic; and
 - d. No part of a parking lot intended to satisfy required parking for a use is used to offset the parking requirements for another use unless the peak parking demands occur at different times.
- (3) The Director's decision is not subject to review. If an applicant's request for an administrative deviation is denied, the Applicant may seek relief by filing a request for a variance or deviation in accordance with chapter 34.

(d)(e) *Parking in excess of 120 percent of minimum requirements.*

[(1) thru (2) remain unchanged.]

(e)(f) *Parking reduction within the mixed use overlay.* The single-use development parking standard will be multiplied by the factors in Table 34-2020(c) to produce the minimum required off-street parking for properties within the mixed use overlay. Off-street parking may be provided on the lot it serves or with available spaces within a lot described in 34-2015(1) within 1,320 feet of the primary entrance of the building it serves.

[Table 34-2020(c) remains unchanged.]

DIVISION 28. ~~PLANT NURSERIES~~ Reserved.

~~Sec. 34-2081. -- Nurseries in urban services area.~~

~~Where the zoning district use regulations permit plant nurseries in the urban services area:~~

- ~~(1) The area so used shall be set back at least 25 feet from all street rights of way or easements; and~~
- ~~(2) Fertilizer, compost, etc., shall be limited to quantities for immediate use, and kept at least 100 feet from any residential use.~~

DIVISION 30. PROPERTY DEVELOPMENT REGULATIONS

Subdivision I. In General

~~Sec. 34-2142. -- Exception for essential service facilities group I.~~

~~Essential service facilities group I are not required to meet the minimum required lot area and dimensions for the district wherein located, provided that access, buffering, drainage, retention, parking and other provisions of chapters 10 and 34 are satisfied.~~

~~Secs. 34-21423 - 34-2170. Reserved.~~

Subdivision II. Height

Sec. 34-2175. - Height limitations for special areas and Lee Plan land use categories.

The following areas have special maximum height limitations applicable to all conventional and planned development districts:

- (a) *Special areas.*

[(1) thru (4) remain unchanged.]

- (5) *Greater Pine Island. See section 33-40881087.*

[Remainder of section remains unchanged.]

Subdivision III. Setbacks

Sec. 34-2191. - Measurement; permitted encroachments.

Setbacks are measured from the property line to the nearest point of a building or structure. Encroachments into a required setback are permitted as provided below. Encroachments into easements are prohibited. All setbacks shall be measured to the nearest point of a building or structure. Encroachment into the setback shall be permitted as follows, :

[(1) thru (4) remains unchanged.]

- (5) *Equipment Pads/Platforms.*

- a. Equipment pads/platforms, such as those for air conditioning and swimming pool equipment, may encroach up to three feet into side, rear or waterbody setbacks. The equipment pad/platform may not interfere with ingress and egress, or through-access for life safety equipment.
- b. Equipment pads/platforms may be attached to a nonconforming building and will not be considered an extension or enlargement of a nonconformity as long as the building is properly zoned for its use and the requirements of Sec. 34-2191(5)a. are met.

Sec. 34-2192. - Street setbacks.

[(a) thru (b) remain unchanged.]

- ~~(c) — Modifications. Upon determination that the setbacks set forth in subsection (a) of this section are not needed, the setbacks may be modified by a variance approved pursuant to section 34-203(e), or by a deviation as part of a planned development. Right-of-way modifications may not be granted through this provision.~~

~~Sec. 34-2196. — Uses employing solar energy or wind-driven electrical generators.~~

~~Any use proposing to use solar or wind energy for water heating, climate control or electricity may request a special exception to modify the property development regulations so as to maximize use of solar or wind energy, provided that:~~

- ~~(1) The modifications from this chapter are the minimum required to provide such access;~~
- ~~(2) The modifications do not decrease either total lot area or total usable yard area;~~
- ~~(3) The principal use, absent its solar or wind aspects, is a permitted use in the zone for which it is proposed; and~~
- ~~(4) The proposed plans for solar or wind access best serve to protect the degree and location of that access and do not, or will not, require the restriction of development on adjoining properties with respect to their existing zoning classification.~~

Secs. 34-2196~~7~~ - 34-2220. Reserved.

Subdivision IV. - Lots

Sec. 34-2221. Lot width measurement. Minimum dimensions generally.

~~Unless specifically approved otherwise as part of a planned development district approval or as set forth in article VII of this chapter:~~

- ~~(1) All specified lot area, width and depth dimensions are mandatory minimums.~~
 - ~~a. — Exception. The Director of Community Development may approve the subdivision of the following projects notwithstanding the noncompliance of the individual lots with property development regulations in chapter 34, and chapter 10, provided the~~

~~overall development complies with all other applicable zoning requirements. The projects which may be approved in this matter are as follows:~~

- ~~1. The subdivision of existing commercial and industrial developments;~~
- ~~2. Commercial or industrial developments which have received a development order;~~
- ~~3. A final development order for a commercial or industrial development which is still effective; or~~
- ~~4. A new final development order application for a commercial or industrial development.~~

~~b. Applicants seeking such relief must submit the following:~~

- ~~1. A detailed site plan of the overall development which indicates existing and proposed lot lines, buildings and uses, streets and accessways, off-street parking, water management facilities, buffering and open space.~~
- ~~2. A detailed listing of the section number(s) and the specific regulation(s) of chapter 34, chapter 10 and/or chapter 30, if applicable, from which relief is sought. This information shall also be shown on the site plan.~~
- ~~3. Pertinent calculations which demonstrate that the overall development complies with zoning and development standards ordinance standards, which shall include the following, if applicable:~~
 - ~~i. In the event that the individual lots will not have direct access to a public street, the applicant shall demonstrate how access to such lots will be accomplished via common areas.~~
 - ~~ii. In the event individual lots will not comply with minimum open space requirements, the applicant shall demonstrate how the required open space requirement for the overall development will be satisfied via common areas.~~
- ~~4. Documents, satisfactory to the County, assuring that all common elements of the overall development are subject to unified control and will be perpetually maintained through a property owners association. The common elements must include, but are not limited to, streets and accessways, off-street parking, water management facilities, buffering, fences or walls, and open space.~~

~~Upon completion of the review of documents submitted, the Director may approve the request with or without conditions to ensure that the overall development complies with the development standards.~~

~~c. Exemptions granted under the provisions of this section may not be construed as providing relief from any development regulations not specifically listed and approved. Compliance with chapter 10, and other land development ordinances must be based on the overall development as though the lots created under this exemption did not exist. For example developments subdivided under the provisions of this section, may be considered as multiple occupancy complexes or~~

~~as developments created under unified control for the purpose of determining identification signs, directory signs, and total sign area; and the ground-mounted identification sign and directory signs permitted for the overall development will not be construed as off-site advertising for businesses located on the subdivided lots.~~

- ~~(2) Except as set forth in this section for the RM-2 district, no part of a required yard or other required open space, or required off-street parking or off-street loading space, provided in connection with a building, structure or use shall be used to meet the requirements for any other building, structure or use, except in compliance with specified provisions made in this chapter. In the RM-2 district, when a single parcel is developed as a condominium or cooperative, or is retained under single ownership (see section 34-3102), nothing in this section shall be construed to require that each individual dwelling unit type be constructed on a parcel which meets the minimum lot dimensions of the RM-2 district, but rather that only the total parcel so developed shall be required to meet the minimum lot areas, width, depth, setbacks and open space.~~
- ~~(3) No lot or yard existing on August 1, 1986, shall be reduced in size, dimension or area below the minimum requirements set out in this chapter for the zoning district in which the property is located. Lots or yards created after August 1, 1986, shall meet at least the minimum requirements established in this chapter for the zoning district in which located. Where a lot or yard is reduced below the minimum requirements as a result of dedication, condemnation, purchase or other acquisition for a public use, the resultant nonconforming lot or yard may be required to obtain a variance in accordance with article II of this chapter.~~
- ~~(4) The following shall apply to measurement of lot width (see also the definition of lot measurement in section 34-2):~~
 - ~~[a. thru e. remain unchanged.]~~

DIVISION 37. - SUBORDINATE AND TEMPORARY USES

Subdivision II. Temporary Uses

Sec. 34-3041. - Temporary use permits, Generally.

(a) Permit required. No temporary use may be established until a temporary use permit has been obtained from the Department. Events that have a duration less than six hours, not occurring more than once a month, and not in conjunction with a alcoholic beverage permit, such as ribbon cuttings, company events or other similar uses, are not required to obtain a temporary use permit.

(1) Application. A complete temporary permit application must be submitted to the County.

(2) Filing fee. All fees, in accordance with the County's External Fees and Charges Manual, must be paid at time of permit issuance.

(b) Location. Temporary uses are subject to the following regulations:

(1) Temporary uses are allowed as permitted in the use regulations tables for conventional zoning districts or as a permitted use in the schedule of uses for planned development zoning districts.

- (2) Temporary uses are permitted on vacant lots or in the parking lots or grassed areas of developed properties when the temporary use is ancillary to the principal use. Temporary uses are not permitted in open space or preserve areas as designated on an approved local development order.
- (3) The area of the lot where the temporary use will be located must be clearly defined and must not obstruct pedestrian and vehicular movements or interfere with any preserve or water management areas.
- (4) Off-street parking with a surface type specified in section 34-2017(b) must be provided. If the temporary use will be on premises with existing parking facilities, no additional parking facilities will be required.
- (5) No part of a parking lot used to satisfy required parking for any existing use on the same premises may be used for a temporary use unless it is demonstrated that the hours of operation of the temporary use and parking demands of any permitted existing use occur at different times or as otherwise approved by the Director.
- (c) Lighting. No electrical service for temporary or permanent lighting may be installed without additional permit approval.
- (d) Time limit.
 - (1) The maximum duration of a temporary use permit is 30 continuous days, except as provided for in sections 34-3043 through 34-3049.
 - (2) No more than four (4) permits for similar temporary uses may be issued on the same premises per calendar year. The temporary uses may not run consecutively and must be separated by a minimum of 45 days. Exceptions are provided for in sections 34-1716 and 34-3048.
- (e) Hours of operation. Must be confined to those specified in the permit.
- (f) Cleanup. The site must be cleared of all debris at the end of the temporary use and all temporary structures must be removed within 48 hours after termination of the use. A cash bond of a minimum of \$25.00 and not to exceed \$5,000.00 or a signed contract with a disposal firm may be required as a part of the application for a temporary use permit to ensure that the premises will be cleared of all debris during and after the event.
- (g) Traffic control. Must be arranged and paid for by the applicant, as required by the Sheriff's Department or the Lee County Department of Transportation.
- (h) Damage to public right-of-way. A cash bond of a minimum of \$25.00 and not to exceed \$5,000.00 may be required by the County to ensure the repair of any damage resulting to any public right-of-way as a result of the event.
- ~~(a) Purpose.~~ The purpose of this subdivision is to specify regulations applicable to certain temporary uses which, because of their impact on surrounding land uses, require a temporary use permit.
- ~~(b) Permit required.~~ No temporary use may be established until a temporary use permit has been obtained from the Department (see section 34-210).

- (c) ~~Location.~~ Temporary uses are allowed as permitted in agricultural, commercial and industrial zoning districts subject to the following regulations:
- (1) ~~Temporary uses are permitted on vacant lots or in the parking lots or grassed areas of developed properties when the temporary use is ancillary to the principal use. Temporary uses are not permitted in open space or preserve areas as designated on an approved local development order.~~
 - (2) ~~The area of the lot where the temporary use will be located must be clearly defined and must not obstruct pedestrian and vehicular movements or interfere with any preserve or water management areas.~~
 - (3) ~~Off street parking with a surface type specified in section 34-2017(b) shall be provided. If the temporary use will be on premises with existing parking facilities, no additional parking facilities shall be required.~~
 - (4) ~~No part of a parking lot used to satisfy required parking for any existing use on the same premises may be used for a temporary use unless it is demonstrated that the hours of operation of the temporary use and parking demands of any permitted existing use occur at different times or as otherwise approved by the Director.~~
- (d) ~~Lighting.~~ No permanent or temporary lighting may be installed without approval from the building department.
- (e) ~~Time limit.~~
- (1) ~~All uses must be confined to the dates specified on the temporary use permit; provided, however, that:~~
 - a. ~~Except as provided in sections 34-3043 through 34-3049, a temporary use will not be permitted for more than 30 contiguous days; and~~
 - b. ~~If no time period is specified on the temporary use permit, then the temporary use permit will expire and the use must be abated within 30 days from the date of issuance.~~
 - (2) ~~A temporary use permit may not be renewed or reissued to the same applicant or on the same premises for a similar use more than four times in a calendar year or within 45 days from the date of expiration of the previous temporary use permit, except for community gardens as described in section 34-1716 and seasonal farmer's market (section 34-3048).~~
 - (3) ~~Events that have a duration less than six hours, not occurring more than once a month, and not in conjunction with a alcoholic beverage permit, such as ribbon cuttings, company events or other similar uses, are not required to obtain a temporary use permit.~~
- (f) ~~Hours of operation.~~ Hours of operation must be confined to those specified in the permit.
- (g) ~~Cleanup.~~ The site must be cleared of all debris at the end of the temporary use and all temporary structures must be removed within 48 hours after termination of the use. A cash bond of a minimum of \$25.00 and not to exceed \$5,000.00 or a signed contract with a disposal firm may be required as a part of the application for a temporary use permit to ensure that the premises will be cleared of all debris during and after the event.
- (h) ~~Traffic control.~~ Traffic control as may be required by the County Sheriff's Department and the County Department of transportation must be arranged and paid for by the applicant.

- (i) ~~Damage to public right-of-way. A cash bond of a minimum of \$25.00 and not to exceed \$5,000.00 may be required by the County to ensure the repair of any damage resulting to any public right-of-way as a result of the event.~~

DIVISION 39. USE, OCCUPANCY AND CONSTRUCTION REGULATIONS

Sec. 34-3103. RESERVED. Permit for moving building.

~~No building or part of any building may be relocated or moved through or across any sidewalk, street, alley or highway within the unincorporated area of the County unless a permit has first been obtained from the division of development services in accordance with the procedures and application requirements for building relocation as set forth in section 34-209, as well as a structure moving permit from the Department of Transportation. Buildings or structures that have been designated as historic resources pursuant to chapter 22 must also obtain a certificate of appropriateness as provided in section 22-105.~~

ARTICLE VIII. – NONCONFORMITIES

DIVISION 1. GENERALLY

Sec. 34-3206. - Nonconformities created by eminent domain proceedings or voluntary donation of land for public purpose.

[(1) remains unchanged.]

- (2) An administrative variance procedure is available to address improved parcels or parcels with approved development orders that have been rendered nonconforming or have been rendered unable to comply with current regulations as to signs, required landscape buffers, and open space because of a taking through eminent domain proceedings, by the voluntary sale of a parcel of land under the threat of eminent domain proceedings by a governmental authority, or by the voluntary donation of land to a governmental authority. The procedures to address the nonconformities referenced in this subsection are set forth in section 34-174(a)268.

DIVISION 4. - NONCONFORMING LOTS

Sec. 34-3272. - Lot of record defined; general development standards.

For the purposes of this division only, a lot of record is a lot which conformed to the minimum lot size for the use permitted for that lot in its zoning district at such time that the lot was created, but which lot fails to conform to the minimum lot size requirements which are established by this chapter.

- (1) For the purpose of this division, a lot is created on such date that one of the following conditions occur:

[a. thru c. remain unchanged.]

- d. In the case of mobile home or recreational vehicle parks, the date when the park was approved by resolution for rezoning or a special permit for such use; provided, however, that the park subsequently obtained, on or before June 3, 1987, approval

by the Board of County Commissioners of a site plan which identifies individual sites within the park and the sites meet the minimum lot size and setbacks consistent with the zoning regulations set forth in section 34-3274. Any park which was lawfully established prior to the effective date of the County's 1962 zoning regulations will be governed by the requirements of section 34-3274(1) as long as the park satisfies the remaining minimum documentary requirements and Board of County Commissioners approval set forth in this provision. Any park approved by the Board of County Commissioners under Ordinance 86-36 may request administrative approval to amend the approved site plan in accordance with section 34-174. ~~by the combination of lots creating larger lots provided the approved density is not increased. The park must obtain an administrative approval by the requirements set forth in section 34-145.~~ For purposes of this subsection, the term "site plan" means any one or more of the following, whichever is applicable:

[Remainder of section remains unchanged.]

SECTION EIGHT: AMENDMENT TO APPENDIX C

APPENDIX C - AIRPORT-NOISE ZONES- COMPATIBILITY DISTRICT MAPS

[Remainder of Appendix remains unchanged.]

SECTION NINE: CONFLICTS OF LAW

Whenever the requirements or provisions of this Ordinance are in conflict with the requirements or provisions of any other lawfully adopted ordinance or statute, the most restrictive requirements will apply.

SECTION TEN: SEVERABILITY

It is the Board of County Commissioner's intent that if any section, subsection, clause or provision of this ordinance is deemed invalid or unconstitutional by a court of competent jurisdiction, such portion will become a separate provision and will not affect the remaining provisions of this ordinance. The Board of County Commissioners further declares its intent that this ordinance would have been adopted if such unconstitutional provision was not included.

SECTION ELEVEN: CODIFICATION AND SCRIVENER'S ERRORS

The Board of County Commissioners intend that this ordinance will be made part of the Lee County Code. Sections of this ordinance can be renumbered or relettered and the word "ordinance" can be changed to "section", "article," or other appropriate word or phrase to accomplish codification, and regardless of whether this ordinance is ever codified, the ordinance can be renumbered or relettered and typographical errors that do not affect the intent can be corrected with the authorization of the County Administrator, County Manager or his designee, without the need for a public hearing.

SECTION TWELVE: MODIFICATION

It is the intent of the Board of County Commissioners that the provisions of this Ordinance may be modified as a result of consideration that may arise during Public Hearing(s). Such modifications shall be incorporated into the final version.

SECTION THIRTEEN: EFFECTIVE DATE

This ordinance will take effect upon its filing with the Office of the Secretary of the Florida Department of State. The provisions of this ordinance will apply to all projects or applications subject to the LDC unless the development order application for such project is complete or the zoning request is found sufficient before the effective date.

Commissioner Manning made a motion to adopt the foregoing ordinance, seconded by Commissioner Mann. The vote was as follows:

John Manning	Aye
Cecil Pendergrass	Absent
Larry Kiker	Absent
Brian Hamman	Aye
Frank Mann	Aye

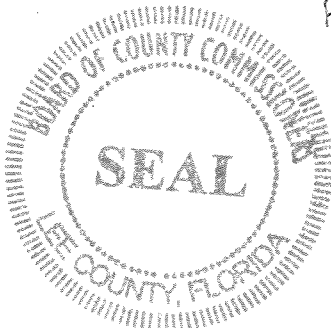
DULY PASSED AND ADOPTED THIS 2ND DAY OF APRIL, 2019.

ATTEST:
LINDA DOGGETT, CLERK

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: Missy Flint
Deputy Clerk

BY: Brian Hamman
For Larry Kiker, Chair



APPROVED AS TO FORM FOR THE
RELIANCE OF LEE COUNTY ONLY

By: Charles Sider
Office of the County Attorney

Exhibit A: Adopted revisions to APPENDIX C - AIRPORT-NOISE ZONES- COMPATIBILITY DISTRICT MAPS (adopted on April 2, 2019)

Exhibit A

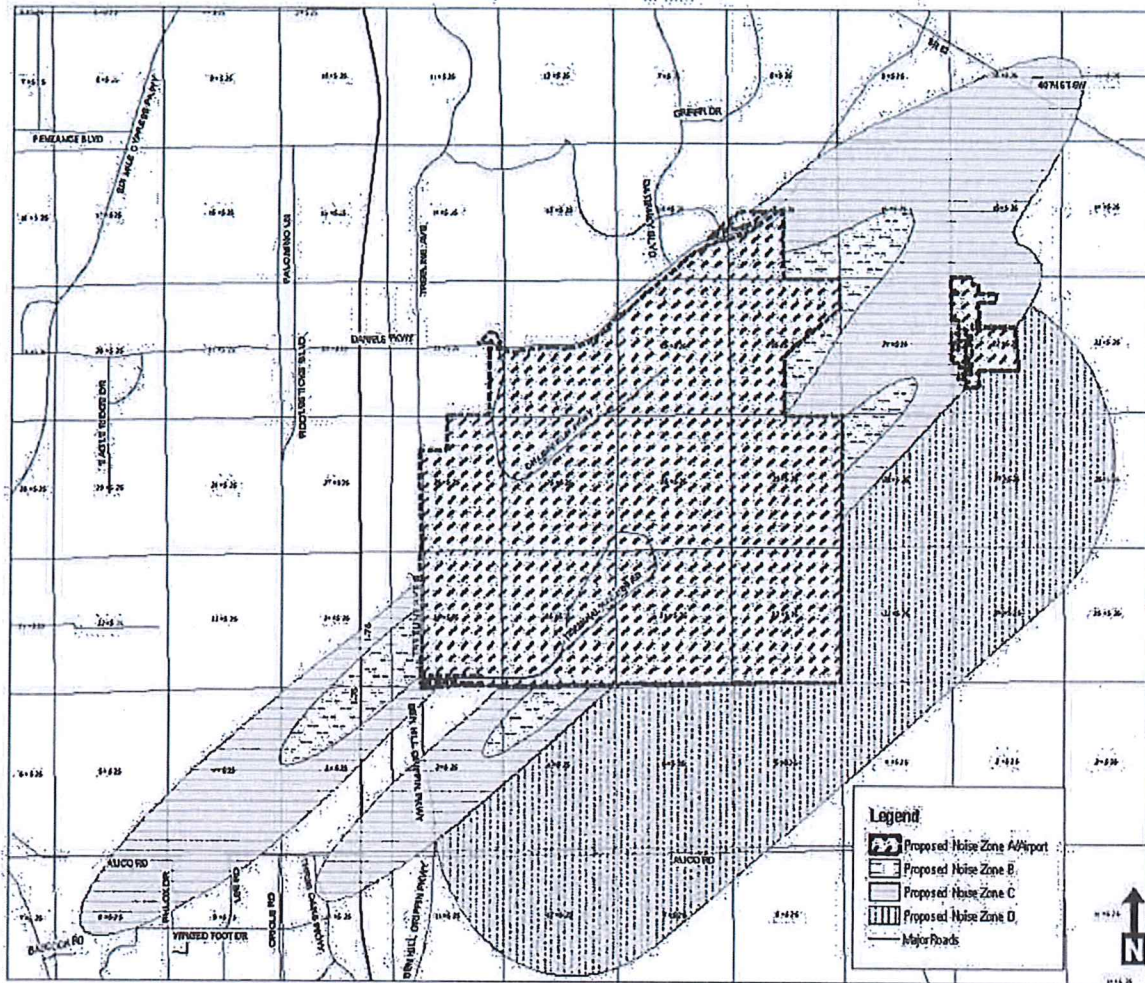
APPENDIX C – AIRPORT ~~NOISE ZONES~~ COMPATIBILITY DISTRICT MAPS

Map 1 is unchanged.

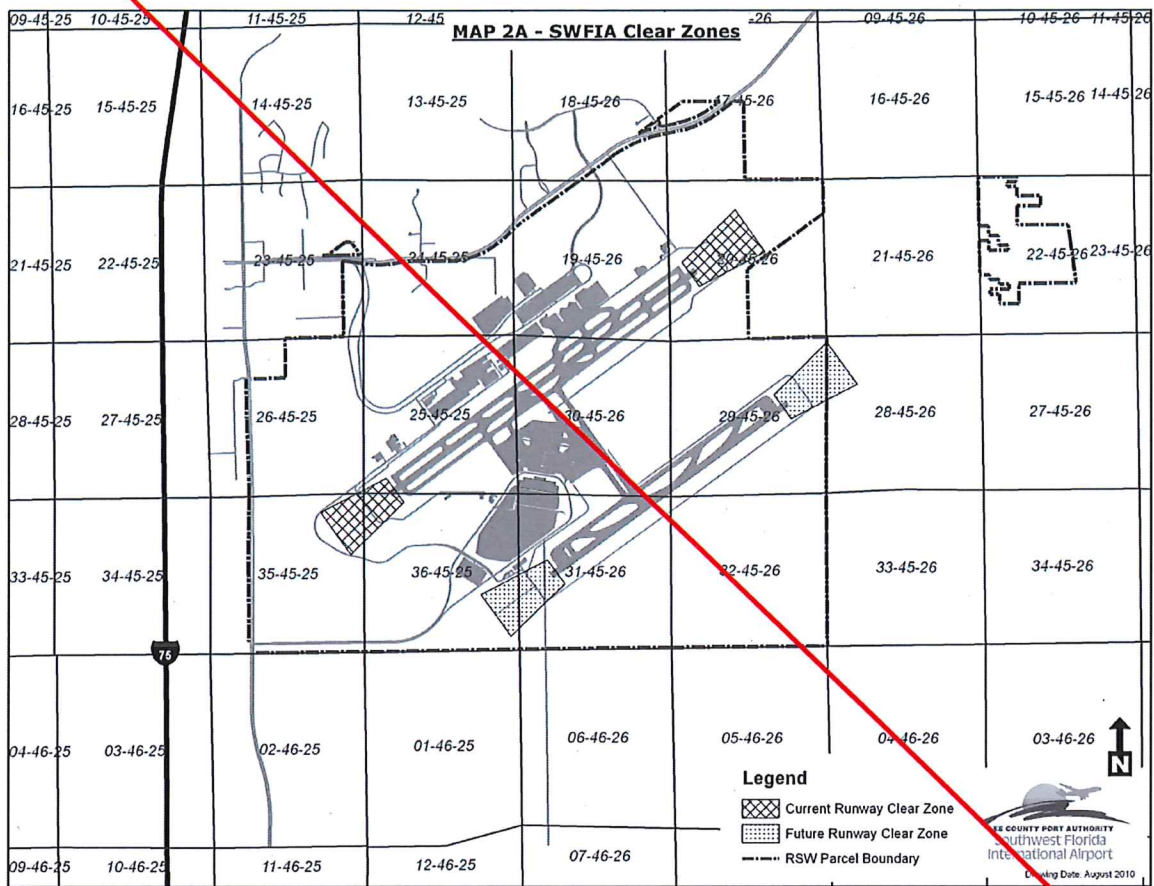
Maps 2A through 10 are to be replaced with Maps 2A through 9 as provided on the following pages.

APPENDIX C - AIRPORT NOISE ZONES COMPATIBILITY DISTRICT MAPS

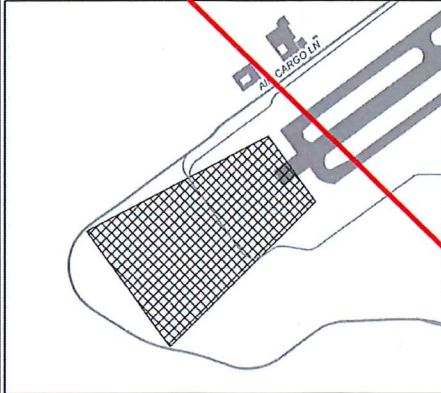
MAP 1 - SWFIA Airport Noise Zone Map



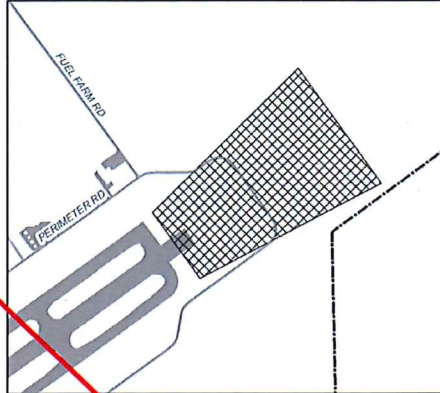
([Ord. No. 16-19](#), § 11, 11-15-16)



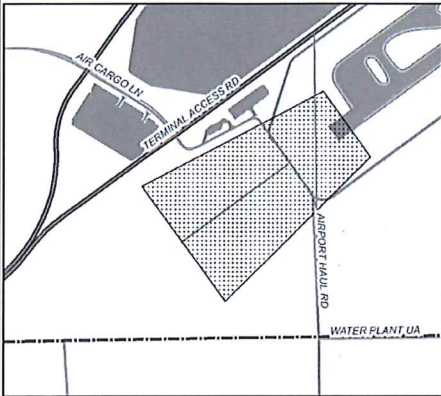
MAP 2B - SWFIA Clear Zone



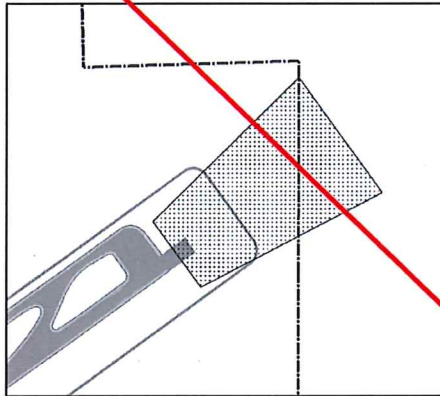
Existing Runway West



Existing Runway East



Future Runway West



Future Runway East

SWFIA CLEAR ZONE

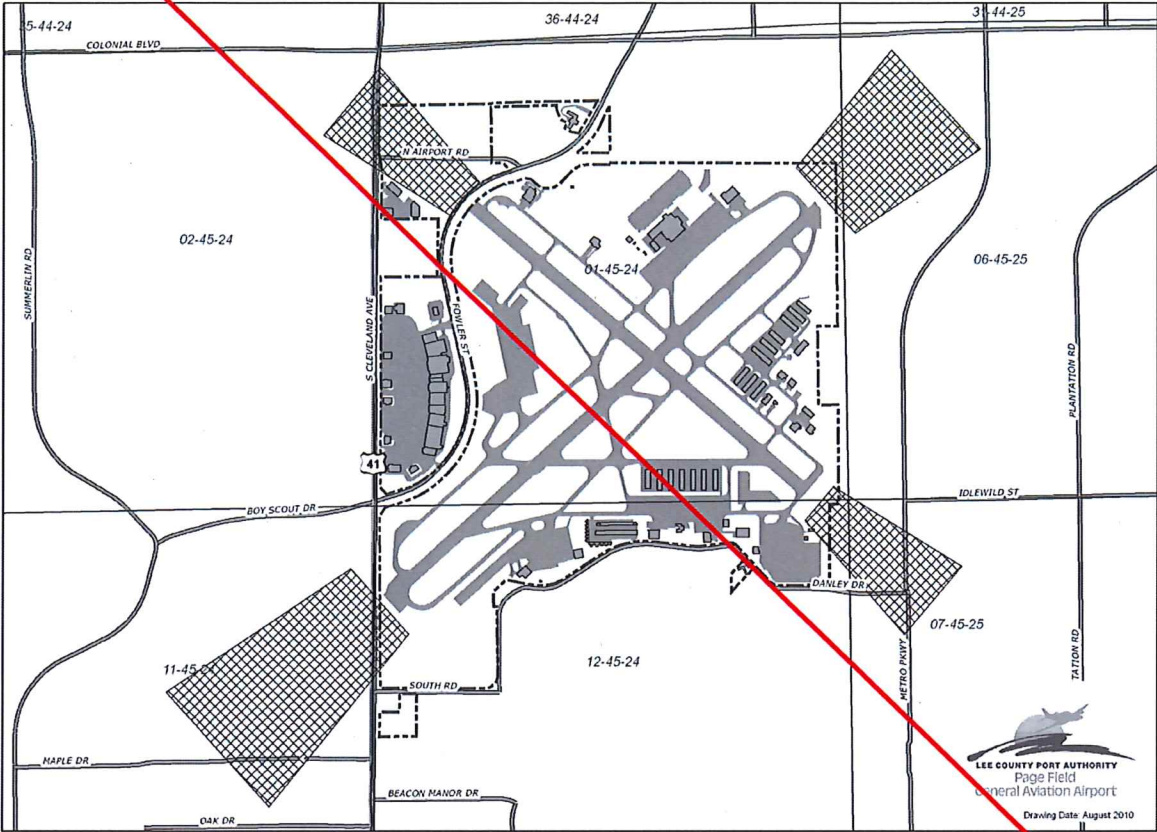
This map was developed by the Lee County Port Authority pursuant to Lee County Land Development Code Section 34-1006, to assist the Department of Community Development in determining land use compatibility surrounding Southwest Florida International Airport.

Use of this map is limited to notification and review procedures detailed in LDC Section 34-1006 and is in no way intended to authorize or suggest allowable heights or land uses. Any other use of this map is done without the knowledge, concurrence or approval of Lee County Port Authority.

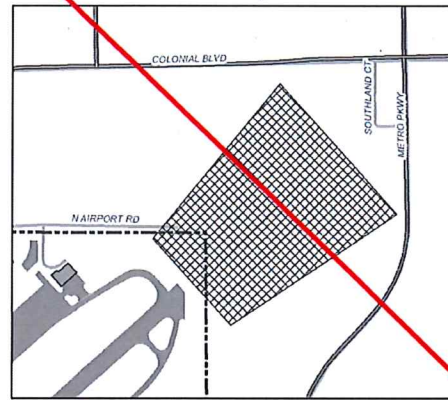
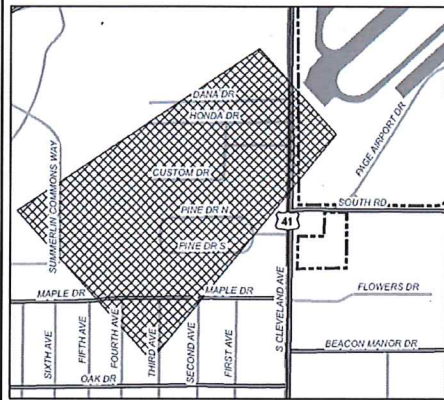
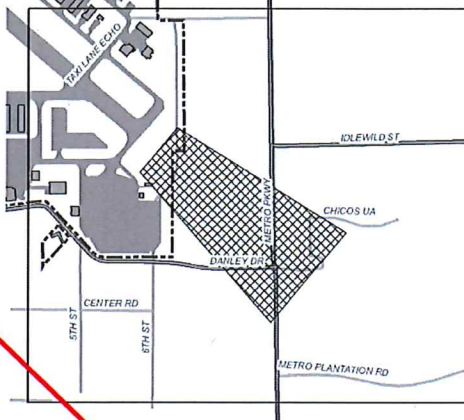
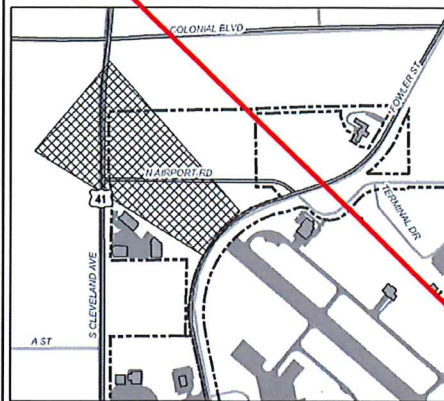


Drawing Date: August 2010

MAP 3A - Page Field Clear Zone



MAP 3B - Page Field Clear Zone



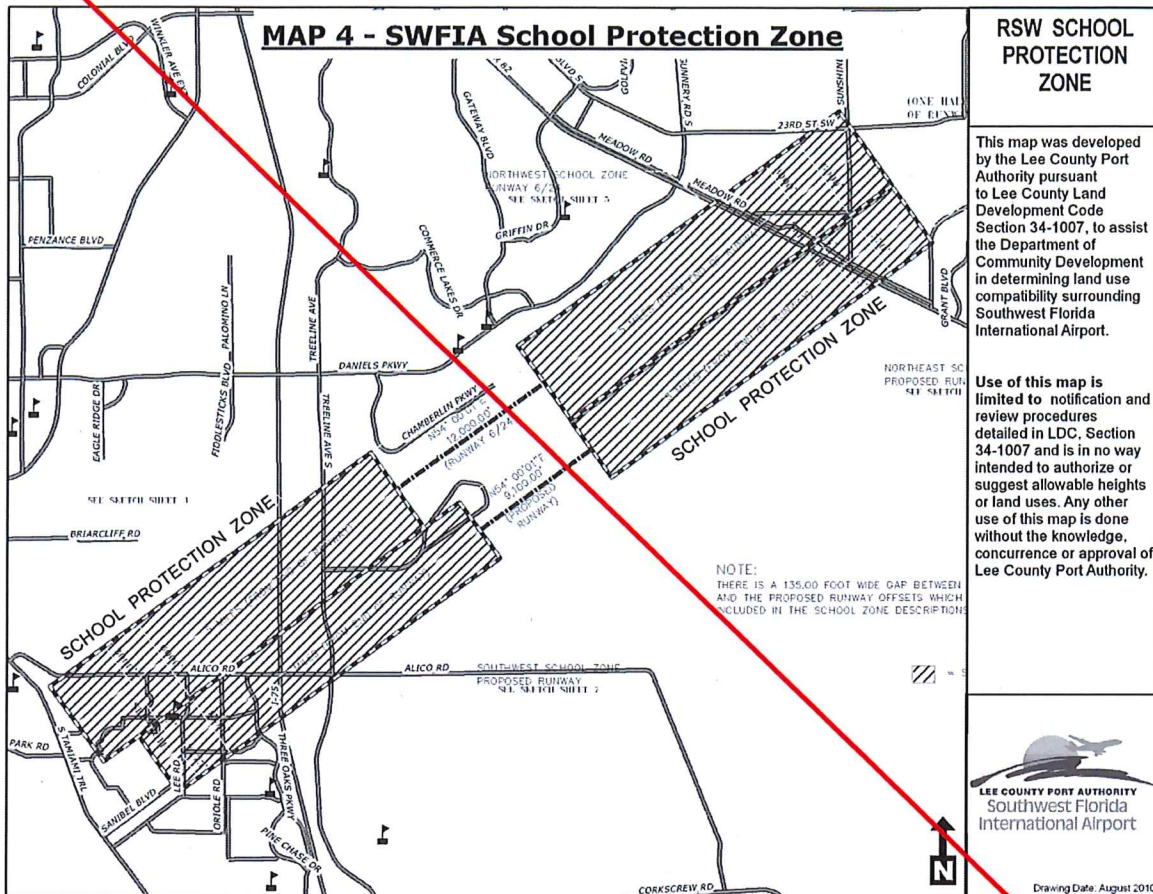
FMY CLEAR ZONE

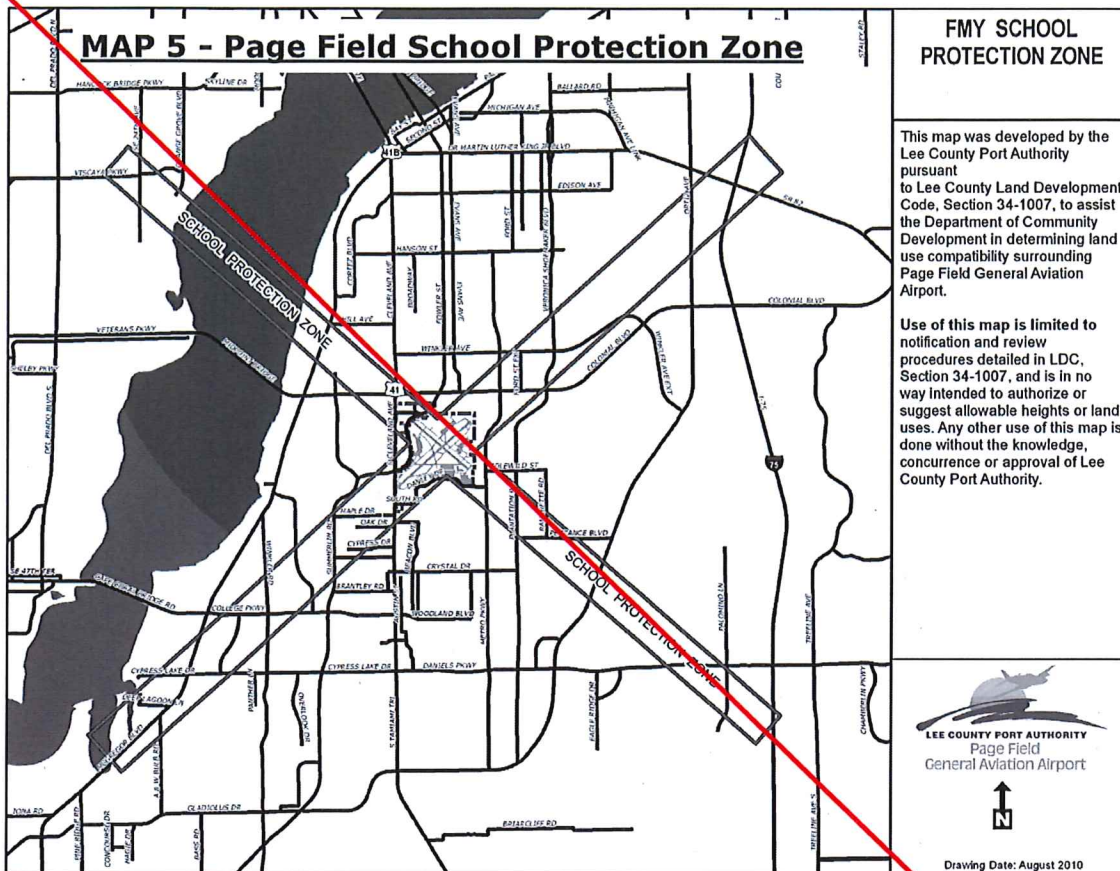
This map was developed by the Lee County Port Authority pursuant to Lee County Land Development Code Section 34-1006, to assist the Department of Community Development in determining land use compatibility surrounding Page Field General Aviation Airport.

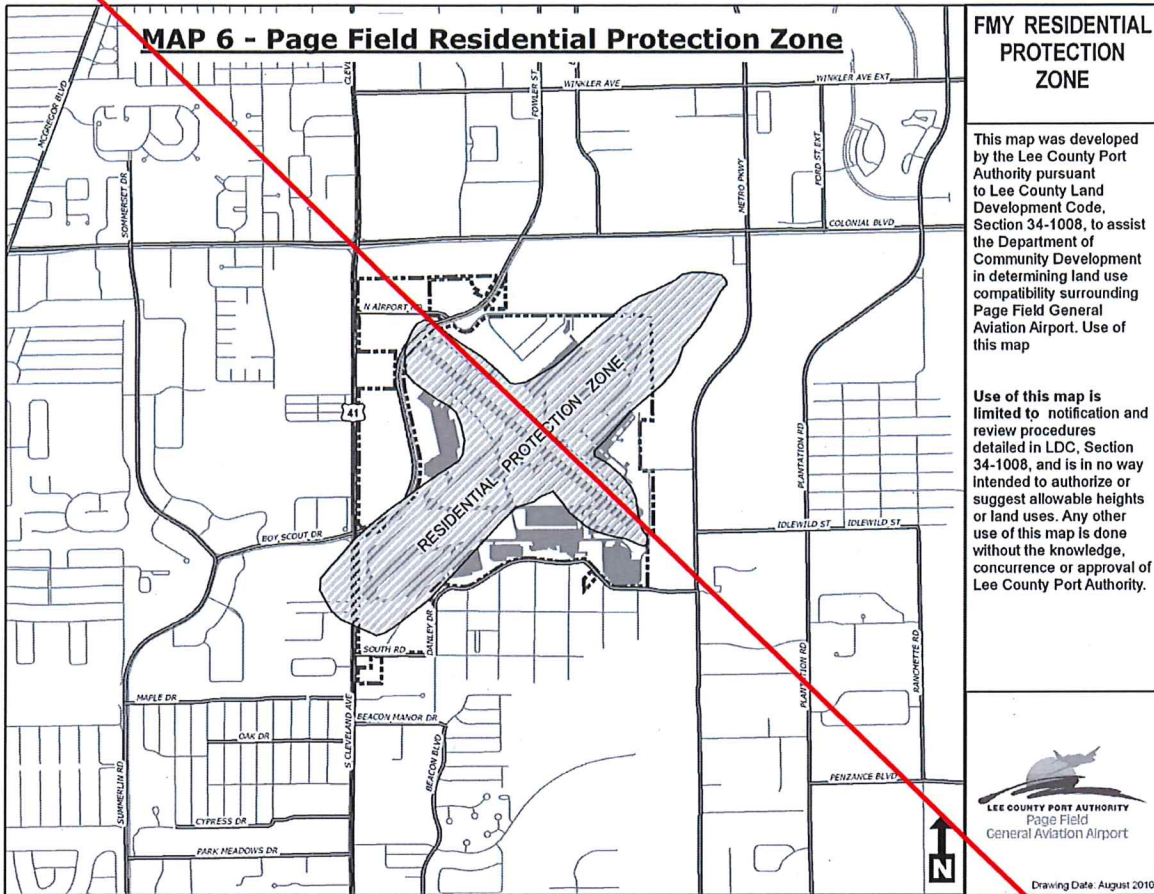
Use of this map is limited to notification and review procedures detailed in LDC Section 34-1006 and is in no way intended to authorize or suggest allowable heights or land uses. Any other use of this map is done without the knowledge, concurrence or approval of Lee County Port Authority.

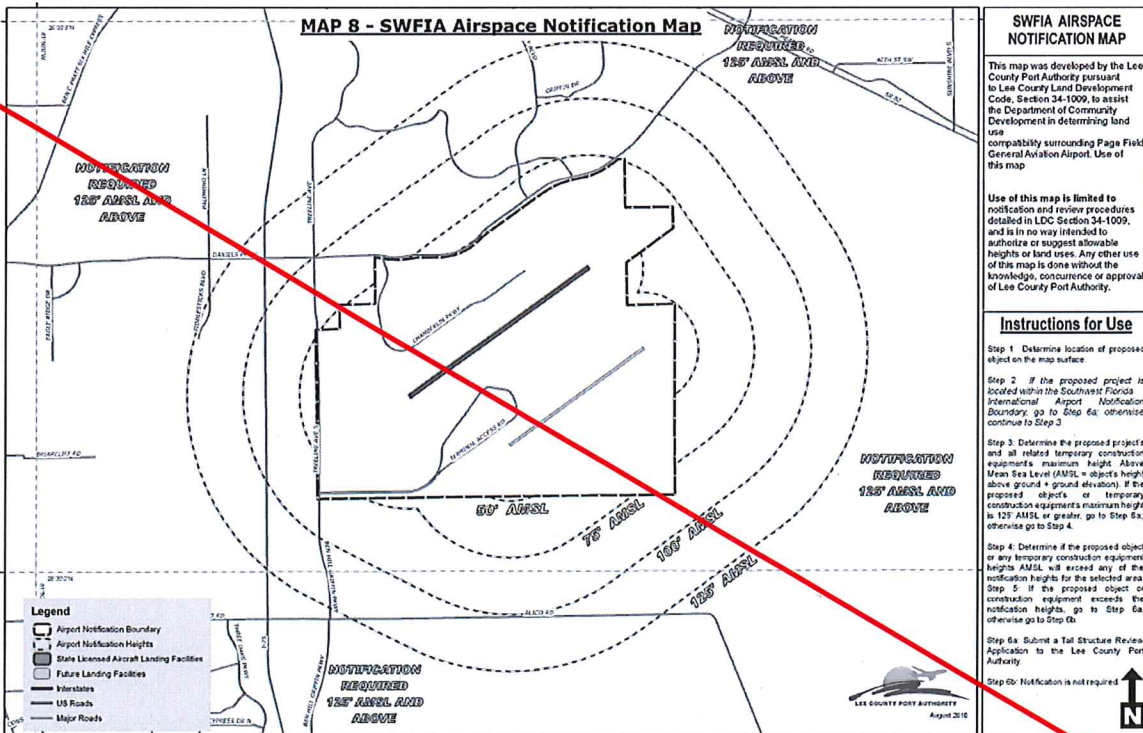
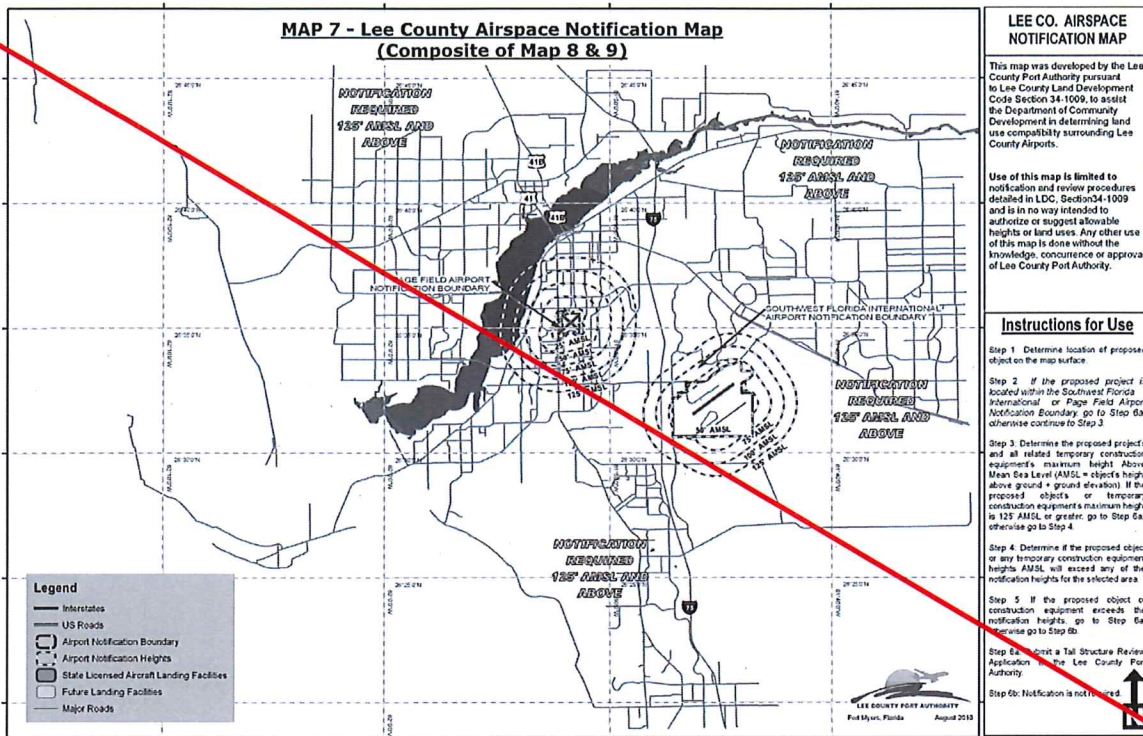


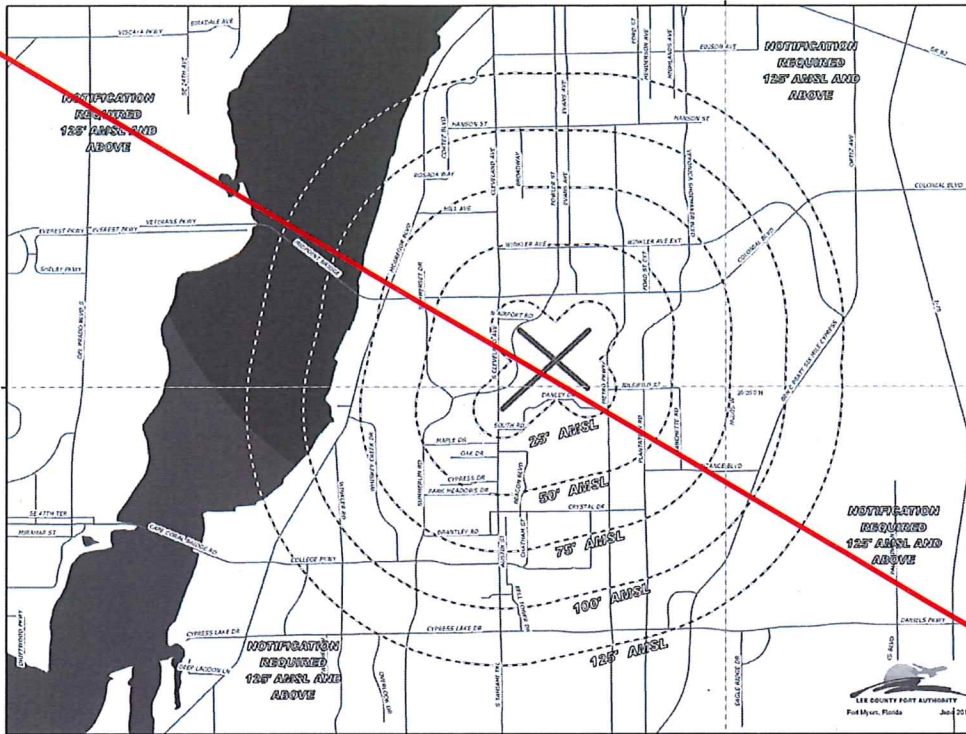
Drawing Date: August 2010











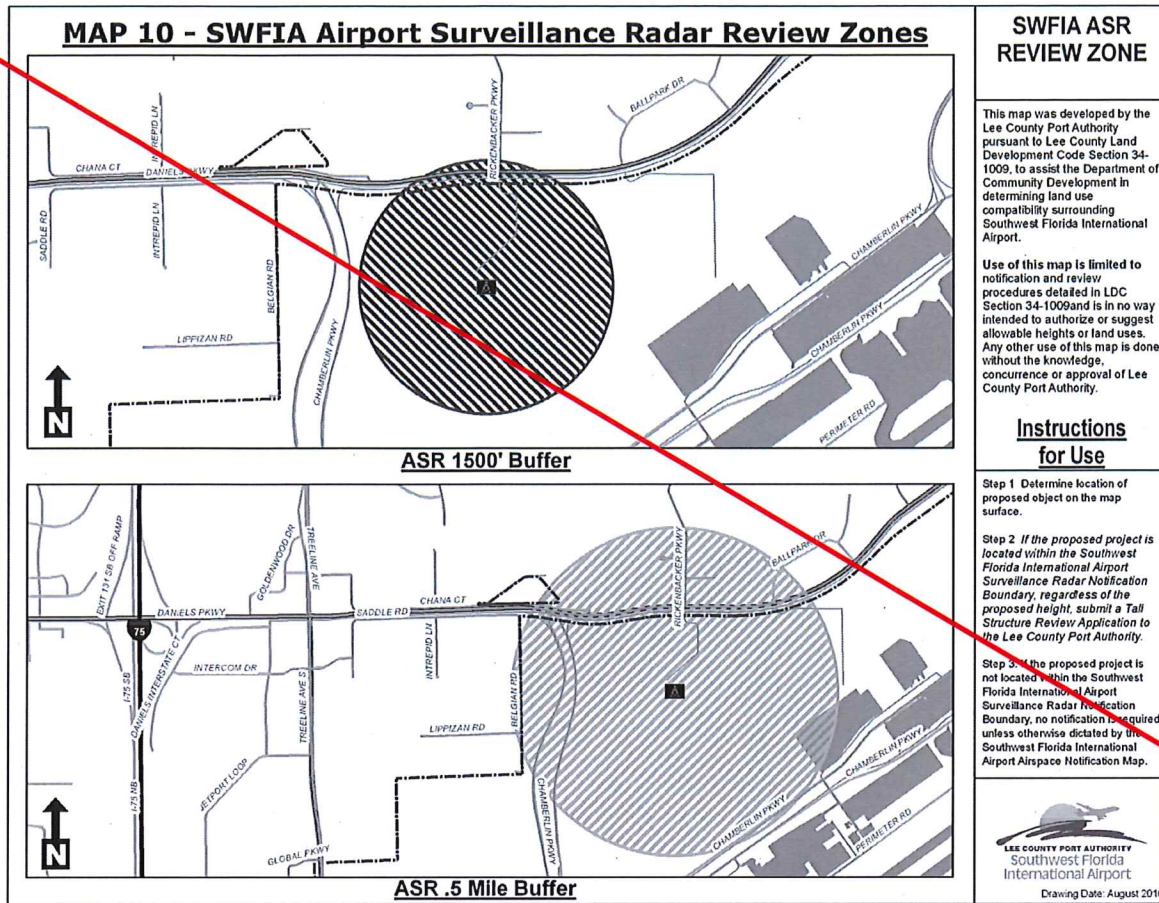
FMY AIRSPACE NOTIFICATION MAP

This map was developed by the Lee County Port Authority pursuant to Lee County Land Development Code, Section 34-1009, to assist the Department of Community Development in determining whether a proposed or existing object or piece of equipment to be used during the construction of an object would require an airspace review by Lee County Port Authority through submittal of a Tall Structures Review Application.

Use of this map is limited to notification procedures only and is in no way intended to authorize or suggest allowable object heights. Any other use of this map is done without the knowledge, concurrence or approval of Lee County Port Authority.

Instructions for Use

- Step 1 Determine location of proposed object on the map surface.
- Step 2 If the proposed project is located within the Page Field or Southwest Florida International Airport Notification Boundary go to Step 9a; otherwise continue to Step 3.
- Step 3 Determine the proposed object's max. height Above Mean Sea Level (AMSL = height of object + ground elevation) then go to Step 4.
- Step 4 Determine if the proposed object will use a crane or similar equipment during construction.
- Step 5 If the proposed object will use a crane, go to Step 6. If it will not use a crane, go to Step 7.
- Step 6 Determine the crane's operating height AMSL.
- Step 7 Determine if proposed object or crane height AMSL exceed any of the notification heights for the selected area.
- Step 8 If proposed object or crane exceeds notification heights go to Step 9a; otherwise go to Step 9b.
- Step 9a Submit a Tall Structure Review Application to Lee County Port Authority.
- Step 9b Notification is not required.



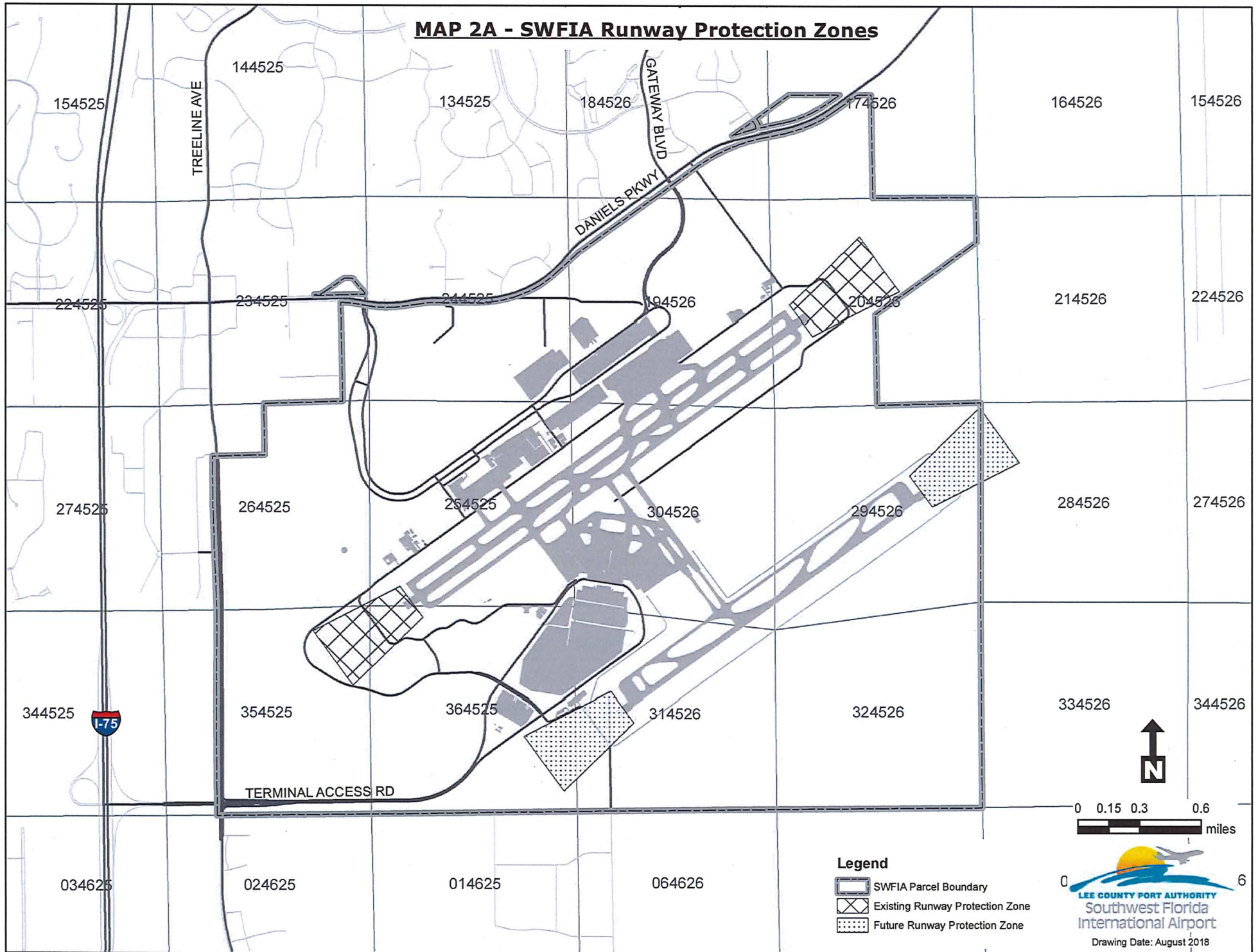
(Ord. No. [05-15](#), § 2, 8-23-05; Ord. No. [11-08](#), § 11, 8-9-11)

Footnotes:

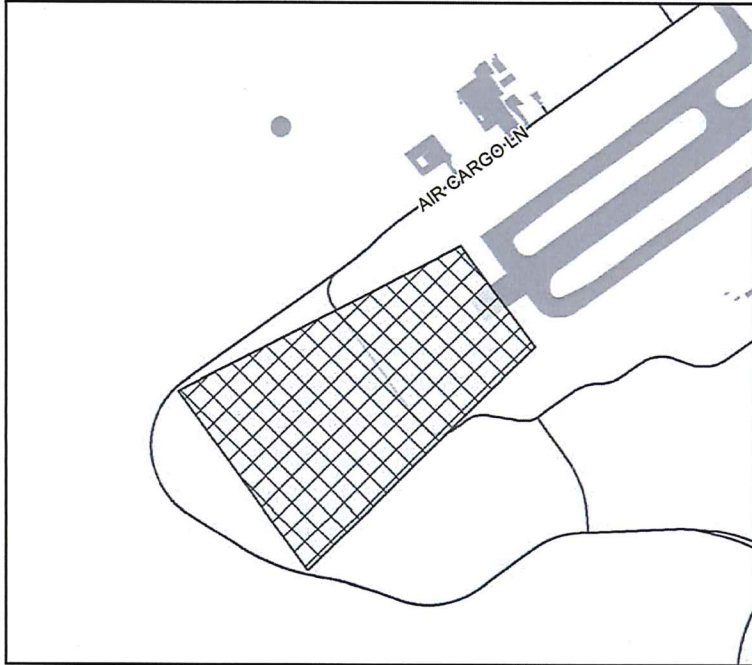
--- (1) ---

Editor's note— Lee County Land Development Code Appendix C is hereby amended to repeal Ord. No. [05-15](#) and replace with Ord. 11-08.

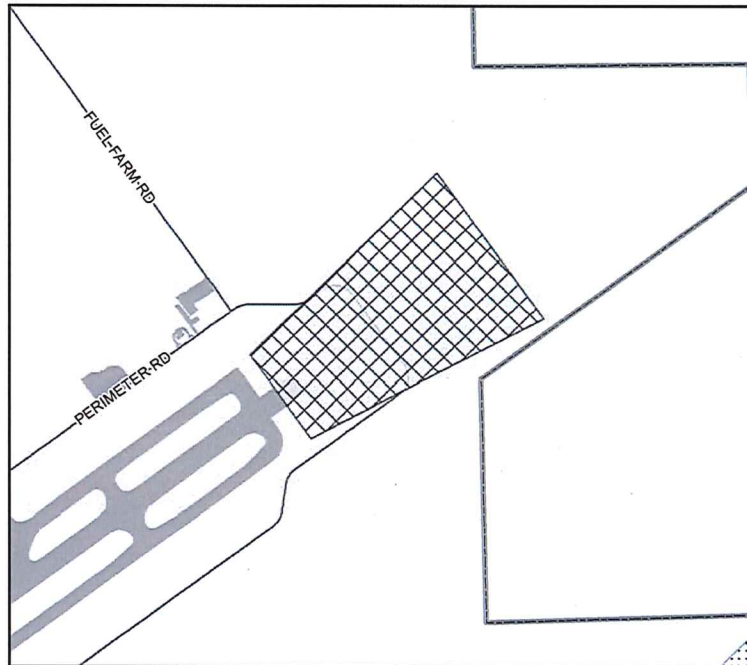
MAP 2A - SWFIA Runway Protection Zones



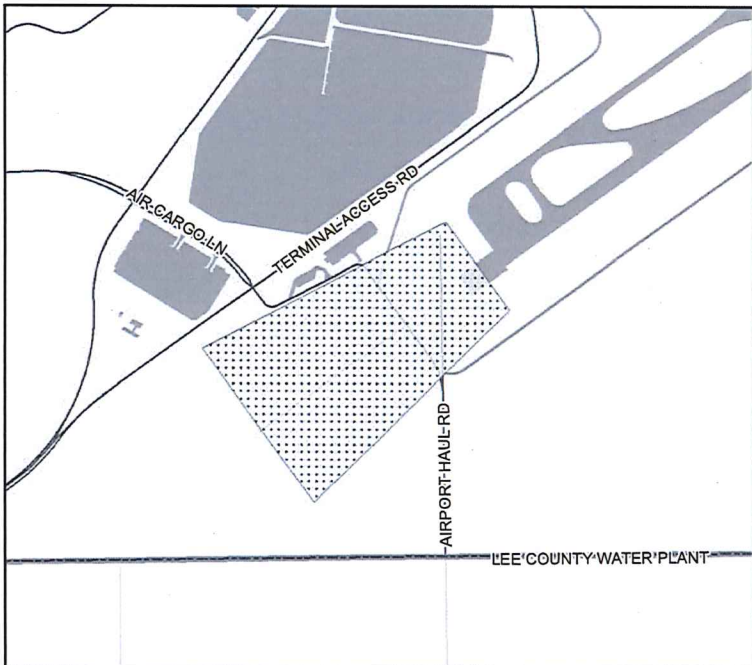
MAP 2B - SWFIA Runway Protection Zones



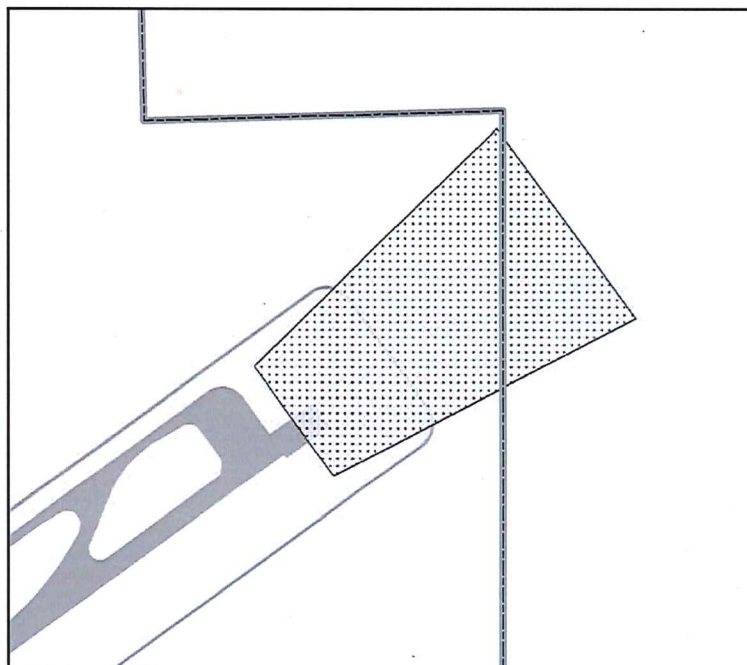
Existing Runway West



Existing Runway East



Future Runway West



Future Runway East

Use of this map is limited to notification and review and is not intended to authorize or suggest allowable heights or land uses.

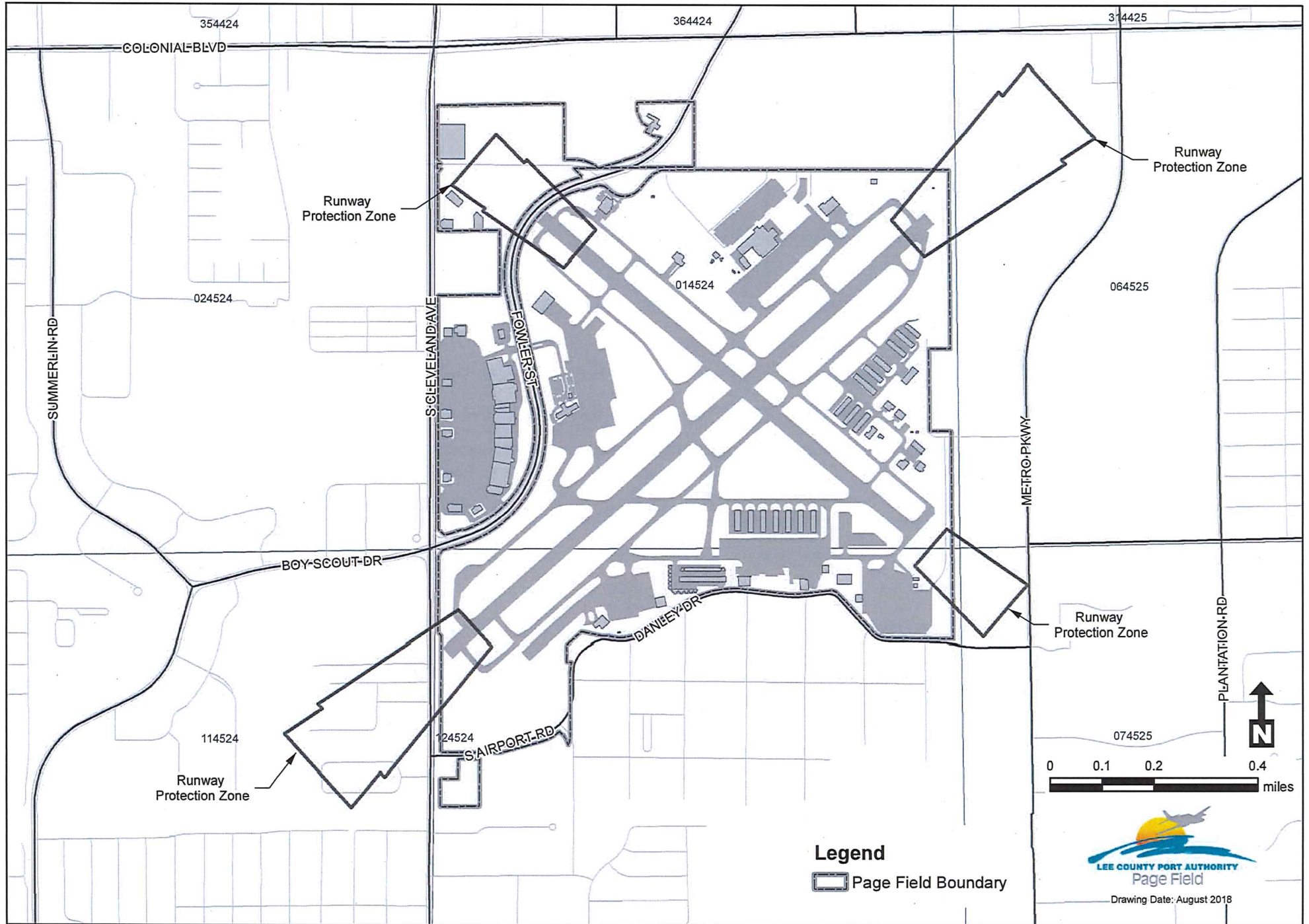


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miles

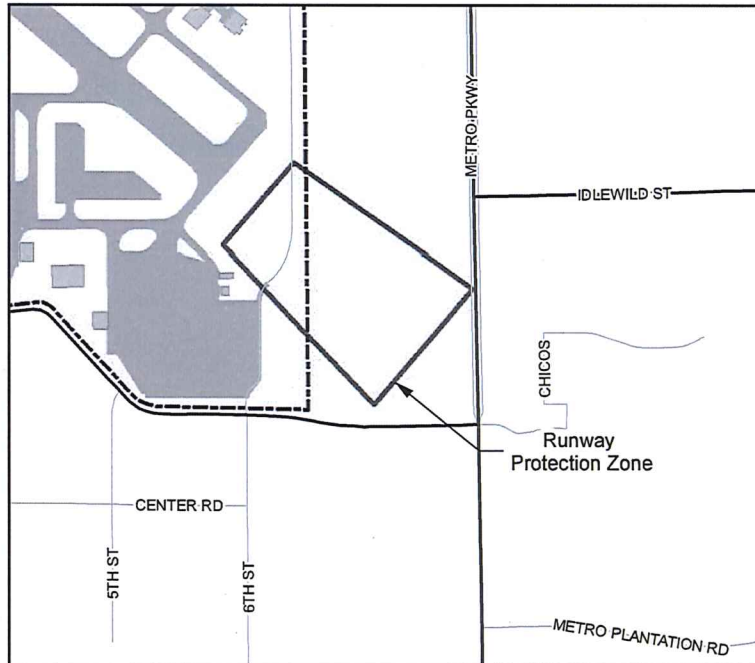
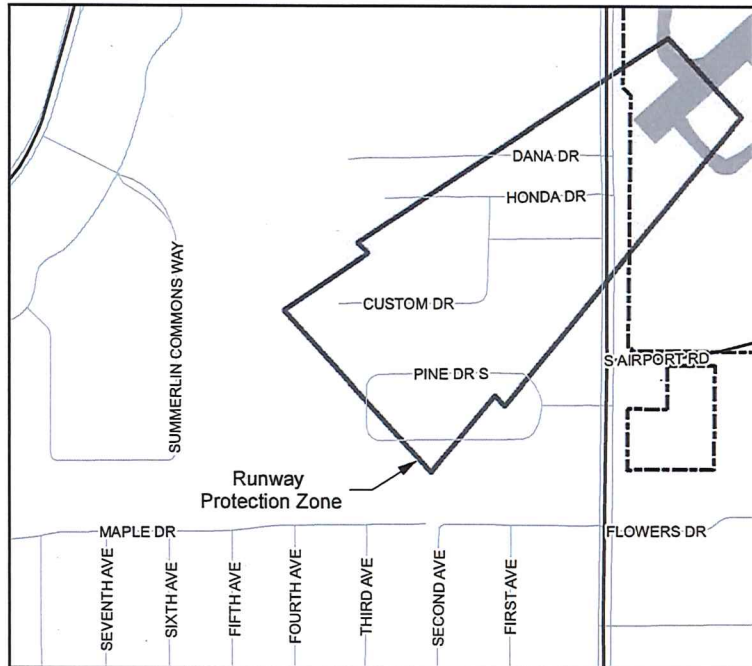
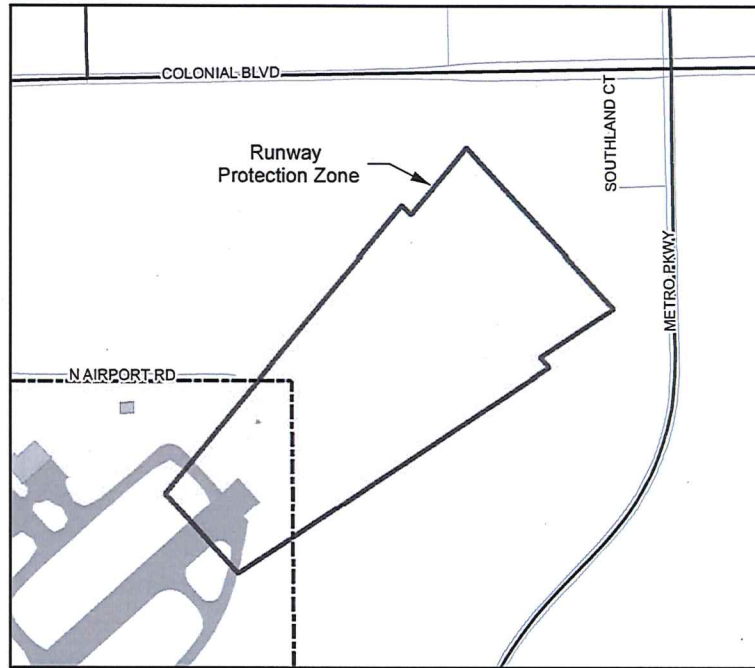
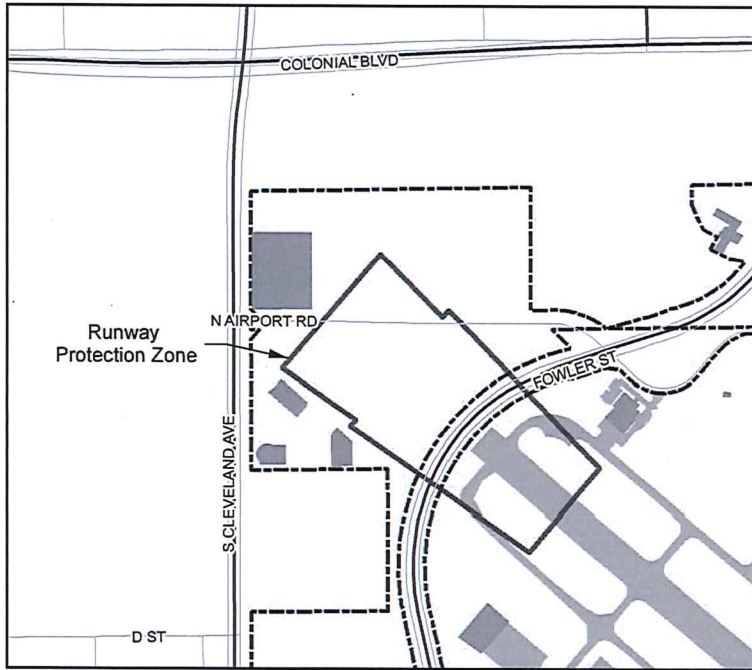


Drawing Date: August 2018

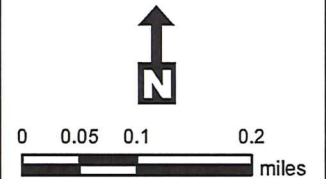
MAP 3A - Page Field Runway Protection Zones



MAP 3B - Page Field Runway Protection Zones

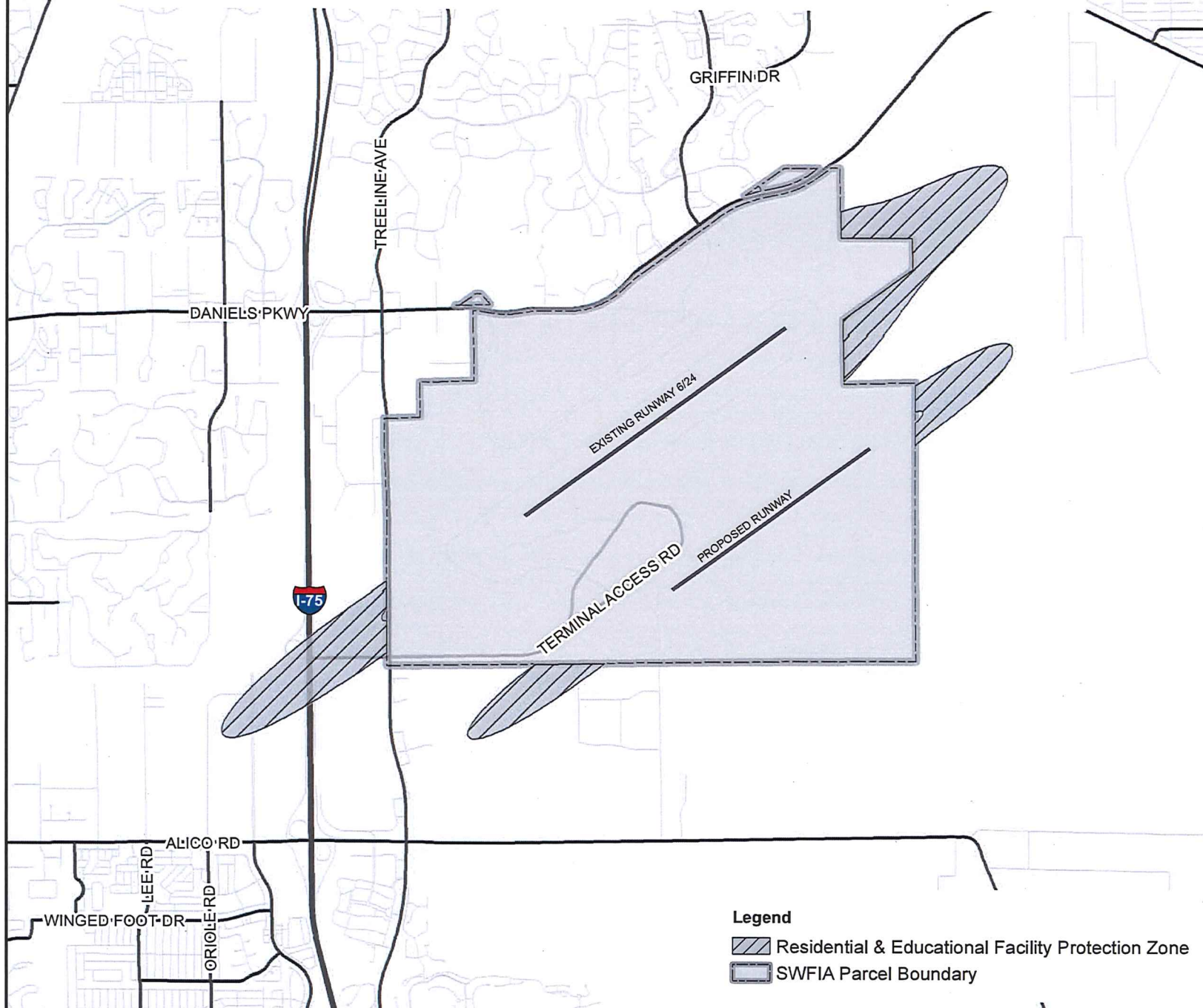


Use of this map is limited to notification and review and is not intended to authorize or suggest allowable heights or land uses.





Drawing Date: August 2018

MAP 4 - SWFIA Residential & Educational Facility Protection Zone



Legend

-  Residential & Educational Facility Protection Zone
-  SWFIA Parcel Boundary

Use of this map is limited to notification and review and is not intended to authorize or suggest allowable heights or land uses.

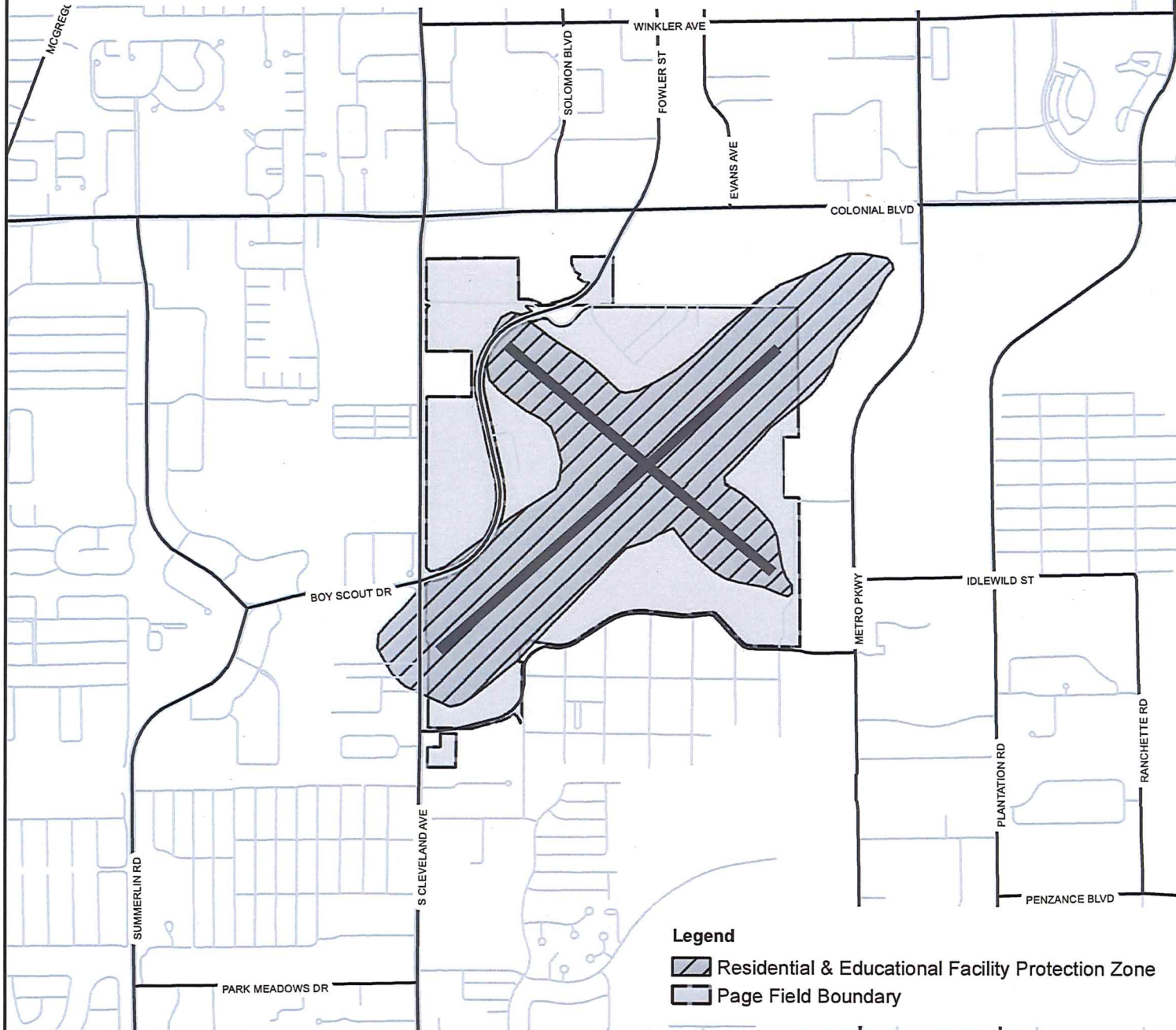


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miles





Drawing Date: August 2018

MAP 5 - Page Field Residential & Educational Facility Protection Zone



Legend

-  Residential & Educational Facility Protection Zone
-  Page Field Boundary

Use of this map is limited to notification and review and is not intended to authorize or suggest allowable heights or land uses.



0 0.125 0.25 0.5
miles



Drawing Date: August 2018

MAP 6 - LCPA Airport Obstruction Notification Zone Map (Composite of Map 7, 8 & 9)

COUNTYWIDE

All vertical objects that exceed 125' AMSL
require Tall Structures Permit review by LCPA

Use of this map is limited to
notification and review and is not
intended to authorize or suggest
allowable heights or land uses.

Instructions for Use

Step 1 Determine location of proposed
object on the map surface.

Step 2 If the proposed project is
located within the Southwest Florida
International or Page Field Airport
Notification Boundary, go to Step 6a;
otherwise continue to Step 3.

Step 3: Determine the proposed project's
and all related temporary construction
equipment's maximum height Above
Mean Sea Level (AMSL = object's height
above ground + ground elevation). If the
proposed object's or temporary
construction equipment's maximum height
is 125' AMSL or greater, go to Step 6a;
otherwise go to Step 4.

Step 4: Determine if the proposed object
or any temporary construction equipment
heights AMSL will exceed any of the
notification heights for the selected area.

Step 5: If the proposed object or
construction equipment exceeds the
notification heights, go to Step 6a;
otherwise go to Step 6b.

Step 6a: Submit a Tall Structure Review
Application to the Lee County Port
Authority.

Step 6b: Notification is not required.

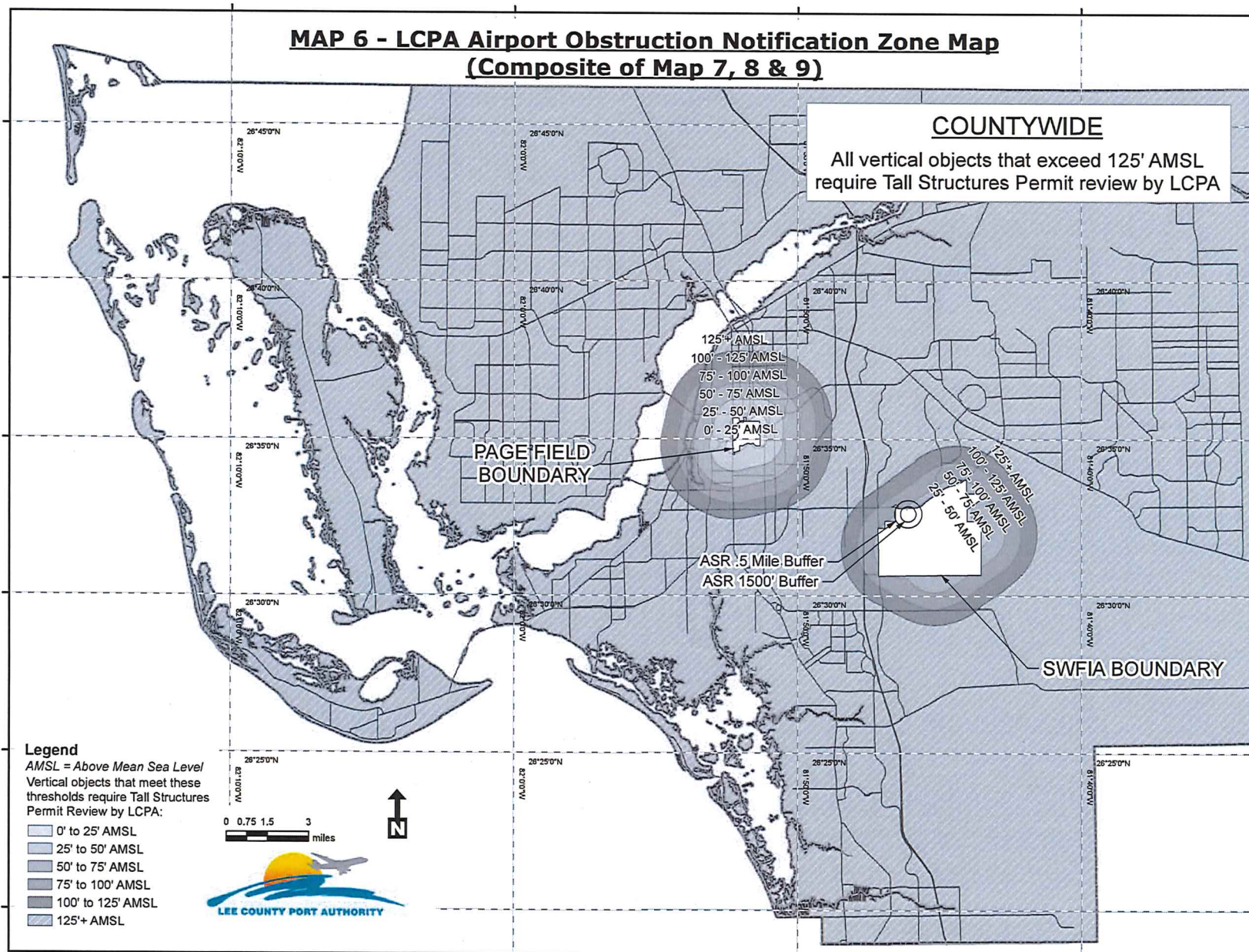
Drawing Date: August 2018

Legend

AMSL = Above Mean Sea Level
Vertical objects that meet these
thresholds require Tall Structures
Permit Review by LCPA:

- 0' to 25' AMSL
- 25' to 50' AMSL
- 50' to 75' AMSL
- 75' to 100' AMSL
- 100' to 125' AMSL
- 125'+ AMSL

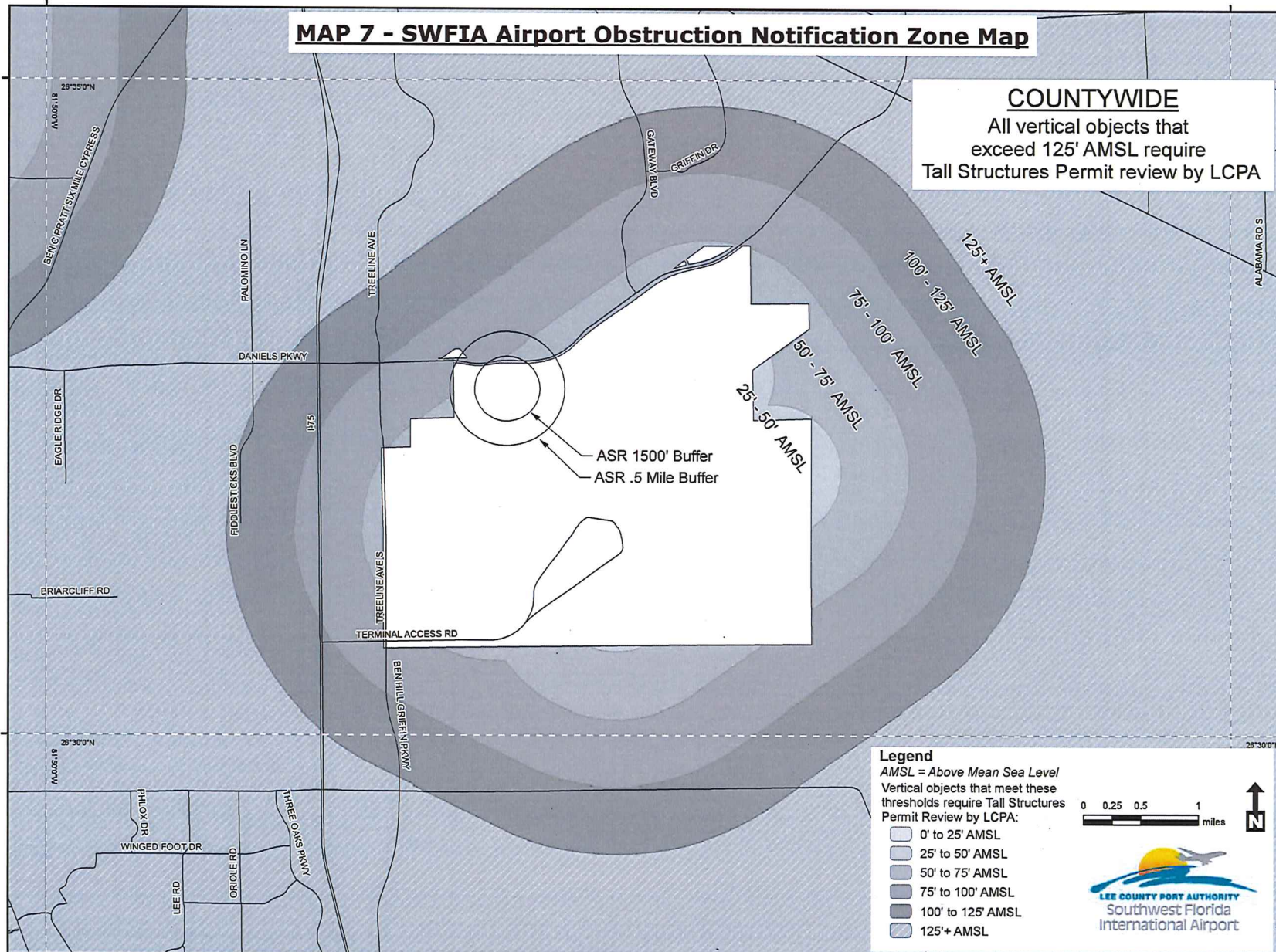
0 0.75 1.5 3
miles



MAP 7 - SWFIA Airport Obstruction Notification Zone Map

COUNTYWIDE

All vertical objects that
exceed 125' AMSL require
Tall Structures Permit review by LCPA



Use of this map is limited to
notification and review and is not
intended to authorize or suggest
allowable heights or land uses.

Instructions for Use

Step 1 Determine location of proposed
object on the map surface.

Step 2 If the proposed project is
located within the Southwest Florida
International Airport
Notification Boundary, go to Step 6a; otherwise
continue to Step 3.

Step 3: Determine the proposed project's
and all related temporary construction
equipment's maximum height Above
Mean Sea Level (AMSL = object's height
above ground + ground elevation). If the
proposed object's or temporary
construction equipment's maximum height
is 125' AMSL or greater, go to Step 6a;
otherwise go to Step 4.

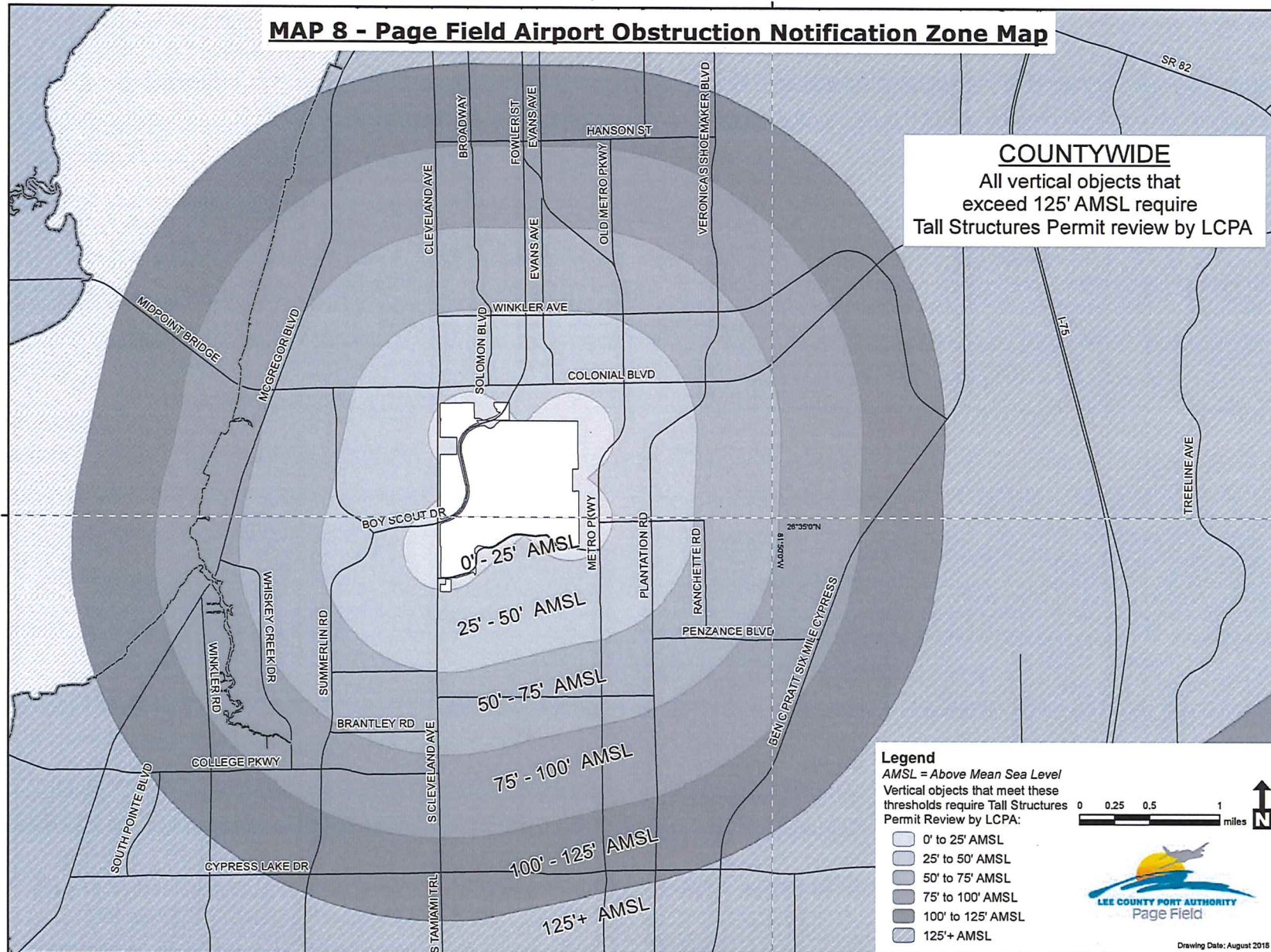
Step 4: Determine if the proposed object
or any temporary construction equipment
heights AMSL will exceed any of the
notification heights for the selected area.
Step 5: If the proposed object or
construction equipment exceeds the
notification heights, go to Step 6a;
otherwise go to Step 6b.

Step 6a: Submit a Tall Structure Review
Application to the Lee County Port
Authority.

Step 6b: Notification is not required.

Drawing Date: August 2016

MAP 8 - Page Field Airport Obstruction Notification Zone Map



Use of this map is limited to notification and review and is not intended to authorize or suggest allowable heights or land uses.

Instructions for Use

Step 1 Determine location of proposed object on the map surface.

Step 2 If the proposed project is located within the Page Field or Southwest Florida International Airport Notification Boundary go to Step 9a; otherwise continue to Step 3.

Step 3 Determine the proposed object's max. height Above Mean Sea Level (AMSL = height of object + ground elevation) then go to Step 4.

Step 4 Determine if the proposed object will use a crane or similar equipment during construction.

Step 5 If the proposed object will use a crane, go to Step 6, if it will not use a crane, go to Step 7.

Step 6 Determine the crane's operating height AMSL.

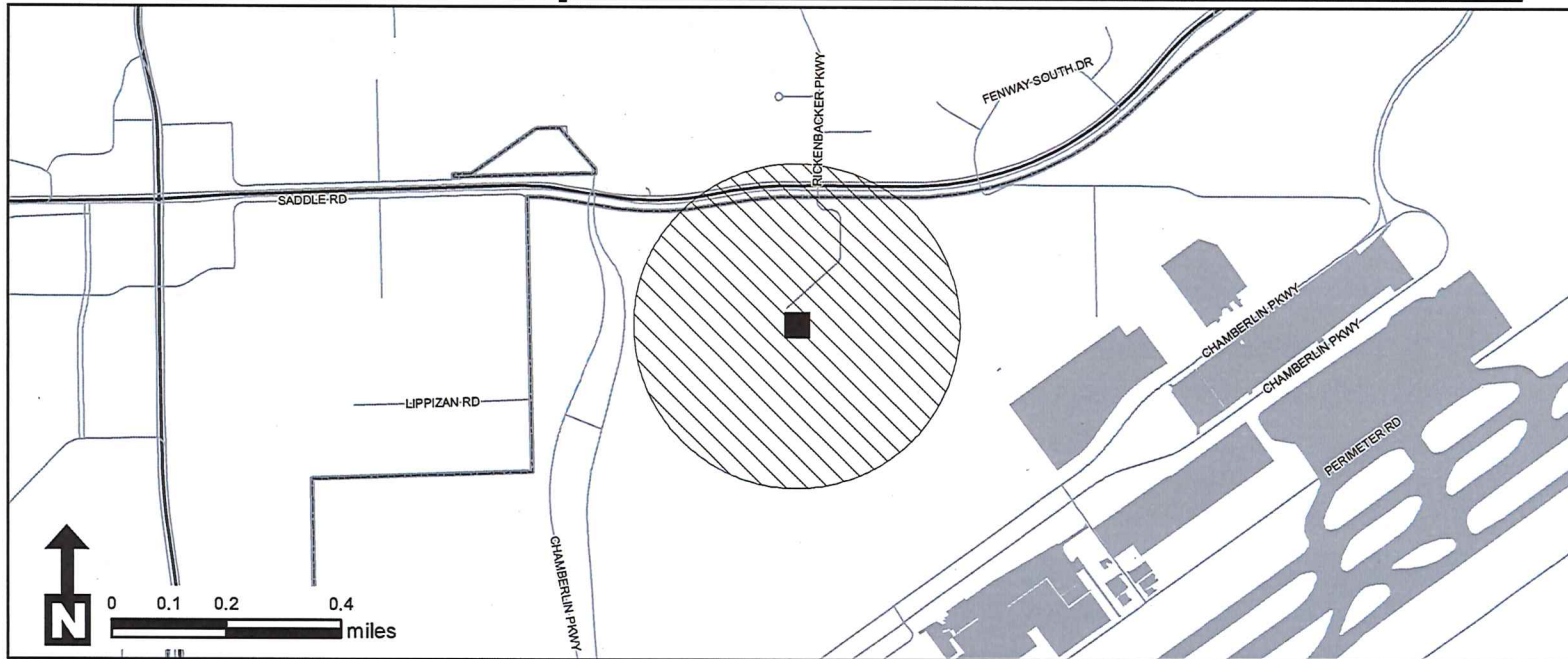
Step 7 Determine if proposed object or crane heights AMSL exceed any of the notification heights for the selected area.

Step 8 If proposed object or crane exceeds the notification heights, go to Step 9a, otherwise go to Step 9b.

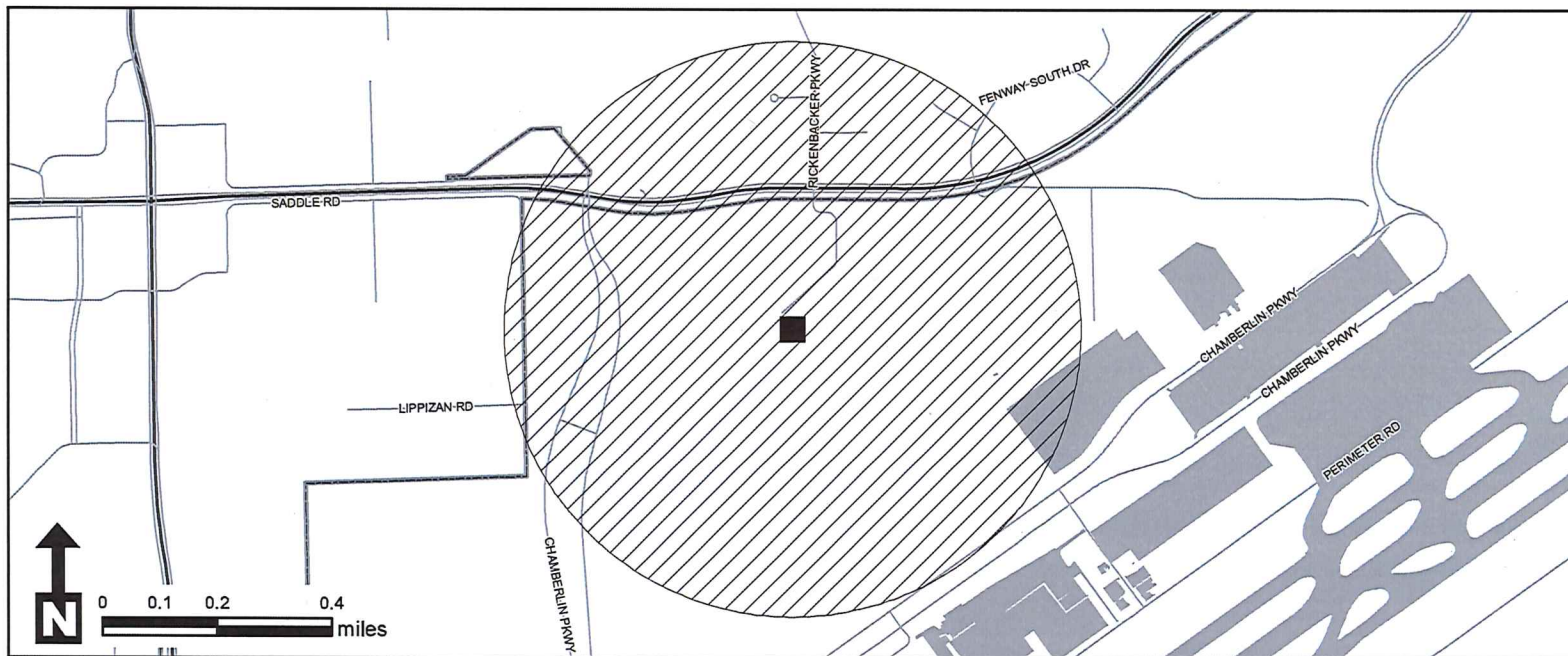
Step 9a Submit a Tall Structure Review Application to Lee County Port Authority.

Step 9b Notification is not required.

MAP 9 - SWFIA Airport Surveillance Radar Review Zones



ASR 1500' Buffer



ASR .5 Mile Buffer

Use of this map is limited to notification and review and is not intended to authorize or suggest allowable heights or land uses.

Instructions for Use

Step 1 Determine location of proposed object on the map surface.

Step 2 If the proposed project is located within the Southwest Florida International Airport Surveillance Radar Notification Boundary, regardless of the proposed height, submit a Tall Structure Review Application to the Lee County Port Authority.

Step 3: If the proposed project is not located within the Southwest Florida International Airport Surveillance Radar Notification Boundary, no notification is required unless otherwise dictated by the Southwest Florida International Airport Obstruction Notification Zone Map.



Drawing Date: August 2018

RECEIVED

By Missy Flint at 8:00 am, Apr 04, 2019



FLORIDA DEPARTMENT *of* STATE

RON DESANTIS
Governor

LAUREL M. LEE
Secretary of State

April 3, 2019

Honorable Linda Doggett
Clerk of the Circuit Courts
Lee County
Post Office Box 2469
Fort Myers, Florida 33902-2469

Attention: Missy Flint

Dear Ms. Doggett:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Ordinance No. 19-03, which was filed in this office on April 3, 2019.

Sincerely,

Ernest L. Reddick
Program Administrator

ELR/lb

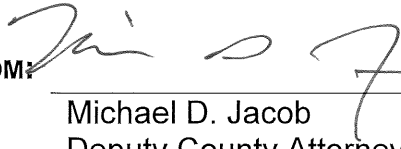
**MEMORANDUM
FROM THE
OFFICE OF COUNTY ATTORNEY**

VIA EMAIL ONLY

DATE: July 1, 2019

TO: Eileen Gabrick
Minutes Office Manager

FROM:


Michael D. Jacob
Deputy County Attorney

RE: **Ordinance 19-03, Adopted April 2, 2019**
Scrivener's Error

Lee County Ordinance 19-03, adopting the LDC Amendments contains scrivener's errors on page 32. The errors consist of the section cross references found in section 34-202(a)(6), the boundary survey section from section 34-201(e) to section 34-202(a)(7) as follows:

(6) ~~(2)~~ *Boundary survey*. A boundary survey of the subject property must be submitted, unless the property consists of one or more undivided lots within a subdivision platted in accordance with F.S. Ch. 177. The survey must be based upon the title certification submitted in accord with section 34-202(a)(3)(7) and certified to the present owner as reflected in the title documentation submitted in accordance with section 34-202(a)(3)(7). The boundary survey must identify and depict all easements affecting the subject property, whether recorded or unrecorded, and all other physical encumbrances readily identified by a field inspection.

Consequently, we respectfully request that you replace page 32 in Ordinance 19-03 with the attached page so that it correctly reflects the text adopted by the County.

We also request that you transmit the attached replacement page to the State to correct the scrivener's errors as well. Please copy my office on the transmittal to the State.

Should you have any questions concerning the above, please do not hesitate to contact me.

MDJ:tlb
Attachments

cc via email only: Audra Ennis, Manager, Zoning, DCD
Mikki Rozdolski, Manager, Planning Section, DCD
Karen Hutcherson, Manager, Permitting systems, DCD
Debbie Carpenter, Administrative Specialist, DCD
Joyce Conatser, Senior Fiscal Officer
Kim Rasner, Administrative Specialist
Rose Bahena, Administrative Specialist



FLORIDA DEPARTMENT *of* STATE

RON DESANTIS
Governor

LAUREL M. LEE
Secretary of State

July 1, 2019

Honorable Linda Doggett
Clerk of the Circuit Courts
Lee County
Post Office Box 2469
Fort Myers, Florida 33902-2469

Attention: Eileen Gabrick

Dear Ms. Doggett:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your amended electronic copy of Ordinance No. 19-03, which was filed in this office on July 1, 2019.

Sincerely,

Ernest L. Reddick
Program Administrator

ELR/lb